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The **NORTH CAROLINA REGISTER**

IN THIS ISSUE

FINAL DECISION LETTERS

PROPOSED RULES

Agriculture

**Economic and Community
Development**

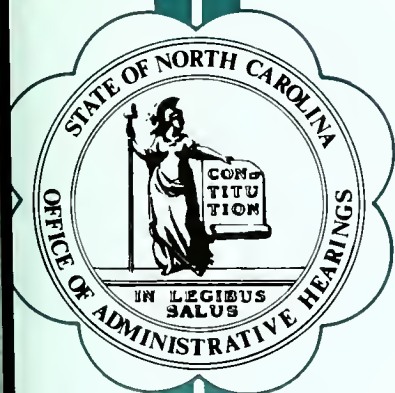
**Environment, Health, and
Natural Resources**

Insurance

Cosmetic Art Examiners

ISSUE DATE: FEBRUARY 15, 1990

Volume 4 • Issue 22 • Pages 1106-1139



INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of one hundred and five dollars (\$105.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, N. C. 27604, Attn: *Subscriptions*.

ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days, whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size, single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 10 pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 52 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

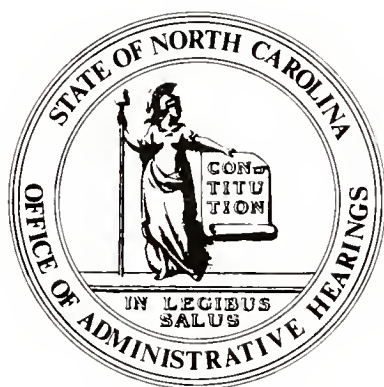
CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue, page number and date. **1:1 NCR 101-201, April 1, 1986** refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

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NORTH CAROLINA REGISTER



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NORTH CAROLINA REGISTER
Publication Schedule
(January 1990 - December 1991)

| Issue Date | Last Day for Filing | Last Day for Electronic Filing | Earliest Date for Public Hearing & Adoption by Agency | * Earliest Effective Date |
|---------------|---------------------------|---|--|------------------------------------|
| ***** | ***** | ***** | ***** | ***** |
| 01 02 90 | 12 07 89 | 12 14 89 | 02 01 90 | 05 01 90 |
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| 02 01 90 | 01 10 90 | 01 18 90 | 03 03 90 | 06 01 90 |
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* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.

VOTING RIGHTS ACT FINAL DECISION LETTERS

[G.S. 120-30.9H, effective July 16, 1986, requires that all letters and other documents issued by the Attorney General of the United States in which a final decision is made concerning a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 be published in the North Carolina Register.]

U.S. Department of Justice
Civil Rights Division

JPf:GS:RA:dl
DJ 166-012-3
Z4628; Z6200
Z5569; Z6201

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

January 22, 1990

David A. Holec, Esq.
City Attorney
P.O. Box 1388
Lumberton, North Carolina 28359

Dear Mr. Holec:

This refers to the two annexations (adopted July 17, 1989, and November 20, 1989) and the designation of those areas to districts for the City of Lumberton in Robeson County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submissions on November 22 and December 27, 1989.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine this submission if additional information that would otherwise require an objection comes to his attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division

By:

Barry H. Weinberg
Acting Chief, Voting Section

VOTING RIGHTS ACT FINAL DECISION LETTERS

U.S. Department of Justice
Civil Rights Division

JPT:LLT:CM:rac
DJ 166-012-3
Z5822

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

January 26, 1990

Michael Crowell, Esq.
Tharrington, Smith & Hargrove
P.O. Box 1151
Raleigh, North Carolina 27602

Dear Mr. Crowell:

This refers to the extension of the candidate qualifying deadline for the 1990 county board of commissioners election in Lee County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on January 12, 1990.

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine this submission if additional information that would otherwise require an objection comes to his attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division

By:

Barry H. Weinberg
Acting Chief, Voting Section

TITLE 2 - DEPARTMENT OF
AGRICULTURE

CHAPTER 37 - AGRONOMIC SERVICES

SECTION .0200 - PROGRAMS

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Board of Agriculture intends to amend rule(s) cited as 2 NCAC 37 .0201 - .0203; 43L .0204; 48A .0611, .1201 - .1202, .1204, .1206, .1208, .1211 - .1213, .1215 - .1216; repeal rule(s) cited as 2 NCAC 20B .0107 - .0110; 43L .0633; 48A .1203; and adopt rule(s) cited as 2 NCAC 20B .0112; 48A .1601 - .1608.

The proposed effective date of this action is June 1, 1990.

The public hearing will be conducted at 10:00 a.m. on March 20, 1990 at Conference Room, L.Y. Ballentine Bldg., 2109 Blue Ridge Rd., Raleigh, NC 27612.

Comment Procedures: Interested persons may present statements either orally or in writing at the public hearing or in writing prior to the hearing by mail addressed to David S. McLeod, Secretary of the North Carolina Board of Agriculture, P.O. Box 27647, Raleigh, NC 27611.

CHAPTER 20 - THE NORTH CAROLINA STATE
FAIR

SUBCHAPTER 20B - REGULATIONS OF THE
STATE FAIR

SECTION .0100 - GENERAL PROVISIONS

- .0107 SOLICITATION FOR DONATIONS
ON STATE FAIRGROUNDS (REPEALED)
- .0108 SOLICITATION FOR DONATIONS:
DISTRIBUTION OF LITERATURE
(REPEALED)
- .0109 PERSONS SOLICITING (REPEALED)
- .0110 IDENTIFICATION CARDS (REPEALED)

Statutory Authority G.S. 106-503.

.0112 BOOTH RULE

(a) Solicitation of donations or the sale, offering for sale or distribution of any item, including written or printed material, is prohibited, except from an assigned space in compliance with Section .0200 of this Subchapter. This Rule does not apply to wholesale vendors operating in accordance with Section .0200 of this Subchapter.

(b) Any person who violates this Rule may be ejected from the Fairgrounds and prohibited from returning.

Statutory Authority G.S. 106-503.

.0201 SOIL TESTING SERVICE

Individuals desiring soil tests may obtain the soil container and instructions from the Agronomic Services Division or their ~~county extension office~~, local agricultural advisor. All samples will be analyzed for volume weight, pH, BpH, ~~organic~~ humic matter, phosphorus, potassium, calcium, magnesium, manganese, copper and zinc. Nutrient and management recommendations will be made to correct deficiencies or toxicities by the application of lime, fertilizer, and other soil amendments.

Statutory Authority G.S. 106-22(17).

.0202 PLANT ANALYSIS SERVICE

Individuals desiring plant analysis may obtain plant tissue mailers and instructions from the Agronomic Services Division or their ~~county extension office~~, local agricultural advisor. All samples will be analyzed for nitrogen, phosphorus, potassium, calcium, magnesium, manganese, copper, zinc, ~~and~~ boron and other elements as needed. Results of the test and recommendations for corrective action will be provided. For the purposes of this Rule, "plant analysis" shall include analysis of wastes and other solutions for agronomic purposes. A fee of four dollars (\$4.00) will be charged for each ~~plant~~ sample analyzed.

Statutory Authority G.S. 106-22(17).

.0203 NEMATODE ADVISORY SERVICE

Individuals desiring nematode analysis may obtain sample containers and instructions from the Agronomic Services Division or their ~~county extension office~~, local agricultural advisor. If plant-destructive nematodes are found in the soil, the best method of control will be recommended. A fee of two dollars (\$2.00) will be charged for each ~~nematode analysis~~, sample analyzed.

Statutory Authority G.S. 106-22(17).

CHAPTER 43 - MARKETS

SUBCHAPTER 43I - MARKETS

SECTION .0200 - FEES: CHARLOTTE
FARMERS' MARKET

.0204 SPACE AVAILABILITY

(a) Spaces in the Charlotte Regional Farmers Market shall be rented on a first come, first serve

basis. Twenty-five percent of the spaces will be available for weekly rental on a first come, first serve basis.

(b) ~~Leased~~ ~~Vacant~~ spaces may be reserved from October through March, subject to daily or weekly rental, for a fee of fifteen dollars (\$15.00) per month or a maximum of sixty dollars (\$60.00).

Statutory Authority G.S. 106-22; 106-530.

SECTION .0600 - OPERATIONAL RULES

.0633 SAWAMANDER STOVES (REPEALED)

Statutory Authority G.S. 106-22; 106-530.

CHAPTER 48 - PLANT INDUSTRY

SUBCHAPTER 48A - PLANT PROTECTION

SECTION .0600 - BOLL WEEVIL

.0611 REQUIREMENTS FOR PROGRAM PARTICIPATION

(a) All cotton farm operators in the state are hereby required to participate in the eradication program. Participation shall include timely reporting of acreage and field locations, compliance with regulations, and payment of fees. Farm operators within the elimination zone, shall be notified through the extension offices or newspapers of their program costs on a per acre basis on or before March 15. The following procedures are required for participation in the program:

- (1) Filling out a Cotton Acreage Reporting Form at the ASCS office by July 1 of the current growing season for which participation is desired. At this time the farm operator shall pay a nonrefundable fee in an amount sufficient to cover estimated program costs as determined by the Commissioner, but not to exceed ~~six dollars (\$6.00)~~ nine dollars (\$9.00) per acre. Those farm operators not reporting their acreage by July 1 will not be considered as program participants. All acreage reported by such nonparticipants after July 1 will be considered in excess and subject to penalty.
- (2) All fees shall be paid by the farm operator. Fees shall be made payable to and collected by ASCS.
- (b) Farm operators in the elimination zone whose ASCS measured acreage exceeds the grower reported acreage by more than ten percent, shall be assessed a penalty fee of three dol-

lars (\$3.00) per acre on that acreage in excess of the reported acreage.

(c) A farm operator may apply for a waiver requesting delayed payment under conditions of financial hardship. Any farm operator applying for a waiver shall make application in writing to the Plant Pest Administrator. This request must be accompanied by a financial statement from a bank or lending agency supporting such request. All farm operators granted waiver requests for financial hardship will be charged interest payable at a rate equal to 15 percent per annum. The decision whether or not to waive all or part of these requirements shall be made by the Plant Pest Administrator and notification given to the farm operator within two weeks after receipt of such application.

(d) Failure to pay all fees or file a completed waiver request for delayed payment on or before July 15 of the current growing season will result in a penalty fee of five dollars (\$5.00) per acre. If a waiver is granted, payment shall be due at the time the cotton is sold, or by November 15, whichever is sooner.

Statutory Authority G.S. 106-65.74; 106-65.77; 106-65.88; 106-65.91.

SECTION .1200 - NURSERY CERTIFICATION

.1201 DEFINITIONS

Definitions:

- (1) Agent. Any person who solicits, takes orders or sells nursery stock or collected plants for a nurseryman or dealer off the premises or place of business of said nurseryman or dealer;
- (2) Collected Plant. Any nursery stock, other than currently certified nursery stock, which is dug or gathered from any location;
- (3) Collected Plant Certificate. A document issued by the North Carolina Department of Agriculture which declares that the person named on the certificate has given satisfactory evidence that all nursery stock collected by him will be in accordance with the plant pest regulations of the North Carolina Department of Agriculture;
- (4) Collected Plant Regulated Area. Any counties or parts of counties in the State of North Carolina listed or provided for in these ~~Regulations~~ rules; ~~when~~ when it is determined that there are large numbers of plants collected in any area of the state, or that movement of nursery stock presents a hazard because of plant collections in that regulated area;

- (5) Infestation. The presence of any plant pest which is regarded as injurious;
- (6) Inspector. An employee of the North Carolina Department of Agriculture designated by the Commissioner to enforce these Regulations;
- (7) Nursery. Any place where any of the plants defined as nursery stock are grown for distribution or sale; barter, exchange or gift;
- (8) Nursery Dealer. Any person not a grower ~~or of~~ nursery stock who obtains certified nursery stock and or collected plants for the purpose of reselling, exchanging distribution or giving away independently sell independent of the control of a nursery;
- (9) Nursery Dealer Certificate. A document issued by the North Carolina Department of Agriculture which declares that the person named on the certificate has given satisfactory evidence that all nursery stock sold or otherwise disposed of by him will be such as was secured from regularly certified nurseries or certified plant collectors;
- (10) Nurseryman. Any person who owns, leases, manages or is in charge of a nursery;
- (11) Nursery Registration Certificate. A document issued by the North Carolina Department of Agriculture which declares that the person named on the certificate has listed his name, address, and location with the Plant Industry Division, Plant Protection Section of the North Carolina Department of Agriculture, and is authorized to offer distribute or sell nursery stock ~~for sale, barter, exchange, or a gift~~ within the state;
- (12) Nursery Stock. All articles defined as plant material excluding greenhouse potted plants intended for indoor use; wild or cultivated plants or parts thereof, trees, shrubs, vines, bulbous plants and roots, grafts, scions and buds. Excluded are:
 - (a) annual plants;
 - (b) cut flowers;
 - (c) tree, field, vegetable, flower or other true seeds;
 - (d) decorative plants or plant parts without roots not intended for propagation; and
 - (e) perennial plants intended for indoor use that are produced in North Carolina.

These exclusions may not apply to plants for which an inspection is required to facilitate movement or is required by another rule in this Chapter.
- (13) Person. Individual, corporation, partnership, firm or association;
- (14) Plant Inspection Certificate. A document issued by the North Carolina Department of Agriculture or the appropriate plant pest

regulatory agency of any other state which declares that the plants grown by the person named on the certificate have been inspected and found apparently free of injurious plant pests;

- (15) ~~Plant Material.~~ All wild, cultivated, or greenhouse grown plants, trees, shrubs, vines, bulbous plants and roots, grafts, scions, and buds grown or kept for or capable of propagation, distribution, or sale. ~~Excluded are annual plants, cut flowers, and tree, field, vegetable and flower seed. Also excluded are decorative plants without roots not intended for propagation;~~

- (15) (16) Shipping Tag. A tag issued by an authorized inspector of the North Carolina Department of Agriculture which accompanies individual shipments of plants which states the number and identity of all the plants in the shipment and declares the apparent freedom from injurious pests.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1202 NURSERIES TO APPLY FOR INSPECTION OR REGISTRATION

- (a) All nurserymen who ~~grow, barter, or exchange~~ distribute nursery stock in North Carolina, except as provided in (b) of this Rule, shall make application to the Plant Industry Division for inspection prior to offering plants for distribution or sale. barter, exchange, or gift.

- (b) All nurserymen whose business is less than one acre in size and whose sales are confined to North Carolina shall register his or her nursery with the Plant Industry Division prior to offering plants for sale, barter, exchange or gift. distributing or selling any nursery stock.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1203 OTHER PLANT INSPECTIONS (REPEALED)

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1204 CLASSIFICATION OF NURSERIES

All nurseries in North Carolina shall be classified as certified or registered. All nurserymen have the right to request the category to which they are assigned. Final assignment may be based on agreement between the inspector and nurseryman.

- (1) Certified. Any nursery that is one acre or more in size or that produces and distributes

or ~~sells~~ nursery stock and ~~or sells, barter, or exchanges such articles~~ outside the state; ~~State of North Carolina~~

- (a) Retail Nursery. Any nursery where 80 percent or more of the nursery stock sold is to the final consumer; ~~for his use~~;
- (b) Wholesale Nursery. Any nursery where 80 percent or more of the nursery stock sold is to ~~other~~ nurseries, dealers or other persons for resale;
- (c) Retail and Wholesale Nursery. Any nursery where sales consist of nursery stock which is sold as follows:
 - (i) directly to the final consumer, and ~~also~~
 - (ii) to other nurseries and or dealers for resale with the percentage of total sales for ~~each category~~ categories (a) and (b) being less than 80 percent;
- (2) Registered. Any nursery less than one acre in size that produces but does not distribute or sell nursery stock ~~but does not sell, barter, or exchange such articles~~ outside the state;
- (3) Institutional. Any nursery owned or operated by any governmental agency.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1206 CERTIFICATE REQUIRED

No person shall distribute, sell or offer for sale ~~barter, exchange, or give away~~ nursery stock or collected plants without a valid nursery dealer certificate, plant inspection certificate or nursery registration certificate as required in these rules.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1208 NURSERY DEALER CERTIFICATE

(a) Persons who maintain no regular nursery but who deal in nursery stock grown in regularly certified or registered nurseries and/or collected ~~plant~~ plants shall be required to possess a nursery dealer certificate. To obtain such a certificate, the nursery dealer must submit an application listing all sources of nursery stock and collected plants to be distributed or sold. ~~bartered, or exchanged or given away~~. It shall be a violation of this Section for a nursery dealer to distribute or sell ~~barter, exchange or give away~~ nursery stock or collected plants which have not been inspected and certified by an inspector in North Carolina or a duly authorized plant pest regulatory official of another state or country.

(b) The annual fee for a nursery dealer certificate shall be ten dollars (\$10.00) for each location from which nursery stock is sold, bartered,

exchanged or given away. This certificate expires December 31 of each year.

(c) All nursery stock and/or collected plants in the custody of any dealer shall be subject to inspection at any time and shall be maintained in certifiable condition. Dealer certificates can be revoked at any time for cause. Records shall be kept of all plant acquisitions and shall be made available to any inspector of the North Carolina Department of Agriculture upon request.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1211 NORTH CAROLINA NURSERIES

(a) Every carload, box, package or other shipping container of nursery stock or collected plants which is distributed or sold ~~exchanged, bartered, given away or transported~~ by any person whose place of business is in North Carolina shall be accompanied by a copy of a valid North Carolina nursery certificate or nursery registration certificate or North Carolina nursery dealer certificate, plainly and securely attached unless the shipment bears a shipping tag.

(b) Any shipment of nursery stock which is not accompanied by a valid copy of a nursery certificate, nursery registration certificate, nursery dealer certificate or shipping tag as required is hereby declared to be a public nuisance and may be returned to shipper, destroyed or otherwise disposed of by the inspector without compensation to the consignor, and the consignor will be notified as to the disposition of such shipments.

(c) Out-of-date certificates cannot be revised and used after expiration nor can the date and number of expired copies of certificates be changed and such copies used after expiration of the original certificate. The wording and form of this copy shall be the same as that of the original certificate furnished by the Department of Agriculture and all copies must be complete, printed in full, with issuance and expiration date and number included.

(d) At the discretion of the enforcing agency any holder of a plant inspection certificate, nursery registration certificate or nursery dealer certificate may be required to submit a sample of the printed copy for approval.

(e) When satisfactory agreements can be reached, permission may be granted for the printing of permanent certificates or other acceptable facsimiles of the certificate. These permanent certificates will be subject to revocation at any time for cause.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1212 OUT-OF-STATE NURSERIES

Every carload, box, package or other container of ~~plant material~~ nursery stock originating outside North Carolina and being moved into North Carolina for customer delivery or for resale must have attached to it a tag or certificate stating in effect that the ~~plant material~~ nursery stock being moved has been inspected and certified as apparently free from injurious plant pests by an authorized official of the state of origin. The shipment must bear the name and address of the shipper. Any shipment of ~~plant material~~ nursery stock entering North Carolina not meeting these requirements is hereby declared to be a public nuisance and may be returned to shipper, treated, destroyed or otherwise disposed of by the inspector, without compensation to the shipper. ~~This~~ The tag or certificate shall in no way be meant to void the requirements of any federal or state plant pest quarantine.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1213 INFESTED PLANTS FROM OUT-OF-STATE

Any plants moving from outside North Carolina for delivery in North Carolina, whether or not included under the definition of ~~plant material~~ nursery stock and whether or not accompanied by a tag or certificate of inspection or dealer certificate, found to be infested with injurious plant pests, is hereby declared a public nuisance and may be returned to the shipper, treated, destroyed or otherwise disposed of by the inspector without compensation to the consignor.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1215 FOREIGN COUNTRIES

(a) Any person receiving directly or indirectly any ~~plant material~~ nursery stock or other living plants or plant parts, including seed, from foreign countries shall notify the Plant Industry Division of the arrival of such shipment, of the contents thereof, and the name and address of the grower and consignor, and shall hold such shipment in the original container for inspection for a 10-day period unless otherwise directed by an inspector of the Plant Industry Division.

(b) At the discretion of the Plant Pest Administrator, any ~~plant material~~ nursery stock or other living plants or plant parts, including seeds, may

be required to be grown under a state postentry quarantine. When such a situation arises, the Plant Pest Administrator may prescribe the exact conditions of this quarantine.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1216 TRANSPORTATION COMPANIES

(a) No transportation company or common carrier or agent thereof shall receive for transportation and delivery within North Carolina any carload, box, bale, package or other container of ~~plant material~~ nursery stock from a point outside North Carolina unless such container shall have plainly and securely attached thereto a copy of a certificate of inspection or dealer certificate or shipping tag where applicable, valid at the time the shipment is received, made in favor of the consignor and issued by the authorized official of state of origin.

(b) No transportation company or common carrier or agent thereof shall receive for transportation and delivery from any point in North Carolina to another point with North Carolina any carload, box, bale, package or other container of nursery stock unless such container shall have plainly and securely attached thereto a copy of a plant inspection certificate, nursery registration certificate, or nursery dealer certificate or shipping tag where applicable, valid at the time the shipment is received, made in favor of the consignor and issued by an inspector.

(c) If any transportation company or common carrier receives any carload, box, package or other container of plant material from a point outside of North Carolina for delivery in North Carolina or nursery stock from a point within North Carolina for delivery to another point within North Carolina which is not accompanied by a nursery certificate, nursery registration certificate, shipping tag where applicable, they shall immediately notify the North Carolina Department of Agriculture, and shall hold from delivery such container of nursery stock until released by an inspector.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

SECTION .1600 - PHYTOPHAGOUS SNAILS

.1601 DEFINITIONS

As used in this Section:

- (1) Commissioner. The Commissioner of Agriculture for the State of North Carolina;
- (2) Compliance Agreement. A written agreement between an individual or concern

dealing in or moving regulated articles and the North Carolina Department of Agriculture, Plant Industry Division, wherein the former agrees to comply with conditions specified in the agreement to prevent the establishment or dissemination of phytophagous snails;

- (3) Infestation. A property on which phytophagous snails have been found, or a property onto which regulated material has been moved for any purpose from an infested property, and regulated or host material which has been exposed to, come in physical contact with, or been stored where the pest has been found. Such properties shall be considered infested until the Plant Pest Administrator is of the opinion that phytophagous snails do not exist on said property;
- (4) Inspector. Any authorized employee of the North Carolina Department of Agriculture, Plant Industry Division, or any other person authorized by the Commissioner of Agriculture to enforce the provisions of this quarantine and regulations supplemental thereto;
- (5) Pest and or Phytophagous Snails. The following snails in any stage of development:
 - (a) brown garden snail (*Helix aspera* Muller);
 - (b) giant South American snail (*Megalobulimus oblongus* Muller);
 - (c) white garden snail (*Theba pisana* Muller);
 - (d) giant African snail (*Achatina* spp.);
 - (e) any other plant-feeding snail which may be determined by the Commissioner to be injurious to North Carolina agriculture.
- (6) Plant Material. All wild, cultivated, or greenhouse grown plants, trees, shrubs, vines, bulbous plants and roots, grafts, scions, and buds. Included are annual plants, cut flowers, and decorative plants without roots;
- (7) Quarantined or Regulated Area. Any portion of a state in which phytophagous snails are found, or has been placed under quarantine on account of same;
- (8) Regulated Articles. Nursery stock, other plant material, and articles capable of transporting phytophagous snails, including used containers and trash.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1602 REGULATED AREAS

The following areas are regulated:

- (1) All infested areas in the states of Arizona, California, Florida, Hawaii, Minnesota, New Mexico, Oregon, Texas, and Washington.
- (2) Any other areas hereafter found to be infested with phytophagous snails.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1603 HELICULTURE PROHIBITED

Raising, maintaining and/or holding phytophagous snails is prohibited.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1604 MOVEMENT PROHIBITED

Movement of phytophagous snails in any state of development is prohibited except for scientific purposes when moved under provisions of federal or state regulations.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1605 DISPOSITION

Regulated articles from quarantined areas that are infested with phytophagous snails or have been exposed to infestation by the pest may be ordered destroyed or fumigated by the Commissioner in accordance with G.S. 106-421 at the expense of the owner. The Commissioner or his agent may allow regulated articles to move in sealed vehicles to designated safe markets under limited permit.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1606 CONDITIONS GOVERNING MOVEMENT OF REGULATED ARTICLES

Regulated articles shall not be moved into, within, or from North Carolina nor shall they be processed, planted or propagated except under conditions stipulated by the Commissioner or his agent. Such conditions shall be consistent with the quarantine requirements of the exterior agency and shall be designed to prevent establishment or dissemination of phytophagous snails in North Carolina. Regulated articles shall be accompanied by valid certificates or inspection tags issued by the state of origin when such certificates are required under the quarantine or regulations of such agency.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1607 WAIVER OF REQUIREMENTS

When it has been determined by the Commissioner or his agent that certification or treatments are no longer necessary or desirable under the specified conditions of these regulations, he may waive the certification and/or treatment requirements on specified articles, products and items.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

.1608 COMPLIANCE AGREEMENT

As a condition of issuance of certificates or permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles may be required to sign a compliance agreement stipulating that he will maintain such safeguards against the establishment and dissemination of phytophagous snails and comply with such conditions as to the maintenance of identity, handling, and subsequent movement of such articles and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the inspector.

Statutory Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420.

TITLE 4 - DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Economic and Community Development intends to amend rule(s) cited as 4 NCAC 11 .0101 - .0102, .0201 - .0202, .0301 - .0302, .0401 - .0402; and adopt rule(s) cited as 4 NCAC 11 .0203, .0303 - .0304, .0405, .0701.

The proposed effective date of this action is June 1, 1990.

The public hearing will be conducted at 10:00 a.m. on March 22, 1990 at Room 6168, Dobbs Building, 430 N. Salisbury Street, Raleigh, NC 27611.

Comment Procedures: Any person interested in these rules may present oral comments to the action proposed at the public rule-making hearing or deliver written comments to Art Britt, Jr., Office of the Secretary, Dept. of Economic and Community Development, no later than March 19,

1990. Anyone planning to attend the hearing should notify Art Britt, Jr., by March 19, 1990.

CHAPTER I - DEPARTMENTAL RULES

SUBCHAPTER II - INDUSTRIAL BUILDING AND RENOVATION FUND

SECTION .0100 - PURPOSE AND DEFINITIONS

.0101 BACKGROUND AND OBJECTIVES

(a) The purpose of the North Carolina Industrial Development Fund (also to be known as the Industrial Building and Renovation Fund) is to assist local city or county governments located in the most economically depressed counties in the state. This assistance ~~will be~~ is intended to help those units of government create new jobs by providing financing for the renovation or improvement and expansion of manufacturing or industrial buildings so as to induce "private profit making" entities to occupy, by lease or purchase, and to operate manufacturing or industrial businesses.

(b) The objective of this program ~~will be~~ is to provide new full time jobs for North Carolina citizens. ~~The department~~ Department of Economic and Community Development will necessarily determine that the renovations and improvements are a necessary part of the private firm's decision to provide the new jobs. If it is determined that the private firm would have ~~(or has already begun to) spend~~ spent (or has already begun to spend) private money to make these renovations and create these jobs, no funds from this program will be expended.

Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws; Chapter 754, 1989 S.L.

.0102 DEFINITIONS

(a) "Department" means the Department of Economic and Community Development, or its secretary.

(b) ~~(a)~~ "Act" means Section 111 Part XXII of the consolidated budget act codified as Chapter 830 of the 1987 Session Laws and amended by G.S. 143B-437A, 1989.

(c) ~~(b)~~ "Applicant" means a unit of city government located in a qualified county or a unit of county government which meets the definition of a qualified county.

(d) ~~(c)~~ "Industrial Development Fund" means the appropriation of monies given to the Department of Commerce for these purposes. This fund will also be known as and referred to as the Industrial Building Renovation and Improvement Fund.

(c) ~~(d)~~ "Qualified County" means one of the 50 most economically depressed counties in the state. The Secretary of the Department shall determine which counties are the most economically depressed counties in the state based on: rate of unemployment, per capita income, and relative population and work force growth or lack of growth, as determined by the Secretary. The with the lowest median per capita income, as compared to the 50 least economically depressed counties with the highest median per capita income. The median per capita income figures used in making this comparison and the delineation of "most" and "least" will be the latest available per capita income figures, by county, as documented in a published form by any State or Federal Agency generally recognized as having expertise and creditability in this field. these fields.

(f) "Emergency Assistance Qualified County" means any county which is facing the threat of, or which is experiencing a major economic dislocation. A major economic dislocation would mean the actual or imminent loss of manufacturing jobs caused by one or more plant closing(s) or one or more announced plant layoff(s) which affect:

- (1) at least 500 jobs; or
- (2) a number of jobs which is equal to or exceeds ten percent of the existing manufacturing work force.

In the case of Subparagraph (f)(2) of this Rule, the number of jobs impacted must exceed 50.

(g) ~~(e)~~ "Project" means one or more activities proposed for funding, or for partial funding, under this Rule. Such a project will be described in a narrative and accompanied by a preliminary set of drawings which set out the exact factual situation and a detailed schedule of costs from a contractor or engineer. The schedule must constitute an ability to complete such project with no more than a ten percent contingency. All such project material will provide evaluations of potential for unusual site characteristics which might influence construction or operating costs. In each case, the project description will document the direct relationship between the project and the jobs created.

- (1) These renovations or improvements Project expenditures for existing buildings may include:

- (A) the construction of, or improvements to existing water, sewer, gas or electrical utility systems, distribution lines, or required storage facilities, and or;
- (B) the renovation of buildings to include structural repairs, structural improvements such as roof repair, addition of

docks, or the erection of walls or special structural supports to support cranes;

(C) improvements to the building necessary to make the building suitable for the occupancy of the building by the occupant and the operator of the project. Such improvements may include mechanical equipment such as heating or air conditioning equipment, plumbing, pipes or trenching to handle effluents or process water, special electrical additions necessary for ovens, furnaces or other processors and lighting. If a renovation or an improvement is critical to the operation of a particular manufacturing or industrial businesses, or, if such improvements are critical to the decision making process pertinent to the creation of such jobs, the actual improvement need not be located on the site of the industrial building. Still, the application must document the exact relationship of the jobs and the project. An example of fundable project would be the case where a unit of government must construct an elevated water tank and service water lines to a building so as to provide sprinkler water to a building where such service is directly required to operate the industrial or manufacturing business. An example of a unfundable project would be where a unit of government seeks to expand or to repair deficiencies in their total system and where the relationship to the creation of jobs is fairly general or indirect. The project will be described in the perspective of employment to be created in the impact area of the project. Direct and indirect jobs will be treated separately in the discussion. The operator of the project will provide details as to the nature of direct jobs created, including the skills required, work conditions, wages paid and seasonal influences on the number of work days per year;

- (D) the installation of or purchase of manufacturing equipment or process productions equipment.

- (2) In the case of counties designated as "severely depressed", project expenditures may include construction of or improvement to new or existing water, sewer, gas, or electrical utility distribution lines or equipment to serve new or proposed industrial buildings to be used for manufacturing and industrial operations. Such infrastructure shall be located on the site

of the building or directly related to the specific manufacturing activity.

(h) "Emergency Assistance Project" shall have an extraordinary meaning larger and more inclusive than the definition of project in Paragraph (g) of this Rule, in that in the existing critical and harsh emergency conditions, the Secretary may expand the project cost items to include non-capital expenditures such as marketing studies and partial funding for local economic development programs.

(i) ~~(f)~~ "Renovation" shall have the same meaning as project, as described in Paragraph (g) of this Rule.

(j) ~~(g)~~ "Secretary" means the Secretary of the North Carolina Department of Commerce or his designee.

(k) ~~(h)~~ "State" means the State of North Carolina.

(l) "Severely Depressed" counties means those counties so designated under G.S. 105-130.40(c) or G.S. 105-151.17(c) or units of governments within those counties.

Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws; Chapter 754, 1989 S.L.

SECTION .0200 - GENERAL REQUIREMENTS

.0201 DATE FOR RECEIPT OF APPLICATIONS

The Department of Commerce will receive applications ~~after November 15, 1987~~ on a first-come, first-serve basis. Applications will be assigned a processing case number when that application is received and is judged to be sufficiently complete for consideration. Where possible, applications will be processed in the order of the processing numbers assigned.

Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.

.0202 GRANT CATEGORIES FOR PROJECTS DEFINED UNDER RULE .0102(g)

(a) Applicants for projects defined under Rule .0102(g) ~~may~~ can apply for funding under different grant categories, including the categories of:

- (1) utility improvements or additions owned by public bodies;
- (2) utility improvements or additions owned by private entities;
- (3) industrial facilities owned by public bodies but being leased or being improved for immediate or delayed sale to private operators, or to private "arms-length" landlords;

(4) industrial and manufacturing facilities owned by private "non-profit" entities such as "Community Development Corporations" or "Committees of 100" funded and/or endorsed by the elected leadership of the unit of Government; and

(5) industrial and manufacturing facilities owned by "for profit" entities to be improved by funds loaned to the private "profit-making" entity by a unit of city or county government.

(b) There is no minimum grant amount which applicants may request or be awarded. Grant awards shall not exceed the total amount specified by the General Assembly in its appropriation process. Chapter 830 of the 1987 Session Laws, in Section 111, Paragraph (2), ~~limited limits~~ the maximum grant to a sum not to exceed the lesser amount ~~the~~ of two hundred fifty thousand dollars (\$250,000), or a total of twelve hundred dollars (\$1,200) for each job created. For the purpose of this Section, the per job limitation will be imposed on the basis of requiring a commitment from the occupying industrial or manufacturing firm as to the number of jobs it will create over a reasonable period of time, not to exceed three years. The number of jobs created will include only those people directly employed in permanent or seasonal jobs by the operator who occupies the facility; indirect and temporary jobs will not be included.

(c) When a project renovation or improvement is to be accomplished to a building or on a site owned by a private entity, whether the private entity is conducted on a "for profit" or on a "not for profit" basis, the project will be financed by a loan to that private entity. This loan will be made to the private entity by the local unit of government with funds made available from this program. In each case, the local unit of government will establish its own authority to do that financing. The applicant will require and provide to the Department of Commerce satisfactory documentation that all costs are reasonable and that all funds are to be expended with regard to the conflict of interest statutes regulating business transactions between government officials and other involved parties. The applicant will propose a plan of project administration which is satisfactory for the Department of Commerce.

(d) All funds expended which directly assist participating private entities must be repaid to grant recipients and then returned to the Department of Commerce as such repayments are received. Such repaid funds will not be returned to the General Fund, but set aside to fund new projects approved under this Subchapter. Generally, project grants classified under Rule .0202

(a) (1) will not be repaid. Repayment for projects otherwise classified may be given subordinate collateral positions, interest costs which are at less than market rates, or amortization which defers cash flow, in so long as requests are documented as necessary to the creation of jobs and the success of the project.

(e) A project will be subject to review by the Department of Commerce at anytime during the first three years after the project begins. For a project classified under Rule .0202(a)(2)(3)(4) and (5) of this Rule, any repayment balance that it owes the local unit of government may be partially or fully accelerated if the business has closed, or if the operating company has not made reasonable progress towards its jobs creation goal.

Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws; Chapter 754, 1989 S.L.

.0203 GRANT CATEGORY/PROJ DEFINED UNDER RULE .0102(g)/EMGCY ASST PROJ

Applicants for funding of projects which meet the definition of Emergency Assistance projects shall be permitted to expand their project to include cost items necessary to alleviate the special and extraordinary emergency conditions found to apply. Such items will include talent fees, the cost of marketing studies, and local economic development activities.

Statutory Authority Chapter 754, 1989 S.L.

SECTION .0300 - SELECTION PROCESS

.0301 REVIEW OF APPLICATIONS/FUNDING /PROJ DEFINED/RULE .0102(g)

(a) Applications will be submitted in a manner prescribed by the Department. ~~of Commerce.~~ Selection of applications for funding will be based primarily on information contained in the application. Thusly the application must provide sufficient information ~~for so as to allow~~ the Department ~~of Commerce~~ to rate them against the selection criteria. When an application is deemed complete, it will be assigned a processing case number.

(b) Applications for funding of Emergency Assistance projects may be submitted directly to the Secretary of the Department.

(c) Applications for funding of Emergency Assistance projects also may ~~not~~ be received and all other applications will be received by the Department of Commerce, in the Commerce Finance Center, Room ~~2010, 2174~~, Dobbs Building, 430 N. Salisbury Street, Raleigh, North

Carolina 27611. The department will maintain a policy that applications be approved or denied by the last day of the calendar month following assignment of a processing case number as set out in Rule .0201 (a). When possible, applications will be processed in the order that case ~~number~~ numbers are assigned.

Statutory Authority: Section 111 of Part XXII Chapter 830, 1987 Session Laws.

.0302 ELIGIBILITY REQUIREMENTS FOR PROJECTS DEFINED IN RULE .0102(g)

Applications for projects defined in Rule .0102(g) will show that:

- (1) That this funding is a vital part of the proposal to create the jobs set out and that the jobs will not be created if the project goes unfunded, and
- (2) That the project is completely funded or financed, except for the particular funds sought in the application, and
- (3) The involvement of the local unit of government is formally authorized by its elected board under specific resolution and by specific State Statute, and
- (4) The participating private entity must provide a letter of commitment relating to the project. That letter will state that the project is to be carried out as described in the application, with specificity as to time schedules and to the parties involved.

Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws; Chapter 754, 1989 S.L.

.0303 REVIEW OF APPLICATIONS FOR FUNDING OF EMERGENCY ASSISTANCE PROJECTS DEFINED IN RULE .0102(h)

Applications for funding for projects defined in Rule .0102(h) will show that:

- (1) There exists an emergency in the economy large enough to be considered an economic dislocation as set out in G.S. 143B-437(d).
- (2) That the project for which funding is sought might help to alleviate the economic emergency described in Subparagraph (1) of this Rule.

Statutory Authority Chapter 754, 1989 S.L.

.0304 ELIGIBILITY REQ/EMGY ASST PROJECTS DEFINED IN RULE .0102(h)

Application for Emergency Assistance projects defined in Rule .0102(h) will show that:

- (1) the economic emergency exists, or is imminent, and

- (2) the project will, or will tend to, alleviate the especially severe economic emergency caused by the described economic dislocation.

Statutory Authority Chapter 754, 1989 S.L.

SECTION .0400 - APPROVAL CRITERIA

.0401 GENERAL

In order for the Department of Commerce to approve a project, or an "Emergency Assistance project", the Secretary is required to make certain findings necessary to document that the Department of Commerce is conducting the duties specifically given to it in Chapter 830 of the 1987 Session Laws, those duties expressed in other General Statutes, and in Rule .0402 of these procedures, in a responsible and prudent manner.

Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws.

.0402 REQUIRED FINDINGS FOR APPROVAL OF A PROJECT DEFINED IN RULE .0102(g)

(a) Before the Department can begin to make the approval of a project defined in Rule .0102(g), as specified in G.S. Chapter 830, a finding must be made that the project:

- (1) Will assist a unit of Government in one of the most economically depressed counties of the State as measured by median per capita income; and
- (2) The funds will be used for renovation of buildings to be used in manufacturing and industrial operations; or

(b) The Secretary will document, a finding based on data provided to him either in the application or by staff research, that the jobs to be created by this project over no more than a three year period, will be large enough in number to have a measurable favorable impact on the area immediately surrounding the project and will be commensurate with the size and cost of the grant to the project. The department will use as a guideline, a standard of requiring one job saved or generated for each one thousand two hundred dollars (\$1,200) in grant financing. The applicant has the burden of demonstrating that the jobs will have a measurable impact on the county. The applicant must show by clear and convincing evidence the number and type of such jobs generated.

(c) The Secretary will make a finding that the operator of the proposed project has demonstrated the capabilities to operate such a facility. The applicant has the burden of showing that

capability exists in the operator to operate and maintain the facility efficiently and effectively. Financial strength and prior related experience by the operator will be given great weight. Where little or no prior experience can be demonstrated, the qualifications of management, including production or engineering staff, applicable, will be of great significance.

(d) The Secretary will make a finding that the financing of such project by the authority will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator of an affiliate elsewhere in the state unless the facility is to be abandoned because of obsolescence, lack of available labor, or site limitations. The Department shall consider an abandonment statement as prima facie proof of lack of abandonment.

(e) The Department shall use the definitions of terms found in Section .0200 of this Subchapter to make these findings.

Statutory Authority Section 111 of Part XXII Chapter 830, 1987 Session Laws; Chapter 754, 1989 S.L.

.0405 FINDINGS REQ/APPROVAL/EMGNCY PROJECTS DEFINED/RULE .0102(h)

(a) Before the Department can begin to make the approval of and to fund an Emergency project as defined in Rule .0102(h), the Secretary will determine that the economic dislocation described has caused an economic emergency and that the emergency is of such size that extraordinary measures are required to help alleviate the emergency.

(b) That the funding for Emergency projects during the current budget has not.

(c) Even with the funding for the Emergency project so approved, will not exceed one hundred thousand dollars (\$100,000.00).

Statutory Authority Chapter 754, 1989 S.L.

SECTION .0700 - DESIGNATION OF QUALIFIED COUNTIES

.0701 DESIGNATION OF THE FIFTY MOST ECONOMICALLY DEPRESSED COUNTIES

Each year, on or before December 31, the Secretary of the Department of Economic and Community Development shall designate the 50 most economically depressed counties in the state; this designation shall be for the following calendar year.

Statutory Authority Chapter 754, 1989 S.L.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Hazardous Waste Management Commission intends to amend rule(s) cited as 4 NCAC 18 .0203 and .0303; adopt rule(s) cited as 4 NCAC 18 .0204 and .0308.

The proposed effective date of this action is July 1, 1990.

All public hearings will be conducted at 7:30 p.m. on:

March 20, 1990
Reidsville Sr. High School
Auditorium
1901 S. Park Drive
Reidsville, NC 27320

March 21, 1990
MCNC Auditorium
3021 Cornwallis Road
Research Triangle Park, NC 27709

March 22, 1990
Johnston County Courthouse
Superior Court Room
2nd Floor
212 Market Street
Smithfield, NC 27577

March 27, 1990
Randolph Community College
Auditorium
629 Industrial Park Avenue
Asheboro, NC 27203

Comment Procedures: Any interested person may present written comments for consideration by the Commission. The hearing record will remain open for receipt of comments from January 25, 1990, through March 27, 1990. Written comments should be received by the Commission by 5:00 p.m. on March 28, 1990, to be considered as part of the hearing record. Comments should be addressed to:

Ms. Cindy Trinks
N.C. Hazardous Waste Management
Commission
Post Office Box 25249
Raleigh, NC 27611

Any person may present oral comments at the hearings. Requests to speak should be presented in writing to Ms. Cindy Trinks at the above address no later than five days before the date of the respective hearing. Additional comments may be allowed by the Commission by sign up at the public hearings as time allows. All presentations will be limited to 5 minutes. A map presentation of all the areas of the state which have been excluded by the statewide screening process is scheduled at 7:00 p.m. before each public hearing. The justification document required by G.S. 130B-11(b) explaining each criterion and a fiscal note covering these rules has been prepared by the Commission and may be obtained by written request addressed to Ms. Trinks at the address above. According to the procedures set out at G.S. 150B-13, these rules were adopted as temporary rules, effective January 25, 1990, with a proposed effective date as permanent rules on July 1, 1990. These rules are amendments to the current temporary rules at 4 NCAC 18 .0100 through .0300 which are proposed to be adopted as permanent rules on March 1, 1990.

CHAPTER 18 - N.C. HAZARDOUS WASTE MANAGEMENT COMMISSION

SECTION .0200 - SITE SELECTION CRITERIA

.0203 SITE LOCATION FACTORS AND CRITERIA

This Subsection sets out rules for excluding sites based upon the factors set out in G.S. 130B-11 which requires the Commission to consider hydrological and geological factors; environmental and public health factors; natural and cultural resources; local land uses; transportation factors; aesthetic factors; availability and reliability of public utilities; and availability of emergency response personnel and equipment in the development of site selection criteria.

- (7) The site shall have an area designated to encompass all hazardous waste management units, as defined at 10 NCAC 10F .0002 and 40 C.F.R. 260.10(63), and said designated area shall be at least 75 acres in size.
- (8) The site must have at least 1000 feet between the outside of any hazardous waste management unit and the nearest property boundary of the site.
- (9) A location shall not be selected to be placed upon a general soil association type that has a surface slope greater than 15 percent for more than 70 percent of the soil area based upon United States Department of Agriculture General Soils Association data.
- (10) A location shall not be selected such that a hazardous waste management unit is

placed within 0.25 miles (1320 feet) of an off-site groundwater well from which water has been drawn for use within two years prior to January 25, 1990, or 1000 feet of its zone of influence, described as a cone of depression, whichever is greater.

(11) A location shall not be selected to be placed:

- (a) within a drainage area for a Class I or II Reservoir as defined at 10 NCAC 10D .0702(4) and (5);
- (b) within the watershed for Class WS-I, WS-II and SA waters as classified at 15A NCAC 2B .0200; or
- (c) in some drainage areas as determined by the Division of Environmental Management of the Department of Environment, Health, and Natural Resources for waters classified WS-III; or within two miles and draining to stream segments classified as WS-III.

For the third statewide screening, the Commission shall use data prepared by the Division of Environmental Management and the Division of Environmental Health of the Department of Environment, Health, and Natural Resources for classifications existing or for which a petition is filed prior to January 25, 1990. For purposes of the statewide screening process, unnamed tributaries to such waters will not be excluded. The unnamed tributaries will be considered when the Commission investigates suitable areas on a site specific basis.

(12) A location shall not be selected to be placed within two miles of a surface water intake, existing as of January 25, 1990, which provides water for human or animal consumption, unless it is downstream of the intake or does not drain to a point upstream for such intake.

(13) For waters classified as, or for waters for which a petition is pending for reclassification to, Outstanding Resource Waters (ORW) as described at 15A NCAC 2B .0216 or High Quality Waters (HQW) as described at 15A NCAC 2B .0201, and for which classification is existing or petition is filed prior to January 25, 1990, a location shall not be selected to be placed:

- (a) within the drainage area of the headwaters of such waters, or
 - (b) within two miles of a stream segment below the headwaters areas.
- For purposes of the statewide screening process, unnamed tributaries to such waters will not be excluded. The unnamed

tributaries will be considered when the Commission investigates suitable areas on a site specific basis.

(14) A location shall be selected such that the access from the main truck entrance of the facility is no greater than 15 miles to the Interstate Highway System or to a four lane highway that directly connects to the Interstate Highway System.

Statutory Authority G.S. 130B-7(a)(5).(24); 130B-11(b); 150B-13.

.0204 LAND DISPOSAL UNIT SITE CRITERIA

(a) In the siting of a facility containing a land disposal unit, a location shall not be selected to be placed such that a hazardous waste management unit for land disposal is within 200 feet horizontally of a 200-year floodplain.

(b) In the siting of a facility containing a land disposal unit, a location shall not be selected that has a soil in which the clay content is less than 35 percent based upon data provided by the Soil Conservation Service of the United States Department of Agriculture. For the purpose of statewide screening, a location shall not be selected in a general soil association in which 50 percent of the soils have less than 35 percent clay.

Statutory Authority G.S. 130B-7(a)(5).(24); 130B-11(b); 150B-13.

SECTION .0300 - SITE SELECTION PROCEDURE

.0303 STATEWIDE SCREENING FOR SUITABLE SITES

(d) The second phase of the statewide screening process will exclude general areas under the criteria set out at 4 NCAC 18 .0203 (1) through (6). The third phase of the statewide screening process will exclude general areas under the criteria set out at 4 NCAC 18 .0203 (7) through (14). These criteria will eliminate additional unsuitable areas as those set out by the criteria at 4 NCAC 18 .0202 and G.S. 130B-11.

Statutory Authority G.S. 130B-7(a)(5).(24); 130B-11(b); 150B-13.

.0308 EVALUATION PROCEDURES

At the end of the statewide screening process, the Commission shall evaluate the remaining areas of the state by addressing the factors at G.S. 130B-11(b) and reapplying the site selection criteria in 4 NCAC 18 .0200. In addition, the Commission will assess each area by addressing each of the items in this Rule, which are not weighted according to their numerical order:

- (1) Factors that may affect the ambient air quality;
- (2) Areas that are underlain with natural geologic materials which have a permeability which is less than 1×10^{-7} centimeters per second, and which are of sufficient thickness to prevent vertical movement of fluid, including wastes and leachate, from waste management units to waters of the state as long as wastes in such units pose a threat to water quality, with special consideration given to naturally occurring areas, although double synthetic liners provide an extra two layers of protection;
- (3) Any topographic or man-made features within three miles of the incinerator that might affect air quality modeling;
- (4) The distance to the calculated center of the state, i.e. centroid, based upon the amount of waste shipped off-site;
- (5) Number of landowners and separate parcels of property within a site area;
- (6) Available property as of January 25, 1990, to include:
 - (a) State owned lands, such as prison property, state supported university lands, or land used or slated for industrial or commercial-type uses;
 - (b) Industrial properties; and
 - (c) Land available through the commercial real estate market listed as available for purchase.
- (7) Special air quality parameters such as temperature inversions and wind downdrafts in respect to universal health risks;
- (8) Proximity to Class B and SB waters and Trout (Tr) waters as described at 15A NCAC 2B .0101;
- (9) Distance to the nearest meteorological stations for air modeling purposes;
- (10) Areas of local aesthetic value;
- (11) Nonhuman populations, i.e., plants and animals which may serve as sources of food for human populations;
- (12) Access to the site by Department of Transportation easements or rights-of-way;
- (13) The existence of seismic faults not included within the meaning of 4 NCAC 18 .0202(a)(6);
- (14) The area in the prevailing wind direction from the incinerator stack as it applies to associated health risk calculations;
- (15) Distance to the site chosen by the Low Level Radioactive Waste Management Authority;
- (16) Proximity to wildlife restoration areas;

- (17) The distance to the calculated center of the state, i.e. centroid, based upon the amount of waste generated; and
- (18) Any other items deemed necessary by the Commission.

Statutory Authority G.S. 130B-7(a)(5), (24); 130B-11(b); 150B-13.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Community Assistance, N.C. Dept. of Economic and Community Development intends to amend rules cited as 4 NCAC 19L .0401, .0403, .0407; adopt rules cited as 4 NCAC 19L .1601 - .1604.

The proposed effective date of this action is June 1, 1990.

The public hearing will be conducted at 2:00 p.m. on March 19, 1990 at 1307 Glenwood Ave., Suite 250, Raleigh, NC 27605.

Comment Procedures: Written comments may be sent to Bob Chandler, Division of Community Assistance, 1307 Glenwood Ave., Raleigh, NC 27605. Oral presentations may be made at the public hearing. Persons having questions should call Steve Culhon at (919) 733-2850.

CHAPTER 19 - DIVISION OF COMMUNITY ASSISTANCE

SUBCHAPTER 19L - NORTH CAROLINA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

SECTION .0400 - DISTRIBUTION OF FUNDS

.0401 GENERAL

(c) Applicants can apply for funding under the grant categories of Community Revitalization, Economic Development, Development Planning, Housing Demonstration, Interim Assistance, and Urgent Needs, and Community Investment for Economic Opportunity. Applicants shall not apply for Contingency funding. Contingency awards will be made to eligible applicants in Community Revitalization, Economic Development, Housing Demonstration, and Development Planning categories.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 570.489.

.0403 SIZE AND USE OF GRANTS MADE TO

RECIPIENTS

(a) There is no minimum grant amount which applicants may request or be awarded. Grant awards made to any one recipient shall not exceed the following amount in each grant category: Community Revitalization - six hundred thousand dollars (\$600,000); Economic Development - six hundred thousand dollars (\$600,000); Development Planning - five thousand dollars (\$5,000); Housing Demonstration - two hundred fifty thousand dollars (\$250,000) or funds available; Urgent Needs - seven hundred fifty thousand dollars (\$750,000); Interim Assistance - seven hundred fifty thousand dollars (\$750,000) for projects designated to be completed within 36 months from the award date, and four million dollars (\$4,000,000) for projects designated to be completed within 18 months from the award date; ~~and~~ Contingency - six hundred thousand dollars (\$600,000); and Community Investment for Economic Opportunity - seventy-five thousand dollars (\$75,000). Applicants shall not have a project or combination of projects, under active consideration for funding which exceeds seven hundred fifty thousand dollars (\$750,000), except for Interim Assistance and Urgent Needs projects.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 570.489.

.0407 GENERAL APPLICATION REQUIREMENTS

(a) Local governments are required to submit applications in a manner prescribed by NRCB in order to be considered for funding. Selection of applications for funding will be based primarily on information contained in the application; thus applications must contain sufficient information for NRCB to rate them against the selection criteria. All applicants are required to address their projects to one of the following grant categories: Community Revitalization, Economic Development, Development Planning, Housing Demonstration, Interim Assistance, ~~or~~ Urgent Needs, or Community Investment for Economic Opportunity. Applicants may apply in more than one grant category, apply for several projects in the same grant category, and have more than one project approved, providing the total grant application and award does not exceed the maximum limits described in Paragraphs (a) and (b) of Rule .0403 of this Section. Applicants shall submit an application that describes each project in detail.

Authority G.S. 143-323; 143B-10; 42 U.S.C.A. 5304(a); 24 C.F.R. 570.489.

SECTION .1600 - COMMUNITY INVESTMENT FOR ECONOMIC OPPORTUNITY

.1601 DEFINITION

(a) This category includes activities in which a majority of funds are directed toward expanding economic opportunities principally for persons of low- to moderate-income. Activities must be carried out by an eligible non-profit organization incorporated in North Carolina.

(b) Funds will be made available as a loan, and may be used for the acquisition of real property, site preparation, construction and permanent financing of buildings (including any related pre-development fees), renovation of buildings, equipment, and furnishings and fixtures. Funds will come from the proceeds collected from repayments of loans that have been returned to the state from Economic Development projects.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 570.489.

.1602 ELIGIBILITY REQUIREMENTS

(a) Applications must demonstrate that at least 51 percent of the CDBG funds proposed for each activity will benefit low- and moderate-income persons. Project design may not benefit moderate-income persons to the exclusion of low-income persons.

(b) A person who is authorized by the non-profit to act on its behalf must sign a letter committing the organization to achieving the 51 percent benefit and to securing the other funds that are part of the project.

(c) Applicants must have the capacity to administer a CDBG program. The following areas may be examined to determine capacity:

- (1) Audit and monitoring funds on previously funded CDBG programs, and the applicant's fiscal accountability as demonstrated in other state and federal programs or local government financial reports; and
- (2) The rate of expenditure of funds and past accomplishments of other project commitments in previously funded CDBG programs.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 570.489.

.1603 SELECTION CRITERIA

Projects will be evaluated against three selection criteria as follows:

- (1) The percentage of CDBG funds directly benefitting low- and moderate-income persons, and the economic distress of the county where the project is located.

- (2) The level of need for the project and its feasibility of success, including:
 - (a) a review of the extent of the need and the project's impact on this need,
 - (b) accessibility of the existing similar programs available to low- and moderate-income persons,
 - (c) ability of the non-profit entity to repay the loan, and
 - (d) the long-term viability of the organization.
- (3) Leveraging:
 - (a) ratio of other funds to CDBG funds,
 - (b) strength of commitment of other funds.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 570.489.

.1604 PRELIMINARY AWARDS

(a) Preliminary grant awards will be announced after review and evaluation of an application. A Grant Agreement shall not be extended to a locality until a Legally Binding Commitment with the participating non-profit entity has been executed, and approved by DCA. The Legally Binding Commitment shall incorporate project-specific implementation requirements reflecting key project elements; including activities necessary for the project to proceed and goals to be met.

(b) The Legally Binding Commitment must be submitted to and approved by DCA within 90 days of the preliminary award announcement. A preliminary award may be withdrawn if a Legally Binding Commitment is not approved within the 90-day period. If special circumstances warrant, an extension of time for executing the Legally Binding Commitment subject to acceptable assurances and a timetable from all parties involved may be granted. In no case shall the time for executing a Legally Binding Commitment exceed six months from the preliminary grant award date.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 570.489.

TITLE 11 - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Department of Insurance intends to amend rules cited as 11 NCAC 10 .1102, .1104.

The proposed effective date of this action is June 1, 1990.

The public hearing will be conducted at 10:00 a.m. on March 19, 1990 at Third Floor Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, N.C. 27611.

Comment Procedures: Written comments may be sent to Pete Murdza, P.O. Box 26387, Raleigh, N.C. 27611. Oral presentations may be made at the public hearing. Anyone having questions should call Pete Murdza at (919) 733-3284 or Ellen Sprengel at (919) 733-4700.

CHAPTER 10 - FIRE AND CASUALTY DIVISION

SECTION .1100 - RATE FILINGS

.1102 APPLICABILITY

The followings ~~items~~ Subparagraphs indicate which Subparagraph Rules of this Regulation Section is applicable apply to a particular filing. Note that all rate filings must be submitted separately and under independent cover from form

- (1) Rule .1103 applies to all workers' compensation insurance rate filings made by the North Carolina Rate Bureau.
- (2) Rule .1104 applies to all nonfleet private passenger automobile insurance rate filings made by the North Carolina Rate Bureau or the North Carolina Reinsurance Facility.
- (3) Rule .1105 applies to all rate filings made by the North Carolina Rate Bureau other than those involving workers' compensation insurance or nonfleet private passenger automobile insurance.
- (4) ~~(3)~~ Rule .1106 applies to all applications filings for deviations from the rates of the North Carolina Rate Bureau.
- (5) ~~(4)~~ Rule .1107 applies to all rate filings (including those filings derived from filings of licensed rating organizations), other than the North Carolina Rate Bureau other than those involving:
 - (a) Lines of insurance under the jurisdiction of the North Carolina Rate Bureau.
 - (b) Nonfleet private passenger automobile insurance rates for the North Carolina Reinsurance Facility.
- (6) ~~(5)~~ Rule .1108 applies to all rate filings described in Subparagraph ~~(4)~~ (5) of this Rule that meet either one or both more of the following criteria:
 - (a) A filing for a coverage that involves an increase in one year greater than ten percent or a decrease greater than 20 percent.

- (b) A filing for a coverage by a company whose market share is greater than ten percent.
- (7) ~~(6)~~ In Subparagraph ~~(5)~~ (6) coverage shall mean one of the following:
- (a) ~~Municipal liability; Accountants professional liability;~~
 - (b) ~~Public school liability; Architects and engineers professional liability;~~
 - (c) Child care liability (other than such coverage sold incidental to another coverage, e.g., in homeowners or commercial multiperil policies);
 - (d) ~~Errors and omissions liability; Dentists professional liability;~~
 - (e) ~~Public official liability; Directors, officers and trustees liability;~~
 - (f) ~~Officers and directors liability; Errors and omissions liability;~~
 - (g) ~~Attorneys malpractice liability; Hospital premises liability;~~
 - (h) ~~Accountants malpractice liability; Hospital professional liability;~~
 - (i) ~~Architects and engineers malpractice liability; Lawyers professional liability;~~
 - (j) ~~Products and completed operations liability; Liquor law liability;~~
 - (k) ~~Recreational liability; Municipal liability;~~
 - (l) ~~Owners, landlords and tenants liability; Nurses professional liability;~~
 - (m) ~~Liquor law liability; Owners, landlords and tenants liability;~~
 - (n) ~~Pollution and environmental impairment liability; Physicians and surgeons professional liability;~~
 - (o) Police professional liability;
 - (p) ~~Physicians and surgeons professional liability; Pollution and environmental impairment liability;~~
 - (q) ~~Dentists professional liability; Products and completed operations liability;~~
 - (r) ~~Hospital professional liability; Public official liability;~~
 - (s) ~~Hospital premises liability; Public school liability;~~
 - (t) ~~Nurses professional liability; Recreational liability;~~
 - (u) Other healthcare specialties professional liability;
 - (v) If not one of Subparagraphs (6)(a) through (6)(u) of this Rule, one of the lines listed on Page 14 of the Annual Statement.
- (8) ~~(7)~~ Rule .1109 applies to ~~any~~ all licensed rating organizations participating in a filing made by the North Carolina Rate Bureau or the North Carolina Reinsurance Facility.
- (9) ~~(8)~~ Rate filings are not required for the following lines of insurance:
- (a) Aviation physical damage;
 - (b) Fidelity and surety;
 - (c) Mortgage guaranty;
 - (d) Ocean marine.
- (10) ~~(9)~~ Rate filings are not required for the following types of policies:
- (a) Those written pursuant to the Surplus Lines Act;
 - (b) Those written under the ~~FAIR~~ Fair Access to Insurance Requirements (FAIR) Plan;
 - (c) Those written ~~under the Beach Plan~~ by the North Carolina Insurance Underwriting Association (the Beach Plan) that include coverages other than only windstorm and hail;
 - (d) Those written ~~issued~~ in North Carolina covering multistate ~~risk insureds~~ except in respect to coverages applicable to North Carolina locations;
 - (e) Those ~~issued~~ written by a town or county farmers mutual fire insurance association restricting its operations to not more than six adjacent counties in this State;
 - (f) Those that contain assessment provisions and that are written by domestic insurance companies, associations, orders or fraternal benefit societies that are not reciprocals.
- (11) ~~(10)~~ All ~~manual~~ inland marine manual rates and rating plans must be filed.
- (a) This Subparagraph includes ~~applies to~~ the manual rates and rating plans of both companies and rating organizations.
 - (b) Rates and rating plans that are not contained in or ~~derived from~~ a manual need not be filed.
- (12) ~~(11)~~ Rate filings are required for all rates whether advisory, suggested, or manual, except for those lines, policies, ~~or~~ and rates specifically excluded in Subparagraphs (9), (10), ~~or~~ and (11) of this Rule.
- (a) Rates applicable to only one particular risk must be filed.
 - (b) Rates may be filed either as manual rates or as ranges of rates from which the rates for individual ~~risk~~ will be insureds are determined.
- (13) ~~(12)~~ Rules .1107 and .1108 also apply to loss cost filings. In cases where a rating organization files prospective loss costs, the same requirements as for rate filings apply, with the exception of those dealing with expense and profit provisions.
- (14) ~~(13)~~ The rates contained in all filings approved prior to ~~the effective date of this regulation~~ January 1, 1990 will have an expiration date of ~~two years after the effective~~

~~date of the regulation.~~ January 1, 1992. Such rates may, subject to the Department's approval, be automatically renewed by a letter to the Department, specifying the Department's file number and the original approval date. Thereafter, they remain in effect until superseded, withdrawn, or modified by a subsequent filing.

Statutory Authority G.S. 58-2.40; 58-36.15; 58-36.30.

1104 NONFLEET PRIVATE PASSENGER AUTOMOBILE

The information required by N.C.G.S. ~~58-121.20(h)~~ 58-36.15(h) for nonfleet private passenger automobile rate filings shall be presented as follows:

Note: If data required by this ~~Regulation Rule~~, other than that specified in Subparagraph (3)(c), are not being collected or reported, or are not readily available to insurers prior to June 1, 1989, then insurers shall commence collecting or reporting such data as of June 1, 1989. For the data in Subparagraph (3)(c), the applicable date for commencing collecting or reporting is January 1, 1992. Thereafter, such required data as have accrued shall be included in each filing until enough data ~~is~~ are available to fully satisfy this ~~Regulation Rule~~. If in addition to the full years of data specified in any of the Subparagraphs below, ~~request~~ more recent data of less than a full year ~~is~~ are available, that data shall also be provided. If updates to the information requested in any of the Subparagraphs below become available before a decision is reached on the filing, they shall also be provided.

(1) North Carolina earned premiums at the actual and current rate level; ~~losses and loss adjustment expenses; expenses, each on paid and incurred bases without trending or other modification for the experience period, including the loss ratio anticipated at the times the rates were promulgated for the experience period;~~

(a) Include all available premium, loss, loss adjustment expense, and exposure data from all companies writing North Carolina nonfleet private passenger automobile insurance. ~~in North Carolina shall be included in the rate filings.~~ If the experience of any company that writes ~~has~~ more than one percent of the North Carolina nonfleet private passenger automobile written premium ~~is~~ has been excluded from any ~~the~~ rate level, trend, loss development, or investment income calculation for any coverage, identify the

coverage, the company and its market share and provide an explanation for its exclusion. Also estimate the aggregate market share of other companies whose experience is excluded from ~~those~~ such calculations.

(b) Include all available data relating to increased limits factors and deductible credits. Provide justification that the factors and credits contained in the filing are neither excessive, inadequate, nor unfairly discriminatory. Also provide all information related to their derivation, including the following:

(i) A description of all data reviewed and all worksheets used;

(ii) A complete description of the methodology used to derive these factors and credits;

(iii) A description of alternative methodologies used or considered for use in the last three years;

(iv) A description of the criteria used to select a methodology;

(v) Specific details on the application of these criteria in the selection of a methodology for this filing;

(vi) Details on the application of the methodology to this filing.

(c) ~~(b)~~ Include all available expense data from all companies writing North Carolina nonfleet private passenger automobile insurance. If the experience of any ~~company~~ of the top one hundred largest writers of such nonfleet private passenger automobile insurance in North Carolina is excluded from any expense level calculation, identify ~~that~~ the company and its market share and provide an explanation for its exclusion. Also estimate the aggregate market share of other companies whose experience is excluded from ~~ex-~~ pense level such calculations.

(d) ~~(c)~~ If the filing contains changes in classification differentials, include all available classification data from all companies writing North Carolina nonfleet private passenger automobile insurance. If the experience of ~~describe~~ any company that writes more than one percent of the North Carolina nonfleet private passenger automobile written premium identifiable group of policies that have ~~has~~ been excluded from any the calculation of such differentials, identify the company and ~~in-~~ dicate ~~their~~ its market share, percentage of the market, and provide an explanation for its ~~their~~ exclusion. Also estimate the

- aggregate market share of other companies whose experience is excluded from such calculations.
- (c) ~~(d)~~ For each coverage, include actual earned premiums and calculate earned premiums at present rates, ~~shall be calculated.~~ indicate how such calculations were produced, and supply supporting documentation for a sample of such calculations, and ~~justification of justify~~ any aggregate factors used.
- (f) ~~(e)~~ Provide the latest written and earned premiums and marketshares for the ten largest writers of North Carolina nonfleet private passenger automobile insurance. ~~insurers in North Carolina shall be provided.~~
- (g) ~~(f)~~ Information from the Annual Statement on losses and premiums shall be included. Provide such information separately for the latest two Annual Statements for which aggregate data is available including the following items on a composite basis for the top 50 nonfleet private passenger insurers in North Carolina:
- (i) North Carolina Page 11, Lines 19.1, 19.2, and 21.1;
 - (ii) Part 2, Lines 19 and 21;
 - (iii) Part 3A, Lines 19 and 21.
- Provide composite loss and premium information from each of the latest two Annual Statements for the 50 largest writers of North Carolina nonfleet private passenger insurance, including the following:
- (i) Underwriting and Investment Exhibit, Part 2, Lines 19 and 21;
 - (ii) Underwriting and Investment Exhibit, Part 3, Lines 19 and 21;
 - (iii) North Carolina Page 14, Lines 19.1, 19.2, and 21.1.
- (h) ~~(g)~~ Except in filings made by the North Carolina Reinsurance Facility, provide to the extent possible the following information on companies deviating from ~~Bureau~~ the nonfleet private passenger automobile rates of the North Carolina Rate Bureau ~~shall be included (except in filings made by the North Carolina Reinsurance Facility)~~ for each of the latest five years by coverage:
- (i) A list of all deviating companies;
 - (ii) The total amount of deviations in dollars;
 - (iii) The average percentage deviation for all companies.
- (i) ~~(h)~~ Except in filings made by the North Carolina Reinsurance Facility, provide the following information on companies issuing dividends on North Carolina nonfleet private passenger automobile policies ~~shall be included for (except in filings made by the North Carolina Reinsurance Facility)~~ each of the latest five years:
- (i) A list of all companies issuing dividends;
 - (ii) The total amount of dividends in dollars;
 - (iii) The average percentage dividend for all companies.
- (j) Provide the following information on losses and loss adjustment expenses:
- (i) For each of the latest three accident and calendar years, undeveloped and untrended losses and loss adjustment expenses, by coverage;
 - (ii) For each rate level implemented in the latest three calendar years, the expected loss ratios that were anticipated in the implemented rates, by coverage;
 - (iii) For each accident year included in the filing, paid losses, case basis reserves, loss development, incurred allocated loss adjustment expense (if collected separately from losses), incurred unallocated (or combined allocated and unallocated) loss adjustment expense, applied trend factors, and trended incurred losses and loss adjustment expenses, by coverage.
- (k) ~~(i)~~ Whenever North Carolina losses are separated into excess (catastrophe) and nonexcess (noncatastrophe) losses, provide a clear description and justification of the standard used to separate such losses. ~~shall be included. In determining an excess (catastrophe) loading, include as many years of data as possible, are available. If the number of years included used differs from the number available, provide an explanation. Also provide an explanation if the data from which the excess loading is derived differs from that on which the rate level change is based.~~
- (l) ~~(j)~~ Territorial rate calculations shall include earned premiums, incurred losses, and the number of claims by territory for each of the years used to determine the territorial relativities.
- (m) ~~(k)~~ If the filing contains changes to in class differentials, ~~include~~ provide all information related to the derivation, including the following:
- (i) A description of all data reviewed and all worksheets used;

- (ii) ~~(i)~~ A complete description of the methodology used to derive these ~~factors~~ differentials;
 - (iii) ~~(ii)~~ A description of alternative methodologies used or considered for use in the last three years;
 - (iv) ~~(iii)~~ A description of the criteria used to select a methodology;
 - (v) ~~(iv)~~ Specific details on the application of these criteria in the selection of a methodology for this filing;
 - (vi) ~~(v)~~ Details on the application of the methodology to this filing.
- (2) Credibility factor development and application. Provide all information related to the derivation of the credibility factors contained in the filing, ~~should be provided~~ including the following:
- (a) A description of all data reviewed and all worksheets used;
 - (b) ~~(i)~~ A complete description of the methodology used to derive these factors;
 - (c) ~~(ii)~~ A description of alternative methodologies used or considered for use in the last three years;
 - (d) ~~(iii)~~ A description of the criteria used to select a methodology;
 - (e) ~~(iv)~~ Specific details on the application of these criteria in the selection of a methodology for this filing;
 - (f) ~~(v)~~ Details on the application of the methodology to this filing.
- (3) Loss development factor development and application on both paid and incurred bases and in both numbers and dollars of claims;
- (a) Provide all information related to the derivation of the loss development factors contained in the filing, ~~shall be provided~~ including the following:
 - (i) A description of all data reviewed and all worksheets used;
 - (ii) ~~(i)~~ A complete description of the methodology used to derive these factors;
 - (iii) ~~(ii)~~ A description of alternative methodologies used or considered for use in the last three years;
 - (iv) ~~(iii)~~ description of the criteria used to select a methodology;
 - (v) ~~(iv)~~ Specific details on the application of these criteria in the selection of a methodology for this filing;
 - (vi) ~~(v)~~ Details on the application of the methodology to this filing.
 - (b) Provide for each liability coverage, complete (including the upper left portion) total limits paid loss development triangles for the ten latest available accident years at all available development points for matching companies. Also provide the corresponding loss development factors and five-year average factors derivable from these triangles.
- (c) Provide the information in (b) for basic limits ~~incurred~~ paid losses.
 - (d) Provide the information in (b) for total limits incurred losses.
 - (e) Provide the information in (b) for basic limits incurred losses.
 - (f) ~~(e)~~ Provide the information in (b) for the number of paid claims.
 - (g) ~~(f)~~ Provide the information in (b) for the number of outstanding claims.
 - (h) ~~(g)~~ Provide the information in (b), (c), (d), (e), ~~and~~ (f), ~~and~~ (g) separately for voluntary and ceded business.
 - (i) Provide the information in (b), (c), (d), (e), (f), (g), and (h) for each of the fifteen largest writers of North Carolina nonfleet private passenger automobile insurance.
 - (j) ~~(h)~~ For each of the ~~ten~~ fifteen largest writers of North Carolina nonfleet private passenger automobile insurance, ~~in North Carolina, provide a statement regarding any reserve strengthening or weakening that has occurred in the last five years. ~~shall be included.~~~~
- (4) Trending factor development and application:
- (a) Provide the following trend data ~~shown separately for frequency and severity for loss data~~, for the latest available five years by coverages: ~~shall be included in the filing for all coverages:~~
 - (i) Fast-track loss data, both countrywide and for North Carolina (separately for frequency and severity);
 - (ii) All North Carolina internal loss trend data (separately for frequency and severity);
 - (iii) External expense trend data, both countrywide and for North Carolina.
 - (b) For all trend data described in this Rule, calculate annual trend factors ~~shall be calculated~~ and coefficients of correlations, ~~determined.~~
 - (i) Include calculations ~~for~~ based on the latest six, nine, twelve and fifteen-point periods.
 - (ii) Include calculations ~~on~~ using both ~~an~~ exponential and straight line methods. ~~base.~~
 - (c) Provide all information related to the derivation of trend factors contained in the filing, ~~shall be provided~~ including the following:

- (i) A description of all data reviewed and all worksheets used;
 - (ii) ~~(i)~~ A complete description of the methodology used to derive these factors;
 - (iii) ~~(ii)~~ A description of alternative methodologies used or considered for use in the last three years;
 - (iv) ~~(iii)~~ A description of the criteria used to select a methodology;
 - (v) ~~(iv)~~ Specific details on the application of these criteria in the selection of a methodology for this filing;
 - (vi) ~~(v)~~ Details on the application of the methodology to this filing.
- (d) Provide an assessment of the suitability of historical trends as predictors of future trends. ~~shall be provided.~~ Changes in seat-belt usage, in the drinking age, in the price of gasoline, and in miles driven shall be examined. If it is determined that such changes or any other legislative, regulatory, social, and economic factors affecting frequency and severity trends will materially impact anticipated losses and that such impact is not reflected by historical trend data, provide all analyses and data relied on to assess such impact and to incorporate it into the filing.
- (5) Changes in premium base and exposures resulting from rating exposure trends:
- (a) Provide data on the mix of exposures by different policy terms. ~~shall be submitted.~~ For the latest five years, include the number of exposures for different by policy term.
 - (b) Provide data on changes in age and symbol distributions for physical damage coverages over the last ten years, calculate the trends in such distributions, and demonstrate how such trends have been included in the calculation of earned premiums at present rates.
- (6) Limiting factor development and application. Provide information on the following items: ~~shall be provided.~~
- (a) Limitations on losses included in the statistical data used in the filing;
 - (b) Limitations on the extent of the rate level change by coverage;
 - (c) Limitations on the extent of territorial rate changes;
 - (d) Any other limitations applied.
- (7) Expenses: Overhead expense development and application of commission and brokerage, other acquisition expenses, general expenses, taxes, license, and fees:
- (a) Provide all information related to the derivation of the expense provisions contained in the filing, ~~shall be provided~~ including the following:
 - (i) A description of all data reviewed and all worksheets used;
 - (ii) ~~(i)~~ A complete description of the methodology used to derive these factors; provisions;
 - (iii) ~~(ii)~~ A description of alternative methodologies used or considered for use in the last three years;
 - (iv) ~~(iii)~~ A description of the criteria used to select a methodology;
 - (v) ~~(iv)~~ Specific details on the application of these criteria in the selection of a methodology for this filing;
 - (vi) ~~(v)~~ Details on the application of the methodology to this filing.
- (b) Provide earned premiums and unallocated loss adjustment expenses for each of the latest five years ~~shall be included.~~ If available, provide such information by coverage and or by groups of coverages.
- (c) For each of ten largest writers of North Carolina private passenger automobile insurance, in North Carolina, provide statements regarding any expense cutting activities undertaken in the last five years. ~~shall be provided.~~
- (8) The Percent rate change. Provide the overall statewide rate change ~~shall be provided~~ by coverage and for physical damage coverages by deductible for physical damage coverages.
- (9) Final proposed rates:
- (a) Proposed rates for each territory and coverage. ~~shall be provided.~~
 - (b) If the filing contains changes to the classification differentials, describe these differentials ~~shall also be described.~~ and ~~Also~~ include an explanation of how classification rates are determined, and as well as a sample calculation.
- (10) Investment earnings, consisting of investment income and realized plus unrealized capital gains, from loss, loss expense, and unearned premium reserves. Information on anticipated investment income is necessary to establish the provision for underwriting profit in the rates.
- (a) Calculate information on the amount of investment income earned on loss, loss expense, and unearned premium reserves in relation as a ratio to earned premium for from North Carolina nonfleet private passenger automobile policies in North Carolina shall be calculated for the latest two calendar years and ~~estimated~~ estimate that income for the current year and for

- all years during which the proposed rates will be in effect. Provide the details of all calculations, ~~shall be provided in detail~~ including the amount of the composite reserves of each type at the beginning and end of each of the specified years. Also describe and justify all assumptions used in such calculations.
- (b) To evaluate recent insurer profitability, composite information from the Annual Statement for the top 50 insurers writing nonfleet private passenger automobile insurance in North Carolina shall be included. Provide composite asset, liability, and income the following information from each of the latest two Annual Statements for which aggregate data is available for the fifty largest writers of North Carolina nonfleet private passenger automobile insurance, including the following (in the same format and detail as the exhibits in individual company statements):
- (i) Page 2 (Assets);
 - (ii) Page 3 (Liabilities, Surplus and Other Funds);
 - (iii) Page 4 (Underwriting and Investment Exhibit);
 - (iv) Insurance Expense Exhibit, Part II, columns 19.1, 19.2 and 21.1.
- (11) Identification of applicable statistical plans and programs and a certification of compliance with them; and Certification of Statistical Plans
- (a) Identify all statistical plans used or consulted in preparing this filing ~~shall be identified.~~ Also and describe the data compiled by each plan.
 - (b) Provide a certification that there is no evidence that the data that ~~was~~ were collected in accordance with such statistical plans and were utilized in the rate filing are not true and accurate representations of each company's experience to the best of its knowledge. ~~shall also be provided.~~
 - (c) Provide descriptions of the editing procedures used to verify the data collected in accordance with the statistical plans, of the errors uncovered by such editing procedures, and of the adjustments and corrections implemented.
- (12) Investment earnings on capital and surplus. Given the selected underwriting profit and contingencies loadings, provisions contained in the filing, indicate the resulting rates of return (including consideration of investment income) on equity capital, on statutory surplus, and on total assets. ~~including consideration of investment income~~
- ~~shall be calculated.~~ Show the derivation of all factors used in producing ~~the~~ these calculations and provide justification that these rates of return are reasonable and fair.
- (13) Level of capital surplus needed to support premium writings without endangering the solvency of member companies:
- (a) Provide aggregate premium to surplus ratios for the latest three calendar years for the fifty largest writers of North Carolina all companies writing nonfleet private passenger automobile insurance. ~~in North Carolina shall be included.~~
 - (b) Provide estimates of the comparable ratios for the years during which the rates will be in effect. ~~shall also be provided.~~
 - (c) Provide information on the amount of surplus needed to support the writing of North Carolina nonfleet private passenger automobile insurance, taking into consideration the riskiness of the lines and describe the assumptions used in the derivation of that amount.
 - (d) Provide all information relating to the allocation of surplus by state and by line, including the following:
 - (i) A description of all data reviewed and all worksheets used;
 - (ii) A complete description of the methodology used to produce this allocation;
 - (iii) A description of alternative methodologies used or considered for use in the last three years;
 - (iv) A description of the criteria used to select a methodology;
 - (v) Specific details on the application of these criteria in the selection of a methodology for this filing;
 - (vi) Details on the application of the methodology to this filing.
- (14) Other Information: Such other information that may be required by any rule adopted by the Commissioner:
- (a) Provide all information relating to the derivation of the underwriting profit and contingency loadings, contingencies provisions contained in the filing. ~~shall be provided~~ including the following:
 - (i) A description of all data reviewed and all worksheets used;
 - (ii) ~~(i)~~ A complete description of the methodology used to derive these loadings, provisions;
 - (iii) ~~(ii)~~ A description of alternative methodologies used or considered for use in the last three years;
 - (iv) ~~(iii)~~ A description of the criteria used to select a methodology;

- (v) ~~(iv)~~ Specific details on the application of these criteria in the selection of a methodology for this filing;
- (vi) ~~(v)~~ Details on the application of the methodology to this filing.
- (b) Include copies of all agendas and minutes of meetings of the North Carolina Rate Bureau and the North Carolina Reinsurance Facility affecting the filing, ~~shall be included~~ as well as a list of all attendees at these meetings, their titles, and their affiliations.
- (c) Except in filings made by the North Carolina Reinsurance Facility, describe all payments made to all ~~any other~~ consultants (including lawyers, actuaries, and economists) related to this filing. ~~and the previous one on nonfleet private passenger automobile shall be described (except in filings made by the North Carolina Reinsurance Facility).~~ If payments can not be ~~are not~~ specifically identified as related to particular individual filings, estimate them. ~~the charges.~~
- (d) Identify and describe all changes in methodologies from the previous North Carolina nonfleet private passenger automobile rate filing made by the same filer.

If any collected or reported data required by this Regulation Rule are provided within 30 days after the initial submission of a filing, the data will be made a part of the filing, provided the initial submission acknowledges that it is incomplete and identifies specifically what further data are to be submitted within the time permitted. No filing otherwise complete shall be deemed proper until such time as all data required by this Regulation Rule have been submitted.

Statutory Authority G.S. 58-2-40; 58-36.15(h).

TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend rule(s) cited as 15A NCAC 10B .0106; 101I .0301; and adopt rule(s) cited as 15A NCAC 101I .1201 - .1207.

The proposed effective date of this action is June 1, 1990.

The public hearing will be conducted at 10:00 a.m. on March 26, 1990 at Room 386, Archdale

Building, 512 N. Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from March 9, 1990 to April 10, 1990. Such written comments must be delivered or mailed to the N.C. Wildlife Commission, 512 N. Salisbury St., Raleigh, NC 27611.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

.0106 WILDLIFE KILLED FOR DEPREDATIONS OR ACCIDENTALLY

- (d) Disposition of Wildlife Killed
 - (1) Generally. Except as provided by the succeeding Subparagraphs of this Paragraph, any wildlife killed accidentally, without a permit while committing depredations, or under a depredation permit, shall be buried or otherwise disposed of in a safe and sanitary manner on the property of the landholder in whose name the permit is issued or who kills such wildlife while committing depredations.
 - (2) Deer. Any landholder who kills a deer under a currently valid depredation permit for deer ~~may immediately~~ must report such kill within 24 hours and before the deer is butchered for consumption to a wildlife enforcement officer, who upon determining that the kill was lawfully made within the scope of the permit and if so requested by the permittee, shall provide the permittee a written authorization for his own private use of the edible portions of the carcass. The nonedible portions of the carcass, including head, hide, feet, and antlers, shall be disposed of as specified in Subparagraph (1) of this Paragraph or turned over to a wildlife enforcement officer for disposition. When a deer is accidentally killed on a road or highway by reason of collision with a motor vehicle, the law enforcement officer who investigates the accident shall, upon request of the operator of the vehicle, provide such operator a written permit authorizing him to possess and transport the carcass of such deer for his personal and lawful use, including delivery of such

carcass to a second person for his private use upon endorsement of such permit to such person by name and when no money or other consideration of value is received for such delivery or endorsement.

- (3) Fox. Any fox killed accidentally by a dog or dogs, motor vehicle, or otherwise shall be disposed of as provided by Subparagraph (1) of this Paragraph. Any fox taken under a depredation permit may be disposed of in the same manner or, upon compliance with the fur tagging requirements of 15A NCAC 10B .0400, the carcass or pelt thereof may be sold to a licensed fur dealer.
- (4) Furbearing Animals. The carcass or pelt of any furbearing animal killed during the open season for taking such furbearing animal either accidentally or for control of depredations to property, whether with or without a permit, may, upon compliance with any required fur tagging requirement set forth in 15A NCAC 10B .0400, be sold to a licensed fur dealer provided that the person offering such carcass or pelt for sale has a valid hunting or trapping license.
- (5) Nongame Animals and Birds. Nongame animals or birds killed accidentally or for control of depredations may be disposed of as provided by Subparagraph (1) of this Paragraph or in any other safe and sanitary manner.

(e) Reporting Requirements. The killing and method of disposition of every game animal and game bird, every furbearing animal, and every nongame animal or nongame bird for which there is no open season, when killed for committing depredations to property, either with or without a permit, shall be reported to the Wildlife Resources Commission within five working days 24 hours following the date time of such killing, except that when the carcass or pelt of a fox, killed under a depredation permit, or of a furbearing animal, killed with or without a permit, is lawfully sold to a licensed fur dealer in this State the fur dealer is required to report the source of acquisition and no report is required of the seller.

Statutory Authority G.S. 113-134; 113-273; 113-274; 113-291.4; 113-291.6; 113-300.1; 113-300.2.

SUBCHAPTER 10H - REGULATED ACTIVITIES

SECTION .0300 - HOLDING WILDLIFE IN CAPTIVITY

.0301 GENERAL REQUIREMENTS

(b) Captivity License

- (1) Requirement. Except as provided in Paragraph (a) of this Rule, no person shall keep any species of wild animal which is or once was native to this State or any species of wild bird which naturally occurs or historically occurred in this State, being either native or migratory, without first having obtained from the Wildlife Resources Commission a license to hold the particular species of animal or bird in captivity. Each species of animal or bird shall be the subject of a separate license authorizing the holding of one or more of the species at a location specified in the license. No wildlife captivity license will be issued for exotic wildlife, non-indigenous wildlife, or native big game species when the reason for holding such wildlife is release for hunting.

Statutory Authority G.S. 113-134; 113-272.5; 113-274.

SECTION .1200 - CONTROLLED FOX HUNTING PRESERVES

.1201 LICENSE TO OPERATE

It shall be unlawful for any individual, firm, association or corporation to operate a controlled fox hunting preserve without first obtaining from the North Carolina Wildlife Resources Commission a license for this purpose. A controlled fox hunting preserve license shall entitle the holder or holders thereof, and their guests, to hunt foxes at any time within the fenced area. Applications for controlled fox hunting preserve licenses shall be made on standard forms obtainable from the Commission. Applicants must be prepared to show satisfactory proof of ownership of the land contained in the proposed controlled fox hunting preserve or that they have this land under proper lease for the duration of the license period. Upon receipt of an application accompanied by the statutory fee, the Commission shall issue a license, provided it is determined that the location and operation of such a hunting preserve is consistent with the wildlife conservation program and in the public interest; and further provided, that all regulations herein regarding establishment of such areas have been complied with. Controlled fox hunting preserve licenses shall not be transferable, either as to operator or as to site of operation.

Statutory Authority G.S. 113-134; 113-273(g).

.1202 ESTABLISHMENT AND OPERATION

(a) **Size of Preserve.** Controlled fox hunting preserves operated for commercial purposes shall be an area of not less than 500 acres except that smaller areas containing terrain and topographical features which offer adequate escape cover to the fox population are allowed under special approval by the Wildlife Resources Commission.

(b) **Boundary of Preserve.** A controlled fox hunting preserve must be enclosed with a dog-proof fence that is also designed to prevent the escape of foxes released within the pen. This fencing must be properly maintained at all times.

(c) **Stocking Preserve With Game:**

- (1) In addition to purchasing live foxes as provided in G.S. 113-273(g), operators of controlled fox hunting preserves may also purchase live foxes from licensed controlled fox hunting preserves, licensed North Carolina fur propagators, or persons holding foxes legally under a North Carolina wildlife captivity license.
- (2) Licensed controlled fox hunting preserve operators may hold legally obtained foxes under rules that apply to a captivity license and may transport legally acquired foxes from the place of purchase to the controlled fox hunting preserve.
- (3) Foxes may not be imported into North Carolina for release into controlled fox hunting preserves.
- (4) The release of coyotes or exotic wildlife into the controlled fox hunting preserves is specifically prohibited.
- (5) The possession of coyotes or exotic wildlife on controlled fox hunting preserves is specifically prohibited.

Statutory Authority G.S. 113-134; 113-273(g).

.1203 QUALITY OF FOXES RELEASED

All foxes purchased or raised for release on controlled fox hunting preserves shall be healthy and free from disease of any kind. An examination and inspection of the foxes by the Wildlife Resources Commission may be conducted at any time. All dead foxes, except those killed by dogs during a hunt, or diseased foxes found within the pen shall be submitted to the Wildlife Resources Commission for diagnosis. Possession of unhealthy or diseased foxes will be justifiable grounds for revocation or denial of a controlled fox hunting preserve license. The Commission may quarantine any controlled fox hunting preserve where contagious fox diseases are located.

Statutory Authority G.S. 113-134; 113-273(g).

.1204 RECORDS REQUIRED

An accurate record including bill of sale for all foxes taken from or released into the controlled fox hunting preserve must be maintained and available for inspection by officials of the North Carolina Wildlife Resources at all times.

Statutory Authority G.S. 113-134; 113-273(g).

.1205 HUNTING LICENSE REQUIRED

Every person hunting on a controlled fox hunting preserve shall have in his possession a proper resident or nonresident hunting license or special controlled hunting preserve license for the current year as required by law. Nonresidents participating in a field trial properly approved in advance by a Wildlife Enforcement Officer are exempt from North Carolina licensing requirements providing they possess a valid hunting license from their state of residence.

Statutory Authority G.S. 113-134; 113-273(g).

.1206 CARE OF FOXES

(a) A minimum of one dog-proof escape den for each 35 acres contained in the controlled fox hunting preserve must be provided and maintained.

(b) Adequate food, clean water, and cover shall be provided to maintain a viable population of foxes within the controlled fox hunting preserve.

(c) Since the intent of these rules is to promote a fair chase situation involving a resident population of foxes, the operator should make provisions to acclimate newly introduced foxes to the escape mechanisms located within the pen prior to pursuing the animal with dogs.

Statutory Authority G.S. 113-134; 113-273(g).

.1207 REVOCATION OF LICENSE TO OPERATE

In accordance with provisions of G.S. 113-273(g) the Wildlife Resources Commission may revoke or suspend the license of any controlled fox hunting preserve operator upon violation of these rules. Where there is evidence of such a violation, the Executive Director or his designee shall give the operator 20 days notice in writing to show cause to the Executive Director or his designee why his license should not be suspended or revoked.

Statutory Authority G.S. 113-134; 113-273(g).

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. State Board of Cosmetic Art Examiners intends to amend rule(s) cited as 21 NCAC 14F .0004; and adopt rule(s) cited as 21 NCAC 14K .0007.

The proposed effective date of this action is June 1, 1990.

The public hearing will be conducted at 10:00 A.M. on March 19, 1990 at N.C. State Board of Cosmetic Art Examiners Office, 4101 North Blvd., Suite 11, Raleigh, N. C.

Comment Procedures: Oral comments can be made at the Public Hearing.

CHAPTER 14 - BOARD OF COSMETIC ART EXAMINERS

SUBCHAPTER 14F - RULES AND REGULATIONS GOVERNING THE LICENSING OF BEAUTY SALONS

.0004 SEPARATION OF BEAUTY SALON

(a) A beauty salon, whether residential or non-residential, shall be separated from any building or room used for any other business of purpose by solid walls ~~from floor to ceiling~~ at least 7 feet in height.

(b) The solid walls separating a beauty salon from other rooms in a building used for other purposes may be fitted with a doorway, provided that a solid full length door is installed in the doorway and kept closed.

(c) An entrance to a beauty salon from a passageway, walkway or mall area used only for access to the salon, or to the salon and other businesses, may be open.

Statutory Authority G.S. 88-23.

SUBCHAPTER 14K - MANICURIST TRAINING

.0007 LIVE MODEL PERFORMANCES

The following live model performance completions must be done by each student in the manicurist course before the student is eligible to take the manicurist examination:

- (1) Manicuring, including trimming, filing, and shaping; decorating, and arm and hand massage - 30 hours - 30 performance completions;
- (2) Sculptured or other artificial nails - 75 hours - 25 performance completions on 25 live models or 25 fingers;
- (3) Pedicure - 5 hours - 5 performance completions;
- (4) Theory - 10 hours;
- (5) Sanitization (applies to proper use, cleaning, and storing of utensils) - 15 hours;
- (6) Bacteriology - 15 hours.

Statutory Authority G.S. 88-8.

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| 1 | Administration, Department of |
| 2 | Agriculture, Department of |
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