

**NORTH CAROLINA
REGISTER**

IN THIS ISSUE



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NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.

TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE	DEPARTMENT	LICENSING BOARDS	CHAPTER
1	Administration	Acupuncture	1
2	Agriculture	Architecture	2
3	Auditor	Athletic Trainer Examiners	3
4	Commerce	Auctioneers	4
5	Correction	Barber Examiners	6
6	Council of State	Certified Public Accountant Examiners	8
7	Cultural Resources	Chiropractic Examiners	10
8	Elections	Employee Assistance Professionals	11
9	Governor	General Contractors	12
10	Health and Human Services	Cosmetic Art Examiners	14
11	Insurance	Dental Examiners	16
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13	Labor	Electrical Contractors	18
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15A	Environment and Natural Resources	Foresters	20
16	Public Education	Geologists	21
17	Revenue	Hearing Aid Dealers and Fitters	22
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NORTH CAROLINA REGISTER
 Publication Schedule for July 2000 – June 2001

Filing Deadlines			Notice of Rule-Making Proceedings	Notice of Text							Temporary Rule
volume & issue number	issue date	last day for filing	earliest register issue for publication of text	earliest date for public hearing	non-substantial economic impact			substantial economic impact			270 th day from issue date
					end of required comment period	deadline to submit to RRC for review at next meeting	first legislative day of the next regular session	end of required comment period	deadline to submit to RRC for review at next meeting	first legislative day of the next regular session	
15:01	07/03/00	06/12/00	09/01/00	07/18/00	08/02/00	08/21/00	01/24/01	09/01/00	09/20/00	01/24/01	03/30/01
15:02	07/17/00	06/23/00	09/15/00	08/01/00	08/16/00	08/21/00	01/24/01	09/15/00	09/20/00	01/24/01	04/13/01
15:03	08/01/00	07/11/00	10/02/00	08/16/00	08/31/00	09/20/00	01/24/01	10/02/00	10/20/00	01/24/01	04/28/01
15:04	08/15/00	07/25/00	10/16/00	08/30/00	09/14/00	09/20/00	01/24/01	10/16/00	10/20/00	01/24/01	05/12/01
15:05	09/01/00	08/11/00	11/01/00	09/18/00	10/02/00	10/20/00	01/24/01	10/31/00	11/20/00	01/24/01	05/29/01
15:06	09/15/00	08/24/00	11/15/00	10/02/00	10/16/00	10/20/00	01/24/01	11/14/00	11/20/00	01/24/01	06/12/01
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15:17	03/01/01	02/08/01	05/01/01	03/16/01	04/02/01	04/20/01	05/00/02	04/30/01	05/21/01	05/00/02	11/26/01
15:18	03/15/01	02/22/01	06/01/01	03/30/01	04/16/01	04/20/01	05/00/02	05/14/01	05/21/01	05/00/02	12/10/01
15:19	04/02/01	03/12/01	06/01/01	04/17/01	05/02/01	05/21/01	05/00/02	06/01/01	06/20/01	05/00/02	12/28/01
15:20	04/16/01	03/26/01	06/15/01	05/01/01	05/16/01	05/21/01	05/00/02	06/15/01	06/20/01	05/00/02	01/11/02
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15:24	06/15/01	05/25/01	08/15/01	07/02/01	07/16/01	07/20/01	05/00/02	08/14/01	08/20/01	05/00/02	03/12/02

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

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

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

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

FILING DEADLINES

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

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

NOTICE OF RULE-MAKING PROCEEDINGS

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

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

NOTICE OF TEXT

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

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

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

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

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

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.

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY**

DMB NORTH CAROLINA 2, LLC

Pursuant to G.S. 130A-310.34, DMB North Carolina 2, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Chocowinity, Beaufort County, North Carolina. The Property consists of 43 acres and is located at 357 Singer Street. Environmental contamination exists on the Property in soil and groundwater. DMB North Carolina 2, LLC has committed itself to limiting the Property to industrial and commercial uses, except that an existing baseball field may be used for recreational purposes. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and DMB North Carolina 2, LLC, which in turn includes (a) a legal description of the Property, (b) a map showing the location of the Property, (c) a description of the contaminants involved and their concentrations in the media of the Property, (d) the above-stated description of the intended future use of the Property, and (e) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35. The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the offices of the Town of Chocowinity, 3391 US Highway 17S, Chocowinity, NC, by contacting Joy McRoy, Town Clerk, at (252) 946-6568; or at 401 Oberlin Rd., Raleigh, NC 27605 by contacting Scott Ross at that address, at scott.ross@ncmail.net, or at (919) 733-2801, ext. 328. Written public comments may be submitted to DENR within 60 days of the date of this Notice. Written requests for a public meeting may be submitted to DENR within 30 days of the date of this Notice. All such comments and requests, and/or requests to view the full Notice of Intent, should be addressed as follows:

Mr. Bruce Nicholson
Head, Special Remediation Branch
Superfund Section
Division of Waste Management
NC Department of Environment and Natural Resources
401 Oberlin Road, Suite 150
Raleigh, North Carolina 27605

IN ADDITION

North Carolina Department of Labor
Division of Occupational Safety and Health
4 West Edenton Street
Raleigh, NC 27601

(919) 662-4597

NOTICE OF VERBATIM ADOPTION OF FEDERAL STANDARDS

In consideration of G.S. 150-B-21.5(c) the Occupational Safety and Health Division of the Department of Labor hereby gives notice that it has submitted a permanent rule change to 13 NCAC 07F .0101, General Industry to incorporate the verbatim adoption of the Federal Ergonomics Program found at 65 FR 68261-68870, November 14, 2000.

For additional information regarding the substance and requirements of the Ergonomics Standard, please contact:

Bureau of Education, Training and Technical Assistance
Occupational Safety and Health Division
North Carolina Department of Labor
4 West Edenton Street
Raleigh, North Carolina 27601

For additional information regarding North Carolina's process of adopting federal OSHA Standards verbatim, including the Ergonomics Standard, please contact:

Thomas A. Harris, Acting General Counsel
North Carolina Department of Labor
Legal Affairs Division
4 West Edenton Street
Raleigh, NC 27601

IN ADDITION

STATE BOARD OF ELECTIONS
6400 Mail Service Center • Raleigh, NC 27699-6400

GARY O. BARTLETT
Director

Mailing Address

PO Box 2169
Raleigh, NC 27602-2169
(919) 733-7173
Fax (919) 715-0135

November 22, 2000

Ms. Libby Anderson
North Carolina Academy of Family Physicians, Inc.
P.O. Box 10278
Raleigh, NC 27605

RE: Request under G.S. 163-278.23 for an opinion

Dear Ms. Anderson:

This is a response to your inquiry for the North Carolina Academy of Family Physicians Inc.'s political action committee, FAMPAC.

When a PAC is formed by a professional organization, unless it's statement of organization differs; the PAC's membership is limited to the members of the professional association. In that situation, since only members could contribute to the PAC, any gifts to FAMPAC by non-members would be unlawful. We are assuming that your continuing education courses are open to non-members. If they are, and you decide to solicit funds for FAMPAC, it would be advisable to note in the solicitation that only members of the North Carolina Academy of Family Physicians could lawfully contribute.

Assuming that the political action committee FAMPAC was properly formed and has continued to comply with the election laws of North Carolina, a solicitation on your continuing education forms for this PAC, as set out in your letter of November 13, 2000, would appear not to violate the election law if:

1. CONTRIBUTIONS WERE ONLY RECEIVED FROM YOUR MEMBERSHIP AND NOT FROM NON-MEMBERS.

2. THE SOLICITATIONS FOR SUCH CONTRIBUTIONS WERE GIVEN ONLY TO YOUR MEMBERS AND NOT ANY NON-MEMBER.

This would mean that if your solicitation was printed on the registration form, you would need to make sure that particular type of registration form would not be sent to non-members. It might be simpler to give a separate solicitation sheet to your members as they check-in at the registration table.

This is an opinion tendered under the provisions of G.S. 163-278.23.

Sincerely,

Gary O. Bartlett

IN ADDITION

TITLE 19A – DEPARTMENT OF TRANSPORTATION

CHAPTER 02 – DIVISION OF HIGHWAYS

SUBCHAPTER 02D – HIGHWAYS OPERATIONS

CHAPTER 03 – DIVISION OF MOTOR VEHICLES

SUBCHAPTER 03D – ENFORCEMENT SECTION

The purpose of this notice is to inform interested parties that the comment period is hereby extended until January 2, 2001 for the following rules: 19A NCAC 02D .0601 - .0602, .0607, .0612, .0633 and 19A NCAC 03D .0219. The notice of text and notice of public hearing appeared in the December 1, 2000, Volume 15, Issue 11, pages 1056 - 1063 of the *NC Register*.

Please submit written comments on the proposed rules by mailing the comments to:

Emily Lee
NCDOT
1501 Mail Service Center
Raleigh, NC 27699-1501

RULE-MAKING PROCEEDINGS

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 10 – DEPARTMENT OF HEALTH AND HUMAN SERVICES

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.

CHAPTER 18 – MENTAL HEALTH: OTHER PROGRAMS

Notice of Rule-making Proceedings is hereby given by the Commission on Mental Health, Developmental Disabilities and Substance Abuse 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 Rule Affected by this Rule-making: 10 NCAC 45G - Other rules may be proposed in the course of the rule-making process.

Citation to Existing Rule Affected by this Rule-making: 10 NCAC 18F .0300 - Other rules may be proposed in the course of the rule-making process.

Authority for the Rule-making: G.S. 90-100; 90-106; 143B-147

Authority for the Rule-making: G.S. 20-138.1; 20-179(e)(6),(m); 122C-3; 122C-22; 122C-26; 143B-147

Statement of the Subject Matter: The Department of Health and Human Services, through the Regulatory Branch of the Division of Mental Health, Developmental Disabilities and Substance Abuse Services, is developing a centralized database for controlled substance prescriptions. Other rules may be proposed during the course of this action.

Statement of the Subject Matter: The Criminal Justice/DWI Branch of the Substance Abuse Section in the Division of Mental Health, Developmental Disabilities and Substance Abuse Services will propose that rules contained in 10 NCAC 18F .0300 – Substance Abuse Assessments for Individuals Charged with or Convicted of Driving While Impaired (DWI) be repealed. These rules will be more appropriately transferred to 10 NCAC 14V .3800 where they are now currently cross-referenced. This will allow individuals to view the content rather than having to look elsewhere.

Reason for Proposed Action: This action is being proposed for the prevention of the misuse and abuse of controlled substance.

Reason for Proposed Action: This action is being proposed to set requirements in a more user-friendly way by placing rules, as often as possible, in a more centralized location.

Comment Procedures: Written comments should be submitted to Charlotte F. Hall, Rulemaking Coordinator, Division of MHDDSAS, 3012 Mail Service Center, Raleigh, NC 27699-3012.

Comment Procedures: Written comments should be submitted to Charlotte F. Hall, Rulemaking Coordinator, Division of MHDDSAS, 3012 Mail Service Center, Raleigh, NC 27699-3012.

CHAPTER 45 – COMMISSION FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

Notice of Rule-making Proceedings is hereby given by the Commission on Mental Health, Developmental Disabilities and Substance Abuse Services in accordance with G.S. 150B-21.2.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

CHAPTER 7 – COASTAL MANAGEMENT

Notice of Rule-making Proceedings is hereby given by the Coastal 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 Rule Affected by this Rule-making: 15A NCAC 07H .0305; 07K .0209 - Other rules may be proposed in the course of the rule-making process.

Authority for the Rule-making: G.S. 113A-119.1

Statement of the Subject Matter: 15A NCAC 07H .0305 – Vegetation line establishment.

RULE-MAKING PROCEEDINGS

15A NCAC 07K .0209 – The proposed amendment would allow for a clear definition for accessory buildings thus making the rule language and the permit criteria clear.

Reason for Proposed Action:

15A NCAC 07H .0305 – The intent of the proposed amendment is to provide an alternative vegetation line to communities faced with a situation where, because of recent storms, the vegetation line determined prior to the onset of construction of a beach nourishment project is significantly landward of its likely long-term stable location.

15A NCAC 07K .0209 – The Coastal Resources Commission felt that the lack of a definitive definition for accessory buildings created a loophole that allowed structures to be exempted by the current rules that were not originally intended to be exempted, and therefore not subject to the permit requirements by the Division. The proposed definition attempts to put in rule criteria that must be met in order for the work to be considered excluded from the definition of development versus that which is considered development.

Comment Procedures:

15A NCAC 07H .0305 – Written comments should be submitted to Steve Benton, 1638 Mail Service Center, Raleigh, NC 27699-1638, phone 919-733-2293.

15A NCAC 07K .0209 – Written comments should be submitted to Ted Tyndall, 151B Hwy 24, Hestron Plaza II, Morehead City, NC 28557, phone 252-808-2808.

CHAPTER 13 – SOLID WASTE MANAGEMENT

Notice of Rule-making Proceedings is hereby given by NC DENR/Division of Waste Management in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rules it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rule Affected by this Rule-making: 15A NCAC 13B .0503-.0505. Other rules may be proposed in the course of the rule-making process.

Authority for the Rule-making: G.S. 130A-294

Statement of the Subject Matter: The Section will evaluate the need for revisions to the "sanitary landfill" rules to specifically address construction/demolition (CDLFs). The potential result of this review could range from a few clarification changes to a recommendation that CDLFs need some type of liner and leachate collection systems.

Reason for Proposed Action: There are emerging concerns that existing construction and demolition rules are not adequate. Studies underway in several states and concerns as a result of Hurricane Floyd cause us to propose a review of existing rules. Data collection capacity is becoming available in North

Carolina at such a level to support a review of the adequacy of existing regulations.

Comment Procedures: All persons interested in this review are encouraged to submit written comments to: Jim Coffey, Permits Branch, Division of Waste Management – Solid Waste Section, 1646 Mail Service Center, Raleigh, NC 27699-1646.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS

CHAPTER 1 – NORTH CAROLINA ACUPUNCTURE LICENSING BOARD

Notice of Rule-making Proceedings is hereby given by the North Carolina Acupuncture Licensure Board in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rule Affected by this Rule-making: 21 NCAC 01 .0301 - Other rules may be proposed in the course of the rule-making process.

Authority for the Rule-making: G.S. 90-454

Statement of the Subject Matter: This rule will better clarify the continuing education requirements of licensees.

Reason for Proposed Action: To better clarify the standards for continuing education requirements of licensees.

Comment Procedures: All written comments must be returned to Diana Mills, NC Acupuncture Licensing Board, 893 US Highway 70 West, Suite 202, Garner, NC 27529-2597.

TITLE 28 – DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Notice of Rule-making Proceedings is hereby given by Department of Juvenile Justice and Delinquency Prevention in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Title Affected by this Rule-making: Title 28

Authority for the Rule-making: S.L. 2000-137

Statement of the Subject Matter: To adopt rules to govern the new Department of Juvenile Justice and Delinquency Prevention. The agency intends to file these rules as temporary rules.

RULE-MAKING PROCEEDINGS

Reason for Proposed Action: *Legislation created the Department of Juvenile Justice and Delinquency Prevention.*

Comment Procedures: *All comments should be mailed to rules coordinator Tara Minter, 410 South Salisbury Street, Raleigh, NC 27601, or sent facsimile to (919) 733-0780.*

PROPOSED RULES

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

TITLE 10 – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the DHHS – Division of Medical Assistance intends to amend the rule cited as 10 NCAC 26H .0506. Notice of Rule-making Proceedings was published in the Register on February 1, 2000.

Proposed Effective Date: August 1, 2002

Public Hearing:

Date: January 2, 2001

Time: 1:30 p.m.

Location: Kirby Building, Room 132, 1985 Umstead Dr., Raleigh, NC

Reason for Proposed Action: The Division of Facility Services has implemented new regulations for Adult Care Homes as a result of passage of Senate Bill 10 in the 1999 Session of the General Assembly. It is necessary to change this APA to implement reimbursement of the cost of the new regulation.

Comment Procedures: Written comments concerning this rule-making action must be submitted by February 13, 2001 to Portia W. Rochelle, Rule-making Coordinator, Division of Medical Assistance, 1985 Umstead Dr., 2504 Mail Service Center, Raleigh, NC 27699-2504.

Fiscal Impact

- State
Local
Substantive (>\$5,000,000)
None

CHAPTER 26 – MEDICAL ASSISTANCE

SUBCHAPTER 26H – REIMBURSEMENT PLANS

SECTION .0500 – REIMBURSEMENT FOR SERVICES

10 NCAC 26H .0506 PERSONAL CARE SERVICES

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

(b) The Division of Medical Assistance will enter into contracts with private and public non-medical inpatient institutions using 42 CFR 434-12 for the provision of personal care services for

State/County Special Assistance clients residing in adult care homes.

- (1) Effective August 1, 1995 reimbursement for private providers is determined by the Division of Medical Assistance based on a capitation per diem fee derived from review of industry costs and determination of reasonable costs with annual inflation adjustments. The initial basic per diem fee is based on one hour of services per patient day. Additional payments may be made utilizing the basic one hour per diem fee as a factor, for Medicaid eligibles that have a demonstrated need for additional care. The initial basic one hour fee is computed by determining the estimated salary, fringes, direct supervision and allowable overhead. Effective January 1, 2000 the cost of medication administration and personal care services direct supervision shall be added to the basic per diem. The fee(s) may be recalculated from a cost reporting period selected by the state. Payments may not exceed the limits set in 42 CFR 447.361. Effective January 1, 2000, private provider payments will be cost settled with any overpayment repaid to the Division of Medical Assistance. No additional payment will be made due to cost settlement. The first cost settlement period shall be the nine months ended September 30, 2000. Subsequently, the annual cost settlement shall be the 12 months ended September 30.

- (2) Effective January 1, 1996 public providers will be paid on an interim basis using the above method. Payments are to be cost settled with any overpayment repaid to the Division of Medical Assistance. No additional payments will be made due to cost settlement.

(c) These changes to the Payment for Services Prospective Plan for Personal Care Services will become effective when the Health Care Financing Administration, U.S. Department of the Division of Medical Assistance as #MA 00-01 wherein the Director proposes amendments of the State Plan to amend payments for services Prospective Reimbursement Plan for Personal Care Services.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the Social Services Commission intends to amend the rules cited as 10 NCAC 41S .0102, .0201-.0202, .0204, .0305-.0306, .0402, .0405, .0503, .0506, .0612, .0614, .0704-.0705, .0707, .0713;

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41T .0106, .0201. Notice of Rule-making Proceedings was published in the Register on September 15, 2000.

Proposed Effective Date: July 1, 2002

Public Hearing:

Date: January 17, 2001

Time: 10:00 a.m.

Location: Albemarle Building, Room 832, 325 N. Salisbury St., Raleigh, NC

Reason for Proposed Action: Revised licensure rules for residential child care facilities were adopted in July 1999. During the first year of implementation input was sought and received from licensees and the licensing consultants who monitor the licensees regarding licensure effectiveness. Recommended changes for clarification of content or intent resulted. In addition, necessary technical revisions are recommended. Lastly, the recommended changes reflect recent federal and state Independent Living policy changes and legislative changes by the General Assembly affecting residential child care facilities. The majority of amendments are technical changes, or to clarify the intent or content of a rule. Two amendments are the result of a recent act of the General Assembly, involving the reporting of the death of a child due to the use of physical restraints in a residential child care facility. When death occurs the residential child care facility must report the death to the licensing authority and certain data regarding the use of physical restraints which is to be reported annually to the General Assembly. One amendment ensures compliance with the recently enacted federal Independent Living Program policy, allowing a child who leaves a foster care placement at age 18 to reenter the foster care system, provided certain stipulations are met. Amendment of these rules by the Social Services Commission will ensure that the most current residential child care and child welfare practice standards are being implemented in residential settings and will ensure that foster care rules are in compliance with federal regulations. Implementation of the most up to date child care and child welfare practice standards will ensure that children in out of home care are better protected.

Comment Procedures: Anyone wishing to comment should contact Sharnese Ransome, APA Coordinator, Social Services Commission, NC Division of Social Services 325 N. Salisbury St., 2401 Mail Service Center, Raleigh, NC 27699-2401, phone 919-733-3055. Verbal comments will be heard during the public hearing. Written comments must be received by Ms. Ransome no later than January 16, 2001 at 5:00 p.m.

Fiscal Impact

- State
- Local
- Substantive (>\$5,000,000)
- None

CHAPTER 41 – CHILDREN'S SERVICES

SUBCHAPTER 41S - MINIMUM LICENSING STANDARDS FOR RESIDENTIAL CHILD CARE

SECTION .0100 - LICENSING STANDARDS: RESIDENTIAL CAMPS PROVIDING FOSTER CARE FOR CHILDREN

10 NCAC 41S .0102 LICENSING PROCESS

- (a) The license process shall consist of an application phase and an investigatory phase.
- (b) Application Phase. An applicant must apply for a license to operate a residential child care facility to the Department of Health and Human Services, Division of Social Services, prior to the first child being accepted for full-time care. An applicant must apply for renewal of a license to operate a residential child care facility to the Department of Health and Human Services, Division of Social Services, prior to the expiration of the current license.
- (c) Investigatory Phase. During this phase, the applicant must submit to the Division of Social Services, Children's Services Section information on the proposed program and projected methods of operation. For proposed private and public residential child-care facilities, the Division of Social Services, Children's Services staff, together with those seeking licensure, complete this phase. For agency residential child-care facilities, the supervising agency shall complete this phase.
- (d) Decision Regarding Licensure. An applicant must submit all the materials required by Subchapters 41S and 41T, if applicable to the Division of Social Services, Children's Services Section prior to the decision to issue a license to operate.

Authority G.S. 131D-10.5; 143B-153.

SECTION .0200 – MINIMUM LICENSURE STANDARDS

10 NCAC 41S .0201 DEFINITIONS

The following definitions apply to the rules in Subchapters 41S and 41T:

- (1) Case Plan means a written document which describes the social and child welfare services and activities to be provided by the county department of social services in the Family Services Case Plan or other state and local agencies for the purpose of achieving a permanent family relationship for the child.
- (2) Child Caring Institution means a residential child-care facility utilizing permanent buildings located on one site for 10 or more foster children.
- (3) Children's Foster Care Camp means a residential child-care facility which provides foster care at either a permanent camp site or in a wilderness setting.
- (4) Direct Service Personnel means staff responsible for the direct services provided to children and their families including, but not limited to, child care workers, residential counselors, house/teaching parents, social workers, recreation and education staff.
- (5) Director means the person who is in charge of the agency and who is responsible for developing and

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- supervising the program of residential child care and services.
- (6) Emergency Shelter Care means 24 hour care provided in a residential child care facility for a period not to exceed 90 days, in accordance with 10 NCAC 41T .0200.
- (7) Family Time means specific period arranged for a child who resides in a residential child care facility to spend with kin either on-site or away from the residential child care facility.
- (8) Foster Child means an individual less than 18 years of age who has not been emancipated under the provisions of Article 56 of G.S. 7A, or one who is 18 to 21 years of age and continues to reside in the residential child-care facility, who is dependent, neglected, abandoned, destitute, orphaned, delinquent, or otherwise in need of care away from home and not held in detention.
- (9) Full License means a license issued for one year when all minimum licensing requirements are met.
- (10) Group Home means a residential child-care facility operated either under public or private auspices which receives for 24 hour care no more than nine children. This number includes the care givers' own relatives residing in the home under the ages of 18. The composition of the group shall include no more than two children under the age of two, four children under the age of six, and six children under the age of 12. A group home shall not provide day care, nor shall it be available to adults in the community who wish to rent rooms.
- (11) Individualized Service Plan means a written document which describes a child's needs, goals and objectives in a residential child care facility and the direct services staff tasks and assignments to meet a child's and family's needs, goals and objectives.
- (12) License means permission granted in writing to a corporation, agency or county government by the Department of Health and Human Services to engage in the provision of full time child care or child placing activities based upon an initial determination, and annually thereafter, that such corporation, agency, or a county government has met and complied with minimum standards set forth in this Subchapter.
- (13) Private Agency Residential Child's Care Facility means a residential child care facility under the auspices of a licensed child placing agency or another private residential child care facility.
- (14) Private Residential Child's Care Facility means a residential child care facility under the control, management and supervision of a private non-profit or for-profit corporation, sole proprietorship or partnership which operates independently of a licensed child placing agency or any other residential child care facility.
- (15) Provisional License means a license issued for a maximum of six months enabling a facility to operate while some below standard component of the program is being corrected. A provisional license for the same below standard program component shall not be renewed.
- (16) Public Agency Residential Child's Care Facility means a residential child care facility under the auspices of a county department of social services.
- (17) Public Residential Child's Care Facility means a residential child care facility under the control, management and supervision of a county government.
- (18) Visiting Resource means volunteers from the community whose homes children visit on the weekends, holiday or vacations.
- (19) Volunteer means a person working in a staff position for an agency who is not paid.

Authority G.S. 131D-10.5; 143B-153.

10 NCAC 41S .0202 RESPONSIBILITY TO DIVISION OF SOCIAL SERVICES

- (a) The residential child-care facility shall annually submit to the Division of Social Services the information and materials required by rules in Subchapters 41S and 41T to document compliance and to support issuance of a license.
- (b) The residential child-care facility shall submit to the Division of Social Services an annual statistical report of program activities as required in Subchapters 41S and 41T.
- (c) The residential child-care facility shall provide written notification to the Division of Social Services of a change in the director.
- (d) The office of a residential child care facility shall be maintained within the geographical boundaries of North Carolina. The licensee shall carry out activities under the North Carolina license from this office.
- (e) The current license of a residential child care facility shall be posted at all times in a conspicuous place within the facility.
- (f) When there is a report alleging abuse or neglect in a residential child-care facility, the director or his designee shall immediately notify the Division of Social Services.
- (g) The residential child-care facility shall submit to the Division of Social Services a report on the circumstances of the allegation and results of the investigation of the allegation of abuse or neglect. This report, along with other information, shall be reviewed and evaluated by the Division of Social Services and used in consultation and technical assistance to the residential child-care facility to improve services to protect children in placement in the residential child care facility.
- (h) The residential child-care facility shall have and follow policies and procedures for handling any suspected incidents of child abuse or neglect involving staff. The policies and procedures must include:
- (1) A provision for reporting any allegations of abuse or neglect to the appropriate county department of social services for investigation in accordance with G.S. 7A-543.
 - (2) A provision for recording any suspected incident of abuse or neglect and for promptly reporting it to the executive director or to the governing body or advisory board.

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- (3) A provision for promptly notifying the Division of Social Services of any allegations of abuse or neglect of any child in care.
- (4) A provision for preventing a recurrence of the alleged incident pending investigation.
- (5) A provision for written notification to the Division of Social Services of any findings of such an investigation of child abuse or neglect, specifying only whether there was substantiation or unsubstantiation of the case.
- (i) When there is a death of a child who is a resident of a residential child care facility, the director or his designee shall immediately notify the licensing authority.

Authority G.S. 131D-10.5; 143B-153.

10 NCAC 41S .0204 LICENSURE PROCEDURES

(a) Private Residential Child Care Facility Licensure Procedures.

- (1) The following materials shall be submitted to the Division of Social Services during the application phase:
 - (A) Articles of Incorporation;
 - (B) Bylaws; and
 - (C) Governing board list with addresses, occupations and classes on the board, including officers and terms of officers, if applicable.
- (2) The following materials shall be submitted to the Division of Social Services during the investigatory phase before an initial license can be issued, with the exception of Part (K) of this Subparagraph which will be maintained at the facility for review:
 - (A) License Application and Summary.
 - (B) Program policies and procedures stating the purpose, outlining admission criteria, as well as defining areas of responsibilities for services which the facility will assume for children in care and for services to be provided by the referring agency or individual, and discharge criteria.
 - (C) Description of the child care program and evaluation method.
 - (D) Program forms.
 - (E) Budget outlining anticipated costs and sources of revenue for the first year of operation.
 - (F) Personnel policies.
 - (G) Organizational chart.
 - (H) Job descriptions.
 - (I) Staff resumes.
 - (J) Full and part-time staff work schedules.
 - (K) Medical examinations including TB skin test results on full and part-time direct-care personnel and any relatives in the home. The medical reports must be completed by a licensed medical provider within six months prior to the license date.
 - (L) Fire and Building Safety Inspection Report (for fewer than seven residents, for seven to nine residents or 10 or more residents), completed and approved by the county building inspector or fire marshal.

- (M) Inspection Form for Residential Care Facilities, completed and approved by the county sanitarian.
- (N) Floor plan indicating room dimensions, usage of each room, window and door locations and sizes and method of heating.
- (O) Written approval from the Division of Facility Services for a design capacity of seven to nine residents or 10 or more residents.
- (3) Division of Social Services shall make one or more visits to the residential child care facility to complete the licensing study.
- (4) Based on information obtained during the investigatory phase, Division of Social Services staff shall evaluate the residential child care facility's proposed program and methods of operation to determine compliance with rules in Subchapters 41S and 41T.
- (5) The Division of Social Services shall notify the residential child-care facility in writing of the licensure decision, conditions of the license and any recommendations regarding the child care program.
- (b) Licensure Procedures for Private Agency, Public Agency and Public Residential Child Care Facilities.**
 - (1) The following materials shall be submitted to the Division of Social Services before a license may be issued, with the exception of Part (I) of this Subparagraph which will be maintained at the facility for review:
 - (A) License Application and Summary.
 - (B) Program policies and procedures stating purpose, outlining admission criteria, as well as defining areas of responsibilities and discharge criteria.
 - (C) Description of the child care program and evaluation method.
 - (D) Program forms.
 - (E) Budget outlining anticipated costs and sources of revenue for the first year of operation.
 - (F) Job descriptions.
 - (G) Staff resumes.
 - (H) Full and part-time staff work schedules.
 - (I) Medical examinations including TB skin test results on full and part-time direct care personnel and any relatives in the home. The medical reports must be completed by a licensed medical provider within six months prior to the license date.
 - (J) Fire and Building Safety Inspection Report (for fewer than seven residents, seven to nine residents, or 10 or more residents), completed and approved by the county building inspector or fire marshal.
 - (K) Inspection Form for Residential Care Facilities, completed and approved by the county sanitarian.
 - (L) Floor plan indicating room dimensions, usage of each room, window and door locations and sizes and method of heating.
 - (M) Written approval from the Division of Facility Services for a design capacity of seven to nine residents or 10 or more residents.
 - (2) Department of Health and Human Services staff shall notify the residential child-care facility in writing of the

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licensure decision, conditions of the license, and any recommendations regarding the residential child care program.

SECTION .0300 – ORGANIZATION AND ADMINISTRATION

- (c) Licensure Procedures Following First Year of Operation.
- (1) Prior to the license expiration date, the Division of Social Services shall notify the residential child care facility in writing of the licensure renewal requirements.
 - (2) The following materials shall be submitted to the Division of Social Services before a license for a residential child care facility can be renewed, with the exception of Parts (E) and (F) of this Subparagraph which will be maintained at the facility for review:
 - (A) License Application and Summary.
 - (B) Governing board list, with addresses, occupations and classes on the board, officers and terms of office, if applicable.
 - (C) Budget outlining anticipated costs and sources of revenue of the next operating year, with estimation of daily cost of care per child for past year.
 - (D) Annual Information Report on Children.
 - (E) Biennial medical reports including TB skin test results on full and part-time direct care personnel staff and any relatives in the facility. These physicals must be completed by a licensed medical provider.
 - (F) Health Questionnaire including TB skin test results on the year when the physical examination is not required.
 - (G) Fire and Building Safety Inspection Report (for fewer than seven residents, seven to nine residents, or 10 or more residents), completed and approved by the county building inspector or fire marshal.
 - (H) Inspection Form for Residential Care Facilities, completed and approved by the county sanitarian.
 - (I) Updated or revised materials to include, but not limited to, policies, procedures, forms, or amendments to Bylaws or Articles.
 - (J) Independent annual financial audit, if a private residential child care facility.
 - (3) With the exception of residential child care facilities which are accredited by the Council on Accreditation, the Division of Social Services shall annually conduct onsite visits to private residential child-care facilities and conduct desk reviews of the licensure materials of private agency, public agency or public residential child care facilities to determine if minimum licensure standards for residential child care facilities continue to be met.
 - (4) For residential child care facilities which are accredited by the Council on Accreditation, the Division of Social Services shall conduct onsite visits to these residential child care facilities every other year in accordance with the agreement between the Division of Social Services and the Council on Accreditation.

Authority G.S. 131D-10.5; 143B-153.

10 NCAC 41S .0305 RECORDKEEPING AND REPORTING

- (a) The residential child care facility's policy on confidentiality shall:
- (1) identify the individuals with access to or control over confidential information;
 - (2) specify that persons who have access to records be limited to the client, the parent or legal custodian when the client is a minor, and other authorized personnel. These persons shall include auditing, licensing, or accrediting personnel or those persons for whom the agency has obtained a signed consent for release of confidential information; and
 - (3) require that when client information is disclosed a signed consent for release of information is obtained on a consent for release form.
- (b) The residential child care facility shall:
- (1) provide a secure place for the storage of records with confidential information;
 - (2) inform employees, students, volunteers and other individuals with access to confidential information of the provisions of this Rule;
 - (3) ensure that, upon employment and whenever revisions are made, staff sign a compliance statement which indicates an understanding of the requirements of confidentiality;
 - (4) unless harmful, permit children to review their case records in the presence of facility personnel on the facility premises, in a manner that protects the confidentiality of other family members or other individuals referenced in the record;
 - (5) in cases of perceived harm to the child, document in writing any refusals to share information with the child, parent or legal custodian;
 - (6) maintain a confidential case record for each child;
 - (7) maintain confidential personnel records for all employees; and
 - (8) maintain confidential records for all volunteers.
- ~~(9)~~(c) The residential child care facility may destroy in office a closed record in which a child has been discharged for a period of three years or may destroy in office a record three years after a child has reached age 18, unless included in a federal fiscal or program audit that is unresolved, then may destroy in office when released from all audits.

Authority G.S. 131D-10.5; 143B-153.

10 NCAC 41S .0306 CLIENT RIGHTS

- (a) The residential child care facility shall develop and implement policies and procedures to protect the individual rights and dignity of children and families.
- (b) The residential child care facility shall have a client's and family's rights policy which includes that each child has the right to:
- (1) privacy;

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- (2) be provided adequate food, clothing, and shelter;
- (3) have access to family time and have telephone conversations with family members, when not contraindicated in the child's intervention plan or individualized service plan;
- (4) have personal property and a space for storage;
- (5) express opinions on issues concerning the child's care or treatment;
- (6) receive care in a manner that recognizes variations in cultural values and traditions;
- (7) be free from coercion with regard to religious decisions. The facility shall have a process to assure that, whenever practical, the wishes of the parents with regard to a child's religious participation are ascertained and followed;
- (8) not be identified in connection with publicity for the facility which shall bring the child or the child's family embarrassment; and
- (9) not be forced to acknowledge dependency on or gratitude to the facility.

(c) The residential child care facility shall have a policy which prohibits direct involvement by a child in funds solicitation for the facility.

(d) The residential child care facility shall have a policy which prohibits the child's participation in any activities involving audio or visual recording and research without the voluntary signed, time-limited consent of the child and the child's legal custodian.

Authority G.S. 131D-10.5; 143B-153.

SECTION .0400 – PERSONNEL

10 NCAC 41S .0402 PERSONNEL DEPLOYMENT

(a) The residential child care facility shall ensure that the deployment of personnel supports the stated mission of the facility.

(b) There shall be a written job description for each position, which includes duties, responsibilities, qualifications, and to whom the position is responsible. Job descriptions shall be consistent with duties being performed.

(c) The residential child care facility shall have procedures for annual evaluation of the work performance of each employee which provides for employee participation in the process.

(d) The residential child care facility shall have an organizational plan which delineates the number of staff and levels of supervisors/managers, taking into account the complexity and size of the workload of each staff. The plan must demonstrate supervision of staff in accordance with the rules in Subchapters 41S and 41T, if applicable.

Authority G.S. 131D-10.5; 143B-153.

10 NCAC 41S .0405 PERSONNEL POSITIONS

(a) Director. There shall be a full time director for an agency with one or more facilities licensed for 20 or more children. At a minimum, there shall be a part-time director for an agency with one or more facilities licensed for less than 20 children.

(b) A director shall have management skills that enable the effective utilization of the residential child care facility's human and financial resources and the coordination of the facility's services with those provided by other community resources.

(c) The director shall:

- (1) Be responsible for the general management and administration of the residential child care facility in accordance with licensing requirements and policies established by the governing board;
- (2) Interpret licensing standards, established child care standards and the residential child care facility's services to the board, the facility's constituency, other human service agencies and the public;
- (3) Initiate and carry out the program of residential child care as approved by the governing board;
- (4) Report to the governing board on all phases of operation at least quarterly;
- (5) Delegate authority and responsibility to qualified staff to ensure the maintenance of the residential child care facility's operations;
- (6) Establish and oversee fiscal practices, present the annual operating budget and quarterly reports to the governing board;
- (7) Evaluate, at least annually, the training needs of the staff; plan and implement staff training and consultation to address identified needs;
- (8) Employ and discharge staff and meet on a regular basis with administrative and management staff to review, discuss and formulate policies and procedures; and
- (9) Supervise all staff responsible to the director's position and conduct an annual written evaluation which shall contain both a review of job responsibilities and goals for future job performance.

(d) Clerical, Maintenance and Other Support Personnel. The residential child care facility shall employ or contract qualified personnel to perform all clerical, support and maintenance duties.

(e) Business and Financial Personnel. The residential child care facility shall employ or contract personnel to perform all business, accounting and financial functions.

(f) Direct Service Personnel:

- (1) Direct service personnel, hired after the effective date of these Rules, shall:
 - (A) Have education or experience to meet the responsibilities of the job;
 - (B) Have a physical examination by a licensed medical provider prior to assuming the position and biennially thereafter. This examination shall include a statement indicating the presence of any communicable disease which may pose a significant risk of transmission in the residential child care facility. After the initial examination, the cost of the physical examinations as required by licensure shall be at the expense of the facility;
 - (C) Have a TB skin test, unless the medical provider advises against this test, prior to assuming the position and annually thereafter.
- (2) Standards for direct service personnel in the living unit:

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- (A) There shall be at least one direct service personnel assigned to every 10 children six years of age and older and at least one direct care personnel assigned for every five children younger than six years of age. Supervisory personnel within voice range shall be allowed to be included in the child to staff ratio;
 - (B) The residential child care facility shall ensure that direct service personnel receive supervision and training in the areas of, but not limited to, first aid and CPR, child development, permanency planning methodology, group management, preferred discipline techniques, family relationships, human sexuality, health care and socialization, leisure time and recreation. In addition, the residential child care facility shall provide training to direct service personnel in accordance with the needs of the client population, including but not limited to, training in child sexual abuse;
 - (C) The residential child care facility shall ensure that direct service personnel receive supervision in food preparation and nutrition when meals are prepared in the living unit; and
 - (D) Any duties other than direct services duties assigned to direct service personnel shall be specified in writing and assigned in accordance with the residential child care program.
- (3) Standards for supervisory personnel:
- (A) There shall be at least one supervisor for every 15 direct service personnel.
 - (B) Supervisory staff shall be selected on the basis of the knowledge, experience and competence required to manage direct service personnel.
- (4) Standards for other direct service personnel: For residential child care facilities that employ staff as social workers, the following applies:
- (A) There shall be at least one social worker assigned for every 16 children and, for every six social workers, at least one supervisor shall be assigned;
 - (B) The residential child care facility shall ensure that staff employed as social workers receive supervision and training in the areas of, but not limited to, child development, permanency planning methodology, group dynamics, family systems and relationships, and child sexual abuse;
 - (C) Staff employed as social workers shall be familiar with community resources for children and their families in addition to the agency's in-care services; and
 - (D) Any duties other than social work duties assigned to staff employed as social workers shall be specified in writing and assigned in accordance with the residential child care program.

Authority G.S. 131D-10.5; 143B-153.

SECTION .0500 – SERVICE PLANNING

10 NCAC 41S .0503 ADMISSION AGREEMENT

(a) At admission, the residential child care facility must develop a written agreement between the parents or legal custodian and the facility which specifies the services to be provided by the facility and the responsibilities of the parents or legal custodian which includes the following:

- (1) statement of consent for placement by the parents or legal custodian, with the date of admission;
- (2) plan for providing admission information on the child's care, developmental, educational, medical, and psychological needs to the parent(s) or legal custodian, the frequency of service plan reviews, and receipt of program information required by 10 NCAC 41S .0307(a) and 10 NCAC 41S .0504(a);
- (3) statement of facility responsibility for working with the child's parents;
- (4) statement related to the provision of religious training and practices and consent to these by the parents or legal custodian;
- (5) plan for family time;
- (6) fees and plan for payment of care;
- (7) plan for discharge to include projected length of stay; and
- (8) statement of facility responsibility for aftercare services.

(b) For youths 18 years of age and older residing in the residential child care facility or reentering the facility, the facility shall obtain a voluntary placement consent signed by the youth which specifies the conditions for residential care and services.

Authority G.S. 131D-10.5; 143B-153.

10 NCAC 41S .0506 CLIENT RECORDS

(a) The residential child care facility shall maintain a client record for each child which contains the following:

- (1) documentation of placement authority by legal custodian;
- (2) completed application for services;
- (3) written placement consent and agreement;
- (4) intake study and related documents;
- (5) documentation that verifies the child's birth;
- (6) pre-admission physical examinations;
- (7) immunization records;
- (8) intervention plan and reviews;
- (9) written service plan and review;
- (10) documentation of all family time, including duration, location both onsite and off-site, and frequency, as well as any rationale for restrictions on family involvement;
- (11) consents for release of information;
- (12) consent for emergency medical treatment;
- (13) consents for field trips;
- (14) consents for time-limited audio-visual recording signed by both the child and legal custodian;
- (15) ongoing record of medical and dental care;
- (16) documentation of medical insurance;
- (17) physical restraint and incident reports; and
- (18) discharge summary.

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- (b) The residential child care facility shall maintain client records for the purpose of:
- (1) protecting the legal rights of the child, the parents and legal custodian, and the facility;
 - (2) documenting service provision to the child and family, including an evaluation of effectiveness of services provided; and
 - (3) providing a source of information about individual children, as well as information for the facility in planning its program of care and services.
- (c) Staff entries in client records shall be dated and either initialed or signed.

Authority G.S. 131D-10.5; 143B-153.

SECTION .0600 – SERVICE DELIVERY

10 NCAC 41S .0612 WORK

- (a) The residential child care facility shall provide opportunities for each child to learn the value of work and the development of good work habits.
- (b) The residential child care facility shall comply with the provisions of the NC Wage and Hour Act concerning age, abilities, hours of labor and hazardous occupations in the assignment of work to children.
- (c) The residential child care facility shall not substitute children for employed staff in assigning work.
- (d) The residential child care facility shall not require children to be solely responsible for any major phase of operation or maintenance of the home such as cooking, laundering, housekeeping, farming, or repair work.
- (e) The residential child care facility shall not require a child to work for the purpose of paying the facility for his cost of care except when an older child moving toward self-support enters into a contract with the facility in which he is paid for his work and assumes a gradual degree of responsibility for his own needs.
- (f) The residential child care facility shall provide children who are on work assignments with adult supervision.
- (g) The residential child care facility shall ensure that children's work assignments do not interfere with school, recreation, study period, adequate sleep, community contacts and family time.

Authority G.S. 131D-10.5; 143B-153.

10 NCAC 41S .0614 INCIDENT REPORTS

- (a) The residential child care facility shall have written policies and procedures for reporting critical incidents.
- (b) The residential child care facility shall document critical incidents, including accidents or injuries to the child, acts of physical aggression by children, use of physical restraints by staff, and children who run away from the facility, which include:
- (1) Name of child or children involved;
 - (2) Date and time of incident;
 - (3) Brief description of incident;
 - (4) Action taken by staff;
 - (5) Need for medical attention, if needed;

- (6) Name of staff involved and person completing the report;
 - (7) Name of child's legal custodian notified and date and time of notification; and
 - (8) Signature of supervisory or administrative staff reviewing the report.
- (c) When there is a death of a child who is a resident of a residential child care facility, the director or his designee shall immediately notify the legal custodian and the licensing authority.

Authority G.S. 131D-10.5; 143B-153.

SECTION .0700 – BUILDING, GROUNDS, AND EQUIPMENT

10 NCAC 41S .0704 FIRE AND BUILDING SAFETY

- (a) Each building shall have a non-pay telephone available at all times. Emergency telephone numbers shall be posted at the telephone.
- (b) Care must be exercised by the staff in allowing children to use matches or to handle combustible materials.
- (c) Emergency plans and fire evacuation plans approved by the local fire authority must be developed and posted on each floor of each building.
- (d) Fire drills must be held monthly at different times during the day and quarterly at night for both children and staff. Documentation of fire drills must be kept.
- (e) The staff and children residing in a facility must be trained in the proper reporting of a fire and the ways of escaping from a fire. New residents must be instructed within the first day upon admittance.
- (f) For every 2,500 square feet of floor area or portion thereof and for each floor there must be at least one fire extinguisher. Fire extinguishers must be provided in accordance with the standards of the National Fire Protection Association Standard for Portable Fire Extinguishers NFPA Number 10. They must be inspected annually and kept charged and filled at all times in accordance with NFPA Number 10. NFPA Number 10 is hereby incorporated by reference including subsequent amendments and additions. The NFPA Number 10 may be obtained from NFPA, 11 Tracy Drive, Avon, Massachusetts, 02322 at a cost of twenty four dollars and seventy-five cents (\$24.75).
- (g) For seven or more residents, each floor level must be separated from other floors in accordance with the requirements of the applicable building code, and by not less than walls and a solid core, self-closing, 20 minute fire-rated door.
- (h) Each floor level must be provided with a minimum of two remotely-located exits.
- (i) Fire exits and all exit-access paths including doors, hallways, and stairs, must be well lighted and kept clear of obstructions.
- (j) No locks shall be installed on exit or room doors which would prevent occupants from getting out of the building by the simple operation of a single knob or lever.
- (k) Emergency lighting must be provided for exiting from the building.
- (l) Windows in children's bedrooms must be openable without the use of keys or special tools.

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(m) Fire alarm and smoke detector systems must be installed in each residential child care facility in accordance with the North Carolina State Building Code, be audible throughout the building, be kept in working order and be readily identifiable by the staff and children.

(n) All electrical and heating equipment must be UL listed or be listed by a testing agency recognized by the NC Department of Insurance; the electrical wiring in the building must conform to the requirements stated in the National Electrical Code for the applicable occupancy. The National Electrical Code is hereby incorporated by reference including subsequent amendments and additions. The National Electrical Code may be obtained from the Department of Insurance, Code Council Section, 410 Boylan Avenue, Raleigh, North Carolina 27603 at a cost of forty-five dollars (\$45.00).

(o) Hot water at fixtures used by residents for bathing or hand-washing must be maintained at a minimum of 100 degrees Fahrenheit and a maximum of not more than 116 degrees Fahrenheit.

Authority G.S. 131D-10.5; 143B-153.

10 NCAC 41S .0705 GENERAL SANITATION

(a) The water supply, sewage disposal, solid waste disposal, and food service must meet applicable rules of the Commission of Health Services.

(b) Kitchens providing food service to 13 or more children must meet the requirements of "Rules Governing the Sanitation of Hospitals, Nursing Homes, Rest Homes, Sanitariums, and Educational and Other Institutions" adopted by the Commission of Health Services in 15A NCAC 18A .1300.

(c) Kitchens providing food service to no more than 12 children must meet the requirements of "Rules Governing the Sanitation of Residential Care Facilities" adopted by the Commission of Health Services in 15A NCAC 18A .1300.

(d) Laundry facilities must be provided.

(e) To assure compliance with all local and state sanitation regulations, construction plans for seven or more residents for a new residential child care facility, renovations of an existing building for a residential child care facility, or the reconstruction of an existing residential child care facility must be submitted to and approved by the county health department in which the facility is located.

Authority G.S. 131D-10.5; 143B-153.

10 NCAC 41S .0707 SLEEPING AREAS

(a) Bedrooms in existing facilities licensed before October 31, 1977 must provide a minimum of 60 square feet of floor space for each child in multi-occupancy bedrooms and a minimum of 80 square feet of floor space in single-occupancy bedrooms. Floor area shall not include closets or wardrobes.

(b) Except as provided in Paragraph (c) of this Rule, bedrooms in facilities licensed or developed after October 31, 1977 must provide a minimum of 80 square feet of floor space for each child in multi-occupancy bedrooms and a minimum of 100 square feet of floor space in single-occupancy bedrooms. Floor area shall not include closets or wardrobes.

(c) Bedrooms in facilities housing children with a maximum stay of not more than 15 days must provide a minimum of 60 square feet of floor space for each child in multi-occupancy bedrooms and a minimum of 80 square feet of floor space in single-occupancy bedrooms. Floor area shall not include closets or wardrobes.

(d) The only door access to a bedroom must not be through another room.

(e) No child may share a bedroom with a staff member.

(f) No bedroom shall house more than four children.

(g) Children of different sexes more than five years of age must not share a bedroom.

(h) Each child must have a bed of his or her own.

(i) Bunk beds shall be limited to no more than one bed above the other bed at least four feet apart vertically.

(j) Beds must be at least three feet apart at the head, foot and sides; bunk beds must be at least five feet apart, horizontally.

(k) Each bed must be provided with a mattress in good repair.

(l) No day-bed, convertible sofa or other bedding of a temporary nature may be used.

(m) Bedrooms must be provided with a minimum of 48 cubic feet of closet or wardrobe space per child and four cubic feet of drawer space per child.

(n) Each bedroom must be provided with window area equal to eight percent of the floor area of the room.

Authority G.S. 131D-10.5; 143B-153.

10 NCAC 41S .0713 VEHICLES USED FOR TRANSPORTATION OF CHILDREN

(a) Vehicle Requirements.

(1) Vehicles must comply with all motor vehicle laws and regulations for the State of North Carolina.

(2) Motor vehicles must be maintained in a safe operating condition, must be properly registered, and must have current, valid inspection stickers for the State of North Carolina.

(3) A first-aid kit must be in all motor vehicles.

(4) The bed of an open body or a stake bed vehicle must not be used for transporting children.

(b) Driver Requirements. The name of and a photostatic copy of a valid driver's license for each person transporting children shall be maintained in a separate file.

(c) Safety Practices.

(1) The interior of each vehicle must be maintained in a clean and safe condition with clear passage to operable doors.

(2) The driver must assure that all passengers follow current North Carolina laws regarding seat belt usage and shall adhere to child passenger restraint laws when transporting children.

(3) The driver shall not transport more persons, including children and adults, than allowed by the design capacity of the vehicle.

(4) Children shall have at least one 30 minute rest stop for every four hours of continuous travel.

(5) Children shall not be transported for more than 10 hours in any 24 hour period.

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- (d) Transportation Records. Insurance verification and the vehicle identification certificate must be kept in the vehicle in accordance with State law. Emergency medical information must be kept in the vehicle for each child occupying the vehicle.
- (e) Insurance. If the residential child care facility's transportation services are provided by a private individual, a firm under contract, or by another arrangement, the facility must maintain a file copy of the individual's or firm's insurance coverage.
- (f) Emergency Transportation. The residential child care facility must have a plan for transporting children in case of an emergency.

Authority G.S. 131D-10.5; 143B-153.

**SUBCHAPTER 41T - MINIMUM LICENSING
STANDARDS FOR SPECIALIZED RESIDENTIAL
CHILD CARE PROGRAMS**

SECTION .0100 – CHILDREN'S FOSTER CARE CAMPS

**10 NCAC 41T .0106 BUILDINGS AND GROUND
EQUIPMENT**

- (a) Facilities.
- (1) All sleeping units must provide at least the following space:
 - (A) 50 square feet per person;
 - (B) Three feet between the head, feet and sides of beds and sleepers; and
 - (C) 30 inches between sides of beds.
 - (2) All camper sleeping facilities shall be limited to one level structures.
 - (3) Any structure, sleeping or otherwise, with an occupancy of more than 12 persons, including staff, shall have at least two separate and independent means of exit.
 - (4) Open flame lighting shall not be used in sleeping shelters for lighting and heating.
- (b) Grounds:
- (1) There shall be potable water available at each camp site.
 - (2) At each children's camp there shall be provided a minimum of:
 - (A) one shower head for each 20 children;
 - (B) one flush toilet for each 20 children;
 - (C) one urinal for each 30 male children (urinals may not be substituted for flush toilets);
 - (D) one handwashing facility, adjacent to toilet facilities, for each 20 children; and
 - (E) a wilderness latrine facility approved pursuant to the rules of the Commission of Health Services.
- (c) Equipment:
- (1) Laundry facilities or equipment shall be available at each camp for all staff and children.
 - (2) Gasoline, kerosene, and other flammable materials shall be stored in covered safe ~~containers~~ containers, plainly labeled for content.
 - (3) Power tools:

- (A) All power tools, including mowers and trimmers, must have safety devices and be used according to manufacturer's instruction, maintained in good repair, and used only by those persons trained and experienced in their safety.
 - (B) Campers shall receive safety instructions before using such equipment.
 - (C) When campers are using such equipment, a trained and responsible adult must be present.
 - (D) When not in use, all power tools shall be stored in a locked place not occupied by children.
- (4) Fire extinguishers shall be available in all areas so designated by fire safety officials, shall be properly charged and shall have current inspection labels.

Authority G.S. 131D-10.5; 143B-153.

**SECTION .0200 – EMERGENCY SHELTER CARE
PROGRAM**

10 NCAC 41T .0201 APPLICABILITY

In addition to the rules in 10 NCAC 41S .0100, .0200, .0300, .0400, .0501, .0600 and .0700, the rules in this Section shall apply to all persons licensed or seeking licensure for an emergency shelter care program as defined in 10 NCAC 41S .0201.

Authority G.S. 131D-10.5; 143B-153.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the DENR – Soil and Water Conservation Commission intends to adopt the rules cited as 15A NCAC 06G .0101-.0106. Notice of Rule-making Proceedings was published in the Register on October 16, 2000.

Proposed Effective Date: August 1, 2002

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Any person requesting that the Soil and Water Conservation Commission conduct a public hearing on any of these proposed rules must submit a written request to Vernon Cox, Division of Soil and Water Conservation, 1614 Mail Service Center, Raleigh, NC 27699-1614 by January 2, 2001. The request must specify which rule the hearing is being requested on. Mail written request must be postmarked no later than January 2, 2001.*

Reason for Proposed Action: *The North Carolina Conservation Reserve Enhancement Program (CREP) is a state/federal/local partnership that combines existing federal Conservation Reserve Program funding and state funding from various sources, including the Agriculture Cost Share Program, to take environmentally sensitive land out of crop production. The objectives of the program are to reduce agricultural non-*

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point pollution; to enroll land in conservation easements; to encourage voluntary sign-ups for the program; and to enhance ecological aspects of areas near to watercourses. The North Carolina Soil and Water Conservation Commission operates the program as the lead agency for the State of North Carolina. These rules are being adopted so as to establish the criteria by which the commission will implement CREP.

Comment Procedures: All persons interested in these proposed amendments are encouraged to submit written comments. Comments must be postmarked by February 13, 2001 and submitted to Vernon Cox, Division of Soil & Water Conservation, 1614 Mail Service Center, Raleigh, NC 27699-1614.

Fiscal Impact

- State**
- Local**
- Substantive (>\$5,000,000)**
- None**

CHAPTER 6 – SOIL AND WATER CONSERVATION COMMISSION

SECTION .0100 - CONSERVATION RESERVE ENHANCEMENT PROGRAM (CREP) STATE PORTION OF THE PROGRAM

15A NCAC 06G .0101 OBJECTIVES

(a) The North Carolina Conservation Reserve Enhancement Program (CREP) is a state/federal/local partnership that combines existing federal Conservation Reserve Program (CRP) funding and state funding from various sources, including the Agriculture Cost Share Program (ACSP), to take environmentally sensitive land out of crop production. The state portion of CREP is referred to herein as NC-CREP. Under CREP, landowners may voluntarily enroll eligible land in 10-year, 15-year, 30-year or permanent agreements or contracts. The Commission operates the program as the lead agency for the State of North Carolina (State), and may from time to time delegate activities to the Division. These rules govern NC-CREP.

(b) The program objectives for the Commission, which are the same as those of the multi-agency CREP team, are the following: to reduce agricultural non-point source pollution; to enroll eligible land in 10-year, 15-year, 30-year or permanent contracts; to encourage voluntary sign-ups for the program; and to enhance ecological aspects and wildlife habitat of areas near watercourses.

(c) There will initially be an enrollment period beginning March 1, 1999, which will last five years, unless otherwise extended during which time requests to enroll acreage will be received. The Division, or its agent, will seek eligible applicants for enrollment into the program. Landowner payments will be made in accordance with state and federal requirements, and are subject to the availability of funds.

(d) The applicable standards, rules, regulations, and practices of the Natural Resource Conservation Service (NRCS), the Farm

Service Agency (FSA), the Division of Forest Resources and the Wetlands Restoration Program, as set forth in the Standard Operating Procedures Manual for CREP (NC-CREP SOP Manual), are incorporated herein by reference, and such incorporation includes subsequent amendments and editions of the referenced material. Likewise, the provisions of the NC-CREP SOP Manual are incorporated herein by reference, and such incorporation includes subsequent amendments and editions of the referenced material. Copies of all of these materials are available at the offices of the Division, and the cost of any copies may not exceed ten cents (\$.10) per page.

Authority G.S. 113A-235; 139-4; 143-215.74(a); 143B-294; S.L. 1998-165.

15A NCAC 06G .0102 ELIGIBILITY

(a) Persons may offer to enroll acreage in the program at any time within the 5-year enrollment period or any extension thereof. Acreage accepted into the CREP is referred to herein as "CREP Enrollments." Acreage enrolled into NC-CREP is referred to herein as NC-CREP 3 Enrollments. In order to be accepted into the CREP, all of the following must be met:

- (1) applicant meets the producer eligibility requirements within the NC-CREP SOP Manual;
- (2) acreage submitted meets the cropland and marginal pasture land requirements within the NC – CREP SOP Manual;
- (3) acreage offered is eligible under the NC-CREP SOP Manual, and applicable NRCS standards, and is suitable for the intended practice;
- (4) producer accepts the maximum payment rate based on one of the following:
 - (A) the county average rental for enrollments of less than 10 acres;
 - (B) the 3 predominant soil types for enrollments of 10 acres or greater; or
 - (C) marginal pastureland rental rate; and
- (5) other identified priorities of the CREP, as determined by the Commission.

(b) In addition to meeting the requirements in Paragraph (a) of this Rule, the land must meet all other applicable land eligibility criteria and enrollment expectations as set forth in the NC-CREP SOP Manual. The Commission reserves the right to refuse enrollment where water quality benefits do not justify the payments, or where the acquisition is impractical or nuisance conditions exist on the land.

- (c) The following acreage is ineligible to be enrolled in CREP:
 - (1) federally-owned land unless the applicant has a prior written lease for the time frame in which the land is under the Conservation Reserve Program (CRP);
 - (2) land on which a federal agency restricts the use in a mortgage or an easement;
 - (3) acreage permanently under water, including acreage currently enrolled in CRP;
 - (4) land currently enrolled in other federal programs and still under lifespan requirements;
 - (5) land already enrolled in CRP; or

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(6) acreage withdrawn, terminated or otherwise released from the CRP after enrollment and before the contract expiration date.

(d) Eligibility for the CREP shall be determined by the local District, Farm Service Agency (FSA), NRCS and the Division. An eligible applicant may enter into the federal agreements (10-years to 15-years), as well as the State agreements (30-year or permanent). Persons and land qualifying for the federal portion of CREP may also be qualified for enrollment under NC-CREP. Any landowner enrolling 10 acres or greater per tract, regardless of the length of enrollment, must enter into a 30-year or permanent State agreement. 30 year or permanent State agreements also require granting of a conservation easement to the State.

Authority G.S. 113A-235; 139-4; 143-215.74(a); 143B-294; S.L. 1998-165.

15A NCAC 06G .0103 CONSERVATION PLAN

(a) A conservation plan is required for all CREP Enrollments. The conservation plan is a record of the applicant's decisions and supporting information for the treatment of a unit of land or water as a result of the planning process that meets the NRCS Field Office Technical Guide quality criteria for each natural resource and that addresses economic and social considerations. The plan shall describe the schedule of operations and activities required to solve identified natural resource concerns. Conservation plans shall be prepared according to all applicable federal, state and local environmental laws, executive orders, and rules. The conservation plan shall be consistent with any conservation easement protecting the enrollment area. This applies regardless of eligibility for cost-share funds. Participants shall also agree to establish and maintain approved practices according to the conservation plan of operations and forest management plans. Practices included in the conservation plan must cost-effectively achieve a reduction in soil erosion and nutrient transport. All forestry management practices must be completed according to a forestry management plan approved by a registered forester. The Division and the Commission may review conservation plans at any time while CREP agreements are effective.

(b) All CREP Enrollments must provide interception of water from the crop or pasture land into the enrollment area. All CREP Enrollments must maintain a contiguous buffer with the water course. Enrollments of wetland restoration areas shall only be accepted if lands are hydrologically restored to the greatest extent practicable and, if enrollments shall be in trees, in those areas where trees would be the natural cover. The riparian forested buffer or wetland practice may include an outer buffer layer of native grasses between cropped areas and the trees, as specified in the practice criteria. Hydrologic restoration to the greatest extent practicable shall occur on all NC-CREP Enrollments. Hydrologic restoration to the greatest extent practicable means to improve/increase hydrology and/or retain water to the maximum extent as long as there are no adverse impacts to non-enrolled lands. This will be accomplished through the following means: creating sheet flow; reducing concentrated flow areas; blocking or filling artificial drainage; or

using water control structures in conjunction with buffers. All shall meet or exceed appropriate NRCS standards. Water infiltration and retention should be maximized on non-hydric soils by creating sheet flow and by reducing concentrated flow areas. Plans should provide for improved wildlife habitat. The establishment of CREP practices shall be:

- (1) consistent with conservation compliance provisions;
- (2) at the participant's own expense;
- (3) included in the approved conservation plan;
- (4) approved by the local District; and
- (5) subject to FSA and Division approval where applicable.

(c) A modification to an approved conservation plan must be in the best interest of CREP, and consistent with any conservation easement protecting the enrollment area. Such plans should be revised on an as-needed basis. Acceptable modifications include but are not limited to:

- (1) adding or improving a CREP practice;
- (2) changing CREP practices;
- (3) scheduling reapplication of a CREP practice;
- (4) reflecting change in ownership; or
- (5) implementing other non-cost shared conservation measures, if producer agrees to install according to the approved conservation plan on CREP land already seeded to an acceptable cover.

Authority G.S. 113A-235; 139-4; 143-215.74(a); 143B-294; S.L. 1998-165.

15A NCAC 06G .0104 APPROVING STATE AGREEMENTS

(a) Final approval for all NC-CREP agreements shall be the responsibility of the Division. The 30-year and permanent agreements require recording of a conservation easement in the appropriate county registry. The intent is to provide that the NC-CREP Enrollment Area will be protected for the life of the signed agreement. The Division will provide a mechanism to acquire and record easements for NC-CREP. The Division shall provide a survey for all permanent easements. Conservation easements entered into will be consistent with the requirements of the Department of Administration and with 1 NCAC 06B .0210.

(b) For approval under NC-CREP, the Division must receive:

- (1) the State CREP form signed by the local District and the applicant;
- (2) a copy of landowner's deed(s) to the land to be enrolled;
- (3) a completed conservation easement(s);
- (4) latitude and longitude coordinates locating the easement site; and
- (5) descriptions (maps, surveys, directions to site, etc.) identifying the easement site.

(c) Under a CREP 30-year or permanent conservation easement, the title of the land still resides with the landowner. The landowner may use the land under the conservation easement in a manner that does not violate the conditions and terms of the easement. The conservation easement does not restrict the owner from selling or devising the land, however the easement will run with the land and remain an encumbrance thereon. The

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State must be allowed access to monitor the NC-CREP conservation easement area.

Authority G.S. 113A-235; 139-4; 143-215.74(a); 143B-294; S.L. 1998-165.

15A NCAC 06G .0105 PAYMENT

(a) The NC-CREP combines federal and state funding to achieve the goals of the program. For that reason, the eligible person may receive two separate payments (i.e. federal and state) to meet expectations set by the applicable contracts.

(b) The State payment shall be dependent on the length of the contract signed. The State payment will consist of a one-time bonus payment for executed contracts for 30-year and permanent enrollments, which require a conservation easement. The State shall also pay a portion of cost-sharable practices implemented within the guidelines of the ACSP subject to availability of funds to the District. Any agricultural cost share payments will be consistent with all Commission requirements, including but not limited to those in 15A NCAC 06E .0101-.0108.

(c) For enrollments involving the ACSP, all cost-share practices are subject to terms and policies as set forth in the ACSP rules and best management practices manual. State cost-share percentages, listed below, shall be dependent on the length of enrollment. All payments involving ACSP funds require approval of the local District Board of Supervisors, and are subject to the availability of funds to the District.

10 year	25%
15 year	30%
30 year	40%
permanent agreement	50%

(d) The maximum one-time bonus payment under NC-CREP that an eligible person can receive will be limited by the maximum payment allowed under the federal payment. The payment for enrollment of land in 30 year or permanent conservation easements will be made once the conservation easement has been recorded by the State and it has been determined that the participant is actively engaged in the applicable practices.

(e) The formula for payment of the one-time State bonus will be as follows on a per acre basis:

permanent agreement bonus payment = (15 x federal payment) x 0.30
 30-year agreement bonus payment = (15 x federal payment) x 0.125

(f) An additional payment of one hundred dollars(\$100.00) per contract will be made to a participant for applying tree-planting practices on land enrolled in a 15-year, 30-year or permanent agreement, if consistent with the provisions of the NC-CREP SOP Manual.

Authority G.S. 113A-235; 139-4; 143-215.74(a); 143B-294; S.L. 1998-165.

15A NCAC 06G .0106 DISPUTE RESOLUTION

(a) If noncompliance with any CREP agreement is determined, the landowner must return the enrolled area to the condition that meets the guidelines of the CREP upon receiving written

notification to do so. The notice, from the appropriate CREP agency, will contain:

- (1) a detailed description of the enrolled area;
- (2) a description of the area in noncompliance;
- (3) recommended measures for repair of the practice; and
- (4) a time frame for repair.

Any expense incurred due to the noncompliance of a practice will be the responsibility of the landowner. Landowners are not responsible for repayment of cost-share due to a failure of a practice through no fault of their own.

(b) From the date of the notice of noncompliance, the landowner will be given 30 days to reply in writing to the Division with a plan for repairing the easement area. The Division will work with the landowner to ensure that the plan of repair meets the CREP objectives. Once a plan is approved in writing by the Division, the landowner has 90 days from the date of said approval to complete restoration of the easement area. For vegetative practices, applicants are given one calendar year to re-establish the vegetation. An extension may be granted by the Division if it is determined that compliance cannot be met due to circumstances beyond the landowner's control.

(c) In the event that an easement has been found to be noncompliant and the landowner does not agree to repair or re-implement the cost shared practice, the landowner and the Division may jointly request the Commission to mediate the case as set forth in the NC-CREP contract between the parties. To invoke this method, both parties must stipulate that said mediation is binding.

Authority G.S. 113A-235; 139-4; 143-215.74(a); 143B-294; S.L. 1998-165.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to amend the rules cited as 15A NCAC 07J .0403-.0404. Notice of Rule-making Proceedings was published in the Register on September 1, 2000.

Proposed Effective Date: August 1, 2002

Public Hearing:

Date: January 25, 2001

Time: 4:30 p.m.

Location: Ramada Inn, 1701 Virginia Dare Trail, Kill Devil Hills, NC 27948

Reason for Proposed Action: Due to the three year timeframe currently allowed for beach bulldozing minor permits (15A NCAC 07J .0403(a)), it is difficult to determine which property owners are authorized to conduct beach bulldozing and effectively monitor and enforce this activity. Limiting bulldozing minor permits to 30 days will enhance monitoring and enforcement. Amending 15A NCAC 07J .0403(e), will make the CRC's definition of "substantial progress" consistent with the State Building Code. The CRC is proposing to make 15A NCAC 07J .0404(a)(5) consistent with an interpretation for "substantial

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development" that CRC adopted in March 1999, and has applied since that time.

Comment Procedures: *Written comments should be sent to James Rosich, 1638 Mail Service Center, Raleigh, NC 27604. 919-733-2293 and will be accepted through January 25, 2001.*

Fiscal Impact

- State
- Local
- Substantive (>\$5,000,000)
- None

CHAPTER 7 – COASTAL MANAGEMENT

SUBCHAPTER 7J – PROCEDURES FOR HANDLING MAJOR DEVELOPMENT PERMITS: VARIANCE REQUESTS: APPEALS FROM MINOR DEVELOPMENT PERMIT DECISIONS: AND DECLARATORY RULINGS

SECTION .0400 – FINAL APPROVAL AND ENFORCEMENT

15A NCAC 07J .0403 DEVELOPMENT PERIOD/ COMMENCEMENT/CONTINUATION

(a) New dredge and fill permits and CAMA permits, excepting beach bulldozing when authorized through issuance of a CAMA minor permit, shall expire on December 31 of the third year following the year of permit issuance.

(b) Pursuant to Paragraph (a) of this Rule, a minor permit authorizing beach bulldozing shall expire 30 days from the date of permit issuance when issued to a property owner(s). Following permit expiration, the applicant is entitled to request an extension in accordance with Rule .0404(a) of this Section.

(c) Development After Permit Expiration Illegal. Any development done after permit expiration shall be considered unpermitted and shall constitute a violation of G.S. 113A-118 or G.S. 113-229. Any development to be done after permit expiration shall require either a new permit, or, renewal of the original permit according to 15A NCAC 07J .0404 with the exception of Paragraph (e) of this Rule.

(d) Commencement of Development in Ocean Hazard AEC. No development shall begin until the oceanfront setback requirement can be established. When the possessor of a permit or a ruling of exception is ready to begin construction, he shall arrange a meeting with the appropriate permitting authority at the site to determine the oceanfront setback. This setback determination shall replace the one done at the time the permit was processed and approved and construction must begin within a period of 60 days from the date of that meeting. In the case of a major shoreline change within that period a new setback determination will be required before construction begins. Upon completion of the measurement, the permitting authority will issue a written statement to the permittee certifying the same.

(e) Continuation of Development in the Ocean Hazard AEC. Once development has begun under proper authorization, development in the Ocean Hazard AEC may continue beyond the authorized development period if, in the opinion of the

permitting authority, substantial progress has been made and is continuing according to customary and usual building standards and schedules. In most cases substantial progress begins with the placement of foundation pilings, and proof of the local building inspector's certification that the installed pilings have passed a floor and foundation inspection.

(f) Any permit that has been suspended pursuant to G.S. 113A-121.1 as a result of a contested case petition or by order of superior court for a period longer than six months shall be extended at the applicant's written request for a period equivalent to the period of permit suspension, but not to exceed the development period authorized under Paragraph (a) of this Rule.

(g) An applicant may voluntarily suspend development under an active permit that is the subject of judicial review by filing a written notice with the Department once the review has started. An applicant shall obtain an extension of said permit if the permitting authority finds:

- (1) that the applicant notified the permitting authority in writing of the voluntary suspension;
- (2) the period during which the permit had been subject to judicial review is greater than six months;
- (3) the applicant filed a written request for an extension of the development period once the judicial review had been completed; and
- (4) the applicant undertook no development after filing the notice of suspension. The period of permit extension shall be equivalent to the length of the judicial review proceeding, but not to exceed the development period authorized under Paragraph (a) of this Rule.

Authority G.S. 113A-118.

15A NCAC 07J .0404 DEVELOPMENT PERIOD EXTENSION

(a) For CAMA minor permits authorizing beach bulldozing, the applicant is entitled to request a one-time 30 day permit extension. No additional extensions shall be granted after the 30 day extension has expired. Notwithstanding this Paragraph of this Rule, the applicant is eligible to apply for another minor permit authorizing beach bulldozing following expiration of the 30 day permit extension.

(b) Where no development has been initiated during the development period, the permitting authority shall extend the authorized development period for no more than two years upon receipt of a signed and dated request from the applicant containing the following:

- (1) a statement of the intention of the applicant to complete the work within a reasonable time;
- (2) a statement of the reasons why the project will not be completed before the expiration of the current permit;
- (3) a statement that there has been no change of plans since the issuance of the original permit other than changes that would have the effect of reducing the scope of the project, or, previously approved permit modifications;

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- (4) notice of any change in ownership of the property to be developed and a request for transfer of the permit if appropriate; and
- (5) a statement that the project is in compliance with all conditions of the current permit. Where substantial development, either within or outside the AEC, has begun and is continuing on a permitted project, the permitting authority shall grant as many two year extensions as necessary to complete the initial development. For the purpose of this Rule, substantial development shall be deemed to have occurred on a project if the permittee can show that development has progressed beyond basic site preparation, such as land clearing and grading, and construction has begun and is continuing under normal construction practices on the primary structure or structures authorized under the permit. For purposes of residential subdivision, installation of subdivision roads consistent with an approved subdivision plat shall constitute substantial development. Renewals for maintenance and repairs of previously approved projects may be granted for periods not to exceed 10 years.
- (c) When an extension request has not met the criteria of Paragraph (a) of this Rule, the Department may circulate the request to the commenting state agencies along with a copy of the original permit application. Commenting agencies will be given three weeks in which to comment on the extension request. Upon the expiration of the commenting period the Department will notify the applicant promptly of its actions on the extension request.
- (d) Notwithstanding Paragraphs (a) and (b) of this Rule, an extension request may be denied on making findings as required in either G.S. 113A-120 or G.S. 113-229(e). Changes in circumstances or in development standards will be considered and applied to the maximum extent practical by the permitting authority in making a decision on an extension request.
- (e) The applicant for a major development extension request must submit, with the request, a check or money order payable to the Department in the sum of fifty dollars (\$50.00).
- (f) Modifications to extended permits may be considered pursuant to 15A NCAC 07J .0405.
- Authority G.S. 113A-119; 13A-124(c)(8).*

TEMPORARY RULES

This Section includes temporary rules reviewed by the Codifier of Rules and entered in the North Carolina Administrative Code and includes, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 2C .0500 for adoption and filing requirements. 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 12 – DEPARTMENT OF JUSTICE

Rule-making Agency: *NC Criminal Justice Education and Training Standards Commission*

Rule Citation: *12 NCAC 09A .0103; 09B .0107, .0109-.0110, .0112-.0113, .0115, .0206, .0208, .0216, .0223, .0229-.0231, .0304; 09C .0205, .0207-.0208, 09G .0101-.0103, .0201-.0206, .0301-.0316, .0401-.0416, .0501-.0506, .0601-.0606, .0701.*

Effective Date: *January 1, 2001*

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

Authority for the rulemaking: *G.S. 17-C*

Reason for Proposed Action: *Legislative mandate – S.L. 1999-237, s. 18.14*

Comment Procedures: *Written comments should be directed to Elizabeth L. Thompson, Criminal Justice Standards Division, Room, G-27, Old Education Building, 114 West Edenton Street, P.O. Drawer 149, Raleigh, NC 27602.*

CHAPTER 09 – CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09A – CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION .0100 - COMMISSION ORGANIZATION AND PROCEDURES

12NCAC 09A .0103 DEFINITIONS

The following definitions apply throughout Subchapters 12 NCAC 09A through 12 NCAC 09F, except as modified in 12 NCAC 09A .0107 for the purpose of the Commission's rule-making and administrative hearing procedures:

- (1) "Agency" or "Criminal Justice Agency" means those state and local agencies identified in G.S. 17C-2(b).
- (2) "Alcohol Law Enforcement Agent" means a law enforcement officer appointed by the Secretary of Crime Control and Public Safety as authorized by G.S. 18B-500.
- (3) "Commission" means the North Carolina Criminal Justice Education and Training Standards Commission.
- (4) "Commission of an offense" means a finding by the North Carolina Criminal Justice Education and Training Standards Commission or an administrative body that a person performed the acts necessary to satisfy the elements of a specified criminal offense.

- (5) "Convicted" or "Conviction" means and includes, for purposes of this Chapter, the entry of:
 - (a) a plea of guilty;
 - (b) a verdict or finding of guilt by a jury, judge, magistrate, or other duly constituted, established, and recognized adjudicating body, tribunal, or official, either civilian or military; or
 - (c) a plea of no contest, nolo contendere, or the equivalent.
- (6) "Criminal Justice Officer(s)" means those officers identified in G.S. 17C-2(c) and excluding Correctional officers,; Probation/Parole officers, and Probation/Parole officers-surveillance, (7) "Criminal Justice System" means the whole of the State and local criminal justice agencies described in Item (1) of this Rule.
- (8) "Department Head" means the chief administrator of any criminal justice agency and specifically includes any chief of police or agency director. "Department Head" also includes a designee formally appointed in writing by the Department head.
- (9) "Director" means the Director of the Criminal Justice Standards Division of the North Carolina Department of Justice.
- (10) "Educational Points" means points earned toward the Professional Certificate Programs for studies satisfactorily completed for semester hour or quarter hour credit at an accredited institution of higher education. Each semester hour of college credit equals one educational point and each quarter hour of college credit equals two-thirds of an educational point.
- (11) "Enrolled" means that an individual is currently actively participating in an on-going formal presentation of a Commission-accredited basic training course which has not been concluded on the day probationary certification expires. The term "currently actively participating" as used in this definition means:
 - (a) for law enforcement officers, that the officer is then attending an approved course presentation averaging a minimum of twelve hours of instruction each week; and
 - (b) for Department of Juvenile Justice and Delinquency Prevention personnel, that the officer is then attending the last or final phase of the approved training course necessary for fully satisfying the total course completion requirements.
- (12) "High School" means graduation from a high school that meets the compulsory attendance requirements in the jurisdiction in which the school is located.

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(13) "In-Service Training" means any and all training prescribed in 12 NCAC 09E .0102 which must be satisfactorily completed by all certified law enforcement officers during each full calendar year of certification.

(14) "Lateral Transfer" means the employment of a criminal justice officer, at any rank, by a criminal justice agency, based upon the officer's special qualifications or experience, without following the usual selection process established by the agency for basic officer positions.

(15) "Law Enforcement Code of Ethics" means that code adopted by the Commission on September 19, 1973, which reads:

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality, and justice.

I will keep my private life unsullied as an example to all, and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will never engage in acts or corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement.

(16) "Law Enforcement Officer" means an appointee of a criminal justice agency or of the State or of any political subdivision of the State who, by virtue of his

office, is empowered to make arrests for violations of the laws of this State. Specifically excluded from this title are sheriffs and their sworn appointees with arrest authority who are governed by the provisions of G.S. 17E.

(17) "Law Enforcement Training Points" means points earned toward the Law Enforcement Officers' Professional Certificate Program by successful completion of Commission-approved law enforcement training courses. 20 classroom hours of Commission-approved law enforcement training equals one law enforcement training point.

(18) "LIDAR" means a speed-measuring instrument that electronically computes, from transmitted infrared light pulses, the speed of a vehicle under observation.

(19) "Local Confinement Personnel" means any officer, supervisor or administrator of a local confinement facility in North Carolina as defined in G.S. 153A-217; any officer, supervisor or administrator of a county confinement facility in North Carolina as defined in G.S. 153A-218; or, any officer, supervisor or administrator of a district confinement facility in North Carolina as defined in G.S. 153A-219.

(20) "Misdemeanor" means those criminal offenses not classified under the laws, statutes, or ordinances as felonies. Misdemeanor offenses are classified by the Commission as follows:

(a) "Class A Misdemeanor" means a misdemeanor committed or omitted in violation of any common law, duly enacted ordinance or criminal statute of this state which is not classified as a Class B Misdemeanor pursuant to Sub-item (20)(b) of this Rule. Class A Misdemeanor also includes any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of not more than six months. Specifically excluded from this grouping of "Class A Misdemeanor" criminal offenses for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as misdemeanors under the laws of other jurisdictions, or duly enacted ordinances of an authorized governmental entity with the exception of the offense of impaired driving which is expressly included herein as a Class A Misdemeanor if the offender could have been sentenced for a term of not more than six months. Also specifically included herein as a Class A Misdemeanor is the offense of impaired driving, if the offender was sentenced under punishment level three [G.S. 20-179(I)], level four [G.S. 20-179(j)], or level five [G.S. 20-179(k)]. Class A Misdemeanor shall also include acts committed or

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omitted in North Carolina prior to October 1, 1994 in violation of any common law, duly enacted ordinance or criminal statute, of this state for which the maximum punishment allowable for the designated offense included imprisonment for a term of not more than six months.

- (b) "Class B Misdemeanor" means an act committed or omitted in violation of any common law, criminal statute, or criminal traffic code of this state which is classified as a Class B Misdemeanor as set forth in the Class B Misdemeanor Manual as published by the North Carolina Department of Justice which is hereby incorporated by reference and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6. Copies of the publication may be obtained from the North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602. There is no cost per manual at the time of adoption of this Rule. Class B Misdemeanor also includes any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of more than six months but not more than two years. Specifically excluded from this grouping of "Class B Misdemeanor" criminal offenses for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as being misdemeanors under the laws of other jurisdictions with the following exceptions: Class B Misdemeanor does expressly include, either first or subsequent offenses of driving while impaired if the maximum allowable punishment is for a term of more than six months but not more than two years, driving while license permanently revoked or permanently suspended, and those traffic offenses occurring in other jurisdictions which are comparable to the traffic offenses specifically listed in the Class B Misdemeanor Manual. "Class B Misdemeanor" shall also include acts committed or omitted in North Carolina prior to October 1, 1994 in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of this state for which the maximum punishment allowable for the designated offense included imprisonment for a term of more than six months but not more than two years.

- (21) "Pilot Courses" means those courses developed consistent with the curriculum development policy adopted by the Commission on May 30, 1986. This policy shall be administered by the Education and

Training Committee of the Commission consistent with 12 NCAC 09C .0404.

- (22) "Qualified Assistant" means an additional staff person designated as such by the School Director to assist in the administration of a course when an accredited institution or agency assigns additional responsibilities to the certified School Director during the planning, development, and implementation of an accredited course.
- (23) "Radar" means a speed-measuring instrument that transmits microwave energy in the 10,500 to 10,550 MHZ frequency (X) band or transmits microwave energy in the 24,050 to 24,250 MHZ frequency (K) band and either of which operates in the stationary and/or moving mode. "Radar" further means a speed-measuring instrument that transmits microwave energy in the 33,400 to 36,000 MHZ (Ka) band and operates in either the stationary or moving mode.
- (24) "Resident" means any youth committed to a facility operated by Department of Juvenile Justice and Delinquency Prevention.
- (25) "School" or "criminal justice school" means an institution, college, university, academy, or agency which offers criminal justice, law enforcement, or traffic control and enforcement training for criminal justice officers or law enforcement officers. "School" includes the criminal justice training course curriculum, instructors, and facilities.
- (26) "School Director" means the person designated by the sponsoring institution or agency to administer the criminal justice school.
- (27) "Speed-Measuring Instruments" (SMI) means those devices or systems, including radar time-distance, and LIDAR, formally approved and recognized under authority of G.S. 17C-6(a)(13) for use in North Carolina in determining the speed of a vehicle under observation and particularly includes all named devices or systems as specifically referenced in the approved list of 12 NCAC 09C .0601.
- (28) "Standards Division" means the Criminal Justice Standards Division of the North Carolina Department of Justice.
- (29) "Time-Distance" means a speed-measuring instrument that electronically computes, from measurements of time and distance, the average speed of a vehicle under observation.
- (30) "State Youth Services Officer" means an employee of the Department of Juvenile Justice and Delinquency Prevention whose duties include the evaluation, treatment, instruction, or supervision of juveniles committed to that agency.

History Note: Filed as a Temporary Amendment Eff. October 1, 1994 for a period of 180 days to expire on April 1, 1995; Filed as a Temporary Amendment Eff. December 14, 1983 for a period of 120 days to expire on April 12, 1984; Authority G.S. 17C-2; 17C-6; 17C-10; 153A-217;

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Eff. January 1, 1981;
Amended Eff. November 1, 1981; August 15, 1981;
Readopted Eff. July 1, 1982;
Amended Eff. August 1, 2000; April 1, 1999; August 1, 1998;
January 1, 1995; November 1, 1993; March 1, 1990; July 1,
1989;
Temporary Amendment Eff. January 1, 2001.

**SUBCHAPTER 09B – STANDARDS FOR CRIMINAL
JUSTICE EMPLOYMENT: EDUCATION: AND
TRAINING**

**SECTION .0100 – MINIMUM STANDARDS FOR
CRIMINAL JUSTICE EMPLOYMENT**

**12 NCAC 09B .0107 MINIMUM STANDARDS FOR
CORRECTIONAL OFFICERS**

History Note: Authority G.S. 17C-6;
Eff. January 1, 1981;
Amended Eff. August 1, 2000;
Temporary Repeal Eff. January 1, 2001.

**12 NCAC 09B .0109 MINIMUM STANDARDS FOR
PROBATION/PAROLE OFFICERS**

History Note: Authority G.S. 17C-6;
Eff. January 1, 1981;
Amended Eff. August 1, 2000; December 1, 1987;
Temporary Repeal Eff. January 1, 2001.

**12 NCAC 09B .0110 MINIMUM STANDARDS FOR
PROBATION/PAROLE INTAKE OFFICERS**

History Note: Authority G.S. 17C-6;
Eff. January 1, 1981;

12 NCAC 09B .0206 BASIC TRAINING –CORRECTIONAL OFFICERS

History Note: Authority G.S. 17C-6; 17C-10;
Eff. January 1, 1981;
Amended Eff. August 1, 2000; August 1, 1995; July 1, 1989; February 1, 1987; April 1, 1983;
Temporary Repeal Eff. January 1, 2001.

12 NCAC 09B .0208 BASIC TRAINING – PROBATION/PAROLE OFFICERS

History Note: Authority G.S. 17C-6; 17C-10;
Eff. January 1, 1981;
Amended Eff. January 1, 1995; April 1, 1983;
Temporary Repeal Eff. January 1, 2001.

12 NCAC 09B .0216 BASIC TRAINING - PAROLE CASE ANALYSTS

History Note: Authority G.S. 17C-6;
Eff. April 1, 1983;
Amended Eff. January 1, 1985;
Temporary Repeal Eff. January 1, 2001.

Amended Eff. August 1, 2000; December 1, 1987;
Temporary Repeal Eff. January 1, 2001.

**12 NCAC 09B .0112 MINIMUM STANDARDS FOR
PAROLE CASE ANALYSTS**

History Note: Authority G.S. 17C-6;
Eff. April 1, 1983;
Amended Eff. August 1, 2000; December 1, 1987;
Temporary Repeal Eff. January 1, 2001.

**12 NCAC 09B .0113 MINIMUM STANDARDS
PROBATION/PAROLE OFFICERS-SURVEILLANCE**

History Note: Filed as a Temporary Rule Eff. December 14,
1983 for a period of 120 days to expire on April 12, 1984;
Authority G.S. 17C-6;
Eff. April 1, 1984;
Amended Eff. August 1, 2000; August 1, 1995; December 1,
1987;
Temporary Repeal Eff. January 1, 2001.

**12 NCAC 09B .0115 MINIMUM STANDARDS
PROBATION/PAROLE INTENSIVE OFFICER**

History Note: Authority G.S. 17C-6;
Eff. February 1, 1987;
Amended Eff. August 1, 2000;
Temporary Repeal Eff. January 1, 2001.

**SECTION .0200 – MINIMUM STANDARDS FOR
CRIMINAL JUSTICE SCHOOLS AND CRIMINAL
JUSTICE TRAINING PROGRAMS OR COURSES OF
INSTRUCTION**

_____ Total _____

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12 NCAC 09B .0223 BASIC TRAINING - PROBATION/PAROLE OFFICERS-SURVEILLANCE-4 Hours

History Note: *Filed as a Temporary Rule Eff. December 14, 1983 for a period of 120 days to expire on April 12, 1984;*
Authority G.S. 17C-6;
Eff. April 1, 1984;
Amended Eff. January 1, 1995;
Temporary Repeal Eff. January 1, 2001.

12 NCAC 09B .0229 CORRECTIONS SPECIALIZED INSTRUCTOR TRAINING - FIREARMS

History Note: *Authority G.S. 17C-6;*
Eff. February 1, 1987;
Temporary Repeal Eff. January 1, 2001.

12 NCAC 09B .0230 CORRECTIONS SPECIALIZED INSTRUCTOR TRA - UNARMED SELF-DEF

History Note: *Authority G.S. 17C-6;*
Eff. February 1, 1987;
Temporary Repeal Eff. January 1, 2001.

12 NCAC 09B .0231 BASIC TRAINING -- PROBATION/PAROLE INTENSIVE OFFICER 7 Hours

History Note: *Authority G.S. 17C-6;*
Eff. February 1, 1987;
Amended Eff. January 1, 1995; July 1, 1989;
Temporary Repeal Eff. January 1, 2001.

**SECTION .0300 – MINIMUM STANDARDS FOR
CRIMINAL JUSTICE INSTRUCTORS**

**12 NCAC 09B .0304 SPECIALIZED INSTRUCTOR
CERTIFICATION**

(a) The Commission may issue a Specialized Instructor Certification to an applicant who has developed specific motor-skills and abilities by virtue of special training and demonstrated experience in one or more of the following topical areas:

- (1) Subject Control Arrest Techniques
- (2) First Responder
- (3) Firearms
- (4) Law Enforcement Driver Training
- (5) Physical Fitness
- (6) Unarmed Self-Defense (DJJDP)
- (7) Medical Emergencies (DJJDP)
- (8) Electrical and Hazardous Materials Emergencies

(b) To qualify for Specialized Instructor Certification, with the exception of the First Responder, Physical Fitness, Department of Juvenile Justice and Delinquency Prevention Medical Emergencies, and Electrical and Hazardous Materials Emergencies topical areas as outlined in 12 NCAC 09B .0304 (d), (e), (f), and (g) of this Section, an applicant must meet the following requirements:

- (1) Hold General Instructor Certification, either probationary status or full general instructor status, as specified in 12 NCAC 09B .0303 of this Section; and

- (2) Successfully complete the pertinent commission-approved specialized instructor training course; and

- (3) Obtain the recommendation of a commission-recognized school director.

(c) To qualify for and maintain any Specialized Instructor Certification, an applicant must possess a valid CPR Certification that included cognitive and skills testing.

(d) To qualify for Specialized Instructor Certification in the First Responder topical area, an applicant is not required to meet the standards for issuance of General Instructor Certification, but must qualify through one of the following two options:

- (1) The first option is:
 - (A) hold current CPR instructor certification through either the American Red Cross or the American Heart Association; and
 - (B) hold current basic Emergency Medical Technician certification; and
 - (C) have successfully completed the Department of Transportation's 40 hour EMT Instructor Course or equivalent within the last three years or hold a current North Carolina teaching certificate.

- (2) The second option is:
 - (A) hold General Instructor Certification, either probationary status or full general instructor status, as specified in 12 NCAC 09B .0303 of this Section; and
 - (B) hold current CPR instructor certification through either the American Red Cross or the American Heart Association; and

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- (C) hold current basic EMT certification.
- (e) To qualify for Specialized Instructor Certification in the Physical Fitness topical area, an applicant may become certified through one of the following two methods:
 - (1) The first method is:
 - (A) hold General Instructor Certification, either probationary status or full general instructor status, as specified in 12 NCAC 09B .0303 of this Section; and
 - (B) successfully complete the pertinent commission-approved specialized instructor training course; and
 - (C) obtain the recommendation of a commission-recognized school director.
 - (2) The second method is:
 - (A) successfully complete the pertinent commission-approved specialized instructor training course; and
 - (B) obtain the recommendation of a commission-recognized school director; and
 - (C) in addition to the requirements of ~~both Items~~ (2), (A) and (B) of this ~~Rule, Paragraph~~, the applicant must meet one of the following qualifications:
 - (i) hold a current and valid North Carolina Teacher's Certificate and hold a minimum of a baccalaureate degree in physical education and be actively teaching in physical education topics; or
 - (ii) be presently instructing physical education topics in a community college, college or university and hold a minimum of a baccalaureate degree in physical education.
- (f) To qualify for Specialized Instructor Certification in the Electrical and Hazardous Materials Emergencies topical area, an applicant is not required to meet the standards for issuance of General Instructor Certification, but must qualify through one of the following two options:
 - (1) The first option is:
 - (A) hold current instructor certification as a First Responder Awareness Level Hazardous Materials instructor; and
 - (B) have successfully completed the Fire Service Instructor Methodology Course or the equivalent utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise.
 - (2) The second option is:
 - (A) hold General Instructor Certification, either probationary status or full general instructor status, as specified in 12 NCAC 09D .0303 of this Section; and
 - (B) have successfully completed a First Responder Awareness Level Hazardous Materials course.
- (g) To qualify for Specialized Instructor Certification in the Department of Juvenile Justice and Delinquency Prevention Medical Emergencies topical area, an applicant is not required to meet the standards for issuance of General Instructor Certification, but must qualify in the following manner:

- (1) have successfully completed a commission-accredited basic instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise, within the 12 month period preceding application; and
- (2) hold current instructor certification in CPR and First Aid by fulfillment of the American Red Cross Instructor requirements.

History Note: Authority G.S. 17C-6; Eff. January 1, 1981; Amended Eff. August 1, 2000; July 1, 1991; March 1, 1990; July 1, 1989; December 1, 1987; Temporary Amendment Eff. January 1, 2001.

SUBCHAPTER 09C – ADMINISTRATION OF CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SECTION .0200 - FORMS

12 NCAC 09C .0205 REPORT OF APPOINTMENT

The Report of Appointment is used for reporting the appointment of criminal justice officers and indicating the applicant's progress toward completing the requirements for certification.

History Note: Authority G.S. 17C-6; 150B-11; Eff. January 1, 1981; Temporary Amendment Eff. January 1, 2001.

12 NCAC 09C .0207 APPLICATION FOR AWARD OF PROFESSIONAL CERTIFICATE

The Application For Award of Law Enforcement Certificate, requests information regarding the education, training, and experience qualifying the applicant for various levels of certification under the Law Enforcement Officers' Professional Certificate Program. The Application For Award of Criminal Justice Certificate, requests information regarding the education, training, and experience qualifying the State Youth Services officer/applicant for various levels of certification under the Criminal Justice Officers' Professional Certificate Program.

History Note: Authority G.S. 17C-6; 150B-11; Eff. January 1, 1981; Amended Eff. August 15, 1981; Temporary Amendment Eff. January 1, 2001.

12 NCAC 09C .0208 REPORT OF SEPARATION

The Report of Separation, is used for reporting the date of and reason for the separation of a criminal justice office from the employing agency.

History Note: Authority G.S. 17C-6; 150B-11; Eff. January 1, 1981; Temporary Amendment Eff. January 1, 2001.

**SUBCHAPTER 09G – STANDARDS FOR CORRECTIONS
EMPLOYMENT, TRAINING, AND CERTIFICATION**

**SECTION .0100 – SCOPE: APPLICABILITY: AND
DEFINITIONS**

**12 NCAC 09G .0101 SCOPE AND APPLICABILITY
OF SUBCHAPTER**

This Subchapter governs the implementation of minimum standards for employment, training, and certification of three classes of corrections officers: correctional officers, probation/parole officers, and probation/parole officers-surveillance as well as the standards for corrections schools and the state corrections certificate program. Definitions and procedures contained within 12 NCAC 09A-09F do not apply to these classes of corrections officers, unless specifically referenced; only rules specifically included in Subchapter 09G apply to these employees of the North Carolina Department of Correction.

*History Note: Authority G.S. 17C-1; 17C-6;
S.L. 1999, c. 200, s. 67-17.3a;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0102 DEFINITIONS

The following definitions apply throughout this Subchapter only:

- (1) "Commission" means the North Carolina Criminal Justice Education and Training Standards Commission.
- (2) "Commission of an offense" means a finding by the North Carolina Criminal Justice Education and Training Standards Commission or an administrative body that a person performed the acts necessary to satisfy the elements of a specified offense.
- (3) "Convicted" or "Conviction" means and includes, for purposes of this Subchapter, the entry of:
 - (a) a plea of guilty;
 - (b) a verdict or finding of guilt by a jury, judge, magistrate, or other duly constituted, established, and recognized adjudicating body, tribunal, or official, either civilian or military; or
 - (c) a plea of no contest, nolo contendere, or the equivalent.
- (4) "Correctional Officer" means an employee of the North Carolina Department of Correction, Division of Prisons, responsible for the custody of inmates or offenders.
- (5) "Corrections Officer" means any or all of the three classes of officers employed by the North Carolina Department of Correction: correctional officer; probation/parole officer; and probation/parole officer-surveillance.
- (6) "Criminal Justice System" means the whole of the State and local criminal justice agencies including the North Carolina Department of Correction.
- (7) "Director" means the Director of the Criminal Justice Standards Division of the North Carolina Department of Justice.
- (8) "Educational Points" means points earned toward the State Correction Officers' Professional Certificate

Program for studies satisfactorily completed for semester hour or quarter hour credit at an accredited institution of higher education. Each semester hour of college credit equals one educational point and each quarter hour of college credit equals two-thirds of an educational point.

- (9) "High School" means graduation from a high school that meets the compulsory attendance requirements in the jurisdiction in which the school is located.
- (10) "Misdemeanor" for corrections officers means those criminal offenses not classified under the laws, statutes, or ordinances as felonies. Misdemeanor offenses for corrections officers are classified by the Commission as follows:
 - (a) 14-2.5 Punishment for attempt (offenses that are Class A-1 misdemeanor)
 - (b) 14-27.7 Intercourse and sexual offenses with certain victims (If definition is school personnel other than a teacher, school administrator, student teacher or coach)
 - (c) 14-32.1(f) Assault on handicapped persons
 - (d) 14-32.2(b)(4) Patient abuse and neglect, punishments
 - (e) 14-32.3(c) Exploitation by caretaker of disabled/elder adult in domestic setting; resulting in loss of <one thousand dollars (\$1000)
 - (f) 14-33(b)(9) Assault, battery against sports official
 - (g) 14-33(c) Assault, battery with circumstances
 - (h) 14-34 Assault by pointing a gun
 - (i) 14-34.6(a) Assault on Emergency Personnel
 - (j) 14-54 B or E into buildings generally (14-54(b))
 - (k) 14-72 Larceny of prop./rec'g. stolen goods etc.; <one thousand dollars (\$1000) (14-72(a))14-72.1 Concealment of merchandise (14-72.1(e); 3rd offense)
 - (l) 14-76 Larceny, mutilation, or destruction of public records/papers
 - (m) CH 14 Art. 19A False/fraudulent use of credit device (14-113.6)
 - (n) CH 14 Art. 19B Financial transaction card crime (14-113.17(a))
 - (o) 14-114(a) Fraudulent disposal of prop./security interest
 - (p) 14-118 Blackmailing
 - (q) 14-118.2 Obtaining academic credit by fraudulent means (14-118.2(b))
 - (r) 14-122.1 Falsifying documents issued by a school (14-122.1(c))
 - (s) 14-127 Willful and wanton injury to real property
 - (t) 14-160 Willful and wanton injury to personal property > two hundred dollars (\$200.00) (14-160(b))
 - (u) 14-190.5 Preparation of obscene photographs
 - (v) 14-190.9 Indecent Exposure
 - (w) 14-190.14 Displaying material harmful to minors (14-190.14(b))

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| <p>(x) 14-190.15 Disseminating harmful material to minors (14-190.15(d))</p> <p>(y) 14-202.2 Indecent liberties between children</p> <p>(z) 14-202.4 Taking indecent liberties with a student</p> <p>(aa) 14-204 Prostitution (14-207;14-208)</p> <p>(bb) 14-223 Resisting officers</p> <p>(cc) 14-225 False, etc., reports to law enforcement agencies or officers</p> <p>(dd) 14-230 Willfully failing to discharge duties</p> <p>(ee) 14-231 Failing to make reports and discharge other duties</p> <p>(ff) 14-232 Swearing falsely to official records</p> <p>(gg) 14-239 Allowing prisoners to escape punishment</p> <p>(hh) 14-255 Escape of working prisoners from custody</p> <p>(ii) 14-256 Prison breach and escape</p> <p>(jj) 14-258.1(b) Furnishing certain contraband to inmates</p> <p>(kk) 14-259 Harboring or aiding certain persons</p> <p>(ll) CH 14 Art. 34 Persuading inmates to escape; harboring fugitives (14-268)</p> <p>(mm) 14-269.2 Weapons on campus or other educational property (14-269.2(d), (e) & (f))</p> <p>(nn) 14-269.3(a) Weapons where alcoholic beverages are sold and consumed</p> <p>(oo) 14-269.4 Weapons on state property and in courthouses</p> <p>(pp) 14-269.6 Possession and sale of spring-loaded projectile knives prohibited (14-269.6(b))</p> <p>(qq) 14-277 Impersonation of a law-enforcement or other public officer verbally, by displaying a badge or insignia, or by operating a red light (14-277 (d1)& (e))</p> <p>(rr) 14-277.2(a) Weapons at parades, etc., prohibited</p> <p>(ss) 14-277.3 Stalking (14-277.3(b))</p> <p>(tt) CH 14 Art. 36A Riot (14-288.2(b))</p> <p>(uu) CH 14 Art. 36A Inciting to riot (14-288.2(d))</p> <p>(vv) CH 14 Art. 36A Looting; trespassing during emergency (14-288.6(a))</p> <p>(ww) CH 14 Art. 36A Transporting weapon or substance during emergency (14-288.7(c))</p> <p>(xx) CH 14 Art. 36A Assault on emergency personnel; punishments (14-288.9(c))</p> <p>(yy) 14-315(a) Selling or giving weapons to minors</p> <p>(zz) 14-315.1 Storage of firearms to protect minors</p> <p>(aaa) 14-316.1 Contributing to delinquency</p> <p>(bbb) 14-318.2 Child abuse</p> <p>(ccc) 14-360 Cruelty to animals</p> <p>(ddd) 14-361 Instigating or promoting cruelty to animals</p> <p>(eee) 14-401.14 Ethnic intimidation; teaching any technique to be used for (14-401.14(a) and (b))</p> <p>(fff) 14-454(a) or (b) Accessing computers</p> <p>(ggg) 14-458 Computer trespass (Damage < <u>two thousand five hundred dollars (\$2500.00)</u>)</p> | <p>(hhh) 15A-266.11 Unauthorized use of DNA databank; <u>willful</u> disclosure (15A-266.11(a) and (b))</p> <p>(iii) 15A-287 Interception and disclosure of wire etc. communications</p> <p>(jjj) 15B-7(b) Filing false or fraudulent application for compensation award</p> <p>(kkk) 18B-902(c) False statements in application for ABC permit (18B-102(b))</p> <p>(lll) 20-37.8 Fraudulent use of a fictitious name for a special identification card (20-37.8(b))</p> <p>(mmm) 20-102.1 False report of theft or conversion of a motor vehicle</p> <p>(nnn) 20-111(5) Fictitious name or address in application for registration</p> <p>(ooo) 20-130.1 Use of red or blue lights on vehicles prohibited (20-130.1(e))</p> <p>(ppp) 20-137.2 Operation of vehicles resembling law-enforcement vehicles (20-137.2(b))</p> <p>(qqq) 20-138.1 Driving while impaired (punishment level 1; 20-179(g) or 2 (20-179(h))</p> <p>(rrr) 20-138.2 Impaired driving in commercial vehicle (20-138.2(e))</p> <p>(sss) 20-141.5(a) Speeding to elude arrest</p> <p>(ttt) 20-166(b) Duty to stop in event of accident or collision</p> <p>(uuu) 20-166(c) Duty to stop in event of accident or collision</p> <p>(vvv) 20-166(c1) Duty to stop in event of accident or collision</p> <p>(www) 50B-4.1 Knowingly violating valid protective order</p> <p>(xxx) 58-33-105 False statement in applications for insurance</p> <p>(yyy) 58-81-5 Careless or negligent setting of fires</p> <p>(zzz) 62A-12 Misuse of 911 system</p> <p>(aaaa) 90-95(d)(2) Possession of schedule II, III, IV</p> <p>(bbbbb) 90-95(d)(3) Possession of Schedule V</p> <p>(cccc) 90-95(d)(4) Possession of Schedule VI (when punishable as Class 1 misdemeanor)</p> <p>(dddd) 90-95(e)(4) Conviction of 2 or more violations of Art. 5</p> <p>(eeee) 90-95(e)(7) Conviction of 2 or more violations of Art. 5</p> <p>(ffff) 90-113.22 Possession of drug paraphernalia (90-113.22(b))</p> <p>(gggg) 90-113.23 Manufacture or delivery of drug paraphernalia (90-113.23(c))</p> <p>(hhhh) 97-88.2(a) Misrepresentation to get worker's compensation payment</p> <p>(iiii) 108A-39(a) Fraudulent misrepresentation of public assistance</p> <p>(jjjj) 108A-53 Fraudulent misrepresentation of foster care and adoption assistance payments</p> |
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- (kkkk) 108A-64(a) Medical assistance recipient fraud; < four hundred dollars (\$400.00) (108-64(c)(2))
- (llll) 108A-80 Recipient check register/list of all recipients of AFDC and state-county special assistance (108A-80(b))
- (mmmm) 108A-80 Recipient check register/ list of all recipients of AFDC and state-county special assistance; political mailing list (108A-80(c))
- (nnnn) 113-290.1(a)(2) Criminally negligent hunting; no bodily disfigurement
- (oooo) 113-290.1(a)(3) Criminally negligent hunting; bodily disfigurement
- (pppp) 113-290.1(a)(4) Criminally negligent hunting; death results
- (qqqq) 113-290.1(d) Criminally negligent hunting; person convicted/suspended license
- (rrrr) 143-58.1(a) Use of public purchase or contract for private benefit (143-58.1(c))
- (ssss) 147C-3 Aiding escapes from an institution or youth services
- (tttt) 148-45(d) Aiding escape or attempted escape from prison
- (uuuu) 162-55 Injury to prisoner by jailer
- (vvvv) Common-Law misdemeanors;
- (i) Going Armed to the Terror of the People
 - (ii) Common-Law Mayhem
 - (iii) False Imprisonment
 - (iv) Common-Law Robbery
 - (v) Common-Law Forgery
 - (vi) Common-Law Uttering of Forged paper
 - (vii) Forcible Trespass
 - (viii) Unlawful Assembly
 - (ix) Common-Law Obstruction of Justice
- (wwww) Those offenses occurring in other jurisdictions which are comparable to the offenses specifically listed in (a) through (vvvv) of this Rule.
- (11) "Pilot Courses" means those courses developed consistent with the curriculum development policy adopted by the Commission on May 30, 1986. This policy shall be administered by the Education and Training Committee of the Commission consistent with 12 NCAC 09G .0404.
- (12) "Probation/Parole Officer" means an employee of the North Carolina Department of Correction, Division of Community Corrections, whose duties include supervising, evaluating, or otherwise instructing offenders placed on probation, parole, post release supervision, or assigned to any other community-based program operated by the Division of Community Corrections.
- (13) "Probation/Parole Officer-Surveillance" means an employee of the North Carolina Department of Correction, Division of Community Corrections, other than a regular probation/parole officer who is trained in corrections techniques, and is an authorized representative of the courts of North Carolina and the Department of Correction, Division of Community

Corrections, whose duties include supervising, investigating, reporting, and surveillance of serious offenders in an intensive probation, parole, or post release supervision program operated by the Division of Community Corrections.

- (14) "Qualified Assistant" means an additional staff person designated as such by the School Director to assist in the administration of a course when an accredited institution or agency assigns additional responsibilities to the certified School Director during the planning, development, and implementation of an accredited course.
- (15) "School" means an institution, college, university, academy, or agency which offers penal or corrections training for correctional officers, probation/parole officers, or probation/parole officers-surveillance. "School" includes the corrections training course curricula, instructors, and facilities.
- (16) "School Director" means the person designated by the sponsoring institution or agency to administer the "School."
- (17) "Standards Division" means the Criminal Justice Standards Division of the North Carolina Department of Justice.
- (18) "State Corrections Training Points" means points earned toward the State Corrections Officers' Professional Certificate Program by successful completion of Commission-approved corrections training courses. 20 classroom hours of Commission-approved corrections training equals one State Corrections training point.

History Note: Authority G.S. 17C-2; 17C-6; 17C-10; 153A-217;
Temporary Adoption Eff. January 1, 2001.

12 NCAC 09G .0103 RULE-MAKING AND ADMINISTRATIVE HEARING PROCEDURES

(a) In addition to the procedures set out in G.S. 150B-20, Petitions for Rule-Making shall be submitted to the Commission and shall contain:

- (1) petitioner's name, address and telephone number;
- (2) a draft of the proposed rule or rule change;
- (3) the reason for its proposal;
- (4) the effect of the proposal on existing rules or decisions;
- (5) data supporting the proposal;
- (6) practices likely to be affected by the proposal; and
- (7) a list or description of persons likely to be affected by the proposed rule.

(b) Administrative hearings in contested cases conducted by the Commission or an Administrative Law Judge (as authorized in G.S. 150B-40) shall be governed by:

- (1) procedures set out in G.S. 150B Article 3;
- (2) insofar as relevant, the Rules of Civil Procedure as contained in G.S. 1A-1;
- (3) insofar as relevant, the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-

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34 and found in the Rules Volume of the North Carolina General Statutes.

(c) The rules establishing procedures for contested cases adopted by the Office of Administrative Hearings as contained in 26 NCAC 03 are hereby adopted by reference for contested cases for which this agency has authority to adopt rules under G.S. 150B-38(h). All such adoptions by reference shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6.

(d) Provided, however, that if the case is conducted under G.S. 150B-40(b), the presiding officer shall have the powers and duties given to the Chief Administrative Law Judge or the presiding Administrative Law Judge in 26 NCAC 03 and that 26 NCAC 03 .0101(2); .0102(a)(1); and .0103(b) shall not apply.

(e) An applicant for certification or a certified officer shall have 60 days from the date of receipt of a notice of proposed action by the Commission to request a contested case hearing.

History Note: Authority G.S. 17C-6; 150B-20; 150B-21.6; 150B-38(h); 150B-40; Temporary Adoption Eff. January 1, 2001.

**SECTION .0200 - MINIMUM STANDARDS FOR
CERTIFICATION OF CORRECTIONAL OFFICERS,
PROBATION/PAROLE OFFICERS, AND
PROBATION/PAROLE OFFICERS-SURVEILLANCE**

**12 NCAC 09G .0201 EMPLOYMENT PROCESS:
DOCUMENTATION: AND RECORDS RETENTION**

(a) The North Carolina Department of Correction is a state agency and is subject to G.S. 126 of the State of North Carolina. The employment process shall be consistent with the rules established by the State Personnel Commission as authorized by G.S. 126-4(6) and 126-4(7)(a).

(b) The North Carolina Department of Correction shall document the employment process and that the minimum standards for employment have been satisfied through forms as approved by the State Personnel Commission.

(c) The North Carolina Department of Correction shall maintain and release those employment records in accordance with G.S. 126-24.

History Note: Authority G.S. 126; Temporary Adoption Eff. January 1, 2001.

12 NCAC 09G .0202 CITIZENSHIP

Every person employed as a correctional officer, probation/parole officer, or probation/parole officer-surveillance by the North Carolina Department of Correction shall be a citizen of the United States.

History Note: Authority G.S. 17C-6; 17C-10; Temporary Adoption Eff. January 1, 2001.

12 NCAC 09G .0203 AGE

(a) Every person employed as a correctional officer, probation/parole officer, or probation/parole officer-surveillance

by the North Carolina Department of Correction shall be at least 20 years of age.

(b) Candidates shall document age through documents issued by any county, State, or federal government agency.

History Note: Authority G.S. 17C-6; 17C-10; Temporary Adoption Eff. January 1, 2001.

12 NCAC 9G .0204 EDUCATION

(a) Every person employed as a correctional officer by the North Carolina Department of Correction shall be a high school graduate or have passed the General Educational Development Test indicating high school equivalency.

(b) Every person employed as a probation/parole officer by the North Carolina Department of Correction shall be a graduate of a regionally accredited college or university and have attained at least the baccalaureate degree.

(c) Every person employed as a probation/parole officer-surveillance by the North Carolina Department of Correction shall be a high school graduate or have passed the General Educational Development Test indicating high school equivalency.

(d) Each applicant for employment as a corrections officer shall furnish to the North Carolina Department of Correction documentary evidence that the applicant has met the educational requirements for the corrections field of expected employment.

(1) Documentary evidence of educational requirements shall consist of official transcripts of courses completed or diplomas received from a recognized public school or an approved private school which, in either case, meet the approval guidelines of the North Carolina Department of Public Instruction or comparable out-of-state agency. The Director of the Standards Division shall determine whether other types of documentation will be permitted in specific cases. High school diplomas earned through correspondence enrollment are not recognized toward these minimum educational requirements.

(2) Documentary evidence of completion of the General Educational Development "GED" Test shall be satisfied by a certified copy of GED test results showing successful completion. A certified copy of a military GED diploma may be used as alternate evidence of GED completion.

History Note: Authority G.S. 17C-6; 17C-10; Temporary Adoption Eff. January 1, 2001.

12 NCAC 09G .0205 PHYSICAL AND MENTAL STANDARDS

(a) Every person employed as a correctional officer, probation/parole officer, or probation/parole officer-surveillance by the North Carolina Department of Correction shall have been examined and certified by a licensed physician, physician's assistant, or nurse practitioner to meet the physical requirements to fulfill properly the officer's particular responsibilities as stated in the essential job functions.

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(b) Every person employed as a correctional officer, probation/parole officer, or probation/parole officer-surveillance by the North Carolina Department of Correction shall have been administered a psychological screening examination by a clinical psychologist or psychiatrist licensed to practice in North Carolina within one year prior to employment with the North Carolina Department of Correction to determine the officer's mental and emotional suitability to fulfill properly the officer's particular responsibilities as stated in the essential job functions.

*History Note: Authority G.S. 17C-6; 17C-10;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0206 MORAL CHARACTER

Every person employed as a correctional officer, probation/parole officer, or probation/parole officer-surveillance by the North Carolina Department of Correction shall demonstrate good moral character as evidenced by, but not limited to:

- (a) not having been convicted of a felony for 10 years since the date of conviction or the completion of any corrections supervision imposed by the courts whichever is later;
- (b) not having been convicted of a misdemeanor as defined in 12 NCAC 09G .0102(10) for three years since the date of conviction or the completion of any corrections supervision imposed by the courts whichever is later;
- (c) having submitted to and produced a negative result on a drug test which meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs, copies of which may be obtained from National Institute on Drug Abuse, 5600 Fisher Lane, Rockville, Maryland 20857 at no cost, to detect the illegal use of at least cannabis, cocaine, phencyclidine (PCP), opiates and amphetamines or their metabolites;
- (d) submitting to a background investigation consisting of:
 - (1) verification of age;
 - (2) verification of education; and
 - (3) criminal history check of local, state, and national files;
- (e) being truthful in providing all required information as prescribed by the application process.

*History Note: Authority G.S. 17C-6; 17C-10;
Temporary Adoption Eff. January 1, 2001.*

**SECTION .0300 - CERTIFICATION OF
CORRECTIONAL OFFICERS, PROBATION/PAROLE
OFFICERS, PROBATION/PAROLE OFFICERS-
SURVEILLANCE, AND INSTRUCTORS**

**12 NCAC 09G .0301 CERTIFICATION OF
CORRECTIONAL OFFICERS, PROBATION/PAROLE
OFFICERS, AND PROBATION/PAROLE OFFICERS-
SURVEILLANCE**

Every person employed as a correctional officer, probation/parole officer, or probation/parole officer-surveillance

shall be certified as prescribed by these Rules. The Commission shall certify an officer as either a probationary officer or general officer based on the officer's qualifications and experience.

*History Note: Authority G.S. 17C-6; 17C-10;
Temporary Adoption Eff. January 1, 2001.*

**12 NCAC 09G .0302 NOTIFICATION OF CRIMINAL
CHARGES/CONVICTIONS**

(a) Every person employed and certified as a correctional officer, probation/parole officer, or probation/parole officer-surveillance shall notify the Standards Division of all criminal offenses for which the officer is charged, arrested, pleads no contest, pleads guilty, or of which the officer is found guilty. Criminal offenses shall include all felony offenses and shall specifically include those misdemeanor offenses delineated in 12 NCAC 09G .0102.

(b) The notifications required under this Subparagraph must be in writing, must specify the nature of the offense, the court in which the case was handled, the date of arrest or criminal charge, the final disposition and the date thereof. The notifications required under this Subparagraph must be received by the Standards Division within 30 days of the date the case was disposed of in court.

(c) The requirements of this Subparagraph shall be applicable at all times during which the officer is certified by the Commission and shall also apply to all applicants for certification.

(d) Officers required to notify the Standards Division under this Subparagraph shall also make the same notification to their employing or appointing executive officer within 20 days of the date the case was disposed of in court. The executive officer, provided he has knowledge of the officer's arrest(s), or criminal charge(s), and final disposition(s), shall also notify the Standards Division of all arrests or criminal convictions within 30 days of the date of the arrest and within 30 days of the date the case was disposed of in court. Receipt by the Standards Division of a single notification, from either the officer or the executive officer, is sufficient notice for compliance with this Subparagraph.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

**12 NCAC 09G .0303 PROBATIONARY
CERTIFICATION**

(a) A prospective employee may commence active service as a correctional officer, probation/parole officer, or probation/parole officer-surveillance at the time of employment.

(b) Within 90 days of appointment, the North Carolina Department of Correction shall submit a completed Report of Appointment/Application for Certification to the Standards Division.

(c) The Commission shall certify as a probationary officer a person meeting the minimum standards for certification when the North Carolina Department of Correction submits a completed Report of Appointment/Application for Certification to the Standards Division.

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(d) The Standards Division shall issue the person's Probationary Certification to the North Carolina Department of Correction.

(e) The officer's Probationary Certification shall remain valid for one year from the date the certification is issued by the Standards Division unless sooner terminated for cause or the officer has attained General Certification.

(f) Documentation of Probationary Certification shall be maintained with the officer's personnel records with the North Carolina Department of Correction and the Commission,

History Note: Authority G.S. 17C-6; 17C-10; Temporary Adoption Eff. January 1, 2001.

12 NCAC 09G .0304 GENERAL CERTIFICATION

(a) The Commission shall grant an officer General Certification when evidence is received by the Standards Division that an officer has successfully completed the training requirements of 12 NCAC 09G .0400 within the officer's probationary period and the officer has met all other requirements for General Certification.

(b) General Certification is continuous from the date of issuance, so long as:

- (1) The certified officer remains continuously employed as a correctional officer, probation/parole officer, or probation/parole officer-surveillance in good standing with the North Carolina Department of Correction and the certification has not been terminated for cause; or
- (2) The certified officer, having separated in good standing with the North Carolina Department of Correction, is re-employed within two years, and the certification has not been terminated for cause.

(c) Certified officers who, through promotional opportunities, move into non-certified positions within the Department, may have their certification reinstated without re-completion of the basic training requirements of 12 NCAC 09G .0400 and are exempted from reverification of employment standards of 12 NCAC 09G .0202- 0206 when returning to a position requiring certification if they have maintained continuous employment within the Department.

(d) Documentation of General Certification shall be maintained with the officer's personnel records with the North Carolina Department of Correction and the Commission.

(e) Upon transfer of a certified officer from one type of corrections officer to another, the North Carolina Department of Correction shall submit a Notice of Transfer to the Standards Division.

- (1) Upon receipt of the Notice of Transfer, the Standards Division shall cancel the officer's current General Certification and upon receipt of documentary evidence that the officer has met the requisite standards for the specified type of corrections officer certification, the Commission shall issue Probationary Certification reflecting the officer's new corrections position.
- (2) The Commission shall grant an officer General Certification as the new type of corrections officer when evidence is received by the Standards Division that an officer has successfully completed the training requirements of 12 NCAC 09G .0400 within the

officer's probationary period and the officer has met all other requirements for General Certification.

History Note: Authority G.S. 17C-2; 17C-6; 17C-10; Temporary Adoption Eff. January 1, 2001.

12 NCAC 09G .0305 RECERTIFICATION FOLLOWING SEPARATION

(a) Previously certified corrections officers, with a minimum of one year of service who have been separated from the North Carolina Department of Correction for less than two years, may have their certification reinstated following a reverification of employment standards in 12 NCAC 09G .0202, .0203, and .0206 (excluding 12 NCAC 09G .0206(d)(2)), but are exempt from the job appropriate basic training course described in 12 NCAC 09G .0400.

(b) Previously certified corrections officers with less than one year of service who have been separated from the North Carolina Department of Correction for less than two years, may have their certification reinstated following a reverification of employment standards 12 NCAC 09G .0202, .0203, and .0206 (excluding 12 NCAC 09G .0206(d)(2)), and shall complete the job appropriate basic training course described in 12 NCAC 09G .0400.

(c) Previously certified corrections officers who have been separated from the North Carolina Department of Correction for more than two years, upon their return shall complete the verification of employment standards and shall complete the job appropriate basic training course described in 12 NCAC 09G .0400.

History Note: Authority G.S. 17C-2; 17C-6; 17C-10; Temporary Adoption Eff. January 1, 2001.

12 NCAC 09G .0306 RETENTION OF RECORDS OF CERTIFICATION

(a) The North Carolina Department of Correction shall place in the officer's certification file the official notification from the Commission of either Probationary or General Certification for each correctional officer, probation/parole officer, and probation/parole officer-surveillance employed or appointed by the North Carolina Department of Correction. The certification file shall also contain:

- (1) the officer's Report of Appointment/Application for Certification including the State Personnel Application;
- (2) the officer's Medical History Statement and Medical Examination Report to be maintained at the officer's local unit;
- (3) documentation of the officer's drug screening results;
- (4) documentation of the officer's educational achievements;
- (5) documentation of all corrections training completed by the officer;
- (6) documentation of the officer's psychological examination results;
- (7) documentation and verification of the officer's age;
- (8) documentation and verification of the officer's citizenship;

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- (9) documentation of any prior criminal record; and
- (10) miscellaneous documents to include, but not limited to, letters, investigative reports, and subsequent charges and convictions.

(b) All files and documents relating to an officer's certification shall be available for examination and utilization at any reasonable time by representatives of the Commission for the purpose of verifying compliance with these Rules. These records shall be maintained in compliance with the North Carolina Department of Correction's approved Records Retention Schedule, and as agreed upon by the Commission.

*History Note: Authority 17C-2; 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0307 CERTIFICATION OF INSTRUCTORS

(a) Any person participating in a Commission-accredited corrections training course or program as an instructor, teacher, professor, lecturer, or other participant making presentations to the class shall first be certified by the Commission as an instructor.

(b) The Commission shall certify instructors under the following categories: General Instructor Certification or Specialized Instructor Certification as outlined in 12 NCAC 09G .0308 and .0310 of this Section. Such instructor certification shall be granted on the basis of documented qualifications of experience, education, and training in accord with the requirements of this Section and reflected on the applicant's Request for Instructor Certification Form.

(c) In addition to all other requirements of this Section, each instructor certified by the Commission to teach in a Commission-accredited course shall remain competent in his/her specific or specialty areas. Such competence includes remaining current in the instructor's area of expertise, which may be demonstrated by attending and successfully completing any instructor updates issued by the Commission.

(d) The Standards Division may notify an applicant for instructor certification or a certified instructor that a deficiency appears to exist and attempt, in an advisory capacity, to assist the person in correcting the deficiency.

(e) When any person certified as an instructor by the Commission is found to have knowingly and willfully violated any provision or requirement of these Rules, the Commission may take action to correct the violation and to ensure that the violation does not recur, including:

- (1) issuing an oral warning and request for compliance;
- (2) issuing a written warning and request for compliance;
- (3) issuing an official written reprimand;
- (4) suspending the individual's certification for a specified period of time or until acceptable corrective action is taken by the individual; or
- (5) revoking the individual's certification.

(f) The Commission may deny, suspend, or revoke an instructor's certification when the Commission finds that the person:

- (1) has failed to meet and maintain any of the requirements for qualification; or

- (2) has failed to remain currently knowledgeable in the person's areas of expertise; or
- (3) has failed to deliver training in a manner consistent with the instructor lesson plans outlined in the "Basic Instructor Training Manual" as found in 12 NCAC 09G .0414; or
- (4) has demonstrated unprofessional personal conduct in the delivery of Commission-mandated training; or
- (5) has demonstrated instructional incompetence; or
- (6) has knowingly and willfully obtained, or attempted to obtain instructor certification by deceit, fraud, or misrepresentation; or
- (7) has failed to meet or maintain good moral character as required to effectively discharge the duties of a corrections instructor; or
- (8) has failed to deliver training in a manner consistent with the curriculum outlines in the corrections officers' training manuals set out in 12 NCAC 09G .0411 - .0416.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0308 GENERAL INSTRUCTOR CERTIFICATION

Certifications issued in this category after December 31, 1984 shall be limited to those topics which are not expressly incorporated under the Specialized Instructor Certification category. Individuals certified under the general instructor category are not authorized to teach any of the subjects specified in 12 NCAC 09G .0310, entitled "Specialized Instructor Certification." To qualify for issuance of General Instructor Certification, an applicant shall demonstrate a combination of education and experience in corrections and proficiency in the instructional process to the satisfaction of the Commission. At a minimum, the applicant shall meet the following requirements for General Instructor Certification:

- (1) Present documentary evidence showing that the applicant:
 - (a) is a high school graduate, or has passed the General Education Development Test (GED) indicating high school equivalency, and has acquired four years of practical experience as a corrections officer or as an administrator or specialist in a field directly related to the criminal justice system;
 - (b) has been awarded an associate degree and has acquired three years of practical experience as a corrections officer or as an administrator or specialist in a field directly related to the criminal justice system;
 - (c) has been awarded a baccalaureate degree and has acquired two years of practical experience as a corrections officer or as an administrator or specialist in a field directly related to the criminal justice system; or
 - (d) has been awarded a graduate/professional degree and has acquired one year of practical experience as a corrections officer or as an administrator or

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specialist in a field directly related to the criminal justice system.

- (2) Present evidence showing successful completion of a Commission-accredited instructor training program or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise.
- (a) applications for General Instructor Certification shall be submitted to the Standards Division within 60 days of the date the applicant successfully passed the State Comprehensive Examination administered at the conclusion of the Commission-accredited instructor training program or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise.
- (b) persons having completed a Commission-accredited instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise, and not having made application within 60 days of completion of the course, shall complete a subsequent Commission-accredited instructor training course in its entirety.

member must also teach a minimum of eight hours in a Commission-accredited training course or a Commission-recognized in-service training course.

(c) The term of certification as a general instructor is two years from the date the Commission issues the certification. The certification may subsequently be renewed by the Commission for two-year periods. The application for renewal shall contain, in addition to the requirements listed in 12 NCAC 09G .0308 of this Section, documentary evidence indicating that the applicant has remained active in the instructional process during the previous two-year period. Such documentary evidence shall include, at a minimum, the following:

- (1) proof that the applicant has, within the two year period preceding application for renewal, instructed a minimum of eight hours in a Commission-accredited training course or a Commission-recognized in-service training course; and
- (2) a favorable written recommendation from a School Director accompanied by certification on a Commission-approved Instructor Evaluation Form that the instructor successfully taught a minimum of eight hours in a Commission-accredited training course or a Commission-recognized in-service training course during the two-year period of general certification; or
- (3) a favorable evaluation by a Commission or staff member, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-accredited training course or a Commission-recognized in-service training course, during the two-year period of General Instructor Certification. In addition, instructors evaluated by a Commission or staff member must also teach a minimum of eight hours in a Commission-accredited training course or a Commission-recognized in-service training course.

(d) All instructors shall remain active during their period of certification. If an instructor does not teach a minimum of eight hours during the period of certification, the certification shall not be renewed, and the instructor shall file application for General Instructor Certification, Probationary Status. Such applicants shall be required to meet the minimum requirements of 12 NCAC 09G .0308 of this Section.

History Note: Authority G.S. 17C-6; Temporary Adoption Eff. January 1, 2001.

12 NCAC 09G .0309 TERMS AND CONDITIONS OF GENERAL INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for certification as a general instructor shall, for the first 12 months of certification, be in a probationary status. The General Instructor Certification, Probationary Status, shall automatically expire 12 months from the date of issuance.

(b) The probationary instructor will be eligible for full general instructor status if the instructor, through application at the end of the probationary period, submits to the Commission:

- (1) a favorable recommendation from a School Director accompanied by certification on a Commission-approved Instructor Evaluation Form that the instructor successfully taught a minimum of eight hours in a Commission-accredited course or a Commission-recognized in-service training course during the probationary year. The results of the student evaluation of the instructor must be considered by the School Director when determining recommendation; or
- (2) a favorable written evaluation by a Commission or staff member, based on an on-site classroom evaluation of the probationary instructor in a Commission-accredited course or a Commission-recognized in-service training course. Such evaluation will be certified on a Commission-approved Instructor Evaluation Form. In addition, instructors evaluated by a Commission or staff

History Note: Authority 17C-6; Temporary Adoption Eff. January 1, 2001.

12 NCAC 09G .0310 SPECIALIZED INSTRUCTOR CERTIFICATION

(a) The Commission may issue a Specialized Instructor Certification to an applicant who has developed specific motor-skills and abilities by virtue of special training and demonstrated experience in one or more of the following topical areas:

- (1) Firearms (DOC); and
- (2) Unarmed Self-Defense (DOC).

(b) To qualify for Specialized Instructor Certification, an applicant must meet the following requirements:

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- (1) hold General Instructor Certification, either probationary status or full general instructor status, as specified in 12 NCAC 09G .0309 of this Section;
 - (2) successfully complete the pertinent Commission-approved specialized instructor training course; and
 - (3) obtain the recommendation of a Commission-recognized School Director.
- (c) To qualify for and maintain any Specialized Instructor Certification, an applicant must possess a valid CPR Certification that included cognitive and skills testing.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0311 TERMS AND CONDITIONS OF SPECIALIZED INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for Specialized Instructor Certification shall be issued a certification to run concurrently with the existing General Instructor Certification. The applicant must apply for certification as a specialized instructor within 60 days from the date of completion of a specialized instructor course.

(b) The terms of certification as a specialized instructor will be determined by the expiration date of the existing General Instructor Certification. The following requirements shall apply during the initial period of certification:

- (1) where certification for both general probationary instructor and Specialized Instructor Certification is issued on the same date, the instructor will only be required to satisfy the teaching requirement for the general probationary instructor certification. The instructor may satisfy the teaching requirement for the general probationary instructor certification by teaching any specialized topic for which certification has been issued;
- (2) when Specialized Instructor Certification is issued during an existing period of General Instructor Certification, either probationary status or full general status, the specialized instructor may satisfy the teaching requirement for the General Certification by teaching the specialized subject for which certification has been issued; and
- (3) where Specialized Instructor Certification becomes concurrent with an existing 24 month period of General Instructor Certification, the instructor must teach a minimum of eight hours for each specialized topic for which certification has been issued.

(c) The term of certification as a specialized instructor shall not exceed the 24 month period of full General Instructor Certification. The certification may subsequently be renewed by the Commission at the time of renewal of the full General Instructor Certification. The application for renewal shall contain, in addition to the requirements listed in 12 NCAC 09G .0310 of this Section, documentary evidence that the applicant has remained active in the instructional process during the previous two-year period. Such documentary evidence shall include, at a minimum, the following:

- (1) proof that the applicant has, within the two year period preceding application for renewal, instructed at least eight hours in each of the topics for which Specialized Instructor Certification was granted and such instruction must be in a Commission-accredited training course or a Commission-recognized in-service training course. Acceptable documentary evidence shall include official Commission records submitted by School Directors and written certification from a School Director; and
 - (2) a favorable written recommendation from a School Director accompanied by certification that the instructor successfully taught at least eight hours in each of the topics for which Specialized Instructor Certification was granted. Such teaching must have occurred in a Commission-accredited training course or a Commission-recognized in-service training course during the two year period of Specialized Instructor Certification; or
 - (3) a favorable evaluation by a Commission or staff member, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-accredited training course or a Commission-recognized in-service training course, during the two-year period of Specialized Instructor Certification. In addition, instructors evaluated by a Commission or staff member must also teach at least eight hours in each of the topics for which Specialized Instructor Certification was granted.
- (d) All instructors shall remain active during their period of certification. If an instructor does not teach at least eight hours in each of the topic areas for which certification is granted, the certification shall not be renewed for those topics in which the instructor failed to successfully teach. Any specialized instructor training courses previously accepted by the Commission for purposes of certification shall no longer be recognized if the instructor does not successfully teach at least eight hours in each of the specialized topics during the two-year period of which certification was granted. Upon application for re-certification, such applicants shall be required to meet the minimum requirements of 12 NCAC 09G .0310 of this Section.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0312 INSTRUCTOR CERTIFICATION RENEWAL

Individuals who hold General Instructor Certification or Specialized Instructor Certification may, for just cause, be granted an extension of the two-year period to successfully teach the eight hour minimum requirement. The Director of the Standards Division may grant such extensions on a one time basis only not to exceed 12 months. For purposes of this Rule, just cause means accident, illness, emergency, course cancellation, or other exceptional circumstances which precluded the instructor from fulfilling the teaching requirement.

History Note: Authority G.S. 17C-6;

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Temporary Adoption Eff. January 1, 2001.

12 NCAC 09G .0313 CORRECTIONS INSTRUCTOR TRAINING COURSE

(a) To successfully acquire Corrections Instructor Training the trainee shall:

- (1) satisfactorily complete all of the required course work, specifically including each of the trainee presentations with video taping, playback, and critique as specified in the "Basic Instructor Training Manual" as published by the North Carolina Justice Academy. All trainee presentations must have met the criteria and conditions specified in the course orientation of the "Basic Instructor Training Manual;"
- (2) attain the minimum score on each performance area as specified in the course abstract of the "Basic Instructor Training Manual" for the final written lesson plan and final 80-minute presentation; and,
- (3) achieve a score of 75 percent correct answers on the comprehensive written examination.

(b) Should a trainee fail to meet the minimum criteria on the final lesson plan or the final 80-minute presentation, he/she shall be authorized one opportunity to correct either of these deficiencies by the end of the original two-week course.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0314 COMPREHENSIVE WRITTEN EXAM - INSTRUCTOR TRAINING

(a) An authorized representative of the North Carolina Department of Correction shall administer a comprehensive written examination to each trainee who has satisfactorily completed the first 12 units of the Corrections Instructor Training Course as described in the "Basic Instructor Training Manual."

(b) The examination shall be an objective test consisting of multiple-choice, true-false, or similar questions covering the topic areas contained in the accredited course curriculum.

(c) A trainee shall successfully complete the comprehensive written examination if he/she achieves a minimum of 75 percent correct answers.

(d) A trainee who has fully participated in a scheduled delivery of an accredited training course and has demonstrated satisfactory competence in each performance area of the course curriculum, who has scored at least 65 percent but has failed to achieve the minimum passing score of 75 percent on the comprehensive written examination, may request the Director of the Standards Division to authorize a re-examination of the trainee.

- (1) The trainee's request for re-examination shall be made in writing on the Commission's form and shall be received by the Standards Division within 30 days of the examination.
- (2) The trainee's request for re-examination shall include the favorable recommendation of the School Director who administered the course.

(3) A trainee shall have, within 90 days of the original examination, only one opportunity for re-examination and shall satisfactorily complete the subsequent examination in its entirety.

(4) The trainee will be assigned in writing by the Standards Division staff a place, time, and date for re-examination.

(5) Should the trainee on re-examination not achieve the prescribed minimum score on the examination, the trainee may not be given successful course completion and shall enroll and successfully complete a subsequent offering of the instructor course in its entirety before further examination may be permitted.

(f) A trainee who fails to score at least 65 percent on the comprehensive written examination shall be terminated from the course.

*History Note: Authority G.S. 17C-6; 17C-10;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0315 COMPREHENSIVE WRITTEN EXAM - SPECIALIZED INSTRUCTOR TRAINING

(a) At the conclusion of a school's offering of the "Specialized Firearms Instructor Training" and "Specialized Unarmed Self-Defense Instructor Training" course in its entirety, the Commission shall administer a comprehensive written examination to each trainee who has satisfactorily completed all of the required course work. A trainee cannot be administered the comprehensive written examination until such time as all of the pertinent course work is completed.

(b) The examination shall be an objective test consisting of multiple-choice, true-false, or similar questions covering the topic areas contained in the accredited course curriculum.

(c) The Commission's representative shall submit to the School Director within five days of the administration of the examination a report of the results of the test for each trainee examined.

(d) A trainee shall successfully complete the comprehensive written examination if he/she achieves a minimum of 75 percent correct answers.

(e) A trainee who fails to achieve the minimum score of 75 percent on the Commission's comprehensive written examination shall not be given successful course completion and shall enroll and successfully complete a subsequent offering of the specialized instructor training course in its entirety before further examination may be permitted.

*History Note: Authority G.S. 17C-6; 17C-10;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0316 PROFESSIONAL LECTURER CERTIFICATION

(a) The Commission may issue Professional Lecturer Certification to a person in a profession, who, by virtue of academic degrees and professional expertise, has developed special knowledge in one or more of the following areas:

- (1) Law;
- (2) Psychology;

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- (3) Medicine.
- (b) To be eligible for such certification, an applicant shall:
 - (1) be a graduate of an accredited law school, medical school, or other school accredited for conferring degrees in formally recognized professions acceptable to the Commission;
 - (2) obtain the endorsement of a commission-recognized School Director who shall:
 - (A) recommend the applicant for certification as a professional lecturer;
 - (B) describe the applicant's expected participation, topical areas, duties, and responsibilities in a delivery of Commission-accredited training course conducted by the school; and
 - (C) describe the attributes showing the applicant to be a beneficial contributor to the delivery or presentation in a Commission-accredited training program.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

**SECTION .0400 - MINIMUM STANDARDS FOR
TRAINING OF CORRECTIONAL OFFICERS,
PROBATION/PAROLE OFFICERS, AND PROBATION
/PAROLE OFFICERS-SURVEILLANCE**

**12 NCAC 09G .0401 ADMINISTRATION OF BASIC
CORRECTIONS TRAINING SCHOOLS**

- (a) The Secretary of the North Carolina Department of Correction shall have primary responsibility for implementation of these Rules and standards and for administration of the school. The executive officer or officers of the institution or agency shall secure School Accreditation pursuant to 12 NCAC 09G .0402 prior to offering any corrections training course.
- (b) The Secretary shall designate not more than one compensated staff member for each Commission-accredited program for which the North Carolina Department of Correction has been granted accreditation. Such staff member shall be formally certified by the Commission under Rule .0405 of this Subchapter to be the corrections School Director. The School Director shall have administrative responsibility for planning, scheduling, presenting, coordinating, reporting, and generally managing each sponsored accredited corrections training course. If the accredited institution or agency assigns additional responsibilities to the certified School Director during the planning, development, and implementation of an accredited training course, an additional Qualified Staff Person must be designated to assist the School Director in the administration of the course. This person must be selected by the School Director and must attend a course orientation conducted by Standards Division staff and attend the annual School Directors' Conference.

*History Note: Authority 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0402 ACCREDITATION OF

CORRECTIONS SCHOOLS

- (a) The Commission shall establish a standing subcommittee of the Education and Training Committee for the purposes of evaluating Request for School Accreditation applications and making recommendations to the Education and Training Committee on the granting of accreditation to institutions and agencies. The Accreditation Committee shall be comprised of two members appointed by the School Directors' Advisory Committee and two members who shall be commission members to include the North Carolina Community Colleges System's representative to the Commission. The Chairman of the Commission shall appoint the Chairman of the Accreditation Committee.
- (b) Any school meeting the minimum requirements contained in 12 NCAC 09G .0400 must submit a properly completed Request for School Accreditation application. Upon receipt of a properly completed Request for School Accreditation application:
 - (1) the Standards Division staff shall review the application for any omissions and clarifications and conduct a site visit to tour facilities, confirm information on the application, and determine if and where deficiencies exist;
 - (2) the applying institution or agency shall be contacted concerning deficiencies and assistance shall be given on correcting problem areas;
 - (3) the application and staff reports are submitted to the Accreditation Committee for review;
 - (4) a recommendation shall be submitted to the Education and Training Committee on the approval or denial of the application; and
 - (5) the Education and Training Committee shall recommend to the full Commission at its next regularly scheduled meeting the approval or denial of accreditation for the applicant institution or agency.
- (c) Accreditation of a school shall remain effective for five years from issuance unless earlier suspended or revoked for just cause.
- (d) The identity of those schools accredited under this Rule shall be published and distributed annually by the Standards Division together with the name and business address of the School Director and the schedule of corrections training courses planned for delivery during the succeeding year.
- (e) A school may apply for reaccreditation to the Commission by submitting a properly completed Request for School Accreditation application. The application for reaccreditation shall contain information on major changes in facilities, equipment, and staffing. Upon receipt of a properly completed application:
 - (1) the Standards Division staff shall review the application for any omissions and clarification;
 - (2) copies of the site visits conducted during the last period of certification shall be attached to the application;
 - (3) the application and staff reports shall be submitted to the Accreditation Committee for review;
 - (4) a recommendation shall be submitted to the Education and Training Committee on the approval or denial of the application; and

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(5) the Education and Training Committee shall recommend to the full Commission at its next regularly scheduled meeting the approval or denial of reaccreditation of the applicant institution or agency.

(f) In instances where accredited schools have been found to be in compliance with 12 NCAC 09G .0400 through favorable site visit reports, Standards Division staff shall be authorized to reaccredit on behalf of the Commission. Such action shall be reported to the Commission through the Accreditation Committee and the Education and Training Committee at its next scheduled meeting.

(g) The Commission may suspend or revoke a school's accreditation when it finds that the school has failed to meet or continuously maintain any requirement, standard, or procedure for school or course accreditation.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0403 ACCREDITATION OF TRAINING COURSES

(a) An accredited corrections school shall apply for accreditation for each of its courses by submitting a completed Request for Training Course Accreditation Form.

(b) One of two types of accreditation may be sought by the school, depending upon the nature of the course for which accreditation is sought.

(1) Temporary accreditation shall apply to courses being offered by an accredited school on a one-time or infrequent basis and will remain effective for the duration of the specified course offering, not in excess of one year.

(2) Continuing accreditation shall apply to courses offered on a regular or continuous basis by an accredited school and will remain effective until surrendered, revoked, or the school's accreditation expires, or is suspended, or is revoked.

(c) The Commission may suspend or revoke the accreditation of a course when it finds that the school has failed to meet or continuously maintain any requirement, standard, or procedure for course accreditation.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0404 PILOT COURSE PRESENTATION/PARTICIPATION

(a) Consistent with the curriculum development policy of the Commission, the Education and Training Committee shall recommend to the Commission the delivery system and the developer of course curricula. Designation of the developer of course curricula by the Commission shall be deemed as approval of the developer to conduct pilot courses.

(b) Individuals who successfully complete a pilot course offering shall not be required by other rules of this Subchapter to complete additional training for that specific certification program. Such pilot training courses shall be recognized for purposes of certification or recertification.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0405 CERTIFICATION OF SCHOOL DIRECTORS

(a) Any person designated to act as, or who performs the duties of, a School Director in the delivery or presentation of a Commission-accredited corrections training course shall be and continuously remain certified by the Commission as a School Director.

(b) To qualify for certification as a corrections School Director, at a minimum, an applicant shall:

(1) present documentary evidence showing that the applicant:

(A) is a high school graduate or has passed the General Education Development Test (GED) indicating high school equivalency and has acquired five years of practical experience as a criminal justice officer, corrections officer, or as an administrator or specialist in a field directly related to the corrections system. At least one year of the required five years experience must have been while actively participating in corrections training as a Commission-certified instructor; or

(B) has been awarded an associate degree and has acquired four years of practical experience as a criminal justice officer, corrections officer, or as an administrator or specialist in a field directly related to the corrections system. At least one year of the required four years experience must have been while directly participating in corrections training as a Commission-certified instructor; or

(C) has been awarded a baccalaureate degree acceptable to any Commission-accredited school in its criminal justice or corrections program. In addition, it is recommended that the applicant have some experience as a criminal justice or corrections officer or some experience in criminal justice or corrections training.

(2) attend or must have attended the most current offering of the School Director's orientation as developed and presented by the Commission staff, otherwise an individual orientation with a staff member may be required; and

(3) submit a written request for the issuance of such certification executed by the executive officer of the North Carolina Department of Correction currently accredited, or which may be seeking accreditation, by the Commission to make presentation of accredited training programs and for whom the applicant will be the designated School Director.

(c) To qualify for certification as a School Director in the presentation of the "Criminal Justice Instructor Training Course" an applicant shall:

(1) document that he/she has been awarded a baccalaureate degree from an accredited institution of higher learning;

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- (2) present evidence showing successful completion of a Commission-accredited instructor training course or an equivalent instructor training program as determined by the Commission;
- (3) be currently certified as a criminal justice instructor by the Commission; and
- (4) document successful participation in a special program presented by the Justice Academy for purposes of familiarization and supplementation relevant to delivery of the instructor training course and trainee evaluation.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0406 TERMS AND CONDITIONS OF SCHOOL DIRECTOR CERTIFICATION

- (a) The term of certification as a School Director is two years from the date the Commission issues the certification, unless earlier terminated by action of the Commission. Upon application the certification may subsequently be renewed by the Commission for two-year periods. The application for renewal shall contain documentation meeting the requirements of 12 NCAC 09G .0405(b)(2) and (b)(3).
- (b) To retain certification as a School Director, the School Director shall adequately perform the duties and responsibilities of a School Director as specifically required in 12 NCAC 09G .0408.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0407 SUSPENSION: REVOCATION: DENIAL/SCHOOL DIRECTOR CERTIFICATION

- (a) The Commission may deny, suspend, or revoke certification of a School Director when the Commission finds that the person has failed to meet or continuously maintain any of the requirements for qualification or through performance fails to comply with program rules and procedures of the Commission or otherwise demonstrates incompetence.
- (b) Prior to the Commission's action denying, suspending, or revoking a School Director's certification, the Standards Division may notify the person that a deficiency appears to exist and may attempt, in an advisory capacity, to assist the person in correcting the deficiency.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0408 RESPONSIBILITIES OF THE SCHOOL DIRECTOR

In planning, developing, coordinating, and delivering each Commission-approved corrections training course, the School Director shall:

- (a) formalize and schedule the course curriculum in accordance with the curriculum standards established in this Subchapter;

- (b) schedule course presentation for delivery such that each training course required for certification shall be presented on a regular basis; and
- (c) select and schedule qualified instructors who are certified by the Commission.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0409 ADMISSION OF TRAINEES AND COURSE ENROLLMENT

- (a) The School Director shall determine the appropriate number of trainees to enroll in the offering.
- (b) The school may not enroll any trainee later than the second day of delivery of an accredited training course unless the trainee's enrollment is pursuant to prescribed supplementary or remedial training required under 12 NCAC 09G .0410 of this Section.

*History Note: Authority G.S. 17C-6; 17C-10;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0410 WAIVER OF COMPLETION OF TRAINING

- (a) The Commission may waive an officer's completion of the Commission-accredited training course upon receiving documentary evidence from the North Carolina Department of Correction that the officer has satisfactorily completed equivalent training. All such officers, however, shall serve a one year period of probationary certification as defined in 12 NCAC 09G .0303.
- (b) Training received in states with laws governing or regulating corrections officer training shall, if subject to such review, have been approved or certified by the appropriate agency of the state in which the training was received.
- (c) The Commission shall prescribe as a condition of certification supplementary or remedial training deemed necessary to equate previous training with current standards.
- (d) The Commission shall require satisfactory performance on a written examination as proof of equivalent training.

*History Note: Authority G.S. 17C-6; 17C-10;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0411 BASIC TRAINING FOR CORRECTIONAL OFFICERS

- (a) The basic training course for correctional officers shall consist of a minimum of 160 hours of instruction, as approved by the Commission, designed to provide the trainee with the skills and knowledge to perform those tasks essential to function as a correctional officer. The instructional components of this course must be listed in the "Basic Correctional Officer Training Manual," and shall include, at a minimum: firearms training; unarmed self-defense; legal issues for correctional supervision; emergency procedures; Division of Prisons operational processes such as classification, search and seizure, health services, and contemporary correctional theory.

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(b) The "Basic Correctional Officer Training Manual" as published by the North Carolina Department of Correction is to be applied as the basic curriculum for delivery of correctional officer basic training courses. Copies of this publication may be inspected at the office of the agency:

The Office of Staff Development and Training
North Carolina Department of Correction
1001 Mountford Avenue
Raleigh, North Carolina 27626-0540

and may be obtained at cost from the Department of Correction.

*History Note: Authority G.S. 17C-6; 17C-10;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0412 BASIC TRAINING FOR PROBATION/PAROLE OFFICERS

(a) The basic training course for probation/parole officers shall consist of a minimum of 160 hours of instruction, as approved by the Commission, designed to provide the trainee with the skills and knowledge to perform those tasks essential to function as a probation/parole officer. The instructional components of this course must be listed in the "Basic Probation/Parole Officer Training Manual," and shall include, at a minimum: unarmed self-defense; court processes; case processing and management; arrest procedures; basic life support; physical fitness; and contemporary correctional theory.

(b) The "Basic Probation/Parole Officer Training Manual" as published by the North Carolina Department of Correction is to be applied as the basic curriculum for delivery of probation/parole officer basic training courses. Copies of this publication may be inspected at the office of the agency:

The Office of Staff Development and Training
North Carolina Department of Correction
1001 Mountford Avenue
Raleigh, North Carolina 27626-0540

and may be obtained at cost from the Department of Correction.

*History Note: Authority G.S. 17C-6; 17C-10;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0413 BASIC TRAINING FOR PROBATION/PAROLE OFFICERS-SURVEILLANCE

(a) The basic training course for probation/parole officers-surveillance shall consist of a minimum of 160 hours of instruction, as approved by the Commission, designed to provide the trainee with the skills and knowledge to perform those tasks essential to function as a probation/parole officer-surveillance. The instructional components of this course must be listed in the "Basic Probation/Parole Officer-Surveillance Training Manual," and shall include, at a minimum: firearms training; unarmed self-defense; court processes; case processing and management; arrest procedures; basic life support; physical fitness; and contemporary correctional theory.

(b) The "Basic Probation/Parole Officer-Surveillance Training Manual" as published by the North Carolina Department of Correction is to be applied as the basic curriculum for delivery of probation/parole officer-surveillance basic training courses.

Copies of this publication may be inspected at the office of the agency:

The Office of Staff Development and Training
North Carolina Department of Correction
1001 Mountford Avenue
Raleigh, North Carolina 27626-0540

and may be obtained at cost from the Department of Correction.

*History Note: Authority G.S. 17C-6; 17C-10;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0414 INSTRUCTOR TRAINING

(a) The instructor training course required for general instructor certification shall consist of a minimum of 80 hours of instruction presented during a continuous period of not more than two weeks.

(b) Each instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice instructor.

(c) Each instructor training course shall include, as a minimum, the following identified topic areas and minimum instructional hours for each area:

- (1) Orientation and Pretest;
- (2) Curriculum Development: ISD Model;
- (3) Civil Liability for Law Enforcement Trainers;
- (4) Interpersonal Communication in Instruction;
- (5) Lesson Plan Preparation: Professional Resources;
- (6) Lesson Plan Preparation: Format and Objectives;
- (7) Teaching Adults;
- (8) Principles of Instruction: Demonstration Methods and Practical Exercise;
- (9) Methods and Strategies of Instruction;
- (10) The Evaluation Process;
- (11) Principles of Instruction: Audio-Visual Aids;
- (12) Student 10-Minute Talk and Video Critique;
- (13) Student Performance:
First 30-Minute Presentation;
Second 30-Minute Presentation;
Final 80-Minute Presentation; and
- (14) Examination.

(d) The "Basic Instructor Training Manual" as published by the North Carolina Justice Academy is to be applied as the basic curriculum for delivery of basic instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
114 West Edenton Street
Old Education Building
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be purchased at cost from the Academy at the following address:

North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

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12 NCAC 09G .0415 CORRECTIONS SPECIALIZED INSTRUCTOR TRAINING - FIREARMS

(a) The instructor training course requirement for corrections specialized firearms instructor certification shall consist of a minimum of 80 hours of instruction presented during a continuous period of not more than two weeks or as approved by the Standards Division.

(b) Each corrections specialized firearms instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a corrections firearms instructor in the "Basic Training--Correctional Officer" course, "Basic Training--Probation/Parole Officer" course, "Basic Training--Probation/Parole Officer-Surveillance" course, and in-service training courses for correctional officers, PERT teams, and probation/parole officers-surveillance.

(c) Each corrections specialized firearms instructor training course shall include as a minimum the following topical areas:

- (1) Overview;
- (2) Legal Considerations for Firearms Instructors;
- (3) Firearms Safety;
- (4) Range Operations;
- (5) Range Medical Emergencies;
- (6) Revolver - Operation, Use, and Maintenance;
- (7) Advanced Revolver Training;
- (8) Revolver Night Firing;
- (9) Rifle Training and Qualification;
- (10) Shotgun Training and Qualification;
- (11) Maintenance and Repair of Rifles and Shotguns;
- (12) Special Techniques, Training Aids, and Methods;
- (13) Chemical Weapons;
- (14) Situational Use of Firearms;
- (15) Day and Night Practical Courses of Fire; and
- (16) Administrative Matters, Testing, and Evaluation.

(d) Commission-accredited schools that are accredited to offer the "Corrections Specialized Instructor Training - Firearms" course are: The Office of Staff Development and Training of the North Carolina Department of Correction.

*History Note: Authority 17C-6;
Temporary Adoption Eff. January 1, 2001*

12 NCAC 09G .0416 CORRECTIONS SPECIALIZED INSTRUCTOR TRAINING - UNARMED SELF-DEFENSE

(a) The instructor training course requirement for corrections specialized unarmed self-defense instructor certification shall consist of a minimum of 80 hours of instruction presented during a continuous period of not more than two weeks or as approved by the Standards Division.

(b) Each corrections specialized unarmed self-defense instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a corrections unarmed self-defense instructor in the "Basic Training--Correctional Officer" course, "Basic Training--Probation/Parole Officer" course, "Basic Training--Probation/Parole Officer-Surveillance" course, and in-service training courses for correctional officers, PERT teams, probation/parole officer-surveillance, and all Department of

Juvenile Justice and Delinquency Prevention unarmed self-defense courses.

(c) Each corrections specialized unarmed self-defense instructor training course shall include, as a minimum, the following topical areas and minimum instructional hours for each area:

- (1) Introduction to Unarmed Self-Defense;
- (2) Basic Exercises, Techniques and Methods;
- (3) Basic Come-A-Longs and Control Techniques;
- (4) Restraint Application;
- (5) Instructional Methods/Techniques; and
- (6) Program Evaluation.

(d) Commission-accredited schools that are accredited to offer the "Corrections Specialized Instructor Training/Unarmed Self-Defense" course are: The Office of Staff Development and Training of the North Carolina Department of Correction.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

SECTION .0500 - ENFORCEMENT OF RULES

12 NCAC 09G .0501 INVESTIGATION OF VIOLATION OF RULES

(a) If any corrections agency, school, authorized representative acting on behalf of either, or individual is reported to be or suspected of being in violation of any of these Rules, the Commission may take action to correct the violation and to ensure that similar violations do not occur.

(b) Before taking action against an agency, school, or individual for a violation, the Standards Division shall investigate the alleged violation and present a report of its findings to the Standards Committee of the Commission.

(c) The Standards Committee shall convene prior to the next regular meeting of the Commission, shall consider the report of the Standards Division, and shall make a determination as to whether or not probable cause exists that the Commission's rules have been violated.

(d) The Standards Committee may:

- (1) direct the Standards Division to conduct a further investigation of the alleged violation;
- (2) request the Attorney General to authorize an investigation by the State Bureau of Investigation of the alleged violation;
- (3) direct the Standards Division to conduct an administrative hearing in the matter, pursuant to 12 NCAC 09G .0103; or
- (4) determine the appropriate sanctions against the violator pursuant to the Commission's rules.

*History Note: Authority G.S. 17C-6; 17C-10;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0502 SANCTIONS FOR VIOLATIONS BY AGENCIES OR SCHOOLS

If the Commission finds that a violation has been committed by an agency or school, the Commission may:

- (1) issue an oral warning and request for compliance;
- (2) issue a written warning and request for compliance;

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- (3) issue an official written reprimand;
- (4) suspend and refuse to grant accreditation to any school or program or course of instruction until proper corrective measures have been taken to bring the agency or school into compliance with these Rules and verification of such compliance has been made by the Commission; or
- (5) suspend and refuse to grant accreditation to any school or program or course of instruction for a specific period of time not to exceed five years.

*History Note: Authority G.S. 17C-6; 17C-10;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0503 SANCTIONS FOR VIOLATIONS BY INDIVIDUALS

When any person certified by the Commission is found to have knowingly and willfully violated any provision or requirement of these Rules, the Commission may take action to correct the violation and to ensure that the violation does not reoccur, including:

- (1) issuing an oral warning and request for compliance;
- (2) issuing a written warning and request for compliance;
- (3) issuing an official written reprimand;
- (4) suspending the individual's certification for a specified period of time or until acceptable corrective action is taken by the individual; or
- (5) revoking or denying the individual's certification.

*History Note: Authority G.S. 17C-6; 17C-10;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0504 SUSPENSION; REVOCATION; OR DENIAL OF CERTIFICATION

(a) The Commission shall revoke the certification of a correctional officer, probation/parole officer, or probation/parole officer-surveillance when the Commission finds that the officer has committed or been convicted of a felony offense.

(b) The Commission may suspend, revoke, or deny the certification of a corrections officer when the Commission finds that the applicant for certification or the certified officer:

- (1) has not enrolled in and satisfactorily completed the required basic training course in its entirety within prescribed time periods relevant or applicable to a specified position or job title;
- (2) fails to meet or maintain one or more of the minimum employment standards required by 12 NCAC 09G .0200 for the category of the officer's certification or fails to meet or maintain one or more of the minimum training standards required by 12 NCAC 09G .0400 for the category of the officer's certification;
- (3) has committed or been convicted of a misdemeanor as defined in 12 NCAC 09G .0102 after certification;
- (4) has been discharged by the North Carolina Department of Correction for:
 - (A) commission or conviction of a motor vehicle offense requiring the revocation of the officer's drivers license; or

- (B) commission or conviction of any other offense involving moral turpitude;
 - (5) has been discharged by the North Carolina Department of Correction because the officer lacks the mental or physical capabilities to properly fulfill the responsibilities of a corrections officer;
 - (6) has knowingly made a material misrepresentation of any information required for certification or accreditation;
 - (7) has knowingly and willfully, by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission;
 - (8) has knowingly and willfully, by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aided another person in obtaining or attempting to obtain credit, training, or certification from the Commission;
 - (9) has failed to notify the Standards Division of all criminal charges or convictions as required by 12 NCAC 09G .0302;
 - (10) has been removed from office by decree of the Superior Court in accord with the provisions of G.S. 128-16 or has been removed from office by sentence of the court in accord with the provisions of G.S. 14-230;
 - (11) has refused to submit to an applicant drug screen as required by these Rules;
 - (12) has produced a positive result on a drug screen reported to the Commission as specified in 12 NCAC 09G .0206(c), where the positive result cannot be explained to the Commission's satisfaction; or
 - (13) has been denied certification or had such certification suspended or revoked by the North Carolina Sheriffs' Education and Training Standards Commission if such certification was denied, suspended or revoked based on grounds that would constitute a violation of Subchapter 09G.
- (c) Following suspension, revocation, or denial of the person's certification, the person may not remain employed or appointed as a corrections officer and the person may not exercise any authority of a corrections officer during a period for which the person's certification is suspended, revoked, or denied.

*History Note: Authority G.S. 17C-6; 17C-10;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0505 PERIOD OF SUSPENSION; REVOCATION; OR DENIAL

(a) When the Commission revokes or denies the certification of a corrections officer pursuant to 12 NCAC 09G .0504 of this Section, the period of the sanction shall be 10 years where the cause of sanction is:

- (1) commission or conviction of a felony offense; or
- (2) the second suspension of an officer's certification for any of the causes requiring a three year period of suspension; or
- (3) revocation or denial of certification by the North Carolina Sheriffs' Education and Training Standards

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Commission based on grounds that would constitute a violation of Section 09G of these Rules.

(b) When the Commission suspends or denies the certification of a corrections officer pursuant to 12 NCAC 09G .0504 of this Section, the period of sanction shall be not less than three years; however, the Commission may either reduce or suspend the period of sanction under Paragraph (c) of this Rule or substitute a period of probation in lieu of suspension of certification following an administrative hearing, where the cause of sanction is:

- (1) commission or conviction of a misdemeanor as defined in 12 NCAC 09G .0102;
- (2) discharge by the North Carolina Department of Correction pursuant to 12 NCAC 09G .0504(b)(4) and (b)(5) of this Section;
- (3) refusal to submit to the applicant drug screen required by these Rules;
- (4) production of a positive result on a drug screen reported to the Commission under 12 NCAC 09G .0206(c), where the positive result cannot be explained to the Commission's satisfaction;
- (5) material misrepresentation of any information required for certification or accreditation;
- (6) obtaining, attempting to obtain, aiding another person to obtain, or aiding another person attempt to obtain credit, training or certification by any means of false pretense, deception, defraudation, misrepresentation or cheating;
- (7) failure to make either of the notifications as required by 12 NCAC 09G .0302;
- (8) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230; or
- (9) certification revoked or denied by the North Carolina Sheriffs' Education and Training Standards Commission, if such certification was revoked or denied based on grounds that would constitute a violation of Section 09G of these Rules.

(c) When the Commission suspends or denies the certification of a corrections officer, the period of sanction shall be for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exist, where the cause of sanction is:

- (1) failure to meet or satisfy relevant basic training requirements; or
- (2) failure to meet or maintain the minimum standards for certification; or
- (3) discharge from the North Carolina Department of Correction for impairment of physical or mental capabilities.

History Note: Authority G.S. 17C-6; 17C-10; Temporary Adoption Eff. January 1, 2001.

12 NCAC 09G .0506 SUMMARY SUSPENSIONS

(a) The Commission, by and through the Standards Committee, may summarily suspend the certification of a corrections officer or instructor before the commencement of proceedings for suspension or revocation of the certification when, in the opinion

of the Standards Committee, the public health, safety, or welfare requires this emergency action of summary suspension. The Commission has determined that the following condition specifically affects the public health, safety, or welfare and therefore it, by and through the Standards Committee, may utilize summary suspension when the person has committed or been convicted of a violation of the criminal code which would require a permanent revocation or denial of certification.

(b) For the purpose of considering a summary suspension of certification, the Standards Committee may meet upon notice given by mail, telephone, or other means not less than 48 hours in advance of the meeting.

(c) A summary suspension shall be effective on the date specified in the order of summary suspension or on service of the certified copy of the order at the last known address of the person, whichever is later. The summary suspension shall remain effective during the proceedings.

(d) Upon verbal notification by the Director that the certification of an officer or instructor is being summarily suspended by written order, the North Carolina Department of Correction shall take such steps as are necessary to ensure that the officer or instructor does not perform duties requiring certification by the Commission.

History Note: Authority G.S. 17C-6; 17C-10; 150B-3; Temporary Adoption Eff. January 1, 2001.

SECTION .0600 - PROFESSIONAL CERTIFICATE PROGRAM

12 NCAC 09G .0601 PURPOSE

In order to recognize the level of competence of corrections officers serving within the State, to foster increased interest in college education and professional corrections training programs, and to attract highly qualified individuals into a corrections career, the Criminal Justice Education and Training Standards Commission establishes the State Corrections Officers' Professional Certificate Program. This program is a method by which dedicated officers may receive statewide and nationwide recognition for education, professional training, and on-the-job experience.

History Note: Authority G.S. 17C-6; Temporary Adoption Eff. January 1, 2001.

12 NCAC 09G .0602 GENERAL PROVISIONS

(a) In order to be eligible for one or more of the professional awards, an officer shall first meet the following preliminary qualifications, except as provided for in 12 NCAC 09G .0602(a)(4):

- (1) The officer shall presently hold general corrections officer certification. A person serving under a probationary certification is not eligible for consideration.
- (2) The officer shall hold general certification with the Commission in one of the following categories:
 - (A) correctional officer;
 - (B) probation/parole officer; or

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- (C) probation/parole officer-surveillance.
- (3) The officer shall be a permanent, full-time, paid employee of the North Carolina Department of Correction.
- (4) Permanent, paid employees of the Department of Correction who have successfully completed a Commission-accredited corrections officer basic training program and have previously held general certification as specified in 12 NCAC 09G .0602(a)(1) and 12 NCAC 09G .0602(a)(2), but are presently, by virtue of promotion or transfer, serving in positions not subject to certification are eligible to participate in the professional certificate program. Eligibility for this exception requires continuous employment with the Department of Correction from the date of promotion or transfer from a certified position to the date of application for a professional certificate.
- (b) Awards are based upon a formula which combines formal education, corrections training, and actual experience as a corrections officer. Points are computed in the following manner:
- (1) each semester hour of college credit shall equal one point and each quarter hour shall equal two-thirds of a point;
 - (2) 20 classroom hours of Commission-approved corrections training shall equal one point;

- (3) only experience as a permanent, paid employee of the North Carolina Department of Correction or the equivalent experience as determined by the Commission shall be acceptable of consideration.
- (c) Certificates will be awarded in an officer's area of expertise only. The State Corrections Certificate is appropriate for permanent, paid corrections employees employed by the North Carolina Department of Correction.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0603 BASIC STATE CORRECTIONS CERTIFICATE

In addition to the qualifications set forth in 12 NCAC 09G .0602(a) of this Section, an applicant for the Basic State Corrections Certificate shall have completed the probationary period prescribed by the Commission, but in no case less than one year and shall have completed an accredited basic training course or the equivalent as determined by the Commission, in the category in which the applicant is employed.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0604 INTERMEDIATE STATE CORRECTIONS CERTIFICATE

(a) In addition to the qualifications set forth in 12 NCAC 09G .0602(a) of this Section, an applicant for the Intermediate State Corrections Certificate shall possess or be eligible to possess the Basic State Corrections Certificate and shall have acquired the following combination of educational points or degrees, corrections training points and years of corrections experience:

Educational Degrees				AA/AS	AB/BS
Years of Corrections Experience	8	6	4	4	2
Minimum Corrections Training Points	-	-	-	15	10
Minimum Total Education and Training Points	30	60	90	15	10

(b) Educational points claimed shall have been earned at a technical institute, technical college, community college, junior college, college, or university accredited as such by the Department of Education of the state in which the institution is located, the appropriate recognized accrediting body, or the state university of the state in which the institution is located.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0605 ADVANCED STATE CORRECTIONS CERTIFICATE

(a) In addition to the qualifications set forth in 12 NCAC 09G .0602(a) of this Section, an applicant for the Advanced State Corrections Certificate shall possess or be eligible to possess the Intermediate State Corrections Certificate and shall have acquired the following combinations of educational points or degrees, corrections training points and years of corrections experience:

Educational Degrees			AA/AS	AB/BS	GRAD./PRO.
Years of Corrections Experience	12	9	9	6	4
Minimum Corrections Training Points					

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Training Points	-	-	25	15	10
Minimum Total Education and Training Points	60	90	25	15	10

(b) Educational points claimed shall have been earned at a technical institute, technical college, community college, junior college, college, or university accredited as such by the Department of Education of the state in which the institution is located, the recognized national accrediting body, or the state university of the state in which the institution is located.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

12 NCAC 09G .0606 METHOD OF APPLICATION

- (a) All applicants for an award of the basic, intermediate, or advanced certificates in the professional certificate program shall complete an "Application for Award of State Corrections Certificate."
- (b) Documentation of education and training shall be provided by certified copies of transcripts, diplomas, Report of Training Course Completion, agency training records, or other verifying documents attached to the application.
- (c) The applicant shall submit the "Application for Award of State Corrections Certificate" to his department head who shall attach his recommendation and forward the application to the Commission. Certificates will be issued to the Department head for award to the applicant.
- (d) Certificates and awards remain the property of the Commission, and the Commission shall have the power to cancel or recall any certificate or award.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001.*

SECTION .0700 - FORMS

12 NCAC 09G .0701 REPORT: APPLICATION: AND CERTIFICATION FORMS

The following are Commission approved forms to be used by the North Carolina Department of Correction in making reports, applications, or requests for certification to the Commission:

- (a) The Medical History Statement. The Medical History Statement is a questionnaire to be completed by an applicant. The form seeks to facilitate the applicant's medical examination by listing information pertinent to the applicant's present and past physical condition, injuries, diseases, or operations.
- (b) The Medical Examination Report. The Medical Examination Report is a form provided to the examining physician to record the results of the applicant's medical examination.
- (c) The Request for School Accreditation Form. The Request for School Accreditation Form provides the means for an agency or institution to become certified to conduct corrections training and to affiliate with the Criminal Justice Education and Training System. It seeks information on the physical, financial, and staff

- support provided to the school by the agency or institution.
- (d) The Request for Training Course Accreditation Form. The Request for Training Course Accreditation Form is used to obtain accreditation for a school's particular offering of a corrections training course. It requests information regarding the administration of the course, the particular facilities to be used, and the proposed curriculum of the course.
- (e) The Report of Appointment/Application for Certification. The Report of Appointment/Application for Certification is used for reporting the appointment of correctional officers, probation/parole officers, and probation/parole officers-surveillance and indicating the applicant's progress toward completing the requirements for certification. The questions, at a minimum, seek information regarding the applicant's work, residential, military history, arrest history, and references.
- (f) Notice of Transfer. The Notice of Transfer form is used to notify the Standards Division of an officer's change in the type of corrections officer certification.
- (g) Report of Separation. The North Carolina Department of Correction, when separating a person from employment as a correctional officer, probation/parole officer, or probation/parole officer-surveillance, shall forward to the Commission a properly completed Report of Separation within 30 days of separation.
- (h) The Request for Instructional Certification Form. The Request for Instructional Certification Form is used by persons seeking certification as general instructors. It seeks information regarding personal and professional background as well as documentation of the specific criteria for certification.
- (i) The Recommendation for General Instructor Certification Form. The Recommendation for General Instructor Certification Form is completed by a School Director or agency head after an instructor has finished the required probationary period. In the form the official recommends that the instructor receive General Instructor Certification and certifies that the official has observed and evaluated the instructor to be a teaching professional.
- (j) The Application for Award of State Corrections Certificate. The Application For Award of State Corrections Certificate requests information regarding

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the education, training, and experience qualifying the applicant for various levels of certification under the State Corrections Officers' Professional Certificate Program.

*History Note: Authority 17C-6;
Temporary Adoption Eff. January 1, 2001.*

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Rule-making Agency: *Coastal Resources Commission*

Rule Citation: *15A NCAC 07H .0209*

Effective Date: *December 22, 2000*

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

Authority for the rulemaking: *G.S. 150B-21(a)(2), (a)(3); 150B-21.3(a)*

Reason for Proposed Action: *The proposed temporary rule would establish criteria for exceptions to the regulatory requirement, effective on August 1, 2000, of a 30-foot development setback along public trust and estuarine waters to allow construction of residences on previously platted undeveloped lots of 5,000 square feet or less that are located in intensively developed areas and that would otherwise be prohibited under rules adopted by the Commission pursuant to G.S. 131A, Article 7.*

Comment Procedures: *Written comments should be submitted to Mike Lopazanski, 1638 Mail Service Center, Raleigh, NC 27699-1638, phone (919) 733-2293.*

CHAPTER 7 – COASTAL MANAGEMENT

SUBCHAPTER 7H – STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .0200 – THE ESTUARINE AND OCEAN SYSTEM

15A NCAC 07H .0209 COASTAL SHORELINES

(a) Description. The Coastal Shorelines AEC category includes estuarine shorelines and public trust shorelines. Estuarine shorelines are those non-ocean shorelines extending from the mean normal high water level or normal water level along the estuarine waters, estuaries, sounds, bays, and brackish waters, and public trust areas as set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Environment and Natural Resources [described in Rule .0206(a) of this Section] for a distance of 75 feet landward. For those estuarine shorelines immediately contiguous to waters classified as Outstanding Resource Waters by the Environmental Management Commission, the estuarine shoreline AEC shall

extend to 575 feet landward from the mean normal high water level or normal water level, unless the Coastal Resources Commission establishes the boundary at a greater or lesser extent following required public hearing(s) within the affected county or counties. Public trust shorelines are those non-ocean shorelines immediately contiguous to public trust areas, as defined in Rule 7H .0207(a) of this Section, located inland of the dividing line between coastal fishing waters and inland fishing waters as set forth in that agreement and extending 30 feet landward of the normal high water level.

(b) Significance. Development within coastal shorelines influences the quality of estuarine and ocean life and is subject to the damaging processes of shore front erosion and flooding. The coastal shorelines and wetlands contained within them serve as barriers against flood damage and control erosion between the estuary and the uplands. Coastal shorelines are the intersection of the land and aquatic elements of the estuarine and ocean system, often integrating influences from both the land and the sea in wetland areas. Some of these wetlands are among the most productive natural elements of North Carolina and they support the functions of and habitat for many valuable commercial and sport fisheries of the coastal area. Many land-based activities influence the quality and productivity of estuarine waters. Some important features of the coastal shoreline include wetlands, flood plains, bluff shorelines, mud and sand flats, forested shorelines and other important habitat areas for fish and wildlife

(c) Management Objective. The Management Objective is to ensure that shoreline development is compatible with both the dynamic nature of coastal shorelines as well as the values and the management objectives of the estuarine and ocean system. Other objectives are to conserve and manage the important natural features of the estuarine and ocean system so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing these shorelines so as to maximize their benefits to the estuarine and ocean system and the people of North Carolina.

(d) Use Standards. Acceptable uses shall be those consistent with the management objectives in Paragraph (c) of this Rule. These uses shall be limited to those types of development activities that will not be detrimental to the public trust rights and the biological and physical functions of the estuarine system. Every effort shall be made by the permit applicant to avoid, mitigate or reduce adverse impacts of development, to estuarine and coastal systems through the planning and design of the development project. In every instance, the particular location, use, and design characteristics shall comply with the general use and specific use standards for coastal shorelines, and where applicable, the general use and specific use standards for coastal wetlands, estuarine waters, and public trust areas described in Rule .0208 of this Section.

- (1) All development projects, proposals, and designs shall preserve and not weaken or eliminate natural barriers to erosion, including, but not limited to, peat marshland, resistant clay shorelines, and cypress-gum protective fringe areas adjacent to vulnerable shorelines.

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- (2) All development projects, proposals, and designs shall limit the construction of impervious surfaces and areas not allowing natural drainage to only so much as is necessary to adequately service the major purpose or use for which the lot is to be developed. Impervious surfaces shall not exceed 30 percent of the AEC area of the lot, unless the applicant can effectively demonstrate, through innovative design, that the protection provided by the design would be equal to or exceed the protection by the 30 percent limitation. Redevelopment of areas exceeding the 30 percent impervious surface limitation can be permitted if impervious areas are not increased and the applicant designs the project to comply with the intent of the rule to the maximum extent practical.
- (3) Within the estuarine and public trust shoreline AEC's, new development, with the exception of water dependent uses, shall be located a distance of 30 feet landward of the normal high water level. Water dependent uses are those described in Rule 7H .0208(a)(1) of this Section.
- (4) All development projects, proposals, and designs shall comply with the following mandatory standards of the North Carolina Sedimentation Pollution Control Act of 1973:
- (A) All development projects, proposals, and designs shall provide for a buffer zone along the margin of the estuarine water which is sufficient to confine visible siltation within 25 percent of the buffer zone nearest the land disturbing development.
- (B) No development project proposal or design shall permit an angle for graded slopes or fill which is greater than an angle which can be retained by vegetative cover or other erosion-control devices or structures.
- (C) All development projects, proposals, and designs which involve uncovering more than one acre of land shall plant a ground cover sufficient to restrain erosion within 30 working days of completion of the grading; provided that this shall not apply to clearing land for the purpose of forming a reservoir later to be inundated.
- (5) Development shall not have a significant adverse impact on estuarine and ocean resources. Significant adverse impacts shall include but be limited to development that would directly or indirectly impair water quality standards, increase shoreline erosion, alter coastal wetlands or Submerged Aquatic Vegetation (SAV), deposit spoils waterward of normal water level or normal high water, or cause degradation of shellfish beds.
- (6) Development shall not interfere with existing public rights of access to, or use of, navigable waters or public resources.
- (7) No public facility shall be permitted if such facility is likely to require public expenditures for maintenance and continued use, unless it can be shown that the public purpose served by the facility outweighs the required public expenditures for construction, maintenance, and continued use. For the purpose of this standard, "public facility" shall mean a project which is paid for in any part by public funds.
- (8) Development shall not cause irreversible damage to valuable, documented historic architectural or archaeological resources by the local historic commission or the North Carolina Department of Cultural Resources.
- (9) Established common-law and statutory public rights of access to the public trust lands and waters in estuarine areas shall not be eliminated or restricted. Development shall not encroach upon public accessways nor shall it limit the intended use of the accessways.
- (10) Within the AEC for shorelines contiguous to waters classified as Outstanding Resource Waters by the EMC, no CAMA permit shall be approved for any project which would be inconsistent with applicable use standards adopted by the CRC, EMC or MFC for estuarine waters, public trust areas, or coastal wetlands. For development activities not covered by specific use standards, no permit shall be issued if the activity would, based on site specific information, materially degrade the water quality or outstanding resource values unless such degradation is temporary.
- (e) Exceptions to the 30-foot buffer requirement. Development shall be exempted from the buffer requirement set out in Paragraph (d) of this Rule under the following circumstances:
- (1) Where strict application of the buffer requirement would preclude placement of a permanent single-family residential structure on lots, parcels and tracts platted prior to June 1, 1999, development shall comply with the buffer area requirement to the maximum extent feasible. Feasible means an alternative is available and capable of being done after taking into consideration cost, existing technology, proposed use, and overall project purposes. The footprint of the single family residential structure shall not exceed 1000 square feet. Land disturbance is limited to only so much as is necessary to construct and provide access to the residence and to allow installation or connection of utilities such as water and sewer. At a minimum, non-water dependent development shall be located a distance landward of the normal high water or normal water level equal to 20 percent of the greatest depth of the lot. Existing structures that encroach into the applicable buffer area may be replaced or repaired consistent with the criteria set out in 7J .0201 and 7J .0211.
- (2) Where strict application of the buffer requirement would preclude placement of a residential structure on undeveloped lots platted prior to June 1, 1999, that are 5,000 square feet or less and located in an intensely developed area and where existing waterfront residential structures are present on lots on both sides immediately adjacent to the proposed structure, development may be permitted within the buffer as
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TEMPORARY RULES

required in Rule 07H .0209(d)(3), providing the following criteria are met:

- (A) Development shall minimize the impacts to the buffer and reduce runoff by limiting land disturbance to only so much as is necessary to construct and provide access to the residence and to allow installation or connection of utilities such as water and sewer;
- (B) Placement of the residential structure and associated pervious decking (e.g. slatted wood) may be aligned no further into the buffer than the existing residential structures and existing pervious decking on adjoining lots;
- (C) The first one and one-half inch of rainfall from all impervious surfaces on the lot shall be collected and contained on site in accordance with the design standards for stormwater management for coastal counties as specified in 15A NCAC 02H .0105. The stormwater management system shall be designed by an individual who meets any North Carolina occupational licensing requirements for the type of system proposed and approved during the permit application process. If the residential structure encroaches into the buffer, then no other impervious surfaces will be allowed within the buffer; and
- (D) The lot must not be adjacent to waters classified by the Shellfish Sanitation Section of the Division of Environmental Health as approved or conditionally approved shellfish waters.

(f) The buffer requirements of Paragraph (d) of this Rule will not apply to Coastal Shorelines where the Environmental Management Commission (EMC) has adopted rules that contain buffer standards, or to Coastal Shorelines where the EMC adopts such rules, upon the effective date of those rules.

(g) Specific Use Standards for ORW Coastal Shorelines.

- (1) Within the AEC for estuarine public trust shorelines contiguous to waters classified as ORW by the EMC, all development projects, proposals, and designs shall

limit the built upon area to no more than 25 percent of the AEC area of the land to be developed or any lower site specific percentage as adopted by the EMC as necessary to protect the exceptional water quality and outstanding resource values of the ORW, and shall:

- (A) have no stormwater collection system;
 - (B) provide a buffer zone of at least 30 feet from the normal high water line or normal water line;
 - (C) otherwise be consistent with the use standards set out in Paragraph (d) of this Rule.
- (2) Development (other than single-family residential lots) more than 75 feet from the normal high water line or normal water line but within the AEC that, as of June 1, 1989:
 - (A) the development has a CAMA permit application in process, or
 - (B) the development has received preliminary subdivision plat approval or preliminary site plan approval under applicable local ordinances, and in which financial resources have been invested in design or improvement;
 - (3) Single-family residential lots that would not be buildable under the low-density standards defined in Paragraph (g)(1) of this Rule may be developed for single-family residential purposes so long as the development complies with those standards to the maximum extent possible.
 - (4) For ORW's nominated subsequent to June 1, 1989, the effective date in Paragraph (g)(2) of this Rule shall be the dates of nomination by the EMC.

History Note: Temporary Amendment Eff. December 18, 1981;
Authority G.S. 113A-107(b); 113A-108; 113A-113(b); 113A-124;
Eff. September 9, 1977;
Amended Eff. August 1, 2000; August 3, 1992; December 1, 1991; May 1, 1990; October 1, 1989;
Temporary Amendment Eff. December 22, 2000.

RULES REVIEW COMMISSION

This Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, December 21, 2000, 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 Friday, December 15, 2000, 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, Chairman
John Arrowood
Laura Devan
Jim Funderburke
David Twiddy

Appointed by House
R. Palmer Sugg, 1st Vice Chairman
Jennie J. Hayman, 2nd Vice Chairman
Walter Futch
Paul Powell
George Robinson

RULES REVIEW COMMISSION MEETING DATES

December 21, 2000
January 20, 2001 February 17, 2001
March 16, 2001 April 20, 2001
May 18, 2001 June 15, 2001

Log of Filings

October 20, 2000 through November 20, 2000

AGRICULTURE, DEPARTMENT OF

Pesticides for Subterranean Termite Prevention and Health Regulations in General 02 NCAC 34 .0502 Amend
Importation Requirements: Swine 02 NCAC 52B .0201 Amend
Importation Requirements: Goats 02 NCAC 52B .0207 Amend
Importation Requirements: Sheep 02 NCAC 52B .0208 Amend
EIA Test Required 02 NCAC 52B .0209 Amend
EIA Test Required 02 NCAC 52B .0406 Amend

DEPARTMENT OF HEALTH & HUMAN SERVICES

Types of Facilities and General Requirements 10 NCAC 20D .0201 Amend
Standards for Postsecondary Training Facilities 10 NCAC 20D .0207 Adopt
Benefits Levels 10 NCAC 29C .0103 Amend
Eligibility Requirements 10 NCAC 30 .0102 Amend
Electronic Benefit Transfer (EBT) Card Replacement 10 NCAC 30 .0401 Adopt
Fair Hearings 10 NCAC 30 .0402 Adopt
Without Regard to Income 10 NCAC 46H .0206 Amend
General Fee Policy 10 NCAC 46H .0301 Amend

CULTURAL RESOURCES, DEPARTMENT OF/ N C HISTORICAL COMMISSION

Archives Search Room Hours 07 NCAC 04M .0102 Amend
Admission to Archives Stacks 07 NCAC 04M .0104 Amend
Archives Search Room Regulations 07 NCAC 04M .0105 Amend
Photocopying: Transcriptions and Document 07 NCAC 04M .0106 Amend
Archives May Maintain List of Researchers 07 NCAC 04M .0201 Amend
Procedure for Listing 07 NCAC 04M .0202 Amend
Approval of Requests 07 NCAC 04M .0203 Amend
Definition of Good Cause 07 NCAC 04M .0205 Amend
Valuation 07 NCAC 04M .0302 Amend
Bible Records 07 NCAC 04M .0304 Amend
Review 07 NCAC 04M .0401 Amend
Procedures for Transfer of Records 07 NCAC 04M .0503 Amend

RULES REVIEW COMMISSION

Definition of Destruction	07 NCAC 04M .0510	Amend
Destruction of Certain Records	07 NCAC 04M .0511	Amend
Restricted Areas in State Records	07 NCAC 04M .0512	Amend
Operating Hours	07 NCAC 04R .0801	Amend
Loan of Artifacts	07 NCAC 04R .0802	Amend
Curation of Archaeological Collections	07 NCAC 04R .0803	Amend
Deaccessions	07 NCAC 04R .0804	Amend
Access to Archaeological Collections	07 NCAC 04R .0805	Amend
Archaeological Site Files	07 NCAC 04R .0806	Amend
Operating Hours	07 NCAC 04R .1501	Adopt
Historic Structure Site Files and Maps	07 NCAC 04R .1502	Adopt
Visitation Policy	07 NCAC 04R .1503	Adopt
Visiting Hours	07 NCAC 04S .0102	Amend
Visitation Rules	07 NCAC 04S .0104	Amend
Use of the Auditorium	07 NCAC 04S .0105	Amend
Research	07 NCAC 04S .0106	Amend
Audiovisual Aids	07 NCAC 04S .0107	Amend
Photographic Services	07 NCAC 04S .0108	Amend
Acquisition of Artifacts	07 NCAC 04S .0109	Amend
Operation	07 NCAC 04S .0110	Amend
JUSTICE/N C SHERIFFS' EDUCATION AND TRAINING STANDARDS		
Medical Examination	12 NCAC 10B .0304	Amend
Administration of Telecommunicator Certification	12 NCAC 10B .0708	Adopt
Responsibilities: School Directors Telecommunicator	12 NCAC 10B .0709	Adopt
Certification: School Directors Telecommunicator	12 NCAC 10B .0710	Adopt
Terms and Conditions of Telecommunicator School	12 NCAC 10B .0711	Adopt
Suspension Revocation or Denial Telecommunicator	12 NCAC 10B .0712	Adopt
Admission of Trainees	12 NCAC 10B .0713	Adopt
Accreditation Delivery/Telecommunicator Certificat	12 NCAC 10B .0804	Adopt
Reports/Telecommunicator Cert Course Presentation/	12 NCAC 10B .0805	Adopt
Cert: Instructors for Telecommunicator Certificati	12 NCAC 10B .0913	Adopt
Telecommunicator Instructor Certification	12 NCAC 10B .0914	Adopt
Terms and Conditions of Telecommunicator Instructo	12 NCAC 10B .0915	Adopt
Professional Lecturer Certification: Telecommunica	12 NCAC 10B .0916	Adopt
Terms and Conditions of Professional Lecturer Cert	12 NCAC 10B .0917	Adopt
Use of Guest Participants: Telecommunicator Certif	12 NCAC 10B .0918	Adopt
Suspension Revocation Denial of Telecommunicator	12 NCAC 10B .0919	Adopt
Period/Suspension Revocation or Denial of Telecomm	12 NCAC 10B .0920	Adopt
Purpose	12 NCAC 10B .1101	Amend
General Provisions	12 NCAC 10B .1102	Amend
Intermediate Service Award	12 NCAC 10B .1103	Amend
Advanced Service Award	12 NCAC 10B .1104	Amend
Telecommunicator Certification Course	12 NCAC 10B .1302	Amend
Trainee Attendance	12 NCAC 10B .1305	Adopt
Completion of Telecommunicator Certification Cours	12 NCAC 10B .1306	Adopt
Comprehensive Written Exam - Telecommunicator Cert	12 NCAC 10B .1307	Adopt
Satisfaction of Minimum Training Requirements	12 NCAC 10B .1308	Adopt
Basic Reserve Deputy Sheriff Professional Certific	12 NCAC 10B .1403	Amend
Purpose	12 NCAC 10B .1501	Adopt
General Provisions	12 NCAC 10B .1502	Adopt
Intermediate Reserve Service Award	12 NCAC 10B .1503	Adopt
Advanced Reserve Service Award	12 NCAC 10B .1504	Adopt
How to Apply	12 NCAC 10B .1505	Adopt
General Provisions	12 NCAC 10B .1602	Adopt
Basic Telecommunicator Certificate	12 NCAC 10B .1603	Adopt
Intermediate Telecommunicator Certificate	12 NCAC 10B .1604	Adopt
Advanced Telecommunicator Certificate	12 NCAC 10B .1605	Adopt
How to Apply	12 NCAC 10B .1606	Adopt

RULES REVIEW COMMISSION

DEPARTMENT OF LABOR

Notation of Suspension or Revocation	13 NCAC 15	.0105	Repeal
Public Protection	13 NCAC 15	.0420	Amend
Civil Penalties	13 NCAC 15	.0501	Repeal
Exception to Civil Penalties	13 NCAC 15	.0502	Amend
Application to Install	13 NCAC 15	.0601	Repeal
Permit for Installation or Alteration	13 NCAC 15	.0602	Repeal
Certificate of Operation	13 NCAC 15	.0603	Repeal
Limited Certificate of Operation	13 NCAC 15	.0604	Repeal
Inspection Form	13 NCAC 15	.0605	Repeal
Registration Form	13 NCAC 15	.0606	Repeal
Certificate of Registration	13 NCAC 15	.0607	Repeal
Amusement Device Inspection Form	13 NCAC 15	.0608	Repeal
Amusement Device Certificate of Operation	13 NCAC 15	.0609	Repeal
Chair-Gondola Lifts/Ski Tows Inspection Report For	13 NCAC 15	.0610	Repeal
Rope Inspection Report Form	13 NCAC 15	.0611	Repeal
Inclined Railroad Inspection Report Form	13 NCAC 15	.0612	Repeal
Daily Amusement Device Record Form	13 NCAC 15	.0613	Repeal

DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES

Limitation on Actions During NCEPA Process	15 NCAC 01C	.0402	Amend
Roanoke River Basin	15 NCAC 02B	.0313	Amend
Procedures: Notices	15 NCAC 04C	.0107	Amend
Purpose	15 NCAC 07H	.2501	Adopt
Approval Procedures	15 NCAC 07H	.2502	Adopt
Permit Fee	15 NCAC 07H	.2503	Adopt
General Conditions	15 NCAC 07H	.2504	Adopt
Specific Conditions	15 NCAC 07H	.2505	Adopt
Grant Agreement	15 NCAC 12K	.0106	Amend
STDS Applicable to Generators of Hazardous Waste	15 NCAC 13A	.0107	Amend
Standards for Owners/Operators of HWTSD Facilities	15 NCAC 13A	.0109	Amend
The Hazardous Waste Permit Program-Part 270	15 NCAC 13A	.0113	Amend
Standards for Universal Waste Management-Part 273	15 NCAC 13A	.0119	Amend
General	15 NCAC 16A	.1301	Adopt
Definitions	15 NCAC 16A	.1302	Adopt
Financial Eligibility	15 NCAC 16A	.1303	Adopt
Limitations	15 NCAC 16A	.1304	Adopt
Application Process	15 NCAC 16A	.1305	Adopt
Covered Services	15 NCAC 16A	.1306	Adopt
Reimbursement	15 NCAC 16A	.1307	Adopt
Definitions	15 NCAC 21D	.0202	Amend
The North Carolina Automated WIC System	15 NCAC 21D	.0701	Amend
Issuance of Food Instruments	15 NCAC 21D	.0702	Amend
Use of Food Instruments	15 NCAC 21D	.0703	Amend
Validity of Food Instruments	15 NCAC 21D	.0704	Amend
Payment of WIC Food Instruments	15 NCAC 21D	.0705	Amend
Authorized WIC Vendors	15 NCAC 21D	.0706	Amend
Availability	15 NCAC 21D	.0802	Amend
Notification of the Right to an Administrative App	15 NCAC 21D	.0803	Repeal

REVENUE, DEPARTMENT OF

Deductions from Federal Taxable Income	17 NCAC 06B	.0116	Amend
Additional Withholding Allowances	17 NCAC 06C	.0124	Amend
Submission of Certain Withholding Allowance Cert.	17 NCAC 06C	.0126	Amend
New Employers	17 NCAC 06C	.0201	Amend
Annual Reports	17 NCAC 06C	.0203	Amend
Deductions from Federal Taxable Income	17 NCAC 06C	.0204	Amend
Deliveries to Donees	17 NCAC 07B	.1303	Amend
Commercial Printers and Publishers	17 NCAC 07B	.4701	Amend
Direct Pay Certificate	17 NCAC 07B	.5301	Amend

RULES REVIEW COMMISSION

SECRETARY OF STATE

Reciprocal Agreement and Licensure by Reciprocity 18 NCAC 10 .0901 Amend

STATE TREASURER

Organization and Functions 20 NCAC 08 .0101 Amend
Definitions 20 NCAC 08 .0102 Amend
Rule Making Procedures 20 NCAC 08 .0103 Amend
Declaratory Rules 20 NCAC 08 .0104 Amend
Contested Case Procedures 20 NCAC 08 .0105 Amend
Fees to be Collected 20 NCAC 08 .0108 Amend
Annual Filing with Clerks of Superior Court 20 NCAC 08 .0109 Amend
Early Escheatment 20 NCAC 08 .0110 Adopt
Registration Under G.S. 116B-78(f) 20 NCAC 08 .0111 Adopt
Interest Rate Determination 20 NCAC 08 .0112 Adopt
Escheat Report 20 NCAC 08 .0203 Amend
Property Classification Code 20 NCAC 08 .0204 Amend
Late Filing of Report 20 NCAC 08 .0205 Amend
Reporting Property Found on Audit 20 NCAC 08 .0206 Amend
Notification by Holder to Escheat Fund 20 NCAC 08 .0301 Amend
Notification by Escheat Fund to Holder 20 NCAC 08 .0302 Amend
Application for Refunds 20 NCAC 08 .0401 Amend
Required Documentation of Application for Refund 20 NCAC 08 .0402 Amend
Payment of Refunds 20 NCAC 08 .0403 Amend
Public Access to Records 20 NCAC 08 .0501 Amend
Requests for Information From Records 20 NCAC 08 .0502 Amend
Requests for Listings of Owners and/or Property 20 NCAC 08 .0503 Adopt

STATE LICENSING BOARDS

Purpose 21 NCAC 30 .0101 Adopt
Definitions 21 NCAC 30 .0102 Adopt
Application and Scope 21 NCAC 30 .0201 Adopt
Interviews 21 NCAC 30 .0202 Adopt
Exemptions from Licensure 21 NCAC 30 .0203 Adopt
Fees 21 NCAC 30 .0204 Adopt
Professional Designations 21 NCAC 30 .0301 Adopt
Display of License 21 NCAC 30 .0302 Adopt
License Renewal 21 NCAC 30 .0303 Adopt
License by Reciprocity 21 NCAC 30 .0304 Adopt
Provisional License 21 NCAC 30 .0305 Adopt
Grounds for License Denial or Discipline 21 NCAC 30 .0306 Adopt
Address of Record 21 NCAC 30 .0401 Adopt
Trade Names 21 NCAC 30 .0402 Adopt
Change of Address or Trade Name 21 NCAC 30 .0403 Adopt
Advertising 21 NCAC 30 .0404 Adopt
Code of Ethics 21 NCAC 30 .0501 Adopt
Facility Requirements 21 NCAC 30 .0502 Adopt
Hygiene 21 NCAC 30 .0503 Adopt
Draping of Clients 21 NCAC 30 .0504 Adopt
Sexual Activity Prohibited 21 NCAC 30 .0505 Adopt
Continuing Duty to Report Certain Crimes and Civil Board Approval 21 NCAC 30 .0506 Adopt
Minimum Requirements for Approval 21 NCAC 30 .0601 Adopt
Documentation of Successful Completion 21 NCAC 30 .0602 Adopt
Approval Designation 21 NCAC 30 .0603 Adopt
School Inspections 21 NCAC 30 .0604 Adopt
Fees for School Approval 21 NCAC 30 .0605 Adopt
Continuing Education Required for License Renewal 21 NCAC 30 .0606 Adopt
Approved Provider 21 NCAC 30 .0701 Adopt
Petitions for Adoptions Amendment or Repeal of Rul 21 NCAC 30 .0702 Adopt
Rule Making Notice and Public Hearing 21 NCAC 30 .0801 Adopt
21 NCAC 30 .0802 Adopt

RULES REVIEW COMMISSION

Declaratory Rulings	21 NCAC 30 .0803	Adopt
Purpose and Scope	21 NCAC 30 .0901	Adopt
Complaints	21 NCAC 30 .0902	Adopt
Action on a Complaint	21 NCAC 30 .0903	Adopt
Formal Hearing	21 NCAC 30 .0904	Adopt
Disciplinary Sanctions	21 NCAC 30 .0905	Adopt
STATE BOARDS/MIDWIFERY JOINT COMMITTEE		
Nurse Midwife Applicant Status	21 NCAC 33 .0106	Amend
STATE BOARDS/REAL ESTATE COMMISSION, BOARD OF		
Agency Agreements and Disclosure	21 NCAC 58A .0104	Amend
Delivery of Instruments	21 NCAC 58A .0106	Amend
Broker-In-Charge	21 NCAC 58A .0110	Amend
Equivalent Credit	21 NCAC 58A .1708	Amend
Facilities and Equipment	21 NCAC 58C .0207	Amend
Advertising Providing Course Information	21 NCAC 58E .0505	Amend
STATE BOARDS/N C SOCIAL WORK CERTIFICATION AND LICENSURE BOARD		
Responsibilities in Professional Relationships	21 NCAC 63 .0504	Amend
Remuneration	21 NCAC 63 .0506	Amend
Confidentiality and Record Keeping	21 NCAC 63 .0507	Amend
STATE BOARDS/N C SUBSTANCE ABUSE PROFESSIONAL CERTIFICATION BOARD		
Definitions	21 NCAC 68 .0101	Amend
Process for Prevention Consultant	21 NCAC 68 .0206	Amend
Notice to Applicant of Failure to Satisfy Board	21 NCAC 68 .0220	Adopt
Applicant Hearing	21 NCAC 68 .0221	Adopt
Ethics Inquiry	21 NCAC 68 .0222	Adopt
Standards Committee Action	21 NCAC 68 .0223	Adopt
Certification Status Denied if Serving Sentence	21 NCAC 68 .0224	Adopt
Competence	21 NCAC 68 .0503	Amend
Legal Standards and Moral Standards	21 NCAC 68 .0504	Amend
Public Statements	21 NCAC 68 .0505	Amend
Client Welfare	21 NCAC 68 .0507	Amend
Confidentiality	21 NCAC 68 .0508	Amend
Client Relationships	21 NCAC 68 .0509	Amend
Interprofessional relationships	21 NCAC 68 .0510	Amend
Remuneration	21 NCAC 68 .0511	Amend
Informal Proceedings	21 NCAC 68 .0615	Adopt
N C STATE BOARD OF COMMUNITY COLLEGES		
Program Review	23 NCAC 02E .0205	Amend
DEPARTMENT OF ADMINISTRATION/STATE PERSONNEL COMMISSION		
Purpose	25 NCAC 01C .0801	Adopt
Covered Employees	25 NCAC 01C .0802	Adopt
Definition of Terms	25 NCAC 01C .0803	Adopt
Office of State Personnel Responsibilities	25 NCAC 01C .0804	Adopt
Agency Designates Position/Employer	25 NCAC 01C .0805	Adopt
Conditions of Employment	25 NCAC 01C .0806	Adopt
Administration	25 NCAC 01E .0705	Amend
Responsibility of Employee and Employer	25 NCAC 01E .0706	Amend
Use of Leave	25 NCAC 01E .0707	Amend
Continuation of Benefits	25 NCAC 01E .0708	Amend
Employee Participation in Volunteer Emergency Services	25 NCAC 01E .1103	Repeal
Policy	25 NCAC 01E .1201	Repeal
Eligibility	25 NCAC 01E .1202	Repeal
Time Guidelines	25 NCAC 01E .1203	Repeal
Records	25 NCAC 01E .1204	Repeal
Partisan Political Involvement	25 NCAC 01E .1205	Repeal
Purpose and Uses	25 NCAC 01E .1501	Repeal
Amount of Leave	25 NCAC 01E .1502	Repeal
Approval of Leave	25 NCAC 01E .1503	Repeal

RULES REVIEW COMMISSION

Inter-Agency Transfer	25 NCAC 01E .1504	Repeal
Non-Cumulative	25 NCAC 01E .1505	Repeal
Separation	25 NCAC 01E .1506	Repeal
Purpose	25 NCAC 01E .1601	Adopt
Definitions	25 NCAC 01E .1602	Adopt
Covered Employees and Leave Credits	25 NCAC 01E .1603	Adopt
Uses of Community Service Leave	25 NCAC 01E .1604	Adopt
Agency Policy	25 NCAC 01E .1605	Adopt
Additional Time for Community Service Activities	25 NCAC 01E .1606	Adopt
Special Leave Provisions	25 NCAC 01E .1607	Adopt
Dismissal for Unsatisfactory Performance of Duties	25 NCAC 01I .2302	Amend
Dismissal for Grossly Inefficient Job Performance	25 NCAC 01I .2303	Amend
Dismissal for Personal Conduct	25 NCAC 01I .2304	Amend
Disciplinary Suspension Without Pay	25 NCAC 01I .2306	Amend
Demotion	25 NCAC 01I .2307	Amend
Procedural Requirements	25 NCAC 01I .2308	Amend
Appeals	25 NCAC 01I .2310	Amend
OFFICE OF ADMINISTRATIVE HEARINGS		
General	26 NCAC 03 .0101	Amend
Duties of the Administrative Law Judge	26 NCAC 03 .0105	Amend
Settlement Conference	26 NCAC 03 .0107	Amend
Rights and Responsibilities of Parties	26 NCAC 03 .0120	Amend
Administrative Law Judge's Decision	26 NCAC 03 .0127	Amend
Reconsideration or Rehearing	26 NCAC 03 .0129	Amend
Selection of Mediator	26 NCAC 03 .0202	Amend
Mediation Settlement Conference	26 NCAC 03 .0203	Amend
Duties of Parties, Representatives, and Attorneys	26 NCAC 03 .0204	Amend
Sanctions for Failure to Attend	26 NCAC 03 .0205	Amend
Authority and Duties of Mediators	26 NCAC 03 .0206	Amend
Compensation of the Mediator	26 NCAC 03 .0207	Amend
Mediator	26 NCAC 03 .0208	Amend

RULES REVIEW COMMISSION

November 16, 2000

MINUTES

The Rules Review Commission convened at 10:00 a.m. on Thursday morning, November 16, 2000, in the Assembly Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. All ten Commissioners present: Chairman Paul Powell, Laura Devan, Jennie Hayman, Palmer Sugg, David Twiddy, George Robinson, Jim Funderburk, John Arrowood, Robert Saunders and Walter Futch.

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

The following people attended:

Juanita Gaskill	Marine Fisheries Commission
George Hurst	Attorney General Marine Fisheries Commission
Joan Carmichael	Marine Fisheries Commission
Jeff Manning	DENR/DWQ
Bill Crowell	DENR/DCM
Portia Rochelle	DHHS
Andy Wilson	DHHS/DMA
Ann Wall	Department of Labor
Janice Fain	Division Child Development
Thomas Allen	DENR/DAQ
Jackie Sheppard	DHHS/DFS

RULES REVIEW COMMISSION

Arthur Mouberry	DENR/DWQ/GWS
Charlotte Hall	DHHS/DFS
Cindy Kornegay	DHHS/DFS
Dedra Alston	DENR
Lacy Maddox	Department of Labor
Tom Harris	Department of Labor
Cameron Weaver	DENR/DWM-UST
Denise Stanford	Contractors Board, Dental Board & Pharmacy Board
Robert Curran	Asst. Attorney General Psychology Board
David Hance	DENR/DWQ/GWS
Dee Williams	NC Board of Cosmetic Examiners
Noah Huffstetler	Kilpatrick & Stockton
E. Lawrence Davis, III	Womble Carlyle Sandridge & Rice
Henry Wilson	State Board of Education

APPROVAL OF MINUTES

The meeting was called to order at 10:05 a.m. with Chairman Powell presiding. Chairman Powell asked for any discussion, comments, or corrections concerning the minutes of the October 19, 2000 meeting. The minutes were approved as written.

FOLLOW-UP MATTERS

10 NCAC 03R .0213; .0305; .2715, .6254; 6255; & .6278: DHHS/Division of Facility Services – The rewritten rules submitted by the agency were approved by the Commission. No rewritten rule was submitted for .6254 and no action was taken on that rule.

10 NCAC 03U .1601: DHHS/Child Care Commission – The rewritten rule submitted by the agency was approved by the Commission.

10 NCAC 14V .3804: DHHS/Commission of MH/DD/SAS – The rewritten rule submitted by the agency was approved by the Commission.

10 NCAC 46C .0107: Social Services Commission – The rewritten rule submitted by the agency was approved by the Commission.

10 NCAC 46D .0106; .0107; .0202: DHHS – The rewritten rules submitted by the agency were approved by the Commission.

10 NCAC 46E .0111: DHHS – The rewritten rule submitted by the agency was approved by the Commission.

10 NCAC 46F .0110: DHHS – The rewritten rule submitted by the agency was approved by the Commission.

10 NCAC 46G .0112: Social Services Commission – The rewritten rule submitted by the agency was approved by the Commission.

10 NCAC 46H .0106; .0203; .0208; .0209; .0304: Social Services Commission – The rewritten rules submitted by the agency were approved by the Commission.

15A NCAC 02B .0257: Environmental Management Commission – The Commission objected to the rewritten rule based on lack of necessity for paragraph (f)(1)(B), which was pointed out by the agency. The Commission also requires technical changes in (f)(1)(A) and (f)(2)(A).

15A NCAC 02D .0535: Environmental Management Commission – No action was taken.

15A NCAC 03I .0101: DENR/ Marine Fisheries Commission – The rule submitted by the agency as part of this month's log was approved by the Commission. It will include a correction to satisfy the Commission's objection.

15A NCAC 03J .0103; .0209, and 03M .0503: DENR/Marine Fisheries Commission – (originally listed as 03J .0103 at tab M on the agenda follow-up matters). These rules were withheld by Rule Review Commission staff to determine if the latitude and longitude positions and descriptions were correct. The agency determined that the descriptions in these rules needed correcting. The rewritten rules submitted by the agency were approved.

15A NCAC 03M .0513: DENR/Marine Fisheries Commission – The rewritten rule submitted by the agency was approved by the Commission.

19A NCAC 03D .0519: Division of Motor Vehicles – No action was taken.

21 NCAC 04B .0202; .0302; .0404; .0801; .0802; .0804; .0805; .0809; .0810; .0815; .0817; and .0819: NC Auctioneers Commission – No action was taken.

21 NCAC 16I .0104: NC State Board of Dental Examiners – The rewritten rule submitted by the agency was approved by the Commission.

21 NCAC 16R .0104: NC State Board of Dental Examiners – 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 approved with the following exceptions:

RULES REVIEW COMMISSION

12 NCAC 10B All Rules: NC Sheriffs' Education and Training Standards - These rules were withdrawn by the agency.

14A NCAC 09H .0308: Department of Crime Control & Public Safety – The Commission objected to this rule due ambiguity. Based on the last sentence in (11) either this rule or .0321 is unclear. There is nothing in the “facility requirement” in .0321 (a)(2) that specifies that wrecker services may not share storage facilities. However that is exactly what this rule states. One or the other is unclear.

14A NCAC 09H .0316: Department of Crime Control & Public Safety – The Commission objected to this rule due to lack of necessity. Constitutional law probably dictates much of this area. It would also be unfortunate for the state if an otherwise constitutional search were somehow invalidated if this rule were violated, unless that is what they intend.

14A NCAC 09H .0318: Department of Crime Control & Public Safety – The Commission objected to this rule due to ambiguity. It is unclear who constitutes a “relative” of a State Highway Patrol member.

14A NCAC 09H .0321: Department of Crime Control & Public Safety – The Commission objected to this rule due to ambiguity. Rule .0308 (11) states that “storage facilities shared by two or more wrecker services may not be used to satisfy the facility requirement” in (a)(2) of this rule. However (a)(2) does not have any such restrictive language. If there is such a prohibition then this rule should state that. One or the other is not clear. In (20) the first (b) and the second (c) may not be clear. It is unclear what constitutes a misdemeanor or felony breach of the peace in (b) and (c). This ambiguity also applies to the last sentence in (20). Note that it would not be of such concern if the requirement were that the owner had to provide criminal record checks to the State Highway Patrol and the State Highway Patrol would disqualify anyone meeting those designations. But this rule places the burden of making the determination of whether a driver is eligible on the owner. The same applies in (21).

14A NCAC 09H .0323: Department of Crime Control & Public Safety – The Commission objected to this rule due to ambiguity. It is unclear what constitutes a major violation (a)(3) of these rules.

15A NCAC 02Q .0401: DENR/Environmental Management Commission – The Commission objected to this rule due to ambiguity. In (c), it is not clear what would constitute “significant” errors or omissions. This objection applies to existing language in the rule.

15A NCAC 07H .0209: DENR/Coastal Resources Commission – The Commission objected to this rule due to ambiguity. In (g)(2), it is not clear if the items in (A) and (B) only applied to events as of June 1, 1989, or if they have a continuing application. This objection applies to existing language in the rule.

19A NCAC 03G .0214-.0225: Department of Transportation - These rules were withdrawn by the agency.

21 NCAC 16Q .0201; .0301: NC State Board of Dental Examiners – The Commission objected to these rules due to ambiguity. In (b)(1) of these rules, it is not clear what standards the Board will use approving training programs in anesthesiology and intravenous sedation. These objections apply to existing language in these rules.

21 NCAC 16X .0101: NC State Board of Dental Examiners – The Commission referred this rule to OSBPM to determination whether this rule has a substantial economic impact.

21 NCAC 18B .0209; .0404: State Board of Examiners of Electrical Contractors – These rules were returned to the agency for failure to wait the 60 days required by G.S. 150B-21.2(c) after publishing the notice of rule-making proceedings in the North Carolina Register before publishing the notice of proposed test.

21 NCAC 32T .0101: NC Medical Board – The Commission objected to this rule due to ambiguity. In (b)(1)(B)(i)(ii) and (iii), it is not clear what standards the Medical Board and Board of Pharmacy will use in approving clinical experience.

21 NCAC 46 .1604: NC Board of Pharmacy – The Commission objected to this rule due to ambiguity. In (b), it is not clear what standards the Board will use approving the surrender, transfer, or termination of a permit in a pending disciplinary proceeding.

21 NCAC 46 .3101: NC Board of Pharmacy — The Commission objected to this rule due to ambiguity. In (2)(a)(ii)(a), (b), and (c), it is not clear what standards the Medical Board and Board of Pharmacy will use in approving clinical experience.

21 NCAC 46 .3205: NC Board of Pharmacy — The Commission objected to this rule due to ambiguity. It is not clear what is meant by “appropriate” treatment source.

21 NCAC 46 .3206: NC Board of Pharmacy - The Commission objected to this rule due to ambiguity. The use of the words “adequate”, “appropriate”, and “affordable” in items (1) —(5) makes each item unclear.

21 NCAC 46 .3207: NC Board of Pharmacy — The Commission objected to this rule due to ambiguity. In (d), it is not clear what case records are considered “appropriate.”

21 NCAC 46 .3209: NC Board of Pharmacy — The Commission objected to this rule due to ambiguity. In (b), it is not clear what standards the Board and Program will use in agreeing on a time for the end of monthly reports.

21 NCAC 46 .3210: NC Board of Pharmacy — The Commission objected to this rule due to ambiguity. It is not clear what information the Board would think is significant.

21 NCAC 50 .1401: State Board of Plumbing, Heating & Fire Sprinklers Contractors — The Commission objected to this rule due to ambiguity. In (e), it is not clear what form of documentation is required.

21 NCAC 50 .1402: State Board of Plumbing, Heating & Fire Sprinklers Contractors — The Commission objected to this rule due lack of statutory authority and ambiguity. In (c), it is not clear what hardships would be considered sufficient for the Board to waive or modify its continuing education requirements. Hardships is not a specific guideline as required by G.S. 150B-19(6). In (d), it is not clear what standards the Board will use in deciding whether or not to exempt a licensee over 65. It is also not clear what would be considered satisfactory proof. In (e), there is no authority for the Board to approve instructors.

RULES REVIEW COMMISSION

21 NCAC 50 .1403: State Board of Plumbing, Heating & Fire Sprinklers Contractors — The Commission objected to this rule due to lack of statutory authority and ambiguity. In (a), it is not clear when the Board will approve credit for a course for which a license has previously received credit. This amounts to a waiver provision without specific guidelines.

21 NCAC 50 .1404: State Board of Plumbing, Heating & Fire Sprinklers Contractors — The Commission objected to this rule due to lack of statutory authority and ambiguity. The last sentence in (a) says that certain subjects may be approved for credit. It is not clear what standards the Board will use in determining whether they will or will not be approved. In (b), there is no authority for the Board to set occupational requirements for course instructors. In (d), it is not clear what makes meeting rooms acceptable.

21 NCAC 50 .1405: State Board of Plumbing, Heating & Fire Sprinklers Contractors — The Commission objected to this rule due to ambiguity. In (a)(2) and (b), the rule mentions "approved training agencies." It is not clear what or who these are.

21 NCAC 50 .1406: State Board of Plumbing, Heating & Fire Sprinklers Contractors — The Commission objected to this rule due to lack of statutory authority and ambiguity. There is no authority for a rule setting qualifications for course instructors. In addition, in (a) it is not clear how the Board plans to determine which half of instructors to approve for one year and which for two years.

21 NCAC 50 .1407: State Board of Plumbing, Heating & Fire Sprinklers Contractors — The Commission objected to this rule due to ambiguity. In (b), it is not clear what is meant by "proof of course sponsor" etc. It is also not clear what other information may be requested by the Board.

21 NCAC 50 .1408 & .1409: State Board of Plumbing, Heating & Fire Sprinklers Contractors - The Commission objected to these rules due to ambiguity. There is no authority for the Board to approve instructors.

COMMISSION PROCEDURES AND OTHER BUSINESS

Mr. DeLuca reported that no word had been received on the Pharmacy Board lawsuit. On the Labor lawsuit the attorneys informed us that we will file an answer along with motions to dismiss.

The next meeting will be on Thursday, December 21, 2000.

The meeting adjourned at 12:45 p.m.

Respectfully submitted,
Lisa Johnson

CONTESTED CASE DECISIONS

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.ncoah.com/hearings>.

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 Lassiter*

*James L. Conner, II
Beryl E. Wade*

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
ALCOHOL BEVERAGE CONTROL COMMISSION				
NC ABC Commission v Food Lion, Inc. T/A Food Lion Store 540	99 ABC 0366	Mann	05/30/00	
NC ABC Commission v.DCL., Inc. T/A Cheap Shot O'Malleys	99 ABC 1341	Morrison	06/15/00	15:03 NCR 340
Daniel W. Shelton T/A Shelton Broers v.NC ABC Commission	99 ABC 1641	Conner	08/31/00	15:08 NCR 879
NC ABC Commission v. Harris Teeter, Inc. T/A Harris Teeter 142	99 ABC 1746	Lassiter	05/01/00	
NC ABC Commission v. Headlights, Inc. T/A Headlights	00 ABC 0302	Gray	08/21/00	
Steven Wilson McCrae v. NC ABC Commission	00 ABC 0598	Wade	08/23/00	
Xavier DeShawn Bradley v. NC ABC Commission	00 ABC 0619	Mann	08/08/00	
CRIME CONTROL AND PUBLIC SAFETY				
Mamie Lee French v. N.C. Crime Victims Compensation Commission	99 CPS 1646	Conner	04/27/00	15:01 NCR 38
Pearl J. Conner v. Victim & Justice Services, Dept of Crime Control & Public Safety	00 CPS 0903	Lassiter	11/09/00	
HEALTH AND HUMAN SERVICES				
William M. Gardin v. Department of Health & Human Services	98 CRA 1054	Lassiter	06/20/00	
Frederica LaShon Smith v. Department of Health & Human Services	00 CRA 0278 ¹	Wade	06/30/00	
Charles Cecil Douglas v. Department of Health & Human Services	00 CRA 0648	Wade	08/23/00	
<i>Child Support Enforcement Section</i>				
Steven M. Helms v. Department of Health & Human Services	98 CSE 1634	Gray	07/13/00	
David R. North v. Department of Health & Human Services	99 CSE 0408	Chess	10/25/00	
Michael A. Cameron v. Department of Health & Human Services	99 CSE 0424	Mann	09/25/00	
Marcus James Ward v. Department of Health & Human Services	99 CSE 0784	Wade	09/29/00	
Omer D. & Marinda A. Potter v. Department of Health & Human Services	99 CSE 0798	Chess	10/25/00	
Richard Cook v. Department of Health & Human Services	99 CSE 0873 ⁴	Chess	10/27/00	
Richard C. Mack v. Department of Health & Human Services	99 CSE 1244	Mann	08/16/00	
John Ray McCarroll v. Department of Health & Human Services	99 CSE 1272	Lassiter	08/16/00	
Loany Centeno v. Department of Health & Human Services	99 CSE 1325	Chess	06/29/00	
Craig D. McLeod v. Department of Health & Human Services	99 CSE 1369	Lassiter	08/29/00	
Jermaine L. Covington v. Department of Health & Human Services	99 CSE 1408	Lassiter	11/01/00	
Joseph E. Toothman v. Department of Health & Human Services	99 CSE 1428	Gray	09/27/00	
Kenneth W. Freeman, Jr. v. Department of Health & Human Services	99 CSE 1455	Wade	10/31/00	
Darryl Glenn Cannady v. Department of Health & Human Services	99 CSE 1457	Gray	07/27/00	
Michael A. Whitlow v. Department of Health & Human Services	99 CSE 1482	Gray	07/11/00	
Susan Marie Grier v. Department of Health & Human Services	99 CSE 1484	Mann	06/02/00	
David R. McDonald v. Department of Health & Human Services	99 CSE 1486	Lassiter	10/02/00	
Larry N. McLain v. Department of Health & Human Services	99 CSE 1488	Lassiter	08/16/00	
Randy Gillespie v. Department of Health & Human Services	99 CSE 1491	Gray	08/22/00	
Samuel E. Massenberg, Jr. v. Department of Health & Human Services	99 CSE 1513	Morrison	09/27/00	
Nina Maier v. Department of Health & Human Services	99 CSE 1541	Gray	07/28/00	

CONTESTED CASE DECISIONS

Edward J. Lucero v. Department of Health & Human Services	99 CSE 1542	Mann	10/31/00
Ronald E. Davis, Jr. v. Department of Health & Human Services	99 CSE 1554	Gray	07/28/00
Almiron J. Deis v. Department of Health & Human Services	99 CSE 1589	Mann	10/31/00
Kenneth Jones v. Department of Health & Human Services	99 CSE 1590	Gray	08/22/00
Anthony C. Lambert v. Department of Health & Human Services	99 CSE 1699	Gray	06/05/00
Richard Cook v. Department of Health & Human Services	00 CSE 0053 ⁴	Chess	10/27/00
Wendy Gosnell v. Department of Health & Human Services	00 CSE 0073	Mann	06/14/00
Matthew Gibson v. Department of Health & Human Services	00 CSE 0076	Mann	10/31/00
Dwight Dion Hallman v. Department of Health & Human Services	00 CSE 0098	Mann	06/14/00
Davis, Donald George v. Department of Health & Human Services	00 CSE 0107	Wade	06/08/00
Davis, Donald George v. Department of Health & Human Services	00 CSE 0108	Wade	06/08/00
Thomas Jackson v. Department of Health & Human Services	00 CSE 0165	Chess	07/27/00
Albertus Shaw III v. Department of Health & Human Services	00 CSE 0176	Gray	06/05/00
Linwood Morris v. Department of Health & Human Services	00 CSE 0178	Mann	06/14/00
John H. Jones v. Department of Health & Human Services	00 CSE 0181	Morrison	08/25/00
Eddie J. Sykes v. Department of Health & Human Services	00 CSE 0192	Lassiter	06/13/00
Andrew S. McKenzie v. Department of Health & Human Services	00 CSE 0193	Wade	06/08/00
Darryal K. Anderson v. Department of Health & Human Services	00 CSE 0200	Gray	06/09/00
John V. Wiberg, Jr. v. Department of Health & Human Services	00 CSE 0211	Mann	06/23/00
William Jerry Gibbs v. Department of Health & Human Services	00 CSE 0213	Gray	06/22/00
Gregory L. Pinkett v. Department of Health & Human Services	00 CSE 0214	Wade	10/31/00
Joseph D. Turnage v. Department of Health & Human Services	00 CSE 0220	Morrison	11/16/00
Izell Anthony Twigg v. Department of Health & Human Services	00 CSE 0226	Gray	06/07/00
Don Fitzgerald Harris v. Department of Health & Human Services	00 CSE 0230	Mann	08/01/00
Benjamin E. Walker v. Department of Health & Human Services	00 CSE 0232	Morrison	07/31/00
Randy Keith Beddard v. Department of Health & Human Services	00 CSE 0236	Lassiter	06/20/00
Delinda Guthrie Montague v. Department of Health & Human Services	00 CSE 0237	Mann	08/01/00
Lavarr Sharpe v. Department of Health & Human Services	00 CSE 0240	Mann	06/26/00
Timothy Holtzclaw v. Department of Health & Human Services	00 CSE 0245	Gray	09/14/00
Melton Tillery v. Department of Health & Human Services	00 CSE 0246	Lassiter	06/20/00
Darla Judkin v. Department of Health & Human Services	00 CSE 0254	Chess	08/23/00
Christopher Mark Boyette v. Department of Health & Human Services	00 CSE 0262	Lassiter	11/01/00
Ronald L. Long, Jr. v. Department of Health & Human Services	00 CSE 0265	Mann	08/31/00
David Lee Jones v. Department of Health & Human Services	00 CSE 0269	Conner	09/27/00
Walter Witherspoon v. Department of Health & Human Services	00 CSE 0268	Chess	06/19/00
Frederica LaShon Smith v. Department of Health & Human Services	00 CSE 0279	Wade	06/08/00
John Wayne Chambers v. Department of Health & Human Services	00 CSE 0280	Mann	06/30/00
George Fuller v. Department of Health & Human Services	00 CSE 0283	Morrison	06/28/00
Robert G. Wilson v. Department of Health & Human Services	00 CSE 0285	Lassiter	05/25/00
Gary Frank Ramsey v. Department of Health & Human Services	00 CSE 0292	Mann	06/29/00
Pierce Foster Williams, Jr., v. Department of Health & Human Services	00 CSE 0297	Conner	09/26/00
Shylatron Copeland v. Department of Health & Human Services	00 CSE 0316	Mann	06/26/00
Isaac L. McCoy v. Department of Health & Human Services	00 CSE 0324	Lassiter	06/29/00
Robert Boening v. Department of Health & Human Services	00 CSE 0341	Mann	06/26/00
Joseph Patrick Santana v. Department of Health & Human Services	00 CSE 0344	Morrison	06/07/00
Hilton R. Shaw v. Department of Health & Human Services	00 CSE 0346	Lassiter	07/07/00
Glennie Mae Jones v. Department of Health & Human Services	00 CSE 0349	Mann	10/30/00
Anthony B. Bryant v. Department of Health & Human Services	00 CSE 0351	Wade	07/19/00
Michael Shelton DeBerry v. Department of Health & Human Services	00 CSE 0353	Gray	06/22/00
Leroy L. Alford v. Department of Health & Human Services	00 CSE 0354	Mann	06/26/00
Michael A. Tarach v. Department of Health & Human Services	00 CSE 0357	Morrison	07/26/00
Jeffrey T. Daye v. Department of Health & Human Services	00 CSE 0369	Lassiter	07/07/00
Michael Powell v. Department of Health & Human Services	00 CSE 0389	Conner	07/27/00
Jerry M. Thurmond v. Department of Health & Human Services	00 CSE 0390	Wade	06/30/00
Donald E. Church v. Department of Health & Human Services	00 CSE 0394	Gray	07/11/00
Ricky Barrett v. Department of Health & Human Services	00 CSE 0415	Mann	07/17/00
Kenneth Ray Smith v. Department of Health & Human Services	00 CSE 0416	Morrison	05/31/00
Juan M. Acosta v. Department of Health & Human Services	00 CSE 0417	Lassiter	06/24/00
Ronald T. Palmer v. Department of Health & Human Services	00 CSE 0422	Mann	10/31/00
Stanley Ray Allison v. Department of Health & Human Services	00 CSE 0425	Gray	07/11/00
James T. Graham v. Department of Health & Human Services	00 CSE 0426	Wade	06/08/00
Rufus Mitchell Simmons, Jr. v. Department of Health & Human Services	00 CSE 0431	Gray	06/27/00
James Howard Alexander v. Department of Health & Human Services	00 CSE 0433	Mann	06/26/00
Steve A. Hayward v. Department of Health & Human Services	00 CSE 0435	Morrison	07/14/00
Leonard Gabriel v. Department of Health & Human Services	00 CSE 0450	Mann	06/29/00
Patrick L. Moore v. Department of Health & Human Services	00 CSE 0463	Wade	06/19/00
Gregory Lee Bell v. Department of Health & Human Services	00 CSE 0464	Connor	06/29/00
Tamika B. Jenkins v. Department of Health & Human Services	00 CSE 0466	Chess	06/19/00
William R. Parker v. Department of Health & Human Services	00 CSE 0467	Gray	06/26/00
Vernon Ledbetter v. Department of Health & Human Services	00 CSE 0468	Mann	06/14/00
Garry L. Studer v. Department of Health & Human Services	00 CSE 0471	Lassiter	07/31/00
Johnnie Green v. Department of Health & Human Services	00 CSE 0472	Wade	08/09/00
Roger Shular v. Department of Health & Human Services	00 CSE 0478	Mann	07/26/00
William A. Toney v. Department of Health & Human Services	00 CSE 0480	Wade	06/19/00
Larry O. Anthony v. Department of Health & Human Services	00 CSE 0484	Connor	06/26/00
Johnny Daye v. Department of Health & Human Services	00 CSE 0485	Gray	06/22/00
Jose A. Seijo v. Department of Health & Human Services	00 CSE 0491	Morrison	06/26/00

CONTESTED CASE DECISIONS

Randy Hammonds v. Department of Health & Human Services	00 CSE 0495	Lassiter	06/20/00
Shawn F. Moser Sr. v. Department of Health & Human Services	00 CSE 0511	Conner	08/14/00
Timothy Franklin Clowney v. Department of Health & Human Services	00 CSE 0512	Wade	08/09/00
Clarence Evans v. Department of Health & Human Services	00 CSE 0513 ²	Conner	07/28/00
Clarence Evans v. Department of Health & Human Services	00 CSE 0545 ²	Conner	07/28/00
Rickey L. Gullede v. Department of Health & Human Services	00 CSE 0558	Mann	06/26/00
Damon Barnes Jr. v. Department of Health & Human Services	00 CSE 0567	Lassiter	08/16/00
William A. Bell v. Department of Health & Human Services	00 CSE 0589	Gray	08/21/00
Robert Lee Thompson v. Department of Health & Human Services	00 CSE 0592	Wade	08/10/00
William T. Hutto v. Department of Health & Human Services	00 CSE 0594	Conner	09/07/00
Julian Orlando Fernandez v. Department of Health & Human Services	00 CSE 0599	Gray	08/21/00
Bryan Keith Wilkerson v. Department of Health & Human Services	00 CSE 0607	Morrison	08/01/00
Rodney A. Hopper v. Department of Health & Human Services	00 CSE 0613	Wade	08/23/00
Tabitha Angley v. Department of Health & Human Services	00 CSE 0614	Conner	07/27/00
Douglas M. Coker v. Department of Health & Human Services	00 CSE 0622	Chess	07/11/00
Mark Christopher Smith v. Department of Health & Human Services	00 CSE 0627	Gray	08/21/00
Rhonda Styers v. Department of Health & Human Services	00 CSE 0639	Mann	10/30/00
Terrence L. Holder v. Department of Health & Human Services	00 CSE 0640	Morrison	08/18/00
Mikal M. Mua'zzin v. Department of Health & Human Services	00 CSE 0651	Conner	08/28/00
Jose' D. Rivas v. Department of Health & Human Services	00 CSE 0658	Chess	08/07/00
Valerie A. Simpson v. Department of Health & Human Services	00 CSE 0673	Morrison	07/07/00
James H. Hopper, Jr. v. Department of Health & Human Services	00 CSE 0677	Lassiter	08/29/00
Joseph I. Woodcock v. Department of Health & Human Services	00 CSE 0684	Lassiter	07/07/00
Kenneth R. Harker v. Department of Health & Human Services	00 CSE 0686	Wade	09/11/00
Justine Roberts v. Department of Health & Human Services	00 CSE 0694	Conner	08/28/00
Dana E. Grice v. Department of Health & Human Services	00 CSE 0709	Morrison	09/08/00
Alfred R. Swain v. Department of Health & Human Services	00 CSE 0718	Mann	06/28/00
Tyrone K. Anthony v. Department of Health & Human Services	00 CSE 0741	Wade	10/31/00
James C. Martin, Jr. v. Department of Health & Human Services	00 CSE 0751	Conner	08/30/00
Wade A. Burgess v. Department of Health & Human Services	00 CSE 0757	Gray	08/22/00
Donald Daniel Harmon v. Department of Health & Human Services	00 CSE 0758	Mann	10/24/00
Parnell Dougloss Sparks v. Department of Health & Human Services	00 CSE 0761	Morrison	06/06/00
Kevin S. Tate v. Department of Health & Human Services	00 CSE 0764	Lassiter	09/11/00
Jeffrey Ottis Hairr v. Department of Health & Human Services	00 CSE 0766	Mann	07/17/00
Ricky A. Phillips v. Department of Health & Human Services	00 CSE 0777	Morrison	08/01/00
Catherine A. Odom v. Department of Health & Human Services	00 CSE 0792	Mann	08/31/00
George Franklin Anderson v. Department of Health & Human Services	00 CSE 0793	Morrison	08/09/00
Raymond Thomas Carpenter, Jr. v. Department of Health & Human Svcs	00 CSE 0810	Mann	09/25/00
Darrell Johnson v. Department of Health & Human Services	00 CSE 0811	Wade	09/29/00
Ronald Owen Goodwin v. Department of Health & Human Services	00 CSE 0831	Chess	09/07/00
Jean M. Brown v. Department of Health & Human Services	00 CSE 0848	Wade	08/10/00
Richard B. Malloy v. Department of Health & Human Services	00 CSE 0849	Wade	10/02/00
Ronald R. Lemmons v. Department of Health & Human Services	00 CSE 0865	Gray	08/21/00
St. Clair Staley v. Department of Health & Human Services	00 CSE 0890 ³	Conner	10/06/00
Kenneth Duncan v. Department of Health & Human Services	00 CSE 0896	Gray	09/27/00
Kelvin Hardesty v. Department of Health & Human Services	00 CSE 0901	Lassiter	10/02/00
Michael Anthony Wright v. Department of Health & Human Services	00 CSE 0922	Lassiter	10/17/00
Cyrus V. Perry v. Department of Health & Human Services	00 CSE 0924	Gray	09/29/00
Jamey Johnson v. Department of Health & Human Services	00 CSE 0925	Wade	10/10/00
Marvin A. Smith v. Department of Health & Human Services	00 CSE 0932	Conner	09/21/00
Chris Michael Moore v. Department of Health & Human Services	00 CSE 0945	Gray	10/17/00
Matthew Russell Schmidt v. Department of Health & Human Services	00 CSE 0963	Morrison	10/04/00
Keith Stephenson v. Department of Health & Human Services	00 CSE 0979	Chess	10/25/00
Walter R. Spencer, Jr. v. Department of Health & Human Services	00 CSE 1010	Morrison	10/27/00
Keith D. Meredith v. Department of Health & Human Services	00 CSE 1011	Morrison	09/19/00
Billy Joe Davis v. Department of Health & Human Services	00 CSE 1012	Lassiter	09/08/00
Mary A. Hines v. Department of Health & Human Services	00 CSE 1047	Gray	10/20/00
St. Clair Staley v. Department of Health & Human Services	00 CSE 1069 ³	Conner	10/06/00
Nancy Moore v. Department of Health & Human Services	00 CSE 1081	Lassiter	11/16/00
Carl V. Greggs, Sr. v. Department of Health & Human Services	00 CSE 1082	Wade	11/16/00
Tacha Hyatt-Crowder v. Department of Health & Human Services	00 CSE 1098	Gray	11/07/00
Stan Valentine v. Department of Health & Human Services	00 CSE 1100	Morrison	11/16/00
Victor Ferguson v. Department of Health & Human Services	00 CSE 1396	Mann	06/26/00

Division of Social Services

Emma Burkes (Edwards) v. Department of Health & Human Services	00 DCS 1221	Morrison	08/17/00
Frederica LaShon Smith v. Department of Health & Human Services	00 DCS 0277 ¹	Wade	06/30/00
Michael Clay Mitchell v. Department of Health & Human Services	00 DCS 0300	Wade	06/30/00
Sherry Moorefield v. Department of Health & Human Services	00 DCS 0350	Gray	08/25/00
Pamela Browning Frazier v. Department of Health & Human Services	00 DCS 0479	Lassiter	06/12/00
Lisa Lawler v. Department of Health & Human Services	00 DCS 0529	Morrison	08/29/00
May M. Timmons v. Department of Health & Human Services	00 DCS 0546	Gray	06/22/00
Starice Jennifer Anderson v. Department of Health & Human Services	00 DCS 0556	Gray	08/10/00
Beverly Hawking v. Department of Health & Human Services	00 DCS 0600	Mann	06/30/00
Lisa Hardy v. Department of Health & Human Services	00 DCS 0678	Mann	07/17/00
Chasity Pipkin v. Department of Health & Human Services	00 DCS 0838	Gray	09/11/00
Joyce Staley v. Department of Health & Human Services	00 DCS 0842	Conner	09/12/00

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Bessie B. Hampton v. Department of Health & Human Services	00 DCS 0845	Morrison	08/29/00		
Beverly Singleton v. Department of Health & Human Services	00 DCS 0846	Lassiter	08/18/00		
Kerry Lynn Morgan v. Department of Health & Human Services	00 DCS 0850	Conner	09/12/00		
Bonnie D. Drew v. Department of Health & Human Services	00 DCS 0906	Morrison	08/28/00		
Amy W. Hill v. Department of Health & Human Services	00 DCS 0974	Lassiter	09/08/00		
Amelia B. Bradshaw v. Department of Health & Human Services	00 DCS 0996	Mann	09/13/00		
Deborah Gray v. Department of Health & Human Services	00 DCS 1068	Morrison	09/19/00		
Kimberly D. Mays v. Department of Health & Human Services	00 DCS 1099	Gray	10/27/00		
Jennifer C. Dillard v. Department of Health & Human Services	00 DCS 1119	Wade	09/29/00		
Johnny K. Moore v. Department of Health & Human Services	00 DCS 1179	Morrison	10/04/00		
Latisha Eason Parker v. Department of Health & Human Services	00 DCS 1195	Wade	10/31/00		
Jannai Neal v. Department of Health & Human Services	00 DCS 1227	Conner	10/24/00		
Sheila Foy v. Department of Health & Human Services	00 DCS 1238	Gray	10/27/00		
Estelle Roberta Allison Teague and Marlene Allison Creary v. Department of Health & Human Services	99 DHR 0120	Reilly	05/15/00		
Philistine Thompson v. Department of Health & Human Services	99 DHR 0741	Gray	08/22/00		
Ruth I. Johnson v. Department of Health & Human Services	99 DHR 0952	Chess	05/27/00		
Lakecher McFadden v. Department of Health & Human Services	99 DHR 1631	Conner	09/18/00		
Mary Johnson McClure v. Department of Health & Human Services	00 DHR 0368	Lassiter	06/19/00		
Barry Arthur Kelly, Linda Snipes Kelley v. Department of Health and Human Services	00 DHR 0038	Gray	09/15/00		
Vonda Scales Shore v. Department of Health & Human Services	00 DHR 0500	Lassiter	10/06/00		
Ann Marie & Daniel Short v. Department of Health & Human Services	00 DHR 0574	Reilly	05/22/00		
Lynell Holley Walton v. DHHS, (Health Care Personnel Registry & Investigations)	00 DHR 0605	Chess	08/15/00		
Deborah A. Shands v. Butner Adolescent Treatment Center	00 DHR 0695	Mann	07/27/00		
Larry E. Cummins MD, PI Case #1999-1752 v. Div. of Medical Assistance, Kim Meymandi, Chief Hearing Officer	00 DHR 0797	Lassiter	08/01/00		
Larry E. Cummins MD, PI Case #1999-1117 v. Div. of Medical Assistance, Kim Meymandi, Chief Hearing Officer	00 DHR 0798	Lassiter	08/01/00		
Robert and Shirley Harmon on behalf of Gary Harmon v. Crossroads Behavioral Healthcare Center and the NC Div of Mental Health, Dev. Disabilities and Substance Abuse Services	00 DHR 0955	Chess	09/07/00		
Walter W. Griswold for Kimberly Griswold v. Crossroads Behavioral Healthcare Center and the NC Div of Mental Health, Dev. Disabilities and Substance Abuse Services	00 DHR 1025	Chess	09/07/00		
Carolyn W. Cooper and Happy Days Child Care v. DHHS, Div of Child Development	00 DHR 1031	Gray	08/31/00		
Larnetra D. Noel v. NC Department of Human Services	00 DHR 1327	Chess	10/06/00		
Division of Facility Services					
Angela Denise Headen v. DHHS, Division of Facility Services	99 DHR 0107	Wade	04/11/00	15:01 NCR	41
Ruth Mae Wiley v. NC DHHS, Division of Facility Services	99 DHR 0331	Chess	05/27/00		
Elyse Glover v. DHHS, Div of Facility Svcs., Personnel Registry Case	99 DHR 1036	Lassiter	06/29/00		
Crystal Shermain Byers v. DHHS, Division of Facility Services	00 DHR 0217	Mann	06/07/00		
Camille Faustin v. DHHS, Division of Facility Services	00 DHR 0298	Smith	06/28/00		
David Jordan v. DHHS, Division of Facility Services	00 DHR 0311	Lassiter	06/19/00		
Lester Lee Huskins v. DHHS, Division of Facility Services	00 DHR 0391	Lassiter	08/29/00		
Cynthia Renee Cajuste v. DHHS, Division of Facility Services	00 DHR 0606	Morrison	11/08/00		
Celestine L. Bristel v. DHHS, Division of Facility Services	00 DHR 0636	Lassiter	08/15/00		
MariaGoretta Adaugo Obialor v. DHHS, Div. of Facility Services	00 DHR 0743	Morrison	08/31/00		
Huelva Dale Corbett v. DHHS, Div. of Facility Services	00 DHS 0780	Gray	09/27/00		
Phoebe Visconti Sanders v. DHHS, Div. of Facility Services	00 DHR 0802	Lassiter	09/27/00		
Iola Cook Jefferson v. DHHS, Division of Facility Services	00 DHR 0835	Lassiter	07/24/00		
Michelle E. Lee v. DHHS, Division of Facility Services	00 DHR 0869	Conner	10/10/00	15:10 NCR	1045
Betty Jean Ellis v. DHHS, Division of Facility Services	00 DHR 0880	Lassiter	09/08/00		
Hartis Stallings v. DHHS, Division of Facility Services	00 DHR 1037	Lassiter	08/29/00		
Desiree P. Garay v. DHHS, Division of Facility Services	00 DHR 1038	Conner	09/20/00		
Lauren Hoodenpyle v. DHHS Division of Facility Services	00 DHR 1045	Chess	09/12/00		
Jacqueline Alexander v. DHHS, Division of Facility Services	00 DHR 1126	Lassiter	09/07/00		
Debra Brown v. DHHS, Division of Facility Services	00 DHR 1136	Lassiter	09/07/00		
Tracy Smith v. DHHS, Division of Facility Services	00 DHR 1236	Lassiter	10/16/00		
Michele Carver v. DHHS, Div. of Facility Services, Health Care Personnel Registry	00 DHR 1289	Lassiter	10/05/00		
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Ronnie L. Sturdivant v. Dept. of Environment & Natural Resources	98 EHR 1222	Lassiter	05/11/00	15:04 NCR	501
Dixie Lumber Company of Cherryville, Inc. v. Department of Environment & Natural Resources	99 EHR 0395	Wade	05/04/00		
Shuttle Cleaning Service, Inc., Phillip Allen (Owner) v. Dept. of Environment & Natural Resources	99 EHR 1167	Reilly	05/19/00	15:06 NCR	696
Murphy Family Farms v. Department of Environment & Natural Resources	99 EHR 1181	Gray	08/14/00		
William A. Weston, Jr. v. Dept. of Environment & Natural Resources	99 EHR 1538	Conner	05/24/00	15:03 NCR	343
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Gregory Marc Edwards v. Department of Environment & Natural Resources	99 EHR 1635	Wade	09/29/00		
David Sinclair v. Dept. of Environment & Natural Resources	00 EHR 0126	Conner	08/15/00	15:06 NCR	693
Jerry D. Phillips v. Department of Environment & Natural Resources	00 EHR 0151	Chess	09/28/00		
Amos Walter Jackson v. Dept. of Environment & Natural Resources	00 EHR 0568	Gray	09/22/00		
Archie D. Fellenzer, Jr. v. CAMA	00 EHR 0836	Morrison	11/03/00		
Carolina Mountain Construction, Inc. v. Dept. of Env. & Natural Resources	00 EHR 0902	Chess	09/07/00		
Peter Pallas v. New Hanover County Board of Health	00 EHR 1149	Chess	10/19/00		
Jerry J. Fowler v. Department of Environment & Natural Resources	00 EHR 1154	Chess	10/27/00		
<i>Coastal Resources Commission</i>					
Gregory A. Bohmert v. Coastal Resources Commission	99 EHR 1438	Reilly	05/24/00	15:03 NCR	342
<i>Division of Air Quality</i>					
Bullock Properties/Ralph M. Bullock v. DENR, Div. of Air Quality	99 EHR 1088	Morrison	04/12/00		
VXIII Airborne Corps & Fort Bragg, Dept. of the Army, USA v. State of North Carolina, Dept. of Environment and Natural Resources, Division of Air Quality	00 EHR 0227	Conner	08/31/00		
<i>Division of Land Resources</i>					
James Carlis Reavis and Melinda D. Reavis v. NC DENR, Division of Land Resources	98 EHR 1292	Gray	10/16/00		
<i>Division of Water Quality</i>					
Fred J. McPherson v. DENR, Division of Water Quality	00 EHR 0160	Morrison	09/01/00		
Town of Wallace v. NCDENR, Division of Water Quality	00 EHR 0247	Lassiter	10/05/00		
Frederick Holland, Hervie S. Honeycut, and Mary Jane P. Osborne v. NCDENR, Division of Water Quality	00 EHR 0332	Conner	09/18/00		
<i>Division of Waste Management</i>					
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Pierre Deberry Debnam v. NC Criminal Justice Education and Training Standards Commission	00 DOJ 0719	Morrison	08/15/00		
<i>Alarm Systems Licensing Board</i>					
John Martin Canter v Alarm Systems Licensing Board	00 DOJ 0573	Gray	06/02/00		
Kenneth Waits Putnam v. Alarm Systems Licensing Board	00 DOJ 0574	Gray	06/07/00		
James Thomas Wagg v. Alarm Systems Licensing Board	00 DOJ 1124	Lassiter	11/02/00		
Edwin Moore Stevens v. Alarm Systems Licensing Board	00 DOJ 1413	Lassiter	11/02/00		
<i>Education and Training Standards Division</i>					
Peter A. Davis v. Sheriffs' Education & Training Standards Comm.	99 DOJ 0531	Reilly	09/14/00		
James Everett Hill v. Sheriffs' Education & Training Standards Comm.	99 DOJ 1479	Reilly	04/10/00		
Juan Montez Jones v. N.C. Criminal Justice Education & Training Standards Commission	99 DOJ 1716	Conner	07/05/00		
Larry G. McClain v. Sherriffs' Education & Training Standards Comm.	99 DOJ 1721	Morrison	06/28/00		
Ersal Overton, III v. Sherriffs' Education & Training Standards Comm.	99 DOJ 0791	Mann	08/23/00	15:08 NCR	883
Margaret A. Singleton v. Sheriffs' Education & Training Stds. Comm.	00 DOJ 0056	Gray	03/01/00		
William H. Norton, III v. NC Sheriffs' Educ. & Training Stds. Comm.	00 DOJ 0563	Gray	09/19/00		
James Edward Ellerbe v. Sheriffs' Education & Training Stds. Comm.	00 DOJ 0948	Lassiter	07/31/00		
Dexter Dwayne Boyd v. Criminal Justice Education & Training Standards Commission	00 DOJ 1366	Lassiter	05/26/00		
<i>Private Protective Services Board</i>					
Charles A. Joyce and Carolina Security Patrol, Inc. v. Private Protective Services Board	00 DOJ 0004	Conner	08/14/00		
George Thomas Bond v. Private Protective Services	00 DOJ 0014	Conner	05/11/00		
Robert V. Croom and Robert V. Wooster v. Private Protective Services Board	00 DOJ 0058	Morrison	05/16/00		
Sharon Blackstock v. Private Protective Services Board	00 DOJ 0059	Morrison	05/16/00		
Samuel G. Slater v. Private Protective Services Board	00 DOJ 0090	Morrison	05/12/00		
Keith Lewis v. Private Protective Services Board	00 DOJ 0113	Connor	06/07/00		
John W. Fromm v. Private Protective Services Board	00 DOJ 0570	Conner	06/07/00		
Jason Stewart Duckett v. Private Protective Services Board	00 DOJ 0572	Gray	06/07/00		
Shannon Ray Nance v. Private Protective Services Board	00 DOJ 0609	Gray	06/07/00		
Franklin Delano Gann, Jr. v. Private Protective Services Board	00 DOJ 0670	Morrison	06/15/00		
William Junior Holmes v. Private Protective Services Board	00 DOJ 0671	Morrison	06/15/00		
Michael Burt v. Private Protective Services Board	00 DOJ 0672	Morrison	06/15/00		
Jason William Kane v. Private Protective Services Board	00 DOJ 0952	Wade	09/08/00		
Anthony Queen Williams v. Private Protective Services Board	00 DOJ 1005	Morrison	09/01/00		
Calvin Earl McRae v. Private Protective Services Board	00 DOJ 0736	Morrison	08/02/00		
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Stacia R. Parker v. Charlotte-Mecklenburg Board of Education	99 EDC 0389	Gray	08/23/00		

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Dale Y. Farmer v. Department of Public Instruction	00 EDC 0373	Gray	05/26/00		
Cumberland County Board of Education v. Mr. and Mrs. Wesley Waters for Weston Harold Waters	00 EDC 0465	Wade	08/11/00		
Kings Mountain Board of Education, Larry Allen, Melony Bolin, Ronald Hawkins, Shearra Miller, Stella Putnam, Joanne Cole, Otis Cole, Charlie Smith, Frank Smith, and Angela Smith v. NC State Board of Education and Cleveland County Board of Commissioners	00 EDC 0800	Morrison	06/26/00	15:04 NCR	492
James William Stockstill v. Orange County Board of Education, Orange County Schools and Randy Bridges	00 EDC 1261	Conner	09/28/00		
DEPARTMENT OF INSURANCE					
Jacquelyn Hastings v. NC Teachers & State Employees' Comprehensive Major Medical Plan	98 INS 1662	Gray	05/25/00		
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Nancy York Vorys v. Raleigh Police Department	00 MIS 1436	Gray	10/27/00		
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Denise M. Ashe v. Northampton County Board of Commissioners, Northampton County Board of Social Services, Northampton County Department of Social Services	95 OSP 1011	Gray	08/29/00		
Michele Smith v. Cumberland Co. Dept. of Social Services	97 OSP 1344	Morgan	07/11/00		
Marshe Morgan v. Black Mount Center, NC DHHS	98 OSP 1302	Gray	07/11/00	15:05 NCR	624
Pat Hovis v. Lincoln County Department of Social Services	98 OSP 1348	Conner	11/15/00		
Larry Wellman v. Department of Health & Human Services	99 OSP 0484	Reilly	05/11/00	15:01 NCR	47
Betty R. Holman v. Broughton Hospital	99 OSP 0580	Hunter	05/08/00		
Doris A. Archibald v. Dare County Health Department	99 OSP 0622	Gray	08/10/00		
Mack Reid Merrill v. NC Department of Correction	99 OSP 0627	Wade	08/23/00	15:07 NCR	772
Russell J. Suga v. Employment Security Commission of NC	99 OSP 0768	Gray	06/23/00		
Glenn Roger Forrest v. NC Department of Transportation	99 OSP 0853	Lassiter	08/24/00	15:07 NCR	781
Sarah C. Hauser v. Forsyth Co., Department of Public Health	99 OSP 0923	Lassiter	04/20/00	15:01 NCR	5
Larry Mayo v. Employment Security Commission of NC	99 OSP 1023	Wade	06/30/00		
Michael Duane Maxwell v. Dept. of Health & Human Services	99 OSP 1068	Reilly	08/03/00	15:09 NCR	924
Joel T. Lewis v. Department of Correction	99 OSP 1116	Reilly	05/31/00		
Christopher D. Lunsford v. NC Dept. of Administration, Motor Fleet	99 OSP 1142	Morrison	08/11/00		
Van Sutton v. Office of Juvenile Justice/Dobbs School	99 OSP 1204	Gray	07/13/00		
Benny Callihan v. Department of Correction	99 OSP 1381	Wade	09/06/00		
Russell J. Suga v. Employment Security Commission of NC	99 OSP 1649	Gray	06/09/00	15:04 NCR	508
Preston D. Stiles v. NC Dept of Health & Human Svcs., Caswell Center	99 OSP 1757	Anderson	08/28/00		
Lawrence E. Cooke v. Craven Correctional Facility, NC Dept of Correction	00 OSP 0013	Conner	07/05/00		
Fred J. Hargro, Jr. v. NC Dept of Crime Control & Public Safety, NC State Highway Patrol	00 OSP 0029	Morrison	08/08/00		
Robert Boyd Choat v. Department of Correction		00 OSP 0102	Reilly	07/24/00	
Vicky Ruffin-Jenkins v. Sparc Academy	00 OSP 0207	Connor	06/26/00		
Jesse C. Whitaker v. Facilities Operations (NCSU)	00 OSP 0342	Chess	07/11/00		
Gladys M. Sanders v. NC Department of Correction	00 OSP 0362	Gray	09/27/00		
Lillie B. Whitaker v. Center Point Human Resources, Ronald Morton	00 OSP 0443	Lassiter	07/24/00		
Starr M. Strickland v. Correction Enterprises, NC Dept. of Correction	00 OSP 0460	Chess	10/24/00		
Addie M. Williams v. Pender Correctional Inst., Dept. of Correction	00 OSP 0562	Conner	09/12/00		
Shelby Gorham-Teel v. NC Dept of Corrections, Div. of Prisons	00 OSP 0586	Chess	07/10/00		
Michael Jackson v. University Graphics, NC State University	00 OSP 0621	Lassiter	08/16/00		
Marvin Clark v. NC Department of Correction	00 OSP 0623	Gray	08/03/00		
James F. Pridgen, Jr. v. A&T State University, Millicent Hopkins	00 OSP 0652	Mann	07/27/00		
Mark Esposito v. NCDOT/Aviation, Bill Williams, Director	00 OSP 0791	Lassiter	07/24/00		
Marilyn R. Horton v. Gaston-Lincoln Mental Health	00 OSP 0912	Morrison	10/19/00		
Jeffrey L. Teague v. NC Department of Correction	00 OSP 0978	Chess	10/27/00		
Bernadine Johnson v. Department of Correction		00 OSP 1118	Morrison	11/20/00	
Pamela R. Smith v. NC Department of Public Instruction	00 OSP 1229	Conner	11/09/00		
David A. Greats v. NC Department of Correction	00 OSP 1282	Conner	11/09/00		
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Theresa T. Godfrey v. UNC Hosp. at Chapel Hill, Dept of Pharm. Billing	00 UNC 0763	Lassiter	09/08/00		
Betty S. Matheson v. UNC Hospitals, Patient Accounting Department, OR Services	00 UNC 1020	Gray	10/09/00		
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