

NORTH CAROLINA

REGISTER

IN THIS ISSUE



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NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

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

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4	COMMERCE	4 Auctioneers	4 Reserved
5	CORRECTION	6 Barber Examiners	5 State Health Plan Purchasing Alliance Board
6	COUNCIL OF STATE	8 Certified Public Accountant Examiners	
7	CULTURAL RESOURCES	10 Chiropractic Examiners	
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Note: Title 21 contains the chapters of the various occupational licensing boards and Title 24 contains the chapters of independent agencies.

NORTH CAROLINA REGISTER
 Publication Schedule for January 2005 – December 2005

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

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

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

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

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

FILING DEADLINES

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

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

NOTICE OF TEXT

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

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

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

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

**EXECUTIVE ORDER NO. 74
REPLACING EXECUTIVE ORDERS NO. 75 AND 118 CONCERNING
CREATION OF A PROGRAM OFFICE, A POLICY BOARD,
AND ADVISORY COMMITTEES TO SUPPORT SUSTAINABLE NATURAL
RESOURCE AND ENVIRONMENTAL MANAGEMENT IN THE
ALBEMARLE-PAMLICO ESTUARINE SYSTEM**

WHEREAS, the Albemarle-Pamlico National Estuary Program (APNEP), formerly known as the Albemarle-Pamlico Estuarine Study, is a cooperative effort established by the State of North Carolina and the United States Environmental Protection Agency; and

WHEREAS, the mission of the APNEP is to identify, restore, and protect the significant resources in the Albemarle-Pamlico estuarine system in North Carolina and southeast Virginia; and

WHEREAS, the APNEP is a collaborative effort involving state, federal, regional, local, educational, and public entities in the protection and enhancement of the Albemarle-Pamlico estuarine system; and

WHEREAS, the APNEP was one of the first National Estuary Programs to be designated under Section 320 of the Clean Water Act; and

WHEREAS, the APNEP has provided extensive information and supported scientific research about natural resources and environmental issues facing the Albemarle-Pamlico estuary program since 1987; and

WHEREAS, scientific information from the Albemarle-Pamlico Estuarine Study was combined with extraordinary involvement by citizens to develop a Comprehensive Conservation and Management Plan (CCMP) entitled "A Guide to Environmental and Economic Stewardship in the Albemarle-Pamlico Region" that was adopted in 1994; and

WHEREAS, the CCMP also recognizes that, from an ecological and economic standpoint, the most effective means to ensure the environmental health and sustainability of the Albemarle-Pamlico estuarine system is to manage and protect the resources in the five major river basins of the watershed; and

WHEREAS, the CCMP also recognizes the importance of involving the public in making decisions regarding natural resources and environmental management, and research;

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

Section 1. Establishment.

An **Albemarle-Pamlico National Estuary Program Office** is hereby established to coordinate and facilitate the implementation and advancement of the CCMP, the APNEP mission, and the activities of the Policy Board and Advisory Committees. The APNEP Program Office shall serve as a conduit for information between the Policy Board, Advisory Committees, state and federal agencies, local government, tribes, academia, and the public. The Program Office will be located in the Offices of the Secretary of the North Carolina Department of Environment and Natural Resources (DENR).

A **Policy Board** for the Albemarle-Pamlico watershed shall be established to work with DENR and the Program Office to support, evaluate, update, advocate, and guide the implementation of the CCMP and the APNEP mission.

A Committee of Citizen Advisors ("**Citizen Advisory Committee**") for the Albemarle-Pamlico watershed shall be established to advise and support the Policy Board, and to serve as liaisons to local agencies and interested parties regarding environmental and natural resources management concerns and issues relevant to implementation of the CCMP and the APNEP mission.

A Committee of Science and Technical Advisors ("**Science and Technical Advisory Committee**") for the Albemarle-Pamlico watershed shall be established to advise the Policy Board and agencies responsible for implementation of the CCMP on scientific and technical issues.

A Committee of Management Agency Representatives ("**Management Advisory Committee**") for the Albemarle-Pamlico watershed shall be established to facilitate and support the implementation and advancement of the CCMP management actions and the APNEP mission.

Section 2. Program Boundaries.

The boundaries of the Albemarle-Pamlico National Estuary Program are the geographic area of each of the following river basins as defined by the hydrologic boundaries ascribed to it by the North Carolina Department of Environment and Natural Resources:

1. Neuse (including areas of the White Oak River Basin that drain to Core and Bogue sounds),
2. Tar-Pamlico (including areas draining directly into the northern Pamlico Sound),
3. Roanoke (that portion of the basin below Lake Gaston dam),
4. Chowan (including the portion of the basin located in Virginia),
5. Pasquotank (including waters and areas that drain directly into the Albemarle, Currituck, Croatan, and Roanoke sounds, as well as that portion of the basin located in Virginia).

Section 3. Policy Board.

A. Membership.

1. The Policy Board will be broad-based and include the following:
 - a. The Secretary of North Carolina Department of Environment and Natural Resources or designee;
 - b. The Secretary of Natural Resources of the Commonwealth of Virginia or designee is invited to participate;
 - c. The Executive Director of the N.C. Clean Water Management Trust Fund;
 - d. One representative of Partnership for the Sounds;
 - e. One representative of Cooperative Extension;
 - f. One representative of Sea Grant;
 - g. Two representatives from each of the Advisory Committees;
 - h. One, who shall, at the time of appointment, be actively connected with higher education;
 - i. One, who shall, at the time of appointment, be actively connected with local or regional planning;
 - j. One, who shall, at the time of appointment, be actively connected with major business or industry;
 - k. One, who shall, at the time of appointment, be actively connected with the commercial fishing or seafood industry;
 - l. One, who shall, at the time of appointment, be actively connected with agriculture;
 - m. One, who shall, at the time of appointment, be actively connected with forestry;
 - n. One, who shall, at the time of appointment, be actively associated with a local, state, or national conservation organization;
 - o. One who shall, at the time of appointment, be actively connected with or have experience in finance/banking;
 - p. One, who shall, at the time of appointment, be actively connected with communication media;
 - q. One at-large member;
 - r. A representative of the U.S. Environmental Protection Agency – National Estuary Program is invited to participate as an ex-officio member.
2. Members must reside or have interests within the program boundaries.
3. The Secretary of the Department of Environment and Natural Resources shall appoint or invite the initial Policy Board membership.
4. Each member shall serve a three-year term, renewable once consecutively. The membership will have staggered appointments so that one-third of the membership can be reappointed each year.
5. Vacancies shall be filled by appointment or invitation from the remaining Board members as set forth in the Boards bylaws.
6. The Policy Board may expand its membership, as it deems necessary, upon two-thirds affirmative vote.

B. Duties.

1. The role of the Policy Board shall be to guide, evaluate, and support the CCMP implementation process and advancement of the CCMP and its management actions, and to ensure the highest level of collaboration, coordination, and cooperation among state and federal agencies, local governments, the public, and various interest groups.
2. The Policy Board shall consult the Advisory Committees and the Program Office for recommendations pertaining to implementation of CCMP management actions at the regional and local level, and the coordination and development of research and monitoring priorities.

3. The Policy Board shall advise the state, federal, and local agencies responsible for environmental and natural resources management about concerns and issues relevant to implementation of the CCMP.
 4. The Policy Board shall make recommendations based on CCMP implementation progress and success, and shall identify and prioritize information needs as described in the CCMP.
 5. The Policy Board shall evaluate the relevance of the CCMP and consult the Advisory Committees and the Program Office for recommendations on amending the CCMP to address new or emerging issues that may affect the significant natural resources of the Albemarle-Pamlico estuarine system.
 6. The Policy Board shall be an advocate for the implementation of the CCMP and the APNEP mission and the APNEP.
 7. The Policy Board, in cooperation with the Program Office, shall develop an annual report, budget, and work plan that addresses priorities for implementing and updating the CCMP.
 8. The Policy Board shall be responsible for determining its own rules of order, bylaws, chairmanship, attendance requirements, and other matters of protocol.
- C. Meetings.
1. The Policy Board shall meet at least two times each year or more frequently if deemed appropriate by the Chair or upon request by the Program Director.
 2. Federal, state, and local agencies with environmental management responsibilities in the Albemarle-Pamlico watershed are invited to participate in meetings of the Policy Board.
 3. All meetings shall be open to the public and noticed in accordance with North Carolinas open meeting laws.

Section 4. Advisory Committees.

- A. Citizen Advisory Committee
1. Membership.
 - a. Citizen Advisory Committee (CAC) members must reside, or have interests, within the program boundaries of the Albemarle-Pamlico National Estuary Program.
 - b. Membership shall include:
 - (1) One representative of the Soil and Water Conservation Districts in North Carolina;
 - (2) One representative of the Soil and Water Conservation Districts in Virginia is invited;
 - (3) Two representatives from non-governmental environmental conservation organizations;
 - (4) One representative of environmental education;
 - (5) One representative of K-12 education;
 - (6) One representative from industry or business;
 - (7) One representative of agriculture;
 - (8) One representative of commercial fishing or the seafood industry;
 - (9) One representative of forestry;
 - (10) One representative of county government;
 - (11) One representative of municipal or town government;
 - (12) One representative from each of the following:
 - (a) N.C. League of Municipalities, and
 - (b) N.C. Association of County Commissioners;
 - (13) One representative from each of the following is invited:
 - (a) Virginia Municipal League, and
 - (b) Virginia Association of Counties;
 - (14) One representative is invited to represent the State recognized tribal organizations from within the program boundaries in North Carolina;
 - (15) One representative is invited to represent the State recognized tribal organizations from within the program boundaries in Virginia; and
 - (16) Six at-large positions.
 - c. The CAC may expand its membership to include other interested parties as it deems necessary and as set forth in the committees bylaws.
 - d. Members shall serve a three-year term, renewable once consecutively. The membership will have staggered appointments so that one-third of the membership can be reappointed each year.
 - e. The Director of the Albemarle-Pamlico National Estuary Program Office shall nominate the initial CAC membership to be approved by the Policy Board. In making his nominations, the Director shall, to the greatest extent possible, seek to ensure geographic, demographic, and social balance, and willingness to serve.
 - f. Vacancies shall be filled by appointment or invitation from the remaining CAC members as set forth in the committees bylaws.

2. Duties.
 - a. The CAC shall be responsible for coordinating CCMP implementation strategies at a local level.
 - b. The CAC shall advise and consult with the Policy Board, Science and Technical Advisory Committee, Management Advisory Committee, the public and various interest groups, as well as local agencies within the Albemarle-Pamlico watershed regarding implementation of CCMP management actions and advancement of the CCMP at the local level.
 - c. The CAC shall be an advocate for the implementation of the CCMP and the APNEP mission and the APNEP at the local level.
 - d. The CAC will have no authority other than as an advisory body.
 - e. The CAC shall select two members to serve on the Policy Board.
 - f. The CAC shall be responsible for determining its own rules of order, bylaws, chairmanship, attendance requirements, and other matters of protocol.
3. Meetings.
 - a. The CAC shall meet at least two times each year, or more frequently if deemed appropriate or upon request by the Policy Board or the Program Director.
 - b. Federal, state, and local agencies with environmental management responsibilities in the Albemarle-Pamlico watershed are invited to participate in meetings of the CAC.
 - c. All meetings shall be open to the public and noticed in accordance with North Carolina's open meeting laws.

B. Science and Technical Advisory Committee.

1. Membership.
 - a. The Science and Technical Advisory Committee (STAC) will be broad-based and should include scientists and researchers from local colleges, universities, and research institutions, as well as technical staff from federal, state, and local agencies, industry, and environmental organizations.
 - b. All members will be expected to have an advanced degree (Masters or above) and/or extensive experience (at least 6 years) with expertise in scientific and technical fields germane to the mission of the APNEP.
 - c. The Director of the Albemarle-Pamlico National Estuary Program Office shall nominate the initial STAC membership to be approved by the Policy Board. In making his nominations, the Director shall, to the greatest extent possible, seek to ensure broad-based science and technical representation for research, monitoring, and resource management issues germane to the Albemarle-Pamlico watershed.
 - d. Members should have expertise in science and technology relevant to environment and natural resources management, including but not limited to: landscape ecology, terrestrial ecology, wetlands ecology, submerged aquatic ecology, marine biology, hydrology, remote sensing, ecological assessment, engineering, agricultural technologies, forest technologies, soil conservation, water quality modeling, environmental policy, economics, public policy, planning, spatial statistics, and law.
 - e. Each member shall serve a three-year term, renewable once consecutively. The membership will have staggered appointments so that one-third of the membership can be reappointed each year.
 - f. Vacancies shall be filled by appointment or invitation from the remaining committee members as set forth in the committee's bylaws.
2. Duties.
 - a. The STAC shall be responsible for recommending research and monitoring activities and needs related to CCMP implementation or advancement to the Policy Board and the Program Office.
 - b. The STAC shall advise and consult with the Policy Board, the public, and various interest groups, as well as local, state, and federal governments within program boundaries on scientific and technical issues affecting implementation and advancement of the CCMP management actions. Members shall advise these groups of actions and information relevant to research and monitoring issues in the Albemarle-Pamlico watershed.
 - c. The STAC will have no authority other than as an advisory body.
 - d. The STAC will serve as a forum for the exchange of scientific information about the Albemarle-Pamlico estuarine system.
 - e. The STAC shall select two members to serve on the Policy Board.
 - f. The STAC shall be responsible for determining its own rules of order, bylaws, chairmanship, attendance requirements, and other matters of protocol.
3. Meetings.
 - a. The STAC shall meet at least two times each year, or more frequently if deemed appropriate, or upon request by the Policy Board or the Program Director.
 - b. Federal, state, and local agencies with environmental management responsibilities in the Albemarle-Pamlico watershed are invited to participate in meetings of STAC.

- c. All meetings shall be open to the public and noticed in accordance with North Carolinas open meeting laws.

C. Management Advisory Committee.

- 1. Membership.
 - a. The Management Advisory Committee (MAC) will be broad-based and should include representation from federal, state, and local agencies with environmental and natural resource management responsibilities within the Albemarle-Pamlico watershed.
 - b. The Director of the Albemarle-Pamlico National Estuary Program Office shall nominate the initial MAC membership to be approved by the Policy Board. In making appointments, the Policy Board shall, to the greatest extent possible, seek to ensure that appropriate management agencies are included.
 - c. The MAC may expand its membership as it deems necessary and as set forth in the committees bylaws.
 - d. Vacancies shall be filled by appointment or invitation from the remaining committee as set forth in the committees bylaws.
- 2. Duties.
 - a. The MAC shall be responsible for coordinating, supporting, and advocating CCMP implementation strategies at a state and federal agency level.
 - b. The MAC shall advise and consult with the Policy Board, CAC, and STAC on the implementation of CCMP management actions and advancement of the CCMP at the federal, state, and local agency level.
 - c. The MAC will have no authority other than as an advisory body.
 - d. The MAC shall select two members to serve on the Policy Board.
 - e. The MAC shall be responsible for determining its own rules of order, bylaws, chairmanship, attendance requirements, and other matters of protocol.
 - f. The MAC will serve as a forum for the exchange of management information about the Albemarle-Pamlico estuarine system.
- 3. Meetings.
 - a. The MAC shall meet at least two times each year, or more frequently if deemed appropriate, or upon request by the Policy Board or Program Director.
 - b. All meetings shall be open to the public and noticed in accordance with North Carolinas open meeting laws.

Section 5. Compensation, Per Diems, and Expenses.

Members of the APNEP Policy Board and Advisory Committees shall serve voluntarily and without compensation or per diems. Extraordinary expenses may be reimbursed subject to approval by the Program Director.

Section 6. Effect of Other Executive Orders.

All other Executive Orders or portions of Executive Orders inconsistent herewith are hereby rescinded. This order specifically replaces Executive Orders #75 and #118.

This Order shall become effective immediately and remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh this 16th day of May 2005.

Michael F. Easley

ATTEST:

Elaine F. Marshall
Secretary of State

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

North Carolina Department of Health and Human Services
Division of Social Services
Social Services Commission
2401 Mail Service Center, Raleigh, North Carolina 27699-2401
Phone: 919-733-3055 - Courier # 56-20-25 - Fax: 919-733-9386

NOTICE OF CHANGE IN PUBLIC HEARING DATE

Due to the first Wednesday of July falling on July 6, 2005 immediately following the holiday of July 4th, the NC Social Services Commission changed the regular first Wednesday of the month meeting date to meet July 13, 2005 at 10:00a.m. in the Albemarle building on the 8th floor, located on 325 North Salisbury Street, Raleigh, North Carolina. This date change effects the public hearing date for Division of Social Services-Economic rule: 10A NCAC 71U .0208 dated for July 6, 2005. This date is noted in the NC Register, Volume 19, Issue 22, between pages 1681 to 1682.

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

(919) 807-2875

AMENDED NOTICE OF VERBATIM ADOPTION OF FEDERAL STANDARDS

In consideration of G.S. 150-B-21.5(c) the Occupational Safety and Health Division of the Department of Labor hereby gives notice that the following Notice of Verbatim Adoption of Federal Standards hereby replaces/amends the Notice previously published on April 15, 2005:

- rule changes have been submitted to update the *North Carolina Administrative Code* at 13 NCAC 07F .0501 to incorporate by reference the occupational safety and health related provisions of Title 29 of the *Code of Federal Regulations* Part 1926 promulgated as of December 14, 2004, except as specifically described, and
- the *North Carolina Administrative Code* at 13 NCAC 07A .0301 automatically includes amendments to certain parts of the *Code of Federal Regulations*, including Title 29, Part 1904—Recording and Reporting Occupational Injuries and Illnesses.

This update encompasses recent verbatim adoptions concerning:

- Fire Protection and Shipyard Employment Standards
(69 FR 55668-55708, September 15, 2004)

The *Federal Register* (FR), as cited above, contains both technical and economic discussions that explain the basis for each change.

For additional information, please contact:

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

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

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

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

The City of Gastonia

Pursuant to N.C.G.S. § 130A-310.34, the City of Gastonia has filed with the North Carolina Department of Environment and Natural Resources (“DENR”) a Notice of Intent to Redevelop a Brownfields Property (“Property”) in Gastonia, Gaston County, North Carolina. The Property consists of 0.64 acres at the northeast corner of U.S. Highway 321 (Chester Street) and Rankin Avenue. Environmental contamination exists on the Property in groundwater. The Property is part of an 8-acre tract that Prospective Developer has committed itself to redevelop for no uses other than commercial and retail ones, including a shopping center and associated parking lot. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and the City of Gastonia, which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35. The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the offices of the City of Charlotte’s Economic Development Division, 600 East Fourth Street, Charlotte, NC 28202 by contacting Carolyn Minnich at that address, at (704) 661-0330 or at carolyn.minnich@ncmail.net; or at 401 Oberlin Rd., Raleigh, NC 27605 (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents) by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net, or at (919) 508-8411. Written public comments may be submitted to DENR within 60 days after the date this Notice is published in a newspaper of general circulation serving the area in which the brownfields property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 30 days after the period for written public comments begins. Thus, if The City of Gastonia, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the brownfields property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on June 16, 2005. All such comments and requests should be addressed as follows:

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

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

Town of Woodfin

Pursuant to N.C.G.S. § 130A-310.34, the Town of Woodfin has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Woodfin, Buncombe County, North Carolina. The Property, which is known as the former Elk Mountain Landfill, consists of approximately 156 acres of land and improvements located west of U.S. Highway 19 and approximately one mile north-northeast of downtown Woodfin. Portions of the Property were used as a municipal landfill between 1970 and the early 1980s, and as a municipal golf course between the late 1990s and 2002. Environmental contamination exists on the Property in groundwater, and landfill gas is present on portions of the Property. The Town of Woodfin has committed itself to sell the Property for redevelopment of the non-landfill portion involving a residential community of approximately 300 to 500 housing units and commercial applications such as restaurants, small retail shops and a grocery store, and redevelopment of the former landfill portion involving recreational open space, parking areas, walking paths and possibly a golf course with associated amenities such as tennis courts and a clubhouse. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and the Town of Woodfin, which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35. The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at Woodfin Town Hall, 90 Elk Mountain Road, Woodfin, NC 28804 by contacting Jason Young, Town Administrator at administrator@townofwoodfin.org or at (828) 253-4887; or at 401 Oberlin Rd., Raleigh, NC 27605 by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net, or at (919) 508-8411, where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents. Written public comments may be submitted to DENR within 60 days after the date this Notice is published in a newspaper of general circulation serving the area in which the brownfields property is located, or in the North Carolina Register, whichever is later.

Written requests for a public meeting may be submitted to DENR within 30 days after the period for written public comments begins. Thus, if the Town of Woodfin, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the brownfields property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on June 16, 2005. All such comments and requests should be addressed as follows:

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

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 2 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Agriculture intends to amend the rule cited as 02 NCAC 52B .0205.

Proposed Effective Date: October 1, 2005

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rule by submitting a request in writing no later than June 30, 2005, to David S. McLeod, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.

Reason for Proposed Action: This Rule establishes animal health requirements for shipping cattle into North Carolina. The proposed amendment would establish a new requirement for dairy breed cattle to prevent the importation of cattle exposed to or affected with tuberculosis.

Procedure by which a person can object to the agency on a proposed rule: Any person may object to the proposed rule by submitting a written statement of objection(s) to David S. McLeod, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.

Written comments may be submitted to: David S. McLeod, 1001 Mail Service Center, Raleigh, NC 27699-1001, phone (919)733-7125 x249, fax (919)716-0105, email david.mcleod@ncmail.net.

Comment period ends: August 15, 2005

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

Fiscal Impact

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

CHAPTER 52 - VETERINARY DIVISION

SUBCHAPTER 52B - ANIMAL DISEASE

SECTION .0200 - ADMISSION OF LIVESTOCK TO NORTH CAROLINA

02 NCAC 52B .0205 IMPORTATION REQUIREMENTS: CATTLE

(a) No cattle infested with ticks (*Boophilus annulatus*, *B. microplus*, or *Rhipicephalus evertsi evertsi*) or exposed to such infestation shall be shipped, trailed, driven, or otherwise imported into the state for any purpose.

(b) No cattle affected with scabies shall be shipped, trailed, driven or otherwise imported into the state for any purpose. No cattle recently exposed to scabies or from an area quarantined on account of scabies shall be imported into the state except in accordance with the regulations of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture.

(c) All dairy breed cattle six months of age or older, except for steers, spayed heifers and cattle consigned directly to a United States Department of Agriculture or North Carolina Department of Agriculture and Consumer Services-inspected slaughter facility, shall test negative to an official test for tuberculosis within 60 days prior to entering North Carolina. Animals originating directly from a United States Department of Agriculture Accredited TB-free herd are exempt from the testing requirements, provided that the accredited herd number and date of the last herd test shall be included on the official certificate of veterinary inspection.

Authority G.S. 106-307.5; 106-361; 106-400.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Health Services intends to amend the rule cited as 10A NCAC 41B .0503 and repeal the rule cited as 10A NCAC 41B .0102.

Proposed Effective Date: October 1, 2005

Public Hearing:

Date: July 6, 2005

Time:

1:00 p.m. – 10A NCAC 41B .0102

1:45 p.m. – 10A NCAC 41B .0503

Location: Room G1-A, 1330 St. Mary's Street, Raleigh, NC

Reason for Proposed Action:

10A NCAC 41B .0102 – To repeal the rule because the Consultant Panel and the Medical Review Board are under the authority of the Division of Motor Vehicles, Department of Transportation as of March 1999.

10A NCAC 41B .0503 – To amend the rule to add an additional Alcohol Screening Test Device (Alco-Sensor FST) which has updated technology. The Alco-Sensor FST will be utilized by law enforcement officers statewide in detecting the drinking driver. Also, to re-number the Alcohol Screening Test Devices listed.

Procedure by which a person can object to the agency on a proposed rule: Objections may be submitted in writing to Chris G. Hoke, JD, the Rule-Making Coordinator, during the public comment period. Additionally, objections may be made verbally or in writing at the public hearing for these Rules.

Written comments may be submitted to: Chris G. Hoke, JD, 1915 Mail Service Center, Raleigh, NC 27699-1915, phone (919)715-4168, email chris.hoke@ncmail.net.

Comment period ends: August 15, 2005

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

Fiscal Impact

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

CHAPTER 41 – HEALTH: EPIDEMIOLOGY

SUBCHAPTER 41A – COMMUNICABLE DISEASE CONTROL

SECTION .0100 – REPORTING OF COMMUNICABLE DISEASES

10A NCAC 41B .0102 CONSULTANT PANEL AND REVIEW BOARD FEES

- (a) Medical Evaluation Consultant Panel members shall be paid a fee of ten dollars (\$10.00) for each case reviewed.
(b) The physician members of the Board shall be paid a fee for such consultant services of one hundred thirty five dollars (135.00) per session attended, which shall be in addition to other remuneration to which they may be entitled.

Authority G.S. 20-9; 143B-10.

10A NCAC 41B .0503 APPROVED ALCOHOL SCREENING TEST DEVICES: CALIBRATION

- (a) The following breath alcohol screening test devices are approved as to type and make:
(1) ALCO-SENSOR (with two-digit display), made by Intoximeters, Inc.
(2) ALCO-SENSOR III (with three-digit display), made by Intoximeters, Inc.
(3) ALCO-SENSOR IV, manufactured by Intoximeters, Inc.
(4) ALCO-SENSOR FST, manufactured by Intoximeters, Inc.
(4)(5) SD-2, manufactured by CMI, Inc.
(b) The agency or operator shall verify instrument calibration of each alcohol screening test device at least once during each 30 day period of use. The verification shall be performed by employment of an alcoholic breath simulator using simulator solution in accordance with these Rules or an ethanol gas canister.
(1) Alcoholic breath simulators used exclusively to verify instrument calibration of alcohol screening test devices shall have the solution changed every 30 days or after 25 calibration tests, whichever occurs first.
(2) Ethanol gas canisters used exclusively to verify instrument calibration of alcohol screening test devices shall not be utilized beyond the expiration date on the canister.
(3) Requirements of Paragraph (b) and Subparagraph (b)(1) and (b)(2) of this Rule shall be recorded on an alcoholic breath simulator log or an ethanol gas canister log designed by the Forensic Tests for Alcohol Branch and maintained by the user agency.

Authority G.S. 20-16.3.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to adopt the rules cited as 12 NCAC 09E .0109-.0110 and amend the rules cited as 12 NCAC 09A .0103,

09B .0202, .0205, .0210, .0302-.0308, .0312; 09E .0104, .0106 and 09G .0308-.0312, .0405.

Proposed Effective Date: January 1, 2006

Public Hearing:

Date: August 18, 2005

Time: 1:00 p.m.

Location: Dept. of Correction Office of Staff Development and Training, 2211 Schieffelin Road, Apex, NC.

Reason for Proposed Action:

12 NCAC 09A .0103 – Added definition of In-Service Training Coordinator.

12 NCAC 09B .0202 – Clarified that observations of instructors shall be long enough to ensure the instructor is using the Instructional System Design model when teaching a class.

12 NCAC 09B .0205 – Added the following topics to the Basic Law Enforcement Training curriculum: Anti-Terrorism (4 hours) and Rapid Deployment (8 hours). Added 2 hours to the Criminal Investigations topical area and 2 hours to the Controlled Substances topical area. Increased the total hours of Basic Law Enforcement Training from 602 to 618.

12 NCAC 09B .0210, .0302, .0308 – Added the requirement that in order to be admitted to a Radar Instructor course a student must hold full General Instructor certification.

12 NCAC 09B .0303 – Gives In-Service Training Coordinators the authority to evaluate probationary and general instructors' classroom performance. Changes the period of general instructor certification from two years to three years and changes the minimum number of hours instructors are required to teach from eight hours every two years to 12 hours every three years. Describes the process by which SMI Instructor certification will run concurrent with General Instructor certification.

12 NCAC 09B .0304 – Allows a specialized instructor candidate to take a CPR course from any organization that meets the national standard for CPR instruction.

12 NCAC 09B .0305 – Gives In-Service Training Coordinators the authority to evaluate specialized instructors' classroom performance. Changes the minimum number of hours instructors are required to teach from eight hours every two years to 12 hours every three years.

12 NCAC 09B .0306 – Gives In-Service Training Coordinators the authority to recommend candidates for Professional Lecturer Certification.

12 NCAC 09B .0307 – Changes the period of certification for Professional Lecturers from two to three years.

12 NCAC 09B .0312 – Changes the minimum number of hours instructors are required to teach from eight hours every two years to 12 hours every three years.

12 NCAC 09E .0102, .0105 – Changed the required annual in-service training topics.

12 NCAC 09E .0104 – Clarified the requirements for instructors who teach in-service training.

12 NCAC 09E .0106 – Allows agencies to use ballistic equivalent lead-free ammunition for annual firearms qualification to minimize officers' exposure to lead.

12 NCAC 09E .0109 – This is a new rule to address the requirements for becoming an In-Service Training Coordinator.

12 NCAC 09E .0110 – This is a new rule to address the responsibilities of the In-Service Training Coordinator.

12 NCAC 09G .0308 – Changed requirements for general instructor certification to require four years of experience as a criminal justice officer regardless of education level.

12 NCAC 09G .0309 – Changes the period of general instructor certification from two years to three years and changes the minimum number of hours instructors are required to teach from eight hours every two years to 12 every three years.

12 NCAC 09G .0310 – Allows a specialized instructor candidate to take a CPR course from any organization that meets the national standard for CPR instruction.

12 NCAC 09G .0311 – Changes the minimum number of hours instructors are required to teach from eight hours every two years to 12 hours every three years.

12 NCAC 09G .0312 – Changes the minimum number of hours instructors are required to teach from eight hours every two years to 12 hours every three years.

12 NCAC 09G .0406 – Changes qualifications for Corrections School Director to include successful completion of an instructor training course.

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, must be submitted in writing to Teresa Marrella, Department of Justice, Criminal Justice Standards Division, 114 West Edenton Street, Raleigh, NC 27602.

Written comments may be submitted to: Teresa Marrella, Department of Justice, 114 West Edenton Street, Raleigh, NC 27602, phone (919)716-6475, fax (919)716-6752, email tmarrella@ncdoj.com.

Comment period ends: August 18, 2005

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

Fiscal Impact

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

CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09A - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION .0100 - COMMISSION ORGANIZATION AND PROCEDURES

12 NCAC 09A .0103 DEFINITIONS

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

- (1) "Agency" or "Criminal Justice Agency" means those state and local agencies identified in G.S. 17C-2(2).
- (2) "Alcohol Law Enforcement Agent" means a law enforcement officer appointed by the Secretary of Crime Control and Public Safety as authorized by G.S. 18B-500.
- (3) "Chief Court Counselor" means the person responsible for administration and supervision of juvenile intake, probation and post-release supervision in each judicial district, operating under the supervision of the Department of Juvenile Justice and Delinquency Prevention.
- (4) "Commission of an offense" means a finding by the North Carolina Criminal Justice Education and Training Standards Commission or an administrative body that a person performed the acts necessary to satisfy the elements of a specified criminal offense.
- (5) "Convicted" or "Conviction" means and includes, for purposes of this Chapter, the entry of:
 - (a) a plea of guilty;
 - (b) a verdict or finding of guilt by a jury, judge, magistrate, or other duly constituted, established adjudicating body, tribunal, or official, either civilian or military; or
 - (c) a plea of no contest, nolo contendere, or the equivalent.
- (6) "Criminal Justice Officer(s)" means those officers identified in G.S. 17C-2(3) and excluding Correctional officers; Probation/parole officers, and Probation/parole officers intermediate. The term "Probation/parole officers intermediate," as used in this Chapter has the same meaning as "Probation/parole officers-surveillance" used in G.S. 17C-2(3).
- (7) "Criminal Justice System" means the whole of the State and local criminal justice agencies described in Item (1) of this Rule.
- (8) "Department Head" means the chief administrator of any criminal justice agency

and specifically includes any chief of police or agency director. "Department Head" also includes a designee appointed in writing by the Department head.

- (9) "Director" means the Director of the Criminal Justice Standards Division of the North Carolina Department of Justice.
- (10) "Educational Points" means points earned toward the Professional Certificate Programs for studies satisfactorily completed for semester hour or quarter hour credit at a regionally accredited institution of higher learning. Each semester hour of college credit equals one educational point and each quarter hour of college credit equals two-thirds of an educational point.
- (11) "Enrolled" means that an individual is currently actively participating in an on-going presentation of a Commission-certified basic training course that has not been concluded on the day probationary certification expires. The term "currently actively participating" as used in this definition means:
 - (a) for law enforcement officers, that the officer is then attending an approved course presentation averaging a minimum of twelve hours of instruction each week; and
 - (b) for Department of Juvenile Justice and Delinquency Prevention personnel, that the officer is then attending the last or final phase of the approved training course necessary for fully satisfying the total course completion requirements.
- (12) "High School" means graduation from a high school that meets the compulsory attendance requirements in the jurisdiction in which the school is located.
- (13) "In-Service Training" means any and all training prescribed in 12 NCAC 09E .0102 that must be satisfactorily completed by all certified law enforcement officers during each full calendar year of certification.
- (14) "In-Service Training Coordinator" means the person designated by a law enforcement agency head to administer the agency's in-service training program.
- ~~(14)~~(15) "Lateral Transfer" means the employment of a criminal justice officer, at any rank, by a criminal justice agency, based upon the officer's special qualifications or experience, without following the usual selection process established by the agency for basic officer positions.
- ~~(15)~~(16) "Law Enforcement Code of Ethics" means that code adopted by the Commission on September 19, 1973, that reads:

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

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

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

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

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

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

~~(16)~~(17) "Juvenile Court Counselor" means a person responsible for intake services and court supervision services to juveniles under the supervision of the chief court counselor.

~~(17)~~(18) "Juvenile Justice Officer" means persons designated by the Secretary of the Department of Juvenile Justice and Delinquency Prevention to provide for the care and supervision of juveniles placed in the physical custody of the Department.

~~(18)~~(19) "Law Enforcement Officer" means an appointee of a criminal justice agency or of the State or of any political subdivision of the State who, by virtue of his office, is empowered to make arrests for violations of the laws of this State. Specifically excluded from this title are sheriffs and their sworn appointees with arrest authority who are governed by the provisions of G.S. 17E.

~~(19)~~(20) "Law Enforcement Training Points" means points earned toward the Law Enforcement Officers' Professional Certificate Program by successful completion of Commission-approved law enforcement training courses. Twenty classroom hours of Commission-approved law enforcement training equals one law enforcement training point.

~~(20)~~(21) "LIDAR" means a speed-measuring instrument that electronically computes, from transmitted infrared light pulses, the speed of a vehicle under observation.

~~(21)~~(22) "Local Confinement Personnel" means any officer, supervisor or administrator of a local confinement facility in North Carolina as defined in G.S. 153A-217; any officer, supervisor or administrator of a county confinement facility in North Carolina as defined in G.S. 153A-218; or, any officer, supervisor or administrator of a district confinement facility in North Carolina as defined in G.S. 153A-219.

~~(22)~~(23) "Misdemeanor" means those criminal offenses not classified under the laws, statutes, or ordinances as felonies. Misdemeanor offenses are classified by the Commission as follows:

- (a) "Class A Misdemeanor" means a misdemeanor committed or omitted in violation of any common law, duly enacted ordinance or criminal statute of this state that is not classified as a Class B Misdemeanor pursuant to Sub-item (22)(b) of this Rule. Class A Misdemeanor also includes any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of not more than six months. Specifically excluded from this grouping of "Class A Misdemeanor" criminal offenses

for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as misdemeanors under the laws of other jurisdictions, or duly enacted ordinances of an authorized governmental entity with the exception of the offense of impaired driving which is expressly included herein as a Class A Misdemeanor if the offender could have been sentenced for a term of not more than six months. Also specifically included herein as a Class A Misdemeanor is the offense of impaired driving, if the offender was sentenced under punishment level three [G.S. 20-179(i)], level four [G.S. 20-179(j)], or level five [G.S. 20-179(k)]. Class A Misdemeanor shall also include acts committed or omitted in North Carolina prior to October 1, 1994 in violation of any common law, duly enacted ordinance or criminal statute, of this state for which the maximum punishment allowable for the designated offense included imprisonment for a term of not more than six months.

- (b) "Class B Misdemeanor" means an act committed or omitted in violation of any common law, criminal statute, or criminal traffic code of this state that is classified as a Class B Misdemeanor as set forth in the Class B Misdemeanor Manual as published by the North Carolina Department of Justice which is hereby incorporated by reference and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6. Copies of the publication may be obtained from the North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602. There is no cost per manual at the time of adoption of this Rule. Class B Misdemeanor also includes any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes

imprisonment for a term of more than six months but not more than two years. Specifically excluded from this grouping of "Class B Misdemeanor" criminal offenses for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as being misdemeanors under the laws of other jurisdictions with the following exceptions: Class B Misdemeanor does expressly include, either first or subsequent offenses of driving while impaired if the maximum allowable punishment is for a term of more than six months but not more than two years, driving while license permanently revoked or permanently suspended, and those traffic offenses occurring in other jurisdictions which are comparable to the traffic offenses specifically listed in the Class B Misdemeanor Manual. "Class B Misdemeanor" shall also include acts committed or omitted in North Carolina prior to October 1, 1994 in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of this state for which the maximum punishment allowable for the designated offense included imprisonment for a term of more than six months but not more than two years.

- ~~(23)~~(24) "Qualified Assistant" means an additional staff person designated as such by the School Director to assist in the administration of a course when a certified institution or agency assigns additional responsibilities to the certified School Director during the planning, development, and implementation of a certified course.
- ~~(24)~~(25) "Radar" means a speed-measuring instrument that transmits microwave energy in the 10,500 to 10,550 MHZ frequency (X) band or transmits microwave energy in the 24,050 to 24,250 MHZ frequency (K) band and either of which operates in the stationary or moving mode. "Radar" further means a speed-measuring instrument that transmits microwave energy in the 33,400 to 36,000 MHZ (Ka) band and operates in either the stationary or moving mode.
- ~~(25)~~(26) "Resident" means any youth committed to a facility operated by the Department of Juvenile Justice and Delinquency Prevention.
- ~~(26)~~(27) "School" or "criminal justice school" means an institution, college, university, academy, or agency that offers criminal justice, law

enforcement, or traffic control and enforcement training for criminal justice officers or law enforcement officers. "School" includes the criminal justice training course curriculum, instructors, and facilities.

~~(27)~~(28) "School Director" means the person designated by the sponsoring institution or agency to administer the criminal justice school.

~~(28)~~(29) "Speed-Measuring Instruments" (SMI) means those devices or systems, including radar time-distance, and LIDAR, approved under authority of G.S. 17C-6(a)(13) for use in North Carolina in determining the speed of a vehicle under observation and particularly includes all named devices or systems as specifically referenced in the approved list of 12 NCAC 09C .0601.

~~(29)~~(30) "Standards Division" means the Criminal Justice Standards Division of the North Carolina Department of Justice.

~~(30)~~(31) "Time-Distance" means a speed-measuring instrument that electronically computes, from measurements of time and distance, the average speed of a vehicle under observation.

Authority G.S. 17C-2; 17C-6; 17C-10; 153A-217.

SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT; EDUCATION; AND TRAINING

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

12 NCAC 09B .0202 RESPONSIBILITIES OF THE SCHOOL DIRECTOR

(a) In planning, developing, coordinating, and delivering each Commission-certified criminal justice training course, the School Director shall:

- (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established in this Subchapter. The "Criminal Justice Instructor Training Course" shall be presented with 40 hours of instruction each week during consecutive calendar weeks until course requirements are completed;
- (2) Select and schedule instructors who are certified by the Commission;
- (3) Provide each instructor with a current Commission course outline and all necessary additional information concerning the instructor's duties and responsibilities;
- (4) Review each instructor's lesson plans and other instructional materials for conformance to Commission standards and to minimize repetition and duplication of subject matter;

- (5) Arrange for the timely availability of appropriate audiovisual aids and materials, publications, facilities, and equipment for training in all topic areas;
- (6) Develop, adopt, reproduce, and distribute any supplemental rules, regulations, and requirements determined by the school to be necessary or appropriate for:
 - (A) effective course delivery;
 - (B) establishing responsibilities and obligations of agencies or departments employing or sponsoring course trainees; and
 - (C) regulating trainee participation and demeanor and ensuring trainee attendance and maintaining performance records.
- (7) If appropriate, recommend housing and dining facilities for trainees;
- (8) Administer the course delivery in accordance with Commission procedures and standards, give consideration to advisory guidelines issued by the Commission, and ensure that the training offered is safe and effective;
- (9) Maintain direct supervision, direction, and control over the performance of all persons to whom any portion of the planning, development, presentation, or administration of a course has been delegated; and
- (10) Report the completion of each presentation of a Commission-accredited criminal justice training course to the Commission.

(b) In addition to Paragraph (a) of this Rule, in planning developing, coordinating and delivering each Commission-accredited Basic Law Enforcement Training Course, the School Director shall:

- (1) Schedule course presentation to include 12 hours of instruction each week during consecutive calendar weeks except that there may be as many as three one-week breaks until course requirements are completed; and
- (2) Schedule only those instructors certified by the Commission to teach those high liability areas as specified in 12 NCAC 09B .0304(a) as either the lead instructor or in any other capacity; and
- (3) With the exception of the First Responder, Physical Fitness, Electrical and Hazardous Materials, and topical areas as outlined in 12 NCAC 09B .0304(a) of this Subchapter, schedule one specialized certified instructor for each six trainees while actively engaged in a practical performance exercise; and
- (4) Schedule one specialized certified instructor for each eight trainees while actively engaged in a practical performance exercise in the topical area "Subject Control Arrest Techniques;" and

- (5) Not schedule any single individual to instruct more than 35 percent of the total hours of the curriculum during any one delivery of the Basic Law Enforcement Training Course presentation; and
- (6) Not less than 15 days before commencing delivery of the Basic Law Enforcement Training Course, submit to the Commission a Pre-Delivery Report of Training Course Presentation as set out in 12 NCAC 09C .0211 along with the following attachments:
- (A) a course schedule showing arrangement of topical presentations and proposed instructional assignments.
- (B) a copy of any rules, regulations, and requirements for the school. A copy of such rules shall also be given to each trainee and to the executive officer of each trainee's employing or sponsoring agency or department at the time the trainee enrolls in the course.
- The Director of the Standards Division shall review the submitted Pre-Delivery Report together with all attachments and notify the School Director of any apparent deficiency.
- (7) Monitor, or designate a certified instructor to monitor, the presentations of all instructors during each course delivery and prepare written evaluations on their performance and suitability for subsequent instructional assignments. The observations will be of sufficient duration to ensure the instructor is using the Instructional System Design model, and that the delivery is objective based, documented by and consistent with a Commission-approved lesson plan. For each topic area, the school director's evaluation shall be based upon the course delivery observations, the instructor's use of the approved lesson plan, and the results of the student evaluation of the instructor.
- (A) for probationary instructors, these evaluations shall be prepared on Commission forms and forwarded to the Commission. Based on this evaluation, the School Director shall recommend approval or denial of requests for General Instructor Certification;
- (B) for all other instructors, these evaluations shall be prepared on Commission forms in accordance with Commission standards as set out in this Chapter. These evaluations shall be kept on file by the school for a period of three years and shall be made available for inspection by a representative of the Commission upon request. In the event the evaluation of an instructor indicates that his or her performance was less than acceptable, the school director shall forward a copy of the evaluation to the Commission:
- (C) any designated certified instructor who is evaluating the instructional presentation of another instructor shall hold certification in the same instructional topic area as that for which the instructor is being evaluated.
- (8) Administer or designate a staff person to administer appropriate tests as determined necessary at various intervals during course delivery:
- (A) to determine and record the level of trainee comprehension and retention of instructional subject- matter;
- (B) to provide a basis for a final determination or recommendation regarding the minimum degree of knowledge and skill of each trainee to function as an inexperienced law enforcement officer; and
- (C) to determine subject or topic areas of deficiency for the application of 12 NCAC 09B .0405(a)(3); and
- (9) During a delivery of Basic Law Enforcement Training, make available to the Commission four hours of scheduled class time and classroom facilities for the administration of a written examination to those trainees who have satisfactorily completed all course work.
- (10) Not more than 10 days after receiving from the Commission's representative the Report of Examination Scores, submit to the Commission a Post-Delivery Report of Training Course Presentation (Form F-10B) which shall include:
- (A) a "Student Course Completion" form for each individual enrolled on the day of orientation.
- (B) a "Certification and Test Score Release" form.
- (c) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating and delivering each Commission-accredited "Criminal Justice Instructor Training Course" the School Director shall:
- (1) Schedule course presentation to include 40 hours of instruction each week during consecutive calendar weeks until course requirements are completed;
- (2) Schedule at least one evaluator for each six trainees:

- (A) no evaluator shall be assigned more than six trainees during a course delivery.
 - (B) each evaluator, as well as the instructors, must have successfully completed a Commission-accredited instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise; and
 - (C) each instructor and evaluator must document successful participation in a program presented by the Justice Academy for purposes of familiarization and supplementation relevant to delivery of the instructor training course and trainee evaluation.
- (3) Not less than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation [Form F-10A(ITC)] with the following attachments:
- (A) a course schedule showing arrangement of topical presentations and proposed instructional assignments;
 - (B) the names and social security numbers of all instructors and evaluators; and
 - (C) a copy of any rules, regulations, and requirements for the school.
- The Director of the Standards Division shall review the submitted Pre-Delivery Report together with all attachments and notify the School Director of any apparent deficiency.
- (4) Not more than 10 days after course completion the School Director shall submit to the Commission a Post-Delivery Report [Form F-10B(ITC)] containing the following:
- (A) class enrollment roster;
 - (B) a course schedule with designation of instructors and evaluators utilized in delivery;
 - (C) scores recorded for each trainee on both the 80 minute skill presentation and the final written examination; and
 - (D) designation of trainees who successfully completed the course in its entirety and whom the School Director finds to be competent to instruct.
- (d) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating and delivering each Commission-accredited radar, radar and time-distance, time-distance, or lidar speed measurement operator training course or re-certification course, the School Director shall:
- (1) select and schedule radar, time-distance, or lidar speed measurement instrument instructors who are certified by the Commission as instructors for the specific speed measurement instruments in which the trainees are to receive instruction. The following requirements apply to operator certification training:
 - (A) provide to the instructor the Commission form(s) for motor-skill examination on each trainee;
 - (B) require the instructor to complete the motor-skill examination form on each trainee indicating the level of proficiency obtained on each specific instrument; and
 - (C) require each instructor to sign each individual form and submit the original to the School Director.
 - (2) not less than 30 days before the scheduled starting date submit to the Director of the Standards Division a Request for Training Course Presentation:
 - (A) the request shall contain a period of course delivery including the proposed starting date, course location and the number of trainees to be trained in each type of approved speed-measurement-instrument; and
 - (B) the Director of the Standards Division shall review the request and notify the School Director of the accepted delivery period unless a conflict exists with previously scheduled programs.
 - (3) during the delivery of the training course, make available to the Commission two hours of scheduled class time and classroom facilities for the administration of a written examination to the trainee; and
 - (4) upon completing delivery of the Commission-accredited course, and not more than 10 days after receiving from the Commission's representative the Report of Examination Scores, the School Director shall notify the Commission regarding the progress and achievements of each trainee by submitting a Post-Delivery Report of Training Course Presentation. This report shall include the original motor-skill examination form(s) completed and signed by the certified instructor responsible for administering the motor-skill examination to the respective trainee.

Authority G.S. 17C-6.

12 NCAC 09B .0205 BASIC LAW ENFORCEMENT TRAINING

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

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

(1)	LEGAL UNIT	
	(A) Motor Vehicle Laws	20 Hours
	(B) Preparing for Court and Testifying in Court	12 Hours
	(C) Elements of Criminal Law	24 Hours
	(D) Juvenile Laws and Procedures	8 Hours
	(E) Arrest, Search and Seizure/Constitutional Law	28 Hours
	(F) ABC Laws and Procedures	4 Hours
	UNIT TOTAL	96 Hours
(2)	PATROL DUTIES UNIT	
	(A) Techniques of Traffic Law Enforcement	24 Hours
	(B) Explosives and Hazardous Materials Emergencies	12 Hours
	(C) Traffic Crash Investigation	20 Hours
	(D) In-Custody Transportation	8 Hours
	(E) Crowd Management	12 Hours
	(F) Patrol Techniques	20 Hours
	(G) Law Enforcement Communication and Information Systems	8 Hours
	(H) <u>Anti-Terrorism</u>	<u>4 Hours</u>
	(I) <u>Rapid Deployment</u>	<u>8 Hours</u>
	UNIT TOTAL	104 <u>116</u> Hours
(3)	LAW ENFORCEMENT COMMUNICATION UNIT	
	(A) Dealing with Victims and the Public	10 Hours
	(B) Domestic Violence Response	12 Hours
	(C) Ethics for Professional Law Enforcement	4 Hours
	(D) Individuals with Mental Illness and Mental Retardation	8 Hours
	(E) Crime Prevention Techniques	6 Hours
	(F) Communication Skills for Law Enforcement Officers	8 Hours
	UNIT TOTAL	48 Hours
(4)	INVESTIGATION UNIT	
	(A) Fingerprinting and Photographing Arrestee	6 Hours
	(B) Field Note-taking and Report Writing	12 Hours
	(C) Criminal Investigation	32 <u>34</u> Hours
	(D) Interviews: Field and In-Custody	16 Hours
	(E) Controlled Substances	10 <u>12</u> Hours
	UNIT TOTAL	76 <u>80</u> Hours
(5)	PRACTICAL APPLICATION UNIT	
	(A) First Responder	40 Hours
	(B) Firearms	48 Hours
	(C) Law Enforcement Driver Training	40 Hours
	(D) Physical Fitness	8 Hours
	(i) Fitness Assessment and Testing	12 Hours
	(ii) 1 hour - 3 days a week	34 Hours
	(E) Subject Control Arrest Techniques	40 Hours
	UNIT TOTAL	222 Hours
(6)	SHERIFF-SPECIFIC UNIT	
	(A) Civil Process	24 Hours
	(B) Sheriffs' Responsibilities: Detention Duties	4 Hours
	(C) Sheriffs' Responsibilities: Court Duties	6 Hours
	UNIT TOTAL	34 Hours
(7)	COURSE ORIENTATION	2 Hours
(8)	TESTING	20 Hours
	TOTAL COURSE HOURS	602 Hours <u>618 Hours</u>

(c) The "Basic Law Enforcement Training Manual" as published by the North Carolina Justice Academy shall be used as the basic curriculum for this basic training course for law enforcement officers as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

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

and may be obtained from the Academy at the following address:

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

(d) The "Basic Law Enforcement Training Course Management Guide" as published by the North Carolina Justice Academy shall be used by School Directors in planning, implementing and delivering basic training courses. Each School Director shall be issued a copy of the guide at the time of certification at no cost to the accredited school. The public may obtain copies of this guide from the Justice Academy.

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

12 NCAC 09B .0210 RADAR INSTRUCTOR TRAINING COURSE

(a) The radar instructor training course shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a criminal justice radar instructor. This course shall be for a period not to exceed six consecutive weeks.

(b) The radar instructor training course required for radar instructor certification shall include but not be limited to the topic areas and minimum number of hours as outlined in The Radar Instructor Training Course. To qualify for radar instructor certification, an applicant shall meet the minimum requirements as outlined in The Radar Instructor Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) Each applicant for radar instructor training shall:

- (1) Present the endorsement of a commission-recognized school director or agency executive officer or his designee.
- (2) Possess full criminal justice general instructor certification as required in 12 NCAC 09B .0302.
- (3) Possess a current and valid radar operator certification.

(d) The "Radar Instructor Training Course" as published by the North Carolina Justice Academy is to be applied as basic curriculum for the radar instructor training course for radar instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

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

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

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

(e) Commission-accredited schools that are accredited to offer the "Radar Instructor Training Course" are: The North Carolina Justice Academy.

Authority G.S. 17C-6.

SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS

12 NCAC 09B .0302 GENERAL INSTRUCTOR CERTIFICATION

(a) Certifications issued in this category after December 31, 1984 shall be limited to those topics which are not expressly incorporated under the Specific Instructor Certification category. Individuals certified under the general instructor category are not authorized to teach any of the subjects specified in Rule 9B .0304, entitled "Specific Instructor Certification". To qualify for issuance of General Instructor Certification, an applicant shall demonstrate a combination of education and experience in criminal justice and proficiency in the instructional process to the satisfaction of the Commission. The applicant shall meet the following requirements for General Instructor Certification:

- (1) Present documentary evidence showing that the applicant:
 - (A) is a high school graduate, or has passed the General Education Development Test (GED) indicating high school equivalency, and
 - (B) has acquired four years of practical experience as a criminal justice officer or as an administrator or specialist in a field directly related to the criminal justice system.
- (2) Present evidence showing successful completion of a Commission-certified instructor training program or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in

education, military training, and private enterprise.

(b) Applications for General Instructor Certification shall be submitted to the Standards Division within 60 days of the date the applicant successfully passed the state comprehensive examination administered at the conclusion of the Commission-certified instructor training program or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise.

(c) Persons having completed a Commission-certified instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise, and not having made application within 60 days of completion of the course shall complete a subsequent Commission-certified instructor training course in its entirety.

(d) Applicants for Speed Measuring Instrument Instructor courses must possess full general instructor certification.

Authority G.S. 17C-6.

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

- (1) a favorable recommendation from a school director or in-service training coordinator accompanied by certification on a ~~commission approved~~ Commission-approved Instructor Evaluation Form that the instructor successfully taught a minimum of eight hours in a Commission-accredited course or a ~~commission recognized~~ 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~~ Commission or staff member, based on an on-site classroom evaluation of the probationary instructor in a Commission-accredited course or a ~~commission recognized~~ Commission-recognized in-service training course. Such evaluation will be certified on a ~~commission approved~~ Commission-approved Instructor Evaluation Form. In addition, instructors evaluated by a ~~commission~~ Commission or staff member must also teach a

minimum of eight hours in a Commission-accredited training course or a ~~commission recognized~~ Commission-recognized in-service training course.

(c) The term of certification as a general instructor is ~~two-three~~ years from the date the Commission issues the certification. The certification may subsequently be renewed by the Commission for ~~two- 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 ~~two- three~~ year period. Such documentary evidence shall include proof that the applicant has, within the ~~two-three~~ year period preceding application for renewal, instructed a minimum of ~~eight-12~~ hours in a Commission-accredited training course or a ~~commission recognized~~ Commission-recognized in-service training course; and either

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

- (1) 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 will not be required to submit documentation of having taught the minimum 12 hours during the period preceding the initial certification as specified in Paragraph (c) above.

- (2) 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 will not be required to submit documentation of having taught the minimum 12 hours during the period preceding the initial certification as specified in Paragraph (c) above.
- (3) 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 (2) of this Rule to be eligible for re-certification.

~~(d)~~(e) All instructors shall remain active during their period of certification. If an instructor does not teach a minimum of ~~eight~~ 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 be required to meet the minimum requirements of Rule .0302 of this Section.

~~(e)~~(f) 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~~ 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.

~~(f)~~(g) For purposes of this Section, "~~commission-recognized~~ 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-approved~~ Commission-approved 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-approved Instructor Evaluation Form shall verify compliance with this Rule.

Authority G.S. 17C-6.

12 NCAC 09B .0304 SPECIALIZED INSTRUCTOR CERTIFICATION

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

- (1) Subject Control Arrest Techniques
- (2) First Responder
- (3) Firearms
- (4) Law Enforcement Driver Training

- (5) Physical Fitness
- (6) Restraint, Control and Defense Techniques (DJJDP)
- (7) Medical Emergencies (DJJDP)
- (8) Explosive and Hazardous Materials Emergencies

(b) To qualify for and maintain any Specialized Instructor Certification, an applicant must possess a valid CPR Certification that included cognitive and skills ~~testing~~ testing, through an organization whose curriculum meets the national standards set forth by the International Guidelines Conference on Cardiopulmonary Resuscitation and Emergency Cardiovascular Care.

(c) To qualify for Specialized Instructor Certification in the Subject Control Arrest Techniques topical area, an applicant must meet the following requirements:

- (1) hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section; and
- (2) successfully complete the pertinent Commission-approved specialized instructor training course; and
- (3) obtain the recommendation of a Commission-certified school director.

(d) To qualify for Specialized Instructor Certification in the First Responder topical area, an applicant must satisfy one of the following two options:

- (1) The first option is:
 - (A) hold current CPR instructor certification through ~~either the American Red Cross or the American Heart Association;~~ an organization whose curriculum meets the national standard;and
 - (B) hold current basic Emergency Medical Technician certification; and
 - (C) have successfully completed the Department of Transportation's 40 hour EMT Instructor Course or equivalent within the last three years or hold a current North Carolina teaching certificate; and
 - (D) obtain the recommendation of a Commission-certified school director.
- (2) The second option is:
 - (A) hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section; and
 - (B) hold current CPR instructor certification through either the American Red Cross or the American Heart Association; and
 - (C) hold current basic EMT certification; and
 - (D) obtain the recommendation of a Commission-certified school director.

(e) To qualify for Specialized Instructor Certification in the Firearms topical area, an applicant must meet the following requirements:

- (1) hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section; and
- (2) successfully complete the pertinent Commission-approved specialized instructor training course; and
- (3) obtain the recommendation of a Commission-certified school director.

(f) To qualify for Specialized Instructor Certification in the Law Enforcement Driver Training topical area, an applicant must meet the following requirements:

- (1) hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section; and
- (2) successfully complete the pertinent Commission-approved specialized instructor training course; and
- (3) obtain the recommendation of a Commission-certified school director.

(g) To qualify for Specialized Instructor Certification in the Physical Fitness topical area, an applicant shall become certified through one of the following two methods:

- (1) The first method is:
 - (A) hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section; and
 - (B) successfully complete the pertinent Commission-approved specialized instructor training course; and
 - (C) obtain the recommendation of a Commission-certified School Director.
- (2) The second method is:
 - (A) successfully complete the pertinent Commission-approved specialized instructor training course; and
 - (B) obtain the recommendation of a Commission-certified School Director; and
 - (C) meet one of the following qualifications:
 - (i) hold a current and valid North Carolina Teacher's Certificate and hold a minimum of a baccalaureate degree in physical education and be actively teaching in physical education topics; or
 - (ii) be presently instructing physical education topics in a community college, college or university and hold a minimum of a

baccalaureate degree in physical education.

(h) To qualify for Specialized Instructor Certification in the Department of Juvenile Justice and Delinquency Prevention Restraint, Control and Defense Techniques topical area, an applicant must meet the following requirements:

- (1) hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section; and
- (2) successfully complete the pertinent Commission-approved specialized instructor training course; and
- (3) obtain the recommendation of a Commission-certified school director.

(i) To qualify for Specialized Instructor Certification in the Department of Juvenile Justice and Delinquency Prevention Medical Emergencies topical area, an applicant must meet the following manner requirements:

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

(j) To qualify for Specialized Instructor Certification in the Explosive and Hazardous Materials Emergencies topical area, an applicant must satisfy one of the following two options:

- (1) The first option is:
 - (A) hold current instructor certification as a First Responder Awareness Level Hazardous Materials instructor; and
 - (B) have successfully completed the Fire Service Instructor Methodology Course or the equivalent utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise; and
 - (C) obtain the recommendation of a Commission-certified school director.
- (2) The second option is:
 - (A) hold General Instructor Certification, either probationary status or full general instructor status, as specified in 12 NCAC 09B .0303 of this Section; and
 - (B) have successfully completed a First Responder Awareness Level Hazardous Materials course; and
 - (C) obtain the recommendation of a Commission-certified school director.

Authority G.S. 17C-6.

12 NCAC 09B .0305 TERMS AND CONDITIONS OF SPECIALIZED INSTRUCTOR CERTIFICATION

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

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

- (1) where certification for both general probationary instructor and Specialized Instructor Certification is issued on the same date, the instructor shall be required to satisfy the teaching requirement for only the general probationary instructor certification. The instructor may satisfy the teaching requirement for the general probationary instructor certification by teaching any specialized topic for which certification has been issued;
- (2) when Specialized Instructor Certification is issued during an existing period of General Instructor Certification, either probationary status or full general status, the specialized instructor may satisfy the teaching requirement for the general certification by teaching the specialized subject for which certification has been issued;
- (3) where Specialized Instructor Certification becomes concurrent with an existing ~~24~~ 36 month period of General Instructor Certification, the instructor must teach ~~eight~~ 12 hours for each specialized topic for which certification has been issued.

(c) The term of certification as a specialized instructor shall not exceed the ~~24~~ 36 month period of full General Instructor Certification. The application for renewal shall contain, in addition to the requirements listed in Rule .0304 of this Section, documentary evidence that the applicant has remained active in the instructional process during the previous ~~two-year~~ three-year period. Such documentary evidence shall include the following:

- (1) proof that the applicant has, within the ~~two~~ three year period preceding application for renewal, instructed at least ~~eight~~ 12 hours in each of the topics for which Specialized Instructor Certification was granted and such instruction must be in a Commission-accredited training course or a Commission-recognized in-service training course. Acceptable documentary evidence shall include official Commission records submitted by School Directors or in-service training coordinators and written certification

from a School Director or in-service training coordinator; and

- (2) proof that the applicant has, within the ~~two~~ three year period preceding application for renewal, attended and successfully completed any instructor updates that have been issued by the Commission. Acceptable documentary evidence shall include official Commission records submitted by School Directors or In-Service Training Coordinators, or copies of certificates of completion issued by the institution which provided the instructor updates; and

(3) either:

(A) a favorable written recommendation from a School Director or In-Service Training Coordinator accompanied by certification on a Commission Instructor Evaluation Form that the instructor successfully taught at least ~~eight~~ 12 hours in each of the topics for which Specialized Instructor Certification was granted. Such teaching must have occurred in a Commission-accredited training course or a Commission-recognized in-service training course during the ~~two~~ three year period of Specialized Instructor Certification; or

(B) a favorable evaluation by a ~~commission~~ Commission or staff member, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-accredited training course or a Commission-recognized in-service training course, during the ~~two-year~~ three-year period of Specialized Instructor Certification. Such evaluation will be certified on a ~~Commission~~ Commission-approved Instructor Evaluation Form. In addition, instructors evaluated by a Commission or staff member must also teach at least ~~eight~~ 12 hours in each of the topics for which Specialized Instructor Certification was granted.

Upon submission of the required documentation for renewal the Commission staff shall renew the certification as a Specialized Instructor. Such renewal shall occur at the time of renewal of the General Instructor certification.

(d) Certification as a specialized instructor in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas as outlined in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) of this Section, specifically those certifications not based upon General Instructor Certification, shall remain in effect for ~~24~~ 36

months from the date of issuance. During the ~~24~~ 36 month term all non-Commission certificates required in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) for specialized instructor certification in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas must be maintained.

(e) All instructors shall remain active during their period of certification. If an instructor does not teach at least ~~eight~~ 12 hours in each of the topic areas for which certification is granted, the certification shall not be renewed for those topics in which the instructor failed to teach. Any specialized instructor training courses previously accepted by the Commission for purposes of certification shall no longer be recognized if the instructor does not teach at least ~~eight~~ 12 hours in each of the specialized topics during the ~~two- three~~ year period ~~of for~~ which certification was granted. Upon application for re-certification, such applicants shall be required to meet the minimum requirements of Rule .0304 of this Section.

(f) 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.

Authority G.S. 17C-6.

12 NCAC 09B .0306 PROFESSIONAL LECTURER CERTIFICATION

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

- (1) Law
- (2) Psychology
- (3) Medicine

(b) To be eligible for such certification, an applicant shall:

- (1) Be a graduate of an accredited law school, medical school, or other school accredited for conferring degrees in formally recognized professions acceptable to the Commission;
- (2) Obtain the endorsement of a ~~commission-recognized~~ Commission-recognized school director School Director or In-Service Training Coordinator who shall:
 - (A) recommend the applicant for certification as a professional lecturer; and
 - (B) describe the applicant's expected participation, topical areas, duties, and responsibilities in a delivery of ~~commission-accredited~~ Commission-accredited training conducted by the school; and
 - (C) describe the attributes showing the applicant to be a beneficial contributor to the delivery or presentation in a

~~commission-accredited~~ Commission-accredited training program.

Authority G.S. 17C-6.

12 NCAC 09B .0307 TERMS AND CONDITIONS OF PROFESSIONAL LECTURER CERTIFICATION

(a) Certification as a professional lecturer shall remain effective for ~~24~~ 36 months from the date of issuance. The lecturer shall apply for re-certification at or before the end of the ~~24~~ 36 month period.

(b) During the ~~24~~ 36 month period of certification, a certified professional lecturer may participate in repetitions of the same training course or courses for which certification is granted so long as there are no changes therein which alter the topical areas, duties, and responsibilities of the lecturer.

Authority G.S. 17C-6.

12 NCAC 09B .0308 RADAR INSTRUCTOR

To qualify for radar instructional assignments, an applicant shall demonstrate a combination of education and experience in criminal justice and proficiency in the instructional process satisfactory to the Commission. At a minimum, the applicant shall meet the following requirements for radar instructor certification:

- (1) Must hold general instructor certification as required in 12 NCAC 9B .0302. ~~To maintain certification, the requirements for general instructor certification as stated in 12 NCAC 9B .0303 shall be satisfied by those individuals issued radar instructor certification during the probationary period; .0302;~~ and
- (2) Must successfully complete the Commission-approved radar instructor training course as required in 12 NCAC 9B .0210; and
- (3) Obtain the recommendation of a ~~commission-recognized~~ Commission-recognized school director or agency executive officer or his designee.

Authority G.S. 17C-6.

12 NCAC 09B .0312 INSTRUCTOR CERTIFICATION RENEWAL

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

Authority G.S. 17C-6.

SUBCHAPTER 09E - IN-SERVICE TRAINING PROGRAMS

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

12 NCAC 09E .0104 INSTRUCTORS: ANNUAL IN-SERVICE TRAINING

The following requirements and responsibilities are hereby established for instructors who conduct the law enforcement officers' annual in-service training program:

- (1) The instructor shall hold "~~General Instructor Certification~~" or "~~Professional Lecturer Certification~~" Instructor Certification issued by the Commission as outlined in 12 NCAC 09B .0302, 09B .0304, and 09B .0306. ~~For Hazardous Materials in service training, the instructor shall hold "Specialized Instructor Certification - Electrical and Hazardous Materials Emergencies" issued by the Commission. For Firearms in service training and qualification, the instructor shall hold "Specialized Instructor Certification - Firearms" issued by the Commission.~~ In addition, each instructor certified by the Commission to teach in a Commission-accredited course shall remain competent in his/her specific or specialty areas. Such competence includes remaining current in the instructor's area of expertise, which may be demonstrated by attending and successfully completing all instructor updates issued by the Commission.
- (2) The instructor shall deliver the training consistent with the specifications as established in Rules 09E .0105 and .0106.
- (3) The instructor shall report the successful or unsuccessful completion of training for each officer to the Department head. Such reporting shall be on a Commission form.
- (4) Where the officer fails to successfully qualify with a weapon, the instructor shall inform the officer that the officer did not qualify and the instructor shall deliver a Commission form to the officer which shall be signed by the officer. This form shall instruct the officer not to use the weapon and shall require the officer to notify the Department head or designated representative within 24 hours of the failure to qualify. The instructor shall personally deliver this form or send the form by certified mail to the Department head or designated representative within 72 hours of the failure to qualify.

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

**12 NCAC 09E .0106 ANNUAL IN-SERVICE
FIREARMS QUALIFICATION SPECIFICATIONS**

- (a) All certified law enforcement officers shall qualify for both day and night use with their individual and department-approved

service handgun(s) at least once each calendar year. For the purpose of this specification, service handgun shall include any semi-automatic pistol or revolver. In addition to the requirements specified in Rule 09E .0105 of this Subchapter, the course of fire shall not be less stringent than the "Basic Training - Law Enforcement Officers" course requirements for firearms qualification.

(b) All certified law enforcement officers who are issued or authorized to use a shotgun, rifle or automatic weapon shall qualify with each weapon respectively at least once each calendar year.

(c) The qualifications required by Paragraphs (a) and (b) of this Rule shall be completed with duty equipment and duty ammunition or ballistic equivalent ammunition to include lead free ammunition that meets the same point of aim, point of impact, and felt recoil of the duty ammunition, for all weapons.

(d) All certified law enforcement officers who are authorized to carry an off-duty handgun(s) shall qualify with each such handgun consistent with the specifications as outlined in Rules 09E .0105(1) and .0106(a) and (g) of this Section.

(e) To satisfy the training requirements for all in-service firearms qualifications, an officer shall attain at least 70 percent accuracy with each weapon.

(f) The qualifications required by Paragraphs (a) and (b) of this Rule must be achieved at least once in a single day in no more than three attempts in a single day for each course of fire and for each weapon for which qualification is required. Individuals not qualifying in a single day for each course of fire or for a certain weapon for which qualification is required shall be deemed as having failed and 12 NCAC 09E .0103(4) and (5) shall apply.

(g) The In-Service Firearms Qualification Manual as published by the North Carolina Justice Academy shall be applied as a guide for conducting the annual in-service firearms qualification. Copies of this publication may be inspected at the office of the agency:

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

and may be viewed and downloaded at no cost from the Academy's website at the following address:

<http://www.jus.state.nc.us/NCJA>

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

**12 NCAC 09E .0109 IN-SERVICE TRAINING
COORDINATOR REQUIREMENTS**

(a) Any person designated by his or her agency head to act as, or who performs the duties of, an In-Service Training Coordinator in the delivery or presentation of a Commission-mandated or Commission-recognized in-service training course shall have on file confirmation from the Commission acknowledging designation as In-Service Training Coordinator prior to acting in an official capacity as an In-Service Training Coordinator.

(b) To be eligible to serve as an In-Service Training Coordinator, an applicant shall:

- (1) have four years of practical experience as a criminal justice officer or as an administrator or specialist in a field directly related to the criminal justice system;
- (2) hold General Instructor certification;
- (3) have successfully participated in the "Coordinating In-Service Training" course presented by the North Carolina Justice Academy for the purpose of familiarization with trainee and instructor evaluation.

(c) The agency head shall submit to the Criminal Justice Standards Division a Commission-approved In Service Training Coordinator Request form containing the name and other requested information for the person selected to act as In-Service Training Coordinator for the agency. The agency head shall ensure that the person selected meets the requirements set forth in 12 NCAC 09E .0109(a)(b).

Authority G.S. 17C-6.

12 NCAC 09E .0110 IN-SERVICE TRAINING COORDINATOR RESPONSIBILITIES

In planning, developing, coordinating, and delivering each Commission-mandated in-service training course, the In-Service Training Coordinator shall:

- (1) administer the delivery of the course curriculum in accordance with the curriculum standards established in this Subchapter;
- (2) select and schedule instructors who are certified by the Commission;
- (3) ensure that each instructor utilizes a current Commission-approved lesson plan;
- (4) monitor, or designate a certified instructor to monitor, the presentations of instructors during course deliveries and prepare written evaluations on their performance and suitability for subsequent instructional assignments. The observations will be of sufficient duration to ensure the instructor is using the Instructional System Design model, and that the delivery is objective based, documented by and consistent with a Commission recognized lesson plan. For each topic area, the in-service training coordinator's evaluation shall be based upon the course delivery observations, the instructor's use of a Commission recognized lesson plan, and the results of the student evaluation of the instructor;

- (a) for probationary instructors, these evaluations shall be prepared on Commission forms and forwarded to the Commission. Based on this evaluation, the In-Service Training Coordinator shall have the responsibility for recommending approval or denial of requests for General Instructor Certification;

- (b) for all other instructors, these evaluations shall be prepared on Commission forms in accordance with Commission standards as set out in this Chapter. These evaluations shall be kept on file by the agency for a period of three years and shall be made available for inspection by a representative of the Commission upon request. In the event the evaluation of an instructor indicates that his or her performance was less than acceptable, the In-Service Training Coordinator shall forward a copy of the evaluation to the Commission;

- (c) any designated certified instructor who is evaluating the instructional presentation of another instructor shall, at a minimum, hold certification in the same instructional topic area as that for which the instructor is being evaluated.

- (5) maintain records of all in-service training received by the agency's officers which include:

- (a) course title
- (b) delivery hours of course;
- (c) course delivery dates;
- (d) names and addresses of instructors utilized for each topic;
- (e) a roster of enrolled trainees documenting class attendance; and
- (f) test scores from in-service training.

Authority G.S. 17C-6.

SUBCHAPTER 09G - STANDARDS FOR CORRECTIONS EMPLOYMENT, TRAINING, AND CERTIFICATION

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

12 NCAC 09G .0308 GENERAL INSTRUCTOR CERTIFICATION

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

(1) Present documentary evidence showing that the applicant:

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

(2) Present evidence showing successful completion of a ~~commission-accredited~~ Commission-accredited instructor training program or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise.

~~(a)(b) applications—~~Applications for General Instructor Certification shall be submitted to the Standards Division within 60 days of the date the applicant successfully passed the state comprehensive examination administered at the conclusion of the ~~commission-accredited~~ Commission-accredited instructor training program or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise.

~~(b)(c) persons~~ Persons having completed a ~~commission-accredited~~ Commission-accredited instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, ~~and an~~ international model with applications in education, military training, and private enterprise, and not having made application within 60 days of completion of the course shall complete a

subsequent ~~commission-accredited~~ Commission-accredited instructor training course in its entirety.

Authority G.S. 17C-6.

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

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

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

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

- (1) proof that the applicant has, within the ~~two~~ three year period preceding application for renewal, instructed a minimum of ~~eight~~ eight–12 hours in a Commission-accredited training course or a Commission-recognized in-service training course; and
- (2) either:
 - (A) a favorable written recommendation from a School Director accompanied by certification on a ~~Commission~~

Commission-approved Instructor Evaluation Form that the instructor successfully taught a minimum of ~~eight~~ 12 hours in a Commission-accredited training course or a Commission-recognized in-service training course during the ~~two-three~~ year period of general certification; or

(B) a written evaluation by a staff member, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-accredited training course or a Commission-recognized in-service training course, during the ~~two-three~~ year period of General Instructor Certification.

(d) If an instructor does not teach a minimum of ~~eight-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 be required to meet the minimum requirements of 12 NCAC 09G .0308 of this Section.

Authority G.S. 17C-6.

12 NCAC 09G .0310 SPECIALIZED INSTRUCTOR CERTIFICATION

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

- (1) Firearms (DOC);
- (2) Controls, Restraints, and Defensive Techniques (DOC).

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

- (1) hold General Instructor Certification, either probationary status or full general instructor status, as specified in 12 NCAC 09G .0309 of this Section;
- (2) successfully complete the pertinent Commission-approved specialized instructor training course; and
- (3) obtain the recommendation of a Commission-certified School Director.

(c) To qualify for and maintain any Specialized Instructor Certification, an applicant must possess a valid CPR Certification that included cognitive and skills ~~testing-testing~~ through an organization whose curriculum meets the national standards set forth by the International Guidelines Conference on Cardiopulmonary Resuscitation and Emergency Cardiovascular Care.

Authority G.S. 17C-6.

12 NCAC 09G .0311 TERMS AND CONDITIONS OF

SPECIALIZED INSTRUCTOR CERTIFICATION

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

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

- (1) where certification for both general probationary instructor and Specialized Instructor Certification is issued on the same date, the instructor shall only be required to satisfy the teaching requirement for the general probationary instructor certification. The instructor may satisfy the teaching requirement for the general probationary instructor certification by teaching any specialized topic for which certification has been issued;
- (2) when Specialized Instructor Certification is issued during an existing period of General Instructor Certification, either probationary status or full general status, the specialized instructor may satisfy the teaching requirement for the General Certification by teaching the specialized subject for which certification has been issued; and
- (3) where Specialized Instructor Certification becomes concurrent with an existing ~~24~~ 36 month period of General Instructor Certification, the instructor must teach a minimum of ~~eight-12~~ hours for each specialized topic for which certification has been issued.

(c) The term of certification as a specialized instructor shall not exceed the ~~24~~ 36 month period of full General Instructor Certification. The certification may subsequently be renewed by the Commission at the time of renewal of the full General Instructor Certification. The application for renewal shall contain, in addition to the requirements listed in 12 NCAC 09G .0310 of this Section, documentary evidence that the applicant has remained active in the instructional process during the previous ~~two-three~~ year period. Such documentary evidence shall include, at a minimum, the following:

- (1) proof that the applicant has, within the ~~two~~ three year period preceding application for renewal, instructed at least ~~eight-12~~ hours in each of the topics for which Specialized Instructor Certification was granted and such instruction must be in a Commission-accredited training course or a Commission-recognized in-service training course. Acceptable documentary evidence shall include official Commission records submitted by School Directors and written certification from a School Director; and
- (2) either:

- (A) a favorable written recommendation from a School Director accompanied by certification that the instructor successfully taught at least ~~eight~~ 12 hours in each of the topics for which Specialized Instructor Certification was granted. Such teaching must have occurred in a Commission-accredited training course or a Commission-recognized in-service training course during the ~~two~~ three year period of Specialized Instructor Certification; or
- (B) a written evaluation by a staff member, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-accredited training course or a Commission-recognized in-service training course, during the ~~two~~ three year period of Specialized Instructor Certification.

(d) If an instructor does not teach at least ~~eight~~ 12 hours in each of the topic areas for which certification is granted, the certification shall not be renewed for those topics in which the instructor failed to successfully teach. Any specialized instructor training courses previously accepted by the Commission for purposes of certification shall no longer be recognized if the instructor does not successfully teach at least eight hours in each of the specialized topics during the ~~two~~ three year period ~~of~~ for which certification was granted. Upon application for re-certification, such applicants shall be required to meet the minimum requirements of 12 NCAC 09G .0310 of this Section.

Authority G.S. 17C-6.

12 NCAC 09G .0312 INSTRUCTOR CERTIFICATION RENEWAL

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

Authority G.S. 17C-6.

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

12 NCAC 09G .0405 CERTIFICATION OF SCHOOL DIRECTORS

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

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

(1) ~~Attend and successfully complete a Commission-certified instructor training course or an equivalent instructor training program as determined by the Commission (if certified after January 1, 2006); and~~

(1)(2) Present documentary evidence showing that the applicant:

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

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

(C) has been awarded a baccalaureate degree ~~acceptable to any commission accredited school in its eriminal justice program. In addition, it is recommended that the applicant have some experience as a criminal justice officer or some experience in eriminal justice training. from a regionally accredited institution of higher learning;~~

(2)(3) Attend or must have attended the most current offering of the school director's orientation as developed and presented by the Commission staff, otherwise an individual orientation with a staff member ~~may~~ shall be required.

(3)(4) submit a written request to the Commission for the issuance of such certification. This request

shall be executed by the executive officer of the North Carolina Department of Correction.

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

- (1) document that he/she has been awarded a baccalaureate degree from a regionally accredited institution of higher learning;
(2) present evidence showing successful completion of a ~~commission-accredited~~ Commission-accredited instructor training course or an equivalent instructor training program as determined by the Commission;
(3) be currently certified as a criminal justice instructor by the Commission; and
(4) document successful participation in a special program presented by the Justice Academy for purposes of familiarization and supplementation relevant to delivery of the instructor training course and trainee evaluation.

Authority G.S. 17C-6.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to amend the rule cited as 12 NCAC 09G .0416.

Proposed Effective Date: November 1, 2006

Public Hearing:

Date: August 18, 2005

Time: 1:00 p.m.

Location: Dept. of Correction Office of Staff Development and Training, 2211 Schieffelin Road, Apex, NC.

Reason for Proposed Action: This Rule changes topic names in the Corrections Specialized Instructor Training - Controls, Restraints, and Defensive Techniques to the following: Patterns of Movement; Response to Injury: Basic Controls and Techniques; Advanced Controls and Techniques; Restraint Applicants; Program Evaluation; and Advanced Instructional Techniques.

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, must be submitted in writing to Teresa Marrella, Department of Justice, Criminal Justice Standards Division, 114 West Edenton Street, Raleigh, NC 27602.

Written comments may be submitted to: Teresa Marrella, Department of Justice, 114 West Edenton Street, Raleigh, NC 27602, phone (919)716-6475, fax (919)716-6752, email tmarrella@ncdoj.com.

Comment period ends: August 18, 2005

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

Fiscal Impact

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

CHAPTER 9 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09G - STANDARDS FOR CORRECTIONS EMPLOYMENT, TRAINING, AND CERTIFICATION

SECTION .0400 - MINIMUM STANDARDS FOR COMPLETION OF TRAINING

12 NCAC 09G .0416 CORRECTIONS SPECIALIZED INSTRUCTOR TRAINING - CONTROLS, RESTRAINTS, AND DEFENSIVE TECHNIQUES

(a) The instructor training course requirement for corrections specialized controls, restraints, and defensive techniques instructor certification shall consist of at least 80 hours of instruction presented during a continuous period of not more than two weeks.

(b) Each corrections specialized controls, restraints, and defensive techniques instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a corrections controls, restraints, and defensive techniques instructor in the "Basic Training-Correctional Officer" course, "Basic Training-Probation/Parole Officer" course, "Basic Training-Probation/Parole Officer-Intermediate" course, and in-service training courses for correctional officers, PERT teams, probation/parole officer-intermediate, and all Department of Juvenile Justice and Delinquency Prevention unarmed self-defense courses.

(c) Each corrections specialized controls, restraints, and defensive techniques instructor training course shall include the following topical areas:

- (1) Introduction to Controls, Restraints, and Defensive Techniques;
(2) Basic Exercises, Techniques and Methods; Patterns of Movement;

PROPOSED RULES

- (3) ~~Basic Come-A-Longs and Control Techniques;~~
Response to Injury;
- (4) ~~Restraint Application;~~ Basic Controls and Techniques;
- (5) ~~Instructional Methods/Techniques; and~~
Advanced Controls and Techniques;
- (6) ~~Program Evaluation.~~ Restraint Applications;
- (7) Program Evaluation; and
- (8) Advanced Instructional Techniques.
- (d) Commission-accredited schools that are accredited to offer the "Corrections Specialized Instructor Training/Controls, Restraints, and Defensive Techniques" course are: The Office of Staff Development and Training of the North Carolina Department of Correction.
- Authority G.S. 17C-6.*

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

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

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Rule-making Agency: Commission for Health Services

Rule Citation: 10A NCAC 39A .1002; .1005-.1006

Effective Date: July 1, 2005

Date Approved by the Rules Review Commission: May 19, 2005

Reason for Action: For the past several sessions, the NC General Assembly has requested that the NC DHHS and ADAP Program explore ways to be able to serve additional clients within existing resources as a means of both avoiding the necessity of implementing Waiting Lists for the Program's services (i.e., maintaining a program that is open to new clients throughout the year) and as a means of increasing the financial eligibility criterion for the Program (currently at 125% of the federal poverty level-the lowest in the nation). The Program has worked with technical advisors provided by HRSA – the Ryan White Program, and the community to develop an approach that is anticipated to reduce the cost per client per year, thus enabling the Program to pursue some relief in relation to each of these two issues. Having made this determination and entered into an RFP process that has just been completed (contract awarded February 28, 2005), it is critical that the new approach that necessitates this rule change be able to be implemented as rapidly as possible.

The NC AIDS Drug Assistance Program has been forced, by virtue of insufficient funds to serve all individuals that are living with HIV disease in the state and qualify for the Program, to operate with and maintain a Waiting List for services for much of the past 7 years. The Program has also been forced to operate with an extremely low financial eligibility – below 125% of the federal poverty level, which is the lowest in the country. The Program has entered into a course of action to modify the way the program operates, moving from a "reimbursement" approach to a "direct purchase/central pharmacy" approach in an effort to reduce the per person per year cost to the Program. In this way, it is anticipated that more low-income, HIV + North Carolinians may be served with the same level of funding.

At the same time, it is understood that a special federal ADAP imitative which was enabled the Program to eliminate the Waiting List is not included in the new federal budget, and access to this initiative will likely be limited after July 1, 2005. There are over 450 low-income, HIV + North Carolinians currently being served by this special initiative. Without assurance that the federal initiative will continue, the ability to continue to serve those 450 + individuals currently being served,

as well as to enable the Program to remain open to new enrollees for the upcoming fiscal year (after July 1, 2005), is seriously questioned.

Therefore, the urgency of immediate adoption is to put in place this cost-saving modification within the ADAP Program (which just became available as a result of the award of the contract for the "central pharmacy") in order to assure that these 450 + ADAP clients can continue to be served, and that the ADAP Program can remain open in order to continue to accept new clients and serve more low-income, HIV + North Carolinians after July 1, 2005 and for as long as possible.

CHAPTER 39 - ADULT HEALTH

SUBCHAPTER 39A - CHRONIC DISEASE

SECTION .1000 - HIV MEDICATIONS PROGRAM

10A NCAC 39A .1002 COVERED MEDICATIONS

(a) ~~Reimbursement shall be provided directly to pharmacies for~~ Medications covered by the HIV Medication Program shall be specified on a formulary established by the Program based upon the following factors: the medical needs of persons living with HIV disease, the cost effectiveness of the drugs, the availability of generic or other less costly alternatives, and the need to maximize the benefits to patients using finite Program dollars. The covered medications include: antiretroviral medications, medications used to treat HIV infection in accordance with FDA approved indications included in the official product labeling; labeling and for sulfamethoxazole/trimethoprim, dapson, fluconazole, azithromycin, clarithromycin, rifabutin, elindamycin, pyrimethamine, sulfadiazine, itraconazole, ketoconazole, mepron, pentamidine, nystatin, paromomycin, acyclovir, oral ganciclovir and other FDA approved medications as approved by the program, used for the prevention and treatment of the side effects of and opportunistic infections related to a diagnosis of HIV disease. disease, or to treat the side effects and toxicities of the other covered medications.

(b) Other medications shall be approved by the program based on:

- (1) the expert input and recommendations received from a panel of physicians in North Carolina working directly with the HIV infected community, including physicians at the tertiary care centers, in community practice, in research, and represented on the AIDS Care Advisory Committee; and
- (2) an evaluation of the availability of adequate financial resources.

(c) A list of medications on the HIV Medications Program formulary shall be made available upon request by the Purchase

of Medical Care Services or the Division of Public Health. ~~Health – AIDS Drug Assistance Program, 1902 Mail Service Center, Raleigh, NC 27699-1902.~~ Additionally, as medications are added to the program, announcements will be made through the monthly newsletter distributed by the Purchase of Medical Care Services to participating pharmacies and through announcements mailed to HIV care consortia, tertiary care centers and other agencies serving HIV infected individuals by the Division of Public Health.

*History Note: Authority G.S. 130A-5(3);
Eff. January 1, 1996;
Temporary Amendment Eff. July 1, 2005.*

10A NCAC 39A .1005 APPLICATION PROCESS

(a) Applications for assistance must be submitted and will be processed in accordance with 15A NCAC 45A. All necessary forms may be obtained from the Purchase of Medical Care Services, Office of the Controller, Department of Health and Human Services, 1904 Mail Service Center, Raleigh, N.C. 27699-1904.

(b) Applications must be renewed at least annually for the fiscal year beginning July 1, and ending June 30. ~~Only one pharmacy of the patient's choice shall be authorized to receive reimbursement at any given time. Changes of patient-selected pharmacy during the course of the fiscal year require that Purchase of Medical Care Services which is located in the Office of the Controller be notified in writing at 1904 Mail Service Center, Raleigh, NC 27699-1904.~~

*History Note: Authority G.S. 130A-5(3);
Eff. January 1, 1996;
Temporary Amendment Eff. July 1, 2005.*

10A NCAC 39A .1006 PROGRAM OPERATIONS

Medications provided to eligible clients through this HIV Medication Program shall be dispensed and provided by a pharmacy (or pharmacies) under contract with the Program.

*History Note: Authority G.S. 130A-5(3);
Temporary Adoption Eff. July 1, 2005.*

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission on Thursday June 16, 2005, 10:00 a.m. at 1307 Glenwood Avenue, Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments by Monday, June 13, 2005 to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jim R. Funderburke - 1st Vice Chair
David Twiddy - 2nd Vice Chair
Thomas Hilliard, III
Robert Saunders
Jeffrey P. Gray

Appointed by House

Jennie J. Hayman - Chairman
Graham Bell
Lee Settle
Dana E. Simpson
Dr. John Tart

RULES REVIEW COMMISSION MEETING DATES

June 16, 2005	July 21, 2005
August 18, 2005	September 15, 2005
October 20, 2005	November 17, 2005
December 15, 2005	

AGENDA

RULES REVIEW COMMISSION

June 16, 2005, 10:00 A.M.

- I. Call to Order and Opening Remarks
- II. Review of minutes of last meeting
 - (A) Manufactured Housing Board – 11 NCAC 08 .0910 (Bryan)
 - (B) Respiratory Care Board – 21 NCAC 61 .0308 (DeLuca)
 - (C) State Personnel Commission – 25 NCAC 1K .0804; .0805 (DeLuca)
- III. Review of Rules (Log Report #222)
- IV. Review of Temporary Rules (if any)
- V. Commission Business
- VI. Next meeting: July 21, 2005

Commission Review/Permanent Rules

Log of Filings #222

April 21, 2005 through May 20, 2005

AGRICULTURE, BOARD OF

The rules in Chapter 43 are the rules of the Markets Division. They deal with the marketing of N.C. farm products. They cover structure and policy (43A); market news section (43B); inspection of farm, horticultural crops, and animal products (43C); standards and fees (43D); unfair practices of fruit and vegetable handlers (43E); marketing and branding of apples and peaches

(43F); agricultural fairs (43G); marketing of shell eggs (43H); operation of various markets (43L); and egg processing (43M).

Standards for Shell Eggs 02 NCAC 43H .0103
Amend/*

The rules in Chapter 52 cover the veterinary division within the department.

The rules in Subchapter 52A incorporate various federal regulations, standards and other materials by reference.

Uniform Rules and Methods Tuberculosis 02 NCAC 52A .0101
Amend/*

Poultry Requirements 02 NCAC 52A .0102
Amend/*

Uniform Methods and Rules Brucellosis 02 NCAC 52A .0103
Amend/*

Pseudorabies Program 02 NCAC 52A .0111
Amend/*

Uniform Methods and Rules Scrapie 02 NCAC 52A .0112
Adopt/*

The rules in Chapter 52 cover the veterinary division within the department.

The rules in Subchapter 52B cover animal diseases, treatment, and protection including quarantine (.0100), admission of livestock to North Carolina (.0200), brucellosis regulations (.0300), equine infectious anemia (.0400), poultry diseases (.0500), and poultry hatcheries (.0600).

National Poultry Improvement Plan 02 NCAC 52B .0601
Amend/*

The rules in Subchapter 52D cover meat and poultry inspections.

Certain Standards Adopted Exceptions 02 NCAC 52D .0101
Amend/*

CEMETERY COMMISSION

The rules Chapter 5 are from the N.C. Cemetery Commission.

The rules in Subchapter 05A cover the organization of the commission including general provisions (.0100) and the structure and organization of the commission (.0200).

Cemetery License Fee 04 NCAC 05A .0107
Amend/*

The rules in Subchapter 05C are rules dealing with the licensing of cemeteries (.0100); cemetery sales organizations, management organizations and brokers (.0200); and individual pre-need salespeople (.0300).

Application and Filing Fee 04 NCAC 05C .0101
Amend/*

Change of Control 04 NCAC 05C .0103
Amend/*

Meeting Requirement 04 NCAC 05C .0105
Amend/*

Application and Filing Fee Amend/*	04	NCAC	05C	.0201
License Amend/*	04	NCAC	05C	.0202
Application and Filing Fee Amend/*	04	NCAC	05C	.0301

STATE BUDGET AND MANAGEMENT, OFFICE OF

The rules in Chapter 03 are from the Office of State Budget and Management.

The rules in Subchapter 03M provide for the uniform administration of State grants including rules about organization and structure (.0100); responsibilities of grantees and subgrantees (.0200); responsibilities of the Office of the State Controller (.0300); responsibilities of agencies (.0400); responsibilities of the office of State Auditor (.0500); responsibilities of the Office of State Budget and Management (.0600); contracting monitoring and oversight (.0700); and sanctions (.0800).

Purpose Adopt/*	09	NCAC	03M	.0101
Definitions Adopt/*	09	NCAC	03M	.0102
Disbursement and Use of State Funds Adopt/*	09	NCAC	03M	.0201
Allowable Use of State Funds Adopt/*	09	NCAC	03M	.0202
Grantee Responsibilities Adopt/*	09	NCAC	03M	.0203
Subgrantee Responsibilities Adopt/*	09	NCAC	03M	.0204
Reporting Thresholds and Formats for Grantees and Subgrantee Adopt/*	09	NCAC	03M	.0205
Office of the State Controller Responsibilities Adopt/*	09	NCAC	03M	.0301
Agency Responsibilities Adopt/*	09	NCAC	03M	.0401
Office of the State Auditor Responsibilities Adopt/*	09	NCAC	03M	.0501
Office of State Budget and Management Responsibilities Adopt/*	09	NCAC	03M	.0601
Grant Documentation Adopt/*	09	NCAC	03M	.0701
Subordination of Other Contracts Agreements Adopt/*	09	NCAC	03M	.0702
Required Contract Provisions Adopt/*	09	NCAC	03M	.0703
Grant Monitoring and Evaluation Adopt/*	09	NCAC	03M	.0704
Noncompliance with Rules Adopt/*	09	NCAC	03M	.0801
Recovery of State Funds Adopt/*	09	NCAC	03M	.0802

CHILD CARE COMMISSION

The Rules in Chapter 09 are child care rules including definitions (.0100); general provisions relating to licensing (.0200); procedures for obtaining a license (.0300); issuance of provisional and temporary licenses (.0400); age appropriate activities for centers (.0500); safety requirements for child care centers (.0600); health and other standards for center staff (.0700); health standards for children; (.0800); nutrition standards (.0900); transportation standards (.1000); building code requirements for child care centers (.1300); space requirements (.1400); temporary care requirements (.1500); requirements for voluntary enhanced program standards (.1600); family child care home requirements (.1700); discipline (.1800); special procedures concerning abuse/neglect in child care (.1900); rulemaking and contested case procedures (.0200); religious sponsored child care center requirements (.2100); administrative actions and penalties (.2200); forms (.2300); child care for mildly ill children (.2700); child care for school age children (.2500); child care for medically fragile children (.2600); criminal records checks (.2700) and voluntary rated licenses (.2800).

Scope Adopt/*	10A NCAC 09 .2601
Definitions Adopt/*	10A NCAC 09 .2602
Special Provisions for Licensure Adopt/*	10A NCAC 09 .2603
Operational Policies Adopt/*	10A NCAC 09 .2604
Staff/Child Ratios Adopt/*	10A NCAC 09 .2605
Space Requirements Adopt/*	10A NCAC 09 .2606
Staff Qualifications Adopt/*	10A NCAC 09 .2607
Children's Plan of Care Adopt/*	10A NCAC 09 .2608
Nutrition Requirements Adopt/*	10A NCAC 09 .2609
Transportation Adopt/*	10A NCAC 09 .2610

MENTAL HEALTH, COMMISSION OF

The rules in Chapter 27 are mental health rules about community facilities and services. The rules in Subchapter 27G are from either the department or the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services including general information (.0100); operation and management rules (.0200); physical plant rules (.0300); licensing procedures (.0400); area program requirements; over authority on county program monitoring of facilities and services (.0600); accreditation of area programs and services (.0700); waivers and appeals (.0800); general rules for infants and toddlers (.0900); partial hospitalization for individuals who are mentally ill (.1100); psychological rehabilitation facilities for individuals with severe and persistent mental illness (.1200); residential treatment for children and adolescents who are emotionally disturbed or who have a mental illness (.1300); day treatment for children and adolescents with emotional or behavioral disturbances (.1400); intensive residential treatment for children and adolescents who are emotionally disturbed or who have a mental illness (.1500); specialized community residential centers for individuals with developmental disabilities (.2100); before/after school and summer developmental day services for children with or at risk for developmental delays, developmental disabilities or a typical development (.2200); adult developmental and vocational programs for individuals with developmental disabilities (.2300); developmental day services for children with or at risk for developmental delays, developmental disabilities, or atypical development (.2400); early childhood intervention services (ECIS) for children with an at risk for developmental delays, developmental disabilities, or atypical development and their families (.2500); nonhospital medical detoxification for individuals who are substance abusers (.3100); social setting detoxification for substance abuse (.3200); outpatient detoxification for substance abuse (.3300); residential treatment/rehabilitation for individuals with substance abuse disorders (.3400); outpatient facilities for individuals with substance abuse disorders (.3500); outpatient opioid treatment (.3600); day treatment facilities for individuals with substance abuse disorders (.3700); substance abuse services for DWI offenders (.3800); drug education schools (DES) (.3900); treatment alternatives to street crimes (TASC) (.4000); substance abuse primary prevention services (.4200); therapeutic community (.4300); facility based crises services for individual of all disability groups (.5000); community respite services for individuals of all disability groups (.5100);

residential therapeutic (habilitative) camps for children and adolescents of all disability groups (.5200); day activity for individuals of all disability groups (.5400); sheltered workshops for individuals of all disability groups (.5500); supervised living for individuals of all disability groups (.5600); assertive community treatment service (.5700); supportive employment for individuals of all disability groups (.5800); case management for individuals of all disability groups (.5900); inpatient hospital treatment for individuals who have mental illness or substance abuse disorders (.6000); emergency services for individuals of all disability groups (.6100); outpatient services for individuals of all disability groups (.6200); companion respite services for individuals of all disability groups (.6300); personal assistants for individuals of all disabilities groups (.6400); employment assistance programs (.6500); specialized foster care services (.6600); forensic screening and evaluation services for individuals of all disability groups (.6700); prevention services (.6800); and consultation and education services (.6900).

Scope Amend/*	10A NCAC 27G .1301
Scope Adopt/*	10A NCAC 27G .1701
Requirements of Qualified Professionals Adopt/*	10A NCAC 27G .1702
Requirements for Associate Professionals Adopt/*	10A NCAC 27G .1703
Minimum Staffing Requirements Adopt/*	10A NCAC 27G .1704
Requirements of Licensed Professionals Adopt/*	10A NCAC 27G .1705
Operations Adopt/*	10A NCAC 27G .1706
Persons Permitted in the Facility Adopt/*	10A NCAC 27G .1707
Transfer or Discharge Adopt/*	10A NCAC 27G .1708
Scope Adopt/*	10A NCAC 27G .1901
Staff Adopt/*	10A NCAC 27G .1902
Operations Adopt/*	10A NCAC 27G .1903
Transfer or Discharge Adopt/*	10A NCAC 27G .1904

ALARM SYSTEMS LICENSING BOARD

The rules in Chapter 11 are from the N.C Alarm Systems Licensing Board and over the organization and general provisions (.0100), license applications and requirements (.0200), registration of employees of licensees (.0300), the recovery fund (.0400), and continuing education for licensees (.0500).

Company Business License Amend/*	12 NCAC 11 .0209
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LOCKSMITH LICENSING BOARD

The rules in Chapter 29 are from the Locksmith Licensing Board and include general rules (.0100); rules about examinations (.0200); licensing requirements (.0400); Code of Ethics (.0500); administrative law procedures (.0600); license renewal requirements (.0700); and continuing education (.0800).

Due Date Adopt/**	21 NCAC 29 .0702
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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 department (.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); and impaired pharmacist per review program (.3200).

Prerequisites for Disease State Management Examination 21 NCAC 46 .1508
 Repeal/

APPRAISAL BOARD

The rules in Chapter 57 are from the North Carolina Appraisal Board. The rules in Subchapter 57A cover licensing, certification and practice rules for appraisers including application procedures (.0100), licensing and certification (.0200), examination (.0300), general practice requirements (.0400), and appraisal standards (.0500).

Qualifications for Trainee Registration 21 NCAC 57A .0201
 Amend/*
 Fitness for Registration Licensure or Certification 21 NCAC 57A .0202
 Amend/*
 Continuing Education 21 NCAC 57A .0204
 Amend/*
 Expired Registration License or Certificate 21 NCAC 57A .0206
 Amend/*
 Temporary Practice 21 NCAC 57A .0210
 Amend/*
 Time and Place 21 NCAC 57A .0301
 Amend/*
 Re-examination 21 NCAC 57A .0303
 Amend/*
 Use of Titles 21 NCAC 57A .0401
 Amend/*
 Advertising 21 NCAC 57A .0403
 Amend/*
 Business Practices 21 NCAC 57A .0406
 Amend/*
 Supervision of Trainees 21 NCAC 57A .0407
 Amend/*
 Appraisal Standards 21 NCAC 57A .0501
 Amend/*

The rules in Subchapter 57B cover real estate appraisal education including the courses required for licensure or certification (.0100), course sponsor standards for pre-licensing or pre-certification courses (.0200); pre-licensing and pre-certification course standards (.0300); course sponsor fees (.0400); fees for private real estate appraisal education schools (.0500); and continuing education course standards (.0600).

Registered Trainee and Licensed Residential Real Estate 21 NCAC 57B .0101
 Amend/*
 Certificate of Course Completion 21 NCAC 57B .0209
 Amend/*

RULES REVIEW COMMISSION

Course Records Amend/*	21	NCAC	57B	.0210
Course Content Amend/*	21	NCAC	57B	.0302
Course Completion Standards Amend/*	21	NCAC	57B	.0303
Course Scheduling Amend/*	21	NCAC	57B	.0304
Instructor Requirements Amend/*	21	NCAC	57B	.0306
Criteria for Course Approval Amend/*	21	NCAC	57B	.0603
Pre-licensing and Pre-certification Courses Amend/*	21	NCAC	57B	.0604
Course Operational Requirements Amend/*	21	NCAC	57B	.0606
Sponsor Reporting of Continuing Education Credit Amend/*	21	NCAC	57B	.0608

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698. Also, the Contested Case Decisions are available on the Internet at <http://www.ncoah.com/hearings>.

OFFICE OF ADMINISTRATIVE HEARINGS

*Chief Administrative Law Judge
JULIAN MANN, III*

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

ADMINISTRATIVE LAW JUDGES

*Sammie Chess Jr.
Beecher R. Gray
Melissa Owens Lassiter*

*James L. Conner, II
Beryl E. Wade
A. B. Elkins II*

RULES DECLARED VOID

04 NCAC 02S .0212 CONSUMPTION: INTOXICATION BY PERMITTEE PROHIBITED
Pursuant to G.S. 150B-33(b)(9), Administrative Law Judge James L. Conner, II declared 04 NCAC 02S .0212(b) void as applied in NC Alcoholic Beverage Control Commission v. Midnight Sun Investments, Inc. t/a Tiki Cabaret (03 ABC 1732).

20 NCAC 02B .0508 FAILURE TO RESPOND
Pursuant to G.S. 150B-33(b)(9), Administrative Law Judge Melissa Owens Lassiter declared 20 NCAC 02B .0508 void as applied in Burton L. Russell v. Department of State Treasurer, Retirement Systems Division (03 DST 1715).

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ABC COMMISSION</u>				
ABC Commission v. Pantry, Inc. T/A Pantry 355	03 ABC 1094	Gray	09/01/04	
ABC Commission v. Richard Martin Falls, Jr., T/A Falls Quick Stop	04 ABC 0341	Mann	07/16/04	
ABC Commission v. Nichos, Inc., T/A Mexican Store	04 ABC 0626	Gray	10/15/04	
ABC Commission v. Red Lion Manestream, Inc., T/A Red Lion Manestream	04 ABC 0695	Wade	07/20/04	
ABC Commission v. Fat Dragon, Inc. T/A Akumi	04 ABC 0868	Lassiter	02/10/05	
ABC Commission v. KOL, Inc, T/A Wards Grocery	04 ABC 0872	Wade	09/21/04	
ABC Commission v. Carlos Salas, T/A Boom Boom Room Night Club	04 ABC 0938	Chess	10/19/04	
ABC Commission v. PSJL, Inc., T/A Wrong Way	04 ABC 0942	Webb	05/19/05	
Alcoholic Beverage Control v. Faal Group International, LLC T/A Crown Central	04 ABC 1308	Elkins	03/24/05	
Sports Dimensions, INC d/b/a Club Deep Oros v. ABC Commission	04 ABC 2225	Gray	03/22/05	
<u>VICTIMS COMPENSATION</u>				
Lonnie Jones v. Dept. Crime Control & Public Safety, Victims Comp	03 CPS 2320	Conner	07/23/04	
Angelique M. Jones on behalf of a juvenile victim, her son, Jaquial Jones v. Victims Compensation Commission	03 CPS 2353	Conner	07/12/04	
Jean Stevens on Behalf of Amber Nichole Sewell v. Victim and Justice Services	04 CPS 0399	Chess	09/16/04	
Krista Chmiel v. Crime Victims Compensation Commission Case #CV-65-04-0020899	04 CPS 0992	Gray	09/31/04	
Christopher C. Searcy v. Crime Victims Compensation Commission	04 CPS 1305	Gray	01/21/05	
Jason Israel Chandler v. Dept. Crime Control & Public Safety, Victim Compensation Services	04 CPS 1368	Lassiter	01/10/05	
Deloris Hinton v. Victim Compensation Services	04 CPS 1496	Gray	05/06/05	
Regina Rose Hargrave v. Dept. Crime Control & Public Safety, Victim Compensation Services	04 CPS 1500	Lassiter	01/10/05	
Isaac Cornell Mitchell v. Victim and Justice Services	04 CPS 1529	Gray	01/13/05	
Scott Harshfield v. Crime Victims Compensation Commission	04 CPS 1559	Gray	03/14/05	
Belinda D. Clegg v. Crime Victims Compensation Commission	04 CPS 1637	Mann	02/07/05	
John Selden Clem v. State Highway Patrol, Trooper C.J. Owens	04 CPS 1705	Chess	11/17/04	
Pamela E. Patterson v. Crime Victims Compensation Commission	04 CPS 1915	Gray	04/28/05	
Ricky Nelson Allen v. Dept. Crime Control & Public Safety	04 CPS 1916	Lassiter	01/05/05	

CONTESTED CASE DECISIONS

Bennett Lee Sullivan v. Johnston County Sheriff's Dept.	04 CPS 2041	Wade	01/06/05
Harold E Shaw v. Office of Administrative Hearings	04 CPS 2113	Conner	04/14/05
Delphine Holder v. Crime Control & Public Safety, Victim Compensation Services Division	04 CPS 2135	Chess	01/05/05
Daniel A. Young, Sr v. Crime Victims Compensation Commission	05 CPS 0023	Wade	02/21/05
Walter Clark v. Crime Control & Public Safety Victim Comp Services Division	05 CPS 0048	Gray	05/10/05
William F. Crain v. Victims Compensation Commission	05 CPS 0077	Gray	04/18/05
Christine Watts v. OAH	05 CPS 0128	Chess	03/17/05
Brenda Cox-Thomas v. Div. of Victim Compensation Services	05 CPS 0158	Morrison	04/20/05
Richard H Jones v. OAH – Administrative Law Judge	05 CPS 0225	Lassiter	04/13/05
<u>DEPARTMENT OF AGRICULTURE</u>			
NC Spring Water Assoc, Inc., Wiley Fogleman (President) v. DOA, David McLeod and Table Rock Spring Water Co.	04 DAG 0110	Gray	07/21/04
<u>DEPARTMENT OF ADMINISTRATION</u>			
Larry Yancey v. GACPD, DOA	04 DOA 0896	Morrison	07/28/04
<u>HEALTH AND HUMAN SERVICES</u>			
Bejeer Smiles Child Care Learning Center, Inc. v. DHHS, Div of Child Development	98 DHR 0235	Gray	09/16/04
Margaret Bollo v. DHHS, Broughton Hospital	03 DHR 0444	Gray	07/21/04
Walter Ray Nelson, Jr., Karen Marie Nelson v. DHHS	03 DHR 0884	Lassiter	05/18/04
Winter McCotter v. DHHS, Div. of Facility Services, Healthcare Personnel Registry Section	03 DHR 0905	Gray	10/20/04
Blaine Ryan Walsh-Child, Bonnie L. Walsh-Mother v. DHHS, Div. of Medical Assistance	03 DHR 1113	Gray	10/15/04
Olufemi Augustine Ohome v. DHHS, Div. of Facility Services	03 DHR 1062	Lassiter	05/24/04
Karen A. Anders v. DHHS, Div of Facility Services	03 DHR 1217	Gray	09/20/04
Charles Crawford Cox v. DHHS	03 DHR 1546	Lassiter	07/07/04
Bio-Medical Applications of North Carolina, Inc v. DHHS, Div of Facility Services, CON Section and Total Renal Care of NC, LLC	03 DHR 1553	Chess	06/02/04
Tomeeka K. Blount v. DHHS, Caswell Center	03 DHR 1728	Elkins	10/15/04
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A list of Child Support Decisions may be obtained by accessing the OAH Website: www.ncoah.com/decisions.

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Felder Wayne Poplin v. Dept. of Public Instruction	04 EDC 0824	Mann	10/28/04	
Jeffrey C. Smith v. Henderson County Public Schools, NC State Board of Ed	04 EDC 1229	Mann	12/09/04	
Knowledge Network Solutions v. Dept. of Public Instruction, Office of Information Technology Services	04 EDC 1634	Elkins	11/23/04	
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J.L. Marsh Smith Farms, Inc v. DENR, Div of Air Quality	00 EHR 2116	Gray	06/04/04	
Raymond Wallace, The Golden Mirror vs. Div of Radiation Protection	01 EHR 1558	Mann	06/17/04	
George C. Ansell, Jr, v.DENR	02 EHR 1607	Conner	05/05/05	
Friends of the Green Swamp, et al, v. DENR, Div. of Water Quality and Riegel Ridge, LLC, and Waste Management of Carolinas, Inc	03 EHR 0058	Conner	08/26/04	
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Sandy Mush Properties, Inc v. DENR, Div of Air Quality	03 EHR 1411	Conner	06/28/04	
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Alliance for Legal Action, Inc, Piedmont Quality of Life Coalition (an unincorporated association), Alberta Anderson, Cameron Anderson, Jean Black, Richard Black, Walter S. Druce, Ron Goga, Gil Happel, Carol Hoppe, Michael Hoppe, Patricia Nussbaum, Christine Peeler, Laura Pollak, Randall Schultz, Roch Smith, Jr., and Vassilia Smith v. Div of Water Quality of DENR And Piedmont Triad Airport Authority	03 EHR 1664	Gray	09/08/04	
Herbert B. Simmons, Sr., v. DENR	03 EHR 1773	Gray	10/21/04	
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Robert I. Swinson Sr. v. DENR, Div of Marine Fisheries	03 EHR 2248	Chess	06/10/04	
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Alma F Deason & Alma F Deason Family Ltd Partnership v. DENR, Div of Waste Mgmt, UST Section, Trust Fund Branch	04 EHR 1106	Lassiter	04/11/05	19:21 NCR 1749

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R&K of Dare Co., Timothy Mike Morrison v. DENR	04 EHR 1385	Mann	04/15/05	19:22 NCR 1801
Brandywine Real Estate Management, Services Corporation & Northridge Partners v. DENR, Div. of Waste Management	04 EHR 1439	Gray	02/15/05	
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Darrick Lamonte King v. Administrative Office of the Courts	04 MIS 1289	Mann	12/07/04	
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James A. Ray v. Sherry Stevens and Facility Services Management., UNC Greensboro	03 OSP 2452	Elkins	06/01/04	
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Terry H. Mitchell v. Elizabeth City State University	04 OSP 0015	Conner	07/23/04	
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Samuel Williams v. DOC, Div of Alcoholism, Chemical Dependency Programs	04 OSP 0194	Mann	06/09/04	
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