NORTH CAROLINA REGISTER

VOLUME 12 • ISSUE 14 • Pages 1230 - 1406
January 15, 1998

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IN THIS ISSUE

Narrow Therapeutic Index Drugs
Voting Rights Letter
Agriculture
Environment and Natural Resources
Health and Human Services
Insurance
Justice
Medical Examiners, Board of
Mortuary Science, Board of
Opticians, Board of
Revenue
Secretary of State
Transportation
Rules Review Commission
Contested Case Decisions

PUBLISHED BY

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

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

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Capehart-Crocker House — (919) 733-2678
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Fiscal Notes & Economic Analysis

Office of State Budget and Management
116 West Jones Street — (919) 733-7061
Raleigh, North Carolina 27603-8005 — (919) 733-0640 FAX

contact: Mark Sisak, Economist III — msisak@osbm.state.nc.us
Anna Tefft, Economist II — atefft@osbm.state.nc.us

Rule Review and Legal Issues

Rules Review Commission
1307 Glenwood Ave., Suite 159 — (919) 733-2721
Raleigh, North Carolina 27605 — (919) 733-9415 FAX

contact: Joe DeLuca Jr., Staff Director Counsel
Bobby Bryan, Staff Attorney

Legislative Process Concerning Rule Making

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

contact: Mary Shuping, Staff Liaison — marys@ms.ncga.state.nc.us

County and Municipality Government Questions or Notification

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

contact: Jim Blackburn or Rebecca Troutman

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

contact: Paula Thomas

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This issue contains documents officially filed through December 19, 1997.

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(August 1997 - May 1998)

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						A. non-substantial economic impact			B. substantial economic impact		
volume and issue number	issue date	last day for filing	60th day	earliest register issue for publication of text	earliest date for public hearing	end of required comment period	deadline to submit to RRC for review at next RRC meeting	first legislative day of the next regular session	end of required comment period	deadline to submit to RRC for review at next RRC meeting	first legislative day of the next regular session
12:03	08/01/97	07/11/97	09/30/97	10/01/97	08/18/97	09/02/97	09/22/97	05/11/98	09/30/97	10/20/97	05/11/98
12:04	08/15/97	07/25/97	10/14/97	10/15/97	09/02/97	09/15/97	09/22/97	05/11/98	10/14/97	10/20/97	05/11/98
12:05	09/02/97	08/12/97	11/03/97	11/14/97	09/17/97	10/02/97	10/20/97	05/11/98	11/03/97	11/20/97	05/11/98
12:06	09/15/97	08/22/97	11/14/97	12/01/97	09/30/97	10/15/97	10/20/97	05/11/98	11/14/97	11/20/97	05/11/98
12:07	10/01/97	09/10/97	12/01/97	12/15/97	10/16/97	10/31/97	11/20/97	05/11/98	12/01/97	12/22/97	05/11/98
12:08	10/15/97	09/24/97	12/15/97	01/02/98	10/30/97	11/14/97	11/20/97	05/11/98	12/15/97	12/22/97	05/11/98
12:09	11/03/97	10/13/97	01/02/98	01/15/98	11/18/97	12/03/97	12/22/97	05/11/98	01/02/98	01/20/98	05/11/98
12:10	11/14/97	10/23/97	01/13/98	01/15/98	12/01/97	12/15/97	12/22/97	05/11/98	01/13/98	01/20/98	05/11/98
12:11	12/01/97	11/05/97	01/30/98	02/02/98	12/16/97	12/31/97	01/20/98	05/11/98	01/30/98	02/20/98	05/11/98
12:12	12/15/97	11/20/97	02/13/98	02/16/98	12/30/97	01/14/98	01/20/98	05/11/98	02/13/98	02/20/98	05/11/98
12:13	01/02/98	12/08/97	03/03/98	03/16/98	01/20/98	02/02/98	02/20/98	05/11/98	03/03/98	03/20/98	05/11/98
12:14	01/15/98	12/19/97	03/16/98	04/01/98	01/30/98	02/16/98	02/20/98	05/11/98	03/16/98	03/20/98	05/11/98
12:15	02/02/98	01/09/98	04/03/98	04/15/98	02/17/98	03/04/98	03/20/98	05/11/98	04/03/98	04/20/98	01/27/99
12:16	02/16/98	01/26/98	04/17/98	05/01/98	03/03/98	03/18/98	03/20/98	05/11/98	04/17/98	04/20/98	01/27/99
12:17	03/02/98	02/09/98	05/01/98	05/15/98	03/17/98	04/01/98	04/20/98	01/27/99	05/01/98	05/20/98	01/27/99
12:18	03/16/98	02/23/98	05/15/98	06/01/98	03/31/98	04/15/98	04/20/98	01/27/99	05/15/98	05/20/98	01/27/99
12:19	04/01/98	03/11/98	06/01/98	06/16/98	04/16/98	05/01/98	05/20/98	01/27/99	06/01/98	06/22/98	01/27/99
12:20	04/15/98	03/24/98	06/15/98	07/01/98	04/30/98	05/15/98	05/20/98	01/27/99	06/15/98	06/22/98	01/27/99
12:21	05/01/98	04/09/98	06/30/98	07/01/98	05/18/98	06/01/98	06/22/98	01/27/99	06/30/98	07/20/98	01/27/99
12:22	05/15/98	04/24/98	07/14/98	07/15/98	06/01/98	06/15/98	06/22/98	01/27/99	07/14/98	07/20/98	01/27/99

EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

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

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

FILING DEADLINES

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

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

NOTICE OF RULE-MAKING PROCEEDINGS

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

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

NOTICE OF TEXT

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

END OF REQUIRED COMMENT PERIOD

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

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

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

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

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

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

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

Carbamazepine: all oral dosage forms

Digoxin: all oral dosage forms

Levothyroxine sodium tablets

Lithium (including all salts): all oral dosage forms

Phenytoin (including all salts):all oral dosage forms

Theophylline (including all salts):all oral dosage forms

Warfarin sodium tablets

U.S. Department of Justice

Civil Rights Division

IKP:GS:SBF:emr:jdp
DJ 166-012-3
97-3397
97-3873
97-3912

Voting Section
PO. Box 66128
Washington, D.C. 20035-6128

December 15, 1997

Susan K. Nichols, Esq.
Special Deputy Attorney General
P.O. Box 629
Raleigh, North Carolina 27602-0629

Dear Ms. Nichols:

This refers to Session Laws 1997-15, which permits a city manager, under certain circumstances, to be an elected official of a city other than the one by which the manager is employed; 1997-211, which expands the list of relatives of a candidate who may not serve on a county board of elections; 1997-443, Part XXXI, which provides enabling legislation for the implementation of a statewide data elections management system; 1997-510, which authorizes county boards of elections to obtain reimbursement for legal advertising, provides procedures for one-stop absentee voting, and changes the beginning of the absentee voting period; and 1981-225 and 1997-515, which amend state law relating to campaign finance for the State of North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on October 16, and December 10, 1997; supplemental information was received on December 10, 1997..

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

This letter also confirms your December 15, 1997, telephone conversation with Susan B. Fisch of our staff, in which you agreed that you would submit Session Law 1989-49, which permits a city manager to be an elected school board member under certain circumstances in the State of North Carolina, and that you would provide us with the necessary documentation to enable us to review Session Law 1989-49 under Section 5 of the Voting Rights Act.

Because the voting changes included in Session Laws 1997-25 and 1989-49 are directly related, they must be reviewed simultaneously. Accordingly, it would be inappropriate for the Attorney General to make a preclearance determination on Session Law 1997-25 until the related change has been submitted for Section 5 review. See 28 C.F.R. 51.22(b) and 51.35.

If you have any questions, you should contact Ms. Fisch at (202) 514-3539). Refer to File Nos. 97-3397 and 97-3912 in any response to this letter so that your correspondence will be channeled properly.

Session Law 1997-443, Part XXXI, includes provisions that are enabling in nature. Therefore, any changes affecting

voting that are adopted by the state pursuant to this legislation will be subject to Section 5 review (e.g., statewide data elections management system). In addition, Session Law 1997-510 includes enabling provisions for local jurisdictions. Therefore, such jurisdictions are not relieved of their responsibility to seek Section 5 preclearance of any changes affecting voting that are adopted pursuant to this legislation (e.g., adoption of one-stop absentee voting). See 28 C.F.R. 51.15.

Sincerely,

Isabelle Katz Pinzler
Acting Assistant Attorney General
Civil Rights Division

By:

Elizabeth Johnson
Chief, Voting Section

A Notice of Rule-making Proceedings is a statement of subject matter of the agency's proposed rule making. The agency must publish a notice of the subject matter for public comment at least 60 days prior to publishing the proposed text of a rule. Publication of a temporary rule serves as a Notice of Rule-making Proceedings and can be found in the Register under the section heading of Temporary Rules. A Rule-making Agenda published by an agency serves as Rule-making Proceedings and can be found in the Register under the section heading of Rule-making Agendas. Statutory reference: G.S. 150B-21.2.

TITLE 15A - ENVIRONMENT AND NATURAL RESOURCES

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER AND WETLAND STANDARDS

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

Citation to Existing Rules Affected by this Rule-Making: *15A NCAC 2B .0308 - .0309. Other rules may be proposed in the course of the rule-making process.*

Authority for the rule-making: *G.S. 143-214.1; 143-215.1; 143-215.3(a)(1)*

Statement of the Subject Matter: *The purpose of the proposal is to revise the Protected Area boundaries within two WS-IV run-of-the-river water supplies. These water supplies are the Catawba River (City of Morganton's water supply) and the Yadkin River (City of Wilkesboro's water supply). The water supplies are located in Burke and McDowell, and Wilkes Counties, respectively. This proposal would reduce the size of the Protected Areas. In addition, the City of Winston-Salem is relocating the site of their future drinking water supply intake in the Yadkin River about 600 feet upstream. This necessitates relocating the associated WS-IV Critical Area boundary for this intake.*

Reason for Proposed Action: *The Environmental Management Commission (EMC) was petitioned in early 1996 to interpret the definition of the Protected Area [rule 15A NCAC 2B .0202 (47)]. The question was raised whether the Protected Area boundary for WS-IV run-of-the-river water supplies should be measured either as ten miles "as-the-river-flows" or "linearly." On May 9, 1996, the EMC clarified the definition by stating that the "as-the-river-flows" method is the appropriate method in determining the Protected Area for WS-IV run-of-the-river water supplies. The EMC stated that each proposed modification to the WS-IV Protected Area must go through the rule-making process. The EMC also stated that local water supply protection ordinances would remain in effect until reclassification.*

Two requests to modify the Protected Area boundary have recently been received from McDowell and Wilkes Counties. Their requests affect two water supplies, the Catawba River - (City of Morganton's water supply source) and the Yadkin River - (City of Wilkesboro's water supply source).

The result of the proposed WS-IV ten-mile Protected Area boundary modifications will be that local governments having jurisdiction within the affected areas will have the option of revising their area of coverage for water supply watershed protection. In general, less area will be affected. The area affected by state permitting requirements for landfills, residual application sites and wastewater discharges will potentially also be reduced. Streams within the areas proposed for revision will be considered for reclassification. In general, mainstream waterbodies that are currently classified as WS-IV that are within the Protected Area being considered for revision, will become WS-V, and most affected tributaries will become Class C. Affected waterbodies classified B will remain Class B.

In addition, the City of Winston-Salem is relocating the site in the Yadkin River of the future water supply intake. This action requires that the associated WS-IV Critical Area boundary be revised. This area is proposed to be relocated about 600 feet upstream.

Comment Procedures: *The purpose of this announcement is to encourage those interested in this proposal to provide written comments. Written comments, data, or other information relevant to this proposal must be submitted by March 16, 1998. It is very important that all interested and potentially affected persons or parties make their views known to the EMC whether in favor of or opposed to any and all provisions of the proposal being noticed. Written comments may be submitted to: Steve Zoufaly, DENR/Division of Water Quality, Planning Branch, P.O. Box 29535, Raleigh, NC 27626-0535. (919) 733-5083, extension 566.*

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

TITLE 2 - DEPARTMENT OF AGRICULTURE

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Structural Pest Control Committee intends to amend rules cited as 2 NCAC 34 .0102, .0302 - .0303, .0306, .0308 - .0309, .0312 - .0313, .0323, .0325, .0328, .0401 - .0404, .0406, .0501 - .0506, .0602, .0604 - .0605, .0701, .0703, .0803, .0902, .0904, .1101; and adopt rules cited as 2 NCAC 34 .0507 - .0508. Notice of Rule-making Proceedings was published in the Register on November 3, 1997.

Proposed Effective Date: *July 1, 1998*

A Public Hearing *will be conducted at 8:30 a.m. on March 4, 1998 at the Agriculture Building, Board Room (Room 359), 2 W. Edenton St., Raleigh, NC.*

Reason for Proposed Action: *To clarify and update definitions; to change examination procedures; to increase training requirements for re-certification; to change certain duties of licensees; to clarify requirements for storage and labeling of pesticides; to expand disclosure requirements for pesticide applications; to make various changes in requirements for wood-destroying organism treatments; to make various changes regarding pest control treatments and fumigation; to make other changes to clarify, correct and update structural pest control rules; to provide for regulation of termite bait products used by pest control licensees.*

Comment Procedures: *Written comments may be submitted no later than February 16, 1998, to Carl E. Falco, Secretary, North Carolina Structural Pest Control Committee, PO Box 27647, Raleigh, NC 27611.*

Fiscal Note: *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 34 - STRUCTURAL PEST CONTROL DIVISION

SECTION .0100 - INTRODUCTION AND DEFINITIONS

.0102 DEFINITIONS

For the purpose of interpretation of the rules, regulations, definitions, and requirements of the North Carolina Structural Pest Control Committee and the Structural Pest Control Law, and unless otherwise required by the context, the following definitions shall prevail, to wit:

(1) "Act and/or law" means the Structural Pest Control Act of North Carolina of 1955.

(2) "Active infestation of a specific organism" means evidence of present activity by that organism, visible in, on, or under a structure, or in or on debris under the structure.

(3) "Active ingredient" means an ingredient which will or is intended to prevent, destroy, repel, or mitigate any pest.

~~(3)~~ (4) "Acutely toxic rodenticidal baits" means all baits ~~that contain rodenticides other than barium carbonate, norbormide, red squill, and the anticoagulants.~~ that, as formulated, are classified as Toxicity Category I or II (Signal Word "Danger" or "Warning") under 40 CFR Part 156.10.

~~(4)~~ (5) "Board of Agriculture" means the Board of Agriculture of the State of North Carolina.

~~(5)~~ (6) "Commercial certified applicator" shall mean any certified applicator employed by a licensed individual.

~~(6) "Common laborer" as used in G.S. 106-65.31 of the Structural Pest Control Act shall mean an employee of a licensed structural pest control operator who does not engage in or supervise the mixing or application of pesticides for the control of structural pests.~~

(7) "Commercial structure" means any structure which is not a residential structure; including but not limited to shopping centers, offices, nursing homes and similar structures.

(8) "Complete surface residual spray" means the over-all application of any pesticide by spray or otherwise, to any surface areas within, on, under, or adjacent to, any structure in such a manner that the pesticide will adhere to surfaces and remain toxic to household pests and rodents or other pests for an extended period of time.

(9) "Continuing education units" or "CEU" means units of non-credit education awarded by the Division of ~~continuing education,~~ Continuing Studies, North Carolina State University or comparable educational institution, for satisfactorily completing course work.

(10) "Continuing certification unit" or "CCU" means a unit of credit awarded by the ~~Committee~~ Division upon satisfactory completion of one clock hour of ~~instruction in an~~ approved ~~course (one CCU is approximately equal to one/tenth CEU of approved~~

~~course work).~~ classroom training.

(11) "Crack and crevice application" means an application of pesticide made directly into a crack or void area with equipment capable of delivering the pesticide to the target area.

~~(11)~~ (12) "Deficient soil sample" shall mean any soil sample which, when analyzed, is found to contain less than 25 ~~percent~~ percent, expressed in parts per million (ppm), of the termiticide applied by a licensee which would be found if the termiticide had been applied at the lowest concentration and dosage recommended by the labeling.

~~(12)~~ (13) "Department" means the Department of Agriculture and Consumer Services of the State of North Carolina.

~~(13)~~ (14) "Disciplinary action" means any action taken by the Committee as provided under the provisions of G.S. 106-65.28.

~~(14)~~ (15) "Division" means the Structural Pest Control Division of the Department of Agriculture and Consumer Services of the State of North Carolina.

~~(15)~~ (16) Enclosed space" means any structure by whatever name known, including household structures, commercial buildings, warehouses, docks, vacant structures, and places where people congregate, such as hospitals, schools, churches, and others; railroad cars, trucks, ships, aircraft, and common carriers. It shall also mean vaults, tanks, chambers, and special rooms designed for use, being used, or intended to be used for fumigation operations.

~~(16)~~ (17) "Enforcement agency" means the Structural Pest Control Division of the Department of Agriculture and Consumer Services of the State of North Carolina.

~~(17)~~ (18) "EPA" means the Environmental Protection Agency of the United States Government.

~~(18)~~ (19) "EPA registration number" means the number assigned to a pesticide label by EPA.

~~(19)~~ (20) "Flammable pesticidal fog" means the fog dispelled into space and produced:

(a) from oil solutions of pesticides finely atomized by a blast of heated air or exhaust gases from a gasoline engine, or from mixtures of water and pesticidal oil solutions passed through a combustion chamber, the water being converted to steam, which exerts a shearing action, breaking up the pesticidal oil into small droplets (thermal fog); or

(b) from oil solutions of pesticides which are forced through very narrow space by centrifugal force and atomized as they are thrown off into the air (mechanical or cold fogs).

~~(20)~~ (21) "Fog or fogging" means micron sized particles of pesticide(s) dispersed by means of a thermal ~~generator.~~ or centrifugal fogger or a pressurized aerosol pesticide.

~~(21)~~ (22) "Fumigation" means the use of fumigants within an enclosed space, or in, or under a structure, in concentrations which may be hazardous to man.

~~(22)~~ (23) "Fumigation crew" or "crew" means personnel performing the fumigation operation.

~~(23)~~ (24) "Fumigation operation" means all details prior to application of fumigant(s), the application of fumigant(s), fumigation period, and post fumigation details as outlined in these Rules.

~~(24)~~ (25) "Fumigation period" means the period of time from application of fumigant(s) until ventilation of the fumigated structure(s) is completed, and the structure or structures are declared safe for occupancy for human beings or domestic animals.

~~(25)~~ (26) "Fumigator" means a person licensed under the provisions of G.S. 106-65.25(a)(3) or certified under the provisions of G.S. 106-65.25(e)(1) to engage in or supervise fumigation operations.

~~(26)~~ (27) "Gas-retaining cover" means a cover which will confine fumigant(s) to the space(s) intended to be fumigated.

~~(27)~~ (28) "General fumigation" means the application of fumigant(s) to one or more rooms and their contents in a structure, at the desired concentration and for the necessary length of time to control rodents, insects, or other pests.

~~(28)~~ (29) "Household" means any structure and its contents which are used for man.

(30) "Household pest" means any undesirable vertebrate or invertebrate organism, other than wood-destroying organisms, occurring in a structure or the surrounding areas thereof, including but not limited to insects and other arthropods, commensal rodents, and birds which have been declared pests under G.S. 143-444.

~~(29)~~ (31) "Household pest control" means that phase of structural pest control other than the control of wood-destroying organisms and fumigation and shall include the application of remedial measures for the purpose of curbing, reducing, preventing, controlling, eradicating, and repelling household ~~pests and rodents.~~ pests.

~~(30)~~ (32) "Inactive license" shall mean any structural pest control license held by an individual who has no employees and is not engaged in any structural pest control ~~work.~~ work except as a certified applicator or registered technician.

~~(31)~~ (33) "Infestation of a specific organism" means evidence of past or present activity by that organism, visible in, on, or under a structure, or in or on debris under the structure.

~~(32)~~ (34) "Inspection for a specific wood-destroying organism" means the careful visual examination of all accessible areas of a building and the sounding of accessible structural members adjacent to slab

areas, chimneys and other areas particularly susceptible to attack by wood-destroying organisms to determine the presence of and the damage by that specific wood-destroying organism.

~~(33)~~ (35) "Inspector" means any employee of the Structural Pest Control Division of the Department of Agriculture and Consumer Services of the State of North Carolina.

~~(34) "Jobs not meeting the minimum requirements of these Rules" means any job that is not treated in accordance with the minimum requirements as herein set forth.~~

~~(35)~~ (36) "Licensed structural pest control operation," or "pest control operation," or "operator," or "licensed operator" means any person licensed under the provisions of G.S. 106-65.25(a) or unlicensed who, for direct or indirect hire or compensation is engaged in the business of controlling, destroying, curbing, mitigating, preventing, repelling, offering advice on control methods and procedures, inspecting and identifying infestations and populations of insects, rodents, fungi, and other pests within, under and on structures of any kind, or the nearby surrounding ground areas or where people may assemble or congregate including work defined under G.S. 106-65.24(23).

~~(36)~~ (37) "Liquefied gas aerosol" means the spray produced by the extreme rapid volatilization of a compressed and liquefied gas, to which has been added a non-volatile oil solution containing a pesticide.

~~(37)~~ (38) "Non-commercial certified applicator" shall mean any certified applicator not employed by a licensed individual.

~~(38)~~ (39) "Open porch" means any porch without fill in which the distance from the bottom of the slab to the top of the soil beneath the slab is greater than 12 inches.

~~(39)~~ (40) "Residential structure" means any structure ~~used~~ used, or suitable for use, as a ~~permanent~~ dwelling such as a single- or multi-family home, house trailer, motor home, mobile home, a condominium or townhouse or an ~~apartment.~~ apartment or any other structure, or portion thereof, used as a dwelling.

~~(40)~~ (41) "Secretary" means the Secretary to the North Carolina Structural Pest Control Committee.

~~(41)~~ (42) "Service vehicle" means any vehicle used regularly to transport the licensee or certified applicator or ~~serviceman~~ registered technician or other employee or ~~their~~ any equipment ~~and~~ or pesticides used in providing structural pest control services.

~~(42)~~ (43) "Slab-on-ground" means a concrete slab in which all or part of that concrete slab is resting on or is in direct contact with the ground immediately beneath the slab.

~~(43)~~ (44) "Solid masonry cap" means a continuous concrete or masonry barrier covering the entire top, width and length, of any wall, or any part of a wall, that provides support for the exterior or structural parts of a building.

~~(44)~~ (45) "Space spray" means any ~~pesticide~~ pesticide, regardless of its particle size, which is applied to the atmosphere within an enclosed space in such a manner that dispersal of the pesticide particles is uncontrolled. Pesticidal fogs or aerosols, including those produced by ~~thermal-aerosol generators (fogging machines),~~ centrifugal or thermal fogging equipment or pressurized aerosol pesticides, shall be considered space sprays.

~~(45)~~ (46) "Spot fumigation" means the application of a fumigant to a localized space or harborage within, on, under, outside of, or adjacent to, a structure for local household pest or rodent control.

~~(46)~~ (47) "Spot surface residual spray" means the application of pesticidal spray directly to a surface and only in specific areas where necessary and in such a manner that the pesticidal material will largely adhere to the surface where applied and will remain toxic to household pests or rodents or other pests for which applied for an extended period of time.

~~(47)~~ (48) "Structure" means all parts of a building, whether vacant or occupied, in all stages of construction.

~~(48)~~ (49) "Structural pests" means all pests that occur in any type of structure of man and all pests associated with the immediate environs of such structures.

~~(49)~~ (50) "Sub-slab fumigation" means the application of a fumigant below or underneath a concrete slab and is considered spot fumigation.

(51) "Supervision", as used in Rule .0325 of this Chapter, shall mean the oversight by the licensee of the structural pest control activities performed under that license. Such oversight may be in person by the licensee or through instructions, verbal, written or otherwise, to persons performing such activities. Instructions may be disseminated to such persons either in person or through persons employed by the licensee for that purpose.

~~(50)~~ (52) "Telephone answering service location" means any location used for the sole purpose of receiving telephone ~~messages.~~ messages including locations which utilize call forwarding or other electronic answering or messaging technology.

~~(51)~~ (53) "Termiticide(s)" (as used in ~~Rule .0503, Subterranean Termite Control, and Rule .0505, Subterranean Termite Prevention)~~ these Rules) means those pesticides specified in Rule ~~.0502,~~ .0502 of this Chapter, Pesticides for Subterranean Termite Prevention and/or Control.

(54) "Termiticide barrier" shall mean an area of soil

treated with an approved termiticide, which, when analyzed, is not deficient in termiticide.

~~(52)~~ (55) "To use any pesticide in a manner inconsistent with its labeling" means to use any pesticide in a manner not permitted by the labeling. Provided that, the term shall not include:

(a) applying a pesticide at any dosage, concentration or frequency less than that specified on the ~~labeling;~~ labeling unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency;

(b) applying a pesticide against any target pest not specified on the labeling if the application is to the site specified on the labeling, unless the EPA has required that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling;

(c) employing any method of application not prohibited by the ~~labeling.~~ labeling unless the labeling specifically states that the product may be applied only by the methods specified by the labeling.

~~(53)~~ (56) "Type of treatment" means the method used to apply a pesticide formulation to a specific ~~location.~~ location, including but not limited to: space spray, crack and crevice, complete surface residual, spot surface residual, bait placement or fog.

~~(54)~~ (57) "Unauthorized personnel" means any individual or individuals not given specific authorization by the licensee or certified applicator to enter areas to which access is restricted by these regulations.

~~(55)~~ (58) "Under direct supervision of" means the act or process whereby application of a pesticide is made by a competent person acting under the instructions and control of a licensee or certified applicator who is responsible for the action of that person and who is available if and when needed, even though such licensee or certified applicator is not physically present at the time and place the pesticide is applied.

~~(56)~~ (59) "Waiver" means a standard form prescribed by the Committee which will, when completed correctly, permit the licensee to deviate from or omit one or more of the minimum treatment methods and procedures for structural pests which are set forth in the Committee rules, definitions and requirements.

~~(57)~~ (60) "Wood-destroying insect report" means any written statement or certificate issued, by an operator or his authorized agent, regarding the presence or absence of wood-destroying insects or their damage in a structure.

~~(58)~~ (61) "Wood-destroying organism" is an organism such as a termite, beetle, other insect, or fungus which may invade, inhabit, devour, or destroy wood or wood products and other cellulose material found in, on, under, in contact with, and around structures.

~~(59)~~ (62) "Wood-destroying organism report" means any written statement or certificate issued, by an operator or his authorized agent, regarding the presence or absence of wood-destroying organisms or their damage in a structure.

Authority G.S. 106-65.29.

SECTION .0300 - LICENSING AND CERTIFICATION

.0302 APPLICATION FOR LICENSES AND CARDS: EXAMINATION

(a) Application for licenses under the provisions of G.S. 106-65.26(a) and (c):

(1) Application for examination shall be on a regular form prescribed by the Division. All examinations shall be maintained and administered by the Committee secretary. The Committee may review the examinations and make recommendations regarding changes in same.

(2) Upon approval of the application for examination, the Committee secretary shall notify the applicant of said approval and provide the necessary form(s) for the applicant to pre-register for the examination as required in Paragraph (c) of this Rule.

(3) Applications to take the examination shall be either typed or printed in ink and sworn to before a notary public or some other official authorized by law to administer oaths.

(4) A clear full-face, head, and shoulder photograph of the applicant, taken within the preceding 12 months of the date of application, and not less than two and one-half inches square, shall be attached to the application.

(5) All applications to take the examination shall be retained by the office of the Committee secretary. All documents filed in support of an application shall be kept by the office of the Committee secretary; provided, however, that the Committee may at its discretion permit such documents to be withdrawn upon substitution of a true copy. All examinations shall remain the property of the Committee.

(6) An applicant who fails to pass the license examination within 12 months of the approval of his application may be required to provide current information concerning his qualifications to take the examination to ensure that the applicant is still qualified to take the examination.

~~(6)~~ (7) An applicant who gives or receives unauthorized assistance during an examination shall be dismissed from the examination and his markings or results shall be voided and said

applicant's examination fee shall be forfeited. Such applicant shall not be permitted to take a re-examination for a period of six months from the date of the examination.

~~(7)~~ (8) No person shall be admitted to the examination room except members of the Committee, the attorney for the Committee, the examining personnel, employees of the Structural Pest Control Division, and the applicants for licenses.

~~(8)~~ (9) Any applicant making a score of 70 percent or more on any license examination(s) shall be issued a license in that phase(s) of structural pest control after making proper application therefor.

~~(9)~~ (10) The applicant shall furnish such information as the Committee may require to establish that said applicant possesses qualifications as specified in G.S. 106-65.26 of the act for the particular license(s) which he seeks. The Committee, or its authorized representatives, may make such investigations as it deems necessary with respect to the applicant's qualifications.

~~(10)~~ (11) All applicants passing the examination(s) for licenses shall apply for said licenses within six months from the date on which the examinations were passed. If such applicants fail to make application for said licenses, within the specified period, such applicants shall be required to take and satisfactorily pass re-examinations covering phases of structural pest control work for which licenses were applied before said licenses are issued.

~~(11)~~ (12) If an applicant ~~[within 60 days after notification that he has failed an examination] requests to~~ for a license fails an examination, he or she may review the ~~examination(s),~~ examination at the ~~Division shall allow such review during the earliest possible regular~~ next regularly scheduled review session.

(b) Application for certified applicator's identification card under the provisions of G.S. 106-65.26(a) and (b):

(1) Applications filed pursuant to G.S. 106-65.26(a) and (b) shall be on a regular form prescribed by the Division.

(2) An applicant for a certified applicator's identification card in any phase of structural pest control shall furnish such information as the Committee may require to establish that said applicant possesses qualifications as specified in G.S. 106-65.26 of the act for the particular certified applicator's identification card which he seeks. The Committee or its authorized representatives may make such investigations as it deems necessary with respect to the applicant's qualifications.

(3) All applications for certified applicator's identification cards under the provisions of G.S. 106-65.26(a) and (b) shall be retained by the office of the Committee secretary. All documents filed in support of an application shall be kept by the office of the Committee secretary; provided, however, that the Committee may at its discretion permit such documents to be withdrawn upon substitution of a true copy. All examinations shall remain the property of the Committee.

(4) Any applicant making a score of 70 percent or more on the core certification examination and on any certified applicator's examination(s) shall be issued a certified applicator's identification card in that phase of structural pest control after making proper application therefor.

(5) All applicants passing the examination(s) for certified applicator's identification cards shall apply for said cards within six months from the date on which the examinations were passed. If such applicants fail to make application for said certified applicator's identification cards within the specified period, such applicants shall be required to take and satisfactorily pass re-examinations covering phases of structural pest control work for which certified applicator's identification cards were applied before said cards are issued.

(6) If an applicant fails to obtain a certified applicator's identification card within 12 months of passing the core examination the applicant must take and pass a re-examination before being eligible for the card.

~~(6)~~ (7) Upon receipt of the application for examination, the Committee secretary shall provide the necessary forms for the applicant to pre-register for the examination as required in Paragraph (c) of this Rule.

(8) If an applicant for a certified applicator's card fails an examination, he or she may review the examination at the next regularly scheduled review session.

~~(7)~~ (9) Subparagraphs (a)(2), ~~(3),~~ (5), ~~(6)~~ (7) and ~~(7)~~ (8) of this Rule shall also apply to all applicants for certified applicator's identification cards.

(10) Upon approval by the Committee, completion of the Registered Technician School shall be a prerequisite for the certification examination.

(c) Pre-registration for license and certified applicator examination applicants:

(1) All applicants for the license and/or certified applicator's examination(s) shall pre-register with the Committee secretary for said examination(s) no less than 10 days prior to the date of the examination.

(2) Applicants who fail to pre-register shall not be permitted to take the examination.

(3) Pre-registration shall include a properly completed application for examination.

(d) Frequency of examination by license applicant limited:

(1) An applicant who initially fails to pass the license examination may retake the examination at any subsequent regularly scheduled examination.

(2) An applicant who fails to pass the second license examination shall wait a minimum of ~~three examinations~~ one examination between each subsequent examination: except that, in the event of a death of a licensee the applicant intending to succeed the deceased licensee may take the examination a third time prior to the first three examination waiting period.

(3) No applicant shall be permitted to take the examination more than six times per year nor more than two times in consecutive months, except as provided for in Subparagraph (d)(2) of this Rule.

Authority G.S. 106-65.29.

.0303 DATES OF EXAMINATION AND EXAMINATION REVIEW

(a) Examinations for all phases of structural pest control shall be given ~~the first Monday of each month; provided, however, that date is not a national or state holiday. If the first Monday of any month is a national or state holiday, said examinations shall be given the second Monday of that month.~~ monthly on a regular schedule determined by the Division.

(b) The Division shall publish the date and location of each exam at least 30 days in advance of the examination.

(c) Examination reviews shall be scheduled each month by the Division on a fixed schedule.

Authority G.S. 106-65.29.

.0306 MAILING OF RENEWAL FORMS

On or before May 1 of each year the Division shall forward renewal forms to all holders of licenses and identification cards for their use in applying for renewal of said licenses, certified applicator's identification cards, and/or registered technician's identification cards. ~~Mailing of these forms shall be the only notice for renewal.~~

Authority G.S. 106-65.29.

.0308 DISPLAY OF CERTIFIED APPLICATOR'S IDENTIFICATION CARD

A certified applicator's identification card shall be provided annually to each certified applicator at the time of the renewal of his certified applicator's identification card. If a certified applicator is employed by a licensee, his certified applicator's identification card shall bear his employer's license number and phase(s), and expire when his employer's license expires. Each such certified applicator's identification card shall bear only one license number, one company name, and not more than three license phases. The certified applicator's identification card shall be carried on the person of the certified applicator at all times when performing any phase of structural pest control work. A certified applicator's identification card shall be displayed upon demand to an inspector, the committee or its authorized representative, or the person for whom any phase of structural pest control ~~work,~~ work is being performed.

Authority G.S. 106-65.29.

.0309 RE-CERTIFICATION

(a) ~~All certified applicator's identification cards shall expire on June 30 of each year and shall be renewed on an annual basis.~~ Certified applicators and licensees shall be certified for a five year period. At the end of said five year period, a certified ~~applicator,~~ applicator or licensee, at his discretion, may be re-certified for another five year period by choosing one of the following options:

(1) re-examination ~~without formal training;~~ taken between January 1, prior to the expiration of the five-year recertification period, and June 30;

(2) for recertification prior to July 1, 2002: earning Continuing Certification Units of formal training approved by the committee and received by the certified applicator during the five years immediately preceding the expiration date of his certification. The number of CCUs required shall be as follows:

(A) recertification in any one phase: 5 CCUs total, 2 of which must be solely applicable to the phase in which recertification is desired;

(B) recertification in any two phases: 7 CCUs total, 2 of which must be solely applicable to the first phase and 2 solely applicable to the second phase in which recertification is desired;

(C) recertification in all three phases: 9 CCUs total, 2 of which must be solely applicable to the first phase, 2 solely applicable to the second phase, and 2 solely applicable to the third phase in which recertification is ~~desired.~~ desired;

(D) licensees and non-commercial certified applicators must earn at least one of the required continuing certification units established in ~~Rule .0309(a)(2)~~ Subparagraph (a)(2) of this Rule in each of three years of the five year recertification ~~period.~~ period;

(E) ~~non-licensed~~ commercial certified applicators must earn at least one of the required continuing certification units established in ~~Rule .0309(a)(2)~~ Subparagraph (a)(2) of this Rule in at least two years of the five year recertification ~~period.~~ period;

(F) continuing certification units shall not be carried forward beyond the five year recertification ~~period.~~ period;

(3) for recertification after July 1, 2002: earning Continuing Certification Units during the five years immediately preceding the expiration date of his certification. The number of CCUs required shall be as follows:

(A) recertification in any one phase: 10 CCUs total, five of which must be solely applicable to the phase in which recertification is desired;

(B) recertification in any two phases: 15 CCUs total, five of which must be solely applicable to the first phase and five solely applicable to the second phase in which recertification is desired;

(C) recertification in all three phases: 20 CCUs total, five of which must be solely applicable to the first phase, five solely applicable to the second phase, and five solely applicable to the third phase in which recertification is desired;

(D) licensees and non-commercial certified applicators must earn at lease one of the required continuing certification units established in Subparagraph (a)(3) of this Rule in at least four years of the five year recertification period;

(E) commercial certified applicators must earn at least one of the required continuing certification units established in Subparagraph (a)(3) of this Rule in at least three years of the five year recertification period;

(F) continuing certification units shall not be carried forward beyond the five year recertification period.

~~(b) Licensees or certified applicators required to be recertified prior to June 30, 1991 shall not be subject to Rule .0309(a)(2)(D) or (E) until their first complete recertification interval thereafter.~~

~~(c)~~ (b) Licensees holding an inactive license shall be subject to the requirements of this Rule.

Authority G.S. 106-65.29.

.0312 INFORMATION ON CERTIFIED APPLICATOR'S IDENTIFICATION CARDS

(a) A certified applicator's identification card shall contain, but not be limited to, the following information:

(1) name of certified applicator;
(2) home address of certified applicator;
(3) certification number and phase(s) in which certified;
(4) employer and employer's address;
(5) employer's license number and phase(s) if applicable;
(6) age, weight, height, color of hair and eyes of applicator;
(7) job classification of card holder;
(8) issuance date, expiration date, and license year covered by card.

(b) If a certified applicator is employed by a licensee, his certified applicator's identification card shall bear the same license number ~~and license phase(s)~~ as that of his ~~employer.~~ employer and the certification phases held by his employer in which the applicator has become certified. Each certified applicator's card shall bear only one license number, one company name, and not more than three ~~license~~ certification phases.

Authority G.S. 106-65.29.

.0313 REGISTERED TECHNICIAN'S IDENTIFICATION CARDS/TRAINING MATERIALS

(a) A registered technician's identification card shall contain, but not be limited to, the following information:

(1) name of registrant;
(2) name of licensee or employer;
(3) name of licensee's company;
(4) address of licensee's company;
(5) license number and phase(s) of licensee;
(6) age, weight, height, color of hair and eyes of registrant;
(7) job classification of card holder;
(8) issuance date, expiration date and license year covered by card.

(b) The registered technician's identification card and the license of the employer of the card holder shall bear the same license number and license phase(s). Each registered technician's identification card shall bear only one license number, one company name, and not more than three license phases.

(c) A licensee or non-commercial certified applicator applying for the issuance or renewal of a registered technician's identification card for his employee shall certify to the Division that the employee has completed employee training approved by the Committee in structural pest control work.

(d) ~~In the event the Committee approves employee training materials produced by the Division, such materials shall be purchased for each home office and by at least one non-commercial certified applicator at each business location; provided, however, licensees performing work under the structural pest control license of another and non-commercial certified applicators who are not currently engaged in structural pest control shall not be required to purchase the training materials. The following training material is approved by the Committee: "Safe Use of Pesticides for Structural Pests" video at a cost of fifty dollars ($50.00) per video.~~ All individuals who make application for the issuance, not renewal, of Registered Technicians Identification Cards, after July 1, 1998 shall complete the following approved training or its equivalent, as approved by the Division, before becoming eligible for the identification card:

(1) Introductory Training:

(A) Introductory training shall include completion of the workbook, *Introductory Training for Registered Technicians* and;

(B) A minimum of 24 hours of on-the-job

training in applicable phases of structural pest control by the licensee, certified applicator, or registered technician having at least two years of experience;

(C) Introductory training shall be completed before the employee is permitted to mix or apply pesticides without the on-site supervision of a registered technician, certified applicator or licensee.

(2) On-the-job training involving the methods and materials the employee will use in the day-to-day performance of his duties.

(3) The *North Carolina Structural Pest Control Registered Technician School.* A fee of twenty-five dollars ($25.00) shall be charged for each employee attending the Registered Technician School.

(e) Training materials and records shall be made available for inspection during regular business hours upon request by the ~~Division.~~ Division and shall be retained two years beyond the last date of the individual's employment.

Authority G.S. 106-65.29.

.0323 DISPLAY OF LICENSE AT PLACE(S) OF BUSINESS

All structural pest control licenses shall be kept at the business address on the license. ~~In the case of a non-resident license holder, the license shall be kept at the office shown on license certificate, unless authorization is obtained from the Division to keep the license at the address of the resident agent.~~ All licenses shall be subject to inspection by the Division anytime during regular business hours.

Authority G.S. 106-65.29.

.0325 DUTY OF LICENSE HOLDER TO CONTROL ACTIVITIES

(a) The licensee shall be actively and personally engaged in the supervision of the structural pest control activities of the office to which his/her license is assigned.

~~(a)~~ (b) If any office or individual employee of a license holder is not within 75 miles of the licensee's residence, by the nearest public road, the licensee shall submit to the committee, in writing, information to show that he is, in fact, controlling, directing and supervising the structural pest control activities of said office or employee. ~~In the event information submitted to the committee by a license holder is insufficient for the committee to determine that said holder is, in fact, controlling, directing and supervising the structural pest control activities of his office or employees, the committee shall require said holder to appear before it and set forth, in detail, information to show that he is, in fact, in charge of the structural pest control activities of his office or employees.~~

(c) In the event information submitted to the committee by a license holder is insufficient for the committee to determine that said holder is, in fact, controlling, directing and supervising the structural pest control activities of his office or employees, the committee shall require said holder to appear before it and set forth, in detail, information to show that he is, in fact, in charge of the structural pest control activities of his office or employees.

(d) The information required in Paragraph (b) of this Rule shall be submitted within 10 days of employment of any individual to which Paragraph (b) of this Rule applies and at the time the license or identification card is issued, reissued or renewed.

~~(b)~~ (e) It shall be a violation of the rules and regulations of the committee for any license holder to fail to adequately control, direct and supervise the structural pest control activities of his office or employees.

Authority G.S. 106-65.29.

.0328 RECORDS: PESTICIDES AND APPLICATION EQUIPMENT USED

(a) All required structural pest control records and pesticides and application equipment used by the licensee or non-commercial certified applicator shall be maintained at the office location to which the license or certified applicator's card is ~~issued unless prior approval for another location has been granted by the Division. All such records, pesticides and equipment shall be made available for inspection during regular business hours upon request by the Division.~~ issued.

(b) Notwithstanding the requirements of Paragraph (a) of this Rule, a licensee may request permission, annually, from the Division, to maintain records, pesticides and application equipment in a location other than the office location specified in Paragraph (a) of this Rule. In determining whether or not to grant such permission, the Division shall ensure that its ability to regulate the licensee will not be adversely affected by granting the request.

(c) All such records, pesticides and equipment shall be made available for inspection during regular business hours upon request by the Division.

Authority G.S. 106-65.29.

SECTION .0400 - PUBLIC SAFETY

.0401 PUBLIC SAFETY: STORAGE AND HANDLING OF CONTAINERS

(a) All pesticides shall be kept securely, in leakproof containers and labeled as specified in Rule .0402 of this Section.

(b) In no case shall containers of pesticide(s) be left where pets, domestic animals, children or other unauthorized persons might remove or consume the contents.

(c) Food containers shall not be used as pesticide containers.

(d) When pesticides are ~~carried~~ stored or transported in or on a vehicle, a suitable storage space shall be provided thereon. Such space shall be constructed so as to maintain all pesticide containers in a manner which will prevent spills and

shall be locked when the vehicle is unattended.

Authority G.S. 106-65.29.

.0402 LABELING PESTICIDE CONTAINERS

(a) All pesticide concentrates and poison baits stored in containers other than original shall be prominently labeled to give the following information:

(1) manufacturer's complete brand name of product;
(2) percentage of each active ingredient;
(3) EPA registration number;
(4) signal word (as it appears on the pesticide label);
(5) use classification, if classified, (as it appears on the label).

(b) All pesticide containers, except those described in ~~Rule .0402(a)~~ Paragraph (a) of this Rule and application equipment of 15 gallon capacity or less, shall be prominently labeled to give the following information:

(1) manufacturer's complete brand name of product;
(2) the word "dilute" if diluted;
(3) if diluted, kind of diluent (water, oil, dust, etc.);
(4) signal word (as it appears on the pesticide label).

(c) Pesticide containers labeled in accordance with U.S. DOT HM-181 shall be considered to be in compliance with this Rule, provided that the licensee or certified applicator can demonstrate that the container labeling is in compliance with HM-181.

Authority G.S. 106-65.29.

.0403 FIRST AID

First aid equipment and first aid procedures, approved by the committee, or EPA or Federal Occupational Safety and Health Administration, shall be placed in all service vehicles ~~in which pesticides are stored, carried, or transported~~ and in all other areas where pesticides are stored or handled.

Authority G.S. 106-65.29.

.0404 NOTIFICATION

~~In case of poisoning, the~~ The licensee or ~~his authorized agent or~~ the certified applicator ~~shall, upon demand of the committee or enforcement agency,~~ and their employees shall reveal ~~upon verbal or written request,~~ the ~~name(s) of pesticide(s),~~ name, active ingredient(s), ~~and formulation therein as used, whether it be solid, liquid, or gas,~~ formulation, and EPA Registration No. of any pesticide applied on any property, on request to:

(1) the client or his authorized agent, the property owner or occupants, any other individual affected by the pesticide application,
(2) a ~~physician,~~ physician or other emergency medical personnel,
(3) the committee, or
(4) the Division.

Authority G.S. 106-65.29.

.0406 SPILL CONTROL

Licensees and certified applicators shall maintain adequate spill control materials, equipment, or a combination thereof, based upon the type and quantity of pesticides present, at all locations used to store pesticides and on all service vehicles used to store or transport pesticides.

Authority G.S. 106-65.29.

SECTION .0500 - WOOD-DESTROYING ORGANISMS

.0501 WOOD-DESTROYING INSECTS: EXCLUDING SUBTERRANEAN TERMITES

(a) Determining Active Infestations of Wood-Destroying Beetles. The licensee, certified applicator, and/or his representative(s) making the inspection for wood-destroying beetles shall be responsible for determining the presence or absence of an active infestation(s). All proposals for the treatment of wood-destroying insects under ~~Rule .0501(a)~~ Paragraphs (a) and (b) of ~~these Rules and Regulations~~ this Rule shall be in writing and contain the name(s) of the wood-destroying insects(s) to be controlled, that part of the structure to be covered under the agreement (entire structure, understructure only, entire interior of the garage, etc.), and the basis on which the licensee, certified applicator, or his representative(s) determined the infestation to be active or inactive as set forth herein below:

(1) Powder Post Beetle(s) (Anobiidae, Bostrichidae and Lyctidae)
  (A) The presence of frass, the color of fresh cut wood, will be acceptable as evidence of an active infestation of powder-post beetles.
  (B) The presence of holes alone or holes and dull colored frass will not be acceptable evidence of an active infestation of powder-post beetles except in such cases where live larvae or pupae are found in wood members. Where holes alone are found in wood members, this should encourage the licensee, certified applicator, or his representative(s) to check the property during the optimum time for ~~frass production by larvae--May~~ adult emergence--May 1 to August 31. It should be pointed out that Anobiid beetles usually confine themselves to softwoods such as pine while Lyctid beetles confine themselves to hardwoods such as oak or pecan.
  (C) If a licensee performs a guaranteed or warranted treatment for powder post beetles, the period of initial liability with regards to active infestation shall be 18 months from the original treatment date.
  (D) If an active infestation of powder-post beetles is found by the Division in any structure treated for said beetles, during or

after the first complete adult beetle emergence period within 18 months of the treatment date, the licensee or certified applicator responsible for said treatment shall retreat the infested areas of the structure within 30 days of written notice from the Division. Retreatment shall be performed, upon request of the Division, in the presence of a structural pest control inspector.

(2) Old House Borer (Hylotrupes bajulus). The presence of old house borer or oval exit holes with sawdust-like frass consisting of fine powder with tiny pellets in oval galleries in pine or other softwoods will be evidence of an active infestation of the old house borer. It should be pointed out that feeding larvae of the old house borer can be detected by sound; however, other long-horned borer and flatheaded borer larvae make similar sounds. Therefore, frass and insect characteristics should be used to confirm identity.

(b) Identifying Other Wood-Destroying Insects. There are other species of wood-destroying insects which occur in structures. Before recommending treatment or selling a service for the prevention or control of wood-destroying insects, other than powder-post beetles or old house borer, the licensee, certified applicator, and/or their representative(s) shall identify the wood-destroying insect(s) in question and inform the property owner, or his authorized representative of the identity and habits of the wood-destroying insect(s) in question.

(c) Any re-application of pesticides under this Rule ~~.0501~~ shall be in accordance with the label of the pesticide used.

(d) Pesticide applications for the prevention of wood-boring beetles may only be performed after informing the property owner or their authorized agent in writing of the biology and conditions supporting the infestation and survival of said insects. Such notice shall include an evaluation of the condition of the structure(s) to be treated and a statement as to whether or not such condition will support an infestation by wood-boring beetles.

Authority G.S. 106-65.29.

.0502 PESTICIDES FOR SUBTERRANEAN TERMITE CONTROL

(a) ~~Any~~ Through December 31, 1998, any pesticide may be used for the prevention and/or control of subterranean termites provided that it bears an EPA-approved label for such use and the pesticide is applied according to the directions of its label.

(b) Effective January 1, 1999, only those products which bear an EPA-approved label for such use and for which the Committee has received the following information may be used for subterranean termite control:

(1) A statement from the pesticide registrant that the termiticide is intended, either for use:

(A) as a supplement to or in combination with other treatment(s); or

(B) primarily by itself, as the sole source of termite control; and

(2) For termiticides intended to be used alone, a copy of the efficacy data developed for and/or provided to the EPA for registration of the pesticide.

(c) Termiticides intended for use as a supplement to or in combination with other termiticides may not be used alone without first disclosing the registrants' recommendations to the property owner or agent.

(d) A list of termiticides for which information and/or data has been received may be obtained by writing the North Carolina Department of Agriculture and Consumer Services, Structural Pest Control Division, PO Box 27647, Raleigh, NC 27611 or by calling (919) 733-6100.

Authority G.S. 106-65.29.

.0503 SUBTERRANEAN TERMITE CONTROL: BUILDINGS AFTER CONSTRUCTED

(a) Basement or Crawl-Space Construction:

(1) Access openings shall be provided to permit inspection of all basement and crawl-space areas of a building and all open porches.

(2) Clean up and remove all wood debris and cellulose material, such as wood, paper, cloth, etc., contacting soil in all crawl-space areas. This excludes shavings or other cellulose material too small to be raked with the tines of an ordinary garden rake. Remove all visible stumps from all crawl-space areas. Remove all visible form boards in contact with soil.

(3) Remove all earth which is within 12 inches of the bottom edges of floor joists or within eight inches of the bottom edges of subsills or supporting girders, but not below footings of foundation walls. If foundation footings are less than 12 inches below the bottom edges of joists or subsills or supporting girders, a bank of soil 12 inches to 18 inches wide shall be left adjacent to footings for the purpose of support. Clearance shall be adequate to provide passage of a ~~man~~ person to all crawl-space areas of a building.

(4) All visible termite tubes or tunnels on pillars, pilasters, foundation walls, chimneys, step buttresses, sills, pipes, and other structures below the sill line shall be removed.

(5) Eliminate all wooden parts ~~between~~ making contact with the building and soil, both outside and inside, except those which appear to be pressure treated:

(A) No wood of any access opening shall be in contact with the soil.

(B) Where wood parts such as door frames, partition walls, posts, stair carriages or other wood parts can be reasonably ascertained to be making direct soil contact through concrete or where there is evidence of

termite activity or damage they shall be cut off above the ground or floor level, and the wood removed from the concrete; and the hole shall be filled with concrete or covered with a metal plate, after the point of contact has been treated with a termiticide.

(C) Where wood parts such as vertical wood supports or other wood parts under a building or steps outside a building are not resting on solid masonry or concrete bases extending at least two inches above the soil surface or are in direct soil contact and such supports or steps are not removed, the supports and steps shall be cut off and set on a solid masonry or concrete footing extending at least two inches above the ground after the point of contact has been treated with a termiticide.

(D) When wood skirting and lattice work are suspended, there shall be at least a two-inch clearance between the top of the soil and the bottom edges of the wood skirting or lattice work. If the two-inch clearance is not acceptable to the property owner, it may be closed with solid masonry or concrete but a minimum clearance of one-fourth of one inch shall be provided between the masonry and wood.

(E) Where wood fence posts are making contact with the soil and any part of a building and such posts are not removed, a minimum clearance of one-fourth of one inch shall be provided between the posts and the building part; a continuous, non-corrosive, sheet metal barrier, extending two inches beyond each side of the post(s), may be substituted for the clearance. If the fence has wood railings, alteration(s) of the fence post against the building will not suffice.

(F) Where houses or decks are built on pressure treated wood pilings, pillars or all-weather wood foundations, such pilings, pillars and wood foundation members, including wood step supports, shall not be subject to ~~Rule .0503(a)(5)(A),~~ Parts (a)(5)(A), (B) or ~~(C).~~ (C) of this Rule.

(6) ~~Drill~~ Where evidence of either past or present subterranean termite infestation exists, drill and treat all voids in multiple masonry foundation and bearing walls and all voids created by their ~~placement.~~ placement at and a minimum distance of four feet in all directions from such evidence. Porch foundation walls shall be drilled to a distance of three feet from the main foundation wall and the point of contact with any wooden members.

(A) The distance between drill holes shall not exceed 16 lineal inches and holes shall be no more than 16 inches above the footing or immediately above the lowest soil level whichever is closest to the footing.

~~(B) The drilling of voids in four inch thick hollow structural block shall not be required under this Rule.~~

~~(C)~~ (B) Test drill the main foundation wall behind any porch or slab area to determine if the porch or slab is supported by a wall whose placement creates a void between itself and the main foundation wall. If test reveals that a void exist, drill and treat all voids therein as specified in this Rule.

(7) ~~Drill~~ Where evidence of either past or present subterranean termite infestation exists, drill and treat all voids in all multiple masonry pillars, pilasters, chimneys, and step ~~buttresses,~~ buttresses associated or in contact with such evidence, and any void created by their placement:

(A) The distance between drill holes shall not exceed 16 lineal inches and shall be no more than 16 inches above the footing or immediately above the lowest soil level, whichever is closest to the footing.

(B) Drilling shall not be required if solid concrete masonry footings of pillars, pilasters, chimneys or step buttresses extend eight inches or more above top of soil surface.

~~(C) The drilling of voids in four inch thick hollow structural block shall not be required under this Rule.~~

(8) Where concrete slabs over dirt-filled areas are at the level of, above the level of, or in contact with, wood foundation members treat dirt-filled areas with a termiticide as follows:

(A) Drill vertically three-eighths of one inch or larger holes in the slab, no more than ~~eight~~ six inches from the building foundation, at no more than ~~16~~ 12 inch intervals and treat soil below ~~slab,~~ slab from the bottom of the slab to the top of the footing; or

(B) Drill horizontally three-eighths of one inch or larger holes in the foundation wall of the concrete slab, no more than ~~eight~~ six inches from the building foundation, every 16 vertical inches starting immediately below the bottom of the slab and rod treat all soil adjacent to building foundation from the bottom of the slab to the lowest outside grade.

(9) ~~Treat~~ Trench or trench and rod treat soil to establish a continuous termiticide barrier in the soil adjacent to, but not more than ~~eight~~ six inches from, all pillars, pilasters, chimneys, pressure treated wood supports and step buttresses; inside of foundation walls; outside of foundation walls; the

outside of foundation walls of concrete slabs over dirt-filled areas and the entire perimeter of a slab foundation ~~wall.~~ wall from the top of the grade to the top of the footing or to a minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing but not below the bottom of the footing. The trench shall be no less than six inches in depth or to the bottom of the footing, whichever is less. Where outside concrete slabs adjacent to the foundation prevent trenching of soil, drill three-eighths of one inch or larger holes, not more than ~~16~~ 12 inches apart and within ~~8~~ six inches of the foundation wall, through slabs or through adjoining foundation wall, and rod treat soil below ~~slabs.~~ slabs as indicated above to establish a continuous termiticide barrier at all known points of entry. The soil immediately around pipes and other utility conduits making contact with the structure, shall be treated.

(10) Where stucco on wood or similar type ~~materials~~ materials, including extruded or expanded rigid foam insulation or similar materials, extend to or below grade, trench soil to a depth below and under the edge of the stucco or similar type materials and treat soil to establish a continuous termiticide barrier in the soil. After the soil has been treated, a masonry barrier wall may be erected to hold back the soil from making direct contact with the stucco or similar type materials. Where outside slabs on grade adjacent to foundation prevent trenching of soil, drill three-eighths of one inch or larger holes through slabs within ~~eight~~ six inches of the foundation wall, or through adjoining foundation wall, not more than ~~16~~ 12 inches apart and rod treat soil below slabs. Where drain tile, french drains or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage system.

(11) ~~Rule .0503(b)~~ Paragraph (b) of this ~~Section~~ Rule shall be followed if applicable to basement or crawl-space construction.

(b) Slab-on-Ground Construction:

(1) Treat soil ~~with~~ to establish a continuous termiticide barrier in, under, and around, all traps and openings in the slab.

(2) Drill vertically three-eighths inch or larger holes, at all visible or known expansion and construction joints, cracks, and crevices in slab and around all utility conduits in the slab at no more than ~~16~~ 12 inch intervals and rod treat soil below ~~slab.~~ slab to establish a continuous termiticide barrier from the bottom of the slab to a depth of 30 inches or to the top of the footing, whichever is less, at all known points of entry. Where wooden structural members are in contact with concrete or masonry floors which have joints or cracks beneath the wooden structural members, including wall plates in utility or storage rooms adjoining the main building, the concrete or masonry shall be drilled and treated in order to achieve treatment of the soil beneath them. As an exception, expansion and construction joints at the perimeter of the exterior wall may be rod treated by drilling through the foundation wall at no more than ~~16-inch~~ 12-inch intervals directly below the bottom of the slab.

(3) ~~Rule .0503(a)~~ Paragraph (a) of this ~~Section~~ Rule shall also be followed.

(c) Reapplication of Pesticide(s) to a Structure Previously Treated for Subterranean Termite Control:

(1) A reapplication of termiticide shall be required if soil test by the Division reveals that the soil is deficient in the termiticide which was applied to the soil.

(2) Any re-application of pesticides under this Rule ~~.0503~~ shall be in accordance with the label of the pesticide used.

(d) A licensee may enter into a written agreement for the control or prevention of subterranean termites in a building after it has been constructed without having to abide by ~~Rules .0503(a)~~ Paragraphs (a) and (b) of this ~~Section~~ Rule provided that:

(1) The licensee has written proof, satisfactory to the committee, that he or his authorized agent, treated the entire building for subterranean termites at the time of its construction as required in Rule .0505 or .0506 of this Section (or comparable regulations by the committee at the time of ~~treatment).~~ treatment); and

(2) A written agreement is issued in compliance with Rule .0605 of ~~Section .0600.~~ this Chapter.

(e) Paragraphs (a) and (b) of this Rule shall not apply to subterranean termite treatment performed using termite bait(s) labeled for protection of the entire structure when the licensee provides a warranty for the control of subterranean termites on the entire structure.

Authority G.S. 106-65.29.

.0504 REPORTING DAMAGE: INFESTATION: UNINSPECTED AREAS

(a) When inspecting for wood-destroying insects or wood-decay organisms or both, all wood members of a structure which can be ascertained by visual inspection to be damaged shall be promptly brought to the attention of the property owner or his authorized agent and shall also be indicated in writing, in the contract or agreement, by the licensee or his authorized agent.

(b) The licensee or his authorized agent, shall indicate in writing, in the contract or agreement, whether or not he is responsible for the replacement, repair, or re-enforcement of any or all of the wood members which were ascertained by visual inspection to be damaged.

(c) Any visible evidence of infestation of wood-destroying organisms in, on, under, or in contact with, a structure shall be promptly brought to the attention of the property owner or his authorized agent and shall be specified, in writing, in the contract or agreement, by the licensee or his authorized agent.

(d) The licensee or his authorized agent shall indicate and describe, in writing, on the contract or agreement, any area(s) of the building or crawl-space of the building which have not been inspected and give the reasons for not making such inspection(s).

~~(e) Rule .0504 shall not apply to inspections made pursuant to Rule .0602 of these Rules and Regulations.~~

Authority G.S. 106-65.29.

.0505 SUBTERRANEAN TERMITE PREVENTION/RES BLDGS UNDER CONST

(a) All treatments performed pursuant to this Rule shall be performed at the label recommended rate and concentration only.

~~(a)~~ (b) Basement or Crawl-Space Construction

(1) Establish a vertical barrier in the soil by trenching or trenching and rodding along inside of the main foundation wall; the entire perimeter of all multiple masonry chimney bases, pillars, pilasters, and piers; and both sides of partition or inner walls with a termiticide from the top of the grade to the top of the ~~footing.~~ footing or to a minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing but not below the bottom of the footing. Trench shall be no less than six inches in depth or to the top of the footing, whichever is less. Where drain tile, french drains or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage system.

(2) After a building or structure has been completed and the excavation filled and leveled, so that the final grade has been reached along the outside of the main foundation wall, including any landscaping to be completed by the builder, establish a vertical barrier in the soil by trenching or trenching and rodding adjacent to the outside of the main foundation wall with a termiticide from the top of the grade to the ~~top~~ bottom of the ~~footing, according to the label; except that, where~~ footing or, to a minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing and not below the bottom of the footing. Trench shall be no less than six inches in depth or to the bottom of the footing, whichever is less. Where drain tile, french drains or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage system.

(3) Establish a horizontal termiticide barrier in the soil within three feet of the main foundation, under slabs, such as patios, walkways, driveways, terraces, gutters, etc., attached to the building. Treatment shall be performed before slab is poured, but after fill material or fill dirt has been spread.

(4) Establish a horizontal termiticide barrier in the soil under the entire surface of floor slabs, such as basements, porches, entrance platforms, garages, carports, breezeways, sun rooms, etc. The treatment shall be performed before slab is poured but after fill material or fill dirt has been spread.

(5) Establish a vertical termiticide barrier in the soil around all critical areas, such as expansion and construction joints and plumbing and utility conduits, at their point of penetration of the slab or floor or, for crawl space construction, at the point of contact with the soil.

(6) If concrete slabs are poured prior to treatment, treatment of slabs shall be performed as required by ~~Rule~~ 2 NCAC 34 .0503(a) or (b): Except that; the buyer of the property and/or his authorized agent may release the licensee from further treatment of slab areas under this Rule provided such release is obtained in writing on the form prescribed by the Division. This form may be obtained by writing the North Carolina Department of ~~Agriculture,~~ Agriculture and Consumer Services, Structural Pest Control Division, P.O. Box 27647, Raleigh, NC 27611 or by calling (919) 733-6100.

~~(b)~~ (c) Slab-on-Ground Construction. All parts of ~~Rule .0505~~ Paragraph (a) of this ~~Section~~ Rule shall be followed, if applicable, in treating slab-on-ground construction.

(d) All treating requirements specified in this Rule shall be completed within 60 days following the completion of the structure, as described in Subparagraph (b)(2) of this Rule.

Authority G.S. 106-65.29.

.0506 MIN REQUIRE/SUBTERRANEAN TERMITE PREV/COMMERCIAL BLDGS UNDER CONST

(a) All treatments performed pursuant to this Rule ~~.0506~~ shall be performed at the label recommended rate and concentration only.

(b) Minimum Treatment Requirements:

(1) Establish a vertical barrier in the soil by trenching or trenching and rodding along inside of the main foundation wall; the entire perimeter of all multiple masonry chimney bases, pillars, pilasters, and piers; and both sides of partition or inner walls with a termiticide from the top of the grade to the ~~top~~ bottom of the ~~footing.~~ footing or a minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be performed

adjacent to the footing but not below the bottom of the footing. Trench shall be no less than six inches in depth or to the bottom of the footing, whichever is less. Where drain tile, french drains or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage system.

(2) After a building or structure has been completed and the excavation filled and leveled, so that the final grade has been reached along the outside of the main foundation wall, including any landscaping to be completed by the builder, establish a vertical barrier in the soil adjacent to the outside of the main foundation wall by trenching or trenching and rodding with a termiticide from the top of the grade to the top of the ~~footing, according to the label; except that, where~~ footing or to a minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing and not below the bottom of the footing. Trench shall be no less than six inches in depth or to the bottom of the footing, whichever is less. Where drain tile, french drains or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage system.

(3) Establish a horizontal termiticide barrier in the soil within three feet of the main foundation, under slabs, such as patios, walkways, driveways, terraces, gutters, etc. Treatment shall be performed before slab is poured, but after fill material or fill dirt has been spread.

(4) Establish a vertical termiticide barrier in the soil around all critical areas, such as expansion and construction joints and plumbing and utility conduits, at their point of penetration of the slab of floor or, for crawl space construction, at the point of contact with the soil.

(5) If concrete slabs are poured prior to treatment, treatment of slabs shall be performed as required by ~~Rule~~ 2 NCAC 34 .0503(a) or (b).

Authority G.S. 106-65.29.

.0507 APPLICATION EQUIPMENT

Effective July 1, 1998, all application equipment used to apply pesticides for wood-destroying organisms, other than compressed air sprayers of less than five gallon capacity shall:

(1) have all hoses securely attached to the tank, pump and other equipment components;

(2) be constructed so that the output pressure can be adjusted to meet the requirements of the pesticide being applied; and

(3) except for in-line injection systems, be equipped with a functional bypass flow agitation device.

Authority G.S. 106-65.29.

.0508 WOOD-DECAY FUNGI

(a) The following conditions shall be considered satisfactory evidence of and necessary conditions for an active wood-decay fungus infestation:

(1) Moisture content of the wood sufficient to support the growth of wood-decay fungus, as determined through the use of a moisture meter; and

(2) The presence of mycelial growth or characteristic damage from wood-decay fungi.

(b) A moisture content in the wooden members of a structure in excess of 20 percent of a dry weight basis shall be recognized as an indication that some steps should be taken to control the moisture level of the affected member(s).

(c) Pesticide applications for the control or prevention of wood-decay fungi may only be performed after informing the property owner or their authorized agent in writing of the biology and conditions supporting the growth of wood-decay fungi. Such notice shall include an evaluation of the condition of the structure, including the moisture content of the wooden members to be treated as determined with a moisture meter, and a statement as to whether or not such condition(s) will support the growth of wood-decay fungus.

Authority G.S. 106-65.29.

SECTION .0600 - WOOD-DESTROYING ORGANISMS AGREEMENTS

.0602 WOOD-DESTROYING INSECT AND OTHER ORGANISM REPORTS

(a) Any written statement as to the presence or absence of wood-destroying insects or organisms or their damage in buildings or structures for sale shall be on the WDIR 100. An incomplete or inaccurate Wood-Destroying Insect Information Report shall not be acceptable and the issuance of such a report is grounds for disciplinary action by the Committee. No Wood-Destroying Insect Information Report or Wood-Destroying Organism Report shall be issued before an inspection of the building or structure is made. Each Wood-Destroying Insect Information Report issued by a licensee shall be kept in the files of said licensee and made available for inspection upon request of the Division.

(b) If during the inspection of a structure, a licensee or his authorized agent finds live subterranean termites or visible evidence of past or present infestation of subterranean termites (such as tubes, damage, cast wings, infested wood scraps or other cellulose materials, etc.) in the structure and there is no visible evidence that said structure has been treated for subterranean termites, the licensee shall treat said structure for subterranean termites prior to the issuance of a Wood-Destroying Insect Information Report on the structure which states that the structure is free from subterranean ~~termites.~~ termites or that a previous infestation is inactive.

(c) If a treatment is performed in conjunction with a WDIR, a copy of the written agreement and warranty, if any, shall be attached to and become part of the WDIR.

~~(c)~~ (d) A licensee, certified applicator or registered technician shall not remove or destroy, or cause the removal or destruction of, any wood-destroying organism evidence discovered in, on, under or in or on debris under a structure inspected pursuant to this Rule except as required by Paragraph (b) of this Rule.

Authority G.S. 106-65.29.

.0604 WOOD-DESTROYING ORGANISMS RECORDS

(a) A duplicate of each written agreement and waiver (if applicable), for the control or prevention of any wood-destroying organism shall be kept by the licensee for a minimum of two years beyond the expiration date of the written agreement. The duplicate of each written agreement shall contain, in addition to the information specified under ~~Rule~~ 2 NCAC 34 .0605(a) or ~~Rule .0605(d) of this Section,~~ (d), the following:

(1) EPA approved brand name of pesticide used; ~~and~~

(2) Names of all employees who applied pesticide; and

~~(2)~~ (3) Information required by ~~EPA.~~ EPA;

(4) For restricted use pesticides:

(A) concentration and approximate total volume of each pesticide applied; and

(B) Subparagraphs (a)(1) and (2) and Part (a)(4)(A) of this Rule shall also be included on the customer's copy of the written agreement.

(b) A duplicate of each wood-destroying insect or wood-destroying organism report shall be kept by the licensee for a minimum of two years beyond the date of issuance.

(c) Non-commercial certified applicators shall maintain the following records for two years beyond the last date of treatment:

(1) EPA approved brand name of all pesticides used;

(2) Concentration and approximate total volume of pesticide applied;

(3) Names of all employees that applied pesticide;

~~(2)~~ (4) Target pest;

~~(3)~~ (5) Site of application;

~~(4)~~ (6) Date of application; and

~~(5)~~ (7) Information required by EPA.

(d) If the pesticide used to control any wood-destroying organism requires or recommends monitoring or inspecting for the pest to be controlled, the licensee, certified applicator or their employees shall make and maintain records of all such inspection or monitoring activities. Such records shall be made available for inspection as provided for in Rule .0328 of this Chapter.

Authority G.S. 106-65.29.

.0605 CONTRACTUAL AGREEMENTS FOR WOOD-DESTROYING ORGANISMS

(a) All agreements for the control or prevention of wood-destroying organisms in existing structures shall be in writing and shall clearly set forth and include the following:

(1) Date property was inspected and full name of the inspector;

(2) Exact location of property inspected or treated;

(3) Complete name and address of the property owner or his authorized agent;

(4) Complete name and address of the licensee;

(5) License number and phase(s) of the licensee and full name of company licensee represents;

(6) Signature of licensee or his authorized agent;

(7) ~~For existing structures, the written agreement shall include a~~ A foundation diagram or, if required or recommended by the label of the pesticide used, a site plan of the structure(s) or portions of such structure(s) inspected. The diagram or site plan shall clearly indicate and make full disclosure ~~of the location of individual water sources, any visual evidence of wood-destroying organism infestation, whether it be active or inactive, and visibly damaged timbers;~~ of:

(A) The location of individual water sources;

(B) Any visible evidence of wood-destroying organism infestation;

(C) Whether the infestation is active or inactive;

(D) The location of any visibly damaged timbers;

(E) Portions of the structure treated and not treated;

(F) The minimum number and proposed location(s) of bait or monitoring device placements, if applicable; and

(G) For treatment of wood-decay fungus infestations, the location and result of all moisture meter readings obtained pursuant to Rule .0508 of this Chapter;

(8) The date upon which the written agreement is entered into and the period of time covered by the written agreement;

(9) The written agreement must clearly indicate, by complete not abbreviated common name(s), the wood-destroying organism(s) to be controlled or prevented, and ~~covered under~~ the ~~written agreement;~~ complete terms of the warranty to be issued, if any;

(10) Whether or not reinspections are to be made and, if so, approximate time interval between, and renewal fees for same;

(11) Conditions under which retreatments will be made;

(12) Total price to be charged for treatment service, and for repairs or excavations, where such are to be performed;

(13) The written agreement, waiver (if applicable) and Wood-Destroying Insect Report or Wood-Destroying Organism Report, shall not show or include the address and telephone number of any

licensee's representative or employee other than the address and telephone number of those specified in Subparagraphs (a)(3), (4), and (5) of this Rule;

(14) Any licensee or business entity advertising to be bonded shall advise each customer, in writing, in the proposal, whether or not the ~~contract~~ warranty or written agreement will be covered by a bond of any type;

(15) If the performance of the work is guaranteed by a bond, the agreement shall set forth those performance guarantees in wording identical to that in the bond itself;

(16) ~~Rule~~ 2 NCAC 34 .0501(a) ~~of this Chapter~~ shall also be ~~followed.~~ followed;

(17) Whether the written agreement or warranty may be transferred to subsequent owners of the property and the terms of any such transfer.

(b) A structure or structures covered by a ~~contract~~ written agreement or warranty for wood-destroying organism(s) treatment shall not knowingly be placed under an additional ~~contract~~ written agreement or warranty for the same treatment while the first ~~contract~~ written agreement or warranty is still in ~~effect.~~ effect without first obtaining specific written consent in letter form signed by the property owner or his authorized agent.

(c) When periodic reinspections or retreatments are specified in written agreements for the control or prevention of wood-destroying organisms, the licensee shall issue to the property owner or his authorized agent, after each reinspection or retreatment, a signed report of each reinspection or retreatment showing the condition of the property with respect to the presence or absence of wood-destroying organisms. A record of such reinspections and retreatments shall be kept in the file of the licensee. Such reports shall be subject to inspection by the enforcement agency or committee.

(d) All agreements for the control or prevention of wood-destroying organisms in buildings under construction shall be in writing and shall clearly set forth and include the following:

(1) Date of final treatment and period of time covered by the written agreement;

(2) Exact location of the treated property;

(3) Complete name and address of the property owner or his authorized agent;

(4) Complete name and address of the licensee;

(5) License number and phase(s) of the licensee and full name of company licensee represents;

(6) Signature of licensee or his authorized agent;

(7) The written agreement must clearly indicate, by complete not abbreviated common name(s), the wood-destroying organism(s) to be controlled or prevented, and ~~covered under~~ the ~~written agreement;~~ complete terms of the warranty to be issued, if any;

(8) Whether or not reinspections are to be made and if so, approximate time interval between, and renewal fees, if any, for same;

(9) Conditions under which retreatments will be made;

(10) Total price to be charged for treatment service;

(11) Any licensee or business entity advertising to be bonded shall advise each customer, in writing, in the proposal, whether or not the ~~contract~~ warranty or written agreement will be covered by a bond of any type;

(12) If the performance of the work is guaranteed by a bond, the agreement shall set forth those performance guarantees in wording identical to that in the bond itself;

(13) ~~Rule~~ 2 NCAC 34 .0604(a) ~~of this Section~~ shall also be ~~followed.~~ followed;

(14) Whether the written agreement or warranty may be transferred to subsequent owners of the property and the terms of any such transfer.

(e) If the licensee provides preventive treatment(s) for subterranean termites to a structure(s) for someone such as a builder or construction company who is constructing the building(s) for someone else or with the purpose of offering the building(s) for sale, the licensee may enter into a single master agreement with the builder to provide the preventive treatment(s) for subterranean termites. This single master agreement shall include the following:

(1) Complete name and address of the builder, or his authorized agent;

(2) That information required in Subparagraphs (d)(4), (5), (6), (7), (8), (9), (10), (11), (12), (13), and ~~(13)~~ (14) of this Rule.

(f) When a structure is treated under an agreement with a builder, the licensee shall:

(1) Following completion of the treatment, and upon notification by the builder or buyer, issue a written agreement to the initial buyer. The written agreement issued to the buyer shall include the following:

(A) Complete name and address of the builder, or his authorized agent as it appears on the builder's agreement;

(B) That information required in Subparagraphs (d)(1), (2), (3), (4), (5), (6), (7), (8), (9), (11), and ~~(11)~~ (14) of this Rule. The builder shall be issued a copy of any written agreement issued the buyer.

(2) Maintain a record of each treatment performed on each structure to include the following information:

(A) Exact location of the structure treated;

(B) Date each treatment was performed;

(C) The portion(s) of the structure treated.

Authority G.S. 106-65.29.

SECTION .0700 - HOUSEHOLD PESTICIDES

.0701 PRECAUTIONS

(a) Household pest control servicemen's kits which contain

pesticides shall not be left where pets, domestic animals, children or other unauthorized persons might remove, contact, or consume the contents.

(b) When ~~covered~~ "tamper-proof" or "tamper-resistant" bait stations are required by the label for acutely toxic rodenticidal baits, each bait station shall be locked and adequately marked with the skull and crossbones ~~at least one inch high~~ and the word "poison," ~~each letter~~ both at least one inch high, and the name, address, and telephone number of the licensee and name of the company the licensee represents.

(c) When "tamper-proof" or "tamper-resistant" bait stations are required by the label of rodenticides other than those in Paragraph (b) of this Rule, each bait station shall be marked with the EPA approved brand name and the signal word from the label.

Authority G.S. 106-65.29.

.0703 WRITTEN RECORDS OF HOUSEHOLD PEST CONTROL

(a) Written records on the treatment for the control of all household pests shall be maintained by the licensee and made available for inspection at any time during regular business hours upon request from the Division. Such records shall include the following information:

(1) Complete name(s) and address(es) of both the certified applicator, if different than the licensee, and licensee or their authorized representatives and the property owner(s) or his authorized representative(s);

(2) Name and address of company represented by the certified applicator or licensee or their authorized representatives;

(3) Address(es) of property(ies) treated, type(s) of treatment(s), and date(s) treatment(s) performed;

(4) Common name(s) of pest(s) to be controlled or covered by the initial agreement or any subsequent treatments;

(5) EPA approved brand name of pesticide used; ~~and~~

(6) Information required by ~~EPA.~~ EPA;

(7) Name of licensee, certified applicator or registered technician making the application; and

(8) For restricted use pesticides, Subparagraphs (a)(5), (6) and (7) of this Rule shall also be included on the customer's copy of the written agreement or service record.

(b) Non-commercial certified applicators shall maintain and make available for inspection the following records of pesticides applied:

(1) EPA approved brand name of all pesticides applied;

(2) Target pest(s);

(3) Site of application;

(4) Date of application; ~~and~~

(5) Name of certified applicator or registered technician making the application; and

~~(5)~~ (6) Information required by EPA.

(c) Records must be retained for two years beyond the last date of treatment.

Authority G.S. 106-65.29.

SECTION .0800 - FUMIGATION

.0803 WRITTEN RECORDS OF FUMIGATION

(a) Written records shall be maintained on all fumigation operations and be made available for inspection, upon request, ~~from~~ by the enforcement agency or committee anytime during regular business hours. Such records shall include the following ~~information:~~ information for each fumigation performed:

(1) Complete name(s) and address(es) of both the certified applicator, if different than the licensee, and licensee or their authorized representatives and the property owner(s) or his authorized representative(s);

(2) Name and address of company represented by the licensee or certified applicator or their authorized representative;

(3) Address of property(ies) to be fumigated;

(4) Common name(s) of pest(s) to be fumigated;

(5) EPA approved common name of ~~pesticide~~ fumigant used;

(6) EPA registration number of fumigant applied;

~~(6)~~ (7) If a restricted-use pesticide is used, that information required by EPA;

(8) Total amount of fumigant applied;

(9) Name of licensee or certified applicator performing the fumigation;

(10) For restricted use pesticides, Subparagraphs (a)(5), (6), (8) and (9) of this Rule shall also be included on the customer's copy of the written agreement or service record;

~~(7)~~ (11) If the pest to be fumigated is a wood-destroying organism, all of Rule .0605 of ~~Section .0600~~ this Chapter shall be followed.

~~This Rule applies only to the fumigation of structures.~~

(b) Non-commercial certified applicators shall maintain the following records of pesticides applied:

(1) EPA approved brand name of all ~~pesticides~~ fumigants applied;

(2) EPA registration number of fumigant applied;

(3) Total amount of fumigant applied;

(4) Name of certified applicator performing the fumigation;

~~(2)~~ (5) Target pest(s);

~~(3)~~ (6) Exact site of application;

~~(4)~~ (7) Date of application; and

~~(5)~~ (8) Any information required by EPA.

(c) Records must be retained for two years beyond the last date of treatment or the expiration of the written agreement, if applicable.

Authority G.S. 106-65.29.

SECTION .0900 - DUTIES AND RESPONSIBILITIES OF LICENSEE

.0902 FINANCIAL RESPONSIBILITY

(a) A licensee shall obtain and maintain financial responsibility in the form of a general liability insurance policy which covers operations in progress and completed operations. The insurance policy must provide coverage for all employees that work for the licensee. If an insurance policy is issued to a structural pest control company that employs more than one licensee and the policy otherwise meets the standard set forth in this Rule, all licensees employed by the structural pest control company will be deemed to have insurance.

(b) The insurance policy required in Paragraph (a) of this Rule must provide the following minimum coverage:

(1)	Single limit	
	Property Damage	$100,000 Each Occurrence
	Bodily Injury	$300,000 Each Occurrence
(2)	Combined single limit	$300,000 Each Occurrence

(c) Each applicant for a license in any phase of structural pest control shall show evidence of his financial ability to properly indemnify persons suffering from the use or application of pesticides in the form of a Certificate of Insurance completed by the insurance company with the Division named as a certificate holder.

(d) The Certificate of Insurance shall clearly set forth the type of coverage, limits of liability, and any exclusions of the policy and shall have attached an endorsement which indicates that the policy provides coverage for any pollution or contamination occurring as a result of the use or application of any ~~pesticide.~~ pesticide or shall state that such an endorsement has been issued with the policy.

(e) The license applicant shall be responsible for the submission of the Certificate of Insurance to the Division as specified in Paragraphs (c) and (d) of this Rule. No license shall be issued, re-issued, or renewed until said Certificate of Insurance is received by the Division.

(f) The insurance policy(s) shall be with companies licensed, or otherwise approved to do business in North Carolina, by the NC Department of Insurance. The insurance policy shall be in full force and effect during the entire period covered by the license certificate. The license shall expire upon:

(1) reduction of the available coverage under the policy below the minimum limits set forth in Paragraph (b) of this Rule;
(2) cancellation of the policy; or
(3) expiration of the policy.

Such expired license shall be reinstated only upon satisfactory proof that the licensee has obtained the required financial responsibility coverage.

(g) The licensee shall give the Division at least 10 days notice prior to the occurrence of the following:

(1) cancellation of the policy;
(2) material change in the policy; or
(3) reduction of the available coverage under the policy below the minimum limits set forth in Paragraph (b) of this Rule.

(h) No structural pest control license shall be issued to any person where there exists an outstanding and unpaid final judgment against said person resulting from any civil suit arising out of damages suffered by a plaintiff as the result of a misuse of a pesticide by said person. Any current and valid structural pest control license shall become null and void 180 days following the imposition of a final judgment awarding damages to any plaintiff resulting from a civil suit arising out of losses suffered as the result of a pesticide misuse by the holder of said license unless the final judgment is settled in full within said 180 days.

(i) Paragraphs (a) through (g) of this Rule shall not apply to any person holding an inactive license as defined by ~~Rule .0102(30) of this Chapter.~~ 2 NCAC 34 .0102(30).

Authority G.S. 106-65.37.

.0904 PROHIBITED ACTS

(a) No reference shall be made by any certified applicator, licensee, business establishment or business entity in any form of advertising that would indicate approval, endorsement or recommendation by the committee, or by any agency of the federal government or North Carolina State, county, or city government.

(b) The use of a structural pest control license(s), certified applicator's identification card(s), registered technician's identification card(s) or licensee identification card(s) for any purpose other than identification is prohibited.

(c) In solicitation of structural pest control business, no licensee or his employees shall claim that inspections or treatments are required, authorized, or endorsed by any agency of the federal government or North Carolina State, county, or city government unless said agency states that an inspection or treatment is required for a specific structure.

(d) No licensee shall advertise, in any way or manner, as a contractor for structural pest control services, in any phase(s) of work for which he does not hold a valid license(s) as provided for under G.S. 106-65.25(a), unless said licensee shall hold a valid certified applicator's identification card or registered technician's identification card, as provided for under G.S. 106-65.31, as an employee of a person who does hold a valid state license(s) covering phases of structural pest control work advertised.

(e) The impersonation of any North Carolina State, county, or city inspector or any other governmental official is prohibited.

~~(e)~~ (f) No licensee, certified applicator or registered technician's identification card holder shall advertise or hold himself out in any manner in connection with the practice of structural pest control as an entomologist, plant pathologist, horticulturist, public health engineer, sanitarian, unless such person shall be qualified in such field(s) by required professional and educational standards for the title used.

~~(f)~~ (g) No certified applicator, licensee or his employees shall represent to any property owner or his authorized agent

or occupant of any structure that any specific pest is infesting said property, structure, or surrounding areas thereof, unless strongly supporting visible evidence of such infestation exists.

~~(g)~~ (h) No certified applicator or licensee or their employees shall authorize, direct, assist, or aid in the publication, advertisement, distribution, or circulation of any material by false statement or representation concerning the licensee's structural pest control business or business of the company with which he is employed.

~~(h)~~ (i) No certified applicator or licensee or their employees shall advertise or contract in a company name style contradictory to that shown on the certified applicator's identification card or license certificate.

~~(i)~~ (j) No certified applicator shall use any name style on his certified applicator's identification card which contains the words "exterminating", "pest control" or any other words which imply that he provides pest control services for a valuable consideration unless he is a licensee or a duly authorized agent or employee of a licensee.

~~(j)~~ (k) No licensee issued an inactive license shall engage in any phase of structural pest control.

~~(k)~~ (l) No licensee, certified applicator or ~~licensee or their employees~~ registered technician shall ~~apply or arrange for the application of any substance containing a boron compound within a structure unless it is an EPA registered pesticide.~~ indicate on any foundation diagram prepared pursuant to Rule .0601 or .0605 of this Chapter that hidden damage or possible hidden damage due to any wood-destroying organism exists in a structure unless there is visible evidence of infestation and/or damage present in the immediate area of the alleged hidden damage.

(m) No pesticide shall be applied for the purpose of performing structural pest control when the conditions at the site of application favor drift or runoff from the target site.

Authority G.S. 106-65.29.

SECTION .1100 - INSPECTION FEES

.1101 RIGHTS OF ENFORCEMENT

(a) The enforcement agency, and the member of the Attorney General's staff assigned to the committee shall have, during regular business hours, the right to see, examine and inspect those records, chemicals and such equipment as may be deemed necessary to the structural pest control operations of said person within the provisions of these rules and regulations and the Structural Pest Control Law.

(b) The enforcement agency or any member of the committee may, in its discretion inspect any properties treated by structural pest control licensees or certified applicators for pests for the purpose of determining the efficiency of the remedial measures applied and to determine if treatment(s) comply with the requirements set forth in these rules and regulations.

(c) When requested by the ~~enforcement agency or committee,~~ Division or Committee, the licensee or certified applicator shall furnish, for analyses, sufficient samples of pesticides or other chemicals used in treating for structural ~~pests.~~ pests and shall provide copies, or allow the copying, of such records as may be deemed necessary by the Division or Committee to document the use or application of pesticides or performance of work within the provisions of these Rules and the Structural Pest Control Law.

Authority G.S. 106-65.29.

TITLE 11 - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Fire & Rescue Commission intends to adopt rules cited as 11 NCAC 5C .0101 - .0104. Notice of Rule-making Proceedings was published in the Register on November 3, 1997.

Proposed Effective Date: *August 1, 1998*

A Public Hearing *will be conducted at 10:00 a.m. on February 5, 1998 at the Dobbs Building, 3rd Floor Hearing Room, 430 N. Salisbury St., Raleigh, NC.*

Reason for Proposed Action: *These Rules are necessary to establish guidelines for participation and payment of premiums to the Worker's Compensation Fund.*

Comment Procedures: *Written comments should be sent to Tim Bradley, c/o Fire and Rescue Division, NC Department of Insurance, 111 Seaboard Avenue, Raleigh, NC 27604. Questions may be directed to Tim Bradley at (919) 733-2142.*

Fiscal Note: *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 5 - FIRE AND RESCUE SERVICES DIVISION

SUBCHAPTER 5C - WORKER'S COMPENSATION FUND

SECTION .0100 - GENERAL PROVISIONS

.0101 DEFINITIONS

As used in this Subchapter:

(1) "Commission" means the State Fire and Rescue Commission, created in G.S. 58-78-1.

(2) "Eligible unit" has the same meaning as in G.S. 58-87-10(a).

(3) "Fund" means the Workers' Compensation Fund, created in G.S. 58-87-10(b).

Authority G.S. 58-87-10.

.0102 MEMBERSHIP CANCELLATION

If the Commission determines that an eligible unit is no longer eligible for membership in the Fund, or the eligible unit ceases to pay premiums as they become due, the Commission shall cancel the eligible unit's membership. The Commission shall provide written notice of the cancellation to the eligible unit. Upon cancellation of membership, the eligible unit shall pay any additional premiums that are due.

Authority G.S. 58-87-10.

.0103 ROSTER OF COVERED INDIVIDUALS

Each year every eligible unit shall determine and report to the unit's governing body the names of the individual members of the eligible unit who are covered by the Fund. The governing body shall, upon determination of the validity and accuracy of the information, certify the information to the Commission on a prescribed form by June 30 of each year.

Authority G.S. 58-87-10.

.0104 PAYMENT OF PREMIUMS

Each eligible unit shall pay an annual premium for each member of the eligible unit who is covered by the Fund. The premium shall be based on the number of members submitted by the eligible unit on the roster prescribed by Rule .0103 of this Section, and shall be a set amount for each member. The eligible unit shall pay the total premium amount on or before July 31 of the next fiscal year; or the eligible unit shall forfeit its membership in the Fund.

Authority G.S. 58-87-10.

* *

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Home Inspector Licensure Board/Department of Insurance intends to adopt rules cited as 11 NCAC 8 .1301 - .1308. Notice of Rule-making Proceedings was published in the Register on November 3, 1997.

Proposed Effective Date: *August 1, 1998*

A Public Hearing *will be conducted at 9:00 a.m. on January 30, 1998 at 410 North Boylan Avenue, Raleigh, NC 27603.*

Reason for Proposed Action: *These Rules establish continuing education requirements for licensed home inspectors.*

Comment Procedures: *Written comments should be sent to Grover Sawyer, Home Inspector Licensure Board, NC Department of Insurance, 410 North Boylan Avenue, Raleigh, NC 27603, (919) 733-3901.*

Fiscal Note: *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 8 - ENGINEERING AND BUILDING CODES DIVISION

SECTION .1300 - HOME INSPECTOR CONTINUING EDUCATION

.1301 DEFINITIONS

(a) As used in this Section:

(1) "Credit hour" means one continuing education course hour, comprising at least 50 minutes of instruction.

(2) "License period" means October 1 through the following September 30.

(3) "Licensee" means a home inspector or associate home inspector licensed by the Board under G.S. 143, Article 9F and Section .1000 of this Chapter.

(b) The definitions contained in G.S. 143-151.45 apply to this Section and are incorporated into this Section by reference.

Authority G.S. 143-151.49; 143-151.55.

.1302 RENEWAL OF ACTIVE LICENSE

(a) In order to renew an active home inspector or associate home inspector license for license periods beginning on or after October 1, 1999, the licensee shall have completed, during the previous license period, the following number of credit hours:

(1) From October 1, 1998 through September 30, 1999: eight credit hours.

(2) From October 1, 1999 through September 30, 2000: 12 credit hours.

(3) Each subsequent license period: 12 credit hours.

(b) A licensee who is initially licensed on or after June 1 is exempt from this Section for the following license period.

Authority G.S. 143-151.49; 143-151.55.

.1303 INACTIVE LICENSE

A person holding an inactive license is not subject to this Section. In order to change a license from inactive status to active status, the licensee must complete the same number of continuing education credit hours that would have been required for an active license during the period of inactive status; but not more than 16 credit hours.

Authority G.S. 143-151.49; 143-151.55.

.1304 COURSE REQUIREMENTS

(a) The same continuing education course may be taken only once for continuing education credit during any three year period.

(b) For each license period the Board shall specify mandatory subject matter for one course, such course to be not less than two nor more than four credit hours. The remaining courses shall be elective courses covering subject matter to be chosen by the licensee and meeting all other criteria specified in this Section.

(c) Each course shall comprise at least one credit hour.

Authority G.S. 143-151.49; 143-151.55.

.1305 ATTENDANCE REQUIREMENTS

In order to receive credit for completing a continuing education course, a licensee must attend at least 90 percent of the scheduled classroom hours for the course, regardless of the length of the course.

Authority G.S. 143-151.49; 143-151.55.

.1306 EXTENSIONS OF TIME

A licensee may request and be granted an extension of time to satisfy the continuing education requirement for a particular license period if the licensee provides evidence to the Board that the licensee was unable to obtain the necessary education because of an incapacitating illness or other circumstance that:

(1) Existed for a substantial portion of the license period; and

(2) Constituted a severe and verifiable hardship; and

(3) Made it impossible or unreasonably burdensome to comply with the continuing education requirement.

Authority G.S. 143-151.49; 143-151.55.

.1307 DENIAL OR WITHDRAWAL OF CREDIT

(a) The Board shall deny continuing education credit claimed by a licensee, and shall withdraw continuing education credit previously awarded by the Board to a licensee if:

(1) The licensee unintentionally provided incorrect or incomplete information to the Board concerning continuing education or compliance with this Section; or

(2) The licensee was mistakenly awarded continuing education credit because of an administrative error; or

(3) The licensee failed to comply with the attendance requirement established by Rule .1305 of this Section.

(b) When continuing education credit is denied or withdrawn by the Board under Subparagraph (a)(1) or (a)(2) of this Rule, the Board shall, upon written request of the licensee, grant the licensee an extension of time to satisfy the continuing education requirement. When continuing education credit is denied or withdrawn by the Board under Subparagraph (a)(3) of this Rule, the licensee remains responsible for satisfying the continuing education requirement.

Authority G.S. 143-151.49; 143-151.55.

.1308 DUTIES OF LICENSEES TO SHOW PROOF OF COMPLIANCE

(a) In order to receive credit from the Board for completion of continuing education courses under this Section, a licensee must provide documentation to the Board on a form prescribed by the Board, no later than September 15 of each year, that:

(1) Each continuing education course or courses taken and completed by the licensee:

(A) Comprised at least one credit hour; and

(B) Contained subject matter that was directly related to the practice of home inspection. Examples of course subject matter that are acceptable to the Board for credit include: Topics directly related to systems and components listed in the Standards of Practice and Code of Ethics in Section .1100 of this Chapter, report writing, and inspection procedures and practices. Examples of subject matter that are not acceptable include: Sales and marketing topics, general business management, office procedures, success training, personal development, radon testing, and time management.

(2) The licensee:

(A) Had an opportunity to interact directly either in person or by interactive television with the instructor at all times during the course; or

(B) Took a written examination after course completion if the course comprised correspondence instruction or media-based instruction, such as videotape, remote non-interactive television, or computer programs; or

(C) Verified completion of the course if the course was based on alternate educational practices, such as computer-assisted instruction or videotape instruction; and

(D) Complied with Rule .1304 of this Section.

(b) The documentation filed by the licensee with the Board shall include:

(1) A course outline provided by the course sponsor showing details of the course content.

(2) In the case of traditional classroom courses, a course completion certificate provided by the course sponsor indicating the licensee's completion of the course (or attendance for at least 90% of the allotted time).

(3) In the case of alternate education courses (such as videotape, computer-assisted, audio tape, or correspondence courses) a course completion certificate provided by the course sponsor certifying that the sponsor has verified that the licensee has passed a written examination based on

the course subject matter, or submitted equivalent proof of completion to the sponsor.

Authority G.S. 143-151.49; 143-151.55.

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Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Department of Insurance intends to amend rule cited as 11 NCAC 10 .0105. Notice of Rule-making Proceedings was published in the Register on November 3, 1997.

Proposed Effective Date: *August 1, 1998*

A Public Hearing *will be conducted at 10:00 a.m. on February 5, 1998 at the Dobbs Building, 3rd Floor Hearing Room, 430 N. Salisbury St., Raleigh, NC.*

Reason for Proposed Action: *The amendment to this Rule covers the filing of individual risk policies and reduces the filing requirements.*

Comment Procedures: *Written comments should be sent to Charles Swindell, NC Department of Insurance, 430 N. Salisbury Street, Raleigh, NC 27611, (919) 733-3368 X 226.*

Fiscal Note: *This Rule does not affect the expenditures or revenues of state or local government funds. This Rule does not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 10 - PROPERTY AND CASUALTY DIVISION

SECTION .0100 - GENERAL PROVISIONS

.0105 MANUSCRIPT OR INDIVIDUAL RISK FILINGS

(a) Within 60 days after the inception date of a manuscript or individual risk policy, the insurer ~~must~~ shall submit to the ~~Department of Insurance,~~ Department's Property and Casualty Division:

(1) ~~A full and complete copy of the policy~~. Any form or endorsement not previously filed with the Department and approved for ~~use must be specifically identified.~~ use.

~~(2) A statement describing how the rates were calculated.~~

~~(3) A certification that the rates are not excessive, inadequate, nor unfairly discriminatory.~~

~~(4)~~ (2) A statement explaining why a manuscript or individual risk ~~filing~~ policy was needed.

~~(5)~~ (3) The appropriate filing fee.

~~(b) The Commissioner may require such other information as he deems to be necessary for a review of filings made under this Rule.~~

~~(c) All filings made under this Rule must be refiled whenever a change occurs in or to the policy or upon the renewal date of the policy, whichever occurs first. Continuous policies are not permitted.~~

(b) Continuous policies are not permitted.

~~(d)~~ (c) A copy of the approved filing shall be retained by the filer in accordance with 11 NCAC 19 .0002 through 11 NCAC 19 .0005.

(d) If the rates have been determined by "(a) rating" or "individual risk rating", the insurer shall submit the following:

(1) A statement describing how the rates were calculated.

(2) A certification that the rates are not excessive, inadequate, or unfairly discriminatory.

Authority G.S. 58-2-40; 58-6-5; 58-41-50; 58-43-5.

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Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Department of Insurance intends to repeal rules cited as 11 NCAC 11B .0601 - .0617; 11C .0108 - .0109. Notice of Rule-making Proceedings was published in the Register on November 3, 1997.

Proposed Effective Date: *August 1, 1998*

A Public Hearing *will be conducted at 10:00 a.m. on February 5, 1998 at the Dobbs Building, 3rd Floor Hearing Room, 430 N. Salisbury St., Raleigh, NC.*

Reason for Proposed Action:
11 NCAC 11B .0601 - .0617 *- The 1997 General Assembly enacted legislation (S.L. 1997-362) that either superseded these Rules or rendered them obsolete.*
11 NCAC 11C .0108 - .0109 *- The Department of Insurance has determined that these Rules are without statute authority.*

Comment Procedures: *Written comments should be sent to Ray Martinez, NC Department of Insurance, 430 N. Salisbury Street, Raleigh, NC 27611, (919) 733-2002.*

Fiscal Note: *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 11 - FINANCIAL EVALUATION DIVISION

SUBCHAPTER 11B - SPECIAL PROGRAMS

SECTION .0600 - WORKERS' COMPENSATION SELF-INSURANCE

.0601 DEFINITIONS

~~As used in this Section:~~

~~(1) "Act" means G.S. 97, as amended.~~

~~(2) "Certified audit" means an audit upon which an auditor duly qualified to practice as a certified public accountant expresses his professional opinion that the accompanying statements fairly present the financial position of the employer or of the group, in conformity with generally accepted accounting principles as considered necessary by the auditor under the circumstances.~~

~~(3) "Certified Public Accountant" or "CPA" means an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which the CPA or firm is licensed to practice.~~

~~(4) "Corporate surety" means an insurer authorized by the Commissioner to write surety business in North Carolina.~~

~~(5) "Employer" means a self-insured individual employer.~~

~~(6) "Fund year" means that elected period of coverage, up to 12 months in duration, pursuant to which a group self-insurer extends coverage to its members.~~

~~(7) "Group" means a self-insured group of employers.~~

~~(8) "Loss fund" means that portion of net or standard premium, exclusive of past due balances deemed to be delinquent, that covers the retention of liability for a self-insurer under the terms of an aggregate excess insurance contract; and means, in the absence of an aggregate excess policy, that portion of net or standard premium, exclusive of past due balances deemed to be delinquent, that is allocated to pay claims.~~

~~(9) "Manual premium" means premium determined by multiplying the annualized payroll amount, segregated into the proper workers' compensation job classifications, by the applicable manual premium rates approved for the use in North Carolina.~~

~~(10) "Qualified actuary" means a member in good standing of the Casualty Actuarial Society or a member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries.~~

~~(11) "Self-insurer" means either a self-insured individual employer or self-insured group of employers.~~

~~(12) "Service company" means a business that has contracted with an employer or group for the purpose of providing any or all services necessary to a self-insured program.~~

~~(13) "Surplus" means all assets a loss fund has on hand that are in excess of all loss reserves and liabilities.~~

~~(14) "Trustees" means the governing body of a group that is elected by its members for stated terms of office to direct the administration of a group, and whose duties include responsibility for approving applications for new members of such group.~~

~~(15) "Trustees' fund" means any monetary fund under the control of the board of trustees of a group that is not part of the loss fund or that is not set aside to pay claims.~~

Authority G.S. 58-2-40; 58-2-145; 58-2-171; 58-2-205; 97-93; 97-136.

.0602 ADMINISTRATION - ALL SELF-INSURERS

~~(a) Each self-insurer, as a condition of the authority to self-insure, shall provide proof of compliance with the provisions of this Section regarding its ability to operate a program of self-insurance, either through in-house capabilities or servicing companies.~~

~~(b) Every self-insurer shall make provision for persons to administer and adjust claims.~~

~~(c) If a self-insurer contracts with a service company, the Commissioner shall use the service company as an intermediary in his dealings with the self-insurer if the Commissioner determines that this will result in a more rapid and accurate flow of information from the self-insurer and will aid in the self-insurer's compliance with this Section and the act.~~

~~(d) Each self-insurer contracting with a service company shall within 30 days after execution provide a copy of the contract as well as any amendments to an existing contract to the Commissioner.~~

~~(e) Each self-insurer and service company shall maintain its records in accordance with Chapter 19 of this Title. The location of these records shall be within North Carolina and shall be made known to the Commissioner as necessary for examination purposes.~~

~~(f) For each examination conducted, a written report shall be prepared and submitted to the Commissioner in accordance with 11 NCAC 11C .0102 and 11C .0103.~~

Authority G.S. 58-2-40; 58-2-131; 58-2-132; 58-2-133; 58-2-145; 97-93; 105-228.9.

.0603 EXCESS INSURANCE POLICIES - ALL SELF-INSURERS

~~(a) Any excess workers' compensation insurance policy required by and submitted in accordance with this Section shall be underwritten by either a licensed insurance company or an approved surplus lines insurance company.~~

~~(b) No policy of excess insurance issued or renewed after October 1, 1990, shall be recognized by the Commissioner in considering the ability of a self-insurer to fulfill its financial obligations under the act unless such policy provides for at least 30 days written notice of cancellation, by registered or certified mail, return receipt requested, to the other party to the policy and to the Commissioner.~~

~~(c) All self-insurers shall file copies of any excess insurance binders, policies, certificates, or any other~~

~~evidences of coverage with the Commissioner upon the request of the Commissioner.~~

Authority G.S. 58-2-145; 97-93.

.0604 REPORTS - ALL SELF-INSURERS

~~(a) Each self-insurer shall submit to the Commissioner payroll information for the purpose of tax assessment as required by this Section. The Rules, classifications, and rates as set forth in the most recently approved workers' compensation and employers' liability insurance manual governs the audits of payrolls and the adjustments of premiums. Payroll information shall be submitted summarized by classification. Each self-insurer shall maintain true and accurate payroll records. Unless payroll records are maintained in such manner that a true and accurate identification and division by employer or group member departments or divisions or occupational classifications can readily be determined for proper rating, the entire payroll of that employer or group member shall be presumed to be within the classification to which the highest workers' compensation rate is applicable.~~

~~(b) Each self-insurer shall on or before May 10 of each year file with the Commissioner a statement of total workers' compensation benefits paid by the self-insurer during the previous calendar year, as well as total future liability of all open claims, regardless of the dates of accidents.~~

~~(c) All self-insurers shall have an annual audit by a CPA and shall file an audited financial report with the Commissioner on or before May 10 for the previous calendar year. Two copies of this report shall be filed in the office of the Chief Examiner, Field Audit Section of the Department.~~

~~(d) Extensions of the May 10 filing date shall be granted by the Commissioner for periods of up to 45 days each upon a showing by the self-insurer and its CPA of the reasons for requesting the extensions. Requests for extensions must be submitted in writing not less than 15 days before May 10 or the previous extension due date. The Commissioner shall not grant more than three extensions under this Paragraph to any self-insurer.~~

~~(e) The annual certified audited financial report shall report the financial position of the self-insurer as of the most recent calendar or fiscal year in conformity with general accepted accounting principles. The annual certified audited financial report shall include the following:~~

~~(1) report of CPA;~~

~~(2) balance sheet reporting assets, liabilities, capital, and surplus;~~

~~(3) statement of operations;~~

~~(4) statement of cash flows;~~

~~(5) statement of changes in capital and surplus; and~~

~~(6) notes to the financial statements;~~

~~(f) In addition to the annual certified audited financial report, each self-insurer shall furnish the Commissioner with a copy of a report of matters noted in an audit related to the internal control structure.~~

~~(g) A report of the evaluation by the CPA of the accounting procedures of the self-insurer and its system of internal control, including any remedial action taken or proposed, shall be filed annually by the self-insurer with the Department at the time of the filing of the annual certified audited financial report.~~

Authority G.S. 58-2-40; 58-2-145; 58-2-205; 97-93; 105-228.9.

.0605 DEPOSITS OR SURETY BONDS - ALL SELF-INSURERS

~~(a) In addition to cash, deposit funds that are acceptable under this Section as a security deposit are U.S. Government bonds, notes, or bills, that are issued or guaranteed by the United States of America; money market funds that are invested only in U.S. Government or U.S. Government agency obligations that have a maturity of one year or less; certificates of deposit issued by duly chartered commercial banks or thrift institutions and that are fully protected by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or any successor entity; surety bonds in a form acceptable to the Commissioner and issued by a corporate surety; or such other investments that are approved by the Commissioner.~~

~~(b) All bonds or securities that are posted as security deposits shall be valued annually at market value. In the event market value is less than face value, the Commissioner may require that additional securities be posted by the self-insurer. In making such determination, the Commissioner shall consider the self-insurer's financial condition, the amount by which market value is less than face value, and the likelihood that such securities will be needed to provide benefits.~~

~~(c) Securities deposited under this Section shall be assigned to the Commissioner, his successors, assigns, or trustees, pursuant to a legal document that is acceptable to the Commissioner and that renders such securities negotiable by the Commissioner. In the event a self-insurer is in default, the Commissioner may sell or collect, or both, such amounts that will yield sufficient funds to meet the self-insurer's obligations under the act. Interest accruing on any negotiable security deposited under this Section shall be collected and transmitted to the self-insurer provided that the self-insurer is not in default. As used in this Paragraph "default" means the inability or failure to make timely payments of any awards or other disbursements required pursuant to the act.~~

~~(d) All deposits shall remain in the custody of the Commissioner until all obligations of the self-insurer have been fully discharged, at which time the Commissioner shall return the deposits to the self-insurer.~~

~~(e) No judgment creditor, other than a claimant entitled to benefits under the act, has a right to levy upon any of a self-insurer's deposits made under this Section.~~

Authority G.S. 97-93.

.0606 SECURITIES WITHDRAWAL OR

EXCHANGE - ALL SELF-INSURERS

~~Any securities held by the Commissioner may be exchanged or replaced by the self-insurer with other securities of like nature and amount as long as the self-insurer is solvent. No release shall be effectuated until replacement securities or bonds of an equal value have been substituted. Any surety bond may be exchanged or replaced with another surety bond that meets the requirements of this Section, provided 30 days advance written notice is given to the Commissioner. Whenever a self-insurer ceases to self-insure or desires to replace securities with an acceptable surety bond or bonds, he shall so notify the Commissioner; and may recover all or a portion of the securities deposited with the Commissioner upon posting in lieu thereof an acceptable special release bond issued by a corporate surety in an amount equal to the total value of such securities. The special release bond shall cover all existing liabilities under the act plus an amount to cover future loss development; and shall remain in force until such time as all such obligations under the act have been fully discharged.~~

Authority G.S. 97-93.

.0607 APPLICATION - EMPLOYERS

~~(a) Each employer desiring to self-insure shall make application to the Commissioner for such authority on a form prescribed by the Commissioner. This application shall be filed with the Commissioner at least 90 days before the desired effective date of self-insurer status. The application shall be completed and shall be in the form of a sworn statement. Until all requisite data has been filed, an application is incomplete.~~

~~(b) In addition to the filing of the application, compliance with all of the following is required:~~

~~(1) The applicant shall provide the Commissioner with certified audited financial statements for the most recent reporting period and the two next most recent years including, a balance sheet reporting assets, liabilities, and equity, a statement of operations, a statement of cash flows, and applicable notes to the financial statements prepared on the basis of generally accepted accounting principles consistently applied.~~

~~(2) Specific excess insurance with actuarially appropriate policy limits and retention shall be required for each applicant.~~

~~(3) Each applicant shall have within its own organization facilities and personnel to administer and adjust claims; or shall contract with a service company to provide these services.~~

~~(4) Each applicant shall submit a summary of workers' compensation benefits paid for the last three calendar years, as well as total future liability of all open claims. This summary shall indicate a breakdown as to benefits paid for medical and indemnity.~~

~~(5) Each applicant with 20 or more full-time employees shall submit a certificate or other evidence of safety inspection, completed before the application, that certifies that all safety requirements of the North Carolina Department of Labor have been met.~~

~~(c) Only an applicant whose employee base is actuarially sufficient in numbers and provides an actuarially appropriate spreading of risk and whose total fixed assets amount to five hundred thousand dollars ($500,000) or more is eligible to apply for authority to self-insure. In considering the financial strength and liquidity of the applicant to comply with the act, the Commissioner shall consider the applicant's: organizational structure and management background; profit and loss history; source and reliability of financial information; compensation loss history; number of employees; claims administration; excess insurance; access to excess insurance markets; and other significant financial ratios.~~

~~(d) All financial statement formulations shall facilitate application of ratio and trend analysis.~~

~~(e) Each applicant shall execute and file with the Commissioner an agreement, which shall be part of the application, wherein the applicant agrees to fully comply with the act and to deposit with the Commissioner cash, acceptable securities, or a surety bond issued by a corporate surety that will guarantee the applicant's compliance with this Section and with the act.~~

~~(f) After considering the application and all supportive data, the Commissioner shall either grant authorization or deny authorization and advise the applicant of deficiencies that constitute the basis for denial. If the deficiencies are resolved within 60 days of the date of Commissioner's notice, authorization shall be granted.~~

~~(g) The applicant shall be granted additional time to remedy deficiencies in its application in order to meet the requirements in this Section. A request for an extension of time shall be made in writing by the applicant within 30 days after notice of denial by the Commissioner. If all requirements of this Section have not been met, the application shall be withdrawn.~~

~~(h) Upon meeting the requirements of this Section, an applicant shall receive a written certificate of authority to self-insure.~~

Authority G.S. 58-2-40; 97-93.

.0608 DEPOSITS: BONDS: EXCESS INSURANCE - EMPLOYERS

~~(a) Each employer shall, on or before the effective date of operation of its plan of self-insurance, deposit with the Commissioner, cash or acceptable securities, or post a surety bond issued by a corporate surety, in a form and amount prescribed by the Commissioner, but such amount shall not be less than five hundred thousand dollars ($500,000).~~

~~(b) Each employer, shall maintain specific excess insurance with a limit of at least five million dollars ($5,000,000). Higher limits may be required for an employer with a higher risk of multiple injuries from a single~~

~~occurrence. The retention underlying specific excess policies shall be the lowest retention generally available for employers of similar size and exposure, but may, in the Commissioner's discretion, be established at higher levels consistent with the employer's claims experience and financial condition.~~

Authority G.S. 58-2-40; 97-93.

.0609 REPORTS - EMPLOYERS

~~(a) A report may be submitted on other than a prescribed form only with the prior approval of the Commissioner. The deadlines for filing of prescribed reports are as provided in this Section. Reports other than those with prescribed due dates shall be filed at such times that the Commissioner establishes and, except reports related to financial impairment, shall not be required to be filed without 30 days prior written notice from the Commissioner.~~

~~(b) Copies of all final payroll reports showing payrolls by appropriate classification shall be filed.~~

~~(c) Each employer shall promptly report to the Commissioner changes in the names and addresses of the businesses it self-insures or intends to self-insure, as well as changes in its business structure, including its divisions, subsidiaries, and internal organization. Any such change shall be reported in writing to the Commissioner within ten days after the effective date of the change. Appropriate endorsements to surety bonds or excess insurance policies, or both, that specify any additional named insureds shall be filed within 90 days of the effective date of the change. Bonds of coverages or cover notes providing for at least 90 days coverage shall be filed within 30 days after the effective date of the change.~~

~~(d) Each employer shall submit a statement of financial condition meeting the criteria established in this Section within 180 days following the close of its fiscal year.~~

~~(e) Every employer shall submit on an annual basis a report from a qualified actuary, of outstanding workers' compensation liabilities for each fund year. Such report shall show liabilities, excess carrier and other qualifying credits, if any, and net retained liabilities.~~

~~(f) All employers shall maintain such payroll records that are necessary to complete and verify the accuracy of the annual self-insurers payroll report.~~

~~(g) Summary loss reports formatted by classifications as prescribed in the unit statistical plan of the principal workers' compensation rating organization in North Carolina shall be filed as required by the Commissioner.~~

Authority G.S. 58-2-40; 58-2-145; 97-93.

.0610 APPLICATION - GROUPS

~~(a) Application may be made to provide workers' compensation coverage for a group in accordance with the terms of an indemnity agreement. Applications shall be filed with the Commissioner at least 90 days before the desired effective date of self-insured status. The application shall contain answers to all questions propounded and shall be in the form of a sworn statement. Until all requested data has been filed, an application is incomplete.~~

~~(b) The application shall include the following:~~

~~(1) a copy of the bylaws of the proposed group;~~

~~(2) an individual application of each member of the group applying for coverage in the group on the inception date of the group with a current financial statement of the member;~~

~~(3) a current certified financial statement of each group, including at a minimum, a balance sheet reporting assets, liabilities, and surplus, a statement of operations, a statement of cash flows, and a statement showing the combined surplus or equity of all members applying for coverage on the inception date of the group. Such combined surplus or equity shall be an amount that establishes the financial strength and liquidity of the businesses;~~

~~(4) evidence of the financial ability of the group to meet its obligations under the act;~~

~~(5) a composite listing of the estimated standard premium to be developed for each member individually and in total as a group. Payroll data for each of the three preceding years shall be furnished by risk classification;~~

~~(6) documented agreement by each member to pay to the group not less than 25 percent of estimated annual manual premium not later than the initial day of coverage afforded by the group;~~

~~(7) a confirmation of any required excess insurance underwritten by an authorized insurer;~~

~~(8) designation of the initial trustees or administrator, or both;~~

~~(9) proof of a fidelity bond, issued by an authorized insurer, covering the group administrator in a form provided by the Commissioner and an amount commensurate with the risk;~~

~~(10) an indemnity agreement jointly and severally binding the group and each member thereof to comply with the provisions of the act and pay obligations imposed by the act;~~

~~(11) a breakdown of all projected administrative expenses for the fund year in dollar amount and as a percentage of the estimated annual manual premium;~~

~~(12) proof provided by the trustees, satisfactory to the Commissioner, that the employees base is sufficient in numbers and provides an appropriate spreading of risk;~~

~~(13) proof, satisfactory to the Commissioner, that either the applicant has within its own organization ample facilities and competent personnel to service its own program with respect to underwriting matters, claims adjusting, and industrial safety engineering; or that the applicant will contract with a service company to provide these services and the reporting of loss data to the Commissioner. If any plan~~

~~servicing is to be done by the applicant; biographies of those persons who will be responsible for or performing such functions shall be submitted to the Commissioner with the application;~~

~~(14) a letter of assent stipulating the applicant's acceptance of membership status in the North Carolina Self-Insurance Guaranty Association under Article 4 of the act.~~

~~(c) After considering the application and all supportive data, the Commissioner shall either grant authorization or deny authorization and inform the applicant of deficiencies that constitute the basis for denial. If the deficiencies are resolved within 60 days after the Commissioner's notice, authorization shall be granted to the applicant.~~

~~(d) The applicant shall be granted additional time to remedy the deficiencies in its application in order to meet the requirements of this Section. A request for an extension of time shall be made in writing by the applicant within 30 days after notice of denial by the Commissioner. If all requirements of this Section have not been met, the application shall be withdrawn.~~

~~(e) Upon meeting the requirements of this Section, the applicant shall receive a written certificate of authority to self-insure.~~

Authority G.S. 58-2-40; 58-2-145; 97-93.

.0611 DEPOSITS: BONDS: EXCESS INSURANCE - GROUPS

~~(a) Each group shall deposit with the Commissioner, not later than the effective date of coverage, cash or acceptable securities, or post a surety bond issued by a corporate surety, in an amount equal to ten percent of the group's total annual premium, but not less than six hundred thousand dollars ($600,000). If it is actuarially determined, the Commissioner shall require a surety bond or security deposit in excess of six hundred thousand dollars ($600,000), actuarially commensurate with the risk of the group.~~

~~(b) The amount of the security deposit or bond required shall be determined at least annually by the Commissioner based on data submitted by the group to the Commissioner.~~

~~(c) Each group shall maintain specific excess insurance with a limit of at least five million dollars ($5,000,000). Groups comprising businesses with high risks of multiple injuries from single occurrences shall maintain higher limits, actuarially commensurate with the risks involved. With respect to specific excess insurance, a group's retention shall be the lowest retention generally available for groups with similar exposures and annual premium; but the Commissioner shall require higher levels of specific excess insurance consistent with the group's claims experience and financial condition.~~

Authority G.S. 58-2-40; 97-93.

.0612 REPORTS - GROUPS

~~(a) Reports as to financial condition, payroll records, coverage, accident experience, compensation payments, and other reports shall be filed with the Commissioner as follows:~~

~~(1) Each group shall file with the Commissioner an annual financial statement in accordance with G.S. 58-2-165.~~

~~(2) Every group shall submit with its financial statement a report from a qualified actuary of outstanding workers' compensation liabilities for each fund year. The report shall show liabilities, excess carrier and other qualifying credits, if any, and net retained liabilities.~~

~~(3) Summary loss reports, formatted by classifications as prescribed in the unit statistical plan of the principal workers' compensation rating organization in North Carolina, shall be filed.~~

~~(b) The failure or refusal of any group to file the reports specified in Paragraph (a) of this Rule within the time limits prescribed by this Section or by any provision of the act may be grounds for revocation, suspension, or nonrenewal of the authority to self-insure.~~

~~(c) Every group member shall notify the group to which it belongs of any changes in the names, addresses, structure, or composition of any businesses or subsidiaries that participate in the group. Every group member shall notify the group of any additions or deletions of the businesses or subsidiaries participating in the group, including changes in majority ownership interest in any business or subsidiary that is covered or that will be covered by the group. All such changes shall be reported to the group within ten days after the effective date of the change. Upon receipt of such notice, each group shall notify the Commissioner, in writing, of such reported changes.~~

Authority G.S. 58-2-40; 58-2-145; 58-2-165; 58-2-171; 97-93.

.0613 GROUP RESPONSIBILITIES

~~(a) The trustees of each group shall cause to be adopted a set of bylaws or shall enter into a trust agreement that governs the operation of the group. These bylaws or trust agreement shall contain, but not be limited to, the following subjects:~~

~~(1) qualifications for group membership, including underwriting considerations;~~

~~(2) the method for selecting the trustees, including the term of office;~~

~~(3) the method for amending the bylaws and plan of operation;~~

~~(4) the method for establishing and maintaining the group, which has previously been approved by the Commissioner in writing.~~

~~(b) Each group shall file a copy of the current bylaws, trust agreement, and required written policies with the Commissioner. Any changes in bylaws, trust agreement, or written policies shall be filed with the Commissioner no later than 30 days prior to the date of becoming effective. The~~

~~Commissioner may order the group to rescind or revoke any bylaw or policy if it is in violation of this Section or any other applicable law or administrative rule.~~

~~(c) A trustee shall not be an owner, officer, or employee of a service company. Trustees may delegate ministerial authority for membership approval to such person as they select, provided that person is not an owner, officer, or employee of any service company.~~

Authority G.S. 97-93.

.0614 ADMISSION AND TERMINATION OF GROUP MEMBERS

~~(a) After the inception date of a group, prospective new members of a group shall submit an application for membership to the trustees or the group administrator, on a form approved or prescribed by the Commissioner. The trustees or administrator may approve the application for membership pursuant to the bylaws of the group. The application for membership shall then be filed with the Commissioner. Membership shall take effect after approval by the group. Members shall receive a certificate of coverage from the trustees on a form acceptable to the Commissioner.~~

~~(b) Individual members may elect to terminate their participation in a group and may be subject to cancellation by the group pursuant to the bylaws of the group. However, such termination or cancellation shall not take place for at least ten days after the group has notified the Commissioner of the intent to cancel. Not less than 30 days' notice shall be given to a member prior to any cancellation by the group except in the case of non-payment of premium, in which case cancellation may be effected after ten days' notice.~~

Authority G.S. 97-93.

.0615 PAYMENT OF DIVIDENDS BY GROUP FUNDS OR ASSOCIATIONS

~~No group fund or association created under this Section shall make any payment of dividends or return fund surplus to its members without first obtaining written permission from the Commissioner.~~

Authority G.S. 58-2-40; 97-93(b).

.0616 INSOLVENCY OR HAZARDOUS FINANCIAL CONDITION

~~For the purposes of G.S. 58-2-145(c), a group fund is unable to meet its obligations with respect to known claims and reasonably anticipated claims or to pay other obligations in the normal course of business when it has a negative group fund surplus. A negative group fund surplus is a financial position of a group fund in which the assets of a group fund are less than its liabilities. A group fund that has a negative group fund surplus is insolvent. In addition, the Commissioner shall consider the standards or factors listed in G.S. 58-30-60(b) in determining if a group fund is in a hazardous financial condition.~~

Authority G.S. 58-2-40; 58-2-145; 58-30-60; 97-93; 97-136.

.0617 GROUP ASSESSMENTS, DISCLOSURE, DEVIATIONS, AND DIVIDENDS

~~(a) Each group shall file a plan with the Commissioner that explains its procedure for assessment of its members. The group shall file the plan within 60 days after obtaining authority to self-insure.~~

~~(b) The group's trustees or administrator shall notify the Commissioner no less than 60 days before an assessment.~~

~~(c) The Commissioner shall impose assessments on group members if the trustees or administrator fails to take action to correct financial impairment or insolvency.~~

~~(d) Every group through its trustees, administrator, servicing company, agents, or other representatives shall require each member applicant, before approving the application to acknowledge in writing that the applicant has received the following:~~

~~(1) A document disclosing that the members of the group are jointly and severally liable for claims of the group.~~

~~(2) A copy of the group's assessment plan that has been filed with and approved by the Commissioner under Paragraph (a) of this Rule.~~

~~(3) The amount of specific and aggregate stop loss or excess insurance or reinsurance carried by the group, the amount and kind of risk retained by the group, and the name and rating of the insurer providing the stop loss or excess insurance or reinsurance.~~

~~(4) An opportunity to receive a copy of or to inspect the policy described in Subparagraph (d)(3) of this Rule.~~

~~(e) Proposed deviations shall be filed by a group with the Commissioner in writing at least 60 days before the beginning of the group's fund year.~~

~~(f) Group dividends shall be declared in accordance with G.S. 58-8-25(b).~~

~~(g) A group may continue to use all deviations or discounts filed and approved for its use until they have been disapproved by the Commissioner.~~

Authority G.S. 58-2-40; 58-2-145; 58-8-35; 58-30-60; 58--36-30; 97-93; 97-136.

SUBCHAPTER 11C - ANALYSIS AND EXAMINATIONS

SECTION .0100 - GENERAL PROVISIONS

.0108 DIVIDENDS TO POLICYHOLDERS: DEPARTMENT INTERPRETATION

~~The North Carolina General Statutes provide that no dividend shall be paid unless fair and equitable and for the best interest of the company and its policyholders. G.S. 58-8-25 is interpreted by the Department to mean that no domestic stock or mutual insurance company may declare~~

~~dividends to its policyholders except from the earned surplus of the company as reflected in the company's annual statement filed with the Commissioner of Insurance and prepared in accordance with statutory accounting practices.~~

Authority G.S. 58-2-40; 58-8-25.

.0109 DIVIDENDS TO STOCKHOLDERS: DEPARTMENT INTERPRETATION

~~G.S. 58-7-130 is interpreted by the Department to mean that no domestic stock insurance company may declare dividends to its stockholders except from the earned surplus of the company as reflected in the company's annual statement filed with the Commissioner and prepared in accordance with statutory accounting practices. Provided, however, that stock dividends to stockholders out of paid in and contributed surplus will be permitted on a case by case basis depending on the necessity for a company to distribute such stock dividend.~~

Authority G.S. 58-2-40; 58-7-130.

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Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Department of Insurance intends to amend rules cited as 11 NCAC 19 .0002 - .0004, .0006. Notice of Rule-making Proceedings was published in the Register on November 3, 1997.

Proposed Effective Date: *August 1, 1998*

A Public Hearing *will be conducted at 10:00 a.m. on February 5, 1998 at the Dobbs Building, 3rd Floor Hearing Room, 430 N. Salisbury St., Raleigh, NC.*

Reason for Proposed Action: *These Rules specify additional documentation that must be maintained by insurers and agents, add language applicable to HMOs, and establish a finite response time for requests for records.*

Comment Procedures: *Written comments should be sent to Louis Belo, Market Examinations, 111 Seaboard Avenue, Raleigh, NC 27604, (919) 733-0055.*

Fiscal Note: *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 19 - MARKET CONDUCT DIVISION

.0002 MAINTENANCE OF RECORDS

(a) Every insurer licensed to do business in this State shall maintain for not less than three years all records, books, documents, and other business records that are required by this Chapter and by G.S. 58. This data shall be maintained in such an order that information can be readily ascertained by the department upon a market conduct examination.

(b) Every agency, agent, broker, or producer of record shall maintain a file for each policy sold, and ~~said~~ the file shall contain all work papers and written communications in his or her possession pertaining to the policy documented therein. These records shall be retained for not less than three years.

Authority G.S. 58-2-40(1); 58-2-50; 58-2-131; 58-2-132; 58-2-133; 58-2-145; 58-2-185; 58-2-190; 58-2-195; 58-2-200; 58-7-50; 58-20-30; 58-21-40; 58-21-75; 58-22-20(6); 58-23-25; 58-24-135; 58-27-10; 58-39-70; 58-48-65; 58-49-55; 58-56-16; 58-62-66; 58-63-20; 58-64-55; 58-65-105; 58-67-100.

.0003 COMPLAINT RECORDS

Each insurer or its agents shall maintain or cause to be maintained a record of all written complaints listing the department file number, the name of the insured, the nature of the complaint, the department subject to the complaint, the policy or claim number of the insured, and the disposition of the complaint. This record shall be retained for at least three years.

Authority G.S. 58-2-40(1); 58-2-50; 58-2-131; 58-2-132;58-2-133; 58-2-145; 58-7-50; 58-20-30; 58-21-40; 58-21-75; 58-22-20(6); 58-23-25; 58-24-135; 58-27-10; 58-39-70; 58-48-65; 58-49-55; 58-56-16; 58-62-66; 58-63-20; 58-64-55; 58-65-105; 58-67-100.

.0004 POLICY RECORDS

Each insurer or its agents shall maintain or cause to be maintained a record of all policies so as to show clearly the policy period, basis for rating, and if terminated, documentation supporting policy termination by the insurer or policyholder, and accounting records indicating return premium amounts. ~~return premium amounts, if applicable.~~ These records shall be retained for at least three years.

Authority G.S. 58-2-40(1); 58-2-50; 58-2-131; 58-2-132; 58-2-133; 58-2-145; 58-2-190; 58-2-195; 58-7-50; 58-20-30; 58-21-40; 58-21-75; 58-22-20(6); 58-23-25; 58-24-135; 58-27-10; 58-39-70; 58-48-65; 58-49-55; 58-56-16; 58-62-66; 58-63-20; 58-64-55; 58-65-105; 58-67-100.

.0006 RECORDS REQUIRED FOR EXAMINATION

(a) Market conduct examinations of property and casualty insurers generally include review of the following areas of operation:

(1) Company overview: history and profile, company operations and management, and certificates of authority;
(2) Policyholder treatment: consumer complaints;
(3) Marketing: policy forms and filings, sales and advertising, agency management;
(4) Underwriting and rating practices: ~~private passenger automobile, homeowners, and~~

~~commercial lines (multi-peril, automobile, workers, compensation), adverse underwriting decisions (cancellations, nonrenewals, and declinations);~~ personal lines and commercial lines; all terminations (cancellations and nonrenewals) and declinations or rejections;

(5) Claims practices: organization and procedures, closed with payment, closed without payment, total loss settlements (salvage), ~~and~~ subrogation, and litigation.

(b) Market conduct examinations of life and health insurers generally include review of the following areas of operation:

(1) Company overview: history and profile, company operations and management, and certificates of authority;

(2) Policyholder treatment: consumer complaints, nonforfeiture benefits (policy loans, cash surrenders, extended term and reduced paid-up);

(3) Marketing: policy forms and filings, sales and advertising, and agency management;

(4) Underwriting and rating practices: life (individual and group), health (individual and group), annuities (individual and group); declinations (individual and group);

(5) Claims practices: life (individual and group), health (individual and group) annuities (individual and group).

(c) Market conduct examinations of full service health maintenance organizations (HMOs) and single service HMOs generally include review of the following areas of operation:

(1) Company overview: articles of incorporation, bylaws, history and profile, company operations and management, risk management policies, and data protection plan;

(2) Provider delivery systems: provider manual, provider contracting policies and procedures, provider directories, and availability and accessibility standards and monitoring reports related to these standards;

(3) Management agreements: management agreements, intermediary contracts, intermediary certifications, and provider agreements;

(4) Utilization management: utilization management plan, utilization management policies and procedures, annual utilization management certifications, utilization management monthly telephone reports, precertification records, and appeals of noncertification records;

(5) Quality management: quality management plan, quality management policies and procedures, quality management committee minutes, quality of care complaints, and quality management annual program evaluation;

(6) Provider credentialing: credentialing plan, credentialing policies and procedures, and credential files;

(7) Claims practices: policies and procedures, reports of processed and denied claims, claims records;

(8) Policyholder treatment: member services' policies and procedures, member services complaint logs, member complaint records, member services monthly telephone reports, late enrollment guidelines, and member materials;

(9) Marketing: agent and broker files, agent appointment and termination listings, marketing training materials, sales and advertising materials, and policy forms and filings;

(10) Underwriting and rating practices: underwriting manual, annual rate filings, overview of rate development for each filed methodology, and underwriting files;

(11) Oversight of delegated functions: oversight committee activity, oversight monitoring tools, and audits.

(d) Market conduct examinations of managed care health insurers other than health maintenance organizations generally include review of some or all of the areas addressed in Paragraphs (b) and (c) of this Rule.

~~(c)~~ (e) Specific records relative to these areas of operations will usually be requested by prior written notification or pre-examination conference. These records shall be made available to the ~~Market Conduct Division~~ examinations staff ~~upon arrival.~~ when the staff arrives at the insurer's office.

~~(d)~~ (f) Additional records shall be made available on the date of arrival if the department has requested that ~~such~~ those records be made available for the examination. Additional records, not previously requested, may be required during and after an examination. Appropriate work space and equipment shall be provided to the examiners to expedite the examiners' review of the records.

(g) During a market conduct examination, each insurer shall respond to all formal requests from a department examiner for additional data. The insurer shall sign and date the data request and return it to the examiner-in-charge with any applicable documentation. The data shall be accurate, all inclusive, and in the format requested to facilitate the review process.

(h) Records of business that are encompassed by Paragraphs (a), (b), (c), and (d) of this Rule shall be maintained for not less than three years.

Authority G.S. 58-2-40(1); 58-2-50; 58-2-131; 58-2-132; 58-2-133; 58-2-190; 58-2-195; 58-7-50; 58-20-30; 58-21-40; 58-21-75; 58-22-20(6); 58-23-25; 58-24-135; 58-27-10; 58-39-70; 58-48-65; 58-49-55; 58-50-56, 58-50-61, 58-50-62, 58-56-16; 58-62-66; 58-63-20; 58-64-55; 58-65-105; 58-67-10; 58-67-11; 58-67-100.

TITLE 12 - DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the N.C. Private Protective Services Board intends

to adopt rules cited as 12 NCAC 7D .1201 - .1202. Notice of Rule-making Proceedings was published in the Register on August 15, 1996.

Proposed Effective Date: *May 11, 1998*

A Public Hearing *will be conducted at 2:00 p.m. on January 30, 1998 at the SBI Conference Room, 3320 Old Garner Rd., Raleigh, NC 27626.*

Reason for Proposed Action: *No rules currently exist to define "Firearms Instructor Trainers" nor does a rule exist to set forth the requirements for becoming a Firearms Instructor Trainer.*

Comment Procedures: *Written comments concerning this rule-making hearing may be submitted within 30 days of this publication to W.A. Hoggard, III, Administrator, N.C. Private Protective Services Board, 3320 Old Garner Road, Raleigh, NC 27626.*

Fiscal Note: *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 7 - PRIVATE PROTECTIVE SERVICES

SUBCHAPTER 7D - PRIVATE PROTECTIVE SERVICES BOARD

SECTION .1200 - FIREARMS INSTRUCTOR TRAINERS

.1201 DEFINITIONS

In addition to the definitions set forth in 12 NCAC 7D .0104, the following definition will apply to this Section: "Firearms Instructor Trainer" is deemed the highest level of firearm certification and refers to an individual who will teach other firearms trainers how to instruct other instructor trainers.

Authority G.S. 74C-5(1); 74C-5(2).

.1202 REQUIREMENTS FOR A FIREARM INSTRUCTOR TRAINER CERTIFICATION

For any individual to become certified by the Private Protective Services Board as a Firearms Instructor Trainer, the individual must apply and meet at least one of the following two requirements:

(1) The applicant must be currently certified by the Private Protective Services Board as a Firearms Trainer and have maintained that certification for at least five out of the last 10 years; and must receive the written endorsement of at least three other currently certified Firearms Trainers who have audited at least one student certification class of the applicant; and must have audited and assisted in the teaching of Firearms Trainers with one or more currently certified Firearms Instructor Trainers and obtain a written recommendation from that Firearms Instructor Trainer; or

(2) the applicant must be currently certified by the Private Protective Services Board as a Firearms Trainer and have maintained that certification for at least five of the last 10 years, and must be currently certified as an National Rifle Association Training Counselor with Pistol and Shotgun endorsements.

Authority G.S. 74C-5(1); 74C-5(2).

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Notice is hereby given in accordance with G.S. 150B-21.2 that the N.C. Private Protective Services Board intends to adopt rules cited as 12 NCAC 7D .1301 - .1307. Notice of Rule-making Proceedings was published in the Register on November 15, 1996.

Proposed Effective Date: *January 27, 1999*

A Public Hearing *will be conducted at 10:00 a.m. on February 27, 1998 at the Holiday Inn, 320 Hillsborough Street, Raleigh, NC 27603, Phone: (919) 832-0501.*

Reason for Proposed Action: *No rules currently exist to require continuing licensee education. The Board finds that licensees should receive at least 8 hours of continuing education per year to maintain professional competence, thus further protecting the public healthy, safety, and welfare.*

Comment Procedures: *Written comments concerning this rule-making activity may be submitted within 60 days of this publication to W.A. Hoggard, III, Administrator, N.C. Private Protective Services Board, 3320 Old Garner Road, Raleigh, NC 27626.*

Fiscal Note: *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 7 - PRIVATE PROTECTIVE SERVICES

SUBCHAPTER 7D - PRIVATE PROTECTIVE SERVICES BOARD

SECTION .1300 - CONTINUING EDUCATION

.1301 STATEMENT OF PURPOSE

(a) The Private Protective Services Board finds that all aspects of life and society are changing rapidly. With

changes in the law, technology, and business procedures, a licensee cannot render competent services in the private protective services profession without continuous education and training.

(b) The Private Protective Services Board finds that continuing education will assist licensees engaged in the private protective services profession in North Carolina to maintain their professional competence, thereby further protecting the public health, safety, and welfare. Based upon the Board's findings, the following minimum continuing education requirements are established for licensees.

Authority G.S. 74C-5(1); 74C-5(2).

.1302 DEFINITIONS

In addition to the definitions set forth in 12 NCAC 7D .0104, the following definitions will apply to this Section:

(1) "accredited sponsor" means an organization whose courses are approved and sanctioned for continuing education by the Board.

(2) "continuing licensee education" or "CLE" refers to any educational activity approved by the Board to be a continuing education activity.

(3) "credit hour" means sixty minutes of continuing education instruction.

(3) "year" refers to the calendar year after the issuance of a new or renewal license.

(4) "licensee" shall refers to an individual who holds one or more of the following licenses issued by the Board:

(a) Security Guard and Patrol License;

(b) Guard Dog Service License;

(c) Private Investigator License;

(d) Counter Intelligence License;

(e) Polygraph License;

(f) Psychological Stress Evaluator License;

(g) Armored Car License; or

(h) Courier Service License.

Authority G.S. 74C-5(1); 74C-5(2).

.1303 REQUIRED CLE HOURS

Each licensee shall complete at least eight hours of continuing licensee education during the year. If a licensee holds more than one license, he shall be required to take only eight hours of CLE credits.

Authority G.S. 74C-5(1); 74C-5(2).

.1304 ACCREDITATION STANDARDS

(a) CLE courses may obtain the sanction of the Private Protective Services Board by submitting the following information to the Board for consideration:

(1) the nature and purpose of the course;

(2) the course objectives or goals;

(3) the outline of the course, including the number of training hours for each segment; and

(4) the identity and qualifications of each instructor.

(b) To determine if a course will receive sanctioning from the Private Protective Services Board, the Board shall complete the following review:

(1) The matter will be referred to the Education and Training Committee for the appointment of a sub-committee that shall review the course under consideration. The sub-committee shall consist of at least one member of the Education and Training Committee, and one industry licensee who has no vested interest in the course. Other members of the sub-committee may be appointed at the discretion of the Education and Training Committee Chairman.

(2) The sub-committee shall review the course to determine if the course is pertinent to the industry, if the instructors are competent, and if the course meets its stated objectives.

(3) When the sub-committee completes its review, it shall report to the Education and Training Committee, which will then report the findings with a recommendation of acceptance or denial to the Private Protective Services Board.

(c) Upon receipt of the Education and Training Committee report, the Private Protective Services Board will determine by majority vote if the course will be sanctioned for continuing licensee education credits.

Authority G.S. 74C-5(1); 74C-5(2).

.1305 NON-RESIDENT LICENSEES AND CLE CREDITS

A non-resident licensee shall obtain the required continuing licensee education credits as set forth in 12 NCAC 7D .1303. If a non-resident licensee resides in a state that has a reciprocity agreement with North Carolina, courses offered in the state of residence may be considered for sanctioning by the Board on an individual basis.

Authority G.S. 74C-5(1); 74C-5(2).

.1306 RECORDING AND REPORTING CLE CREDITS

Each licensee shall be responsible for recording and reporting continuing licensee education credits to the Board at the time of license renewal, and for each course taken such report shall include a certificate of course completion that is signed by at least one course instructor, indicates the name of the licensee that completed the course, indicates the date of course completion, and indicates the number of hours taken by the licensee.

Authority G.S. 74C-5(1); 74C-5(2).

.1307 NON-COMPLIANCE

If a licensee fails to comply with the Rules of this Section, his license shall not be renewed.

Authority G.S. 74C-5(1); 74C-5(2).

TITLE 15A - DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Environment and Natural Resources intends to amend rules cited as 15A NCAC 1J .0401 - .0402. Notice of Rule-making Proceedings was published in the Register on November 3, 1997.

Proposed Effective Date: *August 1, 1998*

A Public Hearing *will be conducted at 11:00 a.m. on February 3, 1998 at the Archdale Building.*

Reason for Proposed Action: *House Bill 515 amended G.S. 159G-10 which governs the priority criteria for funding wastewater and water supply projects through the State's Clean Water Revolving Loan and Grant Program. It requires that the agency include the existence of a comprehensive land-use plan when prioritizing construction projects for funding.*

Comment Procedures: *Any person or organization desiring to make oral comments at the hearing should register to do so at the hearing. Statements will be limited to 10 minutes, and one typewritten copy of any such statement should be submitted to the panel conducting the hearing. Any additional comments on the proposed rule amendment should be forwarded to the Division of Water Quality by February 16, 1998.*

Fiscal Note: *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 1 - DEPARTMENTAL RULES

SUBCHAPTER 1J - STATE CLEAN WATER REVOLVING LOAN AND GRANT PROGRAM

SECTION .0400 - CRITERIA FOR EVALUATION OF ELIGIBLE APPLICATIONS

.0401 GENERAL CRITERIA

(a) During the review periods set forth in Section .0800 of this Subchapter all eligible applications shall be assigned a priority for loan or grant funds. Priorities shall be assigned by the Environmental Management Commission for applications for project loans or grants for wastewater treatment works and wastewater collection systems and by the Division of Environmental Health for applications for project loans or grants for water supply systems.

(b) In determining the priority to be assigned each eligible application, the Environmental Management Commission and the Division of Environmental Health will give consideration to the following priority factors:

(1) Primary consideration shall be given to the public necessity of the project in promoting the public health, safety, and welfare and in providing or having the potential of providing the greatest benefit to the greatest number of persons.

(2) Consideration shall also be given to the eligibility of the proposed project for federal funding; the compatibility of the proposed project with the state's general program of water supply and water pollution control, and any applicable regional planning program; the population to be served; the fiscal responsibility of the applicant; and the need of the applicant for funding assistance.

(3) Additional consideration shall be given to eligible units of government which demonstrate practices for the conservation of ~~water.~~ water or which have a comprehensive land-use plan.

(c) The categorical elements and items to be considered in assigning priorities to each application for which loan or grant funds are sought, and the points to be awarded to each categorical element and item are set forth in Sections .0500, .0600 and .0700 of this Subchapter. Unless otherwise specifically indicated, if an item for an element of a particular category applies specifically to the application under consideration, the application will be awarded the number of points assigned to that item for the categorical element; and if no item applies, no points will be awarded the application for that particular element.

Authority G.S. 159G-10; 159G-15.

.0402 CRITERIA FOR WATER CONSERVATION AND COMPREHENSIVE LAND USE PLANNING

(a) Applicant may receive a maximum of 15 bonus points for meeting the following criteria as applicable:

(1) Applicant demonstrates it has a continuing I/I program in its wastewater sewer maintenance program. (Wastewater Projects Only) 5 points

(2) Applicant demonstrates it has a continuing water loss program in its water supply system program. (Water Supply Projects Only) 5 points

(3) Applicant has a continuing program of water conservation education and information. 5 points

(4) Applicant demonstrates it has established a water conservation incentive rate structure; created incentives for new or replacement installation of low flow faucets, shower heads, and toilets; or has a water reclamation or reuse system. 5 points

(b) Applicant may also receive a maximum of 10 bonus points for meeting the following criteria:

(1) Applicant demonstrates that it has adopted a comprehensive land-use plan that meets the

requirements of G.S. 155H, Article 18 or G.S. 160A, Article 19, or applicant is a local government unit that is not authorized to adopt a comprehensive land-use plan but that is located in whole or in part in another local government unit that has adopted a comprehensive land-use plan, and that the proposed project is consistent with the plan. 2 points

(2) Applicant demonstrates that the comprehensive land-use plan exceeds the minimum state standards for the protection of water resources. 2 points

(3) Applicant demonstrates that actions have been taken toward implementation of the comprehensive land-use plan. These actions may include the adoption of a zoning ordinance or any other measure that significantly contributes to the implementation of the comprehensive land-use plan. 6 points

Authority G.S. 159G-10; 159G-15.

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Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to adopt rules cited as 15A NCAC 2R .0101 - .0102, .0201 - .0205, .0301 - .0302, .0401 - .0403; and repeal rules cited as 15A NCAC 2R .0501 - .0504. Notice of Rule-making Proceedings was published in the Register on July 15, 1997.

Proposed Effective Date: *August 1, 1998*

A Public Hearing *will be conducted at 7:00 p.m. on the following dates and locations:*

February 5, 1998
Auditorium
Catawba Valley Community College
2550 Highway 70 SE
Hickory, NC

February 10, 1998
Auditorium
Lenoir Community College, 231 Highway 58 S
Kinston, NC

Reason for Proposed Action: *During the 1996 session of the North Carolina General Assembly, Article 21 of Chapter 143 of the General Statutes was amended by adding sections 143-214.8 through 143-214.13. These sections established the Wetlands Restoration Program as a non-regulatory statewide program for the acquisition, maintenance, restoration, enhancement, and creation of wetland and riparian resources that contribute to the protection and improvement of water quality, flood prevention, fisheries, wildlife habitat, and recreational opportunities. The purpose of this rule-making initiative is to establish he procedures that will be used to implement the Wetlands Restoration Program.*

Comment Procedures: *Comments, statements, data and other information may be submitted in writing within 30 days of the date of publication of this issue of the NC Register. Copies of the proposed rules and information concerning the rules may be obtained by contacting the Wetlands Restoration Program at (919) 733-5083 ext. 358 or by submitting a written request to the following address. Written comments may be submitted to Ron Ferrell, Wetlands Restoration Program, Division of Water Quality, PO Box 29535, Raleigh, NC 27626-0535.*

Fiscal Note: *Rules 15A NCAC 2R .0202 - .0205, .0302, .0401 - .0403 affect the expenditure or distribution of State funds subject to the Executive Budget Act, Article 1 of Chapter 143 but do not affect local government funds. Rules 15A NCAC 2R .0101 - .0102, .0201, .0301, .0501 - .0504 do not affect the expenditures or revenues of state or local government funds. None of these Rules have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2R - WETLANDS RESTORATION PROGRAM

SECTION .0100 - PURPOSE AND DEFINITIONS

.0101 PURPOSE

(a) The Wetlands Restoration Program is a nonregulatory program to promote the acquisition, maintenance, restoration, enhancement, creation and preservation of wetlands and riparian area resources that contribute to the protection and improvement of water quality, flood prevention, fisheries, wildlife habitat, and recreational opportunities throughout North Carolina.

(b) The purposes of the Wetlands Restoration Program are:

(1) to replace critical functions lost through historic wetlands conversion and through current and future permitted impacts through the restoration of wetland and riparian area functions and values;

(2) to increase the wetland and riparian area acres, functions and values in each of the 17 major river basins of the state;

(3) to increase the ecological effectiveness of compensatory mitigation and to foster a comprehensive approach to environmental protection; and

(4) to provide a consistent approach to address the compensatory mitigation requirements associated with permits or authorizations issued by the United States Army Corps of Engineers under 33 USC §1344 and certifications issued by the Department under 33 USC §1341.

Authority G.S. 143-214.8; 143-214.9.

.0102 DEFINITIONS

The definition of any word or phrase used in this Subchapter shall be the same as given in G.S. 143, Article 21. The following words and phrases, which are not defined in this article, shall be interpreted as follows:

(1) Compensatory mitigation means the restoration, creation, enhancement or preservation of wetlands, riparian areas and classified surface waters that is required as a condition of permits or authorizations issued by the United States Army Corps of Engineers under 33 USC §1344 and certifications issued by the Department under 33 USC §1341.

(2) Mitigation bank means a site where wetlands and/or other aquatic resources are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources as defined in "The Federal Guidance for the Establishment, Use and Operation of Mitigation Banks," found in Volume 60, Number 28 of the Federal Register, November 28, 1995.

(3) Non-riparian wetlands means Class WL wetlands as described in 15A NCAC 2B .0101(c)(8) whose major source of water is precipitation. Wetland types generally considered to be non-riparian include wet flats, pocosins and ephemeral wetlands.

(4) Riparian area means areas that do not meet the definition of wetlands found at 15A NCAC 2B .0202 that are located within 300 feet of any perennial or intermittent water body as shown by the most recently published version of the United States Geological Survey 1:24,000(7.5 minute) scale topographic map and/or other site specific data.

(5) Riparian wetlands means Class WL wetlands as defined in 15A NCAC 2B .0101(c)(8) whose major source of water is ground water or surface water. Wetland types generally considered to be riparian include freshwater marshes, swamp forests, bottomland hardwood forests, headwater forests, bog forests, mountain bogs and seeps.

Authority G.S. 143-214.8; 143-214.9; 143-214.11.

SECTION .0200 - BASINWIDE RESTORATION PLANS

.0201 PURPOSE AND GOALS

The purpose of the Basinwide Restoration Plans is to identify wetlands and riparian areas within each of the 17 major river basins of the state that have the potential, through restoration, enhancement or preservation, to contribute to the goals of the Wetlands Restoration Program. The overall goals of the Wetlands Restoration Program are the protection and enhancement of water quality, flood prevention, fisheries, wildlife habitat, natural heritage values, and recreational opportunities within each river basin. The Basinwide Restoration Plans shall be used to guide the expenditure of funds from the Wetlands Restoration Fund.

Authority G.S. 143-214.10.

.0202 SCHEDULE

(a) Basinwide Restoration Plans shall be developed by the Department for each of the 17 major river basins in accordance with the schedule used by the Department in the development of Basinwide Water Quality Management Plans beginning July 1, 1997.

(b) Each Basinwide Restoration Plan shall be reviewed and revised every five years.

Authority G.S. 143-214.10.

.0203 COMPONENTS

(a) The Basinwide Restoration Plans for each of the 17 major river basins shall consist of the following components:

(1) an assessment of the existing wetlands and riparian area resources within each basin;

(2) an assessment of the existing needs of the river basin as identified in the Basinwide Water Quality Management Plans with input from other state and federal agencies, local governments, institutions of higher learning and non-profit organizations and the general public;

(3) identification of degraded wetlands and riparian areas that have the potential, if restored or enhanced, to contribute to the goals of the Basinwide Restoration Plans as outlined in Rule .0201 of this Section;

(4) ecologically significant wetland and riparian areas that have the potential, if preserved, to contribute to the goals of the Basinwide Restoration Plans as outlined in Rule.0201 of the Section;

(5) prioritization of the areas identified in Subparagraphs (a)(3) and (a)(4) of this Rule based on the area's ability to contribute to the specific goals of the Basinwide Restoration Plans as outlined in Subparagraph (a)(6) of this Rule and the needs of each river basin as identified in Subparagraph (a)(2) of this Rule; and

(6) each Basinwide Restoration Plan shall outline the specific goal to be accomplished through implementation of the Basinwide Restoration Plan.

(b) During the period July 1, 1997 through June 30, 2002, the Department may develop and implement Basinwide Restoration Plans that include only the following components:

(1) an assessment of the existing needs of the river basin as identified in the Basinwide Water Quality Management Plans with input from other state and federal agencies, local governments, institutions of higher learning and non-profit organizations and the general public;

(2) identification of degraded wetlands and riparian areas that have the potential, if restored or enhanced, to contribute to the specific goals of the Basinwide Restoration Plans as outlined in Rule .0201 of this Section;

(3) prioritization of the areas identified in Subparagraph (b)(2) of this Rule based on the ability to contribute to the goals of the Basinwide Restoration Plans as outlined in Rule .0201 of this Section and the needs of each river basin as identified in Subparagraph (b)(1) of this Rule; and

(4) each Basinwide Restoration Plan shall outline the specific goals to be accomplished through implementation of the Basinwide Restoration Plan.

Authority G.S. 143-214.10.

.0204 PUBLIC INVOLVEMENT; AVAILABILITY

(a) The Secretary shall provide interested parties an opportunity to review and comment on the proposed Basinwide Restoration Plans prior to approval of the plans by the Commission.

(b) The approved Basinwide Restoration Plans shall be available for review in the offices of the Wetlands Restoration Program, Division of Water Quality, 512 North Salisbury Street, Raleigh, NC, 27604. Paper and/or electronic copies of these plans may be purchased for the cost of reproduction of these materials.

Authority G.S. 143-214.10.

.0205 APPROVAL

The Basinwide Restoration Plans shall be submitted to the Commission for review and approval prior to implementation of the plans.

Authority G.S. 143-214.10.

SECTION .0300 - COMPENSATORY MITIGATION

.0301 GENERAL

(a) All projects implemented by the Wetlands Restoration Program for the purpose of satisfying the compensatory mitigation requirements of certifications issued by the Department of Environment and Natural Resources under 33 USC §1341; and permits or authorizations issued by the United States Army Corps of Engineers (Corps) under 33 USC §1344, shall be consistent with the goals of the approved Basinwide Restoration Plans for the appropriate river basin. A project is consistent with the Basinwide Restoration Plans if the project location is identified as a priority site or qualifies as a priority site under the approved Basinwide Restoration Plan for the appropriate river basin.

(b) The Wetlands Restoration Program shall play no role in the review of certifications issued by the Department under 33 USC §1341; and permits or authorizations issued by the United States Army Corps of Engineers (Corps) under 33 USC §1344. The role of the Wetlands Restoration Program shall be limited to providing options to satisfy compensatory mitigation requirements associated with these permits, authorizations or certifications as described in G.S. 143-214.8 through 143-214.13.

Authority G.S. 143-214.11; 143-214.12.

.0302 MITIGATION BANKS

(a) All prospective sponsors of compensatory mitigation banks that initiate the planning and review process after the effective date of this Rule must provide the Secretary, or the Secretary's designee, documentation that the proposed mitigation bank is consistent with the approved Basinwide Restoration Plan for the appropriate river basin and meets requirements of G.S. 214.11(f). A mitigation bank is consistent with Basinwide Restoration Plans if the mitigation bank is identified as a priority site or qualifies as a priority site under the approved Basinwide Restoration Plan for the appropriate river basin. The Secretary shall provide comments concerning this documentation through participation on the Mitigation Bank Review Team in accordance with "The Federal Guidance for the Establishment, Use and Operation of Mitigation Banks," found in Volume 60, Number 228 of the Federal Register, November 28, 1995. Approval of the Mitigation Banking Instrument, described in the above guidance, shall be considered as a finding by the Secretary that the mitigation bank is consistent with the Basinwide Restoration Plan.

(b) Each credit in a proposed mitigation bank must include a minimum of one acre of restoration or creation as defined in 15A NCAC 2H .0506(h)(4).

Authority G.S. 143-214.11; 143-214.12.

SECTION .0400 - WETLANDS RESTORATION FUND

.0401 PURPOSE

(a) The purpose of the Wetlands Restoration Fund (Fund) is to provide a repository for monetary contributions or payments and donations or dedications of interests in real property. Fund assets will be used to promote the restoration, enhancement, preservation, or creation of wetlands and riparian areas. Fund assets will only be used for the purpose of contributing directly to the planning, acquisition, perpetual maintenance, enhancement, restoration, or creation of wetlands and riparian areas as described in G.S. 143-214.8 through 143-214.13 in accordance with the Basinwide Restoration Plans developed for each river basin.

(b) Payments into the Fund as determined in accordance with Rule .0402 of this Section shall be considered as compliance with the compensatory mitigation requirements of certifications issued by the Department under 33 USC §1341; and permits or authorizations issued by the United States Army Corps of Engineers (Corps) under 33 USC §1344 if the contributions will meet the mitigation requirements of the

Corps.

(c) Donations or dedications of interest in real property may be accepted if consistent with the goals and objectives of the Basinwide Restoration Plan for the river basin as determined by the Secretary or the Secretary's designee.

Authority G.S. 143-214.11; 143-214.12.

.0402 SCHEDULE OF FEES

(a) This schedule of fees is based on the cost of restoring or creating wetlands or surface waters capable of performing the same or similar functions as the wetlands or surface waters that have been impaired by permitted activities under 33 USC §1341 and 33 USC §1344. The fees include directly related costs of restoration planning, land acquisition, long-term monitoring, maintenance and preservation of restored areas.

(b) The amount of payment into the Fund necessary to achieve compliance with compensatory mitigation requirements as described in Rule .0301(b) of this Subchapter shall be determined in accordance with Subparagraphs (b)(1) through (b)(3) of this Rule. The fee will be based on the acres and types of compensatory mitigation specified in the approved certifications issued by the Department under 33 USC §1341; and permits or authorizations issued by the United States Army Corps of Engineers (Corps) under 33 USC §1344. Payments shall be rounded up in increments of linear feet for streams and in 0.25 acre increments for wetlands, e.g. for streams, 520.3 linear feet of compensatory mitigation would be considered as 521 feet, and for wetlands, 2.35 acres of required compensatory mitigation would be considered as 2.5 acres for the purpose of calculating the amount of payment.

(1) Classified surface waters other than wetlands as defined in 15A NCAC 2B .0202. The payment shall be one hundred twenty-five dollars ($125.00) per linear foot of stream.

(2) Class WL wetlands as defined in 15A NCAC 2B .0101(c)(8). The payment shall be:

(A) twelve thousand dollars ($12,000) per acre for non-riparian wetlands.

(B) twenty-four thousand dollars ($24,000) per acre for riparian wetlands.

(3) Class SWL wetlands as defined in 15A NCAC 2B .0101(d)(4). The payment shall be one hundred twenty thousand dollars ($120,000) per acre.

(c) The fees outlined in Subparagraphs (b)(1) through (b)(3) of this Rule shall be reviewed annually and adjusted based on the actual cost of restoration activities conducted by the Department, including planning, monitoring and maintenance costs. The recommended adjustment to this Schedule of Fees, if any, shall be included in the report presented to the Environmental Review Commission by November 1 of each year. Revisions to the Schedule of Fees shall be published in the first issue of each calendar year of the North Carolina Register.

Authority G.S. 143-214.11; 143-214-12.

.0403 DONATION OF PROPERTY

(a) Donations or dedications of interest in real property may be accepted by the Secretary, or the Secretary's designee, provided that the property has been identified in the Basinwide Restoration Plan. The decision on whether to accept a donation of property shall include a determination by the Secretary, or the Secretary's designee, that restoration, enhancement or preservation of the property is consistent with the goals of an approved Basinwide Restoration Plan. The property is consistent with the Basinwide Restoration Plans if the property is identified as a priority site or qualifies as a priority site under the approved Basinwide Restoration Plan for the appropriate river basin. In addition, the Secretary or the Secretary's designee, shall consider the factors listed in Paragraphs (b) and (c) of this Rule.

(b) The factors that shall be considered by the Secretary, or the Secretary's designee, in determining whether to accept donations or dedications of interests in real property that require restoration or enhancement include the following:

(1) the property is adjacent to or will become a part of a Department approved restoration project; or is adjacent to a sensitive natural resource, as identified in the Basinwide Restoration Plan;

(2) the size of the property is at least five acres;

(3) the likelihood that the site can be successfully restored or enhanced, based on hydrology, soils, and vegetation;

(4) the extent of activities required to successfully restore or enhance the site. Sites requiring extreme measures for successful restoration, such as removal of structures, infrastructure, hazardous waste or solid waste will not be accepted;

(5) presence of potentially significant cultural or historic resources;

(6) prior, current, and future land use of the donation of property and adjacent properties;

(7) existence of federally-or state-listed sensitive, endangered, or threatened species, and/or their critical habitat; and

(8) the potential for enhancement of natural resource values of public lands.

(c) The factors that shall be considered by the Secretary, or the Secretary's designee, in determining whether to accept donations of existing wetlands and riparian properties for preservation include the following:

(1) the property has clearly identifiable unique wetland or riparian area functions or values, such as federally-or state-listed sensitive, endangered or threatened species, and/or their critical habitat, or unique natural heritage values;

(2) the potential for enhancement of natural resource values of public lands;

(3) the property is adjacent to, or will become a part of a Department approved restoration project; or is adjacent to a sensitive natural resource, as

identified in the Basinwide Restoration Plan;

(4) the size of the property is at least five acres;

(5) the property is under imminent threat of degradation; and

(6) prior, current, and future land use of the donated property and adjacent properties.

(d) At the expense of the applicant, the following information must be submitted with any proposal for donations or dedications of interest in real property:

(1) documentation that the property meets the criteria outlined in Paragraphs (b) and (c) of this Rule;

(2) US Geologic Survey 1:24,000 (7.5 minute) scale topographic map, county tax map, USDA Natural Resource Conservation Service County Soil Survey Map, and county road map showing the location of the property to be donated along with information on existing site conditions, vegetation types, presence of existing structures and easements;

(3) a current property survey performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office;

(4) a current appraisal of the value of the property performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office;

(5) a title opinion performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office;

(6) documentation of a completed Phase 1 Environmental Assessment that indicates the property is not affected by hazardous or solid waste disposal sites or air, water, or soil pollution; and

(7) documentation that the property does not contain structures that present health or safety problems to the general public. If wells, septic or water or sewer connections exist, they shall be filled, remediated and or closed at owner's expense, and in accordance with state and local health and safety regulations.

(e) In addition to the factors outlined in Paragraphs (b) through (d) of this Rule, the Secretary, or the Secretary's designee, shall consider the following factors when evaluating a donation of property to satisfy compensatory mitigation requirements:

(1) restoration of the property will offset the adverse impacts of the permitted project; and

(2) the adverse impacts of the permitted project are within the same subbasin as the property proposed for donation.

(f) For the purposes of satisfying compensatory mitigation requirements through the donation of property requiring restoration or enhancement, the following criteria shall apply:

(1) The size of property to be donated must equal or exceed the acreage of wetland required to be mitigated under the approved permit and must be a minimum of five acres in size.

(2) In addition to the donation of property, a restoration fee must be paid. The amount of payment into the Fund for restoration costs shall be determined in accordance with Parts (f)(2)(A) through (f)(2)(C) of this Rule. Restoration fees shall be rounded up in increments of linear feet for streams and in 0.25 acre increments for wetlands, e.g. for streams, 520.3 linear feet of compensatory mitigation would be considered as 521 feet, and for wetlands, 2.35 acres of required compensatory mitigation would be considered as 2.5 acres for the purpose of calculating the amount of fees.

(A) Classified surface waters other than wetlands as defined in 15A NCAC 2B .0202. The payment for restoration shall be one hundred twenty-five dollars ($125.00) per linear foot of stream.

(B) Class WL wetlands as defined in 15A NCAC 2B .0101(c)(8).

(i) six thousand dollars ($6,000) per acre for non-riparian;

(ii) ten thousand dollars ($10,000) per acre for riparian.

(C) Class SWL wetlands as defined in 15A NCAC 2B .0101(d)(4). The payment for restoration shall be thirty thousand dollars ($30,000) per acre.

(g) The Schedule of Restoration Fees outlined in Subparagraph (f)(2) of this Rule shall be reviewed annually and adjusted based on the actual cost of restoration activities conducted by the Department, including monitoring and maintenance costs. The recommended adjustment to the Schedule of Restoration Fees, if any, shall be included in the report presented to the Environmental Review Commission by November 1 of each year. Revisions to the Schedule of Restoration Fees shall be published in the first issue of each calendar year of the North Carolina Register.

(h) Donation of preservation property to satisfy compensatory mitigation requirements will only be accepted if such property meets the requirements of 15A NCAC 2H .0500(h) and satisfies the compensatory mitigation requirements of the approved permit.

(i) The donation of conservation easements to satisfy compensatory mitigation requirements will only be accepted if the conservation easement is granted in perpetuity and the encumbered property meets the requirements of Paragraphs (a) through (e) of this Rule. In addition, the acreage of fee requirements of Paragraph (f) of this Rule shall apply.

Authority G.S. 143-214.11; 143-214-12.

SECTION .0500 - WETLANDS RESTORATION FUND

.0501 PURPOSE

~~(a) The purpose of the Wetlands Restoration Fund (Fund) is to provide a repository for monetary contributions or~~

~~payments and donations or dedications of interests in real property. Fund assets will be used to promote the restoration, enhancement, preservation, or creation of wetlands and riparian areas. Fund assets will only be used for the purpose of contributing directly to the acquisition, perpetual maintenance, enhancement, restoration, or creation of wetlands and riparian areas as described in G.S. 143-214.8 through 143-214.13 in accordance with the wetlands restoration plans developed for each river basin.~~

~~(b) Payments into the Fund as determined in accordance with Rule .0502 of this Section shall be considered as compliance with the compensatory mitigation requirements of certifications issued by the Department under 33 U.S.C. § 1341; and permits or authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344 if the contributions will meet the mitigation requirements of the U. S. Army Corps of Engineers.~~

~~(c) Donations or dedications of interest in real property may be accepted if consistent with the goals and objectives of the restoration plan for the river basin as determined by the Secretary or Designee.~~

Authority G.S. 143-214.11; 143-214.12.

.0502 DEFINITIONS

~~(a) Compensatory mitigation means the restoration, creation, enhancement or preservation of wetlands, riparian areas and classified surface waters that is required as a condition of certifications issued by the Department under 33 U.S.C. § 1341 and permits or authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1341.~~

~~(b) Non-riparian wetlands means Class WL wetlands as defined in 15A NCAC 2B .0101(c)(8) whose major source of water is precipitation. Wetland types generally considered to be non-riparian include wet flats, pocosins and ephemeral wetlands.~~

~~(c) Riparian wetlands means Class WL wetlands as defined in 15A NCAC 2B .0101(c)(8) whose major source of water is ground water or surface water. Wetland types generally considered to be riparian include freshwater marshes, swamp forests, bottomland hardwood forests, headwater forests, bog forests, mountain bogs and seeps.~~

Authority G.S. 143-214.11; 143-214.12.

.0503 SCHEDULE OF FEES

~~(a) This schedule of fees is based on the cost of restoring or creating wetlands or surface waters capable of performing the same or similar functions as the wetlands or surface waters that have been impaired by permitted development projects. The fees include directly related costs of restoration planning, land acquisition, long-term monitoring, maintenance and preservation of restored areas.~~

~~(b) The amount of payment into the Fund in lieu of compensatory mitigation requirements as described in Rule .0501(b) of this Section shall be determined in accordance with Subparagraphs (1) through (3) of this Paragraph. The fee will be based on the acres and types of compensatory mitigation specified in the approved U.S. Army Corps of Engineers permit under 33 U.S.C. § 1344 or the certification issued by this Department under 33 U.S.C. § 1341. Payments shall be calculated in 0.25 acre increments for wetlands and by the linear foot for streams.~~

~~(1) Classified surface waters other than wetlands as defined in 15A NCAC 2B .0202. The payment shall be one hundred twenty-five dollars ($125.00) per linear foot of stream.~~

~~(2) Class WL wetlands as defined in 15A NCAC 2B .0101(c)(8). The payment shall be:~~

~~(A) twelve thousand dollars ($12,000) per acre for non-riparian wetlands.~~

~~(B) twenty-four thousand dollars ($24,000) per acre for riparian wetlands.~~

~~(3) Class SWL wetlands as defined in 15A NCAC 2B .0101(d)(4). The payment shall be one hundred twenty thousand dollars ($120,000) per acre.~~

~~(c) Donations or dedications of interest in real property may be accepted in lieu of compensatory mitigation requirements as described in Rule .0501(b) of this Section provided that the property has been identified as an approved site in the restoration plan developed for each river basin. Other properties may be considered by the Secretary or his designee on a case-by-case basis. The decision on whether to accept other properties shall include a determination that restoration or preservation of the property is consistent with the goals and objectives of the restoration plan for the river basin. The amount of credit for donations of property shall consider the costs of restoration planning, long-term monitoring, and maintenance of the donated property.~~

~~(d) This fee schedule will be subject to update and revision upon determination that assessed fees vary from the actual costs of restoration activities described in Rule .0501(a) of this Section.~~

Authority G.S. 143-214.11; 143-214.12.

.0504 PAYMENT

~~(a) Payment of fees shall be made by check or electronic fund transfer to the North Carolina Wetland Restoration Fund.~~

~~(b) Donations or dedications of interest in real property shall be deeded to the State of North Carolina or to other public or private nonprofit conservation organizations as approved by the Department.~~

Authority G.S. 143-214.11; 143-214.12.

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Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Health Services intends to amend rules cited as 15A NCAC 19C .0801 - .0803; and adopt rules cited as 15A NCAC 19C .0804 - .0809. Notice of

Rule-making Proceedings was published in the Register on November 14, 1997.

Proposed Effective Date: *July 1, 1998*

A Public Hearing *will be conducted at 2:00 p.m. on February 2, 1998 at the Parker Lincoln Bldg., Room 1B232, 2728 Capital Blvd., Raleigh, NC.*

Reason for Proposed Action: *The ratified bill requires implementation of standards for the certification of individuals and firms conducting lead-based paint activities in child-occupied facilities or target housing and accreditation of training courses and training providers. The Department intends to submit an application to the US Environmental Protection Agency (EPA) to become an EPA authorized lead certification program. The Department will accept written comment and comment at the public hearing on its intent to apply to become an EPA authorized state.*

Comment Procedures: *All interested parties may submit written comments to the Division of Epidemiology, Occupational & Environmental Epidemiology Section, Health Hazards Control Branch, PO Box 29601, Raleigh, NC 27626-0601. All comments should be submitted within 30 days after the publication of text.*

Fiscal Note: *These Rules affect the expenditure or distribution of State funds subject to the Executive Budget Act, Article 1 of Chapter 143. These Rules do not affect local government funds and do not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 19 - HEALTH: EPIDEMIOLOGY

SUBCHAPTER 19C - OCCUPATIONAL HEALTH

SECTION .0800 LEAD-BASED PAINT HAZARD MANAGEMENT PROGRAM

.0801 GENERAL

(a) The following definitions shall apply throughout this Section:

(1) ~~Certified Project Designer" means an individual who is directly responsible for planning all phases of a lead abatement project from abatement site preparation through final clearance.~~ "Accredited training course" means a lead training course accredited by the Program pursuant to Rule .0805 of this Section.

(2) ~~"Certified Inspector" means an individual who conducts inspections and samples for the presence and level of lead in paint, dust, and soil.~~ "Accredited training provider" means a training provider who is accredited by the Program, pursuant to Rule .0806 of this Section, and who provides accredited training courses, pursuant to Rule .0805 of this Section.

(3) ~~"Certified Risk Assessor" means an individual who investigates and samples for the presence of lead in paint, dust, and soil for the purpose of determining the nature, severity, and location of lead-based paint hazards; a certified risk assessor also samples for the purpose of abatement clearance testing.~~ "Design" means a written or graphic plan prepared by a certified project designer specifying how an abatement project will be performed, and includes, but is not limited to, scope of work and technical specifications. The certified project designer's signature and certification number shall be on all such abatement designs.

(4) ~~"Certified Supervisor" means an individual who supervises and conducts lead abatement. This person may also develop plans and designs for abatement projects involving fewer than 10 housing units.~~ "Emergency Lead-Based Paint Abatement" means abatement conducted to remediate a lead-based paint hazard which has been determined by a certified risk assessor and the Program to be a significant lead-based paint hazard to building occupants.

(5) ~~"Certified Lead Worker" means an individual who performs lead abatement activities under the direct supervision of a certified supervisor.~~ "Immediate family" means an individual's family members limited to spouse, parents, siblings, grandparents, children, and grandchildren.

(6) ~~"Interim Certification" means the status of an individual who has been given temporary certification by the Program to perform specified abatement activities.~~ "Occupant Protection Plan" means a written plan which describes the measures and management procedures that will be taken during abatement to protect building occupants from exposure to lead-based paint hazards. The plan shall be unique to each residential dwelling or child-occupied facility. For projects fewer than 10 units, the plan shall be prepared by a certified supervisor or project designer. For projects with ten or more units, the plan shall be prepared by a certified project designer. The plan shall include the preparer's signature and certification number.

(7) "Program" means the Lead-Based Paint Hazard Management Program within the NC Department of Health and Human Services.

(8) "Start date" means the date on which activities begin on a permitted lead abatement project requiring the use of certified individuals, including the abatement area isolation and preparation or any other activity which may disturb lead-based paint.

(9) "Working day" means Monday through Friday. Holidays falling on any of these days are included in the definition.

(b) Lead-Based Paint Activities, 40 CFR Part 745 Subpart L, is hereby incorporated by reference, including any subsequent amendments and editions. This document is available for inspection at the Department of Health and Human Services, Health Hazards Control Branch, 2728 Capital Blvd., Raleigh, NC 27604. A copy of 40 CFR Part 745 Subpart L may be obtained in writing from the US Government Bookstore, 999 Peachtree Street, Suite 120, Atlanta, GA, at a cost of thirty- eight dollars ($38.00).

Authority G.S. 130A-453.01; 130A-453.11; 150B-21.1(a)(3); EO 108, James B. Hunt, Jr., 1997.

.0802 CERTIFICATION OF INDIVIDUALS

(a) No person shall perform lead-based paint activities until that person has been certified by the Program in the appropriate certification category, except as provided for in G.S. 130A-453.0803(b). Certification for persons who were certified under the Interim Lead Abatement Certification Program and who were conducting specified lead-based paint activities, as defined in the Interim Lead Abatement Certification Program, prior to the effective date of these Rules, shall remain valid until the completion of the project begun prior to the effective date of these Rules. ~~Persons who perform specified lead-based paint activities funded by monies granted from the federal government shall become certified by the Program in one or more of the following appropriate certification categories:~~

~~(1) Certified Lead Worker;~~

~~(2) Certified Supervisor;~~

~~(3) Certified Inspector;~~

~~(4) Certified Project Designer; and~~

~~(5) Certified Risk Assessor.~~

(b) An applicant for certification shall ~~have~~ successfully ~~completed~~ complete applicable training courses accredited ~~by another state to provide training in the categories listed in Subparagraph (a)(1)-(5) of this Rule, unless training was taken prior to June 1, 1997. In the case of training taken prior to June 1, 1997, the applicant shall have successfully completed an initial training course for the specific discipline taught on or after October 1, 1990, and shall have successfully completed an accredited refresher training course for the specific discipline by the date of application.~~ by the Program pursuant to Rule .0805 of this Section or accredited only by a state, tribe, or territory that has a written reciprocating agreement with the Program, and shall successfully complete the examination specified in Rule .0804. Successful completion includes attendance of at least 95 percent of the course and passing the course exam and the hands-on skills assessment. An applicant for initial certification shall have successfully completed an accredited initial training course for a specific discipline within the 12 months immediately preceding application. If initial training was completed more than 12 months prior to application, the applicant shall have successfully completed an accredited refresher course for the specific discipline at least every 24 months from the date of completion of initial training; and the applicant shall have successfully completed an accredited course for the specific discipline within 12 months prior to applying for certification. However, an applicant who completed training prior to the effective date of this Rule and applies for certification prior to December 31, 1998, shall meet the following requirements:

(1) Training taken prior to July 1, 1995, shall not be recognized for certification and the applicant shall complete an accredited initial training course; or

(2) Applicants for certification who have successfully completed an initial training course for a specific discipline between July 1, 1995, and July 1, 1998, shall successfully complete an accredited refresher course for the specific discipline by December 31, 1998, or by date of application whichever is first; and the applicant shall have successfully completed an accredited course for the specific discipline within 12 months prior to applying for certification.

(c) In addition to the requirements in paragraph (b), an applicant, other than those for the ~~certified~~ worker category, shall meet the following:

(1) ~~a certified inspector shall have a high school diploma or equivalent;~~ a risk assessor shall meet the training requirements for inspector and the examination requirements pursuant to Rule .0804 of this Section for inspector and risk assessor, and shall have:

(A) a Bachelor's degree and one year of experience in a related field; or

(B) an Associate's degree and two years of experience in a related field; or

(C) certification as an industrial hygienist, professional engineer, registered architect; or

(D) a high school diploma or equivalent and at least three years of experience in a related field.

(2) ~~a certified risk assessor shall have;~~

~~(A) Bachelor's degree and one year of experience in a related field (e.g. lead, asbestos, environmental remediation work, or construction), or an Associates degree and two years experience in a related field (e.g. lead, asbestos, environmental remediation work, or construction); or~~

~~(B) Certification as an industrial hygienist, professional engineer, registered architect or certification in a related engineering/health/environmental field (e.g. safety professional, environmental scientist); or~~

~~(C) A high school diploma or equivalent and at least three years of experience in a related field (e.g. lead, asbestos, environmental remediation work, or construction) or in the building trades.~~

a supervisor shall meet the examination

requirements pursuant to Rule .0804 of this Section for supervisor and shall have:

(A) one year of experience as a certified lead abatement worker; or,

(B) at least two years of experience in a related field.

(3) ~~certified supervisor shall have:~~

~~(A) A high school diploma or equivalent; and one year experience as a certified lead abatement worker; or~~

~~(B) At least two years experience in a related field (e.g. lead, asbestos, environmental remediation work, or construction) or in the building trades.~~

a project designer shall meet the training requirements for supervisor and project designer and the examination requirements pursuant to Rule .0804 of this Section for supervisor and shall have:

(A) a Bachelor's degree in engineering, architecture, or related profession, and one year of experience in building construction and design; or

(B) a high school diploma or equivalent, and four years of experience in building construction and design or a related field.

(4) ~~a certified project designer shall have:~~

~~(A) A bachelor's degree in engineering, architecture, or related profession, and one year of experience in building construction and design or a related field; or~~

~~(B) A high school diploma or equivalent, and four years experience in building construction and design or a related field.~~

an inspector shall meet the examination requirements pursuant to Rule .0804 of this Section for inspector.

(d) To obtain certification, the applicant shall submit to the Program:

(1) a completed application on a form provided by the ~~Program:~~ Program with the following information:

(A) full name and social security number of applicant;

(B) address, including city, state, zip code, and telephone number;

(C) date of birth, sex, height, and weight;

(D) discipline applied for;

(E) name, address, and telephone number of employer;

(F) training agency attended;

(G) name of training course completed; and

(H) dates of course attended;

(2) ~~confirmation of completion of an accredited initial or refresher training course from the training agency; the confirmation shall be in the form of an original certificate of completion bearing the training agency's official seal, or an original letter from the training agency confirming successful completion of the course on training agency letterhead;~~ two current, identical, 1 1/4 inch x 1 1/4 inch color photographs of the applicant;

(3) ~~when education is a requirement, a copy of the diploma or transcript; and~~ confirmation of completion of accredited initial and refresher training courses, as applicable, from the training agency; the confirmation shall be in the form of an original certificate of completion of the accredited training course bearing the training agency's official seal, or an original letter from the training agency, on training agency letterhead, confirming completion of the course; however, if an applicant is certified in a state, tribe, or territory that has a reciprocating agreement with the Program, the applicant shall submit a copy of the state issued certification and meet the requirements of Paragraphs (b), (d)(1) and (2) of this Rule;

(4) ~~when work experience is a requirement, work history documenting lead or other related experience;~~ when education is a requirement, a copy of the diploma or other written ~~documentation; and~~ documentation; and

(5) when work experience is a requirement, work history documenting lead or other related experience including employer name, address, and telephone number; positions held and a description of work duties performed; and dates when the positions were held.

(e) All ~~Interim~~ certifications shall expire at the end of the ~~Interim Lead Abatement Certification Program.~~ twelfth month after the certification is issued.

(f) ~~All certified persons shall be assigned a certification number by the Program.~~ An applicant for renewal of certification shall successfully complete the required accredited refresher training course within twelve (12) months prior to applying for certification renewal, and shall meet the requirements of Paragraphs (d)(1), (2), and (3) of this Rule. If a person fails to obtain the required training within twenty-four (24) calendar months of the date of last training, that person may be certified only by meeting the requirements of Paragraphs (b), (c), and (d) of the Rule.

(g) ~~In accordance with G.S. 130A-23, the Program may revoke certification for any violation of G.S. 130A, Article 19, or the rules of this Section, or upon finding that its issuance was based upon incorrect or inadequate information that materially affected the decision to issue certification. A person whose certification is revoked because of fraudulent misrepresentations or because of violations of Subparagraph (c)(3) of this Rule of the Section shall not reapply for certification before six months after the revocation and shall repeat the initial training course and other requirements set out in Paragraphs (b), (c), and (d) of this Rule.~~ All certified persons shall be assigned a unique certification number by the Program.

(h) In accordance with G.S. 130A-23, the Program may suspend or revoke certification for any violation of G.S.

130A, Article 19A or these Rules, or upon finding that its issuance was based upon incorrect or inadequate information that materially affected the decision to issue certification. The Program may also suspend or revoke certification upon finding that the certified person has violated any requirement referenced in Rule .0808(h) of this Section. A person whose certification is revoked shall repeat the initial training course and meet the requirements set out in Paragraphs (b), (c), and (d) of this Rule. A person whose certification is revoked because of fraudulent misrepresentations or because of violations that create a significant public health hazard shall not reapply for certification before twelve (12) months after the revocation, and shall repeat the initial training course and meet the requirements set out in Paragraphs (b), (c), and (d) of this Rule.

Authority G.S. 130A-453.03; 130A-453.11; 150B-21.1(a)(3); EO 108, James B. Hunt, Jr., 1997.

.0803 CERTIFICATION OF FIRMS

~~(a) All specified lead-based paint activities funded by monies granted from the federal government shall be conducted in accordance with 40 CFR Part 745 Subpart L Subsection .227, which, is hereby incorporated by reference, including any subsequent amendments and editions. These documents are available for inspection at the Department of Environment, Health, and Natural Resources, Occupational and Environmental Epidemiology Section, 2728 Capital Boulevard, Raleigh, NC 27604. Copies may be obtained free of charge by writing the Occupational and Environmental Epidemiology Section, PO Box 29601, Raleigh, NC 27626-0601.~~ All firms who conduct lead-based paint activities shall become certified by the Program. The Program shall issue a certificate of approval to firms meeting the requirements in Paragraphs (b) and (c) of this Rule.

(b) To become certified the firm shall submit a completed application to the Program on a form provided by the Program. The form shall include:

(1) the name, address and telephone number of the firm;

(2) a statement that attests that all individuals to be used by the firm to perform lead-based paint activities are certified by the Program;

(3) a statement that attests that the firm will perform lead-based paint activities in accordance with these Rules and all applicable local, State, and Federal requirements, including all applicable record keeping requirements;

(4) a disclosure of any action by EPA or an EPA authorized program involving violations, suspensions, revocations, or modifications of a firm's activities; and

(5) the original signature, title, and printed name of an official of the firm.

(c) All certifications shall expire at the end of the twelfth month after the certification is issued and can be renewed by submitting a completed application provided by the Program.

(d) In accordance with G.S. 130A-23, the Program may suspend or revoke certification for any violation of G.S. 130A, Article 19A or the rules of this Section, or upon finding that its issuance was based upon incorrect or inadequate information that materially affected the decision to issue certification or recertification. The Program may revoke certification upon a finding that a certified firm has violated any requirement referenced in Rule .0808(h) of this Section. Certification shall be revoked upon revocation of certification by EPA or an EPA authorized program. A firm whose certification has been revoked because of fraudulent misrepresentations or because of violations that create a significant public health hazard shall not be eligible for certification for a period of twelve (12) months from the date of revocation.

Authority G.S. 130A-453-04; 130A-453.11; 150B-21.1(a)(3); EO 108, James B. Hunt, Jr., 1997.

.0804 PROGRAM ADMINISTERED EXAMS

(a) The Program shall offer examinations for each individual certification category except worker. Individuals pass the exam by achieving a score of at least seventy (70) percent. Individuals seeking certification shall pass the appropriate exam. The examination shall be administered by the Program or by a state, tribe, or territory that has a written reciprocating agreement with the Program. If an individual does not successfully complete the examination after two attempts, the individual shall retake the initial course from an accredited training program before reapplying for certification.

(b) Applicants seeking North Carolina certification who wish to take the Program administered examination shall first complete all other requirements for certification; the applicant will be notified of the exact time and location of the examination. The applicant shall present photo identification for verification of identity at the time of the examination.

(c) Applicants seeking North Carolina certification who have been certified by a state, tribe, or territory that has a written reciprocating agreement with the Program shall meet the requirements of Rule .0802 Paragraphs (b), (d)(1) and (2) of this Section. A copy of that state's, tribe's, or territory's issued certification shall be verification that the applicant has met all other requirements for certification.

Authority G.S. 130A-453-05; 130A-453-11; 150B-21.1(a)(3).

.0805 ACCREDITATION OF TRAINING COURSES

(a) Training courses taught in North Carolina for lead certification shall be accredited by the Program, and shall be offered by an accredited training provider, pursuant to Rule .0806 of this Section. If the course is accredited by a state, tribe, or territory that has a written reciprocating agreement with the Program, the course shall meet the requirements of Paragraphs (b), (c), (e), (h), and (i) of this Rule and Rule .0806 of this Section to become accredited by the Program.

(b) A training provider may apply for initial and refresher training course accreditation for any of the following disciplines: inspector, risk assessor, supervisor, project designer, and worker. A training provider applying for accreditation shall submit a completed training course application to the Program for review and approval, pursuant to Paragraph (e) of this Rule. Once a training course is accredited, any changes in curriculum, hands-on exercises, principal instructor, or quality control plan from the original course accreditation application shall be approved by the Program prior to implementation.

(c) For all courses, the training provider shall administer a closed book examination. Initial courses, except the Project Designer Course shall also include a hands-on skills assessment. For successful completion of the course, the students shall attend at least ninety-five percent of the course, pass the examination with a minimum score of 70 percent, and satisfactorily complete the required hands-on skills. The initial course examination shall consist of a minimum of 50 multiple choice questions, and the refresher course examinations shall consist of a minimum of 25 multiple choice questions.

(d) Training courses shall be evaluated for accreditation purposes by the Program for course administration, course length, curriculum, training methods, instructors' qualifications, instructors' teaching effectiveness, technical accuracy of written materials and instruction, examination, and training certificate. The evaluation shall be conducted using 40 CFR Part 745 Subpart L.

(e) Training course providers shall submit the following for evaluation and accreditation by the Program:

(1) a completed application on a form provided by the Program, along with supporting documentation. The form and supporting documentation shall include the following:

(A) name, address, and telephone number of the training provider, and name and signature of the contact person, training manager, and principal instructor;

(B) course title, location and the language in which the course is to be taught;

(C) course agenda;

(D) a copy of all written instructional material used;

(E) learning or performance objectives for each topic to be taught;

(F) a copy or description of all audio/visual materials used;

(G) a detailed description of each hands-on training activity and skills assessment, including criteria for student proficiency;

(H) a description of instructional facilities and equipment;

(I) a copy of a sample exam with correct answers marked;

(J) a sample certificate with the following information:

(i) Name, address, and social security number of student;

(ii) Training course title specifying initial or refresher;

(iii) Inclusive dates of course and applicable examination;

(iv) Statement that the student completed the course and passed the required examination and hands-on skills assessment;

(v) Unique certificate number;

(vi) Printed name and signature of the training course manager and printed name of the principal instructor;

(vii) Name, address, and telephone number of the training provider;

(viii) Training course location;

(ix) For worker training courses taught in languages other than English, the certificate shall indicate the language of the course; and

(K) a list of accredited lead training courses currently being provided for certification.

(2) A list of instructors who will teach in North Carolina and their qualifications in accordance with Paragraph (f) of this Rule.

(3) A copy of the course quality control plan that meets the requirements of 40 CFR 745 Subpart L Subsection .225(c)(9).

(f) All instructors and training managers shall be approved by the Program. Any person seeking approval as a training manager or instructor for courses covered under these Rules and taught in North Carolina shall meet the following requirements:

(1) Training managers and instructors shall meet the requirements of 40 CFR 745 Subpart L Subsection .225(c), except that guest instructors who teach work practice topics and hands-on training shall meet the training requirements for principal instructors; however, guest instructors whose course instruction is limited to conducting training for XRF instruments are not required to meet the requirements for principal instructors;

(2) Principal instructors and guest instructors who teach work practice topics or hands-on training shall meet the training requirements for certification, pursuant to Rule .0802 of this Section, for the discipline in which instructor approval is sought; and

(3) All training providers shall submit, or cause to be submitted, to the Program a completed application on a form provided by the Program with the following information:

(A) name, address, and telephone number of the applicant;

(B) name, address, and telephone number of the training provider that is employing the

applicant;

(C) when training course completion is a requirement, confirmation of completion of an accredited initial or refresher training course from the training agency, the confirmation shall be in the form of an original certificate of completion of the accredited training course or the following information: the course title, dates of instruction, names of instructors, name, address, and telephone number of the training provider;

(D) when education is a requirement, a copy of the diploma or other written documentation; and

(E) when work experience is a requirement, documentation of relevant work history, including employer name, address, and telephone number, positions held, dates when positions were held, and legible copies of any relevant licenses, registrations, or certifications.

(g) An application for course accreditation shall be processed as follows:

(1) The Program shall review the application and supporting documentation submitted pursuant to Paragraph (e) of this Rule and advise the applicant of any deficiencies; if the deficiencies are not corrected within one year from the date of application, the application and any supporting documentation may be returned to the applicant and the applicant shall be required to submit a completed application pursuant to Paragraph (e) of this Rule; approval of submitted documentation does not constitute course accreditation;

(2) If the submitted documentation meets all applicable requirements of this Rule, the Program shall notify the applicant of this and also advise the applicant that it may contact the Program to schedule an on-site audit; the on-site audit shall be of a class of at least two student attendees and taught in North Carolina;

(3) If the Program determines, as a result of the on-site audit, that the training course meets all applicable requirements of this Rule, it shall issue course accreditation; if the course does not meet these requirements, the Program shall notify the applicant of the deficiencies and advise the applicant that it may request one additional on-site audit, which shall be held no more than six months from the date of the first audit;

(4) If the Program determines, as the result of the second audit, that the training course meets all applicable requirements of this Rule, it shall issue course accreditation; if the course does not meet all these requirements, the Program shall notify the applicant of the deficiencies, return all application materials, and advise the applicant that it may not reapply for course accreditation for the audited course for a period of six months from the date of the last audit.

(h) Training course providers shall perform the following in order to maintain accreditation of all initial and refresher courses:

(1) Issue a certificate of training meeting the requirements of Part (e)(1)(J) of this Rule to any student who successfully completes the required training, passes the hands on skills assessment, and passes the applicable examination.

(2) Submit to the Program written notice of intention to conduct a training course for North Carolina lead certification purposes if the course is to be taught in North Carolina. Notices for training courses, except lead worker, shall be postmarked or received ten working days before the training course begins. Notices for lead worker training courses shall be postmarked or received five working days before the training course begins. If the training course is canceled, the training course provider shall notify the Program at least one working day prior to the scheduled start date. Notification of intent to conduct a training course shall be made using a form provided by the Program and shall include the following:

(A) Training provider name, address, telephone number and contact person;

(B) Training course title;

(C) Inclusive dates of course and applicable exam;

(D) Start and completion times;

(E) Location of the course facility and directions to the course facility if the site is not routine for the training provider;

(F) Language in which the course is taught;

(G) Principal instructor; and

(H) Signature of the training manager.

(3) Notify the Program, in writing, at least ten working days prior to the scheduled course start date, of any changes to course length, curriculum, training methods, training manual or materials, instructors, examination, training certificate, training course manager or contact person.

(4) Submit to the Program information and documentation for any course approved under Paragraph (e) of this Rule if requested by the Program.

(5) Ensure that all training managers and instructors are approved by the Program.

(6) Ensure that all training courses covered under this Rule meet the requirements of 40 CFR Part 745 Subpart L, Subsection 225(c), (d), and (e) and the following requirements:

(A) The instructor must follow the curriculum that was approved by the Program or a state,

tribe, or territory with whom the Program has a reciprocity agreement. The schedule may be adjusted, but all curriculum elements shall be covered.

(B) All initial and refresher training courses shall have a maximum of forty (40) students;

(C) A day of training shall include at least six and one-half hours of direct instruction, including classroom, hands-on training or field trips;

(D) Work time and instruction time shall not exceed twelve (12) hours in a twenty-four (24) hour period;

(E) A training course shall be completed within a two-week period;

(F) A single instructor is allowed only for a worker course. Other initial disciplines shall have a minimum of two instructors;

(G) Instructor ratio for hands-on training shall be no more than ten students per instructor;

(H) All course materials shall be in the language in which the course is being taught;

(I) Each training course shall be discipline specific;

(J) Students shall be allowed to take an examination no more than twice for each course. After two failures, the student shall retake the full course before being allowed to retest; and

(K) Training providers shall provide examination security to prevent student access to the examination materials before and after the exam. Training providers shall take measures to preclude cheating during the exam, such as providing space between students, prohibiting talking, and monitoring students throughout the exam.

(7) Verify, by photo identification, the identity of any student requesting training.

(8) For each course accredited by the Program, and taught in North Carolina, the training provider shall submit a completed renewal application on a form provided by the Program. Effective July 1, 1999, a renewal application shall be submitted prior to the next course offering and annually thereafter. If an annual training course renewal lapses, the provider shall submit a renewal application prior to offering the course again in North Carolina.

(9) Work practice and worker protection demonstrations and hands-on exercises, including, but not limited to respirator fit testing, presented in all training courses covered under this Rule shall be conducted in accordance with Rule .0807 of this Section and 29 CFR 1926.62, which is hereby incorporated by reference, including any subsequent amendments and editions. Copies may be obtained by writing the NC Department of Labor, Bureau of Education, Training and Technical Assistance, 319 Chapanoke Road, Suite 105, Raleigh, NC, 27603, at a cost of ten dollars and sixty cents ($10.60).

(i) Training course providers shall permit Program representatives to attend, evaluate and monitor any training course, take the course examination and have access to records of training courses without charge or hindrance to the Program for the purpose of evaluating compliance with these Rules. The Program shall perform periodic and unannounced on-site audits of training courses.

(j) In accordance with G.S. 130A-23, the Program may suspend or revoke accreditation for a training course for any violation of G.S. 130A, Article 19A or these Rules and shall revoke accreditation upon revocation of accreditation by the EPA or by an EPA authorized accreditation program.

Authority G.S. 130A-453.07; 130A-453.11; 150B-21.1(a)(3).

.0806 ACCREDITATION OF TRAINING PROVIDERS

(a) All training providers who offer lead training courses in North Carolina for individual certification shall be accredited by the Program before offering training courses.

(b) To become accredited, the training provider shall:

(1) employ a training manager who meets the requirements of 40 CFR 745 Subpart L Subsection .225(c); and

(2) submit a completed application to the Program on a form provided by the Program. The form shall include:

(A) the name, address and telephone number of the training provider;

(B) a statement that all courses taught in North Carolina for certification will comply at all times with all of the requirements of these Rules;

(C) a statement that the training provider is responsible for maintaining the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics;

(D) a statement that the training provider is responsible for maintaining the validity and integrity of the course examination to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics;

(E) a completed application for training manager, pursuant to Rule .0805(f) of this Section with documentation for meeting the requirements of 40 CFR 745 Subpart L Subsection .225(c); and

(F) the original signature, title, and printed name of an official of the training company.

(c) In accordance with G.S. 130A-23, the Program may

suspend or revoke accreditation of a training course provider for any violation of G.S. 130A, Article 19A or these Rules, and shall revoke accreditation upon revocation of accreditation by EPA or by an EPA authorized state. The Program shall revoke training provider accreditation upon finding that the training provider has falsified training documents. When training provider accreditation is revoked for falsification of training documents, the training course provider shall not be eligible for reaccreditation for a period of three years from the date of revocation.

Authority G.S. 130A-453.07; 130A-453.11; 150B-21.1(a)(3).

.0807 STANDARDS FOR CONDUCTING LEAD-BASED PAINT ACTIVITIES

(a) All lead-based paint activities and design activities shall be conducted in accordance with 40 CFR 745 Subpart L, Subsection .227.

(b) For each inspection, risk assessment, or lead hazard screen conducted, the certified inspector or risk assessor shall submit to the Program a legible copy of the summary of the activity on a form provided or approved by the Program. The form shall be submitted within 45 days of the activity.

Authority G.S. 130A-453.10; 130A-453.11; 150B-21.1(a)(3).

.0808 LEAD-BASED PAINT ABATEMENT PERMITS

(a) No person shall conduct abatement without an abatement permit issued by the Program, except as provided for in G.S. 130A-453.09(c). All abatement activities shall be conducted by a certified firm.

(b) All applications shall be made in writing on a form provided or approved by the Program. The application shall include at least all of the following applicable information:

(1) name, address, contact name, and telephone number of the owner and operator of the target housing or child occupied facility;
(2) name, certification number, address, contact name, and telephone number of the certified firm;
(3) name, certification number, address, and telephone number of the inspector and risk assessor;
(4) name, certification number, address, and telephone number of the project designer;
(5) location and street address, including building number or name and floor or room number, city, county, and state, of the building where the abatement is taking place;
(6) scheduled start and completion dates of lead-based paint abatement work including preparation work and cleanup;
(7) work schedule, including days of the week and hours to be worked;
(8) amount of material to be abated;
(9) method(s) of abatement;
(10) non-hazardous waste transporter, address, contact name, and telephone number;
(11) non-hazardous waste disposal site, address, contact name, and telephone number;
(12) hazardous waste transporter, address, contact name, and telephone number;
(13) hazardous waste disposal site, address, contact name, and telephone number;
(14) for ordered abatements, the name, title, and authority of the State or local government representative who has ordered the abatement, the date that the order was issued, and the date the abatement was ordered to begin;
(15) for emergency abatements, a description of the nature of the emergency and an explanation of how failure to correct the situation would cause a lead-based paint hazard;
(16) contract price for the abatement; and
(17) the name of the representative of the certified firm, address, original signature, and date.

(c) Applications for lead abatement permits shall be postmarked or received by the Program at least ten working days prior to the scheduled abatement start date. For emergency lead abatement activities, the ten working days may be waived by the Program. Applications for emergency lead-based paint abatement activities shall be submitted along with a letter from the owner or the certified risk assessor explaining the nature of the emergency.

(d) Application for revision to an issued lead abatement permit shall be made by the applicant in writing on a form provided or approved by the Program and shall be received by the Program in accordance with the following:

(1) Revision to a start date for a project that will begin after the start date stated in the approved permit shall be received on or before the previously stated start date or previously revised start date;
(2) Revision to a start date for a project that will begin before the start date stated in the approved permit or subsequent revisions shall be received at least ten working days before the new start date;
(3) Revision to a completion date that will be extended beyond the completion date stated in the approved permit shall be received by the original completion date or previously revised completion date;
(4) Revision to a completion date that will be earlier than the completion date stated in the approved permit or subsequent revision shall be received by the new completion date; and
(5) Revision to permits other than start or completion dates shall be submitted to the Program prior to initiating the activity which the revision addresses.

(e) The following shall be maintained on site during abatement activities and be immediately available for review by the Program:

(1) a copy of the abatement permit issued by the Program and all revisions with the Program's confirmation of receipt;
(2) photo identification cards issued by the Program for all personnel performing lead abatement activities;

(3) the occupant protection plan; and
(4) any applicable abatement design, risk assessment and inspection reports.

(f) All permitted abatement activities shall be conducted in accordance with Rule .0807 of this Section.

(g) A certified supervisor shall be on-site at all times when permitted abatement activities are being conducted.

(h) In accordance with G.S. 130A-23, the Program may suspend or revoke the permit for any violation of G.S. 130A, Article 19A or these Rules. The Program may also revoke the permit upon a finding that its issuance was based upon incorrect or inadequate information that materially affected the decision to issue the permit. Notwithstanding permit revocation for violation of the rules of this Section, a lead-based paint abatement permit shall also be subject to revocation if the abatement activities are in violation of the following provisions with regard to lead-based paint abatement, as determined by the agencies which administer these Rules:
(1) Department of Labor Rules found at Chapter 7, Title 13 of the North Carolina Administrative Code;
(2) Department of Transportation Rules found at Title 19A, of the North Carolina Administrative Code;
(3) Solid Waste Management Rules found at Chapter 13, Title 15A of the North Carolina Administrative Code; and
(4) NC Childhood Lead Poisoning Prevention Program requirements found at G.S. 130A, Article 5, Part 4.

Authority G.S. 130A-453.09; 130A-453.11; 150B-21.1(a)(3).

.0809 FEES

(a) The fees required by G.S. 130A-453.08 for individual and firm certification shall be submitted with a completed application for certification. The amount of the fee shall be one hundred fifty dollars ($150.00) for each category, except that the fee for worker shall be fifty dollars ($50.00).

(b) The fee required by G.S. 130A-453.08 for examination shall be submitted with a completed application for certification. The amount of the fee shall be seventy-five dollars ($75.00).

(c) The fees required by G.S. 130A-453.08 for initial course accreditation and renewal course accreditation shall be submitted with a training course application. The amount of the fee shall be two thousand dollars ($2000.00) for each initial course accreditation if the course does not have prior approval by a state, tribe, or territory that has a reciprocating agreement with the Program; fifteen hundred dollars ($1500.00) for each course accreditation if the course is accredited by a state, territory, or tribe that has a reciprocating agreement with the Program; and seven hundred fifty dollars ($750.00) for each renewal course accreditation.

(d) The fees required by G.S. 130A-453.08 for course provider accreditation shall be submitted with a completed application. The amount of the fee shall be one hundred fifty dollars ($150.00).

(e) The fee required by G.S. 130A-453.09 for abatement permits shall be submitted with a completed permit application. The amount of the fee shall be two percent of the contract price, not to exceed five hundred dollars ($500.00).

(f) The fee for a replacement photo identification card shall be fifteen dollars ($15.00).

(g) In the case of issuing a refund for permits, an administrative cost of two hundred dollars ($200.00) shall be retained by the Program.

Authority G.S. 130A-453.08; 130A-453.11; 150B-21.1(a)(3).

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Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Health & Human Services intends to amend rule cited as 15A NCAC 19G .0102. Notice of Rule-making Proceedings was published in the Register on July 15, 1997.

Proposed Effective Date: *August 1, 1998*

A Public Hearing *will be conducted at 3:00 p.m. on February 2, 1998 at the Parker Lincoln Bldg., Room 1B232, 2728 Capital Blvd., Raleigh, NC.*

Reason for Proposed Action: *The 1997 General Assembly ratified House Bill 488 amending General Statute 130A-190, rabies vaccination tags to authorize an increase in the fee charged for rabies tags. The Secretary of the Department may increase the tag fee by an amount not to exceed five cents ($0.05) per tag above the actual cost of the tag.*

Comment Procedures: *Comments, statements, and other information may be submitted in writing within 30 days after the publication date in the North Carolina Register. Copies of the proposed rule may be obtained by contacting the Occupational & Environmental Epidemiology Section at 919/733-3410. Written comments may be submitted to Mr. William Pate, DOE, OEES, PO Box 29601, Raleigh, NC 27626.*

Fiscal Note: *This Rule affects the expenditures and revenues of state and local government funds. This Rule does not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 19 - HEALTH: EPIDEMIOLOGY

SUBCHAPTER 19G - VETERINARY PUBLIC HEALTH

SECTION .0100 - VETERINARY PUBLIC HEALTH PROGRAM

.0102 FEES FOR RABIES TAGS, LINKS, AND RIVETS

The Division of Epidemiology shall charge a fee to be paid by veterinarians or local health departments for the provision of rabies tags, links, and rivets. This fee shall be determined on the basis of actual ~~cost.~~ cost plus transportation, and an additional five cents ($0.05) per tag to be used to fund rabies education and prevention programs.

Authority G.S. 130A-190.

TITLE 17 - DEPARTMENT OF REVENUE

Notice is hereby given that the Department of Revenue intends to amend rule cited as 17 NCAC 3C .0008. G.S. 150B-1(d)(4) exempts the Department of Revenue from Part 2 Article 2A of Chapter 150B with respect to the notice and hearing requirements.

Proposed Effective Date: *August 1, 1998*

Instructions on How to Demand a Public Hearing: *The Department of Revenue is not subject to the notice and hearing requirements of the APA. Nevertheless, the Department publishes notice of proposed text in the Register and will hold a public hearing if there is sufficient interest in a public hearing. The Department does this because it believes that notice and hearing serve good public policy. A request for a public hearing must be in writing and be submitted to Mr. Sam McEwen, Personal Taxes Division, at P.O. Box 871, Raleigh, NC 27602, by January 30, 1998. Notice of any public hearing scheduled on this proposed rule change will be published in the Register.*

Reason for Proposed Action: *Chapter 300 of the 1997 Session Laws changed the law on extensions of income and gift tax. Payment is no longer required to get an extension although the failure to pay penalty applies to late payments. The rule is revised to reflect the statutory change.*

Comment Procedures: *Written comments may be submitted to Mr. Sam McEwen at North Carolina Department of Revenue, Personal Taxes Division, P.O. Box 871, Raleigh, NC 27602. Comments received will be taken into consideration in adopting the permanent rule. If you have questions, you may call Mr. McEwen at 919-733-3565.*

Fiscal Note: *This Rule does not affect the expenditures or revenues of state or local government funds. This Rule does not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 3 - INDIVIDUAL INCOME: INHERITANCE AND GIFT TAX DIVISION

SUBCHAPTER 3C - GIFT TAX

.0008 EXTENSIONS

(a) If the Gift Tax Return, Form G-600, cannot be filed by the due date of April 15, a donor may apply for an automatic ~~four-month~~ six-month extension of time to file the return. To receive the extension, a donor must file Form D-410, Application for Automatic Extension of Time to File State Income or Gift Tax Return, ~~and pay the full amount of gift tax he expects to owe~~ by the original due date of the return. In lieu of filing Form D-410, an automatic ~~four-month~~ six-month extension of time to file the gift tax return will be granted ~~if~~ to a donor who files Federal Form 4868, Application for Automatic Extension of Time, with the Internal Revenue ~~Service, provided he submits~~ Service and submits to the Department a copy of the completed Form 4868 ~~and full payment of the gift tax to the Department of Revenue~~ by the original due date of the return. When filing a copy of ~~the~~ Form 4868 in lieu of Form D-410, a donor must clearly state that the form is for North ~~Carolina;~~ Carolina, must mark through the federal amounts shown on the ~~form;~~ form, and must enter the applicable amounts for North ~~Carolina, and pay the gift tax due.~~ Carolina.

(b) A 10 percent late payment penalty ~~will apply on~~ applies to the remaining balance due if the tax paid by the due date of the return is less than 90 percent of the total amount of tax due. If the 90 percent rule is met, any remaining balance due, including interest, must be paid with the gift tax return before the expiration of the extension period to avoid the late payment penalty. If the application for extension is determined to be invalid, both the late filing and the late payment penalties will apply. An application for extension is considered invalid if the amount entered on the extension form as the tax expected to be due is not properly estimated. In determining whether the amount reflected as tax due on the application is properly estimated, all facts and circumstances, including the amount of tax due in prior years, whether substantial underpayments have been made in other years, and whether a donor made a bona fide and reasonable attempt to locate, gather, and consult information, ~~must be~~ are considered.

~~(c) A donor can apply for an additional extension beyond the automatic four-month extension by filing Form D-410A, Application for Additional Extension of Time to File State Income Tax Return, in duplicate. In lieu of filing Form D-410A, an additional extension of time will be granted if a donor files Federal Form 2688 with the Internal Revenue Service and includes a copy of the approved Form 2688 with his North Carolina return.~~

~~(d)~~(c) Donors living outside the United States and Puerto Rico (including military personnel) ~~shall be~~ are granted an automatic extension of two months for filing a North Carolina gift tax return.

~~(e)~~(d) A return may be filed at any time within the extension period but it must be filed before the end of the extension period to avoid the late filing penalty.

Authority G.S. 105-197; 105-236; 105-262; 105-263.

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Notice is hereby given that the Department of Revenue intends to repeal rule cited as 17 NCAC 4B .0615. G.S. 150B-1(d)(4) exempts the Department of Revenue from Part 2 Article 2A of Chapter 150B with respect to the notice and hearing requirements.

Proposed Effective Date: *August 1, 1998*

Instructions on How to Demand a Public Hearing: *The Department of Revenue is not subject to the notice and hearing requirements of the APA. Nevertheless, the Department publishes notice of proposed text in the Register and will hold a public hearing if there is sufficient interest in a public hearing. The Department does this because it believes that notice and hearing serve good public policy. A request for a public hearing must be in writing and be submitted to Mr. Jay Hare at Corporate, Excise, and Insurance Tax Division, at P.O. Box 871, Raleigh, NC 27602, by January 30, 1998. Notice of any public hearing scheduled on this proposed rule change will be published in the Register.*

Reason for Proposed Action: *The form referred to in the rule is not used. The rest of the rule repeats the statute and is unnecessary.*

Comment Procedures: *Written comments may be submitted to Mr. Jay Hare at North Carolina Department of Revenue, Corporate, Excise, and Insurance Tax Division, P.O. Box 871, Raleigh, NC 27602. Comments received will be taken into consideration in adopting the permanent rule. If you have questions, you may call Mr. Hare at 919-733-1352.*

Fiscal Note: *This Rule does not affect the expenditures or revenues of state or local government funds. This Rule does not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 4 - LICENSE AND EXCISE TAX DIVISION

SUBCHAPTER 4B - LICENSE TAXES

SECTION .0600 - ATTORNEYS AT LAW AND OTHER PROFESSIONALS

.0615 SUSPENSION OF PROFESSIONAL LICENSES

~~Superior court judges have the authority under Subsection (g) of G.S. 105-41 to suspend the professional license of such person who fails to pay the tax under this Section. Form B-229, Disbarment Petition, is used for this procedure.~~

Authority G.S. 105-41; 105-262.

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Notice is hereby given that the Department of Revenue intends to amend rules cited as 17 NCAC 4D .0303, .0505, .0508, .0901. G.S. 150B-1(d)(4) exempts the Department of Revenue from Part 2 Article 2A of Chapter 150B with respect to the notice and hearing requirements.

Proposed Effective Date: *August 1, 1998*

Instructions on How to Demand a Public Hearing: *The Department of Revenue is not subject to the notice and hearing requirements of the APA. Nevertheless, the Department publishes notice of proposed text in the Register and will hold a public hearing if there is sufficient interest in a public hearing. The Department does this because it believes that notice and hearing serve good public policy. A request for a public hearing must be in writing and be submitted to Ms. Brenda Coleman, Corporate, Excise, and Insurance Tax Division, at P.O. Box 871, Raleigh, NC 27602, by January 30, 1998. Notice of any public hearing scheduled on this proposed rule change will be published in the Register.*

Reason for Proposed Action:
17 NCAC 4D .0303 - Chapter 13 of the 1996 Second Extra Session phases out the excise tax on soft drinks. Effective July 1, 1998, the rate will be one-fourth of the original rate. The proposed changes to this rule reflect this change in the rate.
17 NCAC 4D .0505 - Chapter 18 of the 1996 Second Extra Session removed the requirement that a flavored milk drink be registered with the Department to be exempt from tax. The proposed changes reflect this change in the law.
17 NCAC 4D .0508 - Chapter 18 of the 1996 Second Extra Session removed the requirement that a flavored milk drink be registered with the Department to be exempt from tax and exempted all milk drinks from the tax. The proposed changes reflect these changes in the law.
17 NCAC 4D .0901 - Chapter 13 of the 1996 Second Extra Session phases out the excise tax on soft drinks. The proposed changes in this rule reflect the change in the rate.

Comment Procedures: *Written comments may be submitted to Ms. Brenda Coleman at North Carolina Department of Revenue, Corporate, Excise, and Insurance Tax Division, P.O. Box 871, Raleigh, NC 27602. Comments received will be taken into consideration in adopting the permanent rule. If you have questions, you may call Ms. Coleman at 919-733-1352.*

Fiscal Note: *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

SUBCHAPTER 4D - SOFT DRINK TAX

SECTION .0300 - TAX RATES

.0303 LIQUID BASE RATE ILLUSTRATED

(a) Whenever a dry mixture is converted to a liquid base, the tax per ounce of dry mixture will be computed in direct ratio to the quantity of ready-to-use liquid base produced.

Example: Cocoa powder; generally, one pound of cocoa powder is used in the manufacture of a gallon of chocolate syrup. The tax on a gallon of syrup being ~~one dollar ($1.00),~~ twenty-five cents ($0.25), and since 16 ounces of powder are required to produce one gallon of syrup, the tax levied in this instance would be at the rate of ~~six and one-fourth cents (6 $¢)~~ $0.01563 per ounce of the dry mixture.

(b) Concentrate mixtures which are used commercially for compounding soft drink liquid base products are subject to tax in proportion to the concentrates.

Example: Concentrate X is a quadruple strength syrup. This concentrate represents four gallons of ready-to-use syrup. In such instance, the tax rate on such concentrate would be four ~~dollars ($4.00)~~ times the current per gallon rate of single strength syrup and would have to be tax paid accordingly by the distributor, wholesaler or retailer.

(c) Premixed flavored milk shake drink mixes or premixed flavored imitation milk shake drink mixes which are not in ready-to-use size containers, and which milk shake drink mixes are for the purpose of further dispensing before being ready for consumption, are subject to tax based upon the amount of base product used in the manufacture of same. The fact that such products may be further chilled or partially frozen before being dispensed would not affect this liability.

Approximately 10 percent of the premixed flavored milk shake drink mixes represents the amount of base product used in the manufacture of such premixed milk shake drink mix. Thus, a soft drink tax of ~~ten cents ($.10)~~ 10 percent of the applicable per-gallon liquid base products rate will cover the excise tax due on the soft drink products used in the manufacture of one gallon of premixed flavored milk shake drink mix. ~~On a five gallon container of premixed flavored milk shake drink mix, a soft drink tax of fifty cents ($0.50) would be applicable.~~ A dealer is permitted to use this basis for payment of the tax on these premixed flavored milk shake drink mixes.

(d) Premixed carbonated drinks, which are not in ready-to-use size containers, and which drinks are for the purpose of further dispensing before being ready for consumption, are not considered bottled soft drinks under the Soft Drink Tax Article. Instead, the tax on same shall be determined on the basis of the amount of liquid base product used in the manufacture of such premixed carbonated drinks. Proper tax shall be applicable to each such container based on the amount of liquid base product used in producing such drink.

Using a five to one ratio, a liquid base product tax of ~~seventeen cents ($0.17)~~ four and one-fourth cents ($0.0425) will cover the amount of liquid base in one gallon of premixed carbonated drink. A dealer is permitted to use this basis for payment of the tax on these premixed carbonated drinks. Thus, on a five-gallon container of premixed drink, same would require a liquid base tax of ~~eighty-five cents ($0.85).~~ twenty-one cents ($0.21).

Example: A 600-ounce container of premixed carbonated drink using this same five to one ratio, would represent approximately 100 ounces of syrup. On this basis, a tax of twenty cents ($.20) would be applicable to each container of premixed carbonated drink.

(e) A chart providing the tax calculated for a representative listing of product sizes is available from the Secretary by requesting Form B-B-62, Soft Drink Excise Tax Calculation Chart.

Authority G.S. 105-113.45; 105-262.

SECTION .0500 - EXEMPTIONS FROM SOFT DRINK EXCISE TAX CONDITIONAL

.0505 APPLICATION FOR EXEMPTION REQUIRED

(a) Registration of all natural juice ~~and all bottled milk drinks, except a natural liquid milk drink produced by a farmer or a dairy,~~ drinks is required under G.S. 105-113.47. Any bottled ~~soft~~ natural juice drink ~~(juice or milk)~~ for which exemption is claimed shall be registered with the Secretary on Form B-B-8, Application for Registration of Product for Exemption from Bottled (Closed Container) Soft Drink Excise Tax. Any concentrated fruit or vegetable juice for which exemption is claimed shall be registered with the Secretary on Form B-B-50, Application for Registration of Concentrated Frozen or Unfrozen Fruit or Vegetable Juice for Exemption from the Soft Drink Excise Tax.

(b) Three copies of the label which will be affixed to the product or sample of the physical package showing weight and content and supporting the claim for exemption must accompany each application.

(c) All bottled soft drinks and base products for which exemption has not been provided under the Soft Drink Tax Act are subject to tax both commercially and domestically.

Authority G.S. 105-113.47; 105-262.

.0508 NATURAL PRODUCTS EXEMPTION DETERMINED

~~(a) Farmers and dairies are not required to register natural liquid milk. However, a milk drink is subject to the tax unless exempted under G.S. 105-113.47.~~

~~(b)~~ Except for added vitamins, minerals, sugar, or ingredients extracted from an item and later returned to the item during the manufacturing process, the addition of any other ingredients (such as salt, coloring, artificial flavoring, preservative, or carbonation) to a bottled, concentrated or reconstituted juice makes the product a taxable item.

Authority G.S. 105-113.46; 105-113.47; 105-262.

SECTION .0900 - MONTHLY REPORT, INVOICE AND BOND REQUIREMENTS

.0901 REPORT BY DISTRIBUTOR OR WHOLESALER

(a) Distributors and wholesalers, liable for the tax under G.S. 105-113.51, must file monthly reports on Form B-B-60 (Monthly Soft Drink Excise Tax Report of Distributor or Wholesale Dealer) with the Secretary, showing transactions for the preceding month. This monthly report is required whether or not any tax is shown to be due. The ~~secretary~~ Secretary will provide monthly report forms which must be filled out in detail, and any remittance due must accompany these reports.

(b) Distributors and wholesalers, liable for the tax under G.S. 105-113.51, and who file timely reports are subject to the tax at the reduced rate of seventy-two cents ($0.72) per gross, instead of one dollar and forty-four cents ($1.44) per gross, on the first 15,000 gross of bottled soft drinks sold at wholesale from October 1 to September 30 of each year. This equates to a reduced rate of one-half ~~cent (½) per bottled soft drink~~ of the full per bottle rate on the first 2,160,000 bottled soft drinks sold annually.

(c) Distributors and wholesalers who purchase non-tax-paid bottled soft drinks using a soft drink certificate of liability as provided for under G.S. 105-113.51(b) are not entitled to the reduced rate on any drinks purchased under a certificate and are subject to the tax at the full per bottle rate ~~of one cent ($0.01) per bottle or one dollar and forty-four cents ($1.44) per gross~~ on all such bottled soft drinks sold in North Carolina.

(d) A wholesale sale is a sale made by a distributor or wholesaler for resale and does not include a sale to the user or ultimate consumer.

(e) No discount is allowed on wholesale sales of bottled soft ~~drinks~~ drink tax paid at the reduced ~~rate of one-half cent (½) per bottle.~~ rate.

(f) A chart providing the tax calculated for a representative listing of product sizes is available from the Secretary by requesting Form B-B-62, Soft Drink Excise Tax Calculation Chart.

Authority G.S. 105-113.51; 105-113.52; 105-262.

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Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Revenue intends to amend rule cited as 17 NCAC 5C .0102. G.S. 150B-1(d)(4) exempts the Department of Revenue from Part 2 Article 2A of Chapter 150B with respect to the notice and hearing requirements.

Proposed Effective Date: *August 1, 1998*

A Public Hearing *will be conducted at 10:00 a.m. on Tuesday, February 17, 1998 in Room 135 at the Department of Revenue, 501 N. Wilmington Street, Raleigh, NC 27604.*

Reason for Proposed Action: *The rule does not reflect the Department's case-by-case analysis for determining whether a person is doing business in this State nor some of the factors that may be important in making this determination. The rule also implies that the presence of any one of the factors is conclusive as to whether a person is doing business, which is not correct for all the factors. Although the list of factors is clearly not inclusive and the Department can use factors not enumerated in the list, the Department believes that taxpayers would benefit from knowing what factors are important to the Department. The Department therefore proposes to amend the rule as indicated.*

Comment Procedures: *Written comments may be submitted to Mr. Jack Harper at North Carolina Department of Revenue, Corporate, Excise, and Insurance Tax Division, P.O. Box 871, Raleigh, NC 27602. Comments received will be taken into consideration in adopting the permanent rule. If you have questions, you may call Mr. Harper at 919-733-8484.*

Fiscal Note: *This Rule does not affect the expenditures or revenues of state or local government funds. This Rule does not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 5 - CORPORATE INCOME AND FRANCHISE TAX DIVISION

SUBCHAPTER 5C - CORPORATE INCOME TAX

SECTION .0100 - CORPORATIONS SUBJECT TO THE TAX: TAX RATE AND ALLOCATION

.0102 DETERMINATION OF DOING BUSINESS

(a) General. -- For income tax purposes, the term "doing business" means the operation of any business enterprise or activity in North Carolina for economic ~~gain, including, but not limited to, the following:~~ gain. Whether or not a taxpayer is doing business in North Carolina depends on the facts of each case. Factors the Department considers in making this determination include the following:

(1) ~~the maintenance of~~ Maintaining an office or other place of business in North ~~Carolina;~~ Carolina.

(2) ~~the maintenance in North Carolina of~~ Maintaining an inventory in North Carolina of merchandise or material for sale, ~~distribution~~ distribution, or manufacture, regardless of whether kept on the premises of the taxpayer or in a public or rented ~~warehouse;~~ warehouse or other place.

(3) ~~the selling~~ Selling or distributing ~~of~~ merchandise to

customers in North Carolina directly from a company-owned or operated vehicle when title to the merchandise is transferred from the seller or distributor to the customer at the time of the sale or ~~distribution;~~ distribution.

(4) ~~the rendering~~ Rendering of a service to clients or customers in North Carolina by agents or employees of a foreign ~~corporation;~~ corporation.

(5) ~~the owning;~~ Owning, renting, or operating ~~of~~ business or income-producing property in North ~~Carolina including, but not limited to;~~ Carolina, including any of the following:

(A) ~~Realty;~~ Real property;

(B) Tangible personal property;

(C) rademarks, tradenames, franchise rights, computer programs, copyrights, patented processes, ~~licenses.~~ licenses, and other intangible personal property.

(6) Conducting an activity that results in the origination or acquisition of a loan secured by real property located in North Carolina or for which real property in North Carolina is used as collateral, regardless of the location of the borrower.

(7) Conducting an activity that results in the acquisition or control of tangible or intangible personal property that produces income derived from North Carolina, such as receivables from credit card transactions for which the payor is located in North Carolina and secured or unsecured loans for which the payor is located in North Carolina.

(b) Limitation. -- The factors in Subparagraph (a)(6) and (a)(7) of this Rule do not include the acquisition or control of any of the following:

(1) An obligation of the State of North Carolina or a unit of local government of North Carolina.

(2) A debt instrument acquired for the purpose of investment from a person who is not a related party to the taxpayer, unless investing in intangible property is a principal business activity of the person acquiring the debt instrument.

(3) A debt instrument whose acquisition is the result of participation in a securitization transaction.

(c)~~(b)~~ Partner. -- Corporations ~~who~~ that are partners in a partnership or joint ~~venture~~ venture, and corporations that are members of a limited liability company treated as a partnership for tax purposes, operating in North Carolina are considered to be "doing business".

(d)~~(c)~~ Motor Carrier. -- "Doing business" by an interstate motor carrier is defined as the performance of any of the following business activities in North Carolina:

(1) ~~The maintenance of~~ Maintaining an office in the ~~State;~~ State.

(2) ~~The operation of~~ Operating a terminal or ~~other~~ another place of business in the ~~State;~~ State.

(3) Having an employee working out of the office or terminal of another ~~company;~~ company.

(4) Dropping off or gathering up shipments in the State.

Authority G.S. 105-130.4; 105-262.

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Notice is hereby given that the Department of Revenue intends to amend rules cited as 17 NCAC 5C .0703; 5E .0101 - .0103, .0105. G.S. 150B-1(d)(4) exempts the Department of Revenue from Part 2 Article 2A of Chapter 150B with respect to the notice and hearing requirements.

Proposed Effective Date: *August 1, 1998*

Instructions on How to Demand a Public Hearing: *The Department of Revenue is not subject to the notice and hearing requirements of the APA. Nevertheless, the Department publishes notice of proposed text in the Register and will hold a public hearing if there is sufficient interest in a public hearing. The Department does this because it believes that notice and hearing serve good public policy. A request for a public hearing must be in writing and be submitted to Mr. Jack Harper, Corporate, Excise, and Insurance Tax Division, at P.O. Box 871, Raleigh, NC 27602, by January 30, 1998. Notice of any public hearing scheduled on this proposed rule change will be published in the Register.*

Reason for Proposed Action:

17 NCAC 5C .0703 - The rule is revised in accordance with a hearing decision made by the Secretary and Technical Advice Memorandum CTAM 97-14, issued September 15, 1997.

17 NCAC 5E .0101 - Transferred and Recodified from 11 NCAC 11E .0110 - Section 1 of Chapter 360 of the 1995 Session Laws transferred from the Department of Insurance to the Department of Revenue the responsibility for collecting the insurance gross premiums tax and insurance regulatory surcharge, effective January 1, 1996. This rule has remained in effect in accordance with G.S. 150B-21.7 and is now being transferred to the appropriate place in the Code and revised to reflect the fact that the Department of Revenue rather than the Department of Insurance administers the tax.

17 NCAC 5E .0102 - Transferred and Recodified from 11 NCAC 11E .0202 - Section 1 of Chapter 360 of the 1995 Session Laws transferred from the Department of Insurance to the Department of Revenue the responsibility for collecting the insurance gross premiums tax and insurance regulatory surcharge, effective January 1, 1996. This rule has remained in effect in accordance with G.S. 150B-21.7 and is now being transferred to the appropriate place in the Code and revised to reflect statutory changes.

17 NCAC 5E .0103 - Transferred and Recodified from 11 NCAC 11E .0203 - Section 1 of Chapter 360 of the 1995 Session Laws transferred from the Department of Insurance to the Department of Revenue the responsibility for collecting

the insurance gross premiums tax and insurance regulatory surcharge, effective January 1, 1996. This rule has remained in effect in accordance with G.S. 150B-21.7 and is now being transferred to the appropriate place in the Code and revised to clarify the treatment of charges similar to finance charges.
17 NCAC 5E .0105 - Transferred and Recodified from 11 NCAC 11E .0304 - Section 1 of Chapter 360 of the 1995 Session Laws transferred from the Department of Insurance to the Department of Revenue the responsibility for collecting the insurance gross premiums tax and insurance regulatory surcharge, effective January 1, 1996. This rule has remained in effect in accordance with G.S. 150B-21.7 and is now being transferred to the appropriate place in the Code with no changes except a technical change.

Comment Procedures: *Written comments may be submitted to Mr. Jack Harper at North Carolina Department of Revenue, Corporate, Excise, and Insurance Tax Division, P.O. Box 871, Raleigh, NC 27602. Comments received will be taken into consideration in adopting the permanent rule. If you have questions, you may call Mr. Harper at 919-733-8484.*

Fiscal Note: *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 5 - CORPORATE INCOME AND FRANCHISE TAX DIVISION

SUBCHAPTER 5C - CORPORATE INCOME TAX

SECTION .0700 - BUSINESS AND NONBUSINESS INCOME

.0703 BUSINESS AND NONBUSINESS INCOME

The classification of income by the labels customarily given them, such as interest, rents, royalties, and capital gains, is of no aid in determining whether that income is business or nonbusiness income. The gain or loss recognized on the sale of property, for example, may be business income or nonbusiness income depending upon the relation to the taxpayer's trade or business:

(1) Rental income from real or tangible personal property constitutes business income when the rental of ~~such~~ the property is a principal business activity of the taxpayer or the rental of the property is related to or incidental to the taxpayer's principal business activity.

(2) A gain or loss from the sale, ~~exchange~~ exchange, or other disposition of real or personal property constitutes business income if the property while owned by the taxpayer was used to produce business income. However, the gain or loss will constitute nonbusiness income ~~providing:~~ if both of the following apply:

(a) ~~such~~ The property was subsequently utilized principally for the production of nonbusiness income for a period of at least three years prior to the ~~disposition; and~~ disposition;

(b) ~~such~~ The property was reflected as nonbusiness on the corporate income tax returns filed for those years.

(3) Interest income is business income if the intangible with respect to which the interest was received arises out of or was created by a business activity of the taxpayer and ~~in those situations where~~ when the purpose for acquiring the intangible is directly related to the business activity of the taxpayer.

Dividend income is business income when dealing in securities is a principal business activity of the taxpayer. Other dividends ~~are~~ can be either business or nonbusiness income. Dividends are business income if any of the following circumstances apply:

(a) The dividend arises out of or is acquired in the regular course of the taxpayer's trade or business.

(b) The purpose of the taxpayer in acquiring or holding the stock that gives rise to the dividend is related to the taxpayer's trade or business.

(c) The dividend is paid by a unitary subsidiary of the taxpayer.

(4) Patent and copyright royalties are business income if the patent or copyright was created or used as an integral part of a principal business activity of the taxpayer.

Authority G.S. 105-130.4; 105-262.

SUBCHAPTER 5E - INSURANCE PREMIUMS TAX AND REGULATOR SURCHARGE

SECTION .0100 - GENERAL PROVISIONS

.0101 REDUCED INSTALLMENT PAYMENTS

~~(a)~~ The Secretary may reduce the installment payment requirements for quarterly insurance gross ~~premium~~ premiums tax and q~~uarterly additional gross premium tax, as reported on forms described under 11 NCAC 11A.0436 and 11 NCAC 11A.0438, may be reduced by the Commissioner when~~ regulatory surcharge if an insurer submits a written statement to the Department indicating that the insurer reasonably believes that ~~the~~ its total estimated payments made for the current year will exceed the anticipated tax liability for the year.

~~(b)~~ This written statement ~~shall~~ must contain the basis for the insurer's belief that its installment payments should be reduced and ~~shall address~~ state the factors supporting that belief. ~~The statement must include, but not necessarily be~~

~~limited to, factors such as~~ changes in ~~premium tax laws,~~ the law and a reduction in the insurer's ~~writings, and changes in the insurer's marketing thrust, sales mix, distribution channels and underwriting, with a corresponding monetary impact as detailed in the appropriate components of the insurer's business plan.~~ writings. The statement must be submitted at least 45 days before the due date of an installment payment. An insurer that files a timely statement may reduce its next installment payment in accordance with the statement unless the insurer receives written notice from the Department that its request has been denied or adjusted.

~~(c) To receive consideration, the insurer's written statement must be received by the Department at least 45 days prior to an installment filing date.~~

~~(d) The Department shall provide written notice to the insurer, no later than 15 days prior to the installment filing date, only if the insurer's request for reduced installment payments is denied.~~

Authority G.S. 105-228.5; 105-262.

.0102 ADDITIONAL FIRE AND LIGHTNING TAXES

~~Article 1 of Chapter 118 of the General Statutes of North Carolina makes provision for the payment of a "Firemen's Relief Fund Tax" of one-half of one percent by insurance companies, corporations and associations.~~

~~The references therein contained are interpreted to impose such tax on fire, lightning and automobile fire and lightning premiums and must be paid by any company writing such lines whether such companies are fire or casualty companies.~~ G.S. 105-228.5(d) imposes two additional taxes on amounts collected on contracts of insurance applicable to fire and lightning coverage. The one imposed by subdivision (3) of that subsection applies to all contracts written for fire and lightning coverage but does not apply to the fire and lightning portion of automobile or marine contracts. The one imposed by subdivision (4) of that subsection applies only to contracts written for fire and lightning coverage within a fire district but applies to the fire and lightning portion of automobile or marine contracts.

Authority G.S. 105-228.5; 105-262.

.0103 PREMIUM FINANCE CHARGES AND OTHER CHARGES

~~Premium finance charges are considered to be a part of the premium charge for premium tax purposes and are to be included as part of the gross premiums as defined in G.S. 105-228.5.~~ Gross premiums from business in this State include premium finance charges and installment payment charges or other charges received as a result of the partial payment of premiums by a policyholder. These charges are therefore subject to tax.

Authority G.S. 58-2-40; 105-228.5.

.0105 GROUP PREMIUMS

For purposes of gross ~~premium~~ premiums taxation, group premiums are to be allocated as follows:

(1) For groups with less than 500 lives, the entire premium is allocated to the state in which the insured persons are principally located.

(2) For groups of 500 or more lives, North Carolina is allocated the same percentage of the total premium as the number of lives in North Carolina bears to the total number of lives in the group.

Authority G.S. 105-228.5; 105-262.

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Notice is hereby given that the Department of Revenue intends to amend rules cited as 17 NCAC 6B .0104, .0106 - .0107, .0112, .0117 - .0118, .3503, .3714, .3904; 6C .0201,.0203; repeal 6B .0609, .3526 .3725. G.S. 150B-1(d)(4) exempts the Department of Revenue from Part 2 Article 2A of Chapter 150B with respect to the notice and hearing requirements.

Proposed Effective Date: *August 1, 1998*

Instructions on How to Demand a Public Hearing: *The Department of Revenue is not subject to the notice and hearing requirements of the APA. Nevertheless, the Department publishes notice of proposed text in the Register and will hold a public hearing if there is sufficient interest in a public hearing. The Department does this because it believes that notice and hearing serve good public policy. A request for a public hearing must be in writing and be submitted to Mr. Sam McEwen, Personal Taxes Division, at P.O. Box 871, Raleigh, NC 27602, by January 30, 1998. Notice of any public hearing scheduled on this proposed rule change will be published in the Register.*

Reason for Proposed Action:

17 NCAC 6B .0104 - The rule is revised to delete an unnecessary requirement that a taxpayer state the name and address of the taxpayer's last employer and to make technical changes.

17 NCAC 6B .0106 - The rule is revised to delete an unnecessary requirement that a taxpayer attach a complete federal return; only pages 1 and 2 are needed.

17 NCAC 6B .0107 - Chapter 300 of the 1997 Session Laws changed the law on extensions of income tax. Payment is no longer required to get an extension although the failure to pay penalty applies to late payments. The rule is revised to reflect the statutory change.

17 NCAC 6B .0112 - The rule is revised to delete an unnecessary requirement that a taxpayer attach a complete federal return; only pages 1 and 2 are needed. It is also revised to delete other unnecessary information.

17 NCAC 6B .0117 - The rule is revised to delete an incorrect cap of $1,000 and to delete (e)(5) because effective

January 1, 1996, an adjustment to federal taxable income is allowed with respect to recovery amounts under the tax benefit rule.

17 NCAC 6B .0118 - The rule is revised to reflect changes in the Department's procedures for participation in the Federal/State Electronic Filing Program.

17 NCAC 6B .0609 - The rule is obsolete because the tax credit was repealed in the 1996 2nd Extra Session of the General Assembly.

17 NCAC 6B .3503 - The rule is revised to delete an obsolete reference to the dividend tax credit, which was repealed in 1996.

17 NCAC 6B .3526 - The rule is obsolete because the tax credit was repealed in the 1996 2nd Extra Session of the General Assembly.

17 NCAC 6B .3714 - The rule is revised to delete an obsolete reference to the dividend tax credit, which was repealed in 1996.

17 NCAC 6B .3725 - The rule is proposed to be repealed because it is unnecessary due to legislative changes that prohibit a deduction for costs of administration if those costs are also deducted on the decedent's federal fiduciary income tax return.

17 NCAC 6B .3904 - The Rule is changed to delete an unnecessary requirement of attaching a complete federal return; pages 1 and 2 are sufficient.

17 NCAC 6C .0201 & .0203 - Chapter 109 of the 1997 Session Laws imposed a new requirement to withhold from payments to nonresidents in some circumstances. The proposed rule change incorporates a reference to a form to be used in administering the new withholding requirements.

Comment Procedures: *Written comments may be submitted to Mr. Sam McEwen at North Carolina Department of Revenue, Personal Taxes Division, P.O. Box 871, Raleigh, NC 27602. Comments received will be taken into consideration in adopting the permanent rule. If you have questions, you may call Mr. McEwen at 919-733-3565.*

Fiscal Note: *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 6 - INDIVIDUAL INCOME TAX DIVISION

SUBCHAPTER 6B - INDIVIDUAL INCOME TAX

SECTION .0100 - FILING INDIVIDUAL INCOME TAX RETURNS

.0104 ITEMS REQUIRING SPECIAL ATTENTION

(a) A taxpayer ~~shall~~ must use the income tax form for the year in which his or her taxable year begins.

(b) The name and current address of the taxpayer ~~shall~~ must be plainly printed. The first name, middle ~~initial~~ initial, and last name ~~shall~~ must be printed or typed. When a preaddressed form is used, any error in the name or address ~~shall~~ must be corrected.

(c) When filing an income tax return for an unmarried individual who died during the taxable year, write "Deceased" after the individual's name on the return followed with the name and address of the executor or administrator. Example: John Doe (Deceased), Richard Doe, Executor; 100 Oak Street, Anywhere, North Carolina, 27000.

(d) The taxpayer ~~shall~~ must furnish his or her social security number and the name and social security number of his or her spouse and whether they are living together or apart, with the return.

(e) The same filing status checked on the Federal income tax return ~~shall~~ must be checked on the North Carolina income tax return (Federal Form 1040EZ filers ~~shall~~ must check single). However, if either the taxpayer or the taxpayer's spouse is a nonresident and had no North Carolina taxable income for the taxable year, the filing status MARRIED FILING SEPARATELY ~~shall~~ must be checked.

~~(f) The name and address of the taxpayer's last employer shall always be entered.~~

~~(g)~~ (f) Each applicable line of the tax return must be completed and the entering of words or phrases, such as "unconstitutional" or "object - self incrimination" does not meet the requirement of completing each applicable line on the return.

~~(h)~~ (g) The tax must be computed ~~accurately, and~~ accurately and, in the case of a delinquent return, the penalty and interest prescribed by statute ~~shall~~ must be added.

~~(i)~~ (h) If an individual has moved into or out of North Carolina during the tax year or is a nonresident with income from sources within North Carolina, the section on Form D-400, Computation of North Carolina Taxable Income for Part-Year Residents and ~~Nonresidents~~ Nonresidents, must be completed. Credit for tax paid to another state is not allowed to an individual moving into or out of this State unless ~~he~~ the individual has income derived from and taxed by another state or country while ~~he is~~ a resident of this State.

~~(j)~~ (i) If a tax credit is claimed, there must be attached to the return a true copy of the return filed with the other state or country and a canceled check, receipt, or other proof of payment of tax to the other state or country.

~~(k)~~ (j) Every return must be signed by the taxpayer or his or her authorized agent, and joint returns must be signed by both spouses.

~~(l)~~ (k) Where tax has been withheld, the state copy of the Wage and Tax Statement must be attached to the return.

~~(m)~~ (l) Any additional information that will assist in the processing and auditing of a return ~~shall~~ must be indicated on the return or a worksheet or schedule attached to the return.

~~(n)~~ (m) Anyone who is paid to prepare a return must sign the return in the space provided. The signature must be by hand. Stamps and labels are not acceptable.

Authority G.S. 28A-15-8; 105-151; 105-152; 105-154; 105-155; 105-163.5(e); 105-163.7; 105-163.10; 105-251; 105-252; 105-262.

.0106 FEDERAL FORMS

A taxpayer whose federal return reflects an address outside of North Carolina must ~~include~~ attach a copy of pages 1 and 2 of ~~his complete~~ the federal return ~~with his~~ to the taxpayer's North Carolina return.

Authority G.S. 105-152; 105-155; 105-251; 105-252; 105-262.

.0107 EXTENSIONS.

(a) If an income tax return cannot be filed by the due date, an individual may apply for an automatic six-month extension of time to file the return. To receive the extension, an individual must file Form D-410, Application for Automatic Extension of Time to File State Income or Gift Tax Return, ~~and pay the full amount of tax he expects to owe~~ by the original due date of the return. In lieu of filing Form D-410, an automatic six-month extension of time to file a North Carolina income tax return will be granted ~~if~~ to an individual who files Federal Form 4868, Application for Automatic Extension of Time, with the Internal Revenue ~~Service, provided he~~ Service and submits to the Department a copy of the completed Form 4868 ~~and full payment of the tax~~ by the original due date of the return. When filing a copy of ~~the~~ Form 4868 in lieu of Form D-410, an individual must clearly state that the form is for North ~~Carolina,~~ Carolina, must mark through the federal amounts shown on the ~~form,~~ form, and must enter the applicable amounts for North ~~Carolina; and pay the tax due.~~ Carolina.

(b) A ten percent late payment penalty ~~shall apply on~~ applies to the remaining balance due if the tax paid by the due date of the return is less than 90 percent of the total amount of tax due. If the 90 percent rule is met, any remaining balance due, including interest, must be paid with the income tax return before the expiration of the extension period to avoid the late payment penalty. If a taxpayer does not file the application for extension ~~and pay the full amount of tax expected to be due~~ by the original due date of the return, the taxpayer ~~shall be~~ is subject to both the five percent per month late filing penalty ($5 minimum; 25 percent maximum) and the ten percent late payment penalty ($5 minimum) on the remaining balance due. The penalties ~~shall~~ also apply if the extension is determined to be invalid. An application for extension is invalid if the amount entered on the extension form as the tax expected to be due is not properly estimated. In determining whether the amount reflected as tax due on the application is properly estimated, all facts and circumstances, including the amount of tax due in prior years, whether substantial underpayments have been made in other years, and whether an individual made a bona fide and reasonable attempt to locate, gather, and consult information, ~~must be~~ are considered.

(c) Individuals living outside the United States and Puerto Rico (including military personnel) ~~shall be~~ are granted an automatic extension of two months for filing a North Carolina income tax return if they attach a statement to the return showing that they were living outside the United States and Puerto Rico on the date the return was due. The time for payment of the tax ~~shall also be~~ is also extended; however, interest is due on any unpaid tax from the original due date of the return until the tax is paid. If an individual is unable to file the return within the automatic two-month extension period, an additional four-month extension may be obtained by following the provisions in Paragraph (a) of this Rule; however, Form D-410 or Federal Form 4868 must be filed ~~and the tax paid~~ by the automatic two-month extended date of June 15.

(d) A return may be filed at any time within the extension period but it must be filed before the end of the extension period to avoid the late filing penalty.

Authority G.S. 105-155; 105-157; 105-160.6; 105-160.7; 105-236(3); 105-236(4); 105-262; 105-263.

.0112 JOINT RETURNS.

~~(a) If an individual and his spouse file a joint return using different last names, they shall separate the names with "and". For example, "John Brown and Mary Smith".~~

~~(b) If an individual~~ A spouse who files a joint federal return but files a separate North Carolina ~~return, he~~ return must complete a separate federal return and attach it to ~~his~~ the North Carolina tax return to show how ~~his~~ the spouse's federal taxable income would be determined on a separate federal return. In lieu of completing a separate federal return, ~~an individual~~ the spouse may submit a schedule showing the computation of the spouse's separate federal taxable ~~income provided a copy of the joint federal income tax return is provided with the North Carolina return.~~ income. A spouse who submits a schedule must attach a copy of pages 1 and 2 of the spouse's joint federal return if the federal return reflects an address outside North Carolina.

Authority G.S. 105-152(e); 105-262.

.0117 TRANSITIONAL ADJUSTMENTS

(a) The additions required by G.S. 105-134.7(a)(1) include the increase in basis by the amount of federal gift tax paid on property received as a gift and any expenditures for interest and taxes capitalized for federal income tax purposes.

(b) The deductions allowed by G.S. 105-134.7(a)(2) include the increase in basis by the amount of State gift tax paid on property received as a gift and any business expenditures that an individual elected to expense under Section 179 of the Internal Revenue Code but which were required to be capitalized for State income tax purposes.

(c) If, for a tax year beginning on or after January 1, 1989, a taxpayer has both a net economic loss carried forward from a tax year beginning before January 1, 1989, and a federal net operating loss carried back from a future year, the net operating loss is considered a business-connected

deduction in determining the amount of net economic loss deducted in that year pursuant to G.S. 105-134.7(a)(4).

(d) The additions required by G.S. 105-134.7(a)(6) include capital losses, charitable contributions, passive losses, and net operating losses incurred in taxable years beginning prior to January 1, 1989, and carried over for federal income tax purposes to taxable years beginning on or after January 1, 1989.

In determining the amount of a capital loss to add back, short-term capital losses from taxable years beginning prior to January 1, 1989, must be applied before applying short-term capital losses incurred in taxable years beginning on or after January 1, 1989, and before applying long-term capital losses from any year. Long-term capital losses from taxable years beginning prior to January 1, 1989, must be applied before applying long-term capital losses incurred in taxable years beginning on or after January 1, 1989.

(e) Other adjustments required by G.S. 105-134.7(b) include the difference in the amount of contributions to an annuity recovered, a child's unearned income reported by the child's parent, reforestation expenses, and a lump sum distribution received as a result of the class action in Simpson v. N.C. Local Government Employees' Retirement ~~System, and in certain cases, income excluded from federal taxable income due to the tax benefit rule.~~ System as follows:

(1) ~~If an~~ An individual who recovered all or any portion of ~~his~~ the individual's contributions to an annuity for State income tax purposes for taxable years beginning prior to January 1, 1989, but ~~such amount was not recovered~~ did not recover the amount for federal income tax ~~purposes, he~~ purposes must include a ratable portion of the difference in the cost previously recovered for North Carolina purposes and the amount previously recovered for federal purposes on the North Carolina return for each year beginning on or after January 1, 1989. The ratable portion to be added to federal taxable income is determined as follows:

$$\frac{\text{Amount recovered on State return} - \text{Amount recovered on Federal return}}{\text{Remaining Years Life Expectancy}} = \text{Addition to Taxable Income}$$

If the cost recovered for federal income tax purposes for taxable years beginning prior to January 1, 1989, is greater than the cost recovered for State income tax purposes for years prior to 1989, the ratable portion to be deducted from federal taxable income is determined as follows:

$$\frac{\text{Amount recovered on Federal return} - \text{Amount recovered on State return}}{\text{Remaining Years Life Expectancy}} = \text{Deduction to Taxable Income}$$

The amount of difference in the numerator of the fractions in this Subparagraph ~~shall~~ must reflect the cost recovered during the taxpayer's period of residence in North Carolina and exclude any cost recovered during residence in another state. In the denominator, the remaining years life expectancy to be entered is the life expectancy determined for federal income tax purposes for the year the annuity started less the number of tax years the annuity was reportable for federal tax purposes prior to January 1, 1989. The amount of the transitional adjustment computed for the tax year 1989 ~~shall~~ must remain the same for each year of the individual's remaining life expectancy.

This transitional adjustment ~~shall~~ does not apply to retirement annuities ~~which~~ that were exempt under prior State law, including retirement annuities from the North Carolina Teachers' and State Employees' Retirement System and the North Carolina Local Governmental Employees' Retirement System. Also, this transitional adjustment ~~shall~~ does not apply to retirement annuities that were received by former teachers and state employees of other states ~~which~~ and were fully exempt from North Carolina income tax prior to January 1, 1989, because the other state had no income tax law or practiced reciprocity with North Carolina with respect to taxing ~~such~~ these benefits.

This transitional adjustment ~~shall apply~~ applies to retirement annuities that were received by former teachers and state employees of other states ~~which~~ and were not fully exempt because those states practiced no reciprocity or only partial reciprocity with North Carolina with respect to ~~such~~ these benefits for taxable years beginning prior to January 1, 1989. The amount of cost recovered on the North Carolina return prior to January 1, 1989, to be used in the formula for computing the addition to federal taxable income ~~shall~~ must be computed without considering any benefits ~~which~~ that were excluded as the result of partial reciprocity.

(This adjustment applies to a retirement annuity from any federal retirement program. The adjustment is determined as of January 1, 1989, but ~~shall apply~~ applies only to tax years beginning on or after January 1, 1992.)

(2) A parent electing to report a child's unearned income for federal tax purposes must add back to ~~his~~ the parent's federal taxable income the amount of the child's unearned income in excess of five hundred dollars ~~($500.00) but not exceeding one thousand dollars ($1,000).~~ ($500.00), with the limitation that the amount added back is not to exceed the amount of the child's unearned income that is not taxed at the parent's marginal rate for federal tax purposes.

(3) ~~If a~~ A taxpayer ~~elected~~ who elects to claim

reforestation expenses currently on ~~his~~ the taxpayer's North Carolina tax return for tax years beginning prior to January 1, 1989, ~~he~~ must add to federal taxable income the amount deducted as amortization expenses each year ~~on his federal income tax return.~~ for federal tax purposes. A taxpayer who amortized ~~such~~ these expenses on ~~his~~ the taxpayer's North Carolina return for tax years beginning prior to January 1, 1989, may continue to amortize by deducting the allowable amortization expenses each year on ~~his~~ the North Carolina return; however, federal taxable income must be increased by the amortization expenses claimed each year ~~on his federal income tax return.~~ for federal tax purposes.

(4) As a result of the class action in Simpson v. N.C. Local Government Employees' Retirement System, certain members of the retirement system received a lump sum distribution in 1991 representing disability compensation benefits ~~which~~ that should have been paid in prior years. The portion of the distribution that is attributable to tax years prior to 1989 shall be deducted from federal taxable income on the 1991 return. The portion of the proceeds attributable to 1989 and 1990 is taxable in 1991 to the extent it exceeds the four thousand dollar ($4,000) retirement exclusion provided under G.S. 105-134.6(b)(6)a .

~~(5) Under the "tax benefit rule", recovery of an amount deducted or credited in an earlier year is included in federal taxable income in the current (recovery) year, except to the extent the earlier year's deduction or credit did not reduce federal income tax imposed in that year. Income attributable to such recovery items which did not provide a tax benefit for federal income tax purposes but did provide a tax benefit for State purposes for taxable years beginning prior to January 1, 1989, must be added to federal taxable income.~~

Authority G.S. 105-134.7; 105-262; 105-264.

.0118 ELECTRONIC FILING OF INDIVIDUAL INCOME TAX RETURNS

(a) Participants in the Federal/State Electronic Filing Program are defined as follows:

(1) Electronic Return Originator ~~(ERO) - a~~ (ERO). - A firm, an organization, or an individual who deals directly with the ~~taxpayer and~~ taxpayer, who either prepares a tax return for the purpose of having an electronic return ~~produced,~~ produced or collects a prepared tax return for the purpose of having an electronic return ~~produced, and~~ produced, and who obtains the taxpayer's signature on Form NC 8453, Individual Income Tax Affirmation for Electronic Filing.

(2) ~~Transmitter - a~~ Transmitter. - A firm, an organization, or an individual who transmits electronic returns directly to the Internal Revenue Service (IRS).

(3) Software ~~Developer -~~ Developer. - A person who designs software for the purpose of formatting returns according to electronic return specifications of the Internal Revenue Service and the North Carolina Department of Revenue or transmits electronic returns directly to the IRS.

A firm, ~~organization or~~ an organization, or an individual may choose to perform one or all of the functions associated with electronic ~~filing and be Electronic Return Originators (ERO), Transmitters, and Software Developers, or they may choose to use the services of another qualified firm, organization or individual to participate in the Federal/State Electronic Filing Program~~. filing.

(b) To participate in the Federal/State Electronic Filing Program applicants must complete Form NC 8633, Application to Participate in the Electronic Filing Program, and must be accepted into the Internal Revenue Service Federal Electronic Filing Program. Effective for tax year 1994 applicants and prior participants must also pass a suitability check and receive a letter of acceptance for the current filing season as explained in Paragraph (c) of this Rule.

(c) Suitability checks ~~shall be~~ are performed on all new applicants and all previous participants, on an annual basis, except for software developers. The following suitability checks may result in an applicant or previous participant being denied from acceptance into the program:

(1) Conviction of a criminal offense under the revenue laws of the State of North Carolina, or of any offense involving ~~dishonesty,~~ dishonesty or breach of trust.

(2) Failure to file timely and accurate tax returns, both personal and business.

(3) Failure to pay personal or business tax liabilities. If failure to pay taxes is the determining factor in not being allowed to participate in the program, a conditional acceptance ~~shall be~~ is provided. The terms of the acceptance are as follows:

(A) Applicant must pay all outstanding liabilities within six months of the date the application is received by the Department of Revenue or by the first day allowable for transmission of returns, whichever is earlier.

~~(B) If the application is received after the first day allowable for transmission, the six months begins from the receipt of the application. No transmissions shall be accepted until total payment has been received.~~

(B) ~~(C)~~Failure to fully pay the liabilities within six months ~~shall result~~ results in exclusion from the electronic filing program. After the liability is paid, a new application must be submitted for reconsideration.

(4) Misrepresentation on an application.

(5) Suspension or rejection from the program in a prior year if corrective action is not taken and approved by the North Carolina Department of Revenue.

(6) Other facts or conduct of a disreputable nature that would reflect adversely on the program.

(7) Unethical practices in return preparation.

(d) The Department shall send the applicant a letter of acceptance for participation in the Federal/State Electronic Filing Program for the current filing season after passing the suitability check. If the applicant does not pass the suitability check, a letter of rejection explaining the reason for rejection and the applicant's right of appeal shall be sent to the applicant.

(e) The applicant agreement requires the ~~firm, organization or individual and their~~ participant and the participant's employees to comply with all of the provisions of Internal Revenue Service Publication 1345, Handbook for Electronic Filers of Individual Income Tax Returns, ~~and~~ of North Carolina Department of Revenue Handbook for Electronic Filers of Individual Income Tax Returns, and of related publications for the applicable years of participation.

(f) Effective for tax year 1995, a new application, Form NC 8633, shall not be required each year. If an applicant is accepted into the Federal/State Electronic Filing Program for tax year 1994, an application is not required for subsequent tax years except for revisions and supplements including changes to the electronic filer's ownership structure, business name, contact representative's name or telephone number, functions performed, applicant or branch office(s) or drop-off collection point(s).

(g) Completed applications must be received by the North Carolina Department of Revenue prior to transmitting returns on or before December 1 preceding the tax year for which the application is made. ~~If returns are transmitted before an application is accepted, the Department shall notify the transmitter in writing to submit an application within 10 days. If a response is not received within this time period, the Department shall suspend the processing of returns electronically filed by the applicant and advise those taxpayers to file paper returns.~~

(h) After an electronic return has been prepared and before the return is transmitted electronically, the taxpayer (and spouse, if a joint return) must verify the information on the return and sign and date a completed Form NC 8453, Individual Income Tax Affirmation for Electronic Filing. The preparer/transmitter must provide the taxpayer with a paper copy of the return.

(i) Form NC 8453 must be submitted to the Department with all required schedules, attachments, and information by the ~~electronic filer, transmitter, or electronic return originator~~ ERO no later than the next working day after receiving the IRS acknowledgement of the federal return with a "NC" indicator. The "NC" indicator establishes that a North Carolina return was received by the IRS Memphis Service Center with a corresponding federal return. The state return will be electronically down-loaded to the North Carolina Department of Revenue for processing.

(j) A copy of Form NC 8453 and 8453, copies of the taxpayers' wage and tax ~~statements shall be retained by the preparer/transmitter for one year. Schedules~~ statements, schedules explaining other modifications made on Form ~~D-400~~ D-400, and other documents requiring signatures ~~shall also~~ must be retained ~~for one year.~~ by the ERO until the end of the year in which the return was filed. Substitute wage and tax statements and copies of wage and tax statements generated by a ~~preparer or transmitter~~ preparer's or transmitter's software are not acceptable. The ~~employer issued~~ employer-issued state copy of the wage and tax statement is the only acceptable wage and tax statement.

(k) After the ~~Electronic Return Originator~~ ERO receives IRS acknowledgement with a "NC" indicator, Forms NC 8453 shall be batched and mailed to the Department of Revenue in the same manner as the federal forms 8453s are furnished to the Internal Revenue Service. Forms not received by the Department in a timely manner will be requested in writing by the North Carolina Department of Revenue Electronic Filing Coordinator. Any request for missing Forms NC 8453s must be responded to in a timely manner. Failure to comply with the obligations of an Electronic Filer can cause the applicant's participation in the electronic filing program to be terminated.

(l) The status levels of a participant in the electronic filing program are as follows:

(1) Accepted in good standing - electronic filing participant ~~(a firm, organization or individual)~~ who has filed a North Carolina application for electronic filing and has met all the criteria for the electronic filing program and has not received a written warning from the Department.

(2) Warning status - electronic filing participant who has been issued a letter of warning due to noncompliance with program requirements.

(3) Probation - electronic filing participant who has ~~failed to comply with~~ been issued a warning ~~letters~~ letter from the ~~Department or contrive to commit flagrant violations in the program.~~ Department.

(4) Termination - electronic filing participant who has failed to comply with the terms of ~~probation.~~ probation or has committed flagrant violations of the program requirements.

(m) Taxpayer returns transmitted by an applicant or former participant who has been rejected from the program shall not be processed by the Department. The taxpayers shall be notified to file paper returns.

(n) Terminated participants may apply for reinstatement in the Federal/State Electronic Filing Program upon compliance with all ~~rules and regulations~~ requirements of the program.

Authority G.S. 105-262; Rev. Proc. 93-8, Internal Revenue Bulletin 1993-2, January 11, 1993.

SECTION .0600 - TAX CREDITS

.0609 CREDIT FOR NORTH CAROLINA DIVIDENDS

~~(a) Dividends from stock owned jointly must be allocated 50 percent to each spouse. Dividends from stock owned by only one spouse must be allocated entirely to that spouse.~~

~~(b) The tax credit for dividends provided in G.S. 105-151.19 is not allowed for dividends received from a corporation which elected to be taxed as an S corporation under the Internal Revenue Code except for dividends attributable to a taxable period during which the corporation operated as a C corporation.~~

Authority G.S. 105-151.19; 105-262.

SECTION .3500 - PARTNERSHIPS

.3503 PARTNERSHIP RETURNS.

(a) A North Carolina partnership return (Form D-403), must be filed by every partnership doing business in North Carolina if a federal partnership return was required to be filed. The partnership return shall be filed on or before April 15 if on a calendar year basis and on or before the 15th day of the fourth month following the end of the fiscal year if on a fiscal year basis. For individual income tax purposes, the term "business carried on in this State" means the operation of any activity within North Carolina regularly, continuously, and systematically for the purpose of income or profit. A sporadic activity, a hobby, or an amusement diversion does not come within the definition of a business carried on in this State. Income from an intangible source, including gain realized from the sale of intangible property, which is received in the course of a business carried on in this State so as to have a taxable situs here (including such income which is included in the distributive share of partnership income, whether distributed or not) is included in the numerator of the fraction used in determining the portion of federal taxable income that is taxable to North Carolina by a nonresident. The return must include the names and addresses of the individuals entitled to share in the net income of the partnership and must be signed by the managing partner and the individual preparing the return.

(b) A partnership must provide a completed Schedule NC K-1, or similar schedule, to each person who was a partner in the partnership at any time during the year reflecting that partner's share of the partnership's income, adjustments, tax credits, ~~dividend income,~~ and tax paid by the manager of the partnership. The schedule must be provided to each partner on or before the day on which the partnership return is required to be filed. ~~When reporting the distributive share of dividend income, the partnership must provide each partner a list of the amount and source of the dividends.~~ When reporting the distributive share of tax credits, a list of the amount and type of tax credits must be provided each taxpayer.

(c) A copy of the federal Partnership Income Tax Return, Form 1065, and all schedules, including each K-1 must be attached to the North Carolina partnership return.

(d) In determining whether a partnership is carrying on a trade or business in North Carolina if its principal business activity is "investments," all facts and circumstances must be considered. Determining factors include the following:

(1) the extent of business operations in this State, including maintaining an office, number of employees, property, bank transactions in this State,

(2) the source of principal income (interest and dividends versus gain from the sale of securities),

(3) the length of time securities are held (long-term holding of securities for capital appreciation versus short-term trading for profit),

(4) volume of transactions and value of securities bought and sold.

If a partnership's only activities within North Carolina are in the nature of an investment account in which the securities are held for capital appreciation and income, the receipt of dividends and interest and the occasional sales of stocks and bonds does not constitute carrying on a trade or business in this State. A nonresident partner shall not include his distributive share of the partnership's income in the numerator of the fraction in determining North Carolina taxable income. If the activities of the partnership are extensive, the partnership is deemed to be engaged in a trade or business and a nonresident partner must include his distributive share of the partnership's income in the numerator.

Authority G.S. 105-152(a)(2); 105-154(c); 105-262.

.3526 TAX CREDITS.

~~Since the total dividend income is allocated to the individual partners, the partnership shall furnish each resident partner a schedule of his share of the dividends to be used in determining any allowable tax credit to be claimed on the partner's individual income tax return.~~

Authority G.S. 105-151.19; 105-262.

SECTION .3700 - ESTATES AND TRUSTS

.3714 TAX CREDITS

(a) A fiduciary required to pay an income tax to North Carolina ~~for~~ on behalf of a trust or an estate ~~for which he acts~~ may claim a credit for tax imposed and paid to another state or country on income from sources within the other state or country under the provisions of G.S. 105-160.4(a).

(b) A resident beneficiary of an estate or trust, the fiduciary of which pays an income tax to another state or country on distributable income reportable to North Carolina ~~which~~ that is derived from sources in the other state or country may claim a credit against ~~his~~ the beneficiary's North Carolina tax for ~~his~~ the beneficiary's share of tax paid the other state or country under the provisions of G.S. 105-160.4(e) .

(c) A schedule is provided on the fiduciary return for use in computing the tax credit allowable to the estate or trust. Before this schedule may be completed, however, there must be an allocation between the estate or trust and its beneficiaries of the tax paid and the gross income on which ~~such~~ tax was paid to the other state or country.

(d) The fiduciary's share and each beneficiary's share of the gross income on which tax has been paid to another state or country is determined by the governing instrument and should be entered in the appropriate schedule on the fiduciary return. The fiduciary's share of the total gross income to be used in the tax credit computation schedule is the total gross income from Federal Form 1041.

~~(e) The tax credit for North Carolina dividends apportioned to the estate or trust shall be entered on the line for "other tax credits". The credit apportionment is based on the distributions during the year as they relate to the distributable net income adjusted for State tax purposes unless the will or trust instrument creating the estate or trust provides for the distribution of the dividends to certain beneficiaries. If such is the case, the tax credit would be available to the beneficiary to which the dividends were distributed.~~

~~(f)~~(e) If additional tax credits are claimed, a separate schedule ~~shall~~ must be attached to the fiduciary return showing how the credits were determined and how they are allocated between the beneficiaries and the fiduciary.

Authority G.S. 105-151; 105-160.3; 105-160.4; 105-262.

.3725 ADMINISTRATION EXPENSES

~~The federal taxable income of an estate is not adjusted for administration expenses claimed on the federal fiduciary income tax return in calculating the estate's State taxable income even though a deduction may be claimed for such administration expenses on the North Carolina inheritance tax return. G.S. 105-134.7 provides that the Secretary may by rule require transitional adjustments that will assure that the change to federal taxable income as a starting point in calculating State taxable income will not result in a double allowance of deductions. This applies to the double allowance of deductions for income tax purposes and does not apply to a deduction claimed for inheritance tax purposes which is allowed under a separate division of the Revenue Laws.~~

Authority G.S. 105-160.2; 105-262.

SECTION .3900 - NONRESIDENTS AND PART-YEAR RESIDENTS

.3904 TAXABLE INCOME OF NONRESIDENTS AND PART-YEAR RESIDENTS

(a) Nonresidents and part-year residents are required to prorate their federal taxable income to determine the portion that is subject to North Carolina tax.

(b) ~~If an~~ An individual who files a joint federal income tax return with his or her spouse but cannot qualify to file a joint North Carolina income tax return because ~~his~~ the spouse is a nonresident and had no North Carolina taxable ~~income, he~~ income must calculate ~~his~~ the individual's federal taxable income on a federal income tax form as a married person filing a separate federal income tax return and attach it to ~~his~~ the individual's North Carolina return to show how ~~his~~ the separate federal taxable income was determined. The individual filing the separate federal return ~~shall~~ must report only ~~his~~ the individual's income, exemptions, and deductions. In lieu of making the calculation on a federal form, an individual may submit a schedule showing the computation of ~~his~~ the individual's separate federal taxable ~~income provided he submits a copy of his federal joint income return with his North Carolina return.~~ income. An individual who submits a schedule must attach a copy of pages 1 and 2 of the individual's joint federal return if the federal return reflects an address outside North Carolina.

(c) ~~If an~~ An individual who has income from sources within another state or country while a resident of North Carolina and ~~the other state or country taxes the individual on such income, he~~ is subject to tax on the income by the other state or country may be eligible to claim a tax credit under G.S. 105-151 .

(d) A nonresident is not entitled to the tax credits for tax paid another state or country or for child and dependent care expenses.

Authority G.S. 105-134.5; 105-151; 105-262.

SUBCHAPTER 6C - WITHHOLDING

SECTION .0200 - REPORTING AND PAYING TAX WITHHELD

.0201 NEW EMPLOYERS.

North Carolina does not use a deposit system for income tax withheld. Each new employer who is required to withhold North Carolina income tax must complete and file with the Department an application for a withholding identification number, Form ~~NC-1,~~ AS/RP1, which can be obtained from any office of the Department. A withholding identification number will be ~~assigned which shall be recorded in a permanent place and~~ assigned. The number must be used on all reports and correspondence concerning withholding.

Authority G.S. 105-163.18; 105-262.

.0203 ANNUAL REPORTS.

(a) At the end of each calendar year employers are required to furnish wage and tax statements, Form NC-2, to ~~employees.~~ employees and Form NC-1099PS to contractors from whom tax was withheld. Two copies must be furnished to the employee or contractor and one copy must be furnished to the Department.

(b) Reports of payments of income, interest, rents, premiums, dividends, annuities, remunerations, emoluments,

fees, gains, profits, taxable meal reimbursements, and other determinable annual or periodic gains during a calendar year must be made on Information at the Source Reports, Form NC-1099, if the payments have not otherwise been reported. ~~Effective for payments made on or after January 1, 1992, the~~ Form NC-1099 reports are not required to be filed ~~unless~~ if the payments have ~~not~~ been reported to the Internal Revenue Service under the provisions of Section 6041 of the ~~Code or~~ Code, the payments have ~~not~~ otherwise been reported to the ~~Department.~~ Department, or no North Carolina income tax was withheld from the payments. Notwithstanding the above, any person required to file Form NC-1099NRS under the provisions of Rule 17 NCAC 6B.3804(c) ~~shall~~ must do so regardless of any requirement to report the sale to the Internal Revenue Service.

Authority G.S. 105-154; 105-163.7; 105-163.18; 105-262.

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Notice is hereby given that the Department of Revenue intends to amend rules cited as 17 NCAC 7B .0104, .0207, .0901, .1301, .1404, .1602, .1701 - .1702, .1801 - .1802, .2201, .2212, .3104, .3301 - .3302, .3901, .3910, .4301; repeal .1703, .3303 - .3306. G.S. 150B-1(d)(4) exempts the Department of Revenue from Part 2 Article 2A of Chapter 150B with respect to the notice and hearing requirements.

Proposed Effective Date: *August 1, 1998*

Instructions on How to Demand a Public Hearing: *The Department of Revenue is not subject to the notice and hearing requirements of the APA. Nevertheless, the Department publishes notice of proposed text in the Register and will hold a public hearing if there is sufficient interest in a public hearing. The Department does this because it believes that notice and hearing serve good public policy. A request for a public hearing must be in writing and be submitted to Mr. Tim Holmes, Sales and Use Tax Division, at P.O. Box 871, Raleigh, NC 27602, by January 30, 1998. Notice of any public hearing scheduled on this proposed rule change will be published in the Register.*

Reason for Proposed Action:

17 NCAC 7B .0104 *- Chapter 77 of the 1997 Session Laws added a new annual use tax filing period for consumers who make mail order purchases. The act became effective May 22, 1997, and applies to purchases made on or after January 1, 1997. The act sets the due date of the individual income tax return as the due date of the annual consumer use tax return. Individual income tax returns are due April 15. The act supersedes the prior requirement of filing on a quarterly basis. In reviewing the rule to make the changes needed as a result of the 1997 legislation, the Department determined that much of the rule repeats the statutes and that G.S. 105-164.17, referred to in the rule, was repealed in 1993. The proposed revision therefore deletes the parts that repeat the statute as well as the references to G.S. 105-164.17.*

17 NCAC 7B .0207 *- This change accompanies the change to 17 NCAC 7B .0104 and makes the reporting requirements of manufacturers the same as for other taxpayers. The current rule refers to monthly reports but reports are required from manufacturers on the same basis as other taxpayers. The change is therefore a clarifying change.*

17 NCAC 7B .0901 *- Chapter 521 of the 1997 Session Laws added a new sales and use tax exemption for audiovisual masters, effective October 1, 1997. The proposed amendments to this rule reflect the new exemption. The amendments also make technical changes to the rule.*

17 NCAC 7B .1301 *- This is a clarifying change.*

17 NCAC 7B .1404 *- The proposed change updates the list of medical items that are subject to tax.*

17 NCAC 7B .1602 *- Chapter 392 of the 1997 Session Laws enacted a new tax on dry cleaner solvents. The refunds in G.S. 105-164.14 do not apply to this tax. This rule is amended to reflect this act.*

17 NCAC 7B .1701 *- Chapter 475 of the 1997 Session Laws reduces the State sales tax on food to 2% effective July 1, 1998. This rule does not reflect the current lower rate of 3% or the 2% July 1, 1998 rate. The rule can either be amended to add this specific reduction or be rewritten so that each rate of tax that differs from the general State 4% rate does not have to be listed. The proposed amendment takes the latter route and rewrites the rule so that a listing of rates other than the 4% rate is not needed.*

17 NCAC 7B .1702 *- Chapter 392 of the 1997 Session Laws enacted a new tax on dry cleaner solvents. The refunds in G.S. 105-164.14 do not apply to this tax. This rule is amended to reflect this act. To avoid duplication, it refers to Rule 7B .1602, which is being amended at the same time.*

17 NCAC 7B .1703 *- This rule is not needed when the proposed changes to 17 NCAC 7B .1701 become effective. The proposed changes to that rule are published in this Register.*

17 NCAC 7B .1801 *- The statement in the rule that food is subject to State sales tax at the rate of four percent is incorrect. The rate was changed to three percent effective January 1, 1997, by Chapter 13 of the 1996 Second Extra Session and will drop to two percent effective July 1, 1998, as a result of Chapter 475 of the 1997 Session Laws. This rule is amended to reflect these acts.*

17 NCAC 7B .1802 *- Chapter 392 of the 1997 Session Laws enacted a new tax on dry cleaner solvents. The refunds in G.S. 105-164.14 do not apply to this tax. This rule is amended to reflect this act.*

17 NCAC 7B .2201, & .2212 *- Chapter 475 of the 1997 Session Laws reduces the State sales tax on food to 2% effective July 1, 1998. This rule does not reflect the current lower rate of 3% or the 2% July 1, 1998 rate. The proposed amendment reflects this rate changes by rewriting the rule so that it no longer refers to a specific rate.*

17 NCAC 7B .3104 *- The proposed change clarifies the scope of the rule.*

17 NCAC 7B .3301 - The proposed change updates the list of items that are exempt from sales and use tax as orthopedic appliances.
17 NCAC 7B .3302 - The proposed change updates the list of items that are exempt from sales and use tax as therapeutic, prosthetic or artificial devices sold on prescription.
17 NCAC 7B .3303, .3304, .3305, .3306 - This proposed change accompanies the proposed changes to 17 NCAC 7B .3301. The substance of this rule is incorporated in the proposed revisions to 7B .3301. If those changes are adopted, this rule is no longer needed.
17 NCAC 7B .3901, .3910 - Chapter 397 of the 1997 Session Laws enacted a new sales and use tax exemption for certain reusable containers. The proposed change reflects this new exemption.
17 NCAC 7B .4301 - Chapter 392 of the 1997 Session Laws enacted a new tax on dry cleaner solvents. The refunds in G.S. 105-164.14 do not apply to this tax. This rule is amended to reflect this act and to make technical changes.

Comment Procedures: *Written comments may be submitted to Mr. Tim Holmes at North Carolina Department of Revenue, Sales and Use Tax Division, P.O. Box 871, Raleigh, NC 27602. Comments received will be taken into consideration in adopting the permanent rule. If you have questions, you may call Mr. Holmes at 919-733-2151.*

Fiscal Note: *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 7 - SALES AND USE TAX

SUBCHAPTER 7B - STATE SALES AND USE TAX

SECTION .0100 - GENERAL PROVISIONS

.0104 RETURNS

~~(a) Every person engaged in the business of selling tangible personal property at retail or making purchases subject to the use tax must file a report for each reporting period showing gross sales and/or receipts and an itemization of all exempt sales or receipts which are not included in the computation of tax due. Reports for periods in which no sales are made shall be marked "no sales."~~

~~(b) A taxpayer who is consistently liable for at least twenty thousand dollars ($20,000.00) per month in state and local sales and use taxes shall file a return on a semimonthly basis. The semimonthly reporting periods are the first day of each month through the 15th day of each month and the 16th day of each month through the last day of each month. In determining the amount of tax due from a taxpayer for a reporting period, the Secretary shall consider the total amount due from all places of business owned and operated by the same person as the amount due from that person.~~

~~(c) Taxpayers who are authorized to file an estimated report for each or both reporting periods shall file a report reflecting thereon their estimated taxable receipts, rentals and/or sales, any taxable purchases of tangible personal property for storage, use or consumption in this state and shall compute and pay the amount of tax thereon. Taxpayers who have more than one location in North Carolina and file a consolidated report with a schedule of state tax due by each location shall file such schedule with their estimated report. Also, taxpayers who remit county tax for more than one county and file a schedule showing a breakdown of the local tax due for each county shall file the schedule with their estimated report.~~

~~(d) A person who engages exclusively in the business of making wholesale sales is not required to file monthly reports. However, if in addition to making wholesale sales, such person makes taxable sales to users or consumers or nonregistered merchants or makes purchases subject to the use tax, he is required to file semimonthly, monthly or quarterly reports as provided by G.S. 105-164.16 and G.S. 105-164.17.~~

~~(e) Every person who purchases from out-of-state vendors taxable tangible personal property for storage, use or consumption in this state upon which the tax has not been fully paid must file reports on a semimonthly, monthly or quarterly basis as provided by G.S. 105-164.16 and G.S. 105-164.17 and report all such purchases and remit the applicable tax due thereon.~~

(a) General. -- G.S. 105-164.16 establishes the filing frequency of sales and use tax returns and the content of the returns. G.S. 105-164.4(c) requires a retailer to register with the Department and obtain a license. G.S. 105-164.5(1) requires a wholesale merchant to register with the Department and obtain a license. G.S. 105-164.6 requires a retailer who delivers property for storage, use, or consumption but does not have a place of business in this State to register with the Department and obtain a license. A person who is engaged in business, is not otherwise required to file a sales and use tax return, and, on two or more occasions within a twelve-month period, purchases property subject to use tax must register with the Department and being filing sales and use tax returns. A person who is engaged in business, is not otherwise required to file a sales and use tax return, and purchases property subject to use tax only once in a twelve-month period must file a return and pay the tax due within 15 days after the end of the month in which the purchase was made.

(b) Schedules. - A retailer who files an estimated return for a semimonthly reporting period that reports tax payable by more than one location in the State must attach two schedules to the return. One schedule must list the amount of State tax due for each location in the State and the other must list the amount of local tax due for each county.

(c) No Sales or Purchases By Business. -- A retailer who does not make any sales during a reporting period must file a return for that period and mark "no sales" on the return. Similarly, a person who is not a retailer but is engaged in

business, purchases tangible personal property for the business that is subject to use tax, and does not make any taxable purchases during a reporting period must file a return for that period and mark "no purchases" on the return.

(d) Seasonal Business. -- A retailer who engages in business for six or fewer consecutive months in each year may register as a seasonal filer and indicate the months in which the retailer engages in business. A retailer who is registered as a seasonal filer is not required to file a return for an off-season reporting period in which the retailer did not engage in business.

(e) Wholesale Merchant. -- A person who engages exclusively in the business of making wholesale sales is not required to file a return. A person who, on two or more occasions within a twelve-month period, either makes taxable sales to users, consumers, or nonregistered merchants or makes purchases subject to use tax is not engaged exclusively in the business of making wholesale sales and must begin filing sales and use tax returns. A wholesale merchant who is not required to file a sales and use tax return and who, on only one occasion within a twelve-month period, either makes taxable sales to users, consumers, or nonregistered merchants or makes purchases subject to use tax must file a return and pay the tax due within 15 days after the end of the month in which the sale or purchase was made.

(f) Non-Business Use Tax. -- An individual who is not engaged in the business of selling tangible personal property at retail and who purchases for a non-business purpose tangible personal property that is subject to use tax must report the tax due on Form E-554. The return is due annually by the date set under G.S. 105-164.16.

Authority G.S. 105-164.3; 105-164.16; 105-262.

SECTION .0200 - GENERAL APPLICATION OF LAW TO MANUFACTURING AND INDUSTRIAL PROCESSING

.0207 PURCHASES BY MANUFACTURERS

~~Manufacturers making purchases of tangible personal property for storage, use or consumption in this state from suppliers outside this state who do not collect North Carolina sales or use tax thereon are liable for payment of the use tax at the applicable rate directly to the Department of Revenue unless such purchases are specifically exempt from tax. Freight, delivery, or other transportation charges in any way connected with such taxable purchases are subject to the applicable use tax. Such manufacturers must register with the Department for use tax purposes and remit such tax directly to the Department on a monthly basis. Vendors engaged in business in this state are required to charge the applicable rate of tax on their sales to manufacturers.~~ A manufacturer who purchases taxable tangible personal property for use in the business is subject to use tax. A manufacturer who owes use tax must report and pay the tax in accordance with the filing requirements for a wholesale merchant. This requirement applies even if the manufacturer is not required to obtain a license as a wholesale merchant.

Authority G.S. 105-164.6; 105-164.13; 105-262.

SECTION .0900 - ADVERTISING AND ADVERTISING AGENCIES: PUBLIC RELATIONS FIRMS

.0901 ADVERTISING AND ADVERTISING AGENCIES

(a) ~~Advertising Agency Rendering Professional Services:~~ Professional Services. -- Advertising agencies are engaged in the business of rendering professional services when they produce ~~advertising~~ advertising, such as radio and television spots or newspaper, ~~magazine~~ magazine, or billboard advertising, and contract in their own behalf with radio and television stations, ~~newspapers~~ newspaper or magazine publishers, outdoor advertising ~~companies~~ companies, or other media for time or space to televise, broadcast, ~~publish~~ publish, or otherwise display their advertising. Receipts derived by advertising agencies from furnishing these professional services are not subject to sales or use tax. However, their purchases of taxable tangible personal property for use in producing ~~such~~ the advertising are subject to the four percent state tax and any applicable local sales or use tax.

~~Such agencies~~ Agencies rendering professional services rely on expertise in advertising strategy, media buying, and in graphic arts production in their specialized fields to secure and retain clients. Usually agreements to provide professional advertising services also have the following characteristics:

(1) The agency selects or advises the client on the different kinds of advertising to be used.
(2) The agency is primarily responsible for developing the concept or design of the advertising.
(3) The agency produces or arranges for the production of the advertising.
(4) The agency places or arranges for the placement of the advertising on radio or television stations or in newspapers, ~~magazines~~ magazines, or other media and the agency has purchased time or space in the media to display the advertising instead of delivering it to the client for placement or distribution.

Advertising agencies are also engaged in the business of rendering services when they contract to do market research, consulting, statistical analysis, ~~etc., which~~ or other services that result only in a report of their findings to the client.

The tax is due on all tangible personal property purchased by these agencies for use in the performance of the services in this Paragraph regardless of whether ~~such~~ the property is acquired in the name or account of the advertising agencies or their clients. ~~When advertising agencies make purchases of~~ Advertising agencies that, in performing these services, purchase paper, ink, printing plates, positives, negatives, color separations, photographs, filmed or recorded

~~commercials,~~ commercials that are not exempt audiovisual masters, and any other tangible personal property ~~used in providing the referred to services in this Paragraph~~ from suppliers in North Carolina or from out-of-state suppliers who charge the applicable ~~tax, they shall~~ tax must pay the tax due directly to their suppliers. ~~When advertising agencies make purchases of~~ Advertising agencies that purchase tangible personal ~~property~~ property, from out-of-state suppliers who do not charge and remit the ~~North Carolina state and/or local sales or use tax, the advertising agencies~~ applicable tax must remit the use tax due directly to the Department on the cost price of the property without any deduction on account of the cost of the materials used, cash discounts, labor or service costs, transportation ~~charges~~ charges, or any expenses whatsoever.

(b) ~~Advertising Agency Making Retail Sales:~~ Retail Sales. -- Advertising agencies are ~~deemed~~ considered to be retailers when they produce, cause to be produced, fabricate, ~~purchase~~ purchase, or otherwise acquire catalogs, magazines, handbills, brochures, programs, ~~pamphlets~~ pamphlets, or similar printed ~~matter,~~ matter or any other tangible personal property ~~which~~ they sell and deliver to their clients or to others on behalf of their clients for delivery or distribution as advertising material or for any use or purpose other than for resale. Advertising agencies making retail sales of tangible personal ~~property shall~~ property, other than exempt audiovisual masters, must collect and remit the four percent state tax and any applicable local sales or use tax on the sales price of ~~such~~ the property whether it is prepared by the agency or acquired from outside sources. The sales price to which the tax applies is the total amount for which the tangible personal property is sold including all charges for services rendered in the production, fabrication, ~~manufacture~~ manufacture, or delivery of the property, such as charges for commissions, supervision, research, transportation charges, postage, telephone and telegraph messages, copy, models' fees, stage props, printing, printing plates, film, positives, negatives, transparencies and color ~~separations~~ separations, even though the agency may separately state ~~such~~ the charges on the invoice rendered to the client and in the agency's records.

(c) ~~Advertising Agency Retainer and Consultation Fees:~~ Retainer and Consultation Fees. -- Charges by advertising agencies to their clients for retainer fees ~~which~~ that are directly related to the ~~purchase or~~ purchase, acquisition, fabrication, or production and sale of tangible personal property are subject to sales or use tax. Charges by advertising agencies for retainer fees to their clients are generally paid in advance to cover future services and if no sale of tangible personal property is involved are not subject to sales or use tax. Consultation fees charged to clients in connection with oral or written reports only and not in connection with the sale of tangible personal property are also exempt from sales or use tax. Consultation fees ~~that are~~ directly involved in transactions ~~which~~ that require the ~~purchase or~~ purchase, acquisition, fabrication, or production and sale of tangible personal ~~property~~ property, such as pamphlets and ~~brochures~~ brochures, are a part of the sales price and are subject to sales and use tax even though ~~such~~ the fees may be separately stated on the customer's invoice. If an advertising agency is retained to perform market research, ~~analysis of~~ analyze statistics, and develop an advertising concept on which a report is presented, either orally or in writing to the client, the charges for these services are not taxable. After considering the report, if the client decides to pursue the advertising concept and contracts with the same agency to develop and produce advertising material to be placed on radio or television spots or in space in newspapers, ~~magazines~~ magazines, or on billboards, the agency ~~shall~~ must remit sales or use tax on its purchase of all taxable tangible personal property used in producing the advertising material. If the advertising concept calls for the production, fabrication, ~~purchase~~ purchase, or acquisition of catalogs, magazines, handbills, brochures, programs, ~~pamphlets~~ pamphlets, or similar printed ~~matter,~~ matter or any other tangible personal property ~~which~~ they sell and deliver to their clients or to others for their clients, the advertising agency is making retail sales subject to sales and use tax on the sales price of ~~such~~ the property. The sales price to which the tax applies ~~will include charges for those items and services listed in the last sentence of Paragraph (b)~~ includes all the items and services described in Paragraph (b) of this Rule.

(d) ~~Advertising Agency Purchasing For Resale:~~ Purchases for Resale. -- Purchases by advertising agencies of paper, ~~ink~~ ink, and other tangible personal property ~~which~~ that become a part of tangible personal property sold by advertising agencies at retail or wholesale, including purchases for resale in the same form, are exempt from sales or use taxes when ~~such~~ the purchases are supported by properly completed Certificates of Resale, Form E-590, or other evidence in writing adequate to support the conclusion that the property is being purchased by a registered merchant for the purpose of resale. The term "part of tangible personal property" includes only those items that are incorporated into and become a part of property sold and does not include those items ~~which~~ that are merely used or incidentally consumed in its production. For example, a photograph, transparency, printing plate, positive, ~~negative~~ negative, or color separation does not become an ingredient or component part of property sold even though the image thereon is reproduced as a part of the property sold.

(e) ~~Advertising Agency Purchasing For Use:~~ Purchasing for Use. -- Purchases by advertising agencies of film, printing plates, photographs, positives, negatives, transparencies, color ~~separations~~ separations, and similar tangible personal property for use in the production of advertising material are subject to the four percent state tax and any applicable local sales or use tax ~~since such~~ because the property does not become incorporated into or become a component part of the property produced for sale. When advertising agencies purchase ~~such~~ items for use in the production of property for sale, they are the users or consumers of the property and ~~shall~~ must pay the state and local sales or use tax on the cost price without regard to the disposition ~~which~~ that may be made of

~~such~~ the items by the advertising agency.

(f) ~~Advertising Agency Acting As Agent For A Principal:~~ Acting as Agent.-- An agent is one who represents another, called the principal, with third parties. For sales and use tax purposes, to establish that a particular acquisition is made by an agency as agent for its client and not on the agency's own ~~behalf:~~ behalf, all of the following must apply:

(1) ~~the~~ The agency must clearly disclose to the supplier the name of the principal for whom the agency is acting as agent and establish that it has the authority to bind the principal with respect to the ~~purchase;~~ purchase.

(2) ~~the~~ The agency must be able to document that its status as agent existed prior to the ~~acquisition; and~~ acquisition.

(3) ~~the~~ The price billed by the agency to the principal for the personal property, exclusive of any agency fee, must be the same as the amount paid to the supplier.

(4) The agency may make no use of the property for its own account.

An advertising agency ~~shall~~ must remit the tax due on its purchases to suppliers within this state and suppliers outside this state who collect and remit ~~North Carolina sales and/or use taxes. When an~~ the applicable tax. An advertising agency that purchases tangible personal property on behalf of a principal from out-of-state suppliers who do not charge and remit the ~~North Carolina state and/or local sales or use tax, the advertising agency shall~~ applicable tax must remit the use tax due, as agent for its principal, directly to the Department on the cost price of ~~such~~ the tangible personal property without any deduction on account of the cost of the materials used, cash discounts, labor or service costs, transportation ~~charges~~ charges, or any expenses whatsoever.

All acquisitions by advertising agencies of tangible personal property such as catalogs, brochures, pamphlets, and the like are regarded as purchases by agencies on their own behalf for resale or for use unless the agency clearly establishes with respect to any acquisition that it is acting as agent for its principal pursuant to a prior express contract. An advertising agency purchasing tangible personal property as an agent on behalf of its client for the client's use may not issue its resale certificate to the supplier. ~~It will be presumed that an~~ An advertising agency ~~which~~ that issues its resale certificate to its supplier is presumed to be purchasing tangible personal property in its own behalf for resale ~~and is not~~ rather than acting as agent for its principal.

Authority G.S. 105-164.4; 105-164.6; 105-164.13(22a); 105-262.

SECTION .1300 - SALES IN INTERSTATE COMMERCE

.1301 OUT-OF-STATE DELIVERIES

Sales within the state of tangible personal property ~~which~~ that the vendor delivers to the purchaser at a point outside the state, or ~~which~~ that the vendor delivers to a common carrier or to the mails for transportation and delivery to the purchaser or a donee at a point outside the ~~state~~ state, are not subject to the ~~four percent state tax and any~~ applicable state and local sales or use tax ~~provided~~ if the property is not returned to a point within the ~~state, and provided further, that~~ and the vendor furnishes acceptable proof of transportation to a point outside the state. The most acceptable proof of transportation and delivery to a point outside the state ~~will be:~~ is any of the following:

(1) ~~a~~ A waybill or bill of lading made out to the seller's order calling for ~~delivery;~~ or delivery.

(2) ~~an~~ An insurance or registry receipt issued by the United States Postal Service, or a postal service ~~receipt;~~ or receipt.

(3) ~~a~~ A trip sheet that is signed by the seller's delivery agent and ~~showing~~ shows the signature and address of the person who received the delivered goods outside the state.

Authority G.S. 105-164.13; 105-262.

SECTION .1400 - SALES OF MEDICINES: DRUGS AND MEDICAL SUPPLIES

.1404 MEDICAL SUPPLIES AND EQUIPMENT

Sales to physicians, dentists, ~~hospitals~~ hospitals, or other users or consumers of medical supplies, ~~including such items as cotton, gauze, adhesive tape, bandages and other dressings and medical instruments and equipment such as knives, needles, scissors, microscopes, x-ray machines and other laboratory equipment used for testing and diagnosis, and for the prevention, treatment or cure of~~ medical instruments, medical equipment, and laboratory equipment used to diagnose, prevent, treat, or cure disease are subject to ~~the four percent state tax and any~~ applicable state and local sales or use tax. Items listed below are subject to tax; items not included in the list may also be subject to tax:

(1) Adhesive tape
(2) Alcohol
(3) Bandages
(4) Battery chargers
(5) Bed pans
(6) Betadine solution
(7) Blood glucose monitors
(8) Blood glucose test/reagent strips
(9) Blood or urine control strips
(10) Breathing circuits
(11) CO/2 saturation monitors and accessories
(12) Cotton
(13) Crutch and cane holders
(14) Cylinder tank carriers
(15) Dial-a-dose insulin delivery devices
(16) Dressings
(17) Exam gloves
(18) Gauze
(19) Knives

(20) I .V. hangers
(21) I.V. poles
(22) Lancets
(23) Microscopes
(24) Mouthpieces
(25) Needles
(26) Peak flow meters
(27) Percussors
(28) Pulse oximeters
(29) Rollabout chairs
(30) Scissors
(31) Sterile water
(32) Surgical gloves
(33) Syringes
(34) Tracheal suction catheters
(35) Tracheostomy care kits
(36) Tracheostomy cleaning brushes
(37) Tracheostomy masks and collars
(38) Tubing, sold by the linear foot or otherwise
(39) Urinals
(40) Urine test or reagent strips or tablets
(41) X-ray machines

Authority G.S. 105-164.4; 105-164.6; 105-262.

SECTION .1600 - SALES TO OR BY HOSPITALS: EDUCATIONAL: CHARITABLE OR RELIGIOUS INSTITUTIONS: ETC.: AND REFUNDS THERETO

.1602 REFUNDS TO NONPROFIT ENTITIES AND MEDICINES AND DRUGS PURCHASED BY HOSPITALS

(a) The refund provisions contained in this Rule do not apply to the tax on taxable sales by the nonprofit entities named in G.S. 105-164.14(b) and no part thereof shall be refunded or claimed as a refund. Nonprofit entities registered for sales and use tax purposes may purchase the tangible personal property which they resell without paying tax thereon to their suppliers provided they have furnished such suppliers with properly executed Certificates of Resale, Form E-590. Certificates of resale may not be used by any nonprofit entity in making purchases of tangible personal property to be used or consumed by such purchaser.

(b) All refund claims shall be substantiated by proper documentary proof and only the taxes actually paid by the claimant during the period for which the claim for refund is filed may be included in the claim. Any local sales or use taxes included in the claim shall be separately stated in the claim for refund. In cases where more than one county's tax has been paid, a breakdown shall be attached to the claim showing the amount of each county's local tax separately.

(c) As to taxes paid on the claimant's purchases for use, other than those made by contractors performing work for the claimant, invoices or copies of invoices showing the property purchased, the cost thereof, the date of purchase and the amount of state and local sales or use tax paid during the refund period shall constitute proper documentary proof.

(d) To substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures and equipment by its contractor, the claimant shall secure from such contractor certified statements setting forth the cost of the property purchased from each vendor and the amount of state and local sales or use taxes paid thereon. In the event the contractor makes several purchases from the same vendor, such certified statement shall indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices and the sales and use taxes paid thereon. Such statement shall also include the cost of any tangible personal property withdrawn from the contractor's warehouse stock and the amount of state and local sales or use tax paid thereon by the contractor. Similar certified statements by his subcontractors shall be obtained by the general contractor and furnished to the claimant. Any local sales or use taxes included in the contractor's statements shall be shown separately from the state sales or use taxes. The contractor's statements shall not contain sales or use taxes paid on purchases of tangible personal property by such contractors for use in performing the contract which does not annex to, affix to or in some manner become a part of the building or structure being erected, altered or repaired which is owned or leased by a nonprofit entity for use by a nonprofit entity named in G.S. 105-164.14(b) for carrying on its nonprofit activities. Examples of property on which sales or use tax has been paid by the contractor and which shall not be included in the contractor's statement are scaffolding, forms for concrete, fuel for the operation of machinery and equipment, tools, equipment repair parts, equipment rentals and blueprints.

(e) The refund provisions set forth in this Rule apply only to the nonprofit entities described in G.S. 105-164.14(b), but do not apply to nonprofit fraternal, civic or patriotic organizations, notwithstanding that such organizations may perform certain charitable functions. The refund provisions set forth in this Rule do not apply to nonprofit entities which are owned and controlled by the United States, the state or a unit of local government except hospitals and medical accommodations created under the Hospital Authorities Law, Article 2 of Chapter 131E of the General Statutes and nonprofit hospitals owned and controlled by a unit of local government that elect to receive semiannual refunds under G.S. 105-164.14(b) instead of annual refunds under G.S. 105-164.14(c). Any nonprofit hospital owned and controlled by a unit of local government may submit a written request to receive semiannual refunds under G.S. 105-164.14(b) instead of annual refunds under G.S. 105-164.14(c). The request shall be effective beginning with the six-months refund period following the date of the request and applies to sales or use taxes paid on or after the first day of the refund period for which the request is effective.

(f) The refund provisions of this Rule ~~are not applicable~~ do not apply to sales taxes incurred by employees on purchases of food, ~~lodging~~ lodging, or other taxable travel expenses paid by employees and reimbursed by ~~the type of nonprofit~~

~~entities named~~ a nonprofit entity listed in G.S. 105-164.14(b). ~~Such~~ These expenses are personal to the employee ~~since~~ because the contract for food, ~~shelter~~ shelter, and travel is between the employee and the provider and payment of the tax is by the employee individually and personally. ~~Such nonprofit entities have~~ In this circumstance, a nonprofit entity has not incurred ~~incurred and have not paid any sales tax liability. In such cases,~~ any sales tax liability and has not paid any sales tax; instead; it has chosen to reimburse a personal expense of the employee. The refund provisions of this Rule do not apply to ~~sales tax paid by the nonprofit entities named in G.S. 105-164.14(b) on charges~~ any of the following:

(1) Charges by a utility for electricity, piped natural ~~gas and local, toll or private telecommunications services; to the occupancy~~ gas, and local, toll, or private telecommunications services.

(2) Occupancy taxes levied and administered by certain counties and cities in this ~~state; to the prepared~~ state.

(3) Prepared food and beverage taxes levied by various local governments in ~~North Carolina; to the highway~~ this state.

(4) Highway use taxes paid on the purchase, ~~lease~~ lease, or rental of motor ~~vehicles; to the~~ vehicles.

(5) The white goods disposal tax levied on new white goods. ~~Such taxes shall not be included in any claim for refund filed by such nonprofit entities.~~

(6) The dry-cleaning solvent tax levied on dry-cleaning solvent purchased by a dry cleaning facility.

Authority G.S. 105-164.14; 105-262; 105-264.

SECTION .1700 - SALES TO OR BY THE STATE: COUNTIES: CITIES: AND OTHER POLITICAL SUBDIVISIONS

.1701 GOVERNMENTAL SALES AND PURCHASES

~~(a) Sales to the State of North Carolina, counties, cities and political subdivisions or agencies thereof, except sales to the Department of Transportation, of:~~

~~(1) tangible personal property not specifically exempt by statute for the purpose of use or consumption are subject to the four percent state tax and any applicable local sales or use tax;~~

~~(2) piped natural gas, electricity and local telecommunications services are subject to the three percent state tax; and~~

~~(3) the gross receipts derived from intrastate toll and private telephone services are subject to the six and one-half percent state tax.~~

~~The exemption for the Department of Transportation does not extend to sales of tangible personal property to contractors for use in the performance of contracts with the Department of Transportation nor to sales of tangible personal property to other state agencies, local governments or employees of the Department of Transportation. Sales of building materials, supplies, fixtures and equipment to contractors for use in the performance of contracts with the federal government or any above referred to governmental units or agencies are also subject to the sales or use tax.~~

~~(b) When the State of North Carolina, counties, cities, towns, and political subdivisions or any agencies thereof, with the exception of the Department of Transportation, make taxable purchases of tangible personal property from a North Carolina supplier or registered out-of-state supplier who charges the North Carolina and any applicable local sales or use tax thereon, such governmental unit or agency shall remit the tax on such purchases to the supplier. Any such governmental unit or agency making taxable purchases of tangible personal property from an out-of-state supplier who does not collect the North Carolina and any applicable local sales or use tax thereon shall register with the department and remit monthly the tax due on such purchases. Any governmental unit or agency so required to register which does not owe any tax for a given month shall file a report reflecting no tax due.~~

~~(c) If any governmental unit or agency referred to in Paragraph (b) of this rule makes taxable retail sales of tangible personal property, it shall register with the department and collect and remit the tax due on such sales. The refund provisions contained in G.S. 105-164.14(c) do not apply to the tax on such sales and no part thereof shall be refunded or claimed as a refund. Governmental units and agencies registered for sales and use tax purposes may purchase the tangible personal property which they resell without paying tax thereon to their suppliers provided they have furnished such suppliers with properly executed Certificates of Resale, Form E-590. Certificates of resale shall not be used by any governmental unit or agency herein referred to, or by any other vendee, in making purchases of tangible personal property to be used or consumed by such purchaser.~~

(a) General. -- Sales to and purchases by State governmental entities, such as the State of North Carolina, the political subdivisions of the State, and agencies of the State or a political subdivision of the State, are subject to applicable State and local sales and use taxes unless the sale or purchase is exempt from tax under G.S. 105-164.13. A governmental unit that sells tangible personal property at retail is considered to be a retailer. The reporting, payment, and other requirements that apply to a nongovernmental entity apply to a governmental entity unless a law exempts the governmental entity from the requirement.

(b) DOT. -- Sales to the Department of Transportation are exempt from State and local sales and use tax. This exemption does not apply to sales of tangible personal property to contractors for use in the performance of contracts with the Department of Transportation nor to sales of tangible personal property to employees of the Department of Transportation.

Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-

164.13; 105-262.

.1702 REFUNDS TO COUNTIES, CITIES, AND OTHER GOVERNMENTAL ENTITIES

(a) G.S. 105-164.14(c) lists the governmental entities that are allowed an annual refund of sales and use taxes as well as the sales and use taxes for which a refund is allowed. The refund allowed under G.S. 105-164.14(c) does not apply to taxes that are not refundable under Rule 7B .1602(f) of this Subchapter. ~~Governmental entities, as defined by G.S. 105-164.14(c), are entitled to an annual refund of sales and use taxes paid by them on their direct purchases of tangible personal property, subject to the terms and conditions hereafter set forth. The refund provisions of this Rule are not applicable to sales taxes incurred by employees on purchases of food, lodgings or other taxable travel expenses paid by employees and reimbursed by governmental entities. Such expenses are personal to the employee since the contract for food, shelter and travel is between the employee and the provider and payment of the tax is by the employee individually and personally. The governmental entity has not paid any sales tax liability. In such cases, it has chosen to reimburse a personal expense to the employee. The refund provisions of this Rule do not apply to sales taxes paid by the governmental entities named in G.S. 105-164.14(c) on charges by a utility for electricity, piped natural gas and local, toll or private telecommunications services; to the occupancy taxes levied and administered by counties and cities in this state; to the prepared food and beverage taxes levied by various local governments in North Carolina; to the highway use taxes paid on the purchase, lease or rental of motor vehicles; to the scrap tire disposal tax levied on new tires; or to the white goods disposal tax levied on new white goods. Governmental entities, as defined, and the Federal Government are entitled to annual refunds of sales and use taxes paid in North Carolina by their contractors on purchases of building materials, supplies, fixtures and equipment which become a part of or are annexed to any building or structure being erected, altered or repaired under contract with such governmental entities which is owned or leased by such governmental entities for their use.~~

(b) Nonprofit hospitals owned and controlled by a unit of local government may file claims for refund of sales and use taxes on a semiannual basis under the provisions of G.S. 105-164.14(b) rather than file annually as a part of the local government. In order to file semiannually, the hospital shall submit a written request to the Secretary of Revenue and the request shall be effective beginning with the six-month refund period following the date of the request and applies to sales and use taxes paid on or after the first day of the refund period for which the request is effective.

(c) All refund claims must be substantiated by proper documentary proof and only those taxes actually paid by the claimant during the fiscal year covered by the refund claim may be included in the claim. Any local sales or use taxes included in the claim must be separately stated in the claim for refund. In cases where more than one county's sales and use tax has been paid, a breakdown must be attached to the claim for refund showing the amount of each county's local tax separately.

(d) As to taxes paid by governmental entities on purchases for use, other than those made by contractors performing work for the claimant, invoices or copies of invoices showing the property purchased, the cost thereof, the date of purchase, the amount of state and local sales or use tax paid thereon and a record reflecting the date of payment shall constitute proper documentary proof.

(e) To substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures, and equipment by its contractor, the claimant shall secure from such contractor certified statements setting forth the cost of the property purchased from each vendor and the amount of state and local sales or use taxes paid thereon. In the event the contractor makes several purchases from the same vendor, such certified statement shall indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices, and the state and local sales and use taxes paid thereon. Such statement shall also include the cost of any tangible personal property withdrawn from the contractor's warehouse stock and the amount of state and local sales or use tax paid thereon by the contractor. Similar certified statements by his subcontractors shall be obtained by the general contractor and furnished to the claimant. Any local sales or use taxes included in the contractor's statements shall be shown separately from the state sales or use taxes. The contractor's statements shall not contain sales or use taxes paid on purchases of tangible personal property purchased by such contractors for use in performing the contract which does not annex to, affix to or in some manner become a part of the building or structure being erected, altered or repaired that is owned or leased by a governmental entity for use by the governmental entity as defined by G.S. 105-164.14(c). Examples of property on which sales or use tax has been paid by the contractor and which shall not be included in the contractor's statement are scaffolding, forms for concrete, fuel for the operation of machinery and equipment, tools, equipment repair parts, equipment rentals and blueprints.

Authority G.S. 105-164.14; 105-262.

.1703 SALES TO STATE

~~Sales of food products and other tangible personal property to the State of North Carolina, its political subdivisions or agencies for use and not for resale are subject to the four percent state tax and any applicable local sales or use tax.~~

Authority G.S. 105-164.4; 105-164.6; 105-262.

SECTION .1800 - HOSPITALS AND SANITARIUMS

.1801 SALES TO AND BY HOSPITALS AND SIMILAR INSTITUTIONS

(a) Hospitals, sanitariums, nursing homes and rest homes

are primarily engaged in rendering services and are deemed to be the users or consumers of all tangible personal property which they purchase for use in connection with the operation of such institutions. Hospitals, sanitariums, nursing homes and rest homes are liable for payment of sales or use tax on their purchases of such property except as hereinafter set forth.

(b) Hospitals, sanitariums, nursing homes and rest homes are deemed to be the users or consumers of drugs or medicines which they administer to patients. Purchases by hospitals, sanitariums, nursing homes and rest homes of drugs or medicines, other than insulin, for use are subject to the four percent state tax and any applicable local sales or use tax. Sales of insulin are exempt from sales or use taxes whether or not sold on prescription. If, in addition to using drugs or medicines in administering to patients, a hospital, sanitarium, nursing home or rest home operates a pharmacy from which it makes across the counter sales of medicines and drugs, and all purchases of medicines and drugs by such institution are made through the pharmacy, then the drugs or medicines may be purchased without payment of tax to suppliers provided the institution is registered with the Department of Revenue for sales or use tax purposes and has furnished the suppliers with properly executed Certificates of Resale, Form E-590. By executing the certificate of resale, the institution assumes the liability for payment of and must pay directly to the department all sales or use taxes due on drugs and medicines which are used by the institution in administering to and caring for its patients. Sales of drugs and medicines by the pharmacy on prescription of physicians and dentists are exempt from tax. Sales of drugs and medicines without written prescriptions of physicians or dentists are subject to the four percent state tax and any applicable local sales or use tax; except sales of insulin are exempt from sales or use tax whether or not sold on prescription. Sales of drugs and medicines, other than insulin, to physicians and dentists who administer the same to their patients in rendering professional services are also subject to the four percent state tax and any applicable local sales or use tax.

(c) Purchases by hospitals, sanitariums, nursing ~~homes~~ homes, or rest homes of foodstuffs for use in furnishing meals to patients are subject to ~~the four percent state tax and any~~ applicable state and local sales or use tax. If, in addition to furnishing meals to patients, ~~a hospital, sanitarium, nursing home or rest home~~ one of these institutions operates a cafeteria from which it makes sales of prepared meals or foods to guests, visitors, employees, ~~staff~~ staff, or other ~~persons such~~ persons, the institution must register with the Department of Revenue and collect and remit the tax on its sales. If the foodstuffs purchased by ~~such~~ the institution for use in furnishing meals to patients cannot be distinguished from those purchased for resale through the cafeteria, the ~~hospital, sanitarium, nursing home or rest home~~ institution may purchase all the foodstuffs under a certificate of resale. ~~The hospital, sanitarium, nursing home or rest home thus~~ An institution that does this assumes liability for payment of ~~the four percent state tax and any applicable local~~ sales or use tax on foodstuffs used in furnishing meals to its patients and ~~the four percent state tax and any applicable local sales tax~~ on sales of meals by the cafeteria.

(d) If a hospital is operated by a state or private educational institution and serves meals and food products to student nurses, such sales are exempt from tax in accordance with G.S. 105-164.13(27).

(e) Except as provided by Paragraphs (b) and (c) of this Rule, Certificates of Resale, Form E-590, may not be used by hospitals, sanitariums, nursing homes or rest homes when making taxable purchases of tangible personal property for use or consumption. The tax due on taxable purchases from North Carolina suppliers or out-of-state suppliers who charge North Carolina sales or use tax must be paid to the suppliers. Hospitals, sanitariums, nursing homes or rest homes which make taxable purchases from out-of-state suppliers who do not collect and remit North Carolina sales or use tax thereon must register with the department and remit monthly the tax due on such purchases.

Authority G.S. 105-164.4; 105-164.6; 105-262.

.1802 REFUNDS TO HOSPITALS AND SIMILAR INSTITUTIONS

(a) Hospitals, sanitariums, religious institutions and organizations, charitable nursing homes, and charitable rest homes not operated for profit are entitled to semiannual refunds of sales and use taxes paid by them on their direct purchases of tangible personal property, including medicines and drugs, for use in carrying on their work. For the purpose of the refund, sales or use taxes paid by contractors on their purchases of building materials, supplies, fixtures and equipment which become a part of or are annexed to a building or structure being erected, altered or repaired under contract with such hospitals, sanitariums, charitable nursing homes and charitable rest homes that is owned or leased by such institutions and used in carrying on their nonprofit activities are deemed to be taxes paid on direct purchases.

(b) As to taxes paid on purchases for use other than those made by contractors performing work for the claimant, invoices or copies of invoices showing the property purchased, the cost thereof, the date of purchase and the amount of sales or use tax paid thereon during the refund period shall constitute proper documentary proof. To substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures and equipment by its contractor, the claimant shall secure from such contractor certified statements setting forth the cost of the property purchased from each vendor and the amount of sales and use taxes paid thereon. In the event the contractor makes several purchases from the same vendor, the certified statements may indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices and the sales or use taxes paid thereon in lieu of an itemized listing of each separate invoice. The statements shall also include the cost of any tangible personal property withdrawn from the

contractor's warehouse stock and the amount of sales or use tax paid thereon by the contractor. Similar certified statements by his subcontractors shall be obtained by the general contractor and furnished to the claimant.

(c) Sales and use taxes paid by hospitals, sanitariums, charitable nursing homes and charitable rest homes which are agencies of counties and incorporated cities and towns on their direct purchases of tangible personal property, including medicines and drugs, and by their contractors on purchases of building materials, supplies, fixtures and equipment becoming a part of or annexing to a building or structure being erected, altered or repaired under contract with such institutions that is owned or leased by such institutions for their own use are also refundable; however, such refund shall be included in the claim filed by the county or incorporated city or town which is to be filed within six months after the close of the claimant's fiscal year. The documentary proof as explained in Paragraph (b) of this Rule shall be submitted to the county or incorporated city or town filing the claim. The refund provisions are not applicable to hospitals, sanitariums, charitable nursing homes and charitable rest homes which are agencies of the state or any political subdivisions thereof other than counties and incorporated cities and towns. Nonprofit hospitals owned and controlled by a unit of local government may file for a refund on a semiannual basis under G.S. 105-164.14(b) rather than file annually as a part of the local government unit. In order to file semiannually, the institution shall submit a written request to do so to the Secretary of Revenue and the request is effective beginning with the six-months refund period following the date of the request and applies to sales and use tax paid on or after the first day of the refund period for which the request is effective.

(d) The refund provisions set forth in Paragraphs (a), (b) and (c) of this Rule are not applicable to taxes paid by hospitals, sanitariums, religious institutions and organizations, charitable nursing homes and charitable rest homes on their taxable sales and these taxes shall not be refunded or claimed as a refund. The refund provisions are not applicable to sales tax incurred by employees on purchases of food, lodgings or other taxable travel expenses paid by employees and reimbursed by the institution. Such expenses are personal to the employee since the contract for food, shelter and travel is between the employee and the provider and payment of the tax is by the employee individually and personally and such tax shall not be refunded under the provisions of this Rule. The institution has incurred and paid no sales tax liability. In such cases, it has chosen to reimburse a personal expense of the employee.

(e) The refund provisions ~~set forth in Paragraphs (a), (b) and (c) of this Rule are not applicable to sales taxes paid by hospitals, sanitariums, charitable nursing homes and charitable rest homes on charges by a utility for electricity, piped natural gas and local, toll or private telecommunications services; to the occupancy taxes levied and administered by certain counties and cities in this state; to the prepared food and beverage taxes levied by various local governments in North Carolina; to the highway use taxes paid on the purchase, lease or rental of motor vehicles; to the scrap tire disposal tax levied on new tires; or to the white goods disposal tax levied on white goods.~~ in this Rule do not apply to taxes that are not refundable under Rule 7B .1602(f) of this Subchapter.

Authority G.S. 105-164.14; 105-262; 105-264.

SECTION .2200 - FOOD AND FOOD PRODUCTS FOR HUMAN CONSUMPTION

.2201 FOOD AND FOOD PRODUCTS

(a) All retail sales of food or food products are subject to ~~the four percent state and any~~ applicable state and local sales or use tax unless ~~there is an exemption or exclusion provided in the statutes.~~ a statute exempts the sales from tax.

(b) The schools, institutions and organizations making exempt sales in accordance with G.S. 105-164.13(26), (26a) and (27) will not be required to register with the Department and, therefore, unless otherwise required to register by reason of making other sales or purchases subject to the sales or use tax, cannot furnish certificates of resale, Form E-590, to their suppliers. When making purchases of food products to be sold, such nonregistered schools, institutions and organizations must furnish their suppliers with information to the effect that the food products purchased are to be sold in connection with their school lunchroom programs or their dining rooms, and the suppliers must enter such information on their records and on the sales invoices. Otherwise, such transactions may be subject to the tax. Registered schools, institutions and organizations shall furnish properly executed certificates of resale, Form E-590, where applicable.

(c) Every retailer shall keep and preserve suitable records of gross income, gross receipts and/or gross receipts of sales of such business and such other books or accounts as may be necessary to determine the amount of tax for which he is liable. Retailers shall keep separate records disclosing sales of tangible personal property taxable under G.S. 105-164.4 and sales transactions not taxable because exempt under G.S. 105-164.13 or elsewhere excluded from taxation. Unless such records shall be kept, the exemptions and exclusions shall not be allowed and it shall be the duty of the Secretary or his authorized agents to assess a tax upon gross sales at the rate levied upon retail sales; and if records are not kept disclosing gross sales, it shall be the duty of the Secretary to assess tax based upon the best information available.

Authority G.S. 105-164.4; 105-164.5; 105-164.13; 105-262.

.2212 SEA FOODS

A person who purchases fish or other seafood and sells ~~them~~ it at retail is liable for the ~~four percent state tax and any~~ applicable state and local sales or use tax due on ~~such sales.~~ the sale.

Authority G.S. 105-164.4; 105-164.13; 105-262.

SECTION .3100 - RADIO AND TELEVISION STATIONS: MOTION PICTURE THEATERS

.3104 BROADCASTING ACCESSORIES

Sales of slide or film projectors, screens, and photographic supplies and equipment, including cameras, bulbs, film, blank videotape cassettes, chemicals, ~~paper~~ paper, and other photographic developing equipment to television companies operating under the regulation and supervision of the Federal Communications Commission are subject to the one percent rate of tax with an eighty dollar ($80.00) maximum tax per article when ~~such~~ the items are used in producing pictures and similar material used in the programming of the television station. This Rule has no application to sales of the above items to amateur ~~or commercial~~ photographers.

Authority G.S. 105-164.4; 105-164.6; 105-262.

SECTION .3300 - ORTHOPEDIC

.3301 EXEMPT ORTHOPEDIC APPLIANCES

~~Sales of crutches, artificial limbs, artificial eyes, hearing aids, false teeth, eyeglasses ground on prescription of physicians or optometrists, pulmonary respirators sold on prescription of physicians, whether worn on the person or not, and other orthopedic appliances when the same are designed to be worn on the person of the owner or user, are exempt from tax. The term "orthopedic appliances" includes headgear, bows, neckstraps, wires, bands, brackets, rubber bands and jackscrews when such items are purchased by orthodontists to be assembled into various types of appliances to be worn on the person of the owner or user. Items which are deemed to be tax exempt orthopedic appliances are set forth in this Rule for illustrative purposes:~~

~~(1) abdominal belts;~~
~~(2) artificial noses and ears;~~
~~(3) cervical braces;~~
~~(4) clavicle splints;~~
~~(5) crutch tips;~~
~~(6) crutches;~~
~~(7) dorsolumbar supports;~~
~~(8) elastic anklets;~~
~~(9) elastic arch binder;~~
~~(10) elastic arch brace;~~
~~(11) elastic bandage;~~
~~(12) elastic hose;~~
~~(13) elastic wrist bands;~~
~~(14) head halters;~~
~~(15) invalid walkers;~~
~~(16) lumbosacral supports;~~
~~(17) maternity supports;~~
~~(18) obturators for cleft palate;~~
~~(19) post-operative supports;~~
~~(20) rib splints;~~
~~(21) sacroiliac supports;~~
~~(22) shoulder braces;~~
~~(23) spinal braces;~~
~~(24) stryker frames;~~
~~(25) suspensories;~~
~~(26) traction devices;~~
~~(27) trusses;~~
~~(28) walking canes;~~
~~(29) wheel chairs;~~
~~(30) hip prosthesis;~~
~~(31) bone nails;~~
~~(32) artificial heart valves;~~
~~(33) artificial arteries;~~
~~(34) iron lungs;~~
~~(35) cervical neck collars;~~
~~(36) leg braces;~~
~~(37) ostomy bags, discs, tubes and belts (but not ostomy supplies, such as cements and removers, powders, germicides or similar supplies);~~
~~(38) artificial limbs.~~

(a) Appliances. -- G.S. 105-164.13(12) exempts from sales and use tax orthopedic appliances designed to be worn by the purchaser or user. These appliances are exempt regardless of whether they are sold on prescription. The items in the following list are exempt from tax as an orthopedic appliance; an item not included in the list may also be exempt from tax:

(1) abdominal belt;
(2) artificial artery, ear, leg or other limb, heart valve, or nose;
(3) battery for an orthopedic appliance;
(4) braces of the following types: cervical, leg, rib, shoulder, or spinal;
(5) bone nail;
(6) canes and repair and replacement parts for canes;
(7) cervical neck collar;
(8) crutches and repair and replacement parts for crutches;
(9) elastic arch binder, arch brace, bandage, hose, or wrist band;
(10) gastrostomy extension or replacement kits;
(11) head halters;
(12) hearing aids;
(13) helmets for use by cerebral palsy patients;
(14) hip protheses;
(15) humid vents for tracheostomies;
(16) infusion sets for external insulin pumps;
(17) iron lungs;
(18) nasal cannulas;
(19) obturator for cleft palate;
(20) ostomy bag, disc, tube, or belt, but not an ostomy supply such as cement, remover, powder, or germicide;
(21) positioners of the following types: prone or side lying;
(22) splints of the following types: clavicle or rib;
(23) stryker frame;
(24) supports of the following types: dorsolumbar, lumbosacral, maternity, postoeprative, or sacroiliac;

(25) suspensories;
(26) tracheostomy inner cannula;
(27) traction frames and equipment;
(28) trusses;
(29) tubes of the following types that are implanted in the body: tracheostomy or laryngectomy;
(30) walkers for invalids and repair and replacement parts for the walkers and attachments and accessories designed specifically for the walkers;
(31) wheel chairs and other travel chairs, repair or replacement parts for the chairs, attachments and accessories, such as cushions, designed specifically for the chairs, and pressure pads, whether air, water, gel, or dry, designed specifically for the chairs.

(b) Orthodontic Materials. - The following items are exempt as orthopedic appliances when they are purchased by an orthodontist to be assembled into an appliance to be worn by a patient:
(1) bows;
(2) bands;
(3) brackets;
(4) headgear;
(5) jakscrews;
(6) neckstraps;
(7) wires.

Authority G.S. 105-164.13; 105-262.

.3302 EXEMPT THERAPEUTIC, PROSTHETIC, OR ARTIFICIAL DEVICES

~~Vendors making sales of therapeutic, prosthetic, or artificial devices pursuant to written prescriptions must keep sales records which clearly segregate such prescription sales. All original prescriptions must be filed and kept available for inspection by the Secretary of Revenue or his authorized agent. The items listed in this Rule are not orthopedic appliances within the meaning of G.S. 105-164.13(12) and are subject to the four percent state and any applicable local sales or use tax when sold to users or consumers in this state unless sold pursuant to a written prescription:~~
~~(1) athletic supporter;~~
~~(2) ball o foot cushions;~~
~~(3) bunion protector;~~
~~(4) bunion reducer;~~
~~(5) foot cushion;~~
~~(6) heel cushions;~~
~~(7) shoe insoles;~~
~~(8) toe flex;~~
~~(9) walk strate pads;~~
~~(10) wigs;~~
~~(11) heating pads;~~
~~(12) heat lamps;~~
~~(13) oxygen regulators (medical);~~
~~(14) oxygen tents;~~
~~(15) vaporizers.~~

(a) Devices. -- G.S. 105-164.13(12) exempts from sales and use tax therapeutic, prosthetic, or artificial devices that are designed for individual personal use to correct or alleviate physical illness, disease, or incapacity and are sold on prescription. The items in the following list are exempt from tax as a therapeutic, prosthetic, or artificial device when sold on prescription; an item not included in the list may also be exempt from tax when sold on prescription:
(1) administration sets, sanll volume non-filtered pneumatic nebulizer
(2) aerosol mask used with DME nebulizer
(3) ambu resuscitator
(4) apnea monitors and electrodes and lead wires used with the monitors
(5) athletic supporter
(6) bath or shower seats
(7) bathtub transfer benches
(8) batteries or battery cables for a device included in this list
(9) bed cradles
(10) bedside rails
(11) bunion protector or reducer
(12) commode chairs
(13) compressors and other air power sources for a device in this list or for use in administering medication
(14) continuous positive airway pressure (CPAP) devices, including intermittent assist devices that have CPAP devices and chin straps, filters, whether disposable or nondisposable, headgear, nasal application devices, nasal pillows or seals, and tubing used with the devices
(15) enteral feeding supply kits, whether syringe, pump-fed, or gravity-fed
(16) enteral pumps
(17) external insulin pumps, adaptors, piston rods, and batteries
(18) filters that are disposable and are used with aerosol compressors
(19) foot cushions, including ball o' foot cushions
(20) heat lamps
(21) heated humidifier systems
(22) heating pads
(23) heel cushions
(24) home phototherapy beds
(25) hospital beds
(26) humidifiers
(27) infusion pumps, whether parenteral or another type
(28) IRPB machines
(29) isolettes
(30) mattresses, whether spring, foam, or pressure
(31) nebulizers
(32) osteogenesis stimulators that are noninvasive
(33) oxygen and water vapor enriching systems
(34) oxygen concentrators, regulators, systems, whether liquid or gas, and tents
(35) paraffin bath units
(36) passive motion exercise devices

(37) patient lifts, whether sling or seat
(38) pressure pads, whether with or without a pump, for beds
(39) shoe insoles
(40) small volume non-filtered pneumatic nebulizer
(41) spacer bags or reservoirs for use with metered dose inhalers
(42) suction pumps
(43) toe flex
(44) toilet seats that are raised
(45) transcutaneous electrical nerve stimulator (TENS) and supplies such as electrodes and lead wires
(46) transfer boards
(47) trapeze bars and grab bars
(48) ultraviolet lights
(49) vaporizers
(50) ventilators
(51) walk strate pads
(52) whirlpools that are single-person or over-the-tub type
(53) wigs
(54) athletic supporter

(b) Records. - A vendor who sells therapeutic, prosthetic, or artificial devices pursuant to a written prescription must keep sales records that clearly segregate these sales. The vendor must keep the original prescription for inspection by the Secretary of Revenue or an agent of the Secretary.

Authority G.S. 105-164.13; 105-262.

.3303 APPLIANCES IMPLANTED IN PATIENTS

~~Sales of hip prosthesis, bone nails, artificial heart valves and artificial arteries which are to be permanently implanted in patients, come within the scope of the exemption from tax provided by G.S. 105-164.13(12).~~

Authority G.S. 105-164.13; 105-262.

.3304 PROTECTIVE HELMETS FOR PATIENTS

~~Protective helmets for use by cerebral palsy patients are deemed to be orthopedic appliances and are exempt from tax.~~

Authority G.S. 105-164.13; 105-262.

.3305 HEARING AIDS

~~Hearing aids and batteries therefor, when the same are designed to be worn on the person of the owner or user, are considered to be orthopedic appliances and exempt from tax.~~

Authority G.S. 105-164.13; 105-262.

.3306 INVALID WALKERS: WALKING CANES

~~Under the provisions of G.S. 105-164.13(12) crutches are specifically exempt from tax and the definition of the term crutches is broad enough to include invalid walkers and walking canes. These items are therefore exempt from tax.~~

Authority G.S. 105-164.13; 105-262.

SECTION .3900 - CONTAINERS: WRAPPING: PACKING AND SHIPPING MATERIALS

.3901 CONTAINERS: WRAPPING: PACKING AND SHIPPING MATERIALS

(a) Sales to manufacturers, producers, ~~wholesalers~~ wholesalers, and retailers of wrapping paper, labels, bags, cartons, and the other items specified in G.S. 105-164.13(23)a. are not subject to ~~the~~ tax ~~when such materials~~ if they are used for packaging, shipping, or delivering tangible personal property sold at wholesale or ~~retail, and when such materials~~ retail and they constitute a part of the sale of ~~such tangible personal~~ the property and are delivered with ~~it~~ the property to the customer. ~~The~~ Except for the items described in Paragraph (b) of this Rule, this exemption does not apply to items ~~which~~ that are used solely for delivery purposes and ~~which~~ do not become a part of the sale of tangible personal property.

(b) ~~Sales of any such items of tangible personal property to persons who use the same in rendering services and all other sales of any such items of tangible personal property which are used for any purpose other than to accompany the sale of tangible personal property are subject to the four percent state tax and any applicable local sales or use tax, except those sales to commercial laundries or to pressing and dry cleaning plants which are tax exempt under G.S. 105-164.13(10), sales to freezer locker plants of wrapping paper, cartons and other supplies which are taxed at the rate of one percent under G.S. 105-164.4(a)(1c)f and sales of containers to farmers or producers for use in planting, producing, harvesting, curing, marketing, packaging, sale, or transporting or delivery of their products when such containers do not go with and become part of the sale of their products at wholesale or retail which are taxed at the rate of one percent under the provisions of G.S. 105-164.4(a)(1d)i.~~ Sales of containers, such as barrels and drums, that are used to package tangible personal property for delivery to the customer and are returned to the owner for reuse are not subject to tax.

Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-262.

.3910 RETURNABLE CONTAINERS

When a vendor sells tangible personal property in returnable containers without a charge being made for the use of the containers for a specified time but, at the expiration of the specified time, the containers enter a demurrage period and a penalty charge is made as an inducement for the return of the containers, ~~such~~ the charges are incidental to the sale of the property and are not subject to the tax. When a vendor sells tangible personal property in returnable containers and a stated charge is made for the use of the containers throughout the period of retention by the customer, ~~such~~ the charges are deemed to be rentals and are subject to sales or use tax. If a container is used by the owner of the container or another

person to enclose tangible personal property for delivery to a purchaser of the property and is required to be returned to its owner for reuse, it is exempt from tax in accordance with G.S. 105-164.13(23)b.

Authority G.S. 105-164.4; 105-164.13; 105-262.

SECTION .4300 - REFUNDS TO INTERSTATE CARRIERS

.4301 REFUNDS TO INTERSTATE CARRIERS

(a) ~~Any person engaged in transporting persons or property in interstate commerce for compensation who is subject to regulation by, and to the jurisdiction of, the Interstate Commerce Commission or the United States Department of Transportation and who is required by either federal agency to keep records according to its generally accepted accounting principals (GAAP) or, in the case of a small certified air carrier, is required by the United States Department of Transportation to make reports of financial and operating statistics is an interstate carrier. An interstate carrier may secure from the Secretary of Revenue a refund of the North Carolina state and county sales or use tax paid by such person on purchases or acquisitions of lubricants, repair parts and accessories in this state for motor vehicles, railroad cars, locomotives and airplanes operated by such person. Persons not meeting all of the requirements in this Rule are not entitled to a refund under the provisions of this Rule. The highway use tax levied under Article 5A of Chapter 105 of the General Statutes and the fee levied on new motor vehicle tires by the Scrap Tire Disposal Act are not refundable under the provisions of this Rule.~~ This Rule sets out the requirements for application by an interstate carrier, as defined in G.S. 105-164.14(a), for the refund allowed by that statute. The refund authorized by that statute does not apply to taxes listed in Rule .1602(f) of this Subchapter.

(b) The following are items of tangible personal property which may be included in purchases on the application for refund, Form E-581, filed by interstate carriers:

(1) antennas;
(2) antifreeze;
(3) bedding for motor vehicle sleeping compartments;
(4) charts for tachographs;
(5) decals for motor vehicles;
(6) emergency flares and reflectors;
(7) fire extinguishers;
(8) freon or nitrogen used in refrigerating and cooling motor vehicles;
(9) furniture pads;
(10) lifeboats and oxygen masks;
(11) load jacks and chains;
(12) mobile CB radios;
(13) motor vehicle seat cushions;
(14) paints for decals;
(15) polyethylene liners (used to waterproof trailers);
(16) pouches for registration cards and permits;
(17) radios;
(18) ramp equipment (aircraft steps used to embark or disembark aircraft);
(19) ropes and chains to tie down cargo (adapted for use on motor vehicles; otherwise not allowed);
(20) signs (metal signs attached to trucks);
(21) tarpaulins;
(22) tire chains;
(23) tire and tubes;
(24) welding rods for repair of motor vehicles;
(25) windshield solvents;
(26) zipped covers for grills.

(c) The following are purchases of items of tangible personal property which shall not be included in the claim:

(1) drivers' gloves;
(2) drivers' uniforms;
(3) food trays (airplanes);
(4) fork lift tires and parts;
(5) gauges for testing equipment;
(6) hand trucks;
(7) license and inspection fees;
(8) pallets;
(9) pillows (airplanes);
(10) repair labor;
(11) road service charges;
(12) security seals;
(13) sixty percent on recapped tires where forty percent of the combined price is taxed (17 NCAC 7B .1901);
(14) tire volume discounts;
(15) tools, shop supplies;
(16) trip logs;
(17) wax and washing supplies.

(d) The lists in this Rule are not intended to be exclusive, but are for illustrative purposes only. If there is any question as to whether or not any item which does not appear therein should be included in total purchases on the application for refund, a ruling on such items may be obtained from the Sales and Use Tax Division.

(e) The Secretary shall compute the North Carolina sales or use tax which would be due with respect to all lubricants, repair parts and accessories acquired during the refund period as though all such purchases were made in this state but only on such proportion of the total purchase prices thereof as the total number of miles of operation of such applicant's motor vehicles, railroad cars, locomotives and airplanes within this state bears to the total number of miles of operation of such applicant's motor vehicles, railroad cars, locomotives and airplanes within and without this state, and such amount of sales and use tax as the applicant has paid in this state during said refund period in excess of the amount so computed shall be refunded to the applicant.

(f) The Secretary shall compute the county sales or use tax which would be due with respect to all lubricants, repair parts and accessories acquired during the refund period in the same manner as the state sales and use tax set out in Paragraph (e) of this Rule.

(g) Application for refund forms shall be furnished by the

Secretary of Revenue and shall be signed by a duly authorized person and notarized. Claims shall be filed quarterly within 60 days from the close of each quarter ending in March, June, September and December of each year covering the purchases or acquisitions during the preceding quarter of lubricants, repair parts and accessories for motor vehicles, railroad cars, locomotives and airplanes. Any claim not filed during the period specified above shall not be allowed unless an extension of time has been granted, in which case the claim shall be filed during the extended period.

(h) The application for refund shall show, in addition to all other required information, the total number of miles of operation of motor vehicles, railroad cars, locomotives and airplanes within and without this state, the total number of miles of operation of motor vehicles, railroad cars, locomotives and airplanes in this state, the total purchase price of lubricants, repair parts and accessories for motor vehicles, railroad cars, locomotives and airplanes and the total amount of North Carolina state and county sales and use tax paid on such purchases. Any sales or use tax paid to state or local taxing authorities shall be excluded from total purchases as shown on the application for refund. The amount of purchases of accessories attached to motor vehicles at the time of purchase on which the highway use tax was paid shall not be included in total purchases on the refund form. The application for refund form shall contain the procedure prescribed for computing the amount of the refund and the information necessary to complete such application. Records, upon which the application for refund is based, shall be maintained in such manner as to enable a representative of the Department of Revenue to accurately and conveniently verify the correctness of the applicant's statements. The application for refund shall be completed in triplicate and two copies returned to the North Carolina Department of Revenue, Office Examination Division, Raleigh, North Carolina, within the time prescribed herein. After a representative of the Department has verified the correctness of the application for refund, a voucher for the amount due, if any, will be issued.

(i) Nothing in this Rule shall be so construed as to relieve any taxpayer of liability for remitting sales or use tax on taxable purchases of lubricants, repair parts and accessories for motor vehicles, railroad cars, locomotives and airplanes.

Authority G.S. 105-164.14; 105-262.

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Notice is hereby given that the Department of Revenue intends to amend rules cited as 17 NCAC 9I .0102, .0304; 9J .0203; 9K .0205, .0511; and adopt 9K .0513. G.S. 150B-1(d)(4) exempts the Department of Revenue from Part 2 Article 2A of Chapter 150B with respect to the notice and hearing requirements.

Proposed Effective Date: *August 1, 1998*

Instructions on How to Demand a Public Hearing: *The Department of Revenue is not subject to the notice and hearing requirements of the APA. Nevertheless, the Department publishes notice of proposed text in the Register and will hold a public hearing if there is sufficient interest in a public hearing. The Department does this because it believes that notice and hearing serve good public policy. A request for a public hearing must be in writing and be submitted to Ms. Jan Slusser, Work Station #4930, Motor Fuel Tax Division, at P.O. Box 871, Raleigh, NC 27602, by January 30, 1998. Notice of any public hearing scheduled on this proposed rule change will be published in the Register.*

Reason for Proposed Action:

17 NCAC 9I .0102 - Chapter 390 of the 1995 Session Laws revised the motor fuel taxes and eliminated the need for the special fuel reports referred to in Paragraph (b) of this Rule. The proposed change deletes the references to these obsolete reports.

17 NCAC 9I .0304, 9J .0203 - The types of collateral acceptable in satisfaction of required bonds varies slightly for different purposes. The rules are changed to conform to the two other bond requirements. General obligation bonds are required to be of a minimum grade of BBB.

17 NCAC 9K .0205 - The types of collateral acceptable in satisfaction of required bonds varies slightly for different purposes. The rule is changed to conform to the two other bond requirements. Revenue bonds are also acceptable.

17 NCAC 9K .0511 - The cross-reference to a North Carolina Utilities Commission rule is an error. This proposed change corrects the error and sets out how the Department determines whether an entity is a municipality for motor fuel tax refund purposes.

17 NCAC 9K .0513 - The rule explains the Department's interpretation of the motor fuel refund statutes with respect to entities that contract with other entities.

Comment Procedures: *Written comments may be submitted to Ms. Jan Slusser, Work Station #4930, at North Carolina Department of Revenue, Motor Fuel Tax Division, P.O. Box 871, Raleigh, NC 27602. Comments received will be taken into consideration in adopting the permanent rule. If you have questions, you may call Ms. Slusser at 919-733-4629.*

Fiscal Note: *These Rule do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 9 - MOTOR FUELS TAX DIVISION

SUBCHAPTER 9I - HIGHWAY FUEL USE TAX

SECTION .0100 - OPERATIONS

.0102 OPERATIONS OF VEHICLES EXCLUDED FROM REPORTS

~~(a)~~ Every motor carrier ~~shall~~ must report the operations of all subject vehicles in its fleet when calculating fuel used in North Carolina pursuant to G.S. 105-449.44 for purposes of filing the report required by G.S. ~~105-449.45, except that the motor carrier may exclude such~~ 105-449.45. This requirement does not apply to vehicles that operate exclusively intrastate.

~~(b) Vehicles using special fuels that operate wholly within North Carolina must be reported on the appropriate special fuels report, i.e.; supplier, reseller, bulk user or user, if vehicles are excluded from the report filed under G.S. 105-449.45.~~

Authority G.S. 105-262; 105-449.37; 105-449.44; 105-449.45.

SECTION .0300 - CREDITS AND REFUNDS

.0304 TYPES OF ACCEPTABLE BONDS

The Motor Fuels Tax Division will accept surety bonds on Form ~~Gas.~~ Gas 1212, furnished by this Division, executed by any surety company licensed to do business in this State. The Division will also accept bonds secured by any of the following types of ~~collateral:~~ collateral if the proposed collateral has a fair market value that is at least 115% of the amount required:

(1) Certificates of deposit or cashier's ~~checks,~~ checks made payable to the ~~taxpayer;~~ taxpayer.
(2) Negotiable U.S. Treasury ~~bonds;~~ bonds.
(3) Negotiable U.S. Treasury ~~notes;~~ notes.
(4) Public School Facilities ~~bonds;~~ bonds.
(5) Housing Finance Agency ~~bonds;~~ bonds.
(6) General Obligation Bonds of the State of North Carolina or one of its political ~~subdivisions; and~~ subdivisions with a rating of at least BBB.
(7) Revenue Bonds of the State of North Carolina or one of its political subdivisions with a rating of at least ~~BAA or~~ BBB.

~~Notes and bonds tendered as collateral must have a fair market value at least equal to 115 percent of the collateral required.~~

Authority G.S. 105-262; 105-449.40.

SUBCHAPTER 9J - GASOLINE: SPECIAL FUELS AND KEROSENE INSPECTION

SECTION .0200 - KEROSENE IMPORTER

.0203 TYPES OF ACCEPTABLE BONDS

The Motor Fuels Tax Division will accept surety bonds on Form ~~Gas.~~ Gas 1212, furnished by this Division, executed by any surety company licensed to do business in this State. The Division will also accept bonds secured by any collateral that is acceptable under 17 NCAC 91 .0304. ~~the following types of collateral:~~

~~(1) Certificates of deposit or cashier's checks, made payable to the taxpayer;~~
~~(2) Negotiable U.S. Treasury bonds;~~
~~(3) Negotiable U.S. Treasury notes;~~
~~(4) Public School Facilities bonds;~~
~~(5) Housing Finance Agency bonds;~~
~~(6) General Obligation Bonds of the State of North Carolina or its political subdivisions;~~
~~(7) Revenue Bonds of the State or North Carolina or its political subdivisions with a rating of at least BAA or BBB.~~

~~Notes and bonds tendered as collateral must have a fair market value at least equal to 115 percent of the collateral required.~~

Authority G.S. 105-262; 105-269.3; 119-16.2.

SUBCHAPTER 9K - GASOLINE, DIESEL AND BLENDS

SECTION .0200 - LICENSING

.0205 TYPES OF ACCEPTABLE BONDS

~~(a)~~ The Motor Fuels Tax Division will accept surety bonds on Form Gas 1212, furnished by the Division, executed by any surety company licensed to do business in this State. The Division will also accept bonds secured by any collateral that is acceptable under 17 NCAC 91 .0304. ~~the following types of collateral:~~

~~(1) Certificates of deposit or cashier's checks, made payable to the taxpayer;~~
~~(2) Negotiable U.S. Treasury bonds;~~
~~(3) Negotiable U.S. Treasury notes;~~
~~(4) Public School Facilities bonds;~~
~~(5) Housing Finance Agency bonds;~~
~~(6) General Obligation Bonds of the State of North Carolina or its political subdivisions with a rating of at least BAA or BBB.~~

~~(b) Notes and bonds tendered as collateral must have a fair market value at least equal to 115 percent of the collateral required.~~

Authority G.S. 105-262; 105-449.72.

SECTION .0500 - REFUNDS

.0511 MUNICIPAL CORPORATION AND CITY TRANSIT SYSTEM

~~In order to define municipal corporation, the Motor Fuels Tax Division will follow the North Carolina Utilities Commission Rule R2-69, which is incorporated by reference, and includes any future amendments. This Rule can be obtained free of charge from the Chief Clerk at the Utilities Commission.~~ (a) Municipal Corporation -- A municipal corporation eligible for a refund under G.S. 105-449.106(a) is an entity identified by statute as a municipal corporation or

an entity that meets the definition of "municipality" in G.S. 105-273.

(b) City Transit System - - The Department determines the area that is included within a city transit system in accordance with Rule R2-69 of the North Carolina Utilities Commission. This rule is incorporated by reference and the incorporation includes any future changes to the rule. The rule can be obtained free of charge from the Chief Clerk at the Utilities Commission, (919) 733-7328.

Authority G.S. 105-262; 105-449.106.

.0513 ELIGIBILITY FOR REFUNDS

A refund of tax allowed a particular person under Part 5 of Article 36C of the General Statutes or G.S. 105-449.136 applies to the person named in the statute and does not extend to a person who has a contract with the person named in the statute. A refund allowed under these provisions for fuel used for a particular purpose applies to anyone who uses the fuel for that purpose.

Authority G.S. 105-262; 105, Article 36C, Part 5; 105-449.106.

TITLE 18 - SECRETARY OF STATE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Secretary of State intends to adopt rules cited as 18 NCAC 6 .1211 - .1212; amend .1104, .1205 - .1206, .1304, .1401, .1410 - .1412, .1509, .1702 - .1706, .1712 - .1714, .1801 - .1806, .1811; repeal .1506, .1809. Notice of Rule-making Proceedings was published in the Register on October 1, 1997.

Proposed Effective Date: *August 1, 1998*

A Public Hearing *will be conducted at 9:30 a.m. on February 16, 1998 at the Offices of the Department of the Secretary of State, 300 N. Salisbury Street, Securities Division Conference Room, Raleigh, NC.*

Reason for Proposed Action: *Senate Bill 438 and Senate Bill 439 both necessitate the adoption of the proposed rules. These two bills became effective on October 1, 1997, after which the existing rules will be inconsistent with the new laws. Adoption of these rules is necessary due to the enactment of the new legislation and the effective date of the new laws.*

Comment Procedures: *Written and oral comments may be submitted at the hearing on February 16, 1998. All other comments outside the public hearing must be submitted prior to 5:00 p.m. on February 16, 1998 to David S. Massey, Deputy Securities Administrator at 300 N. Salisbury Street, Raleigh, NC 27603-5909, or by telephone at (919) 733-3924.*

Fiscal Note: *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 6 - SECURITIES DIVISION

SECTION .1100 - GENERAL PROVISIONS

.1104 DEFINITIONS

(a) "Act" shall mean the North Carolina Securities Act, Chapter 78A of the North Carolina General Statutes, as same has been or may be from time to time amended.

(b) "Commercial Paper," as referred to in G.S. 78A-16(10), shall mean any note, draft, bill of exchange or bankers acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which has a maturity at the time of issuance not exceeding nine months, exclusive of days of grace, or any renewal thereof, the maturity of which is likewise limited or any guarantee of such paper or of any such renewal. Commercial paper shall also exemplify the following characteristics:

(1) prime quality negotiable paper of a type not ordinarily purchased by the general public;
(2) issued to facilitate well recognized types of current operational business requirements; and
(3) of a type eligible for discounting by Federal Reserve Banks.

(c) "Direct Participation Program" shall mean a program which provides for flow-through tax consequences regardless of the structure of the legal entity or vehicle for distribution including, but not limited to, oil and gas programs, real estate programs, agricultural programs, cattle programs, condominium securities, and all other programs of a similar nature, regardless of the industry represented by the program, or any combination thereof. A program may be composed of one or more legal entities or programs but when used herein and in any rules or regulations adopted pursuant hereto the term shall mean each of the separate entities or programs making up the overall program and/or the overall program itself. Excluded from this definition are Subchapter S corporate offerings, real estate investment trusts, tax qualified pension and profit sharing plans pursuant to Sections 401 and 403 (a) of the Internal Revenue Code and individual retirement plans under Section 408 of that Code, and any company registered pursuant to the Investment Company Act of 1940.

(d) "SEC" shall mean the Securities and Exchange Commission.

(e) "NASD" shall mean the National Association of Securities Dealers, Inc.

(f) "NASAA" shall mean the North American Securities Administrators Association, Inc.

(g) "CRD" shall mean the Central Registration Depository.

(h) "Investment Contract" as used in G.S. 78A-2(11)

includes:

(1) Any investment in a common enterprise with the expectation of profit to be derived through the essential managerial efforts of someone other than the investor. In this Subparagraph a "common enterprise" means an enterprise in which the fortunes of the investor are interwoven with and dependent upon the efforts and success of those seeking the investment or of a third party; and

(2) Any investment by which an offeree furnishes initial value to an offeror, and a portion of this initial value is subjected to the risks of the enterprise, and the furnishing of this initial value is induced by the offeror's promises or representations which give rise to a reasonable understanding that a valuable benefit of some kind over and above the initial value will accrue to the offeree as a result of the operation of the enterprise, and the offeree does not receive the right to exercise practical and actual control over the managerial decisions of the enterprise.

(i) "Recognized Securities Manual" shall mean a publication which contains the information required by G.S. 78A-17(2)a. and which has been designated, by rule or by order, as a "recognized securities manual" by the administrator.

(j) "Form D" ~~is defined as~~ shall mean the document adopted by the Securities and Exchange Commission, in effect on September 1, 1996 and as may be amended by the SEC from time to time, entitled "FORM D; Notice of Sale of Securities pursuant to Regulation D, Section 4(6), and/or Uniform Limited Offering Exemption," including Part E and the Appendix.

Authority G.S. 78A-49(a).

SECTION .1200 - EXEMPTIONS

.1205 LIMITED OFFERINGS PURSUANT TO G.S. 78A-17(9)

(a) Any issuer relying upon the exemption provided by G.S. 78A-17(9) in connection with an offering of a security made in reliance upon Rule 505 ~~or Rule 506~~ of Regulation D promulgated by the Securities and Exchange Commission under the Securities Act of 1933, as amended, 17 C.F.R. 230.505 (1982) ~~and 17 C.F.R. 230.506 (1982)~~ (and as subsequently amended) shall comply with the provisions of Rules .1206, .1207 and .1208 of this Section; provided that such compliance shall not be required if the security is offered and sold only to persons who will be actively engaged, on a regular basis, in the management of the issuer's business; and provided further, that compliance with provisions of Paragraphs (a), (b), and (c) of Rule .1208 of this Section shall not be required if the security is offered to not more than five individuals who reside in this State.

(b) Any issuer relying upon the exemption provided by G.S. 78A-17(9) in connection with an offering of a direct participation program security made solely in reliance upon an exemption from registration contained in Section 4(2) or Section 3(a)(11) of the Securities Act of 1933, as amended, or made solely in reliance upon Rule 504 of Regulation D promulgated by the Securities and Exchange Commission under the Securities Act of 1933, as amended, 17 C.F.R. 230.504 (1982), (and as subsequently amended), shall comply with the following conditions and limitations:

(1) No commission, discount, finder's fee or other similar remuneration or compensation shall be paid, directly or indirectly, to any person for soliciting any prospective purchaser of the security sold to a resident of this State unless such person is either registered pursuant to G.S. 78A-36 or exempt from registration thereunder or the issuer reasonably believes that such person is so registered or exempt therefrom.

(2) In all sales of direct participation program securities, the provisions of Rule .1313 of this Chapter regarding registered offerings of direct participation program securities shall be applicable.

(3) Any prospectus or disclosure document used in offering the securities in this state shall disclose conspicuously the legend(s) required by the provisions of Rule .1316 of this Chapter.

(4) Not less than 10 business days prior to any sale of the securities to a resident of this State which shall include but not be limited to the receipt by the issuer, or any person acting on the issuer's behalf of a signed subscription agreement of, or the receipt of consideration from, a purchaser, the issuer shall file with the administrator, or cause to be so filed:

(A) A statement signed by the issuer and acknowledged before a notary public or other similar officer:

(i) identifying the issuer (including name, form of organization, address and telephone number);

(ii) identifying the person(s) who will be selling the securities in this State (and in the case of such persons other than the issuer and its officers, partners and employees, describing their relationship with the issuer in connection with the transaction and the basis of their compliance with or exemption from the requirements of G.S. 78A-36) and describing any commissions, discounts, fees or other remuneration or compensation to be paid to such persons;

(iii) containing a summary of the proposed offering including:

(I) a description of the securities to be sold;

(II) the name(s) of all general

partners of an issuer which is a partnership and, with respect to a corporate issuer or any corporate general partner(s) of any issuer which is a partnership, the date and place of incorporation and the names of the directors and executive officers of such corporation(s);

(III) the anticipated aggregate dollar amount of the offering;

(IV) the anticipated required minimum investment, if any, by each purchaser of the securities to be offered;

(V) a brief description of the issuer's business and the anticipated use of the proceeds of the offering; and

(VI) a list of the states in which the securities are proposed to be sold;

(iv) containing an undertaking to furnish to the administrator, upon written request, evidence of compliance with Subparagraphs (1), (2), and (3) of this Paragraph (b); and

(v) containing an undertaking to furnish to the administrator, upon written request, a copy of any written document or materials used or proposed to be used in connection with the offer and sale of the securities.

(B) A consent to service of process naming the North Carolina Secretary of State as service agent using the Uniform Consent to Service of Process (Form U-2) signed by the issuer and acknowledged before a notary public or other similar officer; and accompanied by a properly executed Corporate Resolution (Form U-2A), if applicable;

(C) A non-refundable filing fee in the amount of twenty-five dollars ($25.00), payable to the North Carolina Secretary of State.

(5) Compliance with the provisions of Subparagraph (4) of this Rule shall not be required if the security is offered to not more than five individuals who reside in this State.

(c) Neither the issuer nor any person acting on the issuer's behalf shall offer, offer to sell, offer for sale or sell the securities claimed to be exempt under G.S. 78A-17(9) by any means or any form of general solicitation or general advertising.

(d) The administrator may, by order, waive any condition of or limitation upon the availability of the exemption provided by G.S. 78A-17(9).

Authority G.S. 78A-17(9); 78A-49(a).

.1206 LIMITED OFFERING EXEMPTION PURSUANT TO G.S. 78A-17(17)

(a) Transactions made in reliance upon Rule 505 ~~or Rule 506~~ of Regulation D promulgated by the Securities and Exchange Commission under the Securities Act of 1933, as amended, 17 C.F.R. 230.505 (1982) and ~~17 C.F.R. 230.506 (1982)~~ (and as subsequently amended), including any offer or sale made exempt by application of Rule 508(a), as made effective in Release No. 33-6389 and as amended in Release Nos. 33-6437, 33-6663, 33-6758, and 33-6825, shall be exempt from the requirements of G.S. 78A-24, provided there is compliance with the conditions and limitations of this Rule .1206 and Rules .1207 and .1208 of this Section.

(1) No exemption under this Rule .1206 is available for the offer or sale of securities if the issuer or any other person or entity to which Rule .1206 applies is disqualified pursuant to Rule .1207 of this Section unless the administrator, upon application and a showing of good cause by the issuer, or such other person or entity, modifies or waives the disqualification.

(2) No commission, discount, finder's fee or other similar remuneration or compensation shall be paid, directly or indirectly, to any person for soliciting any prospective purchaser of any security sold to a resident of this State in reliance upon the exemption provided by this Rule .1206 unless such person is either registered pursuant to G.S. 78A-36 or exempt from registration thereunder or the issuer reasonably believes that such person is so registered or exempt therefrom.

(3) In all sales to those accredited investors defined in 17 C.F.R. 230.501(a)(5) who reside in this State (except sales to such accredited investors made by or through a dealer registered under G.S. 78A-36) and in all sales to nonaccredited investors who reside in this State the issuer and any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry shall believe that one of the following conditions is satisfied:

(A) The investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to his/her other security holdings and as to his/her financial situation and needs. For the purpose of this condition only, it may be presumed that if the investment does not exceed 10 percent of the investor's net worth, it is suitable.

(B) The purchaser, either alone or with his/her purchaser representative(s), has such knowledge and experience in financial and business matters that he/she is or they are capable of evaluating the merits and risks of

the prospective investments.

(4) In all sales of direct participation programs securities pursuant to the exemption provided by this Rule .1206, the provisions of Rule .1313 of this Chapter regarding registered offerings of direct participation program securities shall be applicable in addition to all other requirements of this Rule .1206.

(5) Any prospectus or disclosure document used in this state in connection with an offer and sale of securities made in reliance upon the exemption provided by this Rule .1206 shall disclose conspicuously the legend(s) required by the provisions of Rule .1316 of this Chapter.

(6) Nothing in the exemption provided by this Rule .1206 is intended to or should be construed as in any way relieving the issuer or any person acting on behalf of the issuer from providing disclosure to prospective investors adequate to satisfy the antifraud provisions of the Act.

(7) Transactions which are exempt under this Rule may not be combined with offers and sales exempt under any other rule or section of this Act; however, nothing in this limitation shall act as an election. Should for any reason, an offer and sale of securities made in reliance upon the exemption provided by this Rule .1206 fail to comply with all of the conditions hereof, the issuer may claim the availability of any other applicable exemption.

(8) A failure to comply with a term, condition or requirement of Subparagraphs (a)(2) and (a)(3) of this Rule will not result in loss of the exemption from the requirements of G.S. 78A-24 for any offer or sale to a particular individual or entity if the person relying on the exemption shows:

(A) the failure to comply did not pertain to a term, condition or requirement directly intended to protect that particular individual or entity; and

(B) the failure to comply was insignificant with respect to the offering as a whole; and

(C) a good faith and reasonable attempt was made to comply with all applicable terms, conditions and requirements of Subparagraphs (a)(2) and (a)(3).

Where an exemption is established only through reliance upon this Subparagraph (8) of this Rule, the failure to comply shall nonetheless be actionable by the administrator under G.S. 78A-47.

(9) In any proceeding involving this Rule .1206, the burden of proving the exemption or an exception from a definition or condition is upon the person claiming it.

(10) In view of the objective of this Rule .1206 and the purpose and policies underlying the Act, this exemption is not available to any issuer with respect to any transaction which, although in technical compliance with this Rule .1206, is part of a plan or scheme to evade registration or the conditions or limitations explicitly stated in this Rule .1206 or Rules .1207 and .1208 of this Section.

(11) The administrator may, by order, waive any condition of or limitation upon the availability of the exemption provided by this Rule .1206.

(12) The exemption provided by this Rule .1206 shall be known and may be cited as the "North Carolina Limited Offering Exemption."

(b) Pursuant to G.S. 78A-18, the administrator may by order deny or revoke the exemption provided by this Rule .1206 with respect to a specific security or security transaction.

Authority G.S. 78A-17(17); 78A-49(a).

.1211 NOTICE FILING PROCEDURES FOR RULE 506 OFFERINGS

An issuer offering a security that is a "covered security" under Section 18(b)(4)(D) of the Securities Act of 1933 shall file a notice on SEC Form D, a consent to service of process on a form prescribed by the Administrator, and pay a fee of seventy-five dollars ($75.00) no later than 15 days after the first sale in this State of such security covered under federal law. An issuer is not required to file any amendments to a Form D unless the amendment reflects a change in the offering in this State.

Authority G.S. 78A-31(b); 78A-49(a).

.1212 NOTICE FILING PROCEDURES FOR OFFERINGS OF INVESTMENT COMPANY SECURITIES

(a) An investment company offering securities covered under Section 18(b)(2) of the Securities Act of 1933, as amended, may satisfy the notice filing requirement of G.S. 78A-31(a) by filing the fees required by that section, together with Form NF, Uniform Investment Company Notice Filing. This filing need not be made nor fees paid on any security issued by an investment company if such security is exempt pursuant to the provisions of G.S. 78A-16 or 78A-17. If permitted by the Securities Division, Form NF may be filed electronically.

(b) By filing Form NF, an investment company thereby agrees that, upon receipt of a request from the Securities Division, the investment company will promptly provide to the Division a copy of its current prospectus and statement of additional information, if any, as filed with the Securities and Exchange Commission.

(c) By executing the Form NF, the investment company thereby agrees, that for purposes of complying with the laws of this State, such execution shall be deemed to be the consent of the investment company to have the Administrator irrevocably appointed as its agent in this State upon whom

may be served any notice, process or pleading in any action or proceeding against it arising out of, or in connection with, the sale of securities covered by such Form NF or arising out of the violation of the securities laws of this State; and that any action or proceeding against the investment company may be commenced in any court of competent jurisdiction and proper venue within this State by service of process upon the Administrator with the same effect as if the investment company was organized or created under the laws of this State and had been served lawfully with process in this State. In the event any notice, process or pleading is served on the investment company through the Administrator, the Administrator shall promptly provide a copy of such notice, process, or pleading to the person indicated in Item 5 of Form NF.

(d) Upon filing Form NF and paying either the minimum or maximum fees required by G.S. 78A-31(a)(1), the securities of the investment company may be offered for sale and sold into, from, and within this State until the expiration of the notice filing period pursuant to G.S. 78A-31(a)(4). In order to offer or sell its securities after the expiration of its notice filing, the investment company must extend its notice filing as provided in Paragraph (f) of this Rule. In the event that the Securities Division requests that the investment company provide it with a copy of the investment company's prospectus or statement of additional information, such request shall not restrict the ability of the investment company to offer its securities for sale in this State provided that the Division has received the Form NF and fees as required by G.S. 78A-31(a).

(e) Any investment company that elects to pay a fee less than the maximum fee as provided in G.S. 78A-31(a) shall file a sales report on Form NF, with the Division, within two months after the expiration of the notice filing period.

(f) A notice filing may be renewed by the investment company by filing a current Form NF and paying such fees as are required by G.S. 78A-31(a) within two months after the expiration of the prior notice filing period. Each renewal of a notice filing shall expire on December 31.

(g) Amendments to the information contained on a Form NF may be made by the filing of another Form NF, together with the fees required by G.S. 78A-31(a).

Authority G.S. 78A-31(a); 78A-49(a).

SECTION .1300 - REGISTRATION OF SECURITIES

.1304 SECURITIES REGISTRATION AND FILING FEES

(a) All fees (registration and filing) are payable to the Office of the Secretary of State and shall be submitted with the application for original, renewal, or additional registration. The registration fee shall be retained by the administrator, except where the registration is not granted by the administrator or where the registration is withdrawn at the request of the applicant and with the consent of the administrator. The filing fee shall be retained by the administrator in all cases.

(b) The aggregate offering amount of an original or amended registration may be increased prior to or after the effectiveness of the registration by providing the administrator the following:

(1) An additional registration filing fee of fifty dollars ($50.00) if such filing occurs after the effective date of the offering;

(2) The appropriate registration fee calculated in the manner specified in G.S. 78A-28(b), provided the maximum registration fee has not been paid; and

(3) An amendment to the Uniform Application to Register Securities (Form U-1).

Additional registrations shall be effective when the administrator so orders. ~~The registration statement for a mutual fund or open-end management company may specify an indefinite aggregate offering amount if such offering amount is similarly registered with the Securities and Exchange Commission.~~

~~(c) A registration statement relating to securities issued or to be issued by a mutual fund, open-end management company, or unit investment trust, to be offered for a period in excess of one year, must be renewed annually by payment of a renewal fee of one hundred dollars ($100.00) and by filing the following:~~

~~(1) A copy of the current prospectus and any other offering materials;~~

~~(2) One copy of any amendments to the registration statement not previously filed; and~~

~~(3) A statement of the amount of securities sold in this state to date and the balance of unsold securities effectively registered in this state, expressed in dollars.~~

~~The payment of the renewal fee and the filing of the listed documents and reports in this Rule shall be made no earlier than November 15th and, to assure timely renewal, should be made no later than December 15th. Renewal must be perfected prior to December 31 of each year and failure to timely renew will result in the expiration of the registration statement.~~

Authority G.S. 78A-28(b); 78A-28(j); 78A-49(a); 78A-31(a).

SECTION .1400 - REGISTRATION OF DEALERS AND SALESMEN

.1401 APPLICATION FOR REGISTRATION OF DEALERS

(a) The application for registration as a dealer shall contain the following:

(1) an executed Uniform Application for Registration as a Dealer (Form BD) and the appropriate schedules thereto or the appropriate successor form;

(2) a fee in the amount of two hundred dollars ($200.00);

(3) evidence of current registration as a dealer with the

Securities and Exchange Commission under the Securities Exchange Act of 1934;

(4) evidence ~~of net capital as defined by Rule .1410(e) of this Section greater than one hundred thousand dollars ($100,000) or evidence~~ of compliance with Rule .1410 of this Section;

(5) any other information the administrator may from time to time require.

(b) The application for registration as a dealer shall be filed as follows:

(1) NASD member dealers shall file applications for initial registration in the State of North Carolina with the NASAA/NASD Central Registration Depository, P.O. Box 37441, Washington, D.C. 20013 and shall file a manually executed Form BD directly with the Securities Division. Applications for renewal of registration shall be filed only with the Central Registration Depository (see Rule .1406 of this Section);

(2) Non-NASD member dealers shall file all applications for registration in the State of North Carolina directly with the Securities Division.

(c) The dealer shall file with the administrator, as soon as practicable but in no event later than thirty days, notice of any disciplinary action taken against the dealer by any exchange of which the dealer is a member; the Securities and Exchange Commission; the Commodity Futures Trading Commission; any national securities association registered with the Securities and Exchange Commission pursuant to Section 15A of the Securities Exchange Act of 1934 or any state securities commission and of any civil suit filed against the dealer alleging violation of any federal or state securities laws. If the information contained in any document filed with the administrator is or becomes inaccurate or incomplete in any material respect, the dealer shall file a correcting amendment as soon as practicable but in no event later than thirty days.

(d) Registration becomes effective at noon of the 30th day after a completed application is filed or such earlier time upon issuance of a license or written notice of effective registration, unless proceedings are instituted pursuant to G.S. 78A-39. The administrator may by order defer the effective date after the filing of any amendment but no later than noon of the 30th day after the filing of the amendment.

(e) Every dealer shall notify the administrator of any change of address, the opening or closing of any office (including the office of any salesman operating apart from the dealer's premises) or any material change thereto, in writing as soon as practicable or by filing concurrently upon filing with NASD an appropriate amendment or schedule to Form BD or any successor form.

Authority G.S. 78A-36(a); 78A-37(a); 78A-37(b); 78A-37(d); 78A-38(c); 78A-49(a).

.1410 MINIMUM FINANCIAL REQUIREMENTS FOR DEALERS

(a) ~~A dealer, upon application for registration, must provide or a dealer who is currently registered may after December 31, 1984 be required to provide, evidence of net capital, as defined by Paragraph (e) of this Rule, not less than the appropriately prescribed amounts provided in this Paragraph or in lieu thereof a dealer may file a bond or provide evidence of a deposit of cash or securities in the appropriate amount provided as follows:~~

~~(1) Dealers organized under the laws of this State or having their principle office and substantial assets in this state shall maintain net capital of at least fifty thousand dollars ($50,000), or net capital plus a surety bond or trust account totaling at least fifty thousand dollars ($50,000).~~

~~(2) Dealers trading in municipal bonds only; dealers trading in Investment Company securities only; or dealers who do not generally carry customer's accounts as defined at Rule 15c3-1.(a)(2) promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 as amended, shall maintain net capital of at least twenty-five thousand dollars ($25,000), or net capital plus a surety bond or trust account totalling at least twenty-five thousand dollars ($25,000).~~

~~(3) Dealers offering and selling direct participation programs only shall maintain net capital of at least fifty thousand dollars ($50,000), or net capital plus a surety bond or trust account totalling at least fifty thousand dollars ($50,000).~~

~~(4) All other dealers shall maintain net capital of seventy-five thousand dollars ($75,000), or net capital plus a surety bond or trust account totalling at least seventy-five thousand dollars ($75,000).~~ Each dealer registered or required to be registered under this Act shall comply with SEC Rules 15c3-1, 15c3-2, and 15c3-3 (17 C.F.R. 240.15c3-1, 17 C.F.R. 240.15c3-2, and 17 C.F.R. 240.15c3-3), as amended from time to time.

(b) ~~Except as provided by Paragraph (c) of this Rule, any~~ Any dealer ~~registered on or after January 1, 1984~~ who fails to maintain the minimum net capital ~~or net capital plus a surety bond or trust account~~ requirement of Paragraph (a) of this Rule ~~and any dealer registered before January 1, 1984 who fails to maintain the minimum net capital or net capital plus a surety bond or trust account requirement of Paragraph (a) after December 31, 1984~~ shall immediately suspend offers and sales of securities, notify the administrator within three business days of such fact, and shall not resume such operations until evidence has been submitted to and approved in writing by the administrator that the requirements of Paragraph (a) of this Rule have been met.

~~(c) Should a dealer's bond be terminated by the surety resulting in the dealer's failure to meet the requirements of Paragraph (a) of this Rule and the bond was not terminated due to fault of the dealer, then the dealer shall be provided a reasonable time period of up to six months, without the necessity of suspending offers and sales of securities, to~~

~~obtain another bond in order to meet the requirements of Paragraph (a) of this Rule provided that the dealer notifies the administrator in writing within five business days of the termination of the bond and files such further information as the administrator may require regarding the financial status of the dealer until evidence of compliance with Paragraph (a) of this Rule is provided.~~

~~(d) If the net capital, or net capital plus a surety bond or trust account of a dealer, is less than one thousand dollars ($1,000) above the requirements of Paragraph (a) of this Rule then such dealer shall notify the administrator within five business days and submit a copy of the dealer's current balance sheets. A copy of the dealer's current balance sheet shall be submitted each month thereafter until the dealer's net capital, or net capital plus a surety bond or trust account, exceeds one thousand dollars ($1,000) over the minimum requirements of Paragraph (a) of this Rule.~~

~~(e) For the purposes of this Rule, "Net Capital" shall mean the excess of total assets over total liabilities as determined by generally accepted accounting principles, except that if any of such assets have been depreciated, then the amount of depreciation relative to any particular asset may be added to the depreciated cost of such assets to compute total assets; provided however, that the amount resulting after adding such depreciation does not exceed the fair market value of the asset. In the case of an individual, the assets on his balance sheet may be carried at estimated fair market value, with provisions for estimated income taxes on unrealized gain. For the purpose of calculating the appropriate amount of surety bond which may be required pursuant to this Rule, net capital may be presumed to be zero ($0.00) in situations in which a dealer's liabilities exceed the dealer's assets.~~

~~(f) The surety bond shall be filed on the North Carolina Securities Administrator's Dealer Bond (NCDB Form) or on a form acceptable to the administrator. Evidence of a deposit of cash or securities shall be filed on the Certification of Deposit of Cash or Securities (CDCS Form) or on a form acceptable to the administrator.~~

Authority G.S. 78A-37(d); 78A-49(a).

.1411 RECORD KEEPING REQUIREMENTS FOR DEALERS

~~(a) Every registered dealer shall keep the books and records set out in this Paragraph, unless otherwise designated by the administrator:~~

~~(1) blotters (or other records of original entry) containing an itemized daily record of all purchases and sales of securities, all receipts and deliveries of securities (including certificate numbers), all receipts and disbursements of cash and all other debits and credits. The record shall show the account for which each transaction was affected, the name and amount of securities, the unit and aggregate purchase or sale price (if any), the trade date, and the name or other designation of the person from whom purchased or received or to whom sold or delivered;~~

~~(2) ledgers (or other records) reflecting all assets and liabilities, income, and expense and capital accounts;~~

~~(3) ledger accounts itemizing separately as to each cash and margin account of every customer and of the dealer and partners thereof, all purchases, sales, receipts and deliveries of securities and commodities for the account and all other debits and credits to the account;~~

~~(4) ledgers (or other records) reflecting the following:~~

~~(A) securities in transfer;~~

~~(B) dividends and interest received;~~

~~(C) securities borrowed and securities loaned;~~

~~(D) monies borrowed and monies loaned (together with a record of the collateral thereof and any substitutions in the collateral); and~~

~~(E) securities failed to receive and failed to deliver;~~

~~(5) a securities record or ledger reflecting separately for each security as of the clearance dates all "long" or "short" positions (including securities in safekeeping) carried by the dealer for its account or for the account of its customers or partners and showing the location of all securities long and offsetting position to all securities short and in all cases the name or designation of the account in which each position is carried;~~

~~(6) a memorandum of each brokerage order, and of any other instruction, given or received for the purchase or sale of securities whether executed or unexecuted. The memorandum shall show the terms and conditions of the order or instructions and any modification or cancellation thereof, the account for which entered, the time of entry, the price at which executed and, to the extent feasible, the time of execution or cancellation. Orders entered pursuant to the exercise of discretionary power by the dealer, or any employee thereof, shall be so designated. The term "instruction" shall be deemed to include instructions between partners and employees of a dealer. The term "time of entry" shall be deemed to mean the time when such dealer transmits the order or instruction for execution, or, if it is not so transmitted, the time when it is received;~~

~~(7) a memorandum of each purchase and sale of securities for the account of the dealer showing the price and to the extent feasible, the time of execution;~~

~~(8) copies of confirmations of all purchases and sales and copies of notices of all other debits and credits for securities, cash and other items for the account of customers and partners of the dealer;~~

~~(9) a record in respect of each cash and margin account with the dealer containing the name and address of~~

~~the beneficial owner of the account; provided that in the case of a joint account or an account of a corporation, the records are required only in respect of the person or persons authorized to transact business for the account;~~

~~(10) a record of all puts, calls, spreads, straddles and other options in which the dealer has any direct or indirect interest or which the dealer has granted or guaranteed, containing, at least, an identification of the security and the number of units involved. This Section shall not be deemed to require a member of a national securities exchange to make or keep records of transactions cleared for the member by another member as are customarily made and kept by the clearing member.~~

~~(b) Every registered dealer shall preserve for a period of not less than three years, the first two years in a readily accessible location:~~

~~(1) all check books, bank statements, cancelled checks and cash reconciliation;~~

~~(2) all bills receivable or payable (or copies thereof), paid or unpaid relating to the business of the dealer;~~

~~(3) originals of all communications received and copies of all communications sent by the dealer (including interoffice memoranda and communications) relating to the business of the dealer;~~

~~(4) all trial balances, computation of aggregate indebtedness and net capital (and working papers in connection therewith), financial statements, branch office reconciliations and internal audit working papers, relating to the business of the dealer;~~

~~(5) all guarantees of accounts and all powers of attorney and other evidence of the granting of any discretionary authority given in respect of any account, and copies of resolution empowering an agent to act on behalf of a corporation;~~

~~(6) all written agreements (or copies thereof) entered into by a dealer relating to business of the dealer, including agreements with respect to any account. For a period of not less than three years after the closing of any customer's account, any account cards or records which relate to the terms and conditions with respect to the opening and maintenance of the account shall be preserved by every registered dealer. Every registered dealer shall preserve during the life of the enterprise and of any successor enterprise all partnership agreements, certificates or articles or, in the case of a corporation, all articles of incorporation or charter, minute books and stock certificate books. After a record or other documents has been preserved for two years, a photograph thereof on film may be substituted therefore for the balance of the required time.~~

(a) Unless otherwise provided by order of the Securities and Exchange Commission, each dealer registered or required to be registered under this Act shall make, maintain and preserve books and records in compliance with U.S. Securities and Exchange Commission Rules 17a-3~~,~~ and 17a-4 (17 C.F.R. 240.17a-3~~,~~ and 17 C.F.R. 240.17a-4) and with section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) and the rules promulgated thereunder ~~and 15c2-11 (17 C.F.R. 240.17a-3,17 C.F.R. 240.17a-4, 17 C.F.R. 240.15c2-6, and 17 C.F.R. 240.15c2-11)~~, as amended from time to time.

~~(c)~~(b) To the extent required by the Securities Exchange Act of 1934 or the rules adopted thereunder, every ~~Every registered~~ dealer registered or required to be registered under this Act shall maintain within this State, in a readily accessible location, all records required by this Rule. A written request for the waiver of the provisions of this Section may be made to the administrator to permit any registered dealer to maintain any of the records required by this Section, in some place other than the State of North Carolina. In determining whether or not the provisions of this Section should be waived the administrator may consider, among other things, whether the main office of the dealer is in a place outside the State of North Carolina or whether the dealer clears all or some of its transactions and uses all or some of the bookkeeping facilities of some other dealer whose main office is outside the State of North Carolina.

Authority G.S. 78A-38(a); 78A-38(b); 78A-38(d); 78A-49(a).

.1412 FINANCIAL STATEMENTS

~~The administrator may require any dealer, either registered or making application, to file any and all financial statements which such dealer files with the Securities and Exchange Commission or any national securities exchange or national securities association of which it is a member. Each broker-dealer is required to furnish the administrator with a copy of its audited financial statements 60 days after its fiscal year ends.~~ Each dealer registered or required to be registered under this Act shall comply with SEC Rule 17a-11 (17 C.F.R. 240.17a-11), as amended from time to time, and shall file with the Administrator upon request copies of notices and reports required under SEC Rules 17a-5, 17a-10, and 17a-11 (17 C.F.R. 240.17a-5, 17 C.F.R. 240.17a-10, and 17 C.F.R. 240.17a-11), as amended from time to time.

Authority G.S. 78A-38(b); 78A-49(c).

SECTION .1500 - MISCELLANEOUS PROVISION

.1506 PUBLIC INFORMATION (Repealed)

Authority G.S. 78A-46(a); 78A-49(a); 78A-49(g); 78A-50(c); 132-1.1.

.1509 FORMS

The following forms are available upon request from the Securities Division for use in complying with the provisions

of Chapter 78A (the North Carolina Securities Act) of the North Carolina General Statutes and the rules promulgated thereunder:

(1) Uniform Application to Register Securities (Form U-1);
(2) Uniform Application for Registration As a Dealer (Form BD);
(3) Supplement to Schedule F of Form BD;
(4) Uniform Application for Securities and Commodities Industry Representative and/or Agent (Form U-4);
(5) Uniform Termination Notice for Securities Industry Registration (Form U-5);
(6) Uniform Consent to Service of Process (Form U-2);
(7) Uniform Form of Corporate Resolution (Form U-2A);
(8) North Carolina Securities Administrator's Dealer Bond (Form NCDB);
(9) Certification of Deposit of Cash or Securities (Form CDCS);
(10) Small Corporate Offerings Registration Form ~~(Form U-7); and~~ (Form U-7); and
(11) Form NF, Uniform Investment Company Notice Filing.

Authority G.S. 78A-49(a)(b).

SECTION .1700 - REGISTRATION OF INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

.1702 APPLICATION FOR INVESTMENT ADVISER REGISTRATION/NOTICE FILING FOR INVESTMENT ADVISER COVERED UNDER FEDERAL LAW

(a) The application for initial registration as an investment adviser pursuant to Section 78C-17(a) of the Act shall be filed upon Form ADV (Uniform Application for Investment Adviser Registration) (17 C.F.R. 279.1) with the administrator. The initial application shall include the consent to service of process required by Section 78C-46(b) of the Act, and shall include the following:

(1) A statement or certificate showing compliance by the investment adviser with the examination requirements of Rule .1709;
(2) Such financial statements as set forth in Rule .1708, including at the time of application, a copy of the balance sheet for the last fiscal year, and if such balance sheet is as of a date more than 45 days from the date of filing of the application, an unaudited balance sheet prepared as set forth in Rule .1708 as of a date within 45 days of the date of filing;
(3) Evidence of compliance with the minimum financial requirements of Rule .1704;
(4) A copy of the surety bond required by Section 78C-17(e), if applicable;
(5) The fee required by Section 78C-17(b) of the Act; and
(6) Any other information the administrator may from time to time require.

(b) The application for renewal of registration as an investment adviser shall be filed on ~~Form ADV-S (Annual Report for Investment Advisers Registered Under the Investment Advisers Act of 1940) (17 C.F.R. 279.3)~~ an amended Form ADV and shall contain the following:

(1) A copy of the surety bond required by Rule .1705, if applicable; and
(2) The fee required by Section 78C-17(b) of the Act.

(c) The investment adviser shall file with the administrator, as soon as practicable but in no event later than 30 days, notice of any civil, criminal or administrative charges filed against the investment adviser which relate directly or indirectly to its activities in the securities or financial services business. This notice shall include notification of any investigation by any securities, commodities, or other financial services regulatory agency and any disciplinary, injunctive, restraining, or limiting action taken by such agencies, by any court of competent jurisdiction, or by any state administrator with respect to the investment adviser's activities in the securities or financial services business. Any amendment required by Section 78C-18(d) of the Act for an investment adviser shall be made on Form ADV in the manner prescribed by that form. Any amendment to Form ADV shall be filed with the administrator within the time period specified in the instructions to that form relating to filings made with the Securities and Exchange Commission.

(d) Registration becomes effective at noon of the 30th day after a completed application is filed or such earlier time upon issuance of a license or written notice of effective registration, unless proceedings are instituted pursuant to G.S. 78C-19. The administrator may by order defer the effective date after the filing of any amendment but no later than noon of the 30th day after the filing of the amendment.

(e) Every investment adviser shall notify the administrator of any change of address, the opening or closing of any office (including the office of any investment adviser representative operating apart from the investment adviser's premises) or any material change thereto, in writing as soon as practicable.

(f) The registration of an investment adviser shall expire on December 31 of each year unless timely renewed. The application for renewal of registration should be filed at least 15 days before the expiration date.

(g) The notice filing for an investment adviser covered under federal law pursuant to G.S. 78C-17(a1) shall be filed with the Administrator or with a central registration depository designated by the Administrator ~~on an~~ by filing a copy of the executed Form ADV (Uniform Form for Investment Adviser Registration (17 C.F.R. 279.1)) most recently filed by the investment adviser with the Securities Exchange Commission, and shall ~~include:~~ include the fee required under G.S. 78C-17(b1).

~~(1) a transmittal letter indicating that the Form ADV is being submitted by an investment adviser covered under federal law pursuant to G.S. 78C-17(a1); and~~

~~(2) the fee required under G.S. 78C-17(b1).~~

(h) The renewal of the notice filing for a ~~federal covered~~ an investment adviser covered under federal law pursuant to G.S. 78C-17(a1) shall be ~~filed upon Schedule I of~~ made by filing with the Administrator a copy of the executed Form ADV most recently filed by the investment adviser with the Securities Exchange Commission, ~~or another form designated by the Administrator,~~ and shall ~~include:~~ include the fee required under G.S. 78C-17(b1).

~~(1) a transmittal letter indicating that the Form ADV is being filed by an investment adviser covered under federal law pursuant to G.S. 78C-17(a1); and~~

~~(2) the fee required under G.S. 78C-17(b1).~~

Authority G.S. 78C-16(b); 78C-16(d); 78C-17(a); 78C-17(a1); 78C-17(b); 78C-17(b1); 78C-17(e); 78C-18(d); 78C-19(a); 78C-30(a); 78C-30(b); 78C-30(c); 78C-30(d); 78C-46(b).

.1703 APPLICATION/INVESTMENT ADVISER REPRESENTATIVE REGISTRATION

(a) The application for initial registration as an investment adviser representative pursuant to Section 78C-17(a) of the Act shall be filed upon Form U-4 (Uniform Application for Securities Industry Registration or Transfer) with the administrator and contain the additional information required by this Rule. The initial application shall include the consent to service of process required by Section 78C-46(b) of the Act. The application for initial registration shall also provide the following:

(1) A statement or certificate showing compliance by the investment adviser representative with the examination requirements of Rule .1709; and

(2) The fee required by Section 78C-17(b) of the Act.

(b) The application for renewal of registration as an investment adviser representative shall, unless waived by the administrator, be filed with the administrator. No renewal of registration as an investment adviser representative shall be effected until the fee required by Section 78C-17(b) of the Act is remitted to the administrator.

(c) The investment adviser ~~representative or~~ representative, the investment ~~adviser~~ adviser, or the investment adviser covered under federal law for which the investment adviser representative is registered shall file with the administrator, as soon as practicable but in no event later than 30 days, notice of any civil, criminal, or administrative charges filed against the investment adviser representative which relate directly or indirectly to his activities in the securities or financial services business. This notice shall include notification of any investigation by any securities, commodities, or other financial services regulatory agency and any disciplinary, injunctive, restraining, or limiting action taken by such agencies, by any court of competent jurisdiction, or by any state administrator with respect to the investment adviser representative's activities in the securities or financial services business. Any amendment required by Section 78C-18(d) of the Act for an investment adviser representative shall be made on Form U-4 in the manner prescribed by that form. Such amended Form U-4 shall be filed with the administrator not later than 30 days following the event necessitating such amendment.

(d) Registration becomes effective at noon of the 30th day after a completed application is filed or such earlier time upon approval of the application by the administrator, unless proceedings are instituted pursuant to G.S. 78C-19. The administrator may by order defer the effective date after the filing of any amendment but no later than noon of the 30th day after the filing of the amendment.

(e) The registration of any investment adviser representative shall expire on December 31 of each year unless renewed in a timely fashion. The application for renewal of registration should be filed at least 15 days before the expiration date. The application for renewal of registration of investment adviser representatives shall be submitted by the investment adviser or investment adviser covered under federal law, who shall file with the Securities Division a listing of all investment adviser representatives to be renewed along with their current addresses and social security numbers. The investment ~~advisers~~ adviser representative renewal list shall be submitted in alphabetical order as follows: last name, first name, middle name or maiden name; current address; social security number. A fee of forty-five dollars ($45.00) for each investment adviser representative made payable to the North Carolina Secretary of State shall be submitted along with the investment adviser representative renewal list.

Authority G.S. 78C-16(b); 78C-17(a); 78C-17(b); 78C-18(d); 78C-19(a); 78C-30(a); 78C-30(b); 78C-46(b).

.1704 MINIMUM FINANCIAL REQUIREMENTS FOR INVESTMENT ADVISERS

(a) Unless an investment adviser posts a bond pursuant to Rule .1705, an investment adviser registered or required to be registered under the Act who has custody of client funds or securities shall maintain at all times a minimum net worth of thirty-five thousand dollars ($35,000.00), and every investment adviser registered or required to be registered under the Act who has discretionary authority over client funds or securities but does not have custody of client funds or securities shall maintain at all times a minimum net worth of ten thousand dollars ($10,000.00).

(b) Unless otherwise exempted, as a condition of the right to continue to transact business in this state, every investment adviser registered or required to be registered under the Act shall by the close of business on the next business day notify the administrator if such investment adviser's total net worth is less than the minimum required. After transmitting such notice, each investment adviser shall file by the close of business on the next business day a written report with the administrator of its financial condition, including the

following:

(1) A trial balance of all ledger accounts;

(2) A statement of all client funds or securities which are not segregated;

(3) A computation of the aggregate amount of client ledger debit balances; and

(4) A statement as to the number of client accounts.

(c) For purposes of this Rule, the term "net worth" shall mean an excess of assets over liabilities, as determined by generally accepted accounting principles, but shall not include as assets: prepaid expenses (except as to items properly classified as current assets under generally accepted accounting principles), deferred charges, subordinated loans, goodwill, franchise rights, organizational expenses, patents, copyrights, marketing rights, unamortized debt discount and expense, all other assets of intangible nature; home, home furnishings, automobile(s), and any other personal items not readily marketable in the case of an individual; advances or loans to stockholders and officers in the case of a corporation; and advances or loans to partners in the case of a partnership.

(d) The administrator may require that a current appraisal be submitted in order to establish the worth of any asset.

(e) Every investment adviser that has its principal place of business in a state other than this state shall maintain ~~only~~ such ~~minimum~~ capital as required by the state in which the investment adviser maintains its principal place of business, provided the investment adviser is licensed in such state and is in compliance with such state's minimum capital ~~requirements.~~ requirements, if any.

Authority G.S. 78C-17(d); 78C-18(c); 78C-18(d); 78C-30(a).

.1705 BONDING REQUIREMENTS FOR CERTAIN INVESTMENT ADVISERS

(a) Every investment adviser having custody of or discretionary authority over client funds or securities shall be bonded in an amount of not less than thirty-five thousand dollars ($35,000.00) by a bonding company qualified to do business in this state or in lieu thereof may provide evidence of a deposit of cash or securities in such amount. The requirements of this Rule shall not apply to those applicants or registrants who comply with the requirements of Rule .1704.

(b) Should an investment adviser's bond be terminated by the surety resulting in the investment adviser's failure to meet the requirements of Paragraph (a) of this Rule and the bond was not terminated due to fault of the investment adviser, then the investment adviser shall be provided a reasonable time period up to six months, without the necessity of ceasing to do business as an investment adviser, to obtain another bond in order to meet the requirements of Paragraph (a) of this Rule provided that the investment adviser notifies the administrator in writing within two business days of the termination of the bond and files such further information as the administrator may require regarding the financial status of the investment adviser until evidence of compliance with Paragraph (a) of this Rule is provided.

(c) The surety bond shall be filed with the administrator on Form NCIAB (North Carolina Securities Division Investment Adviser's Bond) or on a form acceptable to the administrator. Evidence of a deposit of cash or securities shall be filed with the administrator on Form CDCS-IA (Certification of Deposit of Cash or Securities -- Investment Advisers) or on a form acceptable to the administrator.

(d) An investment adviser that has its principal place of business in a state other than this state shall be exempt from the requirements of Paragraph (a) of this Rule, provided that the investment adviser is registered as an investment adviser in the state where it has its principal place of business and is in compliance with such state's requirements relating to ~~bonding.~~ bonding, if any.

Authority G.S. 78C-17(d); 78C-18(b); 78C-18(c); 78C-30(a).

.1706 RECORD-KEEPING REQUIREMENTS FOR INVESTMENT ADVISERS

(a) Except as otherwise provided in Paragraph (j) of this Rule, every ~~Every~~ investment adviser registered or required to be registered under the Act shall make and keep true, accurate and current the following books, ledgers and records:

(1) A journal or journals, including cash receipts and disbursements records, and any other records of original entry forming the basis of entries in any ledger;

(2) General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts;

(3) A memorandum of each order given by the investment adviser for the purchase or sale of any security, of any instruction received by the investment adviser from the client concerning the purchase, sale, receipt or delivery of a particular security, and of any modification or cancellation of any such order or instruction. Such memoranda shall show the terms and conditions of the order, instruction, modification or cancellation; shall identify the person connected with the investment adviser who recommended the transaction to the client and the person who placed such order; and shall show the account for which entered, the date of entry, and the bank or dealer by or through whom executed where appropriate. Orders entered pursuant to the exercise of discretionary power shall be so designated;

(4) All check books, bank statements, canceled checks and cash reconciliations of the investment adviser;

(5) All bills or statements (or copies thereof), paid or unpaid, relating to the business of the investment adviser as such;

(6) All trial balances, financial statements, and internal audit working papers relating to the business of such investment adviser;

(7) Originals of all written communications received

and copies of all written communications sent by such investment adviser relating to:

(A) Any recommendation made or proposed to be made and any advice given or proposed to be given,

(B) Any receipt, disbursement or delivery of funds or securities, or

(C) The placing or execution of any order to purchase or sell any security; provided, however,

(i) that the investment adviser shall not be required to keep any unsolicited market letters and other similar communications of general public distribution not prepared by or for the investment adviser, and

(ii) that if the investment adviser sends any notice, circular or other advertisement offering any report, analysis, publication or other investment advisory service to more than ten persons, the investment adviser shall not be required to keep a record of the names and addresses of the persons to whom it was sent; except that if such notice, circular or advertisement is distributed to persons named on any list, the investment adviser shall retain with the copy of such notice, circular or advertisement a memorandum describing the list and the source thereof;

(8) A list or other record of all accounts in which the investment adviser is vested with any discretionary power with respect to the funds, securities or transactions of any client;

(9) All powers of attorney and other evidences of the granting of any discretionary authority by any client to the investment adviser, or copies thereof;

(10) All written agreements (or copies thereof) entered into by the investment adviser with any client or otherwise relating to the business of such investment adviser as such;

(11) A copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication recommending the purchase or sale of a specific security, which the investment adviser circulates or distributes, directly or indirectly, to ten or more persons (other than clients receiving investment supervisory services or persons connected with such investment adviser), and if such notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication does not state the reasons for such recommendation, a memorandum of the investment adviser indicating the reasons thereof;

(12) The following records:

(A) A record of every transaction in a security in which the investment adviser or any advisory representative of such investment adviser has, or by reason of such transaction acquires, any direct or indirect beneficial ownership, except:

(i) Transactions effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; and

(ii) Transactions in securities which are direct obligations of the United States.

Such record shall state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the dealer or bank with or through whom the transaction was effected. Such record may also contain a statement declaring that the reporting or recording of any such transaction shall not be construed as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than ten days after the end of the calendar quarter in which the transaction was effected.

(B) For purposes of this Subparagraph (a)(12), the term "advisory representative" shall mean any partner, officer or director of the investment adviser; any employee who makes any recommendation, who participates in the determination of which recommendation shall be made, or whose functions or duties relate to the determination of which recommendation shall be made; any employee who, in connection with his duties (other than clerical, ministerial or administrative duties), obtains any information concerning which securities are being recommended prior to the effective dissemination of such recommendations or of the information concerning such recommendations; and any of the following persons who obtain information concerning securities recommendations being made by such investment adviser prior to the effective dissemination of such recommendations or of the information concerning such recommendations:

(i) any person in a control relationship to the investment adviser,

(ii) any affiliated person of such controlling person, and

(iii) any affiliated person of such affiliated person.

"Control" shall have the same meaning as that set forth in Section 2(a)(9) of the Investment Company Act of 1940, as amended.

(C) An investment adviser shall not be deemed to have violated the provisions of this Subparagraph (a)(12) because of his failure to record securities transactions of any advisory representative if he establishes that he instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded;

(13) Records required of investment advisers primarily engaged in other businesses:

(A) Notwithstanding the provisions of Subparagraph (a)(12) in this Rule, where the investment adviser is primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients, a record must be maintained of every transaction in a security in which the investment adviser or any advisory representative of such investment adviser has, or by reason of such transaction acquires, any direct or indirect beneficial ownership, except:

(i) Transactions effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; and

(ii) Transactions in securities which are direct obligations of the United States.

Such record shall state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the dealer or bank with or through whom the transaction was effected. Such record may also contain a statement declaring that the reporting or recording of any such transaction shall not be construed as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than ten days after the end of the calendar quarter in which the transaction was effected.

(B) An investment adviser is "primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients" when, for each of its three most recent fiscal years or for the period of time since organization, whichever is lesser, the investment adviser derived, on an unconsolidated basis, more than 50 percent of:

(i) its total sales and revenues, and

(ii) its income (or loss) before income taxes and extraordinary items, from such other business or businesses.

(C) For purposes of this Subparagraph (13), the term "advisory representative", when used in connection with a company primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients, shall mean any partner, officer, director or employee of the investment adviser who makes any recommendation, who participates in the determination of which recommendation shall be made, or whose functions or duties relate to the determination of which recommendation shall be made, or who, in connection with his duties (other than clerical, ministerial or administrative duties), obtains any information concerning which securities are being recommended prior to the effective dissemination of such recommendations or of the information concerning such recommendations; and any of the following persons who obtain information concerning securities recommendations being made by such investment adviser prior to the effective dissemination of such recommendations or of the information concerning such recommendations:

(i) any person in a control relationship to the investment adviser,

(ii) any affiliated person of such controlling person, and

(iii) any affiliated person of such affiliated person.

"Control" shall have the same meaning as that set forth in Section 2(a)(9) of the Investment Company Act of 1940, as amended.

(D) An investment adviser shall not be deemed to have violated the provisions of this Subparagraph (13) because of his failure to record securities transactions of any advisory representative if he establishes that he instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded; and

(14) A copy of each written statement and each amendment or revision thereof, given or sent to any

client or prospective client of such investment adviser in accordance with the provisions of Rule .1707, and a record of the dates that each written statement, and each amendment or revision thereof, was given, or offered to be given, to any client or prospective client who subsequently becomes a client.

(b) If an investment adviser subject to Paragraph (a) of this Rule has custody or possession of securities or funds of any client, the records required to be made and kept under Paragraph (a) of this Rule shall also include:

(1) A journal or other record showing all purchases, sales, receipts and deliveries of securities (including certificate numbers) for such accounts and all other debits and credits to such accounts;

(2) A separate ledger account for each such client showing all purchases, sales, receipts and deliveries of securities, the date and price of each such purchase and sale, and all debits and credits;

(3) Copies of confirmations of all transactions effected by or for the account of any such client; and

(4) A record for each security in which any such client has a position, which record shall show the name of each such client having any interest in each security, the amount or interest of each such client, and the locations of each such security.

(c) Every investment adviser subject to Paragraph (a) of this Rule who renders any investment supervisory or management service to any client shall, with respect to the portfolio being supervised or managed and to the extent that the information is reasonably available to or obtainable by the investment adviser, make and keep true, accurate and current:

(1) Records showing separately for each such client the securities purchased and sold, and the date, amount and price of each such purchase and sale; and

(2) For each security in which any such client has a current position, information from which the investment adviser can promptly furnish the name of each such client, and the current amount or interest of such client.

(d) Any books or records required by this Rule may be maintained by the investment adviser in such manner that the identity of any client to whom such investment adviser renders investment supervisory services is indicated by numerical or alphabetical code or some similar designation.

(e) Duration requirement for maintenance of records:

(1) All books and records required to be made under the provisions of Paragraphs (a) to (c)(1), inclusive, of this Rule shall be maintained and preserved in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on such record, the first two years in an appropriate office of the investment adviser.

(2) Partnership articles and any amendments thereto, articles of incorporation, charters, minute books, and stock certificate books of the investment adviser and of any predecessor, shall be maintained in the principal office of the investment adviser and preserved until at least three years after termination of the enterprise.

(f) An investment adviser subject to Paragraph (a) of this Rule, before ceasing to conduct or discontinuing business as an investment adviser, shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this Rule for the remainder of the period specified in this Rule, and shall notify the administrator in writing of the exact address where such books and records will be maintained during such period.

(g) Preservation and maintenance of records:

(1) The records required to be maintained and preserved pursuant to this Rule may be immediately produced or reproduced by photograph on film or, as provided in Subparagraph (g)(2) of this Rule, on magnetic disk, tape or other computer storage medium, and be maintained and preserved for the required time in that form. If records are produced or reproduced by photographic film or computer storage medium, the investment adviser shall:

(A) arrange the records and index the films or computer storage medium so as to permit the immediate location of any particular record;

(B) be ready at all times to provide, and promptly provide, any facsimile enlargement of film or computer printout or copy of the computer storage medium which the administrator by its examiners or other representatives may request;

(C) store separately from the original one other copy of the film or computer storage medium for the time required;

(D) with respect to records stored on a computer storage medium, maintain procedures for maintenance and preservations of, and access to, records from loss, alteration, or destruction; and

(E) with respect to records stored on photographic film, at all times have available for the administrator's examination of its records pursuant to Section 78C-18(e) of the Act, facilities for immediate, easily readable projection of the film and for producing easily readable facsimile enlargements.

(2) Pursuant to Subparagraph (g)(1) of this Rule an adviser may maintain and preserve on computer tape or disk or other computer storage medium records which, in the ordinary course of the adviser's business, are created by the adviser on electronic media or are received by the adviser solely on electronic media or by electronic data transmission.

(h) For purposes of this Rule, "investment supervisory services" means the giving of continuous advice as to the investment of funds on the basis of the individual needs of

each client.

(i) Every registered investment adviser shall maintain within this state, in a readily accessible location, all records required by this Rule. A written request for the waiver of the provisions of this Section may be made to the administrator to permit any registered investment adviser to maintain any of the records required by this Rule in some place other than the State of North Carolina. In determining whether or not the provisions of this Rule should be waived, the administrator may consider, among other things, whether the main office of the investment adviser is in a place outside the State of North Carolina or whether the investment adviser uses all or some of the bookkeeping facilities of some other investment adviser whose main office is outside the State of North Carolina.

(j) Every investment adviser that has its principal place of business in a state other than this state shall be exempt from the requirements of this section, provided the investment adviser is licensed in such state and is in compliance with such state's recordkeeping ~~requirements.~~ requirements, if any.

Authority G.S. 78C-18(a); 78C-18(b); 78C-18(e); 78C-30(a).

.1712 CHANGE OF NAME OF INVESTMENT ADVISER

Where only a change in the name of the investment adviser applicant or registrant occurs, an amended Form ADV ~~or ADV-S~~ shall be filed with the administrator together with any amendments to the organizational documents, or accompanying letters of explanation, within 30 days of the date of the change. The investment adviser shall return its license and a new license will be issued reflecting the name change. There will be no fee for reissuance of the license. Each investment adviser representative shall retain his investment adviser representative's license and this license shall suffice as evidence of licensing under the new investment adviser name until renewal.

Authority G.S. 78C-17(c); 78C-18(d); 78C-30(a); 78C-30(b).

.1713 INVEST ADVISER MERGER/ CONSOLIDATION/ACQUISITION/ SUCCESSION

(a) When there is a merger, consolidation, acquisition, succession, or other similar fundamental change in the ownership of a registered investment adviser, the surviving or new entity shall file with the administrator, prior to such fundamental change, an amended Form ADV ~~or ADV-S~~ or successor form, with the plan of fundamental change and a letter or any documents of explanation including the date of mass transfer of investment adviser representatives pursuant to Paragraph (c) of this Rule if contemplated. As soon as practicable, but not later than 30 days after the fundamental change, the surviving or new entity shall file with the administrator the current financial statements of the surviving or new entity; the amended or new charter and by-laws; and, if applicable, a copy of the certificate of merger, consolidation or other fundamental change.

(b) The registration of the surviving or new entity shall be granted by the administrator on the same date that the fundamental change becomes effective. Where the fundamental change results in a change in the name of the surviving or new entity from the name listed on any outstanding investment adviser's license, the license shall be returned and a new license reflecting the new name will be issued. There will be no fee for reissuance of a license.

(c) Investment advisers shall effect mass transfers of investment adviser representatives by filing with the Securities Division a Form U-4 or successor form for each investment adviser representative to be transferred from the nonsurviving entity to the surviving or new entity and a Form U-5 or successor form for each investment adviser representative not to be transferred. Each transferred investment adviser representative shall retain his investment adviser representative's license which shall suffice as evidence of registration with the surviving or new entity until renewal. The transfer of the investment adviser representative is effective upon receipt of the Form U-4 or successor form by the Securities Division. All Form U-5's or successor forms shall be filed as soon as practicable but no later than 10 business days after the fundamental change. A regular application fee shall be paid by the surviving or new investment adviser for each investment adviser representative in such transfer.

(d) When there is a merger, consolidation, acquisition, succession, or other similar fundamental change in the ownership of an investment adviser covered under federal law, and the surviving entity will be an investment adviser covered under federal law, the entities involved shall file with the Administrator, as and when such forms are filed with the U.S. Securities and Exchange Commission, a copy of any amendments to their Forms ADV and a copy of any other forms filed with the SEC with respect to the transaction. The transfer of investment adviser representatives to the surviving entity shall be governed by the provisions of Paragraph (c) of this Rule.

(e) When there is a merger, consolidation, acquisition, succession, or other similar fundamental change in the ownership of an investment adviser covered under federal law, and the surviving entity will be an investment adviser that is registered or required to be registered under the Act, such merger, consolidation, acquisition, succession, or other similar fundamental change shall be governed by the provisions of Paragraphs (a)-(c) of this Rule.

Authority G.S. 78C-16(b); 78C-17(a); 78C-17(c); 78C-18(b); 78C-18(c); 78C-18(d); 78C-30(a); 78C-30(b).

.1714 REGISTRATION OF PARTNERS/ EXECUTIVE OFFICERS/DIRECTORS

(a) Any partner, executive officer, director, or a person occupying a similar status or performing similar functions who represents a registered investment adviser in transacting business in this state as an investment adviser shall be

registered as an investment adviser representative pursuant to Paragraph (b) of this Rule.

(b) Automatic investment adviser representative registration for partners, executive officers or directors of a registered investment adviser or a person occupying a similar status or performing similar functions shall be obtained by filing an original or amended Form ADV ~~or ADV-S~~ and any appropriate schedule thereto, providing the required disclosures regarding the registrant, and a written notice to the Securities Division identifying the registrant and that the registrant will engage in the activities as described in Paragraph (a) of this Rule; provided, however, if such information is currently on file with the administrator then the written notice only is required to be filed. Automatic registration shall lapse where a material change in the information reported on Form ADV ~~or ADV-S~~ or any schedule thereto regarding the registrant has occurred and has not been reported to the Securities Division by filing an original or amended Form ADV ~~or ADV-S~~ or the appropriate schedule therewith current information within ten business days of the material change. The investment adviser shall timely inform the Securities Division in writing when any registrant under this Paragraph ceases to engage in the activities described in Paragraph (a) of this Rule for the purposes of termination of the automatic investment adviser representative registration. Annual renewal is automatic upon renewal of the investment adviser registration.

(c) Failure to maintain a current automatic registration pursuant to Paragraph (b) of this Rule for those persons described in Paragraph (a) of this Rule may result in violation of G.S. 78C-16.

(d) Automatic registration may be denied, revoked, suspended, restricted or limited or the registrant censured as provided by G.S. 78C-19. Nothing in this Rule shall limit the administrator's authority to institute administrative proceedings against an investment adviser, or an applicant for investment adviser registration due to the qualifications of or disclosures regarding a person described in Paragraph (a) of this Rule.

(e) An investment adviser representative shall not be registered with more than one investment adviser regardless of whether registration is accomplished or contemplated under this Rule or Rule .1703 of this Section unless each of the investment advisers which employs or associates the investment adviser representative is under common ownership or control.

(f) For the purposes of this Rule, "Executive Officer" shall mean the chief executive officer, the president, the principal financial officer, each vice president with responsibility involving policy making functions for a significant aspect of the investment adviser's business, the secretary, the treasurer, or any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

Authority G.S. 78C-16(a); 78C-16(b); 78C-17(a); 78C-18(b); 78C-18(d); 78C-19(a); 78C-30(a); 78C-30(b).

SECTION .1800 - MISCELLANEOUS PROVISION-INVESTMENT ADVISERS

.1801 DISHONEST OR UNETHICAL PRACTICES

(a) An investment adviser or an investment adviser covered under federal law is a fiduciary and has a duty to act primarily for the benefit of its clients. The provisions of this subsection apply to investment advisers covered under federal law only to the extent that the conduct alleged is fraudulent or deceptive, or as otherwise permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290). While the extent and nature of his duty varies according to the nature of the relationship between an investment adviser and its clients and the circumstances of each case, an investment adviser or an investment adviser covered under federal law shall not engage in unethical business practices, including the following:

(1) Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known or acquired by the investment adviser after reasonable examination of such of the client's financial records as may be provided to the investment adviser;

(2) Placing an order to purchase or sell a security for the account of a client without authority to do so;

(3) Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party trading authorization from the client;

(4) Exercising any discretionary authority in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within 10 business days after the date of the first transaction placed pursuant to oral discretionary authority. Discretionary power does not include a power relating solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both;

(5) Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account;

(6) Borrowing money or securities from a client unless the client is a dealer, an affiliate of the investment adviser, or a financial institution engaged in the business of lending funds or securities;

(7) Lending money to a client unless the investment adviser is a financial institution engaged in the business of lending funds or a dealer, or unless the

client is an affiliate of the investment adviser;

(8) Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment adviser or any employee of the investment adviser, or misrepresenting the nature of the advisory services being offered or fees to be charged for such service, or omitting to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading;

(9) Providing a report or recommendation to any advisory client prepared by someone other than the adviser without disclosing that fact. (This prohibition does not apply to a situation in which the adviser uses published research reports or statistical analyses to render advice or where an adviser orders such a report in the normal course of providing service.);

(10) Charging a client an advisory fee that is unreasonable in the light of the type of services to be provided, the experience and expertise of the adviser, the sophistication and bargaining power of the client, and whether the adviser has disclosed that lower fees for comparable services may be available from other sources;

(11) Failing to disclose to a client in writing before entering into or renewing an advisory agreement with that client any material conflict of interest relating to the adviser or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including:

(A) Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; and

(B) Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the adviser or its employees;

(12) Guaranteeing a client that a specific result will be achieved (gain or no loss) as a result of the advice which will be rendered;

(13) Publishing, circulating or distributing any advertisement which does not comply with Rule 206(4)-1 under the Investment Advisers Act of 1940;

(14) Disclosing the identity, affairs or investments of any client to any third party unless required by law to do so, or unless consented to by the client;

(15) Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment adviser has custody or possession of such securities or funds when the adviser's action is subject to and does not comply with the safekeeping requirements of Rule 206(4)-2 under the Investment Advisers Act of 1940, unless the investment adviser is exempt from such requirements by virtue of Rule 206(4)-2(b);

(16) Entering into, extending or renewing any investment advisory contract, other than a contract for impersonal advisory services, unless such contract is in writing and discloses, in substance: the services to be provided; the term of the contract; the advisory fee or the formula for computing the fee; the amount or the manner of calculation of the amount of the prepaid fee to be returned in the event of contract termination or non-performance; whether the contract grants discretionary authority to the adviser; and that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract;

(17) Failing to disclose to any client or prospective client all material facts with respect to:

(A) A financial condition of the adviser that is reasonably likely to impair the ability of the adviser to meet contractual commitments to clients, if the adviser has discretionary authority (express or implied) or custody over such client's funds or securities, or requires prepayment of advisory fees of more than five hundred dollars ($500.00) from such client, six months or more in advance; or

(B) A legal or disciplinary event that is material to an evaluation of the adviser's integrity or ability to meet contractual commitments to clients; and

(18) Utilizing an agent or subagent who satisfies the definition of an investment adviser representative as set forth in G.S. 78C-2(3), where such agent or subagent is not registered as an investment adviser representative pursuant to ~~G.S. 78C-16.~~ G.S. 78C-16;

(19) Failing to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information contrary to the provisions of Section 204A of the Investment Advisers Act of 1940;

(20) Entering into, extending, or renewing any advisory contract contrary to the provisions of Section 205 of the Investment Advisers Act of 1940;

(21) To indicate, in an advisory contract, any condition, stipulation, or provisions binding any person to waive compliance with any provision of this Act or of the Investment Advisers Act of 1940, or any other practice that would violate Section 215 of the Investment Advisers Act of 1940;

(22) Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative in

contravention of Section 206(4) of the Investment Advisers Act of 1940;

(23) Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of this Act or any rule or regulation thereunder.

The conduct set forth in Rule .1801(a) is not exclusive. It also includes employing any device, scheme, or artifice to defraud or engaging in any act, practice or course of business which operates or would operate as a fraud or deceit. The federal statutory and regulatory provisions referenced herein shall apply both to investment advisers and to investment advisers covered under federal law, to the extent permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290).

(b) There shall be a rebuttable presumption that the following legal or disciplinary events involving the adviser or a management person of the adviser (any of the foregoing being referred to hereafter as "person") that were not resolved in the person's favor or subsequently reversed, suspended, or vacated are material within the meaning of Subparagraph (a)(17)(B) of this Rule for a period of 10 years from the time of the event:

(1) A criminal or civil action in a court of competent jurisdiction in which the person:

(A) was convicted, pleaded guilty or nolo contendere ("no contest") to a felony or misdemeanor, or is the named subject of a pending criminal proceeding (any of the foregoing referred to hereafter as "action"), and such action involved: an investment-related business, fraud, false statements, or omissions; wrongful taking of property; or bribery, forgery, counterfeiting, or extortion;

(B) was found to have been involved in a violation of an investment-related statute or regulation; or

(C) was the subject of any order, judgment, or decree permanently or temporarily enjoining the person from, or otherwise limiting the person from, engaging in any investment-related activity;

(2) Administrative proceedings before the Administrator, Securities and Exchange Commission, any other federal regulatory agency or any other state agency (any of the foregoing being referred to hereafter as "agency") in which the person:

(A) was found to have caused an investment-related business to lose its authorization to do business;

(B) was found to have been involved in a violation of an investment-related statute or regulation and was the subject of an order by the agency denying, suspending, or revoking the authorization of the person to act in, or barring or suspending the person's association with, an investment-related business or otherwise significantly limiting the person's investment-related activities; or

(C) was found to have engaged in an act or a course of conduct which resulted in the issuance by the agency of an order to cease and desist the violation of the provisions of any investment-related statute or rule; or

(3) Self-Regulatory Organization (SRO) proceedings in which the person:

(A) was found to have caused an investment-related business to lose its authorization to do business; or

(B) was found to have been involved in a violation of the SRO's rules and was the subject of an order by the SRO barring or suspending the person from membership or from association with other members, or expelling the person from membership; fining the person more than two thousand five hundred dollars ($2,500.00); or otherwise significantly limiting the person's investment-related activities.

(c) The information required to be disclosed by Subparagraph (a)(17) shall be disclosed to clients promptly, and to prospective clients not less than 48 hours prior to entering into any written or oral investment advisory contract, or no later than the time of entering into such contract if the client has the right to terminate the contract without penalty within five business days after entering into the contract.

(d) For purposes of this Rule:

(1) "Management person" means a person with power to exercise, directly or indirectly, a controlling influence over the management or policies of an investment adviser which is not a natural person or to determine the general investment advice given to clients;

(2) "Found" means determined or ascertained by adjudication or consent in a final SRO proceeding, administrative proceeding, or court action;

(3) "Investment-related" means pertaining to securities, commodities, banking, insurance, or real estate [including, but not limited to, acting as or being associated with a dealer, investment company, investment adviser, government securities broker or dealer, municipal securities dealer, bank, savings and loan association, entity or person required to be registered under the Commodity Exchange Act (7 U.S.C. 1 et seq.), or fiduciary];

(4) "Involved" means acting or aiding, abetting, causing, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act; and

(5) "Self-Regulatory Organization" or "SRO" means

any national securities or commodities exchange, registered association, or registered clearing agency.

(e) For purposes of calculating the ten-year period during which events are presumed to be material under Paragraph (b), the date of a reportable event shall be the date on which the final order, judgment, or decree was entered, or the date on which any rights of appeal from preliminary orders, judgments, or decrees lapsed.

(f) Compliance with this Rule shall not relieve any investment adviser from the obligations of any other disclosure requirement under the Act, the rules and regulations thereunder, or under any other federal or state law.

Authority G.S. 78C-18(b); 78C-30(a).

.1802 CUSTODY/CLIENT FUNDS OR SECURITIES BY INVESTMENT ADVISERS

(a) It shall be unlawful for any investment adviser to take or have custody of any securities or funds of any client unless:

(1) the investment adviser notifies the administrator in writing that the investment adviser has or may have custody. Such notification may be given on Form ADV;

(2) the securities of each client are segregated;

(3) the following conditions are satisfied:

(A) all client funds are deposited in one or more bank accounts containing only clients' funds,

(B) such account or accounts are maintained in the name of the investment adviser as agent or trustee for such clients, and

(C) the investment adviser maintains a separate record for each such account showing the name and address of the bank where the account is maintained, the dates and amounts of deposits in and withdrawals from the account, and the exact amount of each client's beneficial interest in the account;

(4) immediately after accepting custody or possession of funds or securities from any client, the investment adviser notifies the client in writing of the place where and the manner in which the funds and securities will be maintained and subsequently, if and when there is a change in the place where or the manner in which the funds or securities are maintained, the investment adviser gives written notice thereof to the client;

(5) at least once every three months, the investment adviser sends each such client an itemized statement showing the funds and securities in the investment adviser's custody at the end of such period and all debits, credits and transactions in the client's account during such period; and

(6) at least once every calendar year, an independent certified public accountant verifies all client funds and securities by actual examination at a time chosen by the accountant without prior notice to the investment adviser. A report stating that such accountant has made an examination of such funds and securities, and describing the nature and extent of the examination, shall be filed with the administrator within 30 days after each such examination.

(b) This Rule shall not apply to an investment adviser also registered as a broker-dealer under Section 15 of the Securities Exchange Act of 1934 if the broker-dealer is:

(1) Subject to and in compliance with SEC Rule 15c3-1 (Net Capital Requirements for Brokers or Dealers), 17 C.F.R. 240.15c3-1 under the Securities Exchange Act of 1934, or

(2) A member of an exchange whose members are exempt from SEC Rule 15c3-1, 17 C.F.R. 240.15c3-1 under the provisions of Paragraph (b)(2) thereof, and the broker-dealer is in compliance with all rules and settled practices of the exchange imposing requirements with respect to financial responsibility and the segregation of funds or securities carried for the accounts of customers.

~~(c) For purposes of this Rule, the term "investment adviser" shall include an investment adviser covered under federal law as defined in G.S. 78C-2(4).~~

Authority G.S. 78C-18(a); 78C-18(b); 78C-30(a).

.1803 AGENCY CROSS TRANSACTIONS

(a) For purposes of this Rule, "agency cross transaction for an advisory client" means a transaction in which a person acts as an investment adviser in relation to a transaction in which the investment adviser, or any person controlling, controlled by, or under common control with such investment adviser, including an investment adviser representative, acts as a broker for both the advisory client and another person on the other side of the transaction. When acting in such capacity such person is required to be registered as a dealer in this state unless excluded from the definition of "dealer" in N.C. Gen. Stat. Section 78A-2(2).

(b) An investment adviser effecting an agency cross transaction for an advisory client shall be in compliance with Section 78C-8(a)(3) of the Act if the following conditions are met:

(1) The advisory client executes a written consent prospectively authorizing the investment adviser to effect agency cross transactions for such client;

(2) Before obtaining such written consent from the client, the investment adviser makes full written disclosure to the client that, with respect to agency cross transactions, the investment adviser will act as broker for, receive commissions from and have a potentially conflicting division of loyalties and responsibilities regarding both parties to the transactions;

(3) At or before the completion of each agency cross transaction, the investment adviser or any other person relying on this Rule sends the client a written confirmation. The written confirmation shall include:
   (A) a statement of the nature of the transaction,
   (B) the date the transaction took place,
   (C) an offer to furnish, upon request, the time when the transaction took place, and
   (D) the source and amount of any other remuneration the investment adviser received or will receive in connection with the transaction.

In the case of a purchase, if the investment adviser was not participating in a distribution, or, in the case of a sale, if the investment adviser was not participating in a tender offer, the written confirmation may state whether the investment adviser has been receiving or will receive any other remuneration and that the investment adviser will furnish the source and amount of such remuneration to the client upon the client's written request;

(4) At least annually, and with or as part of any written statement or summary of the account from the investment adviser, the investment adviser or any other person relying on this Rule sends the client a written disclosure statement identifying:
   (A) the total number of agency cross transactions during the period for the client since the date of the last such statement or summary; and
   (B) the total amount of all commissions or other remuneration the investment adviser received or will receive in connection with agency cross transactions for the client during the period;

(5) Each written disclosure and confirmation required by this Rule must include a conspicuous statement that the client may revoke the written consent required under Subparagraph (b)(1) of this Rule at any time by providing written notice to the investment adviser; and

(6) No agency cross transaction may be effected in which the same investment adviser recommended the transaction to both any seller and any purchaser.

(c) Nothing is this Rule shall be construed to relieve an investment adviser or investment adviser representative from acting in the best interests of the client, including fulfilling his duty with respect to the best price and execution for the particular transaction for the client nor shall it relieve any investment adviser representative of any other disclosure obligations imposed by the Act.

~~(d) For purposes of this Rule, the term "investment adviser" shall include an investment adviser covered under federal law as defined in G.S. 78C-2(4).~~

Authority G.S. 78C-8(a); 78C-8(f); 78C-18(b); 78C-30(a).

.1804 EXEMPTION/SECTION 78C-8(a)(3)/ CERTAIN BROKER-DEALERS

(a) For purposes of this Rule:

(1) "Publicly distributed written materials" means written materials which are distributed to 35 or more persons who pay for those materials;

(2) "Publicly made oral statements" means oral statements made simultaneously to 35 or more persons who pay for access to those ~~statements; and~~ statements; and

(3) "Investment adviser" shall include an investment adviser covered under federal law as defined in G.S. 78C-2(4).

(b) An investment adviser registered as a broker-dealer pursuant to Section 15 of the Securities Exchange Act of 1934 shall be exempt from Section 78C-8(a)(3) of the Act in connection with any transaction in relation to which that broker-dealer acts as an investment adviser:

(1) solely by means of publicly distributed written materials or publicly made oral statements;

(2) solely by means of written materials or oral statements not purporting to meet the objectives or needs of specific individuals or accounts;

(3) solely through the issuance of statistical information containing no expressions of opinion as to the investment merits of a particular security; or

(4) any combination of the foregoing services.

This exemption shall apply only if the materials and oral statements disclose that, if the purchaser of the advisory communication uses the investment adviser's services in connection with the sale or purchase of a security which is a subject of the communication, the investment adviser may act as principal for its own account or as agent for another person. Compliance by the investment adviser with the foregoing disclosure requirement shall not relieve it of any other disclosure obligations under the Act.

Authority G.S. 78C-8(f); 78C-30(a).

.1805 PERFORMANCE-BASED COMPENSATION EXEMPTION

(a) For purposes of this Rule:

(1) "Affiliate" shall have the same definition as in Section 2(a)(3) of the federal Investment Company Act of 1940;

(2) "Client's independent agent" means any person who agrees to act as an investment advisory client's agent in connection with an advisory contract, but does not include:
   (A) The investment adviser relying on this Rule;
   (B) An affiliated person of the investment adviser or an affiliated person of an affiliated person of the investment adviser including an investment adviser representative;
   (C) An interested person of the investment adviser;
   (D) A person who receives, directly or

indirectly, any compensation in connection with the advisory contract from the investment adviser, an affiliated person of the investment adviser, an affiliated person of an affiliated person of the investment adviser or an interested person of the investment adviser; or

(E) A person with any material relationship between himself (or an affiliated person of that person) and the investment adviser (or an affiliated person of the investment adviser) that exists, or has existed at any time during the past two years;

(3) "Company" means a corporation, partnership, association, joint stock company, trust, or any organized group of persons, whether incorporated or not; or any receiver, trustee in a case under Title 11 of the United States Code, or similar official or any liquidating agent for any of the foregoing, in his capacity as such. "Company" shall not include:

(A) A company required to be registered under the federal Investment Company Act of 1940 but which is not so registered;

(B) A private investment company (for purposes of this Subparagraph (B), a private investment company is a company which would be defined as an investment company under Section 3(a) of the federal Investment Company Act of 1940 but for the exception from that definition provided by Section 3(c)(1) of that act);

(C) An investment company registered under the federal Investment Company Act of 1940; or

(D) A business development company as defined in Section 202(a)(22) of the federal Investment Company Advisers Act of 1940, unless each of the equity owners of any such company, other than the investment adviser entering into the contract, is a natural person or company within the meaning of Subparagraph (a)(3) of this Rule;

(4) "Interested person" means:

(A) Any member of the immediate family of any natural person who is an affiliated person of the investment adviser;

(B) Any person who knowingly has any direct or indirect beneficial interest in, or who is designated as trustee, executor, or guardian of any legal interest in, any security issued by the investment adviser or by a controlling person of the investment adviser if that beneficial or legal interest exceeds:

(i) one tenth of one percent of any class of outstanding securities of the investment adviser or a controlling person of the investment adviser; or

(ii) five percent of the total assets of the person seeking to act as the client's independent agent; or

(C) Any person or partner or employee of any person who, at any time since the beginning of the last two years, has acted as legal counsel for the investment ~~adviser; and~~ adviser.

~~(5) "Investment adviser" shall include an investment adviser covered under federal law as defined in G.S. 78C-2(4).~~

(b) Notwithstanding Section 78C-8(c)(1) of the Act, an investment adviser may enter into, extend or renew an investment advisory contract which provides for compensation to the investment adviser on the basis of a share of capital gains upon or capital appreciation of the funds, or any portion of the funds, of the client if the conditions in Subparagraphs (c) through (h) of this Rule are met.

(c) The client entering into the contract must be:

(1) A natural person or a company who, immediately after entering into the advisory contract has at least five hundred thousand dollars ($500,000.00) under the management of the investment adviser; or

(2) A person who the investment adviser and its investment adviser representatives reasonably believe, immediately before entering into the contract, is a natural person or a company whose net worth, at the time the contract is entered into, exceeds one million dollars ($1,000,000.00).

For purposes of this Rule, the term "net worth" shall have the same meaning as that provided by Rule .1313(b)(2). The net worth of a natural person may include assets held jointly with that person's spouse.

(d) The compensation paid to the investment adviser with respect to the performance of any securities over a given period must be based on a formula with the following characteristics:

(1) In the case of securities for which market quotations are readily available within the meaning of Rule 2a-4(a)(1) under the Investment Company Act of 1940, (Definition of "Current Net Asset Value" for Use in Computing Periodically the Current Price of Redeemable Security), 17 C.F.R. 270.2a-4(a)(1), the formula must include the realized capital losses and unrealized capital depreciation of the securities over the period;

(2) In the case of securities for which market quotations are not readily available within the meaning of Rule 2a-4(a)(1) under the Investment Company Act of 1940, 17 C.F.R. 270.2a-4(a)(1), the formula must include:

(A) the realized capital losses of securities over the period; and

(B) if the unrealized capital appreciation of the securities over the period is included, the unrealized capital depreciation of the securities over the period; and

(3) The formula must provide that any compensation

paid to the investment adviser under this Rule is based on the gains less the losses (computed in accordance with Subparagraphs (1) and (2) of this Paragraph) in the client's account for a period of not less than one year.

(e) Before entering into the advisory contract and in addition to the requirements of Form ADV, the investment adviser must disclose in writing to the client or the client's independent agent all material information concerning the proposed advisory arrangement, including the following:

(1) That the fee arrangement may create an incentive for the investment adviser to make investments that are riskier or more speculative than would be the case in the absence of a performance fee;

(2) Where relevant, that the investment adviser may receive increased compensation with regard to unrealized appreciation as well as realized gains in the client's account;

(3) The periods which will be used to measure investment performance throughout the contract and their significance in the computation of the fee;

(4) The nature of any index which will be used as a comparative measure of investment performance, the significance of the index, and the reason the investment adviser believes that the index is appropriate; and

(5) Where the investment adviser's compensation is based in part on the unrealized appreciation of securities for which market quotations are not readily available within the meaning of Rule 2a-4(a)(1) under the Investment Company Act of 1940, 17 C.F.R. 270.2a-4(a)(1), how the securities will be valued and the extent to which the valuation will be independently determined.

(f) The investment adviser (and any investment adviser representative) who enters into the contract must reasonably believe, immediately before entering into the contract, that the contract represents an arm's length arrangement between the parties and that the client (or in the case of a client which is a company as defined in Subparagraph (a)(3) of this Rule, the person representing the company), alone or together with the client's independent agent, understands the proposed method of compensation and its risks. The representative of a company may be a partner, director, officer or an employee of the company or the trustee, where the company is a trust, or any other person designated by the company or trustee, but must satisfy the definition of client's independent agent set forth in Subparagraph (a)(2) of this Rule.

(g) Any person entering into or performing an investment advisory contract under this Rule is not relieved of any obligations under Section 78C-8(a) or any other applicable provision of the Act or any rule or order thereunder.

(h) Nothing in this Rule shall relieve a client's independent agent from any obligation to the client under applicable law.

Authority G.S. 78C-8(b); 78C-8(c)(i); 78C-8(f); 78C-30(a).

.1806 TRANSACTIONS DEEMED NOT TO BE ASSIGNMENTS

For purposes of Section 78C-8(c)(2) of the Act, a transaction which does not result in a change of actual control or management of an investment adviser or investment adviser covered under federal law is not an assignment.

Authority G.S. 78C-8(c)(2); 78C-8(f); 78C-30(a).

.1809 PUBLIC INFORMATION (Repealed)

Authority G.S. 78C-27(a); 78C-30(a); 78C-30(g); 78C-31(c); 132-1; 132-1.1.

.1811 FORMS

For use in compliance with the requirements of the provisions of Chapter 78C of the North Carolina General Statutes and the rules promulgated thereunder, the following forms are available upon request from the Securities Division:

(1) Uniform Application for Investment Adviser Registration (Form ADV);

~~(2) Annual Report for Investment Advisers Registered Under the Investment Advisers Act of 1940 (Form ADV-S);~~

(2) ~~(3)~~Uniform Consent to Service of Process (Form U-2);

(3) ~~(4)~~Uniform Form of Corporate Resolution (Form U-2A);

(4) ~~(5)~~Uniform Application for Securities Industry Registration or Transfer (Form U-4);

(5) ~~(6)~~Uniform Termination Notice for Securities Industry Registration (Form U-5);

(6) ~~(7)~~North Carolina Securities Division Investment Adviser's Bond (Form NCIAB);

(7) ~~(8)~~Certification of Deposit of Cash or Securities -- Investment Advisers (Form CDCS-IA);

(8) ~~(9)~~Consent To Service of Process (For Use By Investment Advisers and Investment Adviser Representatives Only);

(9) ~~(10)~~Consent To Service of Process (For Use By Investment Adviser Representatives Only); and

(10) ~~(11)~~Corporate Resolution (For Use By Investment Advisers Only).

Authority G.S. 78C-30(a); 78C-30(b).

TITLE 19A - DEPARTMENT OF TRANSPORTATION

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Department of Transportation, Division of Motor Vehicles intends to amend rule cited as 19A NCAC 3D .0525 with changes from the proposed text noticed in the Register, Volume 12, Issue 8, pages 729 - 730.

Proposed Effective Date: *August 1, 1998*

Instructions on How to Demand a Public Hearing: *A demand for a public hearing must be made in writing and mailed to Emily Lee, Department of Transportation, PO Box 25201, Raleigh, NC 27611. The demand must be received within 15 days of this Notice.*

Reason for Proposed Action: *Effective October 1, 1996, G.S. 20-54(6) required DMV to refuse to register any motor vehicle not in compliance with the vehicle emissions inspection requirements of Part 2, Article 3A of Chapter 20 or when the vehicle owner has failed to pay a civil penalty assessed as a result of the failure to comply with the emission inspection requirements. By amending this Rule, DMV is requiring emissions inspection stations to purchase bar code scanners. The Division is now printing bar-code VIN numbers on registration cards. Matching the pre-printed bar codes with the scanner VIN's will significantly cut the current 25% error rate. This amendment will also help DMV comply with federal EPA requirements.*

Comment Procedures: *Any interested person may submit written comments on the proposed rule by mailing the comments to Emily Lee, Department of Transportation, PO Box 25201, Raleigh, NC, 27611, within 30 days after the proposed rule is published.*

Editor's Note: *An agency may not adopt a rule that differs substantially from the text of a proposed rule published in the Register, unless the agency publishes the text of the proposed different rule and accepts comments on the new text.*

Fiscal Note: *This Rule does not affect the expenditures or revenues of local government or state funds. This Rule does not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

CHAPTER 3 - DIVISION OF MOTOR VEHICLES

SUBCHAPTER 3D - ENFORCEMENT SECTION

SECTION .0500 - GENERAL INFORMATION REGARDING SAFETY INSPECTION OF MOTOR VEHICLES

.0525 PRE-INSPECTION REQUIREMENTS

Prior to performing an inspection, the inspection mechanic shall:

(1) Have all occupants leave the vehicle.

(2) Require the operator to produce the current registration card to the vehicle.

(3) Print or write legibly, use a ball point pen, and list the license plate number, serial number, mileage, number of cylinders, make, year and other required information for the vehicle on the Receipt and Statement (Form No. SI-15) if the inspection is performed by the safety equipment inspection mechanic. If the vehicle does not have a license plate, "none" shall be indicated. If inspected for a dealership, the dealer sticker number shall be indicated.

(4) Enter all information if the inspection is performed by the safety equipment exhaust emission inspection mechanic as requested by the analyzer. All vehicle identification numbers entered into the NCAS-90 analyzer shall be entered through a "one dimensional" (ID) bar-code scanner capable of reading vehicle identification numbers and information printed on vehicle registration cards. A station's failure to maintain an operating bar-code scanner shall result in DMV suspending a station's inspection operations until the station has a properly functioning bar-code scanner. In the event the vehicle identification number is not readable by the bar-code scanner or is not printed on the registration card, the station shall enter the information by scanning the public vehicle identification number through the vehicle windshield or off of the driver side door or door post. If the vehicle identification number cannot be scanned through any of the methods listed in this Rule, it may be manually entered by entering the vehicle identification number correctly twice through manual keyboard entry. Stations must achieve a match rate to the registration data base of 95% or greater. Failure to maintain a 95% match rate for more than three months of a calendar year shall result in a Type II penalty.

Authority G.S. 20-2; 20-39; 20-183.2; 20-183.6A.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

CHAPTER 34 - BOARD OF MORTUARY SCIENCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Mortuary Science intends to amend rules cited as 21 NCAC 34A .0126, .0201; 34B .0102, .0103; 34D .0101, .0303, and repeal 34B .0201, .0403. Notice of Rule-making Proceedings was published in the Register on November 3, 1997.

Proposed Effective Date: *August 1, 1998*

A Public Hearing *will be conducted at 9:00 a.m. on February 17, 1998 at the NC Board of Mortuary Science, 801 Hillsborough St., Raleigh, NC 27603.*

Reason for Proposed Action: *S.L. 1997-399 made statutory changes that require rules amendments. The Board's experience with some rules indicates that they should be*

amended. The Board sees no need for two rules and proposes to repeal them.

Comment Procedures: *Interested person may submit written comments to the NC Board of Mortuary Science, PO Box 27368, Raleigh NC 27611-7368, by mail; or by hand delivery to the Board at 801 Hillsborough Street, Raleigh NC 27603. Written statements must be delivered no later than the date and time of the public hearing. Also, oral statements may be made at the hearing.*

Fiscal Note: *Rule 21 NCAC 34A .0126 affects the expenditures or revenues of local government funds. Rule 21 NCAC 34A .0201 affects the expenditure or distribution of State funds. Rules 21 NCAC 34B .0102, .0103, .0201, .0403, 34D .0101, .0303 do not affect the expenditures or revenues of state or local government funds. None of these Rules have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

SUBCHAPTER 34A - BOARD FUNCTIONS

SECTION .0100 - GENERAL PROVISIONS

.0126 COMPLAINTS; PRELIMINARY DETERMINATIONS

(a) A person who believes that any person, firm or corporation is in violation of any provision of G.S. 90, Article 13A, 13C or 13D, or Title 21, Chapter 34, of the North Carolina Administrative Code, may file a written complaint with the Board's staff. If the accused is subject to the jurisdiction of the Board, the complaint shall be handled pursuant to this Rule.

(b) A complaint shall be handled initially by the Board's Executive Director, Director of Preneed Regulation or their staff designees, who may dismiss it as unfounded, frivolous or trivial. Complaints against persons subject to the Board's jurisdiction pursuant to G.S. 90, Article 13A and 13C, shall be handled by the Executive Director or staff designated by him or her, and complaints against persons subject to the Board's jurisdiction pursuant to G.S. 90, Article 13D, shall be handled by the Director of Preneed Regulation or staff designated by him or her.

(c) Unless the complaint is dismissed pursuant to Paragraph (b) of this Rule, the Executive Director, Director of Preneed Regulation or their staff designees shall notify the accused of the complaint in writing. Such notice shall be sent by certified mail, return receipt requested; shall state the allegations as contained in the complaint, or may enclose a copy of the complaint; and shall contain a request that the accused submit a response in writing within 10 days from the date the notice of the complaint is received by the accused.

(d) If the accused admits the allegations, and if, in the opinion of the Executive Director, Director of Preneed Regulation or their staff designees, the matter does not merit review by the Board's disciplinary committee, the Executive Director, Director of Preneed Regulation or their staff designees shall accept the admission of guilt and shall acknowledge the admission in a letter to the accused.

(e) If the accused admits the allegations, and if, in the opinion of the Executive Director, Director of Preneed Regulation or their staff designees, the matter merits review by the Board's disciplinary committee, the Executive Director, Director of Preneed Regulation or their staff designees shall refer the matter to the committee. After reviewing the allegations and response, the committee shall make a preliminary determination of the charges and shall recommend to the Board which of the actions in Paragraph (h) of this Rule should be taken.

(f) If the accused does not respond to or denies the allegations, the Board's Executive Director, Director of Preneed Regulation or their staff designees shall investigate the allegations, and they may dismiss the complaint as unfounded, frivolous or trivial, or may refer the complaint, response, if any, and any other available evidence to the Board's disciplinary committee for review. From such review, the committee shall make a preliminary determination and shall recommend to the Board which of the actions in Paragraph (h) of this Rule should be taken.

(g) The complaint, response, if any, other evidence and disposition of each case shall be placed in a permanent file of the accused. When a second complaint is filed against the accused during a period of twelve months, or a third complaint is filed against the accused during any period of time, the Executive Director, Director of Preneed Regulation or their staff designees shall present the file to the disciplinary committee for a review. From such review, the committee shall make a preliminary determination of the new complaint and shall recommend to the Board which of the actions in Paragraph (h) of this Rule should be taken.

(h) In accordance with Paragraphs (e) through (g) of this Rule, the disciplinary committee shall review the complaint and the file, if applicable, shall make a preliminary determination, and shall recommend to the Board that one of the following actions be taken:

(1) that the complaint be dismissed as unfounded, frivolous or trivial;

~~(2) that, in the case of an alleged violation of G.S. 90, Article 13A, the case be compromised pursuant to G.S. 90-210.25(e)(1) or that it be set for a contested case hearing in accordance with G.S. 150B, Article 3A, and the rules of the Board;~~

~~(3) that, in the case of an alleged violation of G.S. 90, Article 13C, the case be set for a contested case hearing in accordance with G.S. 150B, Article 3A, and the rules of the Board; or~~

~~(4) that, in the case of an alleged violation of G.S. 90, Article 13D, the case be set for a contested case hearing before an administrative law judge, as~~

~~provided by G.S. 90-210.69(c).~~

(2) that the case be compromised pursuant to G.S. 90-210.25(e)(1), 90-210.43(f), or 90-210.69(c); or

(3) that the case be set for a contested case hearing.

(i) The Board may accept or reject, in whole or in part, the recommendations of the disciplinary committee.

Authority G.S. 90-210.23(a); 90-210.25(e); 90-210.43(f), (g); 90-210.50(a); 90-210.69.

SECTION .0200 - FEES AND OTHER PAYMENTS

.0201 FEES AND PENALTIES

(a) Fees for funeral service shall be as follows:

Establishment permit	
Application	$250.00
Annual renewal	$150.00
Late renewal penalty	$100.00
Establishment and embalming facility reinspection fee	$100.00
Courtesy card	
Application	$ 75.00
Annual renewal	$ 50.00
Out-of-state licensee	
Application	$200.00
Embalmer, funeral director, funeral service	
Application, North Carolina resident	$150.00
Application, non-resident	$200.00
Annual renewal	
Embalmer	$ 40.00
Funeral Director	$ 40.00
Total fee, embalmer and funeral director, when both are held by same person	$ 60.00
Funeral service	$ 60.00
Reinstatement fee	$ 50.00
Resident trainee permit	
Application	$ 50.00
Annual renewal	$ 35.00
Late renewal penalty	$ 25.00
Duplicate License certificate	$ 25.00
Chapel registration	
Application	$150.00
Annual renewal	$100.00

(b) Fees for crematories shall be as follows:

License	
Application	$400.00
Annual renewal	$150.00
Late renewal penalty	$ 75.00
Crematory reinspection fee	$100.00
Per-cremation fee	$ 5.00
Late filing or payment penalty for each cremation	$ 10.00
Late filing penalty for cremation report, per month	$ 75.00

(c) Fees for preneed funeral contract regulation shall be as follows:

Preneed funeral establishment license	
Application	$100.00
Annual renewal	$100.00
Late renewal penalty	$100.00
Preneed sales license	
Application	$ 10.00
Annual renewal	$ 10.00
Late renewal penalty	$ 25.00
Preneed licensee reinspection fee	$100.00
Preneed contract filings	
Filing fee for each contract	$ 18.00
Late filing or payment penalty for each contract	$ 25.00
Late filing penalty for each certificate of performance	$ 25.00
Late filing penalty for annual report	$150.00

Authority G.S. 90-210.23(a); 90-210.28; 90-210.43(g); 90-210.48; 90-210.67(b), (c), (d), (d1); 90-210.68(a).

SUBCHAPTER 34B - FUNERAL SERVICE

SECTION .0100 - RESIDENT TRAINEES

.0102 TRAINEESHIP

The resident traineeship must be 12 months of full-time ~~employment to be served during regular office hours,~~ employment, excluding two weeks vacation and one week sick leave. Daytime and nighttime employment shall be acceptable so long as the trainee receives training in all aspects of the license sought, as defined in G.S. 90-210.20(e), (f), and (k).

Authority G.S. 90-210.23(a), (f); 90-210.25(a)(1d), (2d), (3d), (4).

.0103 AUTHORIZED PRACTICE: SUPERVISION

(a) Duly certified resident trainees in training for funeral service, duly certified resident trainees in training for funeral directing and duly certified resident trainees in training for embalming, while participating in learning experiences and while supervised by a person licensed by the Board as a funeral service licensee, funeral director or embalmer, respectively, may assist in the practice of funeral service, funeral directing or embalming respectively, as limited by this Rule.

(b) Duly certified resident trainees in training for funeral service or for funeral directing, while participating in learning experiences and while supervised by a person licensed by the Board as a preneed sales licensee, may also assist in the preneed funeral planning activities described in 21 NCAC 34D .0202(b)(1), (2), (4) and (5).

(c) No credit shall be given for the resident trainee's work that is unsupervised or performed under the supervision of a person not registered with the Board as the resident trainee's supervisor. If the registered supervisor does not supervise the

resident trainee for a continuous period of more than two weeks, the traineeship under that supervisor shall terminate, requiring a new traineeship application. When a resident trainee assists in funeral service, funeral directing, embalming or preneed funeral planning ~~in or~~ on the ~~premises of a funeral home, the~~ funeral home premises, a licensed supervisor shall be on the funeral home premises where and while such activities are performed. When a resident trainee assists in funeral service, funeral directing, embalming or preneed funeral planning off the funeral home premises, such activities shall be performed only in the presence of ~~the~~ a licensed supervisor.

(d) ~~The~~ A licensed supervisor shall review with the purchaser any contract negotiated by a resident trainee, and then the licensed supervisor shall obtain the purchaser's signature on the contract in the licensed supervisor's presence.

(e) The resident trainee's license certificate for indicating the trainee's authority to assist in the activities described and authorized in this Rule and in 21 NCAC 34D .0202(b) is the resident trainee pocket certificate.

Authority G.S. 90-210.23(a), (f); 90-210.25(a)(4); 90-210.67(a); 90-210.69(a).

SECTION .0200 - EXAMINATIONS

.0201 DATES OF EXAMINATIONS

~~The Board shall meet during April and November each year to examine those applicants for licenses whose applications have been approved by the Board.~~

Authority G.S. 90-210.23(a); 90-210.22; 150B-11(1).

SECTION .0400 - CONTINUING EDUCATION

.0403 REQUIREMENT FOR LICENSE REINSTATEMENT

~~Unless the applicant is exempted from continuing education as provided by law, no license which has been suspended, revoked, or forfeited shall be reinstated until the Board has found that the applicant for reinstatement has taken at least five hours of approved continuing education courses during the 12 months immediately preceding the reinstatement.~~

Authority G.S. 90-210.23(a); 90-210.25(a)(5); 150B-11(1).

SUBCHAPTER 34D - PRENEED FUNERAL CONTRACTS

SECTION .0100 - GENERAL PROVISIONS

.0101 APPROVAL OF CONTRACT FORMS

No preneed funeral contract form shall be approved by the Board unless it, with any attachments, meets the following requirements, insofar as they are applicable to the lawful, intended sales transaction:

(1) Is written in clear, understandable language and is printed in easy-to-read type, size and ~~style.~~ style on paper not larger than 8 ½ by 14 inches, with printing on both sides permitted.

(2) States or provides space for inserting the name, address and preneed funeral establishment license number of the contracting funeral establishment.

(3) Provides space for inserting the names, addresses and Social Security numbers of the purchaser and contract beneficiary.

(4) ~~Provides space for~~ States that a description of the merchandise and services ~~purchased.~~ purchased is attached to the seller's and purchaser's copies of the contract and is a part of the agreement. The attachment shall be a form provided by the Board satisfying the requirements of a "statement of goods and services selected" as described in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.

(5) Discloses any penalties or restrictions, including geographical restrictions, on the delivery of merchandise and services.

(6) States whether it is a standard or inflation-proof contract and summarizes, consistent with North Carolina law, the incidents of such type of contract.

(7) Provides space for inserting the financial transaction.

(8) Provides space for the purchaser to indicate, by the purchaser's signature or initials, the following:

(a) The purchaser's choice of trust-funded or insurance-funded contract.

(b) That the purchaser acknowledges that the funeral establishment will retain, and not deposit in trust, a stated percentage (not more than 10%) of the purchaser's payments.

(c) The purchaser's choice of revocable or irrevocable contract.

(d) That the purchaser acknowledges that the sale was made at the funeral establishment's place of business, so as to negate the cancellation rights connected with an off-premises sale.

(9) Contains notice, in bold type, of the purchaser's right to cancel an off-premises sale.

(10) Contains notice, in bold type, that if the purchaser does not receive notification from the Board, within 30 days, that it has received a copy of the contract, the purchaser should notify the Board at its current, stated address and telephone number.

(11) Explains the parties' rights and obligations, consistent with North Carolina law, with respect to contract revocation, default, the funeral establishment's retention of a portion of the purchase price free of the trust, and the substitution of funeral homes to perform the contract.

(12) Contains a notice of the existence of the Board's preneed recovery fund.

(13) Contains, or refers to an attachment containing, all funeral sales disclosures to consumers as required by federal and North Carolina law.

(14) Provides spaces for the signatures of the parties to the contract, including the signature and preneed sales license number of the preneed sales licensee who sold the ~~preneed funeral contract and the signature and license number of a person licensed as a funeral director or funeral service licensee pursuant to G.S. 90, Article 13A.~~ contract. ~~On forms used on and after January 1, 1994, the~~ The following shall appear, in bold type, beneath the signature of the preneed sales licensee: "Signed and preneed sales license number affixed in presence of Purchaser at time of sale."

Authority G.S. 90-210.62(b); 90-210.69(a), (c)(6).

SECTION .0300 - OPERATIONS

.0303 CERTIFICATE OF PERFORMANCE

(a) The certificate of performance or similar claim form as required by G.S. 90-210.64(a) shall be a form as approved by the Board and shall require the following information: the names, addresses and preneed funeral establishment license numbers of the performing funeral establishment and the contracting funeral establishment; the name of the deceased beneficiary of the preneed funeral contract; the date of death and the county where the death certificate was or will be filed; the invoice amount; certification that the contract was or was not performed in whole or in part and how the funds will be applied; certification that the services and merchandise contracted for were supplied, except for any substitutions that are acknowledged in writing by the purchaser on or attached to the final bill; the name and address of the financial institution where the preneed trust funds are deposited and the trust account or certificate number; the name and address of the insurance company ~~which~~ that issued the prearrangement insurance policy and the policy number; and the amount and the date of the payment by the financial institution or insurance company and to whom paid.

(b) The form shall be completed by each funeral establishment performing any services or providing any merchandise pursuant to the preneed funeral contract, or, if none are performed or provided, by the contracting funeral establishment. The form shall be presented to the financial institution or insurance company for payment. Within 10 days following its receipt of payment, any funeral establishment ~~which~~ that is required to complete the form shall mail a copy to the Board.

Authority G.S. 90-210.69(a); 90-210.64(a); 90-210.68.

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CHAPTER 40 - BOARD OF OPTICIANS

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Opticians intends to adopt rule cited as 21 NCAC 40 .0324 and amend 40 .0104, .0108, .0202, .0212, .0214, .0319. Notice of Rule-making Proceedings was published in the Register on November 3, 1997.

Proposed Effective Date: *August 1, 1998*

A Public Hearing *will be conducted at 9:00 a.m. on February 18, 1998 at the State Board of Opticians, 222 North Person St., Raleigh, NC 27601.*

Reason for Proposed Action: *S.L. 1997-424 made statutory changes that require rules amendments and the adoption of a new rule. Also, the agency proposes to make a few stylistic changes, and, in 21 NCAC 40 .0214, to change slightly the disciplinary procedure.*

Comment Procedures: *Interested persons may submit written comments to the State Board of Opticians, Box 25336, Raleigh, NC 27611-5336, by mail; or by hand delivery to the Board at 222 North Person Street, Raleigh, NC 27601. Written statements must be delivered no later than the date and time of the public hearing. Also, oral statements may be made at the hearing.*

Fiscal Note: *21 NCAC 40 .0108, .0214 - these Rules affect the expenditure or distribution of State funds but do not affect local funds. 21 NCAC 40 .0104, .0202, .0212, .0319, .0324 - these Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars ($5,000,000) in a 12-month period.*

SECTION .0100 - LOCATION

.0104 INFORMATION AND APPLICATION

Any person desiring to become a North Carolina licensed optician, upon request, will be provided appropriate information on the requirements for licensure, including an application form prepared by the Board, which must be completed in order to sit for the licensure examination. The application shall require information including, but not limited to, the applicant's age, qualifications, a current photograph, and a statement whether the applicant has violated ~~the opticianry laws~~ G.S. 90, Article 17, or Title 21, Chapter 40, of the North Carolina Administrative Code, ~~or rules of this State~~ or has been convicted of a crime. Each application must be signed under oath.

Authority G.S. 90-237; 90-239; 90-240; 90-249(6); 90-249.1(a)(8).

.0108 FEES

~~The Board charges the maximum fees allowed by G.S. 90-246.~~ Fees charged by the Board shall be as follows:

(1)	Each examination	$150.00
(2)	Each initial license	$ 40.00
(3)	Each renewal of license	$ 75.00
(4)	Each license issued to a practitioner of another state to practice in this state	$175.00
(5)	Each registration of an optical place of business	$ 35.00
(6)	Each application for registration as an opticianry apprentice or intern, and renewals thereof	$ 25.00
(7)	Each registration of a training establishment	$ 25.00
(8)	Each license verification requiring file search	$ 10.00

Authority G.S. 90-246; 90-249(9).

SECTION .0200 - CONDUCT OF REGISTRANTS

.0202 REGISTRATION OF PLACE OF BUSINESS

(a) As used in this Rule, "optical place of business" means the principal office as well as each branch office of such a business.

(b) Every optical place of business shall have a licensed optician in charge, who shall serve as the registered licensee in charge of only one optical place of business.

(c) Every optical place of business shall be registered with the Board within ten days following its opening for business and thereafter annually and in the event of relocation, change of ownership or change of licensed optician in charge. The registration fee shall be paid for each registration.

(d) Registration of an optical place of business automatically expires on the first day of July of each year, and it shall not engage in business until it is registered for the next annual period.

(e) Registration is the responsibility of both the licensed optician in charge and the owner. Any licensed optician in charge of an optical place of business which violates the registration requirements of this Rule shall be subject to the Board's disciplinary authority under G.S. ~~90-249(b).~~ 90-249.1. An injunction closing an unregistered optical place of business may also be obtained.

(f) An optical place of business registered in compliance with this Rule is eligible to be a training establishment when the requirements of Rules ~~.0304,~~ .0314 and .0321 of this Chapter are met.

Authority G.S. 90-239; 90-243; 90-249(5); 90-252; 90-253.

.0212 DUTY TO PROVIDE DIRECT SUPERVISION

The failure of a licensed optician, who owns or has a controlling interest in an optical place of business or under whose name an optical place of business or branch thereof is registered, to provide direct supervision of an unlicensed person working at such business or branch and performing acts constituting the practice of opticianry shall constitute a violation of G.S. ~~90-249(b) and of G.S. 90-253.~~ 90-249.1(a)(2).

Authority G.S. 90-239; 90-249.1(a)(2); 90-253.

.0214 COMPLAINTS; PRELIMINARY DETERMINATIONS

~~(a) A person who believes that any person, firm or corporation is in violation of any provision of G.S. 90, Article 17, or Title 21, Chapter 40, of the North Carolina Administrative Code, may file a written complaint with the Board's staff. If the accused is subject to the jurisdiction of the Board, the complaint shall be handled pursuant to this Rule.~~

~~(b)~~ (a) A complaint shall be handled initially by the Board's Administrative Director or ~~his staff designee~~ another member of the Board's staff designated by the Administrative Director, who may dismiss it as ~~unfounded,~~ unfounded ~~frivolous~~ or trivial.

~~(c)~~ (b) Unless the complaint is dismissed pursuant to Paragraph ~~(b)~~ (a) of this Rule, the Administrative Director or ~~his~~ staff designee shall notify the accused of the complaint in writing. Such notice shall be sent by certified mail, return receipt requested; shall state the alleged facts as contained in the complaint, or may enclose a copy of the complaint; and shall contain a request that the accused submit an answer in writing within 20 days from the date the notice of the complaint is received by the accused.

~~(d)~~ (c) If the accused admits ~~to~~ the charges, and if, in the opinion of the Administrative Director or ~~his~~ staff designee, the charges do not merit review by the Board's disciplinary committee, the Administrative Director or ~~his~~ staff designee shall ~~accept the accused's admission of guilt and shall~~ issue a letter of ~~caution or~~ reprimand on behalf of the Board. ~~The letter shall include an order to the accused to refrain from violating G.S. 90, Article 17, or Title 21, Chapter 40, of the North Carolina Administrative Code in the future.~~

~~(e)~~ (d) If the accused admits ~~to~~ the charges, and if, in the opinion of the Administrative Director or ~~his~~ staff designee, the charges merit review by the Board's disciplinary committee, the Administrative Director or ~~his~~ staff designee shall refer the complaint to the committee. After reviewing the charges, the committee shall make a preliminary determination of the charges and shall recommend to the Board which of the actions listed in Paragraph ~~(h)~~ (f) of this Rule should be taken.

~~(f)~~ (e) If the accused does not respond to or denies the charges, the Board's Administrative Director or ~~his~~ staff designee shall investigate the allegations contained in the complaint, and the Administrative Director or ~~his~~ staff designee may dismiss the complaint as ~~unfounded,~~ unfounded ~~frivolous~~ or trivial, or may refer the complaint, evidence and investigative findings to the Board's disciplinary committee for review. From such review, the committee shall make a preliminary determination of the charges and shall

recommend to the Board which of the actions listed in Paragraph ~~(h)~~ (f) of this Rule should be taken.

~~(g) The complaint, evidence, investigative findings and disposition of each case shall be placed in a permanent file of the accused. When a second complaint is filed against the accused during a period of 12 months, or a third complaint is filed against the accused during any period of time, the Administrative Director or his staff designee shall present the accused's file to the disciplinary committee for a review. From such review, the committee shall make a preliminary determination of the new complaint and recommend to the Board which of the actions listed in Paragraph (h) of this Rule should be taken.~~

~~(h)~~ (f) In accordance with Paragraphs ~~(c) through (g)~~ (d) and (e) of this Rule, the disciplinary committee shall ~~receive and~~ review the complaint and evidence ~~the accused's file, if applicable~~, shall make a preliminary determination, and shall recommend to the Board that one of the following actions be taken:

(1) the charges be dismissed as ~~unfounded,~~ unfounded ~~frivolous~~ or trivial;

~~(2) a letter of caution be issued to the accused by the Board;~~

(2) ~~(3)~~in a case of admission of guilt, a letter of reprimand be issued to the accused by the Board; ~~or~~

(3) a compromise be accepted from the accused, which may include, among other things, reprimand, probation, and a civil penalty; or

(4) the case be presented to the Board, excluding Board members who participated in the preliminary determination, for a contested case ~~hearing, to be conducted in accordance with G.S. 90-249 and G.S. 150B, Article 3A, and the rules of the Board~~ hearing.

(g) The Board shall not be required to follow the recommendations of the disciplinary committee.

(h) The Board may issue reprimands and impose probation. Probation shall be conditioned upon the licensee's not violating any provision of G.S. 90, Article 17, or Title 21, Chapter 40, of the North Carolina Administrative Code, with suspension, revocation, or refusal to renew or reinstate a license upon failure to comply with the conditions.

Authority G.S. 90-239; 90-249(8); 90-249.1.

SECTION .0300 - QUALIFICATIONS: APPLICATIONS: AND LICENSING

.0319 APPLICANTS FROM OTHER STATES

(a) An applicant seeking licensure in North Carolina under G.S. 90-241(a) shall tender an application to the Board accompanied by affidavits from two persons with whom the applicant worked as an optician for the previous four years. In addition, the applicant shall furnish affidavits from two licensed refractionists, either ophthalmologists or optometrists, that the applicant has practiced the profession of opticianry for four years in another state immediately prior to the application.

(b) An applicant seeking admission to an examination under G.S. 90-241(b) shall tender an application to the Board accompanied by affidavits from two persons ~~who are licensed, certified or otherwise authorized by another state to engage in the practice of opticianry and~~ under whom or with whom the applicant lawfully worked in the practice of opticianry in the other state, either in one or multiple places of business. The application and the affidavits shall describe the tasks performed by the applicant in the other state and the dates the tasks were performed.

(c) An application under G.S. 90-241(a) must be filed with the Board not more than 90 days following the termination of the applicant's out-of-state opticianry work for which the applicant claims credit.

Authority G.S. 90-237; 90-239; 90-241; 90-249(12).

.0324 CHARACTER; CONVICTIONS

When any provision of G.S. 90, Article 17, requires an applicant to have good moral character, the applicant shall submit to the Board affidavits of two persons who have been acquainted with the applicant for at least three years immediately preceding the application. The Board shall require applicants for licensure and for license renewals and reinstatements to state whether the applicant has been convicted of a crime.

Authority G.S. 90-237(2a); 90-239; 90-241(a)(2); 90-249.1(a)(8).

The Codifier of Rules has entered the following temporary rule(s) in the North Carolina Administrative Code. Pursuant to G.S. 150B-21.1(e), publication of a temporary rule in the North Carolina Register serves as a notice of rule-making proceedings unless this notice has been previously published by the agency.

TITLE 10 - DEPARTMENT OF HEALTH AND HUMAN SERVICES

Rule-making Agency: *DHHS - Division of Medical Assistance*

Rule Citation: *10 NCAC 26H .0102; .0211, .0401*

Effective Date: *January 22, 1998*

Findings Reviewed and Approved by: Beecher R. Gray

Authority for the rule-making: *G.S. 108A-25(b); 108A-54; 108A-55; 29 CFR 1910, Subpart Z; 42 CFR 447, Subpart C*

Reason for Proposed Action: *Rule .0102 - action is necessary to reduce future growth rate in the Medicaid program as mandated by the General Assembly. This change also allows the Division to calculate direct labor inflation component of the inflation methodology based on change in North Carolina service workers index, as provided by State Budget Office. In addition, reduces inflation calculation for fiscal year 1998 only. Rule .0211 - action is necessary to reduce future growth rate in the Medicaid program as mandated by the General Assembly. This change also allows the Division to calculate annual inpatient hospital inflation based on lower of current method or amount allowed by Medicare. Rule .0401 - To cap physician allowable amounts not to exceed the Medicare allowable amount for the same or similar services, or if the fee may exceed the Medicaid fees for similar services, or if the fee is too high in relation to the skills, time and other resources required to provide the particular service.*

Comment Procedures: *Written comments concerning this rule-making action must be submitted to Portia W. Rochelle, Rule-making Coordinator, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603.*

CHAPTER 26 - MEDICAL ASSISTANCE

SUBCHAPTER 26H - REIMBURSEMENT PLANS

SECTION .0100 - REIMBURSEMENT FOR NURSING FACILITY SERVICES

.0102 RATE SETTING METHODS

(a) A rate for skilled nursing care and a rate for intermediate nursing care shall be determined annually for each facility to be effective for dates of service for a twelve month period beginning each October 1. Each patient shall be classified in one of the two categories depending on the services needed. Rates are derived from either filed, desk, or field audited cost reports for a base year period to be selected by the state. Rates developed from filed cost reports may be retroactively adjusted if there is found to exist more than a two percent difference between the filed direct per diem cost and either the desk audited or field audited direct per diem cost for the same reporting period. Cost reports shall be filed and audited under provisions set forth in 10 NCAC 26H .0104. The minimum requirements of the 1987 OBRA are met by these provisions.

(b) Each prospective rate consists of two components: a direct patient care rate and an indirect rate computed and applied as follows:

(1) The direct rate shall based on the Medicaid cost per day incurred in the following cost centers:
- (A) Nursing,
- (B) Dietary or Food Service,
- (C) Laundry and Linen,
- (D) Housekeeping,
- (E) Patient Activities,
- (F) Social Services,
- (G) Ancillary Services (includes several cost centers).

(2) To compute each facility's direct rate for skilled care and intermediate care, the direct base year cost per day shall be increased by adjustment factors for price changes as set forth in Rule .0102(c).
- (A) A facility's direct rates cannot exceed the maximum rates set for skilled nursing or intermediate nursing care. However, the Division of Medical Assistance may negotiate direct rates that exceed the maximum rate for ventilator dependent patients. Payment of such special direct rates shall be made only after specific prior approval of the Division of Medical Assistance.
- (B) A standard per diem amount shall be added to each facility's direct rate, including facilities that are limited to the maximum rates, for the projected statewide average per diem costs of the salaries paid to replacement nurse aides for those aides in training and testing status and other costs deemed by HCFA to be facility costs related to nurse aide training and testing. The standard amount shall be based on the product of multiplying the average hourly wage, benefits, and payroll taxes of replacement nurse aides by the number of statewide hours required for training and testing of all aides divided by the projected total patient days.

(3) If a facility did not report any costs for either skilled or intermediate nursing care in the base year, the state average direct rate shall be assigned as determined in Rule .0102(d) of this Section for the new type of care.

(4) The direct maximum rates shall be developed by ranking base-year per diem costs from the lowest to the highest in two separate arrays, one for skilled care and one for intermediate care. Each array shall be weighted by total patient days. The per diem cost at the 80th percentile in each array shall be selected as the base for the maximum rate. The base cost in each array shall be adjusted for price changes as set forth in Rule .0102(c) of this Section to determine the maximum statewide direct rates for skilled care and intermediate care.

(5) Effective October 1, 1990, the direct rates shall be adjusted as follows:

(A) A standard per diem amount shall be added to each facility's skilled and intermediate rate to account for the combined expected average additional costs for the continuing education of nurses' aides; the residents' assessments, plans of care, and charting of nursing hours for each patient; personal laundry and hygiene items; and other non-nursing staffing requirements. The standard amount is equal to the sum of:

(i) the state average annual salary, benefits, and payroll taxes for one registered nurse position multiplied by the number of facilities in the state and divided by the state total of patient days;

(ii) the total costs of personal laundry and hygiene items divided by the total patient days as determined from the FY 1989 cost reports of a sample of nursing facilities multiplied by the annual adjustment factor described in Rule .0102(c)(4)(B) of this Section; and

(iii) the state average additional pharmacy consultant costs divided by 365 days and then divided by the average number of beds per facility.

(B) A standard amount shall be added to the intermediate rate of facilities that were certified only for intermediate care prior to October 1, 1990. This amount will be added to account for the additional cost of providing eight hours of RN coverage and 24 hours of licensed nursing coverage. The standard amount is equal to the state average hourly wage, benefits and payroll taxes for a registered nurse multiplied by the 16 additional hours of required licensed nursing staff divided by the state average number of beds per nursing facility. A lower amount will be added to a facility only if it can be determined that the facility's intermediate rate prior to October 1, 1990 already includes licensed nursing coverage above eight hours per day. The add-on amount in such cases shall be equal to the exact additional amount required to meet the licensed nursing requirements.

(C) The standard amounts in Subparagraphs (2)(B), (5)(A), and (5)(B) of this Rule, will be retained in the rates of subsequent years until the year that the rates are derived from the actual cost incurred in the cost reporting year ending in 1991 which shall reflect each facility's actual cost of complying with all OBRA '87 requirements.

(6) Upon completion of any cost reporting year any funds received by a facility from the direct patient care rates which have not been spent on direct patient care costs as defined herein shall be repaid to the State. This shall be applied by comparing a facility's total Medicaid direct costs with the combined direct rate payments received for skilled and intermediate care. Costs in excess of a facility's total prospective rate payments shall not be reimbursable.

(7) The indirect rate is intended to cover the following costs of an efficiently and economically operated facility:

(A) Administrative and General,

(B) Operation of Plant and Maintenance,

(C) Property Ownership and Use,

(D) Mortgage Interest.

(8) Effective for dates of service beginning October 1, 1984 and ending September 30, 1985 the indirect rates shall be fourteen dollars and sixty cents ($14.60) for each SNF day of care and thirteen dollars and fifty cents ($13.50) for each ICF day of care. These rates represent the first step in a two step transition process from the different SNF and ICF indirect rates paid in 1983-84 and the nearly equal indirect rates that shall be paid in subsequent years under this plan as provided in this Rule.

(9) Effective for dates of service beginning October 1, 1985 and annually thereafter per diem indirect rates shall be computed as follows:

(A) The average indirect payment to all facilities in the fiscal year ending September 30, 1983 [which is thirteen dollars and two cents ($13.02)] shall be the base rate.

(B) The base rate shall be adjusted for estimated price level changes from fiscal year 1983 through the year in which the rates shall apply in accordance with the procedure set forth in Rule .0102(c) of this Section to

establish the ICF per diem indirect rate.

(C) The ICF per diem indirect rate shall be multiplied by a factor of 1.02 to establish the SNF per diem indirect rate. This adjustment shall be made to recognize the additional administrative expense incurred in the provision of SNF patient care.

(10) Effective for dates of service beginning October 1, 1989, a standard per diem amount will be added to provide for the additional administrative costs of preparing for and complying with all nursing home reform requirements. The standard amount shall be based on the average annual salary, benefits and payroll taxes of one clerical position multiplied by the number of facilities in the state divided by the state total of patient days.

(11) Effective for dates of service beginning October 1, 1990, the indirect rate will be standard for skilled and intermediate care for all facilities and shall be determined by applying the 1990-91 indirect cost adjustment factors in Rule .0102(c) of this Section to the indirect rate paid for SNF during the year beginning October 1, 1989. Thereafter the indirect rate shall be adjusted annually by the indirect cost adjustment factors.

(c) Adjustment factors for changes in the price level. The rate bases established in Rule .0102(b), shall be adjusted annually to reflect increases or decreases in prices that are expected to occur from the base year to the year in which the rate applies. The price level adjustment factors shall be computed using aggregate base year costs in the following manner:

(1) Costs shall be separated into direct and indirect cost categories.

(2) Costs in each category shall be accumulated into the following groups:

(A) labor,

(B) other,

(C) fixed.

(3) The relative weight of each cost group shall be calculated to the second decimal point by dividing the total costs of each group (labor, other, and fixed) by the total costs for each category (direct and indirect).

(4) Price adjustment factors for each cost group shall be established as follows:

(A) Labor. The expected annual percentage change in direct labor costs as determined from a survey of nursing facilities to determine the average hourly wages for RNs, LPNs, and aides paid in the current year and projected for the rate year. The percentage change for indirect labor costs shall be based on the projected average hourly wage of N.C. service workers.

(B) Other. The expected annual change in the implicit price deflator for the Gross National Product as provided by the North Carolina Office of State Budget and Management.

(C) Fixed. No adjustment shall be made for this category, thus making the factor zero.

(D) The weights computed in (c)(3) of this Rule shall be multiplied times the percentage change computed in (c)(4)(A),(B) and (C) of this Rule. These products shall be added separately for the direct and indirect categories.

(E) The sum computed for each category in (c)(4)(D) of this Rule shall be the price level adjustment factor for that category of rates (direct or indirect) for the coming fiscal year.

(F) However, effective October 1, 1997 for fiscal year 1998, the price level adjustment factors calculated in Part (c)(4)(E) of this Rule shall be adjusted to 2.04% for direct rates and 1% for indirect rates, in order to produce fair and reasonable reimbursement of efficient operators. ~~for the rate period beginning October 1, 1991 through September 30, 1992 the forecast of the N.C. Service Wages percent applied to the 1991-92 Inpatient Hospital and Intermediate Care Facility for the Mentally Retarded rates shall be applied to the Labor component weight computed in (c)(4)(A) of this Rule.~~

~~(G) For the rate period beginning October 1, 1991 through September 30, 1992 the direct adjustment factor determined under (c)(4) of this Rule shall be applied to the direct rate adjustments determined under (b)(2), (b)(5)(A) and (b)(5)(B) of this Rule.~~

(d) The skilled and intermediate direct patient care rates for new facilities shall be established at the lower of the projected costs in the provider's Certificate of Need application inflated to the current rate period or the average of industry base year costs and adjusted for price changes as set forth in Rule .0102(c) of this Section. A new facility receives the indirect rate in effect at the time the facility is enrolled in the Medicaid program. In the event of a change of ownership, the new owner receives the same rate of payment assigned to the previous owner.

(e) Each out-of-state provider shall be reimbursed at the lower of the appropriate North Carolina maximum rate or the provider's payment rate as established by the State in which the provider is located. For patients with special needs who must be placed in specialized out-of-state facilities, a payment rate that exceeds the North Carolina maximum rate may be negotiated.

(f) Specialized Service Rates:

(1) Head Injury Intensive Rehabilitation Services.

(A) A single all-inclusive prospective per diem rate combining both the direct and indirect cost components may be negotiated for

nursing facilities that specialize in providing intensive rehabilitation services for head-injured patients. The rate may exceed the maximum rate applicable to other Nursing Facility services. A facility must specialize to the extent of staffing at least 50 percent of its Nursing Facility licensed beds for intensive head-injury rehabilitation services. The facility must also be accredited by the Commission for the Accreditation of Rehabilitation Facilities (CARF).

(B) A facility's initial rate is negotiated based on budget projections of revenues, allowable costs, patient days, staffing and wages. A complete description of the facility's medical program must also be provided. Rates in subsequent years are determined by applying the average annual skilled nursing care adjustment factors to the rate in the previous year, unless either the provider or the State requests a renegotiation of the rate within 60 days of the rate notice.

(C) Cost reports for this service must be filed in accordance with the rules in 10 NCAC 26H .0104, but there will be no cost settlements for any differences between cost and payments. Since it is appropriate to include all financial considerations in the negotiation of a rate, a provider shall not be eligible to receive separate payments for return on equity as defined in 10 NCAC 26H .0105.

(2) Ventilator Services.

(A) Ventilator services approved for nursing facilities providing intensive services for ventilator dependent patients shall be reimbursed at higher direct rates as described in Subparagraph (b)(2)(A) of this Rule. Ventilator services shall be paid by combining the enhanced direct rate with the nursing facility indirect rate determined under Subparagraph (b)(11) of this Rule.

(B) A facility's initial direct rate shall be negotiated based on budget projections of revenues, allowable costs, patient days, staffing and wages. Rates in subsequent years shall be determined by applying the nursing facility direct adjustment factor to the previous 12 month cost report direct cost.

(C) Cost reports and settlements for this service shall be in accordance with 10 NCAC 26H .0104 and return on equity shall be allowed as defined in 10 NCAC 26H .0105.

(D) A single all-inclusive prospective per diem rate combining both the direct and indirect cost components may be negotiated for nursing facilities that specialize in providing intensive services for ventilator-dependent patients. The rate may exceed the maximum rate applicable to other Nursing Facility services. For ventilator services, the only facilities that shall be eligible for a combined single rate are small freestanding facilities with fewer than 21 Nursing Facility Beds and that serve only patients requiring ventilator services. Ventilator services provided in larger facilities shall be reimbursed at higher direct rates as described in Subparagraph (b)(2)(A) of this Rule.

(g) Effective October 1, 1994 the bloodborne pathogen cost required under Title 29, Part 1910, Subpart 2, Section 1910.0130 of the Code of Federal Regulations shall be included in the nursing facility's direct cost reimbursement. The initial per diem amount shall be set at the lower of the actual or eightieth percentile of bloodborne pathogen costs incurred in fiscal year 1993.

(h) Religious Dietary Considerations.

(1) A standard amount may be added to a nursing facility's skilled and intermediate care rates, that may exceed the maximum rates determined under Paragraph (b) of this Rule, for special dietary need for religious reasons.

(2) Facilities must apply to receive this special payment consideration. In applying, facilities must document the reasons for special dietary consideration for religious reasons and must submit documentation for the increased dietary costs for religious reasons. Facilities must apply for this special benefit each time rates are determined from a new data base. Fifty or more percent of the patients in total licensed beds must require religious dietary consideration in order for the facility to qualify for this special dietary rate add-on.

(3) The special dietary add-on rate may not exceed more than a 30 percent increase in the average skilled and intermediate care dietary rates calculated for the 80th percentile of facilities determined under Subparagraph (b)(4) of this Rule and adjusted for annual inflation factors. This maximum add-on will be adjusted by the direct rate inflation factor each year until a new data base is used to determine rates.

(4) This special dietary add-on rate shall become part of the facility's direct rates to be reconciled in the annual cost report settlement.

(i) Effective October 1, 1994 nursing facilities shall be responsible for providing medically necessary transportation for residents, unless ambulance transportation is needed. Reimbursement shall be included in the nursing facility's direct cost. The initial amount shall be based on a per diem fee derived from estimated industry cost for transportation and associated salaries.

(j) This reimbursement limitation shall become effective in accordance with the provisions of G.S. 108A-55(c).

History Note: Filed as a Temporary Amendment Eff. July 1, 1992 for a Period of 180 Days to Expire on December 31, 1992;
Filed as a Temporary Amendment Eff. October 1, 1991 for a Period of 180 Days to Expire on March 31, 1992;
Filed as a Temporary Amendment Eff. October 1, 1984 for a Period of 120 Days to Expire on January 28, 1985;
Authority G.S. 108A-25(b); 108A-54; 108A-55; 29 C.F.R. 1910, Subpart Z; 42 C.F.R. 447, Subpart C; S. L. 1991, c. 689, s. 95;
Eff. January 1, 1978;
Amended Eff. May 1, 1995; February 1, 1993; January 1, 1993; April 1, 1992;
Temporary Amendment Eff. January 22, 1998.

SECTION .0200 - HOSPITAL INPATIENT REIMBURSEMENT PLAN

.0211 DRG RATE SETTING METHODOLOGY

(a) Diagnosis Related Groups is a system of classification for hospital inpatient services. For each hospital admission, a single DRG category shall be assigned based on the patient's diagnoses, age, procedures performed, length of stay, and discharge status. For claims with dates of services prior to January 1, 1995 payments shall be based on the reimbursement per diem in effect prior to January 1, 1995. However, for claims related to services where the admission was prior to January 1, 1995 and the discharge was after December 31, 1994, then the greater of the total per diem for services rendered prior to January 1, 1995, or the appropriate DRG payment shall be made.

(b) The Division of Medical Assistance (Division) shall use the DRG assignment logic of the Medicare Grouper to assign individual claims to a DRG category. Medicare revises the Grouper each year in October. The Division shall install the most recent version of the Medicare Grouper implemented by Medicare.

The initial DRG in Version 12 of the Medicare Grouper, related to the care of premature neonates and other newborns numbered 385 through 391, shall be replaced with the following classifications:

385 Neonate, died or transferred, length of stay less than 3 days
801 Birthweight less than 1,000 grams
802 Birthweight 1,000 - 1,499 grams
803 Birthweight 1,500 - 1,999 grams
804 Birthweight >=2,000 grams, with Respiratory Distress Syndrome
805 Birthweight >= 2,000 grams, premature with major problems
810 Neonate with low birthweight diagnosis, age greater than 28 days at admission
389 Birthweight >= 2,000 grams, full term with major problems
390 Birthweight >= 2,000 grams, full term with other problems or premature without major problems
391 Birthweight >= 2,000 grams, full term without complicating diagnoses

(c) DRG relative weights are a measure of the relative resources required in the treatment of the average case falling within a particular DRG category. The average DRG weight for a group of services, such as all discharges from a particular hospital or all North Carolina Medicaid discharges, is known as the Case Mix Index (CMI) for that group.

(1) The Division shall establish relative weights for each utilized DRG based on a recent data set of historical claims submitted for Medicaid recipients. Charges on each historical claim shall be converted to estimated costs by applying the cost conversion factors from each hospital's submitted Medicare cost report to each billed line item. Cost estimates are standardized by removing direct and indirect medical education costs at the appropriate rates for each hospital.

(2) Relative weights shall be calculated as the ratio of the average cost in each DRG to the overall average cost for all DRGs combined. Prior to calculating these averages, low statistical outlier claims shall be removed from the data set, and the costs of claims identified as high statistical outliers shall be capped at the statistical outlier threshold. The Division of Medical Assistance shall employ criteria for the identification of statistical outliers which are expected to result in the highest number of DRGs with statistically stable weights.

(3) The Division of Medical Assistance shall employ a statistically valid methodology to determine whether there are a sufficient number of recent claims to establish a stable weight for each DRG. For DRGs lacking sufficient volume, the Division shall set relative weights using DRG weights generated from the North Carolina Medical Data Base Commission's discharge abstract file covering all inpatient services delivered in North Carolina hospitals. For DRGs in which there are an insufficient number of discharges in the Medical Data Base Commission data set, the Division sets relative weights based upon the published DRG weights for the Medicare program.

(4) Relative weights shall be recalculated whenever a new version of the DRG Grouper is installed by the Division of Medical Assistance. When relative weights are recalculated, the overall average CMI will be kept constant.

(d) The Division of Medical Assistance shall establish a unit value for each hospital which represents the DRG payment rate for a DRG with a relative weight of one. This rate is established as follows:

(1) Using the methodology described in Paragraph (c) of this Rule, the Division shall estimate the cost less direct and indirect medical education expense on claims for discharges occurring during calendar year 1993, using cost reports for hospital fiscal years ending during that period or the most recent

cost report available. All cost estimates are adjusted to a common 1994 fiscal year and inflated to the 1995 rate year. The average cost per discharge for each provider is calculated.

(2) Using the DRG weights effective on January 1, 1995, a CMI is calculated for each hospital for the same population of claims used to develop the cost per discharge amount in Subparagraph (d)(1) of this Rule. Each hospital's average cost per discharge is divided by its CMI to get the cost per discharge for a service with a DRG weight of one.

(3) The amount calculated in Subparagraph (d)(2) of this Rule is reduced by 7.2% to account for outlier payments.

(4) Hospitals are ranked in order of increasing CMI adjusted cost per discharge. The DRG Unit Value for hospitals at or below the 45th percentile in this ranking is set using 75% of the hospital's own adjusted cost per discharge and 25% of the cost per discharge of the hospital at the 45th percentile. The DRG Unit Value for hospitals ranked above the 45th percentile is set at the cost per discharge of the 45th percentile hospital. The DRG unit value for new hospitals and hospitals that did not have a Medicaid discharge in the base year is set at the cost per discharge of the 45th percentile hospital.

(5) The hospital unit values calculated in Subparagraph (d)(4) of this Rule shall be updated annually by the lower of the National Hospital Market Basket Index as published by Medicare and applied to the most recent actual and projected cost data available from the North Carolina Office of State Budget and Management or the Medicare approved Inpatient Prospective Payment update factor. ~~Management.~~

(e) Reimbursement for capital expense is included in the DRG hospital rate described in Paragraph (d) of this Rule.

(f) Hospitals operating Medicare approved graduate medical education programs shall receive a DRG payment rate adjustment which reflects the reasonable direct and indirect costs of operating those programs.

(1) The Division defines reasonable direct medical education costs consistent with the base year cost per resident methodology described in 42 CFR 413.86. The ratio of the aggregate approved amount for graduate medical education costs at 42 CFR 413.86 (d) (1) to total reimbursable costs (per Medicare principles) is the North Carolina Medicaid direct medical education factor. The direct medical education factor is based on information supplied in the 1993 cost reports and the factor will be updated annually as soon as practicable after July 1 based on the latest cost reports filed prior to July 1.

(2) The North Carolina Medicaid indirect medical education factor is computed by the following formula:

$$1.89 ((1 + R)^{0.405} - 1)$$

where R equals the number of approved full time equivalent residents divided by the number of staffed beds, not including nursery beds. The indirect medical education factor will be updated annually as soon as practicable after July 1 based on statistics contained in the latest cost reports filed prior to July 1.

(3) Hospitals operating an approved graduate medical education program shall have their DRG unit values increased by the sum of the direct and indirect medical education factors.

(g) Cost outlier payments are an additional payment made at the time a claim is processed for exceptionally costly services. These payments shall be subject to retrospective review by the Division of Medical Assistance, on a case-by-case basis. Cost Outlier payments may be reduced if and to the extent that the preponderance of evidence on review supports a determination that the associated cost either exceeded the costs which must be incurred by efficiently and economically operated hospitals or was for services that were not medically necessary or for services not covered by the North Carolina Medical Assistance program.

(1) A cost outlier threshold shall be established for each DRG at the time DRG relative weights are calculated, using the same information used to establish those relative weights. The cost threshold is the greater of twenty-five thousand dollars ($25,000) or mean cost for the DRG plus 1.96 standard deviations.

(2) Charges for non-covered services and services not reimbursed under the inpatient DRG methodology (such as professional fees) shall be deducted from total billed charges. The remaining billed charges are converted to cost using a hospital specific cost to charge ratio. The cost to charge ratio excludes medical education costs.

(3) If the net cost for the claim exceeds the cost outlier threshold, a cost outlier payment is made at 75% of the costs above the threshold.

(h) Day outlier payments are an additional payment made for exceptionally long lengths of stay on services provided to children under six at disproportionate share hospitals and children under age one at non-disproportionate share hospitals. These payments shall be subject to retrospective review by the Division of Medical Assistance, on a case-by-case basis. Day outlier payments may be reduced if and to the extent that the preponderance of evidence on review supports a determination that the associated cost either exceeded the costs which must be incurred by efficiently and economically operated hospitals or was for services that were not medically necessary or for services not covered by the North Carolina Medical Assistance program.

(1) A day outlier threshold shall be established for each DRG at the time DRG relative weights are calculated, using the same information used to establish the relative weights. The day outlier threshold is the greater of 30 days or the

arithmetical average length of stay for the DRG plus 1.50 standard deviations.

(2) A day outlier per diem payment may be made for covered days in excess of the day outlier threshold at 75% of the hospital's payment rate for the DRG rate divided by the DRG average length stay.

(i) Services which qualify for both cost outlier and day outlier payments under this rule shall receive the greater of the cost outlier or day outlier payment.

History Note: Authority G.S. 108A-25(b); 108A-54; 108A-55; 42 C.F.R. 447, Subpart C;
Eff. March 1, 1995;
Temporary Amendment Eff. January 22, 1998.

SECTION .0400 - PROVIDER FEE SCHEDULES

.0401 PHYSICIAN'S FEE SCHEDULE

(a) Effective January 1, 1995, (see Paragraph (b) of this Rule) physicians' services whether furnished in the office, the patient's home, a hospital, a nursing facility or elsewhere will be reimbursed based on the North Carolina Medicaid Fee Schedule, except for payments to the various Medical Faculty Practice Plans of the University of North Carolina-Chapel Hill and East Carolina University which will be reimbursed at cost and cost settled at year end. The North Carolina Medicaid Fee Schedule is based on the Medicare Fee Schedule Resource Based Relative Value System (RBRVS), in effect in fiscal year 1993 (as adopted by Medicare at 56 F.R. 59501 (November 25, 1991, effective January 1, 1992, applicable to services furnished beginning January 1, 1992), but with the following clarifications and modifications:

(1) A maximum fee is established for each service and is applicable to all specialties and settings in which the service is rendered. Payment is equal to the lower of the maximum fee or the provider's customary charge to the general public for the particular service rendered.

(2) Fees are established on a statewide basis using the Medicare Geographic Practice Cost Indices for ~~the~~ North Carolina.

(3) There will be no transition period in applying the Medicaid fees whereas Medicare has a five year phase-in period.

(4) Annual ~~Changes~~ changes in the Medicaid payments will be applied each January 1 and fee increases will be applied based on the forecasted Gross National Product (GNP) Implicit Price Deflator. Said annual changes in the Medicaid payments shall not exceed the percentage increase granted by the North Carolina General Assembly.

(5) Fees for services deemed to be associated with adequacy of access to health care services may be increased based on administrative review. The service must be essential to the health needs of the Medicaid recipients, no other comparable treatment available and a fee adjustment must be necessary to maintain physician participation at a level adequate to meet the needs of Medicaid recipients. A fee may also be decreased based on administrative review if it is determined that the fee may exceed the Medicare allowable amount for the same or similar services, or if the fee is higher than Medicaid fees for similar services, or if the fee is too high inrelation to the skills, time, and other resources required to provide the particular service.

(6) Fees for new services are established based on this Rule, utilizing the most recent RBRVS, if applicable. If there is no relative value unit (RVU) available from Medicare, fees will be established based on the fees for similar services. If there is no RVU or similar service, the fee will be set at 75 percent of the provider's customary charge to the general public.

(b) This reimbursement limitation shall become effective in accordance with the provisions of G.S. 108A-55(c).

History Note: Authority G.S. 108A-25(b); S.L. 1985, c. 479, s. 86;
Eff. October 1, 1982;
Amended Eff. July 1, 1995; January 4, 1993; June 1, 1990; December 1, 1988; November 1, 1988;
Temporary Amendment Eff. January 22, 1998.

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Rule-making Agency: *Social Services Commission*

Rule Citation: *10 NCAC 30 .0207*

Effective Date: *January 1, 1998*

Findings Reviewed and Approved by: Julian Mann, III

Authority for the rule-making: *G.S. 108A-51; 143B-153; S.L. 1997-443*

Reason for Proposed Action: *S.L. 1997-443, Part XII, Welfare Reform Initiatives and Conforming Changes, redesigned North Carolina's welfare system. The legislation gave the State additional flexibility in designing a welfare system that provides short-term assistance that facilitates the movement of eligible families to self-sufficiency. Also, P.L. 104-1993, gave states an option on how they issued food stamp benefits to applicants who applied after the 15th of the month. Prior to this option, food stamp benefits for this specific category of applicants were combined. This meant that the applicant received food stamps for the month in which they applied as well as their allotment for the next month in one combined issuance. 10 NCAC 30 .0207 is being proposed for temporary amendment to simplify the delivery of food stamp benefits to eligible families. Families will receive a separate allotment for each month of eligibility thereby enabling them to plan and budget their food*

purchases with the knowledge of their future receipt of food stamp benefits.

Comment Procedures: *Anyone wishing to comment should contact Sharnese Ransome, APA Coordinator, Social Services Commission, NC Division of Social Services, 325 N. Salisbury St., Raleigh, NC 27603, phone 919-733-3055.*

CHAPTER 30 - FOOD ASSISTANCE

SECTION .0200 - MANUAL

.0207 COUPON ISSUANCE

(a) The methods authorized for coupon issuance are on-line terminal issuance, authorization to participation card, direct mail issuance.

(b) The county departments may use certified mail where neighborhoods or individual households are experiencing loss problems.

(c) Allotments shall be issued for each eligible month.

History Note: Authority G.S. 108A-51; 143B-153; P.L. 104-193; 7 C.F.R. 274.2; 7 C.F.R. 274.3; U.S.C. 2011-2027;
Eff. March 1, 1979;
Amended Eff. February 1, 1986;
Temporary Amendment Eff. January 1, 1998.

TITLE 15A - DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Rule-making Agency: *Environmental Management Commission*

Rule Citation: *15A NCAC 2B .0233 - .0234*

Effective Date: *January 22, 1998*

Findings Reviewed and Approved by: Beecher R. Gray

Authority for the rule-making: *G.S. 143-214.1; 143-214.7; 143-215; 143-215.1; 143-215.3(a)(1); Chapter 572, 1995 Session Laws; 143B-282(d)*

Reason for Proposed Action: *Rule .0233 - The Neuse River estuary has been plagued by algal blooms and fish kills and the North Carolina General Assembly has asked that action be taken to reduce nitrogen input into the river system. House Bill 1339 (1995 [Regular Session, 1996] Session, Chapter 572) required the Environmental Management Commission (Commission) to develop a plan to achieve a 30% reduction in nitrogen loading to the Neuse River estuary by the year 2001. One of the most ecologically critical components of the plan is the maintenance of vegetated areas along streams and surface waters in the Neuse River basin. The purpose of this rule making is to require maintenance and protection of riparian areas with existing forest vegetation along surface waters in the Neuse River Basin (intermittent steams, perennial streams, lakes, ponds and estuaries) as indicated on the most recent versions of the United States Geological Survey 1:24,000 scale topographic maps or other site-specific evidence. Protection of these streamside areas is a vital component of an overall plan to remove nitrogen from adjacent land uses before the nitrogen enters surface waters of the Neuse River. This Rule was a portion of the plan previously published September 15, 1997. The EMC found that minor changes were needed to this rule as a result of public comment. Rule .0234 - The Environmental Management Commission adopted this temporary rule in order to coordinate the nitrogen reduction schedule codified in House Bill 1339 (1995 [Regular Session, 1996] Session, Chapter 572) and the wastewater permitting process. The Division of Water Quality is required to reissue five-year discharge permits in the Neuse basin during Spring 1998. If dischargers do not receive permit limits appropriate to achieve a 30 percent nitrogen reduction this spring, then they will not meet the reduction schedule codified in House Bill 1339. The EMC found that it was necessary to enact this rule in order to coordinate the rule's schedule with the wastewater permitting process.*

Comment Procedures: *Comments were previously accepted on these rules. Notice of Rule-Making Proceedings for the original rules was published on April 15, 1996. The Rules became effective as temporary rules on July 22, 1997. Notice of Text was published on August 15, 1996, republished on October 15, 1996 and republished again on September 15, 1997. A second round of public hearings were held on October 7, 1997.*

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0200 - CLASSIFICATIONS AND WATER QUALITY STANDARDS APPLICABLE TO SURFACE WATERS AND WETLANDS OF NORTH CAROLINA

.0233 NEUSE RIVER BASIN: NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: PROTECTION AND MAINTENANCE OF RIPARIAN AREAS WITH EXISTING FOREST VEGETATION

The following is the management strategy for maintaining and protecting ~~existing~~ riparian areas in the Neuse River Basin:

(1) ~~Existing riparian~~ Riparian areas shall be protected and maintained in accordance with this Rule ~~Sub Items (3)(a)-(c)~~ on all sides of surface waters in the Neuse River Basin (intermittent streams, perennial streams, lakes, ponds, and estuaries) as indicated

on the most recent versions of United States Geological Survey 1:24,000 scale (7.5 minute quadrangle) topographic maps or other site-specific evidence. This Rule only applies to riparian areas where forest vegetation is established in Zone 1 (as described in Sub-Item 3(a)) as of ~~June 12, 1997~~ July 22, 1997. Forest vegetation, as defined in 15A NCAC 2B .0202, of any width in Zone 1 must be protected and maintained in accordance with this Rule. This Rule does not establish new buffers in riparian areas. Exceptions to the requirements of this Rule for ~~existing~~ riparian areas are described in Sub-Items ~~(1)~~(2) (a-h). Maintenance of the riparian areas should be such that, to the maximum extent possible, sheet flow of surface water is achieved. ~~Any activities that would result in water quality standard violations or that disrupt the structural or functional integrity of the riparian area are prohibited.~~ This Rule specifies requirements that shall be implemented in riparian areas to ensure that the pollutant removal functions of the riparian area are protected and maintained.

(2) The following waterbodies and land uses are exempt from the riparian area protection requirements:

(a) Ditches and manmade conveyances other than modified natural streams;

(b) Areas mapped as intermittent streams, perennial streams, lakes, ponds, or estuaries on the most recent versions of United States Geological Survey 1:24,000 scale (7.5 minute quadrangle) topographic maps where no perennial waterbody, ~~or~~ intermittent waterbody, or lake, pond or estuary actually exists on the ground;

(c) Ponds and lakes created for animal watering, irrigation, or other agricultural uses that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100;

~~(d) Where application of this Rule would prevent all prospective uses of a lot platted and recorded prior to the effective date of this Rule, a variance may be granted by the Environmental Management Commission;~~

~~(e)~~(d) ~~New development in the riparian area shall be limited to water~~ Water dependent structures as defined in 15A NCAC 2B ~~.0202.~~ .0202, provided that they are ~~Any such structures shall be~~ located, designed, constructed and maintained to provide maximum nutrient removal, to have the least adverse effects on aquatic life and habitat and to protect water quality;

~~(f) Roads, bridges, stormwater management facilities, ponds, and utilities may be allowed where no pratical alternative exists. These structures shall be located, designed, constructed, and maintained to have minimal disturbance, to provide maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical through the use of best management practices.~~

(e) The following uses may be allowed where no practical alternative exists. A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters. Also, these structures shall be located, designed, constructed, and maintained to have minimal disturbance, to provide maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical through the use of best management practices.

(i) Road crossings, railroad crossings, bridges, airport facilities, and utility crossings may be allowed if conditions specified in Subitem (2)(e) of this Rule are met.

(ii) Stormwater management facilities and ponds, and utility construction and maintenance corridors for utilities such as water, sewer or gas, may be allowed in Zone 2 of the riparian area as long as the conditions specified in 2(e) of this Rule are met and they are located at least 30 feet from the top of bank or mean high water line. Additional requirements for utility construction and maintenance corridors are listed in Subitem (2)(f) of this Rule.

(f) A corridor for the construction and maintenance of utility lines, such as water, sewer or gas, (including access roads and stockpiling of materials) may run parallel to the stream and may be located within Zone 2 of the riparian area, as long as no practical alternative exists and they are located at least 30 feet from the top of bank or mean high water line and best management practices are installed to minimize runoff and maximize water quality protection to the maximum extent practicable. Permanent, maintained access corridors shall be restricted to the minimum width practicable and shall not exceed 10 feet in width except at manhole locations. A 10 feet by 10 feet perpendicular

vehicle turnaround is allowed provided they are spaced at least 500 feet apart along the riparian area.

(g) Stream restoration projects, scientific studies, stream gauging, water wells, passive recreation facilities such as boardwalks, trails, pathways, historic preservation and archaeological activities are ~~allowed; and~~ allowed provided that they are located in Zone 2 and are at least 30 feet from the top of bank or mean high water line and are designed, constructed and maintained to provide the maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical through the use of best management practices. Activities that must cross the stream or be located within Zone 1 are allowed as long as all other requirements of this Item are met.

(h) Stream crossings associated with timber harvesting are allowed if performed in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201-.0209).

~~(2) If a local government has been issued a Municipal Separate Stormwater Sewer System permit or has been delegated to implement a local stormwater program, then the local government shall ensure that the riparian areas to be protected are, as a standard practice, recorded on plats as easements.~~

(3) The protected riparian area shall have two zones as follows:

(a) Zone 1 is intended to be an undisturbed area of forest vegetation. Any forest vegetation, as defined in Rule .0202 of the Section, in Zone 1 as of July 22, 1997 shall be maintained and protected in accordance with this Rule.

(i) Location of Zone 1: Zone 1 begins at the ~~centerline of the channel~~ top of bank for intermittent streams and perennial streams ~~without tributaries~~ and extends landward a distance of 30 feet on all sides of the waterbody, measured horizontally on a line perpendicular to the waterbody. For all other waterbodies, Zone 1 begins at ~~the upper edge of the active channel of the surface waterbody (bank full flow) channel or~~ the top of bank or mean high water line and extends landward a distance of 30 feet, measured horizontally on a line perpendicular to the waterbody. ~~Forest vegetation of any width that exists in Zone 1 on the effective date of this Rule must be preserved and maintained in accordance with Sub Items (I)-(v). The application of fertilizer in Zone 1 is prohibited.~~

(ii) The following practices and activities are allowed in Zone 1:

~~(i)~~(A) Natural regeneration of forest vegetation ~~is allowed~~ and planting vegetation to enhance the riparian area ~~zone is allowed~~ if disturbance is ~~minimized. Any~~ minimized, provided that any plantings should primarily consist of locally native trees and shrubs;

~~(ii)~~(B) ~~Selective removal of individual high value trees is allowed where water quality values are not compromised.~~ Selective cutting of individual trees of high value in the outer 20 feet of Zone 1, provided that the basal area (measured as 12-inch diameter at breast height) remains at or above 0.52 square feet per 15 running feet of the outer 20 feet of Zone 1, as measured along the bank of the stream or waterbody. Limited mechanized equipment is allowed in this area;

~~(iii)~~ (C) Horticulture or silvicultural practices ~~may be used~~ to maintain the health of individual trees;

~~(iv)~~ (D) Removal of ~~I~~individual trees ~~may be removed~~ which are in danger of causing damage to dwellings, other ~~structures,~~ structures or the stream channel; ~~and~~

~~(v)~~ (E) Removal of dead trees and other ~~Other~~ timber cutting techniques necessary to prevent extensive pest or disease infestation if recommended by the Director, Division of Forest Resources and approved by the ~~Department~~ Director, Division of Water Quality; and ~~may be undertaken if necessary to prevent extensive pest or disease infestation.~~

(F) Ongoing agricultural operations provided that existing forest vegetation is protected and

requirements in Rules .0236 and .0238 of this Section are followed.

(iii) The following practices are not allowed in Zone 1:

(A) Land-disturbing activities and placement of fill and other materials, other than those allowed in Items (2) and (3)(a)(ii) of this Rule, that would disturb forest vegetation, as defined in Rule .0200 of this Section;

(B) New development, except as provided in Sub-Items (2)(d), (2)(e) and (2)(f) of this Rule;

(C) New on-site sanitary sewage systems which use ground adsorption;

(D) The application of fertilizer; and

(E) Any activity that threatens the health and function of the vegetation including, but not limited to, application of chemicals in amounts exceeding the manufacturer's recommended rate, uncontrolled sediment sources on adjacent lands, and the creation of any areas with bare soil.

(b) Vegetation in Zone 2 shall consist of a dense ground cover composed of herbaceous or woody species which provides for diffusion and infiltration of runoff and filtering of pollutants.

~~(b)~~(i) Location of Zone 2: Zone 2 begins at the outer edge of Zone 1 and extends landward a minimum of 20 feet as measured horizontally on a line perpendicular to the waterbody. The combined minimum width of Zones 1 and 2 shall be 50 feet on all sides of the waterbody. ~~Vegetation in Zone 2 shall consist of a dense ground cover composed of herbaceous or woody species which provides for diffusion and infiltration of runoff and filtering of pollutants.~~

(ii) The following practices and activities are allowed in Zone 2 in addition to those allowed in Zone 1:

(A) ~~Removal of grass clippings or~~ Periodic mowing and removal of plant products such as timber, nuts, and fruit is allowed on a periodic ~~and regular~~ basis provided the intended purpose of the riparian area is not compromised by harvesting, disturbance, or loss of forest or herbaceous ground cover.

(B) Forest vegetation in Zone 2 may be managed to minimize shading on adjacent land outside the riparian area if the water quality function of the riparian area is not compromised.

(C) On-going agricultural operations provided that requirements of Rules .0236 and .0238 of this Section are followed.

(iii) The following practices and activities are not allowed in Zone 2:

(A) Land disturbing activities and placement of fill and other materials, other than those allowed in Items (2) and (3)(b)(ii) of this Rule;

~~(i)~~(B) New development, except as provided in Sub-Items (2)(e) and (2)(f) of this Rule; ~~permanent structures~~

~~(ii)~~(C) New on-site sanitary sewage systems which use ground ~~adsorptions;~~ adsorption;

(D) The application of fertilizer; and

~~(iii)~~(E) Any activity that threatens the health and function of the vegetation including, but not limited to, application of chemicals in amounts exceeding the manufacturer's recommended rate, uncontrolled sediment sources on adjacent lands, and the creation of any areas with bare soil. ~~Activities that would result in water quality standards violations or disrupt the structural or functional integrity of the riparian area are prohibited.~~

(c) Timber removal and skidding of trees shall be directed away from the water course or water body. Skidding shall be done in a manner to prevent the creation of ephemeral channels perpendicular to the water body. Any tree removal must be performed in a manner that does not compromise the intended purpose of the riparian area and is in accordance

with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201-.0209).

(d) Maintenance of sheet flow in Zones 1 and 2 is ~~required.~~ required in accordance with this Item.

(i) Sheet flow must be maintained to the maximum extent practical through dispersing concentrated flow and/or re-establishment of vegetation to maintain the effectiveness of the riparian area.

(ii) Concentrated runoff from new ditches or manmade conveyances must be dispersed into sheet flow before the runoff enters Zone 2 of the riparian area. Existing ditches and manmade convayances, as specified in Sub-Item (2)(a) of this Rule, are exempt from this requirement; however, care should be taken to minimize pollutant loading through these existing ditches and manmade conveyances from fertilizer application or erosion.

(iii) Periodic corrective action to restore sheet flow ~~must~~ should be taken by the landowner if necessary to impede the formation of erosion gullies which allow concentrated flow to bypass treatment in the riparian area.

(e) Periodic maintenance of modified natural streams such as canals is allowed provided that disturbance is minimized and the structure and function of the riparian area is not compromised. A grassed travelway is allowed on one side of the waterbody when alternative forms of maintenance access are not practical. The width and specifications of the travelway shall be only that needed for equipment access and operation. The travelway ~~should~~ shall be located to maximize stream shading.

(4) If a local government has been issued a Municipal Separate Stormwater Sewer System permit or has been delegated to implement a local stormwater program, then the local government shall ensure that the riparian areas to be protected are, as a standard practice, recorded on new or modified plats.

~~(4)~~(5) Where the standards and management requirements for riparian areas are in conflict with other laws, regulations, and permits regarding streams, steep slopes, erodible soils, wetlands, floodplains, forest harvesting, surface mining, land disturbance activities, development in Coastal Area Management Act Areas of Environmental Concern, or other environmental protection areas, the more protective shall ~~apply so long as they are in effect.~~ apply.

(6) Where application of this Rule would prevent all reasonable uses of a lot platted and recorded prior to the effective date of this Rule, a variance may be granted by the Environmental Management Commission if it finds that:

(a) practical difficulties or unnecessary hardships would result in strict application of the Rule;

(b) such difficulties or hardships result from conditions which are peculiar to the property involved; and

(c) the general purpose and intent of the Rule would be preserved, water quality would be protected and substantial justice would be done if the variance were granted.

History Note: Authority G.S. 143-214.1; 143-214.7; 143-215.3(a)(1); S.L. 1995, c. 572;
Temporary Adoption Eff. July 22, 1997;
Temporary Adoption Eff. January 22, 1998.

.0234 NEUSE RIVER BASIN - NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: APPLICATION DEADLINE FOR MEMBERSHIP IN THE ASSOCIATION OPTION FOR WASTEWATER DISCHARGERS

The membership of the Association shall be established no later than March 1, 1998. All facilities who apply to the Division of Water Quality for membership in the Association prior to March 1, 1998 shall be accepted. Thereafter, additions of facilities, which are existing as of the effective date of this Rule, to the membership in the Association may be considered every five years.

History Note: Authority G.S. 143-214.1; 143-215; 143-215.1; 143-215.3(a)(1); S.L. 1995, c. 572;
Temporary Adoption Eff. January 22, 1998.

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Rule-making Agency: *Commission for Health Services*

Rule Citation: *15A NCAC 18A .0425, .0432, .2612*

Effective Date: *February 1, 1998*

Findings Reviewed and Approved by: Beecher R. Gray

Authority for the rule-making: *G.S. 130A-230; 130A-248*

Reason for Proposed Action: *A recent death of a North Carolina citizen from Vibrio vulnificus infection (due to eating raw oysters) has prompted the need to move current discussions of this issue forward into a temporary rule. Vibrio vulnificus is a contaminant of shellfish, particularly those taken from Gulf of Mexico waters, and causes a frequently fatal illness in susceptible individuals who eat raw or inadequately cooked shellfish harvested in late spring to early fall. This temporary rule will require posting of critical information needed to notify the public of the risk of eating shellfish.*

Comment Procedures: *Comments, statements, data and*

other information may be submitted in writing within 60 days after the date of publication of the January 15, 1998 issue of the North Carolina Register. Copies of the proposed rules and information package may be obtained by contacting the Food and Lodging Program at (919) 715-0926. Written comments may be submitted to David Clawson, Shellfish Sanitation Section, PO Box 769, Morehead City, NC 28557.

CHAPTER 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18A - SANITATION

SECTION .0400 - SANITATION OF SHELLFISH - GENERAL OPERATION STANDARDS

.0425 TAGGING

(a) In order that information may be available to the Division with reference to the origin of shellstock, containers holding shellstock shall be identified with a uniform tag or label. The tag shall be durable, waterproof and measure at least 2-5/8 by 5-1/4 inches (6.7 by 13.3 centimeters). The tag shall contain legible information arranged in specific order as follows:

(1) the dealer's name, address and certification number assigned by the appropriate shellfish control agency;

(2) the original shipper's certification number;

(3) the harvest date;

(4) the harvest location, including the country or state abbreviation;

(5) when the shellstock has been in wet storage, the statement "THIS PRODUCT WAS IN WET STORAGE AT (FACILITY CERTIFICATION NUMBER) FROM (DATE) TO (DATE)";

(6) the type and quantity of shellfish; ~~and~~

(7) the following statement shall appear in bold capitalized type "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE FOR 90 ~~DAYS."~~ DAYS."; and

(8) the following statement, or equivalent,
"Consumer Advisory
Eating raw oysters, clams or mussels may cause severe illness. People with the following conditions are at especially high risk: liver disease, alcoholism, diabetes, cancer, stomach or blood disorder, or weakened immune system. Ask your doctor if you are unsure of your risk. If you eat shellfish and become sick, see a doctor immediately."

(b) The uniform tag or label shall remain attached to the shellstock container until the container is empty and thereafter shall be kept on file for 90 days.

(c) All shellstock from a depuration facility must be identified as having been cleansed by a depuration facility identified by a name and permit number on the tag.

History Note: Authority G.S. 130A-230;
Eff. February 1, 1987;
Amended Eff. April 1, 1997; January 4, 1994; December 1, 1987;
Temporary Amendment Eff. February 1, 1998.

.0432 PUBLIC DISPLAY OF CONSUMER ADVISORY

All facilities and persons permitted in Rule .0302 and all other businesses and persons that sell shellfish shall post in a conspicuous place where it may be readily observed by the public the following consumer advisory:
"Consumer Advisory
Eating raw oysters, clams or mussels may cause severe illness. People with the following conditions are at especially high risk: liver disease, alcoholism, diabetes, cancer, stomach or blood disorder, or weakened immune system. Ask your doctor if you are unsure of your risk. If you eat shellfish and become sick, see a doctor immediately."

History Note: Authority G.S. 130A-230;
Temporary Adoption Eff. February 1, 1998.

SECTION .2600 - SANITATION OF RESTAURANTS AND OTHER FOODHANDLING ESTABLISHMENTS

.2612 SHELLFISH

(a) All shellfish and crustacea meat shall be obtained from sources in compliance with the Department's rules on shellfish and crustacea. Copies of 15A NCAC 18A .0300 through .0900 may be obtained from the Department. If the source of clams, oysters, or mussels is outside the state, the shipper's name shall appear on the "Interstate Certified Shellfish Shippers List" as published monthly by the Shellfish Sanitation Branch, Food and Drug Administration. If the source of cooked crustacea meat is outside the state, it shall be certified by the regulatory authority of the state or territory of origin, attested by the presence of an official permit number on the container.

(b) All shucked shellfish and all cooked crustacea meat shall be stored in the original container. Each original container shall be clearly identified with the name and address of the packer, repacker, and the abbreviated name of the state or territory. Shucked shellfish unit containers shall be dated in accordance with 15A NCAC 18A .0600.

(c) All shellstock shall be stored in the containers in which packed at the source. Each original container shall be clearly identified with a uniform tag or label bearing the name and address of the shipper, the certificate number issued by the state or territory regulatory authority, the abbreviated name of the state, the name of the waters from which the shellfish were taken, the kind and quantity of the shellstock in the container, and the name and address of the consignee.

(d) Shellstock shall be stored under refrigeration and in a manner to prevent cross-contamination to or from the shellstock. The re-use of single-service shipping containers

and the storage of shucked shellfish in other containers are not allowed.

(e) After each container of shellstock has been emptied, the management shall remove the stub of the tag and retain it for a period of at least 90 days.

(f) With the exception of opening shellfish for immediate consumption on the premises, no shellfish shucking shall be performed unless the establishment holds a valid shellfish shucking permit.

(g) Shellstock washing facilities shall consist of an approved mechanical shellfish washer, or a sink or slab with catch basin, indirectly drained into an approved sewage collection, treatment, and disposal system. The washing shall be done in a clean area, protected from contamination. A can wash facility shall not be used for the washing of shellstock or other foods.

(h) The cooking of shellfish shall be accomplished in an area meeting the requirements of this Section.

(i) Re-use of shells for the serving of food is prohibited. Shells shall be stored in a manner to prevent flies, insects, rodents, and odors.

(j) All establishments that prepare, serve, or sell shellfish shall post in a conspicuous place where it may be readily observed by the public prior to consumption of shellfish, the following consumer advisory:

"Consumer Advisory

Eating raw oysters, clams, or mussels may cause severe illness. People with the following conditions are at especially high risk: liver disease, alcoholism, diabetes, cancer, stomach or blood disorder, or weakened immune system. Ask your doctor if you are unsure of your risk. If you eat shellfish and become sick, see a doctor immediately."

History Note: Authority G.S. 130A-248;
Eff. May 5, 1980;
Amended Eff. May 1, 1991; July 1, 1984;
Temporary Amendment Eff. February 1, 1998.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

CHAPTER 32 - BOARD OF MEDICAL EXAMINERS

Rule-making Agency: *North Carolina Medical Board*

Rule Citation: *21 NCAC 32F .0003*

Effective Date: *January 1, 1998*

Findings Reviewed and Approved by: Beecher R. Gray

Authority for the rule-making: *G.S. 90-15.1; 150B-21.1*

Reason for Proposed Action: *Compliance with 1997 NC Session Laws which states registration fee is to be paid annually on each physician's birthday, effective January 1, 1998.*

Comment Procedures: *Comments may be mailed to the Rule-Making Coordinator at the NC Medical Board, 1203 Front St., Raleigh, NC 27609, (919) 833-5583. Verbal comments may be presented at public hearing.*

SUBCHAPTER 32F - ANNUAL REGISTRATION

.0003 FEE

Each physician shall pay ~~a biennial~~ a registration fee of ~~two~~ one hundred dollars ~~($200.00)~~ ($100.00) to the Board every ~~odd-numbered~~ year in accordance with G.S. 90-15.1; except, each physician holding a resident's training license shall pay ~~a biennial~~ a fee of ~~twenty-five~~ fifteen dollars ~~($25.00)~~ ($15.00), every physician who holds a special volunteer license shall pay a fee of ten dollars ($10.00), and every physician who holds a limited volunteer license shall pay no fee.

History Note: Authority G.S. 90-15.1; 90-18(13); 90-18.1;
Eff. February 1, 1976;
Amended Eff. December 1, 1995; October 1, 1994; November 1, 1991; May 1, 1989;
Temporary Amendment Eff. January 1, 1998.

This Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, January 15, 1998, 10:00 a.m., at 1307 Glenwood Ave., Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners by Monday, January 12, 1998, at 5:00 p.m. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate
Teresa L. Smallwood, Vice Chairman
Jim Funderburke
Vernice B. Howard
Philip O. Redwine
David Twiddy

Appointed by House
Paul Powell, Chairman
Anita White, 2nd Vice Chairman
Mark Garside
Steve Rader
George Robinson

RULES REVIEW COMMISSION MEETING DATES

January 15, 1998
February 19,1998
March 19, 1998
April 15, 1998

MEETING DATE: JANUARY 15, 1997

LOG OF FILINGS

RULES SUBMITTED: NOVEMBER 20, 1997 THROUGH DECEMBER 20, 1997

AGENCY/DIVISION	RULE NAME	RULE	ACTION
DHHS			
	Rate Setting Methods	10 NCAC 1B .0501	Adopt
	Cost Reporting	10 NCAC 1B .0502	Adopt
DHHS/MEDICAL CARE COMMISSION			
	Ambulance and Basic Life Support	10 NCAC 3D .0801	Amend
	Certified EMT Instructor	10 NCAC 3D .0802	Amend
	Approved Teaching Institution	10 NCAC 3D .0803	Amend
	Office of Emergency Medical Services	10 NCAC 3D .0805	Amend
	Medical Crew Member	10 NCAC 3D .0806	Repeal
	Interior Dimensions	10 NCAC 3D .0901	Amend
	Inspection Certificate	10 NCAC 3D .0902	Repeal
	Vehicle Body	10 NCAC 3D .0904	Amend
	Oxygen Cylinders	10 NCAC 3D .0905	Repeal
	Doors	10 NCAC 3D .0907	Repeal
	Windows	10 NCAC 3D .0908	Repeal
	Rear-View Mirror	10 NCAC 3D .0909	Repeal
	Spare Tire	10 NCAC 3D .0911	Repeal
	Permit	10 NCAC 3D .0913	Amend
	Ambulance Lettering	10 NCAC 3D .0915	Amend
	General Ambulance Requirements	10 NCAC 3D .0916	Amend
	Equipment	10 NCAC 3D .0917	Repeal
	Linen	10 NCAC 3D .0918	Repeal
	Medical Supplies	10 NCAC 3D .0919	Repeal

Pillows and Mattresses	10 NCAC 3D .0920	Repeal
Soiled Supplies	10 NCAC 3D .0921	Repeal
Surfaces	10 NCAC 3D .0922	Repeal
Blankets and Hand Towels	10 NCAC 3D .0923	Repeal
Implements Inserted in Nose	10 NCAC 3D .0924	Repeal
Infectious Disease	10 NCAC 3D .0925	Amend
Storage	10 NCAC 3D .0926	Repeal
Medical and Related Equipment	10 NCAC 3D .1001	Amend
Extrication and Access Equipment	10 NCAC 3D .1002	Amend
Other Equipment	10 NCAC 3D .1003	Amend
Weapons	10 NCAC 3D .1004	Amend
Equipment	10 NCAC 3D .1103	Amend
Criteria for Certified EMT	10 NCAC 3D .1202	Amend
Educational Programs	10 NCAC 3D .1203	Amend
Aeromedical Flight Crew	10 NCAC 3D .1204	Amend
Medical Responder Performance	10 NCAC 3D .1205	Amend
Emergency Medical Technician	10 NCAC 3D .1206	Amend
Certification Requirements	10 NCAC 3D .1301	Amend
Certification Requirements	10 NCAC 3D .1302	Amend
License, Permit or Certification Denial	10 NCAC 3D .1401	Amend
Application Procedures	10 NCAC 3D .1403	Amend
Mobile Intensive Care Unit II	10 NCAC 3M .0105	Repeal
Mobile Intensive Care Unit II	10 NCAC 3M .0205	Repeal

DHHS/DIVISION OF MEDICAL ASSISTANCE

Disproportionate Share	10 NCAC 26H .0213	Amend

JUSTICE/NC SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

Development of Programs	12 NCAC 10B .0109	Amend
Certification	12 NCAC 10B .0401	Amend
Probationary Certification	12 NCAC 10B .0403	Amend
Evaluation	12 NCAC 10B .0505	Amend
Detention Officer Certification	12 NCAC 10B .0601	Amend
Time/Req Completion	12 NCAC 10B .0602	Amend
Evaluation for Training Waiver	12 NCAC 10B .0603	Amend
Purpose	12 NCAC 10B .0701	Amend
Purpose	12 NCAC 10B .1001	Amend
General Provisions	12 NCAC 10B .1002	Amend
Purpose	12 NCAC 10B .1101	Amend
General Provisions	12 NCAC 10B .1102	Amend
Purpose	12 NCAC 10B .1201	Amend
General Provisions	12 NCAC 10B .1202	Amend
Purpose	12 NCAC 10B .2001	Amend

DENR/ENVIRONMENTAL MANAGEMENT COMMISSION

Definitions	15A NCAC 2B .0202	Amend
Neuse River Basin	15A NCAC 2B .0232	Adopt
Neuse River Basin	15A NCAC 2B .0233	Adopt
Neuse River Basin	15A NCAC 2B .0234	Adopt
Neuse River Basin	15A NCAC 2B .0235	Adopt
Neuse River Basin	15A NCAC 2B .0236	Adopt
Neuse River Basin	15A NCAC 2B .0238	Adopt
Neuse River Basin	15A NCAC 2B .0239	Adopt
French Broad River Basin	15A NCAC 2B .0304	Amend
Broad River Basin	15A NCAC 2B .0306	Amend
New River Basin	15A NCAC 2B .0307	Amend
Catawba River Basin	15A NCAC 2B .0308	Amend

Yadkin River Basin	15A NCAC 2B .0309	Amend
Cape Fear River Basin	15A NCAC 2B .0311	Amend
Tar-Pamlico River Basin	15A NCAC 2B .0316	Amend
Pasquotank River Basin	15A NCAC 2B .0317	Amend
Definitions	15A NCAC 2D .0101	Amend
Incorporation by Reference	15A NCAC 2D .0104	Amend
Mailing List	15A NCAC 2D .0105	Amend
Registration	15A NCAC 2D .0202	Amend
Episode Criteria	15A NCAC 2D .0302	Amend
Sources in Nonattainment Areas	15A NCAC 2D .0531	Amend
Vapor Return Piping	15A NCAC 2D .0953	Amend
Measurement	15A NCAC 2D .1005	Amend
Multiple Facilities	15A NCAC 2D .1107	Amend
Reporting and Recordkeeping	15A NCAC 2D .1204	Amend
Operational Standards	15A NCAC 2D .1206	Amend
Measurement and Enforcement	15A NCAC 2D .1305	Amend
Transportation Conformity Determination	15A NCAC 2D .1503	Amend
General Conformity Determination	15A NCAC 2D .1603	Amend
Definitions	15A NCAC 2D .1701	Adopt
Applicability	15A NCAC 2D .1702	Adopt
Emission Standards	15A NCAC 2D .1703	Adopt
Test Methods	15A NCAC 2D .1704	Adopt
Operational Standards	15A NCAC 2D .1705	Adopt
Compliance Provisions	15A NCAC 2D .1706	Adopt
Monitoring Provisions	15A NCAC 2D .1707	Adopt
Reporting Requirements	15A NCAC 2D .1708	Adopt
Recordkeeping Requirements	15A NCAC 2D .1709	Adopt
Compliance Schedules	15A NCAC 2D .1710	Adopt
Definitions	15A NCAC 2D .1902	Amend
Permissible Open Burning	15A NCAC 2D .1903	Amend
Definitions	15A NCAC 2Q .0103	Amend
Delegation of Authority	15A NCAC 2Q .0108	Amend
Annual Emissions Reporting	15A NCAC 2Q .0207	Amend
Public Participation Procedures	15A NCAC 2Q .0307	Amend
Public Participation	15A NCAC 2Q .0521	Amend
Grain Elevators	15A NCAC 2Q .0805	Amend
Cotton Gins	15A NCAC 2Q .0806	Amend
Emergency Generators	15A NCAC 2Q .0807	Amend

DENR/MARINE FISHERIES COMMISSION

Definitions	15A NCAC 3I .0101	Amend
Fishery Resource Grant	15A NCAC 3I .0117	Amend
Gill Nets	15A NCAC 3J .0103	Amend
Trawl Nets	15A NCAC 3J .0104	Amend
New River	15A NCAC 3J .0208	Adopt
Crab, Eel, Fish & Shrimp Pots	15A NCAC 3J .0301	Amend
Flounder	15A NCAC 3M .0503	Amend
Snapper-Grouper	15A NCAC 3M .0506	Amend
Protection of Private Shellfish	15A NCAC 3O .0211	Amend

DENR/WILDLIFE RESOURCES COMMISSION

Granville, Vance & Warren Counties	15A NCAC 10F .0311	Amend
Mecklenburg and Gaston Counties	15A NCAC 10F .0333	Amend
Graham County	15A NCAC 10F .0360	Amend

DENR/RADIATION PROTECTION COMMISSION

Definitions	15A NCAC 11 .0104	Amend

Federal Rules Incorporated	15A NCAC 11 .0117	Amend
Purpose and Scope	15A NCAC 11 .0301	Amend
Expiration and Termination	15A NCAC 11 .0339	Amend
Renewal of Licenses	15A NCAC 11 .0340	Amend
Financial Assurance	15A NCAC 11 .0353	Amend
Release of Patients	15A NCAC 11 .0358	Adopt
Purpose and Scope	15A NCAC 11 .0401	Repeal
Radiation Dose	15A NCAC 11 .0402	Repeal
Determination of Prior Dose	15A NCAC 11 .0403	Repeal
Concentrations	15A NCAC 11 .0404	Repeal
Exposure of Minors	15A NCAC 11 .0405	Repeal
Permissible Levels	15A NCAC 11 .0406	Repeal
Concentration in Effluents	15A NCAC 11 .0407	Repeal
Bioassay Services	15A NCAC 11 .0408	Repeal
Surveys	15A NCAC 11 .0409	Repeal
Personnel Monitoring	15A NCAC 11 .0410	Repeal
Caution Signs	15A NCAC 11 .0411	Repeal
Exceptions from Posting	15A NCAC 11 .0412	Repeal
Instruction of Personnel	15A NCAC 11 .0413	Repeal
Storage of Sources	15A NCAC 11 .0414	Repeal
Picking Up	15A NCAC 11 .0415	Repeal
Waste Disposal	15A NCAC 11 .0416	Repeal
Records	15A NCAC 11 .0417	Repeal
Reports of Theft or Loss	15A NCAC 11 .0418	Repeal
Notification of Incidents	15A NCAC 11 .0419	Repeal
Overexposures and Excessive Levels	15A NCAC 11 .0420	Repeal
Vacating Premises	15A NCAC 11 .0421	Repeal
Notification and Reports	15A NCAC 11 .0422	Repeal
Reference Concentrations	15A NCAC 11 .0423	Repeal
Reference for Labeling	15A NCAC 11 .0424	Repeal
Classification	15A NCAC 11 .0425	Repeal
Radioactive Waste Characteristics	15A NCAC 11 .0426	Repeal
Labeling	15A NCAC 11 .0427	Repeal
Transfer of Radioactive Waste	15A NCAC 11 .0428	Repeal
Purpose and Scope	15A NCAC 11 .1601	Amend
Radiation Protection Programs	15A NCAC 11 .1603	Amend
Dose Limits	15A NCAC 11 .1611	Amend
Use of Individual Equipment	15A NCAC 11 .1620	Amend
Reports of Radiation	15A NCAC 11 .1647	Amend

DENR/COMMISSION FOR HEALTH SERVICES

Continuing Education	15A NCAC 18A .2306	Amend
Definitions	15A NCAC 18A .2601	Amend
Permits	15A NCAC 18A .2602	Amend
Public Display	15A NCAC 18A .2603	Amend
Inspections	15A NCAC 18A .2604	Amend
Inspection Forms	15A NCAC 18A .2605	Amend
Grading	15A NCAC 18A .2606	Amend
Standards	15A NCAC 18A .2607	Amend
Sources of Food	15A NCAC 18A .2608	Amend
Refrigeration	15A NCAC 18A .2609	Amend
Storage	15A NCAC 18A .2610	Amend
Shellfish	15A NCAC 18A .2612	Amend
Barbeque Places	15A NCAC 18A .2613	Amend
Outdoor Dining	15A NCAC 18A .2614	Amend
Milk and Milk Products	15A NCAC 18A .2615	Amend
Requirements	15A NCAC 18A .2616	Amend

Utensils and Equipment	15A NCAC 18A .2617	Amend
Cleaning of Equipment	15A NCAC 18A .2618	Amend
Storage and Handling	15A NCAC 18A .2620	Amend
Drinking Water Facilities	15A NCAC 18A .2621	Amend
Storage	15A NCAC 18A .2622	Amend
Water Supply	15A NCAC 18A .2623	Amend
Toilet Facilities	15A NCAC 18A .2624	Amend
Disposal of Waste	15A NCAC 18A .2626	Amend
Floors	15A NCAC 18A .2627	Amend
Walls and Ceilings	15A NCAC 18A .2628	Amend
Lighting	15A NCAC 18A .2630	Amend
Storage Spaces	15A NCAC 18A .2632	Amend
Premises	15A NCAC 18A .2633	Amend
General Requirements	15A NCAC 18A .2638	Amend
Informal Review Process	15A NCAC 18A .2643	Amend

NC STATE BOARD OF COMMUNITY COLLEGES

Definitions	23 NCAC 1A .0001	Amend
Educational Guarantee	23 NCAC 2C .0108	Amend
Faculty	23 NCAC 2C .0202	Amend
Purchase Computer Hardware	23 NCAC 2C .0207	Amend
Education Services for Minors	23 NCAC 2C .0305	Amend
Program Review	23 NCAC 2C .0604	Repeal
Civil Rights	23 NCAC 2C .0701	Amend
Educational Leave with Pay	23 NCAC 2D .0103	Amend
Authority to Establish Tuition	23 NCAC 2D .0201	Amend
Curriculum	23 NCAC 2D .0202	Amend
Extension Programs	23 NCAC 2D .0203	Amend
Operating Budget Requests	23 NCAC 2D .0301	Amend
Reporting of Student Hours	23 NCAC 2D .0323	Amend
Reporting of Student Hours	23 NCAC 2D .0324	Amend
Reporting Student Membership Hours	23 NCAC 2D .0327	Amend
Program Classification	23 NCAC 2E .0101	Amend
Curriculum Programs	23 NCAC 2E .0102	Repeal
Curriculum Program Approvals	23 NCAC 2E .0201	Amend
Standards	23 NCAC 2E .0203	Repeal
Courses and Standards	23 NCAC 2E .0204	Amend
Program Review	23 NCAC 2E .0205	Amend
Articulation	23 NCAC 2E .0501	Amend
Collaborative Agreements	23 NCAC 2E .0604	Amend

RULES REVIEW OBJECTIONS

COMMERCE

Community Assistance

4 NCAC 19L .0401 - General	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
4 NCAC 19L .0404 - Grant Category Allocation	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
4 NCAC 19L .0505 - Selection Criteria	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
4 NCAC 19L .0707 - Eligibility Requirements	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
4 NCAC 19L .0708 - Selection Criteria	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*

4 NCAC 19L .0911 - Recordkeeping	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
4 NCAC 19L .1009 - Housing Rehabilitation	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
4 NCAC 19L .1011 - Lead-Based Paint	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
4 NCAC 19L .1303 - Selection Criteria	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
4 NCAC 19L .1703 - Selection Criteria	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
4 NCAC 19L .1804 - Size of Loan Approvals	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
4 NCAC 19L .1805 - Selection Criteria	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Coastal Resources Commission

15A NCAC 7H .1104 - General Conditions	*RRC Objection*	*11/20/97*
Agency Revised Rule	*RRC Objection*	*12/18/97*
15A NCAC 7H .1304 - General Conditions	*RRC Objection*	*11/20/97*
Agency Revised Rule	*RRC Objection*	*12/18/97*
15A NCAC 7H .1404 - General Conditions	*RRC Objection*	*11/20/97*
Agency Revised Rule	*RRC Objection*	*12/18/97*
15A NCAC 7H .1504 - General Conditions	*RRC Objection*	*11/20/97*
Agency Revised Rule	*RRC Objection*	*12/18/97*
15A NCAC 7H .1704 - General Conditions	*RRC Objection*	*11/20/97*
Agency Revised Rule	*RRC Objection*	*12/18/97*
15A NCAC 7H .1804 - General Conditions	*RRC Objection*	*11/20/97*
Agency Revised Rule	*RRC Objection*	*12/18/97*
15A NCAC 7H .1904 - General Conditions	*RRC Objection*	*11/20/97*
Agency Revised Rule	*RRC Objection*	*12/18/97*
15A NCAC 7H .2004 - General Conditions	*RRC Objection*	*11/20/97*
Agency Revised Rule	*RRC Objection*	*12/18/97*
15A NCAC 7H .2104 - General Conditions	*RRC Objection*	*11/20/97*
Agency Revised Rule	*RRC Objection*	*12/18/97*
15A NCAC 7M .0303 - Policy Statements	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*

Environmental Management

15A NCAC 2L .0115 - Risk-Based Assmnt/Corr Action/Petro Underground Strge Tanks	*RRC Objection*	*12/18/97*
15A NCAC 2N .0707 - Corrective Action Plan	*RRC Objection*	*12/18/97*

Health Services

15A NCAC 18A .1938 - Responsibilities	*RRC Objection*	*10/16/97*
Agency Revised Rule	*Obj. Removed*	*11/20/97*
15A NCAC 18A .1958 - Non-Ground Absorption Sewage Treatment Systems	*RRC Objection*	*10/16/97*
Agency Revised Rule	*Obj. Removed*	*11/20/97*

Soil and Water Conservation

15A NCAC 6E .0104 - Best Management Practices Eligible for Cost Share Payments	*RRC Objection*	*10/16/97*
Agency Responded	*Obj. Cont'd*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
15A NCAC 6E .0105 - Cost Share and Incentive Payments	*RRC Objection*	*10/16/97*
Agency Responded	*Obj. Cont'd*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*

Water Pollution Controls Systems

15A NCAC 8F .0201 - Duties and Requirements of Owners	*RRC Objection*	*09/18/97*
No Response from Agency	*Obj. Cont'd*	*10/16/97*
Agency Revised Rule	*Obj. Removed*	*11/20/97*
15A NCAC 8F .0203 - Duties and Requirements of an Operator in Charge	*RRC Objection*	*09/18/97*
No Response from Agency	*Obj. Cont'd*	*10/16/97*
Agency Revised Rule	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*

HUMAN RESOURCES

Facility Services

10 NCAC 3D .2001 - Definitions	*RRC Objection*	*10/16/97*
Agency Revised Rule	*Obj. Removed*	*11/20/97*
10 NCAC 3D .2101 - Level I Trauma Center Criteria	*RRC Objection*	*10/16/97*
Agency Revised Rule	*Obj. Removed*	*11/20/97*
10 NCAC 3D .2102 - Level II Trauma Center Criteria	*RRC Objection*	*10/16/97*
Agency Revised Rule	*Obj. Removed*	*11/20/97*
10 NCAC 3D .2105 - Initial Designation Process	*RRC Objection*	*10/16/97*
Agency Revised Rule	*Obj. Removed*	*11/20/97*
10 NCAC 3D .2106 - Renewal Designation Process	*RRC Objection*	*10/16/97*
Agency Revised Rule	*Obj. Removed*	*11/20/97*
10 NCAC 3D .2201 - Denial, Probation, Vol. Withdrawal/Rev/Trauma Ctr Designation	*RRC Objection*	*10/16/97*
Agency Revised Rule	*Obj. Removed*	*11/20/97*
10 NCAC 3D .2303 - Regional Trauma System Policy Development	*RRC Objection*	*10/16/97*
Agency Revised Rule	*Obj. Removed*	*11/20/97*
10 NCAC 3R .3073 - Dem/Proj/Pediatric Nursing Care Need Deter. (Review Cat. G)	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
10 NCAC 3R .3074 - Home Health Agcy Off. Need Determination (Review Cat. F)	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
10 NCAC 3R .3081 - Policies for Inpatient Rehabilitation Services	*RRC Objection*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*

PUBLIC INSTRUCTION

16 NCAC 6C .0307 - Certificate Renewal	*RRC Objection*	*10/16/97*
No Response from Agency	*Obj. Cont'd*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
16 NCAC 6D .0103 - Graduation Requirements	*RRC Objection*	*10/16/97*
No Response from Agency	*Obj. Cont'd*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
16 NCAC 6D .0301 - Testing Requirements and Opportunities	*RRC Objection*	*10/16/97*
No Response from Agency	*Obj. Cont'd*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
16 NCAC 6G .0305 - End-of-Course Tests	*RRC Objection*	*10/16/97*
No Response from Agency	*Obj. Cont'd*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
16 NCAC 6G .0306 - Testing Code of Ethics	*RRC Objection*	*10/16/97*
No Response from Agency	*Obj. Cont'd*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
16 NCAC 6G .0307 - Assistance Teams	*RRC Objection*	*10/16/97*
No Response from Agency	*Obj. Cont'd*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*
16 NCAC 6G .0308 - Due Process Protections	*RRC Objection*	*10/16/97*
No Response from Agency	*Obj. Cont'd*	*11/20/97*
Agency Revised Rule	*Obj. Removed*	*12/18/97*

SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

21 NCAC 64 .1002 - General Requirements	*RRC Objection*	*11/20/97*
No Response from Agency	*Obj. Cont'd*	*12/18/97*
21 NCAC 64 .1004 - Authorized Tasks of Speech-Language Pathology Assistants	*RRC Objection*	*11/20/97*
No Response from Agency	*Obj. Cont'd*	*12/18/97*

STATE OF NORTH CAROLINA

COUNTY OF PASQUOTANK

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
96 OSP 0254

MICHAEL MCKIMMEY, Petitioner, v. DEPARTMENT OF CORRECTION, Respondent.	)))))))))	RECOMMENDED DECISION

This matter came on for hearing before the undersigned administrative law judge on September 2 and 3, 1997, in Elizabeth City. The petitioner was represented by D. Keith Teague and Danny Glover, Jr. The respondent was represented by Joan Herre Erwin and Elizabeth Parsons. The respondent presented ten witnesses and introduced Exhibits #1 - 28 and 32 - 36. The petitioner presented two witnesses and introduced Exhibits #1 - 19. The transcript was delivered to the petitioner on November 10, 1997. The petitioner submitted his proposed recommended decision on December 10, 1997.

ISSUE

Did the respondent have just cause to dismiss the petitioner?

FINDINGS OF FACT

1. The Division of Adult Probation and Parole ("DAPP") is a part of the Department of Correction.

2. The petitioner began working for DAPP as a Probation/Parole Officer ("P/PO") in the First Judicial District and was assigned to the Dare County office in Manteo, on January 2, 1994. He remained so employed until November 20, 1995, the date of his dismissal.

3. The petitioner worked in Dare, Currituck and Camden Counties.

4. The petitioner's immediate supervisor, Chief P/PO Jake McClease, was dismissed one week after the petitioner was employed.

5. Intensive Officer ("I/O") Jimmie Brickhouse assumed supervision of the day to day operations of the office after McClease was dismissed.

6. I/O Brickhouse's temporary management duties did not include personnel matters and did not include training the petitioner.

7. During the time in which he acted as supervisor of the petitioner's office, I/O Brickhouse's office was located elsewhere. I/O Brickhouse would stop by the petitioner's office periodically to sort mail and attempt to keep things flowing.

8. Prior to assuming these supervision responsibilities, I/O Brickhouse had no supervisory experience.

9. After McClease was dismissed, the Manteo office was in "total chaos."

10. The petitioner was without a direct supervisor from January, 1994, until September, 1994, when Fay Boyd was hired as the petitioner's Chief P/PO.

11. Fay Boyd remained the petitioner's Chief P/PO From September, 1994, until the date of the petitioner's dismissal.

12. The petitioner carried a full caseload of approximately 55 parole cases.

13. During the period of time in which he was without a direct supervisor, the petitioner was instructed to call his Judicial District Manager ("JDM"), Roy Daniels, if he had questions concerning his parole caseload.

14. The petitioner's office was located in Manteo and Roy Daniels' office was located in Elizabeth City - approximately 70 miles from Manteo.

15. Roy Daniels was promoted to JDM two months before the petitioner was employed.

16. Prior to becoming JDM, Roy Daniels had no supervisory experience.

17. As JDM, Roy Daniels was responsible for 21 people in seven counties. He also continued to supervise 125 parole cases.

18. Prior to being promoted to Chief P/PO, Fay Boyd had no supervisory experience, had not been given any manuals pertaining to supervision, and had not received any supervisory training.

19. Prior to becoming the petitioner's direct supervisor, Fay Boyd's experience with parole cases was limited to three cases.

20. After being promoted to Chief P/PO, she had "her hands full trying to supervise." She "could not do everything she was told to do." She was so concerned that she discussed her problems with JDM Roy Daniels on several occasions.

21. JDM Roy Daniels responded by saying that he had his hands full also and instructed her to do the best she could.

22. During the period of the petitioner's employment, the respondent never provided a complete Parole Manual to the petitioner.

23. Approximately two months after the petitioner was employed, JDM Roy Daniels did provide the petitioner four chapters of the Parole Manual (Chapter 3 - "Investigations"; Chapter 5 - "Supervision"; Chapter 6 - "Interstate Compact Services"; and Chapter 7 - "Violation and Revocation"). The petitioner made copies for his use.

24. Six months after beginning work for the respondent, the petitioner attended DAPP's Basic Probation and Parole Academy in Salemburg, from June 6, 1994, through July 1, 1994.

25. The petitioner attended Course 318, "Parole Violation and Revocations," a four semester course including one hour of lecture and three hours of practical skills which covered, among other things, the duty of a parole officer to file a DAPP-1B ("Offense Report") after learning that a parolee under his supervision has committed a criminal offense, including an assault on a female.

26. A DAPP-1B is a report which a P/PO uses to advise the Parole Commission that a parolee under his supervision has committed a criminal offense in contravention of the parolee's parole agreement.

27. DAPP's policy concerning the filing of a DAPP-1B was set forth in the dismissal letter:

> Upon receipt of information that a parolee is suspected of violating his parole, the officer must initiate a complete and accurate investigation to determine whether there is validity in the charge . . . . If the parolee has been arrested and charged with an offense it is the duty of the officer to ascertain all of the facts about the violation from the police or other persons, and to interview the parolee for his version . . . . The officer's chief role, however, is to investigate and report violations of parole to the Parole Commission which has the final decision making authority in revocation matters . . . .The DAPP-1B "Offense Report" is to be submitted each time a parolee is charged with the following: all assaultive and sex related offenses, all felony offenses, and all alcohol and drug related driving offenses. A subsequent DAPP-1B must also be submitted on these cases when the disposition of the charge is determined.

28. It is DAPP's policy that the P/PO submit a DAPP-1B within 30 calendar days after it is learned that a parolee under supervision has been charged with an assaultive criminal violation.

29. JDM Roy Daniels told the petitioner that he did not have to submit a DAPP-1B on all misdemeanor charges because, if he did, he would never get all of his field work done.

30. To submit a DAPP-1B, the P/PO mails the DAPP-1B to the DAPP Supervision Office in Raleigh. Upon its receipt of such, the DAPP Supervision Office then mails the DAPP-1B to the Parole Commission Office.

31. After submitting a DAPP-1B, a P/PO does nothing further with respect to the underlying criminal charge until a court disposition of the criminal charge is made or unless he receives further instructions from the Parole Commission, whichever occurs first.

32. If after receiving a DAPP-1B the Parole Commission wishes to issue a parole warrant, it mails the DAPP Supervision Office a request for a PC-14.

33. A PC-14 is a report which a P/PO uses to advise the Parole Commission that a parolee under his supervision has violated his parole and upon which the P/PO makes a recommendation that the Parole Commission issue a parole warrant.

34. I/O Brickhouse, who had over six years experience as a P/PO, has never received a parole warrant after only filing a DAPP-1B.

35. Ray Griggs, a P/PO from Currituck County who had over eleven years experience as a P/PO, has never received a parole warrant after only filing a DAPP-1B.

36. Charles Mann, Sr., a member of the Parole Commission who had reviewed over 50,000 parole cases, testified that the Parole Commission does not issue a warrant based solely on the filing of a DAPP-1B.

37. The Parole Commission has discretion as to whether to request a PC-14 from the P/PO after receiving a DAPP-1B. Prior to the date of the petitioner's dismissal, there was no statutory time limit in which the Parole Commission, after receiving a DAPP-1B, could request a PC-14.

38. Upon receipt of the request for a PC-14 from the Parole Commission, the DAPP Supervision Office mails the request for a PC-14 to the P/PO. The P/PO then completes the PC-14 and mails it to the DAPP Supervision Office. The DAPP Supervision Office mails the PC-14 to the Parole Commission.

39. Upon receipt of the PC-14, the Parole Commission has discretion to issue or not to issue a parole warrant. Prior to the date of the petitioner's dismissal, there was no statutory time limit in which the Parole Commission, after receiving a PC-14, could issue a parole warrant.

40. In all of the cases in which the petitioner had filed a DAPP-1B as a result of misdemeanor charges, the Parole Commission had never requested additional information or issued a warrant. The Commission had only instructed him to continue supervision of the case pending the outcome of the case in Court.

41. A "collateral contact" is a contact with any person, source or agency other than the parolee.

42. A collateral contact to determine possible criminal acts includes checking court records, NCIC checks, PIN checks, speaking to law enforcement officials, and speaking to relatives, friends or associates of the parolee.

43. Prior to January 1, 1995, DAPP policy stated that a P/PO must make a collateral contact every 20 working days to determine possible criminal acts committed by the parolee.

44. After January 1, 1995, DAPP policy was revised so that a P/PO must make a collateral contact every 30 calendar days to determine possible criminal acts committed by the parolee.

45. A DAPP-9 is a non-computerized, hand-written narrative journal in which a P/PO logs every activity which occurs in a parole case.

46. DAPP policy states that if an activity is not recorded in the narrative summary, then the contact is treated as if it never occurred.

47. A DAPP-1 is a data entry sheet which contains biographical information on a parolee.

48. DAPP policy states that a DAPP-1 is to be forwarded to the DAPP Supervision Office in Raleigh within five working days of a parolee's release from prison.

49. If a DAPP-1 is not forward to the DAPP Supervision Office, the parole file is not entered on the DAPP central computer.

50. If the parole file is not entered on the DAPP central computer, the file will not appear on the periodic case review sheet of the Chief P/PO.

51. If a parole file does not appear on the Chief P/PO's case review sheet, the file will not be periodically reviewed by the Chief P/PO as it would be if the case appeared on the case review sheet.

52. The parole case of Donovan Ault, a.k.a. Ivan Lovell, ("Ault") was classified as a high risk case.

53. DAPP policy states that high risk cases are to be periodically reviewed by the Chief P/PO once every six months.

54. Prior to the petitioner's dismissal, there was no system, other than the Chief P/PO's case review sheet, by which the Chief P/PO could track or monitor high risk cases.

55. An "absconder warrant" is an arrest warrant issued by the Parole Commission in cases in which a parolee has left the state without permission.

56. Ault was first committed to the Department of Correction on September 27, 1989, after being convicted on three felony charges involving cocaine.

57. Ault was later committed a second time to the Department of Correction on additional cocaine charges.

58. Ault's second sentence was for 10 years. He only served approximately one year before being paroled by the Parole Commission.

59. On June 6, 1994, Carolyn Thomas, the parole coordinator for the petitioner's branch, contacted I/O Brickhouse to coordinate the parole of Ault.

60. I/O Brickhouse facilitated the parole release of Ault and supervised Ault until June 17, 1994.

61. I/O Brickhouse failed to submit a DAPP-1 concerning the Ault file to the Parole Commission.

62. The Ault file was not placed in the DAPP computer as a result of I/O Brickhouse's failure to submit a DAPP-1.

63. I/O Brickhouse was disciplined by the respondent for failing to submit the DAPP-1.

64. On July 6, 1994, the petitioner assumed supervision of Ault.

65. From July 6, 1994, until the date of his dismissal, the petitioner was Ault's parole officer.

66. On April 3, 1995, the petitioner requested an absconder warrant for Ault. Ault had previously requested to have his parole transferred to New York. However, he failed to report to his approved New York residence.

67. On April 24, 1995, the petitioner received the absconder warrant from the Parole Commission.

68. Thereafter, the petitioner made several unsuccessful attempts to contact Ault by telephone in order to serve the parole warrant on Ault.

69. On June 5, 1995, the petitioner delivered the absconder warrant to the Dare County Detention Center so that law enforcement officials could serve the warrant upon Ault.

70. On June 12, 1995, prior to being served with the absconder warrant, Ault appeared in the petitioner's office.

71. The petitioner immediately took Ault to the Dare County Detention Center for service of the warrant upon him.

72. The petitioner then contacted the Parole Commission and notified them that he had arrested Ault. He also called the Extradition Office to inform them of the arrest.

73. Prior to any preliminary hearing, the Parole Commission rescinded the absconder warrant and released Ault from custody on June 20, 1995.

74. On May 15, 1995, the petitioner's Chief P/PO, Fay Boyd, knew that a DAPP-1 had not been filed in the Ault file.

75. Boyd also knew on May 15, 1995, that she had never conducted a review of the Ault file because no DAPP-1 had been filed. Therefore, she should have known that the file would not have appeared on her periodic case review sheet.

76. Boyd failed to conduct a review of the Ault file on May 15, 1995, or at anytime thereafter prior to the murder of the Maryland State Trooper.

77. Boyd was disciplined by the respondent for failing to periodically review the Ault file as required by DAPP policy.

78. The petitioner submitted the DAPP-1 in the Ault file on May 25, 1995.

79. The disciplinary action taken against the petitioner was not based upon his failure to submit a DAPP-1.

80. During the week of August 20, 1995, the petitioner was notified by law enforcement officials that Ault had been charged with one count of assault with a deadly weapon against Lumis Spruill (95 CR 4517).

81. Prior to August 20, 1995, Ault had never been charged with any criminal violations involving violence or assaultive behavior.

82. On August 24, 1995, the petitioner personally brought Ault to Lt. Col. Williams' office to facilitate service upon Ault of the warrant in 95 CR 4517.

83. Lt. Col. Williams informed the petitioner that the Ault/Spruill situation was one in which there were cross-warrants, i.e., both individuals had pressed charges against the other.

84. The same day, the petitioner escorted Ault to the Dare County Detention Center where the warrant in 95 CR 4517 was served upon Ault.

85. A Magistrate released Ault on bond pending the trial on that charge.

86. The petitioner failed to report any of the activity related to the Ault/Spruill matter in the Ault narrative summary.

87. The petitioner did not file a DAPP-1B for 95 CR 4517.

88. The petitioner did not file a DAPP-1B on the pending charges in 95 CR 4517 because he knew that it was a cross-warrant situation between two reputed drug dealers. He decided to wait until the courts disposed of the charges.

89. The petitioner made personal contact with Ault in Ault's home on August 29, 1995.

90. The petitioner made personal contact with Ault in the petitioner's office on September 7, 1995, when Ault informed him that Ault's ex-girlfriend, Valerie Banks, had him arrested on two counts of assault with a deadly weapon, 95 CR 4518 and 4519, one occurring on September 3, 1995, and the other occurring on September 5, 1995.

91. With respect to 95 CR 4518 and 4519, a Magistrate allowed Ault to go free on bond pending the trial on those charges.

92. The petitioner investigated 95 CR 4518 and 4519 by visually examining Valerie Banks for any bruises or injuries. He looked at Ault's car, which the petitioner understood was one of the alleged deadly weapons. The petitioner did not see any signs of violence on either Valerie Banks or on Ault's car.

93. The petitioner did not file a DAPP-1B on either 95 CR 4518 and 4519.

94. The petitioner did not file a DAPP-1B on the pending charges in 95 CR 4518 and 4519 because he investigated the allegations and found no evidence of violence. He knew that the complainant and Ault had an ongoing child custody/support dispute. His Judicial District Manager had previously informed him that he was not required to submit a DAPP-1B on every misdemeanor charge. In the petitioner's past experience of filing DAPP-1B's on misdemeanor charges, the Parole Commission had always told him to continue supervision pending the court disposition.

95. The petitioner made personal contact with Ault on September 13, 1995, when the petitioner saw and stopped to speak to Ault at the local McDonald's.

96. Previously that day, the petitioner had gone by Ault's home but no one was home.

97. On September 28, 1995, the petitioner attended the scheduled court hearing on the Spruill charge and the Banks charges. The hearings were continued from that day.

98. On October 12, 1995, the petitioner made personal contact with Ault in the petitioner's office.

99. On October 13, 1995, the petitioner made personal contact with Ault in court at a civil hearing involving Valerie Banks.

100. The Ault narrative summary showed no collateral contacts by the petitioner between August and October 13, 1995.

101. Sometime between October 14, 1995, and October 17, 1995, Ault absconded from North Carolina and traveled to Maryland.

102. Prior to Ault's leaving, the petitioner had no knowledge that Ault was planning to leave the state.

103. Prior to Ault's leaving, the petitioner did not issue a travel permit to Ault.

104. On October 17, 1995, Ault shot and killed a Maryland State Trooper.

105. On October 19, 1995, Chief P/PO Boyd reviewed the Ault file and indicated the following in the narrative summary: "File in order. PPO did not give permission to leave state and no travel permit had been issued for this leave."

106. By the next working day following the murder, the Ault situation was a highly-publicized media case.

107. Shortly following the murder, the Secretary of the Department of Correction, Franklin Freeman, and the Chairman of the Parole Commission, Juanita Baker, were summoned to a meeting with Governor Jim Hunt concerning the Ault matter.

108. Immediately following said meeting, Secretary Freeman instructed Theodis Beck, Director of the Division of Adult Probation and Parole, to institute an investigation into the supervision of the parolee Ault.

109. Theodis Beck then gave Sherry Pilkington, Assistant Director of Field Service for the Division of Adult Probation and Parole, a newspaper article on the Ault situation which contained comments written in the margin by Governor Hunt.

110. Pilkington then contacted Roy Daniels. Following his conversation with Pilkington, Daniels sent newspapers articles on the Ault situation to Raleigh because of the high media coverage of the event.

111. Roy Daniels could not name any other parole case in which he had sent similar newspaper articles to Raleigh.

112. Director Beck instructed Pilkington, Woodley Lee, Assistant Director of Field Operations for the Division of Adult Probation and Parole, and Carol Jenkins, legal counsel, to conduct an investigation into the circumstances surrounding the death of the Maryland State Trooper.

113. Following the initial stage of the investigation, the investigation team recommended that the petitioner be dismissed, effective immediately, for grossly inefficient job performance in his supervision of Ault.

114. Based upon the team's recommendation, Director Beck, on behalf of the respondent, decided to dismiss the petitioner.

115. The respondent provided oral and written notice to the petitioner of a Pre-Dismissal Conference to be held in Wilson at 3:00 p.m. on November 15, 1995.

116. The pre-dismissal conference took place as scheduled.

117. The petitioner stipulated that he did not attend the conference because he was informed that it was departmental policy that no party could be represented by counsel at the conference. He did not wish to attend without either his father or his attorney appearing with him.

118. On November 20, 1995, the respondent mailed the petitioner a dismissal letter, advising the petitioner that he was dismissed, effective immediately, for grossly inefficient job performance in the Donovan Ault file.

119. The reasons for the petitioner's dismissal are set forth in the respondent's dismissal letter, which reads as follows:

> On September 7, 1995, according to your narrative entry, the parolee reported to you that his ex-girlfriend had him arrested for multiple charges. According to policy you failed to submit a DAPP-1B, "Offense Report" to the North Carolina Post Release Supervision and Parole Commission for each pending assault charge (AWDW 95 CR 4518 and 4519) within thirty (30) calendar days; the deadline for which would have been October 6, 1995. Additionally, after receiving information from the parolee and your brother, you not only failed to verify the reported pending charges, you also failed to determine if there were any other pending charges by utilizing all available resources which may include Clerk of Court Records, and NCIC (National Crime Information Center) criminal history check.
>
> Moreover, your failure to thoroughly investigate these charges or other possible criminal acts through all available resources, prevented you from discovering a third charge of Assault with a Deadly Weapon (95 CR 4517) which was made by Loomis Ray Spruill, Jr. against the parolee . . . . Additionally, your failure to follow the High Risk Supervision Level minimum requirement to conduct a collateral contact every thirty (30) days to determine possible criminal acts prevented you from discovering the Assault with the Deadly Weapon charge (95 CR 4517) made by Loomis Spruill.
>
> Consequently, the required DAPP-1B "Offense Report" was not provided by you to the North Carolina Post Release Supervision and Parole Commission pursuant to policy and procedures. . . .

120. The petitioner did not receive any warnings prior to his dismissal.

121. Prior to October 1, 1995, a career state employee could not be dismissed without warning for unsatisfactory

job performance.

122. A new rule adopted by the State Personnel Commission regarding grossly inefficient job performance took effect October 1, 1995. The rule allows career state employees to be dismissed without warning for grossly inefficient job performance.

123. Prior to the date of his dismissal, the petitioner was not notified of the change in policy concerning dismissal for job performance without warning.

124. In Chief P/PO Boyd's six years of experience as a P/PO and Chief P/PO, she was not aware of any other P/PO ever being disciplined for failing to file a DAPP-1B or failing to conduct collateral contacts.

125. The investigation team initially recommended that I/O Brickhouse be issued a written warning for, among other things, his failure to file a DAPP-1 within the first five working days of parolee Ault's release.

126. The investigation team initially recommended that Chief P/PO Boyd be issued a written warning for, among other things, her failure to thoroughly review Ault's case materials, her failure to take responsibility for the review of the case materials of parolee Ault semi-annually, and her failure to ensure that a DAPP-1 was completed and forwarded to Data Entry.

127. The investigation team recommended that JDM Daniels receive a coaching/counseling session because, knowing of the lack of parole and supervisory experience of the following persons, he failed to provide supervisory support to Chief P/PO Fay Boyd and I/O Jimmy Brickhouse and he failed to take a more pro-active role in the supervision of the petitioner.

128. The investigation team recommended that Mollie Kreuger be issued a written warning because in June, 1995, when Ault was arrested on the absconder warrant, Kreuger failed to follow procedure by requesting that the absconder warrant against Ault be rescinded.

129. The investigation team concluded that Kreuger's violations of DAPP policy may have had an outcome on the disposition of Ault's parole status.

130. After the decision was made to dismiss the petitioner, the investigative team interviewed Glen Mills, who was in the 1st Prosecutorial District's chain of command.

131. After interviewing Mills, the investigative team changed its recommendations for disciplinary actions as to Chief P/PO Fay Boyd, who ultimately received only a coaching session, and I/O Jimmie Brickhouse, who also received only received a coaching session.

132. In addition, Mollie Kreuger ultimately received no disciplinary action.

133. Prior to the date of the hearing in this matter, the respondent had dismissed fifteen employees for grossly inefficient job performance, all of whom were (1) prison guards who fell asleep while on guard, (2) prison guards who allowed prisoners under their watch to interact with the public, (3) prison guards who physically assaulted inmates, (4) employees who directly damaged or committed malfeasance with state property or funds, (5) nurses who rendered improper medical care to inmates, or (6) a parole officer who, on at least 7 occasions over a four month period, repeatedly and intentionally ignored his supervisor's instructions to set up a parole file on and supervise a particular parolee.

134. Prior to the date of the hearing of this matter, the respondent had disciplined for unsatisfactory job performance, not grossly inefficient job performance, a parole officer who completely failed to supervise a parolee who, after a period of almost two months with no parole supervision whatsoever, committed armed robbery and murder.

CONCLUSIONS OF LAW

1. The petitioner is a career state employee subject to the State Personnel Act.

2. It is irrelevant that prior to being dismissed the petitioner did not know of the new rule allowing dismissal without warning for grossly inefficient job performance. The petitioner had no due process or contract right to be informed of

the new rule.

3. The respondent may dismiss the petitioner only for just cause.

4. Just cause includes grossly inefficient job performance.

5. Dismissal for grossly inefficient job performance may occur without any prior disciplinary action.

6. Grossly inefficient job performance is defined as "[a] type of unsatisfactory job performance that occurs in instances in which the employee: fails to satisfactorily perform job requirements as specified in the job description, work plan, or as directed by the management of the work unit or agency and that failure results in: (1) the creation of the potential for death or serious bodily injury to an employee(s) or to members of the public or to a person(s) over whom the employee has responsibility or (2) the loss of or damage to state property or funds that results in a serious impact on the State or work unit."

7. Since the date of the adoption of the rule concerning "grossly inefficient job performance," the respondent has dismissed employees for "grossly inefficient job performance" only in situations in which an employee's failure to perform satisfactorily has been the direct or proximate cause of the potential for death or serious bodily injury.

8. The Ault narrative summary does not indicate that the petitioner conducted any collateral contacts between August to October 13, 1995. However, the dismissal letter addressed the issue of collateral contacts as follows:

> You also failed to determine if there were any other pending charges by utilizing all available resources which may include Clerk of Court Records and NCIC (National Crime Information Center) criminal records check. Moreover, your failure to thoroughly investigate these charges or other possible criminal acts through all available resources prevented you from discovering a third charge of Assault with a Deadly Weapon (95 CR 4517) which was made by Loomis Ray Spruill, Jr. against the parolee. . . . Additionally your failure to follow the High Risk Supervision Level minimum requirement to conduct a collateral contact every thirty (30) calendar days to determine possible criminal acts prevented you from discovering the Assault with the Deadly Weapon charge (95 CR 4517) made by Loomis Spruill. . . .

The undisputed evidence is that the petitioner knew of 95 CR 4517 at the end of August, 1995. Therefore, despite the fact that the narrative summaries do not reflect any collateral contacts, any failure to conduct collateral contacts did not result in the creation of the potential for death or serious bodily injury because the undisputed evidence showed the petitioner knew all of the information which conducting collateral contacts would have revealed. Therefore, any failure by the petitioner to conduct collateral contacts was not the proximate cause of the Maryland State Trooper's death.

9. Although the petitioner did not file DAPP-1B's on 95 CR 4818 and 4819, the petitioner set forth reasonable explanations for his failure to do so. Therefore, this failure was not grossly inefficient job performance. However, the petitioner's failure to submit a DAPP-1B on 95 CR 4517 was a failure to satisfactorily perform job requirements as specified in his job description, work plan, or as directed by the management of the work unit or agency.

10. The petitioner's failure to submit the DAPP-1B's on Ault's three pending charges did not result in the creation of the potential for death or serious bodily injury because there is no evidence that the Parole Commission would have revoked Ault's parole even had the petitioner filed the DAPP-1B's. To the contrary, the evidence was that even had the petitioner filed the DAPP-1Bs, the Parole Commission would then have had discretion as to whether to request a PC-14. Once the PC-14 was returned , the Parole Commission would then have had discretion whether to issue a parole warrant. In addition, the testimony of the parole officer witnesses, including the petitioner, was that the Parole Commission did not issue parole warrants upon the filing of DAPP-1B's on misdemeanor charges. Moreover, the investigative team found that the failure to perform job requirements by several other employees, including Mollie Kreuger, Fay Boyd and Jimmie Brickhouse, may have directly affected Ault's parole status. The Parole Commission decisions to release Ault from incarceration on two separate occasions negate the causal connection between the petitioner's failure to act and the potential for death or serious bodily injury. Therefore, the petitioner's failures to file DAPP-1B's did not constitute grossly inefficient job performance.

11. Since the petitioner was not grossly inefficient in his job performance, the respondent lacked just cause to dismiss the petitioner.

RECOMMENDED DECISION

It is recommended that the petitioner be reinstated to his position as Probation/Parole Officer, that the petitioner be awarded back pay from the date of his dismissal until payment of same by the respondent, and that the respondent reimburse the petitioner for his reasonable attorneys' fees in this contested case.

NOTICE

The State Personnel Commission will make the final decision in this matter. Each party has the right to file exceptions to this recommended decision with the State Personnel Commission. Each party has the right to present written arguments on the decision to the State Personnel Commission.

This the 18th day of December, 1997.

Robert Roosevelt Reilly, Jr.
Administrative Law Judge

STATE OF NORTH CAROLINA COUNTY OF VANCE		IN THE OFFICE OF ADMINISTRATIVE HEARINGS 96 OSP 0403 96 OSP 0654
PAMELA ROBINSON, Petitioner, v. N.C. DEPARTMENT OF CORRECTION Respondent.	)	RECOMMENDED DECISION

This matter was heard before Administrative Law Judge Thomas R. West on November 25, 26, and 27, 1996; February 24, 25, and 28, 1997, and March 6, 17, 18, 19, and 26, 1997, in Raleigh, North Carolina. At the close of the evidence, due to the Administrative Law Judge's impending resignation from that position, the parties consented on the record to Judge West being appointed, as a Temporary Administrative Law Judge pursuant to G. S. 7A-757 and retaining jurisdiction of the contested case. Subsequently, Judge West was appointed by the Chief Administrative Law Judge to serve as the Temporary Administrative Law Judge in these contested cases. The Administrative Law Judge ordered that the parties submit proposed Findings of Fact and Conclusions of Law and written closing arguments within forty (40) days after receipt of the transcript of proceedings. On October 6, 1997, Judge West ordered that the filings were due on or before October 31, 1997.

PROCEDURAL HISTORY

Petitioner Pamela Robinson filed grievances with respondent Department of Correction on January 10 and 11, 1996, alleging that she had been subjected to sexual harassment by her supervisor Robert Terry. (A.1)[1] On March 7, 1996, Alfonza Fullwood, respondent's EEO Manager, sent petitioner a letter stating that his office had conducted a thorough investigation of petitioner's allegations. (A.2) The letter did not state the result of the investigation or indicate what decision or action respondent had taken. The letter concluded: "Should you disagree with our decision and wish to appeal this action, you may file a petition for a contested case hearing pursuant to G.S. § 150B-23 with the Office of Administrative Hearings.[2]

On March 15, 1996, James Fullwood, respondent's Second Judicial Division Chief, wrote petitioner to inform her that "It has been discerned that the findings of fact in the EEO investigation did not rise to the level of sexual harassment." (A.3) In response, petitioner filed a petition for a contested case hearing by letter dated April 3, 1996, which the Office of Administrative Hearings accepted on April 8, 1996. (A.4)

On May 15, 1996, respondent sent petitioner a letter informing her that she had been terminated, effective April 29, 1996. (A.5) Petitioner filed a second petition for a contested case hearing on May 28, 1996, based on events which occurred after the first petition, and moved that the two cases be consolidated. (A.6, A.7) Petitioner's motion for consolidation was granted on August 8, 1996. (A.8)

The contested case hearing began on November 25, 1996 and concluded on March 26, 1997, after ten days of testimony.

ISSUES

1. Did Respondent subject Petitioner to sexual harassment and deny her equal opportunity for employment because of her sex, in violation of N.C. GEN. STAT. § 126-16.

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[1]The documents cited in the procedural history section are included under Tab A of petitioner's bench book, submitted on November 25, 1996. The individual documents are labeled A.1, A.2, etc.

[2]Respondent identified Fullwood's March 7, 1996 letter as the "document constituting agency action" with respect to petitioner's initial petition. Document Constituting Agency Action (May 16, 1996).

2. Did Respondent fail to take prompt and appropriate action to remedy Robert Terry's alleged acts of sexual harassment, in violation of N.C. GEN. STAT. § 126-16.

3. Did Respondent retaliate against Petitioner for protesting alleged sexual harassment, in violation of N.C. GEN. STAT. § 126-17.

4. Did Respondent terminate Petitioner without just cause, in violation of N.C. GEN. STAT. § 126-35.

APPEARANCES

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STATUTES, RULES & POLICIES IN ISSUE

N.C. Gen. Stat. § 126-16; -17; -34.1; -35
25 NCAC 1D.0518
25 NCAC 1L.0102-.0104
25 NCAC 1C.0214
N.C. Dep't of Correction, Personnel Manual
Office of State Personnel, Personnel Manual

BURDEN OF PROOF

At the hearing, the burden of proving Petitioner was dismissed with just cause was placed on Respondent. The burden of proving discrimination and retaliation was placed on Petitioner. Prior to the issuance of this Recommended Decision, the Court of Appeals issued its opinion in Employment Security Commission of North Carolina v. William Peace (No. COA 94-1283, No. COA 95-678, Filed 2 December 1997). In ESC v. Peace, the Court of Appeals, with a dissent, assigns the burden of proof in a "just cause" case to the employee. Because of the uncertainty of the law on this point, the undersigned has analyzed the evidence by first assigning the burden of proof to one party and then to the other. After so doing, it is my conclusion, more fully stated below, that Respondent did not have "just cause" to terminate Petitioner's employment, regardless of which party has the burden of proof.

WITNESSES

Petitioner presented the following witnesses: Petitioner, Arlinda Braswell, Angela Johnson, Tonya Williams Lynn, Rhonda Steverson Howell (via videotape deposition), Dr. John D. McWay, Dr. Anita Blosser, Judy Cash, Kyle Kilborn, Alfonza Fullwood, and Tim Robinson.

Respondent presented the following witnesses: Petitioner, Robert Terry, James Fullwood, Evelyn Wooten, Kyle Kilborn, Debbie Babb, James Hayes, William Sinclair, Megan Betts, Essie Fields, Charles Worth, Arie Davis, Jo Williams, Dr. Robert Rollins, Mary Edith Watkins, and Dr. Amilda Horne.

EXHIBITS

The following exhibits were offered and admitted into evidence by Petitioner:

P1 Statement of Tonya Williams (8/8/86)
P5 Interview summary (1/10/95)
P6 Employee performance activity log (11/17/95)
P8 Memo from Terry to Kilborn (1/4/96)
P9 Statement by Anita Blosser, M.D (1/10/96)
P11 PMS, Robinson (3/20/95-3/18/96)
P13 PRM (coaching), Terry (4/10/96)
P14 Memo from Williams to Kilborn (1/4/96)
P15 Memo from Kilborn to Wooten (1/23/96)
P16 PRM (interim), Robinson (9/20/95)
P17 Letter from A Fullwood to Robinson (3/7/96)
P18 Memo from Kilborn to Robinson (3/14/96)
P19 Letter from J. Fullwood to Robinson (3/15/96)
P20 EEO Case Prospectus (2/26/96)
P21 Request for leave (3/18/96)
P22 Letter from Robinson to Kilborn (3/21/96)
P23 Letter from Wooten to Robinson (4/1/96)
P24 Letter from J. Fullwood to Robinson (4/18/96)
P25 Letter from Craige to J. Fullwood (4/19/96) *Not for the Truth of the Matter Asserted*
P26 Letter from Craige to J. Fullwood (4/25/96) *Not for the Truth of the Matter Asserted*
P27 Letter from Beck to Robinson (5/15/96)
P28 Letter from Craige to Oguah (6/4/96)
P29.1 Grievance (1/10/96)
P29.2 Revised Grievance (1/11/96)
P31.1 Petitioner's Fourth Set of Interrogatories (10/22/96)
P31.2 Respondent's Response to Petitioner's Fourth Set of Interrogatories (11/15/96)
P33 Memo from Kilborn to Wooten
P41 Human Relations in the Work Place (4/7/95)
P43 Application for employment (2/7/95)
P44 Resume (12/13/94)
P47 Mary Edith Watkins, C.V.
P49 Amilda Horne, M D., C.V.
P52 Medical records of John D McWay, Ph.D.
P53 Patient ledger of John D. McWay, Ph.D.
P56 Memorandum from Wooten to File (3/18/96)
P57 Petitioner's drawing of Steno office
P58 Video Deposition: Rhonda S. Howell
P59 Robert Terry Personal History Statement (1/8/91)
P60 Response to Discovery (3/5/97)
P60.1 Last page of P60
P61 Response to Discovery (DOC's EEO Office Investigatory file)
P62 Deposition (portions) of Alfonza Fullwood
P63 Memo from Gwen Sanders to Alfonza Fullwood (3/5/97)
P64 Re-arranged 2/6/96 report
P65 Response to Discovery (3/5/97)

The following exhibits were offered and admitted into evidence by Respondent:

R1 Memorandum to Kyle Kilborn from Robert Terry, Jr. regarding Discussion on Petitioner, dated January 4, 1996
R2 Memorandum to Kyle Kilborn from Jo Williams regarding Petitioner, dated January 4, 1996
R3 Memorandum to Evelyn Wooten from Kyle Kilborn regarding Request for Instruction on Petitioner, dated January 11, 1996
R4 Letter to Petitioner from Evelyn Wooten, dated January 11, 1996
R6 Memorandum to File from Evelyn Wooten regarding Petitioner, dated January 24, 1996
R7 Memorandum to Robert Guy from James R. Fullwood regarding Petitioner - Sexual Harassment, dated March 5, 1996
R9 Memorandum to James Fullwood from Theodis Beck regarding Robert Terry Investigation, dated March 14,

1996

R11 Letter to Petitioner from James R. Fullwood, dated March 15, 1996
R12 Letter to Deborah Babb from James R. Fullwood, dated March 15, 1996
R13 Memorandum to the File from Evelyn Wooten regarding Sexual Harassment Grievance of Petitioner, dated March 18, 1996
R14 Letter to Kyle Kilborn from Petitioner, dated March 21, 1996
R15 Memorandum to Evelyn Wooten from Kyle Kilborn regarding Petitioner, dated March 25, 1996
R16 Letter to Petitioner from Evelyn Wooten, dated April 1, 1996
R17 Memorandum to Evelyn Wooten from Kyle Kilborn regarding Incident of 4/1/96, dated April 4, 1996 *Not for the Truth of the Matter Asserted*
R19 Letter to Petitioner from James Fullwood, dated April 18, 1996
R20 Memorandum to Robert Terry from Petitioner regarding Billy Sinclair, dated April 27, 1995
R22 Memorandum to Woodley Lee from Evelyn Wooten regarding Investigative Summary, dated May 2, 1996
R24 Letter to Petitioner from Theodis Beck regarding Resignation Without Written Notice, dated May 15, 1996
R25 Written Statement: Robert Terry, Jr., dated November 17, 1995
R26 Memorandum to All Unit Staff from Robert Terry, Jr. regarding Staff Meeting Minutes (December 12, 1995), dated December 12, 1995
R27 Memorandum to Gwen Sanders from Robert Terry, Jr. regarding Response to Allegation from Petitioner, dated January 25, 1996
R29 Memorandum to Dan Lilly from James R. Fullwood regarding Sexual Harassment Training, dated April 17, 1996
R30 Memorandum to W. Larry Harris, Sr. from James R. Fullwood regarding Sexual Harassment Prevention Training, dated October 25, 1996
R32 25 NCAC 1D.0518: "Voluntary Resignation Without Notice"
R33 N.C. Dep't of Correction, Personnel Manual: Sexual Harassment Policy
R35 N.C. Dep't of Correction Sexual Harassment: Policy and Complaint Procedure dated April 12, 1993 (signed by [former] Secretary of Correction, Franklin Freeman)
R36 N.C. Office of State Personnel, Personnel Manual: Severance Salary Continuation/Transfer/ Travel Transportation Allowance and Reimbursement
R37 *Curriculum Vitae:* Robert Rollins, M.D.
R38 SEPARATE NOTEBOOK: Petitioner's Medical Records - Blosser/McWay/Horne/Watkins
R39 Memorandum to Robert Terry from Debbie Babb regarding Transfer, dated June 7, 1996

Upon consideration of the documents filed in this matter, the testimony taken, and all relevant evidence, the undersigned makes the following:

FINDINGS OF FACT

1. Pamela Robinson ("petitioner") was born on November 26, 1960 in Henderson, Vance County, North Carolina. (II:4)[3]

2. Petitioner and her husband Tim Robinson have been married since December 11, 1982. (II:4)

3. Petitioner lives in Henderson, North Carolina. (II:4)

4. On May 1, 1991, petitioner was hired by the State of North Carolina, Administrative Office of the Courts, as a deputy clerk in the office of the clerk of Superior Court in Vance County. (II:6; PX43)

5. In December 1994, the Department of Correction's Division of Adult Probation and Parole ("DAPP") announced a Stenographer III opening in Vance County. (PX5) Because the hours of the DAPP position were more compatible with petitioner's child care responsibilities, she applied for the job. (II:7)

[3]"II:4" refers to Volume II, page 4 of the hearing transcript. "PX ___" refers to petitioner's exhibits. "RX___" refers to respondent's exhibits.

6. When petitioner worked in the Vance County clerk's office, she had frequent interaction with DAPP employees. (II:8) DAPP employees observed that petitioner always acted in a professional and courteous manner and was efficient in performing her duties. (X:146 (Jo Williams); II:114 (Angela Johnson))

7. Petitioner was interviewed for the Stenographer III position on January 10, 1995. (PX5) The interview committee consisted of Kyle Kilborn, Judicial District Manager, Jo Williams, Chief Probation and Parole Officer ("CPPO") in Vance County, and Robert Terry, CPPO in Warren and Vance counties. (II:8-9; PX5)

8. The interview committee ranked petitioner as the "top candidate" for the job. (III:72; PX5) The official interview summary, prepared by Kilborn, noted that petitioner "is well respected in the Clerk's office and with the DAPP, because of her willingness to go the extra mile to assist our staff," that petitioner's most recent performance ratings in the clerks office were in the "Very Good" range, and that she performed at the "Outstanding" level in her interview. (PX5)

9. After receiving approval from his superiors, Kilborn offered the job to petitioner, and she accepted it. (III:73)

10. Petitioner began her employment with DAPP on March 20, 1995. (II:10; PX16)

11. Petitioner worked in the DAPP office in Henderson. (PX16) Her supervisor was Robert Terry, CPPO for Warren and Vance counties. (II:9-10) Petitioner's duties were to perform secretarial tasks for Terry and for the probation and parole officers ("PPO's") that Terry supervised. (II:9)

12. Terry reported to Kilborn, Judicial District Manager. (III:68) Kilborn reported to Evelyn Wooten, Assistant Judicial Division Chief. (III:66; V:146) Wooten reported to James R. Fullwood, Judicial Division Chief. (V:146) Fullwood reported to Woodley Lee, Assistant to the Deputy Director of DAPP. (III:67) Lee reported to Robert Guy, Deputy Director for Operations of DAPP. (III:67) Guy reported to Theodis Beck, Director of DAPP. (III:67; V:147; see X:156)

13. Petitioner was one of two stenographers assigned to work in the Vance County DAPP office. The other stenographer, Karen Lilly, performed secretarial tasks for the other CPPO, Jo Williams, and for probation officers working under Williams' supervision. (II:9-10) Both stenographers worked in the same room. (II:13-14) The two stenographers' work stations were no more than five feet apart. (III:108)

14. In April 1995, about two weeks after petitioner started working at DAPP, Lilly resigned. (II:14) Lilly was not replaced until August 1995. (II:14; IV:195) During that time, petitioner worked as the only stenographer in the office. (II:15) She performed secretarial duties not only for Terry and the PPO's working under his supervision, but also for Williams and the PPO's in Williams' unit. (II:14-15)

A. TERRY'S ACTS OF HARASSMENT

15. After Lilly left, Terry's conduct around petitioner changed. (II:15) Terry would pull up the other stenographer's chair beside petitioner, and would rub his leg against her leg, or his arm against her arm. (II:15) At first, petitioner thought that the touching may have been an honest mistake. (II:16) Petitioner initially responded to the physical contact by sliding her chair away from Terry, or standing up and moving away, without saying anything. (II:15-16) When the conduct continued, petitioner told Terry to move away, saying: "Give me some space," or "Robert, you're too close, slide over a little bit," or "Move over, you're crowding me." (II:16) Terry would move away for the moment, but then, after several days passed, would do it again. (II:16) These touching incidents happened at least five times. (IX:18)

16. In the beginning of the summer of 1995, petitioner went to Warren County to get some work from Terry. (II:16; PX29.2, & 11) As she was leaving, a man approached Terry on the sidewalk in front of the probation office. (II:16) After the man left, Terry walked over to petitioner and said: "Oh, he didn't want anything, he just wanted to know who the white female was, and if we had something going on." (II:17)

17. On several occasions, Terry told petitioner that: "McCaffity, Hayes and Sinclair think we're having an affair." (II:17) Thomas McCaffity, James Hayes, and Billy Sinclair were PPO's in Vance and Warren counties. (II:17; PX29.2, & 8) When Terry made this remark to petitioner, she told him, "Robert, I don't know where they would have gotten an idea like that." (II:18) Petitioner did not believe that any of these men thought such a thing, nor that they had told anyone that they held the opinion Terry ascribed to them. (II:18) Petitioner found Terry's remarks to be degrading, humiliating and inappropriate. (II:18;

PX29.2, & 8)

18. In June 1995, PPO Angela Johnson, Terry and petitioner were in the steno office. (II:18) Terry was seated at the other stenographer's desk. (II:18) Terry called petitioner over to the desk and said: "You know, I had a dream last night." Pointing at petitioner, Terry said: "It was about you." (II:19) Terry continued: "I can't say what it was about, because it might get me into trouble." (II:19) Terry's remark upset petitioner. (II:19; PX29.2, & 9) In light of Terry's previous conduct B i.e., his references to affairs and his conduct in brushing up against her B petitioner interpreted Terry's comment about the dream as having a sexual connotation. (II:19)

19. In late July 1995, petitioner was in her office, making copies at the copier. (II:20,24) Terry was sitting at the other stenographer's desk. (II:20) Terry mentioned a computer class in Raleigh that petitioner was going to attend the following week. (II:20) Terry said: "Well, you know, you can spend the night over there. Since you are going to a two-day class, the State will pay you back." (II:20) Petitioner said: "No, I didn't know that." (II:20) Terry said: "Well, you ought to go over there and spend the night." (II:20) Petitioner said that since Judy Cash, Kilborn's secretary, was not going, petitioner would not stay overnight, but instead would take the state car and drive both days. (II:20) Terry then called petitioner by name, looked her in the eye and said: "Why don't you go over there and spend the night, and I'm going to come over there and spend the night with you." (II:20-21) Petitioner looked at Terry and said: "Let me check with Tim [her husband] and see what he thinks about that." (II:21) Petitioner then walked out of the room, went to the bathroom, cried and felt nauseated. (II:21) Petitioner did not want to go back to her office, but knew she must because she was the only stenographer there. (II:21) When she returned from the bathroom, Terry was still there. (II:21) Petitioner continued to make copies, without looking at Terry. (II:21) She was still very upset and humiliated. (II:21) Then Terry said, "Well, I guess I'll go back to Warren County since you're not going to let me spend the night with you at the hotel." (II:21) Terry then left the office. (II:22)

20. Evelyn Wooten, Assistant Judicial Division Chief, has attended and led sexual harassment seminars for DOC employees. (IX:189) The main purpose of the seminars is to help employees understand what sexual harassment means. (IX:189) Wooten testified that the incident described by petitioner in paragraph 19 above would, if it occurred, likely constitute sexual harassment. (IX:193)

21. After Terry left the office, petitioner telephoned her friend Kim Christopher and asked her to come to the office because petitioner needed to speak with her. (II:22) Christopher came to petitioner's office within an hour. (II:22) Petitioner told Christopher that Terry had propositioned her and proposed that he spend the night with her in a hotel room. (II:22) Petitioner was crying and shaking when she spoke with Christopher. (II:23) Christopher told petitioner she should tell her husband. (II:23) Petitioner told Christopher that she could not tell her husband because she was afraid that he would hurt Terry and get in trouble. (II:23)

22. After talking with Christopher, petitioner called Angela Johnson at home. (II:23) Johnson, a PPO, was on vacation that week. (II:23) Petitioner asked Johnson if she (petitioner) could see Johnson after work. (II:23) When petitioner got off work, she went to Johnson's apartment and told her what Terry had said. (II:23-24) When petitioner spoke with Johnson, she was upset and crying. (II:24; II:117)

23. The conversation with Terry occurred on a Thursday or Friday at the end of July. (II:24) The computer class was scheduled on August 1 and 2, the following Tuesday and Wednesday. (Id.)

24. On Monday evening, July 31, petitioner reported the incident to Dr. Jack McWay, her psychologist. (II:25; III:30) Dr. McWay immediately called a local attorney to ask for legal advice. (II:27; III:31) Dr. McWay told Robinson that the attorney advised that she file a complaint with the department. (II:27) Petitioner told Dr. McWay that she was reluctant to do so. (II:27-28) She explained that she was a new employee, still on probation, and that Terry had been working for DAPP for many years. (II:27-28) Under those circumstances, petitioner had doubts whether the State would protect her. (II:28) In addition, she knew that if she filed a complaint, her husband would have to be told. (II:28) Petitioner was afraid to tell her husband because he would make her quit a job she needed and liked, and because he might do something to Terry that would get her husband into trouble. (II:24-25, 28; PX29.1, & 7)

25. Petitioner attended the seminar in Raleigh on August 1 and 2. (II:28; PX29.2, & 3) Petitioner drove the state car both days, and did not spend the night in Raleigh. (II:28)

26. On Thursday morning, August 3, petitioner told PPO Scott Brewer about Terry's proposition. (II:29)

27. On Sunday night, August 6, petitioner woke up in severe abdominal pain and was admitted to Maria Parham Hospital in Henderson. (II:30) The hospital staff found that petitioner had a fever and an elevated white count, but were unable to identify a physical cause for petitioner's symptoms. (II:31) She was discharged from the hospital after two days. (II:31)

28. When petitioner returned to work later that week, she confronted Terry. (II:31) Terry and petitioner were alone in the stenographer's office. (II:31-32) Petitioner said: "Robert, I don't like what you said to me the other day. It didn't make me feel good, and I don't appreciate it." (II:32) Terry said: "I'm sorry," and walked away. (II:32)

29. Later in August 1995, petitioner ate lunch at Skipper's Restaurant in Henderson with Angela Johnson, Kim Christopher and PPO Arlinda Braswell. (II:32) Braswell told petitioner that when she worked for the Community Service Work Program, Terry told her that he had a sexual dream about her. (II:33, 57) Braswell said that Terry's remark had upset her. (II:33)

30. The incident that Braswell described at the lunch at Skipper's occurred in approximately May 1995. (I:143) At that time, Braswell was employed by Crime Control and Public Safety in the Community Service Work Program. (I:134) As coordinator for the program for Vance and Warren counties, Braswell arranged jobs for criminal offenders so that they could pay back for the crimes they had committed. (I:136) Braswell's job required her to have frequent interaction with PPO's, including Terry. (I:136-37, 138-39) In Warren County, the Community Service office and the DAPP office were in the same building on the same floor. (I:138) One morning in Warren County, Terry called Braswell into his office. (I:139-40) Terry told Braswell that he had had a dream about her, in which he and Braswell "were making love." (I:140) At the time he made the remark, Terry was sitting behind his desk, and Braswell was sitting in front of the desk. (I:141) She laughed nervously when he made the remark. (I:141) Terry said: "Do you find that to be funny?" (I:141) Braswell said she did not find it to be funny. (I:142) Terry then said: "You're not going to tell anybody; you're not going to say anything." (I:142) Braswell said: "Well, no," got up and walked out of the room. (I:142) Terry's statement about the dream scared Braswell. (I:141)

31. Braswell was born on September 15, 1970. (I:136) After graduating from J.F. Webb Senior High School in Oxford, she attended Fayetteville State University, where she obtained a B.A. degree in sociology, with a minor in criminal justice. (I:135) Braswell began working for Community Services in April 1994. (I:134) She was married in September 1994. (I:136) On August 28, 1995, Braswell transferred from the Community Service Work Program to the DAPP office in Vance County, where she worked as a PPO. (I:134, 143-44) At the time she testified at the hearing, Braswell was working under Jo Williams' supervision. (I:133-34) Braswell has contact with Terry on a day-to-day basis and reports to him when Williams is not in the office. (I:147)

32. At the hearing, Terry denied having a conversation with Braswell about any kind of dream, particularly a sexual dream. (IX:161-62) Terry's testimony conflicts directly with Braswell's. The Administrative Law Judge ("ALJ") credits Braswell's testimony, and does not credit Terry's denials. In resolving the issue of credibility, the ALJ considered the demeanor of the witnesses, Braswell's contemporaneous report about the incident to co-workers, the absence of any motive for Braswell to provide false information to her co-workers, and the absence of any motive for Braswell to testify falsely in favor of petitioner and against her current employer.

33. In early August 1995, Debbie Babb was hired to fill the second stenographer's position in the Vance County DAPP office. (II:34)

34. After Babb arrived, Terry called petitioner back to his office more frequently. (II:34) When he called petitioner to his office, he would either close the door, or ask petitioner to close the door. (II:34) In his office, he continued to touch petitioner and brush up against her. (II:34) He again told petitioner that McCaffity or Hayes or Sinclair thought that petitioner and Terry were having an affair. (II:35) Petitioner did not believe that any of those men thought such a thing, and found Terry's statement to be degrading and upsetting. (II:35) Terry, who is a minister, sometimes told petitioner about men or women in his church who reported their sexual problems to him. (II:35) Petitioner told Terry that he should not be telling her these things. (II:35)

35. Petitioner's normal working hours were from 8:00 a.m. to 5:00 p.m. (II:56) Occasionally, petitioner was asked to stay after 5:00 p.m. (II:56) After Terry asked petitioner to spend the night with him in Raleigh, petitioner and Angela Johnson took steps to ensure that petitioner would not be left alone with Terry. (II:56) When petitioner was required to work late, Johnson stayed in the office so that petitioner would not be alone. (II:56-57; II:120-21)

36. In a conversation with Terry in early September 1995, petitioner mentioned Dave Farmer, who had supervised

petitioner when she worked at the federal prison in Butner. (II:35, PX29.2, & 12) Terry asked petitioner: "Did you give it to Dave?" (II:36) Petitioner said: "Excuse me?" (II:36) Terry repeated the question and then said: "What's wrong, does that upset you?" (II:36) Petitioner said: "What do you think?" (II:36) Farmer was someone petitioner respected very much. (II:36) She had never had any kind of intimate relationship with Farmer. (II:36) Petitioner found Terry's questions about Farmer to be degrading and humiliating. (II:36) After Terry made the remarks, petitioner went to the bathroom and cried. (II:36) Petitioner reported Terry's remarks about Farmer to Angela Johnson soon after the incident. (II:119-20)

37. Wooten testified that the incident described by petitioner in paragraph 36 above would, if it occurred, likely constitute sexual harassment. (IX:193)

38. In May 1995, petitioner began to see Dr. Anita Blosser, a family practitioner, as her primary care physician. (VI:2-3, 5) Dr. Blosser treated petitioner for migraine headaches. (VI:6)

39. Terry's repeated sexual comments caused petitioner to experience increasing stress, anxiety and headaches, and triggered memories of sexual abuse she had experienced as a child. (II:21, 36-37; VI:27-28)

40. Petitioner last saw psychologist Dr. Jack McWay on September 6, 1995. (III:32) In the course of an office visit with Dr. Blosser on September 22, 1995, petitioner told Dr. Blosser that someone was making sexual advances to her at work. (VI:6, 8-9) Dr. Blosser referred petitioner to an experienced female psychotherapist, Mary Edith Watkins. (VI:7-8) Petitioner began seeing Watkins for psychotherapy on October 2, 1995. (IV:4)

41. On November 8, 1995, following a referral by Dr. Blosser, petitioner saw Dr. Amilda Horne, a psychiatrist, for a psychiatric evaluation. (II:39; PX55) Dr. Horne made a tentative diagnosis of bipolar disorder, manifested by mild hypomania and depressive episodes, and Post Traumatic Stress Disorder (PTSD) related to sexual abuse petitioner experienced as a child. (II:39-40; V:18, 23; PX55) Bipolar disorder is a chemical imbalance, usually genetic, that results in mood swings. (IV:7, 9; V:19-22) In consultation with Dr. Horne, Dr. Blosser initiated a regimen of medication to treat the bipolar disorder. (VI:12-15)

42. Because of increasing headaches and anxiety, and the need for medical treatment, petitioner was absent from work with frequency in the fall of 1995. (II:40-41; PX29.1, & 13) At a meeting in Terry's office, petitioner told Terry that her absences were related to a problem of abuse she had experienced when she was a child. (II:41) Terry asked petitioner what kind of abuse. (II:41) Petitioner told him she would rather not say. (II:41) Terry asked her again. (II:41) Crying, petitioner told him that her stepfather had sexually abused her. (II:41) Terry then asked, "What did your stepfather do? Your stepfather, did he ever penetrate you?" (II:42) Petitioner got up and walked out of the room in tears. (II:42) Petitioner was disgusted and upset that Terry had asked the details of the sexual abuse. (II:42) Soon after the incident, petitioner told Kim Christopher and Angela Johnson about it. (II:42) When she told Johnson, Johnson saw that petitioner was upset and angry. (I:120)

43. After her meeting with Terry, petitioner initiated a meeting with Kilborn and Terry to discuss her medical condition. (II:43-44) The meeting occurred on November 17, 1995 in the Vance County office. (PX6) Petitioner told Kilborn that she was ready to resign. (II:44) Kilborn said he did not want her to resign and that she was a good employee who had done a good job for the office. (II:45) Petitioner informed Kilborn and Terry that she was getting new medications to deal with her bipolar disorder and some time would be required to adjust the medications and achieve a proper dose with minimal side effects. (II:45-46) Petitioner had recently been started on lithium, which caused some anxiety, difficulty in concentration, and a hand tremor. (II:46) Kilborn and Terry agreed they would try to accommodate her by giving her a lesser work load during the period that the medications were being adjusted. (II:45-46; PX6 at 1 (Terry: "JDM [Kilborn] and I agreed to give her a lesser work load"))

44. At the November 17 meeting, Kilborn told petitioner that her medical problem would be reflected in her performance evaluation. (II:45; III:126) Terry's handwritten record of the meeting states: "Pam was instructed by the JDM that her Performance Appraisal would reflect the work situation, but would be given an explanation to sickness." (PX6 at 2) Terry testified that his statement meant that although petitioner's performance appraisal may indicate some decline in performance, the appraisal would include an explanation that the decline resulted from her medical situation. (XII:43)

45. In the weeks following the November 17 meeting, Terry did not follow the plan. (II:46) Instead of giving petitioner less work, Terry gave her more. (II:47) Terry made himself unavailable to answer petitioner's questions about work. (II:47) Terry now rejected work he had previously accepted, even though petitioner was doing the work in the same way that she had done it before. (II:47)

46. Beginning in mid-December, Debbie Babb was out of work for a week with pneumonia. (II:47) During that week, petitioner did the work for both units. (II:47) Every night she went home with severe headaches. (II:48) At the end of the week, Terry told petitioner that he had intentionally created extra stress and extra work just to see if she could handle it, and said that she had done a good job. (II:48)

47. Petitioner took her vacation during the week of Christmas through the New Year. (II:49; PX7, & I) She returned to work on January 2, 1996. (II:50)

48. Near the end of the day on January 3, 1996, Terry gave petitioner a memorandum to type. (II:50) Terry sat at Debbie Babb's desk while petitioner typed the memo. (II:50-51) Petitioner completed the memo and left the office at 5:00 p.m. to take the office mail. (II:50-51)

49. On January 4 at about 8:20 a.m., Terry called petitioner from the Warren County office. (II:51; PX29.2 at 5) Terry asked petitioner if she had received a fax at 4:38 p.m. the previous afternoon. (II:51) Petitioner responded that she had not seen a fax, because she was busy typing a memo for him. (II:51) Terry complained that she had not passed on information to him about a report that was to be submitted to Kilborn's office. (II:51-52) Terry spoke to petitioner in a way she considered to be sarcastic and belittling and repeatedly said: "Maybe you just don't care about these reports." (II:52) Finally, Robinson said: "You're right, I don't care." and hung up. (II:52)

50. Judy Cash, secretary to the Judicial District Manager in Louisburg, frequently interacted with other stenographers in the judicial district. (III:141) Cash was responsible for communicating with stenographers about the various reports that need to be sent from the field office to the district office. (III:141) Cash communicated with the stenographers to ensure that the reports were done properly, and submitted in a timely fashion. (III:141-42) Cash was also responsible for communicating information about policies and procedures that applied to stenographers in the district. (III:142)

51. Cash had continuing contact with petitioner from the time petitioner started working as a stenographer in Vance County. (III:142-43) When petitioner worked in the DAPP office in Vance County, Cash found her to be a very efficient stenographer. (III:144) The quality of her work was good. (III:144) Petitioner was dependable, responsive to Cash's requests, and behaved in a professional manner. (III:144) Cash testified that she had no problems with the timeliness of reports that petitioner submitted. (III:144, 152-54)

52. Cash had regular contact with the CPPO's in the district through telephone communications, monthly staff meetings, and their visits to the Louisburg office to pick up supplies. (III:145) Cash conversed with the CPPO's about any problem within her area of responsibility, including reports and other paperwork that the district office required. (III:145) During petitioner's tenure in Vance County, Terry expressed no dissatisfaction to Cash about petitioner's performance. (III:145)

53. In the telephone call to petitioner on January 4, 1996, Terry complained that the quarterly OSHA 200 report was overdue. (IX:120; PX14) That report was not due until January 15, 1996. (III:153-54)

54. At about 9:00 a.m. on January 4, Terry came to petitioner's office and instructed her to go across the hall to a meeting room. (II:52) Jo Williams was in the room. (II:52) Terry told petitioner he was writing her up for insubordination because she hung up on him. (II:52) Petitioner was upset and crying. (II:53; PX29.2 at 5) Her hands were shaking due to a recent change in her medication. (II:53; PX29.2 at 5) A headache she had had for a couple of days had worsened after the telephone call from Terry. (PX29.2 at 5) Petitioner said, "I'm doing the best that I can right now." (II:53) Petitioner told Terry that she had a bad headache and that her hands were shaking due to her medicine. (PX29.2 at 5) Terry told petitioner that if she did not think she could do her job, she needed to quit. (II:53) When petitioner started to say something, Terry asked: "Is that your statement? Is that your statement?" (II:53) Petitioner responded: "No, I'm not making a statement. I don't want to make any kind of statement until I speak to my husband and my doctor." (II:53) Petitioner then walked out of the meeting. (II:54)

55. At about 9:35 a.m., petitioner attempted to sign out for lunch to see her doctor. (II:54) Terry told her that she could not sign out for lunch so early in the morning. (II:54) Terry said she needed to fill out a leave slip to see her doctor. (II:54) Petitioner filled out a medical leave slip and Terry signed it. (II:54)

56. Petitioner left the office and went to see her therapist, Mary Edith Watkins, and then her physician, Dr. Blosser. (II:54; IV:66; VI:17) Ms. Watkins and Dr. Blosser saw that petitioner was extremely upset. (IV:65; VI:17) Dr. Blosser determined that it would be medically contraindicated for petitioner to return to work that week, delivered a note to Terry requesting that petitioner be given medical leave on January 4 and 5, and scheduled a follow-up visit on Monday, January 8,

1996. (VI:17-18) Petitioner took medical leave until then. (II:55)

57. On January 4, after seeing Ms. Watkins and Dr. Blosser, petitioner told her husband for the first time about the sexual harassment she had experienced at work. (II:55) She perceived that Terry had gone from sexually harassing her to mentally harassing her (II:55; IX:39), and that Terry was punishing her for not giving in to him sexually. (II:55) On January 4, she reached the point where she could not tolerate the situation any longer. (IX:39)

58. After petitioner told her husband, they agreed that petitioner needed to contact Kilborn. (II:57-58) Because petitioner was too upset to talk, Mr. Robinson called Kilborn on her behalf. (II:58) He told Kilborn that Terry had been sexually harassing his wife, and that she wanted to file a complaint about it. (II:58; III:89)

59. Petitioner's January 8 appointment with Dr. Blosser was canceled because of snow and ice, and rescheduled for Wednesday, January 10. (PX29.2) On January 10, petitioner saw Dr. Blosser. (PX54; VI:21-22) Dr. Blosser determined that continuing to work in the presence of the man who had harassed her would worsen petitioner's psychological condition. (II:61-62) Blosser wrote a letter "to whom it may concern," dated January 10, 1996. (VI:22; PX9) The letter stated that "Ms. Robinson is being treated for post-traumatic stress disorder and at this point in her progress suffers from significant anxiety." (PX9) Blosser wrote that petitioner's "condition would be worsened and we would lose ground already gained if the patient is required to continue confronting the party who is accused of sexual harassment." (PX9) Specifically, Blosser stated that petitioner "should not be required to work in the presence of this person unless or until the grievance is resolved." (PX9) Dr. Blosser invited the reader to contact her "[i]f further information is required." (PX9)

60. On January 10, Kilborn called petitioner at home and told her that she needed to file a written grievance that day. (II:58-59; VI:168) Kilborn said that his superior Evelyn Wooten was in his office, that she wanted to see the grievance before she left and that petitioner should bring the grievance to Louisburg within two hours. (II:59; PX29.1 at 1)

61. On January 10, 1996, petitioner typed a four-page single-spaced statement titled "Grievance: Hostile Work Environment and Sexual Harassment in the Workplace Against Robert Terry, Jr." (PX29.1) The grievance describes in detail specific acts of harassment, and also describes events that occurred on the morning of January 4, 1996. (PX29.1) Petitioner delivered the written grievance to Kilborn and Wooten on January 10, along with Blosser's letter stating that it would be medically contraindicated for petitioner to work in Terry's presence. (II:59-60, 63; III:90-91)

62. On January 11, 1996, petitioner completed a more detailed version of the grievance, which she delivered to Kilborn a few days later. (II:60-61; PX29.2)

63. Before petitioner submitted her grievance on January 10, Wooten had never received any complaints about petitioner's performance. (V:183) On January 11, one day after petitioner submitted her grievance, Kilborn sent a memorandum to Wooten containing numerous complaints about petitioner's performance. (V:183-84; RX3) Kilborn's memorandum stated that petitioner had been experiencing "performance problems due to emotional problems since 6/14/95." (RX3)

64. Kilborn's January 11, 1996 Memorandum, asserting that petitioner had experienced performance problems "since 6/14/95," is inconsistent with other evidence in the record, which establishes that petitioner had no performance problems during the first six months of her employment. After petitioner had been employed in the DAPP office in Vance County for six months, Terry conducted an interim performance evaluation, covering the period from March 20, 1995 through September 20, 1995. (PX16) The purpose of the interim performance evaluation is to summarize the employee's performance during the preceding six months, and to identify any significant concerns and problems so that they can be remedied in the future. (VI:199) Petitioner's interim performance evaluation, written by Terry and approved by Kilborn, indicates that during petitioner's first six months of employment, her performance was "very good." (PX16) Terry testified that he was "completely satisfied" with petitioner's performance during the first six months of her employment. (X:85)

65. According to Kilborn, if a supervisor has a significant problem with a subordinate, the problem should be documented. (VI:196-97, 201-02)

66. Terry testified that his practice was to document any serious concerns about an employee=s performance. (X:85)

67. After reviewing petitioner's personnel file, Terry was unable to identify a single contemporaneous document

reflecting any concerns about petitioner's performance from September 20, 1995 to November 17, 1995. (X:101)

68. Between November 17, 1995 and January 4, 1996, Terry did not talk to petitioner about any problems with her performance. (X:113) Kilborn heard nothing between November 17, 1995 and January 4, 1996 about any problems with petitioner's performance. (XII:49) After reviewing petitioner's personnel file, Terry was unable to identify a single contemporaneous document reflecting any concerns about petitioner's performance between November 17, 1995 and January 4, 1996. (X:101-02)

B. THE STATE'S RESPONSE TO PETITIONER'S GRIEVANCE

1. Reassignment to Louisburg

69. On January 11, 1996, Wooten briefed Theodis Beck, Director of DAPP, about petitioner's grievance. (V:153) Beck ordered that petitioner be temporarily reassigned to the Judicial District Manager's office in Louisburg, to work under Kilborn's supervision. (V:153; X:188)

70. On January 17, Judy Cash, secretary to Kilborn, telephoned petitioner at home. (II:64) Cash read petitioner a letter from Wooten, instructing petitioner to report to the office in Louisburg for a temporary "special project assignment." (RX4;V:160) Petitioner reported to work the following day. (II:65, 67) Because of snow and bad weather, petitioner did not receive the letter from Wooten, dated January 11, 1996, until after she had started working in Louisburg. (II:64-65)

71. Petitioner's home is 4 miles from the DAPP office in Vance County. (II:65) The Louisburg office is 25 miles from petitioner's home. (II:65) The drive from petitioner's home to the Louisburg office took approximately 35 minutes. (II:66)

72. As CPPO, Terry was responsible for Warren and Vance counties. (II:66) Terry lives in Warren County, about 3.5 miles from the DAPP office in Warrenton, and 17 or 18 miles from the DAPP office in Henderson. (IX:188-89)

73. During petitioner's reassignment to the office in Louisburg, Terry continued to work in Warren and Vance counties. (II:66)

74. The State did not offer to reimburse petitioner for the additional time or mileage required for her to work in Louisburg instead of Henderson. (II:66)

75. The permanent staff in the Louisburg office consisted of Kilborn and his secretary Judy Cash. (II:67) Petitioner worked in the same office as Cash, assisting her with typing, filing, putting forms on the computer, and answering the phone. (II:67; III:146)

76. Although petitioner enjoyed the work in Louisburg, the assignment was inconvenient because of the distance from her home. (II:68-69; IX:71-72) The traffic on the road between Louisburg and Henderson sometimes made it difficult for her to pick up her son from day care by 6:00 p.m. (II:69) Petitioner was unable to do personal business during the lunch hour, as she had done when she worked in Henderson. (II:65-66, 69)

77. Petitioner worked in Louisburg from January 18, 1996 until March 18, 1996. (II:64, 76) Kilborn testified that petitioner performed all the tasks he asked her to do while she was in Louisburg. (III:94) Petitioner came to work on time, was polite and personable in the office, got along well with Kilborn and Cash, and performed her duties in a professional manner. (III:94) At the end of her employment there, Kilborn told her that he was grateful for her assistance. (III:94-95)

78. Cash testified that petitioner was helpful, cooperative, and reliable during the two months she worked in Louisburg. (III:147) There were no problems with her attendance and she was not tardy to work. (III:147) Cash described petitioner as "a team player." (III:147)

2. Investigation

79. On January 11, 1996, Wooten came to Raleigh to meet with Theodis Beck, Director of DAPP, Robert Guy, Deputy Director, and Woodley Lee, Assistant to the Deputy Director, to discuss petitioner's allegations. (X:159) Beck decided that petitioner's allegations would be investigated by the Equal Employment Opportunity (EEO) Office of DOC, under the direction of Alfonza Fullwood, manager of the EEO Office. (X:159-60) Petitioner would be temporarily reassigned to the

Judicial District Office pending the outcome of the EEO investigation. (III:93; V:153)

80. In the Department of Correction (DOC), employee grievances are either investigated internally, within the division where the individual is employed, or by the EEO Office. (XI:30-31) According to James Fullwood, the reason petitioner's grievance was assigned to the EEO Office was that senior DAPP officials "wanted an independent, third party" to conduct the investigation. (XI:31)

81. Alfonza Fullwood, Manager of the EEO Office, and James Fullwood, DAPP Judicial Division Chief, are cousins. (XII:111) At the time of the hearing, Alfonza Fullwood and James Fullwood were both in their 40's. (XII:111) Alfonza Fullwood had known James Fullwood "pretty much all my life." (XII:111)

82. Since 1990, Alfonza Fullwood has worked as an EEO officer within DOC. (I:117) In late 1992 or early 1993, an EEO section was created within DOC. (I:117) That section reported directly to the Secretary of DOC and to the Assistant Secretary of Human Resources Management. (I:118) Since the reorganization in 1992 or 1993, Alfonza Fullwood has had full-time responsibility as EEO Manager. (I:118)

83. DOC has almost 18,000 employees. (I:122) According to Alfonza Fullwood, the EEO Office "is bombarded with a number of complaints ranging from sexual harassment to discrimination to denial of promotion." (I:122) The office has received "numerous complaints" of sexual harassment. (I:123)

84. Alfonza Fullwood was unable to recall a single case since he became EEO Manager in which the EEO investigation resulted in a termination or demotion of a supervisor who was alleged to have engaged in unwelcome sexual conduct toward a subordinate. (I:123-24) Fullwood did not recall any such case in which the accused supervisor was transferred from one office to another. (I:124) Fullwood did not know whether any DOC employee who alleged that a supervisor had engaged in sexual harassment was still employed by DOC. (I:124)

85. After the meeting in his office on January 11, 1996, Beck called Alfonza Fullwood to ask his office to conduct an investigation of petitioner's grievance. (XII:71)

86. After receiving petitioner's written grievance, Alfonza Fullwood assigned the responsibility for the investigation to Gwen Sanders, an investigator in the EEO Office. (XII:72)

87. Sanders interviewed petitioner on January 18 and 23, 1996. (PX20 at 4, & 10) During the interview, petitioner asked Sanders to talk to three witnesses who were not employed by DAPP: Dr. Anita Blosser, Dr. Jack McWay and Kim Christopher. (II:71) Petitioner thought it would be important for Sanders to talk to these witnesses because they were three of the first people that petitioner had told about Terry's acts of harassment. (II:71) Sanders told petitioner that she would not talk to Blosser, McWay and Christopher because it was the policy of the EEO Office only to interview current employees of the agency. (II:71)

88. Petitioner told Sanders that she would be willing to take a polygraph test at any time to prove that she was telling the truth. (II:72) Sanders told petitioner that the polygraph was not a tool that the EEO Office used in its investigations. (II:72)

89. Alfonza Fullwood testified that there is no prohibition on polygraph examinations within DOC, and the Department sometimes uses the polygraph as an investigative tool. (XII:80) The EEO Office, however, does not use the polygraph in its investigations. (XII:80)

90. After interviewing petitioner, Sanders interviewed 13 DAPP employees, including Terry, between January 19 and 23, 1996. (PX20 at 4)

91. On February 6, 1996, Sanders submitted a 7-page report to Alfonza Fullwood, summarizing the results of her investigation. (XII:120; PX64) Alfonza Fullwood signed the report on February 7, 1996 and transmitted it to Theodis Beck, Director of DAPP. (XII:120-21) The February 7 report, titled "EEO Case Prospectus," was an official transmission from the EEO Office to Beck's office. (XII:121)

92. The conclusion of the February 7 report was as follows:

> Based upon all the relevant information, there is probable cause to believe that Mr. Terry's behavior constitutes inappropriate conduct related to, 1) telling Ms. Robinson about his dream; 2) his comment to Ms. Terry [sic] reference his acquaintance inquiry concerning the white female accompanying him; and 3) his allowing Ms. Robinson to pull up her shirt and his specific action of removing band aids.

(PX60.1)

93. After Alfonza Fullwood submitted the February 7 report to Beck, Beck contacted him by telephone to discuss the report. (XII:124; XII:170-71)

94. After talking with Beck, Fullwood made handwritten notations on the February 7 report, indicating changes that were to be made in the conclusion of the report. (XII:125-26; PX60.1; PX64 at 7) Fullwood then gave a copy of the report, including his handwritten notations, to Sanders. (XII:157) Fullwood instructed Sanders to incorporate the changes indicated by his notations in a new version of the report. (XII:158) Sanders revised the report in accordance with Fullwood's instructions. (XII:158) Sanders and Fullwood signed the revised report on February 26, 1996 and forwarded the new version to Beck. (XII:158)

95. The conclusion of the February 26 report was as follows:

> Based upon all the relevant information, <u>to include factors relative to Ms. Robinson's behavior, Mr. Terry's conduct did not rise to the level of sexual harassment. However</u>, there is probable cause to believe that Mr. Terry's behavior constitutes inappropriate personal conduct relative to; 1) telling Ms. Robinson about his dream; 2) his comment to Ms. Robinson reference his acquaintance inquiry concerning the white female accompanying him; and 3) his allowing Ms. Robinson to pull up her shirt and his specific action of removing band aids.

(PX20) (emphasis added)

96. With the exception of the conclusion, the discussion of the evidence in the February 7 report and the February 26 report is essentially unchanged. (<u>Compare</u> PX20 <u>with</u> PX64) Both reports list seven allegations by petitioner of sexually inappropriate comments or conduct by Terry. (PX20 at 1-2) The report notes that Terry "categorically denied" all of petitioner's allegations. (PX20 at 4) The report documents extensive evidence tending to support petitioner's allegations, and tending to refute Terry's denials:

a) As to the allegation that Terry told petitioner about his dream concerning her, Angela Johnson confirmed that she had witnessed the incident, and Arlinda Braswell stated that petitioner had informed her of the incident. (PX20 at 5)

b) As to the allegation that Terry asked petitioner if he could come to Raleigh and spend the night with her, five DAPP employees B Debbie Babb, Scott Brewer, Megan Betts, Dwayne Smith and Angela Johnson B testified that petitioner told them about the incident. (PX20 at 5) Johnson said that petitioner came into her office in a very emotional state, to the point of crying, and told her that Terry had made the proposition to her. (PX20 at 5)

c) Arlinda Braswell told Sanders that Terry made a remark to her in May 1995 regarding a dream about him making love to her. Johnson corroborated Braswell's testimony, stating that Terry told her of a dream involving Braswell. (PX20 at 5) According to the report, "This then would lend some support to Ms. Robinson's allegation regarding Mr. Terry telling her that he had a dream about her. What this shows is a possible pattern of specific behavior on the part of Mr. Terry." (PX20 at 6)

d) The report notes that the witnesses petitioner identified "all corroborate her testimony." The report continues: "The possibility of conspiracy or collaboration between these witnesses and Ms. Robinson is possible but remote and unlikely. Therefore, it is believable that these witnesses, which cannot be discounted, lends some credence and increases the believability in the mind of a reasonable person. The totality of all these circumstances raises reasonable doubt concerning Mr. Terry's testimony." (PX20 at 6)

97. The report also includes a discussion of evidence that purportedly casts doubt on petitioner's charges. The report notes that "Ms. Robinson filed the charge on the heels of being coached regarding performance issues." (PX20 at 6) The report goes on to say: "However, this does not invalidate her allegations or call into question the veracity of her charge." (PX20 at 6) The report observes that "it is not uncommon for subordinates to have uncertainties and reluctance to report their supervisor for inappropriate conduct." (PX20 at 6) (See XII:99; PX62 at 86 (Alfonza Fullwood explains that "subordinate employees are somewhat reluctant to [report their supervisor] for fear of reprisal, fear of their job, fear of losing income, and that kind of thing."))

98. The report appears to attach major significance to the fact that petitioner on several occasions asked Terry to remove a band-aid that had been placed on the crook of her arm after visits to her physician when blood had been drawn. (PX20 at 6) The report states that "this behavior on the part of Ms. Robinson is inconsistent with her assertion of misconduct on the part of Mr. Terry." (PX20 at 6)

99. After listening to the testimony of petitioner, Terry and witness Debbie Babb, the ALJ finds the "band-aid incidents" to be inadequate to refute the substance of petitioner's claims. The ALJ notes the following:

a) The bandaids were on the crook of petitioner's arm, not in an intimate location. (IX:62)

b) The petitioner always asked Terry to remove the band-aid in the presence of Debbie Babb. (IX:129)

c) On one occasion, petitioner took her arm out of her sweater and her turtleneck so that Terry could remove the band-aid. On that occasion, Babb could see about two inches of bare skin exposed above petitioner's waist (IV:209). Terry could not see any of petitioner's skin except her arm (IV:208; see V:96 (Babb: "I didn't see anything but a little bit and nobody else did.")). Babb did not think that petitioner was trying to expose her body to anyone (V:86). On that occasion, Terry snatched the band-aid off and didn't give it a second thought. (IX:130)

d) Petitioner attached no significance to the removal of the bandaids; she asked anyone in the office, male or female, to remove them. (V:87-88; IX:130)

e) Babb thought that petitioner "meant nothing by it" when she asked Terry to remove the bandaids. (V:88)

f) Terry testified that during the entire course of petitioner's employment, she never engaged in any sexually suggestive or provocative or inappropriate conduct toward him. (X:114)

100. After Beck received the February 26 report from Alfonza Fullwood, Beck's office forwarded a copy of that report to James Fullwood. (X:160) Deputy Director Guy asked James Fullwood to review the report and submit a recommendation for appropriate action. (X:160)

101. In reviewing the February 26 report, James Fullwood "did not draw [any] conclusion contrary to the conclusion rendered in this investigation." (XII:63 [check original deposition transcript]) According to James Fullwood,

> I did not sit in judgment and analyze the truthfulness or otherwise of the person. I focused on the conclusions rendered by the investigation completed by Mr. Alfonza Fullwood's office. And based upon that, I followed specific actions.

(XII:63) James Fullwood continued:

> I have drawn one conclusion, that the investigation itself concluded that this matter did not reach to the level of sexual harassment.

(XII:67)

102. Like James Fullwood, Wooten did not question or evaluate the assessment of the evidence by the EEO Office. (V:208) She had no reason to question the investigation because, in her view, the investigation was performed by "an

independent, objective group," i.e., a group that was "[i]ndependent of the Division of Adult Probation and Parole." (V:209) Wooten simply accepted the conclusion on the final page of the February 26 report that Terry's actions "did not rise to the level of sexual harassment." (V:208)

3. "Remedial Action"

a. Petitioner's Reassignment to Vance County

103. Because the February 26 report indicated that Terry's conduct "did not rise to the level of sexual harassment," Fullwood recommended to Beck's office that Terry receive a "coaching," rather than any disciplinary action. (X:160-61, 171-72) Fullwood also recommended that Terry be requested to attend sexual harassment training. (X:161) Finally, Fullwood recommended that the supervisors for the two stenographers in the Vance County office be switched, with petitioner transferred to the supervision of Jo Williams, and Debbie Babb transferred to the supervision of Robert Terry. (X:162)

104. Fullwood's recommendations are contained in a memorandum to Deputy Director Guy dated March 5, 1996. (RX7) Fullwood's March 5 memorandum specifically relies on the revised conclusion in the February 26 report that Terry's conduct "did not rise to the level of sexual harassment." (XI:33; RX7)

105. On March 7, 1996, Alfonza Fullwood sent petitioner a certified letter. (PX17; II:74) The letter, in its entirety, reads as follows:

> Dear Ms. Robinson:
>
> This office had conducted a thorough investigation into your allegation of inappropriate conduct by Mr. Robert Terry, Jr. Chief Probation Parole Officer, or the Vance/Warren County areas.
>
> You were interviewed on January 18, 1996, alone [sic] with other witnesses. This office had an opportunity to thoroughly examine all the relevant information gathered in reference to your complaint and have submitted our findings to the Division of Adult Probation and Parole management for review and action if required.
>
> The Department takes serious all allegations of sexual misconduct complaints and encourages all employees to immediately report any conduct viewed as inappropriate. Should you have any questions regarding this matter, please feel free to call me or Gwen Sanders, EEO Officer, at (919) 733-4465.
>
> Should you disagree with our decision and wish to appeal this action, you may file a petition for a contested case hearing pursuant to G.S. 150B-23 with the Office of Administrative Hearings, Post Office Drawer 27447, Raleigh, NC 27611-7447, or 424 N. Blount Street, Raleigh, NC 27601-2817 within thirty (30) calendar days from receipt of this letter.
>
> Sincerely,
>
> Alfonza Fullwood
> EEO Manager
>
> cc: Theodis Beck, Director, DAPP
> James Fullwood, Second Judicial Division Chief, DAPP
> Gwen Sanders, EEO Office

(PX17)

106. Although the March 7 letter gave petitioner 30 days to appeal "this action" if she disagreed with "our decision," the letter did not tell petitioner what the "action" or "decision" was. (II:75) Petitioner did not understand what the letter meant. (II:75) She showed the letter to Kilborn, who also did not understand it. (III:103-04; VI:178-79)

107. Seeking an explanation, petitioner called Alfonza Fullwood. (II:75) Alfonza Fullwood directed petitioner to call Theodis Beck, Director of DAPP. (II:75) Petitioner called Beck numerous times, but he did not return her calls. (II:75) Eventually, Beck's secretary called petitioner and told her that someone would be getting in touch with her. (II:76) On the same day, Wooten called petitioner and instructed her to come to the DAPP office in Smithfield on March 18 to hear the results of her grievance. (II:76)

108. On March 18, 1996, petitioner went to the DAPP Office in Smithfield. (II:76; PX18) She was called into a meeting with James Fullwood, Kyle Kilborn and Evelyn Wooten. (II:76) James Fullwood read her a letter, dated March 15, 1996. (II:76-77; PX56 at 1) The letter in its entirety, reads as follows:

> Dear Ms. Robinson:
>
> Please know that careful consideration has been given to your concerns and issues raised in your grievance by the Department of Correction, EEO Manager as well as the management of the Division of Adult Probation and Parole. As you are aware, a thorough investigation was conducted into your allegations of inappropriate conduct by Mr. Robert Terry, Jr., Chief Probation/Parole Officer for the Vance/Warren County areas.
>
> It has been discerned that the finds of fact in the EEO investigation did not rise to the level of sexual harassment. However, we did find some problems on both sides and wish to take the appropriate action in the best interest of all parties involved. Therefore, we are re-assigning your position as Clerk Typist III from the Unit supervised by Mr. Robert Terry, Jr. to the Unit supervised by Ms. Jo Williams, effective immediately. This re-assignment will put you in a position where you will no longer be directly supervised by Mr. Terry.
>
> In advance, we thank you for your cooperation.
>
> Sincerely,
>
> James R. Fullwood
> Second Judicial Division Chief

(PX19)

109. Under respondent's plan, petitioner would be assigned to return to Vance County, working in the same office as before. (III:107) The only difference would be that her direct supervisor would now be Jo Williams, rather than Terry, and Debbie Babb, who had previously reported to Williams, would now report to Terry. (III:107) Given the layout of the office, with the two stenographers working side by side in the same room, petitioner would be in contact with Terry every day that he was in Vance County. (III:108) In the Vance County office, when one CPPO was out of the office, the other CPPO had authority over all employees in the unit. (II:78; III:108; V:109; IX:117-19; X:123; XI:44; PX7, & 21) If one stenographer was absent, the consistent practice in the Vance County office was for the second stenographer to perform secretarial duties for the entire unit. (II:14-15, 47, 78; IV:197; V:210)

110. At the time he presented respondent's plan on March 18, Fullwood knew Dr. Blosser's medical opinion that petitioner could not tolerate working in the same office with Terry. (XI:42-4; PX9) Fullwood assigned petitioner to work in the same office with Terry, knowing that she could not accept the assignment.

111. After Fullwood read his letter to petitioner, petitioner expressed her disagreement. (II:77; X:168) She said that she did not think the Department had performed a thorough investigation. (II:77; PX56 at 1) In particular, she said that her request to take a polygraph examination should have been granted, and that her health care providers should have been interviewed. (II:77; X:168; PX56 at 1)

112. Petitioner informed the DAPP officials that she needed to take the rest of the week off. (II:79) Kilborn approved petitioner's request to take annual leave for the period March 19, 1996 through March 22, 1996. (II:79; PX21)

113. After they met with petitioner, Fullwood, Wooten and Kilborn met with Terry to inform him of the results of the investigation. When Terry came into the conference area, he was visibly nervous and upset. (PX56; see III:112) Fullwood informed Terry that the EEO Office had concluded that his acts "did not rise to the level of sexual harassment," but that some of his behavior was "inappropriate." (PX56 at 2) Fullwood advised Terry that a coaching would be conducted and that he would be expected to participate in sexual harassment training. (Id.) Terry was informed that Babb would be his secretary and that petitioner would be supervised by Williams, effective immediately. (Id.) When given an opportunity to make comments or ask questions, Terry objected to the coaching, stating that he was not guilty of wrongdoing. (Id.; III:113-14) Wooten reminded Terry that coaching was not a disciplinary action. (III:113; PX56 at 2)

114. After the meeting in Smithfield, petitioner spoke with Dr. Blosser to ask her opinion about whether petitioner would be able to go back and work in the same office with Terry. (II:79-80) Dr. Blosser said that her medical opinion was the same as it was on January 10: Petitioner could not work in the presence of Terry. (II:80)

115. On March 21, 1996, petitioner sent a letter by fax to Kilborn, communicating Dr. Blosser's medical opinion. The letter, in its entirety, reads as follows:

> Dear Mr. Kilborn:
>
> On Monday, March 18, 1996 I was directed by memo to report to the Henderson Probation office immediately. As you know, I took 32 hours of vacation which will make my beginning date Monday, March 25, 1996.
>
> On March 21, 1996, I spoke with my lawyer and my family physician, Anita Blosser, MD. Dr. Blosser advised me that her medical opinion has not changed in reference to returning to work at the Henderson Probation office as long as Robert Terry continues to work out of that building and she also advised that her letter to you on January 10, 1996 is still in effect in regard to working in the same atmosphere as before.
>
> Through legal advice and medical reasons stated by Dr. Blosser I am requesting that Robert Terry be removed and forbidden to work out of the above-mentioned office or to be in my presence. I am hereby requesting that either Robert Terry be removed from that office or I am transferred within the organization with a comparable position at a worksite within a reasonable working distance from my home.
>
> Sincerely,
>
> Pamela Robinson

(PX22)

116. On April 1, 1996, Wooten wrote Robinson the following letter:

> Dear Ms. Robinson:
>
> This is to advise that we are in receipt of your correspondence to Kyle Kilborn, Judicial District Manager, dated March 21, 1996. In an attempt to determine what options may be available for you in the form of a lateral transfer, please further advise what you consider to be a "reasonable working distance from your home". More specifically please identify which counties that would be acceptable to you.
>
> In order for us to move forward with additional considerations to accommodate you, please send your reply to me at 869-A Berkshire Road, Smithfield, North Carolina 27577, as soon as possible.
>
> Sincerely,

Evelyn M. Wooten
Second Judicial Division Assistant Chief

(PX23)

117. In her April 1 letter, Wooten did not provide a deadline for petitioner to respond.

(PX23)

118. Soon after writing to Wooten on March 21, 1996, petitioner learned of two other women who ultimately testified about sexual overtures by Terry. (II:81-82) In light of that additional information, petitioner did not think that she should be driven out of her job, while Terry remained in his. (II:82-83) By letters dated April 19, 1996 and April 25, 1996, petitioner informed James Fullwood and Wooten of the women, and asked that DAPP reconsider her grievance in light of the new information. (PX25 at 4; PX26)

119. Petitioner continued on paid leave until March 29, and on unpaid leave thereafter. (II:91-92)

b. Terry's Coaching

120. At the March 18, 1996 meeting in Smithfield, Terry was informed that a coaching would be conducted because of his conduct toward petitioner. (PX56 at 2) Under DOC policy, coaching is not considered to be a disciplinary action. (III:84) Coaching is an opportunity for a manager or supervisor of an employee to give guidance to an employee on work performance or personal conduct issues. (X:171) The purpose of coaching is to draw the employee's attention to an issue so that he or she can improve. (X:171) Coachings are usually done to improve an employee's work performance where some deficiencies have been noted. (X:171)

121. On April 10, 1996, Wooten and Kilborn went to Warrenton to conduct a coaching session with Terry. (III:114) The session lasted no more than 15 or 20 minutes. (XII:50)

122. At the coaching session, Wooten presented Terry with a two-page document titled "Performance Management Review (Coaching)." (PX13; XII:50-51) The document includes the following list of "items discussed":

1) Importance of projecting a Professional image.

2) Making any comment that has sexual overtones or that could be suggestive of having sexual overtones.

3) Allowing anyone to engage in conduct that may have sexual implications.

4) Giving any appearance through actions/comments that are suggestive of retaliation.

5) Participation in Sexual Harassment Training.

(PX13) Wooten read those five items to Terry, without any other commentary. (XII:51; III:117) "She just read these verbatim." (III:116 (Kilborn))

123. Under a section titled "Assistance/Recommendations Rendered by Supervisor; Plans to Overcome Any Deficiencies," the coaching document contains the following list:

1) Supervisor will assist in coordinating Sexual Harassment Training.

2) Supervisor will provide you a copy of the policy governing human relations in the workplace.

3) Supervisor will meet with you in 30 days to follow up on items that were discussed.

4) Manager and Supervisor are available to render support, assistance and guidance when problems or questions may arise.

(PX13) At the coaching session, Wooten read the four action items to Terry without any other commentary. (III:117; XII:51)

124. The second page of the coaching document contains typed "supervisor's comments" by Kilborn and "manager's comments" by Wooten. (PX13) The supervisor's comments are as follows:

> This coaching is presented to Mr. Robert Terry, Jr. due to findings of probable cause with respect to inappropriate personal conduct. Mr. Terry, Jr. is advised to conduct himself in a professional manner at all times and avoid making any statements that may be construed as violating the Human Relations policy of this Division.

(PX13) The manager's comments are as follows:

> As a result of a sexual harassment grievance, it was found that Mr. Terry's behavior did not rise to the level of sexual harassment. However, there was probable cause to believe that his conduct was inappropriate. Therefore, through this coaching, he is being advised to refrain from making comment or taking any action that has implications of being sexual in nature or retaliatory while in the presence of any DOC employee, resource agency, representative or any other person with whom he is conducting official business.

(PX13) At the coaching session, Wooten read the supervisor's comments and manager's comments without any other commentary. (XII:51-52)

125. After reading the supervisor's and manager's comments, Wooten asked Terry if he had any comments to make. (XII:52) Terry said that he would sign the document, but did not agree with it. (XII:52) Terry then signed the document with the following comment: "I disagree with this coaching very strongly. However, I am signing it to receive my copy for my file." (PX13)

126. Other than the actual reading of the document and asking if Terry had any statements to make, nothing else happened at the meeting. (XII:52) Wooten and Kilborn then returned to Louisburg. (XII:53)

127. In the entire coaching session, no one informed Terry of specific items of inappropriate conduct. (III:118) Neither Kilborn or Wooten relayed to Terry the specific conduct that was identified as inappropriate in the conclusion of the EEO Office's February 26 report. (III:118-19)

128. On the coaching document, the first item listed in the plan of action states: "Supervisor will assist in coordinating sexual harassment training." (PX13) In the Smithfield meeting, Terry had been informed he would be required to attend sexual harassment training. (PX56 at 2) As of November 27, 1996, when Kilborn testified at the hearing, Terry had attended no sexual harassment training. (III:120) Terry finally attended a sexual harassment workshop in December 1996, eight months after the coaching. (V:229-30; XI:36)

129. The second item in the plan of action states: "Supervisor [Kilborn] will provide you a copy of the policy governing human relations in the workplace." (PX13) According to Kilborn, "that wasn't done." (III:120)

130. The third item in the plan of action states: "Supervisor will meet with you in thirty days to follow up on items that were discussed." (PX13) No follow-up meeting occurred. (III:120; XI:39)

131. The fourth item in the plan of action states: "Manager and supervisor are available to render support, assistance and guidance when problems or questions may arise." (PX13) Neither Wooten nor Kilborn had any further communication with Terry about the concerns identified in the coaching document. (III:121-22; V:233-34)

132. In response to questions at the hearing, James Fullwood reviewed the follow-up, or lack of follow-up, to the plan of action set forth in the coaching document. (XI:36-39) Fullwood was then asked: "Do you consider this to be a prompt and effective remedial response to the problems that were identified with Mr. Terry?" (XI:39) Fullwood answered as follows: "I would not view this as a prompt follow-up to what is required inasmuch as it was indicated that it was not done." (XI:39-40)

4. March 1996 Performance Evaluation

133. On March 18, 1996, Terry met with James Fullwood, Wooten and Kilborn to discuss the outcome of the investigation of petitioner's grievance against him. (PX56) On the same day, Terry prepared a written performance evaluation of petitioner, covering the first year of her employment. (VI:203; IX:190; PX11)

134. On March 25, 1996, Terry presented the performance evaluation to Kilborn for his review. (VI:203) Kilborn added his comments as reviewing manager on that date. (VI:203; PX11, Part V)

135. The March 1996 evaluation includes criticisms of petitioner's performance in every category. (PX11) None of the criticisms in the performance evaluation are supported by contemporaneous documentation, except for the telephone incident on the morning of January 4, 1996. (X:89, 99-102)

136. Terry and Kilborn gave petitioner an "overall rating" of "good" for the 12-month period covered by the March 1996 performance evaluation. (PX11; III:127) That rating was lower than the "very good" rating they had given her in the six-month interim evaluation. (PX16)

137. Terry's "comments on overall performance," dated March 18, 1996, are as follows:

> Ms. Robinson came to us from A.O.C. on March 20, 1995. Her computer skills was [sic] a great help to the unit. Her work and attitude toward her job was [sic] fine until some time in January of 96. She began having problems in the area of DAPP policy, completing tasks assigned to her, leaving her assigned duty station without authority. This problem continued until she left work on 3/18/96 and never returned. This has caused a great deal of stress on the units in Vance County.

(PX11, Part V (emphasis added)) At the hearing, Terry testified that his reference to "January of 96" was erroneous, and that the decline in performance began in October 1995. (IX:194)

138. Kilborn's "comments on overall performance," dated March 25, 1996, are as follows:

> Ms. Robinson began her duties with The [sic] Vance County unit on 3/20/96 [sic]. She began with a good attitude and seemed to work well with others. However, her performance as well as her attitude toward her supervisor and staff declined. Her conduct was disruptive. Although the supervisor and myself tried to work with her, it did not help. She walked off the job on 3/18/96.

(PX11, Part V) At the hearing, Kilborn acknowledged that Robinson did not "walk off the job" on March 18, 1996. (III:127) He acknowledged that at the time he wrote his comments, he was aware that petitioner had not returned to the Vance County office pursuant to her physician's instructions. (III:127-28)

139. At the November 17, 1995 meeting with petitioner in Vance County, Kilborn and Terry had agreed that petitioner's next performance evaluation would reflect that petitioner's performance had been affected by her medical condition. (XII:43; PX6) The March 1996 performance evaluation contains no reference to petitioner's medical condition. (PX11)

5. **Termination**

140. On April 18, 1996, James Fullwood sent petitioner a letter directing her to report to work at the Vance County DAPP office by April 29, 1996. (PX24) The letter continues: "If you fail to report to work or contact this office by April 29, 1996, I will recommend through the chain of command that you be separated from employment under the provision of 'Resignation Without Written Notice.'" (Emphasis added) (PX24)

141. At the time he wrote petitioner on April 18, Fullwood knew Dr. Blosser's medical opinion that petitioner could not tolerate working in the same office with Terry. (XI:47-48; PX9; PX22) Fullwood assigned petitioner to work in the same office with Terry, knowing that she could not accept the assignment.

142. Petitioner received Fullwood's April 18 letter on April 19. She immediately instructed her attorney, Burton Craige, to respond to Fullwood's letter. Craige sent a five-page letter to Fullwood on April 19, 1996. (PX25) Fullwood received Craig's letter on April 24, 1996. (PX31.2)

143. The April 19 letter from Craige includes the following paragraph:

> Since March 21, Ms. Robinson has learned that Mr. Terry has previously subjected other women to sexual harassment, including a teenager who was sexually harassed by Mr. Terry in the late 1980's. I understand that other women have also been victims of Mr. Terry's unwanted sexual attentions, including at least one other employee in the Probation and Parole Office.

(PX25 at 4)

144. The April 19 letter from Craige to Fullwood includes a detailed settlement proposal to resolve petitioner's claims. (PX25 at 4-5)

145. The April 19 letter from Craige to Fullwood includes a specific response to Wooten's April 1 letter:

> By letter dated April 1, 1996, Ms. Wooten asked Ms. Robinson to state what she considers a "reasonable working distance" from her home. Ms. Robinson, the victim, should not be required to suffer any further disruption. In light of Mr. Terry's conduct toward Ms. Robinson and what we have learned about his conduct toward other women, the only fair resolution is to fire or transfer Mr. Terry, and return Ms. Robinson to her former position.

(PX25 at 5)

146. Craige's letter to Fullwood states: "Please consider this letter as Ms. Robinson's response to your letter dated April 18, 1996." Craige asked Fullwood to respond to his letter by April 26, 1996. (PX25 at 5)

147. On April 25, 1996, Craige sent another letter to Fullwood. (PX26) Fullwood received that letter on April 26. (PX31.2) The April 25 letter reads as follows:

> Dear Mr. Fullwood:
>
> As I mentioned in my letter of April 19, we have learned that Mr. Terry has previously subjected other women to sexual harassment. I am enclosing a copy of a statement made by Tonya Williams to Charles Worth on August 8, 1986. At the time of the statement, Ms. Williams was 18 years old.
>
> Mr. Terry also sexually harassed Rhonda Steverson Howell in the summer of 1989. At the time, Mrs. Howell, then unmarried, was 18 years old and working in a summer job at the Warren County Courthouse.
>
> Ms. Robinson is only the most recent of Mr. Terry's multiple victims. Please let me know immediately what the Department intends to do to remedy the problem.
>
> I look forward to your response.
>
> Sincerely yours,
>
> Burton Craige

(PX26)

148. Appended to Craig's April 25 letter was a two-page typed document titled "Oral Statement Made By Tonya Williams to Charles J. Worth on August 8, 1996." (PX25 (Attachment); PX1) The statement is signed by "Tonya R. Williams" on August 18, 1996. In the document, Williams states that Terry "felt my breast, my back and my thighs." When asked by the interviewer if "it [could] have been a friendly touch," Williams responded: "No, it was no friendly touch. I told him to go harass someone else's secretary." (PX1)

149. Fullwood received both of Craige's letters before the April 29 deadline that Fullwood had announced in his April 18 letter. (II:87-88; PX24, PX25) Fullwood transmitted copies of Craige's letters up the chain of command to Lee, Guy and Beck, and to the Attorney General's office, DOC's legal counsel. (XI:66-67; VII:8-9) Fullwood did not respond to either the April 19 or April 25 letters from Craige. (II:87, 88) Petitioner heard nothing from the Department of Correction before the April 29 deadline. (II:88)

150. Fullwood testified that neither he nor Beck believed that Craige's letter of April 19 adequately responded to his letter of April 18. (XI:54) Fullwood did not notify Craige that he considered Craige's letter to be deficient or nonresponsive. (XI:54) Fullwood referred Craige's letter to the Attorney General's office because the letter included a demand for settlement. (XI:54-55) Fullwood did not notify Craige that he (Fullwood) had forwarded Craige's letter to legal counsel, and that Craige needed to communicate with legal counsel instead of Fullwood. (XI:55)

151. The next communication petitioner received from the DOC was a letter from James Fullwood, dated May 15, 1996, informing petitioner that she had been terminated, effective April 29, 1996. (II:88-89; PX27) Fullwood's letter characterized petitioner's separation from employment as a "resignation without written notice." (PX27)

152. On May 3, 1996, Wooten prepared and signed a personnel action form for petitioner's separation from employment. (PX37) The separation form indicates that petitioner was "dismissed." (PX37)

153. After petitioner received Fullwood's May 15 letter, her attorney obtained an affidavit from Rhonda Steverson Howell. (II:89) On June 4, 1996, Craige sent a letter to the Assistant Attorney General then representing respondent with Howell's affidavit attached. The affidavit, signed and notarized on May 29, 1996, states that Terry sexually harassed Howell in 1989 when Howell, then age 18, had a summer job in the Warren County courthouse. (PX28 (Attachment); PX2) The affidavit states that Terry frequently made sexually suggestive comments about Howell's appearance and clothing. (PX2, & 4) The affidavit includes the following statement:

> One day, Mr. Terry asked me to come into his office. He cornered me in front of a filing cabinet and placed his hand on my buttocks. I told him to stop and immediately left his office.

(PX2. & 5)

154. The affidavit states that Howell immediately reported the incident to her supervisor. (PX2, & 6) The affidavit states that the supervisor and Terry told Howell that if she tried to pursue any action against Terry, he would sue her for slander and her college career would be ruined. (PX2, & 7)

155. Craige's June 4 letter to the Assistant General Attorney then representing DOC includes a request that DOC reopen its investigation of petitioner's allegations "in light of the statements of other victims of sexual harassment." (PX28) DOC did not reopen its investigation. (II:90)

156. Petitioner's salary at the time of her termination was $18,263. (PX37) She started working for the State on May 1, 1991. (II:90; PX20 at 2) A state employee who has worked at least five years is entitled to certain benefits at retirement age. (II:90-91) Any employee who works less than five years is not entitled to those benefits. (II:90-91) Fullwood's May 15 letter to petitioner established the effective date of her separation as April 29, 1996, two days before petitioner's five-year anniversary of employment with the State. (II:91; PX27)

157. Petitioner has not been employed since the State terminated her employment. (II:92) Dr. Blosser (petitioner's physician), Ms. Watkins (her therapist), and Dr. Horne (her psychiatrist) agree that the high stress of pursuing her claim of harassment, including multiple depositions and a lengthy hearing, has made it impossible for petitioner to hold a job since the termination of her employment. (IV:111, 117-118; V:44; VI:26-27) If respondent moved Terry out of the Vance County office and reinstated petitioner into the job for which she was hired, Dr. Blosser, Ms. Watkins and Dr. Horne believe that she would be

able to perform her duties. (IV:119; V:44; VI:27) Petitioner agrees. (II:92-93)

158. Petitioner has suffered economic losses as a result of Terry's conduct and respondent's actions. Those losses include loss of sick and vacation leave from January 4 to 17, 1996, expenses for travel from Henderson to Louisburg from January 18, 1996 through March 18, 1996, loss of sick and vacation leave from March 19 through March 29, 1996, lost income due to unemployment since March 29, 1996, loss of health insurance benefits, loss of retirement benefits, medical expenses, attorney's fees, and litigation expenses. (II:109-10)

EVIDENCE NOT CONSIDERED BY THE STATE

159. When Craige provided the names and statements of Tonya Williams and Rhonda Steverson Howell to DOC, no one from DOC or the State contacted Williams or Howell. (I;175-80, 199) No one from DOC questioned Terry about the allegations made by Williams and Howell. (X:117)

160. Tonya Williams testified at the hearing. Her testimony was received into evidence for the limited purpose of showing the effect the information provided by Craige should have had, if any, on DOC. (I:180) Williams was born on June 29, 1968 in Vance County. (I:181) She graduated from Warren County High School in 1986, and from St. Augustine's College in 1991 with a B.S. degree in Business Management. (I:181) Williams has been employed at St. Augustine's College since 1992. (I:181) She is now the Purchasing Assistant for the college. (I:181)

161. In the summers of 1985 and 1986, Williams worked with the summer youth employment program in Warrenton (I:182) She was assigned to the Community Services office, located across the street from the courthouse in Warrenton. (I:183) Williams' supervisor was Arie Davis, Coordinator of the Office of Victim and Community Service. (I:183) Williams' work brought her into regular contact with the PPO's in Warren County, including Robert Terry. (I:185-86)

162. Williams testified that in the summer of 1986, Terry engaged in conduct toward Williams that she considered to be inappropriate. (I:187) Terry made comments to her that she had a "nice body for a young girl" and that she had "a well-developed body for a girl [your] age." (I:188) Terry never made such comments when Davis was present. (I:189) On one occasion, Terry came into the office when Davis was absent. Williams described what happened:

> He touched my back and my breast, and he touched my thigh. I don't remember which one. I don't remember which breast. All I know is that he laid hands on me, and it was not in a spiritual sense.

(I:190) Williams testified that she asked Terry to stop and then told him that he should harass his own secretary or somebody else's secretary and not her. (I:191) On another occasion, Terry forcibly grabbed Williams' hand, but stopped when someone walked in. (I:192) After the second touching incident, Williams reported what had happened to Arie Davis, her supervisor. (I:193-94) Williams then provided an oral statement to Charles Worth, the County Manager, and signed a transcript of the statement. (I:193-94, 196; IV:143-44) The two-page statement attached to Craige's April 25, 1996 letter to Fullwood is the statement Williams signed in August 1986. (I:195-96) Before the meeting with Worth, Terry called Williams to meet with him privately in the courtroom. (I:197-98) In that conversation, Terry told Williams that if anyone asks her about the incident, she should deny it. (I:198)

163. No one from the State of North Carolina or DOC contacted Williams to ask her about the incidents with Terry. (I:199) The first time anybody from the State asked Williams about the incidents was when the State's attorney took her deposition in October 1996. (I:199) Williams testified that, if someone from DOC had called her in April 1996 and asked about these events, she would have provided the same information that she provided at the hearing. (I:199-200)

164. Williams does not know petitioner, has never met her, would not know her if she saw her, and has never talked to her about her case. (I:199)

165. Respondent called Arie Davis as a witness. (IV:129) In 1986, Davis was working with the Department of Traffic Control and Public Safety as a coordinator for Community Services. (I:133) Tonya Williams worked in Davis' office for two summers in the mid-1980's. (I:134) Davis had known Williams since Williams was a child (I:134-35), and specifically requested that Williams be placed in her office. (IV:134, 150) Because Davis would be absent from her office frequently, she wanted someone who had a particular degree of maturity to take the job. (IV:150) Davis has never known Williams to be untruthful to her or anyone else. (IV:151) Davis has known and worked with Robert Terry for 12 to 13 years. (I:138-39) In

1986, Terry and Davis were friends and often ate lunch together. (I:140) In the second summer that Williams worked with Davis, Williams reported to Davis that Terry had touched her. (I:142) From that day forward, Davis never left Williams in the office alone. (I:142-43)

166. At the hearing, Terry denied Williams' allegations. (IX:141-42)

167. Rhonda Steverson Howell testified at the hearing by videotape deposition. Her testimony was received into evidence for the limited purpose of showing the effect the information provided by Craige should have had, if any, on DOC. (II:2; PX58) Howell was born on February 17, 1971 in Warrenton. (PX58 at 5) She graduated from Warren County High School in 1989. (Id. at 6) In the summer of 1989, Howell worked at the Warren County courthouse as part of the summer Manpower program. (Id. at 6) She was assigned to work under the supervision of Arie Davis, performing clerical and secretarial tasks. (Id. at 7) Terry's office was directly across the hall from Davis' office. (Id. at 8-9) Davis was in the field most of the time, and was seldom in her office. (Id. at 7-8) When Davis was not in the office, Terry asked Howell to do clerical and secretarial work for him. (Id. at 9)

168. Howell testified that soon after she started working at the courthouse, Terry asked Howell how old she was. When she told him she was 18, Terry said "He was glad because that means what he was thinking was not illegal." (Id. at 9) Howell interpreted that statement as a sexual comment. (Id. at 9-10) Howell was shocked and walked out of Terry's office. (Id. at 10) On another occasion, Terry told Howell that she "was well developed to be only 18." (Id. at 10) Terry told her she "had [a] very nice body to only be a teenager." (Id. at 10) Howell asked Terry to stop making those comments, but he continued to make them. (Id. at 10) During her employment that summer, Terry made 10 to 15 sexually suggestive comments to Howell. (Id. at 82)

169. Howell testified that on one occasion, Terry called her into his office and closed the door behind her. (Id. at 11) Terry then pinned her against the filing cabinet with his body. (Id. at 11) Howell's shoulders were pressed between the upper part of Terry's body and the filing cabinet. (Id. at 57-58) While she was pinned against the filing cabinet, Terry reached around her and placed his hand on the lower part of her buttocks. (Id. at 11, 57) Howell pushed him away and went back to her office. (Id. at 58)

170. Howell testified that the same day that Terry touched her, Howell went to the office of Essie Glasco, supervisor of the Manpower program. (Id. at 12) Howell told Glasco that she wanted to quit her job. (Id. at 12) When Glasco asked why, Howell told her that Terry had made a pass at her, had pinned her against the filing cabinet and touched her buttocks. (Id. at 12) Glasco said she did not believe Howell and that if Howell told anyone else, Terry would charge her with slander and ruin her career and chances of going off to college. (Id. at 12) Howell told Glasco that she was quitting, and left her office. (Id. at 12-13)

171. Howell testified that on the next payday, Glasco called her and told her to come to the office to get her last paycheck. (Id. at 13) When Howell came into Glasco's office, Terry and Glasco were there. (Id. at 13) Glasco again told Howell that she did not believe what Howell had reported and told her that if she tried to do anything about it, they could get her for slander. (Id. at 13-14) Howell started crying and told them she did not want to do anything about it, and that she just wanted to get her last paycheck and forget about it. (Id. at 14)

172. At the time Howell quit, she had been working for a little over a month. (Id. at 14) She liked her job and needed the money. (Id. at 14-15) She would not have quit her job if the incidents with Terry had not happened. (Id. at 15)

173. In August 1989, Howell began her studies at Elizabeth City State University. (Id. at 15) She received her Associate's degree in Early Childhood Education in 1991. (Id. at 15) Howell served in the Army from 1992 until December 1995. (Id. at 15) She married her husband James Edward Howell in 1995. (Id. at 15) She is presently living in Arizona, working as an administrative assistant at an alternative school for children who have dropped out of school. (Id. at 15-16)

174. Howell does not know petitioner and has never spoken with her. (Id. at 16) Howell knew Tonya Williams when she was growing up because they lived in the same community and went to the same high school. (Id. at 16-17) She last saw Williams in 1986 during Williams' senior year in high school. (Id. at 17) Howell has not spoken with Williams since 1986, and has never discussed petitioner's case with her. (Id. at 17)

175. In her testimony at the hearing, Davis confirmed that Howell worked with her in the summer of 1989 (IV:147), and that Howell quit either in the beginning or in the middle of the summer. (IV:154) At the time, Davis heard allegations that there had been some kind of misconduct by Terry. (IV:154) After the summer of 1989, Davis stopped participating in the

summer youth program because she felt it was necessary to be in the students' presence while they were working for her. (IV:157) Since Davis' job required her to be out of the office frequently, she did not think that it was feasible to continue the program. (IV:157-58) Her decision was influenced in part by the incidents involving Williams and Howell. (IV:158)

176. Essie Fields, formerly Essie Glasco, testified as a witness for respondent. (IV:177) Fields has known Terry since the early 1980=s. (IV:185-91) Fields testified that in the summer of 1989, she learned that Rhonda Steverson Howell had told a counselor that she (Howell) had been subjected to some kind of sexually inappropriate conduct by Terry. (IV:192-93) Fields knew of no motive for Howell to falsely accuse Terry of improper conduct. (IV:193)

177. At the hearing, Terry denied Howell's allegations. (IX:145-47)

178. Despite petitioner's request, respondent did not contact petitioner's health care providers during its investigation of her grievance. (PX56 at 1; PX62 at 55) If respondent had spoken with petitioner's health care providers, respondent would have obtained relevant information about petitioner's medical condition, diagnosis and treatment. Respondent would have also obtained further confirmation that petitioner made contemporaneous reports of Terry's acts of harassment, before Terry expressed any concerns about petitioner's job performance. In addition, respondent would have obtained information about the psychological impact of Terry's harassment on petitioner, and petitioner's reaction to Terry's conduct.

179. Dr. Blosser, petitioner's physician, testified that the harassment petitioner experienced at work had a profound impact on her physical and psychological state. (VI:27-28) First, Dr. Blosser noted that the increased tension caused by the harassment made it impossible for petitioner to cope with her headaches without medication. (VI:27) Second, petitioner's post-traumatic stress disorder, arising from her experience of childhood sexual abuse, was exacerbated by the reiteration of unwanted advances by Terry, and petitioner's inability to protect herself. (VI:26-28) Third, until November 1995, petitioner's bipolar disorder had been undetected because petitioner had never been in a state of agitation sufficient for anyone to consider the diagnosis. (II:28) In Dr. Blosser's opinion, the bipolar disorder became manifest and required medication because of the sexual harassment petitioner experienced at work. (VI:28)

180. Mary Edith Watkins, petitioner's psychotherapist, testified that Terry's sexual remarks, which would have shocked and offended anyone, had a particularly profound impact in petitioner's case because of her history of childhood sexual abuse. (IV:108-10) Terry's conduct triggered the old emotions and feelings that petitioner had experienced when she was abused by her stepfather. (IV:110) The triggering of those emotions continued when the Department ignored her reports of Terry's harassment, replicating petitioner's experience when her mother ignored her reports of her stepfather's abuse. (IV:110)

181. In the opinion of Dr. Blosser and Ms. Watkins, petitioner's reaction to Terry's conduct was not the product of hypersensitivity. (IV:107-09, 120-21; VI:70-71)

182. On the issues of the psychological impact of the harassment on petitioner, and petitioner's reaction to Terry's conduct, respondent presented no expert testimony to counter the testimony of Ms. Watkins and Dr. Blosser.

D. THE STATE'S HANDLING OF EVIDENCE

183. In discovery requests served on July 16, 1996 (Request for Production No. 12), October 15, 1996 (Request for Production No. 14), and October 22, 1996 (Request for Production No. 33), petitioner requested respondent to produce the following documents:

a. All documents regarding claims that Robert Terry engaged in acts of sexual harassment or other sexually inappropriate behavior, including but not limited to, all documents regarding respondent's investigation of such claims.

b. All documents in the files of the Equal Employment Opportunities office of the Department of Correction regarding allegations of sexual harassment and/or other allegedly inappropriate conduct by Robert Terry.

c. All documents regarding the investigation by the EEO Manager (and his agents) of the allegations made by petitioner, including, but not limited to, all notes and transcripts of interviews with witnesses, and all documents regarding communications between the EEO Manager's office and the Division of Adult

> Probation and Parole, including, but not limited to, all correspondence, memoranda and notes.

(Copies of respondent's discovery responses are attached as Exhibits A, B and C to Petitioner's Motion to Compel Production of Documents, filed on March 3, 1997).

184. On March 3, 1997, based on information provided in confidence by a DOC employee, petitioner filed a motion to compel production of documents. The ALJ granted the motion on March 4, 1997.

185. On March 5, 1997, more than three months after the hearing began, and more than six months after respondent responded to petitioner's initial request for production, respondent provided a supplemental response to petitioner's request for production of documents. Petitioner submitted a copy of the supplemental response to the ALJ on March 6, 1997. The supplemental response was admitted into evidence as Petitioner's Exhibit 60 (PX 60) on March 26, 1997. Respondent's written response states:

> **RESPONSE:** Two documents numbered 903-911 and 912-918 respectively are Gwen Sanders' working copy of the DOC's EEO Case Prospectus prepared in this case and a copy [of] the EEO Prospectus initially submitted to Mr. Beck. The latter copy of the Prospectus contains handwritten notes made by Mr. Fullwood of amendments which subsequently were made to the Prospectus. Neither of these documents ever were placed in the investigative case file but rather were maintained by Ms. Saunders [sic] in a personal file containing examples of reports which she used in her work.

(PX60)

186. One of the documents attached to respondent's March 5, 1997 written response was the February 7, 1996 report of the EEO Office, with Alfonza Fullwood's handwritten notes. (PX60) That report was identified by Fullwood at the hearing on March 26, 1997, and filed as Petitioner's Exhibit 64. (XII:165)

187. On March 26, 1997, as part of her rebuttal case, petitioner read into the record excerpts from Alfonza Fullwood's deposition and filed the entire deposition as Petitioner's Exhibit 62. (XII:233)

188. In his deposition, taken on November 4, 1996, Alfonza Fullwood testified that PX20 (the February 26, 1996 report) was "the exact form" that Sanders submitted to him initially and that the only changes he made were correcting "some grammatical errors or typographical mistakes." (XII:76; PX62 at 43) At the hearing on March 26, 1997, Fullwood admitted that, after discussing the report with Theodis Beck, he (Fullwood) directed Sanders to change the conclusion of the report and add language stating that "Mr. Terry's conduct did not rise to the level of sexual harassment." (XII:123-25; 157-58)

189. At Alfonza Fullwood's deposition, petitioner's counsel asked the witness to explain what he meant by stating in the February 26 report (PX 20) that "Mr. Terry's conduct did not rise to the level of sexual harassment." Fullwood answered as follows:

> You would have to ask Ms. Gwen Sanders. It is her conclusion drawn. I think it would be appropriate for you B to ask her what factors she considered B what was her thought process that convinced her that the allegation did not rise to the level of sexual harassment.

(XII:99; PX62 at 100-01). At the hearing on March 26, 1997, Alfonza Fullwood admitted that he, not Sanders, wrote the statement ("Mr. Terry's conduct did not rise to the level of sexual harassment"), and that he instructed her to put the statement in the report.

190. At the close of Alfonza Fullwood's deposition, the follow colloquy occurred:

> Q. Are you aware of any other documents in your office about this case other than this report B and when I say "in your office," I mean <u>either</u> <u>now</u> <u>or</u> <u>at</u> <u>any</u> <u>time</u>.
>
> A. Okay.

Q. --- other than this report, and the notes of the interviews that I believe you mentioned that you have passed on to Ms. Oguah?

A. I know of no other documents B about this case?

Q. Right. Any memos, any correspondence, anything else?

A. You are not talking about the B will that include the actual document contesting the B the contested case hearing petition note?

Q. All right. Leaving out any papers that have been filed in this case. Okay?

A. Okay. Not that I know of.

(XII:107-08; PX 62 at 118-19 (emphasis added)). At the hearing on March 26, 1997, Alfonza Fullwood admitted that the February 7 report (PX 64) was an official report of the EEO Office and was transmitted as an official report of the EEO Office to Theodis Beck, Director of the Division of Adult Probation and Parole (DAPP), on or about February 7, 1996. (XII:120-21) Fullwood confirmed that the manila folder for petitioner's case file, maintained by the EEO Office, indicates that the case was opened on January 10, 1996 and closed on February 7, 1996. (XII:129-30) Fullwood further admitted that the February 7 report remained in the EEO Office files until shortly before his deposition on November 4, 1996, when he personally disposed of the report by placing it in a trash can in his office. (XII:133-36, 138-39)

191. Alfonza Fullwood was deposed on November 4, 1996. On November 14, 1996, Alfonza Fullwood signed a verification attesting that the deposition transcript was correct, and declined to make any corrections to the portions of the deposition cited above.

192. Alfonza Fullwood verified respondent's initial response to petitioner's request for production of documents on August 16, 1996. (See Exhibit A to petitioner's Motion to Compel Production of Documents (March 3, 1997)).

193. In its supplemental response to petitioner's request for production of documents, served on March 5, 1997, respondent attached what it described as "Gwen Sanders" working copy of the DOC's EEO Case Prospectus prepared in this case and a copy [of] the EEO Prospectus initially submitted to Mr. Beck." (PX60) The response continued: "Neither of these documents ever were placed in the investigative case file. . . ." (PX60) Alfonza Fullwood verified the response on March 5, 1997, stating under oath "that the foregoing is true and correct to the best of his knowledge and belief." At the hearing on March 26, 1997, Alfonza Fullwood admitted that, contrary to the statement in the March 5, 1997 response, PX 64 had been a part of the investigative case file until it was removed shortly before his deposition. (XII:114, line 14; 115, line 23; 117, line 17)

E. ASSESSMENT OF CREDIBILITY OF PETITIONER AND TERRY

194. At the hearing, Terry denied each of petitioner's allegations of sexually offensive comments or conduct. (IX:166-75) With respect to those allegations, the ALJ credits petitioner's testimony, and does not credit Terry's denials. In resolving the issue of credibility, the ALJ considered the following:

a) The demeanor of petitioner and the demeanor of Terry, observed by the Court during many hours of direct and cross examination.

b) The testimony of Angela Johnson, Arlinda Braswell, Dr. Jack McWay and Dr. Anita Blosser that petitioner reported Terry's sexually offensive conduct to them soon after the conduct occurred, at a time when Terry considered petitioner's job performance to be completely satisfactory. (X:85; PX16) (See also PX20 at 5 (DAPP employees Debbie Babb, Scott Brewer, Megan Betts, and Dwayne Smith all stated that petitioner told them of the motel incident)).

c) The absence of evidence that petitioner has ever been untruthful in any of her other personal or professional interactions. (See, e.g., III:144, 147 (Cash); IV:6, 80-81 (Watkins); V:47-49 (Horne); VI:9 (Blosser); X:148 (Jo

Williams))

d) In addition to petitioner, Arlinda Braswell testified that Terry had subjected her to sexually offensive conduct. The ALJ finds Braswell to be credible, and Terry's denial with respect to her testimony not to be credible.

195. Although not necessary to the ALJ's resolution of the issue of credibility, the Court further finds that petitioner's spontaneous offer to submit to a polygraph examination tends to support her credibility.

CONCLUSIONS OF LAW

A. CONTESTED ISSUES

The contested issues heard by the ALJ were as follows:

a) Did respondent subject petitioner to sexual harassment and deny her equal opportunity for employment because of her sex, in violation of N.C.G.S. § 126-16?

b) Did respondent fail to take prompt and appropriate action to remedy Robert Terry's acts of sexual harassment, in violation of § 126-16?

c) Did respondent retaliate against petitioner for protesting sexual harassment, in violation of N.C.G.S. § 126-17?

d) Did respondent terminate petitioner without just cause, in violation of N.C.G.S. § 126-35?

(I:54; III:175)

1. Sex Discrimination

II. Section 126-16 of the General Statutes requires state agencies to "give equal opportunity for employment . . . without regard to . . . sex." Under State Personnel regulations, "sexual harassment" is "deemed a form a sex discrimination prohibited by G.S. § 126-16." 25 NCAC 1C.0214. Effective September 1, 1992, respondent formally adopted a sexual harassment policy, and also recognized that sexual harassment is "a form of sex discrimination prohibited by North Carolina G.S. § 126-16." (PX 30)

1. State personnel regulations define sexual harassment as follows:
Sexual harassment is defined as deliberate, unsolicited, and unwelcome verbal and/or physical conduct of a sexual nature or with sexual implications by a supervisor or co-worker which:

(1) has or may have direct employment consequences resulting from the acceptance or rejection of such conduct; or

(2) creates an intimidating, hostile or offensive working environment; or

(3) interferes with an individual's work performance.

25 NCAC 1C.0214(b) (emphasis added). Respondent's personnel manual contains the same definition. (PX 30)

2. The definition of sexual harassment in the State personnel regulations is similar to the definition of sexual harassment in federal regulations interpreting Title VII, 29 C.F.R. § 1604.11(a), and the standard for actionable sexual harassment articulated by the United States Supreme Court in Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986) and Harris v. Forklift Systems, 510 U.S. 17 (1993). In employment discrimination cases, our courts look to federal decisions for guidance. N.C. Department of Correction v. Gibson, 308 N.C. 131, 136, 301 S.E.2d 78,82 (1983).

3. Terry's conduct toward petitioner meets the definition of sexual harassment. Terry repeatedly subjected petitioner to offensive touching, sexual suggestions and innuendoes. He made an explicit proposition that she spend the night with him at a state-sponsored seminar. He then subjected her to degrading inquiries about her relationships with other men. Each of these incidents was deliberate, unsolicited and unwelcome.

4 Terry's conduct had each of the adverse consequences identified in the State personnel regulations as alternative bases for a finding of sexual harassment. First, the repeated sexual comments and unwelcome touchings, coupled with an explicit sexual proposition, created an offensive working environment. 25 NCAC 1C.0214(b)(2)(2). Second, Terry's harassment interfered with petitioner's work performance by increasing the severity of her headaches and intensifying symptoms of her bipolar disorder, to the point of requiring medication with side effects that directly affected her job performance, and causing petitioner to miss time from work. 25 NCAC 1C.0214(b)(2)(3). Finally, Terry's conduct had direct employment consequences for petitioner: when she rebuffed his advances, he retaliated against her by imposing unreasonable demands, giving her insufficient support and subjecting her to undue criticism for inconsequential performance issues. 25 NCAC 1C.02124(b)(2)(1).

5. Respondent subjected petitioner to sexual harassment and denied her equal opportunity for employment because of her sex, in violation of N.C.G.S. § 126-16.

2. Investigation and Remedial Action

6. An employer is liable for an employee's sexual harassment of another worker if the employer had actual or constructive knowledge of the existence of the sexual harassment and failed to take prompt and adequate remedial action. Paroline v. Unisys Corp., 879 F.2d 100, 106 (4th Cir. 1989).

7. When an employee reports that she has been subjected to sexual harassment, the employer is "obliged to investigate [the employee's] charges and to present a reasonable basis for its subsequent actions." Swentek v. USAIR, Inc., 830 F.2d 552, 558 (4th Cir. 1987).

8. In state tort claims based on sexual harassment, the North Carolina courts have recognized the employer's duty to investigate. Under North Carolina law, an employer may be held liable for the intentional torts of an employee under the doctrine of respondent superior where the employer ratifies the employee's tortious conduct. Denning-Boyles v. WCES, Inc., 123 N.C. App. 409, 414, 473 S.E.2d 38, 41 (1996). In order to show that the wrongful act of an employee has been ratified by his employer, it must be shown that the employer had knowledge of all material facts and circumstances relative to the wrongful act, and that the employer, by words or conduct, shows an intention to ratify the act. Id. The jury may find ratification from any course of conduct on the part of the principal which reasonably tends to show an intention on his part to ratify the agent's unauthorized acts. Id. Such course of conduct may involve an omission to act. Id.

> If the purported principal is shown to have knowledge of facts which would lead a person of ordinary prudence to investigate further, and he fails to make such investigation, his affirmance without qualification is evidence that he is willing to ratify upon the knowledge which he has.

Id. (quoting Restatement (Second) of Agency, ' 91, Comment e, p 235 (1958)).

9. Federal and state courts have imposed liability on employers who failed to conduct a proper investigation of sexual harassment claims. Yates v. Avco Corp., 819 F.2d 630, 635 (6th Cir. 1987); Robinson v. Jacksonville Shipyards, Inc., 760 F. Supp. 1486, 57 FEP 971, 1009 (M.D. Fla. 1991); Denning-Boyles v. WCES, Inc., 123 N.C. App. at 417, 473 S.E.2d at 43; see Risinger v. Ohio Bureau of Workers' Compensation, 883 F.2d 475, 481-83 (6th Cir. 1989) (racial discrimination).

10. The investigation of petitioner's grievance by respondent's EEO Office was plainly inadequate. First, the investigator did not interview key witnesses named by petitioner, including Dr. Anita Blosser, Mary Edith Watkins, and Kim Christopher. The EEO Office's policy of limiting its interviews to current agency employees excluded relevant information from consideration, and biased the process in favor of the agency and against the grievant. Second, petitioner's offer to take a polygraph examination was rejected, and then completely discounted as a factor in assessing her credibility. Third, the integrity of the investigation was compromised by the EEO Manager's alteration of the conclusion of the report in response to a telephone call by the Director of DAPP. Fourth, the conclusion of the revised report that "Mr. Terry's conduct did not rise to the level of sexual harassment" is not supported by the evidence presented in the report, and is contrary to the evidence presented at the hearing. Fifth, respondent should have reopened the investigation when it received information about other victims of Terry's

harassment.

11. Evidence that a managing officer of a party has engaged in misconduct that constitutes an obstruction of justice, such as the "destruction or concealment of relevant documents," is treated as an admission. McCormick, Evidence ' 265 at 191 (4th ed. 1992). EEO Manager Alfonza Fullwood's handling of evidence about the investigation strongly suggests that respondent knew its investigation was fundamentally flawed and could not withstand scrutiny. See Brandis & Broun, 2 North Carolina Evidence § 210 at 60 (4th ed. 1993) (admissions implied by conduct include "false, contradictory or evasive statements" and "attempts to suppress evidence").

12. The only action that respondent took to remedy Terry's misconduct was a brief "coaching" session on April 10, 1996. Respondent utterly failed to implement the modest plan it announced at the session. The coaching session falls far short of the adequate remedial action that the law requires. See Yamaguchi v. U.S. Dept. of the Air Force, 109 F.3d 1475, 1482-83 (9th Cir. 1997); Steiner v. Showboat Operating Co., 25 F.3d 1459, 1464 (9th Cir. 1994); Waltman v. International Paper Co., 875 F.2d 468, 479 (5th Cir. 1989). See also Denning-Boyles v. WCES, Inc., 123 N.C. App. at 417, 473 S.E.2d at 43 (employer ratified employee's acts of sexual harassment by failing to take adequate remedial action); Brown v. Burlington Industries, Inc., 93 N.C. App. 431, 438, 378 S.E.2d 232, 236 (1989) (same); Hogan v. Forsyth Country Club Co., 79 N.C. App. 483, 492-93, 340 S.E.2d 116, 122 (1986) (same).

13. Respondent failed to take prompt and adequate action to remedy Robert Terry's acts of sexual harassment, in violation of N.C.G.S. § 126-16.

3. Retaliation

14. Section 126-17 of the General Statute provides that "no state department, agency, or local political subdivision of North Carolina shall retaliate against an employee for protesting alleged violations of G.S. § 126-16." See NCAC 1I.2405(1)(c) ("Retaliation against those who protest alleged discrimination shall be prohibited.").

15. To establish a claim of retaliation under ' 126-17, an employee must show that 1) she protested an alleged violation of ' 126-16; 2) the employer took adverse employment action against the employee; and 3) a causal connection existed between the employee's protected activity and the employer's adverse action. See Hopkins v. Baltimore Gas and Electric Co., 77 F.3d 745, 754 (4th Cir. 1996); Ross v. Communications Satellite Corp., 759 F.2d 355, 365 (4th Cir. 1985). To establish the requisite causal connection, the employee must show that her protected activity was a "substantial causative factor" in the employer's decision. See Aune v. University of North Carolina, 120 N.C. App. 430, 434, 462 S.E.2d 678, 681 (1992) (N.C. whistle blower statute); Brooks v. Stroh Brewery Co., 95 N.C. App. 226, 230, 382 S.E.2d 874, 878 (1989) (OSHA retaliatory discharge); cf. Lenzer v. Flaherty, 106 N.C. App. 496, 510, 418 S.E.2d 276, 284 (1992) (speech protected by First Amendment; "substantial or motivating factor"). Once the employee has shown that the employee's activities were protected and were a substantial factor in the employer's decision, the burden shifts to the employer to show that the same decision would have been made if the employee had not engaged in the protected activity. Brooks v. Stroh Brewery Co., 95 N.C. App. at 230, 382 S.E.2d at 878. Courts recognize that circumstantial evidence is often the only method of proving retaliation. Lenzer v. Flaherty, 106 N.C. App. at 510, 418 S.E.2d at 284; Brooks v. Stroh Brewery Co., 95 N.C. App. at 237, 382 S.E.2d at 882.

16. By filing a grievance claiming that she had been subjected to sexual harassment, petitioner engaged in the statutorily protected activity of protesting alleged violations of § 126-16.

17. Respondent took the following adverse employment actions against petitioner after she filed her grievance:

a. On March 18, 1996, respondent ordered petitioner to work in the same office with Terry, knowing that, in the opinion of petitioner's physician, she was not able to work in his presence.

b. In March 1996, respondent gave petitioner an unfavorable performance evaluation.

c. On April 18, 1996, respondent again ordered petitioner to work in the same office with Terry, after having received additional confirmation that she was not able to work in his presence, and threatened her with termination if she did not do so.

d. On May 15, 1996, respondent terminated petitioner's employment.

18. Petitioner has established, by a preponderance of the evidence, that a substantial causative factor in each of the adverse employment actions listed above was petitioner's action in filing a grievance alleging that Terry had subjected her to sexual harassment. Respondent has failed to show, by a preponderance of the evidence, that the adverse decisions would have been made if petitioner had not engaged in the protected activity.

19. Respondent unlawfully retaliated against petitioner by reassigning her on March 18, 1996 to work in the same office with Terry, in violation of N.C.G.S. § 126-17.

20. Respondent unlawfully retaliated against petitioner by giving her an unfavorable performance evaluation in March 1996, in violation of § 126-17.

21. Respondent unlawfully retaliated against petitioner on April 18, 1996 by again ordering her to work in the same office with Terry, and threatening her with termination if she did not do so, in violation of N.C.G.S. § 126-17.

22. Respondent unlawfully retaliated against petitioner by terminating her employment on May 15, 1996, in violation of N.C.G.S. §m 126-17.

23. Respondent retaliated against petitioner for protesting sexual harassment, in violation of N.C.G.S. § 126-17.

4. Termination Without Just Cause

24. N.C.G.S. § 126-35 provides that "no career State employee subject to the State Personnel Act shall be discharged . . . for disciplinary reasons, except for just cause."

25. N.C.G.S. § 126-35 creates an interest in continued employment that is protected by the due process provisions of the United States and North Carolina constitutions. Luck v. Employment Security Commission, 50 N.C. App. 192, 272 S.E.2d 607 (1980).

26. To provide protection for the employee, N.C.G.S. § 126-35 and state regulations, 25 NCAC 1J.0613(4), establish procedural requirements that must be followed before an employee may be dismissed. See, e.g., Owen v. UNC-G Physical Plant, 121 N.C. App. 682, 687, 468 S.E.2d 813, 817 (1996) (regulations); Gainey v. N.C. Department of Justice, 121 N.C. App. 253, 260, 465 S.E.2d 36, 42 (1996) (statute).

27. Petitioner was a career State employee within the meaning of N.C.G.S. §§ 126-1A(1) and 126-35 at the time respondent terminated her employment.

28. Respondent was assigned the burden of proving that just cause exists to justify petitioner's dismissal. However, the ALJ reaches Conclusions 30-37 regardless of where the burden of proof lies.

29. Petitioner immediately responded to respondent's April 18, 1996 notice of possible termination. Before the April 29 deadline in James Fullwood's letter, petitioner provided respondent with critical additional information that had a direct bearing on the resolution of her claim of sexual harassment, and asked Fullwood to contact her attorney. (PX25; PX26) At a bare minimum, respondent was required to extend petitioner's period of leave without pay until it responded to her attorney. In terminating petitioner's employment without responding to the timely communication from her attorney, respondent acted without just cause.

30. Respondent failed to conduct a fair and thorough investigation of petitioner's grievance. When it received important additional information about other victims of harassment, it failed to reopen its investigation. Because the termination decision was directly linked to the outcome of an investigation that was fundamentally flawed, the termination was without just cause.

31. There was not "just cause" to terminate Petitioner's employment.

32. In dismissing petitioner, respondent failed to follow any of the procedural requirements set forth in N.C.G.S. § 126-35 and 25 NCAC 1J.0613(4).

33. The termination of petitioner's employment violated fundamental principles of fairness, petitioner's due process rights under the federal and state constitutions, the procedural requirements of N.C.G.S. § 126-35 and 25 NCAC 1J.0613(4), and the just cause requirement of N.C.G.S. § 126-35.

34. In its termination letter, respondent erroneously labeled petitioner's termination as a "resignation without written notice." (PX27) In fact, petitioner never resigned, but instead was dismissed by respondent. Even if petitioner's failure to report to work in the Vance County office on April 29, 1996 could properly be deemed a "resignation," respondent would still be liable for constructive discharge.

35. A constructive discharge occurs when an employer deliberately makes an employee's working conditions intolerable and thereby forces her to quit her job. Martin v. Cavalier Hotel Corp., 48 F.3d 1343, 1350 (4th Cir. 1995). In assessing the deliberateness of the employer's conduct, an employer is held to intend the reasonably foreseeable consequences of its actions. Id. at 1355. In this case, the evidence demonstrates that petitioner's purported "resignation" was a reasonably foreseeable consequence of respondent's order on April 18, 1996 that she return to work in the same office with the man who had sexually harassed her. Indeed, in light of Dr. Blosser's medical opinion, provided to respondent on January 10 and March 21, the inference is inescapable that respondent knew its order would force petitioner's resignation.[4]

36. Respondent terminated petitioner without just cause, in violation of N.C.G.S. § 126-35.

B. REMEDY

37. The Personnel Commission has the authority to remedy violations of N.C.G.S. § 126-16 by ordering "reinstatement, back pay, transfer, promotion or other appropriate remedy." 25 NCAC 1B.0434. The Commission also has the authority to order "other corrective remedies to ensure that the same or similar discriminatory acts do not recur." Id. The Commission has the authority to award front pay, 25 NCAC 1B.0422, and restoration of vacation and sick leave, 25 NCAC 1B.0423, retirement benefits, 25 NCAC 1B.0421(e), and health insurance benefits, 25 NCAC 1B.0424. In addition, the Commission has the authority to order the removal of any material in a personnel file that it finds to be inaccurate or misleading. 25 NCAC 1B.0430. The Commission has the authority to award attorney's fees and costs. N.C.G.S. § 126-4(11); 25 NCAC 1B.0414.

RECOMMENDED DECISION

Based on the foregoing findings of fact and conclusions of law, the ALJ recommends that:

a. Petitioner be reinstated in a comparable position in Vance County in an office where she will not be in contact with Robert Terry. Alternatively, if no such position is available, the ALJ recommends that petitioner be awarded front pay until she is reinstated to such a position.

b. Petitioner be compensated for the loss of vacation and sick leave from January 4, 1996 through January 17, 1996 and March 19, 1996 through March 29, 1996.

c. Petitioner be compensated for travel expenses to and from Louisburg for the period from January 18, 1996 through March 18, 1996.

d. Petitioner receive back pay for the period from March 30, 1996 until reinstatement.

e. Petitioner be compensated for the loss of health insurance benefits during the period of her unemployment.

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[4]The fact that "North Carolina courts have yet to adopt the employment tort of constructive discharge," Graham v. Hardee's Food Systems, 121 N.C. App. 382, 385, 465 S.E.2d 558, 560 (1996), does not mean that they will not do so, when they are presented with a proper claim. In determining whether such a cause of action exists, North Carolina courts will look to federal decisions for guidance. N.C. Department of Correction v. Gibson, 308 N.C. at 136, 301 S.E.2d at 82. The right of an employee to seek relief for constructive discharge is well established under federal employment discrimination law. Martin v. Cavalier Hotel Corp., 48 F.3d at 1353-54.

f. Petitioner's retirement benefits be fully restored.

g. Inaccurate or misleading material in petitioner's personnel file be removed, including memorandum from Terry to Kilborn dated January 4, 1996 (PX8); memorandum from Kilborn to Wooten dated January 11, 1996 (RX3), February 26, 1996 EEO case prospectus (PX20), March 1996 performance evaluation (PX11), letter from James Fullwood to petitioner dated March 15, 1996 (PX19), letter from James Fullwood to petitioner dated April 18, 1996 (PX 24), letter from James Fullwood to petitioner dated May 15, 1996 (PX27), and other documents pertaining to petitioner's termination.

i. Petitioner be awarded her attorney's fees and costs.

This the 8TH of December, 1997.

Thomas R. West
Temporary Administrative Law Judge

ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. G.S. 150B-36(a).

The agency is required by G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the State Personnel Commission.

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

TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE	DEPARTMENT	LICENSING BOARDS	CHAPTER
1	Administration	Acupuncture	1
2	Agriculture	Architecture	2
3	Auditor	Auctioneers	4
4	Commerce	Barber Examiners	6
5	Correction	Certified Public Accountant Examiners	8
6	Council of State	Chiropractic Examiners	10
7	Cultural Resources	General Contractors	12
8	Elections	Cosmetic Art Examiners	14
9	Governor	Dental Examiners	16
10	Human Resources	Dietetics/Nutrition	17
11	Insurance	Electrical Contractors	18
12	Justice	Electrolysis	19
13	Labor	Foresters	20
14A	Crime Control & Public Safety	Geologists	21
15A	Environment, Health, and Natural	Hearing Aid Dealers and Fitters	22
	Resources	Landscape Architects	26
16	Public Education	Landscape Contractors	28
17	Revenue	Marital and Family Therapy	31
18	Secretary of State	Medical Examiners	32
19A	Transportation	Midwifery Joint Committee	33
20	Treasurer	Mortuary Science	34
*21	Occupational Licensing Boards	Nursing	36
22	Administrative Procedures	Nursing Home Administrators	37
23	Community Colleges	Occupational Therapists	38
24	Independent Agencies	Opticians	40
25	State Personnel	Optometry	42
26	Administrative Hearings	Osteopathic Examination & Reg. (Repealed)	44
27	NC State Bar	Pastoral Counselors, Fee-Based Practicing	45
		Pharmacy	46
		Physical Therapy Examiners	48
		Plumbing, Heating & Fire Sprinkler Contractors	50
		Podiatry Examiners	52
		Professional Counselors	53
		Psychology Board	54
		Professional Engineers & Land Surveyors	56
		Real Estate Appraisal Board	57
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work Certification	63
		Soil Scientists	69
		Speech & Language Pathologists & Audiologists	64
		Substance Abuse Professionals	68
		Therapeutic Recreation Certification	65
		Veterinary Medical Board	66

Note: Title 21 contains the chapters of the various occupational licensing boards.

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					Action	Date				

This index provides information related to notices, rules and other documents published in the Register. It includes information about rules for which Notice of Rule-Making Proceedings or Notice of Text have been published, rules submitted to the Rules Review Commission and rules codified since the last session of the General Assembly. For assistance contact the Rules Division at 919/733-2678.

Fiscal Note: S = Rule affects the expenditure or distribution of state funds. L = Rule affects the expenditure or distribution of local government funds. SE = Rule has a substantial economic impact of at least $5,000,000 in a 12-month period. * = Rule-making agency has determined that the rule does not impact state or local funds and does not have a substantial economic impact. See G.S. 150B-21.4.

ADMINISTRATION

State Building Commission

1 NCAC 30G .0101		11:04 NCR 194	11:19 NCR 1414	*	Approve	03/20/97			11:26 NCR 2004
1 NCAC 30G .0102		11:04 NCR 194	11:19 NCR 1414	*	Object	03/20/97			
					Approve	05/15/97	*		11:30 NCR 2314
1 NCAC 30G .0103		11:04 NCR 194	11:19 NCR 1414	*	Approve	03/20/97	*		11:26 NCR 2004
1 NCAC 30G .0104		11:04 NCR 194	11:19 NCR 1414	S/L	Object	03/20/97			
					Approve	05/15/97	*		11:30 NCR 2314
1 NCAC 30G .0105		11:04 NCR 194	11:19 NCR 1414	S/L	Approve	03/20/97			11:26 NCR 2004

ADMINISTRATIVE HEARINGS

Civil Rights Division

26 NCAC 04 .0101		12:12 NCR 1071							
26 NCAC 04 .0201		12:12 NCR 1071							
26 NCAC 04 .0202		12:12 NCR 1071							
26 NCAC 04 .0203		12:12 NCR 1071							
26 NCAC 04 .0204		12:12 NCR 1071							

Hearings Division

26 NCAC 03 .0122	12:08 NCR 621		12:13 NCR 1172	S					

Rules Division

26 NCAC 02C	11:19 NCR 1413								

AGRICULTURE

2 NCAC 48A .0206	10:24 NCR 3056		11:06 NCR 324	*	Ext. Review	12/19/96			
					Approve	01/16/97	*		11:22 NCR 1717
2 NCAC 48A .0211	10:24 NCR 3056		11:06 NCR 324	*	Ext. Review	12/19/96			
					Approve	01/16/97	*		11:22 NCR 1717
2 NCAC 48A .0214	10:24 NCR 3056		11:06 NCR 324	*	Ext. Review	12/19/96			
					Approve	01/16/97			11:22 NCR 1717
2 NCAC 48D .0103	N/A	N/A	N/A		Approve	12/18/97			

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2 NCAC 52A .0104	11:27 NCR 2053		12:03 NCR 169	*	Approve	12/18/97	*			
2 NCAC 52A .0105	11:27 NCR 2053		12:03 NCR 169	*	Approve	12/18/97				
2 NCAC 52A .0106	11:27 NCR 2053		12:03 NCR 169	*	Approve	12/18/97	*			
2 NCAC 52A .0107	11:27 NCR 2053		12:03 NCR 169	*	Approve	12/18/97	*			
2 NCAC 52A .0108	11:27 NCR 2053		12:03 NCR 169	*	Approve	12/18/97	*			
2 NCAC 52A .0109	11:27 NCR 2053		12:03 NCR 169	*	Approve	12/18/97	*			
2 NCAC 52B .0212	11:14 NCR 1107		11:22 NCR 1709	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 52B .0303	11:14 NCR 1107		11:22 NCR 1709	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 52C .0701	11:14 NCR 1107		11:22 NCR 1709	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 52D .0101	11:27 NCR 2053		12:03 NCR 169	*	Approve	12/18/97	*			
Marketing Authority										
2 NCAC 43F .0103	11:14 NCR 1107		11:22 NCR 1706	*	Object	05/15/97				
					Approve	06/19/97	*		12:03 NCR 213	
2 NCAC 43H .0101	11:14 NCR 1107		11:22 NCR 1706	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 43H .0107	11:14 NCR 1107		11:22 NCR 1706	*	Object	05/15/97				
					Approve	06/19/97	*		12:03 NCR 213	
2 NCAC 43L .0202	11:14 NCR 1107		11:22 NCR 1706	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 43L .0401	11:14 NCR 1107		11:22 NCR 1706	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 43L .0402	11:14 NCR 1107		11:22 NCR 1706	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 43L .0403	11:14 NCR 1107		11:22 NCR 1706	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 43L .0405	11:14 NCR 1107		11:22 NCR 1706	*	Approve	05/15/97	*		11:30 NCR 2314	
Plant Conservation Board										
2 NCAC 48F .0301	11:07 NCR 407		11:11 NCR 883	*	Approve	03/20/97			11:26 NCR 2004	
2 NCAC 48F .0302	11:07 NCR 407		11:11 NCR 883	*	Approve	03/20/97			11:26 NCR 2004	
2 NCAC 48F .0304	11:07 NCR 407		11:11 NCR 883	*	Approve	03/20/97	*		11:26 NCR 2004	
2 NCAC 48F .0305	11:07 NCR 407		11:11 NCR 883	*	Approve	03/20/97	*		11:26 NCR 2004	
2 NCAC 48F .0306	11:07 NCR 407		11:11 NCR 883	*	Approve	03/20/97	*		11:26 NCR 2004	
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2 NCAC 34 .0102	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0302	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0303	12:09 NCR 743		12:14 NCR 1234	*						

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2 NCAC 34 .0306	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0308	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0309	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0312	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0313	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0323	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0325	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0328	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0401	12:09 NCR 743		12:14 NCR 1234	*						
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2 NCAC 34 .0501	12:09 NCR 743		12:14 NCR 1234	*						
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2 NCAC 34 .0503	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0504	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0505	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0506	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0507	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0508	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0601	12:09 NCR 743									
2 NCAC 34 .0602		11:21 NCR 1651	12:06 NCR 455	*						
2 NCAC 34 .0602	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0604		11:21 NCR 1651	12:06 NCR 455	*						
2 NCAC 34 .0604	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0605		11:21 NCR 1651	12:06 NCR 455	*						
2 NCAC 34 .0605	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0701	12:09 NCR 743		12:14 NCR 1234	*						

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2 NCAC 34 .0702	12:09 NCR 743									
2 NCAC 34 .0703	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0803	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0902	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .0904	12:09 NCR 743		12:14 NCR 1234	*						
2 NCAC 34 .1101	12:09 NCR 743		12:14 NCR 1234	*						
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21 NCAC 02 .0208	12:04 NCR 244									
21 NCAC 02 .0210	12:04 NCR 244									
21 NCAC 02 .0213	12:04 NCR 244		12:09 NCR 795	*						
21 NCAC 02 .0901	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0902	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0903	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0904	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0905	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0906	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0907	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0908	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0909	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0910	12:04 NCR 244		12:09 NCR 795	S/L/SE						
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21 NCAC 04B .0202	11:18 NCR 1368		11:28 NCR 2129	*	Approve	11/20/97	*			
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21 NCAC 08A .0301	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08A .0309	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08F .0103	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08F .0105	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08F .0302	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08F .0304	12:08 NCR 619		12:13 NCR 1138	*						

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4 NCAC 19L .1801	11:09 NCR 569		11:14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L .1802	11:09 NCR 569		11:14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L .1803	11:09 NCR 569		11:14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L .1804	11:09 NCR 569		11:14 NCR 1113	*	Object	11/20/97				
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4 NCAC 19L .1805	11:09 NCR 569		11:14 NCR 1113	*	Object	11/20/97				
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4 NCAC 19L .1900	11:09 NCR 569									
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4 NCAC 06C .0205	10:18 NCR 2398		11:29 NCR 2182	*	Approve	08/21/97			12:07 NCR 561	
4 NCAC 06C .0407	10:18 NCR 2398		11:29 NCR 2182	*	Object	08/21/97				
					Approve	09/18/97	*		12:10 NCR 878	
4 NCAC 06C .0409	10:18 NCR 2398		11:29 NCR 2182	*	Approve	08/21/97			12:07 NCR 561	
State Ports Authority										
4 NCAC 13A .0101	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A .0102	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A .0105	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A .0202	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A .0203	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A .0204	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B .0001	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B .0002	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B .0003	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B .0004	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B .0005	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13C .0001	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13D .0101	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0101	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0102	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0103	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0201	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	

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					Action	Date				
4 NCAC 13E .0202	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0301	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0302	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0401	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0402	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0403	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0404	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0405	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0501	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0502	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0601	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0602	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0603	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0701	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0702	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0801	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0803	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0901	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0902	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13F .0301	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13F .0302	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
COMMUNITY COLLEGES										
23 NCAC 01A .0001	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02C .0108	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02C .0202	11:18 NCR 1369		12:09 NCR 802	*						
23 NCAC 02C .0207	11:18 NCR 1369		12:09 NCR 802	*						
23 NCAC 02C .0305	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02C .0604	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02C .0701	11:18 NCR 1369		12:09 NCR 802	*						
23 NCAC 02D .0103	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						

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					Action	Date				
					Approve	12/18/97	*			
4 NCAC 19L .1801	11:09 NCR 569		11:14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L .1802	11:09 NCR 569		11:14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L .1803	11:09 NCR 569		11:14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L .1804	11:09 NCR 569		11:14 NCR 1113	*	Object	11/20/97				
					Approve	12/18/97	*			
4 NCAC 19L .1805	11:09 NCR 569		11:14 NCR 1113	*	Object	11/20/97				
					Approve	12/18/97	*			
4 NCAC 19L .1900	11:09 NCR 569									
Credit Union Division										
4 NCAC 06C .0205	10:18 NCR 2398		11:29 NCR 2182	*	Approve	08/21/97			12:07 NCR 561	
4 NCAC 06C .0407	10:18 NCR 2398		11:29 NCR 2182	*	Object	08/21/97				
					Approve	09/18/97	*		12:10 NCR 878	
4 NCAC 06C .0409	10:18 NCR 2398		11:29 NCR 2182	*	Approve	08/21/97			12:07 NCR 561	
State Ports Authority										
4 NCAC 13A .0101	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A .0102	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A .0105	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A .0202	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A .0203	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A .0204	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B .0001	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B .0002	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B .0003	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B .0004	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B .0005	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13C .0001	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13D .0101	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0101	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0102	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0103	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0201	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
4 NCAC 13E .0202	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0301	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0302	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0401	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0402	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0403	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0404	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0405	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0501	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0502	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0601	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0602	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0603	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0701	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0702	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0801	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0803	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0901	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0902	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13F .0301	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13F .0302	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
COMMUNITY COLLEGES										
23 NCAC 01A .0001	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02C .0108	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02C .0202	11:18 NCR 1369		12:09 NCR 802	*						
23 NCAC 02C .0207	11:18 NCR 1369		12:09 NCR 802	*						
23 NCAC 02C .0305	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02C .0604	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02C .0701	11:18 NCR 1369		12:09 NCR 802	*						
23 NCAC 02D .0103	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						

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					Action	Date				
23 NCAC 02D .0201	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02D .0202	11:17 NCR 1336									
23 NCAC 02D .0202	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02D .0203	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02D .0301	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02D .0323	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02D .0324	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02D .0327	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02E .0101	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02E .0102	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02E .0201	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02E .0203	10:24 NCR 3058		11:09 NCR 585	*	Object	01/16/97				
					Approve	02/20/97	*		11:24 NCR 1832	
23 NCAC 02E .0203	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02E .0204	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02E .0205	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02E .0501	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02E .0604	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
COSMETIC ART EXAMINERS										
21 NCAC 14A .0101	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14B .0605	12:06 NCR 925		12:11 NCR 925	*						
21 NCAC 14G .0103	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14G .0107	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14G .0113	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14H .0105	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14H .0113	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14H .0118	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14H .0119	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14I .0104	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14I .0105	12:06 NCR 453		12:11 NCR 925	*						

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					Action	Date				
21 NCAC 14I .0107	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14I .0109	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14I .0401	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0102	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0103	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0104	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0105	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0202	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0204	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0205	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0206	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0303	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0306	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0307	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0401	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0402	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0403	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0404	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0501	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14K .0101	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14K .0103	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14L .0101	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14L .0105	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14L .0108	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14L .0214	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14N .0102	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14N .0103	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14N .0104	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14N .0105	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14N .0107	12:06 NCR 453		12:11 NCR 925	*						

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21 NCAC 14N .0108	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14N .0113	12:06 NCR 453		12:11 NCR 925	*						
CRIME CONTROL & PUBLIC SAFETY										
Governor's Crime Commission										
14A NCAC 07 .0313	11:24 NCR 1818		12:01 NCR 6	*						
CULTURAL RESOURCES										
North Carolina Historical Commission										
7 NCAC 04R .0909	12:06 NCR 444	12:13 NCR 1174	12:13 NCR 1174	S						
7 NCAC 04R .0910	12:06 NCR 444	12:13 NCR 1174	12:13 NCR 1174	S						
7 NCAC 04R .0911	12:06 NCR 444	12:13 NCR 1174	12:13 NCR 1174	S						
7 NCAC 04R .0912	12:06 NCR 444	12:13 NCR 1174	12:13 NCR 1174	S						
7 NCAC 04R .0913	12:06 NCR 444	12:13 NCR 1174	12:13 NCR 1174	S						
7 NCAC 04R .0914	12:06 NCR 444	12:13 NCR 1174	12:13 NCR 1174	S						
7 NCAC 04R .0915	12:06 NCR 444	12:13 NCR 1174	12:13 NCR 1174	S						
USS North Carolina Battleship Commission										
7 NCAC 05 .0203		11:19 NCR 1436	Temp Expired							
DENTAL EXAMINERS										
21 NCAC 16B .0303	11:20 NCR 1538		11:25 NCR 1915	*	Approve	09/18/97			12:10 NCR 878	
21 NCAC 16I .0001	11:20 NCR 1538		11:25 NCR 1915	*	Object	09/18/97				
					Approve	10/16/97	*		12:11 NCR 947	
21 NCAC 16I .0002	11:20 NCR 1538		11:25 NCR 1915	*	Extended review	09/18/97				
					Approve	11/20/97	*			
21 NCAC 16I .0003	11:20 NCR 1538		11:25 NCR 1915	*	Approve	09/18/97			12:10 NCR 878	
21 NCAC 16I .0004	11:20 NCR 1538									
21 NCAC 16I .0005	11:20 NCR 1538									
21 NCAC 16I .0006	11:20 NCR 1538		11:25 NCR 1915	*	Approve	09/18/97			12:10 NCR 878	
21 NCAC 16M .0001	11:20 NCR 1538		11:25 NCR 1915	*	Approve	09/18/97			12:10 NCR 878	
21 NCAC 16M .0003	11:20 NCR 1538		11:25 NCR 1915	*	Object	09/18/97				
					Approve	10/16/97	*		12:11 NCR 947	
21 NCAC 16R .0001	11:20 NCR 1538		11:25 NCR 1915	*	Extended review	09/18/97				
					Approve	11/20/97	*			
21 NCAC 16R .0002	11:20 NCR 1538									

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					Action	Date				
21 NCAC 16R .0003	11:20 NCR 1538									
21 NCAC 16R .0004	11:20 NCR 1538		11:25 NCR 1915	*	Approve	09/18/97			12.10 NCR 878	
21 NCAC 16R .0005	11:20 NCR 1538									
21 NCAC 16V .0101	10:16 NCR 2043		11:20 NCR 1556	*						Notice Subject Matter
21 NCAC 16V .0102	10:16 NCR 2043		11:20 NCR 1556	*						Notice Subject Matter
ENVIRONMENT AND NATURAL RESOURCES										
Notice of Intent to Redevelop a Brownfields Property										12:10 NCR 864
15A Public Notice - Division of Water Quality										12:03 NCR 112
15A Administrative Order on Consent - Division of Waste Management										12:03 NCR 158
15A NCAC 01J .0401	12.08 NCR 614	12:09 NCR 833	12:14 NCR 1266	*						
15A NCAC 01J .0402	12:08 NCR 614	12:09 NCR 833	12:14 NCR 1266	*						
15A NCAC 01K	10:19 NCR 2506									
15A NCAC 01M .0101		11:19 NCR 1439	Temp Expired							
15A NCAC 01M .0102		11:19 NCR 1439	Temp Expired							
15A NCAC 01M .0201		11:19 NCR 1439	Temp Expired							
15A NCAC 01M .0202		11:19 NCR 1439	Temp Expired							
15A NCAC 01M .0301		11:19 NCR 1439	Temp Expired							
15A NCAC 01M .0302		11:19 NCR 1439	Temp Expired							
15A NCAC 01M .0303		11:19 NCR 1439	Temp Expired							
15A NCAC 01M .0304		11:19 NCR 1439	Temp Expired							
15A NCAC 01M .0305		11:19 NCR 1439	Temp Expired							
15A NCAC 01M .0306		11:19 NCR 1439	Temp Expired							
15A NCAC 01N	12:08 NCR 614									
15A NCAC 12B .0901		12.03 NCR 209								
15A NCAC 19G .0102	12:02 NCR 52	12:03 NCR 209	12:14 NCR 1266	S/L						
Coastal Resources Commission										
15A NCAC 07	11:04 NCR 183									
15A NCAC 07H .0106	11:19 NCR 1408		11:27 NCR 2058	*	State Budget	12/18/97				
15A NCAC 07H .0201	11:22 NCR 1704		11:27 NCR 2058	*	State Budget	12/18/97				
15A NCAC 07H .0202	11:22 NCR 1704		11:27 NCR 2058	*	State Budget	12/18/97				

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					Action	Date				
15A NCAC 07H .0203	11:22 NCR 1704		agency withdrew							
15A NCAC 07H .0204	11:22 NCR 1704		11:27 NCR 2058	*	State Budget	12/18/97				
15A NCAC 07H .0205	11:22 NCR 1704		11:27 NCR 2058	*	State Budget	12/18/97				
15A NCAC 07H .0206	11:22 NCR 1704		11:27 NCR 2058	*	State Budget	12/18/97				
15A NCAC 07H .0207	11:22 NCR 1704		agency withdrew							
15A NCAC 07H .0208	11:22 NCR 1704		11:27 NCR 2058	*	State Budget	12/18/97				
15A NCAC 07H .0208	11:04 NCR 183		11:11 NCR 907	*	Object	08/21/97				
					Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 07H .0208	11:19 NCR 1408		11:27 NCR 2058	*						
15A NCAC 07H .0210	12:02 NCR 52									
15A NCAC 07H .0304	11:15 NCR 1200	11:15 NCR 1226 Temp Expired 12:08 NCR 726	11:27 NCR 2069	S	Approve	10/16/97	*		12:11 NCR 947	
15A NCAC 07H .0305	11:15 NCR 1200	11:15 NCR 1226 Temp Expired 12:08 NCR 726	11:27 NCR 2069	S	Approve	10/16/97			12:11 NCR 947	
15A NCAC 07H .0306	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .0309	11:08 NCR 442		11:12 NCR 981	*	Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 07H .0310	12:11 NCR 919									
15A NCAC 07H .1104	11:04 NCR 183		11:11 NCR 907	*	**Object**	**11/20/97**				
					Object	**12/18/97**				
15A NCAC 07H .1202	11:04 NCR 183		11:11 NCR 907	*	Approve	08/21/97	*		12:07 NCR 561	
15A NCAC 07H .1204	11:04 NCR 183		11:11 NCR 907	*	Object	08/21/97				
					Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 07H .1205	11:04 NCR 183		11:11 NCR 907	*	Approve	08/21/97	*		12:07 NCR 561	
15A NCAC 07H .1304	11:04 NCR 183		11:11 NCR 907	*	**Object**	**11/20/97**				
					Object	**12/18/97**				
15A NCAC 07H .1404	11:04 NCR 183		11:11 NCR 907	*	**Object**	**11/20/97**				
					Object	**12/18/97**				
15A NCAC 07H .1504	11:04 NCR 183		11:11 NCR 907	*	**Object**	**11/20/97**				
					Object	**12/18/97**				
15A NCAC 07H .1600	11:15 NCR 1200									
15A NCAC 07H .1601	11:15 NCR 1200		11:27 NCR 2071	*						
15A NCAC 07H .1604	11:15 NCR 1200		11:27 NCR 2071	*						
15A NCAC 07H .1605	11:15 NCR 1200		11:27 NCR 2071	*						
15A NCAC 07H .1704	11:04 NCR 183		11:11 NCR 907	*	**Object**	**11/20/97**				

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					Action	Date				
					Object	**12/18/97**				
15A NCAC 07H .1804	11:04 NCR 183		11:11 NCR 907	*	**Object**	**11/20/97**				
					Object	**12/18/97**				
15A NCAC 07H .1904	11:04 NCR 183		11:11 NCR 907	*	**Object**	**11/20/97**				
					Object	**12/18/97**				
15A NCAC 07H .2004	11:04 NCR 183		11:11 NCR 907	*	**Object**	**11/20/97**				
					Object	**12/18/97**				
15A NCAC 07H .2104	11:04 NCR 183		11:11 NCR 907	*	**Object**	**11/20/97**				
					Object	**12/18/97**				
15A NCAC 07K .0203	11:04 NCR 183		11:11 NCR 907	*	Approve	08/21/97	*		12:07 NCR 561	
15A NCAC 07M .0301	10:16B NCR 1921		11:11 NCR 907	*	Approve	11/20/97	*			
15A NCAC 07M .0302	10:16B NCR 1921		11:11 NCR 907	*	Approve	11/20/97				
15A NCAC 07M .0303	10:16B NCR 1921		11:11 NCR 907	*	Object	11/20/97				
					Approve	12/18/97	*			
15A NCAC 07M .0304	10:16B NCR 1921		11:11 NCR 907	*	Approve	11/20/97				
15A NCAC 07M .0305	10:16B NCR 1921		11:11 NCR 907	*	Approve	11/20/97				
15A NCAC 07M .0306	10:16B NCR 1921		11:11 NCR 907	*	Approve	11/20/97	*			
15A NCAC 07M .0307	10:16B NCR 1921		11:11 NCR 907	*	Approve	11/20/97				
15A NCAC 07M .0308	10:16B NCR 1921		11:11 NCR 907	*	Approve	11/20/97				
15A NCAC 07M .0309	10:16B NCR 1921		11:11 NCR 907	*	Approve	11/20/97	*			
15A NCAC 07M .0401	10:18 NCR 2317		11:11 NCR 931	*	Approve	01/16/97	*			
15A NCAC 07M .0402	10:18 NCR 2317		11:11 NCR 931	*	Approve	01/16/97	*			
15A NCAC 07M .0403	10:18 NCR 2317		11:11 NCR 931	*	Object	01/16/97				
					Approve	02/20/97	*		11:24 NCR 1832	
15A NCAC 07M .1201	11:19 NCR 1408		11:27 NCR 2058	*	State Budget	12/18/97				
15A NCAC 07M .1202	11:19 NCR 1408		11:27 NCR 2058	*	State Budget	12/18/97				
Environmental Management Commission										
NPDES Permits										12:13 NCR 1093
15A NCAC 02	10:24 NCR 3045									
15A NCAC 02	11:04 NCR 183									
15A NCAC 02	11:19 NCR 1408									
15A NCAC 02B .0101	11:24 NCR 1818		11:30 NCR 2303	*						
15A NCAC 02B .0202	11:24 NCR 1818		11:30 NCR 2303	*						
15A NCAC 02B .0202	11:02 NCR 75		12:06 NCR 462	S/L/SE						

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					Action	Date				
15A NCAC 02B .0223	11:02 NCR 75									
15A NCAC 02B .0223	11:03 NCR 109									
15A NCAC 02B .0224	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0227	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0230	11:24 NCR 1818		11:30 NCR 2303	*						
15A NCAC 02B .0231	11:02 NCR 75		11:10 NCR 824 11:14 NCR 1136	L/SE						
15A NCAC 02B .0232	11:02 NCR 75		11:10 NCR 824 11:14 NCR 1136 12:06 NCR 462	L S/L/SE						
15A NCAC 02B .0233	11:02 NCR 75	12:02 NCR 77 12:14 NCR 1348	11:10 NCR 824 11:14 NCR 1136 12:06 NCR 462	L L S/L/SE						
15A NCAC 02B .0234	11:02 NCR 75	12:14 NCR 1348	11:10 NCR 824 11:14 NCR 1136 12:06 NCR 462	* S/L/SE						
15A NCAC 02B .0235	11:02 NCR 75		11:10 NCR 824 11:14 NCR 1136 12:06 NCR 462	* S/L/SE						
15A NCAC 02B .0236	11:02 NCR 75		11:10 NCR 824 11:14 NCR 1136 12:06 NCR 462	L S/L/SE						
15A NCAC 02B .0238	11:02 NCR 75		12:06 NCR 462	S/L/SE						
15A NCAC 02B .0239	11:02 NCR 75		12:06 NCR 462	S/L/SE						
15A NCAC 02B .0240	11:02 NCR 75		12:06 NCR 462	S/L/SE						
15A NCAC 02B .0303	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0304	11:24 NCR 1818		12:01 NCR 6	*						
15A NCAC 02B .0304	11:26 NCR 1976 11:26 NCR 1984		12:01 NCR 6	S						
15A NCAC 02B .0305	11:20 NCR 1534		12:05 NCR 414	*						
15A NCAC 02B .0306	11:26 NCR 1976 11:26 NCR 1984		12:01 NCR 6	*						Extend Com.. Period 12:13 NCR 1095
15A NCAC 02B .0307	11:26 NCR 1976 11:26 NCR 1984		12:01 NCR 6	*						
15A NCAC 02B .0308	11:20 NCR 1534		11:28 NCR 2121	*						

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					Action	Date				
15A NCAC 02B .0308	11:26 NCR 1976		12:01 NCR 6	*						Extend Com Period 12:13 NCR 1095
	11:26 NCR 1984									
15A NCAC 02B .0308	12:12 NCR 993									
15A NCAC 02B .0308	12:14 NCR 1233									
15A NCAC 02B .0309	11:26 NCR 1976		12:01 NCR 6	*						
	11:26 NCR 1984									
15A NCAC 02B .0311	11:26 NCR 1976		12:01 NCR 6	*						
	11:26 NCR 1984									
15A NCAC 02B .0311	12:10 NCR 865									
15A NCAC 02B .0313	11:24 NCR 1818		12.05 NCR 416	*						
15A NCAC 02B .0313	11:26 NCR 1976		12:01 NCR 6	*						Extend Com. Period 12:13 NCR 1095
	11:26 NCR 1984									
15A NCAC 02B .0313	12:10 NCR 865									
15A NCAC 02B .0315	11:24 NCR 1818		12:07 NCR 515	L						
15A NCAC 02B .0316	11:20 NCR 1534									
15A NCAC 02B .0316	11:26 NCR 1976		12:01 NCR 6	*						Extend Com. Period 12:13 NCR 1095
	11:26 NCR 1984									
15A NCAC 02B .0317	11:26 NCR 1976		12:01 NCR 6	*						
	11:26 NCR 1984									
15A NCAC 02D .0101	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0101	12:02 NCR 52									
15A NCAC 02D .0104	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0105	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0108	11:15 NCR 1200									
15A NCAC 02D .0202	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0302	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0307	11:15 NCR 1200									
15A NCAC 02D .0501	11:15 NCR 1200									
15A NCAC 02D .0501	11:04 NCR 183									
15A NCAC 02D .0506	10:18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0507	10:18 NCR 2318		12:10 NCR 867	*						

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					Action	Date				
15A NCAC 02D .0508	10:18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0509	10:18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0510	10:18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0511	10:18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0513	10:18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0514	10:18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0515	10:18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0518	11:19 NCR 1408									
15A NCAC 02D .0521	11:15 NCR 1200									
15A NCAC 02D .0521	11:04 NCR 183		12:10 NCR 867	*						
15A NCAC 02D .0524	11:15 NCR 1200									
15A NCAC 02D .0525	11:15 NCR 1200									
15A NCAC 02D .0531	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0535	10:18 NCR 2317		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .0540	10:18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0601	10:18 NCR 2318									
15A NCAC 02D .0602	10:18 NCR 2318									
15A NCAC 02D .0604	10:18 NCR 2318									
15A NCAC 02D .0605	10:18 NCR 2318									
15A NCAC 02D .0606	10:18 NCR 2318									
15A NCAC 02D .0607	10:18 NCR 2318									
15A NCAC 02D .0608	10:18 NCR 2318									
15A NCAC 02D .0610	11:15 NCR 1200									
15A NCAC 02D .0611	11:15 NCR 1200									
15A NCAC 02D .0612	11:15 NCR 1200									
15A NCAC 02D .0613	11:15 NCR 1200									
15A NCAC 02D .0614	11:15 NCR 1200									
15A NCAC 02D .0615	11:15 NCR 1200									
15A NCAC 02D .0806	11:26 NCR 1976									

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					Action	Date				
15A NCAC 02D .0902	11:19 NCR 1408									
15A NCAC 02D .0903	11:15 NCR 1200									
15A NCAC 02D .0909	11:19 NCR 1408									
15A NCAC 02D .0912	11:15 NCR 1200									
15A NCAC 02D .0914	11:15 NCR 1200		12:10 NCR 867	*						
15A NCAC 02D .0917	11:19 NCR 1408									
15A NCAC 02D .0918	11:19 NCR 1408									
15A NCAC 02D .0919	11:19 NCR 1408									
15A NCAC 02D .0920	11:19 NCR 1408									
15A NCAC 02D .0921	11:19 NCR 1408									
15A NCAC 02D .0922	11:19 NCR 1408									
15A NCAC 02D .0923	11:19 NCR 1408									
15A NCAC 02D .0924	11:19 NCR 1408									
15A NCAC 02D .0927	10:18 NCR 2317		12.08 NCR 650	*						
15A NCAC 02D .0927	10:24 NCR 3045		12:10 NCR 867	*						
15A NCAC 02D .0934	11:19 NCR 1408									
15A NCAC 02D .0938	12:02 NCR 52		12:10 NCR 867	*						
15A NCAC 02D .0948	11:19 NCR 1408									
15A NCAC 02D .0949	11:19 NCR 1408									
15A NCAC 02D .0950	11:19 NCR 1408									
15A NCAC 02D .0951	11:19 NCR 1408									
15A NCAC 02D .0953	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0953	11:26 NCR 1976		12:10 NCR 867	*						
15A NCAC 02D .0954	11:15 NCR 1200									
15A NCAC 02D .1005	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1100	11:08 NCR 442									
15A NCAC 02D .1102	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02D .1103	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02D .1104	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02D .1104	12:02 NCR 52	12:02 NCR 77								

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					Action	Date				
15A NCAC 02D .1105	11:15 NCR 1200									
15A NCAC 02D .1106	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02D .1106	11:26 NCR 1976									
15A NCAC 02D .1107	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1109	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .1112	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .1201	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1201	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .1202	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1203	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1203	11:15 NCR 1200									
15A NCAC 02D .1204	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1204	11:04 NCR 183		12:04 NCR 270	*						
15A NCAC 02D .1204	10:18 NCR 2318									
15A NCAC 02D .1205	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1205	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .1206	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1206	11:04 NCR 183		12:04 NCR 270	*						
15A NCAC 02D .1207	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1208	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97	*		11:29 NCR 2211	
15A NCAC 02D .1209	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97	*		11:29 NCR 2211	
15A NCAC 02D .1305	11:04 NCR 183		12:04 NCR 270	*						
15A NCAC 02D .1404	11:15 NCR 1200									
15A NCAC 02D .1500	11:19 NCR 1408									
15A NCAC 02D .1503	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1603	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1701	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1702	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1703	11:15 NCR 1200		12:04 NCR 270	L						
15A NCAC 02D .1704	11:15 NCR 1200		12:04 NCR 270	*						

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					Action	Date				
15A NCAC 02D .1705	11:15 NCR 1200		12:04 NCR 270	L						
15A NCAC 02D .1706	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1707	11:15 NCR 1200		12:04 NCR 270	L						
15A NCAC 02D .1708	11:15 NCR 1200		12:04 NCR 270	L						
15A NCAC 02D .1709	11:15 NCR 1200		12:04 NCR 270	L						
15A NCAC 02D .1710	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1700	12:02 NCR 52									
15A NCAC 02D .1902	11:19 NCR 1408		12:04 NCR 270	*						
15A NCAC 02D .1903	11:19 NCR 1408		12:04 NCR 270	*						
15A NCAC 02D .2200	11:26 NCR 1976									
15A NCAC 02H .0225	11:15 NCR 1200	11:15 NCR 1225	11:20 NCR 1550	*						
		11:27 NCR 2073	11:27 NCR 2073	*	Object	07/17/97				
					Approve	08/21/97	*		12:07 NCR 561	
15A NCAC 02H .0610	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02H .0610	11:08 NCR 442									
15A NCAC 02H .0610	12:02 NCR 52	12:02 NCR 77								
15A NCAC 02H .1202	11:15 NCR 1200									
15A NCAC 02H .1203	11:15 NCR 1200									
15A NCAC 02H .1204	11:15 NCR 1200									
15A NCAC 02H .1205	11:15 NCR 1200									
15A NCAC 02L	11:15 NCR 1200									
	11:15 NCR 1204									
15A NCAC 02L .0106		10:19 NCR 2508	11:21 NCR 1639	*	Approve	12/18/97	*			
		12:08 NCR 713								
15A NCAC 02L .0115	11:15 NCR 1200		11:21 NCR 1639	L	**Object**	**12/18/97**				
	11:15 NCR 1204	12:08 NCR 713								
15A NCAC 02L .0202	10:20 NCR 2591									
15A NCAC 02N	11:15 NCR 1200									
15A NCAC 02N	11:15 NCR 1204									
15A NCAC 02N .0701	11:15 NCR 1200	12:08 NCR 713	11:21 NCR 1639	*	Approve	12/18/97	*			
15A NCAC 02N .0707	11:15 NCR 1204	12:08 NCR 713	11:21 NCR 1639	*	**Object**	**12/18/97**				
15A NCAC 02P	11:15 NCR 1200									
15A NCAC 02P .0402	11:15 NCR 1204	10:19 NCR 2512	11:21 NCR 1639	*	Approve	12/18/97				
		12:08 NCR 713								

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					Action	Date				
15A NCAC 02Q .0101	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0102	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0102			11:06 NCR 350	*						
15A NCAC 02Q .0102	11:19 NCR 1408									
15A NCAC 02Q .0102	12:02 NCR 52									
15A NCAC 02Q .0103	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02Q .0108	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02Q .0201	12:02 NCR 52		12:10 NCR 867	*						
15A NCAC 02Q .0207	11:19 NCR 1408		12:04 NCR 270	*						
15A NCAC 02Q .0300	11:26 NCR 1976									
15A NCAC 02Q .0301	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0302	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0306	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0307	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02Q .0312	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0312	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02Q .0313	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02Q .0400	12:04 NCR 240									
15A NCAC 02Q .0501	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0521	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02Q .0525	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02Q .0527	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0527	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02Q .0607	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02Q .0700	11:08 NCR 442									
15A NCAC 02Q .0701	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0702	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0703	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0704	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0705	11:08 NCR 442		12:08 NCR 650	SE						

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					Action	Date				
15A NCAC 02Q .0706	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0707	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0708	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0709	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0710	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0711	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0712	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0713	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0801	12:02 NCR 52									
15A NCAC 02Q .0803	12:02 NCR 52									
15A NCAC 02Q .0805	10:18 NCR 2317		12:04 NCR 270	S						
15A NCAC 02Q .0806	10:24 NCR 3045		12:04 NCR 270	S						
15A NCAC 02Q .0807	10:24 NCR 3045		12:04 NCR 270	*						
15A NCAC 02R .0101	12:02 NCR 52		12:14 NCR 1267	*						
15A NCAC 02R .0102	12:02 NCR 52		12:14 NCR 1267	*						
15A NCAC 02R .0201	12:02 NCR 52		12:14 NCR 1267	*						
15A NCAC 02R .0202	12:02 NCR 52		12:14 NCR 1267	S						
15A NCAC 02R .0203	12:02 NCR 52		12:14 NCR 1267	S						
15A NCAC 02R .0204	12:02 NCR 52		12:14 NCR 1267	S						
15A NCAC 02R .0205	12:02 NCR 52		12:14 NCR 1267	S						
15A NCAC 02R .0301	12:02 NCR 52		12:14 NCR 1267	*						
15A NCAC 02R .0302	12:02 NCR 52		12:14 NCR 1267	S						
15A NCAC 02R .0401	12:02 NCR 52		12:14 NCR 1267	S						
15A NCAC 02R .0402	12:02 NCR 52		12:14 NCR 1267	S						
15A NCAC 02R .0403	12:02 NCR 52		12:14 NCR 1267	S						
15A NCAC 02R .0501	12:02 NCR 52		12:14 NCR 1267	S						
15A NCAC 02R .0501		11:27 NCR 2075	12:08 NCR 650	S						
			12:14 NCR 1267	*						
15A NCAC 02R .0502		11:27 NCR 2075	12:08 NCR 650	*						
			12:14 NCR 1267	*						
15A NCAC 02R .0503		11:27 NCR 2075	12:08 NCR 650	*						

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			12:14 NCR 1267	*						
15A NCAC 02R .0504		11:27 NCR 2075	12:08 NCR 650	*						
			12:14 NCR 1267	*						
15A NCAC 02R .0600	12:02 NCR 52									
Health Services, Commission for										
15A NCAC 13A .0100	12:02 NCR 52									
15A NCAC 13A .0101	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0101	N/A		N/A		Approve	07/17/97			12:04 NCR 317	
15A NCAC 13A .0105	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0107	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0109	12:07 NCR 509									
15A NCAC 13A .0110	12:07 NCR 509									
15A NCAC 13A .0111	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0111	12:07 NCR 509									
15A NCAC 13A .0112	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0119	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13B .1301		12:12 NCR 1064								
15A NCAC 13B .1627	11:08 NCR 442		11:13 NCR 1055	*						
15A NCAC 13B .1800	11:08 NCR 442									
15A NCAC 13B .1800	11:26 NCR 1976									
15A NCAC 18A	11:04 NCR 183									
15A NCAC 18A .0134	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 18A .0168	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 18A .0176	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96				
					Approve	01/16/97			11:22 NCR 1717	
15A NCAC 18A .0182	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 18A .0183	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 18A .0185	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96				
					Approve	01/16/97			11:22 NCR 1717	
15A NCAC 18A .0187	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	

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					Action	Date				
15A NCAC 18A .0301	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 18A .0421	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 18A .0425		12:14 NCR 1352								
15A NCAC 18A .0432		12:14 NCR 1352								
15A NCAC 18A .0614	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96				
					Approve	01/16/97			11:22 NCR 1717	
15A NCAC 18A .0618	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96				
					Approve	01/16/97			11:22 NCR 1717	
15A NCAC 18A .0621	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96				
					Approve	01/16/97			11:22 NCR 1717	
15A NCAC 18A .0901	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 18A .1301	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 18A .1319	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96				
					Approve	01/16/97			11:22 NCR 1717	
15A NCAC 18A .1937	11:19 NCR 1408	11:20 NCR 1561	12:02 NCR 61	*	Approve	10/16/97	*		12:11 NCR 947	
15A NCAC 18A .1938	11:19 NCR 1408	11:20 NCR 1561	12:02 NCR 61	*	Object	10/16/97				
					Approve	11/20/97	*			
15A NCAC 18A .1958	11:19 NCR 1408	11:20 NCR 1561	12:02 NCR 61	*	Object	10/16/97				
					Approve	11/20/97	*			
15A NCAC 18A .1961	11:19 NCR 1408	11:20 NCR 1561	12:02 NCR 61	*	Approve	10/16/97	*		12:11 NCR 947	
15A NCAC 18A .2301	12:03 NCR 168		12:07 NCR 519	*	Ext. Review	12/18/97				
15A NCAC 18A .2302	12:03 NCR 168		12:07 NCR 519	*	Ext. Review	12/18/97				
15A NCAC 18A .2303	12:03 NCR 168		12:07 NCR 519	*	Ext. Review	12/18/97				
15A NCAC 18A .2304	12:03 NCR 168		12:07 NCR 519	*	Ext. Review	12/18/97				
15A NCAC 18A .2305	12:03 NCR 168		12:07 NCR 519	*	Ext. Review	12/18/97				
15A NCAC 18A .2306	12:03 NCR 168		12:07 NCR 519	*	Ext. Review	12/18/97				
15A NCAC 18A .2307	12:03 NCR 168		12:07 NCR 519	*	Ext. Review	12/18/97				
15A NCAC 18A .2308	12:03 NCR 168		12:07 NCR 519	*	Ext. Review	12/18/97				
15A NCAC 18A .2309	12:03 NCR 168		12:07 NCR 519	*	Ext. Review	12/18/97				
15A NCAC 18A .2310	12:03 NCR 168		12:07 NCR 519	*	Ext. Review	12/18/97				
15A NCAC 18A .2508	12:08 NCR 614									
15A NCAC 18A .2513	12:08 NCR 614									

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					Action	Date				
15A NCAC 18A .2515	12:08 NCR 614									
15A NCAC 18A .2517	12:08 NCR 614									
15A NCAC 18A .2518	12:08 NCR 614									
15A NCAC 18A .2522	12:08 NCR 614									
15A NCAC 18A .2526	12:08 NCR 614									
15A NCAC 18A .2528	12:08 NCR 614									
15A NCAC 18A .2530	12:08 NCR 614									
15A NCAC 18A .2531	12:08 NCR 614									
15A NCAC 18A .2532	12:08 NCR 614									
15A NCAC 18A .2535	12:08 NCR 614									
15A NCAC 18A .2537	12:08 NCR 614									
15A NCAC 18A .2539	12:08 NCR 614									
15A NCAC 18A .2543	12:08 NCR 614									
15A NCAC 18A .2600	12:04 NCR 240									
15A NCAC 18A .2601	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2602	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2603	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2604	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2605	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2606	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2607	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2608	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2609	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2610	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2612	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2612		12:14 NCR 1352								
15A NCAC 18A .2613	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2614	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2615	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2616	12:04 NCR 240		12:08 NCR 696	*						

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					Action	Date				
15A NCAC 18A .2617	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2618	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2620	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2621	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2622	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2623	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2624	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2626	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2627	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2628	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2630	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2632	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2633	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2638	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2643	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .3101	12:11 NCR 920	12:12 NCR 1064								
15A NCAC 18A .3102	12:11 NCR 920	12:12 NCR 1064								
15A NCAC 18A .3103	12:11 NCR 920	12:12 NCR 1064								
15A NCAC 18A .3104	12:11 NCR 920	12:12 NCR 1064								
15A NCAC 18A .3105	12:11 NCR 920	12:12 NCR 1064								
15A NCAC 18A .3106	12:11 NCR 920	12:12 NCR 1064								
15A NCAC 18A .3107	12:11 NCR 920	12:12 NCR 1064								
15A NCAC 18A .3108	12:11 NCR 920	12:12 NCR 1064								
15A NCAC 18A .3109	12:11 NCR 920	12:12 NCR 1064								
15A NCAC 18A .3110	12:11 NCR 920	12:12 NCR 1064								
15A NCAC 18A .3111	12:11 NCR 920	12:12 NCR 1064								
15A NCAC 19A .0101	11:26 NCR 1976		12:02 NCR 61	S/L	Approve	10/16/97	*		12:11 NCR 947	
15A NCAC 19A .0101	12:02 NCR 52	12:02 NCR 88								
15A NCAC 19A .0102	11:26 NCR 1976		12:02 NCR 61	S/L	Approve	10/16/97	*		12:11 NCR 947	
15A NCAC 19A .0201	11:26 NCR 1976		12:02 NCR 61	*	Approve	10/16/97	*		12:11 NCR 947	

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15A NCAC 19A .0203	11:21 NCR 1638		12:02 NCR 61	*	Approve	10/16/97	*		12:11 NCR 947	
15A NCAC 19A .0205	11:26 NCR 1976		12:02 NCR 61	*	Approve	10/16/97	*		12:11 NCR 947	
15A NCAC 19C .0801	12:10 NCR 866	12:01 NCR 31	12:14 NCR 1272	S						
15A NCAC 19C .0802	12:10 NCR 866	12:01 NCR 31	12:14 NCR 1272	S						
15A NCAC 19C .0803	12:10 NCR 866	12:01 NCR 31	12:14 NCR 1272	S						
15A NCAC 19C .0804	12:10 NCR 866		12:14 NCR 1272	S						
15A NCAC 19C .0805	12:10 NCR 866		12:14 NCR 1272	S						
15A NCAC 19C .0806	12:10 NCR 866		12:14 NCR 1272	S						
15A NCAC 19C .0807	12:10 NCR 866		12:14 NCR 1272	S						
15A NCAC 19C .0808	12:10 NCR 866		12:14 NCR 1272	S						
15A NCAC 19C .0809	12:10 NCR 866		12:14 NCR 1272	S						
15A NCAC 21I .0101		11:07 NCR 422	11:20 NCR 1552	*	Approve	04/17/97	*		11:29 NCR 2211	
15A NCAC 21J .0101		11:07 NCR 422	11:20 NCR 1552	*	Approve	04/17/97	*		11:29 NCR 2211	
15A NCAC 24A .0202		11:24 NCR 1827	12:02 NCR 61	S	Approve	10/16/97			12:11 NCR 947	
15A NCAC 24A .0202		12:01 NCR 31	12:07 NCR 519	S	Approve	12/18/97				
15A NCAC 26C .0001	11:19 NCR 1408									
15A NCAC 26C .0002	11:19 NCR 1408									
15A NCAC 26C .0003	11:19 NCR 1408									
15A NCAC 26C .0004	11:19 NCR 1408									
15A NCAC 26C .0005	11:19 NCR 1408									
15A NCAC 26C .0006	11:19 NCR 1408									
15A NCAC 26C .0007	11:19 NCR 1408									
Marine Fisheries Commission										
15A NCAC 03	11:11 NCR 881									
15A NCAC 03	11:20 NCR 1537									
15A NCAC 03	11:26 NCR 1985									
15A NCAC 031 .0101	11:26 NCR 1976		12:05 NCR 418	*						
15A NCAC 031 .0117	11:26 NCR 1976	11:26 NCR 2000	12:05 NCR 418	*						
15A NCAC 03J .0103	11:26 NCR 1976		12:05 NCR 418	*						
15A NCAC 03J .0104	11:26 NCR 1976		12:05 NCR 418	*						

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15A NCAC 03J .0202	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03J .0202	11:26 NCR 1976	12:12 NCR 1063	12:05 NCR 418 12:12 NCR 1002	* *						
15A NCAC 03J .0208	11:26 NCR 1976		12:05 NCR 418	*						
15A NCAC 03J .0301	11:26 NCR 1976		12:05 NCR 418	*						
15A NCAC 03L .0102	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03M .0204		11:14 NCR 1153	11:18 NCR 1371	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 03M .0503		11:18 NCR 1383	11:26 NCR 1988	*	Approve	08/21/97			12:07 NCR 561	
15A NCAC 03M .0503	11:20 NCR 1537	12:05 NCR 431	12:05 NCR 418	*						
15A NCAC 03M .0506		11:18 NCR 1383	11:26 NCR 1988	*	Approve	08/21/97	*		12:07 NCR 561	
15A NCAC 03M .0506	11:26 NCR 1976		12:05 NCR 418	*						
15A NCAC 03M .0507		11:11 NCR 938 Temp Expired	11:26 NCR 1988	*	Approve	08/21/97			12:07 NCR 561	
15A NCAC 03M .0513	11:26 NCR 1976		12:05 NCR 418	*						
15A NCAC 03M .0513	11:26 NCR 1985		12:12 NCR 1002	*						
15A NCAC 03M .0514		11:18 NCR 1383	11:26 NCR 1088	*	Approve	08/21/97			12:07 NCR 561	
15A NCAC 03O .0204	N/A	N/A	N/A		Approve	08/21/97			12:07 NCR 561	
15A NCAC 03O .0211	11:26 NCR 1976		12:05 NCR 418	*						
Parks and Recreation Commission										
15A NCAC 12A .0001	12:13 NCR 1097									
15A NCAC 12A .0004	12:13 NCR 1097									
15A NCAC 12A .0005	12:13 NCR 1097									
15A NCAC 12B .0101	12:13 NCR 1097									
15A NCAC 12B .0104	12:13 NCR 1097									
15A NCAC 12B .0106	12:13 NCR 1097									
15A NCAC 12B .0203	12:13 NCR 1097									
15A NCAC 12B .0401	12:13 NCR 1097									
15A NCAC 12B .0402	12:13 NCR 1097									
15A NCAC 12B .0501	12:13 NCR 1097									
15A NCAC 12B .0602	12:13 NCR 1097									
15A NCAC 12B .0701	12:13 NCR 1097									

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15A NCAC 12B .0702	12:13 NCR 1097									
15A NCAC 12B .0802	12:13 NCR 1097									
15A NCAC 12B .0901	12:13 NCR 1097									
15A NCAC 12B .1001	12:13 NCR 1097									
15A NCAC 12B .1004	12:13 NCR 1097									
15A NCAC 12B .1102	12:13 NCR 1097									
15A NCAC 12B .1201	12:13 NCR 1097									
15A NCAC 12K .0101	12:02 NCR 52		12:12 NCR 1046	*						
15A NCAC 12K .0103	12:02 NCR 52		12:12 NCR 1046	*						
15A NCAC 12K .0104	12:02 NCR 52		12:12 NCR 1046	*						
15A NCAC 12K .0105	12:02 NCR 52		12:12 NCR 1046	S						
15A NCAC 12K .0106	12:02 NCR 52		12:12 NCR 1046	*						
15A NCAC 12K .0107	12:02 NCR 52		12:12 NCR 1046	*						
15A NCAC 12K .0108	12:02 NCR 52		12:12 NCR 1046	*						
15A NCAC 12K .0109	12:02 NCR 52		12:12 NCR 1046	*						
15A NCAC 12K .0110	12:02 NCR 52		12:12 NCR 1046	*						
15A NCAC 12K .0111	12:02 NCR 52		12:12 NCR 1046	*						
Radiation Protection										
15A NCAC 11 .0104	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0117	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0301	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0339	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0340	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0353	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0358	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0401	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0402	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0403	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0404	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0405	12:04 NCR 240		12:09 NCR 749	*						

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15A NCAC 11 .0406	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0407	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0408	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0409	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0410	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0411	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0412	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0413	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0414	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0415	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0416	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0417	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0418	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0419	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0420	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0421	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0422	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0423	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0424	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0425	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0426	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0427	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0428	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .1100	12:04 NCR 240									
15A NCAC 11 .1400	12:04 NCR 240									
15A NCAC 11 .1601	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .1603	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .1611	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .1620	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .1647	12:04 NCR 240		12:09 NCR 749	*						

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					Action	Date				
Soil & Water Conservation										
15A NCAC 06E .0104	N/A	N/A	N/A		Object	10/16/97				
					Approve	12/18/97				
15A NCAC 06E .0105	N/A	N/A	N/A		Object	10/16/97				
					Approve	12/18/97				
15A NCAC 06E .0106	N/A	N/A	N/A		Approve	10/16/97			12:11 NCR 947	
15A NCAC 06E .0107	N/A	N/A	N/A		Approve	10/16/97			12:11 NCR 947	
15A NCAC 06E .0108	N/A	N/A	N/A		Approve	10/16/97			12:11 NCR 947	
Water Pollution Control System Operators Certification Commission										
15A NCAC 08A	11:26 NCR 1976									
15A NCAC 08B	11:26 NCR 1976									
15A NCAC 08C	11:26 NCR 1976									
15A NCAC 08D	11:26 NCR 1976									
15A NCAC 08E	11:26 NCR 1976									
15A NCAC 08F	11:26 NCR 1976									
15A NCAC 08F .0101		11:19 NCR 1442	11:28 NCR 2123	*	Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 08F .0102		11:19 NCR 1442	11:28 NCR 2123	*	Withheld	09/18/97				
					Approve	11/20/97	*			
15A NCAC 08F .0201		11:19 NCR 1442	11:28 NCR 2123	S	Object	09/18/97				
					Approve	11/20/97	*			
15A NCAC 08F .0202		11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 08F .0203		11:19 NCR 1442	11:28 NCR 2123	S	Object	09/18/97				
					Object	11/20/97				
					Approve	12/18/97	*			
15A NCAC 08F .0301		11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 08F .0401		11:19 NCR 1442	11:28 NCR 2123	*	Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 08F .0402		11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 08F .0403		11:19 NCR 1442	11:28 NCR 2123	S	Withheld	09/18/97				
					Approve	11/20/97	*			
15A NCAC 08F .0404		11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97			12:10 NCR 878	
15A NCAC 08F .0405		11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 08F .0406		11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 08F .0407		11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 08F .0501		11:19 NCR 1442	11:28 NCR 2123	*	Approve	09/18/97	*		12:10 NCR 878	

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					Action	Date				
15A NCAC 08F .0502		11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97			12:10 NCR 878	
15A NCAC 08F .0503		11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97			12:10 NCR 878	
15A NCAC 08F .0504		11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97			12:10 NCR 878	
15A NCAC 08F .0505		11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 08F .0506		11:19 NCR 1442	11:28 NCR 2123	*	Approve	09/18/97			12:10 NCR 878	
Water Treatment Facility Certification Board										
15A NCAC 18D .0105	10:18 NCR 2317		12:11 NCR 922	*						
15A NCAC 18D .0201	10:18 NCR 2317		12:11 NCR 922	S/L						
15A NCAC 18D .0307	10:18 NCR 2317		12:11 NCR 922	*						
15A NCAC 18D .0308	10:18 NCR 2317		12:11 NCR 922	S/L						
15A NCAC 18D .0309	10:18 NCR 2317		12:11 NCR 922	*						
15A NCAC 18D .0405	10:18 NCR 2317		12:11 NCR 922	*						
15A NCAC 18D .0701	10:18 NCR 2317		12:11 NCR 922	*						
Wildlife Resources Commission										
15A NCAC 10B .0100	12:06 NCR 445									
15A NCAC 10B .0111	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10B .0113	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10B .0115	11:11 NCR 882	Agency Withdrew Rule-making								
15A NCAC 10B .0116	11:12 NCR 959		11:18 NCR 1372	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 10B .0200	12:06 NCR 445									
15A NCAC 10B .0202	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10B .0203	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10B .0208	11:02 NCR 76		11:08 NCR 495	*	Agency Withdrew Rule-making					
15A NCAC 10B .0209	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10B .0216	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10B .0300	12:06 NCR 445									
15A NCAC 10B .0400	12:06 NCR 445									
15A NCAC 10C .0101	12:06 NCR 445									
15A NCAC 10C .0102	12:06 NCR 445									
15A NCAC 10C .0103	12:06 NCR 445									

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					Action	Date				
15A NCAC 10C .0104	12:06 NCR 445									
15A NCAC 10C .0105	12:06 NCR 445									
15A NCAC 10C .0106	12:06 NCR 445									
15A NCAC 10C .0107	11:02 NCR 76	Agency Withdrew Rule-making								
15A NCAC 10C .0107	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0108	12:06 NCR 445									
15A NCAC 10C .0109	12:06 NCR 445									
15A NCAC 10C .0110	12:06 NCR 445									
15A NCAC 10C .0111	12:06 NCR 445									
15A NCAC 10C .0203	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0205	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0206	12:06 NCR 445									
15A NCAC 10C .0211	12:06 NCR 445									
15A NCAC 10C .0212	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0215	12:06 NCR 445									
15A NCAC 10C .0302	12:06 NCR 445									
15A NCAC 10C .0304	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0305	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0401	11:02 NCR 76	Agency Withdew Rule-making								
15A NCAC 10C .0401	11:07 NCR 408	Agency Withdrew Rule-making								
15A NCAC 10C .0401	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0402	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0404	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0407	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10D .0001	12:06 NCR 445									
15A NCAC 10D .0002	11:02 NCR 76		11:08 NCR 495	*	Agency Withdrew Rule-making					
15A NCAC 10D .0002	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10D .0003	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10D .0004	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10E .0001	12:06 NCR 445									

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 10E .0002	12:06 NCR 445									
15A NCAC 10E .0003	12:06 NCR 445									
15A NCAC 10E .0004	12:06 NCR 445									
15A NCAC 10F .0100	12:06 NCR 445									
15A NCAC 10F .0102	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10F .0103	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10F .0104	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10F .0105	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10F .0109	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10F .0300	11:01 NCR 13	Agency Withdrew Rule-making								
15A NCAC 10F .0302	11:05 NCR 272		11:14 NCR 1150	*	Approve	03/20/97	*		11:26 NCR 2004	
15A NCAC 10F .0305	12:10 NCR 865									
15A NCAC 10F .0307	11:08 NCR 451		11:14 NCR 1150	*	Approve	03/20/97	*		11:26 NCR 2004	
15A NCAC 10F .0308	11:21 NCR 1638		11:29 NCR 2206	*	Approve	09/18/97			12:10 NCR 878	
15A NCAC 10F .0311	12:01 NCR 5	12:13 NCR 1186	12:07 NCR 517	*						
15A NCAC 10F .0311	12:11 NCR 920									
15A NCAC 10F .0317	11:13 NCR 1039		11:19 NCR 1427	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 10F .0317	12:11 NCR 920									
15A NCAC 10F .0318	12:06 NCR 445									
15A NCAC 10F .0327	11:14 NCR 1109		11:20 NCR 1551	*	Approve	04/17/97	*		11:29 NCR 2211	
15A NCAC 10F .0327	12:11 NCR 920									
15A NCAC 10F .0330	12:05 NCR 337		12:11 NCR 921	*						
15A NCAC 10F .0330	N/A	N/A	N/A		Approve	09/18/97			12:10 NCR 878	
15A NCAC 10F .0333	12:01 NCR 5	12:13 NCR 1186	12:07 NCR 517	*						
15A NCAC 10F .0339	11:13 NCR 1039		11:19 NCR 1427	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 10F .0339	11:21 NCR 1638		11:29 NCR 2206	*	Approve	09/18/97			12:10 NCR 878	
15A NCAC 10F .0339	12:05 NCR 337		12:11 NCR 921	*						
15A NCAC 10F .0345	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10F .0347	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10F .0355	11:25 NCR 1905	12:08 NCR 728	12:01 NCR 18	*	Approve	10/16/97			12:11 NCR 947	

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					Action	Date				
15A NCAC 10F .0360	12:01 NCR 5	12:13 NCR 1186	12:07 NCR 517	*						
15A NCAC 10F .0367	11:16 NCR 1269									
15A NCAC 10G	11:01 NCR 13	Agency Withdrew Rule-making								
15A NCAC 10G .0100	11:02 NCR 76	Agency Withdrew Rule-making								
15A NCAC 10G .0400	12:06 NCR 445									
15A NCAC 10G .0402	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10G .0403	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10G .0404	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10H .0100	12:06 NCR 445									
15A NCAC 10H .0300	12:06 NCR 445									
15A NCAC 10H .0802	12:06 NCR 445		12:13 NCR 1127	*						
15A NCAC 10H .0810	12:06 NCR 445		12:13 NCR 1137	*						
15A NCAC 10H .0900	12:06 NCR 445									
15A NCAC 10H .1000	12:06 NCR 445									
15A NCAC 10H .1100	12:06 NCR 445									
15A NCAC 10H .1200	12:06 NCR 445									
15A NCAC 101 .0001	12:06 NCR 445									
15A NCAC 101 .0002	12:06 NCR 445									
15A NCAC 101 .0003	12:06 NCR 445									
15A NCAC 101 .0004	12:06 NCR 445									
15A NCAC 101 .0005	12:06 NCR 445									
15A NCAC 10J .0001	12:06 NCR 445									
15A NCAC 10J .0002	12:06 NCR 445									
15A NCAC 10J .0003	12:06 NCR 445									
15A NCAC 10J .0004	12:06 NCR 445									

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Voting Rights Act	12:01 NCR 4
Voting Rights Act	12:02 NCR 50
Voting Rights Act	12:04 NCR 236
Voting Rights Act	12:05 NCR 334

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					Action	Date				
Voting Rights Act										12:07 NCR 507
Voting Rights Act										12:11 NCR 918
Voting Rights Act										12:12 NCR 992
Voting Rights Act										12:13 NCR 1096
Voting Rights Act										12:14 NCR 1231
GENERAL CONTRACTORS LICENSING BOARD										
21 NCAC 12 .0202		11:24 NCR 1828	12:07 NCR 524	*	Approve	12/18/97				
21 NCAC 12 .0204	11:28 NCR 2117		12:04 NCR 292	*						
21 NCAC 12 .0503	11:28 NCR 2117									
21 NCAC 12 .0504	11:28 NCR 2117									
21 NCAC 12 .0901	11:28 NCR 2117		12:04 NCR 292	*						
21 NCAC 12 .0902	11:28 NCR 2117									
21 NCAC 12 .0903	11:28 NCR 2117		12:04 NCR 292	*						
21 NCAC 12 .0904	11:28 NCR 2117		12:04 NCR 292	*						
21 NCAC 12 .0905	11:28 NCR 2117									
21 NCAC 12 .0906	11:28 NCR 2117									
21 NCAC 12 .0907	11:28 NCR 2117									
21 NCAC 12 .0908	11:28 NCR 2117									
21 NCAC 12 .0909	11:28 NCR 2117									
21 NCAC 12 .0910	11:28 NCR 2117									
21 NCAC 12 .0911	11:28 NCR 2117									
21 NCAC 12 .0912	11:28 NCR 2117									
GOVERNOR'S EXECUTIVE ORDERS										
Number 112 - Eff. 05/22/97										12:01 NCR 1
Number 113 - Eff. 06/12/97										12:01 NCR 1
Number 114 - Eff. 06/26/97										12:03 NCR 110
Number 115 - Eff. 07/03/97										12:03 NCR 110
Number 116 - Eff. 07/21/97										12:04 NCR 227
Number 117 - Eff. 09/07/97										12:07 NCR 505

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					Action	Date				
Number 118 - Eff. 09/15/97										12:08 NCR 612
Number 119 - Eff. 10/01/97										12:08 NCR 612
Number 120 - Eff. 10/22/97										12:11 NCR 917
HOUSING FINANCE AGENCY										
24 NCAC 01P .0101		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97			12:04 NCR 317	
24 NCAC 01P .0102		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97			12:04 NCR 317	
24 NCAC 01P .0103		11:14 NCR 1154	11:28 NCR 2132	S	Object	07/17/97				
					Approve	08/21/97	*		12:07 NCR 561	
24 NCAC 01P .0201		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97	*		12:04 NCR 317	
24 NCAC 01P .0202		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97	*		12:04 NCR 317	
24 NCAC 01P .0203		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97			12:04 NCR 317	
HEALTH AND HUMAN SERVICES										
10 NCAC 01B .0501	11:23 NCR 1779		12:09 NCR 747	*						
10 NCAC 01B .0502	11:23 NCR 1779		12:09 NCR 747	*						
Aging										
10 NCAC 22	10:23 NCR 2956									
Child Day Care Commission										
10 NCAC 03U .0102	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0201	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0202	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0204	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0205	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0206	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0207	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0301	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0302	11:24 NCR 1817									
10 NCAC 03U .0302	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0303	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0304	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0401	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0403	12:08 NCR 617		12:13 NCR 1098	*						

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					Action	Date				
10 NCAC 03U .0505	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0506	11:24 NCR 1817									
10 NCAC 03U .0506	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0507	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0508	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0509	11:24 NCR 1817									
10 NCAC 03U .0509	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0510	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0511	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0601	11:24 NCR 1817									
10 NCAC 03U .0602	11:24 NCR 1817	12:08 NCR 710								
10 NCAC 03U .0602	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0604	11:03 NCR 109		11:09 NCR 571	*	Approve	03/20/97			11:26 NCR 2004	
10 NCAC 03U .0604	11:24 NCR 1817	12:08 NCR 710								
10 NCAC 03U .0604	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0605	11:24 NCR 1817	12:08 NCR 710								
10 NCAC 03U .0605	12:08 NCR 617		12:13 NCR 1098	S/L						
10 NCAC 03U .0700	11:08 NCR 449									
10 NCAC 03U .0701	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0702	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0703	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0704	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0705	11:14 NCR 1108		11:27 NCR 2054	*						
10 NCAC 03U .0705	11:24 NCR 1817	12:08 NCR 710								
10 NCAC 03U .0705	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0707	11:08 NCR 449		11:17 NCR 1338	*	Object Approve	03/20/97 04/17/97	*		11:29 NCR 2211	
10 NCAC 03U .0707	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0708	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0709	12:08 NCR 617		12:13 NCR 1098	*						

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10 NCAC 03U .0710	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0711	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0712	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0713	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0714	11:24 NCR 1817									
10 NCAC 03U .0714	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0802	11:24 NCR 1817									
10 NCAC 03U .0802	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0803	11:24 NCR 1817									
10 NCAC 03U .0803	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0804	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0806	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0901	11:08 NCR 449		11:17 NCR 1338	*						
10 NCAC 03U .0901	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0902	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1001	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1002	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1003	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1004	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1301	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1302	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1303	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1304	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1401	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1402	11:24 NCR 1817									
10 NCAC 03U .1403	11:24 NCR 1817									
10 NCAC 03U .1701	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1702	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1703	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1705	12:08 NCR 617		12:13 NCR 1098	*						

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					Action	Date				
10 NCAC 03U .1716	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1717	11:14 NCR 1108		11:27 NCR 2054	*						
10 NCAC 03U .1717	11:24 NCR 1817									
10 NCAC 03U .1717	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1718	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1719	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1720	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1721	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1722	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .1723	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .2500	11:29 NCR 2181									
10 NCAC 03U .2510	11:08 NCR 449									
10 NCAC 03U .2601	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .2602	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .2603	11:24 NCR 1817									
10 NCAC 03U .2603	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .2604	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .2605	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .2606	11:08 NCR 449									
10 NCAC 03U .2606	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .2607	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .2608	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .2609	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .2610	11:24 NCR 1817									
10 NCAC 03U .2610	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .2611	11:24 NCR 1817									
10 NCAC 03U .2611	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .2612	12:08 NCR 617		12:13 NCR 1098	*						
Facility Services										
Public Notice - Draft 1998 State Medical Facilities Plan										12:01 NCR 2

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					Action	Date				
Abbreviated Notice of Temporary Rule-making										12:06 NCR 443
10 NCAC 03	10:18 NCR 2399									
10 NCAC 03R .0214	12:08 NCR 617									
10 NCAC 03R .3000	11:23 NCR 1780									
10 NCAC 03R .3001	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3002		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3020	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
					Object	11/21/96	*			
					Approve	03/20/97	*		11:26 NCR 2004	
10 NCAC 03R .3030	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3030		10:21 NCR 2699	11:08 NCR 452	S/L/SE	Object	10/17/96				11:11 NCR 888
					Object	11/21/96	*			
					Approve	03/20/97	*		11:26 NCR 2004	
10 NCAC 03R .3031	11:23 NCR 1780		11:08 NCR 459		Extend Review	03/20/97	*			
					Approve	08/21/97	*		12:07 NCR 561 12:10 NCR 878	
10 NCAC 03R .3032	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3033		10:21 NCR 2699	11:08 NCR 452	S/L/SE	Object	01/16/97				
					Extend Review	03/20/97				
					Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 03R .3034		10:21 NCR 2699	11:08 NCR 452	S/L/SE	Object	01/16/97				
					Return to agency	03/20/97				
10 NCAC 03R .3035		10:21 NCR 2699	11:08 NCR 452	S/L/SE	Object	01/16/97				
					Return to agency	03/20/97				
10 NCAC 03R .3036		10:21 NCR 2699	11:08 NCR 452	S/L/SE	Object	01/16/97				
					Return to agency	03/20/97				
10 NCAC 03R .3037		10:21 NCR 2699	11:08 NCR 452	S/L/SE	Object	01/16/97				
					Return to agency	03/20/97				
10 NCAC 03R .3038		10:21 NCR 2699	11:08 NCR 452	S/L/SE	Object	01/16/97				
					Return to agency	03/20/97				
10 NCAC 03R .3040	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3050	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3051		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3052		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3053		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3053		11:22 NCR 1713								
10 NCAC 03R .3053		12:06 NCR 481								

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					Action	Date				
10 NCAC 03R .3054		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3055		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3056		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3057		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3058		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3059		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3060		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97	*			
10 NCAC 03R .3060		12:06 NCR 481								
10 NCAC 03R .3061		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97	*			
10 NCAC 03R .3061		12:06 NCR 481								
10 NCAC 03R .3062		11:21 NCR 1655	12:04 NCR 246	*	Witbdrawn by agcy 11/97					
10 NCAC 03R .3062		12:06 NCR 481			Withdrawn by agcy 11/97					
10 NCAC 03R .3063		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97	*			
10 NCAC 03R .3063		12:06 NCR 481								
10 NCAC 03R .3064		11:21 NCR 1655	12:04 NCR 246	*	Withdrawn by agcy 11/97					
10 NCAC 03R .3064		12:06 NCR 481			Withdrawn by agcy 11/97					
10 NCAC 03R .3065		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97	*			
10 NCAC 03R .3065		12:06 NCR 481								
10 NCAC 03R .3066		11:21 NCR 1655	12:04 NCR 246	*	Withdrawn by agcy 11/97					
10 NCAC 03R .3066		12:06 NCR 481			Withdrawn by agcy 11/97					
10 NCAC 03R .3067		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3068		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3069		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3070		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3071		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3072		11:21 NCR 1655	12:04 NCR 246	S/L/SE	Approve	11/20/97				
10 NCAC 03R .3072		12:06 NCR 481								
10 NCAC 03R .3073		11:21 NCR 1655	12:04 NCR 246	S/L/SE	Object	11/20/97				
					Approve	12/18/97	*			
10 NCAC 03R .3074		11:21 NCR 1655	12:04 NCR 246	S/L/SE	Object	11/20/97				
					Approve	12/18/97	*			

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					Action	Date				
10 NCAC 03R .3075		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3076		11:21 NCR 1655	12:04 NCR 246	S/L/SE	Approve	11/20/97				
10 NCAC 03R .3077		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3078		11:21 NCR 1655	12:04 NCR 246	S/L/SE	Approve	11/20/97				
10 NCAC 03R .3079		11:21 NCR 1655	12:04 NCR 246	S/L/SE	Approve	11/20/97				
10 NCAC 03R .3080		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3081		11:21 NCR 1655	12:04 NCR 246	*	Object	11/20/97				
					Approve	12/18/97	*			
10 NCAC 03R .3082		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3083		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3084		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3085		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3086		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3087		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3088		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .6001	11:22 NCR 1704									
Medical Assistance										
Medicaid Disproportionate Share List										12:02 NCR 46
10 NCAC 26B .0113	10:16 NCR 1721		11:28 NCR 2118	S/L	Agency withdrew	09/18/97				
					Approve	10/16/97	*		12:11 NCR 947	
10 NCAC 26B .0123		11:19 NCR 1436	11:24 NCR 1824	*	Approve	06/19/97	*		12:03 NCR 213	
10 NCAC 26D .0110	12:06 NCR 444									
10 NCAC 26G .0707	11:08 NCR 450	11:15 NCR 1205	11:18 NCR 1371	*	Approve	04/17/97			11:29 NCR 2211	
10 NCAC 26H .0101	11:14 NCR 1108									
10 NCAC 26H .0102	11:14 NCR 1108									
10 NCAC 26H .0102	12:09 NCR 743	12:14 NCR 1341								
10 NCAC 26H .0104	11:16 NCR 1268	12:14 NCR 1341	11:23 NCR 1781	S/L	Approve	05/15/97	*		11:30 NCR 2314	
10 NCAC 26H .0211	12:09 NCR 743	12:14 NCR 1341								
10 NCAC 26H .0212		11:15 NCR 1205	Temp Expired							
10 NCAC 26H .0212		12:09 NCR 827								
10 NCAC 26H .0213		11:15 NCR 1205	Temp Expired							

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					Action	Date				
10 NCAC 26H .0213	11:18 NCR 1368		12:07 NCR 511	S/SE						
10 NCAC 26H .0213		11:26 NCR 1997								
10 NCAC 26H .0213		12:09 NCR 827								
10 NCAC 26H .0401	12:08 NCR 618	12:14 NCR 1341								
10 NCAC 26H .0506	10:21 NCR 2686									
10 NCAC 26H .0506		11:19 NCR 1438	11:29 NCR 2205	S/L/SE	Approve	09/18/97	*		12:10 NCR 878	
10 NCAC 26H .0602		12:04 NCR 313								
10 NCAC 26K .0106	12:05 NCR 337									
10 NCAC 26K .0106	12:06 NCR 444									
10 NCAC 26M .0201	12:06 NCR 444									
10 NCAC 26M .0202	12:06 NCR 444									
10 NCAC 26M .0203	12:05 NCR 337									
10 NCAC 26M .0203	12:06 NCR 444									
10 NCAC 26M .0204	12:06 NCR 444									
10 NCAC 50A .0604	12:06 NCR 444									
10 NCAC 50B .0202		11:10 NCR 841	11:28 NCR 2118	*	Approve	07/17/97	*		12:04 NCR 317	
10 NCAC 50B .0202	12:06 NCR 444									
10 NCAC 50B .0404		11:10 NCR 841	11:28 NCR 2118	L	Approve	07/17/97			12:04 NCR 317	
10 NCAC 50B .0409		11:10 NCR 841	11:28 NCR 2118	*	Approve	07/17/97			12:04 NCR 317	
10 NCAC 50D .0101	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0102	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0103	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0201	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0301	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0302	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0401	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0402	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0501	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0502	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0503	10:24 NCR 3057	11:04 NCR 196	Temp Expired							

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					Action	Date				
Medical Care Commission										
10 NCAC 03B	11:16 NCR 1268									
10 NCAC 03B .1001		11:20 NCR 1560	11:29 NCR 2187	*	Approve	10/16/97	*		12:11 NCR 947	
10 NCAC 03B .1002		11:20 NCR 1560	11:29 NCR 2187	*	Approve	10/16/97	*		12:11 NCR 947	
10 NCAC 03C .3707	11:20 NCR 1534		11:29 NCR 2187	*	Approve	10/16/97			12:11 NCR 947	
10 NCAC 03D .0801	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0802	11:23 NCR 1779		12:05 NCR 339	S/L						
10 NCAC 03D .0803	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0806	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0901	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0902	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0904	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0905	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0907	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0908	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0909	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0911	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0913	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0915	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0916	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0917	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0918	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0919	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0920	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0921	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0922	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0923	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0924	11:23 NCR 1779		12:05 NCR 339	S/L						
10 NCAC 03D .0925	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0926	11:23 NCR 1779		12:05 NCR 339	*						

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					Action	Date				
10 NCAC 03D .1001	11:23 NCR 1779		12:05 NCR 339	S/L						
10 NCAC 03D .1002	11:23 NCR 1779		12:05 NCR 339	S/L						
10 NCAC 03D .1003	11:23 NCR 1779		12:05 NCR 339	S/L						
10 NCAC 03D .1004	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .1103	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .1202	11:23 NCR 1779		12:05 NCR 339	S/L						
10 NCAC 03D .1203	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .1204	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .1205	11:23 NCR 1779		12:05 NCR 339	S/L						
10 NCAC 03D .1206	11:23 NCR 1779		12:05 NCR 339	S/L						
10 NCAC 03D .1301	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .1302	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .1401	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .1403	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .1500	11:23 NCR 1779									
10 NCAC 03D .2001	10:18 NCR 2399		11:29 NCR 2187	*	Object	10/16/97				
					Approve	11/20/97	*			
10 NCAC 03D .2101	10:18 NCR 2399		11:29 NCR 2187	*	Object	10/16/97				
					Approve	11/20/97	*			
10 NCAC 03D .2102	10:18 NCR 2399		11:29 NCR 2187	*	Object	10/16/97				
					Approve	11/20/97	*			
10 NCAC 03D .2103	10:18 NCR 2399		11:29 NCR 2187	*	Approve	10/16/97	*		12:11 NCR 947	
10 NCAC 03D .2104	10:18 NCR 2399		11:29 NCR 2187	*	Approve	10/16/97	*		12:11 NCR 947	
10 NCAC 03D .2105	10:18 NCR 2399		11:29 NCR 2187	*	Object	10/16/97				
					Approve	11/20/97	*			
10 NCAC 03D .2106	10:18 NCR 2399		11:29 NCR 2187	*	Object	10/16/97				
					Approve	11/20/97	*			
10 NCAC 03D .2201	10:18 NCR 2399		11:29 NCR 2187	*	Object	10/16/97				
					Approve	11/20/97	*			
10 NCAC 03D .2202	10:18 NCR 2399		11:29 NCR 2187	*	Approve	10/16/97			12:11 NCR 947	
10 NCAC 03D .2203	10:18 NCR 2399		11:29 NCR 2187	*	Approve	10/16/97			12:11 NCR 947	
10 NCAC 03D .2301	10:18 NCR 2399		11:29 NCR 2187	*	Approve	10/16/97			12:11 NCR 947	
10 NCAC 03D .2302	10:18 NCR 2399		11:29 NCR 2187	*	Approve	10/16/97			12:11 NCR 947	
10 NCAC 03D .2303	10:18 NCR 2399		11:29 NCR 2187	*	Object	10/16/97				

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					Action	Date				
					Approve	11/20/97	*			
10 NCAC 03D .2401	10:18 NCR 2399		11:29 NCR 2187	*	Approve	10/16/97	*		12:11 NCR 947	
10 NCAC 03M .0105	11:23 NCR 1779		12:06 NCR 459	*						
10 NCAC 03M .0205	11:23 NCR 1779		12:06 NCR 459	*						
Mental Health, Developmental Disabilities and Substance Abuse Services										
10 NCAC 14G .0102		12:12 NCR 1060								
10 NCAC 14V .3402	11:08 NCR 449		11:14 NCR 1124	*	Withdrawn	01/16/97				
			11:24 NCR 1822	*	Approve	05/15/97	*		11:30 NCR 2314	
10 NCAC 14V .3803	11:08 NCR 449		11:14 NCR 1124	*	Withdrawn	01/16/97				
			11:24 NCR 1822	*	Approve	05/15/97	*		11:30 NCR 2314	
10 NCAC 14V .5602	11:08 NCR 449		11:14 NCR 1124	*	Withdrawn	01/16/97				
			11:24 NCR 1822	*	Approve	05/15/97			11:30 NCR 2314	
10 NCAC 15A .0128	11:08 NCR 449		11:14 NCR 1124	*	Withdrawn	01/16/97				
			11:24 NCR 1822	*	Approve	05/15/97			11:30 NCR 2314	
10 NCAC 15A .0129	11:08 NCR 449		11:14 NCR 1124	*	Withdrawn	01/16/97				
			11:24 NCR 1822	*	Approve	05/15/97			11:30 NCR 2314	
10 NCAC 18W .0201	10:15 NCR 1478		11:14 NCR 1124	S	Object	01/16/97				
					Approve	02/20/97	*			
10 NCAC 18W .0202	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0203	10:15 NCR 1478		11:14 NCR 1124	S	Object	01/16/97				
					Approve	02/20/97	*			
10 NCAC 18W .0204	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0205	10:15 NCR 1478		11:14 NCR 1124	S	Object	01/16/97				
					Approve	02/20/97	*			
10 NCAC 18W .0206	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0207	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0208	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0209	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0210	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0211	10:15 NCR 1478		11:14 NCR 1124	S	Object	01/16/97				
					Approve	02/20/97	*			
10 NCAC 18W .0212	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0213	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0214	10:15 NCR 1478		11:14 NCR 1124	S	Object	01/16/97				
					Approve	02/20/97	*			
10 NCAC 18W .0215	10:15 NCR 1478		11:14 NCR 1124	S	Object	01/16/97				
					Approve	02/20/97	*			

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					Action	Date				
10 NCAC 18W .0216	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0217	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0218	10:15 NCR 1478		11:14 NCR 1124	S	Object Approve	01/16/97 02/20/97	 *			
10 NCAC 18W .0219	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 45H .0200	11:08 NCR 449									
10 NCAC 45H .0203	11:08 NCR 449	11:29 NCR 2208	11:29 NCR 2208	*	Approve	12/18/97	*			
Secretary of Human Resources										
10 NCAC 14V .7006		12:01 NCR 31	12:07 NCR 511	*						
10 NCAC 14V .7101	11:30 NCR 2300		12:06 NCR 459	*						
10 NCAC 14V .7102	11:30 NCR 2300		12:06 NCR 459	*						
10 NCAC 14V .7103	11:30 NCR 2300		12:06 NCR 459	S						
10 NCAC 14V .7104	11:30 NCR 2300		12:06 NCR 459	S						
10 NCAC 14V .7105	11:30 NCR 2300		12:06 NCR 459	S						
Social Services Commission										
10 NCAC 24A .0508	12:12 NCR 993	12:13 NCR 1180								
10 NCAC 30 .0207	12:11 NCR 919	12:14 NCR 1347								
10 NCAC 35E .0101		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 35E .0105		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 35E .0106		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 35E .0308		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 41A .0007		12:11 NCR 938								
10 NCAC 41E	12:11 NCR 919									
10 NCAC 41F .0707		12:11 NCR 938								
10 NCAC 41F .0813		12:11 NCR 938								
10 NCAC 41G	12:11 NCR 919									
10 NCAC 41I .0100	10:17 NCR 2228									
10 NCAC 41I .0102	10:17 NCR 2228		10:21 NCR 2687	*						
10 NCAC 42C .3401		12:13 NCR 1180								
10 NCAC 42C .3403		12:13 NCR 1180								

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					Action	Date				
10 NCAC 42C .3404		12:13 NCR 1180								
10 NCAC 42C .3601		12:13 NCR 1180								
10 NCAC 42J .0001		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 42J .0004		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97			12:07 NCR 561	
10 NCAC 42J .0005		11:16 NCR 1288	11:30 NCR 2301	*	Object Approve	08/21/97 09/18/97	 *		 12:10 NCR 878	
10 NCAC 42R .0201	12:11 NCR 919	12:13 NCR 1180								
10 NCAC 47A .0502		12:11 NCR 938								
10 NCAC 47B .0102		12:11 NCR 938								
10 NCAC 47B .0303		12:11 NCR 938								
10 NCAC 47B .0304		12:11 NCR 938								
10 NCAC 47B .0305		12:11 NCR 938								
10 NCAC 47B .0403		12:11 NCR 938								
Vocational Rehabilitation Services										
10 NCAC 20C .0201	12:08 NCR 618		12:13 NCR 1135	*						
10 NCAC 20C .0202	12:08 NCR 618		12:13 NCR 1135	*						
10 NCAC 20C .0203	12:08 NCR 618		12:13 NCR 1135	*						
10 NCAC 20C .0601	12:08 NCR 618		12:13 NCR 1135	*						
10 NCAC 20C .0603	12:08 NCR 618		12:13 NCR 1135	*						
10 NCAC 20C .0604	12:08 NCR 618		12:13 NCR 1135	*						
10 NCAC 20C .0606	12:08 NCR 618		12:13 NCR 1135	*						
INSURANCE										
11 NCAC 06	12:09 NCR 744									
11 NCAC 10 .0105	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 10 .0602		11:15 NCR 1223	11:19 NCR 1426	*	Approve	03/20/97	*		11:26 NCR 2004	
11 NCAC 10 .0603		11:15 NCR 1223	11:19 NCR 1426	*	Approve	03/20/97	*		11:26 NCR 2004	
11 NCAC 10 .0606		11:15 NCR 1223	11:19 NCR 1426	*	Approve	03/20/97	*		11:26 NCR 2004	
11 NCAC 11B .0601	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11B .0602	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11B .0603	12:09 NCR 744		12:14 NCR 1255	*						

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					Action	Date				
11 NCAC 11B .0604	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11B .0605	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11B .0606	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11B .0607	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11B .0608	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11B .0609	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11B .0610	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11B .0611	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11B .0612	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11B .0613	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11B .0614	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11B .0615	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11B .0616	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11B .0617	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11C .0108	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 11C .0109	12:09 NCR 744		12:14 NCR 1255	*						
11 NCAC 12	12:09 NCR 744									
11 NCAC 12 .1703	N/A	N/A	N/A		Approve	12/18/97				
11 NCAC 12 .1801		12:11 NCR 942								
11 NCAC 12 .1802		12:11 NCR 942								
11 NCAC 12 .1803		12:11 NCR 942								
11 NCAC 12 .1804		12:11 NCR 942								
11 NCAC 13	12:09 NCR 744									
11 NCAC 14	12:09 NCR 744									
11 NCAC 15	12:09 NCR 744									
11 NCAC 16	12:09 NCR 744									
11 NCAC 17	12:09 NCR 744									
11 NCAC 19 .0002	12:09 NCR 744		12:14 NCR 1262	*						
11 NCAC 19 .0003	12:09 NCR 744		12:14 NCR 1262	*						
11 NCAC 19 .0004	12:09 NCR 744		12:14 NCR 1262	*						

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					Action	Date				
11 NCAC 19 .0006	12:09 NCR 744		12:14 NCR 1262	*						
11 NCAC 20	12:09 NCR 744									
11 NCAC 21	12:09 NCR 744									
Fire and Rescue Commission										
11 NCAC 05C .0101	12:09 NCR 744		12:14 NCR 1252	*						
11 NCAC 05C .0102	12:09 NCR 744		12:14 NCR 1252	*						
11 NCAC 05C .0103	12:09 NCR 744		12:14 NCR 1252	*						
11 NCAC 05C .0104	12:09 NCR 744		12:14 NCR 1252	*						
Home Inspector Licensure Board										
Home Inspector Licensure Board										11:27 NCR 2049
11 NCAC 08	12:09 NCR 744									
11 NCAC 08 .1000	12:09 NCR 744									
11 NCAC 08 .1001		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1002		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1003		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1004		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97	*		12:03 NCR 213	
11 NCAC 08 .1005		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1006		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1007		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1008		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1009		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1010		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1011		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1101		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1102		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	

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					Action	Date				
11 NCAC 08 .1103		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1104		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1105		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97	*		12:03 NCR 213	
11 NCAC 08 .1106		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1107		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1108		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1109		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1110		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1111		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1112		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1113		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1114		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1115		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1116		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1201		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1202		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1203		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1204		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1205		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1206		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1207		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1208		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	

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					Action	Date				
11 NCAC 08 .1209		11:15 NCR 1212	11:19 NCR 1416	*	Agency withdrew	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	
11 NCAC 08 .1301	12:09 NCR 744		12:14 NCR 1253	*						
11 NCAC 08 .1302	12:09 NCR 744		12:14 NCR 1253	*						
11 NCAC 08 .1303	12:09 NCR 744		12:14 NCR 1253	*						
11 NCAC 08 .1304	12:09 NCR 744		12:14 NCR 1253	*						
11 NCAC 08 .1305	12:09 NCR 744		12:14 NCR 1253	*						
11 NCAC 08 .1306	12:09 NCR 744		12:14 NCR 1253	*						
11 NCAC 08 .1307	12:09 NCR 744		12:14 NCR 1253	*						
11 NCAC 08 .1308	12:09 NCR 744		12:14 NCR 1253	*						
JUSTICE										
Alarm Systems Licensing Board										
12 NCAC 11	11:30 NCR 2300									
12 NCAC 11 .0202	10:24 NCR 3057		11:14 NCR 1136	*	Tabled	06/19/97				
					Approve	08/21/97			12:07 NCR 561	
12 NCAC 11 .0204	12:12 NCR 993									
12 NCAC 11 .0210	12:08 NCR 618									
Criminal Justice Education and Training Standards Commission										
12 NCAC 09A .0103	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0102	11:14 NCR 1109		11:20 NCR 1539	*	Object	04/17/97				
					Approve	05/15/97	*		11:30 NCR 2314	
12 NCAC 09B .0111	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0206	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0224	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0225	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0409	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0304	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0307	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97	*		11:29 NCR 2211	
12 NCAC 09C .0309	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0601	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0602	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	

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					Action	Date				
12 NCAC 09C .0603	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0604	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0605	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0606	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0607	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0608	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
Private Protective Services Board										
12 NCAC 07D .0104	11:16 NCR 1268		12:09 NCR 748	*						
12 NCAC 07D .0201	11:10 NCR 818		12:08 NCR 622	*						
12 NCAC 07D .0204	11:14 NCR 1108		12:08 NCR 622	*						
12 NCAC 07D .0504	11:10 NCR 818		12:08 NCR 622	*						
12 NCAC 07D .0701	11:10 NCR 818		12:08 NCR 622	*						
12 NCAC 07D .0801	11:10 NCR 818		12:08 NCR 622	*						
12 NCAC 07D .0902	11:10 NCR 818		12:08 NCR 622	*						
12 NCAC 07D .1106	11:14 NCR 1108		12:08 NCR 622	*						
12 NCAC 07D .1201	11:10 NCR 818		12:14 NCR 1263	*						
12 NCAC 07D .1202	11:10 NCR 818		12:14 NCR 1263	*						
12 NCAC 07D .1301	11:16 NCR 1268		12:14 NCR 1263	*						
12 NCAC 07D .1302	11:16 NCR 1268		12:14 NCR 1263	*						
12 NCAC 07D .1303	11:16 NCR 1268		12:14 NCR 1263	*						
12 NCAC 07D .1304	11:16 NCR 1268		12:14 NCR 1263	*						
12 NCAC 07D .1305	11:16 NCR 1268		12:14 NCR 1263	*						
12 NCAC 07D .1306	11:16 NCR 1268		12:14 NCR 1263	*						
12 NCAC 07D .1307	11:16 NCR 1268		12:14 NCR 1263	*						
Sheriffs' Education and Training Standards Commission										
12 NCAC 10B .0101	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97				
12 NCAC 10B .0103	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .0107	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .0202	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .0204	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			

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					Action	Date				
12 NCAC 10B .0206	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .0304	12:04 NCR 242		12:08 NCR 624	L						
12 NCAC 10B .0401	12:07 NCR 508		12:12 NCR 995	S/L						
12 NCAC 10B .0402	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .0403	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .0406	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .0407	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .0408	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .0409	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .0505	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .0601	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .0603	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .0605	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .0701	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .0702	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97				
12 NCAC 10B .0702	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .0703	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .0704	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .0705	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97				
12 NCAC 10B .0706	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97				
12 NCAC 10B .0707	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .0801	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97				
12 NCAC 10B .0802	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .0903	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .0908	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97				
12 NCAC 10B .0909	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .0910	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97				
12 NCAC 10B .0911	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97				
12 NCAC 10B .1002	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .1004	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97				

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					Action	Date				
12 NCAC 10B .1005	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97				
12 NCAC 10B .1006	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .1101	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1101	12:07 NCR 508									
12 NCAC 10B .1102	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1102	12:07 NCR 508									
12 NCAC 10B .1103	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1103	12:07 NCR 508									
12 NCAC 10B .1104	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1104	12:07 NCR 508									
12 NCAC 10B .1105	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1202	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .1204	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97				
12 NCAC 10B .1205	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97				
12 NCAC 10B .1206	12:04 NCR 242		12:08 NCR 624	*	Approve	12/18/97	*			
12 NCAC 10B .1301	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .1302	12:07 NCR 508		12:12 NCR 995	S						
12 NCAC 10B .1303	12:07 NCR 508		12:12 NCR 995	S						
12 NCAC 10B .1304	12:07 NCR 508		12:12 NCR 995	S						
12 NCAC 10B .2002	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .2101	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .2102	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .2104	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .2105	12:07 NCR 508		12:12 NCR 995	*						
State Bureau of Investigation/Division of Criminal Information										
12 NCAC 04E .0103	11:11 NCR 881		11:17 NCR 1339	*	Approve	05/15/97			11:30 NCR 2314	
12 NCAC 04E .0104	11:17 NCR 1336		11:22 NCR 1710	*	Approve	07/17/97	*		12:04 NCR 317	
12 NCAC 04E .0401	11:17 NCR 1336		11:22 NCR 1710	*	Approve	07/17/97			12:04 NCR 317	
12 NCAC 04E .0404	11:17 NCR 1336		11:22 NCR 1710	*	Approve	07/17/97	*		12:04 NCR 317	
12 NCAC 04E .0405	11:17 NCR 1336		11:22 NCR 1710	*	Approve	07/17/97	*		12:04 NCR 317	

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					Action	Date				
LABOR										
Boiler & Pressure Vessel										
13 NCAC 13 .0213		11:25 NCR 1918 12:13 NCR 1184	Temp Expired 12/27/97 12:13 NCR 1184	S/L						
Occupational Safety and Health										
***Verbatim Adoption Federal Standards**										
*13 NCAC 07F .0101										12:08 NCR 613
*13 NCAC 07F .0501										12:08 NCR 613
*13 NCAC 07F .0502										12:08 NCR 613
13 NCAC 07A .0302	11:26 NCR 1984		12:03 NCR 170	*	Approve	11/20/97	*			
13 NCAC 07A .0708	11:26 NCR 1984		12:03 NCR 170	*	Approve	11/20/97	*			
13 NCAC 07A .0900	11:11 NCR 881									
13 NCAC 07F	11:03 NCR 106									
13 NCAC 07F .0101	11:24 NCR 1817		12:05 NCR 354	*	Approve	11/20/97	*			
13 NCAC 07F .0101	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07F .0102	11:26 NCR 1984		12:03 NCR 170	*	Approve	11/20/97				
13 NCAC 07F .0201	11:03 NCR 106									
13 NCAC 07F .0201	11:09 NCR 568									republished 11:24 NCR 1817
13 NCAC 07F .0201	11:24 NCR 1817		12:02 NCR 60	*	Approve	11/20/97	*			
13 NCAC 07F .0201	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07F .0301	11:03 NCR 106									
13 NCAC 07F .0301	11:26 NCR 1984		12:03 NCR 170	*	Approve	11/20/97	*			
13 NCAC 07F .0426	11:26 NCR 1984		12:03 NCR 170	*	Approve	11/20/97	*			
13 NCAC 07F .0501	11:26 NCR 1984		12:03 NCR 170	*	Approve	11/20/97	*			
13 NCAC 07F .0502	11:26 NCR 1984		12:03 NCR 170	*	Approve	11/20/97	*			
13 NCAC 16 .0101	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97	*			
13 NCAC 16 .0102	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97	*			
13 NCAC 16 .0103	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97				
13 NCAC 16 .0201	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97	*			
13 NCAC 16 .0202	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97				

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					Action	Date				
13 NCAC 16 .0203	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97				
13 NCAC 16 .0204	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97				
13 NCAC 16 .0205	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97				
13 NCAC 16 .0206	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97				
13 NCAC 16 .0207	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97				
13 NCAC 16 .0208	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97				
13 NCAC 16 .0301	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97	*			
13 NCAC 16 .0302	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97				
13 NCAC 16 .0303	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97				
13 NCAC 16 .0401	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97				
13 NCAC 16 .0402	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97	*			
13 NCAC 16 .0501	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97	*			
13 NCAC 16 .0502	11:26 NCR 1984		12:05 NCR 412	*	Approve	12/18/97				
13 NCAC 16 .0601	11:26 NCR 1984		12:05 NCR 412	*	Agency did not adopt					
13 NCAC 16 .0602	11:26 NCR 1984		12:05 NCR 412	*	Agency did not adopt					
LANDSCAPE ARCHITECTS, BOARD OF										
21 NCAC 26 .0104		12:08 NCR 730								
21 NCAC 26 .0105		12:08 NCR 730								
21 NCAC 26 .0302		12:08 NCR 730								
21 NCAC 26 .0506		12:08 NCR 730								
21 NCAC 26 .0507		12:08 NCR 730								
21 NCAC 26 .0508		12:08 NCR 730								
21 NCAC 26 .0509		12:08 NCR 730								
MEDICAL BOARD										
21 NCAC 32B	11:18 NCR 1369									
21 NCAC 32B	12:04 NCR 245									
21 NCAC 32F .0103		11:18 NCR 1386 Temp Expired	12:04 NCR 294	*						
21 NCAC 32F .0103		12:14 NCR 1354								
21 NCAC 32H .0102	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97	*			

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					Action	Date				
21 NCAC 32H .0201	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97	*			
21 NCAC 32H .0202	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0203	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0301	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0302	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0303	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0401	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0402	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97	*			
21 NCAC 32H .0402		12:04 NCR 314								
21 NCAC 32H .0403	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97	*			
21 NCAC 32H .0404	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97	*			
21 NCAC 32H .0405	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0406	11:26 NCR 1986		12:04 NCR 294	L	Approve	12/18/97				
21 NCAC 32H .0407	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0408	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0409	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97	*			
21 NCAC 32H .0501	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0502	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0503	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0504	11:26 NCR 1986		12:04 NCR 294	L	Approve	12/18/97				
21 NCAC 32H .0505	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0506	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0507	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97	*			
21 NCAC 32H .0508	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0601	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0602	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .0801	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97	*			
21 NCAC 32H .0901	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32H .1004	11:26 NCR 1986		12:04 NCR 294	*	Approve	12/18/97				
21 NCAC 32O	11:18 NCR 1369									

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					Action	Date				
MORTUARY SCIENCE, BOARD OF										
21 NCAC 34A .0126	12:09 NCR 745		12:14 NCR 1334	L						
21 NCAC 34A .0201		12:07 NCR 556								
21 NCAC 34A .0201	12:09 NCR 745		12:14 NCR 1334	S						
21 NCAC 34B .0102	12:09 NCR 745		12:14 NCR 1334	*						
21 NCAC 34B .0103	12:09 NCR 745		12:14 NCR 1334	*						
21 NCAC 34B .0201	12:09 NCR 745		12:14 NCR 1334	*						
21 NCAC 34B .0403	12:09 NCR 745		12:14 NCR 1334	*						
21 NCAC 34C	12:09 NCR 745									
21 NCAC 34D .0101	12:09 NCR 745		12:14 NCR 1334	*						
21 NCAC 34D .0303	12:09 NCR 745		12:14 NCR 1334	*						
NURSING, BOARD OF										
21 NCAC 36 .0109	11:24 NCR 1821		11:28 NCR 2130	*	Approve	12/18/97				
21 NCAC 36 .0227	12:05 NCR 338									
21 NCAC 36 .0320	11:14 NCR 1109		11:19 NCR 1428	*	Object Approve	03/20/97 04/17/97	*		11:29 NCR 2211	
21 NCAC 36 .0601	12:01 NCR 5		12:06 NCR 479	*						
21 NCAC 36 .0602	12:01 NCR 5		12:06 NCR 479	*						
21 NCAC 36 .0603	12:01 NCR 5		12:06 NCR 479	*						
21 NCAC 36 .0604	12:01 NCR 5		12:06 NCR 479	*						
21 NCAC 36 .0605	12:01 NCR 5		12:06 NCR 479	*						
21 NCAC 36 .0606	12:01 NCR 5		12:06 NCR 479	*						
NURSING HOME ADMINISTRATORS										
21 NCAC 37D .0202		11:11 NCR 940	11:18 NCR 1372	*	Approve	04/17/97	*		11:29 NCR 2211	
21 NCAC 37G .0102		11:11 NCR 940	11:18 NCR 1372	*	Approve	04/17/97			11:29 NCR 2211	
OPTICIANS, BOARD OF										
21 NCAC 40 .0104	12:09 NCR 745		12:14 NCR 1338	*						
21 NCAC 40 .0108		12:07 NCR 557								
21 NCAC 40 .0108	12:09 NCR 745		12:14 NCR 1338	S						

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					Action	Date				
21 NCAC 40 .0202	12:09 NCR 745		12:14 NCR 1338	*						
21 NCAC 40 .0212	12:09 NCR 745		12:14 NCR 1338	*						
21 NCAC 40 .0214	12:09 NCR 745		12:14 NCR 1338	S						
21 NCAC 40 .0319	12:09 NCR 745		12:14 NCR 1338	*						
21 NCAC 40 .0324	12:09 NCR 745		12:14 NCR 1338	*						
OPTOMETRY, BOARD OF										
21 NCAC 42	12:06 NCR 453									
21 NCAC 42B .0107	11:18 NCR 1369		11:25 NCR 1917	*	Approve	09/18/97			12:10 NCR 878	
21 NCAC 42E .0102		12:06 NCR 487	12:12 NCR 1058	*						
PHARMACY, BOARD OF										
Narrow Therapeutic Index Drugs										12:14 NCR 1230
21 NCAC 46 .1601	12:03 NCR 168		12:07 NCR 527 12:09 NCR 797	* *						
21 NCAC 46 .1603	12:03 NCR 168		12:07 NCR 527 12:09 NCR 797	* *						
21 NCAC 46 .1604	12:03 NCR 168		12:07 NCR 527 12:09 NCR 797	* *						
21 NCAC 46 .1804	12:03 NCR 168		12:07 NCR 527 12:09 NCR 797	* *						
21 NCAC 46 .1810	12:03 NCR 168		12:07 NCR 527 12:09 NCR 797	* *						
21 NCAC 46 .1813	12:03 NCR 168		12:07 NCR 527 12:09 NCR 797	* *						
21 NCAC 46 .2103	12:03 NCR 168		12:07 NCR 527 12:09 NCR 797	* *						
21 NCAC 46 .2201	12:03 NCR 168		12:07 NCR 527 12:09 NCR 797	* *						
21 NCAC 46 .2301	12:03 NCR 168		12:07 NCR 527 12:09 NCR 797	* *						
PHYSICAL THERAPY EXAMINERS										
21 NCAC 48A .0103	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48A .0105	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48B .0102	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48C .0101	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48C .0102	12:08 NCR 619		12:13 NCR 1150	*						

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					Action	Date				
21 NCAC 50 .0301	12:07 NCR 509	12:07 NCR 557								
21 NCAC 50 .0306	12:07 NCR 509	12:07 NCR 557								
21 NCAC 50 .0404	12:07 NCR 509	12:07 NCR 557								
21 NCAC 50 .0405	12:07 NCR 509									
21 NCAC 50 .0506	12:07 NCR 509	12:07 NCR 557								
21 NCAC 50 .0510	12:07 NCR 509									
21 NCAC 50 .0511	12:07 NCR 509	12:07 NCR 557								
21 NCAC 50 .1102	12:07 NCR 509	12:07 NCR 557								
21 NCAC 50 .1104	12:07 NCR 509									
21 NCAC 50 .1201	12:07 NCR 509									
21 NCAC 50 .1205	12:07 NCR 509									
21 NCAC 50 .1206	12:07 NCR 509									
21 NCAC 50 .1210	12:07 NCR 509									
21 NCAC 50 .1212	12:07 NCR 509									
21 NCAC 50 .1302	12:07 NCR 509									
PROFESSIONAL ENGINEERS AND LAND SURVEYORS										
21 NCAC 56	12:08 NCR 619									
PSYCHOLOGY BOARD										
21 NCAC 54 .1611	12:05 NCR 338									
21 NCAC 54 .1612	12:05 NCR 338									
21 NCAC 54 .1613	12:05 NCR 338									
21 NCAC 54 .2006	12:05 NCR 338									
21 NCAC 54 .2010	12:05 NCR 338									
21 NCAC 54 .2104	12:05 NCR 338									
21 NCAC 54 .2301	12:05 NCR 338									
21 NCAC 54 .2302	12:05 NCR 338									
21 NCAC 54 .2303	12:05 NCR 338									
21 NCAC 54 .2304	12:05 NCR 338									
21 NCAC 54 .2305	12:05 NCR 338									

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					Action	Date				
21 NCAC 54 .2306	12:05 NCR 338									
21 NCAC 54 .2307	12:05 NCR 338									
21 NCAC 54 .2308	12:05 NCR 338									
21 NCAC 54 .2309	12:05 NCR 338									
21 NCAC 54 .2310	12:05 NCR 338									
21 NCAC 54 .2311	12:05 NCR 338									
21 NCAC 54 .2312	12:05 NCR 338									
21 NCAC 54 .2313	12:05 NCR 338									
21 NCAC 54 .2314	12:05 NCR 338									
21 NCAC 54 .2401	12:05 NCR 338									
21 NCAC 54 .2402	12:05 NCR 338									
21 NCAC 54 .2501	12:05 NCR 338									
21 NCAC 54 .2502	12:05 NCR 338									
21 NCAC 54 .2503	12:05 NCR 338									
21 NCAC 54 .2504	12:05 NCR 338									
21 NCAC 54 .2505	12:05 NCR 338									
21 NCAC 54 .2601	12:05 NCR 338									
21 NCAC 54 .2602	12:05 NCR 338									
21 NCAC 54 .2704	12:05 NCR 338									
21 NCAC 54 .2705	12:05 NCR 338									
21 NCAC 54 .2706	12:05 NCR 338									
PUBLIC EDUCATION										
16 NCAC 06C .0307			12:01 NCR 18	*	Object	10/16/97				
					Approve	12/18/97	*			
16 NCAC 06C .0310			12:01 NCR 18	*						
		12:03 NCR 210								Temp Filed over obj
16 NCAC 06C .0502		12:09 NCR 834								
16 NCAC 06C .0601			12:12 NCR 1050	*						
16 NCAC 06C .0602			12:12 NCR 1050	*						
16 NCAC 06D .0103			12:01 NCR 18	*	Object	10/16/97				
					Approve	12/18/97	*			

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					Action	Date				
16 NCAC 06D .0301			12:01 NCR 18	*	Object	10/16/97				
					Approve	12/18/97	*			
16 NCAC 06D .0303			12:01 NCR 18	*	Approve	10/16/97			12:11 NCR 947	
16 NCAC 06D .0305			12:01 NCR 18	*	Approve	10/16/97			12:11 NCR 947	
16 NCAC 06D .0306			12:01 NCR 18	*	Approve	10/16/97			12:11 NCR 947	
16 NCAC 06E .0105		12:05 NCR 433								
16 NCAC 06G .0304			12:01 NCR 18	S	Approve	10/16/97			12:11 NCR 947	
16 NCAC 06G .0305			12:01 NCR 18	*	Object	10/16/97				
					Approve	12/18/97	*			
16 NCAC 06G .0306			12:01 NCR 18	*	Object	10/16/97				
					Approve	12/18/97	*			
16 NCAC 06G .0307			12:01 NCR 18	S	Object	10/16/97				
					Approve	12/18/97	*			
16 NCAC 06G .0308			12:01 NCR 18	S	Object	10/16/97				
					Approve	12/18/97	*			
16 NCAC 06G .0309			12:01 NCR 18	S	Approve	10/16/97	*		12:11 NCR 947	
16 NCAC 06G .0401			12:01 NCR 18	*	Approve	10/16/97			12:11 NCR 947	
16 NCAC 06G .0402			12:01 NCR 18	*	Approve	10/16/97			12:11 NCR 947	
16 NCAC 06G .0403			12:01 NCR 18	*	Approve	10/16/97			12:11 NCR 947	
16 NCAC 06G .0404			12:01 NCR 18	*	Approve	10/16/97			12:11 NCR 947	
16 NCAC 06G .0501		12:12 NCR 1071								
Public School Administration, Standards Board for										
16 NCAC 07 .0201		12:07 NCR 533	12:12 NCR 1052	*						
16 NCAC 07 .0202		12:07 NCR 533	12:12 NCR 1052	*						
16 NCAC 07 .0301		12:07 NCR 533	12:12 NCR 1052	*						
16 NCAC 07 .0302		12:07 NCR 533	12:12 NCR 1052	*						
16 NCAC 07 .0303		12:07 NCR 533	12:12 NCR 1052	*						
REAL ESTATE COMMISSION										
21 NCAC 58A .0101	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0103	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0104	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0105	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0107	12:08 NCR 620		12:13 NCR 1159	*						

Agency/Rule Citation	Rule making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 58A .0108	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0109	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0110	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0114	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0302	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0302	10:22 NCR 2829		11:03 NCR 114	*	Object	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
21 NCAC 58A .0502	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0505	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0506	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0601	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0613	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0614	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .1501	10:22 NCR 2829		11:03 NCR 114	*	Object	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
21 NCAC 58A .1502	10:22 NCR 2829		11:03 NCR 114	*	Object	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
21 NCAC 58A .1702	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58B .0402	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58E .0407	12:08 NCR 620		12:13 NCR 1159	*						
REVENUE										
17 NCAC 01C .0506			11:10 NCR 838	*	Approve	01/16/97	*		11:22 NCR 1717	
17 NCAC 03C .0008			12:14 NCR 1282	*						
17 NCAC 04B .0615			12:14 NCR 1283	*						
17 NCAC 04D .0303			12:14 NCR 1283	*						
17 NCAC 04D .0505			12:14 NCR 1283	*						
17 NCAC 04D .0508			12:14 NCR 1283	*						
17 NCAC 04D .0901			12:14 NCR 1283	*						
17 NCAC 05C .0102			12:14 NCR 1285	*						
17 NCAC 05C .0703			12:14 NCR 1285	*						
17 NCAC 05E .0101			12:14 NCR 1285	*						

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Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
17 NCAC 05E .0102			12:14 NCR 1285	*						
17 NCAC 05E .0103			12:14 NCR 1285	*						
17 NCAC 05E .0105			12:14 NCR 1285	*						
17 NCAC 06B .0104			12:14 NCR 1288	*						
17 NCAC 06B .0106			12:14 NCR 1288	*						
17 NCAC 06B .0107			12:14 NCR 1288	*						
17 NCAC 06B .0112			12:14 NCR 1288	*						
17 NCAC 06B .0117			12:14 NCR 1288	*						
17 NCAC 06B .0118			12:14 NCR 1288	*						
17 NCAC 06B .0609			12:14 NCR 1288	*						
17 NCAC 06B .3503			12:14 NCR 1288	*						
17 NCAC 06B .3526			12:14 NCR 1288	*						
17 NCAC 06B .3714			12:14 NCR 1288	*						
17 NCAC 06B .3725			12:14 NCR 1288	*						
17 NCAC 06B .3904			12:14 NCR 1288	*						
17 NCAC 06C .0201			12:14 NCR 1288	*						
17 NCAC 06C .0203			12:14 NCR 1288	*						
17 NCAC 07B .0104			12:14 NCR 1296	*						
17 NCAC 07B .0207			12:14 NCR 1296	*						
17 NCAC 07B .0901			12:14 NCR 1296	*						
17 NCAC 07B .1301			12:14 NCR 1296	*						
17 NCAC 07B .1404			12:14 NCR 1296	*						
17 NCAC 07B .1602			12:14 NCR 1296	*						
17 NCAC 07B .1701			12:14 NCR 1296	*						
17 NCAC 07B .1702			12:14 NCR 1296	*						
17 NCAC 07B .1703			12:14 NCR 1296	*						
17 NCAC 07B .1801			12:14 NCR 1296	*						
17 NCAC 07B .1802			12:14 NCR 1296	*						
17 NCAC 07B .2201			12:14 NCR 1296	*						
17 NCAC 07B .2212			12:14 NCR 1296	*						

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
17 NCAC 07B .3104			12:14 NCR 1296	*						
17 NCAC 07B .3301			12:14 NCR 1296	*						
17 NCAC 07B .3302			12:14 NCR 1296	*						
17 NCAC 07B .3303			12:14 NCR 1296	*						
17 NCAC 07B .3304			12:14 NCR 1296	*						
17 NCAC 07B .3305			12:14 NCR 1296	*						
17 NCAC 07B .3306			12:14 NCR 1296	*						
17 NCAC 07B .3901			12:14 NCR 1296	*						
17 NCAC 07B .3910			12:14 NCR 1296	*						
17 NCAC 07B .4301			12:14 NCR 1296	*						
17 NCAC 09I .0102			12:14 NCR 1310	*						
17 NCAC 09I .0304			12:14 NCR 1310	*						
17 NCAC 09J .0203			12:14 NCR 1310	*						
17 NCAC 09K .0205			12:14 NCR 1310	*						
17 NCAC 09K .0511			12:14 NCR 1310	*						
17 NCAC 09K .0513			12:14 NCR 1310	*						
Tax Review Board										12:04 NCR 228
Tax Review Board										12:05 NCR 336
Tax Review Board										12:12 NCR 990
SECRETARY OF STATE										
18 NCAC 06 .1104		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1205		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1206		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1211		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1212		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1304		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1401		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1410		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1411		12:07 NCR 534	12:14 NCR 1312	*						

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
18 NCAC 06 .1412		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1506		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1509		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1702		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1703		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1704		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1705		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1706		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1712		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1713		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1714		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1801		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1802		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1803		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1804		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1805		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1806		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1809		12:07 NCR 534	12:14 NCR 1312	*						
18 NCAC 06 .1811		12:07 NCR 534	12:14 NCR 1312	*						
SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGIST, BOARD OF EXAMINERS										
21 NCAC 64 .0209	11:23 NCR 1780		12:05 NCR 427	*						
21 NCAC 64 .0303	11:23 NCR 1780									
21 NCAC 64 .1001	11:23 NCR 1780		12:05 NCR 427	*						
21 NCAC 64 .1002	11:23 NCR 1780		12:05 NCR 427	*	**Object** No response	**11/20/97** 12/18/97				
21 NCAC 64 .1003	11:23 NCR 1780		12:05 NCR 427	*						
21 NCAC 64 .1004	11:23 NCR 1780		12:05 NCR 427	*	**Object** No response	**11/20/97** 12/18/97				
21 NCAC 64 .1005	11:23 NCR 1780		12:05 NCR 427	*						
STATE PERSONNEL COMMISSION										
25 NCAC 01D .2501		11:13 NCR 1062	11:19 NCR 1429	*	Approve	09/18/97			12:10 NCR 878	

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
25 NCAC 01D .2503		Temp Expired 11:13 NCR 1062	11:19 NCR 1429	*	Approve	09/18/97	*		12:10 NCR 878	
25 NCAC 01D .2504		Temp Expired 11:13 NCR 1062	11:19 NCR 1429	*	Approve	09/18/97			12:10 NCR 878	
25 NCAC 01D .2505		Temp Expired 11:13 NCR 1062	11:19 NCR 1429	*	Approve	09/18/97			12:10 NCR 878	
25 NCAC 01D .2507		Temp Expired 11:13 NCR 1062	11:19 NCR 1429	*	Approve	09/18/97	*		12:10 NCR 878	
25 NCAC 01D .2508		Temp Expired 11:13 NCR 1062	11:19 NCR 1429	*	Approve	09/18/97			12:10 NCR 878	
25 NCAC 01D .2509		Temp Expired 11:13 NCR 1062	11:19 NCR 1429	*	Approve	09/18/97			12:10 NCR 878	
25 NCAC 01D .2511		Temp Expired 11:13 NCR 1062	11:19 NCR 1429	*	Approve	09/18/97	*		12:10 NCR 878	
25 NCAC 01D .2513		Temp Expired 11:13 NCR 1062	11:19 NCR 1429	*	Approve	09/18/97	*		12:10 NCR 878	
25 NCAC 01D .2514		Temp Expired 11:13 NCR 1062	11:19 NCR 1429	*	Approve	09/18/97	*		12:10 NCR 878	
25 NCAC 01D .2516		Temp Expired 11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2517		Temp Expired 12:09 NCR 835								
25 NCAC 01E .0705	11:14 NCR 1110		11:19 NCR 1434	*	Approve	09/18/97	*		12:10 NCR 878	
25 NCAC 01E .0707	11:14 NCR 1110		11:19 NCR 1434	*	Approve	09/18/97	*		12:10 NCR 878	
25 NCAC 01E .0709	11:14 NCR 1110		11:19 NCR 1434	*	Approve	09/18/97			12:10 NCR 878	
SUBSTANCE ABUSE PROFESSIONAL CERTIFICATION BOARD										
21 NCAC 68	12:09 NCR 745									
21 NCAC 68 .0101		12:11 NCR 944								
21 NCAC 68 .0301		12:11 NCR 944								
21 NCAC 68 .0302		12:11 NCR 944								
21 NCAC 68 .0303		12:11 NCR 944								
21 NCAC 68 .0304		12:11 NCR 944								
21 NCAC 68 .0305		12:11 NCR 944								
21 NCAC 68 .0306		12:11 NCR 944								
21 NCAC 68 .0307		12:11 NCR 944								
TRANSPORTATION										

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					Action	Date				
Highways, Division of										
19A NCAC 02B .0164	11:20 NCR 1537		11:26 NCR 1991	*	Object	07/17/97				
					Approve	08/21/97			12:07 NCR 561	
19A NCAC 02B .0242	11:26 NCR 1986		12:03 NCR 207	*	Approve	10/16/97			12:11 NCR 947	
19A NCAC 02B .0303	11:26 NCR 1986		12:03 NCR 207	*	Approve	10/16/97			12:11 NCR 947	
19A NCAC 02D .0415	11:20 NCR 1537		11:26 NCR 2004	*	Approve	07/17/97			12:04 NCR 317	
19A NCAC 02E .0218	12:05 NCR 337		12:12 NCR 1053	*						
19A NCAC 02E .0219	12:05 NCR 337		12:12 NCR 1053	*						
19A NCAC 02E .0220	12:05 NCR 337		12:12 NCR 1053	*						
19A NCAC 02E .0221	12:05 NCR 337		12:12 NCR 1053	*						
19A NCAC 02E .0222	12:05 NCR 337		12:12 NCR 1053	*						
Motor Vehicles, Division of										
19A NCAC 03D .0525		12:08 NCR 729	12:14 NCR 1333	*						
19A NCAC 031 .0100	11:19 NCR 1413									
19A NCAC 031 .0200	11:19 NCR 1413									
19A NCAC 031 .0300	11:19 NCR 1413									
19A NCAC 031 .0400	11:19 NCR 1413									
19A NCAC 031 .0500	11:19 NCR 1413									
19A NCAC 031 .0600	11:19 NCR 1413									
19A NCAC 031 .0700	11:19 NCR 1413									
19A NCAC 031 .0800	11:19 NCR 1413									
19A NCAC 03J .0102	11:11 NCR 882		11:17 NCR 1340	*	Approve	02/20/97	*		11:24 NCR 1832	
19A NCAC 03J .0306	11:11 NCR 882		11:17 NCR 1340	*	Object	02/20/97				
					Approve	03/20/97	*		11:26 NCR 2004	
19A NCAC 03J .0308	11:11 NCR 882		11:17 NCR 1340	*	Object	02/20/97				
					Approve	03/20/97	*		11:26 NCR 2004	
19A NCAC 03J .0601	11:11 NCR 882		11:17 NCR 1340	*	Approve	02/20/97	*		11:24 NCR 1832	

DESCRIPTION	CODE	ANNUAL SUBSCRIPTION PRICE
Title 1 - Dept. of Administration - Complete Title	**201 00 001**	**$90.00**
Division of Purchase & Contract	201 10 051	$30.00
Federal Block Grant Funds	201 10 331	$25.00
Title 2 - Dept. of Agriculture - Complete Title	**202 00 001**	**$140.00**
Food & Drug Protection Division	202 15 091	$35.00
Structural Pest Control Committee	202 15 341	$30.00
Agricultural Markets	202 15 431	$30.00
Plant Industry	202 15 481	$30.00
Animal Industry	202 15 521	$30.00
Title 3 - Dept. of State Auditor - Complete Title	**203 00 001**	**$25.00**
Title 4 - Dept. of Commerce - Complete Title	**204 00 001**	**$125.00**
Alcoholic Beverage Control Commission	204 15 021	$45.00
Banking Commission	204 15 031	$45.00
Credit Union Division	204 15 061	$25.00
Savings & Loan Division	204 15 091	$25.00
Industrial Commission/Workers Compensation	204 15 101	$30.00
Savings Institutions Division	204 15 161	$35.00
Title 5 - Dept. of Corrections - Complete Title	**205 00 001**	**$70.00**
Division of Prisons	205 15 021	$35.00
Title 6 - Council of State - Complete Title	**206 00 001**	**$30.00**
Title 7 - Dept. of Cultural Resources - Complete Title	**207 00 001**	**$60.00**
Title 8 - State Board of Elections - Complete Title	**208 00 001**	**$30.00**
Title 9 - Offices of the Governor & Lt. Governor - Complete Title	**209 00 001**	**$45.00**
Title 10 - Dept. of Human Resources - Complete Title	**210 00 001**	**$470.00**
Licensing of Health Facilities	210 20 101	$95.00
Detention Facilities	210 20 201	$40.00
Mental Health & Rehabilitation Services	210 20 301	$110.00
Social Services	210 20 401	$185.00
Children Services/Day Care	210 20 411	$55.00
Services for the Aging	210 20 421	$45.00
Services for the Blind	210 20 431	$40.00
Services for the Deaf & Hard of Hearing	210 20 441	$25.00
Employment Opportunities	210 20 451	$45.00
Title 11 - Dept. of Insurance - Complete Title	**211 00 001**	**$90.00**
Insurance	211 10 011	$80.00
Consumer Services	211 10 041	$30.00
Fire & Rescue Services	211 10 051	$25.00
Agent Services	211 10 061	$35.00
Engineering & Building Codes	211 10 081	$30.00
Title 12 - Dept. of Justice - Complete Title	**212 00 001**	**$90.00**
Private Protective Services	212 10 071	$30.00
Police & Sheriff's Education & Training Standards	212 10 091	$40.00
NC Alarm Systems Licensing Board	212 10 111	$30.00
Title 13 - Dept. of Labor - Complete Title	**213 00 001**	**$110.00**
Mine & Quarry Safety	213 15 061	$25.00
General Safety/OSHA	213 20 001	$70.00
Wage & Hour Rules	213 15 121	$25.00
Boiler & Pressure Vessel Safety	213 15 131	$25.00
Apprenticeship & Training	213 15 141	$25.00
Elevator & Amusement Device Safety	213 15 151	$25.00
Title 14A - Dept. of Crime Control & Public Safety - Complete Title	**214 00 001**	**$45.00**
Alcohol Law Enforcement	214 00 081	$25.00
Victims Compensation Fund	214 00 111	$25.00
Title 15A - Dept. of Environ., Health, & Nat. Resources - Complete Title	**215 00 001**	**$395.00**
Environmental Management	215 15 001	$165.00
Air Quality	215 15 101	$90.00
Water Quality	215 15 201	$85.00
Land & Waste Management	215 15 301	$85.00
Solid Waste Management	215 15 311	$50.00

DESCRIPTION	CODE	ANNUAL SUBSCRIPTION PRICE
Underground Storage Tanks	215 15 321	$30.00
Coastal Management, Fishing & Boating	215 15 401	$53.00
Environmental Health	215 25 001	$150.00
Radiation/Nuclear Waste	215 25 101	$65.00
Sanitation	215 25 201	$60.00
Public Health	215 25 301	$85.00
Intoxilizer & Breathalizer	215 25 311	$25.00
Title 16 - Dept. of Public Instruction - Complete Title	**216 00 001**	**$60.00**
Elementary & Secondary Education	216 10 061	$30.00
Title 17 - Department of Revenue - Complete Title	**217 00 001**	**$130.00**
Taxes on Individuals	217 15 101	$40.00
Taxes on Business	217 15 201	$70.00
Sales & Use Tax Division	217 15 271	$45.00
Motor Fuels Tax Division	217 15 291	$30.00
Title 18 - Secretary of State - CompleteTitle	**218 00 001**	**$60.00**
Securities Division	218 10 060	$35.00
Title 19A - Dept. of Transportation - Complete Title	**219 00 001**	**$90.00**
Division of Highways	219 10 021	$45.00
Division of Motor Vehicles	219 10 031	$45.00
Title 20 - Dept. of the State Treasurer - Complete Title	**220 00 001**	**$45.00**
Title 21 - Occupational Licensing Boards - Complete Title	**221 00 001**	**$230.00**
Title 22 - Administrative Procedures - Repealed	**n/a**	
Title 23 - Community Colleges - Complete Title	**223 00 001**	**$45.00**
Title 24 - Independent Agencies - Complete Title	**224 00 001**	**$40.00**
Title 25 - Office of State Personnel - CompleteTitle	**225 00 001**	**$80.00**
Title 26 - Office of Administrative Hearings - Complete Title	**226 00 001**	**$35.00**
Title 27 - North Carolina State Bar - Complete Title	**227 00 001**	**$60.00**
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