

# NORTH CAROLINA

## IN THIS ISSUE



## REGISTER

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Pages 933 - 1013

November 15, 2002

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<b>I. EXECUTIVE ORDER</b>	
Executive Order No. 33 .....	933
<b>II. RULE-MAKING PROCEEDINGS</b>	
<b>Environment and Natural Resources</b>	
Health Services, Commission for .....	935
<b>Health and Human Services</b>	
Social Services Commission .....	934 - 935
<b>Licensing Boards</b>	
Refrigeration Examiners, Board of .....	935
<b>III. PROPOSED RULES</b>	
<b>Administrative Hearings, Office of</b>	
Rules Division .....	944 - 945
<b>Insurance</b>	
Financial Evaluation Division .....	936 - 944
<b>IV. TEMPORARY RULES</b>	
Expired Temporary Rules .....	946
<b>Administrative Hearings, Office of</b>	
Rules Division .....	961 - 962
<b>Environment and Natural Resources</b>	
Environmental Management Commission .....	946 - 960
<b>Licensing Boards</b>	
Locksmith Licensing Board .....	960 - 961
<b>V. APPROVED RULES</b> .....	963 - 996
<b>Correction</b>	
Prisons, Division of	
<b>Environment and Natural Resources</b>	
Environmental Management	
Health Services	
<b>Health and Human Services</b>	
Children's Services	
Facility Services	
Medical Assistance	
<b>Licensing Boards</b>	
Auctioneers, Commission for	
Medical Examiners, Board of	
Physical Therapy Examiners, Board of	
<b>Secretary of State</b>	
Securities Division	
<b>Transportation</b>	
Highways, Division of	
<b>VI. RULES REVIEW COMMISSION</b> .....	997 - 1009
<b>VII. CONTESTED CASE DECISIONS</b>	
Index to ALJ Decisions .....	1010 - 1013

For the **CUMULATIVE INDEX** to the NC Register go to:  
<http://oahnt.oah.state.nc.us/register/CI.pdf>

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**NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM**

*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**

<b>TITLE</b>	<b>DEPARTMENT</b>	<b>LICENSING BOARDS</b>	<b>CHAPTER</b>
1	Administration	Acupuncture	1
2	Agriculture	Architecture	2
3	Auditor	Athletic Trainer Examiners	3
4	Commerce	Auctioneers	4
5	Correction	Barber Examiners	6
6	Council of State	Certified Public Accountant Examiners	8
7	Cultural Resources	Chiropractic Examiners	10
8	Elections	Employee Assistance Professionals	11
9	Governor	General Contractors	12
10	Health and Human Services	Cosmetic Art Examiners	14
11	Insurance	Dental Examiners	16
12	Justice	Dietetics/Nutrition	17
13	Labor	Electrical Contractors	18
14A	Crime Control & Public Safety	Electrolysis	19
15A	Environment and Natural Resources	Foresters	20
16	Public Education	Geologists	21
17	Revenue	Hearing Aid Dealers and Fitters	22
18	Secretary of State	Landscape Architects	26
19A	Transportation	Landscape Contractors	28
20	Treasurer	Locksmith Licensing Board	29
*21	Occupational Licensing Boards	Massage & Bodywork Therapy	30
22	Administrative Procedures (Repealed)	Marital and Family Therapy	31
23	Community Colleges	Medical Examiners	32
24	Independent Agencies	Midwifery Joint Committee	33
25	State Personnel	Mortuary Science	34
26	Administrative Hearings	Nursing	36
27	NC State Bar	Nursing Home Administrators	37
28	Juvenile Justice and Delinquency Prevention	Occupational Therapists	38
		Opticians	40
		Optometry	42
		Osteopathic Examination & Reg. (Repealed)	44
		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
		Respiratory Care Board	61
		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.

**NORTH CAROLINA REGISTER**  
 Publication Schedule for January 2002 – December 2002

Filing Deadlines			Notice of Rule-Making Proceedings	Notice of Text							Temporary Rule
volume & issue number	issue date	last day for filing	earliest register issue for publication of text	earliest date for public hearing	non-substantial economic impact			substantial economic impact			270 <sup>th</sup> day from issue date
					end of required comment period	deadline to submit to RRC for review at next meeting	first legislative day of the next regular session	end of required comment period	deadline to submit to RRC for review at next meeting	first legislative day of the next regular session	
16:13	01/02/02	12/06/01	03/15/02	01/17/02	02/01/02	02/20/02	05/28/02	03/04/02	03/20/02	05/28/02	09/29/02
16:14	01/15/02	12/19/01	04/01/02	01/30/02	02/14/02	02/20/02	05/28/02	03/18/02	03/20/02	05/28/02	10/12/02
16:15	02/01/02	01/10/02	04/15/02	02/16/02	03/04/02	03/20/02	05/28/02	04/02/02	04/22/02	01/29/03	10/29/02
16:16	02/15/02	01/25/02	05/01/02	03/02/02	03/18/02	03/20/02	05/28/02	04/16/02	04/22/02	01/29/03	11/12/02
16:17	03/01/02	02/08/02	05/01/02	03/16/02	04/01/02	04/22/02	01/29/03	04/30/02	05/20/02	01/29/03	11/26/02
16:18	03/15/02	02/22/02	05/15/02	03/30/02	04/15/02	04/22/02	01/29/03	05/14/02	05/20/02	01/29/03	12/10/02
16:19	04/01/02	03/08/02	06/03/02	04/16/02	05/01/02	05/20/02	01/29/03	05/31/02	06/20/02	01/29/03	12/27/02
16:20	04/15/02	03/22/02	06/17/02	04/30/02	05/15/02	05/20/02	01/29/03	06/14/02	06/20/02	01/29/03	01/10/03
16:21	05/01/02	04/10/02	07/01/02	05/16/02	05/31/02	06/20/02	01/29/03	07/01/02	07/22/02	01/29/03	01/26/03
16:22	05/15/02	04/24/02	07/15/02	05/30/02	06/14/02	06/20/02	01/29/03	07/15/02	07/22/02	01/29/03	02/09/03
16:23	06/03/02	05/10/02	08/15/02	06/18/02	07/03/02	07/22/02	01/29/03	08/02/02	08/20/02	01/29/03	02/28/03
16:24	06/17/02	05/24/02	09/03/02	07/02/02	07/17/02	07/22/02	01/29/03	08/16/02	08/20/02	01/29/03	03/14/03
17:01	07/01/02	06/10/02	09/03/02	07/16/02	07/31/02	08/20/02	01/29/03	08/30/02	09/20/02	01/29/03	03/28/03
17:02	07/15/02	06/21/02	09/16/02	07/30/02	08/14/02	08/20/02	01/29/03	09/13/02	09/20/02	01/29/03	04/11/03
17:03	08/01/02	07/11/02	10/01/02	08/16/02	09/03/02	09/20/02	01/29/03	09/30/02	10/21/02	01/29/03	04/28/03
17:04	08/15/02	07/25/02	10/15/02	08/30/02	09/16/02	09/20/02	01/29/03	10/14/02	10/21/02	01/29/03	05/12/03
17:05	09/03/02	08/12/02	11/15/02	09/18/02	10/03/02	10/21/02	01/29/03	11/04/02	11/20/02	01/29/03	05/31/03
17:06	09/16/02	08/30/02	11/15/02	10/01/02	10/16/02	10/21/02	01/29/03	11/15/02	11/20/02	01/29/03	06/13/03
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17:08	10/15/02	09/24/02	12/16/02	10/30/02	11/14/02	11/20/02	01/29/03	12/16/02	12/20/02	05/00/04	07/12/03
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17:10	11/15/02	10/25/02	01/15/03	11/30/02	12/16/02	12/20/02	05/00/04	01/14/03	01/21/03	05/00/04	08/12/03
17:11	12/02/02	11/06/02	02/03/03	12/17/02	01/02/03	01/21/03	05/00/04	01/31/03	02/20/03	05/00/04	08/29/03
17:12	12/16/02	11/21/02	02/17/03	12/31/02	01/15/03	01/21/03	05/00/04	02/14/03	02/20/03	05/00/04	09/12/03

## EXPLANATION OF THE PUBLICATION SCHEDULE

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

### GENERAL

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

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

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

### FILING DEADLINES

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

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

### NOTICE OF RULE-MAKING PROCEEDINGS

**END OF COMMENT PERIOD TO A NOTICE OF RULE-MAKING PROCEEDINGS:** 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.

**EXECUTIVE ORDER**

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**EXECUTIVE ORDER NO. 33  
TO ESTABLISH THE ATHLETIC INJURY MANAGEMENT RULE EFFECTIVE DATE**

WHEREAS, in 1979, the General Assembly enacted Chapter 986, An Act to Provide Sports Medicine and Emergency Paramedical Services, and Emergency Life Saving Skills to Students in the Public Schools; and

WHEREAS, that Act directed the State Board of Education to establish minimum educational standards necessary to enable individuals serving as sports medicine and emergency paramedical staff to provide those services; and

WHEREAS, by Rule currently codified as 16 NCAC 6E .0203, the State Board adopted a rule that provided for "teacher athletic trainers" to provide these services for students who participate in high school interscholastic athletic programs; and

WHEREAS, by Session Law 1997-387, the General Assembly enacted the "Athletic Trainers Licensing Act," one effect of which was that the State Board of Education needed to review and revise the qualifications and terminology for those persons who provide athletic injury management services to student-athletes but who are not licensed athletic trainers; and

WHEREAS, on December 31, 2001, the State Board adopted a temporary amendment to 16 NCAC 6E .0203; on July 11, 2002, the Board adopted amendments following a public hearing; and on August 15, 2002, the Rules Review Commission approved the permanent rule; and

WHEREAS, the standard effective date of the permanent rule under the Administrative Procedure Act, N.C. Gen. Stat. § 150B-1 et seq., would be March 1, 2003, at the earliest; and

WHEREAS, for high schools to obtain and provide necessary athletic injury management services to student-athletes in a timely and cost-effective manner it is necessary that the permanent rule become effective for the Fall 2002 sports season; and

WHEREAS, the Administrative Procedure Act authorizes the Governor, by Executive Order, to make effective a permanent rule upon finding that it is necessary to protect public health, safety, and welfare.

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

Section 1. Findings.

It is necessary that the permanent rule regarding athletic injury management services for student-athletes, 16 NCAC 6E .0203, become effective no later than September 30, 2002, in order to assure that high schools can provide these services in a timely and cost-effective manner within the funds available to them, for the protection of the public health, safety, or welfare.

Section 2. Effective Date of the Rule.

The permanent rule regarding athletic injury management services for student-athletes, 16 NCAC 6E .0203, is hereby made effective September 30, 2002, pursuant to Executive Order Exception authority contained in the Administrative Procedure Act, N.C. Gen. Stat. § 150B-21.3(c).

Section 3. Effective Date.

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

Done in the Capital City of Raleigh, North Carolina this the 15<sup>th</sup> day of October, 2002.

\_\_\_\_\_  
Michael F. Easley  
Governor

ATTEST:

\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State

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 10 – DEPARTMENT OF HEALTH AND HUMAN SERVICES

CHAPTER 29 - INCOME MAINTENANCE: GENERAL

CHAPTER 30 - FOOD ASSISTANCE

Notice of Rule-making Proceedings is hereby given by the Social Services 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 Rule Affected by this Rule-making: 10 NCAC 29B .0103; 30 .0217 - Other rules may be proposed in the course of the rule-making process.

Authority for the Rule-making: G.S. 143B-153; P.L. 107-171

Statement of the Subject Matter: The Social Services Commission proposes to adopt temporary rules that will align Food Stamp regulations with the TANF or Medicaid Programs. Chapter 30 consists of Rules for the Food Assistance Program commonly known as the Food Stamp Program. Subchapter 29B consists of Rules for the Low Income Energy Assistance Program (LIEAP).

Reason for Proposed Action: The 2002 Farm Bill that was enacted May 13, 2002 allows State agencies to implement options to exclude certain types of Income and Resources. The Social Services Commission will propose temporary rules which will allow the State to exclude certain types of income and resources, thereby aligning the State's TANF cash assistance or Medicaid programs. The temporary adoption and amendment of these rules will encourage and promote participation in the Food Stamp Program for families for whom certain types of income and the value of certain types of resources would normally result in ineligibility under current policy. Further, the proposed temporary rules will allow low income families access to Food Stamp benefits which will assist families in meeting their nutritional needs.

Comment Procedures: Comments from the public shall be directed to Kris Horton, 325 North Salisbury St., 2401 Mail Service Center, Raleigh, NC 27699-2401, phone (919) 733-3055, fax (919) 733-9386, and email Kris.Horton@ncmail.net.

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CHAPTER 30 – FOOD ASSISTANCE

Notice of Rule-making Proceedings is hereby given by Social Services 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 Rule Affected by this Rule-making: 10 NCAC 30. Other rules may be proposed in the course of the rule-making process.

Authority for the Rule-making: G.S. 143B-153; P.L. 107-171

Statement of the Subject Matter: The State agency has opted to simplify the Standard Utility Allowance by mandating the use of the SUA/BUA rather than actual utility costs for all households. Chapter 30 consists of Rules for the Food Assistance Program commonly known as the Food Stamp Program.

Reason for Proposed Action: A very small percentage of food stamp households receive the deduction for actual utility expenses. The average deduction is less than \$100.00, which is much less than the current standard deduction. It would be in the best interest of all food stamp households to receive the SUA/BUA deduction rather than actual utility cost. The rule as outlined in Public Law 107-171 of the Farm Bill will enable households to receive a higher deduction in determining their allotment for food stamp benefits. The 2002 Farm Bill enacted May 13, 2002, allows State agencies the authority to disregard reported changes in deductions during certification periods except for changes associated with a new residence or earned income until the next recertification. This rule will reduce reporting requirements for those households not included in the Semi-Annual Reporting Option. This will benefit families as well as simplify the administration of the Food Stamp Program. The 2002 Farm Bill enacted May 13, 2002, allows State agencies the authority to extend semi-annual reporting to all households not exempt from periodic reporting. Households required to report changes less often than every three months would only have to report when income exceeds the gross monthly income limit for the household size. This change in policy will reduce household reporting requirements by extending the semi-annual reporting option to most food stamp households with income. Current household reporting requirements are very rigid. This option will benefit households by easing the burden of the current reporting requirements. This change will greatly benefit the citizens of North Carolina who currently are required to report even the most minute changes in situation. The new reporting requirements will also help those individuals who often adjust work schedules, school schedules, etc. to comply with the current food stamp reporting requirements. The new change-reporting requirements will also benefit North Carolina's D.S.S. agencies as they face the challenge of increasing caseloads and staff reductions.

The 2002 Farm Bill enacted May 13, 2002, allows State agencies the authority to give up to five months of transitional food stamp benefits to households when they lose TANF cash assistance. Benefits issued under the transitional benefits program would be equal to the amount received by the household prior to the termination of TANF, adjusted to account for the loss of the TANF income. A household would not be eligible for the extension if it was losing TANF cash assistance because of a sanction, disqualification from the Food Stamp Program, or being in a category of households designated as ineligible for transitional benefits.

Due to our ever-changing economy, families need a minimum of five months of continued benefits to allow time to adapt to the many challenges that face the working poor. Families that leave TANF to begin working often need continued benefits to assist in their transition because of additional financial needs during the early months of employment, i.e. uniforms, tools transportation costs, etc. Families should be allowed time to adjust to the loss of cash assistance while continuing to have the much-needed assurance of food security.

**Comment Procedures:** Written comments should be sent to Kris Horton, 325 N. Salisbury Street, 2401 Mail Service Center, Raleigh, NC 27699-2401. Phone: 919-733-3055, Fax: 919-733-9386, email: kris.Horton@ncmail.net.

**TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**CHAPTER 18 – ENVIRONMENTAL HEALTH**

**Notice of Rule-making Proceedings** is hereby given by Commission for Health Services 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 Rule Affected by this Rule-making:** 15A NCAC 18A .2600, .2700. Other rules may be proposed in the course of the rule-making process.

**Authority for the Rule-making:** G.S. 130A-248

**Statement of the Subject Matter:** .2600 Rules govern the sanitation of restaurants and other foodhandling establishment and .2700 rules govern the sanitation of meat markets within our state. This is an ongoing process to maintain up-to date rules.

**Reason for Proposed Action:** Environmental Health Services conducts appraisals of the rules and regulations related to the business of this office continuously. Should amendments to

current rules be necessary, a committee will be formed and public notification will be published for comments and public hearings.

**Comment Procedures:** Written comments should be sent to Sue Grayson, Branch Head, DENR/EHSS Dairy and Food Protection Branch, 1632 Mail Service Center, Raleigh, NC 27699-1632. Phone: 919-715-0926, Fax: 919-715-4739, email: sue.grayson@ncmail.net.

**TITLE 21 – OCCUPATIONAL LICENSING BOARDS**

**CHAPTER 60 - BOARD OF REFRIGERATION EXAMINERS**

**Notice of Rule-making Proceedings** is hereby given by State Board of Refrigeration Examiners 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 Rule Affected by this Rule-making:** 21 NCAC 60 .0201, .0206-.0208, .0210, .0212-.0213, .0311. Other rules may be proposed in the course of the rule-making process.

**Authority for the Rule-making:** G.S. 87-54; 87-57; 87-64

**Statement of the Subject Matter:**

21 NCAC 60 .0201 – defines the regular meetings of the Board.  
21 NCAC 60 .0206-.0208, .0210, .0212-.0213 – describes the licensing examination and sets out requirements for the examination, examination review and special examination.  
21 NCAC 60 .0311 – clarifies use of license.

**Reason for Proposed Action:**

21 NCAC 60 .0201 – is deleted as unnecessary.  
21 NCAC 60 .0206-.0208 - are proposed to be amended to allow for computer based testing in the Board office an as needed basis.  
21 NCAC 60 .0210 – is proposed to be deleted as unnecessary when testing is done on an as needed basis.  
21 NCAC 60 .0212-.0213 – are proposed to be adopted to allow for computer based testing in the Board office on an as needed basis.  
21 NCAC 60 .0311 – is proposed to be amended to further clarify the use of license and permit requirements.

**Comment Procedures:** Written comments should be sent to Barbara Hines, PO Box 10666, Raleigh, NC 27605. Phone: 919-755-5022, fax: 919-755-5024.

*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 11 – DEPARTMENT OF INSURANCE**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Department of Insurance intends to amend the rules cited as 11 NCAC 11F .0201, .0205, .0207. Notice of Rule-making Proceedings was published in the Register on March 15, 2002.*

**Proposed Effective Date:** April 1, 2003

**Public Hearing:**

**Date:** December 3, 2002

**Time:** 10:00 a.m.

**Location:** Third Floor Hearing Room, Dobbs Building, 430 N. Salisbury St., Raleigh, NC

**Reason for Proposed Action:** *The amendments are in compliance with new NAIC revisions.*

**Comment Procedures:** *Written comments should be sent to Bob Potter, NCDOI, 430 N. Salisbury Street, Raleigh, NC 27611. Phone: 919-733-3284. Comments should be received by December 16, 2002.*

**Fiscal Impact**

- State
- Local
- Substantive (≥\$5,000,000)
- None

**CHAPTER 11 - FINANCIAL EVALUATION DIVISION**

**SUBCHAPTER 11F - ACTUARIAL**

**SECTION .0200 - HEALTH INSURANCE MINIMUM RESERVE STANDARDS**

**11 NCAC 11F .0201 DEFINITIONS**

As used in this section and in the Statement of Actuarial Opinion required by the NAIC Annual Statement Instructions pursuant to G.S. 58-2-165:

- (1) "Annual claim cost" means the net annual cost per unit of benefit before the addition of expenses, including claim settlement expenses, and a margin for profit or contingencies. For example, the annual claim cost for a one hundred dollar (\$100.00) monthly disability benefit, for a maximum disability benefit period of one year, with an elimination period of one week, with respect to a male at age 35, in a certain occupation might be twelve dollars (\$12.00), while the gross premium for this benefit might be eighteen dollars (\$18.00).

- (2) The additional six dollars (\$6.00) would cover expenses and profit or contingencies. "Claims accrued" means that portion of claims incurred on or before the valuation date that result in liability of the insurer for the payment of benefits for medical services that have been rendered on or before the valuation date, and for the payment of benefits for days of hospitalization and days of disability that have occurred on or before the valuation date, that the insurer has not paid as of the valuation date, but for which it is liable, and will have to pay after the valuation date. This liability is sometimes referred to as a liability for "accrued" benefits. A claim reserve, which represents an estimate of this accrued claim liability, must be established.
- (3) "Claims reported" means when an insurer has been informed that a claim has been incurred, if the date reported is on or before the valuation date, the claim is considered as a reported claim for annual statement purposes.
- (4) "Claims unaccrued" means that portion of claims incurred on or before the valuation date that result in liability of the insurer for the payment of benefits for medical services expected to be rendered after the valuation date, and for benefits expected to be payable for days of hospitalization and days of disability occurring after the valuation date. This liability is sometimes referred to as a liability for "unaccrued" benefits. A claim reserve, which represents an estimate of the unaccrued claim payments expected to be made (that may or may not be discounted with interest), must be established.
- (5) "Claims unreported" means when an insurer has not been informed, on or before the valuation date, concerning a claim that has been incurred on or before the valuation date, the claim is considered as an unreported claim for annual statement purposes.
- (6) "Date of disablement" means the earliest date the insured is considered as being disabled under the definition of disability in the contract, based on a doctor's evaluation or other evidence. Normally this date will coincide with the start of any elimination period.
- (7) "Elimination period" means a specified number of days, weeks, or months starting at the beginning of each period of loss, during which no benefits are payable.



**PROPOSED RULES**

- (8) "Gross premium" means the amount of premium charged by the insurer. It includes the net premium (based on claim-cost) for the risk, together with any loading for expenses, profit or contingencies.
- (9) "Group insurance" means blanket insurance and franchise insurance and any other forms of group insurance.
- (10) "Level premium" means a premium calculated to remain unchanged throughout either the lifetime of the policy, or for some shorter projected period of years. The premium need not be guaranteed; in which case, although it is calculated to remain level, it may be changed if any of the assumptions on which it was based are revised at a later time. Generally, the annual claim costs are expected to increase each year and the insurer, instead of charging premiums that correspondingly increase each year, charges a premium calculated to remain level for a period of years or for the lifetime of the contract. In this case the benefit portion of the premium is more than needed to provide for the cost of benefits during the earlier years of the policy and less than the actual cost in the later years. The building of a prospective contract reserve is a natural result of level premiums.
- (11) "Long-term care insurance" has the same meaning as in G.S. 58-55-20(4); and also means a policy or certificate that provides for payment of benefits based upon cognitive impairment or the loss of functional capacity.
- (12) "Modal premium" means the premium paid on a contract based on a premium term that could be annual, semi-annual, quarterly, monthly, or weekly. Thus if the annual premium is one hundred dollars (\$100.00) and if, instead, monthly premiums of nine dollars (\$9.00) are paid then the modal premium is nine dollars (\$9.00).
- (13) "Negative reserve" means a terminal reserve that has a value of less than zero resulting from benefits that decrease with advancing age or duration.
- (14) "Preliminary term reserve method" means the method of valuation under which the valuation net premium for each year falling within the preliminary term period is exactly sufficient to cover the expected incurred claims of that year, so that the terminal reserves will be zero at the end of the year. As of the end of the preliminary term period, a new constant valuation net premium (or stream of changing valuation premiums) becomes applicable such that the present value of all such premiums is equal to the present value of all claims expected to be incurred following the end of the preliminary term period.
- (15) "Present value of amounts not yet due on claims" means the reserve for claims unaccrued, which may be discounted at interest.
- (16) "Qualified Actuary" means an individual who:
- (a) is a member in good standing of the American Academy of Actuaries; and
  - (b) is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements; and
  - (c) is familiar with the valuation requirements applicable to life and health insurance companies; and
  - (d) has not been found by the Commissioner (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have:
    - (i) violated any provision of, or any obligation imposed by, the insurance law or other law in the course of his or her dealings as a qualified actuary; or
    - (ii) been found guilty of fraudulent or dishonest practices; or
    - (iii) demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary; or
    - (iv) submitted to the Commissioner during the past five years, pursuant to this rule, an actuarial opinion or memorandum that the Commissioner rejected because it did not meet the provisions of this rule including standards set by the Actuarial Standards Board; or
    - (v) resigned or been removed as an actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and
  - (e) has not failed to notify the Commissioner of any action taken by any commissioner of any other state similar to that under **Sub-item Subparagraph** (16)(d) of this Rule.

PROPOSED RULES

(17) "Rating block" means a grouping of contracts determined by the valuation actuary based on common characteristics filed with the Commissioner, such as a policy form or forms having similar designs.

(17)(18) "Reserve" means all items of benefit liability, whether in the nature of incurred claim liability or in the nature of contract liability relating to future periods of coverage, and whether the liability is accrued or unaccrued. An insurer under its contracts promises benefits that result in:

(a) Claims that have been incurred, that is, for which the insurer has become obligated to make payment, on or before the valuation date. On these claims, payments expected to be made after the valuation date for accrued and unaccrued benefits are liabilities of the insurer that should be provided for by establishing claim reserves; or

(b) Claims that are expected to be incurred after the valuation date. Any present liability of the insurer for these future claims should be provided for by the establishment of contract reserves and unearned premium reserves.

(18)(19) "Terminal reserve" means the reserve at the end of a contract year, and is defined as the present value of benefits expected to be incurred after that contract year minus the present value of future valuation net premiums.

(19)(20) "Unearned premium reserve" means the value of that portion of the premium paid or due to the insurer that is applicable to the period of coverage extending beyond the valuation date. Thus if an annual premium of one hundred twenty dollars (\$120.00) was paid on November 1, twenty dollars (\$20.00) would be earned as of December 31 and the remaining one hundred dollars (\$100.00) would be unearned. The unearned premium reserve could be on a gross basis as in this example, or on a valuation net premium basis.

(20)(21) "Valuation net modal premium" means the modal fraction of the valuation net annual premium that corresponds to the gross modal premium in effect on any contract to which contract reserves apply. Thus if the mode of payment in effect is quarterly, the valuation net modal premium is the quarterly equivalent of the valuation net annual premium.

(1) Contract reserves are required, unless otherwise specified in 11 NCAC 11F.0205(a)(2) for:

(A) All individual and group contracts with which level premiums are used; or

(B) All individual and group contracts with respect to which, due to the gross premium pricing structure at issue, the value of the future benefits at any time exceeds the value of any appropriate future valuation net premiums at that time. This evaluation may be applied on a rating block basis if the total premiums for the block were developed to support the total risk assumed and expected expenses for the block each year, and a qualified actuary certifies the premium development. The actuary should state in the certification that premiums for the rating block were developed such that each year's premium was intended to cover that year's costs without any prefunding. If the premium is also intended to recover costs for any prior years, the actuary should also disclose the reasons for and magnitude of such recovery. The values specified in ~~11 NCAC 11F.0205(1)(B)~~ 11 NCAC 11F .0205(a)(1)(B) shall be determined on the basis specified in 11 NCAC 11F .0205(b).

(2) Contracts not requiring a contract reserve are:

(A) Contracts that cannot be continued after one year from issue; or

(B) Contracts already in force on the effective date of these standards for which no contract reserve was required under the immediately preceding standards.

(3) The contract reserve is in addition to claim reserves and premium reserves.

(4) The methods and procedures for contract reserves shall be consistent with those for claim reserves for any contract, or else appropriate adjustment must be made when necessary to assure provision for the aggregate liability. The definition of the date of incurral must be the same in both determinations.

(b) Minimum Standards for Contract Reserves:

(1) Basis:

(A) Minimum standards with respect to morbidity are those set forth in 11 NCAC 11F .0207. Valuation net premiums used under each contract must have a structure consistent with the gross premium structure at issue of the contract as this relates to advancing age of insured, contract

Authority G.S. 58-2-40; 58-58-50(k).

11 NCAC 11F .0205 CONTRACT RESERVES

(a) General:

duration and period for which gross premiums have been calculated. Contracts for which tabular morbidity standards are not specified in 11 NCAC 11F .0207 shall be valued using tables established for reserve purposes by a qualified actuary and acceptable to the Commissioner.

(B) The maximum interest rate is specified in 11 NCAC 11F .0207.

(C) Termination rates used in the computation of reserves shall be on the basis of a mortality table as specified in 11 NCAC 11F .0207 except as noted in ~~Subparts~~ Subparagraphs (b)(1)(C)(i) and (ii) of this Rule. ~~Under contracts for which premium rates are not guaranteed, and where the effects of insurer underwriting are specifically used by contract duration in the valuation morbidity standard, or for return of premium or other deferred cash benefits, total termination rates may be used at ages and durations where these exceed specified mortality table rates, but not in excess of the lesser of:~~

~~(i) Eighty percent of the total termination rate used in the calculation of the gross premiums, or~~

~~(ii) Eight percent.~~

(i) Under contracts for which premium rates are not guaranteed, and where the effects of insurer underwriting are specifically used by contract duration in the valuation morbidity standard, or for return of premium or other deferred cash benefits, total termination rates may be used at ages and durations where these exceed specified mortality table rates, but not in excess of the lesser of:

(I) 80 percent of the total termination rate used in the calculation of the gross premiums, or

(II) 8 percent.

(ii) For long-term care individual policies or group certificates issued after April 1, 2003, the contract reserve may be established on a basis of separate mortality and other terminations,

where the other terminations are not to exceed:

(I) For policy years one through four, the lesser of eighty percent (80%) of the voluntary lapse rate used in the calculation of gross premiums and eight percent (8%);

(II) For policy years five and later, the lesser of one hundred percent (100%) of the voluntary lapse rate used in the calculation of gross premiums and four percent (4%).

Where a morbidity standard specified in 11 NCAC 11F .0207 is on an aggregate basis, such morbidity standard may be adjusted to reflect the effect of insurer underwriting by contract duration. The adjustments must be appropriate to the underwriting and be acceptable to the Commissioner.

(D) Reserve Method:

(i) For insurance except long-term care and return of premium or other deferred cash benefits, the minimum reserve is the reserve calculated on the two-year full preliminary term method; that is, under which the terminal reserve is zero at the first and also the second contract anniversary.

(ii) For long-term care insurance, the minimum reserve is the reserve calculated on the one-year full preliminary term method.

(iii) For return of premium or other deferred cash benefits, the minimum reserve is the reserve calculated as follows:

(I) On the one-year preliminary term method if such benefits are provided at any time before the 20<sup>th</sup> anniversary;

(II) On the two-year preliminary term method if such

benefits are only provided on or after the 20<sup>th</sup> anniversary.

(iv) The preliminary term method may be applied only in relation to the date of issue of a contract. Reserve adjustments introduced later, as a result of rate increases, revisions in assumptions (e.g., projected inflation rates) or for other reasons, are to be applied immediately as of the effective date of adoption of the adjusted basis.

(E) Negative reserves on any benefit may be offset against positive reserves for other benefits in the same contract, but the total contract reserve with respect to all benefits combined may not be less than zero.

(F) For long-term care insurance with nonforfeiture benefits, the contract reserve on a policy basis shall not be less than the net single premium for the nonforfeiture benefits at the appropriate policy duration, where the net single premium is computed according to the standards specified in this Rule.

(c) Provided the contract reserve on all contracts to which an alternative method or basis is applied is not less in the aggregate than the amount determined according to the applicable standards specified in this rule, an insurer may use any reasonable assumptions as to interest rates, termination or mortality rates, and rates of morbidity or other contingency. Also, subject to the preceding condition, the insurer may employ methods other than the methods stated in this rule in determining a sound value of its liabilities under such contracts, including, but not limited to the following:

- (1) the net level premium method;
- (2) the one-year full preliminary term method;
- (3) prospective valuation on the basis of actual gross premiums with reasonable allowance for future expenses;
- (4) the use of approximations such as those involving age groupings, groupings of several years of issue, average amounts of indemnity, grouping of similar contract forms;
- (5) the computation of the reserve for one contract benefit as a percentage of, or by other relation to, the aggregated contract reserves exclusive of the benefit or benefits so valued; and
- (6) the use of a composite annual claim cost for all or any combination of the benefits included in the contracts valued.

(d) Annually, a review shall be made of the insurer's prospective contract liabilities on contracts valued by tabular reserves, to determine the continuing adequacy and

reasonableness of the tabular reserves giving consideration to future gross premiums. The insurer shall make appropriate increments to such tabular reserves if such tests indicated that the basis of such reserves is no longer adequate; subject, however, to the minimum standards of 11 NCAC 11F .0205(b). If an insurer has a contract or a group of related similar contracts, for which future gross premiums will be restricted by contract, insurance department rules, or for other reasons, such that the future gross premiums reduced by expenses for administration, commissions and taxes will be insufficient to cover future claims, the insurer shall establish contract reserves for such shortfall in the aggregate.

Authority G.S. 58-2-40; 58-58-50(k).

**11 NCAC 11F .0207 SPECIFIC STANDARDS FOR MORBIDITY, INTEREST AND MORTALITY**

(a) Minimum standard morbidity tables for valuation of specified individual contract accident and health insurance benefits are as follows:

(1) Disability Income Benefits Due to Accident or Sickness.

(A) Contract Reserves:

(i) Contracts issued on or after January 1, 1965 and before January 1, 1986: The 1964 Commissioners Disability Table (64 CDT).

(ii) Contracts issued on or after January 1, 1994: The 1985 Commissioners Individual Disability Tables A (85CIDA); or The 1985 Commissioners Individual Disability Tables B (85CIDB).

(iii) Contracts issued during the years 1986 through 1993: Optional use of either the 1964 or the 1985 Tables.

(iv) Each insurer shall elect, with respect to all individual contracts issued in any one statement year, whether it will use Tables A or Tables B as the minimum standard. The insurer may, however, elect to use the other tables with respect to any subsequent statement year.

(B) Claim Reserves: ~~Minimum standard morbidity tables in effect for contract reserves on currently issued contracts, as of the date the claim is incurred.~~

(i) For claims incurred on or after April 1, 2003: The 1985 Commissioners Individual Disability Table A (85CIDA) with claim termination rates multiplied

**PROPOSED RULES**

by the following adjustment

factors:

Duration	Adjustment Factor	Adjusted Termination Rates*
Week 1	0.366	0.04831
Week 2	0.366	0.04172
Week 3	0.366	0.04063
Week 4	0.366	0.04355
Week 5	0.365	0.04088
Week 6	0.365	0.04271
Week 7	0.365	0.04380
Week 8	0.365	0.04344
Week 9	0.370	0.04292
Week 10	0.370	0.04107
Week 11	0.370	0.03848
Week 12	0.370	0.03478
Week 13	0.370	0.03034
Month 4	0.391	0.08758
Month 5	0.371	0.07346
Month 6	0.435	0.07531
Month 7	0.500	0.07245
Month 8	0.564	0.06655
Month 9	0.613	0.05520
Month 10	0.663	0.04705
Month 11	0.712	0.04486
Month 12	0.756	0.04309
Month 13	0.800	0.04080
Month 14	0.844	0.03882
Month 15	0.888	0.03730
Month 16	0.932	0.03448
Month 17	0.976	0.03026
Month 18	1.020	0.02856
Month 19	1.049	0.02518
Month 20	1.078	0.02264
Month 21	1.107	0.02104
Month 22	1.136	0.01932
Month 23	1.165	0.01865
Month 24	1.195	0.01792
Year 3	1.369	0.16839
Year 4	1.204	0.10114
Year 5	1.199	0.07434
Year 6 & later	1.000	**

\* The adjusted termination rates derived from the application of the adjustment factors to the DTS Valuation Table termination rates shown in Exhibits 3a, 3b, 3c, 4, and 5 of Transactions of the Society of Actuaries (TSA XXXVII, pp. 457-463) are displayed. The adjustment factors for age, elimination period, class, sex, and cause displayed in Exhibits 3a, 3b, 3c, and 4 should be applied to the adjusted termination rates shown in this table.

\*\*Applicable DTS Valuation Table duration rate from exhibits 3c and 4 (TSA XXXVII, pp. 462-463).

The 85 CIDA table so adjusted for the computation of claim reserves shall be known as 85 CIDC (The 1985 Commissioners individual disability Table C).

- (ii) For claims incurred prior to April 1, 2003: Each insurer may elect which of the following to use as the minimum standard for claims incurred prior to April 1, 2003:
- (I) The minimum morbidity standard in effect for contract reserves on currently issued contracts, as of the date the claim is incurred, or
  - (II) The standard as defined in subparagraph (a)(1)(B)(i) of this

- rule, applied to all open claims.
- (III) Once an insurer elects to calculate reserves for all open claims on the standard defined in subparagraph (a)(1)(B)(i) of this rule, all future valuations must be on that basis.
- (2) Hospital Benefits, Surgical Benefits and Maternity Benefits (Scheduled benefits or fixed time period benefits only).
- (A) Contract Reserves:
- (i) Contracts issued on or after January 1, 1955, and before January 1, 1982: The 1956 Intercompany Hospital-Surgical Tables.
- (ii) Contracts issued on or after January 1, 1982: The 1974 Medical Expense Tables, Table A.
- (B) Claim Reserves: See 11 NCAC 11F .0207(a)(5).
- (3) Cancer Expense Benefits (Scheduled benefits or fixed time period benefits only).
- (A) Contract Reserves: Contracts issued on or after January 1, 1986: The 1985 NAIC Cancer Claim Cost Tables.
- (B) Claim Reserves: See 11 NCAC 11F .0207(a)(5).
- (4) Accidental Death Benefits.
- (A) Contract Reserves: Contracts issued on or after January 1, 1965: The 1959 Accident Death Benefits Table.
- (B) Claim Reserves: Actual amount incurred.
- (5) Single Premium Credit Disability
- (A) Contract Reserves:
- (i) For contracts issued on or after April 1, 2003:
- (I) For plans having less than a 30-day elimination period, the 1985 Commissioners Individual Disability Table A (85 CIDA) with claim incidence rates increased by twelve percent (12%).
- (II) For plans having a 30-day and greater elimination period, the 85 CIDA for a 14-day elimination
- period with the adjustment in Subparagraph (a)(5)(A)(i)(I) of this Rule.
- (ii) For contracts issued prior to April 1, 2003, each insurer may elect either Subparagraph (a)(5)(A)(ii)(I) or Subparagraph (a)(5)(A)(ii)(II) of this Rule to use as the minimum standard. Once an insurer elects to calculate reserves for all contracts on the standard defined in Subparagraph (a)(5)(A)(i) of this Rule, all future valuations must be on that basis.
- (I) The minimum morbidity standard in effect for contract reserves on currently issued contracts, as of the date the contract was issued, or
- (II) The standard as defined in Subparagraph (a)(5)(A)(i) of this Rule, applied to all contracts.
- (B) Claim Reserves: Claim reserves are to be determined as provided in 11 NCAC 11F .0203.
- ~~(5)~~(6) Other Individual Contract Benefits.
- (A) Contract Reserves: For all other individual contract benefits, morbidity assumptions are to be determined which will produce contract reserves that place a sound value on the liabilities of each such benefit.
- (B) Claim Reserves: For all benefits other than disability, claim reserves are to be determined as provided in the standards as set out in this rule.
- (b) Minimum standard morbidity tables for valuation of specified group contract accident and health insurance benefits are as follows:
- (1) Disability Income Benefits Due to Accident or Sickness.
- (A) Contract Reserves:
- (i) Contracts issued before January 1, 1994: The same basis, if any, as that employed by the insurer as of January 1, 1994;

PROPOSED RULES

- (ii) Contracts issued on or after January 1, 1994: The 1987 Commissioners Group Disability Income Table (87CGDT). contracts, as of the date the contract was issued, or
  - (B) Claim Reserves: (II) The standard as defined in (b)(2)(A)(i), applied to all contracts.
    - (i) For claims incurred on or after January 1, 1994: The 1987 Commissioners Group Disability Income Table (87CGDT); (B) Claim Reserves: Claim reserves are to be determined as provided in 11 NCAC 11F .0203.
    - (ii) For claims incurred before January 1, 1994: See 11 NCAC 11F .0207(b)(2). (B) Other Group Contract Benefits.
  - (2) Single Premium Credit Disability
    - (A) Contract Reserves:
      - (i) For contracts issued on or after April 1, 2003:
        - (I) For plans having less than a 30-day elimination period, the 1985 Commissioners Individual Disability Table A (85 CIDA) with claim incidence rates increased by twelve percent (12%). (A) Contract Reserves: For all other group contract benefits, morbidity assumptions are to be determined which will produce contract reserves that place a sound value on the liabilities of each such benefit.
        - (II) For plans having a 30-day and greater elimination period, the 85 CIDA for a 14-day elimination period with the adjustment in Subparagraph (b)(2)(A)(i)(I) of this Rule. (B) Claim Reserves: For all benefits other than disability, claim reserves are to be determined as provided in the standards as set out in this rule.
      - (ii) For contracts issued prior to April 1, 2003, each insurer may elect either Subparagraph (b)(2)(A)(ii)(I) or Subparagraph (b)(2)(A)(ii)(II) of this Rule to use as the minimum standard. Once an insurer elects to calculate reserves for all contracts on the standard defined in Subparagraph (b)(2)(A)(i) of this Rule, all future valuations must be on that basis.
        - (I) The minimum morbidity standard in effect for contract reserves on currently issued (c) Maximum interest rate standards for valuation of accident and health insurance benefits are as follows:
- (1) For contract reserves the maximum interest rate is the maximum rate permitted by law in the valuation of whole life insurance issued on the same date as the accident and health insurance contract.
  - (2) For claim reserves on contracts that require contract reserves, the maximum interest rate is the maximum rate permitted by law in the valuation of whole life insurance issued on the same date as the claim incurral date.
  - (3) For claim reserves on contracts not requiring contract reserves, the maximum interest rate is the maximum rate permitted by law in the valuation of single premium immediate annuities issued on the same date as the claim incurral date, reduced by one hundred basis points.
- (d) Minimum standard mortality tables for valuation of accident and health insurance benefits are as follows:
    - (1) Except as provided for in 11 NCAC 11F .0207(d)(2) or (3), the mortality basis used for all policies except long-term care individual policies and group certificates issued after April 1, 2003, shall be according to a table (but without use of selection factors) permitted by law for the valuation of whole life insurance issued on the same date as the accident and health insurance contract. For long-term care insurance individual policies or group certificates issued on or after April 1, 2003, the mortality basis used shall be the 1983 Group Annuity Mortality Table without projection.
    - (2) Other mortality tables adopted by the NAIC and promulgated by the Commissioner in accordance with G.S. 150B may be used in the calculation of the minimum reserves if

**PROPOSED RULES**

appropriate for the type of benefits and if approved by the Commissioner. The request for such approval must include the proposed mortality table and the reason that the standard specified in 11 NCAC 11F .0207(d)(1) is inappropriate.

- (3) For single premium credit insurance using the 85 CIDA table, no separate mortality shall be assumed.

(e) The tables referenced in 11 NCAC 11F .0207 may be found as follows:

- (1) The 1964 Commissioners Disability Table, 1965 Proceedings of the National Association of Insurance Commissioners, Vol. I, pgs. 78-80;
- (2) The 1985 Commissioners Individual Disability Tables A, 1986 Proceedings of the National Association of Insurance Commissioners, Vol. I, pgs. 574-589;
- (3) The 1985 Commissioners Individual Disability Tables B, 1985 Proceedings of the National Association of Insurance Commissioners, Vol. I, pgs. 486-540;
- (4) The 1956 Intercompany Hospital-Surgical Tables, 1957 Proceedings of the National Association of Insurance Commissioners, Vol. I, pgs. 83-85;
- (5) The 1974 Medical Expense Tables, Table A, Transactions of the Society of Actuaries, Vol. XXX, pg. 63. Refer to the paper (in the same volume, page 9), to which this table is appended, including its discussions for methods of adjustment for benefits not directly valued in Table A: "Development of the 1974 Medical Expense Benefits", Houghton and Wolf;
- (6) The 1985 NAIC Cancer Claim Cost Tables, 1986 Proceedings of the National Association of Insurance Commissioners, Vol. I, pgs. 609-623;
- (7) The 1959 Accident Death Benefit Tables, Transactions of the Society of Actuaries, Vol. XI, pg. 754; and
- (8) The 1987 Commissioners Group Disability Income Table, 1987 Proceedings of the National Association of Insurance Commissioners, Vol. II, pgs. 557-619.
- (9) The 1983 Group Annuity Mortality Table, Transactions of the Society of Actuaries, Vol. XXXV, pgs. 880-881.

Copies of the above-referenced tables can be obtained at a cost prescribed in G.S. 58-6-5(3) from the Actuarial Service Division of the North Carolina Department of Insurance, P.O. Box 26387, Raleigh, N.C. 27611. The above-referenced tables are hereby incorporated by reference and do not incorporate any amendments or editions.

Authority G.S. 58-2-40; 58-58-50(k).

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Office of Administrative Hearings intends to adopt the rule cited as 26 NCAC 02C .0113, and amend the rules cited as 26 NCAC 02C .0402-.0403, .0502-.0503. Notice of Rule-making Proceedings was published in the Register on August 1, 2002.*

**Proposed Effective Date:** August 1, 2004

**Public Hearing:**

**Date:** February 10, 2003

**Time:** 10:00 a.m.

**Location:** 422 North Blount Street, Raleigh, NC

**Reason for Proposed Action:** *To clarify who is authorized to sign forms and to require a copy of supporting documentation for review with temporary rules; and make other clarifying changes.*

**Comment Procedures:** *Comments should be sent to Molly Masich, 6714 Mail Service Center, Raleigh, NC 27699-6714; or email to molly.masich@ncmail.net. Comments should be submitted by February 10, 2003.*

**Fiscal Impact**

- State
- Local
- Substantive ( $\geq$ \$5,000,000)
- None

**CHAPTER 02 – RULES DIVISION**

**SUBCHAPTER 02C - SUBMISSION PROCEDURES FOR RULES AND OTHER DOCUMENTS TO BE PUBLISHED IN THE NORTH CAROLINA REGISTER AND THE NORTH CAROLINA ADMINISTRATIVE CODE**

**SECTION .0100 - GENERAL**

**26 NCAC 02C .0113 AUTHORIZATION FOR SIGNATURE**

The head of a principal state department may delegate the authority to sign forms to another pursuant to G.S. 143B-10(a). If the head of a principal state department has delegated this authority, then the agency shall submit a copy of such delegation with rule filings. It is necessary to submit only one copy of such delegation with all rules filed by an agency for a single month's review by the Commission.

Note: An agency head may not delegate the function of signing forms to another person except the head of a principal State department may assign or reassign this function under the authority provided in G.S. 143B-10(a). That delegation authorization does not apply to all agency, boards or commission heads. The following is a listing of principal state department heads that may delegate the function of signing forms for the agency head:

- (1) Department of Cultural Resources
- (2) Department of Health and Human Services
- (3) Department of Revenue



- ~~(4) Department of Crime Control and Public Safety~~
- ~~(5) Department of Correction~~
- ~~(6) Department of Environment and Natural Resources~~
- ~~(7) Department of Transportation~~
- ~~(8) Department of Administration~~
- ~~(9) Department of Commerce~~
- ~~(10) Department of Juvenile Justice and Delinquency Prevention.~~

~~rules filed by an agency for a single month's review by the Commission.~~

*Authority G.S. 150B-21.19.*

**SECTION .0500 – TEMPORARY RULES**

**26 NCAC 02C .0502 PUBLICATION OF A TEMPORARY RULE**

The agency shall submit a temporary rule for review by OAH and publication in the Code with the following:

- (1) An original Temporary Rule Certification form and copy (Rule .0503 of this Section).
- ~~(2) If applicable, a letter authorizing the signature on the submission form (Rule .0113 of this Subchapter).~~
- ~~(3)~~ (3) An original and copies of the temporary rule (Rule .0103 of this Subchapter) prepared in accordance with Rule .0108 of this Subchapter, containing:
  - (a) an introductory statement (Rule .0404 of this Subchapter);
  - (b) the body of the rule (Rule .0405 of this Subchapter);
  - (c) the history note (Rule .0406 of this Subchapter).
- ~~(4)~~ (4) A return copy, if desired (Rule .0104 of this Subchapter).
- ~~(5)~~ (5) An original Notice of Text or Notice of Text and Hearing form with copy if publication in the Register shall serve as Notice of Text.
- ~~(6) A copy of any legislation, statute, federal regulation, or other document supporting the grounds for the temporary rule pursuant to G.S. 150B-21.1(a). The agency shall highlight the information in the document that is pertinent to the need for the temporary rule.~~

*Authority G.S. 150B-21.19.*

**26 NCAC 02C .0503 TEMPORARY RULE CERTIFICATION FORM**

(a) The agency shall submit a completed typed Temporary Rule Certification form for a rule to be submitted for publication in the Code. The agency shall submit a single Temporary Rule Certification form for temporary rules when:

- (1) the rules are codified within the same chapter in the Code;
- (2) the finding for the action is the same;
- (3) the proposed effective date is the same; and
- (4) the rules are submitted at the same time for review by the Codifier of Rules.

(b) The agency head shall sign the Temporary Rule Certification form. ~~If the agency head has designated this authority to another pursuant to G.S. 143B-10(a), then the agency shall submit a copy of such designation.~~

*Authority G.S. 150B-21.19.*

**SECTION .0400 – NORTH CAROLINA ADMINISTRATIVE CODE**

**26 NCAC 02C .0402 PUBLICATION OF A PERMANENT RULE**

The agency shall submit a permanent rule for publication in the Code with the following:

- (1) An original submission form and copy (Rule .0403 of this Section).
- ~~(2) If applicable, a letter authorizing the signature on the submission form (Rule .0113 of this Section).~~
- ~~(3)~~ (3) An original and copies of the permanent rule (Rule .0103 of this Subchapter) prepared in accordance with Rule .0108 of this Subchapter containing:
  - (a) an introductory statement (Rule .0404 of this Section);
  - (b) the body of the rule (Rule .0405 of this Section);
  - (c) any changes in the rule (Rule .0405 of this Section);
  - (d) the history note (Rule .0406 of this Section).
- ~~(4)~~ (4) A return copy, if desired (Rule .0104 of this Subchapter).
- ~~(5)~~ (5) An electronic version of the rule prepared in accordance with Rule .0105 of this Subchapter if the rule differs from the proposed text published in the Register or if the rule was not published in the Register.

*Authority G.S. 150B-21.19.*

**26 NCAC 02C .0403 SUBMISSION FOR PERMANENT RULE FORM**

(a) The agency shall submit a completed typed Submission for Permanent Rule form for each rule submitted for publication in the Code, except that the agency shall submit a single Submission for Permanent Rule form for all repealed rules that are codified within the same chapter.

(b) The agency head or rule-making coordinator shall sign the Submission for Permanent Rule form. ~~If the agency head has designated its authority to another pursuant to G.S. 143B-10(a), then the agency shall submit a copy of such designation. It is only necessary to submit one copy of such designation with all~~

*This Section includes temporary rules reviewed by the Codifier of Rules and entered in the North Carolina Administrative Code and includes, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements. 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.*

**EXPIRED TEMPORARY RULES**

The following temporary rules were listed in error as expired in the NC Register, Issue 8, published on October 15, 2002. These temporary rules have not expired. The agency filed the permanent rules with the Rules Review Commission on August 29, 2002.

DHHS/Commission for MH/DD/SAS  
 10 NCAC 14G .0102  
 10 NCAC 14V .0104  
 10 NCAC 14V .0202-.0204

**TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**Rule-making Agency:** Environmental Management Commission

**Rule Citation:** 15A NCAC 02H .0126

**Effective Date:** November 1, 2002

**Findings Reviewed and Approved by:** Beecher R. Gray

**Authority for the rulemaking:** G.S. 142-214.1; 143-214.7; 143-215.1; 143-215.3(a)(1)

**Reason for Proposed Action:** *The temporary rule process is necessary to allow the Commission and the Department of Environment and Natural Resources to meet Federal deadlines for implementation of the Phase II NPDES Stormwater Regulations. North Carolina is delegated authority to implement this federal permitting program. The federal regulations require permitting of a large number of local governments for stormwater discharges from their jurisdictions. Permit applications must be submitted by these entities beginning in March of 2003. These regulations are necessary to provide guidance to these local entities for permit application development to allow them to meet the application deadline. The regulation also establishes state designation criteria under the program required by the federal regulations for establishing such criteria. These criteria provide notice to potentially covered entities across the state on procedures that will be followed in reviewing them for potential designation in this program. The rule establishes necessary procedures for review and administration of petitions received from any group or person asking for an entity to be covered under the NPDES program. Federal regulations allow for this petitioning and the temporary rule establishes implementation measures for North Carolina. A number of factors, including legal issues unique to North Carolina, have hindered the Agency from moving forward with these regulations. In addition, due to the number of public entities affected by the federal rules, the complexity of the rules and the unique circumstances of coverage in North Carolina, the Agency felt a need to provide a number of opportunities in the*

*process for public involvement in the rule development. These efforts have produced valuable information in establishing a reasonable implementation approach for the federal rules in North Carolina. Unfortunately, these efforts have also left very little time for the Agency to establish state rules in a timeframe that meets the federal requirements.*

**Comment Procedures:** *Comments from the public shall be directed to Bradley Bennett, 1617 Mail Service Center, Raleigh, NC 27699-1617, phone (919) 733-5083, ext. 525.*

**CHAPTER 02 – ENVIRONMENTAL MANAGEMENT**

**SUBCHAPTER 02H - PROCEDURES FOR PERMITS: APPROVALS**

**SECTION .0100 – PURPOSE**

**15A NCAC 02H .0126 STORMWATER DISCHARGES**  
Stormwater picks up pollutants as it drains to waters of the State. When man alters stormwater drainage, the pollutants carried by stormwater to waters of the State may be concentrated or increased, resulting in water pollution. The juncture at which stormwater reaches waters of the State will either be a terminus of a pipe, ditch or other discrete outlet, or in a diffuse sheet flow manner. Stormwater discharges subject to NPDES permitting are addressed in this Section, which incorporates, supplements and expands the federal rules on stormwater NPDES discharges. Other stormwater control requirements are mainly addressed in Section 02H .1000 entitled "Stormwater Management", but may also be addressed in Sections dedicated to particular water classifications or circumstances. If there is an overlap, the more stringent requirements apply. NPDES permits Permits for stormwater discharges to surface waters shall be issued in accordance with these Rules and United States Environmental Protection Agency regulations 40 CFR ~~122.21 and 122.26~~ 122.21, 122.26, and 122.28 through 122.37 which are hereby incorporated by reference including any subsequent amendments. Copies of this publication are available from the Government Institutes, Inc. 4 Research Place, Suite 200, Rockville, MD 20850-1714 for a cost of ~~thirty-six~~ ~~sixty-nine~~ dollars ~~(\$36.00)~~ ~~(\$69.00)~~ each plus ~~four~~ ~~six~~ dollars ~~(\$4.00)~~ ~~(\$6.00)~~ shipping and handling. Copies are also available at the

Division of ~~Environmental Management~~,—Water Quality, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27604. These federal regulations can also be accessed on the world wide web at <http://www.gpo.gov/nara/cfr/index.html>

(1) For the purpose of this Rule, these terms shall be defined as follows:

(a) Department means the North Carolina Department of Environment and Natural Resources;

(b) Regulated public entities (RPE) means all municipalities and counties identified by a decennial U.S. Census as being located in whole or in part within an Urbanized Area, all federally designated public bodies, and all state designated public bodies;

(c) Municipal separate storm sewer system (MS4) pursuant to 40 CFR 122.26(b)(8) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

(i) Owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;

(ii) Designed or used for collecting or conveying stormwater;

(iii) Which is not a combined sewer; and

(iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2;

(d) One year, 24 hour storm means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months;

(e) Permitted by Rule means an entity is considered permitted pursuant to G.S. 143-215.1 and subject to judicial review pursuant G.S. 143-215.5. It shall not be necessary for the Department to issue separate permits, provided such entities comply with Item (11) of this Rule. Such entities shall be subject to enforcement remedies pursuant to G.S. 143-215.6A, 143-215.6B and 143-215.6C;

(f) Population Density means the population of an area divided by the area's geographical measure in square miles, equal to persons per square mile. For the purposes of this definition, the population shall equal the sum of the permanent and seasonal populations, or be calculated from a measure of housing unit density;

(g) Public body means the United States, the State of North Carolina, city, village, township, county, school district, public college or university, single purpose governmental agency; or any other governing body which is created by federal or state statute or law;

(h) Redevelopment means any rebuilding activity other than a rebuilding activity that:

(i) Results in no net increase in built-upon area; and

(ii) Provides equal or greater stormwater control than the previous development;

(i) Significant contributor of pollutants means an MS4 or a discharge that:

(i) Contributes to a pollutant loading(s) which may reasonably be expected to exert detrimental effects on the quality and uses of that water body; or

(ii) That destabilizes the physical structure of a water body such that the discharge may reasonably be expected to exert detrimental effects on the quality and uses of that water body.

Uses of the waters shall be determined pursuant to 15A NCAC 02B .0211 - .0222 and 15A NCAC 02B .0300;

(j) Small municipal separate storm sewer system "small MS4" pursuant to 40 CFR 122.26(b)(16) means all separate storm sewers that are:

(i) Owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; and

(ii) Not defined as "large" or "medium" municipal separate storm sewer systems pursuant to 40 CFR 122.26(b), or designated under Sub-Item (2)(b) of this Rule.

This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings; and

(k) Total maximum daily load (TMDL) means a written, quantitative plan and analysis for attaining and maintaining water quality standards in all seasons for a specific waterbody and pollutant.

(2) Designation: Designation consists of an automatic federal designation of public entities as described by Sub-Item (2)(a) of this Rule and a two step state designation process as described by Sub-Item (2)(b) of this Rule. All regulated public entities shall comply with the permit application schedule set forth in Item (6) of this Rule.

(a) Federal designation. In accordance with 40 CFR 122.32, all small MS4s located in whole or in part within an urbanized area as determined by the most recent Decennial Census by the Bureau of the Census must seek coverage under a NPDES permit for stormwater management.

(b) State designation process. The department shall identify additional public bodies that have the potential to discharge stormwater resulting in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including adverse habitat and biological impacts. As a first step, the public bodies shall be identified based on the categories listed at Sub-Item (2)(b)(i) of this Rule. Once a public body has been identified, the designation of that body, step two, as subject to the requirement to apply for permit coverage will be made based on the criteria at Sub-Item (2)(b)(ii) of this Rule.

(i) Step One: Identification of public bodies potentially subject to regulation.

(A) Municipality. A municipality, outside of an urbanized area as determined by the most recent Decennial Census by the Bureau of the Census, will be identified as a potential regulated MS4 if:

(I) The population is greater than 10,000;

and  
(II) The population density is at least 1,000 people per square mile.

(B) County. A County, outside of an urbanized area as determined by the most recent Decennial Census by the Bureau of the Census, will be identified as a potential regulated public body if the county municipal and non-municipal

- population (including permanent and seasonal population) is greater than 45,000 persons. The seasonal population will be determined from the most recent data available from local, state and/or federal sources.
- (C) Other public bodies. A public body may be designated if:
- (I) They are a municipality located within a regulated county, and have not been designated under any other category; or
- (II) They are a municipality and have not been designated under any other category; or
- (III) They are a MS4 such as, but not limited to, state and federal facilities, universities, community colleges, local sewer districts, hospitals, military bases, and prisons.
- (ii) Step Two: Criteria for designation of public bodies. In making designations, the department will evaluate the public bodies identified per Sub-Item (2)(b)(i) of this
- Rule for designation using the following criteria:
- (A) Whether the public body discharges or has the potential to discharge stormwater to sensitive waters, including:
- (I) Waters classified as high quality, outstanding resource, shellfish, trout or nutrient sensitive waters in accordance with 15A NCAC 2B .0101(d) and (e);
- (II) Waters which have been identified as providing habitat for federally-listed aquatic animal species that are listed as threatened or endangered by the U.S. Fish and Wildlife Service or National Marine Fisheries Service under the provisions of the Endangered Species Act, 16 U.S.C. 1531-1544; or

(III) Waters for which the designated use, as set forth in the classification system at 15A NCAC 02B .0101(c), (d) and (e); have been determined to be impaired in accordance with the requirements of 33 U.S.C. 1313(d); and

determined to have high growth in accordance with Sub-Item (2)(b)(i)(B)(I) of this Rule or an area having a projected growth rate exceeding 1.3 times the state growth rate for the previous 10 years; and

(B) Has exhibited high population growth or population growth potential, where:

(C) Whether the public body discharges are, or have the potential to be, a significant contributor of pollutants to waters of the United States.

(I) High growth shall be defined as a 10 year rate of growth exceeding 1.3 times the state population growth rate for that same period or a two year rate of growth which exceeds 15 percent; or

(3) State Designation Administration: Review and finalization of public body designation shall be handled under the following guidelines:

(a) The department will implement the designation process in accordance with the department schedule for Basinwide Plans starting January 01, 2004;

(b) The department shall publish a list of public bodies identified in accordance with Sub-Item (2)(b)(i) of this Rule. Lists shall be developed for a river basin area in accordance with North Carolina's Basinwide Planning Schedule. Publication of this list may be coordinated with public notices issued through basinwide planning efforts;

(II) An area having growth potential shall be defined as a jurisdictional area adjoining an area

(c) All public bodies identified shall be notified in writing by the department prior to publication of the list in Sub-Item (3)(b) of this Rule;

(d) The department shall accept public comment on the application of the evaluation criteria in Sub-Item (2)(b)(ii) of this Rule for each of the identified public bodies. A public comment period of not less than 30 days will be provided;

- (e) After review of the evaluation criteria in Sub-Item (2)(b)(ii) of this Rule and review of public comments received, the department will review the effectiveness of any existing water quality protection programs. The effectiveness will be determined based upon the water quality of the receiving waters, and whether the waters have been determined to be supporting the uses as set forth in the classifications pursuant to 15A NCAC 02B .0101(c), (d) and (e) and the specific classification of the waters pursuant to 15A NCAC 02B .0300. The Department shall then make a final determination on designation for each of the listed public bodies; and
- (f) The department shall notify a public body of its designation for NPDES stormwater coverage in writing. This notification shall include the category under which the public body was designated, the basis(es) of the designation and the date on which the application for coverage shall be submitted to the Department.
- (4) Other State designations
  - (a) Total Maximum Daily Load (TMDL) MS4s. TMDL MS4s include public bodies discharging pollutants that are contributing to the impairment of a water body's use, as determined in accordance with 33 U.S.C 1313 (d). TMDL MS4s shall be designated if the MS4 is specifically listed by name for urban stormwater Total Maximum Daily Load development.
  - (b) Designated by petition. Entities subject to a petition shall be designated by the department based on the process and procedures identified in Item (5) of this Rule.
- (5) Petitions
  - (a) In accordance with 40 CFR 122.26(f):
    - (i) Any operator of a MS4 may petition the department to require a separate NPDES stormwater permit for any discharge into the MS4; and
    - (ii) Any person may petition the department to require a NPDES stormwater permit for a discharge composed entirely of stormwater which contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.
  - (b) Petition Submittal. Petitions to designate a small MS4 or discharge for NPDES stormwater permit coverage must meet the following requirements:
    - (i) Petitions must be submitted on department approved forms;
    - (ii) A separate petition must be filed for each petitioned entity;
    - (iii) The petition must be complete prior to consideration by the department;
    - (iv) Petitions must demonstrate the need for NPDES stormwater permit coverage for the petitioned entity based on the following standards:
      - (A) For stormwater discharges to impaired waters, monitoring data must be submitted to demonstrate that the petitioned entity is the source of or a significant contributor of pollutants to the impairment;
      - (B) For stormwater discharges to non-impaired waters, monitoring data must be submitted to demonstrate that the petitioned entity is a significant contributor of pollutants to the receiving waters;
      - (C) Monitoring data must include, at a minimum, representative sampling of the stormwater discharges subject to the petition;
      - (D) The petitioner must present information documenting how the sampling may be considered representative of the stormwater discharges. The petitioner may

- present technical scientific literature to support the sampling methods: and
- (E) The Petitioner shall notify the potential petitioned entity in advance of stormwater discharge monitoring activities.
- (v) The petitioner must certify that a copy of the petition and any subsequent additional information submitted by the petitioner has been provided to the chief administrative officer of the petitioned entity within 48 hours of submitting said petition and additional information to the department;
- (vi) Petitions must include the following to be eligible for consideration:
- (A) Completed set of petition form(s);
- (B) In accordance with Sub-Item (5)(b)(iv) of this Rule, a demonstration of the need for NPDES stormwater permit coverage. These data may be supplemented with technical study information on land uses in the drainage area and the characteristics of stormwater runoff from these land uses;
- (C) Documentation of receiving waters impairment or degradation;
- (D) A map delineating the drainage area of the petitioned entity, the location of sampling stations, the location of the stormwater outfalls in the adjacent area of the sampling
- locations and general features such as, surface waters, major roads and political boundaries to appropriately locate the area of concern for the reviewers; and
- (E) Certification of petitioned entity notification;
- (vii) On a case by case basis the department may request additional information necessary to evaluate the petition.
- (c) Petition Administration. All petitions received by the department will be processed under the following guidelines:
- (i) The department will make a determination on the completeness of the petition and acknowledge receipt of the petition within 90 days of receipt. The petition is considered complete if the department does not notify the petitioner of receipt within 90 days.
- (ii) Substantially incomplete petitions will be returned to the petitioner with guidance on what is needed to complete the petition package.
- (iii) Pursuant to 40 CFR 122.26(f)(5), the department must make a final determination on any petition within 180 days of receipt. The 180-day period begins upon receipt of a complete petition application. The department will draft the designation decision pursuant to the applicable designation criteria from Sub-Item (2)(b)(ii) of this Rule.
- (iv) The petition will be sent to public notice, which includes a public comment period of at least 30 days.
- (v) The department may hold a public hearing on any petition and shall hold a public hearing if the department receives a



written request for a public hearing on the petition within 15 days after the notice of the petition is published and the department determines that there is a significant public interest in holding such hearing. The hearing date will be no less than 15 days from the receipt of the request for public hearing.

(vi) Information on the petitioned entity will be accepted until the end of the public comment period and will be considered in making the final determination on the petition. New petitions for the same entity received during this time will become a party to the original petition.

(vii) New petitions for the same entity received after the public comment period ends and before the final determination is made will be considered incomplete and placed on administrative hold pending a final determination on the original petition.

(A) If the department designates the petitioned entity, any new petitions placed on administrative hold will be considered in the development of the NPDES permit.

(B) If the department makes the final determination that the petitioned entity should not be designated, new petitions for the previously petitioned entity must present new information or demonstrate that conditions have changed substantially in order to be considered. If new information is not

provided, the petition shall be returned as substantially incomplete.

(viii) If the final determination is that the petitioned entity shall be designated, then the department will notify the petitioned entity of its designation and will require a stormwater permit application. The application shall be required to be submitted no later than 18 months from the date of notification.

(6) Application schedule. Regulated public entities must submit applications on department approved forms. Designated small MS4 applications shall include program descriptions for the minimum measures identified in Item (7) of this Rule. The application for regulated public entities that do not own or operate a small MS4 shall certify the lack of ownership or operation of a small MS4. Regulated public entities that do not own or operate a small MS4 may elect to implement a stormwater management program pursuant the options available in this Rule.

(a) The application deadline will not be less than 18 months from the date of designation notification, except for:

(i) 1990 Decennial Census regulated public entities, which must apply by March 10, 2003;

(ii) Municipally operated industrial activities, which must apply by March 10, 2003.

(b) Regulated public entities that are newly identified based upon the 2000 Decennial Census, or a future decennial census, must apply for permit coverage within 18 months of State notification. The Department, within three months of federal verification of decennial census data, will notify in writing all the public entities identified.

(7) Stormwater Management Requirements

(a) All regulated public entities subject to this Rule shall develop, implement and enforce a stormwater management plan approved by the department in accordance with Sub-Items (7)(b)-(7)(e) of this Rule. The plan shall be designed to reduce discharge of pollutants to the maximum extent practicable and,

except as otherwise provided, shall include but not be limited to the following minimum measures:

- (i) A public education and outreach program on the impacts of stormwater discharges on water bodies to inform citizens of how to reduce pollutants in stormwater runoff. The public body may satisfy this requirement by developing a local education and outreach program; by participating in a statewide education and outreach program coordinated by the department; or a combination of those approaches;
- (ii) A public involvement and participation program consistent with all applicable state and local requirements;
- (iii) A program to detect and eliminate illicit discharges within the MS4. The program shall include a storm sewer system mapping component which at a minimum identifies stormwater outfalls and the names and location of all waters within the jurisdiction of the public body;
- (iv) A program to reduce pollutants in any stormwater runoff to the MS4 from construction activities resulting in a land disturbance of greater than or equal to one acre. Implementation and enforcement of the Sedimentation Pollution Control Act, G.S. 113A-50 et seq., By either the Department or through a local program developed pursuant to G.S. 113A-54(b), in conjunction with the states NPDES permit for construction activities, may be used to meet this minimum measure either in whole or in part;
- (v) A program to address post-construction stormwater runoff from new development and redevelopment projects that

cumulatively disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the MS4 or into an interconnected MS4, pursuant to Item (10) of this Rule; and

- (vi) A pollution prevention/good housekeeping program for municipal operations that addresses operation and maintenance, including a training component, to prevent or reduce pollutant runoff from those operations.

(b) Minimum measures and permit coverage for regulated public entities:

(i) For municipalities which own and operate a small MS4:

(A) They shall implement all six minimum measures; and

(B) Their permit will cover their jurisdictional area including any area where they have exercised their Extraterritorial Jurisdiction Authorities under G.S. 160A-360. They shall implement the six minimum measures in their ETJ areas to the extent allowable under existing rules and statutes.

(ii) For counties which own and operate one or more small MS4s:

(A) They shall implement all six minimum measures;

(B) The permit will cover the jurisdictional area of the small MS4(s). The county may elect to have the permit cover their entire

- jurisdictional area;  
and  
(C) The county may  
elect to implement  
the six minimum  
measures  
throughout the  
remaining  
unincorporated  
areas of the county  
that drain in whole  
or in part to  
publicly owned  
MS4's using the  
"permitted by rule"  
option pursuant to  
Item (11) of this  
Rule. The county  
may also elect to  
cover all  
unincorporated  
areas of the county.
- (iii) For regulated public entities  
that do not own or operate a  
small MS4  
(A) They may apply for  
a permit to  
implement all six  
minimum  
measures; or  
(B) They may apply to  
implement the post  
construction control  
and good  
housekeeping /  
pollution  
prevention  
minimum measure  
using the  
"permitted by rule"  
option pursuant to  
Item (11).  
(C) The permit  
coverage areas  
would be as  
follows:  
(I) For  
municipalities,  
their permit  
will cover  
their  
jurisdictional  
area  
including  
any area  
where they  
have  
exercised  
their  
Extraterritorial  
Jurisdiction
- Authorities  
under G.S.  
160A-360.  
They shall  
implement  
the six  
minimum  
measures in  
their ETJ  
areas to the  
extent  
allowable  
under  
existing rules  
and statutes;  
(II) For counties,  
the permit  
would cover  
the  
unincorporated  
areas of the  
county that  
drain in  
whole or in  
part to  
publicly  
owned  
MS4's. The  
county may  
also elect to  
cover all  
unincorporated  
areas of the  
county; and  
(III) For all  
other  
public  
bodies, the  
permit  
would  
cover their  
jurisdictional  
area.
- (c) All public bodies designated by  
petition shall meet the requirements  
set out in Sub-Item (7)(b) of this Rule  
as applicable.  
(d) All public bodies designated by  
TMDL, pursuant to Item (4) of this  
Rule, shall meet the requirements as  
set out in Sub-Item (7)(b) of this Rule  
as applicable including, but not  
limited to additional requirements  
associated with the TMDL.  
(e) The Department may allow regulated  
public entities to use existing state  
and local programs to meet the  
required permit minimum measures  
either in whole or in part.  
(f) Within the jurisdictional area of all  
regulated public entities, the post  
construction controls pursuant to Item

- (10) of this Rule, shall be required and implemented where the construction activity drains in whole or in part to a publicly owned MS4.
- (8) Waiver. The department may waive the requirements set out in Item (7) of this Rule pursuant to 40 CFR 122.32(d) or 40 CFR 122.32(e).
- (9) Implementation Schedule.
- (a) Regulated public entities, pursuant to Item (2) of this Rule, shall have permit conditions that establish schedules for implementation of each component of the stormwater management program based on the submitted application, and shall fully implement a program meeting the requirements set out in Item (7) and Item (10) of this Rule within five years from permit issuance.
- (b) Regulated public entities electing to be permitted by rule shall adopt ordinances and fully implement the required post-construction program meeting the applicable requirements set out in Item (7) and Item (10) of this Rule. They will thereafter report annually on the implementation of the ordinance(s). They shall fully implement the pollution prevention/good housekeeping measure at their publicly owned facilities within two years of notification of approval of their application for permitted by rule status.
- (10) Post-construction stormwater management
- (a) All regulated public entities, required to implement the post construction stormwater management minimum measure, must develop, implement and adopt by ordinance a post-construction stormwater management program for all new development and redevelopment as part of their plan to meet the minimum requirements pursuant to Sub-Item (7)(a)(v) of this Rule. These ordinances, and subsequent modifications, will be reviewed and approved by the Department prior to implementation. The approval process will establish subsequent timeframes when the Department will review performance under the ordinance (s). The reviews will occur, at a minimum, every five years. Regulated public entities without ordinance making powers, shall demonstrate similar actions taken in their post construction stormwater management program to meet the minimum measure requirements.
- (b) The post-construction program shall apply to all new development projects that cumulatively disturb one acre or more, and to projects less than an acre that are part of a larger common plan of development or sale. The post-construction program shall apply to all redevelopment projects that cumulatively disturb one acre or more, and to projects less than an acre that are part of a larger common plan of development or sale.
- (c) The department shall submit a model ordinance including best management practices to control and manage stormwater runoff from development and redevelopment sites subject to this Rule to the Commission for approval. The department shall work in cooperation with local governments to develop this model ordinance. The model ordinance shall include both structural and non-structural best management practices adequate to meet the minimum requirements of this Rule.
- (d) The deadlines for implementation of the local post-construction program are as follows:
- (i) 1990 Decennial Census federally designated small MS4's, March 10, 2005;
- (ii) 2000 Decennial Census and future decennial Census federally designated small MS4's, 12 months from date of permit issuance or 12 months from date of the granting of permit by rule status; and
- (iii) All other regulated public entities, 12 months from date of permit issuance or 12 months from date of the granting of permit by rule status.
- (e) A post construction stormwater management program shall be developed and implemented that meets the following requirements:
- (i) The program shall require all projects as defined in Sub-Item (10)(B) of this Rule to apply for locally issued permit coverage under one of the following stormwater management options:
- (A) Low Density Projects. Projects

shall be permitted as low density if the project meets the following:

(I) No more than two dwelling units per acre or 24 percent built-upon area BUA for all residential and non-residential development;

(II) Stormwater runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable;

(III) All BUA shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. For the purpose of this Rule, a surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of

Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 02B .0233 (3)(a); and

(IV) The permit shall require recorded deed restrictions and protective covenants to ensure that development activities maintain the development consistent with the approved project plans;

(B) High Density Projects. Projects exceeding the low density threshold established in Sub-Item (10)(e)(i)(A) of this Rule shall implement stormwater control measures that:

**TEMPORARY RULES**

- (I) Control and treat the difference in stormwater runoff volume leaving the project site between the pre and post development conditions for the one year 24 hour storm. Runoff volume drawdown time shall be a minimum of 24 hours, but not more than 120 hours;
- (II) All structural stormwater treatment systems used to meet the requirements of the program shall be designed to have an 85% average annual removal for Total Suspended Solids;
- (III) General Engineering Design Criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c);
- (IV) All BUA shall be at a
- minimum of 30 feet landward of all perennial and intermittent surface waters. For the purpose of this Rule, a surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3)(a); and
- (V) The permit shall

require recorded deed restrictions and protective covenants to ensure that development activities maintain the development consistent with the approved project plans;

(f) The program shall include an operation and maintenance component that ensures the adequate long-term operation of the structural BMP's required by the program. The program shall include a requirement that the owner of a permitted structural BMP, submit annually to the local program, a maintenance inspection report on each structural BMP. The inspection must be conducted by a qualified professional;

(g) A program shall be developed to control, to the maximum extent practicable, the sources of fecal coliform. At a minimum, the program shall include the development and implementation of an oversight program to ensure proper operation and maintenance of on-site wastewater treatment systems for domestic wastewater. For municipalities, this program should be coordinated with the local county health department;

(h) For programs with development/redevelopment draining to SA waters, the following additional requirements must be incorporated into their program:

(i) A local ordinance shall be developed, adopted and implemented to ensure that the best practice for reducing fecal coliform loading is selected. The best practice shall be the practice that results in the highest degree of fecal die off and controls to the maximum extent practicable sources of fecal coliform while still meeting

the requirements of Sub-Item (10)(d) of this Rule. The local ordinance(s) shall incorporate a program to control the sources of fecal coliform to the maximum extent practical, including:

(A) Implementation of a pet waste management program.

Appropriate revisions to an existing litter ordinance can be used to meet this requirement; and

(B) Implementation of an oversight program to ensure proper operation and maintenance of on-site wastewater treatment systems for domestic wastewater. For municipalities, this program should be coordinated with the local county health department; and

(ii) New direct points of stormwater discharge to SA waters or expansion of existing points of discharge to any constructed stormwater conveyance system, or constructed system of conveyances that discharge to SA waters, shall not be allowed. Expansion is defined as an increase in drainage area or an increase in impervious surface within the drainage area resulting in a net increase in peak flow or volume from the one year 24 hour storm. Overland sheetflow of stormwater or stormwater discharge to a wetland, vegetated buffer or other natural area capable of providing treatment or absorption will not be considered a direct point of stormwater discharge for the purposes of this Rule;

(i) For programs with development/redevelopment draining to trout (Tr) waters, the following

additional requirements must be incorporated into their program: A local ordinance shall be developed, adopted and implemented to ensure that the best management practices selected do not result in a sustained increase in the receiving water temperature, while still meeting the requirements of Sub-Item (10)(d) of this Rule;

(j) For programs with development/redevelopment draining to Nutrient Sensitive waters, the following additional requirements must be incorporated into their program:

(i) A local ordinance shall be developed, adopted and implemented to ensure that the best management practice for reducing nutrient loading is selected while still meeting the requirements of Sub-Item (10)(d) of this Rule. Where a Department approved NSW Urban Stormwater Management Program is in place, the provisions of that program fulfill this requirement; and

(ii) A nutrient application (both inorganic fertilizer and organic nutrients) management program shall be developed and included in the stormwater management program;

(k) Public bodies may develop and implement comprehensive watershed protection plans that may be used to meet part, or all, of the requirements of Item (10) of this Rule;

(l) The department may require more stringent stormwater management measures on a case-by-case basis where it is determined that additional measures are required to protect water quality and maintain existing and anticipated uses of these waters; and

(m) The Department may develop guidance on the scientific and engineering standards for best management practices that shall be used to meet the post construction elements of this Rule. Alternative design criteria may be approved by the Department where a demonstration is made that the alternative design will provide:

(i) Equal or better management of the stormwater;

(ii) Equal or better protection of the waters of the state; and

(iii) No increased potential for nuisance conditions.

(11) Permitted by Rule Option. To be "permitted by rule" the public body shall:

(a) Adopt ordinance(s) and implement programs addressing post-construction stormwater runoff throughout the public bodies entire jurisdictional area, pursuant to Item (10) of this Rule; and

(b) Institute the pollution prevention/good housekeeping measure at their publicly owned facilities, pursuant to Sub-Item (7)(a)(vi) of this Rule, in accordance with a separate NPDES permit for municipal operations.

If the public body selects this option, the State will implement the remaining four minimum measure requirements throughout the public bodies entire jurisdictional area through existing programs and NPDES stormwater permits to the extent allowed under those programs and permits.

*History Note: Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a)(1); Eff. November 1, 1986; Amended Eff. August 3, 1992; Temporary Amendment Eff. November 1, 2002.*

**TITLE 21 - OCCUPATIONAL LICENSING BOARDS**

**CHAPTER 29 - LOCKSMITH LICENSING BOARD**

**Rule-making Agency:** *NC Locksmith Licensing Board*

**Rule Citation:** *21 NCAC 29 .0201, .0404*

**Effective Date:** *October 17, 2002*

**Findings Reviewed and Approved by:** *Beecher R. Gray*

**Authority for the rulemaking:** *G.S. 74-F*

**Reason for Proposed Action:** *The meetings of the Board have been publicized on the website of the NC Locksmith's Association and on the Board's own website. Also, invitations have been posted on an e-mail list created to encourage public participation in the rulemaking process.*

**Comment Procedures:** *Written comments should be sent to Jim Scarborough, PO Box 10972, Raleigh, NC 27605.*

**SECTION .0200 - EXAMINATION**

**21 NCAC 29 .0201 EXAMINATION FEE**



**TEMPORARY RULES**

The examination fee shall be two hundred dollars (\$200.00) and shall accompany the examination registration form. If the applicant elects to take the exam at a commercial testing center that charges a fee, then the applicant retains responsibility for paying the additional fee assessed by the testing center.

*History Note: Authority G.S.74F-6; 74F-9; Temporary Adoption Eff. October 17, 2002.*

**SECTION .0400 – LICENSING REQUIREMENTS**

**21 NCAC 29 .0404 FEES**

The license issuance fee shall be one hundred dollars (\$100.00). The license issuance fee shall accompany the application for licensure. In the event that licensure is denied the applicant, the fee shall be refunded in a timely manner.

*History Note: Authority G.S.74F-6; 74F-7; 74F-9; Temporary Adoption Eff. October 17, 2002.*

**Date:** February 10, 2003  
**Time:** 10:00 a.m.  
**Location:** 422 North Blount Street, Raleigh, NC

**Proposed Effective Date for Permanent Rule:** August 1, 2004

**Reason for Proposed Action:** To allow more to be done electronically versus print copies; availability of the Register; and make other clarifying changes.

**Comment Procedures:** Comments should be sent to Molly Masich, 6714 Mail Service Center, Raleigh, NC 27699-6714; or email to molly.masich@ncmail.net. Comments should be submitted by February 10, 2003.

**Fiscal Impact**

- State
- Local
- Substantive ( $\geq$ \$5,000,000)
- None

**TITLE 26 - OFFICE OF ADMINISTRATIVE HEARINGS**

**Editor's Note:** This publication will serve as Notice of Temporary Rules and as Notice of Text for permanent rulemaking.

**Rule-making Agency:** Office of Administrative Hearings

**Rule Citation:** 26 NCAC 02C .0104, .0112, .0303, .0305-.0306, .0410

**Effective Date for Temporary Rule:** January 1, 2003

**Findings Reviewed and Approved by:** Jeffrey P. Gray

**Authority for the rulemaking:** G.S. 150B-21.19

**Reason for Proposed Action for Temporary Rule:**  
**26 NCAC 02C .0104, .0112, .0305-.0306, .0410** – These temporary rules are necessary in order to respond to budget cuts incurred from the 2002 Session of the General Assembly. These amendments utilize technology in an effort to reduce expenditures. The agencies will continue to receive documents prepared by OAH but through email rather than print copies. All agencies that currently file for publication in the Register and Code have provided OAH with an email address. OAH cannot wait to address this budget issue through normal rulemaking. The public interest will best be served by implementing these cost saving measures as quickly as possible.  
**26 NCAC 02C .0303** – Senate Bill 1224 mandates OAH to provide the NC Register on the Internet at no charge. This amendment provides information for accessing the OAH website. Subsequently, this mandate eliminates the need for diskette and email subscriptions. In order to reduce unnecessary cost, OAH will only print the number of copies necessary to fulfill current subscriptions at the time of issuance of each issue. The public will be best served by implementing these cost saving measures as quickly as possible.

**Public Hearing:**

17:10

**NORTH CAROLINA REGISTER**

November 15, 2002

**CHAPTER 02 - RULES DIVISION**

**SUBCHAPTER 02C - SUBMISSION PROCEDURES FOR RULES AND OTHER DOCUMENTS TO BE PUBLISHED IN THE NORTH CAROLINA REGISTER AND THE NORTH CAROLINA ADMINISTRATIVE CODE**

**SECTION .0100 - GENERAL**

**26 NCAC 02C .0104 RETURN COPY**

If an agency desires a returned copy of any document submitted to OAH, the agency shall submit an additional copy permanently marked as the agency's return ~~copy.~~ copy and either a self addressed envelope with sufficient postage affixed or an envelope label prepared for state government interoffice delivery.

*History Note: Authority G.S. 150B-21.17; 150B-21.18; 150B-21.19; Temporary Adoption Eff. November 1, 1995; Eff. April 1, 1996; Temporary Amendment Eff. January 1, 2003.*

**26 NCAC 02C .0112 AGENCY FINAL COPY**

- (a) OAH shall send a final draft of an adopted temporary or permanent rule to the agency's rule-making coordinator after the rule is filed with OAH.
- (b) If within 10 working days of receipt by the agency OAH receives written notification from the agency of any typographical errors made by OAH, OAH shall correct the errors.
- (c) OAH shall send final drafts electronically to the rule-making coordinator.

*History Note: Authority G.S. 150B-21.5; 150B-21.20; Temporary Adoption Eff. January 1, 2003.*

**SECTION .0300 - THE NORTH CAROLINA REGISTER**

**26 NCAC 02C .0303 AVAILABILITY OF THE**

**NORTH CAROLINA REGISTER**

(a) ~~An annual~~ A print subscription to the ~~Register~~ Register, ~~available in hardcopy, 3 1/2 inch diskette, or email~~, shall be one hundred and ninety-five dollars (\$195.00) annually plus NC sales tax if applicable.

(b) Individual ~~issues~~ print issues, including back issues, if available, shall be ten dollars (\$10.00) plus N.C. sales tax if applicable.

(c) A person requesting a subscription shall direct the request to:  
 Office of Administrative Hearings  
 6714 Mail Service Center  
 Raleigh, NC 27699-6714  
 phone: 919.733.2678  
 fax: 919.733.3462  
 email: [postmaster@oah.state.nc.us](mailto:postmaster@oah.state.nc.us)

(d) The Register is available on the OAH website: <http://www.oah.state.nc.us>.

*History Note: Authority G.S. 150B-21.25;  
 Temporary Adoption Eff. November 1, 1995;  
 Eff. April 1, 1996;  
 Amended Eff. August 1, 2000; December 1, 1999;  
 Temporary Amendment Eff. January 1, 2003.*

**26 NCAC 02C .0305 PUBLICATION OF RULE-MAKING AGENDA**

(a) If an agency publishes a rule-making agenda, the agency shall submit the agenda, the submission form, and an electronic version of the agenda.

~~(b) OAH shall return to the agency an edited copy of the agenda and the filed diskette.~~

*History Note: Authority G.S. 150B-21.17;  
 Temporary Adoption Eff. November 1, 1995;  
 Eff. April 1, 1996;  
 Temporary Amendment Eff. January 1, 2003.*

**26 NCAC 02C .0306 PUBLICATION OF NOTICE OF TEXT**

(a) The agency shall submit its Notice of Text on an OAH Notice of Text form. If the information contained in the notice exceeds the space provided on the form, the agency shall also submit an electronic version of the information.

(b) All rules submitted for publication by an agency at the same time, with the same proposed effective date, and with the same public hearing date and location if a hearing is scheduled, shall be listed on a single form.

(c) The agency shall submit the text of the proposed rule and an electronic version. ~~OAH shall return to the agency an edited copy of the rule and the filed diskette.~~

(d) A rule proposed to be adopted or amended shall meet the following requirements:

- (1) The rule shall contain an introductory statement immediately preceding the text. The statement shall contain the rule citation and the action proposed to be taken.
- (2) Following the introductory statement, the rule number, name, text and history note shall be in

the form specified in Rule .26 NCAC 02C .0108:

- (A) any text to be deleted from an existing rule shall be indicated by strikeout marks;
- (B) any new or added text shall be underlined; and
- (C) punctuation shall be considered a part of the previous word, such as:
  - (i) when the previous word is deleted, the punctuation shall also be struck through with the previous word; and
  - (ii) when punctuation is added after an existing word, the existing word shall be struck through and followed by the word and punctuation underlined.

The smallest unit of text to be struck through or underlined shall be an entire word or block of characters separated from other text by spaces.

(e) A rule proposed to be repealed shall meet the following requirements:

- (1) The rule shall contain an introductory statement. The statement shall contain the rule citation and the action proposed to be taken.
- (2) Following the introductory statement, the rule shall contain the number and rule name of the rule proposed to be repealed.
- (3) A history note shall follow the rule number and name.

*History Note: Authority G.S. 150B-21.17;  
 Temporary Adoption Eff. November 1, 1995;  
 Eff. April 1, 1996;  
 Amended Eff. August 1, 2000;  
 Temporary Amendment Eff. January 1, 2003.*

**SECTION .0400 - NORTH CAROLINA ADMINISTRATIVE CODE**

**26 NCAC 02C .0410 AGENCY FINAL COPY OF PERMANENT RULES**

~~(a) OAH shall send a final draft of a permanent rule to the agency's rule-making coordinator after the rule is filed with OAH.~~

~~(b) If within 30 days of the date appearing on the final draft OAH receives written notification from the agency of any typographical errors made by OAH in entering the rule into the Code, OAH shall correct the errors.~~

*History Note: Authority G.S. 150B-21.5; 150B-21.20;  
 Temporary Adoption Eff. November 1, 1995;  
 Eff. April 1, 1996;  
 Temporary Repeal Eff. January 1, 2003.*

**APPROVED RULES**

*This Section includes the Register Notice citation to Rules approved by the Rules Review Commission (RRC) at its meeting October 17, 2002, pursuant to G.S. 150B-21.17(a)(1) and reported to the Joint Legislative Administrative Procedure Oversight Committee pursuant to G.S. 150B-21.16. The full text of rules is published below when the rules have been approved by RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register. The rules published in full text are identified by an \* in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

*These rules, unless otherwise noted, will become effective on the 31st legislative day of the 2002 Session of the General Assembly or a later date if specified by the agency unless a bill is introduced before the 31st legislative day that specifically disapproves the rule. If a bill to disapprove a rule is not ratified, the rule will become effective either on the day the bill receives an unfavorable final action or the day the General Assembly adjourns. Statutory reference: G.S. 150B-21.3.*

<b>APPROVED RULE CITATION</b>				<b>REGISTER CITATION TO THE NOTICE OF TEXT</b>
05	NCAC	02B	.0109-.0114*	G.S. 150B-1(d)(6), Effective October 18, 2002.
10	NCAC	03C	.3102*	17:01 NCR
10	NCAC	03C	.4305*	17:01 NCR
10	NCAC	03D	.0801-.0805	16:21 NCR
10	NCAC	03D	.0807-.0808	16:21 NCR
10	NCAC	03D	.0901	16:21 NCR
10	NCAC	03D	.0903-.0904	16:21 NCR
10	NCAC	03D	.0906	16:21 NCR
10	NCAC	03D	.0910	16:21 NCR
10	NCAC	03D	.0912-.0916	16:21 NCR
10	NCAC	03D	.0925	16:21 NCR
10	NCAC	03D	.1001-.1004	16:21 NCR
10	NCAC	03D	.1101-.1104	16:21 NCR
10	NCAC	03D	.1201-.1206	16:21 NCR
10	NCAC	03D	.1301-.1302	16:21 NCR
10	NCAC	03D	.1401-.1403	16:21 NCR
10	NCAC	03D	.1501-.1503	16:21 NCR
10	NCAC	03D	.2001	16:21 NCR
10	NCAC	03D	.2101-.2106	16:21 NCR
10	NCAC	03D	.2201-.2203	16:21 NCR
10	NCAC	03R	.1413-.1417*	17:01 NCR
10	NCAC	03R	.3301-.3302*	17:04 NCR
10	NCAC	03R	.3303-.3305	17:04 NCR
10	NCAC	03U	.1721-.1723*	17:03 NCR
10	NCAC	03U	.2402-.2403*	17:03 NCR
10	NCAC	03U	.2405-.2408*	17:03 NCR
10	NCAC	03U	.2410-.2411*	17:03 NCR
10	NCAC	03U	.2703	17:03 NCR
10	NCAC	03U	.2704*	17:03 NCR
10	NCAC	26H	.0212-.0213	17:01 NCR
10	NCAC	41I	.0303	17:03 NCR
10	NCAC	41I	.0304-.0306*	17:03 NCR
10	NCAC	41I	.0311-.0312*	17:03 NCR
10	NCAC	41J	.0204	17:03 NCR
10	NCAC	41J	.0205*	17:03 NCR
10	NCAC	41J	.0501*	17:03 NCR
15A	NCAC	02B	.0303	16:15 NCR
15A	NCAC	02H	.0106*	16:19 NCR
15A	NCAC	02R	.0402*	16:24 NCR
15A	NCAC	18A	.1001*	G.S. 150B-21.5, Effective November 1, 2002
15A	NCAC	18A	.1501*	G.S. 150B-21.5, Effective November 1, 2002
15A	NCAC	18A	.1601*	G.S. 150B-21.5, Effective November 1, 2002
15A	NCAC	18A	.2201*	G.S. 150B-21.5, Effective November 1, 2002
15A	NCAC	18A	.2401*	G.S. 150B-21.5, Effective November 1, 2002
15A	NCAC	18A	.2701*	G.S. 150B-21.5, Effective November 1, 2002

**APPROVED RULES**

15A	NCAC	18A	.3001*	G.S. 150B-21.5, Effective November 1, 2002
15A	NCAC	18A	.3201*	G.S. 150B-21.5, Effective November 1, 2002
18	NCAC	06	.1417*	16:22 NCR
18	NCAC	06	.1702*	16:22 NCR
18	NCAC	06	.1703	16:22 NCR
18	NCAC	06	.1706-.1707*	16:22 NCR
18	NCAC	06	.1710-.1711	16:22 NCR
18	NCAC	06	.1712	16:22 NCR
18	NCAC	06	.1713*	16:22 NCR
18	NCAC	06	.1714	16:22 NCR
18	NCAC	06	.1716*	16:22 NCR
18	NCAC	06	.1717	16:22 NCR
19A	NCAC	02D	.0532*	17:03 NCR
19A	NCAC	02F	.0101	17:02 NCR
19A	NCAC	02F	.0102-.0103*	17:02 NCR
21	NCAC	04B	.0202*	16:22 NCR
21	NCAC	04B	.0801-.0802*	16:22 NCR
21	NCAC	04B	.0804*	16:22 NCR
21	NCAC	32H	.0102	16:21 NCR
21	NCAC	32H	.0201-.0203	16:21 NCR
21	NCAC	32H	.0301-.0303	16:21 NCR
21	NCAC	32H	.0401-.0405	16:21 NCR
21	NCAC	32H	.0407-.0409	16:21 NCR
21	NCAC	32H	.0501-.0503	16:21 NCR
21	NCAC	32H	.0505-.0508	16:21 NCR
21	NCAC	32H	.0601-.0602	16:21 NCR
21	NCAC	32H	.0701	16:21 NCR
21	NCAC	32H	.0801-.0802	16:21 NCR
21	NCAC	32H	.0901-.0903	16:21 NCR
21	NCAC	32H	.1001-.1004	16:21 NCR
21	NCAC	32I	.0101-.0104	16:21 NCR
21	NCAC	48C	.0101*	17:02 NCR

**TITLE 5 – DEPARTMENT OF CORRECTION**

- 05 NCAC 02B .0109 SCOPE**
- 05 NCAC 02B .0110 DEFINITIONS**
- 05 NCAC 02B .0111 GOOD TIME**
- 05 NCAC 02B .0112 GAIN TIME**
- 05 NCAC 02B .0113 EARNED TIME**
- 05 NCAC 02B .0114 MERITORIOUS TIME**

*History Note: Authority G.S. 5A-12(c); 15A-1340.7; 15A-1340.13; 15A-1340.20; 15A-1355; 130A-25; 148-11; 148-13;*  
*Temporary Adoption Eff. November 15, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*  
*Eff. February 1, 1995;*  
*Repealed Eff. October 18, 2002.*

**TITLE 10 – DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**10 NCAC 03C .3102 PLAN APPROVAL**

(a) The facility design and construction shall be in accordance with the construction standards of the Division, the North Carolina Building Code, and local municipal codes.

(b) Submission of Plans:

- (1) Before construction is begun, color marked plans and specifications covering construction of the new buildings, alterations or additions to existing buildings, or any change in facilities shall be submitted to the Division for approval.
- (2) The Division shall review the plans and notify the licensee that said buildings, alterations, additions, or changes are approved or disapproved. If plans are disapproved the Division shall give the applicant notice of deficiencies identified by the Division.
- (3) In order to avoid unnecessary expense in changing final plans, as a preliminary step, proposed plans in schematic form shall be submitted by the applicant to the Division for review.
- (4) The plans shall include a plot plan showing the size and shape of the entire site and the location of all existing and proposed facilities.
- (5) Plans shall be submitted in triplicate in order that the Division may distribute a copy to the Department of Insurance for review of State Building Code requirements and to the Department of Environment, Health, and Natural Resources for review under state sanitation requirements.

(c) Location:

- (1) The site for new construction or expansion shall be approved by the Division.
- (2) Hospitals shall be so located that they are free from noise from railroads, freight yards, main traffic arteries, schools and children's playgrounds.
- (3) The site shall not be exposed to smoke, foul odors, or dust from industrial plants.
- (4) The area of the site shall be sufficient to permit future expansion and to provide parking facilities.
- (5) Available paved roads, water, sewage and power lines shall be taken into consideration in selecting the site.

(d) The bed capacity and services provided in a facility shall be in compliance with G.S. 131E, Article 9 regarding Certificate of Need. A facility shall be licensed for no more beds than the number for which required physical space and other required facilities are available. Neonatal Level II, III and IV beds are considered part of the licensed bed capacity. Level I bassinets are not considered part of the licensed bed capacity however, no more bassinets shall be placed in service than the number for which required physical space and other required facilities are available.

*History Note: Authority G.S. 131E-79; Eff. January 1, 1996; Temporary Amendment Eff. March 15, 2002; Amended Eff. April 1, 2003.*

**10 NCAC 03C .4305 ORGANIZATION OF NEONATAL SERVICES**

(a) The governing body shall approve the scope of all neonatal services and the facility shall classify its capability in providing a range of neonatal services using the following criteria:

- (1) LEVEL I: Full-term and pre-term neonates that are stable without complications. This may include, small for gestational age or large for gestational age neonates.
- (2) LEVEL II: Neonates or infants that are stable without complications but require special care and frequent feedings; infants of any weight who no longer require Level III or LEVEL IV neonatal services, but who still require more nursing hours than normal infant. This may include infants who require close observation in a licensed acute care bed
- (3) LEVEL III: Neonates or infants that are high-risk, small (or approximately 32 and less than 36 completed weeks of gestational age) but otherwise healthy, or sick with a moderate degree of illness that are admitted from within the hospital or transferred from another facility requiring intermediate care services for sick infants, but not requiring intensive care. The beds in this level may serve as a "step-down" unit from Level IV. Level III neonates or infants require less constant nursing care, but care does not exclude respiratory support.

(4) LEVEL IV (Neonatal Intensive Care Services): High-risk, medically unstable or critically ill neonates approximately under 32 weeks of gestational age, or infants, requiring constant nursing care or supervision not limited to continuous cardiopulmonary or respiratory support, complicated surgical procedures, or other intensive supportive interventions.

- (b) The facility shall provide for the availability of equipment, supplies, and clinical support services.
- (c) The medical and nursing staff shall develop and approve policies and procedures for the provision of all neonatal services.

*History Note: Authority G.S. 131E-79; Eff. January 1, 1996; Temporary Amendment Eff. March 15, 2002; Amended Eff. April 1, 2003.*

**10 NCAC 03R .1413 DEFINITIONS**

The definitions in this Rule shall apply to all rules in this Section:

- (1) "Approved neonatal service" means a neonatal service that was not operational prior to the beginning of the review period.
- (2) "Existing neonatal service" means a neonatal service in operation prior to the beginning of the review period.
- (3) "High-risk obstetric patients" means those patients requiring specialized services provided by an acute care hospital to the mother and fetus during pregnancy, labor, delivery and to the mother after delivery. The services are characterized by specialized facilities and staff for the intensive care and management of high-risk maternal and fetal patients before, during, and after delivery.
- (4) "Level I neonatal services" means services provided by an acute care hospital to full term and pre-term neonates that are stable, without complications, and may include neonates that are small for gestational age or large for gestational age.
- (5) "Level II neonatal service" means services provided by an acute care hospital in a licensed acute care bed to neonates and infants that are stable without complications but require special care and frequent feedings; infants of any weight who no longer require Level III or Level IV neonatal services, but still require more nursing hours than normal infants; and infants who require close observation in a licensed acute care bed.
- (6) "Level III neonatal service" means services provided by an acute care hospital in a licensed acute care bed to neonates or infants that are high-risk, small (approximately 32 and less than 36 completed weeks of gestational age) but otherwise healthy, or sick with a moderate degree of illness that are admitted from within the hospital or transferred from

- another facility requiring intermediate care services for sick infants, but not intensive care. Level III neonates or infants require less constant nursing care than Level IV services, but care does not exclude respiratory support.
- (7) "Level IV neonatal service" means neonatal intensive care services provided by an acute care hospital in a licensed acute care bed to high-risk medically unstable or critically ill neonates (approximately under 32 weeks of gestational age) or infants requiring constant nursing care or supervision not limited to continuous cardiopulmonary or respiratory support, complicated surgical procedures, or other intensive supportive interventions.
- (8) "Neonatal bed" means a licensed acute care bed used to provide Level II, III or IV neonatal services.
- (9) "Neonatal intensive care services" shall have the same meaning as defined in G.S. 131E-176(15b).
- (10) "Neonatal service area" means a geographic area defined by the applicant from which the patients to be admitted to the service will originate.
- (11) "Neonatal services" means any of the Level I, Level II, Level III or Level IV services defined in this Rule.
- (12) "Obstetric services" means any normal or high-risk services provided by an acute care hospital to the mother and fetus during pregnancy, labor, delivery and to the mother after delivery.
- (13) "Perinatal services" means services provided during the period shortly before and after birth.

- (3) evidence of the applicant's experience in treating the following patients at the facility during the past twelve months, including:
- (A) the number of obstetrical patients treated at the acute care facility;
- (B) the number of neonatal patients treated in Level I nursery bassinets, Level II beds, Level III beds and Level IV beds, respectively;
- (C) the number of inpatient days at the facility provided to obstetrical patients;
- (D) the number of inpatient days provided in Level II beds, Level III beds and Level IV beds, respectively;
- (E) the number of high-risk obstetrical patients treated at the applicant's facility and the number of high-risk obstetrical patients referred from the applicant's facility to other facilities or programs; and
- (F) the number of neonatal patients referred to other facilities for services, identified by required level of neonatal service (i.e. Level II, Level III or Level IV);
- (4) the projected number of neonatal patients to be served identified by Level I, Level II, Level III and Level IV neonatal services for each of the first three years of operation following the completion of the project, including the methodology and assumptions used for the projections;
- (5) the projected number of patient days of care to be provided in Level I bassinets, Level II beds, Level III beds, and Level IV beds, respectively, for each of the first three years of operation following completion of the project, including the methodology and assumptions used for the projections;
- (6) if proposing to provide Level I or Level II neonatal services, documentation that at least 90 percent of the anticipated patient population is within 30 minutes driving time one-way from the facility;
- (7) if proposing to provide new Level I or Level II neonatal services, documentation of a written plan to transport infants to Level III or Level IV neonatal services as the infant's care requires;
- (8) evidence that the applicant shall have access to a transport service with at least the following components:
- (A) trained personnel;
- (B) transport incubator;
- (C) emergency resuscitation equipment;
- (D) oxygen supply, monitoring equipment and the means of administration;
- (E) portable cardiac and temperature monitors; and
- (F) a mechanical ventilator;

*History Note: Authority G.S. 131E-177(1); 131E-183; Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. January 4, 1994; Amended Eff. November 1, 1996; Temporary Amendment Eff. March 15, 2002; Amended Eff. April 1, 2003.*

**10 NCAC 03R .1414 INFORMATION REQUIRED OF APPLICANT**

- (a) An applicant proposing to develop a new Level I nursery or increase the number of Level II, III or IV neonatal beds shall use the Acute Care Facility/Medical Equipment application form.
- (b) An applicant proposing to develop a new Level I nursery service or to increase the number of Level II, III or IV neonatal beds shall provide the following additional information:
- (1) the current number of Level I nursery bassinets, Level II beds, Level III beds and Level IV beds operated by the applicant;
- (2) the proposed number of Level I nursery bassinets, Level II beds, Level III beds and Level IV beds to be operated following completion of the proposed project;

- (9) documentation that the proposed service shall be operated in an area organized as a physically and functionally distinct entity with controlled access;
- (10) documentation to show that the new or additional Level I, Level II, Level III or Level IV neonatal services shall be offered in a physical environment that conforms to the requirements of federal, state, and local regulatory bodies;
- (11) a detailed floor plan of the proposed area drawn to scale;
- (12) documentation of direct or indirect visual observation by unit staff of all patients from one or more vantage points; and
- (13) documentation that the floor space allocated to each bed and bassinet shall accommodate equipment and personnel to meet anticipated contingencies.

(c) If proposing to provide new Level III or Level IV neonatal services the applicant shall also provide the following information:

- (1) documentation that at least 90 percent of the anticipated patient population is within 90 minutes driving time one-way from the facility, with the exception that there shall be a variance from the 90 percent standard for facilities which demonstrate that they provide very specialized levels of neonatal care to a large and geographically diverse population, or facilities which demonstrate the availability of air ambulance services for neonatal patients;
- (2) evidence that existing and approved neonatal services in the applicant's defined neonatal service area are unable to accommodate the applicant's projected need for additional Level III and Level IV services;
- (3) an analysis of the proposal's impact on existing Level III and Level IV neonatal services which currently serve patients from the applicant's primary service area;
- (4) the availability of high risk OB services at the site of the applicant's planned neonatal service;
- (5) copies of written policies which provide for parental participation in the care of their infant, as the infant's condition permits, in order to facilitate family adjustment and continuity of care following discharge; and
- (6) copies of written policies and procedures regarding the scope and provision of care within the neonatal service, including but not limited to the following:
  - (A) the admission and discharge of patients;
  - (B) infection control;
  - (C) pertinent safety practices;
  - (D) the triaging of patients requiring consultations, including the transfer of patients to another facility; and
  - (E) the protocols for obtaining emergency physician care for a sick infant.

*History Note: Authority G.S. 131E-177(1); 131E-183; Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. January 4, 1994; Amended Eff. November 1, 1996; Temporary Amendment Eff. March 15, 2002; Amended Eff. April 1, 2003.*

**10 NCAC 03R .1415 REQUIRED PERFORMANCE STANDARDS**

(a) An applicant shall demonstrate that the proposed project is capable of meeting the following standards:

- (1) an applicant proposing new Level I or Level II services, or additional Level II beds shall demonstrate that the occupancy of the applicant's total number of neonatal beds is projected to be at least 50% during the first year of operation and at least 65% during the third year of operation following completion of the proposed project;
- (2) if an applicant proposes an increase in the number of the facility's existing Level III or Level IV beds, the overall average annual occupancy of the total number of existing Level III and Level IV beds in the facility is at least 75%, over the 12 months immediately preceding the submittal of the proposal;
- (3) if an applicant is proposing to develop new or additional Level III or Level IV beds, the projected occupancy of the total number of Level III and Level IV beds proposed to be operated during the third year of operation of the proposed project shall be at least 75%; and
- (4) The applicant shall document the assumptions and provide data supporting the methodology used for each projection in this rule.

(b) If an applicant proposes to develop a new Level III or Level IV service, the applicant shall document that an unmet need exists in the applicant's defined neonatal service area. The need for Level III and Level IV beds shall be computed for the applicant's neonatal service area by:

- (1) identifying the annual number of live births occurring at all hospitals within the proposed neonatal service area, using the latest available data compiled by the State Center for Health Statistics;
- (2) identifying the low birth weight rate (percent of live births below 2,500 grams) for the births identified in (1) of this Paragraph, using the latest available data compiled by the State Center for Health Statistics;
- (3) dividing the low birth weight rate identified in (2) of this Paragraph by .08 and subsequently multiplying the resulting quotient by four; and
- (4) determining the need for Level III and Level IV beds in the proposed neonatal service area as the product of:
  - (A) the product derived in (3) of this Paragraph, and

- (B) the quotient resulting from the division of the number of live births in the initial year of the determination identified in (1) of this Paragraph by the number 1000.

*History Note: Authority G.S. 131E-177(1); 131E-183(b); Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. January 4, 1994; Temporary Amendment Eff. March 15, 2002; Amended Eff. April 1, 2003.*

**10 NCAC 03R .1416 REQUIRED SUPPORT SERVICES**

(a) An applicant proposing to provide new Level I, Level II, Level III or Level IV services shall document that the following items shall be available, unless an item shall not be available, then documentation shall be provided obviating the need for that item:

- (1) competence to manage uncomplicated labor and delivery of normal term newborn;
- (2) capability for continuous fetal monitoring;
- (3) a continuing education program on resuscitation to enhance competence among all delivery room personnel in the immediate evaluation and resuscitation of the newborn and of the mother;
- (4) obstetric services;
- (5) anesthesia services;
- (6) capability of cesarean section within 30 minutes at any hour of the day; and
- (7) twenty-four hour on-call blood bank, radiology, and clinical laboratory services.

(b) An applicant proposing to provide new Level III Level IV services shall document that the following items shall be available, unless any item shall not be available, then documentation shall be provided obviating the need for that item:

- (1) competence to manage labor and delivery of premature newborns and newborns with complications;
- (2) twenty-four hour availability of microchemistry hematology and blood gases;
- (3) twenty-four hour coverage by respiratory therapy;
- (4) twenty-four hour radiology coverage with portable radiographic capability;
- (5) oxygen and air and suction capability;
- (6) electronic cardiovascular and respiration monitoring capability;
- (7) vital sign monitoring equipment which has an alarm system that is operative at all times;
- (8) capabilities for endotracheal intubation and mechanical ventilatory assistance;
- (9) cardio-respiratory arrest management plan;
- (10) isolation capabilities;
- (11) social services staff;
- (12) occupational or physical therapies with neonatal expertise; and

- (13) a registered dietician or nutritionist with training to meet the special needs of neonates.

(c) An applicant proposing to provide new Level IV services shall document that the following items shall be available, unless any item shall not be available, then documentation shall be provided obviating the need for that item:

- (1) pediatric surgery services;
- (2) ophthalmology services;
- (3) pediatric neurology services;
- (4) pediatric cardiology services;
- (5) on-site laboratory facilities;
- (6) computed tomography and pediatric cardiac catheterization services;
- (7) emergency diagnostic studies available 24 hours per day;
- (8) designated social services staff; and
- (9) serve as a resource center for the statewide perinatal network.

*History Note: Authority G.S. 131E-177(1); 131E-183(b); Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. January 4, 1994; Temporary Amendment Eff. March 15, 2002; Amended Eff. April 1, 2003.*

**10 NCAC 03R .1417 REQUIRED STAFFING AND STAFF TRAINING**

An applicant shall demonstrate that the following staffing requirements for hospital care of newborn infants shall be met:

- (1) If proposing to provide new Level I or II services the applicant shall provide documentation to demonstrate that:
  - (a) the nursing care shall be supervised by a registered nurse in charge of perinatal facilities;
  - (b) a physician is designated to be responsible for neonatal care; and
  - (c) the medical staff will provide physician coverage to meet the specific needs of patients on a 24 hour basis.
- (2) If proposing to provide new Level III services the applicant shall provide documentation to demonstrate that:
  - (a) the nursing care shall be supervised by a registered nurse;
  - (b) the service shall be staffed by a pediatrician certified by the American Board of Pediatrics; and
  - (c) the medical staff will provide physician coverage to meet the specific needs of patients on a 24 hour basis.
- (3) If proposing to provide new Level IV services the applicant shall provide documentation to demonstrate that:
  - (a) the nursing care shall be supervised by a registered nurse with educational



- (b) preparation and advanced skills for maternal-fetal and neonatal services; the service shall be staffed by a full-time board certified pediatrician with certification in neonatal medicine; and
- (c) the medical staff will provide physician coverage to meet the specific needs of patients on a 24 hour basis.
- (4) All applicants shall submit documentation which demonstrates the availability of appropriate inservice training or continuing education programs for neonatal staff.
- (5) All applicants shall submit documentation which demonstrates the proficiency and ability of the nursing staff in teaching parents how to care for neonatal patients following discharge to home.
- (6) All applicants shall submit documentation to show that the proposed neonatal services will be provided in conformance with the requirements of federal, state and local regulatory bodies.

*History Note: Authority G.S. 131E-177(1); 131E-183(b); Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. January 4, 1994; Temporary Amendment Eff. March 15, 2002; Amended Eff. April 1, 2003.*

**10 NCAC 03R .3301 DEFINITIONS**

The following definitions shall apply to all rules in this Section:

- (1) "Air ambulance" as defined in G.S. 131E-176(1a).
- (2) "Air ambulance service" means an entity engaged in the operation of an air ambulance transporting patients.
- (3) "Air ambulance service area" means a geographic area defined by the applicant from which the project's patients originate.
- (4) "Approved air ambulance" means either a rotary air ambulance or a fixed wing air ambulance that was not operational prior to the beginning of the review period but which had been acquired prior to March 18, 1993 in accordance with 1993 N.C. Sess. Laws c. 7, s. 12.
- (5) "Capacity of fixed wing air ambulance" means the maximum number of hours the aircraft can be operated as defined by the aircraft manufacturer.
- (6) "Existing air ambulance" means either a rotary air ambulance or a fixed wing air ambulance in operation prior to the beginning of the review period.
- (7) "Inter-facility patient transport" means the transport of a patient from one facility to another facility.

- (8) "Level 2 trauma center" as defined in North Carolina's Trauma Center Criteria developed by the OEMS pursuant to 10 NCAC 03D .3201(16).
- (9) "Patient" as defined in G.S. 131E-155(16).
- (10) "Scene transport" means the transport of a patient from the scene of a medical emergency.

*History Note: Authority G.S. 131E-177(1); 131E-183(b); Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. February 1, 1994; Temporary Amendment Eff. May 15, 2002; Amended Eff. April 1, 2003.*

**10 NCAC 03R .3302 INFORMATION REQUIRED OF APPLICANT**

- (a) An applicant proposing to acquire an air ambulance shall use the Acute Care Facility/Medical Equipment Application Form.
- (b) The applicant shall also provide the following additional information:
  - (1) the number of air ambulance aircraft by type and make currently operated and to be operated in the "air ambulance" service area following completion of the proposed project;
  - (2) if the applicant is a current air ambulance service provider, documentation of the applicant's experience in transporting patients via air ambulance during the past 12 months, including:
    - (A) the number of scene transports by air ambulance by type of air ambulance (i.e., fixed wing and rotary wing); and
    - (B) the number of inter-facility patient transports by air ambulance by type of air ambulance (i.e., fixed wing and rotary wing);
  - (3) if the applicant is a health service facility proposing to establish a new air ambulance service, the applicant shall provide documentation of:
    - (A) the number of scene transports to their facility by air ambulance by type of air ambulance (i.e., fixed wing and rotary wing) during the past 12 months; and
    - (B) the number of inter-facility patient transports during the past 12 months by air ambulance by type of air ambulance (i.e., fixed wing and rotary wing) to their facility from other facilities and from their facility to other facilities;
  - (4) the number of patients from the proposed air ambulance service area that are projected to require air ambulance service by type of aircraft and the patients' county of residence and county from which transported in each of the first 12 calendar quarters of operation

- following completion of the project, including the methodology and assumptions used for the projections;
- (5) the projected utilization of the air ambulance service per aircraft for each of the first 12 calendar quarters following completion of the proposed project by type of patient (e.g., neonatal, pediatric, cardiac), including the methodology and assumptions used for these projections;
- (6) documentation which demonstrates that existing air ambulance services in the State are unable to accommodate the applicant's projected need for an additional air ambulance;
- (7) as appropriate to the type of aircraft proposed, documentation of referral sources for air ambulance patients and evidence of the willingness of hospitals to participate;
- (8) documentation which demonstrates the applicant's capability to communicate with and access emergency transportation resources including, but not limited to ground mobile intensive care ambulance services;
- (9) evidence of the applicant's capability to provide air ambulance services on a 24 hour per day, seven day per week basis except as precluded by weather, maintenance and other factors as applicable;
- (10) documentation of in service training or continuing education programs for staff;
- (11) documentation of written policies and procedures for the operation of the air ambulance service, which shall be in effect at the time the proposed air ambulance becomes operational, for at least the following:
- (A) alternative arrangements for transport of a patient when patient transport cannot be provided by the applicant; e.g. a current Mutual Aid Agreement with one or more permitted air ambulance services;
- (B) written criteria for patient transport;
- (C) medical crew contact with medical control;
- (D) operation of an audit and review panel;
- (E) patient treatment protocols;
- (F) patient transfer protocols;
- (G) communication, including incoming calls, dispatch, and on-going communication with air ambulance flight and medical crew and other emergency medical service providers;
- (H) role in disaster plans;
- (I) coordination with local emergency medical service systems in the proposed air ambulance service area or other providers as appropriate given the type of aircraft and service proposed;
- (12) if the applicant is an existing air ambulance service provider, copies of the following, as applicable:
- (A) the current permit(s) issued by the OEMS and evidence that the permit(s) has not been denied or revoked,
- (B) the current FAA Part 135 or Part 91 Certificate, and
- (C) the current FCC radio license;
- (13) if an applicant does not currently operate an air ambulance, evidence that the OEMS, FCC and FAA are aware of the proposed air ambulance and that the applicant expects to be able to obtain all required permits, licenses or certifications;
- (14) documentation of the aircraft selection analysis used by the applicant and reason for selection of the aircraft proposed;
- (15) documentation of a financial analysis of a lease versus purchase option for acquisition of the proposed aircraft and the method (e.g., hire own versus contract) of providing personnel to fly the aircraft and the reason for selection of the option proposed; and
- (16) if the applicant proposes the acquisition of a fixed wing air ambulance, documentation of the capacity of each existing fixed wing air ambulance based in the state.

*History Note: Authority G.S. 131E-177(1); 131E-183(b); Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. February 1, 1994; Temporary Amendment Eff. May 15, 2002; Amended Eff. April 1, 2003.*

**10 NCAC 03U .1721 REQUIREMENTS FOR RECORDS**

- (a) The operator shall maintain the following health records for each child who attends on a regular basis, including his or her own preschool child(ren):
- (1) a copy of the child's health assessment as required by G.S. 110-91(1);
- (2) a copy of the child's immunization record;
- (3) a health and emergency information form provided by the Division that is completed and signed by a child's parent. The completed form shall be on file the first day the child attends. An operator may use another form other than the one provided by the Division, as long as the form includes the following information:
- (A) the child's name, address, and date of birth;
- (B) the names of individuals to whom the child may be released;
- (C) the general status of the child's health;
- (D) any allergies or restrictions on the child's participation in activities with

- (E) specific instructions from the child's parent or physician;
  - (F) the names and phone numbers of persons to be contacted in an emergency situation;
  - (G) the name and phone number of the child's physician and preferred hospital; and
  - (4) authorization for the operator to seek emergency medical care in the parent's absence;
  - (4) when medication is administered, authorization for the operator to administer the specific medication according to the parent's or physician's instructions.
- (b) The operator shall complete and maintain other records which shall include:
- (1) documentation for the operator's procedures in emergency situations, on a form which shall be provided by the Division;
  - (2) documentation that monthly fire drills are practiced. The documentation shall include the date each drill is held, the time of day, the length of time taken to evacuate the home, and the operator's signature;
  - (3) incident reports that are completed each time a child receives medical treatment by a physician, nurse, physician's assistant, nurse practitioner, community clinic, or local health department, as a result of an incident occurring while the child is in the family child care home. Each incident shall be reported on a form provided by the Division, signed by the operator and the parent, and maintained in the child's file. A copy shall be mailed to a representative of the Division within seven calendar days after the incident occurs;
  - (4) an incident log which is filled out any time an incident report is completed. This log shall be cumulative and maintained in a separate file and shall be available for review by a representative of the Division. This log shall be completed on a form supplied by the Division;
  - (5) documentation that a monthly check for hazards on the outdoor play area is completed. This form shall be supplied by the Division and shall be maintained in the family child care home for review by a representative of the Division; and
  - (6) Accurate daily attendance records for all children in care, including the operator's own preschool children. The attendance record shall indicate the date and time of arrival and departure for each child.
- (c) Written records shall be available for review, upon request, by a representative of the Division and shall be maintained as follows:
- (1) Records required in Paragraph (b)(2) – (b)(6) of this Rule shall be maintained for a minimum of three years, or during the length

- (2) of time the program has operated, whichever is less.
- (2) Children's records shall be maintained while the child is enrolled, and for a minimum of three years after the child is no longer enrolled.
- (3) All other records shall be maintained for as long as the license to which they pertain remains valid.

*History Note: Authority G.S. 110-88; 110-91(1),(9); Eff. July 1, 1998; Amended Eff. April 1, 2003; April 1, 2001.*

**10 NCAC 03U .1722 DISCIPLINE POLICY**

- (a) The operator shall provide a written copy of and explain the operator's discipline practices to a parent of each child at the time of enrollment. A parent must sign and date a statement which attests that a copy of the discipline policy was given to, and discussed with them. If an operator changes discipline practices, the parent must sign and date a statement acknowledging that they received written notice of and discussed the new policy at least 30 days prior to the implementation of the new policy. The signed statement shall be kept on file in the home available for review.
- (b) No child shall be subjected to any form of corporal punishment by the family child care home operator, substitute caregiver, or any other person in the home, whether or not these persons reside in the home.
- (c) No child shall be handled roughly in any way, including shaking, pushing, shoving, pinching, slapping, biting, kicking, or spanking.
- (d) No child shall ever be placed in a locked room, closet, or box, or be left alone in a room separated from staff.
- (e) No discipline shall ever be delegated to another child.
- (f) Discipline shall in no way be related to food, rest or toileting:
- (1) No food shall be withheld, or given, as a means of discipline.
  - (2) No child shall ever be disciplined for lapses in toilet training.
  - (3) No child shall ever be disciplined for not sleeping during rest period.
- (g) No child shall be disciplined by assigning chores that require contact with or use of hazardous materials, such as cleaning bathrooms or floors, or emptying diaper pails.
- (h) Discipline shall be age and developmentally appropriate.

*History Note: Authority G.S. 110-91(10); Eff. July 1, 1998; Amended Eff. April 1, 2003; April 1, 2001.*

**10 NCAC 03U .1723 TRANSPORTATION REQUIREMENTS**

- To assure the safety of children whenever they are transported, the operator, or any other transportation provider, shall:
- (1) have written permission from a parent to transport his or her child and notify the parent when and where the child is to be transported, and who the transportation provider will be.

- (2) ensure that all children regardless of age or location in the vehicle shall be restrained by individual seat belts or child restraint devices. Only one person shall occupy each seat belt or child restraint device.
- (3) be at least 18 years old, and have a valid driver's license of the type required under the North Carolina Motor Vehicle Law for the vehicle being driven, or comparable license from the state in which the driver resides, and no convictions of Driving While Impaired (DWI), or any other impaired driving offense, within the last three years.
- (4) ensure that each child is seated in a manufacturer's designated area.
- (5) ensure that a child shall not occupy the front seat if the vehicle has an operational passenger side airbag.
- (6) never leave children in a vehicle unattended by an adult.
- (7) have emergency and identification information about each child in the vehicle whenever children are being transported.

*History Note: Authority G.S. 110-91; G.S. 110-91(13); Eff. July 1, 1998; Amended Eff. April 1, 2003.*

**10 NCAC 03U .2402 DEFINITIONS**

- (a) "Child care for mildly ill children" is defined as the care of children with short term illness, or symptoms of illness, or short term disability as indicated in Rule .2404 of this Section, who are not able to attend their regular school or child care arrangement due to inability to participate in regular activities.
- (b) "Health care professional" is defined as:
  - (1) a licensed physician;
  - (2) the physician's authorized agent who is currently approved by the North Carolina Medical Board, or comparable certifying board in any state contiguous to North Carolina;
  - (3) a certified nurse practitioner;
  - (4) a nurse rostered with the Office of Public Health Nursing and Professional Development as required by the Division of Medical Assistance;
  - (5) a registered nurse (RN); or
  - (6) a certified physician assistant.
- (c) "Short term care" is defined as attending for no more than three consecutive days, or for more than three consecutive days with written permission from a physician which was obtained prior to the fourth consecutive day of attendance.

*History Note: Authority G.S. 110-88(11); 143B-168.3; Eff. April 1, 2003.*

**10 NCAC 03U .2403 SPECIAL PROVISIONS FOR LICENSURE**

- (a) A center that enrolls mildly ill children as a component of a child care center shall have approval for short term care for mildly ill children indicated on their license. A copy of the

license shall be posted in the area used by mildly ill children so that it is easily seen by the public.

- (b) A center that enrolls mildly ill children as a component of a child care center may admit mildly ill children only who regularly attend the center.

(c) A child care center operated as a separate stand alone program shall be issued a license restricting services to short term care for mildly ill children.

(d) Any center that enrolls mildly ill children shall develop written policies that contain the following:

- (1) Admission requirements;
- (2) Inclusion/Exclusion criteria;
- (3) Preadmission health assessment procedures; and
- (4) Plans for staff training and communication with parents and health care professionals.

These policies shall be reviewed by a child care health consultant or other health care professional prior to licensure.

*History Note: Authority G.S. 110-88(11); 143B-168.3; Eff. April 1, 2003.*

**10 NCAC 03U .2405 ADMISSION REQUIREMENTS**

(a) Written permission from a parent is required for admission of a mildly ill child. If a child is assessed to need care because he or she is mildly ill, permission may be given by telephone and documented if a child is to be moved from the well child component of the center to the mildly ill area, as long as written permission is received prior to the second day of attendance.

(b) Each parent shall sign a statement which attests that a copy of the policies described in Rule .2403(d) of this Section were given to and discussed with him or her prior to a mildly ill child's attendance.

(c) The onsite administrator or health care professional shall have the authority to require a written medical evaluation for a child to include diagnosis, treatment and prognosis, if such evaluation is necessary to determine the appropriateness of a child's attendance prior to admission or upon worsening of the child's symptoms.

(d) A parent must remain on the premises until the preadmission health assessment and individualized plan of care has been completed by center staff who have completed the training described in Rule .2408(a)(3), and the child has been approved for attendance.

(e) No child shall be admitted unless staff who meet the qualifications in Rule .2408 of this Section are on site and available to provide care.

*History Note: Authority G.S. 110-88(11); 143B-168.3; Eff. April 1, 2003.*

**10 NCAC 03U .2406 STAFF/CHILD RATIOS**

The staff/child ratio and group size shall be determined based on the age of the youngest child in the group and shall be as follows:

Age of Child	No. of Children	No. of Staff	Max. Group Size	No. of Staff
3 Mos to 2 Years	3	1	6	2

2 to 5 Years	4	1	8	2
5 Years and older	5	1	10	2

*History Note: Authority G.S. 110-88(11); 143B-168.3; Eff. April 1, 2003.*

**10 NCAC 03U .2407 SPACE REQUIREMENTS**

(a) There shall be at least 45 square feet of inside space per child present at any one time. When space is measured the following will not be included: closets, hallways, storage areas, kitchens, bathrooms, utility areas, thresholds, foyers, space or rooms used for administrative activities or space occupied by adult-sized desks, cabinets, file cabinets, etc.; any floor space occupied by or located under equipment, furniture, or materials not used by children; and any floor space occupied by or located under built-in equipment or furniture.

(b) A center that enrolls mildly ill children as a component of a child care center shall:

- (1) ensure that if the outdoor play area is shared by both components, well and mildly ill children do not use the area at the same time; and
- (2) ensure that the indoor area used by the mildly ill children shall be physically separate, including a separate interior or exterior entrance.

(c) An outdoor play area is not required for children who are mildly ill. If a child is in care for more than three consecutive days, however, he or she must have the opportunity to go outside for appropriate play or leisure activities.

*History Note: Authority G.S. 110-88(11); 143B-168.3; Eff. April 1, 2003.*

**10 NCAC 03U .2408 STAFF QUALIFICATIONS**

(a) All staff working with the mildly ill children shall complete all requirements in this Subchapter pertaining to preservice training, inservice training and staff records. In addition, the requirements for staff who care for children with Level One symptoms as described in Rule .2404, Paragraphs (a)(1)(A) and (B) of this Section shall be as follows:

- (1) Each group of children shall have a lead teacher present who has the North Carolina Early Childhood Credential or its equivalent prior to assuming care giving responsibilities.
- (2) Each group of children shall have a staff person present who meets the requirements in 10 NCAC 03U .0705, Paragraphs (a), (b), and (d). This may or may not be the same individual referenced in Subparagraph (a)(1) of this Rule.
- (3) In addition to staff orientation requirements in Section .0700, prior to assuming care giving duties all caregivers must complete 10 hours of training and demonstrate competency on how to perform the following:
  - (A) storage and administration of medication;
  - (B) infection control procedures;
  - (C) aspiration of nasal secretions;

- (D) positioning for sleeping and eating;
  - (E) temperature and respiratory rate taking;
  - (F) documentation of signs, symptoms, physical appearance, intake and output, communication with family and physicians;
  - (G) recognizing when to temporarily stop, increase, or decrease oral intake;
  - (H) recognizing signs and symptoms associated with the increased severity of illness including behavioral changes, changes in bowel movements, increased sluggishness, etc.;
  - (I) developing individualized plans of care;
  - (J) special dietary requirements and maintaining hydration; and
  - (K) emergency procedures, including notification of a parent, should a child's condition worsen.
- (4) Any caregiver caring for a child whose illness requires special knowledge, skills or equipment shall have appropriate training and equipment when applicable prior to caring for the child.
  - (5) Completion of the above training may count toward meeting one year's annual on-going training requirements in Section .0700 of this Subchapter.
  - (6) When a center enrolls mildly ill children as a component of a child care center, the administrator shall meet the education requirements for administrators as required by G.S. 110-91(8).
  - (7) In a center exclusively enrolling mildly ill children, the administrator shall have a North Carolina Early Childhood Administration Credential or equivalent prior to assuming administrative duties.

(b) In addition to the staffing requirements listed in Subparagraphs (a)(1)-(5) of this Rule, if children with Level Two symptoms as described in Parts (a)(2)(A) – (a)(2)(E) of Rule .2404 of this Section are in care, the following number of medical staff shall be on site based upon the total number of children in care.

<u>No. of Children</u>	<u>Type of Medical Staff</u>
1 to 10	At least an RN, or a LPN with a health care professional in the immediate vicinity
10 to 20	At least an RN
20 to 40	At least an RN and an additional LPN

Each medical staff shall have at least one year of full-time pediatric nursing experience, and may count in staff/child ratio. Medical staff may also act as lead teachers if they have the North Carolina Early Childhood Credential or equivalent.

*History Note: Authority G.S. 110-88(11); 143B-168.3; Eff. April 1, 2003.*

**10 NCAC 03U .2410 CHILDREN'S ACTIVITIES**

(a) Daily activities shall be provided in accordance with Section .0500 of these Rules and in accordance with each child's individualized plan of care. Activity areas are not required, but developmentally appropriate equipment and materials must be available daily for children in care.

(b) Eating, toileting, sleeping, resting, and playing shall be individually determined and flexible to allow each child to decide when and whether to participate in available activities, and to nap or rest at any time.

(c) Daily outdoor time shall be available for children with Level One symptoms who are present more than three consecutive days unless deemed inappropriate by the child's attending health care professional.

*History Note: Authority G.S. 110-88(11); 143B-168.3; Eff. April 1, 2003.*

**10 NCAC 03U .2411 NUTRITION REQUIREMENTS**

Meals and snacks shall be provided in accordance with Section .0900 of this Subchapter unless a child's individualized plan of care specifies otherwise.

*History Note: Authority G.S. 110-88(11); 143B-168.3; Eff. April 1, 2003.*

**10 NCAC 03U .2704 CRIMINAL RECORD CHECK REQUIREMENTS FOR NONLICENSED HOME PROVIDERS**

(a) The nonlicensed home provider and household member over age 15 shall submit the following to the local purchasing agency:

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

(b) New nonlicensed home providers and any household member over the age of 15 shall submit this information no later than five working days after applying for enrollment as a nonlicensed home provider of subsidized child care. If more than 12 months have elapsed since the criminal records check has been completed and subsidy funds were not received, then a new criminal record check must be submitted by the nonlicensed home provider and any household member over the age of 15.

(c) Any individual over the age of 15 who becomes a household member of a nonlicensed home provider shall submit all criminal records check forms as required in 10 NCAC 03U .2704, Subparagraphs (a)(1) – (a)(4) within ten business days of joining the household.

(d) If the nonlicensed home provider or household member has been convicted of a crime, including, but not limited to, those specified in G.S. 110-90.2, the nonlicensed home provider shall acknowledge on the statement that he or she is aware that payment is conditional pending approval by the Division. If the nonlicensed home provider has lived in North Carolina for less than five consecutive years immediately preceding the date the

fingerprint card is completed, a second fingerprint card shall be submitted in order to complete a national check.

(e) If the nonlicensed home provider or household member has been convicted of a crime, including, but not limited to, those specified in G.S. 110-90.2, he or she may submit to the Division additional information concerning the conviction that could be used by the Division in making the determination of the provider's qualification. The Division may consider the following in making a decision: length of time since conviction; nature of the crime; circumstances surrounding the commission of the offense or offenses; evidence of rehabilitation; number of prior offenses; and age of the individual at the time of occurrence.

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

(g) A nonlicensed home provider may receive payment during the period in which the state or national criminal history check is being completed if the applicant would otherwise receive approval or temporary approval from the local purchasing agency for enrollment in the subsidized child day care program, subject to the provisions referenced in 10 NCAC 46G .0111(b), 10 NCAC 46G .0214, and 10 NCAC 46G .0215.

(h) The Division shall notify the nonlicensed home provider in writing of the determination by the Division of the individual's fitness to have responsibility for the safety and well-being of children based on the criminal history. The Division shall notify the local purchasing agency in writing of the Division's determination concerning the nonlicensed home provider; however, the local purchasing agency shall not be told the specific information used in making the determination.

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

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

*History Note: Authority G.S. 110-90.2; 114-19.5; 143B-168.3; S.L. 1995, c. 507, s. 23.25; Temporary Adoption Eff. January 1, 1996; Eff. April 1, 1997; Amended Eff. April 1, 2003.*

**10 NCAC 41I .0304 RECEIVING INFORMATION: INITIATING PROMPT INVESTIGATIONS OF REPORTS**

(a) The county director shall receive and initiate an investigation on all reports of suspected child abuse, neglect, or dependency, including anonymous reports.

(b) The county director shall to the extent possible obtain the following information from the person making the report:

- (1) The name, address, and actual or approximate age of the juvenile(s);
- (2) The names and ages of other juveniles residing in the home;
- (3) The name and address of the juvenile's parent, guardian, or caretaker;
- (4) The name and address of the alleged perpetrator;
- (5) The present whereabouts of the juvenile(s) if not at the home address;
- (6) The nature and extent of any injury or condition resulting from abuse, neglect, or dependency;
- (7) Other information that the reporter has which might be helpful in establishing the need for protective services, including the names, addresses, and telephone numbers of other individuals who may have information about the condition of the juvenile(s); and
- (8) The name, address, and telephone number of the person making the report.

(c) When a county director receives a report of suspected abuse or of criminal maltreatment of a juvenile by a person other than the juvenile's parent, guardian, custodian, or caretaker, the director shall notify the appropriate law enforcement agency in accordance with G.S. 7B-307. The county director shall provide the law enforcement agency with any information obtained from the person making the report as outlined in Subparagraphs (b)(1) through (b)(7) of this Rule. The name, address, and telephone number of the individual making the report, included as Subparagraph (b)(8) of this Rule, may be shared with law enforcement when this information is necessary for law enforcement to perform their duties as related to the report.

(d) The county director shall initiate an investigation of suspected abuse, within 24 hours after receiving a report. The county director shall initiate an investigation of suspected neglect or dependency within 72 hours after receiving a report, except that investigations of all accepted reports of child abandonment shall be initiated immediately. Initiation of an investigation is defined as having face-to-face contact with the alleged victim child or children. If there is not such face-to-face contact within the prescribed time period, the case record shall contain documentation to explain why such contact was not made and what other steps were taken to assess the risk of harm to the child or children.

(e) When the director is unable to initiate the investigation within the prescribed time period, as indicated in Paragraph (d) of this Rule, because the alleged victim child or children cannot be located, the director shall make diligent efforts to locate the alleged victim child or children until such efforts are successful or until the director concludes that the child or children cannot be located. Diligent efforts shall include, but not be limited to, visits to the child's or children's address at different times of the day and on different days. All efforts to locate the child or children shall be documented in the case record.

(f) When abuse, neglect, or dependency is alleged to have occurred in an institution, in addition to the procedures described in Paragraphs (a) through (e) of this Rule, the county director shall notify the individual who is administratively responsible

for on-site operation of the institution in order to solicit the cooperation of the administration of the institution. Notification shall occur within the time frames required in Paragraph (d) of this Rule, and prior to contact with the alleged victim juvenile(s) if the director determines that such notice would not place the alleged victim(s) at risk of further harm.

(g) The county director must have an internal two level review, including at a minimum the worker and the worker's supervisor, prior to making a decision that information received does not constitute a report of abuse, neglect, or dependency.

(h) The county director must establish a process by which the person providing this information may obtain a review of the agency's decision not to accept the information as a report of abuse, neglect, or dependency. The process shall include:

- (1) informing the person providing the information that the agency will not conduct an investigation, the basis for that decision, and their right to and the procedures for obtaining such a review; and
- (2) designating the persons by whom and the manner in which such reviews will be conducted.

*History Note: Authority G.S. 7B-301; 7B-302; 7B-306; 7B-307; 143B-153;*

*Eff. January 1, 1980;*

*Temporary Amendment Eff. July 10, 1991, For a Period of 180 Days to Expire on January 5, 1992;*

*Amended Eff. April 1, 2003; September 1, 1994; July 1, 1993; June 1, 1992; December 1, 1991.*

**10 NCAC 411.0305 CONDUCTING AN INVESTIGATION**

(a) The county director shall make an investigation to assess:

- (1) whether the specific environment in which the child or children is found meets the child's or children's need for care and protection; and
- (2) facts regarding the existence of abuse, neglect, or dependency; and
- (3) the nature and extent of any injury or condition resulting from abuse, neglect, or dependency; and
- (4) the risk of harm to and need for protection of the child or children.

(b) When the county director receives a report of suspected abuse, neglect, or dependency, the county director shall check the county agency's records and the North Carolina Central Registry of child abuse, neglect, and dependency reports to ascertain if any previous reports of abuse, neglect, or dependency have been made concerning the alleged victim child or children. Central Registry checks are not necessary when the agency has conducted such a check within the previous 60 days or when the agency is providing continuous child protective services to the family.

(c) Face-to-face interviews with all alleged victim children shall be conducted within statutory time frames, unless there is documentation in the case record to explain why such contact was not made.

(d) There shall be a face-to-face interview with any parent or caretaker with whom the victim child or children reside, unless there is documentation in the case record to explain why such an interview was not conducted. The parent or caretaker shall be

interviewed on the same day as the victim child or children unless there is documentation in the case record to explain why such interviews were not conducted.

(e) The investigation shall include a visit to the place where the child or children reside.

(f) There shall be a face-to-face interview with the alleged perpetrator or perpetrators unless there is documentation to explain why such an interview was not conducted.

(g) Any persons identified at the time the report was accepted for investigation as having information concerning the condition of the child or children shall be interviewed in order to obtain any information relevant to the investigation unless there is documentation in the case record to explain why such interviews were not conducted.

(h) The county director shall implement a structured decision making process that includes the following assessments:

- (1) assessment of the immediate safety of the child or children;
- (2) assessment of the future risk of harm to the child or children;
- (3) assessment of the family's strengths and needs;
- (4) documentation of an assessment of all of the information obtained during the investigation;
- (5) documentation of a safety response plan; and
- (6) documentation of the case decision.

(i) When additional information is necessary to complete an investigation, information from the following sources shall be obtained and utilized:

- (1) Professionals or staff at an out-of-home care setting having relevant knowledge pertaining to the alleged abuse, neglect, or dependency;
- (2) Other persons living in the household or attending or residing in the out-of-home care setting;
- (3) Any other source having relevant knowledge pertaining to the alleged abuse, neglect, or dependency; and
- (4) Records; i.e., school, medical, mental health, or incident reports in an out-of-home care setting.

(j) The county director shall exercise discretion in the selection of collateral sources in order to protect the family's or out-of-home care setting's right to privacy and the confidentiality of the report.

(k) Conducting an investigation as outlined in Paragraph (a) of this Rule when the alleged abuse, neglect, or dependency occurred in an institution shall include the following:

- (1) A discussion of the allegation with the individual who has on-site administrative responsibility for the institution;
- (2) A discussion of the procedure to be followed during the investigation;
- (3) The utilization of resources within and without the institution as needed and appropriate; and
- (4) A discussion of the findings with the Administrator of the institution which shall be confirmed in writing by the county director and shall be held confidential by all parties as outlined in 10 NCAC 41I .0313, of this Subchapter.

*History Note: Authority G.S. 7A-544; 143B-153;*

*Eff. January 1, 1980;*

*Amended Eff. April 1, 2003; February 1, 1995; September 1, 1994; July 1, 1993.*

**10 NCAC 41I .0306 WHEN ABUSE, NEGLECT OR DEPENDENCY IS FOUND**

(a) When an investigation reveals the presence of abuse, neglect, or dependency, the county director shall notify the following persons or agencies of the case finding:

- (1) any parent or caretaker who was alleged to have abused or neglected the child or children;
- (2) any parent or other individual with whom the child or children resided at the time the county director initiated the investigation; and
- (3) any agency with whom the court has vested legal custody.

Notification shall be in writing, and within five working days of the case decision. If the county director is unable to contact a parent, caretaker, or perpetrator, documentation of reasonable efforts to locate that person must be included in the case record.

(b) The county director shall complete structured decision making assessments of every family in which an investigation of abuse, neglect or dependency is conducted. The assessment findings shall be used to evaluate the need for services and to develop a case plan.

(c) In all cases in which abuse, neglect, or dependency is found, the county director shall determine whether protective services are needed and, if so, shall develop, implement, and oversee an intervention plan to ensure that there is adequate care for the victim child or children. The case plan shall:

- (1) be based on the findings of the structured decision making assessments;
- (2) contain goals representing the desired outcome toward which all case activities shall be directed; and
- (3) contain objectives that:
  - (A) describe specific desired outcomes,
  - (B) are measurable,
  - (C) identify necessary behavior changes,
  - (D) are based on an assessment of the specific needs of the child or children and family,
  - (E) are time-limited, and
  - (F) are mutually accepted by the county director and the client;
- (4) specify all the activities needed to achieve each stated objective;
- (5) have stated consequences that will result from either successfully following the plan or not meeting the goals and objectives specified in the plan; and
- (6) shall include petitioning for the removal of the child or children from the home and placing the child or children in appropriate care when protection cannot be initiated or continued in the child's or children's own home.

(d) When an investigation leads a county director to find evidence that a child may have been abused or may have been physically harmed in violation of a criminal statute by a person other than the child's parent, guardian, custodian, or caretaker,



the county director shall follow all procedures outlined in GS. 7- 7B-307 in making reports to the prosecutor and appropriate law enforcement agencies. The report shall include:

- (1) the name and address of the child, of the parents or caretakers with whom the child lives, and of the alleged perpetrator;
- (2) whether the abuse was physical, sexual or emotional;
- (3) the dates that the investigation was initiated and that the evidence of abuse was found;
- (4) whether law enforcement has been notified and the date of the notification;
- (5) what evidence of abuse was found;
- (6) what plan to protect the child has been developed and what is being done to implement it.

(e) When an investigation reveals the presence of abuse, neglect, or dependency in an institution, the county director shall complete the following steps:

- (1) the child's or children's legal custodian shall be informed;
- (2) an intervention plan for the care and protection of the child or children shall be developed in cooperation with the institution and the legal custodian; and
- (3) when abuse is found, a written report shall be made to the prosecutor in the county where the institution is located.

*History Note: Authority G.S. 7A-544; 7A-548; 7B-302; 7B-307; 143B-153; Eff. January 1, 1980; Amended Eff. April 1, 2003; February 1, 1995; September 1, 1994; July 1, 1993; June 1, 1990.*

**10 NCAC 41I .0311 REVIEW OF COURT ORDERED PLACEMENTS**

(a) In cases where the court removes custody of a child from a parent or caregiver because of dependency, neglect or abuse and places the child in the custody of the Department of Social Services, the county director shall not return the child to his parents or caregivers without the judge finding sufficient facts to show that the child will receive proper care and supervision.

(b) In any case where custody is removed from a parent, guardian, custodian, or caretaker the court shall conduct a review hearing within 90 days from the date of the dispositional hearing and shall conduct a review hearing within six months thereafter.

(c) The county director of social services shall make a timely request to the clerk to calendar each review at a session of court scheduled for the hearing of juvenile matters. The clerk shall give 15 days' notice of the review and its purpose to the parent, the juvenile, if 12 years of age or more, the guardian, any foster parent, relative, or preadoptive parent providing care for the child, the custodian or agency with custody, the guardian ad litem, and any other person or agency the court may specify, indicating the court's impending review.

(d) the county director shall submit a written report to the judge that shall include but not be limited to:

- (1) The services plan developed with the family to preserve the child's own home or to reunite the parents and children;

- (2) The specific changes on the part of the parents and children;
- (3) Whether the child can remain at home or be returned home, and the plan to be used when the child returns home;
- (4) If the child cannot return home, the plan to be used to establish the permanent living arrangement for the child, including projected time frames and any considerations of termination of parental rights;
- (5) Goals and objectives for the child's continuation in foster care if indicated and the role of foster parents in planning for the child;
- (6) A summary of the child's specific experiences in placement, both positive and negative, including the different placements the child has had since the last court hearing; and
- (7) Any other information the court deems necessary.

*History Note: Authority G.S. 7B 906; 143B-153; Eff. January 1, 1980; Amended Eff. April 1, 2003; June 1, 1990.*

**10 NCAC 41I .0312 CASE RECORDS FOR PROTECTIVE SERVICES**

(a) The county director shall maintain a separate case record or a separate section in a case record on a child for whom protective services are initiated or who is placed in the custody of the county department of social services by the court. The case record documentation shall be kept confidential.

(b) The protective services case record shall document the investigation. In addition, when applicable, the protective services case record shall include, but not be limited to:

- (1) Summary documentation of the results of the check of the Central Registry of abused, neglected, and dependent children whenever a report is accepted for investigation unless the agency has conducted such a check in the 60 days prior to the new report, or the agency is providing ongoing childrens' services to the family.
- (2) Copies of all comprehensive family assessments, including safety assessments, risk assessments, assessments of family strengths and needs, re-assessments of family strengths and needs and assessments of the child's and family's progress or lack of progress in completing the items documented in the Family Services Case Plan.
- (3) Documentation of any safety response plan that was developed to ensure the child's safety during the course of the investigation.
- (4) Documentation of the case decision, the basis for the case decision, and the names of those participating in the decision.
- (5) Documentation of notifications to parents, caretakers, the alleged perpetrator, or others specified in Rules .0306 and .0308 of this Section regarding the case decision.

- (6) Documentation of contacts with and services provided to the family, current within seven days of service delivery. Documentation may be taped for transcription, typed or legibly handwritten, and shall include understandable, significant information about the family's response to and use of services, as well as any change in the assessment of safety or risk to the children.
- (7) The Family Services Case Plan developed at the beginning of the treatment phase, with any subsequent revisions to the plan.
- (8) Documentation of reviews of the Family Services Case Plan, current within three months, which reflect an assessment of the plan's effectiveness, the family's use of services, and the need for continued agency involvement.
- (9) Copies of the following:
  - (A) Intake/Screening Form specified in policy, or its equivalent, for all reports concerning the family whether these reports have been received while a case was active or while a case was closed;
  - (B) Notices to the reporter;
  - (C) Requests made of other county departments of social services for information relating to prior contacts by that agency with the family, when applicable; and
  - (D) DSS 5104, Application/Report to the Central Registry.
- (10) Copies of the following reports or documents, when applicable:
  - (A) Petitions relating to the legal or physical custody of children while receiving child protective services;
  - (B) Reports to the court;
  - (C) Reports or notifications to prosecutors;
  - (D) Reports to law enforcement agencies;
  - (E) Child Medical Evaluations and Child Mental Health Evaluation requests, consents, and reports;
  - (F) Any other medical, psychological, or psychiatric reports;
  - (G) Notifications to licensing agencies; and
  - (H) Any other reports, notifications, or documents related to the provision of child protective services.
- (11) Summaries of the following information, when not otherwise documented in the case record:
  - (A) At the time treatment services begin, a summary of the reasons services are being provided;
  - (B) When filing a petition for custody, the reasons custody is being sought; and

- (C) At the time treatment services are terminated, a summary of the basis for the decision.

*History Note: Authority G.S. 7B-302; 7B-306; 7B-2901; 143B-153; Eff. January 1, 1980; Amended Eff. April 1, 2003; September 1, 1994; January 1, 1983.*

**10 NCAC 41J .0205 REIMBURSEMENT**

- (a) Foster care assistance payments include food, and shelter, clothing, personal incidentals, and ordinary and necessary school and transportation expenses.
- (b) County departments of social services may request reimbursement for providing foster care assistance payments to eligible children.

*History Note: Authority G.S. 108A-24; 108A-48; 108A-49; 143B-153; Eff. July 1, 1982; Amended Eff. April 1, 2003; June 1, 1990.*

**10 NCAC 41J .0501 WHEN TO COMPLETE A RISK ASSESSMENT**

- (a) For foster care services cases, the county director shall complete a structured risk re-assessment and reunification assessment for all cases in which family reunification is being considered as the permanent plan. If the court has relieved the agency of reunification efforts, completion of a structured risk re-assessment and reunification assessment is no longer required. The findings of the risk re-assessment and reunification assessment shall be used in developing a Family Services Case Plan with the family.
- (b) For those cases in which children enter foster care and reunification is the permanent plan, the structured risk re-assessment and reunification assessment shall support the current case plan.

*History Note: Authority G.S. 7B-907; 143B-153; Amended Eff. August 2, 1994; Eff. April 1, 2003.*

**TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**15A NCAC 02H .0106 FILING APPLICATIONS**

- (a) Permit applications shall be filed with the Director, Division of Water Quality, 1617 Mail Service Center, Raleigh, North Carolina, 27699-1617.
- (b) All NPDES permit applications, except those addressed in Paragraph (d) of this Rule, shall be filed at least 180 days in advance of the date on which an existing permit expires or in sufficient time prior to the proposed commencement of a waste discharge to ensure compliance with all legal procedures.
- (c) All Authorization to Construct applications shall be filed at least 90 days in advance of the proposed commencement date of construction of water pollution control facilities but no earlier than the establishment of effluent limitations.

(d) All NPDES stormwater construction permit applications shall be filed in advance of the proposed commencement date of land disturbing activity which results in a stormwater discharge.

(e) Permit applications filed with the Director shall be signed as follows:

- (1) in the case of corporations, by a principal executive officer of at least the level of vice-president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the permit application form originates;
- (2) in the case of a partnership or a limited partnership, by a general partner;
- (3) in the case of a sole proprietorship, by the proprietor;
- (4) in the case of a municipal, state, or other public entity by either a principal executive officer, ranking elected official or other duly authorized employee.

(f) The following discharges are deemed to be permitted pursuant to G.S. 143-215.1(c) provided that no water quality standards are contravened, or expected to be contravened, and it shall not be necessary for the Division to issue separate permits for these activities:

- (1) filter backwash and draining associated with swimming pools;
- (2) filter backwash from raw water intake screening devices;
- (3) condensate from residential or commercial air conditioning units;
- (4) individual non-commercial vehicle washing operations;
- (5) flushing and hydrostatic testing water associated with utility distribution systems;
- (6) discharges associated with emergency removal and treatment activities for spilled oil authorized by the federal or state on-scene coordinator when such removals are undertaken to minimize overall environmental damage due to an oil spill;
- (7) groundwaters generated by well construction or other construction activities;
- (8) landscape irrigation, foundation or footing drains, or water from crawl space pumps;
- (9) street wash water;
- (10) flows from fire fighting; and
- (11) excluding the provision in Subparagraph (f)(6) of this Rule, discharges associated with biological or chemical decontamination activities performed as a result of an emergency declared by the Governor or the Director of the Division of Emergency Management and that are conducted by or under the direct supervision of the federal or state on-scene coordinator and that meet the following specific conditions:
  - (A) the volume of discharge produced by the decontamination activity is too large to be contained on-site;

(B) the Division of Water Quality is informed prior to commencement of the discharge from the decontamination activity;

(C) overland flow or other non-discharge options are deemed to be impractical by the authorities conducting the decontamination activity; and

(D) the discharge is not radiologically contaminated.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.1(c); 143-215.1(b)(3); G.S. 106-399.4;*

*Eff. February 1, 1976;*

*Amended Eff. March 1, 1993; November 1, 1987; January 1, 1984; November 1, 1978;*

*Temporary Amendment Eff. May 11, 2001;*

*Temporary Amendment Expired on February 26, 2002;*

*Amended Eff. April 1, 2003.*

**15A NCAC 02R .0402 SCHEDULE OF FEES**

(a) The amount of payment into the Fund necessary to achieve compliance with compensatory mitigation requirements shall be determined in accordance with Subparagraphs (1) through (3) of this Paragraph. The fee shall 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 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 02B .0202. The payment shall be two hundred dollars (\$200.00) per linear foot of stream.
- (2) Class WL wetlands as defined in 15A NCAC 02B .0101(c)(8). The payment shall be:
  - (A) Twelve thousand dollars (\$12,000.00) per acre for non-riparian wetlands.
  - (B) Twenty four thousand dollars (\$24,000.00) per acre for riparian wetlands.
- (3) Class SWL wetlands as defined in 15A NCAC 02B .0101(d)(4). The payment shall be one hundred twenty thousand dollars (\$120,000.00) per acre.

(b) The fees outlined in Subparagraphs (a)(1) through (a)(3) and (d) of this Rule shall be reviewed annually by the Department and compared to the actual cost of restoration activities conducted by the Department, including planning, monitoring and maintenance costs. Based upon this annual review, revisions to Paragraph (a) of this Rule shall be recommended to the Commission when adjustments to this Schedule of Fees are deemed necessary to ensure that the Schedule of Fees reflects the actual costs of restoration activities.

(c) The fees outlined in Subparagraphs (a)(1) through (a)(3) of this Rule shall be adjusted for inflation on an annual basis using

the Civil Works Construction Cost Index System published by the US Army Corps of Engineers. This adjustment shall occur at the end of each calendar year as follows: the fees in Subparagraphs (a)(1) through (a)(3) and (d) for each year shall be multiplied by the annual composite Civil Works Construction Cost Index yearly percentage change issued in September of each year and the result shall be the increase to that fee for the next fiscal year. The revised fees shall be made available via the NC Wetland Restoration Program's web site (h2o.enr.state.nc.us/wrp/index.htm) and become effective on the following July 1<sup>st</sup>. The first adjustment shall be made at the close of calendar year 2003 to become effective July 1, 2004. This process shall continue annually thereafter.

(d) For properties and easements donated to the NC Wetlands Restoration Program, a fee of three hundred fifty dollars (\$350.00) per acre shall be charged at the time the land or easement is transferred to the program to cover costs of long-term management of the property. This charge applies only to properties and easements donated to the program for the sole purpose of property or easement maintenance. This does not apply to properties or easements donated to the program in association with restoration projects conducted by the program.

*History Note: Authority G.S. 143-214.11; 143-214.12; 143-215.3; Eff. August 1, 1998; Amended Eff. April 1, 2003.*

Rules .1001 - .1028 of Title 15A Subchapter 18A of the North Carolina Administrative Code (T15A.18A .1001 - .1028); has been transferred and recodified from Rules .1001 - .1028 Title 10 Subchapter 10A of the North Carolina Administrative Code (T10.10A .1001 - .1028). Rule .1030 of Title 15A Subchapter 18A of the North Carolina Administrative Code (T15A.18A .1030); has been transferred and recodified from Rule .1029 Title 10 Subchapter 10A of the North Carolina Administrative Code (T10.10A .1029), effective April 4, 1990. Rules .1030 - .1031 of Title 15A Subchapter 18A of the North Carolina Administrative Code (T15A.18A .1030 - .1031); has been transferred and recodified from Rules .1032 - .1033 Title 10 Subchapter 10A of the North Carolina Administrative Code (T10.10A .1032 - .1033), effective April 4, 1990.

**15A NCAC 18A .1001 DEFINITIONS**

The following definitions shall apply throughout this Section:

- (1) "Summer camp" includes those camp establishments which provide food or lodging accommodations for groups of children or adults engaged in organized recreational or educational programs. It also includes day camps, church assemblies, and retreats.
- (2) "Department" shall mean the Secretary of the Department of Environment and Natural Resources or his authorized representative.
- (3) "Sanitarian" shall mean a person authorized to represent the Department on the local or state level in making inspections pursuant to state laws and regulations.
- (4) "Person" means an individual, firm, association, organization, partnership, business trust, corporation, or company.

- (5) "Potentially hazardous food" means any food or ingredient, natural or synthetic, in a form capable of supporting the growth of infectious or toxigenic microorganisms, including Clostridium botulinum. This term includes raw or heat treated foods of animal origin, raw seed sprouts, and treated foods of plant origin. The term does not include foods which have a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less.
- (6) "Sanitize" means the approved bactericidal treatment by a process which meets the temperature and chemical concentration levels in 15A NCAC 18A .2619.

*History Note: Authority G.S. 130A-248; Eff. February 1, 1976; Readopted Eff. December 5, 1977; Amended Eff. November 1, 2002; September 1, 1990.*

Rules .1501 - .1525 of Title 15A Subchapter 18A of the North Carolina Administrative Code (T15A.18A .1501 - .1525); has been transferred and recodified from Rules .0101 - .0125 of Title 10 Subchapter 10A of the North Carolina Administrative Code (T10.10A .0101 - .0125), effective April 4, 1990.

**15A NCAC 18A .1501 DEFINITIONS**

The following definitions shall apply throughout this Section in the interpretation and enforcement of this Section:

- (1) "Local confinement facility" shall include the following and similar establishments: any county or municipal confinement facility, local lockup, regional or district confinement facility, any detention facility for children or adults, any county or municipal workhouse or house of correction, and any other confinement facility operated by any local government for confinement of persons awaiting trial or sentences.
- (2) "Department" shall mean the Secretary of the Department of Environment and Natural Resources or his authorized representative.
- (3) "Local health director" shall mean local health director as defined in G.S. 130A-2(6) or his authorized representative.
- (4) "Sanitarian" shall mean a person authorized to represent the Department on the local or state level in making inspections pursuant to state laws and rules.
- (5) "Sanitize" means the approved bactericidal treatment by a process which meets the temperature and chemical concentration levels in 15A NCAC 18A .2619.
- (6) "Potentially hazardous food" means any food or ingredient, natural or synthetic, in a form capable of supporting the growth of infectious or toxigenic microorganisms, including Clostridium botulinum. This term includes raw or heat treated foods of animal origin, raw seed sprouts, and treated foods of plant origin. The term does not include foods which have a

pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less.

*Temporary Amendment Eff. May 5, 1998;  
Temporary Amendment Expired January 26, 1999;  
Amended Eff. November 1, 2002*

*History Note: Authority G.S. 153A-226;  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. November 1, 2002; September 1, 1990.*

Rules .1601 - .1622 of Title 15A Subchapter 18A of the North Carolina Administrative Code (T15A.18A .1601 - .1622); has been transferred and recodified from Rules .0201 - .0222 of Title 10 Subchapter 10A of the North Carolina Administrative Code (T10.10A .0201 - .0222), effective April 4, 1990.

Rules .2201 - .2221 of Title 15A Subchapter 18A of the North Carolina Administrative Code (T15A.18A .2201 - .2221); has been transferred and recodified from Rules .2201 - .2221 Title 10 Subchapter 10A of the North Carolina Administrative Code (T10.10A .2201 - .2221), effective April 4, 1990.

**15A NCAC 18A .1601 DEFINITIONS**

The following definitions shall apply throughout this Section:

- (1) "Department of Environment and Natural Resources" means the Secretary, or his authorized representative.
- (2) "Director" means the State Health Director.
- (3) "Foster Care" means the care of individuals as defined in G.S. 131D-10.2(9).
- (4) "Family foster home" means a facility as defined in G.S. 131D-10.2(8).
- (5) "Manager" means the person in responsible charge of a residential care facility.
- (6) "Potentially hazardous food" means any food or ingredient, natural or synthetic, in a form capable of supporting the growth of infectious or toxigenic microorganisms, including *Clostridium botulinum*. This term includes raw or heat treated foods of animal origin, raw seed sprouts, and treated foods of plant origin. The term does not include foods which have a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less.
- (7) "Residential care facility" means an establishment providing room or board and for which a license or certificate for payment is obtained from the Department of Human Resources. However, the term shall not include a child day care facility or an institution as defined in 15A NCAC 18A .1300.
- (8) "Resident" means a person, other than the manager, his immediate family, and staff, residing in a residential care facility.
- (9) "Sanitarian" means a person authorized to represent the Department on the local or state level in making inspections pursuant to state laws and rules.
- (10) "Sanitize" means the approved bactericidal treatment by a process which meets the temperature and chemical concentration levels in 15A NCAC 18A .2619.

*History Note: Authority G.S. 130A-235;  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. July 1, 1993; September 1, 1990; March 1, 1988;  
July 1, 1984;*

**15A NCAC 18A .2201 DEFINITIONS**

The following definitions shall apply throughout this Section:

- (1) "Bed and Breakfast Home" means a private home offering bed and breakfast accommodations to eight or less persons per night for a period of less than a week.
- (2) "Division" means the North Carolina Division of Environmental Health. The term also means the authorized representative of the Division.
- (3) "Director" means the Director of the Division of Environmental Health of the Department of Environment and Natural Resources.
- (4) "Imminent Hazard" means a situation which is likely to cause an immediate threat to life or a serious risk of irreparable damage to the environment if no immediate action is taken.
- (5) "Permittee" means the person in charge who resides in and owns or rents the home.
- (6) "Potentially Hazardous Food" means any food or ingredient, natural or synthetic, in a form capable of supporting the growth of infectious or toxigenic microorganisms, including *Clostridium botulinum*. This term includes raw or heat treated foods of animal origin, raw seed sprouts, and treated foods of plant origin. The term does not include foods which have a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less.
- (7) "Sanitarian" means a person authorized to represent the Division in making inspections and evaluations pursuant to this Section.

*History Note: Authority G.S. 130A-250;  
Eff. April 1, 1984;  
Amended Eff. November 1, 2002; September 1, 1990.*

Rules .2401 - .2417 of Title 15A Subchapter 18A of the North Carolina Administrative Code (T15A.18A .2401 - .2417); has been transferred and recodified from Rules .2401 - .2417 Title 10 Subchapter 10A of the North Carolina Administrative Code (T10.10A .2401 - .2417), effective April 4, 1990.

**15A NCAC 18A .2401 DEFINITIONS**

The following definitions shall apply throughout this Section:

- (1) "Central toilet" means a toilet which exits into a hallway or corridor and has more than one water closet.
- (2) "Department" means the Department of Environment and Natural Resources and its authorized agents.

- (3) "Home school" means a school as defined in G.S. 115C-563.
- (4) "Principal" means the executive head of a school.
- (5) "Private or religious school" means a school which is not supported by funds appropriated by the General Assembly of North Carolina, by the federal government, or through local governmental sources.
- (6) "Public school" means a school supported by public funds appropriated by the General Assembly of North Carolina, by the federal government, and through local governmental sources.
- (7) "Sanitarian" means a person authorized to represent the Department in enforcing the rules of this Section.
- (8) "Superintendent" means the chief administrative head of a local school administrative unit.

- (3) "Employee" means any person who is employed in the handling or processing of meat, meat food products, poultry, or poultry products, or in the cleaning of utensils or equipment.
- (4) "Local Health Director" means the administrative head of a local health department or his authorized representative.
- (5) "Meat" and "meat food products" mean meat and meat food products as defined in G.S. 106-549.15(14).
- (6) "Meat market" means a meat market as defined in G.S. 130A-247, except, those places subject to G.S. 130A-229.
- (7) "Person" means an individual, firm, association, organization, partnership, business trust, corporation, or company.
- (8) "Poultry" and "poultry products" mean poultry and poultry products as defined in G.S. 106-549.51(25).
- (9) "Sanitarian" means a person authorized to represent the Department on the local or state level in making inspections pursuant to state laws and rules.
- (10) "Sanitize" means the approved bactericidal treatment by a process which meets the temperature and chemical concentration levels in 15A NCAC 18A .2600.

*History Note: Authority G.S. 130A-236;  
Eff. January 1, 1986;  
Amended Eff. November 1, 2002; September 1, 1990.*

Rules .2701 - .2720 of Title 15A Subchapter 18A of the North Carolina Administrative Code (T15A.18A .2701 - .2720); has been transferred and recodified from Rules .0501 - .0520 Title 10 Subchapter 10A of the North Carolina Administrative Code (T10.10A .0501 - .0520). Rules .2721 - .2725 of Title 15A Subchapter 18A of the North Carolina Administrative Code (T15A.18A .2721 - .2725); has been transferred and recodified from Rules .0523 - .0527 Title 10 Subchapter 10A of the North Carolina Administrative Code (T10.10A .0523 - .0527), effective April 4, 1990.

*History Note: Authority G.S. 130A-248;  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. November 1, 2002; April 1, 1997; May 1, 1991;  
July 1, 1984; June 10, 1978.*

**15A NCAC 18A .2701 DEFINITIONS**

The following definitions shall apply throughout this Section:

- (1) "Approved" means determined by the Department to be in compliance with this Section. Food service equipment which meets National Sanitation Foundation Standards or equal shall be considered as approved. National Sanitation Foundation standards are incorporated by reference including subsequent amendments and editions. These standards may be obtained from the National Sanitation Foundation, P.O. Box 1468, Ann Arbor, Michigan 48106, at a cost of four hundred and fifty dollars (\$450.00), and are also available for inspection at the Division of Environmental Health. Food which complies with requirements of the North Carolina Department of Agriculture or United States Department of Agriculture and the requirement of this Section shall be considered as approved.
- (2) "Department" means the North Carolina Department of Environment and Natural Resources. The term also means the authorized representative of the Department.

**15A NCAC 18A .3001 DEFINITIONS**

The following definitions shall apply in the interpretation and enforcement of this Section.

- (1) "Approved" means determined by the Department to be in compliance with this Section. Food which complies with the requirements of the North Carolina Department of Agriculture or the United States Department of Agriculture and the requirements of this Section shall be considered as approved.
- (2) "Bathroom" means a room with at least one shower or tub, water closet and lavatory. However, lavatories may be located within the bedrooms.
- (3) "Department of Environment and Natural Resources" or "Department" means the North Carolina Department of Environment and Natural Resources. The term also means the authorized representative of the Department.
- (4) "Person" means any individual, firm, association, organization, partnership, business trust, corporation, or company.
- (5) "Potentially hazardous food" means any food or ingredient, natural or synthetic in a form capable of supporting the growth of infectious

or toxigenic microorganisms. This includes raw or heat treated foods of animal origin, raw seed sprouts, and treated food of plant origin. The term does not include foods which have a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less.

*History Note: Authority G.S. 130A-248;  
Eff. July 1, 1992;  
Amended Eff. November 1, 2002.*

**15A NCAC 18A .3201 DEFINITIONS**

The following definitions shall apply throughout this Section:

- (1) "Blood and Body Fluid Precautions" means a method of infection control in which all human blood and body fluids are treated as if known to be infectious for human immunodeficiency virus (HIV), hepatitis B virus (HBV), and other infections that can be transmitted by contact with blood.
- (2) "Department" means the Department of Environment and Natural Resources. The term also means the authorized agent of the department.
- (3) "Sharps" means any objects that can penetrate the skin including, but not limited to, needles, razor blades, scalpels, and broken capillary tubes.
- (4) "Sterilize" means the approved microbicidal treatment by a process which provides enough accumulative heat or concentration of chemicals for a length of time sufficient to eliminate the microbial count, including pathogens.
- (5) "Tattooing" means tattooing as defined in G.S. 130A-283.
- (6) "Tattoo Artist" means any person who engages in tattooing.
- (7) "Tattoo Establishment" means any location where tattooing is engaged in or where the business of tattooing is conducted or any part thereof. For purposes of this Section, "Tattoo Parlor" falls within this definition.
- (8) "Tattooing Room" means a room in the tattoo establishment where tattooing is performed.

*History Note: Authority G.S. 130A-29;  
Temporary Adoption Eff. January 1, 1995, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Eff. April 1, 1995;  
Amended Eff. November 1, 2002.*

**TITLE 18 – DEPARTMENT OF SECRETARY OF STATE**

**18 NCAC 06 .1417 APPLICATION FOR LIMITED REGISTRATION OF CANADIAN SECURITIES DEALERS AND SALESMEN**

- (a) An applicant for limited registration as a dealer pursuant to G.S. 78A-36.1 (the "Dealer") shall file the following with the Administrator:
  - (1) a representation that the Dealer does not have an office or physical presence in this state;
  - (2) a representation that the Dealer is a resident of Canada;
  - (3) a representation that the Dealer will engage only in the activities described in G.S. 78A-36.1(j) in this state;
  - (4) a completed application for registration as a securities dealer in the form required by the jurisdiction in Canada in which the Dealer has its head office;
  - (5) an originally executed copy of a Form U-2 or similar consent to service of process whereby the Dealer names the North Carolina Secretary of State as an agent duly authorized to accept service of process on behalf of the Dealer;
  - (6) either:
    - (A) a certification by the securities regulatory agency of each jurisdiction in Canada from which the Dealer will be effecting transactions into this state stating that the Dealer is both registered and in good standing as a securities dealer in that jurisdiction, or
    - (B) a certification by the Investment Dealers Association of Canada confirming that the applicant maintains a membership in good standing with the Investment Dealers Association of Canada;
  - (7) evidence that the Dealer is a member of a Canadian self-regulatory organization ("SRO"), the Bureau des services financiers, or a Canadian stock exchange; and
  - (8) a filing fee in the amount of two hundred dollars (\$200.00).
- (b) An applicant for limited registration as a salesman (the "Salesman") intending to effect securities transactions in this state on behalf of a Canadian dealer registered under this section shall file the following with the Administrator:
  - (1) a completed application for registration as a securities salesman in the form required by the jurisdiction in which the dealer has its head office;
  - (2) an originally executed copy of a Form U-2 or similar consent to service of process whereby the Salesman names the North Carolina Secretary of State as an agent duly authorized to accept service of process on behalf of the Salesman;
  - (3) a certification by the securities regulatory agency of the jurisdiction in Canada from which the Salesman will be effecting transactions into this state stating that the Salesman is both registered and in good standing as a securities salesman in that jurisdiction; and

- (4) a filing fee in the amount of fifty-five dollars (\$55.00).

(c) If any information contained in any document filed with the Administrator by any dealer or salesman who has registered pursuant to G.S. 78A-36.1 is or becomes inaccurate or incomplete in any material respect, the dealer or salesman shall file a correcting amendment as soon as practicable, but in no event later than 30 days following the date on which such information becomes inaccurate or incomplete.

*History Note: Authority G.S. 78A-36.1; 78A-49; Temporary Adoption Eff. January 15, 2002; Eff. April 1, 2003.*

**18 NCAC 06 .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 made by completing Form ADV (Uniform Application for Investment Adviser Registration) (17 C.F.R. 279.1) in accordance with the form instructions and by filing the form with IARD (the Investment Adviser Registration Depository). The initial application shall also include the following:

- (1) Proof of 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 upon request of the Administrator;
- (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 which is relevant to the applicant's qualifications to engage in the business of acting as an investment adviser.

(b) The application for annual renewal of registration as an investment adviser shall be filed with IARD and shall include the following:

- (1) A copy of the surety bond required by Rule .1705, if applicable upon request of the Administrator; and
- (2) The fee required by Section 78C-17(b) of the Act.

(c) Updates and amendments to the ADV shall be subject to the following requirements:

- (1) An investment adviser must file with IARD, in accordance with the instructions in the Form ADV, any amendments to the investment adviser's form ADV;

(2) An amendment shall be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment; and

(3) Within 90 days of the end of the investment adviser's fiscal year, an investment adviser must file with IARD an updated Form ADV.

(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) An application for initial or renewal registration is not considered filed for purposes of G.S. 78C-17 until the required fee and all required submissions have been received by the Administrator.

(f) The registration of an investment adviser shall expire on December 31 of each year unless timely renewed.

(g) The notice filing for an investment adviser covered under federal law pursuant to G.S. 78C-17(a1) shall be filed with IARD on an executed Form ADV. A notice filing of an investment adviser covered under federal law shall be deemed filed when the fee required by G.S. 78C-17(c) and the Form ADV are filed with and accepted by IARD on behalf of the State.

(h) Notice filings for investment advisers covered under federal law shall expire on December 31 each year unless renewed prior to expiration. The renewal of the notice filing for an investment adviser covered under federal law pursuant to G.S. 78C-17(a1) shall be made by completing Form ADV in accordance with the form instructions and by filing the form with IARD. The renewal of the notice filing for an investment adviser covered under federal law shall be deemed filed when the fee required by G.S. 78C-17(b)(1) is filed with and accepted by IARD on behalf of the State.

(i) Until IARD provides for the filing of Part 2 of Form ADV, the Administrator shall deem filed Part 2 of Form ADV if an investment adviser covered under federal law provides, within five days of a request, Part 2 of Form ADV to the Administrator. Because the Administrator deems Part 2 of the Form ADV to be filed, an investment adviser covered under federal law is not required to submit Part 2 of Form ADV to the Administrator unless requested.

*History Note: 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-20; 78C-30(a); 78C-30(b); 78C-30(c); 78C-30(d); 78C-46(b); Temporary Rule Eff. January 2, 1989, for a period of 180 days to expire on June 30, 1989; Eff. February 1, 1989; Temporary Amendment Eff. October 1, 1997; Amended Eff. August 1, 1998; Temporary Amendment Eff. January 14, 2002; Amended Eff. April 1, 2003.*

**18 NCAC 06 .1706 RECORD-KEEPING REQUIREMENTS FOR INVESTMENT ADVISERS**



(a) Except as otherwise provided in Paragraph (j) of this Rule, 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 10 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 10 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 (see G.S. 78A-2(10)).

(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;

- (14) A copy of the following:
  - (A) 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;
  - (B) any summary of material changes that is required by Part 2 of Form ADV but is not contained in the written statement; and
  - (C) 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.

(15) A memorandum describing any legal or disciplinary event listed in Schedule D of Form ADV or in any Form U-4 relating to any of the investment adviser's investment adviser representatives and presumed to be material, if the event involved the investment adviser or any of its investment adviser representatives or supervised persons and is not disclosed in the written statements described in Paragraph (a)(14)(A) of this Section. The memorandum must explain the investment adviser's determination that the presumption of materiality is overcome, and must discuss the factors described in those items.

- (16) For each client that was obtained by the adviser by means of a solicitor to whom a cash fee was paid by the adviser:
  - (A) evidence of a written agreement to which the adviser is a party related to the payment of such fee;
  - (B) a signed and dated acknowledgement of receipt from the client evidencing the client's receipt of the investment adviser's disclosure statement and a written disclosure statement of the solicitor; and
  - (C) a copy of the solicitor's written disclosure statement.

The written agreement, acknowledgment and solicitor disclosure statement will be considered to be in compliance with Rule .1717. For purposes of this Rule, the term "solicitor" shall mean any person or entity who, for compensation, acts as an agent of an

investment adviser in referring potential clients.

- (17) Copies, with original signatures of the investment adviser's appropriate signatory and the investment adviser representative, of each initial Form U-4 and each amendment to Disclosure Reporting Pages (DRPs U-4) must be retained by the investment adviser (filing on behalf of the investment adviser representative) and must be made available for inspection upon regulatory request.

(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 the principal 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 full 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 preservation 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, legible projection of the film and for producing legible 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 shall 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 record keeping requirements, if any.

*History Note: Authority G.S. 78C-18(a); 78C-18(b); 78C-18(e); 78C-30(a);  
Temporary Rule Eff. January 2, 1989, for a Period of 180 days to expire on June 30, 1989;  
Eff. February 1, 1989;  
Temporary Amendment Eff. October 1, 1997;  
Amended Eff. August 1, 1998;  
Temporary Amendment Eff. January 14, 2002;  
Amended Eff. April 1, 2003.*

**18 NCAC 06 .1707 INVESTMENT ADVISER BROCHURE RULE**

(a) General Requirements. Unless otherwise provided in this Rule, an investment adviser, registered or required to be registered pursuant to Section 78C-16 of the Act, shall offer and deliver to each advisory client and prospective advisory client a firm brochure and one or more supplement(s) as required by this Section. The brochure and supplement(s) must contain all information required by Part 2 of Form ADV [CFR279.1], and such other information as the Administrator may require by this Section.

(b) Offer and Delivery Requirements:

- (1) An investment adviser shall deliver:
- (A) The current brochure required by this Section to a client or prospective client, and
  - (B) The current brochure supplement(s) for each investment adviser representative who will provide advisory services to the client. For purposes of this Section, an

investment adviser representative will provide advisory services to a client if the investment adviser representative will:

- (i) Regularly communicate investment advice to that client; or
- (ii) Formulate investment advice for assets of that client; or
- (iii) Make discretionary investment decisions for assets of that client; or
- (iv) Solicit, offer or negotiate for the sale of or sell investment advisory services.

(2) The documents required in Subparagraph (1) of this Paragraph shall be delivered:

- (A) Not less than 48 hours prior to entering into any investment advisory contract with such client or prospective client; or
- (B) At the time of entering into any such contract, if the client has a right to terminate the contract without penalty within five business days after entering into the contract.

(3) An investment adviser shall, at least once a year, without charge, deliver or offer in writing to deliver to each of its clients the current brochure and any current brochure supplement(s) required by Paragraph (b)(1) of this Section. If a client accepts the written offer, the investment adviser must send to that client the current brochure and supplements within seven days after the investment adviser is notified of the acceptance.

(c) Delivery to Limited Partners. If the adviser is the general partner of a limited partnership, the manager of a limited liability company, or the trustee of a trust, then for purposes of this Section the investment adviser must treat each of the partnership's limited partners, the company's members, or the trust's beneficial owners as a client. For purposes of this Section, a limited liability partnership or limited liability limited partnership is a "limited partnership."

(d) Wrap Fee Program Brochures:

- (1) If the investment adviser is a sponsor of a wrap fee program, then the brochure, required to be delivered by Paragraph (b)(1) of this Section to a client or prospective client of the wrap fee program, must be a wrap fee brochure containing all information required by Form ADV. Any additional information in a wrap fee brochure must be limited to information applicable to wrap fee programs that the investment adviser sponsors.
- (2) The investment adviser does not have to offer or deliver a wrap fee brochure if another sponsor of the wrap fee program offers or delivers to the client or prospective client of the wrap fee program a wrap fee program brochure containing all the information the

investment adviser's wrap fee program brochure must contain.

- (3) A wrap fee brochure does not take the place of any brochure supplement(s) that the investment adviser is required to deliver under Paragraph (b)(1)(B) of this Section.

(e) **Delivery of Updates and Amendments.** The investment adviser must amend its brochure and any brochure supplement(s) and deliver the amendments to clients promptly when information contained in the brochure or brochure supplement(s) becomes materially inaccurate. The instructions to Part 2 of Form ADV contain updating and delivery instructions that the investment adviser must follow. An amendment will be considered to be delivered promptly if the amendment is delivered within 30 days of the event that requires the filing of the amendment.

(f) **Multiple Brochures.** If an investment adviser renders substantially different types of investment advisory services to different clients, the investment adviser may provide them with different brochures, provided that each client receives all applicable information about services and fees. The brochure delivered to a client may omit any information required by Part 2A of Form ADV if such information is applicable only to a type of investment advisory service or fee that is not rendered or charged, or proposed to be rendered or charged, to that client or prospective client.

(g) **Other Disclosure Obligations.** Nothing in this Rule shall relieve any investment adviser from any obligation pursuant to any provision of the Act or the rules and regulations thereunder or other federal or state law to disclose any information to its clients or prospective clients not specifically required by this Rule.

(h) **Conversion Rule.** All investment advisers registered or required to be registered under the Act must deliver to each of their clients their current brochure and all required brochure supplements within 30 days from the date of making its initial filing with IARD.

(i) **Definitions.** For the purposes of this Rule:

- (1) "Current brochure" and "current brochure supplement" mean the most recent revision of the brochure or brochure supplement, including all subsequent amendments (i.e., stickers).
- (2) "Entering into," in reference to an investment advisory contract, does not include an extension or renewal without material change of any such contract which is in effect immediately prior to such extension or renewal.
- (3) "Sponsor" of a wrap fee program means an investment adviser that is compensated under a wrap fee program for sponsoring, organizing, or administering the program, or for selecting, or providing advice to clients regarding the selection of other investment advisers in the program.
- (4) "Wrap fee program" means an advisory program under which a specified fee or fees, not based directly upon transactions in a client's account, is charged for investment advisory services (which may include portfolio

management or advice concerning the selection of other investment advisers) and the execution of client transactions.

*History Note: Authority G.S. 78C-18(b); 78C-30(a); 78C-30(b);  
Temporary Rule Eff. January 2, 1989, for a Period of 180 Days to Expire on June 30, 1989;  
Eff. February 1, 1989;  
Temporary Amendment Eff. January 14, 2002;  
Amended Eff. April 1, 2003.*

**18 NCAC 06 .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 acquiring or successor entity shall file an initial or amended Form ADV, if the acquiring or successor entity intends to engage in business as an investment adviser in this state. Regardless of whether it intends to engage in business as an investment adviser in this state, the acquiring or successor entity shall file the following with the Administrator not later than 30 days after the fundamental change:

- (1) if the corporate existence of the acquired registered investment adviser is extinguished upon the effective date of the acquisition, a Form ADV-W, filed by the acquiring or successor entity in the name of the acquired entity, for the purpose of terminating the registration of the acquired entity;
- (2) a copy of the corporate or transactional document by which the merger, acquisition, or other fundamental change was effected; and
- (3) if the acquisition was effected by means of a transaction in which the corporate structure of the acquired entity was affected, a copy of a certificate of merger or certificate of dissolution or similar certificate, issued by the custodian of corporate records of the state pursuant to whose laws the transaction was effected.

In addition, if the corporate structure of the acquired entity was not extinguished in the course of the acquisition, the acquired entity shall file an amended Form ADV not later than 30 days following the effective date of the acquisition.

(b) Investment advisers shall effect mass transfers of investment adviser representatives by filing with the IARD a Form U-4 for each investment adviser representative to be transferred from the acquired entity to the acquiring or successor entity and a Form U-5 for each investment adviser representative not to be transferred.

(c) 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 acquiring or successor entity will be an investment adviser covered under federal law, the entities involved shall file appropriate notice filings with the IARD.

(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 acquiring or successor 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)-(b) of this Rule.

*History Note: Authority G.S. 78C-16(b); 78C-17(a)(c); 78C-18(b)(c)(d); 78C-20; 78C-30(a)(b); Eff. February 1, 1989; Temporary Rule Eff. January 2, 1989, for a period of 180 days to expire on June 30, 1989; Amended Eff. September 1, 1995; Temporary Amendment Eff. October 1, 1997; Amended Eff. August 1, 1998; Temporary Amendment Eff. January 14, 2002; Amended Eff. April 1, 2003.*

**18 NCAC 06 .1716 TRANSITION SCHEDULE FOR CONVERSION TO IARD**

- (a) Electronic filing of Form ADV:
  - (1) By March 15, 2002, each investment adviser registered or required to be registered under the Act must resubmit its Form ADV electronically (if it has not previously done so) with IARD unless it has been granted a hardship exemption under Rule .1715 of this Section.
  - (2) If the amendment to Form ADV is made after March 15, 2002, or at an earlier date if an investment adviser has filed its Form ADV [17 CFR 279.1] (or any amendments to Form ADV) electronically with IARD, the registrant must file amendments to Form ADV required by this Section electronically with IARD, unless it has been granted a hardship exemption under Rule .1715 of this Section.
- (b) Electronic filing of Form U-4. By June 30, 2002, for each investment adviser representative registered or required to be registered under the Act, Form U-4 must be resubmitted electronically (if it has not previously been done) with IARD, unless the investment adviser (filing on behalf of the investment adviser representative) has been granted a hardship exemption under Rule .1715 of this Section.

*History Note: Authority G.S. 78C-20; Temporary Adoption Eff. January 14, 2002; Eff. April 1, 2003.*

**TITLE 19A – DEPARTMENT OF TRANSPORTATION**

**19A NCAC 02D .0532 TOLL OPERATIONS**

The Cedar Island-Ocracoke, Swan Quarter-Ocracoke and Southport-Ft. Fisher ferry operations are toll operations. Fares and rates applicable to each operation are as listed in this Rule:

- (1) Cedar Island-Ocracoke and Swan Quarter-Ocracoke
  - (a) pedestrian \$ 1.00
  - (b) bicycle and rider \$ 3.00
  - (c) motorcycle and rider \$10.00

- (d) single vehicle or combination 20' or less in length \$15.00 (minimum fare for licensed vehicle)
  - (e) vehicle or combination over 20' up to and including 40' \$30.00
  - (f) vehicle or combination over 40' to 65' (maximum length) \$45.00
  - (g) vehicle or combination over 65' Special Permit @ \$1.00 Per Foot
- (2) Southport-Ft. Fisher
    - (a) pedestrian \$ 1.00
    - (b) bicycle and rider \$ 2.00
    - (c) motorcycle and rider \$ 3.00
    - (d) single vehicle or combination 20' or less in length \$ 5.00 (minimum fare for licensed vehicle)
    - (e) vehicle or combination over 20' up to and including 40' \$10.00
    - (f) vehicle or combination over 40' to 65' \$15.00
    - (g) vehicle or combination over 65' Special Permit @ \$1.00 Per Foot
  - (3) Commuter Passes are valid for one year from date of purchases. Passes are available to anyone.

Type	System-Wide Pass Site Specific Pass
Vehicles up to 20'	\$150.00
Vehicles over 20' to 40'	\$200.00
Vehicles over 40' to 6	\$250.00
	\$150.00

*History Note: Authority G.S. 136-82; 143B-10(j); Eff. July 1, 1978; Amended Eff. April 1, 2003; August 1, 2002; November 1, 1991; May 1, 1983.*

**19A NCAC 02F .0102 MINIMUM CRITERIA**

The following are established as an indicator of the types and classes of thresholds of activities at and below which environmental documentation under the NCEPA is not required:

- (1) Approval of:
  - (a) installation of utilities along or across a transportation facility;
  - (b) grade separated crossings of highways by railroads or highway; or grading, commercial driveways, and other encroachments on the highway right-of-way;
- (2) Construction of bicycle and pedestrian lanes, paths, and facilities;
- (3) Construction of safety projects such as guardrails, grooving, glare screen, safety barriers, and energy attenuators;

**APPROVED RULES**

- (4) Installation of noise barriers or alterations to existing public buildings to provide for noise reduction;
- (5) Landscaping of highway, railroad, and rest area projects;
- (6) Installation of fencing, signs, pavement markings, small passenger shelters, lighting, traffic signals, and railroad signal systems and warning devices;
- (7) Repair, rehabilitation, or replacement of a highway or railway facility in general conformance with the original design and alignment, which is commenced immediately after the occurrence of a natural disaster or catastrophic failure, to restore the highway for the health, welfare, or safety of the public;
- (8) Highway or railway modernization by means of the following activities, which involve less than a total of 10 cumulative acres of ground surface previously undisturbed by highway or railway construction, limited to a single project, noncontiguous to any other project making use of this provision:
  - (a) resurfacing, restoration, or reconstruction;
  - (b) adding lanes for travel, parking, weaving, turning, or climbing;
  - (c) correcting substandard curves and intersections;
  - (d) adding shoulders or minor widening;
  - (e) adding or extending passing sidings;
  - (f) lengthening of railway spirals; or
  - (g) flattening of railway curves;
- (9) Reconstruction of existing crossroad or railroad separations and existing stream crossings, including, but not limited to, pipes, culverts, and bridges;
- (10) Approval of oversized and overweight permits;
- (11) Approval of outdoor advertising permits;
- (12) Maintenance or repair of the state highway or railway system to include work such as:
  - (a) Grading and stabilizing unpaved roads;
  - (b) Maintaining unpaved shoulders;
  - (c) Cleaning ditches and culverts;
  - (d) Patching paved surfaces;
  - (e) Maintaining bridges;
  - (f) Removing snow and ice;
  - (g) Controlling erosion and vegetation growth;
  - (h) Manufacturing and stockpiling material;
  - (i) Paving secondary roads; and
  - (j) Timber and surfacing of rail lines;
- (13) Assumption of maintenance of roads constructed by others;
- (14) Making capital improvements constructed at an existing DOT facility that: exceed the threshold planning limits of Title 3 of the Superfund Amendments and Reauthorization:
  - (a) Require less than one acre of exposed, erodible ground surface; and
  - (b) Require the use of structures which do not involve handling or storing hazardous materials which Act of 1986;
- (15) Construction of a new two-lane highway in accordance with accepted design practices and DOT standards and specifications involving less than a total of 25 cumulative acres of ground surface limited to a single project, noncontiguous to any other project making use of this provision;
- (16) Reconstructing, rehabilitating, resurfacing, or maintaining existing runways, taxiways, aircraft aprons, access roads, and automobile parking lots;
- (17) Constructing, reconstructing, rehabilitating, or upgrading of lighting associated with runways, taxiways, and apron edges; visual approach aids; instrument approach aids; wind indicators; rotating beacons; obstruction lights; area lights; security lights; and the electrical distribution systems and control systems for such facilities;
- (18) Construction of terminal buildings, railway stations, maintenance buildings, and hangars involving less than five acres of previously undisturbed ground;
- (19) Acquiring property to meet Federal or State standards, requirements, or recommendations directly relating to aviation safety;
- (20) Acquiring 10 acres or less of property for future airport development or future railroad development;
- (21) Construction on existing airport property which has previously been disturbed by clearing, grubbing, or grading on land involving less than 10 acres of exposed, erodible ground surface;
- (22) Planning airport projects to include master plans, noise and compatibility plans, preliminary construction project plans, and special planning studies such as economic impact studies;
- (23) Rehabilitating, maintaining, and improving airport drainage systems on airport property to include landscaping and erosion control facilities involving less than five acres of previously undisturbed ground;
- (24) Purchasing vehicles for mass transportation purposes;
- (25) Maintaining and improving railroad track and bed in the existing right of way;
- (26) Implementation of any project which qualifies as a "categorical exclusion" under the National Environmental Policy Act by one of the Agencies of the U.S. Department of Transportation;



- (27) Acquisition and construction of wetland, stream, and endangered species mitigation sites;
- (28) Remedial activities involving the removal, treatment or monitoring of soil or groundwater contamination pursuant to state or federal remediation guidelines; and.
- (29) Other activities, not specifically described above, involving maintenance or repair needed to maintain the original function of an existing project or facility without expansion or change in use; sampling, monitoring, and related data-gathering activities; and construction or land-disturbing activities that impact less than five acres.

*Eff. April 1, 2003.*

**TITLE 21 – OCCUPATIONAL LICENSING BOARDS**

**CHAPTER 4 - COMMISSION FOR AUCTIONEERS**

**21 NCAC 04B .0202 FILING AND FEES**

(a) Properly completed applications must be filed (received, not postmarked) in the Board office at least seven days prior to an established Board meeting date, or in the case of an application for auctioneer examination, at least 10 days prior to a scheduled examination and must be accompanied by all required documents.

(b) License fees are as follows:

- (1) New auctioneer license for an applicant who did not serve an apprenticeship \$250.00  
This includes a \$150.00 annual license fee; \$50.00 application fee; and \$50.00 examination fee.
- (2) New auctioneer license for an apprentice auctioneer \$200.00  
This includes a \$150.00 annual license fee; and \$50.00 examination fee.
- (3) Renewal of auctioneer license \$150.00
- (4) New apprentice auctioneer license \$150.00  
This includes a \$100.00 license fee and a \$50.00 application fee.
- (5) Renewal of apprentice auctioneer license \$100.00
- (6) New auction firm license (no examination) \$200.00  
This includes a \$150.00 annual license fee; and \$50.00 application fee.
- (7) New auction firm license (examination) \$250.00  
This includes a \$150.00 annual license fee; \$50.00 application fee; and \$50.00 examination fee.
- (8) Renewal of an auction firm license \$150.00
- (9) Application and processing fee for conversion of non-resident reciprocal license to in-state license \$ 50.00
- (10) Reinstatement of lapsed license or late fee \$ 50.00
- (11) Resident fingerprint card background check fee \$ 14.00  
Applicants who have been continuous residents of North Carolina for the five years preceding the date of application shall be required to have only a State background check.
- (12) Non-resident fingerprint card background check fee \$ 38.00  
Applicants who have not been continuous residents of North Carolina for the five years preceding the date of application shall be required to have both a State and Federal background check.

*History Note: Authority G.S. 113A-9; 113A-11; 143B-10(j); Temporary Adoption Eff. January 11, 2002; Eff. April 1, 2003.*

**19A NCAC 02F .0103 EXCEPTIONS TO MINIMUM CRITERIA**

Any activity falling within the parameters of the minimum criteria set out in Rule .0102 of this Section shall not routinely be required to have environmental documentation under the NCEPA. However, the Secretary of Transportation or his designee shall determine if environmental documents are required in any case where a Division Director or Branch Manager makes one of the following findings as to a proposed activity:

- (1) The proposed activity may have significant adverse effects on wetlands; surface waters such as rivers, streams, and estuaries; parklands, prime or unique agricultural lands; areas of recognized scenic, recreational, archaeological, or historical value; or would endanger the existence of a species identified on the Department of Interior's threatened and endangered species list.
- (2) The proposed activity could cause changes in industrial, commercial, residential, agricultural, or silvicultural land use concentrations or distributions which would be expected to create significant adverse water quality, air quality, or ground water impacts; or have a significant adverse effect on long-term recreational benefits or shellfish, finfish, wildlife, or their natural habitats.
- (3) The secondary or cumulative impacts of the proposed activity, which are not generally covered in the approval process, may result in a significant adverse impact to human health or the environment.
- (4) The proposed activity is of such an unusual nature or has such widespread implications that an uncommon concern for its environmental effects has been expressed to the agency.

*History Note: Authority G.S. 113A-9; 113A-11; 143B-10(j); Temporary Adoption Eff. January 11, 2002;*

(c) The renewal fee for a non-resident reciprocal licensee under G.S. 85B-5 shall be calculated in the same manner as the initial application fee pursuant to G.S. 85B-6.

(d) Fees may be paid in the form of a cashier's check, certified check or money order made payable to the North Carolina Auctioneer Licensing Board. Checks drawn on escrow or trust accounts shall not be accepted. Personal checks may be accepted for payment of renewal fees.

*History Note: Authority G.S. 85B-3.2; 85B-4.1; 85B-6; Eff. November 1, 1984; Amended Eff. April 1, 2001; January 1, 2000; April 1, 1996; January 1, 1995; April 1, 1989; Temporary Amendment Eff. October 19, 2001; Temporary Amendment Expired August 12, 2002; Amended Eff. April 1, 2003.*

**21 NCAC 04B .0801 CONTINUING EDUCATION COURSE**

(a) To renew a license on active status, an auctioneer, apprentice auctioneer, or designated person(s) in an auction firm shall complete a Board approved course(s) consisting of the hours of instruction as established as in Paragraph (d) of this Rule and shall provide documentation of completion of the above Board approved course(s) within one year preceding license expiration.

- (1) "Within one year preceding license expiration time period" shall be defined as from May 16 to the following May 15 in the year that the license expires.
- (2) An auctioneer, apprentice auctioneer, or designated person(s) in an auction firm shall provide documentation on required continuing education courses to the Board by the May 15 deadline of the current renewal period.
- (3) If the required documentation is not received by the Board by the deadline as set forth in Subparagraph (a)(2) of this Rule, the licensee shall be assessed a late fee as set forth in Rule .0202(b)(10) of this Subchapter.
- (4) The renewal shall not be processed until compliance is achieved and the required fees are received as set forth in Rule .0402(b) of this Subchapter.

(b) The Board shall approve courses that shall be conducted by sponsors approved by the Board under this Section. The subject matter of this course shall be determined by the course sponsor subject to Paragraph (h) of this Rule. The course sponsor shall produce or acquire instructor and student materials. The course must be conducted as prescribed by the rules in this Section. At the beginning of the course, sponsors must provide licensees participating in their classes a copy of the student materials developed or acquired by the sponsor.

(c) The sponsor may conduct the course at any location as frequently as is desired during the approval period. Approval of a sponsor to conduct a course authorizes the sponsor to conduct the course using an instructor who has been approved by the Board as a course instructor under Rule .0804 of this Section.

(d) The minimum classroom hours of instruction for each year shall be six unless the Board establishes at its April monthly Board meeting fewer hours for the upcoming year pursuant to G.S. 85B-4(e1). In determining whether fewer hours may be

established, the Board shall analyze the disciplinary actions and complaints against its licensees and base its decision on whether the analysis shows that a reduction in hours is justified.

(e) An auctioneer, an apprentice auctioneer, or a designated person(s) in an auction firm shall complete the continuing education requirements for each renewal period that their license was lapsed or suspended.

(f) Credit hours applied to the current renewal of a license shall not be used for future renewals.

(g) Excess continuing education hours may be carried forward as credits for a maximum of one renewal year.

(h) The Board may mandate the topic(s) for all or part of an approved course as a continuing education requirement pursuant to G.S. 85B-4(e1). In determining whether to mandate the topic for all or part of an approved course as a continuing education requirement, the Board shall analyze the disciplinary actions and complaints against its licensees and base its decision on whether the analysis shows that mandating the topic for all or part of a course is justified.

(i) No part of any prelicensing course curriculum shall count as continuing education credit hours.

(j) Continuing education shall not be required until the second renewal after initial licensing pursuant to G.S. 85B-4(e).

*History Note: Authority G.S. 85B-4.(e1); Eff. July 1, 1999; Amended Eff. April 1, 2001; January 1, 2000; Temporary Amendment Eff. October 12, 2001; Temporary Amendment Expired July 29, 2002; Amended Eff. April 1, 2003.*

**21 NCAC 04B .0802 APPLICATION FOR ORIGINAL APPROVAL**

(a) An entity seeking original approval to sponsor a course must make application on a form prescribed by the Board. An applying entity that is not a resident of North Carolina shall also file with the application a consent to service of process and pleadings.

(b) Approval to sponsor a course shall be granted to an applicant upon showing to the satisfaction of the Board that:

- (1) The applicant has submitted all information required by the Board;
- (2) The applicant satisfies all of the requirements of Rule .0805 of this Section relating to qualifications or eligibility of course sponsors;
- (3) The applicant required by Rule .0805(e) must be truthful, honest and of high integrity as referenced in 21 NCAC 04B .0404(a)(15). In this regard, the Board may consider the reputation and character of any owner, officer or director of any corporation, association or organization applying for sponsor approval; and
- (4) The applicant has at least one proposed instructor who has been approved by the Board as a course instructor under Rule .0804 of this Section.

*History Note: Authority G.S. 85B-4(e1); Eff. July 1, 1999; Amended Eff. April 1, 2001; January 1, 2000;*

*Temporary Amendment Eff. October 12, 2001;  
Temporary Amendment Expired July 29, 2002;  
Amended Eff. April 1, 2003.*

**21 NCAC 04B .0804 APPROVAL OF CONTINUING EDUCATION INSTRUCTORS**

(a) Approval of course instructors shall be accomplished at the time of the approval of the course sponsor. Approval of a course instructor authorizes the instructor to teach the course only for the approved course sponsor. An approved course instructor may not independently conduct a course unless the instructor has also obtained approval as a course sponsor.

(b) An entity seeking original approval as a course sponsor must provide the name, address, and qualifications of the instructors for the course on the application form prescribed by the Board. No additional application fee is required. All required information regarding the instructor's qualifications must be submitted.

(c) The instructor(s) must be truthful, honest and of high integrity as referenced in 21 NCAC 04B .0404(a)(15).

(d) The instructor(s) must be qualified under one or more of the following standards:

- (1) Possession of a baccalaureate or higher degree with a major in the field of marketing, finance, or business administration;
- (2) Possession of a current North Carolina auctioneer or auction firm license, three years active full-time experience in auctioneering within the previous 10 years, and 30 classroom hours of auction education, excluding prelicensing education, within the past three years, such education covering topics which are acceptable under Board rules for continuing education credit;
- (3) Possession of a current North Carolina real estate broker license, three years active full-time experience in the real estate business within the previous 10 years, and experience teaching real estate prelicensing and continuing education courses;
- (4) Possession of a license to practice law in North Carolina and three years experience in law practice within the previous 10 years; or
- (5) Possession of qualifications found by the Board to be equivalent to one or more of the standards set forth in this Rule.

(e) The Board may deny or withdraw approval of any course instructor upon finding that:

- (1) The course sponsor or the instructor has made any false statements or presented false information in connection with an application for approval;
- (2) The instructor has failed to meet the criteria for approval described in Paragraph (d) of this Rule or has refused or failed to comply with any other provisions of this Subchapter;
- (3) The instructor has failed to demonstrate, during the teaching of courses, those effective teaching skills described in Rule .0815 of this Section; or

(4) The instructor has provided false or incorrect information in connection with any reports a course sponsor is required to submit to the Board.

(f) If a licensee who is an approved course instructor engages in any dishonest, fraudulent or improper conduct in connection with the licensee's activities as an instructor, the licensee shall be subject to disciplinary action pursuant to G.S. 85B-8 and G.S. 85B-9.

(g) Upon the written request of the Board, an approved course instructor must submit to the Board a videotape depicting the instructor teaching the course. The videotape must have been made within 12 months of the date of submission, must be in VHS format, must include a label which clearly identifies the instructor and the date of the videotaped presentation.

(h) An approved instructor who is a licensee of the Board shall receive continuing education credit hours for instruction at a rate of one hour for every one-half hour of approved course taught.

*History Note: Authority G.S. 85B-4(e1);  
Eff. July 1, 1999;  
Temporary Amendment Eff. October 12, 2001;  
Temporary Amendment Expired July 29, 2002;  
Amended Eff. April 1, 2003.*

**CHAPTER 48 - BOARD OF PHYSICAL THERAPY EXAMINERS**

**21 NCAC 48C .0101 PERMITTED PRACTICE**

(a) Physical therapy is presumed to include any acts, tests, procedures, treatments or modalities that are routinely taught in educational programs or in continuing education programs for physical therapists and are routinely performed in practice settings.

(b) A physical therapist who employs acts, tests, procedures and modalities in which professional training has been received through education or experience is considered to be engaged in the practice of physical therapy.

(c) A physical therapist must supervise physical therapist assistants, physical therapy aides, PT students and PTA students to the extent required under the Physical Therapy Practice Act and these Rules. Physical therapy aides include all non-licensed individuals aiding in the provision of physical therapy services.

(d) The practice of physical therapy is the application of a broad range of evaluation and treatment procedures related to abnormality of human sensorimotor performance. It includes, but is not limited to, tests of joint motion, muscle length and strength, posture and gait, limb length and circumference, activities of daily living, pulmonary function, cardiovascular function, nerve and muscle electrical properties, orthotic and prosthetic fit and function, sensation and sensory perception, reflexes and muscle tone, and sensorimotor and other skilled performances; treatment procedures such as hydrotherapy, shortwave or microwave diathermy, ultrasound, infrared and ultraviolet radiation, cryotherapy, electrical stimulation including transcutaneous electrical neuromuscular stimulation, massage, debridement, intermittent vascular compression, iontophoresis, machine and manual traction of the cervical and lumbar spine, joint mobilization, machine and manual therapeutic exercise including isokinetics and biofeedback, and training in the use of orthotic, prosthetic and other assistive

**APPROVED RULES**

devices including crutches, canes and wheelchairs. Physical therapy further includes, but is not limited to:

- (1) examining (history, system review and tests and measures) individuals in order to determine a diagnosis, prognosis, and intervention [within the physical therapist's scope of practice]. Tests and measures may include, but are not limited to, the following:
  - (A) aerobic capacity and endurance;
  - (B) anthropometric characteristics;
  - (C) arousal, attention, and cognition;
  - (D) assistive and adaptive devices;
  - (E) community and work (job/school/play) integration or reintegration;
  - (F) cranial nerve integrity;
  - (G) environmental, home, and work (job/school/play) barriers;
  - (H) ergonomics and body mechanics;
  - (I) gait, locomotion, and balance;
  - (J) integumentary integrity;
  - (K) joint integrity and mobility;
  - (L) motor function;
  - (M) muscle performance;
  - (N) neuromotor development and sensory integration;
  - (O) orthotic, protective and supportive devices;
  - (P) pain;
  - (Q) posture;
  - (R) prosthetic requirements;
  - (S) range of motion;
  - (T) reflex integrity;
  - (U) self-care and home management;
  - (V) sensory integrity; and
  - (W) ventilation, respiration, and circulation.
- (2) alleviating impairment and functional limitation by designing, implementing, and

modifying therapeutic interventions that may include, but are not limited to the following:

- (A) coordination, communication and documentation;
  - (B) patient/client-related instruction;
  - (C) therapeutic exercise (including aerobic conditioning);
  - (D) functional training in self-care and home management (including activities of daily living and instrumental activities of daily living);
  - (E) functional training in community and work (jobs/school/play) integration or reintegration activities (including instrumental activities of daily living, work hardening, and work conditioning);
  - (F) manual therapy techniques (including mobilization and manipulation);
  - (G) prescription, application, and fabrication of assistive, adaptive, orthotic, protective, supportive, and prosthetic devices and equipment that is within the scope of practice of physical therapy;
  - (H) airway clearance techniques;
  - (I) wound management;
  - (J) electrotherapeutic modalities; and
  - (K) physical agents and mechanical modalities.
- (3) preventing injury, impairment, functional limitation, and disability, including the promotion and maintenance of fitness, health, and quality of life in all age populations.

*History Note: Authority G.S. 90-270.24; 90-270.26; Eff. December 30, 1985; Amended Eff. April 1, 2003; August 1, 2002; August 1, 1998; December 1, 1990; October 1, 1989; April 1, 1989.*

## RULES REVIEW COMMISSION

*This Section contains information for the meeting of the Rules Review Commission on Thursday, November 21, 2002, 10:00 a.m. at 1307 Glenwood Avenue, Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments by Friday, November 15, 2002 to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.*

### RULES REVIEW COMMISSION MEMBERS

#### Appointed by Senate

Thomas Hilliard, III  
Robert Saunders  
Laura Devan  
Jim Funderburke  
David Twiddy

#### Appointed by House

Paul Powell - Chairman  
Jennie J. Hayman Vice - Chairman  
Dr. Walter Futch  
Jeffrey P. Gray  
Dr. John Tart

### RULES REVIEW COMMISSION MEETING DATES

November 21, 2002  
December 19, 2002

### Commission Review/Administrative Rules

#### *Log of Filings (Log #190)*

*September 21, 2002 through October 21, 2002*

#### AGRICULTURE, DEPARTMENT OF

Collection and Sale of Ginseng 2 NCAC 48F .0305 Amend

#### DEPARTMENT OF CORRECTION

Application 5 NCAC 06 .0101 Adopt  
Purpose 5 NCAC 06 .0102 Adopt  
Hiring Standards 5 NCAC 06 .0201 Adopt  
Training Standards 5 NCAC 06 .0301 Adopt  
Review of Compliance 5 NCAC 06 .0401 Adopt

#### DEPARTMENT OF JUVENILE JUSTICE

Definition of Detention 9 NCAC 05B .0101 Repeal  
Objectives of Detention Care 9 NCAC 05B .0103 Repeal  
Design Development and Approval 9 NCAC 05B .0201 Repeal  
Design Intent 9 NCAC 05B .0202 Repeal  
Construction Materials 9 NCAC 05B .0203 Repeal  
Structural Arrangement and Accommodations 9 NCAC 05B .0204 Repeal  
Staff Qualifications 9 NCAC 05B .0301 Repeal  
Job Descriptions 9 NCAC 05B .0302 Repeal  
Training and Staff Development of Detention Person 9 NCAC 05B .0303 Repeal  
Applicants for Detention Personnel with Court Rec. 9 NCAC 05B .0304 Repeal  
Staff Juvenile Ratio 9 NCAC 05B .0305 Repeal  
Continuous Supervision of Children 9 NCAC 05B .0306 Repeal  
Admission Control 9 NCAC 05B .0401 Repeal  
Admission Procedures 9 NCAC 05B .0402 Repeal  
Personal Hygiene 9 NCAC 05B .0501 Repeal  
Food Services 9 NCAC 05B .0502 Repeal  
Sleep and Rest Periods 9 NCAC 05B .0503 Repeal  
Medical Care 9 NCAC 05B .0504 Repeal  
Discipline 9 NCAC 05B .0505 Repeal  
Room Restriction or Confinement 9 NCAC 05B .0506 Repeal  
Use of Defensive and Restraining Force 9 NCAC 05B .0507 Repeal  
Runaways 9 NCAC 05B .0508 Repeal  
Accidents Serious Illnesses and Injuries 9 NCAC 05B .0509 Repeal

**RULES REVIEW COMMISSION**

Visitation and Communication	9 NCAC 05B	.0510	Repeal
Housekeeping Chores	9 NCAC 05B	.0511	Repeal
Education	9 NCAC 05B	.0512	Repeal
Library Facilities	9 NCAC 05B	.0513	Repeal
Arts and Crafts	9 NCAC 05B	.0514	Repeal
Recreation	9 NCAC 05B	.0515	Repeal
Counseling Services	9 NCAC 05B	.0516	Repeal
Religious Counseling	9 NCAC 05B	.0517	Repeal
Clinical Evaluation	9 NCAC 05B	.0518	Repeal
Records and Reports	9 NCAC 05B	.0519	Repeal
Twelve Month Eligibility Re-determination	9 NCAC 05B	.0601	Repeal
Youth Services	9 NCAC 05B	.0602	Repeal
Definition of Terms	9 NCAC 05C	.0102	Repeal
Right to Appropriate Care and Treatment	9 NCAC 05C	.0201	Repeal
Behavior Management and Discipline	9 NCAC 05C	.0202	Repeal
Discipline Policy for Specialized Foster Care	9 NCAC 05C	.0203	Repeal
Solicitation of Funds	9 NCAC 05C	.0301	Repeal
Permission Required Before Publicity	9 NCAC 05C	.0302	Repeal
No Acknowledgment	9 NCAC 05C	.0303	Repeal
Registration of Firearms	9 NCAC 05C	.0401	Repeal
Care and Storage of Firearms	9 NCAC 05C	.0402	Repeal
Storage of Ammunition	9 NCAC 05C	.0403	Repeal
Staff Use of Firearms	9 NCAC 05C	.0404	Repeal
Possession of Firearms Prohibited	9 NCAC 05C	.0405	Repeal
Authority to Establish More Restrictive Policies	9 NCAC 05C	.0406	Repeal
No Use While Participating with Clients	9 NCAC 05C	.0501	Repeal
Group Home Staff Who Maintain a Separate Residence	9 NCAC 05C	.0502	Repeal
Staff Who Live in Group Home	9 NCAC 05C	.0503	Repeal
Opportunities Shall be Provided	9 NCAC 05C	.0601	Repeal
Orientation for Staff and Volunteers	9 NCAC 05C	.0701	Repeal
Training Required for Adventure Activities	9 NCAC 05C	.0702	Repeal
Wilderness Adventure Program Committee	9 NCAC 05C	.0703	Repeal
Staff Requirements for High Risk Activities	9 NCAC 05C	.0704	Repeal
Counseling Skills Training	9 NCAC 05C	.0705	Repeal
Certification for Nypum Directions	9 NCAC 05C	.0706	Repeal
Other Nypum Staff and Adult Volunteers	9 NCAC 05C	.0707	Repeal
Skills Training for Adventure Activities Staff	9 NCAC 05C	.0708	Repeal
Training for Specialized Foster Care Parents	9 NCAC 05C	.0709	Repeal
Continuing Training for Specialized Foster Care	9 NCAC 05C	.0710	Repeal
Staff Requirements for Counseling Programs	9 NCAC 05C	.0711	Repeal
Required Training for counseling Program Staff	9 NCAC 05C	.0712	Repeal
After Hours Backup To Specialized Foster Care Par	9 NCAC 05C	.0801	Repeal
Incentive Payments	9 NCAC 05C	.0802	Repeal
Incentive Pay for Children in Care	9 NCAC 05C	.0803	Repeal
Recruiting Specialized Foster Parents	9 NCAC 05C	.0804	Repeal
Emergency Plan for Volunteers	9 NCAC 05C	.0805	Repeal
Determining Appropriateness of Foster Care Referral	9 NCAC 05C	.0901	Repeal
Priority of Admission to Specialized Foster Care	9 NCAC 05C	.0902	Repeal
Line Item Budget for All Programs	9 NCAC 05C	.1001	Repeal
Financial Plan for all Programs	9 NCAC 05C	.1002	Repeal
Final Accounting Form for all Programs Except Gov	9 NCAC 05C	.1003	Repeal
Startup Funds Required for all Programs	9 NCAC 05C	.1004	Repeal
Employment Policies Required for all Programs	9 NCAC 05C	.1006	Repeal
Adventure Activities of Wilderness Adventure Prog	9 NCAC 05C	.1101	Repeal
Riding Activities of Nypum	9 NCAC 05C	.1102	Repeal
Professional to Volunteer Ratio	9 NCAC 05C	.1103	Repeal
Children in Specialized Foster Care	9 NCAC 05C	.1104	Repeal
Client Contact Time in Counseling Programs	9 NCAC 05C	.1105	Repeal
Monthly Contact in Counseling Programs	9 NCAC 05C	.1106	Repeal
Case Load in counseling Programs	9 NCAC 05C	.1107	Repeal
Residential Programs	9 NCAC 05C	.1201	Repeal

**RULES REVIEW COMMISSION**

Non-Residential Programs	9 NCAC 05C	.1202	Repeal
Record of Client Counseling Contacts Required	9 NCAC 05C	.1203	Repeal
Individual Treatment Plan Required for Counseling	9 NCAC 05C	.1204	Repeal
Client Age Requirements	9 NCAC 05C	.1301	Repeal
Requirement for Juvenile Justice Involvement	9 NCAC 05C	.1302	Repeal
Emergency Placement Policy for Emergency Shelter	9 NCAC 05C	.1305	Repeal
Requirements for High-Risk Neighborhood Programs	9 NCAC 05C	.1306	Repeal
Required Reduction in Court Referrals	9 NCAC 05C	.1401	Repeal
Required Reduction in Runaways	9 NCAC 05C	.1402	Repeal
Required Reduction in School Suspensions and Expul	9 NCAC 05C	.1403	Repeal
Training School Commitments	9 NCAC 05C	.1404	Repeal
Required Progress with the Court	9 NCAC 05C	.1405	Repeal
Required Progress in School	9 NCAC 05C	.1406	Repeal
Required Progress at Home	9 NCAC 05C	.1407	Repeal
Evaluation of Impact of High-Risk Community Progra	9 NCAC 05C	.1408	Repeal
Service Referrals From Emergency Shelter Programs	9 NCAC 05C	.1409	Repeal
Proportional Compliance to Minimum Standards	9 NCAC 05C	.1410	Repeal
Severity Level of CBA Programs	9 NCAC 05C	.1411	Repeal
Division Policy for Non-Compliance with Standards	9 NCAC 05C	.1501	Repeal
Critical Program Standards	9 NCAC 05C	.1502	Repeal
Monitoring of Program Standards	9 NCAC 05C	.1503	Repeal
Performance Standards	9 NCAC 05C	.1504	Repeal
Performance Standards for School Programs	9 NCAC 05C	.1505	Repeal
Staffing	9 NCAC 05C	.1601	Repeal
Admission Criteria	9 NCAC 05C	.1602	Repeal
Evaluation and Performance Standards	9 NCAC 05C	.1603	Repeal
Orientation and Reporting Requirements	9 NCAC 05C	.1604	Repeal
Purpose of the Fund	9 NCAC 05D	.0101	Repeal
Process for County Eligibility	9 NCAC 05D	.0102	Repeal
Funding Formula	9 NCAC 05D	.0103	Repeal
Local Match	9 NCAC 05D	.0104	Repeal
Forms Definitions	9 NCAC 05D	.0105	Repeal
Budget and Budget Amendments	9 NCAC 05D	.0106	Repeal
Discretionary Funds	9 NCAC 05D	.0107	Repeal
Disbursements Reversions Final Accounting	9 NCAC 05D	.0108	Repeal
Responsibilities of Division and/or Department	9 NCAC 05D	.0201	Repeal
County's Responsibilities	9 NCAC 05D	.0202	Repeal
County Task Force's Responsibilities	9 NCAC 05D	.0203	Repeal
County Task Forces Certification	9 NCAC 05D	.0204	Repeal
Program Manager's Responsibilities	9 NCAC 05D	.0205	Repeal
CBA Policy and Capital Expenditures	9 NCAC 05D	.0206	Repeal
Grievance Resolution	9 NCAC 05D	.0207	Repeal
Scope	9 NCAC 05E	.0101	Repeal
Admission	9 NCAC 05E	.0102	Repeal
Records and Reports	9 NCAC 05E	.0103	Repeal
Client Treatment and Development	9 NCAC 05E	.0104	Repeal
Monitoring and Evaluation	9 NCAC 05E	.0105	Repeal
Personnel	9 NCAC 05E	.0106	Repeal
Staffing	9 NCAC 05E	.0107	Repeal
Training	9 NCAC 05E	.0108	Repeal
Organization and Administration	9 NCAC 05E	.0109	Repeal
Building Grounds and Equipment	9 NCAC 05E	.0110	Repeal
State and Local Agencies	9 NCAC 05F	.0201	Repeal
Research	9 NCAC 05F	.0202	Repeal
Community Involvement	9 NCAC 05F	.0203	Repeal
Tours	9 NCAC 05F	.0204	Repeal
Admissions	9 NCAC 05F	.0301	Repeal
Transfer of Students	9 NCAC 05F	.0302	Repeal
Orientation	9 NCAC 05F	.0303	Repeal
General Provisions	9 NCAC 05F	.0401	Repeal
Assessments	9 NCAC 05F	.0402	Repeal

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**RULES REVIEW COMMISSION**

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Services	9 NCAC 05F	.0403	Repeal
General Provisions	9 NCAC 05F	.0501	Repeal
Supervision	9 NCAC 05F	.0502	Repeal
Staff and Student Relations	9 NCAC 05F	.0503	Repeal
Discipline	9 NCAC 05F	.0504	Repeal
General Provisions	9 NCAC 05F	.0601	Repeal
Rights of All Students	9 NCAC 05F	.0602	Repeal
Rights to Communication	9 NCAC 05F	.0603	Repeal
Religious Policies	9 NCAC 05F	.0604	Repeal
Confidentiality Rights	9 NCAC 05F	.0605	Repeal
Student Money Management	9 NCAC 05F	.0606	Repeal
Role of Staff Student Advocates and Representative	9 NCAC 05F	.0607	Repeal
Student Grievance Procedure	9 NCAC 05F	.0608	Repeal
Corporal Punishment and Child Abuse	9 NCAC 05F	.0609	Repeal
General Provision	9 NCAC 05F	.0701	Repeal
Student Attire	9 NCAC 05F	.0702	Repeal
Physical Health	9 NCAC 05F	.0703	Repeal
General Provisions	9 NCAC 05F	.0801	Repeal
Inter-School Recreational Activities	9 NCAC 05F	.0802	Repeal
Minimum Standards for Camping Activities	9 NCAC 05F	.0803	Repeal
General Provisions	9 NCAC 05F	.0901	Repeal
Maintenance Work	9 NCAC 05F	.0902	Repeal
Medical Security	9 NCAC 05F	.1001	Repeal
Routine Visits and Sick Calls	9 NCAC 05F	.1002	Repeal
Health Education	9 NCAC 05F	.1003	Repeal
Administration of Medications	9 NCAC 05F	.1004	Repeal
Chemotherapeutic Drug Monitoring	9 NCAC 05F	.1005	Repeal
Medication Side Effects	9 NCAC 05F	.1006	Repeal
Drug Usage	9 NCAC 05F	.1007	Repeal
Verbal and Telephone Orders	9 NCAC 05F	.1008	Repeal
Stop Orders for Medication	9 NCAC 05F	.1009	Repeal
Suicidal and Homicidal Management	9 NCAC 05F	.1101	Repeal
Deaf or Blind Students	9 NCAC 05F	.1102	Repeal
Confidentiality of Medical Records	9 NCAC 05F	.1103	Repeal
Surgery Performed on Students	9 NCAC 05F	.1104	Repeal
General Provisions	9 NCAC 05F	.1201	Repeal
Assignment to Wing and Intensive Development Progr	9 NCAC 05F	.1202	Repeal
Campus Detention	9 NCAC 05F	.1203	Repeal
Rights/Students in Alternative Therapeutic Interve	9 NCAC 05F	.1204	Repeal
Hearing Rights	9 NCAC 05F	.1205	Repeal
Referral of Students for Criminal Prosecution	9 NCAC 05F	.1206	Repeal
Appropriate Use of Force	9 NCAC 05F	.1207	Repeal
Restraint of Aggressive/Uncontrollable Students	9 NCAC 05F	.1208	Repeal
Definition of Unusual Incidents	9 NCAC 05F	.1301	Repeal
Reporting Unusual Incidents	9 NCAC 05F	.1302	Repeal
Notification of Serious Injury of a Student	9 NCAC 05F	.1303	Repeal
Death of a Student	9 NCAC 05F	.1304	Repeal
Child Abuse	9 NCAC 05F	.1305	Repeal
Sexual Acting out and Intercourse	9 NCAC 05F	.1306	Repeal
Runaways	9 NCAC 05F	.1307	Repeal
Communicable Disease Control	9 NCAC 05F	.1308	Repeal
Responsibilities of Transportation Officers	9 NCAC 05F	.1401	Repeal
Use of Restraints in Transporting Students	9 NCAC 05F	.1402	Repeal
Reporting on the Road Emergencies	9 NCAC 05F	.1403	Repeal
Campus Security	9 NCAC 05F	.1501	Repeal
School Safety and Emergency Preparedness Committee	9 NCAC 05F	.1502	Repeal
Contraband	9 NCAC 05F	.1503	Repeal
Law Enforcement Use of Students	9 NCAC 05F	.1504	Repeal
Dangerous Weapons Devices and Substances	9 NCAC 05F	.1505	Repeal
Swimming and Water Safety	9 NCAC 05F	.1506	Repeal
Bomb Threats	9 NCAC 05F	.1507	Repeal



**RULES REVIEW COMMISSION**

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Severe Weather Conditions	9 NCAC 05F	.1508	Repeal
Fire Safety	9 NCAC 05F	.1509	Repeal
On Campus Visits	9 NCAC 05F	.1601	Repeal
Off Campus Visits	9 NCAC 05F	.1602	Repeal
Home Visits	9 NCAC 05F	.1603	Repeal
Campus Detention Visits	9 NCAC 05F	.1604	Repeal
Definitions Applicable to This Section	9 NCAC 05F	.1701	Repeal
Policy	9 NCAC 05F	.1702	Repeal
Two Month Evaluation	9 NCAC 05F	.1703	Repeal
Pre Release Planning Conference	9 NCAC 05F	.1704	Repeal
Maximum Sentences Definite Commitments	9 NCAC 05F	.1705	Repeal
Indefinite Commitments	9 NCAC 05F	.1706	Repeal
Hard to Place Students	9 NCAC 05F	.1707	Repeal

**DHHS/MEDICAL CARE COMMISSION**

General Requirements	10 NCAC 03C	.3101	Amend
Temporary Change in Bed Capacity	10 NCAC 03C	.3111	Adopt
Definitions	10 NCAC 03Q	.0103	Amend
Requirements for Issuance of License	10 NCAC 03Q	.0202	Amend
Surgical Services	10 NCAC 03Q	.0402	Amend
Preventive Maintenance	10 NCAC 03Q	.1202	Amend
Disaster Preparedness	10 NCAC 03Q	.1203	Repeal
Supporting Elements	10 NCAC 03Q	.1403	Amend
Mechanical Requirements	10 NCAC 03Q	.1405	Amend
Plumbing and Other Piping Systems	10 NCAC 03Q	.1406	Amend
Electrical Requirements	10 NCAC 03Q	.1407	Amend
General	10 NCAC 03Q	.1408	Adopt
List of Referenced Codes and Standards	10 NCAC 03Q	.1409	Adopt
Application of Physical Plant Requirements	10 NCAC 03Q	.1410	Adopt
Access and Safety	10 NCAC 03Q	.1411	Adopt
Replacement Equipment	10 NCAC 03R	.0214	Amend
Information Required of Applicant	10 NCAC 03R	.1125	Amend
Required Performance Standards	10 NCAC 03R	.1126	Amend
Required Performance Standards	10 NCAC 03R	.1615	Amend
Required Support Services	10 NCAC 03R	.1616	Amend
Required Performance Standards	10 NCAC 03R	.1715	Amend
Definitions	10 NCAC 03R	.1912	Amend
Required Performance Standards	10 NCAC 03R	.1914	Amend
Performance Standards	10 NCAC 03R	.2013	Amend
Definitions	10 NCAC 03R	.2113	Amend
Information Required of Applicant	10 NCAC 03R	.2114	Amend
Need for New Services	10 NCAC 03R	.2115	Amend
Facility	10 NCAC 03R	.2116	Amend
Staffing	10 NCAC 03R	.2118	Amend
Relationship to Support and Ancillary Services	10 NCAC 03R	.2119	Amend
Performance Standards	10 NCAC 03R	.2217	Amend
Performance Standards	10 NCAC 03R	.2511	Amend
Definitions	10 NCAC 03R	.2713	Amend
Information Required of Applicant	10 NCAC 03R	.2714	Amend
Required Performance Standards	10 NCAC 03R	.2715	Amend
Required Staffing and Staff Training	10 NCAC 03R	.2717	Amend
Definitions	10 NCAC 03R	.3701	Amend
Information Required of Applicant	10 NCAC 03R	.3702	Amend
Required Performance Standards	10 NCAC 03R	.3703	Amend
Required Support Services	10 NCAC 03R	.3704	Amend
Required Staffing and Staff Training	10 NCAC 03R	.3705	Amend
Applicability of Rules Related to the 2002 State	10 NCAC 03R	.6351	Adopt
Certificate of Need Review Schedule	10 NCAC 03R	.6352	Adopt
Multi-County Groupings	10 NCAC 03R	.6353	Adopt
Service Areas and Planning Areas	10 NCAC 03R	.6354	Adopt
Reallocations and Adjustments	10 NCAC 03R	.6355	Adopt
Acute Care Bed Need Determination (Review Category)	10 NCAC 03R	.6356	Adopt

**RULES REVIEW COMMISSION**

Inpatient Rehabilitation Bed Need Determination	10 NCAC 03R	.6357	Adopt
Operating Room Need Determination (Review Category	10 NCAC 03R	.6358	Adopt
Open Heart Surgery Services Need Determination	10 NCAC 03R	.6359	Adopt
Heart-Lung Bypass Machines Need Determination	10 NCAC 03R	.6360	Adopt
Fixed Cardiac Catheterization/Angioplasty EQ Need	10 NCAC 03R	.6361	Adopt
Shared Fixed Cardiac Catheterization/Angio EQ Need	10 NCAC 03R	.6362	Adopt
Burn Intensive Care Services Need Determination	10 NCAC 03R	.6363	Adopt
Bone Marrow Transplantation Services Need Determin	10 NCAC 03R	.6364	Adopt
Solid Organ Transplantation Services Need Determine	10 NCAC 03R	.6365	Adopt
Gamma Knife Need Determination (Review Category H)	10 NCAC 03R	.6366	Adopt
Lithotripter Need Determination (Review Category H	10 NCAC 03R	.6367	Adopt
Radiation Oncology Treatment Centers Need Determin	10 NCAC 03R	.6368	Adopt
Positron Emission Tomography Scanners Need Determi	10 NCAC 03R	.6369	Adopt
Fixed MRI Scanners Need Determination Based on Fix	10 NCAC 03R	.6370	Adopt
MRI Scanners Need Determination For A Fixed Breast	10 NCAC 03R	.6371	Adopt
Fixed MRI Scanners Need Determination Based on Mob	10 NCAC 03R	.6372	Adopt
Nursing Care Bed Need Determination (Review	10 NCAC 03R	.6373	Adopt
Adult Care Home Bed Need Determination (Review Cat	10 NCAC 03R	.6374	Adopt
Medicare-Medicaid Home Health Agency Office Need	10 NCAC 03R	.6375	Adopt
Dialysis Station Need Determination Methodology	10 NCAC 03R	.6376	Adopt
Dialysis Station Need Determination Methodology	10 NCAC 03R	.6377	Adopt
Hospice Home Care Need Determination (Review Categ	10 NCAC 03R	.6378	Adopt
Single County Hospice Inpatient Bed Need Determin	10 NCAC 03R	.6379	Adopt
Contiguous County Hospice Inpatient Bed Need Deter	10 NCAC 03R	.6380	Adopt
Psychiatric Bed Need Determination (Review Categor	10 NCAC 03R	.6381	Adopt
Chemical Dependency (SA) Treatment Bed Need Determ	10 NCAC 03R	.6382	Adopt
Chemical Dependency (SA) Adult Detox-Only Bed Need	10 NCAC 03R	.6383	Adopt
Intermediate Care Beds for the Mentally Ret Need	10 NCAC 03R	.6384	Adopt
Policies for General Acute Care Hospitals	10 NCAC 03R	.6385	Adopt
Policies for Nursing Care Facilities	10 NCAC 03R	.6389	Adopt
Policies for Medicare-Certified Home Health Service	10 NCAC 03R	.6391	Adopt
Policy for Relocation of Dialysis Stations	10 NCAC 03R	.6392	Adopt
Policies for Psychiatric Inpatient Facilities	10 NCAC 03R	.6393	Adopt
Policy for Chemical Dependency Treatment Facilities	10 NCAC 03R	.6394	Adopt
Policies for Intermediate Care Facilities for Men	10 NCAC 03R	.6395	Adopt

**DENR**

Statement of Purpose Policy and Scope	15A NCAC 01C	.0101	Amend
Agency Compliance	15A NCAC 01C	.0102	Repeal
Definitions	15A NCAC 01C	.0103	Adopt
Agency Compliance	15A NCAC 01C	.0104	Adopt
Lead and Cooperating Agency	15A NCAC 01C	.0105	Adopt
Scoping and Hearings	15A NCAC 01C	.0106	Adopt
Limitation on Actions During NCEPA Process	15A NCAC 01C	.0107	Adopt
Emergencies	15A NCAC 01C	.0108	Adopt
Non-State Involvement and Consultants	15A NCAC 01C	.0109	Adopt
Early Application of The NCEPA	15A NCAC 01C	.0201	Repeal
When to Prepare Environmental Documents	15A NCAC 01C	.0202	Repeal
Lead and Cooperating Agency Responsibility	15A NCAC 01C	.0203	Repeal
Scoping and Hearings	15A NCAC 01C	.0204	Repeal
Implementation	15A NCAC 01C	.0205	Adopt
When to Prepare Environmental Documents	15A NCAC 01C	.0206	Adopt
Incorporation by Reference	15A NCAC 01C	.0207	Adopt
Incomplete or Unavailable	15A NCAC 01C	.0208	Adopt
Implementation	15A NCAC 01C	.0301	Repeal
Incorporation by Reference	15A NCAC 01C	.0302	Repeal
Incomplete or Unavailable Information	15A NCAC 01C	.0303	Repeal
Activities Above the Minimum Criteria	15A NCAC 01C	.0304	Adopt
Types of Activities Requiring	15A NCAC 01C	.0305	Adopt
Activities of a Special Nature	15A NCAC 01C	.0306	Adopt
Agency Decision Making Procedures	15A NCAC 01C	.0401	Repeal
Limitation on Actions During NCEPA Process	15A NCAC 01C	.0402	Repeal

**RULES REVIEW COMMISSION**

Emergencies	15A NCAC 01C .0403	Repeal
Non-State Involvement and Contractors	15A NCAC 01C .0404	Repeal
Purpose of the Minimum Criteria Thresholds	15A NCAC 01C .0405	Adopt
Sampling Survey Monitoring and Related Research Ac	15A NCAC 01C .0406	Adopt
Standard Maintenance or Repair Activities	15A NCAC 01C .0407	Adopt
Minor Construction Activities	15A NCAC 01C .0408	Adopt
Management Activities	15A NCAC 01C .0409	Adopt
Private Use of Public Lands	15A NCAC 01C .0410	Adopt
Remediation Activities	15A NCAC 01C .0411	Adopt
Purpose	15A NCAC 01C .0501	Repeal
Major Activities	15A NCAC 01C .0502	Repeal
Exceptions to Minimum Criteria	15A NCAC 01C .0503	Repeal
Non-Major Activity	15A NCAC 01C .0504	Repeal
Non-Major Hurricane Re lief Activity	15A NCAC 01C .0505	Repeal

**DENR/ENVIRONMENTAL MANAGEMENT COMMISSION**

Standards for Toxic Substances and Temperature	15A NCAC 02B .0208	Amend
Fresh Surface Water Quality Standards for Class C	15A NCAC 02B .0211	Amend
Fresh Surface Water Quality Standards for Class WS	15A NCAC 02B .0212	Amend
Fresh Surface Water Quality Standards for Class WS	15A NCAC 02B .0214	Amend
Fresh Surface Water Quality Standards for Class WS	15A NCAC 02B .0215	Amend
Fresh Surface Water Quality Standards for Class WS	15A NCAC 02B .0216	Amend
Fresh Surface Water Quality Standards for Class WS	15A NCAC 02B .0218	Amend
Neuse River Basin Nutrient Sensitive Waters Manage	15A NCAC 02B .0234	Amend
Mailing List	15A NCAC 02D .0105	Amend
Particulates from Hot Mix Asphalt Plants	15A NCAC 02D .0506	Amend
Particulates from Chemical Fertilizer Manufacturing	15A NCAC 02D .0507	Amend
Particulates from Mica or Feldspar	15A NCAC 02D .0509	Amend
Particulates from Miscellaneous Industrial Process	15A NCAC 02D .0515	Amend
Sulfur Dioxide Emissions from Combustion Sources	15A NCAC 02D .0516	Amend
Control of Visible Emissions	15A NCAC 02D .0521	Amend
Sources Covered by Appendix P of 40 CFR Part 61	15A NCAC 02D .0606	Amend
Other Large Coal or Residual Oil Burners	15A NCAC 02D .0608	Amend
General Provisions on Test Methods and Procedures	15A NCAC 02D .0912	Amend
Bulk Gasoline Terminals	15A NCAC 02D .0927	Amend
Gasoline Truck Tanks and Vapor Collection Systems	15A NCAC 02D .0932	Amend
Petition for Alternative Controls for RACT	15A NCAC 02D .0952	Amend
Stage II Vapor Recovery	15A NCAC 02D .0954	Amend
Petition for Superior Alternative Controls	15A NCAC 02D .0959	Adopt
Certification of Leak Tightness Tester	15A NCAC 02D .0960	Adopt

**DENR/DIVISION OF FOREST RESOURCES**

Purpose	15A NCAC 09C .1201	Adopt
Definitions of Terms	15A NCAC 09C .1202	Adopt
Permits	15A NCAC 09C .1203	Adopt
Rock or Cliff Climbing and Rappelling	15A NCAC 09C .1204	Adopt
Bathing or Swimming	15A NCAC 09C .1205	Adopt
Hunting	15A NCAC 09C .1206	Adopt
Fishing	15A NCAC 09C .1207	Adopt
Animals At Large	15A NCAC 09C .1208	Adopt
Boating	15A NCAC 09C .1209	Adopt
Camping	15A NCAC 09C .1210	Adopt
Sports and Games	15A NCAC 09C .1211	Adopt
Horses	15A NCAC 09C .1212	Adopt
Bicycles	15A NCAC 09C .1213	Adopt
Explosives	15A NCAC 09C .1214	Adopt
Firearms	15A NCAC 09C .1215	Adopt
Fires	15A NCAC 09C .1216	Adopt
Disorderly Conduct	15A NCAC 09C .1217	Adopt
Intoxicating Beverages and Drugs	15A NCAC 09C .1218	Adopt
Commercial Enterprises	15A NCAC 09C .1219	Adopt
Noise Regulation	15A NCAC 09C .1220	Adopt

**RULES REVIEW COMMISSION**

Meetings and Exhibitions Regulation	15A NCAC 09C .1221	Adopt
Alms and Contributions	15A NCAC 09C .1222	Adopt
Aviation	15A NCAC 09C .1223	Adopt
Expulsion	15A NCAC 09C .1224	Adopt
Motorized Vehicles Where Prohibited	15A NCAC 09C .1225	Adopt
Flowers Plants Minerals Etc.	15A NCAC 09C .1226	Adopt
Fees and Charges	15A NCAC 09C .1227	Adopt
<b>DENR/WILDLIFE RESOURCES COMMISSION</b>		
Application for Tags	15A NCAC 10B .0403	Amend
Montgomery County	15A NCAC 10F .0327	Amend
Town of Nag's Head (Dare County)	15A NCAC 10F .0368	Adopt
Protection of Endangered/Threatened/Special	15A NCAC 10I .0102	Amend
Course Requirements	15A NCAC 10K .0001	Amend
Issuance of Certificate of Competency	15A NCAC 10K .0002	Amend
Instructor Certification Requirements	15A NCAC 10K .0003	Amend
<b>DENR/COMMISSION FOR HEALTH SERVICES</b>		
Maximum Contaminant Levels for Inorganic Chemicals	15A NCAC 18C .1510	Amend
<b>DENR/DHHS</b>		
Reportable Diseases and Conditions	15A NCAC 19A .0101	Amend
Method of Reporting	15A NCAC 19A .0102	Amend
Duties of Local Health Director Report Comm	15A NCAC 19A .0103	Amend
Control Measures General	15A NCAC 19A .0201	Amend
Control Measures HIV	15A NCAC 19A .0202	Amend
Control Measures Hepatitis B	15A NCAC 19A .0203	Amend
Control Measures Sexually Transmitted Diseases	15A NCAC 19A .0204	Amend
Control Measures Tuberculosis	15A NCAC 19A .0205	Amend
HIV and Hepatitis B Infected Health Care Workers	15A NCAC 19A .0207	Amend
Laboratory Testing	15A NCAC 19A .0209	Amend
Dosage and Age Requirements for Immunization	15A NCAC 19A .0401	Amend
Communicable Disease Financial Grants and Contract	15A NCAC 19A .0801	Amend
Eligibility for Tuberculosis Hospitalization Services	15A NCAC 19A .0802	Repeal
Eligibility for Tuberculosis Nursing Home Services	15A NCAC 19A .0803	Repeal
General	15A NCAC 19A .0901	Adopt
Biological Agents to be Reported	15A NCAC 19A .0902	Adopt
When to Report	15A NCAC 19A .0903	Adopt
Exemption From Reporting	15A NCAC 19A .0905	Adopt
Security	15A NCAC 19A .0906	Adopt
Release of Information	15A NCAC 19A .0907	Adopt
General	15A NCAC 19C .0801	Amend
<b>DENR/DHHS/COMMISSION FOR HEALTH SERVICES</b>		
General	15A NCAC 21A .0815	Amend
Definitions	15A NCAC 21A .0816	Amend
Grant Applications	15A NCAC 21A .0817	Amend
Maximum Funding Level	15A NCAC 21A .0818	Amend
Operating Standards	15A NCAC 21A .0819	Amend
Evaluation and Monitoring	15A NCAC 21A .0820	Amend
Renewal of Grant Funds	15A NCAC 21A .0821	Amend
Criteria for Project Selection	15A NCAC 21A .0822	Amend
Medical Services Provided	15A NCAC 21H .0111	Amend
<b>REVENUE, DEPARTMENT OF</b>		
Operation of Vehicles Excluded from Reports	17 NCAC 12A .0101	Amend
Retail Fuel Purchases Invoices	17 NCAC 12A .0201	Amend
Refunds	17 NCAC 12A .0301	Amend
Revocation of Registration	17 NCAC 12A .0502	Adopt
Exporter's License	17 NCAC 12B .0102	Amend
Types of Acceptable Bonds	17 NCAC 12B .0106	Amend
Racing Fuel	17 NCAC 12B .0201	Amend
Reporting Information in the Proper Reporting Period	17 NCAC 12B .0301	Amend
Documenting Sales to the United States Government	17 NCAC 12B .0401	Amend
Sales to U.S. Government Refund Form Gas 1206	17 NCAC 12B .0402	Amend

**RULES REVIEW COMMISSION**

Off-Highway Refund Invoice Requirements	17 NCAC 12B	.0404	Amend
Off-Highway Users with Common Storage Facilities	17 NCAC 12B	.0405	Amend
Stationary Engine Mounted on a Licensed Motor Vehicle	17 NCAC 12B	.0406	Amend
Municipal Corporation and City Transit System	17 NCAC 12B	.0411	Amend
Proportional Refunds	17 NCAC 12B	.0412	Amend
Off-Highway City/county and Taxicab Refunds	17 NCAC 12B	.0413	Amend
Eligibility for Refunds	17 NCAC 12B	.0414	Amend
Licensed Vehicles Using Dyed Diesel Fuel	17 NCAC 12B	.0503	Amend
Amount of Bond Required	17 NCAC 12D	.0102	Amend
Types of Acceptable Bonds	17 NCAC 12D	.0103	Amend
<b>TRANSPORTATION, DEPARTMENT OF/DIVISION OF MOTOR VEHICLES</b>			
Issuing of Original Certificate	19 NCAC 03G	.0205	Amend
<b>STATE BOARDS/N C STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS</b>			
Election of Officers	21 NCAC 08A	.0201	Amend
Definitions	21 NCAC 08A	.0301	Amend
New CPA Firm Ongoing CPA Firm	21 NCAC 08A	.0315	Repeal
Time and Place of CPA Examinations	21 NCAC 08F	.0101	Amend
Filing of Examination Applications and Fees	21 NCAC 08F	.0103	Amend
Conditioning Requirements	21 NCAC 08F	.0105	Amend
Proctoring Other Jurisdictions' Candidates	21 NCAC 08F	.0110	Amend
Ineligibility Due to Violation of Accountancy Act	21 NCAC 08F	.0111	Amend
Candidate's Request to Review CPA Examination	21 NCAC 08F	.0113	Amend
Candidates' Accountancy Law Course Requirement	21 NCAC 08F	.0504	Amend
CPE Requirements for CPAs	21 NCAC 08G	.0401	Amend
Qualification of CPE Sponsors	21 NCAC 08G	.0403	Amend
Requirements for CPE Credit	21 NCAC 8G	.0404	Amend
Compliance with CPE Requirements	21 NCAC 08G	.0406	Amend
Computation of CPE Credits	21 NCAC 08G	.0409	Amend
Reciprocal Certificates	21 NCAC 08H	.0101	Amend
Non-Resident Notification	21 NCAC 08H	.0106	Adopt
CPA Firm Registration	21 NCAC 08J	.0108	Amend
Registration Fees	21 NCAC 08J	.0110	Amend
Compliance with CPA Firm Registration	21 NCAC 08J	.0111	Amend
Purpose	21 NCAC 08M	.0101	Repeal
Registration Requirements	21 NCAC 08M	.0102	Repeal
Prohibition of Abuse	21 NCAC 08M	.0103	Repeal
CPA Firms Deeded in Compliance	21 NCAC 08M	.0104	Repeal
Peer Review Requirements	21 NCAC 08M	.0105	Adopt
Compliance	21 NCAC 08M	.0106	Adopt
Ethical Duties of Reviewer	21 NCAC 08M	.0107	Adopt
Selection of Engagements to be Reviewed	21 NCAC 08M	.0201	Repeal
Notice to Clients	21 NCAC 08M	.0202	Repeal
Certain Offices Excused	21 NCAC 08M	.0204	Repeal
Selection of a Review Team	21 NCAC 08M	.0206	Repeal
Duty to Respond to Questions	21 NCAC 08M	.0207	Repeal
Qualifications of Reviewers and Team Captains	21 NCAC 08M	.0301	Repeal
Independence From a Reviewed CAP Firm	21 NCAC 08M	.0302	Repeal
Conflict of Interest	21 NCAC 08M	.0303	Repeal
Performing the Review Reviewer's Duties	21 NCAC 08M	.0304	Repeal
Confidentiality	21 NCAC 08M	.0305	Repeal
Reporting Requirements	21 NCAC 08M	.0306	Repeal
SQR Advisory Committee Members and Duties	21 NCAC 08M	.0401	Repeal
Objections to SQR Advisory Committee	21 NCAC 08M	.0402	Repeal
Review of Protest	21 NCAC 08M	.0403	Repeal
Deceptive Conduct Prohibited	21 NCAC 08N	.0202	Amend
Discreditable Conduct Prohibited	21 NCAC 08N	.0203	Amend
Confidentiality	21 NCAC 08N	.0205	Amend
Reporting Convictions Judgments and Disciplinary	21 NCAC 08N	.0208	Amend
Responsibilities in Tax Practice	21 NCAC 08N	.0211	Amend
Forms of Practice	21 NCAC 08N	.0302	Amend

**RULES REVIEW COMMISSION**

Retention of Client Records	21 NCAC 08N	.0305	Amend
Independence	21 NCAC 08N	.0402	Amend
<b>STATE BOARDS/N C LICENSING BOARD FOR GENERAL CONTRACTORS</b>			
Classification	21 NCAC 12	.0202	Amend
Renewal of License	21 NCAC 12	.0503	Amend
Improper Practice	21 NCAC 12	.0701	Amend
Fee for Submittal of Bad Check	21 NCAC 12	.0703	Amend
<b>STATE BOARDS/BOARD OF DENTAL EXAMINERS</b>			
Other Requirements	21 NCAC 16B	.0304	Amend
Time for Filing	21 NCAC 16B	.0305	Amend
Reexamination	21 NCAC 16B	.0315	Amend
Transcripts Required	21 NCAC 16C	.0203	Amend
Time for Filing	21 NCAC 16C	.0305	Amend
Eligibility Requirements	21 NCAC 16E	.0101	Amend
Applications	21 NCAC 16I	.0101	Amend
Fee for Late Filing	21 NCAC 16I	.0106	Amend
License Void Upon Failure to Renew	21 NCAC 16I	.0107	Amend
Solicitations for Votes	21 NCAC 16L	.0104	Amend
Dentists	21 NCAC 16M	.0101	Amend
Dental Hygienists	21 NCAC 16M	.0102	Amend
Advertising as a Specialist	21 NCAC 16P	.0105	Amend
Applications	21 NCAC 16R	.0101	Adopt
Fee for Late Filing	21 NCAC 16R	.0102	Adopt
Approved Courses and Sponsors	21 NCAC 16R	.0104	Amend
Reporting of Continuing Education	21 NCAC 16R	.0105	Amend
Exemption from a Credit for Continuing Education	21 NCAC 16R	.0106	Amend
Penalty/Noncompliance/Continuing Education	21 NCAC 16R	.0107	Amend
<b>STATE BOARDS/N C BOARD FOR LICENSING OF GEOLOGISTS</b>			
Duties of Officers	21 NCAC 21	.0104	Amend
Fees	21 NCAC 21	.0107	Amend
Requirements for Licensing	21 NCAC 21	.0301	Amend
Application Procedure	21 NCAC 21	.0302	Amend
Filing of Charges and Disciplinary Actions	21 NCAC 21	.0501	Amend
Reprimand	21 NCAC 21	.0502	Amend
Applicable Hearing Rules	21 NCAC 21	.0503	Repeal
Caution	21 NCAC 21	.0504	Repeal
Investigation	21 NCAC 21	.0514	Amend
Disciplinary Procedure	21 NCAC 21	.0515	Amend
Subpoenas	21 NCAC 21	.0603	Amend
Final Decisions in Administrative Hearings	21 NCAC 21	.0604	Amend
Proposals for Decisions Exceptions and Proposed	21 NCAC 21	.0605	Amend
Oral Argument	21 NCAC 21	.0606	Adopt
Extension of Time Notification of Final Decision	21 NCAC 21	.0607	Adopt
Copies of Rules Inspection	21 NCAC 21	.0802	Amend
Petition for Rulemaking Hearings	21 NCAC 21	.0803	Amend
Disposition of Petitions	21 NCAC 21	.0804	Amend
Submission of Request for Declaratory Ruling	21 NCAC 21	.0902	Amend
Disposition of Requests	21 NCAC 21	.0903	Amend
Corporate Practice of Geology by Corporations and	21 NCAC 21	.1001	Amend
Foreign Corporations and Limited Liability Company	21 NCAC 21	.1002	Amend
<b>STATE BOARDS/N C BOARD OF NURSING</b>			
Definitions	21 NCAC 36	.0120	Adopt
License Required	21 NCAC 36	.0221	Amend
Clinical Nurse Specialist Practice	21 NCAC 36	.0228	Amend
Approval of Nurse Aide Education Programs	21 NCAC 36	.0405	Amend
<b>STATE BOARDS/N C BOARD OF PHARMACY</b>			
Drug Distribution and Control	21 NCAC 46	.1414	Amend
Examination	21 NCAC 46	.1505	Amend
Pharmacy Permits	21 NCAC 46	.1601	Amend
License by Reciprocity	21 NCAC 46	.1602	Amend

**RULES REVIEW COMMISSION**

Requirement of Personal Appearance	21 NCAC 46	.1606	Amend
Right to Refuse a Prescription	21 NCAC 46	.1801	Amend
Changes in Prescription Orders	21 NCAC 46	.1812	Amend
Ballots Casting and Counting	21 NCAC 46	.2107	Amend
Device and Medical Equipment Committee	21 NCAC 46	.2109	Amend
Responsibilities of Pharmacist Manager	21 NCAC 46	.2502	Amend
Patient Counseling	21 NCAC 46	.2504	Amend
Administration of Immunizations by Pharmacists	21 NCAC 46	.2507	Adopt
Scope and Purpose	21 NCAC 46	.2801	Amend
Req/Pharmacies Dispensing Sterile Pharmaceuticals	21 NCAC 46	.2803	Amend
Responsibilities of Pharmacist Manager	21 NCAC 46	.2804	Amend
Labeling	21 NCAC 46	.2805	Amend
Quality Assurance	21 NCAC 46	.2808	Amend
Registration	21 NCAC 46	.3301	Adopt
<b>STATE BOARDS/NC PSYCHOLOGY BOARD</b>			
Scope	21 NCAC 54	.2801	Adopt
Titles	21 NCAC 54	.2802	Adopt
Employment and Supervision of Unlicensed Individual	21 NCAC 54	.2803	Adopt
Qualifications and Training	21 NCAC 54	.2804	Adopt
Services Appropriate for Ancillary Services Person	21 NCAC 54	.2805	Adopt
Services Not Appropriate for Unlicensed Individual	21 NCAC 54	.2806	Adopt
<b>STATE BOARDS/APPRaisal BOARD</b>			
Continuing Education	21 NCAC 57A	.0204	Amend
Temporary Practice	21 NCAC 57A	.0210	Amend
Use of Titles	21 NCAC 57A	.0401	Amend
Advertising	21 NCAC 57A	.0403	Amend
Appraisal Reports	21 NCAC 57A	.0405	Amend
Registered Trainee Licensed Residential Real Estate	21 NCAC 57B	.0101	Amend
Certified Residential Real Estate Appraiser Course	21 NCAC 57B	.0102	Amend
Certified General Real Estate Appraiser Course	21 NCAC 57B	.0103	Amend
Course Records	21 NCAC 57B	.0210	Amend
Instructor Requirements	21 NCAC 57B	.0306	Amend
Criteria for Course Approval	21 NCAC 57B	.0603	Amend
Certification of Course Completion	21 NCAC 57B	.0607	Amend
Form of Complaints and Other Pleadings	21 NCAC 57C	.0101	Amend
Presiding Officer	21 NCAC 57C	.0102	Amend
<b>STATE BOARDS/REAL ESTATE COMMISSION</b>			
Handling and Accounting of Funds	21 NCAC 58A	.0107	Amend
Reporting Criminal Convictions	21 NCAC 58A	.0113	Amend
Filing and Fees	21 NCAC 58A	.0302	Amend
Character	21 NCAC 58A	.0501	Repeal
Business Entities	21 NCAC 58A	.0502	Amend
Application and Criteria for Original Approval	21 NCAC 58E	.0203	Amend
<b>STATE BOARDS/NC SUBSTANCE ABUSE PROFESSIONAL CERTIFICATION BOARD</b>			
Definitions	21 NCAC 68	.0101	Amend
Registration Process for Board Certification	21 NCAC 68	.0202	Amend
Continuing Education Required for Counselor and	21 NCAC 68	.0208	Amend
Background Investigation	21 NCAC 68	.0216	Adopt
Renewal of Individual Certification as Clinical	21 NCAC 68	.0306	Amend
Procedures for Approval of Self-Study Courses	21 NCAC 68	.0406	Amend
Responsibility of Supervisor to Supervisee	21 NCAC 68	.0512	Amend
Effect of Actions of Court of Other Professional	21 NCAC 68	.0606	Amend
<b>OFFICE OF ADMINISTRATIVE HEARINGS</b>			
Citation to Authorities	26 NCAC 2C	.0109	Amend
Scope and Availability	26 NCAC 2C	.0401	Amend
<b>DEPARTMENT OF JUVENILE JUSTICE</b>			
Scope	28 NCAC 01A	.0101	Adopt
Petitions	28 NCAC 01A	.0201	Adopt
Hearings	28 NCAC 01A	.0202	Adopt

**RULES REVIEW COMMISSION**

Fees	28 NCAC 01A	.0203	Adopt
Declaratory Rulings	28 NCAC 01A	.0204	Adopt
Agencies Authorized to Share Information	28 NCAC 01A	.0301	Adopt
<b>DEPARTMENT OF JUVENILE JUSTICE</b>			
Scope	28 NCAC 02A	.0101	Adopt
Definitions	28 NCAC 02A	.0102	Adopt
County Eligibility	28 NCAC 02A	.0103	Adopt
Funding	28 NCAC 02A	.0104	Adopt
Local Match	28 NCAC 02A	.0105	Adopt
Budget and Budget Amendments	28 NCAC 02A	.0106	Adopt
Discretionary Funds	28 NCAC 02A	.0107	Adopt
Disbursement Reversions and Final Accounting	28 NCAC 02A	.0108	Adopt
Third Party Payments	28 NCAC 02A	.0109	Adopt
Capital Expenditures	28 NCAC 02A	.0110	Adopt
Forms	28 NCAC 02A	.0111	Adopt
Responsibilities of County	28 NCAC 02A	.0201	Adopt
Juvenile Crime Prevention Council	28 NCAC 02A	.0202	Adopt
Juvenile Crime Prevention Council Certification	28 NCAC 02A	.0203	Adopt
Juvenile Crime Prevention Council	28 NCAC 02A	.0204	Adopt
Information Sharing Among Agencies	28 NCAC 02A	.0302	Adopt
<b>DEPARTMENT OF JUVENILE JUSTICE</b>			
Scope	28 NCAC 03A	.0101	Adopt
Definitions	28 NCAC 03A	.0102	Adopt
Funding Requirements	28 NCAC 03A	.0201	Adopt
Employment Policies	28 NCAC 03A	.0301	Adopt
Appropriate Care and Treatment	28 NCAC 03A	.0302	Adopt
Behavior Management and Discipline	28 NCAC 03A	.0303	Adopt
Solicitation of Funds and Juvenile Publicity	28 NCAC 03A	.0304	Adopt
Alcohol and Other Drug Possession and Use	28 NCAC 03A	.0305	Adopt
Firearms and other Weapons	28 NCAC 03A	.0306	Adopt
Opportunities for Religion Provided	28 NCAC 03A	.0307	Adopt
Insurance Required	28 NCAC 03A	.0308	Adopt
Safety Concerns	28 NCAC 03A	.0309	Adopt
Staff Orientation and Training	28 NCAC 03A	.0401	Adopt
Emergency Plan	28 NCAC 03A	.0402	Adopt
Admission Guideline Requirements	28 NCAC 03A	.0403	Adopt
Record of Client Contracts and Individual Plan of	28 NCAC 03A	.0404	Adopt
Requirement of Release Policy	28 NCAC 03A	.0405	Adopt
Program Evaluation	28 NCAC 03A	.0406	Adopt
Compliance Monitoring	28 NCAC 03A	.0501	Adopt
Corrective Action and Penalties	28 NCAC0 3A	.0502	Adopt
<b>DEPARTMENT OF JUVENILE JUSTICE</b>			
Definitions	28 NCAC 04A	.0101	Adopt
Intake	28 NCAC 04A	.0102	Adopt
Services to the Court	28 NCAC 04A	.0103	Adopt
Commitment to the Department	28 NCAC 04A	.0104	Adopt
Commitment to the Department	28 NCAC 04A	.0104	Adopt
Post Release Supervision	28 NCAC 04A	.0105	Adopt
Substance Abuse Testing	28 NCAC0 4A	.0106	Adopt
<b>NC BUILDING CODE COUNCIL</b>			
Revise Section NC Residential Code	R202		Adopt
Add Section in its Entirety to NC Residential Code	R301.2.1.2		Adopt
Add Table in its Entirety to NC Residential Code	R301.2.1.2		Adopt
Exception 2 of the NC Building Code	302.3.3		Adopt
Revise Section of NC Plumbing Code	419.1		Adopt
Revise Section of NC Plumbing Code	425		Adopt
Revise Section of the NC Building Code & Fire Code	902.2.1.3		Adopt
Add Section in its Entirety to NC Building Code	1609.1.4		Adopt
Add Table in its Entirety to NC Building Code	1609.1.4		Adopt
Add Section Definition for Windborne Debris	1609.2		Adopt



**AGENDA**  
***RULES REVIEW COMMISSION***  
*November 21, 2002*

- I. Call to Order and Opening Remarks
- II. Review of minutes of last meeting
- III. Follow Up Matters
  - A. DHHS/Medical Care Commission – 10 NCAC 3D Rules Continued 10/17/02 (Bryan)
  - B. DHHS/Child Care Commission – 10 NCAC 3U .0102; .0302; .1701; .1702; .1720; .2404; .2409; .2702; .2808 Objection 10/17/02 (DeLuca)
  - C. DHHS/CMH, DD, SAS – 10 NCAC 14G .0102 Objection 10/17/02 (DeLuca)
  - D. DHHS/CMH, DD, SAS – 10 NCAC 14V .0202; .0203; .0204; .5602; .5603 Objection 10/17/02 (DeLuca)
  - E. DENR/Commission for Health Services – 15A NCAC 18A .2117 Objection 10/17/02 (DeLuca)
  - F. Secretary of State - 18 NCAC 6 .1501; .1715 Objection 10/17/02 (DeLuca)
  - G. Department of Transportation – 19A NCAC 2D .0643; .0644 Objection 10/17/02 (DeLuca)
  - H. NC Auctioneers Commission – 21 NCAC 4B .0603 Objection 10/17/02 (DeLuca)
  - I. State Board of Community Colleges – 23 NCAC 2C .0305 Objection 08/15/02 (Bryan)
  - J. State Board of Community Colleges – 23 NCAC 2D .0319 Objection 08/15/02 (Bryan)
  - K. State Board of Community Colleges – 23 NCAC 2E .0402; .0403 Objection 08/15/02 (Bryan)
- IV. Commission Business
- V. Next meeting: December 19, 2002

## CONTESTED CASE DECISIONS

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

### OFFICE OF ADMINISTRATIVE HEARINGS

*Chief Administrative Law Judge*

*JULIAN MANN, III*

*Senior Administrative Law Judge*

*FRED G. MORRISON JR.*

### ADMINISTRATIVE LAW JUDGES

*Sammie Chess Jr.*

*Beecher R. Gray*

*Melissa Owens Lassiter*

*James L. Conner, II*

*Beryl E. Wade*

*A. B. Elkins II*

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b><u>ALCOHOL BEVERAGE CONTROL COMMISSION</u></b>				
NC ABC Commission v. Acme Retail, Inc. T/A Handy Pantry	01 ABC 1325	Chess	05/21/02	
Randall Ralph Casey T/A Maynards Entertainment v. NC ABC Comm.	01 ABC 1396	Wade	06/26/02	
NC ABC Commission v. Headlights, Inc. T/A Headlights	01 ABC 1473	Wade	06/28/02	
NC ABC Commission v. Jerry Lynn Johnson T/A E & J Millenium	02 ABC 0115	Conner	10/23/02	
Edward L. Mumford v. NC Alcoholic Control Commission	02 ABC 0264	Conner	08/29/02	
NC ABC Commission v. WDB, Inc. T/A Twin Peeks	02 ABC 0517	Conner	07/15/02	
NC ABC Commission v. Cevastiano Hernandez T/A Cristy Mexican Store	02 ABC 0667	Gray	10/17/02	
NC ABC Commission v. Easy Street Bistro, Inc. T/A Raleigh Live	02 ABC 0781	Wade	10/23/02	
<b><u>APPRAISAL BOARD</u></b>				
NC Appraisal Board v. Thomas G. Hildebrandt, Jr.	02 APB 0130	Chess	08/20/02	17:06 NCR 563
<b><u>CEMETARY COMMISSION</u></b>				
Lee Memory Gardens, Inc. v. NC Cemetary Commission	02 COM 0126	Gray	09/19/02	
<b><u>UTILITIES COMMISSION</u></b>				
Tracy Woody v. State of NC Utilities Commission	02 COM 1004	Morrison	08/26/02	
<b><u>CRIME CONTROL AND PUBLIC SAFETY</u></b>				
Hattie Holt v. NC Crime Victims Compensation Commission	00 CPS 1067	Conner	05/30/02	
Linda Hawley v. NC Crime Victims Compensation Commission	02 CPS 0121	Conner	06/14/02	
Lial McKoy v. NC Crime Victims Compensation Commission	02 CPS 0394	Chess	07/26/02	
Brenda S. DuBois on behalf of victim Priscilla Bryant v. NC Dept. of Crime Control & Public Safety, Div. of Victim Comp. Services	02 CPS 1332	Lassiter	09/20/02	
<b><u>HEALTH AND HUMAN SERVICES</u></b>				
A list of Child Support Decisions may be obtained by accessing the OAH Website: <a href="http://www.ncoah.com/decisions">www.ncoah.com/decisions</a> .				
Thelma Street v. NC DHHS	01 DHR 0303	Reilly	09/17/02	
Emilia E Edgar v. DHHS, Div. of Facility Services	01 DHR 1356	Hunter	09/09/02	
Evelia Williams v. NC DHHS	01 DHR 1750	Conner	07/15/02	
Jacob Jones v. NC DHHS, Div. of Medical Assistance	01 DHR 2169	Wade	10/04/02	
Kathy Mumford v. DHHS, Div. of Facility Services	01 DHR 2253	Chess	07/26/02	
Brenda L. McQueen v. DHHS, Div. of Facility Services	01 DHR 2321	Morrison	10/17/02	
Tammy Baldwin v. DHHS, Div. of Facility Services	01 DHR 2329	Morrison	10/16/02	
James Bell v. NC DHHS, Div. of Facility Services	01 DHR 2340	Elkins	06/27/02	
Adam Syare v. NCDHHS, Div. of MH/DD/SAS, Southeastern Regional Mental Health Center	01 DHR 2352	Conner	06/21/02	
Ramiro Ramos v. NC DHHS and Chris Hoke, State Registrar	01 DHR 2366	Conner	09/11/02	
Effie M. Williams v. NC Department of Health and Human Services	02 DHR 0001	Gray	08/08/02	
Kathy Denise Urban v. NC DHHS, Div. of Facility Services	02 DHR 0055	Hunter	09/10/02	
Betty Carr v. DHHS, Div. of Facility Services	02 DHR 0070	Mann	09/10/02	
Sarah D. Freeman & Tony J. Freeman v. Guilford Co. Mental Health, The Guilford Center	02 DHR 0083	Chess	06/07/02	
Albemarle Home Care & Ginger Parrish, PhD v. NC DHHS, Div. of Medical Assistance	02 DHR 0142	Conner	07/22/02	

## CONTESTED CASE DECISIONS

Birgit James v. NC Dept. of Health & Human Services	02 DHR 0255	Connor	07/01/02
Geraldine Rountree Cooper v. DHHS, Div. of Facility Services	02 DHR 0267	Elkins	07/15/02
Unieca Richardson v. NC DHHS, Division of Facility Services	02 DHR 0286	Chess	06/17/02
Greg McKinney & Virgie Elaine McKinney v. DHHS	02 DHR 0301	Mann	08/01/02
Jerry Dean Webber v. NC DHHS, Broughton Hospital	02 DHR 0306	Conner	08/28/02
Donna R Anderson v. NC DHHS, Broughton Hospital	02 DHR 0340	Gray	08/01/02
Notisha Utley v. NC DHHS, Division of Facility Services	02 DHR 0379	Conner	07/26/02
Isa Spaine v. NC Department of Health & Human Services	02 DHR 0403	Chess	06/24/02
Debra A. Browner v. NC DHHS, Broughton Hospital	02 DHR 0405	Conner	08/28/02
Mooreville Hospital Management Associates, Inc. d/b/a Lake Norman Regional Medical Center v. DHHS, Div. of Facility Services, Cert. of Need Section	02 DHR 0541	Chess	08/07/02
Wayne Douglas Temples v. NC DHHS, NC Off. of Emer. Med. Svcs.	02 DHR 0543	Morrison	10/09/02
Mark Thomas v. NC DHHS, Div. of Facility Services	02 DHR 0555	Chess	10/17/02
Eli Maxwell v. NC DHHS, Div. of Facility Services, Health Care Registry	02 DHR 0556	Lassiter	08/08/02
Robin Lee Arnold v. DHHS, Div. of Facility Services	02 DHR 0558	Conner	08/15/02
Laura Sheets v. DHHS, Div. of Facility Services	02 DHR 0569	Conner	10/17/02
Evelyn Denise Humphrey v. NC DHHS, Div. of Facility Services	02 DHR 0624	Morrison	08/08/02
James Parks v. NC Dept. of Health and Human Services	02 DHR 0680	Morrison	08/07/02
Lisa Murphy v. DHHS- Division of Facility Services	02 DHR 0694	Mann	07/26/02
Mary's Family Care #2, Beulah Spivey v. OAH	02 DHR 0735	Morrison	08/27/02
Hazel Chea v. Department of Health & Human Services	02 DHR 0795	Mann	06/11/02
Mr. Mohamed Mohamed v. NC DHHS, Women's & Children's Health (WIC Program)	02 DHR 0866	Chess	10/02/02
Martha L Cox v. NC DHHS, Div. of Facility Services	02 DHR 0935	Morrison	10/25/02
Tracy Woody v. NC Coop Ex. Svc, Coll of Ag & Life Sc Family & Consumer Svcs, In-Home Breastfeeding Support Program & Nash Co. Dept. of Social Svcs, Child Protective Svcs & State WIC Program for Nash County	02 DHR 0944	Morrison	09/25/02
Cormelita T. England v. Ms. Lisa Moor, Chief Advocate, Black Mtn Ctr.	02 DHR 1033	Chess	08/15/02
Gloria Dean Gaston v. Office of Administrative Hearings	02 DHR 1081	Morrison	07/26/02
Maria Goretti Obialor v. DHHS, Div. of Facility Services	02 DHR 1187	Mann	09/11/02
Lashanda Skinner v. DHHS	02 DHR 1190	Lassiter	09/09/02
Robert A. Thomas v. DHHS, Div. of Facility Services	02 DHR 1254	Lassiter	09/13/02
Shirley's Development Center, Shirley Campbell v. State of NC DHHR, Div. of Child Development	02 DHR 1309	Morrison	10/08/02

### ADMINISTRATION

San Antoni Equipment Co. v. NC Department of Administration	02 DOA 0430	Chess	06/26/02
James J. Lewis v. DOA, Gov. Advocacy Council for Persons w/Disabilities	02 DOA 0545	Chess	08/26/02

### JUSTICE

Sara E Parker v. Consumer Protection [sic] & Rosemary D. Revis	02 DOJ 1038	Gray	08/08/02
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#### *Alarm Systems Licensing Board*

Seth Paul Barham v. Alarm System Licensing Board	02 DOJ 0552	Gray	06/12/02
Christopher Michael McVicker v. Alarm Systems Licensing Board	02 DOJ 0731	Gray	06/07/02
Jeffery Lee Garrett v. Alarm Systems Licensing Board	02 DOJ 0908	Morrison	08/06/02
Robert Bradley Tyson v. Alarm Systems Licensing Board	02 DOJ 1266	Morrison	10/09/02

#### *Private Protective Services Board*

Anthony Davon Webster v. Private Protective Services Board	01 DOJ 1857	Gray	06/07/02
Benita Lee Luckey v. Private Protective Services Board	02 DOJ 0530	Elkins	07/12/02
Orlando Carmichael Wall v. Private Protective Services Board	02 DOJ 0729	Gray	06/18/02
Randall G. Bryson v. Private Protective Services Board	02 DOJ 0730	Gray	06/07/02
Barry Snadon, Sr. v. Private Protective Services Board	02 DOJ 0907	Elkins	07/12/02
Gregory Darnell Martin v. Private Protective Services Board	02 DOJ 0916	Morrison	08/06/02
Marvin Ray Johnson v. Private Protective Services Board	02 DOJ 0945	Morrison	08/06/02
Quincey Adam Moring v. Private Protective Services Board	02 DOJ 1084	Morrison	08/06/02
Philip Garland Cameron v. Private Protective Services Board	02 DOJ 1258	Morrison	09/06/02
Desantis Lamarr Everett v. Private Protective Services Board	02 DOJ 1259	Morrison	09/06/02
John Curtis Howell v. Private Protective Services Board	02 DOJ 1562	Lassiter	10/04/02

#### *Sheriffs' Education & Training Standards Commission*

Kevin Warren Jackson v. Sheriffs' Education & Training Stds. Comm.	01 DOJ 1587	Chess	07/16/02
Jonathan P. Steppe v. Sheriffs' Education & Training Stds. Comm.	02 DOJ 0004	Mann	06/28/02
Jeffrey Beckwith v. Criminal Justice & Training Stds. Comm.	02 DOJ 0057	Gray	07/15/02
Thomas B. Jernigan v. Sheriffs' Education & Training Stds. Comm.	02 DOJ 0089	Conner	06/25/02
Clarence Raymond Adcock v. Criminal Justice Ed. & Trng. Stds. Comm.	02 DOJ 0104	Chess	09/09/02
Katrina L. Moore v. Sheriffs' Education & Training Stds. Comm.	02 DOJ 0304	Reilly	07/17/02
Wallace A. Hough, Jr. v. Criminal Justice & Training Stds. Comm.	02 DOJ 0474	Morrison	08/08/02
Sharon L. Joyner v. Sheriffs' Educ. & Training Stds. Commission	02 DOJ 0604	Morrison	09/05/02
Keith E. Kilby, Sr. v. Sheriffs' Education & Training Stds. Comm.	02 DOJ 0609	Lassiter	08/07/02
John R. Tucker v. Sheriffs' Education & Training Stds. Comm.	02 DOJ 0632	Morrison	06/26/02
Eddie Kurt Newkirk v. Sheriffs' Education & Training Stds. Comm.	02 DOJ 0870	Gray	08/28/02
Joseph Ray Johnson v. Criminal Justice & Training Stds. Comm.	02 DOJ 1420	Wade	06/27/02
Joseph Garth Keller v. Criminal Justice & Trng. Stds. Comm.	02 DOJ 0170	Gray	09/11/02
Frances Sherene Hayes v. Criminal Justice & Training Stds. Comm.	02 DOJ 0171	Mann	06/04/02
Michael A Carrion v. Criminal Justice Educ & Trng Stds. Comm.	02 DOJ 0416	Conner	09/25/02
Jerome Martrice Johnson v. Criminal Justice Educ. & Trng. Stds. Comm.	02 DOJ 0484	Elkins	09/23/02

**CONTESTED CASE DECISIONS**

Antonio Fitzgerald McNeil v. Criminal Justice Educ. & Trng. Stds. Comm.	02 DOJ 0526	Wade	09/25/02	
Wanda L Grant v. Sheriffs' Education & Training Standards Comm.	02 DOJ 0602	Mann	10/18/02	
Dennis Damon Foster v. Sheriffs' Educ. & Training Stds. Comm.	02 DOJ 1162	Mann	10/18/02	
Vickie Renee Kirkland v. Sheriffs' Educ. & Training Stds. Comm.	02 DOJ 1163	Gray	10/14/02	
<b><u>ENVIRONMENT AND NATURAL RESOURCES</u></b>				
Town of Belville v. NC DENR, Div. of Coastal Management	96 EHR 0598	Gray	07/29/02	
Squires Enterprises, Inc. v. NC DENR (LQS00-091)	01 EHR 0300	Mann	09/23/02	
Stoneville Furniture Co., Inc. v. NC DENR, Div. of Air Quality	01 EHR 0976	Chess	07/16/02	
SRF Dev. Corp. v. NC DENR, Div. of Land Resources	01 EHR 1040 <sup>3</sup>	Gray	10/02/02	
SRF Dev. Corp. v. NC DENR, Div. of Land Resources	01 EHR 1402 <sup>3</sup>	Gray	10/02/02	
Rhett & Julie Taber, Robert W. Sawyer, John T. Talbert, Stephen Bastian, Dr. Ernest Brown, Thomas Read, Keith Brown, Fred Johnston, James L. Dickens, James T. Coin, Eleanor Coin & James Vaughn v. NC DENR, Div. of Coastal Management	01 EHR 1512	Conner	09/11/02	
Lucy, Inc. George Chemall v. NC DENR, Div. of Waste Management	01 EHR 1695	Morrison	10/22/02	
Town of Ocean Isle Beach v. NC DENR	01 EHR 1885	Chess	07/31/02	17:06 NCR 557
Valley Proteins, Inc. v. NC DENR, Div. of Air Quality	01 EHR 2362	Mann	09/26/02	
Helen Smith v. NC DENR	02 EHR 0152	Morrison	08/09/02	
Helen R. Bass v. County of Durham	02 EHR 0191	Gray	06/26/02	
Bipin B Patel Rajan, Inc. v. NC DENR, Div. of Waste Management	02 EHR 0244	Gray	06/05/02	
J.B. Hooper v. NC DENR	02 EHR 0285	Conner	08/21/02	
Elwood Montgomery v. NC DENR, Div. of Waste Management	02 EHR 0329	Wade	09/26/02	
J.L. Hope & wife, Ruth B. Hope v. NC DENR	02 EHR 0395	Mann	06/10/02	
Kathy Teel Perry v. Environmental Health Division	02 EHR 0576	Chess	10/09/02	
Linda L. Hamrick v. NC DENR	02 EHR 0600	Conner	07/23/02	
Mitchell Oil Company Larry Furr v. DENR	02 EHR 0676	Lassiter	08/07/02	
Johnnie Burgess v. NC DENR, Div. of Waste Management	02 EHR 0688	Morrison	10/11/02	
County of Hertford Producer's Gin, Inc. v. NC DENR, Div. of Air Quality	02 EHR 0690	Chess	06/17/02	
Michael John Barri v. New Hanover Co. Health Dept./Env. Health	02 EHR 0742	Conner	09/03/02	
Christopher L. Baker v. City of Asheville	02 EHR 0763	Gray	09/11/02	
Olivia Freeman POA for Bobby C. Freeman v. Trng. Stds. Comm.	02 EHR 0777	Wade	07/11/02	
Ronald E. Petty v. Office of Administrative Hearings	02 EHR 1183	Gray	09/20/02	
<b><u>ENGINEERS AND LAND SURVEYORS</u></b>				
NC Bd. of Examiners for Engineers & Surveyors v. C Phil Wagoner	01 ELS 0078	Lewis	06/05/02	
<b><u>TEACHERS &amp; ST. EMP. COMP MAJOR MEDICAL PLAN</u></b>				
Sandra Halperin v. Teachers' & St. Emp. Comp. Major Medical Plan	02 INS 0337	Elkins	10/02/02	
<b><u>NURSING HOME ADMINISTRATORS</u></b>				
State Bd. of Examiners for Nursing Home Administrators v. Yvonne Washburn	02 NHA 0915	Morrison	09/25/02	
<b><u>OFFICE OF STATE PERSONNEL</u></b>				
Robin Heavner Franklin v. Lincoln Co. Dept. of Social Services	98 OSP 1239	Conner	08/28/02	
Laura C. Seamons v. NC DHS/Murdoch Center	00 OSP 0522	Wade	06/28/02	
James Edward Robinson v. Off. of Juvenile Justice, 7 <sup>th</sup> Jud. Dist.	00 OSP 0722	Wade	06/28/02	
Andre Foster v. Winston-Salem State University	00 OSP 1216 <sup>1</sup>	Mann	06/03/02	17:01 NCR 93
Berry Eugene Porter v. NC Department of Transportation	01 OSP 0019	Gray	07/03/02	
C.W. McAdams v. NC Div. of Motor Vehicles	01 OSP 0229	Conner	09/30/02	
Linda R. Walker v. Craven County Health Department	01 OSP 0309	Gray	07/12/02	
J Louise Roseborough v. Wm F. Scarlett, Dir. of Cumberland County Department of Social Services	01 OSP 0734	Morgan	06/06/02	
Dennis Covington v. NC Ag. & Tech. State University	01 OSP 1045	Wade	06/28/02	
Reginald Ross v. NC Department of Correction	01 OSP 1122/23	Wade	06/28/02	
Bob R Napier v. NC Department of Correction	01 OSP 1379	Lassiter	09/26/02	17:09 NCR 914
Andre Foster v. Winston-Salem State University	01 OSP 1388 <sup>1</sup>	Mann	06/03/02	17:01 NCR 93
Andrew W. Gholson v. Lake Wheeler Rd. Field Lab, NCSU Unit #2	01 OSP 1405	Wade	06/28/02	
Joseph E. Teague, Jr. PE, CM v. NC Dept. of Transportation	01 OSP 1511	Lassiter	10/17/02	
Demetrius J. Trahan v. EEO/Title VII, Dir. Cheryl C. Fellers, DOC	01 OSP 1559	Gray	08/13/02	
Wade Elms v. NC Department of Correction	01 OSP 1594	Gray	06/27/02	
Wayne G. Whisemant v. Foothills Area Authority	01 OSP 1612	Elkins	05/30/02	17:01 NCR 103
Linwood Dunn v. NC Emergency Management	01 OSP 1691	Lassiter	08/21/02	
Gladys Faye Walden v. NC Department of Correction	01 OSP 1741	Mann	07/12/02	
Barbara A. Harrington v. Harnett Correctional Institution	02 OSP 2178	Conner	09/03/02	
Joy Reep Shuford v. NC Department of Correction	01 OSP 2179	Overby	06/25/02	
Debra R. Dellacrocce v. NC DHHS	01 OSP 2185	Conner	09/11/02	
Joseph Kevin McKenzie v. NC DOC, Lavee Hamer (Gen. Counsel to the Section)	01 OSP 2241	Mann	06/05/02	
Bryan Aaaron Yonish v. UNC at Greensboro	01 OSP 2274	Conner	06/25/02	
Theresa Truner v. Albemarle Mental Health Center	01 OSP 2331	Gray	07/11/02	
Mark Wayne Faircloth v. NC Forest Service	01 OSP 2374	Conner	06/20/02	
Angel J. Miyares v. Forsyth Co. Dept of Public Health & Forsyth Co.	01 OSP 2385 <sup>2</sup>	Elkins	08/07/02	

3 Combined Cases

1 Combined Cases

2 Combined Cases

**CONTESTED CASE DECISIONS**

<b>Board of Health</b>				
James Donoghue v. NC Department of Correction	02 OSP 0011	Mann	08/26/02	
Robert N. Roberson v. NC DOC, Div. of Community Corrections	02 OSP 0059	Conner	10/14/02	
Lashaundon Smith v. Neuse Correctional Institution	02 OSP 0064	Elkins	07/03/02	17:03 NCR 329
Stacey Joel Hester v. NC Dept. of Correction	02 OSP 0071	Gray	10/18/02	
Angel J. Miyares v. Forsyth Co. Dept of Public Health & Forsyth Co.	02 OSP 0110 <sup>2</sup>	Elkins	08/07/02	
<b>Board of Health</b>				
Susan Luke aka Susan Luke Young v. Gaston-Lincoln-Cleveland Area Mental Health "Pathways"	02 OSP 0140	Conner	06/06/02	
Mark P. Gibbons v. NC Department of Transportation	02 OSP 0147	Conner	06/14/02	
Jana S. Rayne v. Onslow Co. Behavioral Health Care	02 OSP 0184	Morrison	08/01/02	
Cathy L. White v. NC Department of Corrections	02 OSP 0246	Elkins	05/31/02	
Doris J. Berry v. NC Department of Transportation	02 OSP 0247	Elkins	06/17/02	
William L. Johnson v. Caledonia Farms Ent. Caledonia Prison Farm	02 OSP 0270	Elkins	06/25/02	
Darrell Glenn Fender v. Avery/Mitchell Correctional Institution	02 OSP 0290	Mann	06/14/02	
Alber L. Scott v. UNC General Administration	02 OSP 0336	Elkins	06/10/02	
Pamela C. Williams v. Secretary of State	02 OSP 0348	Chess	08/26/02	
Michael Forreest Peeler v. NC Department of Transportation	02 OSP 0478	Conner	07/01/02	
Shirley J. Davis v. NC Department of Correction	02 OSP 0486	Elkins	07/11/02	
Alber L. Scott v. UNC General Administration	02 OSP 0498	Elkins	06/10/02	
Harold Phillips v. Durham Co. Dept. of Social Services	02 OSP 0503	Chess	07/30/02	
Michelle G. Minstrell v. NC State University	02 OSP 0568	Chess	06/26/02	
Robert L. Swinney v. NC Dept. of Transportation	02 OSP 0570	Lassiter	10/23/02	
Janet Watson v. Nash Co. DSS, Carl Daughtry, Director	02 OSP 0702	Chess	08/13/02	
Patricia Anthony v. NC Dept. of Correction (Pamlico CI)	02 OSP 0797	Lassiter	08/07/02	
Linda Kay Osborn v. Isothermal Community College	02 OSP 0911	Elkins	09/25/02	
Jerry J. Winsett v. Cape Fear Community College	02 OSP 0998	Morrison	08/09/02	
Jerry J. Winsett v. Cape Fear Community College	02 OSP 0998	Morrison	09/05/02	
Walter Anthony Martin, Jr. v. Town of Smithfield (Smithfield Police Dept.)	02 OSP 1002	Morrison	07/30/02	
Ella Fields-Bunch v. Martin-Tyrrell-Washington Dist. Health Dept.	02 OSP 1037	Conner	10/16/02	
JoAnn A Sexton v. City of Wilson	02 OSP 1041	Morrison	07/25/02	
Karen C. Weaver v. State of NC Dept. of Administration	02 OSP 1052	Lassiter	10/25/02	
Alex Craig Fish v. Town of Smithfield (Smithfield Police Dept.)	02 OSP 1060	Morrison	08/09/02	
Donald B. Smith v. NC DOC, Div. of Community Corrections	02 OSP 1117	Chess	10/03/02	
Carolyn Pickett v. Nash-Rocky Mt. School Systems, Nash-Rocky Mt.	02 OSP 1136	Morrison	07/29/02	
<b>Board of Education</b>				
James J. Lewis v. Department of Correction	02 OSP 1158	Mann	08/20/02	
James J. Lewis v. Department of Commerce/Industrial Commission	02 OSP 1179	Mann	09/19/02	
James Orville Cox II v. NC DOC, Adult Probation/Parole	02 OSP 1526	Chess	10/17/02	
<b><u>SUBSTANCE ABUSE PROFESSIONAL BOARD</u></b>				
NC Substance Abuse Professional Certification Board v. Lynn Cameron Gladden	00 SAP 1573	Chess	05/10/02	
<b><u>UNIVERSITY OF NORTH CAROLINA</u></b>				
Patsy R. Hill v. UNC Hospitals	02 UNC 0458	Conner	08/21/02	17:06 NCR 571