

FIN/ 7434/11-1/NOV

The **NORTH CAROLINA REGISTER**

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FINAL DECISION LETTER

PROPOSED RULES

Auctioneers Commission

Economic & Community Development

Environment, Health, and Natural Resources

Human Resources

Nursing, Board of

RECEIVED

DEC 6 1990

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RULES INVALIDATED BY JUDICIAL DECISION

ISSUE DATE: DECEMBER 3, 1990

Volume 5 • Issue 17 • Pages 1060-1106



INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF RULES

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

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

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

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

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

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

TEMPORARY RULES

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

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

NORTH CAROLINA ADMINISTRATIVE CODE

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

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

The NCAC is available in two formats.

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

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

NOTE

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

CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue number and date. 1:1 NCR 101-201, April 1, 1980 refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1980.

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NORTH CAROLINA REGISTER



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NORTH CAROLINA REGISTER

Publication Schedule

(April 1990 - December 1991)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
04/02/90	03/12/90	03/19/90	05/02/90	08/01/90
04/16/90	03/23/90	03/30/90	05/16/90	08/01/90
05/01/90	04/09/90	04/17/90	05/31/90	09/01/90
05/15/90	04/24/90	05/01/90	06/14/90	09/01/90
06/01/90	05/10/90	05/17/90	07/01/90	10/01/90
06/15/90	05/24/90	06/01/90	07/15/90	10/01/90
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03/01/91	02/08/91	02/15/91	03/31/91	07/01/91
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05/15/91	04/24/91	05/01/91	06/14/91	09/01/91
06/03/91	05/10/91	05/17/91	07/03/91	10/01/91
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08/15/91	07/25/91	08/01/91	09/14/91	12/01/91
09/03/91	08/12/91	08/19/91	10/03/91	01/01/92
09/16/91	08/23/91	08/30/91	10/16/91	01/01/92
10/01/91	09/10/91	09/17/91	10/31/91	02/01/92
10/15/91	09/24/91	10/01/91	11/14/91	02/01/92
11/01/91	10/11/91	10/18/91	12/01/91	03/01/92
11/15/91	10/24/91	10/31/91	12/15/91	03/01/92
12/02/91	11/07/91	11/14/91	01/01/92	04/01/92
12/16/91	11/21/91	12/02/91	01/15/92	04/01/92

* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.

EXECUTIVE ORDER

**EXECUTIVE ORDER NUMBER 128
AMENDMENT OF EXECUTIVE ORDER
NUMBER 127**

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

Executive Order Number 127 amending Executive Order Number 1 is amended as follows:

Executive Order Number 127 is prospective in application to appointees of executive branch

boards, commissions or councils whose initial appointment or reappointment occurs on or after the date of the order. Members of executive branch boards, commissions or councils currently serving will have 90 days from the date of the order to file their Statements of Economic Interest with the North Carolina Board of Ethics.

Done in Raleigh, North Carolina this the 1st day of November, 1990.

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
Civil Rights Division

JRD:LLT:TGL:rac:gmh
DJ 166-012-3
AJ586-588
AL702

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

November 5, 1990

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

Dear Mr. Cogswell:

This refers to the procedures for conducting the November 6, 1990, special election, the change to staggered terms (6-3), the increase in the length of term from two to four years, and the implementation schedule therefor, for the mayor and council of 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 7, 1990.

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

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division

By:

J. Gerald Hebert
Acting Chief, Voting Section

TITLE 4 - DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Banking Commission intends to repeal rule(s) cited as 4 NCAC 3G .0001 - .0003; and adopt rule(s) cited as 4 NCAC 3G .0104, .0201 - .0203, .0301 - .0303, .0401 - .0403, .0501 - .0504, .0601.

The proposed effective date of this action is April 1, 1991.

The public hearing will be conducted at 2:00 p.m. on January 15, 1991 at the Dobbs Building, 6th Floor, Room 6168, 430 North Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Comments must be submitted in writing not later than 1/4/91. Written comments should be directed to:

*L. McNeil Chestnut, General Counsel
Post Office Box 29512
Raleigh, North Carolina 27626-0512*

Time for presentations may be limited by the hearing officer.

CHAPTER 3 - BANKING COMMISSION

SUBCHAPTER 3G - FUNERAL AND BURIAL TRUST FUNDS

- .0001 APPLICATION FOR LICENSE (REPEALED)**
- .0002 ISSUANCE OF LICENSE (REPEALED)**
- .0003 PRENEED BURIAL CONTRACTS (REPEALED)**

Statutory Authority G.S. 53-92; 90-210.31(e); 90-210.34; 90-210.34(b); 90-210.36; 150B-11(1).

SECTION .0100 - ADMINISTRATIVE

.0104 DEFINITIONS; FILINGS

- (a) As used in these Rules, unless the context clearly requires otherwise:
 - (1) "Commissioner" has the same meaning as set forth at G.S. 90-210.30(1);
 - (2) "Financial institution" has the same meaning as set forth at G.S. 90-210.30(2);
 - (3) "License" means a preneed burial trust license;
 - (4) "Licensee" means any person, firm, association or corporation which holds a pre-

need burial trust license issued pursuant to G.S. 90-210.34;

(5) "Preneed burial contract" has the same meaning as set forth at G.S. 90-210.30(3).

(b) An application for a license, or any report, notice, or any other document which is required by law or regulation to be filed with the Commissioner should be addressed as follows:

Commissioner of Banks
Post Office Box 29512
Raleigh, North Carolina 27626-0512

Statutory Authority G.S. 90-210.30; 90-210.34; 90-210.36; 150B-11(1).

SECTION .0200 - LICENSING

.0201 APPLICATION FOR LICENSE

(a) Any person, firm, association or corporation who desires to offer preneed burial trust arrangements subject to the provisions of Article 13B of Chapter 90 of the North Carolina General Statutes, must first obtain a license issued by the Commissioner. An application can be obtained from and should be filed pursuant to Rule .0104(b) of this Subchapter.

(b) Incomplete application files outstanding more than 30 days will be closed and the application deemed denied.

Statutory Authority G.S. 90-210.34(a); 90-210.36; 150B-11(1).

.0202 ISSUANCE OF A LICENSE

On receipt of a completed application and payment of the required fee, the Commissioner of Banks will investigate the applicant to determine the applicant's financial responsibility, the authority of the applicant to conduct business in North Carolina and the manner in which that business has been conducted. If the Commissioner finds that the applicant has met the conditions of G.S. 90-210.34, the Commissioner will issue the applicant a renewable license.

Statutory Authority G.S. 90-210.34(b); 90-210.36; 150B-11(1).

.0203 EXPIRATION AND RENEWAL

(a) A license will be valid from the date of issuance and, unless timely renewed, shall expire on June 30th of each year.

(b) Thirty days prior to the date of expiration, each licensee, desiring to renew its license, must submit to the Commissioner a renewal request together with the required annual licensing fee.

(c) Unless a licensee timely renews a license, the licensee may not, after the date of expiration,

accept any new preneed burial trust funds subject to the provisions of Article 13B of Chapter 90 of the North Carolina General Statutes.

Statutory Authority G.S. 90-210.34; 90-210.36; 150B-11(1).

SECTION .0300 - PRENEED BURIAL CONTRACTS

.0301 TYPES AND REVOCABILITY OF CONTRACTS

(a) Licensees may make preneed burial trust arrangements available to the public through either of the following types of contracts:

- (1) **Standard Contract.** A standard preneed burial contract applies all monies paid on deposit by or for the contract beneficiary, together with any increases to the trust fund, toward the purchase of funeral services and merchandise without a guarantee against price increases.
- (2) **Inflation-proof Contracts.** An inflation-proof contract establishes a fixed price for funeral services and merchandise without regard to price increases. It permits the licensee to retain all of the preneed burial funds on deposit, even those in excess of the cost of goods and services provided, when the licensee has fulfilled the contract obligation.

(b) At the election of the purchaser, either the standard or inflation-proof preneed burial contract, can be made revocable or irrevocable. Revocable contracts may be revoked by the purchaser and the funds remitted in accordance with G.S. 90-210.32. While the contract purchaser, or upon the purchaser's death, the beneficiary or the beneficiary's designated representative, may choose a successor funeral home to perform under an irrevocable contract, burial trust funds held under such contracts may not be refunded. Form 52, Substitution of Trustee for a Standard or Inflation-proof Irrevocable Preneed Burial Contract, may be used to designate a successor funeral home as trustee. This form is available through the North Carolina Funeral Directors Association pursuant to Rule .0303 of this Section.

Statutory Authority G.S. 90-210.31; 90-210.32(d); 90-210.36; 150B-11(1).

.0302 RETAINAGE

A licensee who offers trust funded inflation-proof preneed funeral arrangements may retain up to ten percent of any payments made on the contract if the licensee files a bond in the manner prescribed by law. Acceptable security for a

bond may be provided through a commercial surety company or through an irrevocable letter of credit issued by an insured financial institution. If a bond is secured by a commercial surety, the licensee must file Bond Form 50, together with proof of surety. If surety is provided through an irrevocable letter of credit, the licensee must file Form 50A together with the original letter of credit. Either bond form may be obtained from and must be filed, together with evidence of security, as provided in Rule .0104(b) of this Subchapter.

Statutory Authority G.S. 90-210.31(a1); 90-210.36; 150B-11(1).

.0303 APPROVED CONTRACTS AND OTHER FORMS

A licensee must use preneed burial contract forms approved by the Commissioner of Banks. Form 49, Standard Preneed Burial Trust Fund Contract, and Form 49A, Inflation-proof Preneed Burial Trust Fund Contract, have been approved by the Commissioner of Banks and are available for purchase through the North Carolina Funeral Directors Association. Additionally, a Certificate of Performance (Form 51) and Substitution of Trustee for a Standard or Inflation-proof Irrevocable Preneed Contract (Form 52) are available through the Association. That organization may be reached as follows:

North Carolina Funeral Directors Association
5860 Faringdon Place, Suite 2
Raleigh, North Carolina 27609
Telephone (919) 876-7886
Telefax (919) 876-5382

Statutory Authority G.S. 90-210.31(e); 90-210.36; 150B-11(1).

SECTION .0400 - DEATH OF THE PRENEED BURIAL TRUST CONTRACT BENEFICIARY

.0401 PERFORMANCE BY A CONTRACTING LICENSEE

Before a licensee who or which has fully performed his or its obligation under a preneed burial contract for a deceased beneficiary may be paid, the licensee must submit to the financial institution holding the burial trust funds a Certificate of Performance prescribed by the Commissioner of Banks. That form is available through the North Carolina Funeral Directors Association pursuant to Rule .0303 of this Subchapter.

Statutory Authority G.S. 90-210.31(c); 90-210.36; 150B-11(1).

.0402 PERFORMANCE BY NON-CONTRACTING FUNERAL HOME

Before a funeral home which was not the original contracting party, but which has fulfilled the terms of a preneed burial contract upon the death of the beneficiary, may be paid, it must submit to both the licensee which was the original contracting funeral home and the financial institution holding the burial trust funds the following:

- (1) a certified copy of the death certificate for the deceased beneficiary; and
- (2) a copy of the statement of goods and services rendered together with a Certificate of Performance prescribed by the Commissioner.

The latter form is available through the North Carolina Funeral Directors Association pursuant to Rule .0303 of this Subchapter.

Statutory Authority G.S. 90-210.31(c); 90-210.36; 150B-11(1).

.0403 EXCESS FUNDS

A licensee must promptly remit any funds remaining after payment for goods and services provided through the terms of a standard preneed burial contract to the estate of the deceased beneficiary.

Statutory Authority G.S. 90-210.31(c); 90-210.36; 150B-11(1).

SECTION .0500 - OPERATIONS

.0501 RECORD AND BOOKKEEPING REQUIREMENTS

(a) General file. Each licensee must maintain at its principal office a complete file containing the following:

- (1) a copy of its original license application;
- (2) a copy of the current license issued by the Commissioner of Banks;
- (3) copies of all previous preneed examination reports; and
- (4) copies of correspondence with the Commissioner.

(b) Individual files. Each licensee must maintain at its principal office a contract file on each preneed burial contract purchased. The file must be maintained separately for outstanding contracts and matured or cancelled contracts. The outstanding contract files must include a copy of the preneed contract filed alphabetically or numerically. The matured or cancelled contract files should contain a copy of the contract together with a copy of the Certificate of Performance and should be filed chronologically.

(c) Other records. Each licensee must maintain currently the following records:

- (1) a contract register listing the purchaser's name, the amount of the contract, and final disposition of the contract;
- (2) a cash journal reflecting all preneed payments collected;
- (3) a record of all preneed payments deposited;
- (4) an individual ledger for each contract purchaser which reflects the purchaser's name, amount of the contract, the amount paid on the contract, the balance due on the contract, any money retained from payments made on inflation-proof contracts, deposits to trust, the total deposits to the trust, interest on deposits, and the total amount of the trust;
- (5) a control ledger for all purchases which lists deposits of preneed payments, net amount of payments on deposit, earnings on deposit accounts and net amount of earnings;
- (6) copies of bank statements from the financial institution in which preneed burial trust funds are deposited, certificate of deposit records, including both principal and interest transactions, and/or trust accountings.

(d) Record accuracy. Individual ledgers, the control ledger and records of the depository financial institutions must be balanced at least annually to ensure their accuracy.

(e) Exceptions. Any exceptions to the record and bookkeeping requirements must be approved by the Commissioner.

(f) Change of location. Any change of business address where the records are maintained must be furnished to the Commissioner in writing at the time of change.

Statutory Authority G.S. 90-210.31; 90-210.35(a); 90-210.36; 150B-11(1).

.0502 ANNUAL REPORT

Each preneed licensee must file with the Commissioner of Banks an annual report in the manner and form prescribed by the Commissioner. The annual report shall be filed not later than March 31 each year for the preceding year ending December 31.

Statutory Authority G.S. 90-210.36; 150B-11(1).

.0503 NOTICE OF TRANSFER

Before a licensee may transfer preneed burial trust accounts to a financial institution that was not the original depository, the licensee must first

file written notice of the transfer with the Commissioner. Such notice must include the name and address of the successor financial institution, the branch office at which preneed burial trust deposits are customarily made, and the name and telephone number of a contact person at such office.

Also pursuant to G.S. 90-210.35(b), before the transfer may be made, the successor financial institution must expressly agree to disclose preneed burial contract account information to the Commissioner or a designated examiner.

Statutory Authority G.S. 90-210.35(b); 90-210.36; 150B-11(1).

.0504 ASSIGNMENT AND TERMINATION

In the event that the preneed burial trust licensee transfers or assigns its assets or stock to a successor business interest or terminates its business, the licensee must advise the Commissioner of Banks of the assignment or termination on a form prescribed for that purpose by the Commissioner. The form may be obtained from and shall be with the Commissioner as provided by Rule .0104(b) of this Subchapter.

Statutory Authority G.S. 90-210.35(c); 90-210.36; 150B-11(1).

SECTION .0600 - LICENSE REVOCATION OR SUSPENSION

.0601 REVOCATION OR SUSPENSION; HEARINGS

(a) Any one or more of the following acts shall be grounds for revocation, suspension or non-renewal of a preneed burial trust license:

- (1) Failure to deposit trust funds within 30 days of receipt;
- (2) Failure to maintain a preneed burial trust account in a financial institution in the name of the licensee as trustee;
- (3) Making unauthorized withdrawals or refunds of preneed burial trust deposits;
- (4) Failure to use approved preneed burial contract forms;
- (5) Engaging in an unlawful act or practice which is not in good faith or fair dealing with the public or which involves breach of fiduciary duty or dishonesty;
- (6) Failure to file any report or notice within the time period prescribed by these Rules.

(b) Any hearings conducted pursuant to G.S. 90-210.36 shall proceed in accordance with 4 NCAC 3B .0200 et. seq. and Chapter 150B of the North Carolina General Statutes.

Statutory Authority G.S. 90-210.31; 90-210.32; 90-210.33; 90-210.36; 150B-11(1).

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources, Division of Services for the Deaf and the Hard of Hearing intends to adopt rule(s) cited as 10 NCAC 20F .0501 - .0511.

The proposed effective date of this action is April 1, 1991.

The public hearing will be conducted from 4:00 p.m. - 7:00 p.m. at:

*January 7, 1991
NC School for the Deaf at Morganton
517 W. Fleming Drive
Morganton, NC 28655*

*January 8, 1991
Central NC School for the Deaf
Greensboro, NC 27415-4670*

*January 9, 1991
Eastern NC School for the Deaf
Hwy 301
Wilson, NC 27894-2768*

Comment Procedures: Written comments may be received prior to any of the public hearing dates and no later than January 9, 1991. Send to:

*Division of Services for the Deaf Hard of Hearing
695-A Palmer Drive
Raleigh, NC 27603*

CHAPTER 20 - VOCATIONAL REHABILITATION

SUBCHAPTER 20F - COUNCIL FOR THE HEARING IMPAIRED

SECTION .0500 - NORTH CAROLINA INTERPRETER CLASSIFICATION SYSTEM

.0501 APPLICABILITY

The rules in this Section establish an interpreter classification system to reflect the competency of individuals serving as interpreters for persons who are deaf or hard of hearing.

Statutory Authority G.S. 8B-1(3); 8B-6; 143B-216.33.

.0502 DEFINITIONS

For the purpose of Rules .0501 through .0511 of this Section the following terms shall have the meanings indicated:

- (1) "Sign Language Interpreter" means a person who performs services for the public in the capacity of an interpreter or transliterator between one or more deaf persons and one or more hearing persons using American Sign Language.
- (2) "Standards of Ethical Behavior" are behavioral guidelines for interpreters established by the Texas Commission for the Deaf and adopted by reference under the provisions of G.S. 150B-14(c) to protect the rights of the consumers both hearing and hearing impaired and the interpreters.
- (3) "N.C.I.C.S." means the North Carolina Interpreter Classification System.
- (4) "The Division" means the North Carolina Division of Services for the Deaf and the Hard of Hearing.
- (5) "Evaluators" are persons who have received formal instruction regarding the NCICS process from the Division regarding terminology and scoring in an effort to attain the highest level of validity, reliability and consistency possible.
- (6) "Classifications" means one of the five levels of skill based on the total score given by the evaluators on the classification test.
- (7) "Division Director" means the Director of the North Carolina Division of Services for the Deaf and the Hard of Hearing.
- (8) "State Coordinator" means a person employed by the Division of Services for the Deaf and the Hard of Hearing whose responsibility is to administer and oversee all aspects of the classification process.
- (9) "Interpreter Training" means activities recognized by the Division which are oriented toward the enhancement of interpreting practice, values, skills and knowledge such as continuing education courses, workshops, seminars, conferences, lectures, and post-secondary courses.
- (10) "Critical Situations" means any interpreting assignment which has the potential for altering the quality of someone's life either physically, emotionally or financially.

Statutory Authority G.S. 8B-1(3); 8B-6; 143B-216.33.

.0503 ELIGIBILITY

Applicants shall meet one of the following prerequisites:

- (1) current or expired certification from the National Registry of Interpreters for the Deaf or its local counterparts or a current or expired assessment or certification from an organization within another state equivalent to that of the North Carolina Registry of Interpreters for the Deaf; or
- (2) documentation of 200 hours of verifiable interpreter experience. A maximum of five hours of documented interpreter training experience may be substituted for 50 hours of verifiable interpreter experience at a ratio of one hour of training time equals ten hours of interpreter experience; or
- (3) graduation from an interpreter training program from a post secondary institution accredited by a Regional Board of Accreditation of Colleges and Universities. Such training program must have been sponsored by a college, university or community college program.

Statutory Authority G.S. 8B-1(3); 8B-6; 143B-216.33.

.0504 APPLICATION

The following shall be the process for application to be classified:

- (1) Application forms and the dates of classification sessions shall be available at any office of the Division.
- (2) Applications shall be completed and sent to the state office of the Division at least 30 days prior to the scheduled classification. Applicants shall be selected for each classification session in the order that the applications were received. Applicants who cannot be included in any given classification session shall be placed on priority for the next session.
- (3) Each applicant shall return a signed copy of the Standards of Ethical Behavior and a statement agreeing to maintain the confidentiality of the testing materials.

Statutory Authority G.S. 8B-1(3); 8B-6; 143B-216.33.

.0505 CLASSIFICATION TEAM AND EVALUATORS

The criteria for the evaluation team and the evaluation team members shall be:

- (1) The classification team shall be composed of three trained evaluators. At least one evaluator shall be hearing and one shall be hearing-impaired.
- (2) Service terms of active evaluators shall be a maximum of two years with a mandatory

one-year break between service periods. Retraining after the one year break shall be required for continued participation on the evaluation team.

- (3) All evaluators shall hold a current Class A or Class B classification from the Division and shall have successfully completed the evaluator training offered by the Division.

Statutory Authority G.S. 8B-1(3); 8B-6; 143B-216.33.

.0506 CLASSIFICATION

The classification process shall be as follows:

- (1) The Division shall conduct at least three classification sessions per year.
- (2) All testing for classifications shall be videotaped.
- (3) A written test covering the Standards of Ethical Behavior shall be administered prior to the skills portion of the NCICS process of which a required 80 percent passing score shall be required in order to proceed to the skills portion of the process.
- (4) Classifications shall be based on the points awarded by evaluators during the classification process. The maximum number of points is 1000. Classifications to be awarded will be as follows:
 - (a) "Trainee Class" is a two year temporary classification indicating the interpreter transliterator exhibited only the minimal entry level skills necessary for becoming classified achieving 40 percent to 59 percent of the total possible points. This interpreter shall not under any circumstances accept or be placed in an assignment which could have a damaging affect on a person's financial or physical well being.
 - (b) "Class D" is an interpreter transliterator with limited interpreting and or transliterating skills scoring 60 percent to 69 percent of the total possible points. This interpreter, with the necessary training, could be assigned for non-critical slow paced situations in which there would be the ability to stop the speaker for clarification.
 - (c) "Class C" means an interpreter transliterator with intermediate skills scoring 70 percent to 79 percent of the total possible points. This interpreter has demonstrated competency in all areas of interpreting and transliterating; however, it shall not be assumed that a Class C interpreter is capable of handling any and all situations. Critical medical and

legal assignments shall be performed by Class A or Class B interpreters who have training and experience in these critical areas.

- (d) "Class B" is an interpreter/transliterator with comprehensive skills scoring 80 percent to 89 percent of the total possible points. This interpreter has demonstrated a high level of competency in all areas of interpreting and transliterating and has shown the ability to accurately convey the subtleties of emotion, in addition to concepts, needed for mental health and court situations. It shall be acceptable to send this interpreter into almost any setting provided they have received proper training in the particular area beforehand or had prior experience. This interpreter would be qualified for G.S. 8B-6 assignments. It shall procedure to use a Class A interpreter in the most critical situations where at all possible.
- (e) "Class A" is an interpreter/transliterator with advanced skills scoring the highest possible 90 percent to 100 percent of the total possible points. This interpreter has demonstrated the highest level of competency of all areas of interpreting and transliterating and has shown the ability to accurately convey all aspects of the spoken or signed message including nuances of emotion, content and intricate concepts. Class A interpreters with proven expertise or training shall be used in critical situations. This interpreter is qualified for G.S. 8B-6 assignments.
- (5) Interpreters who hold national certification from The National Registry of Interpreters for the Deaf, Class A and Class B level from the N.C.I.C.S. with proven experience in the respective area they are being called to interpret are qualified interpreters for the purpose of meeting the requirements of G.S. 8B-6.
- (6) All candidates shall receive notification of their results within 30 calendar days of the date of their classification session.
- (7) All candidates receiving classification from the N.C.I.C.S. shall have the option of having their names, phone numbers and addresses or their names only printed in the North Carolina Interpreter Directory. This Directory shall provide a reference for all consumers of interpreters. It shall also be a reference for all agencies who must meet the requirements of hiring only qualified interpreters as set forth in G.S. 8B-6.

- (8) Candidates who do not exhibit skills at the minimum Trainee Class level may reapply for classification 60 calendar days after receipt of the results of their previous classification session.

Statutory Authority G.S. 8B-1(3); 8B-6; 143B-216.33.

.0507 APPEAL OF CLASSIFICATION DECISION

There shall be two basis on which an individual may appeal their classification; evaluator conduct and classification scoring. The following shall be the process for resolution of appeals on either of these bases:

(1) Evaluator Conduct:

- (a) Candidates who are dissatisfied with their classification shall send a written request for a review of the classification to the State Coordinator within 30 calendar days of their receipt of notification of their classification status.
- (b) The State Coordinator shall conduct an investigation of the alleged misconduct of the evaluator and provide a response to the applicant within 45 calendar days of receipt of the request.
- (c) One additional 45 calendar day extension may be requested by the State Coordinator from the applicant if additional time is needed to conduct the investigation.
- (d) A candidate who remains dissatisfied with the results of the State Coordinator's investigation and response may request a final review from the Division Director. The request shall be made within 30 calendar days of the individual's receipt of the results of the State Coordinator's investigation.
- (e) The Division Director shall make an investigation and respond within 45 days of receipt of the request. The decision of the Division Director shall be the final agency decision.

(2) Classification Scoring:

- (a) Candidates who are dissatisfied with their classification results shall send a written request for a review of their videotaped classification by a second classification review team. This request shall be sent to the State Coordinator within 30 calendar days of receipt of notification of their classification status.
- (b) The classification review team shall be composed of three classification team members in which at least one shall be hearing and one shall be hearing impaired.

- (c) The applicant shall have the right to reject participation of any classification review team member if there exists a conflict of interest or other situation that might impair the objectivity of the team member.
- (d) If the results of the classification review team are consistent with the original classification team's score by a score of 50 points from the mean score the first classification team's score shall be accepted.
- (e) Inconsistent results of the classification review team with the original classification team's results of more than 50 points spread high or low from the mean shall result in allowing the candidate to retest at no additional charge to the candidate.
- (f) The decision of the classification review team shall be the final agency decision.
- (g) The State Coordinator shall provide a response on the classification review team's scoring within 60 calendar days upon receipt of the request.
- (h) One additional 30 calendar day extension may be requested by the State Coordinator from the applicant if additional time is needed to conduct the review.

Statutory Authority G.S. 8B-1(3); 8B-6; 143B-216.33.

.0508 REVOCATION OF CLASSIFICATION

The following shall be the process by which the Division shall hear complaints brought against an interpreter practicing in the State of North Carolina:

(1) Extent of Jurisdiction:

- (a) The North Carolina Interpreter Classification System (NCICS) Grievance Committee (hereafter referred to as the Committee) shall hear grievances brought by consumers (both deaf and hearing), state agencies and interpreters.
- (b) The Committee shall consider grievances alleging both violations of the established Standards of Ethical Behavior and questions of interpreter competence.
- (c) The Committee's jurisdiction shall extend to all persons who have a current classification approved by the NCICS. The Committee shall also serve as a forum for concerns and complaints related to those persons identifying themselves as interpreters and classified under the NCICS but who have not demonstrated their competence through the NCICS.
- (d) The Committee shall act upon every complaint properly brought before it. Said complaint must be filed and acted

- upon according to the written procedures published herein.
- (2) Composition of the Committee:
- (a) The members of the Committee shall be selected by the NCICS Coordinator and approved by the DSD III Director.
 - (b) The Committee shall have six members.
 - (c) Three members shall be evaluators, of which at least one shall be hearing-impaired and at least one shall be hearing.
 - (d) One shall be a hearing-impaired consumer.
 - (e) One shall be an interpreter holding a Class A or Class B classification from the NCICS or an interpreter certified by the NRID.
 - (f) One shall be a hearing consumer of interpreters.
 - (g) Terms of tenure for the Committee shall not exceed four years.
- (3) Procedures:
- (a) Committee Meetings:
 - (i) The Committee shall meet as needed in accordance with complaints filed and at the request of the NCICS Coordinator.
 - (ii) Two weeks notice of each meeting shall be given to all persons who may be affected by the deliberations at that meeting and each meeting shall be held at a time and place reasonably convenient for all those who have been notified to attend.
 - (b) Filing a Complaint:
 - (i) A complaint may be filed with the Committee by writing the NCICS Coordinator within 90 days of the alleged violation.
 - (ii) A complaint may be filed by any person utilizing interpreting services, or having a direct or professional interest in the occurrence specified in the complaint.
 - (iii) The complaint must be presented to the Committee in writing. If necessary, a complaint may be presented orally or manually, in which case such statement shall be videotaped.
 - (iv) The complaint must specify the alleged offense as to time, place and actions.
 - (c) Initial Action of the Complaint:

After a complaint has been received and recorded, the Committee shall decide whether the complaint warrants investigation.

 - (i) If the Committee decides not to investigate, it must specify the reason or reasons for this decision in writing to the complainant with interpretation, transliteration by a representative of the Committee if necessary.
 - (ii) If a majority of the Committee decides that an investigation is warranted, facts and circumstances constituting the complaint shall be conveyed in writing, via registered mail, return receipt requested, to the respondent with a copy furnished to the complainant and the Committee records. Interpretation transliteration shall be provided by a representative of the Committee if necessary.
 - (iii) The written charges shall specify the act or acts that precipitated the complaint and the time and place of the incident. These charges shall be accompanied by notice of time and place of the meeting at which evidence or testimony must be presented.
 - (iv) The complainant may invite a representative to assist them during the proceedings.
 - (v) The respondent may invite a representative to assist them during the proceedings.
 - (vi) Any representatives so invited may participate in all proceedings.
 - (vii) In addition to written evidence and a representative, each party shall be entitled to invite two witnesses to give testimony, with more permissible if agreed to by the Committee and all involved parties.
 - (viii) No charges may be brought against a respondent who is already involved as a plaintiff or defendant in a legal proceeding involving the same incident or complaint. If such involvement occurs after the charges have been brought by the Committee, all action shall be suspended during the course of the legal proceeding and all time limits set by these guidelines shall be adjusted accordingly.
 - (ix) Committee proceedings may be stopped at any time if the complainant informs the Committee in writing of their intent to drop charges.
 - (d) Considering the Evidence:
 - (i) A quorum of the Committee shall consist of four members. A quorum shall be present when evidence is presented. The Committee may also accept written evidence without a quorum.
 - (ii) All written evidence or facsimiles thereof presented to the Committee shall be made part of the Committee's record.
 - (iii) The Committee shall appoint a clerk as recorder for all official proceedings. This shall include verbal and signed testimony and shall become part of the Committee's records. The testimony may be

- presented orally or manually, in which case such statement shall be videotaped.
- (iv) Committee members shall maintain impartiality through every stage of the proceedings.
 - (v) The Committee shall consider only evidence which it determines to be reliable and relevant to the proceedings.
 - (vi) Care shall be taken to ensure confidentiality regarding the proceeding to prevent future accusations of defamation or slander.
- (e) Reaching a Decision:
- (i) Only those Committee members present for the oral/manual presentation of evidence and having access to the written evidence shall be entitled to vote.
 - (ii) All voting shall be done by secret ballot and the decision conveyed to the principals in accordance with these guidelines.
 - (iii) There shall be no proxy voting.
 - (iv) No Committee member may sit in judgement on a case in which they have a conflict of interest. They shall withdraw from the case before the Committee brings it formal charges. Either party may challenge the right of any Committee member to serve. If the Committee member in question refuses to withdraw, the dispute shall be settled by a majority vote of the remaining members of the Committee.
 - (v) Finding against the respondent shall require an affirmative vote of a majority of the Committee members present and voting. Less than a majority shall result in a dismissal of the charges. The Committee shall reach all decisions on a case within ten days of the completion of the presentation of all evidence.
 - (vi) The Committee's decision on the charges it has brought shall be written and shall identify in detail the charges and the evidence used in reaching the decision. One copy shall be kept for the Committee's records, one copy shall be supplied to the complainant, and one copy shall be supplied to the respondent. If copies are mailed, they are to be sent via registered mail, return receipt requested.
 - (vii) If the Committee decided against the respondent, it shall immediately determine, in accordance with Committee guidelines, what form of discipline shall be administered. A majority vote of the Committee members hearing the case shall be required in this decision.
 - (viii) No respondent whose case has been dismissed may be charged again with the same offense in connection with the same incident.
 - (ix) A dissenting member or members of the Committee may file a minority report which will become part of the Committee records.
- (f) Official Committee Records:
- (i) Official Committee records become the confidential property of the NCICS Coordinator's office.
 - (ii) Records are to be made available to the respondent, the complainant, the NCICS Coordinator, and Committee members during the period the matter is under consideration by the Committee.
 - (iii) Following the decisions, records shall be maintained at the Division offices and may be reviewed only upon written request to the NCICS Coordinator and with the approval of a majority of the Committee. The records shall be kept for a period of five years following the Committee decision or as long as the disciplinary measure is in force, whichever shall be the longer, and then be destroyed.
 - (iv) A permanent log shall be maintained listing names of parties involved, date of incident, and Committee action only.
- (g) The Committee must take at least one of the following actions on any complaint:
- (i) Suspended action, no discipline. Reasons must be stated in writing.
 - (ii) Letter of censure.
 - (iii) Request for restitution, with specification of action to be taken if restitution is not forthcoming in the time period allowed.
 - (iv) Suspension of the NCICS classification with notification forwarded to all recipients of the interpreter directory.
 - (v) Revocation of the NCICS classification with notification forwarded to all recipients of the interpreter directory. Application for classification may be made after the revocation term has expired as stated by the grievance committee's disciplinary decision.
 - (vi) Require the respondent to satisfactorily complete a course of training as designated, for the purpose of re-education. After the training has been completed, a follow-up interview may be conducted with the respondent to ascertain future intentions regarding similar incidents.
 - (vii) A recommendation for periodic review by the NCICS Coordinator of the re-

respondent's work to be certain that grieved behavior is not repeated.

- (viii) In cases where the respondent does not hold a current NCICS classification, the Committee may seek to hold a conference with the parties involved, to inform the respondent in a formal manner of the ramifications of their actions and to advise the complainant of appropriate action.
- (h) Grounds for Appeal:
Notice of Appeal may be filed by the complainant or respondent and shall be filed in writing with the NCICS Coordinator within 30 calendar days of notification of the Committee decision.
 - (i) Procedural error by the Committee.
 - (ii) New evidence later available, but not discovered during the Committee's investigation. In cases where new evidence has been discovered after the Committee has rendered its decision, appeal may be made to reopen the case within one year of the decision.
 - (iii) Committee disciplinary measures or actions unwarranted by evidence presented.
- (i) Appeal Committee:
In the case of an appeal of the original Committee decision a new committee shall be selected following the guidelines already established in Subparagraph (2) of this Rule.
- (j) Appeal Procedure:
 - (i) Committee Meetings:
 - (A) The Committee shall meet as needed in accordance with appeals filed and at the request of the NCICS Coordinator.
 - (B) Two weeks notice of each meeting shall be given to all persons who may be affected by the deliberations at that meeting and each meeting shall be held at a time and place reasonably convenient for all those who have been notified to attend.
 - (ii) Filing an Appeal:
 - (A) An appeal may be filed with the Committee by writing the NCICS Coordinator within 30 days of the original committee decision.
 - (B) An appeal may be filed by any person utilizing interpreting services, or having a direct or professional interest in the occurrence specified in the original complaint.
 - (C) The appeal must be presented to the Committee in writing. If necessary, an appeal may be presented orally or

manually, in which case such statement shall be videotaped.

- (D) The appeal must specify the alleged grounds for appeal.
- (iii) Initial Action of the Appeal:
After an appeal has been received and recorded, the Committee shall decide whether the appeal warrants investigation.
 - (A) If the Committee decides not to investigate, it must specify the reason or reasons for this decision in writing to the appellant with interpretation transliteration by a representative of the Committee if necessary.
 - (B) If a majority of the Committee decides that an investigation is warranted, facts and circumstances constituting the appeal shall be conveyed in writing, via registered mail, return receipt requested, to the appellant with a copy furnished to the other party involved, complainant or respondent, and the Committee records. Interpretation transliteration shall be provided by a representative of the Committee if necessary.
 - (C) The written charges shall specify the act or acts that precipitated the complaint, the grounds for appeal, the time and place of the incident. These charges shall be accompanied by notice of time and place of the meeting at which evidence or testimony must be presented.
 - (D) The complainant may invite a representative to assist them during the proceedings.
 - (E) The respondent may invite a representative to assist them during the proceedings.
 - (F) Any representatives so invited may participate in all proceedings.
 - (G) In addition to written evidence and a representative, each party shall be entitled to invite witnesses to give testimony.
 - (H) No charges may be brought against a respondent who is already involved as a plaintiff or defendant in a legal proceeding involving the same incident or complaint. If such involvement occurs after the charges have been brought by the Committee, all action shall be suspended during the course of the legal proceeding and all time limits set by these guidelines shall be adjusted accordingly.

- (I) Committee proceedings may be stopped at any time if the complainant informs the Committee in writing of their intent to drop charges.
- (iv) Considering the Evidence:
- (A) A quorum of the Committee shall consist of four members. A quorum shall be present when evidence is presented. The Committee may also accept written evidence without a quorum.
- (B) All written evidence or facsimiles thereof presented to the Committee shall be made part of the Committee's record.
- (C) The Committee shall appoint a clerk as recorder for all official proceedings. This shall include verbal and signed testimony and shall become part of the Committee's records. The testimony may be presented orally or manually, in which case such statement shall be videotaped.
- (D) Committee members shall maintain impartiality through every stage of the proceedings.
- (E) The Committee shall consider only evidence which it determines to be reliable and relevant to the proceedings.
- (F) Care shall be taken to ensure confidentiality regarding the proceeding to prevent future accusations of defamation or slander.
- (v) Reaching a Decision:
- (A) Only those Committee members present for the oral manual presentation of evidence and having access to the written evidence shall be entitled to vote.
- (B) All voting shall be done by secret ballot and the decision conveyed to the principals in accordance with these guidelines.
- (C) There shall be no proxy voting.
- (D) No Committee member may sit in judgement on a case in which they have a conflict of interest. They shall withdraw from the case before the Committee brings its formal charges. Either party may challenge the right of any Committee member to serve. If the Committee member in question refuses to withdraw, the dispute shall be settled by a majority vote of the remaining members of the Committee.
- (E) Finding against the respondent shall require an affirmative vote of a majority of the Committee members present and voting. Less than a majority shall result in a dismissal of the charges. The Committee shall reach all decisions on a case within ten days of the completion of the presentation of all evidence.
- (F) The Committee's decision on the charges it has brought shall be written and shall identify in detail the charges and the evidence used in reaching the decision. One copy shall be kept for the Committee's records, one copy shall be supplied to the complainant, and one copy shall be supplied to the respondent. If copies are mailed, they are to be sent via registered mail, return receipt requested.
- (G) If the Committee decided against the respondent, it shall immediately determine, in accordance with Committee guidelines, what form of discipline shall be administered. A majority vote of the Committee members hearing the case shall be required in this decision.
- (H) No respondent whose case has been dismissed may be charged again with the same offense in connection with the same incident.
- (I) A dissenting member or members of the Committee may file a minority report which will become part of the Committee records.
- (J) A decision of this Committee shall be the final agency decision.
- (vi) Official Committee Records:
- (A) Official Committee records become the confidential property of the NCICS Coordinator's office.
- (B) Records are to be made available to the respondent, the complainant, the NCICS Coordinator, and Committee members during the period the matter is under consideration by the Committee.
- (C) Following the decisions, records shall be maintained at the Division offices and may be reviewed only upon written request to the NCICS Coordinator and with the approval of a majority of the Committee. The records shall be kept for a period of five years following the Committee decision or as long as the disciplinary measure is in force, whichever shall be the longer, and then be destroyed.
- (D) A permanent log shall be maintained listing names of parties involved, date of incident, and Committee action only.

- (vii) The Committee must take at least one of the following actions on any complaint:
 - (A) Suspended action, no discipline. Reasons must be stated in writing.
 - (B) Letter of censure.
 - (C) Request for restitution, with specification of action to be taken if restitution is not forthcoming in the time period allowed.
 - (D) Suspension of the NCICS classification with notification forwarded to all recipients of the interpreter directory.
 - (E) Revocation of the NCICS classification with notification forwarded to all recipients of the interpreter directory. Application for classification may be made after the revocation term has expired as stated by the grievance committee's disciplinary decision.
 - (F) Require the respondent to satisfactorily complete a course of training as designated, for the purpose of re-education. After the training has been completed, a follow-up interview may be conducted with the respondent to ascertain future intentions regarding similar incidents.
 - (G) A recommendation for periodic review by the NCICS Coordinator of the respondent's work to be certain that grieved behavior is not repeated.
 - (H) In cases where the respondent does not hold a current NCICS classification, the Committee may seek to hold a conference with the parties involved, to inform the respondent in a formal manner of the ramifications of their actions and to advise the complainant of appropriate action.
- (viii) Grounds for Appeal:

Appeals shall be filed in accordance with the provisions of Article 3 of Chapter 150B of the General Statutes.

Statutory Authority G.S. SB-1(3); SB-6; 143B-216.33.

.0509 MAINTENANCE OF CLASSIFICATIONS

All classifications shall be valid for two years and all except that of Trainee may be renewed provided the candidate presents evidence of skill maintenance. Skill maintenance shall be determined based upon the awarding of points as follows:

- (1) A total of 40 points shall be required for renewal of classification. A minimum of ten of these points shall be earned from documented interpreter experience.

- (a) one point for each ten hours of interpreting experience.
- (b) one point for each one hour of training approved by the Division which is oriented toward enhancement of interpreting practice, values and knowledge. Training shall be recognized by the Division as:
 - (i) continuing education courses,
 - (ii) workshops,
 - (iii) seminars,
 - (iv) conferences,
 - (v) lectures,
 - (vi) post secondary courses,
 - (vii) interpreter evaluation team participation.
- (2) Forms for documentation of classification maintenance shall be made available at any office of the Division.

Statutory Authority G.S. SB-1(3); SB-6; 143B-216.33.

.0510 RECIPROCITY

Classification shall be granted without direct evaluation of skills by the following methods:

- (1) Individuals who hold a certification from a certifying body of another state may apply for a temporary classification under the N.C.I.C.S. The State Coordinator shall determine the level of reciprocity for each applicant on a case-by-case basis. The State Coordinator shall determine as accurately as possible the equivalency of the North Carolina interpreter classification to that which the applicant holds and shall award reciprocity one class lower than the equivalency. Reciprocity shall be awarded for a maximum period of two years.
- (2) Individuals holding national certification from The National Registry of Interpreters for the Deaf shall be recognized under the N.C.I.C.S. system under a special classification set aside which shall be named "R.I.D. Certification" and shall be expected to meet the maintenance requirements in Rule .0509 of this Section in order to continue their classification.

Statutory Authority G.S. SB-1(3); SB-6; 143B-216.33.

.0511 CHANGE OF NAME OR ADDRESS OF CLASSIFICATION HOLDERS

The procedure for name or address changes shall be:

- (1) A classification holder shall notify the State Coordinator of changes in name or residen-

tial address within 90 calendar days of such change.

- (2) Notification of address changes shall be mailed to the Division of Services for the Deaf and the Hard of Hearing, 695-A Palmer Drive, Raleigh, N.C. 27603 and shall include a complete mailing address including zip code and telephone number.
- (3) Notification of name changes shall be mailed to the Division office and shall include a notarized copy of a marriage certificate or court decree evidencing such change.

Statutory Authority G.S. 8B-1(3); 8B-6; 143B-216.33.

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

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend rules cited as 15A NCAC 10B .0109, .0114, .0215.

The proposed effective date of this action is July 1, 1991.

The public hearing will be conducted at 10:00 a.m. on January 15, 1991 at the Archdale Building, Room 386, 512 North Salisbury Street, Raleigh, NC 27604-1188.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from January 1, 1991 to January 30, 1991. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

**CHAPTER 10
WILDLIFE RESOURCES AND WATER SAFETY**

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

.0109 CHASING DEER BY DOGS IN CERTAIN COUNTIES

It is unlawful to allow dogs to run or chase deer or to attempt to take deer with dogs at any time in Alamance County south of I-85; Orange County south of I-85; Chatham County; Lee County; Wake County south of NC 98; and in

and west of Rockingham, Guilford, Randolph and Montgomery Counties and that part of Anson County west of NC 742.

Note: See 15A NCAC 10D .0003 which prohibits any hunting with dogs on game lands during the season for hunting deer with guns in and west of these counties.

Statutory Authority G.S. 113-134; 113-291.5.

.0114 DOG TRAINING AND FIELD TRIALS

(a) Except as provided in Paragraphs (b) and (c) of this Rule, each person engaged in training or running a dog or dogs and each active participant in a field trial must have obtained a North Carolina hunting license. The term "active participant" as used herein includes each person who owns or handles dogs, carries a firearm, or is a member of an organized group engaged in the conduct of a field trial, but does not include a person who is observing a field trial incidentally or who has stopped to witness a part of it.

(d) Except as allowed by regulations pertaining to authorized field trials, it is unlawful to carry firearms, axes, saws or climbing irons while training or running dogs during closed season.

Authority G.S. 113-134; 113-273; 113-276; 113-291.1; 113-291.5; 50 C.F.R. 21.13.

SECTION .0200 - HUNTING

.0215 CROWS

(a) Open Seasons: Thursday, Friday and Saturday of each week from July 1 to the last day of February and Thursday, Friday and Saturday of each week 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.

(b) Bag Limits: No restriction.

Authority G.S. 113-134; 113-291.2; 50 C.F.R. 20.133.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend rule(s) cited as 15A NCAC 10B .0202 - .0203, .0209; 10C .0205, .0304 - .0305; 10D .0002 - .0004; 10E .0004.

The proposed effective date of this action is July 1, 1991.

The public hearing will be conducted at 7:00 p.m. on:

January 28, 1991
District 7
Elkin
High School

February 4, 1991
District 1
Edenton
Swain Auditorium

February 5, 1991
District 2
New Bern
Courthouse

February 6, 1991
District 3
Nashville
Courthouse

February 7, 1991
District 4
Elizabethtown
Courthouse

February 11, 1991
District 5
Graham
Courthouse

February 12, 1991
District 8
Morganton
Morganton Civic Center Auditorium

February 13, 1991
District 9
Franklin
Courthouse

February 14, 1991
District 6
Albemarle
North Stanley High School

Note: All Public Hearings begin at 7:00 p.m.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing or by mailing to N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188. The record of hearing is open from 15 days preceding the date of hearing to 15 days after the date of hearing.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0200 - HUNTING

.0202 BEAR

- (a) Open Seasons
 - (1) 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) Second Monday in November to the following Saturday in Beaufort, Camden, Craven, Dare, Gates, Hyde, Jones, Pamlico, Pasquotank, Tyrrell, and Washington Counties; and in that part of Bertie County southeast of US 17, and that part of Chowan County north of a line formed by SR 1002, SR 1222 and SR 1221.
 - ~~(3) Second Monday in November to the following Wednesday in Gates, Hyde and Tyrrell Counties.~~
 - ~~(3)~~ (3) 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)~~ (4) Second Monday in December to January 1 in Brunswick and Columbus Counties.

Statutory Authority G.S. 113-134; 113-291.2; 113-291.7; 113-305.

.0203 DEER (WHITE-TAILED)

- (a) Closed Season. All counties and parts of counties not listed under the open seasons below in this Rule are closed to deer hunting.
- (b) Open Seasons (All Lawful Weapons)
 - (1) Male Deer With Visible Antlers. Male deer with antlers or spikes protruding through the skin, as distinguished from knobs or buttons covered by skin or velvet, may be taken during the following seasons:
 - (A) Monday on or nearest October 15 to January 1 in the following counties and parts of counties:

PROPOSED RULES

Beaufort	Lenoir
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	

Cumberland: That part south of NC 24.
 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**: All of the county except that part north of NC 211 and west of US 1.
 Sampson: All of the county except that part west of NC 242 and north of US 13.
 Wake: That part north of ~~NC 54 west of Raleigh~~ and ~~US 70 east of Raleigh~~ I-40.

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

(B) Monday of Thanksgiving week to second Saturday after Thanksgiving Day in the following counties and parts of counties:

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

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.~~

(C) Monday of Thanksgiving week to third Saturday after Thanksgiving Day in the following counties and parts of counties:

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

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

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

~~Cabarrus: That part east of I-85.~~
 Cumberland: That part north of NC 24.
 Harnett: That part east of NC 87.
 Johnston: That part south of US 70 and west of I-95.

Mecklenburg: That part north of US 74, except the ~~Cowan's Ford Waterfowl Refuge~~.

Moore: That part north of NC 211 and west of US 1.
 Sampson: ~~The~~ That part west of NC 242 and north of US 13.
 Wake: That part south of ~~NC 54 west of Raleigh~~ and ~~US 70 east of Raleigh~~ I-40.

(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:

(F) Wednesday of the week following Thanksgiving in all of Catawba, Cleveland, Forsyth, ~~Greene~~, Mitchell, and Rutherford ~~and Wilson~~ Counties; and in the following parts of Counties:

Alleghany: All of the county except game lands.

- Ashe: All of the county except game lands.
- Avery: That part south of the Blue Ridge Parkway, except game lands.
- Burke: All of the county except game lands.
- Caldwell: All of the county except game lands.
- Cumberland: That part south of SR 1709, west of SR 1802, west of US 301 and east of the Cape Fear River.
- Davidson: That part north of I-85, except game lands.
- ~~Johnston: That part north of US 70 and west of I-95.~~
- McDowell: All of the county except game lands.
- 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 for the Cowan's Ford Waterfowl Refuge.
- ~~Nash: That part south of US 64.~~
- Rowan: That part west of US 52, except game lands.
- ~~Wake: That part south of NC 54 west of Raleigh and south of US 70 east of Raleigh.~~
- Washington: That part east of NC 32 and south of US 64.
- ~~Wayne: That part north of US 70.~~
- (G) Wednesday and Thursday of the week following Thanksgiving in all of ~~Camden~~, Dare, Iredell and Surry Counties and in the following parts of counties:
- Alexander: All of the county except game lands.
- Cabarrus: That part west of US 52 and south of a line formed by NC 49 from the Mecklenburg County line to Mount Pleasant and east of SR 1006 from Mount Pleasant to the Rowan County line.
- Davie: All of the county except game lands.
- Moore: That part north of NC 211, except game lands.
- Scotland: That part north of US 74, except game lands.
- Stokes: All of the county except game lands.
- Tyrrell: That part south of US 64.
- Wilkes: All of the county except game lands.
- (H) Wednesday to Saturday of the week following Thanksgiving in all of Alamance, Camden, Caswell, Chatham, Durham, ~~Franklin~~, Granville, Greene, Lee, Orange, Pasquotank, Person, Rockingham and Vance, Wake, and Wilson Counties and in the following parts of counties:
- Columbus: That part west of a line formed by US 74, SR 1005, and SR 1125.
- Cumberland: That part east of I-95 and south of NC 24.
- ~~Currituck: All of the county except the Outer Banks. That part north and west of the Intracoastal Waterway.~~
- ~~Edgecombe: That part south of US 64.~~
- ~~Franklin: That part west of US 401.~~
- ~~Guilford: That part north of a boundary formed by I-40 and I-85.~~
- Johnston: That part north of US 70 and west of I-95.
- ~~Lenoir: That part west of NC 44.~~
- Moore: That part south of NC 211, except game lands.
- Nash: That part ~~north~~ south 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. a line formed by US 220 from the Montgomery County line to Rockingham and US 1 from Rockingham to the South Carolina line, except on game lands.~~
- Robeson: That part east of I-95.
- ~~Stanly: All of the county except that part east of US 52 and north of NC 24-27. That part west of US 52.~~
- ~~Wake: That part north of NC 54 west of Raleigh and north of US 70 east of Raleigh.~~
- ~~Wayne: That part south north of US 70.~~
- (I) Wednesday of the week following Thanksgiving to Saturday of next succeeding week in all of Hyde, and Warren, Vance Counties and in the following parts of counties:
- Anson: All of the county except game lands.
- Cabarrus: That part east of US 52.
- Carteret: All of the county except game lands.
- Chowan: That part north of US 17.
- Currituck: That part south and east of the Intracoastal Waterway, except the Outer Banks.
- Davidson: That part south of I-85, except on game lands.
- Edgecombe: That part south of US 64.
- Franklin: That part east of US 401.

PROPOSED RULES

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

Lenoir: That part west of NC 11.

Montgomery: All of the county except on game lands.

Nash: That part north of US 64.

~~Pamlico: All of the county except on game lands.~~

Richmond: That part west of ~~Little River~~, a line formed by US 220 from the Montgomery County line to Rockingham and US 1 from Rockingham to the South Carolina line.

Rowan: That part east of US 52, except on game lands.

Stanly: That part east of ~~NC US 52, and north of NC 24-27~~ except game lands.

Washington: That part west of NC 32 and south of US 64.

Wayne: That part south of US 70.

(J) Monday of Thanksgiving week to the third Saturday after Thanksgiving Day in that part of Buncombe County east of NC 191, south of the French Broad and Swannanoa Rivers, west of US 25, and north of SR 3503, NC 280 and SR 3501.

(K) Wednesday of the week following Thanksgiving to January 1 in all of Brunswick, Hertford, Gates, Northampton, ~~and Pitt~~, and Warren Counties, and in the following parts of counties:

Beaufort: All of the county except game lands.

Bertie: All the county except Roanoke River Wetlands.

Bladen: All of the county except game lands.

Chowan: That part south of US 17.

Columbus: That part east of a line formed by US 74, SR 1005, and SR 1125.

Craven: All of the county except game lands.

Duplin: All of the county except game lands.

Edgecombe: That part north of US 64.

Halifax: All of the county except Roanoke River Wetlands.

Jones: All of the county except game lands.

Lenoir: That part east of NC 11.

Martin: All of the county except Roanoke River Wetlands.

New Hanover: That part north of US 74.

Onslow: All of the county except game lands.

Pamlico: All of the county except on game lands.

Pender: All of the county except game lands.

Perquimans: All of the county except that part that lies both south of US 17 and east of the Perquimans River.

Sampson: That part south of NC 24.

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

(2) Restrictions

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

(i) On the last day of the established muzzle-loading firearms season a maximum of two antlerless deer may be substituted for an equal number of antlered deer when taken in that part of any county listed below that has an established gun either-sex deer season.

Alexander	Forsyth
Alleghany	Iredell
Ashe	Mecklenburg
<u>Avery</u>	McDowell
Burke	<u>Mitchell</u>
Caldwell	Rutherford
Catawba	Stokes
Cleveland	Surry
Davie	Wilkes

Statutory Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.1; 113-291.2.

.0209 WILD TURKEY (BEARDED TURKEYS ONLY)

(a) Open Season: Second Saturday in April to Saturday of the fourth week thereafter on bearded turkeys in the following counties: Alleghany, Ashe, ~~Bertie~~, Buncombe, Caswell, Cherokee, Clay, Durham, Graham, Granville, Haywood, Henderson, Hyde, Macon, McDowell, Mitchell, Orange, Person, Polk, Rockingham, Scotland, and in the following portions of counties:

Alamance: All of the county except that part south of I-85 and west of NC 87.

Anson: That part east of US 52 and north of US 74.

Bertie: That part west of a line formed by NC 45 from the Hertford County line to Colerain, NC 42 to Powellsville, US 13 to Windsor, and NC 308 to the Washington County line.

Bladen: That part south of NC 701 and east of a line formed by NC 210, NC 53, SR 1730.

Brunswick: That part north of US 74-76.

Burke: That part north of I-40.
 Caldwell: That part west of US 321.
 Carteret: That part west of US 70 and north of NC 24.
 Chatham: That part north and west of ~~US 4~~ of US 64.
 Chowan: That part south of US 17.
 Columbus: That part south of US 74 and west of NC 410 and that part north of NC 87.
 Craven: That part west of US 70, and south of SR 1101 and that part north of the Neuse River, south of a line formed by US 17 and US 17 Business, and east of a line formed by SR 1440 and SR 1441.
 Guilford: That part north of a boundary formed by I-85 and I-40.
 Halifax: That part north of NC 903 and east of I-95.
 Henderson: That part west of I-26.
 Hoke: That part south and west of NC 211.
 Jackson: That part south of US 74 except the portion bounded on the north by NC 281, on the west by NC 107, and on the south by US 64.
 Johnston: That part south of US 70 and I-95 and east of US 701.
 Madison: All of the county except that part north of ~~NC 208, NC 212 and SR 1434~~ east of NC 212 and SR 1434, north of SR 1318, US 23 and SR 1503.
 Martin: That part north of a boundary formed by US 64 from the Washington County line to Williamston, north of NC 125 from Williamston to the junction with NC 142, and north of NC 142 to the Edgecombe County line.
 Montgomery: That part south of NC 24-27.
 Northampton: That part south of a boundary formed by US 158 from the Halifax County line to Jackson, NC 305 from Jackson to Rich Square, US 258 from Rich Square to NC 308, and NC 308 to the Bertie County line.
 Onslow: All of the county except that part east of a line formed by US 17, SR 1434 and SR 1442.
 Pender: That part west of US 421.
 Perquimans: That part south of US 17.
 Richmond: That part north of US 74.
 Robeson: That part east of I-95 and south of US 74.
 Surry: That part west of I-77.
 Swain: All of the county except that part south of US 19 and west of NC 28.
 Transylvania: All of the county except that part west of US 178, and south of US 64.
 Watauga: That part north and east of US 321.
 Wilkes: That part north of NC 268.

Yancey: ~~All of the county except that part bounded on the west by NC 197, on the north by US 19E, and on the east by NC 80. That part north of US 19E and east and north of US 19W.~~

**The Sandhills Game Land in Richmond, Scotland, and Moore Counties and the Roanoke River Wetlands in Bertie, Halifax, and Martin Counties are closed to turkey hunting except by holders of special permits authorizing turkey hunting. Such permits are issued by authorized representatives of the Wildlife Resources Commission.

(b) Bag Limits: Daily, one; possession, two; season, two.

(c) Dogs Prohibited. It is unlawful to use dogs for hunting turkeys.

(d) Kill Reports. The carcass of each wild turkey shall be tagged and the kill reported as provided by 15A NCAC 10B .0113.

Statutory Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.2.

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 hatchery supported waters are classified as general wild trout waters. (See 15A 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 hatchery supported waters or native wild 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.

(I) Hatchery Supported Trout Waters. The hatchery supported public mountain trout waters 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:

(A) Alleghany County:

- New River (not trout water)
- Little River (Whitehead to McCann Dam)
- Crab Creek ~~Southwest Prong~~
- Brush Creek (except where posted against trespass)
- Little Pine Creek
- Big Pine Creek
- Little Glade Creek
- Laurel Branch
- Big Glade Creek
- Bledsoe Creek
- Pine Swamp Creek
- South Fork Little River (except where posted against trespass)
- South Fork New River (not trout water)
- Prather Creek
- Cranberry Creek
- Piney Fork
- Meadow Fork
- Yadkin River (not trout water)
- Roaring River (not trout water)
- East Prong Roaring River (that portion on Stone Mountain State Park)
- Stone Mountain Creek

(B) Ashe County:

- New River (not trout waters)
- North Fork New River (Watauga Co. line (headwaters to Sharp Dam)
- Helton Creek (Virginia State line to New River)
- Big Horse Creek (SR 1361 bridge to Tuckerdale)
- Buffalo Creek (headwaters to junction of NC 194-88 and SR 1131)
- Big Laurel Creek
- Three Top Creek (portion not on game lands)
- Hoskins Fork (Watauga County line to North Fork New River)
- South Fork New River (not trout waters)
- Cranberry Creek (Alleghany County line to New River)

- Nathans Creek
- Peak Creek (headwaters to Trout Lake, except Blue Ridge Parkway waters)
- Trout Lake
- Roan Creek
- North Beaver Creek
- South Beaver Creek (headwaters to Ashe Lake)
- Pine Swamp Creek (all forks)
- Old Field Creek
- West Prong Old Field Creek
- Mill Creek (except where posted against trespass)

(C) Avery County:

- Nolichucky River (not trout waters)
- North Toe River (~~headwaters~~ (Roaring Creek to Mitchell County line, except where posted against trespass))
- Jones Creek
- Plumtree Creek
- Roaring Creek
- Squirrel Creek
- Birchfield Creek
- Horse Creek
- Cow Camp Creek
- Kentucky Creek
- Elk River (SR 1306 crossing to Tennessee State line)
- Elk River (~~Heaton to~~ [Lees-McRae College boundary line to Heaton (NC 194 bridge)], except where posted against trespass)
- Cranberry Creek
- Catawba River (not trout water)
- Gragg Prong
- Webb Prong
- Boyde Coffey Lake
- Archie Coffey Lake
- Linville River (Sloop Dam to Blue Ridge Parkway boundary line)
- Milltimber Creek
- Linville River [Land Harbor line (below dam) to Ben Aldridge line, except Bob Miller property]

(D) Buncombe County:

- French Broad River (not trout water)
- Big Ivy Creek (Ivy River) (headwaters (Dillingham Creek to US 19-23 bridge)
- Dillingham Creek (Big Ivy Creek to Corner Rock Creek)
- Stony Creek
- Mineral Creek
- ~~Carter Creek~~
- Corner Rock Creek
- Reems Creek (Woodfin Watershed dam to US 19-23 bridge, except where posted against trespass)

- Swannanoa River (SR 2702 bridge near Ridgecrest to Sayles Bleachery in Asheville except where posted against trespass)
- Bent Creek
Lake Powhatan
Cane Creek (headwaters to SR 3138 bridge)
- (E) Burke County:
Catawba River (not trout water)
South Fork Catawba River (not trout water)
Henry ~~River~~ Fork (lower Morganton watershed line downstream to SR 1919 at Ivy Creek)
Jacob Fork (Shiny Creek to lower South Mountain State Park boundary)
Johns River (not trout water)
Parks Creek (not trout water)
Carroll Creek (game lands above NC 90)
Linville River (first bridge on SR 1223 below Lake James powerhouse to Muddy Creek)
- (F) Caldwell County:
Yadkin River (not trout water)
Buffalo Creek (headwaters to lower Dahl property line)
Rockhouse Creek
Joe Fork (Watauga County line to falls)
Catawba River (not trout water)
Johns River (not trout water)
Wilson Creek (Phillips Mill Creek Branch to Browns Mountain Beach dam except where posted against trespass)
Fstes Mill Creek (not trout water)
Thorpe Creek (falls to NC 90 bridge)
Mulberry Creek (not trout water)
Boone Fork Pond
- (G) Cherokee County:
Hiwassee River (not trout water)
Shuler Creek (headwaters to Tennessee line, except where posted against trespass)
North Shoal Creek (Crane Creek) (headwaters to SR 1325)
Persimmon Creek
Davis Creek
~~Bald Creek~~
Beaver Dam Creek (headwaters to SR 1326 bridge)
Valley River
Hyatt Creek
Webb Creek
Junaluska Creek (bridge at U.S. Forest Service road 440, Section No. 4, to Valley River)
- (H) Clay County:
Hiwassee River (not trout water)
Fires Creek (bear sanctuary line to SR 1300)
Tusquitee Creek (headwaters to lower bridge on SR 1300)
~~Tuni Creek~~
Shooting Creek (headwaters to US 64 bridge at SR 1338)
~~Hothouse Creek~~ Branch
Vineyard Creek
- (I) Graham County:
Little Tennessee River (not trout water)
Calderwood Lake (Cheoah Dam to Tennessee State line)
Cheoah River (not trout water)
Yellow Creek
(Big) Santeetlah Creek (Johns Branch to mouth excluding tributaries)
West Buffalo Creek
~~Huffman Creek~~
Squalla Creek
~~South Creek~~
Big Snowbird Creek (old railroad junction to mouth)
~~Cheoah River (not trout water)~~
Mountain Creek (headwaters to SR 1138 bridge)
Long Creek (headwaters to lower bridge on SR 1127)
Tulula Creek (headwaters to lower bridge on SR 1211)
Franks Creek
Cheoah Reservoir
Stecoah Creek
Sawyer Creek
Panther Creek
- (J) Haywood County:
Pigeon River (not trout water)
Cold Springs Creek
Hurricane Creek
~~Jonathan~~ Jonathans Creek - lower (concrete bridge in Dellwood to Pigeon River)
~~Jonathan~~ Jonathans Creek - upper [SR 1307 bridge (west) to SR 1302 bridge]
Hemphill Creek
West Fork Pigeon River (headwaters to Lake Logan private property)
- (K) Henderson County:
Broad River (not trout water)
Rocky Broad River (one-half mile north of Bat Cave to Rutherford County line)
Green River - upper (mouth of Bob Creek to mouth of Rock Creek)
Green River - lower [Lake Summit Dam to Polk County line (top of Narrows)]

PROPOSED RULES

Camp Creek (Polk County line to SR 1919)

~~Big Hungry Creek (River)~~

~~Little Hungry Creek (River)~~

~~French Broad River (not trout water)~~

~~Mills River (not trout water)~~

~~North Fork Mills River
(Hendersonville watershed boundary
to game land boundary)~~

(L) Jackson County:

~~Tuckasegee River (west fork) (Glenville Reservoir pipe line to existing water level of Little Lake Glenville)~~

Little Glenville Lake

~~Tuckasegee River (junction of east and west forks (west fork to bridge at Wilmont))~~

Scott Creek (~~Jones Creek to Tuckasegee River, (entire stream, except where posted against trespass)~~)

Buff Creek (SR 1457 bridge below Bill Johnson's place to Scott Creek)

North Fork

Savannah Creek (Pumpkintown bridge on SR 1300 to Bradley's Packing House on NC 116)

~~Green Greens Creek (Green Creek Baptist Church on SR 1730 to Savannah Creek)~~

~~Pumpkintown Creek (headwaters to Pumpkintown bridge)~~

Cullowhee Creek (Tilley Creek to Tuckasegee River, except portion posted for W.C.U. outdoor classroom)

Bear Creek Lake

Wolf Creek (not ~~general Hatchery Supported~~ trout water; see Subparagraph 2 of this Paragraph)

Wolf Creek Lake

Balsam Lake

Tanasee Creek (not ~~general Hatchery Supported~~ trout water; see Subparagraph 2 of this Paragraph)

Tanasee Creek Lake

~~West Fork Tuckasegee River (Shoal Creek to existing water level of Little Glenville Lake)~~

Little Glenville Lake

~~Shoal Creek (Glenville Reservoir pipe-line to mouth)~~

(M) Macon County:

Little Tennessee River (not trout water)

Nantahala River (Nantahala Dam to Swain County line on US 19)

Queens Creek Lake

Roaring Fork Creek (US Forest Service property line to mouth)

Burningtown Creek

Cullasaja River (Sequoah Dam to US 64 bridge near junction of SR 1672)

Ellijay Creek (except where posted against trespass)

~~Mirror Lake~~

~~Cliffside Lake~~

Cartoogehaye Creek (US 64 bridge to Little Tennessee River)

Tessentee Creek (Nichols Branch to Little

Tennessee River, except where posted against trespassing)

Savannah River (not trout water)

Big Creek (base of falls to Georgia State line)

(N) Madison County:

French Broad River (not trout water)

~~Shut-In Creek~~

Spring Creek (junction of NC 209 and NC 63 to lower US Forest Service boundary line)

Meadow Fork Creek

~~Max Patch Pond~~

Roaring Fork

Little Creek

Big Laurel Creek (Mars Hill Watershed boundary to Rice's Mill Dam)

~~Mill Ridge Pond~~

Shelton Laurel Creek (headwaters to NC 208 bridge)

Big Creek (headwaters to lower game land boundary)

Mill Creek

Spillecorn Creek

Puncheon Fork (Hampton Creek to Big Laurel Creek)

(O) McDowell County:

Catawba River (not trout water)

~~Buck Creek (not trout water)~~

~~Little Buck Creek (game land portion)~~

~~Curtis Creek (lower game land boundary (fish barrier to US 70 bridge))~~

~~Newberry Creek (game land portion)~~

~~North Fork (headwaters, Catawba River (Linville Caverns to North Cove School))~~

Armstrong Creek (Cato Holler lower line downstream to Greenlee upper line)

~~West Fork (not trout water)~~

Mill Creek (upper railroad bridge to Old Fort Dam, except where posted against trespass)

(P) Mitchell County:

Nolichucky River (not trout water)

Big Rock Creek (headwaters to fishing club property above A.D. Harrel farm)

- Little Rock Creek (Green Creek Bridge to Big Rock Creek, except where posted against trespass)
- ~~Wilkes Creek~~
- Cane Creek (SR 1219 to Nolichucky River)
- Grassy Creek (East Fork Grassy Creek to mouth)
East Fork Grassy Creek
- North Toe River [Avery County line to SR 1121 (Altapass Road)]
- (Q) Polk County:
- Broad River (not trout water)
- North Pacolet River (Pacolet Falls to NC 108 bridge)
- Fork Creek (Fork Creek Church on SR 1128 to Pacolet River)
- Big Fall Creek (below water supply reservoir)
- Green River [Henderson County line (top of narrows) to mouth of Brights Creek]
- Ostin Creek (Grease Creek) (Upper Halbert Cove Road bridge on SR 1142 to existing Lake Adger water level, except where posted against trespass)
- Laurel Branch
- Little Cove Creek
- Big Cove Creek
- Rixhaven Creek
- Camp Creek [Henderson County line (top of falls) to Green River]
- Fulloms Creek (SR 1154 to Green River)
- (R) Rutherford County:
- Broad River (not trout water)
- Rocky Broad River (Henderson County line to head of rapids at Goose Pond Hole, except where posted against trespass)
- (S) Stokes County:
- Dan River (lower Flippin property line below SR 1416 to 200 yards downstream from end of SR 1421)
- (T) Surry County:
- Yadkin River (not trout water)
- Ararat River (~~not trout water~~) (SR 1727 downstream to SR 1759)
- Stewarts Creek (not trout water)
- Pauls Creek (Virginia State line to SR 1625)
- Fisher River (not trout water)
- Little Fisher River (Virginia State line to NC 89 bridge)
- Cooper Creek
- Merritt Creek
- Pauls Creek (Virginia State line to SR 1625)
- (U) Swain County:
- Little Tennessee River (not trout water)
- Calderwood Lake (Cheoah Dam to Tennessee State line)
- Cheoah Reservoir
- Tuckaseegee River (not trout water)
- Deep Creek (Great Smoky Mountains National Park boundary line to Tuckaseegee River)
- Oconaluftee River (not trout water)
- Connelly Creek
- Alarka Creek
- Nantahala River (Macon County line to existing water level of Fontana Lake)
- (V) Transylvania County:
- French Broad River (junction of west and north forks to US 276 bridge)
- Little River (not trout water)
- Laurel Creek (headwaters to existing Cascade Lake water level)
- Davidson River (~~game land boundary~~) (Avery Creek to Ecusta intake)
- East Fork French Broad River (Glady Branch to French Broad River)
- Middle Fork
- West Fork French Broad River (SR 1312 and SR 1309 intersection to junction of west and north forks)
- Savannah River (not trout water)
- Horsepasture River (Jackson County line to existing water level of Lake Jocassee)
- Thompson River (SR 1152 to South Carolina state line, except where posted against trespass)
- Gumbottom Creek (SR 1152 to Thompson River)
- Toxaway River (game lands portion)
- (W) Watauga County:
- New River (not trout waters)
- North Fork New River South Fork (Ashe County) (not trout water)
- Hopkins Hoskins Fork (headwaters to Ashe County line)
- South Fork New River South Fork (not trout water)
- Meat Camp Creek
- Norris Fork Creek
- Howards Creek (downstream from lower falls)
- Middle Fork New River (Lake Chetola Dam to New River)
- Yadkin River (not trout water)
- Stony Fork (headwaters to Wilkes County line)
- Elk Creek (headwaters to gravel pit on SR 1508, except where posted against trespass)

PROPOSED RULES

Watauga River (~~Avery County line~~ SR 1559 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 (second bridge on SR 1134 to mouth)

Crab Orchard Creek

Boone Fork (headwaters to SR 1562)

Johns River (not trout water)

Thunderhole Creek (not Hatchery Supported Trout waters, see Subparagraph 2 of this Paragraph)

New Years Creek (not Hatchery Supported Trout waters, see Subparagraph 2 of this Paragraph)

Broyhill Lake

(X) Wilkes County:

Yadkin River (not trout water)

Roaring River (not trout water)

East Prong (~~headwaters~~ Roaring River (Bullhead Creek to Brewer's Mill on SR 1943))

Middle Prong Roaring River (headwaters to second bridge on SR 1736)

West Prong Roaring River (not trout waters)

Pike Creek

Pike Creek Pond

Pell Branch Pond

Boundary Line Pond

Mulberry Creek (not trout water)

Harris Creek (end of SR 1736 to mouth)

Reddies River (not trout water)

Middle Fork Reddies River (Clear Prong) (headwaters to bridge on SR 1580)

South Fork Reddies River (headwaters on NC 16 bridge)

North Fork Reddies River (Vannoy Creek) (headwaters to Union School bridge on SR 1559)

North Prong (~~Darnell Creek~~) Creek (downstream ford on SR 1569 to mouth) Reddies River (downstream ford on SR 1569 to confluence with North Fork)

Middle Fork (Clear Prong) (headwaters to bridge on SR 1580)

South Fork (headwaters to NC 16 bridge)

Lewis Fork Creek (not trout water)

South Prong Lewis Fork South Prong (headwaters to Lewis Fork Baptist Church)

Fall Creek (except portion posted against trespass)

Stony Fork Creek (headwaters to Mt. Zion bridge near intersection of SR 1155 and SR 1167)

(Y) Yancey County:

Noliehucky River (not trout water)

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

Bald Mountain Creek (except where posted against trespass)

Bald Creek (not trout water)

~~Licksillet 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 lower boundary line of ~~Yancey~~ 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:~~

(2) Wild Trout Waters. All designated public mountain trout waters located on game lands are classified as wild trout waters unless classified otherwise. Furthermore, those wild trout waters, or portions thereof, which are not located on game lands are designated in this Subparagraph under the counties where located:

(A) Alleghany County:

~~Roaring Fork (Ramey Creek)~~ Ramey Creek

(B) Ashe County:

Big Horse Creek (~~headwaters~~ (Virginia State Line to SR 1361 bridge))

Three Top Creek and tributaries (portion on Bluff Mountain Game Lands)

(C) Avery County:

Buck Timber Creek (game land boundary downstream to its mouth at Wilson Creek excluding Flat Land Branch)

Cary Flat Branch (headwaters to upper game land boundary, excluding Archie Coffey and Boyde Coffey Lakes, and from lower game land boundary to mouth at Buck Timber Creek)

Kentucky Creek (entire stream)

- North Harper Creek (non-game land portions)
Wilson Creek (upper Bill Crump property line downstream to the game land property boundary)
- (D) Buncombe County:
Carter Creek
- (E) ~~(H)~~ Burke County:
 All waters located on South Mountain State Park except the main stream of Jacob Fork between the mouth of Shiny Creek and the lower park boundary
- (F) Cherokee County:
Bald Creek
- (G) Clay County:
Tuni Creek
- (H) Graham County:
Little Buffalo Creek
South Fork Squally Creek
- (I) ~~(H)~~ Jackson County:
North Fork Scott Creek
Savannah Creek (headwaters to Pumpkintown bridge on SR 1300)
Tanasee Creek (US Forest Service property line to existing water level of Tanasee Creek Lake)
Whitewater River (between upper and lower game boundaries)
Wolf Creek (US Forest Service property line to existing water level of Wolf Creek Lake) (entire stream, except Balsam Lake)
- (J) Macon County:
Big Creek (Base of falls to Georgia State line)
- (K) Madison County:
Big Creek (headwaters to lower game land boundary)
Mill Creek
Puncheon Fork
- (L) McDowell County:
North Fork Catawba River (headwaters to Inville Caverns)
- (M) ~~(H)~~ Mitchell County:
Green Creek (headwaters to Green Creek Bridge, except where posted against trespass)
Little Rock Creek (headwaters to Green Creek Bridge, except where posted against trespass)
Wiles Creek (game land boundary to mouth)
- (N) Polk County:
Big Fall Creek (above water supply reservoir)
Fork Creek (Fork Creek Church on SR 1128 to North Paolet River)
- (O) ~~(G)~~ Transylvania County:
Middle Fork French Broad River
Whitewater River (upstream from upper game land boundary)
- (P) ~~(H)~~ Watauga County:
Boone Fork (Blue Ridge Parkway boundary line to Watauga River)
Dutch Creek (headwaters to 2nd bridge on SR 1134)
Howards Creek (headwaters to lower falls)
- (Q) ~~(H)~~ Wilkes County:
Big Sandy Creek (on Stone Mountain State Park)
Garden Creek (on Stone Mountain State Park)
Harris Creek and tributaries (on Stone Mountain State Park)
Widow Creek (on Stone Mountain State Park)
- (R) Yancey County:
Fik Wallow (Schronce Creek) (entire stream)
Licksillet Creek (entire stream)
Middle Creek (game land boundary to mouth)
Rock Creek (game land boundary to mouth)
South Toe River (game lands boundary downstream to Clear Creek)
- (b) Fishing in Trout Waters
- (1) ~~General Trout Waters.~~ It is unlawful to take fish of any kind by any manner whatsoever from designated public mountain trout waters during the closed season for trout fishing. The seasons, size limits, and creel and possession limits on trout apply in all waters whether designated or not as public mountain trout waters. Except in power reservoirs and city water supply reservoirs so designated, it is unlawful to fish in designated public mountain trout waters with more than one line.
- (2) ~~Native Trout Waters.~~ Fishing in native wild trout waters designated in Subparagraph (2) of Paragraph (a) of this Rule is subject to the same restrictions as are applied to native wild trout waters located on game lands by 15A NCAC 10D .0004(b)(1) as to fishing hours and 15A NCAC 10D .0004(b)(4) as to seasons, creel and size limits, and manner of taking. No person shall possess live or preserved bait while fishing wild trout waters.
- (3) Catch and Release Artificial Lures Only - Those portions of designated wild trout waters, including tributaries except as noted, are further classified as Catch and

Release/Artificial Lures Only waters. Only artificial lures having one single hook may be used. No fish may be harvested or in possession while fishing these streams:

Harris Creek and tributaries (portion on Stone Mountain State Park, Wilkes County)

Big Horse Creek, excluding tributaries (headwaters to SR 1361 bridge, Ashe County)

Three Top Creek (portion located on Bluff Mountain Game Lands, Ashe County)

Wilson Creek (headwaters to game lands boundary above Edgemont, excluding tributaries, Avery County)

Upper Creek, Yancey County

Lower Creek, Yancey County

Tuckaseegee River above the Clarke property, including all tributaries, Jackson County

Flat Creek, Jackson County

Carter Creek (game lands portion), Buncombe County

- (4) Catch and Release Fly Fishing Only - Those portions of designated wild trout waters, including tributaries except as noted, are further classified as Catch and Release/Fly Fishing Only waters. Only artificial flies having one single hook may be used. No fish may be harvested or in possession while fishing these streams:

Boone Fork (portion between Blue Ridge Parkway boundary and Watauga River, Watauga County)

South Toe River (portion from the concrete bridge above Black Mountain Campground downstream to the game land boundary (excluding Camp Creek and Neals Creek), Yancey County)

Lost Cove Creek (game land portion, excluding Gragg Prong and Rockhouse Creek, Caldwell County)

Davidson River (headwaters to Avery Creek excluding Avery Creek, Looking Glass Creek, and Grogan Creek)

- (5) Delayed Harvest - Those portions of designated hatchery supported trout waters, excluding tributaries except as noted, are further classified as Delayed Harvest Waters. Between 1 March and the Friday before the first Saturday in June, inclusive, only artificial lures with one single hook may be used. No fish may be harvested or in possession while fishing these streams during this time. On the first

Saturday in June these streams revert to Hatchery Supported Waters regulations: Ararat River (SR 1727 downstream to SR 1759)

E. Prong Roaring River (portion in Stone Mountain State Park, Wilkes County)

Jacobs Fork (portion within South Mountains State Park, Burke County)

Nantahala River (portion from powerhouse to Whiteoak Creek, Swain County)

Statutory Authority G.S. 113-134; 113-272; 113-292.

SECTION .0300 - GAME FISH

.0304 TAKING AND POSSESSION OF INLAND GAME FISHES

It is unlawful to take in one day more than the daily creel limit of those species of inland game fish having a specified creel limit; to possess more fish than the daily creel limit while fishing, boating or afield; or to possess at any place more than three days creel limit. in effect on those waters being fished; or to possess any fish outside of the size limit in effect on those waters being fished. It is unlawful to possess any fish smaller than the minimum size limit or to destroy unnecessarily any inland game fish taken from public fishing waters.

No person while fishing shall remove the head or tail or otherwise change the appearance of any game fish having a daily creel or size limit so as to obscure its species or render it impracticable to measure its total original length or count the number of such fish in possession.

Statutory Authority G.S. 113-134; 113-135; 113-135.1; 113-292.

.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
Mountain Trout: (All Species)	7 (exceptn. 3)
Wild Trout Waters	4
Hatchery Supported Trout Waters	7

PROPOSED RULES

		<u>(excp^tns. 3 and 15)</u>	
		<u>None</u> (excp ^t n. 3)	All year, except March 1 to 4:2 hr. before sunrise <u>7:00</u> <u>a.m.</u> on first Sat- urday in April (excp ^t ns. 2 and 3)
Muskellunge and Tiger Musky	2		
Chain Pickerel (Jack)	None (excp ^t n. 1)	30 in.	ALL YEAR
Walleye	8 (excp ^t ns. 9 and 10)	None	ALL YEAR
Sauger	8	None (excp ^t n. 9)	ALL YEAR
Black Bass: Largemouth	8 <u>5</u> (excp ^t n. 8 and 10)	15 in.	ALL YEAR
Smallmouth and Spotted	8 <u>5</u> (excp ^t n. 8 and 10)	14 in. (excp ^t ns. 4, 8 and 11)	ALL YEAR (excp ^t n. 13)
White Bass	25 (excp ^t n. 1)	12 in. (excp ^t ns. 4, 8 and 11)	ALL YEAR
Sea Trout (Spot- ted or Speckled)	None	None	ALL YEAR
Flounder	None	12 in.	ALL YEAR
Red drum (channel bass, red fish, puppy drum)	None	13 in. 14 in.	ALL YEAR ALL YEAR
Striped Bass and their hybrids (Morone Hybrids)	8 aggregate (exc. 1 and 6)	16 in.	ALL YEAR (excp ^t ns. 6 and 16)
Kokanee Salmon	7	(excp ^t ns. 1, 6 and 12)	
Panfishes	None (excp ^t ns. 5 <u>and 14</u>)	None	ALL YEAR
NONGAME FISHES	None	None <u>(excp^tn. 14)</u>	ALL YEAR (excp ^t n. 5)
MINIMUM SIZE LIMITS	OPEN SEASON (EXCPTN. 2)	None	ALL YEAR (excp ^t n. 7)
None (excp ^t n. 3)		(b) Exceptions	
<u>7</u>	All year	(1) In accordance with the Virginia-North Carolina reciprocal agreement, the creel	

limit is eight for chain pickerel (jack) and eight for white bass in the Staunton River east of the mouth of Difficult Creek, the Dan River east of the Brantly Steam Plant Dam at Danville, Kerr and Gaston Reservoirs including all tributary waters lying in either Virginia or North Carolina which are accessible by boat from the main bodies of the reservoirs, and the Island Creek subimpoundment. In the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam, and in John H. Kerr, Gaston, and Roanoke Rapids Reservoirs, the creel limit on striped bass and Morone hybrids is four in the aggregate and the minimum size limit is 20 inches.

- (3) Night fishing is prohibited in most designated public mountain trout waters on game lands and in native wild trout waters. Under an agreement with Tennessee, the minimum size limit on trout in Calderwood Reservoir is seven inches. Special creel and size limits apply to native trout waters. [see 15A NCAC 10C .0205(e) and 15A NCAC 10D .0004]
- (6) In the joint and inland and joint waters of the coastal rivers Cape Fear, Neuse and Tar rivers and their tributaries extending upstream to the first impoundment, or to the headwaters, if unimpounded, the daily creel limit for striped bass and their hybrids is three fish. No striped bass between the lengths of 22 inches and 27 inches, both inclusive, may be retained one fish and a minimum length limit of 18 inches. In the Roanoke River up to the first impoundment, from July 1 through March 31 the daily creel limit for striped bass is one fish and a minimum length limit of 18 inches; from April 1 through May 31 the daily creel limit is three fish, and no fish between the lengths of 22 inches and 27 inches may be retained, from May 22 to December 31, 1990, and the minimum length is 16 inches.
- (7) See 15A NCAC 10C .0407 for open seasons for taking nongame fishes by special devices.
- (8) The maximum combined number of black bass of all species that may be retained is eight five 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 14 inches, with no exception in Lake Luke Marion in Moore County, in Reedy

Creek Park lakes in Mecklenburg County, and 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. In and west of Madison, Buncombe, Henderson and Polk Counties the minimum size limit is 12 inches. In B. Everett Jordan Reservoir a ~~daily creel limit of four fish~~ and a minimum size limit of 16 inches, with no exception, ~~apply~~ applies to largemouth bass. In Falls of Neuse Reservoir, east of SR 1004, Sutton Lake 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 black bass daily creel limit is five fish.~~ In W. Kerr Scott Reservoir there is no minimum size limit for spotted bass.

- (9) A minimum size limit of 15 inches applies to walleye taken from Lake James and its tributaries, and the daily creel limit for walleye is four fish in Linville River upstream from the NC 126 bridge above Lake James.
- (10) The creel limit for black bass and walleye taken from Calderwood Reservoir is 10.
- (11) The minimum size limit for all black bass is 18 inches in the following trophy bass lakes:
 - (A) Cane Creek Lake in Union County; and
 - (B) Lake Thom-A-Lex in Davidson County.
- (12) In all impounded inland waters and their tributaries, except those waters described in Exceptions (1), the daily creel limit of striped bass and their hybrids may include not more than two fish of smaller size than the minimum size limit.
- (13) In Cane Creek Reservoir (Orange County) the season for taking largemouth bass is closed.
- (14) In Lake Tillery, Falls Lake, Badin Lake, and Tuckertown Lake a daily creel limit of 20 fish and a minimum size limit of 8 inches apply to crappie.
- (15) In Slick Rock Creek the minimum size is 7 inches for brook trout and 10 inches for brown and rainbow trout with no maximum size limits.

(16) In designated inland fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), striped bass fishing season is closed when adjacent joint or coastal fishing waters are closed to hook and line fishing for striped bass by the Marine Fisheries Commission.

Statutory Authority G.S. 113-134; 113-292; 113-304; 113-305.

SUBCHAPTER 10D - GAME LANDS
REGULATIONS

.0002 GENERAL REGULATIONS REGARDING
USE

(h) Vehicular Traffic. No person shall drive a motorized vehicle ~~on a road or trail posted against vehicular traffic or other than on roads maintained for vehicular use~~ on any game land except on those roads constructed and maintained for vehicular travel and those trails posted for vehicular travel; provided that this provision shall not apply to participants in scheduled bird dog field trials held on the Sandhills Game Land.

Statutory Authority G.S. 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306.

.0003 HUNTING ON GAME LANDS

(e) Hunting Dates:

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

(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, the muzzle-loading deer season and the regular gun season on male deer on bear sanctuaries located in and west of the counties of Madison, Buncombe, Henderson and Polk;

(K) Additional restrictions or modifications apply as indicated in parentheses following specific designations:

- 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

Brunswick County--Green Swamp Game Land

Burke County--South Mountains Game Lands

Burke, McDowell and Rutherford Counties--Dysartsville Game Lands

Caldwell, Watauga and Wilkes Counties County--Yadkin Game Land

Carteret, Craven and Jones Counties--Croatan Game Lands

Chatham County--Chatham Game Land

Chatham, Durham, Orange, 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. ~~(It is unlawful to take or hunt deer on Fires Creek Bear Sanctuary.~~ 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, south of 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.

Chowan County--Chowan Game Land

- ~~Chowan County--Chowan Swamp Game Land~~
- Cleveland County--Gardner-Webb Game Land
- Craven County--Neuse River 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, Montgomery, and Rowan and Stanly Counties--Alcoa Game Land
- Davidson County--Linwood Game Land
- Davidson, Montgomery and Randolph and Stanly Counties--Uwharrie Game Land
- Duplin and Pender Counties--Angola Bay Game Land
- Durham, Granville and Wake Counties--Butner-Falls of Neuse Game Land (On portions of the Butner-Falls of Neuse 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.)
- Franklin County--Franklin Game Lands
- Gates County--Chowan Swamp Game Land
- Granville County--Granville Game Lands
- 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
- 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
- ~~Orange County--Orange Game Land~~
- Person County--Person Game Land
- Transylvania County--Toxaway Game Land
- Vance County--Vance 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 schedule:

Friday and Saturday of the first week after Thanksgiving Week:

Uwharrie and Alcoa southeast of NC 49

Third Saturday after Thanksgiving Day:

Carson Woods

Thurmond Chatham

Thursday and Friday of the week before Thanksgiving Week:

Sandhills east of US 1

Sandhills west of US 1

Fourth Saturday after Thanksgiving Day:

Dysartsville in McDowell County

Hickorynut Mountain in McDowell County

Pisgah in Avery County

Pisgah in Burke County

Pisgah in Caldwell County

Pisgah in McDowell County

Pisgah in Yancey County ~~north of US 49-106~~

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~~ The following game lands or indicated portions thereof and Federal Wildlife Refuge are closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission:

Bertie, Halifax and Martin Counties--Roanoke River Wetlands consisting of the state-owned Broadneck, Company Swamp, Conine Island, Speller-Outlaw and Urquhart tracts (controlled hunting is scheduled and allowed by permit only. Interested persons should contact the Division of Wildlife Management of the Wildlife Resources Commission at the Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27611.)

Bertie County--Roanoke River National Wildlife Refuge

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)

Davie--Hunting Creek Swamp Waterfowl Refuge

Gaston, Lincoln and Mecklenburg Counties--Cowan's Ford Waterfowl Refuge (except for youth either-sex deer hunts by permit only on the first and second Saturdays in October).

Nantahala National Forest Game Lands in the Counties of Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania

Pisgah National Forest Game Lands in the Counties of Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania and Yancey

South Mountains Game Land in Burke County

Thurmond Chatham Game Land in Wilkes County

Toxaway Game Land in Transylvania County

(3) ~~General Trout Waters.~~ All designated public mountain trout waters located on game lands ~~and which are not~~ are wild trout waters unless further designated as native hatchery supported trout waters ~~are~~ classified as general trout waters and are subject to the same restrictions as to seasons and creel and size limits as are applicable to trout generally (see 15A NCAC 10C .0305).

(4) Native Trout Waters

(A) ~~Designation.~~ So much of the following public mountain trout waters, including all tributaries unless otherwise indicated, as are located on game lands, are further designated as native trout waters:

Armstrong Creek above the state fish hatchery in McDowell County

Avery Creek in Transylvania County

Big Creek in Haywood County

Big Creek in Henderson County

Big Creek in Yancey County

Big East Fork of Pigeon River in Haywood County

Big Snowbird Creek above the old railroad junction in Graham County

Bowlen's Creek in Yancey County

Bradley Creek in the counties of Henderson and Transylvania

Buck Creek in Clay County

Buck Timber Creek, excluding all tributaries, in Avery County

Caney Fork Creek in Jackson County

Cary Flat Branch in Avery County

Catawba Creek in Haywood County

Catawba River in McDowell County

Colbert Creek in Yancey County

Curtis Creek above the fish barrier in McDowell County

Davidson River, above its confluence with Avery Creek, except Grogan Creek in Transylvania County

Fires Creek in Clay County

Flat Creek in Jackson County

Statutory Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-305.

.0004 FISHING ON GAME LANDS

(a) Generally. Except as otherwise indicated herein, fishing on game lands which are open to fishing shall be in accordance with the statewide regulations. All game lands are open to public fishing except restocked ponds on the New Hope Game Land when posted against fishing, Hunting Creek Swamp Waterfowl Refuge, Grogan Creek in Transylvania County, and in the case of private ponds where fishing may be prohibited by the owners thereof. No trotline or set-hook nor any net, trap, gig, bow and arrow or other special fishing device of a type mentioned in 15A NCAC 10C .0403 may be used in any of the impounded waters located on the Sandhills Game Land. The game lands license is not required to fish on the central and eastern game lands where there are no designated public mountain trout waters.

(b) Designated Public Mountain Trout Waters

(1) Fishing Hours. It is unlawful to fish in designated public mountain trout waters on any game land from one-half hour after sunset to one-half hour before sunrise, except that night fishing is permitted in the game lands sections of the Nantahala River located downstream from the Swain County line.

(2) Location. All waters located on the game lands listed below, except Cherokee Lake, Grogan Creek, and Big Laurel Creek downstream from US 25-70 bridge to French Broad River, Pigeon River downstream Waterville Reservoir to Tennessee line, and Nolichucky River are designated public mountain trout waters:

Green River Game Land in the Counties of Henderson and Polk

Fletcher Creek in Henderson County
 Gage Creek in Jackson County
 Harper Creek in the Counties of Avery and Caldwell
 Left Prong of Pigeon Roost (Bear Wallow) Creek in Mitchell County
 Little East Fork of Pigeon River in Haywood County
 Lost Cove Creek, except Gragg Pong and Rockhouse Creek, in Avery County
 Mackey Creek in McDowell County
 Middle Creek in Yancey County
 Middle Prong, West Fork of Pigeon River in Haywood County
 Nantahala River above the bear sanctuary line in Macon County
 North Fork French Broad River upstream from Long Branch in Transylvania County
 North Harper Creek in Avery County
 Rock Creek in Yancey County
 Slick Rock Creek on the Tennessee line and in Graham County
 South Harper Creek in Avery County
 South Mills River in the counties of Henderson and Transylvania
 South Toe River from headwaters to upper game land boundary below Black Mountain Campground in Yancey County
 Steels Creek in Burke County
 Tanasee Creek in Jackson County
 Tuckaseegee River, upstream from Clarke property (including Panthertown and Greenland Creeks and tributaries) in Jackson County
 Upper Creek in Burke County
 Whitewater River below Silver Run Creek, and excluding all tributaries, in the counties of Jackson and Transylvania
 Wilson Creek above the Jim Todd property in Avery County
 Wolf Creek, except Balsam Lake (Old Mead Lake), in Jackson County

(B) Native Trout Regulations. Except as otherwise provided in Part (C) of this Subparagraph, the following rules apply to fishing in native trout waters:

- (i) Open Season. There is a year-round open season for the licensed taking of trout.
- (ii) Creel Limit. The daily creel limit is four trout.
- (iii) Size Limits. The minimum size is seven inches and the maximum size is ten inches, except that one trout in the creel may exceed ten inches. In Slick

Rock Creek the minimum size is seven inches for brook trout and ten inches for brown and rainbow trout with no maximum size limits.

(iv) Manner of Taking. Only artificial lures having only one single hook may be used.

(C) Special Regulations. The following rules apply as indicated to the game land portion of Lost Cove Creek in Avery County (excluding Gragg Prong and Rockhouse Creek); South Toe River from the concrete bridge above Black Mountain Campground downstream to the game land boundary (excluding Camp Creek and Neuls Creek); to the game land portion of Davidson River above Avery Creek in Transylvania County (excluding Avery Creek, Looking Glass Creek and Grogan Creek); and to the game land portion of Tuckaseegee River upstream from Clarke property (including Panthertown and Green Land Creeks and tributaries) and Flat Creek in Jackson County:

- (i) Open Season. There is no closed season.
- (ii) Creel Limit. The daily creel limit is four trout, except no trout may be retained from Tuckaseegee River and tributaries and Flat Creek.
- (iii) Size Limits. The minimum size is seven inches and the maximum size is ten inches, except that one trout exceeding fourteen inches may be retained from Lost Cove Creek and South Toe River, and one trout exceeding sixteen inches may be retained from Davidson River.
- (iv) Manner of Taking. Only artificial flies having one single hook may be used.

Statutory Authority G.S. 113-134; 113-264; 113-272; 113-292; 113-305.

SUBCHAPTER 10E - FISHING AND BOATING ACCESS AREAS

.0004 USE OF AREAS REGULATED

(f) No person shall launch or moor jet skis or boats at public fishing access areas.

Statutory Authority G.S. 75A-14; 113-134; 113-264.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Auctioneers Commission intends to amend rules cited as 21 NCAC 4B .0201, .0302 - .0303, .0403, .0602; and adopt rule cited as 21 NCAC 4B .0603.

The proposed effective date of this action is April 1, 1991.

The public hearing will be conducted at 8:30 a.m. on January 19, 1991 at the Hilton Inn, Carolina Ballroom, 207 S.W. Greenville Blvd., Greenville, North Carolina 27834.

Comment Procedures: Any interested person may present written comments for consideration by the North Carolina Auctioneers Commission. The hearing record will remain open for receipt of comments from December 3, 1990 through January 18, 1991. Written comments should be received by the North Carolina Auctioneers Commission by midnight on January 18, 1991, to be considered as part of the hearing. Comments should be addressed to:

Mr. W. Wayne Woodard
Executive Director
North Carolina Auctioneer Licensing Board
Suite 306
3509 Haworth Drive
Raleigh, North Carolina 27609

Any person may present oral comments at the hearings. Requests to speak should be presented to Mr W. Wayne Woodard at the above address no later than five days before the date of the hearing. Additional comments may be allowed by the Commission by sign-up at the public hearing as time allows. All presentations will be limited to five minutes.

CHAPTER 4 - COMMISSION FOR
AUCTIONEERS

SUBCHAPTER 4B - AUCTIONEER LICENSING
BOARD

SECTION .0200 - APPLICATION FOR LICENSE

.0201 APPLICATION FORMS

(a) Auctioneer. Each applicant for an auctioneer license shall complete an application form provided by the Board. This form shall be submitted to the executive director and shall be accompanied by:

- (1) one recent head and shoulders photograph of the applicant of acceptable quality for identification, two inches by two inches in size;
- (2) statements of the results of a local criminal history records search by the ~~city-county identification bureau~~ or clerk of superior court (or equivalent official in other states) in each county where the applicant has resided or maintained a business within the immediate preceding 60 months (five years);
- (3) the proper fees, as required by 21 NCAC 4B .0202; and
- (4) documentation of required schooling or experience, as follows:
 - (A) Applicants who base their application upon their successful completion of an approved school of auctioneering must submit a photostatic copy of their diploma or certificate of successful completion.
 - (B) Applicants who base their application upon their successful completion of an apprenticeship must submit a log which was maintained during the apprenticeship period which details the exact hours and dates on which they obtained apprenticeship experience, with each entry being verified and signed by their supervising auctioneer. A minimum of 100 hours of experience during the apprenticeship two-year period must be obtained. Not less than 25 of the total hours accumulated must be attributable to working as a ring man, drafting and negotiating contracts, appraising merchandise, advertising, clerking and cashiering, with not less than five hours of accumulated experience documented for each category. An apprentice who applies for an auctioneer license under this subsection must submit his application and supporting documentation and obtain a passing score on the auctioneer exam prior to the expiration of his apprentice auctioneer license.
- (5) Non-resident applicants must also submit a properly completed "Designation of Agent for Service of Process Form" with notarized signature and notarial seal affixed.
 - (b) Non-Resident Reciprocal Auctioneer. Each non-resident applicant for auctioneer license, who applies for a North Carolina license pursuant to G.S. 85B-5 shall complete an application form provided by the Board. This form shall be submitted to the Executive Director and shall be accompanied by:

- (1) one recent head and shoulders photograph of acceptable quality for identification, two inches by two inches in size;
- (2) statements of the results of a local criminal history records search by the clerk of superior court (or equivalent official) in each county where the applicant has resided or maintained a business within the immediate preceding 60 months (five years);
- (3) the proper fees, as required by 21 NCAC 4B .0202;
- (4) a statement of good standing from the licensing board or Commission of each and every jurisdiction where the applicant holds or has held an auctioneer, apprentice auctioneer or auction firm license; and
- (5) a properly completed "Designation of Agent for Service of Process Form" with notarized signature and notarial seal affixed.

(c) ~~(b)~~ Apprentice Auctioneer. Each applicant for an apprentice auctioneer license shall complete an application form provided by the Board. This form shall be submitted to the executive director and shall be accompanied by:

- (1) one recent head and shoulders photograph of the applicant of acceptable quality for identification, two inches by two inches in size;
- (2) statements of the results of a local criminal history records search by the ~~city county identification bureau~~ or clerk of superior court (or equivalent official) in each county where the applicant has resided or maintained a business within the immediate preceding 60 months (five years);
- (3) the proper fees, as required by 21 NCAC 4B .0202; ~~and~~
- (4) the signature, as designated on the application form, of the licensed auctioneer ~~(or)~~ who will be supervising the apprentice auctioneer; ~~and~~
- (5) if applicant is a non-resident, a properly completed "Designation of Agent Service of Process Form" with notarized signature and notarial seal affixed.

(d) ~~(c)~~ Auction Firms. Each applicant for an auction firm license shall complete an application form provided by the Board. This form shall be submitted to the executive director and shall be accompanied by:

- (1) statements of the results of a local criminal history records search by the ~~city county identification bureau~~ or clerk of superior court (or equivalent official) in each county where any principal of the auction firm has resided or maintained a business

- within the immediate preceding 60 months (five years); and
- (2) the proper fees, as required by 21 NCAC 4B .0202;
- (3) a certified copy of any applicable Articles of Incorporation, Partnership Agreement, and/or Assumed Name Certificate;
- (4) a statement of good standing from the licensing board or Commission of each jurisdiction where the applicant firm and/or any principal of such firm holds an auctioneer license of any type; and
- (5) if applicant firm is a non-resident, a properly completed "Designation of Agent for Service of Process Form" (one each for the auction firm and for each principal of the firm) with notarized signature and notarial seal affixed and, if a corporation, appropriate corporate seal and corporate secretary's signature affixed.

Statutory Authority G.S. 85B-3(f); 85B-4; 85B-5.

SECTION .0300 - EXAMINATIONS

.0302 RE-EXAMINATION/REFUND OF FEES

If the applicant does not appear at the initial examination for which he has been scheduled or fails to pass such examination, he will be re-scheduled for the next scheduled examination. If the applicant again does not appear or fails to pass this examination, a refund of the annual auctioneer or apprentice license fee will be made ~~and for applicants who did not serve an apprenticeship,~~ a refund of the any Auctioneer Recovery Fund contribution will be made. No refund of the examination fee is allowed. A complete new application or application and proper fees are required if the person wishes to reapply.

Statutory Authority G.S. 85B-4; 85B-6.

.0303 EXAM: REVIEW: PAPERS AND CONTENTS

(a) Any applicant who ~~has failed~~ fails to pass obtain a passing score (75 percent or better) on an examination may request and receive an appointment with the executive director to review their examination.

(b) All examination papers shall remain the property of the Board. The contents thereof shall not be divulged, except by express written authorization of the Board.

Statutory Authority G.S. 85B-4.

SECTION .0400 - LICENSING

.0403 APPRENTICE AUCTIONEER LICENSE

(a) An apprentice auctioneer's license is valid only while he is associated with and supervised by a licensed auctioneer assigned by the Board. In order to be assigned by the Board as a supervisor, the Board must receive a written notice, signed by the prospective supervisor and the apprentice, requesting that the licensed auctioneer be assigned as a supervisor for the apprentice. Upon receipt of such a request, the Board shall make the requested assignment; however, such requested assignment may be denied by the Board for good cause shown. Upon termination of the association between the supervisor and the apprentice, the supervisor shall immediately notify the Board in writing, showing the date of termination.

(b) The supervising auctioneer must be on the premises of the sale location at any and all times that an apprentice auctioneer is engaged in bid calling. Additionally, the supervising auctioneer shall be responsible for supervising the apprentice on a regular basis and ensuring that the apprentice auctioneer conforms with the auctioneer law and rules promulgated by the Board.

(c) Any licensed auctioneer who undertakes the sponsorship of an apprentice auctioneer shall ensure that the apprentice receives proper training, supervision, and guidance in the following:

- (1) A practical and working knowledge of the auction business including fundamentals of auctioneering, contract drafting, bid calling, basic mathematical computations, advertising, and settlement statements;
- (2) The provisions of the licensing law;
- (3) The rules and regulations of the Board; and
- (4) The preparation and maintenance of written agreements, record books, and other sales records as required by law.

(d) Apprentices are prohibited from conducting or contracting to conduct any auction without the prior express written consent of the sponsor. No sponsor shall authorize an apprentice to conduct or contract to conduct an auction or to act as principal auctioneer unless the sponsor has determined that the apprentice has received adequate training to do so.

(e) The sponsor shall be responsible for ensuring that the apprentice complies with all of the laws, rules and regulations as they apply to any auction related transaction approved by the sponsor.

(f) An apprentice auctioneer is required to notify the Board, in writing, immediately upon termination of his association with his supervising auctioneer, at which time his license will be immediately suspended.

Statutory Authority G.S. 85B-3(f); 85B-4.

SECTION .0600 - GENERAL AUCTIONEERING

.0602 ADVERTISING

(a) In all advertisements relating to an auction, the auctioneer's, apprentice auctioneer's or auction firm's name and license number shall be clearly given. If an auctioneer is working for or in conjunction with an auction firm, such relationships must be disclosed and both license numbers shall be clearly given. A general advertisement which does not concern a specific sale(s) and which does not list sale dates, times or locations, generally referred to as trolling or holding advertisements, is not subject to any identification requirement. A licensee may advertise under a name, assumed name, trade name, or combination of names, only if proper written notice has been previously filed with the Board. The licensee shall also notify the Board of all certificates filed with any county register of deeds in compliance with G.S. 66-68.

(b) Any licensee who advertises an "Estate Sale" must conspicuously disclose, in all advertisement materials, whether it is the estate of a living or deceased person. Ordinarily, the term "Estate Sale", "Estate of" or similar terms may not be used to advertise a sale at which items will be sold which do not belong to the estate advertised. However, it may be proper to advertise that a given auction will include items from the estate of a certain living or deceased person provided the items of the estate comprise a substantial portion of the items being offered for sale and the advertisement clearly indicates that the sale is not an estate sale but rather "contains or includes items from the estate of" Notwithstanding any other provision herein, it may be proper to combine the assets of two or more estates into a single sale.

(c) It shall be a violation of these Rules to advertise a sale as "absolute" or "without reserve" if the sale is subject to confirmation, minimum bid, or any other condition of sale.

(d) It shall be a violation of these Rules to advertise any sale using such descriptive words as "Urgent", "Emergency", "Distress" or any other word which connotes liquidation of assets or that the buyers will, for some extraordinary reason, be in a position to reap some unusual bargain without conspicuously disclosing, in the written advertisement, the reason that the sale is "urgent", the nature of the "emergency" or the cause of the "distress", etc.

(e) It shall be a violation of these Rules to:

- (1) Reference the U.C.C. or any other uniform act or federal law in any advertise-

ment unless such act or law is required, by law, be referenced;

(2) To reference or mention any federal, state or local agency or commission unless specifically required by law to do so or unless prior written approval is received from such agency; or

(3) To advertise for sale items which the auctioneer does not actually plan to offer for sale at the advertised auction.

(f) Any auctioneer or auction firm whose name or license number appears on an advertisement shall be responsible for the contents of that advertisement or any resultant violation of Chapter 85B of these Rules whether or not such licensee drafted or was otherwise responsible for such advertisement.

Statutory Authority G.S. 85B-3(f); 85B-8(a)(4).

.0603 ESCROW ACCOUNTS

(a) Each payment that a buyer makes to an auctioneer firm selling on a commission basis is a trust fund. Such funds must be deposited in an escrow account for the benefit of the owner or seller of such property.

(b) Every auctioneer firm shall establish and maintain a separate bank account designated as "Custodial Account for Sellers Proceeds" or some similar identifying designation, to disclose that the depositor is acting as a fiduciary and that the funds in the account are trust funds.

(c) Such custodial accounts for sellers proceeds must be established and maintained in banks or savings and loan associations located in the State of North Carolina whose deposits are insured by the Federal Deposit Insurance Corporation, or comparable state recognized insurance agency or program.

(d) The Custodial Account for Sellers shall be drawn on only for payment of:

- (1) the net proceeds to the seller, or to any person that the auctioneer firm knows is entitled to payment;
- (2) to pay lawful charges against the property which the auctioneer firm shall in its capacity as agent, be required to pay; and
- (3) to obtain any sums due the auctioneer/firm as compensation for its services.

(e) In the event of a dispute between the seller and buyer of goods or property or between the licensee and any person in whose name trust or escrow funds are held, the licensee shall retain said monies in his trust or escrow account until he has obtained a written release from the parties consenting to its disposition or until disburse-

ment is ordered by a court of competent jurisdiction.

(f) Each auctioneer/firm shall keep such accounts and records as will disclose at all times the handling of funds in such Custodial Accounts for Sellers Proceeds. Accounts and records must at all times disclose the names of buyers and the amount of purchase and payment from each. Also, the names of the sellers and the amount due and payable to each from funds in the Custodial Account for Sellers Proceeds.

(g) All trust or escrow account records shall be available for inspection by the Commission or its duly authorized representative, without advance notice, and copies shall be provided to the Commission upon request.

Statutory Authority G.S. 85B-3(f); 85B-7; 85B-8(a).

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Board of Nursing intends to amend rule cited as 21 NCAC 36 .0211.

The proposed effective date of this action is April 1, 1991.

The public hearing will be conducted at 1:00 p.m. on January 10, 1991 at the North Carolina Board of Nursing Office, 3724 National Drive, Suite 201, Raleigh, NC 27612.

Comment Procedures: Any person wishing to present oral testimony relevant to proposed rules may register at the door before the hearing begins and present hearing officer with a written copy of testimony. Written statements may be directed five days prior to the hearing date to the North Carolina Board of Nursing, P.O. Box 2129, Raleigh, NC 27602.

CHAPTER 36 - BOARD OF NURSING

SECTION .0200 - LICENSURE

.0211 EXAMINATION

(a) An applicant meets the educational qualifications to write the examination for licensure to practice as a registered nurse by:

- (1) graduating from a board approved nursing program designed to prepare a person for registered nurse licensure:

- (A) applicants graduating before July 1, 1981 have no time restrictions on writing the examination;
- (B) applicants graduating after July 1, 1981 must write the examination within three years of graduation.
- (2) graduating from a nursing program outside the United States or Canada that is designed to prepare graduates for the equivalent of licensure as a registered nurse, and submitting the certificate issued by the Commission on Graduates of Foreign Nursing Schools as evidence of the required educational qualifications.
- (b) An applicant meets the educational qualifications to write the examination for licensure to practice as a licensed practical nurse by:
 - (1) graduating from a Board approved nursing program designed to prepare a person for practical nurse licensure:
 - (A) applicants graduating before July 1, 1981 have no time restrictions on writing the examination; and
 - (B) applicants graduating after July 1, 1981 must write the examination within three years of graduation.
 - (2) graduating from a nursing program outside the United States or Canada that is designed to prepare graduates for the equivalent of licensure as a licensed practical nurse, and submitting evidence from a Board approved evaluation agency of the required educational qualifications and evidence of English proficiency from a Board approved agency or service; or
 - (3) graduating within the past three years from a Board approved nursing program designed to prepare graduates for registered nurse licensure, and failing to pass the examination for registered nurse licensure.
- (c) An application to the Board of Nursing for examination shall be submitted at least 60 days prior to the examination. In instances where the 60 day deadline cannot be met, the Board may grant an exception upon request from the director of the nursing educational program in which the applicant is enrolled or from the applicant. An admission card with specific information as to time, date, and place of examination will be mailed to the applicant approximately 14 days prior to the date of the examination.
- (d) Those applicants who qualify for examination in accordance with G.S. 90-171.29 will be issued a Status A temporary license as provided for in G.S. 90-171.33. A temporary license may be withheld in accordance with G.S. 90-171.37.
- (e) The examinations for licensure developed by the National Council of State Boards of

Nursing, Inc. shall be the examinations for licensure as a registered nurse or as a licensed practical nurse in North Carolina.

- (1) These examinations shall be administered in accordance with the contract between the Board of Nursing and the National Council of State Boards of Nursing, Inc.
- (2) The examination for licensure as a registered nurse shall be administered in February and July on dates determined by the National Council of State Boards of Nursing, Inc.
- (3) The examination for licensure as a licensed practical nurse shall be administered in April and October on dates determined by the National Council of State Boards of Nursing, Inc.
- (4) Scores on the examination shall be reported, by mail only, to the individual applicant and to the director of the program from which the applicant was graduated. Aggregate results from the examination(s) may be published by the Board.
- (5) The passing standard score for each of the five tests comprising the examination for registered nurse licensure, up to and including the February 1982 examination is 350. For the examination offered in July 1982 and through July 1988, the passing score is 1600. Beginning February 1989, the passing score for registered nurse licensure is reported as "PASS".
- (6) The passing score for the examination for practical nurse licensure, up to and including the April 1988 is 350. Beginning October 1988, the passing score for practical nurse licensure is reported as "PASS".
- (f) Applicants who meet the qualifications for licensure will be issued a certificate of registration and a license to practice nursing for the remainder of the year.
- (g) Applicants for North Carolina license may take the examination for licensure developed by the National Council of State Boards of Nursing, Inc. in another jurisdiction of the United States, providing:
 - (1) the Board of Nursing in that jurisdiction consents to proctor the applicant;
 - (2) arrangements are made through the North Carolina Board of Nursing sufficiently in advance of the examination date to meet application requirements in both jurisdictions; and
 - (3) the applicant pays any service fee charged by the proctoring Board.

PROPOSED RULES

(h) The North Carolina Board of Nursing may proctor an examination upon request of another state Board of Nursing at the regularly scheduled examination sessions if space is available. The

applicant shall submit a service fee for such proctoring.

Statutory Authority *G.S.* 90-171.23(15);
90-171.29; 90-171.30.

ARRC OBJECTIONS

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

ECONOMIC AND COMMUNITY DEVELOPMENT

Credit Union Division

4 NCAC 6C .0203 - *Fields of Membership*
Agency Revised Rule ARRC Objection 8/16/90
Obj. Removed 9/20/90

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Environmental Health

15A NCAC 18C .0102 - *Definitions* ARRC Objection 10/18/90
15A NCAC 18C .1532 - *Variances and Exemptions* ARRC Objection 10/18/90
15A NCAC 18C .1534 - *Max Contaminant Levels for Coliform Bacteria* ARRC Objection 10/18/90
15A NCAC 18C .2001 - *General Requirements* ARRC Objection 10/18/90
15A NCAC 18C .2002 - *Disinfection* ARRC Objection 10/18/90
15A NCAC 18C .2003 - *Filtration* ARRC Objection 10/18/90
15A NCAC 18C .2004 - *Analytical and Monitoring Requirements* ARRC Objection 10/18/90
15A NCAC 18C .2005 - *Criteria for Avoiding Filtration* ARRC Objection 10/18/90

Environmental Management

15A NCAC 21H .1203 - *Public Notice*
Agency Revised Rule ARRC Objection 8/16/90
Obj. Removed 9/20/90
15A NCAC 2N .0703 - *Initial Abatement Measures and Site Check* ARRC Objection 11/14/90
15A NCAC 2N .0704 - *Initial Site Characterization* ARRC Objection 11/14/90

Marine Fisheries

15A NCAC 3C .0311 - *Cancellation*
Agency Revised Rule ARRC Objection 9/20/90
Obj. Removed 10/18/90
15A NCAC 3N .0001 - *Scope and Purpose*
Agency Revised Rule ARRC Objection 8/16/90
Obj. Removed 9/20/90
15A NCAC 3O .0203 - *Shellfish Lease Application Processing*
Agency Revised Rule ARRC Objection 8/16/90
Obj. Removed 9/20/90

Solid Waste Management

15A NCAC 13B .1003 - *Eligible Purposes*
Agency Revised Rule ARRC Objection 8/16/90
Obj. Removed 9/20/90
15A NCAC 13B .1005 - *Priority Factors*
Agency Revised Rule ARRC Objection 8/16/90
Obj. Removed 9/20/90

Wildlife Resources Commission

15A NCAC 10H .0302 - *Minimum Standards*
Agency Revised Rule ARRC Objection 9/20/90
Obj. Removed 10/18/90

HUMAN RESOURCES

Facility Services

<i>10 NCAC 3R .2113 - Definitions</i>	<i>ARRC Objection</i>	<i>9/20/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/21/90</i>
<i>10 NCAC 3R .2115 - Need for Services</i>	<i>ARRC Objection</i>	<i>9/20/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/21/90</i>
<i>10 NCAC 3V .0303 - Insurance Required</i>	<i>ARRC Objection</i>	<i>11/14/90</i>

Individual and Family Support

<i>10 NCAC 42C .3301 - Existing Building</i>	<i>ARRC Objection</i>	<i>11/14/90</i>
<i>10 NCAC 42D .1401 - Qualifications of Administrator/Co-Administrator</i>	<i>ARRC Objection</i>	<i>11/14/90</i>

INSURANCE

Agent Services Division

<i>11 NCAC 6A .0702 - Prelicensing Education Schools</i>	<i>ARRC Objection</i>	<i>8/16/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/20/90</i>

Financial Evaluation Division

<i>11 NCAC 11B .0607 - Application - Employers</i>	<i>ARRC Objection</i>	<i>8/16/90</i>
<i>Agency Returned Rule Without Change</i>		<i>9/20/90</i>
<i>11 NCAC 11B .0610 - Application - Groups</i>	<i>ARRC Objection</i>	<i>8/16/90</i>
<i>Agency Returned Rule Without Change</i>		<i>9/20/90</i>

LICENSING BOARDS AND COMMISSIONS

Medical Examiners

<i>21 NCAC 32M .0007 - Termination of NP Approval</i>	<i>ARRC Objection</i>	<i>11/14/90</i>
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Physical Therapy

<i>21 NCAC 48C .0102 - Responsibilities</i>	<i>ARRC Objection</i>	<i>9/20/90</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action</i>	<i>10/18/90</i>
<i>21 NCAC 48C .0501 - Exemption for Students</i>	<i>ARRC Objection</i>	<i>9/20/90</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action</i>	<i>10/18/90</i>

Plumbing and Heating Contractors

<i>21 NCAC 50 .1203 - Disposition of Petitions</i>	<i>ARRC Objection</i>	<i>11/14/90</i>
<i>21 NCAC 50 .1207 - Request to Participate</i>	<i>ARRC Objection</i>	<i>11/14/90</i>

PUBLIC EDUCATION

Elementary and Secondary Education

<i>16 NCAC 6C .0312 - Certificate Suspension and Revocation</i>	<i>ARRC Objection</i>	<i>8/16/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/20/90</i>
<i>16 NCAC 6D .0105 - Use of School Day</i>	<i>ARRC Objection</i>	<i>6/21/90</i>
<i>Objection Reconsidered and Failed</i>		<i>7/19/90</i>
<i>Clincher Motion Passed</i>		
<i>Agency Filed Rule for Codification in the NCAC</i>		<i>9/28/90</i>

STATE PERSONNEL

25 NCAC 1B .0107 - Personnel Commission Meetings	ARRC Objection	9/20/90
25 NCAC 1B .0108 - Commission Staff	ARRC Objection	9/20/90
25 NCAC 1B .0109 - Commission Actions	ARRC Objection	9/20/90
25 NCAC 1B .0110 - Motions	ARRC Objection	9/20/90
25 NCAC 1B .0111 - Voting	ARRC Objection	9/20/90
25 NCAC 1B .0112 - Abstention	ARRC Objection	9/20/90
25 NCAC 1B .0113 - Duties of the Chairman	ARRC Objection	9/20/90
25 NCAC 1B .0114 - Order of Business	ARRC Objection	9/20/90
25 NCAC 1B .0115 - Special Meetings	ARRC Objection	9/20/90
25 NCAC 1B .0116 - Duties of Chairman Between Meetings of the Comm	ARRC Objection	9/20/90
25 NCAC 1B .0117 - Standing/Special Committees	ARRC Objection	9/20/90
25 NCAC 1B .0118 - Minutes	ARRC Objection	9/20/90
25 NCAC 1B .0119 - Notice of Commission Action	ARRC Objection	9/20/90
25 NCAC 1B .0120 - Appointment of Vice-Chairman	ARRC Objection	9/20/90
Agency Withdrew Rules .0107 - .0120		10/18/90
25 NCAC 1L .0201 - Purpose	ARRC Objection	9/20/90
25 NCAC 1L .0202 - Policy	ARRC Objection	9/20/90
Agency Withdrew Rules .0201 - .0202		10/18/90
25 NCAC 1L .0206 - Anti-Discrimination	ARRC Objection	9/20/90
Agency Revised Rule	Obj. Removed	9/21/90
25 NCAC 1L .0207 - Testing and Examination	ARRC Objection	9/20/90
Agency Revised Rule	Obj. Removed	9/21/90

STATE TREASURER

Local Government Commission

20 NCAC 3 .1003 - Petition for Hearing	ARRC Objection	9/20/90
Agency Revised Rule	Obj. Removed	9/20/90
20 NCAC 3 .1004 - Hearing Officer		
Agency Withdrew Rule		9/20/90

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

10 NCAC 1B .0202(e) - REQUEST FOR DETERMINATION

Brenda B. Becton, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 1B .0202(c) void as applied in *High Point Regional Hospital, Inc., Petitioner v. Department of Human Resources, Division of Facility Services, Certificate of Need Section, Respondent* (90 DHR 0770).

10 NCAC 3R .0317(g) - WITHDRAWAL OF A CERTIFICATE

Robert Roosevelt Reilly, Jr., Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 3R .0317(g) void as applied in *Dawn Health Care, a North Carolina General Partnership, Petitioner v. Department of Human Resources, Certificate of Need Section, Respondent* (90 DIIR 0296).

10 NCAC 3R .0317(g) - WITHDRAWAL OF CERTIFICATE

Michael Rivers Morgan, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 3R .0317(g) void as applied in *Autumn Corporation, Petitioner v. N.C. Department of Human Resources, Division of Facility Services, Certificate of Need Section, Respondent* (90 DIIR 0321 and 90 DIIR 0318).

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

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

Judge Orr with the concurrence of Judges Eagles and Cozort, Judges of the North Carolina Court of Appeals declared Rules 10 NCAC 42W .0003(e) and 10 NCAC 42W .0005 void as applied in *Rankin Whittington, Daniel C. Hudgins, Dr. Takey Crist, Dr. Gwendolyn Boyd and Planned Parenthood of Greater Charlotte, Inc., Plaintiffs v. The North Carolina Department of Human Resources, David Flaherty, in his capacity as Secretary of the North Carolina Department of Human Resources, The North Carolina Social Services Commission, and C. Barry McCarty, in his capacity as Chairperson of the North Carolina Social Services Commission, Defendants* (87 CVS 4867).

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

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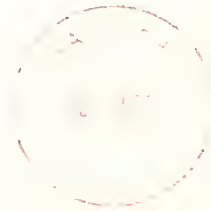
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