

NORTH CAROLINA REGISTER

VOLUME 22 • ISSUE 13 • Pages 1195 - 1303

January 2, 2008

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Contact List for Rulemaking Questions or Concerns

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

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

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Rules Division
Capehart-Crocker House
424 North Blount Street
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Rule Review and Legal Issues

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contact: Joe DeLuca Jr., Commission Counsel joe.deluca@ncmail.net (919) 715-8655
Bobby Bryan, Commission Counsel bobby.bryan@ncmail.net (919) 733-0928
Angela Person, Administrative Assistant angela.person@ncmail.net (919) 733-2721

Fiscal Notes & Economic Analysis

Office of State Budget and Management
116 West Jones Street
Raleigh, North Carolina 27603-8005
(919) 807-4700
(919) 733-0640 FAX

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Jonathan Womer, Asst. State Budget Officer jonathan.womer@ncmail.net (919)807-4737

Governor's Review

Reuben Young reuben.young@ncmail.net
Legal Counsel to the Governor (919) 733-5811
116 West Jones Street(919)
Raleigh, North Carolina 27603

Legislative Process Concerning Rule-making

Joint Legislative Administrative Procedure Oversight Committee
545 Legislative Office Building
300 North Salisbury Street
Raleigh, North Carolina 27611
(919) 733-2578
(919) 715-5460 FAX

contact: Karen Cochrane-Brown, Staff Attorney karenc@ncleg.net
Jeff Hudson, Staff Attorney jeffreyh@ncleg.net

County and Municipality Government Questions or Notification

NC Association of County Commissioners
215 North Dawson Street
Raleigh, North Carolina 27603
(919) 715-2893

contact: Jim Blackburn jim.blackburn@ncacc.org
Rebecca Troutman rebecca.troutman@ncacc.org

NC League of Municipalities
215 North Dawson Street
Raleigh, North Carolina 27603
(919) 715-4000

contact: Anita Watkins awatkins@ncmlm.org

NORTH CAROLINA REGISTER
Publication Schedule for January 2008 – December 2008

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 31st legislative day of the session beginning:	270 th day from publication in the Register
22:13	01/02/08	12/06/07	01/17/08	03/03/08	03/20/08	05/01/08	05/13/08	09/28/08
22:14	01/15/08	12/19/07	01/30/08	03/17/08	03/20/08	05/01/08	05/13/08	10/11/08
22:15	02/01/08	01/10/08	02/16/08	04/01/08	04/21/08	06/01/08	01/2009	10/28/08
22:16	02/15/08	01/25/08	03/01/08	04/15/08	04/21/08	06/01/08	01/2009	11/11/08
22:17	03/03/08	02/11/08	03/18/08	05/02/08	05/20/08	07/01/08	01/2009	11/28/08
22:18	03/17/08	02/25/08	04/01/08	05/16/08	05/20/08	07/01/08	01/2009	12/12/08
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23:11	12/01/08	11/05/08	12/16/08	01/30/09	02/20/09	04/01/09	05/2010	08/28/09
23:12	12/15/08	11/20/08	12/30/08	02/13/09	02/20/09	04/01/09	05/2010	09/11/09

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.



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 131
PROCLAMATION OF STATE DISASTER FOR THE TOWN OF TRYON

WHEREAS, I have determined that a State of Disaster, as defined in N.C.G.S. § 166A-4(1), exists in the State of North Carolina, specifically in the Town of Tryon, Polk County, as a result of damage caused by a severe windstorm on April 15-16, 2007.

WHEREAS, on April 16, 2007, the Town of Tryon proclaimed a local State of Emergency; and

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

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

Section 1. Pursuant to N.C.G.S. § 166A-6, a State of Disaster is hereby declared for the Town of Tryon.

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

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

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

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

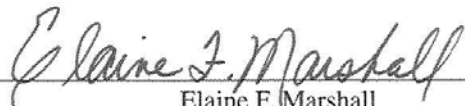
Section 6. The Type I disaster declaration shall expire 30 days after the issuance of the state of disaster and Type I disaster proclamation for the Town of Tyron unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date for first issuance. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type I disaster declaration.

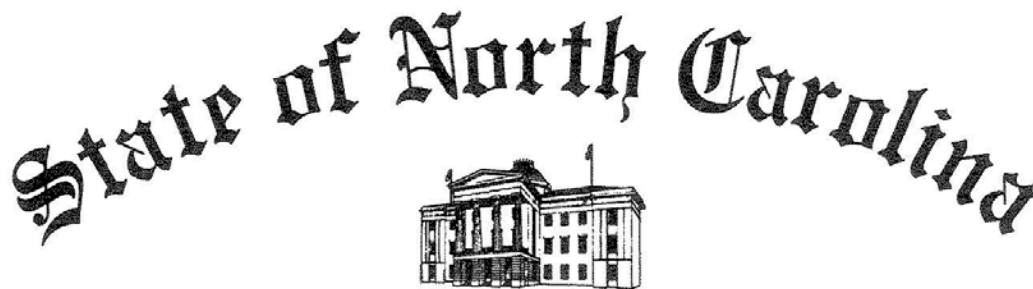
IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-sixth day of November in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 132
PROCLAMATION OF STATE DISASTER FOR THE TOWN OF TAYLORSVILLE

WHEREAS, I have determined that a State of Disaster, as defined in N.C.G.S. § 166A-4(1), exists in the State of North Carolina, specifically in the Town of Taylorsville, Alexander County, as a result of damage caused by a severe windstorm on April 15-16, 2007.

WHEREAS, on April 17, 2007, the Town of Taylorsville proclaimed a local State of Emergency; and

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

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

Section 1. Pursuant to N.C.G.S. § 166A-6, a State of Disaster is hereby declared for the Town of Taylorsville.

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

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

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

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

Section 6. The Type I disaster declaration shall expire 30 days after the issuance of the state of disaster and Type I disaster proclamation for the Town of Taylorsville unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date for first issuance. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type I disaster declaration.

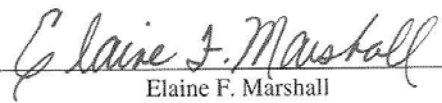
IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-sixth day of November in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-second.





Michael F. Easley
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 133
REPLACING EXECUTIVE ORDER NO. 83,
JUVENILE JUSTICE PLANNING COMMITTEE

WHEREAS, the Executive Organization Act of 1973 established the Governor's Crime Commission; and,

WHEREAS, North Carolina General Statute § 143B-480, creates the Juvenile Justice Planning Committee as an adjunct committee to advise the Governor's Crime Commission on matters referred to it which are relevant to juvenile justice; and

WHEREAS, pursuant to North Carolina General Statute § 143B-480, the composition of the Juvenile Justice Planning Committee shall be designated by the Governor through executive order; and

WHEREAS, the federal Juvenile Justice and Delinquency Act of 1974, as amended, requires states to establish advisory boards to administer juvenile justice and delinquency prevention grants from the United States Department of Justice; and

WHEREAS, the Juvenile Justice Planning Committee is ideally suited to serve as such an advisory board consistent with federal law.

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

Section 1. Membership Composition

The Juvenile Justice Planning Committee shall consist of no less than 15 and no more than 33 members each appointed by the Governor and each having training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice.

The majority of the members, as well as the chair, shall not be full-time employees of federal, state, or local government. At least one-fifth of the members shall be under the age of

twenty-four at the time of appointment and at least three members shall be currently or have been under the jurisdiction of the juvenile justice system.

The Governor shall appoint at least one representative from the following:

1. Elected officials representing general purpose local government.
2. Representatives of law enforcement and juvenile justice agencies, which may include a juvenile or family court judge, a juvenile or local prosecutor, a counsel for children and youth, or a probation worker.
3. Representatives of public agencies concerned with delinquency prevention, which may include a social services agency, a mental health agency, a state education agency, a special education program, a recreation program, or a youth services agency.
4. Private non-profit agencies working with children.
5. Volunteers who work with delinquents or potential delinquents.
6. Youth workers in alternative programs.
7. Programs providing alternatives to suspension and expulsion.
8. Persons with special experience relating to learning disabilities, emotional difficulties, child abuse and neglect, and youth violence.
9. State or local police departments.
10. Local sheriff's departments.
11. Private non-profit, victim's advocacy organizations (guardian ad litem).
12. Non-profit religious or community groups.

Section 2. Terms of Service

The terms of service for the members shall be for two-years provided, however, that the Governor may remove any member at any time for misfeasance, malfeasance or nonfeasance if necessary and to ensure continued compliance with federal requirements.

Section 3. Chair

The chair of the Juvenile Justice Planning Committee shall be designated by, and shall serve at the pleasure of, the chair of the Governor's Crime Commission.

Section 4. Meetings

The Juvenile Justice Planning Committee shall meet upon the call of the chair or upon written request of one-third of its membership. A majority of the committee shall constitute a quorum for the transaction of business.

Section 5. Administration of Federal Grants

The Juvenile Justice Planning Committee shall serve as North Carolina's advisory board for purposes of administering juvenile justice and delinquency prevention grants from the Department of Justice.

Section 6. Duration

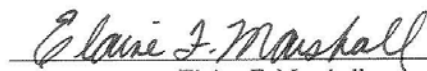
This executive order shall be effective immediately and shall remain in effect until December 1, 2008.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-sixth day of November in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State



U.S. Department of Justice

Civil Rights Division

JKT:MSR:SHW:maf
DJ 166-012-3
2007-4460

Voting Section - NWB.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

November 1, 2007

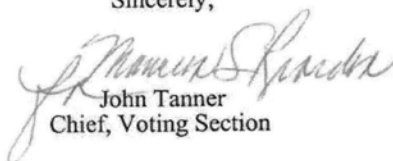
Mr. Gary O. Bartlett
Executive Director
State Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27611-7255

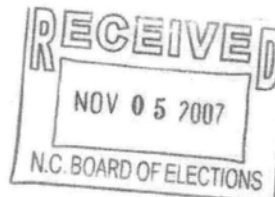
Dear Mr. Bartlett:

This refers to the Session Law 2007-510 (H.B. 1828) and Session Law 2007-540 (H.B. 1517), which establish a public financing program for three state offices and provide candidates grant money to run their campaigns for the State of North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on September 5, 2007.

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

Sincerely,


John Tanner
Chief, Voting Section





U.S. Department of Justice

Civil Rights Division

JKT:RPL:ER:maj
DJ 166-012-3
2007-4122

Voting Section - NWB.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530



October 23, 2007

Mr. Gary O. Bartlett
Executive Director
P.O. Box 27255
Raleigh, North Carolina 27611-7255

Dear Mr. Bartlett:

This refers to Session Law 2007-369 (S.B. 1218), which requires all candidates to disclose felony convictions and Session Law 2007-386 (S.B. 661), which amends alcoholic beverage control laws to allow cities which are located in more than one county to have a citywide election for mixed beverages, for the State of North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on August 24, 2007; supplemental information was received on October 19, 2007.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Sincerely,

John Tanner
Chief, Voting Section



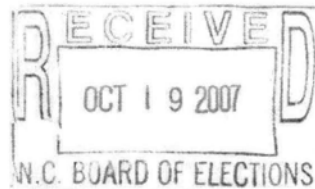
U.S. Department of Justice
Civil Rights Division

JKT:RPL:DJ:jdh
DJ 166-012-3
2007-4123

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

October 16, 2007

Mr. Gary O. Bartlett
Executive Director
State Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27611-7255



Dear Mr. Bartlett:

This refers to Session Law 2007-391 (H.B. 1743) (2007), which:

- (1) Clarifies the perjury provision for false campaign reports.
- (2) Increases civil penalties for deceptive late filing of a campaign report.
- (3) Repeals the \$3,000 presumption for "political committee".
- (4) Provides for earlier distribution of the judicial voter guide.
- (5) Corrects an incorrect cite in the oath statute.
- (6) Provides changes to the precinct boundary program.
- (7) Allows ballots to be combined.
- (8) Corrects the description of multi-county districts in the ballot access statute.
- (9) Establishes a misdemeanor penalty for breaching ballot secrecy.
- (10) Clarifies that no write-in space is required unless write-ins are allowed.
- (11) Corrects the date reference in the certificate statute.
- (12) Extends the provision for recasting lost votes.
- (13) Clarifies that the buffer zone applies to one-stop sites.
- (14) Extends the political activity limits for members of state and county boards of elections to employees.
- (15) Requires maps of sanitary districts.
- (16) Provides for misdemeanors for voter registration drive abuses.
- (17) Provides for a felony for getting non-citizens to register.
- (18) Updates reporting of felony convictions.
- (19) Provides what information on a voter registration form is public record.
- (20) Allows voter registration forms to be corrected.
- (21) Clarifies the consequence of non-matching I.D. numbers.
- (22) Requires notice for the appointment of runners and one-stop observers.
- (23) Bans the photographing of voters, as specified.

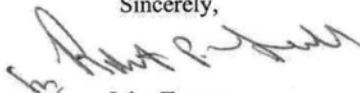
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- (24) Requires the State Board of Elections to be responsible for ballot coding.
- (25) Requires county boards of elections to comply with printer specifications and software warranties.
- (26) Provides for rights of ex-offenders.
- (27) Specifies the qualifications for appointment to office.
- (28) Corrects the statute that allows people to vote in the primary if they will be eligible to vote in the general election.
- (29) Provides for voting assistance for nursing home residents.
- (30) Clarifies a technical change within the sentence allowing a candidate to designate the permitted uses for which his or her campaign funds may be used upon his or her death.
- (31) Clarifies that the definitions of Article 22A, Regulating Contributions and Expenditures in Political Campaigns, apply to Article 22H, Mass Mailings and Telephone Banks: Candidate Specific Communications.
- (32) Provides for the list maintenance deadline.
- (33) Provides for the nomination of presidential candidates for the primary.
- (34) Provides for changes regarding one-stop voting sites.
- (35) Provides the threshold for reporting the identify of a contributor.
- (36) Provides for the reimbursement of contributions.
- (37) Provides for civil penalties for unlawful expenditures.
- (38) Provides for reporting election results for municipal elections.

for the State of North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on August 24, 2007.

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

Sincerely,



John Tanner
Chief, Voting Section



U.S. Department of Justice
Civil Rights Division

JKT:TCH:JEM:jdh
DJ 166-012-3
2007-4772

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

November 19, 2007

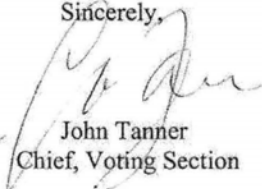
Mr. Gary Bartlett
Executive Director
P.O. Box 27255
Raleigh, North Carolina 27611-7255

Dear Mr. Bartlett:

This refers to the Standards for Determining What Constitutes a Vote and What Will Be Counted As a Vote, adopted to comply with Section 301(a)(6) of the Help America Vote Act, 42 U.S.C. 15481(a)(6), for the State of North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on September 18, 2007; supplemental information was received on September 25, 2007.

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

Sincerely,


John Tanner
Chief, Voting Section

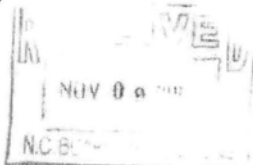




U.S. Department of Justice
Civil Rights Division

JKT:MSR:SHW:jdh
DJ 166-012-3
2007-4459

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530



November 5, 2007

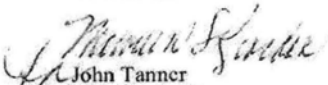
Mr. Gary O. Bartlett
Executive Director
State Board of Elections
506 North Harrington Street
Raleigh, North Carolina 27603

Dear Mr. Bartlett:

This refers to the State Law 2007-347 (H.B. 1110) (2007), which defines the term "lobbyist" for purposes of GS120 (C) - 302 for the State of North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on September 5, 2007.

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

Sincerely,


John Tanner
Chief, Voting Section

NARROW THERAPEUTIC INDEX DRUGS DESIGNATED BY THE NORTH
CAROLINA SECRETARY OF HUMAN RESOURCES

Pursuant to N.C.G.S. §90-85.27(4a), this is a revised publication from the North
Carolina Board of Pharmacy of narrow therapeutic index drugs designated by the North Carolina
Secretary of Human Resources upon the advice of the State Health Director, North Carolina
Board of Pharmacy, and North Carolina Medical Board:

Carbamazepine:	all oral dosage forms
Cyclosporine:	all oral dosage forms
Digoxin:	all oral dosage forms
Ethosuximide	
Levothyroxine sodium tablets	
Lithium (including all salts):	all oral dosage forms
Phenytoin (including all salts):	all oral dosage forms
Procainamide	
Theophylline (including all salts):	all oral dosage forms
Warfarin sodium tablets	

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 10A– DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Secretary of the Department of Health and Human Services – DMH/DD/SAS intends to adopt the rules cited as 10A NCAC 27G .0211; 27I .0102, .0201.

Proposed Effective Date: July 1, 2008

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): A person may demand a public hearing on the proposed rules by submitting a request in writing to W. Denise Baker, 3018 Mail Service Center, Raleigh, NC 27699-3018

Reason for Proposed Action:

10A NCAC 27G .0211 – The proposed rule satisfies requirements established in Session Law 2006-142 to assure that all policies established in Communication Bulletins published by DHHS on Mental Health Reform have supporting rules. There is a requirement that service providers of services identified in DMA Clinical Policy 8A and subsequent amendments to that policy be nationally accredited within three years of enrollment as a service provider. This rule supports that requirement.

10A NCAC 27I .0102 – In order to reference the Local Management Entity in the rule set, there is the need to provide a definition for the Local Management Entity. As Mental Health Reform progresses, the language which identifies the "Area Authority/County program" is being modified to the current nomenclature for the agency, which is Local Management Entity.

10A NCAC 27I .0201 – The proposed rule satisfies requirements established in Session Law 2006-142 to assure that all policies established in Communication Bulletins published by DHHS on Mental Health Reform have supporting rules. Communication Bulletin #50 requires an LMEs system management functions to be accredited.

Procedure by which a person can object to the agency on a proposed rule: The objection, reasons for the objection and the clearly identified portion of the rule to which the objection pertains, may be submitted in writing to W. Denise Baker, 3018 Mail Service Center, Raleigh, NC 27699-3018

Comments may be submitted to: W. Denise Baker, 3018 Mail Service Center, Raleigh, NC 27699-3018, phone (919) 715-2780, fax (919) 733-1221, email denise.w.baker@ncmail.net

Comment period ends: March 3, 2008

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 27 – MENTAL HEALTH: COMMUNITY FACILITIES AND SERVICES

SUBCHAPTER 27G - RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE FACILITIES AND SERVICES

SECTION .0200 - OPERATION AND MANAGEMENT RULES

10A NCAC 27G .0211 ACCREDITATION OF PROVIDERS OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES

(a) The Department of Health and Human Services (DHHS) shall approve each entity that may accredit a provider of a mental health, developmental disabilities or substance abuse (mh/dd/sa) service. The DHHS shall approve an accrediting body that meets the requirements as set forth in this Rule.

(b) Each accrediting body shall make available to the DHHS documentation showing the following:

- (1) the accrediting body has conducted accreditation reviews of providers of mh/dd/sa services for a minimum of two years; and
- (2) the accrediting body has conducted accreditation reviews of providers of mh/dd/sa services in a minimum of three states other than North Carolina.

(c) Each accrediting body shall utilize accreditation standards that address areas of operation or their equivalent as follows:

- (1) ethics;
- (2) financial accountability;
- (3) governance;
- (4) human resources;
- (5) quality management; and
- (6) risk management.

(d) Each accrediting body shall utilize accreditation standards that address the clinical and programmatic requirements of each service the provider plans to provide.

(e) Each accrediting body shall make available to the DHHS the accreditation procedures and standards it plans to employ.

(f) A provider that is also a local management entity (LME) shall not use the same accrediting body for the service(s) it plans to provide that it uses for accreditation of the systems management functions required of an LME. For purposes of this Rule, local management entity or LME shall have the same meaning as set forth in G.S. 122C-3(20b).

(g) The DHHS shall maintain a list of approved accrediting bodies.

Authority G.S. 122C-115.2(b)(1)(b).

SUBCHAPTER 27I – REQUIREMENTS OF LOCAL MANAGEMENT ENTITIES

SECTION .0100 - GENERAL INFORMATION

10A NCAC 27I .0102 DEFINITIONS

(a) This Rule contains definitions that apply to all of the rules in this Subchapter.

(b) Unless otherwise indicated "Local management entity" means the same as defined in G.S. 122C-3(20b).

Authority G.S.122C-3(20b); 122C-115.4.

SECTION .0200 – GENERAL OPERATIONS AND MANAGEMENT REQUIREMENTS

10A NCAC 27I .0201 ACCREDITATION OF LOCAL MANAGEMENT ENTITIES

(a) Each local management entity (LME) shall achieve and maintain full accreditation of its system management functions. For purposes of this Rule, system management functions shall have the same meaning as the functions of local management entities as set forth in G.S. 122C-115.4(b)

(b) The Department of Health and Human Services (DHHS) shall approve each entity that may accredit the system management functions of an LME. The DHHS shall approve an accrediting body that meets the requirements as set forth in this Rule.

(c) Each accrediting body shall make available to the DHHS documentation showing the following:

- (1) the accrediting body has conducted accreditation reviews of system management functions for a minimum of two years; and
- (2) the accrediting body has conducted accreditation reviews of system management

functions in a minimum of three states other than North Carolina.

(d) Each accrediting body shall use accreditation standards that address all of the functions of local management entities as set forth in G.S. 122C-115.4(b).

(e) An LME that is also a provider of service(s) shall not use the same accrediting body for service(s) as it uses for the accreditation of its system management functions.

(f) The DHHS shall maintain a list of approved accrediting bodies.

Authority G.S. 122C-115.4(b); S.L. 2006-142, Section 2(b).

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for MH/DD/SAS intends to adopt the rules cited as 10A NCAC 27G .7101 - .7103.

Proposed Effective Date: *July 1, 2008*

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): A person may demand a public hearing on the proposed rules by submitting a request in writing to W. Denise Baker, 3018 Mail Service Center, Raleigh, NC 27699-3018*

Reason for Proposed Action: *The proposed rule is necessary to define individuals who are given service priority.*

Procedure by which a person can object to the agency on a proposed rule: *The objection, reasons for the objection and the clearly identified portion of the rule to which the objection pertains, may be submitted in writing to W. Denise Baker, 3018 Mail Service Center, Raleigh, NC 27699-3018*

Comments may be submitted to: *W. Denise Baker, 3018 Mail Service Center, Raleigh, NC 27699-3018, phone (919) 715-2780, fax (919) 733-1221, email denise.w.baker@ncmail.net*

Comment period ends: *March 3, 2008*

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 27 – MENTAL HEALTH: COMMUNITY FACILITIES AND SERVICES

SUBCHAPTER 27G - RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE FACILITIES AND SERVICES

SECTION .7100 – TARGET POPULATION

10A NCAC 27G .7101 SCOPE

(a) The rules in this Section shall apply to State defined target populations that are groups of people considered most in need of services available considering resources within the public system.

(b) As used in this Section "Target Population" means those individuals who are given service priority.

Authority G.S. 122C-112.1; S.L. 2006-142, Section 2(b).

10A NCAC 27G .7102 OPERATIONS

(a) Elements which define target populations include presence or risk of a mental health, developmental disabilities, or substance abuse disorder that is severe enough to impair an individual's ability to function at home, in school, or in community settings.

(b) Detailed descriptions of target populations shall be maintained on the Division's web site at <http://www.ncdhhs.gov/mhddsas/index.htm>.

(c) Establishment of a new target population or the elimination of an existing target population shall be posted on the Division's web site for a 45 day comment period.

Authority G.S. 122C-112.1; S.L. 2006-142, Section 2(b).

TITLE 11 – DEPARTMENT OF INSURANCE

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 01 .0419, .0429.

Proposed Effective Date: May 1, 2008

Public Hearing:

Date: January 22, 2008

Time: 10:00 a.m.

Location: 3rd Floor Hearing Room, Dobbs Building, 430 N. Salisbury Street, Raleigh, NC

Reason for Proposed Action: Clarifying technical amendment

Procedure by which a person can object to the agency on a proposed rule: The Department of Insurance will accept

written objections to this rule until expiration of the comment period on March 3, 2008.

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

Comment period ends: March 3, 2008

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 01 - DEPARTMENTAL RULES

SECTION .0400 - ADMINISTRATIVE HEARINGS

11 NCAC 01 .0419 PREHEARING CONFERENCE

(a) The purpose of the prehearing conference is to simplify the issues to be determined; to obtain stipulations in regard to foundations for testimony or exhibits; to obtain stipulations of agreement on undisputed facts or the application of particular laws; to consider the proposed witnesses for each party; to identify and exchange documentary evidence intended to be introduced at the hearing; to determine deadlines for the completion of any discovery; to establish hearing dates and locations if not previously set; to consider such other matters that may be necessary or advisable; and, if possible, to reach a settlement without the necessity for further hearing. Any final settlement shall be set forth in a settlement agreement or consent order and made a part of the record.

(b) Upon the request of any party or upon the hearing officer's own motion, the hearing officer may hold a prehearing conference before a contested case hearing. The hearing officer may require the parties to file prehearing statements in accordance with 11 NCAC 01 .0415. A prehearing conference shall be an informal proceeding conducted expeditiously by the hearing officer. Agreements on the simplification of issues, amendments, stipulations, or other matters may be entered on the record or may be made the subject of an order by the hearing

officer. Venue for purposes of a prehearing conference shall be determined in accordance with G.S. 150B-38(e).

Authority G.S. 58-2-40(1); 58-2-50; 58-2-55; 58-2-70; 150B-38(h).

11 NCAC 01 .0429 EVIDENCE

(a) The North Carolina Rules of Evidence as found in Chapter 8C of the General Statutes govern in all contested case proceedings, except as provided otherwise in this Section and G.S. 150B-41.

(b) The hearing officer may admit all evidence that has probative value. Irrelevant, incompetent, immaterial, or unduly repetitious evidence shall be excluded. In accordance with Rule 403 of the N.C. Rules of Evidence, the hearing officer may, in his discretion, exclude any evidence if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

(c) Contemporaneous objections by a party or a party's attorney are not required in the course of a hearing to preserve the right to object to the consideration of evidence by the hearing officer in reaching a decision or by the court upon judicial review.

(d) All evidence to be considered in the case, including all records and documents or true and accurate photocopies thereof, shall be offered and made a part of the record in the case. Except as provided in Paragraph (f) of this Rule, factual information or evidence that is not offered shall not be considered in the determination of the case. Documentary evidence incorporated by reference may be admitted only if the materials so incorporated are available for examination by the parties.

(e) Documentary evidence in the form of copies or excerpts may be received in the discretion of the hearing officer or upon agreement of the parties. Copies of a document shall be received to the same extent as the original document unless a genuine question is raised about the accuracy or authenticity of the copy or, under the circumstances, it would be unfair to admit the copy instead of the original.

(f) The hearing officer may take notice of judicially cognizable facts by entering a statement of the noticed fact and its source into the record. Upon a timely request, any party shall be given the opportunity to contest the facts so noticed through submission of evidence and argument.

(g) A party may call an adverse party; or an officer, director, managing agent, or employee of the State or any local government, of a public or private corporation, or of a partnership or association or body politic that is an adverse party; and may interrogate that party by leading questions and may contradict and impeach that party on material matters in all respects as if that party had been called by the adverse party.

The adverse party may be examined by that party's counsel upon the subject matter of that party's examination in chief under the rules applicable to direct examination, and may be cross-examined, contradicted, and impeached by any other party adversely affected by the testimony.

Authority G.S. 58-2-40(1); 58-2-50; 58-2-55; 58-2-70; 150B-38(h).

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Department of Insurance intends to amend the rule cited as 11 NCAC 20 .0404.

Proposed Effective Date: May 1, 2008

Public Hearing:

Date: January 22, 2008

Time: 10:00 a.m.

Location: 3rd Floor Hearing Room, Dobbs Building, 430 N. Salisbury St., Raleigh, NC

Reason for Proposed Action: Clarifying technical amendment.

Procedure by which a person can object to the agency on a proposed rule: The Department of Insurance will accept written objections to this rule until the expiration of the comment period on March 3, 2008.

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 esprenkel@ncdoi.net

Comment period ends: March 3, 2008

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 ($\geq \$3,000,000$)
- ☒ None

CHAPTER 20 - MANAGED CARE HEALTH BENEFIT PLANS

SECTION .0400 - NETWORK PROVIDER CREDENTIALS

11 NCAC 20 .0404 APPLICATION

For all providers who submit applications to be added to a carrier's network on or after October 1, 2001:

- (1) Each carrier shall obtain and retain on file a ~~complete~~-signed and dated application on the form approved by the Commissioner under G.S. 58-3-230. The approved form shall apply to carriers defined as health benefit plans or insurers under G.S. 58-3-167. All other carriers shall obtain and retain on file a signed and dated application on a form approved by the carrier. All required information shall be current upon final approval by the carrier. The application shall include, when applicable:
- (a) The provider's name, address, and telephone number.
 - (b) Practice information, including call coverage.
 - (c) Education, training and work history.
 - (d) The current provider license, registration, or certification, and the names of other states where the applicant is or has been licensed, registered, or certified.
 - (e) Drug Enforcement Agency (DEA) registration number and prescribing restrictions.
 - (f) Specialty board or other certification.
 - (g) Professional and hospital affiliation.
 - (h) The amount of professional liability coverage and any malpractice history.
 - (i) Any disciplinary actions by medical organizations and regulatory agencies.
- (j) Any felony or misdemeanor convictions.
- (k) The type of affiliation requested (for example, primary care, consulting specialists, ambulatory care, etc.).
- (l) A statement of completeness, veracity, and release of information, signed and dated by the applicant.
- (m) Letters of reference or recommendation or letters of oversight from supervisors, or both.
- (2) The carrier shall obtain and retain on file the following information regarding facility provider credentials, when applicable:
- (a) Joint Commission on Accreditation of Healthcare Organization's certification or certification from other accrediting agencies.
 - (b) State licensure.
 - (c) Medicare and Medicaid certification.
 - (d) Evidence of current malpractice insurance.
- (3) No credential item listed in Items (1) or (2) of this Rule shall be construed as a substantive threshold or criterion or as a standard for credentials that must be held by any provider in order to be a network provider.

Authority G.S. 58-2-40(1); 58-2-131; 58-3-167; 58-3-230; 58-65-1; 58-65-25; 58-65-105; 58-67-5; 58-67-10; 58-67-20; 58-67-35; 58-67-65; 58-67-100; 58-67-140; 58-67-150.

APPROVED RULES

*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

Rules approved by the Rules Review Commission at its meeting on November 15, 2007.

**REGISTER CITATION TO THE
NOTICE OF TEXT****AGRICULTURE, COMMISSIONER OF**

<u>Purpose</u>	02	NCAC	58	.0101	22:04 NCR
<u>Funding Priorities</u>	02	NCAC	58	.0102*	22:04 NCR
<u>Definitions</u>	02	NCAC	58	.0103*	22:04 NCR
<u>Records</u>	02	NCAC	58	.0108*	22:04 NCR

CEMETERY COMMISSION

<u>Application and Filing Fee</u>	04	NCAC	05C	.0301*	22:03 NCR
<u>Renewal</u>	04	NCAC	05C	.0307*	22:03 NCR

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

<u>Process Review</u>	10A	NCAC	01G	.0103	22:03 NCR
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CHILD CARE COMMISSION

<u>General Safety Requirements</u>	10A	NCAC	09	.0604*	21:14 NCR
<u>Sanitary Food Service</u>	10A	NCAC	09	.0805*	21:14 NCR
<u>Criminal Record Check Requirements for Nonlicensed Home P...</u>	10A	NCAC	09	.2704*	21:19 NCR

PUBLIC HEALTH, COMMISSION FOR

<u>Method of Reporting</u>	10A	NCAC	41A	.0102*	n/a G.S. 150B-21.5(a)(5)
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SOCIAL SERVICES COMMISSION

<u>Forms</u>	10A	NCAC	67A	.0107*	22:02 NCR
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INSURANCE, DEPARTMENT OF

<u>Form F</u>	11	NCAC	10	.0711	22:03 NCR
<u>"Form F" Report</u>	11	NCAC	10	.0718	22:03 NCR
<u>Limited Use of Anticipated Withdrawal Rates</u>	11	NCAC	11F	.0406*	22:04 NCR
<u>Small Employer Group Health Insurance Actuarial Certifica...</u>	11	NCAC	16	.0801*	22:04 NCR

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Summary Suspension</u>	12	NCAC	09A	.0206*	21:14 NCR
<u>Terms and Conditions of General Instructor Certification</u>	12	NCAC	09B	.0303*	n/a G.S. 150B-21.5(a)(5)

SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Suspension: Revocation: or Denial of Certification</u>	12	NCAC	10B	.0204*	22:04 NCR
<u>Period of Suspension: Revocation: or Denial</u>	12	NCAC	10B	.0205*	22:03 NCR
<u>Summary Suspensions: or Denials</u>	12	NCAC	10B	.0206*	22:04 NCR
<u>Documentation of Educational Requirements</u>	12	NCAC	10B	.0302*	22:04 NCR
<u>Minimum Training Requirements</u>	12	NCAC	10B	.2005*	22:04 NCR
<u>Sheriff/Agency head Responsibilities</u>	12	NCAC	10B	.2007	22:04 NCR

MARINE FISHERIES COMMISSION

<u>Definitions</u>	15A	NCAC	03I	.0101*	21:23 NCR
<u>Gill Nets, Seines, Identification</u>	15A	NCAC	03J	.0103*	21:23 NCR
<u>Pound Net Sets</u>	15A	NCAC	03J	.0107*	21:23 NCR
<u>Albemarle Sound/Chowan River</u>	15A	NCAC	03J	.0209*	21:23 NCR
<u>Prohibited Trawling</u>	15A	NCAC	03M	.0205	21:23 NCR
<u>River Herring and Shad</u>	15A	NCAC	03M	.0513*	21:23 NCR
<u>Scope and Purpose</u>	15A	NCAC	03N	.0101*	21:23 NCR
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<u>Nursery Area Boundaries</u>	15A	NCAC	03N	.0103	21:23 NCR
<u>Anadromous Fish Spawning Area Boundaries</u>	15A	NCAC	03N	.0106*	21:23 NCR
<u>Procedures and Requirements To Obtain Permits</u>	15A	NCAC	03O	.0501*	21:23 NCR
<u>Permit Conditions Specific (Striped Bass)</u>	15A	NCAC	03O	.0503*	21:23 NCR
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SOIL AND WATER CONSERVATION COMMISSION

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<u>Definitions for Subchapter 06I</u>	15A	NCAC	06I	.0102*	22:01 NCR
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SECRETARY OF STATE, DEPARTMENT OF

<u>Scope</u>	18	NCAC	12	.0101*	22:01 NCR
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<u>Filing May Be Electronic or Paper</u>	18	NCAC	12	.0202*	22:01 NCR
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<u>Legal Name of Person or Entity Required</u>	18	NCAC	12	.0205*	22:01 NCR
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<u>Signature Verifies Information is True</u>	18	NCAC	12	.0213*	22:01 NCR
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<u>Filing by United States Mail</u>	18	NCAC	12	.0302*	22:01 NCR
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<u>Filing by Electronic Mail</u>	18	NCAC	12	.0304*	22:01 NCR
<u>Filing Electronically on the Department's Website</u>	18	NCAC	12	.0305*	22:01 NCR
<u>No Filing by Facsimile if Fee Required</u>	18	NCAC	12	.0306*	22:01 NCR
<u>Circumstances in Which Filing by Fax Permitted</u>	18	NCAC	12	.0307*	22:01 NCR
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<u>Rejection of Incomplete Forms</u>	18	NCAC	12	.0309*	22:01 NCR
<u>Document Submission Date and Time</u>	18	NCAC	12	.0310*	22:01 NCR
<u>Document Received</u>	18	NCAC	12	.0311*	22:01 NCR
<u>Proof of Submission</u>	18	NCAC	12	.0312*	22:01 NCR
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<u>Effective Date of Complete Submission or Document</u>	18	NCAC	12	.0317*	22:01 NCR
<u>Rejected Documents</u>	18	NCAC	12	.0318*	22:01 NCR
<u>Effective Date of Late Document</u>	18	NCAC	12	.0319*	22:01 NCR
<u>Process for Amending a Document</u>	18	NCAC	12	.0320*	22:01 NCR
<u>Notarization of Amended Quarterly Document</u>	18	NCAC	12	.0321*	22:01 NCR
<u>Effect of Amended Document</u>	18	NCAC	12	.0322*	22:01 NCR
<u>General</u>	18	NCAC	12	.0401*	22:01 NCR
<u>Form of Payment</u>	18	NCAC	12	.0402*	22:01 NCR
<u>Return of Fee Instrument by Issuing Institution</u>	18	NCAC	12	.0403*	22:01 NCR
<u>Limitation on Fee Reduction or Waiver</u>	18	NCAC	12	.0404*	22:01 NCR
<u>Non-Profits to Which No Fee Reduction or Waiver Shall be ...</u>	18	NCAC	12	.0405*	22:01 NCR
<u>Non-Profit Fee Reduction Procedure</u>	18	NCAC	12	.0406*	22:01 NCR
<u>Submission of Reduced Fee</u>	18	NCAC	12	.0407*	22:01 NCR
<u>Submission of Documentation Supporting Fee Reduction Request</u>	18	NCAC	12	.0408*	22:01 NCR

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<u>Fee Reduction Applies to Both Lobbyist and Principal</u>	18	NCAC	12	.0409*	22:01 NCR
<u>Payment of Remainder of Fee if Reduction Denied</u>	18	NCAC	12	.0410*	22:01 NCR
<u>Consequences of Failure to Pay Remainder of Fee</u>	18	NCAC	12	.0411*	22:01 NCR
<u>Nonprofit Fee Waiver Procedure</u>	18	NCAC	12	.0412*	22:01 NCR
<u>Submission of Fee With Request for Waiver</u>	18	NCAC	12	.0413*	22:01 NCR
<u>Refund of Fee if Request for Waiver Granted</u>	18	NCAC	12	.0414*	22:01 NCR
<u>Submission of Documentation Supporting Fee Waiver Request</u>	18	NCAC	12	.0415*	22:01 NCR
<u>Fee Waiver Applies to Both Lobbyist and Principal</u>	18	NCAC	12	.0416*	22:01 NCR
<u>General Proof of Nonprofit Status</u>	18	NCAC	12	.0417*	22:01 NCR
<u>Officer Authorized to Demonstrate Non-Profit Status of No...</u>	18	NCAC	12	.0418*	22:01 NCR
<u>Submission of Federal Tax-Exempt Determination Letter</u>	18	NCAC	12	.0421*	22:01 NCR
<u>Documents to be Submitted by Nonprofit Principals Without...</u>	18	NCAC	12	.0422*	22:01 NCR
<u>Additional Information for Fee Reduction for Nonprofit Wi...</u>	18	NCAC	12	.0423*	22:01 NCR
<u>Additional Information for Fee Reduction for Nonprofit Wi...</u>	18	NCAC	12	.0424*	22:01 NCR
<u>Contents for Fee Reduction Request for Nonprofit Without ...</u>	18	NCAC	12	.0425*	22:01 NCR
<u>Additional Information for Fee Waiver</u>	18	NCAC	12	.0426*	22:01 NCR
<u>Request for Protection of Confidentiality</u>	18	NCAC	12	.0501*	22:01 NCR
<u>Timing of Submission of Request for Protection of Confide...</u>	18	NCAC	12	.0502*	22:01 NCR
<u>Consequences of Failure to Request Protection of Confiden...</u>	18	NCAC	12	.0503*	22:01 NCR
<u>One Designation Form per Activity</u>	18	NCAC	12	.0504*	22:01 NCR
<u>Economic Information Protection Forms Shall be Used to Re...</u>	18	NCAC	12	.0505*	22:01 NCR
<u>Principal's Economic Information Protection Authorization...</u>	18	NCAC	12	.0506*	22:01 NCR
<u>Principal's Economic Information Protection Registration ...</u>	18	NCAC	12	.0507*	22:01 NCR
<u>Principal's Economic Information Protection Monthly or Qu...</u>	18	NCAC	12	.0508*	22:01 NCR
<u>Lobbyist's Economic Information Protection Monthly or Qua...</u>	18	NCAC	12	.0509*	22:01 NCR
<u>Principal's Authorization for Lobbying Unrelated to Econo...</u>	18	NCAC	12	.0510*	22:01 NCR
<u>Lobbyist Registration for Lobbying Unrelated to Economic ...</u>	18	NCAC	12	.0511*	22:01 NCR
<u>Principal's Documents Unrelated to Economic Information P...</u>	18	NCAC	12	.0512*	22:01 NCR
<u>Lobbyist's Documents Unrelated to Economic Information Pr...</u>	18	NCAC	12	.0513*	22:01 NCR
<u>Rejection of Non-Economic Designation Information - General</u>	18	NCAC	12	.0514*	22:01 NCR
<u>Correction Within Seven Business Days of</u>	18	NCAC	12	.0515*	22:01 NCR

<u>Economic Informa...</u>					
<u>Method of Correcting Document Containing Information Not ...</u>	18	NCAC	12	.0516*	22:01 NCR
<u>Rejection of Uncorrected Document Containing Information ...</u>	18	NCAC	12	.0517*	22:01 NCR
<u>Contents of Economic Information Protection Request</u>	18	NCAC	12	.0518*	22:01 NCR
<u>Description of the Economic Development Activity Entitled...</u>	18	NCAC	12	.0519*	22:01 NCR
<u>Identification of Authorized Individual</u>	18	NCAC	12	.0520*	22:01 NCR
<u>Designation of Authorized State or Local Government Emplo...</u>	18	NCAC	12	.0521*	22:01 NCR
<u>Confirmation Signature</u>	18	NCAC	12	.0522*	22:01 NCR
<u>Verification by Government Official Signature</u>	18	NCAC	12	.0523*	22:01 NCR
<u>Verification by Authorized Official Signature</u>	18	NCAC	12	.0524*	22:01 NCR
<u>Department Action Upon Receipt of Release</u>	18	NCAC	12	.0525*	22:01 NCR
<u>Department Action Upon Receipt of Information Indicating ...</u>	18	NCAC	12	.0526*	22:01 NCR
<u>Principal and Authorized Government Official Response</u>	18	NCAC	12	.0527*	22:01 NCR
<u>Confirmation of Announcement by Principal and Authorized ...</u>	18	NCAC	12	.0528*	22:01 NCR
<u>Confirmation that Release is Authorized</u>	18	NCAC	12	.0529*	22:01 NCR
<u>Conditions When Response to Department Contact Results in...</u>	18	NCAC	12	.0530*	22:01 NCR
<u>Conditions When Response to Department Contact Results in...</u>	18	NCAC	12	.0531*	22:01 NCR
<u>Conditions when Response to Department Contact May Result...</u>	18	NCAC	12	.0532*	22:01 NCR
<u>Secretary of Commerce Designation by Principal</u>	18	NCAC	12	.0533*	22:01 NCR
<u>Secretary of Commerce Default Designation</u>	18	NCAC	12	.0535*	22:01 NCR
<u>Continuation of Economic Information Protection from Prem...</u>	18	NCAC	12	.0536*	22:01 NCR
<u>Release of Information to the Department of Commerce</u>	18	NCAC	12	.0537*	22:01 NCR
<u>Certification Process Involving the Department of Commerce</u>	18	NCAC	12	.0538*	22:01 NCR
<u>Department of Commerce Certification of Status</u>	18	NCAC	12	.0539*	22:01 NCR
<u>Continuation Shall Include Certification</u>	18	NCAC	12	.0540*	22:01 NCR
<u>Annual Certification of Economic Protection Designation</u>	18	NCAC	12	.0541*	22:01 NCR
<u>Extension of Recertification Without Re-registration</u>	18	NCAC	12	.0542*	22:01 NCR
<u>Authorized Government Official can Extend Certification</u>	18	NCAC	12	.0543*	22:01 NCR
<u>Authorized Government Official File Release Form</u>	18	NCAC	12	.0544*	22:01 NCR
<u>Contents of Release</u>	18	NCAC	12	.0545*	22:01 NCR
<u>Calculation of Time to Determine Registration Requirements</u>	18	NCAC	12	.0601*	22:01 NCR
<u>Reported Changes in Matters on Which the Registrant Expec...</u>	18	NCAC	12	.0602*	22:01 NCR

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<u>End of Lobbyist and Principal Relationship</u>	18	NCAC	12	.0603*	22:01 NCR
<u>Termination of Registration</u>	18	NCAC	12	.0604*	22:01 NCR
<u>Resignation</u>	18	NCAC	12	.0605*	22:01 NCR
<u>Ending of Lobbyist-Principal Relationship Does Not End Re...</u>	18	NCAC	12	.0606*	22:01 NCR
<u>Lobbyist Disclosure of Identity of Principal to Department</u>	18	NCAC	12	.0701*	22:01 NCR
<u>Consequences of Failure to Disclose the Principal in Fact...</u>	18	NCAC	12	.0703*	22:01 NCR
<u>Lobbyist Identification</u>	18	NCAC	12	.0705*	22:01 NCR
<u>Disclosure to a Designated Individual of the Identity of ...</u>	18	NCAC	12	.0706*	22:01 NCR
<u>Disclosure to a Designated Individual of the Identity of ...</u>	18	NCAC	12	.0707*	22:01 NCR
<u>Contents of Disclosure of the Identity of the Specific Pr...</u>	18	NCAC	12	.0708*	22:01 NCR
<u>Quarterly Report May Include Last Month of Quarter</u>	18	NCAC	12	.0801*	22:01 NCR
<u>Quarterly Report may Incorporate Separately Filed Monthly...</u>	18	NCAC	12	.0802*	22:01 NCR
<u>Quarterly Report Verification of Monthly Report Information</u>	18	NCAC	12	.0803*	22:01 NCR
<u>Reporting of Contracts in the Normal Conduct of Daily Life</u>	18	NCAC	12	.0805*	22:01 NCR
<u>Method of Reporting Compensation</u>	18	NCAC	12	.0901*	22:01 NCR
<u>Compensation</u>	18	NCAC	12	.0902*	22:01 NCR
<u>Separate Lobbyist Compensation Reports may be Included on...</u>	18	NCAC	12	.0903*	22:01 NCR
<u>Lobbyist Compensation shall be Separately Reported</u>	18	NCAC	12	.0904*	22:01 NCR
<u>Quarterly Report May Include Last Month of Quarter Report</u>	18	NCAC	12	.0905*	22:01 NCR
<u>Quarterly Report May Incorporate Separately Filed Monthly...</u>	18	NCAC	12	.0906*	22:01 NCR
<u>Quarterly Report Verification of Monthly Report Information</u>	18	NCAC	12	.0907*	22:01 NCR
<u>Reporting of Contracts in the Normal Conduct of Daily Life</u>	18	NCAC	12	.0910*	22:01 NCR
<u>Solicitor Registration</u>	18	NCAC	12	.1001*	22:01 NCR
<u>When Registration with the Department is Required</u>	18	NCAC	12	.1002*	22:01 NCR
<u>Calculation of Production Costs in Order to Determine Reg...</u>	18	NCAC	12	.1003*	22:01 NCR
<u>Calculation of Transmission Costs in Order to Determine R...</u>	18	NCAC	12	.1004*	22:01 NCR
<u>Calculation of Event Costs in Order to Determine Registra...</u>	18	NCAC	12	.1005*	22:01 NCR
<u>Reporting for Remainder of Year of Registration as Solicitor</u>	18	NCAC	12	.1006*	22:01 NCR
<u>Report Contents</u>	18	NCAC	12	.1007*	22:01 NCR
<u>Contracts Reportable</u>	18	NCAC	12	.1008*	22:01 NCR
<u>Reporting of Confidential Information</u>	18	NCAC	12	.1201*	22:01 NCR

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<u>General Requirements Relating to Protective Order Payees ...</u>	18	NCAC	12	.1202*	22:01 NCR
<u>Confidentiality Request Contents</u>	18	NCAC	12	.1203*	22:01 NCR
<u>Disclosure of Confidential Information for which There is...</u>	18	NCAC	12	.1204*	22:01 NCR
<u>General Requirements</u>	18	NCAC	12	.1301*	22:01 NCR
<u>Record Retention Requirement if Investigation Open</u>	18	NCAC	12	.1302*	22:01 NCR
<u>Three Year Time Period for Maintenance of Records Related...</u>	18	NCAC	12	.1303*	22:01 NCR
<u>Requirement for Original or Equivalent</u>	18	NCAC	12	.1304*	22:01 NCR
<u>Lobbyist's Compensation Records</u>	18	NCAC	12	.1305*	22:01 NCR
<u>Principal's Records of Lobbyist's Compensation</u>	18	NCAC	12	.1306*	22:01 NCR
<u>Maintenance of Method of Principal's Records Related to E...</u>	18	NCAC	12	.1307*	22:01 NCR
<u>Lobbyist's Maintenance of Records Related to Expenditure ...</u>	18	NCAC	12	.1308*	22:01 NCR
<u>Solicitor's Maintenance of Records Related to Expenditure...</u>	18	NCAC	12	.1309*	22:01 NCR
<u>Principal's Maintenance of Records Reallocation of Lobbyi...</u>	18	NCAC	12	.1310*	22:01 NCR
<u>Lobbyist's Maintenance of Records Reallocation of Lobbyin...</u>	18	NCAC	12	.1311*	22:01 NCR
<u>Liaison's Records</u>	18	NCAC	12	.1312*	22:01 NCR
<u>Records of Filers Pursuant to G.S. 120C-800(a) or G.S. 12...</u>	18	NCAC	12	.1313*	22:01 NCR
<u>Record Retention by Filers Pursuant to G.S. 120C-800(a) o...</u>	18	NCAC	12	.1314*	22:01 NCR
<u>Three Year Time Period for Maintenance of Records Related...</u>	18	NCAC	12	.1315*	22:01 NCR
<u>Requirement for Original or Equivalent for Persons Who Ar...</u>	18	NCAC	12	.1316*	22:01 NCR
<u>Records of Persons Permitted to File Pursuant to G.S. 120...</u>	18	NCAC	12	.1317*	22:01 NCR
<u>Record Retention Requirement of Filers Pursuant To G.S. 1...</u>	18	NCAC	12	.1318*	22:01 NCR
<u>Three Year Time Period for Maintenance of Records Related to Investigations....</u>	18	NCAC	12	.1319*	22:01 NCR
<u>Requirement for Original or Equivalent for Persons Who Ar...</u>	18	NCAC	12	.1320*	22:01 NCR
<u>Furnishing Lobbyist Lists to Designated Individuals for W...</u>	18	NCAC	12	.1401*	22:01 NCR
<u>Rejection of Electronically Furnished List</u>	18	NCAC	12	.1403*	22:01 NCR
<u>Content Sufficiency Requirements for Submitted Maps</u>	18	NCAC	13	.0402*	22:02 NCR
<u>General Requirements for Map</u>	18	NCAC	13	.0406*	22:02 NCR

ELECTRICAL CONTRACTORS, BOARD OF EXAMINERS FOR

<u>Fees</u>	21	NCAC	18B	.0209*	22:04 NCR
<u>Electrical Installation: Project: Project Value-Limitation</u>	21	NCAC	18B	.0303*	22:04 NCR

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<u>Annual License Fees</u>	21	NCAC	18B	.0404	22:04 NCR
APPRAISAL BOARD					
<u>Qualifications for Trainee Registration, Appraiser Licens...</u>	21	NCAC	57A	.0201*	21:23 NCR
<u>Certificate of Course Completion</u>	21	NCAC	57B	.0209*	n/a G.S. 150B-21.5(a)(5)
STATE PERSONNEL COMMISSION					
<u>Separation Payment of Vacation Leave</u>	25	NCAC	01E	.0210*	21:22 NCR
<u>Separation</u>	25	NCAC	01E	.0311*	21:22 NCR
<u>Administration</u>	25	NCAC	01E	.1303*	21:22 NCR
<u>Qualifying to Participate in Voluntary Shared Leave Program</u>	25	NCAC	01E	.1304*	21:22 NCR
<u>Donor Guidelines</u>	25	NCAC	01E	.1305	21:22 NCR
<u>Leave Accounting Procedures</u>	25	NCAC	01E	.1306	21:22 NCR
<u>Purpose and Scope</u>	25	NCAC	01E	.1401*	21:22 NCR
<u>Other Contagious Disease</u>	25	NCAC	01E	.1702	21:24 NCR
<u>Purpose</u>	25	NCAC	01N	.0401	21:24 NCR
<u>Reporting Communicable Diseases</u>	25	NCAC	01N	.0402*	21:24 NCR
<u>Actions During a Pandemic</u>	25	NCAC	01N	.0403*	21:24 NCR
<u>Mandatory Employees</u>	25	NCAC	01N	.0404*	21:24 NCR
<u>Compensation of Mandatory Employees</u>	25	NCAC	01N	.0405	21:24 NCR
<u>Leave</u>	25	NCAC	01N	.0406*	21:24 NCR
<u>Verification</u>	25	NCAC	01N	.0407	21:24 NCR
<u>Review of Policy</u>	25	NCAC	01N	.0408*	21:24 NCR
<u>Emergency Lay-Off</u>	25	NCAC	01N	.0409	21:24 NCR
<u>Waiver of Policies</u>	25	NCAC	01N	.0410	21:24 NCR

TITLE 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

02 NCAC 58 .0101 PURPOSE

This Chapter describes the operating procedures for the Agricultural Development and Farmland Preservation Trust Fund Advisory Committee and the Chair under the guidance of the North Carolina Department of Agriculture and Consumer Services implementing the Agricultural Development and Farmland Preservation Trust Fund for continuation and preservation of agriculture in North Carolina. Procedures and guidelines for participating applicants are also described. The purpose of the program is to fund projects to encourage the preservation of qualifying agricultural, horticultural, and forestlands to foster the growth, development, and sustainability of family farms.

*History Note: Authority G.S. 106-744;
Eff. December 1, 2007.*

02 NCAC 58 .0102 FUNDING PRIORITIES

The Commissioner, with the advice of the Advisory Committee shall:

- (1) annually publish a list of funding priorities which he will follow in awarding grants for agricultural, horticultural and forestland preservation projects and agricultural development programs that meet the requirements of G.S. 106-744 and the rules in this Chapter;
- (2) request proposals to address specific funding priorities or to encourage specific farmland preservation projects or agricultural development programs intended to encourage farmland preservation and protect the State's agricultural economy, stabilize and maintain local tax bases, and optimally use natural resources; and
- (3) work cooperatively with other government agencies as well as agricultural, conservation, and rural entities to develop plans to maximize agricultural, horticultural, and forestland preservation efforts.

*History Note: Authority G.S. 106-744;
Eff. December 1, 2007.*

02 NCAC 58 .0103 DEFINITIONS

The following terms used in this Chapter have the following meanings:

- (1) "Advisory Committee" means the Agricultural Development and Farmland Preservation Trust Fund Advisory Committee.
- (2) "ADFPTF," "ADFP Trust Fund," or "Trust Fund" means the Agricultural Development and Farmland Preservation Trust Fund.
- (3) "Agricultural conservation easement" is defined in G.S. 106-744(b).
- (4) "Applicant" means a nonprofit conservation organization or county who applies for funds from the ADFP Trust Fund.
- (5) "Chair" or "Commissioner" means the Chair of the Advisory Committee who is also the Commissioner of Agriculture.
- (6) "Department" or "NCDA&CS" means the North Carolina Department of Agriculture and Consumer Services.
- (7) "Landowner" means any natural person or other legal entity, including a governmental agency, who holds either an estate or freehold (such as a fee simple absolute or a life estate) or an estate for years or from year to year in land, but does not include an estate at will or by sufferance in land.
- (8) "Nonprofit conservation organization" is any nonprofit organization that provides assistance to landowners to protect their lands and can legally hold agricultural conservation easements.
- (9) "Project" means an agricultural conservation easement, conservation agreement, or an agricultural development program for which an applicant is requesting funds to complete.

*History Note: Authority G.S. 106-744;
Eff. December 1, 2007.*

02 NCAC 58 .0108 RECORDS

Successful applicants must keep financial and other records of the project for a period of three years, following completion of the project, or until audited. The records shall be made available to the Commissioner at his request. Recipients shall contact Trust Fund staff at the North Carolina Department of Agriculture and Consumer Services before destroying records or in the event that records are destroyed.

*History Note: Authority G.S. 106-744;
Eff. December 1, 2007.*

TITLE 04 - DEPARTMENT OF COMMERCE

04 NCAC 05C .0301 APPLICATION AND FILING FEE

Any person who offers to sell pre-need grave spaces, mausoleum crypts, niches, memorials, vaults or any other pre-need cemetery merchandise or services that are authorized for any cemetery, cemetery sales groups or cemetery management groups must first obtain a license from the commission. Applications for a license must be filed with the Commission on the Application for Persons Selling Pre-need Cemetery Property together with a fee in the amount of one hundred dollars (\$100.00), fifty dollars (\$50.00) of which shall constitute an application fee and fifty dollars (\$50.00) of which shall constitute a two year license fee. The form provides space for applicant's name, cemetery name, past address, previous employment and criminal record. The application form is available by contacting:

North Carolina Cemetery Commission
1001 Navaho Drive, Suite 100
Raleigh, North Carolina 27609.

This license has an expiration date of June 30 of its expiration year, and is not transferable from the cemetery to which it is issued.

*History Note: Authority G.S. 65-49; 65-58;
Eff. February 1, 1976;
Readopted Eff. January 16, 1978;
Amended Eff. December 1, 2007; July 1, 2005; May 3, 1993.*

04 NCAC 05C .0307 RENEWAL

Before July 1 of the license expiration year, each licensed salesperson shall pay a license renewal fee of fifty dollars (\$50.00) per license for a two-year renewal. Any individual preneed salesperson that does not renew the license by January 1 after its expiration on July 1 shall be denied renewal privileges. If the person wishes a license the person must apply for a new license.

*History Note: Authority G.S. 65-49; 65-58;
Eff. December 1, 1981;
Amended Eff. December 1, 2007.*

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 01G .0103 PROCESS REVIEW

- (a) Beginning with the effective date of this Rule and not less than once every two years, the Partner Team, as defined in G.S. 131E-154.13(3), shall review the process by which the NC NOVA special licensure designation is awarded.
- (b) Any changes to the process that are proposed by the Partner Team shall be posted on the NC NOVA web site at: www.ncnova.org for 60-days to elicit public comment. The web site shall include instructions for submitting comments via email or U.S. Postal Service mail.
- (c) The Partner Team shall convene a meeting within 60 calendar days following the public comment period for the purpose of considering public comments. Any changes to the process shall only be adopted when not less than 85 percent of

the Partner Team members are in agreement with the proposed changes and the changes shall be posted on the NC NOVA web site within 30 calendar days after adoption.

History Note: Authority G.S. 131E-154.12; 131E-154.13; 131E-154.14;
Eff. January 1, 2008.

10A NCAC 09 .0604 GENERAL SAFETY REQUIREMENTS

- (a) Potentially hazardous items, such as firearms and ammunition, hand and power tools, nails, chemicals, lawn mowers, gasoline or kerosene, archery equipment, propane stoves, whether or not intended for use by children, shall be stored in locked areas or with other appropriate safeguards, or shall be removed from the premises.
- (b) Electrical outlets not in use which are located in space used by the children shall be covered with safety plugs unless located behind furniture or equipment that cannot be moved by a child.
- (c) Electric fans shall be mounted out of the reach of children or shall be fitted with a mesh guard to prevent access by children.
- (d) All electrical appliances shall be used only in accordance with the manufacturer's instructions.
- (e) Electrical cords shall not be accessible to infants and toddlers. Extension cords, except as approved by the local fire inspector, shall not be used. Frayed or cracked electrical cords shall be replaced.
- (f) All materials used for starting fires, such as matches and lighters, shall be kept in locked storage or shall be stored out of the reach of children.
- (g) Smoking is not permitted in space used by children when children are present. All smoking materials shall be kept in locked storage or out of the reach of children.
- (h) Fuel burning heaters, fireplaces and floor furnaces shall be provided with a protective screen attached securely to substantial supports to prevent access by children and to prevent objects from being thrown into them.
- (i) Plants that are toxic shall not be in indoor or outdoor space that is used by or is accessible to children.
- (j) Air conditioning units shall be located so that they are not accessible to children or shall be fitted with a mesh guard to prevent objects from being thrown into them.
- (k) Gas tanks shall be located so they are not accessible to the children or shall be in a protective enclosure or surrounded by a protective guard.
- (l) Cribs and playpens shall be placed so that the children occupying them shall not have access to cords or ropes, such as venetian blind cords.
- (m) The indoor and outdoor premises shall be checked daily for debris, vandalism, and broken equipment. Debris shall be removed and disposed.
- (n) Plastic bags, toys, and toy parts small enough to be swallowed, and materials that can be easily torn apart such as foam rubber and styrofoam, shall not be accessible to children under three years of age, except that styrofoam plates and larger pieces of foam rubber may be used for supervised art activities and styrofoam plates may be used for food service. Latex and

rubber balloons shall not be accessible to children under five years of age.

(o) When non-ambulatory children are in care, a crib or other device shall be available for evacuation in case of fire or other emergency. The crib or other device shall be fitted with wheels in order to be easily moveable, have a reinforced bottom, and shall be able to fit through the designated fire exit. For centers that do not meet institutional building code, and the exit is more than eight inches above grade, the center shall develop a plan to ensure a safe and timely evacuation of the crib or other device. This plan shall be demonstrated to a Division representative for review and approval. During the monthly fire drills required by Rule 10A NCAC 09 .0302(d)(4), the evacuation crib or other device shall be used in the manner described in the evacuation plan.

History Note: Authority G.S. 110-85(1); 110-91(3),(6); 143B-168.3;
Eff. January 1, 1991;
Amended Eff. January 1, 1996; November 1, 1991;
Temporary Amendment Eff. October 1, 1997;
Amended Eff. December 1, 2007; April 1, 2001; July 1, 1998.

10A NCAC 09 .0805 SANITARY FOOD SERVICE

History Note: Authority G.S. 110-91(1); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, 1989;
Repealed Eff. December 1, 2007.

10A NCAC 09 .2704 CRIMINAL RECORD CHECK REQUIREMENTS FOR NONLICENSED HOME PROVIDERS

(a) A nonlicensed home provider and household members over 15 years old, including family members and non-family members who use the home on a permanent or temporary basis as their primary residence, shall submit the following to the local purchasing agency:

- (1) a certified criminal history check from the Clerk of Superior Court's office in the county or counties where the individual has resided during the previous 12 months;
- (2) a signed Authority for Release of Information using the form provided by the Division;
- (3) a fingerprint card using SBI form FD-258; and
- (4) a signed statement declaring under penalty of perjury if he or she has been convicted of a crime other than a minor traffic violation.

This Rule also includes any individuals over 15 years old who move into the household, or any individuals who live in the household who have had their 16th birthday after initial approval, including family members and non-family members who use the home either on a permanent or temporary basis as their primary residence. These persons shall submit items in Subparagraphs (a)(1) through (a)(4) of this Rule to the local purchasing agency within five business days of moving into the home or their 16th birthday.

(b) New nonlicensed home providers and any household members over 15 years old shall submit the complete and

accurate packet no later than five business days after applying for enrollment as a nonlicensed home provider of subsidized child care. If more than 12 months have elapsed since the criminal record check has been completed and subsidy funds were not received, then a new criminal record check must be submitted by the nonlicensed home provider and any household member over 15 years old.

(c) Any individual over 15 years old, including family members and non-family members who use the home either on a permanent or temporary basis as their primary residence, shall submit all criminal record check forms as required in 10A NCAC 09 .2704, Subparagraphs (a)(1) through (a)(4) of this Rule, within 10 business days of joining the household.

(d) If the nonlicensed home provider or household member has been convicted, has pending charges or indictments, is under deferred prosecution, has received a Prayer For Judgment, or is on probation for a crime the nonlicensed home provider shall acknowledge on the statement that he or she is aware that payment is conditional pending approval by the Division. If the nonlicensed home provider has lived in North Carolina for less than five consecutive years immediately preceding the date the fingerprint card is completed, a national check shall be completed pursuant to G.S. 110-90.2(c).

(e) If a nonlicensed home provider or household member has been convicted, has pending charges or indictments, is under deferred prosecution, has received a Prayer For Judgment, or is on probation for a crime, he or she may submit to the Division additional information concerning the conviction or charges that could be used by the Division in making the determination of the provider's qualification. The Division may consider the following in making a decision:

- (1) length of time since conviction;
- (2) nature of the crime;
- (3) circumstances surrounding the commission of the offense or offenses;
- (4) evidence of rehabilitation;
- (5) number of prior offenses;
- (6) and age of the individual at the time of occurrence.

(f) The local purchasing agency shall mail the certified criminal history check from the Clerk of Superior Court's office in the county where the individual resides, Authority for Release of Information using the form provided by the Division, and a fingerprint card to the Division no later than five business days after receipt. A copy of the submitted information and the declaration statement shall be maintained in the nonlicensed home provider's file until the notice of qualification is received by the nonlicensed home provider. At that time the submitted information and the declaration statement may be discarded. The notice of qualification shall be maintained in the nonlicensed home provider's file.

(g) A nonlicensed home provider may receive payment during the period in which the state or national criminal history check is being completed if the applicant would otherwise receive approval or temporary approval from the local purchasing agency for enrollment in the subsidized child care program, subject to the provisions referenced in 10A NCAC 10 .0803(b), .0810, and .0811.

(h) Disqualification of a nonlicensed home provider by the Division shall be reasonable cause for the local purchasing agency to deny further payment.

(i) If a nonlicensed home provider disagrees with the decision of disqualification and files a civil action in district court, the provider may continue to operate as a nonlicensed home provider only but shall not receive payment during the proceedings. If the determination is that the nonlicensed home provider is qualified, the nonlicensed provider shall receive retroactive payment for the care that was provided.

(j) If a nonlicensed home provider remains open for three consecutive years, a provider and household member(s) shall have a modified criminal record check conducted using the Administrative Office of the Courts (AOC) System. On each three year anniversary date of approval by the local purchasing agency to receive subsidy funds, the provider or household member shall complete and submit the form provided by the Division. The Division may request a certified criminal history from Clerk of Superior Court, from the provider, or household member to verify the AOC results.

(k) Existing nonlicensed home providers who have been operating for more than three consecutive years, as of December 1, 2007, shall be notified by a separate mailing and shall complete and submit the form to the Division within 10 business days of receipt.

(l) After a nonlicensed home provider or household member has been qualified, the Division may complete a new criminal record check at any time there has been an investigation that references the nonlicensed home provider or household member conducted by the Department of Social Services or the Division of Child Development.

The Division may complete a new criminal record check for the discovery or indication of any charges or indictments (pending or otherwise) that occurred after the initial qualification. When requested, the nonlicensed home provider or household member shall complete and submit the packet as described in Subparagraphs (a)(1) through (a)(3) of this Rule to the Division within five business days of the request for a new criminal record check.

History Note: Authority G.S. 110-90.2; 114-19.5; 143B-168.3; S.L. 1995, c. 507, s. 23.25;

Temporary Adoption Eff. January 1, 1996;

Eff. April 1, 1997;

Amended Eff. December 1, 2007; April 1, 2003.

10A NCAC 41A .0102 METHOD OF REPORTING

(a) When a report of a disease or condition is required to be made pursuant to G.S. 130A-135 through 139 and 10A NCAC 41A .0101, with the exception of laboratories, which shall proceed as in Subparagraph (d), the report shall be made to the local health director as follows:

- (1) For diseases and conditions required to be reported within 24 hours, the initial report shall be made by telephone, and the report required by Subparagraph (2) of this Paragraph shall be made within seven days.

- (2) In addition to the requirements of Subparagraph (1) of this Paragraph, the report shall be made on the communicable disease report card or in an electronic format provided by the Division of Public Health and shall include the name and address of the patient, the name and address of the parent or guardian if the patient is a minor, and epidemiologic information.
- (3) In addition to the requirements of Subparagraphs (1) and (2) of this Paragraph, forms or electronic formats provided by the Division of Public Health for collection of information necessary for disease control and documentation of clinical and epidemiologic information about the cases shall be completed and submitted for the following reportable diseases and conditions identified in 10A NCAC 41A .0101(a):
- (A) acquired immune deficiency syndrome (AIDS);
 - (B) brucellosis;
 - (C) cholera;
 - (D) cryptosporidiosis;
 - (E) cyclosporiasis;
 - (F) *E. coli* 0157:H7 infection;
 - (G) ehrlichiosis;
 - (H) *Haemophilus influenzae*, invasive disease;
 - (I) Hemolytic-uremic syndrome/thrombotic thrombocytopenic purpura;
 - (J) hepatitis A;
 - (K) hepatitis B;
 - (L) hepatitis B carriage;
 - (M) hepatitis C;
 - (N) human immunodeficiency virus (HIV) confirmed;
 - (O) legionellosis;
 - (P) leptospirosis;
 - (Q) Lyme disease;
 - (R) malaria;
 - (S) measles (rubeola);
 - (T) meningitis, pneumococcal;
 - (U) meningococcal disease;
 - (V) mumps;
 - (W) paralytic poliomyelitis;
 - (X) psittacosis;
 - (Y) Rocky Mountain spotted fever;
 - (Z) rubella;
 - (AA) rubella congenital syndrome;
 - (BB) tetanus;
 - (CC) toxic shock syndrome;
 - (DD) trichinosis;
 - (EE) tuberculosis;
 - (FF) tularemia;
 - (GG) typhoid;
 - (HH) typhoid carriage (*Salmonella typhi*);

- (II) vibrio infection (other than cholera); and
- (JJ) whooping cough.

Communicable disease report cards, surveillance forms, and electronic formats are available from the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915, and from local health departments.

(b) Notwithstanding the time frames established in 10A NCAC 41A .0101, a restaurant or other food or drink establishment shall report all outbreaks or suspected outbreaks of foodborne illness in its customers or employees and all suspected cases of foodborne disease or foodborne condition in food-handlers at the establishment by telephone to the local health department within 24 hours in accordance with Subparagraph (a)(1) of this Rule. However, the establishment is not required to submit a report card or surveillance form pursuant to Subparagraph (a)(2) of this Rule.

(c) For the purposes of reporting by restaurants and other food or drink establishments pursuant to G.S.130A-138, the following diseases and conditions listed in 10A NCAC 41A .0101(a) shall be reported:

- (1) anthrax;
- (2) botulism;
- (3) brucellosis;
- (4) campylobacter infection;
- (5) cholera;
- (6) cryptosporidiosis;
- (7) cyclosporiasis;
- (8) *E. coli* 0157:H7 infection;
- (9) hepatitis A;
- (10) salmonellosis;
- (11) shigellosis;
- (12) streptococcal infection, Group A, invasive disease;
- (13) trichinosis;
- (14) tularemia;
- (15) typhoid;
- (16) typhoid carriage (*Salmonella typhi*); and
- (17) vibrio infection (other than cholera).

(d) Laboratories required to report test results pursuant to G.S. 130A-139 and 10A NCAC 41A .0101(c) shall report as follows:

- (1) The results of the specified tests for syphilis, chlamydia and gonorrhea shall be reported to the local health department by the first and fifteenth of each month. Reports of the results of the specified tests for gonorrhea, chlamydia and syphilis shall include the specimen collection date, the patient's age, race, and sex, and the submitting physician's name, address, and telephone numbers.
- (2) Positive darkfield examinations for syphilis, all reactive prenatal and delivery STS titers, all reactive STS titers on infants less than one year old and STS titers of 1:8 and above shall be reported within 24 hours by telephone to the HIV/STD Prevention and Care Branch at (919) 733-7301, or the HIV/STD Prevention and Care Branch Regional Office where the laboratory is located.

- (3) With the exception of positive laboratory tests for human immunodeficiency virus, positive laboratory tests as defined in G.S. 130A-139(1) and 10A NCAC 41A .0101(c) shall be reported to the Division of Public Health electronically, by mail, by secure telefax or by telephone within the time periods specified for each reportable disease or condition in 10A NCAC 41A .0101(a). Confirmed positive laboratory tests for human immunodeficiency virus as defined in 10A NCAC 41A .0101(b) and for CD4 results defined in 10A NCAC 41A .0101(c)(4) shall be reported to the HIV/STD Prevention and Care Branch within 24 hours of obtaining reportable test results. Reports shall include as much of the following information as the laboratory possesses:
- (A) the specific name of the test performed;
 - (B) the source of the specimen;
 - (C) the collection date(s);
 - (D) the patient's name, age, race, sex, address, and county; and
 - (E) the submitting physician's name, address, and telephone number.

History Note: Authority G.S. 130A-134; 130A-135; 130A-138; 130A-139; 130A-141;
Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;
Eff. March 1, 1988;
Amended Eff. October 1, 1994; February 3, 1992; December 1, 1991; May 1, 1991;
Temporary Amendment Eff. December 16, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Temporary Amendment Expired June 16, 1995;
Amended Eff. December 1, 2007; November 1, 2007; August 1, 2005, April 1, 2003; August 1, 1998.

10A NCAC 67A .0107 FORMS

- (a) In order to comply with the budgeting, planning and reimbursement requirements of G.S. Chapter 108A and 45 CFR 228.17, each county department of social services shall complete all forms specified by the Department of Health and Human Services.
- (b) The forms, initial service client information record, and service client information change notice, shall be completed by the case manager for each client requesting social services. All required fields must be completed and required fields not properly completed shall be considered an error and returned to the worker. Clients may refuse to provide their social security numbers and shall not be denied benefits, but the social security numbers, or alternate unique identifiers as assigned by county departments of social services or the North Carolina Division of Social Services, of case managers are required in order to allocate costs for federal financial participation.

- (c) The form, worker daily report of services to clients, shall be completed by the county services workers and division of services for the blind services workers. This form provides information to meet reporting requirements at the federal, state and local levels and will provide the basis for county reimbursement. All required fields must be completed and required fields not properly completed shall be considered an error and returned to the worker. The social security numbers or alternate unique identifiers as assigned by county departments of social services or the North Carolina Division of Social Services of service workers are required in order to allocate costs for federal financial participation.

History Note: Authority G.S. 143B-153; 45 CFR 228.17; 5 USC 552a;
Eff. August 15, 1980;
Amended Eff. December 1, 2007; March 1, 1990; January 1, 1983.

TITLE 11 – DEPARTMENT OF INSURANCE

11 NCAC 10 .0711 FORM F

History Note: Authority G.S. 58-2-40(1); 58-21-35;
Eff. February 1, 1976;
Readopted Eff. July 11, 1978;
Amended Eff. July 1, 1986;
Repealed Eff. December 1, 2007.

11 NCAC 10 .0718 "FORM F" REPORT

In addition to the information required by G.S. 58-21-35(a), the report required by G.S. 58-21-35 shall contain a signed statement by the insured that insurance is not available from licensed companies, the address of the insured, and the nature and amount of insurance.

History Note: Authority G.S. 58-2-40; 58-21-35;
Eff. April 1, 2001;
Amended Eff. December 1, 2007.

11 NCAC 11F .0406 LIMITED USE OF ANTICIPATED WITHDRAWAL RATES

- (a) This Rule applies to universal life insurance policies and certificates issued after December 31, 2006, and before January 1, 2011, that contain a secondary guarantee that the death benefits will remain in effect as long as the accumulation of premiums paid satisfies the secondary guarantee requirement stated in the policy or certificate.
- (b) For purposes of applying 11 NCAC 11F .0405(b) and 11 NCAC 11F .0405(c), a withdrawal rate of no more than two percent per year for the first five policy years, followed by no more than one percent per year to the policy anniversary specified in the following table, and zero percent thereafter shall be used. If the duration determined by reference to the table is less than five policy years, a withdrawal rate of no more than

two percent per year shall be used through that duration, with zero percent per year used thereafter.

<u>Issue Age</u>	<u>Duration</u>
0-50	Policy Duration 30 years.
51-60	Duration at which policyholder reaches attained age 80.
61-70	Policy Duration 20 years.
71-89	Duration at which policyholder reaches attained age 90.
90 and over	No withdrawal rate assumption allowed.

History Note: Authority G.S. 58-2-40; 58-58-50(b); 58-58-50(l); Eff. December 1, 2007.

11 NCAC 16 .0801 SMALL EMPLOYER GROUP HEALTH INSURANCE ACTUARIAL CERTIFICATION

(a) To fulfill the requirements of G.S. 58-50-130(f), each small employer group carrier, as defined in G.S. 58-50-110(23), shall use the following language in its actuarial certification:

- (1) The opening paragraph shall indicate the actuary's relationship to the carrier and the actuary's qualifications to provide the certification.
 - (A) For a carrier actuary, the opening paragraph shall read as follows:
"I, (name and title of actuary), am an (officer, employee) of (name of carrier) and am a member of the American Academy of Actuaries. I am familiar with G.S. 58-50-130."
 - (B) For a consulting actuary, the opening paragraph shall read as follows:
"I, (name and title of consulting actuary), am associated with (name of actuarial consulting firm) and am a member of the American Academy of Actuaries. I have been involved in the preparation of the small employer group health insurance premium rates for the (name of carrier) and am familiar with G.S. 58-50-130."
- (2) A scope paragraph shall be included, which shall include the following language:
"I have examined the actuarial assumptions and methodology used by (name of carrier) in determining small employer group health benefit plan premium rates and the procedures used by (name of carrier) in implementing the small employer group health benefit plan rating provisions of G.S. 58-50-130."
- (3) If the actuary has examined the underlying records, the scope paragraph shall include the following language:
"I have examined the underlying records and summaries of data used by (name of carrier) in

determining small employer group health benefit plan premium rates and procedures used by (name of carrier) in implementing the small employer group health benefit plan rating provisions of G.S. 58-50-130."

- (4) If the actuary has not examined the underlying records, but has relied upon listings and summaries of data prepared by an officer of the company, the scope paragraph shall include the following language:

"I have not examined the underlying records used by (name of carrier) in determining small employer group health benefit plan premium rates and procedures used by (name of carrier) in implementing the small employer group health benefit plan rating provisions of G.S. 58-50-130. I have relied upon listings and summaries of data prepared by (name and title of company officer) as certified in the attached statement."

- (5) The certification paragraph shall read as follows:

"I certify that for the period from January 1, (year) to December 31, (year) the rating method(s) of (name of carrier) are actuarially sound and that:

- (A) The rating factors used by (name of carrier) in its adjusted community rating (ACR) methodology are being applied consistently, not being applied individually in the final premium rate charged to an employee, and being applied uniformly to the premium rate charged to all eligible employee enrollees in a small employer group.
- (B) Periodic adjustment factors that give recognition to medical claim or medical inflation trends are based on (name of carrier)'s entire small employer group health benefit plan business, the same in a given month for a new and a renewing small employer group with the exception of Part (J) of this Subparagraph, and the same for 12 consecutive months for a given small employer group.
- (C) All small employer groups within a given medical care system have the same medical care system factor.
- (D) The medical care system factors produce rates that are not excessive, not inadequate and are not unfairly discriminatory in the medical care system areas and are revenue neutral to the small employer group carrier for its small group business in North Carolina.

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| <p>(E) The medical care system factors reflect only the relative differences in expected costs.</p> <p>(F) Rate differences because of differences in health benefit plan design only reflect benefit differences.</p> <p>(G) Participation and contribution requirements do not vary by policy form.</p> <p>(H) Stop loss, catastrophic, or reinsurance coverage provided to small employers complies with the underwriting, rating, and other applicable standards in G.S. 58-50-100 through G.S. 58-50-156.</p> <p>(I) The percentage increase in the premium rate charged to a small employer for a new rating period does not exceed the sum of the following: the percentage change in the ACR as measured from the first day of the previous rating period to the first day of the new rating period, any adjustment, not to exceed 15 percent annually, because of claim experience, health status, or duration of coverage of the employees or dependents of the small employer, and any adjustment because of change in coverage or change in case characteristics of the small employer group.</p> <p>(J) Any adjustment because of duration of coverage only reflects a difference between first year and renewal coverage.</p> <p>(K) (Name of carrier) uses an ACR methodology as prescribed in G.S.58-50-130(b)(1) and that the premium rates charged during a rating period to small employer groups with similar case characteristics for the same coverage do not deviate from the adjusted community rate by more than 25 percent for any reason, including differences in administrative costs and claims experience.</p> <p>(L) Differences in administrative costs, defined as all non-medical care costs, within a policy form are reflected within the 25 percent deviation from the ACR.</p> <p>(M) (Name of carrier) only uses the following demographic factors, as prescribed by G.S. 58-50-130(b)(2): age, gender, family size, medical care system, and industry.</p> | <p>(N) All small employer group health benefit plans are guaranteed issue as prescribed by G.S. 58-68-40.</p> <p>(O) The industry rate factor associated with any industry classification divided by the lowest industry rate factor associated with any other industry classification shall not exceed 1.2.</p> <p>(P) All small employer group health benefit plan premium rates are guaranteed for 12 months as prescribed in G.S. 58-50-130(b)(3).</p> <p>(Q) All small employer group health benefit plan premium rate increases include a common premium rate increase shared by all small employer group business.</p> <p>(R) The premium rates exhibit a reasonable relationship to the benefits provided by the policies and are not excessive, are not inadequate, and are not unfairly discriminatory."</p> <p>(b) The certifying actuary shall include a description and a sample numerical demonstration of how the small employer group health benefit plan premium rates were tested for compliance.</p> <p>(c) If the certifying actuary has not examined the underlying records or summaries, the person or persons who performed the examination of the underlying records or summaries shall provide the following certification, which shall be signed, dated, and attached to the actuarial certification:</p> <p style="padding-left: 40px;">"I, (name and title of certifying officer), am (title) of (name of insurer). I hereby affirm that the listings and summaries of data for (name of carrier) prepared for and submitted to (name of certifying actuary) were prepared under my direction and, to the best of my knowledge and belief, are accurate and complete."</p> <p>(d) If the certifying actuary submits a qualified certification, the following information must be attached to the small employer group actuarial certification:</p> <ol style="list-style-type: none"> (1) A description of the incident or incidents that resulted in the certifying actuary submitting a qualified certification. (2) A submission of a remedial plan to bring the incidents described in Paragraph (d)(1) of this Rule into compliance with G.S. 58-50-130(b). |
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History Note: Authority G.S. 58-2-40; 58-50-130; Eff. December 1, 2007.

TITLE 12 – DEPARTMENT OF JUSTICE

12 NCAC 09A .0206 SUMMARY SUSPENSIONS

- (a) The Commission, by and through the Probable Cause Committee, may summarily suspend the certification of a criminal justice officer or instructor before the commencement

of proceedings for suspension or revocation of the certification when, in the opinion of the Probable Cause Committee, the public health, safety, or welfare requires this emergency action of summary suspension. The Commission has determined that the following conditions specifically affect the public health, safety, or welfare and therefore it, by and through the Probable Cause Committee, may utilize summary suspension when:

- (1) the person has committed or been convicted of a violation of the criminal code that would require a permanent revocation or denial of certification; or
- (2) the certified officer fails to satisfactorily complete the in-service training requirements as prescribed in 12 NCAC 09E.
- (3) The certified officer has produced a positive result on a urinalysis test, conducted in accordance with 09B .0101(5).

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

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

(d) The director, upon receipt of information showing the existence of a basis provided for in Subparagraph (a)(1), (2), or (3) of this Rule, shall coordinate the meeting described in Paragraph (b) of this Rule. Any affected person shall be notified, if feasible, that the person may submit any matters to the Probable Cause Committee for its consideration before the Committee acts on the summary suspension issue. Under no circumstance shall the person be allowed more than 48 hours to submit information to the Probable Cause Committee.

(e) Upon verbal notification by the Director that the certification of an officer or instructor is being summarily suspended by written order, the Department head of the criminal justice agency or the executive officer of the institution shall take such steps as are necessary to ensure that the officer or instructor does not perform duties requiring certification by the Commission.

History Note: Authority G.S. 17C-6; 17C-10; 150B-3; Eff. January 1, 1981; Amended Eff. December 1, 2007; March 1, 2004; July 1, 1990; July 1, 1989; October 1, 1985; August 15, 1981.

12 NCAC 09B .0303 TERMS AND CONDITIONS OF GENERAL INSTRUCTOR CERTIFICATION

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

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

- (1) a favorable recommendation from a school director or in-service training coordinator

accompanied by certification on a Commission Instructor Evaluation Form that the instructor successfully taught a minimum of twelve hours in a Commission-certified course or a Commission-recognized in-service training course during the probationary year. The results of the student evaluation of the instructor must be considered by the school director or in-service training coordinator when determining recommendation; or

- (2) a favorable written evaluation by a Commission or staff member, based on an on-site classroom evaluation of the probationary instructor in a Commission-certified course or a Commission-recognized in-service training course. Such evaluation shall be certified on a Commission Instructor Evaluation Form. In addition, instructors evaluated by a Commission or staff member must also teach a minimum of twelve hours in a Commission-certified training course or a Commission-recognized in-service training course.

(c) The term of certification as a general instructor is three years from the date the Commission issues the certification. The certification may subsequently be renewed by the Commission for three year periods. The application for renewal shall contain, in addition to the requirements listed in Rule .0302 of this Section, documentary evidence indicating that the applicant has remained active in the instructional process during the previous three year period. Such documentary evidence shall include proof that the applicant has, within the three year period preceding application for renewal, instructed a minimum of 12 hours in a Commission-certified training course or a Commission-recognized in-service training course; and either

- (1) a favorable written recommendation from a school director or in-service training coordinator completed on a Commission Renewal of Instructor and Professional Lecturer Certification Form that the instructor successfully taught a minimum of 12 hours in a Commission-certified training course or a Commission-recognized in-service training course during the three year period of general certification; or
- (2) a favorable evaluation by a Commission or staff member, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-certified training course or a Commission-recognized in-service training course, during the three year period of General Instructor Certification. In addition, instructors evaluated by a Commission or staff member must also teach a minimum of 12 hours in a Commission-certified training course or a Commission-recognized in-service training course.

(d) For Speed Measuring Instrument Instructors, the General Instructor Certification shall run concurrent with the Speed

Measuring Instrument Instructor's certification. For the initial issuance of Speed Measuring Instrument Instructor certifications, the terms for the instructor's General Instructor certification shall automatically be reissued for a three year period determined by the certification period of the Speed Measuring Instrument Instructor certification. The general instructors are not required to submit documentation of having taught the minimum 12 hours during the period preceding the initial certification as specified in Paragraph (c) of this Rule. For the first renewal of Speed Measuring Instrument instructor certifications occurring after January 2006, the terms for the instructor's General Instructor certification shall automatically be reissued for a three year period determined by the certification period of the Speed Measuring Instrument Instructor certification. The general instructors are not required to submit documentation of having taught the minimum 12 hours during the period preceding the initial certification as specified in Paragraph (c) of this Rule. Once the General Instructor's certification becomes concurrent with the Speed Measuring Instrument certification, all instructors must meet the requirements in Subparagraph (c)(1) or (c)(2) of this Rule to be eligible for re-certification.

(e) All instructors shall remain active during their period of certification. If an instructor does not teach a minimum of 12 hours during the period of certification, the certification shall not be renewed, and the instructor shall file application for General Instructor Certification, Probationary Status. Such applicants shall meet the minimum requirements of Rule .0302 of this Section.

(f) All instructors shall have 90 days from the date of expiration of their instructor certification to submit an application for renewal along with documentation of having met the minimum requirements of Paragraph (c) of this Rule during the previous certification period. The prescribed 90 day period shall not extend the instructor certification period beyond its specified expiration period. If the renewal application is not submitted within 90 days from the expiration of the previous certification, such applicants will be required to meet the minimum requirements for general instructor certification as specified in Rule .0302 of this Section.

(g) The use of guest participants in a delivery of the Basic Law Enforcement Training Course is permissible. However, such guest participants are subject to the direct on-site supervision of a Commission-certified instructor and must be authorized by the school director. A guest participant shall only be used to complement the primary certified instructor of the block of instruction and shall in no way replace the primary instructor.

(h) For purposes of this Section, "Commission-recognized in-service training" shall mean any training for which the instructor is evaluated by a certified school director or in-service training coordinator on a Commission Instructor Evaluation Form. Such training shall be objective based and documented by lesson plans designed consistent with the Basic Law Enforcement Training format and documented by departmental training records to include required post-test and testing methodology. The signature of the school director on the Commission Instructor Evaluation Form shall verify compliance with this Rule.

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

Eff. January 1, 1981;

Amended Eff. December 1, 2007; November 1, 2007; August 1, 2006; January 1, 2006; August 1, 2000; July 1, 1991; October 1, 1985; January 1, 1985; January 1, 1983.

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

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

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

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

- (1) has not enrolled in and satisfactorily completed the required basic training course in its entirety within a one year time period as specified by the rules in this Subchapter;
- (2) fails to meet or maintain any of the employment or certification standards required by 12 NCAC 10B .0300;
- (3) fails to satisfactorily complete the in-service training requirements as presented in 12 NCAC 10B .2000 and .2100 or 12 NCAC 09E .0100;
- (4) has refused to submit to the drug screen as required in 12 NCAC 10B .0301(a)(6) or .0410(a) or in connection with an application for or certification as a justice officer or a criminal justice officer as defined in 12 NCAC 09A .0103(6); or
- (5) has produced a positive result on any drug screen reported to the Commission as specified in 12 NCAC 10B .0410 or reported to any commission, agency, or board established to certify, pursuant to said commission, agency, or boards' standards, a person as a justice officer or a criminal justice officer as defined in 12 NCAC 09A .0103(6), unless the positive result is due to a medically indicated cause.

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

- (1) has knowingly made a material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100;

- (2) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100;
 - (3) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aided another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100;
 - (4) has been removed from office by decree of the Superior Court in accordance with the provisions of G.S. 128-16 or has been removed from office by sentence of the court in accord with the provisions of G.S. 14-230; or
 - (5) has been denied certification or had such certification suspended or revoked by the North Carolina Criminal Justice Education and Training Standards Commission, or a similar North Carolina, out-of-state or federal approving, certifying or licensing agency.
- (d) The Commission may revoke, suspend or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:
- (1) a crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor and which occurred after the date of initial certification;
 - (2) a crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor within the five-year period prior to the date of appointment;
 - (3) four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(b) as Class B misdemeanors regardless of the date of commission or conviction;
 - (4) an accumulation of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(a) as a Class A misdemeanor, regardless of the date of commission or conviction except the applicant shall be certified if the last conviction or commission occurred more than two years prior to the date of appointment; or

- (5) any combination of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(a) as a Class A misdemeanor or defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor regardless of the date of commission or conviction.

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

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

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

History Note: Authority G.S. 17E-7;

Eff. January 1, 1990;

Amended Eff. July 1, 1990;

Recodified from 12 NCAC 10B .0204 Eff. January 1, 1991;

Amended Eff. April 1, 1991; January 1, 1991;

Recodified from 12 NCAC 10B .0207 Eff. January 1, 1992;

Amended Eff. January 1, 2008; January 1, 2007; January 1, 2006; March 1, 2005; January 1, 2005; August 1, 1998; January 1, 1996; January 1, 1995; January 1, 1994; January 1, 1993.

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

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

- (1) permanent where the cause of sanction is:
 - (a) commission or conviction of a felony;
 - (b) commission or conviction of a crime for which authorized punishment included imprisonment for more than two years; or
 - (c) the second revocation, suspension, or denial of an officer's certification for any of the causes requiring a five-year period of revocation, suspension, or denial as set out in Item (2) of this Rule.
- (2) not less than five years where the cause of sanction is:
 - (a) commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(1);
 - (b) material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission;
 - (c) knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, obtained or attempted to

- obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission;
- (d) knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aiding another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Sub-Item also applies to obtaining or attempting to obtain credit for in-service training as required by 12 NCAC 10B .1700, .1800, .2000, or .2100;
- (e) failure to make either of the notifications as required by 12 NCAC 10B .0301(a)(7);
- (f) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230; or
- (g) a positive result on a drug screen, or a refusal to submit to drug testing both pursuant to 12 NCAC 10B .0301 and 12 NCAC 10B .0406, or in connection with an application for certification as a criminal justice officer as defined in 12 NCAC 09A .0103(6).

The Commission may either reduce or suspend the periods of sanction under this Item or substitute a period of probation in lieu of revocation, suspension or denial following an administrative hearing. This authority to reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension, in the discretion of the Commission.

- (3) for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exist, where the cause of sanction is:
 - (a) failure to meet or satisfy relevant basic training requirements;
 - (b) failure to meet or maintain the minimum standards of employment or certification;
 - (c) failure to meet or satisfy the in-service training requirements as prescribed in 12 NCAC 10B .2000 or .2100 or 12 NCAC 09E .0100;
 - (d) commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(2), (3), (4) and (5); or

- (e) denial, suspension, or revocation of certification pursuant to 12 NCAC 10B .0204(c)(5).

The Commission may either reduce or suspend the periods of sanction where revocation, denial or suspension of certification is based upon Subparagraphs .0204(d)(3), (d)(4), and (d)(5) or substitute a period of probation in lieu of revocation, suspension or denial following an administrative hearing. This authority to reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension, in the discretion of the Commission.

History Note: Authority G.S. 17E-4; 17E-7; Eff. January 1, 1991; Recodified from 12 NCAC 10B .0208 Eff. January 1, 1992; Amended Eff. January 1, 2008; January 1, 2007; January 1, 2006; March 1, 2005; January 1, 1995; January 1, 1994; January 1, 1993; January 1, 1992.

12 NCAC 10B .0206 SUMMARY SUSPENSIONS: OR DENIALS

(a) The Commission may summarily suspend or deny the certification of a justice officer or instructor when, in the opinion of the Commission, the public health, safety, or welfare requires this emergency action of summary suspension or denial. The Commission has determined that the following conditions specifically affect the public health, safety, or welfare and therefore it, by and through the Director, shall utilize summary suspension or denial following a full investigation of the matter when:

- (1) the applicant for certification or the certified justice officer has committed or been convicted of a violation of the criminal code which would require a permanent revocation or denial of certification;
- (2) the justice officer has failed to comply with the training requirements of 12 NCAC 10B .0500, .0600, and 1300;
- (3) the certified deputy sheriff or detention officer fails to satisfactorily complete the minimum in-service training requirements as prescribed in 12 NCAC 10B .2000 or .2100 or 12 NCAC 09E .0100;
- (4) the applicant for certification has refused to submit to the drug screen as required in 12 NCAC 10B .0301(6) or .0406(c)(3) or in connection with an application for or certification as a justice officer or a criminal justice officer as defined in 12 NCAC 09A .0103(6); or
- (5) the applicant for certification or the certified officer has produced a positive result on any drug screen reported to the Commission as specified in 12 NCAC 10B .0410 or reported

to any commission, agency, or board established to certify, pursuant to said commission, agency, or boards' standards, a person as a justice officer or a criminal justice officer as defined in 12 NCAC 09A .0103(6), unless the positive result is due to a medically indicated cause.

(b) Without limiting the application of G.S. 17E, a person who has had his or her certification summarily suspended or denied may not exercise the authority or perform the duties of a justice officer during the period of suspension or denial.

History Note: Authority G.S. 17E-8; 17E-9; 150B-3(c); Eff. January 1, 1992; Amended Eff. January 1, 1993; Temporary Amendment Eff. March 1, 1998; Amended Eff. January 1, 2008; March 1, 2005; April 1, 1999; August 1, 1998.

12 NCAC 10B .0302 DOCUMENTATION OF EDUCATIONAL REQUIREMENT

(a) Each applicant for Justice Officer certification shall furnish documentary evidence of high school, college or university graduation to the employing agency. Documentary evidence of high school graduation consists of diplomas or transcripts from public schools or private schools which meet standards adopted by either the North Carolina Department of Public Instruction, the Division of Non-Public Instruction, or a comparable out of state agency. Documentary evidence of college or university graduation consists of diplomas or transcripts from colleges or universities accredited as such by the Department of Education of the state in which the institution is located, an accredited body recognized by either the U.S. Department of Education or Council for Higher Education Accreditation, or the state university of the state in which the institution is located.

(b) High School Diplomas earned through home school programs must be accompanied by a true and accurate or certified transcript and must meet the requirements of Part 3 of Article 39 of Chapter 115C of the North Carolina General Statutes, or a comparable out-of-state statute.

(c) Diplomas earned from High Schools outside of the United States must be translated into English and be accompanied by an authentic transcript. Transcripts reflecting curriculum requirements not scholastically comparable to those in the United States are not acceptable.

(d) High School diplomas earned through correspondence courses are not recognized toward the educational requirements.

(e) Documentary evidence of having passed the General Educational Development Test (GED) shall be satisfied by a certified copy of GED test results or by a copy of the applicant's GED diploma.

(f) Documentary evidence of the attainment of satisfactory scores on any military high school equivalency examination is acceptable as evidence of high school graduation if verified by a true copy of the veteran's DD214.

History Note: Authority G.S. 17E-4; Eff. January 1, 1989;

Amended Eff. January 1, 2008; August 1, 2000; January 1, 1992; January 1, 1990.

12 NCAC 10B .2005 MINIMUM TRAINING REQUIREMENTS

(a) A Sheriff or Department Head may choose to use a lesson plan developed by the North Carolina Justice Academy, or may opt to use a lesson plan for any of the topical areas developed by another entity. The Sheriff or Department Head may also opt to use a lesson plan developed by a certified instructor, provided that the instructor develops the lesson plan in accordance with the Instructional Systems Development model as taught in Criminal Justice Instructor Training in 12 NCAC 09B .0209.

(b) The 2006 Law Enforcement In-Service Training Program requires 24 hours of training in the following topical areas:

- (1) Legal Update;
- (2) Ethics;
- (3) Juvenile Minority Sensitivity Training;
- (4) Methamphetamine Awareness or Methamphetamine Investigative Issues;
- (5) Firearms Training and Recqualification for deputy sheriffs and detention officers as set out in Section .2100 of this Subchapter; and
- (6) Any topic areas of the Sheriff's choosing.

(c) The 2007 Law Enforcement In-Service Training Program requires 24 hours of training in the following topical areas:

- (1) Legal Update;
- (2) Ethics (on-duty or off-duty);
- (3) Juvenile Minority Sensitivity Training;
- (4) Domestic Violence;
- (5) Interacting with Special Populations (which shall include autism);
- (6) Firearms Training and Recqualification for deputy sheriffs and detention officers as set out in Section .2100 of this Subchapter; and
- (7) Any topic areas of the Sheriff's choosing.

(d) The 2007 Detention Officer In-Service Training Program requires 16 hours of training in the following topical areas:

- (1) Detention Legal Update;
- (2) Ethics for Detention Officers;
- (3) Special Inmate Population Management; and
- (4) Any topic areas of the Sheriff's or Department Head's choosing.

(e) The 2007 Telecommunicator In-Service Training Program requires 16 hours of training in the following topical areas:

- (1) Handling Suicidal Callers;
- (2) Emergency Call Taking Procedures;
- (3) Terrorism Training an Awareness Level For Telecommunicators;
- (4) Officer Safety Training for Telecommunicators; and
- (5) Any topic areas of the Sheriff's or Department Head's choosing.

(f) The 2008 Law Enforcement In-Service Training Program requires 24 hours of training in the following topical areas:

- (1) Legal Update;
- (2) Career Survival: Truth or Consequences;
- (3) Juvenile Minority Sensitivity Training;
- (4) Response to Critical Incidents;

- (5) Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and
- (6) Any topic areas of the Sheriff's choosing.
- (g) The 2008 Detention Officer In-Service Training Program requires 16 hours of training in the following topical areas:
 - (1) Detention Officer Legal Update;
 - (2) Professionalism for Detention Officers;
 - (3) Inmate Movement; and
 - (4) Any topic areas of the Sheriff's or Department Head's choosing.
- (h) The 2008 Telecommunicator In-Service Training Program requires 16 hours of training in the following topical areas:
 - (1) Teletypewriter (TTY);
 - (2) Customer Service;
 - (3) Incident Command; and
 - (4) Any topic areas of the Sheriff's or Department Head's choosing.

*History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 2007;
Amended Eff. January 1, 2008.*

12 NCAC 10B .2007 SHERIFF/AGENCY HEAD RESPONSIBILITIES

Each Sheriff or Department Head shall ensure that the respectively required In-Service Training Program established by this Section is conducted. In addition, the Sheriff or Department Head shall:

- (1) report to the Division those deputy sheriffs, detention officers and telecommunicators who are inactive;
- (2) maintain a roster of each deputy sheriff, detention officer and telecommunicator who successfully completes the respectively required In-Service Training Program;
- (3) report to the Division by January 15th, 2007, those active deputy sheriffs who fail to complete the 2006 Law Enforcement In-Service Training Program in accordance with 12 NCAC 10B .2005. Such reporting shall be on a Commission form;
- (4) report to the Division by January 15th, 2008:
 - (a) those active telecommunicators who fail to complete the 2007 Telecommunicator Officer In-Service Training Program in accordance with 12 NCAC 10B .2005;
 - (b) those active detention officers who fail to complete the 2007 Detention Officer In-Service Training Program in accordance with 12 NCAC 10B .2005;
 - (c) those active deputy sheriffs who fail to complete the 2007 Law Enforcement In-Service Training Program in accordance with 12 NCAC 10B .2005;

- (5) Such reporting shall be on a Commission form.
- (5) report to the Division by January 15th, 2009:
 - (a) those active telecommunicators who fail to complete the 2008 Telecommunicator Officer In-Service Training Program in accordance with 12 NCAC 10B .2005;
 - (b) those active detention officers who fail to complete the 2008 Detention Officer In-Service Training Program in accordance with 12 NCAC 10B .2005;
 - (c) those active deputy sheriffs who fail to complete the 2008 Law Enforcement In-Service Training Program in accordance with 12 NCAC 10B .2005.
- (5) Such reporting shall be on a Commission form.

*History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 2007;
Amended Eff. January 1, 2008.*

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 03I .0101 DEFINITIONS

- (a) All definitions set out in G.S. 113, Subchapter IV apply to this Chapter.
- (b) The following additional terms are hereby defined:
 - (1) Commercial Fishing Equipment or Gear. All fishing equipment used in coastal fishing waters except:
 - (A) Seines less than 30 feet in length;
 - (B) Collapsible crab traps, a trap used for taking crabs with the largest open dimension no larger than 18 inches and that by design is collapsed at all times when in the water, except when it is being retrieved from or lowered to the bottom;
 - (C) Spears, Hawaiian slings or similar devices which propel pointed implements by mechanical means, including elastic tubing or bands, pressurized gas or similar means;
 - (D) A dip net having a handle not more than eight feet in length and a hoop or frame to which the net is attached not exceeding 60 inches along the perimeter;
 - (E) Hook-and-line and bait-and-line equipment other than multiple-hook or multiple-bait trotline;

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

or more species of submerged vegetation such as eelgrass (*Zostera marina*), shoalgrass (*Halodule wrightii*) and widgeongrass (*Ruppia maritima*). These vegetation beds occur in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In either case, the bed is defined by the presence of above-ground leaves or the below-ground rhizomes and propagules together with the sediment on which the plants grow. In defining beds of submerged aquatic vegetation, the Marine Fisheries Commission recognizes the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et. seq.) and does not intend the submerged aquatic vegetation definition, or rules 15A NCAC 03K .0304, .0404 and 03I .0101, to apply to or conflict with the non-development control activities authorized by that Act.

- (B) Shellfish producing habitats are those areas in which shellfish, such as clams, oysters, scallops, mussels, and whelks, whether historically or currently, reproduce and survive because of such favorable conditions as bottom type, salinity, currents, cover, and cultch. Included are those shellfish producing areas closed to shellfish harvest due to pollution.
- (C) Anadromous fish spawning areas are those areas where evidence of spawning of anadromous fish has been documented by direct observation of spawning, capture of running ripe females, or capture of eggs or early larvae.
- (D) Anadromous fish nursery areas are those areas in the riverine and estuarine systems utilized by post-larval and later juvenile anadromous fish.
- (E) Nursery areas are those areas in which for reasons such as food, cover, bottom type, salinity, temperature and other factors, young finfish and crustaceans spend the major portion of their initial growing season. Primary nursery areas are those areas in the estuarine system where initial post-larval development takes place. These are areas where populations are uniformly early juveniles. Secondary nursery areas are those areas in the estuarine system

where later juvenile development takes place. Populations are composed of developing sub-adults of similar size which have migrated from an upstream primary nursery area to the secondary nursery area located in the middle portion of the estuarine system.

- (F) Strategic Habitat Areas are specific locations of individual fish habitats or systems of habitats that have been identified to provide exceptional habitat functions or that are particularly at risk due to imminent threats, vulnerability, or rarity.
- (21) Intertidal Oyster Bed. A formation, regardless of size or shape, formed of shell and live oysters of varying density.
- (22) North Carolina Trip Ticket. Multiple-part form provided by the Department to fish dealers who are required to record and report transactions on such forms.
- (23) Transaction. Act of doing business such that fish are sold, offered for sale, exchanged, bartered, distributed or landed. The point of landing shall be considered a transaction when the fisherman is the fish dealer.
- (24) Live rock. Living marine organisms or an assemblage thereof attached to a hard substrate including dead coral or rock (excluding mollusk shells). For example, such living marine organisms associated with hard bottoms, banks, reefs, and live rock may include:
 - (A) Animals:
 - (i) Sponges (Phylum Porifera);
 - (ii) Hard and Soft Corals, Sea Anemones (Phylum Cnidaria):
 - (I) Fire corals (Class Hydrozoa);
 - (II) Gorgonians, whip corals, sea pansies, anemones, Solenastrea (Class Anthozoa);
 - (iii) Bryozoans (Phylum Bryozoa);
 - (iv) Tube Worms (Phylum Annelida):
 - (I) Fan worms (Sabellidae);
 - (II) Feather duster and Christmas tree worms (Serpulidae);
 - (III) Sand castle worms (Sabellariidae).

- (v) Mussel banks (Phylum Mollusca:Gastropoda);
 - (vi) Colonial barnacles (Arthropoda: Crustacea: Megabalanus sp.).
- (B) Plants:
 - (i) Coralline algae (Division Rhodophyta);
 - (ii) Acetabularia sp., Udotea sp., Halimeda sp., Caulerpa sp. (Division Chlorophyta);
 - (iii) Sargassum sp., Dictyopteris sp., Zonaria sp. (Division Phaeophyta).
- (25) Coral:
 - (A) Fire corals and hydrocorals (Class Hydrozoa);
 - (B) Stony corals and black corals (Class Anthozoa, Subclass Scleractinia);
 - (C) Octocorals; Gorgonian corals (Class Anthozoa, Subclass Octocorallia):
 - (i) Sea fans (Gorgonia sp.);
 - (ii) Sea whips (Leptogorgia sp. and Lophogorgia sp.);
 - (iii) Sea pansies (Renilla sp.).
- (26) Shellfish production on leases and franchises:
 - (A) The culture of oysters, clams, scallops, and mussels, on shellfish leases and franchises from a sublegal harvest size to a marketable size.
 - (B) The transplanting (relay) of oysters, clams, scallops and mussels from designated areas closed due to pollution to shellfish leases and franchises in open waters and the natural cleansing of those shellfish.
- (27) Shellfish marketing from leases and franchises. The harvest of oysters, clams, scallops, mussels, from privately held shellfish bottoms and lawful sale of those shellfish to the public at large or to a licensed shellfish dealer.
- (28) Shellfish planting effort on leases and franchises. The process of obtaining authorized cultch materials, seed shellfish, and polluted shellfish stocks and the placement of those materials on privately held shellfish bottoms for increased shellfish production.
- (29) Pound Net Set. A fish trap consisting of a holding pen, one or more enclosures, lead or leaders, and stakes or anchors used to support the trap. The lead(s), enclosures, and holding pen are not conical, nor are they supported by hoops or frames.
- (30) Educational Institution. A college, university or community college accredited by an accrediting agency recognized by the U.S. Department of Education.
- (31) Long Haul Operations. A seine towed between two boats.
- (32) Swipe Net Operations. A seine towed by one boat.
- (33) Bunt Net. The last encircling net of a long haul or swipe net operation constructed of small mesh webbing. The bunt net is used to form a pen or pound from which the catch is dipped or bailed.
- (34) Responsible party. Person who coordinates, supervises or otherwise directs operations of a business entity, such as a corporate officer or executive level supervisor of business operations and the person responsible for use of the issued license in compliance with applicable laws and regulations.
- (35) New fish dealer. Any fish dealer making application for a fish dealer license who did not possess a valid dealer license for the previous license year in that name or ocean pier license in that name on June 30, 1999. For purposes of license issuance, adding new categories to an existing fish dealers license does not constitute a new dealer.
- (36) Tournament Organizer. The person who coordinates, supervises or otherwise directs a recreational fishing tournament and is the holder of the Recreational Fishing Tournament License.
- (37) Holder. A person who has been lawfully issued in their name a license, permit, franchise, lease, or assignment.
- (38) Recreational Purpose. A fishing activity that is not a commercial fishing operation as defined in G.S. 113-168.
- (39) Recreational Possession Limit. Includes restrictions on size, quantity, season, time period, area, means, and methods where take or possession is for a recreational purpose.
- (40) Attended. Being in a vessel, in the water or on the shore immediately adjacent to the gear and immediately available to work the gear and within 100 yards of any gear in use by that person at all times. Attended does not include being in a building or structure.
- (41) Commercial Quota. Total quantity of fish allocated for harvest taken by commercial fishing operations.
- (42) Recreational Quota. Total quantity of fish allocated for harvest taken for a recreational purpose.
- (43) Office of the Division. Physical locations of the Division conducting license transactions in the cities of Wilmington, Washington, Morehead City, Columbia, Wanchese and Elizabeth City, North Carolina. Other businesses or entities designated by the Secretary to issue Recreational Commercial

- Gear Licenses are not considered Offices of the Division.
- (44) Land:
- (A) For purposes of trip tickets, when fish reach a licensed seafood dealer, or where the fisherman is the dealer, when the fish reaches the shore or a structure connected to the shore.
- (B) For commercial fishing operations, when fish reach the shore or a structure connected to the shore.
- (C) For recreational fishing operations, when fish are retained in possession by the fisherman.
- (45) Master. Captain of a vessel or one who commands and has control, authority, or power over a vessel.
- (46) Regular Closed Oyster Season. May 15 through October 15, unless amended by the Fisheries Director through proclamation authority.
- (47) Assignment. Temporary transferal to another person of privileges under a license for which assignment is permitted. The person assigning the license delegates the privileges permitted under the license to be exercised by the assignee, but retains the power to revoke the assignment at any time, is still the responsible party for the license.
- (48) Transfer. Permanent transferal to another person of privileges under a license for which transfer is permitted. The person transferring the license retains no rights or interest under the license transferred.
- (49) Designee. Any person who is under the direct control of the permittee or who is employed by or under contract to the permittee for the purposes authorized by the permit.
- (50) Blue Crab Shedding. The process whereby a blue crab emerges soft from its former hard exoskeleton. A shedding operation is any operation that holds peeler crabs in a controlled environment. A controlled environment provides and maintains throughout the shedding process one or more of the following:
- (A) predator protection,
- (B) food,
- (C) water circulation,
- (D) salinity, or
- (E) temperature controls utilizing proven technology not found in the natural environment.
- A shedding operation does not include transporting pink or red-line peeler crabs to a permitted shedding operation.
- (51) Fyke Net. An entrapment net supported by a series of internal or external hoops or frames, with one or more lead or leaders that guide

fish to the net mouth. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).

- (52) Hoop Net. An entrapment net supported by a series of internal or external hoops or frames. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap the fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
- (53) For Hire Vessel. As defined by G.S. 113-174 when the vessel is fishing in state waters or when the vessel originates from or returns to a North Carolina port.

History Note: Authority G.S. 113-134; 113-174; 143B-289.52;

Eff. January 1, 1991;

Amended Eff. March 1, 1995; March 1, 1994; October 1, 1993; July 1, 1993;

Recodified from 15A NCAC 03I .0001 Eff. December 17, 1996;

Amended Eff. April 1, 1999; August 1, 1998; April 1, 1997;

Temporary Amendment Eff. May 1, 2000; August 1, 1999; July 1, 1999;

Amended Eff. August 1, 2000;

Temporary Amendment Eff. August 1, 2000;

Amended Eff. December 1, 2007; December 1, 2006; September 1, 2005; April 1, 2003; April 1, 2001.

15A NCAC 03J .0103 GILL NETS, SEINES, IDENTIFICATION, RESTRICTIONS

(a) It is unlawful to use gill nets:

- (1) With a mesh length less than 2 ½ inches.
- (2) In internal waters from April 15 through December 15, with a mesh length 5 inches or greater and less than 5 ½ inches.

(b) The Fisheries Director may, by proclamation, limit or prohibit the use of gill nets or seines in coastal waters, or any portion thereof, or impose any or all of the following restrictions on the use of gill nets or seines:

- (1) Specify area.
- (2) Specify season.
- (3) Specify gill net mesh length.
- (4) Specify means/methods.
- (5) Specify net number and length.

(c) It is unlawful to use fixed or stationary gill nets in the Atlantic Ocean, drift gill nets in the Atlantic Ocean for recreational purposes, or any gill nets in internal waters unless nets are marked by attaching to them at each end two separate yellow buoys which shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than

five inches in length. Gill nets, which are not connected together at the top line, are considered as individual nets, requiring two buoys at each end of each individual net. Gill nets connected together at the top line are considered as a continuous net requiring two buoys at each end of the continuous net. Any other marking buoys on gill nets used for recreational purposes shall be yellow except one additional buoy, any shade of hot pink in color, constructed as specified in this Paragraph, shall be added at each end of each individual net. Any other marking buoys on gill nets used in commercial fishing operations shall be yellow except that one additional identification buoy of any color or any combination of colors, except any shade of hot pink, may be used at either or both ends. The owner shall be identified on a buoy on each end either by using engraved buoys or by attaching engraved metal or plastic tags to the buoys. Such identification shall include owner's last name and initials and if a vessel is used, one of the following:

- (1) Owner's N.C. motor boat registration number, or
 - (2) Owner's U.S. vessel documentation name.
- (d) It is unlawful to use gill nets:
- (1) Within 200 yards of any pound net set with lead and either pound or heart in use, except from August 15 through December 31 in all coastal fishing waters of the Albemarle Sound, including its tributaries to the boundaries between coastal and joint fishing waters, west of a line beginning at a point 36° 04.5184' N - 75° 47.9095' W on Powell Point; running southerly to a point 35° 57.2681' N - 75° 48.3999' W on Caroon Point, it is unlawful to use gill nets within 500 yards of any pound net set with lead and either pound or heart in use;
 - (2) From March 1 through October 31 in the Intracoastal Waterway within 150 yards of any railroad or highway bridge.
- (e) It is unlawful to use gill nets within 100 feet either side of the center line of the Intracoastal Waterway Channel south of the entrance to the Alligator-Pungo River Canal near Beacon "54" in Alligator River to the South Carolina line, unless such net is used in accordance with the following conditions:
- (1) No more than two gill nets per vessel may be used at any one time;
 - (2) Any net used must be attended by the fisherman from a vessel who shall at no time be more than 100 yards from either net; and
 - (3) Any individual setting such nets shall remove them, when necessary, in sufficient time to permit unrestricted boat navigation.
- (f) It is unlawful to use drift gill nets in violation of 15A NCAC 03J .0101(2) and Paragraph (e) of this Rule.
- (g) It is unlawful to use unattended gill nets with a mesh length less than five inches in a commercial fishing operation in the gill net attended areas designated in 15A NCAC 03R .0112(a).
- (h) It is unlawful to use unattended gill nets with a mesh length less than five inches in a commercial fishing operation from May 1 through October 31 in the internal coastal and joint waters of the state designated in 15A NCAC 03R .0112(b).

(i) It is unlawful to use more than 3,000 yards of gill net with a mesh length 5 1/2 inches or greater per vessel in internal waters regardless of the number of individuals involved.

History Note: Authority G.S. 113-134; 113-173; 113-182; 113-221; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. August 1, 1998; March 1, 1996; March 1, 1994; July 1, 1993; September 1, 1991;
Temporary Amendment Eff. October 2, 1999; July 1, 1999; October 22, 1998;
Amended Eff. April 1, 2001;
Temporary Amendment Eff. May 1, 2001;
Amended Eff. December 1, 2007; September 1, 2005; August 1, 2004; August 1, 2002.

15A NCAC 03J .0107 POUND NET SETS

(a) All initial, renewal or transfer applications for Pound Net Set Permits, and the operation of such pound net sets, shall comply with the general rules governing all permits as provided in 15A NCAC 03O .0502. The procedures and requirements for obtaining permits are set forth in 15A NCAC 03O .0501.

(b) It is unlawful to hold a Pound Net Set Permit in coastal fishing waters without the permittee's identification being legibly printed on a sign no less than six inches square, securely attached to a stake at the permitted ends of each set at all times. For pound net sets in the Atlantic Ocean using anchors instead of stakes, the set shall be identified with a yellow buoy, which shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than 11 inches in length. The permittee's identification shall be legibly printed on the buoy. Such identification on signs or buoys shall include the Pound Net Set Permit number and the permittee's last name and initials.

(c) It is unlawful to use a pound net set, or any part thereof, except for one location identification stake or identification buoy for a pound net used in the Atlantic Ocean at each end of a proposed new location, without first obtaining a Pound Net Set Permit from the Fisheries Director. The applicant shall indicate on a base map provided by the Division the proposed set including an inset vicinity map showing the location of the proposed set with detail sufficient to permit on-site identification and location. The applicant shall specify the type(s) of pound net set(s) requested and possess proper valid license(s) and permit(s) necessary to fish those type(s) of net. A pound net set is deemed a flounder pound net set when the catch consists of 50 percent or more flounder by weight of the entire landed catch, excluding blue crabs. The type "other finfish pound net set" is for sciaenid (Atlantic croaker, red drum, weakfish, spotted sea trout, spot, for example) and other finfish, except flounder, herring, or shad, taken for human consumption. Following are the type(s) of pound net fisheries that may be specified:

- (1) Flounder pound net set;
- (2) Herring/shad pound net set;
- (3) Bait pound net set;
- (4) Shrimp pound net set;
- (5) Blue crab pound net set;
- (6) Other finfish pound net set.

(d) For proposed new location(s), the Fisheries Director shall issue a public notice of intent to consider issuance of a Pound

Net Set Permit allowing for public comment for 20 days, and after the comment period, may hold public meetings to take comments on the proposed pound net set. If the Director does not approve or deny the application within 90 days of receipt of a complete and verified application, the application is deemed denied. The applicant shall be notified of denial in writing. For new locations, transfers and renewals, the Fisheries Director may deny the permit application if the Director determines that granting the permit is inconsistent with one or more of the following permitting criteria, as determined by the Fisheries Director:

- (1) The application shall be in the name of an individual and shall not be granted to a corporation, partnership, organization or other entity;
- (2) The proposed pound net set, either alone or when considered cumulatively with other existing pound net sets in the area, shall not interfere with public navigation or with existing, traditional uses of the area other than navigation, and shall not violate 15A NCAC 03J.0101 and .0102;
- (3) The proposed pound net set shall not interfere with the rights of any riparian or littoral landowner, including the construction or use of piers;
- (4) The proposed pound net set shall not, by its proximate location, interfere with existing pound net sets in the area. Except in Chowan River as referenced in 15A NCAC 03J .0203, proposed new pound net set locations shall be a minimum of 1,000 yards as measured in a perpendicular direction from any point on a line following the permitted location of existing pound net sets;
- (5) The applicant has in the past complied with fisheries rules and laws and does not have any licenses or privileges under suspension or revocation. In addition, a history of habitual fisheries violations evidenced by eight or more convictions in ten years shall be grounds for denial of a Pound Net Set Permit;
- (6) The proposed pound net set is in the public interest;
- (7) The operation of the proposed pound net set is in compliance with management measures adopted in fishery management plans; and
- (8) The applicant has in the past complied with all permit conditions, rules and laws related to pound nets.

Approval is conditional based upon the applicant's continuing compliance with specific conditions contained on the Pound Net Set Permit and the conditions set out in Subparagraphs (1) through (8) of this Paragraph. The final decision to approve or deny the Pound Net Set Permit application may be appealed by the applicant by filing a petition for a contested case hearing, in writing, within 60 days from the date of mailing notice of such final decision to the applicant, with the Office of Administrative Hearings.

(e) An application for renewal of an existing Pound Net Set Permit shall be filed not less than 30 days prior to the date of expiration of the existing permit, and shall not be processed unless filed by the permittee. The Fisheries Director shall review the renewal application under the criteria for issuance of a new Pound Net Set Permit, except that pound net sets approved prior to January 1, 2003 do not have to meet the 1,000 yard minimum distance requirement specified in Subparagraph (d)(4) of this Rule. The Fisheries Director may hold public meetings and may conduct such investigations necessary to determine if the permit should be renewed.

(f) A Pound Net Set Permit, whether a new or renewal permit, shall expire one year from the date of issuance. The expiration date shall be stated on the permit.

(g) Except for herring/shad pound net sets in the Chowan River, it is unlawful to fail to have a pound net set operational for a minimum of 30 consecutive days during the permit period unless a season for the fishery for which the pound net set is permitted is ended earlier due to a quota being met. For purposes of this Rule, operational means with net attached to stakes or anchors for the lead and pound, including only a single pound in a multi-pound set, and a non-restricted opening leading into the pound such that the set is able to catch and hold fish. The permittee, including permittees of operational herring/shad pound net sets in the Chowan River, shall notify the Marine Patrol Communications Center by phone within 72 hours after the pound net set is operational. Notification shall include name of permittee, Pound Net Set Permit number, county where located, a specific location site, and how many pounds are in the set. It is unlawful to fail to notify the Marine Patrol Communications Center within 72 hours after the pound net set is operational or to make false notification when said pound net set is not operational. Failure to comply with this Paragraph shall be grounds for the Fisheries Director to revoke any and all Pound Net Set Permits held by the permittee and for denial of any future applications for Pound Net Set Permits.

(h) It is unlawful to transfer a Pound Net Set Permit without a completed application for transfer being submitted to the Division not less than 45 days before the date of the transfer. Such application shall be made by the proposed new permittee in writing and shall be accompanied by a copy of the current permittee's permit and an application for a Pound Net Set Permit in the new permittee's name. The Fisheries Director may hold a public meeting and conduct such investigations necessary to determine if the permit should be transferred. The transferred permit expires on the same date as the initial permit. Upon death of the permittee, the permit may be transferred to the Administrator/Executor of the estate of the permittee if transferred within six months of the Administrator/Executor's qualification in accordance with Chapter 28A of the North Carolina General Statutes. The Administrator/Executor shall provide a copy of the deceased permittee's death certificate, a copy of letters of administration/letters testamentary and a list of eligible immediate family members as defined in G.S. 113-168 to the Morehead City Office of the Division. Once transferred to the Administrator/Executor, the Administrator/Executor may transfer the permit(s) to eligible immediate family members of the deceased permittee. No transfer is effective until approved and processed by the Division.

(i) Every pound net set in coastal fishing waters shall have yellow light reflective tape or yellow light reflective devices on each pound. The yellow light reflective tape or yellow light reflective devices shall be affixed to a stake of at least three inches in diameter on any outside corner of each pound, shall cover a vertical distance of not less than 12 inches, and shall be visible from all directions. In addition, every pound net set shall have a marked navigational opening at least 25 feet wide at the end of every third pound. Such opening shall be marked with yellow light reflective tape or yellow light reflective devices on each side of the opening. The yellow light reflective tape or yellow light reflective devices shall be affixed to a stake of at least three inches in diameter, shall cover a vertical distance of not less than 12 inches, and shall be visible from all directions. If a permittee notified of a violation under this Paragraph fails or refuses to take corrective action sufficient to remedy the violation within 10 days of receiving notice of the violation, the Fisheries Director shall revoke the permit.

(j) In Core Sound, it is unlawful to use a pound net set in the pound net set prohibited areas designated in 15A NCAC 03R .0113 except that only those Pound Net Set Permits valid within the specified area as of March 1, 1994, may be renewed or transferred subject to the requirements of this Rule.

(k) Escape Panels:

(1) The Fisheries Director may, by proclamation, require escape panels in pound net sets and may impose any or all of the following requirements or restrictions on the use of escape panels:

- (A) Specify size, number, and location.
- (B) Specify mesh length, but not more than six inches.
- (C) Specify time or season.
- (D) Specify areas.

(2) It is unlawful to use flounder pound net sets without four unobstructed escape panels in each pound. The escape panels shall be fastened to the bottom and corner ropes on each wall on the side and back of the pound opposite the heart. The escape panels shall be a minimum mesh size of five and one-half inches, hung on the diamond, and shall be at least six meshes high and eight meshes long.

(l) Pound net sets shall be subject to inspection at all times.

(m) Daily reporting may be a condition of the permit for a pound net set for fisheries under a quota.

(n) It is unlawful to fail to remove all pound net stakes and associated gear within 30 days after expiration of the permit or notice by the Fisheries Director that an existing Pound Net Set Permit has been revoked or denied.

(o) It is unlawful to abandon an existing pound net set without completely removing from the coastal fishing waters all stakes and associated gear within 30 days.

History Note: Authority G.S. 113-134; 113-182; 113-182.1; 113-221; 143B-289.52; Eff. January 1, 1991; Amended Eff. April 1, 1999; March 1, 1996; March 1, 1994; September 1, 1991; January 1, 1991;

Temporary Amendment Eff. September 1, 2000; August 1, 2000; Amended Eff. August 1, 2002; April 1, 2001; Temporary Amendment Eff. February 10, 2003; Amended Eff. December 1, 2007; September 1, 2005; August 1, 2004.

15A NCAC 03J .0209 ALBEMARLE SOUND/CHOWAN RIVER HERRING MANAGEMENT AREAS

(a) The Albemarle Sound Herring Management Area is defined as Albemarle Sound and all its joint water tributaries; Currituck Sound; Roanoke and Croatan sounds and all their joint water tributaries, including Oregon Inlet, north of a line beginning on the west shore at a point 35° 48.3693' N – 75° 43.7232' W on Roanoke Marshes Point; running southeasterly to the east shore to a point 35° 44.1710' N – 75° 31.0520' W on the north point of Eagles Nest Bay.

(b) The Chowan River Herring Management Area is defined as that area northwest of a line beginning on the west shore at a point 35° 59.9267' N – 76° 41.0313' W on Black Walnut Point; running northeasterly to the east shore to a point 36° 02.2140' N – 76° 39.3240' W on Reedy Point, to the North Carolina/Virginia state line; including the Meherrin River.

(c) Effective January 1, 2001, it is unlawful to use drift gill nets in the Albemarle Sound and Chowan River river herring management areas with a mesh length less than three inches from January 1 through May 15.

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

Temporary Adoption Eff. May 1, 2000; Eff. April 1, 2001;

Amended Eff. December 1, 2007.

15A NCAC 03M .0205 PROHIBITED TRAWLING

(a) It is unlawful to possess striped bass on a vessel with a trawl net on that vessel in internal coastal waters except during transit from ocean fishing grounds to port during any open striped bass trawl season in the Atlantic Ocean established by proclamation. Striped bass so possessed must meet the minimum size limit set by proclamation.

(b) It is unlawful to possess striped bass on a vessel in the Atlantic Ocean with a trawl net on that vessel except during any open striped bass trawl season in the Atlantic Ocean established by proclamation.

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

Eff. January 1, 1991;

Amended Eff. December 1, 2007.

15A NCAC 03M .0513 RIVER HERRING AND SHAD

(a) It is unlawful to possess river herring taken from coastal fishing waters unless the season is open.

(b) The take of river herring shall be set forth in the North Carolina River Herring Fishery Management Plan for implementation under Paragraph (c) of this Rule.

(c) The Fisheries Director may, by proclamation, based on variability in environmental and local stock conditions, take any or all of the following actions in the commercial and recreational

blueback herring, alewife, American shad and hickory shad fisheries:

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

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

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

History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;
Eff. March 1, 1995;
Amended Eff. August 1, 1998;
Temporary Amendment Eff. May 1, 2000; August 1, 1999; July 1, 1999; March 1, 1999;
Amended Eff. December 1, 2007; April 1, 2001.

15A NCAC 03N .0101 SCOPE AND PURPOSE

To establish and protect those fragile estuarine and marine areas which support juvenile and adult populations of economically important fish species, as well as forage fish utilized in the food chain, the rules in this Subchapter set forth permanent fish habitat areas in all coastal fishing waters as defined through extensive estuarine and marine survey sampling conducted by the Division.

History Note: Authority G.S. 113-134; 113-182; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. December 1, 2007.

15A NCAC 03N .0102 NURSERY AREAS DEFINED

History Note: Authority G.S. 113-134; 113-182; 143B-289.52;
Eff. January 1, 1991;
Repealed Eff. December 1, 2007.

15A NCAC 03N .0103 NURSERY AREA BOUNDARIES

(a) Primary and secondary nursery areas are defined in 15A NCAC 03I .0101 and designated in 15A NCAC 03R .0103, .0104, and .0105.

(b) Unless otherwise specified by the rule, primary nursery areas described in 15A NCAC 03R .0103 encompass all waters from the described line in the direction indicated in rule up to the headwaters of the waterbody or Inland-Coastal boundary lines, whichever area is first encountered.

(c) Unless otherwise specified by the rule, permanent and special secondary nursery areas designated in 15A NCAC 03R .0104 and .0105 encompass all waters from the described line in the direction indicated in rule up to the primary nursery area

lines, Inland-Coastal boundary lines or the headwaters of the waterbody, whichever area is first encountered.

History Note: Authority G.S. 113-134; 113-182; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. September 1, 1991;
Recodified from 15A NCAC 03N .0003 Eff. May 1, 1997;
Amended Eff. December 1, 2007; August 1, 2004; May 1, 1997.

15A NCAC 03N .0106 ANADROMOUS FISH SPAWNING AREA BOUNDARIES

(a) Anadromous fish spawning areas are defined in 15A NCAC 03I .0101 and designated in 15A NCAC 03R .0115.

(b) Anadromous fish spawning areas described in 15A NCAC 03R .0115 encompass all waters, including tributaries from the described line in the direction indicated in Rule up to the headwaters of the waterbody or Inland-Coastal boundary lines, whichever area is first encountered and except when:

- (1) otherwise specified by 15A NCAC 03R .0115; or
- (2) the waterbody is impassable to fish migration due to manmade obstructions such as dams and causeways.

History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;
Eff. December 1, 2007.

15A NCAC 03O .0501 PROCEDURES AND REQUIREMENTS TO OBTAIN PERMITS

(a) To obtain any Marine Fisheries permit, the following information is required for proper application from the applicant, a responsible party or person holding a power of attorney:

- (1) Full name, physical address, mailing address, date of birth, and signature of the applicant on the application. If the applicant is not appearing before a license agent or the designated Division contact, the applicant's signature on the application shall be notarized;
- (2) Current picture identification of applicant, responsible party and, when applicable, person holding a power of attorney; acceptable forms of picture identification are driver's license, current North Carolina Identification card issued by the North Carolina Division of Motor Vehicles, military identification card, resident alien card (green card) or passport or if applying by mail, a copy thereof;
- (3) Full names and dates of birth of designees of the applicant who shall be acting under the requested permit where that type permit requires listing of designees;
- (4) Certification that the applicant and his designees do not have four or more marine or estuarine resource convictions during the previous three years;
- (5) For permit applications from business entities, the following documentation is required:

- (A) Business Name;
 - (B) Type of Business Entity: Corporation, partnership, or sole proprietorship;
 - (C) Name, address and phone number of responsible party and other identifying information required by this Subchapter or rules related to a specific permit;
 - (D) For a corporation, current articles of incorporation and a current list of corporate officers when applying for a permit in a corporate name;
 - (E) For a partnership, if the partnership is established by a written partnership agreement, a current copy of such agreement shall be provided when applying for a permit;
 - (F) For business entities, other than corporations, copies of current assumed name statements if filed and copies of current business privilege tax certificates, if applicable.
- (6) Additional information as required for specific permits.
- (b) A permittee shall hold a valid Standard or Retired Standard Commercial Fishing License in order to hold a:
- (1) Pound Net Permit;
 - (2) Permit to Waive the Requirement to Use Turtle Excluder Devices in the Atlantic Ocean; or
 - (3) Atlantic Ocean Striped Bass Commercial Gear Permit.
- (c) A permittee and his designees shall hold a valid Standard or Retired Standard Commercial Fishing License with a Shellfish Endorsement or a Shellfish License in order to hold a:
- (1) Permit to Transplant (Prohibited) Polluted Shellfish;
 - (2) Permit to Transplant Oysters from Seed Management Areas;
 - (3) Permit to Use Mechanical Methods for Oysters or Clams on Shellfish Leases or Franchises;
 - (4) Permit to Harvest Rangia Clams from Prohibited (Polluted) Areas; or
 - (5) Depuration Permit.
- (d) A permittee shall hold a valid:
- (1) Fish Dealer License in the proper category in order to hold Dealer Permits for Monitoring Fisheries Under a Quota/Allocation for that category; and
 - (2) Standard Commercial Fishing License with a Shellfish Endorsement, Retired Standard Commercial Fishing License with a Shellfish Endorsement or a Shellfish License in order to harvest clams or oysters for depuration.
- (e) Aquaculture Operations/Collection Permits:
- (1) A permittee shall hold a valid Aquaculture Operation Permit issued by the Fisheries Director to hold an Aquaculture Collection Permit.
 - (2) The permittee or designees shall hold appropriate licenses from the Division of Marine Fisheries for the species harvested and the gear used under the Aquaculture Collection Permit.
- (f) Atlantic Ocean Striped Bass Commercial Gear Permit:
- (1) Application for an Atlantic Ocean Striped Bass Commercial Gear Permit must be made prior to November 1 of each year. A person shall declare one of the following gears for an initial Atlantic Ocean Striped Bass Commercial Gear Permit and at intervals of three consecutive license years thereafter:
 - (A) gill net;
 - (B) trawl; or
 - (C) beach seine.

For the purpose of this Rule, a beach seine is defined as a swipe net constructed of multi-filament or multi-fiber webbing fished from the ocean beach that is deployed from a vessel launched from the ocean beach where the fishing operation takes place.

Gear declarations are binding on the permittee for three consecutive license years without regard to subsequent annual permit issuance.
 - (2) A person is not eligible for more than one Atlantic Ocean Striped Bass Commercial Gear Permit regardless of the number of Standard Commercial Fishing Licenses, Retired Standard Commercial Fishing Licenses or assignments held by the person.
 - (3) The annual, nonrefundable permit fee is ten dollars (\$10.00).
- (g) Applications submitted without complete and required information shall not be processed until all required information has been submitted. Incomplete applications shall be returned to the applicant with deficiency in the application so noted.
- (h) A permit shall be issued only after the application has been deemed complete by the Division of Marine Fisheries and the applicant certifies to fully abide by the permit general and specific conditions established under 15A NCAC 03J .0107, 03K .0103, 03K .0104, 03K .0107, 03K .0206, 03K .0303, 03K .0401, 03O .0502, and 03O .0503 as applicable to the requested permit.
- (i) The Fisheries Director, or his agent may evaluate the following in determining whether to issue, modify or renew a permit:
- (1) Potential threats to public health or marine and estuarine resources regulated by the Marine Fisheries Commission;
 - (2) Applicant's demonstration of a valid justification for the permit and a showing of responsibility as determined by the Fisheries Director;
 - (3) Applicant's history of habitual fisheries violations evidenced by eight or more violations in 10 years.
- (j) The applicant shall be notified in writing of the denial or modification of any permit request and the reasons therefor. The

applicant may submit further information, or reasons why the permit should not be denied or modified.

(k) Permits are valid from the date of issuance through the expiration date printed on the permit. Unless otherwise established by rule, the Fisheries Director may establish the issuance timeframe for specific types and categories of permits based on season, calendar year, or other period based upon the nature of the activity permitted, the duration of the activity, compliance with federal or state fishery management plans or implementing rules, conflicts with other fisheries or gear usage, or seasons for the species involved. The expiration date shall be specified on the permit.

(l) To renew a permit, the permittee shall file a certification that the information in the original application is still valid, or a statement of all changes in the original application and any additional information required by the Division of Marine Fisheries.

(m) For initial or renewal permits, processing time for permits may be up to 30 days unless otherwise specified in this Chapter.

(n) It is unlawful for a permit holder to fail to notify the Division of Marine Fisheries within 30 days of a change of name or address.

(o) It is unlawful for a permit holder to fail to notify the Division of Marine Fisheries of a change of designee prior to use of the permit by that designee.

(p) Permit applications shall be available at all Division Offices.

History Note: Authority G.S. 113-134; 113-169.1; 113-169.3; 113-182; 113-210; 143B-289.52;

Temporary Adoption Eff. September 1, 2000; May 1, 2000; Eff. April 1, 2001;

Temporary Amendment Eff. October 1, 2001;

Amended Eff. December 1, 2007; September 1, 2005; April 1, 2003; August 1, 2002.

15A NCAC 03O .0503 PERMIT CONDITIONS; SPECIFIC

(a) Horseshoe Crab Biomedical Use Permit:

- (1) It is unlawful to use horseshoe crabs for biomedical purposes without first obtaining a permit.
- (2) It is unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to submit a report on the use of horseshoe crabs to the Division of Marine Fisheries due on February 1 of each year. Such reports shall be filed on forms provided by the Division and shall include a monthly account of the number of crabs harvested, statement of percent mortality up to the point of release, and a certification that harvested horseshoe crabs are solely used by the biomedical facility and not for other purposes.
- (3) It is unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to comply with the Atlantic States Marine Fisheries Commission Horseshoe Crab Fisheries Management Plan monitoring and tagging requirements for

horseshoe crabs. Copies of this plan are available from the Atlantic States Marine Fisheries Commission, 1444 Eye Street, NW, 6th Floor, Washington, DC 20005, (202) 289-6400, or the Division of Marine Fisheries' Morehead City Office.

(b) Dealers Permits for Monitoring Fisheries under a Quota/Allocation:

(1) During the commercial season opened by proclamation or rule for the fishery for which a Dealers Permit for Monitoring Fisheries under a Quota/Allocation permit is issued, it is unlawful for fish dealers issued such permit to fail to:

- (A) Fax or send via electronic mail by noon daily, on forms provided by the Division, the previous day's landings for the permitted fishery to the dealer contact designated on the permit. Landings for Fridays or Saturdays shall be submitted on the following Monday. If the dealer is unable to fax or electronic mail the required information, the permittee shall call in the previous day's landings to the dealer contact designated on the permit but shall maintain a log furnished by the Division;
- (B) Submit the required log to the Division upon request or no later than five days after the close of the season for the fishery permitted;
- (C) Maintain faxes and other related documentation in accordance with 15A NCAC 03I .0114;
- (D) Contact the dealer contact daily regardless of whether or not a transaction for the fishery for which a dealer is permitted occurred;
- (E) Record the permanent dealer identification number on the bill of lading or receipt for each transaction or shipment from the permitted fishery.

(2) Striped Bass Dealer Permit:

- (A) It is unlawful for a fish dealer to possess, buy, sell or offer for sale striped bass taken from the following areas without first obtaining a Striped Bass Dealer Permit validated for the applicable harvest area:
 - (i) Atlantic Ocean;
 - (ii) Albemarle Sound Management Area as designated in 15A NCAC 03R .0201; and
 - (iii) The joint and coastal fishing waters of the Central/Southern

Management Area as designated in 15A NCAC 03R .0201.

- (B) No permittee shall possess, buy, sell or offer for sale striped bass taken from the harvest areas opened by proclamation without having a North Carolina Division of Marine Fisheries issued valid tag for the applicable area affixed through the mouth and gill cover, or, in the case of striped bass imported from other states, a similar tag that is issued for striped bass in the state of origin. North Carolina Division of Marine Fisheries striped bass tags shall not be bought, sold, offered for sale, or transferred. Tags shall be obtained at the North Carolina Division of Marine Fisheries Offices. The Division of Marine Fisheries shall specify the quantity of tags to be issued based on historical striped bass landings. It is unlawful for the permittee to fail to surrender unused tags to the Division upon request.

- (3) Albemarle Sound Management Area for River Herring Dealer Permit: It is unlawful to possess, buy, sell or offer for sale river herring taken from the following area without first obtaining an Albemarle Sound Management Area for River Herring Dealer Permit: Albemarle Sound Management Area for River Herring is defined in 15A NCAC 03J .0209.

- (4) Atlantic Ocean Flounder Dealer Permit:

- (A) It is unlawful for a Fish Dealer to allow vessels holding a valid License to Land Flounder from the Atlantic Ocean to land more than 100 pounds of flounder from a single transaction at their licensed location during the open season without first obtaining an Atlantic Ocean Flounder Dealer Permit. The licensed location shall be specified on the Atlantic Ocean Flounder Dealer Permit and only one location per permit shall be allowed.

- (B) It is unlawful for a Fish Dealer to possess, buy, sell, or offer for sale more than 100 pounds of flounder from a single transaction from the Atlantic Ocean without first obtaining an Atlantic Ocean Flounder Dealer Permit.

- (c) Blue Crab Shedding Permit: It is unlawful to possess more than 50 blue crabs in a shedding operation without first obtaining a Blue Crab Shedding Permit from the Division of Marine Fisheries.

(d) Permit to Waive the Requirement to Use Turtle Excluder Devices in the Atlantic Ocean:

- (1) It is unlawful to trawl for shrimp in the Atlantic Ocean without Turtle Excluder Devices installed in trawls within one nautical mile of the shore from Browns Inlet (34° 35.7000' N latitude) to Rich's Inlet (34° 17.6000' N latitude) without a valid Permit to Waive the Requirement to Use Turtle Excluder Devices in the Atlantic Ocean when allowed by proclamation from April 1 through November 30.
- (2) It is unlawful to tow for more than 55 minutes from April 1 through October 31 and 75 minutes from November 1 through November 30 in this area when working under this permit. Tow time begins when the doors enter the water and ends when the doors exit the water.
- (3) It is unlawful to fail to empty the contents of each net at the end of each tow.
- (4) It is unlawful to refuse to take observers upon request by the Division of Marine Fisheries or the National Marine Fisheries Service.
- (5) It is unlawful to fail to report any sea turtle captured. Reports shall be made within 24 hours of the capture to the Marine Patrol Communications Center by phone. All turtles taken incidental to trawling shall be handled and resuscitated in accordance with requirements specified in 50 CFR 223.206, copies of which are available via the Internet at www.nmfs.gov and at the Division of Marine Fisheries, 127 Cardinal Drive Extension, Wilmington, North Carolina 28405.

(e) Pound Net Set Permits. Rules setting forth specific conditions for pound net sets are set forth in 15A NCAC 03J .0107.

(f) Aquaculture Operations/Collection Permits:

- (1) It is unlawful to conduct aquaculture operations utilizing marine and estuarine resources without first securing an Aquaculture Operation Permit from the Fisheries Director.
- (2) It is unlawful:
 - (A) To take marine and estuarine resources from coastal fishing waters for aquaculture purposes without first obtaining an Aquaculture Collection Permit from the Fisheries Director.
 - (B) To sell, or use for any purpose not related to North Carolina aquaculture, marine and estuarine resources taken under an Aquaculture Collection Permit.
 - (C) To fail to submit to the Fisheries Director an annual report due on December 1 of each year on the form provided by the Division the amount

- and disposition of marine and estuarine resources collected under authority of this permit.
- (3) Lawfully permitted shellfish relaying activities authorized by 15A NCAC 03K .0103 and .0104 are exempt from requirements to have an Aquaculture Operation or Collection Permit issued by the Fisheries Director.
- (4) Aquaculture Operations/Collection Permits shall be issued or renewed on a calendar year basis.
- (5) It is unlawful to fail to provide the Division of Marine Fisheries with a listing of all designees who will be acting under an Aquaculture Collection Permit at the time of application.
- (g) Scientific or Educational Collection Permit:
 - (1) It is unlawful for individuals or agencies seeking exemptions from license, rule, proclamation or statutory requirements to collect for scientific or educational purposes as approved by the Division of Marine Fisheries any marine and estuarine species without first securing a Scientific or Educational Collection Permit.
 - (2) It is unlawful for persons who have been issued a Scientific or Educational Collection Permit to fail to submit a report on collections to the Division of Marine Fisheries due on December 1 of each year unless otherwise specified on the permit. The reports shall be filed on forms provided by the Division. Scientific or Educational Collection Permits shall be issued on a calendar year basis.
 - (3) It is unlawful to sell marine and estuarine species taken under a Scientific or Educational Collection Permit:
 - (A) without the required license(s) for such sale;
 - (B) to anyone other than a licensed North Carolina fish dealer; and
 - (C) without authorization stated on the permit for such sale.
 - (4) It is unlawful to fail to provide the Division of Marine Fisheries a listing of all designees who will be acting under Scientific or Educational Collection Permits at the time of application.
 - (5) The permittee or designees utilizing the permit shall call or fax the Division of Marine Fisheries Communications Center not later than 24 hours prior to use of the permit, specifying activities and location.
- (h) Under Dock Oyster Culture Permit:
 - (1) It is unlawful to cultivate oysters in containers under docks for personal consumption without first obtaining an Under Dock Oyster Culture Permit.
 - (2) An Under Dock Oyster Culture Permit shall only be issued in accordance with provisions set forth in G.S. 113-210(c).
- (3) The applicant shall complete and submit an examination, with a minimum of 70 percent correct answers, based on an educational package provided by the Division of Marine Fisheries pursuant to G.S. 113-210(j). The examination demonstrates the applicant's knowledge of:
 - (A) the application process;
 - (B) permit criteria;
 - (C) basic oyster biology and culture techniques;
 - (D) shellfish harvest area closures due to pollution;
 - (E) safe handling practices;
 - (F) permit conditions; and
 - (G) permit revocation criteria.
- (4) Action by an Under Dock Oyster Culture Permit holder to encroach on or usurp the legal rights of the public to access public trust resources in coastal fishing waters shall result in permit revocation.
- (i) Atlantic Ocean Striped Bass Commercial Gear Permit:
 - (1) It is unlawful to take striped bass from the Atlantic Ocean in a commercial fishing operation without first obtaining an Atlantic Ocean Striped Bass Commercial Gear Permit.
 - (2) It is unlawful to use a single Standard Commercial Fishing License, including assignments, to obtain more than one Atlantic Ocean Striped Bass Commercial Gear Permit during a license year.
- (j) Coastal Recreational Fishing License Exemption Permit:
 - (1) It is unlawful for the responsible party seeking exemption from recreational fishing license requirements for eligible individuals to conduct an organized fishing event held in coastal or joint fishing waters without first obtaining a Coastal Recreational Fishing License Exemption Permit.
 - (2) The Coastal Recreational Fishing License Exemption Permit shall only be issued for recreational fishing activity conducted solely for the participation and benefit of one of the following groups of eligible individuals:
 - (A) Individuals with physical or mental limitations;
 - (B) Members of the United States Armed Forces and their dependents, upon presentation of a valid military identification card, for military appreciation;
 - (C) Individuals receiving instruction on recreational fishing techniques and conservation practices from employees of state or federal agencies, or instructors affiliated with educational institutions; and
 - (D) Disadvantaged youths.

- (3) The Coastal Recreational Fishing License Exemption Permit is valid for the date(s), time and physical location of the organized fishing event for which the exemption is granted and the time period shall not exceed one year from the date of issuance.
- (4) The Coastal Recreational Fishing License Exemption Permit shall only be issued when all of the following, in addition to the information required in 15A NCAC 03O .0501, is submitted to the Fisheries Director in writing a minimum of 30 days prior to the event:
 - (A) The name, date(s), time and physical location of the event;
 - (B) Documentation that substantiates local, state or federal involvement in the organized fishing event, if applicable;
 - (C) The cost or requirements, if any, for an individual to participate in the event; and
 - (D) An estimate of the number of participants.

History Note: Authority G.S. 113-134; 113-169.1; 113-169.3; 113-182; 113-210; 143B-289.52; Temporary Adoption Eff. September 1, 2000; August 1, 2000; May 1, 2000; Eff. April 1, 2001; Amended Eff January 1, 2008; September 1, 2005; October 1, 2004; August 1, 2004; August 1, 2002.

15A NCAC 03R .0115 ANADROMOUS FISH SPAWNING AREAS

The anadromous fish spawning areas as defined in 15A NCAC 03I .0101 and referenced in 15A NCAC 03 N .0106 are delineated in the following coastal waters:

- (1) Currituck Sound Area:
 - (a) Northwest River- all waters of the Northwest River and its tributaries east of a line beginning on the north shore at a point 36° 30.8374' N – 76° 04.8770' W; running southerly to the south shore to a point 36° 30.7061' N – 76° 04.8916' W.
 - (b) Tull Bay/Tull Creek- all waters of Tull Bay and its tributaries northeast of a line beginning on the north shore at a point 36° 30.0991' N – 76° 04.8587' W; running southeasterly to the south shore to a point 36° 29.9599' N – 76° 04.7126' W; and south of a line beginning on the west shore at a point 36°30.9867' N – 76° 02.5868' W; running easterly to the east shore to a point 36°31.0045' N – 76° 02.3780' W; and west of a line beginning on the north shore at a

point 36° 30.8291' N – 76° 02.1329' W; running southwesterly to the south shore to a point 36° 30.1512' N – 76° 02.4982' W.

- (2) Albemarle Sound Area:
 - (a) Big Flatty Creek- all waters of Big Flatty Creek and its tributaries east of a line beginning on the north shore at a point 36° 09.3267'N – 76° 08.2562'W; running southerly to the south shore to a point 36° 08.9730'N – 76° 08.3175'W and north of a line beginning on the west shore at a point 36° 07.9621'N – 76° 07.1818'W; running easterly to the east shore to a point 36° 08.2706'N – 76° 06.2525'W.
 - (b) Batchelor Bay- west of a line beginning on the north shore at a point 35° 58.2070' N – 76° 42.7267' W; running southeasterly to the south shore to a point 35° 56.5622' N – 76° 41.5506' W.
 - (c) Bull Bay- southwest of a line beginning on the northwest shore at a point 35° 58.9002' N – 76° 23.9965' W; running southeasterly to the southeast shore at a point 35° 56.7198' N – 76° 18.8964' W.
- (3) North River- all waters of the North River and its tributaries east of a line beginning on the north shore at a point 36° 18.7703' N – 75° 58.7384' W; running southerly to the south shore to a point 36° 18.4130' N – 75° 58.7228' W; and north of a line beginning on the west shore at a point 36° 16.9952' N – 75° 57.0758' W; running easterly to the east shore to a point 36° 16.9801' N – 75° 56.6820' W.
- (4) Pasquotank River- all waters of the Pasquotank River and its tributaries south of a line beginning on the west shore at a point 36° 18.0768' N – 76° 13.0979' W; running easterly to the east shore along the south side of the Highway 158 Bridge to a point 36° 18.0594' N – 76° 12.9620' W; and northwest of a line beginning on the northeast shore at a point 36° 14.3294' N– 76° 04.7866' W; running southwesterly to the southwest shore to a point 36° 12.8147' N- 76° 07.0465' W.
- (5) Pasquotank River Area:
 - (a) Charles Creek- north of a line beginning on the west shore at a point 36° 17.8090' N – 76° 13.0732' W; running easterly to the east shore to a point 36° 17.8024' N – 76° 13.0407' W.
 - (b) New Begun Creek- east of a line beginning on the north shore at a point 36° 13.3298' N – 76° 08.2878' W; running southerly to the south

- shore to a point 36° 13.0286' N – 76° 08.1820' W.
- (6) Little River- all waters of the Little River and its tributaries southeast of a line beginning on the west shore at a point 36° 12.5237' N – 76° 16.9418' W; running southeasterly to the east shore to a point 36° 12.2950' N – 76° 17.1405' W; and north of a line beginning on the west shore at a point 36° 09.6537' N – 76° 15.0689' W; running northeast to the east shore to a point 36° 10.2112' N – 76° 14.0287' W.
- (7) Perquimans River- all waters of the Perquimans River and its tributaries northeast of a line beginning on the west shore at a point 36° 11.6569' N – 76° 28.0055' W; running southeasterly to the east shore to a point 36° 11.6123' N – 76° 27.9382' W; and northwest of a line beginning on the southwest shore at a point 36° 11.1512' N – 76° 27.4424' W; running northeasterly to the northeast shore to a point 36° 11.5124' N – 76° 26.7298' W.
- (8) Perquimans River Area:
- (a) Walter's Creek- northeast of a line beginning on the north shore at a point 36° 11.1305' N – 76° 27.9185' W; running southeasterly to the south shore to a point 36° 11.0224' N – 76° 27.6626' W.
- (b) Mill Creek- south of a line beginning on the west shore at a point 36° 11.9766' N – 76° 27.2511' W; running easterly to the east shore to a point 36° 11.9757' N – 76° 27.5752' W.
- (9) Yeopim River- all waters of the Yeopim River and its tributaries east of a line beginning on the north shore at a point 36° 05.4526' N – 76° 27.7651' W; running southerly to the south shore to a point on Norcum Point 36° 05.1029' N – 76° 27.7120' W; and west of a line beginning on the north shore at a point 36° 04.7426' N – 76° 24.2537' W; running southwesterly to the south shore to a point 36° 04.1137' N – 76° 24.5366' W.
- (10) Yeopim River Area, Yeopim Creek- south of a line beginning on the west shore at a point 36° 04.7206' N – 76° 24.8396' W; running easterly to the east shore to a point 36° 04.7426' N – 76° 24.2536' W.
- (11) Edenton Bay- all waters of Edenton Bay and its tributaries west of a line beginning on the north shore at a point 36° 03.3757' N – 76° 36.3629' W; running southerly to the south shore to a point 36° 03.3551' N – 76° 36.3574' W; and north of a line beginning on the west shore at a point 36° 02.1767' N – 76° 38.4058' W; running easterly to the east shore to a point 36° 02.0299' N – 76° 36.0445' W; and east of a line beginning on the west shore at a point 36° 03.2819' N – 76° 37.0138' W; running northeasterly to the east shore to a point 36° 03.4185' N – 76° 36.6783' W.
- (12) Chowan River- all waters of the Chowan River and tributaries northwest of a line beginning on the west shore at a point 36° 02.3162' N – 76° 42.4896' W; running northeasterly to the east shore to a point 36° 03.1013' N – 76° 40.8732' W; and south of a line beginning on the west shore at a point 36° 32.6293' N – 76° 55.3564' W; and running to the east shore to a point 36° 32.6284' N – 76° 55.1757' W.
- (13) Chowan River Area, Meherrin River- all waters of the Meherrin River and tributaries west of a line beginning on the north shore at a point 36° 25.9937' N – 76° 56.8884' W; running southerly to the south shore to a point 36° 25.7926' N – 76° 56.8966' W; and south of a line beginning on the west shore at a point 36° 32.7867' N – 77° 09.8885' W; running easterly to the east shore to a point 36° 32.7807' N – 77° 09.8565' W.
- (14) Cashie River- all waters of the Cashie River and tributaries east of a line beginning on the north shore at a point 35° 54.7865' N – 76° 49.0521' W; running southerly to the south shore at a point 35° 54.6691' N – 76° 49.0553' W; west of a line beginning on the north shore at a point 35° 56.4598' N – 76° 43.8093' W; running southerly to the north shore to a point on the north shore of an island in the mouth of the river 35° 56.2250' N – 76° 43.9265' W; west of a line beginning on the south shore at a point of an island in the mouth of the river 35° 56.1254' N – 76° 43.9846' W; running southerly to the south shore to a point 35° 56.0650' N – 76° 43.9599' W.
- (15) Middle River- all waters of the Middle River southwest of a line beginning on the west shore at a point 35° 55.4000' N – 76° 43.8259' W; running southeasterly to the east shore to a point 35° 55.3977' N – 76° 43.6797' W.
- (16) Eastmost River- all waters of the Eastmost River and its tributaries south of a line beginning on the west shore at a point 35° 56.5024' N – 76° 42.4877' W; running westerly to the east shore to a point 35° 56.4070' N – 76° 42.7647' W.
- (17) Roanoke River - all waters of the Roanoke River and tributaries south of a line beginning on the west shore at a point 35° 56.5068' N – 76° 41.8858' W; running easterly to the east shore to a point 35° 56.5324' N – 76° 41.5896' W; and southeast of a line beginning on the west shore at a point 36° 12.5264' N – 77° 23.0223' W; running northeasterly to the east shore along the south side of the Highway 258 Bridge to a point 36° 12.5674' N – 77° 22.9724' W.
- (18) Roanoke River Area:

- (a) Warren Neck Creek- all waters of Warren Neck Creek and its tributaries west of a line beginning on the northwest shore at a point 35° 52.1820' N – 76° 47.4855' W; running southerly to the southeast shore to a point 35° 52.1448' N – 76° 47.4237' W.
 - (b) Thoroughfare- all waters of the Thoroughfare south of a line beginning on the west shore at a point 35° 54.0510' N – 76° 48.1206' W; running easterly to the east shore to a point 35° 54.0684' N – 76° 48.0613' W; and north of a line beginning on the west shore at a point 35° 53.2842' N – 76° 48.8650' W; running easterly to the east shore to a point 35° 55.2800' N – 76° 48.8077' W.
 - (c) Devils Gut- all waters of Devils Gut and its tributaries northwest of a line beginning on the west shore at a point 35° 49.5300' N – 76° 54.2209' W; running easterly to the east shore to a point 35° 49.5486' N – 76° 54.1703' W.
 - (d) Conine Creek- all waters of Conine Creek and its tributaries west of a line beginning on the north shore at a point 35° 52.9752' N – 76° 58.0474' W; running southwesterly to the south shore to a point 35° 52.9776' N – 76° 57.9958' W.
- (19) Scuppernong River- all waters of the Scuppernong River and tributaries southeast of a line beginning on the northeast shore at a point 35° 56.7196' N – 76° 18.8964' W; running southwesterly to the southwest shore to a point 35° 56.3351' N – 76° 19.6609' W; and north of a line beginning on the west shore at a point 35° 54.0158' N – 76° 15.4605' W; running easterly to the east shore to a point 35° 54.0406' N – 76° 15.3007' W.
- (20) Alligator River- all waters of the Alligator River and tributaries east of a line beginning on the north shore at Cherry Ridge Landing at a point 35° 42.2172' N – 76° 08.4686' W; running southerly to the south shore to a point 35° 42.1327' N – 76° 08.5002' W; and south of a line beginning on the west shore at a point 35° 57.4252' N – 76° 00.8704' W; running easterly to the east shore to a point 35° 57.5494' N – 75° 56.8268' W.
- (21) Alligator River Area, the Frying Pan- all waters of the Frying Pan and its tributaries west of a line beginning on the north shore at a point 35° 46.0777' N – 76° 03.3439' W; running southerly to the south shore to a point 35° 45.6011' N – 76° 03.3692' W.
- (22) Neuse River- all waters of the Neuse River and its tributaries northwest of a line beginning on the west shore at a point 35° 08.8723' N - 77° 04.6700' W; running northeasterly to the east shore to a point 35° 09.1032' N - 77° 04.3355' W and southeast of a line at Pitch Kettle Creek beginning on the north shore at a point 35° 16.9793' N - 77° 15.5529' W; running south to the south shore to a point 35° 16.9237' N - 77° 15.5461' W.
- (23) Neuse River Area:
- (a) Smith Creek- north of a line beginning on the west shore at a point 35° 02.2439' N - 76° 42.3035' W; running easterly to the east shore to a point 35° 02.2392' N - 76° 42.1910' W.
 - (b) Kershaw Creek- north of a line beginning on the west shore at a point 35° 02.4197' N - 76° 43.7886' W; running easterly to the east shore to a point 35° 02.4218' N - 76° 43.7367' W.
- (24) White Oak River- all waters north of a line beginning at a point on the west shore 34° 46.0728' N - 77° 08.9657' W; running easterly to a point on the east shore 34° 46.1431' N - 77° 08.8907' W; running north to the Coastal – Inland waters boundary line beginning at a point on the west shore 34° 48.1466' N - 77° 11.4711' W; running northeasterly to a point on the east shore 34° 48.1620' N - 77° 11.4244' W.
- (25) Cape Fear River- all waters north of a line beginning at a point on the west shore 34° 07.7034' N – 77° 57.3431' W; running easterly to a point on the east shore 34° 08.0518' N – 77° 55.7626' W; running north to the Joint - Inland waters boundary on the following rivers:
- (a) Cape Fear River- at a line beginning at a point on the west shore 34° 24.2628' N - 78° 17.6390' W; running northeasterly along the Lock and Dam # 1 to a point on the east shore 34° 24.2958' N - 78° 17.5634' W.
 - (b) Black River- at a line beginning at a point on the north shore 34° 22.0783' N - 78° 04.4123' W; running southeasterly to a point on the south shore 34° 21.9950' N - 78° 04.2864' W.
 - (c) Northeast Cape Fear River- at a line beginning at a point on the west side 34° 26.5658' N - 77° 50.0871' W; running northeasterly along the southern side of the NC 210 Bridge to

a point on the east side 34° 26.6065'
N - 77° 49.9955' W.

History Note: Authority G.S. 113-134; 113-182; 113-221;
143B-289.52;
Eff. December 1, 2007.

15A NCAC 06I .0101 PURPOSE

This Subchapter describes the operating procedures for the division under the guidance of the commission implementing the Community Conservation Assistance Program for Nonpoint Source Pollution Control. Procedures and guidelines for participating districts are also described. The purpose of the voluntary program is to reduce the delivery of nonpoint source (NPS) pollution into the waters of the State.

History Note: Authority G.S. 139-4; 139-8; 143-215.74M;
143B-294;
Eff. December 1, 2007.

**15A NCAC 06I .0102 DEFINITIONS FOR
SUBCHAPTER 06I**

The following terms used in this Subchapter have the following meanings:

- (1) Nonpoint Source (NPS) Pollution means pollution originating from a diffuse source.
- (2) Allocation means the annual share of the state's appropriation to participating districts.
- (3) Applicant means a person(s) who applies for best management practice cost sharing monies from the district. An applicant may also be referred to as a cooperator.
- (4) Average Costs means the calculated cost, determined by averaging actual costs and current cost estimates necessary for best management practice implementation. Actual costs include labor, supplies, and other direct costs required for physical installation of a practice.
- (5) Best Management Practice (BMP) means a practice used to reduce nonpoint source inputs to receiving waters, including both those types of practices which are structural or nonstructural management practices.
- (6) Conservation Plan of Operation (CPO) means a written plan scheduling the applicant's decisions concerning land use, and both cost shared and non-cost shared BMPs to be installed and maintained on the operating unit.
- (7) Cost Share Agreement means an agreement between the applicant and the district which defines the BMPs to be cost shared, rate and amount of payment, minimum practice life, and date of BMP installation. The agreement shall state that the recipient shall maintain and repair the practice(s) for the specified minimum life of the practice. The Cost Share

- Agreement shall have a maximum contract life of three years for BMP installation. The district shall perform an annual status review during the installation period.
- (8) Cost Share Incentive (CSI) means a predetermined fixed payment paid to an applicant for implementing a nonstructural management BMP in lieu of cost share on a structural practice.
- (9) Cost Share Rate means a cost share percentage paid to an applicant for implementing BMPs.
- (10) Detailed Implementation Plan means the plan approved by the commission that specifies the guidelines for the current program year pursuant to the Rules of the Commission.
- (11) District BMP means a BMP designated by a district to reduce the delivery of NPS pollution and which is reviewed and approved by the Division to be technically adequate prior to funding.
- (12) Encumbered Funds means monies from a district's allocation, which have been committed to an applicant after initial approval of the cost share agreement.
- (13) Full Time Equivalent (FTE) means 2,080 hours per annum which equals one full time technical position.
- (14) In-kind Contribution means a contribution by the applicant towards the implementation of BMPs. In-kind contributions shall be approved by the district and may include labor, fuel, machinery use, and supplies and materials necessary for implementing the approved BMPs.
- (15) Landowner means any natural person or other legal entity, including a governmental agency, who holds either an estate of freehold (such as a fee simple absolute or a life estate) or an estate for years or from year to year in land, but does not include an estate at will or by sufferance in land. A governmental or quasi-governmental agency such as a drainage district or a soil and water conservation district, or any such agency, by whatever name called, exercising similar powers for similar purposes, can be a landowner for the purposes of this Subchapter if the governmental agency holds an easement in land.
- (16) Program Year means the period from July 1 through June 30 for which funds are allocated to districts.
- (17) Proper Maintenance means that a practice(s) is being maintained such that the practice(s) is successfully performing the function for which it was originally implemented.
- (18) Strategy Plan means the annual plan for the Community Conservation Assistance Program for Nonpoint Source Pollution Control to be developed by each district. The plan identifies

pollution treatment needs and the level of cost sharing and technical assistance monies required to address those annual needs in the respective district.

- (19) Technical Representative of the district means a person designated by the district to act on their behalf who participates in the planning, design, implementation and inspection of BMPs.
- (20) Unencumbered Funds means the portion of the allocation to each district, which has not been committed for cost sharing.

*History Note: Authority G.S. 139-4; 139-8; 143-215.74M; 143B-294;
Eff. December 1, 2007.*

15A NCAC 06I .0104 BEST MANAGEMENT PRACTICES ELIGIBLE FOR COST SHARE PAYMENTS

(a) BMPs eligible for cost sharing are restricted to those BMPs listed in the Detailed Implementation Plan approved by the commission for the current program year. BMPs shall meet the following criteria to be listed in the Detailed Implementation Plan:

- (1) All eligible BMPs must be designed to reduce the input of nonpoint source pollution into the water courses of the state.
- (2) Information establishing the average cost of the specified BMP must be available. District BMPs may use actual costs as indicated by receipts, if average costs are not available.
- (3) Eligible BMPs shall have technical specifications as set forth in Paragraph (b) of this Rule.

(b) BMP definitions and specifications shall be determined by the Commission using the process outlined in 15A NCAC 06H .0103 Approval of Best Management Practices.

*History Note: Authority G.S. 139-4; 139-8; 143-215.74M; 143B-294;
Eff. December 1, 2007.*

15A NCAC 06I .0105 COST SHARE AND INCENTIVE PAYMENTS

(a) Cost share and incentive payments shall be made through Cost Share Agreements between the district and the applicant.

(b) For all practices except those eligible for CSI, the state shall provide a percentage of the average cost for BMP installation not to exceed the maximum cost share percentages shown in subdivision (4) of G.S. 143-215.74M(b), and the applicant shall contribute the remainder of the cost. In-kind contributions by the applicant shall be included in the applicants' cost share contribution. In-kind contributions shall be specified in the agreement for cost sharing and shall be approved by the district.

(c) CSI payments shall be limited to a maximum of three years per applicant per incentive practice.

(d) Average installation costs for each comparative area or region of the state and the amount of cost share incentive

payments shall be updated and revised at least triennially by the Division for approval by the Commission.

(e) The total annual cost share payments to an applicant shall not exceed the maximum funding authorized in subdivision (4) of G.S. 143-215.74M(b).

(f) Cost share payments to implement BMPs under this program may be combined with other funding programs, as long as the combined cost share rate does not exceed the amount and percentages set forth in Paragraphs (b) and (e) of this Rule. Community Conservation Assistance Program funding shall not exceed the maximum cost share percentages shown in subdivision (4) of G.S. 143-215.74M(b).

(g) Use of cost share payments is restricted to land located within the county approved for funding by the Commission. However, in the situation where an applicant's land is not located solely within a county, the entire tract, if contiguous, is eligible for cost share payments.

(h) The district Board of Supervisors may approve Cost Share Agreements with cost share percentages or cost sharing amounts less than the maximum allowable in subdivision (4) of G.S. 143-215.74M(b) if:

- (1) The Commission allocates insufficient cost share BMP funding to the district to enable it to award funding to all applicants; or
- (2) The district establishes other criteria in its annual strategy plan for cost sharing percentages or cost sharing amounts less than those allowable in subdivision (4) of G.S. 143-215.74M(b).

(i) For purposes of determining eligible payments under practice-specific caps described in the detailed implementation plan, all business entities with which the applicant is associated by ownership or partnership interest, including those in other counties, shall be considered the same applicant for purposes of calculating caps.

*History Note: Authority G.S. 139-4; 139-8; 143-215.74M; 143B-294;
Eff. December 1, 2007.*

15A NCAC 06I .0106 TECHNICAL ASSISTANCE FUNDS

(a) Technical assistance funds may be used for salary, benefits, social security, field equipment and supplies, office rent, office equipment and supplies, postage, telephone service, travel and mileage or for a contracted technical employee.

(b) Technical assistance funds may not be used to fund provision of service by any technical assistance local district personnel who do not meet the following minimum requirements:

- (1) associates degree in engineering, agriculture, forestry or related field, or
- (2) high school diploma with two years experience in the fields listed in Subparagraph (1) of this Paragraph, or

(c) Cost shared positions must be used to accelerate the program activities in the district. A district technician cost shared with program funds may work on other activities as delegated by the field office supervisor but the total hours charged to the program

by field office personnel must equal or exceed those hours funded through the program. Also, these hours must be in addition to those hours normally spent in BMP planning and installation by district personnel.

History Note: Authority G.S. 139-4; 139-8; 143-215.74M; 143B-294;
Eff. December 1, 2007.

TITLE 18 – SECRETARY OF STATE

18 NCAC 12 .0101 SCOPE

- (a) The rules in this Chapter execute the authority granted to the Secretary of State pursuant to Chapter 120C of the North Carolina General Statutes ("the Secretary's authority").
- (b) The rules in this Chapter apply only to documents filed with the Department of the Secretary of State ("the Department").
- (c) The rules in this Chapter do not apply to document(s) and information forwarded to or shared with the Department by the Ethics Commission or its staff pursuant to G.S. 120C-102(d).

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-220; 120C-400; 120C-401; 120C-401(h); 120C-402; 120C-403; 120C-404; 120C-405; 120C-600; 120C-603; 120C-800;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0102 CALCULATION OF TIME PERIODS

Time periods shall be calculated pursuant to the requirements of G.S. 1A-1, Rule 6 for documents ("document(s)" or "filing(s)") filed with the Department.

History Note: Authority G.S. 1A-1, Rule 6; 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215; 120C-220; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0103 CALCULATION OF QUARTERLY REPORTING PERIOD

When calculating a deadline for a document submitted to the Department on a quarterly basis or for a quarterly reporting period:

- (1) The reporting period for the first quarter ends on March 31;
- (2) The reporting period for the second quarter ends on June 30;
- (3) The reporting period for the third quarter ends on September 30; and
- (4) The reporting period for the fourth quarter ends on December 31.

History Note: Authority G.S. 1A-1, Rule 6; 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215;

120C-220; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-800;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0104 CALCULATION OF MONTHLY REPORTING PERIOD

When calculating a deadline for a document filed with the Department on a monthly basis for a monthly reporting period, the reporting period ends on the last calendar day of the month.

History Note: Authority G.S. 1A-1, Rule 6; 120C-101(a); 120C-101(b); 120C-401(h); 120C-402; 120C-403; 120C-600;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0105 WAIVER

Upon consideration of a written request, the Secretary or the Secretary's designee may waive any rule in this Chapter. The factors which the Secretary shall use in determining whether to grant a waiver are set out in Rule .0106 of this Chapter.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215; 120C-220; 120C-400; 120C-400(h); 120C-401; 120C-402; 120C-403; 120C-404; 120C-405; 120C-600; 120C-800; 150B-19(6);
Eff. December 1, 2007.

18 NCAC 12 .0106 FACTORS FOR WAIVERS

Factors which may be used to determine whether to grant a waiver to a person or entity requesting a waiver (the "requester") are:

- (1) Whether the requester had control over the circumstances which underlie the requested waiver;
- (2) Previous requests from the requester for waivers by the Secretary;
- (3) The nature, number and severity of the violations;
- (4) The nature and severity of the actual or potential harm to the public, group, individual, lobbyist, principal or designated individual;
- (5) The requester's record for timeliness, completeness and accuracy of filings with the Department;
- (6) History of prior sanctions imposed by the Department on the requester;
- (7) Evidence in mitigation and aggravation;
- (8) Willfulness of the violation by the requester;
- (9) Negligence on the part of the requestor which contributed to the violation;
- (10) Impact of the granting of the waiver on consistency of enforcement by the Secretary.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215; 120C-400(h); 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-800; 150B-19(6);
Eff. December 1, 2007.

18 NCAC 12 .0201 MANDATORY USE OF DEPARTMENTAL FORMS

The Department's forms shall be used to file all documents submitted to the Department.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0202 FILING MAY BE ELECTRONIC OR PAPER

An individual or entity submitting a form to the Department may submit the form in paper or electronic format except as otherwise provided by this Chapter.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215; 120C-220; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0203 DOCUMENT COMPLETION REQUIREMENTS

An individual or entity shall provide a response on the Department's forms to all requests for information.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215; 120C-220; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0204 ITEMS WHICH ARE NOT APPLICABLE TO THE PERSON OR ENTITY COMPLETING A FORM

If a question or item is not applicable to the individual or entity submitting the document, the individual or entity submitting the document shall not leave the question or item blank but shall indicate that the item is 'not applicable'.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215; 120C-220; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0205 COMPLETE NAME OF PERSON OR ENTITY REQUIRED

The complete name of the person or entity filing a document shall be legibly printed in the designated space on the Department's form.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215; 120C-220; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0206 DOCUMENT SIGNATURE REQUIRED

Except as otherwise permitted by the rules in this Chapter, a document shall be signed by a person required or authorized to file the document with the Department.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215; 120C-220; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0207 SIGNATURE FOR ENTITY

In the case of an entity, a document filed with the Department shall be signed by an officer authorized to do so. The officer's title or indication of the officer's authority to sign the document shall also be entered on the document in the designated space.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215; 120C-220; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0208 ELECTRONIC SIGNATURE

(a) All electronic notarizations shall be performed in compliance with Chapter 10B of the General Statutes and the rules in effect pursuant to that Chapter.

(b) Signers of electronic documents in a non-notarial capacity may use any form of electronic signature permissible according to G.S. 66-312(9) except that it shall not be a sound.

History Note: Authority G.S. 10B-106; 66-312(9); 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215; 120C-220; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0209 FORM PREPARER SIGNATURE REQUIRED

A person who prepares or completes any part of a document on behalf of an individual or entity required or permitted to file a document with the Department shall sign the document in the space provided for a preparer's signature, except as provided in Rule .0210 of this Chapter.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-

401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;

*Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.*

18 NCAC 12 .0210 WHEN FORM PREPARER SIGNATURE NOT REQUIRED

A person who enters information on a Department form on behalf of an individual or entity required or permitted to file the form and who does not exercise independent judgment or discretion as to the information that is entered on the document is not required to sign the form in the space provided for the preparer's signature. NOTE: For example, an administrative assistant who enters information supplied by and at the direction of an individual or entity required to file a form would not have to sign the form in the space provided for a preparer's signature.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;

*Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.*

18 NCAC 12 .0211 SIGNING PURSUANT TO POWER OF ATTORNEY

A person signing a Department form on behalf of another under a power of attorney granted pursuant to Chapter 32A of the General Statutes shall provide with each document filed:

- (1) A legible copy of the power of attorney; and
- (2) For an entity, a legible copy of a resolution or evidence of other formal action granting the power of attorney.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;

*Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.*

18 NCAC 12 .0212 SIGNING AND EXECUTING A FORM UNDER OATH

When a document is required to be signed under oath, the oath shall:

- (1) Be signed pursuant to Rule .0206 of this Chapter; and
- (2) Be administered and signed by a notary public or other officer authorized to administer oaths by the state in which the document is being signed.

History Note: Authority G.S. 10B-20; 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;

*Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.*

18 NCAC 12 .0213 SIGNATURE VERIFIES INFORMATION IS TRUE

An individual's signature on a document constitutes that person's verification that all information entered on the document or report is true and complete.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;

*Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.*

18 NCAC 12 .0214 SIGNATURE AND EXECUTION UNDER OATH OF AN ELECTRONICALLY FILED DOCUMENT

A document submitted to the Department for which notarization is required may be filed electronically if:

- (1) The document is electronically notarized pursuant to Article 2 of Chapter 10B of the General Statutes; or
- (2) The document is submitted without an electronic notarization pursuant to Article 2 of Chapter 10B of the General Statutes and an affidavit containing the information required by Rule .0215 of this Chapter is delivered to the Department within seven days or postmarked within seven days after the document is electronically filed.

History Note: Authority G.S. 10B-115; 66-312(9); 120C-101(a); 120C-200; 120C-201; 120C-206; 120C-207; 120C-400; 120C-401; 120C-600; 120C-603; 120C-800;

*Temporary Adoption January 1, 2007;
Eff. December 1, 2007.*

18 NCAC 12 .0215 CONTENTS OF AFFIDAVIT FOR ELECTRONIC FILING WITHOUT ELECTRONIC NOTARIZATION

An affidavit submitted to the Department pursuant to Rule .0214 of this Chapter shall include the following information:

- (1) A statement that the person signing did electronically file a document required by the Act;
- (2) The date and time at which the electronic document was transmitted;
- (3) The email address from which the electronic document was transmitted;
- (4) A signature under oath pursuant to Rule .0212 of this Chapter; and
- (5) Certification that all information contained therein (including any attachments thereto) is true, complete and correct to the best of the person's knowledge and belief.

History Note: Authority G.S. 66-312(9); 120C-101(a); 120C-200; 120C-201; 120C-206; 120C-207; 120C-400; 120C-401; 120C-600; 120C-603; 120C-800;

Temporary Adoption January 1, 2007;

Eff. December 1, 2007.

18 NCAC 12 .0216 CONSEQUENCE OF FAILURE TO DELIVER AFFIDAVIT

Failure to deliver the affidavit as required by Rule .0214 of this Chapter shall render the filing untimely pursuant to Rule .0319 of this Chapter and the filing does not receive the benefit of Rules .0214, .0310, .0311, and .0317 of this Chapter.

History Note: Authority G.S. 66-312(9); 120C-101(a); 120C-200; 120C-201; 120C-206; 120C-207; 120C-400; 120C-401; 120C-600; 120C-603; 120C-800; Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0301 GENERAL SUBMISSION LOCATIONS AND METHODS

Each filing required or permitted to be submitted to the Department shall be submitted by one of the methods set forth in Rule .0302 through Rule .0305 of this Chapter.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-401(h); 120C-600; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0302 FILING BY UNITED STATES MAIL

A document may be submitted to the Department by United States mail at the following address: Lobbying Compliance Division, Department of the Secretary of State, P. O. Box 29622, Raleigh, N.C. 27626-0622.

History Note: Authority G.S. 1A-1; Rule 4; 120C-101(a); 120C-101(b); 120C-401(h); Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0303 FILING BY HAND-DELIVERY OR BY DESIGNATED DELIVERY SERVICE

A document may be submitted to the Department by hand-delivery or by a designated delivery service authorized pursuant to G.S. 1A-1, Rule 4:

- (1) At the following address: Lobbying Compliance Division, Department of the Secretary of State, 2 South Salisbury Street, Raleigh, NC 27601-2903; or
- (2) At a location designated by the Secretary or the Secretary's designee.

History Note: Authority G.S. 1A-1, Rule 4; 120C-101(a); 120C-101(b); 120C-401(h); Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0304 FILING BY ELECTRONIC MAIL

(a) A filing may be submitted to the Department by electronic mail ("email") to the following address: lobbyistfiling@sosnc.com.

(b) An email attachment shall be compatible with or convertible to the most recently issued version of Microsoft Word®.

History Note: Authority G.S. 1A-1, Rule 4; 120C-101(a); 120C-101(b); 120C-401(h); 120C-600; 120C-603; Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0305 FILING ELECTRONICALLY ON THE DEPARTMENT'S WEBSITE

A Department website form may be submitted electronically to the Department by:

- (1) Completing the form on the Department's website;
- (2) Submitting the completed form;
- (3) Submitting any required payment in a manner permitted pursuant to Section .0400 of this Chapter; and
- (4) Submitting any additional information such as an affidavit pursuant to Rule .0214 of this Chapter for an electronic filing without a required notarization.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-401(h); 120C-600; 120C-603; Eff. December 1, 2007.

18 NCAC 12 .0306 NO FILING BY FACSIMILE IF FEE REQUIRED

If payment of a fee is required to be submitted to the Department together with a document, the document shall not be submitted by facsimile ("fax").

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0307 CIRCUMSTANCES IN WHICH FILING BY FAX PERMITTED

A document may be submitted by fax if:

- (1) Payment of a fee is not required to be submitted to the Department together with the document; and
- (2) The filer complies with Rule .0308 of this Chapter.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0308 SUBMISSION OF ORIGINAL AFTER FILING BY FAX

Within seven days following the Department's receipt of a filing by fax, the original signed document shall be delivered or postmarked to the Department or:

- (1) If a registration, the filing is void; or

- (2) If a report, the filing shall be deemed filed on the date received.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0309 REJECTION OF INCOMPLETE FORMS

A filing with the Department shall be rejected if the form is not completed in accordance with the applicable provisions of Chapter 120C of the General Statutes and this Chapter.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0310 DOCUMENT SUBMISSION DATE AND TIME

A document is submitted to the Department:

- (1) When it is received by the Department by hand-delivery, fax or electronic filing; or
- (2) When it is postmarked by the United States Postal Service or marked with an equivalent marking by a delivery service authorized pursuant to G.S. 1A-1, Rule 4.

History Note: Authority G.S. 1A-1, Rule 4; 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0311 DOCUMENT RECEIVED

Except as otherwise provided in the rules in this Chapter, a document received by hand-delivery or fax after 5:00 p.m. is considered to be received on the following day.

History Note: Authority G.S. 1A-1, Rule 4; 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0312 PROOF OF SUBMISSION

A person may obtain proof of submission of a filing to the Department by:

- (1) Any means acceptable pursuant to G.S. 1A-1, Rules of Civil Procedure;
- (2) Requesting that the Department return a file stamped copy and supplying to the Department both a copy of the form and a self-addressed,

stamped envelope or prepaid delivery service envelope; or

- (3) Requesting that the Department file stamp a copy at the time of hand delivery.

History Note: Authority G.S. 1A-1, Rule 4; 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0313 GROUNDS FOR DEPARTMENT REJECTION OF SUBMITTED DOCUMENT

Unless timely corrected in compliance with the rules in this Chapter, the Department shall reject any document filed with the Department which:

- (1) Contains illegible information;
- (2) Lacks required information;
- (3) Contains blank, unfilled, or unanswered questions or data entry areas;
- (4) Contains a signature which does not comply with the rules in this Chapter; or
- (5) Is not submitted together with a required fee or affidavit.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0314 PRINCIPAL'S AUTHORIZATION STATEMENT OMISSIONS REQUIRING CORRECTION WITHIN ONE BUSINESS DAY

The Department shall reject a principal's authorization statement when a principal fails to correct the absence of the signature of the principal on the principal authorization statement within one business day after the Department notifies the principal of the lack of signature.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0315 OMISSIONS FROM REPORT UNDER OATH REQUIRING CORRECTION WITHIN ONE BUSINESS DAY

The Department shall reject a quarterly report of the principal, lobbyist, or solicitor if the principal, lobbyist or solicitor fails to correct the absence of notarization of a quarterly report within one business day after the Department notifies the lobbyist, principal, or solicitor of the lack of the notarization.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-402; 120C-403; 120C-404; 120C-600; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0316 OMISSIONS REQUIRING CORRECTION WITHIN SEVEN DAYS

(a) Omissions other than those set forth in Rules .0314 and .0315 of this Chapter shall be corrected within seven days after notification by the Department or the document shall be rejected.
(b) A document that contained an omission corrected pursuant to Paragraph (a) of this Rule is filed pursuant to the provisions of Rule .0317 of this Chapter.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0317 EFFECTIVE DATE OF COMPLETE SUBMISSION OF DOCUMENT

After the Department determines that a document is complete, the document is considered filed on the date on which it was submitted.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0318 REJECTED FILINGS

A document which is rejected is not considered filed.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0319 EFFECTIVE DATE OF LATE DOCUMENT

For a late submission of a document, there shall be no relation back of the document to an earlier date.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0320 PROCESS FOR AMENDING A DOCUMENT

An individual or an entity who submitted a document to the Department for filing may amend it by submitting to the Department the amended document.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0321 NOTARIZATION OF AMENDED QUARTERLY DOCUMENT

An amendment form for a quarterly report shall be notarized. If an oath is required for a document, the amendment of the document shall be made under oath pursuant to Rule .0212 of this Chapter.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0322 EFFECT OF AMENDED DOCUMENT

An amendment to a document is filed as of the date on which it is submitted.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-201; 120C-206; 120C-207; 120C-215; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800; Eff. December 1, 2007.

18 NCAC 12 .0401 GENERAL

Except as otherwise permitted or required by the rules in this Chapter, a required fee shall be submitted together with the filing to which the fee applies.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0402 FORM OF PAYMENT

A fee due with a document filed shall be paid by cash, warrant, uncertified check, certified check, money order, credit card or another instrument freely negotiable at par through the Federal Reserve System. Checks, money orders, credit cards or other instruments must be drawn on U.S. financial institutions in U.S. currency.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0403 RETURN OF FEE INSTRUMENT BY ISSUING INSTITUTION

A document filed with the Department is void if a check or other instrument for payment to the Department of a required fee is returned by the institution upon which it was issued as "insufficient funds" or for other similar reason.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0404 LIMITATION ON FEE REDUCTION OR WAIVER

A fee reduction or fee waiver applies only to the lobbyist registration fees and principal registration fees submitted to the Department.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0405 NONPROFITS TO WHICH NO FEE REDUCTION OR WAIVER SHALL BE GRANTED

The Department shall not grant a fee reduction or waiver if a nonprofit principal had annual gross revenues in its most recent fiscal year of more than three hundred thousand dollars (\$300,000) or is represented by more than two lobbyists.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0406 NONPROFIT FEE REDUCTION PROCEDURE

The Department shall reduce the fee to fifty dollars (\$50.00) if a nonprofit principal shows the Department that the nonprofit principal:

- (1) Had annual gross revenues in its most recent fiscal year of three hundred thousand dollars (\$300,000) or less; and
- (2) Is represented by no more than two lobbyists.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0407 SUBMISSION OF REDUCED FEE

A nonprofit requesting fee reduction:

- (1) Shall not submit the full one hundred dollar (\$100.00) fee; and
- (2) Shall submit a partial fee of fifty dollars (\$50.00).

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0408 SUBMISSION OF DOCUMENTATION SUPPORTING FEE REDUCTION REQUEST

Documentation required by Rule .0417 of this Chapter shall be submitted together with the lobbyist or principal registration form to which the fee reduction request applies.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0409 FEE REDUCTION APPLIES TO BOTH LOBBYIST AND PRINCIPAL

When the Department reduces a fee for registration, the reduction shall apply to fees for both lobbyist and lobbyist's principal.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0410 PAYMENT OF REMAINDER OF FEE IF REDUCTION DENIED

If the Department denies a nonprofit principal's request for fee reduction, the remaining fifty dollars (\$50.00) shall be delivered to the Department by the lobbyist and principal within one day of receipt of the Department's denial of the fee reduction.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0411 CONSEQUENCES OF FAILURE TO PAY REMAINDER OF FEE

If the full fees are not delivered as required by Rule .0410 of this Chapter:

- (1) The registrations are suspended as of the date the denial is received; and
- (2) The lobbyist and the principal shall cease all lobbying activities until the remainder of the registration fees are delivered to the Department.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0412 NONPROFIT FEE WAIVER PROCEDURE

Upon request for a fee waiver the Department shall waive the fee if the nonprofit principal:

- (1) Was formed within 12 months of the filing of the principal's registration;
- (2) Does not possess fund balance information or net assets for the immediately preceding fiscal year; and
- (3) Is represented by no more than two lobbyists.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0413 SUBMISSION OF FEE WITH REQUEST FOR WAIVER

A nonprofit requesting fee waiver:

- (1) Shall not submit the full one hundred dollar (\$100.00) fee; and
- (2) Shall submit a partial fee of fifty dollars (\$50.00).

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0414 REFUND OF FEE IF REQUEST FOR WAIVER GRANTED

If a fee waiver is granted by the Department, the Department shall refund the fee of fifty dollars (\$50.00) previously paid by the requester.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0415 SUBMISSION OF DOCUMENTATION SUPPORTING FEE WAIVER REQUEST

Documentation required by Rule .0417 of this Chapter shall be submitted to the Department together with the filing to which the fee waiver request applies.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0416 FEE WAIVER APPLIES TO BOTH LOBBYIST AND PRINCIPAL

A waiver of a fee by the Department shall apply to filing fees for both lobbyist and lobbyist's principal.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-215; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3);

Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0417 GENERAL PROOF OF NONPROFIT STATUS

A nonprofit entity requesting that the Department reduce or waive a fee shall demonstrate pursuant to Rule .0418 through Rule .0426 of this Chapter that the entity is one to which tax-exempt status has been granted pursuant to 26 U.S.C. Sec. 501(c)(3), including those entities granted tax-exempt status which are permitted but not required to obtain a tax-exempt determination letter from the United States Internal Revenue ("IRS").

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0418 OFFICERS OR PERSONS AUTHORIZED TO DEMONSTRATE NONPROFIT STATUS

All documents submitted to the Department in relation to a request for fee waiver or reduction shall be signed by:

- (1) A person authorized pursuant to Chapter 55A of the General Statutes to act on behalf of a corporation;
- (2) A person authorized pursuant to Chapter 36C of the General Statutes or other law to act on behalf of a nonprofit trust; or
- (3) A person to whom a nonprofit association has delegated authority to act on behalf of the association.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0421 SUBMISSION OF FEDERAL TAX-EXEMPT DETERMINATION LETTER

A nonprofit principal which is required to obtain a federal tax-exempt determination letter shall submit a copy of that letter to the Department together with each document for which fee reduction or waiver is requested.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0422 DOCUMENTS TO BE SUBMITTED BY NONPROFIT PRINCIPALS WITHOUT TAX EXEMPT DETERMINATION LETTER

A nonprofit principal which is not required to obtain a tax-exempt determination letter under 26 U.S.C. Sec. 501(c)(3) shall submit the following information to the Department together with its registration statement or authorization statement for which fee reduction or waiver is requested:

- (1) A statement signed pursuant to Rule .0418 of this Chapter verifying the nonprofit's federal tax-exempt status under 26 U.S.C. Sec. 501(c)(3);
- (2) A statement signed pursuant to Rule .0418 of this Chapter setting forth the reason(s) a tax-exempt determination letter is not required under 26 U.S.C. Sec. 501(c)(3); and
- (3) An IRS Form 990 if the nonprofit's revenues exceed twenty-five thousand dollars (\$25,000).

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3);
Temporary Adoption January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0423 ADDITIONAL INFORMATION FOR FEE REDUCTION FOR NONPROFIT WITH TAX-EXEMPT DETERMINATION LETTER

If a nonprofit principal requesting fee reduction has nonprofit status pursuant to a tax-exempt determination letter under 26 U.S.C. Sec. 501(c)(3), the fee reduction request shall include:

- (1) A statement signed pursuant to Rule .0418 of this Chapter verifying that the nonprofit has no more than two lobbyists; and
- (2) A copy of the nonprofit's most recent federal Form 990, Form 990-EZ or Form 990-PF, if applicable.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-600; 26 U.S.C. Sec. 501(c)(3);
Temporary Adoption January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0424 ADDITIONAL INFORMATION FOR FEE REDUCTION FOR NONPROFIT WITH TAX-EXEMPT DETERMINATION LETTER AND CERTAIN FEDERAL FORMS NOT REQUIRED

If a nonprofit principal has nonprofit status pursuant to a tax exempt determination letter under 26 U.S.C. Sec. 501(c)(3) and is not required to file a federal Form 990, Form 990-EZ or Form 990-PF, then the fee reduction request shall include:

- (1) A statement signed pursuant to Rule .0418 of this Chapter verifying that the nonprofit has no more than two lobbyists;
- (2) A statement signed pursuant to Rule .0418 of this Chapter containing a copy of the nonprofit's annual financial statement for the preceding tax year; and
- (3) A copy of the notice filed pursuant to Section 1223 of the United States Pension Protection Act of 2006 (PL 109-280) for notices and returns associated with annual periods beginning on or after November 1, 2007.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3);
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0425 CONTENTS FOR FEE REDUCTION REQUEST FOR NONPROFIT WITHOUT TAX-EXEMPT DETERMINATION LETTER

If a principal has nonprofit status and a tax exempt determination letter is not required under 26 U.S.C. Sec. 501(c)(3), the fee reduction request shall include:

- (1) A statement signed pursuant to Rule .0418 of this Chapter verifying that the nonprofit has no more than two lobbyists; and
- (2) A statement signed pursuant to Rule .0418 of this Chapter containing a copy of the nonprofit's annual financial statement for the preceding tax year.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 26 U.S.C. Sec. 501(c)(3); 120C-600; 120C-603;
Temporary Adoption January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0426 ADDITIONAL INFORMATION FOR FEE WAIVER

If a nonprofit principal requesting fee waiver was formed within 12 months of the request for a waiver and has no net assets or fund balance information, the fee waiver request shall include the following information:

- (1) A statement signed pursuant to Rule .0418 of this Chapter verifying that the nonprofit has no more than two lobbyists;
- (2) A statement signed pursuant to Rule .0418 of this Chapter verifying the nonprofit's formation date; and
- (3) A statement signed pursuant to Rule .0418 of this Chapter verifying that the nonprofit has no fund balance information or net assets.

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 26 U.S.C. Sec. 501(c)(3);
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0501 REQUEST FOR PROTECTION OF CONFIDENTIALITY

A principal may seek protection under the Secretary's authority from premature disclosure by the Department ("premature disclosure protection") of confidential information related to economic development initiatives or to industrial or business recruitment activities ("economic development information") by filing an economic information protection request.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0502 TIMING OF SUBMISSION OF REQUEST FOR PROTECTION OF CONFIDENTIAL INFORMATION FROM PREMATURE DISCLOSURE

A principal shall deliver an economic information protection request to the Department no later than the close of business on

the date of the receipt by the Department of any document for which such protection is requested.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

18 NCAC 12 .0503 CONSEQUENCES OF FAILURE TO REQUEST PROTECTION OF CONFIDENTIAL INFORMATION FROM PREMATURE DISCLOSURE AND FAILURE TO USE ECONOMIC INFORMATION PROTECTION REPORTING FORMS

Except as otherwise provided in this Rule and this Chapter, the Department shall make documents publicly available under G.S. 120C-220 and 120C-405 if a lobbyist or principal fails to:

- (1) Request that the Department provide protection from premature disclosure of confidential economic development information; or
- (2) Use the Department's economic information protection reporting forms.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0504 ONE DESIGNATION FORM PER ACTIVITY

- (a) An economic information protection request form submitted to the Department shall describe only one project involving economic development activity, economic development initiative, industrial or business recruitment activity.
- (b) A separate registration fee pursuant to G.S. 120C-201 is not required for each such economic information protection request.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0505 ECONOMIC INFORMATION PROTECTION FORMS SHALL BE USED TO REQUEST ECONOMIC INFORMATION PROTECTION AND FOR RELATED FILINGS

A principal or lobbyist filing shall use the Department economic information request protection form when submitting a document to the Department which is related to economic development information for which economic information protection is requested.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

18 NCAC 12 .0506 PRINCIPAL'S ECONOMIC INFORMATION PROTECTION AUTHORIZATION FORM

A principal shall file an economic information protection principal authorization form together with the economic information protection request form.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0507 PRINCIPAL'S ECONOMIC INFORMATION PROTECTION REGISTRATION FORM

A lobbyist shall file an economic information protection registration form together with a copy of the principal's economic information protection request form.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0508 PRINCIPAL'S ECONOMIC INFORMATION PROTECTION MONTHLY OR QUARTERLY REPORT

(a) Pursuant to G.S. 120C-403, a principal shall file a separate monthly or quarterly report related to economic development information for which an economic information protection request has been filed. When filing such a report, the principal shall:

- (1) Use the Department's economic information protection request quarterly or monthly report form; and
- (2) Provide to the Department a copy of the economic information request form.

(b) Failure to file the information required on a monthly or quarterly report may subject the principal to civil sanctions.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0509 LOBBYIST'S ECONOMIC INFORMATION PROTECTION MONTHLY OR QUARTERLY REPORT

(a) A lobbyist shall file a separate monthly or quarterly report pursuant to G.S. 120C-402 when engaging in lobbying related to economic development information for which an economic information protection request has been filed. When filing such a report, the lobbyist shall use:

- (1) The economic information protection request quarterly or monthly report form; and
- (2) Provide to the Department a copy of the principal's economic information protection request form previously filed and currently in effect for that calendar year.

(b) Failure to file the information required on a monthly or quarterly report may subject the lobbyist to civil sanctions.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption January 1, 2007;
Eff. December 1, 2007.

**18 NCAC 12 .0510 PRINCIPAL'S
 AUTHORIZATION FOR LOBBYING UNRELATED TO
 ECONOMIC INFORMATION PROTECTION REQUEST**

If a principal has a lobbyist who engages in lobbying activities unrelated to economic development information for which an economic information protection request has been filed, the principal shall file a Department principal authorization form for each such lobbyist and shall not file a Department economic information protection principal authorization form.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

**18 NCAC 12 .0511 LOBBYIST REGISTRATION
 FOR LOBBYING UNRELATED TO ECONOMIC
 INFORMATION PROTECTION REQUEST**

If a principal has a lobbyist(s) who engages in lobbying activities unrelated to economic development information, the principal shall ensure that the lobbyist(s) shall file separate registrations, reports, and supporting documents with the Department for any lobbying for that principal which is not related to the economic development information activity or project described in the principal's economic information protection request form.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

**18 NCAC 12 .0512 PRINCIPAL'S DOCUMENTS
 UNRELATED TO ECONOMIC INFORMATION
 PROTECTION REQUEST**

For lobbying not related to economic development information for which economic information protection has been requested, a principal shall file a separate monthly or quarterly report pursuant to G.S. 120C-403 and shall not use the economic information protection quarterly or monthly report forms.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

**18 NCAC 12 .0513 LOBBYIST'S DOCUMENTS
 UNRELATED TO ECONOMIC INFORMATION
 PROTECTION REQUEST**

A lobbyist shall file a separate monthly or quarterly report pursuant to G.S. 120C-402 when engaging in lobbying not related to economic development information for which economic information protection has been requested. When

filing such a report, the lobbyist shall not use an economic information protection quarterly or monthly report form.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

**18 NCAC 12 .0514 REJECTION OF NON-
 ECONOMIC DESIGNATION INFORMATION –
 GENERAL**

(a) Except as otherwise provided in Section .0500 of this Chapter, the Department shall reject any economic information protection document that contains information that does not relate to economic development information for which economic information protection has been requested.

(b) The Department shall return the document to the filer who shall correct it pursuant to Rules .0515 and .0516 of this Chapter.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

**18 NCAC 12 .0515 CORRECTION WITHIN SEVEN
 BUSINESS DAYS OF ECONOMIC INFORMATION
 PROTECTION FILING CONTAINING INFORMATION
 NOT ENTITLED TO ECONOMIC DEVELOPMENT
 INFORMATION PROTECTION**

Within seven business days after notification by the Department that a document submitted with an economic information protection request form includes information that does not relate to the economic development information for which economic information protection has been requested, the principal or lobbyist shall correct the document and deliver the corrected document to the Department.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

**18 NCAC 12 .0516 METHOD OF CORRECTING
 DOCUMENT CONTAINING INFORMATION NOT
 ENTITLED TO ECONOMIC INFORMATION
 PROTECTION**

Upon notification by the Department that a document shall be corrected by a principal or lobbyist, the principal or lobbyist shall:

- (1) Delete the unrelated information from the economic information protection form; and
- (2) Ensure that the deleted information unrelated to the economic information protection request is filed according to the rules in this Chapter.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

**18 NCAC 12 .0517 REJECTION OF
UNCORRECTED DOCUMENT CONTAINING
INFORMATION NOT ENTITLED TO ECONOMIC
INFORMATION PROTECTION**

(a) If a principal or lobbyist fails to correct a document pursuant to Rules .0515 and .0516 of this Chapter, the Department shall reject the document.

(b) Failure to file the information if required on a monthly or quarterly report may subject the principal or lobbyist to civil sanctions.

*History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.*

**18 NCAC 12 .0518 CONTENTS OF ECONOMIC
INFORMATION PROTECTION REQUEST**

An economic information protection request filed with the Department shall contain the following information:

- (1) A description of the economic development activity, economic development initiative, industrial or business recruitment activity;
- (2) The complete names of the lobbyist and principal;
- (3) The complete name of any firm or organization, if applicable;
- (4) If applicable, the complete name and title of the authorized representative of the principal;
- (5) The complete mailing and physical addresses of the lobbyist and the principal;
- (6) The telephone numbers at which the lobbyist and principal can be reached between 8:00 a.m. and 5:00 p.m. on weekdays;
- (7) The email addresses of the principal and the lobbyist;
- (8) The complete name of the state or local official who may authorize the disclosure of the confidential information;
- (9) The complete title of the state or local authorized government official position held by the official listed in Item (8) of this Rule designated by the principal at the time of filing;
- (10) The complete name of the state or local governmental agency;
- (11) The complete mailing and physical addresses of the state or local authorized government position;
- (12) The telephone numbers at which the state or local official or the person currently occupying the authorized government position can be reached between 8:00 a.m. and 5:00 p.m. on weekdays; and
- (13) The email addresses of the state or local official occupying the authorized government official position at the time of filing.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;

*Temporary Adoption January 1, 2007;
Eff. December 1, 2007.*

**18 NCAC 12 .0519 DESCRIPTION OF THE
ECONOMIC DEVELOPMENT ACTIVITY ENTITLED
TO PROTECTION FROM PREMATURE DISCLOSURE**

The economic information protection request form filed with the Department shall contain a description of the economic development activity, initiative, industrial, or business recruitment activity sufficient for the exercise of the Secretary's authority to determine that the Department's release would constitute a premature disclosure of confidential records pursuant to a public records request or would not constitute a premature disclosure of confidential records pursuant to a public records request.

*History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption January 1, 2007;
Eff. December 1, 2007.*

**18 NCAC 12 .0520 IDENTIFICATION OF
AUTHORIZED INDIVIDUAL**

A principal shall designate and authorize at least one other individual to file a release authorizing the Department to disclose the confidential economic development information and to make it publicly available pursuant to G.S. 120C-220 and 120C-405. The principal shall provide the name, title, address, telephone number and email address of the authorized individual(s).

*History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption January 1, 2007;
Eff. December 1, 2007.*

**18 NCAC 12 .0521 DESIGNATION OF
AUTHORIZED STATE OR LOCAL GOVERNMENT
EMPLOYEE, OFFICIAL, OR PUBLIC SERVANT**

A principal shall identify to the Department on the economic development protection request form as required by Rule .0518 of this Chapter at least one State or local government employee, official or public servant ("authorized government official") who:

- (1) Holds a position with the responsibility to be:
 - (a) Involved in or aware of the economic information; and
 - (b) Knowledgeable about the circumstances that give rise to the need for protection from premature disclosure of the economic development information; and
- (2) Has the authority to:
 - (a) Make a determination as to whether and when a release of records or an announcement of the activity would be appropriate and proper; and
 - (b) File a request with the Department for release of economic development

information or to make an announcement regarding the activity or initiative.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0522 CONFIRMATION SIGNATURE

The authorized government official identified pursuant to Rule .0518 of this Chapter shall sign the economic information protection request form.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0523 VERIFICATION BY GOVERNMENT OFFICIAL SIGNATURE

The signature of the authorized government official on the economic information protection request form verifies that:

- (1) The position held by the authorized government official signer meets the criteria set out in Rule .0521 of this Chapter;
- (2) The authorized government official confirms that the economic development information qualifies for protection from premature disclosure pursuant to G.S. 120C-101(b) and G.S. 132-6(d); and
- (3) Confirms that the signing authorized government official currently has authority to file a request for release or make an announcement pursuant to G.S. 120C-101(b), 120C-405 and G.S. 132-6(d).

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0524 VERIFICATION BY AUTHORIZED OFFICIAL SIGNATURE

A principal shall complete the section of the economic information protection request form which sets forth the principal's decision as to whether the authorized government official has the principal's authority to extend the economic information protection status until such time as the requirements for protection of the economic development information from premature disclosure no longer exist even if the principal elects not to submit a principal's authorization for the next calendar year.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

18 NCAC 12 .0525 DEPARTMENT ACTION UPON RECEIPT OF RELEASE OR NOTIFICATION

The Department shall make the previously confidential economic development information publicly available pursuant to G.S. 120C-220, 120C-405 and Chapter 132 of the General Statutes upon a date specified by the principal or upon the receipt of a release from a principal or authorized government official.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0526 DEPARTMENT ACTION UPON RECEIPT OF INFORMATION INDICATING PREVIOUSLY CONFIDENTIAL ECONOMIC DEVELOPMENT INFORMATION MAY NO LONGER BE PROTECTED FROM DISCLOSURE

Upon receipt of information that economic development information may no longer be protected from disclosure by the provisions of G.S. 120C-220, G.S. 120C-405 and Chapter 132 of the General Statutes, the Department shall contact both the principal and the authorized government official.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

18 NCAC 12 .0527 PRINCIPAL AND AUTHORIZED GOVERNMENT OFFICIAL RESPONSE

A principal and the authorized government official shall comply with Rules .0528 and .0529 of this Chapter within 10 business days of receipt of a contact from the Department regarding information that economic development information may no longer be protected from disclosure.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

18 NCAC 12 .0528 CONFIRMATION OF ANNOUNCEMENT BY PRINCIPAL AND AUTHORIZED GOVERNMENT OFFICIAL RESPONSE

In response to the departmental contact described in Rule .0527 of this Chapter, a principal and authorized government official shall confirm to the Department that:

- (1) The State, a unit of local government or the principal has announced a commitment by the principal to expand or locate a specific project in North Carolina; or
- (2) The State, a unit of local government or the principal has not announced a commitment by the principal to expand or locate a specific project in North Carolina or a final decision by the principal not to expand or locate a specific project in North Carolina.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9; Eff. December 1, 2007.

18 NCAC 12 .0529 CONFIRMATION THAT RELEASE IS AUTHORIZED

In response to the departmental contact described in Rule .0527 of this Chapter, a principal and authorized government official shall also confirm to the Department that:

- (1) The principal has communicated the commitment or decision referred to in Rule .0528 of this Chapter to the State or local government agency involved with the project; or
- (2) The principal has not communicated the commitment or decision referred to in Rule .0528 of this Chapter to the State or local government agency involved with the project.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9; Eff. December 1, 2007.

18 NCAC 12 .0530 CONDITIONS WHEN RESPONSE TO DEPARTMENT CONTACT RESULTS IN RELEASE

The Department shall release and make publicly available pursuant to G.S. 120C-220, 120C-405 and Chapter 132, information previously held confidential when both the principal and authorized government official file a response pursuant to Rule .0527 of this Chapter and the information in the responses confirms that the economic development information no longer meets the statutory criteria for protection from premature disclosure.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9; Eff. December 1, 2007.

18 NCAC 12 .0531 CONDITIONS WHEN CONTACT RESULTS IN CONTINUED PROTECTION OF INFORMATION FROM PREMATURE DISCLOSURE

The Department shall not release and not make publicly available pursuant to G.S. 120C-220, 120C-405 and Chapter 132 of the General Statutes, information previously held confidential when both the principal and authorized government official file responses pursuant to Rule .0526 through Rule .0529 of this Chapter and the information in the responses confirms that the economic development information continues to meet the statutory criteria for protection from premature disclosure.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9; Eff. December 1, 2007.

18 NCAC 12 .0532 CONDITIONS WHEN RESPONSE TO DEPARTMENT CONTACT MAY RESULT IN CONTINUED PROTECTION OF INFORMATION FROM PREMATURE DISCLOSURE

The Department shall take further action to obtain confirmation as to whether information previously held confidential continues to meet the statutory criteria for protection from premature disclosure when:

- (1) A principal and the principal's authorized government official submit conflicting responses regarding the status of information protected from premature disclosure; or
- (2) Either the principal or authorized government official fails to file a response pursuant to Rule .0528 of this Chapter.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9; Eff. December 1, 2007.

18 NCAC 12 .0533 SECRETARY OF COMMERCE DESIGNATION

(a) A principal may designate the North Carolina Secretary of Commerce or his or her designee as the authorized government official pursuant to this Chapter.

(b) With the consent of the North Carolina Secretary of Commerce, a local government official designated as a principal's authorized government official may delegate to the North Carolina Secretary of Commerce or his or her designee the authority to act as the principal's authorized government official pursuant to this Chapter and to the principal's designation of that local government official.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9; Temporary Adoption January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0535 SECRETARY OF COMMERCE DEFAULT DESIGNATION

The failure of a principal to designate to the Department an authorized government official pursuant to Rule .0518 of this Chapter shall constitute designation of the Secretary of Commerce or his or her designee as the principal's authorized government official for all purposes for which such a designation may be made or is required.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9; Eff. December 1, 2007.

18 NCAC 12 .0536 CONTINUATION OF ECONOMIC INFORMATION PROTECTION FROM PREMATURE DISCLOSURE

A principal shall file a new economic information protection request no later than the 31st day of each December for the next calendar year if the principal seeks continuation of economic information protection.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

18 NCAC 12 .0537 RELEASE OF INFORMATION TO THE DEPARTMENT OF COMMERCE

The Secretary of State may give the Secretary of the Department of Commerce the names of the entities who have received the economic information protection status if the principal has acknowledged to the Department of the Secretary of State that the principal permits this information to be released to the Department of Commerce for purposes of determining the continuation of the economic information protection status or for the purposes of preventing the premature disclosure of economic information.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

18 NCAC 12 .0538 CERTIFICATION PROCESS INVOLVING THE DEPARTMENT OF COMMERCE

On or before December 1 of each year, the Department of the Secretary of State shall provide to the Department of Commerce a list of all of the filings where the principal has acknowledged to the Department of the Secretary of State that the principal permits the Secretary of State to release this information to the Department of Commerce for purposes of determining the continuation of the economic information protection status or for the purposes of preventing the premature disclosure of economic information.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

18 NCAC 12 .0539 DEPARTMENT OF COMMERCE CERTIFICATION OF STATUS

For those economic information documents for which protection has been requested and the Secretary of Commerce or his or her designee has been designated as the authorized government official or default or designated by the local official, the Secretary of Commerce or his or her designee shall confirm to the Secretary of State in writing no later than January 15 of the next year whether the statutory criteria for protection from premature disclosure continue to exist for each project.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0540 CONTINUATION SHALL INCLUDE CERTIFICATION

A continuation request shall include certification that the circumstances continue to exist which qualify the filings for economic information protection status pursuant to G.S. 120C-101(b) and 132-6.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

18 NCAC 12 .0541 ANNUAL CERTIFICATION OF ECONOMIC PROTECTION DESIGNATION

An economic information protection status may be continued only by the annual submission of the economic information protection request form or the submission of the economic information protection continuation form.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

18 NCAC 12 .0542 EXTENSION OF CERTIFICATION WITHOUT RE-REGISTRATION

In the event that a principal fails to register for a year following the initial request for economic information protection, the principal may file an economic information protection continuation form which verifies that the information continues to be confidential pursuant to the provisions of G.S. 120C-101(b) and 132-6(d). Such an economic information protection continuation shall be submitted no later than December 31 for the next year.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

18 NCAC 12 .0543 AUTHORIZED GOVERNMENT OFFICIAL CAN EXTEND CERTIFICATION

In the event that a principal fails to register for a year following the initial request for economic information protection and the principal does not file an economic information protection continuation form, the authorized government official may file an economic information protection continuation form. Such an economic information protection continuation form shall be submitted no later than the 15th day of January in the next calendar year.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Eff. December 1, 2007.

18 NCAC 12 .0544 AUTHORIZED GOVERNMENT OFFICIAL FILE RELEASE FORM

The principal or authorized government official shall file a release form if the principal has:

- (1) Communicated to the State or local government agency involved with the project either:
 - (a) A commitment to expand or locate the economic development project in this State; or
 - (b) A decision not to expand or locate the economic development project in this State; and

- (2) Made a public announcement as to whether or not the economic development project will be located in this State.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0545 CONTENTS OF RELEASE

A release of previously confidential economic information shall:

- (1) Bear the signature of at least one of the government representatives identified pursuant to Rule .0518 of this Chapter;
- (2) Verify that the business has communicated to the State or local government agency involved with the project either:
 - (a) A commitment to expand or locate the economic development project in this State; or
 - (b) A decision not to expand or locate the economic development project in this State; and
- (3) Verify that a public announcement of the project has been communicated to:
 - (a) The Secretary of Commerce or his authorized designee; or
 - (b) The authorized government official who is authorized and has knowledge pursuant to Rule .0521 of this Chapter.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 132-6(d); 132-9;
Temporary Adoption January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0601 MATTERS ON WHICH THE REGISTRANT EXPECTS TO ACT AS LOBBYIST

An individual registering as a lobbyist shall specify on the registration form one or more categories in which the registrant expects to act as lobbyist.

History Note: Authority G.S. 120C-101(a); 120C-200; 120C-220; 120C-600; 120C-603;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0602 REPORTING OF CHANGES IN MATTERS ON WHICH THE REGISTRANT EXPECTS TO ACT AS A LOBBYIST

A person registered as a lobbyist shall report any changes in the matters on which the individual expects to act as a lobbyist pursuant to G.S. 120C-200(c). If the lobbyist begins to lobby on a matter not previously identified, the lobbyist shall file an amendment to the registration identifying and noting that change.

History Note: Authority G.S. 120C-101(a); 120C-200; 120C-220; 120C-600; 120C-603;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0603 END OF LOBBYIST AND PRINCIPAL RELATIONSHIP

If a relationship between a lobbyist and principal ends and the lobbyist files a resignation form with the Department and the principal files a termination form, the Department shall keep both forms on file.

History Note: Authority G.S. 120C-101(a); 120C-200; 120C-220; 120C-600; 120C-603;
Eff. December 1, 2007.

18 NCAC 12 .0604 SUBSEQUENT REGISTRATION IN SAME YEAR

A subsequent registration with the Department for a lobbyist or principal within the same calendar year shall be deemed a new registration and shall be accompanied by the required fee.

History Note: Authority G.S. 120C-101(a); 120C-200; 120C-220; 120C-600; 120C-603;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0605 RESIGNATION

The effective date of a resignation of a lobbyist shall be governed by the rules in Sections .0200 and .0300 of this Chapter.

History Note: Authority G.S. 120C-101(a); 120C-200; 120C-220; 120C-600; 120C-603;
Eff. December 1, 2007.

18 NCAC 12 .0606 ENDING OF LOBBYIST-PRINCIPAL RELATIONSHIP DOES NOT END REPORTING OBLIGATION

Termination of a registration does not end the reporting obligation for any month or quarter in which reportable expenses were made while the person or entity was required to report.

History Note: Authority G.S. 120C-101(a); 120C-200; 120C-220; 120C-600; 120C-603;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .0701 LOBBYIST DISCLOSURE OF IDENTITY OF PRINCIPAL TO DEPARTMENT

A lobbyist shall identify as his or her principal the person on whose behalf the lobbyist lobbies ("principal in fact") on all documents submitted to the Department.

History Note: Authority G.S. 120C-101(a); 120C-200; 120C-220; 120C-600; 120C-603;
Eff. December 1, 2007.

18 NCAC 12 .0703 CONSEQUENCES OF FAILURE TO DISCLOSE THE PRINCIPAL IN FACT ON THE REGISTRATION FORM

A lobbyist's registration shall be void if the lobbyist fails to identify the principal in fact on his or her registration form.

History Note: Authority G.S. 120C-101(a); 120C-200; 120C-215; 120C-600; 120C-603; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0705 LOBBYIST IDENTIFICATION

Before engaging in lobbying communications or activities with a designated individual, a lobbyist shall:

- (1) Communicate or confirm his or her identity to the designated individual; and
- (2) Communicate or confirm to the designated individual that he or she is a lobbyist by one or more of the following methods or by a similar declarative method:
 - (a) Orally making a declarative statement that "I am a lobbyist" spoken in a manner heard and understood by the designated individual;
 - (b) Stating in a document in bold or typeface at least two points larger than surrounding type or other method, "lobbyist"; or
 - (c) By a visible display such as a name tag containing the word "lobbyist"; and
- (3) Identify his or her principal in fact by a method set forth in Rule .0706 through Rule .0708 of this Chapter.

History Note: Authority G.S. 120C-101(a); 120C-200(e); 120C-220; 120C-600; 120C-603; Eff. December 1, 2007.

18 NCAC 12 .0706 DISCLOSURE TO A DESIGNATED INDIVIDUAL OF THE IDENTITY OF THE PRINCIPAL BY THE LOBBYIST FOR A SINGLE PRINCIPAL

Before engaging in lobbying communications or activities with a designated individual, a lobbyist representing a single principal shall identify his or her principal by one or more of the following methods or by a method which provides a similar declaration of the identity of the principal in fact:

- (1) An oral or written communication:
 - (a) Using the word "principal"; or
 - (b) Using the term "lobbyist for"; and
- (2) An oral or written communication of the identity of the principal in fact by:
 - (a) An oral and declarative statement identifying the principal;
 - (b) The act of supplying a business card with the name of the principal;
 - (c) Stating in correspondence the identity of the principal;

- (d) The act of placing the words "lobbyist for" and the identity of the principal in correspondence; or
- (e) The visible display of a name tag containing the identity of the principal.

History Note: Authority G.S. 120C-101(a); 120C-200(e); 120C-220; 120C-600; 120C-603; Eff. December 1, 2007.

18 NCAC 12 .0707 DISCLOSURE TO A DESIGNATED INDIVIDUAL OF THE IDENTITY OF THE PRINCIPAL BY A LOBBYIST WHO REPRESENTS MORE THAN ONE PRINCIPAL

Before engaging in lobbying communications or activities with a designated individual, a lobbyist representing more than one principal shall make an affirmative communication of the identity of the specific principal or principals on whose behalf the lobbyist is currently engaging in lobbying communications or activities with a designated individual.

History Note: Authority G.S. 120C-101(a); 120C-200(e); 120C-220; 120C-600; 120C-603; Eff. December 1, 2007.

18 NCAC 12 .0708 CONTENTS OF DISCLOSURE OF THE IDENTITY OF THE SPECIFIC PRINCIPAL(S) FOR WHOM LOBBYING BY A LOBBYIST WHO REPRESENTS MORE THAN ONE PRINCIPAL

When making the disclosure required by Rule .0707 of this Chapter, a lobbyist shall use one or more of the following methods or a method which provides a similar declaration of the identity of the specific principal or principals:

- (1) An oral or written communication:
 - (a) Using the word "principal"; or
 - (b) Using the term "lobbyist for"; and
- (2) An oral or written communication of the identity of the principal in fact by:
 - (a) An oral declaration stating the identity of the specific principal or principals on whose behalf the lobbyist is currently communicating;
 - (b) A statement in correspondence identifying the specific principal or principals on whose behalf the lobbyist is currently communicating; or
 - (c) Placing the words "lobbyist for" and the identity of the specific principal or principals on whose behalf the lobbyist is currently communicating in correspondence.

History Note: Authority G.S. 120C-101(a); 120C-200(e); 120C-220; 120C-600; 120C-603; Eff. December 1, 2007.

18 NCAC 12 .0801 QUARTERLY REPORT MAY INCLUDE LAST MONTH OF QUARTER REPORT

Instead of filing a separate monthly report with the Department for the last month of the quarter, a lobbyist may incorporate that monthly report within the quarterly report.

History Note: Authority G.S. 120C-101(a); 120C-400; 120C-401; 120C-401(h); 120C-402; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0802 QUARTERLY REPORT MAY INCORPORATE SEPARATELY FILED MONTHLY REPORTS

A lobbyist may incorporate the separately filed monthly reports on the applicable quarterly report form filed with the Department.

History Note: Authority G.S. 120C-101(a); 120C-400; 120C-401; 120C-401(h); 120C-402; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0803 QUARTERLY REPORT VERIFICATION OF MONTHLY REPORT INFORMATION

A lobbyist's signature under oath on a quarterly report verifies that all information on the report regarding any incorporated monthly reports for that quarter and any amendments to the monthly reports is true and correct.

History Note: Authority G.S. 120C-101(a); 120C-400; 120C-401; 120C-401(h); 120C-402; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0805 REPORTING OF CONTRACTS IN THE NORMAL CONDUCT OF DAILY LIFE

A lobbyist shall not include on a report filed with the Department those contracts with designated individuals which are available to the public under the same terms in the ordinary course of business.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-401(h); 120C-402; 120C-403; 120C-600; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0901 METHOD OF REPORTING COMPENSATION

A principal shall report lobbyist compensation using the same method of calculation on each quarterly Department report.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-400; 120C-401(h); 120C-403(b)(3); 120C-405; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0902 COMPREHENSIVE REPORTING

A principal shall report to the Department:

- (1) What the principal actually paid to each lobbyist;
- (2) The amount of compensation the principal owes the lobbyist for that quarterly period and any other money that accrued or was paid for services provided by the lobbyist during that period; and
- (3) Any other compensation of the lobbyist by the principal.

History Note: Authority G.S. 120C-101(a); 120C-401(h); 120C-403(b); Eff. December 1, 2007.

18 NCAC 12 .0903 SEPARATE LOBBYIST COMPENSATION REPORTS MAY BE INCLUDED ON SAME FORM

If a principal has more than one lobbyist, the principal may use one report to the Department for all lobbyists.

History Note: Authority G.S. 120C-101(a); 120C-401(h); 120C-403(b); Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0904 LOBBYIST COMPENSATION SHALL BE SEPARATELY REPORTED

A principal shall report to the Department on the quarterly report the compensation paid to each lobbyist by name. The principal shall not combine the compensation for its lobbyists.

History Note: Authority G.S. 120C-101(a); 120C-401(h); 120C-403; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0905 QUARTERLY REPORT MAY INCLUDE LAST MONTH OF QUARTER REPORT

Instead of filing the monthly report with the Department for the last month of the quarter, a principal may incorporate that monthly report within the quarterly report.

History Note: Authority G.S. 120C-101(a); 120C-401(h); 120C-403; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .0906 QUARTERLY REPORT MAY INCORPORATE SEPARATELY FILED MONTHLY REPORTS BY REFERENCE

Instead of entering separately filed monthly report information on the quarterly report form, a principal may incorporate the separately filed monthly reports by reference in the applicable quarterly report form filed with the Department.

History Note: Authority G.S. 120C-101(a); 120C-401(h); 120C-403;

*Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.*

**18 NCAC 12 .0907 QUARTERLY REPORT
VERIFICATION OF MONTHLY REPORT
INFORMATION**

A principal's signature under oath on a quarterly report verifies that all information on the report regarding any incorporated monthly reports for that quarter and any amendments to the monthly reports is true and correct.

*History Note: Authority G.S. 120C-101(a); 120C-401(h); 120C-403;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.*

**18 NCAC 12 .0910 REPORTING OF CONTRACTS
IN THE NORMAL CONDUCT OF DAILY LIFE**

A principal shall not include on a report filed with the Department those contracts with designated individuals which are available to the public under the same terms in the ordinary course of business.

*History Note: Authority G.S. 120C-101(a); 120C-400(1); 120C-400(2); 120C-401(c); 120C-401(h); 120C-403(b)(1).
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.*

18 NCAC 12 .1001 SOLICITOR REGISTRATION

When registering, solicitors shall provide the following:

- (1) The complete legal name of the solicitor;
- (2) The complete legal name of any firm or organization, if applicable;
- (3) If applicable, the complete legal name and title of the solicitor's representative authorized to sign a report;
- (4) The complete mailing and physical address of the solicitor;
- (5) The telephone numbers at which the solicitor can be reached between 8:00 a.m. and 5:00 p.m. on weekdays; and
- (6) The email address of the solicitor.

*History Note: Authority G.S. 120C-101(a); 120C-215; 120C-404; 120C-600; 120C-603;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.*

**18 NCAC 12 .1002 WHEN REGISTRATION WITH
THE DEPARTMENT IS REQUIRED**

A solicitor shall register within 10 days after the total expense for solicitation of others exceeds three thousand dollars (\$3,000) during any consecutive 90-day period. For example, an individual who solicits others and spends two thousand nine hundred dollars (\$2,900) on March 31 and two hundred dollars (\$200.00) on April 2 shall register as a solicitor.

History Note: Authority G.S. 120C-101(a); 120C-215; 120C-401(h); 120C-404; 120C-600; 120C-603;

*Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.*

**18 NCAC 12 .1003 CALCULATION OF
PRODUCTION COSTS IN ORDER TO DETERMINE
REGISTRATION AND REPORTING APPLICABILITY**

A solicitor shall include for registration and reporting the amount spent for goods or services in excess of the solicitor's fixed costs of operation, including costs to develop, create, print, publish or manufacture a solicitation communication. For example, the costs of the solicitor's contract with a printing company shall be included in the calculation whether the three thousand dollar (\$3,000) threshold has been met and shall be reported.

*History Note: Authority G.S. 120C-101(a); 120C-215; 120C-401(h); 120C-404; 120C-600; 120C-603;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.*

**18 NCAC 12 .1004 CALCULATION OF
TRANSMISSION COSTS IN ORDER TO DETERMINE
REGISTRATION AND REPORTING APPLICABILITY**

A solicitor shall include for registration and reporting the amount spent for goods or services in excess of the solicitor's fixed costs of operation to convey a solicitation communication from the solicitor or his or her agent to the recipients of a solicitation.

*History Note: Authority G.S. 120C-101(a); 120C-215; 120C-404; 120C-600; 120C-603;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.*

**18 NCAC 12 .1005 CALCULATION OF EVENT
COSTS IN ORDER TO DETERMINE REGISTRATION
AND REPORTING APPLICABILITY**

A solicitor shall include for registration and reporting the costs of planning, hosting, sponsoring and attending a conference, meeting or similar event at which a solicitation communication was made.

*History Note: Authority G.S. 120C-101(a); 120C-215; 120C-401(h); 120C-404; 120C-600;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.*

**18 NCAC 12 .1006 REPORTING FOR REMAINDER
OF YEAR OF REGISTRATION AS SOLICITOR**

Solicitors who register with the Department when they meet the three thousand dollar (\$3,000) threshold shall then report to the Department for each remaining quarter of that calendar year.

*History Note: Authority G.S. 120C-101(a); 120C-401(h); 120C-404; 120C-600;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.*

18 NCAC 12 .1007 REPORT CONTENTS

In each quarterly report to the Department, a solicitor shall include:

- (1) The cost of solicitation which includes the production costs and transmission costs;
- (2) Costs of planning, hosting, sponsoring and attending a conference, meeting or similar event at which a solicitation communication was made; and
- (3) Reportable expenditures.

History Note: Authority G.S. 120C-101(a); 120C-401(h); 120C-404; 120C-600; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .1008 CONTRACTS REPORTABLE

A solicitor shall report the costs of services provided to the solicitor in relation to the solicitation.

History Note: Authority G.S. 120C-101(a); 120C-401(h); 120C-404; 120C-600; Eff. December 1, 2007.

18 NCAC 12 .1201 REPORTING OF CONFIDENTIAL INFORMATION

A lobbyist, principal, solicitor or other person required to file with the Department shall not report information to the Department that is confidential pursuant to State or federal law, except as otherwise provided by law or as set forth in Section .0500 or Rule .1202 through Rule .1204 of this Chapter.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-401(h); 120C-600; 120C-603; Eff. December 1, 2007.

18 NCAC 12 .1202 GENERAL REQUIREMENTS RELATING TO PROTECTIVE ORDER PAYEES AND ADDRESS CONFIDENTIALITY PROGRAM PARTICIPANTS

- (a) A person who requests that information be held confidential ("confidentiality request") by the Department pursuant to G.S. 120C-401 shall make the request prior to or at the time of submission to the Department of such information.
- (b) A person who makes a "confidentiality request" to the Department pursuant to G.S. 120C-401 shall include a cover sheet marked: "Confidentiality Requested" with any documents submitted.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-401(h); 120C-600; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .1203 CONFIDENTIALITY REQUEST CONTENTS

The following information shall be included with a confidentiality request to the Department pursuant to G.S. 120C-401:

- (1) Identification of all documents submitted which contain information to which the confidentiality request applies;
- (2) Identification of any attachments to documents submitted which contain information to which a confidentiality request applies; and
- (3) A copy of either:
 - (a) The protective order pursuant to Chapter 50B of the General Statutes which orders that a payee's actual address be kept confidential; or
 - (b) The Address Confidentiality Program authorization card issued to the payee by the Attorney General under G.S. 15C-8.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-401(h); 120C-600; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .1204 DISCLOSURE OF CONFIDENTIAL INFORMATION IN G.S. 120C-401 FILINGS FOR WHICH THERE IS NO CONFIDENTIALITY REQUEST

- (a) Unless the provisions of paragraph (b) of this Rule apply, the Department shall disclose information for which there is not a confidentiality request presented to the Department pursuant to G.S. 120C-401 before or at the time documents are submitted to the Department.
- (b) If the Department has not already made a document public and a confidentiality request pursuant to G.S. 120C-401 is submitted, the Department shall hold the covered information confidential as requested.
- (c) A payee address designated as confidential pursuant to a G.S. 50B order and pursuant to G.S. 120C-401(h) remains confidential until the Department receives:
 - (1) A signed, notarized request from the payee to remove the confidentiality designation; or
 - (2) A copy of a court order directing removal of confidential address status.
- (d) A payee address designated as confidential pursuant to the Address Confidentiality Program under Chapter 15C of the General Statutes and pursuant to G.S. 120C-401(h) remains confidential until the Department receives:
 - (1) A signed, notarized request from the payee to remove the confidentiality designation; or
 - (2) A written notification from the Attorney General issued pursuant to Chapter 15C modifying the payee's address under the program or canceling the payee's participation in the program.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-401(h); 120C-600; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .1301 GENERAL REQUIREMENTS

A lobbyist, lobbyist principal, solicitor, or liaison personnel required or permitted to file a document with the Department shall retain copies of all documents, forms, information and supporting documentation related to the submissions and underlying activities for a period of three years after the date on which the record was made or the document was submitted to the Department. Note: For example, if invitations or attendee lists are utilized to prepare the filing, they would be supporting documentation for a monthly or quarterly report.

History Note: Authority G.S. 120C-101(a); 120C-200; 120C-400; 120C-600; 120C-603; 120C-800;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .1302 RECORD RETENTION REQUIREMENT WHEN INVESTIGATION IS OPEN

If a lobbyist, lobbyist principal, solicitor, or liaison personnel who is required or permitted to file a document with the Department knows or has reason to believe that an official investigation or inquiry has been initiated for any reason related to lobbying, solicitation, or a document required or permitted to be filed with the Department, the person or entity shall preserve and maintain all records and supporting documentation related to or associated with the lobbying, solicitation or document required or permitted to be filed with the Department pursuant to 18 NCAC 12 .1303.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215; 120C-400; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .1303 THREE YEAR TIME PERIOD FOR MAINTENANCE OF RECORDS RELATED TO INVESTIGATIONS

A lobbyist, lobbyist principal, solicitor, or liaison personnel required or permitted to file a document with the Department subject to Rule .1302 of this Chapter shall maintain such records until three years from the later of:

- (1) Receipt of notice that the investigation has been closed and that no further action will be taken by the investigating authority and no other related investigation or inquiry is open; or
- (2) Termination or closure of any judicial or quasi-judicial proceeding related to the investigation or inquiry.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215; 120C-400; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .1304 REQUIREMENT FOR ORIGINAL OR EQUIVALENT

A lobbyist, lobbyist principal, solicitor, or liaison personnel required or permitted to file a document with the Department, shall retain the information in the original form in which the information was created, or in any other form that accurately captures and retains information contained in the original form in which the information was created, including all meta-data or other information related to the properties or history of the document.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215; 120C-400; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .1305 LOBBYIST'S COMPENSATION RECORDS

An individual registered as a lobbyist shall maintain for three years a record of all fees and compensation received from his or her principal(s), including but not limited to compensation paid for professional, expert, or consulting or any combination of such services.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-400; 120C-401; 120C-402; 120C-403; 120C-600; 120C-603; 120C-800;
Eff. December 1, 2007.

18 NCAC 12 .1306 PRINCIPAL'S RECORDS OF LOBBYIST'S COMPENSATION

A principal shall maintain a record for three years of all fees or compensation including but not limited to compensation paid to each lobbyist for professional, consulting, or expert services or any combination of such services.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-400; 120C-401; 120C-402; 120C-403; 120C-600; 120C-603; 120C-800;
Eff. December 1, 2007.

18 NCAC 12 .1307 MAINTENANCE OF PRINCIPAL'S RECORDS RELATED TO METHOD OF EXPENDITURE CALCULATION

A principal shall maintain its records such that the Department can determine the method of calculation for reportable expenditures contained in monthly and quarterly reports.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-400; 120C-401; 120C-402; 120C-403; 120C-600; 120C-603; 120C-800;
Eff. December 1, 2007.

18 NCAC 12 .1308 LOBBYIST'S MAINTENANCE OF RECORDS RELATED TO METHOD OF EXPENDITURE CALCULATION

A lobbyist shall maintain his or her records and any underlying data for information contained in monthly and quarterly reports such that the Department can determine the method of calculation.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-400; 120C-401; 120C-402; 120C-403; 120C-600; 120C-603; 120C-800; Eff. December 1, 2007.

18 NCAC 12 .1309 SOLICITOR'S MAINTENANCE OF RECORDS RELATED TO METHOD OF EXPENDITURE CALCULATION

A solicitor shall maintain his or her records and any underlying data for information contained in monthly and quarterly reports such that the Department can determine the method of calculation.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-215; 120C-400; 120C-401; 120C-404; 120C-600; 120C-603; 120C-800; Eff. December 1, 2007.

18 NCAC 12 .1310 PRINCIPAL'S MAINTENANCE OF RECORDS REGARDING ALLOCATION OF LOBBYING AND NON-LOBBYING COMPENSATION

A principal shall maintain records such that the Department can determine the allocation of compensation for lobbying and non-lobbying compensation paid to each lobbyist.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-400; 120C-401; 120C-402; 120C-403; 120C-600; 120C-603; 120C-800; Eff. December 1, 2007.

18 NCAC 12 .1311 LOBBYIST MAINTENANCE OF RECORDS REGARDING ALLOCATION OF LOBBYING AND NON-LOBBYING COMPENSATION

A lobbyist shall maintain records such that the Department can determine the allocation of the compensation for lobbying and non-lobbying compensation received from a principal.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-400; 120C-401; 120C-402; 120C-403; 120C-600; 120C-603; 120C-800; Eff. December 1, 2007.

18 NCAC 12 .1312 LIAISON'S RECORDS

A liaison shall maintain records pursuant to his or her employing entity's State records retention policy.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-400; 120C-401; 120C-402; 120C-600; 120C-800; 132-8; Eff. December 1, 2007.

18 NCAC 12 .1313 RECORDS OF FILERS PURSUANT TO G.S. 120C-800(A) OR G.S. 120C-800(C)

Persons who are permitted or required to file with the Department pursuant to G.S. 120C-800(a) or G.S. 120C-800(c) shall comply with the requirements of this Section.

History Note: Authority G.S. 120C-101(a); 120C-400; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .1314 RECORD RETENTION BY FILERS PURSUANT TO G.S. 120C-800(A) OR 120C-800(C) REQUIREMENT WHEN AN INVESTIGATION IS OPEN

Persons permitted or required to file a document with the Department pursuant to G.S. 120C-800(a) or G.S. 120C-800(c) subject to Rule .1313 of this Chapter shall maintain such records until three years from the later of:

- (1) Receipt of notice that the investigation has been closed and that no further action will be taken by the investigating authority and no other related investigation or inquiry is open; or
- (2) Termination or closure of any judicial or quasi-judicial proceeding related to the investigation or inquiry.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215; 120C-400; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .1315 THREE YEAR TIME PERIOD FOR MAINTENANCE OF RECORDS RELATED TO INVESTIGATIONS FOR PERSONS WHO FILED PURSUANT TO G.S. 120C-800(A) OR G.S. 120C-800(C)

Persons who are permitted or required to file with the Department pursuant to G.S. 120C-800(a) or G.S. 120C-800(c) subject to Rule .1313 of this Chapter shall maintain such records until three years from the later of:

- (1) Receipt of notice that the investigation has been closed and that no further action will be taken by the investigating authority and no other related investigation or inquiry is open; or
- (2) Termination or closure of any judicial or quasi-judicial proceeding related to the investigation or inquiry.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215; 120C-400; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .1316 REQUIREMENT FOR ORIGINAL OR EQUIVALENT FOR PERSONS WHO ARE REQUIRED OR PERMITTED AND DID FILE PURSUANT TO G.S. 120C-800(A) OR G.S. 120C-800(C)

Persons who are permitted or required to file a document with the Department pursuant to G.S. 120C-800(a) or G.S. 120C-800(c), shall retain the information in the original form in which the information was created, or in any other form that accurately captures and retains information contained in the original form in which the information was created, including all meta-data or other information related to the properties or history of the document.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .1317 RECORDS OF PERSONS PERMITTED TO FILE PURSUANT TO G.S. 120C-800(B) OR G.S. 120C-800(D)

Persons permitted to file and who did file documents with the Department pursuant to G.S. 120C-800(b) or G.S. 120C-800(d) shall maintain records pursuant to this Section.

History Note: Authority G.S. 120C-101(a); 120C-400; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .1318 RECORD RETENTION REQUIREMENT OF FILERS PURSUANT TO G.S. 120C-800(B) OR 120C-800(D) WHEN AN INVESTIGATION IS OPEN

Persons permitted to file a document and who did file a document with the Department pursuant to G.S. 120C-800(b) or G.S. 120C-800(d) subject to Rule .1317 of this Chapter, shall maintain such records until the earlier of the following:

- (1) The Department's jurisdiction over the person ceases; or
- (2) Three years from the later of:
 - (a) Receipt of notice that the investigation has been closed and that no further action will be taken by the investigating authority and no other related investigation or inquiry is open; or
 - (b) Termination or closure of any judicial or quasi-judicial proceeding related to the investigation or inquiry.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .1319 THREE YEAR TIME PERIOD FOR MAINTENANCE OF RECORDS RELATED TO INVESTIGATIONS FOR PERSONS WHO FILED PURSUANT TO G.S. 120C-800(B) OR G.S. 120C-800(D)

Persons who are required to file with the Department and did file pursuant to G.S. 120C-800(b) or G.S. 120C-800(d) subject to Rule .1317 of this Chapter shall maintain such records until the earlier of the following:

- (1) Department ceases to exercise jurisdiction over the records; or
- (2) Three years from the later of:
 - (a) Receipt of notice that the investigation has been closed and that no further action will be taken by the investigating authority and no other related investigation or inquiry is open; or
 - (b) Termination or closure of any judicial or quasi-judicial proceeding related to the investigation or inquiry.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-206; 120C-207; 120C-215; 120C-400; 120C-401; 120C-402; 120C-403; 120C-404; 120C-600; 120C-603; 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .1320 REQUIREMENT FOR ORIGINAL OR EQUIVALENT FOR PERSONS WHO ARE PERMITTED TO FILE AND DID FILE PURSUANT TO G.S. 120C-800(B) OR G.S. 120C-800(D)

Persons who are permitted to file and did file with the Department pursuant to G.S. 120C-800(b) or G.S. 120C-800(d), shall retain the information in the original form in which the information was created, or in any other form that accurately captures and retains information contained in the original form in which the information was created, including all meta-data or other information related to the properties or history of the document.

History Note: Authority G.S. 120C-101(a); 120C-800; Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007.

18 NCAC 12 .1401 FURNISHING LOBBYIST LISTS TO DESIGNATED INDIVIDUALS

The Department may furnish lobbyist and principal lists to designated individuals by:

- (1) Electronically furnishing a copy to the ethics liaison or head of the employing entity, board or commission for which a designated individual has been designated and for whom the Department has no current email address and requesting that it be forwarded to the designated individual; or
- (2) Electronically furnishing a website link to all designated individuals for accessing an

electronic copy of the lobbyist and principal lists.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-220;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 12 .1403 REJECTION OF ELECTRONICALLY FURNISHED LIST

If the email system of a designated person rejects a lobbyist list furnished by email, the Department may provide the list to the ethics liaison or agency head of the employing entity, board or for which a designated individual has been designated.

History Note: Authority G.S. 120C-101(a); 120C-101(b); 120C-200; 120C-220;
Temporary Adoption Eff. January 1, 2007;
Eff. December 1, 2007.

18 NCAC 13 .0402 CONTENT SUFFICIENCY REQUIREMENT FOR SUBMITTED MAPS

A map submitted shall accurately depict the geographic area to be served by reference to governmental boundaries, streets, roads, or geographical features.

History Note: G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);
Temporary Adoption Eff. January 1, 2007 (18 NCAC 12 .0401);
Eff. December 1, 2007.

18 NCAC 13 .0406 GENERAL REQUIREMENTS FOR MAP

The map shall include:

- (1) The geographic map image;
- (2) A scale indicator;
- (3) A graphic indicating the direction North;
- (4) A title indicating the map's purpose;
- (5) A reference statement linking the map to the filing for which the map is submitted; and
- (6) A legend or key to any symbols on the geographic map image.

History Note: G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);
Eff. December 1, 2007.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 18 - BOARD OF EXAMINERS FOR ELECTRICAL CONTRACTORS

21 NCAC 18B .0209 FEES

(a) The examination fee for regular qualifying examinations is ninety dollars (\$90.00) for all classifications.

(b) The examination fee for a specially-arranged qualifying examination is two-hundred dollars (\$200.00) for all classifications.

(c) The fee for review of a failed examination is twenty-five dollars (\$ 25.00). All reviews are supervised by the Board or staff.

(d) The examination fees for regular or specially-arranged examinations in all classifications and the fees for examination reviews may be in the form of cash, check, money order, Visa or Mastercard made payable to the Board and must accompany the respective applications when filed with the Board.

(e) Examination fees received with applications filed for qualifying examinations shall be retained by the Board unless:

- (1) an application is not filed as prescribed in Rule .0210 of this Section, in which case the examination fee and application shall be returned; or
- (2) the applicant does not take the examination during the period for which application was made, files a written request for a refund, setting out extenuating circumstance, and the Board finds extenuating circumstances.

(f) Examination review fees are non-refundable unless the applicant does not take the review, files a written request for a refund, setting out extenuating circumstance, and the Board finds extenuating circumstances.

(g) Any fee retained by the Board shall not be creditable toward any future examination fee or examination review.

(h) Extenuating circumstances for the purposes of Paragraphs (e)(2) and (f) of this Rule shall be the applicant's illness, bodily injury or death, or death of the applicant's spouse, child, parent or sibling, or a breakdown of the applicant's transportation to the designated site of the examination or examination review.

History Note: Authority G.S. 87-42; 87-43.3; 87-43.4; 87-44;
Eff. October 1, 1988;

Amended Eff. May 1, 1998; July 1, 1989;

Temporary Amendment Eff. June 30, 2000;

Temporary Amendment Eff. August 31, 2001;

Amended Eff. January 1, 2008; December 4, 2002.

21 NCAC 18B .0303 ELECTRICAL INSTALLATION: PROJECT: PROJECT VALUE-LIMITATION

For the purpose of implementing G.S. 87-43.3 pertaining to the limited and intermediate electrical contracting license classifications, the following provisions shall apply:

- (1) Electrical Installation. Electrical work is construed to be an electrical installation when the work is made or is to be made:
 - (A) in or on a new building or structure;
 - (B) in or on an addition to an existing building or structure;
 - (C) in or on an existing building or structure, including electrical work in connection with lighting or power

- rewiring or with the addition or replacement of machines, equipment or fixtures; or
 - (D) in an area outside of buildings or structures, either overhead or underground or both.
 - (2) Project. An electrical installation is construed to be a separate electrical contracting project if all the following conditions are met:
 - (A) the installation is, or will be, separate and independently supplied by a separate service, feeder or feeder system; and
 - (B) the installation is for:
 - (i) an individual building or structure which is separated from other buildings or structures by a lot line or, if located on the same lot with other buildings or structures, is physically separated from such other buildings or structures by an open space or an area separation fire wall;
 - (ii) an individual townhouse single-family dwelling unit constructed in a series or group of attached units with property lines separating such units;
 - (iii) an individual tenant space in a mall-type shopping center;
 - (iv) an addition to an existing building or structure;
 - (v) an existing building or structure, including electrical work in connection with lighting or power rewiring or with the addition or replacement of machines, equipment or fixtures; or
 - (vi) an outdoor area either overhead or underground or both.
 - (C) the negotiations or bidding procedures for the installation are carried out in a manner totally separate and apart from the negotiations or bidding procedures of any other electrical installation or part thereof;
 - (D) except for new additions, alterations, repairs or changes to a pre-existing electrical installation, no electrical interconnection or relationship whatsoever will exist between the installation and any other electrical installation or part thereof;
 - (E) a separate permit is to be obtained for each individual building structure or outdoor area involved from the governmental agency having jurisdiction; and
 - (F) if a question is raised by a party at interest or if requested by the Board or Board's staff for any reason, the owner or the awarding authority or an agent of either furnishes to the Board, and to the inspections department having jurisdiction, a sworn affidavit confirming that each and every one of the conditions set forth in (2)(a) through (e) of this Rule are satisfied.
 - (3) Relationship of Plans and Specifications to Definition of Project. Even though such electrical work may not fully comply with each condition set out in Item (2) of this Rule, the entire electrical work, wiring, devices, appliances or equipment covered by one set of plans or specifications is construed to be a single electrical contracting project.
 - (4) Project Value Limitation. In determining the value of a given electrical contracting project, the total known or reasonable estimated costs of all electrical wiring materials, equipment, fixtures, devices, and installation must be included in arriving at this value, regardless of who furnishes all or part of same, and regardless of the form or type of contract or subcontract involved. As an example, on a given electrical contracting project, the owner or general contractor will furnish all or part of the electrical wiring, material, etc. and
 - (A) if the total cost of the wiring, materials, etc., including that furnished by others, plus the total cost of the installation involved, will be more than forty thousand dollars (\$40,000) but not more than one hundred ten thousand dollars (\$110,000), then only an electrical contractor holding either an intermediate or unlimited license is eligible to submit a proposal or engage in the project.
 - (B) if the total cost of the wiring, materials, etc., including that furnished by others, plus the total cost of the installation involved, will exceed one hundred ten thousand dollars (\$110,000), then only an electrical contractor holding an unlimited license is eligible to submit a proposal or engage in the project.
- If a given electrical contracting project is subdivided into two or more contracts or subcontracts for any reason, then the total value of the combined contracts or subcontracts which may be

awarded to or accepted by any one licensee of the Board must be within the total project value in accordance with this Rule. The Board's staff shall make a determination of what constitutes a project in any given situation, and any party at interest may appeal any staff determination to the Board for a final binding decision.

History Note: Authority G.S. 87-42; 87-43; Eff. October 1, 1988; Amended Eff. January 1, 2008; February 1, 1996; February 1, 1990.

21 NCAC 18B .0404 ANNUAL LICENSE FEES

(a) The annual license fees and license renewal fees for the various license classifications are as follows:

CLASSIFICATION	LICENSE FEE
Limited	\$ 75.00
Intermediate	\$115.00
Unlimited	\$165.00
SP-SFD	\$ 75.00
Special Restricted	\$ 75.00

(b) License fees may be paid by cash, check, money order, Visa or Mastercard made payable to the Board. Payment must accompany any license or license renewal application filed with the Board.

History Note: Authority G.S. 87-42; 87-44; Eff. October 1, 1988; Amended Eff. May 1, 1998; July 1, 1989; Temporary Amendment Eff. June 30, 2000; Temporary Amended Eff. August 31, 2001; Amended Eff. January 1, 2008; December 4, 2002.

CHAPTER 57 – REAL ESTATE APPRAISAL BOARD

21 NCAC 57A .0201 QUALIFICATIONS FOR TRAINEE REGISTRATION, APPRAISER LICENSURE AND CERTIFICATION

(a) Applicants for trainee registration, licensure as a licensed residential real estate appraiser and certification as a certified real estate appraiser must satisfy the qualification requirements stated in G.S. 93E-1-6 as further set forth in this Section, provided however that registration as a trainee or licensure as a licensed residential real estate appraiser is not prerequisite for certification as a certified residential or general real estate appraiser. All prelicensing or precertification education must have been obtained in a classroom setting. No credit will be given for courses taken by any other method, such as correspondence school courses or computer based courses.

(b) Applicants for trainee registration shall have completed, within the five-year period immediately preceding the date application is made, 90 hours of education as set forth in 21 NCAC 57B .0101 or education found by the Board to be equivalent to such courses.

(c) Applicants for certification as a certified residential real estate appraiser shall have completed, within the five-year period immediately preceding the date application is made, 200 hours

of education as set forth in 21 NCAC 57B .0102 or education found by the Board to be equivalent to such courses. In addition, applicants for certification as a certified residential real estate appraiser must hold an Associate's degree, or higher, from an accredited college, junior college, community college, or university. In lieu of the Associate's degree requirements, applicants shall have successfully completed 21 semester credit hours in the following collegiate subject matter courses from an accredited college or university: English composition, principles of economics (macro or micro), finance, algebra, geometry or higher mathematics, statistics, introduction of computers, including word processing and spreadsheets, and business or real estate law. Applicants shall have obtained at least 2,500 hours of appraisal experience acquired within the five-year period immediately preceding the date application is made and over a minimum period of two calendar years. Applicants must have been actively engaged in real estate appraising for at least two calendar years prior to the date application is made. At least 50 percent of this appraisal experience must have been of one to four family residential properties in which the sales comparison approach was utilized in the appraisal process.

(d) Applicants for certification as a certified general real estate appraiser shall have completed 300 hours of education as set forth in 21 NCAC 57B .0103 or education found by the Board to be equivalent to such courses. In addition, applicants for certification as a certified general estate appraiser must hold a Bachelor's, or higher, from an accredited college or university. In lieu of the Bachelor's degree requirements, applicants shall have successfully completed 30 semester credit hours in the following collegiate subject matter courses from an accredited college university: English composition, micro economics, macro economics, finance, algebra, geometry or higher mathematics, statistics, introduction of computers, including word processing and spreadsheets, business or real estate law, and two elective courses in accounting, geography, business management or real estate. Applicants shall have obtained at least 3,000 hours of appraisal experience acquired within the five-year period immediately preceding the date application is made and over a minimum period of two and a half calendar years of which at least 50 percent must have been in appraising non-residential real estate. Applicants must have been actively engaged in real estate appraising for at least two and one-half calendar years prior to the date application is made. At least 50 percent of the non-residential appraisal experience must have been of complex properties or of improved properties in which the income approach was utilized in the appraisal process.

(e) Applicants for licensure or certification who are currently registered trainees must submit a complete copy of their complete appraisal log. Applicants for certification who are currently licensed or certified appraisers must submit an appraisal log showing that they possess the requisite amount and length of experience as set forth in Paragraphs (c) and (d) of this Rule. All applicants shall be required to provide to the Board copies of appraisal reports in support of experience credit. In order for an appraisal to be given experience credit, it must comply with the Uniform Standards of Professional Appraisal Practice (USPAP) and with any applicable state statutes or rules.

(f) When a trainee becomes a licensed or certified real estate appraiser or when a licensed real estate appraiser becomes a

certified real estate appraiser, his previous registration or licensure shall be immediately canceled by the Board. When a certified residential real estate appraiser becomes certified as a general real estate appraiser, his previous certification shall be immediately canceled by the Board.

(g) In the event that the Board asks an applicant to submit updated information or provide further information necessary to complete the application and the applicant fails to submit such information within 90 days following the Board's request, the Board shall cancel the applicant's application and the application fee will be retained by the Board. An applicant whose application has been cancelled and who wishes to obtain a registration, license or certificate must start the licensing process over by filing a complete application with the Board and paying all required fees.

(h) An applicant may request that his or her application be withdrawn at any time before final action is taken by the Appraisal Board on the application.

(i) If an application is withdrawn, cancelled or denied, the applicant must wait six months from the date the application is withdrawn, cancelled or denied to file a new application.

(j) If an applicant has a current open complaint before the North Carolina Appraisal Board or an appraiser licensing board from any other state, or if the applicant has pending criminal charges in this or any state, the application will be accepted but no further action will be taken on the application until the complaint or criminal charges are resolved. For the purposes of this Section, criminal charges do not include speeding tickets or traffic infractions.

*History Note: Authority G.S. 93E-1-6(a); 93E-1-10 Eff. July 1, 1994
Amended Eff. January 1, 2008; March 1, 2007; April 1, 2006, July 1, 2005; August 1, 2002; April 1, 1999.*

21 NCAC 57B .0209 CERTIFICATION OF COURSE COMPLETION

Approved schools or course sponsors must provide each passing student with a course completion certificate. Certificates of course completion must be on a document bearing the letterhead or insignia of the school or course sponsor and must have the signature or signature stamp of the school or course sponsor director. A student who has taken a prelicensing or precertification course, other than the 15 hour National USPAP course, for continuing education credit and who does not pass the examination shall not be given a course completion certificate, but shall be given a certificate of attendance for the course, provided that the student complies with the provisions of 21 NCAC 57B .0303. Either certificate shall be valid to obtain continuing education credit, in accordance with 21 NCAC 57B .0604.

*History Note: Authority G.S. 93E-1-8(a); 93E-1-10; Eff. July 1, 1994;
Amended Eff. January 1, 2008; July 1, 2005; August 1, 2002.*

25 NCAC 01E .0210 SEPARATION: PAYMENT OF VACATION LEAVE

(a) Lump sum payment for vacation leave is made only at the time of separation.

(b) When separated from state service due to resignation, dismissal, reduction in force or death, an employee shall be paid in a lump sum for accumulated vacation leave not to exceed a maximum of 240 hours. The employee is not entitled to any scheduled holiday occurring after the last day of work. The employee ceases to accumulate leave and ceases to be entitled to take sick leave. The last day of work is the date of separation.

(c) When separated from state service due to service retirement or early retirement, an employee may elect to exhaust vacation leave after the last day of work but prior to the effective date of retirement. All benefits accrue while leave is being exhausted including holidays that occur during the period. Unused leave not exhausted shall be paid in a lump sum not to exceed 240 hours. The date of separation is as follows:

- (1) If leave is exhausted, the last day of leave is the date of separation.
- (2) If no leave is exhausted, the last day of work is the date of separation.

(d) If an employee separates and is overdrawn on leave, deductions shall be made from the final salary check.

(e) Payment for leave may be made on the regular payroll or on a supplemental payroll, reflecting the number of days of leave and the amount of payment. This leave shall be charged to the budget subhead under which the employee's position was charged. A separate check must be issued for any part of any travel due.

(f) Retirement deduction shall be made from all leave payments.

(g) Receipt of lump sum leave payment and retirement benefit shall not be considered as dual compensation.

(h) In the case of a deceased employee, payment for unpaid salary, leave, and travel must be made, upon establishment of a valid claim, to the deceased employee's administrator or executor. In the absence of an administrator or executor, payment must be made in accordance with the provisions of G.S. 28A-25-6.

*History Note: Authority G.S. 28A-25-6(a),(c); 126-4; Eff. February 1, 1976;
Amended Eff. December 1, 1988; January 1, 1993;
Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;
Amended Eff. December 1, 2007; July 1, 1995; March 1, 1989.*

25 NCAC 01E .0311 SEPARATION

(a) Unused sick leave is not paid when an employee separates from state service.

(b) If an employee separates and is overdrawn on leave, deductions shall be made from the final salary check.

*History Note: Authority G.S. 126-4;
Eff. February 1, 1976;
Amended Eff. December 1, 2007; July 1, 1995; January 1, 1983.*

TITLE 25 – STATE PERSONNEL

25 NCAC 01E .1303 ADMINISTRATION

(a) All departments and universities shall develop policies and procedures to implement this program. If an agency's policy includes employees exempt from the State Personnel Act who are in leave earning and reporting positions, leave may be shared between subject and exempt employees.

(b) Establishment of a leave "bank" for use by unnamed employees is prohibited. Leave shall be donated on a one-to-one personal basis.

(c) This Section does not apply to local government employees but shall apply to public school and community college employees as set forth in 25 NCAC 01E .1305.

History Note: Authority G.S. 126-4;

Eff. May 1, 1990;

Amended Eff. December 1, 2007; July 1, 1995; September 1, 1992.

25 NCAC 01E .1304 QUALIFYING TO PARTICIPATE IN VOLUNTARY SHARED LEAVE PROGRAM

In order to participate in the Voluntary Shared Leave Program, an employee shall meet the following conditions:

- (1) A donor or recipient shall have a half-time or more permanent, probationary, trainee or time-limited appointment. (The limitation and leave balance for permanent part-time employees shall be prorated.)
- (2) A recipient shall apply or be nominated by a fellow employee to participate in the program,
- (3) A recipient shall produce medical evidence to support the need for leave beyond the available accumulated leave, and
- (4) The parent department or university shall review the merits of the request and approve or disapprove according to these Rules.

History Note: Authority G.S. 126-4;

Eff. May 1, 1990;

Amended Eff. December 1, 2007; October 1, 2004; July 1, 1995; September 1, 1992.

25 NCAC 01E .1305 DONOR GUIDELINES

(a) An immediate family member donor of any State agency, public school system or community college may contribute vacation leave or bonus leave or sick leave to another immediate family member in any State agency, public school or community college. A non-family member donor may contribute vacation or bonus leave to another employee in any State agency. A non-family member donor may also share vacation or bonus leave with a coworker's immediate family who is an employee in a public school or a community college. The employee and coworker must be in the same agency. Immediate family is defined in 25 NCAC 01E .0317 DEFINITIONS.

(b) The minimum amount of sick leave or vacation leave to be donated is four hours. An employee family member donating sick leave to a qualified family member under the Voluntary Shared Leave program may donate up to a maximum of 1040 hours but may not reduce the sick leave account below 40 hours.

(c) The maximum amount of vacation leave allowed to be donated by one individual is the amount of the individual's annual accrual rate. However, the amount donated shall not reduce the donor's vacation leave balance below one-half of the annual vacation leave accrual rate. Bonus leave may be donated without regard to this limitation.

(d) An employee may not directly or indirectly intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right which such employee may have with respect to donating, receiving, or using annual leave under this program. Such action by an employee shall be grounds for disciplinary action up to and including dismissal on the basis of personal conduct. Individual leave records are confidential and only individual employees may reveal their donation or receipt of leave. The employee donating may not receive remuneration for the leave donated.

History Note: Authority G.S. 126-4

Eff. May 1, 1990;

Amended Eff. July 1, 1995; September 1, 1992; July 1, 1991;

Temporary Amendment Eff. June 26, 2003;

Amended Eff. January 1, 2004 (This amendment replaces permanent rule approved by RRC on February 20, 2003 to become effective August 1, 2004);

Amended Eff. December 1, 2007.

25 NCAC 01E .1306 LEAVE ACCOUNTING PROCEDURES

The following conditions shall control the accounting and usage procedures for leave donations in the Voluntary Shared Leave program:

- (1) The agency may establish a specific time period during which leave can be donated.
- (2) All leave donated shall be credited to the recipient's sick leave account and is available for use on a current basis or may be retroactive for up to 60 calendar days to substitute for advanced vacation or sick leave already granted to the recipient or to substitute for leave without pay. Donated leave shall be applied to advanced leave before applying it to leave without pay.
- (3) At the expiration of the medical condition, as determined by the agency, any unused leave in the recipient's donated leave account shall be treated as follows:
 - (a) The recipient's vacation and sick leave account balance shall not exceed a combined total of 40 hours (prorated for part-time employees).
 - (b) Any additional unused donated leave shall be returned to active (working or on leave without pay) donor(s) on a pro rata basis and credited to the leave account from which it was donated.
- (4) If a recipient separates due to resignation, death, or retirement from state government,

participation in the program ends. Donated leave shall be returned to active donor(s) on a pro rata basis.

History Note: Authority G.S. 126-4;
Eff. May 1, 1990;
Amended Eff. December 1, 2007; October 1, 2004; July 1, 1993;
December 1, 1993;
September 1, 1992.

25 NCAC 01E .1401 PURPOSE AND SCOPE

The State of North Carolina shall follow the Family and Medical Leave Act of 1993, with the provision that the method used to determine the 12-month period shall be the 12-month period measured forward from the date any employee's family and medical leave begins. The rules in this Section set out the additional provisions applicable to employees subject to G.S. 126.

History Note: Authority G.S. 126-4(5); P.L. 103-3;
Eff. August 2, 1993;
Amended Eff. December 1, 2007; October 1, 2004.

25 NCAC 01E .1702 OTHER CONTAGIOUS DISEASES

History Note: Authority G.S. 126-4;
Temporary Adoption Eff. July 1, 2003;
Eff. February 1, 2004;
Repealed Eff. December 1, 2007.

25 NCAC 01N .0401 PURPOSE

This Section outlines human resource provisions to be implemented in the event that the Public Health Director or the Governor declares a public health emergency.

History Note: Authority G.S. 126-4;
Eff. December 1, 2007.

25 NCAC 01N .0402 REPORTING COMMUNICABLE DISEASES

Management shall inform employees and employees shall inform management of any evidence of a communicable disease that could endanger the health of others in the workplace. Management shall notify the local health department the same day that evidence of a communicable disease is apparent.

History Note: Authority G.S. 126-4;
Eff. December 1, 2007.

25 NCAC 01N .0403 ACTIONS DURING A PANDEMIC

In case of a pandemic or other serious health threats as determined by the State Health Director, one of the following actions may occur:

- (1) closing of one or more agencies or parts of an agency by order of the Governor,

- (2) closing of an agency or parts of an agency by order of the State or Local Public Health Director,
- (3) closing of an agency or parts of an agency by agreement between the State or Local Public Health Director and an agency authority,
- (4) decision by the agency authority that an employee(s) should stay away from the workplace until symptoms have gone,
- (5) isolation of an ill or symptomatic employee(s) by the State or Local Public Health Director pursuant to G.S. 130A-2(3a), or
- (6) quarantine of an exposed or potentially ill employee(s) by the State or Local Public Health Director pursuant to G.S. 130A-2(7a).

History Note: Authority G.S. 126-4;
Eff. December 1, 2007.

25 NCAC 01N .0404 MANDATORY EMPLOYEES

(a) Mandatory employees are employees with permanent, probationary, time-limited or trainee appointments who are required to work during a public health emergency because their positions have been designated by their agencies as mandatory to agency operations during the emergency. Agency heads shall designate the essential operations that must be staffed and designate the mandatory employees to staff these operations.

(b) Mandatory employees may be excused from work if they are quarantined or ill, if they are required to care for an immediate family member who is quarantined or ill, or if they are a parent (or guardian) who is required to stay home with underage children because of the closure of a day care facility, public school or eldercare facility. The agency head shall develop an alternative plan for personnel in case the designated personnel are quarantined or unable to work.

(c) Employees designated as mandatory personnel shall be notified of the designation and the requirement to report for or remain at work in emergency situations. If mandatory personnel are required to remain at the worksite for an extended period of time, the agency or university shall provide adequate housing.

(d) Individuals designated as mandatory employees are subject to disciplinary action, up to and including termination of employment, for willful failure to report for or remain at work. Each situation shall be reviewed on a case-by-case basis to determine appropriate action.

History Note: Authority G.S. 126-4;
Eff. December 1, 2007.

25 NCAC 01N .0405 COMPENSATION OF MANDATORY EMPLOYEES

When an agency is closed or when management determines that only mandatory employees are required to report to work, the mandatory employees shall be granted time and one-half pay for all hours worked, subject to the availability of funds. If funds are not available, the employee shall be granted the additional half-time pay at a later date or one-half compensatory time. This provision applies to all employees who are exempt and non-

exempt under the Fair Labor Standard Act (FLSA). This special compensation provision does not include temporary employees.

*History Note: Authority G.S. 126-4;
Eff. December 1, 2007.*

25 NCAC 01N .0406 LEAVE

(a) When an employee is quarantined, the employee shall be granted paid administrative leave until the specified period of time ends or the employee becomes ill with the communicable disease, whichever comes first. This shall include employees with temporary appointments.

(b) If an employee has symptoms associated with a communicable disease, agency management may require the employee not to report to work and to use any available compensatory leave, sick leave, vacation leave or bonus leave.

(c) When an agency is closed or when agency management determines that only mandatory employees are required to report to work, the non-mandatory employees who are not required to work shall, at management's discretion, be granted paid administrative leave (i.e., not charging leave) for up to 30 calendar days. The employee's pay shall continue at the same rate the employee would have received had the employee been working (including any shift premium pay normally received). If adjustments need to be made, they shall be made in the next paycheck after returning to work, depending on payroll deadlines for that pay period. If a non-mandatory employee elects to work when the agency is closed, the employee shall not receive additional pay. When the agency reopens, Paragraph (d) of this Rule shall apply.

(d) If the employee becomes ill and it is determined to be work related in accordance with the Workers' Compensation Act, the Workers' Compensation Rules, 25 NCAC 01E .0700, apply. If the employee is isolated or becomes ill as a result of off-the-job exposure, the Sick Leave Rules, 25 NCAC 01E .0300, apply. The provisions of the Family and Medical Leave Rules and the Family Illness Leave Rules, 25 NCAC 01E .1400 shall also apply.

(e) When an agency is open but an employee, who is a parent (or guardian), is required to stay home with underage children because of the closure of a day care facility or a public school, the employee shall be allowed to use leave in accordance with the Sick Leave Rules, 25 NCAC 01E .0300. This also applies for eldercare.

*History Note: Authority G.S. 126-4;
Eff. December 1, 2007.*

25 NCAC 01N .0407 VERIFICATION

Agencies may require certification of fitness to work from a health care provider. If quarantined, the employee shall provide the agency with a written verification from a Public Health official.

*History Note: Authority G.S. 126-4;
Eff. December 1, 2007.*

25 NCAC 01N .0408 REVIEW OF POLICY PROVISIONS

(a) If an agency is closed for more than 30 days, the leave and compensation provisions of this policy shall be reviewed and either terminated, revised or renewed. The agency head shall determine the appropriate course of action in consultation with the Governor's Office and the State Budget Director.

(b) Pending a decision, the employee may be allowed to take compensatory, sick, vacation, or bonus leave until a decision is made.

*History Note: Authority G.S. 126-4;
Eff. December 1, 2007.*

25 NCAC 01N .0409 EMERGENCY LAY-OFF

(a) An emergency layoff is a temporary separation from payroll because funds are not available, work is not available or because of another emergency situation requiring employees to remain away from the worksite. The employer believes that the condition will change and intends to recall the employees as soon as feasible.

(b) An emergency lay-off may be declared if the agency or university remains totally closed or partially closed for an indefinite period of time due to the public health emergency. The agency head shall make this decision after consultation with the Governor's Office and the State Budget Director.

(c) During an emergency layoff, employees who are laid off shall be eligible to participate in the State Health Plan. State agencies shall pay the employer contribution and may pay the employee contribution for the month following the layoff, with the provision that the employees shall repay the State for any contribution made on their behalf.

(d) An employee shall not be paid for leave at the time of the emergency lay-off; however, vacation and sick leave will continue to accrue during the lay-off to be credited to the employee's account upon return from the lay-off. If a reduction-in force should occur before the employee returns, the vacation leave accumulated while on lay-off shall be paid along with other unused vacation/bonus leave that was on hand at the time of the layoff.

(e) An employee shall continue to receive total State service while on an emergency lay-off.

(f) An employee may be eligible for unemployment benefits with the North Carolina Employment Security Commission while on an emergency lay-off. Employees should contact the North Carolina Employment Security Commission for further details.

*History Note: Authority G.S. 126-4;
Eff. December 1, 2007.*

25 NCAC 01N .0410 WAIVER OF POLICIES

(a) During the pandemic emergency, if new hires are needed to cover emergency operations, the agency head is authorized to waive the posting rule (25 NCAC 01H .0631), the minimum qualifications rule (25 NCAC 01H .0635), the hiring of relatives (nepotism) rule (25 NCAC 01H .0633), and execute the immediate hiring of an individual who is determined to be able to do the work.

APPROVED RULES

(b) Employees hired under these conditions shall be given a temporary or time-limited permanent appointment.

(c) The agency head is authorized to offer competitive salaries for the duration of the emergency.

(d) The agency head is authorized to assign employees where they are most needed and compensate them accordingly for the duration of the emergency.

History Note: Authority G.S. 126-4;
Eff. December 1, 2007.

This Section contains information for the meeting of the Rules Review Commission on Thursday December 13 & January 17, 2007, 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
Keith O. Gregory
Jerry R. Crisp
Jeffrey P. Gray

Appointed by House

Jennie J. Hayman - Chairman
John B. Lewis
Mary Beach Shuping
Clarence E. Horton, Jr.
Daniel F. McLawhorn

RULES REVIEW COMMISSION MEETING DATES

January 17, 2008
March 20, 2008

February 21, 2008
April 17, 2008

RULES REVIEW COMMISSION**December 13, 2007****MINUTES**

The Rules Review Commission met on Thursday, December 13, 2007, in the Assembly Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. Commissioners present were: Jerry Crisp, Jim Funderburk, Jeff Gray, Keith Gregory, Jennie Hayman, Clarence Horton, John Lewis, Dan McLawhorn, Mary Shuping and David Twiddy.

Staff members present were: Joseph DeLuca and Bobby Bryan, Commission Counsel and Angela J. Person, Administrative Assistant. The following people were among those attending the meeting:

Stefanie Kuzdrall	Board of Cosmetic Arts
David McLeod	Department of Agriculture and Consumer Services
Mack Merrill	Department of Agriculture and Consumer Services
Nancy Pate	Department of Environment and Natural Resources
Diane Konopka	Department of Justice/Sherriff's Standards
Norman Young	Department of Justice/ Wildlife Resources Commission
Sid Harrell	Department of Environment and Natural Resources
Ellie Sprenkel	Department of Insurance
Rose Vaughn Williams	Department of Insurance
Ann Wall	Department of Secretary of State
Gayle Holder	Department of Secretary of State
Johanna Reese	Department of Transportation
Victor Barbour	Department of Transportation
David Williams	DENR/Division of Soil and Water Conservation
Chris Hoke	DHHS/ Division of Public Health
Nadine Pfeiffer	DHHS/Division of Health Service Regulation
Karen Cochran Brown	General Assembly Staff
Robert Upton	Landscape Architect Board
Sandra Kelly	Landscape Contractors Registration Board
Felicia Williams	Office of Administrative Hearings
Molly Masich	Office of Administrative Hearings
Julie Edwards	Office of Administrative Hearings
Will Crumbley	State Budget and Management

APPROVAL OF MINUTES

The meeting was called to order at 10:12 a.m. with Ms. Hayman presiding. She reminded the Commission that all members have a duty to avoid conflicts of interest and the appearances of conflicts as required by NCGS 138A-15(e). Chairman Hayman asked for any discussion, comments, or corrections concerning the minutes of the November 15, 2007 meeting. There were none and the minutes were approved as distributed.

FOLLOW-UP MATTERS

02 NCAC 58 .0104, .0105, .0106, .0107 – Commissioner of Agriculture. The rewritten rules for .0105, .0106, and .0107 were approved by the Commission. Rule .0104 is being returned to the agency at the agency's request.

12 NCAC 07D .0601, .0901, .0908, .0909, .0911 – Private Protective Services Board. No rewritten rule has been submitted for .0601 and no action was taken. Rules .0901, .0908, .0909 and .0911 were approved by the Commission.

12 NCAC 10B .0103 – Sheriffs Education and Training Standards Commission. The Commission approved the rewritten rule submitted by the agency.

15A NCAC 01N .0101, .0102, .0103, .0201, .0202, .0301, .0303, .0401, .0402, .0403, .0502, .0601, .0602, .0603, .0604, .0605, .0606, .0701, .0704, .0801, .0902 – Environment and Natural Resources. No rewritten rules have been submitted and no action was taken.

15A NCAC 06I .0103 – Soil and Water Conservation Commission. The Commission approved the rewritten rule submitted by the agency.

15A NCAC 07J .0701, .0703 – Coastal Resources Commission. No rewritten rules have been submitted and no action was taken.

21 NCAC 26 .0207, .0301, .0303 – Board of Landscape Architects. The Commission approved the rewritten rules submitted by the agency.

LOG OF FILINGS

Chairman Haymen presided over the review of the log of permanent rules.

Prior to the review of the rules from the Private Protective Services Board (PPSB), Commissioner Gray recused himself and did not participate in any discussion or vote concerning these rules because he teaches the Firearms Instructor Training Course for the PPSB that is the subject of rules 07D .0601, .0901, .0908, .0909 and .0911. His written explanation is part of the record of the meeting.

Prior to the review of the rules from the Department of Justice, Company Police Program, Commissioner Gray recused himself and did not participate in any discussion or vote concerning these rules because he is General Counsel and a registered lobbyist for the Company Police Association of NC.

Prior to the review of the rules from the Medical Board, Commissioner Lewis recused himself and did not participate in any discussion or vote concerning these rules because he is a member of the Medical Board.

All rules were approved unanimously with the following exceptions:

The rules from the Office of Commissioner of Banks were withdrawn by the agency.

10A NCAC 43D .0706: Commission for Public Health – The rule was withdrawn by the agency.

12 NCAC 02I .0203: Department of Justice - The Commission objected to this rule based on lack of statutory authority and ambiguity. In (a)(8), it is not clear what application materials are mandated by the Company Police Program for the commissioning of a department head. There is also no authority cited for the commissioning of a department head.

12 NCAC 02I .0305: Department of Justice - The Commission objected to this rule based on lack of statutory authority. This rule is not consistent with G.S. 74E-10(b)(1) that requires the Attorney General to immediately revoke the commission of a company police officer upon terminations of employment with the company police agency for which the officer is commissioned. This rule sets

exceptions including allowing a lapse of up to 12 months. There is no authority cited for the agency to adopt a rule inconsistent with the statutes.

12 NCAC 02I .0306: Department of Justice - The Commission objected to this rule based on ambiguity. It is not clear what Subparagraph (a)(3) is meant to prohibit. As written, it would prohibit a company police officer from carrying a driver's license, or presumably even DMV from issuing one to a company police officer. It is not clear that that is what is intended. This objection applies to existing language in the Rule.

12 NCAC 02I .0501: Department of Justice - The Commission objected to this rule based on lack of statutory authority and ambiguity. It is not clear what documents are required by Appendix II of the Company Police Department Head Manual. There is no authority cited to incorporate materials created by the agency in a manual in a rule when the language in the manual has not been through the rulemaking process.

19A NCAC 02D .0803: Department of Transportation - The Commission objected to this rule based on ambiguity. In (b) line 8 it is unclear what the DOT is actually required to do with the invitation to bid after the advertisement to bid has been made. Lines 6 and 7 in (b) require that the agency make the invitation to bid "available" and then specifies to whom it must be made available. (Adding to the difficulty of determining what is required, the requirement to make it available is repeated in line 8 along with other instructions.) Then in line 8 it adds to the rule by stating that it must be mailed. However it then seems to provide an alternative to mailing by specifying "or otherwise ma[king it] available." It is unclear whether the agency must mail the documents or whether providing that the invitation to bid is "otherwise made available" satisfies this portion of the rule's requirements. If it does not need to be mailed, i.e., if "making it available" is the only requirement, then there is no need to say that it "shall be mailed." (Emphasis added). If it must be mailed "and" also made available in other ways, then the wrong conjunction is used. It is also unclear what would constitute making the invitation to bid "available" in either place that it is set out. Finally, if there is any requirement to mail the invitation, it is not abundantly clear to whom it must be mailed.

19A NCAC 02D .0807: Department of Transportation - The Commission objected to the rule based on lack of statutory authority. The second sentence (that states the submission of a bid "shall be conclusive evidence" of certain conditions) is a legal conclusion or imposition that is outside the agency's rulemaking authority. Whether or not it is "conclusive" evidence of anything would be a legal decision for a lawmaking body or judicial tribunal to make, not a rulemaking agency. The agency would be within its authority to pronounce that it would "deem" the submission of a bid to be a statement by a bidder that it has completed the requirements set out in that sentence, or that a bidder must assert that it has completed those requirements or the agency would not accept a bid.

21 NCAC 14A .0101: Board of Cosmetic Art Examiners - The Commission objected to this rule based on lack of statutory authority. In (13) the board sets restrictions on who may be a provider of continuing education courses. There is no authority cited for these restrictions on who may provide continuing education. If the board intends to specify that any of the named persons are deemed to be approved providers without further action by the board, rather than attempting to restrict who may be an approved provider, then that is not clear. Even if there were authority to restrict who may qualify to be a continuing education provider, it is not clear in that same item what the standards are that the board will use in approving the "employment capacity" of an individual who would be authorized to provide continuing education. There is no authority to set those standards outside rulemaking. This objection applies to existing language in the Rule. Commissioner McLawhorn voted in opposition to this objection.

21 NCAC 32B .1207: Medical Board - The Commission objected to this rule based on ambiguity. In (i), it is not clear what standards the Board will use in deciding whether to accept a current AMA Physicians Recognition Award or AOA CME. It is also not clear what makes the continuing medical education "acceptable".

TEMPORARY RULES

Chairman Hayman presided over the review of the temporary rule. The rule was approved unanimously.

COMMISSION PROCEDURES AND OTHER BUSINESS

The chairman reported that the rules committee is continuing to work on revising the RRC rules. The rules committee will meet again at 9:00 a.m. prior to the regularly scheduled meeting on January 17, 2008.

The meeting adjourned at 11:03 a.m.

The next scheduled meeting of the Commission is Thursday, January 17, 2008 at 10:00 a.m.

Respectfully Submitted,

RULES REVIEW COMMISSION

Angela J. Person
Administrative Assistant

RULES REVIEW COMMISSION
Review of Current RRC Policies and Procedures
December 13, 2007
MINUTES

The ad-hoc Rules Committee of the N.C. Rules Review Commission met on Thursday, December 13, 2007, in the conference room of the Office of Administrative Hearings – Rules Review Commission, Suite 159 of the Methodist Building, 1307 Glenwood Ave., Raleigh, North Carolina. The purpose of the meeting was to discuss current Rules Review Commission policies and procedures, and any changes necessary to improve them. Commissioners present were: Jerry Crisp, Dan McLawhorn, Jeff Gray, Jim Funderburk, Jennie Hayman, David Twiddy and Mary Shuping. Others in attendance were: Joe DeLuca, Commission Counsel, Bobby Bryan, Commission Counsel, Molly Masich, Ann Wall, and Dedra Alston.

Vice Chair Funderburk called the meeting to order at 9:10 a.m.

The Commissioners and Commission Counsel reviewed the most recent draft of the proposed rule amendments and adoptions. The Commissioners decided to continue discussion and review of these rules at the next ad-hoc Rules Committee meeting which will be at 9:00 a.m. prior to the January 17, 2008 commission meeting.

The meeting adjourned at 10:10 a.m.

Respectfully submitted,
Felicia S. Williams
Editorial Assistant

LIST OF APPROVED PERMANENT RULES
December 13, 2007 Meeting

AGRICULTURE, COMMISSIONER OF

<u>Evaluation of Applications</u>	02 NCAC 58 .0105
<u>Grant Agreement</u>	02 NCAC 58 .0106
<u>Reporting</u>	02 NCAC 58 .0107

PUBLIC HEALTH, COMMISSION FOR

<u>Dosage & Age Requirements for Immunization</u>	10A NCAC 41A .0401
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HOME INSPECTOR LICENSURE BOARD

<u>Fee Schedule</u>	11 NCAC 08 .1011
<u>Application for Original Approval of an Elective Course</u>	11 NCAC 08 .1319

JUSTICE, DEPARTMENT OF

<u>Minimum Standards for Company Police Officers</u>	12 NCAC 02I .0202
<u>Liability Insurance</u>	12 NCAC 02I .0210
<u>Suspension or Denial of Agency Certification</u>	12 NCAC 02I .0211
<u>Suspension, Revocation or Denial of Officer Commission</u>	12 NCAC 02I .0212
<u>Summary Suspensions</u>	12 NCAC 02I .0214
<u>Tenure</u>	12 NCAC 02I .0301
<u>Prohibited Acts</u>	12 NCAC 02I .0304

PRIVATE PROTECTIVE SERVICES BOARD

<u>Requirements for a Firearms Trainer Certificate</u>	12	NCAC 07D .0901
<u>Post-Delivery Report for Firearms Training Courses</u>	12	NCAC 07D .0908
<u>Unarmed Guard Trainer Certificate</u>	12	NCAC 07D .0909
<u>Renewal of an Unarmed Guard Trainer Certificate</u>	12	NCAC 07D .0911

SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Definitions</u>	12	NCAC 10B .0103
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SOIL AND WATER CONSERVATION COMMISSION

<u>Allocation Guidelines and Procedures</u>	15A	NCAC 06I .0103
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WILDLIFE RESOURCES COMMISSION

<u>Alcoa Power Generating Inc. Hydroelectric Station Safety ...</u>	15A	NCAC 10F .0374
<u>Duke Energy Corporation Hydroelectric Station Safety Zones</u>	15A	NCAC 10F .0375

SECRETARY OF STATE, DEPARTMENT OF

<u>Instructor Certification - Scope</u>	18	NCAC 07B .0701
<u>Instructor Certification - General</u>	18	NCAC 07B .0702
<u>Timing of Instructor Certification Application</u>	18	NCAC 07B .0703
<u>Department Rejection of Applications</u>	18	NCAC 07B .0704
<u>Fees</u>	18	NCAC 07B .0705
<u>Verification that Applicant Continues to Meet Requirement...</u>	18	NCAC 07B .0706
<u>Other Verifications</u>	18	NCAC 07B .0707
<u>Evidence of Minimum Experience</u>	18	NCAC 07B .0708
<u>Journal as Evidence of Experience</u>	18	NCAC 07B .0709
<u>Employer Affidavit as Evidence of Experience</u>	18	NCAC 07B .0710
<u>Alternative Evidence of Experience</u>	18	NCAC 07B .0711
<u>Recommendations</u>	18	NCAC 07B .0712
<u>Oral Presentation Requirement for Applicant</u>	18	NCAC 07B .0713
<u>Notary Public Instructor Certification and Recertificatio...</u>	18	NCAC 07B .0714
<u>Additional Requirements</u>	18	NCAC 07B .0715
<u>Minimum Instructional Duties of Certified Notary Public I...</u>	18	NCAC 07B .0716
<u>Evaluations of Instruction</u>	18	NCAC 07B .0717
<u>Eligibility for Recertification as Notary Public Instructor</u>	18	NCAC 07B .0718
<u>Notary Public Instructors Recertification Requirements</u>	18	NCAC 07B .0719
<u>Denial of Notary Public Instructor Certification or Recer...</u>	18	NCAC 07B .0720

TRANSPORTATION, DEPARTMENT OF

<u>Prequalifying to Bid: Requalification</u>	19A	NCAC 02D .0801
<u>Invitation to Bid</u>	19A	NCAC 02D .0802
<u>Contents of Proposal Forms</u>	19A	NCAC 02D .0804
<u>Combination Bids</u>	19A	NCAC 02D .0805
<u>Interpretation of Quantities in Proposal Form</u>	19A	NCAC 02D .0806
<u>Preparation and Submission of Bids</u>	19A	NCAC 02D .0808
<u>Bid Bond or Bid Deposit</u>	19A	NCAC 02D .0809

<u>Delivery of Bids</u>	19A NCAC 02D .0810
<u>Withdrawal or Revision of Bids</u>	19A NCAC 02D .0811
<u>Receipt and Opening of Bids</u>	19A NCAC 02D .0812
<u>Withdraw of Bids - Mistake</u>	19A NCAC 02D .0813
<u>Correction of Bid Errors</u>	19A NCAC 02D .0814
<u>Rejection of Bids</u>	19A NCAC 02D .0815
<u>Disqualification of Bidders</u>	19A NCAC 02D .0816
<u>Consideration of Bids</u>	19A NCAC 02D .0817
<u>Non-Collusion Affidavit and Certification</u>	19A NCAC 02D .0818
<u>Award of Contract</u>	19A NCAC 02D .0819
<u>Return of Bid Bond or Bid Deposit</u>	19A NCAC 02D .0821
<u>Contract Bonds</u>	19A NCAC 02D .0822
<u>Execution of Contract</u>	19A NCAC 02D .0823
<u>Failure to Furnish Contract Bonds</u>	19A NCAC 02D .0824
<u>Confidentiality of Cost Estimates</u>	19A NCAC 02D .0825
<u>Subsurface Information</u>	19A NCAC 02D .0827
<u>Computer Bid Preparation</u>	19A NCAC 02D .0828
<u>Definitions</u>	19A NCAC 02D .0830

COSMETIC ART EXAMINERS, BOARD OF

<u>Cleanliness of Operators</u>	21 NCAC 14H .0111
<u>Cleanliness of Scissors, Shears, Razors and Other Equipment</u>	21 NCAC 14H .0113
<u>Prohibited Practices</u>	21 NCAC 14H .0121

LANDSCAPE ARCHITECTS, BOARD OF

<u>Application of Professional Seal</u>	21 NCAC 26 .0207
<u>Examination</u>	21 NCAC 26 .0301
<u>Certificate of Reciprocity</u>	21 NCAC 26 .0303

LANDSCAPE CONTRACTORS REGISTRATION BOARD

<u>Fees</u>	21 NCAC 28 .0107
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MEDICAL BOARD

<u>Application Forms</u>	21 NCAC 32B .1101
<u>Fee</u>	21 NCAC 32B .1102
<u>Personal Interview</u>	21 NCAC 32B .1103
<u>Routine Inquiries</u>	21 NCAC 32B .1104
<u>CME</u>	21 NCAC 32B .1105
<u>Application Forms</u>	21 NCAC 32B .1201
<u>Letters of Recommendation</u>	21 NCAC 32B .1202
<u>Fee</u>	21 NCAC 32B .1203
<u>Personal Interview</u>	21 NCAC 32B .1204
<u>Routine Inquiries</u>	21 NCAC 32B .1205
<u>ECFMG Certification</u>	21 NCAC 32B .1206

LIST OF APPROVED TEMPORARY RULES

RULES REVIEW COMMISSION

December 13, 2007 Meeting

HEALTH SERVICE REGULATION, DIVISION OF

Filing Applications

10A NCAC 14C .0203

AGENDA
RULES REVIEW COMMISSION
Thursday, January 17, 2008, 10:00 A.M.

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
 - II. Approval of the minutes from the last meeting
 - III. Follow-Up Matters:
 - A. Justice – 12 NCAC 02I .0203, .0305, .0306, .0501 (Bryan)
 - B. Private Protective Services Board – 12 NCAC 07D .0601 (Bryan)
 - C. Environment and Natural Resources – 15A NCAC 01N .0101, .0102, .0103, .0201, .0202, .0301, .0303, .0401, .0402, .0403, .0502, .0601, .0602, .0603, .0604, .0605, .0606, .0701, .0704, .0801, .0902 (DeLuca)
 - D. Coastal Resources Commission – 15A NCAC 07J .0701, .0703 (Bryan)
 - E. Transportation – 19A NCAC 02D .0803, .0807 (DeLuca)
 - F. Cosmetic Art Examiners – 21 NCAC 14A .0101 (DeLuca)
 - G. Medical Board – 21 NCAC 32B .1207 (Bryan)
 - IV. Review of Log of Permanent Rule filings for rules filed between November 21 and December 20, 2007 (attached)
 - V. Review of Temporary Rules
 - VI. Commission Business
 - Next meeting: February 21, 2008
-

Commission Review
Log of Permanent Rule Filings
November 21, 2007 through December 20, 2007

SOCIAL SERVICES COMMISSION

The rules in Chapter 6 concern Aging Program Operations.

The rules in Subchapter 6R concern adult day care standards for certification and include introduction (.0100); definition of terms (.0200); administration (.0300); the facility (.0400); program operation (.0500); certification procedure (.0600); construction requirements for day care home (.0700); certification information (.0800); and special care for persons with alzheimer's disease or other dementias, mental health disabilities or other special needs diseases or conditions in adult day care centers (.0900).

<u>Planning Program Activities</u>	10A	NCAC	06R	.0501
Amend/*				
<u>Nutrition</u>	10A	NCAC	06R	.0502
Amend/*				
<u>Transportation</u>	10A	NCAC	06R	.0503

Amend/*

Records
Amend/*

10A NCAC 06R .0508

HEALTH SERVICE REGULATION, DIVISION OF

The rules in Chapter 14 concern services provided by the Division of Health Service Regulation.

The rules in Subchapter 14C are Certificate of Need regulations including general provisions (.0100); applications and review process (.0200); exemptions (.0300); appeal process (.0400); enforcement and sanctions (.0500); and criteria and standards for nursing facility or adult care home services (.1100); intensive care services (.1200); pediatric intensive care services (.1300); neonatal services (.1400); hospices, hospice inpatient facilities, and hospice residential care facilities (.1500); cardiac catheterization equipment and cardiac angioplasty equipment (.1600); open heart surgery services and heart-lung bypass machines (.1700); diagnostic centers (.1800); radiation therapy equipment (.1900); home health services (.2000); surgical services and operating rooms (.2100); and stage renal disease services (.2200); computed tomography equipment (.2300); immediate care facility/mentally retarded (ICF/MR) (.2400); substance abuse/chemical dependency treatment beds (.2500); psychiatric beds (.2600); magnetic resonance imaging scanner (.2700); rehabilitation services (.2800); bone marrow transplantation services (.2900); solid organ transplantation services (.3000); major medical equipment (.3100); lithotripter equipment (.3200); air ambulance (.3300); burn intensive care services (.3400); oncology treatment centers (.3500); gamma knife (.3600); positron emission tomography scanner (.3700); acute care beds (.3800); criteria and standards for gastrointestinal endoscopy procedure rooms in licensed health service facilities (.3900); and criteria and standards for hospice inpatient facilities and hospice residential care facilities (.4000).

Definitions
Amend/*

10A NCAC 14C .2301

Information Required of Applicant
Amend/*

10A NCAC 14C .2302

Performance Standards
Amend/*

10A NCAC 14C .2303

Support Services
Amend/*

10A NCAC 14C .2304

Staffing and Staff Training
Amend/*

10A NCAC 14C .2305

PUBLIC HEALTH, COMMISSION FOR

The rules in Chapter 43 are from the Department of Health and Human Services and concern personal health.

The rules in Subchapter 43D concern WIC/Nutrition including definitions (.0100); WIC program general information (.0200); selection of local WIC agencies (.0300); eligibility for WIC program participation (.0400); WIC program food package (.0500); WIC program nutrition education (.0600); WIC program food distribution system (.0700); WIC program administrative appeals (.0800); WIC program participant fair hearings (.0900); consultation services (.1000); and maternal and child health block grant nutrition program (.1200).

Authorized WIC Vendors
Amend/*

10A NCAC 43D .0706

INSURANCE, DEPARTMENT OF

The rules in Chapter 6 are from the Agent Services Division.

The rules in Subchapter 6A cover general provisions (.0100); forms (.0200); examinations (.0300); licensing (.0400); license renewals and cancellations (.0500); license denials (.0600); prelicensing education (.0700); continuing education (.0800); and public adjusters (.0900).

Definitions

11 NCAC 06A .0101

Amend/*				
<u>N.C. Non-Resident Broker's Insurance Bond</u>	11	NCAC	06A	.0211
Repeal/*				
<u>North Carolina Notice of Cancellation</u>	11	NCAC	06A	.0217
Repeal/*				
<u>Responsibility of Applicant at Examination Site</u>	11	NCAC	06A	.0304
Amend/*				
<u>Licensing of Resident Agent, LTD, Representative and Adju...</u>	11	NCAC	06A	.0402
Amend/*				
<u>Licensing and Broker</u>	11	NCAC	06A	.0404
Amend/*				
<u>Licensing of Nonresident Broker</u>	11	NCAC	06A	.0405
Repeal/*				
<u>Licensing of Motor Vehicle Damage Appraiser</u>	11	NCAC	06A	.0408
Repeal/*				
<u>Licensing of Business Entities</u>	11	NCAC	06A	.0413
Amend/*				
<u>Adjuster's Learner's Permit</u>	11	NCAC	06A	.0414
Repeal/*				
<u>Personal Interviews</u>	11	NCAC	06A	.0604
Repeal/*				
<u>General Requirements</u>	11	NCAC	06A	.0701
Amend/*				
<u>Prelicensing Education Schools</u>	11	NCAC	06A	.0702
Amend/*				
<u>Program Directors</u>	11	NCAC	06A	.0703
Amend/*				
<u>Courses</u>	11	NCAC	06A	.0704
Amend/*				
<u>Instructors</u>	11	NCAC	06A	.0705
Amend/*				
<u>Definitions</u>	11	NCAC	06A	.0801
Amend/*				
<u>Licensee Requirements</u>	11	NCAC	06A	.0802
Amend/*				
<u>Carryover Credit</u>	11	NCAC	06A	.0804
Amend/*				
<u>Calculation of ICECS</u>	11	NCAC	06A	.0805
Amend/*				
<u>Hardship</u>	11	NCAC	06A	.0807
Amend/*				
<u>Instructor Qualification</u>	11	NCAC	06A	.0808
Amend/*				
<u>Approval of Courses</u>	11	NCAC	06A	.0809
Amend/*				
<u>Sanctions for Noncompliance</u>	11	NCAC	06A	.0811
Amend/*				
<u>Issuance/Continuation of Provider Approval</u>	11	NCAC	06A	.0813
Amend/*				

The rules in Chapter 12 cover life and health insurance including general provisions applicable to all rules and all life and health

insurance policies (.0100 - .0300); general life insurance provisions (.0400); general accident and health insurance provisions (.0500); replacement of insurance (.0600); credit insurance (.0700); medicare supplement insurance (.0800); long-term care insurance (.1000); mortgage insurance consolidations (.1100); accelerated benefits (.1200); small employer group health coverage (.1300); HMO and point-of-service coverage (.1400); uniform claim forms (.1500); retained asset accounts (.1600); viatical settlements (.1700); and preferred provider plan product limitations (.1800).

<u>Exemptions</u>	11	NCAC	12	.0604
Amend/*				

PRIVATE PROTECTIVE SERVICES BOARD

The rules in Subchapter 7D cover general provisions (.0100); licenses and trainee permits (.0200); guard dog services (.0300); counterintelligence (.0400); polygraphs (.0500); psychological stress evaluators (PSE) (.0600); unarmed and armed security guards (.0700-.0800); firearms certificate (.0900); recovery funds (.1000); private investigator associates (.1100); firearms instructor trainers (.1200); and continuing education (.1300).

<u>Application/Armed Security Guard Firearm Registration Permit</u>	12	NCAC	07D	.0801
Amend/*				

<u>Training Video and Training Test</u>	12	NCAC	07D	.1109
Repeal/*				

ALCOHOL LAW ENFORCEMENT

The rules in Chapter 12 are from the boxing authority section of the alcohol law enforcement division including purpose (.0100); drugs and foreign substances (.0200); physical examination (.0300); permits, licensing and contracts (.0400); boxing (.0500); kickboxing (.0600); toughman (.0700); and mixed martial arts (.0800).

<u>Scope</u>	14A	NCAC	12	.0101
Amend/*				

<u>Definitions</u>	14A	NCAC	12	.0102
Amend/*				

<u>North Carolina State Boxing Authority Section of the ALE ...</u>	14A	NCAC	12	.0103
Amend/*				

<u>Drugs and Foreign Substances</u>	14A	NCAC	12	.0201
Amend/*				

<u>Physical Examination</u>	14A	NCAC	12	.0301
Amend/*				

<u>Permits</u>	14A	NCAC	12	.0401
Amend/*				

<u>Licensing Requirements</u>	14A	NCAC	12	.0402
Amend/*				

<u>Duties of Contestants</u>	14A	NCAC	12	.0403
Amend/*				

<u>Duties of Promoters and Matchmakers</u>	14A	NCAC	12	.0404
Amend/*				

<u>Duties of Managers</u>	14A	NCAC	12	.0405
Amend/*				

<u>Duties of Referees</u>	14A	NCAC	12	.0406
Amend/*				

<u>Duties of Judges</u>	14A	NCAC	12	.0407
Amend/*				

<u>Duties of Announcers</u>	14A	NCAC	12	.0408
Amend/*				

RULES REVIEW COMMISSION

<u>Duties of Timekeepers</u>	14A	NCAC	12	.0409
Amend/*				
<u>Duties of Seconds and Trainer</u>	14A	NCAC	12	.0410
Amend/*				
<u>Duties of Physicians</u>	14A	NCAC	12	.0411
Amend/*				
<u>Contracts and Financial Agreements</u>	14A	NCAC	12	.0412
Amend/*				
<u>Weigh-Ins-Boxing</u>	14A	NCAC	12	.0501
Amend/*				
<u>Equipment-Boxing</u>	14A	NCAC	12	.0502
Amend/*				
<u>Scoring-Boxing</u>	14A	NCAC	12	.0503
Amend/*				
<u>Fouls-Boxing</u>	14A	NCAC	12	.0504
Amend/*				
<u>Weigh-Ins-Kickboxing</u>	14A	NCAC	12	.0601
Amend/*				
<u>Equipment-Kickboxing</u>	14A	NCAC	12	.0602
Amend/*				
<u>Scoring-Kickboxing</u>	14A	NCAC	12	.0603
Amend/*				
<u>Fouls-Kickboxing</u>	14A	NCAC	12	.0604
Amend/*				
<u>Amateurs-Kickboxing</u>	14A	NCAC	12	.0605
Adopt/*				
<u>Toughman Match</u>	14A	NCAC	12	.0701
Amend/*				
<u>Weigh-Ins-Mixed Martial Arts</u>	14A	NCAC	12	.0801
Adopt/*				
<u>Appearance-Mixed Martial Arts</u>	14A	NCAC	12	.0802
Adopt/*				
<u>Handwraps-Mixed Martial Arts</u>	14A	NCAC	12	.0803
Adopt/*				
<u>Gloves-Mixed Martial Arts</u>	14A	NCAC	12	.0804
Adopt/*				
<u>Ring Requirements-Mixed Martial Arts</u>	14A	NCAC	12	.0805
Adopt/*				
<u>Number of Rounds-Mixed Martial Arts</u>	14A	NCAC	12	.0806
Adopt/*				
<u>Seconds Duties-Mixed Martial Arts</u>	14A	NCAC	12	.0807
Adopt/*				
<u>Scoring-Mixed Martial Arts</u>	14A	NCAC	12	.0808
Adopt/*				
<u>Fouls-Mixed Martial Arts</u>	14A	NCAC	12	.0809
Adopt/*				
<u>Amateurs-Mixed Martial Arts</u>	14A	NCAC	12	.0810
Adopt/*				
<u>Suspension-Mixed Martial Arts</u>	14A	NCAC	12	.0811
Adopt/*				

MARINE FISHERIES COMMISSION

The rules in subchapter 3K concern oyster, clams, scallops and mussels including shellfish, general (.0100); crabs (.0200); hard clams (mercenaria) (.0300); rangia clams (.0400); and scallops (.0500).

<u>Prohibited Rakes</u>	15A	NCAC	03K	.0102
Amend/*				
<u>Shellfish or Seed Management</u>	15A	NCAC	03K	.0103
Amend/*				
<u>Prohibited Taking</u>	15A	NCAC	03K	.0304
Amend/*				
<u>Bay Scallops - Seasons and Harvest Limits</u>	15A	NCAC	03K	.0501
Amend/*				
<u>Soaked or Swelled Bay Scallops Prohibited</u>	15A	NCAC	03K	.0506
Repeal/*				

The rules in Subchapter 3O cover various licenses (.0100); leases and franchises (.0200); license appeal procedures (.0300); Standard Commercial Fishing License Eligibility Board (.0400); and licenses, leases and franchises (.0500).

<u>Application Process</u>	15A	NCAC	03O	.0402
Amend/*				
<u>Eligibility Board Review</u>	15A	NCAC	03O	.0403
Amend/*				
<u>Eligibility Criteria</u>	15A	NCAC	03O	.0404
Amend/*				

COASTAL RESOURCES COMMISSION

The rules in Chapter 7 pertain to coastal management and are promulgated by the Division of Coastal Management or the Coastal Resources Commission.

The rules in Subchapter 7J concern procedures for handling major development permits, variance requests, appeals from minor development permit decisions and declaratory rulings. They include definitions (.0100); permit application and procedures (.0200); hearing procedures (.0300); final approval and enforcement (.0400); general permits (.0500); declaratory rulings and petitions for rulemaking (.0600); procedures for considering variance petitions (.0700); and general permit procedure (.1100).

<u>Civil Penalties</u>	15A	NCAC	07J	.0409
Amend/*				

REVENUE, DEPARTMENT OF

The rules in Chapter 1 are the departmental rules of the Department of Revenue.

Subchapter 1C rules deal with general administration and contain definitions (.0100); hearing procedures (.0200); forms (.0300); interest requirements (.0400); form of payment (.0500); substitution of forms (.0600); and electronic filing forms (.0700).

<u>Pre-Hearing Conference</u>	17	NCAC	01C	.0201
Repeal/*				
<u>Procedure of Hearing</u>	17	NCAC	01C	.0202
Repeal/*				
<u>Assistance of Counsel</u>	17	NCAC	01C	.0203
Repeal/*				
<u>Failure to Appear</u>	17	NCAC	01C	.0205
Repeal/*				
<u>Application for Hearing</u>	17	NCAC	01C	.0305
Repeal/*				

<u>Waiver of Time Limitation</u>	17	NCAC	01C	.0307
Amend/*				
<u>Claim for Tax Refund</u>	17	NCAC	01C	.0316
Amend/*				
<u>Tax Refund</u>	17	NCAC	01C	.0317
Amend/*				

The rules in Chapter 4 are from the License and Excise Tax Division.

The rules in Subchapter 04B concern license taxes including general administration (.0100); amusements, traveling theatrical companies, outdoor theatres (.0200); amusements not otherwise taxed (.0300); attorneys at law and other professionals (.0600); collecting agencies (.0900); peddlers (.1300); contractors and construction companies (.1400); day-care facilities (.1600); hotels, motels, tourist courts, tourist homes, campgrounds, trailer parks (.1700); restaurants (.1800); billiard and pool tables (.1900); music machines (.2000); merchandising dispensers and weighing machines (.2100); bagatelle tables, merry-go-rounds, etc., and electronic video games (.2200); packinghouses (.2300); pressing clubs, dry cleaning plants, and hat blockers (.2400); installment paper dealer (.2900); laundries (.3000); outdoor advertising (.3100); loan agencies or brokers (.3300); automobile, wholesale supply dealers, and service stations (.3400); motorcycle dealers (.3500); emigrant and employment agents (.3600); plumbers, heating contractors, and electricians (.3700); branch or chain stores (.4000); wholesale distributors of motor fuels (.4100); and general business (.4500).

<u>Computation and Payment of Amusement Gross Receipts Taxes</u>	17	NCAC	04B	.0302
Amend/*				

The rules in Subchapter 4C concern cigarette tax including definitions (.0100); cigarette distributors license (.0200); affixation of stamps and receipts (.0500); requirements for cigarette manufacturers (.0600); receipt of untaxed cigarettes (.0700); entities exempt from the Tobacco Products Tax Act (.0800); reports and records required of distributors (.0900); refunds of the cigarette tax (.1000); how tax applies on railroads and ocean-going vessels (.1100); rules relevant to cigarette vending machines (.1200); home requirements for other tobacco products besides cigarettes (.1300); manufacturers of other tobacco products (.1400); who is liable for the other tobacco products excise tax (.1500); how to designate sales as exempt (.1700); monthly report, invoice and record requirements (.1800); and other tobacco products vending machines (.1900).

<u>Monthly Report for Resident Distributor</u>	17	NCAC	04C	.0901
Amend/*				
<u>Monthly Report for Nonresident Distributor</u>	17	NCAC	04C	.0902
Amend/*				
<u>Dealers on Trains</u>	17	NCAC	04C	.1101
Amend/*				
<u>Reporting Requirements</u>	17	NCAC	04C	.1705
Amend/*				

The rules in Chapter 5 are from the corporate income and franchise tax division.

The rules in Subchapter 5C are corporate income tax rules and include corporations subject to the tax (.0100); computation of income (.0300); interest income on government obligations (.0400); taxable in another state (.0600); business and nonbusiness income (.0700); property factor (.0800); payroll factor (.0900); sales factor (.1000); amortization of bond premiums (.1400); net economic loans carry over (.1500); partnerships and the corporate partner (.1700); computing taxable percentages on dividends (.1800); filing of returns and payment of taxes (.1900); extension of time for filing return (.2000); dissolutions and withdrawals (.2100); domestic international sales corporation (.2400); and reinstatement of corporate charter (.2600).

<u>Overpayments Applied to Next Year</u>	17	NCAC	05C	.1904
Amend/*				

The rules in Subchapter 5D concern declaration of income by corporations.

<u>Purpose</u>	17	NCAC	05D	.0107
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Adopt/*				
<u>Who May Submit Request</u>	17	NCAC	05D	.0108
Adopt/*				
<u>Request for Alternative Apportionment Formula</u>	17	NCAC	05D	.0109
Adopt/*				
<u>Time for Filing</u>	17	NCAC	05D	.0110
Adopt/*				
<u>Notice of Conference</u>	17	NCAC	05D	.0111
Adopt/*				
<u>Who Shall Attend the Conference</u>	17	NCAC	05D	.0112
Adopt/*				
<u>Conduct of the Conference</u>	17	NCAC	05D	.0113
Adopt/*				
<u>Remedy</u>	17	NCAC	05D	.0114
Adopt/*				
<u>Final Decision</u>	17	NCAC	05D	.0115
Adopt/*				

The rules in Subchapter 5E concern insurance premiums tax and regulatory surcharge.

<u>Additional Fire and Lightning Taxes</u>	17	NCAC	05E	.0102
Repeal/*				
<u>Group Premiums</u>	17	NCAC	05E	.0105
Repeal/*				

TRANSPORTATION, DEPARTMENT OF

The rules in Chapter 2 are from the Division of Highways.

The rules in Subchapter 2D concern highway operations including standards for design and construction (.0100); landscape (.0200); field operations-maintenance and equipment (.0400); ferry operations (.0500); oversize-overweight permits (.0600); highway design branch (.0700); prequalification advertising and bidding regulations (.0800); regulations for informal construction and repair contracts (.0900); adopt-a-highway program (.1000); and disadvantaged business enterprise, minority business enterprise and women business enterprise programs for highway and bridge construction contracts (.1100).

<u>Purpose and Scope</u>	19A	NCAC	02D	.1101
Amend/*				
<u>Definitions</u>	19A	NCAC	02D	.1102
Amend/*				
<u>Certification of Firms</u>	19A	NCAC	02D	.1103
Amend/*				
<u>Renewal of Certification</u>	19A	NCAC	02D	.1104
Amend/*				
<u>Change in Ownership or Control</u>	19A	NCAC	02D	.1105
Amend/*				
<u>Decertification</u>	19A	NCAC	02D	.1106
Amend/*				
<u>Appeals of Denial of Certification</u>	19A	NCAC	02D	.1107
Amend/*				
<u>Goals</u>	19A	NCAC	02D	.1108
Amend/*				
<u>Counting Participation Toward Meeting the Goal</u>	19A	NCAC	02D	.1109
Amend/*				

<u>Non-Attainment of Goals</u> Amend/*	19A	NCAC	02D	.1110
<u>Performance Related Replacement of Eligible Firms</u> Amend/*	19A	NCAC	02D	.1111
<u>Replacement of a Firm Removed by Decertification</u> Amend/*	19A	NCAC	02D	.1112

DENTAL EXAMINERS, BOARD OF

The rules in Chapter 16 cover the licensing of dentists and dental hygienists.

The rules in Subchapter 16A concern the organization of the board of dental examiners.

<u>Location</u> Amend/*	21	NCAC	16A	.0104
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The rules in Subchapter 16B concern licensure examination for dentists including examination required (.0100); qualifications (.0200); application (.0300); Board conducted examinations (.0400); licensure by credentials (.0500); limited volunteer dental license (.0600); instructor's license (.0700); temporary volunteer dental license (.0800).

<u>Time for Filing</u> Amend/*	21	NCAC	16B	.0402
<u>Temporary Volunteer Dental Permit</u> Adopt/*	21	NCAC	16B	.0801

The rules in Subchapter 16C are dental hygienist licensure rules including general provision (.0100); qualifications (.0200); application and examination (.0300); and licensure by credentials (.0400).

<u>Time for Filing</u> Amend/*	21	NCAC	16C	.0402
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The rules in Subchapter 16I concern the annual renewal of the dental hygienist license.

<u>Applications</u> Amend/*	21	NCAC	16I	.0101
<u>Penalty/Non-Compliance/Continuing Education Requirement</u> Amend/*	21	NCAC	16I	.0105
<u>Fee for Late Filing and Duplicate Licenses</u> Amend/*	21	NCAC	16I	.0106
<u>License Void Upon Failure to Renew</u> Amend/*	21	NCAC	16I	.0107

The rules in Subchapter 16J concern sanitation.

<u>Sterilization</u> Amend/*	21	NCAC	16J	.0103
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The rules in Subchapter 16Q concern general anesthesia and sedation including definitions (.0100); general anesthesia (.0200); parenteral conscious sedation (.0300); enteral conscious sedation (.0400); renewal of permits (.0500); reporting and penalties (.0600); and penalty for non-compliance (.0700).

<u>General Anesthesia Credentials and Permit</u> Amend/*	21	NCAC	16Q	.0201
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The rules in Subchapter 16R concern continuing education requirements of dentists.

<u>Applications</u>	21	NCAC	16R	.0101
Amend/*				
<u>Fee for Late Filing</u>	21	NCAC	16R	.0102
Amend/*				
<u>Penalty/Non-Compliance/Continuing Education</u>	21	NCAC	16R	.0107
Amend/*				

The rules in Subchapter 16Z concern limited supervision of dental hygienists.

<u>Eligibility to Practice Hygiene Outside Direct Supervision</u>	21	NCAC	16Z	.0101
Adopt/*				
<u>Record Keeping</u>	21	NCAC	16Z	.0102
Adopt/*				
<u>Inspections</u>	21	NCAC	16Z	.0103
Adopt/*				

MEDICAL BOARD

The rules in Chapter 32 are from the Medical Board and include the licensing and practice standards of doctors, approval of nurse practitioners and physician assistants, regulation of professional corporations and mobile intensive care, and other aspects of medical practice and the regulatory procedures.

The rules in Subchapter 32U cover the administration of vaccines by pharmacists.

<u>Administration of Vaccines by Pharmacists</u>	21	NCAC	32U	.0101
Amend/*				

PHARMACY, BOARD OF

The rules in Chapter 46 are from the Board of Pharmacy and cover organization of the Board (.1200); general definitions (.1300); hospitals and other health facilities (.1400); admission requirements and examinations (.1500); licenses and permits (.1600); drugs dispensed by nurse and physician assistants (.1700); prescriptions (.1800); forms (.1900); administrative provisions (.2000); elections (.2100); continuing education (.2200); prescription information and records (.2300); dispensing in health departments (.2400); miscellaneous provisions (.2500); devices (.2600); nuclear pharmacy (.2700); sterile parenteral pharmaceuticals (.2800); product selection (.2900); disposal of unwanted drugs (.3000); clinical pharmacist practitioner (.3100); impaired pharmacist peer review program (.3200); and registry of pharmacist technicians (.3300).

<u>Administration of Vaccines by Pharmacists</u>	21	NCAC	46	.2507
Amend/*				

STATE PERSONNEL COMMISSION

The rules in Subchapter 1B are from the state personnel commission and concern general provisions (.0100); rule-making (.0200); contested case hearing procedures (.0300); and appeal to the commission (.0400).

<u>Content and Procedure</u>	25	NCAC	01B	.0201
Amend/*				
<u>Presentations</u>	25	NCAC	01B	.0204
Amend/*				
<u>Requests for Declaratory Ruling</u>	25	NCAC	01B	.0213
Amend/*				
<u>Continuances</u>	25	NCAC	01B	.0439

The rules in Subchapter 1L are the State's equal employment opportunity plans (.0100); AIDS in the workplace (.0200); and the Equal Employment Opportunity Institute (.0300).

<u>Purpose</u>	25	NCAC	01L	.0102
Amend/*				

The rules in Subchapter 1N are workplace environment and health rules including State Employees Workplace Requirements Program for Safety and Health (.0100); personal protective equipment (.0200); AIDS in the workplace (.0300); communicable disease emergency (.0400) and worksite wellness (.0500).

<u>Policy</u>	25	NCAC	01N	.0501
Adopt/*				

<u>Administration</u>	25	NCAC	01N	.0502
Adopt/*				

<u>Wellness Leader</u>	25	NCAC	01N	.0503
Adopt/*				

<u>Wellness Committees</u>	25	NCAC	01N	.0504
Adopt/*				

BUILDING CODE COUNCIL

<u>NC Residential Code - Wind-Borne Debris Region</u>	R202
Amend/*	

<u>NC Building Code - Wind-Borne Debris Region</u>	1609.2
Amend/*	

<u>NC Residential Code - Note 1</u>	R403.1(1)
Amend/*	

<u>NC Residential Code - Minimum Depth</u>	R403.1.4
Amend/*	

<u>NC Residential Code - Table</u>	R403.1
Amend/*	

CONTESTED CASE DECISIONS

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested case decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698. Also, the Contested Case Decisions are available on the Internet at <http://www.ncoah.com/hearings>.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Beecher R. Gray
Selina Brooks
Melissa Owens Lassiter
Don Overby

A. B. Elkins II
Joe Webster
Shannon Joseph

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOL BEVERAGE CONTROL COMMISSION</u>				
ABC Commission v. Agustin Zeferino Hernandez, T/A El Pujido	06 ABC 2275	Chess	10/09/07	
ABC Commission v. La Fiesta Mexicana II, Inc., T/A La Fiesta Mexicana	07 ABC 0149	Gray	04/19/07	
ABC Commission v. NK Group, Inc., T/A NK Food Mart,	07 ABC 0163	Overby	04/18/07	
ABC Commission v. 703 Jonestown, Inc., T/A Red Rooster	07 ABC 0305	Webster	10/04/07	
ABC Commission v. Donna Darlene Johnston, T/A Wagon Wheel	07 ABC 0738	Webster	09/20/07	
ABC Commission v. Jamal Kamel Hajeh, T/A Pleasant Grove Grocery	07 ABC 0883	Morrison	09/11/07	
A list of Child Support Decisions may be obtained by accessing the OAH Website: www.ncoah.com/decisions .				
<u>CRIME VICTIMS COMPENSATION</u>				
Robert White, Jr., v. Crime Victims Compensation Commission	07 CPS 0497	Webster	09/12/07	
Renee L. Hunter	07 CPS 1408	Joseph	10/24/07	
Pricilla McAllister v. Crime Victims Compensation Commission	06 CPS 1166	Webster	06/14/07	
<u>DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES</u>				
DAG, Food and Drug Protection Division, Pesticide Section v. Jeffrey A. Oxley	06 DAG 0636	Webster	10/04/07	
<u>DEPARTMENT OF HEALTH AND HUMAN SERVICES</u>				
Hanson Hill Rest Home and Faiger Blackwell v. DHHS, DFS, Adult Care Licensure Section	03 DHR 0945	Overby	04/16/07	
Mary Elizabeth Matthews v. DHHS, Division of Medical Assistance	06 DHR 0485	Mann	10/01/07	
Kristen Valerie Kennedy v. Div. of Mental Health/Development Disabilities/ Substance Abuse Services at Dix	06 DHR 0984	Mann	05/08/07	
Eyvette Abbott, Robbie Wilson Community Services, Inc., v. DHHS (DMH/DD/SAS)	06 DHR 1139	Webster	06/06/07	
Amran Hussein, Trading as Laurinburg Food Mart v. DHHS, Div. of Public Health	06 DHR 1569	Webster	04/17/07	
James Hampton for South Haven Assisted Living v. DHHS, DFS, Mental Health Licensure and Certification Section	06 DHR 1783	Gray	04/23/07	
Burnell Yancey, Jr. v. DHHS, Div. of Medical Assistance	06 DHR 1817	Elkins	05/29/07	22:01 NCR 82
Nidal Dahir, DHHS, Division of Public Health	06 DHR 1916	Lassiter	05/14/07	
Mary K. Short for Kathryn M. Short v. DHHS, Division of Mental Health, Developmental Disabilities and Substance Abuse	06 DHR 2282	Gray	05/18/07	
Egusta Ford v. DMA, Third Party Recovery	06 DHR 2364	Gray	05/14/07	
Stacey M Saylon v. Health Care Personnel Registry	06 DHR 2413	Gray	09/24/07	
Annette L. Gwynn v. DHHS, Division of Medical Assistance	07 DHR 0030	Webster	06/08/07	
John A. Millan and Cornelia D. Millan v. DHHS	07 DHR 0031	Gray	05/23/07	
Doris Durden/MID #945-63-2642K v. DHHS	07 DHR 0055	Overby	06/04/07	

CONTESTED CASE DECISIONS

Rita Amirahmadi v. DHHS, Division of Medical Assistance	07 DHR 0250	Elkins	06/05/07	
Linda S. Little, Littles Day Care	07 DHR 0266	Overby	05/23/07	
Kareem S. Scott v. DHHS, DFS	07 DHR 0300	Webster	05/11/07	
Peter Emeka Nwankwo v. DHHS	07 DHR 0355	Overby	05/04/07	
Geraldine Fenner v. DHHS	07 DHR 0367	Overby	05/23/07	
Annette L. Gwyn v. DHHS/Division of Medical Assistance	07 DHR 0382	Lassiter	04/16/07	
Jessie Duncan v. DHHS	07 DHR 0424	Elkins	06/08/07	
Leonard Atkins Jr. v. Rowan County DSS (Ms. Tate)	07 DHR 0464	Gray	06/07/07	
Visitacion T Uy v. DHHS/Division of Medical Assistance	07 DHR 0489	Overby	05/10/07	
Dorothy Sue Johnson v. DHHS, DFS	07 DHR 0502	Webster	06/15/07	
Robin E. Peacock, Bridging to Success, Inc v. DHHS, DFS, Mental Health Licensure Section	07 DHR 0510	Gray	05/30/07	
Samantha A. Amerson v. DHHS	07 DHR 0578	Overby	06/15/07	
Anna Trask v. DHHS, Health Care Personnel Registry	07 DHR 0661	Overby	06/15/07	
Stacey M. Saylon v. Health Care Personnel Registry	07 DHR 0662	Gray	09/24/07	
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Carolyn Tolson v. DHHS	07 DHR 0850	Lassiter	08/22/07	
Dorothy Rose, Willie Rose, v. DHHS	07 DHR 0859	Lassiter	10/08/07	
Linda Thompson v. DHHS	07 DHR 0862	Lassiter	08/29/07	
Abundance Safe Haven Inc., Girls I, Terron H. Simpson v. DHHS	07 DHR 1004	Elkins	10/03/07	
Keith Beddingfield c/o Thyllis Smith ATFTH Staff, Value Options, Inc.	07 DHR 1059	Overby	10/04/07	
Tonya Thompson v. DHHS	07 DHR 1062	Gray	09/07/07	
Triangle Alternatives Inc., Dorothy George v. OAH, DHHS Emery E Milliken General Counsel	07 DHR 1081	Elkins	10/03/07	
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Betty Bennett parent of Shantel Boyce v. Medicaid	07 DHR 1193	Overby	10/03/07	
Sherri L. Gabel v. Onslow County Department of Social Services	07 DHR 1203	Webster	10/24/07	
Heavenly Healthcare, AD Fulton v. NC DHHS/Division of Medical Asst.	07 DHR 1262	Overby	10/04/07	
Terry Johnson, SEBHS/Damien McLean, Shartario Stephens v. DHHS, Div Medical Assistance	07 DHR 1301	Gray	10/24/07	
Kids Academy, Dawanda Bridges v. DHHS, Div. of Public Health, Child and Adult Care Food Program	07 DHR 1342	Gray	10/19/07	
Michael J. Graves v. DHHS, DFS, Mental Health Licensure and Certification Section	07 DHR 1468	Overby	10/10/07	
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<u>DEPARTMENT OF JUSTICE</u>				
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Robert Anthony Wilson v. DOJ, Company Police Program	06 DOJ 1508	Gray	02/16/07	
Jerry Hailey v. Insurance Underwriting Association	06 DOJ 1528	Gray	10/01/07	22:09 NCR 883
Jeremy Shayne Pearce v. DOJ, Campus Police Program	06 DOJ 2424	Overby	04/16/07	
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Roy Lee Burgess v. DOJ, Campus Police Program	07 DOJ 0540	Gray	09/25/07	
Norman Jerome Turner v. Criminal Justice Education and Training Standards Commission	07 DOJ 0599	Overby	09/19/07	
Ronald Calvin Camp Jr, Sherriffs' Education and Training Standards Comm.	07 DOJ 0727	Joseph	10/17/07	
Paul James Dunn v. Sheriffs' Education and Training Standards Commission	07 DOJ 0729	Overby	09/19/07	
Frank Burton Scofield v. DOJ, Company Police Program	07 DOJ 0814	Chess	10/10/07	
William Brian Martin v. Alarm Systems Licensing Board	07 DOJ 0929	Gray	10/16/07	
Clifton Benjamin Faulkner, Sr v. Sherriffs' Education and Training Standards Commission	07 DOJ 1134	Gray	10/17/07	
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Charles R. Franklin, Jr. v. DST, Retirement Systems Division	06 DST 1672	Overby	05/14/07	22:01 NCR 85
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Vonnita Hart Taylor v Department of Public Instruction	06 EDC 2203	Webster	09/20/07		
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George A. Jenkins, Jr, d/b/a Lake Juno Park, Inc., v. Dept. of Environmental Health	05 EHR 1161	Lassiter	02/16/07		
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Robert D. Bryant v. DENR, Division of Coastal Management and Stanley L. McCauley	05 EHR 2185	Chess	02/16/07		
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Wildcat Investments LLC, James Cook v. Cherokee County Health Depart.	06 EHR 0631	Gray	04/23/07		
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Andrew Price v. DENR, Div. of Coastal Management and William F. Canady	06 EHR 1834	Morrison	05/11/07	22:01 NCR	95
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Terry Collins v. DENR, Division of Waste Management	06 EHR 2414	Gray	05/01/07		
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H. Johnston Sifly v. DENR, Div. of Coastal Management	07 EHR 0040	Gray	09/06/07		
Paul A. Stennett v. DENR, Public Water Supply Section	07 EHR 0170	Overby	05/04/07		
Daniel R. Wroblewski v. DENR and Coastal Management	07 EHR 0217	Overby	05/08/07		
James Wallace v. DENR	07 EHR 0600	Elkins	09/18/07		
Max Plowman v. DENR, Division of Air Quality	07 EHR 0828	Webster	09/25/07		
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Board of Examiners for Engineers and Surveyors v. C. Phil Wagoner, PLS No. L-2416	07 EHR 0141	Morrison	08/21/07		
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Jerry W. Conner (NCDOC#0085045) and James A. Campbell (NCDOC# 0063592) v. Council of State	07 GOV 0238	Morrison	08/09/07	22:04 NCR	280
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Larry Miller v. Teachers' and State Employees' Comprehensive Major Medical Plan	06 INS 1236	Overby	04/11/07		
Randall A. Meder v. Teachers' and State Employees' Comprehensive Major Medical Plan	06 INS 1413	Overby	07/16/07	22:04 NCR	264
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Senora Kemp v. OAH	07 OAH 0776	Lassiter	09/06/07		
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Willie G. Shaw v. Division of Forest Resources	05 OSP 0414	Overby	04/13/07		
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Patricia G. Flanigan v. Fayetteville State University	07 OSP 0503	Overby	05/10/07
Tobias M. Guillaume v. FSU Police & Public Safety	07 OSP 0565	Overby	05/10/07
Archie Andrew Copeland v. Dept. of Juvenile Justice & Delinquency Prevention	07 OSP 0976	Lassiter	08/29/07
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Mary C. Brandon v. Department of the Secretary of State	06 SOS 1839	Elkins	04/02/07
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Mr. Tim Rhodes, President, Event Marketing Services, Inc. v. SOS	07 SOS 0374	Overby	06/14/07
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Layton Leach v. UNC Hospital	05 UNC 0449	Bryan	09/07/07
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