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The **NORTH CAROLINA REGISTER**

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ISSUE DATE: DECEMBER 15, 1986

Volume 1 • Issue 9 • Pages 599-670



INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published 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 one hundred 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 ninety-five dollars (\$95.00) for 12 issues.

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

ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include a reference to the Statutory Authority for the action; the time and place of the public hearing and 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; 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.

Following publication of the proposal in the *North Carolina Register*, at least 60 days must elapse before the agency may take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, 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.

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 120 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) In looseleaf pages 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) On microfiche. The microfiche edition is revised semi-annually (March and October) and can be purchased for forty dollars (\$40.00) per edition. Due to the volume of the Code, the complete copy can only be purchased on microfiche. The NCAC on microfiche is updated monthly by publication of a "List of Rules Affected" which sets out rules filed the previous month, the action taken, and the effective date of the change. This list is published in the *North Carolina Register*.

Requests for looseleaf pages of rules or the NCAC on microfiche 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.

North Carolina Register. Published monthly by the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions ninety-five dollars (\$95.00) per year.

North Carolina Administrative Code. Published in March and October by the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions forty dollars (\$40.00) per edition.

NORTH CAROLINA REGISTER

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NORTH CAROLINA REGISTER
Publication Deadlines and Schedules
(April 1986 - March 1987)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing	Earliest Date for Adoption by Agency	Earliest Effective Date
04/15/86	03/25/86	04/01/86	05/15/86	06/14/86	08/01/86
05/15/86	04/24/86	05/01/86	06/14/86	07/14/86	09/01/86
06/16/86	05/27/86	06/03/86	07/16/86	08/15/86	10/01/86
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02/16/87	01/26/87	02/02/87	03/18/87	04/17/87	06/01/87
03/16/87	02/23/87	03/02/87	04/15/87	05/15/87	07/01/87

CORRECTION

CORRECTION FOR NOTICE OF THE DEPARTMENT OF AGRICULTURE, STRUCTURAL PEST CONTROL COMMITTEE HEARING PUBLISHED IN THE NORTH CAROLINA REGISTER, VOLUME 1, ISSUE 8, NOVEMBER 15, 1986. On page 557 the notice should have read:

Notice is hereby given in accordance with G.S. 150B-12 that the Structural Pest Control Committee intends to amend regulation cited as 2 NCAC 34 .0602(a) and .0904(g).

The proposed effective date is June 1, 1987.

Statutory Authority: G.S. 106-65.29.

The public hearing will be conducted at 9:00 a.m. on January 6, 1987, in the Board Room, Agriculture Building, 1 W. Edenton 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 David S. Mcleod, Chairman of the Structural Pest Control Committee, P. O. Box 27647, Raleigh, North Carolina 27611.

VOTING RIGHTS ACT FINAL DECISION LETTER

[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
Washington, D.C. 20530

WBR:LLT:RA:gmh
DJ 166-012-3
R1029; R2185-2191
P7641-7642

October 17, 1986

Richard J. Rose, Esq.
Poyner & Spruill
P. O. Box 353
Rocky Mount, NC 27802-0353

Dear Mr. Rose:

This refers to the nine annexations (Ordinance Nos. 0-86-14, 0-86-15, 0-86-16, 0-86-17, 0-86-18, 0-86-19, 0-86-20, 0-86-32, and 0-86-46) and the designation of the annexed areas to Wards 5 and 7 for the City of Rocky Mount in Edgecombe and Nash Counties, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submissions on July 14 and August 18, 1986.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.48).

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

U.S. Department of Justice
Washington, D.C. 20530

WBR:LLT:TGL:sw:gmh
DJ 166-012-3
R0480
R1401; R2641

October 29, 1986

David A. Holec, Esq.
City Attorney
P.O. Box 1388
Lumberton, NC 28359-1388

Dear Mr. Holec:

This refers to the August 4, 1986, and September 15, 1986, annexations to the City of Lumberton in Robeson County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submissions on September 2 and October 6, 1986.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine this submission if additional information that would otherwise require an objection comes to his attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.42 and 51.48).

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

U.S. Department of Justice
Washington, D.C. 20530

WBR:SSC:TGL:gmh
DJ 166-012-3
R1384-1390

November 24, 1986

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

Dear Mr. Cogswell:

This refers to the six annexations (Ordinance Nos. 86-7-296, 86-7-297, 86-7-298, 86-7-299, 86-7-300, 86-9-301) and the designation of the annexed areas to city council Districts 1 and 5 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 September 25, 1986.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.48).

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

ATTORNEY GENERAL'S OPINIONS

[Opinions of the Attorney General that interpret or affect Chapter 150B of the General Statutes are published as requested by G.S. 150B-63(d1).]

State of North Carolina
Department of Justice
P. O. Box 629
Raleigh, NC 27602-0629

SUBJECT: Administrative Procedures Act; Rulemaking Requirements;
Employee Insurance Committees

REQUESTED BY: Elizabeth H. Drury
Director, Office of Legislative and Legal Affairs
Department of Human Resources

- QUESTIONS: (1) Does the APA definition of a "rule" in N.C. Gen. Stat. 150B-2(8)a include procedures to be followed in fulfilling the statutory mandates of N.C. Gen. Stat. 58-194.3?
- (2) If the answer to question 1 is "yes", does the Department of Human Resources have the requisite rulemaking authority under N.C. Gen. Stat. 150B-9 to adopt rules pertaining to N.C. Gen. Stat. 58-194.3 for all twenty-four payroll units within the Department of Human Resources and would the adoption of such rules be consistent with the autonomy provisions in N.C. Gen. Stat. 58-194.3?
- (3) If the answers to questions 1 and 2 are yes, are the following functions prescribed by N.C. Gen. Stat. 58-194.3 proper subjects for rulemaking:
- a. The manner in which the Insurance Committee determines employees' needs and desires;
 - b. The manner in which the Insurance Committee publishes or otherwise requests proposals from insurance providers;
 - c. The manner in which the Insurance Committee receives, considers and selects insurance proposals submitted to it; and
 - d. Contractual provisions to be included in the contract with the provider selected by the Insurance Committee including contractual provisions pertaining to the term of the contract, whether the selected provider is the exclusive provider of a particular type of insurance, and the procedures for soliciting business from employees in the payroll unit?

- CONCLUSION: (1) Yes, if the Employee Insurance Committee establishes procedures to supplement those G.S. 58-194.3.
- (2) No, the rules would be adopted by the respective committees and organized within the Department's chapter in the North Carolina Administrative Code. The Department would act within its authority if procedures were established for the selection of committee members.
- (3) Yes, if the committee establishes formal or informal procedures on any listed subject and requires compliance therewith by its members or contract providers.

G.S.58-194.3, enacted in the 1985 Session of the General Assembly, required the establishment of Employee Insurance Committees by the heads of payroll units. The duties and powers of the committees are set forth in the enabling legislation. The 1986 amendments to the statute are not pertinent to this inquiry.

G.S.58-194.3(b) provides the method for appointment of committee members. That duty and power is vested in the head of the payroll unit. The head of the payroll unit is charged with duty of selecting a committee that is "fairly representative of the work force."

The queries raised require further refinement to provide better analytical clarity. Accordingly, new subsidiary questions are stated and addressed in the remainder of the opinion.

The predicate question to Question 1 is "Must Employee Insurance Committees adopt regulations that more specifically detail procedures to be used in the discharge of their duties as a prerequisite to exercising their statutorily conferred powers?" The answer to that query is "No." The enabling statutes are sufficiently specific to permit operation without further procedures and do not condition exercise of the authority on the prior adoption of regulations. The second issue raised by Question 1 is "When must a committee adopt regulations?" The answer to that issue derives from Chapter 150B. G.S. 150B-2(8a), the definition of "rule," must be read in conjunction with G.S. 150B-11(1) to comprehend the full breadth of the term "rule". When the two sections are read together, it is apparent that any procedures, whether formal or informal, that directly or substantially affect the rights or procedures or non-agency persons must be adopted as rules. As G.S. 150B-11(1) indicates, any forms developed by the committees for use in performance of their duties must be listed in duly adopted regulations. Thus, when the committees establish procedures that affect the rights or procedures of others, they must be codified as rules. Should the committees elect to operate by the procedural process established in the enabling statutes, no rule adoptions are necessary.

The second query likewise raises several issues. G.S. 58-194.3 does not include a specific grant of rulemaking authority. As the prefatory paragraphs indicate, it confers powers and duties on both the committee and the head of the payroll unit. Our appellate courts have recognized that state agencies inherently have the power to take actions necessary to the discharge of their duties when the statutory authority has not been specifically conferred. In re Community Association, 300 NC, 267, 280, 266 S.E.2d (1980); Charlotte Liberty Mutual Ins. Co. v. State ex. rel Lanier, 16 NC App 381, 192 SE2d 57 (1972). When that principle is read with the requirements of G.S. 150B-2(8a) and -11(1), it is apparent that every state agency has the inherent authority and duty to draft necessary regulations. Since the committees have rule making and limited quasi-judicial powers [see G.S. 58-194(b)], they are "agencies" within the meaning of G.S. 150B-2(1). (see footnote below)

The Administrative Procedure Act contains a significant, and controlling, limit on the exercise of rulemaking authority by agencies.

Each agency shall adopt, amend, suspend or repeal its rules in accordance with the procedures specified in this Article and pursuant to authority delegated by law and in full compliance with its duties and delegations. No agency may adopt any rule that implements or interprets any statute or legislative enactment unless the power, duty, or authority to carry out the

provisions of the statute or enactment is specifically conferred on the agency in the enactment, nor may any agency make any rule enlarging the scope of any trade or profession subject to licensing. G.S. 150B-9(b).

In the present matter, the Department's rulemaking authority would be limited to oversight of its payroll unit heads in the exercise of their authority to select committee members. To the extent the Department's financial division imposes budget policies and procedures on insurance providers, they are exempt from the definition of rule. See G.S. 150B-2(8a), b. and d. However, any forms used to implement this aspect of the payroll deduction program may need to be listed in rules to satisfy G.S. 150B-11(1). The Department's rulemaking authority is further established by the general authority conferred on Department heads by G.S. 143B-10. Accordingly, items specified in Question 3 are within the scope of the rule-making authority of the Employee Insurance Committee rather than the Department or the payroll unit heads.

LACY H. THORNBURG, Attorney General
Daniel F. McLawhorn
Special Deputy Attorney General

FOOTNOTE: The functions of the entity determine whether it is an "agency" rather than the omission of the word "committee" from the definition of "agency" at G.S. 150B-2(1). Commissioner of Insurance v. Rate Bureau, 300 NC 381, 269 SE2d 547, (1980); State v. Matthews, 270 NC 35, 153 SE2d 791 (1967). Compare G.S. 150B-2(1) to the definition of "public body" in the Open Meetings Law at G.S. 143B-318.10 which includes the term "committee."

PROPOSED RULES

TITLE 1 - DEPARTMENT OF ADMINISTRATION

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Administration intends to adopt, amend, repeal regulations cited as 1 NCAC 1A .0101 - .0207; .0304 - .0305; 1B .0101 - .0701.

The proposed effective date of this action is April 1, 1987.

Statutory Authority: G.S. 143B-6; 143B-367; 143B-368; 143B-9,10; 143-340(18).

The public hearing will be conducted at 10:00 a.m. on January 20, 1987 at Advisory Budget Commission Conference Room, 5th Floor, Administration Building, 116 West Jones Street, Raleigh, N.C. 27611.

Comment Procedures: Any interested person may present his or her views and comments either in writing prior to or at the hearing or orally at the hearing. Any person may request information, permission to be heard or copies of the proposed Regulations by writing or calling 733-7232.

CHAPTER 1 - DEPARTMENTAL RULES

SUBCHAPTER 1A - ORGANIZATION OF THE DEPARTMENT

SECTION .0100 - IDENTIFYING INFORMATION AND FUNCTIONS

- .0101 IDENTIFYING INFORMATION
(REPEALED)
- .0102 DEPARTMENTAL FUNCTIONS
(REPEALED)
- .0103 STRUCTURE OF THE
DEPARTMENT (REPEALED)

SECTION .0200 - OFFICE OF THE SECRETARY

- .0201 FUNCTION (REPEALED)
- .0202 DELEGATIONS (REPEALED)
- .0203 CONTROLLER (REPEALED)
- .0204 PERSONNEL OFFICER
(REPEALED)
- .0205 INFORMATION (REPEALED)
- .0206 WORKMEN'S COMPENSATION
(REPEALED)
- .0207 PARKING SPACE
ASSIGNMENTS (REPEALED)

SECTION .0300 - DEPARTMENTAL PERSONNEL PROCEDURES

- .0304 VACANCY LISTS
- The departmental personnel

office prepares weekly job vacancy lists for circulation according to the affirmative action plan in accordance with affirmative action policies. All inquiries regarding this list shall be directed to the personnel officer.

.0305 EMPLOYEE GRIEVANCE PROCEDURE

The department adopts by reference the minimum procedural requirements for a departmental grievance as prescribed by the division office of state personnel NCAC 8J .0503 recodified as 25 NCAC 1 with the following exceptions:

- (1) The department grievance committee shall consist of at least three and not more than five employees of the department chosen at random by personnel officer according to Subsection (2) of this Rule.
- (2) At least one employee shall be in the same pay grade as the employee whose grievance will be heard. No two employees shall be from the same operating unit.
- (3) The aggrieved employee may remove two members of the committee without cause and may challenge other members for cause. Such challenges must be submitted to the secretary in writing at least three days prior to the hearing. The secretary or personnel officer will then assign replacements to the committee.
- (4) Hearings conducted by the department grievance committee shall be informal and not subject to the provisions of Chapter 150B of the General Statutes.
- (5) Recommendations of the committee shall be prepared in executive session and submitted to the secretary via the personnel officer in writing within five working days following the hearing.
- (6) A member of the committee who disagrees with the findings of the majority may submit a dissenting opinion to the secretary.

SUBCHAPTER 1B - DEPARTMENTAL ADMINISTRATIVE PROCEDURES

SECTION .0100 - GENERAL INFORMATION

- .0101 SCOPE OF RULES
(REPEALED)
- .0102 SUBMITTING THE
PETITION (REPEALED)

- .0103 CONTENTS OF PETITION (REPEALED)
- .0104 DISPOSITION OF PETITIONS (REPEALED)
- .0105 TIMING OF NOTICE (REPEALED)
- .0106 ADDITIONAL INFORMATION (REPEALED)

.0107 SCOPE OF RULES

These rules establish basic minimum procedures for the adoption, amendment or repeal of administrative rules and shall apply to all elements of the Department of Administration unless specifically provided otherwise.

.0108 ORGANIZATION OF CHAPTER

(a) Sections .0200 through .0500 of this Subchapter pertain to the agency's procedures for adopting, amending, or repealing rules pursuant to the requirements of G.S. 150B-12.

(b) Section .0600 of this Subchapter deals with the issuance of declaratory ruling under the authority of G.S. 150B-17.

(c) Section .0700 concerns the procedures for Administrative Hearings and adopts by reference Title 22 Subchapter 2C of the N.C. Administrative Code pursuant to the requirements of G.S. 150B-14.

SECTION .0200 - PETITION FOR RULEMAKING

- .0201 HEARING LOCATION (REPEALED)
- .0202 WRITTEN SUBMISSIONS (REPEALED)
- .0203 PRESIDING OFFICER: POWERS AND DUTIES (REPEALED)
- .0204 STATEMENT OF REASONS FOR DECISION (REPEALED)
- .0205 RECORD OF PROCEDURES (REPEALED)
- .0206 EMERGENCY RULES (REPEALED)

.0207 SUBMITTING THE PETITION

Any person wishing to submit a petition requesting the adoption, amendment or repeal of a rule by the Department of Administration or any of its elements shall address a petition to: Secretary, Department of Administration, 116 West Jones Street, Raleigh, North Carolina 27611. The container of the petition should clearly bear the notation: RULEMAKING PETITION RE and then the subject area.

.0208 CONTENTS OF PETITION
The petition should include the following information:

- (1) an indication of the subject area to which the petition is directed; for example, "This is a petition to hold a rulemaking hearing to amend Rule .0000 pertaining to Administrative Procedure Act filing requirements;"
- (2) either a draft of the proposed rule or a summary of its contents;
- (3) reasons for the proposal;
- (4) the effect on existing rules or orders;
- (5) any data supporting the proposal;
- (6) effect of the proposed rule on existing practices in the area involved including cost factors;
- (7) names of those most likely to be affected by the proposed rule with addresses if reasonably known;
- (8) name(s) and address(es) of petitioner(s).

Any of the Subsections in this Rule may be waived at the discretion of the secretary.

.0209 DISPOSITION OF PETITIONS

(a) The Secretary of Administration or the Secretary's designee will determine whether the public interest will be served by granting the request. Prior to making this determination, the secretary or the secretary's designee may request additional information from the petitioner(s); he may contact interested persons or person likely to be affected by the proposed rule and request comments; he may use any other appropriate method for obtaining information on which to base his determination. The secretary or the secretary's designee shall consider all of the contents of the petition submitted plus any other information obtained by the means described herein.

(b) Within 30 days of submission of the petition, a final decision will be rendered by the secretary of the Department of Administration. If the decision is to deny the petition, the secretary will notify the petitioner(s) in writing, stating the reasons therefor. If the decision is to grant the petition, the secretary, within 30 days of submission, will initiate a rulemaking proceeding by issuing a rulemaking notice as provided

in these Rules and in G.S. 150B-12 or G.S. 150B-13.

**.0210 RECOURSE TO DENIAL
OF THE PETITION**

If the secretary denies the petition for rulemaking, the petitioner(s) may seek judicial review of the denial to determine whether the department abused its discretion. This action will require the petitioner to file a civil suit against the department in Superior Court of Wake County.

**SECTION .0300 - NOTICE OF
RULEMAKING**

**.0301 SUBJECTS OF DECLARATORY
RULINGS (REPEALED)**

**.0302 SUBMISSION OF REQUEST
FOR RULING (REPEALED)**

**.0303 DISPOSITION OF REQUESTS
(REPEALED)**

**.0304 RECORD OF DECISION
(REPEALED)**

.0305 DEFINITION (REPEALED)

.0306 TIMING OF NOTICE

Upon a determination to hold a rulemaking proceeding, either in response to a petition or otherwise, the secretary shall give at least 30 days notice to all interested persons of a public hearing on the proposed rule.

**.0307 MANNER OF NOTICE-NORTH
CAROLINA REGISTER**

(a) The agency shall publish notice of rulemaking hearing in the North Carolina Register and as prescribed in any applicable statute. Depending upon the subject matter of the proposed rule and the nature of the persons likely to be affected by the proposed rule, any or all of the following methods may be used in addition to the N.C. Register.

(1) publication of the notice in one or more newspapers of general circulation; and

(2) publication in trade, industry, governmental or professional publications.

(b) Notice of all rulemaking proceedings will be given to:

(1) the Chief Hearing Officer of the Office of Administrative Hearings;

(2) the Attorney General; and

(3) the Governor.

.0308 ADDITIONAL INFORMATION

Persons desiring information in addition to that provided in an individual rulemaking notice may contact. Secretary, Department of Administration, Raleigh, North Carolina 27611. The envelope

containing the request should clearly bear the notation: REQUEST FOR INFORMATION ON PROPOSED RULES. Any written communication should clearly indicate the rulemaking proceeding which is the subject of the inquiry.

**SECTION .0400 - RULEMAKING
HEARINGS**

**.0401 RIGHT TO HEARING
(REPEALED)**

**.0402 REQUEST FOR HEARING
(REPEALED)**

**.0403 GRANTING OR DENYING
HEARING REQUESTS
(REPEALED)**

.0404 HEARING LOCATION

Unless otherwise stated in a particular rule-making notice, the Department of Administration rule-making hearings will be held at the Administration Building, 116 West Jones Street, Raleigh, North Carolina 27611.

**.0405 REQUEST TO PARTICIPATE
IN HEARING**

(a) Any person desiring to present oral data, views, or arguments on a proposed rule should file a request to participate with the secretary in such a manner that the request will be received by the agency head at least one day prior to the rule-making hearing.

(b) The request to participate should contain a clear reference to the proposed rule, a brief summary of the person's views with respect thereto, and how long the person desires to speak. The envelope containing the request should clearly bear the notation: REQUEST TO PARTICIPATE IN RULE-MAKING HEARING RE: and the subject matter of the proposed rule.

**.0406 AGENCY RESPONSE TO THE
REQUEST TO PARTICIPATE**

Upon receipt of a request to participate in a rule-making hearing, the secretary or the official presiding over the hearing will acknowledge receipt of the request and inform the person of any limitations on oral presentations deemed necessary for a full and effective public proceeding on the proposed rule. In general, each presentation will be limited to 15 minutes unless some other time limit is prescribed by the hearing officer.

.0407 PRESENTATION OF ORAL COMMENT

(a) The hearing officer shall create an agenda of members of the public who have requested participation in the rule-making hearing.

(b) If time allows, the hearing officer shall permit limited comment by attending members of the public who have not submitted requests to participate.

(c) Any person making an oral presentation is encouraged to submit a written copy of the presentation to the agency head, the hearing officer, or an agency designee prior to or during the rule-making hearing. If not submitted prior to or during the hearing, a written copy of the oral presentation must be submitted within 5 days thereafter.

.0408 PRESIDING OFFICER; POWERS AND DUTIES

The presiding officer at the hearing shall have complete control of the proceedings including: extensions of any time requirements, recognition of speakers, time allotments for presentations, the right to question speakers, direction of the discussion and management of the hearing. The presiding officer, at all times, will take care that each person participating in the hearing is given a fair opportunity to present views, data and comments.

SECTION .0500 - PUBLIC ACCESS TO RULEMAKING

.0501 FAILURE TO APPEAR (REPEALED)

.0502 SIMPLIFICATION OF ISSUES (REPEALED)

.0503 SUBPOENAS (REPEALED)

.0504 FINAL DECISIONS IN ADMINISTRATIVE HEARINGS (REPEALED)

.0505 FILING WRITTEN COMMENTS ON PROPOSED RULES

(a) Any persons may file a written submission containing data, comments, or arguments for or against a rule, after publication of a rulemaking notice by the departments. Written comments must be received by the secretary not later than 60 days after the notice is issued, unless a different period has been prescribed in the notice or granted upon request. The written comments should be sent to the Secretary, Department of

Administration, 116 West Jones Street, Raleigh, North Carolina 27611.

(b) The envelope containing the written submission should bear the notation WRITTEN COMMENT RE: and clearly state the rule(s) or proposed rule(s) commented upon. Upon receipt of written comments, acknowledgement will be made with an assurance that the comments therein will be considered fully by the Secretary of the Department of Administration or the Secretary's designee.

.0506 STATEMENT OF REASONS FOR DECISION

(a) Any interested person desiring a concise statement of the principal reasons for and against the adoption of a rule by the Secretary of Administration and the factors that led to overruling the considerations urged against its adoption may submit a request to the Secretary of Administration, 116 West Jones Street, Raleigh, North Carolina 27611.

(b) For purposes of Subsection (a) this Rule, an "interested person" shall be any person whose rights, duties or privileges might be affected by the adoption of the rule in question or any group or organization of persons whose rights, duties or privileges might be affected by the rule.

(c) The request must be made in writing and submitted prior to adoption of the rule or within 30 days thereafter. The envelope containing the request should clearly bear the notation REQUEST FOR STATEMENT OF REASONING RE: and clearly state the rule or rules in question.

.0507 RECORD OR PROCEEDINGS

A record of all rulemaking proceedings will be maintained in the Office of the Secretary of Administration for as long as the rule is in effect. Record of rulemaking proceedings will be available for public inspection during the regular office hours.

.0508 EMERGENCY RULES

Whenever reasons of imminent peril to the public health, safety or welfare require the adoption of an emergency rule, the Secretary of the Department of Administration will issue such notice, written, telegraphic, telephonic or other and allow such comments, oral or written as time permits.

SECTION .0600 - DECLARATORY
RULINGS

.0601 SUBJECTS OF DECLARATORY
RULINGS

(a) Any person substantially affected by a statute or rule administered by the Department of Administration may request a declaratory ruling as to the validity of an agency rule or as to either the manner in which a statute or rule applies to a given factual situation.

(b) A declaratory ruling issued by the agency:

- (1) is binding upon the agency and upon the person requesting it;
- (2) may be reviewed by the courts in the same manner as the final agency action in a contested case; and
- (3) may be altered by a subsequent declaratory ruling of the agency, but may not be altered retroactively.

.0602 SUBMISSION OF REQUEST
FOR DECLARATORY RULING

All requests for declaratory rulings shall be written and mailed to the Secretary of Administration, 116 West Jones Street, Raleigh, North Carolina 27611. The container of the request should bear the notation: REQUEST FOR DECLARATORY RULING. The request must include the following information:

- (1) name and address of petitioner,
- (2) statute or rule to which petition relates,
- (3) concise statement of the manner in which petitioner is aggrieved by the rule or statute or its potential application to him.
- (4) a statement whether an oral hearing is desired and, if so, the reason therefor.

.0603 DISPOSITION OF REQUESTS

(a) When the Secretary of Administration or the secretary's designee deems it appropriate to issue a declaratory ruling, the secretary shall issue such declaratory ruling within 60 days of the receipt of the REQUEST FOR DECLARATORY RULING.

(b) A declaratory ruling proceeding may consist of written submissions, an oral hearing or other procedure as may be appropriate in the circumstances of the particular request.

(c) The secretary shall

proceed to issue a declaratory ruling where the person requesting the ruling shows that, with regard to the following facts presented:

- (1) the rule in question is unclear on its face;
- (2) circumstances are so changed since the adoption of the rule that a declaratory ruling is warranted;
- (3) the factors specified in the request were not given appropriate consideration by the agency at the time the rule was adopted;
- (4) the statute administered by the agency is unclear in its application to the requesting person's facts, or
- (5) a fair question exists regarding the validity of the agency's rule due to:
 - (A) an absence of statutory authority for the agency's adoption of the rule;
 - (B) irregularities in the agency's rule-making proceedings; or
 - (C) improper filing or distribution of the rule after the agency's adoption thereof.

(d) Whenever the Secretary of Administration believes "for good cause" that the issuance of a declaratory ruling is undesirable, the secretary may refuse to issue such ruling. The secretary shall notify, in writing, the person requesting the ruling, stating the reasons for the denial of the request.

(e) For purposes of Subpart (d) of this rule, the Secretary of Administration will ordinarily refuse to issue a declaratory ruling:

- (1) where there has been a similar controlling factual determination in a contested case;
- (2) the rule-making record shows that the factual issues raised by the request were specifically considered prior to adoption of the rule; or
- (3) where the subject matter of the request is involved in pending litigation in any state or federal court in North Carolina.

(f) If the agency finds evidence that the factors listed in Subparagraphs (c)(1), (2), or (3) of this rule exist beyond the specific facts presented in a particular petition for a declaratory ruling, the agency

shall consider rule-making proceedings on the rule.

.0604 RECORD OF DECISION

A record of all declaratory rulemaking proceedings will be maintained in the office of the secretary for as long as the ruling is in effect. This record will contain: the petition, the notice, all written submissions filed in the request, whether filed by the petitioner or any other person, and a record or summary of oral presentations, if any. Records of rulemaking proceedings will be available for public inspection during the regular office hours of the Department of Administration.

.0605 DEFINITION

For purposes of Rule .0604 of this Subchapter, a declaratory ruling shall be deemed to be "in effect": until the statute or rule interpreted by the declaratory ruling is amended, altered or repealed; until the Secretary of the Department of Administration changes the declaratory ruling prospectively for good reasons; or until any court sets aside the ruling in litigation between the Department of Administration and the party requesting the rule; or until any court of the Appellate Division of the General Court of Justice shall construe the statute or rule which is the subject of the declaratory ruling in a manner plainly irreconcilable with the declaratory ruling.

SECTION .0700 - ADMINISTRATIVE HEARING PROCEDURES

.0701 HEARING PROCEDURES

(a) The Model Administrative Procedures for Hearings, codified as Title 22, Subchapter 2C of the North Carolina Administrative Code, effective September 29, 1980, and as amended February 1, 1986, are hereby adopted by reference to apply to actions of the Department of Administration.

(b) This Subchapter adopted by reference, establishes basic minimum due process procedures for issues arising that are not contested cases as defined in G.S. 150B-2(2). The procedures set out in Article 3 and Article 3A of Chapter 150B govern hearings in contested cases as defined in G. S. 150B-2(s). The procedures set out in this Subchapter supplement the procedures of Article 3 of

Chapter 150B for contested cases wherein the party has waived his right to have the hearing conducted by a hearing officer in the Office of Administrative Hearings.

(c) The definitions contained in 22 NCAC 2A .0005 are adopted by reference and shall apply to the Department of Administration.

(d) Copies of 22 NCAC, Subchapter 2C and 22 NCAC 2A .0005 may be inspected in the Secretary's Office, Department of Administration, 116 West Jones Street, Raleigh, North Carolina 27611. Copies may also be obtained from the Office of Administrative Hearings, Raleigh, N.C.

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Administration intends to amend regulations cited as 1 NCAC 4G .0101 - .0204; .0207 - .0208; .0210; .0211; .0217 - .0218; .0220; .0303 - .0304; .0401; .0403(a); .0407 - .0408; .0508; .0512; .0514; .0516. and repeal .0216; .0404; .0406; .0517.

The proposed effective date of this action is April 1, 1987.

Statutory Authority: G.S. 143-49; 143-64.1 to 143-64.5.

The public hearing will be conducted at 10:00 a.m. on January 22, 1987 at Advisory Budget Commission Conference Room, 5th Floor, Administration Building, 116 West Jones Street, Raleigh, N.C. 27611.

Comment Procedures: Any interested person may present his or her views and comments either in writing prior to or at the hearing or orally at the hearing. Any person may request information, permission to be heard or copies of the proposed regulations by writing or calling 733-7232.

SUBCHAPTER 46 - SURPLUS PROPERTY

SECTION .0100 - GENERAL PROVISIONS

.0101 RESPONSIBILITY

The Department of Administration is responsible for administering the sale and disposal of surplus within the state government. The administration of this program has been delegated by the Secretary of Administration to

the State Purchasing Officer the Auxiliary Services Director.

.0102 ORGANIZATION

There are two agencies within the purchase and contract division Auxiliary Services which administer the state's surplus property program. The state agency for state surplus property is responsible only for state government surplus property. The state agency for federal surplus property is responsible for disposal of federal surplus property.

SECTION .0200 - STATE SURPLUS PROPERTY

.0201 TRANSFER OR SALE/WRITTEN AUTHORIZATION

No state department, institution or agency shall transfer or sell any personal property owned by the state without written authorization of the State Purchasing Officer Auxiliary Services Director.

.0202 NOTIFICATION OF SURPLUS

State agencies notify the state surplus property agency of the division of purchase and contract Auxiliary Services of any personal property which is surplus to their needs by properly completing the equipment disposal form. In doing so, agencies may suggest a minimum dollar value which they desire to receive from any disposition made, but the suggestion shall not govern.

.0203 TRADE-IN

Under some conditions for some types of items it may be more advantageous to the state to seek to trade in used property against the purchase of a replacement. Before an agency makes any final decision to trade in an item, the division of purchase and contract the Auxiliary Services Director should be contacted for guidance.

Where the a division requests bids for the purchase of a new item and it appears that a trade-in may be advantageous, the solicitation contains a provision requesting that a trade-in allowance be offered and prior approval by the Director or Auxiliary Services is required.

.0204 ORDER OF PRIORITY IN DISPOSITION

In the disposition of state surplus property, the division customarily gives first priority

to transfer to other agencies of the state. Second priority is given to transfer to political subdivisions and qualified non-profit organizations within the state. Property thus transferred must be for the use of the recipient agency, political subdivision or qualified non-profit organization with title being in such agency, unit or organization. In making such transfers, the price shall be one mutually agreeable to the owning agency and the recipient and approved by the division as being a fair market price based where possible on previous sales of similar products in the open market. State surplus property transferred to any political subdivision or non-profit organization must be retained by the unit or organization not less than 12 months before disposal, unless an earlier disposition is specifically authorized by the division of purchase and contract Auxiliary Services Director.

.0207 BID INVITATION LISTS

A copy of the bid invitation listing state surplus property to be sold by sealed bidding is available both at the Administration Building in downtown Raleigh and at the State Surplus Property Warehouse, Raleigh, North Carolina. Outside the Raleigh area, Requests for bids are mailed upon request.

.0208 DISPOSAL BY OTHER MEANS

Where state surplus property can be sold more advantageously by means other than sealed competitive bidding, either because of the nature of the property or the existence of unusual circumstance, the State Purchasing Officer Director of Auxiliary Services may utilize whatever means are considered in the state's interest.

.0210 RECEIPT OF BIDS

It is the bidder's responsibility to have his bid in the Office of Purchase and Contract State Surplus Property by the specified time and date of bid opening. The sale bid number should be clearly shown on the face of the mailing envelope.

.0211 EXECUTION OF BIDS

The executor of a bid must sign his bid in ink in pen or pencil in the space provided on the bid

form and also print his name below the signature.

.0216 PAYMENT (REPEALED)

.0217 FAILURE TO PAY

If the purchaser fails to pay for the property within the 10-day period, the property may be resold in such manner as the state may elect, and the defaulting purchaser charged with any loss resulting to the state together with all expense of the sale. If the purchaser does not remove the property within 30 calendar days after date of award, the division of purchase and contract Auxiliary Services reserves the right to retain the purchase price and resell the property a second time and retain any proceeds therefrom.

.0218 BOND

The division of purchase and contract Auxiliary Services reserves the right to require any bidder previously in default to post a bond prior to bidding or prior to an award being made to him.

.0220 TIMBER SALES

Timber owned by state agencies is customarily disposed of by the state surplus property agency on a sealed competitive bid basis. A request for bid forms will be sent to any interested party upon request.

Timber is generally sold on a lump-sum basis with payment to be made in full at the time of execution of a contract; and a high bidder may, in the discretion of the State Purchasing Officer Director of Auxiliary Services, be required to post bond prior to award.

SECTION .0300 - STATE SURPLUS PROPERTY FORMS

.0303 NOTIFICATION: SALE OF SURPLUS PROPERTY

Form PC-37 is used by the division of purchase and contract Auxiliary Services to notify the agency and successful bidder of the sale and/or disposal of state surplus property.

.0304 NOTIFICATION: AWARD OF SURPLUS PROPERTY

Form PC-38 is used by the division of purchase and contract Auxiliary Services to notify the successful bidder and agency of the award of bid on state surplus property.

SECTION .0400 - FEDERAL SURPLUS PROPERTY

.0401 ELIGIBLE INSTITUTIONS

Specific eligible organizations include any public agency, tax-supported or non-profit medical institutions, hospitals, clinics and health centers, schools, school systems, colleges or universities, educational radio or television stations, public libraries, tax-supported or non-profit schools for the mentally retarded or physically handicapped, as well as civil defense organizations of the state or a political subdivision or instrumentality thereof where such organizations are established pursuant to state law. It shall be the responsibility of the state agency for federal surplus property of the division of purchase and contract to determine the eligibility of donees under Public Law 94-519 and applicable federal rules and regulations. Application blanks are available from the federal property agency, division of purchase and contract, upon request and must be properly completed and returned by the applicant. The individual authorized to obtain property for the donee organization must indicate his name on the application.

A public agency or nonprofit educational or public health institution or organization, exempt from taxation under Section 501 of the Internal Revenue Code of 1954, within the meaning of Section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended, and the regulations of the Administrator of General Services.

It shall be the responsibility of the state agency for federal surplus property to determine the eligibility of donees under Public Law 94-519 and applicable federal rules and regulations. Application blanks are available from the federal property agency upon request and must be properly completed and returned by the applicant. The individual authorized to obtain property for the donee organization must indicate his name on the application.

.0403 COMPLIANCE AND UTILIZATION

(a) The state agency shall effect utilization reviews for compliance by donees with the

terms, conditions, reservations and restrictions imposed by the Federal and state Government for any item of property having a unit acquisition cost of three thousand dollars (\$3,000) or more and any passenger motor vehicle.

.0404 LIST (REPEALED)

.0406 SURPLUS REAL PROPERTY (REPEALED)

.0407 SERVICE CHARGE

The state agency for federal surplus property of the division of purchase and contract places a service charge commensurate with its costs on all donated federal surplus property.

.0408 DELIVERY OF PURCHASES

The state agency for federal surplus property will deliver property acquired through its auspices only where the size, etc., of the item makes when such delivery necessary. The additional costs of transportation will accordingly be billed as part of the service charge in such cases.

SECTION .0500 - FEDERAL SURPLUS PROPERTY FORMS

.0508 AGREEMENT AND ACKNOWLEDGEMENT OF TRANSFER

Form AA-123A is used in the transfer of property to health institutions to eligible donees which has a government acquisition cost of less than three thousand dollars (\$3,000), except passenger vehicles.

.0509 AGREEMENT AND ACKNOWLEDGEMENT OF TRANSFER

Form AA-123B is used in the transfer of property to educational institutions eligible donees which has a government acquisition cost of three thousand dollars (\$3,000) or more and all passenger vehicles.

.0512 NONDISCRIMINATION ASSURANCE PC-159

PC-159-- Civil Rights Assurance Non-Discrimination Assurance is a certification by eligible institutions that compliance with Title VI of The Civil Rights Act of 1964, Section 606 of Title VI of the Federal Property and Administrative Services Act of 1949, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, Title IX of the

Education Amendments of 1972, as amended, and Section 303 of the Age Discrimination Act of 1975 is being conducted.

.0514 DOCUMENT INVENTORY REPORT, PC-FS-61

PC-70 PC-FS-61 --Document Inventory Report, is used to record annual inventory report of federal surplus property.

.0516 CERTIFICATION AND AGREEMENTS, PC-FS-99

PC-88 PC-FS-99 Certification and Agreement, is required for all eligible institutions, certifying that all federal property restrictions will be carried out will be utilized in accordance with the terms and conditions which are printed on the Official Agreement and Acknowledgement of Transfer Document.

.0517 SASP MONTHLY ACTIVITY REPORT: PC-94 (REPEALED)

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Administration intends to repeal regulations cited as 1 NCAC 21E .0001-.0002.

The proposed effective date of this action is April 1, 1987.

Statutory Authority: Executive Order Number 13.

The public hearing will be conducted at 11:00 a.m. on January 20, 1987 at Advisory Budget Commission Room, 5th Floor, Administration Building, 116 West Jones Street, Raleigh, N.C. 27611.

Comment Procedures: Any interested person may present his or her views and comments either in writing prior to or at the hearing or orally at the hearing. Any person may request information, permission to be heard or copies of the proposed regulations by writing to or calling 733-7232.

CHAPTER 21 - ADMINISTRATIVE ANALYSIS DIVISION

SUBCHAPTER 21E - GOVERNOR'S COMMISSION ON GOVERNMENTAL PRODUCTIVITY

.0001 MISSION (REPEALED)

.0002 FUNCTIONS (REPEALED)

Notice is hereby given in accordance with G.S. 150B-12 that the Department of

Administration intends to adopt regulation cited as 1 NCAC 36 .0101.

The proposed effective date of this action is April 1, 1987.

Statutory Authority: G.S. 143B-426.12.

The public hearing will be conducted at 11:00 a.m. on January 22, 1987 at Advisory Budget Commission Conference Room, 5th Floor, Administration Building, 116 West Jones Street, Raleigh, North Carolina 27611.

Comment Procedures: Any interested person may present his or her views and comments either in writing prior to or at the hearing or orally at the hearing. Any person may request information, permission to be heard or copies of the proposed regulations by writing or calling 733-7232.

CHAPTER 36 - AGENCY FOR PUBLIC TELECOMMUNICATIONS

SECTION .0100 - PUBLIC RADIO

.0101 GENERAL SUPPORT STANDARDS

All public radio entities seeking financial support through the agency must meet the following criteria:

- (1) document broad citizen and community support;
- (2) hold open meetings of governing and advisory bodies;
- (3) secure tax exempt status from the U.S. Internal Revenue Service and North Carolina Department of Revenue;
- (4) maintain accounting records of expenditure of state funds for a minimum of three years in a manner suitable for audit;
- (5) maintain public copies of annual financial and audit reports;
- (6) submit to the agency an outline plan for expenditures of state funds and, at the end of each funding period, submit a detailed report of expenditures;
- (7) comply with Equal Employment Opportunity regulations; and
- (8) in accordance with constitutional separation of church and state, public radio entities whose program schedule is designed to further the principles of a

particular religious philosophy are not eligible. Permittees and licensees must establish a community advisory board reflecting the diverse needs and interests of served communities.

TITLE 4 - COMMERCE

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Alcoholic Beverage Control Commission intends to adopt regulation cited as 4 NCAC 2S .1020.

The proposed effective date of this action is May 1, 1987.

Statutory Authority: G.S. 18B-105(b).

The public hearing will be conducted at 10:30 a.m. on January 19, 1987 at ABC Commission, Room 101, 3322 Garner Road, Raleigh, NC 27610.

Comment Procedures: Data, opinions and arguments should be submitted prior to January 19, 1987, to the ABC Commission at P.O. Box 26687, Raleigh, NC 27611-6687. Persons desiring to speak at the hearing are requested to notify the ABC Commission prior to January 19, 1987.

SUBCHAPTER 2S - RETAIL BEER: WINE: MIXED BEVERAGES: BROWNBAGGING: ADVERTISING: SPECIAL PERMITS

SECTION .1000 - ADVERTISING

.1020 REFUND OFFERS

(a) General. Refund offers may be used to advertise spirituous liquor.

(b) Conditions. A refund offer is an offer to a consumer for a rebate from a liquor industry member, obtained by mailing a form. A refund offer is allowed under the following conditions:

- (1) A refund may be offered only by a manufacturer, importer, distiller, rectifier or bottler of spirituous liquor.
- (2) A refund may be offered only to purchasers of the manufacturer's original unopened container of liquor that is purchased from a local ABC store.
- (3) A refund may be offered only when the redemption form is a part of or attached to the package or container. Any offer that

is part of or attached to the package or container shall be placed there by the industry member who offers the refund.

- (4) A refund offer shall apply throughout the state.
- (5) A refund offer shall include an expiration date.
- (6) A refund offer shall include a statement explaining the redemption procedure. Refund offers shall be redeemed by mailing a form to the industry member who offers the refund or its designated redemption agent. Such an agent shall not be a retail or wholesale permittee in the state.
- (7) An industry member shall notify the commission at least 10 days before it offers a refund on liquor. The notice shall state the proposed amount of the refund, its expiration date, and to whom redemption forms must be mailed. The notice shall also include a sample of the redemption form that will be attached to the liquor container.
- (8) An ABC board member or employee shall not receive refunds on offers obtained from liquor packages or containers before sale at retail.

(c) Commercial bribery; cooperative advertising. No retail permittee, local ABC board member or employee shall accept and no industry member shall pay any fee for the display or use of refund offers. The name of a retail business or retail permittee shall not appear on any refund offer.

(d) Advertising refund offers. Refund offers may be advertised by newspapers, magazines or direct mail but no redemption form may appear in such advertisement. No refund offer may be advertised on the premises of any retail permittee.

TITLE 10 - HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Social Services Commission intends to adopt, amend, repeal regulations cited as 10 NCAC 41F .0811; 10 NCAC 42B .1003 and .1101; .1102; .1201; .1203; .1204; .1207; 10 NCAC 42C .1802; .1805; and .1901; .2001; .2002; .2006; .2207; .2209; .2212-.2214;

.2301-.2305; and .2402; .2404; .2405; .2501; .2505; .2703; .2903; .3003; .3101; .3102 and .3301; .3402; 10 NCAC 42D .1202; .1301; .1403; .1404; .1503; .1504 and .1602; .1603; .1605; .1704; .1705; 10 NCAC 49D .0001-.0003.

The proposed effective date of this action is April 1, 1987.

Statutory Authority: G.S. 143B-153.

The public hearing will be conducted at 10:00 a.m. on January 15, 1987 at Woodoak Building, Second Floor Conference Room, 1100 Navaho Drive, Raleigh, NC 27609.

Comment Procedures: Any interested person may present his/her views and comments either in writing or orally at the hearing. Any person may request information, permission to be heard or copies of the proposed regulations by writing or calling Bonnie Allred, 325 N. Salisbury Street, Raleigh, NC 27611, 919-733-3055.

CHAPTER 41 - CHILDREN'S SERVICES

SUBCHAPTER 41F - LICENSING OF FAMILY FOSTER HOMES

SECTION .0800 - LICENSING REGULATIONS AND PROCEDURES

.0811 REPORTS OF ABUSE AND NEGLECT

(a) When the supervising agency receives a report alleging abuse or neglect in a family foster home, the agency shall immediately notify the Division of Social Services.

(b) The supervising agency will then submit to the division, within 30 days, a detailed report on the circumstances of the allegation and results of the investigation of the allegation of abuse or neglect. This report, along with other information the division may obtain, shall be reviewed and evaluated by the division and used in consultation and technical assistance to the supervising and investigating agencies to assist them in providing services to protect children in foster care.

CHAPTER 42 - INDIVIDUAL AND FAMILY SUPPORT

SUBCHAPTER 42B - LICENSING OF
HOMES FOR DEVELOPMENTALLY
DISABLED ADULTS

SECTION .1000 - MANAGEMENT IN
PRIVATE FOR PROFIT HOMES

.1003 RELIEF-PERSON-IN-CHARGE

(b) The county department of social services will make a decision regarding approval within 10 working days after receiving all of the required application information. Notice of approval will be sent to the Division of Facility Services. If the county department does not approve the applicant relief person-in-charge and the applicant and or administrator challenges the decision, the Division of Facility Services will be consulted for a final decision.

SECTION .1100 - MANAGEMENT IN
HOMES OPERATED BY PRIVATE
NON-PROFIT BOARDS

.1101 THE HOME MANAGER IN
PRIVATE NON-PROFIT HOMES

(a) The home manager has the following responsibilities:

(1) Must be approved. The county department of social services will make a decision regarding approval within 10 working days after receiving all of the required application information. Notice of approval will be sent to the Division of Facility Services. If the county department does not approve the applicant relief person-in-charge and the applicant and/or administrator challenges the decision, the Division of Facility Services will be consulted for a final decision.

(b) The co-manager has the following responsibilities:

(2) Must be approved. The county department of social services will make a decision regarding approval within 10 working days after receiving all of the required application information. Notice of approval will be sent to the Division of Facility Services. If the county department does not approve the applicant relief person-in-charge and the applicant and/or administrator challenges the decision, the Division of Facility Services will be

consulted for a final decision.

.1102 CHANGE OF MANAGER

When a currently licensed manager can no longer continue to manage a home, the following procedure is required:

(1) The group home board shall notify the county department of social services that a change is desired.

SECTION .1200 - PERSONNEL

.1201 PERSONNEL REQUIREMENTS

The qualifications of administrator, co-administrator, supervisor-in-charge, manager, and co-manager are as follows:

(4) must be of good character; must provide written information about convictions of criminal and/or driving offenses other than minor traffic violations from the clerk of court and/or motor vehicles office;

.1203 QUALIFICATIONS OF RELIEF
PERSON-IN-CHARGE

(a) Qualifications of relief person-in-charge are set forth in Rule .1202 of this Section except that the relief person-in-charge must provide written information about convictions of criminal and/or driving offenses other than minor traffic violations from the clerk of court and/or motor vehicles office.

.1204 RESPONSIBILITIES OF
RELIEF-PERSON-IN-CHARGE

The relief person-in-charge has the following responsibilities:

(1) Is must be a qualified individual who is responsible for the operation of the home in the absence of the manager and/or co-manager.

(2) The county department of social services will make a decision regarding approval within 10 working days after receiving all of the required application information. Notice of approval will be sent to the Division of Facility Services. If the county department does not approve the applicant relief person-in-charge and the applicant and/or manager challenges the decision, the Division of Facility Services will be consulted for a final decision.

.1207 REQUIREMENTS FOR
PERSONNEL

(5) The manager, co-manager

and relief person(s) in charge must apply for their position(s) on the form DSS-1862, and be approved using a record designated by the Division of Social Services. documentation that the qualifications have been met for these positions must be on file in the home prior to hiring the manager, co-manager, and relief person(s) in charge.

SUBCHAPTER 42C - LICENSING OF FAMILY CARE HOMES

SECTION .1800 - GENERAL POLICIES

.1802 EXCEPTIONS (REPEALED)

.1805 LIST OF DEFINITIONS

- (11) Relief-Supervisor-In-Charge. A person designated by the administrator and approved by the county department of social services to be in charge of a licensed home during an extended absence (more than 24 hours per week) of the administrator or supervisor-in-charge;
- (15) Supervisor-in-Charge. A person employed by the administrator and approved by the county department of social services to be responsible for carrying out the program in the licensed home in the absence of the administrator.

SECTION .1900 - MANAGEMENT

.1901 MANAGEMENT

(b) there are several ways the administrator can manage the operation of a home. At all times there must be one approved person administrator or supervisor-in-charge who is directly responsible for assuring that all required duties are carried out in the home and for assuring that at no time is a resident left alone in the home without a staff member. Except for the provisions cited in Paragraph (c) of this Rule regarding the occasional absence of the administrator or supervisor-in-charge, one of the following arrangements must be used:

- (1) The administrator lives in the home, or resides within 500 feet of the home and is immediately available. To be immediately available, the

administrator must be on stand-by and have direct access to either a two-way intercom system or a two-way intercom line on the existing telephone system that connects the licensed home with the private residence of the administrator. The equipment installed must be recognized by the North Carolina Department of Insurance as acceptable and the equipment in the residence of the administrator must be located in his bedroom. in working condition and must be located in the bedroom of the administrator. When the administrator does not live in the licensed home, there must be at least one staff member who lives in the home or one on each shift and the administrator is directly responsible for assuring that all required duties are carried out in the home; or

(3) When there is a cluster of licensed homes located adjacently on the same site, there must be at least one staff member in each home, either live-in or on a shift basis, and at least one administrator or supervisor-in-charge who lives within 500 feet of each home, is immediately available, and who is directly responsible for assuring that all required duties are carried out in each home. To be immediately available, the administrator or supervisor-in-charge must be on stand-by and have direct access to either a two-way intercom system or a two-way intercom line on the existing telephone system that connects these homes with each other and with the residence of the administrator or supervisor-in-charge. The equipment installed must be recognized by the North Carolina Department of Insurance as acceptable and the equipment in the residence of the administrator or supervisor-in-charge must be located in his bedroom. in working condition and must be located in the bedroom of the administrator or supervisor-in-charge.

- (c) When the administrator

or supervisor-in-charge is absent from the home or not immediately available, the following apply:

- (2) When the administrator or supervisor-in-charge will be away from the home for an extended absence (more than 24 hours per week), a relief-supervisor-in-charge must be designated by the administrator and approved by the county department of social services to be in charge of the home during the absence. The relief-supervisor-in-charge must meet all of the qualifications required for the supervisor-in-charge (as specified in Rule .2002 of this Subchapter) with the exception of Paragraph (4), pertaining to the continuing education requirement.

SECTION .2000 - PERSONNEL

.2001 QUALIFICATIONS OF ADMINISTRATOR

- (4) The administrator or corporation must be able to obtain credit or have other verified resources to meet operating costs and provide required services when unexpected situations arise, such as extended resident vacancies and major home repairs. Verification of ability to obtain credit or the availability of other resources must be documented by the administrator or corporation; A letter of credit or a financial statement must be submitted to the county department of social services by the administrator or corporation;
- (6) The administrator must meet with the adult homes specialist at the specialist's request at an agreed time in the home at least every three months as part of the specialist's routine monitoring to insure compliance with the rules of this Subchapter; The administrator, or a person designated in writing by the administrator to act as his agent and make decisions on his behalf, must meet with the Adult Homes Specialist at the Specialist's request at an agreed time in the home at least every three months or as necessary to insure compliance with the Standards;
- (8) The administrator must be

of good moral character as evidenced by at least three current letters of recommendation from and or reference interviews with individuals, including former employers knowledgeable of the proposed administrator's background, qualifications and commitment to the field of adult care. The county department of social services is to check police and court records; The administrator must provide at least three current reference letters and/or the names of individuals with whom a reference interview can be conducted. The individuals providing reference information must be knowledgeable of the applicant administrator's background and qualifications and must include at least one former employer;

- (9) The administrator must provide written information about convictions of criminal and/or driving offenses other than minor traffic violations from the clerk of court and/or motor vehicles office;
- (10) The administrator must verify that he earns 15 hours a year of continuing education credits related to the management of domiciliary homes and care of aged and disabled persons in accordance with procedures established by the Department of Human Resources; See Rule .1802 of this Subchapter for an exception;
- (12) The administrator must not allow family or personal problems to keep him from assuming and adequately performing his responsibilities in the home.

.2002 QUALIFICATIONS OF SUPERVISOR-IN-CHARGE

- (1) The applicant must complete the Application for Supervisor-in-Charge (DSS-1862); The county department of social services will make a decision regarding approval within 10 working days after receiving all of the required information. Notice of approval will be sent to the Division of Facility Services when the

Application for Supervisor-in-Charge is approved. If the county department does not approve the applicant and/or administrator challenges the decision, the Division of Facility Services will be consulted for a final decision.

- (2) The qualifications of the administrator and co-administrator referenced in Paragraphs (3), (7), (8), and (12) (9) of Rule .2001 of this Subchapter shall apply to the supervisor-in-charge. The supervisor-in-charge must meet a minimum educational requirement by being at least a high school graduate or certified under the G.E.D. Program or by passing an alternative examination established by the Department of Human Resources. This educational requirement shall apply only to supervisors-in-charge approved after January 1, 1977.

- (3) The requirement to be at least a high school graduate or certified under the G.E.D. Program or to pass an alternative examination established by the Department of Human Resources shall apply only to supervisors-in-charge employed after January 1, 1977;

- (4) The supervisor-in-charge must verify that he earns 12 hours a year of continuing education credits related to the management of domiciliary homes and care of aged and disabled persons in accordance with procedures established by the Department of Human Resources; See Rule .1802 of this Subchapter for an exception.

- (5) If a supervisor-in-charge reapplies for approval once he has terminated his employment in a domiciliary facility licensed in the state, the county department of social services is to expedite approval by using copies of material completed within the last 12 months on which approval was based. In addition, the county department of social services is to contact the administrator of the last facility where the applicant

worked to obtain a written statement about the quality of the applicant's job performance and level of dependability. When there is a break in employment as a supervisor-in-charge of one year or less, the educational qualification under which the person was last approved employed will apply.

.2006 QUALIFICATIONS OF ACTIVITIES COORDINATOR

- (3) The activities coordinator must be involved with all residents, staff of the facility, residents' families, volunteers and community resources to provide a well rounded program.

- (4) The activities coordinator shall demonstrate through the performance of his duties that he recognizes the abilities of residents to make their own decisions and the importance of assisting residents through programming to maintain their dignity and usefulness to themselves and others; and

SECTION .2200 - ARRANGEMENT AND SIZE OF ROOMS

.2207 STORAGE AREAS

- (b) There must be separate locked areas(s) for storing cleaning agents, bleaches, pesticides, and other substances which may be hazardous if ingested, inhaled or handled. Cleaning supplies must be supervised while in use.

.2209 OUTSIDE ENTRANCES AND EXITS

- (g) In homes with at least one resident who is determined by a physician or is otherwise known to be disoriented or a wanderer, each required exit door shall be equipped with a sounding device that is activated when the door is opened. The sound must be of sufficient volume that it can be heard by staff. A central control panel that will deactivate the sounding device may be used, provided the control panel is located in the bedroom of the person on call within the home. Currently licensed facilities will have 12 months to comply with this requirement.

.2212 HOUSEKEEPING AND FURNISHINGS

(a) The building and all fire safety, electrical, mechanical, and plumbing equipment must be maintained in a safe and operating condition.

(b) Each home must:

- (1) have walls, ceilings, and floors or floor coverings kept clean and in good repair;
- (2) have no chronic unpleasant odors;
- (3) have furniture clean and in good repair;
- (4) have a sanitary grade of 90 or above an approved sanitary classification at all times;
- (5) be maintained in an uncluttered, clean and orderly manner, free of all obstructions and hazards;
- (6) have an adequate supply of bath soap, clean towels, washcloths, sheets, pillow cases, blankets, and additional coverings on hand at all times;
- (7) make available the following items as needed through any means other than charge to the personal funds of recipients of State-County Special Assistance:
 - (A) protective sheets and clean, absorbent, soft and smooth pads;
 - (B) bedpans, urinals, hot water bottles, and ice caps; and
 - (C) bedside commodes, walkers, and wheelchairs;
- (8) have television and radio, each in good working order; and
- (9) have curtains, draperies or blinds, where appropriate. See Rule -1802 of this Subchapter for an exception.

(c) Residents will be allowed to bring their own furniture and personal belongings if permitted by the home.

(d) Each bedroom must have the following furnishings in good repair and clean for each resident:

- (1) Single bed equipped with box springs and mattress or solid link springs and no-sag innerspring or foam mattress. Hospital bed appropriately equipped must be arranged for as needed. A double bed is allowed if used only for single occupancy, unless occupied by husband and wife. A water bed is allowed if requested by a resident and permitted by the home. Each

bed is to have the following.

- (A) at least one pillow with clean pillow case;
 - (B) clean top and bottom sheets on the bed, with bed changed as often as necessary but at least once a week; and
 - (C) clean bedspread and other clean coverings as needed;
- (2) a bedside type table; for each bed accessible to the resident while in bed;
 - (3) chest of drawers or bureau when not provided as built-ins, or a double chest of drawers or double dresser for two residents;
 - (4) a wall or dresser mirror that can be used by each resident;
 - (5) a minimum of one comfortable chair (rocker or straight, arm or without arms, as preferred by resident), high enough from floor for easy rising;
 - (6) additional chairs available, as needed, for use by visitors;
 - (7) individual clean towel and wash cloth, and towel bar; and
 - (8) a bedside lamp or a light overhead of bed, with a toggle switch within reach of person lying on bed. The light must be of 30 foot-candle power for reading.
- (e) The living room must have the following furnishings:
- (1) functional living room furnishings for the comfort of aged and disabled persons, with coverings cleanable;
 - (2) recreational equipment, supplies for games, books, and
 - (3) an easily readable clock; (see Rule -1802 of this Subchapter for an exception); and
 - (4) a newspaper. (see Rule -1802 of this Subchapter for an exception).
- (f) The dining room must have the following furnishings:
- (1) tables and chairs to seat all residents at one time, eating in the dining room; tables and chairs equal to the resident capacity of the home must be on the premises; and
 - (2) movable, non-folding chairs designed to minimize tilting.

.2213 FIRE SAFETY EQUIPMENT

(a) Fire extinguishers of the type recommended by the fire inspector must be provided. The minimum requirements are:

(1) one ten pound five pound or larger (net charge) "A-B-C" type centrally located; and

(2) one ten pound five pound or larger "A-B-C" or CO2 type located in the kitchen.

(d) A written fire evacuation fire/disaster plan (including a diagrammed drawing) which has the approval of the local fire department, must be prepared in large print and posted in a central location on each floor. The plan must be reviewed with each resident on admission and must be a part of the orientation for all new staff.

(e) There must be at least four fire rehearsals of the fire/disaster plan each year. with at least one total evacuation of the building every six months. Records of rehearsals are to be maintained and copies furnished to the county department of social services for submission to the Division of Facility Services annually. The records must include the date and time of the rehearsals, staff members present, the length of time for the total evacuations, and a short description of what the rehearsal involved.

.2214 BUILDING SERVICE EQUIPMENT

(a) The building and all fire safety, electrical, mechanical, and plumbing equipment must be maintained in a safe and operating condition.

(c) The hot water tank must be of such size to provide an adequate supply of hot water to the kitchen, bathrooms, and laundry. The hot water temperature at all fixtures used by residents must be maintained at a minimum of 100 degrees F (38 degrees C) and must not exceed 110 degrees F (43 degrees C). 116 degrees F (46.7 degrees C).

SECTION .2300 - SERVICES

.2301 PERSONAL CARE

Responsible staff must be on duty at all times to:

(4) Supervise, on an individual basis, residents who smoke and need supervision. The degree of supervision will be at the discretion of the administrator or supervisor-in-charge. The

home must have a written policy on smoking; except as indicated in Rule 1802 of this Subchapter;

.2302 HEALTH CARE

(d) If a resident is hospitalized, a completed FL-2 or patient transfer form must be obtained before the resident can be readmitted to the facility.

(e) Between annual medical examinations there may be a need for a physician's care. The Form DSS-1867 or an equivalent record is to be used by the physician to report any drugs prescribed and any treatment given or recommended for minor illnesses.

(f) All contacts (office, home or telephone) with the resident's physician are to be recorded on Form DSS-1867 or an equivalent health services record which is to be retained in the resident's record in the home. The physician's orders must be included in the health services record used for the resident, as follows:

(1) When the resident is examined in the physician's office, the health services record is to be taken and the physician is to add all necessary information;

(2) When the physician examines the resident in the home, the physician is to add all necessary information into the health services record; and

(3) When a physician's order is given by telephone, the administrator or supervisor-in-charge must enter this into the health services record, initial it and have the physician sign it the next time he examines the resident in the home or office.

(e) The administrator must have specific written instructions recorded on Form DSS-1865 as to what to do in case of sudden illness, accident, or death of a resident.

.2303 FOOD SERVICE

(a) Preparation and Serving of Food

(1) Sufficient staff, space, and equipment must be provided for safe, sanitary food preparation and service, including individual assistance to residents as needed;

(2) The kitchen, dining, and food storage areas must be clean, orderly, and

- protected from possible contamination;
- (3) All meat processing must occur at a North Carolina Department of Agriculture approved processing plant;
 - (4) Table service, which means the place where the resident is served food, must include an appropriate place setting. Typically, the place setting is to include a minimum of a knife, fork, teaspoon, glass, napkin and a plate;
 - (5) When room service is necessary for physical and/or emotional reasons, it must be as complete as table service with special attention to preparation and prompt serving in order that correct temperatures of food are maintained. Hot food must be served hot (~~above 140 degrees F; 60 degrees C~~) and cold food served cold. (~~below 45 degrees F; 7 degrees C~~);
 - (6) If food is transported from the kitchen to dining area(s) other than the main dining room, it must be transported in a sanitary manner, with hot food served hot (~~above 140 degrees F; 60 degrees C~~) and cold food served cold. (~~below 45 degrees F; 7 degrees C~~).
- (b) Storage of Food:
- (1) All food being stored, prepared, and served must be protected from contamination;
 - (2) Any home canning of fruits or vegetables must be processed using the pressure method; and
 - (3) At least one week's supply of food must be in the home. See Rule 1802 of this Subchapter for an exception.
- (c) Menu Planning:
- (1) Menus must be planned ~~in writing~~, with serving quantities specified ~~or reviewed and signed~~ (including registration number) by a registered dietitian or must be planned by the home and, in either case, must be planned in accordance with the requirements cited in Paragraph (d) of this Rule regarding Daily Service. Menus must be in writing with serving quantities specified. The menus shall be prepared at least one week in advance. The

use of four-week cycle menus is encouraged.

- (2) Menus must be dated in an acceptable manner and posted in the kitchen for the guidance of the food service staff;
 - (3) Any substitutions made in the menu must be of equal nutritional value and must be recorded before being served to indicate the foods actually served to residents;
 - (4) Meals shall be planned taking into account the food preferences and customs of the residents. Meat substitutes must be provided to residents who choose to be vegetarians or who by religious or cultural preferences do not eat meat. However, an administrator may not impose his/her own vegetarian practices, or other religious or cultural food practices on a resident; and
 - ~~(5) Menus as served and invoices or other appropriate receipts of purchases must be kept on file by the month for a year and are subject to periodic review by bona fide inspectors and the monitoring and licensing agencies.~~
 - (5) A copy of the NCDA Diet Manual must be in the home for use in its food service. Where there is a cluster of homes, one diet manual may be shared by the homes.
 - ~~(5) (6) Menus as served and invoices or other appropriate receipts of purchases must be kept on file by the month for a year and are subject to periodic review by bona fide inspectors and the monitoring and licensing agencies.~~
- (e) Special Diets.
- (1) All therapeutic or modified special diet orders must be in writing from the resident's physician. Special diet orders must be calorie or gram specific unless standing orders, which include the definition of any special diets, have been obtained from the physician and are on file in the home.
 - (2) Menus for these special diets must be planned and or reviewed by a registered dietitian, or reviewed and signed (including

registration number) by a registered dietitian with the exception of the standing orders for special diets;

(3) The administrator is responsible for maintaining an accurate and current listing of residents for whom special diets have been prescribed and a special diet ordered, for use by food service personnel;

(4) The administrator shall ask a physician or registered dietitian for answers to questions about the diets of residents; and

(5) The administrator is responsible for assisting residents who need special diets in understanding and accepting these diets.

(f) Resources for Services:
A copy of the NCDA Diet Manual must be in the home for use in food service. See Rule 1802 of this Subchapter for an exception.

.2304 ACTIVITIES PROGRAM

(a) Each home must develop a program of activities designed to promote the residents' active involvement with each other, their families, and the community. The program is to provide social, physical, intellectual, and recreational activities in a planned, coordinated, and structured manner, using the Activities Supervisor's Guide, Activities Coordinator's Guide, a copy of which each facility is required to have. When there is a cluster of homes, one Activities Coordinator's Guide may be shared by the homes.

(b) The program must be designed to promote active involvement by all residents but is not to require any individual to participate in any activity against his will.

(c) Each home must assign a person to be the activities coordinator, who meets the qualifications specified in Rule .2006 of this Subchapter. The activities coordinator is responsible for responding to the residents' need and desire for meaningful activities, by:

(1) Reviewing upon admission personal information about each resident's interests and capabilities recorded on an individualized index card or the equivalent. This card is to be completed from, at least, the information recorded on the Resident Register, Form

DSS-1865. It must be maintained for use by the activities coordinator for developing activities and is to be updated as needed; See Rule 1802 of this Subchapter for an exception.

(2) Using the information on the residents' interests and capabilities to arrange for and provide planned individual and group activities for the residents. In addition to individual activities, there must be a minimum of 10 hours of planned group activities per week; except as indicated in Rule 1802 of this Subchapter.

(3) Preparing a monthly calendar of planned group activities which is to be in easily readable, large print, posted in a prominent location on the first day of each month, and updated when there are any changes; See Rule 1802 of this Subchapter for an exception.

(4) Involving community resources, such as recreational, volunteer, religious, aging and developmentally disabled-associated agencies, to enhance the activities available to residents. The coordinator may use the home's aides in carrying out some activities with residents; and

(5) Evaluating and documenting the overall effectiveness of the activities program at least every six months with input from the residents through a group meeting with the residents and community resources which have sponsored activities to determine what have been the most valued activities and to elicit suggestions of ways to enhance the program. The adult homes specialist is to be notified of the meeting in advance. The effectiveness of both the individual and group activities are to be evaluated. The participation of each resident in activities must be reviewed and discussed to aid the development of a program appropriate to each resident's needs, capabilities and interests. See Rule 1802 of this Subchapter for an exception.

(d) A variety of group and

individual activities must be provided. The program is to include, at least, the following types of activities:

(1) Social and Recreational Activities:

(D) Each resident must have the opportunity to participate in at least one outing every other month. A resident interested in involving himself in the community more frequently shall be encouraged and helped to do so. The coordinator is to contact volunteers and residents' families to assist in the effort to get residents involved in activities outside the home; See Rule 1802 of this Subchapter for an exception.

.2305 OTHER PERSONAL SERVICES

(b) Mail.

(1) Residents shall receive their mail promptly and it must be unopened unless there is a written, witnessed request authorizing management staff to open and read mail to the resident. This request must be recorded on Form DSS-1865, the Resident Register or the equivalent;

(f) Visiting.

(3) A signout register must be maintained for planned visiting and other scheduled absences which indicates the resident's departure time, expected time of return and the name and telephone number of the responsible party; except as indicated in Rule 1802 of this Subchapter; and

SECTION .2400 - ADMISSION POLICIES

.2402 MEDICAL EXAMINATION

(a) Each resident must have a medical examination including the necessary tests for tuberculosis, before admission and annually thereafter. The necessary tests for tuberculosis are those recommended by the Division of Health Services for residents in high risk settings.

(b) The results of the complete examination are to be entered on Form FL-2. The examining date recorded on the FL-2 must be no more than 90 days prior to the person's admission/readmission to the home. The FL-2 must be in the facility before admission/readmission or

accompany the resident upon admission/readmission and be reviewed by the administrator or supervisor-in-charge before admission/readmission. If the information on the form is not clear or is insufficient, the administrator or supervisor-in-charge must contact the physician for clarification in order to determine if the services of the facility can meet the individual's needs. The completed Form FL-2 must be filed in the resident's record in the home.

(c) The administrator must make arrangements for any resident, who has been an inpatient of a psychiatric facility within 12 months before entering the home and who does not have a current plan for psychiatric care, to be examined by a local physician or a physician in a mental health center within 30 days after admission and to have a plan for psychiatric follow-up care when indicated, using Form DSS-1867 or an equivalent record.

(d) If a resident is hospitalized, a completed FL-2 or patient transfer form must be obtained before the resident can be readmitted to the facility.

(e) Between annual medical examinations there may be a need for a physician's care. The Form DSS-1867 or an equivalent record is to be used by the physician to report any drugs prescribed and any treatment given or recommended for minor illnesses.

(f) All contacts (office, home or telephone) with the resident's physician are to be recorded on Form DSS-1867 or an equivalent health services record which is to be retained in the resident's record in the home. The physician's orders must be included in the health services record used for the resident, as follows:

(1) When the resident is examined in the physician's office, the health services record is to be taken and the physician is to add all necessary information;

(2) When the physician examines the resident in the home, the physician is to add all necessary information into the health services record; and

(3) When a physician's order is given by telephone, the administrator or supervisor-in-charge must enter this into the health

services record; initial it and have the physician sign it the next time he examines the resident in the home or office.

.2404 RESIDENT REGISTER

(b) The administrator or supervisor-in-charge must revise the completed Resident Register (Form DSS-1865) with the resident or his responsible person as needed, and review the Resident Register at least annually.

.2405 INFORMATION ON HOME

At admission, the administrator or supervisor-in-charge must furnish and review with the resident or his responsible person essential information on the home. A statement indicating that this information has been received is to be signed and dated by each person to whom it is given. This statement must be retained in the resident's record in the home. The information must at least include:

- (1) a copy of the home's resident contract specifying rates for resident services and accommodations;
(d) Rates must be commensurate with services required by the resident and accommodations provided by the home;
- (2) a written copy of any house rules, including the conditions for the discharge and transfer of residents, the refund policies, and the home's policies on smoking, alcohol consumption and visitation, except as indicated in Rule 1802 of this Subchapter. The resident or his responsible person must be promptly notified of any change(s) in the house rules and provided an amended copy. All house rules must be consistent with the rules in this Subchapter;
- (4) a copy of the home's grievance procedures which must indicate how the resident is to present complaints and make suggestions as to the home's policies and services on behalf of himself or others; and See Rule 1802 of this Subchapter for an exception; and

SECTION .2500 - DISCHARGE POLICIES

.2501 OTHER LIVING ARRANGEMENTS

The administrator must notify discuss with the resident and his responsible person the need to make other plans for the resident when:

- (1) The resident's physician indicates the resident's condition has improved to the point he can live outside a domiciliary facility with family and/or community support services;
- (2) The resident's physician certifies that the resident needs professional nursing care or intermediate care under medical supervision. In this situation, plans for other placement must be made as soon as possible and the county department of social services will assist the administrator and/or resident in making arrangements for necessary care when requested;
- (3) The resident's condition is such that he is a danger to himself or others. If this is the opinion of the administrator, he must arrange for an appropriate professional evaluation of the resident's condition to certify the validity of the concern; and
- (4) The resident makes a written request or otherwise indicates an earnest desire to transfer to another licensed home.

.2505 REQUIREMENTS FOR DISCHARGE

(c) Exceptions to the required notice are cases where a delay in discharge would jeopardize the health or safety of the resident or others in the home, as certified by the resident's physician and/or approved by the county department of social services.

SECTION .2700 - MEDICAL POLICIES

.2703 MANAGEMENT OF DRUGS

The administrator is responsible for establishing and implementing procedures for the use of drugs by residents in the home that are in accordance with the requirements presented in this Section. The administrator must consult with a pharmacist, physician, public health nurse, or other registered nurse in establishing these procedures.

(3) Labeling of Drugs

- (b) The container label of each prescription drug must include the following information:
 - (vi) the name of the drug

as prescribed. If generic equivalent drugs are dispensed, they must be dispensed in compliance with current state and federal regulations. The dispensing practitioner is to notify the facility if approved substitution occurs to prevent confusion and the generic name is to appear on the label;

(4) Administration of Drugs

(b) The administrator must assure that only persons authorized in writing by a physician or local health department give injections. Registered nurses and licensed practical nurses are authorized to give injections in accordance with the provisions of the Nursing Practice Act and no further authorization is required.

(i) Oral solid drugs must be prepared for administration within 24 hours of the prescribed time for administration. The administrator must designate appropriately trained staff to be responsible for preparing the drugs for administration. See Rule .1802 of this Subchapter for an exception.

(j) If drugs are prepared for administration in advance, the following procedures must be used to keep the drugs identified up to the point of administration and protect them from contamination and spillage:

(v) Trays or other devices are to be locked in a the separate drug storage cabinet or closet to which only authorized persons have access; and

(5) Review of Drugs. The administrator is responsible for obtaining a drug regimen review of each resident at least every six months. The review is to be performed by a pharmacist, physician, public health nurse, or other registered nurse. The administrator must assure that he is informed of the results of the review. The Form FL-2, Form DSS-1867 or the equivalent is to be maintained by the facility to record these findings, recommendations and corrective action. See Rule .1802 of this Subchapter for an exception.

SECTION .2900 - HANDLING FUNDS OF RESIDENTS

.2903 ACCOUNTING FOR PERSONAL FUNDS

(a) To document a resident's receipt of his personal needs allowance after payment of the cost of care, a statement must be signed by the resident, or marked by the resident with two witnesses' signatures. The statement is to be maintained in the home.

(b) Upon the written authorization of the resident or his legal guardian or payee recorded on Form DSS-1865 or the equivalent, an administrator may handle the personal money for a resident, provided an accurate accounting of monies received and disbursed and the balance on hand is available upon request of the resident or his legal guardian or payee. The administrator is to use Form DSS-1866 or an approved method of bookkeeping in maintaining the account.

(c) Every time the administrator receives or disburses personal funds, there must be a record of the transaction signed by the resident, or marked by the resident with two witnesses' signatures. There must be a record of each transaction. The record of transactions must be signed by the resident or marked by the resident with two witnesses' signatures at least monthly verifying the accuracy of the disbursement of personal funds. The record is to be maintained in the home.

(d) A resident's personal funds cannot be commingled with facility funds or with the personal funds of other residents in a savings account an interest-bearing account set up by the administrator. All or any portion of a resident's personal funds are to be available to the resident or his legal guardian or payee upon request during regular office hours, except as provided in Rule .3002 of this Subchapter.

SECTION .3000 - REFUND POLICIES

.3003 SETTLEMENT OF COST OR CARE

(a) If the resident, after being notified by the home of its intent to discharge him in accordance with Rule .2505(a) of this Subchapter, moves out of the home before the two weeks (14 days) has elapsed, he shall

receive a refund equal to the cost of care for the remainder of the month minus any nights spent in the home during the two week period. The refund is to be made within 14 days from the date of notice for a resident who is returning to an independent living arrangement in the community and within 30 days from the date of notice for all other circumstances where a resident is leaving the home.

(b) If the resident, after giving written notice to the home of his intent to leave in accordance with Rule .2505(b) of this Subchapter, moves out of the home before the two weeks (14 days) has elapsed, the resident owes the administrator an amount equal to the cost of care for the 14 days. If the two weeks' period for a resident receiving State-County Special Assistance extends into another month and the resident moves early, the former home is entitled to the required payment before the new home receives any payment. The resident shall be refunded the remainder of any advance payment following settlement of the cost of care. The refund is to be made within 14 days from the date of notice for a resident who is returning to an independent living arrangement in the community and within 30 days from the date of notice for all other circumstances where a resident is leaving the home.

(c) When there is an exception to the notice as provided in Rule .2505(c) of this Subchapter to protect the health or safety of the resident or others in the home, the resident is only required to pay for any nights spent in the home. A refund is to be made within 14 days from the date of notice for a resident who is returning to an independent living arrangement in the community and within 30 days from the date of notice for all other circumstances where a resident is leaving the home.

(d) When a resident leaves the home with the intent of returning to it, the following apply:

(4) On notice by the resident or someone acting on his behalf that he will not be returning to the facility, the administrator must refund the remainder of any advance payment to the resident or his responsible person, minus an amount equal to the cost of care for the two weeks (14 days)

covered by the agreement. The refund is to be made within 14 days from the date of notice for a resident who is returning to an independent living arrangement in the community and within 30 days from the date of notice for all other circumstances where a resident is leaving the home;

SECTION .3100 - RECORDS AND REPORTS

.3101 RESIDENT'S RECORDS

(c) The following records must be maintained on each resident in the resident's record in the facility. They are to be kept in an orderly manner and be readily available for review by representatives of the monitoring and licensing agencies.

(3) Receipt for:

(B) house rules to include discharge/transfer and refund policies; except as indicated in Rule -1802 of this Subchapter;

(D) home's grievance procedures; and except as indicated in Rule -1802 of this Subchapter; and

(E) civil rights statement. except as indicated in Rule -1802 of this Subchapter.

.3102 DISPOSAL OF RESIDENT'S RECORDS

(b) After a resident has left the home or died, his records must be put in order and filed in a safe place in the home for a period of three years, and then may be destroyed.

SECTION .3300 - APPLICATION PROCEDURES

.3301 EXISTING BUILDING

(c) The following forms and reports shall be submitted through the county department of social services to the state division of facility services:

~~(3)~~ Form DSS-1862

~~(Application for Supervisor in Charge)~~ where applicable;

~~(4)~~ Form DSS-1863

~~(Recommendation for Supervisor in Charge)~~ where applicable;

SECTION .3400 - LICENSING INFORMATION

.3402 RENEWAL OF LICENSE

(a) The license will be

renewed annually on evidence that:

- (2) The following reports have been submitted to the county department of social services within each 12-month period which will forward them to the Division of Facility Services:

(E) DSS-1871

~~(Evaluation for Renewal of License).~~ (Annual Recommendation for Renewal of License). This form is to be submitted by the county department of social services at least 30 days in advance of the expiration date of the license, with a copy to the administrator.

SUBCHAPTER 42D - LICENSING OF HOMES FOR THE AGED AND INFIRM

SECTION .1200 - GENERAL POLICES

.1202 EXCEPTIONS (REPEALED)

SECTION .1300 - MANAGEMENT

.1301 MANAGEMENT

(b) In addition to the requirements in 10 NCAC 42C .1901 (a) and (c), the following describes the ways the administrator can manage the operation of a home for the aged and disabled. At all times there must be one approved person administrator or supervisor-in-charge who is directly responsible for assuring that all required duties are carried out in the home and for assuring that at no time is a resident left alone in the home without a staff member. One of the following arrangements must be used:

- (1) The administrator lives in the home, or resides within 500 feet of the home and is immediately available. To be immediately available, the administrator must be on intercom system or a two-way intercom line on the existing telephone system that connects the licensed home with the private residence of the administrator. The equipment installed must be recognized by the North Carolina Department of Insurance as acceptable and the equipment in the residence of the administrator must be located in his bedroom, in working condition and must

be located in the bedroom of the administrator; or

- (4) When there is a cluster of licensed homes, each with a capacity of 7 to 12 residents, located adjacently on the same site, there must be at least one staff member, either live-in or on a shift basis in each of these homes. In addition, there must be at least one administrator or supervisor-in-charge who lives within 500 feet of each home, is immediately available, and who is directly responsible for assuring that all required duties are carried out in each home. To be immediately available, the administrator or supervisor-in-charge must be on stand-by and have direct access to either a two-way intercom system or a two-way intercom line on the existing telephone system that connects these homes with each other and with the residence of the administrator or supervisor-in-charge. The equipment installed must be recognized by the North Carolina Department of Insurance as acceptable and the equipment in the residence of the administrator or supervisor-in-charge must be located in his bedroom, in working condition and must be located in the bedroom of the administrator or supervisor-in-charge.

SECTION .1400 - PERSONNEL

.1403 QUALIFICATIONS OF ACTIVITIES COORDINATOR

(b) Rules contained in 10 NCAC 42C .2006(1) through (5) shall control for this subchapter.

.1404 QUALIFICATIONS OF FOOD SERVICE SUPERVISOR

(a) The food service supervisor shall be experienced in food service and willing to accept consultation from a registered dietitian. or nutritionist approved by the North Carolina Department of Human Resources.

SECTION .1500 - THE BUILDING

.1503 PHYSICAL ENVIRONMENT

The home must provide ample living arrangements to meet the individual needs of the

residents, the live-in staff and other live-in persons.

(4) The requirements for the bedroom are:

(j) Walls must be easily cleanable; and

(5) The requirements for bathrooms and/or toilet rooms are:

(g) Each home must have at least one bathroom opening off the corridor with: a door three feet minimum width, a three feet by three feet roll-in shower designed to allow the staff to assist a resident in taking a shower without the staff getting wet, a bathtub accessible on at least two sides, a lavatory and a toilet. If the tub and shower are in separate rooms, each room must have a lavatory and a toilet. All fixtures must meet the State Building Code requirements for the physically handicapped in effect at the time the building was constructed;

(6) The requirements for storage rooms/closets are:

(d) Housekeeping storage requirements are:

(ii) There must be separate locked area(s) for storing cleaning agents, bleaches, pesticides, and other substances which may be hazardous if ingested, inhaled or handled. Cleaning supplies must be supervised while in use;

(8) The requirements for outside entrances/exits are:

(d) In homes with at least one resident who is determined by a physician or is otherwise known to be disoriented or a wanderer, each required exit door shall be equipped with a sounding device that is activated when the door is opened. The sound must be of sufficient control panel that will deactivate the sounding device may be used provided the control panel is located in the office of the administrator. Currently licensed facilities will have 12 months to comply with this requirement.

.1504 HOUSEKEEPING AND FURNISHINGS

(a) The requirements in 10 NCAC 42C .2212 shall control for this Subchapter, except that a newspaper and an easily readable clock must be provided

in the homes for the aged and disabled as of April 1, 1984. home for the aged and disabled must have an approved sanitary classification at all times in a home with twelve beds or less and must have a sanitary grade of ninety or above at all times in a home with thirteen beds or more.

SECTION .1600 - FIRE SAFETY AND OTHER REQUIREMENTS

.1602 FIRE EXTINGUISHERS

(a) At least one 10 pound five pound or larger (net charge) A-B-C type fire extinguisher is required for each 2,500 square feet of floor area or fraction thereof.

(b) One 10 pound five pound or larger (net charge) A-B-C or co2 type is required in the kitchen and, where applicable, in the maintenance shop.

.1603 PLAN FOR EVACUATION

(a) A written fire evacuation fire/disaster plan (including a diagrammed drawing) which has the approval of the local fire department must be prepared in large print and posted in a central location on each floor. The plan must be reviewed with each resident on admission and must be a part of the orientation for all new staff.

(b) There must be at least rehearsals of the fire department fire/disaster plan each year (four times on each shift). With at least one total evacuation of the building every six months (one on first and second shifts). All third shift personnel are to participate in the two total evacuations.

(c) Records of rehearsals shall be maintained and copies furnished to the county department of social services to be submitted to the Division of Facility Services annually. The records must include the date and time of the rehearsals, the shift, staff members present, the length of time for the total evacuations, and a short description of what the rehearsal involved.

.1605 OTHER REQUIREMENTS

(a) The building and all fire safety, electrical, mechanical, and plumbing equipment must be maintained in a safe and operating condition.

(c) The hot water system must be of such size to provide an adequate supply of hot water to the kitchen, bathrooms, laundry, housekeeping closet(s) and soil

utility room. The hot water temperature at all fixtures used by residents must be maintained at a minimum of 100 degrees F (38 degrees C) and must not exceed ~~110 degrees F (43 degrees C)~~ 116 degrees F (46.7 degrees C).

SECTION .1700 - SERVICES

.1704 ACTIVITIES PROGRAM

The requirements in 10 NCAC 42C .2304 shall control for this Subchapter. ~~except that:~~

~~(1) There must be a minimum of 10 hours of planned group activities per week as of April 1, 1984, in all homes for the aged and disabled; and~~

~~(2) All homes for the aged and disabled are responsible for the preparation of a monthly calendar of planned group activities as of April 1, 1984.~~

.1705 OTHER PERSONAL SERVICES

The requirements in 10 NCAC 42C .2305 shall control for this Subchapter. ~~except that a signout register must be maintained for planned visiting and other scheduled absences in all homes for the aged and disabled as of April 1, 1984.~~

CHAPTER 49 - AFDC

SUBCHAPTER 49D - WORK SUPPLEMENTATION PROGRAM (WSP)

.0001 WSP OPERATION

(a) Requirements pertaining to operation of WSP are found in 45 CFR 239.

(b) WSP will be operated only in limited specific geographical areas of the State. The areas will be determined by the Division of Social Services.

.0002 ELIGIBILITY FOR PARTICIPATION

AFDC recipients or applicants in the following categories shall be eligible to volunteer to participate in WSP:

(a) AFDC recipients living in the specified areas who are not exempt from the work requirement in place in that area; and,

(b) AFDC recipients who are exempt from work registration solely due to being the caretaker of a child between the ages of three to six years.

.0003 WSP PROCEDURES

(a) AFDC payment amounts will

be diverted into the wage pool up to a maximum of nine months per participant.

(b) No residual payment will be provided to the AFDC recipient.

(c) The amount to be diverted will remain fixed during the WSP period.

(d) Monthly reporting will be required for all WSP participants.

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources intends to amend regulation cited as 10 NCAC 46D .0103.

The proposed effective date of this action is April 1, 1987.

Statutory Authority: 143B-10; 143B-153(2a).

The public hearing will be conducted at 9:00 a.m. on February 13, 1987 at Albemarle Building, 325 N. Salisbury Street, Raleigh, N.C. 27611.

Comment Procedures: Written comments concerning this amendment must be submitted by February 12, 1987, to the Secretary, Department of Human Resources, to the attention of the APA Coordinator, Office of Legislative & Legal Affairs, 325 N. Salisbury Street, Raleigh, N.C. 27611. Oral comments may be presented at the hearing.

CHAPTER 46 - DAY CARE RULES

SUBCHAPTER 46D - STATE DAY CARE SERVICE FUNDS

SECTION .0100 - GENERAL

.0103 ELIGIBILITY

(e) Child day care services provided to children who meet the eligibility criteria for Child Welfare Services funds as provided in the North Carolina Division of Social Services Family Services Manual, Volume 1, Chapter 11 on or after July 1, 1986, may be paid for with state day care funds.

TITLE 14A - DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Notice is hereby given in accordance with G.S. 150B-12 that the ALE Division intends to amend regulation cited as 14A NCAC 8B .0101.

The proposed effective date of this action is May 1, 1987.

Statutory Authority: G.S.
18B-500; 143B-10; 150B-11;
150B-14.

The public hearing will be conducted at 10:00 a.m. on January 14, 1987 at The Library, Second Floor, Archdale Building, 512 N. Salisbury Street, Raleigh, N.C.

Comment Procedures: Any interested person may present comments relevant to the action proposed at the public hearing either in written or oral form. Written statements not presented at the public hearing must be directed prior to January 14, 1987 to the Administrative Procedures Coordinator, Second Floor, Archdale Building, 512 N. Salisbury Street, Raleigh or P.O. Box 27687, Raleigh, NC 27611.

CHAPTER 8 - ALCOHOL LAW ENFORCEMENT

SUBCHAPTER 8B - PERSONNEL REGULATIONS

SECTION .0100 - EMPLOYMENT REGULATIONS

.0101 ALE MANUAL ADOPTION BY REFERENCE

(a) The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety adopts by reference the portions of the ALE Manual, Personnel Regulations 8B .0100-.0400, effective November 8, 1985 May 1, 1987.

(b) Copies of the manual may be inspected in the Administrative Procedures Section of the Attorney General's Office, 10 E. Jones Street, Office of Administrative Hearings, Raleigh, North Carolina or the ALE Division Office, Ground Floor, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina.

TITLE 15 - NR&CD

Notice is hereby given in accordance with G.S. 150B-12 that the Environmental Management Commission intends to amend regulations cited as 15 NCAC 2D .0103; .0501; .0505; .0524 through .0525; .0528; and .0533 and 15 NCAC 2H .0603.

The proposed effective date of this action is June 1, 1987.

Statutory Authority: G.S.
143-215.3(a)(1);
143-215.107(a)(5); 143-215.68;
150B-14.

The public hearing will be conducted at 2:00 p.m. on January 20, 1987 at Ground Floor Hearing Room, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina.

Comment Procedures: All persons interested in these matters are invited to attend the public hearings. Persons desiring to comment on the proposals are requested to give written notice thereof on or before the hearing date. Any person desiring to present lengthy comments is requested to submit a written statement for inclusion in the record of proceedings at the public hearing. The record of proceedings will remain open for 30 days following the hearing to receive additional written statements; to be included, the statement must be received by the department within 30 days. Copies of the proposals may be reviewed at the regional offices of the North Carolina Department of Natural Resources and Community Development, Division of Environmental Management, located in the following cities:

Asheville	(704) 253-3341
Fayetteville	(919) 486-1541
Mooreville	(704) 663-1699
Raleigh	(919) 733-2314
Washington	(919) 946-6481
Wilmington	(919) 256-4161
Winston-Salem	(919) 761-2351

Additional information concerning the hearing or the proposals may be obtained by contacting:

Mr. Thomas C. Allen
Div. of Environmental Mgmt.
P. O. Box 27687
Raleigh, NC 27611-7687
(919) 733-3340

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2D - AIR POLLUTION CONTROL REQUIREMENTS

SECTION .0100 - DEFINITIONS AND REFERENCES

.0103 COPIES OF REFERENCED FEDERAL REGULATIONS

(a) Copies of applicable Code of Federal Regulations sections referred to in this Subchapter are available for public

inspection at Department of Natural Resources and Community Development regional offices. They are:

- (2) Winston-Salem Regional Office, 8003 North Point Boulevard, Suite 100, 8025 North Point Boulevard, Winston-Salem, North Carolina 27106;

SECTION .0500 - EMISSION CONTROL STANDARDS

.0501 COMPLIANCE WITH EMISSION CONTROL STANDARDS

- (4) The procedures for determining compliance with sulfur dioxide emission control standards for fuel burning sources may be either by determining sulfur content with fuel analysis or by stack sampling. If a source chooses to demonstrate compliance by analysis of sulfur in fuel, sampling, preparation, and analysis of fuels shall be in accordance with the following American Society of Testing and Materials (ASTM) methods:

(A) coal:

- (i) sampling--ASTM Method D 2234- 82;
- (ii) preparation--ASTM Method D 2013- 72;
- (iii) gross calorific value (BTU)--ASTM Method D 2015- 85;
- (iv) moisture content--ASTM Method D 3173- 85;
- (v) sulfur content--ASTM Method D 3177- 84;

(B) oil;

- (i) sampling-- A sample shall be collected at the pipeline inlet to the fuel burning unit after sufficient fuel has been drained from the line to remove all fuel that may have been standing in the line; ASTM Method D 270;
- (ii) heat of combustion (BTU) --ASTM Method D 240- 85;
- (iii) sulfur content--ASTM Method D 129- 64 (reapproved 1978).

The sulfur content and BTU content of the fuel shall be reported on a dry basis. Combustion sources choosing to demonstrate compliance through stack sampling shall follow procedures described in Method 6 of Appendix A of 40 CFR Part 60.

- (g) The version of the methods referred to in Paragraph (c) of this Regulation is that which

appeared in the Code of Federal Regulations as of May 1, 1986- November 1, 1986.

.0505 CONTROL OF PARTICULATES FROM INCINERATORS

(b) If the particulate emissions from any incinerator do not exceed 0.08 grains per dry standard cubic foot corrected to 12 percent carbon dioxide, Paragraph (a) of this Regulation shall not apply. Instead of meeting the standards in Paragraph (a) of this Regulation, the owner or operator of an incinerator may choose to limit particulate emissions from the incinerator to 0.08 grains per dry standard cubic foot corrected to 12 percent carbon dioxide. In order to choose this option, the owner or operator of the incinerator shall demonstrate that the ambient air quality standards will not be violated. To correct to 12 percent carbon dioxide, the measured concentration of particulate matter is multiplied by 12 and divided by the measured percent carbon dioxide.

.0524 NEW SOURCE PERFORMANCE STANDARDS

(a) Sources of the following types when subject to new source performance standards promulgated in 40 CFR Part 60 shall comply with the emission standards, monitoring and reporting requirements, maintenance requirements, notification and record keeping requirements, performance test requirements, test method and procedure provisions, and any other provisions, as required therein, rather than with any otherwise-applicable regulation in this Section or Section .0900 of this Subchapter which would be in conflict therewith:

- (54) Onshore Natural Gas Processing: SO₂ Emissions (40 CFR 60.1 to 60.39 and 60.640 to 60.649);

- (55) Basic Oxygen Process Steelmaking Facilities For Which Construction Is Commenced After January 20, 1983: (40 CFR 60.1 to 60.39 and 60.140a to 60.149a).

(e) The version of the new source performance standard listed in Paragraph (a) of this Regulation is that which appeared in the Code of Federal Regulations as of May 1, 1986- November 1, 1986.

.0525 NATIONAL EMISSION STANDARDS FOR HAZARDOUS

AIR POLLUTANTS

(a) Sources emitting pollutants of the following types when subject to national emission standards for hazardous air pollutants promulgated in 40 CFR Part 61 shall comply with emission standards, monitoring and reporting requirements, maintenance requirements, notification and record keeping requirements, performance test requirements, test method and any other provisions, as required therein, rather than with any otherwise-applicable regulation in this Subchapter or Section .0900 of this Subchapter which would be in conflict therewith:

(7) equipment leaks (fugitive emission sources) (of volatile hazardous air pollutants) (40 CFR 61.01 to 61.19 and 61.240 to 61.249);

(8) inorganic arsenic emissions from glass manufacturing plants (40 CFR 61.01 to 61.19 and 61.140 to 61.149);

(9) inorganic arsenic emissions from primary copper smelters (40 CFR 61.01 to 61.19 and 61.170 to 61.179);

(10) inorganic arsenic emissions from arsenic trioxide and metallic arsenic production facilities (40 CFR 61.01 to 61.19 and 61.180 to 61.189);

(e) The version of the national emission standards for hazardous air pollutants in Paragraph (a) of this Regulation is that which appeared in the Code of Federal Regulations as of ~~October 1, 1984~~ November 1, 1986.

.0528 TOTAL REDUCED SULFUR FROM KRAFT PULP MILLS

(c) Emissions of total reduced sulfur from any kraft pulp mill subject to this Regulation shall not exceed:

(8) ~~0.0168~~ 0.033 pounds per ton of black liquid solids (dry weight) from any smelt dissolving tank.

.0533 STACK HEIGHT

(a) For the purpose of this Regulation, the following definitions apply:

(7) "Emission limitation" means a requirement established by this Subchapter or a local air quality program certified by the commission that limits the quantity, rate, or concentration of emissions of air pollutants on a

continuous basis, including any requirements that limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

SUBCHAPTER 2H - PROCEDURES FOR PERMITS: APPROVALS

SECTION .0600 - AIR QUALITY PERMITS

.0607 COPIES OF REFERENCED DOCUMENTS

(a) Copies of applicable Code of Federal Regulations sections referred to in this Section and the North Carolina State Implementation Plan for Air Quality appendix of conditioned permits are available for public inspection at Department of Natural Resources and Community Development regional offices. They are:

(2) Winston-Salem Regional Office, 8003 North Point Boulevard, Suite 100, 8025 North Point Boulevard, Winston-Salem, North Carolina 27106;

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend regulations cited as 15 NCAC 10B .0105(a); .0201; .0202(a) and .0203(b)(c)(d)(e); and .0204(a); .0205(a); .0206(a); and .0207(a)(c); .0208(a); .0209(a); and .0210(a); .0211(a); .0212(a); .0214(a); .0215(a); 15 NCAC 10C .0205(a); .0305(a) and (b)(8) and (12); .0407(87) and (92); 15 NCAC 10D .0002(c) and (e); .0003(c) and (d)(2)(3)(4)(5); 15 NCAC 10H .0901(b)(1).

The proposed effective date of this action is July 1, 1987.

Statutory Authority: G.S. 113-134 through 113-306 and 50 CFR 20 and 21.

The public hearing schedule is as follows: District 1 - February 18, 1987 - Old Chowan County Courthouse, Edenton, NC - 7:00 p.m.; District 2 - February 19, 1987 - Craven County Courthouse, New Bern, NC - 7:00 p.m.; District 3 - February 23, 1987 - Johnston County Courthouse, Smithfield, NC - 7:00 p.m.; District 4 - February 16, 1987 - Old Cumberland County Courthouse, Fayetteville, NC -

7:00 p.m.; District 5 - February 17, 1987 - Alamance County Courthouse, Graham, NC - 7:00 p.m.; District 6 - February 9, 1987 - North Stanly High School, Albemarle, NC - 7:00 p.m.; District 7 - February 11, 1987 - Wilkes County Courthouse, Wilkesboro, NC - 7:00 p.m.; District 8 - February 12, 1987 - Civic Center Auditorium, Morganton, NC - 7:00 p.m.; District 9 - February 10, 1987 - Swain County Courthouse, Bryson City, NC - 7:00 p.m.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearings. In addition, the record of the hearings will be open for receipt of written comments from January 20, 1987, to 5:00 p.m. on February 20, 1987. Such written comments must be delivered or mailed to the Wildlife Resources Commission, 512 N. Salisbury St., Archdale Bldg., Raleigh, NC 27611.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

.0105 MIGRATORY GAME BIRDS

(a) Cooperative State Rules

- (1) The taking of sea ducks (scoter, eider and old squaw) during any special federally-announced season for these species shall be limited to the waters of the Atlantic Ocean, and to those coastal waters south of US 64 which are separated by a distance of at least 800 yards of open water from any shore, island or marsh.
- (2) The extra daily bag and possession limits allowed by the federal regulations on scaup apply in all coastal waters east of U.S. Highway 17, except Currituck Sound north of US 158.

†3) The North Carolina open season on canvasback ducks is limited to the last 40 days of the regular duck season established by the U.S. Fish and Wildlife Service, and the area of open season is that part of Pamlico Sound, including such of its tributaries as are designated as coastal fishing waters, lying within two miles of the mainland

(Outer Banks excluded) and extending from Long Shoal Point in Dare County southwesterly to Piney Point on the north side of Broad Creek near Whortonsville, and upstream in Pamlico Sound to the Aurora-Belhaven ferry crossing. Those wishing to hunt canvasback during such season and in such area must first obtain from the Wildlife Resources Commission a free canvasback hunting permit which is required for the purpose of assuring post-season reports of hunting success.

†4) (3) Tundra swans may be taken during the open season by permit only subject to limitations imposed by the U.S. Fish and Wildlife Service. A limited number of non-transferable swan permits will be issued by the Wildlife Resources Commission without charge to as many applicants who will be selected at random by computer, and only one swan may be taken under each permit which must be cancelled at the time of the kill by cutting out the month and day of the kill. Accompanying the permit is a metal tag which must be affixed at the base of the right wing of the swan at the time and place of the kill. In addition, a preaddressed postpaid card is supplied to each permittee on which to report the number of days hunted and the details of the kill if made. It is unlawful to hunt swans without having the permit and the tag in possession or to possess a swan without the cancelled permit in possession and the tag properly affixed to the swan.

SECTION .0200 - HUNTING

.0201 PROHIBITED TAKING

It is unlawful for any person to take, or have in possession, any wild animal or wild bird listed in this Section except during the open seasons and in accordance with the limits herein prescribed, or as prescribed by 15 NCAC 10B .0300 pertaining to trapping or 15 NCAC 10D applicable to game lands managed by the Wildlife Resources Commission, unless otherwise specifically permitted by law. Lawful seasons and bag limits for each species apply

beginning with the first day of the listed season and continue through the last day of the listed season, with all dates being included except Sundays. State law prohibits hunting with firearms on Sunday except on military installations under the exclusive jurisdiction of the federal government, where the open seasons include Sundays. When any hunting season ends on a January 1 that falls on a Sunday, that season is extended to Monday, January 2.

Note: Where local laws govern hunting, or are in conflict with these regulations, the local law shall prevail.

.0202 BEAR

(a) Open Seasons

- (1) October 13 November 22 and December 15 Monday on or nearest October 15 to the Saturday before Thanksgiving and the third Monday after Thanksgiving to January 1 in and west of the boundary formed by NC 16 from the Virginia State line to Wilkesboro and NC 18 from Wilkesboro to the South Carolina State line.
- (2) November 10 15 Second Monday in November to the following Saturday in Hyde, Jones and Pamlico Counties.
- (3) November 10 Second Monday in November to January 1 in Bladen, Carteret, Duplin, New Hanover, Onslow and Pender Counties; in that part of Cumberland County south of NC 24 and east of the Cape Fear River; and in that part of Sampson County south of NC 24.
- (4) December 8 Second Monday in December to January 1 in Brunswick and Columbus Counties.

.0203 DEER (WHITE-TAILED)

(b) Open Seasons (All Lawful Weapons)

- (1) Male Deer With Visible Antlers

(A) October 13 Monday on or nearest October 15 to January 1 in the following counties and parts of counties:

Beaufort	Lenior
Bertie	Martin
Bladen	Nash
Brunswick	New Hanover
Camden	Northampton
Carteret	Onslow
Chowan	Pamlico
*Columbus	Pasquotank
Craven	Pender

Currituck	Perquimans
Dare	Pitt
Duplin	**Richmond
Edgecombe	Robeson
Franklin	**Scotland
Gates	Tyrrell
Greene	Vance
Halifax	Warren
Hertford	Washington
Hoke	Wayne
Hyde	Wilson
Jones	

- * Unlawful to hunt or kill deer in Lake Waccamaw or within 50 yards of its shoreline.
- ** See 15 NCAC 10D .0003 (d)(2) for seasons on Sandhills Game Land.

Cumberland: All of the county except that part north of NC 24 east of Fayetteville and east of NC 210 north of Fayetteville.

Harnett: That part west of NC 87.

Johnston: All of the county except that part south of US 70 and west of I-95.

Moore: That part south of NC 211 and east of US 1, except on the Sandhills Game Land [See 15 NCAC 10D .0003(d)(2)].

Sampson: That part south of NC 24 west of Clinton and NC 403 east of Clinton.

Wake: That part north of NC 54 west of Raleigh and US 70 east of Raleigh.

- (B) November 24 December 6 Monday of Thanksgiving week to second Saturday after Thanksgiving Day in the following counties and parts of counties:

Alexander
Alleghany
Ashe
Catawba
Davie
Forsyth
Gaston
Iredell
Stokes
Surry
Watauga
Wilkes
Yadkin

Lincoln: All of the county except that part east of US 321 and west of NC 27, SR 1360, SR 1349 and SR 1371.

Mecklenburg: That part west of I-77, south of NC 73, east of the Catawba River, and north

of NC 16 and SR 2004,
except Cowan's Ford
Waterfowl Refuge.
Watauga: All of the
county except that part
north and west of NC
194.

- (C) November 24-December 13
Monday of Thanksgiving
week to third Saturday
after Thanksgiving Day in
the following counties and
parts of counties:

Avery
Buncombe
Burke
Caldwell
Cherokee
Clay
Cleveland
Graham
Haywood
Henderson
Jackson
Macon
Madison
McDowell
Mitchell
Polk
Rutherford
Swain
Transylvania
Yancey

Macon: All of the county
except that part bounded
by US 64 on the
northeast, US 441 on the
west, and NC 106 on the
south.

- (D) November 17 Monday
before Thanksgiving week
to January 1 in the
following counties and
parts of counties:

Alamance	Montgomery
Anson	Orange
Caswell	Person
Chatham	Randolph
Davidson	Rockingham
Durham	Rowan
Granville	Stanly
Guilford	Union
Lee	

Cabarrus: That part east
of I-85.

Cumberland: That part
north of NC 24 east of
Fayetteville and east of
NC 210 north of
Fayetteville, but
excluding the area
located north and east
of a boundary formed by
US 13, US 301, SR 1802,
SR 1709 and the Cape
Fear River.

Harnett: That part east
of NC 87 and west of US
401 north of Lillington
and the Cape Fear River
south of Lillington.

Johnston: That part south
of US 70 and west of
I-95.

Moore: That part north of
NC 211 and west of US 1.
Wake: That part south of
NC 54 west of Raleigh
and US 70 east of
Raleigh.

- (2) Deer of Either Sex.

Deer of either sex may be
taken during the open
seasons and in the
counties and portions of
counties listed below:

(A) October 10-11, 17-18,
24-25, 31 and November 1
Four consecutive periods
of Friday and Saturday
beginning with the
second Friday in October
in those parts of Hyde
and Washington Counties
known as the Pungo
National Wildlife
Refuge.

(B) October 13 Monday on
or nearest October 15 to
January 1 in that part
of Brunswick County
known as the Sunny Point
Military Ocean Terminal,
in that part of Craven
County known and marked
as Cherry Point Marine
Base, in that part of
Onslow County known and
marked as the Camp
Lejeune Marine Base, and
on Fort Bragg Military
Reservation in the
counties of Cumberland,
Hoke and Moore.

(C) October 22, 25, 29,
23, 24, 30, 31 and
November 1, 7, 8, 11,
15, 21, 22, 6, 7, 11, 13,
14, 20, 21 in those
parts of Camden, Gates
and Pasquotank Counties
known as the Dismal
Swamp National Wildlife
Refuge.

(D) October 1-31 with bow
and arrow only and
November 1, 5, 7, 8, 14,
15, 7, 11, 13, 14, 20, 21
in those parts of Anson
and Richmond Counties
known as the Pee Dee
National Wildlife
Refuge.

(E) October 21-25 20-24
with bow and arrow only
and November 1, 5-8,
10-11 October 31 and
November 4, 5, 6, 7, 9,
10 in that part of
Currituck County known
as the Mackay Island
National Wildlife
Refuge.

(F) December 3 Wednesday
of the week following
Thanksgiving in all of
Catawba, Cleveland,
Iredell, Rutherford and

Surry Counties; in all of Alexander, Alleghany, Ashe, Burke, Caldwell, Davie, Stokes and Wilkes Counties except game lands.

(G) December 3-4 Wednesday and Thursday of the week following Thanksgiving in all of Franklin Dare and Pitt and Vance Counties and in the following parts of counties:

Beaufort: That part northwest of a boundary formed by NC 32, US 264 and US 17.

Cabarrus: That part east of US 52.

Carteret: All of the county except game lands.

Craven: That part bounded on the south by SR 1005, on the east by SR 1243, SR 1401, SR 1400 and SR 1440, and on the north by NC 43.

Currituck: All of the county except the Outer Banks area.

Davidson: That part south of I-85, except on game lands.

Edgecombe: That part south of US 64.

Lenoir: That part south of the Neuse River.

Moore: That part south of NC 211, except game lands.

Nash: That part north of US 64.

Pamlico: All of the county except game lands.

Pasquotank: All of the county except Dismal Swamp National Wildlife Refuge.

Richmond: That part east of Little River, except on game lands.

Robeson: That part east of a boundary formed by SR 1004, NC 41, NC 211, SR 1620, SR 2225, NC 130 and NC 41.

Rowan: That part south of I-85 and east of US 52, except on game lands.

Stanly: All of county except game lands.

Wake: That part north of NC 54 west of Raleigh and US 70 east of Raleigh.

Wayne: That part south of US 70.

(H) December 3-6 Wednesday

to Saturday of the week following Thanksgiving in all of Alamance, Caswell, Chatham, Durham, Franklin, Granville, Martin, Orange, Person, Pitt, and Rockingham and Rockingham and Vance Counties and in the following parts of counties:

Anson: All of the county except game lands and the Pee Dee National Wildlife Refuge.

Cabarrus: That part east of US 52.

Currituck: That part east of the Intracoastal Waterway, except the Outer Banks and the Mackey Island National Wildlife Refuge.

Davidson: That part south of I-85, except game lands.

Edgecombe: That part south of US 64.

Guilford: That part north of a boundary formed by I-40 and I-85.

Hyde: All of the county except Pungo National Wildlife Refuge.

Moore: That part south of NC 211, except game lands.

Nash: That part north of US 64.

Perquimans: That part south of US 17 and east of Perquimans River.

Randolph: That part south of US 64 and west of US 220, except on game lands.

Richmond: That part east of Little River, except game lands.

Rowan: That part south of I-85 and east of US 52, except game lands.

Sampson: That part north of a boundary formed by US 701, SR 1157, SR 1004 and SR 1926, and south of a boundary formed by SR 1214 and NC 24.

Stanly: All of the county except game lands.

Wake: That part north of NC 54 west of Raleigh and north of US 70 east of Raleigh.

Washington: That part

west of NC 32 and south of US 64.
 (I) December 3-13
Wednesday of the week following Thanksgiving to Saturday of next succeeding week in all of Duplin, Halifax, Northampton, Perquimans and Warren Counties and in the following parts of counties:
 Beaufort: That part southeast of the boundary formed by NC 32, US 264 and US 17, except on game lands.
 Bladen: That part east of a boundary formed by NC 242, NC 410, SR 1339, the Lyon Store Tram Road, and the Cape Fear River. All of the county except on game lands.
 Brunswick: That part north and east of a line formed by US 17, NC 211, and the Lockwood Folly River.
 Columbus: That part east of US 701, NC 130, SR 1157, SR 1141, SR 1139, SR 1118, SR 1108 and SR 1104.
 Craven: All of the county except game lands and except that part bounded on the south by SR 1005, on the east by SR 1243, SR 1401, SR 1400 and SR 1440, and on the north by NC 43.
 Edgecombe: That part north of US 64.
 Hyde: All of the county except Pungo National Wildlife Refuge.
 Johnston: That part south of US 70 and east of I-95.
 Jones: All of the county except game lands.
 Montgomery: All of the county except on game lands.
 New Hanover: That part north of US 74.
 Onslow: All of the county except game lands.
 Perquimans: All of the county except that part south of US 17 and east of Perquimans River.
 Richmond: That part west of Little River, except Pee Dee National Wildlife Refuge.

Sampson: That part south of a boundary formed by US 701, SR 1157, SR 1004 and SR 1926.

(J) December 3-13 and December 29-January 4
Wednesday of the week following Thanksgiving to Saturday of the next succeeding week and the last three days of the regular gun season for deer in all of Bertie, Chowan and Hertford counties, and in the following parts of counties:

Gates: All of the county except Dismal Swamp National Wildlife Refuge.

Pender: All of the county except game lands.

(3) Game Lands Either-Sex Hunts. On the hunt dates indicated, deer of either sex may be taken by permittees engaged in managed hunts conducted on game lands in accordance with 15 NCAC 10D .0003(d)(4).

(c) Open Seasons (Bow and Arrow)

(1) Authorization. Subject to the restrictions set out in Subparagraph (3) of this Paragraph and the bag limits set out in Paragraph (e) of this Rule (and except where prohibited by local law), deer of either sex may be taken with bow and arrow during the following seasons:

(A) September 8-October 4
Monday on or nearest September 10 to the fourth Saturday thereafter in the counties and parts of counties having the open season for male deer specified by Part (A) of Subparagraph(b)(1) of this Rule, except on the Sandhills Game Land.

(B) September 8-November 15
Monday on or nearest September 10 to the second Saturday before Thanksgiving in the counties and parts of counties having the open seasons for male deer specified by Part (B) of Subparagraph (b)(1) of this Rule.

(C) September 8-October 4
and October 13-November 22
Monday on or nearest

September 10 to the fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving in the counties and parts of counties having the open seasons for male deer specified by Part C of Subparagraph (b)(1) of this Rule, except in Yancey County.

(D) September 8-11 Monday on or nearest September 10 to the third Saturday before Thanksgiving in the counties and parts of counties having the open seasons for male deer specified by Part D of Subparagraph (b)(1) of this Rule, and on Sandhills Game Land.

(2) Yancey County

(A) September 8-11 Monday on or nearest September 10 to the fourth Saturday thereafter for antlered deer only.

(B) October 13-15 Monday on or nearest October 15 to the Saturday before Thanksgiving for deer of either sex.

(3) Restrictions

(A) Dogs may not be used for hunting deer during the bow and arrow season.

(B) It is unlawful to carry any type of firearm while hunting with a bow during the bow and arrow deer hunting season.

(C) Only bows and arrows of the types authorized in 15 NCAC 10B .0116 for taking deer may be used during the bow and arrow deer hunting season.

(d) Open Seasons (Muzzle-Loading Rifles and Shotguns)

(1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph, deer may be taken only with muzzle-loading firearms during the following seasons:

(A) October 6-11 Monday on or nearest October 8 to the following Saturday in the counties and parts of counties having the open seasons for male deer specified by Items (A) and (C) of Subparagraph (b)(1) of

this Rule, except on Sandhills Game Land.

(B) November 17-22 Monday to Saturday of the week preceding Thanksgiving in the counties and parts of counties having the open seasons for male deer specified by Item (B) of Subparagraph (b)(1) of this Rule.

(C) November 10-15 Monday to Saturday of the second week before Thanksgiving in the counties and parts of counties having the open season for male deer specified by Part D of Subparagraph (b)(1) of this Rule, and on the Sandhills Game Land.

(2) Restrictions

(A) Only male deer with visible antlers may be taken during the muzzle loading-firearms seasons.

(B) Dogs may not be used for hunting deer during the muzzle-loading firearms seasons.

(C) Pistols may not be carried while hunting deer during the muzzle-loading firearms seasons.

(e) Bag Limits

(1) Male Deer With Visible Antlers Daily, two; possession, two; season, four.

~~(A) Daily, one; possession, two; season, two, including deer killed elsewhere, in and west of the counties of Madison, Buncombe and Rutherford.~~

~~(B) Daily, two; possession, two; season, four, including deer killed elsewhere, in and east of the counties of Yancey, McDowell, Burke and Cleveland.~~

(2) Antlerless Deer. Where antlerless deer may be lawfully taken, a maximum of two antlerless deer may be substituted for an equal number of antlered deer in the limits contained in Subparagraph (1) of this Paragraph, and one additional antlerless deer is permitted without substitution when taken during an either-sex season in county or part of county included in Part (A) of Subparagraph (b)(1) of this Rule. Antlerless deer include males with

knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin.

- (3) Managed Game Land Hunts. Excluded from the possession and season limits set forth in Subparagraphs (1) and (2) of this Paragraph are deer of either sex taken by permittees engaged in managed hunts conducted on game lands in accordance with 15 NCAC 10D .0003(d)(4) and (5), such deer being in addition to the specific possession and season limits set out in this Paragraph.

.0204 WILD BOAR (BOTH SEXES)

- (a) Open Seasons: October 13- November 22 and December 15- Monday on or nearest October 15 to the Saturday before Thanksgiving, and the third Monday after Thanksgiving to January 1, except on bear sanctuaries located on the game lands in and west of the counties of Madison, Buncombe, Henderson and Polk, where the boar seasons are controlled by 15 NCAC 10D .0003(d)(3)(B).

.0205 RACCOON AND OPOSSUM

- (a) Open Seasons
(1) October 13 (at sunrise)- Sunrise Monday on or nearest October 15 to January 31 in and west of Stokes, Forsyth, Davie, Iredell, Mecklenburg and Union Counties, except as follows:

(A) There is no open season for hunting raccoon or opossum in the described raccoon relocation areas in the following counties-

(i) Jackson- That part north of SR 1762 and NE 281, east of SR 1757, and south of SR 1756.

(ii) Madison- That part north of the French Broad River, south of US 25-70 and west of SR 1319.

(iii) Polk- That part northwest of NE 108 and west of I-26 south of Columbus.

(iv) Rutherford- That part east of SR 1006, north of SR 1769 and west of SR 1749.

that part of Madison County lying north of the French Broad River,

south of US 25-70 and west of SR 1319.

- (D) Training raccoon and opossum dogs at night is prohibited from April 1 through August 15 in Gaidwell and Rutherford Counties- March 1 through August 31 in or west of Stokes, Forsyth, Davie, Iredell, Catawba, Lincoln and Gaston Counties, except when participating in field trials sanctioned by the Wildlife Resources Commission.

- (2) October 20 (at sunrise)- February 28 Sunrise Monday on or nearest October 22 to the last day of February in and east of Rockingham, Guilford, Davidson, Rowan, Cabarrus, Stanly and Anson Counties.

.0206 SQUIRRELS

- (a) Open Seasons
(1) Gray and Red Squirrels: October 13- Monday on or nearest October 15 to January 31 statewide.
(2) Fox Squirrels: October 13- Monday on or nearest October 15 to December 31 in the counties of Anson, Bladen, Brunswick, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Moore, New Hanover, Onslow, Pender, Pitt, Richmond, Sampson, Scotland and Wayne.

.0207 RABBITS

- (a) Open Season: November 22- February 28, Saturday next preceding Thanksgiving to the last day of February, provided that on the Pea Island National Wildlife Refuge managed youth rabbit hunting is authorized from October 1 to December 13.

(c) Box-traps. During the period from October 1 to March 31, both dates included hunting season specified in Paragraph (a) of this Rule and subject to the bag, possession and season limits set forth in Paragraph (b) of this Rule, rabbits may be taken with box-traps.

.0208 QUAIL

- (a) Open Season: November 22- February 28- Saturday next preceding Thanksgiving to the last day of February.

.0209 WILD TURKEY (BEARDED TURKEYS ONLY)

- (a) Open Season: April 11- May 9 Second Saturday in April to Saturday of the fourth week thereafter on bearded turkeys

only, except there is no open season in the counties of Anson, Brunswick, Chowan, Davidson, Davie, Harnett, Hertford, Hoke, Hyde, Mitchell, Perquimans, Polk, Randolph, Rowan, Rutherford, and Scotland and Surry, and in the following portions of counties:

Bertie: That part north of US 17 and east of US 13.

Bladen: That part east of NC 53 and west of NC 210.

Brunswick: That part north of US 74.

Cherokee: That part south of SR 1505 and US 19-129 and north of US 64.

Columbus: That part north of NC 87.

Craven: That part west of US 70, BUS 70 and NC 55 east of New Bern.

Cumberland: That part north and west of US 401.

Graham: That part west of NE 28, south of SR 1242, east of US 129 and north of NE 143.

Harnett: That part south of US 421 and west of US 401.

Haywood: That part south of US 23 and that part south and west of I-40.

Henderson: That part east of I-26.

Jackson: That part south of US 23 and east of NC 107 and NC 281.

Johnston: That part east of I-95.

Jones: That part west of US 17.

Lee: That part south of US 421 and east of US 1.

Montgomery: That part north of NC 24-27.

Moore: That part south of NC 211 and east of US 1.

Pender: That part south of NC 210.

Randolph: That part north of US 64 and west of US 220.

Richmond: That part east of US 220 and north of US 74, and that part west of US 109.

Transylvania: That part north of US 64, east of NC 281 and west of NC 215.

Watauga: That part south of US 421 and east of US 321.

Wilkes: That part south of US 421 and north of NC 268.

Note: No open season in Gates County by local law.

.0210 RUFFED GROUSE (NATIVE PHEASANT)

(a) Open Season: October 13-February 28 Monday on or nearest October 15 to last day of February.

.0211 PHEASANT (NONNATIVE VARIETIES)

(a) Open Season: November 22-Saturday next preceding Thanksgiving to February 1 on male pheasant only. except that the season is October 1-February 1 on Pea Island National Wildlife Refuge where birds of either sex may be taken.

.0212 FOXES (GRAY AND RED)

(a) Seasons

(1) No closed season on taking foxes with dogs;

(2) January 6-27 First Saturday to fourth Saturday in January with weapons or traps in the following counties:

Alexander	Henderson
Anson	Hyde
Avery	Johnston
Brunswick	Macon
Camden	Moore
Caswell	Northampton
Clay	Perquimans
Currituck	Sampson
Edgecombe	Stanly
Graham	Stokes
Granville	Tyrrell

(3) No open weapons or trapping season in any other county, except where provided by local laws.

.0214 WILDCAT (BOBCAT)

(a) Open Seasons

(1) December 15 Third Monday after Thanksgiving to January 31 in and west of Stokes, Forsyth, Davie, Iredell, Mecklenburg and Union Counties, except there is no open season in the following parts of counties:

Cherokee: That part north of US 64 and NC 294, east of Persimmon Creek and Hiwassee Lake, south of Hiwassee Lake, and west of Nottely River.

Jackson: That part north of SR 1762 and NC 281, east of SR 1757 and south of SR 1756.

Madison: That part north of the French Broad River, south of US 25-70, and west of SR 1319.

Polk: That part northwest of NC 108 and west of I-26 south of Columbus.

Rutherford: That part east of US 221 and north of Business US 74.

(2) December 15-February 15 Third Monday after Thanksgiving to the second Saturday in February in all other counties.

.0215 CROWS

(a) Open Seasons: Each Thursday, Friday and Saturday from June 1 to February 28, both

dates inclusive of each week from July 1 to the last day of February and from June 1 to June 30 and on Labor Day and Christmas Day.

Note: Federal law protects crows and limits state seasons to a maximum of 124 days per year.

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

SECTION .0200 - GENERAL REGULATIONS

.0205 PUBLIC MOUNTAIN TROUT WATERS

(a) Designation of Public Mountain Trout Waters. On game lands located in western North Carolina certain waters are classified and designated as public mountain trout waters. Those not further specifically classified as native trout waters are classified as general trout waters. (See 15 NCAC 10D .0004) Other streams, portions of streams and bodies of water which are not located on game lands are designated within this Rule as public mountain trout waters and are classified as general or native trout waters. These waters are posted and lists thereof are filed with the clerks of superior court of the counties in which they are located.

(1) General Trout Waters.

The general public mountain trout waters which are not located on game lands are designated in this Subparagraph under the counties where located. Indentation indicates the watercourse named is tributary to the next preceding watercourse named and not so indented. The designation applies to the entire watercourse or impoundment named except as otherwise indicated in parentheses following the name. Other clarifying information may also be included parenthetically:

(E) Burke County:

Catawba River (not trout water)

South Fork Catawba River (not trout water)

Henry River (lower Morganton watershed line downstream to SR 1919 at Ivy Creek)

Jacob Fork (Shiny Creek to lower South Mountain State Park boundary)

Linville River (first bridge on SR 1223 below Lake James powerhouse to Muddy Creek)

(U) Swain County:

Little Tennessee River (not trout water)

Calderwood Lake (Cheoah Dam to Tennessee State line) Tuckaseegee River (not trout water)

Deep Creek (Great Smoky Mountains National Park boundary line to Tuckaseegee River) Oconaluftee River (not trout water)

Ela Dam (Lake)

Connelly Creek

Alarka Creek Nantahala River (Macon County line to existing water level of Fontana Lake)

(W) Watauga County:

New River, North Fork (Ashe County)

Hoskins Fork

New River, South Fork (not trout water)

Meat Camp Creek

Norris Fork Creek

Howards Creek (downstream from lower falls)

Winkler Creek (not trout water)

Flannery Fork

Middle Fork (Lake Chetola Dam to New River)

Yadkin River (not trout water)

Stony Fork

Elk Creek (headwaters to gravel pit on SR 1508, except where posted against trespass)

Watauga River (Avery County line to SR 1114 bridge)

Beech Creek

Buckeye Creek

Reservoir

Coffee Lake

Laurel Creek

Cove Creek (SR 1233 bridge at Zionville to SR 1233 bridge at Amantha)

Dutch Creek

Crab Orchard Creek

Boone Fork (headwaters to SR 1562)

(Y) Yancey County:

Nolichucky River (not trout water)

Cane River (Pensacola bridge to one mile upstream from Bowlen's Creek)

Bald Mountain Creek (except where posted against trespass)

Bald Creek (not trout water)

Lickskillet Creek
Elk Wallow

(Schronce Creek)

Indian Creek (not trout water)

Price Creek
(junction of SR 1120 and SR 1121 to Indian Creek)

South Toe River [Clear Creek to Blue Rock bridge (SR 1152) lower boundary line of Yancey County recreation park except where posted against trespass]

Rock Creek (lower two miles)

Middle Creek (lower one mile)

(2) Native Trout Waters. The native trout waters which are not located on game lands are designated in this Subparagraph under the counties where located:

(A) Alleghany County:

Fell Branch

Roaring Fork (Ramey Creek)

SECTION .0300 - GAME FISH

.0305 OPEN SEASONS: CREEL AND SIZE LIMITS

(a) Generally. Subject to the exceptions listed in Paragraph (b) of this Rule, the open seasons and creel and size limits are as indicated in the following table:

GAME FISHES	DAILY CREEL LIMITS	MINIMUM SIZE LIMITS	OPEN SEASON (EXCPTN. 2)
Mountain Trout (All Species)	7 (excptn. 3)	None (excptn. 3)	July 1-Feb. 28 & 1-2 hr. before Sunrise April 4-June 30 <u>All year, except March 1 to 1/2 hr. before sunrise on first Saturday in April</u> (excptns. 2 & 3)
Muskellunge And Tiger Musky	2	30 in.	ALL YEAR
Chain Pickerel (Jack)	None (excptn. 1)	None	ALL YEAR
Walleye	8 (excptn. 9 & 10)	None (excptn. 9)	ALL YEAR
Black Bass: Largemouth	8 (excptn. 8 & 10)	14 in. (excptn. 4, 8 & 11)	ALL YEAR
Smallmouth & Spotted	8 (excptn. 8 & 10)	12 in. (excptn. 4, 8 & 11)	ALL YEAR
White Bass	25 (excptn. 1)	None	ALL YEAR
Sea Trout (Spot- ted or Speckled)	None	None	ALL YEAR
Striped Bass and their hybrids (Morone Hybrids)	8 aggregate (excptns. 1 6 & 12)	16 in. (excptns. 1, 12 & 13)	ALL YEAR
Kokanee Salmon	7	None	ALL YEAR

Panfishes None
 (excptn. 5)

NONGAME FISHES None

None

None

ALL YEAR
(excptn. 5)

ALL YEAR
(excptn. 7)

(b) Exceptions

(8) The maximum combined number of black bass of all species that may be retained is eight fish, no more than two of which may be smaller than the applicable minimum size limit. The minimum size limit for all species of black bass is 12 inches in Currituck Sound and tributaries north of Wright Memorial Bridge; in North River and tributaries in Currituck and Camden Counties north of a line between Camden Point and the end of SR 1124; and in and west of Madison, Buncombe, Henderson and Polk Counties. In B. Everett Jordan Reservoir a daily creel limit of four fish and a minimum size limit of 16 inches, with no exception, apply to largemouth bass. In Falls of Neuse Reservoir, east of SR 1004, Lake Tillery and Tuckertown Lake the daily creel limit for black bass is four fish, no black bass between the lengths of 12 inches and 16 inches may be retained, and the minimum size limit for black bass is 16 inches, except that the daily creel may contain two black bass of less than 12 inches in length. In John H. Kerr Reservoir and Lake Gaston the daily creel of five fish shall apply to black bass, provided that this limit shall become effective only when and if the State of Virginia imposes a like creel limit for black bass taken from those impoundments.

(12) There is no daily creel limit or minimum size limit for Morone hybrids in the following waters:

- (A) W. Kerr Scott Reservoir in Wilkes County;
(A) (B) Salem Lake in Forsyth County;
(B) (C) Lake Fisher in Cabarrus and Rowan Counties;
(C) (D) Lake Thom-A-Lex in Davidson County;
(D) (E) All waters within the counties of Alamance, Chatham, Durham, Guilford,

Lee, Orange, Rockingham, and Wake.

SECTION .0400 - NONGAME FISH

.0407 PERMITTED SPECIAL DEVICES AND OPEN SEASONS

Except in designated public mountain trout waters, and in impounded waters located on the Sandhills Game Land, there is a year-round open season for the licensed taking of nongame fishes by bow and arrow. Seasons and waters in which the use of other special devices is authorized are indicated by counties below:

(87) Tyrrell:

(a) July 1 to June 30 with traps in Scuppernong River, Alligator Creek, and Lake Phelps and its the drainage canals of Lake Phelps except Bee Tree Canal within 50 yards of the Lake Phelps fish ladder;

(b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding Lake Phelps, Bee Tree Canal within 50 yards of the Lake Phelps fish ladder, public lakes, ponds and other impounded waters; and with gill nets in Alligator Creek;

(92) Washington:

(a) July 1 to June 30 with traps in Lake Phelps and its the drainage canals of Lake Phelps;

(b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding Lake Phelps, public lakes, ponds and other impoundments; and with gill nets in Conaby Creek;

SUBCHAPTER 10D - GAME LANDS
REGULATIONS

.0002 GENERAL REGULATIONS
REGARDING USE

(c) Possession of Hunting Devices. It is unlawful to possess a firearm or bow and arrow on a game land at any time except during the open hunting season seasons or hunting days for game birds or game animals thereon unless said device is cased or not immediately available for use, provided that such devices may be possessed and used by persons

participating in field trials on field trial areas and on target shooting areas designated by the landowner, and possessed in designated camping areas for defense of persons and property; and provided further that .22 caliber pistols with barrels not greater than seven and one-half inches in length and shooting only short, long or long rifle ammunition may be carried as side arms on game lands at any time other than by hunters during the special bow and arrow and muzzle-loading firearms deer hunting seasons and by individuals training dogs during closed season without field trial authorization. This Rule shall not prevent possessing or use of a bow and arrow as a licensed special fishing device in those waters where such use is authorized. During the closed firearms seasons on big game (deer, bear, boar, wild turkey), no person shall possess a shotgun shell containing larger than No. 4 shot or any rifle larger than a .22 caliber rimfire while on a game land, except that shotgun shells containing No. 2 shot may be used on Croatan, Goose Creek and Gull Rock Game Lands.

(e) Field Trials and Training Dogs. A person serving as judge of a field trial which, pursuant to a written request from the sponsoring organization, has been officially authorized in writing and scheduled for occurrence on a game land by an authorized representative of the Wildlife Resources Commission, and any nonresident participating therein may do so without procuring a game lands license, provided such nonresident has in his possession a valid hunting license issued by the state of his residence. Any individual or organization sponsoring a field trial on the Sandhills Field Trial grounds or the Laurinburg Fox Trail facility shall file with the commission's agent an application to use the area and facility accompanied by a check for the facility use fee computed at the rate of fifty dollars (\$50.00) for each scheduled day of the trial. The total facility use fee will cover the period from 12:00 noon of the day preceding the first scheduled day of the trial to 10:00 a.m. of the day following the last scheduled day of the trial. The facility use fee must be paid for all intermediate days on which for

any reason trials are not run but the building or facilities are used or occupied. A fee of twenty-five dollars (\$25.00) per day shall be charged to sporting, educational, or scouting groups for scheduled events utilizing the club house only. No person or group of persons or any other entity shall enter or use in any manner any of the physical facilities located on the Laurinburg Fox Trail or the Sandhills Field Trial grounds without first having obtained specific written approval of such entry or use from an authorized agent of the Wildlife Resources Commission, and no such entry or use of any such facility shall exceed the scope of or continue beyond the specific approval so obtained. The Sandhills Field Trial facilities shall be used only for field trials scheduled with the approval of the Wildlife Resources Commission. No more than 16 days of field trials may be scheduled for occurrence on the Sandhills facilities during any calendar month, and no more than four days may be scheduled during any calendar week, provided that a field trial requiring more than four days may be scheduled during one week upon reduction of the maximum number of days allowable during some other week so that the monthly maximum of 16 days is not exceeded. Before October 1 of each year, the North Carolina Field Trial Association or other Field Trial Association or other organization desiring use of the Sandhills facilities between October 22 and November 18 and between December 3 and March 31 must submit its proposed schedule of such use to the Wildlife Resources Commission for its consideration and approval. The use of the Sandhills Field Trial facilities at any time by individuals for training dogs is prohibited; elsewhere on the Sandhills Game Lands dogs may be trained only on Mondays, Wednesdays and Saturdays from October 1 through April 1.

Dogs may not be trained or permitted to run unleashed between April 1 and August 15 March 1 and August 31 on any game land located west of I-95, except when participating in field trials sanctioned by the Wildlife Resources Commission.

.0003 HUNTING ON GAME LANDS
(c) Time and Manner of

Taking. Except where closed to hunting or limited to specific dates by these regulations, hunting on game lands is permitted during the open season for the game or furbearing species being hunted. On managed waterfowl impoundments, hunters shall not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates, and hunting is prohibited after 1:00 p.m. on such hunting dates. On Butner, Falls of Neuse, New Hope and Sheron Harris Game Lands waterfowl hunting is limited to the period from one-half hour before sunrise to 1:00 p.m. on the open hunting days. No person shall operate any vessel or vehicle powered by an internal combustion engine on a managed waterfowl impoundment. No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal which has been so mutilated. No person shall place, or cause to be placed on any game land, salt, grain, fruit or other foods without prior written authorization of the commission or its agent and no person shall take or attempt to take any game birds or game animals attracted to such foods. No person shall use an electronic calling device for the purpose of attracting wild birds or wild animals. No live wild animals or wild birds shall be removed from any game land.

(d) Hunting Dates

- (2) Any game may be taken during the open seasons on the following game lands and hunting is limited to Mondays, Wednesdays, Saturdays and Thanksgiving, Christmas and New Years Days. In addition, deer may be taken with bow and arrow on the opening day of the bow and arrow season for deer. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays. Additional restrictions apply as indicated in parentheses following specific designations:

Ashe County--Carson Woods Game Land

Beaufort and Craven

Counties--Big Pocosin Game Land (Dogs may not be trained or used in hunting from March 2 to August 31.

Trapping is controlled by the landowner.)

Bertie County--Bertie County Game Lands

Bladen County--Bladen Lakes State Forest Game Lands (Handguns may not be carried and, except for muzzle-loaders, rifles larger than .22 caliber rimfire may not be used or possessed. On the Breece Tract and the Singletary Tract deer and bear may be taken only by still hunting. Except on the Breece and Singletary Tracts, persons hunting deer with any type of weapon during the regular gun season must first obtain a permit at a designated check station, and return the permit to the check station after the day's hunt is completed.)

Cabarrus County--River View Acres Game Land

Caswell County--Caswell Game Land (That part designated and posted as a "safety zone" is closed to all hunting and trapping, and entry upon such area for any purpose, except by authorized personnel in the performance of their duties, is prohibited. On areas posted as "restricted zones" hunting is limited to bow and arrow.)

Lenoir County--H.M. Bizzell, Sr. Game Land

Onslow County--White Oak River Impoundment Game Land (In addition to the dates above indicated, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.)

Pender County--Holly Shelter Game Land (In addition to the dates above indicated, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.)

Richmond, Scotland and Moore Counties--Sandhills Game Land [Except when hunting raccoon or opossum between sunset and sunrise, every hunter must first obtain a permit at a designated check station, and must return the permit to the check station after the day's hunt is completed. Hunters will be assigned to designated compartments, and it is

unlawful for any person to hunt in any area other than within his assigned compartment. The operator of each vehicle must display his party's compartment designation on or within the windshield so that it can be read from the outside. The regular gun season for deer consists of the open hunting dates from November 17 to December 13, the second Monday before Thanksgiving to the third Saturday after Thanksgiving except on the field trial grounds and the adjoining area on the north bounded on the east by SR 1003, on the north by Naked Creek and on the west by A-6 lane where the gun season is November 17-29 from the second Monday before Thanksgiving to the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting dates during the bow and arrow season (September 8-November 8), as well as during the regular gun season. Deer may be taken with muzzle-loading firearms on November 10, 12 and 15 Monday, Wednesday and Saturday of the second week before Thanksgiving week, and during the regular gun season. Except for the deer seasons above indicated and the managed either-sex permit hunts, the field trial grounds and the adjoining area on the north bounded on the east by SR 1003, on the north by Naked Creek and on the west by A-6 lane are closed to all hunting during the period October 22 to March 31. In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.]

Robeson County--Keith Farm Game Land (No deer may be taken.)

Stokes County--Sauratown Plantation Game Land

Yadkin County--Huntsville Community Farms Game Land

(3) Any game may be taken on the following game lands during the open season, except that:

- (A) Bears may not be taken on lands designated and posted as bear sanctuaries;
- (B) Wild boar may not be taken with the use of dogs on such bear sanctuaries, and wild boar may be hunted only during the bow and arrow seasons and the regular gun season on male deer on bear sanctuaries located in and west of the counties of Madison, Buncombe, Henderson and Polk;
- (C) On game lands located in or west of the Counties of Rockingham, Guilford, Randolph, Montgomery and Anson, dogs may not be used for any hunting (day or night) during the regular season for hunting deer with guns; except that small game may be hunted with dogs in season on all game lands, other than bear sanctuaries, in the counties of Cherokee, Clay, Jackson, Macon, Madison, Polk and Swain;
- (D) On Croatan, Goose Creek, New Hope and Shearon Harris Game Lands waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Years Days; and on the opening and closing days of the applicable waterfowl seasons; except that outside the posted waterfowl impoundments on Goose Creek Game Land hunting any waterfowl in season is permitted any week day during the last 10 days of the regular duck season as established by the U.S. Fish and Wildlife Service, from Mondays through Saturdays;
- (E) On the posted waterfowl impoundments of Gull rock Game Land hunting of any species of wildlife is limited to Mondays, Wednesdays, Saturdays; Thanksgiving, Christmas and New Years Days, and the opening and closing days of the applicable waterfowl seasons;
- (F) On bear sanctuaries in and west of Madison, Buncombe, Henderson and Polk counties dogs may not be trained or allowed to run unleashed between March 1 and October 11;
- (G) Additional restrictions

apply as indicated in parentheses following specific designations and (H) On Butner, Falls of Neuse and Person Game Lands waterfowl may be taken only on Tuesdays, Thursdays and Saturdays, Christmas and New Years Days, and on the opening and closing days of the applicable waterfowl seasons.

Alexander and Caldwell Counties--Brushy Mountains Game Lands

Anson County--Anson Game Land

Ashe County--Bluff Mountain Game Lands

Ashe County--Cherokee Game Lands

Ashe and Watauga Counties --Elk Knob Game Land

Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Jackson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey Counties--Pisgah Game Lands (Harmon Den and Sherwood Bear Sanctuaries in Haywood County are closed to hunting raccoon, opossum and wildcat. Training raccoon and opossum dogs is prohibited from March 1 to October 11 in that part of Madison County north of the French Broad River, south of US 25-70 and west of SR 1319.)

Beaufort, Bertie and Washington Counties--Bachelor Bay Game Lands

Beaufort and Pamlico Counties--Goose Creek Game Land

Bertie County--Bertie County Game Land

Brunswick County --Green Swamp Game Land

Burke County--South Mountains Game Land

Burke, McDowell and Rutherford Counties--Dysartsville Game Lands

Caldwell County--Yadkin Game Land

Carteret County--Lukens Island Game Land

Carteret, Craven and Jones Counties--Croatan Game Lands

Chatham County--Chatham Game Land

Chatham and Wake Counties--New Hope Game Lands

Chatham and Wake

Counties--Shearon Harris Game Land

Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania

Counties--Nantahala Game Lands (Raccoon and opossum may be hunted only from

sunset Friday until sunrise on Saturday and from sunset until 12:00

midnight on Saturday on Fires Creek Bear Sanctuary in Clay County and in that

part of Cherokee County north of US 64 and NC 294, east of Persimmon Creek

and Hiwassee Lake and west of Nottely River; in the same part of Cherokee

County dog training is prohibited from March 1 to October 11. It is

unlawful to train dogs or allow dogs to run unleashed on Fires Creek

Bear Sanctuary at any time, except that dogs may be used when hunting

raccoon or opossum and for hunting grouse and rabbits during the open seasons. It is unlawful to train

dogs or allow dogs to run unleashed on any game land in Graham County between

March 1 and October 11.)

Cleveland County--

Gardner-Webb Game Land

Craven County--

Tuscarora Game Land

Currituck County--

North River Game Land

Currituck County--

Northwest River Marsh Game Land

Dare County--Dare Game

Land (No hunting on posted parts of bombing range.)

Davidson, Davie and

Rowan Counties--Alcoa Game Land

Davidson County--

Linwood Game Land

Davidson, Montgomery,

Randolph and Stanly Counties--Uwharrie Game

Land

Duplin and Pender

Counties--Angola Bay Game Land

Durham and Granville

Counties--Butner Game Land (On that portion posted as

the National Guard Rifle Range hunting and trapping is prohibited except

during the following periods: September 8-13,

November 15-22, and December 8- the first week

of the bow and arrow season for deer, the last

day of the muzzle-loading

season and the first week of the regular gun season for deer, and the second Monday after Thanksgiving to January 1. On portions of the Butner Game Land designated and posted as "safety zones" and on that part marked as the Penny Bend Rabbit Research Area no hunting is permitted. On portions posted as "restricted zones" hunting is limited to bow and arrow during the bow and arrow season and the regular gun season for deer.)

Durham, Granville and Wake Counties--Falls of Neuse Game Lands
Franklin County--Franklin Game land
Gates County--Chowan Swamp Game Land
Granville County--Granville Game Lands
Halifax County--Halifax Game Land
Harnett County--Harnett Game Land
Henderson, Polk and Rutherford Counties--Green River Game Lands
Hyde County--Gull Rock Game Land
Hyde County--Pungo River Game Land
Hyde and Tyrrell Counties--New Lake Game Land
Johnston County--Johnston Game Land
Jones and Onslow Counties

--Hofmann Forest Game Land
Lee County--Lee Game Land
McDowell County--Hickory Nut Mountain Game Land
Moore County--Moore Game Land
New Hanover County--Catfish Sutton Lake Game Land
Northampton County--Northampton Game Land
Orange County--Orange Game Land
Person County--Person Game Land
Richmond County--Richmond Game Land
Transylvania County--Toxaway Game Land
Tyrrell county--Alligator Creek Game Land
Vance County--Vance Game Land
Wake County--Wake Game Land
Warren County--Warren Game Lands
Washington County--Scuppernong Game Land
Wilkes County--Thurmond Chatham Game land

(4) Deer of either sex may be taken on the hunt dates indicated by holders of permits to participate in managed hunts scheduled and conducted in accordance with this Subparagraph on the game lands or portions of game lands included in the following table schedule:

HUNT NUMBER	GAME LAND	HUNT DATE
1	Pisgah in McDowell Cty	12/20
2	Pisgah in Burke Cty	12/20
3	Pisgah in Avery Cty	12/20
4	Pisgah in Caldwell Cty	12/20
5	Pisgah in Yancey Cty north of US 19-19E	12/20
6	Thurmond Chatham	12/13
7	Thurmond Chatham	12/20
8	South Mountains	12/20
9	Carson Woods	12/13
10	Sandhills east of US 1	12/18-19
11	Sandhills west of US 1	12/18-19
12	Uwharrie & Alcoa southeast of NC 49	12/3-4
13	Croatan	12/3-4
14	Holly Shelter	12/4-5
15	Big Pocosin	12/4-5

Wednesday and Thursday of the first week after Thanksgiving Week:

Croatan

Uwharrie & Alcoa southeast of NC 49

Thursday and Friday of the first week after Thanksgiving Week.

Big Pocosin

Holly Shelter

Third Saturday after Thanksgiving Day:

Carson Woods

Thurmond Chatham

Thursday and Friday of the third week after Thanksgiving Week;

Sandhills east of US 1

Sandhills west of US 1

Fourth Saturday after Thanksgiving Day:

Green River

Pisgah in Avery County

Pisgah in Burke County

Pisgah in Caldwell County

Pisgah in McDowell County

Pisgah in Yancey County north of US 19-19E

South Mountains

Thurmond Chatham

Application forms for permits to participate in managed deer hunts on game lands, together with pertinent information and instructions, may be obtained from hunting and fishing license agents and from the Wildlife Resources Commission. Completed applications must be received by the commission not later than the first day of October next preceding the dates of hunt. Permits are issued by random computer selection, are mailed to the permittees 30 days prior to the hunt, and are nontransferable. Each permit is accompanied by an appropriate big game tag. A hunter making a kill must tag the deer and report the kill to a wildlife cooperator agent.

- (5) Except as otherwise indicated, the following game lands or indicated portions thereof are closed to all hunting:

Caswell County--

Caswell Game Land (That portion designated and posted as a "Safety Zone")

Dare county--Dare

Game Lands (Those parts of bombing range posted against hunting)

Gaston, Lincoln and

Mecklenburg

Counties--Cowan's Ford

Waterfowl Refuge (except

for youth either-sex deer

hunts by permit only on

October 4 and the first

and second Saturdays in

October)

SUBCHAPTER 10H - REGULATED ACTIVITIES

SECTION .0900 - GAME BIRD PROPAGATORS

.0901 GAME BIRD PROPAGATION LICENSE

(b) Limitations. The license authorizes the purchase, possession, propagation, sale

and transportation of propagated upland game birds and migratory game birds, and their eggs in accordance with the other rules of this Section, subject to the following limitations and conditions:

- (1) No wild turkey may be propagated or sold for the purpose of restocking, and it is unlawful to release any wild turkey to the wild for any purpose or to allow any wild turkey to range free;

Notice is hereby given in accordance with G.S. 150B-12 that the Wildlife Resources Commission intends to amend regulations cited as 15 NCAC 10H .0101; .0109 and .0907.

The proposed effective date of this action is June 1, 1987.

Statutory Authority: G.S. 113-134; 113-273; 113-291.1.

The public hearing will be conducted at 10:00 a.m. on January 20, 1987 at Room 386, Archdale Bldg., 512 N. Salisbury Street, Raleigh, NC.

Comment Procedures: Interested persons may express their views either orally or in writing at the hearing. In addition, the record of the hearing will be open for receipt of written comments from January 21, 1987, to 5:00 p.m. on February 20, 1987. Such written comments must be delivered or mailed to the Wildlife Resources Commission, 512 N. Salisbury St., Raleigh, NC 27611.

SUBCHAPTER 10H - REGULATED ACTIVITIES

SECTION .0100 - CONTROLLED SHOOTING PRESERVES

.0101 LICENSE TO OPERATE

It is unlawful for any individual, firm, association or corporation to operate a controlled shooting preserve without first obtaining from the

North Carolina Wildlife Resources Commission a license for this purpose. "Controlled shooting preserve" means an area on which only domestically-raised game birds are taken. A controlled shooting preserve license shall entitle the holder or holders thereof, and their guests, to kill or take, during an extended season, starting October 1 and ending March 31, on such preserves by shooting only, and without regard to sex or bag limits, domestically-raised pheasants, chukar partridges, Hungarian partridges, domestic ducks (as defined by the United States Bureau of Sport Fisheries and Wildlife), or other game birds, except wild turkey. Application for controlled shooting preserve licenses shall be made on standard forms obtainable from the commission. Applicants must be prepared to show satisfactory proof of ownership of the land contained in the proposed shooting preserve or that they have this land under proper lease for the duration of the license period. Upon receipt of an application accompanied by a fee of fifty dollars (\$50.00), the commission shall issue a license, provided it is determined that the location and operation of such a shooting preserve is consistent with the wildlife conservation program and in the public interest; and further provided, that all regulations herein regarding establishment of such areas have been complied with. All such licenses shall expire on the 31st day of March each year, regardless of date issued. Controlled shooting preserve licenses shall not be transferable, either as to operator or as to site of operation.

.0109 QUAIL CALL-PEN TRAPS

(e) Specifications

- (1) Enclosure. The call-pen cage shall be of wood and wire construction with at least 16 square feet of surface area. At least one-third of the cage area shall consist of a wooden box offering shade and refuge for the caged birds.
- (2) Enclosure. The call-pen enclosure shall be surrounded by a dog-proof fence, at least five feet high, containing a surface area of at least 64 square feet. The fence must be securely attached to corner

posts of two-inch pipe or sturdy timbers.

(e) (f) Inspection and Registration.

After construction and prior to use, each call-pen trap shall be inspected by a representative of the Wildlife Resources Commission and provided with a registration card which must be securely attached and visibly displayed on the trap.

SECTION .0900 - GAME BIRD PROPAGATORS

.0907 QUAIL CALL-PEN TRAPS

Any licensed game bird propagator who raises quail and who wishes to release live pen-raised quail on his premises for dog training purposes may apply to the Wildlife Resources Commission for a permit to use one quail call-pen trap for the purpose of recovering such quail. Such call-pen trap shall be constructed according to the specifications and inspected and registered in accordance with the provisions of 15 NCAG 10H-0109 pertaining to licensed controlled shooting preserve operators, and no such trap shall be located within 100 yards of any outside boundary of the licensed premises. The application for permit shall be on a form provided by the commission and shall be accompanied by two copies of a reasonably accurate map delineating the boundaries of the premises and indicating the proposed location of each trap. No such trap shall be located within 100 yards of any outside boundary of the premises. The number of traps shall be limited according to the size of the tract of land constituting the described premises: one trap for a tract containing less than 300 acres, two traps for a tract containing 300 acres or more but less than 600 acres, and three traps for a tract containing 600 acres or more. After placement of any trap and prior to use, the same shall be inspected by a representative of the Wildlife Resources Commission and provided with a registration card which must be securely attached and visibly displayed on the trap. During the season of permitted use of the traps all quail released for dog training must be banded and no unbanded quail caught in any such trap shall be retained. During such season no artificial means of feeding shall be practiced on the described

premises outside of any trap. No such trap shall be utilized after March 31 or prior to October 1 of any license year. Any such permit shall expire coincidentally with the license of the game bird propagator.

Notice is hereby given in accordance with G.S. 150B-12 that the Wildlife Resources Commission intends to amend regulations cited as 15 NCAC 10F .0310(a)(1) and (4); .0314(a) and adopt regulation cited as 15 NCAC 10F .0352.

The proposed effective date of this action is June 1, 1987.

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

The public hearing will be conducted at 9:00 a.m. on January 19, 1987 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, NC.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of the hearing will be open for receipt of written comments from January 20, 1987, to 5:00 p.m. on February 20, 1987. Such written comments must be delivered or mailed to the Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27611.

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

.0310 DARE COUNTY

(a) Regulated Areas. This Rule applies to the following waters and portions of waters:

- (1) Manteo. That portion of Doughs Creek from its mouth at Shallowbag Bay to and including the Inner Harbor, and the canal lying north and east of the Elizabeth II State Historical Site and connecting Doughs Creek with Shallowbag Bay;

- (4) Nags Head.

(A) Those waters contained within the canals of Old Nags Head Cove Development in the Town of Nags Head.

(B) The Roanoke Sound inlets at Pond Island on either side of Marina Drive extending north from US 64-264;

- (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.

.0314 NEW HANOVER COUNTY

(a) Regulated Areas. This Rule applies to the following waters in New Hanover County:

- (6) The unnamed channel lying between the shore west of Bahama Drive in the Town of Wrightsville Beach and an unnamed island located approximately 500 feet northeast of the US 74 bridge over Banks Channel.

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

.0352 CAMDEN COUNTY

(a) Regulated Area. This Rule applies to Edgewater Canal running parallel with and along the south shore of Camden Point in Camden County and the connecting channels to Albemarle Sound.

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

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

TITLE 21 - LICENSING BOARDS

Notice is hereby given in accordance with G.S. 150B-12 that the Certification Board for Social Work intends to adopt regulations cited as 21 NCAC 63 .0100 through .0600.

The proposed effective date of this action is May 1, 1987.

Statutory Authority: G.S. 90B-6(h).

The public hearing will be conducted at 10:00 a.m. on February 17, 1987 at Davidson County Human Resource Center, 915 Greensboro Street (Off North Main St., Business I-85), Lexington, N.C. 27292.

Comment Procedures: Written comments should be sent to Wilburn Hayden, Chairperson, N.C. Certification Board for

Social Work, P.O. Box 1923,
Cullowhee, N.C. 28732-1923 by
February 1, 1987.

CHAPTER 63 - SOCIAL WORKER CERTIFICATION ACT

SECTION .0100 - GENERAL

.0101 PURPOSE

It is the purpose of the Social Worker Certification Act to protect the public by establishing minimum standards for qualification, training and experience for those who voluntarily seek to represent themselves to the public as certified social workers. This act shall protect the public and promote high standards in the practice of social work.

.0102 DEFINITIONS

Whenever used in this chapter, the definitions set forth in G.S. 90B-3 are herein incorporated by reference.

.0103 PROHIBITIONS

State public agencies including those private agencies or corporations that receive state funds shall not impose certification as a requirement for obtaining or continuing employment.

.0104 ORGANIZATION OF THE BOARD

The North Carolina Certification Board for Social Work is composed by law of seven members appointed by the governor to staggered terms of three years. The composition of the board shall include four certified social workers (two certified social workers and two certified clinical social workers). Among the social workers, one member shall be employed in the field of social work education, one member from the private sector and one member from the public sector. The three remaining members shall be from the general public. The board shall elect a chairperson, vice chairperson and secretary-treasurer from its membership to serve for a term of at least one year. The board shall hold at least 10 meetings each year and four members shall at all times constitute a quorum. Members of the board are expected to attend all meetings.

.0105 MEETINGS

Meetings of the board, formal or informal, shall be open to the public. Dates, times and

places of meetings shall be furnished to anyone requesting the information and made available to the press.

SECTION .0200 - CERTIFICATION

.0201 DEFINITIONS

The following definitions apply to the levels of certification in this section:

(1) Related human services fields shall include psychology, sociology, counseling, rehabilitation, criminal justice, public policy, public administration, and human resources. The board may, within its discretion, consider other fields not specifically set out above.

(2) Two years of experience shall mean 3,000 clock hours of work or employment for a fee or salary while engaged in the practice of social work functions. (1500 hours of work for a fee or salary per twelve month period.) Practicum or internship experience taken as part of an educational program are not included.

(3) Appropriate supervision (clinical) shall mean post-master's or post-doctoral experience directly supervised by a qualified social worker, psychiatrist, or clinical psychologist. The social work supervisor should have had at least two years of social work experience after completion of the master's or doctorate in social work and be eligible for certification as a clinical social worker under the Act. A minimum of 100 hours of group or individual supervision is required. 75 of the 100 hours must be individual supervision. Individuals certified through the Academy of Certified Social Workers, the National Federation of Health Care Providers in Clinical Social Work, Inc., or the Register of Clinical Social Workers already meet the supervision requirement.

(4) Clinical setting shall mean any school, hospital, community mental health center, university counseling center, family or social services agency, or supervised independent practice. Such settings may be under public or private auspices and provide psychotherapeutic or social

intervention for psychosocial problems of individuals, couples, families or groups.

(5) Administrative setting shall mean any setting where the delivery of social work services are directed, supervised, planned and/or coordinated. Activities include, but are not necessarily limited to, policy development and implementation, management, program evaluation, planning and staff development.

(6) Appropriate supervision and training (manager) shall mean course work or workshops in organizational and community services and/or two years (3,000 hours) of paid employment under supervision in an administrative setting.

.0202 APPLICATION PROCESS

Applications, inquiries and forms are to be obtained from and returned to the North Carolina Certification Board for Social Work. Applicants must submit only forms obtained directly from the board office.

.0203 TRANSCRIPTS

Applicants must have official transcripts sent from institutions where their highest social work degrees have been conferred. If transcript course titles are ambiguous, or do not adequately convey the pertinent content of the courses, clarifying documents may be requested.

.0204 WORK EXPERIENCE

The applicant will have a minimum of three references. Current members of the board, relatives of applicants or subordinates of applicants may not submit references for applicants.

(1) Two of the references must come from individuals who have been closely associated with the applicant in the practice of social work.

(2) One reference must be from one who has been or is currently a supervisor in a social work setting. (If a board member is the current supervisor or has been the only supervisor of an applicant, he/she should excuse himself/herself from review of that particular application.)

.0205 ACADEMIC QUALIFICATIONS

The academic qualifications

set forth in G.S. 90B-7 for Certified Social Workers, Certified Master Social Workers, Certified Clinical Social Workers and Certified Social Work Managers are herein incorporated by reference.

.0206 ACADEMIC EXEMPTIONS

The applicant may be exempt from the academic qualifications required under this Chapter if he/she was engaged in the practice of social work before January 1, 1984 in the areas of certified social workers and certified social work managers. This exemption shall apply upon passing the board examination and satisfying the experience requirements for certification in the particular classification.

.0207 COMITY

If a candidate is currently certified, registered or licensed as a social worker by a similar board in another state, the North Carolina Board may, at its discretion, waive the formal examination requirements of a candidate, provided that the North Carolina Board accepts the standards and qualifications required for the practice of social work in the candidate's licensed or certifying state as substantially equivalent to those required by the State of North Carolina.

.0208 APPLICATION FEE

An application fee of fifty dollars (\$50) will be assessed for processing each application. If an applicant seeks certification for a second level, within a 12 month period of his/her initial application, he/she shall be assessed an additional fee of twenty-five dollars (\$25).

.0209 ELIGIBILITY

The board shall review each application to determine an applicant's eligibility for a particular level of certification. An applicant will be notified in writing if he/she is ineligible for one level of certification. He/she may then apply for another level of certification. If an applicant is found to be ineligible for certification, he/she may not sit for the examination.

SECTION .0300 - EXAMINATIONS

.0301 WRITTEN EXAMINATIONS

The board shall administer to

all approved applicants for certification, a written examination at least twice a year. The exam shall be given in a reasonable, geographic area within the state. The national examination provided by American Association of State Social Work Boards shall serve to evaluate the qualifications of applicants for certification.

.0302 REPORTING OF SCORES

Each applicant for certification shall be informed in writing whether he/she has passed the examination. If an applicant fails the examination, he/she shall receive his/her numerical score. If his/her failing score is three points below the cut score he/she may have his/her test hand-scored within a ninety-day period by completing a form on the back of the handbook and by sending a ten dollar (\$10) rescoring fee.

.0303 RETAKING OF EXAMINATION

An applicant who has not passed an examination shall be allowed to retake such examination upon paying the required examination fee.

.0304 CANCELLATION

An applicant who cancels in writing less than 30 days before the date of examination shall not receive a refund of the examination fee. However, he/she may apply and sit for another examination within 12 months of the missed examination without incurring any additional examination fee.

An applicant who fails to cancel in writing less than 30 days before the examination or who fails to appear for an examination may apply and sit for another examination within 12 months of the missed examination upon payment of fifty dollars (\$50) examination fee. Such fee shall be paid not later than 60 days before the scheduled examination.

.0305 REVIEW OF EXAMINATIONS BY UNSUCCESSFUL APPLICANTS

An applicant who has not successfully passed the certification exam may review his/her test booklet together with the appropriate answer sheet. In order to do so, the candidate must

(1) make a written request for review of their examination directly to the board.

(2) The candidate may review

the exam in the Office of the Board and in the presence of a board member.

(3) The candidate may not take notes, photocopy or ask questions regarding the examination.

(4) The applicant must sign a statement of confidentiality in order to review the examination booklet.

(5) A candidate's scores will not be changed. However, any questions will be transmitted to the American Association of State Social Work Boards Examination Committee for review. The North Carolina Board has the responsibility of obtaining a copy of the examination together with the candidate's answer sheet and the scoring key from Assessment Systems, Inc. (ASI). The board shall maintain strict security and return all materials to ASI after review by the candidate of his examination booklet.

.0306 EXAMINATION FEES

(a) An examination fee of one hundred dollars (\$100) will be assessed for administration and processing of the written examination.

(b) An examination fee of fifty dollars (\$50) will be assessed for the administration and processing of a second written examination if an applicant seeks certification at two different levels. An unsuccessful applicant shall be assessed a fee of seventy five (\$75) in order to retake the examination.

(c) An applicant who fails to appear at an examination site shall be assessed a fee of fifty dollars (\$50) in order to take the examination.

SECTION .0400 - RENEWAL OF CERTIFICATION

.0401 CONTINUING EDUCATION

Continuing education for certification renewal is required to maintain professional knowledge and technical competency. Certification shall be afforded on a two year basis. However, certification shall expire on the second June 30 after certification has been issued. Renewal of certification shall be based on forty hours of renewal credits within the two year cycle. However, if a certification is for less than a full two year period, then renewal shall be accorded based

on thirty hours of renewal credits. One unit of credit is equal to one contact hour. One academic course semester hour credit shall be equivalent to fifteen clock hours. Credit for auditing an academic course shall be for actual clock hours attended during which instruction was given and shall not exceed the academic credit allowed. Continuing education activities may include:

- (1) Academic social work courses taken for credit or audit;
- (2) Seminars, institutes, workshops, mini courses or conferences oriented to the enhancement of social work, practice, values, skills and knowledge;
- (3) Cross-disciplinary offerings from medicine, law and the behavioral/social sciences or other disciplines, if such offerings are clearly related to the enhancement of social work practice, values, skills and knowledge;
- (4) Self-directed learning projects with prior approval by the board. The maximum number for projects is twenty clock hours. A renewal unit shall not be granted for identical programs completed within the same certification renewal period, job orientation or on the job training.

.0402 FORMS

(a) Documentation for the completion of continuing education credits and biannual renewal shall be completed on the North Carolina Certification for Social Workers biannual renewal and continuing education reporting form. The form must be the original and must be completed and signed.

(b) Each renewal applicant is responsible for completing the required form. If an organization maintains such records the applicant must assure the form is completed and complies with all applicable rules and regulations. The form must be submitted at the time the applicant files for renewal of certification.

SECTION .0500 - ETHICAL GUIDELINES

.0501 INTRODUCTION

A certified social worker shall promote professional policies and practices which enhance the delivery of social work services

and work towards the establishment of conditions that allow social workers to practice within a code of ethical principles.

.0502 PRACTICE AND CONDUCT

(a) The social worker's primary responsibility is the welfare of the client.

(b) A social worker shall not discriminate on the basis of age, sex, race, color, religion, national origin, socio-economic status or sexual preference.

(c) the social worker shall carry out his/her professional practice in a responsible manner and hold him/herself responsible for the quality of service he/she provides.

(d) The social worker must recognize the boundaries of his/her competence and the limits of his/her methods and techniques. The social worker does not offer services nor use techniques without having appropriate professional education and training.

(e) A social worker acts with integrity in regard to colleagues in social work and in other professions.

(f) A social worker does not lend his/her professional expertise for unprofessional purposes. The social worker does not place him/herself under obligation to persons, groups, or organizations in ways uncommensurate with professional values.

SECTION .0600 - DISCIPLINARY PROCEDURES

.0601 GROUNDS FOR DISCIPLINARY PROCEDURES

In addition to the conduct set forth in G.S. 90B-11, the board may deny, suspend or revoke a certification upon the following grounds:

- (1) offering a check to the board in payment of required fees which is returned unpaid;
- (2) obtaining or attempting to obtain compensation by fraud or deceit;
- (3) violation of any order of the North Carolina Social Work Certification Board;
- (4) failure to possess truth, honesty and integrity sufficient to be entitled to the high regard and confidence of the public;
- (5) violation or failure to make the requisite disclosures required by 21 NCAC 38 .0305.

.0602 ENFORCEMENT

All certified social workers are under continuing duty to report to the board any and all criminal arrests, charges or convictions. The board may also, upon the representation of the Attorney General's Office, proceed with any civil action in the appropriate Superior Court to restrain any violations of the North Carolina Certification Act.

TITLE 24 - INDEPENDENT AGENCIES

Notice is hereby given in accordance with G.S. 150B-12 that the N. C. Housing Finance Agency intends to amend regulations cited as 24 NCAC 1D .0501; .0502(a); and .0503(c).

The proposed effective date of this action is April 1, 1987.

Statutory Authority: G.S. 122A-5.7.

The public hearing will be conducted at 10:00 a.m. on January 14, 1987 at Board Room, N.C. Housing Finance Agency, 3300 Drake Circle, Suite 200, Raleigh, North Carolina.

Comment Procedures: Written comments concerning this amendment must be submitted by January 14, 1987 to the Single Family Program Director, N.C. Housing Finance Agency, P. O. Box 28066, Raleigh, North Carolina 27611. Oral comments may be presented at the hearing.

CHAPTER 1 - N. C. HOUSING FINANCE AGENCY

SUBCHAPTER 1D - SINGLE FAMILY MORTGAGE PURCHASE PROGRAM

SECTION .0500 - HOMEOWNERSHIP ASSISTANCE FUND AND PROGRAM

.0501 CREATION OF THE FUND

The agency hereby establishes the Homeownership Assistance Fund, hereinafter referred to as the fund, for the purpose of assisting persons of lower or moderate income who cannot otherwise qualify for the agency's single family mortgages in the purchase of affordable housing by reducing the effective monthly cost of homeownership to such persons.

.0502 ELIGIBILITY

(a) The Homeownership Assistance Fund, hereinafter referred to as the fund, fund will be available to assist

persons within the state with annual incomes, as determined by the agency's rules governing determination of annual income, of twelve thousand five hundred dollars (\$12,500) to twenty thousand dollars (\$20,000) and who otherwise qualify for first mortgage loans under the agency's single family program and who are selected for participation in the program by the agency of lower and moderate incomes, as defined in rules .0102 and .0103 of this Subchapter, who would be otherwise unable to receive subsidized loans from the agency.

.0503 FUND OPERATION AND ADMINISTRATION

(c) The agency will select, in its discretion, eligible applicants for first mortgage loans under the proceeds of the agency's single family bond issue program for participation in the Homeownership Assistance Program to be funded with the proceeds of the fund. Eligible borrowers will, in addition to receiving a first mortgage loan funded from proceeds of an agency bond issue, will receive an additional a second loan from the agency to be funded with from the proceeds of the fund in an amount sufficient to reduce the net monthly amount to be expended by the borrower for housing (including first mortgage principal and interest, mortgage insurance, homeowner's insurance, and taxes) by an amount not to exceed one hundred dollars (\$100.00) per month. As determined by the agency, this additional loan may be used to provide additional security for eligible loans, to subsidize down payments and monthly housing payments (including first mortgage principal and interest, mortgage insurance, homeowner's insurance and taxes), and to provide any other type of mortgage assistance the agency deems necessary. The amount of the loan from the fund for the purpose of reducing monthly housing payments of this additional loan will be determined by the agency, in its discretion, considering such factors as family size, income, and ability of the borrower to pay. The agency will, in its discretion, either include the homeownership assistance loan from the fund as part of the first mortgage deed of trust made by the agency under its single family program, or, in

the alternative, include the homeownership assistance loan in a second mortgage deed of trust. The loan from the fund, including interest thereon at a rate established by the agency, shall be due and payable by the borrower either upon the resale of the home which is the subject of the loan or upon the death of the borrower and shall be recoverable only from the appreciation of the market price of the financed home during the time it is owned by the borrower.

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 repeal regulation cited as 25 NCAC 1H .0608 and adopt regulations cited as 25 NCAC 1H .0610-.0615.

The proposed effective date of this action is April 1, 1987.

Statutory Authority: G.S. 126-4(4); 126-4(10); 126-4(11); 126-37; 126-38; 128-15; 150 B-2(2); 150B, Article 3.

The public hearing will be conducted at 9:00 a.m. on February 26, 1987 at 101 W. Peace Street, Raleigh, North Carolina.

Comment Procedures: Interested persons may present statements orally or in writing at the hearing or in writing prior to the hearing by mail addressed to: Drake Maynard, Office of State Personnel, 116 West Jones Street, Raleigh, North Carolina 27611.

SUBCHAPTER 25 H - RECRUITMENT AND SELECTION

SECTION .0600 - GENERAL PROVISIONS

.0608 EMPLOYMENT PREFERENCE FOR VETERANS (REPEALED)

.0610 POLICY STATEMENT OF VETERANS PREFERENCE IN EMPLOYMENT AND RETENTION

It shall be the policy of the State of North Carolina that, in appreciation for their service to this state and this country in time of war, and in recognition of the time and advantage lost toward the pursuit of a civilian career, veterans shall be granted preference in employment with

every state department, agency and university.

.0611 ELIGIBILITY

Persons eligible for veteran's preference shall have served in the Armed Forces of the United States on active duty, for reasons other than training, during periods of war, and shall have been discharged under honorable conditions. This particularly includes disabled veterans discharged under honorable conditions. Also eligible are spouses of disabled veterans, and the surviving spouse or dependent of a veteran who died on active duty during periods of war either directly or indirectly as a result of such service. Any person who is retired from any branch of the military with a retirement pension based solely on years of service shall be ineligible for preference.

.0612 PERIODS OF WAR

Periods of war shall include:

- (1) World War I (April 16, 1917 through November 11, 1918);
- (2) World War II (December 7, 1941 through December 31, 1946);
- (3) The Korean conflict (June 27, 1950 through January 31, 1955);
- (4) The hostilities in Viet Nam (August 5, 1964 - May 7, 1975);
- (5) Any other campaign, expedition or engagement for which a campaign badge or medal is authorized by the United States Department of Defense.

.0613 CLAIMING VETERAN'S PREFERENCE

In order to claim veteran's preference, all eligible persons must complete and sign a State Application for Employment (PD-107), and submit it to the appointing authority upon initial application. Appointing authorities are responsible for reviewing the Military Service portion of the PD-107 and verifying eligibility. Appointing authorities may request additional documentation as reasonably necessary to ascertain eligibility. Also, as a prerequisite to further consideration, eligible veterans must meet the minimum education and experience requirements for the position applied for, and must be capable of performing the duties assigned to the position.

.0614 APPLICATION OF THE
VETERAN'S PREFERENCE

(a) The preference to be accorded eligible veterans shall apply in initial selection and reduction in force situations only.

(b) In initial selection procedures, where numerically scored examinations are used in determining the relative ranking of candidates, ten points shall be awarded to eligible veterans.

(c) In initial selection, where structured interview, assessment center, in-basket or any other procedure, non-numerically scored, is used to qualitatively assess the relative ranking of candidates, the qualified veteran shall be hired where his/her qualifications are substantially equal to the one or more non-veterans in the applicant pool.

(d) Substantially equal qualifications occur when the employer cannot make a reasonable determination that the qualifications held by one or more persons are significantly better suited for the position than the qualifications held by another person.

(e) In reduction in force

situations where seniority or years of service is one of the considerations in retention, the eligible veteran shall be accorded one year of State service for each year or fraction thereof of military service, up to a maximum of five years credit.

.0615 ALLEGATION OF DENIAL OF
VETERAN'S PREFERENCE

Any claim or allegation that veteran's preference has not been accorded to an eligible veteran must be filed with either the Office of State Personnel or the Office of Administrative Hearings. Such claims must be filed in a manner consistent with the requirements of G.S. 150B-23 and no later than 30 days from the receipt of the notice or decision which the claim is based upon. Such claims shall be heard as contested cases pursuant to G.S. 150B-2(2) and G.S. 150B, Article 3. The State Personnel Commission, may, upon a finding that veteran's preference was denied in violation of these rules, order the hiring or reinstatement of any affected person, as well as any other remedy necessary to correct the violation.

FINAL RULES

When the text of any adopted rule differs from the text of that rule as proposed, upon request from the adopting agency, the text of the adopted rule will be published in this section.

When the text of any adopted rule is identical to the text of that as proposed, adoption of the rule will be noted in the "List of Rules Affected" and the text of the adopted rule will not be republished.

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 of proposed rules.

TITLE 5 - DEPARTMENT OF CORRECTION

CHAPTER 2 - DIVISION OF PRISONS

SUBCHAPTER 2F - CUSTODY AND SECURITY

SECTION .2000 - G.S. 148-4.1 EARLY PAROLE

.2002 PROCEDURE

(a) Whenever the Secretary of Correction determines from data compiled by the Department of Correction that it is necessary to reduce the prison population to a more manageable level, he shall direct the Parole Commission to release on parole over a reasonable period of time a number of prisoners sufficient to that purpose.

(b) In addition to the directions of the Parole Commission set forth in Section .2002 (a) of this Rule, the Secretary of Correction may certify to the Parole Commission that certain named inmates who are eligible for parole under Article 85A of Chapter 15A pose no threat to society. As a result of this certification and in accordance with G.S. 148-4.1(c), these inmates shall be eligible for early parole nine months prior to the discharge date otherwise applicable and six months prior to the date of automatic ninety day parole authorized by G.S. 15A-1380.2.

History Note: Filed as a

Temporary Amendment Eff.
November 19, 1986, for
a Period of 44 Days to expire
on January 1, 1987;
Filed as a Temporary Rule
Eff. April 22, 1985, for a
Period of 71 Days
to Expire on July 1, 1985;
Statutory Authority G.S.
148-4.1; 148-11;
Eff. July 1, 1985;
Amended Eff. January 1, 1987.

.2003 CRITERIA

Inmates eligible to be considered for certification by the Secretary of Correction under Section .2002(b) shall be subject to the following exclusions:

- (1) Inmates must not be serving a sentence for conviction of first or second degree murder, first or second degree rape, first or second degree sexual offense, drug trafficking, first or second degree kidnapping, or sexual offenses upon children as prohibited under G.S. 14-21; 14-26; 14-27.4, 14-27.5, and 14-27.7.
- (2) Inmates must be in minimum or medium custody and, if in medium custody, must have successfully completed prerelease training.
- (3) Inmates must not be serving consecutive sentences for escape.
- (4) Inmates must not have committed a prison rule infraction of an aggressive, assaultive, or sexually abusive nature within 90 days from the date of review by Prison Officials.
- (5) Release must not result in an apparent or unacceptable risk to the community.
- (6) Inmates must not be in serious need of physical or mental health treatment unless such treatment is available in the community.
- (7) A misdemeanor offender or short-term felon must have served a minimum of 60 days, unless the inmate is being released to an appropriate treatment program.
- (8) Inmates must not have been sentenced under G.S. 15A-1351 to an active term of imprisonment as a condition of special probation.

History Note: Filed as a
Temporary Amendment Eff.
November 19, 1986 for a
Period of 44 Days to Expire
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Eff. April 22, 1985, for a
Period of 71 Days
to Expire on July 1, 1985;
Statutory Authority G.S.
148-4.1; 148-11;
Eff. July 1, 1985;
Amended Eff. January 1, 1987.

.2004 SCREENING

The Department of Correction shall send to appropriate officials within the Division of Prisons a list of all inmates who were sentenced under the Fair Sentencing Act and who have 365 days (1 year) remaining prior to their release date. The Division of Prisons shall screen and delete names from the list in accordance with the following process:

- (1) The Division will delete from the list the names of all inmates excluded under Section .2003
- (2) The Area or Institution Classification Authority will review each inmate's institutional behavior to determine whether the inmate's behavior during the preceding 90 day period warrants the certification by the Secretary of Correction that the inmate does not pose a threat to society.
- (3) Recommendation for certification that the inmate does not pose a threat to society will be indicated on the list by the Area or Institutional Classification Authority.
- (4) Inmates not recommended for certification will be deleted from the list.
- (5) The completed list will be sent to the Classification Services Section for processing. The classification Services Section will send the recommendations along with the file on each inmate to be considered to a committee of advisors to be named by the Secretary of Correction.

History Note: Filed as a Temporary Amendment Eff. November 19, 1986, for a Period of 44 Days to Expire on January 1, 1986; Filed as a Temporary Rule Eff. April 22, 1985, for a Period of 71 Days to Expire on July 1, 1985; Statutory Authority G.S. 148-4.1; 148-11; Eff. July 1, 1985; Amended Eff. January 1, 1987.

.2005 CERTIFICATION

- (a) The committee appointed by

the Secretary of Correction to review recommendations shall determine compliance with these rules and further consider whether to recommend to the Secretary of Correction that an inmate be certified as posing no threat to society. This committee will deliver to the Secretary of Correction its recommendations for such certification.

(b) The Secretary of Correction in his discretion shall certify from the recommendations made to him, which inmate, in his opinion, pose no threat to society and a certification and the names of such inmates shall be sent to the Parole Commission in accordance with G.S. 148-4.1(c).

History Note: Filed as a Temporary Amendment Eff. November 19, 1986, for a Period of 44 Days to Expire on January 1, 1987; Filed as a Temporary Rule Eff. April 22, 1985, for a Period of 71 Days to Expire on July 1, 1985; Statutory Authority G.S. 148-4.1; 148-11; Eff. July 1, 1985; Amended Eff. January 1, 1987.

.2006 PAROLE COMMISSION REVIEW

Upon receipt from the Secretary of Correction of a certification that in his opinion the inmate eligible for parole under Article 85A of Chapter 15A poses no threat to society, the Parole Commission will review such inmates for early release in accordance with G.S. 148-4.1(c).

History Note: Filed as a Temporary Amendment Eff. November 19, 1986, for a Period of 44 Days to Expire on January 1, 1987; Filed as a Temporary Rule Eff. April 22, 1985, for a Period of 71 Days to Expire on July 1, 1985; Statutory Authority G.S. 15A-1380.2; 148-4.1; 148-11; Eff. July 1, 1985; Amended Eff. January 1, 1987.

.2007 SUPERVISION

Whenever an inmate is paroled in accordance with these procedures, the Parole Commission may impose all the conditions listed in G.S. 15A-1374. These conditions will apply throughout the period of parole supervision.

History Note: Filed as a Temporary Rule Eff. November 19, 1986, for a Period of 44 Days to Expire on January 1, 1987; Statutory Authority G.S. 15A-1380.2; 148-4.1; 148-11; Eff. January 1, 1987.

CHAPTER 4 - PAROLE COMMISSION

SECTION .1800 - G.S. 148-4.1 EARLY PAROLE

.1803 PROCEDURE: ONE YEAR PRIOR TO INMATE'S RELEASE DATE

The following steps should be followed during the year prior to the inmate's release date:

(1) Approximately 15 months prior to the inmate's release date, the analyst should request that the Division of Adult Probation and Parole conduct an interview on the individual using a computerized interview form provided by the analyst. The analyst will allow 30 days for the completion of this interview.

(2) The Division of Prisons will be provided with a list of all inmates sentenced under the Fair Sentencing Act who have one year remaining to serve prior to their release date. Division of Prisons officials will screen this list of individuals as provided in 5 NCAC 2F .2004. The Classification Services Section of the Division of Prisons will provide a list of individuals certified eligible for parole under G.S. 148-4.1 to the Parole Commission.

History Note: Filed as a Temporary Amendment Eff. November 19, 1986, for a Period of 44 Days to Expire on January 1, 1987; Filed as a Temporary Rule Eff. April 22, 1985, for a Period of 71 Days to Expire on July 1, 1985; Statutory Authority 148-4.1; 148-57; Eff. July 1, 1985; Amended Eff. January 1, 1987.

.1804 REVIEW BY PAROLE COMMISSION ANALYST

(a) Upon receipt of the list of inmates certified eligible for parole by the Secretary of Correction, the Parole Commission Analyst will obtain

the inmate file and conduct a review.

(b) The Parole Commission Analyst will prepare a parole memorandum for each inmate recommended for the Parole Commission's review for possible approval.

History Note: Filed as a Temporary Amendment Eff. November 19, 1986, for a Period of 44 Days to Expire on January 1, 1987; Filed as a Temporary Rule Eff. April 22, 1985, for a Period of 71 Days to Expire on July 1, 1985; Statutory Authority G.S. 148-57; Eff. July 1, 1985; Amended Eff. January 1, 1987.

.1805 PAROLE COMMISSION REVIEW

The Parole Commission will determine whether an inmate certified eligible for parole will be paroled. If approved for parole, the Parole Commission Analyst will retain the file until the inmate has 30 days before parole eligibility at which time the parole orders will be processed. The parole orders will then be sent to the Division of Adult Probation and Parole with notices to the Division of Prisons to allow for the inmate to be paroled.

History Note: Filed as a Temporary Amendment Eff. November 19, 1986, for a Period of 44 Days to Expire on January 1, 1987; Filed as a Temporary Rule Eff. April 22, 1985, for a Period of 71 Days to Expire on July 1, 1985; Statutory Authority G.S. 148-4.1; 148-57; Eff. July 1, 1985; Amended Eff. January 1, 1987.

TITLE 17 - DEPARTMENT OF REVENUE

SUBCHAPTER 1C - GENERAL ADMINISTRATION

SECTION .0400 - INTEREST REQUIREMENTS

.0402 ESTABLISHED INTEREST RATES

(g) For the calendar year 1987, the Secretary of Revenue under the authority of subsection (i) of G.S. 105-241.1 has established on November 18, 1986 an interest rate of nine percent (9%) per annum. The computation shall be at the rate

of three-fourths percent (3/4%)
per month or fraction thereof.

History Note: Statutory
Authority G.S. 105-241.1;
105-262;

Eff. November 9, 1977;
Amended Eff. January 1, 1987;
January 1, 1986;
January 1, 1985;
January 1, 1984.

NORTH CAROLINA ADMINISTRATIVE CODE

LIST OF RULES AFFECTED

EDITION XI, NO. 2

EFFECTIVE: December 1, 1986

AGENCY			ACTION TAKEN
<u>COMMERCE</u>			
4	NCAC	7 .0507	Amended
<u>CORRECTION</u>			
5	NCAC	2B .0201	Amended
		2B .0203	Amended
		2B .0302	Amended
		2C .0503	Amended
		2E .0102	Amended
		2E .0701-.0707	Amended
		2E .0708	Adopted
		2E .1301-.1309	Adopted
		2H .0101-.0105	Adopted
<u>GOVERNOR'S OFFICE</u>			
9	NCAC	2	EXECUTIVE ORDER NO. 29 Eff. October 2, 1986
<u>HUMAN RESOURCES</u>			
10	NCAC	7A .0503	Adopted
		14B .0109	Repealed
		14C .0401	Repealed
		14C .0405-.0415	Repealed
		30 .0214	Amended
		45G .0308	Adopted
		45H .0202-.0203	Amended
		45H .0205	Amended
		49C .0100-.0500	Adopted
<u>REVENUE</u>			
17	NCAC	6B .3501	Amended

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4	Commerce, Department of
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6	Barber Examiners, Board of
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