

NORTH CAROLINA

REGISTER



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

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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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		46 Pharmacy	
		48 Physical Therapy Examiners	
		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 2006 – December 2006

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
20:13	01/03/06	12/08/05	01/18/06	03/06/06	03/20/06	05/01/06	05/09/06	09/30/06
20:14	01/17/06	12/21/05	02/01/06	03/20/06	04/20/06	06/01/06	01/07	10/14/06
20:15	02/01/06	01/10/06	02/16/06	04/03/06	04/20/06	06/01/06	01/07	10/29/06
20:16	02/15/06	01/25/06	03/02/06	04/17/06	04/20/06	06/01/06	01/07	11/12/06
20:17	03/01/06	02/08/06	03/16/06	05/01/06	05/22/06	07/01/06	01/07	11/26/06
20:18	03/15/06	02/22/06	03/30/06	05/15/06	05/22/06	07/01/06	01/07	12/10/06
20:19	04/03/06	03/13/06	04/18/06	06/02/06	06/20/06	08/01/06	01/07	12/29/06
20:20	04/17/06	03/24/06	05/02/06	06/16/06	06/20/06	08/01/06	01/07	01/12/07
20:21	05/01/06	04/07/06	05/16/06	06/30/06	07/20/06	09/01/06	01/07	01/26/07
20:22	05/15/06	04/24/06	05/30/06	07/14/06	07/20/06	09/01/06	01/07	02/09/07
20:23	06/01/06	05/10/06	06/16/06	07/31/06	08/21/06	10/01/06	01/07	02/26/07
20:24	06/15/06	05/24/06	06/30/06	08/14/06	08/21/06	10/01/06	01/07	03/12/07
21:01	07/03/06	06/12/06	07/18/06	09/01/06	09/20/06	11/01/06	01/07	03/30/07
21:02	07/17/06	06/23/06	08/01/06	09/15/06	09/20/06	11/01/06	01/07	04/13/07
21:03	08/01/06	07/11/06	08/16/06	10/02/06	10/20/06	12/01/06	01/07	04/28/07
21:04	08/15/06	07/25/06	08/30/06	10/16/06	10/20/06	12/01/06	01/07	05/12/07
21:05	09/01/06	08/11/06	09/16/06	10/31/06	11/20/06	01/01/07	01/07	05/29/07
21:06	09/15/06	08/24/06	09/30/06	11/14/06	11/20/06	01/01/07	01/07	06/12/07
21:07	10/02/06	09/11/06	10/17/06	12/01/06	12/20/06	02/01/07	05/08	06/29/07
21:08	10/16/06	09/25/06	10/31/06	12/15/06	12/20/06	02/01/07	05/08	07/13/07
21:09	11/01/06	10/11/06	11/16/06	01/01/07	01/22/07	03/01/07	05/08	07/29/07
21:10	11/15/06	10/24/06	11/30/06	01/15/07	01/22/07	03/01/07	05/08	08/12/07
21:11	12/01/06	11/07/06	12/16/06	01/30/07	02/20/07	04/01/07	05/08	08/28/07
21:12	12/15/06	11/22/06	12/30/06	02/13/07	02/20/07	04/01/07	05/08	09/11/07

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.

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

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY
Daniel M. Talbert, Sr.**

Pursuant to N.C.G.S. § 130A-310.34, Daniel M. Talbert, Sr. has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Roxboro, Person County, North Carolina. The Property, known as the former Bromma, Inc. site, consists of approximately 11.19 acres and is located at 2285 Durham Road. Environmental contamination exists on the Property in soil and groundwater. Daniel M. Talbert, Sr. has made a commitment to redevelop the Property exclusively for retail and commercial businesses, including restaurants and warehousing/distribution firms, and medical and other office space. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Daniel M. Talbert, Sr., which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the Person County Public Library, 319 South Main Street, Roxboro by contacting Linda Howerton at (336) 597-7881 or by email at lhowerton@personcounty.net; or at the N.C. Brownfields Program's office, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents) by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net, or at (919) 508-8411.

Written public comments may be submitted to DENR within 60 days after the date this Notice is published in a newspaper of general circulation serving the area in which the brownfields property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 30 days after the period for written public comments begins. Thus, if Daniel M. Talbert, Sr., as he plans, publishes this Summary in the North Carolina Register after he publishes the Summary in a newspaper of general circulation serving the area in which the brownfields property is located, and if he effects publication of this Summary in the North Carolina Register on the date he expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on September 2, 2006. All such comments and requests should be addressed as follows:

Mr. Bruce Nicholson
Brownfields Program Manager
Division of Waste Management
NC Department of Environment and Natural Resources
401 Oberlin Road, Suite 150
Raleigh, North Carolina 27605

**STATE OF NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION
1617 MAIL SERVICE CENTER
RALEIGH, NORTH CAROLINA 27699-1617**

**PUBLIC NOTICE OF INTENT TO ISSUE STATE GENERAL
NPDES STORMWATER PERMITS**

Public notice of intent to reissue State National Pollutant Discharge Elimination System (NPDES) General Permits for Point Source Discharges of Stormwater for the following types of discharges:

NPDES General Permit No. NCG010000 for stormwater point source discharges associated with construction activities including clearing, grading and excavation activities resulting in the disturbance of land area. Please note two specific notices with regard to reissuance of this general permit. First, the Division is noticing intent to reissue a revised version of this permit with changes in conditions and administration processes. In addition, the Division is also giving notice that as an alternative the existing construction general permit (NCG010000) may be reissued without modifications and for a time period not to exceed two years. Please refer to the information below for directions on obtaining the full text of the draft permit or the existing permit.

NPDES General Permit No. NCG200000 for stormwater point source discharges associated with establishments primarily engaged in assembling, breaking up, sorting and wholesale trade of scrap metal [standard industrial classification (SIC) 5093]. This permit also covers stormwater discharges from other areas at scrap metal recycling facilities used to process other scrap materials or used for vehicle maintenance. The Division is noticing intent to reissue this permit without modification for a time period not to exceed two years.

On the basis of preliminary staff review and application of Article 21 of Chapter 143 of the General Statutes of North Carolina, Public Law 92-500 and other lawful standards and regulations, the North Carolina Environmental Management Commission proposes to reissue State NPDES General Permits for the discharges as described above.

INFORMATION: Copies of the NPDES Stormwater General Permits referenced above are available for download at: <http://h2o.enr.state.nc.us/su/publicnotice.htm> or by writing or calling:

Stormwater Permitting Unit
NC Div of Water Quality
1617 Mail Service Center
Raleigh, NC 27699-1617
(919) 733-5083 ext 502

Written comments regarding the proposed permit will be accepted until September 30, 2006. All comments received prior to that date will be considered in the final determination regarding permit issuance. A public meeting may be held where the Director of the Division of Water Quality finds a significant degree of public interest in any proposed permit issuance. The draft Permits and other information are on file at the Division of Water Quality, 512 N. Salisbury Street, Room 1219, Archdale Building, Raleigh, North Carolina. They may be inspected during normal office hours. Copies of the information on file are available upon request and payment of the costs of reproduction. Comments should be submitted to the address above or by email to stormwater@ncmail.net. Please include the NPDES permit number (as referenced above) on all comments and requests.

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 11 – DEPARTMENT OF INSURANCE

SUBCHAPTER 05A - FIRE AND RESCUE

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Department of Insurance intends to amend the rules cited as 11 NCAC 05A .0603 and .0703.

SECTION .0600 - VOLUNTEER FIRE DEPARTMENT FUND

Proposed Effective Date: January 1, 2007

Public Hearing:

Date: October 2, 2006

Time: 10:00 a.m.

Location: 322 Chapanoke Road, Raleigh, NC 27603

Reason for Proposed Action: Technical corrections.

Procedure by which a person can object to the agency on a proposed rule: *The Department of Insurance will accept written objections to these rules until the expiration of the comment period on October 31, 2006.*

Comments may be submitted to: *Ellen K. Sprenkel, 1201 Mail Service Center, Raleigh, NC 27699-1201, phone (919) 733-4529, fax (919) 733-6495, email esprenke@ncdoi.net*

Comment period ends: October 31, 2006

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 05 - FIRE AND RESCUE SERVICES DIVISION

11 NCAC 05A .0603 REQUIREMENTS

- (a) Application forms ~~will~~ shall be mailed by the Division to all known departments by January 2 of each year.
- (b) Any application received by the Division that is incorrect or incomplete ~~will~~ shall be returned to the department with a request that the correct or complete information be sent to the Division within 10 business days after receipt by the department. The failure ~~by~~ of the department to return the requested correct or complete information ~~will~~ shall result in the forfeiture by the department of its eligibility for a grant during that current grant cycle.
- (c) Applications ~~must~~ shall be mailed to the Division and be postmarked no later than March 1. Applications bearing postmarks later than March 1 are disqualified. The names of grant recipients ~~will~~ shall be announced on May 15. ~~In the event~~ If May 15 falls on a weekend, the announcement ~~will~~ shall be made on the following Monday.
- (d) The Division ~~may~~ shall approve all or part of ~~an~~ a complete application.
- (e) If the application includes a request for a motor vehicle, the vehicle specifications and, if used, the previous year's maintenance records ~~must~~ shall accompany the application.
- (f) The following documents ~~must~~ shall accompany a grant application:
 - (1) A contract showing an agreement between the department and a county for the department to provide fire protection to a district;
 - (2) An active roster comprising a list of members meeting the training requirements in G.S. 58-86-30;
 - (3) A charter showing the incorporation of the department as a nonprofit corporation;
 - (4) A statement verifying the population that the department serves;
 - (5) A financial statement showing the fiscal status of the department; and
 - (6) A statement verifying that the department is financially able to match the grant.
- (g) ~~Agreements between departments and vendors, Statements that there are no overdue taxes, conflict of interest statements, payment agreements, and equipment invoices~~ must shall be received by the Division no later than September 30 following the announcement of grant recipients. Departments submitting incorrect invoices, such as sales orders, acknowledgements, and packing slips, before September 30 ~~will~~ shall be contacted by the Division and given 10 business days to submit correct

documents. The failure of any department to comply ~~will~~ shall result in the department forfeiting ~~it~~ its eligibility for a grant from the Fund. Equipment or capital improvements that are ordered by a department before May 15 or equipment that is back-ordered by a department on or before September 30 ~~will~~ shall not be funded by grants from the Fund.

(h) Equipment purchased with grants is subject to periodic inspection by Division personnel.

Authority G.S. 58-2-40(1); 58-36-10(3); 58-87-1.

SECTION .0700 - VOLUNTEER RESCUE/EMS FUND

11 NCAC 05A .0703 REQUIREMENTS FOR UNITS REQUIRED TO MATCH GRANTS

(a) Application forms ~~will~~ shall be mailed by the Division to all known units by August 1 of each year.

(b) Any application received by the Division that is incorrect or incomplete ~~will~~ shall be returned to the unit with a request that the correct or complete information be sent to the Division within 10 business days after receipt by the unit. The failure by the unit to return the requested correct or complete information ~~will~~ shall result in the forfeiture by the unit of its eligibility for a grant during that current grant cycle.

(c) Applications ~~must~~ shall be mailed to the Division and be postmarked no later than October 1. Applications bearing postmarks later than October 1 are disqualified. The names of the grant recipients ~~will~~ shall be announced on December 15. ~~In the event~~ If December 15 falls on a weekend, the announcement will be made on the following Monday.

(d) The Division ~~may~~ shall approve all or part of ~~an~~ a complete application.

(e) If the application includes a request for a vehicle, the vehicle specifications and, if used, the previous year's maintenance records ~~must~~ shall accompany the application.

(f) The following documents ~~must~~ shall accompany a grant application;

- (1) A contract showing that a county recognizes the unit as providing rescue or rescue/EMS services to a specified district;
- (2) A charter showing the incorporation of the unit as a nonprofit corporation;
- (3) An active roster comprising a list of unit members;
- (4) A statement verifying that the unit is financially able to match the amount of the grant;
- (5) A financial statement showing the fiscal status of the unit; and
- (6) A rescue provider statement, which may be submitted in lieu of the contract required by Subparagraph (1) of this Paragraph.

(g) ~~Agreements between departments and vendors, Statements that there are no overdue taxes, conflict of interest statements, payment agreements, and equipment invoices~~ must shall be received by the Division no later than April 30. Units submitting incorrect invoices, such as sales orders, acknowledgements, and packing slips, before April 30 ~~will~~ shall be contacted by the Division and given 10 business days to

submit the correct documents. The failure of any unit to comply ~~will~~ shall result in the unit forfeiting its eligibility for a grant from the Fund. Equipment or capital improvements that are ordered by a unit before December 15 or equipment that is back-ordered by a unit on or before April 30 ~~will~~ shall not be funded by grants from the Fund.

(h) Equipment purchased with grants is subject to periodic inspection by Division personnel.

Authority G.S. 58-2-40(1); 58-87-5.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to amend the rules cited as 12 NCAC 09E .0102, .0105 and 12 NCAC 09F .0106.

Proposed Effective Date: January 1, 2007

Public Hearing:

Date: November 9, 2006

Time: 1:00 p.m.

Location: North Carolina Justice Academy, 3971 Chimney Rock Road, Edneyville, N.C.

Reason for Proposed Action:

12 NCAC 09E .0102, .0105: *The Commission has changed the required topics for annual In-Service Training for law enforcement officers. The following topics have been removed: Legal Update; Methamphetamine Awareness or Methamphetamine Investigative Issues; Juvenile Minority Sensitivity; Juvenile Gang Awareness; and Ethical Awareness. The following topics have been added: Legal Update; Case Law; Domestic Violence; Juvenile Minority Sensitivity; What's Hot/ What's Not; Ethics; On Duty or Off Duty Behavior; and Interacting with Special Populations. The total number of annual in-service training hours remain 24.*

12 NCAC 09F .0106: *Includes two additional reasons Concealed Carry Handgun Instructors may have their certification suspended or permanently revoked by the Commission. Those reasons are: "has taught any 'Concealed Carry Handgun Training Program' course or approved certification while the instructor's certification was suspended by the Commission;" and "is ineligible to receive and possess a firearm under Federal or North Carolina State Law."*

Procedure by which a person can object to the agency on a proposed rule:

The objection, reasons for the objections, and the clearly identified portion of the rule to which the objection pertains, must be submitted in writing to Teresa Marrella, Department of Justice, Criminal Justice Standards Division, 114 West Edenton Street, Raleigh, NC 27602.

Comments may be submitted to: Teresa Marrella, Department of Justice, 114 West Edenton Street, Raleigh, NC 27602, phone (919) 716-6470, fax (919) 716-6752, email tmarrella@ncdoj.com

Comment period ends: November 9, 2006

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 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09E - IN-SERVICE TRAINING PROGRAMS

SECTION .0100 - LAW ENFORCEMENT OFFICER'S IN-SERVICE TRAINING PROGRAM

12 NCAC 09E .0102 REQUIRED ANNUAL IN-SERVICE TRAINING TOPICS

The following topical areas are hereby established as minimum topics and hours to be included in the law enforcement officers' annual in-service training program:

- (1) Firearms Training and Qualification (4);
(2) Legal Update:-(4); Case Law (2);
(3) Methamphetamine Awareness or Methamphetamine Investigative Issues (4); Domestic Violence (2);
(4) Juvenile Minority Sensitivity: Juvenile Gang Awareness-What's Hot/What's Not (2);
(5) Ethical Awareness-Ethics: On Duty or Off Duty (2); and
(6) Interacting with Special Populations (4); and
(6)(7) Department Topics of Choice (8).

Authority G.S. 17C-6; 17C-10.

12 NCAC 09E .0105 MINIMUM TRAINING SPECIFICATIONS: ANNUAL IN-SERVICE TRAINING

The following specifications shall be incorporated in each law enforcement agency's annual in-service training courses:

- (1) Firearms:

- (a) Use of Force: review the authority to use deadly force [G.S. 15A-401(d)(2)] including the relevant case law and materials.
(b) Safety:
(i) range rules and regulations;
(ii) handling of a firearm;
(iii) malfunctions.
(c) Review of Basic Marksmanship Fundamentals:
(i) grip, stance, breath control and trigger squeeze;
(ii) sight and alignment/sight picture;
(iii) nomenclature.
(d) The "Specialized Firearms Instructor Training Manual" as published by the North Carolina Justice Academy shall be applied as a guide for conducting the annual in-service firearms training program. Copies of this publication may be inspected at the office of the

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

- Raleigh, North Carolina 27602;
(2) Legal Update; Update: Case Law (2);
(3) Methamphetamine Awareness or Methamphetamine Investigative Issues; Domestic Violence (2);
(4) Juvenile Minority Sensitivity: Juvenile Gang Awareness-What's Hot/What's Not (2);
(5) Ethical Awareness-Ethics: On Duty or Off Duty (2); and
(6) Interacting with Special Populations (4); and
(6)(7) Department Topics of Choice (8).

The In-Service Lesson Plans as published by the North Carolina Justice Academy shall be applied as a minimum curriculum for conducting the annual in-service training program. Copies of this publication may be inspected at the office of 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 obtained at cost from the Academy at the following address:

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

Authority G.S. 17C-6; 17C-10.

**SUBCHAPTER 09F - CONCEALED HANDGUN
TRAINING**

**SECTION .0100 - CONCEALED HANDGUN TRAINING
PROGRAM**

12 NCAC 09F .0106 SANCTIONS

(a) The Commission shall suspend an approved course when the Commission finds that the course has failed to meet or maintain the required standards for approval.

(b) The Commission shall deny or suspend the certification of instructor status when the Commission finds that the instructor:

- (1) has failed to meet or maintain the required course and instruction standards approved by the Commission as set forth in 12 NCAC 09F .0102;
- (2) has failed to submit modification of courses or change in instructor status;
- (3) has submitted any non-sufficient funds check;
- (4) has falsified any successful completion of an approved course;
- (5) has distributed any certificate provided by the Commission without the named permittee undertaking the approved course from that instructor;
- (6) has taught any "Concealed Carry Handgun Training Program" course or approved certification while the instructor's certification was suspended by the Commission; or
- (7) is ineligible to receive and possess a firearm under Federal or North Carolina State Law.

(c) Instructors who have lost certified status subject to 12 NCAC 09F .0106(b)(1), (2) or (3) may reapply for certification upon documentation of compliance after one year has elapsed from the date of suspension of the instructor's certification by the Commission. Instructors who have lost certified status subject to 12 NCAC 09F ~~.0106(b)(4) or (5)~~ .0106(b)(4),(5),(6), or (7) may have their certification suspended or permanently revoked by the Commission.

Authority G.S. 14-415.12; 14-415.13.

**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 .0306.

Proposed Effective Date: July 1, 2007

Public Hearing:

Date: September 25, 2006

Time: 6:00 p.m.

Location: Performing Arts and Conference Center at The Foundation, Auditorium (2nd floor), Isothermal Community College, 286 ICC Loop Road, Spindale, NC

Reason for Proposed Action:

North Fork First Broad River:

A request for a HQW reclassification of the currently classified C Tr North Fork First Broad River (Rutherford County, Broad River Basin) was submitted by an organization known as The Concerned Citizens of Rutherford County, as well as by two individuals, Mr. and Mrs. Rob McComas. Because studies conducted by DWQ in 2004 and 2005 revealed excellent water quality as well as portions of two significant natural heritage areas of national significance and two listed crayfish species in the North Fork First Broad River watershed, DWQ staff determined the ORW classification to be more suitable for recognizing existing uses. This rule change would provide supplementary protection for the resources and quality of the subject waters. The ORW supplemental classification is a designation intended to protect unique and special waters having excellent water quality and being of exceptional state or national ecological or recreational significance. This proposed reclassification consists of the entire watershed of the North Fork First Broad River, from its source to the First Broad River. The area to be reclassified exists solely within the jurisdiction of Rutherford County. The total miles of named waterbodies within the area proposed for reclassification measures approximately 20 river miles. If reclassified, regulations that affect new development and wastewater discharges would apply. There are no known plans for development or dischargers in the proposed ORW area with the exception of one DOT project. Additional erosion control devices would be needed in order for this project to meet ORW requirements.

Broad River (Forest City):

McGill Associates, P.A. and the Town of Forest City have requested that a segment of the Broad River in Polk and Rutherford Counties (Broad River Basin) be reclassified from Class C to WS-IV CA and WS-IV (PA). The reclassification is needed in order to construct a potable water supply intake. The proposed CA would extend along the river from the proposed intake, which is to be placed approximately 0.4 mile downstream of McKinney Creek, to a point approximately 0.5 mile upstream of the proposed intake (or nearly 0.2 mile upstream of Richardson Creek). The named tributary waters to the river in the proposed CA include only the lower portions of Richardson Creek and McKinney Creek, which are presently classified Class C. The proposed PA would extend along the river from the proposed CA to the existing intake for the Town of Rutherfordton, which is at a point approximately 0.2 mile downstream of Rutherford County SR 1145. The proposed PA includes several entire named tributaries, the lower portions of two named tributaries (Green River and Cleghorn Creek), and the upper portions of two additional named tributaries (Richardson Creek and McKinney Creek) to the river; these waters are presently classified C. Approximately 265 acres of land and 32,898 acres of land will be included in the new CA and PA, respectively. The waters to be reclassified meet water supply water standards according to 2004 DWQ studies. If reclassified, development and discharge restrictions will apply. There are NPDES wastewater dischargers in the proposed water supply watershed, but none will likely be impacted by this reclassification. There are not any known planned dischargers and developments in the entire proposed reclassification area

that would likely be impacted by the proposed reclassification. There are several DOT projects in the proposed area, and additional stormwater control devices would be needed for such projects to meet the proposed classifications' requirements. Polk County and Rutherford County are the local governments with jurisdiction in the reclassification area, and these local governments would need to modify water supply watershed protection ordinances within 270 days after the reclassification effective date. Both counties support this reclassification.

Broad River (Shelby):

Willis Engineers and the City of Shelby have requested that a segment of the Broad River in Cleveland and Rutherford Counties (Broad River Basin) be reclassified from Class C to WS-IV CA and WS-IV (PA). The reason for the reclassification is for "the City of Shelby under construction raw water supply pipe line intended for use in withdrawal of water from the Broad River under conditions where the current City supply of the First Broad River is inadequate." The proposed CA would extend along the river from the proposed intake, which is to be placed approximately one mile upstream of its confluence with the First Broad River, to a point approximately 0.5 mile upstream of the proposed intake (or nearly 1.5 mile upstream of First Broad River). The proposed PA would extend along the river from the proposed CA to a point approximately 0.3 mile downstream of its confluence with Cane Creek. This proposal also includes several entire tributaries and the lower portions of other tributaries to the Broad River; these waters, which are presently classified C, are proposed to be reclassified to WS-IV (PA). (There are no named tributaries to the Broad River within the proposed CA.) Approximately 235 acres of land and 35,047 acres of land will be included in the new CA and PA, respectively. The waters to be reclassified meet water supply standards according to 2004 DWQ studies. If reclassified, development and discharge restrictions will apply. There are facilities that hold NPDES wastewater discharge permits in the proposed water supply watershed, but none of these facilities will most likely be affected by the reclassification. There are no planned dischargers and no planned development in the proposed reclassification area that will likely be affected by the proposed reclassification. There are several DOT projects within the proposed area, and additional stormwater control devices will be needed in order for these projects to meet requirements associated with the proposed reclassification. Boiling Springs, Mooresboro, Lattimore, Cleveland County, and Rutherford County are local governments with jurisdiction in the reclassification area, and these local governments would need to create or modify water supply watershed protection ordinances within 270 days after the effective date of the reclassification. However, when a reclassification is anticipated to not become effective before waters are to be used as a potable water supply source, DWQ staff recommend that local governments create or modify water supply watershed protection ordinances before these waters are utilized as a potable water supply source. All the local governments with jurisdiction in the reclassification area have provided support for this reclassification.

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 31, 2006. 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 notice 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.

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, email Elizabeth.kountis@ncmail.net

Comment period ends: October 31, 2006

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: A copy of the fiscal note can be obtained from the agency.

- 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 .0306 BROAD RIVER BASIN

- (a) The schedule may be inspected at the following places:
 - (1) Clerk of Court: Buncombe County

Cleveland County
Gaston County
Henderson County
Lincoln County
McDowell County
Polk County
Rutherford County

(2) North Carolina Department of Environment and Natural Resources:

(A) Mooresville Regional Office
~~949 North Main Street~~ 610 East Center Avenue
Suite 301
Mooresville, North Carolina

(B) Asheville Regional Office
~~Interchange Building~~ 2090 US Highway 70
~~59 Woodfin Place~~
Asheville, Swannanoa, North Carolina.

(b) Unnamed Streams. Such streams entering South Carolina are classified "C."

(c) The Broad River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) February 12, 1979;
- (3) August 12, 1979;
- (4) April 1, 1983;
- (5) February 1, 1986;
- (6) August 3, 1992;
- (7) September 1, 1994;
- (8) August 1, 1998;
- (9) August 1, 2000;
- (10) April 1, ~~2001~~-2001;
- (11) July 1, 2007.

(d) The Schedule of Classifications and Water Quality Standards for the Broad River Basin 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.

(e) The Schedule of Classifications and Water Quality Standards for the Broad River Basin was amended effective September 1, 1994 with the reclassification of the Second Broad River [Index No. 9-41-(0.5)] from its source to Roberson Creek including associated tributaries was reclassified from Class WS-V to Classes WS-V, WS-IV and WS-IV CA.

(f) The Schedule of Classifications and Water Quality Standards for the Broad River Basin was amended effective August 1, 1998 with the revision to the primary classification for portions

of the Broad River [Index No. 9-(23.5)] from Class WS-IV to Class C and Second Broad River [Index Nos. 9-41-(10.5) and 9-41-(14.5)] and First Broad River [Index No. 9-50-(11)] from Class WS-IV to Class WS-V.

(g) The Schedule of Classifications and Water Quality Standards for the Broad River Basin was amended August 1, 2000 with the reclassification of the Green River [Index No. 9-29-(1)], including all tributaries, from its source to its mouth in Lake Summit at elevation 2011 from Class C Tr to Class B Tr.

(h) The Schedule of Classifications and Water Quality Standards for the Broad River Basin was amended effective August 1, 2000 with the reclassification of Lake Montonia [Index No. 9-54-1-(1)], and all tributaries, from Class B to Class B HQW.

(i) The Schedule of Classifications and Water Quality Standards for the Broad River Basin was amended effective April 1, 2001 with the reclassification of the Green River [Index No. 9-29-(1)], including all tributaries, from its source to the downstream side of the mouth of Rock Creek from Class B Tr to Class B Tr HQW.

(j) The Schedule of Classifications and Water Quality Standards for the Broad River Basin was amended effective July 1, 2007 with the reclassification of the North Fork First Broad River (Index No. 9-50-4), including all tributaries, from its source to the First Broad River from Class C Tr to Class C Tr ORW.

(k) The Schedule of Classifications and Water Quality Standards for the Broad River Basin was amended effective July 1, 2007 with the reclassification of a segment of the Broad River [Index No. 9-(25.5)] from a point 0.5 mile upstream of the City of Shelby proposed water supply intake to the City of Shelby proposed water supply intake from Class C to Class WS-IV CA, and from a point 0.5 mile upstream of the City of Shelby proposed water supply intake to a point approximately 0.3 mile downstream of its confluence with Cane Creek from Class C to Class WS-IV. The City of Shelby proposed water supply intake is to be placed on the Broad River at a point approximately one mile upstream of its confluence with the First Broad River.

(l) The Schedule of Classifications and Water Quality Standards for the Broad River Basin was amended effective July 1, 2007 with the reclassification of a segment of the Broad River [Index No. 9-(25.5)] from a point 0.5 mile upstream of the Town of Forest City proposed water supply intake to the Town of Forest City proposed water supply intake from Class C to Class WS-IV CA, and from a point 0.5 mile upstream of the Town of Forest City proposed water supply intake to a point approximately 0.2 mile downstream of Rutherford County SR 1145 (Town of Rutherfordton water supply intake) from Class C to Class WS-IV. The Town of Forest City proposed water supply intake is to be placed on the Broad River at a point approximately 0.4 mile downstream of McKinney Creek.

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 Environmental Management Commission intends to adopt the rule cited as 15A NCAC 02H .1020 with changes from the

proposed text noticed in the Register, Volume 20, Issue 18, pages 1596 - 1598.

Proposed Effective Date: January 1, 2007

Reason for Proposed Action: In accordance with the Administrative Procedures Act, the Environmental Management Commission (EMC) is re-publishing the proposed Universal Stormwater Management Program (USMP) Rule to accept comments for an additional 60 days. This re-publication is required as a result of substantial changes made to the text of the original proposed rule, which was published in the March 15, 2006, edition of the North Carolina Register. The substantial change made to the original text is the addition of the impervious surface limitations contained in Paragraphs (d) and (e) of the revised USMP Rule text that is published with this Notice. Please be aware that as a result of this republication and the comments received, the EMC may specifically increase or decrease the impervious surface limitations that are contained in Paragraphs (d) and (e) or may extend or contract the geographical areas that these limitations apply to. The EMC will also consider any comments regarding the other proposed revisions to the original text of this Rule as well as additional comments on the remaining original text.

Procedure by which a person can object to the agency on a proposed rule: All persons interested and potentially affected by the proposal are strongly encouraged to read this entire notice and make comments. The EMC may not adopt a rule that differs substantially from the text of the proposed Rule published in this notice 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 Tom Reeder of the DWQ Wetlands and Stormwater Branch at the postal address, email address, or fax number listed in this notice.

Written comments may be submitted to: Tom Reeder, DENR/DWQ, Wetlands and Stormwater Branch, 1617 Mail Service Center, Raleigh, NC 27699-1617, phone (919) 733-5083 extension 528, fax (919) 733-9612, email tom.reeder@ncmail.net

Comment period ends: October 31, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review: Any person who objects to the adoption of a permanent rule may submit written comments to the agency. 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 6th business day preceding the end of the month in which a rule is approved. 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 02H - PROCEDURES FOR PERMITS: APPROVALS

SECTION .1000 - STORMWATER MANAGEMENT

15A NCAC 02H .1020 UNIVERSAL STORMWATER MANAGEMENT PROGRAM

(a) Adoption of the Universal Stormwater Management Program (USMP) shall be made at the option of a local government by adopting an ordinance that complies with the requirements of this Rule and the requirements of 15A NCAC 02B .0104(f). The Environmental Management Commission shall approve local ordinances if it determines that the requirements of the local ordinance equal or exceed the provisions of this Rule. A model ordinance for the Universal Stormwater Management Program shall be available from the Division of Water Quality (DWQ). Administration and implementation of the USMP shall be the responsibility of the adopting local government within its jurisdiction. Local governments located within one of the 20 Coastal Counties may elect to have the Division of Water Quality administer and implement the Universal Stormwater Management Program, either whole or in part, within their jurisdiction following their adoption of the program. The requirements of the USMP shall supercede and replace all other existing post-construction stormwater requirements within that jurisdiction, as specified in Paragraph (b) of this Rule.

(b) With the exceptions noted in Paragraph (c) of this Rule, the requirements specified in this Rule shall replace the following DWQ stormwater control requirements:

- (1) Water Supply (WS) Watershed II (WS II) (15A NCAC 02B .0214(3)(b)(i));
(2) WS Watershed II Critical Area (WS II CA) (15A NCAC 02B .0214(3)(b)(ii));
(3) WS Watershed III (WS III) (15A NCAC 02B .0215(3)(b)(i));
(4) WS Watershed III Critical Area (WS III CA) (15A NCAC 02B .0215(3)(b)(ii));
(5) WS Watershed IV (WS IV) (15A NCAC 02B .0216(3)(b)(i));
(6) WS Watershed IV Critical Area (WS IV CA) (15A NCAC 02B .0216(3)(b)(ii));
(7) High Quality Waters (HQW) for Freshwaters (15A NCAC 02H .1006);
(8) High Quality Waters (HQW) for Saltwaters (15A NCAC 02H .1006);
(9) Outstanding Resource Waters (ORW) for Freshwaters (15A NCAC 02H .1007);

- (10) Outstanding Resource Waters (ORW) for Saltwaters (15A NCAC 02H .1007);
- (11) Shellfishing (SA) (15A NCAC 02H .1005(2));
- (12) The Post-Construction Requirements of the NPDES Phase 2 Program;
- (13) Coastal Counties Stormwater Requirements in 15A NCAC 02H .1005(3);
- (14) Stormwater Controls for 401 Certifications under 15A NCAC 02H .0500;
- (15) Catawba Buffer Rules (15A NCAC 02B .0243 and 02B .0244); and
- (16) Urban Stormwater Management Requirements of the Randleman Lake Water Supply Watershed Rules (15A NCAC 02B .0251).

(c) As mandated in 15A NCAC 02H .0506(b)(5) and (c)(5), the Division Director may review and require amendments to proposed stormwater control plans submitted under the provisions of the 401 Certification process in order to ensure that the proposed activity will not violate water quality standards. Adoption of the Universal Stormwater Management Program does not affect the requirements specified in 15A NCAC 02B .0214(3)(b)(i)(I), 02B .0214(3)(b)(ii)(C) and (D), 15A NCAC 02B .0215(3)(b)(i)(I), 02B .0215(3)(b)(ii)(C) and (D), and 15A NCAC 02B .0216(3)(b)(ii)(C) and (D). The Catawba Buffer Rules shall be superceded in those areas where the buffers are contained within the jurisdiction of another stormwater program listed in Paragraph (b) of this Rule and the requirements of that program are replaced by the USMP. For the Lake James area, which is not contained within the jurisdiction of another stormwater program, the Catawba Buffer Rules shall be superceded if the USMP is implemented in the entire area within five miles of the normal pool elevation of Lake James. The implementation of the USMP shall supercede the Urban Stormwater Management Requirements of the Randleman Lake Water Supply Watershed in 15A NCAC 02B .0251, but USMP implementation does not affect the Randleman Lake Water Supply Watershed; Protection and Maintenance of Riparian Areas requirements specified in 15A NCAC 02B .0250.

(d) Coastal Counties Requirements. All development activities located in one of the 20 Coastal Counties that disturb 10,000 square feet or more of land shall control the runoff from the first one and one half inch of rainfall to the level specified in Paragraph (f) of this Rule. In addition, all impervious surfaces, except for roads, paths, and water dependent structures, shall be located at least 30 feet landward of all perennial and intermittent surface waters. In addition to the other requirements specified in this Paragraph, all development activities that are located within 575 feet of designated shellfishing waters shall be limited to a maximum impervious surface density of 36 percent. Redevelopment activities that meet the provisions of 15A NCAC 02H .1002(14) shall not be required to comply with the requirements of this Paragraph.

(e) Non-Coastal Counties Requirements. All residential development activity that is located in one of the 80 Non-Coastal Counties that disturbs one acre or more of land and all non-residential development activity that is located in one of the 80 Non-Coastal Counties that disturbs ½ acre or more of land shall control the runoff from the first one inch of rainfall as specified in Paragraph (f) of this Rule. Except as allowed in this

Paragraph, no new impervious or partially pervious surfaces, except for roads, paths, and water dependent structures, shall be allowed within the one percent Annual Chance Floodplain as delineated by the North Carolina Floodplain Mapping Program in the Division of Emergency Management. For perennial and intermittent streams that do not have a floodplain delineated by the Floodplain Mapping Program, all activities subject to this Rule shall be located at least 30 feet landward of all perennial and intermittent surface waters. In addition to the other requirements specified in this Paragraph, all development activities that are located within the designated Critical Area of a Water Supply Watershed shall be limited to a maximum impervious surface density of 36 percent. Redevelopment of residential structures within the one percent Annual Chance Floodplain that meets the provisions of 15A NCAC 02H .1002(14) is allowed. Redevelopment of non-residential structures within the one percent Annual Chance Floodplain that meets the provisions of 15A NCAC 02H .1002(14) is allowed provided that less than ½ acre is disturbed during the redevelopment activity. Redevelopment activities outside of the one percent Annual Chance Floodplain that meet the provisions of 15A NCAC 02H .1002(14) shall not be required to comply with the requirements of this Paragraph.

(f) Structural stormwater controls required under Paragraphs (d) and (e) shall meet the following criteria:

- (1) Remove an 85% average annual amount of Total Suspended Solids.
- (2) For detention ponds draw down the treatment volume no faster than 48 hours, but no slower than 120 hours.
- (3) Discharge the storage volume at a rate equal or less than the pre-development discharge rate for the one year, 24-hour storm.
- (4) Meet the General Engineering Design Criteria set forth in 15A NCAC 02H .1008(c).

(g) For the purposes of this Rule, a surface water shall be present if the feature is shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). Relief from this requirement shall be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 02B .0233(3)(a).

(h) Local governments that implement the Universal Stormwater Management Program shall require recorded deed restrictions and protective covenants that ensure development activities will maintain the project consistent with approved plans.

(i) Local governments that implement the Universal Stormwater Management Program shall require an operation and maintenance plan that ensures the operation of the structural stormwater control measures required by the program. The operation and maintenance plan shall require the owner of each structural control to submit a maintenance inspection report on each structural stormwater control measure annually to the local program.

(j) In addition to the other measures required in this Rule, all development activities located in one of the twenty (20) Coastal

Counties that disturb 10,000 square feet or more of land within ½ mile and draining to SA waters shall:

- (1) Use stormwater control measures that result in fecal coliform die off and that control to the maximum extent practicable sources of fecal coliform while incorporating the requirements specified in Paragraph (f) of this Rule.
- (2) Prohibit new points of stormwater discharge to SA waters or expansion (increase in the volume of stormwater flow through conveyances or increase in capacity of conveyances) of existing stormwater conveyance systems that drain to SA waters. Any modification or redesign of a stormwater conveyance system within the contributing drainage basin must not increase the net amount or rate of stormwater discharge through existing outfalls to SA waters. Diffuse flow of stormwater at a non-erosive velocity to a vegetated buffer or other natural area capable of providing effective infiltration of the runoff from the one year, 24-hour storm shall not be considered a direct point of stormwater discharge. Consideration shall be given to soil type, slope, vegetation, and existing hydrology when evaluating infiltration effectiveness.

(k) In addition to the other measures required in this Rule, development activities draining to trout (Tr) waters shall use stormwater control measures that avoid an increase in the receiving water temperature, while still incorporating the requirements specified in Paragraph (f) of this Rule.

(l) The Division, upon determination that a local government is failing to implement or enforce the approved local stormwater program, shall notify the local government in writing of the local program inadequacies. If the local government has not corrected the deficiencies within 90 days of receipt of written notification from the Division, then the Division shall implement and enforce the provisions of this Rule.

(m) Development activities conducted within a jurisdiction where the USMP has been implemented may take credit for the nutrient reductions achieved by utilizing diffuse flow in the one percent Annual Chance Floodplain to comply with the nutrient loading limits specified within NSW Rules where the one percent Annual Chance Floodplain exceeds the 50-foot Riparian Buffers. Development activities occurring where the USMP has been implemented but there is no delineated one percent Annual Chance Floodplain may take credit for the nutrient reductions achieved by utilizing diffuse flow into a vegetated filter strip that exceeds the 50-foot Riparian Buffer by at least 30 feet and has a slope of five degrees, or less.

(n) The following special provisions of the Universal Stormwater Management Program apply only to federal facilities and Department of Defense (DoD) installations. Federal facilities and DoD installations may adopt the Universal Stormwater Management Program within their boundaries by submitting a letter to the Chairman of the Environmental Management Commission that states that the facility in question has adopted controls that comply with the requirements of this

Rule and with the requirements of 15A NCAC 02B .0104(f). In lieu of the protective covenants and deed restrictions required in Paragraph (h) of this Rule, federal facilities and DoD installations that choose to adopt the USMP within their boundaries shall incorporate specific restrictions and conditions into base master plans, or other appropriate instruments, to ensure that development activities regulated under this Rule will be maintained in a manner consistent with the approved plans. (o) Implementation of this Universal Stormwater Management Program does not affect any other rule or requirement not specifically cited in this Rule.

Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a).

TITLE 18 – SECRETARY OF STATE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of the Secretary of State intends to adopt the rules cited as 18 NCAC 07B .0101-.0102, .0201-.0207, .0301-.0307, .0401-.0410, .0501-.0504; 07C .0101-.0102, .0201-.0203, .0301, .0401-.0405, .0501-.0503 and repeal the rules cited as 18 NCAC 07A .0101, .0202, .0204-.0208, .0301-.0303.

Proposed Effective Date: January 1, 2007

Public Hearing:

Date: September 19, 2006

Time: 9:00am – 11:00am

Location: Hearing Room G-19, Department of Justice, Old Education Building, 114 W. Edenton Street Raleigh, NC 27602. (located on the corner of Edenton and Salisbury Streets, downtown Raleigh)

Reason for Proposed Action:

18 NCAC 07A – To repeal existing rules replaced with the adoption of new rules in Subchapters 7B and 7C.

18 NCAC 07B – To adopt permanent rules developed from proposed temporary rules and received comments regarding the commissioning and regulation of notaries public under Chapter 10B of the General Statutes.

18 NCAC 07C – To adopt permanent rules regarding the commissioning and regulation of electronic notaries public and electronic notarizations under Article 2 of Chapter 10B of the General Statutes.

Procedure by which a person can object to the agency on a proposed rule:

Written comments may be sent to Joal Broun, Secretary of State's Office, 2 South Salisbury Street, Raleigh, NC 27601-2903 or P.O. Box 29622, Raleigh, NC 27626-0622, telephone number (919)807-2219, facsimile number (919)807-2010, email address jbroun@sosnc.com.

Comments may be submitted to: Joal Hall Broun, General Counsel, Dept. of Secretary of State, P.O. Box 29622, Raleigh, NC 27626-0622, phone (919)807-2219, fax (919)807-2010, email jbroun@sosnc.com

Comment period ends: October 31, 2006

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 07A – NOTARY PUBLIC DIVISION

SECTION .0100 - GENERAL PROVISIONS

18 NCAC 07A .0101 LOCATION AND HOURS

~~The address for the Notary Public Section of the Department of the Secretary of State is the Old Revenue Building, 2 S. Salisbury Street, P.O. Box 29622, Raleigh, North Carolina 27626-0622. Office hours for the public are 8:00 a.m. to 4:00 p.m. Monday through Friday with the exception of state holidays.~~

Authority G.S. 143A-23.

SECTION .0200 - APPOINTMENT OF NOTARIES PUBLIC

18 NCAC 07A .0202 INVESTIGATIONS

~~To ensure that persons commissioned as notaries public and applicants for commissions satisfy statutory requirements, the Secretary of State may investigate the fitness of any applicant through inquiry to the various law enforcement offices of the state and state or local officials.~~

Authority G.S. 10A-4(c); 10A-13(d).

18 NCAC 07A .0204 DISPOSITION OF COMMISSIONS

~~After notary public commissions have been issued, they shall be sent directly to the register of deeds in the county in which the applicant lives or, if the applicant does not reside in North Carolina, in the county in which the applicant works. The commission shall not be delivered to the applicant. The Department shall send the applicant a transmittal letter of notice to appear before the register of deeds to take the oath of office.~~

Authority G.S. 10A-8.

18 NCAC 07A .0205 FEE

~~No commission will be issued until the statutory fee has been received.~~

Authority G.S. 10A-7.

18 NCAC 07A .0206 REQUIREMENTS FOR REAPPOINTMENT

~~(a) For reappointment as a notary public, the applicant must complete a current "Application for Reappointment as Notary Public" and must submit it to the Notary Public Section with the statutory fee.~~

~~(b) Commissions reappointing a notary may not be issued more than two weeks prior to expiration of the current commission.~~

~~(c) Commissions will not be back dated.~~

Authority G.S. 10A-6.

18 NCAC 07A .0207 REVOCATION OF COMMISSIONS

~~(a) Any fee payable to the Notary Public Section that is not paid within 10 days following notice from the Section will be cause for immediate revocation of the commission of the notary public owing that fee.~~

~~(b) When a commission is revoked, the register of deeds for the county in which the notary was appointed and the notary public shall be notified in writing by the Secretary of State and the date of revocation shall be given.~~

Authority G.S. 10A-13(d).

18 NCAC 07A .0208 CERTIFICATES OF AUTHORITY

~~Certificates of authority shall be issued for any qualified notary public upon request and receipt of the statutory fee of six dollars and twenty five cents (\$6.25) by the Secretary of State.~~

Authority G.S. 10A-9(f); 147-37; 150B-19(5).

SECTION .0300 - NOTARY PUBLIC EDUCATION PROGRAM

18 NCAC 07A .0301 APPROVED COURSE OF STUDY
~~In order to be approved by the Secretary of State, a course of study for applicants for appointment as a notary public must be:~~

- ~~(1) based on the Notary Public Education Instructor's Manual developed by the Department of Community Colleges and the Department of the Secretary of State;~~
- ~~(2) taught by an instructor certified by the Secretary of State.~~

Authority G.S. 10A-4(b)(3); 10A-7.

18 NCAC 07A .0302 INSTRUCTORS

(a) ~~In order to be certified to teach a course of study for notaries public, an instructor must comply with the requirements set out in G.S. 10A-7(1)-(5) and the following:~~

- ~~(1) transmit a written request for certification as a notary public instructor to the Notary Public Section, together with evidence of six months of active experience as a notary public;~~
- ~~(2) pay a fee to the Notary Public Section for participation as a student in the notary public instructor course taught pursuant to G.S. 10A-7(a)(1), which fee shall reflect the cost of materials, facilities, and meals, if any, related to the giving of that course of instruction; and~~
- ~~(3) achieve a passing grade of at least 80 per cent correct responses on a test administered in conjunction with the notary public instructor course.~~

~~(b) Persons who fail to achieve a passing grade on the final test administered in conjunction with the notary public instructor course may reapply to take the test one additional time.~~

~~(c) Persons seeking recertification as a notary public instructor must apply to the Notary Public Section for recertification and must again satisfy the requirements of G.S. 10A-7 and Paragraph (a) of this Rule.~~

Authority G.S. 10A-7.

18 NCAC 07A .0303 APPROVED MANUAL

~~The manual approved by the Secretary of State for purchase by notaries public is the edition of the Notary Public Guidebook for North Carolina published by the Institute of Government, University of North Carolina at Chapel Hill which is current at the time of purchase.~~

Authority G.S. 10A-4(b)(3).

SUBCHAPTER 7B – NOTARY PUBLIC SECTION

SECTION .0100 – GENERAL PROVISIONS

18 NCAC 07B .0101 LOCATION, HOURS AND CONTACT INFORMATION

(a) Mailing Address. The mailing address for the Division of Certification and Filing, Notary Public Section is P.O. Box 29626, Raleigh, NC 27626-0626.

(b) Hours. Office hours for the public are 8:00 a.m. to 4:00 p.m. Monday through Friday with the exception of state holidays.

(c) Contacting the Division. In addition to contacting the Division provided in Paragraph (a) of this Rule, information may be obtained in the following ways:

- (1) On-line information service: The Department provides on-line information services at www.sosnc.com.
- (2) Electronic Mail: For basic information the Notary Public Section may be contacted by email at notary@sosnc.com. Electronic mail shall not be used for filing applications.

(3) Telephone Number: The telephone number for Notary Customer Service is (919) 807-2219.

(4) Fax Number: To send information to the Notary Public Section via fax, the number is (919) 807-2210.

Authority G.S. 143A-23.

18 NCAC 07B .0102 SCOPE

The Division of Certification and Filing, Notary Public Section, of the Department of the Secretary of State is the central office that is responsible for administering the educational program for N.C. Notaries Public and Notary Public Instructors, processing notary public applications for commissioning and re-commissioning, certifying an existing notary's status, investigating alleged violations of the Notary Public Act of North Carolina, and enforcing the standards contained therein.

Authority G.S. 10B-1 et seq.; 143A-23.

SECTION .0200 – APPOINTMENT OF NOTARIES PUBLIC

18 NCAC 07B .0201 APPROVED FORMS AND PROCEDURES

(a) Application for Commissioning/Re-Commissioning. Applicants who are applying for initial commissioning or applying for re-appointment use this form. This form can be found on the Department's website at www.sosnc.com. Pursuant to G.S. 10B-11(a) the applications for re-commissioning shall be submitted no earlier than 10 weeks prior to the notary's expiration date. If the application is submitted earlier than 10 weeks prior to the notary's expiration date, the application shall be rejected and returned to the applicant. Only in this case shall the application fee be refunded.

(1) Applicants for re-appointments may apply on-line on the Department's website. Prior to approval for re-appointment status, however, the applicant must successfully complete an on-line test given on the Department's website, or a paper version of the Department's test.

(2) The applicant has three chances, within 30 days, to pass the on-line test for re-commissioning. If the applicant fails all three tests, the applicant must re-take the notary public course to qualify for commissioning and again pay the application fee. The applicant shall have 30 minutes to complete the exam.

(3) If an applicant's application is denied due to not applying for initial commissioning within three months after taking the approved course of study, the applicant shall then attend another notary class and re-apply for commissioning.

(b) A paper version of the test will be offered by the Department at such times and places as the Department may specify. Applicants taking the paper version of the test may be required

to pay a fee to cover materials, facilities and other related costs to offering an in-person form of the test.

(c) Change of Status Form. This form is used by notaries public who have a change in name, address, phone number, or other essential information needed by the Department. This form can be found on the Department's website.

(d) Oath Notification. This form is sent to a notary public whose application has been approved and accepted. The oath notification form sets out, among other instructions, the procedure for taking the oath in the Register of Deeds office and the notary's commission's effective and expiration dates.

(e) Notary Certificate. This form is the notary's certificate of commission. The certificate is valid for five years after the effective date of the notary's commission.

(f) Certificate of Good Standing. This form is used to certify a notary's status and includes non-confidential information such as commissioning county, effective and expiration dates of the notary's commission, when the oath of office was taken, and whether or not any complaint has been filed against the notary.

(g) Affidavit of Destruction of Seal. This form is used as a notice to the Department that a notary has accidentally destroyed his or her seal and has not returned the seal to the Department. This form can be found on the Department's website.

(h) Personal Recommendation Form. Applicants who have indicated on their application that they have been convicted of either a misdemeanor or felony use this form. Three of these forms are completed by three different individuals, not related to the applicant, and sent in with the application. This form can be found on the Department's website.

(i) Complaint Form. This form is used to report a complaint against a notary public. This form can be found on the Department's website.

(j) Proof of Class Form. This form is used to certify that a notary has successfully completed a notary class that has been required to complete a disciplinary action imposed by the Department. The form shall show the class grade, signed by the instructor, and transmitted to the Department within 48 hours of completing the class. This form may be transmitted by mail, fax, or e-mail.

Authority G.S. 10B-8; 10B-11; 10B-12; 10B-13; 10B-36; 10B-50; 10B-51; 10B-52; 10B-53.

18 NCAC 07B .0202 COMMISSION EFFECTIVE DATE AND APPLICATION DELIVERY

(a) Initial commissions are effective on the date received by the Department unless additional information is required from the applicant. In this case, the notary commission effective date shall be the date on which the Department receives the required additional information. Notary applications and other correspondence may be delivered to the Department as follows:

- (1) Personal Delivery to the Department's street address.
- (2) Courier Delivery to the Department's street address.
- (3) Postal Service Delivery to the Department's mailing address.
- (4) Electronic Filing of Re-Commissioning Application. Applicants for re-appointment

may use the Department's website to electronically file the application for re-appointment. Prior to approval for re-appointment, however, the applicant shall take the on-line test as described in Rule .0201 of this Section.

(b) Commissions shall not be back-dated.

Authority G.S. 10B-9; 10B-11.

18 NCAC 07B .0203 FEES

Applicants shall pay fees by a personal or business check, a money order, or a cashier's check made payable to the N.C. Department of the Secretary of State. Fees for on-line applications may be paid for by an automated clearinghouse debit account (ACH) or by a credit card.

Authority G.S. 10B-8(d); 10B-13; 10B-14; 10B-108.

18 NCAC 07B .0204 REQUIREMENTS FOR OATH OF OFFICE

(a) Applicant to present evidence of identity before taking oath of office. – An applicant shall present satisfactory evidence of identity as defined in G.S. 10B-3(22) to the Register of Deeds before the Register of Deeds administers the oath of office to the applicant. The Oath Notification form shall contain a designated space for the Register of Deeds to indicate the type of satisfactory evidence provided by the applicant.

(b) Procedure when applicant fails to take oath of office. – An applicant who fails to take the oath of office for notary public within 45 days of their effective date shall comply with the following requirements:

- (1) If the applicant reapplies within one year of the effective date, the applicant shall reapply for commissioning or re-commissioning and submit another application fee.
- (2) If the applicant reapplies after one year after the effective date, the applicant shall take a test administered on-line by the Department, take a paper test administered by a certified notary instructor using an approved course of study, or attend another notary class. After taking and successfully completing the on-line test, the paper test, or notary class, the applicant shall reapply for commissioning or re-commissioning and submit another application fee.

Authority G.S. 10B-10.

18 NCAC 07B .0205 INVESTIGATIONS

To ensure that persons commissioned as notaries public and applicants for commissions satisfy statutory requirements, the Secretary of State may investigate the fitness of any applicant through inquiry to any federal, state or local official.

Authority G.S. 10B-5; 10B-7.

18 NCAC 07B .0206 DISPOSITION OF COMMISSION

After notary public commissions have been issued, the Department shall send the commission to the Register of Deeds in the county in which the applicant lives or, if the applicant does not reside in North Carolina, in the county in which the applicant works. The Department shall send to the applicant an Oath Notification informing the applicant to appear before the Register of Deeds to take the oath of office. After administering the oath of office, the Register of Deeds shall deliver the commission certificate to the notary public.

Authority G.S. 10B-10.

18 NCAC 07B .0207 REVOCATION OF COMMISSIONS

(a) Any fee payable to the Notary Public Section that is not paid within 10 days following notice from the Department shall be cause for immediate revocation of the commission of the notary public owing that fee.

(b) When a commission is revoked, the Department shall notify the Register of Deeds for the county in which the notary was commissioned and the notary public in writing. The notification shall include the date of revocation.

Authority G.S. 10B-60.

SECTION .0300 – NOTARY PUBLIC EDUCATION PROGRAM

18 NCAC 07B .0301 APPROVED COURSE OF STUDY FOR NOTARIES PUBLIC

(a) In order to be approved by the Department as required by G.S. 10B-8(a), a course of study for applicants for commissioning as a notary public must:

- (1) Be based on the Department's Notary Public Education Instructor's Handbook and the approved and current Notary Public Guidebook for North Carolina.
- (2) Be taught by a notary public instructor certified by the Department pursuant to G.S. 10B-14.
- (3) Include a final examination of not less than 20 questions.

(b) When determining whether to approve a submitted course of study, the Department shall review and consider the following:

- (1) The course lesson plan and syllabus.
- (2) A description of how the final examination will be administered. The entity administering the final exam may use either a paper test format or an on-line exam format. The entity shall notify the Department which format they will be using.
- (3) the course process for grading students.
- (4) the manner in which the course educates students regarding the notary commission application process, forms, and procedures.
- (5) A list of course instructors and the certification status of listed instructors.

(c) When determining whether to approve a submitted course of study, in addition to the requirements listed in Paragraphs (a)

and (b) of this Rule, the Department shall review and consider the following:

- (1) A description of the interaction capabilities between the instructor and the students in the electronic environment.
- (2) Actual time spent by students and instructors on-line, and in class.
- (3) A video, CD, or DVD of the course.

(d) The Department shall inform the person or entity submitting the course for approval of the Department's decision to approve or not approve the course within 45 days after the Department receives the course submission.

(e) In addition to courses taught through the North Carolina Community College System, the Department may approve notary public courses taught by other entities. Departmental approval of courses of study submitted by these other entities shall be based on Paragraphs (a) - (c) of this Rule and the requirements of Rules .0302 and .0303 of this Subchapter.

Authority G.S. 10B-8.

18 NCAC 07B .0302 ADDITIONAL COURSE APPROVAL REQUIREMENTS FOR CERTAIN PROVIDERS

(a) In order to obtain Department approval of a course of study for applicants for commissioning as a notary public as required by G.S. 10B-8(a), in addition to complying with the requirements of Rule .0301 of this Subchapter, a person or entity that is not affiliated with the N.C. Community College System shall:

- (1) Submit an application setting forth the following information:
 - (A) The site(s) of instruction;
 - (B) The qualifications of the provider's course administrator or coordinator;
 - (C) When the instruction will be offered; and
 - (D) The frequency of the instruction.
- (2) Submit the following with the application:
 - (A) A statement demonstrating the course provider's ability for the previous year to provide and administer instruction for the notary public course;
 - (B) A bond in the amount of twenty-five thousand dollars (\$25,000) made in favor of the Secretary of State. The bond must be issued by a surety company authorized to do business in this State. The bond shall be issued in favor of the Secretary of State for the benefit of any person who pays for a course offered by the covered entity when the covered entity cancels the course;
 - (C) A financial statement showing capital investment, assets and liabilities, and the proposed operating budget which demonstrates financial stability or a

financial statement and an accompanying opinion of the course provider's financial stability by either an accountant, using generally accepted accounting principles, or a lending institution;

- (E) If the course provider is an organization or business entity, a detailed statement of ownership. This statement must show stock distribution if the course provider is a corporation, or partnership agreement if the course provider is a partnership;
- (F) A list of all administrative and instructor personnel who are or will be active in the course provider's operation, either in full- or part-time capacity. The course provider shall submit this information on forms provided by the Department for this purpose;
- (G) A list of and certification information for all notary instructors who will be teaching the course provider's course of study;
- (H) A copy of the course provider's enrollment application or student contract form;
- (I) Copies of inspection reports or letters from proper officials to show that the building where the course provider provides instruction is safe and sanitary and meets all local city, county, municipal, state, and federal regulations such as fire, building, and sanitation codes;
- (J) If the building where the course provider provides instruction is not owned by the course provider, a copy of the agreement or lease held by the course provider for the space occupied.

(b) Upon receiving an application for course approval from a course provider that is not affiliated with the N.C. Community College System, the Department may request, review, and consider the course provider's credit report when determining whether to approve the submitted course of study.

Authority G.S. 10B-8.

18 NCAC 07B .0303 REQUIREMENTS FOR APPROVED COURSES OF STUDY PROVIDED BY CERTAIN PROVIDERS

A person or entity that is not affiliated with the N.C. Community College System that provides a course of study approved by the Department shall comply with the following requirements:

- (1) Annual course approval requirement. – The course provider shall submit the course of study to the Department for approval annually.

The Department approval of the course of study shall extend from July 1 through June 30, inclusive. A course provider desiring to be re-approved shall submit an application for course approval renewal on or before April 1 of each year. The application shall be accompanied by the following information:

- (a) All information required for course approval for course providers not affiliated with the N.C. Community College System applying for initial course approval that the course provider has not previously submitted to the Department; and
 - (b) Any supplementary information necessary to bring information on the course provider up to date.
- (2) Course providers shall comply with the following plant and equipment requirements:
- (a) The location of the course provider's premises and facilities shall be adequate, safe, and sanitary and shall be in compliance with all relevant statutory provisions, rules, regulations, and local ordinances pertaining to fire, health, safety, and sanitation.
 - (b) The equipment, supplies, and instructional materials of the course provider shall be satisfactory and adequate in type, quality, and amount, and shall be suitable for satisfactory use in administering the course or courses of instruction. They shall also meet all requirements of relevant statutory provisions and local ordinances pertaining to fire, health, safety, and sanitation.
- (3) Course provider ethics requirement. – No course provider principal, employee, instructor, or agent shall guarantee positions or employment to prospective students.

Authority G.S. 10B-8.

18 NCAC 07B .0304 REVOCATION OF DEPARTMENT APPROVAL OF COURSE OF STUDY

The Department may revoke the Department's approval of a course of study when the Department finds that a course of study or a course provider has failed to comply with the requirements of the law or of rules adopted by the Secretary of State. An affected course provider may appeal the Department's decision to revoke the Department's approval of the provider's course of study in accordance with G.S. 150B.

Authority G.S. 10B-8.

18 NCAC 07B .0305 COURSE OF STUDY FOR CERTIFICATION AS INSTRUCTOR

(a) Department personnel certified to teach the notary public course shall conduct the notary public instructor course. The instructor course shall:

- (1) Be offered at least four times each year and conducted in Raleigh.
- (2) Be comprised of a final exam of not less than 30 questions that shall include true/false, multiple choice and essay questions.

(b) The notary public instructor student must achieve a passing grade of at least 80 per cent on the final exam.

(c) The notary public instructor student who fails to achieve a passing grade on the final exam may reapply to take the test one additional time.

(d) Notary public instructor certification shall be effective for two calendar years.

(e) Instructors shall re-apply for certification and attend a notary public instructor's course every two years to retain certification.

(f) The Secretary of State shall require notary public instructors to attend additional workshops, seminars, and training sessions as needed.

Authority G.S. 10B-8; 10B-14.

18 NCAC 07B .0306 INSTRUCTOR CERTIFICATION

(a) Persons who wish to act as a notary public instructor shall complete and submit an application to the Department. The application shall include, but shall not be limited to, the following:

- (1) Evidence of at least one-year active experience as a notary public. This evidence shall include, if available, the following:
 - (A) Journal of notarial acts that includes entries for at least one year;
 - (B) Affidavit from employer stating the nature and length of the applicant's experience in notarizing documents, or other relevant experience.
- (2) Copy of notarial certificate.
- (3) Three letters of recommendation from unrelated persons who can vouch for the person's abilities as an instructor and a notary public.
- (4) A non-refundable certification fee as set out in G.S. 10B-14(a)(5) for initial certification and G.S. 10B-14(b) for renewal certification, as well as any additional workshop fees to cover materials, facilities, copies of electronic instruction media, and meals, if any, related to the giving of that course of instruction.
- (5) Additional information the Secretary deems relevant in determining the person's capability to effectively instruct potential notaries public.

(b) After receiving an application for a position of notary public instructor, the Department may interview the applicant to gain additional knowledge of the applicant's suitability and capability to conduct notary public classes for North Carolina.

Authority G.S. 10B-8; 10B-14.

18 NCAC 07B .0307 STUDENT REPORTS

(a) Notary Public Instructors shall submit quarterly evaluation summaries to the Department for review and analysis. The summaries shall be compiled from actual comments and ratings given by class participants on the instructor's performance in teaching notary laws and processes.

(b) Notary public education coordinators and providers of approved courses of study shall submit evaluations every six months to the Department on the instructor's performance from the coordinator's, student's, and course provider's perspectives.

(c) The Secretary may also request a video or a personal interview for further evaluation.

(d) Notary public education coordinators and providers of approved courses of study shall submit student's addresses for the Department to conduct independent evaluations of the notary instructors.

Authority G.S. 10B-8; 10B-14.

SECTION .0400 – ENFORCEMENT AND DISCIPLINARY GUIDELINES

18 NCAC 07B .0401 DETERMINATION OF QUALIFICATIONS FOR OFFICE

The Secretary of State shall deny a notary public commission, or revoke, restrict, or suspend the commission of any person for failure to meet the minimum qualification standards or for violation of notary public law(s). This Section sets out the standards for:

- (1) Determining a person's qualifications for office if the person has a criminal background, has violated any notary law(s), or has exhibited qualities not suited for holding a public office such as incompetence, abuse, negligence, or willful misconduct.
- (2) Determining the issue(s) that may be an aggravating factor(s) in a person's character and eligibility for holding the office of notary public.
- (3) Identifying the criteria that the Secretary will consider in rendering her final decision on commissioning a person for the office of notary public.
- (4) Appealing a decision made by the Secretary to deny, revoke, or suspend a notary public commission.

Authority G.S. 10B-5; 10B-6; 10B-7; 143A-23.

18 NCAC 07B .0402 FACTORS CONSIDERED IN DISCIPLINARY ACTIONS

The Secretary of State shall consider a variety of factors including, but not limited to, the following when determining whether to deny, revoke, restrict or suspend a notary public commission:

- (1) Nature, number and severity of any acts, offenses, crimes under consideration;

- (2) Evidence pertaining to the requisite honesty, credibility, truthfulness, and integrity of the applicant or commissioned notary public;
- (3) Actual or potential harm to the general public, group, individual, or client;
- (4) History of complaints received by the Secretary of State;
- (5) Prior disciplinary record or warning from the Secretary of State;
- (6) Circumstances or evidence in mitigation;
- (7) Circumstances or evidence in aggravation;
- (8) Disciplinary record of occupational, vocational, or professional license;
- (9) Evidence of rehabilitation, such as reference letters or proof of classroom attendance;
- (10) Criminal record for the (10) ten years prior to the date of the application;
- (11) In the case of a criminal conviction, the time in which the offense occurred in relation to the act, offense, or crime under consideration;
- (12) Reports from law enforcement agencies;
- (13) A willful act consisting of acts which are intentional, conscious, and directed toward achieving a purpose;
- (14) A negligent act consisting of acts involving the failure to exercise care toward others, which a reasonable or prudent person would do in the circumstances, or taking action which such a reasonable person would not;
- (15) Monetary damage or potential monetary damage caused to the party holding the notarized document.

Authority G.S. 10B-5; 143A-23.

18 NCAC 07B .0403 EXAMINING INDIVIDUAL DISCIPLINARY MATTERS

The Secretary shall consider the totality of the offense along with the facts and circumstances in each individual case. If individual circumstances exist which justify omissions or deviations from the standards in this Section, the Secretary shall request that the party rendering a decision, opinion, or recommendation clearly delineates the factual basis for his or her proposed decision.

Authority G.S. 10B-5; 143A-23.

18 NCAC 07B .0404 PUBLIC RECORD

To protect the public and deter willful or grossly negligent violations of notary public law, the Secretary shall publish all disciplinary actions upon the decision becoming effective and a matter of public record.

Authority G.S. 132-1.3; 10B-5; 10B-60; 143A-23.

18 NCAC 07B .0405 APPLICATION DENIAL

(a) If the Secretary determines that an applicant for a notary public commission does not qualify for office based on the

factors set forth in Rule .0402 of this Section, the Secretary may deny the applicant's application.

(b) The Secretary shall specify the reason(s) for the denial in the denial letter sent to the applicant.

(c) The applicant shall be afforded the opportunity to appeal the Secretary's decision to deny his or her application within 60 days from the date of the letter as set forth in Rule .0408 of this Section.

(d) The Secretary shall deny an application for commissioning or re-commissioning if three or more sections of the application are incomplete.

(e) If an applicant fails to complete six hours of instruction pursuant to G.S. 10B-8(a), the Secretary shall deny the application.

Authority G.S. 10B-5; 10B-8; 143A-23.

18 NCAC 07B .0406 COMMISSION REVOCATION

(a) If the Secretary determines that a notary public is no longer qualified to hold the office of notary public based on the factors set forth in Rule .0402 of this Section, the Secretary may revoke a notary's commission.

(b) Upon revocation, the notary shall immediately surrender his or her notarial seal or stamp to the Secretary within 60 days of the date of the Order of Revocation. The Order of Revocation shall provide information as to where and how the stamp or seal shall be delivered.

(c) Upon revocation the notary must immediately cease performing any notarial acts upon receipt of the Order of Revocation or other official notification such as a warrant issued from a law enforcement agency.

(d) Acting as a notary public upon revocation is a Class 1 misdemeanor and could result in criminal charges. Notary acts performed by persons not commissioned may render a document invalid in a court of law and may risk potential serious harm to the public.

(e) Subsequent applications to become a notary public received from any person whose notary public commission has been previously revoked shall be denied if submitted within five years following a civil penalty and within ten years following a criminal conviction.

(f) The notary public shall be afforded the opportunity to appeal the Secretary's decision to revoke his or her commission within 60 days beginning on the issue date of the Order of Revocation as set forth in Rule .0408 of this Section.

Authority G.S. 10B-3(21); 10B-3(27); 10B-5; 10B-55; 10B-60; 143A-23.

18 NCAC 07B .0407 COMMISSION SUSPENSION

(a) If the Secretary determines that a notary public requires rehabilitation, including correcting deficiencies in skills, education, and knowledge of the N.C. Notary Act, the Secretary may suspend or restrict the notary's commission and prohibit the notary from engaging in or performing the duties and responsibilities of a notary public until such rehabilitation has been successfully completed and proved to the Secretary. When the notary has complied with all of the requirements as set forth in the Order of Suspension, the Secretary may consider re-

issuing the commission within five years or less after the requirements have been met.

(b) The notary public shall be afforded the opportunity to appeal the Secretary's decision to suspend or restrict his or her commission within 60 days beginning on the issue date of the Order of Suspension as set forth in Rule .0408 of this Section.

Authority G.S. 10B-3(21); 10B-3(27); 10B-60; 143A-23.

18 NCAC 07B .0408 APPEAL PROCEDURES

(a) Notaries public who have received disciplinary action by the Secretary have the right to appeal the decision to the Office of Administrative Hearings. To do so, the appellant should send a letter, along with copies of any supporting documents, to the Office of Administrative Hearings for review. The supporting documents may include references of character, such as letters of recommendations from reliable professional associates or others who are not in any way related to the appellant, and statements or affidavits concerning the events leading up to the disciplinary action as well as evidence not previously submitted.

(b) Appeals should be directed to the Office of Administrative Hearings, 424 North Blount Street, 6714 Mail Service Center, Raleigh, NC 27699-6714, (919) 733-2698.

(c) There is a 60-day deadline in which to file an appeal, beginning on the date that the letter or order is dated. This deadline is based upon G.S. 150B.

Authority G.S. 143A-23; 150B-23(f).

18 NCAC 07B .0409 DISCIPLINARY ACTIONS RELATING TO APPLICATIONS

(a) Errors or omissions on applications submitted to the Department may cause the application to be denied, or a commission to be suspended for six months requiring the notary to take a notary public course before being re-commissioned. If the application is not permanently denied or the commission is not permanently revoked, an applicant may reapply after taking the notary public course and submitting proof to the Department of successful completion of the course. The Secretary may request additional information to ascertain that any issue relating to the previous application has been corrected or circumstances have changed to the degree that the Secretary may be certain that the public is at no risk if the commission is issued.

(b) Errors which may cause an application to be denied or a commission to be suspended are as follows, but are not limited to:

- (1) Misstatement or omission of an application. An applicant shall indicate all convictions of a felony or any misdemeanor crimes that involve moral turpitude, as well as civil judgments involving moral turpitude, if any of these acts were committed within 10 years of the date the application is submitted. Crimes and civil judgments involving moral turpitude include, but are not limited to:

- (A) Accessory,
- (B) Arson,
- (C) Assault,
- (D) Battery,

- (E) Burglary,
- (F) Carrying a concealed weapon without a permit,
- (G) Child molestation,
- (H) Child pornography,
- (I) Conspiracy,
- (J) Discharge of a firearm in a public place or into an uninhabited dwelling,
- (K) Domestic violence,
- (L) Driving under the influence,
- (M) Possession or sale of drugs,
- (N) Embezzlement,
- (O) Failure to comply with a court order,
- (P) Failure to pay child support,
- (Q) Failure to return to confinement,
- (R) False financial statements,
- (S) Forgery,
- (T) Fraud,
- (U) Identity Theft,
- (V) Impersonation of a police officer,
- (W) Hit and run,
- (X) Kidnapping,
- (Y) Prostitution,
- (Z) Multiple worthless checks showing a pattern of behavior indicating moral turpitude and dishonesty,
- (AA) A worthless check in excess of five hundred dollars (\$500.00),
- (BB) Possession of an unregistered firearm,
- (CC) Practicing law without a license,
- (DD) Rape,
- (EE) Receipt of stolen goods,
- (FF) Receipt of stolen property,
- (GG) Resisting arrest,
- (HH) Robbery,
- (II) Solicitation,
- (JJ) Statutory rape,
- (KK) Tax evasion,
- (LL) Terrorist threats,
- (MM) Theft,
- (NN) Threats to commit a crime or cause bodily injury,
- (OO) Spousal abuse;

(2) Falsifying, omitting or using misleading information regarding any felony or misdemeanor convictions or civil judgments of crimes involving moral turpitude will result in permanent revocation or denial.

(3) If an application is denied because of the applicant having been convicted of a crime involving moral turpitude, the application may be granted on appeal if the applicant can clearly demonstrate that the applicant has the requisite characteristics required to fulfill the duties of a notary public. These characteristics include, but are not limited to honesty, credibility, truthfulness, and integrity.

(4) Applicants must report an action such as suspension, revocation or other disciplinary

action taken regarding other professional licenses. This applies regardless of what state in which the license was issued or held. The facts of this disciplinary action shall be taken into consideration along with the factors previously set for in determining whether the applicant has the qualities necessary to fulfill the duties of a notary public.

- (5) Falsifying, omitting or using misleading information regarding the applicant's citizenship, address or legal name may result in a denial, suspension, or revocation.
- (6) Notarization of notary's own signature. If an applicant notarizes his or her own signature, the application shall be automatically denied and the applicant shall not reapply until he or she has successfully completed a notary public course and submitted proof of classroom attendance to the Department.

Authority G.S. 10B-5; 10B-6; 10B-7; 10B-12; 10B-20(c)(5); 143A-23.

18 NCAC 07B .0410 DISCIPLINARY ACTIONS: VIOLATIONS OF THE NOTARY ACT

(a) Offenses relating to a notary's failure to perform a notarial responsibility regarding the notary seal or stamp may cause a notary's commission to be suspended. At a minimum in the case of negligence, the notary shall receive a letter from the Department explaining the proper manner in which to use a seal or stamp.

- (1) Illegible Seal. The Department shall request evidence that the notary has either replaced the seal or had it repaired so that the seal is legible.
- (2) Invalid Seal. The Department shall request evidence that the notary has replaced the seal containing the statutorily required components.
- (3) Failure to affix a seal. The Department shall request evidence from the notary that he or she understands the responsibilities of a notary public and that a seal is a statutorily required component of a notarial certificate.

(b) Offenses relating to a notary's failure to meet the statutory requirements of a complete and lawful notarial act may cause a notary's commission to be suspended or revoked. Offenses include, but are not limited to, the following:

- (1) Incomplete attestation;
- (2) Improper acknowledgment language;
- (3) Incorrect signature;
- (4) Incorrect expiration date;
- (5) Failure to administer an oath or affirmation;
- (6) Failure to verify identification;
- (7) Failure to require personal appearance;
- (8) Notarization of a document in which the notary is a named, interested, or signed party;
- (9) Notarization of a "non-signature" or a copy of a signature;

- (10) Charging a fee in excess of that which is set by law;
- (11) Acting as a notary when not commissioned;
- (12) Unauthorized use of a seal.

(c) Should a notary be convicted of a felony or crime of moral turpitude while holding the office of notary public, the notary's case shall be individually reviewed the same as if the crime was reported on an application.

(d) Offenses relating to a notary's failure to provide information to the Secretary may cause the notary's commission to be suspended or revoked. Offenses include, but are not limited to, the following:

- (1) Failure to respond to requests from the Secretary regarding wrongful notarial acts performed by the notary, or for any other information requested by the Secretary;
- (2) Failure to notify the Secretary of a name change;
- (3) Failure to notify the Secretary of an address change;
- (4) Failure to comply with disciplinary order within the allotted time period;
- (5) Failure to notify the Secretary of State of any new or changed information that may affect the notary's qualifications for a notarial commission under G.S. 10B-5 or may provide grounds for denying an application for commissioning or recommissioning under G.S. 10B-5(d).

(e) If a notary performs a notarial act knowing that the document or information contained in it is false or fraudulent, or that the intent of the executed document is dishonest, the notary's commission shall be revoked and the Secretary may pursue criminal prosecution. Acts of fraud or dishonesty include, but are not limited to, notarizing a blank DMV vehicle title document and the crimes and civil judgments as set forth in Rule .0409 of this Section.

(f) If the notary commits a combination of acts of official misconduct, the notary shall receive, at a minimum, the maximum penalty of the lesser of the acts committed. The notary may be required to re-take the notary course and may be suspended or revoked if either of the misdeeds allow for that penalty.

(g) The Department shall enforce laws pertaining to electronic crimes relating to official misconduct in the performance of a notarial act.

(h) The Department shall refer or request assistance from other federal, state or local law enforcement agencies as needed.

Authority G.S. 10B-60; 143A-23.

SECTION .0500 – PUBLIC RECORDS AND REQUESTS FOR INFORMATION

18 NCAC 07B .0501 PUBLIC INFORMATION

(a) The information that the Department shall make available on individual notaries public include:

- (1) Full legal name;
- (2) County of Commission;

- (3) Employer's Name;
- (4) Employer's street and mailing addresses;
- (5) Employer's phone number;
- (6) Status of Commission.

(b) A request for notary public information shall be in writing and in the following forms:

- (1) On letterhead from a law firm, law enforcement agency, or government agency; or
- (2) N.C. State Bar applicant "Release of Information" form.

Authority G.S. 10B-7(b).

18 NCAC 07B .0502 PUBLIC RECORDS SERVICES

Public records services are provided on a non-discriminatory basis to any member of the public on the terms described in this Section. The following methods are available for obtaining copies of notary public records and copies of data from the notary public section information management system:

- (1) Individually identified data are available in the following forms:
 - (a) Paper; and
 - (b) Web-based access.
- (2) Bulk notary data (Notary Master Files) are available by subscription on the Department's FTP site as described in Rule .0503 of this Section.

Authority G.S. 132-6.2.

18 NCAC 07B .0503 FEES FOR PUBLIC RECORDS SERVICES

Fees for public records services are established as follows:

- (1) Paper copies of individual records are one dollar (\$1.00) for the first page and twenty-five cents (\$0.25) for each succeeding page.
- (2) Direct on-line access (FTP Site) makes notary information available on a subscription basis. A description of this subscription service and cost is available from the notary public section.
- (3) Web-based access is free.
- (4) Certificates of Good Standing are six dollars and twenty-five cents (\$6.25) per certificate.

Authority G.S. 132-6.2.

18 NCAC 07B .0504 DISPOSITION AND RETENTION OF PUBLIC NOTARY RECORDS

- (a) The original paper copies of notary initial and re-appointment applications and correspondence shall remain in permanent storage in the Department.
- (b) Notary records shall be imaged for viewing and stored electronically.
- (c) The notary records listed in Paragraph (a) of this Rule shall be transferred to microfilm and stored in the Department of Cultural Resources, Division of Archives and History, State Records Center for permanent retention.

Authority G.S. 121-5(b).

SUBCHAPTER 07C – ELECTRONIC NOTARY STANDARDS

SECTION .0100 – GENERAL PROVISIONS

18 NCAC 07C .0101 PROGRAM ADMINISTRATION

(a) The notary public section of the Department's certification and filing division shall administer the electronic notary program in compliance with relevant statutes and these rules. The mailing address, hours, and contact information for the section are set forth in 18 NCAC 07B .0101.

(b) Administration of the electronic notary program includes administering the educational program for North Carolina electronic notaries public, processing applications to register as electronic notaries public, certifying the capabilities of persons who apply to register as electronic notaries public, approving the technology used in performing electronic notary acts, investigating alleged violations of the Electronic Notary Act of North Carolina, and enforcing the standards contained therein.

Authority G.S. 10B-1 et seq.; 143A-123.

18 NCAC 07C .0102 DEFINITIONS

The following terms shall apply to the rules in this Subchapter:

- (1) "Applicant" means a person applying for registration as a North Carolina electronic notary.
- (2) "Approved Electronic Notary Solution Provider" means a person or entity approved by the Department to provide applications, programs, hardware, software, or technology to an electronic notary to enable the electronic notary to perform electronic notarizations.
- (3) "Biometric Authentication" means proving the identity of a user by requiring the user to verify the user's identity through technologies that require measurement and analysis of one or more human physiological or behavioral characteristics of the user in order to access and use an electronic notarization system. Note: Examples of biometric authentication technologies include but are not limited to fingerprint scanning devices, retinal scanning devices, and handwriting analysis devices.
- (4) "Department" means the Department of the Secretary of State. Unless specifically noted in rule text, for the purposes of this Subchapter "Department" means the notary public section of the Department's certification and filing division.
- (5) "Electronic Notarization System" means a set of applications, programs, hardware, software, or technology designed to enable a notary to perform electronic notarizations.
- (6) "Independently Verifiable" means capable of government or third-party authentication of a

notarial act, a notary's identity, and a notary's relevant authority.

- (7) "Password Authentication" means proving the identity of a user by requiring the user to enter a secret word, phrase, or symbol set in order to access and use an electronic notarization system.
- (8) "Token Authentication" means proving the identity of a user by requiring the user to use a physical device in addition to a password or personal identification number ("PIN" number) in order to access and use an electronic notarization system. Note: Examples of physical devices used in token authentication technologies include but are not limited to magnetic cards or "smart cards" and Universal Serial Bus (USB) memory sticks or "USB keys".
- (9) "Under the exclusive control of the notary", for the purposes of the Department's interpretation of the requirements of G.S. 10B-126(b), means "under the notary public's sole control" as defined in this subchapter.
- (10) "Under the notary public's sole control" means accessible by and attributable solely to the notary to the exclusion of all other persons and entities, either through being in the direct physical custody of the notary or through being secured with one or more biometric, password, token, or other approved authentication technologies in an electronic notarization system provided by an approved electronic notary solution provider.

Authority G.S. 10B-125(b), 10B-126(d).

SECTION .0200 – REGISTRATION AND APPROVAL PROCESS

18 NCAC 07C .0201 APPROVED FORMS AND PROCEDURES

(a) The Department shall post an application form for electronic notary registration on the Department's website at www.sosnc.com. The Department's application form shall contain entry spaces for the information required for registration by G.S. 10B-106(d). The Department's application form may request additional information for the purposes of determining the notary's identity, qualifications, and capabilities to perform electronic notarial acts.

(b) An applicant for registration as an electronic notary shall also provide the following information with the application:

- (1) The name of the technology solution provider or providers the applicant intends to use in order to:
 - (A) attach an electronic notarial certificate;
 - (B) attach an electronic signature and an electronic seal to electronic documents.

- (2) An exemplar of the electronic notary signature and electronic notary seal attached to the application form.

(c) Upon application receipt, the Department may request additional information as may be necessary to determine the applicant's identity, qualifications and capabilities to perform electronic notarial acts. An applicant shall provide the additional information within 30 calendar days from the date the Department sends the request. If the applicant fails to provide the requested information, the Department shall deny the registration application. When the Department denies an applicant's application for this reason, to register as an electronic notary the applicant shall apply with a new application that complies with the requirements of this rule.

Authority G.S. 10B-125(b), 10B-126(d).

18 NCAC 07C .0202 REQUIREMENTS FOR COMPLETING REGISTRATION PROCESS

(a) The Department shall notify the applicant of application approval or denial within 45 days after the Department's receipt of the completed application and any additional requested information.

(b) Upon approval of an application for electronic notary registration, the Department shall send the following documents to the Register of Deeds of the county in which the applicant is commissioned as a notary:

- (1) the Electronic Notary Oath Notification Letter;
and
- (2) the Electronic Notary Certificate to Perform Electronic Notary Acts.

(c) The applicant shall take the oath in the Register of Deeds office within 45 days of the issue date on the electronic notary oath notification letter. Before the applicant may take the oath, the applicant shall present satisfactory evidence of identity as defined in G.S. 10B-3(22) to the Register of Deeds to confirm the applicant's identity. The applicant's electronic notary registration shall not be effective until the applicant takes the oath.

Authority G.S. 10B-10; 10B-125(b); 10B-126(d).

18 NCAC 07C .0203 RE-REGISTRATION UPON RE-COMMISSIONING

A notary applying to re-register as an electronic notary shall comply with initial registration application procedures found in Rules .0201, .0202, and .0301 of this Subchapter.

Authority G.S. 10B-106(c).

SECTION .0300 – COURSE OF INSTRUCTION

18 NCAC 07C .0301 APPROVED COURSE OF STUDY FOR ELECTRONIC NOTARIES PUBLIC

(a) The Department shall administer the training course and testing for applicants for electronic notary registration.

(b) Upon the Secretary's determination of a need for additional instructors, the Department may train certified notary public instructors who are also registered as electronic notaries public

to administer the training course and testing for applicants for electronic notary registration.

Authority G.S. 10B-8; 10B-107.

SECTION .0400 – ELECTRONIC NOTARY STANDARDS

18 NCAC 07C .0401 ELECTRONIC NOTARY SIGNATURE

(a) The electronic notary signature shall be independently verifiable and unique to the notary.

(b) The electronic notary signature shall be retained under the notary public's sole control. When the notary performs an electronic notarization, the electronic signature used by the notary must be accessible by and attributable solely to the notary to the exclusion of all other persons and entities for the entire time necessary to perform the electronic notarization.

(c) The electronic notary signature shall be attached or logically associated with the document, linking the data in such a manner that any subsequent alterations to the underlying document or electronic notary certificate are observable through visual examination.

(d) An image of the notary's handwritten signature shall appear on any visual or printed representation of an electronic notary certificate regardless of the technology being used to affix the notary's electronic signature.

Authority G.S. 10B-125(b), 10B-126(d).

18 NCAC 07C .0402 ELECTRONIC NOTARY SEAL

(a) The electronic notary seal shall be independently verifiable and unique to the notary.

(b) The electronic notary seal shall be retained under the notary public's sole control. When the notary performs an electronic notarization, the electronic seal used by the notary must be accessible by and attributable solely to the notary to the exclusion of all other persons and entities for the entire time necessary to perform the electronic notarization.

(c) The electronic notary seal shall be attached or logically associated with the document, linking the data in such a manner that any subsequent alterations to the underlying document or electronic notary certificate are observable through visual examination.

(d) An image of the notary's electronic seal shall appear on any visual or printed representation of the electronic notary certificate regardless of the technology being used to affix the notary's electronic seal.

(e) The perimeter of the electronic notary seal shall contain a border such that the physical appearance of the seal replicates the appearance of an inked seal on paper.

Authority G.S. 10B-125(b), 10B-126(d).

18 NCAC 07C .0403 PHYSICAL PRESENCE REQUIREMENT FOR ELECTRONIC NOTARIZATION

When a registered notary performs an electronic notarization, the principal and the electronic notary public shall be in each other's physical presence during the entire electronic notarization so that the principal and the notary can see, hear, communicate with,

and give identification documents as required under G.S. 10B-3(2) to each other without the use of electronic devices such as telephones, computers, video cameras, or facsimile machines.

Authority G.S. 10B-116(1); 10B-125(b), 10B-126(d).

18 NCAC 07C .0404 ELECTRONIC NOTARY SOLUTION PROVIDERS

(a) Any person or entity applying to the Department for designation as an approved electronic notary solution provider must complete and submit an application to the Department for review and approval prior to authorizing any electronic notary seals or electronic signatures to North Carolina electronic notaries. The application shall include the following information:

- (1) Hardware and software specifications and requirements for the provider's electronic notarization system.
- (2) A description of the type(s) of technology used in the provider's electronic notarization system, and
- (3) A demonstration of how the technology is used to perform an electronic notarization.

(b) Changes or modifications or updates to information previously submitted by an approved electronic notary solution provider must be submitted to and approved by the Department prior to making any updates or subsequent versions of the provider's electronic notarization system available to North Carolina electronic notaries.

(c) The Department shall review all applications for designation as an approved electronic notary solution provider and within 45 business days after receiving the application shall issue a written decision granting or rejecting the application. If the Department rejects the application, the Department's written decision shall indicate the reasons why the Department did not approve the application.

(d) An affected electronic notary solution provider may appeal the Department's rejection of the provider's application for designation as an approved electronic notary solution provider as provided under Article 3 of Chapter 150B of the General Statutes.

(e) The Department shall publish a list of all approved electronic notary solution providers on the Department's website at www.sosnc.com. The Department shall publish this list in random order and shall update the list as necessary.

Authority G.S. 10B-125(b), 10B-126(d).

18 NCAC 07C .0405 ELECTRONIC NOTARY SOLUTION PROVIDER'S APPROVAL CRITERIA

Each electronic notary solution provider applying for designation as an approved electronic notary solution provider and each approved electronic notary solution provider shall comply with the following requirements:

- (1) The provider shall provide a free and readily available viewer/reader to enable all parties relying on the electronically notarized record or document to view the electronic notary

signature and the electronic notary seal without incurring any cost.

(2) The provider shall sign and shall comply with a Memorandum of Understanding with the Department of the Secretary of State agreeing that the provider shall:

(A) Comply with the laws, policies, rules and regulations that govern North Carolina Notaries;

(B) Provide an electronic notarization system and/or solution that complies with the technical specifications of the rules and standards that govern electronic notarization processes and procedures in North Carolina;

(C) Suspend the use of any electronic notarization system and/or solution for any notary whose commission has been revoked or suspended by the North Carolina Secretary of State;

(D) Provide prorated fees to align the usage and cost of the electronic notary system or solution with the commission term limit of the electronic notary purchasing the electronic notary seal and signature;

(E) Require notaries to present the NC Secretary of State's Electronic Notary Certificate to Perform Electronic Notary Acts prior to authorizing an electronic notary seal and signature;

(F) Verify the authorization of a North Carolina notary to perform electronic notary acts by logging on to the Department's website and comparing the name, notary commission number and commission expiration date with the information on the Electronic Notary Certificate to Perform Electronic Notary Acts prior to authorizing an electronic notary seal and signature;

(G) Require such of the provider's principals or employees to take the mandatory electronic notary education course online and pass the required examination as is necessary to ensure the provider possesses sufficient familiarity with North Carolina's electronic notary laws and requirements.

Authority G.S. 10B-125(b), 10B-126(d).

SECTION .0500 – SECURITY REQUIREMENTS

18 NCAC 07C .0501 SEPARATE ATTESTATIONS

Each electronic signature requiring notarization and attestation in the form of an acknowledgment shall be individually affixed

to the electronic document by the principal signer and shall be acknowledged separately by the signer prior to the notarial act. This provision does not prevent a single acknowledgment certificate being used for multiple signatures of a single principal or single signatures by multiple signers.

Authority G.S. 10B-125(b), 10B-126(d).

18 NCAC 07C .0502 CONTROL AND OWNERSHIP OF ELECTRONIC NOTARY SEALS

(a) Employers of electronic notaries shall relinquish control and transfer possession of the electronic notary seal to an electronic notary who is no longer employed by said employer. If the electronic notarization system used by the employer does not permit transfer of possession of the electronic notary seal, the employer shall eliminate the ability of any other person to use the former employee's electronic notary seal. Neither the employer nor any of the employer's employees or agents shall use or permit the use of the former employee's electronic notary seal to perform any actual or purported act of electronic notarization.

(b) The electronic notary seal is the private property of the electronic notary and shall be subject to laws governing private property.

(c) When an electronic notarization system uses a notary's electronic seal and electronic signature together as a single unit, the single unit, including both the seal and the signature, is an electronic notary seal for the purpose of complying with the requirements of this Rule.

Authority G.S. 10B-60; 10B-125(b), 10B-126(d).

18 NCAC 07C .0503 PROTECTED ACCESS

Access to electronic notary signatures and electronic notary seals shall be protected by the use of a password, token, biometric, or other form of authentication approved by the Department.

Authority G.S. 10B-125(b), 10B-126(d).

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 32 – NORTH CAROLINA MEDICAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Medical Board intends to adopt the rules cited as 21 NCAC 32A .0111 - .0113 and repeal the rule cited as 21 NCAC 32A .0107.

Proposed Effective Date: *January 1, 2007*

Public Hearing:

Date: *September 18, 2006*

Time: *10:00 a.m.*

Location: *North Carolina Medical Board, Hearing Room, 1203 Front Street, Raleigh, NC 27609*

Reason for Proposed Action: *To prescribe rules describing the process for requesting a declaratory ruling and, pursuant to G.S. 150B-4, the circumstances in which a ruling shall or shall not be issued.*

Procedure by which a person can object to the agency on a proposed rule: *A person may submit objections to the proposed adoptions and repeal by October 31, 2006 by writing to R. David Henderson, Executive Director, North Carolina Medical Board, 1203 Front St. Raleigh, NC 27609.*

Comments may be submitted to: *David Henderson, 1203 Front Street, Raleigh, NC 27609, phone (919) 326-1100, fax (919) 326-1131, email david.henderson@ncmedboard.org*

Comment period ends: *October 31, 2006*

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 32A - ORGANIZATION

21 NCAC 32A .0107 DECLARATORY RULINGS

~~The Board will consider a request to make a declaratory ruling on the validity of a rule only when the petitioner shows that circumstances are so changed since adoption of the rule that such a ruling would be warranted, or that the rule making record for the rule evidences a failure by the agency to consider specified relevant factors. The petitioner shall state in his request the consequences of a failure to issue a ruling.~~

Authority G.S. 150B-17.

21 NCAC 32A .0111 REQUEST FOR DECLARATORY RULING

(a) All requests for declaratory rulings shall be written and mailed to the Board at 1203 Front Street, Raleigh, North Carolina 27609. The envelope containing the request should clearly bear the notation: "REQUEST FOR DECLARATORY RULING".

(b) Each Request for Declaratory Ruling must include the following information:

- (1) the name and address of the person requesting the ruling;
- (2) the statute or rule to which the request relates;
- (3) a concise statement of the manner in which the requesting person is affected by the statute or rule or its potential application to that person;
- (4) a statement whether an oral hearing is desired and, if so, the reason therefore.

Authority G.S. 150B-4.

21 NCAC 32A .0112 DISPOSITION OF REQUEST

(a) Upon receipt of a Request for Declaratory Ruling, the Board shall determine whether a ruling is appropriate under the facts stated.

(b) When the Board determines for good cause that the issuance of a declaratory ruling is inappropriate, the Board shall notify, in writing, the person requesting the ruling, stating the reasons for the denial of the request.

(c) The Board will ordinarily decline to issue a declaratory ruling where:

- (1) there has been a similar controlling factual determination made by the Board in a contested case;
- (2) the rule-making record shows that the factual issues raised by the request were specifically considered prior to adoption of the rule;
- (3) the subject-matter of the request is involved in pending litigation in any state or federal court in North Carolina; or
- (4) the petitioner fails to show that the circumstances are so changed since the adoption of the statute or rule that a ruling is warranted.

Authority G.S. 150B-4.

21 NCAC 32A .0113 PROCEDURE FOR DECLARATORY RULING

Prior to issuing a declaratory ruling, the Board may give notice of the declaratory ruling proceedings to any person(s) it deems appropriate and may direct that fact-finding proceedings appropriate to the circumstances of the particular request be conducted. The proceedings may consist of written submissions, an oral hearing, or other appropriate proceedings.

Authority G.S. 150B-4.

CHAPTER 32 – NORTH CAROLINA MEDICAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Medical Board intends to amend the rule cited as 21 NCAC 32T.0101.

Proposed Effective Date: *January 1, 2007*

Public Hearing:

Date: September 18, 2006

Time: 5:30 p.m.

Location: North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517

Reason for Proposed Action: 21 NCAC 32T .0101(i) is being amended to provide the Medical Board and Pharmacy Board more disciplinary bases and disciplinary options for clinical pharmacist practitioners.

Procedure by which a person can object to the agency on a proposed rule: A person may submit objections to the proposed amendments by October 31, 2006 by writing to R. David Henderson, Executive Director, North Carolina Medical Board, 1203 Front St., Raleigh, NC 27609.

Comments may be submitted to: R. David Henderson, 1203 Front Street, Raleigh, NC 27609, phone (919) 326-1100, fax (919) 326-1131, email david.henderson@ncmedboard.org

Comment period ends: October 31, 2006

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 32T – CLINICAL PHARMACIST PRACTITIONER

SECTION .0100 – CLINICAL PHARMACIST PRACTITIONER

21 NCAC 32T .0101 CLINICAL PHARMACIST PRACTITIONER

(a) Definitions:

- (1) "Medical Board" means the North Carolina Medical Board.
- (2) "Pharmacy Board" means the North Carolina Board of Pharmacy.

- (3) "Joint Subcommittee" means the subcommittee composed of four members of the Pharmacy Board and four members of the Medical Board to whom responsibility is given by G.S. 90-6(c) to develop rules to govern the provision of drug therapy management by the Clinical Pharmacist Practitioner in North Carolina.
- (4) "Clinical Pharmacist Practitioner or CPP" means a licensed pharmacist in good standing who is approved to provide drug therapy management under the direction of, or under the supervision of a licensed physician who has provided written instructions for a patient and disease specific drug therapy which may include ordering, changing, substituting therapies or ordering tests. Only a pharmacist approved by the Pharmacy Board and the Medical Board may legally identify himself as a CPP.
- (5) "Supervising Physician" means a licensed physician who, by signing the CPP agreement, is held accountable for the on-going supervision and evaluation of the drug therapy management performed by the CPP as defined in the physician, patient, pharmacist and disease specific written agreement. Only a physician approved by the Medical Board may legally identify himself or herself as a supervising physician.
- (6) "Approval" means authorization by the Medical Board and the Pharmacy Board for a pharmacist to practice as a CPP in accordance with this Rule.
- (7) "Continuing Education or CE" is defined as courses or materials which have been approved for credit by the American Council on Pharmaceutical Education.
- (8) "Clinical Experience approved by the Boards" means work in a pharmacy practice setting which includes experience consistent with the following components as listed in Parts (b)(2)(A), (B), (C), (D), (E), (H), (I), (J), (N), (O), and (P) of this Rule. Clinical experience requirements must be met only through activities separate from the certificate programs referred to in Parts (b)(1)(B) of this Rule.

(b) CPP application for approval.

- (1) The requirements for application for CPP approval include that the pharmacist:
 - (A) has an unrestricted and current license to practice as a pharmacist in North Carolina;
 - (B) meets one of the following qualifications:
 - (i) has earned Certification from the Board of Pharmaceutical Specialties,

- (ii) is a Certified Geriatric Pharmacist, or has completed an American Society of Health System Pharmacists (ASHP) accredited residency program, which includes two years of clinical experience approved by the Boards;
 - (ii) has successfully completed the course of study and holds the academic degree of Doctor of Pharmacy and has three years of clinical experience approved by the Boards and has completed a North Carolina Center for Pharmaceutical Care (NCCPC) or American Council on Pharmaceutical Education (ACPE) approved certificate program in the area of practice covered by the CPP agreement; or
 - (iii) has successfully completed the course of study and holds the academic degree of Bachelor of Science in Pharmacy and has five years of clinical experience approved by the Boards and has completed two NCCPC or ACPE approved certificate programs with at least one program in the area of practice covered by the CPP agreement;
 - (C) submits the required application, a written endorsement from the Pharmacy Board and the fee to the Medical Board;
 - (D) submits any information deemed necessary by the Medical Board in order to evaluate the application; and
 - (E) has a signed supervising physician agreement.
- If for any reason a CPP discontinues working in the approved physician arrangement, both Boards shall be notified in writing within ten days and the CPP's approval shall automatically terminate or be placed on an inactive status until such time as a new application is approved in accordance with this Subchapter.
- (2) All certificate programs referred to in Subpart (b)(1)(B)(i) of this Rule must contain a core curriculum including at a minimum the following components:
 - (A) communicating with healthcare professionals and patients regarding drug therapy, wellness, and health promotion;
 - (B) designing, implementing, monitoring, evaluating, and modifying or recommending modifications in drug therapy to insure effective, safe, and economical patient care;
 - (C) identifying, assessing and solving medication-related problems and providing a clinical judgment as to the continuing effectiveness of individualized therapeutic plans and intended therapeutic outcomes;
 - (D) conducting physical assessments, evaluating patient problems, ordering and monitoring medications and /or laboratory tests in accordance with established standards of practice;
 - (E) referring patients to other health professionals as appropriate;
 - (F) administering medications;
 - (G) monitoring patients and patient populations regarding the purposes, uses, effects and pharmacoconomics of their medication and related therapy;
 - (H) counseling patients regarding the purposes, uses, and effects of their medication and related therapy;
 - (I) integrating relevant diet, nutritional and non-drug therapy with pharmaceutical care;
 - (J) recommending, counseling, and monitoring patient use of non-prescription drugs, herbal remedies and alternative medicine practices;
 - (K) ordering of and educating patients regarding proper usage of devices, and durable medical equipment;
 - (L) providing emergency first care;
 - (M) retrieving, evaluating, utilizing, and managing data and professional resources;
 - (N) using clinical data to optimize therapeutic drug regimens;
 - (O) collaborating with other health professionals;
 - (P) documenting interventions and evaluating pharmaceutical care outcomes;
 - (Q) integrating pharmacy practice within healthcare environments;
 - (R) integrating national standards for the quality of healthcare; and
 - (S) conducting outcomes and other research.
 - (3) The completed application for approval to practice as a CPP shall be reviewed by the Medical Board upon verification of a full and unrestricted license to practice as a pharmacist in North Carolina.

- (A) The application shall be approved and at the time of approval the Medical Board shall issue a number which shall be printed on each prescription written by the CPP; or
 - (B) the application shall be denied; or
 - (C) the application shall be approved with restrictions.
- (c) Annual Renewal.
- (1) Each CPP shall register annually on the anniversary of his or her birth date by:
 - (A) verifying a current Pharmacist license;
 - (B) submitting the renewal fee as specified in Subparagraph (j)(2) of this Rule;
 - (C) completing the Medical Board's renewal form; and
 - (D) reporting continuing education credits as specified by the Medical Board.
 - (2) If the CPP has not renewed within 30 days of the anniversary of the CPP's birth date, the approval to practice as a CPP shall lapse.
- (d) Continuing Education.
- (1) Each CPP shall earn 35 hours of practice relevant CE each year approved by the Pharmacy Board.
 - (2) Documentation of these hours shall be kept at the CPP practice site and made available for inspection by agents of the Medical Board or Pharmacy Board.
- (e) The supervising physician who has a signed agreement with the CPP shall be readily available for consultation with the CPP; and shall review and countersign each order written by the CPP within seven days.
- (f) The written CPP agreement shall:
- (1) be approved and signed by both the supervising physician and the CPP and a copy shall be maintained in each practice site for inspection by agents of either Board upon request;
 - (2) be specific in regards to the physician, the pharmacist, the patient and the disease;
 - (3) specify the predetermined drug therapy which shall include the diagnosis and product selection by the patient's physician; any modifications which may be permitted, dosage forms, dosage schedules and tests which may be ordered;
 - (4) prohibit the substitution of a chemically dissimilar drug product by the CPP for the product prescribed by the physician without first obtaining written consent of the physician;
 - (5) include a pre-determined plan for emergency services;
 - (6) include a plan and schedule for weekly quality control, review and countersignature of all orders written by the CPP in a face-to-face conference between the physician and CPP;
- (7) require that the patient be notified of the collaborative relationship; and
 - (8) be terminated when patient care is transferred to another physician and new orders shall be written by the succeeding physician.
- (g) The supervising physician of the CPP shall:
- (1) be fully licensed, engaged in clinical practice, and in good standing with the Medical Board;
 - (2) not be serving in a postgraduate medical training program;
 - (3) be approved in accordance with this Subchapter before the CPP supervision occurs; and
 - (4) supervise no more than three pharmacists.
- (h) The CPP shall wear a nametag spelling out the words "Clinical Pharmacist Practitioner".
- (i) The approval of a CPP may be censured, reprimanded, restricted, suspended, revoked, annulled, denied or terminated by the Medical Board or the Pharmacy Board and the pharmacist's license may be censured, reprimanded, restricted, suspended, revoked, annulled, denied, or terminated by the Pharmacy Board, in accordance with provisions of G.S. 150B if ~~the appropriate either~~ Board finds one or more of the following:
- (1) the CPP has held himself or herself out or permitted another to represent the CPP as a licensed physician;
 - (2) the CPP has engaged or attempted to engage in the provision of drug therapy management other than at the direction of, or under the supervision of, a physician licensed and approved by the Medical Board to be that CPP's supervising physician;
 - (3) the CPP has performed or attempted to provide medical management outside the approved drug therapy agreement or for which the CPP is not qualified by education and training to perform;
 - ~~(4) the CPP is adjudicated mentally incompetent;~~
 - ~~(5) the CPP's mental or physical condition renders the CPP unable to safely function as a CPP; or~~
 - (4) The CPP violates any provision of G.S. 90-85.38 as determined by the Pharmacy Board or G.S. 90-14(a)(1), (a)(3)-(a)(14) and (c) as determined by the Medical Board; or
 - ~~(6)(5)~~ (5) the CPP has failed to comply with any of the provisions of this Rule.
- Any modification of treatment for financial gain on the part of the supervising physician or CPP shall be grounds for denial of Board approval of the agreement.
- (j) Fees:
- (1) An application fee of one hundred dollars (\$100.00) shall be paid at the time of initial application for approval and each subsequent application for approval to practice.
 - (2) The fee for annual renewal of approval, due on the CPP's anniversary of birth date is fifty dollars (\$50.00).

- (3) No portion of any fee in this Rule is refundable.

SECTION .3100 – CLINICAL PHARMACIST PRACTITIONER

Authority G.S. 90-6(c); 90-18(c)3a; 90-18.4.

21 NCAC 46 .3101 CLINICAL PHARMACIST PRACTITIONER

CHAPTER 46 - BOARD OF PHARMACY

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Pharmacy intends to amend the rule cited as 21 NCAC 46 .3101.

Proposed Effective Date: January 1, 2007

Public Hearing:

Date: September 18, 2006

Time: 5:30 p.m.

Location: North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517

Reason for Proposed Action: To protect the public by expanding the range of sanctions and basis for discipline for clinical pharmacist practitioners.

Procedure by which a person can object to the agency on a proposed rule: Persons may submit objections regarding proposed rule changes to Jay Campbell, North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517.

Comments may be submitted to: Jay Campbell, North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517

Comment period ends: October 31, 2006

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

(a) Definitions:

- (1) "Medical Board" means the North Carolina Medical Board.
- (2) "Pharmacy Board" means the North Carolina Board of Pharmacy.
- (3) "Joint Subcommittee" means the subcommittee composed of four members of the Pharmacy Board and four members of the Medical Board to whom responsibility is given by G.S. 90-6(c) to develop rules to govern the provision of drug therapy management by the Clinical Pharmacist Practitioner in North Carolina.
- (4) "Clinical Pharmacist Practitioner or CPP" means a licensed pharmacist in good standing who is approved to provide drug therapy management, including controlled substances, under the direction of, or under the supervision of a licensed physician who has provided written instructions for a patient and disease specific drug therapy which may include ordering, changing, substituting therapies or ordering tests. Only a pharmacist approved by the Pharmacy Board and the Medical Board may legally identify himself as a CPP.
- (5) "Supervising Physician" means a licensed physician who, by signing the CPP agreement, is held accountable for the on-going supervision and evaluation of the drug therapy management performed by the CPP as defined in the physician, patient, pharmacist and disease specific written agreement. Only a physician approved by the Medical Board may legally identify himself or herself as a supervising physician.
- (6) "Approval" means authorization by the Medical Board and the Pharmacy Board for a pharmacist to practice as a CPP in accordance with this Rule.
- (7) "Continuing Education or CE" is defined as courses or materials which have been approved for credit by the American Council on Pharmaceutical Education.
- (8) "Clinical Experience approved by the Boards" means work in a clinical pharmacy practice setting which includes experience consistent with the components listed in Parts (b)(2)(A), (B), (C), (D), (E), (H), (I), (J), (N), (O), and (P) of this Rule. Clinical experience requirements must be met only through activities separate from the certificate programs referred to in Parts (b)(1)(B) of this Rule.

(b) CPP application for approval.

- (1) The requirements for application for CPP approval include that the pharmacist:
- (A) has an unrestricted and current license to practice as a pharmacist in North Carolina;
 - (B) meets one of the following qualifications:
 - (i) has earned Certification from the Board of Pharmaceutical Specialties, is a Certified Geriatric Pharmacist or has completed an American Society of Health System Pharmacists (ASHP) accredited residency program, which includes two years of clinical experience approved by the Boards; or
 - (ii) has successfully completed the course of study and holds the academic degree of Doctor of Pharmacy and has three years of clinical experience approved by the Boards and has completed a North Carolina Center for Pharmaceutical Care (NCCPC) or American Council on Pharmaceutical Education (ACPE) approved certificate program in the area of practice covered by the CPP agreement; or
 - (iii) has successfully completed the course of study and holds the academic degree of Bachelor of Science in Pharmacy and has five years of clinical experience approved by the Boards and has completed two NCCPC or ACPE approved certificate programs with at least one program in the area of practice covered by the CPP agreement;
 - (C) submits the required application, a written endorsement from the Pharmacy Board and the fee to the Medical Board;
 - (D) submits any information deemed necessary by the Medical Board in order to evaluate the application; and
 - (E) has a signed supervising physician agreement.
- terminate or be placed on an inactive status until such time as a new application is approved in accordance with this Subchapter.
- (2) All certificate programs referred to in Subpart (b)(1)(B)(i) of this Rule must contain a core curriculum including at a minimum the following components:
- (A) communicating with healthcare professionals and patients regarding drug therapy, wellness, and health promotion;
 - (B) designing, implementing, monitoring, evaluating, and modifying or recommending modifications in drug therapy to insure effective, safe, and economical patient care;
 - (C) identifying, assessing and solving medication-related problems and providing a clinical judgment as to the continuing effectiveness of individualized therapeutic plans and intended therapeutic outcomes;
 - (D) conducting physical assessments, evaluating patient problems, ordering and monitoring medications and laboratory tests in accordance with established standards of practice;
 - (E) referring patients to other health professionals as appropriate;
 - (F) administering medications;
 - (G) monitoring patients and patient populations regarding the purposes, uses, effects and pharmacoeconomics of their medication and related therapy;
 - (H) counseling patients regarding the purposes, uses, and effects of their medication and related therapy;
 - (I) integrating relevant diet, nutritional and non-drug therapy with pharmaceutical care;
 - (J) recommending, counseling, and monitoring patient use of non-prescription drugs, herbal remedies and alternative medicine practices;
 - (K) using, ordering, and instructing on the use of devices, and durable medical equipment;
 - (L) providing emergency first care;
 - (M) retrieving, evaluating, utilizing, and managing data and professional resources;
 - (N) using clinical data to optimize therapeutic drug regimens;
 - (O) collaborating with other health professionals;
 - (P) documenting interventions and evaluating pharmaceutical care outcomes;

If for any reason a CPP discontinues working in the approved physician arrangement, both Boards shall be notified in writing within 10 days and the CPP's approval shall automatically

- (Q) integrating pharmacy practice within healthcare environments;
 - (R) integrating national standards for the quality of healthcare; and
 - (S) conducting outcomes and other research.
- (3) The completed application for approval to practice as a CPP shall be reviewed by the Medical Board upon verification of a full and unrestricted license to practice as a pharmacist in North Carolina.
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 - (B) The application shall be denied; or
 - (C) The application shall be approved with restrictions.
- (c) Annual Renewal.
- (1) Each CPP shall register annually on the anniversary of his or her birth date by:
 - (A) verifying a current Pharmacist license;
 - (B) submitting the renewal fee as specified in Subparagraph (j)(2) of this Rule;
 - (C) completing the Medical Board's renewal form; and
 - (D) reporting continuing education credits as specified by the Medical Board.
 - (2) If the CPP has not renewed within 30 days of the anniversary of the CPP's birth date, the approval to practice as a CPP shall lapse.
- (d) Continuing Education.
- (1) Each CPP shall earn 35 hours of practice relevant CE each year approved by the Pharmacy Board.
 - (2) Documentation of these hours shall be kept at the CPP practice site and made available for inspection by agents of the Medical Board or Pharmacy Board.
- (e) The supervising physician who has a signed agreement with the CPP shall be readily available for consultation with the CPP and shall review and countersign each order written by the CPP within seven days.
- (f) The written CPP agreement shall:
- (1) be approved and signed by both the supervising physician and the CPP and a copy shall be maintained in each practice site for inspection by agents of either Board upon request;
 - (2) be specific in regard to the physician, the pharmacist, the patient and the disease;
 - (3) specify the predetermined drug therapy which shall include the diagnosis and product selection by the patient's physician; any modifications which may be permitted, dosage forms, dosage schedules and tests which may be ordered;
- (4) prohibit the substitution of a chemically dissimilar drug product by the CPP for the product prescribed by the physician without first obtaining written consent of the physician;
 - (5) include a pre-determined plan for emergency services;
 - (6) include a plan and schedule for weekly quality control, review and countersignature of all orders written by the CPP in a face-to-face conference between the physician and CPP;
 - (7) require that the patient be notified of the collaborative relationship; and
 - (8) be terminated when patient care is transferred to another physician and new orders shall be written by the succeeding physician.
- (g) The supervising physician of the CPP shall:
- (1) be fully licensed, engaged in clinical practice, and in good standing with the Medical Board;
 - (2) not be serving in a postgraduate medical training program;
 - (3) be approved in accordance with this Subchapter before the CPP supervision occurs; and
 - (4) supervise no more than three pharmacists.
- (h) The CPP shall wear a nametag spelling out the words "Clinical Pharmacist Practitioner".
- (i) The approval of a CPP may be censured, reprimanded, restricted, suspended, revoked, annulled, denied or terminated by the Medical Board or the Pharmacy Board and the pharmacist's license may be censured, reprimanded, restricted, suspended, revoked, annulled, denied, or terminated by the Pharmacy Board, in accordance with provisions of G.S. 150B if ~~the~~ appropriate either Board finds one or more of the following:
- (1) the CPP has held himself or herself out, or permitted another, to represent the CPP as a licensed physician;
 - (2) the CPP has engaged, or attempted to engage, in the provision of drug therapy management other than at the direction of, or under the supervision of, a physician licensed and approved by the Medical Board to be that CPP's supervising physician;
 - (3) the CPP has performed, or attempted to provide, medical management outside the approved drug therapy agreement or for which the CPP is not qualified by education and training to perform;
 - ~~(4) the CPP is adjudicated mentally incompetent;~~
 - ~~(5) the CPP's mental or physical condition renders the CPP unable to safely function as a CPP; or~~
 - ~~(4) the CPP violates any provision of G.S. 90-85.38 as determined by the Pharmacy Board or G.S. 90-14(a)(1), (a)(3)-(a)(14) and (c) as determined by the Medical Board; or~~
 - ~~(6)~~(5) the CPP has failed to comply with any of the provisions of this Rule.

PROPOSED RULES

Any modification of treatment for financial gain on the part of the supervising physician or CPP shall be grounds for denial of Board approval of the agreement.

(j) Fees:

- (1) An application fee of one hundred dollars (\$100.00) shall be paid at the time of initial application for approval and each subsequent application for approval to practice.

- (2) The fee for annual renewal of approval, due on the CPP's anniversary of birth date is fifty dollars (\$50.00). No portion of any fee in this Rule is refundable.

Authority G.S. 90-6; 90-18; 90-18.4; 90-85.3; 90-85.18; 90-85.26A.

RULES REVIEW COMMISSION

This Section contains information for the meetings of the Rules Review Commission on Thursday August 17, 2006, 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 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
John B. Lewis
Mary Beach Shuping
Judson A. Welborn
John Tart

RULES REVIEW COMMISSION MEETING DATES

September 21, 2006 October 19, 2006
November 16, 2006 December 14, 2005

**LIST OF APPROVED PERMANENT RULES
August 17, 2006 Meeting**

AGRICULTURE, COMMISSIONER OF

<u>Purpose</u>	02	NCAC	52K	.0101
<u>Scope</u>	02	NCAC	52K	.0102
<u>Definitions</u>	02	NCAC	52K	.0201
<u>Signage</u>	02	NCAC	52K	.0301
<u>Minimum Size of Lettering on Signage</u>	02	NCAC	52K	.0302
<u>Fencing</u>	02	NCAC	52K	.0401
<u>Prohibited Items</u>	02	NCAC	52K	.0402
<u>Age Requirements</u>	02	NCAC	52K	.0403
<u>Feeding of Animals</u>	02	NCAC	52K	.0404
<u>Staffing</u>	02	NCAC	52K	.0405
<u>Surfaces</u>	02	NCAC	52K	.0406
<u>Waste Disposal</u>	02	NCAC	52K	.0407
<u>Hand Washing Stations</u>	02	NCAC	52K	.0501
<u>Food and Drink</u>	02	NCAC	52K	.0502
<u>Health Certificate Vaccinations</u>	02	NCAC	52K	.0601
<u>Daily Monitoring</u>	02	NCAC	52K	.0602
<u>High Risk Animals</u>	02	NCAC	52K	.0603
<u>Birthing Animals</u>	02	NCAC	52K	.0604
<u>Permitting</u>	02	NCAC	52K	.0701
<u>Records</u>	02	NCAC	52K	.0703

BANKS, OFFICE OF THE COMMISSIONER

<u>Location and Address</u>	04	NCAC	03A	.0101
<u>Application</u>	04	NCAC	03C	.0101
<u>National Bank Conversion</u>	04	NCAC	03C	.0111
<u>Establishment of Branches and Limited Service Facilities</u>	04	NCAC	03C	.0201
<u>Discontinuance</u>	04	NCAC	03C	.0202
<u>Conversion of Branch to Limited Service Facility</u>	04	NCAC	03C	.0204
<u>Change of Location of Main Office, Branch or LTD SVC Faci...</u>	04	NCAC	03C	.0301
<u>Application</u>	04	NCAC	03C	.0401
<u>Examining Committee Report</u>	04	NCAC	03C	.0701
<u>Reports of Condition and Income</u>	04	NCAC	03C	.0702
<u>Publisher's Copy Report of Condition</u>	04	NCAC	03C	.0703
<u>Oath of Directors</u>	04	NCAC	03C	.0801
<u>Depository Banks</u>	04	NCAC	03C	.0802
<u>Other Real Estate</u>	04	NCAC	03C	.0803
<u>Suspension of Investment and Loan Limitation</u>	04	NCAC	03C	.0804
<u>Application</u>	04	NCAC	03D	.0101
<u>Examining Committee Report of Trust</u>	04	NCAC	03D	.0201
<u>Report of Trust Department</u>	04	NCAC	03D	.0202
<u>Application</u>	04	NCAC	03E	.0101
<u>Operation of Other Business in Same Office</u>	04	NCAC	03E	.0201
<u>Annual Report</u>	04	NCAC	03E	.0302
<u>Definitions</u>	04	NCAC	03F	.0201
<u>Regional Bank Holding Company Acquisitions</u>	04	NCAC	03H	.0102
<u>Bank Holding Company Registration</u>	04	NCAC	03H	.0103
<u>Definitions Filings</u>	04	NCAC	03J	.0101
<u>Definitions Filings</u>	04	NCAC	03K	.0101
<u>Filings</u>	04	NCAC	03L	.0102

MEDICAL CARE COMMISSION

<u>Requirements for Licensure Renewal or Changes</u>	10A	NCAC	13D	.2104
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BUILDING CODE COUNCIL

<u>Plumbing Code Section 412.6 Trap Primers (050913 Item B-2)</u>	11	NCAC	08	
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ALARM SYSTEMS LICENSING BOARD

<u>Application for License</u>	12	NCAC	11	.0201
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ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

<u>Purpose</u>	15A	NCAC	01J	.0101
<u>Definitions</u>	15A	NCAC	01J	.0102
<u>Eligible Project Costs</u>	15A	NCAC	01J	.0201
<u>Grants from the High-Unit Cost Accounts</u>	15A	NCAC	01J	.0202
<u>Grants from the General Revolving Loan and Grant Accounts</u>	15A	NCAC	01J	.0203

RULES REVIEW COMMISSION

<u>Loans from the Emergency Revolving Loan Accounts</u>	15A NCAC 01J .0204
<u>Determination of Eligibility</u>	15A NCAC 01J .0205
<u>Application Filing Deadlines</u>	15A NCAC 01J .0301
<u>General Provisions</u>	15A NCAC 01J .0302
<u>Filing of Required Supplemental Information</u>	15A NCAC 01J .0303
<u>Applications for Emergency Loans</u>	15A NCAC 01J .0304
<u>General Criteria</u>	15A NCAC 01J .0401
<u>Criteria for Planning and Water Conservation</u>	15A NCAC 01J .0402
<u>Criteria for Grant Increases</u>	15A NCAC 01J .0403
<u>Applicable Conditions</u>	15A NCAC 01J .0502
<u>Financial Need of Applicant</u>	15A NCAC 01J .0503
<u>Fiscal Responsibility of the Applicant</u>	15A NCAC 01J .0504
<u>Property Acquisition</u>	15A NCAC 01J .0505
<u>Public Need</u>	15A NCAC 01J .0601
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*Chief Administrative Law Judge
JULIAN MANN, III*

*Senior Administrative Law Judge
FRED G. MORRISON JR.*

ADMINISTRATIVE LAW JUDGES

Sammie Chess Jr.

Beecher R. Gray

Beryl E. Wade

Melissa Owens Lassiter

A. B. Elkins II

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