

NORTH CAROLINA

REGISTER



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For the CUMULATIVE INDEX to the NC Register go to:

<http://reports.oah.state.nc.us/cumulativeIndex.pl>

NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

The North Carolina Administrative Code (NCAC) has four major classifications of rules. Three of these, titles, chapters, and sections are mandatory. The major classification 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. Subchapters are optional classifications to be used by agencies when appropriate.

NCAC TITLES		TITLE 21 LICENSING BOARDS	TITLE 24 INDEPENDENT AGENCIES
1	ADMINISTRATION	1 Acupuncture	1 Housing Finance
2	AGRICULTURE & CONSUMER SERVICES	2 Architecture	2 Agricultural Finance Authority
3	AUDITOR	3 Athletic Trainer Examiners	3 Safety & Health Review Board
4	COMMERCE	4 Auctioneers	4 Reserved
5	CORRECTION	6 Barber Examiners	5 State Health Plan Purchasing Alliance Board
6	COUNCIL OF STATE	8 Certified Public Accountant Examiners	
7	CULTURAL RESOURCES	10 Chiropractic Examiners	
8	ELECTIONS	11 Employee Assistance Professionals	
9	GOVERNOR	12 General Contractors	
10A	HEALTH AND HUMAN SERVICES	14 Cosmetic Art Examiners	
11	INSURANCE	16 Dental Examiners	
12	JUSTICE	17 Dietetics/Nutrition	
13	LABOR	18 Electrical Contractors	
14A	CRIME CONTROL & PUBLIC SAFETY	19 Electrolysis	
15A	ENVIRONMENT & NATURAL RESOURCES	20 Foresters	
16	PUBLIC EDUCATION	21 Geologists	
17	REVENUE	22 Hearing Aid Dealers and Fitters	
18	SECRETARY OF STATE	25 Interpreter/Transliterator	
19A	TRANSPORTATION	26 Landscape Architects	
20	TREASURER	28 Landscape Contractors	
21*	OCCUPATIONAL LICENSING BOARDS	29 Locksmith Licensing	
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		50 Plumbing, Heating & Fire Sprinkler Contractors	
		52 Podiatry Examiners	
		53 Professional Counselors	
		54 Psychology	
		56 Professional Engineers & Land Surveyors	
		57 Real Estate Appraisal	
		58 Real Estate Commission	
		60 Refrigeration Examiners	
		61 Respiratory Care	
		62 Sanitarian Examiners	
		63 Social Work Certification	
		64 Speech & Language Pathologists & Audiologists	
		65 Therapeutic Recreation Certification	
		66 Veterinary Medical	
		68 Substance Abuse Professionals	
		69 Soil Scientists	

Note: Title 21 contains the chapters of the various occupational licensing boards and Title 24 contains the chapters of independent agencies.

NORTH CAROLINA REGISTER
 Publication Schedule for January 2005 – December 2005

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment period	Deadline to submit to RRC for review at next meeting	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule (first legislative day of the next regular session)	270 th day from publication in the Register
19:13	01/03/05	12/08/04	01/18/05	03/04/05	03/21/05	05/01/05	05/06	09/30/05
19:14	01/18/05	12/22/04	02/02/05	03/21/05	04/20/05	06/01/05	05/06	10/15/05
19:15	02/01/05	01/10/05	02/16/05	04/04/05	04/20/05	06/01/05	05/06	10/29/05
19:16	02/15/05	01/25/05	03/02/05	04/18/05	04/20/05	06/01/05	05/06	11/12/05
19:17	03/01/05	02/08/05	03/16/05	05/02/05	05/20/05	07/01/05	05/06	11/26/05
19:18	03/15/05	02/22/05	03/30/05	05/16/05	05/20/05	07/01/05	05/06	12/10/05
19:19	04/01/05	03/10/05	04/16/05	05/31/05	06/20/05	08/01/05	05/06	12/27/05
19:20	04/15/05	03/24/05	04/30/05	06/14/05	06/20/05	08/01/05	05/06	01/10/06
19:21	05/02/05	04/11/05	05/17/05	07/01/05	07/20/05	09/01/05	05/06	01/27/06
19:22	05/16/05	04/25/05	05/31/05	07/15/05	07/20/05	09/01/05	05/06	02/10/06
19:23	06/01/05	05/10/05	06/16/05	08/01/05	08/22/05	10/01/05	05/06	02/26/06
19:24	06/15/05	05/24/05	06/30/05	08/15/05	08/22/05	10/01/05	05/06	03/12/06
20:01	07/01/05	06/10/05	07/16/05	08/30/05	09/20/05	11/01/05	05/06	03/28/06
20:02	07/15/05	06/23/05	07/30/05	09/13/05	09/20/05	11/01/05	05/06	04/11/06
20:03	08/01/05	07/11/05	08/16/05	09/30/05	10/20/05	12/01/05	05/06	04/28/06
20:04	08/15/05	07/25/05	08/30/05	10/14/05	10/20/05	12/01/05	05/06	05/12/06
20:05	09/01/05	08/11/05	09/16/05	10/31/05	11/21/05	01/01/06	05/06	05/29/06
20:06	09/15/05	08/25/05	09/30/05	11/14/05	11/21/05	01/01/06	05/06	06/12/06
20:07	10/03/05	09/12/05	10/18/05	12/02/05	12/20/05	02/01/06	05/06	06/30/06
20:08	10/17/05	09/26/05	11/01/05	12/16/05	12/20/05	02/01/06	05/06	07/14/06
20:09	11/01/05	10/11/05	11/16/05	01/03/06	01/20/06	03/01/06	05/06	07/29/06
20:10	11/15/05	10/24/05	11/30/05	01/17/06	01/20/06	03/01/06	05/06	08/12/06
20:11	12/01/05	11/07/05	12/16/05	01/30/06	02/20/06	04/01/06	05/06	08/28/06
20:12	12/15/05	11/22/05	12/30/05	02/13/06	02/20/06	04/01/06	05/06	09/11/06

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 after the first or fifteenth 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 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: An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

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

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

EXECUTIVE ORDER 78
PROCLAMATION OF STATE OF DISASTER

for the Town of Carolina Shores, Town of Leland
and City of Southport (Brunswick County)

WHEREAS, I have determined that a State of Disaster and State of Emergency, as defined in N.C.G.S. §§166A-4 and 14-288.1(10), exists in the State of North Carolina, specifically in the Town of Carolina Shores, Town of Leland, and City of Southport (Brunswick County) as a result of the damage done by Hurricanes Bonnie and Charley on August 12-15, 2004.

WHEREAS, on August 14, 2004, the Town of Carolina Shores, Town of Leland, and City of Southport (Brunswick County) proclaimed a local State of Emergency;

WHEREAS, pursuant to N.C.G.S. §166A-6, the criteria of a Type I disaster are met including the following: (1) Receipt of the preliminary damage assessment from the Secretary of Crime Control and Public Safety; (2) The Town of Carolina Shores, Town of Leland, and City of Southport (Brunswick County) declared a local state of emergency pursuant to N.C.G.S. §166A-8 and N.C.G.S. §§14-288.12, 14-288.13 and 14-288.14, and forwarded a written copy of the declaration to the Governor; (3) The preliminary damage assessment meets or exceeds the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123, or meets or exceeds the State infrastructure criteria set out in N.C.G.S. §166A-6.01(b)(2)a; and, (4) A major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

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

Section 1. Pursuant to N.C.G.S. §§166A-6 and 14-288.15, a State of Disaster and State of Emergency is hereby declared for the Town of Carolina Shores, Town of Leland, and City of Southport (Brunswick County).

Section 2. State and local government entities and agencies are hereby ordered to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan.

Section 3. Bryan E. Beatty, Secretary of Crime Control and Public Safety and/or his designee, is hereby delegated all power and authority granted to me and required of me by Chapter 166A and Article 36A of Chapter 14 of the General Statutes for the purpose of implementing the said Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in the above-referenced towns and city.

Section 4. Further, Bryan E. Beatty, Secretary of Crime Control and Public Safety, as chief coordinating officer of the State of North Carolina, shall exercise the powers prescribed in N.C.G.S. §143B-476.

Section 5. I authorize this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of disaster prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

Section 6. The Type I disaster declaration shall expire 30 days after the issuance of the state of disaster and state of emergency and Type I disaster proclamation for the Town of Carolina Shores, Town of Leland, and City of Southport (Brunswick County), issued on July 8, 2005, unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date for first issuance. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type I disaster declaration.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh this the 8th day of July, 2005.

Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

EXECUTIVE ORDER NO. 79

NORTH CAROLINA FILM COUNCIL

By the authority vested in me as Governor by the Constitution and laws of North Carolina, **IT IS ORDERED:**

Section 1. Establishment.

The North Carolina Film Council is hereby established.

Section 2. Duties.

The Council shall have the following duties and functions:

- a. Advise the Governor on matters that would enhance the likelihood of the film industry choosing North Carolina for filmmaking.
- b. Advise the Secretary of Commerce and the Film Division in the Department of Commerce on film-making activities within North Carolina.
- c. Serve as a forum for film-making concerns and recommendations relating to the film industry in North Carolina that would include, but not be all inclusive of, the following:
 1. Compile a database registry of locations within North Carolina that would be potential sites for filmmaking;
 2. Develop the financial capability of North Carolina to support projects with local financing of the film industry;
 3. Develop a support network for production activities relating to the film industry;
 4. Develop a manual for the use of local governments and municipalities detailing supportive activities that would facilitate filmmaking in their communities;
 5. Assist in the support and coordination of the activities of local film commissions in North Carolina;
 6. Provide advice on projects directly assigned by the Governor to the Council;
 7. Assist with recruitment of the film industry to select North Carolina sites for filmmaking; and
 8. Develop an annual report on the economic impact of the film-making industry in North Carolina, along with recommendations to increase the filmmaking activities within North Carolina.

Section 3. Membership.

The Council shall consist of no more than 25 voting members who shall be appointed by the Governor including:

- a. representatives of the film industry within the state representing acting, production, directing, producing, and film studio management;
- b. representatives of state or local government; and
- c. citizens at-large members.

Section 4. Terms of Membership.

All members shall be appointed for a term of three years.

Section 5. Vacancies.

A vacancy occurring during a term of appointment is filled in the same manner as the original appointment and for the balance of the unexpired term.

Section 6. Travel Expense.

Members of the Council shall receive necessary travel and subsistence expenses, when available, from Department of Commerce funds, pursuant to N.C.G.S. 138-5.

Section 7. Officers.

The Chair and Vice Chair of the Council shall be appointed by the Governor and serve at the pleasure of the Governor. The Council may elect other such officers as it deems necessary.

EXECUTIVE ORDERS

Section 8. Meetings.

The Council shall meet at least three times yearly and at other times at the call of the Chair or upon written request a least ten of its members.

Section 9. Staff Assistance.

The Department of Commerce shall provide clerical support and other services required by the Council. This Executive Order shall be effective immediately and rescinds all other executive orders.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh this 15th day of July 2005.

Michael F. Easley

ATTEST:

Elaine F. Marshall
Secretary of State

EXECUTIVE ORDER NO. 80

ACCELERATING TEACHER AND OTHER PERSONNEL RECRUITMENT AND THE IMPLEMENTATION OF NEEDED ACADEMIC SUPPORT PROGRAMS FOR AT-RISK CHILDREN IN LIGHT OF JUDICIAL MANDATES, BUDGET DEVELOPMENTS, AND IMPENDING SCHOOL OPENINGS

WHEREAS, the 2004 General Assembly enacted S.L. 124, “The Current Operations and Capital Improvements Appropriations Act of 2004” (hereinafter the Act), which was signed into law on July 20, 2004; and

WHEREAS, the 2005 General Assembly enacted H.B. 1631, which keeps state government operating through August 5, 2005, and which provides additional funding for enrollment increases and which was signed into law on July 19, 2005; and

WHEREAS, in the budget adjustments submitted to the General Assembly for the 2005-06 fiscal year, I recommended funding to meet the increased operation costs of our public schools while providing for the needs of disadvantaged students; and

WHEREAS, public schools across the state must plan now for their opening in a few weeks, and the state court monitoring of North Carolina’s effort to ensure a sound, basic education for every student continues; and

WHEREAS, in the school funding lawsuit, known as *Leandro*, the Court stated that at a minimum every school must be provided the resources necessary to support an effective instructional program within that school so that the educational needs of all children, including at-risk children, can be met; and

WHEREAS, on May 24, 2005, the Court isolated the particular problems of meeting the needs of at-risk students in North Carolina’s high schools and outlined the need for the state to bring together the “combined expertise, educators, resources, and money to fix the ‘high school problem’ so that the children attending those schools will be provided with the opportunity to obtain a sound, basic education;” and

WHEREAS, on July 11, 2005, the Court scheduled a hearing for August 9, 2005, for the state to show how in the upcoming school year it will address the problems associated with the “poor academic performance” of North Carolina high schools and an update on statewide *Leandro* compliance; and

WHEREAS, Senate Bill 622, “The Current Operations and Capital Improvements Appropriations Act of 2005,” under consideration by the House and Senate has not been passed; and

WHEREAS, the Act allocated funds to support the More at Four Pre-Kindergarten program for at-risk children, the Learn and Earn program, and supplemental funding for LEAs in low-wealth counties; and these programs are necessary for improving educational opportunity and outcomes for children across North Carolina; and these programs are fundamental to addressing the needs of at-risk students, eliminating the achievement gap, reducing the state's persistently high dropout rate, increasing college enrollments, and meeting other education challenges; and

WHEREAS, the current proposed budget includes expanded funding for the Disadvantaged Student Supplemental Fund, Learn and Earn program, Specialty Schools Pilot program, supplemental funding for LEAs in low-wealth counties, teacher training, and child and family support teams; and

WHEREAS, while the General Assembly continues working to ratify a final budget I can approve, the school year for the majority of North Carolina’s children is about to begin and preplanning, hiring, and facilities preparation must take place; and

WHEREAS, it is the intent that additional funds be used for low-wealth supplemental funding to recruit and retain high quality teachers; and

WHEREAS, by better connecting public schools with health, mental health, and social services the capacity for multi-disciplinary assessments, referral, and coordination of care for at-risk students and their families will be enhanced through the use of School-Based Child and Family Support Teams utilizing school-based nurses and social worker teams, Local Management Entities’ Care Coordinators, and Child and Family Teams Facilitators.

NOW THEREFORE, in light of the factual circumstances set forth above, including the decision in *Leandro*, and under the legal authority vested in me as Governor by Article I, Section 15 of the Constitution of North Carolina (which states that “The people

EXECUTIVE ORDERS

have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.”), Article III of the Constitution of North Carolina, and N.C.G.S. §143-23, I hereby **AUTHORIZE AND INSTRUCT**:

- Section 1. The Director of the More at Four Pre-Kindergarten Program to recruit the teachers necessary to expand the program; and,
- Section 2. The Superintendent of Public Instruction, working with and through local school system superintendents, to recruit and hire the staff necessary to operate Learn and Earn high schools and economic development-themed high schools; and
- Section 3. The Superintendent of Public Instruction, working with and through local school system superintendents, and the Secretary of the Department of Health and Human Services, working through local agencies, to recruit and hire the nurses and social workers necessary to operate child and family support teams in our public schools; and
- Section 4. The Superintendent of Public Instruction, working with and through local school system superintendents, to put into place the additional teachers and academic support programs needed to support the achievement of at-risk students in districts eligible for Low Wealth Supplemental Funding and Disadvantaged Student Supplemental Funding; and
- Section 5. The Presidents of the University of North Carolina and North Carolina Community College System to implement the 2+2 Teacher Education Initiative; and
- Section 6. The President of the University of North Carolina to implement the program to improve the effectiveness of new principals; and
- Section 7. The State Board of Education and Superintendent of Public Instruction to place accountability on existing funding for at-risk students from the At-Risk Student Services and Improving Student Accountability allotments to ensure these funds are invested in proven strategies for improving student achievement in the most cost effective manner.

This Executive Order is effective July 20, 2005.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh this the 20th day of July, 2005.

Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

NOTICE OF RULE MAKING PROCEEDINGS AND PUBLIC HEARING

NORTH CAROLINA BUILDING CODE COUNCIL

Notice of Rule-making Proceedings *is hereby given by NC Building Code Council in accordance with G.S. 150B-21.5(d).*

Citation to Existing Rule Affected by this Rule-Making: *NC Administrative Code.*

Authority for Rule-making: *G.S. 143-136; 143-138.*

Reason for Proposed Action: *To incorporate changes in the NC Building Codes as a result of rulemaking petitions filed with the NC Building Code Council and to incorporate changes proposed by the Council.*

Public Hearing: *September 12, 2005, 1:00PM, Statesville Convention and Visitors Bureau, 111 Depot Lane, Statesville, NC 28677.*

Comment Procedures: *Written comments may be sent to Barry Gupton, Secretary, NC Building Code Council, c/o NC Department of Insurance, 322 Chapanoke Road, Suite 200, Raleigh, NC 27603. Comment period expires on October 14, 2005.*

Statement of Subject Matter:

1. Request by the staff of the NC Department of Insurance to adopt the following codes:

2006 NC Administrative Code and Policies

Marshall Knight made a motion to Grant the Petition for the adoption of the codes. Butch Simmons seconded the motion. The motion carried (December 2004). The 2006 NC Administrative Code and Policies is a reorganization and rewrite of the 2002 NC Administration and Enforcement Requirements Code. The 2006 NC Amendment documents for the 2006 NC Administrative Code will be available online at the following site on or before August 15, 2005: www.ncbuildingcodes.com (click on NC State Building Codes, 2006 Edition).

Note from the Codifier: The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days.

Statutory reference: G.S. 150B-21.2.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Sheriffs' Education and Training Standards Commission intends to adopt the rules cited as 12 NCAC 10B .1801-.1806 and amend the rules cited as 12 NCAC 10B .0103, .0204-.0205, .0301, .0502-.0504, .0601, .0603, .0703-.0704, .0709, .0905, .0907-.0909, .0915, .0917, .1002, .1102, .1202, .1402, .1502, .1701, .1704-.1705, .2002, .2104.

Proposed Effective Date: January 1, 2006

Public Hearing:

Date: August 31, 2005

Time: 8:30 a.m.

Location: 188 March Lilly Drive, Dillsboro Court, Sylva, NC 28779

Reason for Proposed Action: *Various rule changes to rewrite Class A and B Misdemeanor definition, include an additional basis for denial/revocation of certification, and include a provision to allow the Commission to exercise more leniency in certain decertification actions; add/change instructional hours in both the Detention Officer Certification and Basic Law Enforcement Training; amend the periods of renewal for instructors in the Detention and Telecommunicator Course; adjust the instructor-student ratio; amend the evaluation of instructors criteria; amend the in-service training requirements for deputy sheriffs.*

Procedure by which a person can object to the agency on a proposed rule: *Objections shall be submitted in writing examining the reasons for objection and specifying the portion of the rule to which the objection is being made. Such objections should be sent to: Julia Lohman, Sheriffs' Standards Division, NC Department of Justice, P.O. Box 629, Raleigh, NC 27602.*

Written comments may be submitted to: *Julia Lohman, P.O. Box 629, Raleigh, NC 27602, phone (919)716-6460, fax (919)716-6753*

Comment period ends: October 14, 2005

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in

G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

State – 12 NCAC 10B .1801-.1806, .2002, .2104

Local

Substantive (≥\$3,000,000)

None – 12 NCAC 10B .0103, .0204-.0205, .0301, .0503-.0504, .0601, .0603, .0703-.0704, .0709, .0905, .0907-.0909, .0915, .0917, .1002, .1102, .1202, .1402, .1502, .1701, .1704-.1705

CHAPTER 10 - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SUBCHAPTER 10B - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION .0100 - COMMISSION ORGANIZATION AND PROCEDURES

12 NCAC 10B .0103 DEFINITIONS

In addition to the definitions set forth in G.S. 17E-2, the following definitions apply throughout this Chapter, unless the context clearly requires otherwise:

- (1) "Appointment" as it applies to a deputy sheriff means the date the deputy's oath of office is administered; and as it applies to a detention officer means either the date the detention officer's oath of office was administered, if applicable, or the detention officer's actual date of employment as reported on the Report of Appointment (Form F-4) by the employing agency, whichever is earlier; and as it applies to a telecommunicator, the telecommunicator's actual date of employment as reported on the Report of Appointment (Form F-4T).
- (2) "Convicted" or "Conviction" means and includes, for purposes of this Chapter, the entry of:
 - (A)(a) a plea of guilty;
 - (B)(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)~~(c) a plea of no contest, nolo contendere, or the equivalent.
- (3) "Department Head" means the chief administrator of any criminal justice agency or communications center. Department head includes the sheriff or a designee appointed in writing by the Department head.
- (4) "Director" means the Director of the Sheriffs' Standards Division of the North Carolina Department of Justice.
- (5) "Division" means the Sheriffs' Standards Division.
- (6) "High School" means graduation from a high school that meets the compulsory attendance requirements in the jurisdiction in which the school is located.
- (7) "Enrolled" means that an individual is currently actively participating in an on-going formal presentation of a commission-accredited basic training course which has not been concluded on the day probationary certification expires.
- (8) "Essential Job Functions" means those tasks deemed by the agency head to be necessary for the proper performance of a justice officer.
- (9) "Lateral Transfer" means certification of a justice officer when the applicant for certification has previously held general or grandfather certification as a justice officer or a criminal justice officer as defined in G.S. 17C-2(c), excluding state correctional officers, state probation/parole officers, and state youth services officers, provided the applicant has been separated from a sworn law enforcement position for no more than one year, or has had no break in service.
- (10) "Misdemeanor" means those criminal offenses not classified by the North Carolina General Statutes, the United States Code, the common law, or the courts as felonies. Misdemeanor offenses are classified by the Commission as follows:
- ~~(A)~~(a) "Class A Misdemeanor" means:
- (i) an act 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 (10)(b) of this Rule. ~~Class A Misdemeanor also includes any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of~~

~~any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of not more than six months. Specifically excluded from this grouping of "Class A Misdemeanor" criminal offenses for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as misdemeanors under the laws of other jurisdictions, or duly enacted ordinances of an authorized governmental entity with the exception of the offense of driving while impaired which is expressly included herein as a class A misdemeanor, if the offender could have been sentenced for a term of not more than six months. Also specifically included herein as a Class A Misdemeanor is the offense of driving while impaired, if the offender was sentenced under punishment level three [G.S. 20-179(i)], level four [G.S. 20-179(j)], or level five [G.S. 20-179(k)]. All other traffic offenses under Chapter 20 (motor vehicles) are not classified as Class A Misdemeanors.~~

(ii) ~~Class "A" Misdemeanor shall also include acts committed or omitted in North Carolina prior to October 1, 1994 in violation of any common law, duly enacted ordinance or criminal statute, of this state for which the maximum punishment allowable for the designated offense included imprisonment for a term of not more than six months. Also specifically included herein as a Class A Misdemeanor is the offense~~

of driving while impaired, if the offender was sentenced under punishment level three [G.S. 20-179(i)], level four [G.S. 20-179(j)], or level five [G.S. 20-179(k)]. All other traffic offenses under Chapter 20 (motor vehicles) are not classified as Class A Misdemeanors.

(iii) includes any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of not more than six months. Specifically excluded from this grouping of "Class A Misdemeanor" criminal offenses for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as misdemeanors under the laws of other jurisdictions, or duly enacted ordinances of an authorized governmental entity with the exception of the offense of driving while impaired which is expressly included herein as a class A misdemeanor, if the offender could have been sentenced for a term of not more than six months.

~~(B)~~(b) "Class B Misdemeanor" means:

(i) an act committed or omitted in violation of any common law, criminal statute, or criminal traffic code of this state which is classified as a Class B Misdemeanor as set forth in the "Class B Misdemeanor Manual" as published by the North Carolina Department of Justice and shall automatically include any later amendments and

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

state for which the maximum punishment allowable for the designated offense included imprisonment for a term of more than six months but not more than two years. Specifically excluded from the grouping of "Class B misdemeanors" committed or omitted in North Carolina prior to October 1, 1994 are motor vehicle or traffic offenses designated as being misdemeanors under G.S. 20 (motor vehicles), with the following exceptions: "Class B misdemeanors" committed or omitted in North Carolina prior to October 1, 1994 expressly include, either first or subsequent offenses of G.S. 20-138(a) or (b), G.S. 20-166 (duty to stop in the event of an accident), G.S. 20-138.1 (impaired driving) if the defendant was sentenced under punishment level one [G.S. 20-179(g)] or punishment level two [G.S. 20-179(h)] for the offense, and shall also include a violation of G.S. 20-28(b) [driving while license permanently revoked or suspended].

(iii) Class B Misdemeanor also includes any act committed or omitted in violation of any common law, duly enacted ordinance, or criminal statute of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of more than six months but not more than two years. Specifically excluded from this grouping of "Class B Misdemeanor" criminal offenses for jurisdictions other than North Carolina,

are motor vehicle or traffic offenses designated as being misdemeanors under the laws of other jurisdictions with the following exceptions: Class B Misdemeanor does expressly include, either first or subsequent offenses of driving while impaired if the maximum allowable punishment is for a term of more than six months but not more than two years, and driving while license permanently revoked or permanently suspended.

- (11) "Felony" means any offense designated a felony by the laws, statutes, or ordinances of the jurisdiction in which the offense occurred.
- (12) "Dual Certification" means that a justice officer holds probationary, general, or grandfather certification in two or more of the following positions with the same agency:
 - ~~(A)~~(a) deputy sheriff;
 - ~~(B)~~(b) detention officer;
 - ~~(C)~~(c) telecommunicator.
- (13) "Detention Officer" means any person performing responsibilities, either on a full-time, part-time, permanent or temporary basis, which include but are not limited to the control, care, and supervision of any inmates incarcerated in a county jail or other confinement facility under the direct supervision and management of the sheriff. "Detention Officer" shall also mean the administrator and the other custodial personnel of district confinement facilities as defined in G.S. 153A-219.
- (14) "Deputy Sheriff" means any person who has been duly appointed and sworn by the sheriff and who is authorized to exercise the powers of arrest in accordance with the laws of North Carolina.
- (15) "Telecommunicator" means any person performing responsibilities, either on a full-time, part-time, permanent or temporary basis, for communication functions to include but not limited to receiving calls or dispatching for emergency and law enforcement services.
- (16) "Commission" as it pertains to criminal offenses shall mean a finding by the North Carolina Sheriffs' Education and Training Standards Commission or an administrative body, pursuant to the provisions of G.S. 150B, that a person performed the acts necessary to satisfy the elements of a specified criminal offense.

- (17) "Sworn Law Enforcement Position" means a position with a criminal justice agency of the United States, any state, or a political subdivision of any state which, by law, has general power of arrest and requires each of the following:
- ~~(A)~~(a) successful completion of the Basic Law Enforcement Training curriculum offered by the respective state or federal entity; and
 - ~~(B)~~(b) an independent oath of office providing for the execution of the laws of the respective state or federal jurisdiction.
- (18) "General Powers of Arrest" shall mean the authority to enforce the state or federal laws within the officer's territorial and subject matter jurisdiction to include the authority to arrest and cite offenders under the laws of the jurisdiction. These powers must be conferred on the officer by virtue of occupying a sworn law enforcement position. General powers of arrest shall mean those powers, even though limited by subject matter jurisdiction, which may be exercised as a routine responsibility of the office. General powers of arrest shall not mean those powers of arrest conferred by virtue of a special appointment or those granted as an incidental, as opposed to a primary, function of the office.
- (19) "In-Service Training Coordinator" means the person designated by the Department Head to administer the agency's in-service training program.
- (3) fails to satisfactorily complete the in-service training requirements as presented in 12 NCAC 10B .1700, .2000 and .2100; or
- (4) has refused to submit to the drug screen as required in 12 NCAC 10B .0306(a)(6) or .0410(a) or in connection with an application for or certification as a justice officer or a criminal justice officer as defined in 12 NCAC 09A .0103(6); or
- (5) has produced a positive result on any drug screen reported to the Commission as specified in 12 NCAC 10B .0410 or reported to any commission, agency, or board established to certify, pursuant to said commission, agency, or boards' standards, a person as a justice officer or a criminal justice officer as defined in 12 NCAC 09A .0103(6), unless the positive result is due to a medically indicated cause.
- (c) The Commission may revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or certified justice officer:
- (1) has knowingly made a material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Rule shall also apply to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100; or
 - (2) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Rule shall also apply to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100; or
 - (3) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aided another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Rule shall also apply to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100; or
 - (4) has been removed from office by decree of the Superior Court in accordance 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; or
 - (5) has been denied certification or had such certification suspended or revoked by the

Authority G.S. 17E-7.

SECTION .0200 - ENFORCEMENT RULES

**12 NCAC 10B .0204 SUSPENSION; REVOCATION:
OR DENIAL OF CERTIFICATION**

(a) The Commission shall revoke or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:

- (1) a felony; or
- (2) a crime for which the authorized punishment could have been imprisonment for more than two years.

(b) The Commission shall revoke, deny, or suspend the certification of a justice 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 a one year time period as specified by the rules in this Subchapter; or
- (2) fails to meet or maintain any of the employment or certification standards required by 12 NCAC 10B .0300; or

- (3) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aided another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Rule shall also apply to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100; or
- (4) has been removed from office by decree of the Superior Court in accordance 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; or
- (5) has been denied certification or had such certification suspended or revoked by the

North Carolina Criminal Justice Education and Training Standards. Commission, or a similar North Carolina, out-of-state or federal approving, certifying or licensing agency.

(d) The Commission may revoke, suspend or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:

- (1) a crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor and which occurred after the date of initial certification; or
- (2) a crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor within the five-year period prior to the date of appointment; or
- (3) four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(b) as Class B misdemeanors regardless of the date of commission or conviction; or
- (4) an accumulation of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(a) as a Class A misdemeanor, each of which occurred after the date of initial certification; or regardless of the date of commission or conviction
- ~~(5) four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(a) as a Class A misdemeanor except the applicant shall be certified if the last conviction or commission occurred more than two years prior to the date of appointment; or~~
- ~~(6)~~(5) any combination of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(a) as a Class A misdemeanor or defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor regardless of the date of commission or conviction.

(e) Without limiting the application of G.S. 17E, a person who has had his certification suspended or revoked shall not exercise the authority or perform the duties of a justice officer during the period of suspension or revocation.

(f) Without limiting the application of G.S. 17E, a person who has been denied certification revoked shall not be employed or appointed as a justice officer or exercise the authority or perform the duties of a justice officer.

(g) If the Commission does revoke, suspend, or deny the certification of a justice officer pursuant to this Rule, the period of such sanction shall be as set out in 12 NCAC 10B .0205.

Authority G.S. 17E-7.

**12 NCAC 10B .0205 PERIOD OF SUSPENSION:
REVOCATION: OR DENIAL**

When the Commission suspends, revokes, or denies the certification of a justice officer, the period of sanction shall be:

- (1) permanent where the cause of sanction is:
 - (a) commission or conviction of a felony;
 - or

- (b) commission or conviction of a crime for which authorized punishment included imprisonment for more than two years; or
- (c) the second revocation, suspension, or denial of an officer's certification for any of the causes requiring a five-year period of revocation, suspension, or denial as set out in Item (2) of this Rule.

(2) not less than five years where the cause of sanction is:

- (a) commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(1) and ~~(4); or (4).~~
- (b) material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards ~~Commission; or~~ Commission.
- (c) knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards ~~Commission; or~~ Commission.
- (d) knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aiding another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Rule shall also apply to obtaining or attempting to obtain credit for in-service training as required by ~~12 NCAC 10B .1700, .2000, or .2100; or 12 NACA 10B .1700, .2000, or .2100.~~
- (e) failure to make either of the notifications as required by 12 NCAC 10B .0301(a)(7); or
- (f) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. ~~14-230 or 14-230.~~
- (g) a positive result on a drug screen, or a refusal to submit to drug testing both pursuant to 12 NCAC 10B .0301 and 12 NCAC 10B .0406, or in connection with an application for certification as a criminal justice

- officer as defined in 12 NCAC 9A .0103(6).
- (h) the Commission may either reduce or suspend the periods of sanction under this Item or substitute a period of probation in lieu of revocation, suspension or denial following an administrative hearing. This authority to reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension, in the discretion of the Commission.
- (3) for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exist, where the cause of sanction is:
- (a) failure to meet or satisfy relevant basic training ~~requirements; or~~ requirements.
 - (b) failure to meet or maintain the minimum standards of employment or certification; ~~or~~
 - (c) failure to meet or satisfy the in-service training requirements as prescribed in 12 NCAC 10B .1700 or ~~.2100; or~~ .2100.
 - (d) commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(2), (3), ~~(4) and (5). (5) and (6); or~~
 - (e) denial, suspension, or revocation of certification pursuant to 12 NCAC 10B .0204(c)(5).
 - (f) The Commission may either reduce or suspend the periods of sanction where revocation, denial or suspension of certification is based upon Subparagraphs .0204(d)(3), (d)(4), and (d)(5) or substitute a period of probation in lieu of revocation, suspension or denial following an administrative hearing. This authority to reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension, in the discretion of the Commission.

12 NCAC 10B .0301 MINIMUM STANDARDS FOR JUSTICE OFFICERS

- (a) Every Justice Officer employed or certified in North Carolina shall:
- (1) be a citizen of the United States;
 - (2) be at least 21 years of age;
 - (3) be a high school graduate, or the equivalent (GED);
 - (4) have been fingerprinted by the employing agency;
 - (5) have had a medical examination by a licensed physician;
 - (6) have produced a negative result on a drug screen administered according to the following specifications:
 - (A) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other reliable initial and confirmatory tests as may, from time to time, be authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs; and
 - (B) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen; and
 - (C) the drugs whose use shall be tested for shall include at least cannabis, cocaine, phencyclidine (PCP), opiates and amphetamines or their metabolites; and
 - (D) the test threshold values established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs are hereby incorporated by reference, and shall automatically include any later amendments and editions of the referenced materials. Copies of this information may be obtained from the National Institute on Drug Abuse, 5600 Fisher Lane, Rockville, Maryland 20857 at no cost at the time of adoption of this Rule; and
 - (E) the test conducted shall be not more than 60 days old, calculated from the time when the laboratory reports the results to the date of employment; and
 - (F) the laboratory conducting the test must be certified for federal workplace drug testing programs, and must adhere to applicable federal rules, regulations and guidelines

Authority G.S. 17E-4; 17E-7.

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

- pertaining to the handling, testing, storage and preservation of samples, except that individual agencies may specify other drugs to be tested for in addition to those drugs set out in Part (C) of this Subparagraph; and
- (G) every agency head shall make arrangements for the services of a medical review officer (MRO) for the purpose of review of drug tests reported by the laboratory and such officer shall be a licensed physician;
- (7) within five working days notify the Standards Division and the appointing department head in writing of all criminal offenses with which the officer is charged and all Domestic Violence Orders (50B) and Civil No Contact Orders (50C) which are issued by a judicial official and which provide an opportunity for both parties to be present; and shall also give notification, in writing, to the Standards Division and the appointing department head following the adjudication of these criminal charges and Domestic Violence Orders (50B). This shall include all criminal offenses except minor traffic offenses. ~~A minor traffic offense is defined for purposes of this Subparargaph as any offense under G.S. 20 or similar laws of other jurisdictions; except for: Driving Under the Influence (DUI) or Driving While Impaired (DWI) Driving While License Revoked or Permanently Suspended (DWLR); Duty to Stop in the Event of an Accident (Hit and Run); Fictitious name or address in any application for a driver's license or learner's permit; Fictitious name or address in application for registration; Fraudulent use of a fictitious name for a special identification card; False report of theft or conversion of a motor vehicle; Operation of vehicles resembling law-enforcement vehicles; Speeding to elude arrest; Unlawful racing on streets and highways; and Use of red or blue lights on vehicles prohibited and shall specifically include any offense of Driving Under The Influence (DUI) or Driving While Impaired (DWI). A minor traffic offense is defined, for purposes of this Subparagraph, as an offense where the maximum punishment allowable is 60 days or less. Other offenses under G.S. 20 (Motor Vehicles) or similar laws of other jurisdictions which shall be reported to the Division expressly include G.S. 20-139 (persons under the influence of drugs), G.S. 20-28(b) (driving while license revoked or permanently suspended) and G.S. 20-166 (duty to stop in event of accident).~~ The initial notification required must specify the nature of the offense, the date of offense, and the

- arresting agency. The notifications of adjudication required must specify the nature of the offense, the court in which the case was handled and the date of disposition, and must include a certified copy of the final disposition from the Clerk of Court in the county of adjudication. The notifications of adjudication must be received by the Standards Division within 30 days of the date the case was disposed of in court. Officers required to notify the Standards Division under this Subparagraph shall also make the same notification to their employing or appointing department head within 20 days of the date the case was disposed of in court. The department head, provided he has knowledge of the officer's ~~charge(s)~~ charge(s), Civil No Contact Orders (50C) and Domestic Violence Orders (50B) shall also notify the Division within 30 days of the date the case or order was disposed of in court. Receipt by the Standards Division of timely notification of the initial offenses charged and of adjudication of those offenses, from either the officer or the department head, is sufficient notice for compliance with this Subparagraph;
- (8) be of good moral as defined in: In re Willis, 299 N.C. 1, 215 S.E.2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E.2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E.2d 174 (1989); In re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E.2d 647 (1983); and their progeny;
- (9) have a background investigation conducted by the employing agency, to include a personal interview prior to employment;
- (10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 10B .0307.

(b) The requirements of this Rule shall apply to all applications for certification and shall also be applicable at all times during which the justice officer is certified by the Commission.

Authority G.S. 17E-7; 95-230; 95-231; 95-232; 95-233; 95-234; 95-235.

SECTION .0500 - MINIMUM STANDARDS OF TRAINING FOR DEPUTY SHERIFFS

12 NCAC 10B .0502 BASIC LAW ENFORCEMENT TRAINING COURSE FOR DEPUTIES

(a) The basic training course for deputy sheriffs consists of instruction designed to provide the trainee with the skills and knowledge to perform those tasks essential to function in law enforcement.

PROPOSED RULES

(b) The course entitled "Basic Law Enforcement Training" shall consist of a minimum of 602 hours of instruction and shall include the following identified topical areas and minimum instructional hours for each:

- (1) LEGAL UNIT
 - (A) Motor Vehicle Laws 20 hours
 - (B) Preparing for Court and Testifying in Court 12 hours
 - (C) Elements of Criminal Law 4 hours
 - (D) Juvenile Laws and Procedures 8 hours
 - (E) Arrest, Search and Seizure/Constitutional Law 28 hours
 - (F) ABC Laws and Procedures 4 hours
 - UNIT TOTAL 96 Hours
- (2) PATROL DUTIES UNIT
 - (A) Techniques of Traffic Law Enforcement 24 hours
 - (B) Explosives and Hazardous Materials Emergencies 12 hours
 - (C) Traffic Accident Investigation 20 hours
 - (D) In-Custody Transportation 8 hours
 - (E) Crowd Management 12 hours
 - (F) Patrol Techniques 20 hours
 - (G) Law Enforcement Communication and Information Systems 8 hours
 - (H) Anti-Terrorism 4 hours
 - (I) Rapid Deployment 8 hours
 - UNIT TOTAL ~~404~~ 116 hours
- (3) LAW ENFORCEMENT COMMUNICATION UNIT
 - (A) Dealing with Victims and the Public 10 hours
 - (B) Domestic Violence Response 12 hours
 - (C) Ethics for Professional Law Enforcement 4 hours
 - (D) Individuals with Mental Illness and Mental Retardation 8 hours
 - (E) Crime Prevention Techniques 6 hours
 - (F) Communication Skills for Law Enforcement Officers 8 hours
 - UNIT TOTAL 48 hours
- (4) INVESTIGATION UNIT
 - (A) Fingerprinting and Photographing Arrestee 6 hours
 - (B) Field Note-taking and Report Writing 12 hours
 - (C) Criminal Investigation ~~32~~ 34 hours
 - (D) Interviews: Field and In-Custody 16 hours
 - (E) Controlled Substances ~~40~~ 12 hours

- UNIT TOTAL 7680 hours
- (5) PRACTICAL APPLICATION UNIT
 - (A) First Responder 40 hours
 - (B) Firearms 48 hours
 - (C) Law Enforcement Driver Training 40 hours
 - (D) Physical Fitness 8 hours
 - (i) Fitness Assessment and Testing 12 hours
 - (ii) 1 hour - 3 days a week 34 hours
 - (E) Subject Control Arrest Techniques 40 hours
 - UNIT TOTAL 222 hours
- (6) SHERIFF-SPECIFIC UNIT
 - (A) Civil Process 24 hours
 - (B) Sheriffs' Responsibilities: Detention Duties 4 hours
 - (C) Sheriffs' Responsibilities: Court Duties 6 hours
 - UNIT TOTAL 34 hours
- (7) COURSE ORIENTATION 2 hours
- (8) TESTING 20 hours
- TOTAL COURSE HOURS ~~602~~ 618 HOURS

(c) The "Basic Law Enforcement Training Manual" as published by the North Carolina Justice Academy shall be used as the as basic curriculum for this Basic Law Enforcement Training Course. Copies of this manual may be obtained at cost by contacting the North Carolina Justice Academy, Post Office Box 99, Salemburg, North Carolina 28385-0099.

(d) Consistent with the curriculum development policy of the Commission, the Commission shall designate the developer of the Basic Law Enforcement Training Course curricula and such designation shall be deemed by the Commission as approval for the developer to conduct pilot Basic Law Enforcement Training Courses. Individuals who successfully complete such a pilot Basic Law Enforcement Training Course offering shall be deemed to have successfully complied with and satisfied the minimum training requirement.

(e) The rules governing Minimum Standards for Completion of Training, codified as Title 12, Subchapter 9B, Section .0400 of the North Carolina Administrative Code, and previously incorporated by the North Carolina Criminal Justice Education and Training Standards Commission, are hereby adopted by reference, and shall, automatically include any later amendments and editions of the adopted matter to apply to actions of the North Carolina Sheriffs' Education and Training Standards Commission. Copies of the incorporated materials may be obtained at no cost from the Criminal Justice Standards Division, North Carolina Department of Justice, 114 West Edenton Street, Post Office Drawer 149, Raleigh, North Carolina 27602.

Authority G.S. 17E-4(a).

**12 NCAC 10B .0503 TIME REQ/COMPLETION/
BASIC LAW ENFORCEMENT TRAINING COURSE**

(a) Each deputy sheriff holding temporary or probationary certification shall satisfactorily complete a commission-accredited basic training course. The deputy shall complete such course within one year from the date of his/her Oath of Office. Any deputy sheriff who does not comply with this Rule or other training provisions of this Chapter shall not be authorized to exercise the powers of a deputy sheriff and shall not be authorized to exercise the power of arrest. If, however, an officer has enrolled in a commission-accredited basic law enforcement training program that concludes later than the end of the officer's probationary period, the Commission may extend the probationary period for a period not to exceed 12 months.

(b) Persons having completed a commission-accredited basic law enforcement training program and not having been duly appointed and certified in a sworn law enforcement position as defined in 12 NCAC 10B-~~0103(16)~~ .0103(17) within one year of completion of the basic law enforcement training course shall complete a subsequent commission-accredited basic recruit training program in its entirety and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0402, unless the Director determines that a delay in applying for certification was due to simple negligence on the part of the applicant or employing agency, in which case the Director may accept a commission-accredited basic training program which is over one year old. Such extension of the one year period shall not exceed 30 days from the expiration date of a commission-accredited basic training program.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .0504 WAIVER OF COMPLETION OF TRAINING

(a) The Commission may waive a deputy sheriff's completion of the Commission-accredited law enforcement training course upon receiving documentary evidence from the employing agency that the deputy has satisfactorily completed equivalent training. All such deputies, however, shall serve a one year period of probation.

(b) Training received in states with laws governing or regulating law enforcement 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 may prescribe as a condition of certification, supplementary or remedial training deemed necessary to equate previous training with current standards.

(d) The Commission may require satisfactory performance on a commission-approved written examination as proof of equivalent training; however, such examination is in addition to the required equivalent training and not in lieu of said training.

(e) In considering whether a deputy sheriff's prior service in a sworn law enforcement position is creditable service, the individual must have been duly appointed and certified and/or licensed in a sworn law enforcement position as defined in 12 NCAC 10B .0103(17).

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .0601 DETENTION OFFICER

CERTIFICATION COURSE

(a) This Section establishes the current standard by which Sheriffs' Office and district confinement personnel shall receive detention officer training. These Rules will serve to raise the level of detention officer training heretofore available to law enforcement officers across the state. The Detention Officer Certification Course shall consist of a minimum of 162 hours of instruction designed to provide the trainee with the skills and knowledge necessary to perform those tasks considered essential to the administration and operation of a confinement facility.

(b) Each Detention Officer Certification Course shall include the following identified topic areas and approximate minimum instructional hours for each area:

(1)	Orientation	2 hours
(2)	Criminal Justice System	3 hours
(3)	Legal Aspects of Management & Supervision	19 hours
(4)	Contraband/Searches	6 hours
(5)	Processing Inmates	75 hours
(6)	First Aid & CPR	10 hours
(7)	Medical Care in the Jail	65 hours
(8)	Patrol & Security Functions of the Jail	5 hours
(9)	Key and Tool Control	2 hours
(10)	Supervision & Management of Inmates	5 hours
(11)	Suicides & Crisis Management	5 hours
(12)	Introduction to Rules & Regulations Governing Jails	2 hours
(13)	Stress	2 hours
(14)	Investigative Process in the Jail	9 hours
(15)	Subject Control Techniques	24 hours
(16)	Aspects of Mental Illness	64 hours
(17)	Transportation of Inmates	76 hours
(18)	Fire Emergencies	4 hours
(19)	Fingerprinting and Photographing Arrestees	6 hours
(20) (19)	Physical Fitness for Detention Officers	20 hours
(21) (20)	Communication Skills	5 hours
(22) (21)	Ethics	3 hours
(23) (22)	Review/Testing	7 hours
(24) (23)	State Comprehensive Examination	3 hours
	TOTAL HOURS	162 hours

(c) Consistent with the curriculum development policy of the Commission as published in the "Detention Officer Certification Course Management Guide", the Commission shall designate the developer of the Detention Officer Certification Course curricula and such designation shall be deemed by the Commission as approval for the developer to conduct pilot Detention Officer Certification Courses. Individuals who complete such a pilot Detention Officer Certification Course offering shall be deemed to have complied with and satisfied the minimum training requirement.

(d) The "Detention Officer Certification Training Manual" as published by the North Carolina Justice Academy shall be used as the basic curriculum for the Detention Officer Certification Course. Copies of this manual may be obtained by contacting the North Carolina Justice Academy, Post Office Box 99,

Salemburg, North Carolina 28385-0099. The cost of this manual is forty dollars (\$40.00) at the time of adoption of this Rule.

(e) The "Detention Officer Certification Course Management Guide" as published by the North Carolina Justice Academy is hereby incorporated by reference and shall automatically include any later amendments, editions of the incorporated matter to be used by school directors in planning, implementing and delivering basic detention officer training. The standards and requirements established by the "Detention Officer Certification Course Management Guide" must be adhered to by the school director. Each certified school director shall be issued a copy of the guide at the time of certification at no cost to the accredited school.

Authority G.S. 17E-4(a).

12 NCAC 10B .0603 EVALUATION FOR TRAINING WAIVER

Applicants for certification with prior detention or correctional officer experience shall have been employed and certified as a detention or correctional officer in order to be considered for a training evaluation under this Rule. The following rules shall be used by division staff in evaluating a detention officer's training and experience to determine eligibility for a waiver of training:

- (1) Persons who have separated from a detention officer position during the probationary period after having completed a commission-accredited detention officer training course and who have been separated from a detention officer position for more than one year shall complete a subsequent commission-accredited detention officer training course in its entirety and pass the State Comprehensive Examination within the 12 month probationary period as described in 12 NCAC 10B .0602(a).
- (2) Persons who separated from a detention officer position during their probationary period after having completed a commission-accredited detention officer training course and who have been separated from a detention officer position for one year or less shall serve the remainder of the initial probationary period in accordance with G.S. 17E-7(b), but need not complete an additional training program.
- (3) Persons who separated from a detention officer position during the probationary period without having completed a detention officer training course or whose certification was suspended pursuant to 12 NCAC 10B .0204(b)(1) and who have remained separated or suspended for over one year shall complete a commission-accredited detention officer training course in its entirety and pass the State Comprehensive Examination, and shall be allowed a 12 month probationary period as prescribed in 12 NCAC 10B .0602(a).
- (4) Persons holding General Detention Officer Certification who have completed a

commission-accredited detention officer training course and who have separated from a detention officer position for more than one year shall complete a subsequent commission-accredited detention officer training course in its entirety and pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0602(a).

- (5) Persons holding Grandfather Detention Officer Certification who separate from a detention officer position and remain separated from a detention officer position for more than one year shall complete a commission-accredited detention officer training program in its entirety and pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0602(a).
- (6) Persons transferring to a sheriff's office from another law enforcement agency who hold a detention officer certification issued by the North Carolina Criminal Justice Education and Training Standards Commission shall be subject to evaluation of their prior training and experience on an individual basis. The Division staff shall determine the amount of training, which is comparable to that received by detention officers pursuant to 12 NCAC 10B .0601(b), required of these applicants.
- (7) Persons holding general certification as a correctional officer issued by the North Carolina Criminal Justice Education and Training Standards Commission and who:
 - (a) completed training as a correctional officer between January 1, 1981 and August 1, 2002; and
 - (b) transfer to a sheriff's office or a district confinement facility in a detention officer position; and
 - (c) have had less than a one year break in service, or no break in service, shall serve a 12-month probationary period as prescribed in 12 NCAC 10B .0602(a) and shall complete the following topic areas in a commission-accredited detention officer certification course and take the state examination in its entirety during that probationary period:
 - (i) Orientation 2 hours
 - (ii) Legal Aspects of Management & Supervision 19 hours
 - (iii) Medical Care in the Jail 5 hours
 - (iv) Investigative Process in the Jail 9 hours

- (v) Criminal Justice System
3 hours
- ~~(v) Suicides and Crisis Management~~ 5 hours
- (vi) Introduction to Rules and Regulations Governing Jails
2 hours
- (vii) Subject Control Techniques
24 hours
- ~~(vii) Fire Emergencies~~
4 hours

TOTAL HOURS ~~(64)~~(46) hours

- (8) Persons holding general certification as a correctional officer issued by the North Carolina Criminal Justice Education and Training Standards Commission and who:
- (a) completed training as a correctional officer after August 1, 2002; and
 - (b) transfer to a sheriff's office or a district confinement facility in a detention officer position; and
 - (c) have had less than a one year break in service, or no break in service, shall serve a 12-month probationary period as prescribed in 12 NCAC 10B .0602(a); may apply for a waiver to the Division by submitting documentation of the training completed as a correctional officer.

Division staff shall compare the completed correctional officer training to the existing Detention Officer Certification Course and determine whether any of the Detention Officer Certification Course blocks of instruction can be waived. The Division shall notify the employing agency of the resulting training requirements. The detention officer and shall complete the required training in a commission-accredited Detention Officer Certification Course and take the state examination in its entirety during the probationary period.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .0703 ADMINISTRATION OF DETENTION OFFICER CERTIFICATION COURSE

- (a) The executive officer or officers of the institution or agency sponsoring a Detention Officer Certification Course shall have primary responsibility for implementation of the rules in this Section and for administration of the school.
- (b) The executive officers shall designate a compensated staff member who may apply to the Commission to be the school director. No more than two school directors shall be designated at each accredited institution/agency to deliver a Detention Officer Certification Course. The school director shall have administrative responsibility for planning scheduling, presenting, coordinating, reporting, and generally managing each sponsored detention officer certification course and shall be readily

available at all times during course delivery as specified in 12 NCAC 10B .0704(b).

- (c) The executive officers of the institution or agency sponsoring the Detention Officer Certification Course shall:
 - (1) acquire and allocate sufficient financial resources to provide commission-certified instructors and to meet other necessary program expenses;
 - (2) provide adequate secretarial, clerical, and other supportive staff assistance as required by the school director;
 - (3) provide or make available suitable facilities, equipment, materials, and supplies for comprehensive and qualitative course delivery, as required in the "Detention Officer Certification Course Management Guide" and specifically including the following:
 - (A) a comfortable, well-lighted and ventilated classroom with a seating capacity sufficient to accommodate all attending trainees;
 - (B) audio-visual equipment and other instructional devices and aids necessary and beneficial to the delivery of effective training;
 - (C) a library for trainees' use covering the subject matter areas relevant to the training course, maintained in current status and having sufficient copies for convenient trainee access; and
 - (D) an area designated for instruction of subject control techniques which enables the safe execution of the basic detention officer subject control techniques topic area, with the following specifications:
 - (i) 30 square feet of floor space per student during the practical exercise portion of this topic area and while testing trainees' proficiency in performing the required maneuvers;
 - (ii) one instructor for every 10 students during the practical exercise portion of this topic area and while testing trainees' proficiency in performing the required maneuvers;
 - (iii) restrooms and drinking water within 100 yards of the training site; and
 - (iv) telephone or radio communication immediately available on site.
 - (E) an area designated for use as a jail cell for performing the practical exercises in the topic area entitled

- "Contraband Searches". If a county jail cell is unavailable, a simulated jail cell is acceptable provided it is built to the same specifications required by the Department of Human Resources with regards to size;
- (F) an area designated for fire emergencies instruction which enables the safe execution of the lesson plan as follows:
- (i) a well-ventilated, open area which allows for the setting and putting out of a fire;
 - (ii) restrooms and drinking water within 100 yards of the training ~~site, site, and~~
 - (iii) telephone or radio communication immediately available on ~~site, site, and~~
 - ~~(iv) one instructor for every 10 students during the practical exercise portion of this training.~~
- (G) an area designated for physical fitness for detention officer trainees to include:
- (i) an area for running, weight lifting and other exercises performed during the physical fitness topic area which provides a minimum of 20 square feet per trainee during the performance of the exercises required in the physical fitness topic area;
 - (ii) restrooms and drinking water within 100 yards of the training site;
 - (iii) telephone or radio communication immediately available on site;
 - (iv) shower facilities, if physical fitness is performed prior to classroom training; and
 - (v) one instructor for every 10 students during the physical assessment portion of this block of instruction;
 - (vi) sufficient instructors as needed to maintain visual contact with students while performing any physical exercise.
- (H) an area designated for instruction in first aid and CPR techniques which provides a minimum of 20 square feet per trainee during the practical exercise portion and testing for

proficiency in administering CPR. There must also be one instructor for every 10 students during the practical exercise portion and proficiency testing in administering CPR.

- (4) In the event that an institution or agency does not own a facility as required in this Section, written agreements with other entities must be made to assure use of and timely access to such facilities. A copy of such agreement must accompany the originating institution or agency "Pre-Delivery Report" (Form F7-A) when submitted to the Division.

Authority G.S. 17E-4.

12 NCAC 10B .0704 RESPONSIBILITIES: SCHOOL DIRECTORS, DETENTION OFFICER COURSE

(a) In planning, developing, coordinating, and delivering each commission-certified Detention Officer Certification Course, the school director shall:

- (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established by the rules in this Chapter.
 - (A) The Detention Officer Certification Course shall be presented with a minimum of 40 hours of instruction each week during consecutive calendar weeks until course requirements are completed.
 - (B) In the event of exceptional or emergency circumstances, the Director may, upon written finding of justification, grant a waiver of the minimum hours requirement.
- (2) Select and schedule instructors who are properly certified by the Commission. The selecting and scheduling of instructors is subject to special requirements as follows:
 - (A) No single individual may be scheduled to instruct more than 35 percent of the total hours of the curriculum during any one delivery except as set forth in Part (a)(2)(B) of this Rule.
 - (B) Where the school director shows exceptional or emergency circumstances and the school director documents that an instructor is properly certified to instruct more than 35 percent of the total hours of the curriculum, the Director of the Division may grant written approval for the expansion of the individual instructional limitation.
 - (C) Schedule appropriate number of instructors for specific topic areas as required in 12 NCAC 10B .0703.

- (3) Provide each instructor with a commission-approved course outline and all necessary additional information concerning the instructor's duties and responsibilities.
- (4) Review each instructor's lesson plans and other instructional materials for conformance to the rules in this Chapter and to minimize repetition and duplication of subject matter.
- (5) Arrange for the timely availability of appropriate audiovisual aids and materials, publications, facilities and equipment for training in all topic areas as required in the "Detention Officer Certification Course Management Guide".
- (6) Develop, adopt, reproduce, and distribute any supplemental rules, regulations, and requirements determined by the school to be necessary or appropriate for:
- (A) Effective course delivery;
 - (B) Establishing responsibilities and obligations of agencies or departments employing course trainees; and
 - (C) Regulating trainee participation and demeanor and ensuring trainee attendance and maintaining performance records.
- A copy of such rules, regulations and requirements shall be submitted to the Director as an attachment to the Pre-Delivery Report of Training Course Presentation, Form F-7A. A copy of such rules shall also be given to each trainee and to the sheriff of each trainee's employing agency at the time the trainee enrolls in the course.
- (7) If appropriate, recommend housing and dining facilities for trainees.
- (8) Not less than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation (Form F-7A) along with the following attachments:
- (A) A comprehensive course schedule showing arrangement of topical presentations and proposed instructional assignments;
 - (B) A copy of any rules, regulations, and requirements for the school and, when appropriate, completed applications for certification of instructors. The Director shall review the submitted Pre-Delivery Report together with all attachments to ensure that the school is in compliance with all commission rules; if school's rules are found to be in violation, the Director shall notify the school director of deficiency, and approval will be withheld until all matters are in compliance with the Commissions' rules.
- (9) Administer the course delivery in accordance with the rules in this Chapter and ensure that the training offered is as effective as possible.
- (10) Monitor or designate a certified instructor to monitor the presentations of all probationary instructors during course delivery and prepare written evaluations on their performance and suitability for subsequent instructional assignments. These evaluations shall be prepared on commission forms and forwarded to the Division at the conclusion of each delivery. Based on this evaluation the school director shall recommend approval or denial of requests for Detention Officer Instructor Certification, Limited Lecturer Certification or Professional Lecturer Certification. The observations will be of sufficient duration to ensure the instructor is using the Instructional System Development model, and that the delivery is objective based, documented by and consistent with a Commission-approved lesson plan. For each topic area, the school directors or designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of the students evaluations of the instructor.
- (11) Monitor or designate a certified instructor to monitor the presentations of all other instructors during course delivery and prepare written evaluations on their performance and suitability for subsequent instructional assignments. Instructor evaluations shall be prepared on commission forms in accordance with the rules in this Chapter. These evaluations shall be kept on file by the school for a period of three years and shall be made available for inspection by a representative of the Commission upon request. The observations will be of sufficient duration to ensure the instructor is using the Instructional System Development model, and that the delivery is objective based, documented by and consistent with a Commission-approved lesson plan. For each topic area, the school director's or designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of the students evaluations of the instructor.
- (12) Ensure that any designated certified instructor who is evaluating the instructional presentation of another shall hold certification in the same instructional topic area as that being taught.

- (13) Administer or designate a person to administer appropriate tests as determined necessary at various intervals during course delivery.
- (14) Maintain direct supervision, direction, and control over the performance of all persons to whom any portion of the planning, development, presentation, or administration of a course has been delegated.
- (15) During a delivery of the Detention Officer Certification Course, make available to authorized representatives of the Commission three hours of scheduled class time and classroom facilities for the administration of a written examination to those trainees who have satisfactorily completed all course work.
- (16) Not more than ten days after receiving from the Commission's representative the Report of Examination Scores, submit to the Commission a Post-Delivery Report of Training Course Presentation (Form 7-B).

(b) In addition to the requirements in 12 NCAC 10B .0704(a), the school director shall be readily available to students and Division staff at all times during course delivery by telephone, pager, or other means. The means, and applicable numbers, shall be filed with the commission-certified training delivery site and the Division prior to the beginning of a scheduled course delivery.

Authority G.S. 17E-4.

12 NCAC 10B .0709 RESPONSIBILITIES: SCHOOL DIRECTORS, TELECOMMUNICATOR CERTIFICATION COURSE

(a) In planning, developing, coordinating, and delivering each commission-certified Telecommunicator Certification Course, the school director shall:

- (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established by the rules in this Chapter;
- (2) Select and schedule instructors who are properly certified by the Commission;
- (3) Provide each instructor with a commission-approved course outline and all necessary additional information concerning the instructor's duties and responsibilities;
- (4) Review each instructor's lesson plans and other instructional materials for conformance to the rules in this Chapter and to minimize repetition and duplication of subject matter;
- (5) Arrange for the timely availability of appropriate audiovisual aids and materials, publications, facilities and equipment for training in all topic areas as required in the "Telecommunicator Certification Course Management Guide";
- (6) Develop, adopt, reproduce, and distribute any supplemental rules, regulations, and requirements determined by the school to be necessary or appropriate for:

- (A) Effective course delivery;
- (B) Instruction on the responsibilities and obligations of agencies or departments employing course trainees; and
- (C) Regulating trainee participation and demeanor and ensuring trainee attendance and maintaining performance records.

A copy of such rules, regulations and requirements shall be submitted to the Director as an attachment to the Pre-Delivery Report of Training Course Presentation, Form F-7A-T. A copy of such rules shall also be given to each trainee and to the sheriff or agency head of each trainee's employing agency at the time the trainee enrolls in the course;

- (7) If appropriate, recommend housing and dining facilities for trainees;
- (8) Not less than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation (Form F-7A-T) along with the following attachments:
 - (A) A comprehensive course schedule showing arrangement of topical presentations and proposed instructional assignments;
 - (B) A copy of any rules, regulations, and requirements for the school and, when appropriate, completed applications for certification of instructors. The Director shall review the submitted Pre-Delivery Report together with all attachments to ensure that the school is in compliance with all commission rules; if school's rules are found to be in violation, the Director shall notify the school director of deficiency, and approval will be withheld until all matters are in compliance with the Commissions' rules;
- (9) Administer the course delivery in accordance with the rules in this Chapter and ensure that the training offered is as effective as possible;
- (10) Monitor or designate a certified instructor to monitor the presentations of all probationary instructors during course delivery and prepare written evaluations on their performance and suitability for subsequent instructional assignments. These evaluations shall be prepared on commission forms and forwarded to the Division at the conclusion of each delivery. Based on this evaluation the school director shall recommend approval or denial of requests for Telecommunicator Instructor Certification or Professional Lecturer Certification; The observations will be of

sufficient duration to ensure the instructor is using the Instructional System Development model, and that the delivery is objective based, documented by and consistent with a Commission-approved lesson plan. For each topic area, the school director's or designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of the students evaluations of the instructor;

- (11) Monitor or designate a certified instructor to monitor the presentations of all other instructors during course delivery and prepare written evaluations on their performance and suitability for subsequent instructional assignments. Instructor evaluations shall be prepared on commission-approved forms in accordance with the rules in this Chapter. The observations will be of sufficient duration to ensure the instructor is using the Instructional System Development model, and that the delivery is objective based, documented by and consistent with a Commission-approved lesson plan. For each topic area, the school directors or designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of the students evaluations of the instructor.

These evaluations shall be kept on file by the school for a period of three years and shall be made available for inspection by a representative of the Commission upon request;

- (12) Ensure that any designated certified instructor who is evaluating the instructional presentation of another shall hold certification in the same instructional topic area as that being taught;
- (13) Administer or designate a person to administer appropriate tests as determined necessary at various intervals during course delivery;
- (14) Maintain direct supervision, direction, and control over the performance of all persons to whom any portion of the planning, development, presentation, or administration of a course has been delegated;
- (15) During a delivery of the Telecommunicator Certification Course, make available to authorized representatives of the Commission two hours of scheduled class time and classroom facilities for the administration of a written examination to those trainees who have satisfactorily completed all course work; and
- (16) Not more than 10 days after receiving from the Commission's representative the Report of Examination Scores, submit to the Commission a Post-Delivery Report of Training Course Presentation (Form 7-B-T).

(b) In addition to the requirements in 12 NCAC 10B .0708(a), the school director shall be readily available to students and

Division staff at all times during course delivery by telephone, pager, or other means. The means, and applicable numbers, shall be filed with the commission-certified training delivery site and the Division prior to the beginning of a scheduled course delivery.

Authority G.S. 17E-4.

12 NCAC 10B .0905 TERMS AND CONDITIONS OF DETENTION OFFICER INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for certification as a Detention Officer Instructor shall serve a probationary period. The probationary period shall be set to expire concurrently with the expiration of the instructors= General Instructor Certification issued by the North Carolina Criminal Justice Education and Training Standards Commission. ~~As of August 1, 2002, the~~ The expiration dates of any existing commission-issued Probationary General Detention Officer Instructor Certifications shall be ~~amended set~~ amended set to expire concurrently with the expiration of the instructors' General Instructor Certification issued by the North Carolina Criminal Justice Education and Training Standards Commission. If the time-period before the expiration date is less than one year, then the eight hours of instruction shall be waived for this shortened term and Full General Detention Officer Instructor Certification shall be issued provided all other conditions for Full status as set out in Paragraph (b) of this Section are met.

(b) The probationary instructor shall be awarded full Detention Officer Instructor Certification at the end of the probationary period if the instructors certification required in 12 NCAC 10B .0904(a)(2) remains valid, and that the instructor through application, submits to the Division either:

- (1) a favorable recommendation from a school director accompanied by certification on a commission Instructor Evaluation Form that the instructor satisfactorily taught a minimum of eight hours as specified in Paragraph (e) of this Rule in a commission-certified Detention Officer Certification Course during his/her probationary year; or
- (2) an acceptable written evaluation as specified in Paragraph (e) of this Rule by a commission member or staff member based on an on-site classroom evaluation of the probationary instructor in a commission-certified Detention Officer Certification Course. Such evaluation shall be certified on a commission Instructor Evaluation Form. In addition, instructors evaluated by a commission or staff member must also teach a minimum of eight hours in a commission-certified Detention Officer Certification Course during his/her probationary year.

(c) ~~As of August 1, 2002, the~~ The expiration dates of any existing commission-issued Full General Detention Officer Instructor Certifications shall be ~~amended set~~ amended set to expire concurrently with the expiration of the instructors' General Instructor Certification issued by the North Carolina Criminal Justice Education and Training Standards Commission. If the

time-period before the expiration date shall be less than ~~two~~ three years, then the ~~eight~~ 12 hours of instruction shall be waived for this shortened term and Full General Detention Officer Instructor Certification shall be renewed. Full Detention Officer Instructor Certification is continuous so long as the instructor's certification required in 12 NCAC 10B .0904(a)(2) remains valid, and that the instructor submits to the Division every ~~two~~ three years a renewal application which includes either:

- (1) a favorable recommendation from a school director accompanied by certification on a commission Instructor Evaluation Form that the instructor satisfactorily taught a minimum of ~~eight~~ 12 hours as specified in Paragraph (e) of this Rule in a commission-certified Detention Officer Certification Course during the previous two year period. The date full Instructor Certification is originally issued shall be the anniversary date from which each two year period is figured; or
- (2) an acceptable written evaluation as specified in Paragraph (e) of this Rule by a commission member or staff member based on a minimum ~~eight~~ 12 hours, on-site classroom observation of the instructor in a commission-certified Detention Officer Certification Course.

(d) In the event a General Detention Officer Instructor Certification (either Probationary or Full) is terminated for failure to have been satisfactorily evaluated for ~~eight~~ 12 hours of instruction in a Detention Officer Certification Course, the individual may re-apply for certification meeting the initial conditions for such certification, but must also provide documentation that he/she has audited ~~eight~~ the number of hours of instruction that he/she failed to teach in a delivery of an certified Detention Officer Certification Course.

(e) An Instructor Evaluation Form records a rating of the instructor's ~~qualities, organization and presentation of materials~~ delivery of course material consistent with the requirements for successfully completing the Criminal Justice Instructor Training as set out in 12 NCAC 09B .0209. ~~Instructor qualities, organization and presentation are rated on a scale of 1 (poor), 2 (fair), 3 (good), 4 (excellent) and 5 (superior). Instructor qualities include appearance, gestures, verbal pauses, grammar, pronunciation, enunciation, voice, rate (too slow or too fast), eye contact, and enthusiasm. Organization and presentation include:~~

- (1) ~~Major objectives of the course made clear;~~
- (2) ~~Class Presentation planned and organized;~~
- (3) ~~Important ideas clearly explained;~~
- (4) ~~Instructor=s mastery of the course content;~~
- (5) ~~Class time well used;~~
- (6) ~~Encouragement of critical thinking and analysis;~~
- (7) ~~Encouragement of student involvement;~~
- (8) ~~Reaction to student viewpoints different from instructors;~~
- (9) ~~Student=s attitude toward instructor; and~~
- (10) ~~Instructor=s use of training aids.~~

A rating of 1 or 2 is unacceptable or unsatisfactory; and a rating of 3, 4, or 5 is acceptable or satisfactory.

The delivery is rated as either acceptable or unacceptable in accordance with the instructions on the evaluation form.

(f) Individuals may, for just cause, be granted an extension to successfully teach the required minimum number of hours instruction 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.

Authority G.S. 17E-4.

12 NCAC 10B .0907 TERMS AND CONDITIONS OF PROFESSIONAL LECTURER CERT

~~As of August 1, 2002, the~~ The expiration dates of any existing commission-issued Professional Lecturer Certifications, where the individual also holds another instructor certification(s) issued through this Commission, the expiration date ~~will be amended~~ shall be set to expire concurrently with the other instructor certification(s) issued by this Commission. In the event such instructor does not hold another instructor certification under this Commission, but holds an instructor certification under the North Carolina Criminal Justice Education and Training Standards Commission, the expiration date ~~will be amended~~ shall be set to expire concurrently with the other instructor certification(s) issued by the North Carolina Criminal Justice Education and Training Standards Commission. Where the instructor holds no certification through either Commission, certification as a professional lecturer shall remain effective for ~~24 months~~ three years from the date of issuance. The lecturer shall apply for recertification at or before the expiration date.

Authority G.S. 17E-4.

12 NCAC 10B .0908 LIMITED LECTURER CERTIFICATION

(a) The Commission may issue a Limited Lecturer Certification to an applicant who has developed specific or special skills by virtue of specific or special training. Limited Lecturer Certification may be issued in the following topical areas:

- (1) First Aid and CPR;
- (2) Subject Control Techniques;
- (3) Fire Emergencies in the Jail;
- (4) Medical Care in the Jail;
- (5) Physical Fitness for Detention Officers; and Officers.
- (6) ~~Fingerprinting and Photographing Arrestees.~~

(b) To be eligible for a Limited Lecturer Certificate for topic areas set forth in Rule .0908(a), the applicant must meet the qualifications as follows:

- (1) First Aid and CPR: ~~Certified Standard First Aid Instructor~~ first aid and CPR instructor with the American Red Cross, American Heart Association (AHA), American Safety and Health Institute (ASHI), or National Safety Council (NSC); or a licensed physician, Family Nurse Practitioner, Licensed Practical Nurse (LPN), Registered Nurse (RN), Physician's Assistant, or EMT;

- (2) Subject Control Techniques: certified by N.C. Criminal Justice Education and Training Standards Commission as Defensive Tactics Instructor and compliance with Rule .0903(c) of this Section;
- (3) Fire Emergencies in the Jail: Certified Fire Instructor through the North Carolina Department of Insurance Office of State Fire Marshal;
- (4) Medical Care in a Jail: A Licensed Physician, Family Nurse Practitioner, LPN, RN, or EMT, or Physician's Assistant;
- (5) Physical Fitness for Detention Officer: certified as a Physical Fitness Instructor by the North Carolina Criminal Justice Education and Training Standards Commission; ~~and Commission.~~
- ~~(6) Fingerprinting and Photographing Arrestees: certified as a General Instructor by the North Carolina Criminal Justice Education and Training Standards Commission.~~

(c) In addition to the requirements set out in Paragraph (b) of this Rule, applicants for Limited Lecturer Certification, with the exception of Fingerprinting and Photographing Arrestees, must possess current certification to perform CPR and which was obtained through the applicant having shown proficiency both cognitively and through skills testing.

Authority G.S. 17E-4.

12 NCAC 10B .0908 LIMITED LECTURER CERTIFICATION

(a) The Commission may issue a Limited Lecturer Certification to an applicant who has developed specific or special skills by virtue of specific or special training. Limited Lecturer Certification may be issued in the following topical areas:

- (1) First Aid and CPR;
- (2) Subject Control Techniques;
- (3) Fire Emergencies in the Jail;
- (4) Medical Care in the Jail;
- (5) Physical Fitness for Detention ~~Officers; and~~ Officers.
- ~~(6) Fingerprinting and Photographing Arrestees.~~

(b) To be eligible for a Limited Lecturer Certificate for topic areas set forth in Rule .0908(a), the applicant must meet the qualifications as follows:

- (1) First Aid and CPR: ~~Certified Standard First Aid Instructor~~ first aid and CPR instructor with the American Red Cross, American Heart Association (AHA), American Safety and Health Intitute (ASHI), or National Safety Council (NSC); or a licensed physician, Family Nurse Practitioner, Licensed Practical Nurse (LPN), Registered Nurse (RN), Physician's Assistant, or EMT;
- (2) Subject Control Techniques: certified by N.C. Criminal Justice Education and Training Standards Commission as Defensive Tactics

- Instructor and compliance with Rule .0903(c) of this Section;
- (3) Fire Emergencies in the Jail: Certified Fire Instructor through the North Carolina Department of Insurance Office of State Fire Marshal;
- (4) Medical Care in a Jail: A Licensed Physician, Family Nurse Practitioner, LPN, RN, or EMT, or Physician's Assistant;
- (5) Physical Fitness for Detention Officer: certified as a Physical Fitness Instructor by the North Carolina Criminal Justice Education and Training Standards Commission; ~~and Commission.~~
- ~~(6) Fingerprinting and Photographing Arrestees: certified as a General Instructor by the North Carolina Criminal Justice Education and Training Standards Commission.~~

(c) In addition to the requirements set out in Paragraph (b) of this Rule, applicants for Limited Lecturer Certification, with the exception of Fingerprinting and Photographing Arrestees, must possess current certification to perform CPR and which was obtained through the applicant having shown proficiency both cognitively and through skills testing.

Authority G.S. 17E-4.

12 NCAC 10B .0909 TERMS AND CONDITIONS OF A LIMITED LECTURER CERTIFICATION

(a) An applicant meeting the requirements for certification as a Limited Lecturer shall serve a probationary period. ~~As of August 1, 2002, the~~ The expiration dates of any existing commission-issued Limited Lecturer Certifications, where the individual holds instructor certification under the North Carolina Criminal Justice Education and Training Standards Commission, ~~will be amended~~ shall be set to expire concurrently with the other instructor certification(s) issued by the North Carolina Criminal Justice Education and Training Standards Commission. In the event such instructor does not hold instructor certification under the North Carolina Criminal Justice Education and Training Standards Commission, but holds another instructor certification(s) issued through this Commission, the expiration date ~~will be amended~~ shall be set to expire concurrently with the other instructor certification(s) issued by this Commission. Where the instructor holds no certification through either Commission, certification as a Limited Lecturer shall remain effective for 12 months from the date of issuance. The lecturer shall apply for Full Limited Lecturer Certification at or before the expiration date. If the time-period before the expiration date is less than one year, then the four hours of instruction shall be waived for this shortened term and Full Limited Lecturer Certification will be issued provided all other conditions for Full status as set out in this Section are met.

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

- (1) documentation on a commission-approved Form LL1 of at least four hours of instruction occurring within the probationary period in an

area of the instructor=s expertise related to each topic for which Limited Lecturer Certification was granted; and

- (2) documentation that all other certifications required in 12 NCAC 10B .0908 remain valid.

(c) ~~As of August 1, 2002, the~~ The expiration dates of any existing commission-issued Full Limited Lecturer Certifications ~~will be amended~~ shall be set to expire concurrently with the expiration of the corresponding instructor=s certification issued by the North Carolina Criminal Justice Education and Training Standards Commission. In the event such instructor does not hold instructor certification under the North Carolina Criminal Justice Education and Training Standards Commission, but holds another instructor certification(s) issued through this Commission, the expiration date ~~will be amended~~ shall be set to expire concurrently with the other instructor certification(s) issued by this Commission. The lecturer shall apply for recertification at or before the expiration date. If the time period before the expiration date is less than ~~two~~ three years, then the ~~4~~ six hours of instruction shall be waived for this shortened term and Full Limited Lecturer Instructor Certification will be renewed provided all other conditions for Full status as set out in Subparagraph (2) of this Paragraph are met. Full Limited Lecturer Certification shall be continuous so long as the lecturer submits to the Division every two years:

- (1) documentation on a commission-approved Form LL1 of at least ~~four~~ six hours of instruction occurring within the ~~two-year~~ three-year certification period in an area of the instructor's expertise related to each topic for which Limited Lecturer Certification was granted; and
- (2) a renewal application to include documentation that all other certifications required in 12 NCAC 10B .0908 remain valid.

(d) In the event a Limited Lecturer Instructor Certification (either Probationary or Full) is terminated for failure to have provided documentation of ~~at least four~~ the minimum number of hours of instruction occurring within the respective certification periods in an area of the instructor=s expertise related to each topic for which Limited Lecturer Certification was granted, the individual may re-apply for certification meeting the initial conditions for such certification, but must also provide documentation on a commission-approved Form LL2 that he/she has audited ~~four~~ the number of hours of instruction ~~he/she failed to teach~~ in the topic area for which Limited Lecturer Certification was granted in the respective area of expertise. a delivery of an accredited Detention Officer Certification Course.

(e) Individuals may, for just cause, be granted an extension to successfully teach the required minimum number of hours instruction 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.

Authority G.S. 17E-4.

12 NCAC 10B .0915 TERMS AND CONDITIONS OF

TELECOMMUNICATOR INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for certification as a Telecommunicator Instructor shall serve a probationary period. The Telecommunicator Instructor Certification probationary period shall be set to automatically expire concurrently with the expiration of the instructor's General Instructor Certification issued by the North Carolina Criminal Justice Education and Training Standards Commission. ~~As of August 1, 2002, the~~ The expiration dates of any existing commission-issued Probationary General Telecommunicator Instructor Certifications shall be ~~amended~~ set to expire concurrently with the expiration of the instructor=s General Instructor Certification issued by the North Carolina Criminal Justice Education and Training Standards Commission. If the time-period before the expiration date is less than one year, then the eight hours of instruction shall be waived for this shortened term and Full General Telecommunicator Instructor Certification shall be issued provided all other conditions for Full status as set out in Paragraph (b) of this Rule are met.

(b) The probationary instructor shall be awarded full Telecommunicator Instructor Certification at the end of the probationary period if the instructor's certification required in 12 NCAC 10B .0914(a)(2) remains valid, and that the instructor through application, submits to the Division either:

- (1) a favorable recommendation from a school director accompanied by certification on a commission Instructor Evaluation Form that the instructor satisfactorily taught a minimum of eight hours as specified in Paragraph (e) of this Rule in a commission-certified Telecommunicator Certification Course during his/her probationary year; or
- (2) an acceptable written evaluation as specified in Paragraph (e) of this Rule by a commission member or staff member based on an on-site classroom evaluation of the probationary instructor in a commission-certified Telecommunicator Certification Course. Such evaluation shall be certified on a commission Instructor Evaluation Form. In addition, instructors evaluated by a commission or staff member must also teach a minimum of eight hours in a commission-certified Telecommunicator Certification Course during his/her probationary year.

(c) ~~As of August 1, 2002, the~~ The expiration dates of any existing commission-issued Full General Telecommunicator Instructor Certifications shall be ~~amended~~ set to expire concurrently with the expiration of the instructors' General Instructor Certification issued by the North Carolina Criminal Justice Education and Training Standards Commission. If the time-period before the expiration date is less than ~~two~~ three years, then the ~~eight~~ 12 hours of instruction shall be waived for this shortened term and Full General Telecommunicator Instructor Certification shall be renewed. Full Telecommunicator Instructor Certification is continuous so long as the instructor's certification required in 12 NCAC 10B

.0904(a)(2) remains valid, and that the instructor submits to the Division every ~~two~~ three years a renewal application and either:

- (1) a favorable recommendation from a school director accompanied by certification on a commission Instructor Evaluation Form that the instructor satisfactorily taught a minimum of ~~eight~~ 12 hours as specified in Paragraph (e) of this Rule in a commission-certified Telecommunicator Certification Course during the previous two year period. The date full Instructor Certification is originally issued is the anniversary date from which each ~~two~~ three year period is figured; or
- (2) an acceptable written evaluation as specified in Paragraph (e) of this Rule by a commission member or staff member based on a minimum ~~eight~~ 12 hours, on-site classroom observation of the instructor in a commission-certified Telecommunicator Certification Course.

(d) In the event a General Telecommunicator Instructor Certification (either Probationary or Full) is terminated for failure to have been evaluated for ~~eight~~ the required minimum number of hours of instruction in a Telecommunicator Certification Course, the individual may re-apply for certification meeting the initial conditions for such certification, but must also provide documentation that he/she has audited ~~8~~ hours the number of hours of instruction that he/she failed to teach in a delivery of a certified Telecommunicator Certification Course.

(e) An Instructor Evaluation Form records a rating of the instructor's ~~qualities, organization and presentation of materials~~ delivery of course material consistent with the requirements for successfully completing the Criminal Justice Instructor Training as set out in 12 NCAC 09B .0209. ~~Instructor qualities, organization and presentation are rated on a scale of 1 (poor), 2 (fair), 3 (good), 4 (excellent) and 5 (superior). Instructor qualities include appearance, gestures, verbal pauses, grammar, pronunciation, enunciation, voice, rate (too slow or too fast), eye contact, and enthusiasm. Organization and presentation include:~~

- (1) ~~Major objectives of the course made clear;~~
- (2) ~~Class Presentation planned and organized;~~
- (3) ~~Important ideas clearly explained;~~
- (4) ~~Instructor=s mastery of the course content;~~
- (5) ~~Class time well used;~~
- (6) ~~Encouragement of critical thinking and analysis;~~
- (7) ~~Encouragement of student involvement;~~
- (8) ~~Reaction to student viewpoints different from instructors;~~
- (9) ~~Student=s attitude toward instructor; and~~
- (10) ~~Instructor=s use of training aids.~~

A rating of 1 or 2 is unacceptable or unsatisfactory; and a rating of 3, 4, or 5 is acceptable or satisfactory.

The delivery is rated as either acceptable or unacceptable in accordance with the instructions on the evaluation form.

(f) Individuals may, for just cause, be granted an extension to successfully teach the required minimum number of hours instruction 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.

Authority G.S. 17E-4.

12 NCAC 10B .0917 TERMS AND CONDITIONS OF PROFESSIONAL LECTURER CERT: TELECOMMUNICATOR CERTIFICATION COURSE

~~As of August 1, 2002, the~~ The expiration dates of any existing commission-issued Professional Lecturer Certifications, where the individual also holds another instructor certification(s) issued through this Commission, ~~will be amended~~ shall be set to expire concurrently with the other instructor certification(s) issued by this Commission. In the event such instructor does not hold another instructor certification under this Commission, but holds an instructor certification under the North Carolina Criminal Justice Education and Training Standards Commission, the expiration date ~~will be amended~~ shall be set to expire concurrently with the other instructor certification(s) issued by the North Carolina Criminal Justice Education and Training Standards Commission. Where the instructor holds no certification through either Commission, certification as a professional lecturer shall remain effective for ~~24 months~~ three years from the date of issuance. The lecturer shall apply for recertification at or before the expiration date.

Authority G.S. 17E-4.

12 NCAC 10B .1002 GENERAL PROVISIONS

(a) In order to be eligible for one or more of the professional awards, a sheriff or deputy sheriff shall first meet the following preliminary qualifications:

- (1) be an elected or appointed sheriff or be a deputy sheriff who holds valid General or Grandfather Certification. A deputy sheriff serving under a probationary certification is not eligible for consideration. Any justice officer subject to suspension or revocation proceedings or under investigation for possible decertification action by the Commission or the North Carolina Criminal Justice Education and Training Standards Commission shall not be eligible for professional awards for the pendency of the proceeding;
- (2) the sheriff or deputy sheriff shall be familiar with and subscribe to the Law Enforcement Code of Ethics as promulgated by the International Association of Chiefs of Police;
- (3) if the applicant is a deputy sheriff, the deputy shall be a full-time sworn law enforcement officer of a North Carolina Sheriff's Office, as certified in writing by the sheriff, or be a full-time law enforcement officer of an agency who must be sworn by the sheriff in order to perform his duties as certified in writing by the Sheriff;
- (4) employees of a North Carolina Sheriff's Office who have previously held general or

grandfather law enforcement officer certification but are presently, by virtue of promotion or transfer, serving in non-sworn positions not subject to certification are eligible to participate in the Professional Certificate Program. Eligibility for this exception requires continuous employment with the sheriff's office from the date of promotion or transfer from a sworn, certified position to the date of application for a professional certificate; and

- (5) only training or experience gained in an officer's area of expertise will be eligible for application to this program.

(b) Certificates shall be awarded based upon a formula which combines formal education, law enforcement training, and actual experience as a law enforcement officer. These professional certificates are appropriate for sworn sheriffs and full-time deputy sheriffs. Points are computed in the following manner:

- (1) each semester hour of college credit shall equal one education point and each quarter hour shall equal two-thirds of an education point. No correspondence or vocational courses shall be credited towards education points unless an accredited institution credits the course(s) towards a degree;
- (2) twenty classroom hours of commission-approved law enforcement training shall equal one training point;
- (3) experience as a sworn law enforcement officer as defined in Rule .0103(17) of this Subchapter shall be acceptable for consideration; and
- (4) applicants holding degrees shall not be awarded additional points for those degrees and must instead meet the training point requirements of this Section through completion of law enforcement training.

Authority G.S. 17E-4.

12 NCAC 10B .1102 GENERAL PROVISIONS

(a) In order to be eligible for one or more of the service awards, a Deputy Sheriff, Detention Officer, Telecommunicator, or Sheriff shall first meet the following preliminary qualifications:

- (1) Be an elected or appointed sheriff or be a deputy sheriff, detention officer, or telecommunicator that holds a valid general or grandfather certification. An officer serving under a probationary certification is not eligible for consideration. Any justice officer subject to suspension or revocation proceedings or under investigation for possible decertification action by the Commission or the North Carolina Criminal Justice Education and Training Standards Commission shall not be eligible for a service award for the pendency of the proceedings;

- (2) Be familiar with and subscribe to the Law Enforcement Code of Ethics as promulgated by the International Association of Chiefs of Police and/or Telecommunicator Code of Ethics as published by APCO and NENA to include any subsequent editions or modifications thereto. A copy of either Code of Ethics may be obtained at no cost from the Sheriffs' Standards Division, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602-0629; and
- (3) Also, employees of a North Carolina Sheriff's Office who have previously held certification, but are presently, by virtue of promotion or transfer, serving in positions not subject to certification are eligible to participate in the service award program. Eligibility for this exception requires continuous employment with a sheriff's office from the date of promotion or transfer from a certified position to the date of application for a service award as certified in writing by the Sheriff.

(b) Only experience as a full-time justice officer gained while holding certification through the Commission or while certified as a law enforcement officer through the North Carolina Criminal Justice Education and Training Standards Commission or experience as an elected or appointed Sheriff shall be acceptable for consideration.

Authority G.S. 17E-4.

12 NCAC 10B .1202 GENERAL PROVISIONS

(a) In order to be eligible for one or more of the detention officer professional awards, a detention officer shall first meet the following preliminary qualifications:

- (1) Be a full-time detention officer who holds valid general or grandfather certification. A detention officer serving under a probationary certification is not eligible for consideration. Any detention officer subject to suspension or revocation proceedings or under investigation for possible decertification action by the Commission or the North Carolina Criminal Justice Education and Training Standards Commission shall not be eligible for any detention officer professional awards for the pendency of the proceeding.
- (2) Be familiar with and subscribe to the Law Enforcement Code of Ethics as promulgated by the International Association of Chiefs of Police to include any subsequent editions or modifications thereto. A copy of the Code of Ethics may be obtained at no cost from the Sheriffs' Standards Division, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602-0629.
- (3) Employees of a North Carolina Sheriff's Office who have previously held general or grandfather detention officer certification 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 sheriff's office from the date of promotion or transfer from a certified position to the date of application for a professional certificate.

(b) Only training and experience gained in an officer's area of expertise shall be eligible for application to this program.

(c) Certificates shall be awarded based upon a formula which combines formal education, training, and actual experience as a detention officer. Points are computed in the following manner:

- (1) Each semester hour of college credit shall equal one education point and each quarter hour shall equal two thirds of an education point. No correspondence or vocational courses shall be credited towards education points unless an accredited institution credits the course(s) towards a degree;
- (2) Twenty classroom hours of commission-approved training shall equal one training point;
- (3) Experience as a member of a correctional or detention facility in North Carolina as defined in Rule .0103(13) of this Subchapter shall be acceptable for consideration;
- (4) Applicants holding degrees shall not be awarded additional points for those degrees and must instead meet the training point requirements of this Section through completion of training in the field of jails or corrections.

Authority G.S. 17E-4.

12 NCAC 10B .1402 GENERAL PROVISIONS

(a) In order to be eligible for one or more of the professional certificates, a reserve deputy sheriff shall first meet the following preliminary qualifications:

- (1) be an appointed reserve deputy sheriff who holds valid General or Grandfather Certification. A reserve deputy sheriff serving under a probationary certification is not eligible for ~~consideration~~; consideration. Any deputy sheriff subject to suspension or revocation proceedings or under investigation for possible decertification action by the Commission or the North Carolina Criminal Justice Education and Training Standards Commission shall not be eligible for any deputy sheriff professional awards for the pendency of the proceeding.
- (2) be familiar with and subscribe to the Law Enforcement Code of Ethics as promulgated by the International Association of Chiefs of Police to include any subsequent editions or modifications thereto. A copy of the Code of

Ethics may be obtained at no cost from the Sheriffs' Standards Division, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602-0629;

(3) the applicant shall be a sworn law enforcement officer of a North Carolina Sheriff's Office, as certified in writing by the sheriff; or be a sworn law enforcement officer of an agency who must be appointed by the sheriff in order to perform his duties as certified in writing by the Sheriff; and

(4) only training or experience gained in an officer's area of expertise will be eligible for application to this program. All training must be completed during the time of service as a sworn law enforcement officer, with the exception of Basic Law Enforcement Training.

(b) Certificates are awarded based upon a formula which combines law enforcement training and actual participation as a reserve deputy sheriff in law enforcement functions. Points are computed in the following manner:

- (1) a minimum of ninety-six (96) hours achieved over a one-year period of participation in law enforcement functions, by having been called into reserve duty by the appointing sheriff, shall equal one year of reserve service;
- (2) twenty hours of commission-approved law enforcement training shall equal one law enforcement training point; and
- (3) service as a reserve deputy sheriff shall be acceptable for consideration: or an officer who is otherwise ineligible to receive an equivalent certificate through the Professional Certificate Program for Sheriffs and Deputy Sheriffs as set out in 12 NCAC 10B .1000 may receive a certificate under this program, in which case one year of full-time service may be substituted for one year of reserve service in computing eligibility under this Section.

Authority G.S. 17E.

12 NCAC 10B .1502 GENERAL PROVISIONS

(a) In order to qualify for one or more of the service awards, a Reserve Justice Officer shall first meet the following preliminary qualifications:

- (1) be an appointed reserve deputy sheriff, detention officer, or telecommunicator who holds a valid general or grandfather certification. A reserve officer serving under a probationary certification is not eligible for ~~consideration~~; and consideration. Any person subject to suspension or revocation proceedings or under investigation for possible decertification action by the Commission or the North Carolina Criminal Justice Education and Training Standards Commission shall not be eligible for any service awards for the pendency of the proceeding.

- (2) be familiar with and subscribe to the Law Enforcement Code of Ethics as promulgated by the International Association of Chiefs of Police or Telecommunicator Code of Ethics as published by APCO and NENA to include any subsequent editions or modifications thereto. A copy of either Code of Ethics may be obtained at no cost from the Sheriffs' Standards Division, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602-0629.

(b) Service Awards are based on a formula which calculates reserve service by actual participation as a reserve deputy sheriff, detention officer, or telecommunicator in law enforcement, detention, or telecommunications functions respectively.

- (1) A minimum of 96 hours achieved over a one-year period of participation in law enforcement, detention or telecommunications functions by having been called into reserve duty by the appointing sheriff, shall equal one year of reserve service.
- (2) Service as a reserve deputy sheriff, detention officer, or telecommunicator shall be acceptable for consideration or, an officer who is otherwise ineligible to receive an equivalent service award through the Sheriffs' and Justice Officers' Service Award Program as set out in 12 NCAC 10B Section .1100 may receive a service award under this program, in which one year of full-time service may be substituted for one year of reserve service, provided that the officer in question is currently employed by a sheriff's office in North Carolina in the capacity of a reserve officer.

(c) Only experience as a justice officer gained while holding certification through the Commission or while certified as a law enforcement officer through the North Carolina Criminal Justice Education and Training Standards Commission or experience as an elected or appointed Sheriff shall be acceptable for consideration.

Authority G.S. 17-E.

12 NCAC 10B .1701 SHERIFF RESPONSIBILITIES

The sheriff shall ensure that the Domestic Violence In-Service Training Program for Deputy Sheriffs is conducted conducted using the lesson plan developed by the North Carolina Justice Academy.- In addition, the Sheriff shall:

- (1) report to the Division those deputy sheriffs who are considered "special deputy sheriffs" in accordance with G.S. 17E-2(3)(a);
- (2) maintain a roster of each deputy sheriff who successfully completes the Law Enforcement In-Service Training Program; and
- (3) shall report to the Division by January 15th of 2005, ~~each calendar year~~; those deputy sheriffs who fail to complete the Domestic

Violence In-Service Training Program in accordance with 12 NCAC 10B .1704. Such reporting shall be on a Commission form.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1704 DOMESTIC VIOLENCE IN-SERVICE TRAINING PROGRAM SPECIFICATIONS

Full-time and reserve deputy sheriffs must complete this In-Service Training Program by the end of 2005, ~~each calendar year~~.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1705 FAILURE TO COMPLETE IN-SERVICE DOMESTIC VIOLENCE-TRAINING PROGRAM

(a) Failure to complete the Domestic Violence In-Service Training Program in accordance with this Section shall result in the summary suspension of the deputy sheriff's certification by the Commission.

(b) Certification may be reinstated at the request of the deputy's Sheriff provided:

- (1) the deputy completes the In-Service Domestic Violence Training Program within six months of the end of the calendar year in which the deputy failed to comply; and
- (2) the appointing agency submits to the Division, along with a Report of Appointment, the documents required in 12 NCAC 10B .0305.

An In-Service Training Program completed under this provision shall be credited to the prior year of non-compliance; and shall not be credited toward the current year of completion.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1801 SHERIFF RESPONSIBILITIES

The sheriff shall ensure that the Law Enforcement In-Service Training Program for Deputy Sheriffs is conducted. In addition, the Sheriff shall:

- (1) report to the Division those deputy sheriffs who are considered inactive;
- (2) maintain a roster of each deputy sheriff who successfully completes the Law Enforcement In-Service Training Program; and
- (3) shall report to the Division by January 15th, 2007, those active deputy sheriffs who fail to complete the Law Enforcement In-Service Training Program in accordance with 12 NCAC 10B .1804. Such reporting shall be on a Commission form.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1802 INSTRUCTORS

The following requirements and responsibilities are hereby established for instructors who conduct the Law Enforcement In-Service Training Program:

- (1) The instructor shall hold General Instructor Certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission as set out in 12 NCAC 09B .0302, .0304, and .0306. In addition, each instructor certified by the Criminal Justice Commission to teach in a Commission-certified 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 all instructor updates issued by the Commission.
- (2) The instructor shall deliver the training consistent with the specifications as established in these Rules.
- (3) The instructor shall document the successful or unsuccessful completion of training for each deputy sheriff attending a training program and forward a record of their completion to each deputy's Sheriff.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1803 MINIMUM TRAINING REQUIREMENTS

- (a) The North Carolina Justice Academy shall develop lesson plans for each topical area. The Sheriff may choose to use the Academy-developed lesson plan, or may opt to use a lesson plan for any of the required topical areas developed by another entity. The Sheriff may also opt to use a lesson plan developed by a certified instructor, provided that the instructor develops the lesson plan, in accordance with the Instructional Systems Development model.
- (b) The Law Enforcement In-Service Training Program requires 24 hours of training in the following topical areas:
 - (1) Legal Update;
 - (2) Ethics;
 - (3) Juvenile Minority Sensitivity Training;
 - (4) Methamphetamine Awareness or Methamphetamine Investigative Issues; and
 - (5) Firearms Training and Requalification for deputy sheriffs and detention officers as set out in Section .2100 of these Rules.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1804 LAW ENFORCEMENT IN-SERVICE TRAINING PROGRAM SPECIFICATIONS

Active deputy sheriffs must complete this In-Service Training Program by the end of each calendar year. A deputy sheriff who is changed from an inactive to active status on or between January 1, 2006 and June 30, 2006, must complete the required 2006 In-Service Law Enforcement Training requirement. A deputy who is sworn on or between January 1, 2006 and June 30, 2006, must complete the required 2006 In-Service Law Enforcement Training requirement.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1805 FAILURE TO COMPLETE LAW ENFORCEMENT IN-SERVICE TRAINING PROGRAM

- (a) Failure to complete the Law Enforcement In-Service Training Program in accordance with this Section shall result in the summary suspension of the active deputy sheriff's certification by the Commission.
 - (b) Certification may be reinstated at the request of the deputy's Sheriff provided:
 - (1) the deputy completes the Law Enforcement In-Service Training Program within six months of the end of the calendar year in which the deputy failed to comply; and
 - (2) the appointing agency submits to the Division, along with a Report of Appointment, the documents required in 12 NCAC 10B .0305.
- An In-Service Training Program completed under this provision shall be credited to the prior year of non-compliance; and shall not be credited toward the current year of completion.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1806 IN-SERVICE TRAINING COORDINATOR

- If a Sheriff's Office chooses to conduct its own in-service training, then the Sheriff can also appoint an "In-Service Training Coordinator" who meets the following criteria:
- (1) Have four years of practical experience as a criminal justice officer or as an administrator or specialist in a field directly related to the criminal justice system;
 - (2) Hold General Instructor certification; and
 - (3) Have successfully participated in the "Coordinating In-Service Training" course presented by the NC Justice Academy for the purpose of familiarization with trainee and instructor evaluation.

The Sheriff shall submit an application for such appointment to the Division for approval of this designation.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .2002 TOPICAL AREAS

- The following topical areas shall be included in the Justice Officers' In-Service Training Program:
- (1) Firearms Training and Requalification for deputy sheriffs and detention officers as set out in Section .2100 of these Rules;
 - (2) Domestic Violence Training for deputy sheriffs as set out in Section .1700 of these Rules;
 - (3) Law Enforcement In-Service Training Program for deputy sheriffs as set out in Section .1800 of these Rules.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .2104 IN-SERVICE FIREARMS

REQUALIFICATION SPECIFICATIONS

(a) All deputy sheriffs and detention officers who are authorized by the sheriff to carry a handgun shall qualify a minimum of once each year with their individual and department-approved service handgun. The course of fire shall not be less stringent than the "Basic Law Enforcement Training Course" requirements for firearms qualification.

(b) All deputy sheriffs and detention officers who are issued, or otherwise authorized by the sheriff to carry a shotgun, rifle, or automatic weapon shall be required to qualify with each weapon respectively a minimum of once each year. The course of fire shall not be less stringent than the "Basic Law Enforcement Training Course" requirements for firearms qualification.

(c) Qualifications conducted pursuant to Paragraphs (a) and (b) of this Rule shall be completed with duty equipment and duty ammunition or ballistic equivalent ammunition to include lead free ammunition that meets the same point of aim, point of impact, and felt recoil of the duty ammunition, for all weapons, duty type ammunition meeting the specifications of the duty ammunition as to type projectile, weight and velocity.

(d) All deputy sheriffs and detention officers who are authorized by the sheriff to carry off duty handguns shall qualify with their off duty handgun a minimum of once each year pursuant to 12 NCAC 10B .2103 and .2104(a) and (b) with each handgun the officer carries off duty using ammunition approved by the sheriff.

(e) All deputy sheriffs and detention officers who are issued or have access to any weapons not stated in this Rule must qualify with these weapons once each year using ammunition approved by the sheriff.

(f) In cases where reduced-sized targets are used to simulate actual distances, a modified course of fire may be used.

(g) To satisfy the minimum training requirements for all in-service firearms requalifications, a deputy sheriff or detention officer shall attain a minimum qualification score of 70 percent accuracy with each weapon once in three attempts with no more than three attempts on each course of fire per day.

(h) The "In-Service Firearms Qualification Manual" as published by the North Carolina Justice Academy is hereby incorporated by reference, and shall automatically include any later amendments or editions of the referenced materials to apply as a minimum guide for conducting the annual in-service firearms qualification. Copies of the publication may be obtained from the North Carolina Justice Academy, Post Office Drawer 99, Salemburg, North Carolina 28385. There is no cost per manual at the time of adoption of this Rule.

Authority G.S. 17E-4; 17E-7.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Alarm Systems Licensing Board intends to amend the rule cited as 12 NCAC 11 .0505.

Proposed Effective Date: December 1, 2005

Public Hearing:

Date: September 1, 2005

Time: 1:00 p.m.

Location: ASLB Conference Room, 1631 Midtown Place, Suite 104, Raleigh, NC 27609

Reason for Proposed Action: The Board has determined that it is important to have licensee/registrants taking continuing education courses to provide a photo identification to the instructor.

Procedure by which a person can object to the agency on a proposed rule: Written comments may be provided to W. Wayne Woodard, 1631 Midtown Place, Suite 104, Raleigh, NC 27609 by the end of the comment period.

Written comments may be submitted to: W. Wayne Woodard, 1631 Midtown Place, Suite 104, Raleigh, NC 27609

Comment period ends: October 14, 2005

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
Local
Substantive (>=\$3,000,000)
None

12 NCAC 11 .0505 RECORDING AND REPORTING CONTINUING EDUCATION CREDITS

(a) Each licensee shall be responsible for recording and reporting continuing education credits to the Board at the time of license or registration renewal, and for each course taken such report shall include a certificate of course completion that is signed by at least one course instructor, indicates the name of the licensee or registrant who completed the course, indicates the date of course completion, and indicates the number of hours taken by the licensee or registrant. Credit shall not be given if a certificate of course completion is dated more than two years from the license or registration permit renewal date. Each course instructor shall be required to maintain a course roster and shall verify the identity of each participant by a photo identification, such as a driver's license. Said roster shall be delivered to the Board's office within two weeks of the completion date of the course.

(b) All applications for renewal of a license or registration permit shall have a CE Certificate(s) attached verifying completion of the required number of credit hours. If an applicant is filing an application designated as "new" and the applicant has been licensed or registered for any period of time within the previous two years, the applicant shall attach a CE Certificate(s) verifying completion of the required number of credit hours. An applicant shall not be required to submit a CE Certificate if the applicant is filing an application designated as a "transfer" or "duplicate" and if the applicant has a current registration card issued by the Board.

Authority G.S. 74D-2; 74D-5.

TITLE 13 – DEPARTMENT OF LABOR

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC DOL, Occupational Safety and Health Division intends to repeal the rule cited as 13 NCAC 07F .0102.

Proposed Effective Date: December 1, 2005

Public Hearing:

Date: September 21, 2005

Time: 10:00 a.m.

Location: NC Department of Labor, 2nd Floor, Room 205, 4 West Edenton Street, Raleigh, NC

Reason for Proposed Action: The North Carolina Department of Labor, Occupational Safety and Health Division, is proposing to repeal NCPA 101 – Life Safety Code (1991) in order to clarify for employers and employees the life safety standards which are applicable in the workplace. Specifically, a review of citations issued pursuant to the Life Safety Code between 2001 and 2004 reveals that a large percentage of those citations could have been issued under the provisions of 29 CFR 1910, Subpart E, which was revised by Federal OSHA in 2002. As a result, the Department is proposing to repeal the Life Safety Code in order to streamline its enforcement of life safety standards and to remove any confusion as to which standards apply.

Procedure by which a person can object to the agency on a proposed rule: Objections to the proposed rules may be submitted, in writing, to Erin T. Gould, Assistant Rulemaking Coordinator, via US mail at the following address: 1101 Mail Service Center, Raleigh, NC 27699-1101; or via facsimile at (919) 733-4235. Objections may also be submitted during the public hearing conducted on this rule, which is noticed above. Objections shall include the specific rule citation(s) for the objectionable rule(s), the nature of the objections(s), and the complete name(s) and contact information for the individual(s) submitting the objections. Objections must be received by 5:00 p.m. on October 14, 2005.

Written comments may be submitted to: Erin T. Gould, Assistant Rulemaking Coordinator, 1101 Mail Service Center, Raleigh, NC 27699-1101, phone (919) 733-0368, fax (919) 733-4235 or email erin.gould@nclabor.com.

Comment period ends: October 14, 2005

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
Local
Substantive (>=\$3,000,000)
None

CHAPTER 07 - OSHA

SUBCHAPTER 07F - STANDARDS

SECTION .0100 - GENERAL INDUSTRY STANDARDS

13 NCAC 07F .0102 LIFE SAFETY CODE

All places of employment shall be designed, constructed, maintained, and occupied in accordance with the standards set out in the 1991 edition of the Code for Safety to Life from Fire in Buildings and Structures, ANSI/NFPA 101, which is hereby incorporated by reference. This incorporation shall not include any subsequent editions or amendments to this code. This Rule supersedes any standards based on earlier editions of the Life Safety Code.

Authority G.S. 95-131.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rule cited as 15A NCAC 02B .0309.

Proposed Effective Date: March 1, 2006

Public Hearing:

Date: September 15, 2005

Time: 7:00 p.m.

Location: Randolph Community College, R. Alton Cox Learning Resource Center, Auditorium (Room #102), 629 Industrial Park Avenue, Asheboro, NC 27204

Reason for Proposed Action: *Citizens Against River Pollution requested the reclassification of a segment of the Uwharrie River (Randolph and Montgomery Counties, Yadkin-Pee Dee River Basin) from Class C, Water Supply-IV (WS-IV), and WS-IV Critical Area (CA), to Class B, WS-IV & B, and WS-IV & B CA, respectively. This proposed reclassification consists of the main stem of the Uwharrie River from S.R. 1174 to the Pee Dee River. The purpose of this rule change is to protect the existing waters' primary recreation uses. Primary recreation means swimming, skin diving, water skiing, and similar uses involving human body contact with water where such activities take place in an organized or on a frequent basis. Water quality studies conducted in August 2004 show that the waters proposed to be reclassified meet Class B criteria.*

Procedure by which a person can object to the agency on a proposed rule: *You may attend the public hearing and make relevant verbal comments, and/or submit written comments, data or other relevant information by October 15, 2005. The Hearing Officer may limit the length of time that you may speak at the public hearing, if necessary, so that all those who wish to speak may have an opportunity to do so. The EMC is very interested in all comments pertaining to the proposed reclassification. All persons interested and potentially affected by the proposal are strongly encouraged to read this entire notice and make comments on the proposed reclassification. The EMC may not adopt a rule that differs substantially from the text of the proposed rule published in this notices unless the EMC publishes the text of the proposed different rule and accepts comments on the new text (see General Statute 150B 21.2(g)). Written comments may be submitted to Elizabeth Kountis of the Water Quality Planning Section at the postal address, email address, or fax number listed in this notice.*

Written comments may be submitted to: *Elizabeth Kountis, DENR/Division of Water Quality, Planning Section, 1617 Mail Service Center, Raleigh, NC 27699-1617, phone (919)733-5083 extension 369, fax (919)715-5637 or email elizabeth.kountis@ncmail.net.*

Comment period ends: *October 15, 2005*

Procedure for Subjecting a Proposed Rule to Legislative Review: *If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.*

Fiscal Impact

- State
- Local
- Substantive (≥\$3,000,000)
- None

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

15A NCAC 02B .0309 YADKIN-PEE DEE RIVER BASIN

- (a) The schedule may be inspected at the following places:
- (1) Clerk of Court:
 - Alexander County
 - Anson County
 - Cabarrus County
 - Caldwell County
 - Davidson County
 - Davie County
 - Forsyth County
 - Guilford County
 - Iredell County
 - Mecklenburg County
 - Montgomery County
 - Randolph County
 - Richmond County
 - Rowan County
 - Stanly County
 - Stokes County
 - Surry County
 - Union County
 - Watauga County
 - Wilkes County
 - Yadkin County
 - (2) North Carolina Department of Environment and Natural Resources:
 - (A) Mooresville Regional Office
~~919 North Main Street~~ 610 East Center Avenue, Suite 301
Mooresville, North Carolina
 - (B) Winston-Salem Regional Office
~~8025 North Point Boulevard, Suite 100~~ 585 Waughtown Street
Winston-Salem, North Carolina
 - (C) Fayetteville Regional Office
~~Wachovia Building~~ Systel Building
Suite 714 225 Green Street
Suite 714
Fayetteville, North Carolina
 - (D) Asheville Regional Office
~~Interchange Building~~ 2090 US Highway 70
~~59 Woodfin Place~~

Asheville, Swannanoa, North Carolina.

(b) Unnamed Streams. Such streams entering Virginia are classified "C," and such streams entering South Carolina are classified "C".

(c) The Yadkin-Pee Dee River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) February 12, 1979;
- (2) March 1, 1983;
- (3) August 1, 1985;
- (4) February 1, 1986;
- (5) October 1, 1988;
- (6) March 1, 1989;
- (7) January 1, 1990;
- (8) August 1, 1990;
- (9) January 1, 1992;
- (10) April 1, 1992;
- (11) August 3, 1992;
- (12) December 1, 1992;
- (13) April 1, 1993;
- (14) September 1, 1994;
- (15) August 1, 1995;
- (16) August 1, 1998;
- (17) April 1, ~~1999~~-1999;
- (18) March 1, 2006.

(d) The Schedule of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin has been amended effective October 1, 1988 as follows:

- (1) Mitchell River [Index No. 12-62-(1)] from source to mouth of Christian Creek (North Fork Mitchell River) including all tributaries has been reclassified from Class B Tr to Class B Tr ORW.
- (2) Mitchell River [Index No. 12-62-(7)] from mouth of Christian Creek (North Fork Mitchell River) to Surry County SR 1315 including all tributaries has been classified from Class C Tr to C Tr ORW, except Christian Creek and Robertson Creek which will be reclassified from Class B Tr to Class B Tr ORW.
- (3) Mitchell River [Index No. 12-62-(12)] from Surry County SR 1315 to mouth of South Fork Mitchell River including all tributaries from Class C to Class C ORW.

(e) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective March 1, 1989 as follows:

- (1) Elk Creek [Index Nos. 12-24-(1) and 12-24-(10)] and all tributary waters were reclassified from Class B-trout, Class C-trout and Class B to Class B-trout ORW, Class C-trout ORW and Class B ORW.

(f) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective January 1, 1990 as follows: Barnes Creek (Index No. 13-2-18) was reclassified from Class C to Class C ORW.

(g) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin has been amended effective January 1, 1992 as follows:

- (1) Little River [Index Nos. 13-25-(10) and 13-25-(19)] from Suggs Creek to Densons Creek has been reclassified from Classes WS-III and C to Classes WS-III HQW and C HQW.
- (2) Densons Creek [Index No. 13-25-20-(1)] from its source to Troy's Water Supply Intake including all tributaries has been reclassified from Class WS-III to Class WS-III HQW.
- (3) Bridgers Creek (Index No. 13-25-24) from its source to the Little River has been reclassified from Class C to Class C HQW.

(h) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective April 1, 1992 with the reclassification of the North Prong South Fork Mitchell River from Class C to Class C Trout.

(i) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(j) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin has been amended effective December 1, 1992 as follows:

- (1) Pike Creek (Index No. 12-46-1-2) was reclassified from Class C Tr to Class C Tr HQW;
- (2) Basin Creek (Index No. 12-46-2-2) was reclassified from Class C Tr to Class C Tr ORW;
- (3) Bullhead Creek (Index No. 12-46-4-2) was reclassified from Class C Tr to Class C Tr ORW;
- (4) Rich Mountain Creek (Index No. 12-46-4-2-2) was reclassified from Class Tr to Class C Tr ORW; and
- (5) Widows Creek (Index No. 12-46-4-4) was reclassified from Class C Tr HQW to Class C Tr ORW.

(k) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin has been amended effective September 1, 1994 as follows:

- (1) Lanes Creek [Index Nos. 13-17-40-(1) and 13-17-40-(10.5)] from its source to the Marshville water supply dam including tributaries was reclassified from Classes WS-II and WS-II CA to Class WS-V.

- (2) The South Yadkin River [Index Nos. 12-108-(9.7) and 12-108-(15.5)] from Iredell County SR 1892 to a point 0.7 mile upstream of the mouth of Hunting Creek including associated tributaries was reclassified from Classes WS-V, C and WS-IV to Classes WS-V, WS-IV, C and WS-IV CA.
- (3) The Yadkin River [Index Nos. 12-(53) and 12-(71)] from a point 0.3 mile upstream of the mouth of Elkin Creek (River) to the Town of King water supply intake including associated tributaries was reclassified from Classes C and WS-IV to Classes WS-IV and WS-IV CA.
- (4) The Yadkin River [Index Nos. 12-(80.5), 12-(81.5) and 12-(84.5)] from the Town of King water supply intake to the Davie County water supply intake reclassified from Classes C, B, WS-IV and WS-V to Classes WS-IV, WS-IV&B and WS-IV CA.

(l) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin has been amended effective August 1, 1995 as follows: Bear Creek [Index Nos. 12-108-18-(3), 12-108-18-(3.3)], Little Bear Creek (Index No. 12-108-18-2), and Blue Branch (Index No. 12-108-18-2-1) were reclassified from WS-II and WS-II CA (Critical Area) to C and WS-IV.

(m) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective August 1, 1998 with the revision to the primary classification for portions of the Yadkin River [Index No. 12-(45)] from Class WS-IV to WS-V, Yadkin River [Index No. 12-(67.5)] from Class WS-IV to Class C, Yadkin River [Index Nos. 12-(93.5) and 12-(98.5)] from Class WS-IV to Class WS-V, South Yadkin River [Index No. 12-108-(12.5)] from Class WS-IV to Class WS-V, and South Yadkin River [Index Nos. 12-108-(19.5) and 12-108-(22)] from Class WS-IV to Class C.

(n) The Schedule of Classifications and Water Quality Standards for the Yadkin Pee-Dee River Basin was amended effective April 1, 1999 with the reclassification of a portion of the Yadkin River [Index No. 12-(80.5)] from WS-IV CA to WS-IV. A portion of the Yadkin River 0.5 mile upstream of Bashavia Creek was reclassified from WS-IV to WS-IV CA. Bashavia Creek [Index Nos. 12-81-(0.5) and 12-81-(2)] was reclassified from WS-IV and WS-IV CA to Class C. Tributaries to Bashavia Creek were also reclassified to Class C. Portions of the Yadkin River [Index Nos. 12-(25.5) and 12-(27)] were reclassified from WS-IV to Class C and from WS-IV & B to Class B. Tributaries were reclassified from Class WS-IV to Class C. Supplemental classifications were not changed.

(o) The Schedule of Classifications and Water Quality Standards for the Yadkin Pee-Dee River Basin was amended effective March 1, 2006 with the reclassification of a portion of the Uwharrie River. More specifically, Index No. 13-2-(25), Index No. 13-2-(17.5), and a portion of Index No. 13-2-(1.5) was reclassified from Class WS-IV CA, WS-IV, and C, to Class WS-IV & B CA, WS-IV & B, and B, respectively.

Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

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 07B .0801-.0802, .0901 and 07H .0207, .0308.

Proposed Effective Date: February 1, 2006

Public Hearing:

Date: September 15, 2005

Time: 5:00 p.m.

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

Reason for Proposed Action:

15A NCAC 07B .0801 – Amendment is necessary to clarify when local governments must provide DCM with copies of their locally adopted land use plans (LUPs) and statements of adoption action.

15A NCAC 07B .0802 – Amendment is necessary to clarify the procedures that local governments must comply with when presenting their local LUPs to the CRC for certification.

15A NCAC 07B .0901 – in order to clarify the procedures that local governments must comply with when amending their LUPs. The proposed rule amendment clarifies when amendments to an existing LUP are extensive enough to trigger a complete update of the local LUP, and stipulates the amendments must contain a local resolution of adoption that makes specific findings.

15A NCAC 07H .0207 – The Coastal Resources Advisory Council Subcommittee on Public Trust Issues recommended that DCM use the normal high water mark or normal water level, instead of the mean high water mark or mean water level for the purpose of administering the CRC's rules on non-oceanfront shorelines. The CRC proposes this change in order to allow DCM staff to use a consistent implementation standard and to provide clarity to the public.

15A NCAC 07H .0308 – sets out the specific use standards for the ocean hazard area of environmental concern that reference the Coastal and Flood Plain Construction Standards contained within the NC Building Code. Due to revisions to the code, the reference contained within .0308 is no longer accurate. The CRC proposes to remove the incorrect reference.

Procedure by which a person can object to the agency on a proposed rule: Objections may be filed in writing and addressed to the Director, Division of Coastal Management, 400 Commerce Ave, Morehead City, NC.

Written comments may be submitted to: Charles S. Jones, 400 Commerce Avenue, Morehead City, NC 28557, phone (252)808-2808, fax (252)247-3330, email charles.s.jones@ncmail.net.

Comment period ends: October 14, 2005

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission

receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
- Local
- Substantive (≥\$3,000,000)
- None

CHAPTER 07 - COASTAL MANAGEMENT

SUBCHAPTER 07B – CAMA LAND USE PLANNING

SECTION .0800 – CAMA LAND USE PLAN REVIEW AND CRC CERTIFICATION

15A NCAC 07B .0801 PUBLIC HEARING AND LOCAL ADOPTION REQUIREMENTS

- (a) Public Hearing ~~Requirements:~~ Requirements. The local government shall provide written proof to DCM that it has followed the process required in G.S. ~~113A-110~~113A-110.
- (b) Final Plan Content. The final decision on local policies and all contents of the CAMA Land Use Plan consistent with the CAMA land use planning rules shall be made by the elected body of each participating local government.
- (c) Transmittal to the CRC. The local government shall provide the Executive Secretary of the CRC with as many copies of the locally adopted land use plan as the Executive Secretary requests, and a certified statement of the local government adoption action no earlier than 45 days and no later than 30 days prior to the next ~~regularly scheduled~~ CRC meeting.

Authority G.S. 113A-107(a); 113A-110; 113A-124.

15A NCAC 07B .0802 PRESENTATION TO COASTAL RESOURCES COMMISSION FOR CERTIFICATION

- (a) Re-Certification: If the CRC adopts new CAMA Land Use Plan rules, plans shall be updated within six years of the effective date of the new rules. If a scoping process is held, a summary shall be provided to the CRC along with the request for re-certification of the existing CAMA Land Use Plan.
- (b) Committee Designated by CRC to Review Local Land Use Plans:
 - (1) The appropriate DCM District Planner shall report to the committee designated by the CRC as to the type of plan being presented, highlight any unique characteristics of the plan, identify any land use conflicts with adjacent planning jurisdictions or other state/federal agencies, identify any inaccuracy

or inconsistency of items in the ~~plan plan,~~ and recommend certification, conditional certification, or non-certification.

- (2) The Land Use Plan shall be presented to the committee designated by the CRC by an elected local official, municipal or county staff member, or designated citizen representative.
 - (3) The public shall have an opportunity to present written objections, comments, or statements of support prior to action by the committee designated by the CRC. Written objections shall be received by DCM no less than ~~40~~ 15 business days prior to the next scheduled CAMA Land Use Plan review meeting and shall be ~~couched within~~ limited to the criteria for CRC certification as defined in Subparagraph (c)(3) of this Rule. Written objections shall identify the specific plan elements that are opposed. A copy of any objections shall be sent by the DCM to the local government submitting the CAMA Land Use Plan.
 - (4) The local government may withdraw the submitted CAMA Land Use Plan from CRC consideration at ~~anytime~~ any time before review.
- (c) CRC Certification:
- (1) The CRC shall ~~certify,~~ certify the CAMA Land Use Plan following the procedures and conditions specified in this Rule.
 - (2) Provided the locally adopted land use plan has been received by the Executive Secretary no earlier than 45 days and no later than 30 days prior to the next ~~regularly scheduled~~ CRC meeting, the CRC shall certify, conditionally certify or not certify the plan at that meeting or mutually agreed upon date. If the CRC fails to take action as specified above the plan shall be certified.
 - (3) The CRC shall certify plans which:
 - (A) are consistent with the current federally approved North Carolina Coastal Management Program; and
 - (B) are consistent with the Rules of the CRC; and
 - (C) do not violate state or federal law; and
 - (D) contain policies that address each Management Topic. If a local government cannot meet any CAMA Land Use Plan requirement contained within Rule .0702(d) and (e) each of the six Management Topics the plan shall include a description of the analysis that was undertaken, explain the reason(s) the requirement could not be met, and the local government's alternative plan of action to address the CAMA Land

Use Plan requirements. If such description(s) are not included in the plan, it shall not be ~~certified~~ certified; and

(E) contain a local resolution of adoption that includes findings which demonstrate that policy statements and the Future Land Use Plan Map (FLUP) have been evaluated, and determine that no internal inconsistencies exist.

(d) Non-Certification: If the plan is not certified the CRC shall within 30 days inform the local government as to how the plan might be changed so certification can be granted. Until the plan is certified, the pre-existing a certified CAMA Land Use Plan shall remain in effect.

(e) Conditional Certification: If the plan is conditionally certified, the CRC shall within 30 days provide the local government with condition(s) that shall be met for certification. Until the condition(s) is met on a conditionally certified plan, the pre-existing certified CAMA Land Use Plan shall remain in effect. When the local government complies with all conditions for a conditionally certified plan, as determined by the Executive Secretary of the CRC, plan certification is automatic with no further action needed by the CRC.

Authority G.S. 113A-107(a); 113A-110; 113-111; 113A-124.

15A NCAC 07B .0901 CAMA LAND USE PLAN AMENDMENTS

(a) Normal Amendment ~~Process-Process:~~

- (1) The CAMA Land Use Plan may be amended and only the amended portions submitted for CRC ~~certification if local conditions create a need for policy or map changes or clarifications.~~ certification. If the local government amends half or more of the ~~contents or policies of the CAMA Land Use Plan, and implementation or the Future Land Use Plan Map,~~ an entirely new locally adopted plan shall be submitted to the CRC.
- (2) The local government proposing an amendment to its CAMA Land Use Plan shall provide to the Executive Secretary of the CRC or her/his designee written notice of the public hearing, a copy of the proposed amendment (including text and maps as applicable), and the reasons for the amendment no less than 30 days prior to the public hearing. After the public hearing, the local government shall provide the Executive Secretary or her/his designee with a copy of the locally adopted amendment no earlier than 45 days and no later than 30 days prior to the next ~~regularly scheduled~~ CRC meeting for CRC certification.
- (3) For joint plans, originally adopted by each participating jurisdiction, each government shall retain its sole and independent authority

to make amendments to the plan as it affects their jurisdiction.

(4) CRC review and action on CAMA Land Use Plan amendments shall be in the same manner as provided in 15A NCAC 07B .0802 (b), (c), (d) and ~~(e).~~ (e), except amendments to Land Use Plans which were certified prior to August 1, 2002 are exempt from Rule .0802(c)(3)(D), unless Subparagraph (a)(1) of this Rule applies.

(5) The local resolution of adoption shall include findings which demonstrate that amendments to policy statements or to the Future Land Use Plan Map (FLUP) have been evaluated for their consistency with other existing policies.

(b) Delegation of CRC Certification of Amendments to the Executive ~~Secretary~~ Secretary:

(1) A local government that desires to have the Executive Secretary instead of the CRC certify a CAMA Land Use Plan amendment shall first meet the requirements in Subparagraphs (a)(1) through (3) of this Rule and the following criteria defined in Parts (b)(1)(A) through (D) of this Rule. The local government may then request the Executive Secretary to certify the amendment. The Executive Secretary shall make a determination that all criteria have been met, and mail notification to the local government and CRC members, no later than two weeks after receipt of the request for certification. The CRC's delegation to the Executive Secretary of the authority to certify proposed amendments is limited to amendments that meet the following criteria:

- (A) Minor changes in policy statements or objectives for the purpose of clarification of intent; or
- (B) Modification of any map that does not impose new land use categories in areas least suitable for development as shown on the Land Suitability Map; or
- (C) New data compilations and associated statistical adjustments that do not suggest policy revisions; or
- (D) More detailed identification of existing land uses or additional maps of existing or natural ~~conditions,~~ conditions that do not affect any policies in the CAMA Land Use ~~Plan; Plan.~~

(2) If the Executive Secretary certifies the amendment, the amendment shall become final upon certification of the Executive Secretary, and is not subject to further CRC review described in 15A NCAC 07B .0802 (Presentation to CRC for Certification).

(3) If the Executive Secretary denies certification of the amendment, the local government shall

submit its amendment for review by the CRC in accordance with the regular plan certification process in 15A NCAC 07B .0802 (Presentation to CRC for Certification).

(c) Any amendments to the text or maps of the CAMA Land Use Plan shall be incorporated in context in all available copies of the plan and shall be dated to indicate the dates of local adoption and CRC certification. The amended ~~PLAN~~ CAMA Land Use Plan shall be maintained as required by G.S. 113A-110(g).

(d) Within 90 days after certification of a CAMA Land Use Plan amendment, the local government shall provide one copy of the amendment to each jurisdiction with which it shares a common ~~border~~ border, and ~~with~~ to the regional planning entity.

(e) A local government that receives Sustainable Community funding from the Department pursuant to 15A NCAC 07L shall formulate and submit to the CRC for certification a CAMA Land Use Plan Addendum during its first year as a Sustainable ~~Community~~ Community, and if new planning rules have been adopted by the CRC, shall update the CAMA Land Use Plan within six years of adoption of these new planning rules.

Authority G.S. 113A-107(a); 113A-110; 113A-124.

15A NCAC 07H .0207 PUBLIC TRUST AREAS

(a) Description. Public trust areas are all waters of the Atlantic Ocean and the lands thereunder from the mean high water mark to the seaward limit of state jurisdiction; all natural bodies of water subject to measurable lunar tides and lands thereunder to the ~~mean high water mark; normal high water or normal water level;~~ all navigable natural bodies of water and lands thereunder to the ~~mean high water level or mean~~ normal high water or normal water level as the case may be, except privately-owned lakes to which the public has no right of access; all water in artificially created bodies of water containing ~~significant~~ public fishing resources or other public resources which are accessible to the public by navigation from bodies of water in which the public has rights of navigation; and all waters in artificially created bodies of water in which the public has acquired rights by prescription, custom, usage, dedication, or any other means. In determining whether the public has acquired rights in artificially created bodies of water, the following factors shall be considered:

- (1) the use of the body of water by the ~~public;~~ public;
- (2) the length of time the public has used the ~~area;~~ area;
- (3) the value of public resources in the body of ~~water;~~ water;
- (4) whether the public resources in the body of water are mobile to the extent that they can move into natural bodies of ~~water;~~ water;
- (5) whether the creation of the artificial body of water required permission from the ~~state;~~ state; and
- (6) the value of the body of water to the public for navigation from one public area to another public area.

(b) Significance. The public has rights in these areas, including navigation and recreation. In addition, these areas support

~~valuable~~ commercial and sports fisheries, have aesthetic value, and are important resources for economic development.

(c) Management Objective. To protect public rights for navigation and recreation and to conserve and manage the public trust areas so as to safeguard and perpetuate their biological, economic and aesthetic value.

(d) Use Standards. Acceptable uses shall be those consistent with the management objectives in Paragraph (c) of this Rule. In the absence of overriding public benefit, any use which ~~significantly interferes with the public right of navigation~~ jeopardizes the capability of the waters to be used by the public for navigation or other public trust rights which the public may be found to have in these areas shall not be allowed. The development of navigational channels or drainage ditches, the use of bulkheads to prevent erosion, and the building of piers, wharfs, or marinas are examples of uses that may be acceptable within public trust areas, provided that such uses ~~will~~ shall not be detrimental to the public trust rights and the biological and physical functions of the estuary. Projects which would directly or indirectly block or impair existing navigation channels, increase shoreline erosion, deposit spoils below ~~mean high tide;~~ normal high water, cause adverse water circulation patterns, violate water quality standards, or cause degradation of shellfish waters are ~~generally~~ considered incompatible with the management policies of public trust areas. In every instance, the particular location, use, and design characteristics shall be in accord with the general use standards for coastal wetlands, estuarine waters, and public trust areas.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(5); 113A-124.

15A NCAC 07H .0308 SPECIFIC USE STANDARDS FOR OCEAN HAZARD AREAS

(a) Ocean Shoreline Erosion Control Activities:

(1) Use Standards Applicable to all Erosion Control Activities:

- (A) All oceanfront erosion response activities shall be consistent with the general policy statements in 15A NCAC 07M .0200.
- (B) Permanent erosion control structures may cause significant adverse impacts on the value and enjoyment of adjacent properties or public access to and use of the ocean beach, and, therefore, are prohibited. Such structures ~~include, but are not limited to:~~ include ~~bulkheads; seawalls; revetments; jetties; bulkheads; seawalls, revetments, jetties, groins and breakwaters.~~
- (C) Rules concerning the use of oceanfront erosion response measures apply to all oceanfront properties without regard to the size of the structure on the property or the date of its construction.

- (D) All permitted oceanfront erosion response projects, other than beach bulldozing and temporary placement of sandbag structures, shall demonstrate sound engineering for their planned purpose.
- (E) Shoreline erosion response projects shall not be constructed in beach or estuarine areas that sustain substantial habitat for fish and wildlife ~~species~~ species, as identified by natural resource agencies during project review, unless ~~adequate~~ mitigation measures are incorporated into project design, as set forth in Rule ~~.0306(I)~~ .0306(i) of this Section.
- (F) Project construction shall be timed to minimize adverse effects on biological activity.
- (G) Prior to completing any erosion response project, all exposed remnants of or debris from failed erosion control structures must be removed by the permittee.
- (H) Erosion control structures that would otherwise be prohibited by these standards may be permitted on finding that:
- (i) the erosion control structure is necessary to protect a bridge which provides the only existing road access ~~to a substantial population on a barrier island;~~ island, that is vital to public safety; safety, and is imminently threatened by ~~erosion;~~ erosion as defined in provision (a)(2)(B) of this Rule;
 - (ii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate to protect public health and safety; and
 - (iii) the proposed erosion control structure will have no adverse impacts on adjacent properties in private ownership ~~and will have minimal impacts or~~ on public use of the beach.
- (I) Structures that would otherwise be prohibited by these standards may also be permitted on finding that:
- (i) the structure is necessary to protect ~~an~~ a state or federally registered historic site ~~of national significance, which~~
- (ii) ~~that is imminently threatened by shoreline erosion;~~ erosion as defined in provision (a)(2)(B) of this Rule; and
- (iii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate and practicable to protect the site; and
- (iv) the structure is limited in extent and scope to that necessary to protect the site; and
- (v) any permit for a structure under this Part (I) may be issued only to a sponsoring public agency for projects where the public benefits ~~clearly~~ outweigh the short or long range adverse impacts. Additionally, the permit ~~must~~ shall include conditions providing for mitigation or minimization by that agency of any ~~significant~~ and unavoidable adverse impacts on adjoining properties and on public access to and use of the beach.
- (J) Structures that would otherwise be prohibited by these standards may also be permitted on finding that:
- (i) the structure is necessary to maintain an existing commercial navigation channel of regional significance within federally authorized limits; and
 - (ii) dredging alone is not practicable to maintain safe access to the affected channel; and
 - (iii) the structure is limited in extent and scope to that necessary to maintain the channel; and
 - (iv) the structure ~~will~~ shall not ~~result in substantial adverse impacts to~~ adversely impact fisheries or other public trust resources; and
 - (v) any permit for a structure under this Part (J) may be issued only to a sponsoring public agency for projects where the public benefits ~~clearly~~ outweigh the short or long range adverse impacts.

Additionally, the permit ~~must~~ shall include conditions providing for mitigation or minimization by that agency of any ~~significant~~ and unavoidable adverse impacts on adjoining properties and on public access to and use of the beach.

- (K) Proposed erosion response measures using innovative technology or design ~~will~~ shall be considered as experimental and ~~will~~ shall be evaluated on a case-by-case basis to determine consistency with 15A NCAC 07M .0200 and general and specific use standards within this Section.
- (2) Temporary Erosion Control Structures:
 - (A) Permittable temporary erosion control structures shall be limited to sandbags placed above mean high water and parallel to the shore.
 - (B) Temporary erosion control structures as defined in Part (2)(A) of this Subparagraph ~~may~~ shall be used to protect only imminently threatened roads and associated right of ways, and buildings and associated septic systems. A structure ~~will~~ shall be considered to be imminently threatened if its foundation, septic system, or right-of-way in the case of roads, is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, ~~tend to~~ increase the risk of imminent damage to the structure.
 - (C) Temporary erosion control structures ~~may~~ shall be used to protect only the principal structure and its associated septic system, but not such appurtenances as gazebos, decks or any amenity that is allowed as an exception to the erosion setback requirement.
 - (D) Temporary erosion control structures may be placed seaward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.
 - (E) Temporary erosion control structures ~~must~~ shall not extend more than 20

feet past the sides of the structure to be protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet seaward of the structure to be protected or the right-of-way in the case of roads.

- (F) A temporary erosion control structure may remain in place for up to two years after the date of approval if it is protecting a building with a total floor area of 5000 sq. ft. or less, or, for up to five years if the building has a total floor area of more than 5000 sq. ft. A temporary erosion control structure may remain in place for up to five years if it is protecting a bridge or a road. The property owner shall be responsible for removal of the temporary structure within 30 days of the end of the allowable time period. A temporary sandbag erosion control structure with a base width not exceeding 20 feet and a height not exceeding 6 feet may remain in place for up to five years or until May 2008, whichever is later regardless of the size of the structure if the community in which it is located is actively pursuing a beach nourishment project as of October 1, 2001. For purposes of this Rule, a community is considered to be actively pursuing a beach nourishment project if it has:
 - (i) been issued a CAMA permit, where necessary, approving such ~~project,~~ project; or
 - (ii) been deemed worthy of further consideration by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local money, when ~~necessary,~~ necessary; or
 - (iii) received a favorable economic evaluation report on a federal project approved prior to 1986. If beach nourishment is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of shoreline, the time extension is void and

- existing sandbags are subject to all applicable time limits set forth in Parts (A) through (N) of this Subparagraph. Sandbag structures within nourishment project areas that exceed the 20 foot base width and 6 foot height limitation may be reconstructed to meet the size limitation and be eligible for this time extension: otherwise they ~~must~~ shall be removed by May 1, 2000 pursuant to Part (N) of this Subparagraph.
- (G) Once the temporary erosion control structure is determined to be unnecessary due to relocation or removal of the threatened ~~structure,~~ structure or beach nourishment, it ~~must~~ shall be removed by the property owner within 30 ~~days.~~ days of official notification from the Division.
- (H) Removal of temporary erosion control structures ~~may~~ shall not be required if they are covered by dunes with ~~vegetation sufficient to be considered stable and natural.~~ stable and natural vegetation.
- (I) The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.
- (J) Sandbags used to construct temporary erosion control structures shall be tan in color and three to five feet wide and seven to 15 feet long when measured flat. Base width of the structure shall not exceed 20 feet, and the height shall not exceed six feet.
- (K) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.
- (L) An imminently threatened structure may be protected only once, regardless of ownership. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become imminently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Part (F) of this Subparagraph shall begin at the time the initial erosion control structure is installed. For the purpose of this Rule:
- (i) a building and septic system shall be considered as separate structures.
- (ii) a road or highway shall be allowed to be incrementally protected as sections become imminently threatened. The time period for removal of each section of sandbags shall begin at the time that section is installed in accordance with Part (F) of this Subparagraph.
- (M) Existing sandbag structures may be repaired or replaced within their originally permitted dimensions during the time period allowed under Part (F) of this Subparagraph.
- (N) Existing sandbag structures that have been properly installed prior to May 1, 1995 shall be allowed to remain in place according to the provisions of Parts (F), (G) and (H) of this Subparagraph with the pertinent time periods beginning on May 1, 1995.
- (3) Beach Nourishment. Sand used for beach nourishment shall be compatible with existing grain size and type. Sand to be used for beach nourishment shall be taken only from those areas where the resulting environmental impacts will be minimal.
- (4) Beach Bulldozing. Beach bulldozing (defined as the process of moving natural beach material from any point seaward of the first line of stable vegetation to create a protective sand dike or to obtain material for any other purpose) is development and may be permitted as an erosion response if the following conditions are met:
- (A) The area on which this activity is being performed ~~must~~ shall maintain a slope of adequate grade so as to not endanger the public or the public's use of the beach and shall follow the pre-emergency slope as closely as possible. The movement of material utilizing a bulldozer, front end loader, backhoe, scraper, or any type of earth moving or construction equipment shall not exceed one foot in depth measured from the pre-activity surface elevation;
- (B) The activity ~~must~~ shall not exceed the lateral bounds of the applicant's property unless he has permission of the adjoining land owner(s);

- (C) Movement of material from seaward of the mean low water line will require a CAMA Major Development and State Dredge and Fill Permit;
- (D) The activity ~~must~~ shall not ~~significantly~~ increase erosion on neighboring properties and ~~must~~ shall not have a ~~significant~~ an adverse effect on natural or cultural resources;
- (E) The activity may be undertaken to protect threatened on-site waste disposal systems as well as the threatened structure's foundations.

(b) Dune Establishment and Stabilization. Activities to establish dunes shall be allowed so long as the following conditions are met:

- (1) Any new dunes established shall be aligned to the greatest extent possible with existing adjacent dune ridges and shall be of the same general configuration as adjacent natural dunes.
- (2) Existing primary and frontal dunes shall not, except for beach nourishment and emergency situations, be broadened or extended in an oceanward direction.
- (3) Adding to dunes shall be accomplished in such a manner that the damage to existing vegetation is minimized. The filled areas ~~will~~ shall be immediately replanted or temporarily stabilized until planting can be successfully completed.
- (4) Sand used to establish or strengthen dunes ~~must~~ shall be of the same general characteristics as the sand in the area in which it is to be placed.
- (5) No new dunes shall be created in inlet hazard areas.
- (6) Sand held in storage in any dune, other than the frontal or primary dune, may be redistributed within the AEC provided that it is not placed any farther oceanward than the crest of a primary dune or landward toe of a frontal dune.
- (7) No disturbance of a dune area ~~will~~ shall be allowed when other techniques of construction can be utilized and alternative site locations exist to avoid unnecessary dune impacts.

(c) Structural Accessways:

- (1) Structural accessways shall be permitted across primary dunes so long as they are designed and constructed in a manner ~~which~~ that entails negligible alteration on the primary dune. Structural accessways may not be considered threatened structures for the purpose of Paragraph (a) of this Rule.
- (2) An accessway shall be conclusively presumed to entail negligible alteration of a primary ~~dune:~~ dune provided that:

- (A) The accessway is exclusively for pedestrian use;
- (B) The accessway is less than six feet in width; ~~and~~
- (C) The accessway is raised on posts or pilings of five feet or less depth, so that wherever possible only the posts or pilings touch the frontal dune. Where this is deemed impossible, the structure shall touch the dune only to the extent absolutely necessary. In no case shall an accessway be permitted if it will diminish the dune's capacity as a protective barrier against flooding and erosion; and
- (D) Any areas of vegetation that are disturbed are revegetated as soon as feasible.

(3) An accessway which does not meet Part (2)(A) and (B) of this Paragraph shall be permitted only if it meets a public purpose or need which cannot otherwise be met and it meets Part (2)(C) of this Paragraph. Public fishing piers shall not be deemed to be prohibited by this Rule, provided all other applicable standards are met.

(4) In order to avoid weakening the protective nature of primary and frontal dunes a structural accessway (such as a "Hatteras ramp") shall be provided for any off-road vehicle (ORV) or emergency vehicle access. Such accessways shall be no greater than 10 feet in width and shall be constructed of wooden sections fastened together over the length of the affected dune area.

(d) Building Construction Standards. New building construction and substantial improvements (increases of 50 percent or more in value on square footage) to existing building construction shall comply with the following standards:

(1) In order to avoid ~~unreasonable~~ danger to life and property, all development shall be designed and placed so as to minimize damage due to fluctuations in ground elevation and wave action in a ~~100-year~~ 100-year storm. Any building constructed within the ocean hazard area shall comply with relevant sections of the North Carolina Building Code including the Coastal and Flood Plain Construction ~~Standards, Chapter 34, Volume I or Section 39, Volume 1-B Standards~~ and the local flood damage prevention ordinance as required by the National Flood Insurance Program. If any provision of the building code or a flood damage prevention ordinance is inconsistent with any of the following AEC standards, the more restrictive provision shall control.

(2) All building in the ocean hazard area shall be on pilings not less than eight inches in

- diameter if round or eight inches to a side if square.
- (3) All pilings shall have a tip penetration greater than eight feet below the lowest ground elevation under the structure. For those structures so located on or seaward of the primary ~~dune or nearer to the ocean, dune,~~ the pilings ~~must~~ shall extend to five feet below mean sea level.
- (4) All foundations shall be adequately designed to be stable during applicable fluctuations in ground elevation and wave forces during a ~~400 year~~ 100-year storm. Cantilevered decks and walkways shall meet this standard or shall be designed to break-away without structural damage to the main structure.

150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
- Local
- Substantive (\geq \$3,000,000)
- None

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a,b,d; 113A-124.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rule cited as 15A NCAC 10D .0103.

Proposed Effective Date: February 1, 2006

Public Hearing:

Date: August 31, 2005

Time: 10:00 a.m.

Location: Wildlife Resources Commission Meeting Room, Archdale Bldg., 3rd Floor, 512 N. Salisbury St. Raleigh, NC

Reason for Proposed Action: *Adjust management of public game lands to expand opportunities to hunt wild turkey without a permit (i.e. establish archery zones that would allow wild turkey hunting without the necessity of obtaining a permit).*

Procedure by which a person can object to the agency on a proposed rule: *Any person who wishes to object to a proposed rule may do so by writing (or emailing) the person specified in connection with a given rule within the public comment period set up for this rule. For this rule, the contact person is David Cobb, Chief, Wildlife Management Division, 1701 Mail Service Center, Raleigh, NC 27699-1701, email david.cobb@ncwildlife.org.*

Written comments may be submitted to: *David Cobb, Chief, Wildlife Management Division, 1701 Mail Service Center, Raleigh, NC 27699-1701, email david.cobb@ncwildlife.org.*

Comment period ends: October 14, 2005

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10D - GAME LANDS REGULATIONS

SECTION .0100 - GAME LANDS REGULATIONS

15A NCAC 10D .0103 HUNTING ON GAME LANDS

(a) Safety Requirements. No person while hunting on any designated game land shall be under the influence of alcohol or any narcotic drug, or fail to comply with special restrictions enacted by the National Park Service regarding the use of the Blue Ridge Parkway where it adjoins game lands listed in this Rule.

(b) Traffic Requirements. No person shall park a vehicle on game lands in such a manner as to block traffic, gates or otherwise prevent vehicles from using any roadway.

(c) Tree Stands. It is unlawful to erect or to occupy, for the purpose of hunting, any tree stand or platform attached by nails, screws, bolts or wire to a tree on any game land designated herein. This prohibition shall not apply to lag-screw steps or portable stands that are removed after use with no metal left remaining in or attached to the tree.

(d) Time and Manner of Taking. Except where closed to hunting or limited to specific dates by this Chapter, hunting on game lands is permitted during the open season for the game or furbearing species being hunted. On managed waterfowl impoundments, hunters shall not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates, and hunting is prohibited after 1:00 p.m. on such hunting dates; decoys shall not be set out prior to 4:00 a.m. and must be removed by 3:00 p.m. each day. No person shall operate any vessel or vehicle powered by an internal combustion engine on a managed waterfowl impoundment. No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal which has been so mutilated. No person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization of the commission or its agent. A decision to grant or deny authorization shall be made

based on the best management practices for the wildlife species in question. No person shall take or attempt to take any game birds or game animals attracted to such foods. No live wild animals or wild birds shall be removed from any game land.

(e) Definitions:

- (1) For purposes of this Section "Eastern" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(A); "Central" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(D); "Northwestern" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(B); "Western" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(C).
- (2) For purposes of this Section, "Dove Only Area" refers to a Game Land on which doves may be taken and dove hunting is limited to Mondays, Wednesdays, Saturdays and to Thanksgiving, Christmas and New Year's Days within the federally-announced season.
- (3) For purposes of this Section, "Three Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays and Thanksgiving, Christmas and New Year's Days. These "open days" also apply to either-sex hunting seasons listed under each game land. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays.
- (4) For purposes of this Section, "Six Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons, except that:
 - (A) Bears shall not be taken on lands designated and posted as bear sanctuaries;
 - (B) Wild boar shall not be taken with the use of dogs on such bear sanctuaries, and wild boar may be hunted only during the bow and arrow seasons, the muzzle-loading deer season and the regular gun season on deer on bear sanctuaries;
 - (C) On game lands open to deer hunting located in or west of the counties of Rockingham, Guilford, Randolph, Montgomery and Anson, the following rules apply to the use of dogs during the regular season for hunting deer with guns:
 - (i) Except for the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison,

Polk, and Swain, game birds may be hunted with dogs.

- (ii) In the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison, Polk, and Swain, small game in season may be hunted with dogs on all game lands except on bear sanctuaries.

- (iii) Additionally, raccoon and opossum may be hunted when in season on Uwharrie Game Lands;

- (D) On bear sanctuaries in and west of Madison, Buncombe, Henderson and Polk counties dogs shall not be trained or allowed to run unleashed between March 1 and the Monday on or nearest October 15.

(f) The listed seasons and restrictions apply in the following game lands:

- (1) Alcoa Game Land in Davidson, Davie, Montgomery, Rowan and Stanly counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season in that portion in Montgomery county and deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season in those portions in Davie, Davidson, Rowan and Stanly counties.
- (2) Alligator River Game Land in Tyrrell County
 - (A) Six Day per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.
- (3) Angola Bay Game Land in Duplin and Pender counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (4) Bachelor Bay Game Land in Bertie and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (5) Bertie County Game Land in Bertie County
 - (A) Six Days per Week Area

- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (6) Bladen Lakes State Forest Game Land in Bladen County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Saturday preceding Eastern bow season with bow and arrow and the Friday preceding the Eastern muzzle-loading season with any legal weapon (with weapons exceptions described in this Paragraph) by participants in the Disabled Sportsman Program.
- (C) Handguns shall not be carried and, except for muzzle-loaders, rifles larger than .22 caliber rimfire shall not be used or possessed.
- (D) On the Singletary Lake Tract deer and bear may be taken only by still hunting.
- (E) Wild turkey hunting on the Singletary Lake Tract is by permit only.
- (F) Camping is restricted to Sep. 1-Feb 28 and April 7- May 14 in areas both designated and posted as camping areas.
- (7) Broad River Game Land in Cleveland County.
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer with Visible Antlers Season.
- (C) Use of centerfire rifles is prohibited.
- (8) Brunswick County Game Land in Brunswick County: Permit Only Area
- (9) Buckhorn Game Land in Orange County: Permit Only Area, except during the bow and arrow season for deer, during which the area shall be open as a three-day-per-week area.
- (10) Buckridge Game Land in Tyrrell County.
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days of the second week of the December Bear Season.
- (11) Buffalo Cove Game Land in Caldwell and Wilkes Counties
- (A) Six Days per Week Area
- (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving through the third Saturday after Thanksgiving. Deer may be taken with bow and arrow on open days beginning the Monday on or nearest September 10 to the fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving and during the deer with visible antlers season. Deer may be taken with muzzle-loading firearms on open days beginning the Monday on or nearest October 8 through the following Saturday, and during the Deer With Visible Antlers season.
- (C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (12) Bullard and Branch Hunting Preserve Game Lands in Robeson County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (13) Butner - Falls of Neuse Game Land in Durham, Granville and Wake counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl shall be taken only on Tuesdays, Thursdays and Saturdays; Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons. Waterfowl shall not be taken after 1:00 p.m. On the posted waterfowl impoundments a special permit is required for all waterfowl hunting after November 1.
- (D) Horseback riding, including all equine species, is prohibited.
- (E) Target shooting is prohibited
- (F) Wild turkey hunting is by permit ~~only.~~ only, except on those areas posted as an Archery Zone.
- (G) The use of dogs for hunting deer is prohibited on that portion west of NC 50 and south of Falls Lake.
- (14) Cape Fear Game Land in Pender County
- (A) Six Days per Week Area

- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Turkey Hunting is by permit only on that portion known as the Roan Island Tract.
- (15) Caswell Game Land in Caswell County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Thursday and Friday preceding the Central muzzle-loading season by participants in the Disabled Sportsman Program.
 - (C) Horseback riding is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to engaging in such activity.
 - (D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.
 - (E) The area encompassed by the following roads is closed to all quail and woodcock hunting and all bird dog training: From Yanceyville south on NC 62 to the intersection of SR 1746, west on SR1746 to the intersection of SR 1156, south on SR 1156 to the intersection of SR 1783, east on SR 1783 to the intersection of NC 62, north on NC62 to the intersection of SR 1736, east on SR 1736 to the intersection of SR 1730, east on SR 1730 to NC 86, north on NC 86 to NC 62.
- (16) Caswell Farm Game Land in Lenoir County-Dove-Only Area
 - (A) Dove hunting is by permit only from opening day through either the first Saturday or Labor Day which ever comes last of the first segment of dove season.
- (17) Catawba Game Land in Catawba County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
 - (C) Deer may be taken with bow and arrow only from the tract known as Molly's Backbone.
- (18) Chatham Game Land in Chatham County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Wild turkey hunting is by permit only.
 - (D) Horseback riding, including all equine species, is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons.
- (19) Cherokee Game Land in Ashe County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (20) Chowan Game Land in Chowan County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers Season.
- (21) Chowan Swamp Game Land in Gates County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (22) Cold Mountain Game Land in Haywood County
 - (A) Six Days per Week Area
 - (B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (23) Columbus County Game Land in Columbus County.
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (24) Croatan Game Land in Carteret, Craven and Jones counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl shall be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and

- (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (25) Currituck Banks Game Land in Currituck County
 - (A) Six Days per Week Area
 - (B) Permanent waterfowl blinds in Currituck Sound on these game lands shall be hunted by permit only after November 1.
 - (C) Licensed hunting guides may accompany the permitted individual or party provided the guides do not possess or use a firearm.
 - (D) The boundary of the Game Land shall extend 5 yards from the edge of the marsh or shoreline.
 - (E) Dogs shall be allowed only for waterfowl hunting by permitted waterfowl hunters on the day of their hunt.
 - (F) No screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.
- (26) Dare Game Land in Dare County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last day of the Deer With Visible Antlers Season.
 - (C) No hunting on posted parts of bombing range.
 - (D) The use and training of dogs is prohibited from March 1 through June 30.
- (27) Dupont State Forest Game Lands in Henderson and Transylvania counties
 - (A) Hunting is by Permit only.
 - (B) The training and use of dogs for hunting except during scheduled small game permit hunts for squirrel, grouse, rabbit, or quail is prohibited.
 - (C) Participants of the Disabled Sportsman Program may also take deer of either sex with any legal weapon on the Saturday prior to the first segment of the Western bow and arrow season.
- (28) Elk Knob Game Land in Ashe and Watauga counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (29) Goose Creek Game Land in Beaufort and Pamlico counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons; and
 - (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (D) After November 1, on the Pamlico Point, Campbell Creek, Hunting Creek and Spring Creek impoundments, a special permit is required for hunting on opening and closing days of the applicable waterfowl seasons, Saturdays of the applicable waterfowl seasons, and on Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days.
- (E) Camping is restricted to Sep. 1-Feb 28 and April 7- May 14 in areas both designated and posted as camping areas.
- (30) Green River Game Land in Henderson, and Polk counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding is prohibited except on designated trails May 16 through-August 31 and all horseback riding is prohibited from September 1 through May 15. This rule includes all equine species.
- (31) Green Swamp Game Land in Brunswick County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (32) Gull Rock Game Land in Hyde County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl on posted waterfowl impoundments shall be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons; and

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| <p>(ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and</p> <p>(iii) Tuesdays and Saturdays of the applicable waterfowl season.</p> <p>(D) Camping is restricted to Sep. 1-Feb 28 and April 7- May 14 in areas both designated and posted as camping areas.</p> <p>(E) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season on the Long Shoal River Tract of Gull Rock Game Land.</p> <p>(33) Harris Game Land in Chatham, Harnett and Wake counties</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Waterfowl shall be taken only on Tuesdays, Fridays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.</p> <p>(D) The use or construction of permanent hunting blinds shall be prohibited.</p> <p>(E) Wild turkey hunting is by permit only.</p> <p>(34) Holly Shelter Game Land in Pender County</p> <p>(A) Three Days per Week Area.</p> <p>(B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Friday preceding the Eastern muzzle-loading season with any legal weapon and the Saturday preceding Eastern bow season with bow and arrow by participants in the Disabled Sportsman Program.</p> <p>(C) Waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons regardless of the day of the week on which they occur, provided however, that waterfowl in posted waterfowl impoundments shall be taken only on the following days:</p> <p>(i) the opening and closing days of the applicable waterfowl seasons;</p> | <p>(ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and</p> <p>(iii) Tuesdays and Saturdays of the applicable waterfowl seasons.</p> <p>(D) Camping is restricted to Sep. 1-Feb 28 and April 7- May 14 in areas both designated and posted as camping areas.</p> <p>(35) Hyco Game land in Person County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(36) J. Morgan Futch Game Land in Tyrrell County, Permit Only Area.</p> <p>(37) Jordan Game Land in Chatham, Durham, Orange and Wake counties</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.</p> <p>(D) Horseback riding, including all equine species, is prohibited except on those areas posted as American Tobacco Trail and other areas specifically posted for equestrian use. Unless otherwise posted, horseback riding is permitted on posted portions of the American Tobacco Trail anytime the trail is open for use. On all other trails posted for equestrian use, horseback riding is allowed only during June, July and August, and on Sundays the remainder of the year except during open turkey and deer seasons.</p> <p>(E) Target shooting is prohibited.</p> <p>(F) Wild turkey hunting is by permit only <u>only, except on those areas posted as an Archery Zone.</u></p> <p>(38) Kerr Scott Game Land in Wilkes County</p> <p>(A) Six Days per Week Area</p> <p>(B) Use of centerfire rifles shall be prohibited.</p> <p>(C) Use of muzzleloaders, shotguns, or rifles for hunting deer during the applicable Deer With Visible Antlers Season shall be prohibited.</p> |
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- (D) Tree stands shall not be left overnight and no screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.
- (E) Deer of either sex may be taken on all open days of the applicable deer with visible antlers season.
- (39) Lantern Acres Game Land in Tyrrell and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Wild turkey hunting is by permit only.
- (40) Lee Game Land in Lee County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (41) Linwood Game Land in Davidson County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken on all of the open days of the applicable Deer With Visible Antlers Season.
- (42) Mayo Game Land in Person County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl shall be taken only on Tuesdays, Thursdays and Saturdays; Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons.
- (43) Nantahala Game Land in Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season in that portion located in Transylvania County.
 - (C) Raccoon and opossum shall be hunted only from sunset Friday until sunrise on Saturday and from sunset until 12:00 midnight on Saturday on Fires Creek Bear Sanctuary in Clay County and in that part of Cherokee County north of US 64 and NC 294, east of Persimmon Creek and Hiwassee Lake, south of Hiwassee Lake and west of Nottely River; in the same part of Cherokee County dog training is prohibited from March 1 to the Monday on or nearest October 15.
- (44) Needmore Game Land in Macon and Swain counties.
 - (A) Six Days per Week Area
 - (B) Horseback riding shall be prohibited except on designated trails May 16 through August 31 and all horseback riding shall be prohibited from September 1 through May 15. This Rule includes all equine species.
- (45) Neuse River Game Land in Craven County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (46) New Lake Game Land in Hyde County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (47) North River Game Land in Currituck and Camden counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season except in that part in Camden County south of US 158 where the season is the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
 - (D) Wild turkey hunting is by permit only on that portion in Camden County.
- (48) Northwest River Marsh Game Land in Currituck County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
- (49) Pee Dee River Game Land in Anson, Montgomery, Richmond and Stanly counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Use of centerfire rifles prohibited in that portion in Anson and Richmond counties North of US-74.
- (50) Perkins Game Land in Davie County
 - (A) Three Days per Week Area

- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (51) Pisgah Game Land in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season except on that portion in Avery and Yancey counties and that portion in Haywood County encompassed by US 276 on the north, US 74 on the west, and the Blue Ridge Parkway on the south and east.
 - (C) Harmon Den and Sherwood Bear Sanctuaries in Haywood County are closed to hunting raccoon, opossum and wildcat. Training raccoon and opossum dogs is prohibited from March 1 to the Monday on or nearest October 15 in that part of Madison County north of the French Broad River, south of US 25-70 and west of SR 1319.
- (52) Pungo River Game Land in Hyde County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (53) Roanoke River Wetlands in Bertie, Halifax and Martin counties
 - (A) Hunting is by Permit only.
 - (B) Vehicles are prohibited on roads or trails except those operated on official Commission business or by permit holders.
 - (C) Camping is restricted to Sep. 1-Feb 28 and April 7- May 14 in areas both designated and posted as camping areas.
- (54) Roanoke Sound Marshes Game Land in Dare County-Hunting is by permit only.
- (55) Robeson Game Land in Robeson County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (56) Sampson Game Land in Sampson County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (57) Sandhills Game Land in Hoke, Moore, Richmond and Scotland counties
 - (A) Three Days per Week Area
- (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving except on the field trial grounds where the gun season is open days from the second Monday before Thanksgiving through the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting days during the bow and arrow season, as well as during the regular gun season. Deer may be taken with muzzle-loading firearms on open days beginning the third Saturday before Thanksgiving through the following Wednesday, and during the Deer With Visible Antlers season.
- (C) Gun either-sex deer hunting is by permit only. For participants in the Disabled Sportsman Program, either-sex deer hunting with any legal weapon is permitted on all areas the Thursday and Friday prior to the muzzle-loading season described in the preceding paragraph. Except for the deer, opossum, rabbit, and raccoon seasons specifically indicated for the field trial grounds in this Rule and Disabled Sportsman Program hunts, the field trial grounds are closed to all hunting during the period October 22 to March 31.
- (D) In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons
- (E) Wild turkey hunting is by permit only.
- (F) Dove hunting on the field trial grounds will be prohibited from the second Sunday in September through the remainder of the hunting season.
- (G) Opossum and raccoon hunting on the field trial grounds will be allowed on open days from the second Monday before Thanksgiving through the Saturday following Thanksgiving and rabbit season on the field trial grounds will be from the Saturday preceding Thanksgiving through the Saturday following Thanksgiving.
- (H) The following areas are closed to all quail and woodcock hunting and dog training on birds: In Richmond County: that part east of US 1; In

- Scotland County: that part east of east of SR 1001 and west of US 15/501.
- (I) Horseback riding on field trial grounds from October 22 through March 31 shall be prohibited except by participants in authorized field trials.
- (58) Scuppernong Game Land in Tyrrell and Washington counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (59) Shocco Creek Game Land in Franklin and Warren counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (60) South Mountains Game Land in Burke, Cleveland, McDowell and Rutherford counties
- (A) Six Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving through the third Saturday after Thanksgiving.
 - (C) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
 - (E) That part of South Mountains Game Land in Cleveland, McDowell, and Rutherford counties is closed to all grouse, quail and woodcock hunting and all bird dog training.
- (61) Stones Creek Game Land in Onslow County
- (A) Six-Day per Week Area.
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season
 - (C) Swimming in all lakes is prohibited.
- (62) Suggs Mill Pond Game Land in Bladen County;
- (A) Hunting is by Permit only.
 - (B) Camping is restricted to Sep. 1-Feb 28 and April 7- May 14 in areas both designated and posted as camping areas.
- (63) Sutton Lake Game Land in New Hanover County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (64) Tar River Game Land in Edgecombe County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl may be taken on the following days
 - (i) the opening and closing days of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (65) Three Top Mountain Game Land in Ashe County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (66) Thurmond Chatham Game Land in Wilkes County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season. Participants of the Disabled Sportsman Program may also take either-sex deer with bow and arrow on the Saturday prior to Northwestern bow and arrow season.
 - (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species. Participants must obtain a game lands license prior to horseback riding on this area.
- (67) Toxaway Game Land in Transylvania County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season. Participants of the Disabled Sportsman Program may also take deer of either sex with any legal

weapon on the Saturday prior to the first segment of the Western bow and arrow season.

(C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.

(68) Uwharrie Game Land in Davidson, Montgomery and Randolph counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first six open days and the last open six days of the applicable Deer With Visible Antlers Season.

(69) Vance Game Land in Vance County

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) The use of dogs, centerfire rifles and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.

(70) Van Swamp Game Land in Beaufort and Washington counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(71) White Oak River Impoundment Game Land in Onslow County

(A) Three Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:

(i) the opening and closing days of the applicable waterfowl seasons; and

(ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and

(iii) Tuesdays and Saturdays of the applicable waterfowl seasons.

(D) After October 1, a special permit is required for hunting on opening and closing days of the applicable waterfowl seasons, Saturdays of the applicable waterfowl seasons, and on Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days.

(g) On permitted type hunts deer of either sex may be taken on the hunt dates indicated on the permit. Completed applications

must be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits shall be issued by random computer selection, shall be mailed to the permittees prior to the hunt, and shall be nontransferable. A hunter making a kill must validate the kill and report the kill to a wildlife cooperater agent or by phone.

(h) The following game lands and refuges shall be closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission:

Bertie, Halifax and Martin counties-Roanoke River Wetlands

Bertie County-Roanoke River National Wildlife Refuge Bladen County—Suggs Mill Pond Game Lands

Burke County—John's River Waterfowl Refuge Dare County-Dare Game Lands (Those parts of bombing range posted against hunting)

Dare County--Roanoke Sound Marshes Game Lands Davie-Hunting Creek Swamp Waterfowl Refuge

Gaston, Lincoln and Mecklenburg counties-Cowan's Ford Waterfowl Refuge

Henderson and Transylvania counties--Dupont State Forest Game Lands

Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-305.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to adopt the rule cited as 15A NCAC 10F .0371.

Proposed Effective Date: February 1, 2006

Public Hearing:

Date: September 1, 2005

Time: 7:00 p.m.

Location: Government Center, Courtroom B, 1012 Main Street, Danbury, NC

Reason for Proposed Action: Duke Energy Corporation is engaged in a large construction effort that poses an imminent danger to citizens who do not heed warning buoys in the absence of enforcement authority. The activity involves blasting of large chunks of earth, movement of heavy machinery, much of which hangs over the cove proposed for an exclusionary zone and movement of tanks containing anhydrous ammonia, which is explosive. One portion of the rule will create an exclusionary zone for this reason, and also because the plant intake within that cove creates a suction action that is hazardous for swimmers or boaters. The construction activity is not scheduled for completion until 2008, but the plant intake will remain. Another portion of the rule will create an evacuation zone applicable to the waters near the construction site. This evacuation zone rule is contemplated for use in the event a Belews Creek Steam Station siren is triggered by accidental release of anhydrous ammonia from six 60,000 gallon tanks.

Procedure by which a person can object to the agency on a proposed rule: *Persons may object to this proposed rule by writing to the agency with attention to Joan Troy, 1701 Mail Service Center, Raleigh, NC 27699-1701, or by emailing Joan Troy at joan.troy@ncwildlife.org. Objections directed to Ms Troy's attention will be incorporated into the body of public comment received at the public hearing. The deadline for submitting objections to this proposal is November 14, 2005.*

Written comments may be submitted to: *Joan Troy, 1701 Mail Service Center, Raleigh, NC 27699-1701, or email joan.troy@ncwildlife.org.*

Comment period ends: *November 14, 2005. The comment period for the Temporary Rule is from July 27, 2005 to September 30, 2005.*

Procedure for Subjecting a Proposed Rule to Legislative Review: *If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.*

Fiscal Impact

- State
- Local
- Substantive (≥\$3,000,000)
- None

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F .0371 BELEWS LAKE IN STOKES COUNTY

(a) Regulated Area. This Rule applies only to the areas described in Paragraphs (b) and (c) in Belews Lake in Stokes County.

(b) No swimming or boating in exclusionary zone. No swimming or other entry of a person in or upon a boat, raft or other floating object shall be permitted in the cove containing the power station's plant intake on the western side of Belews Lake approximately 1,000 feet northeast of Belews Creek Steam Station, as marked by warning buoys and signs.

(c) No swimming or boating in evacuation area in event of alarm. In the event of a siren or audible alarm generated by the Belews Creek Steam Station, all persons swimming, boating or occupying a raft or other floating object on the lake shall evacuate the area on the western side of Belews Lake approximately 4,000 feet northeast of Belews Creek Station as marked by warning buoys and signs.

(d) Paragraphs (b) and (c) shall not apply to persons who, with consent of Duke Energy Corporation, access the area for the purpose of responding to emergency or maintaining or repairing facilities of Duke Energy Corporation.

(e) Placement and Maintenance of Markers. The Duke Energy Corporation is designated as a suitable entity for placement and maintenance of buoys, barriers and other signs indicating the areas in which boating or swimming are prohibited by this Rule.

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

TITLE 21 – OCCUPATIONAL LICENSING BOARDS

CHAPTER 08 - BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of CPA Examiners intends to adopt the rules cited as 21 NCAC 08N .0214, .0308, amend the rules cited as 21 NCAC 08A .0301, .0308; 08F .0103, .0105-.0107, .0304, .0401, .0409-.0410; 08G .0410; 08H .0101, .0105; 08M .0105-.0106; 08N .0103, .0204, .0208, .0213, .0302-.0305, .0307, .0401, .0408 and repeal the rules cited as 21 NCAC 08A .0311; 08F .0110, .0112.

Proposed Effective Date: *January 1, 2006*

Public Hearing:
Date: *September 19, 2005*
Time: *10:00 a.m.*

Location: *1101 Oberlin Road, Suite 104, Raleigh, NC*

Reason for Proposed Action: *The purpose of this rulemaking is to adopt new rules and amend old rules to conform with the Uniform Accountancy Act and to amend and repeal rules no longer required because of the computerization of the Uniform CPA Examination.*

Procedure by which a person can object to the agency on a proposed rule: *A person may make a written comment and or be present at the public hearing to make an oral comment in objection to the rule.*

Written comments may be submitted to: *Robert N. Brooks, NC State Board of CPA Examiners, PO Box 12827, Raleigh, NC 27605-2827, phone (919)733-1425, fax (919)733-4209 or email rnbrooks@bellsouth.net.*

Comment period ends: *October 14, 2005*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
- Local
- Substantive (≥\$3,000,000)
- None

SUBCHAPTER 08A - DEPARTMENTAL RULES

SECTION .0300 - DEFINITIONS

21 NCAC 08A .0301 DEFINITIONS

(a) The definitions set out in G.S. 93-1(a) shall apply when those defined terms are used in 21 NCAC 8.

(b) In addition to the definitions set out in G.S. 93-1(a), the following definitions and other definitions in this Section apply when these terms are used in 21 NCAC 8:

- (1) "Active," when used to refer to the status of a person, describes a person who possesses a North Carolina certificate of qualification and who has not otherwise been granted "Retired," "Inactive," or "Conditional" status;
- (2) "~~Agreed upon procedure" means a client has engaged a CPA to issue a report of findings based on specific procedures performed on specific subject matter of specified elements, accounts, or accounting information that is part of but significantly less than a financial statement;~~ "Agreed upon procedures of prospective financial information" means a professional service whereby a CPA is engaged to issue a report of findings based on specific procedures performed on prospective financial information (financial forecast or financial projections) prepared by a responsible party.
- (3) "Agreed upon procedures of a written assertion" means a professional service whereby a CPA is engaged to issue a report of findings based on specific procedures performed on a written assertion that is the responsibility of another party.
- (~~3~~)(4) "AICPA" means the American Institute of Certified Public Accountants;

- (~~4~~)(5) "Applicant" means a person who has applied to take the CPA ~~examination; examination or applied for a certificate of qualification;~~
- (~~5~~)(6) "Attest service" means:
 - (A) any audit;
 - (B) any review of ~~a financial statement;~~ statements;
 - (C) any compilation of ~~a financial statement~~ statements; when the CPA expects, or reasonably might expect, that a third party will use the compilation and the CPA does not disclose a lack of independence;
 - (D) any examination of prospective financial ~~information; or statements;~~
 - (E) ~~any agreed upon procedure; any compilation of prospective financial statements;~~
 - (F) any agreed upon procedures of prospective financial information;
 - (G) any examination of written assertions;
 - (H) any review of written assertions; or
 - (I) any agreed upon procedures of written assertions.
- (~~6~~)(7) "~~Audit" means an examination of financial statements of a person by a CPA, conducted in accordance with generally accepted auditing standards, to determine whether, in the CPA's opinion, the statements conform with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting;~~ "Audit" means a professional service whereby a CPA is engaged to examine financial statements, prepared by management, to express an opinion on whether the financial statements are presented in conformity with generally accepted accounting principles or other comprehensive basis of accounting.
- (7)(8) "Calendar year" means the 12 months beginning January 1 and ending December 31;
- (8)(9) "Candidate" means a person whose application to take the CPA examination has been accepted and who may sit for the CPA examination;
- (~~9~~)(10) "Client" means a person who orally or in writing agrees with a licensee to receive any professional services;
- (~~10~~)(11) "Commission" means compensation, except a referral fee, for recommending or referring any product or service to be supplied by another person;
- (~~11~~)(12) "~~Compilation of a financial statement" means presenting in the form of a financial statement information that is the representation of any other person without the CPA's undertaking to express any assurance on the statement;~~ Compilation of financial statements" means a professional service whereby a CPA is engaged to present, in the

- form of financial statements, information that is the representation of management without undertaking to express any assurance on the statements.
- (13) "Compilation of prospective financial statements" means a professional service whereby a CPA is engaged to assemble, to the extent necessary, prospective financial statements (forecasted financial statements or projected financial statements) based on the responsible party's assumptions, to perform the required compilation procedures and to issue a compilation report on whether the statements are presented in conformity with AICPA presentation guidelines.
- (12)(14) "Conditional," when used to refer to the status of a person, describes a person who holds a North Carolina certificate of qualification under certain conditions as imposed by the Board, such as additional requirements for failure to complete the required CPE hours in a calendar year; year, for failure to comply with CPA firm registration, or for failure to comply with peer review reporting and or participation in peer review.
- (13)(15) "Contingent fee" means a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service;
- (14)(16) "CPA" means certified public accountant;
- (15)(17) "CPA firm" means a sole proprietorship, a partnership, a professional corporation, a professional limited liability company, or a registered limited liability partnership which uses "certified public accountant(s) " or "CPA(s) " in or with its name or offers to or renders any attest services in the public practice of accountancy;
- (16)(18) "CPE" means continuing professional education;
- (17)(19) "Disciplinary action" means revocation or suspension of, or refusal to grant, membership, or the imposition of a reprimand, probation, constructive comment, or any other penalty or condition;
- (18)(20) "Examination of prospective financial information" means an evaluation by a CPA of:
- (A) a forecast or projection;
 - (B) the support underlying the assumptions in the forecast or projection;
 - (C) whether the presentation of the forecast or projection is in conformity with AICPA presentation guideline; or
- (D) whether the assumptions in the forecast or projection provide a reasonable basis for the forecast or projection;
- "Examination of prospective financial statements" means a professional service whereby a CPA is engaged to evaluate the preparation of prospective financial statements by a responsible party to evaluate the support underlying the assumptions, to evaluate the presentation of prospective financial statements for conformity with the AICPA presentation guidelines and to issue an examination report.
- (21) "Examination of a written assertion" means a professional service whereby a CPA is engaged to examine and issue a report on whether an assertion (any declaration or set of declarations about whether the subject matter is based on or in conformity with the criteria selected) that is the responsibility of another party is presented or stated fairly in all material respects based on the criteria.
- (19)(22) "FASB" means the Financial Accounting Standards Board;
- (20)(23) "Forecast" means prospective financial statements that present, to the best of the responsible party's knowledge and belief, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions the entity expects to exist and the course of action the entity expects to take;
- (21)(24) "GASB" means the Governmental Accounting Standards Board;
- (22)(25) "Inactive," when used to refer to the status of a person, describes one who has requested inactive status and been approved by the Board and who does not use the title "certified public accountant" nor does he or she allow anyone to refer to him or her as a "certified public accountant," and neither he or she nor anyone else refers to him or her in any representation as described in 21 NCAC 8A .0308(b).
- (23)(26) "IRS" means the Internal Revenue Service;
- (24)(27) "Jurisdiction" means any state or territory of the United States or the District of Columbia;
- (25)(28) "License year" means the 12 months beginning July 1 and ending June 30;
- (26)(29) "Member of a CPA firm" means any CPA who has an equity ownership interest in a CPA firm;
- (27)(30) "NASBA" means the National Association of State Boards of Accountancy;
- (28)(31) "NCACPA" means the North Carolina Association of Certified Public Accountants;

- ~~(29)~~(32) "North Carolina office" means any office physically located in North Carolina;
- ~~(30)~~(33) "Person" means any natural person, corporation, partnership, professional limited liability company, registered limited liability partnership, unincorporated association, or other entity;
- ~~(31)~~(34) "Professional" means arising out of or related to the particular knowledge or skills associated with CPAs;
- ~~(32)~~(35) "Projection" means prospective financial statements that present, to the best of the responsible party's knowledge and belief, given one or more hypothetical assumptions, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions it expects would exist and the course of action it expects would be taken given such hypothetical assumptions;
- ~~(33)~~(36) "Referral fee" means compensation for recommending or referring any service of a CPA to any person;
- ~~(34)~~(37) "Retired," when used to refer to the status of a person, describes one possessing a North Carolina certificate of qualification who verifies to the Board that the applicant does not receive or intend to receive in the future any earned compensation for current personal services in any job whatsoever and will not return to active status. However, retired status does not preclude volunteer services for which the retired CPA receives no direct nor indirect compensation so long as the retired CPA does not sign any documents, related to such services, as a CPA;
- ~~(35)~~(38) "Revenue Department" means the North Carolina Department of Revenue;
- ~~(36)~~(39) "~~Review~~" means ~~to perform an inquiry and analytical procedures that permit a CPA to determine whether there is a reasonable basis for expressing limited assurance that there are no material modifications that should be made to financial statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting;~~ "Review of financial statements" means a professional service whereby a CPA is engaged to perform procedures, limited to analytical procedures and inquiries, to obtain a reasonable basis for expressing limited assurance on whether any material modifications should be made to the financial statements for them to be in conformity with generally accepted accounting principles or other comprehensive basis of accounting.
- (40) "Review of a written assertion" means a professional service whereby a CPA is engaged to perform review procedures that are substantially less in scope than an examination and to issue a report providing limited assurance on whether an assertion (any declaration or set of declarations about whether the subject matter is based on or in conformity with the criteria selected), that is the responsibility of another party, is presented or stated fairly in all material respects based on the criteria.
- ~~(37)~~(41) "Reviewer" means a member of a review team including the review team captain.
- ~~(38)~~(42) "Suspension" means a revocation for a specified period of time. A CPA may be reinstated after a specific period of time if the CPA has met all conditions imposed by the Board at the time of suspension; and
- ~~(39)~~(43) "Trade name" means a name used to designate a business enterprise.
- (44) "Work papers" mean the CPA's records of the procedures applied, the tests performed, the information obtained, and the conclusions reached in attest services, tax, consulting, special report, or other engagement. Work papers include, but are not limited to, programs used to perform professional services, analyses, memoranda, letters of confirmation and representation, checklists, copies or abstracts of company documents, and schedules of commentaries prepared or obtained by the CPA. The forms include, but are not limited to, handwritten, typed, printed, word processed, photocopied, photographed, computerized data, or in any other form of letters, words, pictures, sounds or symbols.
- (45) "Work product" means the end result of the engagement for the client which may include, but is not limited to a tax return, attest services, consulting report, and financial planning. The forms include, but are not limited to, handwritten, typed, word processed, photocopied, photographed, computerized data, or in any other form of letters, words, pictures, sounds, or symbols.
- (c) Any requirement to comply by a specific date to the Board that falls on a weekend or federal holiday shall be received as in compliance if postmarked by U.S. Postal Service cancellation or received in the Board office on the next business day.

Authority G.S. 93-1; 93-12(8c).

21 NCAC 08A .0308 HOLDING OUT TO THE PUBLIC

(a) The phrase "holds himself out to the public as a certified public accountant," as used in defining "public practice of accountancy" in G.S. 93-1(a)(5) and in these rules, means any representation that a person holds a certificate of qualification, if

that representation is made in connection with an offer to perform or the performance of accountancy services for the public, regardless of whether that representation is made by the person, someone associated with that person, or someone serving as that person's agent. Any such representation is presumed to invite the public to rely upon the professional skills implied by the certificate in connection with the professional services offered to be performed or performed by the person.

(b) For purposes of this Rule, a representation shall be deemed to include any ~~oral~~ oral, electronic, or written communication indicating that the person holds a certificate, including without limitation the use of titles or legends on letterheads, reports, business cards, brochures, resumes, office signs, telephone ~~directories~~ directories, websites, the Internet, or any other advertisements, news articles, publications, listings, tax return signatures, signatures on experience or character affidavits for exam or certificate applicants, displayed membership in CPA associations, displayed CPA licenses from this or any other state, jurisdiction, and displayed certificates or licenses from other organizations which have the designation "CPA" or "Certified Public Accountant" by the licensee's name.

Authority G.S. 93-1(a)(5); 93-12.

21 NCAC 08A .0311 EMPHASIS IN TAXATION OR ACCOUNTING

~~Pursuant to G.S. 93-12(5), a law degree with an emphasis in taxation or accounting may be substituted for one year of the experience requirement for certification purposes. For the purposes of this substitution, an "emphasis in taxation or accounting" shall mean 12 semester hours in taxation or accounting above the undergraduate level.~~

Authority G.S. 93-12(5).

21 NCAC 08F .0103 FILING OF EXAMINATION APPLICATIONS AND FEES

(a) All applications for CPA examinations shall be filed with the Board, accompanied by the examination fee. The Board sets the fee for each examination at the amount that enables the Board to recover only its actual costs of examination services. If a check or credit card authorization fails to clear the bank, the application shall be deemed incomplete and returned.

~~(b) Completed initial applications shall be postmarked with proper postage not later than the last day of January for the spring examination and not later than the last day of July for the fall examination. Completed re-exam applications shall be postmarked with proper postage not later than the last day of February for the spring examination and not later than the last day of August for the fall examination. If one of those dates falls on a weekend or federal holiday, the application shall be postmarked or received in the Board office by the end of the next business day. Only a U.S. Postal Service cancellation shall be considered as the postmark. If an application is sent to the Board office via a private delivery service, the date the package is received by the delivery service shall be considered as the postmark.~~

~~(e)~~(b) The initial application filed to take the examination shall include supporting documentation demonstrating that all legal requirements have been met, such as:

- (1) minimum legal age;
- (2) education;
- (3) experience, if required in order to qualify for the examination; and
- (4) good moral character.
- (5) Any person born outside the United States shall furnish to the Board office evidence of citizenship; evidence of resident alien status; or
 - (A) other bona fide evidence that the applicant is legally allowed to remain in the United States for the purposes of becoming a U.S. citizen; or
 - (B) a notarized affidavit of intention to become a U.S. citizen; or
 - (C) evidence that the applicant is a citizen of a foreign jurisdiction which extends to citizens of this state like or similar privileges to be examined.

~~(d)~~(c) Official transcripts (originals – not photocopies) signed by the college registrar and bearing the college seal are required to prove education and degree requirements. A letter from the college registrar of the school may be filed as documentation that the applicant has met the graduation requirements if the degree has not been awarded and posted to the transcript. However, no examination grades shall be released until an official transcript is filed confirming the information supplied in the college registrar's letter. All applicants submitting transcripts from foreign schools for consideration of degree and of meeting accountancy course requirements shall have had the transcript(s) evaluated by Foreign Academic Credential Service, Inc. (FACS) or a comparable educational evaluation service. Applicants shall determine that their transcripts contain all information required by these Rules.

~~(e)~~(d) If experience is required to qualify for examination, affidavits shall be prepared and signed by employers on forms supplied by the Board.

~~(f)~~(e) In order to document good moral character as required by Subparagraph ~~(e)(4)~~ (b)(4) of this Rule, three certificates of good moral character signed by persons not related by blood or marriage to the applicant shall accompany the application.

~~(g)~~(f) No additional statements and affidavits regarding experience and education shall be required for applications for re-examination.

~~(h)~~(g) An applicant shall include as part of any application for the CPA examination a statement of explanation and a certified copy of the final deposition if the applicant has been arrested, charged, convicted or found guilty of, received a prayer for judgment continued or pleaded nolo contendere to any criminal offense.

~~(i)~~(h) If an applicant has been denied any license by any state or federal agency, the applicant shall include as part of the application for the CPA examination a statement explaining such denial. An applicant shall include a statement of explanation and a certified copy of applicable license records if the applicant has

been registered with or licensed by a state or federal agency and has been disciplined by that agency.

~~(i)(l)~~ Two recent identical photographs shall accompany the application for the CPA examination. These photographs shall have been taken within the last six months. The photographs shall be of the applicant alone, 2x2 inches in size, with an image size from the bottom of the chin to the top of the head, including hair, of between 1 and 1-3/8 inches. Photographs shall be clear, front view, full face, taken in normal street attire without a hat or dark glasses, and printed on thin paper with a plain light background. They shall be capable of withstanding a mounting temperature of 225 degrees Fahrenheit (107 degrees Celsius). They may be in black and white or in color. Snapshots, most vending-machine prints, and magazine or full-length photographs are unacceptable. Photographs retouched so that the applicant's appearance is changed are unacceptable. Applicants shall write their names on the back of their photos.

~~(k)(j)~~ If an applicant's name has legally changed and is different from the name on any transcript or other document supplied to the Board, the applicant shall furnish copies of the documents legally authorizing the name change.

~~(l)(k)~~ Effective with the administration of the computer based CPA Examination, candidates Candidates shall file initial and re-exam applications to sit for the CPA Examination. Examination on forms provided by the Board.

~~(m)(l)~~ Effective with the administration of the computer based CPA Examination, examination Examination fees will be valid for a six-month period from the date of the notice to schedule. Notice To Schedule (NTS).

Authority G.S. 93-12(3); 93-12(4); 93-12(5).

21 NCAC 08F .0105 CONDITIONING REQUIREMENTS

(a) Passing Grades. A candidate shall be required to pass all sections of the examination with a grade of 75 or higher on each section.

~~(b) Conditional Credit. If a candidate does not pass all of the sections in one sitting, conditional credit may be retained for passed sections subject to the following:~~

- ~~(1) No conditional credit may be retained until the candidate has first passed at least two sections in one sitting;~~
- ~~(2) To receive conditional credit for any section the candidate must sit for and make a grade of at least 50 on all unpassed sections; and~~
- ~~(3) The conditional credit is good through the six succeeding times the exam is offered by the Board.~~

~~(c) Military Service. A candidate who was or is in active military service after receiving conditional credit shall have counted as succeeding examinations only those exams for which that candidate applied and was approved during active military service.~~

~~(d)(b)~~ A candidate who has conditional credit prior to January 1, 1997, may continue to apply to sit for the examination as long as the conditional credit is valid. A candidate who no longer has valid conditional credit after January 1, 1997, shall be required

to meet all education requirements in effect at the time of their subsequent application.

~~(e)(c)~~ Effective with the administration of the computer based CPA Examination, a candidate is subject to the following conditioning requirements:

- (1) A candidate shall be required to obtain a passing grade on all sections of the examination within an 18-month period;
- (2) A candidate may sit for any section of the examination individually;
- (3) A candidate may sit for each section of the examination up to four times during a one-year period but not more than one time in a three-month testing window as defined by the examination vendors(s);
- (4) A candidate shall receive credit on the passage of his or her section(s) of the examination; such credit(s) shall be valid for an 18-month period which begins on the date the section(s) passed is (are) taken; and
- (5) A candidate having earned conditional credits on the paper-and-pencil CPA Examination has until October 31, 2005, or 18 months after administration of the last paper-and-pencil examination to pass the remaining sections(s) before the credits earned under the paper-and-pencil examination expire.

Authority G.S. 93-12(3); 93-12(5).

21 NCAC 08F .0106 GRANTING EXAMINATION CREDIT FROM OTHER JURISDICTIONS

(a) The Board may grant candidates credit for passing parts of the AICPA Uniform CPA Examination in another state jurisdiction or territory of the United States.

(b) To be considered for credit, the passing grades must meet the requirements of 21 NCAC 8F .0105. To transfer credit, the candidate must file an application with the Board on a form provided by the Board. Such application may be made simultaneously with the application to take the CPA examination.

Authority G.S. 93-12(2); 93-12(3).

21 NCAC 08F .0107 COMMUNICATION OF RESULTS OF CPA EXAMINATIONS

(a) The Board shall communicate to candidates in writing the result achieved in each of their examinations. Grades awarded to candidates shall not be released to third parties except by written consent of the candidate.

(b) In no event shall any information concerning answers of candidates be given to anyone other than the candidate.

~~(c) Examination grades shall be mailed on the uniform national release date agreed to with the NASBA and the AICPA. However, candidates may receive their grades personally at the offices of the Board on the release date by notifying the Executive Director in writing not later than five days prior to the release date. to the candidates upon receipt by the Board.~~

~~(d) Information prepared by the Board's staff about the results of the examination and intended for public information shall be made available no earlier than the day after the uniform national release date.~~

Authority G.S. 93-12(2); 93-12(3).

21 NCAC 08F .0110 PROCTORING OTHER JURISDICTIONS' CANDIDATES

~~(a) As a courtesy to other jurisdiction boards, and on their behalf, this Board shall proctor, in North Carolina, candidates taking the CPA examination. The following procedures shall be followed by persons desiring to be proctored in this state.~~

~~(b) A request for proctoring shall be on a form provided by the Board and shall contain evidence from the home jurisdiction board that it has approved the candidate's examination application and the proctoring request.~~

~~(c) The request for proctoring form shall be delivered to the Board office not later than April 1 for the May CPA examination and not later than October 1 for the November CPA examination.~~

~~(d) The approval of the proctoring request shall be at the discretion of the Board and is not promised to any applicant. Factors considered in the decision shall include, but not be limited to, space availability, reasons for the proctoring request, date the application was received, reasons for any previous proctoring requests, and any special circumstances requested by the home jurisdiction board or applicant.~~

~~(e) Effective with the administration of the computer based CPA Examination, the Board may limit other jurisdictions' candidates from testing in any testing center in North Carolina.~~

Authority G.S. 93-12.

21 NCAC 08F .0112 CANDIDATE'S REQUEST TO SIT IN ANOTHER JURISDICTION

~~(a) The Board may allow a North Carolina candidate to sit for the exam in another jurisdiction, provided such request is not submitted for the purpose of avoiding the requirements of that jurisdiction.~~

~~(b) The request shall accompany the examination application and must be approved by the jurisdiction in which the candidate requests to sit for the exam.~~

~~(c) The approval of the request may be denied in the discretion of the Board if it appears that the candidate is jurisdiction shopping.~~

Authority G.S. 93-12.

21 NCAC 08F .0304 WAIVER OF EDUCATION REQUIRED PRIOR TO EXAMINATION

(a) The Board will waive the education requirements specified in 21 NCAC 08F .0302(a)(1) ~~and (2)~~ upon receipt of proof acceptable to the Board that the applicant has scored:

- (1) in the 50th percentile rank or higher on each part of either the Graduate Record Examination or the Graduate Management Admission Test; and

- (2) in the 50th percentile rank or higher on the AICPA Level II Achievement Test.

~~(b) The Board shall waive the examination set forth in Paragraph (a) of this Rule upon proof acceptable to the Board that:~~

- ~~(1)(2)~~ the applicant has enrolled for an advanced degree at a regionally accredited school and, prior to filing an application with the Board, has satisfactorily completed ten semester hours, or the equivalent, of graduate courses, including six semester hours in graduate accounting courses; or

- (2) the applicant has completed 15 semester hours, or the equivalent, of undergraduate courses, including six semester hours, or the equivalent, in undergraduate accounting courses at a regionally accredited school if the applicant possesses a bachelor's degree supplemented by a concentration in accounting but either the bachelor's degree or the concentration in accounting is not from a regionally accredited school.

Authority G.S. 93-12(5); 93-12(7).

21 NCAC 08F .0401 WORK EXPERIENCE REQUIRED OF CANDIDATES FOR CPA CERTIFICATION

(a) ~~G.S. 93-12(5)(c) (in the text surrounding the second set of a., b., c., and d.)~~ sets forth work experience alternatives, one of which is required of candidates applying for CPA certification. In connection with those requirements, the following provisions apply:

- (1) The work experience shall be acquired prior to the date a candidate applies for certification.
- (2) All experience which is required to be under the direct supervision of a CPA shall be under the direct supervision of a CPA on active status.
- (3) A candidate who applied for the CPA examination under the special examination exception set out in G.S. 93-12(5), and further described in 21 NCAC 08F .0302(a)(2) and (d) shall meet the work experience requirement prior to applying to take the CPA examination.

(b) The following provisions apply to all candidates seeking to meet the work experience requirement by working in the field of accounting. ~~G.S. 93-12(5)(second a.) and (second e.)~~ G.S. 93-12(5)(c)(3).

- (1) One year of work experience is 52 weeks of full-time employment. The candidate is employed full-time when the candidate is expected by the employer to work for the employer at least 30 hours each week for an indefinite period or for a set period of at least one year. Any other work, including working on an "as-needed" or a temporary basis, is working part-time.

- (2) All weeks of actual full-time employment are added to all full-time equivalent weeks in order to calculate how much work experience a candidate has acquired. Dividing that number by 52 results in the years of work experience the candidate has acquired.
- (3) Full-time-equivalent weeks are determined by the number of actual part-time hours the candidate has worked. Actual part-time hours do not include hours paid for sick leave, vacation leave, attending continuing education courses or other time not spent directly performing accounting services. For each calendar week during which the candidate worked actual part-time hours of 30 hours or more, the candidate receives one full-time-equivalent week. The actual part-time hours worked in the remaining calendar weeks are added together and divided by 30. The resulting number is the additional number of full-time-equivalent weeks to which the candidate is entitled.
- (4) The candidate shall submit experience affidavits on a form provided by the Board from all of the relevant employers; provided that when such experience was not acquired while employed with a CPA firm, the candidate shall also submit details of the work experience and supervision on a form provided by the Board. Experience affidavits for part-time work shall contain a record of the actual part-time hours the candidate has worked for each week of part-time employment. Both the experience affidavit and the form for additional detail shall be certified by the employer's office supervisor or an owner of the firm who is a certificate holder.

(c) 21 NCAC 08F .0409 applies to teaching experience acquired pursuant to ~~G.S. 93-12(5)(second b.)~~ G.S. 93-12(5)(c)(2) and (4).

Authority G. S. 93-12(3); 93-12(5).

21 NCAC 08F .0409 SATISFACTION OF EXPERIENCE REQUIREMENT BY TEACHING

(a) Teaching Experience. The requirement of "~~five~~"four years experience teaching accounting," G.S. 93-12(5), means teaching accounting full-time for ~~five~~"four years.

- (1) Full-time teaching as described by the rules of the educational institution where the applicant taught will be accepted by the Board to be full-time teaching. However, in no case will less than 12 semester hours, or the equivalent, be accepted by the Board as full-time teaching.
- (2) If the applicant has not taught accounting full-time for ~~five~~"four years, credit will be allowed by the Board for teaching accounting less than full-time on a pro rata basis based upon the number of semester hours required for full-

time teaching at the educational institution where the applicant taught. However, in no case can an applicant receive credit for a full-time teaching year for teaching done in less than one academic year or more credit than one full-time teaching year for teaching done within one calendar year.

- (3) Courses outside the field of accounting will not be counted toward full-time teaching. Such courses include, but are not limited to: business law, finance, computer applications, personnel management, economics and statistics.
- (4) Of the ~~five~~"four years of full-time teaching experience, teaching accounting principles (below intermediate accounting) cannot be counted toward the educational requirement for more than the equivalent of two full-time years. The remaining ~~three~~"two full-time teaching years must be taught in at least two different areas of advanced accounting such as auditing, income tax, intermediate financial accounting or advanced managerial accounting, and the applicant must have taught at least nine semester hours, or the equivalent, in at least two of the different areas.

The purpose of this Subparagraph is to render unacceptable as meaningful experience both the continuous teaching of the elementary accounting course and the continuous teaching of the advanced courses in only one area of accounting.

(b) Required Information. Applicants must submit with their application a letter from each institution where they taught, certified by the applicant's dean or department head at that institution. The letter must state:

- (1) the number of credit hours which the applicant taught each year;
- (2) the names and academic level of the courses taught; and
- (3) the number of hours set by the rules of the institution as full-time teaching for each relevant year.

(c) Burden of Proof. An applicant having taught in an accredited community college or technical institute has the burden of proving that the credits earned by students taking those courses which the applicant taught would transfer to a four-year accredited college or university.

Authority G.S. 93-12(5).

21 NCAC 08F .0410 EDUCATION REQUIRED OF CANDIDATES FOR CPA CERTIFICATION

(a) G.S. 93-12(5)(a) sets forth the education required of candidates applying for CPA certification. The 150 semester hours required shall include a concentration in accounting, as defined by 21 NCAC 08A .0309, and other courses as required by the Board as follows: 24 semester hours of coursework which shall include one three semester hour course from at least eight of the following 10 fields of study:

- (1) communications;

- (2) computer technology;
- (3) economics;
- (4) ethics;
- (5) finance;
- (6) humanities/social science;
- (7) international environment;
- (8) law;
- (9) management; or
- (10) statistics.

(b) Anyone applying for CPA certification who holds a Master's or more advanced degree in accounting, tax law, economics, finance, business administration, or a law degree with an emphasis in taxation or accounting from an accredited college or university or the equivalent thereof shall be in compliance with G.S. 93-12(5)(a) ~~the above.~~

Authority G.S. 93-12(5).

21 NCAC 08G .0410 PROFESSIONAL ETHICS AND CONDUCT CPE

(a) As part of the annual CPE requirement, all active CPAs shall complete CPE on professional ethics and conduct as set out in 21 NCAC 8N. They shall complete either two hours in a group study format or four hours in a self-study format. These courses shall be approved by the Board pursuant to 21 NCAC 08G .0400. This CPE shall be offered by a CPE sponsor registered with the Board pursuant to 21 NCAC 08G .0403(a) or (b).

(b) An active resident or non-resident licensee, who is current with the ethics CPE requirement of a jurisdiction where he or she is currently licensed, is considered to be in compliance with Paragraph (a) of this Rule. If there is no ethics CPE requirement in the jurisdiction where he or she is currently licensed, he or she must be in compliance with Paragraph (a) of this Rule.

Authority G.S. 93-12(8b).

21 NCAC 08H .0101 RECIPROCAL CERTIFICATES

(a) A person from another jurisdiction who desires to offer or render professional services as a CPA to his or her employer or a client in this state shall meet all the requirements imposed on an applicant under G.S. 93-12(5) or the requirements of G.S. 93-12(6).

(b) The fee for a reciprocal certificate shall be the maximum amount allowed by G.S. 93-12(7a).

(c) An applicant for a reciprocal certificate shall meet the following requirements:

- (1) The applicant has the legal authority to use the CPA title and to practice public accountancy in a jurisdiction.
- (2) The applicant has received a passing score on each part of the Uniform CPA Examination.

~~(d) An applicant applying for a reciprocal certificate under G.S. 93-12(6) must also meet the following requirements which the Board considers to be substantially equivalent to those of G.S. 93-12(5):~~

- ~~(1) The applicant shall have 150 semester hours of college or university education including a bachelors or higher degree with a concentration in accounting and one year of~~

~~experience in the field of accounting verified by a certified public accountant who was the applicant's direct supervisor and otherwise comply with 21 NCAC 8F .0410; or~~

~~(2) The applicant:~~

~~(A) within 10 years immediately preceding the filing date of the application, has had two years of experience in the field of accounting under the direct supervision of a CPA who held a valid license during the period of direct supervision in any state or territory of the United States or the District of Columbia; or~~

~~(B) has eight years of experience in the field of accounting, or eight years of experience teaching accounting as defined and calculated in 21 NCAC 8F .0409, or any combination of such experience earned within the 12 years immediately preceding the filing date of the application; and~~

~~(3) During the two years preceding the applicant's filing date for a reciprocal certificate, the applicant has completed 80 hours of CPE in courses meeting the requirements of 21 NCAC 8G .0401(a). However, an applicant who received his or her initial CPA license within four years from the filing date of the application for a reciprocal certificate is exempt from this CPE requirement.~~

~~(e)~~(d) An applicant for change in status, reissuance, or reinstatement of a reciprocal certificate that was inactive, forfeited, or retired more than 10 years before the date of reapplication, must comply with all current requirements for a reciprocal certificate.

Authority G.S. 93-12(6); 93-12(7a).

21 NCAC 08H .0105 USE OF CPA TITLE

(a) A person who holds a CPA certificate from another state, jurisdiction, territory or district but not from this Board and who temporarily enters North Carolina for the sole purpose of:

- (1) teaching either a college or a CPE course;
- (2) delivering any other lecture, or
- (3) moderating any panel discussion

may use the CPA title provided that, in every instance of any kind in which the CPA title is used, the state, territory or district granting the CPA title is disclosed.

(b) A person who holds a CPA certificate from another state, territory or district and who temporarily enters this state for the sole purpose of rendering advisory or consulting services to persons employed by the same employer as the CPA (including parent, sister, or subsidiary entities) may use the CPA title.

(c) Out-of-state CPAs neither domiciled nor employed in North Carolina may enter the state for the sole purpose of performing a peer review ~~or quality review~~ for a North Carolina licensee and shall not be required to secure a temporary permit to conduct said engagement.

Authority G.S. 93-1.

21 NCAC 08M .0105 PEER REVIEW REQUIREMENTS

(a) A CPA or CPA firm providing any of the following services to the public shall participate in a peer review program:

- (1) Audits;
- (2) Reviews of financial statements;
- (3) Compilations of financial statements;
- (4) Examinations of prospective financial statements;
- (5) Compilations of prospective financial statements;
- (6) Agreed-upon procedures of prospective financial statements;
- (7) Examination of written assertions; ~~and~~
- (8) ~~Agreed-upon procedures of written assertions.~~ Review of written assertions; and
- (9) Agreed-upon procedures of written assertions.

(b) A CPA or CPA firm not providing any of the services listed in Paragraph (a) of this Rule is exempt from peer review until the issuance of the first report provided to a client.

(c) A CPA, a new CPA firm or a CPA firm exempt from peer review now providing any of the services in Paragraph (a) of this Rule shall furnish to the peer review program their first peer review report, the letter of comments, the letter of response, and any work papers required for the peer review program within 24 months of the issuance of the first report provided to a client.

(d) Participation in and completion of one of the following peer review programs is required:

- (1) ~~AICPA Division for CPA Firms SEC Practice Section; AICPA Center for Public Company Audit Firms;~~
- (2) AICPA Peer Review Program;
- (3) NCACPA Peer Review Program; ~~or~~
- (4) ~~Any other peer review program found to be substantially equivalent to (1), (2) or (3) of this Paragraph in advance by the Board.~~ NCACPA Peer Review Program for Non-Members; or
- (5) Any other peer review program found to be substantially equivalent to Subparagraph (1), (2), (3), or (4) of this Paragraph in advance by the Board.

(e) CPA firms shall not rearrange their structure or act in any manner with the intent to avoid participation in peer review.

(f) A CPA firm which does not have offices in North Carolina and which has not provided any services as listed in Paragraph (a) of this Rule to North Carolina clients is not required to participate in a peer review program.

(g) Subsequent peer reviews of a CPA firm are due three years and six months from the year end of the 12 month period of the first peer review unless granted an extension by the peer review program.

Authority G.S. 93-12(7b); 93-12(8c).

21 NCAC 08M .0106 COMPLIANCE

(a) A CPA firm registered for peer review shall provide to the Board the following:

- (1) Peer review due date;
- (2) Year end date;
- (3) Final Letter of Acceptance from peer review program within 60 days of the date of the letter; and
- (4) A package to include the Peer Review Report, Letter of Comments, Letter of Response and Final Letter of Acceptance for all adverse and second ~~consecutive~~-modified reports issued by a peer review program within 60 days of the date of the Final Letter of Acceptance.

(b) A peer review is not complete until the Final Letter of Acceptance is issued by the peer review program with the new due date.

(c) If a CPA firm fails to comply with 21 NCAC 8M .0105(c), (d), or (g), the Board may take disciplinary action against the CPA firm's members which may include:

- (1) a conditional license and one hundred dollars (\$100.00) civil penalty upon conditions as the Board may deem appropriate for non-compliance of less than 60 days;
- (2) a conditional license and two hundred fifty dollars (\$250.00) civil penalty for non-compliance in excess of 60 days but not more than 120 days; and
- (3) a suspension of each member's CPA certificate for a period of not less than 30 days and a civil penalty of five hundred dollars (\$500.00) for non-compliance in excess of 120 days.

Authority G.S. 93-12(7b); 93-12(8c).

21 NCAC 08N .0103 RESPONSIBILITY FOR COMPLIANCE BY OTHERS

A CPA and CPA firm shall be responsible for assuring compliance with the rules in this Subchapter by anyone who is the CPA's ~~partner, fellow shareholder, partner, fellow shareholder, member, officer, director, licensed employee, unlicensed employee or agent~~ or unlicensed principal, or whom the CPA supervises. A CPA or CPA firm shall not permit others (including affiliated entities) to carry out on the CPA's behalf, with or without compensation, acts which if carried out by the CPA would be a violation of these Rules. ~~A CPA firm shall be responsible for assuring compliance with these Rules by any of its officers, directors, shareholders, unlicensed principals, partners, proprietors, employees, or agents.~~

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

21 NCAC 08N .0204 DISCIPLINE BY FEDERAL AND STATE AUTHORITIES

(a) Violations of Other Authorities' Laws or Rules. A CPA shall not act in a way that would cause said CPA to be disciplined by federal or state agencies or boards for violations of laws or rules on ethics. CPAs who engage in activities regulated by other federal or state authorities (including but not limited to the following agencies: IRS, Department of Revenue, SEC, State

Bar, North Carolina Secretary of State, PCAOB, NASD, Department of Insurance, GAO, HUD, State Auditor, State Treasurer, or Local Government Commission) must comply with all such authorities' ethics laws and rules.

(b) *Prima Facie* Evidence. A conviction or final finding of unethical conduct by a competent authority is *prima facie* evidence of a violation of this Rule.

(c) Notice to the Board Required. A CPA shall notify the Board in writing within 30 days of any conviction or final finding against him or her of unlawful conduct by any federal or state court or regulatory authority.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

21 NCAC 08N .0208 REPORTING CONVICTIONS, JUDGMENTS, AND DISCIPLINARY ACTIONS

(a) Criminal Actions. A CPA shall notify the Board within 30 days of any conviction or finding of guilt of, ~~or pleading of *nolo contendere*~~ *nolo contendere*, or receiving a prayer for judgment continued to any criminal offense.

(b) Civil Actions. A CPA shall notify the Board within 30 days of any judgment or settlement in a civil suit, bankruptcy action, administrative proceeding, or binding arbitration, the basis of which is grounded upon an allegation of professional negligence, gross negligence, dishonesty, fraud, misrepresentation, incompetence, or violation of any federal or state tax law and which was brought against either the CPA or a North Carolina office of a CPA firm of which the CPA was a managing partner.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

21 NCAC 08N .0213 OTHER RULES

A CPA shall not willfully violate any other rule in Chapter nor any other provision of the Accountancy Statutes, the Professional Corporation Act, the Partnership Act, the Taxation Act, or the North Carolina Limited Liability Company Act.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

21 NCAC 08N .0214 OUTSOURCING TO THIRD-PARTY SERVICE PROVIDERS

(a) A CPA shall provide a written disclosure to the client that he or she is using a third-party provider to assist the CPA in providing any professional services to the client.

(b) A CPA shall provide annual disclosure in a written statement of the services to be rendered by the third-party provider as well as the third-party provider's name, address, and phone number. The written statement shall be dated, signed by both the CPA and client in advance of the outsourcing, and a copy provided to the client.

(c) A CPA outsourcing professional services to a third-party provider is responsible for compliance with all rules of Professional of Conduct and Ethics in 21 NCAC 08N.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

21 NCAC 08N .0302 FORMS OF PRACTICE

(a) Authorized Forms of Practice. A CPA who uses CPA in or with the name of the business or offers or renders attest services

in the public practice of accountancy to clients shall do so only through a registered sole proprietorship, partnership, Professional Corporation, Professional Limited Liability Company, or Registered Limited Liability Partnership.

(b) Authorized Ownership. A CPA firm may have ~~a~~an ownership of up to 49 percent by non-CPAs. A CPA firm shall have ownership of at least 51 percent and be controlled in law and fact by holders of valid CPA certificates who have the unrestricted privilege to use the CPA title and to practice public accountancy in a jurisdiction and at least one whom shall be licensed by this Board.

(c) CPA Firm Registration Required. A CPA shall not offer or render professional services through a CPA firm which is in violation of the registration requirements of 21 NCAC 8J .0108, 8J .0110, or 8M .0101.

(d) Supervision of CPA Firms. Every North Carolina office of a CPA firm registered in North Carolina shall be actively and locally supervised by a designated actively licensed North Carolina CPA whose primary responsibility and a corresponding amount of time shall be work performed in that office.

(e) CPA Firm Requirements for CPA Ownership. A CPA firm and its designated supervising CPA shall be held accountable for the following in regard to a CPA owner:

- (1) A CPA owner shall be a natural person or a general partnership or a limited liability partnership directly owned by natural persons.
- (2) A CPA owner shall actively participate in the business of the firm or an affiliated entity as his or her principal occupation.

~~(e)~~(f) CPA Firm Requirements for Non-CPA Ownership. A CPA firm and its designated supervising CPA partner shall be held accountable for the following in regard to a non-CPA owner:

- (1) a non-CPA owner shall be a natural person or a general partnership or limited liability partnership directly owned by natural persons;
- (2) a non-CPA owner shall actively participate in the business of the firm or an affiliated entity as his or her principal occupation;
- (3) a non-CPA owner shall comply with all applicable accountancy statutes and the administrative code;
- (4) a non-CPA owner shall be of good moral character and shall be dismissed and disqualified from ownership for any conduct that, if committed by a licensee, would result in a discipline pursuant to G.S. 93-12(9);
- (5) a non-CPA owner shall report their name, home address, phone number, and social security number, and or Federal Tax ID number on the CPA firm's registration; and
- (6) a non-CPA owner's name may not be used in the name of the CPA firm or held out to clients or the public that implies the non-CPA owner is a CPA.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

21 NCAC 08N .0303 OBJECTIVITY AND

CONFLICTS OF INTEREST

(a) Personal Financial Interest in Advice. When offering or rendering accounting or related financial, tax, or management advice, a CPA shall be objective and shall not place the CPA's own financial interests nor the financial interests of a third party ahead of the legitimate financial interests of the CPA's client or the public in any context in which a client or the public can reasonably expect objectivity from one using the CPA title.

(b) Expectation of Objectivity Presumed. If the CPA uses the CPA title in any way to obtain or maintain a client relationship, the Board will presume the reasonable expectation of objectivity.

(c) Acceptance of a Commission or Referral Fee. A CPA shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the CPA also performs for that client:

- (1) an audit or review of a financial statement; or
- (2) a compilation of a financial statement when the CPA expects, or reasonably might expect, that a third party will use the financial statement and the CPA's compilation report does not disclose a lack of independence; or
- (3) an examination of prospective financial information.

This prohibition applies during the period in which the CPA is engaged to perform any of the services listed in Subparagraph (c)(2) of this Rule and the period covered by any historical financial statements involved in such listed services.

(d) Acceptance of a Contingent Fee.

(1) The offering or rendering of professional services for, or the receipt of, a contingent fee by a CPA is not prohibited except for engaging to render or rendering by a CPA for a contingent fee:

- (A) of professional services for, or the receipt of such a fee from, any person for whom the CPA also performs attest services, during the period of the attest services engagement and the period covered by any historical financial statements involved in such attest services; and
- (B) for the preparation of original or amended tax returns or claims for tax refunds.

(2) Fees are not regarded as being contingent if fixed by courts or other public authorities or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies.

(e) For the purposes of this Rule, a CPA shall provide disclosure to a client in every transaction, referral, and engagement when accepting a commission, referral, or contingent fee. A CPA shall provide disclosure in a written statement of the service or product to be rendered or referred with the contingent fee, commission, or referral fee to be charged or received. The written statement shall be dated; signed by the CPA and client in

advance of any sale, referral, or service provided; and a copy given to the client.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

21 NCAC 08N .0304 CONSULTING SERVICES STANDARDS

(a) Standards for ~~Management~~ Consulting Services. A CPA shall not render ~~management~~ consulting services unless the CPA has complied with the standards for ~~management~~ consulting services.

(b) Statements on Standards for ~~Management~~ Consulting Services. The Statements on Standards for ~~Management~~ Consulting Services (including the definition of such services) issued by the AICPA, including subsequent amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6, and shall be considered as the approved standards for ~~management~~ consulting services for the purposes of Paragraph (a) of this Rule.

(c) Departures. Departures from the statements listed in Paragraph (b) of this Rule must be justified by those who do not follow them.

(d) Copies of Statements. Copies of the Statements on Standards for ~~Management~~ Consulting Services may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 1211 Avenue of the Americas, New York, NY 10036 as part of the "AICPA Professional Standards." They are available at cost, which is approximately ten dollars (\$10.00) in paperback form or two hundred dollars (\$200.00) in looseleaf subscription form.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

21 NCAC 08N .0305 RETENTION OF CLIENT RECORDS

(a) Return upon Demand. A CPA must return client records in his or her possession to the client after a demand is made for their return. If the client is a partnership, records shall be returned upon request to any of its general partners. If the client is a limited partnership or a registered limited liability partnership, records shall be returned upon request to its general partner(s) and the managing partner or his or her designated individual respectively. If the client is a corporation, records shall be returned upon request to its president. If the client is a limited liability company, records shall be returned upon request to the manager. Joint records shall be returned upon request to any party. The records must be returned immediately upon demand unless circumstances make some delay reasonable in order to retrieve a closed file or to extract the CPA's work papers described in Paragraph (e) of this Rule. If the records cannot be returned immediately upon demand, the CPA shall immediately notify the client of the date the records will be returned. Nothing in this Rule shall be interpreted to require a CPA to pay delivery costs when the records are returned to the client.

(b) Return of Original Records. If the engagement is terminated prior to completion or the CPA's work product has neither been received nor paid for by the client, the CPA is only required to return those records originally given to the CPA by the client.

(c) Retention to Force Payment. A CPA shall not retain a client's records in order to force payment of any kind.

(d) Work Papers Included in Client Records. Work papers are usually the CPA's property and need not be surrendered to the client. However, in some instances work papers will contain data which should properly be reflected in the client's books and records but for convenience have not been duplicated therein with the result that the client's records are incomplete. In such instances, the portion of the work papers containing such data constitutes part of the client's records, and copies shall be given to the client along with the rest of the client's records. Work papers considered part of the client's records include but are not limited to:

- (1) Worksheets in lieu of original entry (e.g., listings and distributions of cash receipts or cash disbursements on columnar work paper);
- (2) Worksheets in lieu of general ledger or subsidiary ledgers, such as accounts receivable, job cost and equipment ledgers, or similar types of depreciation records;
- (3) All adjusting and closing journal entries and supporting details not fully set forth in the journal entry; and
- (4) Consolidating or combining journal entries and worksheets and supporting detail used in arriving at final figures incorporated in an end product such as financial statements or tax returns.

(e) Work Papers Belonging to the CPA. Work papers developed by the CPA incident to the performance of an engagement which do not result in changes to the client's records, or are not in themselves part of the records ordinarily maintained by such clients, are solely the CPA's work papers and are not the property of the client. For example, the CPA may make extensive analyses of inventory or other accounts as part of the selective audit procedures. These analyses are considered to be a part of the CPA's work papers, even if the analyses have been prepared by client personnel at the request of the CPA. Only to the extent these analyses result in changes to the client's records would the CPA be required to furnish the details from the work papers in support of the journal entries recording the changes, unless the journal entries themselves contain all necessary details.

(f) Reasonable Fees for Copies. Nothing in this Rule shall be construed to require the CPA to furnish a client with copies of the client's records already in the client's possession. However, if the client asserts that such records have been lost, or are otherwise not in the client's possession, the CPA shall furnish copies of the records for a fee.

(g) Retention of Work product and Work papers. A CPA shall ensure that the work product and the work papers created in the performance of an engagement for a client are retained for a minimum of seven years after the date of issuance of the work product unless the CPA is required by law to retain such records for a longer period.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

21 NCAC 08N .0307 CPA FIRM NAMES

(a) Deceptive Names Prohibited. A CPA or CPA firm shall not trade upon the CPA title through use of any name that would have the capacity or tendency to deceive. The name of one or more former members of the CPA firm, as defined in 21 NCAC 08A .0301, may be included in the CPA firm name. The name of a non-CPA owner in a CPA firm name is prohibited.

(b) Style of Practice. It is considered misleading if a CPA firm practices under a name or style which would tend to imply the existence of a partnership or registered limited liability partnership or a professional corporation or professional limited liability company of more than one CPA shareholder or CPA member or an association when in fact there is no partnership nor is there more than one CPA shareholder or CPA member of a CPA firm. For example, no CPA firm having just one CPA owner may have as a part of its name the words "associates", "associates", "group", or "company" or their abbreviations. It is also considered misleading if a CPA renders non-attest professional services through a non-CPA firm using a name ~~that~~ which implies any non-licensees are CPAs.

(c) Any CPA firm that has continuously used an assumed name approved by the Board prior to April 1, 1999, may continue to use the assumed name, so long as the CPA firm is only owned by the individual practitioner, partners, or shareholders who obtained Board approval for the assumed name. A CPA firm (or a successor firm by sale, merger, or operation of law) may continue to use the surname of a retired or deceased partner or shareholder in the CPA firm's name so long as that use is not deceptive.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

21 NCAC 08N .0308 VALUATION SERVICES STANDARDS

(a) Standards for Valuation Services. A CPA shall not render valuation services of a business, a business ownership interest, security, or intangible asset unless the CPA has complied with the standards for valuation services.

(b) Statements on Standards for Valuation Services. The Statements on Standards for Valuation Services (including the definition of such services) issued by the AICPA, including amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6, and shall be considered as the approved standards for valuation services for the purposes of Paragraph (a) of this Rule.

(c) Departures. Departures from the standards listed in Paragraph (b) of this Rule must be justified by those who do not follow them.

(d) Copies of Statements. Copies of the statements on standards for valuation services may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 1211 Avenue of the Americas, New York, NY 10036 as part of the "AICPA Professional Standards." They are available at cost, which is approximately ten dollars (\$10.00) in paperback form or two hundred dollars (\$200.00) in loose leaf subscription form.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

21 NCAC 08N .0401 PUBLIC RELIANCE

The rules in this Section apply to any CPA who engages in the attest functions including, but not limited to audit, compilation, review, exam, forecast, and projection, as defined in 21 NCAC 08A .0301(b). CPAs who engage in such services are also subject to the SQR Peer Review requirements of Subchapter 08M.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

21 NCAC 08N .0408 PEER REVIEW STANDARDS

A CPA who is engaged to perform a quality peer review shall not violate the rules or standards of the quality peer review program under which the review is made or the engagement contract connected with that quality peer review.

Authority G.S. 55B-12; 57C-2-01; 93-12(9).

CHAPTER 18 - BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Examiners of Electrical Contractors intends to amend the rules cited as 21 NCAC 18B .0101; 0104, .0204, .0211, .0301, .1101-.1106.

Proposed Effective Date: January 1, 2006

Public Hearing:

Date: September 15, 2005

Time: 8:30 a.m.

Location: State Board of Examiners of Electrical Contractors, 3101 Industrial Drive, Suite 206, Raleigh, NC

Reason for Proposed Action: The Board desires to address rumors of abuse in the continuing education program and be more specific as to supervision requirements.

Procedure by which a person can object to the agency on a proposed rule: Objections, suggestions, proposed changes or alternative language may be provided to the Board by written submission prior to the public hearing, by written or oral statements at the hearing or by written submission to the Board received by the Board prior to the end of the comment period. Each submission should be clearly labeled as either a suggestion, a proposed change, as alternative language or as an opinion.

Written comments may be submitted to: Rulemaking Coordinator, 3101 Industrial Drive, Suite 205, Raleigh, NC 27609, phone 919-733-9042, fax 919-733-6105.

Comment period ends: October 14, 2005

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission

receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
- Local
- Substantive (≥\$3,000,000)
- None

SUBCHAPTER 18B - BOARD'S RULES FOR THE IMPLEMENTATION OF THE ELECTRICAL CONTRACTING LICENSING ACT

21 NCAC 18B .0101 PRINCIPAL OFFICE: MAILING ADDRESS: OFFICE HOURS

The State Board of Examiners of Electrical Contractors has designated ~~4200 Front Street, Suite 105,~~ 3101 Industrial Drive, Suite 206, Raleigh, North Carolina 27609, as its principal office. Its mailing address is P. O. Box 18727, Raleigh, North Carolina 27619. Its regular office business hours are 8:30 a.m. to 5:00 p.m., Monday through Friday.

Authority G.S. 87-39; 87-42.

21 NCAC 18B .0104 AUTHORIZED LEGAL ACTION BY STAFF

(a) The following members of the Board's staff are authorized to act on behalf of the Board in criminal and civil actions brought under the provisions of G.S. 87-48;

- (1) the Board's executive ~~director;~~ director; and
- (2) ~~the Board's examinations and field supervisor;~~ and
- (3)(2) the Board's field representatives/investigators.

(b) These staff members, under the supervision of the Board's secretary-treasurer, shall have in addition to their other duties as set by the executive director, the duty to assist the secretary-treasurer in maintaining a registry of all licenses issued to electrical contractors.

(c) These staff members are authorized to give affidavits, act as plaintiffs, verify complaints, sign criminal warrants, testify in court or in other proceedings and to perform all other acts as may be required in criminal and civil actions.

Authority G.S. 87-40; 87-42; 87-43.

21 NCAC 18B .0204 EXAMINATIONS

(a) All qualifying examinations administered by the Board for each license classification shall be written or computer-based examinations and must be taken personally by the approved applicant.

(b) Approved applicants shall be provided a notice of examination eligibility that shall be valid for a period of ~~six~~ three months and for a single administration of the qualifying examination. Upon receipt of a notice of examination eligibility from the Board, the applicant shall schedule the examination by contacting the Board or the authorized testing ~~service~~ service in accordance with procedures established by the Board. The applicant will be scheduled for the examination and will be notified of the date, time and place.

Authority G.S. 87-42; 87-43.3; 87-43.4.

21 NCAC 18B .0211 WAITING PERIOD BETWEEN EXAMINATIONS

(a) A person who fails a regular qualifying examination must wait ~~a period of six months from the date he last failed an examination before~~ before being he will be eligible to take another regular examination in the same classification. The waiting period depends on the score on the failed examination, as follows:

Failed Examination Grade Waiting Period

<u>74-65</u>	<u>3 months</u>
<u>64 and below</u>	<u>6 months</u>

(b) ~~A person who fails an examination in the same license classification three times must satisfactorily complete a minimum of 16 hours classroom education on the electrical code provided by a board-approved continuing education sponsor before retaking the examination.~~

~~(b)(c)~~ (c) A person shall be considered a new applicant each time he applies to take an ~~examination~~ examination, and, for each such time, ~~he~~ must file an application on the standard application form and pay the required ~~application~~ examination examination fee.

Authority G.S. 87-42; 87-43.3; 87-43.4.

21 NCAC 18B .0301 LISTED QUALIFIED INDIVIDUAL

A listed qualified individual is required to be "regularly on active duty", as the term is used in G.S. 87-43, at least 1500 hours annually or, if the business is parttime, during all hours the business is in operation. A listed qualified individual cannot be "regularly on active duty", as the term is used in G.S. 87-43, during the hours when he has committed himself to work for an employer other than the employers on whose license he is the listed qualified individual. Therefore, no electrical contracting work can be done under a license during the hours its listed qualified individual has committed himself to duty as an employee in other employment.

Authority G.S. 87-42; 87-43.

21 NCAC 18B .1101 CONTINUING EDUCATION REQUIREMENTS: LISTED QUALIFIED INDIVIDUALS

(a) Every listed qualified individual, including listed qualified individuals pursuant to G.S. 87-50, shall complete continuing

education for each annual license period ~~(July 1—June 30)~~ to renew the license on which the qualified individual is currently listed, for the next annual license period, except as follows:

- (1) individuals becoming qualified by examination during the 12 month period immediately preceding the license renewal date;
- (2) qualified individuals unable to fulfill the required number of hours as the result of illness as certified in writing by the attending physician; or
- (3) approved instructors presenting courses in accordance with this Section.

(b) The number of required contact hours for every listed qualified individual shall be determined by the classification of license on which the qualified individual is currently listed as follows:

- (1) qualified individuals currently listed on a license in the limited, intermediate, unlimited and special restricted single family dwelling classifications shall complete at least eight hours of approved continuing education for license renewal, and
- (2) qualified individuals currently listed on a license in the special restricted low voltage (SP-LV), special restricted elevator (SP-EL), special restricted plumbing and heating (SP-PH), special restricted ground water pump (SP-WP), special restricted electric sign (SP-ES) and special restricted swimming pool (SP-SP) classifications shall complete at least four hours of approved continuing education for license renewal.

(c) The Board, pursuant to Rules .1102 and .1103 of the Section, approves course sponsors and instructors, ~~not and particular courses, except as provided in Paragraph (f) of this Rule.~~ courses. Because of differences in the electrical contracting industry and individual needs of listed qualified individuals, each qualified individual must exercise judgment in selecting courses for which continuing education is claimed and in choosing only those courses that will advance the ~~individual~~ individual's knowledge.

(d) Course sponsors may be, but are not limited to, colleges or universities, community colleges, trade associations, providers of self-study programs, employers, third party professional examination companies, private instructors and the like.

(e) North Carolina listed qualified individuals residing within the state must obtain the required continuing education hours by taking a course provided by an approved sponsor.

(f) North Carolina listed qualified individuals residing outside of North Carolina, including listed qualified individuals pursuant to G.S. 87-50, may obtain credit for courses offered in North Carolina. They may also obtain credit for courses offered in their state, province or country of residence and provided by non-approved sponsors or instructors provided the Board subsequently approves the courses taken, pursuant to Rule .1102(b) of this Section.

(g) Effective for renewals on or after July 1, 2008, all persons seeking to renew qualification must demonstrate that a minimum of one-half the continuing education hours for each annual

license period were obtained by in-person classroom or seminar attendance.

Authority G.S. 87-42; 87-44.1.

21 NCAC 18B .1102 MINIMUM REQUIREMENTS FOR COURSE SPONSOR APPROVAL

(a) Each course sponsor shall submit an application for continuing education course sponsor approval to the Board on a form provided by the Board by March 1 ~~of the year~~ prior to the ~~license period~~ fiscal year (July 1 - June 30) in which the course will be offered. The application shall include but is not limited to:

- (1) the name of the sponsor;
- (2) sponsor contact person, address and telephone number;
- (3) course title and outline;
- (4) course contact hours;
- (5) schedule of courses, if established, including dates, time and locations;
- (6) course fee; and
- (7) name(s) of instructor(s).

(b) To qualify as an approved continuing education course sponsor:

- (1) all courses offered by the sponsor shall last no fewer than ~~the minimum number of two~~ contact hours required for the license classification pursuant to Rule .1101(b) of this Section; and
- (2) all courses offered by the sponsor shall cover articles of the current National Electrical Code; G.S. 87, Article 4; Title 21 North Carolina Administrative Code Chapter 18B; or other subject matter satisfying the requirements in G.S. 87-44.1 as approved by the Board.

(c) The course offered shall be presented by one or more instructors approved by the Board.

(d) The course sponsor or instructor shall provide the Board with a certified class roster of all attending qualified individuals within 30 days after the completion of each course.

(e) The course sponsor or instructor shall provide each attending qualified individual with a certificate of completion within 30 days after completion of each course.

(f) The Board shall approve or deny applications at its April meeting.

(g) Upon approval of the application, each approved sponsor shall agree to conduct courses in accordance with this Section and shall indicate its agreement by signing a continuing education sponsor agreement form provided by the Board.

Authority G.S. 87-42; 87-44.1.

21 NCAC 18B .1103 MINIMUM REQUIREMENTS FOR COURSE INSTRUCTOR APPROVAL

(a) Each course instructor shall submit an application for continuing education course instructor approval to the Board on a form provided by the Board by March 1 ~~of the year~~ prior to the ~~license period~~ fiscal year (July 1 - June 30) in which the course

will be offered. The application shall include but is not limited to:

- (1) The name of the instructor;
- (2) Instructor's address and telephone number;
- (3) The name of the course sponsor;
- (4) Course title;
- (5) Course contact hours; and
- (6) Qualifications of instructor.

(b) Beginning March 1, 1994, no applicant shall be considered for approval as a continuing education course instructor unless the applicant satisfies at least one of the following:

- (1) Be a "qualified individual" as defined in G.S. 87-41.1(1) and certified as such by the Board pursuant to G.S. 87-42. This applicant will be considered for approval as a continuing education instructor to teach courses in the same or lower license classification in which the applicant is certified as a "qualified individual" as follows:
 - Unlimited - Any License Classification
 - Intermediate - Intermediate, Limited, SP-SFD and any SP-Restricted Classification
 - Limited - Limited, SP-SFD and any SP-Restricted Classification
 - SP-Restricted - Only in same SP-Restricted Classification
- (2) Have passed the Continuing Education Instructor Examination prescribed and conducted by the Board. This applicant will be considered for approval as a continuing education instructor to teach courses in any license classification.
- (3) Be a "qualified code-enforcement official" as defined in G.S. 143-151.8(a)(5) and certified as such by the North Carolina Code Officials Qualification Board as holding qualifications for an electrical inspector in Standard Level III, Standard Level II or Standard Level I categories. This applicant will be considered for approval as a continuing education instructor to teach courses in license classifications as follows:
 - Standard Level III - Any License Classification
 - Standard Level II- Intermediate, Limited, SP-SFD and any SP-Restricted Classification
 - Standard Level I - Limited, SP-SFD and any SP-Restricted Classification.
- (4) Be found by the Board to have professional or trade experience or other special qualifications qualifying him to teach courses in the license classification or classifications determined by the Board.

(c) The Board may deny an application if it finds that the applicant has failed to comply with the terms of any agreement as provided in Paragraph (g) of this Rule or the rules of the Board.

(d) The course instructor application shall be submitted together with the application for continuing education course sponsor approval as prescribed in Rule .1102 of this Section.

(e) The Board shall approve or deny applications at its April meeting.

(f) Appeals from denials shall be heard by the Board at a scheduled meeting in May.

(g) Upon approval of the application, each approved instructor shall agree to conduct courses in accordance with this Section and shall indicate his agreement by signing a continuing education instructor agreement form provided by the Board.

Authority G.S. 87-42; 87-44.1.

21 NCAC 18B .1104 CONTACT HOURS

(a) Approved courses must be offered for no fewer than ~~the minimum number of two contact hours~~ hours required for the license classification pursuant to Rule .1101(b) of this Section. ~~Credit shall be given only in multiples of eight contact hours (8, 16, 24) for the limited, intermediate, unlimited and special restricted single family dwelling classifications and multiples of four contact hours (4, 8, 12) for the special restricted low voltage (SP LV), special restricted elevator (SP EL), special restricted plumbing and heating (SP PH), special restricted ground water pump (SP WP), special restricted electric sign (SP ES) and special restricted swimming pool (SP SP) classifications.~~

(b) Credit shall be granted to the qualified individual only upon completion of an entire course.

(c) When a qualified individual has completed more than the required number of hours of continuing education in any one license period, the extra hours shall be carried forward in multiples as specified in Paragraph (1) of this Rule and treated as hours earned in the following one or two additional license periods. Extra hours are subject to the provisions of Rule .1101(g) of this Section.

~~(d) No credit shall be granted for courses attended prior to July 1, 1991.~~

~~(e)~~(d) No credit shall be granted for courses attended prior to being qualified by examination.

Authority G.S. 87-42; 87-44.1.

21 NCAC 18B .1105 COMPUTATION OF CONTINUING EDUCATION HOURS

(a) Group Courses: Non-college. Continuing education credit for a group course that is not part of a college curriculum is given based on contact hours. A contact hour is 50 minutes of instruction. Credit is granted only for full contact hours.

(b) College Courses. Continuing education credit for a college course in the college curriculum is given based on college credit hours. One semester hour of college credit is 16 contact hours; and one continuing education unit is 10 contact hours.

(c) Self-Study Courses. Continuing education credit for a self-study course is given based on the average number of contact hours needed to complete the course. The course shall include study text and a written examination having a minimum of 25 questions for each two contact hours course credit and a minimum passing grade of 70. A sponsor must determine the average number of contact hours it takes to complete the self-study course and submit this information with its application for continuing education course sponsor approval.

(d) Examination. Continuing education credit for an examination is given based on the type of examination, number of questions, number of hours permitted to take the examination, and passing grade. The examination shall include a minimum of 25 questions for each two contact hours course credit and a minimum passing grade of 70. A sponsor must set the number of hours permitted to take the examination and submit this information with its application for continuing education course sponsor approval.

(e) Totaling Annual Hours. No credit shall be allowed for a course having fewer than ~~the minimum number of two~~ contact hours required for the license classification pursuant to Rule .1101(b) of this Section. ~~Courses held for license classifications pursuant to Rule .1101(b)(1) of this Section and lasting from eight to 15 contact hours shall satisfy one year of the required continuing education; a course lasting from 16 to 23 contact hours shall satisfy two years of the required continuing education; and a course lasting 24 or more contact hours shall satisfy three years of the required continuing education. Courses held for license classifications pursuant to Rule .1101(b)(2) of this Section and lasting from four to seven contact hours shall satisfy one year of the required continuing education; a course lasting from eight to 11 contact hours shall satisfy two years of the required continuing education; and a course lasting 12 or more contact hours shall satisfy three years of the required continuing education.~~ Credit hours for more than one year are subject to the provisions of Rule .1104(c) of this Section.

Authority G.S. 87-42; 87-44.1.

21 NCAC 18B .1106 LIST OF APPROVED COURSE SPONSORS AND INSTRUCTORS

In July of each year the Board shall post a link on the Board website ~~publish and distribute to all listed qualified individuals a listing~~ that shall include but is not limited to:

- (1) All approved course sponsors and instructors for that fiscal year; and
- (2) Contact information for all ~~Brief description, number of contact hours, and course fee for each course to be provided by~~ approved course sponsors and instructors.

Authority G.S. 87-42; 87-44.1.

Note from the Codifier: The rules published in this Section of the NC Register are emergency rules reviewed by the Codifier of Rules and entered in the North Carolina Administrative Code. The agency must subsequently publish a proposed temporary rule on the OAH website (www.ncoah.com/rules) and submit that adopted temporary rule to the Rules Review Commission within 60 days from publication of the emergency rule or the emergency rule will expire on the 60th day from publication. This section of the Register may also include, from time to time, a listing of emergency rules that have expired. See G.S. 150B-21.1A and 26 NCAC 02C .0600 for adoption and filing requirements.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Rule-making Agency: NC Wildlife Resources Commission

Rule Citation: 15A NCAC 10F .0371

Effective Date: August 1, 2005

Findings Reviewed and Approved by the Codifier: July 21, 2005

Reason for Action: Duke Energy Corporation has already begun major construction activity near its Belews Creek Steam Station in Belews Lake, Stokes County. The activity involves blasting of large chunks of earth, movement of heavy machinery, much of which hangs over the cove proposed for an exclusionary zone and movement of tanks containing anhydrous ammonia, which is explosive. Unfortunately, the Corporation was unaware that it required the cooperation of WRC to place buoys or barriers on the waters, and failed to notify the Wildlife Resources Commission in time for WRC to undertake normal rulemaking. However, the dangerous activity is already underway. WRC seeks to enact an emergency rule in order to give enforcement authority to an exclusion zone at the work site and an evacuation zone near the work site. Adherence to ordinary rulemaking requirements is contrary to the public interest because of currently existing danger of an explosion from an accident involving the tanks, danger from suction at the intake connected to the Station, danger of debris flying from the blasting, and danger from an accident if some of the heavier equipment looming over the cove proposed for exclusionary zone should fall across the waters. The threat is serious, and was unforeseen by this agency due to Duke Energy's failure to notify us of their activity until after the activity was underway. WRC is very concerned that an accident might result unless citizens are prevented from accessing this dangerous site.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F .0371 BELEWS LAKE IN STOKES COUNTY

(a) Regulated Area. This Rule applies only to the areas described in Paragraphs (b) and (c) in Belews Lake in Stokes County.

(b) No swimming or boating in exclusionary zone. No swimming or other entry of a person in or upon a boat, raft or other floating object shall be permitted in the cove containing the power station's plant intake on the western side of Belews Lake approximately 1,000 feet northeast of Belews Creek Steam Station, as marked by warning buoys and signs.

(c) No swimming or boating in evacuation area in event of alarm. In the event of a siren or audible alarm generated by the Belews Creek Steam Station, all persons swimming, boating or occupying a raft or other floating object on the lake shall evacuate the area on the western side of Belews Lake approximately 4,000 feet northeast of Belews Creek Station as marked by warning buoys and signs.

(d) Paragraphs (b) and (c) shall not apply to persons who, with consent of Duke Energy Corporation, access the area for the purpose of responding to emergency or maintaining or repairing facilities of Duke Energy Corporation.

(e) Placement and Maintenance of Markers. The Duke Energy Corporation is designated as a suitable entity for placement and maintenance of buoys, barriers and other signs indicating the areas in which boating or swimming are prohibited by this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Emergency Adoption Eff. August 1, 2005.

Note from the Codifier: *The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270th day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270th day.*

This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

TITLE 01 – DEPARTMENT OF ADMINISTRATION

Rule-making Agency: *Commission on State Property*

Rule Citation: *01 NCAC 42 .0101-.0105*

Effective Date: *July 29, 2005*

Date Approved by the Rules Review Commission: *July 21, 2005*

Reason for Action: *The proposed temporary rule is part of the minimum necessary to regulate the reception of proposals from licensed real estate professionals throughout the State, who have been contacting the Commission and wish to submit proposals as soon as possible. These proposals will require some study during which study period all necessary permanent rules can be proposed and adopted.*

**CHAPTER 42 – NORTH CAROLINA COMMISSION
ON STATE PROPERTY**

01 NCAC 42 .0101 SCOPE

The rules in this Chapter implement the procedure for receiving proposals for identifying and disposing of surplus real property from licensed real estate professionals, evaluating such proposals, and the possible awarding of listing contracts for such dispositions.

History Note: Authority G.S. 143-735; 143-736; Temporary Adoption Eff. July 29, 2005.

01 NCAC 42 .0102 REQUIRED CONTENT, FORMAT AND SUBMISSION OF PROPOSALS

(a) Any proposal for a Proposed Transaction shall include:

- (1) The proposer's name, address and phone number, together with any email address.
- (2) The street address, parcel ID Number, or other information sufficient to identify the property subject to the Proposed Transaction (hereinafter: the Parcel).
- (3) A copy of the county or city tax card or GIS printout on the Parcel.
- (4) A statement of whether the Parcel includes the entirety of the existing tract of State land and, if not, a sufficient description to identify the portions of the existing tract within the Parcel, including any included improvements.
- (5) The proposer's opinion of why the Parcel should be determined surplus.

(6) The proposer's opinion of the present market value of the Parcel.

(7) Any Photographs of the Parcel which the proposer has, whether aerial or otherwise, including any photographs of improvements.

(b) Any proposal for a Proposed Transaction made by an REP shall also include:

- (1) A detailed description of why the Parcel proposed for sale should be determined surplus.
- (2) A market analysis of any proposed sale.
- (3) A copy of the REPS's license card.
- (4) A detailed description of the proposed sale and lease-back transaction including the identity of the affected agency with statutory authority to enter into sale and lease-back transactions.

(c) Proposals must be submitted only in hard copy on letter-size white paper. Each complete proposal shall be date stamped when it is received in the Commission's offices in Raleigh. All proposals received at the Commission's offices by noon on any State business day shall be deemed to have been received on that day. All proposals received after noon on any State business day shall be deemed received at the same hour on the next State business day.

History Note: Authority G.S. 143-735; 143-736; Temporary Adoption Eff. July 29, 2005.

01 NCAC 42 .0103 PERMITTED NUMBER OF PROPOSALS BY REAL ESTATE PROFESSIONAL

(a) Any proposal made by any individual real estate professional (an active North Carolina licensed real estate broker or salesman, hereinafter: Real Estate Professional or REP) shall remain active until the REP is notified by the Commission that the proposed transaction (hereinafter: Proposed Transaction) has been either:

- (1) Rejected by the Commission;
- (2) Disapproved by the Council of State; or
- (3) A listing placed with or through the REP terminates, either pursuant to its terms or by the closing of the Proposed Transaction.

(b) No individual REP may have more than five Proposed Transactions active at any one time.

History Note: Authority G.S. 143-735; 143-736; Temporary Adoption Eff. July 29, 2005.

01 NCAC 42 .0104 EVALUATION OF PROPOSALS

The Commission shall evaluate each Proposed Transaction based on the information in the proposal, together with such information as the Commission may obtain, through the

employment of experts or otherwise, and shall formulate its recommendations after considering the provisions of S.L. 2003-284, s. 6.8, and in conformity with any criteria set forth in these Rules.

History Note: Authority G.S. 143-735; 143-736;
Temporary Adoption Eff. July 29, 2005.

01 NCAC 42 .0105 LISTING CONTRACTS WITH REAL ESTATE PROFESSIONALS

- (a) Listing contracts provided for in G.S. 143-736 and G.S. 143-737 shall be given only to proposers who are permitted to list real property for sale pursuant to North Carolina law.
- (b) An REP making a proposal as an agent for an interested buyer or buyer-developer shall disclose the identity of the REPs principal and shall state whether the Proposed Transaction is net of real estate commissions and, if not, the amount and recipient of any commissions included in the Proposed Transaction. Unless otherwise disclosed and stated, such REPs shall be compensated solely by their principals.
- (c) Proposers who are interested buyers or buyer-developers and are also REPs shall disclose whether they will seek a commission as part of the Proposed Transaction and, if so, the total amount or percentage of such commission. Such proposers shall be given no general listing contracts and shall be paid no commission unless the proposer's intent respecting commissions is stated in its proposal.
- (d) If the State Property Office or the North Carolina Council of State agrees to the disposal of the Parcel, the Commission may choose to cause the award of any listing contract to the single earliest acceptable proposal involving the Proposed Transaction if only one such proposal was received more than five State business days before the proposal is first considered by the full Commission (hereinafter: the Proposed Transaction Closing Date).

History Note: Authority G.S. 143-735; 143-736;
Temporary Adoption Eff. July 29, 2005.

TITLE 04 – DEPARTMENT OF COMMERCE

Rule-making Agency: Department of Commerce

Rule Citation: 04 NCAC 01N .0101-.0107

Effective Date: July 29, 2005

Date Approved by the Rules Review Commission: July 21, 2005

Reason for Action: Temporary rules are needed to replace the emergency rules previously adopted pursuant to the Hurricane Recovery Act of 2005, in order for the Department of Commerce to continue expedited distribution and follow-up on disaster assistance funds to help meet immediate needs of businesses vital to the growth and development of communities throughout the State.

CHAPTER 01 - DEPARTMENTAL RULES

SUBCHAPTER 01N – THE HURRICANE RECOVERY ACT OF 2005 BUSINESS RECOVERY PROGRAMS

SECTION .0100 - GENERAL INFORMATION

04 NCAC 01N .0101 SCOPE

- (a) The Department of Commerce shall operate a program of assistance to businesses in order to protect jobs in designated disaster-damaged counties of North Carolina.
- (b) The Department of Commerce shall make interest rebates available to business owners who received a disaster business loan from the U.S. Small Business Administration (SBA) for physical damage or economic injury to their business, sustained as a result of the hurricanes of 2004.
- (c) The Department of Commerce shall make direct loans available to businesses for both physical damage and economic injury suffered as a result of the hurricanes of 2004.
- (d) The applicant business must be located in one of the counties covered by Session Law 2005-1, more commonly known as the Hurricane Recovery Act of 2005.
- (e) The Small Business and Technology Development Center (the SBTDC) shall accept applications for interest rebates and business loans until July 30, 2005.
- (f) Loan applicants must submit completed applications to the SBTDC at Business Recovery Assistance Centers (BRACs) by the final deadline to be eligible for this program.
- (g) BRACs are located at all of the regional offices of the SBTDC.

History Note: G.S. 143B-430(c); 143B-431(a)(1);
S.L. 2005-1;
Emergency Adoption Eff. April 25, 2005;
Temporary Adoption Eff. July 29, 2005.

04 NCAC 01N .0102 ELIGIBILITY

- (a) In order to be eligible for an interest rebate or direct loan, a business must have suffered damage, either physical loss or economic injury from the hurricanes of 2004. The damage must be quantifiable and verifiable as to its cause.
- (b) In order to receive an interest rebate, the business must show evidence of having received a disaster business loan from the SBA for physical damage or economic injury to the business sustained as a result of the hurricanes of 2004, and evidence of disbursal of funds thereunder.
- (c) In order to receive a loan, the business must have been a going concern as of the date of the hurricane and as of the date of its application for assistance. The business shall submit proof of having been a going concern prior to the hurricane, and at the time of application, such as a valid business license, a business plan, and a commercial property lease. The business must also demonstrate the potential to recover from the disaster and remain a going concern with the infusion of the proposed loan funds.

History Note: G.S. 143B-430(c); 143B-431(a)(1);
S.L. 2005-1;
Emergency Adoption Eff. April 25, 2005;
Temporary Adoption Eff. July 29, 2005.

04 NCAC 01N .0103 BENEFITS UNDER THE INTEREST REBATE PROGRAM

The interest rebate program shall offer rebates equal to the interest payments projected to be made by the successful SBA business borrower for the first three years on the finalized SBA disaster business loan for damage sustained as a result of the hurricanes of 2004.

History Note: G.S. 143B-430(c); 143B-431(a)(1); S.L. 2005-1; Emergency Adoption Eff. April 25, 2005; Temporary Adoption Eff. July 29, 2005.

04 NCAC 01N .0104 BENEFITS UNDER THE BUSINESS RECOVERY LOAN PROGRAM

(a) A loan shall be for a period of eight years. All payments shall be deferred for the first three years and the loan shall accrue no interest during that period. During the final five-year period, interest shall accrue at 3% and principal shall be amortized through regular monthly payments of principal and interest. There shall be no penalty for early repayment.

(b) Maximum funding under this program shall be one hundred thousand dollars (\$100,000). The minimum loan amount shall be five thousand dollars (\$5,000). Regardless of the maximum funding for which the business might otherwise qualify, funding shall not exceed the actual physical damage and economic injury sustained by the business from the hurricane(s).

(c) Based on an assessment of the best use of available funds, the Secretary of Commerce or his delegee may approve exceptions to these minimum and maximum loan amounts on a case by case basis after determining that a compelling economic need would be served, such as preservation of jobs and investment in the disaster affected counties. Collateral shall be required in the case of exceptions to the specified maximum loan amount permitted by Paragraph (b).

(d) Payments for economic losses shall be limited to documented business expenses necessary for the continued operation of the business.

History Note: G.S. 143B-430(c); 143B-431(a)(1); S.L. 2005-1; Emergency Adoption Eff. April 25, 2005; Temporary Adoption Eff. July 29, 2005.

04 NCAC 01N .0105 PROCEDURES FOR INTEREST REBATE FOR SBA BORROWERS

(a) Applicants shall apply for interest rebates through the BRAC administered by the SBTDC in cooperation with the Department of Commerce.

(b) The borrower shall present to the BRAC counselor a copy of his SBA Loan Authorization and Agreement, a copy of his most recent disbursement letter showing the outstanding balance of the loan, and a signed application for the interest rebate.

(c) The BRAC counselor shall perform a mathematical calculation to estimate the interest to be paid by the borrower over the ensuing three years.

(d) The borrower shall affirm that he is entitled to this interest rebate, that the information provided to the SBA and the SBTDC

is true and correct to the best of his knowledge and that the rebate shall not be used to duplicate any benefits received under any Federal program.

(e) Upon completion of the request and supporting documents, the BRAC counselor shall forward the application to the SBTDC central office for processing. The SBTDC shall transmit approved requests for payment to the bank that shall disburse the loans.

(f) The disbursing bank shall review the documents for completeness, and shall deliver a check in the amount that has been approved, to the borrower.

(g) The bank shall send a notice with the rebate check informing the recipient that rebate proceeds are subject to Federal duplication of benefits limitations and that the State of North Carolina shall inform the SBA that the borrower has received the rebate.

History Note: G.S. 143B-430(c); 143B-431(a)(1); S.L. 2005-1; Emergency Adoption Eff. April 25, 2005; Temporary Adoption Eff. July 29, 2005.

04 NCAC 01N .0106 PROCEDURES FOR THE BUSINESS RECOVERY LOAN PROGRAM

(a) Applicants shall apply for loans through the BRAC administered by the SBTDC in cooperation with the Department of Commerce.

(b) The SBTDC shall work with applicants to assist them in preparing the needed documentation to apply for a disaster assistance loan.

(c) Loan applications shall be accepted at all of the regional offices maintained by the SBTDC across North Carolina.

(d) The SBTDC shall evaluate the following factors in approving loans, and shall make a determination as to the best use of available funds. Applicants must meet the eligibility requirements set forth in 04 NCAC 01N .0102, Paragraphs (a) and (c), must show cash flow coverage of at least 80%, must agree to quarterly business counseling, must document losses that resulted from the hurricane(s) by providing SBA loss verification forms or insurance adjuster forms and photographs, as applicable, must provide such other documents as are requested by the SBTDC for evaluation of the application, and must provide loan guarantees from parties that own more than 20% of the applicant. The SBTDC shall also consider the applicant's responsible credit history evidenced by credit reports showing repayment on previous loans.

(e) Upon receipt of a completed application, a loan decision shall be made by the senior management team of the SBTDC within three business days. If approved, the decision shall be transmitted to the disbursing bank. The bank shall disburse the loan after the bank receives the properly executed note and loan package.

(f) Should the SBA approve a loan upon reconsideration, the borrower shall repay the principal amount of the loan provided by the State of North Carolina pursuant to the rules in this Subchapter.

History Note: G.S. 143B-430(c); 143B-431(a)(1); S.L. 2005-1;

*Emergency Adoption Eff. April 25, 2005;
Temporary Adoption Eff. July 29, 2005.*

04 NCAC 01N .0107 APPEAL

An applicant may appeal a funding decision under this Subchapter to the Office of the Assistant Secretary for Business Development and Trade, NC Department of Commerce. The Assistant Secretary shall convene a three-person committee to include himself, the Director of the Commerce Finance Division and the Director of Business Retention and Expansion. Upon a full and complete review of the facts in each case, the committee shall make a recommendation to the Secretary of Commerce, who shall issue a decision.

*History Note: G.S. 143B-430(c); 143B-431(a)(1);
S.L. 2005-1;
Emergency Adoption Eff. April 25, 2005;
Temporary Adoption Eff. July 29, 2005.*

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

Rule-making Agency: *DENR - Office of the Secretary*

Rule Citation: *15A NCAC 01C .0412*

Effective Date: *July 29, 2005*

Date Approved by the Rules Review Commission: *July 21, 2005*

Reason for Action: *The rule will establish minimum criteria for activities undertaken to correct and restore environmental damage caused by a series of 6 hurricanes that struck North Carolina in 2004. The activities will be undertaken by local governments pursuant to emergency legislative appropriations from S.L. 2005-1, the Hurricane Recovery Act of 2005. In the absence of the minimum criteria being established by rules, some of the activities would trigger application of the State Environmental Policy Act. The rule separates activities for which existing environmental reviews are considered to be adequate from activities which would generally be viewed as more significant and has having more potential for adverse impacts. The corrective actions taken to correct and restore environmental damage from the hurricane will actually serve to improve environmental quality. See S.L. 2005-1; Sections 1, 2(e), 2.1(b) and 5.1(a) for additional support for the rule, which will improve matters of public health and safety in the affected regions of the State.*

CHAPTER 01 - DEPARTMENTAL RULES

**SUBCHAPTER 01C - CONFORMITY WITH NORTH
CAROLINA ENVIRONMENTAL POLICY ACT**

SECTION .0400 - OTHER REQUIREMENTS

**15A NCAC 01C .0412 HURRICANE RELIEF
ACTIVITY WITH MINIMUM POTENTIAL FOR
ENVIRONMENTAL EFFECTS**

(a) Activities undertaken in response to the "Hurricane Recovery Act of 2005" and funded with public monies from the Disaster Relief Reserve Fund do not require the filing of environmental documents except as provided in ~~subsection~~ Paragraphs (b) and (c) below. The activities might otherwise require preparation of an environmental document under the North Carolina Environmental Policy Act (NCEPA); however, these hurricane recovery activities are generally deemed to be sufficiently controlled by existing statutes, rules and permit requirements so that no additional environmental documentation is needed. To the extent there is any inconsistency, the minimum criteria set out ~~herein will in this Rule shall~~ be applied in place of the minimum criteria in Rules .0406, .0407, .0408 and .0409 of this Section.

(b) Hurricane relief and recovery activities that involve one or more of the following require the preparation of an environmental document under NCEPA:

- (1) Construction or reconstruction of a building in the 100-year floodplain unless the building is raised above the 100-year flood elevation as recommended by FEMA;
- (2) Expansion of a wastewater treatment plant or potable water system in excess of the capacity that existed on September 1, 2004 unless the expansion would be covered by minimum criteria set out in Rule .0409 of this Section;
- (3) Groundwater withdrawals in excess of those described in Rule .0409 of this Section;
- (4) Land disturbing activity that affects more than five acres located within a High Quality Water or Outstanding Resource Water zone;
- (5) Reforestation of woodlands unless the reforestation is done in accordance with a National Forest Service or North Carolina Division of Forest Resources woodlands management plan.

(c) The Secretary ~~may~~ shall require that an ~~environment~~ environmental document be prepared for any hurricane relief and recovery activity that would not otherwise require review, but is of such an unusual nature or has such widespread implications that a concern for its environmental effects has been identified by DENR.

*History Note: Authority G.S. 113A-4; 113A-6; 113A-11 and 143B-10;
Emergency Adoption Eff. April 25, 2005;
Temporary Adoption Eff. July 29, 2005.*

*This Section includes the Register Notice citation to rules approved by the Rules Review Commission (RRC) at its meeting July 21, 2005, and reported to the Joint Legislative Administrative Procedure Oversight Committee pursuant to G.S. 150B-21.16. The full text of rules are published below when the rules have been approved by RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register. The rules published in full text are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

These rules have been entered into the North Carolina Administrative Code.

APPROVED RULE CITATION			REGISTER CITATION TO THE NOTICE OF TEXT
04	NCAC 05C	.0201*	19:17 NCR
09	NCAC 03M	.0205*	19:18 NCR
10A	NCAC 41A	.0102*	19:09 NCR
10A	NCAC 71S	.0203	19:19 NCR
10A	NCAC 71S	.0205-.0206	19:19 NCR
10A	NCAC 71S	.0207*	19:19 NCR
10A	NCAC 71S	.0208	19:19 NCR
11	NCAC 12	.0815-.0816	19:19 NCR
11	NCAC 12	.0818-.0822	19:19 NCR
11	NCAC 12	.0824-.0830	19:19 NCR
11	NCAC 12	.0834-.0842	19:19 NCR
11	NCAC 12	.0843	19:19 NCR
11	NCAC 16	.0205*	19:20 NCR
12	NCAC 09B	.0204*	19:20 NCR
12	NCAC 09B	.0209*	19:20 NCR
15A	NCAC 06E	.0106*	19:17 NCR
17	NCAC 05C	.0304*	N/A G.S. 150B-1(d)(4) Effective August 1, 2005
21	NCAC 36	.0120	19:17 NCR
21	NCAC 36	.0228*	19:17 NCR
21	NCAC 36	.0404	19:17 NCR
21	NCAC 57A	.0204*	19:18 NCR

TITLE 04 – DEPARTMENT OF COMMERCE

04 NCAC 05C .0201 APPLICATION AND FILING FEE

(a) Any legal entity wishing to establish and operate a cemetery sales organization, cemetery management organization or a cemetery broker, as each are defined under G. S. 65-48, must first obtain a license from this commission. The legal entity shall file written application with the commission on the Commission's Application for Cemetery Broker, Sales and/or Management Contractor License. This form provides space for applicant's name and address; space is also provided for employment, references and criminal record for an individual, corporate officer or partner, as the case may be. The application form is available by contacting:

North Carolina Cemetery Commission
1001 Navaho Drive, Suite 100
Raleigh, North Carolina 27609.

(b) The following documents shall accompany this application:
(1) If individual, officer or partner has not been licensed as a cemetery salesman for a period of two years, the application shall be accompanied by two letters of recommendation, attesting to the applicant's

- good character and experience in the cemetery business.
- (2) Corporate applications shall be accompanied by:
 - (a) certified copy of that portion of the minutes of the corporation wherein the officer named on the application was elected an officer,
 - (b) certified copy of that portion of the minutes of the corporation wherein the officer named on the application was authorized to file the application on behalf of the corporation.
- (3) All brokerage, sales or management contracts.
- (c) Application filing fees are six hundred dollars (\$600.00) for sales and management organizations, and four hundred dollars (\$400.00) for brokers.

History Note: Authority G.S. 65-49; 65-57; Eff. February 1, 1976; Readopted Eff. January 16, 1978; Amended Eff. August 1, 2005; May 3, 1993.

**TITLE 09 - OFFICE OF THE GOVERNOR
AND LT. GOVERNOR**

**09 NCAC 03M .0205 REPORTING THRESHOLDS
AND FORMATS FOR GRANTEES AND SUBGRANTEES**

(a) For the purposes of this Subchapter, there are three reporting thresholds established for grantees and subgrantees receiving State funds. The reporting thresholds are:

- (1) Less than \$25,000 – A grantee that receives, uses, or expends State funds in an amount less than twenty-five thousand dollars (\$25,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
 - (A) A certification completed by the grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted; and
 - (B) An accounting of the State funds received, used, or expended.

All reporting requirements shall be filed with the funding agency within six months after the end of the grantee's fiscal year in which the State funds were received.

- (2) \$25,000 up to \$500,000 - A grantee that receives, uses, or expends State funds in an amount of at least twenty-five thousand dollars (\$25,000) and up to five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:

- (A) A certification completed by the grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted;
- (B) An accounting of the State funds received, used, or expended; and
- (C) A description of activities and accomplishments undertaken by the grantee with the State funds.

All reporting requirements shall be filed with the funding agency within six months after the end of the grantee's fiscal year in which the State funds were received.

- (3) Greater than \$500,000 – A grantee that receives, uses, or expends State funds and in the amount greater than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
 - (A) A certification completed by the grantee Board and management stating that the State funds were received, used, or expended for the

purposes for which they were granted;

- (B) An audit prepared and completed by a licensed Certified Public Accountant for the grantee consistent with the reporting requirement of this Subchapter; and
- (C) A description of activities and accomplishments undertaken by the grantee with the State funds.

All reporting requirements shall be filed with both the funding agency and the Office of the State Auditor within nine months after the end of the grantee's fiscal year in which the State funds were received.

- (b) Unless prohibited by law, the costs of audits made in accordance with the provisions of this rule are allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles outlined in the Office of Budget and Management (OMB) Circular A-87. The cost of any audit not conducted in accordance with this Subchapter is unallowable and shall not be charged to State or Federal grants.

(c) The audit requirements in this Subchapter do not replace a request for submission of audit reports by grantor agencies in connection with requests for direct appropriation of state aid by the General Assembly.

(d) Notwithstanding the provisions of this Subchapter, a grantee may satisfy the reporting requirements of Part (a)(3)(B) of this Rule by submitting a copy of the report required under the federal law with respect to the same funds.

(e) All grantees and subgrantees shall use the forms of the Office of State Budget and Management and of the Office of the State Auditor in making reports to the awarding agencies and the Office of the State Auditor.

*History Note: Authority G.S. 143-6.2;
Eff. August 1, 2005.*

**TITLE 10A – DEPARTMENT OF HEALTH
AND HUMAN SERVICES**

10A NCAC 41A .0102 METHOD OF REPORTING

(a) When a report of a disease or condition is required to be made pursuant to G.S. 130A-135 through 139 and 10A NCAC 41A .0101, with the exception of laboratories, which shall proceed as in Subparagraph (d), the report shall be made to the local health director as follows:

- (1) For diseases and conditions required to be reported within 24 hours, the initial report shall be made by telephone, and the report required by Subparagraph (2) of this Paragraph shall be made within seven days.
- (2) In addition to the requirements of Subparagraph (1) of this Paragraph, the report shall be made on the communicable disease report card or in an electronic format provided by the Division of Public Health and shall

include the name and address of the patient, the name and address of the parent or guardian if the patient is a minor, and epidemiologic information.

- (3) In addition to the requirements of Subparagraphs (1) and (2) of this Paragraph, forms or electronic formats provided by the Division of Public Health for collection of information necessary for disease control and documentation of clinical and epidemiologic information about the cases shall be completed and submitted for the following reportable diseases and conditions identified in 15A NCAC 19A .0101(a): acquired immune deficiency syndrome (AIDS); brucellosis; cholera; cryptosporidiosis; cyclosporiasis; E. coli 0157:H7 infection; ehrlichiosis; Haemophilus influenzae, invasive disease; Hemolytic-uremic syndrome/thrombotic thrombocytopenic purpura; hepatitis A; hepatitis B; hepatitis B carriage; hepatitis C; human immunodeficiency virus (HIV) confirmed; legionellosis; leptospirosis; Lyme disease; malaria; measles (rubeola); meningitis, pneumococcal; meningococcal disease; mumps; paralytic poliomyelitis; psittacosis; Rocky Mountain spotted fever; rubella; rubella congenital syndrome; tetanus; toxic shock syndrome; trichinosis; tuberculosis; tularemia; typhoid; typhoid carriage (Salmonella typhi); vibrio infection (other than cholera); and whooping cough.
- (4) Communicable disease report cards, surveillance forms, and electronic formats are available from the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915, and from local health departments.

(b) Notwithstanding the time frames established in 10A NCAC 41A .0101, a restaurant or other food or drink establishment shall report all outbreaks or suspected outbreaks of foodborne illness in its customers or employees and all suspected cases of foodborne disease or foodborne condition in food-handlers at the establishment by telephone to the local health department within 24 hours in accordance with Subparagraph (a)(1) of this Rule. However, the establishment is not required to submit a report card or surveillance form pursuant to Subparagraphs (a)(2) and (a)(4) of this Rule.

(c) For the purposes of reporting by restaurants and other food or drink establishments pursuant to G.S.130A-138, the following diseases and conditions listed in 10A NCAC 41A .0101(a) shall be reported: anthrax; botulism; brucellosis; campylobacter infection; cholera; cryptosporidiosis; cyclosporiasis; E. coli 0157:H7 infection; hepatitis A; salmonellosis; shigellosis; streptococcal infection, Group A, invasive disease; trichinosis; tularemia; typhoid; typhoid carriage (Salmonella typhi); and vibrio infection (other than cholera).

(d) Laboratories required to report test results pursuant to G.S. 130A-139 and 10A NCAC 41A .0101(c) shall report as follows:

- (1) The results of the specified tests for syphilis, chlamydia and gonorrhea shall be reported to the local health department by the first and fifteenth of each month. Reports of the results of the specified tests for gonorrhea, chlamydia and syphilis shall include the specimen collection date, the patient's age, race, and sex, and the submitting physician's name, address, and telephone numbers.
- (2) Positive darkfield examinations for syphilis, all reactive prenatal and delivery STS titers, all reactive STS titers on infants less than one year old and STS titers of 1:8 and above shall be reported within 24 hours by telephone to the HIV/STD Prevention and Care Branch at (919) 733-7301, or the HIV/STD Prevention and Care Branch Regional Office where the laboratory is located.
- (3) With the exception of positive laboratory tests for human immunodeficiency virus, positive laboratory tests as defined in G.S. 130A-139(1) and 10A NCAC 41A .0101(c) shall be reported to the Division of Public Health electronically, by mail, by secure telefax or by telephone within the time periods specified for each reportable disease or condition in 10A NCAC 41A .0101(a). Confirmed positive laboratory tests for human immunodeficiency virus as defined in 10A NCAC 41A .0101(b) and for CD4 results defined in 10A NCAC 41A .0101(c)(4) shall be reported to the HIV/STD Prevention and Care Branch within seven days of obtaining reportable test results. Reports shall include as much of the following information as the laboratory possesses: the specific name of the test performed; the source of the specimen; the collection date(s); the patient's name, age, race, sex, address, and county; and the submitting physician's name, address, and telephone number.

History Note: Authority G.S. 130A-134; 130A-135; 130A-138; 130A-139; 130A-141;
Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;
Eff. March 1, 1988;
Amended Eff. October 1, 1994; February 3, 1992;
December 1, 1991; May 1, 1991;
Temporary Amendment Eff. December 16, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Temporary Amendment Expired June 16, 1995;
Amended Eff. August 1, 2005, April 1, 2003; August 1, 1998.

10A NCAC 71S .0207 COLLECTION OF CONSUMER CONTRIBUTIONS REVENUE

(a) Service providers shall have written procedures to collect, account for, and safeguard all contributions.

(b) When the county department of social services directly provides a service subject to consumer contributions, the county department of social services shall collect and account for these revenues.

(c) When a service subject to consumer contributions is provided by an agency other than a county department of social services or an individual through a purchase of service contract, that provider or the county department of social services shall be responsible for collecting and accounting for the revenue. When the provider is responsible for collecting and accounting for consumer contributions revenue, this must be specified in the contract for purchase of services.

(d) When a service subject to consumer contributions is purchased through a local or state-level contract, the county department of social services shall furnish the provider current information in writing as to the amount of the consumer contributions the client has agreed to contribute. The county department of social services or the provider shall collect the contribution from the client. The county department of social services shall furnish the provider in writing any change in the amount of consumer contributions. No consumer contributions amounts other than those identified shall be collected.

*History Note: Authority G.S. 143B-153;
Eff. March 1, 1994;
Amended Eff. September 1, 2005.*

TITLE 11 - DEPARTMENT OF INSURANCE

11 NCAC 16 .0205 DATA REQUIREMENTS FOR RATE REVISION SUBMISSION

(a) With respect to any individual accident and health insurance policy governed by Articles 1 through 64 of Chapter 58 for which an adjustment of premium rate is allowed by law, the insurer shall submit an actuarial memorandum describing and demonstrating the development of any requested premium rate revision. The actuarial memorandum shall contain a subsection identified as "Additional Data Requirements." The initial rate revision filing shall be submitted to and stamped received by the Department's Life and Health Division. An insurer shall submit all data required by this Rule within 45 days after the date that the initial rate revision filing is stamped received. Subsequent data submissions on incomplete initial rate revision filings shall be made directly to the Department's Actuarial Services Division within the 45 day period. The following data is required in the "Additional Data Requirements" subsection:

- (1) Identification of the submitted data as North Carolina or countrywide and consistent use of this data identification throughout this Section.
- (2) Identification of all previously approved policy forms included in the rate revision submission, by North Carolina policy form number.
- (3) The month, year, and percentage amount of all previous rate revisions.
- (4) The month and year that the rate revision is scheduled to be implemented (hereinafter referred to as the "implementation date").

- (5) The type of renewability provision contained in each policy form; e.g., guaranteed renewable.
- (6) The type of coverage provided by each policy form; e.g., medical expense.
- (7) Identification of the type of rating methodology; e.g., issue age, attained age, community rate or other.
- (8) The National Association of Insurance Commissioners minimum guideline loss ratio and, if different, the insurer's minimum guideline loss ratio.
- (9) The average annual premium for North Carolina and countrywide before and after the implementation of the rate revision.
- (10) The number of North Carolina and countrywide policyholders affected by the rate revision.
- (11) The requested rate revision percentage attributable to experience.
- (12) The requested rate revision percentage attributable to changes in benefits promulgated by Medicare, if applicable, and the calculation used to develop this percentage.
- (13) Identification and actuarial justification of all groupings of policy forms.
- (14) The historical calendar year earned premium subdivided by duration and expressed on an actual and a current premium rate basis for the period of time from the earliest date that experience is recorded to the most recent date experience is recorded.
- (15) The "expected" incurred loss ratios by duration based upon original pricing assumptions for all policy durations considered in the original pricing.
- (16) The "expected" lapse rates by duration based upon original pricing assumptions for all policy durations considered in the original pricing, including assumptions for voluntary lapse rates and mortality rates.
- (17) The "actual" lapse rates for duration one through the duration coinciding with the calendar year for which the most recent experience is recorded.
- (18) The historical calendar year incurred claims, for other than Medicare supplement insurance, covering the period of time from the earliest date that experience is recorded to the most recent date experience is recorded.
- (19) The historical calendar year incurred claims, for Medicare supplement insurance, expressed on an actual and a current benefit level basis covering the period of time from the earliest date experience is recorded to the most recent date experience is recorded.
- (20) A count of the number of incurred claims for each calendar year of data provided; which means the total number of claims reported

during the calendar year (whether paid or in the process of payment), plus the number of incurred but not reported claims at the end of the calendar year, minus the number of incurred but not reported claims at the beginning of the calendar year. For disability income insurance, only the initial claim payment for each period of disablement shall be counted. For each type of medical expense benefit, only the initial claim payment per cause shall be counted; for example, payments for continuation of a claim, such as refills on a prescription drug, are to be excluded from the incurred claim count.

- (21) An estimation of the amount of policy year exposure contributed by all policyholders within each calendar year of data provided.
- (22) A statement declaring whether this is an open block of business or a closed block of business.
- (23) An estimation of the annual earned premium on new issues stated at the current premium rate basis for the period of time from the date that the most recent experience is last recorded to a date not exceeding the fifth year following the implementation date.
- (24) The number of months that the rate will be guaranteed to an individual policyholder.
- (25) The rate revision implementation method, such as the next premium due date following a given date, the next policy anniversary date, or otherwise; if otherwise, an explanation must be included.
- (26) A statement declaring the month and year of the earliest anticipated date of the next rate revision.
- (27) An explanation and actuarial justification of the apportionment of the aggregate rate revision within each policy form or between policy forms that have been grouped; and a demonstration that the apportionment of the aggregate rate revision yields the same premium income as if the rate revision had been applied uniformly.
- (28) An explanation and actuarial justification, if applicable, for changing any factor that affects the premium.
- (29) An explanation of the effect that the rate revision will have on the incurred loss ratio on those policies in force for three years or more as exhibited in the Medicare Supplement Experience Exhibit of the Annual Statement.
- (30) The name, address, and telephone number of an insurance company representative who will be available to answer questions relating to the rate revision.

(b) For the following individual accident and health policies, except Medicare supplement and long-term care, data is not required to be subdivided by policy year duration; and the data

in Subparagraphs (a)(15), (a)(16), and (a)(17) of this Rule may be omitted:

- (1) short term non-renewable; e.g., airline trip, student, or accident;
- (2) annual renewable term that are repriced every year; and
- (3) any closed block of business for which all in force policies have exceeded the seventh year duration.

History Note: Authority G.S. 58-2-40(1); 58-51-95; 58-63-15(7)b; Eff. June 1, 1992; Amended Eff. August 1, 2005; February 1, 1994; October 1, 1993; January 1, 1993.

TITLE 12 – DEPARTMENT OF JUSTICE

12 NCAC 09B .0204 TRAINING COURSE ENROLLMENT

- (a) Any school offering a Basic Law Enforcement Training Course shall have enrolled 10 trainees in the offering.
- (b) The school may not enroll any trainee later than the initial day of delivery of a certified training course unless the trainee's enrollment is pursuant to an authorization of limited enrollment in a subsequent course pursuant to Rule .0405 of this Subchapter or pursuant to prescribed supplementary or remedial training required pursuant to Rule .0402 of this Subchapter.
- (c) The school may not enroll more than 16 trainees in a presentation of the "Criminal Justice Instructor Training Course" as constituted under Rule .0209 of this Section.

History Note: Authority G.S. 17C-6; Eff. January 1, 1981; Amended Eff. August 1, 2005; August 1, 2000; January 1, 1985; November 1, 1981.

12 NCAC 09B .0209 CRIMINAL JUSTICE INSTRUCTOR TRAINING

- (a) The instructor training course required for general instructor certification shall consist of a minimum of 77 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 the following identified topic areas and minimum instructional hours for each area:

- (1) Orientation/Self Assessment
3 Hours
- (2) Curriculum Development: ISD Model
3 Hours
- (3) Civil Liability for Law Enforcement Trainers
2 Hours
- (4) Interpersonal Communication in Instruction
4 Hours

- (5) Lesson Plan Preparation: Professional Resources 2 Hours
- (6) Lesson Plan Preparation: Format and Objectives 6 Hours
- (7) Teaching Adults 4 Hours
- (8) Principles of Instruction: Demonstration Methods and Practical Exercise 6 Hours
- (9) Methods and Strategies of Instruction 4 Hours
- (10) The Evaluation Process 4 Hours
- (11) Principles of Instruction: Audio-Visual Aids 6 Hours
- (12) Student 10-Minute Talk and Video Critique 6 Hours
- (13) Student Performance:
 - First 30-Minute Presentation 6 Hours
 - Second 30-Minute Presentation 6 Hours
 - Final 80-Minute Presentation and Review 12 Hours
- (14) Examination and Course Closing 3 Hours

(d) The "Basic Instructor Training Manual" as published by the North Carolina Justice Academy shall 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 from the Academy at the following address:

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

History Note: Authority G.S. 17C-6; Eff. January 1, 1981; Amended Eff. August 1, 2005; November 1, 1998; January 1, 1995; March 1, 1990; July 1, 1989; January 1, 1985.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 06E .0106 TECHNICAL ASSISTANCE FUNDS

(a) The funds available for technical assistance shall be allocated by the commission based on the recommendation of the division and the needs as expressed by the district and needs to accelerate the installation of BMP's in the respective district.

Each district may use these monies to fund new positions or to accelerate present technical assistance positions. Districts must provide an itemized budget to the division in order to qualify for technical assistance funds. Matching funds for district technical assistance shall be approved by the commission prior to any expenditure of funds. Budget revisions submitted by the districts may be approved by the NPS Section based on Paragraph (b) of this Rule. N. C. Agriculture Cost Share technical assistance funds may be used for each FTE technical position with the district matching at least 50 percent of the total. Priorities for funding positions shall be assigned based as follows:

- (1) Subject to availability of funds and local match, provide support for one FTE technical position for every district.
- (2) Subject to availability of funds and local match, provide support for one additional FTE technical position if the position is needed to further support program implementation. Priority for funding positions beyond one FTE per district shall be based on the following parameters:
 - (A) Whether the position is presently funded by program technical assistance funds.
 - (B) The number of program dollars encumbered to contracts in the highest three of the previous four completed program years, and
 - (C) The number of program dollars actually expended for installed BMPs in the highest three years of the most recent four-year period for which the allowed time for implementing contracted BMPs has expired as reported on the NC Agriculture Cost Share Database.
- (3) Subject to availability of funds and local match, provide support for additional FTE technical position if the position is needed to further accelerate treatment of identified critical nonpoint source pollution problem(s).
 - (b) Technical assistance funds may be used for salary, benefits, social security, field equipment and supplies, office rent, office equipment and supplies, postage, telephone service, travel and mileage. A maximum of two thousand five hundred dollars (\$2,500) per year for each FTE technical position is allowed for mileage charges.
 - (c) Technical assistance funds may not be used to fund technical assistance positions which do not meet the following minimum requirements:
 - (1) associated degree in engineering, agriculture, forestry or related field; or
 - (2) high school diploma with two years experience in the fields listed in Rule .0106(c)(1), of this Subchapter.
 - (d) Cost shared positions must be used to accelerate the program activities in the district. A district technician cost shared with program funds may work on other activities as delegated by the

field office supervisor but the total hours charged to the program by field office personnel must equal or exceed those hours funded through the program. Also, these hours must be in addition to those hours normally spent in BMP planning and installation by district personnel.

(e) District technicians may be jointly funded by more than one district to accelerate the program in each participating district. Each district must be eligible for cost sharing in the program. Requests for funding (salary, FICA, insurance, etc.) of a shared position must be presented to the division by all concerned districts and the division shall cost share to the billing district at a 50-50 rate based on the portion of the FTE provided each respective district. A shared position must be officially housed in one specific district and cost share for support items (office rent, telephone, etc.) shall be paid to one district only.

(f) Funds, if available, shall be allocated to each participating district to provide for administrative costs under this program. These funds shall be used for clerical assistance and other related program administrative costs and shall be matched with in-kind funds of an equal amount from the district.

History Note: Authority G.S. 139-4; 139-8; 143-215.74; 143B-294; Eff. May 1, 1987; Amended Eff. July 1, 1992; Recodified from 15A NCAC 6E .0006 Eff. December 20, 1996; Amended Eff. August 1, 2005; November 1, 1997.

TITLE 17 – DEPARTMENT OF REVENUE

17 NCAC 05C .0304 **ATTRIBUTION OF EXPENSES TO NONTAXABLE INCOME**

(a) Direct Expenses - All expenses directly connected with the production of income which is not subject to tax in this State shall be used to compute the net amount of such untaxed income.

(b) Interest Expenses - When a corporation earns income which is not taxed by this State (see examples), or holds property that does or will produce untaxed income, and incurs interest expense which is not specifically related to any particular income or property, it shall attribute a portion of the interest expense to such untaxed income and property in determining taxable income reported to this State. The formula used for computing the amount of interest expense to be attributed to untaxed income and property is as follows:

- (1) Value of assets:
 - (A) Value of the tax return balance sheet of assets which produce or which would produce untaxed income; *
 - (B) Value of all assets on the tax return balance sheet; **
 - (C) Determine the ratio or percentage of Subparagraphs (b)(1)(A) to (B) of this Rule.
- (2) Income/Profits:
 - (A) Gross untaxed income;
 - (B) Total gross profits;

- (C) Determine the ratio or percentage of Subparagraphs (b)(2)(A) to (B) of this Rule.
- (3) Total of the ratios or percentages determined in Subparagraphs (b)(1) and (2) of this Rule;
- (4) Divide the total of Subparagraph (b)(3) of this Rule by two;
- (5) Apply average percentage determined in Subparagraph (b)(4) of this Rule to the total interest expense on the return filed in this state.

(c) Examples of Untaxed Income are:

- (1) Dividend income classified as nonapportionable (G.S. 105-130.4);
- (2) Dividend income excludable by statute (G.S. 105-130.5);
- (3) Interest income classified as nonapportionable (G.S. 105-130.4);
- (4) Interest income earned on United States obligations and state of North Carolina obligations;
- (5) Other nonapportionable income or exempt income.

(d) Expenses Connected with Interest Income from United States Obligations - Under G.S. 105-130.5(b)(1), interest income from obligations of the United States or its possessions is excludable from North Carolina taxable income to the extent such income is included in federal taxable income. Expenses incurred in producing the exempt income must be determined and subtracted from the gross amount earned during a taxable period before the deduction is made in computing the state taxable income. In the computation of expenses related to income from United States obligations, the formula described in Paragraph (b) of this Rule may be used with respect to interest expense.

(e) Other Expenses Attributed to Nontaxable Income and to Nonapportionable Income and Property - In the determination of expenses other than interest expense attributed to untaxed income, the procedure set forth in the Federal Code for determining expenses related to foreign source income generally referred to as stewardship and supportive expenses may be used to determine the expenses allocated to untaxed income and property producing or which would produce untaxed income. Alternatively, an income formula as outlined in Paragraph (b)(2) of this Rule relating to interest expenses may be used to determine the amount of supportive function expenses attributable to untaxed income. In the determination of "supportive function expenses", direct expenses incurred exclusively in a specific identifiable taxable or nontaxable activity shall be determined and excluded before application of the attribution percentage to expenses. If direct expenses are determinable for a particular activity resulting in an accurate computation of the net income or loss from such activity, the values of this activity shall be removed as elements of the ratio when computing the attribution percentage.

Note: * When the equity method of accounting is used, the increase or decrease in value as a result of such accounting method may be excluded from this value.

Note: ** Equity included in this value may be excluded and the reserve for depreciation reflected on the balance sheet may be restored to the asset value.

History Note: Authority G.S. 105-130.4; 105-130.5; 105-262; Eff. April 1, 1991; Amended Eff. August 1, 2005; January 1, 2005; January 1, 1994.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

CHAPTER 36 – BOARD OF NURSING

21 NCAC 36 .0228 CLINICAL NURSE SPECIALIST PRACTICE

(a) A registered nurse who meets the qualifications as outlined in Paragraph (b) of this Rule may be recognized by the Board as a clinical nurse specialist, and perform nursing activities at an advanced skill level as outlined in Paragraph (c) of this Rule.

(b) In order to be recognized as a Clinical Nurse Specialist, the individual shall have an unencumbered license to practice as a registered nurse in North Carolina and meet at least one of the following qualifications:

- (1) As of January 1, 2006 has completed a master's level or higher educational program in a clinical nursing specialty as defined in 21 NCAC 36 .0120(9) and consistent with G.S. 90-171.21(d)(4); or
(2) Maintains current certification from a national credentialing body in the clinical nursing specialty approved by the Board of Nursing, as defined in Paragraph (e) of this Rule and 21 NCAC 36 .0120(9).

(c) Clinical nurse specialist scope of practice incorporates the basic components of nursing practice as defined in Rule .0224 of this Section as well as the understanding and application of nursing principles at an advanced level in his/her area of clinical nursing specialization which includes:

- (1) assessing clients' health status, synthesizing and analyzing multiple sources of data, and identifying alternative possibilities as to the nature of a healthcare problem;
(2) diagnosing and managing clients' acute and chronic health problems within a nursing framework;
(3) formulating strategies to promote wellness and prevent illness;
(4) prescribing and implementing therapeutic and corrective nursing measures;
(5) planning for situations beyond the clinical nurse specialist's expertise, and consulting with or referring clients to other health care providers as appropriate;
(6) promoting and practicing in collegial and collaborative relationships with clients, families, other health care professionals and

individuals whose decisions influence the health of individual clients, families and communities;

- (7) initiating, establishing and utilizing measures to evaluate health care outcomes and modify nursing practice decisions;
(8) assuming leadership for the application of research findings for the improvement of health care outcomes; and
(9) integrating education, consultation, management, leadership and research into the advanced clinical nursing specialist role.

(d) The registered nurse who seeks recognition by the Board as a clinical nurse specialist shall:

- (1) complete the appropriate application, which shall include:
(A) evidence of the appropriate masters, post-master's certificate or doctoral degree as set out in Subparagraphs (b)(1), and (3) of this Rule; and
(B) evidence of current certification in a clinical nursing specialty from a national credentialing body as set out in Subparagraphs (b)(2) and (3) of this Rule;
(2) submit a processing fee of twenty-five dollars (\$25.00) to cover the costs of duplicating and distributing the application materials; and
(3) submit evidence of initial certification and recertification at the time such occurs in order to maintain Board of Nursing recognition consistent with Paragraphs (b) and (e) of this Rule.

(e) The Board of Nursing may approve those national credentialing bodies offering certification and recertification in a clinical nursing specialty which have established the following minimum requirements:

- (1) an unencumbered registered nurse license;
(2) certification as a clinical nurse specialist is limited to masters, post-master's certificate or doctoral prepared applicant effective January 1, 2010; and
(3) 500 hours of clinical experience as a registered nurse in a graduate program in the clinical nursing specialty. For a dual track graduate program, if less than 500 hours per track, a requirement that there must be documentation of any crossover which would justify less than an additional 500 hours for the second track.

History Note: Authority G.S. 90-171.20(4); 90-171.20(7); 90-171.21(d)(4); 90-171.23(b); 90-171.27(b); 90-171.42(b); Eff. April 1, 1996; Amended Eff. August 1, 2005; April 1, 2003.

CHAPTER 57 – REAL ESTATE APPRAISAL BOARD

21 NCAC 57A .0204 CONTINUING EDUCATION

(a) All registered trainees, real estate appraiser licensees and certificate holders shall, upon the renewal of their registration, license or certificate, present evidence satisfactory to the Board of having obtained continuing education as required by this Section. Registered trainees who were initially registered with the Board after January 1 of an odd numbered year will not be required to show continuing education credit for renewal of their registration in that odd numbered year.

(b) Each trainee, licensee and certificate holder who is required to complete continuing education pursuant to Paragraph (a) of this Rule must complete 28 hours of continuing education between July 1, 2003 and June 30, 2005 and prior to June 30 of every odd numbered year thereafter. Except as provided in Paragraphs (g) and (h) of this Rule, such education must have been obtained by taking courses approved by the Board for continuing education purposes. Such education must relate to real estate appraisal and must contribute to the goal of improving the knowledge, skill and competence of trainees, and licensed and certified real estate appraisers. There is no exemption from the continuing education requirement for trainees or appraisers whose registered, licensed or certified status has been upgraded to the level of licensed residential, certified residential or certified general appraiser since the issuance or most recent renewal of their registration, license or certificate, and courses taken to satisfy the requirements of a higher level of certification may not be applied toward the annual continuing education requirement. Trainees, licensees and certificate holders may not take the same continuing education course more than once during the two year continuing education cycle. The seven hour National Uniform Standards of Professional Appraisal Practice (USPAP) update course may be taken once for each edition of USPAP.

(c) Each appraisal continuing education course must involve a minimum of three and one-half classroom hours of instruction on real estate appraisal or related topics such as the application of appraisal concepts and methodology to the appraisal of various types of property; specialized appraisal techniques; laws, rules or guidelines relating to appraisal; standards of practice and ethics; building construction; financial or investment analysis; land use planning or controls; feasibility analysis; statistics; accounting; or similar topics. The trainee, license or certificate holder must have attended at least 90 percent of the scheduled classroom hours for the course in order to receive credit for the course.

(d) Each trainee, licensee and certificate holder who is required to complete continuing education pursuant to .0204(a) must, as part of the 28 hours of continuing education required in .0204(b) of this section, complete the seven hour National USPAP update course, as required by the Appraiser Qualifications Board of the Appraisal Foundation, or its equivalent, prior to June 30 of every odd numbered year.

(e) A licensee who elects to take approved continuing education courses in excess of the requirement shall not carry over into the subsequent years any continuing education credit.

(f) Course sponsors must provide a prescribed certificate of course completion to each trainee, licensee and certificate holder

satisfactorily completing a course. In addition, course sponsors must send directly to the Board a certified roster of all who successfully completed the course. This roster must be sent within 15 days of completion of the course, but not later than June 30 of each year. In order to renew a registration, license or certificate in a timely manner, the Board must receive proper proof of satisfaction of the continuing education requirement prior to processing a registration, license or certificate renewal application. If proper proof of having satisfied the continuing education requirement is not provided, the registration, license or certificate shall expire and the trainee, licensee or certificate holder shall be subject to the provisions of Rules .0203(e) and .0206 of this Section.

(g) A current or former trainee, licensee or certificate holder may request that the Board grant continuing education credit for a course taken by the trainee, licensee or certificate holder that is not approved by the Board, or for appraisal education activity equivalent to a Board-approved course, by making such request and submitting a non-refundable fee of fifty dollars (\$ 50.00) for each course or type of appraisal education activity to be evaluated. Continuing education credit for a non-approved course shall be granted only if the trainee, licensee or certificate holder provides satisfactory proof of course completion and the Board finds that the course satisfies the requirements for approval of appraisal continuing education courses with regard to subject matter, course length, instructor qualifications, and student attendance. Appraisal education activities for which credit may be awarded include, but are not limited to, teaching appraisal courses, authorship of appraisal textbooks, and development of instructional materials on appraisal subjects. The awarding of credit for such activities is wholly discretionary on the part of the Board. Trainees or licensed or certified appraisers who have taught an appraisal course or courses approved by the Board for continuing education credit shall be deemed to have taken an equivalent course and shall not be subject to the fifty (\$50.00) fee, provided they submit verification satisfactory to the Board of having taught the course(s). A trainee, licensee or certificate holder who teaches a Board-approved continuing education course may not receive continuing education credit for the same course more than once every three years, regardless of how often he teaches the course.

(h) A trainee, licensee or certificate holder may receive continuing education credit by taking any of the Board-approved prelicensing or precertification courses or their approved equivalents. These courses cannot be used for both continuing education credit and for credit for licensing purposes. In order to receive continuing education credit for these courses, the examination must be taken. Trainee, licensees and certificate holders who wish to use a prelicensing course for continuing education credit must comply with the provisions of 21 NCAC 57B .0604.

History Note: Authority G.S. 93E-1-7(a); 93E-1-10;

Eff. July 1, 1994;

Amended Eff. September 1, 2005; July 1, 2003; August 1, 2002;

April 1, 1999.

This Section contains information for the meeting of the Rules Review Commission on Thursday August 18, 2005, 10:00 a.m. at 1307 Glenwood Avenue, Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments by Monday, August 15, 2005 to the RRC staff, the agency, and the individual Commissioners. 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

Jim R. Funderburke - 1st Vice Chair
David Twiddy - 2nd Vice Chair
Thomas Hilliard, III
Robert Saunders
Jeffrey P. Gray

Appointed by House

Jennie J. Hayman - Chairman
Graham Bell
Lee Settle
Dana E. Simpson
Dr. John Tart

RULES REVIEW COMMISSION MEETING DATES

August 18, 2005 September 15, 2005
October 20, 2005 November 17, 2005
December 15, 2005

RULES REVIEW COMMISSION

JULY 21, 2005

MINUTES

The Rules Review Commission met on Thursday, July 21, 2005, in the Assembly Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. Commissioners present were: Graham Bell, Jim Funderburk, Thomas Hilliard, Lee Settle, Dana Simpson, and John Tart.

Staff members present were: Joseph DeLuca, Staff Counsel; Bobby Bryan, Rules Review Specialist; and Lisa Johnson, Administrative Assistant.

The following people attended:

Vicky Church	Division of Aging & Adult Services
Mark Hensley	Division of Aging & Adult Services
Tara Fields	American Human Services, Inc.
Carlotta Dixon	DSS
Claud Whitener	NC Cemetery Commission
Julie Brincefield	OAH
Dana Sholes	OAH
Torrey McLean	DHHS
Ellie Sprenkel	Department of Insurance
Frank Folger	Department of Insurance
Ted Harris	Department of Insurance
Bob Potter	Department of Insurance
Keith Williams	Commission of State Property
Julie Allen	Commission of State Property
Nancy Pate	DENR
Steve Wall	DENR
Roberta Ouellette	Appraisal Board
Delbert Williams	DHHS
Erin Kimrey	NC Conservation Network
Alisa Dolan	NC conservation Network
Julian Mann	OAH
Rick Zechini	Association of Realtors

Tom Newsome
David Kalbacker
Jack Nichols
David Williams

Office of State Budget & Management
Board of Nursing
Board of Nursing
DENR

APPROVAL OF MINUTES

The meeting was called to order at 10:05 a.m. with Vice-Chairman Funderburk presiding.

He reminded the Commissioners of their obligations under the governor's Executive Order #1 to refrain from taking part in consideration of any rules for which they have or may appear to have a conflict of interest.

Vice-Chairman Funderburk asked for any discussion, comments, or corrections concerning the minutes of the June 16, 2005 meeting. The minutes were approved as written. Vice-Chairman Funderburk also asked for any discussion, comments, or corrections concerning the minutes of the special meeting on July 11, 2005. The minutes were approved as written.

FOLLOW-UP MATTERS

4 NCAC 5C .0201: Cemetery Commission – The Commission approved the rewritten rule submitted by the agency.

9 NCAC 3M .0205: Office of State Budget and Management – The Commission approved the rewritten rule submitted by the agency.

10A NCAC 9 .2608: Child Care Commission – No action was taken.

10A NCAC 27G .1301; .1701-.1708; .1901-.1904: Commission for Mental Health – No action was taken.

21 NCAC 57A .0204: Appraisal Board – The Commission approved the rewritten rule submitted by the agency.

LOG OF FILINGS

Vice-Chairman Funderburk presided over the review of the log of permanent rules. All rules were approved unanimously with the following exceptions:

10A NCAC 71S .0101: Social Services Commission – The Commission objected to the rule due to lack of statutory authority and ambiguity. In (a)(2), it is not clear what the amounts in the “Recommended Contribution Schedule” are. There is no authority cited to establish them on a web-site rather than by rule. In addition, it does not appear that the Schedule is actually on the web page cited. If it is, it is difficult to find.

10A NCAC 71S .0201: Social Services Commission – The Commission objected to the rule due to ambiguity. In (b), it is not clear how it is determined how long recipients of services provided to persons as part of a Protective Services Plan are excluded from consumer contributions. The rule says the maximum is 12 months, but it is not clear how to determine the exact length of time.

10A NCAC 71S .0202 : Social Services Commission – The Commission objected to the rule due to lack of statutory authority and ambiguity. In (b), it is not clear what the amounts in the Recommended Contribution Schedule are, and there is no authority cited to set them outside rulemaking.

12 NCAC 9F .0104: Criminal Justice Education and Training Standards Commission – The Commission objected to the rule due to lack of statutory authority, ambiguity and necessity. There is no authority cited for Item (4) in this Rule. G.S. 14-415.12(a)(4) gives the North Carolina Criminal Justice Education and Training Standards Commission authority to publish guidelines for courses and qualifications of instructors, and it requires instructors to file course materials with the Commission, but no where does it allow the Commission to require the instructor to notify the Division of court orders, etc as Item (4) does. It is also not clear why receipt of this information is necessary since it is not relevant to any actual qualifications adopted by the Commission.

12 NCAC 9F .0106: Criminal Justice Education and Training Standards Commission – The Commission objected to the rule due to lack of statutory authority. There is not authority cited for the Commission to summarily suspend the certification of an instructor for failing to submit to the Commission material that has no relevance to his qualifications.

15A NCAC 6E .0103: Soil and Water Conservation Commission – The Commission objected to the rule due to ambiguity. In (b), it is not clear what constitutes “significant” unspent funds.

21 NCAC 26 .0209-.0211; .0306; .0510: Board of Landscape Architects – The rules were withdrawn by the agency and refiled for next month.

TEMPORARY RULES

15A NCAC 1C .0412: DENR – The Commission approved this temporary rule upon receiving information, that the Secretary of Administration had approved these rules, concerning minimum criteria.

Vice-Chairman Funderburk presided over the review of the log of temporary rules. All rules were approved unanimously.

Commissioner Simpson did not participate in the discussion or vote concerning the temporary rules.

COMMISSION PROCEDURES AND OTHER BUSINESS

The Commission discussed no new business.

The meeting adjourned at 10:40 a.m.

The next meeting of the Commission is Thursday, August 18, 2005 at 10:00 a.m.

Respectfully submitted,
Lisa Johnson

LIST OF APPROVED PERMANENT RULES
July 21, 2005 Meeting

CEMETERY COMMISSION

Application and Filing Fee 04 NCAC 05C .0201

STATE BUDGET AND MANAGEMENT, OFFICE OF

Reporting Thresholds and Formats for Grantees and Subgran... 09 NCAC 03M .0205

HEALTH SERVICES, COMMISSION FOR

Method of Reporting 10A NCAC 41A .0102

SOCIAL SERVICES COMMISSION

Annual Review 10A NCAC 71S .0203

Service Cost Sharing Form 10A NCAC 71S .0205

Service Cost Sharing Schedule 10A NCAC 71S .0206

Collection of Cost Contributions Revenue 10A NCAC 71S .0207

Termination 10A NCAC 71S .0208

INSURANCE, DEPARTMENT OF

Purpose and Definitions 11 NCAC 12 .0815

Applicability and Scope 11 NCAC 12 .0816

Policy Definitions and Terms 11 NCAC 12 .0818

Policy Provisions 11 NCAC 12 .0819

Minimum Benefit Standards Before January 1, 1992 11 NCAC 12 .0820

Standards for Claims Payment 11 NCAC 12 .0821

Loss Ratio Standards and Refund or Credit of Premium 11 NCAC 12 .0822

Required Disclosure Provisions 11 NCAC 12 .0824

Requirements for Application Forms and Replacement Coverage 11 NCAC 12 .0825

Filing Requirements for Advertising 11 NCAC 12 .0826

Standards for Marketing 11 NCAC 12 .0827

Appropriateness of Recommended Purchase/Excessive Insurance 11 NCAC 12 .0828

Reporting of Multiple Policies 11 NCAC 12 .0829

Prohibitions in Replacement Policies or Certificates 11 NCAC 12 .0830

Permitted Compensation Arrangements	11	NCAC	12	.0834
Minimum Benefit Standards on or After January 1, 1992	11	NCAC	12	.0835
Standard Medicare Supplement Benefit Plans	11	NCAC	12	.0836
Open Enrollment	11	NCAC	12	.0837
Filing and Approval of Policies/Certificates and Premium ...	11	NCAC	12	.0838
Medicare Select Policies and Certificates	11	NCAC	12	.0839
High Deductible Plans	11	NCAC	12	.0840
Creditable Coverage	11	NCAC	12	.0841
Guaranteed Issue for Eligible Persons	11	NCAC	12	.0842
NAIC Medicare Supplement Insurance Minimum Standards Mode...	11	NCAC	12	.0843
Data Requirements for Rate Revision Submission	11	NCAC	16	.0205
 CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION				
Training Course Enrollment	12	NCAC	09B	.0204
Criminal Justice Instructor Training	12	NCAC	09B	.0209
 SOIL AND WATER CONSERVATION COMMISSION				
Technical Assistance Funds	15A	NCAC	06E	.0106
 REVENUE, DEPARTMENT OF				
Attribution/Expenses/Nontaxable Income	17	NCAC	05C	.0304
 NURSING, BOARD OF				
Definitions	21	NCAC	36	.0120
Clinical Nurse specialist Practice	21	NCAC	36	.0228
Listing and Renewal	21	NCAC	36	.0404
 APPRAISAL BOARD				
Continuing Education	21	NCAC	57A	.0204

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 <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
A. B. Elkins II

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOL AND BEVERAGE COMMISSION</u>				
Richard S Blazak, Park View Lounge v. ABC	96 ABC 0053	Gray	07/06/05	
ABC Comm. & City of Asheville v. Elijah Ulysses Jones T/A Jones Convenience Store	98 ABC 0962	Gray	07/12/05	
ABC Comm v. Rudean Robinson Harris T/A Rudean's Diner & Lounge 3	03 ABC 1214	Conner	06/28/05	
ABC Comm v. Desperado's Inc T/A Desperado's	04 ABC 1192	Wade	07/20/05	
Cameron's One Stop, Sank Cameron v. ALE Agent B Haynes, Ann H. Johnson, Permit Comm Mgr	05 ABC 0799	Elkins	07/28/05	
<u>AUCTIONEERS LICENSING BOARD</u>				
Robert H. Rankin, Jr., NCAL #6727 v. Auctioneers Licensing Board	04 CFA 1497	Mann	05/13/05	
<u>COMMERCE, DEPARTMENT OF</u>				
Land-of-Sky Regional Council v. Dept of Commerce, Div of Emp/Trning	96 COM 1921	Gray	07/05/05	
<u>CRIME VICTIMS COMPENSATION</u>				
Dwight D Hoover Sr. v. Victims Compensation Commission	04 CPS 0988	Conner	07/07/05	
Myrtle Perry v. Crime Victims Compensation Commission	04 CPS 1190	Chess	06/21/05	
Rhonda Lynnette Rhodes v. Crime Victims Compensation Program	05 CPS 0484	Gray	06/23/05	
Jamaal O Staten v. Crime Victims Compensation Commission	05 CPS 0711	Elkins	07/28/05	
<u>BOARD OF ELECTIONS</u>				
Republican Governors Association & Holly Lynn Koerber v. State Board of Elections	04 BOE 2051	Morrison	06/30/05	20:02 NCR 100
<u>HEALTH AND HUMAN SERVICES</u>				
MedVisit, Inc. v. Div. of Medical Assistance (DHR)	94 DHR 0012	Gray	07/12/05	
Patsy Norris v. Department of Human Resources	94 DHR 0895	Gray	07/06/05	
Thomas Reiter, a minor, by his mother & legal guardian, Kathryn Reiter	03 DHR 1253	Gray	06/27/05	20:03 NCR 144
Louise Li Lai Fong v. DHHS, Division of Facility Services	03 DHR 1714	Wade	06/27/05	
Lenwood E Hargrove, Wilma Hargrove v. Div. of Medical Assistance	03 DHR 1737	Conner	07/27/05	
Jeffrey D. Cannon v. DHHS, Walter B Jones ADOACT	03 DHR 0488	Conner	06/29/05	
Geana E. Anderson v. DHHS, Division of Facility Services	03 DHR 2063	Gray	06/24/05	
Otis D. Wyche, Jr., v. DHHS, Div. of Facility Services	04 DHR 0294	Chess	05/16/05	
Priscilla Thomas/Thomas, Priscilla Small Day Care Home-ID#4605036 v. DHHS, Division of Child Development	04 DHR 0539 ¹	Mann	06/03/05	
Jamie Lynn Hensley v. DHHS, Div. of Facility Services	04 DHR 0917	Wade	05/16/05	
Priscilla Thomas/Thomas, Priscilla Small Day Care Home-ID#4605036 v. DHHS, Division of Child Development	04 DHR 1413 ¹	Mann	06/03/05	
Wake Forest Univ Health Sciences (Lessor) and Huntersville Dialysis Ctr of Wake Forest Univ d/b/a Huntersville Dialysis Center (Lessee) v. DHHS, Div. of Facility Services, CON Section and Bio-Medical Applications of NC, Inc. and Total Renal Care of North Carolina, LLC	04 DHR 1406	Conner	05/18/05	
Dawn Allison v. Div. of Medical Assistance	04 DHR 1444	Mann	05/27/05	
Gaile Thomas v. DHHS, Division of Facility Services	04 DHR 0110	Lassiter	06/21/05	

CONTESTED CASE DECISIONS

Dorothy S Coleman v DHHS	04 DHR 2247	Elkins	07/28/05
Tara Sue Clark-Grubb v. Guilford County Dept. of Social Services, Laura Blackwell, Tonya Dupree Freeman, Stacy Taylor-Greene	05 DHR 0243	Conner	06/10/05
Teresa Sharon Pyles v. Mecklenburg Co. DSS, Kuralt Centre	05 DHR 0264	Wade	06/20/05
Belinda Darnell Hawkins v. DHHS, Div of Facility Services	05 DHR 0265	Elkins	06/09/05
LaQuasha K Massey v. DHHS, Division of Social Services	05 DHR 0294	Lassiter	07/11/05
Cherry Bruce Kearney, Operator 7 th Heaven Day Care v. DHHS, Div of Facility Services	05 DHR 0382	Wade	06/20/05
DSS, Deloise Bryant v Halifax County Adoption Agency	05 DHR 0388	Lassiter	07/14/05
Tammy Trejo v. Office of Administrative Hearings	05 DHR 0452	Gray	06/15/05
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Jerry Lemar Pettus v Off. Of Emergency Medical Services	05 DHR 0496	Mann	07/19/05
D'Jetta D Miley for Jordana Correa v. Wake Co. Dept. of Human Services	05 DHR 0570	Lassiter	06/02/05
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Candace L Wood /Caitlyn A Wood v Alamance Caswell MHDDSA	05 DHR 0652	Conner	07/12/05
Rose McRae v. DHHS, Division of Health Services	05 DHR 0662	Elkins	07/18/05
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Barbara Munch v. DHHS	05 DHR 0725	Morrison	07/22/05
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Amanda M Walters v. DHHS	05 DHR 0779	Elkins	07/28/05
Linda M Currie v. Medicaid	05 DHR 0854	Gray	07/07/05
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Benny Brown v. DHHS, Division of Facility Services	05 DHR 0949	Elkins	07/28/05

A list of Child Support Decisions may be obtained by accessing the OAH Website: www.ncoah.com/decisions.

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Edward Keith Royal v. Criminal Justice Education & Training Stds. Comm.	04 DOJ 2194	Gray	06/28/05
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JFG, Inc, Mr. Wayne Pierce, Pres. v. Onslow Co Health Dept & DEHNR, Division of Environmental Health	95 EHR 0110	Gray	07/06/05
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Ralph K & Carolyn Emery v. Montgomery Co Health & Env. Section	95 EHR 0317	Gray	07/06/05
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Robert W Hudson v. Division of Marine Fisheries	05 EHR 0886	Morrison	07/05/05
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Eddie Ray Creech v. Department of Corrections	03 OSP 0831	Wade	05/17/05
Kathy Sledge v. Department of Corrections	03 OSP 1092	Conner	06/27/05
James A Ray v. UNC at Greensboro, Facility Services	04 OSP 0751	Elkins	06/28/05
Loretta G Hooks v. Department of Corrections	04 OSP 1266	Wade	07/11/05
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Thomas A Horton v. Dept. of Crime Control and Public Safety	05 OSP 0389	Lassiter	06/02/05
Anthony Bruce Allen v Department of Transportation	05 OSP 0418	Chess	06/09/05
Derek H. Babson v. Department of Transportation	05 OSP 0515	Chess	05/31/05
Mary K French Fomes v DOC Eastern Correctional Institution	05 OSP 0584	Gray	07/08/05
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Milton W. Nobles v. DHHS/Dorothea Dix Hospital	05 OSP 0815	Gray	06/15/05
Sandra Thomas v Department of Correction	05 OSP 0824	Wade	07/21/05

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Janice W. Craver v. Dept. of Secretary of State	05 SOS 0286	Conner	06/06/05
Richard C Capps v. Dept of Secretary of State	05 SOS 0560	Gray	07/14/05

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Amanda Mathis Miller v. UNC Hospitals	05 UNC 0247	Lassiter	06/02/05
Darian C. Jones Ph.D v. UNC Hospitals	05 UNC 0315	Lassiter	06/02/05
Tereasa King v. UNC Hospitals	05 UNC 0376	Lassiter	06/02/05
Ellen Griffith v. UNC Hospitals	05 UNC 0585	Conner	07/26/05
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De'Juana Middleton v UNC Chapel Hill Hospital	05 UNC 0701	Conner	07/26/05

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