

64, 250 7-32, A2, N67

# ***NORTH CAROLINA REGISTER***

RECEIVED

AUG 16 1999

KATHRINE R. EVERETT  
LAW LIBRARY

**VOLUME 14 • ISSUE 4 • Pages 263 - 367**

**August 16, 1999**

## **IN THIS ISSUE**

HHS - Abbreviated Notice of Temporary Rule-Making  
Voting Rights Letters  
Administration  
Auctioneers, Commission for  
Commerce  
Community Colleges  
Environment and Natural Resources  
General Contractors, Board of  
Health and Human Services  
Pharmacy, Board of  
Rules Review Commission  
Contested Case Decisions

### **PUBLISHED BY**

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

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.**

Office of Administrative Hearings

Rules Division

Capehart-Crocker House

(919) 733-2678

424 North Blount Street

(919) 733-3462 FAX

Raleigh, North Carolina 27601-2817

contact: Molly Masich, Director APA Services

[mmasich@oah.state.nc.us](mailto:mmasich@oah.state.nc.us)

Ruby Creech, Publications Coordinator

[rcreech@oah.state.nc.us](mailto:rcreech@oah.state.nc.us)

**Fiscal Notes & Economic Analysis**

Office of State Budget and Management

116 West Jones Street

(919) 733-7061

Raleigh, North Carolina 27603-8005

(919) 733-0640 FAX

contact: Warren Plonk, Economist III

[wplonk@osbm.state.nc.us](mailto:wplonk@osbm.state.nc.us)

**Rule Review and Legal Issues**

Rules Review Commission

1307 Glenwood Ave., Suite 159

(919) 733-2721

Raleigh, North Carolina 27605

(919) 733-9415 FAX

contact: Joe DeLuca Jr., Staff Director Counsel

Bobby Bryan, Staff Attorney

**Legislative Process Concerning Rule-making**

Joint Legislative Administrative Procedure Oversight Committee

545 Legislative Office Building

300 North Salisbury Street

(919) 733-2578

Raleigh, North Carolina 27611

(919) 715-5460 FAX

contact: Mary Shuping, Staff Liaison

[marys@ms.ncga.state.nc.us](mailto:marys@ms.ncga.state.nc.us)

**County and Municipality Government Questions or Notification**

NC Association of County Commissioners

215 North Dawson Street

(919) 715-2893

Raleigh, North Carolina 27603

contact: Jim Blackburn or Rebecca Troutman

NC League of Municipalities

215 North Dawson Street

(919) 715-4000

Raleigh, North Carolina 27603

contact: Paula Thomas



**Volume 14, Issue 4  
Pages 263 - 367**

**August 16, 1999**

This issue contains documents officially filed  
through July 26, 1999.

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

Julian Mann III, Director  
Camille Winston, Deputy Director  
Molly Masich, Director of APA Services  
Ruby Creech, Publications Coordinator  
Jean Shirley, Editorial Assistant  
Linda Dupree, Editorial Assistant  
Jessica Flowers, Editorial Assistant

<b>I. IN ADDITION</b>	
<b>Health and Human Services</b>	
Facility Services .....	264
<b>Voting Rights Letters .....</b>	263
<b>II. RULE-MAKING AGENDA</b>	
<b>Environment and Natural Resources</b>	
Environmental Management Commission ..	265 - 271
Health Service, Commission for .....	265 - 271
<b>III. RULE-MAKING PROCEEDINGS</b>	
<b>Environment and Natural Resources</b>	
Environmental Management Commission ..	272
Wildlife Resources Commission .....	272
<b>Health and Human Services</b>	
Health Services .....	272 - 273
<b>IV. PROPOSED RULES</b>	
<b>Commerce</b>	
Banking Commission .....	274 - 279
<b>Community Colleges</b>	
Community Colleges, Board of .....	304 - 310
<b>Environment and Natural Resources</b>	
Environmental Management .....	287 - 304
<b>Health and Human Services</b>	
Facility Services .....	279 - 287
<b>V. TEMPORARY RULES</b>	
<b>Administration</b>	
NonPublic Education .....	311 - 314
<b>Environment and Natural Resources</b>	
Marine Fisheries .....	323 - 329
<b>Health and Human Resources</b>	
Facility Services .....	314 - 319
Medical Assistance .....	319 - 321
Social Services .....	321 - 323
<b>VI. APPROVED RULES .....</b>	330 - 333
<b>Environment and Natural Resources</b>	
Coastal Management	
Marine Fisheries	
Wildlife Resources	
<b>Licensing Boards</b>	
Auctioneers, Commission for	
General Contractors, Board of	
Pharmacy, Board of	
<b>VII. RULES REVIEW COMMISSION .....</b>	334 - 338
<b>VIII. CONTESTED CASE DECISIONS</b>	
Index to ALJ Decisions .....	339 - 342
Text of Selected Decisions	
97 EHR 1026 .....	343 - 346
98 ABC 1270 .....	347 - 348
98 DAG 1770 .....	349 - 350
99 DOJ 0045 .....	351 - 367
<b>VIII. CUMULATIVE INDEX .....</b>	1 - 62

# 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
16	Public Education	Geologists	21
17	Revenue	Hearing Aid Dealers and Fitters	22
18	Secretary of State	Landscape Architects	26
19A	Transportation	Landscape Contractors	28
20	Treasurer	Marital and Family Therapy	31
*21	Occupational Licensing Boards	Medical Examiners	32
22	Administrative Procedures (Repealed)	Midwifery Joint Committee	33
23	Community Colleges	Mortuary Science	34
24	Independent Agencies	Nursing	36
25	State Personnel	Nursing Home Administrators	37
26	Administrative Hearings	Occupational Therapists	38
27	NC State Bar	Opticians	40
		Optometry	42
		Osteopathic Examination & Reg. (Repealed)	44
		Pastoral Counselors, Fee-Based Practicing	45
		Pharmacy	46
		Physical Therapy Examiners	48
		Plumbing, Heating & Fire Sprinkler Contractors	50
		Podiatry Examiners	52
		Professional Counselors	53
		Psychology Board	54
		Professional Engineers & Land Surveyors	56
		Real Estate Appraisal Board	57
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work Certification	63
		Soil Scientists	69
		Speech & Language Pathologists & Audiologists	64
		Substance Abuse Professionals	68
		Therapeutic Recreation Certification	65
		Veterinary Medical Board	66

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



# NORTH CAROLINA REGISTER

## Publication Schedule

(April 1999 - January 2000)

FILING DEADLINES			NOTICE OF RULE-MAKING PROCEEDINGS		NOTICE OF TEXT (either column A or column B)						TEMPORARY RULE
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 <sup>th</sup> day from issue date
13:19	04/01/99	03/11/99	06/01/99	04/16/99	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	12/27/99
13:20	04/15/99	03/24/99	06/15/99	04/30/99	05/17/99	05/20/99	05/09/00	06/14/99	06/21/99	05/09/00	01/10/00
13:21	05/03/99	04/12/99	07/15/99	05/18/99	06/02/99	06/21/99	05/09/00	07/02/99	07/20/99	05/09/00	01/28/00
13:22	05/14/99	04/23/99	07/15/99	06/01/99	06/14/99	06/21/99	05/09/00	07/13/99	07/20/99	05/09/00	02/08/00
13:23	06/01/99	05/10/99	08/02/99	06/16/99	07/01/99	07/20/99	05/09/00	08/02/99	08/20/99	05/09/00	02/26/00
13:24	06/15/99	05/24/99	08/16/99	06/30/99	07/15/99	07/20/99	05/09/00	08/16/99	08/20/99	05/09/00	03/11/00
14:01	07/01/99	06/10/99	09/01/99	07/16/99	08/02/99	08/20/99	05/09/00	08/30/99	09/20/99	05/09/00	03/27/00
14:02	07/15/99	06/23/99	09/15/99	07/30/99	08/16/99	08/20/99	05/09/00	09/13/99	09/20/99	05/09/00	04/10/00
14:03	08/02/99	07/12/99	10/01/99	08/17/99	09/01/99	09/20/99	05/09/00	10/01/99	10/20/99	05/09/00	04/28/00
14:04	08/16/99	07/26/99	10/15/99	08/31/99	09/15/99	09/20/99	05/09/00	10/15/99	10/20/99	05/09/00	05/12/00
14:05	09/01/99	08/11/99	11/01/99	09/16/99	10/01/99	10/20/99	05/09/00	11/01/99	11/22/99	05/09/00	05/28/00
14:06	09/15/99	08/24/99	11/15/99	09/30/99	10/15/99	10/20/99	05/09/00	11/15/99	11/22/99	05/09/00	06/11/00
14:07	10/01/99	09/10/99	12/01/99	10/18/99	11/01/99	11/22/99	05/09/00	11/30/99	12/20/99	05/09/00	06/27/00
14:08	10/15/99	09/24/99	12/15/99	11/01/99	11/15/99	11/22/99	05/09/00	12/14/99	12/20/99	05/09/00	07/11/00
14:09	11/01/99	10/11/99	01/04/00	11/16/99	12/01/99	12/20/99	05/09/00	12/31/99	01/20/00	05/09/00	07/28/00
14:10	11/15/99	10/22/99	01/14/00	11/30/99	12/15/99	12/20/99	05/09/00	01/14/00	01/20/00	05/09/00	08/11/00
14:11	12/01/99	11/05/99	02/01/00	12/16/99	12/31/99	01/20/00	05/09/00	01/31/00	02/21/00	05/09/00	08/27/00
14:12	12/15/99	11/22/99	02/15/00	12/30/99	01/14/00	01/20/00	05/09/00	02/14/00	02/21/00	05/09/00	09/10/00
14:13	01/04/00	12/09/99	03/15/00	01/19/00	02/03/00	02/21/00	05/09/00	03/06/00	03/20/00	05/09/00	09/30/00
14:14	01/14/00	12/21/99	03/15/00	01/31/00	02/14/00	02/21/00	05/09/00	03/14/00	03/20/00	05/09/00	10/10/00

## 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"><li>(1) temporary rules;</li><li>(2) notices of rule-making proceedings;</li><li>(3) text of proposed rules;</li><li>(4) text of permanent rules approved by the Rules Review Commission;</li><li>(5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;</li><li>(6) Executive Orders of the Governor;</li><li>(7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;</li><li>(8) orders of the Tax Review Board issued under G.S. 105-241.2; and</li><li>(9) other information the Codifier of Rules determines to be helpful to the public.</li></ol> <p><b>COMPUTING TIME:</b> 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><b>ISSUE DATE:</b> 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><b>LAST DAY FOR FILING:</b> 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><b>END OF COMMENT PERIOD TO A NOTICE OF RULE-MAKING PROCEEDINGS:</b> This date is 60 days from the issue date. An agency shall accept comments on the notice of rule-making proceeding until the text of the proposed rules is published, and the text of the proposed rule shall not be published until at least 60 days after the notice of rule-making proceedings was published.</p> <p><b>EARLIEST REGISTER ISSUE FOR PUBLICATION OF TEXT:</b> The date of the next issue following the end of the comment period.</p>	<p><b>EARLIEST DATE FOR PUBLIC HEARING:</b> The hearing date shall be at least 15 days after the date a notice of the hearing is published.</p> <p><b>END OF REQUIRED COMMENT PERIOD</b></p> <p>(1) <b>RULE WITH NON-SUBSTANTIAL ECONOMIC IMPACT:</b> 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.</p> <p>(2) <b>RULE WITH SUBSTANTIAL ECONOMIC IMPACT:</b> 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> <p><b>DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:</b> 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><b>FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY:</b> 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>

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

U.S. Department of Justice

Civil Rights Division

EJ:VLO:DPB:emr  
DJ 166-012-3  
99-1286  
99-1622

*Voting Section  
P.O. Box 66128  
Washington, D.C. 20035-6128*

June 29, 1999

David A. Holec, Esq.  
City Attorney  
P.O. Box 7207  
Greenville, NC 27835-7207

Dear Mr. Holec:

This refers to two annexations (Ordinance Nos. 99-28 and 99-56) and their designation to voting districts of the City of Greenville in Pitt County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on May 7 and June 17, 1999.

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

Sincerely,

Elizabeth Johnson  
Chief, Voting Section

**TITLE 10 - DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**ABBREVIATED NOTICE OF TEMPORARY RULE-MAKING**

**DIVISION OF FACILITY SERVICES**

This is an Abbreviated Notice to inform interested persons that the agency plans to adopt temporary rules to incorporate need determinations and policies from the 2000 State Medical Facilities Plan ("SMFP") once it is approved by the Governor. Prior to his review and approval of the Plan, the Governor will receive recommendations from the State Health Coordinating Council ("SHCC"). The SHCC will review petitions and public comments on the Draft 2000 SMPF and finalize its recommendations at its next scheduled meeting on Wednesday, September 29, 1999, 10:00AM - 12:00 Noon, Jane S. McKimmon Center at the corner of Gorman Street and Western Boulevard, Raleigh, North Carolina.



*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 August 16, 1999 through October 15, 1999:

Environmental Management Commission - to rule codified in 15A NCAC 2D & 2Q;  
Commission for Health Services - to rules codified in 15A NCAC 13A & 18.

**DENR Regulatory Agenda Index - July 26, 1999**

**AIR QUALITY**

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>
E2808	Activities Exempted from Permit Requirements	15A NCAC 2Q .0102
E2809	Control of Visible Emission	15A NCAC 2D .0521
E2810	Control of Visible Emissions	15A NCAC 2D .0521
E2811	Hot Mix Asphalt Plants & Control of Visible Emissions	15A NCAC 2D .0506, .0521
E2812	Exclusionary Rules	15A NCAC 2Q .0800
E2823	Administrative Changes for non-Title V permits	15A NCAC 2Q .0304, .0305, and new rule
E2824	Compliance Schedule	15A NCAC 2Q .0109
E2825	I/M Measurement & Enforcement	15A NCAC 2D .1005
E2826	Permit Content	15A NCAC 2Q .0508
E2827	Permit exemptions; incinerator rules	15A NCAC 2Q .0102, 2D .1200
E2828	Acid rain permit applicability	15A NCAC 2Q .0401
E2829	Air Toxic definitions	15A NCAC 2D .1103 and 2Q .0703
E2830	Any Credible Evidence	new rule

**ENVIRONMENTAL HEALTH/ENV. HEALTH SERVICES**

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>
E2816	Design Details	15A NCAC 18A .2515

**WASTE MANAGEMENT/HAZARDOUS WASTE**

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>
E2835	Amendments to the NC Hazardous Waste Management Rules	15A NCAC 13A .0101-.0104, .0106, .0108, .0110, .0112, .0113, .0118

**DENR Regulatory Agenda - July 26, 1999**

APA #: E2808

SUBJECT: Activities Exempted from Permit Requirements

RULE CITATION #: 15A NCAC 2Q .0102

STATUTORY AUTHORITY: GS 143-215.3(a)(1); 143-215.108; 143-215.109

DIVISION/SECTION: AIR QUALITY

DIVISION CONTACT: Thom Allen

DIVISION CONTACT TEL#: (919)733-1489

DATE INITIATED: 06/11/1999

DURATION OF RULE: Permanent

TYPE OF RULE:

STAGE OF DEVELOPMENT: Concept Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION :

To allow the Director of the Division of Air Quality to revoke the permit-exempt status for a source or activity found in violation of an applicable requirement.

SCOPE/NATURE/SUMMARY :

Rule 15A NCAC 2Q .0102, Activities Exempted from Permit Requirements, may be amended to allow the Director to revoke the permit-exempt status for a source or activity found in violation of an applicable requirement. The revocation of the permit-exempt status would require the source to be permitted. Permitting the source would facilitate bringing the sources into compliance and assuring that they remain in compliance with all applicable requirements.

APA #: E2809

SUBJECT: Control of Visible Emission

RULE CITATION #: 15A NCAC 2D .0521

STATUTORY AUTHORITY: GS 143-215.2(a); 143-215.107(a)(5)

DIVISION/SECTION: AIR QUALITY

DIVISION CONTACT: Thom Allen

DIVISION CONTACT TEL#: (919)733-1489

DATE INITIATED: 06/11/1999

DURATION OF RULE: Permanent

TYPE OF RULE:

STAGE OF DEVELOPMENT: Concept Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION :

To change the method for determining compliance with the opacity standard when a continuous opacity monitor (COM) is used to measure opacity.

SCOPE/NATURE/SUMMARY :

Rule 15A NCAC 2D .0521, Control of Visible Emissions, may be amended to revise the methodology for determining compliance with the opacity standard when opacity is measured with a COM. The current rule was written to measure opacity with visual observations by a person. The rule allows the opacity standard to be exceeded for one six-minute period in any hour and for four six-minute periods in any 24-hour period. This methodology may not be suited for measuring opacity with a COM. Also, measurements made during startup, shutdown, and malfunctions may be included when a COM is used to measure opacity.

APA #: E2810

SUBJECT: Control of Visible Emissions

RULE CITATION #: 15A NCAC 2D .0521

STATUTORY AUTHORITY: GS 143-215.3(1); 143-215.107(a)(5)

DIVISION/SECTION: AIR QUALITY

DIVISION CONTACT: Thom Allen

DIVISION CONTACT TEL#: (919)733-1489

DATE INITIATED: 06/11/1999

DURATION OF RULE: Permanent

TYPE OF RULE:

STAGE OF DEVELOPMENT: Concept Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION :

To change basing the opacity standard from manufacturing date to installation date.

SCOPE/NATURE/SUMMARY :

Under 15A NCAC 2D .0521, Control of Visible Emissions, if a source was manufactured as of July 1, 1971, it is allowed an opacity of 40 percent. A source manufactured after July 1, 1971, is allowed an opacity of 20 percent. Under the current rule, a source manufactured before July 1, 1971, may be moved to another facility and retain the 40-percent standard. The amendment being considered would change basing the opacity standard from manufacture date to installation date. Thus, if a source that was manufactured before July 1, 1971, was moved to a new facility, its opacity standard would be changed from 40 to 20 percent.

APA #: E2811

SUBJECT: Hot Mix Asphalt Plants & Control of Visible Emissions

RULE CITATION #: 15A NCAC 2D .0506, .0521  
STATUTORY AUTHORITY: GS 143-215.3(a); 143-215.107(a)(5)  
DIVISION/SECTION: AIR QUALITY  
DIVISION CONTACT: Thom Allen  
DIVISION CONTACT TEL#: (919)733-1489  
DATE INITIATED: 06/11/1999  
DURATION OF RULE: Permanent  
TYPE OF RULE:  
STAGE OF DEVELOPMENT: Concept Stage  
GOV LEVELS AFFECTED: None  
REASON FOR ACTION :

To lower the opacity standard for asphalt batch plants.

**SCOPE/NATURE/SUMMARY :**

Currently, the opacity standard for most asphalt batch plants is 20 percent, although some plants have a standard of 40 percent. The proposed rule change being considered would lower the opacity standard to 20 percent or possibly less. Emissions from asphalt batch plants are controlled by bag filters. When this type of control technology is properly maintained and operated, there should be no visible emissions. Therefore, a lower opacity standard is justified for these sources. This change would require amending 15A NCAC 2D .0506, Particulates from Hot Mix Asphalt Plants, and possibly 15A NCAC 2D .0521, Control of Visible Emissions.

**APA #: E2812**

SUBJECT: Exclusionary Rules  
RULE CITATION #: 15A NCAC 2Q .0800  
STATUTORY AUTHORITY: GS 143-215.3(a); 143-215.107(a)(10); 143-215.108  
DIVISION/SECTION: AIR QUALITY  
DIVISION CONTACT: Thom Allen  
DIVISION CONTACT TEL#: (919)733-1489  
DATE INITIATED: 06/11/1999  
DURATION OF RULE: Permanent  
TYPE OF RULE:  
STAGE OF DEVELOPMENT: Concept Stage  
GOV LEVELS AFFECTED: None  
REASON FOR ACTION :

To make all the reporting dates of 15A NCAC 2Q .0800, Exclusionary Rules, the same.

**SCOPE/NATURE/SUMMARY :**

Section 15A NCAC 2Q .0800 defines six categories of facilities as being small for permitting purposes. Rules in this Section require an annual report to verify that the facility still qualifies for coverage under the rule. Most rules require the annual report to be submitted by February 15. One rule, cotton gins, requires the annual report to be submitted by March 1. The rules would be changed to require all the annual reports to be submitted by the same date. This change should make tracking the report submittals easier.

**APA #: E2816**

SUBJECT: Design Details  
RULE CITATION #: 15A NCAC 18A .2515  
STATUTORY AUTHORITY: GS 130A-282  
DIVISION/SECTION: ENVIRONMENTAL HEALTH/ENV. HEALTH SERVICES  
DIVISION CONTACT: Jim Hayes  
DIVISION CONTACT TEL#: (919)715-0924  
DATE INITIATED: 06/23/1999  
DURATION OF RULE: Permanent 08/01/2000  
TYPE OF RULE:  
STAGE OF DEVELOPMENT: Concept Stage  
GOV LEVELS AFFECTED: None

**APA #: E2823**

SUBJECT: Administrative Changes for non-Title V permits  
RULE CITATION #: 15A NCAC 2Q .0304, .0305, and new rule  
STATUTORY AUTHORITY: GS 143-215.3(a)(1); 143-215.108  
DIVISION/SECTION: AIR QUALITY  
DIVISION CONTACT: Thom Allen  
DIVISION CONTACT TEL#: (919)733-1489  
DATE INITIATED: 07/12/1999  
DURATION OF RULE: Permanent  
TYPE OF RULE:  
STAGE OF DEVELOPMENT: Draft Rule Stage  
GOV LEVELS AFFECTED: None  
REASON FOR ACTION :

To clarify administrative amendments for the non-Title V permitting process.

**SCOPE/NATURE/SUMMARY :**

A new rule may be added to Section 15A NCAC 2Q .0300, Construction and Operation Permit, for administrative amendments. The Rule would define the types of changes that are administrative amendments. These changes would include correcting typographical errors; changing the name, address, or telephone number of any individual identified in the permit; changing reporting procedures requiring more frequent monitoring or reporting by the permittee; changing test dates or construction dates. It may also describe the administrative amendment process. Rule 15A NCAC 2D .0304, Applications, .0305, Application Submittal Content, and other rules may need amending.

APA #: E2824

SUBJECT: Compliance Schedule  
RULE CITATION #: 15A NCAC 2Q .0109  
STATUTORY AUTHORITY: GS 143-215.3(a)(1); 143-215.108; 143-215.109  
DIVISION/SECTION: AIR QUALITY  
DIVISION CONTACT: Thom Allen  
DIVISION CONTACT TEL#: (919)733-1489  
DATE INITIATED: 07/12/1999  
DURATION OF RULE: Permanent 04/01/2001  
TYPE OF RULE:  
STAGE OF DEVELOPMENT: Draft Rule Stage  
GOV LEVELS AFFECTED: None  
REASON FOR ACTION :

To revise 15A NCAC 2Q .0109, Compliance Schedule for Previously Exempted Activities to remove obsolete and confusing language.

**SCOPE/NATURE/SUMMARY :**

Rule 15A NCAC 2Q .0109 contains two parts. One part deals with activities for which there was a permit exemption but that permit exemption has been removed from the permit exemption rule. This provision contains obsolete schedules for submitting permit applications for activities that have lost their permit exemption. This language needs to be replaced with more general language to provide a schedule for activities that may lose their permit exemption in the future.

The second part of this rule contains a schedule for submitting air toxic permit applications for sources covered under maximum achievable control technology (MACT). Because of the way MACT rules are written and are being implemented, this provision for submitting application for air toxic emissions is often confusing and leads to conflicts. Therefore, this schedule needs to be removed or significantly revised.

APA #: E2825

SUBJECT: I/M Measurement & Enforcement  
RULE CITATION #: 15A NCAC 2D .1005  
STATUTORY AUTHORITY: GS 143-215.3(a)(1); 143-215.107(a)(3), (6), (7)  
DIVISION/SECTION: AIR QUALITY  
DIVISION CONTACT: Thom Allen  
DIVISION CONTACT TEL#: (919)733-1489  
DATE INITIATED: 07/12/1999  
DURATION OF RULE: Permanent 04/01/2001



**TYPE OF RULE:**

**STAGE OF DEVELOPMENT:** Draft Rule Stage

**GOV LEVELS AFFECTED:** None

**REASON FOR ACTION :**

To improve and streamline the process for revising the specifications of methods and equipment for measuring automobile exhaust emissions.

**SCOPE/NATURE/SUMMARY :**

Rule 15A NCAC 2D .1005, Measurement and Enforcement, states that the methods and equipment for measuring the exhaust emissions are specified in 40 CFR 52.1770. 40 CFR 52.1770 contains Appendix G of the North Carolina State Implementation Plan (SIP). Appendix G contains the methods and equipment specifications for measuring pollutants in motor vehicle exhaust. Thus, to change specifications requires a SIP revision, which is a long and convoluted process. The computer software specifications are frequently changed, and these changes need to be made quickly. To facilitate this process, Rule 15A NCAC 2D .1005 needs to be amended to establish a procedure that would allow the Director of the Division of Air Quality to approve these changes.

**APA #:** E2826

**SUBJECT:** Permit Content

**RULE CITATION #:** 15A NCAC 2Q .0508

**STATUTORY AUTHORITY:** GS 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:** 07/12/1999

**DURATION OF RULE:** Permanent 04/01/2001

**TYPE OF RULE:**

**STAGE OF DEVELOPMENT:** Draft Rule Stage

**GOV LEVELS AFFECTED:** None

**REASON FOR ACTION :**

To incorporate into the Title V permitting rules amendments to 40 CFR Part 70, State Operating Permit Program.

**SCOPE/NATURE/SUMMARY :**

On October 22, 1997 EPA promulgated amendments to 40 CFR Part 70 to revise the permit content requirements for compliance certification. One important change is to require the certification to identify each deviation from a permit condition. The compliance certification must also identify excursions or exceedances of parameters set under the compliance assurance monitoring rules. The incorporation of these changes requires amending 15A NCAC 2Q .0508, Permit Content.

**APA #:** E2827

**SUBJECT:** Permit exemptions; incinerator rules

**RULE CITATION #:** 15A NCAC 2Q .0102, 2D .1200

**STATUTORY AUTHORITY:** GS 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:** 07/12/1999

**DURATION OF RULE:** Permanent 04/01/2001

**TYPE OF RULE:**

**STAGE OF DEVELOPMENT:** Draft Rule Stage

**GOV LEVELS AFFECTED:** None

**REASON FOR ACTION :**

To require all incinerators not excluded from the incinerator rules to have a permit.

**SCOPE/NATURE/SUMMARY :**

Requirements may be revised to disallow permit exemptions for incinerators. However, incinerators not covered under the incinerator rules, 15A NCAC 2D .1200, Control of Emissions from Incinerators, may continue to be exempted.

**APA #:** E2828

**SUBJECT:** Acid rain permit applicability

RULE CITATION #: 15A NCAC 2Q .0401  
STATUTORY AUTHORITY: GS 143-215.3(a)(1); 143-215.107(a)(8); 143-215.108  
DIVISION/SECTION: AIR QUALITY  
DIVISION CONTACT: Thom Allen  
DIVISION CONTACT TEL#: (919)733-1489  
DATE INITIATED: 07/12/1999  
DURATION OF RULE: Permanent  
TYPE OF RULE:  
STAGE OF DEVELOPMENT: Draft Rule Stage  
GOV LEVELS AFFECTED: None  
REASON FOR ACTION :

To amend 15A NCAC 2Q .0401, Purpose and Applicability, to change the applicability of the acid rain rules.

SCOPE/NATURE/SUMMARY :

The EPA has amended 40 CFR 72.6, Applicability, to change the applicability of its acid rain permit regulations. Rule 15A NCAC 2Q .0401 needs to be amended to bring it in line with the federal rule. Most likely the lists of units covered and not covered under the acid rain rules will be replaced by incorporating 40 CFR Part 72.6 by reference.

APA #: E2829

SUBJECT: Air Toxic definitions  
RULE CITATION #: 15A NCAC 2D .1103 and 2Q .0703  
STATUTORY AUTHORITY: GS 143-215.3(a)(1); 143-213; 143-215.108; 143B-282  
DIVISION/SECTION: AIR QUALITY  
DIVISION CONTACT: Thom Allen  
DIVISION CONTACT TEL#: (919)733-1489  
DATE INITIATED: 07/12/1999  
DURATION OF RULE: Permanent 04/01/2001  
TYPE OF RULE:  
STAGE OF DEVELOPMENT: Draft Rule Stage  
GOV LEVELS AFFECTED: None  
REASON FOR ACTION :

To add a definition for soluble nickel compounds to the air toxics rules.

SCOPE/NATURE/SUMMARY :

Rules 15A NCAC 2D .1103, Definitions, and 2Q .0703, Definitions, may be amended to add a definition of soluble nickel. Soluble nickel compounds are the soluble nickel salts of chloride, sulfate, and nitrate.

APA #: E2830

SUBJECT: Any Credible Evidence  
RULE CITATION #: New Rule  
STATUTORY AUTHORITY: GS 143-215(a)(1); 143-215.107(a)(4), (5), (10)  
DIVISION/SECTION: AIR QUALITY  
DIVISION CONTACT: Thom Allen  
DIVISION CONTACT TEL#: (919)733-1489  
DATE INITIATED: 07/12/1999  
DURATION OF RULE: Permanent 04/01/2001  
TYPE OF RULE:  
STAGE OF DEVELOPMENT: Draft Rule Stage  
GOV LEVELS AFFECTED: None  
REASON FOR ACTION :

To adopt an any credible evidence rule.

SCOPE/NATURE/SUMMARY :

The EPA has encouraged states to adopt an any credible evidence rule. 40 CFR 51.212 states that State Implementation Plans are not to contain language that prevents the use of any credible evidence or information to determine whether a source would be in or out of compliance if the appropriate compliance test or procedure had been performed. Any credible evidence could be used for both compliance determination and compliance certification. EPA has identified at least one rule that needs amending to allow any credible evidence. That rule is 15A NCAC 2D .0912, General Provisions on Test Methods and Procedures. Two approaches could be used. One is to adopt a generic any credible evidence rule, which is probably the best approach. The other is to identify each rule for which there is a problem and fix it.

APA #: E2835

SUBJECT: Amendments to the NC Hazardous Waste Management Rules

RULE CITATION #: 15A NCAC 13A .0101-.0104, .0106, .0108, .0110, .0112, .0113, .0118

STATUTORY AUTHORITY: GS. 130A-294(c), 150B-21.6

DIVISION/SECTION: WASTE MANAGEMENT/HAZARDOUS WASTE

DIVISION CONTACT: Brenda Rivers

DIVISION CONTACT TEL#: (919)733-4996

DATE INITIATED: 07/21/1999

DURATION OF RULE: Permanent

TYPE OF RULE:

STAGE OF DEVELOPMENT: Draft Rule Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION :

To eliminate the Annual Report requirements as required by Section 27.10 of House Bill 53 of the Second Extra Session of the 1996 North Carolina Legislature. Changes are also made to properly identify the Department and definitions that are exempt in certain rules.

*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 2 - ENVIRONMENTAL MANAGEMENT**

**Notice of Rule-making Proceedings** is hereby given by the Environmental Management 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 2S. Other rules may be proposed in the course of the rule-making process.

**Authority for the rule-making:** G.S. 143-215.104A et seq.

**Statement of the Subject Matter:** The Environmental Management Commission will consider adoption of rules regarding minimum management practices for the handling of solvent at dry-cleaning facilities pursuant to provisions in the Dry-Cleaning Solvent Cleanup Act of 1997, G.S. 143-215.104A et seq.

**Reason for Proposed Action:** The North Carolina General Assembly enacted G.S. 143-215.104A et seq., referred to as the "Dry-Cleaning Solvent Cleanup Act of 1997". This law authorizes the Environmental Management Commission to engage in rulemaking as necessary to implement the dry-cleaning solvent cleanup program. The Division of Waste Management, Superfund Section, is filing notice of its intent to develop rules regarding minimum management practices at dry-cleaning facilities in accordance with the statute.

**Comment Procedures:** Written comments may be submitted to the Division of Waste Management, Superfund Section, Attention Lisa Taber, 401 Oberlin Road, Suite 150, Raleigh, NC 27605.

\*\*\*\*\*

**CHAPTER 10 - WILDLIFE RESOURCES 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 .0355 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 Zone

**Reason for Proposed Action:** The Perquimans County Board of Commissioners initiated the no-wake zone pursuant to G.S. 75A-15 to protect public safety in the area by restricting vessel speed. The Wildlife Resources Commission may adopt this Rule as a temporary rule pursuant to G.S. 150B-21.1(a1) following this abbreviated notice.

**Comment Procedures:** The record will be open for receipt of written comments and must be delivered or mailed to the North Carolina Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

\*\*\*\*\*

**CHAPTER 21 - HEALTH: PERSONAL HEALTH**

**Notice of Rule-making Proceedings** is hereby given by the Commission for Health Services 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 211 .0102-.0103; 21J .0102-.0103. Other rules may be proposed in the course of the rule-making process.

**Authority for the rule-making:** G.S. 130A-361

**Statement of the Subject Matter:** These Rules clarify and strengthen the criteria that foods must meet in order for meals to be credited for reimbursement in the Summer Food Service Program (SFSP) and the Child and Adult Care Food Program (CACFP) in North Carolina.

**Reason for Proposed Action:** The meal requirements in the federal regulations for the Summer Food Service Program (SFSP) and the Child and Adult Care Food Program



(CACFP) are general in nature, and do not automatically ensure that nutritious meals are served. The North Carolina Department of Health and Human Services (DHHS), Division of Public Health is setting forth these rules to ensure that meals claimed for reimbursement in the SFSP and the CACFP reflect the National Health and Safety Performance Standards for Out-of-Home Child Care Programs and the United States Department of Agriculture's Dietary Guidelines for Americans. Implementation of these rules will help meet the nutrition goals and standards of state initiatives for health, including the Department of Health and Human Services' Healthy Child Care North Carolina initiative and its 1999-2003 North Carolina Plan to Prevent Heart Disease and Stroke. Through this improved public health policy, more nutritious meals will support the development and maintenance of healthful eating habits among North Carolina's children and adults in these programs, thus combating the increasingly prevalent nutrition-related problems of childhood obesity, anemia, heart disease, and diabetes.

**Comment Procedures:** Copies of the proposed rules and information packages may be obtained by contacting Special Nutrition Programs at (919) 715-1923. Written comments may be submitted to Arnette Cowan, Nutrition Services Branch, 1914 Mail Service Center, Raleigh, NC 27699-1914.

*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 4 - DEPARTMENT OF COMMERCE

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the Office of the Commissioner of Banks; State Banking Commission intends to adopt the rules cited as 4 NCAC 3L .0101-.0102, .0201-.0202, .0301-.0303, .0401-.0405, .0501-.0502, .0601-.0604, .0701-.0702. Notice of Rule-making Proceedings was published in the Register on June 15, 1999.

**Proposed Effective Date:** July 1, 2000

**A Public Hearing** will be conducted at 10:00 a.m. on September 3, 1999 at the Commissioner of Banks Hearing Room, 702 Oberlin Road, Suite 400, Raleigh, NC.

**Reason for Proposed Action:** *There have been questions and concerns as to the proper operation of Article 22 of Chapter 53, especially as to post-dated and delayed-deposit checks, and there is a need for rules to provide guidance to industry participants and protection to consumers.*

**Comment Procedures:** *Comments should be forwarded to Otis M. Meacham, Deputy Commissioner, Office of the Commissioner of Banks, PO Box 10709, Raleigh, NC 27605-0709.*

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

## CHAPTER 3 - BANKING COMMISSION

### SUBCHAPTER 3L - CHECK-CASHING BUSINESSES

#### SECTION .0100 - ADMINISTRATIVE

##### .0101 DEFINITIONS

(a) As used in this Subchapter 3L, unless the context or the language of Article 22 of G.S. 53 indicate a contrary intention, the following definitions shall apply:

- (1) "Affiliate" shall mean any person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is in common control with another person.
- (2) "Affiliate of the licensee" within the meaning of G.S. 53-281(e) includes a person related to the licensee by common ownership or control, a person with whom the licensee has any financial interest, or

any employee or agent of the licensee.

- (3) "Any one maker" shall mean any single signatory on a personal checking account.
- (4) "Branch location" shall mean any location, including a mobile unit, but not the principal place of business, where the licensee holds itself out to the public as engaging in a check-cashing business.
- (5) "Business day" shall mean any day other than a week-end or holiday, or any day during which banks and similar financial institutions in North Carolina are open to the public for the regular conduct of business.
- (6) "Check" shall mean a draft (other than a draft payable upon presentation of document such as securities) payable on demand and drawn on a bank. The term "check" may also include any cashier's check or teller's check or other check, draft, or money order, but shall not include travelers checks or foreign denomination payment instruments.
- (7) "Conspicuously posted" shall mean placed in plain public view in such a location and in such a way and of such form and size and typeface that any person seeking the services of a licensee could clearly and easily see and read the contents of the posted notice.
- (8) "Controlling person" shall mean any person who owns or holds with the power to vote 10% or more of the equity securities of an applicant or licensee, or who has the power to direct the management and policy of the licensee.
- (9) "Draft" shall mean a written order to pay money signed by one person, the drawer who signs the document, upon another person, the drawee.
- (10) "Liquid assets" shall mean cash, bank deposit accounts, and money market accounts or similar property owned by the applicant or licensee, plus undeposited checks cashed by a licensee, less any returned checks doubtful of collection and cash remittances due others.
- (11) "Location" shall mean any place of business where check-cashing activity is conducted.
- (12) "Mobile unit" shall mean a vehicle or other movable means from which the business of check cashing is conducted.
- (13) "Personal check" as the term is used in G.S. 53-281(a) shall mean a check drawn on the checking account of a natural person and bearing the signature of the customer who signs the written agreement pursuant to G.S. 53-281(c).
- (14) "Principal" shall mean any person who controls, directly or indirectly through one or more

intermediaries, alone or in concert with others, a 10% or greater interest in a partnership, company, association or corporation; the owner of a sole proprietorship; or any natural person acting with apparent authority for or on behalf of an owner, officer, member, or director of a licensee; any natural person who directs the performance of other employees as manager of a branch of any licensee.

(15) "Principal place of business" shall mean the location where the licensee holds itself out to the public as engaging in a check cashing business and which the licensee has declared to the Commissioner to be its main site of business operations.

(16) "Receipt" shall mean a written record of the check-cashing transaction.

(17) "Renew or extend" shall mean to postpone the effective due date or to modify or alter or replace an instrument previously given so as to continue it beyond its originally stated due date, whether or not another fee is paid to the licensee.

(b) Unless a term is defined herein or in G.S. 53, Article 22, that term shall have the meaning given it, if any, by Article 3 "Negotiable Instruments" of Chapter 25, North Carolina Uniform Commercial Code.

Authority G.S. 53-92; 53-93; 53-288.

## **.0102 FILINGS**

Any application for a license, or any report, application for annual renewal, amendment to application, renewal notice or other document which is required by law or rule to be filed with the Commissioner shall be addressed as follows:

Office of the Commissioner of Banks  
4309 Mail Service Center  
Raleigh, North Carolina 27699-4309

or, if not mailed, then delivered to:

Office of the Commissioner of Banks  
702 Oberlin Road, Suite 400  
Raleigh, North Carolina 27605

Authority G.S. 53-92; 53-93; 53-288.

## **SECTION .0200 - APPLICATION**

### **.0201 APPLICATION FOR LICENSE**

(a) Any person intending to engage in a check-cashing business pursuant to G.S. 53, Article 22 shall first be licensed by the Commissioner. An application shall be made on a form obtained from the Commissioner, and the completed application shall be filed pursuant to Rule .0102 of this Subchapter.

(b) The application for license as a check-cashing business shall include a financial statement that is sufficient to show liquid assets of fifty thousand dollars (\$50,000) as required by G.S. 53-279(a).

(c) The application for license as a check-cashing business shall further include:

(1) the business address in North Carolina, mailing address, business telephone number, facsimile number, and name of the supervisor or manager for the principal place of business and for each branch location;

(2) the address where books and records for the business will be kept;

(3) name, title, and business telephone number and facsimile number for the application contact person;

(4) the applicant's federal employer identification number;

(5) a declaration as to whether the applicant's business will be conducted as a sole proprietorship, a partnership, a limited liability company, or a corporation.

(d) Each applicant shall provide a signed statement authorizing the Commissioner to run a credit report on the applicant and on each owner, partner, director, principal, controlling person thereof.

(e) Each applicant shall provide a signed statement making full disclosure to the Commissioner concerning the following:

(1) Any criminal proceedings pending against or criminal convictions entered against the applicant, its partners, directors, principal officers or controlling persons;

(2) Any civil proceedings pending against or civil judgments entered against the applicant, its partners, directors, principal officers or controlling persons which involve fraud or dishonesty;

(3) Any civil judgments entered against the applicant, its partners, directors, principal officers or controlling persons during the past 10 years which have remained partially or wholly unpaid;

(4) Any of the following proceedings involving the applicant, its partners, directors, principal officers or controlling persons: bankruptcy, assignment for the benefit of creditors, receivership, conservatorship or similar proceeding;

(5) Any proceedings brought by a state or federal administrative agency against the applicant, its partners, directors, principal officers or controlling persons;

(6) Any judgments entered by state or federal administrative agency against the applicant, its partners, directors, principal officers, or controlling persons which involve fraud, dishonesty, or that reflect on the applicants' character and fitness to command the confidence of the public;

(7) A description of the business experience, current business activities and education of the applicant, its partners, directors, principal officers and controlling persons.

(f) The application shall be in writing and shall be verified by the oath of the applicant.



(g) In addition to the documents and information described in this Rule, the Commissioner may require such additional information as he may deem necessary or helpful in order to perform the investigation required by required by G.S. 53-278 and to make the findings required by G.S. 53-279.

(h) Incomplete application files may be closed and may be deemed denied without prejudice when the applicant has not submitted information requested by the Commissioner within 30 days of request.

*Authority G.S. 53-92; 53-93; 53-276; 53-278; 53-279; 53-288.*

## **.0202 FEES**

(a) The initial fees required by G.S. 53-278(c) shall be submitted with the application for license and shall be made payable to the Commissioner.

(b) The annual renewal fees required by G.S. 53-278(d) shall be submitted with the request for renewal of the license and shall be made payable to the Commissioner.

*Authority G.S. 53-92; 53-93; 53-278; 53-288.*

## **SECTION .0300 - LICENSING**

### **.0301 ISSUANCE**

Upon receipt of a completed application and payment of the investigation fee required by G.S. 53-278 the Commissioner shall investigate the applicant pursuant to G.S. 53-278 and G.S. 53-279. If the Commissioner finds that the applicant has met the provisions of G.S. 53-279, the Commissioner shall issue the applicant a license for use at the declared location.

*Authority G.S. 53-92; 53-93; 53-278; 53-279; 53-288.*

### **.0302 NONTRANSFERABILITY OF LICENSE**

(a) A license granted hereunder shall be neither transferable nor assignable.

(b) The circumstances under which the Commissioner shall deem a change in the licensee's organizational structure to constitute a transfer or assignment of the license shall include, but not be limited to, the following:

(1) If the licensee is a corporation or limited liability company:

(A) A change in ownership of 50% or more of the licensee's stock;

(B) The conversion of the corporation or company into a general or limited partnership or sole proprietorship;

(2) If the licensee is a general or limited partnership:

(A) A change in one of the licensee's general partners;

(B) The conversion of the general partnership into a limited partnership, corporation or sole proprietorship;

(C) The conversion of the limited partnership into a general partnership, corporation or sole proprietorship;

(3) If the licensee is a sole proprietor:

(A) The conversion of the sole proprietorship into a general or limited partnership or corporation;

(B) The sale or assignment of all of the assets of the licensee's business to another person.

(c) Upon a change in organization as set forth in Paragraph (b) of this Rule, the licensee's license shall become void and the licensee shall surrender its license to the Commissioner within 10 days of such change. If the entity which results from the change in the licensee's organizational structure desires and intends to engage in a check-cashing business in this State, it shall apply for a license pursuant to Section .0200 of this Subchapter.

*Authority G.S. 53-92; 53-93; 53-276; 53-278; 53-288.*

### **.0303 ANNUAL RENEWAL OF LICENSE**

On or before September 1 of each year, a licensee may renew its license by filing with the Commissioner an application for license renewal on a form available from the Commissioner, along with payment of renewal fees required under G.S. 53-278(d). Absent such renewal each year, the license shall expire and become void on September 30 without further action by the Commissioner.

*Authority G.S. 53-92; 53-93; 53-276; 53-278; 53-288.*

## **SECTION .0400 - OPERATIONS**

### **.0401 POSTING OF LICENSE OR BRANCH CERTIFICATE**

A licensee shall obtain a branch location certificate for each location other than its principal place of business at which its business of cashing checks is conducted. The license or certificate must be conspicuously posted.

*Authority G.S. 53-92; 53-93; 53-276; 53-278; 53-288.*

### **.0402 SURRENDER OF LICENSE**

A licensee shall notify the Commissioner in writing of its decision to cease operations as a check-cashing business in this State within seven days of such decision. A licensee shall surrender its license and branch certificates, if any, to the Commissioner no later than 30 days after it has voluntarily ceased operations in this State and within such shorter time as the Commissioner may order if operations end involuntarily.

*Authority G.S. 53-92; 53-93; 53-276; 53-288.*

### **.0403 POSTING OF FEES**

(a) The notice of fees required by G.S. 53-280(c) shall be clear, legible, and in bold and blocked letters and numbers not less than one inch in height. The information shall be posted in a conspicuous location in the unobstructed view of the public within the check casher's premises. Check cashers who



offer delayed deposit transactions pursuant to G.S. 53-281 shall also display an example of a delayed deposit check transaction with a face amount of one hundred dollars (\$100.00) along with the maximum fee allowed to be charged, which fee shall be expressed both as a dollar amount and as an effective annual percentage rate (APR). The display shall illustrate identical delayed deposit transactions of 7, 14, and 30 days.

(b) A licensee shall file with the Commissioner on paper 8½ x 11 inches a scaled duplicate of the notice required by G.S. 53-280(c) and Paragraph (a) of this Rule.

Authority G.S. 53-92; 53-93; 53-280; 53-281; 53-288.

#### **.0404 CASH-OUT TRANSACTIONS**

(a) A delayed deposit customer may tender cash in return for a delayed deposit check on or before the date it is due for deposit. This shall be a decision of the customer and not the licensee.

(b) A licensee may not require by contract or otherwise that a delayed deposit customer cash-out a delayed deposit check.

(c) The licensee shall provide to the delayed-deposit customer a receipt for the funds tendered in return for a delayed deposit check. The receipt shall show:

- (1) The name of the customer;
- (2) The name of the licensee;
- (3) The location of the cash-out transaction;
- (4) The date and time of the cash-out;
- (5) The amount of cash received.

(d) If the customer declines to cash-out a delayed deposit check before it is due for deposit, then the licensee may deposit the check or otherwise make immediate presentment of the check.

Authority G.S. 53-92; 53-93; 53-282; 53-282; 53-288.

#### **.0405 LIMITATION ON DELAYED DEPOSIT CHECK CASHING**

(a) A licensee may not at any time have a delayed deposit check of more than three hundred dollars (\$300.00) outstanding for any one maker or customer. Any single check, or combination of checks, in excess of that amount shall subject the licensee to administrative enforcement action as well as civil penalties and recovery of excess fees for violation of Article 22.

(b) A licensee may have multiple delayed deposit checks from a single maker so long as those items do not exceed at any time an aggregate amount of three hundred dollars (\$300.00).

(c) With regard to a joint account on which there is more than one authorized signatory, a licensee may enter delayed deposit contracts and hold delayed deposit checks from any owner or signatory on the joint account so long as the items from each single maker do not exceed at any time an aggregate amount of three hundred dollars (\$300.00) for that maker.

(d) A licensee may not enter into transactions in excess of

the limitations specified in this Rule through the use of a combination or cooperative arrangement with any other licensee or affiliate.

Authority G.S. 53-92; 53-93; 53-281; 53-288.

### **SECTION .0500 - BOOKS AND RECORDS; EXAMINATIONS**

#### **.0501 BOOKS AND RECORDS**

(a) Each check-cashing business licensed by the Commissioner of Banks shall record all transactions of receipts and disbursements pertaining to checks cashed, including postdated or delayed deposit items. All entries shall be made as of the exact date the transactions occur. A licensee shall maintain books and accounting records which shall include, at a minimum:

- (1) a daily transaction journal, or equivalent record, which shall show the customer's name for each transaction;
- (2) the written receipt required by G.S. 53-282(b);
- (3) the written customer agreement required by G.S. 53-281(c);
- (4) delayed checks currently held for deposit;
- (5) receipts issued for customer cash-outs of delayed deposit transactions;
- (6) a history card, or its equivalent, for each delayed deposit check cashing customer which shows:
  - (A) the customer's name;
  - (B) the date and amount of each such check in order;
  - (C) the date each check was deposited or cashed or returned to the customer upon his tender of cash; and
  - (D) the method of payment (whether by deposit or by a tender of cash from the customer); and
- (7) the bank statements of the licensee. If the statements are not maintained on the premises of the licensee, they must be made immediately available upon request by the Office of the Commissioner of Banks.

(b) These records shall be maintained at each business location and shall be readily available to the Commissioner of Banks or his designee for inspection or examination for a period of not less than three years from the date of final entry.

(c) No books or records of the licensee required hereunder shall show any account or reflect any transaction other than those directly related to the check-cashing business within the provisions of the Check-Cashing Businesses Act.

(d) Where a licensee is engaged in the business of handling postdated or delayed deposit checks, as authorized by G.S. 53-281, the licensee, even though it may not be required to maintain completely separate books and records on such transactions, shall nonetheless be capable of extracting from its books and records information about the frequency of

repeat use by individuals of postdated or delayed deposit checks.

(c) Books and records retained by a licensee which arise from or relate to a prior accounting period may be maintained in the form of magnetic tape, magnetic disk, or other form of computer, electronic or microfilm media available for examination on the basis of computer printed reproduction, video display, or other medium so long as any books and records kept in such manner are convertible into clearly legible, tangible documents within 72 hours of request of the Commissioner. The time for such conversion may be extended if the Commissioner determines that the burden to the licensee of such immediate conversion exceeds the benefit to the Commissioner and the public.

Authority G.S. 53-92; 53-93; 53-282; 53-282; 53-288.

## **.0502 EXAMINATIONS; INVESTIGATIONS**

(a) The Commissioner of Banks may make such examination of the books, records, business locations, and operations of any licensee and at such times as may seem necessary or desirable to the Commissioner or his designee. Such examinations may be with or without advance notice to the licensee.

(b) In addition to examinations authorized by G.S. 53-278(b) or G.S. 53-282(c), the Commissioner may request from licensees hereunder such reports and at such times as to him shall be necessary or advisable for the purpose of determining the general results of operations under G.S. 53, Article 22. The Commissioner or his designee may also examine or investigate a licensee when the Commissioner has reasonable grounds to believe that a registrant has violated any law or regulation of this State, the Federal government or any agency thereof.

(c) If a licensee fails to pay the costs of examination or investigation to the Commissioner within a reasonable time as required by G.S. 53-282(c), then the Commissioner may proceed to remedies contemplated by G.S. 53-284 *et seq.*

Authority G.S. 53-92; 53-93; 53-278; 53-282; 53-284; 53-288.

## **SECTION .0600 - REPORTING AND NOTIFICATION REQUIREMENTS**

### **.0601 AMENDMENTS TO INFORMATION ON FILE WITH THE COMMISSIONER**

(a) A licensee shall notify the Commissioner within 30 days of any material change to information which it submitted to the Commissioner, whether provided in its initial application, in its request for annual renewal, or in any other report or information otherwise provided to the Commissioner.

(b) Notification shall be accomplished by letter or by revision or modification of the appropriate portions of the application (whether initial or renewal). If the licensee elects to revise or modify its initial application or annual renewal statement, it shall do so on pages obtained from the

Commissioner.

(c) For the purposes of this Rule, the term "material" shall mean any information which would be likely to influence the granting, revocation, or expiration of a license hereunder. The term "material" shall include, but not be limited to:

- (1) changes in the licensee's corporate officers, partners, or business structure;
- (2) changes in the address of the licensee's main or branch offices and any names under which the licensee operates; or
- (3) changes which would render untrue, inaccurate, or misleading any of the disclosures made by the licensee in its application pursuant to Rule .0201 of this Subchapter.

Authority G.S. 53-92; 53-93; 53-278; 53-283; 53-284; 53-288.

### **.0602 EXPANSION OR RELOCATION**

A licensee shall notify the Commissioner of the opening of any new branch office or the relocation of its principal place of business or of any branch office at least 20 days prior to the effective date of such change. The notification shall be on a form obtained from the Commissioner. The notification shall provide an explanation of the reasons for such change and shall be accompanied by a certificate fee for the new branch certificate in the amount of fifty dollars (\$50.00). The Commissioner shall issue a revised branch certificate upon his receipt of the required notification, the satisfactory explanation, and the filing fee, and upon surrender of the licensee's inaccurate certificate.

Authority G.S. 53-92; 53-93; 53-276; 53-278; 53-279; 53-283; 53-288.

### **.0603 IMPAIRMENT OF FINANCIAL REQUIREMENTS**

A licensee shall immediately notify the Commissioner in writing if, at any time, it fails to meet the minimum liquid asset requirement of G.S. 53-279(a).

Authority G.S. 53-92; 53-93; 53-279; 53-288.

### **.0604 REPORT OF INFORMATION TO COMMISSIONER FOR THE GENERAL ASSEMBLY**

Where a licensee is engaged in the business of handling postdated or delayed deposit checks, as authorized by G.S. 53-281, the licensee shall, from time to time at the Commissioner's request, submit such summary information of its business as the Commissioner may require so to allow the Commissioner, with the assistance of participants in this business, to compile the report required by the General Assembly in Section 2 of Session Law 1997-391.

Authority G.S. 53-92; 53-93; 53-279; 53-288.



**SECTION .0700 - PROHIBITED ACTS AND PRACTICES; ENFORCEMENT**

**.0701 PROHIBITED CONDUCT AND PRACTICES**

For the purposes of G.S. 53-283(5), it shall be deemed an unfair, deceptive, or fraudulent practice to provide check cashing services or accept a postdated or delayed deposit check under G.S. 53-281 when the licensee knows or has reason to know that the customer is under any legal or other disability or is conducting business with any deficiency of understanding of spoken or written English, and it would be apparent to a reasonable person that the customer is relying exclusively upon the licensee because of such disability or language deficiency.

Authority G.S. 53-92; 53-93; 53-278; 53-283; 53-288.

**.0702 ENFORCEMENT ACTIONS**

The grounds upon which the Commissioner may either revoke or suspend a licensee's license shall include, but shall not be limited to, the following:

- (1) The making of any false statement in an initial or renewal application for license, if the false statement would have been grounds for the denial of the application; or
- (2) The making of any false statement on any form or document requested by the Commissioner; or
- (3) The conviction of any crime which would have a bearing upon the fitness or ability of the licensee to conduct its business; or
- (4) The commission of any action which involves dishonesty, fraud or misrepresentation. This Subparagraph shall not be construed to apply to bonafide errors.

Authority G.S. 53-92; 53-93; 53-278; 53-284; 53-288.

**TITLE 10 - DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Notice is hereby given in accordance with G.S. 150B-21.2 that the Division of Facility Services intends to amend rules cited as 10 NCAC 3R .1613, .1615, .1713 - .1715, .1912 - .1914, .2113, .2713, .2715, and .4203. Notice of Rule-making Proceedings was published in the Register on January 15, 1999.

**Proposed Effective Date:** July 1, 2000

**A Public Hearing** will be conducted at 10:00 a.m. on October 4, 1999 at the Council Building, Room 201, 701 Barbour Drive, Raleigh, NC.

**Reason for Proposed Action:** To adopt permanent rules to replace the temporary version of rules applicable to the

Certificate of Need program.

**Comment Procedures:** Anyone wishing to comment on these proposed rules should contact Jackie Sheppard, APA Coordinator, Division of Facility Services, 701 Barbour Dr, Raleigh, NC 27603, (919) 733-2342. All written comments must be received no later than October 4, 1999.

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

**CHAPTER 3 - FACILITY SERVICES**

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

**SECTION .1600 - CRITERIA AND STANDARDS FOR CARDIAC CATHETERIZATION EQUIPMENT AND CARDIAC ANGIOPLASTY EQUIPMENT**

**.1613 DEFINITIONS**

The following definitions shall apply to all rules in this Section:

- (1) "Approved" means the equipment was not in operation prior to the beginning of the review period and had been issued a certificate of need or had been acquired prior to March 18, 1993 in accordance with 1993 N.C. Sess. Laws c. 7, s. 12.
- (2) "Capacity" of an item of cardiac catheterization equipment or cardiac angioplasty equipment means ~~1270~~ 1370 diagnostic-equivalent procedures per year. One therapeutic cardiac catheterization procedure is valued at ~~1-67~~ 1.75 diagnostic-equivalent procedures. One cardiac catheterization procedure performed on a patient age 14 or under is valued at two diagnostic-equivalent procedures. All other procedures are valued at one diagnostic-equivalent procedure.
- (3) "Cardiac angioplasty equipment" shall have the same meaning as defined in G.S. 131E-176(2c).
- (4) "Cardiac catheterization equipment" shall have the same meaning as defined in G.S. 131E-176(2f).
- (5) "Cardiac catheterization procedure", for the purpose of determining utilization in a certificate of need review, means a single episode of diagnostic or therapeutic catheterization which occurs during one visit to a cardiac catheterization room, whereby a flexible tube is inserted into the patient's body and advanced into the heart chambers to perform a hemodynamic or angiographic examination or therapeutic intervention of the left or right heart chamber, or coronary arteries. A cardiac catheterization procedure does not include a simple right heart catheterization for monitoring purposes

- as might be done in an electrophysiology laboratory, pulmonary angiography procedure, cardiac pacing through a right electrode catheter, temporary pacemaker insertion, or procedures performed in dedicated angiography or electrophysiology rooms.
- (6) "Cardiac catheterization room" means a room or a mobile unit in which there is cardiac catheterization or cardiac angioplasty equipment for the performance of cardiac catheterization procedures. Dedicated angiography rooms and electrophysiology rooms are not cardiac catheterization rooms.
  - (7) "Cardiac catheterization service area" means a geographical area defined by the applicant, which has boundaries that are not farther than 90 road miles from the facility, if the facility has a comprehensive cardiac services program; and not farther than 45 road miles from the facility if the facility performs only diagnostic cardiac catheterization procedures; except that the cardiac catheterization service area of an academic medical center teaching hospital designated in 10 NCAC 3R shall not be limited to 90 road miles.
  - (8) "Cardiac catheterization services" means the provision of diagnostic cardiac catheterization procedures or therapeutic cardiac catheterization procedures performed utilizing cardiac catheterization equipment or cardiac angioplasty equipment in a cardiac catheterization room.
  - (9) "Comprehensive cardiac services program" means a cardiac services program which provides the full range of clinical services associated with the treatment of cardiovascular disease including community outreach, emergency treatment of cardiovascular illnesses, non-invasive diagnostic imaging modalities, diagnostic and therapeutic cardiac catheterization procedures, open heart surgery and cardiac rehabilitation services. Community outreach and cardiac rehabilitation services shall be provided by the applicant or through arrangements with other agencies and facilities located in the same city. All other components of a comprehensive cardiac services program shall be provided within a single facility.
  - (10) "Diagnostic cardiac catheterization procedure", for the purpose of determining utilization in a certificate of need review, means a cardiac catheterization procedure performed for the purpose of detecting and identifying defects or diseases in the coronary arteries or veins of the heart, or abnormalities in the heart structure, but not the pulmonary artery.
  - (11) "Electrophysiology procedure" means a diagnostic or therapeutic procedure performed to study the electrical conduction activity of the heart and characterization of atrial ventricular arrhythmias.
  - (12) "Existing" means the equipment was in operation prior to the beginning of the review period.
  - (13) "High-risk patient" means a person with reduced life expectancy because of left main or multi-vessel coronary artery disease, often with impaired left ventricular function and with other characteristics as referenced in the American College of Cardiology/American Heart Association Guidelines for Cardiac Catheterization and Cardiac Catheterization Laboratories (1991) report.
  - (14) "Mobile equipment" means cardiac angioplasty equipment or cardiac catheterization equipment and transporting equipment which is moved to provide services at two or more host facilities.
  - (15) "Percutaneous transluminal coronary angioplasty (PTCA)" is one type of therapeutic cardiac catheterization procedure used to treat coronary artery disease in which a balloon-tipped catheter is placed in the diseased artery and then inflated to compress the plaque blocking the artery.
  - (16) "Primary cardiac catheterization service area" means a geographical area defined by the applicant, which has boundaries that are not farther than 45 road miles from the facility, if the facility has a comprehensive cardiac services program; and not farther than 23 road miles from the facility if the facility performs only diagnostic cardiac catheterization procedures; except that the primary cardiac catheterization service area of an academic medical center teaching hospital designated in 10 NCAC 3R shall not be limited to 45 road miles.
  - (17) "Therapeutic cardiac catheterization procedure", for the purpose of determining utilization in a certificate of need review, means a cardiac catheterization procedure performed for the purpose of treating or resolving certain anatomical or physiological conditions which have been determined to exist in the heart or coronary arteries or veins of the heart, but not the pulmonary artery.

Authority G.S. 131E-177(1); 131E-183.

#### .1615 REQUIRED PERFORMANCE STANDARDS

(a) The An applicant shall demonstrate that the project is capable of meeting the following standards:

- (1) each proposed item of cardiac catheterization equipment or cardiac angioplasty equipment, including mobile equipment, shall be utilized at an annual rate of at least 60 percent of capacity, measured during the fourth quarter of the third year following completion of the project;
- (2) if the applicant proposes to perform therapeutic cardiac catheterization procedures, each of the applicant's therapeutic cardiac catheterization teams shall be performing at an annual rate of at least 100 therapeutic cardiac catheterization procedures, during the third year of operation following completion of the project;
- (3) if the applicant proposes to perform diagnostic



cardiac catheterization procedures, each diagnostic cardiac catheterization team shall be performing at an annual rate of at least 200 diagnostic-equivalent cardiac catheterization procedures by the end of the third year following completion of the project;

- (4) ~~(3)~~at least 50 percent of the projected cardiac catheterization procedures shall be performed on patients residing within the primary cardiac catheterization service area; area.

(b) An applicant proposing to acquire mobile cardiac catheterization or mobile cardiac angioplasty equipment shall:

- (4)(1) demonstrate that each existing item of cardiac catheterization equipment and cardiac angioplasty equipment in each facility which has a primary cardiac catheterization service area that overlaps equipment, excluding mobile equipment, located in the proposed primary cardiac catheterization service area of each host facility shall have been operated at a level of at least 80 percent of capacity during the 12 month period reflected in the most recent licensure form on file with the Division of Facility Services;

- (5)(2) demonstrate that the utilization of each existing or approved item of cardiac catheterization equipment and cardiac angioplasty equipment, excluding mobile equipment, located in each facility which has a primary cardiac catheterization service area that overlaps the proposed primary cardiac catheterization service area of each host facility shall not be expected to fall below 60 percent of capacity due to the acquisition of the proposed cardiac catheterization, cardiac angioplasty, or mobile equipment;

- (6) ~~if the applicant proposes to perform diagnostic cardiac catheterization procedures, each diagnostic cardiac catheterization team shall be performing at an annual rate of at least 200 diagnostic-equivalent cardiac catheterization procedures by the end of the third year following completion of the project;~~

- (7)(3) demonstrate that each item of existing mobile equipment operating in the proposed primary cardiac catheterization service area of each host facility shall have been performing at least an average of four diagnostic-equivalent cardiac catheterization procedures per day per site in the proposed cardiac catheterization service area in the 12 month period preceding the submittal of the application;

- (8)(4) demonstrate that each item of existing or approved mobile equipment to be operating in the proposed primary cardiac catheterization service area of each host facility shall be performing at least an average of four diagnostic-equivalent cardiac catheterization procedures per day per site in the proposed cardiac catheterization service area in the applicant's third year of operation; and

- (5) provide documentation of all assumptions and data used in the development of the projections required in this Rule.

(c) An applicant proposing to acquire cardiac catheterization or cardiac angioplasty equipment that is not mobile cardiac catheterization equipment shall:

- (1) demonstrate that each of its existing items of cardiac catheterization and cardiac angioplasty equipment, except mobile equipment, located in the proposed cardiac catheterization service area operated at a level of at least 80% of capacity during the 12 month period reflected in the most recent licensure renewal application form on file with the Division of Facility Services;

- (2) demonstrate that each of its existing items of cardiac catheterization equipment or cardiac angioplasty equipment, except mobile equipment, shall be utilized at an annual rate of at least 60 percent of capacity, measured during the fourth quarter of the third year following completion of the project; and

- (3) provide documentation of all assumptions and data used in the development of the projections required in this Rule.

(b)(d) If the applicant proposes to perform cardiac catheterization procedures on patients age 14 and under, the applicant shall demonstrate that it meets the following additional criteria:

- (1) the facility has the capability to perform diagnostic and therapeutic cardiac catheterization procedures and open heart surgery services on patients age 14 and under;

- (2) the proposed project shall be performing at an annual rate of at least 100 cardiac catheterization procedures on patients age 14 or under during the fourth quarter of the third year following initiation of the proposed cardiac catheterization procedures for patients age 14 and under.

(c) ~~An applicant shall provide documentation of all assumptions and data used in the development of the projections required in this Rule;~~

Authority G.S. 131E-177(1); 131E-183.

## SECTION .1700 - CRITERIA AND STANDARDS FOR OPEN-HEART SURGERY SERVICES AND HEART-LUNG BYPASS MACHINES

### .1713 DEFINITIONS

The following definitions shall apply to all rules in this Section:

- (1) "Capacity" of an open heart surgery room a heart-lung bypass machine means 400 adult-equivalent open heart surgical procedures per year. One open heart surgical procedure on persons age 14 and under is valued at two adult open heart surgical procedures. For purposes of determining capacity,

one open heart surgical procedure is defined to be one visit or trip by a patient to ~~the open heart surgery an~~ operating room for an open heart operation.

- (2) "Cardiac Surgical Intensive Care Unit" means a distinct intensive care unit as defined in 10 NCAC 3R .1213(2) and which is for exclusive use by post-surgical open heart patients.
- (3) "Heart-lung bypass machine" shall have the same meaning as defined in G.S. 131E-176(10a).
- (4) "Open heart surgery service area" means a geographical area defined by the applicant, which has boundaries that are not farther than 90 road miles from the facility, except that the open heart surgery service area of an academic medical center teaching hospital designated in 10 NCAC 3R .3050 shall not be limited to 90 road miles.
- (5) "Open heart surgery services" shall have the same meaning as defined in G.S. 131E-176(18b).
- (6) "Open heart surgical procedures" means highly specialized surgical procedures which:
  - (A) utilize a heart-lung bypass machine (the "pump") to perform extra-corporeal circulation and oxygenation during surgery;
  - (B) are designed to correct congenital and acquired cardiac and coronary disease; and
  - (C) are identified by Medicare Diagnostic Related Group ("DRG") numbers 104, 105, 106, 107, and 108.
- (7) ~~"Open heart surgery room" means an operating room primarily used to perform open heart surgical procedures, as reported on the most current hospital licensure application.~~
- (8) ~~"Open heart surgery program" means all of the open heart surgery rooms operated in one hospital.~~
- (9) "Primary open heart surgery service area" means a geographical area defined by the applicant, which has boundaries that are not farther than 45 road miles from the facility, except that the primary open heart surgery service area of an academic medical center teaching hospital designated to 10 NCAC 3R .3050 shall not be limited to 45 road miles.

Authority G.S. 131E-177(1); 131E-183.

#### .1714 INFORMATION REQUIRED OF APPLICANT

(a) An applicant that proposes to add an open heart surgery room or to acquire a heart-lung bypass machine shall use the acute care facility/medical equipment application form.

(b) The applicant shall also provide the following additional information:

- (1) ~~the projected number of open heart surgical procedures to be completed in each open heart surgery room and the projected number of open heart surgical procedures to be performed on each heart-lung bypass machine~~ owned by or operated in the facility for each of the first 12 calendar quarters

following completion of the proposed project, including the methodology and assumptions used to make these projections;

- (2) the projected number of cardiac catheterization procedures to be completed in the facility for each of the first 12 calendar quarters following completion of the proposed project, including the methodology and assumptions used for these projections;
- (3) the applicant's experience in treating cardiovascular patients at the facility during the past 12 months, including:
  - (A) the number of patients receiving stress tests;
  - (B) the number of patients receiving intravenous thrombolytic therapies;
  - (C) the number of patients presenting in the Emergency Room or admitted to the hospital with suspected or diagnosed acute myocardial infarction;
  - (D) the number of cardiac catheterization procedures performed, by type of procedure;
  - (E) the number of patients referred to other facilities for cardiac catheterization or open heart surgical procedures, by type of procedure;
  - (F) the number of patients referred to the applicant's facility for cardiac catheterization or open heart surgical procedures, by type of procedure;
  - (G) the number of open heart surgery procedures performed by type of procedure during the twelve month period reflected in the most recent licensure form on file with the Division of Facility Services;
- (4) the number of patients from the proposed open heart surgery service area who are projected to receive open heart surgical procedures by patient's county of residence in each of the first 12 quarters of operation including the methodology and assumptions used to make the projections;
- (5) the number of patients from the proposed primary open heart surgery service area who are projected to receive open heart surgical procedures by patient's county of residence in each of the first 12 quarters, including the methodology and assumptions used to make these projections;
- (6) the projected patient referral sources;
- (7) evidence of the applicant's capability to communicate efficiently with emergency transportation agencies and with all hospitals serving the proposed service area;
- (8) the number and composition of open heart surgical teams available to the applicant;
- (9) a brief description of the applicant's in-service training or continuing education programs for open heart surgical team members; and
- (10) evidence of the applicant's capability to perform



both cardiac catheterization and open heart surgical procedures 24 hours per day, 7 days per week.

Authority G.S. 131E-177(1); 131E-183.

# **.1715 REQUIRED PERFORMANCE STANDARDS**

The applicant shall demonstrate that the proposed project is capable of meeting the following standards:

- (1) ~~each open heart surgery room shall be utilized at an annual rate of at least 50 percent of capacity, measured during the twelfth quarter following completion of the project;~~
- (2)(1) the applicant shall perform at least 4 diagnostic catheterizations per open heart surgical procedure during each quarter;
- (3)(2) a an applicant's existing and new or additional heart-lung bypass machine machines shall be utilized at an annual rate of 200 open heart surgical procedures per year per machine, measured during the twelfth quarter following completion of the project; project, with the exception that this standard may be waived for a second machine exclusively used for backup and owned by any hospital that is proposing to develop new open heart surgery services and acquired its heart-lung bypass machines prior to March 18, 1993, but was unable to use such machines because it did not have a certificate of need authorizing it to provide open heart surgery services;
- (4)(3) at least 50 percent of the projected open heart surgical procedures shall be performed on patients residing within the primary open heart surgery service area;
- (5) ~~each existing open heart surgery program in each facility which has a primary open heart surgery service area that overlaps the proposed primary open heart surgery service area operated at a level of at least 80 percent of capacity during the 12 month period reflected in the most recent licensure form on file with the Division of Facility Services;~~
- (6) ~~the utilization of existing open heart surgery programs whose primary open heart surgery service area overlaps the proposed primary open heart surgery service area is not expected to fall below 50 percent of capacity due to the institution of the new or expanded open heart surgery program;~~
- (7)(4) the applicant's projected utilization and proposed staffing patterns are such that each open heart surgical team shall perform at an annual rate of at least 150 open heart surgical procedures by the end of the third year following completion of the project;
- (8)(5) the applicant shall document the assumptions and provide data supporting the methodology used to make these projections; and
- (9)(6) heart-lung bypass machines that have been acquired

for non-surgical use, or for non-heart surgical procedure use, and that are dedicated for services that are not related to the open heart surgery program; services, shall not be utilized in the performance of open heart surgical procedures.

Authority G.S. 131E-177(1); 131E-183(b).

## **SECTION .1900 - CRITERIA AND STANDARDS FOR RADIATION THERAPY EQUIPMENT**

### **.1912 DEFINITIONS**

These definitions shall apply to all rules in this Section:

- (1) "Approved linear accelerator" means a linear accelerator which was not operational prior to the beginning of the review period but which had been issued a certificate of need or had been acquired prior to March 18, 1993 in accordance with 1993 N.C. Sess. Laws c. 7, s. 12.
- (2) "Complex Radiation treatment" is equal to  $\geq 1.25$  ESTVs and means: treatment on three or more sites on the body; use of special techniques such as tangential fields with wedges, rotational or arc techniques; or use of custom blocking.
- (3) "Equivalent Simple Treatment Visit [ESTV]" means one basic unit of radiation therapy which normally requires up to 15 minutes for the uncomplicated set-up and treatment of a patient on a modern megavoltage teletherapy unit including the time necessary for portal filming.
- (4) "Existing linear accelerator" means a linear accelerator in operation prior to the beginning of the review period.
- (5) "Intermediate Radiation treatment" means treatment on two separate sites on the body, three or more fields to a single treatment site or use of multiple blocking and is equal to  $\geq 1.10$  ESTVs.
- (6) "Linear accelerator" means MRT equipment which is used to deliver a beam of electrons or photons in the treatment of cancer patients.
- (7) "Linear accelerator service area" means a geographical area, defined by the applicant, in which a linear accelerator provides services and in which no less than 120,000 persons reside: single or multi-county area as used in the development of the need determination in the applicable State Medical Facilities Plan.
- (8) "Megavoltage unit" means MRT equipment which provides a form of teletherapy that involves the delivery of energy greater than, or equivalent to, one million volts by the emission of x-rays, gamma rays, electrons, or other radiation.
- (9) "Megavoltage radiation therapy (MRT)" means the use of ionizing radiation in excess of one million electron volts in the treatment of cancer.
- (10) "MRT equipment" means a machine or energy

source used to provide megavoltage radiation therapy including linear accelerators and other particle accelerators.

- (11) "Radiation therapy equipment" means medical equipment which is used to provide radiation therapy services.
- (12) "Radiation therapy services" means those services which involve the delivery of precisely controlled and monitored doses of radiation to a well defined volume of tumor bearing tissue within a patient. Radiation may be delivered to the tumor region by the use of radioactive implants or by beams of ionizing radiation or it may be delivered to the tumor region systemically.
- (13) "Radiation therapy service area" means the ~~geographic area in which radiation therapy services are proposed to be provided by the applicant: a single or multi-county area as used in the development of the need determination in the applicable State Medical Facilities Plan.~~
- (14) "Simple Radiation treatment" means treatment on a single site on the body, single treatment field or parallel opposed fields with no more than simple blocks and is equal to 1 ESTV.
- (15) "Simulator" means a machine that precisely reproduces the geometric relationships of the MRT equipment to the patient.
- (16) "Special technique" means radiation therapy treatments that may require increased time for each patient visit including:
  - (a) total body irradiation (photons or electrons) which equals 4.0 ESTVs;
  - (b) hemi-body irradiation which equals 2.0 ESTVs;
  - (c) intraoperative radiation therapy which equals 10.0 ESTVs;
  - (d) particle radiation therapy which equals 2.0 ESTVs;
  - (e) dynamic conformational radiation therapy with moving gantry, collimators or couch which equals 1.5 ESTVs;
  - (f) limb salvage irradiation at lengthened SSD which equals 2.0 1.0 ESTV;
  - (g) additional field check radiographs which equals ~~05~~ .50 ESTV; and
  - (h) stereotactic radiosurgery treatment management which equals 6.0 3.0 ESTVs.

Authority G.S. 131E-177(1); 131E-183.

#### .1913 INFORMATION REQUIRED OF APPLICANT

(a) An applicant proposing to acquire radiation therapy equipment shall use the Acute Care Facility/Medical Equipment application form.

(b) An applicant proposing to acquire radiation therapy equipment shall also provide the following additional information:

- (1) ~~a description of the boundaries of the proposed radiation therapy service area or the proposed linear accelerator service area if the applicant proposes to acquire a linear accelerator;~~
- (2) ~~a list of the existing radiation therapy equipment in the proposed radiation therapy service area or linear accelerator service area;~~
- (3) (1) a list of all the radiation therapy equipment to be acquired and documentation of the capabilities and capacities of each item of equipment;
- (4) (2) documentation of the purchase price and fair market value of each piece of radiation therapy equipment, each simulator, and any other related equipment proposed to be acquired;
- (5) (3) the projected number of patient treatments by county and by simple, intermediate and complex treatments to be performed on each piece of radiation therapy equipment for each of the first eight calendar quarters following the completion of the proposed project and documentation of all assumptions by which utilization is projected;
- (6) (4) documentation that the proposed radiation therapy equipment shall be operational at least seven hours per day, five days a week;
- (7) (5) documentation that no more than one simulator is available for every two linear accelerators in the applicant's facility, except that an applicant that has only one linear accelerator may have one simulator;
- (8) (6) documentation that the services shall be offered in a physical environment that conforms to the requirements of federal, state, and local regulatory bodies; and
- (9) (7) the projected number of patients that will be treated for cure and the number of patients that will be treated for palliation on each linear accelerator on an annual basis.

Authority G.S. 131E-177(1); 131E-183.

#### .1914 REQUIRED PERFORMANCE STANDARDS

(a) An applicant proposing to acquire a linear accelerator shall demonstrate that each of the following standards shall be met:

- (1) ~~each an applicant's~~ existing linear accelerator ~~in the proposed service area~~ served at least 250 patients or provided 6,500 ESTV treatments in the twelve months prior to the date the application was submitted;
- (2) each proposed new linear accelerator shall be utilized at an annual rate of 250 patients or 6,500 ESTV treatments during the third year of operation of the new equipment; and
- (3) ~~each an applicant's~~ existing and approved linear accelerator shall be projected to be utilized at an annual rate of 250 patients or 6,500 ESTV treatments during the third year of operation of the new equipment.



(b) A linear accelerator shall not be held to the standards in Paragraph (a) of this Rule if the applicant provides documentation that the linear accelerator has been or shall be used exclusively for clinical research and teaching.

(c) An applicant proposing to acquire radiation therapy equipment other than a linear accelerator shall provide the following information:

- (1) the number of patients that are projected to receive treatment from the proposed radiation therapy equipment, classified by type of equipment, diagnosis, treatment procedure, and county of residence; and
- (2) the maximum number and type of procedures that the proposed equipment is capable of performing.

(d) The applicant shall document all assumptions and provide data supporting the methodology used to determine projected utilization as required in this Rule.

*Authority G.S. 131E-177(1).*

## **SECTION .2100 - CRITERIA AND STANDARDS FOR AMBULATORY SURGICAL SERVICES**

### **.2113 DEFINITIONS**

The following definitions shall apply to all rules in this Section:

- (1) "Ambulatory surgical case" means an individual who receives one or more ambulatory surgical procedures in an ambulatory surgical operating room during a single operative encounter.
- (2) "Ambulatory surgical service area" means a single or multi-county area as used in the development of ~~10 NCAC 3R-3030~~ the ambulatory surgical facility need determination in the applicable State Medical Facilities Plan.
- (3) "Ambulatory surgical services" means those surgical services provided to patients as part of an ambulatory surgical program within a licensed ambulatory surgical facility or a general acute care hospital licensed under G.S. 131E, Article 5, Part A.
- (4) "Ambulatory surgical facility" means a facility as defined in G.S. 131E-176(1a).
- (5) "Ambulatory surgical operating room" means a dedicated or shared operating room in a licensed ambulatory surgical facility, or a general acute care hospital licensed under G.S. 131E, Article 5, Part A, that is fully equipped to perform surgical procedures and is constructed to meet the specifications and standards, including fire and life safety code requirements, appropriate to the type of facility as utilized by the Construction Section of the Division of Facility Services. Ambulatory surgical operating rooms exclude operating rooms dedicated for the performance of inpatient surgical procedures, cast rooms, procedures rooms that do not meet operating room specifications, suture rooms, YAG laser

rooms, and cystoscopy and endoscopy procedure rooms that do not meet the specifications of an operating room.

- (6) "Ambulatory surgical program" means a program as defined in G.S. 131E-176(1b).
- (7) "Ambulatory surgical procedure" means a surgical procedure performed in a surgical operating room which requires local, regional or general anesthesia and a period of post-operative observation of less than 24 hours. Ambulatory surgical procedures exclude those procedures which are generally performed more than 50 percent of the time in a physician's office.
- (8) "Existing ambulatory surgical operating rooms" means those ambulatory surgical operating rooms in ambulatory surgical facilities and hospitals which were reported in the License Application for Ambulatory Surgical Facilities and Programs and in Part III of Hospital Licensure Renewal Application Form submitted to the Licensure Section of the Division of Facility Services and which were licensed and certified prior to the beginning of the review period.
- (9) "Approved ambulatory surgical operating rooms" means those ambulatory surgical operating rooms that were approved for a certificate of need by the Certificate of Need Section prior to the date on which the applicant's proposed project was submitted to the Agency but that have not been licensed and certified. The term also means those operating rooms which the Certificate of Need Section determined were not subject to certificate of need review and which were under construction prior to the date the applicant's proposal was submitted to the Agency.
- (10) "Dedicated ambulatory surgical operating room" means an ambulatory surgical operating room used solely for the performance of ambulatory surgical procedures.
- (11) "Multispecialty ambulatory surgical program" means a program as defined in G.S. 131E-176(15a).
- (12) "Shared surgical operating room" means an ambulatory surgical operating room that is used for the performance of both ambulatory and inpatient surgical procedures.
- (13) "Specialty area" means an area of medical practice in which there is an approved medical specialty certificate issued by a member board of the American Board of Medical Specialties and includes, but is not limited to the following: gynecology, otolaryngology, plastic surgery, general surgery, ophthalmology, urology, orthopedics, and oral surgery.
- (14) "Specialty ambulatory surgical program" means a program as defined in G.S. 131E-176(24c).
- (15) "Practical utilization" is 4.3 surgical cases per day

for a dedicated ambulatory surgical operating room and 3.5 surgical cases per day for a shared surgical operating room.

*Authority G.S. 131E-177; 131E-183(b).*

## **SECTION .2700 - CRITERIA AND STANDARDS FOR MAGNETIC RESONANCE IMAGING SCANNER**

### **.2713 DEFINITIONS**

The following definitions shall apply to all rules in this Section:

- (1) "Approved MRI scanner" means an MRI scanner which was not operational prior to the beginning of the review period but which had been issued a certificate of need or had been acquired prior to March 18, 1993 in accordance with 1993 N.C. Sess. Laws c. 7, s. 12.
- (2) "Existing MRI scanner" means an MRI scanner in operation prior to the beginning of the review period.
- (3) "Magnetic Resonance Imaging" (MRI) means a non-invasive diagnostic modality in which electronic equipment is used to create tomographic images of body structure. The MRI scanner exposes the target area to nonionizing magnetic energy and radio frequency fields, focusing on the nuclei of atoms such as hydrogen in the body tissue. Response of selected nuclei to this stimulus is translated into images for evaluation by the physician.
- (4) "Magnetic resonance imaging scanner" (MRI Scanner) is defined in G.S. 131E-176(14e).
- (5) "Mobile MRI scanner" means an MRI scanner and transporting equipment which is moved to provide services at two or more host facilities.
- (6) "MRI procedure" means a single discrete MRI study of one patient.
- (7) "MRI service area" means the ~~geographic area defined by the applicant: a single county or multi-county area as used in the development of the need determination in the State Medical Facilities Plan.~~
- (8) "MRI study" means one or more scans relative to a single diagnosis or symptom.

*Authority G.S. 131E-177(1); 131E-183(b).*

### **.2715 REQUIRED PERFORMANCE STANDARDS**

(a) An applicant proposing to acquire a mobile magnetic resonance imaging (MRI) scanner, including a mobile MRI scanner, shall:

- (1) demonstrate that all existing MRI scanners, except mobile MRI scanners, except those moved to provide services at more than one site, operating in the proposed MRI service area in which the proposed MRI scanner will be located performed at least 2,032 MRI procedures in the last year;

- (2) project annual utilization in the third year of operation of at least 2,032 MRI procedures per year, for each proposed MRI scanner or mobile MRI scanner to be operated by the applicant in the proposed MRI service area in which the proposed MRI scanner will be located;
- (3) demonstrate that all of the existing MRI scanners, except mobile, operating in the proposed MRI service area shall be performing at least 2,032 MRI procedures per year in the applicant's third year of operation;
- (4) demonstrate that all of the approved MRI scanners, except mobile, in the proposed MRI service area shall be performing at least 2,032 MRI procedures per year in the applicant's third year of operation;
- (5) demonstrate that all existing mobile MRI scanners operating in the proposed MRI service area performed at least an average of eight procedures per day per site in the proposed MRI service area in the last year and shall be performing at least an average of eight procedures per day per site in the proposed MRI service area in the applicant's third year of operation;
- (6) demonstrate that all approved mobile MRI scanners to be operating in the proposed MRI service area shall be performing at least an average of eight procedures per day per site in the proposed MRI service area in the applicant's third year of operation; and
- (7) document the assumptions and provide data supporting the methodology used for each projection required in this Rule.

(b) An applicant proposing to acquire a magnetic resonance imaging (MRI) scanner that is not a mobile MRI scanner shall:

- (1) demonstrate that its existing MRI scanners, except mobile MRI scanners, operating in the proposed MRI service area in which the proposed MRI scanner will be located performed at least 2,032 MRI procedures in the last year;
- (2) project annual utilization in the third year of operation of at least 2,032 MRI procedures per year, for each MRI scanner or mobile MRI scanner to be operated by the applicant in the proposed MRI service area in which the proposed equipment will be located; and
- (3) document the assumptions and provide data supporting the methodology used for each projection required in this Rule.

*Authority G.S. 131E-177(1); 131E-183(b).*

## **SECTION .4200 - CRITERIA AND STANDARDS FOR HOSPICES, HOSPICE INPATIENT FACILITIES, AND HOSPICE RESIDENTIAL CARE FACILITIES**

### **.4203 REQUIRED PERFORMANCE STANDARDS**



(a) An applicant proposing to develop hospice inpatient facility beds or hospice residential care facility beds shall demonstrate that:

- (1) the average occupancy rate of the licensed beds in the facility is projected to be at least 50% for the last six months of the first operating year following completion of the project;
- (2) the average occupancy rate for the licensed beds in the facility is projected to be at least 65% for the second operating year following completion of the project; and
- (3) if the application is submitted to address the need for a hospice residential care facility or hospice inpatient facility for a contiguous grouping of counties, each existing facility which is located in the hospice service area and which has licensed beds of the type proposed by the applicant attained an occupancy rate of at least 65% for the 12 month period reported on that facility's most recent Licensure Renewal Application Form.

(b) An applicant proposing to add beds to an existing hospice inpatient facility or hospice residential care facility shall document that the average occupancy of the licensed hospice inpatient and hospice residential care facility beds in its existing facility was at least 65% for the nine months immediately preceding the submittal of the proposal.

(c) An applicant proposing to develop a hospice shall demonstrate that no less than 80% of the total number of days of hospice care furnished to Medicaid and Medicare patients will be provided in the patient's residence in accordance with 42 CFR 418.302(f)(2).

Authority G.S. 131E-177(1).

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

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to adopt the rules cited as 15 NCAC 2B .0233, .0242. Notice of Rule-making Proceedings was published in the Register on June 15, 1999.

**Proposed Effective Date:** August 1, 2000

**A Public Hearing** will be conducted at 7:00 p.m. on the following dates and locations: September 14, 1999 at the State Highway Building Auditorium, 11 S. Wilmington Street, Raleigh, NC; September 16, 1999 at the Wayne Community College, 3000 Wayne Memorial Drive, Goldsboro, NC; September 21, 1999 at the Craven County Agricultural Center, 300 Industrial Drive, New Bern, NC.

**Reason for Proposed Action:** House Bill 1402 established the Stakeholder Advisory Committee for the Neuse Buffer

*Rule.* The Committee consisted of 23 members representing specific organizations with interest ranging from environmental protection, local government, development, industry and federal and state regulatory agencies. The Committee's role was to recommend modifications to the Neuse Buffer Rule (NBR) as adopted in 15A NCAC 2B .0233 by the Environmental Management Commission. The intent of this process is to protect and enhance the water quality of the Neuse River while not imposing an undue burden on the regulated public. House Bill 1402 established how the rule was to be implemented on a temporary basis, created a stakeholder committee, established a requirement to allow for alternatives to maintaining the buffer through a compensatory mitigation program, established a Riparian Buffer Mitigation Fund and program, and established a requirement for the Environmental Management Commission (EMC) to adopt rules to provide for delegation of the program to interested local governments.

**Comment Procedures:** The purpose of this announcement is to encourage those interested in this rulemaking to provide written comments. We encourage comments on the draft rules. Written comments may be submitted to Lin Xu, DENR, Division of Water Quality, Planning Branch, PO Box 29535, Raleigh, NC 27626-0535. Questions may be directed to Lin Xu at (919) 733-5083, ext. 357, or [lin\\_xu@h20.enr.state.nc.us](mailto:lin_xu@h20.enr.state.nc.us). The comment period will end on October 15, 1999.

**Fiscal Note:** 15A NCAC 2B .0233 affects the expenditures or revenues of local government funds and has a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period. This rule does not affect the distribution of State funds subject to the Executive Budget Act, Article 1 of Chapter 143.

**Fiscal Note:** 15 NCAC 2B .0242 does not affect the expenditure or revenues of local government funds, distribution of State funds subject to the Executive Budget Act, Article 1 of Chapter 143 and does not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

## **CHAPTER 2 - ENVIRONMENTAL MANAGEMENT**

### **SUBCHAPTER 2B - SURFACE WATER AND WETLAND STANDARDS**

#### **SECTION .0200 - CLASSIFICATIONS AND WATER QUALITY STANDARDS APPLICABLE TO SURFACE WATERS AND WETLANDS IN NORTH CAROLINA**

#### **.0233 NEUSE RIVER BASIN: NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: PROTECTION AND MAINTENANCE OF RIPARIAN BUFFERS**

The following is the management strategy for maintaining

and protecting riparian areas in the Neuse River Basin:

- (1) Riparian areas shall be protected and maintained in accordance with this Rule on all sides of surface waters in the Neuse River Basin (intermittent streams, perennial streams, lakes, ponds, and estuaries) as indicated on the most recent versions of United States Geological Survey 1:24,000 scale (7.5 minute quadrangle) topographic maps or other site-specific evidence. This Rule only applies to riparian areas where forest vegetation is established in Zone 1 [as described in Sub-Item (3)(a) of this Rule] as of July 22, 1997. Forest vegetation, as defined in 15A NCAC 2B .0202, of any width in Zone 1 must be protected and maintained in accordance with this Rule. This Rule does not establish new buffers in riparian areas. Exceptions to the requirements of this Rule for riparian areas are described in Sub-Items (2)(a)-(h) of this Rule. Maintenance of the riparian areas shall be such that, to the maximum extent possible, sheet flow of surface water is achieved. This Rule specifies requirements that shall be implemented in riparian areas to ensure that the pollutant removal functions of the riparian area are protected and maintained.
- (2) The following waterbodies and land uses are exempt from the riparian area protection requirements:
  - (a) Ditches and manmade conveyances other than modified natural streams;
  - (b) Areas mapped as intermittent streams, perennial streams, lakes, ponds, or estuaries on the most recent versions of United States Geological Survey 1:24,000 scale (7.5 minute quadrangle) topographic maps where no perennial waterbody, intermittent waterbody, lake, pond or estuary actually exists on the ground;
  - (c) Ponds and lakes created for animal watering, irrigation, or other agricultural uses that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100;
  - (d) Water dependent structures as defined in 15A NCAC 2B .0202, provided that they are located, designed, constructed and maintained to provide maximum nutrient removal, to have the least adverse effects on aquatic life and habitat and to protect water quality;
  - (e) The following uses may be allowed where no practical alternative exists. A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters. Also, these

structures shall be located, designed, constructed, and maintained to have minimal disturbance, to provide maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical through the use of best management practices.

- (i) Road crossings, railroad crossings, bridges, airport facilities, and utility crossings may be allowed if conditions specified in Sub-Item (2)(e) of this Rule are met.
- (ii) Stormwater management facilities and ponds, and utility construction and maintenance corridors for utilities such as water, sewer or gas, may be allowed in Zone 2 of the riparian area as long as the conditions specified in Sub-Item (2)(e) of this Rule are met and they are located at least 30 feet from the top of bank or mean high water line. Additional requirements for utility construction and maintenance corridors are listed in Sub-Item (2)(f) of this Rule.
- (f) A corridor for the construction and maintenance of utility lines, such as water, sewer or gas, (including access roads and stockpiling of materials) may run parallel to the stream and may be located within Zone 2 of the riparian area, as long as no practical alternative exists and they are located at least 30 feet from the top of bank or mean high water line and best management practices are installed to minimize runoff and maximize water quality protection to the maximum extent practicable. Permanent, maintained access corridors shall be restricted to the minimum width practicable and shall not exceed 10 feet in width except at manhole locations. A 10 feet by 10 feet perpendicular vehicle turnaround is allowed provided they are spaced at least 500 feet apart along the riparian area.
- (g) Stream restoration projects, scientific studies, stream gauging, water wells, passive recreation facilities such as boardwalks, trails, pathways, historic preservation and archaeological activities are allowed provided that they are located in Zone 2 and are at least 30 feet from the top of bank or mean high water line and are designed, constructed and maintained to provide the maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the



maximum extent practical through the use of best management practices. Activities that must cross the stream or be located within Zone 1 are allowed as long as all other requirements of this Item are met.

- (h) Stream crossings associated with timber harvesting are allowed if performed in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201-.0209).
- (3) The protected riparian area shall have two zones as follows:
  - (a) Zone 1 shall be an undisturbed area of forest vegetation. Any forest vegetation, as defined in Rule .0202 of this Section, in Zone 1 as of July 22, 1997 shall be maintained and protected in accordance with this Rule:
    - (i) Location of Zone 1: Zone 1 begins at the top of bank for intermittent streams and perennial streams and extends landward a distance of 30 feet on all sides of the waterbody, measured horizontally on a line perpendicular to the waterbody. For all other waterbodies, Zone 1 begins at the top of bank or mean high water line and extends landward a distance of 30 feet, measured horizontally on a line perpendicular to the waterbody.
    - (ii) The following practices and activities are allowed in Zone 1:
      - (A) Natural regeneration of forest vegetation and planting vegetation to enhance the riparian area if disturbance is minimized, provided that any plantings shall primarily consist of locally native trees and shrubs;
      - (B) Selective cutting of individual trees of high value in the outer 20 feet of Zone 1, provided that the basal area of this outer 20-foot wide area remains at or above 75 square feet per acre and is computed according to the following method. Basal area of this outer 20-foot wide area shall be computed every 100 feet along the stream to ensure even distribution of forest vegetation and shall be based on all trees measured at 4.5 feet from ground level. No tracked or wheeled equipment is allowed in Zone 1 except at

stream crossings which are designed, constructed and maintained in accordance with Forest Practice Guidelines Related to Water Quality (15A NCAC 1J .0201 - .0209);

- (C) Horticulture or silvicultural practices to maintain the health of individual trees;
- (D) Removal of individual trees which are in danger of causing damage to dwellings, other structures or the stream channel;
- (E) Removal of dead trees and other timber cutting techniques necessary to prevent extensive pest or disease infestation if recommended by the Director, Division of Forest Resources and approved by the Director, Division of Water Quality; and
- (F) Ongoing agricultural operations provided that existing forest vegetation is protected and requirements in Rules .0236 and .0238 of this Section are followed.
- (iii) The following practices are not allowed in Zone 1:
  - (A) Land-disturbing activities and placement of fill and other materials, other than those allowed in Items (2) and (3)(a)(ii) of this Rule, that would disturb forest vegetation, as defined in Rule .0200 of this Section;
  - (B) New development, except as provided in Sub-Items (2)(d), (2)(e) and (2)(f) of this Rule;
  - (C) New on-site sanitary sewage systems which use ground adsorption;
  - (D) The application of fertilizer; and
  - (E) Any activity that threatens the health and function of the vegetation including, but not limited to, application of chemicals in amounts exceeding the manufacturer's recommended rate, uncontrolled sediment sources on adjacent lands, and the creation of any areas with bare soil.
- (h) Vegetation in Zone 2 shall consist of a dense ground cover composed of herbaceous or

woody species which provides for diffusion and infiltration of runoff and filtering of pollutants.

- (i) Location of Zone 2: Zone 2 begins at the outer edge of Zone 1 and extends landward a minimum of 20 feet as measured horizontally on a line perpendicular to the waterbody. The combined minimum width of Zones 1 and 2 shall be 50 feet on all sides of the waterbody.
- (ii) The following practices and activities are allowed in Zone 2 in addition to those allowed in Zone 1:
  - (A) Periodic mowing and removal of plant products such as timber, nuts, and fruit is allowed on a periodic basis provided the intended purpose of the riparian area is not compromised by harvesting, disturbance, or loss of forest or herbaceous ground cover.
  - (B) Forest vegetation in Zone 2 may be managed to minimize shading on adjacent land outside the riparian area if the water quality function of the riparian area is not compromised.
  - (C) On-going agricultural operations provided that requirements of Rules .0236 and .0238 of this Section are followed.
- (iii) The following practices and activities are not allowed in Zone 2:
  - (A) Land disturbing activities and placement of fill and other materials, other than those allowed in Items (2) and (3)(b)(ii) of this Rule;
  - (B) New development, except as provided in Sub-Items (2)(e) and (2)(f) of this Rule;
  - (C) New on-site sanitary sewage systems which use ground adsorption;
  - (D) The application of fertilizer; and
  - (E) Any activity that threatens the health and function of the vegetation including, but not limited to, application of chemicals in amounts exceeding the manufacturer's recommended rate, uncontrolled sediment sources on adjacent lands, and the creation of any

areas with bare soil:

- (c) Timber removal and skidding of trees shall be directed away from the water course or water body. Skidding shall be done in a manner to prevent the creation of ephemeral channels perpendicular to the water body. Any tree removal must be performed in a manner that does not compromise the intended purpose of the riparian area and is in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201-.0209).
- (d) Maintenance of sheet flow in Zones 1 and 2 is required in accordance with this Item:
  - (i) Sheet flow must be maintained to the maximum extent practical through dispersing concentrated flow and re-establishment of vegetation to maintain the effectiveness of the riparian area.
  - (ii) Concentrated runoff from new ditches or manmade conveyances must be dispersed into sheet flow before the runoff enters Zone 2 of the riparian area. Existing ditches and manmade conveyances, as specified in Sub-Item (2)(a) of this Rule, are exempt from this requirement; however, care shall be taken to minimize pollutant loading through these existing ditches and manmade conveyances from fertilizer application or erosion.
  - (iii) Periodic corrective action to restore sheet flow shall be taken by the landowner if necessary to impede the formation of erosion gullies which allow concentrated flow to bypass treatment in the riparian area.
- (e) Periodic maintenance of modified natural streams such as canals is allowed provided that disturbance is minimized and the structure and function of the riparian area is not compromised. A grassed travelway is allowed on one side of the waterbody when alternative forms of maintenance access are not practical. The width and specifications of the travelway shall be only that needed for equipment access and operation. The travelway shall be located to maximize stream shading.
- (4) If a local government has been issued a Municipal Separate Stormwater Sewer System permit or has been delegated to implement a local stormwater program, then the local government shall ensure that the riparian areas to be protected are, recorded on new or modified plats.
- (5) Where the standards and management requirements for riparian areas are in conflict with other laws, regulations, and permits regarding streams, steep

slopes, erodible soils, wetlands, floodplains, forest harvesting, surface mining, land disturbance activities, development in Coastal Area Management Act Areas of Environmental Concern, or other environmental protection areas, the more protective shall apply.

- (6) Where application of this Rule would prevent all reasonable uses of a lot platted and recorded prior to the effective date of this Rule, a variance may be granted by the Environmental Management Commission if it finds that:
- (a) practical difficulties or unnecessary hardships would result in strict application of the rule;
  - (b) such difficulties or hardships result from conditions which are peculiar to the property involved; and
  - (c) the general purpose and intent of the rule would be preserved, water quality would be protected and substantial justice would be done if the variance were granted.

The following is the management strategy for maintaining and protecting riparian buffers in the Neuse River Basin.

- (1) **PURPOSE.** The purpose of this Rule shall be to protect and preserve riparian buffers in the Neuse River Basin to maintain their nutrient removal functions.
- (2) **DEFINITIONS.** For the purpose of this Rule, these terms shall be defined as follows:
  - (a) 'Channel' means a natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water. (current definition in Forest Practice Guidelines Related to Water Quality, 15A NCAC II .0102)
  - (b) 'DBH' means Diameter at Breast Height of a tree, which is measured at 4.5 feet above ground surface level.
  - (c) 'Ditch or canal' means a man-made channel other than a modified natural stream constructed for drainage purposes that is typically dug through inter-stream divide areas. A ditch or canal may have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and biological characteristics similar to perennial or intermittent streams.
  - (d) 'Ephemeral (stormwater) stream' means a feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream

typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

- (f) 'Forest plantation' means an area of planted trees that may be conifers (pines) or hardwoods. On a plantation, the intended crop trees are planted rather than naturally regenerated from seed on the site, coppice (sprouting), or seed that is blown or carried into the site.
- (g) 'High Value Tree' means a tree that meets or exceeds the following standards: for pine species, 14-inch DBH or greater or 18-inch or greater stump diameter; and, for hardwood or wetland species, 16-inch DBH or greater or 24-inch or greater stump diameter.
- (h) 'Intermittent stream' means a well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.
- (i) 'Modified natural stream' means an on-site channelization or relocation of a stream channel and subsequent relocation of the intermittent or perennial flow as evidenced by topographic alterations in the immediate watershed. A modified natural stream must have the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.
- (j) 'Perennial stream' means a well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.
- (k) 'Perennial waterbody' means a natural or man-made basin that stores surface water permanently at depths sufficient to preclude growth of rooted plants, including lakes, ponds, sounds, non-stream estuaries and ocean. For the purpose of the State's riparian buffer protection program, the waterbody must be part of a natural drainageway (i.e., connected by surface flow to a stream).
- (l) 'Stream' means a body of concentrated



flowing water in a natural low area or natural channel on the land surface.

(m) 'Tree' means a woody plant with a DBH equal to or exceeding five inches.

(3) APPLICABILITY. This Rule shall apply to 50-foot wide riparian buffers directly adjacent to surface waters in the Neuse River Basin (intermittent streams, perennial streams, lakes, ponds, and estuaries), excluding wetlands. The riparian buffers protected by this Rule shall be measured pursuant to Item (4) of this Rule. For the purpose of this Rule, a surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). Riparian buffers adjacent to surface waters that do not appear on either of the maps shall not be subject to this Rule. Riparian buffers adjacent to surface waters that appear on the maps shall be subject to this Rule unless one of the following applies.

(a) EXEMPTION WHEN AN ON-SITE DETERMINATION SHOWS THAT SURFACE WATERS ARE NOT PRESENT. When a landowner or other affected party believes that the maps have inaccurately depicted surface waters, he or she shall consult the Division or the appropriate delegated local authority. Upon request, the Division or delegated local authority shall make on-site determinations. Any disputes over on-site determinations shall be referred to the Director in writing. A determination of the Director as to the accuracy or application of the maps is subject to review as provided in Articles 3 and 4 of G. S. 150B. Surface waters that appear on the maps shall not be subject to this Rule if an on-site determination shows that they fall into one of the following categories.

- (i) Ditches and manmade conveyances other than modified natural streams.
- (ii) Manmade ponds and lakes that are located outside natural drainage ways.
- (iii) Ephemeral (stormwater) streams.

(b) EXEMPTION WHEN EXISTING USES ARE PRESENT AND ONGOING. This Rule shall not apply to portions of the riparian buffer where a use is existing and ongoing according to the following:

- (i) A use shall be considered existing if it was present within the riparian buffer as of July 22, 1997. Existing uses shall include, but not be limited to,

agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and on-site sanitary sewage systems. Only the portion of the riparian buffer that contains the footprint of the existing use is exempt from this Rule. Activities necessary to maintain uses are allowed provided that no additional vegetation is removed from Zone 1, existing diffuse flow is maintained, and surface waters are not disturbed. Grading and revegetating Zone 2 is allowed provided that the health of the vegetation in Zone 1 is not compromised, the ground is stabilized and existing diffuse flow is maintained.

(ii) At the time an existing use is converted to another use, this Rule shall apply. An existing use shall be considered to be converted to another use if any of the following applies:

- (A) Impervious surface is added to the riparian buffer in locations where it did not exist previously.
- (B) An agricultural operation within the riparian buffer is taken out of production.
- (C) A lawn within the riparian buffer ceases to be maintained.

(4) ZONES OF THE RIPARIAN BUFFER. The protected riparian buffer shall have two zones as follows:

(a) Zone 1 shall consist of a vegetated area that is undisturbed except for uses provided for in Item (6) of this Rule. The location of Zone 1 shall be as follows:

- (i) For intermittent and perennial streams, Zone 1 shall begin at the most landward limit of the top of bank or the rooted herbaceous vegetation and extend landward a distance of 30 feet on all sides of the surface water, measured horizontally on a line perpendicular to the surface water.
- (ii) For ponds, lakes and reservoirs located within a natural drainage way, Zone 1 shall begin at the most landward limit of the normal water level or the rooted herbaceous vegetation and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to the surface water.
- (iii) For surface waters within the 20



Coastal Counties (defined in 15A NCAC 2B .0202) within the jurisdiction of the Division of Coastal Management, Zone 1 shall begin at the most landward limit of the normal high water level, the normal water level, or the landward limit of coastal wetlands as defined by the Division of Coastal Management and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to the surface water.

(b) Zone 2 shall consist of a stable, vegetated area that is undisturbed except for activities and uses provided for in Item (6) of this Rule. Grading and revegetating Zone 2 is allowed provided that the health of the vegetation in Zone 1 is not compromised. Zone 2 shall begin at the outer edge of Zone 1 and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones 1 and 2 shall be 50 feet on all sides of the surface water.

(5) DIFFUSE FLOW REQUIREMENT. Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow and reestablishing vegetation.

(a) Concentrated runoff from new ditches or manmade conveyances shall be converted to diffuse flow before the runoff enters the riparian buffer.

(b) Periodic corrective action to restore diffuse flow shall be taken if necessary to impede the formation of erosion gullies.

(6) TABLE OF USES. The following chart sets out the uses and their designation under this Rule as exempt, allowable, allowable with mitigation, or prohibited. The requirements for each category are given in Item (7) of this Rule.

	<u>Exempt</u>	<u>Allowable</u>	<u>Allowable with Mitigation</u>	<u>Prohibited</u>
<u>Airport facilities:</u> • <u>Airport facilities that impact equal to or less than 150 linear feet or one-third of an acre of riparian buffer</u> • <u>Airport facilities that impact greater than 150 linear feet or one-third of an acre of riparian buffer</u>		<u>X</u>	<u>X</u>	
<u>Archaeological activities</u>	<u>X</u>			
<u>Bridges</u>		<u>X</u>		
<u>Dam maintenance activities</u>	<u>X</u>			

<u>Drainage ditches, roadside ditches and stormwater outfalls through riparian buffers:</u> <ul style="list-style-type: none"> <li>• <u>Existing drainage ditches, roadside ditches, and stormwater outfalls provided that they are managed to minimize the sediment, nutrients and other pollution that convey to waterbodies</u></li> <li>• <u>New drainage ditches, roadside ditches and stormwater outfalls provided that a stormwater management facility is installed to control nitrogen and attenuate flow before the conveyance discharges through the riparian buffer</u></li> <li>• <u>New drainage ditches, roadside ditches and stormwater outfalls that do not provide control for nitrogen before discharging through the riparian buffer</u></li> <li>• <u>Excavation of the streambed in order to bring it to the same elevation as the invert of a ditch</u></li> </ul>	<u>X</u>	<u>X</u>		<u>X</u>  <u>X</u>
<u>Drainage of a pond in a natural drainage way provided that a new riparian buffer that meets the requirements of Items (4) and (5) is established adjacent to the new channel</u>	<u>X</u>			
<u>Fences provided that disturbance is minimized and installation does not result in removal of forest vegetation</u>	<u>X</u>			
<u>Forest harvesting - see Item (11) of this Rule</u>				
<u>Fertilizer application:</u> <ul style="list-style-type: none"> <li>• <u>One-time fertilizer application to establish replanted vegetation</u></li> <li>• <u>Ongoing fertilizer application</u></li> </ul>	<u>X</u>			<u>X</u>
<u>Grading and revegetation in Zone 2 only provided that diffuse flow and the health of existing vegetation in Zone 1 is not compromised and disturbed areas are stabilized</u>	<u>X</u>			
<u>Greenway trails</u>		<u>X</u>		
<u>Historic preservation</u>	<u>X</u>			
<u>Mining activities:</u> <ul style="list-style-type: none"> <li>• <u>Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements of Items (4) and (5) are established adjacent to the relocated channels</u></li> <li>• <u>Mining activities that are not covered by the Mining Act OR where new riparian buffers that meet the requirements of Items (4) and (5) are not established adjacent to the relocated channels</u></li> </ul>		<u>X</u>	<u>X</u>	
<u>Landfills</u>				<u>X</u>

<u>Non-electric utility lines:</u> <ul style="list-style-type: none"> <li>• <u>Impacts other than perpendicular crossings in Zone 2 only</u></li> <li>• <u>Impacts other than perpendicular crossings in Zone 1</u></li> <li>• <u>Perpendicular crossings that disturb equal to or less than 40 linear feet of riparian buffer</u></li> <li>• <u>Perpendicular crossings that disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer</u></li> <li>• <u>Perpendicular crossings that disturb greater than 150 linear feet of riparian buffer</u></li> </ul>	X	X	X	
<u>On-site sanitary sewage systems - new ones that use ground absorption</u>				X
<u>Overhead electric utility lines:</u> <ul style="list-style-type: none"> <li>• <u>Impacts other than perpendicular crossings in Zone 2 only</u></li> <li>• <u>Impacts other than perpendicular crossings in Zone 1 <sup>1,2</sup></u></li> <li>• <u>Perpendicular crossings that disturb equal to or less than 150 linear feet of riparian buffer <sup>1</sup></u></li> <li>• <u>Perpendicular crossings that disturb greater than 150 linear feet of riparian buffer <sup>1,2</sup></u></li> </ul>	X X X	X		
<u>Periodic maintenance of modified natural streams such as canals and a grassed travelway on one side of the surface water when alternative forms of maintenance access are not practical</u>		X		
<u>Playground equipment:</u> <ul style="list-style-type: none"> <li>• <u>Playground equipment on single family lots provided that installation and use does not result in removal of vegetation</u></li> <li>• <u>Playground equipment installed on lands other than single-family lots or that requires removal of vegetation</u></li> </ul>	X	X		

<sup>1</sup> Provided that, in Zone 1, all of the following BMPs for overhead utility lines are used. If all of these BMPs are not used, then the overhead utility lines shall require a no practical alternatives evaluation by the Division.

- A minimum zone of 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed.
- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain where trees are cut.
- Rip rap shall not be used unless it is necessary to stabilize a tower.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

<sup>2</sup> Provided that poles or towers shall not be installed within 10 feet of a water body unless the Division completes a no practical alternatives evaluation.

	<u>Exempt</u>	<u>Allowable</u>	<u>Allowable with Mitigation</u>	<u>Prohibited</u>
--	---------------	------------------	----------------------------------	-------------------



<u>Ponds in natural drainage ways:</u> <ul style="list-style-type: none"> <li>• <u>New ponds provided that a riparian buffer that meets the requirements of Items (4) and (5) is established adjacent to the pond</u></li> <li>• <u>New ponds where a riparian buffer that meets the requirements of Items (4) and (5) is NOT established adjacent to the pond</u></li> </ul>		<u>X</u>	<u>X</u>	
<u>Protection of existing structures and facilities when this requires additional disturbance of the riparian buffer or the stream channel</u>		<u>X</u>		
<u>Railroad crossings:</u> <ul style="list-style-type: none"> <li>• <u>Railroad crossings that impact equal to or less than 150 linear feet or one-third of an acre of riparian buffer</u></li> <li>• <u>Railroad crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer</u></li> </ul>		<u>X</u>	<u>X</u>	
<u>Removal of previous fill or debris provided that diffuse flow is maintained and any vegetation removed is restored</u>	<u>X</u>			
<u>Road crossings:</u> <ul style="list-style-type: none"> <li>• <u>Road crossings that impact equal to or less than 150 linear feet or one-third of an acre of riparian buffer</u></li> <li>• <u>Road crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer</u></li> </ul>		<u>X</u>	<u>X</u>	
<u>Stormwater management ponds:</u> <ul style="list-style-type: none"> <li>• <u>New stormwater management ponds provided that a riparian buffer that meets the requirements of Items (4) and (5) is established adjacent to the pond</u></li> <li>• <u>New stormwater management ponds where a riparian buffer that meets the requirements of Items (4) and (5) is NOT established adjacent to the pond</u></li> </ul>		<u>X</u>	<u>X</u>	
<u>Scientific studies and stream gauging</u>	<u>X</u>			
<u>Stream restoration</u>	<u>X</u>			
<u>Streambank stabilization</u>		<u>X</u>		
<u>Temporary roads:</u> <ul style="list-style-type: none"> <li>• <u>Temporary roads that disturb less than or equal to 2,500 square feet provided that vegetation is restored within six months</u></li> <li>• <u>Temporary roads that disturb greater than 2,500 square feet provided that vegetation is restored within six months</u></li> </ul>	<u>X</u>	<u>X</u>		

<u>Temporary sediment and erosion control devices:</u> <ul style="list-style-type: none"> <li>• <u>In Zone 2 only provided that the vegetation in Zone 1 is not compromised and that discharge is released as diffuse flow in accordance with Item (5)</u></li> <li>• <u>In Zones 1 and 2 to control impacts associated with uses approved by the Division or that have received a variance provided that sediment and erosion control for upland areas is addressed to the maximum extent practical outside the buffer</u></li> <li>• <u>In-stream temporary erosion and sediment control measures for work within a stream channel</u></li> </ul>	X	X		
<u>Underground electric utility lines:</u> <ul style="list-style-type: none"> <li>• <u>Impacts other than perpendicular crossings in Zone 2 only</u></li> <li>• <u>Impacts other than perpendicular crossings in Zone 1<sup>3</sup></u></li> <li>• <u>Perpendicular crossings that disturb less than or equal to 40 linear feet of riparian buffer<sup>3</sup></u></li> <li>• <u>Perpendicular crossings that disturb greater than 40 linear feet of riparian buffer<sup>3</sup></u></li> </ul>	X	X		
<u>Vegetation management:</u> <ul style="list-style-type: none"> <li>• <u>Emergency fire control measures provided that topography is restored</u></li> <li>• <u>Periodic mowing and harvesting of plant products in Zone 2 only</u></li> <li>• <u>Planting vegetation to enhance the riparian buffer</u></li> <li>• <u>Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised</u></li> <li>• <u>Removal of individual trees which are in danger of causing damage to dwellings, other structures or human life</u></li> <li>• <u>Removal of poison ivy</u></li> <li>• <u>Removal of understory nuisance vegetation as defined in:</u>  <u>Smith, Cherri L. 1998. Exotic Plant Guidelines.</u>  <u>Department of Environment and Natural Resources.</u>  <u>Division of Parks and Recreation, Raleigh, NC. Guideline #30</u></li> </ul>	X			

<sup>3</sup> Provided that, in Zone 1, all of the following BMPs for underground utility lines are used. If all of these BMPs are not used, then the underground utility line shall require a no practical alternatives evaluation by the Division.

- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench, where trees are cut.
- Underground cables shall be installed by vibratory plow or trenching.
- The trench shall be backfilled with the excavated soil material immediately following cable installation.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

	<u>Exempt</u>	<u>Allowable</u>	<u>Allowable with Mitigation</u>	<u>Prohibited</u>
--	---------------	------------------	----------------------------------	-------------------

<u>Water dependent structures as defined in 15A NCAC 2B .0202</u>		<u>X</u>		
<u>Water supply reservoirs:</u> <ul style="list-style-type: none"> <li>• <u>New reservoirs provided that a riparian buffer that meets the requirements of Items (4) and (5) is established adjacent to the reservoir</u></li> <li>• <u>New reservoirs where a riparian buffer that meets the requirements of Items (4) and (5) is NOT established adjacent to the reservoir</u></li> </ul>		<u>X</u>	<u>X</u>	
<u>Water wells</u>	<u>X</u>			
<u>Wetland restoration</u>	<u>X</u>			

(7) REQUIREMENTS FOR CATEGORIES OF USES. Uses designated as exempt, allowable, allowable with mitigation and prohibited in Item (6) of this Paragraph shall have the following requirements:

- (a) EXEMPT. Uses designated as exempt are allowed within the riparian buffer. Exempt uses shall be designed, constructed and maintained to minimize soil disturbance and to provide the maximum water quality protection practicable. In addition, exempt uses shall meet requirements listed in Item (6) of this Rule for the specific use.
- (b) ALLOWABLE. Uses designated as allowable may proceed within the riparian buffer provided that there are no practical alternatives to the requested use pursuant to Item (8) of this Rule. These uses require written authorization from the Division or the delegated local authority.
- (c) ALLOWABLE WITH MITIGATION. Uses designated as allowable with mitigation may proceed within the riparian buffer provided that there are no practical alternatives to the requested use pursuant to Item (8) of this Rule and an appropriate mitigation strategy has been approved pursuant to Item (10) of this Rule. These uses require written authorization from the Division or the delegated local authority.
- (d) PROHIBITED. Uses designated as prohibited may not proceed within the riparian buffer unless a variance is granted pursuant to Item (9) of this Rule.

(8) DETERMINATION OF "NO PRACTICAL ALTERNATIVES." Persons who wish to undertake uses designated as allowable or allowable with mitigation shall submit a request for a "no practical alternatives" determination to the Division or to the delegated local authority. The applicant shall certify that the criteria identified in Sub-Item (8)(a) of this Rule are met. The Division or the delegated local authority shall grant an Authorization Certificate upon a "no practical alternatives" determination.

The procedure for making an Authorization Certificate shall be as follows:

- (a) For any request for an Authorization Certificate, the Division or the delegated local authority shall review the entire project and make a finding of fact as to whether the following requirements have been met in support of a "no practical alternatives" determination:
  - (i) The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality.
  - (ii) The use cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality.
  - (iii) Best management practices will be used if necessary to minimize disturbance, preserve aquatic life and habitat, and protect water quality.
- (b) Requests for an Authorization Certificate shall be reviewed and either approved or denied within 60 days of receipt of a complete submission based on the criteria in Sub-Item (8)(a) of this Rule by either the Division or the delegated local authority. Failure to issue an approval or denial within 60 days shall constitute that the applicant has demonstrated "no practical alternatives." The Division or the delegated local authority may attach conditions to the Authorization Certificate that support the purpose, spirit and intent of the riparian buffer protection program. Complete submissions shall include the following:
  - (i) The name, address and phone number of the applicant;
  - (ii) The nature of the activity to be conducted by the applicant;
  - (iii) The location of the activity, including



the jurisdiction;

(iv) A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in riparian buffers associated with the activity, and the extent of riparian buffers on the land;

(v) An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality; and

(vi) Plans for any best management practices proposed to be used to control the impacts associated with the activity.

(c) Any disputes over determinations regarding Authorization Certificates shall be referred to the Director for a decision. The Director's decision is subject to review as provided in Articles 3 and 4 of G. S. 150B.

(9) VARIANCES. Persons who wish to undertake uses designated as prohibited have the option of pursuing a variance. The Division or the appropriate delegated local authority may grant minor variances. The variance request procedure shall be as follows:

(a) For any variance request, the Division or the delegated local authority shall make a finding of fact as to whether the following requirements have been met:

(i) There are practical difficulties or unnecessary hardships that prevent compliance with the strict letter of the riparian buffer protection requirements;

(ii) The variance is in harmony with the general purpose and intent of the State's riparian buffer protection requirements and preserves its spirit; and

(iii) In granting the variance, the public safety and welfare have been assured water quality has been protected, and substantial justice has been done.

(b) MINOR VARIANCES. A minor variance request pertains to activities that are proposed only to impact any portion of Zone 2 of the riparian buffer. Minor variance requests shall be reviewed and approved based on the criteria in Sub-Item (9)(a) of this Rule by the either the Division or the delegated local authority pursuant to G.S. 153A Article 18, or G.S. 160A-Article 19. The Division or the

delegated local authority may attach conditions to the variance approval that support the purpose, spirit and intent of the riparian buffer protection program. Requests for appeals of decisions made by the Division shall be made to the Office of Administrative Hearings. Request for appeals made by the delegated local authority shall be made to the appropriate Board of Adjustment under G.S. 160A-388 or G.S. 153A-345.

(c) MAJOR VARIANCES. A major variance request pertains to activities that are proposed to impact any portion of Zone 1 or any portion of both Zones 1 and 2 of the riparian buffer. If the Division or the delegated local authority has determined that a major variance request meets the requirements in Sub-Item (9)(a) of this Rule, then it shall prepare a preliminary finding and submit it to the Commission. Preliminary findings on major variance requests shall be reviewed by the Commission within 90 days after receipt by the Director. Requests for appeals of determinations that the requirements of Sub-Item (9)(a) of this Rule have not been met shall be made to the Office of Administrative Hearings for determinations made by the Division or the appropriate Board of Adjustments under G.S. 160-388 or G.S. 153A-345 for determinations made by the delegated local authority. The purpose of the Commission's review is to determine if it agrees that the requirements in Sub-Item (9)(a) of this Rule have been met. Requests for appeals of decisions made by the Commission shall be made to the Office of Administrative Hearings. The following actions shall be taken depending on the Commission's decision on the major variance request:

(i) Upon the Commission's approval, the Division or the delegated local authority shall issue a final decision granting the major variance.

(ii) Upon the Commission's approval with conditions or stipulations, the Division or the delegated local authority shall issue a final decision, which includes these conditions or stipulations.

(iii) Upon the Commission's denial, the Division or the delegated local authority shall issue a final decision denying the major variance.

(10) MITIGATION. Persons who wish to undertake uses designated as allowable with mitigation shall meet the following requirements in order to proceed with

their proposed use.

(a) Obtain a determination of "no practical alternatives" to the proposed use pursuant to Item (8) of this Rule.

(b) Obtain approval for a mitigation proposal pursuant to 15A NCAC 2B .0242.

(11) REQUIREMENTS SPECIFIC TO FOREST HARVESTING. The following requirements shall apply for forest harvesting operations and practices.

(a) The following measures shall apply in the entire riparian buffer:

- (i) Logging decks and sawmill sites shall not be placed in the riparian buffer.
- (ii) Access roads and skid trails shall be prohibited except for temporary and permanent stream crossings established in accordance with 15A NCAC 11 .0203. Temporary stream crossings shall be permanently stabilized after any site disturbing activity is completed.
- (iii) Timber felling shall be directed away from the stream or water body.
- (iv) Skidding shall be directed away from the stream or water body and shall be done in a manner that minimizes soil disturbance and prevents the creation of channels or ruts.
- (v) Individual trees may be treated to maintain or improve their health, form or vigor.
- (vi) Harvesting of dead or infected trees or application of pesticides necessary to prevent or control extensive tree pest and disease infestation shall be allowed. These practices must be approved by the Division of Forest Resources for a specific site. The Division of Forest Resources must notify the Division of all approvals.
- (vii) Removal of individual trees that are in danger of causing damage to structures or human life shall be allowed.
- (viii) Natural regeneration of forest vegetation and planting of trees, shrubs, or ground cover plants to enhance the riparian buffer shall be allowed provided that soil disturbance is minimized. Plantings shall consist primarily of native species.
- (ix) High intensity prescribed burns shall not be allowed.
- (x) Application of fertilizer shall not be allowed except as necessary for permanent stabilization. Broadcast application of fertilizer or herbicides to the adjacent forest stand shall be

conducted so that the chemicals are not applied directly to or allowed to drift into the riparian buffer.

(h) In Zone 1, forest vegetation shall be protected and maintained. Selective harvest as provided for below is allowed on forest lands that have a deferment for use value under forestry in accordance with G.S. 105-277.2 through G.S. 277.6 or on forest lands that have a forest management plan prepared or approved by a registered professional forester. Copies of either the approval of the deferment for use value under forestry or the forest management plan shall be produced upon request. For such forest lands, selective harvest is allowed in accordance with the following:

- (i) Tracked or wheeled vehicles are not permitted except at stream crossings designed, constructed and maintained in accordance with 15A NCAC 11 .0203.
- (ii) Soil disturbing site preparation activities are not allowed.
- (iii) Trees shall be removed with the minimum disturbance to the soil and residual vegetation.
- (iv) The following provisions for selective harvesting shall be met:
  - (A) The first 10 feet of Zone 1 directly adjacent to the stream or waterbody shall be undisturbed except for the removal of individual high value trees as defined provided that no trees with exposed primary roots visible in the streambank be cut.
  - (B) In the outer 20 feet of Zone 1, a maximum of 50 percent of the trees greater than five inches dbh may be cut and removed. The reentry time for harvest shall be no more frequent than every 15 years, except on forest plantations where the reentry time shall be no more frequent than every five years. In either case, the trees remaining after harvest shall be as evenly spaced as possible.
  - (C) In Zone 2, harvesting and regeneration of the forest stand shall be allowed provided that sufficient ground cover is maintained to provide for diffusion and infiltration of



surface runoff.

(12) REQUIREMENTS SPECIFIC TO LOCAL GOVERNMENTS WITH STORMWATER PROGRAMS FOR NITROGEN CONTROL. Local governments that are required to have local stormwater programs pursuant to 15A NCAC 2B .0235 shall have two options for ensuring protection of riparian buffers on new developments within their jurisdictions as follows.

- (a) Obtain authority to implement a local riparian buffer protection program pursuant to 15A NCAC 2B .0241.
- (b) Refrain from issuing local approvals for new development projects unless either:
  - (i) The person requesting the approval does not propose to impact the riparian buffer of a surface water that appears on either the most recent versions of the soil survey maps prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent versions of the 1:24,000 scale (7.5 minute quadrangle) topographic maps prepared by the United States Geologic Survey (USGS).
  - (ii) The person requesting the approval proposes to impact the riparian buffer of a surface water that appears on the maps described in Sub-Item (12)(b)(i) of this Rule and either:
    - (A) Has received an on-site determination from the Division pursuant to Sub-Item (3)(a) of this Rule that surface waters are not present;
    - (B) Has received an Authorization Certificate from the Division pursuant to Item (8) of this Rule for uses designated as Allowable under this Rule;
    - (C) Has received an Authorization Certificate from the Division pursuant to Item (8) of this Rule and obtained the Division's approval on a mitigation plan pursuant to Item (10) of this Rule for uses designated as Allowable with Mitigation under this Rule; or
    - (D) Has received a variance from the Commission pursuant to Item (9) of this Rule.

(13) OTHER LAWS, REGULATIONS AND PERMITS. In all cases, compliance with this Rule does not preclude the requirement to comply with all federal,

state and local regulations and laws.

*Authority 143-214.1; 143-214.7; 143-215.3(a)(1); S. L. 1995, c. 572.*

#### **.0242 MITIGATION PROGRAM FOR PROTECTION AND MAINTENANCE OF RIPARIAN BUFFERS**

The following are the requirements for the Riparian Buffer Mitigation Program.

- (1) PURPOSE. The purpose of this Rule is to set forth the mitigation requirements that apply to the State's riparian buffer protection program.
- (2) APPLICABILITY. This Rule applies to persons who wish to impact a riparian buffer when one of the following applies:
  - (a) A person has received an Authorization Certificate pursuant to 15A NCAC 2B .0233 for a proposed use that is designated as "allowable with mitigation."
  - (b) A person has received a variance pursuant to 15A NCAC 2B .0233 and is required to perform mitigation as a condition of a variance approval.
- (3) THE AREA OF MITIGATION. The required area of mitigation shall be determined by either the Division or the delegated local authority according to the following:
  - (a) The impacts in square feet to each zone of the riparian buffer shall be determined by the Division or the delegated local authority by adding the following:
    - (i) The area of the footprint of the use causing the impact to the riparian buffer.
    - (ii) The area of the boundary of any clearing and grading activities within the riparian buffer necessary to accommodate the use.
    - (iii) The area of any ongoing maintenance corridors within the riparian buffer associated with the use.
  - (b) The required area of mitigation shall be determined by applying the following multipliers to the impacts determined in Sub-item (3)(a) of this Rule to each zone of the riparian buffer:
    - (i) Impacts to Zone 1 of the riparian buffer shall be multiplied by 3.
    - (ii) Impacts to Zone 2 of the riparian buffer shall be multiplied by 1.5.
    - (iii) Impacts to wetlands within Zones 1 and 2 of the riparian buffer that are subject to mitigation under 15A NCAC 2H .0506 shall comply with the mitigation ratios in 15A NCAC 2H



.0506.

- (4) THE LOCATION OF MITIGATION. The mitigation effort shall be located in the same Nutrient Management Zone of the Neuse River Basin of the proposed impact or lower in the basin. The four Nutrient Management Zones are laid out in the Division's Report, 'Total Maximum Daily Load for Total Nitrogen to the Neuse River Estuary, North Carolina' (February 1999).
- (5) ISSUANCE OF THE MITIGATION DETERMINATION. The Division or the delegated local authority shall issue a mitigation determination that specifies the required area and location of mitigation pursuant to Items (3) and (4) of this Rule.
- (6) OPTIONS FOR MEETING THE MITIGATION DETERMINATION. The mitigation determination made pursuant to Item (5) of this Rule may be met through one of the following options:
  - (a) Payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to Item (7) of this Rule.
  - (b) Donation of real property or of an interest in real property pursuant to Item (8) of this Rule.
  - (c) Restoration or enhancement of a riparian buffer that is not otherwise required to be protected. This shall be accomplished by the applicant after submittal and approval of a restoration plan pursuant to Item (9) of this Rule.
- (7) PAYMENT TO THE RIPARIAN BUFFER RESTORATION FUND. Persons who choose to satisfy their mitigation determination by paying a compensatory mitigation fee to the Riparian Buffer Restoration Fund shall meet the following requirements:
  - (a) SCHEDULE OF FEES: The amount of payment into the Fund shall be determined by multiplying the acres or square feet of mitigation determination made pursuant to Item (5) of this Rule by ninety-six cents (.96) per square foot or forty-one thousand, six hundred and twenty-five dollars (\$41,625) per acre.
  - (b) The required fee shall be submitted to the Division of Water Quality, Wetlands Restoration Program, P.O. Box 29535, Raleigh, NC 27626-0535 prior to any activity that results in the removal or degradation of the protected riparian buffer for which a "no practical alternatives" determination has been made.
  - (c) The payment of a compensatory mitigation fee may be fully or partially satisfied by donation of real property interests pursuant to Item (8) of this Rule.
  - (d) The fee outlined in Sub-item (7)(a) of this

Rule shall be reviewed every two years and compared to the actual cost of restoration activities conducted by the Department, including site identification, planning, implementation, monitoring and maintenance costs. Based upon this biennial review, revisions to Sub-item (7)(a) of this Rule will be recommended when adjustments to this Schedule of Fees are deemed necessary.

- (8) DONATION OF PROPERTY. Persons who choose to satisfy their mitigation determination by donating real property or an interest in real property shall meet the following requirements:
  - (a) The donation of real property interests may be used to either partially or fully satisfy the payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to Item (7) of this Rule. The value of the property interest shall be determined by an appraisal performed in accordance with Sub-item (8)(d)(iv) of this Rule. The donation shall satisfy the mitigation determination if the appraised value of the donated property interest is equal to or greater than the required fee. If the appraised value of the donated property interest is less than the required fee calculated pursuant to Sub-item (7)(a) of this Rule, the applicant shall pay the remaining balance due.
  - (b) The donation of conservation easements to satisfy compensatory mitigation requirements shall be accepted only if the conservation easement is granted in perpetuity.
  - (c) Donation of real property interests to satisfy the mitigation determination shall be accepted only if such property meets all of the following requirements:
    - (i) The property shall be located within an area that is identified as a priority for restoration in the Basinwide Wetlands and Riparian Restoration Plan or shall be located at a site that is otherwise consistent with the goals outlined in the Basinwide Wetlands and Riparian Restoration Plan.
    - (ii) The property shall contain riparian buffers not currently protected by the State's riparian buffer protection program that are in need of restoration.
    - (iii) The restorable riparian buffer on the property shall have a minimum length of 1000 linear feet along a surface water and a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water.
    - (iv) The size of the restorable riparian buffer on the property to be donated

- shall equal or exceed the acreage of riparian buffer required to be mitigated under the mitigation responsibility determined pursuant to Item (3) of this Rule.
- (v) The property shall not require excessive measures for successful restoration, such as removal of structures or infrastructure. Restoration of the property shall be capable of fully offsetting the adverse impacts of the requested use.
  - (vi) The property shall be suitable to be successfully restored, based on existing hydrology, soils, and vegetation.
  - (vii) The estimated cost of restoring and maintaining the property shall not exceed the value of the property minus site identification and land acquisition costs.
  - (ix) The property shall not contain cultural or historic resources.
  - (x) The property shall not contain any hazardous substance or solid waste.
  - (xi) The property shall not contain structures or materials that present health or safety problems to the general public. If wells, septic, water or sewer connections exist, they shall be filled, remediated or closed at owner's expense in accordance with state and local health and safety regulations.
  - (xii) The property shall have the potential to remove nitrogen, improve water quality and enhance natural resources after restoration. The Division shall consider whether the property is adjacent to or includes:
    - (A) a Department-approved restoration or preservation project or public lands;
    - (B) a sensitive natural resource, as identified in the Basinwide Wetland and Riparian Restoration Plan;
    - (C) known occurrences of rare species as identified by the North Carolina Natural Heritage Program in the "Natural Heritage Program List of Rare Animal Species of North Carolina" or the "Natural Heritage Program List of the Rare Plant Species of North Carolina;"
  - (D) significant Natural Heritage Area as identified by the North Carolina Natural Heritage Program in the "North Carolina Natural Heritage Program Biennial Protection Plan, List of Significant Natural Heritage Areas." Copies of these documents may be obtained from the Department of Environment and Natural Resources, Division of Parks and Recreation, Natural Heritage Program, P.O. Box 27687, Raleigh, North Carolina 27611;
  - (E) federally or state-listed sensitive, endangered, or threatened species, or their critical habitat;
  - (F) non-supporting, partially supporting, or support-threatened waters as designated by the Division pursuant to 40 CFR 131.10(a) through (g). This material is available at the Department of Environment and Natural Resources, Division of Water Quality, Water Quality Section, 512 North Salisbury Street, Raleigh, North Carolina 27604.
  - (xiii) The property and adjacent properties shall not have prior, current, and known future land use that would inhibit the function of the restoration effort.
  - (xiv) The property shall not have any encumbrances or conditions on the transfer of the property interests.
  - (d) At the expense of the applicant or donor, the following information shall be submitted to the Division with any proposal for donations or dedications of interest in real property:
    - (i) Documentation that the property meets the requirements laid out in Sub-Item (8)(c) of this Rule.
    - (ii) US Geological Survey 1:24,000 (7.5 minute) scale topographic map, county tax map, USDA Natural Resource Conservation Service County Soil Survey Map, and county road map showing the location of the property to be donated along with information on existing site conditions, vegetation



types, presence of existing structures and easements.

- (iii) A current property survey performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the State Board of Registration for Professional Engineers and Land Surveyors in "Standards of Practice for Land Surveying in North Carolina." Copies may be obtained from the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, 3620 Six Forks Road, Suite 300, Raleigh, North Carolina 27609.

- (iv) A current appraisal of the value of the property performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the Appraisal Board in the "Uniform Standards of Professional North Carolina Appraisal Practice." Copies may be obtained from the Appraisal Foundation, Publications Department, P.O. Box 96734, Washington, D.C. 20090-6734.

- (v) A title certificate.

**(9) RIPARIAN BUFFER RESTORATION OR ENHANCEMENT.** Persons who choose to meet their mitigation requirement through riparian buffer restoration or enhancement shall meet the following requirements:

- (a) The applicant may restore or enhance a riparian buffer that is not protected under the State's riparian buffer protection program if either of the following applies:
  - (i) The area of riparian buffer restoration is equal to the required area of mitigation determined pursuant to Item (3) of this Rule.
  - (ii) The area of riparian buffer enhancement is three times larger than the required area of mitigation determined pursuant to Item (3) of this Rule.
- (b) The location of the riparian buffer restoration or enhancement shall comply with the requirements in Item (4) of this Rule.
- (c) The riparian buffer restoration or enhancement site shall have a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water.
- (d) The applicant shall first receive an Authorization Certificate for the proposed use according to the requirements of 15A NCAC

2B .0233. After receiving this determination, the applicant shall submit a restoration or enhancement plan for approval by the Division. The restoration or enhancement plan shall contain the following.

- (i) A map of the proposed restoration or enhancement site.
- (ii) A vegetation plan. The vegetation plan shall include a minimum of at least two native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity.
- (iii) A grading plan. The site shall be graded in a manner to ensure diffuse flow through the riparian buffer.
- (iv) A fertilization plan.
- (v) A schedule for implementation.
- (e) Within one year after the Division has approved the restoration or enhancement plan, the applicant shall present proof to the Division that the riparian buffer has been restored or enhanced. If proof is not presented within this timeframe, then the person shall be in violation of the State's or the delegated local authority's riparian buffer protection program.
- (f) The mitigation area shall be placed under a perpetual conservation easement whose terms are acceptable to the Division.
- (g) The applicant shall submit annual reports for a period of five years after the restoration or enhancement showing that the trees planted have survived and that diffuse flow through the riparian buffer has been maintained. The applicant shall be responsible for replacing trees that do not survive and for restoring diffuse flow if needed during that five-year period.

*Authority 143-214.1; 143-214.7; 143-215.3(a)(1); Chapter 221, 1998 Session Laws.*

---

**TITLE 23 - DEPARTMENT OF COMMUNITY COLLEGES**

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the NC State Board of Community Colleges intends to amend rules cited as 23 NCAC 2D .0323 - .0324. Notice of Rule-making Proceedings was published in the Register on April 1, 1999.

**Proposed Effective Date:** August 1, 2000

**A Public Hearing** will be conducted at 10:00 a.m. on September 30, 1999 at the Caswell Building, State Board



Room, 200 W. Jones St., Raleigh, NC.

**Reason for Proposed Action:** *To provide colleges guidance for courses offered via media.*

**Comment Procedures:** *All persons interested in these rules may submit statements in writing from the date of this notice until September 30, 1999, mailed to Mr. Morris W. Johnson, NC Community Colleges System Office, 5019 Mail Service Center, Raleigh, NC 27699-5019 or delivered to: Caswell Building, 200 W. Jones St., Raleigh, NC.*

**Fiscal Impact**

<b>State</b>	<b>Local</b>	<b>Sub.</b>	<b>None</b>
			✓

**CHAPTER 2 - COMMUNITY COLLEGES**

**SUBCHAPTER 2D - COMMUNITY COLLEGES:  
FISCAL AFFAIRS**

**SECTION .0300 - BUDGETING: ACCOUNTING:  
FISCAL MANAGEMENT**

**.0323 REPORTING OF STUDENT HOURS IN  
MEMBERSHIP FOR CURRICULUM  
CLASSES**

(a) Academic Semester. The academic semester for all credit courses shall be designed so that all classes may be scheduled to include the number of instructional hours shown in the college catalog and the approved curriculum program of study compliance document and reported for FTE purposes. Instructional hours include scheduled class and laboratory sessions as well as examination sessions. Length of semesters or courses may vary as long as credit hours are assigned consistent with 23 NCAC 1A.0101 and as long as membership hours are reported consistent with the other provisions of this Rule. Also, note 23 NCAC 2D .0327 which identifies the reporting periods for submission of Institution Class Reports.

(b) Regularly-Scheduled Classes.

- (1) A class is regularly scheduled if it meets all of the following criteria:
  - (A) assigned definite beginning and ending time;
  - (B) specific days the class meets is predetermined;
  - (C) specific schedule included on the Institution Master Schedule or other official college documents;
  - (D) class hours assigned consistent with college catalog and curriculum standard requirements;
  - (E) identified class time and dates the same for all students registered for the class excluding clinical or cooperative;
    - (i) Classes which have a regularly scheduled lecture section and a

non-regularly scheduled laboratory section will satisfy this criteria. The census date (10% point) must be determined from the regularly scheduled portion of the class. Verification of student participation in the laboratory section of the class must be available for review.

- (ii) A student is considered absent if that student did not attend during the specified times or days the class was scheduled to meet.
- (2) A student is considered to be in class membership when the student meets all the following criteria:
  - (A) enrolled as evidenced by payment of the applicable tuition and fees, or obtained a waiver as defined in G.S. 115D-5(b);
  - (B) attended one or more classes prior to or on the 10 percent point in the class;
  - (C) has not withdrawn or dropped the class prior to or on the 10 percent point.
- (3) Student Membership Hour. A student membership hour is one hour of scheduled class or laboratory for which the student is enrolled. A college shall provide a minimum of 50 minutes of instruction for each scheduled class hour. A college must provide sufficient time between classes to accommodate students changing classes. A college may not report more hours per student than the number of class hours scheduled in the approved curriculum program of study compliance document.
- (4) Calculation of Student Membership Hours for Regularly Scheduled Classes. Student membership hours are obtained by multiplying the number of students in membership at the 10 percent point in the class by the total number of hours the class is scheduled to meet for the semester as stated in the college catalog and the approved curriculum program of study compliance document.
- (5) Maintenance of Records of Student Membership Hours. Accurate attendance records must shall be maintained for each class through the 10 percent point of the class. Colleges are encouraged to maintain attendance records for the duration of all classes. Attendance records ~~are to~~ shall be signed by the instructor or lead instructor, verifying their accuracy, and ~~are to~~ shall be maintained by the college until released from all audits (see the Public Records Retention & Disposition Schedule for Institutions in the Community College System). Student membership hours shall be summarized in the Institution's Class Report and certified by the president or designee. For classes identified as non-traditional delivery (see Subparagraph (e)(1) of this Rule for additional information), documentation of student contact prior to the 10 percent point must

shall be maintained in the same manner as the attendance records mentioned in this Rule.

(c) Non-Regularly Scheduled Classes.

- (1) A non-regularly scheduled class may include any or all of the following:
  - (A) a class where a definitive beginning and ending time is not determined;
  - (B) a class offered in a learning laboratory type setting (see Subparagraph (b)(6) of Rule .0324 of this Subchapter for definition of learning laboratory);
  - (C) a class self-paced in that the student progresses through the instructional materials at his/her the student's own pace, and can complete the courses as soon as he/she the student has successfully met the educational objectives. Classes offered as independent study are generally offered in this manner;
  - (D) a class in which a student may enroll during the initial college registration period or in which the student may be permitted to enroll at any time during the semester;
  - (E) any class not meeting all criteria for a regularly scheduled class, as shown in Subparagraph (b)(1) of this Rule, is considered to be a non-regularly scheduled class for reporting purposes. Note classes defined as non-traditional (see Paragraph (e) of this Rule) which are identified as a separate student hour reporting category and are not subject to the above provisions in Paragraph (c) of this Rule.
- (2) Definition of Student Membership. A student is considered to be in class membership when the student meets the following criteria:
  - (A) enrolled as evidenced by payment of the applicable tuition and fees, or obtained a waiver as defined in Paragraph (a) of Rule .0202 of this Subchapter; and
  - (B) attended one or more classes.
- (3) Definition of a Student Contact Hour. For non-regularly scheduled classes, student contact hours, actual hours of student attendance in a class or lab ~~are to~~ shall be reported for each student determined to be in membership. Sixty minutes shall constitute an hour.
- (4) Calculation of Student Contact Hours for Non-Regularly Scheduled Classes. For these classes, actual time of class attendance ~~is to~~ shall be reported; 60 minutes shall constitute an hour. Student contact hours for these classes are the sum of all the hours of actual student attendance in a class in a given semester.
- (5) Maintenance of Records of Student Contact Hours. Accurate attendance records must shall be maintained for each class of the nature described in this Rule through the entire semester. Attendance

records ~~are to~~ shall be signed by the instructor or lead instructor, verifying their accuracy, and ~~are to~~ shall be maintained by the college until released from all audits (see the Public Records Retention & Disposition Schedule for Institutions in the Community College System). Student contact hours shall be summarized in the Institution's Class Report and certified by the president or designee.

(d) Skills Laboratory or Computer Tutorial Laboratory. Individualized instructional laboratories are similar to learning laboratories (see Subparagraph (b)(6) of Rule .0324 of this Subchapter) except the participants are curriculum students. Skills labs or computer tutorial labs are remedial/developmental remedial or developmental in nature and intended for students who are experiencing academic difficulty in a particular curriculum course. A skills laboratory instructor must shall be qualified in the single-subject area of the skills laboratory. A computer tutorial laboratory coordinator need not be qualified in any of the subject area(s) provided in a computer tutorial laboratory. Student contact hours may be reported for budget/FTE when students are required by their instructor to attend either of the laboratories for remedial/developmental remedial or developmental work and when the skills laboratory instructors or computer tutorial coordinators are paid with curriculum instructional funds.

- (1) Documentation of instructor referral must shall be maintained for auditing purposes. Maintain documentation until released by audit.
  - (2) Homework assignments ~~are shall~~ not permitted to be reported for budget/FTE. Note 23 NCAC 2D .0325(a).
  - (3) Calculation of Student Contact Hours for Skills Laboratory or Computer Tutorial Laboratory. For these classes, actual time of class attendance ~~is to~~ shall be reported; 60 minutes shall constitute an hour. Student hours generated for these types of classes are the sum of all the hours of actual student attendance in a class in a given semester.
- (e) Classes Identified as Curriculum Non-Traditional Delivery.
- (1) Definition. Due to the methodology by which instruction is delivered, non-traditional delivery classes are not consistent with the definitions of regularly scheduled or non-regularly scheduled classes described in this Rule. Non-traditional delivery classes must shall be offered through media such as radio, television, and other media as well as through correspondence or newspapers. The instruction delivered is prestructured into identifiable units. Non-traditional delivery classes do not include classes identified as independent study which are not media based or are not correspondence or newspaper based.
  - (2) For those classes identified as non-traditional delivery, student attendance in class or in an orientation session, submission of a written assignment or submission of an examination, is the



basis for the determination of class membership at the 10 percent point of the class. Student membership hours earned in non-traditional delivery classes shall be calculated by multiplying the number of students in membership, as determined in the prior sentence, times the number of hours assigned to the class in official college documents. For these classes, the number of hours assigned must shall be consistent with the credit hours assigned according to 23 NCAC 2E .0104, 1A .0101, as well as the appropriate curriculum standard.

- (3) Rule 23 NCAC 2E .0604 specifies that if two or more colleges jointly offer credit courses or programs, the colleges shall enter into a written collaborative agreement. Individual courses developed by a college or jointly by colleges and delivered via media are not subject to this Rule (Collaborative Agreements) as long as a degree, diploma, or a certificate is not awarded. In this situation, the sending college shall have an approved curriculum standard and an approved Program of Study. The receiving college may offer the course by virtue of the sending college's approval.
- (4) Service area agreement requirements, set forth in 23 NCAC 2C .0107, are required when a class meets physically as a group supervised by faculty or staff outside the sending college's service area.
- (5) Sharing FTE's for Non-traditional Courses Jointly Offered by Colleges:

(A) Definitions:

- (i) Sending college--The college that designs, develops, and delivers the course and makes it available to students on any one or several media. Instructional cost incurred by a college for courses delivered in a non-traditional format is eligible to generate budget/FTE. Instructional cost includes salaries, fringe benefits, supplies, materials, access fees, license fees, broadcast and other directly related production costs. Students who register through the sending college are included in the college's student hour reports which generate FTE.
- (ii) Receiving college--The college providing physical facilities or services for students enrolled in courses originating from the sending college. The college incurs a lesser instructional cost than the sending college and is eligible to report 50 percent of the FTE generated by the students who register through the receiving college. The remaining FTE

of the students registered through the receiving college may be reported by the sending college unless otherwise agreed.

- (iii) In situations where there are multiple sending colleges or multiple receiving colleges or both, the FTE split noted in Subpart (e)(5)(A)(ii) of this Rule is applied.

(f) Curriculum Student Work Experience and Clinical Practice. The following criteria apply to the reporting guidelines for students enrolled in curriculum work experience and clinical practice courses, exclusive of in-plant training as specified in 23 NCAC 2E .0402. Examples of student work experience include cooperative education, practicums, and internships. Clinical practice refers to work experience in health occupation programs.

- (1) Student membership hours for student work experience and clinical practice shall not generate budget/FTE without prior approval by the Department of such activities through the appropriate curriculum standard.
- (2) Work Experience. Work experience for curriculum courses shall earn budget/FTE at the 100 percent rate of assigned work experience hours and shall not exceed a maximum of 320 membership hours per student per semester.
  - (A) These classes must shall be coordinated by college personnel paid with college instructional funds and may be located in one or more sites.
  - (B) These classes must shall be specified in the approved curriculum of the college consistent with the applicable curriculum standard.
  - (C) Formal or informal apprenticeship on-the-job training activities of a cooperative skill training program funded under a special project allocation shall not earn budget/FTE. Classroom instruction funded with college regular budget instructional dollars for related or supplemental instruction as required by formal or informal apprenticeship programs shall earn budget/FTE.
- (3) Clinical Practice. Curriculum clinical practice, as defined in 23 NCAC 2E .0104, 1A .0101, refers to clinical experience in health occupation programs which shall earn budget/FTE at the 100 percent rate for student membership hours. The applicable classes must shall be consistent with the curriculum standards policy as noted in Paragraph (a) of 23 NCAC 2E .0203, 2E .0204. The maximum membership hours in a clinical experience which can be reported per student in a given semester is 640. These classes must shall be supervised by college instructors qualified to teach in the particular program and who are paid with college instructional



funds. These classes may be located in one or more sites.

*Authority G.S. 115D-5; S.L. 1995, c. 625.*

**.0324 REPORTING OF STUDENT HOURS IN MEMBERSHIP FOR EXTENSION (NON-CREDIT) CLASSES**

**(a) Regularly Scheduled Classes.**

(1) **Definition of Regularly Scheduled Class.** A class is considered to be regularly scheduled if it meets all of the following criteria:

- (A) assigned definite beginning and ending time;
- (B) specific predetermined days and time the class meets;
- (C) specific schedule included on the Institution Master Schedule or other official college documents;
- (D) class hours assigned consistent with official college documents;
- (E) identified class time and dates the same for all students registered for the class excluding clinical or work experience:

(i) Classes which have a regularly scheduled lecture section and a non-regularly scheduled laboratory section will satisfy the criteria. The census date (10% point) shall be determined from the regularly scheduled portion of the class. Verification of student participation in the laboratory section of the class shall be available for review.

(ii) A student is considered absent if that student did not attend during the specified times or days the class was scheduled to meet.

(2) **Definition of Student Membership.** A student is considered to be in class membership when the student meets all the following criteria:

- (A) enrolled as evidenced by payment of the applicable registration fees, or obtained a waiver as defined in Paragraph (a) of Rule .0203 of this Subchapter;
- (B) attended one or more classes held prior to or on the 10 percent point in the class; and
- (C) has not withdrawn or dropped the class prior to or on the 10 percent point of the class.

(3) **Student Membership Hour.** A student membership hour is one hour of scheduled class or laboratory for which the student is enrolled. A college shall provide a minimum of 50 minutes of instruction for each scheduled class hour. A college may shall not report more hours per student than the number of class hours scheduled in official college documents. Colleges may shall not report more hours per student, excluding non-traditional classes, than the

number of hours specified in the instructor's contract.

(4) **Calculation of Student Membership Hours for Regularly Scheduled Classes.** Student membership hours are obtained by multiplying the number of students in membership at the 10 percent point in the class by the total number of hours the class is scheduled to meet for the semester as stated in official college documents.

(5) **Maintenance of Records of Student Membership Hours.** Accurate attendance records shall be maintained for each class throughout the entire class or semester. Attendance records shall be signed by the instructor or lead instructor, verifying their accuracy, and shall be maintained by the college until released from all audits as provided in the Public Records Retention & Disposition Schedule for Institutions in the Community College System. Student membership hours shall be summarized in the Institution's Class Report and certified by the president or designee. For classes identified as non-traditional delivery, (see Paragraph (c) of this Rule) documentation of student contact hours prior to the 10 percent point shall be maintained in the same manner as the attendance records mentioned in this Rule.

**(b) Non-Regularly Scheduled Classes.**

(1) **Definition of Non-Regularly Scheduled Class.** A non-regularly scheduled class may include any or all of the following:

- (A) a class where a definitive beginning and ending time is not determined;
- (B) a class offered in a learning laboratory type setting (see Subparagraph (b)(6) of this Rule for definition of learning laboratory);
- (C) a class self-paced in that the student progresses through the instructional materials at his/her own pace, and can complete the courses as soon as he/she has successfully met the educational objectives. Classes offered as independent study are generally offered in this manner;
- (D) a class in which a student may enroll during the initial college registration period or in which a student may be permitted to enroll at any time during the semester; or
- (E) any class not meeting all criteria for a regularly scheduled class as shown in Subparagraph (a)(1) of Rule .0324 of this Subchapter, is considered to be a non-regularly scheduled class for reporting purposes;
- (F) note classes defined as non-traditional (see Paragraph (c) of this Rule) which are identified as a separate student hour reporting category and are not subject to the provisions in Paragraph (b) of this Rule.

- (2) Definition of Student Membership. A student is considered to be in class membership when the student meets the following criteria:
  - (A) enrolled as evidenced by payment of the applicable registration fees, or obtained a waiver as defined in Paragraph (a) of Rule .0203 of this Subchapter; and
  - (B) attended one or more classes.
- (3) Definition of Student Contact Hour. A student contact hour is one hour of student attendance in a class for which the student is in membership as defined in Subparagraph (b)(2) of this Rule. Sixty minutes shall constitute an hour.
- (4) Calculation of Student Contact Hours for Non-Regularly Scheduled Classes. For these classes, actual time of class attendance is to be reported; 60 minutes shall constitute an hour. Student contact hours for these classes are the sum of all the hours of actual student attendance in a class in a given semester.
- (5) Maintenance of Records of Student Contact Hours. Accurate attendance records shall be maintained for each class throughout the entire class or semester. Attendance records shall be signed by the instructor or lead instructor, verifying their accuracy, and shall be maintained by the college until released from all audits as provided in the Public Records Retention and Disposition Schedule for Institutions in the Community College System. Student membership hours shall be summarized in the Institution's Class Report and certified by the president or designee. For classes identified as non-traditional delivery, (see Paragraph (c) of this Rule), documentation of student contact hours prior to the 10 percent point shall be maintained in the same manner as the attendance records mentioned in this Rule.
- (6) Learning Laboratory. Learning laboratory programs consist of self-instruction using programmed text, audio-visual equipment, and other self-instructional materials. A learning laboratory coordinator has the function of bringing the instructional media and the student together on the basis of objective and subjective evaluation and of counseling, supervising, and encouraging persons working in the laboratory. Contact hours shall be calculated as noted in Subparagraph (b)(4) of this Rule.
- (c) Classes Identified as Extension Non-Traditional Delivery.
  - (1) Definition. Due to the methodology by which instruction is delivered, non-traditional delivery classes are not consistent with the definitions of regularly scheduled or non-regularly scheduled classes described in this Rule. Non-traditional delivery classes may be offered through media such as radio, television and other media as well as through correspondence or newspapers. The

instruction delivered is pre-structured into identifiable units. Non-traditional delivery classes do not include classes identified as independent study which are not media based or are not correspondence or newspaper based.

- (2) For those classes identified as non-traditional delivery, student attendance in class or in an orientation session, submission of a written assignment or a submission of examination is the basis for the determination of class membership at the 10 percent point of the class. Student membership hours in such classes shall be calculated by multiplying the number of students enrolled in the class times the number of instructional hours delivered which is determined as follows:
  - (A) determine the number of hours of instruction delivered via non-traditional delivery; and
  - (B) add the number of hours of class meetings, review sessions, etc.;
  - (C) for those non-traditional continuing education classes which are approved by a local college staff review committee and the Director of Continuing Education Services for the Department, additional hours above the level noted in Parts (c)(2)(A) and (B) in this Rule may be approved commensurate with course content.
- (3) Individual non-traditional classes which may be developed by a college or jointly by colleges and sent via media are subject to service area agreement requirements set forth in 23 NCAC 2C .0107 when the class meets physically as a group and is supervised by faculty or staff, outside the sending college's service area.
- (4) Sharing FTE's for Non-traditional Classes Jointly Offered by Colleges:
  - (A) Definitions:
    - (i) Sending college--The college that designs, develops, and delivers the course and makes it available to students on any one or several media. Instructional cost incurred by a college for courses delivered in a non-traditional format is eligible to generate budget/FTE. Instructional cost includes salaries, fringe benefits, supplies, materials, access fees, license fees, broadcast and other directly related production costs. Students who register through the sending college shall be included in that college's student hour reports which generate FTE.
    - (ii) Receiving college--The college offering physical facilities or services

for students enrolled in courses originating from the sending college. This college incurs a lesser instructional cost than the sending college and is eligible to report 50 percent of the FTE generated by the students who register through the receiving college. The remaining FTE of the students registered through the receiving college may be reported by the sending college unless otherwise agreed upon.

(iii) In situations where there are multiple sending colleges or multiple receiving colleges or both, the FTE split noted in Subpart (C)(4)(A)(ii) of this Rule is applied.

(d) Extension Student Work Experience and Clinical Practice. The following criteria apply to the reporting guidelines for students enrolled in extension work experience and clinical practice courses, exclusive of in-plant training as specified in 23 NCAC 2E .0402. To be eligible for approval, these work experience or clinical practice courses shall be required by a licensing agency or accrediting body. Examples of student work experience include cooperative education, practicums, and internships.

(1) Student membership hours for student work experience and clinical practice shall not generate budget FTE without prior approval of such activities by the Department. Approval of student work experience and clinical practice approved prior to November 1, 1983 by the Department shall be resubmitted for reapproval. When the number of approved student work experience membership hours increases by more than 30 percent per course, a new request for approval shall be submitted.

(2) Work Experience. Work experience for extension courses shall earn budget/FTE at the 100 percent rate for student membership hours, as required by a licensing agency or accrediting body, and shall not exceed a maximum of 320 membership hours per student per semester. A maximum of 320 hours may be reported per student per year for a given licensing/accrediting licensing or accrediting requirement.

(A) These classes shall be coordinated by college personnel paid with college instructional funds and may be located in one or more sites.

(B) Formal or informal apprenticeship on-the-job training activities of a cooperative skill training program funded under a special project allocation shall not earn budget/FTE. Classroom instruction funded with regular budget instructional dollars for related or supplemental instruction as required by formal or informal apprenticeship programs

shall earn budget/FTE.

(3) Clinical Practice. Clinical practice refers to clinical experience in health occupation courses which shall earn budget/FTE at the 100 percent rate for student membership hours, as determined in Subparagraph (a)(3) of this Rule, and shall not exceed a maximum of 320 membership hours per student per semester unless North Carolina licensure or program accreditation standards require additional hours. In such cases, work activity hours shall earn budget/FTE at the 100 percent rate in accordance with licensure or program accreditation standards up to a maximum of 640 membership hours per student per semester. These classes shall be supervised by college instructors qualified to teach in the particular program and who are paid with college instructional funds. These classes may be located in one or more sites.

(e) The Adult High School Diploma work experience shall not exceed 160 hours per student.

*Authority G.S. 115D-5; S.L. 1995, c. 625.*



*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 1 - DEPARTMENT OF ADMINISTRATION**

**Rule-making Agency:** Department of Administration

**Rule Citation:** 1 NCAC 40 .0101-.0103; .0201-.0204

**Effective Date:** August 11, 1999

**Findings Reviewed by Beecher R. Gray:** Codifier determined that agency findings did not meet criteria for temporary rule. Not a recent act; inadequate showing of serious and unforeseen threat to the public health, safety, or welfare.

**Authority for the rule-making:** G.S. 115C-566

**Reason for Proposed Action:** Pursuant to S.L. 1997-507 and 1998-212, sec. 9.21, the General Assembly has required the Division of Non-public Education to assist in drafting rules to implement a new statute requiring driving eligibility certificates (DECs) for all students seeking learner's permits and driver's licenses. Rules are required to be adopted by the agency to implement the provisions for nonpublic schools and home schools under the Division of Non-public education. This is a new agency to the Department and the 1998 amendment to the law has required changes to the proposed rules in order to completely implement the amended statute. Without the temporary rules being in place, the statutory scheme for requiring DECs would not be able to be put in force, with potential for improperly licensed drivers on the roads. These rules have been examined and utilized over the course of a year by the nonpublic school area and are deemed workable.

**Comment Procedures:** All persons wishing to comment on these proposed rules may do so by sending their written comments to R. Glen Peterson, General Counsel, Department of Administration, 116 West Jones Street, Raleigh, NC 27603-8003.

## **CHAPTER 40 - NONPUBLIC EDUCATION**

### **SECTION .0100 - GENERAL PROVISIONS**

#### **.0101 PURPOSE**

The Division of Nonpublic Education is the agency of State government responsible for administering the provisions of Article 39 of G.S. 115C and is the "duly authorized representative of the State" for such purposes, as defined in G.S. 115C-563(b).

*History Note:* Authority G.S. 115C-563; 115C-566;

*Temporary Adoption Eff.* August 4, 1998;

*Temporary Adoption Expired* May 29, 1999;

*Codifier determined that agency findings did not meet criteria for temporary rule;*

*Temporary Adoption Eff.* August 11, 1999.

#### **.0102 ORGANIZATION**

The Division of Nonpublic Education is located in the Department of Administration pursuant to the assignment of said division from the Office of the Governor, as designated by order of the Governor dated May 20, 1998, and effective July 1, 1998.

*History Note:* Authority G.S. 115C-563; 115C-566; 143B-12;

*Temporary Adoption Eff.* August 4, 1998;

*Temporary Adoption Expired* May 29, 1999;

*Codifier determined that agency findings did not meet criteria for temporary rule;*

*Temporary Adoption Eff.* August 11, 1999.

#### **.0103 DEFINITIONS**

The following definitions shall apply throughout this Chapter:

- (1) "Conventional nonpublic school" means a school operating under either Part 1 or Part 2 of Article 39, G.S. 115C.
- (2) "Division" means the Division of Nonpublic Education, except where otherwise identified.
- (3) "Educational program" means an alternative academic program of instruction found by a court prior to July 1, 1998, to comply with the Compulsory Attendance Law, Part 1 of Article 26, G.S. 115C.
- (4) "Home school" means a nonpublic school operating under Part 3 of Article 39, G.S. 115C.

*History Note:* Authority G.S. 115C-547 through 115C-566;

*Temporary Adoption Eff.* August 4, 1998;

*Temporary Adoption Eff.* November 25, 1998;

*Temporary Adoption Expired* May 29, 1999;

*Codifier determined that agency findings did not meet criteria for temporary rule;*

*Temporary Adoption Eff.* August 11, 1999.

### **SECTION .0200 - DRIVING ELIGIBILITY CERTIFICATES**

**.0201 DEFINITIONS**

For the purposes of G.S. 20-11, G.S. 20-13.2(c1) and G.S. 115C-566, the following definitions shall apply:

- (1) "High school diploma or its equivalent" means and includes the General Equivalency Diploma and the adult high school diploma.
- (2) "Making progress toward obtaining a high school diploma or its equivalent" means that the student must meet standards established by the administrator, or the administrator's designee, in the case of a conventional nonpublic school or by the person who provides the academic instruction in the case of a home school or an educational program.
- (3) "Substantial hardship" means a demonstrable burden on the student or the student's family as evidenced by circumstances such as the following:
  - (a) The parent/guardian is unable to drive due to illness or other impairment and the student is the only person of driving age in the household.
  - (b) The student requires transportation to and from a job that is necessary to the welfare of the student's family and the student is unable to obtain transportation by any means other than driving.
  - (c) The student has been unable to attend a conventional nonpublic school due to documented medical reasons, but the student is demonstrating the ability to maintain progress toward obtaining a high school diploma or its equivalent.
- (4) A "student who cannot make progress toward obtaining a high school diploma or its equivalent" shall mean a student who has been identified by the administrator, or the administrator's designee, in the case of a conventional nonpublic school or by the person who provides the academic instruction in the case of a home school or an educational program, as not having the capacity to meet the requirements for a high school diploma or its equivalent due to a disability.

*History Note:* Authority G.S. 115C-566;  
 Temporary Adoption Eff. August 4, 1998;  
 Temporary Adoption Eff. November 25, 1998;  
 Temporary Adoption Expired May 29, 1999;  
 Codifier determined that agency findings did not meet criteria for temporary rule;  
 Temporary Adoption Eff. August 11, 1999.

**.0202 ISSUANCE OF DRIVING ELIGIBILITY CERTIFICATES**

(a) Each conventional nonpublic school, home school and educational program shall be responsible for the issuance of driving eligibility certificates on forms which must be supplied only by the Division, and which are non-transferable to any

other conventional nonpublic school, home school, educational program, or public school.

(b) Before any conventional nonpublic school or home school can issue a driving eligibility certificate, that school must have on file with the Division a currently valid Notice of Intent to Operate and must be in compliance with all laws and regulations applicable to conventional nonpublic schools or home schools which enroll students subject to compulsory attendance laws. Once the school is in compliance with such laws and regulations as apply to it, the appropriate forms may be requested from, and supplied by, the Division.

(c) Before any educational program can issue a driving eligibility certificate, that program must have on file with the Division:

- (1) A letter stating the name of the educational program, its address and telephone number, and contact person; and
- (2) Legal documentation in the form of a certified court order or judgment that the program was found to be in compliance with the Compulsory Attendance Law, Part 1 of Article 26, G.S. 115C, prior to July 1, 1998.

Once the educational program is in compliance with such laws and regulations as apply to it, the appropriate forms may be requested from, and supplied by, the Division.

(d) Notwithstanding 1 NCAC 40 .0202(b), all nonpublic schools enrolling only students who are age 15, 16 or 17 may not request driving eligibility certificate forms from the Division until after the school's currently valid Notice of Intent to Operate has been on file with the Division for at least six calendar months. This provision shall not apply in the case of any student that is newly resident in the State of North Carolina within the 30 days immediately preceding his request for a driving eligibility certificate from a school affected by this provision.

(e) A nonpublic school student under the age of 18 who wishes to obtain a limited learner's permit, a limited provisional license or a full provisional license under G.S. 20-11 must first request and obtain a driving eligibility certificate signed by the administrator, or the administrator's designee, in the case of a conventional nonpublic school or the person who provides the academic instruction in the case of a home school or an educational program.

(f) Before a nonpublic school student is eligible to receive a driving eligibility certificate, the student must be currently and properly enrolled in a nonpublic school which is meeting all the appropriate requirements of Article 39 of G.S. 115C or in an educational program at the time the certificate is issued and meet one of the following requirements:

- (1) The student is making progress toward obtaining a high school diploma or its equivalent.
- (2) The student will have a substantial hardship placed on the student or the student's family if the certificate is not issued.
- (3) The student is a student who cannot make progress toward obtaining a high school diploma or its equivalent.



(g) If a student is denied a certificate, the chief administrator of the nonpublic school or the person who provides the academic instruction in the case of an educational program shall inform the student of the school's or the program's decision and the availability and details of the school's or program's appeals process.

*History Note: Authority G.S. 115C-566;  
Temporary Adoption Eff. August 4, 1998;  
Temporary Adoption Eff. November 25, 1998;  
Temporary Adoption Expired May 29, 1999;  
Codifier determined that agency findings did not meet criteria for temporary rule;  
Temporary Adoption Eff. August 11, 1999.*

#### **.0203 REVOCATION OF DRIVING ELIGIBILITY CERTIFICATES**

(a) Each nonpublic school and educational program shall revoke a driving eligibility certificate held by one of its students, no matter whether it was issued by that school or program or not:

- (1) when the student fails to meet the requirements for the certificate set out in 1 NCAC 40 .0202; or
- (2) when the student is no longer enrolled in the school or program and does not possess a high school diploma or its equivalent upon the student's removal from the school's or program's rolls, if the student will not be enrolled in another school (public, conventional nonpublic, home school, educational program or community college).

(b) Upon revocation of a certificate, the chief administrator of the school or program shall send written notification of the revocation to the Division within five calendar days of the revocation, unless the student protests the decision. If the Appeals Committee upholds the school's or program's decision to revoke the certificate, the notification to the Division will be made within five days from the school's or program's receipt of the committee's decision.

(c) The notification to the Division shall include:

- (1) The student's legal name (first, middle and last name as on the student's birth certificate);
- (2) The student's social security number;
- (3) The student's residence address (including street, city and zip code);
- (4) The student's date of birth;
- (5) The student's gender;
- (6) The student's race;
- (7) The student's learner's permit or driver's license number;
- (8) The name of the parent/guardian with whom the student is living;
- (9) A statement of the reasons for the revocation of the certificate;
- (10) The date of the student's ineligibility or removal from the school's or program's rolls;
- (11) The type of nonpublic school, whether conventional

or home school, or educational program;

- (12) The name of the nonpublic school or educational program;
- (13) The county in which the nonpublic school or educational program is located;
- (14) The name of the chief administrator of the nonpublic school or educational program.

(d) Within five calendar days of the Division's receipt of the written notification of revocation from the nonpublic school or educational program, the Director of the Division or the Director's designee, shall inform the North Carolina Division of Motor Vehicles of the revocation.

(e) If a student's certificate is revoked, the chief administrator of the nonpublic school or educational program shall inform the student of the school's or program's decision and the availability and details of the school's or program's appeals process.

*History Note: Authority G.S. 115C-566;  
Temporary Adoption Eff. August 4, 1998;  
Temporary Adoption Eff. November 25, 1998;  
Temporary Adoption Expired May 29, 1999;  
Codifier determined that agency findings did not meet criteria for temporary rule;  
Temporary Adoption Eff. August 11, 1999.*

#### **.0204 STUDENT APPEALS PROCESS**

(a) Each conventional nonpublic school and educational program that enrolls students that are at least 15 years of age shall establish a Driving Eligibility Certificate Appeals Committee to receive and act upon student protests that a driving eligibility certificate was improperly denied or revoked. All student protests shall be made within five days of the school's or program's decision and directed to the chief administrator of the conventional nonpublic school or educational program. The Appeals Committee shall:

- (1) Be appointed by and serve at the pleasure of the administrator of the conventional nonpublic school or educational program, or the administrator's designee; and
- (2) Consist of at least three members, each of which shall be a member of the school's or program's governing board, administration or staff, or a parent/guardian with a child currently enrolled in the school or program.

(b) The Division shall establish a Home Schools Driving Eligibility Certificate Appeals Committee exclusively to receive and act upon student protests that a driving eligibility certificate was improperly denied or revoked by a home school. All home school student protests shall be made within five days of the school's decision and directed to the Director of the Division or the Director's designee, at Division of Nonpublic Education, Department of Administration, 530 North Wilmington Street, Raleigh, North Carolina 27604-1198. The Home Schools Driving Eligibility Certificate Appeals Committee shall:



- (1) Be appointed by, and serve on a voluntary basis at the pleasure of, the Director of the Division or the Director's designee; and
- (2) Consist of at least three members, each being the administrator of a home school currently operating under Part 3, Article 39, G.S. 115C. The members shall not receive per diem or any other type of compensation for their service. The Director, or the Director's designee, shall appoint a chairperson from the committee's membership. The chairperson shall then direct the decision-making work of the committee.

(c) All Driving Eligibility Certificate Appeals Committees shall:

- (1) consider the written protest of the student as to why the driving eligibility certificate was improperly denied or revoked;
- (2) decide the protest based on whether the requirements for the certificate were met or whether the certificate was properly revoked;
- (3) render its decision within 30 calendar days of receipt of the written protest from the student, and promptly notify the student and the chief administrator of the school or program of the decision.

(d) The decision of the appropriate appeals committee shall be final.

*History Note: Authority G.S. 115C-566;  
Temporary Adoption Eff. August 4, 1998;  
Temporary Adoption Eff. November 25, 1998;  
Temporary Adoption Expired May 29, 1999;  
Codifier determined that agency findings did not meet criteria for temporary rule;  
Temporary Adoption Eff. August 11, 1999.*

## TITLE 10 - DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Service Area (HSA)	CON Beginning Review Date
I	August 1, 1999
II	August 1, 1999
V	September 1, 1999
VI	September 1, 1999

(2) — Ambulatory Surgical Facilities (in accordance with the need determination in 10 NCAC 3R .6209)

Ambulatory Surgery Service Area	CON Beginning Review Date
---------------------------------	---------------------------

**Rule-making Agency:** *Division of Facility Services*

**Rule Citation:** *10 NCAC 3R .6203, .6209, .6221*

**Effective Date:** *July 22, 1999*

**Findings Reviewed and Approved by:** *Beecher R. Gray*

**Authority for the rule-making:** *G.S. 131E-176(25); 131E-177(1); 131E-183(b)*

**Reason for Proposed Action:** *That the general welfare and protection of lives, health, and property of the people of this State require that new institutional health services to be offered within this State be subject to review and evaluation as to need, cost of service, accessibility to services, quality of care, feasibility, and other criteria as determined by provisions of this Article or by the North Carolina Department of Human Resources pursuant to provisions of this Article prior to such services being offered or developed in order that only appropriate and needed institutional health services are made available in the area to be served.*

## CHAPTER 3 - FACILITY SERVICES

### SUBCHAPTER 3R - CERTIFICATE OF NEED REGULATIONS

#### SECTION .6200 - PLANNING POLICIES AND NEED DETERMINATIONS FOR 1999

#### .6203 CERTIFICATE OF NEED REVIEW SCHEDULE

The agency has established the following review schedules for certificate of need applications.

- (1) Inpatient Rehabilitation Beds (in accordance with the need determination in 10 NCAC 3R .6208)

9 (Brunswick, Columbus, Duplin, New Hanover, Pender) September 1, 1999

(2)(3) Open Heart Surgery Services (in accordance with the need determination in 10 NCAC 3R .6210)

Hospital	CON Beginning Review Date
Hospitals without open heart surgery services which acquired heart-lung bypass machines before March 18, 1993	April 1, 1999

(3)(4) Heart-Lung Bypass Machines (in accordance with the need determination in 10 NCAC 3R .6211)

Hospital Service System	CON Beginning Review Date
Cumberland County	March 1, 1999

(4)(5) Fixed Cardiac Catheterization Equipment (in accordance with the need determination in 10 NCAC 3R .6212)

Hospital Service System	CON Beginning Review Date
Wake County	May 1, 1999
Mecklenburg County	February 1, 1999
Forsyth County	February 1, 1999
Moore County	July 1, 1999
New Hanover County	July 1, 1999
Pitt County	July 1, 1999
Catawba County	October 1, 1999
Buncombe County	October 1, 1999
Guilford County - Greensboro Area Only	October 1, 1999
Durham County	November 1, 1999
Orange County	November 1, 1999

(5)(6) Radiation Oncology Treatment Centers (in accordance with the need determination in 10 NCAC 3R .6220)

Radiation Oncology Treatment Center Service Area	CON Beginning Review Date
6 (Cleveland, Gaston, Lincoln, Rutherford)	April 1, 1999
7 (Anson, Mecklenburg, Union)	October 1, 1999

(6)(7) Magnetic Resonance Imaging Scanners (in accordance with the need determination in 10 NCAC 3R .6221)

Magnetic Resonance Imaging Scanners Service Area	CON Beginning Review Date
5 ( <del>Alexander, Burke, Caldwell, Catawba, Lincoln</del> )	<del>October 1, 1999</del>
7 (Henderson, Polk, Transylvania)	April 1, 1999
15 (Davidson, Guilford, Randolph, Rockingham)	October 1, 1999
18 ( <del>Cumberland, Hoke, Moore, Robeson, Sampson</del> )	<del>September 1, 1999</del>
23 (Beaufort, Bertie, Hyde, Greene, Martin, Pitt, Washington)	March 1, 1999
24 ( <del>Edgecombe, Halifax, Nash, Northampton</del> )	<del>September 1, 1999</del>

(7)(8) Nursing Care Beds (in accordance with the need determination in 10 NCAC 3R .6222)

County	CON Beginning Review Date
Ashe	April 1, 1999
Catawba	April 1, 1999
Henderson	October 1, 1999
McDowell	December 1, 1999
Caswell	June 1, 1999
Davie	August 1, 1999
Guilford	June 1, 1999
Randolph	December 1, 1999
Mecklenburg	August 1, 1999
Person	March 1, 1999
Wake	September 1, 1999
Columbus	September 1, 1999
Pender	March 1, 1999
Sampson	March 1, 1999
Carteret	September 1, 1999
Perquimans	March 1, 1999

(8)(9) Chemical Dependency (Substance Abuse) Beds (in accordance with the need determination in 10 NCAC 3R .6228)  
(a) Adult Treatment Beds

Mental Health Planning Region	CON Beginning Review Date
Eastern Region	December 1, 1999

(b) Adult Detox-Only Beds



Mental Health Planning Areas		CON Beginning Review Date
1	(Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain)	May 1, 1999
4	(Henderson, Transylvania)	May 1, 1999
5	(Alexander, Burke, Caldwell, McDowell)	May 1, 1999
6	(Rutherford, Polk)	May 1, 1999
11	(Rowan, Stanly, Cabarrus, Union)	May 1, 1999
14	(Rockingham)	May 1, 1999
16	(Alamance, Caswell)	May 1, 1999
17	(Orange, Person, Chatham)	May 1, 1999
19	(Vance, Granville, Franklin, Warren)	May 1, 1999
20	(Davidson)	May 1, 1999
22	(Bladen, Columbus, Robeson, Scotland)	May 1, 1999
25	(Johnston)	May 1, 1999
26	(Wake)	May 1, 1999
30	(Wayne)	May 1, 1999
31	(Wilson, Greene)	May 1, 1999
32	(Edgecombe, Nash)	May 1, 1999
33	(Halifax)	May 1, 1999
34	(Carteret, Craven, Jones, Pamlico)	May 1, 1999
35	(Lenoir)	May 1, 1999
37	(Bertie, Gates, Hertford, Northampton)	May 1, 1999
38	(Beaufort, Hyde, Martin, Tyrrell, Washington)	May 1, 1999
39	(Camden, Chowan, Currituck, Dare, Pasquotank, Perquimans)	May 1, 1999
40	(Duplin, Sampson)	May 1, 1999

(9)(t0) Intermediate Care Facility Beds for Mentally Retarded (in accordance with need determinations in 10 NCAC 3R .6229)

Mental Health Planning Area		CON Beginning Review Date
8	(Gaston, Lincoln)	May 1, 1999
29	(Onslow)	May 1, 1999

(10)(H) Applications for certificates of need will be reviewed pursuant to the following review schedule, unless another schedule has been specified in Items (1) through (9) of this Rule.

CON Beginning Review Date	HSA I, II, III	HSA IV, V, VI
January 1	--	--
February 1	A, E, G, I, J	G
March 1	--	A, B, E, H, I
April 1	B, F, H, I	--
May 1	C	C, F, I, J
June 1	A, B, D, I	D
July 1	--	A, I, J
August 1	B, E, I	--
September 1	--	B, E, H, I
October 1	A, B, F, H, I, J	H (Oncology Center / Linear Accelerator Only)
November 1	--	A, F, I, J
December 1	B, C, D, I	C, D, I

*History Note:* Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b);  
 Temporary Adoption Eff. January 1, 1999;  
 Temporary Amendment Eff. July 22, 1999.

**.6209 AMBULATORY SURGICAL FACILITIES NEED DETERMINATION (REVIEW CATEGORY E)**

It is determined that there is a need for one additional Ambulatory Surgical Facility in the Ambulatory-Surgical-Planning Area listed in this Rule. It is determined that there is no need for additional Ambulatory Surgical Facilities in any other ambulatory surgical facility planning area.

Ambulatory Surgical Facility Planning Area	Ambulatory Surgical Facilities Needed
9 - Brunswick, Columbus, Duplin, New Hanover, and Pender Counties	†

*History Note:* Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b);  
 Temporary Adoption Eff. January 1, 1999;  
 Temporary Amendment Eff. July 22, 1999.

**.6221 MAGNETIC RESONANCE IMAGING SCANNERS NEED DETERMINATION (REVIEW CATEGORY H)**

It is determined that there is a need for ~~seven~~ three additional fixed Magnetic Resonance Imaging (MRI) scanners in the following MRI Scanners Service Areas. It is determined that there is no need for an additional fixed MRI scanner in any other service area in the State.

MRI Scanners Service Areas (Constituent Counties)	MRI Scanners Need Determination
5 (Alexander, Burke, Caldwell, Catawba & Lincoln)	†
7 (Henderson, Polk & Transylvania)	1
15 (Davidson, Guildford, Randolph & Rockingham)	1

18 (Cumberland, Hoke, Moore, Robeson & Sampson)	2
23 (Beaufort, Bertie, Hyde, Greene, Martin, Pitt & Washington)	1
24 (Edgecombe, Halifax, Nash & Northampton)	1

*History Note: Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b);  
Temporary Adoption Eff. January 1, 1999;  
Temporary Amendment Eff. July 22, 1999.*

\*\*\*\*\*

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

**Rule Citation:** 10 NCAC 26B .0113; 26M .0301-.0305

**Effective Date:** August 20, 1999

**Findings Reviewed and Approved by:** Julian Mann, III

**Authority for the rule-making:** G.S. 108A-25(b); 108-54; 42 C.F.R. 441, Subpart D

**Reason for Proposed Action:** *This action was necessitated by the termination of The Carolina Alternatives Waiver and the exclusion of state hospitals as eligible providers.*

**Comment Procedures:** *Written comments concerning this rulemaking action must be submitted to Portia W. Rochelle, Rule-making Coordinator, Division of Medical Assistance, 1985 Umstead Drive, 2504 Mail Service Center, Raleigh, NC 27699-2504.*

## CHAPTER 26 - MEDICAL ASSISTANCE

### SUBCHAPTER 26B - MEDICAL ASSISTANCE PROVIDED

#### SECTION .0100 - GENERAL

#### **.0113 NC MEDICAID CRITERIA FOR CONTINUED ACUTE STAY IN AN INPATIENT PSYCHIATRIC FACILITY**

The following criteria apply to individuals under the age of 21 in a psychiatric hospital or in a psychiatric unit of a general hospital, and to individuals aged 21 through 64 receiving treatment in a psychiatric unit of a general hospital. These criteria shall be applied after the initial admission period of up to three days. To qualify for Medicaid coverage for a continuation of an acute stay in an inpatient psychiatric facility a patient must meet each of the conditions specified in Items (1) through (4) of this Rule. To qualify for Medicaid coverage for continued post-acute stay in an inpatient psychiatric facility a patient must meet all of the conditions specified in Item (5)

of this Rule.

- (1) The patient has one of the following:
  - (a) A current DSM-IV, Axis I diagnosis; or
  - (b) A current DSM-IV, Axis II diagnosis and current symptoms/behaviors which are characterized by all of the following:
    - (i) Symptoms/behaviors are likely to respond positively to acute inpatient treatment; and
    - (ii) Symptoms/behaviors are not characteristic of patient's baseline functioning; and
    - (iii) Presenting problems are an acute exacerbation of dysfunctional behavior patterns which are recurring and resistive to change.
- (2) Symptoms are not due solely to mental retardation.
- (3) The symptoms of the patient are characterized by:
  - (a) At least one of the following:
    - (i) Endangerment of self or others; or
    - (ii) Behaviors which are grossly bizarre, disruptive, and provocative (e.g. feces smearing, disrobing, pulling out hair); or
    - (iii) Related to repetitive behavior disorders which present at least five times in a 24-hour period; or
    - (iv) Directly result in an inability to maintain age appropriate roles; and
  - (b) The symptoms of the patient are characterized by a degree of intensity sufficient to require continual medical/nursing response, management, and monitoring.
- (4) The services provided in the facility can reasonably be expected to improve the patient's condition or prevent further regression so that treatment can be continued on a less intensive level of care, and proper treatment of the patient's psychiatric condition requires services on an inpatient basis under the direction of a physician.
- (5) ~~Except for patients receiving services through Carolina Alternatives and except for patients in state hospitals where the discharge requirements are set out in 10 NCAC 15A, in 19~~ the event that not all of the requirements specified in Items (1) through (4) of this Rule are met, reimbursement may be



provided for patients through the age of 17 for continued stay in an inpatient psychiatric facility at a post-acute level of care to be paid at the High Risk Intervention Residential High (HRI-R High) rate if the facility and program services are appropriate for the patient's treatment needs and provided that all of the following conditions are met:

- (a) The psychiatric facility has made a referral for case management and after care services to the area Mental Health, Developmental Disabilities, Substance Abuse (MH/DD/SA) program which serves the patient's county of eligibility.
- (b) The area MH/DD/SA program has found that no appropriate services exist or are accessible within a clinically acceptable waiting time to treat the patient in a community setting.
- (c) The area MH/DD/SA program has agreed that the patient has a history of sudden decompensation or significant regression and experiences weakness in his or her environmental support system which are likely to trigger a decompensation or regression. This history must be documented by the patient's attending physician.
- (d) The inpatient facility must have a contract to provide HRI-R, High with the area MH/DD/SA program which serves the patient's county of eligibility, or the area program's agent. Psychiatric hospitals or psychiatric units in general hospitals are eligible to establish contract relationships with all non-Carolina Alternatives area MH/DD/SA programs or their agents in accordance with statutory procedures as defined in G.S. 122C-142.
- (e) The Child and Family Services Section of the Division of Mental Health, Developmental Disabilities, Substance Abuse Services shall approve the use of extended HRI-R, High, based on criteria in Sub-items (a)-(c) of this Item.
- (f) The area MH/DD/SA program shall approve the psychiatric facility for the provision of extended HRI-R High, receive claims from the inpatient facility, and provide reimbursement to the facility in accordance with the terms of its contract.

*History Note:* Authority G.S. 108A-25(b); 108A-54; 42 C.F.R. 441, Subpart D;  
 Eff. January 1, 1998;  
 Temporary Amendment Eff. August 20, 1999.

## SUBCHAPTER 26M - MANAGED CARE AND PREPAID PLANS

## SECTION .0300 - MENTAL HEALTH MANAGED CARE - CAROLINA ALTERNATIVES

### .0301 PROGRAM DEFINITION AND DEFINITION OF TERMS

(a) ~~The Division of Medical Assistance (DMA) shall contract with the Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH/DD/SAS) to coordinate and deliver, through Area Mental Health Developmental Disabilities, and Substance Abuse Authorities (Area Authorities) that choose to participate in the program, mental health and substance abuse services to children age 0 through 17 who are eligible to receive Medicaid in counties served by the Area Authority. The program is hereinafter referred to as Carolina Alternatives.~~

(b) ~~DMA shall make payments to DMH/DD/SAS for mental health and substance abuse services provided through the Carolina Alternatives program for each Carolina Alternatives enrollee. DMH/DD/SAS shall make payments to each participating Area Authority for each enrollee for which the Area Authority is responsible.~~

(c) ~~The following ICD-9-CM diagnosis codes are covered by Carolina Alternatives:~~

- (1) ~~290.0-298.90, 299.10-314.01; and (2) V11-V11.9; V40-V40.9;~~

(d) ~~ICD-9-CM diagnosis codes for the following conditions are not covered by Carolina Alternatives:~~

- (1) ~~Mental retardation;~~
- (2) ~~Autism and pervasive developmental disorders;~~
- (3) ~~Specific developmental disorders; or~~
- (4) ~~"V" codes for social conditions;~~

(e) ~~For purposes of this Section, the following definitions apply:~~

- (1) ~~"Area Authority" means area authority as defined in G.S. 122C-3. Area Authority also means "area program" as defined in 10 NCAC 14K.0103(c)(9);~~
- (2) ~~"Enrollee" means any child, age 0 through 17, whose eligibility for Medicaid is established in a county served by an Area Authority that chooses to participate in the Carolina Alternatives program. Enrollment occurs automatically for any enrollee on the date the Area Authority begins participating in the Carolina Alternative program; or on the date any child age 0 to 17 is subsequently certified or recertified to be eligible for Medicaid in a county served by an Area Authority that chooses to participate in the Carolina Alternatives program.~~
- (3) ~~ICD-9-CM code book is based upon the official version of the International Classification of Diseases, Ninth Revision, Clinical Modification, Fourth Edition, issued by the U.S. Department of Health and Human Services;~~
- (4) ~~"Program" means the Carolina Alternatives program;~~
- (5) ~~"Provider" means provider as defined at 10 NCAC 14K.0103(c)(61);~~

- (6) "Sub-contractor" means a provider with a written contract with the Area Authority.

*History Note:* Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1993, c. 321, s. 222(g);

*Eff. June 1, 1995;*

*Temporary Repeal Eff. August 20, 1999;*

### **.0302 ACCESS TO CARE**

(a) Carolina Alternatives enrollees are eligible to receive all mental health and substance abuse services for which all Medicaid eligible children under age 21 are eligible.

(b) Services shall be provided through the Area Authority which is responsible for assuring enrollee access to mental health and substance abuse services.

(c) The enrollee's Medicaid card shall note that the enrollee is enrolled in Carolina Alternatives.

*History Note:* Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1993, c. 321, s. 222(g);

*Eff. June 1, 1995;*

*Temporary Repeal Eff. August 20, 1999.*

### **.0303 ENROLLEE EDUCATION**

(a) Prior to the date that an Area Authority is scheduled to begin delivering services through the Carolina Alternatives program, DMA shall send notices to all potential enrollees about the Carolina Alternatives program and the enrollment process.

(b) DMH/DD/SAS shall ensure that all enrollees receive appropriate education about the Carolina Alternatives Program as follows:

- (1) DMH/DD/SAS shall make arrangements with county departments of social services within the Area Authority's service area for caseworkers to inform enrollees about the Carolina Alternatives program and the enrollment process, and to give enrollees a Carolina Alternatives handbook and brochure that explain the program and the procedure for accessing services. The handbook and brochure will also describe the responsibilities of enrollees and the Area Authority, and provide clear instructions for handling enrollee questions or problems, including the title and telephone number of the Area Authority representative responsible for handling questions and problems.

- (2) The Area Authority shall provide written information about the Carolina Alternatives program to enrollees who request information or who seek services.

*History Note:* Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1993, c. 321, s. 222(g);

*Eff. June 1, 1995;*

*Temporary Repeal Eff. August 20, 1999.*

### **.0304 RELATIONSHIP WITH SUB-CONTRACTORS**

(a) Each Area Authority shall establish a community based provider network that includes sub-contractors in accordance with the State Plan for Medical Assistance as required and approved by the Health Care Financing Administration.

(b) The Medicaid State Plan is hereby incorporated by reference including subsequent amendments and editions. Copies of the State Plan are available for public inspection at the Division of Medical Assistance, 1985 Umstead Drive, Raleigh, North Carolina 27603. Copies may be obtained at the same address upon written request at a charge of twenty cents (\$.20) per page.

*History Note:* Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1993, c. 321, s. 222(g);

*Eff. June 1, 1995;*

*Temporary Repeal Eff. August 20, 1999.*

### **.0305 ENROLLEE AND SUB-CONTRACTOR APPEALS**

(a) Enrollee appeals shall be submitted and processed in accordance with 10 NCAC 14C .1151.

(b) Sub-contractors may appeal adverse decisions to the local area program, in accordance with G.S. 122C-151.4 and 10 NCAC 14V .0708, .0710, .0711, and .0712 to the Area Authority Review Panel.

*History Note:* Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1993, c. 321, s. 222(g); 42 C.F.R. 431;

*Eff. June 1, 1995;*

*Amended Eff. April 1, 1999;*

*Temporary Repeal Eff. August 20, 1999.*

\*\*\*\*\*

**Rule-making Agency:** Social Services Commission

**Rule Citation:** 10 NCAC 41S .0613

**Effective Date:** July 20, 1999

**Findings Reviewed and Approved by:** Beecher R. Gray

**Authority for the rule-making:** G.S. 131D-10.5; 143B-153

**Reason for Proposed Action:** Amendment of the licensure rule 10 NCAC 41S .0613 is being proposed as a result of a child fatality in a residential child care facility on March 11, 1999. The child's death occurred as a result of improper restraint techniques utilized by a child care worker. Licensure rules governing proper restraint techniques are needed immediately to ensure that such an incident never occurs again due to the improper usage of restraints. Amendment of 10 NCAC 41S .0613 will ensure greater protection of foster children in residential child care facilities. 10 NCAC 41S .0613 set forth the requirements for residential child care



facilities if restraints are utilized.

**Comment Procedures:** *Anyone wishing to comment on this proposed rule should contact Sharnese Ransome, APA Coordinator, Social Services Commission, NC Division of Social Services, 325 N. Salisbury Street, Raleigh, NC 27603, phone (919) 733-3055.*

## CHAPTER 41 - CHILDREN'S SERVICES

### SUBCHAPTER 41S - MINIMUM LICENSING STANDARDS FOR RESIDENTIAL CHILD CARE

#### SECTION .0600 - SERVICE DELIVERY

#### .0613 DISCIPLINE AND BEHAVIOR MANAGEMENT

(a) The residential child care facility shall have written policies and procedures on discipline and behavior management management, including the type and use of physical restraint holds, if utilized, which A copy of the written policies and procedures shall be provided to and discussed with all children, parents or legal custodians, each child and the child's parents or legal custodians prior to or at the time of admission. Which Policies and procedures shall include:

- (1) Proactive means for interacting with and teaching children which emphasize praise and encouragement for exhibiting self control and desired behavior; and
- (2) Methods for protecting children and others when a child is out of control.

(b) The residential child care facility shall implement standards for behavior which are reasonable and developmentally appropriate.

(c) The residential child care facility shall not engage in discipline or behavior management which includes:

- (1) Corporal/physical punishment;
- (2) Cruel, severe, or humiliating actions;
- (3) Discipline of one child by another child;
- (4) Denial of food, sleep, clothing or shelter;
- (5) Denial of family contact, including family time, telephone or mail contacts with family;
- (6) Assignment of extremely strenuous exercise or work;
- (7) Verbal abuse or ridicule;
- (8) Chemical, mechanical, or physical restraints except as specified in 10 NCAC 41S .0614(e); or
- (9) Locked rooms.

(d) The residential child care facility shall prohibit isolation as a behavioral control measure except when the facility provides it in an unlocked room within hearing distance of a staff member and the length of time alone is appropriate to the child's age and stages of development.

(e) If physical restraints are used utilized: the residential child care facility shall have written policies and procedures on the types of and use of physical restraints which shall be

discussed with each child, parents or legal custodian prior to or upon admission. The facility shall train and supervise staff in the safe use of physical restraint. The facility shall documents each incident of physical restraint on an incident report which shall be filed in the child's record. The facility shall assign supervisory staff to review and initial each incident report within 24 hours of the physical restraint to evaluate that the correct steps were followed by the direct child care staff who applied the physical restraint:

- (1) Physical restraint holds shall be administered by qualified, trained staff. No child or group of children shall be allowed to participate in the physical restraint of another child;
- (2) No child shall be physically restrained utilizing a protective or mechanical device. Physical restraint holds shall:
  - (A) not be used for purposes of discipline or convenience;
  - (B) only be used as a last resort if less restrictive approaches have failed;
  - (C) be administered in the least restrictive manner possible to protect the child or others from imminent risk of harm; and
  - (D) end when the child becomes calm.
- (3) The residential child care facility shall:

- (A) Ensure that any physical restraint hold utilized on a child is administered by a trained staff member with a second staff member in attendance. Concurrent with the administration of a physical restraint hold and for a minimum of 15 minutes subsequent to the termination of the hold, a staff member shall:
  - (i) monitor the child's breathing;
  - (ii) ascertain that the child is verbally responsive and motorically in control; and
  - (iii) shall ensure that the child remains conscious without any complaints of pain.

If at any time during the administration of a physical restraint hold the child complains of being unable to breathe or loses motor control, the staff member administering the physical restraint hold shall immediately terminate the hold or adjust the position to ensure that the child's breathing and motor control are not restricted. If at any time the child appears to be in distress, a staff member shall immediately seek medical attention for the child;

- (B) Document each incident of a child being subjected to a physical restraint hold on an incident report. This report shall include:
  - (i) the child's name, age, height and weight;
  - (ii) the type of hold utilized;



- (iii) the duration of the hold;
- (iv) the staff member administering the hold;
- (v) staff member witnessing the hold;
- (vi) supervisory staff who reviewed the incident report;
- (vii) less restrictive alternatives that were attempted prior to utilizing physical restraint;
- (viii) the child's behavior which necessitated the use of physical restraint; and
- (ix) whether the child's condition necessitated medical attention;
- (x) Within 48 hours, supervisory staff shall review the incident report to ensure that correct steps were followed and shall forward the report to the legal custodian and the licensing authority;
- (C) Submit a summary report to the Division of Social Services by the 10<sup>th</sup> day of each month indicating the number of physical restraint holds used during the previous month on each child and any injuries that resulted;
- (D) Ensure that any physical restraint hold utilized on a child is administered by a competent staff member who has completed at least 16 hours of training in behavior management, including techniques for de-escalating problem behavior and the appropriate use of physical restraint holds. Thereafter, staff authorized to use physical restraint holds shall must also annually complete at least eight hours of behavior management training, including techniques for de-escalating problem behavior; and
- (E) Complete an annual review of the discipline and behavior management policies and techniques to verify that the physical restraint holds being utilized are being applied properly and safely. This review shall be documented and submitted to the licensing authority as part of the annual licensing renewal application.

*History Note: Authority G.S. 131D-10.5; 143B-153; S.L. 1999-237;  
Eff. July 1, 1999;  
Temporary Amendment Eff. July 20, 1999.*

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

**Rule-making Agency:** *NC Marine Fisheries Commission*

**Rule Citation:** *15A NCAC 31 .0101; 30 .0108, .0302*

**Effective Date:** *August 1, 1999*

**Findings Reviewed and Approved by:** *Beecher R. Gray*

**Authority for the rule-making:** *G.S. 113-134; 113-173; 143B-289.52*

### **Reason for Proposed Action:**

*15A NCAC 31 .0101; 30 .0302 - Session Law 1999-209 amended G.S. 113-173(j) to provide that individuals may take fish with a gig without holding a Recreational Commercial Gear License. Rule changes by the Marine Fisheries Commission effective July 1 required individuals to have this license. These amendments are necessary in view of recent legislative action. The Marine Fisheries Commission does not want to require this license for the use of spears if the license is not required for gigs.*

*15A NCAC 30 .0108 - The Fisheries Reform Act of 1997 and its amendments (House Bill 1448) requires a complete review and rewrite of the licensing procedures and requirements for Marine Fisheries. The Marine Fisheries Commission were considering two options for transfer of landings data when transferring licenses. In filing this rule, the incorrect option was filed.*

**Comment Procedures:** *Written comments are encouraged and may be submitted to Marine Fisheries Commission, Juanita Gaskill, PO Box 769, Morehead City, NC 28557.*

## CHAPTER 3 - MARINE FISHERIES

### SUBCHAPTER 3I - GENERAL RULES

#### SECTION .0100 - GENERAL RULES

#### **.0101 DEFINITIONS**

- (a) All definitions set out in G.S. 113, Subchapter IV apply to this Chapter.
- (b) The following additional terms are hereby defined:
  - (1) Commercial Fishing Equipment or Gear. All fishing equipment used in coastal fishing waters except:
    - (A) Seines less than 30 feet in length;
    - (B) Collapsible crab traps, a trap used for taking crabs with the largest open dimension no larger than 18 inches and that by design is collapsed at all times when in the water, except when it is being retrieved from or lowered to the bottom;
    - (C) Spears, Hawaiian slings or similar devices which propel pointed implements by mechanical means, including elastic tubing or hands, pressurized gas or similar means; means, when used in the Atlantic Ocean beyond three statute miles;
    - (D) A dip net having a handle not more than eight

- feet in length and a hoop or frame to which the net is attached not exceeding 60 inches along the perimeter;
- (E) Hook-and-line and bait-and-line equipment other than multiple-hook or multiple-bait trotline;
- (F) A landing net used to assist in taking fish when the initial and primary method of taking is by the use of hook and line; and
- (G) Cast Nets; and ~~Nets~~;
- (H) Gigs or other pointed implements which are propelled by hand, whether or not the implement remains in the hand.
- (2) Fixed or stationary net. A net anchored or staked to the bottom, or some structure attached to the bottom, at both ends of the net.
- (3) Mesh Length. The diagonal distance from the inside of one knot to the outside of the other knot, when the net is stretched hand-tight.
- (4) Possess. Any actual or constructive holding whether under claim of ownership or not.
- (5) Transport. Ship, carry, or cause to be carried or moved by public or private carrier by land, sea, or air.
- (6) Use. Employ, set, operate, or permit to be operated or employed.
- (7) Purse Gill Nets. Any gill net used to encircle fish when the net is closed by the use of a purse line through rings located along the top or bottom line or elsewhere on such net.
- (8) Gill Net. A net set vertically in the water to capture fish by entanglement by the gills in its mesh as a result of net design, construction, mesh size, webbing diameter or method in which it is used.
- (9) Seine. A net set vertically in the water and pulled by hand or power to capture fish by encirclement and confining fish within itself or against another net, the shore or bank as a result of net design, construction, mesh size, webbing diameter, or method in which it is used.
- (10) Internal Coastal Waters or Internal Waters. All coastal fishing waters except the Atlantic Ocean.
- (11) Channel Net. A net used to take shrimp which is anchored or attached to the bottom at both ends or with one end anchored or attached to the bottom and the other end attached to a boat.
- (12) Dredge. A device towed by engine power consisting of a frame, tooth bar or smooth bar, and catchbag used in the harvest of oysters, clams, crabs, scallops, or conchs.
- (13) Mechanical methods for clamming. Includes, but not limited to, dredges, hydraulic clam dredges, stick rakes and other rakes when towed by engine power, patent tongs, kicking with propellers or deflector plates with or without trawls, and any other method that utilizes mechanical means to harvest clams.
- (14) Mechanical methods for oystering. Includes, but not limited to, dredges, patent tongs, stick rakes and other rakes when towed by engine power and any other method that utilizes mechanical means to harvest oysters.
- (15) Depuration. Purification or the removal of adulteration from live oysters, clams, and mussels by any natural or artificially controlled means.
- (16) Peeler Crab. A blue crab that has a soft shell developing under a hard shell and having a definite pink, white, or red line or rim on the outer edge of the back fin or flipper.
- (17) Length of finfish.
- (A) Total length is determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the tip of the compressed caudal (tail) fin.
- (B) Fork length is determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the middle of the fork in the caudal (tail) fin.
- (C) Fork length for billfish is measured from the tip of the lower jaw to the middle of the fork of the caudal (tail) fin.
- (18) Licensee. Any person holding a valid license from the Department to take or deal in marine fisheries resources.
- (19) Aquaculture operation. An operation that produces artificially propagated stocks of marine or estuarine resources or obtains such stocks from authorized sources for the purpose of rearing in a controlled environment. A controlled environment provides and maintains throughout the rearing process one or more of the following: predator protection, food, water circulation, salinity, or temperature controls utilizing proven technology not found in the natural environment.
- (20) Critical habitat areas. The fragile estuarine and marine areas that support juvenile and adult populations of economically important seafood species, as well as forage species important in the food chain. Critical habitats include nursery areas, beds of submerged aquatic vegetation, shellfish producing areas, anadromous fish spawning and anadromous fish nursery areas, in all coastal fishing waters as determined through marine and estuarine survey sampling. Critical habitats are vital for portions, or the entire life cycle, including the early growth and development of important seafood species.
- (A) Beds of submerged aquatic vegetation are those habitats in public trust and estuarine waters vegetated with one or more species of submerged vegetation such as eelgrass (*Zostera marina*), shoalgrass (*Halodule wrightii*) and widgeongrass (*Ruppia maritima*). These vegetation beds occur in

both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In either case, the bed is defined by the presence of above-ground leaves or the below-ground rhizomes and propagules together with the sediment on which the plants grow. In defining beds of submerged aquatic vegetation, the Marine Fisheries Commission recognizes the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et. seq.) and does not intend the submerged aquatic vegetation definition and its implementing rules to apply to or conflict with the non-development control activities authorized by that Act.

- (B) Shellfish producing habitats are those areas in which economically important shellfish, such as, but not limited to clams, oysters, scallops, mussels, and whelks, whether historically or currently, reproduce and survive because of such favorable conditions as bottom type, salinity, currents, cover, and cultch. Included are those shellfish producing areas closed to shellfish harvest due to pollution.
- (C) Anadromous fish spawning areas are defined as those areas where evidence of spawning of anadromous fish has been documented by direct observation of spawning, capture of running ripe females, or capture of eggs or early larvae.
- (D) Anadromous fish nursery areas are defined as those areas in the riverine and estuarine systems utilized by post-larval and later juvenile anadromous fish.
- (21) Intertidal Oyster Bed. A formation, regardless of size or shape, formed of shell and live oysters of varying density.
- (22) North Carolina Trip Ticket. Multiple-part form provided by the Department to fish dealers who are required to record and report transactions on such forms.
- (23) Transaction. Act of doing business such that fish are sold, offered for sale, exchanged, bartered, distributed or landed. The point of landing shall be considered a transaction when the fisherman is the fish dealer.
- (24) Live rock. Living marine organisms or an assemblage thereof attached to a hard substrate including dead coral or rock (excluding mollusk shells). For example, such living marine organisms associated with hard bottoms, banks, reefs, and live rock may include, but are not limited to:
  - (A) Animals:
    - (i) Sponges (Phylum Porifera);
    - (ii) Hard and Soft Corals, Sea Anemones (Phylum Cnidaria);

- (I) Fire corals (Class Hydrozoa);
- (II) Gorgonians, whip corals, sea pansies, anemones, Solenastrea (Class Anthozoa);
- (iii) Bryozoans (Phylum Bryozoa);
- (iv) Tube Worms (Phylum Annelida):
  - (I) Fan worms (Sabellidae);
  - (II) Feather duster and Christmas tree worms (Serpulidae);
- (III) Sand castle worms (Sabellaridae).
- (v) Mussel banks (Phylum Mollusca:Gastropoda);
- (vi) Colonial barnacles (Arthropoda: Crustacea: Megabalanus sp.).
- (B) Plants:
  - (i) Coralline algae (Division Rhodophyta);
  - (ii) Acetabularia sp., Udotea sp., Halimeda sp., Caulerpa sp. (Division Chlorophyta);
  - (iii) Sargassum sp., Dictyopteris sp., Zonaria sp. (Division Phaeophyta).

- (25) Coral:
  - (A) Fire corals and hydrocorals (Class Hydrozoa);
  - (B) Stony corals and black corals (Class Anthozoa, Subclass Scleractinia);
  - (C) Octocorals; Gorgonian corals (Class Anthozoa, Subclass Octocorallia):
    - (i) Sea fans (Gorgonia sp.);
    - (ii) Sea whips (Leptogorgia sp. and Lophogorgia sp.);
    - (iii) Sea pansies (Renilla sp.).
- (26) Shellfish production on leases and franchises:
  - (A) The culture of oysters, clams, scallops, and mussels, on shellfish leases and franchises from a sublegal harvest size to a marketable size.
  - (B) The transplanting (relay) of oysters, clams, scallops and mussels from designated areas closed due to pollution to shellfish leases and franchises in open waters and the natural cleansing of those shellfish.
- (27) Shellfish marketing from leases and franchises. The harvest of oysters, clams, scallops, mussels, from privately held shellfish bottoms and lawful sale of those shellfish to the public at large or to a licensed shellfish dealer.
- (28) Shellfish planting effort on leases and franchises. The process of obtaining authorized cultch materials, seed shellfish, and polluted shellfish stocks and the placement of those materials on privately held shellfish bottoms for increased shellfish production.
- (29) Pound Net. A fish trap consisting of a holding pen.



- one or more enclosures, and a lead or leaders. The lead(s), enclosures, and holding pen are not conical, nor are they supported by hoops or frames.
- (30) Educational Institution. A college, university or community college accredited by a regional accrediting institution.
  - (31) Long Haul Operations. A seine towed between two boats.
  - (32) Swipe Net Operations. A seine towed by one boat.
  - (33) Bunt Net. The last encircling net of a long haul or swipe net operation constructed of small mesh webbing. The bunt net is used to form a pen or pound from which the catch is dipped or bailed.
  - (34) Responsible party. Person who coordinates, supervises or otherwise directs operations of a business entity, such as a corporate officer or executive level supervisor of business operations and the person responsible for use of the issued license in compliance with applicable laws and regulations.
  - (35) New fish dealer. Any fish dealer making application for a fish dealer license who did not possess a valid dealer license for the previous license year in that name or ocean pier license in that name on June 30, 1999. For purposes of license issuance, adding new categories to an existing fish dealers license does not constitute a new dealer.
  - (36) Tournament Organizer. The person who coordinates, supervises or otherwise directs a recreational fishing tournament and is the holder of the Recreational Fishing Tournament License.
  - (37) Holder. A person who has been lawfully issued in their name a license, permit, franchise, lease, or assignment.
  - (38) Recreational Purpose. A fishing activity has a recreational purpose if it is not a commercial fishing operation as defined in G.S. 113-168.
  - (39) Recreational Possession Limit. Includes, but is not limited to, restrictions on size, quantity, season, time period, area, means, and methods where take or possession is for a recreational purpose.
  - (40) Attended. Being in a vessel, in the water or on the shore immediately adjacent to the gear and immediately available to work the gear and within 100 yards of any gear in use by that person at all times. Attended does not include being in a building or structure.
  - (41) Commercial Quota. Total quantity of fish allocated for harvest taken by commercial fishing operations.
  - (42) Recreational Quota. Total quantity of fish allocated for harvest taken for a recreational purpose.
  - (43) Office of the Division. Physical locations of the Division conducting license transactions in the cities of Wilmington, Washington, Morehead City, Columbia, Wanchese and Elizabeth City, North Carolina. Other businesses or entities designated by the Secretary to issue Recreational Commercial

Gear Licenses are not considered Offices of the Division.

- (44) Land:
  - (A) For purposes of trip tickets, when fish reach a licensed seafood dealer, or where the fisherman is the dealer, when the fish reaches the shore or a structure connected to the shore.
  - (B) For commercial fishing operations, when fish reach the shore or a structure connected to the shore.
  - (C) For recreational fishing operations, when fish are retained in possession by the fisherman.
- (45) Master. Captain of a vessel or one who commands and has control, authority, or power over a vessel.
- (46) Regular Closed Oyster Season. The regular closed oyster season occurs from May 15 through October 15, unless amended by the Fisheries Director through proclamation authority.
- (47) Assignment. Temporary transferral to another person of privileges under a license for which assignment is permitted. The person assigning the license delegates the privileges permitted under the license to be exercised by the assignee, but retains the power to revoke the assignment at any time, is still the responsible party for the license.
- (48) Transfer. Permanent transferral to another person of privileges under a license for which transfer is permitted. The person transferring the license retains no rights or interest under the license transferred.

*History Note: Authority G.S. 113-134; 143B-289.52; Eff. January 1, 1991; Amended Eff. March 1, 1995; March 1, 1994; October 1, 1993; July 1, 1993; Recodified from 15A NCAC 31 .0001 Eff. December 17, 1996; Amended Eff. April 1, 1999; August 1, 1998; April 1, 1997; Temporary Amendment Eff. August 1, 1999; July 1, 1999.*

## **SUBCHAPTER 30 - LICENSES, LEASES, AND FRANCHISES**

### **SECTION .0100 - LICENSES**

#### **.0108 LICENSE TRANSFERS**

(a) Licenses to Land Flounder from the Atlantic Ocean may only be transferred:

- (1) with the transfer of the ownership of a vessel that the licensee owns that individually met the eligibility requirements of 15A NCAC 30 .0101 (b)(1)(A) and (b)(1)(B) to the new owner of that vessel. Transfer of the License to Land Flounder from the Atlantic Ocean transfers all flounder landings from the Atlantic Ocean associated with that vessel; or

- (2) by the owner of a vessel to another vessel under the same ownership.

Any transfer of license under this Paragraph may only be processed through the Division of Marine Fisheries Morehead City Office and no transfer is effective until approved and processed by the Division.

(b) Commercial Fishing Vessel Registration Transfer. When transferring ownership of a vessel bearing a current commercial fishing vessel registration, the new owner will follow the requirements in 15A NCAC 30 .0101 and pay a replacement fee of ten dollars (\$10.00) for a replacement commercial fishing vessel registration. The new owner must submit a form provided by the Division with the signatures of the former licensee and the signature of the new licensee notarized.

(c) Standard or Retired Standard Commercial Fishing License transfers:

- (1) A Standard or Retired Standard Commercial Fishing License may only be transferred if both the transferor and the transferee have no current suspensions or revocations of any Marine Fisheries license privileges.
- (2) ~~License eligibility privileges accruing to any individual, such as historic landings or participation in a fishery, shall be assigned by the Division to a specific Standard or Retired Standard Commercial Fishing License held by that individual. At the time of the transfer of a Standard or Retired Standard Commercial Fishing License, the transferor must indicate the extent of the retainment or transfer of the landings history associated with that Standard or Retired Standard Commercial Fishing License. transferor's license eligibility privileges in a particular fishery, if any. The transferor may retain a landings history residual license eligibility privileges only if the transferor holds an additional Standard or Retired Standard Commercial Fishing License. Transfer of a landings history is all or none.~~
- (3) To transfer a Standard or Retired Standard Commercial Fishing License, the following information is required:
  - (A) information on the transferee as set out in 15A NCAC 30 .0101;
  - (B) notarization of the current license holder's and the transferee's signatures on a transfer form provided by the Division; and
  - (C) when the transferee is a non-resident, a written certified statement from the applicant listing any violations involving marine and estuarine resources during the previous three years.
  - (D) when the transferor is retiring from commercial fishing, the transferor must submit evidence showing that such retirement has in fact occurred, for example, evidence of

the transfer of all licensee's Standard Commercial Fishing Licenses, sale of all the licensee's registered vessels, or discontinuation of any active involvement in commercial fishing.

Properly completed transfer forms must be returned to Division Offices by mail or in person; and

- (4) The Standard or Retired Standard Commercial Fishing License which is being transferred must be surrendered to the Division at the time of the transfer application.
- (5) Fees:
  - (A) Transferee must pay a replacement fee of ten dollars (\$10.00).
  - (B) Transferee must pay the differences in fees as specified in G.S. 113-168.2(e) or G.S. 113-168.3(b) when the transferee who is a non-resident is being transferred a resident Standard or Retired Standard Commercial Fishing License.
  - (C) Transferee must pay the differences in fees as specified in G.S. 113-168.2(e) when the license to be transferred is a Retired Standard Commercial Fishing License and the transferee is less than 65 years old.
- (6) Transfer of Standard or Retired Standard Commercial Fishing License for Deceased Licensees:
  - (A) Only when the deceased licensee's immediate surviving family member(s) is eligible to hold the deceased's Standard Commercial Fishing Licenses or Retired Standard Commercial Fishing License, the Administrator/Executor must give written notification within six months after the Administrator/Executor qualifies under G. S. 28A to the Morehead City Office of the Division of Marine Fisheries of the request to transfer the deceased's license to the estate Administrator/Executor.
  - (B) A transfer to the Administrator/Executor will be made according to the provisions of Subparagraphs (c)(2) - (c)(4) of this Rule. The Administrator/Executor must provide a copy of the deceased licensee's death certificate, a copy of the certificate of administration and a list of eligible immediate family members to the Morehead City Office of the Division of Marine Fisheries.
  - (C) The Administrator/Executor may only transfer a license in the Administrator/Executor name on behalf of the estate to a eligible surviving family member. The surviving family member transferee may only transfer the license to a third party purchaser of the deceased licensee's fishing

vessel. Transfers will be made according to the provisions of Subparagraphs (c)2 - (c)(4) of this Rule.

(d) Transfer forms submitted without complete and required information will be deemed incomplete and will not be considered further until resubmitted with all required information.

(e) It is unlawful for a person to accept transfer of a Standard or Retired Standard Commercial Fishing License for which they are ineligible.

*History Note: Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.3; 113-168.6; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. March 1, 1994;*

*Temporary Amendment Eff. August 1, 1999; July 1, 1999.*

## **SECTION .0300 - LICENSE APPEAL PROCEDURES**

### **.0302 AUTHORIZED GEAR**

(a) The following are the only commercial fishing gear authorized (including restrictions) for use under a valid Recreational Commercial Gear License:

- (1) ~~When used in state waters, with or without a vessel, spears, Hawaiian slings or similar devices which propel pointed implements by mechanical means, including elastic tubing or bands, pressurized gas or similar means;~~
  - (2) ~~With or without a vessel, gigs or other pointed implements which are propelled by hand, whether or not the implement remains in the hand;~~
  - (1)(3) One seine 30 feet or over in length with a mesh length less than 2½ inches, pulled by hand. Mechanical methods for using the seine are not authorized for recreational purposes;
  - (2)(4) One shrimp trawl with a headrope not exceeding 26 feet in length per vessel. Mechanical methods for retrieving the trawl are not authorized for recreational purposes;
  - (3)(5) With or without a vessel, five eel, fish, shrimp, or crab pots in any combination, except only two pots of the five may be eel pots. Peeler pots are not authorized for recreational purposes;
  - (4)(6) One multiple hook or multiple bait trotline up to 100 feet in length; and
  - (5)(7) Gill Nets:
    - (A) Not more than 100 yards of gill nets with a mesh length equal to or greater than 2 ½ inches. Attendance is required at all times;
    - (B) Not more than 100 yards of gill nets with a mesh length equal to or greater than 5 ½ inches. Attendance is required when used from one hour after sunrise through one hour before sunset; and
    - (C) Not more than 100 yards of gill net may be used at any one time.
- (b) It is unlawful to use more than the quantity of

authorized gear specified in Subparagraphs (a)(3) - (a)(7) of this Rule, regardless of the number of individuals aboard a vessel possessing a valid Recreational Commercial Gear License.

(c) It is unlawful for a person to violate the restrictions of or use gear other than that authorized by Paragraph (a) of this Rule.

(d) Unless otherwise provided, this Rule does not exempt Recreational Commercial Gear License holders from the provisions of other applicable rules of the Marine Fisheries Commission or provisions of proclamations issued by the Fisheries Director as authorized by the Marine Fisheries Commission.

*History Note: Filed as a Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*

*Authority G.S. 113-134; 113-173;*

*Eff. February 1, 1995;*

*Temporary Amendment Eff. August 1, 1999; July 1, 1999.*

\*\*\*\*\*

**Rule-making Agency:** *North Carolina Marine Fisheries Commission*

**Rule Citation:** *15A NCAC 3M .0513*

**Effective Date:** *August 1, 1999*

**Findings Reviewed and Approved by:** *Beecher R. Gray*

**Authority for the rule-making:** *G.S. 113-134; 113-182; 113-221; 143B-289.52*

**Reason for Proposed Action:** *A recent stock assessment of river herring indicates that the population is at a historic low, spawning stock biomass is decreasing and fishing mortality has exceeded sustainable levels. Temporary measures were adopted effective March 1, 1999, for management of the fishery while the Fishery Management Plan is being developed. In filing amendments to other rules effective July 1, 1999, this Rule was filed by mistake. This temporary amendment reverts back to those temporary measures which were effective March 1, 1999.*

**Comment Procedures:** *Written comments are encouraged and may be submitted to the MFC, Juanita Gaskill, PO Box 769, Morehead City, NC 28557.*

## **CHAPTER 3 - MARINE FISHERIES**

### **SUBCHAPTER 3M - FINFISH**

### **SECTION .0500 - OTHER FINFISH**



**.0513 RIVER HERRING AND SHAD**

(a) Until the adoption of a fishery management plan for river herring (Blueback Herring, Alewife) or shad (American Shad, Hickory Shad) by the North Carolina Marine Fisheries Commission, it is unlawful to take blueback herring, alewife, American shad and hickory shad by any method from April 15 through January 1.

(b) Upon adoption of and in order to comply with the management requirements incorporated in the Fishery Management Plan(s) for River Herring (Blueback Herring, Alewife) or Shad (American Shad, Hickory Shad) developed by the North Carolina Marine Fisheries Commission, the The Fisheries Director may, by proclamation, based on variability in environmental and local stock conditions, take any or all of the following actions in the blueback herring, alewife, American shad and hickory shad fisheries:

- (1) Specify size;
- (2) Specify season;
- (3) Specify area;
- (4) Specify quantity;
- (5) Specify means/methods; and
- (6) Require submission of statistical and biological data.

(b) The annual commercial quota (calendar year) for river herring in the Albemarle Sound Herring Management Area shall be 450,000 pounds to be allocated as follows:

- (1) 300,000 pounds to the pound net fishery for the Chowan River Herring Management Area;
- (2) 100,000 pounds to the Albemarle Sound Herring Management Area gill net fishery; and

(3) 50,000 pounds to be allocated at the discretion of the Fisheries Director.

(c) For the purpose of this Rule, the Albemarle Sound Herring Management Area is defined as Albemarle Sound and all its joint water tributaries; Currituck Sound; Roanoke and Croatan sounds and all their joint water tributaries, including Oregon Inlet, north of a line from Roanoke Marshes Point 35° 48' 12" N - 75° 43' 06" W, running 122° (M) across to the north point of Eagles Nest Bay 35° 44' 12" N - 75° 31' 09" W.

(d) For the purpose of this Rule, the Chowan River Herring Management Area is defined as that area northwest of a line from Black Walnut Point 36° 00' 00" N - 76° 41' 00" W; running 040° (M) to Reedy Point 36° 02' 12" N - 76° 39' 20" W, to the North Carolina/Virginia state line; including the Meherrin River.

(e) It is unlawful to take American shad and hickory shad by any method except hook-and-line from April 15 through December 31.

(f) (c) It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken by hook-and-line: hook-and-line or for recreational purposes.

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;*

*Eff. March 1, 1995;*

*Amended Eff. August 1, 1998;*

*Temporary Amendment Eff. August 1, 1999; July 1, 1999; March 1, 1999.*

*This Section includes the Register Notice citation to Rules approved by the Rules Review Commission (RRC) at its meeting of May 20, 1999 pursuant to G.S. 150B-21.17(a)(1) and reported to the Joint Legislative Administrative Procedure Oversight Committee pursuant to G.S. 150B-21.16. The full text of rules are published below when the rules have been approved by RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register. The rules published in full text are identified by an \* in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

*These rules unless otherwise noted, will become effective on the 31st legislative day of the 2000 Session of the General Assembly or a later date if specified by the agency unless a bill is introduced before the 31st legislative day that specifically disapproves the rule. If a bill to disapprove a rule is not ratified, the rule will become effective either on the day the bill receives an unfavorable final action or the day the General Assembly adjourns. Statutory reference: G.S. 150B-21.3.*

**APPROVED RULE CITATION**

**REGISTER CITATION TO THE  
NOTICE OF TEXT**

15A	NCAC	03Q	.0107
15A	NCAC	07H	.2401 - .2402*
15A	NCAC	07H	.2403
15A	NCAC	07H	.2405*
15A	NCAC	10B	.0105*
15A	NCAC	10B	.0212*
21	NCAC	04B	.0102*
21	NCAC	12	.0204
21	NCAC	46	.1804*

13:13 NCR 1043
13:13 NCR 1046
13:13 NCR 1047
13:13 NCR 1047
13:12 NCR 948
13:12 NCR 939
not required, G.S. 150B-21.4; 150B-21.5(a)
13:13 NCR 1049
13:02 NCR 247

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

**CHAPTER 7 - COASTAL MANAGEMENT**

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

**SECTION .2400 - GENERAL PERMIT FOR  
PLACEMENT OF RIPRAP FOR WETLAND  
PROTECTION IN ESTUARINE AND PUBLIC TRUST  
WATERS**

**.2401 PURPOSE**

The general permit for placement riprap for wetland protection in estuarine and public trust waters shall allow the placement of riprap immediately adjacent to and waterward of wetlands. This permit shall only be applicable where a shoreline is experiencing erosion in public trust areas and estuarine waters according to authority provided in 15A NCAC 7J .1100 and according to the rules in this Section. This permit shall not apply within the Ocean Hazard System of Areas of Environmental Concern (AEC) or waters adjacent to these AEC's with the exception of those portions of shoreline within the Inlet Hazard Area AEC that feature characteristics of Estuarine Shorelines. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining Ocean Erodible Area.

*History Note: Authority G.S. 113A-107; 113A-118.1;  
Eff. August 1, 2000.*

**.2402 APPROVAL PROCEDURES**

(a) The applicant must contact the Division of Coastal Management and request approval for development. The applicant shall provide information on site location, dimensions of the project area, and his name and address.

(b) The applicant must provide:

- (1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
- (2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. Such notice shall instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within 10 days of receipt of the notice, and, indicate that no response will be interpreted as no objection. DCM staff will review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If DCM staff finds that the comments are worthy of more in-depth review, the applicant will be notified that he must submit an application for a major development permit.

(c) DCM staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project meets the requirements of the rules in this Section. If DCM staff finds that the comments are worthy of more in-depth review, the applicant shall be notified that he must submit an application for a major development permit.

(d) No work shall begin until an on-site meeting is held with the applicant and appropriate Division of Coastal Management representative so that the wetland protection structure can be appropriately marked. Written authorization to proceed with the proposed development may be issued during this visit. Construction of the wetland protection structure must be completed within 90 days of this visit or the general authorization expires and it shall be necessary to re-examine the alignment to determine if the general authorization can be reissued.

*History Note: Authority G.S. 113A-107; 113A-118.1; Eff. August 1, 2000.*

#### **.2405 SPECIFIC CONDITIONS**

(a) This general permit shall only be applicable along shorelines possessing wetlands, and which exhibit an identifiable erosion escarpment.

(b) The height of the erosion escarpment shall not exceed three feet.

(c) The riprap shall be placed immediately waterward of the erosion escarpment.

(d) The riprap must be positioned so as not to exceed a maximum of five feet waterward of the erosion escarpment at any point along its alignment.

(e) The riprap must be positioned so as not to exceed a maximum of six inches above the elevation of the adjacent wetland substrate.

(f) Where Department staff determine that insufficient wetlands or coastal marsh exists along the permittee's shoreline to provide adequate shoreline stabilization, the permittee shall be required to plant appropriate coastal marsh or wetland species landward of the riprap structure as directed by Department staff.

(g) Construction authorized by this general permit will be limited to a maximum length of 500 feet.

(h) No backfill or any other fill of wetlands, submerged aquatic vegetation, estuarine waters, public trust areas, or highground areas is authorized by this general permit.

(i) No excavation of the shallow water bottom, any wetlands, or high ground is authorized by this general permit.

(j) The riprap must not be placed in such a manner as to impede water flow into or out of any natural channel or stream.

(k) The riprap material must be free from loose dirt or any pollutant. It must be of a size sufficient to prevent its movement from the site by wave or current action.

(l) Riprap material must consist of clean rock or masonry materials such as marl, granite or broken concrete. Materials

such as tires, car bodies, scrap metal, paper products, tree limbs, wood debris, organic material or similar materials are not appropriate riprap for the purposes of this General Permit.

(m) If the crossing of wetlands with mechanized or non-mechanized construction equipment is necessary, temporary construction mats shall be utilized for the area(s) to be crossed. The temporary mats shall be removed immediately upon completion of construction of the riprap structure.

(n) The permittee shall maintain the structure in good condition and in conformance with the terms and conditions of this permit or the remaining riprap structure shall be removed within 90 days of notification from the Division of Coastal Management.

*History Note: Authority G.S. 113A-107; 113A-118.1; Eff. August 1, 2000.*

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

#### **SUBCHAPTER 10B - HUNTING AND TRAPPING**

##### **SECTION .0100 - GENERAL REGULATIONS**

##### **.0105 MIGRATORY GAME BIRDS**

(a) Cooperative State Rules:

- (1) The taking of sea ducks (scoter, eider and old squaw) during any special federally-announced season for these species shall be limited to the waters of the Atlantic Ocean, and to those coastal waters south of US 64 which are separated by a distance of at least 800 yards of open water from any shore, island or marsh.
- (2) The extra daily bag and possession limits allowed by the federal regulations on scaup apply in all coastal waters east of US Highway 17, except Currituck Sound north of US 158.
- (3) Tundra swans may be taken during the open season by permit only subject to annual limitations imposed by the U. S. Fish and Wildlife Service. Based upon the annual limitations imposed by the U.S. Fish and Wildlife Service, nontransferable swan permits will be issued by the Wildlife Resources Commission to applicants who will be selected at random by computer, and only one swan may be taken under each permit which must be cancelled at the time of the kill by cutting out the month and day of the kill. Accompanying the permit is a tag which must be affixed to the swan at the time and place of the kill. The tag must be affixed in accordance with instructions provided with the permit. In addition, a preaddressed post-paid card is supplied to each permittee on which to report the number of days hunted and the details of the kill if made. It is unlawful to hunt swans without having the permit and the tag in possession or to possess a swan



without the cancelled permit in possession and the tag properly affixed to the swan. It is unlawful to possess a swan permit or tag while hunting that was assigned to another person or to alter the permit or tag in any way other than cutting out the proper month and day of kill.

- (4) Canada geese may be taken during the open season by permit holders only subject to limitations imposed by the U.S. Fish and Wildlife Service. Permits will be issued by the North Carolina Wildlife Resources Commission. It is unlawful to hunt or possess Canada geese without having the permit in possession. It is unlawful to possess a Canada goose permit while hunting that was assigned to another person or to alter the permit in any way.

(b) Notwithstanding the provisions of G.S. 113-291.1(a) and (b), the following restrictions apply to the taking of migratory game birds:

- (1) No migratory game bird may be taken:
  - (A) With a rifle;
  - (B) With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so as to limit its total capacity to not more than three shells.
- (2) No migratory game bird may be taken:
  - (A) From or by the use of a sinkbox or any other type of low floating device affording the hunter a means of concealment beneath the surface of the water;
  - (B) With the aid of bait, or on, over or within 300 yards of any place where any grain, salt or other feed is exposed so as to constitute an attraction to migratory game birds or has been so exposed during any of the 10 consecutive days preceding the taking, except that this Part shall not apply to standing crops, flooded croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting;
  - (C) With the aid of live decoys, or on, over or within 300 yards of any place where tame or captive migratory game birds are present, unless such birds are and have been for a period of 10 consecutive days prior to such taking confined within an enclosure which substantially reduces the audibility of their calls and totally conceals them from the sight of wild migratory game birds.
- (3) Waterfowl hunting and harassment and other unauthorized activities shall be prohibited on posted waterfowl management areas established by the Wildlife Resources Commission for Canada Geese and ducks restoration.

- (4) In that area of Roanoke Sound adjacent to and immediately Northeast of Roanoke Island as marked by buoys designating the waterfowl rest area, it shall be unlawful to harass or take any waterfowl.
- (5) The area east of US 17 shall be designated as an experimental September teal season zone as referenced by the Federal frameworks calling for state rules designating experimental areas.

*History Note: Authority G.S. 113-134; 113-274; 113-291.1; 113-291.2; 50 C.F.R. 20.21; 50 C.F.R. 20.105; Eff. February 1, 1976; Amended Eff. July 1, 1995; April 1, 1992; February 1, 1990; September 1, 1989; Temporary Amendment Eff. September 10, 1998; Amended Eff. July 1, 2000.*

## **SECTION .0200 - HUNTING**

### **.0212 FOXES (GRAY AND RED)**

(a) Seasons.

- (1) There shall be no closed season on taking foxes with dogs;
- (2) Foxes may be taken with weapons or traps the first to fourth Saturday in January in the following counties:

Caswell	Macon
Clay	Stokes
Graham	Tyrrell
Henderson	

- (3) Foxes may be taken the Saturday next preceding Thanksgiving through January 1 by bow and arrow in all areas of the State east of Interstate Highway 77 and in Mitchell County.

(b) Bag Limit.

- (1) Except in areas of open season for taking foxes with weapons or traps, foxes may not be intentionally killed by any method;
- (2) In areas of open season in all areas east of Interstate Highway 77 as set by the Legislature and in Subparagraph (a)(2) and (3) of this Rule, the following bag limit applies: Daily, two; season, 10.

**Note:** Where local laws governing the taking of foxes conflict with these Regulations, the local laws shall prevail.

*History Note: Temporary Amendment Eff. November 1, 1989; Authority G.S. 113-134; 113-291.2; 113-291.4; Eff. February 1, 1976; Amended Eff. July 1, 1994; May 1, 1990; July 1, 1987; December 1, 1985; Temporary Amendment Eff. July 1, 1999; Amended Eff. July 1, 2000.*

**TITLE 21 - OCCUPATIONAL LICENSING BOARDS****CHAPTER 4 - COMMISSION FOR AUCTIONEERS****SUBCHAPTER 4B - AUCTIONEER LICENSING BOARD****SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS****.0102 BOARD OFFICE**

The administrative offices of the Board are located at:  
1001 Navaho Drive  
Suite 105  
Raleigh, North Carolina 27609-7318  
Telephone: (919) 981-5066

Office hours are 8:30 a.m. until 5:00 p.m., Monday through Friday, except holidays.

*History Note:* Authority G.S. 85B-3(f);

*Eff. November 1, 1984;*

*Amended Eff. June 1, 1999; July 1, 1995; April 1, 1989.*

**CHAPTER 46 - BOARD OF PHARMACY****SECTION .1800 - PRESCRIPTIONS****.1804 PRESCRIPTION: RECEIVING AND DISPENSING**

(a) In order to assure that the practitioner-pharmacist-patient relationship exists and to promote the safe and secure distribution of drugs and devices, prescription orders may be received for filling and refilling only by a pharmacist or a bona fide employee of the pharmacy. The pharmacist-manager of the pharmacy shall be ultimately responsible for the safe, lawful and secure receipt of prescription orders and delivery of prescription drugs. Notwithstanding the provisions of this Rule, prescription drugs also may be delivered by mail in accordance with the provisions of 21 NCAC 46 .1601(b).

(b) In filling or refilling prescription orders, the pharmacist shall not be required to deal with parties, including managed care companies and insurance providers, outside the practitioner-pharmacist-patient relationship.

(c) In order to promote the safe and secure distribution of drugs, devices, and medical equipment, prescription orders may be received for filling and refilling only by the person in charge of the facility holding the device and medical equipment permit or a bona fide employee of the facility. The person in charge shall be ultimately responsible for the safe, lawful and secure receipt of prescription orders and delivery of prescription drugs, devices, and medical equipment.

*History Note:* Authority G.S. 90-85.6; 90-85.32;

*Eff. December 1, 1983;*

*Amended Eff. August 1, 2000; September 1, 1995; May 1, 1989; August 1, 1988.*

This Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, August 19, 1999, 10:00 a.m., at 1307 Glenwood Ave., Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners by Monday, August 16, 1999, 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  
 John Arrowood  
 Laura Devan  
 Jim Funderburke  
 David Twiddy

**Appointed by House**

Paul Powell, Chairman  
 Anita White, 2<sup>nd</sup> Vice Chairman  
 Mark Garside  
 Steve Rader  
 George Robinson

**RULES REVIEW COMMISSION MEETING DATES**

August 19, 1999  
 September 16, 1999  
 October 21, 1999

November 18, 1999  
 December 16, 1999

**LOG OF FILINGS**

**RULES SUBMITTED: JUNE 20, 1999 THROUGH JULY 20, 1999**

AGENCY/DIVISION	RULE NAME	RULE	ACTION
<b>DEPARTMENT OF COMMERCE/COMMERCE FINANCE CENTER</b>			
	Background and Objectives	4 NCAC 11 .0101	Amend
	Definitions	4 NCAC 11 .0102	Amend
	Date of Receipt of Applications	4 NCAC 11 .0201	Amend
	Application Categories and Requirements	4 NCAC 11 .0202	Amend
	Review of Applications and Funding	4 NCAC 11 .0301	Amend
	Eligibility Requirements	4 NCAC 11 .0302	Amend
	Review: APP Funding	4 NCAC 11 .0303	Repeal
	Eligibility Requirements	4 NCAC 11 .0304	Repeal
	General	4 NCAC 11 .0401	Repeal
	Required Findings	4 NCAC 11 .0402	Amend
	Formal Applications Procedures: Denial	4 NCAC 11 .0403	Amend
	Formal Application Procedures: Approval	4 NCAC 11 .0404	Amend
	Findings Requirements	4 NCAC 11 .0405	Repeal
	General	4 NCAC 11 .0501	Amend
	Limitations	4 NCAC 11 .0502	Amend
	Reversion of Funds	4 NCAC 11 .0503	Amend
	Reporting Requirements	4 NCAC 11 .0601	Repeal
	Annual Designation	4 NCAC 11 .0701	Amend
	Compliance with NC Env. Rules	4 NCAC 11 .0801	Adopt
<b>DEPARTMENT OF LABOR</b>			
	Workplace Retaliatory Disc. Office	13 NCAC 19 .0101	Amend

**DENR/SEDIMENTATION CONTROL COMMISSION**



Basic Control Objectives	15 NCAC 4B .0106	Amend
Mandatory Standards	15 NCAC 4B .0107	Amend
Plan Approval Certificate	15 NCAC 4B .0127	Amend

**DENR/WILDLIFE RESOURCES COMMISSION**

Scope and Purpose	15 NCAC 10C .0501	Amend
Primary Nursery Areas Defined	15 NCAC 10C .0502	Amend
Descriptive Boundaries	15 NCAC 10C .0503	Amend
Pender County	15 NCAC 10F .0321	Amend
Burke County	15 NCAC 10F .0323	Amend
McDowell County	15 NCAC 10F .0339	Amend
Hoke County	15 NCAC 10F .0367	Adopt

**DENR/COMMISSION FOR HEALTH SERVICES**

Water Supply	15 NCAC 18A .1611	Amend
Cleaning of Equipment and Utensils	15 NCAC 18A .2618	Amend

**DENR/WELL CONTRACTORS CERTIFICATION COMMISSION**

Duties of a Certified Well Contractor	15 NCAC 27 .0101	Adopt
Definitions	15 NCAC 27 .0110	Adopt
Schedule of Certification Fees	15 NCAC 27 .0201	Adopt
Application Req. for Certification	15 NCAC 27 .0301	Adopt
Submittal and Processing of Applications	15 NCAC 27 .0401	Adopt
Well Contractor Examinations	15 NCAC 27 .0410	Adopt
Time and Place of Examination	15 NCAC 27 .0420	Adopt
Conducting and Grading Examination	15 NCAC 27 .0430	Adopt
Examination Results and Issuance of Cert.	15 NCAC 27 .0440	Adopt
Certification by Legislative Exemption	15 NCAC 27 .0501	Adopt
Reciprocal Waiver of Exam for Cert.	15 NCAC 27 .0510	Adopt
Temporary Certification	15 NCAC 27 .0520	Adopt
Conditions/Limitations/Renewal of Cert.	15 NCAC 27 .0601	Adopt
Establishment of Types of Certification	15 NCAC 27 .0701	Adopt
Requirements	15 NCAC 27 .0801	Adopt
Units	15 NCAC 27 .0810	Adopt
Determination of Credit	15 NCAC 27 .0820	Adopt
Recordkeeping	15 NCAC 27 .0830	Adopt
Exemptions	15 NCAC 27 .0840	Adopt
Revocation, Relinquishment or Expiration	15 NCAC 27 .0901	Adopt
Recert. Following Revocation/Relinquish	15 NCAC 27 .0910	Adopt
Notification to the Department	15 NCAC 27 .0920	Adopt
Civil Penalties	15 NCAC 27 .0930	Adopt

**STATE BOARDS/NC LICENSING BOARD FOR GENERAL CONTRACTORS**

Increase in Limitation	21 NCAC 12 .0504	Amend
------------------------	------------------	-------

**STATE BOARDS/NC BOARD OF PHARMACY**

Emergency Prescription Refill	21 NCAC 46 .1815	Adopt
-------------------------------	------------------	-------

**RULES REVIEW COMMISSION**

**July 15, 1999  
MINUTES**

The Rules Review Commission met on June 17, 1999, in the Assembly Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. Commissioners in attendance were Chairman Paul Powell, Teresa Smallwood, Steven P.

Rader, Jim Funderburk, John Arrowood, Laura Devan, R. Palmer Sugg, and Mark Garside.

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

The following people attended:

Harry Wilson	State Board of Education
Dedra Alston	DENR
Dee Williams	State Board of Cosmetic Art Examiners
Emily Lee	TRANSPORTATION/Division of Motor Vehicles

#### **APPROVAL OF MINUTES**

The meeting was called to order at 10:01 a.m. with Chairman Powell presiding. He asked for any discussion, comments, or corrections concerning the minutes of the June 17, 1999 meeting. There being none, the minutes were approved.

#### **FOLLOW-UP MATTERS**

12 NCAC 9A .0103: JUSTICE/Criminal Justice Education & Training Standards Commission - This Commission will meet on August 20, 1999 and the agency will respond after their Commission meets.

12 NCAC 9B .0107, .0113, .0201, .0202, .0203, .0204, .0205, .0206, .0226, .0227, .0228, .0232, .0233 and .0305: JUSTICE/Criminal Justice Education & Training Standards Commission - The Commission will meet on August 20, 1999 and the agency will respond after their Commission meets.

12 NCAC 9C .0211, .0212, and .0213: JUSTICE/Criminal Justice Education & Training Standards Commission - This Commission will meet on August 20, 1999 and the agency will respond after the Commission meets.

12 NCAC 10B .0103: JUSTICE/Sheriffs' Education & Training Standards - This Commission will meet on September 16, 1999 and the agency will respond after the Commission meets.

21 NCAC 14I .0104 and .0107: State Board of Cosmetic Art Examiners - No response was received from the agency.

21 NCAC 14J .0208 and .0501 - State Board of Cosmetic Art Examiners - No response was received from the agency.

21 NCAC 14L .0101 - State Board of Cosmetic Art Examiners - No response was received from the agency.

21 NCAC 14N .0113 - State Board of Cosmetic Art Examiners - No response was received from the agency.

21 NCAC 14O .0101 and .0104 - State Board of Cosmetic Art Examiners - No response was received from the agency.

21 NCAC 14P .0105, .0111, .0112, .0113, .0114, and .0116 - State Board of Cosmetic Art Examiners - No response was received from the agency.

21 NCAC 16M .0101: State Board of Dental Examiners - The rewritten rule submitted by the agency was approved by the Commission.

21 NCAC 18B .0208: State Board of Examiners of Electrical Contractors - The rewritten rule submitted by the agency was approved by the Commission.

#### **LOG OF FILINGS**

Chairman Powell presided over the review of the log and all rules were unanimously approved with the following exceptions:

2 NCAC 20B .0104: AGRICULTURE/Board of Agriculture - The Commission objected to this rule due to ambiguity. In (f), it is not clear what the amount of the reduced rate for exhibitors or concessionaires is, or conversely what standards the State Fair Manager will use in offering it. This objection applies to existing language in the rule.

2 NCAC 43L .0309: AGRICULTURE/Board of Agriculture – The Commission objected to this rule due to ambiguity. In (f), it is not clear what the amount of the reduced rate for gate admission to the North Carolina Mountain State Fair for exhibitors and concessionaires is, or conversely, what standards the Western North Carolina Agricultural Center Manager is to use in setting it. This objection applies to existing language in the rule.

2 NCAC 54 .0103: AGRICULTURE/Agriculture and Consumer Services – The Commission objected to this rule due to lack of necessity. It merely repeats S.L. 1998-212 s. 13.5(d) and is therefore unnecessary.

2 NCAC 54 .0105: AGRICULTURE/Agriculture and Consumer Services – The Commission objected to this rule due to ambiguity. S.L. 1998 – 212 s. 13.5(c) requires the department to adopt rules that establish guidelines for distributing the funds in a fair and equitable manner. This rule purportedly implements that provision. It is totally unclear how the Commissioner will divide the money.

10 NCAC 19G .0823: DHHS/Commission for the Blind – The Commission voted to return the rule to the agency because of its failure to adopt the rule in accordance with Article 2A of Chapter 150B of the General Statutes. Apparently this rule has never been adopted by the Commission. The Submission form indicates the rule was adopted August 1, 2000 which is not possible. The agency has not responded to a written request to correct the form and in a telephone conversation the staff was not sure if the Commission had adopted the rule. If it has been correctly adopted, the agency may refile the rule at a later date.

15A NCAC 7H .0309: DENR/Coastal Resources Commission – The Commission objected to this rule due to ambiguity. In (a)(1), it is not clear what constitutes a "substantial" permanent structure. Also in (a), it is not clear what constitutes a "significant" alteration. This objection applies to existing language in the rule.

15A NCAC 7H .1805: DENR/Coastal Resources Commission – The Commission objected to this rule due to lack of statutory authority and ambiguity. In (d), it is not clear what is meant by "significantly" increase erosion or "significant adverse effect on important natural and cultural resources." In (f), the added provision allowing the division to approve work from May 1 through November 15 is a waiver provision without specific guidelines in violation of G.S. 150B-19(6). This objection applies to existing language in the rule.

15A NCAC 7H .2105: DENR/Coastal Resources Commission – The Commission objected to this rule due to ambiguity. In (k), it is not clear what "other suitable materials" will be approved by division personnel. This objection applies to existing language in the rule.

16 NCAC 6C .0100, .0200, and .0300: STATE BOARD OF EDUCATION – The Commission voted to return the rules to the agency for failure to comply with the rulemaking procedures in Article 2A of Chapter 150B of the General Statutes. The Board did not publish a notice of rulemaking proceedings for these rules in accordance with G.S. 150B-21.2(a)(1). Presumably the basis for the failure to publish was Section 28 of Chapter 716 of the 1995 (Reg. Sess. 1996) Session laws, codified as G.S. 115C-17, which allows rules directly related to the implementation of that act to be adopted omitting part of the process. The commission found that there is no direct relationship.

16 NCAC 6C .0501: STATE BOARD OF EDUCATION – The Commission objected to this rule due to lack of statutory authority and ambiguity. In (g), it is not clear what rating scale is recommended by the State Board of Education. In (h), apparently the job descriptions and performance standards and criteria have not been adopted as rules. G.S. 115C-326 requires that they be adopted and there is no authority to have them otherwise.

16 NCAC 6E .0202: STATE BOARD OF EDUCATION – The Commission voted to return the rule to the agency for failure to comply with the rulemaking procedures in Article 2A of Chapter 150B of the General Statutes. The Board did not publish a notice of rulemaking proceedings for this rule in accordance with G.S. 150B-21.2(a)(1). Presumably the basis for the failure to publish was Section 28 of Chapter 716 of the 1995 (Reg. Sess. 1996) Session laws, codified as G.S. 115C-17, which allows rules directly related to the implementation of that act to be adopted omitting part of the process. The commission found that there is no direct relationship.

16 NCAC 6G .0502: STATE BOARD OF EDUCATION – The Commission voted to return the rule to the agency for failure to comply with the rulemaking procedures in Article 2A of Chapter 150B of the General Statutes. The Board did not publish a notice of rulemaking proceedings for this rule in accordance with G.S. 150B-21.2(a)(1). Presumably the basis for the failure to publish was Section 28 of Chapter 716 of the 1995 (Reg. Sess. 1996) Session laws, codified as G.S. 115C-17, which allows rules



directly related to the implementation of that act to be adopted omitting part of the process. The commission found that there is no direct relationship.

16 NCAC 6H Rules: STATE BOARD OF EDUCATION - The Commission voted to return the rules to the agency for failure to comply with the rulemaking procedures in Article 2A of Chapter 150B of the General Statutes. The Board did not publish a notice of rulemaking proceedings for these rules in accordance with G.S. 150B-21.2(a)(1). Presumably the basis for the failure to publish was Section 28 of Chapter 716 of the 1995 (Reg. Sess. 1996) Session laws, codified as G.S. 115C-17, which allows rules directly related to the implementation of that act to be adopted omitting part of the process. The commission found that there is no direct relationship.

19A NCAC 3I .0307: TRANSPORTATION/Division of Motor Vehicles - The Commission objected to this rule due to ambiguity. In (3)(d)(viii), it is not clear what reports are required by the division. This objection applies to existing language in the rule.

19A NCAC 3I .0402: TRANSPORTATION/Division of Motor Vehicles - The Commission objected to this rule due to lack of statutory authority and ambiguity. It is not clear what manner of inspection is required for each vehicle in (c). There is no authority to set requirements by form. This objection applies to existing language in the rule.

19A NCAC 3I .0804: TRANSPORTATION/Division of Motor Vehicles - The Commission objected to this rule due to lack of statutory authority. There does not appear to be authority for the Commissioner to assess fines.

#### **COMMISSION PROCEDURES AND OTHER MATTERS**

Mr. DeLuca reported that the President Pro Tempore would reappoint all Commissioners to the Rules Review Commission, the Speaker would reappoint George Robinson, and that Commissioners Rader and Garside would not likely be reappointed. He also reported that the NASS conference in St. Louis went very well. Mr. Bryan read all of the rules for this month and Mr. DeLuca will read all of the rules next month since Mr. Bryan is being married in two weeks.. Commissioner Rader made the motion and Commissioner Sugg made the second that the Commission go into Executive Session to discuss the Board of Pharmacy v. the Rules Review Commission. The Commission returned from Executive Session to adjourn at 11:52 a.m.

The next meeting will be on August 19, 1999.

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**

Sammie Chess Jr.  
Beecher R. Gray  
Melissa Owens

Meg Scott Phipps  
Robert Roosevelt Reilly Jr.  
Beryl E. Wade

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b>ADMINISTRATION</b>				
Britthaven, Inc. v. Department of Administration and Priva-Trends, Inc.	98 DOA 0811	Chess	06/10/99	
Laudlaw Transit Svcs, Inc. v. Katie G. Dorsett, Sec'y/Dept/Administration	99 DOA 0102	Morrison	06/11/99	14:02 NCR 115
<b>OFFICE OF ADMINISTRATIVE HEARINGS</b>				
Ted Murrell, Zarn, Inc. v. Office of Administrative Hearings	99 OAH 0665	Chess	07/14/99	
Samuel Lee Ferguson v. Office of Administrative Hearings	99 OAH 0718	Chess	07/16/99	
<b>AGRICULTURE</b>				
Archie McLean v. Department of Agriculture	98 DAG 1770	Reilly	07/12/99	14:05 NCR 349
<b>ALCOHOLIC BEVERAGE CONTROL COMMISSION</b>				
Alcoholic Beverage Control Commission v. Keyland, Inc., T/A Cloud 9	98 ABC 1099	Overby	01/17/99	
Alcoholic Beverage Control Commission v. Food Lion, Inc., Store #1351	98 ABC 1270	Gray	03/31/99	14:05 NCR 347
Alcoholic Beverage Control Commission v. Jaeson Nyung Kim	99 ABC 0407	Morrison	07/09/99	
<b>CRIME CONTROL AND PUBLIC SAFETY</b>				
Paul Richard Mull v. Crime Victims Compensation Commission	98 CPS 0342	Chess	07/26/99	
William Samuel McCraw v. Crime Victims Compensation Commission	98 CPS 1626	Morrison	06/09/99	
Anson D. Looney v. Crime Victims Compensation Commission	99 CPS 0096	Morrison	05/25/99	
Mary Elizabeth Peoples Hogan v. Crime Victims Compensation Comm.	99 CPS 0504	Reilly	07/29/99	
<b>ENVIRONMENT AND NATURAL RESOURCES</b>				
R.J. Reynolds Tobacco Co. v. Dept. of Environment & Natural Resources	98 EHR 1315	Wade	06/04/99	14:02 NCR 110
Willie Setzer v. Department of Environment & Natural Resources	99 EHR 0166	Chess	06/28/99	
Charles H. Jordan v. Brunswick County Health Department	99 EHR 0201	Morrison	06/28/99	
Roadway Express v. Department of Environment and Natural Resources	99 EHR 0745	Morrison	07/27/99	

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<i>Division of Air Quality</i>				
Terrance W. Bache, Pres., Terhane Group, Inc. v. DENR, Div/Air Quality	98 EHR 1790	Mann	06/23/99	
<i>Environmental Management</i>				
Allen Raynor v. Environmental Management Commission	99 EHR 0127	Gray	07/27/99	
<i>Division of Land Resources</i>				
Buel B. Barker, Jr. and Hubbard Realty of Winston-Salem, a NC Corp., jointly and severally v. Dept. of Environment and Natural Resources, Div. of Land Resources	98 EHR 1457	Morrison	06/09/99	
<i>Division of Water Quality</i>				
York Oil Company v. DENR, Division of Water Quality	97 EHR 1026	Phipps	07/26/99	14 05 NCR 343
J. Todd Yates and Teresa B. Yates v. DENR, Div. of Water Quality	98 EHR 1456	Wade	06/22/99	
<b>BOARD OF GEOLOGISTS</b>				
Andrew M. Raring, Ph.D v. Board for the Licensing of Geologists	99 BOG 0150	Mann	06/16/99	
<b>HEALTH AND HUMAN SERVICES</b>				
Ernest Clyde Absher and Dianna B. Absher v. Health & Human Resources	98 DHR 1622	Reilly	06/17/99	
Andrew Ganey v. Office of the Chief Medical Examiner	98 DHR 1761	Owens	05/12/99	14 01 NCR 69
J.P. Lynch v. Department of Health & Human Services	99 DHR 0111	Reilly	05/25/99	
New Hope Living Centers, Eric D. Lewis v. Health & Human Services	99 DHR 0170	Owens	05/25/99	
Frank McKoy v. Department of Health & Human Services	99 DHR 0226	Wade	07/06/99	
Lonnie Herring v. Department of Health & Human Services	99 DHR 0350	Reilly	06/03/99	
Robert H. Riley v. Office of the Governor, Office of Citizen Services	99 DHR 0356	Wade	07/21/99	
<i>Division of Child Development</i>				
Shaw Speaks Child Dev. Ctr. v. Health & Human Svcs., Child Dev.	99 DHR 0042	Gray	07/22/99	
Lachelle L. Parsons v. Health & Human Svcs., Div. of Child Dev.	99 DHR 0445	Reilly	07/19/99	
In The Beginning, Inc. v. Health & Human Svcs., Div. of Child Dev.	99 DHR 0575	Mann	07/19/99	
Dulatown Outreach Center, Inc. v. Health & Human Svcs., Child Dev.	99 DHR 0688	Owens	07/21/99	
<i>Division of Facility Services</i>				
Kelly M. Poole v. Health & Human Services, Div. of Facility Services	97 DHR 0629	Chess	06/14/99	
Norma Faye Lewis v. Health & Human Svcs., Div. of Facility Services	98 DHR 1274*	Phipps	07/02/99	
Della C. Jones v. Health & Human Services, Div. of Facility Services	98 DHR 1680	Gray	06/09/99	
Effie Ruth Smith v. Health & Human Svcs., Div. of Facility Services	98 DHR 1774	Chess	07/14/99	
Norma Faye Lewis v. Health & Human Svcs., Div. of Facility Services	99 DHR 0144*	Phipps	07/02/99	
Carolyn Grant v. Health & Human Services, Div. of Facility Services	99 DHR 0145	Mann	06/11/99	
Sarah Frances Alford v. Health & Human Svcs., Div. of Facility Svcs	99 DHR 0220	Phipps	06/08/99	
Alvin L. Phynon Jr. v. Health & Human Svcs., Dept. of Facility	99 DHR 0230	Mann	07/07/99	
Esther Nieves v. Health & Human Services, Div. of Facility Services	99 DHR 0766	Phipps	07/21/99	
<i>Division of Medical Assistance</i>				
Companion Health Care, Inc. v. Div. of Medical Assistance, DHR	99 DHR 0762	Owens	07/29/99	
<i>Division of Social Services</i>				
Robert H. Riley v. Iredell County DSS	99 DHR 0354	Wade	07/21/99	
Robert H. Riley v. Health & Human Svcs., Div. of Social Services	99 DHR 0355	Wade	07/21/99	
Joanna Price v. Caldwell County Social Services	99 DHR 0520	Morrison	06/10/99	
<i>Child Support Enforcement Section</i>				
Lindy Teachout v. Department of Health & Human Services	98 CRA 0727	Reilly	06/24/99	
Thomas Ashley Stewart II v. Department of Health & Human Services	99 CRA 0628	Reilly	06/14/99	
Richard Arnold Collins v. Jones County DSS	96 CSE 1810	Reilly	06/28/99	
Kenneth Wayne Adair v. Department of Human Resources	98 CSE 0229	Morrison	06/30/99	
Huri G. Stokes v. Department of Health & Human Services	98 CSE 0898	Gray	07/23/99	
G.S. Hall v. Department of Health & Human Services	98 CSE 1392	Reilly	06/24/99	
Donald Edward Law II v. Department of Human Resources	98 CSE 1586	Morrison	06/25/99	
Robert M. Chandler Jr. v. Department of Health & Human Services	98 CSE 1789	Phipps	05/27/99	
Grady L. Chosewood v. Department of Health & Human Services	99 CSE 0301	Mann	07/01/99	
Fulton Allen Tillman v. Department of Health & Human Services	99 CSE 0311	Reilly	06/30/99	
Nathaniel Alston v. Department of Health & Human Services	99 CSE 0317	Mann	07/01/99	
Bret Burtrum v. Department of Health & Human Services	99 CSE 0318	Wade	07/14/99	
Dane Wesley Ware v. Department of Health & Human Services	99 CSE 0359	Gray	06/28/99	
Oscar William Willoughby Sr. v. Dept. of Health & Human Services	99 CSE 0371	Morrison	06/28/99	
Kelvin E. Townsend v. Department of Health & Human Services	99 CSE 0373	Phipps	07/12/99	
Billy J. Young v. Department of Health & Human Services	99 CSE 0374	Reilly	06/14/99	



<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Adelheide J. Cooper v. Department of Health & Human Services	99 CSE 0428	Phipps	07/19/99	
Beverly K. Thompson v. Department of Health & Human Services	99 CSE 0435	Reilly	06/14/99	
Michael L. Timmer v. Department of Health & Human Services	99 CSE 0437	Wade	06/08/99	
Elizabeth F. West v. Department of Health & Human Services	99 CSE 0451	Morrison	05/25/99	
Troy Gibson v. Department of Health & Human Services	99 CSE 0462	Owens	07/19/99	
Roy D. Washington v. Department of Health & Human Services	99 CSE 0481	Reilly	06/25/99	
Gerald Scott Saucier v. Department of Health & Human Services	99 CSE 0576	Mann	06/09/99	
Lawrence Gordon Soles v. Department of Health & Human Services	99 CSE 0581	Morrison	06/09/99	
Charlie James White v. Department of Health & Human Services	99 CSE 0690	Morrison	07/20/99	
Kathryn P. Fagan v. Department of Health & Human Services	98 DCS 1769	Morrison	06/25/99	
Deborah Seegars v. Department of Health & Human Services	99 DCS 0505	Phipps	06/30/99	
Lillian Anne Darroch v. Department of Health & Human Services	99 DCS 0555	Gray	07/06/99	
<b>JUSTICE</b>				
<b><i>Alarm Systems Licensing Board</i></b>				
Terry Allen Brickley v. Alarm Systems Licensing Board	99 DOJ 0097	Wade	05/21/99	
Travis Eric Reardon v. Alarm Systems Licensing Board	99 DOJ 0446	Phipps	07/28/99	
Brian Anthony Bartimac v. Alarm Systems Licensing Board	99 DOJ 0487	Morrison	05/25/99	
Melvin T. Lohr v. Alarm Systems Licensing Board	99 DOJ 0490	Morrison	05/24/99	
Bradford D. Penny v. Alarm Systems Licensing Board	99 DOJ 0522	Morrison	06/08/99	
Benny L. Shaw v. Alarm Systems Licensing Board	99 DOJ 0523	Morrison	06/08/99	
Donald Eugene Boger v. Alarm Systems Licensing Board	99 DOJ 0715	Owens	07/29/99	
Kajur Washburn v. Alarm Systems Licensing Board	99 DOJ 0716	Owens	07/29/99	
<b><i>Education and Training Standards Division</i></b>				
Rock Steven Edwards v. Criminal Justice Ed. & Training Stds. Comm.	98 DOJ 0906	Chess	05/13/99	
Anthony Scott Hughes v. Sheriffs' Ed. & Training Standards Comm.	98 DOJ 1530	Chess	05/12/99	
Hal Pilgreen v. Criminal Justice Ed. & Training Stds. Comm.	98 DOJ 1775	Chess	06/09/99	
Emma J. Kiser v. Sheriffs' Ed. & Training Standards Comm.	98 DOJ 1793	Gray	06/07/99	
Keith Allen Norris v. Sheriffs' Ed. & Training Standards Comm.	99 DOJ 0045	Mann	07/29/99	14:05 NCR 351
Sherry Davis Kenney v. Criminal Justice Ed. & Training Stds. Comm.	99 DOJ 0067	Wade	06/08/99	
<b><i>Private Protective Services Board</i></b>				
Thomas E. Mewborn v. Private Protective Services Board	99 DOJ 0101	Owens	07/30/99	
Michael Lynn Arter v. Private Protective Services Board	99 DOJ 0262	Wade	05/25/99	
Jeffrey S. Moore v. Private Protective Services Board	99 DOJ 0488	Morrison	05/24/99	
Bonnie Marie Keller v. Private Protective Services Board	99 DOJ 0491	Morrison	05/24/99	
Shawn E. Alexander v. Private Protective Services Board	99 DOJ 0492	Owens	07/19/99	
Ronald E. Sulloway v. Private Protective Services Board	99 DOJ 0493	Morrison	05/24/99	
Raymond Solomon v. Private Protective Services Board	99 DOJ 0494	Morrison	05/25/99	
Charles E. Evans, Jr. v. Private Protective Services Board	99 DOJ 0496	Morrison	05/25/99	
William E. Ellis, Sr. v. Private Protective Services Board	99 DOJ 0527	Morrison	06/08/99	
<b>PUBLIC INSTRUCTION</b>				
S.H. by and through her guardian and custodian, H.H. and H.H. v. Henderson County Board of Education	98 EDC 1124	Mann	06/11/99	
S.L.F. and S.F.F. v. Charlotte-Mecklenburg Board of Education	98 EDC 1649	Mann	06/04/99	
<b>STATE PERSONNEL</b>				
<b><i>Department of Agriculture</i></b>				
H.C. Troxler, Jr. v. Dept. of Agriculture and Consumer Services	99 OSP 0659	Chess	07/27/99	
<b><i>Community Colleges</i></b>				
Thomas Michael Chamberlin v. Department of Community Colleges	99 OSP 0286	Phipps	06/25/99	
<b><i>Correction</i></b>				
E. Wayne Irvin v. Department of Correction	94 OSP 1791	Morrison	05/18/99	14 01 NCR 60
Deborah Smith v. Department of Correction	98 OSP 1126	Chess	06/22/99	
Maydean L. Taylor v. Department of Correction	98 OSP 1272	Chess	05/14/99	
Ann McMillian v. Morrison Youth Institution, Department of Correction	98 OSP 1275	Chess	05/12/99	
DeCarlos Stanley v. Department of Correction	99 OSP 0027	Morrison	06/22/99	
Harry E. Kenan v. Capt. B.F. Lewis, Polk Youth Institution	99 OSP 0257	Phipps	06/07/99	
Richmond Fulmore v. Department of Correction, Wake Correctional	99 OSP 0416	Mann	06/04/99	
Jerry D. Crawford v. Department of Correction	99 OSP 0577	Reilly	06/02/99	
<b><i>North Carolina School for the Deaf</i></b>				
Eric Arden Hurley v. North Carolina School for the Deaf	99 OSP 0087	Reilly	06/24/99	

**Employment Security Commission**

Russell J. Suga v. Employment Security Commission	96 OSP 1122	Reilly	05/26/99
---	-------------	--------	----------

**Health and Human Services**

Ivey G. Rhodes v. Pitt County Mental Health Center	98 OSP 0924	Phipps	07/09/99
Doris Virginia Wearing v. Durham County Health Department	98 OSP 1432	Reilly	06/18/99
Julia A. Cameron v. John Umstead Hospital, Health & Human Services	99 OSP 0053	Morrison	06/22/99
Jency Abrams v. Department of Health & Human Services	99 OSP 0147	Owens	07/19/99
Odell Hudson v. Health & Human Svcs., Dorothea Dix Hospital	99 OSP 0609	Gray	07/07/99
Erica Joynes v. Durham County Department of Social Services	99 OSP 0671	Gray	07/13/99

**Johnston County**

Lili Romane Lee v. County of Johnston	99 OSP 0456	Morrison	06/02/99
---------------------------------------	-------------	----------	----------

**Justice**

Thomas Michael Chamberlin v. Justice, Justice Academy	99 OSP 0308	Phipps	06/11/99
---	-------------	--------	----------

**Labor**

Robert C. Adams v. Department of Labor	99 OSP 0667	Gray	07/28/99
--	-------------	------	----------

**Transportation**

Charles W. McAdams v. Dept. of Transportation, Div/Motor Vehicles	99 OSP 0034	Mann	06/23/99
Larry R. Lane v. Department of Transportation	99 OSP 0105	Mann	06/11/99
Ronald Roberson v. Dept. of Transportation, Right-of-Way Branch	99 OSP 0142	Morrison	06/08/99
Shelvia Davis v. Department of Transportation	99 OSP 0156	Owens	06/23/99

**University of North Carolina**

Vivian Smith Hammel, Ling-Chih C. Hsu and Joel A. Williams v. East Carolina University	97 OSP 1268* <sup>2</sup>	Phipps	07/06/99
Vivian Smith Hammel, Ling-Chih C. Hsu and Joel A. Williams v. East Carolina University	97 OSP 1269* <sup>2</sup>	Phipps	07/06/99
Vivian Smith Hammel, Ling-Chih C. Hsu and Joel A. Williams v. East Carolina University	97 OSP 1270* <sup>2</sup>	Phipps	07/06/99
Jackie S. Flowers v. East Carolina University	98 OSP 1618	Reilly	06/24/99
Anna Anita Huff v. Dr. Lonnie Sharpe/Dr. Reza Salami-Coll./Engineering	99 OSP 0599	Chess	07/16/99
Halycon Tudie Blake v. University of North Carolina at Chapel Hill	99 OSP 0686	Gray	07/08/99

**DEPARTMENT OF TRANSPORTATION**

Peter Kay, Stern v. Department of Transportation	99 DOT 0668	Owens	07/29/99
--	-------------	-------	----------

**UNIVERSITY OF NORTH CAROLINA**

Stephanie A. Payne v. UNC Hospitals	99 UNC 0375	Morrison	06/21/99
Robin Perkins Stephens v. UNC Hospitals	99 UNC 0563	Owens	07/21/99

---

\* Consolidated Cases.

**STATE OF NORTH CAROLINA**

**IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
97 EHR 1026**

**COUNTY OF FORSYTH**

**YORK OIL COMPANY**  
Petitioner,

v.

**NORTH CAROLINA DEPARTMENT OF ENVIRONMENT  
AND NATURAL RESOURCES, DIVISION OF WATER  
QUALITY**  
Respondent.

**RECOMMENDED DECISION**

**STATEMENT OF THE CASE**

The above entitled matter was heard before the Honorable Meg Scott Phipps, Administrative Law Judge, on June 18, 1999, in High Point, North Carolina. This case involves the denial of trust fund eligibility to York Oil Company by Respondent.

**APPEARANCES**

York Oil Company ("York Oil"), the Petitioner, was represented by Stephen R. Berlin and Jason Link, Attorneys at Law. The Department of Environment and Natural Resources, the Respondent, was represented by James P. Longest, Jr. and Jennifer May-Parker, Assistant Attorney Generals, N.C. Department of Justice.

**ISSUE**

Whether Respondent properly denied York Oil's eligibility for trust fund reimbursement under the facts of the case.

**FINDINGS OF FACT**

1. In February 1979, David Clark bought the One-Stop property store which is located on Vance Road in Kernersville, Winston-Salem, North Carolina.
2. The One-Stop property contained underground storage tanks.
3. In July 1979, York Oil bought the underground storage tanks ("USTs") located on the One-Stop property.
4. The tanks were commercial USTs and subject to the UST rules as promulgated by the Department of Environment and Natural Resources ("DENR").
5. In 1986, Walter and Nancy James, neighbors of One-Stop, complained to DENR that their well water was contaminated with gasoline.
6. The James well was located one hundred fifty (150) feet downgradient from the USTs on the One-Stop property.
7. The One-Stop store was the only property with USTs within a half mile of the surrounding area.
8. As a result of the James' complaint, Brenda Smith and Stephen Kay of DENR visited the James property and took samples of their well in July 1986.
9. In September 1986, the Forsyth Health Department sent a letter to David Clark warning him that they suspected petroleum contamination at the One-Stop property.
10. In September 1986, the Winston-Salem Journal printed a newspaper article which stated that, according to test performed by DENR, the James' well was contaminated with petroleum. David Clark acknowledged reading the article



and sending it to York Oil.

11. After sending the article to York Oil, David Clark called to make sure York Oil had received it. York Oil acknowledged receipt of the article and told Mr. Clark it would be handled. Gary York was made aware of the petroleum contamination problem at the James well in 1986.
12. On November 5, 1986, Stephen Kay of DENR visited the One-Stop store and spoke with David Clark and Mike Carroll, the store's manager.
13. Stephen Kay learned from Mr. Clark and Mr. Carroll that the One-Stop bought bottled water. Since both men thought that the store's water was obviously contaminated.
14. Mr. Clark told Stephen Kay that the contamination of the One-Stop water became obvious within two years of the digging of the One-Stop well in 1982.
15. On November 17, 1986, Collins Petroleum was hired by York Oil to dig down beside the USTs at the One-Stop property to check for leaks.
16. Collins Petroleum found no leaks.
17. Collins Petroleum did not check the tank lines or take soil samples at the One-Stop property.
18. On December 15, 1986, Stephen Kay prepared a Pollution Incident Reporting Form ("PIRF"), noting One-Stop as the only possible source of the contamination.
19. In March 1988, DENR recovered two and one half feet of free product from monitoring wells placed on the One-Stop property.
20. Monitoring wells were strategically placed to establish that the contaminants were flowing in the groundwater from the One-Stop property to the James' property.
21. On December 9, 1988, Walter James and other neighbors filed a complaint against Petitioner alleging that Petitioner and David Clark were liable for petroleum contamination of Mr. James' well. Summary Judgment was granted in favor of the Defendants on the basis that the statute of limitations had run against Walter James. The Court of Appeals reversed the trial court's grant of summary judgment. See *James v. Clark*, 118 N.C. App. 178, 454 S.E.2d 826 (N.C. App. 1995).
22. On February 10, 1989, DENR issued a Notice of Violation to David Clark and York Oil for groundwater contamination.
23. The USTs at the One-Stop property were removed in March of 1989.
24. In April 1997, York Oil applied to the Petroleum Underground Storage Tank Cleanup Fund ("Trust Fund") for eligibility for reimbursement of cleanup costs.
25. On June 17, 1997, DENR denied York Oil eligibility for Trust Fund reimbursement, since DENR determined that the release discovery date was prior to June 30, 1988, the effective date of the cleanup fund.
26. On August 15, 1997, York Oil appealed DENR's denial to the Office of Administrative Hearings.
27. On April 15, 1999, York Oil filed a Motion for Summary Judgment with Administrative law Judge Meg Scott Phipps.
28. On May 4, 1999, DENR file its response to Petitioner's Motion for Summary Judgment.
29. The hearing on the Summary Judgment Motions was held on June 18, 1999, at the New County Courthouse in High Point, North Carolina.
30. At the hearing, Respondent orally amended its response to cross-motion for Summary Judgment. The amendment was accepted by Judge Meg Scott Phipps.

**CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, I make the following Conclusions of Law:

1. The parties are properly before the Office of Administrative Hearings.
2. The burden of proof is upon the Petitioner to show that the Respondent either exceeded its authority or jurisdiction; acted erroneously; failed to use proper procedure; acted arbitrarily or capriciously; or failed to act as required by law or rule when Respondent denied Petitioner eligibility for reimbursement of cleanup cost from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.
3. G.S. § 143-215.94 N(a) provides as follows:

The provisions of this part as they relate to cost paid from the commercial fund apply only to discharges or releases that are discovered or reported on or after 30 June 1988 from a commercial underground storage tank.
4. NCAC 15A 2P .0202(4) states that a "Discovered release" means a release which an owner or operator, or its employee or agent, has been made aware of, has been notified of, or has a reasonable basis for knowing has occurred.
5. The N.C. Court of Appeals held that the statute of limitations began to run against Mr. James in 1986, when he first associated the contamination in his well with petroleum and received no test results confirming petroleum contamination until 1986. Answers to Discovery in that case establish that the Petitioner was aware of petroleum contamination in Mr. James well in 1986.
6. The facts established that David Clark had been made aware of, and had been notified of and/or had a reasonable basis for knowing that a release had occurred from the USTs on the One-Stop property in 1986.
7. Knowledge on the part of David Clark or his employees of a release prior to June 30, 1988, bars York Oil from accessing the Trust Fund.
8. Petitioner has failed to prove that the Respondent either exceeded its authority or jurisdiction; acted erroneously; failed to use proper procedure; acted arbitrarily or capriciously; or failed to act as required by law or rule when Respondent denied Petitioner's eligibility for Trust Fund reimbursement based on its determination that the release discovery date was not on or after June 30, 1988 as required by G.S. § 143-215.94 N(a).

**RECOMMENDED DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby recommended that Respondent's denial of Petitioner's eligibility for reimbursement as set forth in its letter dated June 17, 1997, be upheld as the final agency decision in this contested case.

**ORDER**

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

**NOTICE**

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

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

The agency that will make the final decision in this contested case is the Department of Environment and Natural

Resources.

This the 26th day of July, 1999.

---

Meg Scott Phipps  
Administrative Law Judge



**STATE OF NORTH CAROLINA**

**IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
98 ABC 1270**

**COUNTY OF MECKLENBURG**

**NC ABC COMMISSION**

**Petitioner,**

**v.**

**FOOD LION, INC.**

**T/A FOOD LION STORE #1351**

**Respondent.**

**RECOMMENDED DECISION**

The above captioned case was heard in Charlotte, North Carolina on March 2, 1999 before Beecher R. Gray, Administrative Law Judge.

**APPEARANCES**

Petitioner:      LoRita Pinnix, Assistant Counsel  
                         North Carolina ABC Commission

Respondent:      Glenn B. Lassiter, Jr., Attorney at Law

**ISSUES**

Did Respondent's employee violate G.S. 18B-302(a)(1) on or about March 19, 1998 at 11:20 p.m. by selling malt beverages to Joseph John Lopke, a person less than 21 years of age, on the licensed premises, and if so, what penalty, if any, should the ABC Commission impose?

**FINDINGS OF FACT**

1. Food Lion, Inc. holds ABC permits for the off-premise sale of malt beverages and wine at its store #1351 located at 9323 North Tryon Street in Charlotte, North Carolina. It held those permits on the date in question.
2. On March 19, 1998, Mecklenburg County ABC Law Enforcement Agent R. N. Bates was conducting surveillance outside Food Lion #1351.
3. At about 11:20 p.m., Agent Bates observed a white male that he believed might be underage enter the store.
4. Agent Bates later observed this white male approach a checkout register and purchase malt beverages.
5. The white male exited the store, entered a vehicle, drove off and was stopped by Agent Bates about a half mile down the street.
6. The white male was in possession of malt beverages. Agent Bates attempted to identify the white male by requesting a driver's license.
7. Agent Bates attempted to serve a subpoena for the hearing on John Joseph Lopke, the person he believed the white male in question to be.
8. Agent Bates was unsuccessful in serving the subpoena. Neither John Joseph Lopke nor any other witness other than Agent Bates appeared for the Petitioner at this hearing.
9. The Petitioner was unable to produce admissible evidence at the hearing to identify the white male in question as John Joseph Lopke.

10. The Petitioner was unable to produce admissible evidence at the hearing to prove that John Joseph Lopke was less than 21 years of age on March 19, 1998.

**CONCLUSIONS OF LAW**

1. The Office of Administrative Hearings has proper jurisdiction in this case.
2. The parties received proper notice of this hearing.
3. The Petitioner has failed to establish through substantial admissible evidence that a violation of sale to an underage person occurred as alleged.
4. The attempts of Petitioner to proffer hearsay evidence of the identity and age of the white male in question under Rule 804(b)(3) are not supported by sufficient admissible evidence to establish the prerequisites necessary for the admission of such hearsay under that rule in the case at bar. Even assuming, *arguendo*, that the declarant was "unavailable" as required under Rule 804, there is a lack of admissible evidence available to establish that the hearsay statements in question were against the interest of the declarant to such a degree as to allow their admission under that exception in this case.

**RECOMMENDED DECISION**

It is hereby recommended that the charges against the Respondent be DISMISSED.

**ORDER**

It is hereby ordered that the agency serve a copy of the Final Decision on the Office of Administrative Hearings, P.O. Drawer 27747, Raleigh, N.C. 27611-7447, in accordance with North General Statute 150B-36(b).

**NOTICE**

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

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

The agency that will make the final decision in this contested case is the North Carolina Alcoholic Beverage Control Commission.

This is the 31<sup>st</sup> day of March, 1999.

---

Beecher R. Gray  
Administrative Law Judge

**STATE OF NORTH CAROLINA**

**IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
98 DAG 1770**

**COUNTY OF HARNETT**

**ARCHIE MCLEAN,  
Petitioner,**

**v.**

**DEPARTMENT OF AGRICULTURE,  
Respondent.**

**RECOMMENDED DECISION**

This matter came on for hearing before the undersigned administrative law judge on July 1, 1999, in Fayetteville. The petitioner appeared *pro se*. The respondent was represented by Melissa H. Taylor. The petitioner presented two witnesses. The respondent presented three witnesses and introduced Exhibits #1-25. The respondent filed a proposed recommended decision on July 7, 1999.

At the beginning of the hearing, the undersigned handed the petitioner a copy of the Notice of Violations and Assessment of Civil Penalty document dated October 18, 1998. Petitioner stated that he admitted the violations of the North Carolina Compulsory Meat Inspection Law contained in the Notice of Violations and Assessment of Civil Penalty document. Therefore, the hearing proceeded regarding only the amount of penalty.

**ISSUE**

What penalty should be assessed against the petitioner for the violations contained in the Notice of Violations and Assessment of Civil Penalty document dated October 18, 1998?

**FINDINGS OF FACT**

1. On February 13, February 20, March 13, April 2 and April 17, 1998, respondent investigated petitioner for slaughtering, processing and selling uninspected meat products at his property located at 362 Raynor McLamb Road, Bunn Level. Respondent determined that petitioner was not a federal, state or county health inspected facility.

2. During these investigations, respondent observed a concrete block building behind petitioner's residence in which meat products, specifically pork, were being processed and sold. On the dates listed above, respondent purchased uninspected and unlabeled meat products. On two occasions, respondent purchased hog lungs which are adulterated product and are unfit for human food.

3. On these dates, respondent observed very unsanitary conditions in the processing area. Respondent did not observe the availability of any running water.

4. On April 17, 1998, respondent observed petitioner and other workers conducting hog slaughtering processes behind the cinder block building on petitioner's property. Respondent observed hog carcasses being bled, scalded and cut up for further processing. Respondent also purchased a set of hog lungs that were hanging from a tree.

5. On May 20, 1998, respondent executed a search warrant for petitioner's property located at 362 Raynor McLamb Road, Bunn Level. During that search, Respondent detained approximately 2,700 pounds of uninspected pork meat products on petitioner's property. The petitioner voluntarily destroyed the meat. Respondent also observed unsanitary conditions in which the meat was processed and stored.

6. Respondent observed numerous insect and rodent material on the floor of the building, as well as, flies in the salt pork meat and on the pork sausage hanging from the ceiling. Respondent did not observe any running water, either hot or cold, in the cinder block building used for processing the pork.

7. Respondent also observed the slaughter area which indicated that large numbers of animals had been slaughter.



Respondent observed numerous bone pieces on the ground, mounds of hog hair, tripods for hanging the carcasses, scalding vats and iron wash pots for rendering lard. The slaughter area was in an unsanitary condition.

8. Dr. David T. Marshall, Director of the Meat and Poultry Inspection Service of the North Carolina Department of Agriculture and Consumer Services, testified that in his eleven years of being the Assistant Director and Director of the Meat and Poultry Inspection Service, he had not seen a worse case of violations of the North Carolina Compulsory Meat Inspection Law.

9. The factors that Dr. Marshall used to assess the civil penalty were (1) the extent of the operation, (2) how much meat was being processed and (3) the unsanitary conditions of the facility.

10. Based on these factors and the evidence presented, Dr. Marshall testified that he originally would have assessed the maximum penalty of \$5,000.00. However, because petitioner was cooperative and destroyed the approximately 2,700 pounds of pork product that was detained, the penalty was set at \$2,500.

#### **CONCLUSIONS OF LAW**

1. Petitioner violated NCGS §§ 106-549.17, 106-549.18, 106-549.23(a)(3)(a) and (b).

2. NCGS § 106.549.35(c) provides that a civil penalty of not more than five thousand dollars (\$5,000) may be assess against any person who violates a provision of this Article or Article 49B, or any rule promulgated thereunder. The degree and extent of harm caused by the violation shall be considered in assessing the penalty. The respondent properly imposed a penalty of \$2,500. The petitioner argued that he lacked the financial ability to pay the fine. The undersigned suggests that the petitioner send documentation of his financial status for consideration by the respondent concerning whether any adjustment would be appropriate.

#### **RECOMMENDED DECISION**

It is recommended that the respondent's civil penalty assessment of \$2,500.00 be upheld.

#### **NOTICE**

The agency that will make the final decision in this contested case is the Department of Agriculture. It will give each party the opportunity to file exceptions to the recommended decision and to present written arguments. The agency will serve a copy of the final decision on all parties, the attorneys of record and the Office of Administrative Hearings.

This the 9<sup>th</sup> day of July, 1999.

---

Robert Roosevelt Reilly, Jr.  
Administrative Law Judge

**STATE OF NORTH CAROLINA**

**IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
99 DOJ 0045**

**COUNTY OF ONSLOW**

**KEITH ALLEN NORRIS,**  
**Petitioner,**

**v.**

**N.C. SHERIFFS' EDUCATION AND TRAINING  
STANDARDS COMMISSION,**  
**Respondent.**

**PROPOSAL FOR DECISION**

The contested case was heard before Chief Administrative Law Judge Julian Mann, III, on Friday, May 14, 1999, in the Carolina Beach Municipal Administration Building, Carolina Beach, North Carolina.

**APPEARANCES**

For Petitioner:           Walter W. Vatcher  
                                  GAYLOR, EDWARDS & VATCHER  
                                  219 New Bridge Street  
                                  P.O. Box 1057  
                                  Jacksonville, NC 28541-1057  
                                  Attorney for Petitioner

For Respondent:       John J. Aldridge, III  
                                  Assistant Attorney General  
                                  North Carolina Department of Justice  
                                  P.O. Box 629  
                                  Raleigh, NC 27602-0629  
                                  Attorney for Respondent

**EXHIBITS**

For Petitioner:           Petitioner's Exhibits #1 through #6.

For Respondent:       Respondent's Exhibits #1 through #18.

The parties entered into the following stipulation of facts (Respondent Exhibit No. 1) quoted below:

1. Both parties are properly before this Administrative Law Judge, in that jurisdiction and venue are proper, that both parties received proper notice of hearing required pursuant to N.C.G.S. 150B-38 and that Petitioner received notice of the Proposed Revocation of his justice officer certification mailed by Respondent on December 3, 1998.

2. The North Carolina Sheriffs' Education and Training Standards Commission (Respondent) has the authority granted under Chapter 17E of the North Carolina General Statutes and Title 12 of the North Carolina Administrative Code, Chapter 10, Subchapter 10B, to certify justice officers as either deputy sheriffs or jailers, and to deny, revoke or suspend such certification.

3. On July 14, 1992, Petitioner completed a Personal History Statement (Form F-3) as a part of the application with Respondent for certification as a detention officer with the Onslow County Sheriff's Office. Question number 47 of that form asks: "Have you ever been arrested by a law enforcement officer or otherwise charged with a criminal offence? Petitioner did not answer this question.

4. On June 24, 1997, Petitioner completed another Personal History Statement (Form F-3) as a part of the re-application process with Respondent for certification as a justice officer with the Onslow County Sheriff's Office. On this form

he answered Question number 47 which asks, "Have you ever been arrested by a law enforcement officer or otherwise charged with a criminal offense?" as follows: "Yes, DWI, 3-96 Charges Dropped, Onslow County Court House, Dismissed."

5. Petitioner was issued a probationary detention officer's certification on August 29, 1997.
6. That 12 N.C.A.C. 10B .0204(c)(1) and (2) provides:
  - (c) The Commission may revoke, suspend, or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer:
    - (1) has knowingly made a material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission;
    - or
    - (2) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission.

7. In March 1998, the Respondent received the results of the fingerprint criminal history check of the Petitioner from the North Carolina State Bureau of Investigation. This check included a pointer to Mecklenburg County showing previous charges against the Petitioner. The Respondent sent requests to both the Criminal Courts Department in Mecklenburg County and the Mecklenburg County Court Services Department for any available criminal history information on Petitioner.

8. The Petitioner and Respondent agree and stipulate that all Exhibits offered by Petitioner and that all Exhibits offered Respondent are genuine and if relevant and material may be received in evidence without further identification or proof.

Based upon the foregoing stipulations, and by the greater weight of the admissible evidence, the undersigned makes the following:

#### **FINDINGS OF FACT**

1. Petitioner, Keith Allen Norris, is a citizen and resident of Onslow County, North Carolina. The Petitioner is presently employed with the Onslow County Sheriff's Department as a Deputy. The Petitioner is presently married and has two children. Petitioner was born on April 7, 1967. At the date of the hearing, the Petitioner was 32 years old.

2. The Petitioner was taken into custody by the Mecklenburg County Sheriff's Deputy, Jimmy Rushing (off-duty), on August 3, 1991, while a patron at a local nightclub by the name of Plum Crazy. The basis for this action was Petitioner's refusal to leave the parking lot premises while intoxicated after being told to leave. The Petitioner was taken to the Mecklenburg County Jail by R.A. Gidley (no longer on the force) of the Mecklenburg County Police Department. Through subsequently produced records, Mecklenburg County records indicate Petitioner was charged with the offenses of Resist/Obstruct Public Officer and Second Degree Trespass. However, on the same day, upon being taken before the magistrate, no probable cause was found. The Petitioner was photographed and fingerprinted in the Mecklenburg County Jail. At the time of the Petitioner's arrest, he was very intoxicated. For this reason, the Petitioner had little recollection regarding the facts and circumstances surrounding his arrest and incarceration.

3. On August 2 and 3, 1991, Petitioner had consumed sufficient amounts of alcoholic beverages in the form of beer and Petitioner was not in control of his faculties.

4. During all subsequent employment and follow-up interviews with Sheriff Brown, the Petitioner fully disclosed all of the details within his memory surrounding the incident which led to his incarceration in the Mecklenburg County Jail on August 3, 1991.

5. Petitioner has little or no recollection of the events the evening of August 2, 1991 and morning of August 3, 1991, between his arrival at the club establishment and waking up the next morning in the Mecklenburg County Jail. Petitioner could not remember that he was on premises at this establishment; could not remember the time that he arrived and did not remember any of the substantial details of his time on the premises. Petitioner does not remember being transported to the Mecklenburg County Jail.



6. Petitioner is not normally accustomed to drinking alcoholic beverages. Petitioner cannot recall how much he consumed on the evening in question. Petitioner, in describing his level of intoxication, testified that he was too intoxicated to take care of himself. Petitioner was, furthermore, too intoxicated to remember the events of that evening or later that night and morning.

7. Petitioner was incapable of driving that evening because of intoxication. Petitioner's friend and designated driver on that occasion was Allen Gaskins, who was not a witness.

8. Petitioner does not recall being asked to leave the club on August 3, 1999.

9. Jimmy Thomas Rushing, Jr. presently serves as Captain in the Mecklenburg County Fire Department. Mr. Rushing was previously employed by the Mecklenburg County Sheriff's Department. On August 3, 1991, Mr. Rushing encountered and apprehended the Petitioner. "Rushing, J.P. SID 318" was Deputy Rushing's identification number.

10. On August 3, 1991, Deputy Rushing was working as an off-duty security officer and was responsible for maintaining order outside of the nightclub. As an off-duty security officer, Deputy Rushing could not go inside the establishment because there was a policy prohibiting deputies from being inside the establishment where alcohol was being served, unless there was a major disruption which would require the assistance of the off-duty deputy.

11. On August 3, 1991, Deputy Rushing was dressed in uniform, carrying a sidearm and a badge. Petitioner was brought outside by the bouncers of the nightclub. Deputy Rushing asked the Petitioner to leave. Deputy Rushing described the Petitioner on the night in question as "intoxicated". Petitioner, according to Deputy Rushing, could walk, talk, and was coherent but had slurred speech and was very aggressive. According to the testimony of Deputy Rushing, Petitioner was cursing and abusive. The incident between Deputy Rushing and Petitioner took place during a timeframe of approximately 20 minutes. Deputy Rushing asked Petitioner to leave the property. Petitioner left for awhile but returned. Petitioner was insistent that he go back inside the nightclub. When Deputy Rushing was about to arrest Petitioner, Deputy Rushing stated: "We had a difference of opinion as to whether or not he was gonna be arrested." Deputy Rushing "took Petitioner to the ground" and Petitioner was handcuffed. Deputy Rushing called for a transporting officer to take Petitioner to the Mecklenburg County Jail. Deputy Rushing told the Mecklenburg Police Department Officer what occurred and from this information, the transporting officer provided the information found on the arrest record to the Magistrate at the Mecklenburg County Jail.

12. Deputy Rushing provided information to R.A. Gidley of the Mecklenburg County Police Department as to the circumstances surrounding Petitioner's apprehension and transportation to the Mecklenburg County Jail. Deputy Rushing never appeared before a Magistrate nor did he provide an affidavit as to what occurred. Deputy Rushing only provided verbal information to Officer Gidley so that Officer Gidley could record this information in his arrest report. Respondent's Exhibit #13 with its computerized information presumptively reflects information provided by Officer Gidley to the Magistrate.

13. Petitioner was intoxicated to the degree that he could not immediately be fingerprinted and taken before a Magistrate. Petitioner was not taken before the Magistrate until the following morning after being incarcerated in the Mecklenburg County Jail for a period of time in order for him to sober up from the effects of the alcohol that he consumed the night before. No probable cause was found by the Magistrate.

14. Detainees may be delayed before being presented to the Magistrate because of disruptive behavior in addition to intoxication.

15. On the next day, Petitioner woke up and he was incarcerated in a space with other individuals.

16. Petitioner was not aware, if in fact he had been, that he had been charged with Trespassing and Resisting an Officer.

17. Petitioner was not handed any papers or documents indicating an arrest or charge.

18. Petitioner was told by the magistrate on August 3, 1991, that there was no cause for him to remain in custody and that he was free to go and that there were no charges. He was not given a warrant, a citation or a criminal summons or any other document indicating that he was to appear in court. Petitioner was not given a release order.

19. Petitioner recalls being fingerprinted but did not know that he had been arrested or charged. Petitioner does not

recall any conversation with police officers by whom he was transported that evening. Petitioner did not recall having his personal property taken from him by officials of the Mecklenburg County Police Department.

20. When Petitioner was released he had to call his friend whom he had been with the night before. His friend informed him that he had not known what had happened to him. "He had said that all of a sudden that he was gone and that he did not know where he was."

21. Any failure to disclose the facts and circumstances surrounding the August 3, 1991 incident, occurred as the result of the Petitioner's misunderstanding of the arrest process in Mecklenburg County, on August 3, 1991 and was based on advice given to him by Sheriff Brown as to his understanding of the drunk assist law. There was no intent by the Petitioner to mislead any person or any agency when he completed the personal history questionnaires on July 14, 1992 and on June 24, 1997.

22. Petitioner, prior to 1991, had not been photographed or fingerprinted while in the custody of the police.

23. Petitioner was embarrassed by his incarceration and the events surrounding the incarceration.

24. Deputy Rushing explained that Mecklenburg County does not avail itself of the "drunk arrest" statute (G.S. 122c0303) as a matter of policy nor was Deputy Rushing aware of this statute in 1991.

25. Deputy Rushing recounted the facts of this occasion approximately seven years later and he had no notes of his encounter with Petitioner. Deputy Rushing could not recall the type of clothing that the Petitioner was wearing on the night in question. Deputy Rushing could only recall parts of what occurred seven years ago. Deputy Rushing worked only eight or nine times at this particular nightclub but only made two arrests.

26. Petitioner has completed 700 hour Basic Law Enforcement Training Course.

27. In 1992, the Petitioner approached Onslow County Sheriff Ed Brown and inquired about the possibilities of employment with the Sheriff's Department. At that time, Sheriff Brown asked the Petitioner: "Have you ever been in trouble before?" The Petitioner informed the Sheriff that he had gone to jail in Charlotte, North Carolina, in 1991.

28. Sheriff Brown has known the Petitioner practically his entire life. They resided in the same community and part of the reason for the Petitioner wanting to be a part of the Sheriff's Department was because of his admiration of Sheriff Brown.

29. Sheriff Brown also has known Petitioner's mother and father. Sheriff Brown's family and Petitioner's family reside in the same community in Onslow County.

30. In Petitioner's conversation with Sheriff Brown prior to completing Respondent's Personal History questionnaire, Respondent's Exhibit #7, and in response to the Sheriff's question about his prior record, the Petitioner disclosed to Sheriff Brown what information he knew about the incident on August 3, 1991. Sheriff Brown inquired of Petitioner at least twice as to whether or not he had "been in trouble." Petitioner responded to Sheriff Brown that he "had been put in jail in Charlotte." Sheriff Brown asked Petitioner if he knew what he had been put in jail for. Petitioner responded that he did not know. Sheriff Brown then asked, "What did they do in court?" Petitioner replied: "I didn't have to go to court." Sheriff Brown inquired: "Did you have to pay a fine?" Petitioner responded: "No, I didn't have to pay a fine." Sheriff Brown then inquired as to whether Petitioner had to post a bond. Petitioner responded that he did not have to post bond. In addition, Petitioner had no documentation of his incarceration. Petitioner relayed to Sheriff Brown that the next morning they let him out and that he could go and would not have to come back. Sheriff Brown, in Petitioner's presence, concluded that this was typical of a "drunk assist". Petitioner informed Sheriff Brown that he was intoxicated at the time and that he had difficulty recalling and remembering the events of the evening.

31. Petitioner's Exhibit #2 contains General Statute 122C-303 and it is quoted in part below:

In addition to the actions authorized by G.S. 122C-301(a), an officer may assist an individual found intoxicated in a public place by directing or transporting that individual to a city or county jail. ...The intoxicated individual may be detained at the jail only until he becomes sober or a maximum of 24 hours and may be released at any time to a relative or other individual willing to be responsible for his care.

32. The Honorable Ed Brown has served as the Sheriff of Onslow County for nine years. Sheriff Brown has been in law enforcement for over twenty-five (25) years, employed by both the Jacksonville Police Department as Assistant Chief and the

Onslow County Sheriff's Department. As a law enforcement officer with these agencies, Sheriff Brown has on numerous occasions taken persons who were intoxicated to jail under what the Sheriff called the "drunk assist" law (N.C.G.S. Sec. 122C-303) and that these persons so detained remained in jail until they sobered up at which time they are released. Based upon his 25 years of experience, Sheriff Brown understood that under this statute, when a person was taken into custody as a "drunk assist", there was no arrest and no criminal charges.

33. Sheriff Brown understood "drunk assist" to mean that in 1977 (or thereabouts) society took a different view of "drunks" and that it was no longer a crime to be publicly intoxicated and that alcoholism was a disease. The "drunk assist" was a response to the public inebriate. Prior to this time, public drunks were arrested and charged with a crime. After the "drunk assist" law, it was no longer a crime to be public drunk/public intoxicated. Sheriff Brown received training from the District Attorney's Office on the application of this new law. Sheriff Brown believed that he had no alternative but to obey and enforce the dictates of the new law. Under this law, Sheriff Brown's habit in the past, particularly when he was employed by the Jacksonville Police Department, was to try to find a suitable custodian for the public inebriate and if no custodian was available, then it was his responsibility to transport the individual to a place of incarceration or jail. The individual was to remain in the jail until they become sober and thereafter released. The individual so detained is not charged with a crime and there is no record of the arrest. In response to the disclosures made by the Petitioner, Sheriff Brown concluded that the Petitioner's detention in Mecklenburg County had been a drunk assist pursuant to G.S. 122C-303.

34. After hearing the Petitioner's explanation about what happened in Mecklenburg County, Sheriff Brown, through different agents in the Onslow County Sheriff's Department, made specific inquiry of personnel in the Mecklenburg County Office of the Clerk of Court and determined that no record existed in Mecklenburg County showing that Petitioner had ever been arrested or charged with an offense in Mecklenburg County. Based thereon, Sheriff Brown told the Petitioner that he was not arrested in Mecklenburg County but was confined until he sobered up under the drunk assist law and that therefore he had no arrest record. Based upon the initial conversation between Sheriff Brown and Petitioner, Sheriff Brown or his agent's employees, tried to secure from Mecklenburg County and other agencies any record of Petitioner's incarceration. Sheriff Brown attempted by the following means to secure records:

- a. by telephone call to the Office of the Clerk of Court of Mecklenburg County;
- b. a drivers license check;
- c. an NCIC criminal check.

Sheriff Brown, based upon the telephone call initiated to the Clerk of Court, found no record of this incident. All of the avenues utilized by the Onslow County Sheriff's Department to determine more information about the incarceration revealed no evidence of an arrest or charge.

35. After Sheriff Brown's conversation with the Petitioner and as a result of his check of the records in Mecklenburg County, Sheriff Brown further concluded that Petitioner had been incarcerated under the "drunk assist" statutes of the State of North Carolina.

36. Sheriff Brown further informed the Petitioner that there was no record of his incarceration and that there was no record of his incarceration because his detention had been a "drunk assist".

37. As far as Sheriff Brown could determine, Petitioner had not been arrested and charged with a crime.

38. Sheriff Brown also submitted Petitioner's fingerprints for a fingerprint search and photograph. The SBI did not locate any information about an arrest record for the Petitioner in Mecklenburg County.

39. Had Sheriff Brown discovered a criminal charge, the process would have been stopped by him in his office until the information about the charge was satisfied.

40. Sheriff Brown believed that the Petitioner informed him of all that he knew about the situation and circumstances of the events of August 3, 1991, in Mecklenburg County.

41. At the time that Petitioner initially applied for a certification, the Onslow County Sheriff's Department's procedure was to combine the Respondent's Form F3 (Respondent's Exhibit #7), and the Onslow County's application form in order to process a criminal records check by the Onslow County Sheriff's Department.

42. The criminal history check is accompanied by a drivers license check. If those checks come back clear and the



Onslow County investigators' background check comes up clear, nothing would have been disclosed adverse to the Petitioner's application at that time.

43. Sheriff Brown has never known the Petitioner to tell him anything that was untrue or false. Petitioner has never attempted to deceive or mislead Sheriff Brown as to the details or events surrounding the incident in Mecklenburg County in August of 1991.

44. Petitioner fully disclosed to Sheriff Brown the circumstances of the incident in Mecklenburg County insofar as he could remember and the circumstances surrounding a subsequent "Driving While Impaired" arrest and charge in Onslow County.

45. Petitioner disclosed to Sheriff Brown that he had been asked to leave a place but that Sheriff Brown recalled that this place was a swimming pool. Sheriff Brown could recall only that Petitioner could not remember anything other than being removed from a premise and waking up the next day in jail. Sheriff Brown focuses on past criminal information from an applicant generally based upon what happens before the Magistrate in terms of posting bond and the payment of a fine.

46. Petitioner told Sheriff Brown that he did not have to post bond; he did not have to go to court; he did not have to pay a fine and he was released from the jail. The Sheriff believed that Petitioner was not charged. Sheriff Brown was not aware that the Petitioner had been fingerprinted or photographed, but notwithstanding that Sheriff Brown did not know that the Petitioner had been photographed or fingerprinted, this would not have changed his conclusion that Petitioner had been "drunk assisted" because anyone entering his jail may be fingerprinted and photographed under a "drunk assist" and that Sheriff Brown intends to photograph and fingerprint everyone coming to the Onslow County Jail. Information on "drunk arrests" was not maintained in Onslow County until Sheriff Brown became the Sheriff. The type of information now recorded on "drunk assists" is contained by way of example on Petitioner's Exhibit #4.

47. According to Sheriff Brown, an arrest requires an indication of what an individual is charged with; a bond being posted; an opportunity to go before a judicial official with a disposition. Since Petitioner did not have documents or other substantiating information, Sheriff Brown concluded that the Petitioner, in the Mecklenburg County incident, was placed in custody for intoxication and when he was sober, he was released.

48. The "drunk assist" law is utilized, according to Sheriff Brown, even when other activities of a criminal nature are involved if the person is so intoxicated that he cannot appreciate what he has done, much the same as an insane person. According to Sheriff Brown, if a person is placed in custody for intoxication and later resists or obstructs an officer, then Sheriff Brown does not arrest and charge this individual for the conduct because of the degree of intoxication. This person is taken into custody, detained until he becomes sober, and thereafter released. According to Sheriff Brown, if a person is capable of being on his feet and starting a fight and happens to be intoxicated, he can be arrested in the discretion of the officer.

49. The determination between the two hypotheticals turns on the degree of intoxication. If the individual has no control over the intoxication, then what occurs thereafter arises from a condition over which the individual has no control and that the alcohol excuses, in some instances, the conduct.

50. Major Christine Koontz was involved in assisting Petitioner in the application process in 1992. Major Koontz is now retired from the Onslow County Sheriff's Department. Major Tammy Hinson succeeded to Major Koontz's position after retirement.

51. Major Hinson had several conversations with the Petitioner regarding the incidents and the necessity for verifying this information by records. At no time did the Petitioner deceive or mislead Major Hinson.

52. In 1992, the Petitioner was not aware of the existence of the function of the Sheriffs' Education and Training Standards Commission, Respondent.

53. Petitioner believed that the Respondent's Exhibit #7 was being completed for the benefit of Sheriff Brown. Petitioner assumed that when informing Sheriff Brown about the incident in Mecklenburg County, that he was actually informing the Respondent as well or that the information that was supplied to Sheriff Brown would be known to all those who sat in determination of his employment application. But, he did not know at the time specifically that the Respondent reviewed this Personal History Statement.

54. As part of the application process to the Onslow County Sheriff's Department, Petitioner was given a Personal

History Statement (Form F-3) prepared by the Respondent which asked various questions about the Petitioner's personal history. Question 47 of this form asks "Have you ever been arrested by a law enforcement officer or otherwise charged with a criminal offense?" The Petitioner failed to answer this question, through an oversight, due to the fact that Sheriff Brown was at the time searching the Mecklenburg County records to determine whether an arrest record existed for the Petitioner. As a result of the Sheriff's assurances to the Petitioner that he had not been arrested, the Petitioner failed to acknowledge on the personal history statement an arrest in Mecklenburg County in 1991. Petitioner was not certain as to whether or not he had been arrested and charged by the Mecklenburg County Police Department on or about August 3, 1991.

55. Respondent's employees who reviewed the application did not object to the lack of an answer to question #47. Paragraph 47 required a "yes" or "no" answer and then there are spaces for further information.

56. At the time of the arrest on August 3, 1991, Petitioner had no law enforcement training and this was his first encounter with law enforcement officers.

57. Petitioner, based upon his law enforcement experience, is aware that in Onslow County that officers making a "drunk assist" do not fingerprint those who are taken into custody.

58. Respondent's Personal History Form (F-3) solicits information on both the arrest and charges. The "blanks" below paragraph 47 do not provide a space to place arrest information but do provide space to list the offense charged.

59. Petitioner did not answer question #47 on Respondent's Exhibit #7 because he had omitted it awaiting a response from Sheriff Brown. Petitioner relied upon the expertise of the Sheriff of Onslow County to determine whether there was an arrest record for Petitioner in Mecklenburg County.

60. Sheriff Brown, in searching for the correct answer to question #47 on Respondent's Exhibit #7, has tried to determine the nature of the offense charged and its disposition, beginning with an initial inquiry in 1992 through December 18, 1998, and thereafter.

61. Petitioner was hired by Sheriff Brown as a Detention Officer based upon this application and that Respondent had issued certification.

62. Petitioner left the employment of the Onslow County Sheriff's Department in 1993, to secure other employment as his compensation with the Sheriff's Department was not sufficient. He began work as a surveyor in order to earn more compensation. In 1997, the Petitioner again approached Sheriff Brown about the possibilities of returning to employment with the Onslow County Sheriff's Department. At that time, the Petitioner had an outstanding charge pending against him in Onslow County, North Carolina for the offense of Driving While Impaired. The Petitioner disclosed this pending charge to Sheriff Brown and was told by the Sheriff that he need not apply for employment until this charge was resolved.

63. In April 1996, the charge of Driving While Impaired was dismissed by the District Attorney's Office and thereafter the Petitioner applied for employment with the Onslow County Sheriff's Department. As a part of the employment application, the Defendant once again completed A Personal History Statement and in response to question number 47: "Have you ever been arrested by a law enforcement officer or otherwise charged with a criminal offense?" The Petitioner responded: "yes"; offense charged: DWI; law enforcement agency: Onslow County Courthouse; date: 4/96 charges dropped; disposition: dismissed. The Petitioner did not disclose anything regarding the Charlotte incident because he assumed that the matter had been resolved in his previous employment application and as a result of his earlier conversation with Sheriff Brown. Petitioner concluded then that he had not been arrested in Charlotte, in 1991. This belief was based upon the fact that he had fully disclosed the incident surrounding the circumstances of his custody and that the personnel in the Onslow County Sheriff's Department who are responsible for making criminal records checks advised him that a disclosure was not required for lack of a record. The issue was moot.

64. Petitioner applied for certification as a Detention Officer to the Respondent on July 14, 1997 (Respondent's Exhibit #4). Petitioner applied for certification as a Deputy Sheriff to the Respondent on July 18, 1998 (Respondent's Exhibit #5).

65. During the reapplication process, the Petitioner disclosed to Sheriff Brown the circumstances surrounding the DWI arrest and charge under the same or similar circumstances as he had disclosed the incident in Mecklenburg County. Sheriff Brown conducted a similar check in Onslow County and verified the information of the arrest and that the DWI charge had been

dismissed against the Petitioner. This verification was established by the records in the Onslow County Clerk of Court's Office.

66. As part of Petitioner's application in 1997, he submitted fingerprints. Subsequent to that submission, the State Bureau of Investigation informed Respondent that:

On November 21, 1996, the SBI added 135,272 criminal fingerprint cards to the SBI AFIS in Raleigh. These fingerprint cards are misdemeanor arrests from Mecklenburg County that were not originally submitted to the SBI. The attached response reflects an identification against one of these historical fingerprint cards.

67. Petitioner's Exhibit #1 accompanied Respondent's Exhibit #17. In Petitioner's Exhibit #1, Major Hinson, as the Onslow County Sheriff's Department employee in charge of records checks, advised Petitioner not to list an offense unless it could be verified, stating the following: "We did not and do not recommend that Mr. Norris put any offenses on his Personal History Statement unless we can verify that he was actually ever charged."

68. Sheriff Brown's contact with the Mecklenburg County Clerk of Court was his first avenue of search for information as to an arrest record because in Onslow County the criminal records check are kept by the Onslow County Clerk of Court. Sheriff Brown directs records check information made to his office to the Onslow County Clerk of Court.

69. The routine procedure of the Onslow County Sheriff's Department requesting a records check for an applicant for employment and the procedure followed in Petitioner's application for employment was: (1) submit the name, date of birth and social security number for a criminal history check; (2) submit identifying information for a drivers license check; and (3) check with an out-of-county Clerk of Court to verify specific information. After these attempts were made on Petitioner's behalf, no records were discovered or disclosed indicating any arrests or charges.

70. There are approximately 25 to 30 separate forms and documents that have to be submitted by the Onslow County Sheriff's Department in the certification process for employment.

71. In Respondent's Exhibits #2, 4, and #5, applicants for certification are informed of what records and what forms must be completed. Among the records and forms that must be submitted is a category entitled "Records Check - Clerks Office - Last (6) Months." Petitioner had applied for Detention Officer Certification (jailer) in 1992 (Respondent's Exhibit #2).

72. Ms. Julia A. Loman, who is presently serving as the Director of the Respondent, and who was previously served as the Deputy Director, has been an employee of the Respondent for approximately 10 years. At all times relevant to this contested case, Ms. Loman had knowledge of or supervisory authority over the applications and records of those seeking certification.

73. In reviewing Petitioner's Exhibit #7 with question #47 as blank, the Respondent through one of its agents or officials, indicated that there was no criminal history based upon the Petitioner's answer to question #47. Ms. Loman, had she been reviewing the application, would not have made this conclusion but would have returned it to the Petitioner. Ms. Loman would have preferred that the evaluator return the application to the Petitioner since question #47 was unmarked.

74. Ms. Loman indicated and stated that there was nothing false on Respondent's Exhibit #7 as represented by the Petitioner.

75. There has not been a change in policy between 1992 and 1997 regarding an incomplete application. However, there was no written or verbal policy which would instruct an evaluator of the application as to how to treat an incomplete answer, particularly an incomplete answer to question #47. Ms. Loman, in the future will initiate a new policy that if any question is left blank, that it will be returned to the applicant.

76. On August 4, 1992, Petitioner was issued a Probationary Jailers Certification by Respondent (Respondent's Exhibit #3). Contained in Respondent's Exhibit #3 is the statement: "Upon due consideration, the commission finds that proper application for certification has been submitted to it on behalf of the named above." (Respondent's Exhibit #3)

77. According to Ms. Loman's testimony, the Respondent had no further inquiry or questions concerning the Petitioner's disclosure of the DWI arrest.

78. On July 25, 1997, Petitioner, for the second time, was issued the Probationary Detention Officer Certification. Respondent's Exhibit #9 also contains the statement: "Upon due consideration, the commission finds that proper application for



certification has been submitted to it on behalf of the above named."

79. On November 21, 1996, the State Bureau of Investigation added 135,272 criminal fingerprint cards to the SBI AFIS in Raleigh, North Carolina. These fingerprint cards were for misdemeanor arrests from Mecklenburg County that were not originally submitted to the SBI. Prior to November 21, 1996, the SBI had no arrest record for the Petitioner from Mecklenburg County. This submission provided Respondent for the first time with Petitioner's record in Mecklenburg County.

80. In 1997, Ms. Loman received information from the SBI AFIS that the fingerprint cards which were submitted to the SBI on November 21, 1996 showed an arrest for the Petitioner, Keith Allen Norris.

81. According to Ms. Loman, Mecklenburg County is confusing to requesting agencies as far as the different Mecklenburg County agencies that retain criminal records. These two agencies are in addition to the Mecklenburg County Clerk of Court. Ms. Loman further testified that the records maintained in Mecklenburg County by these two agencies in addition to the Clerk's Office, was something that she was not originally aware of but had to learn.

82. There was no file number or case number attached to Petitioner or his arrest record in Mecklenburg County.

83. Onslow County representatives submitted Petitioner's fingerprints for a Criminal Background Check. Stanley Lewis, Special Agent In Charge of the SBI's Identification Section, authored both Respondent's Exhibits #10 and #17. AFIS is an abbreviation for Automated Fingerprint Identification System.

84. When Respondent's Exhibit #17 was submitted to Mr. Lewis and his staff, the third part of Respondent's Exhibit #17 indicates "NO RECORD." However, SBI is crossed through but FBI is remaining. The SBI AFIS would not, prior to November 21, 1996, have in its inventory the records to support this check. Therefore, the only certification that could be made for a Mecklenburg County misdemeanor arrest is that of an FBI check and that there must be a referral of inquiries from an SBI check to officials in Mecklenburg County for inquiry concerning a misdemeanor arrest. The requested inquiry is sent to the FBI only and Respondent's Exhibit #17 indicated from the FBI inventory of fingerprint files that Petitioner had no arrest record. The "Local ID" on the fingerprint attachment to Respondent's Exhibit #17 is 157574.

85. In 1992 Second Degree Trespass would be characterized as a Class A misdemeanor and is not sufficient by itself to withhold certification. In 1992, Resist, Obstruct and Delay is a Class B misdemeanor. In 1992 the application it would have been dated within five years of Petitioner's hire and would have potentially triggered an investigation into the possible commission of that offense. However, in 1997, the Resist/Obstruct offense would have been older than five years. In 1992, the Respondent could have investigated the possible commission of that offense notwithstanding that there was never a charge or an adjudication by a court of that offense and could have resulted in the possible withholding of certification. In 1997, the alleged offense would have been over five years old.

86. By way of correspondence from the Respondent dated January 26, 1998, addressed to the Criminal Courts Department of Mecklenburg County (Respondent's Exhibit #12) and by correspondence dated March 5, 1998 from Respondent to the Criminal Courts Department of Charlotte, North Carolina (Respondent's Exhibit #11), Respondent asked for further information on the arrest record of Keith Allen Norris. The Respondent specifically requested "certified copies of the charge and warrant, disposition, any sentencing documents, and any other relevant documents." Respondent's Exhibit #11 was returned by the Criminal Courts Department to the Respondent with the notation "No Record found in MECKLENBURG CTY.!"

87. Thereafter Ms. Loman contacted Michael A. Sloop, Court Services Analyst of the Mecklenburg County Court Services Department and learned that there was an arrest record for the Petitioner, Keith Allen Norris, for the offenses of Second Degree Trespass and Resist/Obstruct a Public Officer which occurred on August 3, 1991 and that the arrest record showed that no probable cause was found by the magistrate for both of these charges. Michael A. Sloop, Court Services Analyst, responded in writing on March 13, 1998 (Respondent's Exhibit #13), to the Respondent indicating the following:

Research of the above Mecklenburg County LJD Number reveals that Keith Allen Norris, W/M, DOB: 04/07/67, was arrested in Mecklenburg County on 3 August 1991 for the following Charges: (Respondent's Exhibit #13) The Exhibit indicates that there were two charges. Charge 1 was Trespass-Second Degree. Charge 2 was Resist/Obstruct Public Officer (MISD). The Exhibit further indicates that there was "No Probable Cause" and there was "No testimony on affidavit" and Elements are not present."

88. Mr. Sloop did the search pursuant to Respondent's request where Respondent inquired about Mecklenburg County LID #157574. Court Services of Mecklenburg County is the County agency where most of the arrest records are contained. The Criminal Courts Department is actually the Criminal Division of the Clerk of Superior Court of Mecklenburg County.

89. According to Mr. Sloop, it is possible for the court services to have a criminal record where the Criminal Division of the Mecklenburg County Clerk of Court would not.

90. Mr. Sloop prepared Respondent's Exhibit #18 and compiled the attachment thereto.

91. Respondent's Exhibit #18 attachment shows, according to Mr. Sloop, Petitioner's fingerprints were not immediately taken upon entry into the Mecklenburg County Courthouse, but he was fingerprinted at a later time because of the Petitioner's intoxication. Petitioner's intoxication caused him to have to be set aside upon his entry into the Mecklenburg County Jail because of the need to cooperate with the fingerprinting officer.

92. On Respondent's Exhibit #18 attachment 4, the Magistrate did not find probable cause for the trespass "no testimony on AFA." As to attachment 5, the Magistrate did not find probable cause on resist/obstruct public officer because "the elements are not present."

93. The Mecklenburg County Court Services Department is not a well known agency for the average citizen to contact to determine the existence of any criminal record. Ms. Loman knows of this department because of her experience working with Respondent.

94. After learning about the arrest record for the Petitioner, Ms. Loman contacted the Petitioner on March 17, 1998 and informed him that she had received a record showing a previous arrest in Mecklenburg County, North Carolina on August 3, 1991 and asked the Petitioner to explain why he failed to list these charges in response to question 47 of the personal history statement and to explain the circumstances surrounding the arrest in this case (Respondent's Exhibit Number 14). Petitioner was specifically asked:

- 1) Why you failed to list these charges in response to question #47 on your Personal History Statement?
- 2) Whether you discussed or otherwise divulged this arrest to anyone at the Onslow County Sheriff's Office during your application process, and if so, to whom and when?
- 3) What were the circumstances that arose that caused you to be arrested?
- 4) Are there any other arrests or charges which have not been listed?

95. On March 29, 1998, Petitioner, in a letter that he wrote to Respondent (Respondent's Exhibit #15) in response to Respondent's letter to him of March 17, wrote the following:

My family and I were living in Mecklenburg County at the time of my arrest. Some friends that I had not seen in quite awhile invited me to join them at a nightclub. While at the club, I felt that I had drank too much to drive and lost track of my friends, one of whom had my car keys (our designated driver). While trying to locate the people I came with, the club management asked me to leave and I was escorted outside. I tried to explain that I wished to wait for the others in my party, but the club management had me picked up and taken to jail. No charges were filed against me, however, and I was released that same evening.

96. In the above statement Petitioner stated that he arrived at this club with friends. In his testimony at the hearing, Petitioner stated that he arrived with a single friend. His reference in this letter twice referred to "friends" in the plural. Petitioner stated at the hearing that he had no recollection of the events. He reconciled his testimony with the letter (Respondent's Exhibit #15) by saying that this was his attempt to reconstruct what must have happened on that evening. Petitioner then had the benefit of what other people had indicated had occurred on the evening of March 29. He still had no independent recollection of these events. Petitioner made certain assumptions when he made his explanation to the Respondent in Respondent's Exhibit #15.

97. Petitioner's current knowledge of the law informs him that without probable cause, police authorities cannot retain a person in jail.

98. Petitioner's understanding of a drunk arrest is that individuals who are intoxicated are detained, held in jail, and thereafter, released without arrest or charges being lodged against them as would be evidenced by court papers.



99. The Petitioner notified Sheriff Brown and Major Hinson about receipt of this letter from Ms. Loman. The Onslow County Sheriff's Department attempted to obtain records regarding the Defendant's 1991 arrest in Mecklenburg County by contacting both the Criminal Courts Department (Clerk of Court) 700 East Fourth Street, Suite 4401, Charlotte, NC and the Mecklenburg County Court Services Department, 801 East Fourth Street, Charlotte, NC. Both of these agencies indicated to Major Hinson that no arrest record existed for the Petitioner in Mecklenburg County (Petitioner's Exhibit #3 and #6).

100. Officials of the Onslow County Sheriff's Department submitted Respondent's Exhibit #17 to both the Criminal Courts Department and the Mecklenburg County Court Services Department and the following notation is made thereon: "I have - called both of these agencies + they could not find any record of Mr. Norris. Thanks, Tammy." Submitted with #17 was a set of Petitioner's fingerprints. Also attached is a statement as follows from the Federal Bureau of Investigation, United States Department of Justice, Washington, D.C. also stamped 27<sup>th</sup> and further stamped "NO RECORD FBI IDENTIFICATION SECTION", and initialed.

101. Ms. Loman indicated that there was a dual reason for the Respondent requesting information as to disclosure as contained in numerical paragraph #2 of Respondent's Exhibit #14 where it is asked "Whether you discussed or otherwise divulged this arrest to anyone at the Onslow County Sheriff's Office during your application process, and if so, to whom and when?" The dual purpose of this question, according to Ms. Loman, is to determine whether any other certified officer suggested to the Petitioner not to disclose the information as well as determining whether there was disclosure to the Onslow County Sheriff's Office as to the existence of the circumstances.

102. Ms. Loman, in her testimony, indicated that for those applicants who have not received certification, during the process applications are as a general course, returned to applicants when the Personal History Statement in response to question #47 indicates something different from the Respondent's information as to arrest records based upon their checks. However, if certification has already been issued and subsequent information becomes available, the circumstances are submitted to the Probable Cause Committee without the applicant being permitted the opportunity to correct the record.

103. Mr. Sloop received a request from Major Hinson requesting a search for Keith Norris. According to Mr. Sloop, his agency was having computer problems and could not find any arrest record or information for the Petitioner. According to Mr. Sloop, Major Hinson did not supply Mr. Sloop with the LID number. This request by Major Hinson was made by telephone. Mr. Sloop responded to Major Hinson by way of fax, Petitioner's Exhibit #3. On Petitioner's Exhibit #3, Mr. Sloop says the following: "I couldn't find anything on a Keith Morris or Keith Norris." This response was received by Major Hinson on 12/18/98 (Petitioner's Exhibit #3). This request and response by Mr. Sloop was subsequent to the earlier request with the specific information supplied to the Respondent. Mr. Sloop forgot about the earlier inquiry from the Respondent and was not able to supply the information he supplied to Respondent to Major Hinson.

104. The records of the Mecklenburg County Criminal Division do not have criminal arrest information, but only the cases where probable cause is determined by a Magistrate. The Clerk of Court does not notify inquirers that arrest records without probable cause, must come from the Mecklenburg County Court Services. Generally, the public does not know how to secure arrest records in Mecklenburg County unless they make a direct inquiry of the Mecklenburg County Court Services. The Mecklenburg County Courthouse Clerk's Office records are not based upon fingerprint identification. When a person is arrested, they are not given an LID number. The only means to be certain to secure arrest information from the Mecklenburg County Court Services is with an LID number, which is associated with the fingerprint.

105. Sheriff Brown had attempted to contact NCIC (National Crime Information System), which is a fingerprint identification national system. Nothing was returned from this organization indicating that the Petitioner had been fingerprinted in Mecklenburg County.

106. Major Hinson, by Petitioner's Exhibit #1, informed Ms. Loman of her personal inquiry and attempt to obtain current information on the Petitioner from agencies in Mecklenburg County. Major Hinson's notation on Respondent's Exhibit #17 reads as follows: "I have called both of these agencies and they could not find any record of Mr. Norris." Before writing the notation, Major Hinson actually telephoned the two agencies using the numbers that were circled on Respondent's Exhibit #17. She gave both agencies the information that was attached to Respondent's Exhibit #17 including, according to Major Hinson, the local ID number. Neither agency could find any record on Mr. Norris. Major Hinson telephoned these two agencies on at least three different occasions trying to secure the record that was disclosed to her as not having been listed by the Petitioner. On each one of these calls, she talked to numerous individuals in the different agencies and was switched around to various individuals within the agencies. In response to her inquiries, these agencies faxed various documents to her, all of which indicated that there



was no record for Petitioner.

107. In Major Hinson's correspondence to Julia Loman of June 30, 1998, she writes the following: "We did not and do not recommend that Mr. Norris put any offenses on his Personal History Statement unless we can verify that he was actually ever charged." Major Hinson explained in her testimony that without specific information, it cannot be properly listed on the Respondent's form. As a matter of policy in the Onslow County Sheriff's Department, applicants are informed that if the information cannot be verified by the court records, then it cannot be accurately listed. Petitioner was so informed.

108. Based upon the evidence before the Respondent and the Petitioner's response, the officials of the Respondent submitted the information to a Probable Cause Committee consisting of five members of the Respondent. Based upon the information available to them, the Respondent believed that there was probable cause to charge Petitioner with falsification of his application both in 1992 and in 1997.

109. Even after Major Hinson received narrative information pertaining to an arrest record for the Petitioner in Respondent's possession, she was still unable to secure verification or duplication of the documents that were provided to the Respondent from the various Mecklenburg County agencies who had the records.

110. Prior to appearing before the Respondent's probable cause hearing and again on the date of that hearing, Sheriff Brown, through his agents and employees, attempted to telephone officials in Mecklenburg County to learn whether an arrest record actually existed for the Petitioner in Mecklenburg County in 1992. Sheriff Brown was not informed by any official in Mecklenburg County as to an arrest record for the Petitioner. When Sheriff Brown arrived at the probable cause hearing, he was presented with evidence of the arrest for the first time by way of photographs and fingerprint records from 1991. Prior to the probable cause hearing, Sheriff Brown requested to have copies of the Respondent's information. Respondent denied him this request due to the pending litigation.

111. Major Hinson informed Ms. Loman when the inquiry arose that the information in question had been disclosed to Sheriff Brown in 1992.

112. Major Hinson, in her correspondence of June 30, 1998, to Respondent (Petitioner's Exhibit #1) indicated that the Petitioner had not been placed in jail. Major Hinson explained that she believed that Petitioner was actually never incarcerated in the Mecklenburg County Jail but only in a holding area.

113. Major Hinson has been through Basic Law Enforcement Training where she learned the fundamentals of background investigations. Major Hinson also worked under Major Koontz prior to the Major's retirement and was trained by Major Koontz.

114. Major Hinson had a conversation with the Petitioner as to the details of the events leading to his incarceration in 1992. Petitioner did not recount to Major Hinson that Petitioner had been handcuffed, physically restrained, or fingerprinted or photographed.

115. Major Hinson recounted that based upon her experience in criminal records checks that the type of arrest information suggested by Petitioner's circumstances is usually disclosed in the Criminal History Check. In Onslow County, this information is contained in the Onslow County Courthouse. Major Hinson has never had more difficulty in obtaining this type of record than in the Petitioner's circumstance and that this was the first time that she was never able to procure such a record.

116. By way of Respondent's Exhibit #16, Respondent officially notified Petitioner of the existence of the probable cause and they indicated the following:

Probable cause exists to believe you are not in compliance with the aforementioned rules due to your failure to indicate in response to question #47 on two separate Personal History Statements (Form F-3), which you completed and had notarized on July 14, 1992 and June 24, 1997, respectively, that you had been arrested or otherwise criminally charged in Mecklenburg County on August 3, 1991 for the misdemeanor offense Resist/Obstruct a Public Officer and Second Degree Trespass.

Based upon the above facts and the Commission's rules, probable cause exists to believe your certification should be revoked for a period of five years from the final date of revocation as specified in Rule .0205. However, no action to revoke your certification is being taken at this time in order to allow you the opportunity to request a hearing in this matter.

117. On or about November 18, 1998, at the request of Major Hinson as to a criminal record for the Petitioner in the Mecklenburg County Clerk for that Clerk's Office returned a certification to Major Hinson with the following box marked with an "X": "No record was indexed by the name given above." (Petitioner's Exhibit #6)

118. Major Hinson had spoken to Mr. Sloop on several occasions by telephone, the last of which was on 12/18/98. Mr. Sloop had prepared a memorandum and faxed it to Major Hinson (Petitioner's Exhibit #3). According to Major Hinson, at no time was she informed by Mr. Sloop or anyone else that there was a computer problem in Mecklenburg County.

119. Major Hinson had secured from the attachments to Petitioner's Exhibit #5, Petitioner's Mecklenburg County Local ID number 157574. In her conversations with Mr. Sloop, Major Hinson testified that she always referred to that local ID number but the records for Mr. Norris were never produced. Also, when Mecklenburg County could not produce any records under the local ID number, Major Hinson referred the agency to other ID numbers on Petitioner's Exhibit #5, none of which produced a copy of any record.

120. One of the responses to Major Hinson was provided by Michael Sloop on 12-18-98 and is marked as Petitioner's Exhibit #3. Major Hinson testified that she had supplied the local ID number to Mr. Sloop. Even with the local ID number, Mr. Sloop's agency was not able to produce a record for Petitioner.

121. Mr. Sloop, in his records, retained the original fax to Major Hinson on a blue post-it note which was retained by Mr. Sloop. The following information is recorded: 1. His name; 2. Date of birth; 3. the charge; 4. Major Hinson's name and phone number. Mr. Sloop did not record on the blue post-it slip, (which is not in evidence), the local identification number. Mr. Sloop ordinarily would have included this local ID number because of its importance.

122. Major Hinson, in advising applicants not to list charges unless they can be verified by records, was following a policy which was learned from Major Koontz.

123. No one from the Respondent ever advised Major Hinson of a similar policy with the Respondent. Major Hinson is not aware of any similar policy incorporated in the *Administrative Code*.

124. Petitioner graduated from basic law enforcement training two weeks prior to the date of the start of this contested case hearing. In basic law enforcement training, he was given basic information and some legal training in the legal definitions of arrests and charges. However, Petitioner did complete Basic Detention Officer School Courses where he took legal rights and responsibilities.

125. Petitioner, as part of his standard coursework, taken as a prerequisite to certification, was instructed in the role and purpose of the Respondent.

126. Sheriff Brown's employment assessment of Petitioner is that he is "a great employee." He is very bright but rather passive. His service as a Detention Officer in the jail of Onslow County was exemplary because of his ability to get along with the inmates. When the Petitioner reapplied the second time for a position with the Onslow County Sheriff's Department, Sheriff Brown had no hesitation to hire him.

127. The undersigned has had the opportunity during the course of this hearing to view the credibility of each witness as he/she came to the witness stand. The undersigned observed the Petitioner's manner, appearance and demeanor. The undersigned finds that the Petitioner's testimony is consistent with other believable evidence in the case and finds the Petitioner's testimony to be reasonable, believable and credible.

128. The Petitioner did not knowingly and designedly by any means of false pretense, deception, defraudation, misrepresentation or cheating obtain or attempt to obtain credit, training or certification from the commission or the North Carolina Criminal Justice Education and Training Standards Commission.

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

#### CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has jurisdiction of this contested case pursuant to Chapter 17E and 150B

of the North Carolina General Statutes.

2. 12 N.C.A.C. 10B .0204(c)(1) and (2) provides the Respondent may revoke, suspend, or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer:

- (1) has knowingly made a material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards; or
- (2) has knowingly and designedly by any means of false pretense, deception, defraudation, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission.

3. With respect to the Personal History Statement that the Petitioner prepared on July 14, 1992, any failure to disclose the facts surrounding the Petitioner's arrest in Charlotte, North Carolina on August 3, 1991, occurred through no affirmative misrepresentation by the Petitioner but through a misunderstanding of the facts and circumstances surrounding the Petitioner's arrest in Mecklenburg County as a result of a lack of understanding of the arrest process in Mecklenburg County and as a result of advice given to him by Sheriff Brown. The undersigned concludes that the Petitioner did not violate 12 N.C.A.C. 10B .0204(c)(1) and (2).

4. With respect to the personal history statement that the Petitioner prepared on June 24, 1997, the Petitioner's failure to disclose the details of the August 3, 1991 arrest in Mecklenburg County, North Carolina occurred as a result of the Petitioner's misunderstanding of the facts and circumstances surrounding that arrest and as a result of the Petitioner's belief that an arrest did not occur at that time as a result of advice given to him by Sheriff Brown. The undersigned concludes the Petitioner did not violate 12 N.C.A.C. 10B .0204(c)(1) and (2).

5. The undersigned recognizes the importance to the Respondent of accurate information to be recorded in the application process as to criminal history, but under the circumstances, the undersigned cannot find that the Petitioner's failure to disclose was either a material misrepresentation (omission) or a knowing misrepresentation (omission) made with the intent to deceive or defraud.

6. The undersigned has reviewed the entire record and the conclusions of law applied herein are based upon the preponderance or the greater weight of the evidence in the whole record.

7. Petitioner did not knowingly make a material misrepresentation. Knowingly is consciously and intentionally. This element of the offense may be satisfied only by actual knowledge on the part of the Petitioner. A mere mistake on the part of the Petitioner is not enough to constitute knowledge.

8. A material misrepresentation is one that is a substantive misrepresentation. By the fact that Respondent in 1997 would not have considered Petitioner's misdemeanor record that was older than five years would make the omission of listing the offenses in 1997 immaterial. Had the Petitioner listed the offenses in 1997, it would have been beyond the five year period and, therefore, this omission is insubstantial. However, in the 1992 application, the failure to list the alleged misdemeanor arrest was material inasmuch as the Respondent had an interest by rule in investigating at least one of the misdemeanor offenses at its discretion.

9. A misrepresentation must be definite and specific; an untrue statement of fact. Petitioner did not make a misrepresentation as he neither in 1992 or in 1997 made any affirmative statement as to the conditions surrounding his incarceration in 1991. In fact, in the 1992 application, Petitioner left question #47 blank. Inasmuch as a material misrepresentation must be an affirmative statement, none was made by Petitioner in either of the Personal History Statements. The issue then becomes whether an omission under the allegations can be a material misrepresentation knowingly made? There is no duty to speak until such time as one possesses information and is certain as to that information. The Petitioner did not omit or conceal a fact as he was justifiably uncertain as to the legal definitions of his arrest both in 1992 and 1997 as to whether the circumstances constituted an arrest. Further, Petitioner, based upon the advice and counsel of Sheriff Brown, believed that his incarceration was made pursuant to the "drunk assist" statute under the provisions of G.S. 122C-303. Petitioner was not aware in 1992 of what a "drunk assist" was and based upon a disclosure of the pertinent circumstances to Sheriff Brown and other Officials at the Onslow County Sheriff's Department, who assisted him with his employment application, neither believed that Petitioner was arrested but rather detained as a "drunk assist." Petitioner neither made a misrepresentation or omission.



10. Many factors in Petitioner's mind led to his uncertainty as to whether he had been arrested, some of which are as follows: he was not charged with a crime as there was no probable cause; he was not required to post bond; he was not required to appear in court; he was not required to pay a fine; he was not further detained but immediately released after appearing before the Magistrate; and he was provided no magistrate or jail documentation evidencing a legal confinement, arrest or charge or otherwise defining the events surrounding the morning of August 3, 1991, from which he could have legally determined his status on that occasion. Petitioner's uncertainty as to these events cannot constitute a misrepresentation or omission.

11. In the 1997 application, the same factors prevailed except that he had received basic law enforcement training. No evidence was presented at this hearing as to the specific content of any course, text reference or what was learned by the Petitioner in connection with arrests.

12. Respondent accepted the 1992 application and presumably conducted an independent check. Petitioner was justified in believing that because of the lack of a record of such event and his dependency upon the public records of Mecklenburg County (or lack thereof), that he had not been arrested but merely detained. Members of the public are entitled to rely on the existence or non-existence of public records or at least a presumption flowing from the existence or non-existence of public records when these individuals, or individuals acting on their behalf, actively search public records for the existence or non-existence of a record. The retention and availability of public records retained in the Register of Deeds Offices or the Clerk of Courts Offices are one of the major reasons that these offices exist. The public is entitled and should legally be entitled to rely upon these offices to accurately report, when requested, the existence or non-existence of public records and documents. In the event that a public record does not disclose a legal arrest or charges, then a member of the public seeking that information, after a diligent search, should be able to rely on the lack of a record and not be forever adjudicated as one who has lied by deceit, fraud or misrepresentation for not disclosing information to which there is no discoverable record. The lack of a record should have created in the Petitioner's mind a presumption that the record and underlying arrest did not exist or occur, particularly in light of other relevant circumstances which would also justify a reasonable mind to believe that the event did not legally occur. Personnel in the Onslow County Sheriff's Department, acting on Petitioner's behalf in 1992 and again in 1998, actively searched the public records of Mecklenburg County and other agencies to secure a record. None was found. Petitioner was entitled to rely on the lack of a public record, particularly in light of other corroborating circumstances, to provide to him, at a minimum, a presumption that an arrest and charges did not exist.

13. Petitioner completed both Personal History Statements, to the best of his knowledge and belief. If an error was made it was an "honest mistake." Not all mistakes rise to the level of lying, deceit and fraud just as all injurious conduct does not rise to the level of negligence, intentional or culpable liability. There are legal standards that must be applied to distinguish legal misconduct from otherwise legal conduct.

14. Placing a person in custody until sober under N.C.G.S. Sec. 122C-303 is not an arrest. State v. Cooke, 49 N.C.App. 384, 271 S.E.2d 561 (1980).

15. The Petitioner did not knowingly make a material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission.

16. Evidence of the lack of Petitioner's intent or scienter is evidenced by his full disclosure of the DUI arrest in the 1997 Personal History Statement. This arrest and charge also occurred at a time when he was not in the employment of the Onslow County Sheriff's Department. In response to the Sheriff's question as to his interim arrest record, Petitioner fully disclosed the circumstances surrounding the DUI arrest and what was necessary for him to return to the employment of the Onslow County Sheriff's Department. This disclosure reflected the same or similar conduct on Petitioner's part in 1992 when the Sheriff asked him about his criminal conduct and behavior wherein he disclosed the circumstances to the best of his knowledge and belief as to what happened in Mecklenburg County in 1991. The inclusion of the arrest for DUI in 1997 is evidence of a contrary intent from concealment and evidences an intent on the part of the Petitioner to disclose potentially embarrassing information. The Petitioner's attributable reason for not disclosing the incident in 1992 was presumptively embarrassment. Had embarrassment been a motive, Petitioner had the identical incentive not to disclose the DUI arrest in 1997 and yet he did.

17. Petitioner could also rely on the Respondent's inaction to his 1992 application. By mistake or inadvertence, Petitioner left question #47 blank on the 1992 Personal History Statement. Petitioner could assume that Respondent was not concerned with the completed question #47 or that Respondent's own criminal history check confirmed that there was not an arrest record concerning Petitioner in Mecklenburg County in 1992. The Respondent's failure to return the incomplete questionnaire to either the Petitioner or the Onslow County Sheriff's Department evidences an acceptance of Petitioner's incomplete application and that Respondent did not justifiably rely on the omission (a key element of fraud). The Respondent's "mistake" could have led

Petitioner to believe that his application was a least complete in 1992. In fact, Respondent's certification documents find specifically that a proper application has been submitted.

18. Petitioner was intoxicated at all relevant times. Because of Petitioner's intoxication, he did not recall the events with such clarity as to even know the facts to apply to a legal conclusion about an arrest or charge. To what degree is Petitioner's level of intoxication relevant to the element of an intent to deceive Respondent? Petitioner's statement as to the Petitioner's level of intoxication indicates that Petitioner was extremely intoxicated. Respondent's evidence through Deputy Rushing indicates a possible lesser degree of intoxication, but all of the evidence agrees that on the night in question the Petitioner was intoxicated. Petitioner's testimony lends credence to a level of intoxication that could have led to a blackout of memory as to the details of the events of August 3, 1991. The evidence is inconclusive on this point but certainly goes to the question of the Petitioner's intent to conceal relevant information. The delay in fingerprinting and photographing Petitioner on August 3, 1991, indicates a level of intoxication, which could be explained by disruptive behavior or give rise to an assumption of extreme intoxication as testified to by the Petitioner, who was found to be credible. The lack of memory of the events on the part of Petitioner negates a finding of intent to deceive or conceal a material fact. The undersigned concludes that the Petitioner's ability to clearly recall the events of August 3, 1991, are greatly placed in question and to a degree are attributable to his level of intoxication. The Petitioner cannot disclose what he does not recall. He really had no other source of information outside of the criminal records in which to provide the details of what occurred outside the nightclub on that night.

19. To the degree that the evidence indicates that Sheriff Brown's or Major Hinson's veracity were brought into question, I specifically find that both Sheriff Brown and Major Hinson testified truthfully in this hearing.

20. Petitioner, on the night of August 3, 1991, was arrested by Officer Rushing.

21. Respondent's Exhibit #13 evidences a public record in Mecklenburg County Court Services Department, which indicates that the Petitioner was charged with Second Degree Trespass and Resisting/Obstructing a Public Officer on the night of August 3, 1991. The same record indicates that there was no probable cause for either of the charges found by the Magistrate. Further, according to the document, the transporting officer was R.A. Gidley. There is no evidence that either Deputy Rushing or Officer Gidley had a warrant or themselves issued a written citation. Petitioner's testimony was that he was given no documentation of an arrest or charge. This evidence is credible. Inasmuch as the best record of the charge would be documentation of a warrant, citation or some other paper writing indicating the charge, then the business record produced incorrectly reflects what occurred or is incorrect as a matter of law. The undersigned concludes that the Petitioner, on the morning of August 3, 1991, was not formally charged as there was no documentation handed to the Petitioner of these charges. Further, the undersigned finds that Petitioner was released later in the day of August 3, 1991, with a finding of no probable cause by a magistrate which is a prerequisite to the existence of a formal or legal charge. Therefore, Petitioner was not required to list these charges on either of Respondent's applications.

22. "Knowingly" means willfully, intentionally and consciously. "Designedly" means on purpose or intentionally. "False pretense" means a designed misrepresentation of existing fact. "Deception" means an intentional misleading by falsehood. "Defraudation" means privation (a taking away or withholding) by fraud. "Misrepresentation" means an intentional false statement. "Cheating" means defrauding. Under any of the foregoing definitions, the Petitioner has not, under the facts of this case, committed any of the violations as contained in 12 NCAC 10B .0204(c)(2).

23. Petitioner has not knowingly violated 12 NCAC 10B .0204(c)(1) per the above definition.

24. Notwithstanding any sanction that the Respondent in its final decision might issue against this Petitioner (which would likely under the circumstances of this case be minor given the circumstances of this case), the undersigned concluded that the greatest sanction of all would be a finding by Respondent concerning this Petitioner's lack of character for truthfulness in a official application to Respondent. In the event that this Petitioner retains his certification with such a final adjudication on his record and were he to be subsequently involved in a criminal proceeding where his credibility would be placed into issue, then a finding that this Petitioner had knowingly lied by means of false pretense, deception, defraudation, misrepresentation or cheating, could be a finding that could be used in a future criminal prosecution under the Rules of Evidence [ostensibly Rule 608(b)] to permit inquiry into specific acts of misconduct sufficient to impeach his credibility as a future witness. Among the types of conduct most widely accepted as falling into this category are use of false identity, making false statements on affidavits, applications or government forms (including tax returns), giving false testimony, attempting to corrupt or cheat others, and attempting to deceive or defraud others. See *State v. Morgan*, 315 NC 626, 34 SE2d 84 (1986).

Based upon the foregoing Stipulations, Findings of Fact and Conclusions of Law the undersigned makes the following:

**PROPOSAL FOR DECISION**

That the Petitioner shall retain his present law enforcement certification and that the Respondent shall take no action against the Petitioner to revoke said certification or otherwise sanction Petitioner or adjudicate Petitioner as a wrongdoer for violation of Respondent's rules.

**NOTICE**

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions and proposed findings of fact and to present oral and written arguments to the agency. N.C.G.S. § 150B-40(c).

A copy of the final agency decision or order shall be served upon each party personally or by certified mail addresses to the party at the latest address given by the party to the agency and a copy shall be furnished to his attorney of record. N.C.G.S. § 150B-42(a). It is requested that the agency furnish a copy to the Office of Administrative Hearings.

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

This the 29<sup>th</sup> day of July, 1999.

---

Julian Mann, III  
Chief Administrative Law Judge





# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

This index provides information related to notices, rules and other documents published in the Register. 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. SF = Rule has a substantial economic impact of at least \$5,000,000 in a 12-month period. \* = Rule-making agency has determined that the rule does not impact state or local funds and does not have a substantial economic impact. See G.S. 150B-21.4.

## ACUPUNCTURE, LICENSING BOARD

21 NCAC 01 .0101 13:22 NCR 1820 14:03 NCR 243 \*

## ADMINISTRATION

### Council for Women, North Carolina

1 NCAC 17 13 19 NCR 1606

### Indian Affairs, Commission of

1 NCAC 15 .0201 13:02 NCR 175

1 NCAC 15 .0205 13:02 NCR 175

1 NCAC 15 .0206 13:02 NCR 175

1 NCAC 15 .0212 13:02 NCR 175

1 NCAC 15 .0213 13:02 NCR 175

### Non-Public Education

1 NCAC 40 .0101

1 NCAC 40 .0102

1 NCAC 40 .0103

1 NCAC 40 .0201

1 NCAC 40 .0202

1 NCAC 40 .0203

13:05 NCR 521  
14:04 NCR 311  
13:05 NCR 521  
14:04 NCR 311  
13:05 NCR 521  
13:13 NCR 1057  
14:04 NCR 311  
13:05 NCR 521  
13:13 NCR 1057  
14:04 NCR 311  
13:05 NCR 521  
13:13 NCR 1057  
14:04 NCR 311  
13:05 NCR 521  
13:13 NCR 1057

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
1 NCAC 40 .0204		14.04 NCR 311 13.05 NCR 521 13.13 NCR 1057 14.04 NCR 311								
<b>Purchase and Contract Division</b>										
1 NCAC 05B .0401		12.17 NCR 1611	13.08 NCR 627	*						
1 NCAC 05B .0403	13.04 NCR 360		13.08 NCR 627	*						
1 NCAC 05C	13.04 NCR 360									
1 NCAC 05D	13.04 NCR 360									
<b>State Employees Combined Campaign</b>										
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	*						
<b>AGRICULTURE</b>										
2 NCAC 20B .0104	13.13 NCR 1040		13.18 NCR 1503	*	Object	07/15/99				
2 NCAC 43L .0309	13.14 NCR 1109		13.20 NCR 1718	*	Object	07/15/99				
<b>Consumer Services</b>										
2 NCAC 54 .0101	13.14 NCR 1119	13.14 NCR 1119	13.20 NCR 1718	*	Approve	07/15/99				
2 NCAC 54 .0102	13.14 NCR 1119	13.14 NCR 1119	13.20 NCR 1718	*	Approve	07/15/99				
2 NCAC 54 .0103	13.14 NCR 1119	13.14 NCR 1119	13.20 NCR 1718	*	Object	07/15/99				
2 NCAC 54 .0104	13.14 NCR 1119	13.14 NCR 1119	13.20 NCR 1718	*	Approve	07/15/99	*			
2 NCAC 54 .0105	13.14 NCR 1119	13.14 NCR 1119	13.20 NCR 1718	*	Object	07/15/99				
<b>Pesticide Board</b>										
2 NCAC 09K .0214	13.14 NCR 1109		13.20 NCR 1717	*	Approve	07/15/99	*			
2 NCAC 09L .0502	14.01 NCR 4									
2 NCAC 09L .1201	14.01 NCR 4									



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
Veterinary Board										
2 NCAC 52B .0207	13:23 NCR 1946	13:23 NCR 1946	14:03 NCR 128	*						
2 NCAC 52B .0302	13:23 NCR 1901		14:03 NCR 128	*						
2 NCAC 52E .0209	13:23 NCR 1901		14:03 NCR 128	*						
APPRAISAL BOARD										
21 NCAC 57A .0305	13:01 NCR 3		13:05 NCR 513	*	Object Approve	11/19/98 03/18/99	*		14:01 NCR 48	
CHIROPRACTIC										
21 NCAC 10 .0203		12:23 NCR 2098	13:14 NCR 1117	*	Approve	04/15/99	*		14:02 NCR 84	
COMMERCE										
4 NCAC 01E .0104	11:09 NCR 569		13:08 NCR 652	*	Object Approve	12/17/98 01/21/99	*		13:22 NCR 1868	
4 NCAC 01F	11:09 NCR 569									
4 NCAC 01H	11:09 NCR 569									
4 NCAC 01I .0101	11:09 NCR 569		13:08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 01I .0101		13:15 NCR 1224	13:20 NCR 1719	L/S						
4 NCAC 01I .0102	11:09 NCR 569		13:08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 01I .0102		13:15 NCR 1224	13:20 NCR 1719	*						
4 NCAC 01I .0201	11:09 NCR 569		13:08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 01I .0201		13:15 NCR 1224	13:20 NCR 1719	*						
4 NCAC 01I .0202	11:09 NCR 569		13:08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 01I .0202		13:15 NCR 1224	13:20 NCR 1719	L/S						
4 NCAC 01I .0301	11:09 NCR 569		13:08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 01I .0301		13:15 NCR 1224	13:20 NCR 1719	*						
4 NCAC 01I .0302	11:09 NCR 569		13:08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 01I .0302		13:15 NCR 1224	13:20 NCR 1719	L/S						
4 NCAC 01I .0303	11:09 NCR 569		13:08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 01I .0303		13:15 NCR 1224	13:20 NCR 1719	*						
4 NCAC 01I .0304	11:09 NCR 569		13:08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 01I .0304		13:15 NCR 1224	13:20 NCR 1719	*						
4 NCAC 01I .0401	11:09 NCR 569		13:08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 01I .0401		13:15 NCR 1224	13:20 NCR 1719	*						
4 NCAC 01I .0402	11:09 NCR 569		13:08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 01I .0402		13:15 NCR 1224	13:20 NCR 1719	L/S						
4 NCAC 01I .0403	11:09 NCR 569		13:08 NCR 652	*	Agcy withdrew	12/17/98				

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
4 NCAC 011 .0403		13.15 NCR 1224	13.20 NCR 1719	*						
4 NCAC 011 .0404	11 09 NCR 569		13.08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 011 .0404		13.15 NCR 1224	13.20 NCR 1719	*						
4 NCAC 011 .0405	11 09 NCR 569		13.08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 011 .0405		13.15 NCR 1224	13.20 NCR 1719	*						
4 NCAC 011 .0501	11 09 NCR 569		13.08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 011 .0501		13.15 NCR 1224	13.20 NCR 1719	1/S						
4 NCAC 011 .0502	11 09 NCR 569		13.08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 011 .0502		13.15 NCR 1224	13.20 NCR 1719	1/S						
4 NCAC 011 .0503	11 09 NCR 569		13.08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 011 .0503		13.15 NCR 1224	13.20 NCR 1719	1/S						
4 NCAC 011 .0601	11 09 NCR 569		13.08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 011 .0601		13.15 NCR 1224	13.20 NCR 1719	*						
4 NCAC 011 .0701	11 09 NCR 569		13.08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 011 .0701		13.15 NCR 1224	13.20 NCR 1719	*						
4 NCAC 011 .0801	11 09 NCR 569		13.08 NCR 652	*	Agcy withdrew	12/17/98				
4 NCAC 011		13.15 NCR 1224	13.20 NCR 1719	*						
4 NCAC 01K .0102	11 09 NCR 569		13.08 NCR 652	*	Object	12/17/98	*		13.22 NCR 1868	
4 NCAC 01K .0103	11 09 NCR 569		13.08 NCR 652	*	Approve	01/21/99				
4 NCAC 01K .0302	11 09 NCR 569		13.08 NCR 652	*	Object	12/17/98	*		13.22 NCR 1868	
4 NCAC 01K .0402	11 09 NCR 569		13.08 NCR 652	*	Approve	01/21/99				
				*	Object	12/17/98	*		13.22 NCR 1868	
				*	Approve	01/21/99				
<b>Banking Commission</b>										
4 NCAC 03B .0101	N/A		N/A	N/A	Object	10/22/98				
4 NCAC 03B .0102	N/A		N/A	N/A	Approve	03/18/99			14.01 NCR 48	
4 NCAC 03B .0103	N/A		N/A	N/A	Object	10/22/98				
4 NCAC 03B .0103	N/A		N/A	N/A	Approve	03/18/99			14.01 NCR 48	
4 NCAC 03H .0102	N/A		N/A	N/A	Object	10/22/98			14.01 NCR 48	
4 NCAC 03H .0102	N/A		N/A	N/A	Approve	03/18/99				
4 NCAC 03L .0101	13.24 NCR 1997		14.04 NCR 274	*	Object	10/22/98			14.01 NCR 48	
4 NCAC 03L .0102	13.24 NCR 1997		14.04 NCR 274	*	Approve	03/18/99				
4 NCAC 03L .0201	13.24 NCR 1997		14.04 NCR 274	*	Object	10/22/98			14.01 NCR 48	
4 NCAC 03L .0202	13.24 NCR 1997		14.04 NCR 274	*	Approve	03/18/99				

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
4 NCAC 03L 0301	13.24 NCR 1997		14.04 NCR 274	*						
4 NCAC 03L 0302	13.24 NCR 1997		14.04 NCR 274	*						
4 NCAC 03L 0303	13.24 NCR 1997		14.04 NCR 274	*						
4 NCAC 03L 0401	13.24 NCR 1997		14.04 NCR 274	*						
4 NCAC 03L 0402	13.24 NCR 1997		14.04 NCR 274	*						
4 NCAC 03L 0403	13.24 NCR 1997		14.04 NCR 274	*						
4 NCAC 03L 0404	13.24 NCR 1997		14.04 NCR 274	*						
4 NCAC 03L 0405	13.24 NCR 1997		14.04 NCR 274	*						
4 NCAC 03L 0501	13.24 NCR 1997		14.04 NCR 274	*						
4 NCAC 03L 0502	13.24 NCR 1997		14.04 NCR 274	*						
4 NCAC 03L 0601	13.24 NCR 1997		14.04 NCR 274	*						
4 NCAC 03L 0602	13.24 NCR 1997		14.04 NCR 274	*						
4 NCAC 03L 0603	13.24 NCR 1997		14.04 NCR 274	*						
4 NCAC 03L 0604	13.24 NCR 1997		14.04 NCR 274	*						
4 NCAC 03L 0701	13.24 NCR 1997		14.04 NCR 274	*						
4 NCAC 03L 0702	13.24 NCR 1997		14.04 NCR 274	*						

## Cape Fear River Navigation and Pilotage Commission

4 NCAC 15 0119	14.03 NCR 125
4 NCAC 15 0120	14.03 NCR 125
4 NCAC 15 0121	14.03 NCR 125

## Industrial Commission

Public Notice - Hospital Fees for Workers' Compensation Cases

## COMMUNITY COLLEGES

23 NCAC 02B 0104	13.10 NCR 804		13.22 NCR 1849	*
23 NCAC 02C 0307	13.05 NCR 524			
23 NCAC 02C 0503	13.10 NCR 815		13.22 NCR 1849	*
23 NCAC 02C 0504	13.10 NCR 815		13.22 NCR 1849	*

14.01 NCR 2



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
23 NCAC 02C .0505		13.10 NCR 815	13.22 NCR 1849	*						
23 NCAC 02D .0323	13.19 NCR 1609		14.04 NCR 304	*						
23 NCAC 02D .0324	13.19 NCR 1609		14.04 NCR 304	*						
<b>COSMETIC ART EXAMINERS</b>										
21 NCAC 14A .0101	13.14 NCR 1114	13.14 NCR 1157	13.19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14A .0103	13.14 NCR 1114		13.19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14A .0104	13.14 NCR 1114									
21 NCAC 14A .0105		13.14 NCR 1157	13.19 NCR 1652	*	Approve	06/17/99				
21 NCAC 14C .0202	13.14 NCR 1114		13.19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14F .0101	13.14 NCR 1114		13.19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14F .0105	13.14 NCR 1114		13.19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14G .0103		13.14 NCR 1157	13.19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14G .0113	N/A		N/A	N/A	Approve	03/18/99			14.01 NCR 48	
21 NCAC 14H .0112		13.16 NCR 1263	13.21 NCR 1794	*	Approve	07/15/99	*			
21 NCAC 14H .0118		13.16 NCR 1263	13.21 NCR 1794	*	Approve	07/15/99				
21 NCAC 14I .0104	13.14 NCR 1114		13.19 NCR 1652	*	<b>Object</b>	<b>06/17/99</b>				
21 NCAC 14I .0107	13.14 NCR 1114		13.19 NCR 1652	*	<b>Object</b>	<b>06/17/99</b>				
21 NCAC 14I .0109	13.14 NCR 1114		13.19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14J .0103		13.14 NCR 1157	13.19 NCR 1652	*	Approve	06/17/99				
21 NCAC 14J .0208	13.14 NCR 1114		13.19 NCR 1652	*	<b>Object</b>	<b>06/17/99</b>				
21 NCAC 14J .0501	13.14 NCR 1114		13.19 NCR 1652	*	<b>Object</b>	<b>06/17/99</b>				
21 NCAC 14K .0102		13.14 NCR 1157	13.19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14K .0107		13.14 NCR 1157	13.19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14L .0101	13.14 NCR 1114		13.19 NCR 1652	*	<b>Object</b>	<b>06/17/99</b>				
21 NCAC 14L .0105	13.14 NCR 1114	13.14 NCR 1157	13.19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14L .0109		13.14 NCR 1157	13.19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14L .0210	N/A		N/A	N/A	Approve	03/18/99			14.01 NCR 48	

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 14L .0214	N/A		N/A	N/A	Approve	03/18/99				
21 NCAC 14L .0216		13:14 NCR 1157	13:19 NCR 1652	*	Approve	06/17/99	*		14:01 NCR 48	
21 NCAC 14L .0303	13:14 NCR 1114		13:19 NCR 1652	*	Agcy Withdraw	06/17/99				
21 NCAC 14N .0101	13:14 NCR 1114		13:19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14N .0102	13:14 NCR 1114		13:19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14N .0103	13:14 NCR 1114	13:14 NCR 1157	13:19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14N .0104		13:14 NCR 1157	13:19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14N .0105	13:14 NCR 1114		13:19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14N .0108	13:14 NCR 1114		13:19 NCR 1652	*	Approve	06/17/99				
21 NCAC 14N .0110		13:14 NCR 1157	13:19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14N .0112	13:14 NCR 1114		13:19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14N .0113	13:14 NCR 1114		13:19 NCR 1652	*	<b>Object</b>	<b>06/17/99</b>				
21 NCAC 14N .0601		13:14 NCR 1157	13:19 NCR 1652	*	Approve	06/17/99				
21 NCAC 14N .0602		13:14 NCR 1157	13:19 NCR 1652	*	Approve	06/17/99				
21 NCAC 14N .0701		13:14 NCR 1157	13:19 NCR 1652	*	Approve	06/17/99				
21 NCAC 14N .0702		13:14 NCR 1157	13:19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14O .0101		13:14 NCR 1157	13:19 NCR 1652	*	<b>Object</b>	<b>06/17/99</b>				
21 NCAC 14O .0102		13:14 NCR 1157	13:19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14O .0103		13:14 NCR 1157	13:19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14O .0104		13:14 NCR 1157	13:19 NCR 1652	*	<b>Object</b>	<b>06/17/99</b>				
21 NCAC 14O .0105		13:14 NCR 1157	13:19 NCR 1652	*	Agcy Withdraw	06/17/99				
21 NCAC 14O .0106		13:14 NCR 1157	13:19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14O .0107		13:14 NCR 1157	13:19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14P .0101		13:14 NCR 1157	13:19 NCR 1652	*	Approve	06/17/99	*			
21 NCAC 14P .0102		13:14 NCR 1157	13:19 NCR 1652	L	Approve	06/17/99	*			
21 NCAC 14P .0103		13:14 NCR 1157	13:19 NCR 1652	L	Approve	06/17/99	*			
21 NCAC 14P .0104		13:14 NCR 1157	13:19 NCR 1652	L	Approve	06/17/99	*			

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 14P .0105		13.14 NCR 1157	13.19 NCR 1652	L	Object	06/17/99				
21 NCAC 14P .0106		13.14 NCR 1157	13.19 NCR 1652	L	Approve	06/17/99				
21 NCAC 14P .0107		13.14 NCR 1157	13.19 NCR 1652	L	Approve	06/17/99				
21 NCAC 14P .0108		13.14 NCR 1157	13.19 NCR 1652	L	Approve	06/17/99				
21 NCAC 14P .0109		13.14 NCR 1157	13.19 NCR 1652	L	Approve	06/17/99				
21 NCAC 14P .0110		13.14 NCR 1157	13.19 NCR 1652	L	Approve	06/17/99	*			
21 NCAC 14P .0111		13.14 NCR 1157	13.19 NCR 1652	L	Object	06/17/99				
21 NCAC 14P .0112		13.14 NCR 1157	13.19 NCR 1652	L	Object	06/17/99				
21 NCAC 14P .0113		13.14 NCR 1157	13.19 NCR 1652	L	Object	06/17/99				
21 NCAC 14P .0114		13.14 NCR 1157	13.19 NCR 1652	L	Object	06/17/99				
21 NCAC 14P .0115		13.14 NCR 1157	13.19 NCR 1652	L	Approve	06/17/99	*			
21 NCAC 14P .0116		13.14 NCR 1157	13.19 NCR 1652	L	Object	06/17/99				
<b>DENTAL EXAMINERS</b>										
21 NCAC 16G .0101	13.10 NCR 804		13.15 NCR 1218	*						
21 NCAC 16G .0102	13.10 NCR 804		13.15 NCR 1218	*						
21 NCAC 16G .0103	13.10 NCR 804		13.15 NCR 1218	*						
21 NCAC 16H .0101	12.24 NCR 2203									
21 NCAC 16H .0102	12.24 NCR 2203									
21 NCAC 16H .0103	12.24 NCR 2203		13.15 NCR 1218	*						
21 NCAC 16H .0104	12.24 NCR 2203		13.15 NCR 1218	*						
21 NCAC 16H .0201	12.24 NCR 2203		13.15 NCR 1218	*						
21 NCAC 16H .0202	12.24 NCR 2203		13.15 NCR 1218	*						
21 NCAC 16H .0203	12.24 NCR 2203		13.15 NCR 1218	*						
21 NCAC 16H .0204	12.24 NCR 2203		13.15 NCR 1218	*						
21 NCAC 16H .0205	12.24 NCR 2203		13.15 NCR 1218	*						
21 NCAC 16H .0206	12.24 NCR 2203		13.15 NCR 1218	*						
21 NCAC 16I .0004	11.20 NCR 1538									



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 161 .0005	11-20 NCR 1538									
21 NCAC 16M .0101		13-11 NCR 910	13-15 NCR 1218	*	Object	06/17/99	*			
					Approve	07/15/99				
21 NCAC 16P .0101	13-10 NCR 804									
21 NCAC 16P .0102	13-10 NCR 804									
21 NCAC 16P .0103	13-10 NCR 804									
21 NCAC 16P .0104	13-10 NCR 804									
21 NCAC 16P .0105	13-10 NCR 804									
21 NCAC 16Q .0101	12-24 NCR 2203									
21 NCAC 16Q .0201	12-24 NCR 2203		13-15 NCR 1218	*						
21 NCAC 16Q .0202	12-24 NCR 2203		13-15 NCR 1218	*						
21 NCAC 16Q .0301	12-24 NCR 2203		13-15 NCR 1218	*						
21 NCAC 16Q .0302	12-24 NCR 2203		13-15 NCR 1218	*						
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 16S .0205	13-10 NCR 804		13-15 NCR 1218	*						
21 NCAC 16V .0101	13-10 NCR 804		13-15 NCR 1218	*						
21 NCAC 16V .0102	13-10 NCR 804		13-15 NCR 1218	*						
<b>ELECTRICAL CONTRACTORS, BOARD OF EXAMINERS</b>										
21 NCAC 18B .0208	N/A		N/A	N/A	Object	06/17/99				
					Approve	07/15/99				
21 NCAC 11 .0101	12-19 NCR 1764	12-21 NCR 1884	13-03 NCR 313	S/L	Approve	01/21/99	*		13-22 NCR 1868	
21 NCAC 11 .0102	12-19 NCR 1764	12-21 NCR 1884	13-03 NCR 313	S/L	Agcy. withdrew					
21 NCAC 11 .0103	12-19 NCR 1764	12-21 NCR 1884	13-03 NCR 313	S/L	Agcy. withdrew					
21 NCAC 11 .0104	12-19 NCR 1764	12-21 NCR 1884	13-03 NCR 313	S/L	Approve	01/21/99	*		13-22 NCR 1868	
21 NCAC 11 .0105	12-19 NCR 1764	12-21 NCR 1884	13-03 NCR 313	S/L	Approve	01/21/99	*		13-22 NCR 1868	
21 NCAC 11 .0106	12-19 NCR 1764	12-21 NCR 1884	13-03 NCR 313	S/L	Approve	01/21/99	*		13-22 NCR 1868	

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 11 .0107	12:19 NCR 1764	12:21 NCR 1884	13:03 NCR 313	S/L	Approve	01/21/99	*		13:22 NCR 1868	
21 NCAC 11 .0108	12:19 NCR 1764	12:21 NCR 1884	13:03 NCR 313	S/L	Approve	01/21/99	*		13:22 NCR 1868	
21 NCAC 11 .0109	12:19 NCR 1764	12:21 NCR 1884	13:03 NCR 313	S/L	Object	01/21/99				
21 NCAC 11 .0110	12:19 NCR 1764	12:21 NCR 1884	13:03 NCR 313	S/L	Approve	02/18/99	*		13:24 NCR 2037	
21 NCAC 11 .0111	12:19 NCR 1764	12:21 NCR 1884	13:03 NCR 313	S/L	Approve	01/21/99	*		13:22 NCR 1868	
21 NCAC 11 .0112	12:19 NCR 1764	12:21 NCR 1884	13:03 NCR 313	S/L	Approve	01/21/99			13:22 NCR 1868	
21 NCAC 11 .0112	12:19 NCR 1764	12:21 NCR 1884	13:03 NCR 313	S/L	Approve	01/21/99	*		13:22 NCR 1868	
<b>ENVIRONMENT AND NATURAL RESOURCES</b>										
15A NCAC 01J .0101		13:18 NCR 1528	13:22 NCR 1827	*						
15A NCAC 01J .0102		13:18 NCR 1528	13:22 NCR 1827	S/L						
15A NCAC 01J .0202		13:18 NCR 1528	13:22 NCR 1827	S/L						
15A NCAC 01J .0303		13:18 NCR 1528	13:22 NCR 1827	S/L						
15A NCAC 01J .0402		13:18 NCR 1528	13:22 NCR 1827	S/L						
15A NCAC 01J .0502		13:18 NCR 1528	13:22 NCR 1827	S/L						
15A NCAC 01J .0504		13:18 NCR 1528	13:22 NCR 1827	*						
15A NCAC 01J .0601		13:18 NCR 1528	13:22 NCR 1827	*						
15A NCAC 01J .0604		13:18 NCR 1528	13:22 NCR 1827	*						
15A NCAC 01J .0701		13:18 NCR 1528	13:22 NCR 1827	S/L						
15A NCAC 01J .0703		13:18 NCR 1528	13:22 NCR 1827	S/L						
15A NCAC 01J .0803		13:18 NCR 1528	13:22 NCR 1827	S/L						
15A NCAC 01J .0903		13:18 NCR 1528	13:22 NCR 1827	S/L						
15A NCAC 01J .0904		13:18 NCR 1528	13:22 NCR 1827	*						
15A NCAC 01K	10:19 NCR 2506									
15A NCAC 01L .0101		13:18 NCR 1528	13:22 NCR 1827	*						
15A NCAC 01L .0102		13:18 NCR 1528	13:22 NCR 1827	S/L						
15A NCAC 01L .0203		13:18 NCR 1528	13:22 NCR 1827	*						
15A NCAC 01L .0303		13:18 NCR 1528	13:22 NCR 1827	*						
15A NCAC 01L .0501		13:18 NCR 1528	13:22 NCR 1827	S/L						

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 01L 0503		13:18 NCR 1528	13:22 NCR 1827	*						
15A NCAC 01L 0601		13:18 NCR 1528	13:22 NCR 1827	*						
15A NCAC 01L 0604		13:18 NCR 1528	13:22 NCR 1827	*						
15A NCAC 01L 0701		13:18 NCR 1528	13:22 NCR 1827	*						
15A NCAC 01L 0801		13:18 NCR 1528	13:22 NCR 1827	S/L						
15A NCAC 01L 0902		13:18 NCR 1528	13:22 NCR 1827	S/L						
15A NCAC 01L 1003		13:18 NCR 1528	13:22 NCR 1827	*						
15A NCAC 01L 1004		13:18 NCR 1528	13:22 NCR 1827	*						
<b>Coastal Resources Commission</b>										
15A NCAC 07 1104 NCR 183										
15A NCAC 07H 0200	13:22 NCR 1818									14:02 NCR 74
15A NCAC 07H 0201	12:21 NCR 1873		13:23 NCR 1937	*						14:02 NCR 74
15A NCAC 07H 0203	12:21 NCR 1873		13:23 NCR 1937	*						
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		13:23 NCR 1937	S/L						14:02 NCR 74
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 07M 0307	13:22 NCR 1818									
15A NCAC 07H 0309	13:05 NCR 436									
15A NCAC 07H 1100	12:21 NCR 1873		13:13 NCR 1044	S	Object	07/15/99				
15A NCAC 07H 1200	12:21 NCR 1873									
15A NCAC 07H 1301	12:21 NCR 1873		13:23 NCR 1937	*						14:02 NCR 74
15A NCAC 07H 1400	12:21 NCR 1873									
15A NCAC 07H 1500	12:21 NCR 1873									



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 07H 1601	12:21 NCR 1873		13:23 NCR 1937	*						14:02 NCR 74
15A NCAC 07H 1600	11:15 NCR 1200									
15A NCAC 07H 1700	12:21 NCR 1873									
15A NCAC 07H 1805		13:07 NCR 593	13:16 NCR 1259	*	Object	07/15/99				
15A NCAC 07H 1901	12:21 NCR 1873		13:23 NCR 1937	*						14:02 NCR 74
15A NCAC 07H 2101	13:05 NCR 436		13:13 NCR 1044	S	Approve	07/15/99	*			
15A NCAC 07H 2102	13:05 NCR 436		13:13 NCR 1044	S	Approve	07/15/99	*			
15A NCAC 07H 2105	13:05 NCR 436		13:13 NCR 1044	S	Object	07/15/99				
15A NCAC 07H 2301	12:21 NCR 1873		13:23 NCR 1937	*						14:02 NCR 74
15A NCAC 07H 2401	13:05 NCR 436		13:13 NCR 1044	S	Approve	05/20/99	*		14:04 NCR 330	
15A NCAC 07H 2402	13:05 NCR 436		13:13 NCR 1044	S	Approve	05/20/99	*		14:04 NCR 330	
15A NCAC 07H 2403	13:05 NCR 436		13:13 NCR 1044	S	Approve	05/20/99			14:04 NCR 330	
15A NCAC 07H 2404	13:05 NCR 436		13:13 NCR 1044	S	Object	05/20/99	*			
15A NCAC 07H 2405	13:05 NCR 436		13:13 NCR 1044	S	Approve	06/17/99	*			
15A NCAC 07J 0200	12:24 NCR 2202			S	Approve	05/20/99	*		14:04 NCR 330	
15A NCAC 07J 0204		13:07 NCR 593								
15A NCAC 07J 0405	12:24 NCR 2202									
15A NCAC 07K 0203	12:21 NCR 1873		13:23 NCR 1937	*						14:02 NCR 74
15A NCAC 07K 0208	12:21 NCR 1873									
15A NCAC 07K 0209	12:21 NCR 1873		13:23 NCR 1937	*						14:02 NCR 74
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									

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 07M .0300	12-24 NCR 2202									
15A NCAC 07M .0401	13-04 NCR 361	13-12 NCR 976	13-16 NCR 1259	*						
15A NCAC 07M .0401	14-01 NCR 44	14-01 NCR 44								
15A NCAC 07M .0402	13-04 NCR 361	13-12 NCR 976	13-16 NCR 1259	*						
15A NCAC 07M .0402	14-01 NCR 44	14-01 NCR 44								
15A NCAC 07M .0403	13-04 NCR 361	13-12 NCR 976	13-16 NCR 1259	*						
15A NCAC 07M .0403	14-01 NCR 44	14-01 NCR 44								
<b>Environmental Management Commission</b>										
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		11-30 NCR 2303	*						
15A NCAC 02B .0202	11-24 NCR 1818									
15A NCAC 02B .0223	11-02 NCR 75									
15A NCAC 02B .0223	11-03 NCR 109									
15A NCAC 02B .0225	13-19 NCR 1606		13-23 NCR 1929	*						
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/SE						
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	Disapproved (HB 1402)
		12-02 NCR 77 12-14 NCR 1348 12-20 NCR 1836 13-24 NCR 2017	11-14 NCR 1136	L						
15A NCAC 02B .0241	14-03 NCR 125		14-04 NCR 287 12-06 NCR 462	L/SE S/L/SE						

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 02B .0242		13.24 NCR 2017	14.04 NCR 287	*						
15A NCAC 02B .0245	12.23 NCR 2088		13.04 NCR 368	*						
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/SE						
15A NCAC 02B .0255	13.23 NCR 1901		14.03 NCR 162	SE						
15A NCAC 02B .0256	13.23 NCR 1901		14.03 NCR 162	SE						
15A NCAC 02B .0257	13.23 NCR 1901		14.03 NCR 162	SE						
15A NCAC 02B .0258	13.23 NCR 1901		14.03 NCR 162	L/SE						
15A NCAC 02B .0259	13.23 NCR 1901		14.03 NCR 162	L/SE						
15A NCAC 02B .0260	13.23 NCR 1901		14.03 NCR 162	SE						
15A NCAC 02B .0261	13.23 NCR 1901		14.03 NCR 162	SE						
15A NCAC 02B .0262	13.23 NCR 1901									
15A NCAC 02B .0303	13.14 NCR 1111		13.20 NCR 1727	*						
15A NCAC 02B .0304	13.14 NCR 1111		13.20 NCR 1727	*						
15A NCAC 02B .0306	13.14 NCR 1111		13.20 NCR 1727	*						14.02 NCR 73
15A NCAC 02B .0306	13.19 NCR 1606		13.23 NCR 1929	*						
15A NCAC 02B .0308	12.16 NCR 1489									
15A NCAC 02B .0308	13.14 NCR 1111		13.20 NCR 1727	*						
15A NCAC 02B .0310	13.19 NCR 1606		13.23 NCR 1929	*						
15A NCAC 02B .0316	11.26 NCR 1976		12.01 NCR 6	*	Approve	01/15/98	*		12.21 NCR 1886	Disapproved (HB 1402)
15A NCAC 02B .0317	13.19 NCR 1606		13.23 NCR 1929	*						
15A NCAC 02D	13.12 NCR 943									
15A NCAC 02D .0101	12.02 NCR 52									
15A NCAC 02D .0101	12.16 NCR 1482									
15A NCAC 02D .0108	11.15 NCR 1200									
15A NCAC 02D .0307	11.15 NCR 1200									
15A NCAC 02D .0501	11.15 NCR 1200									



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 02D .0501	11-04 NCR 183									
15A NCAC 02D .0501	13-16 NCR 1252									
15A NCAC 02D .0506	14-04 NCR 265									
15A NCAC 02D .0518	11-19 NCR 1408									
15A NCAC 02D .0521	11-15 NCR 1200									
15A NCAC 02D .0521	14-04 NCR 265									
15A NCAC 02D .0523	13-12 NCR 943		14-03 NCR 162	*						
15A NCAC 02D .0524	11-15 NCR 1200									
15A NCAC 02D .0524	13-08 NCR 621		14-03 NCR 162	*						
15A NCAC 02D .0525	11-15 NCR 1200									
15A NCAC 02D .0540	13-04 NCR 356									
15A NCAC 02D .0541	13-08 NCR 621									
15A NCAC 02D .0541	13-16 NCR 1252		14-03 NCR 162	*						
15A NCAC 02D .0542	13-24 NCR 1994									
15A NCAC 02D .0610	11-15 NCR 1200									
15A NCAC 02D .0611	11-15 NCR 1200									
15A NCAC 02D .0612	11-15 NCR 1200									
15A NCAC 02D .0613	11-15 NCR 1200									
15A NCAC 02D .0614	11-15 NCR 1200									
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	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									

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

15A NCAC 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 .0926	13-16 NCR 1252									
15A NCAC 02D .0927	13-16 NCR 1252									
15A NCAC 02D .0932	13-16 NCR 1252									
15A NCAC 02D .0934	11-19 NCR 1408									
15A NCAC 02D .0948	11-19 NCR 1408									
15A NCAC 02D .0949	11-19 NCR 1408									
15A NCAC 02D .0950	11-19 NCR 1408									
15A NCAC 02D .0951	11-19 NCR 1408									
15A NCAC 02D .0952	12-16 NCR 1482									
15A NCAC 02D .0954	11-15 NCR 1200									
15A NCAC 02D .1005	14-04 NCR 265									
15A NCAC 02D .1100	11-08 NCR 442									
15A NCAC 02D .1103	13-04 NCR 356									
15A NCAC 02D .1103	14-04 NCR 265									
15A NCAC 02D .1104	12-02 NCR 52	12-02 NCR 77								
15A NCAC 02D .1104	13-04 NCR 356									
15A NCAC 02D .1104	13-16 NCR 1252									
15A NCAC 02D .1105	11-15 NCR 1200									
15A NCAC 02D .1106	11-26 NCR 1976									
15A NCAC 02D .1200	14-04 NCR 265									
15A NCAC 02D .1201	13-12 NCR 943									

14-03 NCR 162

\*

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 02D .1202	13:12 NCR 943		14:03 NCR 162	*						
15A NCAC 02D .1203	13:12 NCR 943		14:03 NCR 162	*						
15A NCAC 02D .1204	13:12 NCR 943		14:03 NCR 162	*						
15A NCAC 02D .1205	13:12 NCR 943		14:03 NCR 162	*						
15A NCAC 02D .1206	13:12 NCR 943		14:03 NCR 162	*						
15A NCAC 02D .1207	13:12 NCR 943		14:03 NCR 162	*						
15A NCAC 02D .1208	13:12 NCR 943		14:03 NCR 162	*						
15A NCAC 02D .1209	13:12 NCR 943		14:03 NCR 162	*						
15A NCAC 02D .1201	13:16 NCR 1252		14:03 NCR 162	*						
15A NCAC 02D .1202	13:16 NCR 1252		14:03 NCR 162	*						
15A NCAC 02D .1203	13:16 NCR 1252		14:03 NCR 162	*						
15A NCAC 02D .1204	13:16 NCR 1252		14:03 NCR 162	*						
15A NCAC 02D .1205	13:16 NCR 1252		14:03 NCR 162	*						
15A NCAC 02D .1206	13:16 NCR 1252		14:03 NCR 162	*						
15A NCAC 02D .1207	13:16 NCR 1252		14:03 NCR 162	*						
15A NCAC 02D .1208	13:16 NCR 1252		14:03 NCR 162	*						
15A NCAC 02D .1209	13:16 NCR 1252		14:03 NCR 162	*						
15A NCAC 02D .1400	13:24 NCR 1994									
15A NCAC 02D .1404	11:15 NCR 1200									
15A NCAC 02D .1700	12:02 NCR 52									
15A NCAC 02D .1703	13:16 NCR 1252									
15A NCAC 02D .1801		13:18 NCR 1545	14:03 NCR 162	SE						
15A NCAC 02D .1802		13:22 NCR 1860	14:03 NCR 162	SE						
15A NCAC 02D .1803		13:18 NCR 1545	14:03 NCR 162	SE						
15A NCAC 02D .1804		13:22 NCR 1860	14:03 NCR 162	SE						
15A NCAC 02D .1805		13:18 NCR 1545	14:03 NCR 162	SE						
		13:18 NCR 1545								
		13:24 NCR 2017								



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 02D .1903	12.16 NCR 1482									
15A NCAC 02D .1903	13.12 NCR 943									
15A NCAC 02D .1904	12.16 NCR 1482									
15A NCAC 02D .2100	13.04 NCR 356									
15A NCAC 02D .2200	11.26 NCR 1976									
15A NCAC 02E .0102	13.20 NCR 1715		13.24 NCR 1998	*						14.01 NCR 3
15A NCAC 02E .0103	13.20 NCR 1715		13.24 NCR 1998	*						14.01 NCR 3
15A NCAC 02E .0106	13.20 NCR 1715		13.24 NCR 1998	*						14.01 NCR 3
15A NCAC 02E .0107	13.20 NCR 1715		13.24 NCR 1998	*						14.01 NCR 3
15A NCAC 02E .0201	13.20 NCR 1715		13.24 NCR 1998	*						14.01 NCR 3
15A NCAC 02E .0202	13.20 NCR 1715		13.24 NCR 1998	*						14.01 NCR 3
15A NCAC 02E .0205	13.20 NCR 1715		13.24 NCR 1998	*						14.01 NCR 3
15A NCAC 02E .0501	13.20 NCR 1715		13.24 NCR 1998	*						14.01 NCR 3
15A NCAC 02E .0502	13.20 NCR 1715		13.24 NCR 1998	S/L/SE						14.01 NCR 3
15A NCAC 02E .0503	13.20 NCR 1715		13.24 NCR 1998	*						14.01 NCR 3
15A NCAC 02E .0504	13.20 NCR 1715		13.24 NCR 1998	*						14.01 NCR 3
15A NCAC 02H .0226	12.20 NCR 1817	13.04 NCR 426	13.05 NCR 491	*						14.01 NCR 3
15A NCAC 02H .0610	12.02 NCR 52	12.02 NCR 77	Temp Expired 04/1/98							
15A NCAC 02H .0806	13.04 NCR 356		14.02 NCR 80	L						
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									
15A NCAC 02L .0106		12.08 NCR 713								

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 02L .0115	11:15 NCR 1204	12:08 NCR 713								
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 02P	11:15 NCR 1200									
15A NCAC 02P .0402	11:15 NCR 1204	12:08 NCR 713								
15A NCAC 02P .0402	13:24 NCR 1994									
15A NCAC 02Q .0102	12:16 NCR 1482									
15A NCAC 02Q .0102	13:08 NCR 621		14:03 NCR 162	*						
15A NCAC 02Q .0102	13:12 NCR 943		14:03 NCR 162	*						
15A NCAC 02Q .0102		13:18 NCR 1545	14:03 NCR 162	*						
15A NCAC 02Q .0102	13:24 NCR 1994									
15A NCAC 02Q .0102	14:04 NCR 265									
15A NCAC 02Q .0103	12:20 NCR 1817									
15A NCAC 02Q .0109	14:04 NCR 265									
15A NCAC 02Q .0304	14:04 NCR 265									
15A NCAC 02Q .0305	14:04 NCR 265									
15A NCAC 02Q .0306	13:12 NCR 943		14:03 NCR 162	*						
15A NCAC 02Q .0401	14:04 NCR 265									
15A NCAC 02Q .0502	13:24 NCR 1994									
15A NCAC 02Q .0508	13:08 NCR 621									
15A NCAC 02Q .0508	14:04 NCR 265									
15A NCAC 02Q .0700	11:08 NCR 442									
15A NCAC 02Q .0702	13:12 NCR 943		13:20 NCR 1727	*						
15A NCAC 02Q .0703	13:04 NCR 356		14:03 NCR 162	*						
15A NCAC 02Q .0703	14:04 NCR 265									

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

15A NCAC 02Q .0711 13:04 NCR 356  
 15A NCAC 02Q .0711 13:16 NCR 1252  
 15A NCAC 02Q .0800 14:04 NCR 265  
 15A NCAC 02R 0204 12:02 NCR 52  
 15A NCAC 02R .0205 12:02 NCR 52  
 15A NCAC 02R .0600 12:02 NCR 52  
 15A NCAC 02S 14:04 NCR 272

## Health Services, Commission for

15A NCAC 13A .0101 14:04 NCR 265  
 15A NCAC 13A .0102 14:04 NCR 265  
 15A NCAC 13A .0103 14:04 NCR 265  
 15A NCAC 13A .0104 14:04 NCR 265  
 15A NCAC 13A .0106 14:04 NCR 265  
 15A NCAC 13A .0108 14:04 NCR 265  
 15A NCAC 13A .0110 14:04 NCR 265  
 15A NCAC 13A .0112 14:04 NCR 265  
 15A NCAC 13A .0113 14:04 NCR 265  
 15A NCAC 13A .0118 14:04 NCR 265  
 15A NCAC 13B .1627 11:08 NCR 442  
 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 12:14 NCR 1352  
 15A NCAC 18A .1000 13:16 NCR 1252  
 15A NCAC 18A .1300 13:16 NCR 1252  
 15A NCAC 18A 1600 13:16 NCR 1252

12:14 NCR 1267  
 12:14 NCR 1267  
 11:13 NCR 1055

S  
 S  
 \*



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 18A .1601		12.21 NCR 1882								
15A NCAC 18A .1611		12.21 NCR 1882								
15A NCAC 18A .1700	13.16 NCR 1252	13.12 NCR 979	13.20 NCR 1738	*						
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		13.13 NCR 1047	*	Approve	04/15/99	*		14:02 NCR 84	
15A NCAC 18A .1810		12.24 NCR 2228	13.13 NCR 1047	*	Approve	04/15/99			14:02 NCR 84	
		13.20 NCR 1740	13.13 NCR 1047	*	Approve	04/15/99	*		14:02 NCR 84	
15A NCAC 18A .1812	13.08 NCR 621		14.03 NCR 234	*						
15A NCAC 18A .1952		13.12 NCR 979	14.03 NCR 234	*						
15A NCAC 18A .1953		13.12 NCR 979	14.03 NCR 234	*						
15A NCAC 18A .1954		13.12 NCR 979	14.03 NCR 234	*						
15A NCAC 18A .1955		13.12 NCR 979	14.03 NCR 234	*						
15A NCAC 18A .2308	12.03 NCR 168		12.07 NCR 519	*	Ext Review Object	12/18/97 01/15/98				
15A NCAC 18A .2309	12.03 NCR 168		12.07 NCR 519	*	Ext Review Object	12/18/97 01/15/98				
15A NCAC 18A .2515	14.04 NCR 265									
15A NCAC 18A .2400	13.16 NCR 1252									
15A NCAC 18A .2600	12.04 NCR 240									
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 .2809	12.16 NCR 1482									
15A NCAC 18A .2811	12.16 NCR 1482									
15A NCAC 18A .2814	12.16 NCR 1482									
15A NCAC 18A .2816	12.16 NCR 1482									
15A NCAC 18A .2818	12.16 NCR 1482									
15A NCAC 18A .2821	12.16 NCR 1482									

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 18A .2826	12:16 NCR 1482									
15A NCAC 18A .2835	12:16 NCR 1482									
15A NCAC 18A .2836	12:16 NCR 1482									
15A NCAC 18C .0301	13:04 NCR 356	14:03 NCR 247	14:03 NCR 247	S/L						
15A NCAC 18C .0302	13:04 NCR 356	14:03 NCR 247	14:03 NCR 247	S/L						
15A NCAC 18C .0303	13:04 NCR 356	14:03 NCR 247	14:03 NCR 247	S/L						
15A NCAC 18C .0304	13:04 NCR 356	14:03 NCR 247	14:03 NCR 247	S/L						
15A NCAC 18C .0305	13:04 NCR 356	14:03 NCR 247	14:03 NCR 247	S/L						
15A NCAC 18C .0306	13:04 NCR 356	14:03 NCR 247	14:03 NCR 247	*						
15A NCAC 18C .0307	13:04 NCR 356	14:03 NCR 247	14:03 NCR 247	S/L						
15A NCAC 18C .0308	13:04 NCR 356	14:03 NCR 247	14:03 NCR 247	S/L						
15A NCAC 18C .0309	13:04 NCR 356	14:03 NCR 247	14:03 NCR 247	S/L						
15A NCAC 18C .1304	13:04 NCR 356	14:03 NCR 247	14:03 NCR 247	*						
15A NCAC 18D .0201	13:23 NCR 1928									
15A NCAC 18D .0203	13:23 NCR 1928									
15A NCAC 18D .0205	13:23 NCR 1928									
15A NCAC 18D .0206	13:23 NCR 1928									
15A NCAC 18D .0304	13:23 NCR 1928									
15A NCAC 18D .0307	13:23 NCR 1928									
15A NCAC 18D .0308	13:23 NCR 1928									
15A NCAC 18D .0309	13:23 NCR 1928									
15A NCAC 18D .0403	13:23 NCR 1928									
15A NCAC 18D .0701	13:23 NCR 1928									
15A NCAC 19A .0101	12:02 NCR 52	12:02 NCR 88								
15A NCAC 26C .0001	11:19 NCR 1408									
15A NCAC 26C .0002	11:19 NCR 1408									
15A NCAC 26C .0003	11:19 NCR 1408									

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

15A NCAC 26C .0004 11:19 NCR 1408  
 15A NCAC 26C .0005 11:19 NCR 1408  
 15A NCAC 26C .0006 11:19 NCR 1408  
 15A NCAC 26C .0007 11:19 NCR 1408

## Land Resources/Land and Quality/Sedimentation Control Commission

15A NCAC 04B .0106 12:20 NCAC 1817 13:09 NCR 760 \*  
 15A NCAC 04B .0107 12:20 NCAC 1817 13:09 NCR 760 \*  
 15A NCAC 04B .0127 12:20 NCAC 1817 13:09 NCR 760 \*  
 15A NCAC 04C .0107 13:12 NCR 943 13:19 NCR 1651 \*

## 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 03 13:14 NCR 1113  
 15A NCAC 03 13:17 NCR 1377  
 15A NCAC 03H .0101 13:14 NCR 1113 14:01 NCR 18  
 15A NCAC 03H .0103 12:23 NCR 2089 14:01 NCR 18  
 15A NCAC 031 .0101 13:14 NCR 1113 14:01 NCR 18  
 15A NCAC 031 .0105 13:14 NCR 1113 14:04 NCR 323  
 15A NCAC 031 .0106 13:14 NCR 1113 14:01 NCR 18  
 15A NCAC 031 .0107 N/A 14:01 NCR 18  
 15A NCAC 031 .0114 13:14 NCR 1113 14:01 NCR 18  
 15A NCAC 031 .0120 13:14 NCR 1113 14:01 NCR 18  
 15A NCAC 031 .0103 13:14 NCR 1113 13:08 NCR 739  
 15A NCAC 031 .0103 13:14 NCR 1113 14:01 NCR 18  
 15A NCAC 031 .0104 13:14 NCR 1113 14:01 NCR 18  
 15A NCAC 031 .0110 13:14 NCR 1113 14:01 NCR 18

06/17/99

Approve

N/A

N/A



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 03J .0202	11.07 NCR 407		11.11 NCR 888	*						
	13.14 NCR 1113									
15A NCAC 03J .0301	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03J .0302	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03J .0305	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03K .0101	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03K .0105	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03K .0106	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03K .0202	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03K .0502	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03L .0102	11.07 NCR 407		11.11 NCR 888	*						
15A NCAC 03L .0201	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03L .0206	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03M .0202	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03M .0301	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03M .0501	13.08 NCR 739									
	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03M .0503	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03M .0504	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03M .0506		13.22 NCR 1865								
15A NCAC 03M .0507	13.10 NCR 803									
15A NCAC 03M .0507	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03M .0511	13.14 NCR 1113	14.01 NCR 18								
15A NCAC 03M .0513	11.26 NCR 1976		12.05 NCR 418	*						
15A NCAC 03M .0513	13.14 NCR 1113	14.01 NCR 18								
		14.04 NCR 323								
15A NCAC 03M .0513	13.19 NCR 1666									
15A NCAC 03M .0515	12.23 NCR 2089		13.03 NCR 303	*						
15A NCAC 03M .0515	13.14 NCR 1113	14.01 NCR 18								

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 03M .0516	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0101	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0102	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0103	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0104	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0105	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0106	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0107	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0108	13:14 NCR 1113	14:01 NCR 18								
		14:04 NCR 323								
15A NCAC 030 .0109	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0110	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0111	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0201	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0301	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0302	13:14 NCR 1113	14:01 NCR 18								
		14:04 NCR 323								
15A NCAC 030 .0303	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0304	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0305	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0306	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0307	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0308	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0309	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0310	13:14 NCR 1113	14:01 NCR 18								
15A NCAC 030 .0401	13:14 NCR 1113	13:18 NCR 1553								
15A NCAC 030 .0402	13:14 NCR 1113	13:18 NCR 1553								

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 030 .0403	13.14 NCR 1113	13.18 NCR 1553								
15A NCAC 030 .0404	13.14 NCR 1113	13.18 NCR 1553								
15A NCAC 030 .0405	13.14 NCR 1113	13.18 NCR 1553								
15A NCAC 030 .0406	13.14 NCR 1113	13.18 NCR 1553								
15A NCAC 03P 0101	N/A		N/A	N/A	Approve	07/15/99				
15A NCAC 03P 0102	N/A		N/A	N/A	Approve	07/15/99				
15A NCAC 03Q 0106	N/A		N/A	N/A	Approve	06/17/99				
15A NCAC 03Q 0107	11.26 NCR 1985		13.13 NCR 1043	*	Approve	05/20/99			14.04 NCR 330	
<b>Parks and Recreation Commission</b>										
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									



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

## Water Pollution Control System Operators Certification Commission

15A NCAC 08E 11:26 NCR 1976  
 15A NCAC 08F 11:26 NCR 1976  
 15A NCAC 08F 0406 13:16 NCR 1252  
 15A NCAC 08F 0407 13:16 NCR 1252

## Waste Management

Public Notice - Seaboard Chemical Corporation

## Well Contractors Certification Commission

15A NCAC 27 .0101	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0110	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0201	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0301	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0401	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0410	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0420	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0430	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0440	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0501	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0510	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0520	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0601	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0701	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0801	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0810	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0820	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0830	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						
15A NCAC 27 .0840	13:10 NCR 803	13:12 NCR 988	13:21 NCR 1788	*						

14:01 NCR 3

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 27 .0901	13.10 NCR 803	13.12 NCR 988	13.21 NCR 1788	*						
15A NCAC 27 .0910	13.10 NCR 803	13.12 NCR 988	13.21 NCR 1788	*						
15A NCAC 27 .0920	13.10 NCR 803	13.12 NCR 988	13.21 NCR 1788	*						
15A NCAC 27 .0930	13.10 NCR 803	13.12 NCR 988	13.21 NCR 1788	*						
<b>Wildlife Resources Commission</b>										
15A NCAC 10B .0105	13.07 NCR 595	13.07 NCR 595	13.12 NCR 948	*	Object	04/15/99			14:04 NCR 330	
15A NCAC 10B .0109	N/A		N/A	N/A	Approve	05/20/99	*			
15A NCAC 10B .0113	13.08 NCR 625	13.19 NCR 1666	13.12 NCR 948	*	Approve	06/17/99			14:02 NCR 84	
15A NCAC 10B .0115	13.18 NCR 1502		13.22 NCR 1842	*	Approve	04/15/99				
15A NCAC 10B .0202	13.08 NCR 625	13.19 NCR 1666	13.12 NCR 948	*	Approve	04/15/99	*		14:02 NCR 84	
15A NCAC 10B .0203	13.08 NCR 625	13.19 NCR 1666	13.12 NCR 948	*	Approve	04/15/99	*		14:02 NCR 84	
15A NCAC 10B .0204	N/A		N/A	N/A	Approve	06/17/99				
15A NCAC 10B .0205	13.08 NCR 625	13.19 NCR 1666	13.12 NCR 948	*	Approve	04/15/99	*		14:02 NCR 84	
15A NCAC 10B .0209	13.08 NCR 625	13.19 NCR 1666	13.12 NCR 948	*	Approve	04/15/99			14:02 NCR 84	
15A NCAC 10B .0212	13.08 NCR 625	13.19 NCR 1666	13.12 NCR 948	*	Object	04/15/99			14:04 NCR 330	
15A NCAC 10B .0302	13.08 NCR 625	13.19 NCR 1666	13.12 NCR 948	*	Approve	05/20/99	*		14:02 NCR 84	
15A NCAC 10B .0403	13.23 NCR 1928				Approve	04/15/99				
15A NCAC 10C .0107	13.08 NCR 625		13.12 NCR 948	*	Approve	04/15/99	*		14:02 NCR 84	
15A NCAC 10C .0205	13.08 NCR 625	13.19 NCR 1666	13.12 NCR 948	*	Approve	04/15/99			14:02 NCR 84	
15A NCAC 10C .0305	13.08 NCR 625	13.19 NCR 1666	13.12 NCR 948	*	Approve	04/15/99	*		14:02 NCR 84	
15A NCAC 10C .0401	13.08 NCR 625	13.19 NCR 1666	13.12 NCR 948	*	Approve	04/15/99			14:02 NCR 84	
15A NCAC 10C .0501	13.14 NCR 1113		13.20 NCR 1737	*						
15A NCAC 10C .0502	13.14 NCR 1113		13.20 NCR 1737	*						
15A NCAC 10C .0503	13.14 NCR 1113		13.20 NCR 1737	*						
15A NCAC 10D .0102	13.08 NCR 625	13.19 NCR 1666	13.12 NCR 948	*	Approve	04/15/99			14:02 NCR 84	
15A NCAC 10D .0103	13.08 NCR 625	13.19 NCR 1666	13.12 NCR 948	*	Approve	04/15/99	*		14:02 NCR 84	

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

15A NCAC 10D .0103	13:19 NCR 1609		14:01 NCR 6	*						
15A NCAC 10F .0201	NA		N/A	N/A	Approve	03/18/99			14:01 NCR 48	
15A NCAC 10F .0300	13:14 NCR 1113									
15A NCAC 10F .0300	14:01 NCR 5									
15A NCAC 10F .0303	12:19 NCR 1763									
15A NCAC 10F .0303	14:02 NCR 79									
15A NCAC 10F .0310	13:07 NCR 595	13:15 NCR 1231	13:11 NCR 905	L	Approve	02/18/99	*		13:24 NCR 2037	
15A NCAC 10F .0317	13:08 NCR 625		13:14 NCR 1116	*	Approve	04/15/99			14:02 NCR 84	
15A NCAC 10F .0321	13:13 NCR 1040	13:19 NCR 1666	13:19 NCR 1666	L						
15A NCAC 10F .0323	13:13 NCR 1040	13:19 NCR 1666	13:19 NCR 1666	L						
15A NCAC 10F .0330	13:03 NCR 269	13:07 NCR 595	13:07 NCR 595	S/L						
15A NCAC 10F .0330	13:11 NCR 855	13:15 NCR 1217	13:15 NCR 1231	L	Approve	04/15/99			14:02 NCR 84	
15A NCAC 10F .0333	14:02 NCR 79									
15A NCAC 10F .0339	13:13 NCR 1040	13:19 NCR 1666	13:19 NCR 1666	L						
15A NCAC 10F .0339	13:23 NCR 1928									
15A NCAC 10F .0342	13:07 NCR 585	13:15 NCR 1231	13:11 NCR 905	L	Approve	02/18/99	*		13:24 NCR 2037	
15A NCAC 10F .0353	14:02 NCR 79									
15A NCAC 10F .0354	14:02 NCR 79									
15A NCAC 10F .0355	14:04 NCR 272									14:02 NCR 75
15A NCAC 10F .0359	12:19 NCR 1763									14:03 NCR 123
15A NCAC 10F .0367	13:14 NCR 1113	13:19 NCR 1666	13:19 NCR 1666	L						14:04 NCR 263

## FINAL DECISION LETTERS

Voting Rights Act

Voting Rights Act

Voting Rights Act

## FORESTERS, BOARD OF REGISTRATION FOR

21 NCAC 20 .0101

13:19 NCR 1695

13:23 NCR 1942

\*



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

21 NCAC 20 .0103		13.19 NCR 1695	13.23 NCR 1942	*						
21 NCAC 20 .0104		13.19 NCR 1695	13.23 NCR 1942	*						
21 NCAC 20 .0105		13.19 NCR 1695	13.23 NCR 1942	*						
21 NCAC 20 .0106		13.19 NCR 1695	13.23 NCR 1942	*						
21 NCAC 20 .0117		13.19 NCR 1695	13.23 NCR 1942	*						
21 NCAC 20 .0120		13.19 NCR 1695	13.23 NCR 1942	*						
21 NCAC 20 .0122		13.19 NCR 1695	13.23 NCR 1942	*						
21 NCAC 20 .0123		13.19 NCR 1695	13.23 NCR 1942	*						

## GENERAL CONTRACTORS LICENSING BOARD

21 NCAC 12 .0202	13.22 NCR 1821									
21 NCAC 12 .0204		13.06 NCR 568	13.13 NCR 1048	*	Approve	05/20/99			14-04 NCR 330	
21 NCAC 12 .0204	13.22 NCR 1821									
21 NCAC 12 .0205	13.22 NCR 1821									
21 NCAC 12 .0307	13.22 NCR 1821									
21 NCAC 12 .0402	13.22 NCR 1821									
21 NCAC 12 .0405	13.22 NCR 1821									
21 NCAC 12 .0410	13.22 NCR 1821									
21 NCAC 12 .0503	11.28 NCR 2117									
21 NCAC 12 .0504	11.28 NCR 2117									
21 NCAC 12 .0504	13.13 NCR 1040		13.18 NCR 1524 13.24 NCR 2015	*						
21 NCAC 12 .0901	13.22 NCR 1821			*						
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 .0907	13.22 NCR 1821									
21 NCAC 12 .0908	11.28 NCR 2117									

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

21 NCAC 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

## GOVERNOR'S EXECUTIVE ORDERS

Number 152 - Eff. 05/21/99  
 Number 153 - Eff. 05/28/99

## GOVERNOR, OFFICE OF

9 NCAC 05G .0101 14:03 NCR 245  
 9 NCAC 05G .0102 14:03 NCR 245  
 9 NCAC 05G .0103 14:03 NCR 245  
 9 NCAC 05G .0104 14:03 NCR 245

## HEALTH AND HUMAN SERVICES

### Aging

10 NCAC 22 10:23 NCR 2956

### Blind/State Rehabilitation Council, Commission for the

10 NCAC 19G .0823 13:17 NCR 1378 13:21 NCR 1785 \*  
 10 NCAC 19G .0827 13:17 NCR 1378 13:21 NCR 1785 \*  
 Return to agency 07/15/99

### Child Day Care Commission

10 NCAC 03U .0102 12:21 NCR 1873 14:03 NCR 154 \*  
 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 .0705 11:44 NCR 1108 11:27 NCR 2054 \*  
 10 NCAC 03U .0705 11:24 NCR 1817 12:08 NCR 710  
 10 NCAC 03U .2000 12:21 NCR 1873  
 10 NCAC 03U .2501 12:21 NCR 1873 14:03 NCR 154 \*

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

10 NCAC 03U .2502 12.21 NCR 1873 14.03 NCR 154 \*

10 NCAC 03U .2510 12.21 NCR 1873 14.03 NCR 154 L

10 NCAC 03U .2804 12.21 NCR 1873 14.03 NCR 154 \*

10 NCAC 03U .2811 12.21 NCR 1873 14.03 NCR 154 S

## Controller, Office of

10 NCAC 01B .0418 13.14 NCR 1109 13.22 NCR 1823 \* Approve 07/15/99 \*

10 NCAC 01B .0419 13.14 NCR 1109 13.22 NCR 1823 \* Approve 07/15/99 \*

10 NCAC 01B .0420 13.14 NCR 1109 13.22 NCR 1823 \* Approve 07/15/99 \*

## Facility Services

### Abbreviated Notice of Temporary Rule-Making

10 NCAC 03R .1613 13.14 NCR 1119 14.04 NCR 279 \*

10 NCAC 03R .1615 13.14 NCR 1119 14.04 NCR 279 \*

10 NCAC 03R .1713 13.14 NCR 1119 14.04 NCR 279 \*

10 NCAC 03R .1714 13.14 NCR 1119 14.04 NCR 279 \*

10 NCAC 03R .1715 13.14 NCR 1119 14.04 NCR 279 \*

10 NCAC 03R .1912 13.14 NCR 1119 14.04 NCR 279 \*

10 NCAC 03R .1913 13.14 NCR 1119 14.04 NCR 279 \*

10 NCAC 03R .1914 13.14 NCR 1119 14.04 NCR 279 \*

10 NCAC 03R .2113 13.14 NCR 1119 14.04 NCR 279 \*

10 NCAC 03R .2713 13.14 NCR 1119 14.04 NCR 279 \*

10 NCAC 03R .2715 13.14 NCR 1119 14.04 NCR 279 \*

10 NCAC 03R .3000 11.23 NCR 1780

10 NCAC 03R .3001 10.23 NCR 2956 S/L/SE

10 NCAC 03R .3030 10.23 NCR 2956 S/L/SE

10 NCAC 03R .3032 10.23 NCR 2956 S/L/SE

10 NCAC 03R .3040 10.23 NCR 2956 S/L/SE

10 NCAC 03R .3050 10.23 NCR 2956 S/L/SE

14.04 NCR 264

# **CUMULATIVE INDEX** (Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 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								
10 NCAC 03R .3065		12.06 NCR 481								
10 NCAC 03R .3072		12.06 NCR 481								
10 NCAC 03R .4203		13.14 NCR 1119	14.04 NCR 279	*						
10 NCAC 03R .6001	11.22 NCR 1704									
10 NCAC 03R 6112		12.15 NCR 1431	13.02 NCR 178	S/L/SE	Object Object Returned to Agency	10/22/98 12/17/98				
10 NCAC 03R .6201		13.14 NCR 1119	14.03 NCR 130	*						
10 NCAC 03R .6202		13.14 NCR 1119	14.03 NCR 130	*						
10 NCAC 03R .6203		13.14 NCR 1119	14.03 NCR 130	*						
14.04 NCR 314		13.14 NCR 1119	14.03 NCR 130	*						
10 NCAC 03R .6204		13.14 NCR 1119	14.03 NCR 130	*						
10 NCAC 03R .6205		13.14 NCR 1119	14.03 NCR 130	*						
10 NCAC 03R .6206		13.14 NCR 1119	14.03 NCR 130	*						
10 NCAC 03R .6207		13.14 NCR 1119	14.03 NCR 130	*						
10 NCAC 03R .6208		13.14 NCR 1119	14.03 NCR 130	S/L/SE						
10 NCAC 03R .6209		13.14 NCR 1119	14.03 NCR 130	S/L/SE						
14.04 NCR 314		13.14 NCR 1119	14.03 NCR 130	S/L/SE						
10 NCAC 03R .6210		13.14 NCR 1119	14.03 NCR 130	S/L/SE						
10 NCAC 03R .6211		13.14 NCR 1119	14.03 NCR 130	S/L/SE						
10 NCAC 03R .6212		13.14 NCR 1119	14.03 NCR 130	S/L/SE						
10 NCAC 03R .6213		13.14 NCR 1119	14.03 NCR 130	*						
10 NCAC 03R .6214		13.14 NCR 1119	14.03 NCR 130	*						
10 NCAC 03R .6215		13.14 NCR 1119	14.03 NCR 130	*						
10 NCAC 03R .6216		13.14 NCR 1119	14.03 NCR 130	*						



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

10 NCAC 03R .6217

13-14 NCR 1119

14-03 NCR 130

\*

10 NCAC 03R .6218

13-14 NCR 1119

14-03 NCR 130

\*

10 NCAC 03R .6219

13-14 NCR 1119

14-03 NCR 130

\*

10 NCAC 03R .6220

13-14 NCR 1119

14-03 NCR 130

S/L/SE

10 NCAC 03R .6221

13-14 NCR 1119

14-03 NCR 130

S/L/SE

10 NCAC 03R .6222

13-14 NCR 1119

14-03 NCR 130

S/L/SE

10 NCAC 03R .6223

14-04 NCR 314

14-03 NCR 130

S/L/SE

10 NCAC 03R .6224

13-14 NCR 1119

14-03 NCR 130

\*

10 NCAC 03R .6225

13-14 NCR 1119

14-03 NCR 130

S/L/SE

10 NCAC 03R .6226

13-14 NCR 1119

14-03 NCR 130

\*

10 NCAC 03R .6227

13-14 NCR 1119

14-03 NCR 130

\*

10 NCAC 03R .6228

13-14 NCR 1119

14-03 NCR 130

S/L/SE

10 NCAC 03R .6229

13-14 NCR 1119

14-03 NCR 130

S/L/SE

10 NCAC 03R .6230

13-14 NCR 1119

14-03 NCR 130

\*

10 NCAC 03R .6231

13-14 NCR 1119

14-03 NCR 130

\*

10 NCAC 03R .6232

13-14 NCR 1119

14-03 NCR 130

\*

10 NCAC 03R .6233

13-14 NCR 1119

14-03 NCR 130

S/L/SE

10 NCAC 03R .6234

13-14 NCR 1119

14-03 NCR 130

S/L/SE

10 NCAC 03R .6235

13-14 NCR 1119

14-03 NCR 130

\*

10 NCAC 03R .6236

13-14 NCR 1119

14-03 NCR 130

\*

10 NCAC 03R .6237

13-14 NCR 1119

14-03 NCR 130

\*

10 NCAC 03R .6238

13-14 NCR 1119

14-03 NCR 130

\*

10 NCAC 03R .6239

13-14 NCR 1119

14-03 NCR 130

\*

10 NCAC 03R .6240

13-14 NCR 1119

14-03 NCR 130

\*

10 NCAC 03R .6241

13-14 NCR 1119

14-03 NCR 130

\*

12-24 NCR 2194

10 NCAC 03S

Health Services

# **CUMULATIVE INDEX** (Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 16A .1104	13.14 NCR 1114		14:01 NCR 12	*						
15A NCAC 16A .1106	13.14 NCR 1114		14:01 NCR 12	*						
15A NCAC 19A .0401	13.11 NCR 855	13.24 NCR 2034	13.24 NCR 2004	*						
15A NCAC 19A .0401	13.22 NCR 1818	13.24 NCR 2034	13.24 NCR 2004	*						
15A NCAC 19A .0404	13.11 NCR 855		13.24 NCR 2004	*						
15A NCAC 19A .0404	13.22 NCR 1818		13.24 NCR 2004	*						
15A NCAC 19A .0406	13.11 NCR 855		13.24 NCR 2004	*						
15A NCAC 19A .0406	13.22 NCR 1818		13.24 NCR 2004	*						
15A NCAC 19A .0502	13.11 NCR 855	13.13 NCR 1059	13.24 NCR 2004	*						
15A NCAC 19A .0502	13.22 NCR 1818		13.24 NCR 2004	*						
15A NCAC 21F .1201	14.03 NCR 126									
15A NCAC 21F .1202	14.03 NCR 126									
15A NCAC 21F .1203	14.03 NCR 126									
15A NCAC 21F .1204	14.03 NCR 126									
15A NCAC 21H .0110	12.20 NCR 1822		13:07 NCR 591	S	Extended Rev.	01/21/99				
15A NCAC 21H .0111	12.20 NCR 1822		13:07 NCR 591	S	Agcy Withdrew	02/02/99	*		13:22 NCR 1868	
15A NCAC 21H .0113	12.20 NCR 1822		13:07 NCR 591	*	Approve	01/21/99			13:22 NCR 1868	
15A NCAC 21H .0314	14.03 NCR 126				Approve	01/21/99				
15A NCAC 21I .0102	14.04 NCR 272									
15A NCAC 21I .0103	14.04 NCR 272									
15A NCAC 21H .0102	14.04 NCR 272									
15A NCAC 21J .0103	14.04 NCR 272									
15A NCAC 23 .0201	13.22 NCR 1820		14:02 NCR 80	*						
15A NCAC 23 .0202	13.22 NCR 1820	13.18 NCR 1555	14:02 NCR 80	S/L						
15A NCAC 23 .0204	13.22 NCR 1820		14:02 NCR 80	*						
15A NCAC 23 .0501	13.22 NCR 1820		14:02 NCR 80	*						
15A NCAC 24A .0402	14.03 NCR 126									

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 24A .0403	14-03 NCR 126									
15A NCAC 26C	13-22 NCR 1820									
15A NCAC 26C .0101	13-22 NCR 1820		14-01 NCR 12	*						
15A NCAC 26C .0102	13-22 NCR 1820		14-01 NCR 12	*						
15A NCAC 26C .0103	13-22 NCR 1820		14-01 NCR 12	*						
15A NCAC 26C .0104	13-22 NCR 1820		14-01 NCR 12	*						
15A NCAC 26C .0105	13-22 NCR 1820		14-01 NCR 12	*						
15A NCAC 26C .0106	13-22 NCR 1820		14-01 NCR 12	*						
15A NCAC 26C .0107	13-22 NCR 1820		14-01 NCR 12	*						
<b>Medical Assistance</b>										
10 NCAC 26B .0113	14-01 NCR 4	14-04 NCR 319								
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 .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	Object	12/17/98				
10 NCAC 26H .0401		13-02 NCR 248	13-12 NCR 947	*	Approve	01/21/99	*		13-22 NCR 1868	
10 NCAC 26I .0101	13-02 NCR 175		13-07 NCR 588	*	Approve	02/18/99	*		13-24 NCR 2037	
10 NCAC 26K .0106	12-05 NCR 337									
10 NCAC 26K .0106	12-06 NCR 444		12-21 NCR 1875	*						
10 NCAC 26M .0203	12-05 NCR 337									
10 NCAC 26M .0204	12-06 NCR 444		13-01 NCR 5	*						

Extend. Com. Period  
13-05 NCR 435

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 26M .0301		14-04 NCR 319								
10 NCAC 26M .0302		14-04 NCR 319								
10 NCAC 26M .0303		14-04 NCR 319								
10 NCAC 26M .0304		14-04 NCR 319								
10 NCAC 26M .0305		14-04 NCR 319								
10 NCAC 50A .0604	12-06 NCR 444		12-21 NCR 1875	*						
10 NCAC 50B .0102		13-18 NCR 1526								
10 NCAC 50B .0202	12-06 NCR 444		12-21 NCR 1875	*						
10 NCAC 50B .0302	13-02 NCR 175		13-10 NCR 806	*	Approve	02/18/99			13-24 NCR 2037	
10 NCAC 50B .0305		14-03 NCR 246								
10 NCAC 50B .0311	13-03 NCR 268									
10 NCAC 50B .0313	13-02 NCR 175		13-10 NCR 806	*	Approve	02/18/99	*		13-24 NCR 2037	
10 NCAC 50B .0313		13-18 NCR 1526								
<b>Medical Care Commission</b>										
10 NCAC 03D 1500	11-23 NCR 1779									
<b>Mental Health, Developmental Disabilities and Substance Abuse Services</b>										
10 NCAC 14V .0802	12-20 NCR 1820	13-22 NCR 1853	13-22 NCR 1853	*						
10 NCAC 14V .0803	12-20 NCR 1820	13-22 NCR 1853	13-22 NCR 1853	*						
10 NCAC 14V .0804	12-20 NCR 1820	13-22 NCR 1853	13-22 NCR 1853	*						
10 NCAC 14V .0805	12-20 NCR 1820	13-22 NCR 1853	13-22 NCR 1853	*						
10 NCAC 14V .3800	12-20 NCR 1820									
10 NCAC 14V .4000	12-20 NCR 1820									
10 NCAC 14V .4301	12-19 NCR 1762		13-07 NCR 586	*	Approve	01/21/99	*		13-22 NCR 1868	
10 NCAC 14V .4302	12-19 NCR 1762		13-07 NCR 586	*	Object	01/21/99	*			
10 NCAC 14V .4303	12-19 NCR 1762		13-07 NCR 586	*	Approve	02/18/99	*		13-24 NCR 2037	
10 NCAC 14V .4304	12-19 NCR 1762		13-07 NCR 586	*	Approve	01/21/99	*		13-22 NCR 1868	
10 NCAC 14V .4305	12-19 NCR 1762		13-07 NCR 586	*	Approve	01/21/99	*		13-22 NCR 1868	
10 NCAC 14V .4305	12-19 NCR 1762		13-07 NCR 586	*	Approve	01/21/99	*		13-22 NCR 1868	



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 14V .4306	12:19 NCR 1762		13:07 NCR 586	*	Approve	01/21/99			13:22 NCR 1868	
10 NCAC 14V .5000	12:20 NCR 1820									
10 NCAC 45G .0410	13:23 NCR 1947	13:23 NCR 1947								
10 NCAC 45H .0205	11:19 NCR 1762	12:24 NCR 2223	13:05 NCR 487	*						
<b>Secretary of Health and Human Services</b>										
10 NCAC 14V .7006		12:01 NCR 31	12:07 NCR 511	*						
10 NCAC 14V .7201	13:05 NCR 436		13:13 NCR 1042	*						
10 NCAC 14V .7202	13:05 NCR 436		13:13 NCR 1042	*						
10 NCAC 14V .7203	13:05 NCR 436		13:13 NCR 1042	*						
10 NCAC 14V .7204	13:05 NCR 436		13:13 NCR 1042	*						
10 NCAC 14V .7205	13:05 NCR 436		13:13 NCR 1042	*						
<b>Social Services Commission</b>										
10 NCAC 29C .0103		13:06 NCR 566	13:19 NCR 1611	*	Approve	07/15/99				
10 NCAC 41E .0401	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41E .0403	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41E .0404	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41E .0405	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41E .0406	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41E .0501	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41E .0502	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41E .0503	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41E .0504	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41E .0505	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41E .0506	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 41E .0507	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0508	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0509	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0510	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0511	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0512	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0513	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0514	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0515	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0516	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0517	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0518	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0601	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0602	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0603	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0604	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0605	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0606	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0701	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41E .0702	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 41E .0703	12:11 NCR 919		13:05 NCR 438	*						
10 NCAC 41E .0704	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0501	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0502	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0504	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0505	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0506	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0507	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0508	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0509	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0510	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0511	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0512	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0513	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0601	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0602	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0603	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0604	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0605	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0606	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41G .0701	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 41G .0702	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .0703	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .0704	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .0705	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .0706	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .0707	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .0708	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .0801	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .0802	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .0803	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .0804	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .0805	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .0806	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .0807	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .0808	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .0809	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .0902	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .1001	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .1002	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .1004	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 41G .1005	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1006	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1007	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1008	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1009	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1010	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1011	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1012	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1013	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1101	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1102	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1103	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1104	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1105	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1106	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1201	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1202	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1203	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1204	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41G .1205	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Role Citation	Rule-making Proceedings	Temporary Role	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 41G .1206	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .1207	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .1208	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .1301	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .1302	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .1303	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .1304	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .1305	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .1306	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .1307	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .1308	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .1309	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41G .1402	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41I .0100	10.17 NCR 2228		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			10.21 NCR 2687	*						
10 NCAC 41I .0102	10.17 NCR 2228		13.05 NCR 438	*						
10 NCAC 41R .0101	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41R .0102	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41R .0103	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41R .0104	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
			13.05 NCR 438	*						
10 NCAC 41R .0105	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	

# **CUMULATIVE INDEX** (Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 41R 0106	12:11 NCR 919		13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41R 0107	12:11 NCR 919		13:11 NCR 857	*						
			13:05 NCR 438	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41S 0101	12:11 NCR 919		13:11 NCR 857	*						
			13:05 NCR 438	*	Object	02/18/99				
			13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
10 NCAC 41S 0102	12:11 NCR 919		13:05 NCR 438	*						
			13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
10 NCAC 41S 0201	12:11 NCR 919		13:05 NCR 438	*						
			13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
10 NCAC 41S 0202	12:11 NCR 919		13:05 NCR 438	*						
			13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
10 NCAC 41S 0203	12:11 NCR 919		13:05 NCR 438	*						
			13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
10 NCAC 41S 0204	12:11 NCR 919		13:05 NCR 438	*						
			13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
10 NCAC 41S 0301	12:11 NCR 919		13:05 NCR 438	*						
			13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
10 NCAC 41S 0302	12:11 NCR 919		13:05 NCR 438	*						
			13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
10 NCAC 41S 0303	12:11 NCR 919		13:05 NCR 438	*						
			13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
10 NCAC 41S 0304	12:11 NCR 919		13:05 NCR 438	*						
			13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
10 NCAC 41S 0305	12:11 NCR 919		13:05 NCR 438	*						
			13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
10 NCAC 41S 0306	12:11 NCR 919		13:05 NCR 438	*						
			13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
10 NCAC 41S 0307	12:11 NCR 919		13:05 NCR 438	*						
			13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
10 NCAC 41S 0401	12:11 NCR 919		13:05 NCR 438	*						
			13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
10 NCAC 41S 0402	12:11 NCR 919		13:05 NCR 438	*						
			13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
10 NCAC 41S 0403	12:11 NCR 919		13:05 NCR 438	*						
			13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
10 NCAC 41S 0404	12:11 NCR 919		13:05 NCR 438	*						
			13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
10 NCAC 41S 0405	12:11 NCR 919		13:05 NCR 438	*						
				*	Approve	02/18/99	*		13:24 NCR 2037	

# **CUMULATIVE INDEX** (Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 41S 0406	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0407	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0501	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0502	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0503	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0504	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0505	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0506	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0601	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0602	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0603	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0604	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0605	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0606	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0607	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0608	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0609	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0610	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0611	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99			13:24 NCR 2037	
			13:05 NCR 438	*						
10 NCAC 41S 0612	12:11 NCR 919		13:11 NCR 857	*	Approve	02/18/99	*		13:24 NCR 2037	
			13:05 NCR 438	*						



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 41S .0613	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
10 NCAC 41S .0613		14.04 NCR 321	13.05 NCR 438	*	Approve	02/18/99	*		13.24 NCR 2037	
10 NCAC 41S .0614	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
10 NCAC 41S .0615	12.11 NCR 919		13.05 NCR 438	*	Approve	02/18/99			13.24 NCR 2037	
10 NCAC 41S .0701	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
10 NCAC 41S .0702	12.11 NCR 919		13.05 NCR 438	*	Approve	02/18/99			13.24 NCR 2037	
10 NCAC 41S .0703	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
10 NCAC 41S .0704	12.11 NCR 919		13.05 NCR 438	*	Approve	02/18/99			13.24 NCR 2037	
			13.11 NCR 857	*	Object	02/18/99	*		13.24 NCR 2037	
10 NCAC 41S .0705	12.11 NCR 919		13.05 NCR 438	*	Approve	02/18/99			13.24 NCR 2037	
10 NCAC 41S .0706	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
10 NCAC 41S .0707	12.11 NCR 919		13.05 NCR 438	*	Approve	02/18/99			13.24 NCR 2037	
10 NCAC 41S .0708	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99	*		13.24 NCR 2037	
10 NCAC 41S .0709	12.11 NCR 919		13.05 NCR 438	*	Approve	02/18/99			13.24 NCR 2037	
10 NCAC 41S .0710	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
10 NCAC 41S .0711	12.11 NCR 919		13.05 NCR 438	*	Approve	02/18/99			13.24 NCR 2037	
10 NCAC 41S .0712	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
10 NCAC 41S .0713	12.11 NCR 919		13.05 NCR 438	*	Approve	02/18/99			13.24 NCR 2037	
10 NCAC 41T .0101	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	
10 NCAC 41T .0102	12.11 NCR 919		13.05 NCR 438	*	Approve	02/18/99	*		13.24 NCR 2037	
10 NCAC 41T .0103	12.11 NCR 919		13.11 NCR 857	*	Approve	02/18/99			13.24 NCR 2037	

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 41T .0104	12-11 NCR 919		13-11 NCR 857	*	Approve	02/18/99	*		13-24 NCR 2037	
			13-05 NCR 438	*						
10 NCAC 41T .0105	12-11 NCR 919		13-11 NCR 857	*	Approve	02/18/99			13-24 NCR 2037	
			13-05 NCR 438	*						
10 NCAC 41T .0106	12-11 NCR 919		13-11 NCR 857	*	Approve	02/18/99			13-24 NCR 2037	
			13-05 NCR 438	*						
10 NCAC 41T .0201	12-11 NCR 919		13-11 NCR 857	*	Approve	02/18/99			13-24 NCR 2037	
			13-05 NCR 438	*						
10 NCAC 41T .0202	12-11 NCR 919		13-11 NCR 857	*	Approve	02/18/99	*		13-24 NCR 2037	
			13-05 NCR 438	*						
10 NCAC 41T .0203	12-11 NCR 919		13-11 NCR 857	*	Approve	02/18/99	*		13-24 NCR 2037	
			13-05 NCR 438	*						
10 NCAC 41T .0204	12-11 NCR 919		13-11 NCR 857	*	Approve	02/18/99			13-24 NCR 2037	
			13-05 NCR 438	*						
10 NCAC 41T .0205	12-11 NCR 919		13-11 NCR 857	*	Approve	02/18/99			13-24 NCR 2037	
			13-05 NCR 438	*						
10 NCAC 41T .0206	12-11 NCR 919		13-11 NCR 857	*	Approve	02/18/99			13-24 NCR 2037	
			13-05 NCR 438	*						
10 NCAC 42E	13-07 NCR 585		13-11 NCR 857	*	Approve	02/18/99			13-24 NCR 2037	
			13-05 NCR 438	*						
10 NCAC 42S	13-07 NCR 585		13-11 NCR 857	*	Approve	02/18/99			13-24 NCR 2037	
			13-05 NCR 438	*						
10 NCAC 42Z	13-07 NCR 585		13-11 NCR 857	*	Approve	02/18/99			13-24 NCR 2037	
			13-05 NCR 438	*						
<b>Vocational Rehabilitation Services</b>										
10 NCAC 20B .0224		13-17 NCR 1379								
10 NCAC 20B .0228		13-17 NCR 1379								
<b>HOUSING FINANCE AGENCY</b>										
24 NCAC 01H .0103	13-22 NCR 1822		14-02 NCR 82	*						
<b>INSURANCE</b>										
11 NCAC 06	12-09 NCR 744									
11 NCAC 12	12-09 NCR 744									
11 NCAC 12 .1702	14-02 NCR 78									
11 NCAC 13	12-09 NCR 744									
11 NCAC 13 .0514	14-02 NCR 78									

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

11 NCAC 13.0518 14.02 NCR 78  
 11 NCAC 14 12.09 NCR 744  
 11 NCAC 15 12.09 NCR 744  
 11 NCAC 16 12.09 NCR 744  
 11 NCAC 17 12.09 NCR 744  
 11 NCAC 20 12.09 NCR 744  
 11 NCAC 21 12.09 NCR 744

## JUSTICE

### Criminal Justice Education and Training Standards Commission

12 NCAC 09B 0107	13.14 NCR 1110		13.19 NCR 1611	*	Ext. Review	06/17/99				
12 NCAC 09B 0109	13.14 NCR 1110		13.19 NCR 1611	*	Return to Agency	07/15/99	*			
12 NCAC 09B 0110	13.14 NCR 1110		13.19 NCR 1611	*	Approve	06/17/99	*			
12 NCAC 09B 0112	13.14 NCR 1110		13.19 NCR 1611	*	Approve	06/17/99	*			
12 NCAC 09B 0113	13.14 NCR 1110		13.19 NCR 1611	*	Ext. Review	06/17/99				
12 NCAC 09B 0115	13.14 NCR 1110		13.19 NCR 1611	+	Return to Agency	07/15/99	*			
12 NCAC 09B 0201	13.14 NCR 1110		13.19 NCR 1611	*	Approve	06/17/99				
12 NCAC 09B 0202	13.14 NCR 1110		13.19 NCR 1611	*	Object	06/17/99				
12 NCAC 09B 0203	13.14 NCR 1110		13.19 NCR 1611	*	Return to Agency	07/15/99				
12 NCAC 09B 0204	13.14 NCR 1110		13.19 NCR 1611	*	Object	06/17/99				
12 NCAC 09B 0205	13.14 NCR 1110		13.19 NCR 1611	S/L	Return to Agency	07/15/99				
12 NCAC 09B 0206	13.14 NCR 1110		13.19 NCR 1611	*	Object	06/17/99				
12 NCAC 09B 0207	13.14 NCR 1110		13.19 NCR 1611	*	Return to Agency	07/15/99				
12 NCAC 09B 0208	13.14 NCR 1110		13.19 NCR 1611	*	Object	06/17/99				
12 NCAC 09B 0226	13.14 NCR 1110		13.19 NCR 1611	*	Return to Agency	07/15/99				

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
12 NCAC 09B .0227	13:14 NCR 1110		13:19 NCR 1611	*	Object	06/17/99				
12 NCAC 09B .0228	13:14 NCR 1110		13:19 NCR 1611	S	Returned to Agency	06/17/99				
12 NCAC 09B .0232	13:14 NCR 1110		13:19 NCR 1611	S	Returned to Agency	06/17/99				
12 NCAC 09B .0233	13:14 NCR 1110		13:19 NCR 1611	S	Object	06/17/99				
12 NCAC 09B .0302	13:14 NCR 1110		13:19 NCR 1611	*	Return to Agency	07/15/99				
12 NCAC 09B .0303	13:14 NCR 1110		13:19 NCR 1611	*	Object	06/17/99				
12 NCAC 09B .0304	13:14 NCR 1110		13:19 NCR 1611	*	Return to Agency	07/15/99	*			
12 NCAC 09B .0305	13:14 NCR 1110		13:19 NCR 1611	*	Approve	06/17/99	*			
12 NCAC 09B .0312	13:14 NCR 1110		13:19 NCR 1611	*	Approve	06/17/99	*			
12 NCAC 09B .0403	13:14 NCR 1110		13:19 NCR 1611	*	Object	06/17/99				
12 NCAC 09B .0404	13:14 NCR 1110		13:19 NCR 1611	*	Return to Agency	07/15/99				
12 NCAC 09B .0405	13:14 NCR 1110		13:19 NCR 1611	*	Approve	06/17/99				
12 NCAC 09B .0406	13:14 NCR 1110		13:19 NCR 1611	*	Approve	06/17/99	*			
12 NCAC 09B .0407	13:14 NCR 1110		13:19 NCR 1611	*	Approve	06/17/99	*			
12 NCAC 09B .0414	13:14 NCR 1110		13:19 NCR 1611	*	Approve	06/17/99	*			
12 NCAC 09B .0415	13:14 NCR 1110		13:19 NCR 1611	*	Approve	06/17/99	*			
12 NCAC 09C .0211	13:14 NCR 1110		13:19 NCR 1611	*	Approve	06/17/99	*			
12 NCAC 09C .0212	13:14 NCR 1110		13:19 NCR 1611	*	Object	06/17/99				
12 NCAC 09C .0213	13:14 NCR 1110		13:19 NCR 1611	*	Return to Agency	07/15/99				
12 NCAC 09C .0403	13:14 NCR 1110		13:19 NCR 1611	*	Object	06/17/99				
12 NCAC 09E .0107	13:14 NCR 1110		13:19 NCR 1611	*	Return to Agency	07/15/99				
<b>Private Protective Services Board</b>										
12 NCAC 07D .0800	13:14 NCR 1110			*	Object	06/17/99				
12 NCAC 07D .1201	11:10 NCR 818		12:14 NCR 1263	*	Object	11/19/98				
12 NCAC 07D .1202	11:10 NCR 818		12:14 NCR 1263	*	Object	11/19/98				



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
12 NCAC 07D 1301	11/16 NCR 1268		12:14 NCR 1263	*	Object	11/19/98				
12 NCAC 07D 1302	11/16 NCR 1268		12:14 NCR 1263	*	Object	11/19/98				
12 NCAC 07D 1303	11/16 NCR 1268		12:14 NCR 1263	*	Object	11/19/98				
12 NCAC 07D 1304	11/16 NCR 1268		12:14 NCR 1263	*	Object	11/19/98				
12 NCAC 07D 1305	11/16 NCR 1268		12:14 NCR 1263	*	Object	11/19/98				
12 NCAC 07D 1306	11/16 NCR 1268		12:14 NCR 1263	*	Object	11/19/98				
12 NCAC 07D 1307	11/16 NCR 1268		12:14 NCR 1263	*	Object	11/19/98				
<b>Sheriffs' Education and Training Standards Commission</b>										
12 NCAC 10B 0103	13/14 NCR 1110		13:19 NCR 1637	S	Object	06/17/99				
12 NCAC 10B 0502	13/14 NCR 1110		13:19 NCR 1637	L	Return to Agency	07/15/99				
12 NCAC 10B 0505	13/14 NCR 1110		13:19 NCR 1637	*	Object	06/17/99				
12 NCAC 10B 0506	13/14 NCR 1110		13:19 NCR 1637	*	Approve	06/17/99				
12 NCAC 10B 0507	13/14 NCR 1110		13:19 NCR 1637	*	Approve	06/17/99				
12 NCAC 10B 0508	13/14 NCR 1110		13:19 NCR 1637	*	Approve	06/17/99				
12 NCAC 10B 0509	13/14 NCR 1110		13:19 NCR 1637	*	Approve	06/17/99				
12 NCAC 10B 0601	13/14 NCR 1110		13:19 NCR 1637	S/L	Object	06/17/99				
12 NCAC 10B 0606	13/14 NCR 1110									
12 NCAC 10B 0607	13/14 NCR 1110									
12 NCAC 10B 0703	13/14 NCR 1110		13:19 NCR 1637	S/L	Approve	06/17/99	*			
12 NCAC 10B 0908	13/14 NCR 1110		13:19 NCR 1637	S/L	Approve	06/17/99				
12 NCAC 10B 1002	13/14 NCR 1110		13:19 NCR 1637	*	Approve	06/17/99				
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							
12 NCAC 10B 1401	13/14 NCR 1110		13:19 NCR 1637	S	Approve	06/17/99				
12 NCAC 10B 1402	13/14 NCR 1110		13:19 NCR 1637	S	Approve	06/17/99	*			
12 NCAC 10B 1403	13/14 NCR 1110		13:19 NCR 1637	S	Approve	06/17/99	*			
12 NCAC 10B 1404	13/14 NCR 1110		13:19 NCR 1637	S	Approve	06/17/99	*			

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

12 NCAC 10B .1405 13:14 NCR 1110

12 NCAC 10B .1406 13:14 NCR 1110

13:19 NCR 1637

13:19 NCR 1637

Approve 06/17/99

Approve 06/17/99

\*

## LABOR

### Boiler and Pressure Vessel Division

13 NCAC 13 .0406 13:03 NCR 269

13 NCAC 13 .0409 13:03 NCR 269

13:08 NCR 685

13:08 NCR 685

\*

\*

### Occupational Safety and Health

13 NCAC 07A .0401 14:02 NCR 78

13 NCAC 07A .0900 11:11 NCR 881

13 NCAC 07F 11:03 NCR 106

13 NCAC 07F .0101 14:02 NCR 78

13 NCAC 07F .0201 11:03 NCR 106

13 NCAC 07F .0201 14:02 NCR 78

13 NCAC 07F .0301 11:03 NCR 106

13 NCAC 07F .0410 14:02 NCR 78

13 NCAC 07F .0601 13:02 NCR 176

13 NCAC 07F .0602 13:02 NCR 176

13 NCAC 07F .0603 13:02 NCR 176

13 NCAC 07F .0604 13:02 NCR 176

13 NCAC 07F .0605 13:02 NCR 176

13 NCAC 07F .0606 13:02 NCR 176

13:21 NCR 1786

13:21 NCR 1786

13:21 NCR 1786

13:21 NCR 1786

13:21 NCR 1786

13:21 NCR 1786

S/L/SE

S/L

S/L/SE

S/L/SE

S/L/SE

S/L

### Wage and Hour Division

13 NCAC 12 .0501 13:03 NCR 268

13 NCAC 12 .0801 13:03 NCR 268

13 NCAC 12 .0802 13:03 NCR 268

### LANDSCAPE ARCHITECTS, BOARD OF

21 NCAC 26 .0104 12:08 NCR 730

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

21 NCAC 26 .0105 12-08 NCR 730  
 21 NCAC 26 .0302 12-08 NCR 730  
 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 32H .0402 12-04 NCR 314  
 21 NCAC 32O .0118 11-18 NCR 1369  
 21 NCAC 32O .0119 11-18 NCR 1369  
 21 NCAC 32O .0120 11-18 NCR 1369  
 21 NCAC 32O .0121 11-18 NCR 1369  
 21 NCAC 32R .0101 14-03 NCR 127  
 21 NCAC 32R .0102 14-03 NCR 127  
 21 NCAC 32R .0103 14-03 NCR 127  
 21 NCAC 32R .0104 14-03 NCR 127

## MORTUARY SCIENCE, BOARD OF

21 NCAC 34C 12-09 NCR 745

## MUNICIPAL INCORPORATIONS PETITION

## NURSING, BOARD OF

21 NCAC 36 .0213 13-22 NCR 1821

## OPTICIANS, BOARD OF

21 NCAC 40 .0108

## PHARMACY, BOARD OF

12-07 NCR 557

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 46 .1317	13.22 NCR 1821			*						
21 NCAC 46 .1413	13.22 NCR 1821			*						
21 NCAC 46 .1414	13.22 NCR 1821									
21 NCAC 46 .1601	13.22 NCR 1821									
21 NCAC 46 .1608	12.24 NCR 2203									
21 NCAC 46 .1609	12.24 NCR 2203									
21 NCAC 46 .1804	12.03 NCR 168		12.07 NCR 527 12.09 NCR 797 13.02 NCR 246	*	State Budget	03/20/98				
				*	Object	12/17/98				
				SE	Object	02/18/99				
					Object	04/15/99				
					Approve	05/20/99			14.04 NCR 330	
21 NCAC 46 .1810	13.22 NCR 1821									
21 NCAC 46 .1813	13.22 NCR 1821									
21 NCAC 46 .1814	13.22 NCR 1821									
21 NCAC 46 .1815		13.11 NCR 910	13.22 NCR 1848 13.24 NCR 2016 12.07 NCR 527	*						
21 NCAC 46 .2103	12.03 NCR 168		12.09 NCR 797	*						
21 NCAC 46 .2301	12.03 NCR 168		12.07 NCR 527	*						
			12.09 NCR 797	*						
21 NCAC 46 .2306	12.24 NCR 2203		13.04 NCR 419	*	Object	11/19/98				
21 NCAC 46 .2506	12.24 NCR 2203		13.04 NCR 419	*	Object	12/17/98				
<b>PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS, EXAMINERS OF</b>										
21 NCAC 50 .0106	12.07 NCR 509									
21 NCAC 50 .0202	12.07 NCR 509									
21 NCAC 50 .0506	12.07 NCR 509	12.07 NCR 557								
21 NCAC 50 .1201	12.07 NCR 509									
21 NCAC 50 .1205	12.07 NCR 509									
21 NCAC 50 .1206	12.07 NCR 509									



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 50 .1210	12.07 NCR 509									
21 NCAC 50 .1212	12.07 NCR 509									
21 NCAC 50 .1302	12.07 NCR 509									
<b>PSYCHOLOGY BOARD</b>										
21 NCAC 54 .1611	12.05 NCR 338		13.13 NCR 1050	*						
21 NCAC 54 .1612	12.05 NCR 338									
21 NCAC 54 .1613	12.05 NCR 338									
21 NCAC 54 .1901	13.21 NCR 1784									
21 NCAC 54 .2006	12.05 NCR 338									
21 NCAC 54 .2010	12.05 NCR 338									
21 NCAC 54 .2104	12.05 NCR 338		13.13 NCR 1050	*						
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									
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									

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 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		13.13 NCR 1050	*						
21 NCAC 54 .2706	12-05 NCR 338		13.13 NCR 1050	*						
21 NCAC 54 .2801	12-05 NCR 338		13.13 NCR 1050	*						
21 NCAC 54 .2802	12-05 NCR 338		13.13 NCR 1050	*						
21 NCAC 54 .2803	12-05 NCR 338		13.13 NCR 1050	*						
21 NCAC 54 .2804	12-05 NCR 338		13.13 NCR 1050	*						
21 NCAC 54 .2805	12-05 NCR 338		13.13 NCR 1050	*						
21 NCAC 54 .2806	12-05 NCR 338		13.13 NCR 1050	*						
21 NCAC 54 .2807	12-05 NCR 338		13.13 NCR 1050	*						
<b>PUBLIC EDUCATION</b>										
<b>Public Hearing - Date Change (See 13:18 NCR 1503)</b>										
16 NCAC 06B .0108		13.13 NCR 1061	13.18 NCR 1503	*	Approve	07/15/99				13.19 NCR 1605
16 NCAC 06C .0102			13.18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0103			13.18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0202			13.18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0205			13.18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0205			13.24 NCR 2008	*	Return to Agency	07/15/99				
16 NCAC 06C .0206			13.18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0207			13.18 NCR 1503	*	Return to Agency	07/15/99				

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
16 NCAC 06C .0301			13:18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0302			13:18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0303			13:18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0304			13:18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0305			13:18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0306			13:18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0307			13:18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0308			13:18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0309			13:18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0310		12:03 NCR 210	12:01 NCR 18	*	Return to Agency	07/15/99				
16 NCAC 06C .0311			13:18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0312			13:18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0313			13:18 NCR 1503	*	Return to Agency	07/15/99				
16 NCAC 06C .0501			13:18 NCR 1503	*	Object	07/15/99				
16 NCAC 06D .0103		12:22 NCR 2010	13:18 NCR 1503	*	Approve	07/15/99	*			
16 NCAC 06D .0103			13:24 NCR 2008	S						
16 NCAC 06D .0210			13:18 NCR 1503	*	Approve	07/15/99				
16 NCAC 06D .0301			13:18 NCR 1503	*	Approve	07/15/99				
16 NCAC 06D .0302			13:18 NCR 1503	*	Approve	07/15/99				
16 NCAC 06D .0303			13:18 NCR 1503	*	Approve	07/15/99				
16 NCAC 06D .0304			13:18 NCR 1503	*	Approve	07/15/99				
16 NCAC 06D .0305			13:24 NCR 2008	S						
16 NCAC 06D .0501			13:18 NCR 1503	*	Approve	07/15/99	*			
16 NCAC 06D .0502			13:24 NCR 2008	S						
16 NCAC 06D .0503			13:24 NCR 2008	S						
16 NCAC 06D .0504			13:24 NCR 2008	S						
16 NCAC 06D .0505			13:24 NCR 2008	S						

Temp Filed over obj

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
16 NCAC 06D .0506			13.24 NCR 2008	S						
16 NCAC 06D .0507			13.24 NCR 2008	S						
16 NCAC 06E .0202			13.18 NCR 1503	*	Return to Agcy	07/15/99				
16 NCAC 06E .0301		13.05 NCR 523								
16 NCAC 06E .0301			13.18 NCR 1503	*	Approve	07/15/99				
16 NCAC 06G .0202			13.18 NCR 1503	*	Approve	07/15/99				
16 NCAC 06G .0308			13.18 NCR 1503	*	Approve	07/15/99				
16 NCAC 06G .0309			13.18 NCR 1503	*	Approve	07/15/99				
16 NCAC 06G .0311		12.22 NCR 2010	13.18 NCR 1503	*	Approve	07/15/99	*			
16 NCAC 06G .0502			13.18 NCR 1503	*	Return to Agcy	07/15/99				
16 NCAC 06H .0101			13.18 NCR 1503	*	Return to Agcy	07/15/99				
16 NCAC 06H .0103			13.18 NCR 1503	*	Return to Agcy	07/15/99				
16 NCAC 06H .0105			13.18 NCR 1503	*	Return to Agcy	07/15/99				
16 NCAC 06H .0106			13.18 NCR 1503	*	Return to Agcy	07/15/99				
16 NCAC 06H .0107			13.18 NCR 1503	*	Return to Agcy	07/15/99				
16 NCAC 06H .0108			13.18 NCR 1503	*	Return to Agcy	07/15/99				
16 NCAC 06H .0109			13.18 NCR 1503	*	Return to Agcy	07/15/99				
16 NCAC 06H .0110			13.18 NCR 1503	*	Return to Agcy	07/15/99				
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						



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
17 NCAC 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 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 04F .0005	N/A		13-08 NCR 690	N/A						
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 .0118	N/A		13-09 NCR 762	N/A	Object Object Approve	12/17/98 03/18/99 04/15/99			14-02 NCR 84	
17 NCAC 07B .0124	N/A		13-08 NCR 695	N/A						
17 NCAC 07B .0125	N/A		13-08 NCR 695	N/A						
17 NCAC 07B .2101	N/A		13-09 NCR 767	N/A						
17 NCAC 09K .0601	N/A		13-08 NCR 695	N/A						

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

## SECRETARY OF STATE

18 NCAC 06 .1212		13.14 NCR 1151								
18 NCAC 06 .1304		13.14 NCR 1151								
18 NCAC 06 .1502		13.14 NCR 1151								
18 NCAC 06 .1802		12.07 NCR 534	12.14 NCR 1312	*						
18 NCAC 06 .1803		12.07 NCR 534	12.14 NCR 1312	*						
18 NCAC 10 .0101	13.09 NCR 759	13.14 NCR 1153								
18 NCAC 10 .0201	13.09 NCR 759	13.18 NCR 1556								
18 NCAC 10 .0301	13.09 NCR 759	13.14 NCR 1153								
18 NCAC 10 .0302	13.09 NCR 759	13.18 NCR 1556								
18 NCAC 10 .0303	13.09 NCR 759	13.14 NCR 1153								
18 NCAC 10 .0304	13.09 NCR 759	13.14 NCR 1153								
18 NCAC 10 .0305	13.09 NCR 759	13.14 NCR 1153								
18 NCAC 10 .0306		13.18 NCR 1556								
18 NCAC 10 .0307		13.18 NCR 1556								
18 NCAC 10 .0401	13.09 NCR 759	13.14 NCR 1153								
18 NCAC 10 .0402	13.09 NCR 759	13.18 NCR 1556								
18 NCAC 10 .0501	13.09 NCR 759	13.14 NCR 1153								
		13.18 NCR 1556								

## SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGIST, BOARD OF EXAMINERS

21 NCAC 64 .0303 11.23 NCR 1780

## STATE PERSONNEL COMMISSION

25 NCAC 01B .0354	13.05 NCR 436		13.09 NCR 773	*						
25 NCAC 01B .0414		13.18 NCR 1560	13.22 NCR 1850	*						
25 NCAC 01B .0434		13.18 NCR 1560	13.22 NCR 1850	*						
25 NCAC 01B .0437	13.05 NCR 436		13.09 NCR 773	*						
25 NCAC 01C .0214		13.18 NCR 1560	13.22 NCR 1850	*						

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

25 NCAC 01D .2516		11-13 NCR 1062 Temp Expired	11-19 NCR 1429	*						
25 NCAC 01D .2517		12-09 NCR 835								
25 NCAC 01H .0602	13-05 NCR 436		13-09 NCR 773	*						
25 NCAC 01H .0605	13-05 NCR 436		13-09 NCR 773	*						
25 NCAC 01H .0606	13-05 NCR 436		13-09 NCR 773	*						
25 NCAC 01J .0503	13-05 NCR 436		13-09 NCR 773	*						
25 NCAC 01J .0506		13-18 NCR 1560	13-22 NCR 1850	*						
25 NCAC 01J .0512	13-05 NCR 436		13-09 NCR 773	*						
25 NCAC 01J .0603	13-05 NCR 436		13-09 NCR 773	*						
25 NCAC 01J .0603		13-18 NCR 1560	13-22 NCR 1850	*						

## TRANSPORTATION

### Highways, Division of

19A NCAC 02D .0415	13-08 NCR 626		13-14 NCR 1116	*	Approve	04/15/99			14-02 NCR 84	
19A NCAC 02E .0201	14-03 NCR 126									
19A NCAC 02E .0202	14-03 NCR 126									
19A NCAC 02E .0203	14-03 NCR 126									
19A NCAC 02E .0206	14-03 NCR 126									
19A NCAC 02E .0207	14-03 NCR 126									
19A NCAC 02E .0208	14-03 NCR 126									
19A NCAC 02E .0209	14-03 NCR 126									
19A NCAC 02E .0210	14-03 NCR 126									
19A NCAC 02E .0211	14-03 NCR 126									
19A NCAC 02E .0212	14-03 NCR 126									
19A NCAC 02E .0213	14-03 NCR 126									
19A NCAC 02E .0214	14-03 NCR 126									
19A NCAC 02E .0215	14-03 NCR 126									

# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
19A NCAC 02E .0221	13:04 NCR 361		13:10 NCR 811	*	Approve	03/18/99	*		14:01 NCR 48	
19A NCAC 02E .0222	13:04 NCR 361		13:10 NCR 811	*	Approve	03/18/99			14:01 NCR 48	
19A NCAC 02E .0224	14:03 NCR 126									
19A NCAC 02E .0225	14:03 NCR 126									
19A NCAC 02E .0602	14:03 NCR 126									
19A NCAC 02E .0603	14:03 NCR 126									
19A NCAC 02E .0604	14:03 NCR 126									
<b>Motor Vehicles, Division of</b>										
19A NCAC 031 .0100	11:19 NCR 1413									
19A NCAC 031 .0200	11:19 NCR 1413									
19A NCAC 031 .0207	13:16 NCR 1258		13:22 NCR 1843	*	Approve	07/15/99				
19A NCAC 031 .0300	11:19 NCR 1413									
19A NCAC 031 .0301	13:16 NCR 1258		13:22 NCR 1843	*	Approve	07/15/99				
19A NCAC 031 .0302	13:16 NCR 1258		13:22 NCR 1843	*	Approve	07/15/99				
19A NCAC 031 .0307	13:16 NCR 1258		13:22 NCR 1843	*	<b>Object</b>	<b>07/15/99</b>				
19A NCAC 031 .0400	11:19 NCR 1413									
19A NCAC 031 .0401	13:16 NCR 1258		13:22 NCR 1843	*	Approve	07/15/99				
19A NCAC 031 .0402	13:16 NCR 1258		13:22 NCR 1843	*	<b>Object</b>	<b>07/15/99</b>				
19A NCAC 031 .0500	11:19 NCR 1413									
19A NCAC 031 .0501	13:16 NCR 1258		13:22 NCR 1843	*	Approve	07/15/99				
19A NCAC 031 .0600	11:19 NCR 1413									
19A NCAC 031 .0601	13:16 NCR 1258		13:22 NCR 1843	*	Approve	07/15/99				
19A NCAC 031 .0700	11:19 NCR 1413									
19A NCAC 031 .0701	13:16 NCR 1258		13:22 NCR 1843	*	Approve	07/15/99				
19A NCAC 031 .0800	11:19 NCR 1413									
19A NCAC 031 .0804	13:16 NCR 1258		13:22 NCR 1843	*	<b>Object</b>	<b>07/15/99</b>				

## VETERINARY MEDICAL BOARD



# CUMULATIVE INDEX

(Updated through August 10, 1999)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

21 NCAC 66 .0207 12:23 NCR 2089

21 NCAC 66 .0208 12:23 NCR 2089

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

Place  
Stamp  
Here

**Office of Administrative Hearings**

P.O. Drawer 27447  
Raleigh, NC 27611-7447

---

**NORTH CAROLINA REGISTER  
ORDER FORM**

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

☐ Renew *North Carolina Register*

☐ Check Enclosed

☐ Please bill me

Please make check payable to Office of Administrative Hearings

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

## CHANGE OF ADDRESS

### 1. Present Address

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip \_\_\_\_\_

### 2. New Address

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip \_\_\_\_\_

---

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

Periodicals Postage  
Paid in Raleigh, NC  
USPS 016727

\*\*\*\*\* 3-DIGIT 275

UNIV. OF NORTH CAROLINA  
LAW LIBRARY CB# 3385  
VAN HECKE-WETTACH 064-A  
CHAPEL HILL NC 27599-