

# The NORTH CAROLINA REGISTER

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ISSUE DATE: SEPTEMBER 3, 1991

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# 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 27447, Raleigh, N. C. 27611-7447, 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 53 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*  
 (April 1991 - December 1992)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
04/01/91	03/11/91	03/18/91	05/01/91	08/01/91
04/15/91	03/22/91	04/01/91	05/15/91	08/01/91
05/01/91	04/10/91	04/17/91	05/31/91	09/01/91
05/15/91	04/24/91	05/01/91	06/14/91	09/01/91
06/03/91	05/10/91	05/17/91	07/03/91	10/01/91
06/14/91	05/23/91	05/31/91	07/14/91	10/01/91
07/01/91	06/10/91	06/17/91	07/31/91	11/01/91
07/15/91	06/21/91	06/28/91	08/14/91	11/01/91
08/01/91	07/11/91	07/18/91	08/31/91	12/01/91
08/15/91	07/25/91	08/01/91	09/14/91	12/01/91
09/03/91	08/12/91	08/19/91	10/03/91	01/01/92
09/16/91	08/23/91	08/30/91	10/16/91	01/01/92
10/01/91	09/10/91	09/17/91	10/31/91	02/01/92
10/15/91	09/24/91	10/01/91	11/14/91	02/01/92
11/01/91	10/11/91	10/18/91	12/01/91	03/01/92
11/15/91	10/24/91	10/31/91	12/15/91	03/01/92
12/02/91	11/07/91	11/14/91	01/01/92	04/01/92
12/16/91	11/21/91	12/02/91	01/15/92	04/01/92
01/02/92	12/09/91	12/16/91	01/31/92	05/01/92
01/15/92	12/20/91	12/31/91	02/14/92	05/01/92
02/03/92	01/10/92	01/17/92	03/04/92	06/01/92
02/14/92	01/24/92	01/31/92	03/15/92	06/01/92
03/02/92	02/10/92	02/17/92	04/01/92	07/01/92
03/16/92	02/24/92	03/02/92	04/15/92	07/01/92
04/01/92	03/11/92	03/18/92	05/01/92	08/01/92
04/15/92	03/25/92	04/01/92	05/15/92	08/01/92
05/01/92	04/10/92	04/17/92	05/31/92	09/01/92
05/15/92	04/24/92	05/01/92	06/14/92	09/01/92
06/01/92	05/11/92	05/18/92	07/01/92	10/01/92
06/15/92	05/25/92	06/01/92	07/15/92	10/01/92
07/01/92	06/10/92	06/17/92	07/31/92	11/01/92
07/15/92	06/24/92	07/01/92	08/14/92	11/01/92
08/03/92	07/13/92	07/20/92	09/02/92	12/01/92
08/14/92	07/24/92	07/31/92	09/13/92	12/01/92
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09/15/92	08/25/92	09/01/92	10/15/92	01/01/93
10/01/92	09/10/92	09/17/92	10/31/92	02/01/93
10/15/92	09/24/92	10/01/92	11/14/92	02/01/93
11/02/92	10/12/92	10/19/92	12/02/92	03/01/93
11/16/92	10/23/92	10/30/92	12/16/92	03/01/93
12/01/92	11/06/92	11/13/92	12/31/92	04/01/93
12/15/92	11/24/92	12/01/92	01/14/93	04/01/93

\* 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.



## EXECUTIVE ORDERS

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### EXECUTIVE ORDER NUMBER 147 ESTABLISHMENT OF THE GEOGRAPHIC INFORMATION COORDINATING COUNCIL AND THE TRANSFER OF THE CENTER FOR GEOGRAPHIC INFORMATION AND ANALYSIS TO THE OFFICE OF THE GOVERNOR

WHEREAS, geographic information is emerging as an important strategic resource for the future; and

WHEREAS, increasingly complex decisions, overlapping governmental responsibilities, and limited financial resources demand that agencies work together to develop and utilize geographic information; and

WHEREAS, North Carolina has a history of effective utilization of geographic information and "geographic information systems" (GIS) technology both at the state level and the local level; and

WHEREAS, geographic information and GIS technology are now being developed and used by many agencies in North Carolina without a statewide focus or framework to maximize their usefulness; and

WHEREAS, geographic information and GIS technology can only be fully and practically utilized with a statewide focus and cooperative effort;

NOW, THEREFORE, by the authority vested in me as Governor by Art. III, Section 5(10) of the North Carolina Constitution and the laws of the State, IT IS HEREBY ORDERED:

Section 1. Policy. A statewide geographic information coordination effort is hereby formalized for the purpose of furthering cooperation among State, federal, and local government agencies; academic institutions; and the private sector to improve the quality, access, cost effectiveness and utility of North Carolina's geographic information and to promote geographic information as a strategic resource for the State.

Section 2. Establishment of Coordinating Council. There is hereby established with the concurrence of the Information Technology Commission (hereinafter ITC) the Geographic Information Coordinating Council (hereinafter Coordinating Council) as a means of guiding the Center for Geographic Information and Analysis (hereinafter CGIA) and establishing the State's

direction in the utilization of geographic information, GIS systems, and other related technologies. The stated purposes of the Coordinating Council are (a) strategic planning (b) resolution of policy and technology issues (c) coordination, direction and oversight, and (d) advising the Governor, the legislature, and the ITC as to needed directions, responsibilities, and funding regarding geographic information.

Section 3. Transfer of the Center for Geographic Information and Analysis. The Center for Geographic Information and Analysis shall be transferred from the Department of Environment, Health and Natural Resources to State Policy and Planning in the Office of the Governor. The transfer shall be in the same manner as a Type I transfer as provided for in N.C.G.S. 143A-6.

Section 4. Center for Geographic Information and Analysis. Central service functions related to GIS coordination shall become the responsibility of the Center for Geographic Information and Analysis. These responsibilities are listed in the March 5, 1991, report adopted by the Information Technology Commission entitled "State-wide Coordination of Geographic Information Systems," pages 11-13. Typical responsibilities include: providing GIS production and consulting services; giving technical support including assistance in planning; installing and using GIS systems; providing a wide variety of GIS related training services and education programs in coordination with SIPS; serving as a clearing house for the exchange of GIS related information and services; and providing the staff support for the GIS Coordination Council.

Section 5. Membership: The membership of the Coordinating Council shall consist of 12 members and shall be as follows:

- 1) The Secretary of the Department of Environment, Health and Natural Resources;
- 2) The Secretary of Transportation;
- 3) The Secretary of Administration;
- 4) The Commissioner of Agriculture;
- 5) The Superintendent of Public Instruction;
- 6) The department head of an at-large GIS user agency to be appointed by the Governor;
- 7) The State Budget Officer;
- 8) The State Planning Officer;
- 9) One representative elected annually from the State Government User Committee;
- 10) One representative elected annually from the Affiliated User Group Committee;

## EXECUTIVE ORDERS

- 11) One representative from Local Government to be appointed by the Governor; and
- 12) The Director of SIPS who shall serve as a non-voting member.

The Governor shall appoint a chair from among the membership to serve for a one year period.

The Director of CGIA shall provide staff support as required.

Section 6. Committees. The Coordinating Council may establish ad hoc work groups, as needed, and shall form the following standing committees:

- a) State Government GIS User Committee: Membership shall consist of representatives from all interested state government departments. The committee shall elect its chairman and advise the Coordinating Council on issues, problems, and opportunities relating to GIS.
- b) State Mapping Advisory Committee (SMAC): The primary thrust of the SMAC shall be to consolidate statewide mapping requirements and to advise the Coordinating Council on issues, problems, and opportunities relating to U. S. Geological Survey (USGS) programs and information. The Coordinating Council shall select a chair of the State Mapping Advisory Committee (SMAC). The Committee shall be organized and operated in a manner acceptable to the USGS's National Mapping Division. Membership shall not be limited. Voting eligibility shall not include federal agencies, but shall be otherwise determined by the Coordinating Council upon recommendation by the SMAC Chair. The State Geologist shall serve as a permanent ex officio member of the SMAC. The purpose of the SMAC shall be to consolidate statewide mapping requirements into a single annual report to the USGS; to inform users of geographic information about the status of mapping programs and the availability of map materials from USGS; and to gain statewide support for financing cooperative programs with USGS. The Committee shall also advise the Coordinating Council on issues, problems, and opportunities relating to USGS programs and information.
- c) Affiliated GIS User Group Committee: Shall be comprised of representatives from

local governments, federal government, private industry, universities, and the General Assembly. The committee shall elect its chairman and advise the Coordinating Council on issues, problems, and opportunities relating to the use of GIS systems.

Section 7. Effective Date. This Order shall become effective immediately and remain in effect until June 30, 1995 or until rescinded.

Done in the Capital City of Raleigh, this the 30th day of July, 1991.

### EXECUTIVE ORDER NUMBER 148 GOVERNOR'S TASK FORCE ON HEALTH OBJECTIVES FOR THE YEAR 2000

North Carolina is blessed with some of the finest medical facilities and medical care found anywhere in the world. In spite of this, more than forty North Carolinians die prematurely each day, exacting an enormous economic, social and personal toll upon our society. Tragically, most of these deaths are preventable by relatively simple changes in individual lifestyle behavior.

In order to provide to the citizens of our state a way to prevent this tragic loss of death and disability, a realistic plan needs to be developed that communities and individual citizens may use to improve their health status and avoid premature deaths. This plan must promote the advantages of health promotion and disease prevention.

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

#### Section 1. ESTABLISHMENT

The Governor's Task Force on the Year 2000 Health Objectives is hereby established. The Task Force shall consist of not more than 25 persons appointed by the Governor to serve at the pleasure of the Governor. All vacancies shall be filled by the Governor. The Governor shall designate the Chairman.

#### Section 2. MEMBERSHIP

The membership shall include representatives from the following:

1. Department of Human Resources
2. Department of Environment, Health, and Natural Resources

## EXECUTIVE ORDERS

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3. Association of North Carolina Board of Health
4. North Carolina Hospital Association
5. North Carolina Medical Society
6. North Carolina Academy of Family Physician
7. North Carolina Association of Local Health Directors
8. The University of North Carolina School of Public Health
9. North Carolina Citizens for Business and Industry
10. Local Education
11. North Carolina County Commissioners Association
12. National Association for the Advancement of Colored People
13. North Carolina Minority Health Council
14. Governor's Council on Physical Fitness and Health
15. North Carolina Dental Society
16. North Carolina Nurses' Association
17. Old North State Medical Society

There shall also be 8 Members-at-Large.

### Section 3. FUNCTIONS

- A. The Task Force shall meet regularly at the call of the Chairman.
- B. The Task Force shall have the responsibility of developing and delivering to the Governor by September 1, 1992, a list of health objectives for the citizens of North Carolina designed to:
  1. increase the span of healthy life of the citizens of North Carolina;
  2. remove health disparities among the disadvantaged; and
  3. emphasize preventive health services.
- C. These objectives must:
  1. be measurable;
  2. include measures to benefit our disadvantaged populations;

3. emphasize individual and community intervention;
4. emphasize the value of health promotion and disease prevention to our society; and
5. be obtainable by the year 2000.

### Section 4. ADMINISTRATION

- A. Administrative support for the Task Force shall be provided through a grant for the Reynolds Health Care Trust to be administered by the Department of Environment, Health, and Natural Resources. Additional support shall be provided by the Department of Environment, Health, and Natural Resources and by the Department of Human Resources.
- B. Members of the Task Force shall be reimbursed for necessary travel and subsistence expenses as authorized under General Statute 138-5 and 138-6. Funds for the reimbursement of such expenses shall be made available from funds authorized by the Department of Environment, Health, and Natural Resources.
- C. It shall be the responsibility of each cabinet department to make every reasonable effort to cooperate with the Task Force in carrying out the provisions of this order.

### Section 5. IMPLEMENTATION AND DURATION

This Executive Order shall become effective immediately and will expire upon completion and delivery of the health objectives to the Governor. It is subject to reissuance or extension at the discretion of the Governor.

Done in Raleigh, North Carolina, this 6th day of August, 1991.

VOTING RIGHTS ACT FINAL DECISION LETTERS

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[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

JRD:MAP:MMS:lrj  
DJ 166-012-3  
91-1612

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

July 24, 1991

Robert C. Cogswell, Jr., Esq.  
City Attorney  
P. O. Box 1513  
Fayetteville, North Carolina 28302-1513

Dear Mr. Cogswell:

This refers to a delay in the 1991 municipal election for the City of Fayetteville in Cumberland 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 May 28, 1991.

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

Sincerely,

John R. Dunne  
Assistant Attorney General  
Civil Rights Division

By:

Gerald W. Jones  
Chief, Voting Section



*VOTING RIGHTS ACT FINAL DECISION LETTERS*

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U.S. Department of Justice  
Civil Rights Division

JRD:LLT:JVJ:gmh  
DJ 166-012-3  
91-0524

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

August 19, 1991

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

Dear Mr. Crowell:

This refers to a change in the method of election from five council members elected at large to four elected from two double-member districts and one elected at large; a districting plan; and the implementation schedule therefor, for the Town of Ahoskie in Hertford 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 final response to our April 29, 1991, request for additional information on June 18, 1991.

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

Sincerely,

John R. Dunne  
Assistant Attorney General  
Civil Rights Division

By:

Gerald W. Jones  
Chief, Voting Section

TITLE 4 - DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

Statutory Authority G.S. 54-109.5; 54-109.21(25); 54-109.94; 54-109.95.

Notice is hereby given in accordance with G.S. 150B-12 that the N. C. Dept. of Economic & Community Development, Credit Union Division intends to amend and repeal rule(s) cited as 4 NCAC 6C .0101, .0103, .0210, .0302, .0311, .0401 - .0404 and .1301.

The proposed effective date of this action is January 1, 1992.

The public hearing will be conducted at 10:00 a.m. on October 3, 1991 at 1110 Navaho Drive, Suite 300, Raleigh, North Carolina, 27609.

Comment Procedures: Any interested person may present his/her comments either in writing three days prior to or at the hearing or orally at the hearing for a maximum of ten minutes. Any person may request information by writing or calling Mr. Stanley W. Brown, Jr., Credit Union Division, 1110 Navaho Drive, Suite 300, Raleigh, North Carolina, 27609, 919-850-2929.

CHAPTER 6 - CREDIT UNION DIVISION

SUBCHAPTER 6C - CREDIT UNIONS

SECTION .0100 - GENERAL INFORMATION

.0101 DEFINITIONS

When used in this Chapter, the following words and phrases shall have the following meaning, except to the extent that any such word or phrase is specifically qualified by its context:

- (20) "Corporate Credit Union" is a credit union with an institutional field of membership. ~~and only local credit unions and organizations or associations of credit unions may become members.~~

Statutory Authority G.S. 54-109.12.

.0103 TAXATION (REPEALED)

Statutory Authority G.S. 54-109.1; 54-109.2 (b)(5); 54-109.22; 54-109.99.

SECTION .0200 - ORGANIZATION OF CREDIT UNIONS

.0210 OUT-OF-STATE CREDIT UNIONS (REPEALED)

SECTION .0300 - BASIC INTERNAL CONTROLS: BOOKKEEPING PROCEDURES AND OPERATION STANDARDS FOR STATE-CHARTERED CREDIT UNIONS

.0302 PROCEDURES

The basic internal controls, bookkeeping procedures and operation standards for all credit unions are as follows:

- (1) An adequate general ledger and detailed cash journal shall be maintained as necessary for the proper control of all transactions of the Credit Union.
- (2) A detailed and complete record of all correcting and adjusting entries, with a full explanation of each entry, shall be maintained.
- (3) For manual and machine accounting systems, all receipts and disbursements shall be recorded and posted daily to cash journal and subsidiary accounts. Systems using EDP shall be posted no less frequently than monthly.
- (4) Deposits in the bank shall consist of an entire day's receipts as entered in the journal and cash record. If amounts are less than three hundred dollars (\$300.00), more than one day's total receipts may be combined in a single deposit provided that no funds are held more than three banking days.
- (5) Adequate security shall be provided (cash drawer and lockbox for overnight) for storage of funds.
- (6) Credit union funds must be kept separate from all other funds.
- (7) Cash shall be balanced at the end of each working day, and a record made thereof by each teller (detailing specie, currency, checks and other items counted as cash).
- (8) A "cash over and short" account shall be maintained in the expense ledger, with a record showing the name of each person responsible for each difference.
- (9) A pre-numbered receipt slip or other original record shall be made and preserved covering each payment received.
- (10) All bank accounts shall be reconciled at least monthly and such reconciliations preserved.
- (11) A duplicate of itemized bank deposit slips, or other comparable detailed item record, shall be preserved.
- (12) The exact status of all the credit union's funds, including investments and or funds held by agents or attorneys, must be determinable at all times without detailed search.

## PROPOSED RULES

- (13) Checks must be pre-numbered by the printer and not signed in blank in advance of issue. Facsimile signature plates shall be adequately controlled.
  - (14) Disbursements must be supported by invoices, vouchers, or other explanations of record, each clearly showing the nature or purpose of each disbursement.
  - (15) Dual control must be maintained over all negotiable investment securities.
  - (16) Members' accounts shall be posted currently and balanced not less frequently than monthly and supported by EDP listing or adding machine tapes, identified, dated, and preserved.
  - (17) A trial balance of the general ledger should be prepared within 15 working days from the close of business of the last day of each month and financial statements prepared therefrom.
  - (18) Erasures and eradications for correction of errors in records are prohibited; corrections must be approved by an authorized person.
  - (19) Members' passbooks shall be held in the Credit Union office only for temporary periods.
  - (20) A signed membership card file covering all accounts shall be properly maintained.
  - (21) Payment of dividends or interest on accounts shall be accomplished by check or by credit to the individual account. Adding machine proof tape or other detailed record, in support of dividend or interest paid by check or credited to accounts shall be preserved.
  - (22) A cross-index card record should be maintained for each co-maker showing the date, name and original amount of each note on which the individual appears as co-maker.
  - (23) Minutes of meetings of the Board of directors shall record in detail all of its business transactions and be signed by the presiding officer and the secretary. Such directors at such times as they are meeting as a board of directors, shall require the secretary of such board or some duly designated agent, to make a matter of record in the minutes of the meetings of such board of directors, all letter communications from the Division.
  - (24) The supervisory committee shall have workpapers to support its audit report. The reports and workpapers shall be retained and made available for review by the state examiners.
  - (25) A report of actions taken by the credit committee and/or loan officers shall be prepared, signed and preserved.
  - (26) Minutes of each annual meeting of the members of the Credit Union shall record in detail all business transacted.
  - (27) All books and records of the Credit Union shall have adequate and proper protection from fire and other hazards at all times. Active books and records of the Credit Union should be located at the principal office at all times.
  - (28) Dormant accounts shall be controlled to prevent improper withdrawal.
  - (29) Annual vacations of at least five consecutive working days (occasionally during periods when proofs of subsidiary ledgers are being made) shall be taken by each employee having access to cash. During the vacation, the employees shall remain continuously absent.
  - (30) A record shall be maintained which will at all times show the tax and insurance status of each piece of real estate securing the Credit Union's investment of funds in real estate mortgage loans.
  - (31) All tax liabilities shall be determined and paid in accordance with the law.
  - ~~(32) An audit guide is provided in the accounting manual for the supervisory committee's use in establishing minimum standards which must be met in performing an audit.~~
  - ~~(33) A copy of the results of the annual audit will be forwarded to the Administrator's office within 30 days of receipt by the Board of directors.~~
  - ~~(34) At least every two years, each member's account is to be verified; accounts closed since the last examination are also to be verified. This procedure is to be followed unless the Credit Union Administrator finds that a credit union has adequate internal control based upon recommendation of a CPA firm to justify a modification of verification procedures in keeping with sound accounting practices. A report of this verification is to be forwarded to the Administrator.~~
- Statutory Authority G.S. 54-109.11(4); 54-109.12; 54-109.16; 54-109.17.*

### .0311 SURETY BOND AND INSURANCE COVERAGE

- (b) Every state chartered credit union will maintain the minimum bond and insurance coverage as required by statute. No form of surety



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bond shall be used except as is approved by the Administrator. Credit Union Blanket Bond, Standard Form No. 23 of the Surety Association of America, plus faithful performance rider, or NCUA Optional Form 581 or its equivalent, shall be considered the minimum coverages required and are hereby the approved forms. The approved bond forms in this Paragraph provide faithful performance coverage for all employees and officials. ~~Credit unions have the option of only providing faithful performance of trust coverage for the chief financial officer (treasurer and/or manager) elected, appointed, or designated by the Board of directors.~~ The financial officer is the individual charged with the responsibilities of the financial officer as set forth in Article X, Section 5 and or 6, of the Credit Union's (Standard) Bylaws. Fidelity bonds must provide coverage for the fraud and dishonesty of all employees, directors, officials, and supervisory and credit committee members. Other forms, or changes in the amount of bond coverage, must be approved by the Administrator.

*Statutory Authority G.S. 54-109.11(5); 54-109.12; 54-109.44(2).*

### SECTION .0400 - LOANS

#### .0401 DELINQUENT LOANS: LOAN LOSSES

(b) Allowance for Loan Losses.

(1) Each credit union shall establish and maintain such reserves as may be required by the Act or by regulation, or in special cases by the Administrator. All Credit Unions ~~having assets of \$500,000 or more, as of December 31 of the previous year, unless otherwise approved by the Administrator,~~ shall establish an Allowance for Loan Losses Account. ~~and follow the accounting procedures set forth in the "Handbook and Accounting Manual for State Chartered Credit Unions" and the addendums thereto.~~ The Allowance for Loan Losses Account is not an addition to but a part of the Regular Reserve as required by statute.

(c) ~~Special Reserve for Delinquent Loans: All credit unions having assets of less than \$500,000 that choose not to comply with Paragraph (b) of this Rule, in addition to the Regular Statutory Reserve the Administrator shall require such regular reserve be supplemented by a special reserve to be known as a Special Reserve for Delinquent Loans when the Statutory Reserve is inadequate to cover potential loan losses.~~

*Statutory Authority G.S. 54-109.12; 54-109.17; 54-109.86; 54-109.87.*

#### .0402 CHARGE-OFF OF UNCOLLECTIBLE LOANS

(c) ~~Any loans on which no payments have been received for a period of 12 months. Any loans delinquent 12 months or more,~~ unless there are justified extenuating circumstances will be charged off in accordance with Paragraph (a) of this Rule.

*Statutory Authority G.S. 54-109.12; 54-109.17.*

#### .0403 REAL ESTATE LOANS

(a) Loan Limitations. ~~Unless otherwise provided in the bylaws,~~ No more than 30 percent of the total dollar amount of shares and deposits shall be made in fixed rate real estate loans with a remaining maturity of more than seven years without the permission of the Administrator.

*Statutory Authority G.S. 54-109.12; 54-109.18; 54-109.21(25).*

#### .0404 LINE OF CREDIT LOANS

(b) Reserves. A credit union shall maintain for a period of one month, beginning on the seventh day of each month, a reserve, which shall consist of cash on hand or legal investments that mature in one year or less, in an amount not less than five percent of the aggregate unused portion of its line of credit loans determined as of the close of the previous month. Not more than 20 percent of the required reserve shall be in direct United States Government obligations. The Credit Union shall keep current records of the aggregate unused portion of its line of credit loans and reserves, and the Administrator may require periodic or special reports based on these records. ~~This reserve requirement does not apply to those credit unions with assets of \$2,000,000 or more and subject to the 5 percent liquidity reserve requirement.~~

*Statutory Authority G.S. 54-109.12.*

### SECTION .1300 - RESERVES

#### .1301 LIQUIDITY RESERVES

(c) The liquidity base shall consist of cash, ~~investments in ICU's,~~ shares and deposits in the National Credit Union Administration Central Liquidity Facility, ~~and the North Carolina Savings Guaranty Corporation~~ and investments with a maturity of less than one year as authorized under G.S. 54-109.82(3)(4)(5)(9)(10) and (12) of the North Carolina Credit Union laws. Government securities with a maturity of more



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than one year may be included provided securities are carried at the lower of cost or market and adjusted monthly on a consistent basis. Documentary evidence must be kept on file supporting the adjustments for a period of 18 months.

(e) The liquidity reserve can only be used to satisfy contractual line of credit agreements, share and deposit withdrawals. In the event the liquidity reserve falls below the required amount the Credit Union must immediately notify the Administrator of Credit Unions. The Credit Union will have 60 days to replenish the liquidity reserve. ~~if the Credit Union is unable to replenish the liquidity reserve within the 60 day period, no new loans may be made until the liquidity reserve is replenished to the required amount (unless an extension or exception is approved by the Administrator).~~

Statutory Authority G.S. 54-109.12; 54-109.86(c).

### TITLE 7 - DEPARTMENT OF CULTURAL RESOURCES

*Notice is hereby given in accordance with G.S. 150B-12 that the Cultural Resources/State Library intends to amend rule(s) cited as 7 NCAC 2E .0202.*

*The proposed effective date of this action is January 1, 1992.*

*The public hearing will be conducted at 9:00 a.m. on October 8, 1991 at the State Library Building/State Archives, Room 26, 109 E. Jones Street, Raleigh, N.C.*

*Comment Procedures: Written comments to Mr. Howard McGinn, Director, Division of the State Library, 109 E. Jones St., Raleigh, N.C. 27601, no later than 5:00 p.m., October 4, 1991.*

#### CHAPTER 2 - DIVISION OF STATE LIBRARY

##### SUBCHAPTER 2E - LIBRARY DEVELOPMENT SERVICES

###### SECTION .0200 - ORGANIZATION OF REGIONAL LIBRARIES

###### .0202 BOARD OF TRUSTEES

(a) The board of trustees is the governing body of a regional library. It is composed of not more than ~~12~~ 15 members. Each county must have representation on the board in proportions determined equitable by all participating counties.

Regional board members are appointed from members of local boards where they exist.

(b) Terms of officers and members are to be limited and staggered to assure continuity as well as change. No individual member will be appointed to more than two consecutive terms, and no single term shall be longer than six years.

(c) Any trustee missing three consecutive board meetings is considered to have resigned and will be replaced.

Statutory Authority G.S. 125-2; 143B-10.

### TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

*Notice is hereby given in accordance with G.S. 150B-12 that the Division of Services for the Blind intends to amend rule(s) cited as 10 NCAC 19F .0104, .0402, .0504; and repeal rule(s) cited as 10 NCAC 19F .0108, .0508.*

*The proposed effective date of this action is January 1, 1992.*

*The public hearing will be conducted at 10:00 a.m. on October 5, 1991 at the Division of Services for the Blind, Fisher Building, Conference Room, 309 Ashe Avenue, Raleigh, N.C. 27606.*

*Comment Procedures: Any interested person may present his/her comments either in writing three days prior to or at the hearing or orally at the hearing for a maximum of ten minutes. Any person may request information by writing or calling Mr. Herman Gruber, Designee, Division of Services for the Blind, 309 Ashe Avenue, Raleigh, N.C. 27606 (919) 733-9822.*

#### CHAPTER 19 - SERVICES FOR THE BLIND

##### SUBCHAPTER 19F - INDEPENDENT LIVING SERVICES

###### SECTION .0100 - ELIGIBILITY FOR SERVICES

###### .0104 BASIC ELIGIBILITY CRITERIA

(a) In addition to the requirements of 10 NCAC 35D .0300, where applicable, an individual must be determined eligible to receive services under the Social Services Block Grant (Title XX) on the basis of:

- ~~(1) income maintenance status;~~
- ~~(2) income eligible status;~~
- ~~(3) need without regard to income for all services, except Chore Services and Housing and Home Improvement Services.~~

- (1) need, with regard to income for In-Home Aide Services;
- (2) need without regard to income for all other services.

(b) For purposes of determining and redetermining eligibility for division services provided for in this Subchapter, the rules in Subchapters 10 NCAC 35D and 35E shall apply.

(c) Individuals are eligible for these services at the following income levels:

- (1) Adjustment services are provided without regard to income;
- (2) In-Home Aide Services: Chore Services for the Blind are provided to individuals whose monthly gross family income ~~does not exceed~~ is less than 100 percent of the state's established income.

*Statutory Authority G.S. 111-28; 143B-157; 42 U.S.C. 1397.*

**.0108 FEES FOR SERVICES (REPEALED)**

*Statutory Authority G.S. 143B-157; 42 U.S.C. 1395.*

**SECTION .0400 - GOALS AND SERVICES**

**.0402 SERVICES**

The following services are administered exclusively provided by services for the blind under this Section:

- (1) Chore Services for the Blind. This means the performance of tasks incidental to the activities of daily living where it is demonstrated that the individual (because of visual disabilities or multi disabilities) is unable to perform such tasks for himself and where no responsible person is available for this purpose. This service may be provided in conjunction with the provision of training in self-help skills and will be available only until such time as the individual is able to perform essential tasks independently; services may be provided on a long-term basis if disabilities other than blindness prevent the individual from performing such tasks.
- In-Home Aide Services: Chore Services for the Blind; Personal Care Services for the Blind. In-Home Aide Services are those paraprofessional services which assist the individual and or family with essential home management and or personal care tasks and or supervision necessary to enable the individual and or family to remain and function effectively, at home as long as possible.

- (2) Adjustment Services for the Blind and Visually Handicapped. These are services provided in any combination as needed and appropriate to enable blind and visually handicapped individuals to attain and/or maintain the highest level of functioning possible, to promote their well-being, and to prevent or reduce dependency. This is achieved through a focused regimen of counseling and casework assistance to individuals and their families to help individuals choose, obtain, and use needed resources, services, and mechanisms of support and to enable individuals to obtain basic education. Within the context of integral but subordinate to this essential service function, one or more of the following service components or resource items may be provided:
  - (a) Assistance with the demands of daily living may be provided through training in grooming skills, manipulative skills such as household mechanics, personal skills, and money identification and management, and communication skills such as braille, typing, and operation of reading machines;
  - (b) The teaching of orientation and mobility skills;
  - (c) Therapeutic experiences aimed at helping the individual to adjust to and accept his visual limitations through camping experiences, recreational programs, adjustment training at rehabilitation centers, and individual and group counseling sessions or psychiatric therapy;
  - (d) Transportation, when not otherwise available, may be provided within a city limits at the cost of bus fare, or taxi fare if bus is not available. If outside city limits transportation may be provided at the current rate as established by G.S. 138-6.
  - (e) The following services/items may be provided: reader services, tutorial services, interpreter services for the deaf/blind, braille and large print production, low vision optical aids, travel aids and devices, diagnostic examinations, tapes, community sponsored recreational activities, supplies and tuition to enable an individual to attend technical institutes or community colleges for the purpose of gaining basic education, and equipment, such as typewriters, reading machines, talking calculators.
- (3) Employment and Training Support Services. These services are provided as part of an individual service plan to enable indi-

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viduals to secure paid employment or training leading to employment, including basic education and continuing education. Also included are transportation as needed, tuition, supplies, and rental or purchase of books when needed to assist in meeting usual expenses of vocational training, basic education, or continuing education in public or private technical institutes or community colleges.

(4) Individual and Family Adjustment Services. These services are designed to offer assistance to individuals and their family members to restructure and support the client's environment. Activities include counseling to enable the client to recognize, understand, and cope with problems in regard to such areas as household management, consumer affairs, family life education, alcoholism, drug addiction, mental retardation, emotional disturbance, and school related problems.

(5) Health Support Services. These services provide help to individuals and families to recognize health needs including those related to alcohol and drug abuse and to secure needed health services available under medicaid, ~~(including the early and periodic screening, diagnosis and treatment program)~~, medicare, maternal and child health programs or other agency health services programs and from other public or private agencies or providers of health services; counseling and planning, as appropriate, with individuals, families, and health providers to help assure continuity of treatment and the carrying out of health recommendations; and helping individuals to secure admission to medical institutions and other health-related facilities as needed. Transportation, when not otherwise available, may be provided as necessary to access needed medical and health care resources.

(6) Housing and Home Improvement Services. These services provide assistance to individuals and families in obtaining and retaining adequate housing and basic furnishings. Services include helping to improve landlord-tenant relations, to identify substandard housing, to secure correction of housing code violations, to obtain or retain ownership of own home, and to find and relocate to more suitable housing. The provision of labor and materials for minor renovations and repairs to owner-occupied dwellings to remedy conditions which are a risk to personal health and safety may be

included as an optional part of this service. Basic appliances, such as stove, refrigerator, or heater when this is not the responsibility of the landlord and the individual lacks these essentials to prepare food or is without heat, may be provided with approval of the regional director.

(7) Information and Referral. This means giving information about services provided under the state's social services program and other service programs, both public and private; brief assessment to determine the most appropriate resource to meet the stated needs of the person requesting services; and referral to and follow-up with those community resources which provide or make available such services. Outreach activities are not included nor is soliciting recipients for service an activity which is included within the scope of information and referral.

(8) The following services will be mandated in all parts of the state; the responsibility for the provision of these services rests with the division of services for the blind:

- (a) ~~chore services for the blind,~~ In-Home Aide Services,
- (b) adjustment services for the blind and visually handicapped.

Statutory Authority G.S. 111-28; 143B-10.

SECTION .0500 - DELIVERY OF SERVICES

**.0504 IN-HOME AIDE SERVICES CONTRACT**  
~~Chore service~~ In-Home Aide Services: Level I contract is completed by the client and provider and shows specific types of services to provide up to one hundred hours of service per month at the state minimum wage or prevailing county wage.

Statutory Authority G.S. 111-28; 143B-157.

**.0508 REFERRAL FOR TRAINING IN SELF-HELP SKILLS AND TECHNIQUES (REPEALED)**

Statutory Authority G.S. 111-28; 143B-157.

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources/Division of Medical Assistance intends to repeal rule(s) cited as 10 NCAC 50C .0201 - .0203.*



The proposed effective date of this action is January 1, 1992.

The public hearing will be conducted at 1:30 p.m. on October 3, 1991 at the North Carolina Division of Medical Assistance, 1985 Umstead Drive, Room 201, Raleigh, N.C. 27603.

Comment Procedures: Written comments concerning these repeals must be submitted by October 3, 1991, to: Division of Medical Assistance, 1985 Umstead Drive, Raleigh, North Carolina 27603, ATTN.: Bill Hottel, APA Coordinator. Oral comments may be presented at the hearing.

CHAPTER 50 - MEDICAL ASSISTANCE

SUBCHAPTER 50C - BENEFITS

SECTION .0200 - MEDICAID SERVICES USED CARD

- .0201 MEDICAID SERVICES USED CARD (REPEALED)
- .0202 ISSUANCE (REPEALED)
- .0203 REPLACEMENT CARDS (REPEALED)

Statutory Authority G.S. 108A-25(b).

\*\*\*\*\*

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Department of Human Resources, Division of Economic Opportunity intends to amend rule(s) cited as 10 NCAC 51C .0108.

The proposed effective date of this action is January 1, 1992.

The public hearing will be conducted at 10:00 a.m. on October 3, 1991 at the Division of Economic Opportunity, 2413 Crabtree Boulevard, Suite 119, Raleigh, NC 27607.

Comment Procedures: Comments may be submitted in writing or may be presented orally at the public hearing. Oral presentations which exceed three minutes are requested to have a written copy to be filed with the hearing clerk. Further details of the proposed rules may be obtained by writing or calling: Ms. Edith A. Hubbard, Director, Division of Economic Opportunity, 2413 Crabtree Blvd., Suite 119, Raleigh, NC 27604. Phone No. (919) 733-2633.

Editor's Note: This Rule has been filed as a temporary amendment effective August 1, 1991 for a period of 180 days to expire on January 28, 1992.

CHAPTER 51 - DIVISION OF ECONOMIC OPPORTUNITY

SUBCHAPTER 51C - COMMUNITY SERVICES BLOCK GRANT PROGRAM

SECTION .0100 - GENERAL PROVISIONS

.0108 ALLOCATION OF CSBG FUNDS

(a) Funds allocated to North Carolina under the CSBG Program will be used in Federal Fiscal Year 1989 and in each subsequent federal fiscal year as follows:

- (1) Ninety percent of the funds to make grants to those eligible grant recipients as defined in Rule .0106 (a) of this Section which are re-certified as eligible agencies each fiscal year by the Division. The amount of the funds allocated to each eligible grant recipient shall be based on the following method of distribution:
  - (A) Funds shall be allocated based on the ratio (percentage) of persons in poverty in the county (counties) served by the eligible agency compared to the number of persons in poverty in the total area (counties) served by all eligible agencies.
  - (B) However, no eligible agency shall receive less than:
    - (i) An allocation of one hundred twenty thousand dollars (\$120,000), or
    - (ii) Eighty percent of the eligible agency's Federal Fiscal Year 1982 allocation, whichever is higher.
- (2) Five percent of the funds will be used by the Division for administration of the CBSG program.
- (3) The remaining five percent of the funds to make grants in Federal Fiscal Year 1989 and in each subsequent federal fiscal year to those limited purpose agencies as defined in Rule .0104 of this Section and which are re-certified as eligible agencies each fiscal year by the Division. The Division shall allot to each eligible Limited Purpose Agency an amount of funds based on the percentage of the total CSBG funds the eligible agency received of those funds reserved for the limited purpose agencies and the North Carolina Commission of Indian Affairs in federal fiscal year 1986.



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(b) Beginning with federal fiscal year 1988 and effective for all subsequent fiscal years, eligible agencies will not be allowed to carry forward unearned funds at the end of a grant agreement to the succeeding grant agreement. All unobligated funds must be returned to the Division within 60 days after the termination of the grant agreement.

(c) Supplemental CSBG Grants. The preceding paragraphs of this Rule do not apply to the allocation of supplemental CSBG grants to North Carolina. Such allocations to eligible applicants for eligible activities will be made by the Division in a manner not inconsistent with federal guidelines and conditions on supplemental appropriations. The Division has the flexibility to determine the number of grants awarded and the manner in which grantee(s) are selected based upon the amount of the allocation and the intent of the applicable legislation and regulations.

(d) Any unexpended allotment of CSBG funds from previous years grants shall be allocated to each eligible CSBG grant recipient for the following purposes:

(1) to assist in the implementation of special statewide initiatives, and

(2) for one-time expenditures to enhance local programs.

Ninety percent of these funds will be distributed to Community Action Agencies based on the ratio of persons in poverty in the county or counties served by the Community Action Agency compared to the number of persons in poverty in the total area served by all eligible Community Action Agencies. Ten percent of these funds will be distributed to those Limited Purpose Agencies as defined in Rule .0104 of this Section on an equal basis.

Authority *G.S. 143-323(d); 143B-10; 143B-227; 143B-276; 42 U.S.C. 9901-12.*

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

*Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Marine Fisheries Commission intends to amend rule(s) cited as 15A NCAC 3J .0104; 3K .0105; 3M .0503 - .0504, .0507.*

*The proposed effective date of this action is February 1, 1992.*

*The public hearing will be conducted at 7:00 p.m. on the following dates and places:*

*November 4, 1991  
New Hanover County Courthouse  
Room 302  
Wilmington, N.C.*

*November 5, 1991  
Carteret Community College  
Joslyn Hall  
Morehead City, N.C.*

*November 6, 1991  
Beaufort County Courthouse  
District Courtroom  
Washington, N.C.*

*November 7, 1991  
NC Aquarium  
Manteo, N.C.*

*MFC Business Session will be November 8, 1991, at 8:30 a.m. at the Kona Kai, Hwy. 12, Avon, N.C.*

*Comment Procedures: Comments and statements, both written and oral, may be presented at the hearings. Written comments are encouraged and may be submitted to the Marine Fisheries Commission, PO Box 769, Morehead City, NC 28557. These written and oral comments must be received no later than 8:30 a.m., November 8, 1991.*

## CHAPTER 3 - MARINE FISHERIES

### SUBCHAPTER 3J - NETS, POTS, DREDGES, AND OTHER FISHING DEVICES

#### SECTION .0100 - NET RULES, GENERAL

##### .0104 TRAWL NETS

(a) It is unlawful to use trawl nets for the taking of finfish in internal waters, except that it shall be permissible to take or possess finfish incidental to crab or shrimp trawling in accordance with the following limitations:

- (1) It is unlawful to possess aboard a vessel while using a trawl in internal waters more than 1,000 pounds of finfish except flounder of legal size may be taken and possessed without limit in quantity in internal waters while engaged in crab trawling.
- (2) The Fisheries Director may, by proclamation, close any area to trawling for specific time periods in order to secure compliance of this Rule.

(b) It is unlawful to use trawl nets:

- (1) For the taking of oysters;
- (2) In Albemarle Sound and its tributaries;

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(3) In that area of Shackleford Banks as described in 15A NCAC 3R .0006.

(c) Minimum mesh sizes for shrimp and crab trawls are presented in 15A NCAC 3L .0103 and .0202.

(d) The Fisheries Director may, with prior consent of the Marine Fisheries Commission, by proclamation, specify trawl net design to reduce the catch of finfish that do not meet size limits or are unmarketable as individual foodfish by reason of size.

Statutory Authority G.S. 113-134; 113-182; 113-221; 143B-289.4.

SUBCHAPTER 3K - OYSTERS, CLAMS, SCALLOPS AND MUSSELS

SECTION .0100 - SHELLFISH, GENERAL

.0105 NON-COMMERCIAL HARVEST OF SHELLFISH

(a) It is unlawful for individuals claiming exemption from the oyster, clam and scallop license required by G.S. 113-154, by reason of non-commercial harvest, to take more than:

- (1) One bushel of oysters per person per day, not to exceed two bushels per vessel per day;
- (2) One hundred clams per person per day, not to exceed two hundred clams per vessel per day; and
- (3) One-half bushel of scallops per person per day, not to exceed one bushel per vessel per day.

(b) A vessel license, as required by G.S. 113-152 for the use of commercial fishing equipment as defined in 15A NCAC 3I .0001(b)(1) is not required for the non-commercial harvest of shellfish in accordance with limits in Paragraph (a) of this Rule.

(c) ~~It is unlawful to take oysters, clams, or scallops for non-commercial purposes at any time except:~~

~~(1) During regular open seasons; and~~  
~~(2) Oysters and clams may also be taken on Sundays and scallops may also be taken on Saturdays and Sundays;~~

- ~~(1) during regular open seasons, and~~
- ~~(2) in accordance with limits outlined in Paragraph (a) of this Rule with or without license.~~

Statutory Authority G.S. 113-134; 113-152; 113-154; 113-182; 143B-289.4.

SUBCHAPTER 3M - FINFISH

SECTION .0500 - OTHER FINFISH

.0503 FLOUNDER.

(a) It is unlawful to possess flounder less than 13 inches in length.

(b) The Fisheries Director may, by proclamation:

- (1) establish fishing gear specifications for trawls used within three nautical miles of the beach from October 1 through April 30 in order to protect small flounder, and
- (2) close and open the season in the Atlantic Ocean to the taking of flounder with regard to quota management in accordance with the Mid-Atlantic Fisheries Management Council Fishery Management Plan for the Summer Flounder Fishery.

It is unlawful to violate the provisions of any proclamation issued under this authority.

Statutory Authority G.S. 113-134; 113-182; 113-221; 143B-289.4.

.0504 TROUT

(a) Spotted seatrout (speckled trout). It is unlawful to possess spotted seatrout (~~speckled trout~~) less than 12 inches in length.

(b) Weakfish (gray trout). The Fisheries Director may, by proclamation, impose any or all of the following restrictions on the taking of weakfish:

- (1) Specify areas.
- (2) Specify seasons.
- (3) Specify quantity.
- (4) Specify means methods.
- (5) Specify size, but not greater than 12 inches.

Statutory Authority G.S. 113-134; 113-182; 143B-289.4.

.0507 HOOK-AND-LINE FISHING RESTRICTED

The Fisheries Director may, by proclamation, establish size and harvest limit restrictions for the following species taken by hook-and-line:

- (1) Blue marlin;
- (2) White marlin;
- (3) Sailfish;
- (4) Cobia;
- (5) Dolphin;
- (6) Bluefish;
- (7) Spotted seatrout;
- ~~(8) Weakfish; and~~
- ~~(8) Tunas;~~
- (9) Flounder.

Statutory Authority G.S. 113-134; 113-182; 113-221; 143B-289.4.

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\*\*\*\*\*

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to repeal rule(s) cited as 15A NCAC 10B .0104; and amend rule(s) cited as 15A NCAC 10F .0323, .0339, .0342.

The proposed effective date of this action is January 1, 1992.

The public hearing will be conducted at 10:00 a.m. on October 3, 1991 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

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 September 19, 1991 to October 18, 1991. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

.0104 HUNTING AND TRAPPING IN VICINITY OF FLOOD OR FIRE (REPEALED)

Statutory Authority G.S. 113-134; 113-291.2.

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

.0323 BURKE COUNTY

(a) Regulated Areas. This Rule applies only to the following lakes or portions of lakes which lie within the boundaries of Burke County:

- (1) Lake Hickory;
(2) Lake James;
(3) Lake Rhodhiss.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp while on the regulated areas described in Paragraph (a) of this Rule or within 50 yards of

any designated private boat launching ramp around the Holiday Shores Subdivision on Lake James.

(c) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area established with the approval of the Executive Director, or his representative, on the regulated areas described in Paragraph (a) of this Rule.

(d) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area established with the approval of the Executive Director, or his representative, on the regulated areas described in Paragraph (a) of this Rule including the area within 50 yards of any designated private boat dock around the Holiday Shores Subdivision on Lake James.

(e) Placement and Maintenance of Markers. The Board of Commissioners of Burke County is designated a suitable agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers, if applicable. With regard to marking the regulated areas described in Paragraph (a) of this Rule, all of the supplementary standards listed in Rule .0301(g) of this Section shall apply.

Statutory Authority G.S. 75A-3; 75A-15.

.0339 MCDOWELL COUNTY

(a) Regulated Areas. This Rule applies to the following waters located on Lake James in McDowell County:

- (1) that area adjacent to the shoreline of the McDowell Wildlife Club property;
(2) that area adjacent to the shoreline of the Marion Moose Club property;
(3) that area known as Morgan Cove;
(4) that area within 50 yards of the shoreline at the New Manna Baptist Youth Camp;
(5) that area within 50 yards of the shoreline at Burnett's Landing;
(6) the cove area adjacent to the State Park swimming area;
(7) the cove area adjacent to the State Park picnic area and dock;
(8) that area within 50 yards of the boat launching ramp at the Marion Lake Club.

(b) Speed Limit. No person shall operate any motorboat or vessel at greater than no-wake speed within any of the regulated areas described in Paragraph (a) of this Rule.

(c) Restricted Swimming Areas. No person operating or responsible for the operation of any vessel, surfboard or waterskis shall permit the



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same to enter any marked swimming area located on the regulated area.

(d) Placement and Maintenance of Markers. The Board of Commissioners of McDowell County is designated a suitable agency for placement and maintenance of the markers implementing this Rule.

Statutory Authority G.S. 75A-3; 75A-15.

.0342 CATAWBA COUNTY

(a) Regulated Areas. This Rule applies to the following waters of Lake Hickory:

- (1) the public fishing pier located at the old Wildlife Club off 12th Street Drive, NW, City of Hickory;
(2) the shores of the Dixie Boat Club, Inc.;
(3) that area within 50 yards of the Moore's Ferry Boat Marina and Boathouse on 44th Avenue, Circle NW.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed in the waters of the regulated areas specified in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The governing board of the City of Hickory and the Catawba County Board of Commissioners are designated suitable agencies for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

Statutory Authority G.S. 75A-3; 75A-15.

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Notice is hereby given in accordance with G.S. 150B-12 that the DEHNR, Division of Parks and Recreation intends to amend rule(s) cited as 15A NCAC 12C .0306.

The proposed effective date of this action is January 1, 1992.

The public hearing will be conducted at 10:00 a.m. on October 3, 1991 at the Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury Street, Raleigh, N.C.

Comment Procedures: All persons interested in this matter are invited to attend the public hearing. Any person requiring information should contact Jim Hallsey, Chief of Operations, Division of Parks and Recreation, 12700 Bayleaf Church

Road, Raleigh, North Carolina, 27614 (919) 846-9991.

Written comments may be submitted to the above address prior to the public hearing. Written and oral comments may also be submitted at the public hearing. Notice of an oral presentation must be given to the above address at least three days prior to the public hearing.

Editor's Note: This Rule has been filed as a temporary amendment effective August 12, 1991 for a period of 180 days to expire on February 8, 1992.

CHAPTER 12 - PARKS AND RECREATION AREA RULES

SUBCHAPTER 12C - STATE LAKES REGULATIONS

SECTION .0300 - CONSTRUCTION AND USE OF PIERS AND OTHER STRUCTURES ON STATE LAKES

.0306 FEES

The following schedule of fees shall be applicable to all structures beginning February 1, 1974, August 1, 1991, the payment of which shall be prerequisite to the rights and privileges exercised pursuant to these regulations and any and all permits issued pursuant thereto. Annual fees are due on May 1 of each year:

- (1) Each application for the construction or placement of a new structure or the complete replacement of an existing structure, or the complete replacement of a structure for which a permit has previously been issued but which structure has been destroyed or removed by any means, shall be accompanied by an application fee of twenty dollars (\$20.00) sixty dollars (\$60.00) which is only refundable if the application is rejected.
(2) Applications for modifications or enlargement of an existing structure for which a valid permit is held by the applicant for modification or enlargement thereof shall be accompanied by an application fee of twenty dollars (\$20.00) sixty dollars (\$60.00) which shall be refundable only if the application is rejected.
(3) Application for renewal of a permit which was otherwise valid but which has been revoked for failure to pay the annual pier renewal fee within the time provided within 60 days after the due date thereof shall be accompanied by a renewal application fee of twenty dollars (\$20.00), sixty dollars (\$60.00), which shall only be refundable if the application is rejected.



## PROPOSED RULES

- (4) Transfer Fee. Applications for a transfer of a permit to the new owner of the waterfront property or the new owner of an interest in waterfront property giving rise to the right of a permit under these regulations shall be accompanied by a transfer fee of ~~ten dollars (\$10.00)~~; thirty dollars (\$30.00) which shall not be refundable for any reason. This fee is not subject to being prorated and shall be paid in full without regard to the time of year at which the transfer occurred.
- (5) Application for a nonconforming use permit shall be accompanied by an application fee of ~~fifty dollars (\$50.00)~~; one hundred and fifty dollars (\$150.00), which is not refundable for any reason.
- (6) Annual fees:
- (a) private structures:
- (i) piers not more than 50 feet in length -- ~~five dollars (\$5.00)~~; fifteen dollars (\$15.00);
- (ii) piers more than 50 feet in length but less than 101 feet in length -- ~~ten dollars (\$10.00)~~; thirty dollars (\$30.00);
- (iii) piers more than 100 feet in length but less than 151 feet in length -- ~~fifteen dollars (\$15.00)~~; forty-five dollars (\$45.00);
- (iv) piers more than 150 feet in length -- ~~twenty dollars (\$20.00)~~; sixty dollars (\$60.00);
- (v) boat ramps, boat mooring buoy -- ~~five dollars (\$5.00)~~; fifteen dollars (\$15.00);
- (b) commercial structures:
- (i) piers less than 225 feet in length -- ~~twenty five dollars (\$25.00)~~; seventy-five dollars (\$75.00);
- (ii) all piers more than 225 feet in length -- ~~fifty dollars (\$50.00)~~; one hundred and fifty dollars (\$150.00);
- (iii) boat ramps, boat mooring buoys -- ~~twenty five dollars (\$25.00)~~; seventy-five dollars (\$75.00);
- (c) public structures -- ~~ten dollars (\$10.00)~~; thirty dollars (\$30.00).

Statutory Authority G.S. 113-35.

### TITLE 16 - DEPARTMENT OF PUBLIC EDUCATION

Notice is hereby given in accordance with G.S. 150B-12 that the State Board of Education intends to amend rule(s) cited as 16 NCAC 6D .0102; and adopt rule(s) cited as 16 NCAC 6E .0301 - .0303.

*The proposed effective date of this action is February 1, 1992.*

*The public hearing will be conducted at 10:00 a.m. on October 4, 1991 at the State Board Room, 3rd Floor, Education Bldg., 116 West Edenton Street, Raleigh, NC 27603-1712.*

*Comment Procedures: Interested persons may submit views and comments in writing either prior to or at the hearing or orally at the hearing.*

*Editor's Note: These Rules have been filed as temporary rules effective August 12, 1991 for a period of 180 days to expire on February 1, 1992.*

#### CHAPTER 6 - ELEMENTARY AND SECONDARY EDUCATION

##### SUBCHAPTER 6D - INSTRUCTION

##### SECTION .0100 - CURRICULUM

##### .0102 BASIC EDUCATION PROGRAM

(a) Each LEA shall implement the BEP as developed by the department, to the extent that state funds are made available to it. This Rule covers the curricular component of the BEP.

(b) The standard course of study includes, at least, a program of studies in the following areas:

- (1) arts education;
- (2) communication skills;
- (3) guidance;
- (4) healthful living;
- (5) library/media skills;
- (6) mathematics;
- (7) science;
- (8) second language studies;
- (9) social studies; and
- (10) vocational education.

(c) ~~In discharging their duty to provide a course of training and instruction in the operation of motor vehicles as set forth in G.S. 115C-216, two or more LEAs may jointly operate such a program under a written agreement between or among the LEAs. These LEAs shall inform the SBE of which LEA has assumed administrative responsibility for the program. Every program must meet the following criteria:~~

- ~~(1) The program is free of charge to eligible persons.~~
- ~~(2) Enrollees must obtain either a temporary learner's permit or a restricted instruction permit before they begin behind-the-wheel instruction.~~
- ~~(3) Classroom instruction consists of at least 30 clock hours, in accordance with a cur-~~

riculum guide issued by the department. Each student must complete at least 6 hours of behind-the-wheel instruction.

- (4) LEAs must make these programs reasonably available on a year-round basis to all eligible persons.
- (5) LEAs may not provide classroom instruction to less than 12 students. Class-size limitations apply to classroom instruction. LEAs may not provide instruction in the car to less than two nor more than four students.
- (6) LEAs may provide no more than two hours of instruction per day, except that they may add one hour of in-car instruction to two hours of classroom instruction in one day, or two hours of in-car instruction every other day to two hours of daily classroom instruction.
- (7) LEAs may organize extended school day and Saturday programs not to exceed two hours per extended school day and six hours per Saturday for each teacher.
- (8) LEAs shall issue to students who satisfactorily complete the prescribed course a certificate on a form supplied by the department.
- (9) Driver education instructors must possess a valid North Carolina driver's license and must have a driving record acceptable to the LEA. Instructors must hold a graduate or class A driver education certificate.

Statutory Authority G.S. 115C-12(9)c.; 115C-81.

SUBCHAPTER 6E - STUDENTS

SECTION .0300 - DRIVER TRAINING

.0301 DRIVER TRAINING

(a) In discharging their duty to provide a course of training and instruction in the operation of motor vehicles as set forth in G.S. 115C-216, local boards of education shall provide a program which meets the following standards and requirements:

- (1) Enrollment in the program will be limited to students meeting the criteria established by G.S. 20-88.1;
- (2) The program will be free of charge to eligible students;
- (3) Enrollees must obtain either a temporary learner's permit or a restricted instruction permit before they begin behind-the-wheel instruction;
- (4) Classroom instruction will consist of at least 30 clock hours of instruction in the topics previously listed in the Healthful

Living Section of the Teacher Handbook. Upon successful completion of a Department pretest, students may take and pass a proficiency examination developed or designated by the Department of Public Instruction to waive the classroom instruction. Each student must complete a minimum of six hours of behind-the-wheel instruction;

- (5) The program will be reasonably available on a year-round basis to all eligible persons;
- (6) The local board of education will determine class size restrictions, but may not allow instruction in the car to less than two nor more than four students;
- (7) The local board of education will determine the amount of instruction per day for classroom or in-car instruction or a combination of both;
- (8) The local board of education will issue a certificate to students who satisfactorily complete the prescribed course;
- (9) Driver education instructors must possess a valid North Carolina driver's license and must have a driving record acceptable to the local board of education. In addition, instructors hired for driver education shall either:
  - (A) hold a driver education certificate issued by the SBE; or
  - (B) have non-certified status according to minimum standards established by Rule .0302 of this Section.
- (10) Except as previously allowed by the SBE, the program shall not be provided during the regular instructional day.
  - (b) Two or more local boards of education may jointly operate a program under a written agreement meeting the requirements of G.S. 160A-460 et seq. The agreement shall provide for one local board of education to assume administrative responsibility for the program.

Statutory Authority G.S. 20-88.1; 115C-216.

.0302 NON-CERTIFIED INSTRUCTOR STATUS

To qualify for non-certified instructor status, a person must, as a minimum:

- (1) have graduated from high school or hold a high school equivalency certificate;
- (2) be of good moral character;
- (3) not have had convictions of moving violations totalling seven or more points in the three years preceding the date of application;
- (4) have at least four years' experience as a licensed operator of a motor vehicle;

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- (5) not have had a revocation or suspension of his or her driver's license in the four years immediately preceding the date of application; and
- (6) have completed the licensed instructor course offered through the community college system and approved by the Department and the Division of Motor Vehicles.

*Statutory Authority G.S. 20-88.1; 115C-216.*

### .0303 DRIVER EDUCATION CONTRACTS

(a) Local boards of education may enter into contracts with public or private entities or individuals to provide a program of driver education for students.

(b) Contracts shall be awarded on a competitive basis through requests for proposals to contract. Local boards of education shall establish the process for soliciting proposals, the number of proposals required, and the time and place for receiving and opening proposals. In addition, local boards of education shall determine whether bid bonds or performance bonds shall be required. Decisions to award contracts shall be based on quality, safety, costs and such other reasonable factors as local boards of education may establish.

(c) A contract may not be awarded to an entity not licensed by the Division of Motor Vehicles as a commercial driving school pursuant to G.S. 20-320, et. seq. A contract may be awarded to an individual not licensed as a commercial driving school by the Division of Motor Vehicles if he or she is certified by the SBE in driver education or hold non-certified instructor status.

(d) All contracts shall specifically require the contractor to adhere to the requirements of these Rules, 16 NCAC 6E .0301 - .0303. In addition, all contracts shall prescribe:

- (1) the term of the contract, which may not exceed one year;
- (2) the procedure for renewal of the term of the contract, if any, except that a contract may not be renewed for more than two successive one-year terms;
- (3) the grounds for termination of the contract, including automatic termination in the event of revocation of the license required by G.S. 20-320, et. seq.;
- (4) whether school facilities or vehicles are to be leased or used by the contractor and, if so, the terms and conditions or the lease;
- (5) whether the contractor will provide transportation home for students;
- (6) the types of vehicles and equipment to be provided by the contractor, if any; and

- (7) such other terms and conditions, including the purchase of insurance by the contractor, as the local board of education may determine to be reasonable and appropriate.

*Statutory Authority G.S. 20-88.1; 115C-216.*

## TITLE 25 - OFFICE OF STATE PERSONNEL

*Notice is hereby given in accordance with G.S. 150B-12 that the Office of State Personnel intends to adopt rule(s) cited as 25 NCAC 1D .2105 - .2108; 1L .0301 - .0307; and repeal rule(s) cited as 25 NCAC 1D .2101 - .2104; 1L .0201 - .0203.*

*The proposed effective date of this action is January 1, 1992.*

*The public hearing will be conducted at 9:00 a.m. on October 3, 1991 at the Personnel Development Center, 101 W. Peace Street, Raleigh, N.C.*

*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 Drake Maynard, Office of State Personnel, 116 W. Jones Street, Raleigh, N.C. 27603.*

### CHAPTER 1 - OFFICE OF STATE PERSONNEL

#### SUBCHAPTER 1D - COMPENSATION

##### SECTION .2100 - SPECIAL SALARY ADJUSTMENTS

- .2101 DEFINITION AND POLICY (REPEALED)
- .2102 APPLICABILITY (REPEALED)
- .2103 JUSTIFICATION (REPEALED)
- .2104 RESPONSIBILITY OF THE STATE PERSONNEL DIRECTOR (REPEALED)

*Statutory Authority G.S. 126-4.*

##### .2105 INTRODUCTION

The policy is not intended to resolve all retention problems. Funds are available only from limited salary reserves of an agency or program and these funds must be managed to serve a variety of program necessities. Therefore, the implementation of special salary adjustments is limited to the most critical retention issues.

*Statutory Authority G.S. 126-4.*



**.2106 PURPOSE**

The purpose of retention salary adjustments is to provide a last resort means to maintain employment of a key employee who has a similar job offer outside the government structure. It is not a purpose of the rules in this Section to reduce the employee turnover ratio of the employer in any appreciable sense; the purpose of the rules in this Section is to retain key employees. Key employees may exist at any hierarchical level in the organization and may represent most occupational families. They typically occupy one of a kind jobs or jobs that are documented as extremely hard to fill.

*Statutory Authority G.S. 126-4.*

**.2107 POLICY**

(a) Special Salary Adjustments/Retention are within grade pay increases not covered by other pay administration policies that may be necessary in cases of key employee retention problems related to critical and unusual labor market conditions.

(b) Special salary adjustments are not permissible where the intent or result would violate or circumvent the provisions of other pay administration policies or any provision of law in effect at the time. Agency management and university management are responsible for maintaining internal equity among their employees and for assuring that special salary adjustments do not create other inequities.

(c) Recommended adjustments under this Rule are subject to the availability of salary reserve funds and are subject to approval of the State Personnel Director and the Director of State Budget and Management.

(d) Justification, addressing the criteria listed in this Section must accompany requests for special salary adjustments, including specific outside salary offers.

*Statutory Authority G.S. 126-4.*

**.2108 CRITERIA**

Conditions to be met prior to requesting a retention increase are as follows:

- (1) There is a bona fide written job offer from an employer outside the government structure which provides greater compensation without increased responsibility.
- (2) There is no current employee with substantially equal qualifications for promotion to the potential vacancy.
- (3) Serious salary inequities would not be created by a special salary adjustment.

- (4) The position duties are key to agency or program mission accomplishment. The knowledge, skills and abilities required of an incumbent are clearly identified as difficult to recruit, or the occupational group is acknowledged by the Office of State Personnel as having a critical labor market shortage.
- (5) The agency must confirm that the use of established personnel policies/actions are not feasible alternatives to a special salary adjustment (promotion, position reallocation, salary range revision, performance increase).
- (6) The agency must confirm that other management alternatives (realignment of duties; allocation of additional personnel, equipment, or other resources; commitment to personal development needs or future job opportunity; or other actions meeting mutually perceived needs that are not currently available, but are perceived by the employee as being better satisfied by the external job offer) are not feasible.
- (7) The employee for whom the special salary adjustment is proposed must have an above satisfactory performance level.

*Statutory Authority G.S. 126-4.*

**SUBCHAPTER 1L - AFFIRMATIVE ACTION**

**SECTION .0200 - ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) IN THE WORKPLACE**

- .0201 EDUCATION AND TRAINING (REPEALED)**
- .0202 BASIC EDUCATION AND TRAINING COMPONENT (REPEALED)**
- .0203 SPECIALIZED EDUCATION AND TRAINING COMPONENT (REPEALED)**

*Statutory Authority G.S. 126-4.*

**SECTION .0300 - EQUAL EMPLOYMENT OPPORTUNITY INSTITUTE**

**.0301 PURPOSE**

The Equal Employment Opportunity Institute (EEOI) is intended to provide state government executives, managers and supervisors with practical training that will assist them in becoming more effective managers and supervisors of an increasingly diverse workforce. The EEOI is intended to increase understanding among managers and supervisors of their roles and responsibilities in managing employees from different backgrounds and cultures, and the corresponding laws, policies, and employment



practices and techniques complementing this purpose.

*Statutory Authority G.S. 126-16.1.*

**.0302 EEO INSTITUTE: PARTICIPATION**

Supervisors and managers hired, promoted or appointed on or after July 1, 1991 shall participate in the EEOI. Supervisors and managers appointed on or before July 1, 1991 are encouraged to participate in the EEOI. Agencies, departments and universities shall not be authorized to conduct or contract for substitute training to replace EEOI. EEOI training is designed to:

- (1) Address and discuss the history and evolution of Equal Employment Opportunity concepts and principles.
- (2) Assist managers and supervisors in incorporating their Equal Employment Opportunity responsibilities with other management responsibilities.
- (3) Expose managers and supervisors to workplace equity and fairness issues.
- (4) Review and discuss accepted management practices for valuing and managing diversity in the workplace.
- (5) Provide understanding of how diversity can increase productivity and efficiency.
- (6) Empower managers and supervisors to remain adaptable and flexible to meet the challenges of an ever changing and more diverse workforce.

*Statutory Authority G.S. 126-16.1.*

**.0303 RESPONSIBILITIES: AGENCIES**

(a) It is the responsibility of the head of each state agency and department, and university chancellor to enroll each supervisor or manager appointed on or after July 1, 1991 in the EEOI. The enrollment shall be within one year of his appointment.

(b) Each agency, department or university (hereafter named Agency) shall be responsible for providing its prorata share of the cost for supplies and resource materials.

(c) Agencies shall be responsible for verifying candidate eligibility reports.

(d) Agencies should enroll incumbent managers and supervisors to participate in the EEOI when space is available.

(e) Agencies should incorporate in their new employee orientation program a module of instruction designed to familiarize new employees with the agency's commitment to equal employment opportunity.

*Statutory Authority G.S. 126-16.1.*

**.0304 RESPONSIBILITIES: MANAGERS AND SUPERVISORS**

(a) All managers and supervisors shall, on an on going basis, assure that their management practices are fair and that the work environment enhances equal employment opportunity.

(b) Managers and supervisors hired on or after July 1, 1991 shall attend and complete the EEOI in the prescribed time frame.

*Statutory Authority G.S. 126-16.1.*

**.0305 RESPONSIBILITIES: OFFICE OF STATE PERSONNEL**

(a) All EEOI training shall be conducted by the Equal Opportunity Services (EOS) Division of the Office of State Personnel (OSP).

(b) The Office of State Personnel, through the EOS Division shall fully administer the EEOI Program.

(c) The Office of State Personnel shall report semi-annually, through the State Personnel Commission, to the Joint Legislative Commission on Governmental Operations beginning January 1, 1992.

*Statutory Authority G.S. 126-16.1.*

**.0306 ADMINISTRATION: DEFINITIONS**

(a) "Supervisory positions" are defined as positions in which the majority of the work performed is directing the work of other positions. These employees have the authority to assign work and to evaluate work; to hire employees; to discipline or dismiss employees; or have significant input into such actions.

(b) "Managerial positions" are defined as positions which manage established divisions or subdivisions of a department, agency or university. These employees direct the work of one or more supervisors and have the authority to hire, reward, discipline, or discharge employees. These employees may also provide suggestions for changes in policy to senior executives with policy-making authority.

(c) "Executive managerial" positions are defined as policy making positions. Employees in these positions are agency/department heads, university chancellors, deputies, assistants, vice-chancellors, and other policy makers. The employees in executive managerial positions are usually appointed or elected. For the purposes of this policy, the definition of supervisors, managers, and executives also includes the setting of performance expectations, conducting perform-

## *PROPOSED RULES*

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ance appraisal conferences and evaluating performance.

(d) "Incumbent Executives, Managers and Supervisors" are defined as executive managers and supervisors hired or appointed into positions prior to July 1, 1991.

(e) "EEOI Candidates" are defined as:

(1) Managers and supervisors hired on or after July 1, 1991 and who may or may not have served in a management role in state government.

(2) Incumbent executives, managers and supervisors appointed hired to a different management position on or after July 1, 1991 and who have not completed the EEOI are strongly encouraged to enroll.

(3) Executive level managers who are hired or appointed with or without executive level experience in state government on or after July 1, 1991.

(f) "Training Level 1" is defined as the full EEOI Training designed for those managers and

supervisors identified in Rule .0305(a) of this Section. Also, management level employees as identified in Rule .0305(b) and (c) of this Section may participate on a space availability basis.

(g) "Training Level 2" is defined as an abbreviated course designed for executive level managers as identified in Rule .0305(c) of this Section. Also, executive level managers as identified in Rule .0305(b) of this Section may participate on a space availability basis.

*Statutory Authority G.S. 126-16.1.*

### **.0307 COURSE SCHEDULING AND SITE SELECTIONS**

Training as set out in Rule .0306 of this Section may be scheduled and conducted at various sites across the State of North Carolina. Schedules will be distributed semi-annually and updated or adjusted as necessary.

*Statutory Authority G.S. 126-16.1.*

*Adopted rules filed by the Departments of Correction, Revenue and Transportation are published in this section. These departments are not subject to the provisions of G.S. 150B, Article 2 requiring publication in the N.C. Register of proposed rules.*

*Upon request from the adopting agency, the text of rules will be published in this section.*

**TITLE 5  
DEPARTMENT OF CORRECTION**

**CHAPTER 2 - DIVISION OF PRISONS**

**SUBCHAPTER 2D - PUBLIC COMMUNICATIONS**

**SECTION .0600 - ACCESS TO INFORMATION/INMATE RECORDS**

**.0601 INMATE RECORDS**

(a) Matters of public record will be made available for examination upon request. Copies may be provided at the expense of the requestor. An inmate's or former inmate's name, age, race, sex, offense for which convicted, court where sentenced, length of sentence, date of sentencing, date of arrival at or transfer from a prison, program placements and progress, custody classification, disciplinary offenses and dispositions, escapes and recaptures, dates regarding release, and the presence or absence of detainees will be considered matters of public record. Except as provided in this Section, no other material may be released to anyone. Unauthorized release of confidential information by departmental employees will be cause for immediate dismissal or other appropriate disciplinary action.

(b) Medical records, except for psychiatric and psychological evaluations of an inmate or former inmate may be released to a physician, the legal representative of the inmate, or the personal representative of a deceased former inmate with the written consent of the person to whom such records pertain or the personal representative of such person if the inmate is deceased.

(c) Mental Health Records. Upon written consent, the content of an inmate's mental health records may be released to the attending psychologist, psychiatrist, or governmental agencies directly involved in mental health, rehabilitation, or disability services or evaluations. Mental health records may be released to the inmate's licensed attorney upon a request specifying with reasonable clearness the particular records of treatment which the attorney needs to review. If the mental health records do not contain any reference to the treatment with which the attorney is concerned, the attorney will be so advised. The request must be accompanied by a statement signed by the inmate giving his consent for the attorney to have access to the records. The Chief of Mental Health Services or his designee will review the records to determine if the release of any material contained in the requested records poses any risk of harm to another person or would violate the confidence of any third party. If the requested records do contain such material, the records will be released in a form in which such material has been deleted or in which the contents of such material has been summarized to provide the requested information without risking harm to other persons or violating the confidence of third parties. The attorney to whom the records are released shall promise in writing not to allow the inmate direct access to the records but may discuss the contents of the records with the inmate. The attorney will not reveal the contents of the records to other persons except mental health professionals, such as psychologist or psychiatrist who may be employed as an expert witness. If any attorney shall violate his or her promise to maintain the confidentiality of the mental health records, he or she and, or the firm with which he or she is associated shall lose the privilege of having access to mental health records. Copies of mental health records will be provided at the expense of the requestor.

(d) Material contained in inmate files may be released to official federal, state law enforcement agencies, and the staff of the Attorney General's Office when their representatives present proper credentials. Such agencies must agree to maintain the confidential nature of the material or information. Materials will be provided to the courts upon request. No material should be copied unless absolutely necessary.

*History Note: Statutory Authority G.S. 148-11;*



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**FINAL RULES**

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*Eff. February 1, 1976;  
Amended Eff. September 1, 1991; July 1, 1987.*

**TITLE 19A  
DEPARTMENT OF TRANSPORTATION**

**CHAPTER 3 - DIVISION OF MOTOR VEHICLES**

**SUBCHAPTER 3D - ENFORCEMENT SECTION**

**SECTION .0100 - GENERAL INFORMATION**

**.0101 PURPOSE**

This Section establishes rules for and provides information on the following:

- (1) motor vehicle dealer sales, distributor and factory representative license;
- (2) motor vehicle thefts;
- (3) mechanics and storage lien;
- (4) notice of sale;
- (5) safety inspection of motor vehicles;
- (6) licensing of safety inspection stations;
- (7) enforcement of weight regulations; and
- (8) approval of motor vehicle safety equipment.

*History Note: Statutory Authority G.S. 20-1; 20-39; 20-45; 20-49 through 20-50;  
20-52.1; 20-57; 20-64(a); 20-68; 20-72 through 20-79.1;  
20-82 through 20-83; 20-84.2; 20-85 through 20-86; 20-86.1;  
20-87 through 20-88; 20-88.1; 20-91.1; 20-96; 20-99;  
20-103 through 20-104; 20-114; 20-116; 20-117.1; 20-118; 20-118.1;  
20-122 through 20-135.3; 20-183.2 through 20-183.12; 20-308;  
20-347; 44A-1 through 44A-4; 54-4; 55-131; 66-68; 105-449.52;  
153-9; 160A-303;  
Eff. July 1, 1978;  
Amended Eff. October 1, 1991; February 1, 1982.*

**SECTION .0200 - MOTOR VEHICLE DEALER, SALES, DISTRIBUTOR AND FACTORY  
REPRESENTATIVE LICENSE**

**.0216 DEFINITIONS**

(a) Statutory Definitions: Definitions for words and phrases used in these regulations not defined in subsection (b) shall be the same as the definitions appearing in G.S. 20-286 and G.S. 20-4.01.

(b) Administrative Definitions: The following words and phrases shall have the meanings listed below when used in these regulations:

- (1) "Established Salesroom" - Means a salesroom containing 96 square feet of floor space in a permanently enclosed building or structure which is separate and apart from any living quarters, residence or other business and having a separate entrance; where any vehicles displayed are separate and apart from vehicles of any other dealer; having displayed thereon or immediately adjacent thereto a sign, in block letters of not less than 3 inches in height on a contrasting background, clearly and distinctly designating the trade name of the business at which a permanent business of bartering, trading and selling of motor vehicles will be carried on as such in good faith and at which place of business shall be kept and maintained the books, records, and files the Division may require as necessary to conduct the business at such location. A building would not be considered permanent if it has wheels. In order for a manufactured home to be considered a permanent enclosed building, it would have to be underpinned and wheels removed. Provided, however, the minimum area requirement provided for in this Paragraph is not applicable to any established place of business lawfully in existence and duly licensed on or before January 1, 1978.
- (2) "Established Office" (Wholesaler) - Means an office containing 96 square feet of floor space in a permanently enclosed building or structure which is accessible to Division personnel and is a place where books, records and files are required to be kept.

- (3) "Supplemental Location" - Any improved or unimproved lot that is not immediately adjacent to the principal place of business at which a permanent business of bartering, trading and selling motor vehicles will be carried on as such in good faith and which is located within the relevant trade area of the applicant dealer as defined by G.S. 20-286(13b). A supplementary lot must have displayed thereon a sign in block letters not less than 3 inches in height on a contrasting background, clearly and distinctly designating the trade name of the business and the address and telephone number of the principal place of business. Supplemental locations must operate in exactly the same name as the principal place of business and only vehicles owned by or lawfully consigned to the principal place of business may be offered for sale at supplemental locations. Provided, the provisions of this Subparagraph shall not apply to sales of recreational vehicles and boat trailers which take place at trade shows within the franchise area of the participating licensed dealers. If a particular recreational vehicle or boat trailer manufacturer has not awarded a franchise in an area where a trade show is to take place, other licensed dealers holding a franchise from the manufacturer may nonetheless participate in the show.
- (4) "Suspension" - The temporary withdrawal of a license issued by the Division of Motor Vehicles to a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch, wholesaler or their sales representative for a definite period.
- (5) "Revocation" - The termination of a license issued by the Division of Motor Vehicles to a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch, wholesaler or their sales representative.
- (6) "Automobile" - Any passenger car or station wagon.

*History Note: Filed as a Temporary Amendment Eff. February 9, 1989 for a Period of 180 Days to Expire on August 8, 1989; Statutory Authority G.S. 20-1; 20-302; Eff. June 1, 1988; Temporary Amendment Expired Eff. August 8, 1989; Amended Eff. October 1, 1991; October 1, 1989.*

#### **.0217 APPLICATION FOR LICENSE**

(a) Applications for all licenses required by the Dealers and Manufacturers Licensing Act shall be made on forms furnished by the Division and signed by the Owner, partner or proper officer of a corporation and filed with the Enforcement Section, N. C. Division of Motor Vehicles; Raleigh, North Carolina 27697, accompanied by the necessary fees; provided, the Division shall not issue a motor vehicle dealer license to a new motor vehicle dealer unless or until the applicant has satisfied the Division that a distributor or manufacturer has awarded the applicant a franchise to sell new motor vehicles in the relevant market area for which a license is sought.

(b) The application and renewal for license to do business as a manufacturer, factory branch, distributor, distributor branch, wholesaler or dealer, must be signed by the owner, partner or an officer of the corporation. The application for license as a motor vehicle sales representative, distributor or factory representative must be certified by the owner, partner, or an officer of the corporation.

(c) Application for all licenses required by the Dealers and Manufacturers Licensing Act must accurately describe the physical location of the business such as: street number, street name, city, state and zip code. If a post office box or rural route is used, the above information must also be included. It is not permissible to have a mailing address different from the actual location of the business. Wholesale applicants must supply the Division with a telephone number at which such business may be contacted by a representative of the Division concerning records and sales transactions.

(d) Each applicant before being approved for license as a motor vehicle dealer, manufacturer, distributor, distributor branch, wholesaler or factory branch shall furnish a corporate surety bond, cash bond or fixed value equivalent thereof in the amount of twenty-five thousand dollars (\$25,000) for one established salesroom of the applicant and ten thousand dollars (\$10,000) for each of the applicant's additional established salesrooms. The amount of the bond for other applicants required to furnish a bond is twenty-five thousand dollars (\$25,000) for one place of business of the applicant and ten thousand dollars (\$10,000) for each of the applicant's additional places of business. This bond shall remain in force and effect so long as the licensee remains in business. When a cash bond or equivalent thereof is filed with the Division, same shall remain in effect for a period of four years after termination of business. The name and address appearing on the bond must be exactly as shown on the application.

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(e) The Division must have evidence of an assumed name being filed with the Register of Deeds in the county in North Carolina where the business is maintained when such business is operated under any designation, name or style other than the real name of the owner or owners thereof or under its corporate name. After this filing when there is a change of name and/or ownership, such must be filed with the Register of Deeds and evidence of this change being filed furnished to the Division of Motor Vehicles.

(f) A foreign corporation must procure a certificate of authority from the North Carolina Secretary of State before being licensed to operate in this State under the Dealers and Manufacturers Licensing Law, and written proof of same provided to the Division.

(g) Before a North Carolina corporation can be licensed under the Dealer and Manufacturers Licensing Law, articles of incorporation must have been filed with the North Carolina Secretary of State, and written proof of same provided to the Division.

(h) Before the Division can issue licenses required by the Dealers and Manufacturers Licensing Act, the established salesroom or established office is required to be in compliance with all state, county and municipal zoning ordinances or regulations, and written proof of same provided to the Division.

(i) Prior to issuance of licenses required by the Dealers and Manufacturers Licensing Act, the applicant must purchase all required state and local "Traders" licenses, and written proof of same provided to the Division.

(j) License fees for each fiscal year, or part thereof, shall be as provided under G.S. 20-289; provided no license shall be issued until the fees for license required by G.S. 20-79 have been paid to the Division.

(k) Upon receipt of application for any license required by the Dealers and Manufacturers Licensing Act, the Commissioner shall cause an investigation to be made to determine whether the applicant meets the requirements of law for licensing as a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch, wholesaler, motor vehicle sales representative, factory representative or distributor branch representative, and this shall include the inspection of the proposed location, applications and other required documents by an agent of the Enforcement Section.

(l) When applicant for license under this section is approved, based upon the application and the results of investigation made, the applicant will be issued license subject to the following limitations:

(1) A license issued under the Motor Vehicle Dealers and Manufacturers Licensing Act shall be valid until suspended, revoked or expired. License must be at all times conspicuously displayed at the place designated therein.

(2) Any motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch, or wholesaler who moves his place of business from the location for which license was issued shall immediately notify the Enforcement Section, North Carolina Division of Motor Vehicles, of such change of location and shall not engage in the business of buying, selling, trading or manufacturing motor vehicles until the new location has been inspected and approved by an agent of the Division and the necessary form and additional fees, if any, have been submitted to the Division.

(3) License issued pursuant to this Article shall not be assignable and shall be valid only for the owner, or owners in whose name or names they are issued and for transaction of business only at place designated therein. If individual, partnership or proprietorship should incorporate, new fees are due.

(4) The Division shall be notified when there is a change of name and licensee shall produce evidence that a bond as required by G.S. 20-288(e) is in effect.

(m) The Commissioner shall deny the application for any license under the Motor Vehicle Dealers and Manufacturers Licensing Act of any applicant who fails to meet the qualifications set out in Article 12 of Chapter 20 of the North Carolina General Statutes. Upon denial, applicant:

(1) Will be notified by certified mail within 30 days from denial of license, directed to the address shown by applicant on application form.

(2) Upon request, will be afforded a hearing by the Commissioner of Motor Vehicles as required under provisions of G.S. 20-295; applicant must file request for hearing allowed by this section within 30 days of denial of license.

(n) Every motor vehicle sales representative who engages in business in this State as such must obtain a license. Applicants for a motor vehicle sales representative's license shall be subject to the following provisions:

(1) A sales representative, factory representative, or distributor representative, must be employed by a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch, or wholesaler.



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- (2) All applications for sales representative, factory representative, and distributor representative licenses must be made on forms furnished by the Division. Each application must be signed by the applicant and endorsed by the employer or employers.
- (3) All sales representative, factory representative, and distributor representative licenses shall be valid until suspended, revoked, or expiration, or until employment as a sales representative, factory representative or distributor representative is terminated.
- (4) All sales representatives, factory representatives, and distributor representatives shall at the time of changing employment return his license and make application to the Division on forms furnished by the Division designating the name and address of the new employer and must be signed by the applicant and endorsed by the employer or employers.

If the representative changes employers, the representative shall immediately apply to the Division for a license that states the name of the representative's new employer. The fee for issuing a license stating the name of a new employer is one-half the fee set in G.S. 20-289 for an annual license.

*History Note: Statutory Authority G.S. 20-1; 20-52.1; 20-75; 20-79; 20-82; 20-286(6) and (15); 20-287p; 20-288; 20-290(a); 20-291; 20-294 through 20-296; 20-301 through 20-305; 20-305.1 through 20-305.3; 54-4; 55-131; 66-68; 143B-550(g); Eff. June 1, 1988; Amended Eff. October 1, 1991; September 1, 1991.*

### .0218 DESCRIPTION OF LICENSE

- (a) Every license issued to a dealer, manufacturer, factory branch, distributor, distributor branch, or wholesaler must show the name of the business, location, license number and expiration of license.
- (b) Every license issued to a sales, factory or distributor representative must show his name and address, name of his employer and expiration date.
- (c) Every dealer and manufacturer plate must show a distinctive number, the name of this State, the year it was issued for and a distinguishing symbol or word showing that the plate or plates are issued to a dealer or manufacturer.
- (d) Every motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch, or wholesaler shall, on or before the 30th day of June in any calendar year, apply for and obtain, upon payment of proper fees, the license and number plates required by G.S. 20-79.

*History Note: Statutory Authority G.S. 20-1; 20-79; 20-290(a); 20-291; Eff. June 1, 1988; Amended Eff. October 1, 1991.*

### .0219 BUSINESS RECORDS

- (a) All motor vehicle dealers, manufacturers, factory branches, distributors, distributor branches and wholesalers shall keep a record for at least four years of all vehicles manufactured, received, sold, traded or junked. In addition to these records, a copy of a damage disclosure form, completed with the information required by law from the seller and a copy of a damage disclosure form, completed with the information required by law, given to the purchaser. An odometer disclosure form shall be retained for a period of five years as required by G.S. 20-347.1.
- (b) Additional records required under this section shall include:
  - (1) Make, body style, vehicle identification number, and year model.
  - (2) Name of person, firm or corporation from whom acquired.
  - (3) Date vehicle purchased or manufactured.
  - (4) Name of person, firm or corporation to whom sold or traded. If vehicle junked, date, name and address of person, firm or corporation to whom frame, motor and body sold.
  - (5) Date vehicle sold or traded.
  - (6) Copy of bill of sale (written statement).
- (c) All records required to be maintained in Paragraphs (a) and (b) shall be kept and maintained for every vehicle purchased or sold and shall be kept so as to be readily available for inspection upon demand from an authorized agent of the North Carolina Division of Motor Vehicles in order that the ownership of any vehicle purchased or sold can be traced.
- (d) Manufacturer's Certificates of Origin and title for all vehicles owned by a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch or wholesaler must be immediately available to assign to the purchaser.

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(e) Retail installment sales must be made in accordance with G.S. 20-303. Cash sales may be made by proper endorsement and delivery of the title to the purchaser and any other receipt that the purchaser and seller agree upon.

(f) Pursuant to 16 CFR 455.2 a dealer shall not willfully remove the "Monroney Label" or sticker from a new automobile that is displayed for sale. The "Monroney Label" must be affixed to the new automobile at the time of sale to the ultimate purchaser. "Ultimate Purchaser" means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a new automobile for purposes other than a resale.

(g) Pursuant to 15 USC Sec. 1231 every dealer offering used cars for sale shall post buyers guides with warranty information as required by the Federal Trade Commission and same shall be displayed at the time of sale.

*History Note: Statutory Authority G.S. 20-1; 20-52, 20-75; 20-79(a) and (b); 20-82; 20-286(6) and (15); 20-297; 20-302; 20-303; 20-347; Eff. June 1, 1988; Amended Eff. October 1, 1991; October 1, 1989.*

### **.0221 CONDITIONS FOR ISSUING TEMPORARY MARKERS BY A DEALER**

(a) Ownership in the vehicle must pass from the dealer to the purchaser by assigning the title or Manufacturer's Certificate of Origin and by delivering the vehicle to the buyer.

(b) Dealer has obtained from purchaser an application for registering and titling of the purchased vehicle.

(c) Dealer has collected all prescribed fees for titling and registering the vehicle.

(d) Dealer has certification (Form FR-2) certifying liability insurance in effect.

(e) Exception:

The only exception to the above rules b and c is when the dealer is selling the vehicle to an out-of-state purchaser and the vehicle is to be removed from the State of North Carolina to the purchaser's home state prior to the expiration of the 30-day temporary registration marker. Form FR-2 (Insurance Certification) shall be completed and kept by the dealer as part of his records.

(f) Issuance of 30-day temporary marker:

(1) All 30-day temporary markers shall be issued in numerical order, beginning with the lowest number of the set or sets.

(2) The vehicle identification number, the make, the issuance date, and the expiration date shall be entered clearly and indelibly on the face of the temporary marker.

(3) A receipt, which corresponds in number with the 30-day temporary marker, shall be issued.

(4) The receipt shall be completed in duplicate, with pen and ink, and must be readable.

(5) The white copy of the receipt, with the 30-day marker, shall be delivered to the purchaser. The pink copy is to be retained in the book by the issuing dealer for at least one year.

(6) All documents necessary to title and register the vehicle shall be presented to a license plate agency or mailed to the North Carolina Division of Motor Vehicles four working days from date of issuance.

(EXCEPTION): When the purchaser is a nonresident, a 30-day temporary marker may be issued to the nonresident for the sole purpose of removing the vehicle to his home state, provided the customer has in effect liability insurance with a company licensed in North Carolina. The dealer is neither required to obtain from such nonresident a written application for North Carolina registration nor to collect the North Carolina registration fees. However, Form FR-2 should be completed and kept by the dealer as part of his records. If a plate is to be transferred, a 30-day temporary marker cannot be issued. Record the information on the report sheet in the back of receipt book.

(7) All 30-day temporary markers and or receipts that are voided shall be marked "voided" and recorded on the report sheet. The white copy of the receipt and the 30-day temporary marker shall be forwarded to the North Carolina Division of Motor Vehicles Enforcement Section together with the report sheets. Receipts and 30-day temporary markers that do not match shall be returned to the Division after recording on report sheet. The receipt is not to be altered.

(8) Only one 30-day temporary marker may be issued per vehicle per sale.

(9) Upon issuance of all receipts (Markers) in each receipt book, the report sheet must be completed in duplicate and the original mailed to the Division. A copy of the report sheet must be retained by the Dealer for one year.

(10) All 30-day temporary markers are non-transferable between dealers.

*History Note: Statutory Authority G.S. 20-39; 20-79.1;  
Eff. June 1, 1988;  
Amended Eff. October 1, 1991; October 1, 1989.*

**.0223 DEALER PLATES**

Application for plates must be signed by owner, partner or officer of the corporation. Lost or stolen dealer plates must be reported to the Division of Motor Vehicles in writing. To replace such plates, complete the appropriate form and submit a fee of ten dollars (\$10.00) for each plate.

*History Note: Statutory Authority G.S. 20-39; 20-68; 20-85(5);  
Eff. June 1, 1988;  
Amended Eff. October 1, 1991.*

**.0224 ILLEGAL USE OF DEALER PLATES**

(a) It is illegal to use dealer plates on vehicles operated for any other business that the dealer is engaged in. The sale of vehicles not required to be registered, excluding farm tractors, is considered another business and delivery of such vehicles by motor transport is not permitted with dealer plates.

(b) Parts trucks used in delivering parts to other sales outlets may use dealer plates only if the sale of parts is incident to the dealer business. A parts business that is separate and apart from the dealership cannot use dealer plates.

(c) It is illegal to use dealer plates on vehicles that are not owned by the dealer.

(d) It is illegal for persons other than dealers, corporate officers, full-time and designated part-time employees to operate a dealership vehicle unless they are in possession of a 96-hour permit. The said permit must include license plate number, permittee's name, address, driver's license number, date and hour of issue and must be signed by dealer or sales manager and person receiving vehicle. A duplicate copy of the permit must be retained by the dealer. Void if erasures are made.

(e) It is illegal to use dealer plates on wreckers used for general wrecker service or on wreckers which move vehicles on a rotation basis at the request of state or local law enforcement authorities. It is permissible to use a dealer plate on wreckers which tow vehicles for the dealer's customers only.

*History Note: Statutory Authority G.S. 20-39; 20-79;  
Eff. June 1, 1988;  
Amended Eff. October 1, 1991; October 1, 1989.*

**.0225 VEHICLES OFFERED FOR SALE OWNED BY DEALERSHIP**

No vehicle shall be sold or offered for sale or trade by any motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch or wholesaler until said motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch or wholesaler has in his possession a certificate of title or manufacturers certificate of origin or same is immediately available to complete transfer of ownership to the consumer-purchaser.

*History Note: Statutory Authority G.S. 20-39; G.S. 20-79;  
Eff. June 1, 1988;  
Amended Eff. October 1, 1991.*

**.0226 VEHICLES OFFERED FOR SALE ON CONSIGNMENT**

(a) Any dealer offering a vehicle for sale that is on consignment from a manufacturer, distributor, factory branch, distributor branch, wholesaler or individual shall have in his possession a consignment contract for each vehicle, executed by both parties.

(b) The consignment contract shall consist of the following:

(1) The effective dates of the contract.

(2) The complete name, address, and the telephone number, if available, of the owner.

(3) A complete description of the vehicle on consignment, including the make, model, body style, year, and vehicle identification number.

(4) The listing charges.

(5) The percentage of commission or the amount of the commission the dealer is to get if the vehicle is sold.



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- (6) The "after termination" clause shall not exceed 30 days.
- (c) Any dealer offering a vehicle for sale on consignment must tell the prospective customer that the vehicle is on consignment unless the dealer is going to take ownership of the vehicle by completing a re-assignment on the title documents. Any dealer selling a vehicle on consignment from a wholesaler must take ownership of that vehicle prior to its retail sale.
- (d) Dealer plates cannot be used to demonstrate a vehicle on consignment. The consignee's plate may be used if liability insurance is in effect.
- (e) In addition to a consignment contract, the dealer shall have in his possession an equipment listing of the vehicle, consisting of, but not limited to, the following:
- (1) Owners name and address.
  - (2) Complete description of the vehicle which shall include the year, make, model, body style, color, odometer reading, special or extra equipment, and the disclosure of known defects.
  - (3) The vehicle must display a current safety inspection certificate.
- (f) The ownership documents of any vehicle on consignment must be made available to any authorized agent of the North Carolina Division of Motor Vehicles on request. The ownership documents must be readily available from the owner.
- (g) The owner must execute the ownership documents and deliver them to the purchaser at the time the vehicle is delivered.

*History Note: Statutory Authority G.S. 20-302;  
Eff. June 1, 1988;  
Amended Eff. October 1, 1991.*

### **.0227 VEHICLES OFFERED FOR SALE ON A FLOOR PLAN LIEN**

- (a) Any dealer offering a vehicle for sale that has a floor plan lien on it shall at the time of sale, satisfy the floor plan lien and obtain the title from the floor plan lienholder, execute the title documents and deliver them to the purchaser or the lienholder as required by G.S. 20-72 and G.S. 20-75 at the time the vehicle is delivered.
- (b) Manufacturers Certificate of Origin and titles may be retained by the floor plan lienholder so long as the Manufacturers Certificate of Origin and/or titles are located within the boundaries of North Carolina; provided the dealer has in possession, available for inspection, an invoice from the manufacturer or distributor and a floor plan disclosure form completed, dated and signed by both parties.

*History Note: Statutory Authority G.S. 20-302;  
Eff. June 1, 1988;  
Amended Eff. October 1, 1991.*

### **.0228 BILL OF SALE, ODOMETER STATEMENT - WRITTEN DOCUMENTATION**

- (a) Bill of Sale - Every motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch or wholesaler at the time of sale or trade shall provide to the buyer in writing the applicable information listed below which may be on a bill of sale, buyer's order, financial statement or combination thereof. Each form must be completed in duplicate, signed by the buyer and seller, and the original or copy provided to the buyer and a copy of original retained by the dealer for four years. Such documents shall include:
- (1) Name and address of person, firm or corporation to whom vehicle sold or traded.
  - (2) Date of sale or trade.
  - (3) Name and address of motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch or wholesaler selling or trading vehicle.
  - (4) Make, body style, vehicle identification number and year model.
  - (5) Sale price of vehicle.
  - (6) Amount of cash down payment made by the buyer.
  - (7) Description of any vehicle used as a trade-in and the amount credited the buyer for sale trade-in. [Description of trade-in shall be the same as outlined in Subparagraph (a)(4) of this Rule.]
  - (8) Amount of finance charge, if any, and interest.
  - (9) The cost of insurance to the buyer, if any, and an explanation of the type and amount of coverage.
  - (10) Any investigation charges, service charges or any other charge or charges not included in previous items. The purpose of each charge must be specified.
  - (11) Net balance due from the buyer.

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- (12) The amount of each payment and the time and schedule of deferred payment and to whom payments are to be made.
- (13) Bill of sale must be signed by both the seller and buyer.
- (b) Odometer Statement - Odometer disclosure statements must comply with Article 15 of Chapter 20 of the North Carolina General Statutes and copies retained for a period of five years.

*History Note: Statutory Authority G.S. 20-39;  
Eff. June 1, 1988;  
Amended Eff. October 1, 1991; October 1, 1989.*

### **.0231 HEARINGS PURSUANT TO ARTICLES 12 AND 15 OF CHAPTER 20**

- (a) The following shall be applicable to hearings requested under G.S. 20-296:
  - (1) No license issued under this Article shall be suspended, revoked or renewal refused until a hearing has been held before the Commissioner or a person designated by him and licensee shall have been notified in writing ten days prior to such hearing by certified mail to his last known address as shown by records of the Division. Provided, however, if a licensee fails to maintain a bond as required by G.S. 20-288(e) or fails to purchase dealer license plates as required by G.S. 20-79, the Division shall cancel the dealer's license subject to the provision that the licensee shall be granted a hearing if requested in writing within ten days after the date of cancellation of such license.
  - (2) Hearing shall be held at a place designated by the Commissioner.
  - (3) The licensee shall be advised of the decision of the Commissioner in writing by certified mail within 30 days of the decision to his last known address as shown by records of the Division.
  - (4) The decision of the Commissioner or his duly authorized representative, after hearing, shall be final and appeal therefrom shall be as provided in Chapter 150B of the North Carolina General Statutes (G.S. 20-300).
- (b) Except as otherwise provided, the North Carolina Rules of Civil Procedure will be applicable to hearings requested under N.C.G.S. 20-304 through 20-305.4.
  - (1) Action shall be initiated by the filing of a petition with the Commissioner of Motor Vehicles, North Carolina Division of Motor Vehicles, Raleigh, N. C. 27697, who shall serve a copy thereof on the affected manufacturer by certified mail (return receipt requested) with notice that such manufacturer should reply to the subject petition of the dealer within 30 days unless enlargement of time to file a reply is requested and allowed by the Commissioner.
  - (2) Petitioner and replies:
    - (A) The form of the petition shall be the same as that required for filing of petitions in the superior court and there shall be attached thereto a copy of the franchise agreement between the dealer and manufacturer.
    - (B) The form of the reply to the petition shall be the same as required for the filing of a reply to a petition in the superior court and there shall be attached thereto a copy of the franchise agreement between the manufacturer and dealer.
    - (C) Exhibits and supporting documents shall be attached to the petition or reply at the time of filing.
  - (3) The hearing shall be held at a place designated by the Commissioner upon 20 days written notice to both the petitioner and respondent.
    - (A) It shall be the obligation of the parties involved to have present at any hearing all witnesses which the parties desire to be heard.
    - (B) The parties shall be advised of the decision of the Commissioner in writing by certified mail to the addresses as shown in the pleadings filed in the action.
  - (4) The decision of the Commissioner or his duly authorized representative after hearing shall be final and appeal therefrom shall be as provided in Chapter 150B of the North Carolina General Statutes (G.S. 20-300).
- (c) If license is cancelled due to licensee's failure to maintain a bond as required by G.S. 20-288(e) or failure to purchase dealer license plates as required by G.S. 20-79, then the licensee may have a hearing if requested in writing within ten days after the license cancellation.

*History Note: Statutory Authority G.S. 20-1; 20-294 through 20-296;  
20-301 through 20-305; 20-305.1 through 20-305.3;  
Eff. June 1, 1988;  
Amended Eff. October 1, 1991; October 1, 1989.*

**SECTION .0400 - NOTICE OF SALE AND STORED VEHICLES**

**.0401 STORED VEHICLE**

A report must be filed with the Enforcement Section by law enforcement officers of all vehicles reported to them as abandoned and of all vehicles stored for illegal use.

*History Note: Statutory Authority G.S. 20-1; 20-114(c);  
Eff. July 1, 1978;  
Amended Eff. October 1, 1991; February 1, 1982.*

**.0402 UNCLAIMED MOTOR VEHICLE**

An unclaimed motor vehicle report is to be filed with the Enforcement Section, Division of Motor Vehicles, Raleigh, North Carolina by the owner of any business where vehicles are garaged, repaired, parked or stored for the public within 5 days after the vehicle has been unclaimed for 30 days. When a vehicle has been abandoned on a landowner's property for more than 60 days, he must notify this section within 5 days after the 60-day period. Notification shall be made on Form LT-126--Report of Unclaimed Motor Vehicle to the Enforcement Section, Division of Motor Vehicles, Raleigh, North Carolina.

*History Note: Statutory Authority G.S. 20-1; 20-77(d);  
Eff. July 1, 1978;  
Amended Eff. October 1, 1991; February 1, 1982.*

**.0403 SALE OF VEHICLE TO SATISFY STORAGE OR MECHANIC'S LIEN**

(a) When a person who repairs, services, tows or stores motor vehicles in the regular course of his business has a vehicle in his possession for 30 days following the date the storage or mechanic charges became due and the lien remains unpaid, he shall file with the Enforcement Section an Unclaimed Motor Vehicle Report (Form LT-126).

(b) If the person or firm claiming the mechanic's or storage lien desires to sell the vehicle to satisfy such claim, he shall notify the Enforcement Section of intent to sell such vehicle by use of Form LT-102. This form must be completed in its entirety and mailed with a fee of ten dollars (\$10.00) to the Enforcement Section of the Division of Motor Vehicles, Raleigh, North Carolina.

(c) After all interested parties of record have been notified of the proposed sale and a request for judicial hearing is not received, the Enforcement Section will notify the person or firm claiming the storage or mechanic's lien.

(d) The person or firm claiming the storage or mechanic's lien on a motor vehicle shall use Form LT-103 to notify the Enforcement Section 20 days in advance of a public or private sale.

*History Note: Statutory Authority G.S. 20-1; 20-77(d),(e); 20-114(c); 44A-2; 44A-4;  
Eff. July 1, 1978;  
Amended Eff. October 1, 1991; February 1, 1982.*

**.0404 SALE OF MOTOR VEHICLE UNDER JUDICIAL PROCEEDINGS**

Any person selling a vehicle under judicial proceedings shall give notice to the Enforcement Section by Form LT-101 or LT-103 at least 20 days in advance of a public or private sale. A copy of the court order, judgement or execution, which shall fully describe the vehicle being sold, must accompany the notice of sale (Form LT-101).

*History Note: Statutory Authority G.S. 20-1; 20-114(c);  
Eff. July 1, 1978;  
Amended Eff. October 1, 1991; February 1, 1982.*

**.0405 SALE OF ABANDONED VEHICLE**

Any city or county selling an abandoned vehicle as a result of city or county ordinance on file with the Enforcement Section, Division of Motor Vehicles, Raleigh, North Carolina, must give this section at least 20 days notice prior to such sale and this notice shall be on Form LT-101--Notice of Sale of a Motor Vehicle.



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*History Note: Statutory Authority G.S. 20-1; 160A-303; 153-9;  
Eff. July 1, 1978;  
Amended Eff. October 1, 1991; February 1, 1982; April 11, 1980.*

**LIST OF RULES CODIFIED**

*The List of Rules Codified is a listing of rules that were filed with OAH in the month indicated.*

**Key:**

- Citation* = Title, Chapter, Subchapter and Rule(s)
- AD* = Adopt
- AM* = Amend
- RP* = Repeal
- With Chgs* = Final text differs from proposed text
- Eff. Date* = Date rule becomes effective
- Temp. Expires* = Rule was filed as a temporary rule and expires on this date

**NORTH CAROLINA ADMINISTRATIVE CODE**

**JULY 1991**

TITLE	DEPARTMENT	TITLE	DEPARTMENT
2	Agriculture	16	Public Education
4	Economic and Community Development	19A	Transportation
5	Correction	21	Occupational Licensing Boards
10	Human Resources		14 - Cosmetic Art Examiners
11	Insurance		32 - Medical Examiners
15A	Environment, Health, and Natural Resources	25	58 - Real Estate Commission State Personnel

	Citation	AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
2	NCAC 48F .0301 - .0302		•		•	09 01 91	
	.0501		•			09 01 91	
4	NCAC 19L .0906		•			09 01 91	
	.0907		•		•	09 01 91	
	20A .0002		•			07 25 91	01 22 92
	20B .0901 - .0911	•				07 25 91	01 22 92
5	NCAC 2D .0601		•			09 01 91	
10	NCAC 26H .0202		•		•	10 01 91	
	.0204		•		•	10 01 91	
	.0206		•		•	10 01 91	
	.0507		•			09 01 91	
	29B .0003		•		•	09 01 91	
	41H .0313		•			09 01 91	
	46H .0201		•			10 01 91	
	.0203		•		•	10 01 91	

*LIST OF RULES CODIFIED*

Citation		AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
10	NCAC 49B .0606		•		•	09 01 91	
	51F .0101 - .0103		•			07 24 91	01 20 92
	.0202		•			07 24 91	01 20 92
	.0301 - .0302		•			07 24 91	01 20 92
	.0401 - .0402		•			07 24 91	01 20 92
	.0501 - .0504		•			07 24 91	01 20 92
	.0601		•			07 24 91	01 20 92
11	NCAC 8 .0801 - .0802		•			09 01 91	
	.0803 - .0804			•		09 01 91	
	.0805		•			09 01 91	
	.0806 - .0814			•		09 01 91	
	.0816 - .0818			•		09 01 91	
	13 .0319		•			09 01 91	
	.0510			•		09 01 91	
	16 .0106		•			09 01 91	
	.0108	•				09 01 91	
15A	NCAC 3H .0003		•		•	09 01 91	
	3I .0011		•			09 01 91	
	3J .0103		•			09 01 91	
	.0107		•			09 01 91	
	.0201			•		09 01 91	
	.0202 - .0204		•			09 01 91	
	.0205			•		09 01 91	
	.0301		•		•	09 01 91	
	3K .0104 - .0105		•			09 01 91	
	.0201 - .0202		•			09 01 91	
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	.0305		•		•	09 01 91	
	3L .0202		•		•	09 01 91	
	3M .0201 - .0202		•			09 01 91	
	.0203			•		11 01 91	
	.0501		•			09 01 91	
	.0505 - .0506		•			09 01 91	
	.0507		•		•	09 01 91	
	.0508	•			•	09 01 91	
	3N .0003 - .0005		•			09 01 91	
	3O .0201 - .0202		•			09 01 91	



*LIST OF RULES CODIFIED*

Citation			AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
15A	NCAC	3O .0203 - .0209		•		•	09 01 91	
		.0210		•			09 01 91	
		3P .0003	•			•	09 01 91	
		3Q .0107	•				11 01 91	
		.0108 - .0109		•			09 01 91	
		.0202		•			09 01 91	
		3R .0001		•			09 01 91	
		.0002 - .0003		•		•	09 01 91	
		.0007 - .0008		•		•	09 01 91	
		.0010		•			09 01 91	
		10K .0002	•			•	09 01 91	
		17A .0404		•			09 01 91	
		17B .0104		•			09 01 91	
		.0304		•			09 01 91	
		18A .0126		•			09 01 91	
		.0704		•			09 01 91	
		.0914		•			09 01 91	
		.1202		•			09 01 91	
		.1206		•			09 01 91	
		.2638		•			09 01 91	
		.2707		•			09 01 91	
		18C .0501		•			09 01 91	
		.1604		•			09 01 91	
		.1605		•			09 01 91	
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		.1912		•			09 01 91	
		19A .0104		•			09 01 91	
		.0501		•			09 01 91	
		19C .0401 - .0402		•			09 01 91	
		19D .0104		•			09 01 91	
		21D .0301		•			09 01 91	
		.0303		•			09 01 91	
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		.0401		•			09 01 91	
		.0409		•			09 01 91	
		25 .0211		•			09 01 91	
16	NCAC	6C .0207	•			•	09 01 91	

*LIST OF RULES CODIFIED*

Citation				AD	AM	RP	With Chgs	Eff. Date	Temp. Expires
19A	NCAC	3D	.0101		•			10 01 91	
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			.0217		•			09 01 91	
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			.0223 - .0228		•			10 01 91	
			.0231		•			10 01 91	
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21	NCAC	14F	.0010			•		09 01 91	
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		32B	.0309		•			09 01 91	
		58C	.0302		•		•	10 01 91	
		58D	.0201		•		•	10 01 91	
25	NCAC	1A	.0006	•				09 01 91	
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		1D	.0211		•		•	09 01 91	
			.0308		•			09 01 91	
			.0509		•		•	09 01 91	
			.0611		•			09 01 91	
			.0706		•			09 01 91	
		1J	.0606		•		•	09 01 91	

## ARRC OBJECTIONS

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*The Administrative Rules Review Commission (ARRC) objected to the following rules in accordance with G.S. 143B-30.2(c). State agencies are required to respond to ARRC as provided in G.S. 143B-30.2(d).*

### EDUCATION

#### Elementary and Secondary Education

16 NCAC 6C .0207 - Prospective Teacher Scholarship Loans ARRC Objection 6/21/91

### ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

#### Adult Health

15A NCAC 16A .0804 - Financial Eligibility ARRC Objection 1/18/91  
No Response from Agency 2/25/91  
Agency Responded No Action 3/21/91  
No Response from Agency No Action 4/18/91  
15A NCAC 16A .0806 - Billing the HIV Health Services Program ARRC Objection 1/18/91  
No Response from Agency 2/25/91  
Agency Responded No Action 3/21/91  
No Response from Agency No Action 4/18/91

#### Wildlife

15A NCAC 10K .0001 - Course Requirements ARRC Objection 7/18/91

### HUMAN RESOURCES

#### Children's Services

10 NCAC 41I .0406 - Responsibility for Training of Team Members ARRC Objection 7/18/91

#### Individual and Family Support

10 NCAC 42B .1201 - Personnel Requirements ARRC Objection 1/18/91  
No Response from Agency 2/25/91  
Agency Returned Rule Unchanged No Action 3/21/91  
Agency Filed Rule with OAH Rule Eff. 8/01/91  
10 NCAC 42C .2001 - Qualifications of Administrator ARRC Objection 1/18/91  
No Response from Agency 2/25/91  
Agency Returned Rule Unchanged No Action 3/21/91  
Agency Filed Rule with OAH Rule Eff. 8/01/91  
10 NCAC 42C .2002 - Qualifications of Supervisor-in-Charge ARRC Objection 1/18/91  
No Response from Agency 2/25/91  
Agency Returned Rule Unchanged No Action 3/21/91  
Agency Filed Rule with OAH Rule Eff. 8/01/91  
10 NCAC 42C .2006 - Qualifications of Activities Coordinator ARRC Objection 1/18/91  
No Response from Agency 2/25/91  
Agency Returned Rule Unchanged No Action 3/21/91  
Agency Filed Rule with OAH Rule Eff. 8/01/91  
10 NCAC 42C .3301 - Existing Building ARRC Objection 11/14/90  
Agency Returned Rule Unchanged No Action 12/20/90



## ARRC OBJECTIONS

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<i>Agency Filed Rule with OAH</i>	<i>Rule Eff.</i>	<i>5/01/91</i>
<i>10 NCAC 42D .1401 - Qualifications of Administrator/Co-Administrator</i>	<i>ARRC Objection</i>	<i>11/14/90</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action</i>	<i>12/20/90</i>
<i>Agency Filed Rule with OAH</i>	<i>Rule Eff.</i>	<i>5/01/91</i>

### Social Services

<i>10 NCAC 24A .0303 - Sel/County Board Members/Social Svcs Comm</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>7/18/91</i>

### INSURANCE

#### Engineering and Building Codes

<i>11 NCAC 8 .0815 - Final Board Order</i>	<i>ARRC Objection</i>	<i>7/18/91</i>
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### LICENSING BOARDS AND COMMISSIONS

#### Cosmetic Art Examiners

<i>21 NCAC 14F .0010 - Sanitary Rules</i>	<i>ARRC Objection</i>	<i>5/16/91</i>
<i>No Response from Agency</i>	<i>No Action</i>	<i>7/18/91</i>
<i>21 NCAC 14G .0017 - Changes in Teaching Staff</i>	<i>ARRC Objection</i>	<i>5/16/91</i>
<i>No Response from Agency</i>	<i>No Action</i>	<i>7/18/91</i>
<i>21 NCAC 14I .0304 - Classroom Work</i>	<i>ARRC Objection</i>	<i>5/16/91</i>
<i>No Response from Agency</i>	<i>No Action</i>	<i>7/18/91</i>

#### Medical Examiners

<i>21 NCAC 32B .0309 - Personal Interview</i>	<i>ARRC Objection</i>	<i>2/25/91</i>
<i>Agency Responded</i>	<i>No Action</i>	<i>3/21/91</i>
<i>Rule Returned to Agency</i>		<i>5/16/91</i>

*This Section of the Register lists the recent decisions issued by the North Carolina Supreme Court, Court of Appeals, Superior Court (when available), and the Office of Administrative Hearings which invalidate a rule in the North Carolina Administrative Code.*

**10 NCAC 261 .0101 - PURPOSE: SCOPE/NOTICE OF CHANGE IN LEVEL OF CARE**

**10 NCAC 261 .0102 - REQUESTS FOR RECONSIDERATION AND RECIPIENT APPEALS**

**10 NCAC 261 .0104 - FORMAL APPEALS**

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rules 10 NCAC 261 .0101, 10 NCAC 261 .0102 and 10 NCAC 261 .0104 void as applied in *Linda Allred, Petitioner v. North Carolina Department of Human Resources, Division of Medical Assistance, Respondent* (90 DHR 0940).

**10 NCAC 42W .0003(e) - COUNTY DEPT OF SOCIAL SERVICES RESPONSIBILITIES**

**10 NCAC 42W .0005 - REPORTING CASES OF RAPE AND INCEST**

The North Carolina Court of Appeals, per Judge Robert F. Orr, declared Rules 10 NCAC 42W .0003(c) and 10 NCAC 42W .0005 void as applied in *Rankin Whittington, Daniel C. Hudgins, Dr. Takey Crist, Dr. Gwendolyn Boyd and Planned Parenthood of Greater Charlotte, Inc., Plaintiffs v. The North Carolina Department of Human Resources, David Flaherty, in his capacity as Secretary of the North Carolina Department of Human Resources, The North Carolina Social Services Commission, and C. Barry McCarty, in his capacity as Chairperson of the North Carolina Social Services Commission, Defendants* [100 N.C. App. 603, 398 S.E.2d 40 (1990)].

**16 NCAC 6D .0105 - USE OF SCHOOL DAY**

The North Carolina Supreme Court, per Associate Justice Henry E. Frye, held invalid Rule 16 NCAC 6D .0105 as decided in *The State of North Carolina; The North Carolina State Board of Education; and Bob Etheridge, State Superintendent of Public Instruction, Plaintiffs v. Whittle Communications and The Thomasville City Board of Education, Defendant-Counterclaimants and The Davidson County Board of Education, Defendant-Intervenor and Counterclaimant v. The State of North Carolina; The North Carolina State Board of Education; and Bob Etheridge, State Superintendent of Public Instruction; and Howard S. Haworth; Barbara M. Tapscott; Kenneth R. Harris; Teena Smith Little; W.C. Meekins Jr.; Mary B. Morgan; Patricia H. Neal; Cary C. Owen; Donald D. Pollock; Prezcell R. Robinson; Norma B. Turnage; State Treasurer Harlan E. Boyles; and Lt. Governor James C. Gardner; in their official capacities as members of The North Carolina State Board of Education, Counterclaim Defendants* [328 N.C. 456, 402 S.E.2d 556 (1991)].

**15A NCAC 7H .0308 - SPECIFIC USE STANDARDS**

The North Carolina Court of Appeals, per Judge Sidney S. Eagles Jr., held that it was error for the Coastal Resources Commission to fail to follow the required notice and comment procedure prior to the adoption of temporary rule 15A NCAC 7H .0308(a)(1)(M), but that the CRC followed proper procedures when it adopted the text of the temporary rule as a permanent rule [15A NCAC 7H .0308(a)(1)(M)]. *Conservation Council of North Carolina v. Haste* [102 N.C. App. 411, 402 S.E.2d 447 (1991)].

**NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM**

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

**TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE**

TITLE	DEPARTMENT	LICENSING BOARDS	CHAPTER
1	Administration	Architecture	2
2	Agriculture	Auctioneers	4
3	Auditor	Barber Examiners	6
4	Economic and Community Development	Certified Public Accountant Examiners	8
5	Correction	Chiropractic Examiners	10
6	Council of State	General Contractors	12
7	Cultural Resources	Cosmetic Art Examiners	14
8	Elections	Dental Examiners	16
9	Governor	Electrical Contractors	18
10	Human Resources	Foresters	20
11	Insurance	Geologists	21
12	Justice	Hearing Aid Dealers and Fitters	22
13	Labor	Landscape Architects	26
14A	Crime Control and Public Safety	Landscape Contractors	28
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16	Public Education	Medical Examiners	32
17	Revenue	Midwifery Joint Committee	33
18	Secretary of State	Mortuary Science	34
19A	Transportation	Nursing	36
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*21	Occupational Licensing Boards	Occupational Therapists	38
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23	Community Colleges	Optometry	42
24	Independent Agencies	Osteopathic Examination and Registration (Repealed)	44
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**Note:** Title 21 contains the chapters of the various occupational licensing boards.



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- AO - Administrative Order
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