

NORTH CAROLINA REGISTER

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PUBLISHED BY

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For questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address, but are not inclusive.

Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.

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NORTH CAROLINA REGISTER
 Publication Schedule for January 2019 – December 2019

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
33:13	01/02/19	12/06/18	01/17/19	03/04/19	03/20/19	04/18/19	05/01/19	09/29/19
33:14	01/15/19	12/19/18	01/30/19	03/18/19	03/20/19	04/18/19	05/01/19	10/12/19
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33:16	02/15/19	01/25/19	03/02/19	04/16/19	04/22/19	05/16/19	06/01/19	11/12/19
33:17	03/01/19	02/08/19	03/16/19	04/30/19	05/20/19	06/20/19	07/01/19	11/26/19
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EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

- (1) temporary rules;
- (2) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
- (7) other information the Codifier of Rules determines to be helpful to the public.

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

FILING DEADLINES

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

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

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

Public Notice
North Carolina Environmental Management Commission
Division of Water Resources/Water Quality Permitting Section
1617 Mail Service Center
Raleigh, NC 27699-1617
Notice of Intent to Issue a Non-Discharge General Wastewater Permit

The North Carolina Environmental Management Commission proposes to issue the following Non-Discharge wastewater collection system general permit:

Non-Discharge General Permit for the permitting of shared sewer lines between accessory dwelling units/accessory residential buildings and primary residences.

Written comments regarding the proposed general permit will be accepted until 30 days after the publish date of this notice. The Director of the NC Division of Water Resources (DWR) may hold a public hearing should there be a significant degree of public interest. Please mail comments and/or information requests to DWR at the above address. Interested persons may visit the DWR at 512 N. Salisbury Street, Raleigh, NC to review information on file. Additional information on this notice may be found on our website: <https://deq.nc.gov/about/divisions/water-resources/water-resources-permits/wastewater-branch/collection-systems/sewer-extension-permitting>

For questions or comments about Non-Discharge General Permit for the permitting of shared sewer lines between accessory dwelling units/accessory residential buildings and primary residences, please contact Christyn Fertenbaugh, P.E. at (919) 707-3625 or via e-mail: christyn.fertenbaugh@ncdenr.gov.

Note from the Codifier: The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

TITLE 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Pesticide Board intends to readopt with substantive changes the rules cited as 02 NCAC 09L.0402, .0516 and readopt without substantive changes the rules cited as 02 NCAC 09L.0101-.0103, .0308, .0310, .0317, .0318, .0502-.0505, .0509, .0515, .0519, .0520, .0522-.0527, .0529, .0602, .0603, .0701-.0703, .0705-.0707, .0810, .1001-.1003, .1005, .1006, .1009, .1102-.1105, .1107-.1109, .1111, .1201, .1202, .1302, .1303, .1305, .1306, .1401, .1402, .1404, .1805, .1806, .1901, .1902, .1905-.1909, .1913, .1914, .2001-.2004, and .2201-.2203.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c): <http://www.ncagr.gov/AdministrativeRules/ProposedRules/index.htm>

Proposed Effective Date: April 1, 2020

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rules by submitting a request in writing no later than December 17, 2019 to James W. Burnette, Jr., Secretary, NC Pesticide Board, 1090 Mail Service Center, Raleigh, NC 27699-1090.*

Reason for Proposed Action: *These rules have gone through the periodic review and expiration of existing rules review process and were classified as necessary with substantive public interest. The rules are being adopted without substantive changes from how they are currently in the Administrative Code.*

Comments may be submitted to: James Burnette, Jr., 1090 Mail Service Center, Raleigh, NC 27699-1090; email james.burnette@ncagr.gov

Comment period ends: January 31, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule,

the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 09 - FOOD AND DRUG PROTECTION

SUBCHAPTER 09L - PESTICIDE SECTION

SECTION .0100 - ORGANIZATIONAL RULES

02 NCAC 09L.0101 DUTIES OF THE PESTICIDE SECTION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 09L.0102 DUTIES (CONTINUED) (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 09L.0103 ASSIGNMENT OF DUTIES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0300 - REGISTRATION

02 NCAC 09L.0308 REGISTRATION FOR THE FOLLOWING YEAR (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 09L.0310 REREGISTRATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 09L.0317 REGISTRATION OF PESTICIDES TO MEET SPECIAL LOCAL NEEDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 09L.0318 EXEMPTION OF AGENCIES FOR USE OF PESTICIDES IN EMERGENCIES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0400 - SAMPLES AND SUBMISSIONS

02 NCAC 09L .0402 TOLERANCES

In regards to establishing tolerances providing for reasonable deviations from the guaranteed analysis statement, the following guidelines are adopted:

- (1) that, in general, a "passed" judgment on a pesticide formulation be made if the analytical results are within the following guidelines:

Pesticide Active Ingredient Guarantee, Percent	Allowable Deviation Below Guarantee
<1.00	15 percent of Guarantee
1.00 - 19.99	0.1 plus 5 percent of Guarantee
20.00 - 49.99	0.5 plus 3 percent of Guarantee
50.00 - 100.00	1.0 plus 2 percent of Guarantee

Additional considerations:

- (a) ~~If a sufficient number of samples as determined by the food and drug protection division of a given product indicate that the manufacturer is not formulating the product to achieve the level of the guarantee, an administrative judgment may be made to warn the formulator against the practice of formulating products in a manner only to stay within the allowable deviation from the guarantee.~~
- (b)(2) A sample result falling outside of the guidelines ~~may not necessarily~~ shall not be "deficient" if one of the following factors could ~~reasonably~~ be expected to have contributed ~~significantly~~ to the off-limits analysis:
- (i)(a) special sampling problems, such as fertilizer-pesticide mixtures and certain granular products; or
- (ii)(b) ~~accuracy, specificity, reproducibility, etc., and reproducibility~~ accuracy, specificity, reproducibility, etc., of the methods used when applied to the particular formulation;
- (3) that, allowable deviations, similar to those for "deficiencies," ~~are not~~ shall not be applicable to "overages." Each sample analysis ~~will~~ shall be judged individually as to whether or not the overage is excessive by using the following criteria:
- (a) no illegal residues resulting from use according to directions;
- (b) no significant additional hazard to applicator or user;
- (c) no significant damage to non-target organisms or the environment;
- (d) stability of ingredients and the need for "over-formulating"; or
- (e) accuracy, specificity, reproducibility, etc., of the methods used when applied to the particular formulation.

02 NCAC 09L .0502 LIST OF RESTRICTED USE PESTICIDES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 09L .0503 PESTICIDE APPLICATORS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 09L .0504 DEFINITIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 09L .0505 CLASSIFICATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 09L .0509 CONSULTANT EDUCATION REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 09L .0515 RE-EXAMINATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 09L .0516 CONTINUANCES

Any firm, corporation, or government unit ~~which that~~ is deprived of the services of the sole individual at an outlet who is licensed as a pesticide dealer may continue to operate in their usual manner for a maximum of two months, ~~provided that a request for an examination appointment is directed to the food and drug protection division of the North Carolina Department of Agriculture for a designated individual within two weeks of that date when the services of their licensed pesticide dealer was terminated, and an individual is available who has worked in pesticide sales under the supervision of a licensed pesticide dealer for at least three months and which person will supervise pesticide sales during the interim period.~~ provided:

- (1) Its designated individual directs a request for an examination appointment to the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services within two weeks of the date it terminates or loses the services of its licensed pesticide dealer;
- (2) It has available an individual (the "qualified person") who has worked in pesticide sales under a licensed pesticide dealers supervision for at least three months; and
- (3) The qualified person will supervise pesticide sales during the interim period.

Authority G.S. 143-437(1); 143-446.

SECTION .0500 - PESTICIDE LICENSES

Authority G.S. 143-449(b).

**02 NCAC 09L .0519 CERTIFICATION
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**02 NCAC 09L .0520 RECERTIFICATION
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**02 NCAC 09L .0525 RECERTIFICATION OF
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**02 NCAC 09L .0603 DISPOSAL OF PESTICIDE
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RESTRICTIONS ON THEIR CONTROL**

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(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 09L .0702 RESTRICTIONS CONCERNING
CONTROL OF ORCHARD RATS (READOPTION
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**02 NCAC 09L .0703 GULLS (READOPTION
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**02 NCAC 09L .0705 RESTRICTIONS CONCERNING
CONTROL OF PIGEONS (READOPTION WITHOUT
SUBSTANTIVE CHANGES)**

**02 NCAC 09L .0706 RED-WINGED BLACKBIRD
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MOLES (READOPTION WITHOUT SUBSTANTIVE
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**02 NCAC 09L .0810 ADOPTION BY REFERENCE
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**02 NCAC 09L .1102 DEFINITIONS (READOPTION
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**02 NCAC 09L .1104 SINGLE PURCHASE
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WITHOUT SUBSTANTIVE CHANGES)

**SECTION .2200 - INTERIM PROTECTION MEASURES
FOR THE CAROLINA HEELSPLITTER MUSSEL**

02 NCAC 09L .2201 DEFINITIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 09L .2202 PESTICIDE USE LIMITATION AREAS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 09L .2203 PESTICIDES WITH ADDITIONAL USE LIMITATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Structural Pest Control Committee intends to readopt without substantive changes the rules cited as 02 NCAC 34 .0302, .0309, .0328, .0331, .0501-.0506, .0602, .0703, and .1206.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: http://reports.oah.state.nc.us/ncac.asp.

Link to agency website pursuant to G.S. 150B-19.1(c): http://www.ncagr.gov/AdministrativeRules/ProposedRules/index.htm

Proposed Effective Date: April 1, 2020

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rules by submitting a request in writing no later than 12/17/19 to James W. Burnette, Jr., Secretary, NC Structural Pest Control Committee, 1090 Mail Service Center, Raleigh, NC 27699-1090.

Reason for Proposed Action: These rules have been through the periodic review and expiration of existing rules review process and were classified as necessary with substantive public interest. These rules are being readopted without changes to the way they are currently in the Administrative Code.

Comments may be submitted to: James Burnette, Jr., 1090 Mail Service Center, Raleigh, NC 27699-1090; email james.burnette@ncagr.gov

Comment period ends: January 31, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m.

on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

CHAPTER 34 - STRUCTURAL PEST CONTROL

SECTION .0300 - LICENSING AND CERTIFICATION

02 NCAC 34 .0302 APPLICATION FOR LICENSES AND CARDS: EXAMINATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 34 .0309 RECERTIFICATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 34 .0328 RECORDS: PESTICIDES AND APPLICATION EQUIPMENT USED (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 34 .0331 ANCILLARY ACTIVITIES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0500 - WOOD-DESTROYING ORGANISMS

02 NCAC 34 .0501 WOOD-DESTROYING INSECTS: EXCLUDING SUBTERRANEAN TERMITES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 34 .0502 PESTICIDES FOR SUBTERRANEAN TERMITE PREVENTION AND/OR CONTROL (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 34 .0503 SUBTERRANEAN TERMITE CONTROL: BUILDINGS AFTER CONSTRUCTION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 34 .0504 REPORTING DAMAGE: INFESTATION: UNINSPECTED AREAS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 34 .0505 SUBTERRANEAN TERMITE PREVENTION/RES BLDGS UNDER CONST (READOPTION WITHOUT SUBSTANTIVE CHANGES)

02 NCAC 34 .0506 MIN REQUIRE/SUBTERRANEAN TERMITE PREV/COMMERCIAL BLDGS UNDER CONST (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0600 - WOOD-DESTROYING ORGANISMS AGREEMENTS

02 NCAC 34 .0602 WOOD-DESTROYING INSECT AND OTHER ORGANISM REPORTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0700 - HOUSEHOLD PESTICIDES

02 NCAC 34 .0703 WRITTEN RECORDS OF HOUSEHOLD PEST CONTROL (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .1200 - ADMINISTRATIVE HEARINGS: CONTESTED CASES

02 NCAC 34 .1206 DECISION OF COMMITTEE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health and Department of Health and Human Services intend to amend the rules cited as 10A NCAC 41B .0322, .0323, and .0503.

Link to agency website pursuant to G.S. 150B-19.1(c): https://cph.publichealth.nc.gov

Proposed Effective Date: April 1, 2020

Public Hearing:

Date: December 20, 2019

Time: 10:00 a.m.

Location: Cardinal Conference Room, located at 5605 Six Forks Road, Raleigh, NC 27609

Reason for Proposed Action: The proposed rules amend the breath alcohol test and alcohol screening test rules to add one additional breath testing instrument and five additional alcohol screening test devices.

Comments may be submitted to: Virginia Niehaus, CPH Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC 27699-1931; phone (919) 707-5006; email cphcomment@lists.ncmail.net

Comment period ends: January 31, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules

Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

CHAPTER 41 - EPIDEMIOLOGY HEALTH

SUBCHAPTER 41B – INJURY CONTROL

SECTION .0300 - BREATH ALCOHOL TEST REGULATIONS

10A NCAC 41B .0322 INTOXIMETERS: MODEL INTOX EC/IR II AND MODEL INTOX EC/IR II (ENHANCED WITH SERIAL NUMBER 10,000 OR HIGHER)

The operational procedures to be followed in using the Intoximeters, Model Intox EC/IR II and Model Intox EC/IR II (Enhanced with serial number 10,000 or higher) are:

- Ensure instrument displays time and date;
Ensure observation period requirements have been met;
Initiate breath test sequence;
Enter information as prompted by the instrument;
Verify instrument accuracy;
When "PLEASE BLOW" appears, collect breath sample;
When "PLEASE BLOW" appears, collect breath sample; and
Print test record.

If the alcohol concentrations differ by more than 0.02, a third or fourth breath sample shall be collected when "PLEASE BLOW" appears. Subsequent tests shall be administered as soon as feasible by repeating steps (1) through (8), as applicable.

Authority G.S. 20-139.1(b).

10A NCAC 41B .0323 PREVENTIVE MAINTENANCE: INTOXIMETERS: MODEL INTOX EC/IR II AND MODEL INTOX EC/IR II (ENHANCED WITH SERIAL NUMBER 10,000 OR HIGHER)

The preventive maintenance procedures for the Intoximeters, Model Intox EC/IR II and Model Intox EC/IR II (Enhanced with serial number 10,000 or higher) to be followed at least once every four months are:

- (1) Verify the ethanol gas canister displays at least 51 pounds per square inch (psi) of pressure, or the alcoholic breath simulator thermometer shows 34 degrees, plus or minus .2 degree centigrade;
- (2) Verify instrument displays time and date;
- (3) Initiate breath test sequence;
- (4) Enter information as prompted;
- (5) Verify instrument accuracy;
- (6) When "PLEASE BLOW" appears, collect breath sample;
- (7) When "PLEASE BLOW" appears, collect breath sample;
- (8) Print test record;
- (9) Run diagnostic program and confirm preventive maintenance status of "Pass"; ~~Verify Diagnostic Program;~~ and
- (10) Verify that the ethanol gas canister is being changed before expiration date, or the alcoholic breath simulator solution is being changed every four months or after 125 Alcoholic Breath Simulator tests, whichever occurs first.

A signed original of the preventive maintenance ~~record~~ record, or an electronic copy of the signed original of the preventive maintenance record, shall be kept on file at the North Carolina Department of Health and Human Services for at least three years.

Authority G.S. 20-139.1(b2).

SECTION .0500 - ALCOHOL SCREENING TEST DEVICES

10A NCAC 41B .0503 APPROVED ALCOHOL SCREENING TEST DEVICES: CALIBRATION

(a) The following breath alcohol screening test devices are approved as to type and make:

- (1) ALCO-SENSOR (with two-digit display), manufactured ~~made~~ by Intoximeters, Inc.
- (2) ALCO-SENSOR III (with three-digit display), manufactured ~~made~~ by Intoximeters, Inc.
- (3) ALCO-SENSOR IV, manufactured by Intoximeters, Inc.
- (4) ALCO-SENSOR FST, manufactured by Intoximeters, Inc.
- (5) S-D2, manufactured by CMI, Inc.
- (6) S-D5, manufactured by CMI, Inc.
- (7) ALCO-SENSOR III (Enhanced with Serial Numbers above 1,200,000), manufactured by Intoximeters, Inc.

- (8) ALCO-SENSOR FST (Enhanced with Serial Numbers 200,000 and higher), manufactured by Intoximeters, Inc.
- (9) LIFELOC FC10, manufactured by Lifeloc Technologies, Inc.
- (10) INTOXILYZER 500, manufactured by CMI, Inc.
- (11) ALCOVISOR MERCURY, manufactured by PAS International.

(b) The agency or operator shall verify instrument calibration of each alcohol screening test device at least once during each 30 day period of use. The verification shall be performed using by employment ~~of an alcoholic breath simulator with a using simulator solution~~ in accordance with Paragraph (c) of this Rule ~~the rules in this Section~~ or an ethanol gas canister in accordance with Paragraph (d) of this Rule. ~~canister.~~

(c) Alcoholic breath simulators used exclusively to verify instrument calibration of alcohol screening test devices shall have the solution changed every 30 days or after 25 calibration tests, whichever occurs first.

(d) Ethanol gas canisters used exclusively to verify instrument calibration of alcohol screening test devices shall not be utilized beyond the expiration date on the canister.

(e) Requirements of Paragraphs (b), (c), and (d) of this Rule shall be recorded on an alcoholic breath simulator log or an ethanol gas canister log designed by the Forensic Tests for Alcohol Branch within the North Carolina Department of Health and Human Services and maintained by the user agency in accordance with the user agency's retention policy. ~~agency.~~

Authority G.S. 20-16.3.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rule cited as 15A NCAC 02B .0304.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://deq.nc.gov/news/events/public-notice-hearings>

Proposed Effective Date: July 1, 2020

Public Hearing:

Date: January 21, 2020

Time: 6:00 p.m.

Location: HIG225 Beaucatcher Mountain Room, Highsmith Student Union, One University Heights, Asheville, NC 28804

Reason for Proposed Action: *The N.C. Environmental Management Commission (EMC) intends to amend 15A NCAC 02B .0304. The EMC will conduct a public hearing to consider a proposed permanent amendment to 15A NCAC 02B .0304 to assign the North Carolina's Division of Water Resources' Unique Wetland supplemental classification to wetlands at Sandy Bottom in Buncombe County (French Broad River Basin), North Carolina. The proposed amendment comprises the state's*

Triennial Review of Surface Water Quality Standards mandated by the federal Clean Water Act. The agency obtained G.S. §150B-19.1 certification of the Regulatory Impact Analysis from Office of State Budget Management (OSBM) on June 6, 2019.

Comments may be submitted to: Adriene Weaver, DEQ-Division of Water Resources/Water Planning Section, 1611 Mail Service Center, Raleigh, NC 27699-1611; phone (919) 707-3692; email adriene.weaver@ncdenr.gov

Comment period ends: January 31, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

15A NCAC 02B.0304 FRENCH BROAD RIVER BASIN

(a) Classifications assigned to the waters within the French Broad River Basin are set forth in the French Broad River Basin Classification Schedule, which may be inspected at the following places:

- (1) the Internet at https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification; and
(2) the following offices of the North Carolina Department of Environmental Quality:
(A) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina; and

(B) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed streams entering Tennessee are classified "B."
(c) The French Broad River Basin Classification Schedule was amended effective:

- (1) September 22, 1976;
(2) March 1, 1977;
(3) August 12, 1979;
(4) April 1, 1983;
(5) August 1, 1984;
(6) August 1, 1985;
(7) February 1, 1986;
(8) May 1, 1987;
(9) August 1, 1990.

(d) The French Broad River Basin Classification Schedule was amended effective March 1, 1989 as follows:

- (1) Cataloochee Creek (Index No. 5-41) and all tributary waters were reclassified from Class C-trout and Class C to Class C-trout ORW and Class C ORW.
(2) South Fork Mills River (Index No. 6-54-3) down to Queen Creek and all tributaries were reclassified from Class WS-I and Class WS-III-trout to Class WS-I ORW and Class WS-III-trout ORW.

(e) The French Broad River Basin Classification Schedule was amended effective October 1, 1989 as follows: Cane River (Index No. 7-3) from source to Bowlens Creek and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.

(f) The French Broad River Basin Classification Schedule was amended effective January 1, 1990 as follows: North Toe River (Index No. 7-2) from source to Cathis Creek (Christ Branch) and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.

(g) The French Broad River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(h) The French Broad River Basin Classification Schedule was amended effective October 1, 1993 as follows: Reasonover Creek [Index No. 6-38-14-(1)] from source to Reasonover Lake Dam and all tributaries were reclassified from Class B Trout to Class WS-V and B Trout, and Reasonover Creek [Index No. 6-38-14-(4)] from Reasonover Lake Dam to Lake Julia Dam and all tributaries were reclassified from Class C Trout to Class WS-V Trout.

- (i) The French Broad River Basin Classification Schedule was amended effective July 1, 1995 with the reclassification of Cane Creek [Index Nos. 6-57-(1) and 6-57-(9)] from its source to the French Broad River from Classes WS-IV and WS-IV Tr to Classes WS-V, WS-V Tr and WS-IV.
- (j) The French Broad River Basin Classification Schedule was amended effective November 1, 1995 as follows: North Toe River [Index Numbers 7-2-(0.5) and 7-2-(37.5)] from source to a point 0.2 miles downstream of Banjo Branch, including tributaries, has been reclassified from Class WS-III, WS-III Trout and WS-III Trout CA (critical area) to Class WS-IV Trout, WS-IV, WS-IV Trout CA, and C Trout.
- (k) The French Broad River Basin Classification Schedule was amended effective January 1, 1996 as follows: Stokely Hollow [Index Numbers 6-121.5-(1) and 6-121.5-(2)] from source to mouth of French Broad River has been reclassified from Class WS-II and Class WS-II CA to Class C.
- (l) The French Broad River Basin Classification Schedule was amended April 1, 1996 with the reclassification of the French Broad River [Index No. 6-(1)] from a point 0.5 miles downstream of Little River to Mill Pond Creek to Class WS-IV; French Broad River [Index No. 6-(51.5)] from a point 0.6 miles upstream of Mills River to Mills River to Class WS-IV CA (Critical Area), from Mills River to a point 0.1 miles upstream of Boring Mill Branch to Class C; and the Mills River [Index No. 6-54-(5)] was reclassified from City of Hendersonville water supply intake to a point 0.7 miles upstream of mouth of Mills River to Class WS-III, and from a point 0.7 miles upstream of mouth of Mills River to French Broad River to Class WS-III CA (Critical Area).
- (m) The French Broad River Basin Classification Schedule was amended August 1, 1998 with the revision to the primary classification for portions of the French Broad River [Index No. 6-(38.5)] and the North Toe River 7-2-(10.5) from Class IV to Class C.
- (n) The French Broad River Basin Classification Schedule was amended August 1, 1998 with the reclassification of Clear Creek [Index No. 6-55-(1)] from its source to Lewis Creek from Class C Tr to Class B Tr.
- (o) The French Broad River Basin Classification Schedule was amended August 1, 2000 with the reclassification of Rough Creek [Index No. 5-8-4-(1)], including all tributaries, from its source to the Canton Reservoir from Class WS-I to Class WS-I Tr ORW.
- (p) The French Broad River Basin Classification Schedule was amended August 1, 2002 with the revision to the primary classification for the French Broad River [Index No. 6-(1), 6-(27), 6-(47.5), 6-(52.5), and 6-(54.5)] including its four headwater forks' mainstems, watershed of tributary Davidson River, and watershed of tributary Bent Creek below Powhatan Dam, and the Nolichucky River [Index No. 7] including a lower portion of the North Toe River from Class C and Class WS-IV to Class B.
- (q) The French Broad River Basin Classification Schedule was amended August 1, 2002 with the reclassification of the North Toe River [Index No. 7-2-(0.5)], including all tributaries, from source to a point 0.2 mile upstream of Pyatt Creek, from Class C Tr to Class WS-V Tr.
- (r) The French Broad River Basin Classification Schedule was amended September 1, 2004 with the reclassification of a portion of Richland Creek [Index No. 5-16(1)], from source to a point approximately 11.2 miles from source (Boyd Avenue), from Class

B to Class B Tr, and all tributaries to the portion of the creek referenced in this Paragraph from C, C HQW, and WS-I HQW, and WS-I HQW to C Tr, C HQW Tr, and WS-I HQW Tr, respectively, except Hyatt Creek [Index No. 5-16-6], Farmer Branch [Index No. 5-16-11], and tributaries already classified as Tr.

- (s) The French Broad River Basin Classification Schedule was amended effective November 1, 2007 with the reclassification of McClure's Bog near Gash Creek [Index No. 6-47] to Class WL UWL. The North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of the UWL.
- (t) The French Broad River Basin Classification Schedule was amended effective September 1, 2009 with the reclassification of the entire watershed of Big Laurel Creek (Index No. 6-112) from source to the French Broad River from Class C Tr to Class C ORW Tr.
- (u) The French Broad River Basin Classification Schedule was amended effective September 1, 2009 with the reclassification of the entire watershed of Spring Creek [Index No. 6-118-(1) and 6-118-(27)] from source to the French Broad River from Class C Tr and Class C to Class C ORW Tr and Class C ORW.
- (v) The French Broad River Basin Classification Schedule was amended December 1, 2011 with the reclassification of a portion of the French Broad River [Index No. 6-(54.5)] from the confluence of the Mills River to a point 0.2 miles downstream of the confluence of the Mills River from Class B to Class WS-IV&B CA.
- (w) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended January 1, 2019 with the reclassification of Enka Lake, which is a portion of the Bill Moore Creek (Index No. 6-76-7) from Class C to Class B.
- (x) The French Broad River Basin Classification Schedule was amended effective July 1, 2020 with the reclassification of the Sandy Bottom Wetlands adjacent to the French Broad River [Index No. 6-(54.75)] and Orton Branch [Index No. 6-(66)] from Class WL to Class WL UWL as defined in 15A NCAC 02B .0101. The North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of the UWL.

Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to amend the rules cited as 15A NCAC 07H .0304, .0306, .0309, and .0310.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://deq.nc.gov/permits-regulations/rules-regulations/proposed-rules>

Proposed Effective Date: April 1, 2020

Public Hearing:

Brunswick County
Date: December 17, 2019
Time: 10:00 a.m.

Location: Brunswick County Government Complex, 30 Government Center Drive, NE Bolivia, NC 28422

New Hanover County

Date: December 17, 2019

Time: 3:00 p.m.

Location: New Hanover County Government Center, 230 Government Center Drive, Wilmington, NC 28403

Onslow County

Date: December 18, 2019

Time: 10:00 a.m.

Location: Sneads Ferry Library, 1330 Highway 210, Sneads Ferry, NC 28460

Pender County

Date: December 18, 2019

Time: 3:00 p.m.

Location: Assembly Building, 720 Channel Blvd., Topsail Beach, NC 28445

Carteret County

Date: January 7, 2020

Time: 3:00 p.m.

Location: NCDCM, 400 Commerce Avenue, Morehead City, NC 28557

Hyde County

Date: January 8, 2020

Time: 10:00 a.m.

Location: Community Center - Multipurpose Room, 30 Oyster Creek Road, Swan Quarter, NC 27885 ***broadcast simultaneously to Ocracoke Island: Ocracoke Community Center, 999 Irvin Garrish Highway, Ocracoke, NC 27960*

Dare County

Date: January 14, 2020

Time: 11:00 a.m.

Location: Town of Nags Head, Board of Commissioners Room, 5401 S. Croatan Highway, Nags Head, NC 27959

Reason for Proposed Action: *The Coastal Resources Commission is proposing amendments to reference the update of the Inlet Hazard Area boundaries and associated development setback factors. The proposed amendments are in the public interest as they are intended to minimize the loss of property and human life by establishing development setbacks between structures and the Atlantic shoreline.*

Comments may be submitted to: *Braxton Davis, 400 Commerce Ave, Morehead City, NC 28557; phone (252) 808-2808*

Comment period ends: *January 31, 2020*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after

the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 07 - COASTAL MANAGEMENT

SUBCHAPTER 07H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .0300 - OCEAN HAZARD AREAS

Text in italics was previously published in 34:01 NCR 10-11 and 34:06 NCR 491-493 and is pending CRC final approval and RRC review.

15A NCAC 07H .0304 AECS WITHIN OCEAN HAZARD AREAS

The ocean hazard AECs contain all of the following areas:

- (1) Ocean Erodible Area. This is the area where there exists a substantial possibility of excessive erosion and significant shoreline fluctuation. The oceanward boundary of this area is the mean low water line. The landward extent of this area is the distance landward from the first line of stable and natural vegetation as defined in 15A NCAC 07H .0305(a)(5) to the recession line established by multiplying the long-term annual erosion rate times 90; provided that, where there has been no long-term erosion or the rate is less than two feet per year, this distance shall be set at ~~120~~ 180 feet landward from the first line of stable and natural vegetation. For the purposes of this Rule, the erosion rates are the long-term average based on available historical data. The current long-term average erosion rate data for each segment of the North Carolina coast is depicted on maps entitled "~~2011 Long-Term Average Annual Shoreline Rate Update~~" "North Carolina 2019 Oceanfront Setback Factors & Long-Term Average Annual Erosion Rate Update Study" and approved by the Coastal Resources Commission on ~~May 5, 2011~~

February 28, 2019 (except as such rates may be varied in individual contested cases or in declaratory or interpretive rulings). In all cases, the rate of shoreline change shall be no less than two feet of erosion per year. The maps are available without cost from any Local Permit Officer or the Division of Coastal Management on the internet at <http://www.nccoastalmanagement.net>.

- (2) Inlet Hazard Area. The inlet hazard areas are natural-hazard areas that are especially vulnerable to erosion, flooding, and other adverse effects of sand, wind, and water because of their proximity to dynamic ocean inlets. This area extends landward from the mean low water line a distance sufficient to encompass that area within which the inlet migrates, based on statistical analysis, and shall consider such factors as previous inlet territory, structurally weak areas near the inlet, and external influences such as ~~jetties~~ jetties, terminal groins, and channelization. The areas on the maps identified as ~~suggested~~ Inlet Hazard Areas included in the report entitled ~~INLET HAZARD AREAS, The Final Report and Recommendations to the Coastal Resources Commission, 1978, as amended in 1981, by Loie J. Priddy and Rick Carraway~~ "Inlet Hazard Area Boundary, 2019 Update: Science Panel Recommendations to the North Carolina Coastal Resources Commission" are incorporated by reference and are hereby designated as Inlet Hazard Areas, except for:

- (a) ~~the Cape Fear Inlet Hazard Area as shown on the map does not extend northeast of the Bald Head Island marina entrance channel; and~~
- (b) ~~the former location of Mad Inlet, which closed in 1997.~~
- (a) the location of a former inlet which has been closed for at least 15 years;
- (b) inlets that due to shoreline migration, no longer include the current location of the inlet; and
- (c) inlets providing access to a State Port via a channel maintained by the United States Army Corps of Engineers.

~~In all cases, the Inlet Hazard Area shall be an extension of the adjacent ocean erodible areas and in no case shall the width of the inlet hazard area be less than the width of the adjacent ocean erodible area.~~ This report is available for inspection at the Department of Environmental Quality, Division of Coastal Management, 400 Commerce Avenue, Morehead City, North Carolina or at the website referenced

in Item (1) of this Rule. ~~Photocopies are available at no charge.~~

For the purposes of this Rule, Inlet Hazard Area setback factors are based on the long-term average annual shoreline change rates calculated using methods detailed in the report entitled "Inlet Hazard Area Boundary, 2019 Update: Science Panel Recommendations to the North Carolina Coastal Resources Commission". Inlet Hazard Area setback factors are depicted on maps entitled "2019 Inlet Setback Factors" and approved by the Coastal Resources Commission on February 28, 2019 (except as such rates may be varied in individual contested cases or in a declaratory or interpretive rulings). In all cases, the Inlet Hazard Area construction setback factors shall be no less than two where accretion rates are measured, or erosion rates are less than two feet per year. The maps are available without cost from any Local Permit Officer or the Division of Coastal Management or at the website referenced in Item (1) of this Rule.

- (3) Unvegetated Beach Area. Beach areas within the Ocean Hazard Area where no stable and natural vegetation is present may be designated as ~~an~~ Unvegetated Beach ~~Area~~ Areas on either a permanent or temporary basis as follows:

- (a) An area appropriate for permanent designation as an Unvegetated Beach Area is a dynamic area that is subject to rapid unpredictable landform change due to wind and wave action. The areas in this category shall be designated following studies by the Division of Coastal Management. These areas shall be designated on maps approved by the Coastal Resources Commission and available without cost from any Local Permit Officer or the Division of Coastal Management on the internet at the website referenced in Item (1) of this Rule.

- (b) An area that is suddenly unvegetated as a result of a hurricane or other major storm event may be designated by the Coastal Resources Commission as an Unvegetated Beach Area for a specific period of time, or until the vegetation has re-established in accordance with 15A NCAC 07H .0305(a)(5). At the expiration of the time specified or the re-establishment of the vegetation, the

area shall return to its pre-storm designation.

The Commission designates as temporary unvegetated beach areas those oceanfront areas of Surf City and North Topsail Beach in which the vegetation line as shown on the United States National Oceanic and Atmospheric Administration imagery dated September 17, 2018 was destroyed as a result of Hurricane Florence in September 2018. The designation AEC boundaries can be found on the Division's website referenced in Item (1) of this Rule. The designation shall continue until such time as the stable and natural vegetation has reestablished, or until the area is permanently designated as an unvegetated beach area pursuant to Sub-Item (3)(a) of this Rule.

(4) State Ports Inlet Management Area. These are areas adjacent to and within Beaufort Inlet and the mouth of the Cape Fear River, providing access to a State Port via a channel maintained by the United States Army Corps of Engineers. These areas are unique due to the influence of federally-maintained channels, and the critical nature of maintaining shipping access to North Carolina's State Ports. These areas may require specific management strategies not warranted at other inlets to address erosion and shoreline stabilization. State Ports Inlet Management Areas shall extend from the mean low water line landward as designated on maps approved by the Coastal Resources Commission and available without cost from the Division of Coastal Management, and on the internet at the website referenced in Sub-item (1)(a) of this Rule.

Authority G.S. 113A-107; 113A-107.1; 113A-113; 113A-124.

15A NCAC 07H.0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

(a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in the Coastal Resources Commission's rules shall be located according to whichever of the following is applicable:

- (1) The ocean hazard setback for development shall be measured in a landward direction from the vegetation line, the static vegetation line, or the measurement line, whichever is applicable.
- (2) In areas with a development line, the ocean hazard setback shall be set in accordance with Subparagraphs (a)(3) through (9) of this Rule. In no case shall new development be sited seaward of the development line.
- (3) In no case shall a development line be created or established on state owned lands or oceanward of the mean high water line or

perpetual property easement line, whichever is more restrictive.

(4) The ocean hazard setback shall be determined by both the size of development and the shoreline long term erosion rate as defined in Rule ~~.0304 of this Section.~~ 15A NCAC 07H.0304. "Development size" is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:

- (A) The total square footage of heated or air-conditioned living space;
- (B) The total square footage of parking elevated above ground level; and
- (C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing.

Decks, roof-covered porches, and walkways shall not be included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.

(5) With the exception of those types of development defined in 15A NCAC 07H.0309, no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback shall be established based on the following criteria:

- (A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
- (B) A building or other structure greater than or equal to 5,000 square feet but less than 10,000 square feet requires a minimum setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
- (C) A building or other structure greater than or equal to 10,000 square feet but less than 20,000 square feet requires a minimum setback of 130 feet or 65 times the shoreline erosion rate, whichever is greater;
- (D) A building or other structure greater than or equal to 20,000 square feet but less than 40,000 square feet requires a minimum setback of 140 feet or 70 times the shoreline erosion rate, whichever is greater;
- (E) A building or other structure greater than or equal to 40,000 square feet but

- less than 60,000 square feet requires a minimum setback of 150 feet or 75 times the shoreline erosion rate, whichever is greater;
- (F) A building or other structure greater than or equal to 60,000 square feet but less than 80,000 square feet requires a minimum setback of 160 feet or 80 times the shoreline erosion rate, whichever is greater;
- (G) A building or other structure greater than or equal to 80,000 square feet but less than 100,000 square feet requires a minimum setback of 170 feet or 85 times the shoreline erosion rate, whichever is greater;
- (H) A building or other structure greater than or equal to 100,000 square feet requires a minimum setback of 180 feet or 90 times the shoreline erosion rate, whichever is greater;
- (I) Infrastructure that is linear in nature, such as roads, bridges, pedestrian access such as boardwalks and sidewalks, and utilities providing for the transmission of electricity, water, telephone, cable television, data, storm water, and sewer requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
- (J) Parking lots greater than or equal to 5,000 square feet require a setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
- (K) Notwithstanding any other setback requirement of this Subparagraph, a building or other structure greater than or equal to 5,000 square feet in a community with a static line exception in accordance with 15A NCAC 07J .1200 requires a minimum setback of 120 feet or 60 times the shoreline erosion rate in place at the time of permit issuance, whichever is greater. The setback shall be measured landward from either the static vegetation line, the vegetation line, or measurement line, whichever is farthest landward; and
- (L) Notwithstanding any other setback requirement of this Subparagraph, replacement of single-family or duplex residential structures with a total floor area greater than 5,000 square feet, and commercial and multi-family residential structures with a total floor area no greater than 10,000 square feet, shall be allowed provided that the structure meets the following criteria:
- (i) the structure was originally constructed prior to August 11, 2009;
 - (ii) the structure as replaced does not exceed the original footprint or square footage;
 - (iii) it is not possible for the structure to be rebuilt in a location that meets the ocean hazard setback criteria required under Subparagraph (a)(5) of this Rule;
 - (iv) the structure as replaced meets the minimum setback required under Part (a)(5)(A) of this Rule; and
 - (v) the structure is rebuilt as far landward on the lot as feasible.
- (6) If a primary dune exists in the AEC on or landward of the lot where the development is proposed, the development shall be landward of the crest of the primary dune, the ocean hazard setback, or development line, whichever is farthest from vegetation line, static vegetation line, or measurement line, whichever is applicable. For existing lots, however, where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located oceanward of the primary dune. In such cases, the development may be located landward of the ocean hazard setback, but shall not be located on or oceanward of a frontal dune or the development line. The words "existing lots" in this Rule shall mean a lot or tract of land that, as of June 1, 1979, is specifically described in a recorded plat and cannot be enlarged by combining the lot or tract of land with a contiguous lot or tract of land under the same ownership.
- (7) If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot where the development is proposed, the development shall be set landward of the frontal dune, ocean hazard setback, or development line, whichever is farthest from the vegetation line, static vegetation line, or measurement line, whichever is applicable.
- (8) If neither a primary nor frontal dune exists in the AEC on or landward of the lot where development is proposed, the structure shall be landward of the ocean hazard setback or development line, whichever is more restrictive.
- (9) Structural additions or increases in the footprint or total floor area of a building or structure

- represent expansions to the total floor area and shall meet the setback requirements established in this Rule and 15A NCAC 07H.0309(a). New development landward of the applicable setback may be cosmetically, but shall not be structurally, attached to an existing structure that does not conform with current setback requirements.
- (10) Established common law and statutory public rights of access to and use of public trust lands and waters in ocean hazard areas shall not be eliminated or restricted. Development shall not encroach upon public accessways, nor shall it limit the intended use of the accessways.
- (11) Development setbacks in areas that have received large-scale beach fill as defined in 15A NCAC 07H.0305 shall be measured landward from the static vegetation line as defined in this Section, unless a development line has been approved by the Coastal Resources Commission in accordance with 15A NCAC 07J.1300.
- (12) In order to allow for development landward of the large-scale beach fill project that cannot meet the setback requirements from the static vegetation line, but can or has the potential to meet the setback requirements from the vegetation line set forth in Subparagraphs (a)(1) and (a)(5) of this Rule, a local government, group of local governments involved in a regional beach fill project, or qualified "owners' association" as defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots within the territorial jurisdiction of the association and has jurisdiction over at least one mile of ocean shoreline, may petition the Coastal Resources Commission for a "static line exception" in accordance with 15A NCAC 07J.1200. The static line exception shall apply to development of property that lies both within the jurisdictional boundary of the petitioner and the boundaries of the large-scale beach fill project. This static line exception shall also allow development greater than 5,000 square feet to use the setback provisions defined in Part (a)(5)(K) of this Rule in areas that lie within the jurisdictional boundary of the petitioner, and the boundaries of the large-scale beach fill project. If the request is approved, the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the static vegetation line under the following conditions:
- (A) Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(1) and (a)(5) of this Rule;
- (B) Development setbacks shall be calculated from the shoreline erosion rate in place at the time of permit issuance;
- (C) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure. When the configuration of a lot precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine an ocean hazard setback that is landward of the vegetation line, a distance no less than 30 times the shoreline erosion rate or 60 feet, whichever is greater;
- (D) With the exception of swimming pools, the development defined in Rule .0309(a) of this Section shall be allowed oceanward of the static vegetation line; and
- (E) Development shall not be eligible for the exception defined in Rule .0309(b) of this Section.
- (b) No development shall be permitted that involves the removal or relocation of primary or frontal dune sand or vegetation thereon that would adversely affect the integrity of the dune. Other dunes within the ocean hazard area shall not be disturbed unless the development of the property is otherwise impracticable. Any disturbance of these other dunes shall be allowed only to the extent permitted by 15A NCAC 07H.0308(b).
- (c) Development shall not cause irreversible damage to historic architectural or archaeological resources as documented by the local historic commission, the North Carolina Department of Natural and Cultural Resources, or the National Historical Registry.
- (d) Development shall comply with minimum lot size and setback requirements established by local regulations.
- (e) Mobile homes shall not be placed within the high hazard flood area unless they are within mobile home parks existing as of June 1, 1979.
- (f) Development shall comply with the general management objective for ocean hazard areas set forth in 15A NCAC 07H.0303.
- (g) Development shall not interfere with legal access to, or use of, public resources, nor shall such development increase the risk of damage to public trust areas.
- (h) Development proposals shall incorporate measures to avoid or minimize adverse impacts of the project. These measures shall be implemented at the applicant's expense and may include actions that:

- (1) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;
- (2) restore the affected environment; or
- (3) compensate for the adverse impacts by replacing or providing substitute resources.

(i) Prior to the issuance of any permit for development in the ocean hazard AECs, there shall be a written acknowledgment from the applicant to the Division of Coastal Management that the applicant is aware of the risks associated with development in this hazardous area and the limited suitability of this area for permanent structures. The acknowledgement shall state that the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development.

(j) All relocation of structures shall require permit approval. Structures relocated with public funds shall comply with the applicable setback line and other applicable AEC rules. Structures, including septic tanks and other essential accessories, relocated entirely with non-public funds shall be relocated the maximum feasible distance landward of the present location. Septic tanks shall not be located oceanward of the primary structure. All relocation of structures shall meet all other applicable local and state rules.

(k) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration as defined in 15A NCAC 07H .0308(a)(2)(B). Any such structure shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach fill takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This permit condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed pursuant to 15A NCAC 07H .0308(a)(2).

Authority G.S. 113A-107; 113A-113(b)(6); 113A-124.

Text in italics was previously published in 34:01 NCR 11-13 and is pending CRC final approval and RRC review.

15A NCAC 07H .0309 USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS

(a) The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of ~~the Subchapter~~ this Section if all other provisions of this Subchapter and other state and local regulations are met:

- (1) campsites;
- (2) driveways and parking areas with clay, packed sand or gravel;
- (3) elevated decks not exceeding a footprint of 500 square feet;
- (4) beach accessways consistent with Rule .0308(c) of this ~~Subchapter~~ Section;
- (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;
- (6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay,

- packed sand or gravel, and a footprint of 200 square feet or less;
- (7) temporary amusement stands;
- (8) sand fences; and
- (9) swimming pools.

In all cases, this development shall be permitted only if it is landward of the vegetation line or static vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; has overwalks to protect any existing dunes; is not essential to the continued existence or use of an associated principal development; is not required to satisfy minimum requirements of local zoning, subdivision or health regulations; and meets all other non-setback requirements of this Subchapter.

(b) Where application of the oceanfront setback requirements of Rule .0306(a) of this ~~Subchapter~~ Section would preclude placement of permanent substantial structures on lots existing as of June 1, 1979, buildings shall be permitted seaward of the applicable setback line in ocean erodible ~~areas~~ areas and State Ports Inlet Management Areas, but not inlet hazard areas or unvegetated beach areas, if each of the following conditions are met:

- (1) The development is set back from the ocean the maximum feasible distance possible on the existing lot and the development is designed to minimize encroachment into the setback area;
- (2) The development is at least 60 feet landward of the vegetation line or static vegetation line, whichever is applicable;
- (3) The development is not located on or in front of a frontal dune, but is entirely behind the landward toe of the frontal dune;
- (4) The development incorporates each of the following design standards, which are in addition to those required by Rule .0308(d) of this ~~Subchapter~~ Section.
 - (A) All pilings shall have a tip penetration that extends to at least four feet below mean sea level;
 - (B) The footprint of the structure shall be no more than 1,000 square feet, and the total floor area of the structure shall be no more than 2,000 square feet. For the purpose of this Section, roof-covered decks and porches that are structurally attached shall be included in the calculation of footprint;
 - (C) Driveways and parking areas shall be constructed of clay, packed sand or gravel except in those cases where the development does not abut the ocean and is located landward of a paved public street or highway currently in use. In those cases concrete, asphalt or turfstone may also be used;
 - (D) No portion of a building's total floor area, including elevated portions that

are cantilevered, knee braced or otherwise extended beyond the support of pilings or footings, may extend oceanward of the total floor area of the landward-most adjacent building. When the geometry or orientation of a lot precludes the placement of a building in line with the landward most adjacent structure of similar use, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine an ocean hazard setback that is landward of the vegetation line, static vegetation line or measurement line, whichever is applicable, a distance no less than 60 feet.

- (5) All other provisions of this Subchapter and other state and local regulations are met. If the development is to be serviced by an on-site waste disposal system, a copy of a valid permit for such a system shall be submitted as part of the CAMA permit application.

~~(c) Reconfiguration and development of lots and projects that have a grandfather status under Paragraph (b) of this Rule shall be allowed provided that the following conditions are met:~~

- ~~(1) Development is setback from the first line of stable natural vegetation a distance no less than that required by the applicable exception;~~
- ~~(2) Reconfiguration shall not result in an increase in the number of buildable lots within the Ocean Hazard AEC or have other adverse environmental consequences.~~

~~For the purposes of this Rule, an existing lot is a lot or tract of land which, as of June 1, 1979, is specifically described in a recorded plat and which cannot be enlarged by combining the lot or tract of land with a contiguous lot(s) or tract(s) of land under the same ownership. The footprint is defined as the greatest exterior dimensions of the structure, including covered decks, porches, and stairways, when extended to ground level.~~

~~(d)(c) The following types of water dependent development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met:~~

- ~~(1) piers providing public access; and~~
- ~~(2) maintenance and replacement of existing state-owned bridges and causeways and accessways to such bridges.~~

~~(e)(d) Replacement or construction of a pier house associated with an ocean pier shall be permitted if each of the following conditions is met:~~

- ~~(1) The ocean pier provides public access for fishing and other recreational purposes whether on a commercial, public, or nonprofit basis;~~
- ~~(2) Commercial, non-water dependent uses of the ocean pier and associated pier house shall be limited to restaurants and retail services.~~

Residential uses, lodging, and parking areas shall be prohibited;

- (3) The pier house shall be limited to a maximum of two stories;
- (4) A new pier house shall not exceed a footprint of 5,000 square feet and shall be located landward of mean high water;
- (5) A replacement pier house may be rebuilt not to exceed its most recent footprint or a footprint of 5,000 square feet, whichever is larger;
- (6) The pier house shall be rebuilt to comply with all other provisions of this Subchapter; and
- (7) If the pier has been destroyed or rendered unusable, replacement or expansion of the associated pier house shall be permitted only if the pier is being replaced and returned to its original function.

~~(e)~~(e) In addition to the development authorized under Paragraph (d) of this Rule, small scale, non-essential development that does not induce further growth in the Ocean Hazard Area, such as the construction of single family piers and small scale erosion control measures that do not interfere with natural oceanfront processes, shall be permitted on those non-oceanfront portions of shoreline that exhibit features characteristic of an Estuarine Shoreline. Such features include the presence of wetland vegetation, and lower wave energy and erosion rates than in the adjoining Ocean Erodible Area. Such development shall be permitted under the standards set out in Rule .0208 of this Subchapter. For the purpose of this Rule, small scale is defined as those projects which are eligible for authorization under 15A NCAC 07H.1100, .1200 and 15A NCAC 07K.0203.

~~(f)~~(f) Transmission lines necessary to transmit electricity from an offshore energy-producing facility may be permitted provided that each of the following conditions is met:

- (1) The transmission lines are buried under the ocean beach, nearshore area, and primary and frontal dunes, all as defined in Rule ~~07H.0305, .0305 of this Section~~, in such a manner so as to ensure that the placement of the transmission lines involves no alteration or removal of the primary or frontal dunes; and
- (2) The design and placement of the transmission lines shall be performed in a manner so as not to endanger the public or the public's use of the beach.

(g) Existing stormwater outfalls within the Ocean Hazard AEC that are owned or maintained by a State agency or local government, may be extended oceanward subject to the provisions contained within 15A NCAC 07J.0200. Outfalls may be extended below mean low water and may be maintained in accordance with 15A NCAC 07K.0103. Shortening or lengthening of outfall structures within the authorized dimensions, in response to changes in beach width, is considered maintenance under 15A NCAC 07K.0103. Outfall extensions may be marked with signage and shall not prevent pedestrian or vehicular access along the beach. This Paragraph does not apply to existing stormwater outfalls that are not allowed or maintained by a State agency or local government.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a; 113A-113(b)(6)b; 113A-113(b)(6)d; 113A-124.

15A NCAC 07H .0310 USE STANDARDS FOR INLET HAZARD AREAS

(a) ~~Inlet areas~~ Inlet Hazard Areas as defined by ~~Rule .0304 of this Section in 15A NCAC 07H .0304~~ are subject to inlet migration, rapid and severe changes in watercourses, flooding and strong tides. Due to this extremely hazardous nature of the Inlet Hazard Areas, all development within these areas shall be permitted in accordance with the following standards:

- (1) ~~All development in the inlet hazard area shall be set back from the first line of stable natural vegetation a distance equal to the setback required in the adjacent ocean hazard area; The Inlet Hazard Area setback for development shall be measured in a landward direction from the first line of stable and natural vegetation, the static vegetation line, or the measurement line, whichever is applicable;~~
- (2) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in the Coastal Resources Commission's rules shall be located in accordance with 15A NCAC 07H .0306(5);
- ~~(2)~~(3) Permanent structures shall be permitted at a density of no more than one ~~commercial or residential~~ unit per 15,000 square feet of land area on lots subdivided or created after July 23, 1981;
- ~~(3)~~(4) Only ~~residential structures of four units or less or non-residential structures of less than 5,000 square feet total floor area~~ shall be allowed within the ~~inlet hazard area, Inlet Hazard Area,~~ except that access roads to those areas and maintenance and replacement of existing bridges shall be allowed;
- ~~(4)~~(5) Established common-law and statutory public rights of access to the public trust lands and waters in Inlet Hazard Areas shall not be eliminated or restricted. Development shall not encroach upon public accessways nor shall it limit the intended use of the accessways;
- ~~(5)~~(6) All other rules in this Subchapter pertaining to development in the ~~ocean hazard areas~~ Ocean Hazard Areas shall be applied to development within the Inlet Hazard Areas.

(b) The ~~inlet hazard area~~ Inlet Hazard Area setback requirements shall not apply to the types of development exempted from the ocean setback rules in 15A NCAC 7H .0309(a), nor, to the types of development listed in 15A NCAC 7H .0309(c).

(c) In addition to the types of development excepted under Rule .0309 of this Section, small scale, non-essential development that does not induce further growth in the Inlet Hazard Area, such as the construction of single-family piers and ~~small scale~~ small-scale erosion control measures that do not interfere with natural inlet movement, may be permitted on those portions of shoreline within a designated Inlet Hazard Area that exhibit features characteristic

of Estuarine Shoreline. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining Ocean Erodible Area. Such development shall be permitted under the standards set out in Rule .0208 of this Subchapter. For the purpose of this Rule, small scale is defined as those projects which are eligible for authorization under 15A NCAC 7H .1100, .1200 and 7K .0203.

Authority G.S. 113A-107; 113A-113(b); 113A-124.

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Wildlife Resources Commission intends to adopt the rules cited as 15A NCAC 10B .0226; 10C .0321-.0324, amend the rules cited as 15A NCAC 10B .0201, .0203, .0224; 10C .0205, .0209, .0211, .0305, .0306, .0314, .0316, .0401; 10D .0102, .0103, .0105, and readopt with substantive changes the rules cited as 15A NCAC 10B .0113; 10C .0301, and .0308.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncwildlife.org/Proposed-Regulations>

Proposed Effective Date: August 1, 2020

Date: January 7, 2020

Time: 7:00 p.m.

Location: Bladen Community College (Auditorium) 7418 NC HWY 41W, Dublin, NC 28332

Public Hearing:

Date: January 8, 2020

Time: 7:00 p.m.

Location: Old Alamance County CTHS 1 SE Court Square, Graham, NC 27253

Date: January 9, 2020

Time: 7:00 p.m.

Location: Stanly County Agri-Civic Center 26032 Newt Rd, Albemarle, NC 28001

Date: January 14, 2020

Time: 7:00 p.m.

Location: Southwestern Community College Myers Auditorium 447 College Drive, Sylva, NC 28779

Date: January 15, 2020

Time: 7:00 p.m.

Location: Western Piedmont CC Moore Hall Leviton Auditorium 101 Burkemont Avenue, Morganton, NC 28655

Date: January 16, 2020

Time: 7:00 p.m.

Location: Elkin High School 334 Elk Spur Street, Elkin, NC 28621

Date: January 21, 2020

Time: 7:00 p.m.

Location: John A. Holmes High School 600 Woodard Street, Edenton, NC 27932

Date: January 22, 2020

Time: 7:00 p.m.

Location: Duplin County Ag. Center 165 Agriculture Drive, Kenansville, NC 28349

Date: January 23, 2020

Time: 7:00 p.m.

Location: Nash Community College 522 N Old Carriage Road, Rocky Mount, NC 27804

Reason for Proposed Action: Every year the NC Wildlife Resources Commission reviews the need to adjust seasons, bag limits, and the management of land in order to achieve conservation management goals, comply with statutory changes, and respond to constituent requests.

Comments may be submitted to: Rulemaking Coordinator, 1701 Mail Service Center, Raleigh, NC 27699; email regulations@ncwildlife.org

Comment period ends: January 31, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

15A NCAC 10B .0113 BIG GAME KILL HARVEST REPORTS

(a) Upon killing a bear, deer, or wild turkey and before moving the animal from the site of kill, the successful hunter shall validate the Big Game Harvest Report Card furnished with the big game hunting license by cutting or punching out the validation box that correctly identifies the big game animal harvested. In lieu of the Big Game Harvest Report Card, antlerless deer may be recorded as outlined on the Bonus Antlerless Deer Harvest Report Card acquired from the Wildlife Resources Commission or a Wildlife Service Agent. Deer harvested under the Deer Management Assistance Program (DMAP) program, not validated with either a Big Game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card, shall be validated by affixing a Commission-issued DMAP tag to the deer as required by G.S. 113-291.2(e).

(b) Before any harvested bear, deer, or wild turkey is skinned, dressed, or dismembered for consumption and within 24 hours of the kill, the animal shall be registered through the Electronic Big Game Reporting System. The hunter may field dress the animal at the site of kill or before registering it by bleeding and removing the digestive, respiratory, and circulatory organs. However, the hunter may not further process the carcass in a manner that obscures its species identity, age, or sex before registering the animal. When the kill occurs in a remote area that prevents the animal from being transported as an entire carcass, the animal may be skinned and quartered before being registered. When a hunter harvests a big game animal in a remote area and plans to remain in the remote area for longer than a day, the 24-hour time limit to register the kill is extended until the hunter leaves the area. Upon leaving the remote area, the hunter shall register the kill within 24 hours.

(c) When a hunter registers a kill, the Electronic Big Game Reporting System shall issue an authorization number to the big game hunter. The hunter shall record the authorization number obtained through the Electronic Big Game Reporting System in the space provided immediately adjacent to the validation box that has been cut or punched out on the Big Game Harvest Report Card or the Bonus Antlerless Deer Harvest Report Card. Any hunter validating a deer harvest with a Commission-issued DMAP tag shall record and maintain the issued authorization number to serve as proof of registration. The authorization number shall thereafter constitute authorization for the continued possession of the carcass. Possession of a harvested bear, deer, or wild turkey without the validated Big Game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card where applicable, including the authorization number obtained through the Electronic Big Game Reporting System, is unlawful.

(d) Persons who kill a big game animal and leave it unattended shall identify the carcass with their name, their hunting license number, and the date of kill. Once an unattended animal is registered, the animal need only be identified with the authorization number received by registering the kill. It is unlawful for a person to possess a Big Game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card on which the species validation box has been cut or punched out, but on which the authorization number received by registering the kill has not been recorded, or to possess a used or affixed Commission-issued DMAP tag without a valid authorization number, unless the

animal is in the person's possession or is identified as described in this Paragraph and not more than 24 hours have passed since the harvest.

(e) ~~Persons who are by law exempt from the big game hunting license by G.S. 113-276 shall obtain a Big Game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card for License Exempt Hunters from a Wildlife Service Agent or possess a valid Commission issued DMAP tag. Upon harvesting a bear, deer, or wild turkey, the exempt person shall validate and register the kill as provided by this Rule.~~

(f) ~~Persons who use special tags issued pursuant to G.S. 113-291.2(e) to validate the harvest of a deer shall follow the tagging and reporting requirements set forth by statute and shall not take any action under this Rule.~~

(a) Definitions. The following definitions shall apply in this Rule:

- (1) "Authorization number" means the number or code issued by the Electronic Big Game Reporting System upon completion of big game harvest registration, that shall serve as proof of registration and allow continued possession of the carcass.
- (2) "Big Game" means bear, wild turkey, and white-tailed deer, as defined in G.S. 113-129.
- (3) "Big Game Harvest Report Card" means the reporting card supplied to the hunter by the Commission as part of the big game license, upon which the successful hunter validates and records the authorization number for a big game harvest.
- (4) "Field Dress" means the bleeding or removal of the digestive, respiratory, and circulatory organs.
- (5) "Validate" or "validation" means cutting or punching-out the day and month the harvest occurred on the appropriate line of the Big Game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card or by affixing a Commission-issued Deer Management Assistance Program (DMAP) tag, as required by G.S. 113-291.2(e).
- (6) "Register" or "Registration" means the process by which the harvest of big game is reported through the Electronic Big Game Reporting System and an authorization number is issued.
- (7) "Remote Area" means an area where access to the big game harvest reporting system is unavailable.
- (8) "Site of kill" or "site of harvest" means the location that a person takes possession of harvested big game.
- (9) "Successful hunter" means a person that has lawfully taken and reduced to possession a big game animal.

(b) Validation. The successful hunter shall validate the Big Game Harvest Report Card or the Bonus Antlerless Deer Harvest Report Card before moving any big game from the site of kill. Deer harvested pursuant to the Deer Management Assistance Program (DMAP), that are not validated by the Big Game Harvest Report

Card or the Bonus Antlerless Deer Harvest Report Card, shall be validated by affixing a Commission-issued DMAP tag.

(c) Field Dressing. Harvested big game may be field dressed at the site of kill or before registration. Further processing that obscures the identification of the harvested animal's species, age, or sex shall be prohibited without a valid authorization number.

(d) Registration. Harvested big game shall be registered via the Electronic Big Game Reporting System at www.ncwildlife.org or by calling 1-800-446-8663. Harvested big game shall be registered before the animal is:

- (1) skinned; or
- (2) dismembered; or
- (3) left unattended by the successful hunter; or
- (4) placed in the possession of another person.

Harvested big game animals that are not skinned, dismembered, left unattended by the successful hunter, or placed in the possession of another person, shall be registered by 12pm noon the day following the harvest.

(e) Registration in Remote Areas. Big game harvested in remote areas shall be registered by 12pm noon, the day after leaving the remote area. Notwithstanding the registration requirements in Paragraph (d) of this Rule, big game harvested in remote areas that cannot be transported as an intact carcass may be skinned and dismembered before registration.

(f) Authorization number. The authorization number shall be recorded in the space provided for the appropriate harvested big game animal on the Big Game Harvest Report Card or on the Bonus Antlerless Deer Harvest Report Card. Successful hunters validating a deer harvest by affixing a Commission-issued DMAP tag shall record and maintain the authorization number upon registration.

(g) Unattended Harvests. Successful hunters that leave a harvested big game animal unattended or in the possession of a person shall identify the carcass by attaching the authorization number issued at the time of registration.

(h) Exceptions. Requirements of this Rule shall not be applicable to special deer tags issued pursuant to G.S. 113-291.2(e).

(i) Any person hunting big game animals, including license exempt individuals, shall have a valid Big Game Harvest Report Card, valid Bonus Antlerless Deer Harvest Report Card, or special tag pursuant to G.S. 113-291.2 in their possession. The Big Game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card is part of the big game license and shall not be transferrable.

(j) Any persons who has requested a Big Game Harvest Report Card by phone or internet but has not yet received the Big Game Harvest Report Card by mail, shall validate the kill by affixing the harvest id number provided by the Commission to the carcass and shall register in accordance with Paragraphs (d) or (e) of this Rule. The hunter shall retain all authorization numbers from reported harvests and shall transcribe those authorization numbers to the Big Game Harvest Report Card upon receipt of the card.

Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.

SECTION .0200 - HUNTING

15A NCAC 10B .0201 PROHIBITED TAKING AND MANNER OF TAKE

(a) It is unlawful for any person to take, or have in possession, any wild animal or wild bird listed in this Section except during the open seasons and in accordance with the limits herein prescribed, or as prescribed by 15A NCAC 10B .0300 pertaining to trapping or 15A NCAC 10D applicable to game lands managed by the Wildlife Resources Commission, unless otherwise permitted by law. Lawful seasons and bag limits for each species apply beginning with the first day of the listed season and continue through the last day of the listed season, with all dates being included. When any hunting season ends on a January 1 that falls on a Sunday, that season shall be extended to Monday, January 2.

(b) On Sundays, hunting on private lands shall be allowed under the following conditions:

- (1) archery equipment as described in 15A NCAC 10B .0116, falconry, and dogs where and when allowed the other days of the week are lawful methods of take, except as prohibited in G.S. 103-2;
- (2) firearms are lawful methods of take when used as described in G.S. 103-2; and
- (3) migratory game birds may not be taken.

(c) On Sundays, hunting on public lands is allowed with the following restrictions:

- (1) only falconry and dogs used in conjunction with falconry are lawful methods of take; and
- (2) migratory game birds may not be taken.

These restrictions do not apply to military installations under the exclusive jurisdiction of the federal government.

(d) Those animals not classified as game animals in G.S. 113-129(7c), and for which a season is set under this Section, may be taken during the hours and methods authorized for taking game animals.

(e) Where local laws govern hunting, or are in conflict with this Subchapter, the local law shall prevail.

(f) No person shall possess or use any substance or material that contains or purports to contain any excretion collected from a cervid, including feces, urine, blood, gland oil, or other bodily fluid for the purposes of taking or attempting to take, attracting, or scouting wildlife.

Authority G.S. 103-2; 113-291.1(a); 113-134; 113-291.2; 113-291.3.

15A NCAC 10B .0203 DEER (WHITE-TAILED)

(a) Open Seasons (All Lawful Weapons) for hunting deer:

- (1) Deer With Visible Antlers. Deer with antlers or spikes protruding through the skin, as distinguished from knobs or buttons covered by skin or velvet, may be taken on all game lands except Buffalo Cove, Nicholson Creek, Rockfish Creek, Sandhills, and South Mountains Game Lands (Refer to 15A NCAC 10D .0103 for Deer With Visible Antlers seasons on these Game Lands), during the following seasons:

(A) Saturday on or nearest October 15 through January 1 in all of Beaufort, Bladen, Brunswick, Carteret, Columbus*, Cumberland, Craven, Dare, Duplin, Harnett, Hoke, Hyde, Jones, Lenoir, Moore, New Hanover, Onslow, Pamlico, Pender, Richmond, Robeson, Sampson, Scotland, Tyrrell, and Washington counties.

*Unlawful to hunt or kill deer in Lake Waccamaw or within 50 yards of its shoreline.

(B) Saturday on or nearest October 15 through January 1 in all of Bertie, Camden, Chowan, Currituck, Edgecombe, Franklin, Gates, Greene, Halifax, Hertford, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Pitt, Vance, Wake, Warren, Wayne, and Wilson counties.

(C) Saturday before Thanksgiving Day through January 1 in all of Alexander, Alleghany, Ashe, Catawba, Cleveland, Davie, Forsyth, Gaston, Iredell, Lincoln, Polk, Rutherford, Stokes, Surry, Watauga, Wilkes, and Yadkin counties.

(D) Monday of Thanksgiving week through the third Saturday after Thanksgiving Day in all of Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania, and Yancey counties.

(E) Two Saturdays before Thanksgiving Day through January 1 in all of Alamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Durham, Granville, Guilford, Lee, Mecklenburg, Montgomery, Orange, Person, Randolph, Rockingham, Rowan, Stanly, and Union counties.

(F) Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates, and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge; in those parts of Hyde, Tyrrell, and Washington counties known as the Pocosin Lakes National Wildlife Refuge; in that part of Hyde county known as Lake Mattamuskeet National Wildlife Refuge; in those parts of Dare and Hyde counties known as Alligator River National Wildlife Refuge; in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife

- Refuge; and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.
- (2) Deer of Either Sex. Except on Game Lands, deer of either sex may be taken during the open seasons and in the counties and portions of counties listed in Parts (A), (B), (C), (D), (E), (F), and (G) of this Subparagraph (Refer to 15A NCAC 10D .0103 for either-sex deer seasons on Game Lands). Deer of either sex may be taken during the open season identified in Part (H) of this Subparagraph.
- (A) The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates, and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge; in those parts of Hyde, Tyrrell, and Washington counties known as the Pocosin Lakes National Wildlife Refuge; in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge; and in those parts of Currituck County known as the Currituck National Wildlife Refuge and the Mackay Island National Wildlife Refuge.
- (B) The open either-sex deer hunting dates established by the appropriate military commands at each of the military installations listed in this Paragraph, during the period from Saturday on or nearest October 15 through January 1 in that part of Brunswick County known as the Sunny Point Military Ocean Terminal, in that part of Craven County known and marked as Cherry Point Marine Base, in that part of Onslow County known and marked as the Camp Lejeune Marine Base, on Fort Bragg Military Reservation, and on Camp Mackall Military Reservation.
- (C) Youth either-sex deer hunts. First Saturday in October for youth either-sex deer hunting by permit only on a portion of Belews Creek Steam Station in Stokes County designated by agents of the Commission; the third Saturday in October for youth either-sex deer hunting by permit only on Mountain Island State Forest in Lincoln and Gaston counties; and the second Saturday in November for youth either-sex deer hunting by permit only on apportion of Warrior Creek located on W. Kerr Scott Reservoir, Wilkes County designated by agents of the Commission. A youth is defined as a person under 18 years of age.
- (D) The first open Saturday of the Deer with Visible Antlers season described in Subparagraph (a)(1) of this Rule in all of Buncombe*, Haywood, Henderson, Madison, and Transylvania counties.
*Except for that part east of NC 191, south of the French Broad and Swannanoa Rivers, west of US 25, and north of NC 280
- (E) The first open day of the Deer With Visible Antlers season described in Subparagraph (a)(1) of this Rule through the first Saturday thereafter in all of Avery, Burke, Caldwell, McDowell, Mitchell, and Yancey counties.
- (F) The first open day of the Deer with Visible Antlers season described in Subparagraph (a)(1) of this Rule through the second Friday thereafter in all of Cleveland, Polk, and Rutherford counties.
- (G) All the open days of the Deer With Visible Antlers season described in Subparagraph (a)(1) of this Rule in and east of Ashe, Watauga, Wilkes, Alexander, Catawba, Lincoln, and Gaston counties and in the following parts of counties: Buncombe: That part east of NC 191, south of the French Broad and Swannanoa Rivers, west of US 25, and north of NC 280; and Henderson; That part east of NC 191 and north and west of NC 280.
- (H) The fourth Saturday in September in all counties, subject to the following restriction: only persons under the age of 18 years may hunt.
- (b) Open Seasons (Archery) for hunting deer:
- (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph and the bag limits set out in Paragraph (e) of this Rule, deer may be taken with archery equipment during the following seasons:
- (A) Saturday on or nearest September 10 through the day immediately preceding the first open day of the Blackpowder Firearms and Archery Seasons described in Subparagraph (c)(1) of this Rule; and the Sunday immediately following the closing of blackpowder firearms and archery

season identified in Part (c)(1)(B) of this Rule to the Sunday before Thanksgiving in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (a)(1)(D) of this Rule except on Buffalo Cove, Nicholson Creek, Rockfish Creek, Sandhills, and South Mountains Game Lands (Refer to 15A NCAC 10D .0103 for Archery seasons on these Game Lands).

(B) Sunday immediately following the closing of the open season for Deer With Visible Antlers through January 1 in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (a)(1)(D) of this Rule.

(2) Restrictions.

(A) In the areas of the State where the Commission is authorized to regulate the use of dogs as provided in G.S. 113-291.5, dogs may not be used for hunting deer during the archery season, except a single dog on a leash may be used to retrieve a dead or wounded deer in accordance with G.S. 113-291.1(k).

(B) Only archery equipment of the types authorized in 15A NCAC 10B .0116 for taking deer may be used during the archery deer hunting season.

(C) Deer of either sex may be taken during archery seasons specified by Part (b)(1)(A) of this Rule. Only deer with antlers or spikes protruding through the skin, as distinguished from knobs or buttons covered by skin or velvet, shall be taken during the archery season specified by Part (b)(1)(B) of this Rule.

(c) Open Seasons (Blackpowder Firearms and Archery) for hunting deer:

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

(A) Two Saturdays preceding the first day of the Deer with Visible Antlers seasons described in Parts (a)(1)(A), (B), (C), (E), and (F) of this Rule through the second Friday thereafter except on Buffalo Cove, Nicholson Creek, Rockfish Creek, Sandhills, and South Mountains Game Lands (Refer to 15A NCAC 10D .0103 for

Blackpowder Firearms and Archery seasons on these Game Lands):

(B) Monday on or nearest October 1 through the second Saturday thereafter in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (a)(1)(D) of this Rule.

(2) Restrictions

(A) Deer of either sex may be taken during blackpowder firearms and archery season in any county or county part set forth in Part (a)(2)(G) of this Rule that has either-sex days for all lawful weapons and in and east of the following counties: Polk, Rutherford, McDowell, Burke, Caldwell, ~~Watauga, and Ashe.~~ and Cleveland. Deer of either sex may be taken on the first Saturday day of this season only in all other counties.

(B) In the areas of the State where the Commission is authorized to regulate the use of dogs as provided in G.S. 113-291.5, dogs shall not be used for hunting deer during the blackpowder firearms and archery seasons, except a single dog on a leash may be used to retrieve a dead or wounded deer in accordance with G.S. 113-291.1(k).

(3) As used in this Rule, blackpowder firearms means "Any firearm - including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system - manufactured in or before 1898, that cannot use fixed ammunition; any replica of this type of firearm if such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; and any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading or cylinder-loading handgun that is designed to use blackpowder, blackpowder substitute, or any other propellant loaded through the muzzle or cylinder and that cannot use fixed ammunition."

(d) Open Season (Urban Season) for hunting deer:

(1) Authorization. Subject to the restrictions set out in Subparagraph (3) of this Paragraph and the bag limits set out in Paragraph (e) of this Rule, deer of either sex may be taken with bow and arrow in participating cities in the State, as defined in G.S. 160A-1(2), from the second Saturday following January 1 through the sixth Sunday thereafter. Deer shall not be taken on any game land or part thereof that occurs within a city boundary.

(2) Participation. Cities that intend to participate in the urban season shall send a letter to that effect no later than April 1 of the year prior to the start

of the urban season to the Executive Director or his designee at 1722 Mail Service Center, Raleigh, N.C. 27699-1700. Cities shall also submit a map of the city's boundaries within which the urban season shall apply.

(3) Restrictions:

- (A) In the areas of the State where the Commission is authorized to regulate the use of dogs as provided in G.S. 113-291.5, dogs shall not be used for hunting deer during the urban season, except a single dog on a leash may be used to retrieve a dead or wounded deer in accordance with G.S. 113-291.1(k).
- (B) Only archery equipment of the types authorized in 15A NCAC 10B .0116 for taking deer shall be used during the urban season.

(e) Bag limits. The possession and season limit is six deer, two of which may be deer with visible antlers and four of which may be antlerless deer. Antlerless deer include males with knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin. In addition to the bag limits described above, a hunter may obtain multiple bonus antlerless deer harvest report cards from the Wildlife Resources Commission or any Wildlife Service Agent to allow the harvest of two additional antlerless deer per card for deer harvested during the season described in Paragraph (d) of this Rule within the boundaries of participating municipalities, except on State-owned game lands. Antlerless deer harvested and reported on the bonus antlerless harvest report card shall not count as part of the possession and season limit. The bag limits described above do not apply to deer harvested in areas covered in the Deer Management Assistance Program (DMAP) as described in G.S. 113-291.2(e) for those individuals using Commission-issued DMAP tags and reporting harvest as described on the DMAP license. Season bag limits shall be set by the number of DMAP tags issued and in the hunters' possession. All deer harvested under this program, regardless of the date of harvest, shall be tagged with these DMAP tags and reported as instructed on the DMAP license. The hunter does not have to validate the Big Game Harvest Report Card provided with the hunting license for deer tagged with the DMAP tags. Any deer harvested on lands enrolled in the DMAP and not tagged with DMAP tags may only be harvested during the regularly established deer seasons subject to all the restrictions of those seasons, including bag limits, and reported using the big game harvest report card or the bonus antlerless harvest report card.

Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.1; 113-291.2; 113-291.5.

15A NCAC 10B .0224 AMERICAN ALLIGATOR

- (a) The season for taking American alligators shall be September 1 to October 1.
- (b) Take shall be by permit only.
- (c) The bag limit shall be one per permit and the season limit is one.

~~(d) American alligators shall be restrained before being killed. American alligators shall~~ may only be restrained using one of the following methods in accordance with the provisions of the permit:

- (1) a hand-held restraining line or catch pole;
- (2) a snatch hook attached to a hand-held restraining line or rod and reel;
- (3) a harpoon or gig attached to a hand-held restraining line;
- (4) a baited wooden peg less than two inches in length attached to a hand-held restraining line; or
- (5) archery equipment with an arrow-attached restraining line.

(e) If a minimum size limit is applicable to the county or municipality for which the permit is issued, the size limit and method(s) of restraint shall be specified on the permit.

~~(e)(f)~~ American alligators restrained by any method specified in Paragraph (d) of this Rule shall be killed immediately upon capture, capture except when a minimum size limit is specified on the permit. When a minimum size limit is specified on the permit, animals not meeting the minimum size limit shall be released immediately at the site of capture.

~~(f)(g)~~ American alligators may be taken day or night and with the use of artificial lights.

~~(g)(h)~~ The use of baited hooks is prohibited.

Authority G.S. 113-134; 113-291.1; 113-291.2.

15A NCAC 10B .0226 BULLFROGS

(a) The open seasons for taking of bullfrog, *Rana catesbeiana*, shall be as follows:

- (1) Except as provided in Subparagraph (a)(2) of this Rule, there shall be no closed season for taking bullfrogs.
- (2) On Wildlife Resources Commission Property, as defined in G.S. 113-129, bullfrogs may be taken from April 1 to August 31 with a valid license that entitles the licensee to access and use Wildlife Resources Commission Property.

(b) Bag Limit: It shall be unlawful to take more than 24 bullfrogs in a 24-hour period that runs from 12 noon to 12 noon.

(c) Artificial lights may be used to take bullfrogs.

Authority G.S. 113-134; 113-291.1.

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

SECTION .0200 - GENERAL REGULATIONS

15A NCAC 10C .0205 PUBLIC MOUNTAIN TROUT WATERS

(a) For purposes of this Rule, the following definitions apply:

- (1) "Natural bait" means any living or dead organism (plant or animal), or parts thereof, or prepared substances designed to attract fish by the sense of taste or smell.
- (2) "Single hook" means a fish hook with only one point.

- ~~(2)~~(3) "Artificial lure" means a fishing lure that neither contains nor has been treated by any substance that attracts fish by the sense of taste or smell.
- (4) "Artificial fly" means one single hook dressed with feathers, hair, thread, tinsel, rubber, or any similar material to which no additional hook, spinner, spoon or similar device is added.
- ~~(3)~~(5) "Youth anglers" are individuals under 18 years of age.
- (b) For purposes of this Rule, 15A NCAC 10C .0316, and 15A NCAC 10D .0104, the following classifications apply:
- (1) "Public Mountain Trout Waters" are all waters included in this Rule and so designated in 15A NCAC 10D .0104.
 - (2) "Catch and Release/Artificial Flies Only Trout Waters" are Public Mountain Trout Waters where only artificial flies having one single hook may be used. No trout may be possessed or harvested while fishing these streams. Waters designated as such include tributaries unless otherwise noted.
 - (3) "Catch and Release/Artificial Lures Only Trout Waters" are Public Mountain Trout Waters where only artificial lures having one single hook may be used. No trout may be possessed or harvested while fishing these streams. Waters designated as such include tributaries unless otherwise noted.
 - (4) "Delayed Harvest Trout Waters" are Public Mountain Trout Waters where between October 1 and one-half hour after sunset on the Friday before the first Saturday of the following June, it is unlawful to possess natural bait, use more than one single hook on an artificial lure, or harvest or possess trout while fishing. From 6:00 a.m. on the first Saturday in June until noon that same day, only youth anglers may fish and these waters have no bait or lure restrictions. From noon on the first Saturday in June until October 1, anglers of all ages may fish and these waters have no bait or lure restrictions. Waters designated as such do not include tributaries unless otherwise noted.
 - (5) "Hatchery Supported Trout Waters" are Public Mountain Trout Waters that have no bait or lure restrictions. Waters designated as such do not include tributaries unless otherwise noted.
 - (6) "Special Regulation Trout Waters" are Public Mountain Trout Waters where watercourse-specific regulations apply. Waters designated as such do not include tributaries unless otherwise noted.
 - (7) "Wild Trout Waters" are Public Mountain Trout Waters which are identified as such in this Rule or 15A NCAC 10D .0104. Only artificial lures having only one single hook may be used. No person shall possess natural bait while fishing these waters. Waters designated as such do not include tributaries unless otherwise noted.
- (8) "Wild Trout Waters/Natural Bait" are Public Mountain Trout Waters where all artificial lures and natural baits, except live fish, may be used provided they are fished using only one single hook. Waters designated as such include tributaries unless otherwise noted.
 - (9) "Undesignated Waters" are all other waters in the State. These waters have no bait or lure restrictions. Trout may not be possessed while fishing these waters from March 1 until 7:00 a.m. on the first Saturday in April.
- (c) Seasons, creel, and size limits. Seasons, creel, and size limits for trout in all waters are listed in Rule .0316 of this Subchapter.
- (d) Classifications. This Paragraph designates waters in each county that have a specific classification. Waters on game lands are so designated in 15A NCAC 10D .0104, unless otherwise indicated in this Paragraph. All other waters are classified as Undesignated Waters.
- (1) Alleghany
 - (A) Delayed Harvest Trout Waters are as follows:
Little River (S.R. 1133 bridge to 275 yards downstream of the intersection of S.R. 1128 and S.R. 1129 [marked by a sign on each bank])
 - (B) Hatchery Supported Trout Waters are as follows:
Big Pine Creek
Bledsoe Creek
Brush Creek (N.C. 21 bridge to confluence with Little River, except where posted against trespassing)
Cranberry Creek
(Big) Glade Creek
Little River (275 yards downstream from the intersection of S.R. 1128 and S.R. 1129 [marked by a sign on each bank] to McCann Dam)
Meadow Fork
Pine Swamp Creek
Piney Fork
Prathers Creek
 - (C) Wild Trout Waters are as follows:
All waters located on Stone Mountain State Park
 - (2) Ashe County
 - (A) Catch and Release/Artificial Lures Only Trout Waters are as follows:
Big Horse Creek (Virginia state line to Mud Creek at S.R. 1363, excluding tributaries)
 - (B) Delayed Harvest Trout Waters are as follows:
Big Horse Creek (S.R. 1324 bridge to North Fork New River)
Helton Creek (SR 1372 bridge to North Fork New River)

- South Fork New River (upstream end of Todd Island to the SR 1351 bridge)
Trout Lake
- (C) Hatchery Supported Trout Waters are as follows:
Beaver Creek (N.C. 221 to confluence of Beaver Creek and South Beaver Creek)
Big Horse Creek (Mud Creek at S.R. 1363 to S.R. 1324 bridge)
Big Laurel Creek (S.R. 1315 bridge to confluence with North Fork New River)
Buffalo Creek (S.R. 1133 bridge to N.C. 194-88 bridge)
Cranberry Creek (Alleghany Co. line to South Fork New River)
Nathans Creek
North Fork New River (Watauga Co. line to Sharp Dam)
Old Fields Creek (N.C. 221 to South Fork New River)
Peak Creek (headwaters to Trout Lake, except Blue Ridge Parkway waters)
Roan Creek
Three Top Creek
- (3) Avery County
- (A) Catch and Release/Artificial Flies Only Trout Waters are as follows:
Elk River (portion on Lees-McRae College property, excluding the millpond)
Lost Cove Creek (game land portion, excluding Gragg Prong and Rockhouse Creek)
- (B) Catch and Release/Artificial Lures Only Trout Waters are as follows:
Wilson Creek (game land portion)
- (C) Hatchery Supported Trout Waters are as follows:
Boyde Coffey Lake
Elk River (S.R. 1305 crossing immediately upstream of Big Falls to the Tennessee state line)
Linville River (Land Harbor line [below dam] to the Blue Ridge Parkway boundary line, except where posted against trespassing)
Milltimber Creek
North Toe River — upper (Watauga St. to Roby Shoemaker Wetlands and Family Recreational Park, except where posted against trespassing)
North Toe River — lower (S.R. 1164 to Mitchell Co. line, except where posted against trespassing)
Squirrel Creek
Wildcat Lake
- (D) Wild Trout Waters are as follows:
Birchfield Creek
Cow Camp Creek
Cranberry Creek (headwaters to U.S. 19E/N.C. 194 bridge)
Gragg Prong
Horse Creek
Kentucky Creek
North Harper Creek
Plumtree Creek
Roaring Creek
Rockhouse Creek
Shawneehaw Creek (portion adjacent to Banner Elk Greenway)
South Harper Creek
Webb Prong
- (4) Buncombe County
- (A) Catch and Release/Artificial Lures Only Trout Waters are as follows:
Carter Creek (game land portion)
- (B) Hatchery Supported Trout Waters are as follows:
Bent Creek (headwaters to N.C. Arboretum boundary line)
Cane Creek (headwaters to S.R. 3138 bridge)
Corner Rock Creek (Little Andy Creek to confluence with Walker Branch)
Dillingham Creek (Corner Rock Creek to Ivy Creek)
Ivy Creek (Ivy River)(Dillingham Creek to U.S. 19-23 bridge)
Lake Powhatan
Reems Creek (Sugar Camp Fork to U.S. 19-23 bridge, except where posted against trespassing)
Rich Branch (downstream from the confluence with Rocky Branch)
Stony Creek
Swannanoa (S.R. 2702 bridge near Ridgecrest to Wood Avenue bridge [intersection of N.C. 81 and U.S. 74A in Asheville], except where posted against trespassing)
- (5) Burke County
- (A) Catch and Release/Artificial Lures Only Trout Waters are as follows:
Henry Fork (portion on South Mountains State Park)
- (B) Delayed Harvest Trout Waters are as follows:
Jacob Fork (Shinny Creek to lower South Mountains State Park boundary)
- (C) Hatchery Supported Trout Waters are as follows:
Carroll Creek (game land portion above S.R. 1405)

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- Henry Fork (lower South Mountain State Park line downstream to S.R. 1919 at Ivy Creek)
Linville River portion within Linville Gorge Wilderness area and portion below Lake James powerhouse from upstream bridge on S.R. 1223 to Muddy Creek)
- (D) Special Regulation Trout Waters are as follows:
Catawba River (Muddy Creek to City of Morganton water intake dam)
- (E) Wild Trout Waters are as follows:
All waters located on South Mountains State Park, except those waters identified in Parts A and B of this Subparagraph
- (6) Caldwell County
- (A) Delayed Harvest Trout Waters are as follows:
Wilson Creek (game land portion below Lost Cove Creek to Philips Branch)
- (B) Hatchery Supported Trout Waters are as follows:
Boone Fork Pond
Buffalo Creek (mouth of Joes Creek to McCloud Branch)
Joes Creek (first falls upstream of S.R. 1574 to confluence with Buffalo Creek)
Wilson Creek (Phillips Branch to Brown Mountain Beach Dam, except where posted against trespassing)
Yadkin River (Happy Valley Ruritan Community Park to S.R. 1515)
- (C) Wild Trout Waters are as follows:
Buffalo Creek (Watauga Co. line to Long Ridge Branch including game land tributaries)
Joes Creek (Watauga Co. line to first falls upstream of the end of S.R. 1574)
Rockhouse Creek
- (7) Cherokee County
- (A) Hatchery Supported Trout Waters are as follows:
Davis Creek (confluence of Bald and Dockery creeks to Hanging Dog Creek)
Hyatt Creek (Big Dam Branch to Valley River)
Junaluska Creek (Ashturn Creek to Valley River)
Shuler Creek (Joe Brown Hwy [S.R. 1325] bridge to Tennessee state line)
Valley River (S.R. 1359 to U.S. 19 Business bridge in Murphy)
- (B) Special Regulation Trout Waters are as follows:
- (C) Apalachia Reservoir
Wild Trout Waters/Natural Bait are as follows:
Bald Creek (game land portion)
Dockery Creek (game land portion)
North Shoal Creek (game land portion)
- (8) Clay County
- (A) Delayed Harvest Trout Waters are as follows:
Fires Creek (~~USFS Rd. 340A~~ Rockhouse Creek to the foot bridge in the USFS Fires Creek Picnic Area)
- (B) Hatchery Supported Trout Waters are as follows:
Buck Creek (game land portion downstream of U.S. 64 bridge)
Fires Creek (foot bridge in the USFS Fires Creek Picnic Area to S.R. 1300)
Tusquitee Creek (Compass Creek to lower S.R. 1300 bridge)
- (9) Graham County
- (A) Delayed Harvest Trout Waters are as follows:
(Big) Snowbird Creek (USFS footbridge at the old railroad junction to USFS Rd. 2579)
- (B) Hatchery Supported Trout Waters are as follows:
Calderwood Reservoir (Cheoah Dam to Tennessee state line)
Cheoah Reservoir
Panther Creek (confluence of Stand Creek and Rock Creek to Lake Fontana)
Santeetlah Creek (Johns Branch to Lake Santeetlah)
(Big) Snowbird Creek (USFS Road 2579 to S.R. 1127 bridge)
Stecoah Creek (upper game land boundary to Lake Fontana)
Tulula Creek (S.R. 1201 to lower bridge on S.R. 1275)
West Buffalo Creek
Yellow Creek (Lake Santeetlah hydropower pipeline to Cheoah River)
- (C) Wild Trout Waters are as follows:
Little Buffalo Creek
South Fork Squally Creek
Squally Creek
- (D) Wild Trout Waters/Natural Bait are as follows:
Deep Creek
Franks Creek
Long Creek (game land portion)
- (10) Haywood County
- (A) Delayed Harvest Trout Waters are as follows:

- West Fork Pigeon River (Queen Creek to the first game land boundary upstream of Lake Logan)
- (B) Hatchery Supported Trout Waters are as follows:
Cold Springs Creek (Fall Branch to Pigeon River)
Jonathan Creek (upstream S.R. 1302 bridge to Pigeon River, except where posted against trespassing)
Pigeon River (Stamey Cove Branch to upstream U.S. 19-23 bridge)
Richland Creek (Russ Avenue [U.S. 276] bridge to U.S. 19 bridge)
West Fork Pigeon River (Tom Creek to Queen Creek, including portions on game lands, except Middle Prong)
- (C) Wild Trout Waters/Natural Bait are as follows:
Hemphill Creek
Hurricane Creek
- (11) Henderson County
- (A) Delayed Harvest Trout Waters are as follows:
North Fork Mills River (game land portion below the Hendersonville watershed dam)
- (B) Hatchery Supported Trout Waters are as follows:
(Rocky) Broad River (end of S.R. 1611 to Rutherford County line)
Cane Creek (railroad bridge upstream of S.R. 1551 bridge to U.S. 25 bridge)
Clear Creek (Laurel Fork to S.R. 1582)
Green River (Lake Summit powerhouse to game land boundary)
(Big) Hungry River (S.R. 1885 to Green River)
- (12) Jackson County
- (A) Catch and Release/Artificial Lures Only Trout Waters are as follows:
Flat Creek
Tuckasegee River (upstream from the Clark property)
- (B) Delayed Harvest Trout Waters are as follows:
Tuckasegee River (downstream N.C. 107 bridge to the falls located 275 yards upstream of the U.S. 23-441 bridge [marked by a sign on each bank])
- (C) Hatchery Supported Trout Waters are as follows:
Balsam Lake
Bear Creek Lake
Cedar Cliff Lake
- Cullowhee Creek (Tilley Creek to Tuckasegee River)
Dark Ridge Creek (Jones Creek to Scott Creek)
Greens Creek (Greens Creek Baptist Church on S.R. 1370 to Savannah Creek)
Savannah Creek (Shell Branch to Cagle Branch)
Scott Creek (Dark Ridge Creek to Tuckasegee River, except where posted against trespassing)
Tanasee Creek Lake
Tuckasegee River — upper (John Brown Branch to the downstream N.C. 107 bridge)
Tuckasegee River — lower (falls located 275 yards upstream of U.S. 23-441 bridge [marked by a sign on each bank] to S.R. 1534 bridge at Wilmot)
Wolf Creek Lake
- (D) Wild Trout Waters are as follows:
Gage Creek
North Fork Scott Creek
Tanasee Creek
Whitewater River (downstream from Silver Run Creek to South Carolina state line)
Wolf Creek (except Balsam Lake and Wolf Creek Lake)
- (E) Wild Trout Waters/Natural Bait are as follows:
Buff Creek
Chattooga River (S.R. 1100 bridge to the South Carolina state line)
Lower Fowler Creek (game land portion)
Scotsman Creek (game land portion)
- (13) Macon County
- (A) Delayed Harvest Trout Waters are as follows:
Nantahala River (Whiteoak Creek to Nantahala hydropower discharge canal)
- (B) Hatchery Supported Trout Waters are as follows:
Burningtown Creek (Left Prong to Little Tennessee River)
Cartoogechaye Creek (downstream U.S. 64 bridge to Little Tennessee River)
Cliffside Lake
Cullasaja River (Sequoyah Dam to U.S. 64 bridge near junction of S.R. 1672)
Nantahala River — upper (Dicks Creek to Whiteoak Creek)

- Nantahala River — lower (Nantahala hydropower discharge canal to Swain Co. line)
Queens Creek Lake
- (C) Wild Trout Waters/Natural Bait are as follows:
Chattooga River (S.R. 1100 bridge to South Carolina state line)
Jarrett Creek (game land portion)
Kimsey Creek
Overflow Creek (game land portion)
Park Creek
Tellico Creek (game land portion)
Turtle Pond Creek (game land portion)
- (14) Madison County
- (A) Delayed Harvest Trout Waters are as follows:
Big Laurel Creek (N.C. 208 bridge to the U.S. 25-70 bridge)
Shelton Laurel Creek (N.C. 208 bridge at Belva to the confluence with Big Laurel Creek)
Spring Creek (N.C. 209 bridge at Hot Springs city limits to iron bridge at end of Andrews Ave.)
- (B) Hatchery Supported Trout Waters are as follows:
Big Laurel Creek (Puncheon Fork to the S.R. 1318 [Big Laurel Rd.] bridge downstream of Bearpen Branch)
Big Pine Creek (S.R. 1151 bridge to French Broad River)
Little Ivy Creek (confluence of Middle Fork and Paint Fork at Beech Glen to confluence with Ivy Creek at Forks of Ivy)
Max Patch Pond
Meadow Fork Creek (Meadow Fork Campground to Spring Creek)
Puncheon Fork (~~Hampton Creek~~ Wolf Laurel Branch to Big Laurel Creek)
Roaring Fork (Fall Branch to Meadow Fork)
Shelton Laurel Creek (confluence of Big Creek and Mill Creek to N.C. 208 bridge at Belva)
Shut-in Creek
Spillcorn Creek
Spring Creek (junction of N.C. 209 and N.C. 63 to USFS Rd. 223)
West Fork Shut-in Creek (lower game land boundary to confluence with East Fork Shut-in Creek)
- (C) Wild Trout Waters/Natural Bait are as follows:
Big Creek (headwaters to the lower game land boundary)
- (15) McDowell County
- (A) Catch and Release/Artificial Lures Only Trout Waters are as follows:
Newberry Creek (game land portion)
- (B) Delayed Harvest Trout Waters are as follows:
Catawba River (portion adjacent to Marion Greenway)
Curtis Creek (game land portion downstream of the USFS boundary at Deep Branch)
Mill Creek (U.S. 70 bridge to I-40 bridge)
- (C) Hatchery Supported Trout Waters are as follows:
Armstrong Creek (Cato Holler line downstream to upper Greenlee line)
Catawba River (Catawba Falls Campground to Old Fort Recreation Park)
Little Buck Creek (game land portion)
Mill Creek (upper railroad bridge to U.S. 70 bridge, except where posted against trespassing)
North Fork Catawba River (headwaters to North Cove School at S.R. 1569 bridge)
- (16) Mitchell County
- (A) Delayed Harvest Trout Waters are as follows:
Cane Creek (N.C. 226 bridge to S.R. 1189 bridge)
North Toe River (U.S. 19E bridge to N.C. 226 bridge)
- (B) Hatchery Supported Trout Waters are as follows:
Big Rock Creek (headwaters to N.C. 226 bridge at S.R. 1307 intersection)
Cane Creek (S.R. 1219 to N.C. 226 bridge)
East Fork Grassy Creek
Grassy Creek (East Fork Grassy Creek to mouth)
Little Rock Creek (Green Creek bridge to Big Rock Creek, except where posted against trespassing)
North Toe River (Avery Co. line to S.R. 1121 bridge)
- (C) Wild Trout Waters are as follows:
Green Creek (headwaters to Green Creek bridge, except where posted against trespassing)
Little Rock Creek (above Green Creek bridge, including all tributaries, except where posted against trespassing)
Wiles Creek (game land boundary to mouth)
- (17) Polk County
- (A) Delayed Harvest Trout Waters are as follows:

- Green River (Fishtop Falls Access Area to the confluence with Cove Creek)
- (B) Hatchery Supported Trout Waters are as follows:
Green River (Mouth of Cove Creek to the natural gas pipeline crossing)
North Pacolet River (Joels Creek to N.C. 108 bridge)
- (18) Rutherford County
(A) Hatchery Supported Trout Waters are as follows:
(Rocky) Broad River (Henderson Co. line to U.S. 64/74 bridge, except where posted against trespassing)
- (19) Stokes County
(A) Hatchery Supported Trout Waters are as follows:
Dan River (Virginia state line downstream to a point 200 yards below the end of S.R. 1421)
- (20) Surry County
(A) Delayed Harvest Trout Waters are as follows:
Ararat River (portion adjacent to the Ararat River Greenway)
Mitchell River (~~6 mile~~ 0.6 miles upstream of the end of S.R. 1333 to the lowermost bridge on S.R. 1330 ~~bridge below Kapps Mill Dam~~ lowermost bridge on S.R. 1330)
(B) Hatchery Supported Trout Waters are as follows:
Ararat River (S.R. 1727 bridge downstream to the N.C. 103 bridge)
Big Elkin Creek (dam 440 yards upstream of N.C. 268 bridge to a point 265 yards downstream of N.C. 268 [marked by a sign on each bank])
Fisher River (Cooper Creek)(Virginia state line to I-77 bridge)
Little Fisher River (Virginia state line to N.C. 89 bridge)
Lovills Creek (U.S. 52 Business bridge to Ararat River)
Pauls Creek (Virginia state line to .3 miles below S.R. 1625 bridge)
- (21) Swain County
(A) Delayed Harvest Waters Trout Waters are as follows:
Tuckasegee River (U.S. 19 bridge to Slope Street bridge)
(B) Hatchery Supported Trout Waters are as follows:
Alarka Creek (game land boundary to Fontana Reservoir)
Calderwood Reservoir (Cheoah Dam to Tennessee state line)
Cheoah Reservoir
- (22) Transylvania County
(A) Catch and Release/Artificial Flies Only Trout Waters are as follows:
Davidson River (headwaters to Avery Creek, excluding Avery Creek, Looking Glass Creek and Grogan Creek)
(B) Delayed Harvest Trout Waters are as follows:
East Fork French Broad River (East Fork Baptist Church to the downstream S.R. 1107 bridge)
Little River (confluence of Lake Dense to 100 yards downstream of Hooker Falls)
(C) Hatchery Supported Trout Waters are as follows:
Davidson River(Avery Creek to lower USFS boundary)
French Broad River (confluence of North Fork French Broad River and West Fork) French Broad River to the Island Ford Rd. [S.R. 1110] Access Area
Middle Fork French Broad River (upstream U.S. 178 bridge to French Broad River)
West Fork French Broad River (~~Camp Cove Branch~~ S.R. 1312 to confluence with North Fork French Broad River)
(D) Wild Trout Waters are as follows:
All waters located on Gorges State Park
Whitewater River (downstream from Silver Run Creek to South Carolina state line)
(E) Wild Trout Waters/Natural Bait are as follows:
North Fork French Broad River (game land portion downstream of S.R. 1326)
Thompson River (S.R. 1152 to South Carolina state line, except where posted against trespassing)
- (23) Watauga County
(A) Catch and Release/Artificial Lures Only Trout Waters are as follows:
Laurel Creek (confluence of North and South Fork Laurel creeks to Elk Creek, excluding tributaries)
- Connelly Creek (Camp Branch to Tuckasegee River)
Deep Creek (Great Smoky Mountains National Park Boundary line to Tuckasegee River)
Nantahala River (Macon Co. line to existing Fontana Lake water level)

- Pond Creek (headwaters to Locust Ridge Rd. bridge, excluding the pond adjacent to Coffee Lake)
- (B) Delayed Harvest Trout Waters are as follows:
Lake Coffey
Watauga River (adjacent to intersection of S.R. 1557 and S.R. 1558 to N.C. 105 bridge and S.R. 1114 bridge to the Valle Crucis Community Park lower boundary)
- (C) Hatchery Supported Trout Waters are as follows:
Beaverdam Creek (confluence of Beaverdam Creek and Little Beaverdam Creek to an unnamed tributary adjacent to the intersection of S.R. 1201 and S.R. 1203)
Beech Creek
Buckeye Creek (Buckeye Creek Reservoir dam to Grassy Gap Creek)
Buckeye Creek Reservoir
Cove Creek (S.R. 1233 bridge at Zionville to S.R. 1214 bridge at Sherwood)
Dutch Creek (second bridge on S.R. 1134 to mouth)
Elk Creek (S.R. 1510 bridge at Triplett to Wilkes Co. line, except where posted against trespassing)
Laurel Creek (S.R. 1123 bridge at S.R. 1157 intersection to Watauga River)
Meat Camp Creek (S.R. 1340 bridge at S.R. 1384 intersection to N.C. 194)
Middle Fork New River (adjacent to intersection of S.R. 1539 and U.S. 321 to South Fork New River)
Norris Fork Creek
South Fork New River (canoe launch 70 yards upstream of U.S. 421 bridge to lower boundary of Brookshire Park)
Stony Fork (S.R. 1500 bridge at S.R. 1505 intersection to Wilkes Co. line)
- (D) Wild Trout Waters are as follows:
Dutch Creek (headwaters to second bridge on S.R. 1134)
Howard Creek
Maine Branch (headwaters to North Fork New River)
North Fork New River (from confluence with Maine and Mine branches to Ashe Co. line)
Watauga River (Avery Co. line to S.R. 1580 bridge)
Winkler Creek (lower bridge on S.R. 1549 to confluence with South Fork New River)
- (24) Wilkes County
- (A) Delayed Harvest Trout Waters are as follows:
East Prong Roaring River (Bullhead Creek downstream to Stone Mountain State Park lower boundary)
Elk Creek — upper (Watauga Co. line to lower boundary of the Blue Ridge Mountain Club)
Elk Creek — lower (portion on Leatherwood Mountains development)
Reddies River (Town of North Wilkesboro water intake dam to confluence with the Yadkin River)
Stone Mountain Creek (from falls at Alleghany Co. line to confluence with East Prong Roaring River and Bullhead Creek)
- (B) Hatchery Supported Trout Waters are as follows:
Basin Creek (S.R. 1730 bridge to confluence with Lovelace Creek)
Bell Branch Pond
Cub Creek (.5 mile upstream of S.R. 2460 bridge to S.R. 1001 bridge)
Darnell Creek (North Prong Reddies River)(downstream ford on S.R. 1569 to confluence with North Fork Reddies River)
East Prong Roaring River (Stone Mountain State Park lower boundary to S.R. 1002 bridge)
Fall Creek (S.R. 1300 bridge to confluence with South Prong Lewis Fork, except where posted against trespassing)
Middle Fork Reddies River (Clear Prong)(headwaters to bridge on S.R. 1580)
Middle Prong Roaring River (headwaters to bridge on S.R. 1736)
North Fork Reddies River (Vannoy Creek)(headwaters to Union School bridge on S.R. 1559)
Pike Creek
Pike Creek Pond
South Fork Reddies River (S.R. 1355 bridge to confluence with Middle Fork Reddies River)
South Prong Lewis Fork (Fall Creek to U.S. 421 bridge adjacent to the S.R. 1155 bridge intersection)
- (C) Wild Trout Waters are as follows:
All waters located on Stone Mountain State Park, except East Prong Roaring River from Bullhead Creek downstream to the Stone Mountain State Park lower boundary where Delayed Harvest Trout Waters

regulations apply, and Stone Mountain Creek from falls at Alleghany County line to confluence with East Prong Roaring River and Bullhead Creek in Stone Mountain State Park where Delayed Harvest Trout Waters regulations apply

- (25) Yancey County
- (A) Catch and Release/Artificial Flies Only Trout Waters are as follows:
South Toe River (headwaters to Upper Creek)
Upper Creek
- (B) Delayed Harvest Trout Waters are as follows:
Cane River (Blackberry Ridge Rd. to downstream boundary of Cane River County Park)
- (C) Hatchery Supported Trout Waters are as follows:
Bald Mountain Creek (except where posted against trespassing)
Cane River (Bee Branch [S.R. 1110] to Bowlens Creek)
Price Creek (junction of S.R. 1120 and S.R. 1121 to Indian Creek)
South Toe River (Clear Creek to lower boundary line of Yancey Co. Recreation Park, except where posted against trespassing)
- (D) Wild Trout Waters are as follows:
Cattail Creek (bridge at Mountain Farm Community Rd. to N.C. 197 bridge)
Lickskillet Creek
Middle Creek (game land boundary to mouth)

(c) Permits for stocking fish shall be issued as follows:

- (1) Application for a stocking permit shall be made on a form provided by the Commission. The applicant shall specify the purpose for the stocking, species to be stocked, the source of the stock, the number of individual specimens to be released, and the location where release is desired.
- (2) Before issuing a stocking permit, the Executive Director shall review the application and determine, based on principles of wildlife management and biological science, that the proposed stocking will not:
- (A) threaten the introduction of epizootic disease or
- (B) create a danger to or an imbalance in the environment inimical to the conservation of wildlife resources.
- (3) Based on the determination made in Subparagraph (2):
- (A) If the Executive Director determines that either or both conditions cannot be met under any circumstances, the application shall be denied.
- (B) If the Executive Director determines that both conditions may be met only by the introduction of fewer than the number requested, a permit only for the number that may be safely released shall be issued.
- (C) If the Executive Director determines that the number requested may be safely released, he shall issue the permit.
- (4) Any stocking permit issued by the Commission may impose the following conditions or restrictions:
- (A) Location where the permitted number of fish may be stocked.
- (B) Certification that fish are free of certifiable diseases by the vendor or a laboratory qualified to make such determination.
- (C) Documentation of the date, time and location of the release.
- (D) Access by the Commission to the property where fish introductions occur to assess impacts of the introduction.
- (E) All conditions required shall be included in writing on the permit.

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

15A NCAC 10C .0209 TRANSPORTATION OF LIVE FISH

(a) Fish Transport: It shall be unlawful for any person, firm, or corporation to transport live freshwater nongame fishes, or live game fishes in excess of the possession limit, or fish eggs without having in possession a permit obtained from the North Carolina Wildlife Resources Commission.

(b) Fish Stocking: It shall be unlawful for any person, firm, or corporation to stock any life stage of any species of fish in the inland fishing waters of this State without having first procured a stocking permit from the North Carolina Wildlife Resources Commission.

- (5) Based on the criteria in Subparagraph (2), no permit shall be issued to stock any of the following species in the areas indicated:

SPECIES	LOCATION
Salmonids except brown, brook, and rainbow trout	Statewide
Flathead catfish	Statewide
<u>Blue Catfish</u>	<u>Statewide</u>

(d) For purposes of this Rule, stocking is the introduction or attempted introduction of one or more individuals of a particular species of live fish into public waters for any purpose other than:

- (1) As bait affixed to a hook and line, or
- (2) A release incidental to "catch and release" fishing in an area within the same body of water where the fish was caught, or within an adjacent body of water not separated from that body by any natural or manmade obstruction to the passage of that species.

(e) The release of more than the daily creel limit, or if there is no established creel limit for the species, more than five individuals of the species, shall constitute prima facie evidence of an intentional release.

Authority G.S. 113-134; 113-135; 113-274; 113-292.

15A NCAC 10C .0211 POSSESSION OF CERTAIN FISHES

(a) It shall be unlawful to transport, purchase, possess, sell, or stock in the public or private waters of North Carolina any live individuals of:

- (1) piranha;
- (2) "walking catfish" (*Clarias batrachus*);
- (3) snakehead fish (from the Family Channidae, formerly Ophiocephalidae);
- (4) black carp (*Mylopharyngodon piceus*);
- (5) bighead carp (*Hypophthalmichthys nobilis*);
- (6) silver carp (*Hypophthalmichthys molitrix*);
- (7) rudd (*Scardinius erythrophthalmus*);
- (8) round goby (*Neogobius melanostomus*);
- (9) tubenose goby (*Proterorhinus marmoratus*);
- (10) ruffe (*Gymnocephalus cernuus*);
- (11) Japanese mysterysnail (*Cipangopaludina japonica*);
- (12) Chinese mysterysnail (*Cipangopaludina chinensis malleata*);
- (13) red-rim melania (*Melanoides tuberculatus*);
- (14) virile crayfish (*Orconectes (Gremicambarus) virilis*);
- (15) rusty crayfish (*Orconectes (Procericambarus) rusticus*);
- (16) Australian red claw crayfish or "red claw" (*Cherax quadricarinatus*, or other species of "giant" crayfish species in the genus *Cherax*);
- (17) white amur or "grass carp" (*Ctenopharyngodon idella*);
- (18) swamp or "rice" eel (*Monopterus albus*);
- (19) red shiner (*Cyprinella lutrensis*);
- (20) zebra mussel (*Dreissena polymorpha*); ~~or~~
- (21) quagga mussel (*Dreissena rostriformis bugensis*) or any mussel in the family ~~Dreissenidae~~; Dreissenidae; or
- (22) redtail catfish (*Phractocephalus hemiliopterus*).

(b) A person may buy, possess, or stock grass carp that have been certified to be triploid or sterile, only for the purpose of controlling aquatic vegetation under a permit issued by the Executive Director or his or her designee based on an evaluation

of the potential for escapement and threat to sensitive aquatic habitats.

(c) It shall be unlawful to transport, possess, or release live river herring, also known as alewife or blueback herring, in the waters of the Little Tennessee River in and upstream of Lake Santeetlah and Cedar Cliff Lake, including all the tributaries and impoundments thereof, and on adjacent shorelines, docks, access ramps, and bridge crossings.

Authority G.S. 113-134; 113-274(c)(1c); 113-292.

SECTION .0300 - GAME FISH

15A NCAC 10C .0301 INLAND GAME FISHES DESIGNATED

The following fishes are classified and designated as inland game fishes:

- (1) mountain trout, all species including but not limited to rainbow, brown and brook trout;
- (2) muskellunge, chain (jack) and redfin pickerel;
- (3) yellow perch, when found in inland waters, walleye and sauger;
- (4) black bass, including Alabama, largemouth, smallmouth, spotted and redeye bass;
- (5) black and white crappie;
- (6) sunfish, including bluegill (bream), redbreast (robin), redear (shellcracker), pumpkinseed, warmouth, rock bass, (redeye), flier, Roanoke bass, and all other species of the sunfish family (Centrarchidae) not specifically listed in this Rule;
- (7) spotted sea trout (speckled trout), when found in inland fishing waters;
- (8) flounder, when found in inland fishing waters;
- (9) red drum (channel bass, red fish, puppy drum), when found in inland fishing waters;
- (10) striped bass, white bass, white perch and Morone hybrids (striped bass-white bass), when found in inland fishing waters;
- (11) American and hickory shad, when found in inland fishing waters;
- (12) ~~kokanee salmon~~; salmon; and
- (13) black bullhead, brown bullhead, flat bullhead, snail bullhead, white catfish, and yellow bullhead, when found in inland fishing waters.

Authority G.S. 113-134; 113-129.

15A NCAC 10C .0305 BLACK LARGEMOUTH BASS

(a) The daily creel limit for ~~Largemouth, Smallmouth, and Spotted Bass collectively known as Black Bass~~ – Largemouth Bass is five fish, except in waters identified in Paragraphs (b), (c), (d), and ~~(m)~~(l) of this Rule. There is no minimum size limit for ~~these fish~~, Largemouth Bass, but only two of them may be less than 14 inches except in waters identified in Paragraphs (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and ~~(m)~~(l) of this Rule. There is no closed season, except for waters identified in Paragraph ~~(m)~~(l) of this Rule.

(b) In Lake Cammack in Alamance County, and Lake Holt in Granville County the daily creel limit for Largemouth Bass is 10 fish and no more than two fish greater than 14 inches may be possessed.

(c) In Lake Santeetlah in Graham County, there is no daily creel limit for ~~Black Bass~~ Largemouth Bass and Smallmouth Bass less than 14 inches. The daily creel limit for ~~Black Bass~~ Largemouth Bass and Smallmouth Bass greater than 14 inches is five ~~fish~~ fish in aggregate.

(d) In Lake Chatuge in Clay County, the daily creel limit for ~~Black Bass~~ Largemouth Bass, Smallmouth Bass, Alabama Bass, and Spotted Bass is 10 ~~fish, the fish in aggregate. The~~ minimum size limit for Largemouth Bass is 12 ~~inches, and there is no~~ minimum size limit for Smallmouth Bass and Spotted Bass inches.

(e) The minimum size limit for ~~Black Bass~~ Largemouth Bass is 14 inches in the following:

- (1) Lake Raleigh in Wake County;
- (2) Lake Sutton in New Hanover County;
- (3) Pungo Lake in Washington and Hyde counties;
- (4) New Lake in Hyde County; and
- (5) Currituck, Roanoke, Croatan, Albemarle sounds, and all their tributaries including Roanoke River downstream of Roanoke Rapids Dam, Chowan River, Meherrin River, Yeopim River, Pasquotank River, Perquimans River, Little River, Big Flatty Creek, North River, Northwest River, Scuppernong River, Alligator River (including the Alligator/Pungo Canal east of the NC Hwy 264/45 bridge, and all other associated tributaries and canals in these river systems.

(f) In Cane Creek Lake in Union County, and Buckhorn Reservoir in Wilson and Nash counties, the minimum size limit for Largemouth Bass is 16 inches.

(g) In Lake Phelps in Tyrrell and Washington counties, the minimum size limit for Largemouth Bass is 14 inches, and no fish between 16 and 20 inches may be possessed.

(h) In Shearon Harris Reservoir and Lake Hampton in Yadkin County, there is no minimum size limit for ~~Black Bass~~ Largemouth Bass, but only two ~~Black Bass~~ Largemouth Bass less than 14 inches and no ~~Black Bass~~ Largemouth Bass between 16 and 20 inches may be possessed.

~~(i) In Randleman Reservoir, there is no minimum size limit for Largemouth Bass, but only two Largemouth Bass less than 14 inches and only one Largemouth Bass greater than 20 inches may be possessed.~~

~~(j)(i)~~ (i) In Lake Thom-A-Lex in Davidson County, the minimum size limit for ~~Black Bass~~ Largemouth Bass is 18 inches.

~~(k)(j)~~ (j) In the Alleghany County portion of New River downstream of Fields Dam (Grayson County, Virginia) there is no minimum size limit for ~~Black Bass, Largemouth Bass and Spotted Bass~~, but no fish between 14 and 22 inches in length may be possessed and only one ~~Black Bass~~ Largemouth Bass or Smallmouth Bass greater than 22 inches may be possessed.

~~(l)(k)~~ (k) In Lake Mattamuskeet and associated canals in Hyde County, the minimum size limit for Largemouth Bass is 16 inches and only one Largemouth Bass greater than 20 inches may be possessed.

~~(m)(l)~~ (l) In Jean Guite Creek and associated canals within the Town of Southern Shores, Dare County, no ~~Black Bass~~ Largemouth Bass may be possessed.

~~(n) For purposes of this Rule, creel limits apply to Largemouth, Smallmouth, and Spotted Bass in aggregate unless otherwise specified.~~

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

15A NCAC 10C.0306 CRAPPIE

(a) There is no daily creel limit for Crappie, except for waters identified in Paragraphs (b), (c), (d), (e), and (f) of this Rule. There is no minimum size limit for these fish, except for waters identified in Paragraphs (d), (e), and (f). There is no closed season.

(b) In Buckhorn Reservoir in Wilson and Nash counties, the daily creel limit is 20 fish.

(c) In Lake Chatuge in Clay County, the daily creel limit is 30 fish.

(d) In the following waters, the daily creel limit is 20 fish and the minimum size limit is 10 inches:

- (1) B. Everett Jordan Reservoir;
- (2) Roanoke River and its tributaries downstream of Roanoke Rapids dam;
- (3) Cashie River and its tributaries;
- (4) Middle River and its tributaries;
- (5) Eastmost River and its tributaries; and
- (6) Lake Mattamuskeet and associated canals in Hyde County.

(e) In the following waters, the daily creel limit is 20 fish and the minimum size limit is eight inches:

- ~~(1) Pee Dee River from Blewett Falls Dam to the South Carolina state line;~~
- ~~(2) Badin Lake;~~
- ~~(3) Falls Lake (Stanly and Montgomery counties);~~
- ~~(4) Lake Tillery;~~
- ~~(5) Blewett Falls Lake;~~
- ~~(6)(1) Lake Norman;~~
- ~~(7)(2) Lake Hycos;~~
- ~~(8)(3) Lake Ramseur;~~
- ~~(9)(4) Cane Creek Lake; Lake (Union County);~~
- ~~(10)(5) Lake Hampton (Yadkin County);~~
- ~~(11)(6) Tar River downstream of Tar River Reservoir Dam and all tributaries;~~
- ~~(12)(7) Neuse River downstream of Falls Lake Dam and all tributaries;~~
- ~~(13)(8) Haw River downstream of Jordan Lake Dam and all tributaries;~~
- ~~(14)(9) Deep River downstream of Lockville Dam and all tributaries;~~
- ~~(15)(10) Cape Fear River and all tributaries;~~
- ~~(16)(11) Waccamaw River downstream of Lake Waccamaw Dam and all tributaries;~~
- ~~(17)(12) Lumber River including Drowning Creek and all tributaries;~~
- ~~(18)(13) all other public fishing waters east of Interstate 95, except Tar River Reservoir in Nash County, Sutton Lake in New Hanover County, and waters listed in Paragraph (d) of this Rule; and~~

~~(19)~~(14) all public waters west of Interstate 77, except Lake Chatuge.

(f) In John H. Kerr Reservoir, the daily creel limit is 25 fish and the minimum size limit is nine inches.

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

15A NCAC 10C .0308 KOKANEE SALMON

The daily creel limit for Kokanee Salmon is ~~seven~~ four fish. There is no minimum size limit for ~~these fish~~. Kokanee Salmon. There is no closed season for Kokanee Salmon.

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

15A NCAC 10C .0314 STRIPED BASS

(a) The daily creel limit for Striped Bass and its hybrids is four fish in the aggregate, except in waters identified in Paragraphs (b), (e), (f), (g), (h), (i), and (j) of this Rule. The minimum size limit for these fish is 20 inches, except in waters identified in Paragraphs (b), (c), (d), (e), (f), (g), (h), (i), and (j) of this Rule. There is no closed season, except for waters identified in Paragraphs (g), (h), (i), (j), and (k) of this Rule.

(b) In the Dan River upstream from its confluence with Bannister River to the dam at Union Street in Danville, VA and in John H. Kerr Reservoir, the daily creel limit on Striped Bass and its hybrids is two in the aggregate and the minimum size limit is 20 inches from October 1 through May 31. From June 1 through September 30, the daily creel limit on Striped Bass and its hybrids is four in the aggregate with no minimum size limit.

(c) In Lake Gaston and Roanoke Rapids Reservoir, the minimum size limit for Striped Bass and its hybrids is 20 inches from October 1 through May 31. There is no minimum size limit for these fish from June 1 through September 30.

(d) In Lake Norman, ~~Arrowhead Lake (Anson Co.), High Rock Pond (Caswell Co.),~~ Hycó Lake, Moss Lake, Mountain Island Reservoir, Oak Hollow Lake, Lake Thom-A-Lex, Lake Townsend, and Salem Lake the minimum size limit for Striped Bass and its hybrids is 16 inches.

(e) In Lake Chatuge in Clay County, the daily creel limit is 15 in the aggregate. There is no minimum size limit, but only two may be greater than 22 inches.

(f) In Lake Mattamuskeet, and in the Pee Dee River and its tributaries downstream from the Blewett Falls Dam to the South Carolina state line, the daily creel limit for Striped Bass and its hybrids is three fish in the aggregate, and the minimum size limit is 18 inches.

(g) In the inland fishing waters of Neuse, Pungo, and Tar Pamlico rivers and their tributaries extending upstream to the first impoundment of the main course on the river or its tributaries, and in all other inland fishing waters east of Interstate 95 not specified in Paragraphs (f), (h), (i), and (j) of this Rule, the daily creel limit for Striped Bass and its hybrids is two fish in the aggregate. The minimum size limit is 26 inches. In these waters, the season for taking and possessing Striped Bass is closed from May 1 through September 30.

(h) In the inland fishing waters of the Cape Fear River and its tributaries downstream of Buckhorn Dam, the season for taking and possessing Striped Bass is closed year-round.

(i) In the inland and joint fishing waters of the Roanoke River Striped Bass Management Area, as established in 15A NCAC 03R .0201 and identified in 15A NCAC 10C .0110, which includes the Roanoke, Cashie, Middle, and Eastmost rivers and their tributaries, the open season for taking and possessing Striped Bass and its hybrids is March 1 through April 30 from the joint-coastal fishing waters boundary at Albemarle Sound upstream to Roanoke Rapids Lake dam. During the open season, the daily creel limit for Striped Bass and its hybrids is two fish in the aggregate, and the minimum size limit is 18 inches. No fish between 22 inches and 27 inches in length shall be possessed in the daily creel limit. Only one fish larger than 27 inches may be possessed in the daily creel limit.

(j) 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), the Striped Bass fishing season, size limits, and creel limits are the same as those established by rules or proclamations of the Marine Fisheries Commission in adjacent joint or coastal fishing waters.

(k) In accordance with G.S. 113-292, the Executive Director may, by proclamation, suspend, or extend the hook-and-line season for Striped Bass in the inland and joint waters of coastal rivers and their tributaries. It is unlawful to violate the provisions of any proclamation issued under this authority.

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

15A NCAC 10C .0316 TROUT

(a) The daily creel limit for trout in Hatchery-Supported Trout Waters is seven fish. There is no minimum size limit for these fish. The open season is from 7 a.m. on the first Saturday in April until March 1, except for waters designated in Paragraph (g) of this Rule.

(b) The daily creel limit for trout in Wild Trout Waters and Wild Trout/Natural Bait Trout Waters is four fish. The minimum size limit for these fish is seven inches. There is no closed season.

(c) No trout may be harvested from Catch and Release/Artificial Lures Only Trout Waters or Catch and Release/Artificial Flies Only Trout Waters. Trout may not be possessed while fishing these waters.

(d) The daily creel limit for trout in Delayed Harvest Trout Waters is seven fish. There is no minimum size limit for these fish. The Youth-only Delayed Harvest Trout Water Season is from 6 a.m. on the first Saturday in June until 12 p.m. that same day. During this season only individuals under the age of 18 may fish. From 12 p.m. on the first Saturday in June until September 30, the Delayed Harvest Trout Waters Season is open for all anglers. From October 1 to one-half hour after sunset on the Friday before the first Saturday in June, trout may not be harvested or possessed while fishing these waters. Delayed Harvest Trout Waters are closed to all fishing from one-half hour after sunset on the Friday before the first Saturday in June to 6 a.m. on the first Saturday in June.

(e) The daily creel limits, size limits, and seasons for trout in Special Regulation Trout Waters are as follows:

- (1) Apalachia Reservoir (Cherokee County) the daily creel limit is three trout. There is no

minimum size limit, but only one may be greater than 14 inches. There is no closed season.

- (2) Catawba River (Burke County) from Muddy Creek to the City of Morganton water intake dam the daily creel limit is two fish. The minimum size limit is 14 inches. There is no closed season.

(f) The daily creel limit for trout in undesignated trout waters is seven fish. There is no minimum size limit for these fish.

(g) There is no closed season on taking trout from Linville River within Linville Gorge Wilderness Area and the impounded waters of the following power reservoirs and municipally-owned water supply reservoirs open to the public for fishing.

- (1) Bear Creek Lake;
- (2) Buckeye Creek Reservoir;
- (3) Calderwood Reservoir;
- (4) Cedar Cliff Lake;
- (5) Cheoah Reservoir;
- (6) Cliffside Lake;
- (7) Tanassee Creek Lake;
- (8) Queens Creek Lake; and
- (9) Wolf Lake.

(h) In designated Public Mountain Trout Waters the season for taking all species of fish is the same as the trout fishing season.

(i) All trout water designations and manners of take are set forth in 15A NCAC 10C .0205.

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

15A NCAC 10C .0321 SMALLMOUTH BASS

(a) The daily creel limit for Smallmouth Bass is five fish, except in waters identified in Paragraphs (b) and (c) of this Rule. There is no minimum size limit for Smallmouth Bass, but only two of them may be less than 14 inches, except in waters identified in Paragraphs (b), (c), and (d) of this Rule. There is no closed season.

(b) In Lake Santeetlah in Graham County, there is no daily creel limit for Largemouth Bass and Smallmouth Bass less than 14 inches. The daily creel limit for Largemouth Bass and Smallmouth Bass greater than 14 inches is five fish in aggregate.

(c) In Lake Chatuge in Clay County, the daily creel limit for Largemouth Bass, Smallmouth Bass, Alabama Bass, and Spotted Bass is 10 fish in aggregate. There is no minimum size limit for Smallmouth Bass.

(d) In the Alleghany County portion of New River downstream of Fields Dam (Grayson County, Virginia) there is no minimum size limit for Largemouth Bass and Smallmouth Bass, but no fish between 14 and 22 inches in length may be possessed and only one Largemouth Bass or Smallmouth Bass greater than 22 inches may be possessed.

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

15A NCAC 10C .0322 ALABAMA BASS AND SPOTTED BASS

(a) There is no daily creel limit for Alabama Bass or Spotted Bass, except for waters identified in Paragraph (b) of this Rule. There is no minimum size limit or closed season.

(b) In Lake Chatuge in Clay County, the daily creel limit for Largemouth Bass, Smallmouth Bass, Alabama Bass, and Spotted Bass is 10 fish in aggregate.

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

15A NCAC 10C .0323 REDEYE BASS

The daily creel limit for Redeye Bass is five fish. There is no minimum size limit for Redeye Bass, but only two of them may be less than 14 inches. There is no closed season.

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

15A NCAC 10C .0324 CATFISH

The daily creel limit for Black Bullhead, Brown Bullhead, Flat Bullhead, Snail Bullhead, White Catfish, and Yellow Bullhead is 10 fish in aggregate. There is no minimum size limit or closed season for Black Bullhead, Brown Bullhead, Flat Bullhead, Snail Bullhead, White Catfish, and Yellow Bullhead.

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

**SECTION .0400 – JURISDICTION OF AGENCIES:
CLASSIFICATION OF WATERS**

15A NCAC 10C .0401 MANNER OF TAKING NONGAME FISHES

(a) Except as permitted by the rules in this Section, it is unlawful to take nongame fishes from the inland fishing waters of North Carolina in any manner other than with hook and line, grabbling, or special device with a special device fishing license.

(b) Nongame fishes may be taken by hook and line, grabbling, or special device with a special device fishing license at any time without restriction as to size limits or creel limits, except as designated in this Rule.

(c) Special devices may only be used to take nongame fishes with a special device fishing license in those counties and waters with open season designated in 15A NCAC 10C .0407.

(d) Archery equipment may only be used for the take of catfish on Pee Dee River downstream of Blewett Falls Dam to the South Carolina state line and all tributaries.

(e) Set hooks, jug hooks, and trotlines may be used to take nongame fishes as designated in 15A NCAC 10C .0206.

(f) The season for taking nongame fishes by hook and line in designated public mountain trout waters is the same as the trout fishing season. Trout seasons are designated in 15A NCAC 10C .0316.

(g) Freshwater mussels, including the Asiatic clam (*Corbicula fluminea*), may be taken only from impounded waters, except mussels shall not be taken in:

- (1) Lake Waccamaw in Columbus County; and
- (2) University Lake in Orange County.

The daily possession limit for freshwater mussels is 200 in the aggregate, except there is no daily possession limit for the Asiatic clam (*Corbicula fluminea*).

(h) Blue crabs shall have a minimum carapace width of five inches (point to point) and it is unlawful to possess more than 50 crabs per person per day or to exceed 100 crabs per vessel per day.

(i) While boating on or fishing in the following inland fishing waters, no person shall take river herring (alewife and blueback herring) that are greater than six inches in length, or possess such herring regardless of origin in:

- (1) Roanoke River downstream of Roanoke Rapids Dam;
- (2) Tar River downstream of Rocky Mount Mill Dam;
- (3) Neuse River downstream of Falls Lake Dam;
- (4) Cape Fear River downstream of Buckhorn Dam;
- (5) Pee Dee River downstream of Blewett Falls Dam;
- (6) Lumber River, including Drowning Creek;
- (7) all the tributaries to the rivers listed above; and
- (8) all other inland fishing waters east of I-95.

(j) In waters that are stocked and managed for catfish and located on game lands, on Commission-owned property, or on the property of a cooperater, including waters within the Community Fishing Program, it is unlawful to take channel, white, or blue catfish by means other than hook and line; the daily creel limit is ~~six~~ seven catfish in aggregate. Waters where this creel limit applies shall be posted on-site with signs indicating the creel limit.

(k) The daily creel limit for blue catfish greater than 32 inches is one fish in the following reservoirs:

- (1) Lake Norman;
- (2) Mountain Island Lake;
- (3) Lake Wylie;
- (4) Badin Lake;
- (5) Lake Tillery;
- (6) John H. Kerr Reservoir (North Carolina portion);
- (7) Lake Gaston (North Carolina portion); and
- (8) Roanoke Rapids Reservoir.

(l) The daily creel limit is five catfish in aggregate on the Pee Dee River downstream of Blewett Falls Dam to the South Carolina state line and all tributaries.

(m) The daily creel limit for American eels taken from or possessed, regardless of origin, while boating on or fishing in inland fishing waters is 25, and the minimum size limit is 9 inches.

(n) Grass carp shall not be taken or possessed on Lake James, Lookout Shoals Lake, Mountain Island Reservoir, and Lake Wylie, except that one fish per day may be taken with archery equipment.

(o) Grass carp shall not be taken or possessed on Lake Norman and the North Carolina portion of John H. Kerr Reservoir, except for scientific study by permit issued by the Wildlife Resources Commission.

(p) In inland fishing waters, gray trout (weakfish) recreational seasons, size limits, and creel limits are the same as those established by Marine Fisheries Commission rule or proclamations issued by the Fisheries Director in adjacent joint or coastal fishing waters.

(q) No person while fishing shall remove the head or tail or otherwise change the appearance of any nongame fish specified in Paragraphs (h), (i), (k), (m), and (p) of this Rule having a size limit so as to render it impractical to measure its total original length. No person while fishing shall change the appearance of any nongame fish specified in Paragraphs (g), (h), (j), (k), (l), (m),

(n), (o), and (p) of this Rule having a daily creel limit so as to obscure its identification or render it impractical to count the number of fish in possession.

(r) Nongame fishes taken by hook and line, grabbling, or by special device with a special device fishing license may be sold, with the following exceptions:

- (1) alewife and blueback herring, excluding those less than six inches in length collected from Kerr Reservoir (Granville, Vance, and Warren counties);
- (2) blue crab; and
- (3) bowfin.

(s) Margined madtom and tadpole madtom shall not be taken or possessed from inland fishing waters.

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

SUBCHAPTER 10D - GAME LANDS REGULATIONS

SECTION .0100 - GAME LANDS REGULATIONS

15A NCAC 10D .0102 GENERAL REGULATIONS REGARDING USE

(a) For purposes of this Subchapter, the following definitions apply:

- (1) "Permanent Hunting Blind" means any structure that is used for hunter concealment, constructed from manmade or natural materials, and that is not disassembled and removed at the end of each day's hunt.
- (2) "Target shooting" means the discharge of a firearm for purposes other than hunting, trapping, or self-defense.
- (3) "Youth" means individuals under 18 years of age.

(b) Trespass. Entry on game lands for purposes other than hunting, trapping, or fishing shall be as authorized by the landowner. The Wildlife Resources Commission has identified the following areas on game lands that have additional restrictions on entry or usage:

- (1) Archery Zone. On portions of game lands posted as "Archery Zones" hunting is limited to bow and arrow hunting and falconry only. On these areas, deer of either sex may be taken on all open days of any applicable deer season.
- (2) Safety Zone. On portions of game lands posted as "Safety Zones" hunting is prohibited. No person shall hunt or discharge a firearm or bow and arrow within, into, or across a posted safety zone on any game land. Falconry is exempt from this provision.
- (3) Restricted Firearms Zone. On portions of game lands posted as "Restricted Firearms Zones" the use of centerfire rifles is prohibited.
- (4) Restricted Zone. Portions of game lands posted as "Restricted Zones" are closed to all use by the general public, and entry upon such an area for any purpose is prohibited without first having obtained written approval of such entry

or use from an authorized agent of the Wildlife Resources Commission. Entry shall be authorized only when such entry will not compromise the primary purpose for establishing the Restricted Zone and the person or persons requesting entry are able to demonstrate a valid need or such person is a contractor or agent of the Commission conducting official business. "Valid need" includes issues of access to private property, scientific investigations, surveys, or other access to conduct activities in the public interest.

- (5) Temporary Restricted Zone. Portions of game lands posted as "Temporary Restricted Zones" are closed to all use by the general public, and entry upon such an area for any purpose is prohibited without first having obtained written approval of such entry or use from an authorized agent of the Wildlife Resources Commission. An area of a game land shall be declared a Temporary Restricted Zone when there is a danger to the health or welfare of the public due to topographical features or activities occurring on the area.
- (6) Scouting-only Zone. On portions of the game lands posted as "Scouting-only Zones" the discharge of firearms or bow and arrow is prohibited.
- (7) Restricted Deer Hunting Zone. On portions of game lands posted as "Restricted Deer Hunting Zones" the use of dogs for taking deer is prohibited, except as allowed by permit as provided in G.S. 113-264(d).
- (8) Day Use Only Zone. On portions of game lands posted as "Day Use Only Zones" the use by the general public shall be prohibited from sunset to sunrise.
- (9) Sensitive Habitat Zone. Portions of game lands posted as "Sensitive Habitat Zones" are closed to all use by the general public during the dates specified on the sign, and entry upon such an area for any purpose is prohibited without first having obtained written approval of such entry or use from an authorized agent of the Wildlife Resources Commission.

The Commission shall conduct a public input meeting in the area where the game land is located before establishing the following zones: archery, restricted firearms, restricted ~~zone~~, restricted deer hunting, ~~or day use only~~, only, or sensitive habitat. After the input meeting, the public comments shall be presented at an official Commission meeting for final determination.

- (c) Littering. No person shall deposit any litter, trash, garbage, or other refuse at any place on any game land except in receptacles provided for disposal of such refuse at designated camping and target-shooting areas. No garbage dumps or sanitary landfills shall be established on any game land by any person, firm, corporation, county, or municipality, except as permitted by the landowner.
- (d) Use of weapons. No person shall discharge:

- (1) any weapon within 150 yards of any game land building or designated game land camping area, except where posted otherwise;
- (2) any weapon within 150 yards of any residence located on or adjacent to game lands, except on Butner-Falls of Neuse and Jordan game lands; and
- (3) any firearm within 150 yards of any residence located on or adjacent to Butner-Falls of Neuse and Jordan Game Lands.

No person shall hunt with or have in possession any shotgun shell containing lead or toxic shot while hunting on any posted waterfowl impoundment on any game land, except shotgun shells containing lead buckshot may be used while deer hunting. Every individual carrying a concealed handgun shall adhere to the requirements set forth in G.S. 14-415.11, even if the state issuing the concealed handgun permit is not North Carolina. On Butner-Falls of Neuse, Jordan, Kerr Scott, and Vance game lands, no person shall possess loaded firearms, ammunition, bows and arrows, crossbows, or other weapons except as provided in the Code of Federal Regulations, Title 36, Chapter III, Part 327.13, which is incorporated by reference, including subsequent amendments and editions, free of charge, at: http://www.ecfr.gov/cgi-bin/text-idx?SID=75b0c14fb2c26906cf64a267eb69b052&mc=true&node=se36.3.327_113&rgn=div8. On Buckhorn, Chatham, Harris, Hyco, Lee, Mayo, and Sutton Lake game lands; Pee Dee River Game Land north of U.S. 74; and that portion of R. Wayne Bailey-Caswell Game Land that is located north of U.S. 158 and east of N.C. 119, no person shall possess a firearm during closed hunting seasons or closed hunting days for game birds or game animals, except under the following conditions:

- (1) the firearm is a .22 caliber pistol with a barrel not greater than seven and one-half inches in length and shooting only short, long, or long rifle ammunition carried as a side arm;
- (2) the firearm is cased or not immediately available for use;
- (3) the firearm is used by persons participating in field trials on field trial areas; or
- (4) the firearm is possessed in designated camping areas for defense of persons and property.

(e) Game Lands License: Hunting and Trapping

- (1) Requirement. Except as provided in Subparagraph (4) of this Paragraph, any person entering upon any game land for the purpose of hunting, trapping, running dogs, or training dogs using wildlife shall have in his or her possession a game lands license in addition to the appropriate hunting or trapping license, or a license that conveys the game land use privilege.
- (2) For commission-sanctioned field trials, active participants (as defined in 15A NCAC 10B .0114) in a field trial using wildlife shall possess a game lands license in addition to the appropriate North Carolina hunting license, or a license that conveys the game land use

privilege, except non-residents may substitute hunting licenses from their state(s) of residence.

- (3) For any other field trial using wildlife occurring on game lands, judges and active participants shall possess a game lands license in addition to the appropriate North Carolina hunting license, or a license that conveys the game land use privilege.

(4) Exceptions:

- (A) a person under 16 years of age may hunt on game lands on the license of his parent or legal guardian;
- (B) on the game lands described in Rule .0103(e)(1) of this Section, the game lands license is required only for hunting doves; all other activities are subject to the control of the landowners.

(f) **Field Trials and Training Dogs.** Any individual or organization sponsoring a field trial on the Sandhills Field Trial area or the Laurinburg Fox Trial facility, shall file with the Commission an application to use the area and facility accompanied by the facility use fee computed at the rate of two hundred dollars (\$200.00) for each scheduled day of the trial. The total facility use fee shall cover the period from 12:00 noon of the day preceding the first scheduled day of the trial to 10:00 a.m. of the day following the last scheduled day of the trial. The facility use fee shall be paid for all intermediate days on which for any reason trials are not run but the building or facilities are used or occupied. A fee of seventy-five dollars (\$75.00) per day shall be charged to sporting, educational, or scouting groups for scheduled events utilizing the club house only. No person or group of persons or any other entity shall enter or use in any manner any of the physical facilities located on the Sandhills Field Trial area or the Laurinburg Fox Trial facility without first having obtained written approval of such entry or use from an authorized agent of the Wildlife Resources Commission, and no such entry or use of any such facility shall exceed the scope of or continue beyond the approved use. The Sandhills Field Trial facilities shall be used only for field trials scheduled with the approval of the Wildlife Resources Commission. No more than 16 days of field trials may be scheduled for occurrence on the Sandhills facilities during any calendar month, and no more than four days may be scheduled during any calendar week; provided, that a field trial requiring more than four days may be scheduled during one week upon reduction of the maximum number of days allowable during some other week so that the monthly maximum of 16 days is not exceeded. Before October 1 of each year, the North Carolina Field Trial Association or other organization desiring use of the Sandhills facilities between October 22 and November 18 and between December 3 and March 31 shall submit its proposed schedule of such use to the Wildlife Resources Commission for its consideration and approval. The use of the Sandhills Field Trial facilities at any time by individuals for training dogs is prohibited; elsewhere on the Sandhills Game Lands dogs may be trained only on Mondays, Wednesdays, and Saturdays from October 1 through April 1. Dogs may not be trained or permitted to run unleashed from April 1 through August 15 on any game land located west of I-95, except when participating in field trials sanctioned by the

Wildlife Resources Commission. Dogs may not be trained or permitted to run unleashed from March 15 through June 15 on any game land located east of I-95, except when participating in field trials sanctioned by the Wildlife Resources Commission. Additionally, on game lands located west of I-95 where special hunts are scheduled for sportsmen participating in the Disabled Sportsman Program, dogs may not be trained or allowed to run unleashed during legal big game hunting hours on the dates of the special hunts. A field trial shall be authorized when such field trial does not conflict with other planned activities on the Game Land or field trial facilities, and the applying organization can demonstrate their experience and expertise in conducting genuine field trial activities. Entry to physical facilities, other than by field trial organizations under permit, shall be granted when they do not conflict with other planned activities previously approved by the Commission and they do not conflict with the mission of the agency.

(g) **Trapping.** Subject to the restrictions contained in 15A NCAC 10B .0110, .0302, and .0303, trapping of furbearing animals is permitted on game lands during the applicable open seasons, except that trapping is prohibited:

- (1) on the field trial course of the Sandhills Game Land;
- (2) in posted "safety zones" located on any game land;
- (3) by the use of bait on the National Forest Lands bounded by the Blue Ridge Parkway on the south, US 276 on the north and east, and NC 215 on the west;
- (4) on the John's River Waterfowl Refuge in Burke County; and
- (5) on the DuPont State Forest Game Lands.

On those areas of state-owned land known collectively as the Roanoke River Wetlands, controlled trapping is allowed under a permit system.

(h) **Vehicular Traffic.** No person shall drive a motorized vehicle on any game land except on those roads constructed, maintained, and opened for vehicular travel and those trails posted for vehicular travel, unless such person:

- (1) is driving in the vehicle gallery of a scheduled bird dog field trial held on the Sandhills Game Land; or
- (2) is a disabled sportsman as defined in Paragraph (k) of this Rule or holds a Disabled Access Program Permit as described in Paragraph (m) of this Rule and is abiding by the rules described in Paragraph (m).

(i) **Camping.**

- (1) No person shall camp on any game land except on an area designated by the landowner for camping.
- (2) On game lands owned by the State of North Carolina, where the North Carolina Wildlife Resources Commission is the primary custodian, the maximum period of consecutive overnight camping at any designated camping area is 14 days within any 30-day period from May 1 through August 31. After 14 consecutive

days of camping, all personal belongings shall be removed from the game land.

(j) **Swimming.** Swimming is prohibited in the lakes located on the Sandhills Game Land.

(k) **Disabled Sportsman Program.** In order to qualify for permit hunts for disabled sportsmen offered by the Commission and use of designated blinds during those hunts, an individual shall possess a Disabled Veteran Sportsman license, a Totally Disabled Sportsman license, or a disabled sportsman hunt certification issued by the Commission. In order to qualify for the certification, the applicant shall provide medical certification of one or more of the following disabilities:

- (1) missing 50 percent or more of one or more limbs, whether by amputation or natural causes;
- (2) paralysis of one or more limbs;
- (3) dysfunction of one or more limbs rendering the person unable to perform the task of grasping and lifting with the hands and arms or unable to walk without mechanical assistance, other than a cane;
- (4) disease, injury, or defect confining the person to a wheelchair, walker, or crutches; or
- (5) deafness.

On game lands where the privileges described in Paragraph (m) of this Rule apply, participants in the program may operate electric wheel chairs, all terrain vehicles, or other passenger vehicles:

- (1) on ungated or open-gated roads normally closed to vehicular traffic; and
- (2) on any Commission-maintained road open for vehicular travel and those trails posted for vehicular travel.

Each program participant may be accompanied by one companion provided such companion has in his possession the companion card issued by the Commission. Hunters who qualify under the Disabled Sportsman Program and their companions may access special hunting blinds for people with disabilities during regularly scheduled, non-permit hunting days on a first come basis, except for those blinds located on the Restricted Area of Caswell Game Land.

(l) **Release of Animals and Fish.** It is unlawful to release pen-raised animals or birds, wild animals or birds, domesticated animals, except hunting dogs and raptors where otherwise permitted for hunting or training purposes, or feral animals, or hatchery-raised fish on game lands without prior written authorization. It is unlawful to move wild fish from one stream to another on game lands without prior written authorization. Written authorization shall be given when release of such animals is determined by a Wildlife Resources Commission biologist not to be harmful to native wildlife in the area and such releases are in the public interest or advance the programs and goals of the Wildlife Resources Commission.

(m) **Non-Highway Licensed Vehicles.** It is unlawful to operate motorized land vehicles not licensed for highway use on Game Lands except for designated areas on National Forests. Disabled persons as defined in Paragraph (k) of this Rule and people who have obtained a Disabled Access Program permit are exempt from the previous sentence but shall comply with the terms of their permit. Furthermore, disabled persons, as defined under the

federal Americans with Disabilities Act (42 U.S.C. 126) may use wheelchairs or other mobility devices designed for indoor pedestrian use on any area where foot travel is allowed.

(n) **Disabled Access Program.** Permits issued under this program shall be based upon medical evidence submitted by the person verifying that a handicap exists that limits physical mobility to the extent that normal utilization of the game lands is not possible without vehicular assistance. Persons meeting this requirement may operate electric wheel chairs, all terrain vehicles, and other passenger vehicles on any Commission-maintained road open for vehicular travel and those trails posted for vehicular travel and ungated or open-gated roads otherwise closed to vehicular traffic on game lands owned by the Wildlife Resources Commission and on game lands whose owners have agreed to such use. Those game lands, or parts thereof, where this Paragraph applies are designated in the game land rules and map book. This Paragraph does not permit vehicular access on fields, openings, roads, paths, or trails planted for wildlife food or cover. One companion, who is identified by a companion card issued to each qualified disabled person, may accompany a disabled person to provide assistance, provided the companion is at all times in visual or verbal contact with the disabled person. The companion may participate in all lawful activities while assisting a disabled person, provided license requirements are met. Any vehicle used by a qualified disabled person for access to game lands under this provision shall display the vehicular access permit issued by the Wildlife Resources Commission in the passenger area of the vehicle where it can easily be seen by Commission staff outside the vehicle. It is unlawful for anyone other than disabled persons as defined in Paragraph (k) of this Rule and those holding a Disabled Access Permit to hunt, during waterfowl season, within 100 yards of a waterfowl blind designated by the Wildlife Resources Commission as a Disabled Sportsman's hunting blind.

(o) **Public nudity.** Public nudity, including nude sunbathing, is prohibited on any Game Land, including land or water. For the purposes of this Section, "public nudity" means a person's intentional failure to cover with a fully opaque covering the person's genitals, pubic area, anal area, or female breasts below a point from the top of the areola while in a public place.

(p) **Shooting Ranges.** On public shooting ranges managed by the Commission, no person shall use designated shooting ranges for any purpose other than for firearm or bow and arrow marksmanship, development of shooting skills, or for other safe uses of firearms and archery equipment. All other uses, including camping, building fires, operating concessions or other activities not directly involved with recreational or competitive shooting are prohibited, except for activities that have been approved by the Commission and for which a permit has been issued may be conducted, provided that the permit authorizing such activity is available for inspection by wildlife enforcement officers at the time the activity is taking place. No person, when using any shooting range, shall deposit any debris or refuse on the grounds of the range. This includes any items used as targets, except that clay targets broken on the range, by the shooter, may be left on the grounds where they fall. No person shall shoot any items made of glass on the grounds of the range. No person may leave any vehicle or other obstruction in such a location or position that it will prevent, impede, or inconvenience the use by other persons of any shooting range. No person shall leave parked any vehicle

or other object at any place on the shooting range other than such a place or zone as is designated as an authorized parking zone and posted or marked as such. No person shall handle any firearms or bow and arrow on a shooting range in a careless or reckless manner. No person shall intentionally shoot into any target holder, post, or other permanent fixture or structure while using a shooting range. No person shall shoot a firearm in a manner that would cause any rifled or smoothbore projectiles to travel off of the range, except that shotgun shot, size No. 4 or smaller may be allowed to travel from the range if it presents no risk of harm or injury to any person(s). Persons using a shooting range shall obey posted range safety rules and those persons who violate range safety rules or create a public safety hazard shall leave the shooting range if directed to by law enforcement officers or to leave by Commission employees. No person shall handle any firearms on a shooting range while under the influence of an impairing substance. The consumption of alcohol or alcoholic beverages on a shooting range is prohibited. Open days and hours of operation shall be designated on signs and at least one such sign shall be posted at the entrance to each shooting range. No person, when using any shooting range, shall do any act that is prohibited or neglect to do any act that is required by signs or markings placed on such area under authority of this Rule for the purpose of regulating the use of the area.

(q) Limited-access Roads. During the months of June, July, and August, roads posted as "Limited-access Roads" are open to motorized vehicles from 5:00 a.m. to 10:00 p.m. only. These roads shall be posted with the opening and closing times.

Authority G.S. 113-129; 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306; 143-318.10.

15A NCAC 10D .0103 HUNTING ON GAME LANDS

(a) Safety Requirements. No person while hunting on any designated game land shall be under the influence of alcohol or any narcotic drug, or fail to comply with restrictions enacted by the National Park Service regarding the use of the Blue Ridge Parkway where it adjoins game lands listed in this Rule.

(b) Traffic Requirements. No person shall park a vehicle on game lands in such a manner as to block traffic or gates, or otherwise prevent vehicles from using any roadway.

(c) Tree Stands. It is unlawful to erect or to occupy, for the purpose of hunting, any tree stand or platform attached by nails, screws, bolts, or wire to a tree on any game land designated herein. This prohibition does not apply to lag-screw steps or portable stands that are removed after use with no metal remaining in or attached to the tree.

(d) Time and Manner of Taking. Hunting is allowed on game lands only during the open season for game animals and game birds, unless hunting is allowed by permit. Individual game lands or parts thereof may be closed to hunting or limited to specific dates by this Chapter. Persons shall hunt only with weapons lawful for the open game animal or game bird seasons. On managed waterfowl impoundments, persons shall:

- (1) not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates;
- (2) not hunt after 1:00 p.m. on such hunting dates;
- (3) not set decoys out prior to 4:00 a.m.;
- (4) remove decoys by 3:00 p.m. each day; and

- (5) not operate any vessel or vehicle powered by an internal combustion engine.

On designated youth waterfowl days ~~occurring after the end of the regular waterfowl seasons only~~, youths may hunt on managed waterfowl impoundments from ½ hour before sunrise to sunset. On designated veterans/military waterfowl days, veterans, active duty members of the armed forces, active duty national guardsmen, and active duty reservists with valid credentials may hunt on game lands and impoundments not designated as permit-only areas from ½ hour before sunrise to sunset. Restrictions (1), (3), and (5) in this Paragraph shall apply. On waterfowl impoundments that have a posted "Scouting-only Zone," trapping during the trapping season and waterfowl hunting on designated waterfowl hunting days are the only activities allowed on the portion of the impoundment outside of the posted "Scouting-only Zone." No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal that has been so mutilated. No person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization of the Commission or its agent. A decision to grant or deny authorization shall be made based on the best management practices for the wildlife species in question. No person shall take or attempt to take any game birds or game animals attracted to such foods.

(e) Definitions:

- (1) For purposes of this Section, "Dove Only Area" refers to a Game Land on which doves may be taken and dove hunting is limited to Mondays, Wednesdays, Saturdays, Thanksgiving Day, Christmas Day, and New Year's Days within the federally-announced season.
- (2) For purposes of this Section, "Three Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays, Thanksgiving Day, Christmas Day, and New Year's Days, except for game lands in this Rule that specifically allow hunting on Tuesdays, Thursday, and Fridays. Falconry may also be practiced on Sundays. These "open days" also apply to either-sex deer hunting seasons listed under each game land. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays.
- (3) For purposes of this Section, "Six Days per Week Area" refers to a Game Land on which any game may be taken on the open days of Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday during the open seasons.

(f) Hunting with Dogs on Game Lands. Deer shall not be taken with the use of dogs on game lands in counties or parts of counties where taking deer with dogs is prohibited as described in 15A NCAC 10B .0109.

(g) The listed seasons and restrictions apply in the following game lands:

PROPOSED RULES

- (1) Alcoa Game Land in Davidson, Davie, Montgomery, Rowan, and Stanly counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter in that portion in Montgomery county, and deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season in those portions in Davidson, Davie, Rowan, and Stanly counties.
 - (C) On the Lick Creek Tract, deer and bear hunting is archery only.
- (2) Alligator River Game Land in Tyrrell County
 - (A) Six Day per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.
- (3) Angola Bay Game Land in Duplin and Pender counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Target shooting is prohibited.
- (4) Bachelor Bay Game Land in Bertie, Martin, and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (5) Bertie County Game Land in Bertie County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Target Shooting is prohibited.
- (6) Bladen Lakes State Forest Game Land in Bladen County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Except for blackpowder firearms, rifles larger than .22 caliber rimfire shall not be used.
 - (D) On the Singletary Lake Tract, the use of dogs for hunting deer and bear is prohibited.
 - (E) Wild turkey hunting on the Singletary Lake Tract is by permit only.
- (F) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
- (G) The use of dogs for pursuing or taking foxes ~~is~~ shall be prohibited from March February 15 through July 15- August 1.
- (7) Brinkleyville Game Land in Halifax County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Horseback riding is prohibited.
 - (D) Target Shooting is prohibited.
- (8) Brunswick County Game Land in Brunswick County
 - (A) Hunting is by permit only.
 - (B) The use of dogs for hunting deer is prohibited.
- (9) Buckhom Game Land in Orange County
 - (A) Hunting is by permit only.
 - (B) Horseback riding is prohibited.
- (10) Buckridge Game Land in Tyrrell County.
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days of the second week of the December Bear Season. If any of these days falls on a Tuesday, Friday or Saturday, bear hunting is allowed on those days.
 - (D) Target shooting is prohibited.
- (11) Buffalo Cove Game Land in Caldwell and Wilkes Counties
 - (A) Six Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving Day through the third Saturday after Thanksgiving. Deer of either sex may be taken with archery equipment on open days beginning the Saturday on or nearest September 10 to the third Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving Day. Deer with visible antlers may be taken with archery equipment the Monday immediately following the closing of the Deer With Visible Antlers Season, as described in this Part, through January 1. Deer of either

- sex may be taken with blackpowder firearms on open days beginning the Monday on or nearest October 1 through the Saturday of the second week ~~thereafter, and during the Deer With Visible Antlers season thereafter.~~
- (C) Deer of either sex may be taken the first open Saturday ~~day~~ of the applicable Deer With Visible Antlers Season.
- (D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.
- (12) Bullard and Branch Hunting Preserve Game Lands in Robeson County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (13) Butner - Falls of Neuse Game Land in Durham, Granville, and Wake counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (C) Waterfowl shall be taken only on:
- (i) the opening and closing days of the applicable waterfowl seasons;
- (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
- (iii) Tuesdays, Thursdays, and Saturdays of the applicable waterfowl seasons.
- On the posted waterfowl impoundments a special permit is required for all waterfowl hunting after November 1.
- (D) Horseback riding is prohibited.
- (E) Target shooting is prohibited.
- (F) Wild turkey hunting is by permit only, except on those areas posted as an archery zone.
- (G) The use of dogs for hunting deer is prohibited on that portion west of NC 50 and south of Falls Lake.
- (H) The use of bicycles is restricted to designated areas, except that this restriction does not apply to hunters engaged in the act of hunting during the open days of the applicable seasons for game birds and game animals. On designated bicycle riding areas, the use of bicycles is allowed from May 15 through August 31, and on Sundays only from September 1 through May 14.
- (I) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and March 31 through May 14.
- (J) Camping is allowed at any time in the designated Mountains-to-Sea Trail Camping Area and shall not exceed a maximum stay of two consecutive nights. Campfires are prohibited in this camping area.
- (14) Buxton Woods Game Land in Dare County:
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
- (C) Target shooting is prohibited.
- (15) Cape Fear River Wetlands Game Land in Pender County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Turkey Hunting is by permit only on that portion known as the Roan Island Tract.
- (D) The use of dogs for hunting deer is prohibited on the portion of the game land that is west of the Black River, north of Roan Island, east of Lyon Swamp Canal to Canetuck Road, and south of NC 210 to the Black River.
- (E) Target shooting is prohibited.
- (16) Carteret County Game Land in Carteret County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (C) The use of dogs for hunting deer is prohibited.
- (D) Bear hunting on the Salters Creek Tract is by permit only.
- (17) R. Wayne Bailey-Caswell Game Land in Caswell County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Wednesday thereafter.
- (C) Horseback riding is allowed only during June, July, and August, and on Sundays during the remainder of the year except during open turkey and

- deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic and on those gated roads and trails that are posted for equestrian use. People age 16 or older horseback riding on this game land shall possess a Game Lands license.
- (D) The area encompassed by the following roads is permit-only for all quail and woodcock hunting, and all bird dog training: From Yanceyville south on NC 62 to the intersection of SR 1746, west on SR 1746 to the intersection of SR 1156, south on SR 1156 to the intersection of SR 1783, east on SR 1783 to the intersection of NC 62, north on NC 62 to the intersection of SR 1736, east on SR 1736 to the intersection of SR 1730, east on SR 1730 to NC 86, north on NC 86 to NC 62.
- (E) On the posted waterfowl impoundment, waterfowl hunting is by permit only after November 1.
- (F) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and March 31 through May 14.
- (G) Target shooting is prohibited, except at the R. Wayne Bailey-Caswell Shooting Range.
- (18) Chatham Game Land in Chatham County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (C) Wild turkey hunting is by permit only.
- (D) Horseback riding is allowed only during June, July, and August; and on Sundays during the remainder of the year except during open turkey and deer seasons.
- (E) Target shooting is prohibited.
- (19) Chowan Game Land in Chowan County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers Season.
- (20) Chowan Swamp Game Land in Bertie, Gates, and Hertford counties.
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Bear hunting is restricted to the first three hunting days during the
- November bear season and the first three hunting days during the second week of the December bear season except that portion of Chowan Swamp Game Land in Gates County that is east of Highway 158/13, south of Highway 158, west of Highway 32, and north of Catherine Creek and the Chowan River where the bear season is the same as the season dates for the Gates County bear season.
- (D) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
- (E) Horseback riding is prohibited except during May 16 through August 31 and on Sundays only September 1 through May 15 on those roads that are open to vehicular traffic and on those gated roads and trails posted for equestrian use.
- (F) Target shooting is prohibited.
- (21) Cold Mountain Game Land in Haywood County
- (A) Six Days per Week Area
- (B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.
- (C) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
- (22) Columbus County Game Land in Columbus County.
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Deer hunting on the Campbell Tract shall be by permit only.
- (23) Croatan Game Land in Carteret, Craven, and Jones counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl shall be taken only on the following days:
- (i) the opening and closing days of the applicable waterfowl seasons;
- (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and

- (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (D) Beginning on the first open waterfowl day in October through the end of ~~the all~~ all waterfowl ~~season,~~ seasons, waterfowl hunting from designated Disabled Sportsmen blinds on the Catfish Lake Waterfowl Impoundment is by permit only.
- (E) Dove hunting is by permit only for the first two open days of dove season on posted areas. During the rest of dove season, no permit is required to hunt doves.
- (24) Currituck Banks Game Land in Currituck County
 - (A) Six Days per Week Area
 - (B) Permanent waterfowl blinds in Currituck Sound on these game lands shall be hunted by permit only from November 1 through the end of ~~the all~~ all waterfowl ~~season,~~ seasons.
 - (C) Licensed hunting guides may accompany the permitted individual or party provided the guides do not use a firearm.
 - (D) The boundary of the game land shall extend 5 yards from the edge of the marsh or shoreline.
 - (E) Dogs are allowed only for waterfowl hunting by permitted waterfowl hunters on the day of their hunt.
 - (F) No screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.
 - (G) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers season.
- (25) Dan River Game Land in Rockingham County
 - (A) Three Days per Week Area
 - (B) Deer hunting is by permit only.
 - (C) Wild turkey hunting is by permit only.
 - (D) Horseback riding is prohibited except on those areas posted for equestrian use. People age 16 or older horseback riding on this game land must possess a Game Lands license.
 - (E) Target shooting is prohibited.
- (26) Dare Game Land in Dare and Hyde counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
 - (C) No hunting is allowed on posted parts of bombing range.
- (D) The use and training of dogs is prohibited from March 1 through June 30.
- (27) Dover Bay Game Land in Craven County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers season.
- (28) DuPont State Forest Game Lands in Henderson and Transylvania counties
 - (A) Hunting is by permit only.
 - (B) The training and use of dogs for hunting is prohibited except by special hunt permit holders during scheduled permit hunts.
- (29) Elk Knob Game Land in Watauga County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
- (30) Embro Game Land in Halifax and Warren counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Horseback riding is prohibited.
 - (D) Target Shooting is prohibited.
- (31) Goose Creek Game Land in Beaufort and Pamlico counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
 - (D) Beginning on the first open waterfowl season day in October ~~and~~ through the end of ~~the all~~ all waterfowl ~~season,~~ seasons, waterfowl hunting is by permit only on the following waterfowl impoundments: Pamlico Point, Campbell Creek, Hunting Creek, Spring Creek, Smith Creek, and Hobucken.

- (E) On Pamlico Point and Campbell Creek Waterfowl Impoundments all activities, except waterfowl hunting on designated waterfowl hunting days and trapping during the trapping season, are restricted to the posted Scouting-only Zone during the period November 1 through March 15.
 - (F) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
 - (G) Hunting and vehicular access on the Parker Farm Tract is restricted from September 1 through January 1 and April 1 through May 15 to individuals that possess a valid hunting opportunity permit.
- (32) Green River Game Land in Henderson, and Polk counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding is prohibited.
- (33) Green Swamp Game Land in Brunswick County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) On that portion north of Big Macedonia Road, east of Makatoka Road, south of Little Macedonia Road, and west of Green Swamp Road, hunting and trapping is by permit only.
 - (D) Pursuing or chasing deer or bear with dogs for the purposes of training or hunting is prohibited on that portion of the game land that is north of Big Macedonia Road, east of Makatoka Road, south of Little Macedonia Road, and west of Green Swamp Road.
- (34) Gull Rock Game Land in Hyde County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl on posted waterfowl impoundments shall be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons; and
 - (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
- (iii) Tuesdays and Saturdays of the applicable waterfowl season.
- (D) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas designated and posted as camping areas.
- (E) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season, except for that portion designated as bear sanctuary.
- (35) Harris Game Land in Chatham, Harnett, and Wake counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Waterfowl shall be taken only on the following days:
 - (i) Tuesdays, Fridays, and Saturdays of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, and New Year's Days; and
 - (iii) the opening and closing days of the applicable waterfowl seasons.
 - (D) The use or construction of permanent hunting blinds shall be prohibited.
 - (E) Wild turkey hunting is by permit only, except on those areas posted as an archery zone.
 - (F) Target shooting is prohibited.
 - (G) Horseback riding is prohibited.
- (36) Headwaters State Forest Game Land in Transylvania County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season
- (37) Hill Farm Game Land in Stokes County- hunting and trapping is by permit only.
- (38) Holly Shelter Game Land in Pender County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl may be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and

- (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
 - (D) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas designated and posted as camping areas.
 - (E) On that portion north of the Bear Garden Road, west of Shaw Road to Baby Branch, east of the Northeast Cape Fear River, south of NC 53 and west of NC 50, deer hunting and bear hunting are permit only.
 - (F) The use of dogs for hunting deer and bear is prohibited:
 - (i) all open days on that portion of the game land that is south of Baby Branch extending west to Stag Park Road, west of Shaw Road, north of Meeks Road extending west to Stag Park Road and east of Stag Park Road; and
 - (ii) on Tuesdays, Thursdays, and Fridays, with the exception of Thanksgiving, Christmas, and New Year's days, and except for the area north of Bear Garden Road, west of Shaw Road to Baby Branch, east of the Northeast Cape Fear River, south of NC 53 and west of NC 50, where the use of dogs for deer and bear hunting is by permit only.
 - (G) Hunting and vehicular access on the Pender 4 Tract is restricted from September 1 to the last day of February and April 1 to May 15 to individuals that possess valid hunting opportunity permits, unless otherwise authorized by the Wildlife Resources Commission.
 - (H) Hunters who possess a Disabled Access Permit may operate an All Terrain Vehicle on and within 100 yards of trails designated for Disabled Sportsman Access.
 - (I) Target shooting is prohibited, except on the Holly Shelter Shooting Range.
 - (J) Geocaching is restricted to closed days for taking bear, deer, turkey, and waterfowl.
- (39) Hyco Game land in Person County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer
- (C) Target shooting is prohibited.
- (40) J. Morgan Futch Game Land in Tyrrell County - Permit Only Area. hunting and trapping is by permit only.
- (41) Johns River Game Land in Burke County
- (A) Hunting is by permit only.
 - (B) During permitted deer hunts, deer of either sex may be taken by permit holders.
 - (C) Entry on posted waterfowl impoundments is prohibited October 1 through March 31, except by lawful waterfowl hunting permit holders and only on those days written on the permits.
 - (D) The use or construction of permanent hunting blinds is prohibited.
 - (E) Camping and the presence of campers and tents in designated Hunter Camping Areas is limited to August 31 through the last day of February and March 31 through May 14.
- (42) Jordan Game Land in Chatham, Durham, Orange, and Wake counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl may be taken only on:
 - (i) Mondays, Wednesdays, and Saturdays of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, and New Year's Days; and
 - (iii) the opening and closing days of the applicable waterfowl seasons.
 - (D) Horseback riding is prohibited except on those areas posted as American Tobacco Trail and other areas posted for equestrian use. Unless otherwise posted, horseback riding is permitted on posted portions of the American Tobacco Trail anytime the trail is open for use. On all other trails posted for equestrian use, horseback riding is allowed only during June, July, and August, and on Sundays the remainder of the year except during open turkey and deer seasons. People age 16 or older who ride horseback on trails occurring entirely within the game land boundaries shall possess a Game Lands license.
 - (E) Target shooting is prohibited.

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- (F) Wild turkey hunting is by permit only, except on those areas posted as an Archery Zone.
- (G) The use of bicycles is restricted to designated areas, except that this restriction does not apply to hunters engaged in the act of hunting during the open days of the applicable seasons for game birds and game animals.
- (43) Juniper Creek Game Land in Brunswick and Columbus counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the Deer With Visible Antlers Season.
 - (C) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
- (44) Kerr Scott Game Land in Wilkes County
 - (A) Six Days per Week Area
 - (B) Use of centerfire rifles is prohibited.
 - (C) Use of blackpowder firearms, shotguns, or rifles for hunting deer during the applicable Deer With Visible Antlers Season is prohibited.
 - (D) Tree stands shall not be left overnight; and no screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.
 - (E) Deer of either sex may be taken on all open days of the applicable Deer With Visible Antlers season.
 - (F) Hunting on posted waterfowl impoundments is by permit only.
 - (G) The use of firearms for hunting wild turkey is prohibited.
- (45) Lantern Acres Game Land in Tyrrell and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Wild turkey hunting is by permit only.
 - (D) The use of dogs for hunting deer on the Godley Tract is prohibited.
 - (E) Waterfowl hunting on posted waterfowl impoundments is by permit only.
- (46) Lee Game Land in Lee County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Target shooting is prohibited.
- (47) Light Ground Pocosin Game Land in Pamlico County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer with Visible Antlers Season.
- (48) Linwood Game Land in Davidson County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken on all of the open days of the applicable Deer With Visible Antlers Season.
- (49) Lower Fishing Creek Game Land in Edgecombe and Halifax counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Horseback riding is prohibited.
 - (D) The use of dogs for hunting deer is prohibited.
 - (F) Target Shooting is prohibited.
- (50) Mayo Game Land in Person County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Waterfowl shall be taken only on:
 - (i) Tuesdays, Thursdays, and Saturdays applicable waterfowl seasons;
 - (ii) Christmas and New Year's Days; and
 - (iii) the opening and closing days of the applicable waterfowl seasons.
 - (D) Target shooting is prohibited.
- (51) Mitchell River Game Land in Surry County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Wednesday thereafter.
 - (C) Horseback riding is prohibited except on designated trails May 16 through August 31, and all horseback riding is prohibited from September 1 through May 15.
- (52) Nantahala Game Land in Cherokee, Clay, Graham, Jackson, Macon, Swain, and Transylvania counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season in that portion located in Transylvania County.

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- (53) Needmore Game Land in Macon and Swain counties.
- (A) Six Days per Week Area
 - (B) Horseback riding is prohibited except on designated trails May 16 through August 31, and all horseback riding is prohibited from September 1 through May 15.
 - (C) On posted dove fields, dove hunting on the opening day of dove season is by permit only.
- (54) Neuse River Game Land in Craven County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Camping is allowed any time within 100 yards of the Neuse River on that portion of the game land that lies west of NC-43.
- (55) New Lake Game Land in Hyde and Tyrrell counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (56) Nicholson Creek Game Land in Hoke County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken with archery equipment on open hunting days from the Saturday on or nearest September 10 through the Friday before Thanksgiving Day.
 - (C) Deer of either sex may be taken with blackpowder firearms on open hunting days beginning the Saturday before Thanksgiving Day through the Wednesday thereafter.
 - (D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving Day.
 - (E) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season.
 - (F) The use of dogs for hunting deer is prohibited.
 - (G) Wild turkey hunting is by permit only.
 - (H) On Lake Upchurch, the following activities are prohibited:
 - (i) Operating any vessel or vehicle powered by an internal combustion engine; and
 - (ii) Swimming.
 - (I) Target shooting is prohibited.
- (57) North River Game Land in Camden and Currituck counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
 - (D) Hunting on the posted waterfowl impoundment is by permit only.
- (58) Northwest River Marsh Game Land in Currituck County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
- (59) Pee Dee River Game Land in Anson, Montgomery, Richmond, and Stanly counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Use of centerfire rifles is prohibited in that portion in Anson and Richmond counties North of US-74.
 - (D) Target shooting is prohibited.
 - (E) Horseback riding is allowed only on roads opened to vehicular traffic and only during the following times:
 - (i) during June, July, and August; and
 - (ii) on Sundays during the other months or parts of months when deer and turkey seasons are closed.
 - (F) Pursuing or chasing deer or bear with dogs for the purposes of training or hunting shall be prohibited.
- (60) Perkins Game Land in Davie County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding is prohibited from November 1 through January 1.
 - (D) Target Shooting is prohibited.
- (61) Pisgah Game Land in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga, and Yancey counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding is prohibited on the Black Bear (McDowell County),

- (D) The use of bicycles shall be restricted to designated trails on the Linville River Tract (Burke County). Persons engaged in the act of hunting on the Linville River Tract during any open day of an applicable season for game birds or game animals shall be exempt from this restriction.
- (62) Pond Mountain Game Land in Ashe County
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
 (C) Horseback riding is prohibited except on designated trails from May 16 through August 31 and Sundays from September 1 through October 31. All horseback riding is prohibited from November 1 through May 15.
- (63) Pungo River Game Land in Hyde County
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (64) Rendezvous Mountain State Forest Game Land in Wilkes County
 (A) Three Days per Week Area
 (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Wednesday thereafter.
 (C) Bear hunting is prohibited.
- (65) Rhodes Pond Game Land in Cumberland and Harnett counties
 (A) Hunting is by permit only.
 (B) Swimming is prohibited on the area.
- (66) Roanoke River Wetlands in Bertie, Halifax, Martin, and Northampton counties
 (A) Hunting and trapping is by Permit only.
 (B) Vehicles are prohibited on roads or trails except those operated on Commission business or by permit holders.
 (C) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas, provided, however, that camping is allowed at any time within 100 yards of the Roanoke River on the state-owned portion of the game land.
 (D) Target Shooting is prohibited.
- (67) Roanoke Island Marshes Game Land in Dare County-Hunting is by permit only.
- (68) Robeson Game Land in Robeson County
 (A) Three Days per Week Area
 (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (69) Rockfish Creek Game Land in Hoke County
 (A) Three Days per Week Area
 (B) Deer of either sex may be taken with archery equipment on open hunting days from the Saturday on or nearest September 10 to the fourth Friday before Thanksgiving Day.
 (C) Deer of either sex may be taken with blackpowder firearms on open hunting days beginning the fourth Saturday before Thanksgiving Day through the Wednesday of the second week thereafter.
 (D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving Day through the third Saturday after Thanksgiving Day.
 (E) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season.
 (F) The use of dogs for hunting deer is prohibited.
 (G) Wild turkey hunting is by permit only.
 (H) Taking fox squirrels is prohibited.
 (I) Target shooting is prohibited.
- (70) Rocky Run Game Land in Onslow County - Hunting is by permit only.
- (71) Sampson Game Land in Sampson County
 (A) Three Days per Week Area
 (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 (C) Target shooting is prohibited.
- (72) Sandhills Game Land in Hoke, Moore, Richmond, and Scotland counties
 (A) Three Days per Week Area
 (B) Hunting is prohibited on the J. Robert Gordon Field Trial Grounds from October 22 through March 31 except as follows:
 (i) deer of either-sex may be taken with archery equipment on all the open days of the archery season through the fourth Friday before Thanksgiving Day; with blackpowder firearms and archery equipment all the open days of the blackpowder firearms season through the third Wednesday

- before Thanksgiving Day; and only deer with visible antlers may be taken with all legal weapons from the second Saturday before Thanksgiving Day through the Saturday following Thanksgiving Day;
 - (ii) dove may be taken all open days from the opening day of the dove season through the third Saturday thereafter;
 - (iii) squirrel (gray and fox) may be taken all the open days from the second Monday Saturday before Thanksgiving Day through the Saturday following Thanksgiving Day;
 - (iv) rabbit may be taken all open days from the second Saturday preceding Thanksgiving Day through the Saturday following Thanksgiving Day;
 - (v) waterfowl may be taken on open days during any waterfowl season;
 - (vi) wild animals and wild birds may be taken as part of a Disabled Sportsmen Program Permit Hunt; and
 - (vii) raccoon and opossum may be taken on open days from sunrise Monday on or nearest October 15 through the last day of February.
- (C) The Deer With Visible Antlers season is the open hunting days from the second Saturday before Thanksgiving Day through the third Saturday after Thanksgiving Day except on the J. Robert Gordon Field Trial Grounds.
- (D) The archery season is all open days from the Saturday on or nearest to Sept. 10 to the fourth Friday before Thanksgiving Day and, except on the J. Robert Gordon Field Trial Grounds, the third Monday after Thanksgiving Day through January 1. Deer of either sex may be taken with archery equipment on all open hunting days during the archery season, by permit during the Deer with Visible antlers season, and the blackpowder firearms season as stated in this Subparagraph. Only deer with visible antlers may be taken from the third Monday after Thanksgiving Day through January 1.
- (E) Blackpowder firearms season is all the open days from the fourth Saturday preceding Thanksgiving Day through the Wednesday of the second week thereafter and, except on the J. Robert Gordon Field Trial Grounds, the third Monday after Thanksgiving Day through January 1. Deer of either sex may be taken with blackpowder firearms on all open hunting days during the blackpowder firearms season and by permit during the Deer With Visible Antlers season. Only deer with visible antlers may be taken from the third Monday after Thanksgiving Day through January 1.
- (F) Either-sex deer hunting during the Deer With Visible Antlers Season is by permit only.
- (G) In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.
- (H) Wild turkey hunting is by permit only.
- (I) Horsebackriding on field trial grounds from October 22 through March 31 is prohibited unless participating in authorized field trials.
- (J) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and March 31 through May 14.
- (K) Target shooting is prohibited, except at the John F. Lentz Hunter Education Complex.
- (73) Sandy Creek Game Land in Nash and Franklin Counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Horseback riding is prohibited.
 - (D) The use of dogs for hunting deer is prohibited.
 - (E) Target Shooting is prohibited.
- (74) Sandy Mush Game Land in Buncombe and Madison counties.
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the first open Saturday of the applicable Deer with Visible Antlers season.
 - (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.

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- (D) Dogs shall only be trained on Mondays, Wednesdays, and Saturdays and only as allowed in 15A NCAC 10D.0102(f).
 - (E) Dove hunting is by permit only from the opening day through the second Saturday of dove season.
 - (F) Target shooting is prohibited.
- (75) Second Creek Game Land in Rowan County- hunting is by permit only.
- (76) Shocco Creek Game Land in Franklin, Halifax, Nash, and Warren counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Horseback riding is prohibited.
 - (D) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
 - (E) Target Shooting is prohibited.
- (77) South Mountains Game Land in Burke, Cleveland, McDowell, and Rutherford counties
- (A) Six Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving Day through the third Saturday after Thanksgiving. Deer of either sex may be taken with archery equipment on open days beginning the Saturday on or nearest September 10 to the third Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving Day. Deer with visible antlers may be taken with archery equipment the Monday immediately following the closing of the Deer With Visible Antlers Season, as described in this Part, through January 1. Deer of either sex may be taken with blackpowder firearms on open days beginning the Monday on or nearest October 1 through the Saturday of the second week thereafter, and during the Deer With Visible Antlers season thereafter.
 - (C) Deer of either sex may be taken the first open Saturday ~~day~~ of the applicable Deer With Visible Antlers Season.
 - (D) Horseback riding is prohibited except on designated trails ~~May 16 through August 31 and all horseback riding is~~
- ~~prohibited from September 1 through May 15. during the following dates:~~
- (i) January 2 through March 31;
 - (ii) May 16 through August 31;
 - (iii) Sundays only - April 1 through May 15; and
 - (iv) Sundays only - September 1 through January 1.
- (78) Stones Creek Game Land in Onslow County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) The use of dogs for hunting deer is prohibited on Mondays, Wednesdays, and Fridays.
 - (D) Swimming in all lakes is prohibited.
 - (E) Waterfowl on posted waterfowl impoundments may be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
 - (F) Target shooting is prohibited.
 - (G) Geocaching is restricted to closed days for taking bear, deer, turkey, and waterfowl.
- (79) Suggs Mill Pond Game Land in Bladen and Cumberland counties
- (A) Hunting and trapping is by permit only.
 - (B) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
 - (C) Entry is prohibited on scheduled hunt or trapping days except for:
 - (i) hunters or trappers holding special hunt or trapping permits; and
 - (ii) persons using Campground Road to access Suggs Mill Pond Lake at the dam.
 - (D) During the period of November 1 through January 31, except on Sundays, the use of vessels on Suggs Mill Pond Lake and Little Singletary Lake is limited to waterfowl hunting only by waterfowl hunters possessing a valid and current Hunting Opportunity Permit issued by the

- Wildlife Resources Commission pursuant to G.S. 113-264(d).
- (E) During the period of November 1 through March 15, the use of vessels on managed waterfowl impoundments is limited to waterfowl hunting only by waterfowl hunters possessing a valid and current Hunting Opportunity Permit issued by the Wildlife Resources Commission pursuant to G.S. 113-264(d).
- (80) Sutton Lake Game Land in New Hanover and Brunswick counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
- (C) Target shooting is prohibited.
- (81) Tar River Game Land in Edgecombe County
- (A) Hunting is by permit only
- (B) Target Shooting is prohibited
- (82) Texas Plantation Game Land in Tyrrell County - hunting and trapping is by permit only.
- (83) Three Top Mountain Game Land in Ashe County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
- (C) Horseback riding is prohibited.
- (84) Thurmond Chatham Game Land in Alleghany and Wilkes counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (C) Horseback riding is prohibited except on designated trails May 16 through August 31, and all horseback riding is prohibited from September 1 through May 15. People age 16 or older horseback riding on this game land shall possess a Game Lands license.
- (D) The maximum period of consecutive overnight camping at any designated campground is 14 days within any 30 day period from May 1 through August 31. After 14 consecutive days of camping all personal belongings must be removed from the game land.
- (85) Tillery game Land in Halifax County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (C) Horseback riding is prohibited.
- (D) The use of dogs for hunting deer is prohibited.
- (E) Wild turkey hunting is by permit only.
- (F) Target Shooting is prohibited.
- (86) Toxaway Game Land in Jackson and Transylvania counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
- (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.
- (87) Uwharrie Game Land in Davidson, Montgomery, and Randolph counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (C) On the posted waterfowl impoundment, waterfowl may be taken only on the following days:
- (i) the opening and closing days of the applicable waterfowl seasons;
- (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
- (iii) Mondays, Wednesdays and Saturdays of the applicable waterfowl seasons.
- (D) Target shooting is prohibited, except at the Flintlock Valley Shooting Range.
- (88) Vance Game Land in Vance County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) The use of dogs, centerfire rifles, and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.
- (89) Van Swamp Game Land in Beaufort and Washington counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.

- (90) Voice of America Game Land in Beaufort County
- (A) Hunting and trapping is by permit only.
 - (B) Target Shooting is prohibited.
- (91) White Oak River Game Land in Onslow County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
 - (D) Beginning on the first open waterfowl season day in October ~~and~~ through the end of ~~the all~~ the all waterfowl ~~season~~ seasons, a permit is required for hunting posted waterfowl impoundments.
 - (E) The Huggins Tract and Morton Tracts have the following restrictions:
 - (i) access on Hargett Avenue and Sloan Farm Road requires a valid Hunting Opportunity Permit issued by the Wildlife Resources Commission pursuant to G.S. 113-264(d);
 - (ii) hunting is by permit only; and
 - (iii) the use of dogs for hunting deer is prohibited.
 - (F) Wild turkey hunting is by permit only.
 - (G) Target Shooting is prohibited.
- (92) Whitehall Plantation Game Land in Bladen and Pender counties
- (A) Hunting and trapping is by permit only.
 - (B) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
 - (C) Pursuing or chasing deer or bear with dogs for the purposes of training or hunting is prohibited on the Long Ridge Tract.
- (93) William H. Silver Game Land in Haywood County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
- (h) On permitted type hunts, deer of either sex may be taken on the hunt dates indicated on the permit. Completed applications shall be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits shall be issued by random computer selection, shall be mailed to the permittees prior to the hunt, and are nontransferable. A hunter making a kill shall validate the kill and report the kill to a wildlife cooperator agent or by phone.
- (i) The following game lands and refuges are closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission:
- (1) Bertie, Halifax and Martin counties—Roanoke River Wetlands;
 - (2) Bertie County—Roanoke River National Wildlife Refuge;
 - (3) Bladen County—Suggs Mill Pond Game Lands;
 - (4) Burke County—John's River Waterfowl Refuge;
 - (5) Dare County—Dare Game Lands (Those parts of bombing range posted against hunting);
 - (6) Dare County—Roanoke Sound Marshes Game Lands; and
 - (7) Henderson and Transylvania counties—DuPont State Forest Game Lands.
- (j) Access to Hunting Creek Swamp Waterfowl Refuge in Davie County requires written permission from the Commission. Written permission may be granted only when entry onto the Waterfowl Refuge will not compromise the primary purpose for establishing the Waterfowl Refuge and the person requesting entry can demonstrate a valid need or the person is a contractor or agent of the Commission conducting official business. "Valid need" includes issues of access to private property, scientific investigations, surveys, or other access to conduct activities in the public interest.
- (k) Feral swine may be taken by licensed hunters during the open season for any game animal or game bird using any legal manner of take allowed during those seasons. Dogs may not be used to hunt feral swine except on game lands that allow the use of dogs for hunting deer or bear, and during the applicable deer or bear season.
- (l) Youth Waterfowl Day. On the day declared by the Commission to be Youth Waterfowl Day, youths may hunt on any game land and on any impoundment without a special hunt permit, including permit-only areas, except where prohibited in Paragraph (h) of this Rule.
 - (m) Veterans/Military Waterfowl Days. On the day declared by the Commission to be Veterans/Military Waterfowl Days, veterans, active duty members of the armed forces, active duty national guardsmen, and active duty reservists with valid credentials may hunt on game lands and impoundments not designated as permit-only areas.

~~(m)~~(n) Permit Hunt Opportunities for Disabled Sportsmen. The Commission may designate special hunts for participants of the disabled sportsman program by permit. The Commission may schedule these permit hunts during the closed season. Hunt dates and species to be taken shall be identified on each permit. If the hunt has a limited weapon choice, the allowed weapons shall be stated on each permit.

~~(n)~~(o) As used in this Rule, horseback riding includes all equine species.

~~(o)~~(p) When waterfowl hunting is authorized in this Rule on Christmas and New Years' Day and those days fall on Sundays, the open waterfowl hunting day shall be the following day.

Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305.

15A NCAC 10D .0105 POSSESSION AND REMOVAL OF ANIMALS, PLANTS AND MATERIALS

(a) For purposes of this Rule, the following definitions apply:

- (1) "Other materials" includes: all metals, minerals, rocks, soil, organic debris, buildings, fences, historic artifacts and water.
- (2) "Commission lands" includes all state-owned game lands, hatcheries, depots, refuges, boating access areas and public fishing access areas, or parts thereof, allocated to the Wildlife Resources Commission.
- (3) "Written permission" includes permits, sales agreements, agricultural agreements, and letters written by authorized Commission personnel. Written permissions shall specify the type of activity allowed, the Commission land(s) where the activity may occur and the persons authorized.

(b) On Commission lands:

- (1) No wildlife resources, fungi, invertebrates, eggs, nests, animal parts, plants, plant materials, or other materials may be possessed on or removed from Commission lands except:
 - (A) as allowed in this Rule; ~~or~~
 - (B) bullfrogs, as specified in 15A NCAC 10B .0226; or
 - ~~(B)~~(C) if written permission has been granted by the Wildlife Resources Commission.

This restriction applies to both dead and living wildlife resources, fungi, invertebrates, eggs, animal parts, plants and plant materials.

- (2) All game, fur-bearing animals, wildlife resources, fisheries resources, and nongame animals or ~~birds~~ birds, for which the Commission has established an open season, legally taken under a valid hunting, trapping, ~~fishing or falconry~~ fishing, falconry, or other license that entitles the licensee to access and use Wildlife Resources Commission Property may be possessed on and removed from Commission lands.
- (3) Berries, fruit, nuts, mushrooms, ramps and other plants or plant products suitable for

human consumption may be possessed on and removed from Commission lands without written permission for personal consumption only, except any fungi, plant or part thereof on a state or federal protected list may not be possessed on or removed from Commission lands without written permission. All other fungi, plants and plant products which are not suitable for human consumption may not be possessed on or removed from Commission lands except with written permission. Crops or products thereof planted for the benefit of wildlife may not be removed without written permission.

(4) Insects, worms or other invertebrates collected as fish bait may be possessed on and removed from Commission lands without written permission for personal use only, except any species on a state or federal protected list may not be collected and may not be removed from Commission lands. Sale of these resources is prohibited.

(5) Minimal amounts of animal parts, plant parts not removed from live plants, and other materials collected by hand and removed from Commission lands without written permission, except in violation of rules, general statutes or federal law. Collection of animal parts, plant parts not removed from live plants, and other materials for commercial use or sale is prohibited. For purposes of this Subparagraph, "minimal amounts," are quantities that fit within a cubic foot of space, except for firewood to be used at designated game land campgrounds. Minimal amounts of firewood are quantities sufficient to build and maintain a fire for the duration of the game land user's stay at the campground.

(6) Litter and road kill animals may be removed without written permission, except in violation of 15A NCAC 10B .0106.

(7) A collection license as described in 15A NCAC 10B .0119 does not qualify as written permission to collect or remove any wildlife resources from Commission lands. Written permission must be specific to the Commission land.

(c) On all other lands enrolled in the game land program;

(1) All game, fur-bearing animals, fisheries resources, and nongame animals or birds for which the Commission has established an open season, legally taken under a valid hunting, trapping, fishing or falconry license may be possessed on and removed from game lands.

(2) Possession and removal of all other wildlife resources, fungi, invertebrates, eggs, nests, animals parts, plants, plant materials, or other materials is subject to the rules of the Commission and is at the discretion of the

landowner, except where the landowner has ceded authority to the Commission. When the landowner has ceded authority to the Commission, the permissions and restrictions in Paragraph (b) of this Rule apply.

(d) Any individual who has written permission, or a hunting, trapping, fishing or falconry license required in order to possess or remove wildlife resources, fungi, invertebrates, eggs, nests, animals parts, plants, plant materials, or other materials from Commission lands and all other lands enrolled in the game land program must have that written permission or license on his person. This requirement extends to any individual operating in conjunction with another's written permission.

Authority G.S. 113-134; 113-264; 113-291; 113-291.2; 113-305; 113-333.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rule cited as 15A NCAC 10F .0327.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncwildlife.org/Proposed-Regulations>

Proposed Effective Date: May 1, 2020

Public Hearing:

Date: January 8, 2020

Time: 10am

Location: WRC Headquarters, 5th Floor, 1751 Varsity Drive, Raleigh, NC 27606

Reason for Proposed Action: The WRC received a formal application and resolution from the Montgomery County Board of Commissioners on June 17, 2019, requesting consideration of rulemaking for a marked swimming area, where vessel entry is prohibited, on Badin Lake at Pinehaven Village public beach and swim area in New London. Pursuant to G.S. 75A-15, the WRC is empowered to adopt rules for water safety.

Paragraph (f) of 15A NCAC 10F .0327 has been italicized to denote that this text was a temporary amendment effective October 1, 2019. It is the intent of the NC WRC to retain this language as a temporary amendment at this time.

Comments may be submitted to: Rule-making Coordinator, 1701 Mail Service Center, Raleigh, NC 27699; email regulations@ncwildlife.org

Comment period ends: January 31, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the

legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F.0327 MONTGOMERY COUNTY

(a) Regulated Areas. This Rule shall apply to the waters and portions of waters described as follows:

- (1) Badin Lake.
 - (A) the cove west of Lakeshore Drive and east of Strand Drive, southeast of a line at the mouth of the cove from a point on the east shore at 35.49242 N, 80.09241 W to a point on the west shore at 35.49242 N, 80.09241 W;
 - (B) Lake Forest Drive Cove shore to shore, west of a point 50 yards east of the fueling site at the marina at 35.48739 N, 80.10918 W;
 - (C) Garr Creek shore to shore, north of a line beginning at a point on the east shore at 35.47952 N, 80.13633 W to a point on the west shore at 35.47946 N, 80.13932 W; and
 - (D) the channel between Beyer's Island and the mainland, shore to shore beginning at a line from a point on Beyer's Island at 35.49102 N, 80.10221 W to a point on the mainland at 35.49230 N, 80.10241 W, ending at a line westward, from a point on Beyer's Island at 35.48988 N, 80.10573 W to a point on the mainland at 35.49077 N, 80.10702 W.
- (2) Lake Tillery.

- (A) the waters within 50 yards of the boat ramp in the south end of Woodrun Cove at 35.33113 N, 80.06277 W;
- (B) Carolina Forest Cove shore to shore and the waters within 50 yards of the boat ramps and boat slips at the end of Arroyo Drive in Carolina Forest Community, from a point on the south shore at 35.36276 N, 80.05386 W, northeast to a point on the north shore at 35.36405 N, 80.05304 W; and
- (C) Lilly's Bridge Boating Access Area shore to shore, from line 25 feet north of the SR 1110 bridge otherwise known as Lillys Bridge Road at a point on the east shore at 35.23223 N, 80.06166 W, to a point on the west shore at 35.23289N, 80.06318 W, to a line 200 feet southwest of the Lilly's Bridge Boating Access Area, from a point on the east shore at 35.23067 N; 80.06262 W, to a point on the west shore at 35.23156 N; ~~80.06437 W; and 80.06437 W.~~

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to amend the rule cited as 15A NCAC 18C.1305.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://deq.nc.gov/permits-regulations/rules-regulations/proposed-rules>

Proposed Effective Date: April 1, 2020

Public Hearing:

Date: January 7, 2020

Time: 10:00 a.m.

Location: Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury Street, Raleigh, NC 27604

Reason for Proposed Action: *The American Water Infrastructure Act (AWIA), which amended the federal Safe Drinking Water Act, was passed in late 2018. AWIA outlined requirements for some community water systems to complete a Risk and Resilience Assessment and also to develop an Emergency Response Plan. In August 2019, EPA released details of the federal compliance requirements in its "Emergency Response Plan Template and Instructions." Evaluation of the EPA template and instructions, revealed significant overlap with the state's 1305 rule for source water protection planning.*

To reduce regulatory burden and allow public water systems to create and maintain one plan, rather than two separate plans addressing essentially the same, but not identical, state and federal requirements, the Commission for Public Health is proposing to revise the requirements for source water protection planning for systems that: (i) comply with AWIA requirements, and (ii) assess risk from potential contaminant sources within the state-specified areas currently codified in this rule. These revisions will eliminate unnecessary duplication for many of the state's public water systems.

Comments may be submitted to: Jay Frick, 1634 Mail Service Center, Raleigh, NC 27699; email jay.frick@ncdenr.gov

Comment period ends: January 31, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery

(3) Tuckertown Reservoir.

(b) Speed Limit Near Shore Facilities. No person shall operate a vessel at greater than no-wake speed within 50 yards of any marked boat launching area, dock, pier, bridge, marina, boat storage structure, or boat service area on the waters of the regulated areas described in Paragraph (a) of this Rule.

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

(d) ~~Swimming Areas. Badin Lake Swimming Area.~~ No person operating or responsible for the operation of a vessel shall permit it to enter ~~any marked public swimming area on the waters of the regulated areas described in Paragraph (a) of this Rule. the marked swimming area on Badin Lake at the Pinehaven Village beach area at 370 Pinehaven Drive in New London, within 50 feet of the shoreline between points at 35.49927 N, 80.11428 W; and 35.49934 N, 80.11437 W.~~

(e) Placement of Markers. The Board of Commissioners of Montgomery County shall be the designated agency for placement of the markers implementing Parts (a)(1)(A), (B), (C), (2)(A) and (B), and Subparagraph (a)(3) of this Rule. The North Carolina Wildlife Resources Commission is the designated agency for placement and maintenance of the markers implementing Part (a)(2)(C) of this Rule. The Board of Commissioners of Montgomery County shall be the designated agency for placement and maintenance of the ropes and markers implementing Paragraph (d) of this Rule.

(f) *Notwithstanding Paragraphs (a) through (e) of this Rule, no person shall operate a vessel at greater than no-wake speed in the waters of Lake Tillery shore to shore, within 85 yards north and 85 yards south of the NC Hwy 24/27/73 bridge eastbound and westbound spans, otherwise known as the James B. Garrison Bridge. The North Carolina Wildlife Resources Commission shall be the designated agency for placement and maintenance of markers for this regulated area.*

service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18C - WATER SUPPLIES

SECTION .1300 - OPERATION OF PUBLIC WATER SUPPLIES

15A NCAC 18C .1305 SOURCE WATER PROTECTION PLANNING

~~(a) In compliance with G.S. 130A-320, every supplier of water operating a public water system treating and furnishing water from a surface water source shall create and implement a Source Water Protection Plan (SWPP) based upon the following schedule:~~

- ~~(1) Water systems that have a single source of supply and a source susceptibility rating of higher or moderate, as determined by the Department, shall create and implement a SWPP by January 1, 2021.~~
- ~~(2) Water systems that have multiple sources of supply and any source susceptibility rating of higher, as determined by the Department, shall create and implement a SWPP by January 1, 2022.~~
- ~~(3) All other water systems treating and furnishing water from surface water sources shall create and implement an SWPP by January 1, 2023.~~
- ~~(4) Any public water system that begins treating and furnishing water from a surface water source on or after January 1, 2021 shall create and implement a SWPP that satisfies the requirements of this Rule prior to the commencement of its operations.~~

~~(b) Any public water system required to create and implement a SWPP in accordance with this Rule shall review and update their SWPP at three year intervals from the creation deadline specified in Paragraph (a) of this Rule. Updated information in the SWPP must address the plan elements listed in Paragraph (c) of this Rule.~~

~~(c) Each SWPP shall contain the following elements:~~

- ~~(1) A list of potential contaminant sources (PCSs), both provided by the Department and identified by the water system, located in the following areas as defined in Classifications and Water Quality Standards Applicable to Surface Waters and Wetlands of North Carolina, 15A NCAC 02B .0200, which is hereby~~

~~incorporated by reference, including subsequent amendments and editions and can be found at no charge at http://portal.ncdenr.org/c/document_library/get_file?uuid=f12e8078-b128-44ce-b55b-fe5e7d876f3c&groupId=38364;~~

- ~~(A) within the entire watershed for waters classified as WS-I;~~
- ~~(B) within the critical area and 1,000 feet from perennial streambanks within the protected area for waters classified as WS-II and WS-III;~~
- ~~(C) within the critical area and 1,000 feet from perennial streambanks, within the protected area for waters classified as WS-IV;~~
- ~~(D) within 1/2 mile from the normal pool elevation in which the intake is located, or to the ridge line of the watershed, whichever comes first, for a reservoir within waters classified as WS-V; and~~
- ~~(E) within 1/2 mile, measured as a straight line, upstream from and draining to the intake located directly in the stream or river, or to the ridge line of the watershed, whichever comes first, for a direct stream intake within waters classified as WS-V.~~

~~(2) For community water systems, a contingency strategy that documents the system's planned response to an emergency event or contamination of its water source(s) that includes the following:~~

- ~~(A) identification and contact information of personnel responsible for emergency management, including water system, local, State, and federal emergency response personnel;~~
- ~~(B) identification of foreseeable natural and human caused emergency events including water shortages and outages;~~
- ~~(C) description of the emergency response strategies for each identified shortage or outage event and each potential contamination event associated with PCSs identified and listed in Subparagraph (c)(1) of this Rule;~~
- ~~(D) standard operating procedures to close intakes and switch to an alternate intake during a contamination event, including procedures that outline exercises designed to practice closure and switching of the intake(s);~~
- ~~(E) description of public notification procedures; and~~
- ~~(F) identification and evaluation of all facilities and equipment that upon~~

- failure would result in a water outage or violations of the Rules Governing Public Water Systems, 15A NCAC 18C.
- (3) For non transient, non community water systems, the contingency strategy shall contain the positions and phone numbers of responsible persons to contact in the event of an emergency, including water system, local, State, and federal emergency contacts.
- (4) An evaluation of a water system's ability to take the following actions:
- (A) close its water intake(s) in the event of contamination, including a determination of the duration of time the water intake(s) can remain closed while maintaining positive water pressure within the distribution system;
- (B) isolate or divert contaminated water from its surface water intake(s);
- (C) reduce demand by implementing conservation measures during a contamination event. Water Shortage Response Plans can be referenced to fulfill this requirement for water systems required to prepare a Water Shortage Response Plan under 15A NCAC 02E .0607, which is hereby incorporated by reference, including subsequent amendments and editions and can be found at no charge at <http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20e/15a%20ncac%2002e%20.0607.pdf>; and
- (D) meet demand via alternate sources of supply in the event of contamination or loss of its primary water source.
- (5) Verification of outreach efforts provided to the owners of the PCSs identified in Subparagraph (e)(1) of this Rule to raise awareness of the proximity of the drinking water intake(s) and provide emergency contact information for use during a contamination event.
- (6) A description of proactive activities and management strategies designed to protect the source(s) from contamination, including documentation of any voluntary source water protection activities that have been implemented by the water system.
- (7) Description of public awareness communication efforts that include the following:
- (A) publication of the emergency and source water protection planning status, the next revision date, and a reference to this Rule in the community water system's annual Consumer Confidence Report, as required by 15A NCAC 18C .1538; and
- (B) notification to any other public water system to which the system is directly interconnected of the contingency strategy set forth in Subparagraph (c)(2) of this Rule. A description of this communication shall be maintained in the SWPP.
- (d) The supplier of water shall maintain a copy of the current SWPP onsite at each water treatment facility and make the SWPP available to personnel responsible for emergency management and operator(s) on duty at all times. The SWPP and any associated documentation used in its creation and implementation shall be available for review by Section staff upon request.
- (e) The supplier of water shall certify that a SWPP has been created and implemented, and that the water system's governing body has been advised of the SWPP creation and implementation. The certification shall be submitted to the Department by the deadline specified in Paragraph (a) of this Rule.
- (f) The supplier of water shall certify that a SWPP has been revised and that the water system's governing body has been advised of the revision. The certification shall be submitted to the Department by the revision deadline specified in Paragraph (b) of this Rule.
- (a) In compliance with G.S. 130A-320, every supplier of water operating a public water system treating and furnishing water from a surface water source shall create and implement a Source Water Protection Plan. For purposes of this Rule, the Source Water Protection Plan required by G.S. 130A-320 shall be referred to as a Source Water Resiliency and Response Plan (SWRRP).
- (b) The SWRRP shall include a list of potential contaminant sources (PCSs), with the potential to reach surface waters upon release, both provided by the Department and supplemented by the water system if additional PCSs are known to exist by the water system. The listed PCSs will be located in the following areas as defined in Classifications and Water Quality Standards Applicable to Surface Waters and Wetlands of North Carolina, 15A NCAC 02B .0200, which is hereby incorporated by reference, including subsequent amendments and editions and can be found at no charge at http://portal.ncdenr.org/c/document_library/get_file?uuid=f12e8078-b128-44cc-b55b-fc5e7d876f3c&groupId=38364;
- (1) within the entire watershed for waters classified as WS-I;
- (2) within the critical area and 1,000 feet from perennial streambanks within the protected area for waters classified as WS-II and WS-III;
- (3) within the critical area and 1,000 feet from perennial streambanks, within the protected area for waters classified as WS-IV;
- (4) within ½ mile from the normal pool elevation in which the intake is located, or to the ridge line of the watershed, whichever comes first,

for a reservoir within waters classified as WS-V; and

- (5) within ½ mile, measured as a straight line, upstream from and draining to the intake located directly in the stream or river, or to the ridge line of the watershed, whichever comes first, for a direct-stream intake within waters classified as WS-V.

(c) Any community water system subject to this Rule shall certify completion and implementation of a SWRRP by December 31, 2022. The SWRRP shall contain the following elements:

- (1) identification and contact information of personnel responsible for emergency management, including water system, local, State, and federal emergency response personnel;
- (2) an evaluation of a water system's ability to take the following actions:
 - (A) close its water intake(s) in the event of contamination, including a determination of the duration of time the water intake(s) can remain closed while maintaining positive water pressure within the distribution system;
 - (B) isolate or divert contaminated water from its surface water intake(s);
 - (C) reduce demand by implementing conservation measures during a contamination event. Water Shortage Response Plans can be referenced to fulfill this requirement for water systems required to prepare a Water Shortage Response Plan under 15A NCAC 02E .0607, which is hereby incorporated by reference, including subsequent amendments and editions and can be found at no charge at <http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20e/15a%20ncac%2002e%20.0607.pdf>; and
 - (D) meet demand via alternate sources of supply in the event of contamination or loss of its primary water source.
- (3) identification of foreseeable natural and human-caused emergency events including water shortages and outages;
- (4) a description of the emergency response strategies for each identified shortage or outage event and each potential contamination event associated with PCSs identified and listed in Paragraph (b) of this Rule;
- (5) standard operating procedures to close intakes and switch to an alternate intake during a contamination event, including procedures that

outline exercises designed to practice closure and switching of the intake(s);

- (6) a description of public notification procedures; and
- (7) identification and evaluation of all facilities and equipment that upon failure would result in a water outage or violations of the Rules Governing Public Water Systems, 15A NCAC 18C.

(d) For community water systems that are subject to this rule and also required to complete a Risk and Resilience Assessment and an Emergency Response Plan under Section 2013 of America's Water Infrastructure Act (AWIA), which amends Section 1433 of TITLE XIV of the Public Health Service Act (The Safe Drinking Water Act); the system's Risk and Resilience Assessment and Emergency Response Plan created to comply with AWIA may be referred to as a SWRRP and used to satisfy the requirements of this Rule, if the PCS list was compiled in accordance with areas specified in Paragraph (b) of this Rule. The schedule for certifying completion and implementation of the SWRRP is as follows:

- (1) by September 30, 2020 for community water systems serving more than 100,000 people;
- (2) by June 30, 2021 for community water systems serving 50,000 to 99,999 people;
- (3) by December 30, 2021 for community water systems serving 3,301 to 49,999 people.

(e) Non-transient, non-community water systems subject to this Rule shall certify completion and implementation of a SWRRP by December 31, 2022. The SWRRP shall contain the following elements:

- (1) identification and contact information of personnel responsible for emergency management, including water system, local, State, and federal emergency response personnel;
- (2) an evaluation of a water system's ability to take the following actions:
 - (A) close its water intake(s) in the event of contamination, including a determination of the duration of time the water intake(s) can remain closed while maintaining positive water pressure within the distribution system;
 - (B) isolate or divert contaminated water from its surface water intake(s);
 - (C) reduce demand by implementing conservation measures during a contamination event, and
 - (D) meet demand via alternate sources of supply in the event of contamination or loss of its primary water source.

(f) Any public water system that begins treating and furnishing water from a surface water source on or after December 31, 2022 shall create and implement a SWRRP that satisfies the requirements of this Rule prior to the commencement of its operations.

(g) Any public water system required to create and implement a SWRRP in accordance with this Rule shall review and update its

SWRRP at five-year intervals from its creation deadline, as specified in Paragraph (c), (d) or (e) of this Rule.

(h) The supplier of water shall certify that a SWRRP has been created and implemented, and that the water system's governing body has been advised of the SWRRP creation and implementation. The certification shall be submitted to the Department by the deadline specified in Paragraphs (c), (d) or (e) of this Rule.

(i) The supplier of water shall certify that a SWRRP has been revised and that the water system's governing body has been advised of the revision. The certification shall be submitted to the Department by the revision deadline specified in Paragraph (g) of this Rule.

History Note: Authority G.S. 130A-315; 130A-320(c); Eff. January 1, 2019. Rev.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 06 – BOARD OF BARBER EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Barber Examiners intends to amend the rules cited as 21 NCAC 06O .0122 and 06S.0101.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncbarbers.com/news.html>

Proposed Effective Date: April 1, 2020

Public Hearing:

Date: December 18, 2019

Time: 10:00 AM

Location: 5809 Departure Dr Ste 102, Raleigh, NC 27616

Reason for Proposed Action:

21 NCAC 06O .0122 - The amendment corrects an erroneous double negative that undermines the intended purpose of the rule.

21 NCAC 06S .0101 - The amendment establishes dress requirements for practical exams and reorganizes the rule for ease of reading.

Comments may be submitted to: Dennis Seavers, 7001 Mail Service Center, Raleigh, NC 27699-7000; phone (919) 814-0641; fax (919) 981-5068; email dennis.seavers@nc.gov

Comment period ends: January 31, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule,

the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

SUBCHAPTER 06O – CIVIL PENALTY

21 NCAC 06O .0122 FAILURE TO NOTIFY BOARD OF CHANGE OF BARBER SHOP OR SCHOOL MANAGER

(a) The presumptive civil penalty for the failure of a barber shop or barber school to fail to notify the Board as to of a change of barber shop manager:

- (1) 1st offense \$50.00
(2) 2nd offense \$100.00
(3) 3rd offense \$200.00

(b) The presumptive civil penalty for an individual manager for the failure to notify the Board of a change of manager of a barber shop or barber school:

- (1) 1st offense \$50.00
(2) 2nd offense \$100.00
(3) 3rd offense \$200.00

Authority G.S. 86A-1; 86A-5(a)(6); 86A-22; 86A-27.

SUBCHAPTER 06S - EXAMINATIONS

21 NCAC 06S .0101 GENERAL EXAMINATION INSTRUCTIONS

(a) For the purposes of this Rule, "test center" means those rooms where the Board administers written and practical examinations while the examinations are being conducted.

(b) All candidates scheduled for an examination conducted by the Board shall bring: shall:

- (1) provide two forms of identification, one of which shall have a photo of the candidate;
(2) submit a signed copy of the exam instructions that the Board sent to the candidate;
(3) wear closed-toed shoes and barber smocks or jackets, if they are taking a practical exam;
(3)(4) bring tools and supplies as required by the Board in its exam instructions; and
(4)(5) bring a hygienically clean model with natural hair and beard of sufficient length to demonstrate practical barbering proficiency as determined by the Board in its qualifying model policy.

(c) The following shall be prohibited in the test center during examinations:

- (1) briefcases, bags, books, papers, or study materials;
(2) cell phones, calculators, or other electronic devices;
(3) eating, drinking, smoking, or chewing gum;
(4) visitors, children, or pets;
(5) talking by candidates; or
(6) wearing or carrying any school identification on uniforms or equipment.

(c)(d) No briefcases, bags, books, papers, or study materials shall be allowed in the test center. The Board shall not be responsible for lost or misplaced items.

(d) No cell phones, calculators, or other electronic devices are permitted for use during the examination.

(e) No eating, drinking, smoking, or chewing gum shall be permitted during the examination.

(f) No visitors, children, pets or guests shall be allowed in the test center.

(g)(e) No extra time for the examination shall be permitted unless mandated by State or federal law, such as the Americans with Disabilities Act.

(h)(f) No candidate may shall leave the test center during the examination. Candidates may visit the restroom with the Board staff's permission, permission but will shall not receive any additional time for the examination.

(i)(g) No candidate may give or receive assistance during the examination. If a candidate gives or receives assistance during the examination, the Board staff shall stop the candidate's examination and the candidate will shall be dismissed from the test center. The Board staff shall not score the examination and will shall report the candidate to the Board, which shall make any decisions regarding discipline.

(j) Candidates must be silent during the examination. Candidates shall not wear or carry any school identification on uniforms or equipment.

Authority G.S. 86A-5(a)(4); 86A-8; 86A-9; 86A-24.

CHAPTER 16 – BOARD OF DENTAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Dental Examiners intends to adopt the rule cited as 21 NCAC 16A.0106.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncdentalboard.org

Proposed Effective Date: April 1, 2020

Public Hearing:

Date: January 16, 2020

Time: 6:30 p.m.

Location: 2000 Perimeter Park Drive, Suite 160, Morrisville, NC 27560

Reason for Proposed Action: The proposed adoption of 21 NCAC 16A .0106 is in response to Section 4 of S.L. 2019-91, which was effective October 1, 2019, and would establish a process for individuals who wish to file a petition for a predetermination of whether the individual's criminal history will likely disqualify them from obtaining a dental license or dental hygiene license.

Comments may be submitted to: Bobby White, 2000 Perimeter Park Drive, Suite 160, Morrisville, NC 27560

Comment period ends: January 31, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

SUBCHAPTER 16A – ORGANIZATION

21 NCAC 16A.0106 PETITION FOR PREDETERMINATION

An individual who wishes to file a petition for a predetermination of whether the individual's criminal history will likely disqualify the individual from obtaining a dental license or dental hygiene license shall submit a petition on the forms furnished by the Board at www.ncdentalboard.org that shall include the petitioner's:

- (1) legal name;
(2) mailing, physical, and email addresses;
(3) social security number;
(4) date of birth;
(5) telephone number;
(6) places of residence for the past seven years;
(7) employment history since the commission of the crime(s);
(8) criminal record report prepared no more than 60 days prior to the date of petition by Castle Branch, Inc., or another reporting service designated by the Board in accordance with

- G.S. 93B-8.1(b6), the cost of which shall be borne by the petitioner;
- (9) copies of all documents in the court file related to any conviction reported on the petition or noted on the criminal record report, which copies shall be certified by the clerk of court or other judicial official;
- (10) written statement describing the circumstances surrounding the commission of the crimes;
- (11) written statement of any rehabilitation efforts, if applicable;
- (12) rehabilitative drug or alcohol treatments, if applicable;
- (13) Certificate of Relief granted pursuant to G.S. 15A-173.2, if applicable;
- (14) affidavits or other written documents, including character references, that the petitioner wishes the Board to consider in responding to the petition;
- (15) written statement certifying that the information and documentation submitted with the petition is complete and accurate to the best of the petitioner's knowledge;
- (16) fee of forty-five dollars (\$45.00) for a petition for predetermination; and
- (17) notarized signature.

Authority G.S. 90-29; 90-30; 90-41; 90-48; 90-223; 90-224; 90-229; 93B-8.1.

CHAPTER 50 – BOARD OF EXAMINERS OF PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors intends to adopt the rules cited as 21 NCAC 50.0314-.0317, .0519, .1106 and amend the rules cited as 21 NCAC 50.0301, .0306, .0313, .0405, .0407, .0408, .0505, .1101, and .1102.

Link to agency website pursuant to G.S. 150B-19.1(c): <http://www.nclicensing.org/>

Proposed Effective Date: July 1, 2020

Public Hearing:

Date: February 11, 2020

Time: 8:30 a.m.

Location: 1109 Dresser Court, Raleigh, NC 27609

Reason for Proposed Action: In House Bill 675 (Session Law 2019-174), The General Assembly mandated creation of a Residential Fire Sprinkler Design license, and such program is included in these proposed rules. The General Assembly also mandated recognition of apprenticeship training by Boards generally and a proposed rule in this group makes clear experience has always been recognized by this Board. In

response to a petition for Rulemaking filed by the Association of Independent Colleges and Universities, the Board proposes creation of a Technician License similar to that available to State and Local Government Technicians. Fees are proposed to be increased to address costs of living increases and to provide for capital projects.

Comments may be submitted to: Dale Dawson, 1109 Dresser Court, Raleigh, NC 27609; email DDawson@nclicensing.org

Comment period ends: February 11, 2020 at 10:00 a.m.

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

SECTION .0300 - EXAMINATIONS

21 NCAC 50.0301 QUALIFICATIONS DETERMINED BY EXAMINATION

(a) In order to determine the qualifications of an applicant, the Board shall provide a written or computer-based examination in the following categories:

- (1) Plumbing Contracting, Class I
- (2) Plumbing Contracting, Class II
- (3) Heating, Group No. 1 - Contracting, Class I
- (4) Heating, Group No. 1 - Contracting, Class II
- (5) Heating, Group No. 2 - Contracting, Class I
- (6) Heating, Group No. 3 - Contracting, Class I
- (7) Heating, Group No. 3 - Contracting, Class II
- (8) Fuel Piping Contractor
- (9) Fire Sprinkler Installation Contractor
- (10) Fire Sprinkler Inspection Contractor
- (11) Residential Fire Sprinkler Installation Contractor
- (12) Restricted Limited Plumbing Contractor
- (13) Fire Sprinkler Maintenance Inspection Technician

- (14) Limited Fire Sprinkler Maintenance Technician
- (15) Plumbing Technician
- (16) Heating Group No. 1 Technician
- (17) Heating Group No. 2 Technician
- (18) Heating Group No. 3 Technician
- (19) Fuel Piping Technician
- (20) Private Educational Institution Plumbing Technician
- (21) Private Educational Institution Heating Group 1 Technician
- (22) Private Educational Institution Heating Group 2 Technician
- (23) Private Educational Institution Heating Group 3 Technician
- (24) Residential Fire Sprinkler Design Contractor

(b) Each person being examined by the Board for a contractor license other than a Fire Sprinkler Installation or Fire Sprinkler Inspection Contractor license shall be required to pass both the business and law part and the technical part of the examination required by G.S. 87-21(b).

(c) Applicants for licensure as a Fire Sprinkler Installation Contractor must submit evidence of current certification by the National Institute for Certification of Engineering Technologies (NICET) for Automated Sprinkler System Layout as the prerequisite for licensure. Applicants for licensure as a Fire Sprinkler Installation Contractor must pass the business and law part of the exam administered by the Board. Persons licensed based upon NICET certification must maintain such certification as a condition of license renewal.

(d) Applicants for licensure in the Fire Sprinkler Inspection Technician classification must pass the technical examination offered by the Board. The Board shall accept the results of NICET examination resulting in Level II Certification in "Inspection and Testing of Water-based Systems" by NICET. Persons who obtain license as a Fire Sprinkler Inspection Technician based on NICET certification must maintain such certification as a condition of license renewal.

(e) Applicants for licensure as a Fire Sprinkler Inspection Contractor must submit evidence of Level III certification in "Inspection and Testing of Water-based Fire Systems" by NICET in lieu of the technical part of the Board-administered examination. Applicants for licensure as a Fire Sprinkler Inspection Contractor must also pass the business and law part of the examination administered by the Board. Contractors who obtain license by NICET certification must maintain such certification thereafter as a condition of license renewal.

(f) Applicants for a license in the Limited Fire Sprinkler Maintenance Technician classification shall obtain a license based on maintenance experience, education and job classification set forth in Rule .0306 and pass a test administered by the Board.

(g) Applicants for a license as a Residential Fire Sprinkler Installation Contractor must obtain a license based on experience set forth in Rule .0306 and must pass the technical part of the Residential Fire Sprinkler Installation Contractor examination.

(h) Applicants for a license as a Plumbing, Heating or Fuel Piping Technician must obtain a license based on experience set forth in Rule .0306 and must pass the Class I technical and Board laws and rules parts of the Board-administered examination related to the category for which a technician license is sought.

(i) Applicants who hold an active Plumbing, Heating or Fuel Piping Technician license obtained by examination may obtain the Plumbing, Heating or Fuel Piping Contractor license in the same category by meeting the experience requirement listed in Rule .0306 of this Section for the specific contractor license sought and passage of only the business portion of the examination.

(j) Applicants for a license as a Restricted Limited Plumbing Contractor shall obtain a license based on experience set forth in Rule .0306 and shall be required to pass both the business and law part and the technical part of the Restricted Limited Plumbing Contractor examination.

(k) If application is made on or before 120 days from the effective date of this Rule, applicants for Restricted Limited Plumbing Contractor license who present a current active License from the North Carolina Irrigation Contractor Licensing Board are not required to take the Board administered examination, provided the applicant:

- (1) Presents evidence of passage of a locally administered examination covering the same topics as the Board examination, resulting in certification as a Backflow Inspector by one of the municipalities in North Carolina, or evidence to establish 1000 hours of experience in the maintenance, service or repair of components of plumbing systems, and
- (2) Completes a plumbing code course offered by the Board and passes the Laws and Rules part of the examination administered by the board.

Authority G.S. 87-18; 87-21(a); 87-21(b).

21 NCAC 50 .0306 APPLICATIONS: ISSUANCE OF LICENSE

(a) All applicants for licensure or examination shall file an application setting forth the information required in G.S. 87-21 or these Rules on a form available on the Board website or at the Board office.

(b) Applicants for a plumbing or heating examination shall present evidence at the time of application to establish two years of full-time experience in the installation, maintenance, service, or repair of plumbing or heating systems related to the category for which a license is sought, whether or not a license was required for the work performed. Applicants for a fuel piping examination shall present evidence at the time of application to establish one year of experience in the installation, maintenance, service, or repair of fuel piping, whether or not a license was required for the work performed. Up to one-half of the experience may be in academic or technical training related to the field of endeavor for which examination is requested. The Board shall prorate part-time work of less than 40 hours per week or part-time academic work of less than 15 semester or quarter hours.

(c) The Board shall issue a license certificate bearing the license number assigned to the qualifying individual.

(d) Fire Sprinkler Installation Contractors shall meet experience requirements in accordance with NICET examination criteria.

(e) Applicants for examination or licensure in the Fire Sprinkler Inspection Technician classification shall submit evidence adequate to establish that the applicant has either:

- (1) 4000 hours of experience involved in inspection and testing of previously installed fire sprinkler systems, consistent with NFPA-25, Standard for the Inspection Testing as Maintenance of Water-Based Fire Protection Systems of the National Fire Protection Association, adopted by the North Carolina Building Code, which is hereby incorporated by reference including all subsequent editions and amendments to the document as a full-time employee of a Fire Sprinkler Inspection Contractor or fire insurance underwriting organization;
- (2) 4000 hours of experience as a full-time employee of a hospital, manufacturing, government, or university facility under direct supervision of Fire Sprinkler Inspection Contractor or a Fire Sprinkler Inspection Technician involved in inspection and testing of previously installed fire sprinkler systems, consistent with NFPA 25: Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems, which is hereby incorporated by reference including all subsequent editions and amendments. The document may be accessed free of charge at <http://www.nfpa.org/codes-and-standards/>;
- (3) 4000 hours of experience involved in installation of fire sprinkler systems as a full-time employee of a Fire Sprinkler Installation Contractor; or
- (4) a combination of 4000 hours of experience in any of the categories listed in this Paragraph.

(f) Applicants for licensure in the Fire Sprinkler Inspection Contractor classification shall meet experience requirements in accordance with NICET certification criteria.

(g) Applicants for initial licensure in the Limited Fire Sprinkler Maintenance Technician classification shall submit evidence of 2000 hours experience at the place for which license is sought as a full-time maintenance employee in facility maintenance with exposure to periodic maintenance of fire protection systems as described in Rule .0515 of this Chapter. Applicants who have held Limited Fire Sprinkler Maintenance Technician license previously are not required to demonstrate experience in addition to the experience at the time of initial licensure, but shall submit a new application if relocating to a new location.

(h) Applicants for licensure in the Residential Fire Sprinkler Installation Contractor classification shall hold an active Plumbing Class I or Class II Contractor license issued by this Board for a minimum of two years and shall document attendance at a 16 hour course approved by the Board pursuant to the Rules in this Chapter covering NFPA 13D: Standard for the Installation of Sprinkler Systems in One-and Two-Family Dwellings and Manufactured Homes, which is hereby incorporated by reference including all subsequent editions and amendments. The document may be accessed free of charge at <http://www.nfpa.org/codes-and-standards/>. Residential Fire Sprinkler Installation Contractors must maintain a Plumbing Contractor license as a condition of renewal of the Residential Fire sprinkler Installation Contractor license.

(i) Applicants for a license as a plumbing or heating technician shall present evidence adequate to establish 3000 hours of full-time experience in the installation, maintenance, service, or repair of plumbing or heating systems related to the category for which a technician license is sought, whether or not a license was required for the work performed. Applicants for a license as a fuel piping technician shall present evidence adequate to establish 1500 hours of experience in the installation, maintenance, service, or repair of fuel piping, whether or not a license was required for the work performed. Up to one-half of the experience may be in academic or technical training related to the field of endeavor for which the examination is requested.

(j) Applicants for a Restricted Limited Plumbing Contractor license shall present evidence at the time of application to establish 1500 hours of full-time experience in the installation, maintenance, service, or repair of plumbing systems, whether or not a license was required for the work performed. Up to one-half of the experience may be in academic or technical training related to the field of endeavor for which examination is requested. The Board shall prorate part-time work of fewer than 40 hours per week or part-time academic work of less than 15 semester or quarter hours.

(k) In lieu of the requirements of Paragraph (j) of this Rule, applicants for a Restricted Limited Plumbing Contractor License who present a current active License from the North Carolina Irrigation Contractor Licensing Board may take the examination, provided the applicant demonstrates that he or she holds certification as a Backflow Inspector from one of the municipalities in North Carolina, or demonstrates 500 hours of experience in the maintenance, service, or repair of components of plumbing systems.

(l) Applicants for license based on apprenticeship program as described in G.S. 93B-8.6(b) shall meet the same experience and training requirements for the category of license that is sought as set forth in this Rule.

Authority G.S. 87-18; 87-21(b).

21 NCAC 50 .0313 RESPONSIBILITIES OF STATE AND LOCAL GOVERNMENT TECHNICIAN LICENSEES

(a) A licensed State and local government technician licensee shall be required to list their license with the Board in the name of the State and local government agency by whom the licensee is employed,

(b) The holder of license as a State and local government Heating Group 1 Technician, Heating Group 2 Technician, Heating Group 3 Technician, or Plumbing Technician shall be a full-time employee of a State or local government agency.

(c) A licensed State and local government technician licensee shall ensure that a permit is obtained from the appropriate State or local Code Enforcement official before commencing any work for which a license is required by the Board. The licensee shall also ensure that a request for final inspection of the work for which a license is required is made within 10 days of the earlier of the system being made operational or placed in service, absent agreement with the appropriate State or local Code Enforcement official. Absent agreement with the local Code Enforcement official the licensee shall not be relieved of responsibility to the

Board to arrange inspection until a certificate of compliance or the equivalent is obtained from the appropriate State or local code enforcement official or the licensee has documentary evidence of his effort to obtain the same.

(d) The failure of a licensee to comply with the permit and inspection obligations outlined in this Rule shall be considered by the Board as evidence of incompetence or misconduct in the use of license from the Board.

(e) A licensed State and local government technician licensee shall be responsible for general supervision to the extent of his qualifications, compliance with all applicable codes and standards, and assurance that permits and inspections are obtained.

(f) The "general supervision" required by G.S. 87-26 is the degree of supervision necessary and sufficient to ensure that the work is performed in a workmanlike manner and with the requisite skill and that the installation is made in accordance with applicable codes, rules and manufacturer installation instructions and industry practice. General supervision requires that review of the work done pursuant to the State and local government technician license be performed by the State and local government technician licensee while the work is in progress.

(g) In each State or local government agency location, branch, or facility of any kind from which work requiring a license pursuant to G.S. 87, Article 2 is carried out there shall be on duty the lesser of 1500 hours annually, or all hours during which the activities described herein are carried out, at least one licensee who holds the appropriate State and local government technician license in the classification required for the work being proposed or performed, whose license is listed in the name of the particular State or local government agency at that location, and who is engaged in the work of the State or local government at the agency location or at an agency job site and who has the responsibility to exercise general supervision over the work and who has been empowered to act for the State or local government agency, as defined in Rule .0505 of this Chapter, of all work falling within his or her license qualification. Evidence of compliance shall be required as a condition of renewal or retention of license and falsification shall constitute fraud in obtaining license. The standards set forth in Rule .0512 of this Chapter shall be applied.

(h) An unlicensed person employed by a State and local government agency licensed and supervised pursuant to G.S. 87, Article 2 shall not be required to have a license and shall not be subject to an action for injunctive relief brought by the Board if the unlicensed person is a bona-fide employee of the State and local government.

(i) The annual license fee for a State and local government Technician license is ~~one hundred thirty dollars (\$130.00)~~, one hundred fifty dollars (\$150.00), except as provided in Paragraph (j) of this Rule.

(j) The annual license fee for a State & Local Government Technician Plumbing or Heating Technician license that is listed as the second or subsequent licensee at the same agency location is ~~sixty-five seventy-five dollars (\$65.00)~~, (\$75.00).

Authority G.S. 87-18; 87-21(a)(5); 87-21(a)(6); 87-21(a)(10); 87-21(b)(2)c; 87-22; 87-22.1; 87-26.

21 NCAC 50 .0314 PRIVATE EDUCATIONAL INSTITUTION PLUMBING OR HEATING TECHNICIAN

(a) Applicants for a license as a Private Educational Institution Plumbing or Heating Technician shall obtain a license based on experience set forth in Paragraph (c) of this Rule and shall pass the Class I technical and Board laws and rules part of the Board-administered examination described in 21 NCAC 50 .0301 related to the category for which a technician license is sought. The applicant need not pass the business part of the examination.

(b) Applicants for a license as a Private Educational Institution Plumbing or Heating Technician shall present evidence to establish 3000 hours of full-time experience in the installation, maintenance service or repair of plumbing or heating system related to the category for which a technician license is sought, whether or not a license was required for the work performed.

(c) Applicants for a license as a Private Educational Institution Technician who currently hold an active plumbing or heating contractor license issued by this Board may qualify for the corresponding State and local government technician license without examination.

(d) Applicants for a license as Private Educational Institution Technician who currently hold an active plumbing or heating technician license obtained by examination and issued by the Board may qualify for the Corresponding Private Educational Institution technician license without examination.

Authority G.S. 87-18.

21 NCAC 50 .0315 RESPONSIBILITIES OF PRIVATE EDUCATIONAL INSTITUTION TECHNICIAN LICENSEES

A licensed Private Educational Institution technician licensee shall meet the same requirements as State and Local Government Technician licensees, as set forth in 21 NCAC 50 .0313.

Authority G.S. 87-18.

21 NCAC 50 .0316 RESIDENTIAL FIRE SPRINKLER DESIGN CONTRACTOR LICENSE

(a) Applicants for a Residential Fire Sprinkler Design Contractor license shall obtain a license based on experience set forth in Paragraph (b) of this Rule and shall be required to pass the Residential Fire Sprinkler Design technical examination.

(b) Applicants for a residential Fire Sprinkler Design Contractor license shall present evidence at the time of application to establish that the applicant currently holds an active Residential Fire Sprinkler Installation Contractor license issued by the Board, shall document completion of the 32 hour fire sprinkler system design course set forth in 21 NCAC 50 .0505 approved by the Board pursuant to the rules in this Chapter covering NFPA-13D fire sprinkler system design and shall pass the Residential Fire Sprinkler Design Contractor license examination conducted by the Board.

Authority G.S. 87-18.

21 NCAC 50 .0317 RESIDENTIAL FIRE SPRINKLER DESIGN CONTRACTOR LICENSEES

(a) Applicants for a Residential Fire Sprinkler Design Contractor license shall design NFPA 13D residential multipurpose fire sprinkler systems consistent with NFPA 13D design requirements and the water design conditions present at the system installation location.

(b) Residential Fire Sprinkler Design Contractor licensee shall personally sign and date each specific NFPA 13D residential design performed.

(c) Residential Fire Sprinkler Design Contractor must maintain a Plumbing Contractor and a Residential Fire Sprinkler Installation Contractor license as a condition of renewal of the Residential Fire Sprinkler Design Contractor license.

(d) The annual license fee for a Residential Fire Sprinkler Design Contractor license is one hundred fifty dollars (\$150.00).

Authority G.S. 87-18.

SECTION .0400 - GENERAL PROCEDURES

21 NCAC 50 .0405 MULTIPLE LICENSES

(a) In order to maintain the identity of firms and allow effective supervision, each licensed contractor or technician shall qualify only the business location where he is primarily located.

(b) A licensee may be listed on only one contractor license at any given time, whether the license is issued in the name of the individual or in the name of a firm; provided, however, that the Fire Sprinkler Maintenance Technician ~~qualification~~ qualification, the Private Educational Institution Technician, and the State and local government technician qualification may be listed separately in the name of the employer to which restricted.

(c) The holder of qualification as a contractor may, upon deletion of his name and qualifications from a firm license, reinstate his personal license, either as an individual or in the name of some other corporation, partnership, or business that has a trade name, upon compliance with G.S. 87-26.

(d) A technician licensee, other than the holder of a Fire Sprinkler Maintenance Technician license, may, upon deletion of his name and qualification from a firm license, move his qualification to another licensed corporation, partnership, state or local governmental agency, private educational institution, or business that has a trade name, upon compliance with G.S. 87-26.

Authority G.S. 87-18; 87-21(a)(5); 87-21(a)(6); 87-21(b)(2)c; 87-26.

21 NCAC 50 .0407 CORPORATIONS, PARTNERSHIPS AND TRADE NAMES

(a) Licensees are required to list their license with the Board in the name in which they conduct business.

(b) A contractor license may be issued or renewed in the name of a corporation, ~~partnership~~ partnership, state or local governmental agency, private educational institution, or business with a trade name upon compliance with the provisions of G.S. 87-26, verified by the execution of forms furnished by the Board.

(c) Additional licensees may be added to licenses issued in the above manner upon verifications of compliance with the provisions of G.S. 87-26. If a licensee terminates his association

with a corporation, ~~partnership~~ partnership, state or local governmental agency, private educational institution, or business with a trade name, both the firm and the licensee shall notify the Board within 30 days.

(d) A person who has a license which has been expired less than three years may be added to an active license issued in the name of a corporation, ~~partnership~~ partnership, state or local governmental agency, private educational institution, or business with a trade name, upon written request, completion of forms provided by the Board and payment of the fee set forth in Rule .1102 of this Chapter.

(e) The license number assigned to a corporation, partnership, state or local governmental agency, private educational institution, or business with a trade name shall be that of the first licensee listed on the license.

(f) A corporation, ~~partnership~~ partnership, state or local governmental agency, private educational institution, or business with a trade name which is issued a license is subject to the provisions of G.S. 87, Article 2 and to the rules in this Chapter.

Authority G.S. 87-18; 87-22; 87-26.

21 NCAC 50 .0408 CHANGE OF TRADE NAME

(a) The trade name under which a license is issued may be changed upon request to and approval by the Board pursuant to these Rules. If the Board approves the name change, the last license issued to the licensee must be returned to the Board before the new license will be sent to the licensee.

(b) A contractor license shall be issued or renewed using any corporate name, partnership name, state or local governmental agency, private educational institution, or trade name which is not substantially similar to a name already in use according to the records of the Board.

(c) The licensee shall notify the Board of any change in location, telephone number, physical address or mailing address from that shown on the last license renewal invoice within 30 days after the change takes place.

Authority G.S. 55B-5; 87-18; 87-26.

SECTION .0500 - POLICY STATEMENTS AND INTERPRETATIVE RULES

21 NCAC 50 .0505 GENERAL SUPERVISION AND STANDARD OF COMPETENCE

(a) The general supervision required by G.S. 87-26 is that degree of supervision which is necessary and sufficient to ensure that the contract is performed in a workmanlike manner and with the requisite skill and that the installation is made properly, safely and in accordance with applicable codes and rules. General supervision requires that a review of the work done pursuant to the license be performed by a licensee of the firm while the work is in progress. If a Plumbing, Heating or Fuel Piping Contractor licensed by this Board employs a properly licensed Plumbing, Heating or Fuel Piping Technician, whose Technician license is listed under the name of that licensed contractor, then the licensed technician may review and supervise work in lieu of the licensed contractor as a means to assure that the contract is performed in a workmanlike manner and with the requisite skill and that the

installation is made properly, safely and in accordance with applicable codes and rules.

(b) The provisions of the North Carolina Building Code, including the provisions of codes and standards incorporated by reference, and adopted by the Building Code Council of North Carolina are the minimum standard of competence applicable to contractors licensed by the Board. Licensees shall design and install systems which meet or exceed the minimum standards of the North Carolina State Building Code, manufacturer's specifications and installation instructions and standards prevailing in the industry.

(c) Work performed under Rule .0513, Rule .0514, and Rule .0515 shall be performed by the licensed technician pursuant to the license held by that person.

(d) Every newly installed residential heating system, air conditioning system or both shall be designed and installed to maintain a maximum temperature differential of four degrees Fahrenheit room-to-room and floor-to-floor. On multilevel structures, contractors shall either provide a separate HVAC system for each floor or to install automatically controlled zoning equipment for each level with individual thermostats on each level to control the temperature for that level. The seasonal adjustment needed to maintain the four degrees Fahrenheit room-to-room and floor-to-floor maximum temperature differential shall not be accomplished through the use of manual dampers.

(e) All licensed HVAC contractors or licensed technicians shall perform a room-by-room load calculation for all newly installed residential ~~structures~~ systems prior to installing heating systems, air conditioning systems, or both, which calculations shall be specific to the location and orientation where the HVAC system or equipment is to be installed. A written record of the system and equipment sizing information shall be provided to the homeowner, owner or general contractor upon request and a copy shall be maintained in the job file of the licensee for a minimum of six years. Load calculations shall be performed by a licensee who holds the appropriate license from this Board, or a licensee may utilize a load calculation carried out for this particular structure and location by a North Carolina Licensed Professional Engineer.

(f) When either a furnace, condenser, package unit or air handler in an existing residential heating or air conditioning system is replaced, the licensed HVAC contractor or licensed technician is required to perform a minimum of a whole house block load calculation. When a furnace, condenser, package unit or air handler in a residential heating or air conditioning system is replaced, the licensee shall ensure that all systems and equipment are properly sized. The licensee may utilize industry standards, reference materials, evaluation of the structure, and load calculations. A written record of the system and equipment sizing information shall be provided to the homeowner, owner or general contractor upon request and a copy shall be maintained in the job file of the licensee for a minimum of six years. If a load calculation was not performed or if a load calculation was performed and it is later determined by the Board that the unit installed was undersized or oversized, the installation will be considered as evidence of incompetence. Load calculations shall be performed by a licensee who holds the appropriate license from this Board, or a licensee may utilize load calculations carried out

for this particular structure and location by a North Carolina Licensed Professional Engineer.

(g) A licensed plumbing contractor involved in installation or replacement of a well pump or pumping equipment which includes installation or reinstallation of a well seal shall be present on site until the well is disinfected and sealed.

(h) At the time of completion of initial installation and upon any subsequent alteration, licensees who install multipurpose residential fire sprinkler systems shall assure that the two most remote fire sprinkler heads, as identified by the design professional who designed the system, undergo a water flow test using at the designed water supply delivery volume and delivery pressure and assure that the system flows the required functions to deliver the amount of water through each of the tested fire sprinkler heads, heads specified by the design professional. Failure to carry out the flow test or failure of a system to provide the required volume or water when placed in operation due to fire or otherwise shall be considered evidence of misconduct and incompetence on the part of the installing licensee.

Authority G.S. 87-18; 87-23; 87-26.

**21 NCAC 50 .0519 RESIDENTIAL FIRE
SPRINKLER DESIGN CONTRACTOR LICENSE**

License as a Residential Fire Sprinkler Design Contractor is required of persons who desire to design residential fire sprinkler Systems consistent with NFPA 13D Residential Multipurpose Fire Sprinkler System, who hold an active license as a Plumbing Contractor and as a Residential Fire Sprinkler Installation Contractor, but who do not hold a license as a Fire Sprinkler Installation Contractor.

Authority G.S. 87-18.

SECTION .1100 - FEES

21 NCAC 50 .1101 EXAMINATION FEES

(a) An application to reissue or transfer a license to a different corporation, partnership or individual name requires a fee of ~~twenty-five dollars (\$25.00).~~ thirty dollars (\$30.00).

(b) An application to issue or transfer a license to the license of an existing licensee requires a fee of ~~twenty-five dollars (\$25.00).~~ thirty dollars (\$30.00).

(c) An application for a license by examination requires a fee of one hundred dollars (\$100.00), consisting of an application fee of twenty-five dollars (\$25.00) and an examination fee of seventy-five dollars (\$75.00), which is nonrefundable. Upon passage of the examination, the license fee set forth in 21 NCAC 50.1102 or this Rule must be paid to obtain the license within 45 days of notification of the result of the examination, except that anyone passing the examination after November 1 of any year may elect to obtain a license for the following year rather than the year in which the exam was passed.

Authority G.S. 87-18; 87-22.1; 87-22; 87-26.

21 NCAC 50 .1102 LICENSE FEES

(a) Except as set out in this Rule, the annual license fee for plumbing, heating and fuel piping contractor licenses issued or

renewed by the Board is ~~one hundred thirty dollars (\$130.00).~~ one hundred fifty dollars (\$150.00).

(b) The annual license fee for a licensed individual who holds qualifications from the Code Officials Qualification Board and is employed full-time as a local government plumbing, heating or mechanical inspector is twenty-five dollars (\$25.00).

(c) The initial application fee for a license without examination conducted by the Board is thirty dollars (\$30.00).

(d) The annual license fee for a contractor or fire sprinkler inspection technician whose qualifications are listed as the second or subsequent individual on the license of a corporation, partnership, or business with a trade name under Paragraphs (a) or (c) of this Rule is ~~thirty dollars (\$30.00).~~ seventy-five dollars (\$75.00).

(e) The annual license fee for a Fire Sprinkler Installation Contractor and a Fire Sprinkler Inspection Contractor license by this Board is ~~one hundred thirty dollars (\$130.00).~~ one hundred fifty dollars (\$150.00).

(f) The annual license fee for a Limited Fire Sprinkler Maintenance Technician is ~~one hundred thirty dollars (\$130.00).~~ one hundred fifty dollars (\$150.00).

(g) The annual license fee for a Residential Fire Sprinkler Installation Contractor is ~~one hundred thirty dollars (\$130.00).~~ one hundred fifty dollars (\$150.00).

(h) The annual license fee for a Fire Sprinkler Inspection Technician is ~~one hundred thirty dollars (\$130.00).~~ one hundred fifty dollars (\$150.00).

(i) The annual license fee for all Fuel Piping Technician licenses listed with a Class A Gas Dealer is ~~one hundred thirty dollars (\$130.00).~~ one hundred fifty dollars (\$150.00).

(j) The annual license fee for Plumbing, Heating or Fuel Piping Technician licensees listed under a licensed Plumbing, Heating or Fuel Piping Contractor is ~~sixty five dollars (\$65.00).~~ seventy-five dollars (\$75.00)

(k) The annual license fee for a Restricted Limited Plumbing Contractor is ~~one hundred thirty dollars (\$130.00).~~ one hundred fifty dollars (\$150.00).

Authority G.S. 87-18; 87-21; 87-22.

SECTION .1100 – FEES

21 NCAC 50 .1106 PETITION FOR PREDETERMINATION

(a) An individual who wishes to file a petition for a predetermination of whether the individual's criminal history will likely disqualify the individual from obtaining a license from the Board shall submit a petition at the office of the Board.

(b) The petition shall include the petitioner's:

- (1) legal name;
- (2) mailing, physical, and email addresses;
- (3) social security number;
- (4) date of birth;
- (5) telephone number;
- (6) places of residence for the past seven years;
- (7) employment history since the date the crime was committed;
- (8) criminal record report prepared no more than 60 days prior to the date of petition;
- (9) written statement describing the circumstances surrounding the commission of the crime(s);
- (10) written statement of any rehabilitation efforts;
- (11) rehabilitative drug or alcohol treatments;
- (12) Certificate of Relief granted pursuant to G.S. 15A-173.2;
- (13) affidavits or other written documents, including character references, that the petitioner intends to submit for review;
- (14) certification; and
- (15) signature.

(c) The fee for a petition for predetermination shall be forty-five dollars (\$45.00).

Authority G.S. 93A-4; 93B-8.1.

APPROVED RULES

*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

Rules approved by the Rules Review Commission at its meeting on October 17, 2019 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

ADMINISTRATION, DEPARTMENT OF

<u>Mileage Rates</u>	01 NCAC 38 .0103	34:01 NCR
<u>General Repairs And Maintenance</u>	01 NCAC 38 .0201*	34:01 NCR
<u>Accident Reporting</u>	01 NCAC 38 .0205	34:01 NCR
<u>Requests for Assignment of Vehicles</u>	01 NCAC 38 .0302*	34:01 NCR
<u>Removal of Vehicles From Individual and Agency Assignment</u>	01 NCAC 38 .0305*	34:01 NCR
<u>Return of Assigned Vehicles</u>	01 NCAC 38 .0308	34:01 NCR
<u>Official Use Only</u>	01 NCAC 38 .0401*	34:01 NCR
<u>Relatives</u>	01 NCAC 38 .0407	34:01 NCR
<u>Public Sale</u>	01 NCAC 43A .0307	34:01 NCR
<u>First-Come First-Served</u>	01 NCAC 43A .0308	34:01 NCR
<u>Rejection of Bids</u>	01 NCAC 43A .0309*	34:01 NCR
<u>Receipt of Bids</u>	01 NCAC 43A .0310	34:01 NCR
<u>Inspection of Property</u>	01 NCAC 43A .0311*	34:01 NCR
<u>State Does Note Guarantee</u>	01 NCAC 43A .0312*	34:01 NCR
<u>Refunds</u>	01 NCAC 43A .0313*	34:01 NCR
<u>Extension to Pay or Remove Property</u>	01 NCAC 43A .0314*	34:01 NCR
<u>Failure to Pay or Remove Property</u>	01 NCAC 43A .0315*	34:01 NCR
<u>Bond</u>	01 NCAC 43A .0316*	34:01 NCR
<u>Demolition of State Buildings</u>	01 NCAC 43A .0317*	34:01 NCR
<u>Timber Sales, Pinestraw, and Forest Commodities Sales</u>	01 NCAC 43A .0318	34:01 NCR
<u>Surplus Weapons and Firearms</u>	01 NCAC 43A .0319*	34:01 NCR
<u>Payment</u>	01 NCAC 43A .0320*	34:01 NCR

SOCIAL SERVICES COMMISSION

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<u>Definitions</u>	10A NCAC 06S .0102*	33:17 NCR
<u>Staffing Pattern</u>	10A NCAC 06S .0203*	33:17 NCR
<u>Staff Requirements</u>	10A NCAC 06S .0204*	33:17 NCR
<u>Requirements</u>	10A NCAC 06S .0301*	33:17 NCR
<u>Construction Requirements for Day Health Homes</u>	10A NCAC 06S .0302*	33:17 NCR
<u>Additional Enrollment and Participation Requirements</u>	10A NCAC 06S .0402*	33:17 NCR
<u>Health and Personal Care Services</u>	10A NCAC 06S .0403*	33:17 NCR
<u>Transportation</u>	10A NCAC 06S .0404*	33:17 NCR
<u>Emergencies and First Aid</u>	10A NCAC 06S .0405*	33:17 NCR
<u>Procedure</u>	10A NCAC 06S .0501*	33:17 NCR
<u>Procedure for Appeal</u>	10A NCAC 06S .0508*	33:17 NCR
<u>Nature and Purpose of State Adult Day Care Fund</u>	10A NCAC 06T .0201*	33:17 NCR

HHS - HEALTH SERVICE REGULATION, DIVISION OF

<u>Definitions</u>	10A NCAC 14G .0101	34:01 NCR
<u>Application</u>	10A NCAC 14G .0102*	34:01 NCR
<u>Criteria for an Undeserved Area Exemption - New Entity</u>	10A NCAC 14G .0103	34:01 NCR
<u>Criteria for an Underserved Area Exemption - Existing Entity</u>	10A NCAC 14G .0104	34:01 NCR

PRIVATE PROTECTIVE SERVICES BOARD

<u>Reporting Requirements for the Discharge of Firearms</u>	14B NCAC 16 .0110*	33:15 NCR
<u>Armed Security Guard Firearm Registration Permit Ident Cards</u>	14B NCAC 16 .0805*	33:15 NCR
<u>Renewal of Armed Security Guard Firearm Registration Permit</u>	14B NCAC 16 .0806*	33:15 NCR
<u>Training Requirements for Armed Security Guards</u>	14B NCAC 16 .0807*	33:15 NCR
<u>Concealed Weapons</u>	14B NCAC 16 .0808*	33:15 NCR
<u>Authorized Firearms</u>	14B NCAC 16 .0809	33:15 NCR
<u>Requirements for Firearms Trainer Certificate</u>	14B NCAC 16 .0901*	33:15 NCR
<u>Renewal of a Firearms Trainer Certificate</u>	14B NCAC 16 .0904*	33:15 NCR
<u>Records Retention</u>	14B NCAC 16 .0906*	33:15 NCR
<u>Unarmed Trainer Certificate</u>	14B NCAC 16 .0909*	33:15 NCR

ENVIRONMENTAL MANAGEMENT COMMISSION

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<u>Analytical Procedures</u>	15A NCAC 02B .0103*	32:22 NCR
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<u>Considerations/Assigning Classifications for Primary Recr...</u>	15A NCAC 02B .0106	32:22 NCR
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<u>Natural Characteristics Outside Standards Limits</u>	15A NCAC 02B .0205*	32:22 NCR
<u>Flow Design Criteria for Effluent Limitations</u>	15A NCAC 02B .0206*	32:22 NCR
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<u>Fresh Surface Water Quality Standards for Class C Waters</u>	15A NCAC 02B .0211*	32:22 NCR
<u>Fresh Surface Water Quality Standards for Class WS-I Waters</u>	15A NCAC 02B .0212*	32:22 NCR
<u>Fresh Surface Water Quality Standards for Class WS-II Waters</u>	15A NCAC 02B .0214*	32:22 NCR
<u>Fresh Surface Water Quality Standards for Class WS-III Wa...</u>	15A NCAC 02B .0215*	32:22 NCR
<u>Fresh Surface Water Quality Standards for Class WS-IV Waters</u>	15A NCAC 02B .0216*	32:22 NCR
<u>Fresh Surface Water Quality Standards for Class WS-V Waters</u>	15A NCAC 02B .0218*	32:22 NCR
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<u>Water Quality Standards for Nutrient Sensitive Waters</u>	15A NCAC 02B .0223*	32:22 NCR
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<u>Wetland Standards</u>	15A NCAC 02B .0231*	32:22 NCR
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<u>Hiwassee River Basin</u>	15A NCAC 02B .0302*	32:22 NCR
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<u>French Broad River Basin</u>	15A NCAC 02B .0304*	32:22 NCR
<u>Watauga River Basin</u>	15A NCAC 02B .0305*	32:22 NCR
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<u>Yadkin-Pee Dee River Basin</u>	15A NCAC 02B .0309*	32:22 NCR
<u>Lumber River Basin</u>	15A NCAC 02B .0310*	32:22 NCR
<u>Cape Fear River Basin</u>	15A NCAC 02B .0311*	32:22 NCR
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<u>Tar-Pamlico River Basin</u>	15A NCAC 02B .0316*	32:22 NCR
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<u>Purpose and Scope</u>	15A NCAC 02D .0601	33:20 NCR
<u>Definitions</u>	15A NCAC 02D .0602*	33:20 NCR
<u>Exceptions to Monitoring and Reporting Requirements</u>	15A NCAC 02D .0604*	33:20 NCR
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<u>Sources Covered by Appendix P of 40 CFR Part 51</u>	15A NCAC 02D .0606*	33:20 NCR
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<u>Implementation</u>	15A NCAC 02D .2104*	33:20 NCR
<u>Purpose</u>	15A NCAC 02D .2301	33:20 NCR
<u>Definitions</u>	15A NCAC 02D .2302*	33:20 NCR
<u>Applicability and Eligibility</u>	15A NCAC 02D .2303*	33:20 NCR
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<u>Duration of Emission Reduction Credits</u>	15A NCAC 02D .2306*	33:20 NCR
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WILDLIFE RESOURCES COMMISSION

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TITLE 01 - DEPARTMENT OF ADMINISTRATION

01 NCAC 38 .0103 MILEAGE RATES

Agencies shall reimburse the Department of Administration ("Department") for the use of Motor Fleet Management Division ("Division") vehicles at the end of each month at the rate set by the Department. This rate shall be set out in the assignment documents and based upon the total cost of ownership of the vehicle.

History Note: Authority G.S. 143-341(8)i; Eff. October 1, 1992; Readoption Eff. November 1, 2019.

01 NCAC 38 .0201 GENERAL REPAIRS AND MAINTENANCE

- (a) The individual and Agency to whom the vehicle is assigned shall maintain and make any necessary repairs to Division vehicles. Maintenance shall include oil changes, tire rotations, transmission or engine service.
- (b) Prior to any maintenance and repairs, the individual or the Agency shall have prior authorization by contacting the dedicated repair authorization line provided in the assignment document with the details of the maintenance and an estimate of the cost.
- (c) Authorized charges for maintenance or repairs shall be billed to the Division for payment. The Division may invoice agencies for any unauthorized repair expenses when the repairs are conducted off the assigned maintenance schedule or are in addition to what is recommended by the Division for the vehicle.

History Note: Authority G.S. 143-341(8)i; Eff. October 1, 1992; Readoption Eff. November 1, 2019.

01 NCAC 38 .0205 ACCIDENT REPORTING

- (a) A police report shall be obtained at the time of the accident by the local law enforcement on all accidents involving Division vehicles.
- (b) All accidents involving Division vehicles or other property damage, regardless of amount of damage, shall be reported by

contacting the dedicated accident reporting agencies provided in the assignment documents.

- (c) All accidents involving personal injury to a third party or damage to a third party's property shall be reported to Traveler's Insurance Company at the contact information provided in the assignment documents.

History Note: Authority G.S. 143-341(8)i; Eff. November 2, 1992; Readoption Eff. November 1, 2019.

01 NCAC 38 .0302 REQUESTS FOR ASSIGNMENT OF VEHICLES

(a) Permanent Assignments. Requests for Division vehicles to be assigned to individuals or agencies shall be on the Division form and shall include:

- (1) contact information on the requesting individual and the Agency;
- (2) copy of a valid North Carolina driver's license;
- (3) description of the requesting individual or Agency's vehicle needs and planned usage; and
- (4) signature by the Agency's Director or his or her designee.

(b) "Special Use" Assignments. In addition to the requirements set forth in Paragraph (a) of this Rule, written justification, verified by historical data shall be included on the official Division form for each "special use" vehicle assigned. All assignments of "special use" vehicles shall be reviewed and approved by the Secretary in accordance with G.S. 143-341(8)(i)(5).

History Note: Authority G.S. 143-341(8)i; Eff. October 1, 1992; Readoption Eff. November 1, 2019.

01 NCAC 38 .0305 REMOVAL OF VEHICLES FROM INDIVIDUAL AND AGENCY ASSIGNMENT

Permanent vehicle assignment to individuals or agencies may be revoked if any of the following occur:

- (1) a conviction of G.S. 20 or other state motor vehicle laws in which the vehicle is traveling;

- (2) any violation of G.S. 143-341(8)(i)(7a) is committed;
- (3) any vehicle abuse which may include not providing maintenance in accordance with the assigned maintenance schedule set for the vehicle, not providing repairs when needed, or destruction of the interior or exterior not due to the natural aging of the vehicle; and
- (4) any other violation of the rules of this Section.

History Note: Authority G.S. 143-341(8)i; Eff. October 1, 1992; Readopted Eff. November 1, 2019.

01 NCAC 38 .0308 RETURN OF ASSIGNED VEHICLES

- (a) Replacement vehicles shall be assigned by the Division as necessary based on mileage, time in service, economy and nature of use of each vehicle.
- (b) If turn-in or replacement is required, all permanently assigned vehicles, including all keys, credit cards assigned to that vehicle, vehicle registration, travel log book, and any other materials issued by the Division, shall be returned to the Division Office. The Agency shall continue to be charged for the assigned vehicle until the vehicle has been received by the Division's Vehicle Assignment staff and all of the requirements of this Paragraph are met.
- (c) The driver's Agency shall pay for all damages due to vehicle neglect, misuse or abuse.

History Note: Authority G.S. 143-341(8)i; Eff. October 1, 1992; Readopted Eff. November 1, 2019.

01 NCAC 38 .0401 OFFICIAL USE ONLY

- (a) State-owned vehicles shall be driven only by state employees and used for official state business except in accordance with this Rule.
- (b) An employee may drive the vehicle to and from his or her home when one or more of the following conditions exist:
 - (1) by virtue of his or her position, the employee is entitled to use the vehicle and is so approved and authorized by the Secretary of Administration in accordance with IRS Publication 15-B herein incorporated by reference including subsequent amendments and additions. This document may be accessed at <https://www.irs.gov/publications/p15b> at no cost.
 - (2) the employee is entitled to use the vehicle for commuting purposes in accordance with G.S. 143-341(8)(i)(7a);
 - (3) the employee's home is his or her official work station and the vehicle is parked at home when not being used for official business; or
 - (4) the state-owned vehicle is required for a trip the following workday and employee's home is closer to the destination than the official work station, and the employee does not have to

report to his or her work station before beginning the trip.

History Note: Authority G.S. 143-341(8)i; Eff. October 1, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018; Amended Eff. November 1, 2019.

01 NCAC 38 .0407 RELATIVES

No spouses and children of state employees may accompany them in state-owned vehicles. No family pets are permitted in state-owned vehicles. Service animals are excluded from this restriction.

History Note: Authority G.S. 143-341(8)i; Eff. October 1, 1992; Readopted Eff. November 1, 2019.

01 NCAC 43A .0307 PUBLIC SALE

Unless otherwise disposed of in accordance with G.S. 143-64.03 or Rule .0305 of this Section, State Surplus Property shall be offered for public sale. Public sale is through sealed competitive bids, competitive bids, electronic bids, negative bids, auction, and retail sales.

History Note: Authority G.S. 143-64.01; 143-64.04; Eff. June 1, 2007; Readopted Eff. November 1, 2019.

01 NCAC 43A .0308 FIRST-COME FIRST-SERVED

State surplus property shall be sold on a first-come, first served basis when:

- (1) the property is sold at a retail store to the general public; or
- (2) the property is transferred to state agencies, political subdivisions, or non-tax exempt organizations.

History Note: Authority G.S. 143-64.01; 143-64.04; Eff. June 1, 2007; Readopted Eff. November 1, 2019.

01 NCAC 43A .0309 REJECTION OF BIDS

- (a) Any and all bids may be rejected if in the best interest of the state.
- (b) Bids may also be rejected in whole or in part if:
 - (1) The winning bidder has failed to pay for or pick up surplus property awarded;
 - (2) The bid is submitted by an ineligible bidder pursuant to Rule .0315 of this Section;
 - (3) The bid does not comply with the terms and conditions of the State Surplus Property Agency;
 - (4) The bid is not legible or the information provided is inaccurate, incomplete or needs clarification;

- (5) The bid does not comply with the requirements of the request and solicitation as set forth in the bid; or
- (6) Bid rejection is recommended by the State Capitol Police, State Bureau of Investigation, Federal Bureau of Investigation, or other Homeland Security entity. In such cases, the security entity must provide a written statement requesting rejection and that the recommendation is based on homeland security concerns. In the event of receipt of a security based bid rejection recommendation, the State Surplus Property Agency shall reject the bid without further supporting documentation.

(c) If a bid is rejected in whole or in part, State Surplus Property may:

- (1) re-advertise the property;
- (2) award the property to the next highest bidder from the initial bid; or
- (3) negotiate the sale of the property in the best interest of the State.

History Note: Authority G.S. 143-64.01; 143-64.04; Eff. June 1, 2007; Readopted Eff. November 1, 2019.

01 NCAC 43A .0310 RECEIPT OF BIDS

The bidder shall ensure that the bid is received in the State Surplus Property Agency by the time and date set forth in the bid.

History Note: Authority G.S. 143-64.01; 143-64.04; Eff. June 1, 2007; Readopted Eff. November 1, 2019.

01 NCAC 43A .0311 INSPECTION OF PROPERTY

- (a) All property is sold "as is" and "where is." Bidders may inspect property prior to submitting bids. Opportunity shall be afforded for inspection up to the time a bid is awarded, but no labor or materials shall be furnished to a bidder for such purpose.
- (b) Photographs and descriptions are provided for the purpose of aiding the bidder to identify the property and shall not be used to determine quality or condition of the property. Descriptions by the custodian of the property shall not be considered by the State Surplus Property Agency nor shall they be grounds for disputing an award.

History Note: Authority G.S. 143-64.01; 143-64.04; Eff. June 1, 2007; Readopted Eff. November 1, 2019.

01 NCAC 43A .0312 STATE DOES NOT GUARANTEE

- (a) The description of the property offered for sale is compiled from information available to the State Surplus Property Agency at the time the bid is prepared. All property is sold "as is" and "where is."
- (b) State Surplus Property Agency may withdrawal the offer to sell prior to the award when in the best interest of the State.

- (c) The winning bidder shall be responsible for any cost of weighing, packaging, crating, loading or hauling of property.

History Note: Authority G.S. 143-64.01; 143-64.04; Eff. June 1, 2007; Readopted Eff. November 1, 2019.

01 NCAC 43A .0313 REFUNDS

- (a) No refund shall be made upon the following:
 - (1) property not meeting the bidder's expectation;
 - (2) bidder's failure to inspect prior to sale; or
 - (3) change of condition of property from the time of award to the time of pickup.
- (b) No refund shall be given unless a change in value has occurred from the initial inspection of the property until the time of the award as determined by the State Surplus Property Officer based on condition of the property.

History Note: Authority G.S. 143-64.01; 143-64.04; Eff. June 1, 2007; Readopted Eff. November 1, 2019.

01 NCAC 43A .0314 EXTENSION TO PAY OR REMOVE PROPERTY

- (a) Extensions to pay or remove property shall be granted under the following conditions:
 - (1) the purchaser's inability to pay or remove property is due to the actions or inactions of the State Surplus Property Agency or the custodian of the property; and
 - (2) the State Surplus Property Officer determines that space is available to allow a delay in the removal of property.
- (b) The purchaser shall not be eligible for refund for the change in the condition of the property as a condition of the extension.

History Note: Authority G.S. 143-64.01; 143-64.04; Eff. June 1, 2007; Readopted Eff. November 1, 2019.

01 NCAC 43A .0315 FAILURE TO PAY OR REMOVE PROPERTY

- (a) Unless extended in accordance with Rule .0314 of this Chapter, if the bidder fails to pay in full for the property by the time and date indicated on the notice of award, the award shall be rescinded, and the defaulting bidder shall be charged with loss to the State, if any, together with all expenses of the sale.
- (b) If the bidder does not remove the property purchased by the time and date indicated on the notice of award, the State Surplus Property Agency shall retain the purchase price, and resell the property a second time and retain all proceeds therefrom.
- (c) Bidders who fail to pay shall be ineligible for award of future bids.

History Note: Authority G.S. 143-64.01; 143-64.04; 143-64.05; Eff. June 1, 2007; Readopted Eff. November 1, 2019.

01 NCAC 43A .0316 BOND

- (a) The selling entity or the State Surplus Property Agency may require performance bonds for the purchase of commodities when hazards to the environment may occur on property and require additional costs.
- (b) The selling entity or the State Surplus Property Agency shall set the amount and terms of the bond based on an assessment of the property and estimated value.
- (c) Selling agencies shall document the need for performance bonds.
- (d) Selling agencies shall request a bond release from the State Surplus Property Agency once the requirements of the bond have been met by the bidder.
- (e) Selling agencies shall submit a letter verifying compliance with the terms of the bond to the State Surplus Property Agency for any refund in whole or in part of the performance bond.
- (f) The State Surplus Property Agency shall make a determination on releasing the performance bond based on the bidder's level of compliance with the terms of the bond.

*History Note: Authority G.S. 143-53(a); 143-64.01; 143-64.04; 143-64.05;
Eff. June 1, 2007;
Readopted Eff. November 1, 2019.*

01 NCAC 43A .0317 DEMOLITION OF STATE BUILDINGS

- (a) The State Surplus Property Agency may, if in the best interest of the State, be responsible for bids and awards of contracts for the demolition of state buildings, including those of universities, hospitals, and other state entities.
- (b) The State Surplus Property Office shall send a request for bid to any interested party upon request as well as to entities on a list maintained by the State Surplus Property Office. Request for bids may be sent to the State Surplus Office via mail, email, or through the online listserv request at <https://ncadmin.nc.gov/citizens/state-surplus-property/email-notifications>.
- (c) The owning entity shall submit a letter of approval pursuant to G.S. 143-341(4) from the Council of State regarding the demolition of a state building to the State Surplus Property Agency.
- (d) The bidder shall obtain all necessary permits, insurances, licenses, performance bonds and other requirements to complete the demolition.

*History Note: Authority G.S. 143-64.01; 143-64.04; 143-64.05;
Eff. June 1, 2007;
Readopted Eff. November 1, 2019.*

01 NCAC 43A .0318 TIMBER SALES, PINESTRAW, AND FOREST COMMODITIES SALES

The State Surplus Property Agency shall dispose of timber, pine straw, and other forest commodities owned by state agencies through a public sale. A request for bid shall be sent to any interested party upon request as well as to entities on a list maintained by the State Surplus Property Office.

History Note: Authority G.S. 143-64.01; 143-64.04;

*Eff. June 1, 2007;
Readopted Eff. November 1, 2019.*

01 NCAC 43A .0319 SURPLUS WEAPONS AND FIREARMS

- (a) With the exception of service side arms within the scope of G.S. 20-187.2, surplus weapons and firearms possessed by the North Carolina State Highway Patrol, North Carolina Division of Adult Correction and Juvenile Justice of the Department of Public Safety and the North Carolina State Bureau of Investigation, may be sold through the State Surplus Property Agency to a federally licensed firearm dealer upon written request pursuant to G.S. 143-63.1(d) to sell weapons on their behalf.
- (b) The written request shall include the following information for each weapon:
 - (1) description by make and model number;
 - (2) serial number; and
 - (3) any federal or state restrictions on the sale of non-firearm weapons.
- (c) Surplus weapons and firearms sales shall be made by public sale in accordance with paragraph (b) or (d) of G.S. 143-63.1.
- (d) The State Surplus Property Agency shall authorize the release of the weapons to the winning bidder upon receipt of the following information:
 - (1) payment in full;
 - (2) proof of identification; and
 - (3) proof of eligibility which shall include:
 - (A) a valid federal firearms license, if purchased pursuant to G.S. 143-63.1(d); or
 - (B) a notarized statement by the agency certifying the law enforcement need for the weapon, if purchased pursuant to G.S. 143-63.1(b).

*History Note: Authority G.S. 143-63.1; 143-64.01; 143-64.04;
Eff. June 1, 2007;
Readopted Eff. November 1, 2019.*

01 NCAC 43A .0320 PAYMENT

- (a) All payments shall be in the form of cash, credit, debit, cashier's or certified check, postal money order, or other methods as approved by the Department of Administration Fiscal Officer which may include electronic payments.
- (b) Payment for retail sales items shall be made at the time of purchase and shall be made at the retail site where the property is located.
- (c) Payment in full for all purchases other than those made at a retail site shall be made by the time and date indicated on the notice of award and shall be made directly to the State Surplus Property Agency.
- (d) Entities shall not accept payments on behalf of the State Surplus Property Agency.
- (e) Extensions to pay or remove property shall be in accordance with 01 NCAC 43A .0314.
- (f) No property may be removed by the bidder prior to full payment of the purchase price.

(g) Entities shall not release property prior to verifying that payment in full has been made to the State Surplus Property Agency. Entities shall assume all responsibility related to the release.

History Note: Authority G.S. 143-64.01; 143-64.04; Eff. June 1, 2007; Readopted Eff. November 1, 2019.

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 06S.0101 INTRODUCTORY STATEMENT
Subchapter 06S contains standards for certification of adult day health programs, which are a type of adult day care, set forth in 42 USC 3032c, and referenced in G.S. 131D-6.1(a). The standards relate to all aspects of operation of an adult day health program including administration, facility, and program operation. In order for payment to be made for adult day health services provided to individuals who are eligible for this service under Title XIX of the Social Security Act, the provider must be certified as meeting these standards. Certification shall be the responsibility of the adult day health program, the county departments of health and social services in accordance with G.S. 108A-14(a)(5), and the Department of Health and Human Services, Division of Aging and Adult Services.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); 42 USC 3032c; Eff. September 1, 1990; Amended Eff. July 1, 2000; Readopted Eff. November 1, 2019.

10A NCAC 06S.0102 DEFINITIONS

(a) "Adult day health services" means the provision of an organized program of services during the day in a community group setting for the purpose of supporting an adult's personal independence, and promoting his or her social, physical, and emotional well-being. Services shall include health care services as defined in Rule .0403(a) of this Subchapter, different types of program activities designed to meet the individual needs and interests of the participants, and referral to and assistance in using community resources to meet the needs of the participant. This definition includes the provision of food and food services to provide a nutritional meal and snacks as appropriate to the program in accordance with 10A NCAC 06R .0502. Transportation to and from the service facility may be provided by the adult day health program.

(b) "Community group setting" means:

- (1) a day health center, which is a program operated in a structure other than a single family dwelling;
- (2) a day health home, which is a program operated in a single family dwelling limited to 16 adults;
- (3) a day health program in a multi-use facility, which is a day health center established in a building that is used at the same time for other activities, such as school or church; or

(4) a combination program, which is a program offering both adult day care and adult day health services.

(c) In addition to Paragraphs (a) and (b) of this Rule, the definitions in 10A NCAC 06R .0201 shall apply.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); 42 USC 3032c; Eff. September 1, 1990; Temporary Amendment Eff. October 1, 2001; Amended Eff. July 1, 2007; August 1, 2002; Readopted Eff. November 1, 2019.

10A NCAC 06S.0203 STAFFING PATTERN

(a) The staffing pattern in adult day health centers and homes shall be dependent upon the number of enrolled participants and the needs of the participants, in accordance with 10A NCAC 06R .0501.

(b) There shall be a minimum of one full-time equivalent staff position with responsibility for direct participant care for each five participants. In combination programs, there shall be a minimum of one full-time equivalent staff position with responsibility for direct participant care for each six participants.

(c) Substitute staff in accordance with 10A NCAC 06R .0305 shall be used to maintain the staff-participant ratio and to assure supervision of the delivery of adult health care services whenever regularly scheduled staff are absent.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); 42 USC 3032c; Eff. September 1, 1990; Amended Eff. July 1, 2007; Readopted Eff. November 1, 2019.

10A NCAC 06S.0204 STAFF REQUIREMENTS

(a) Standards set forth in 10A NCAC 06R .0305(a), (b), and (d) shall be met by adult day health programs.

(b) The program director for adult day health programs with a capacity of 10 or fewer participants may also serve as the health care coordinator provided that the individual meets all the requirements set forth in 10A NCAC 06R .0305(d), Paragraph (c) of this Rule, and requirements in Rule .0203 of this Section. If requirements of 10A NCAC 06R .0305(d) and Paragraph (c) of this Rule are met, and the capacity is greater than 10 participants, the program director may serve as the substitute health care coordinator for no more than three consecutive weeks.

(c) Health Care Coordinator of Adult Day Health Programs:

- (1) Adult day health programs shall have a health care coordinator to coordinate the delivery of health care services and participate in direct care as specified in Subparagraph (c)(2) of this Rule. The health care coordinator shall be on-site a minimum of four hours per day and any additional hours necessary to meet the requirements for the provision of health care services to satisfy the participants' service plans as set forth in this Subchapter.

- (2) The nursing responsibilities of the health care coordinator, consistent with the Nursing Practice Act, G.S. 90-171.19, shall include:
- (A) completing preadmission health assessment for initial acceptance into the adult day health program, including problem-identification and care planning;
 - (B) implementing the health care components of the established service plan that include medication administration, wound care, enteral or parenteral feedings, bowel or bladder training and maintenance programs, tracheotomy care and suctioning, and delegating nursing care tasks to unlicensed personnel;
 - (C) monitoring a participant's response to a medical treatment plan and nursing interventions and revising a participant's service plan as necessary;
 - (D) reporting and recording results of the nursing assessment, care rendered, and the participant's response to care;
 - (E) collaborating with other health care professionals and caregivers regarding provision of the participant's health care;
 - (F) educating other staff members about emergency procedures and providing information to staff and caregivers about health concerns and conditions of the participants;
 - (G) providing first aid treatment as needed; and
 - (H) ensuring health and personal care services as outlined in 10A NCAC 06S .0403 are provided to participants consistent with the participant's service plans.
- (3) The health care coordinator:
- (A) shall be either a registered nurse or a licensed practical nurse licensed to practice in North Carolina;
 - (B) if the health care coordinator is a licensed practical nurse, supervision shall be provided by a registered nurse consistent with the Nursing Practice Act and 21 NCAC 36 .0224 and .0225. These Rules are hereby incorporated by reference, including subsequent amendments. The licensed practical nurse shall also receive on-site supervision by a registered nurse as determined by the supervising registered nurse or at minimum every two weeks;
 - (C) shall have knowledge and understanding of the physical and emotional aspects of aging, the resultant diseases and infirmities, and related medications and rehabilitative measures;
 - (D) shall be at least 18 years of age;
 - (E) shall present, prior to beginning employment, a written medical statement completed within the prior 12 months by a physician, nurse practitioner, or physician's assistant, certifying that the employee has no illness or health condition that would pose a risk to others and ability to perform the duties assigned on the job; and
 - (F) shall provide at least three reference letters or the names of individuals who can be contacted, one of which shall include previous employment verification. The individuals providing reference information shall have knowledge of the applicant health care coordinator's background and qualifications.
- (d) Staff Responsible for Personal Care in Adult Day Health Programs. All adult day health program staff providing personal care shall present evidence of meeting the following qualifications prior to assuming such responsibilities:
- (1) completion of nurse's aide, home health aide, or equivalent training course; or
 - (2) a minimum of one year of experience in caring for impaired adults.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); 42 USC 3032c; Eff. September 1, 1990; Amended Eff. September 1, 2007; July 1, 2007; May 1, 1992; Readopted Eff. November 1, 2019.

10A NCAC 06S .0301 REQUIREMENTS

- (a) General requirements governing facilities, construction, equipment, and furnishings for adult day care as set forth in 10A NCAC 06R .0400 shall apply to adult day health.
- (b) Additional facility requirements are as follows:
 - (1) Facility space shall be of sufficient dimension and size to allow for required program group activities. Notwithstanding the space requirements of 10A NCAC 06R .0401:
 - (A) adult day health centers and adult day health homes shall provide at least 60 square feet of indoor space excluding hallways, offices, and restrooms for each participant;
 - (B) combination programs shall provide at least 50 square feet of indoor space excluding hallways, offices, and restrooms for each participant; and
 - (C) adult day health programs or combination programs that share

space with other programs or activities in a multi-use facility shall have a nucleus area separate from other activities in the rest of the building and shall have a fire-resistant rated separation according to the North Carolina Building Code. The nucleus area must provide at least 40 square feet of indoor space per participant excluding hallways, offices, and restrooms, and a minimum of 20 square feet per participant must be provided in other space in the facility designated for use by the adult day health program. When the other space is being used at the same time by individuals participating in other services provided in the multi-use facility, the 20 square feet per participant is in addition to any minimum square footage requirement for other use of such space. Shared facility space outside the nucleus area that may be used by the adult day health program and counted in meeting the 20 square feet per participant requirement includes craft, therapy, and other activity areas. Dining space may be included if also used for activities. Offices, restrooms, hallways, kitchens, and shared treatment rooms shall not be counted in meeting the 20 square feet per participant requirement. Participation shall be open only to persons enrolled in the program and to visitors on a planned basis, as referenced in 10A NCAC 06R .0510. Involvement of adult day health participants in other activities in the building shall be on planned basis, as part of the adult day health program plan, and supervised by an adult day health staff member.

- (2) Facilities shall have a minimum of one male and one female accessible toilet in accordance with the North Carolina Building Code. One toilet shall be available for each 12 adults, including staff and participants who utilize the facility. One hand lavatory shall be provided for each two toilets.
- (3) The facility shall have a minimum of one private office for staff use with equipment and furnishings for administrative purposes and for conferences with individual participants and families.
- (4) The facility shall include a treatment room that is enclosed and private from the rest of the facility. The treatment room shall meet the North Carolina State Building Code. The

treatment room shall have a sink or have a doorway that connects it to a room containing a sink. The room shall contain a treatment table or bed with a waterproof mattress cover that will serve as a treatment table, storage cabinet for first aid and medical supplies and equipment, table or desk, and two chairs. The storage cabinet shall be kept locked.

- (5) The treatment room shall provide a means of ensuring the privacy of the person on the treatment table.
- (6) The treatment room shall have the following medical supplies and equipment:
 - (A) first aid supplies consisting of absorbent compress, adhesive bandages, adhesive tape, antiseptic, burn treatment, medical exam gloves, sterile pads, and triangular bandage;
 - (B) fever thermometer;
 - (C) blood pressure cuff;
 - (D) stethoscope;
 - (E) medical scales, or scales that can be calibrated;
 - (F) emesis pail or bag;
 - (G) bed pan;
 - (H) urinal; and
 - (I) wash basin.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); 42 USC 3032c; Eff. September 1, 1990; Amended Eff. July 1, 2007. Readopted Eff. November 1, 2019.

10A NCAC 06S.0302 CONSTRUCTION REQUIREMENTS FOR DAY HEALTH HOMES

The adult day health facility shall meet the standards set forth in 10A NCAC 06R .0700.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); 42 USC 3032c; Eff. September 1, 1990; Readopted Eff. November 1, 2019.

10A NCAC 06S.0402 ADDITIONAL ENROLLMENT AND PARTICIPATION REQUIREMENTS

(a) Adult day health programs shall serve persons 18 years of age or older who need adult day health services in order to support their independence and who require one or more of the following during the hours of the adult day health program:

- (1) Monitoring of a medical condition;
- (2) Provision of assistance with or supervision of activities of daily living; or
- (3) Administration of medication, special feedings, or provision of other treatment or services related to health care needs. For the purpose of this Rule, "special feedings" shall mean the enteral or parenteral nutrition provided through

a tube in the nose or stomach or through the veins intravenously.

(b) Adult day health programs shall not enroll or continue to serve persons whose needs exceed the capability of the program in accordance with 10A NCAC 06R .0501.

(c) Each participant's written service plan, in addition to the requirements set forth in 10A NCAC 06R .0501, shall include the health needs and the goals for meeting the health needs of the participant.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); 42 USC 3032c; Eff. September 1, 1990; Amended Eff. July 1, 2007; March 1, 1992; Readopted Eff. November 1, 2019.

10A NCAC 06S .0403 HEALTH AND PERSONAL CARE SERVICES

(a) In adult day health programs, the following health care and personal care services shall be provided:

- (1) assistance with activities of daily living including feeding, ambulation, or toileting as needed by individual participants;
- (2) health care monitoring of each participant's general health and medical regimen. This shall include documenting the assessment of the vital signs, weight, dental health, general nutrition, and hygiene of each participant in accordance with 10A NCAC 06R .0501. When positive or negative health changes occur, the adult day care program staff shall notify the family, caretaker, or responsible party of the changes. The change in health status and notification shall be recorded in the participant's file;
- (3) assistance to participants and caregivers with medical treatment plans, diets, and referrals as needed;
- (4) health education programs for all participants on a monthly basis, and health care counseling tailored to meet the needs of participants and caregivers; and
- (5) first aid treatment as needed.

(b) Specialized services, such as speech therapy, physical therapy, and counseling, shall be facilitated by the adult day health program as ordered by a physician and as available through community services.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); 42 USC 3032c; Eff. September 1, 1990; Amended Eff. July 1, 2007; March 1, 1992; Readopted Eff. November 1, 2019.

10A NCAC 06S .0404 TRANSPORTATION

For adult day health programs providing or arranging transportation, the standards of 10A NCAC 06R .0503 shall apply.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); 42 USC 3032c; Eff. September 1, 1990; Temporary Amendment Eff. October 1, 2001; Amended Eff. July 1, 2007; August 1, 2002; Readopted Eff. November 1, 2019.

10A NCAC 06S .0405 EMERGENCIES AND FIRST AID

Adult day health programs shall meet the standards set forth in 10A NCAC 06R .0504.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); 42 USC 3032c; Eff. September 1, 1990; Amended Eff. July 1, 2007; Readopted Eff. November 1, 2019.

10A NCAC 06S .0501 PROCEDURE

(a) All individuals, groups or organizations operating or wishing to operate an adult day health program as defined by G.S. 131D-6 shall apply for a certificate to the county department of social services in the county where the program is to be operated.

(b) A social worker shall provide technical assistance and shall conduct a study of the program using the Division of Aging and Adult Services form DAAS-6205, as set forth in 10A NCAC 06R .0601(b).

(c) The county department of social services shall submit the initial certification package to the Division of Aging and Adult Services. The materials and forms to be included in the package are:

- (1) program policies;
- (2) organizational diagram;
- (3) job descriptions;
- (4) Form 732a-ADS (Daily Rate Sheet) or the equivalent, as set forth in 10A NCAC 06R .0601(c)(4), showing planned expenditures and resources available to carry out the program of service for a 12 month period;
- (5) a floor plan of the facility showing measurements, restrooms and planned use of space;
- (6) Form DOA-1498 (Fire Inspection Report) or the equivalent, as determined by the local fire inspector, completed and signed by the local fire inspector, indicating approval of the facility, no more than 30 days prior to submission with the certification package;
- (7) Form DOA-1499 (Building Inspection Report for Adult Day Care Centers), DOA-1499a (Building Inspection Form for Adult Day Care Homes), or the equivalent, as determined by the local building inspector, completed and signed by the local building inspector, or fire inspector or fire marshal, if a building inspector is not available, indicating approval of the facility, no more than 30 days prior to submission with the certification package;
- (8) Form DENR-4054 (Inspection of Adult Day Service Facility), or the equivalent, as

determined by a local registered environmental health specialist, completed and signed by a local registered environmental health specialist, indicating approval of the facility, no more than 30 days prior to the submission with the certification package;

- (9) written notice and the effective date if a variance of local zoning ordinances has been made in order for property to be utilized for an adult day health program;
- (10) a copy of the articles of incorporation, bylaws and names and addresses of board members for adult day health programs sponsored by a non-profit corporation;
- (11) the name and mailing address of the owner of an adult day health program;
- (12) a written medical statement from a physician, nurse practitioner, or a physician's assistant, completed within the 12 months prior to submission of the certification package, for each proposed staff member certifying absence of a health condition that would pose a risk to others and that the employee can perform the duties assigned to him or her on the job;
- (13) verification of standard first aid and cardio-pulmonary resuscitation (CPR) certification for each proposed staff member who is physically able and who will provide direct participant care as defined in 10A NCAC 06R .0201. The requirements of 10A NCAC 06R .0504(d) shall be applicable to this Rule.
- (14) evidence of the completion of a Statewide criminal history records search for the past five years for the adult day health program owner and each proposed staff member who provides direct participant care, conducted by an agency approved by the North Carolina Administrative Office of the Courts; and
- (15) DAAS-6205 (Adult Day Health Certification Report). This form must be submitted by the county department of social services with a copy to the program.

(d) No more than 90 days prior to the end of the current period of certification, the county department of social services shall submit to the Division of Aging and Adult Service the following forms and materials that make up a certification package for the renewal of a certification.

- (1) Form DOA-1498 (Fire Inspection Report) or the equivalent, as determined by the local fire inspector, completed and signed by the local fire inspector, indicating approval of the facility, no more than 12 months prior to submission with the certification package;
- (2) Form DOA-1499 (Building Inspection Report for Adult Day Care Centers), DOA-1499a (Building Inspection Form for Adult Day Care Homes), or the equivalent, as determined by the local building inspector, when structural building modifications have been made during

the previous 12 months, completed and signed by the local building inspector, or fire inspector or fire marshal, if a building inspector is not available, indicating approval of the facility, within 30 days following completion of the structural building modifications;

- (3) Form DENR-4054 (Sanitation Evaluation Report) or the equivalent, as determined by a local registered environmental health specialist, completed and signed by a local registered environmental health specialist, indicating approval of the facility, no more than 12 months prior to submission with the certification package;
- (4) a written medical statement from a physician, nurse practitioner, or physician's assistant for each staff member hired subsequent to the previous certification or recertification expiration date, certifying absence of a health condition that would pose a risk to others and that the employee can perform the duties normally assigned on the job;
- (5) an updated copy of the program polices, organizational diagram, job descriptions, names and addresses of board members if applicable, and a floor plan showing measurements, restrooms, and planned use of space, if any changes have been made since the previous certification package was submitted;
- (6) Form 732a-ADS (Daily Rate Sheet) or the equivalent showing planned expenditures and resources available to carry out the program of service for a 12 month period;
- (7) verification of standard first aid and cardio-pulmonary resuscitation certification (CPR) for each proposed staff member who is physically able and who will provide direct participant care;
- (8) evidence of the completion of a Statewide criminal history record that complies with Subparagraph (c)(14) of this Rule; and
- (9) DAAS-6205 (Adult Day Health Certification Report). This form must be submitted with the certification package by the county department of social services to the Division of Aging and Adult Services at least 30 days in advance of the expiration date of the certificate, with a copy to the program.

(e) If during the study of the program it does not appear that all standards can be met, the county department shall send written notice to the applicant, stating the reasons the standards are not met, and shall give the applicant an opportunity to withdraw the application or remedy the defect by the deadline provided by the local department of social services.

(f) Following review of the certification package, a pre-certification visit for certification shall be made by staff of Division of Aging and Adult Services.

(g) Within 14 business days, the Division of Aging and Adult Services shall provide written notification to the applicant and the

county department of social services and local departments of health of the action taken after a review of the certification package and visit.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); 42 USC 3032c; Eff. May 1, 1992; Amended Eff. July 1, 2000; March 1, 1993; Readopted Eff. November 1, 2019.

10A NCAC 06S .0508 PROCEDURE FOR APPEAL

The requirements in 10A NCAC 06R .0806 shall apply to this Subchapter.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); 42 USC 3032c; Eff. March 1, 1992; Readopted Eff. November 1, 2019.

10A NCAC 06T .0201 NATURE AND PURPOSE OF STATE ADULT DAY CARE FUND

(a) The State adult day care fund shall be used for adult day care and adult day health services provided through county departments of social services for the purpose of enabling people to remain in or return to their own homes.

(b) The fund shall be used to increase state financial participation in the costs of this service.

(c) The maximum rate for the purchase of adult day care services under contract shall not exceed thirty-three dollars and seven cents (\$33.07) per day, per client. The maximum rate for the purchase of adult day health services under contract shall not exceed forty dollars (\$40.00) per day, per client. Adult day health services may only be purchased for an individual following a preadmission health assessment as specified in 10A NCAC 06S .0204(c)(2)(A) and a determination that the individual needs one or more services set forth in 10A NCAC 06S .0402(a).

(d) The maximum reimbursement rate for transporting an adult day care client to an adult day care program shall not exceed one dollar and fifty cents (\$1.50) for a one-way trip.

History Note: Authority G.S. 143B-153(2a); 143B-153(6); S.L. 1981, c. 1048; Eff. January 1, 1982; Temporary Amendment Eff. July 27, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. December 1, 1994; July 1, 1990; Temporary Amendment Eff. December 8, 1997; Amended Eff. March 1, 2007; April 1, 2005; April 1, 1999; Readopted Eff. November 1, 2019.

10A NCAC 14G .0101 DEFINITIONS

History Note: Authority G.S. 90-408; Eff. April 1, 1995; Repealed Eff. November 1, 2019.

10A NCAC 14G .0102 APPLICATION

(a) The terms defined in G.S. 90-405 shall have the same meaning in this Rule.

(b) "Applicant" means a health care provider that submits an application to the Director of the Division of Health Service Regulation requesting an exemption from G.S. 90-406.

(c) The application shall include the following information:

- (1) the name, mailing address, email address, and telephone number of the applicant;
(2) a list of the designated health care services provided or to be provided by the applicant;
(3) the name, mailing address, email address, and telephone number of the manager of the entity to which the applicant wants to make referrals;
(4) a list of the owners of the entity to which the applicant wants to make referrals;
(5) a list of the types of designated health care services provided or to be provided by the entity to which the applicant wants to make referrals;
(6) evidence that there is a need for the proposed designated health care services in the county where the entity is or will be located;
(7) evidence that alternative financing is not available from other sources to develop the entity to which the applicant wants to make referrals; and
(8) a statement affirming that all health care providers located in the county where the entity is or will be located shall be offered access to the entity.

(d) Applications shall be:

- (1) mailed to the Office of the Director, Division of Health Service Regulation, Department of Health and Human Services, 2701 Mail Service Center, Raleigh, NC 27699-2701; or
(2) delivered in person to the Office of the Director, Division of Health Service Regulation, Department of Health and Human Services, 809 Ruggles Drive, Raleigh, NC 27603.

History Note: Authority G.S. 90-408; Eff. April 1, 1995; Readopted Eff. November 1, 2019.

10A NCAC 14G .0103 CRITERIA FOR AN UNDERSERVED AREA EXEMPTION - NEW ENTITY

10A NCAC 14G .0104 CRITERIA FOR AN UNDERSERVED AREA EXEMPTION - EXISTING ENTITY

History Note: Authority G.S. 90-408; Eff. April 1, 1995; Repealed Eff. November 1, 2019.

TITLE 14B - DEPARTMENT OF PUBLIC SAFETY

14B NCAC 16 .0110 REPORTING REQUIREMENTS

(a) If any registrant is charged with any criminal offense that would constitute grounds to deny, suspend, or revoke a license, registration, or certificate under this Chapter, the licensee, registrant, or certificate holder shall self-report the criminal charge to the Board either in person or by telephone no later than the first business day following knowledge of the charge. The licensee, registrant, or certificate holder shall provide a copy of the charging document and a written explanation to the Board within five business days.

(b) If any certificate holder is charged with any criminal offense that would constitute grounds to deny, suspend, or revoke a license or certificate under this Chapter, the certificate holder shall self-report the criminal charge to the Board either in person or by telephone no later than the first business day following the charge. The certificate holder shall provide a copy of the charging document and a written explanation to the Board within five business days.

(c) If a licensee, registrant, or certificate holder discharges a firearm while engaged in the private protective services business, the licensee shall notify the Board either in person or by telephone no later than the first business day following the incident. The licensee shall also file a written report to the Board within five business days of the incident. In the report, the licensee shall state the name of the individual who discharged the firearm, the type of weapon discharged, the location of the incident, the law enforcement agency investigating the incident, the events leading to the discharge of the firearm, and any bodily injuries occurring from the incident. This Rule shall not apply to a weapon that is discharged during a training course that has been approved by the Board.

History Note: Authority G.S. 74C-5; Eff. February 1, 1995; Transferred and Recodified from 12 NCAC 07D .0112 Eff. July 1, 2015; Readopted Eff. November 1, 2019.

14B NCAC 16 .0805 ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT IDENTIFICATION CARDS

(a) The provisions of 14B NCAC 16 .0705 shall apply to armed security guards.

(b) Upon termination of employment of an armed security guard, the employer shall return the employee's registration card to the Director of the Board within 15 business days of the employee's termination.

History Note: Authority G.S. 74C-5; 74C-13; 74C-15; Eff. June 1, 1984; Amended Eff. July 1, 1987; Transferred and Recodified from 12 NCAC 07D .0805 Eff. July 1, 2015; Readopted Eff. November 1, 2019.

14B NCAC 16 .0806 RENEWAL OF ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT

(a) Each applicant for renewal of an armed security guard firearm registration permit identification card or his or her employer shall complete a form provided by the Board. This form shall be submitted not more than 90 days nor fewer than 30 days prior to expiration of the applicant's current armed registration and shall be accompanied by:

- (1) two head and shoulders color digital photographs of the applicant in JPG format of sufficient quality for identification, taken within six months prior to submission and submitted by e-mail to PPASL-Photos@ncdps.gov or by compact disc;
- (2) statements of any criminal record obtained from the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 12 months;
- (3) the applicant's renewal fee; and
- (4) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board.

(b) The employer of each applicant for a registration renewal shall give the applicant a copy of the application that shall serve as a record of application for renewal and shall retain a copy of the application in the individual's personnel file in the employer's office.

(c) Applications for renewal shall be accompanied by a statement signed by a certified trainer that the applicant has successfully completed the training requirements of Rule .0807 of this Section.

(d) Members of the armed forces whose registration is in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall receive that same extension of time to pay the registration renewal fee and to complete any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue shall be furnished to the Board.

(e) A registered armed security guard may utilize a dedicated light system or gun-mounted light for requalification.

History Note: Authority G.S. 74C-5; 74C-13; Eff. June 1, 1984; Amended Eff. May 1, 2012; October 1, 2010; December 1, 1995; February 1, 1990; December 1, 1985; Transferred and Recodified from 12 NCAC 07D .0806 Eff. July 1, 2015; Amended Eff. January 1, 2018; November 1, 2017; Readopted Eff. November 1, 2019.

14B NCAC 16 .0807 TRAINING REQUIREMENTS FOR ARMED SECURITY GUARDS

(a) Applicants for an armed security guard firearm registration permit shall first complete the basic unarmed security guard training course set forth in Rule .0707 of this Chapter.

(b) Private investigator licensees applying for an armed security guard firearm registration permit shall first complete a four-hour training course consisting of the courses set forth in Rule .0707(a)(1) and (2) of this Chapter and all additional training requirements set forth in that Rule.

(c) Applicants for an armed security guard firearm registration permit shall complete a basic training course for armed security guards which consists of at least 20 hours of classroom instruction including:

- (1) legal limitations on the use of handguns and on the powers and authority of an armed security guard, including familiarity with rules and regulations relating to armed security guards (minimum of four hours);
- (2) handgun safety, including range firing procedures (minimum of one hour);
- (3) handgun operation and maintenance (minimum of three hours);
- (4) handgun fundamentals (minimum of eight hours); and
- (5) night firing (minimum of four hours).

Subparagraph (c)(2), "operation" under Subparagraph (c)(3), and Subparagraph (c)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(d) Applicants for an armed security guard firearm registration permit shall attain a score of at least 80 percent accuracy on a firearms range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office. For rifle qualification all shots shall be located on the target. Should a student fail to attain a score of 80 percent accuracy, the student may be given three additional attempts to qualify on the course of fire the student did not pass. Failure to meet the qualification after three attempts shall require the student to repeat the entire basic training course for armed security guards. All additional attempts must take place within 20 days of the completion of the initial 20 hour course.

(e) All armed security guard training required by this Chapter shall be administered by a certified trainer and shall be completed no more than 90 days prior to the date of issuance of the armed security guard firearm registration permit.

(f) All applicants for an armed security guard firearm registration permit shall obtain training under the provisions of this Section using their duty weapon and their duty ammunition or ballistic equivalent ammunition, to include lead-free ammunition that meets the same point of aim, point of impact, and felt recoil of the duty ammunition, for all weapons.

(g) No more than six new or renewal armed security guard applicants per one instructor shall be placed on the firing line at any one time during firearms range training for armed security guards.

(h) Applicants for re-certification of an armed security guard firearm registration permit shall complete a basic recertification training course for armed security guards that consists of at least four hours of classroom instruction and is a review of the

requirements set forth in Subparagraphs (c)(1) through (c)(5) of this Rule. The recertification course is valid for 180 days after completion of the course. Applicants for recertification of an armed security guard firearm registration permit shall also complete the requirements of Paragraph (d) of this Rule.

(i) An armed guard registered with one company may be registered with a second company. The registration shall be considered "dual." The registration with the second company shall expire at the same time that the registration expires with the first company. An updated application shall be required to be submitted by the applicant, along with the digital photograph, updated criminal records checks, and a forty dollar (\$40.00) registration fee. If the guard will be carrying a firearm of the same make, model, and caliber, then no additional firearms training shall be required. The licensee shall submit a letter stating the guard will be carrying the same make and model firearm. If the guard will be carrying a firearm of a different make and model, the licensee shall submit a letter to the Board advising of the make, model, and caliber of the firearm the guard will be carrying and the guard shall be required to qualify at the firing range on both the day and night qualification course. The qualification score is valid for 180 days after completion of the course.

(j) To be authorized to carry a standard 12 gauge shotgun in the performance of his or her duties as an armed security guard, an applicant shall complete, in addition to the requirements of Paragraphs (a), (c), and (d) of this Rule, six hours of classroom training that shall include the following:

- (1) legal limitations on the use of shotgun (minimum of one hour);
- (2) shotgun safety, including range firing procedures (minimum of one hour);
- (3) shotgun operation and maintenance (minimum of one hour);
- (4) shotgun fundamentals (minimum of two hours); and
- (5) night firing (minimum of one hour).

Subparagraph (j)(2), "operation" under Subparagraph (j)(3), and Subparagraph (j)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(k) An applicant may take the additional shotgun training at a time after the initial training in this Rule. If the shotgun training is completed at a later time, the shotgun certification shall run concurrent with the armed registration permit. In addition to the requirements set forth in Paragraph (j) of this Rule, applicants shall attain a score of at least 80 percent accuracy on a shotgun range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office.

(l) Applicants for shotgun recertification shall complete one hour of classroom training covering the topics set forth in Paragraph (j) of this Rule and shall also complete the requirements of Paragraph (d) of this Rule.

(m) To be authorized to carry a rifle in the performance of his or her duties as an armed security guard, an applicant shall complete, in addition to the requirements of Paragraphs (a), (c), and (d) of this Rule, 16 hours of classroom training which shall include the following:

- (1) legal limitations on the use of rifles (minimum of one hour);

- (2) rifle safety, including range firing procedures (minimum of one hour);
- (3) rifle operation and maintenance (minimum of two hours);
- (4) rifle fundamentals (minimum of ten hours); and
- (5) night firing (minimum two hours).

Subparagraph (m)(2), "operation" under Subparagraph (m)(3), and Subparagraph (m)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(n) The applicant shall pass a skills course that tests each basic rifle skill and the test of each skill shall be completed within three attempts.

(o) An applicant may take the additional rifle training at a time after the initial training in this Rule. If the rifle training is completed at a later time, the rifle certification shall run concurrent with the armed registration permit. In addition to the requirements set forth in Paragraphs (m) and (n) of this Rule, applicants shall attain a score of at least 80 percent accuracy on a rifle range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office.

(p) Applicants for rifle recertification shall complete an additional one hour of classroom training covering the topics set forth in Paragraph (m) of this Rule and shall also complete the requirements of Paragraph (d) of this Rule.

(q) Upon written request, an applicant for an armed security guard firearm registration permit who possesses a current firearms trainer certificate shall be given a firearms registration permit that will run concurrent with the trainer certificate upon completion of an annual qualification with the applicant's duty firearms as set forth in Paragraph (d) of this Rule.

(r) An armed security guard is required to qualify annually both for day and night firing with his or her duty handgun, shotgun, and rifle, if applicable. If the security guard fails to qualify on any course of fire, the security guard shall not carry the firearm until such time as he or she meets the qualification requirements. Upon failure to qualify, the firearm instructor shall notify the security guard that he or she is no longer authorized to carry the firearm and the firearm instructor shall notify the employer and the Private Protective Services Board staff on the next business day.

(s) A firearm training certificate of an armed security guard remains valid even if the guard leaves the employment of one company for the employment of another. The range qualifications shall remain valid if the guard will be carrying a firearm of the same make, model, and caliber and no additional firearms training shall be required. The licensee shall submit a letter stating the guard will be carrying the same make and model firearm. If the guard will be carrying a firearm of a different make and model, the licensee shall submit a letter to the Board advising of the make, model, and caliber of the firearm the guard will be carrying and the guard shall be required to qualify at the firing range on both the day and night qualification course. The qualification score is valid for 180 days after completion of the course. However, nothing herein shall extend the period of time the qualification is valid.

History Note: Authority G.S. 74C-5; 74C-9; 74C-13; Eff. June 1, 1984; Amended Eff. November 1, 1991; February 1, 1990; July 1, 1987;

Temporary Amendment Eff. January 14, 2002; Amended Eff. October 1, 2013; October 1, 2010; June 1, 2009; February 1, 2006; August 1, 2002; Transferred and Recodified from 12 NCAC 07D .0807 Eff. July 1, 2015; Amended Eff. January 1, 2018; February 1, 2016; October 1, 2015; Readopted Eff. November 1, 2019.

14B NCAC 16 .0808 CONCEALED WEAPONS

(a) The Board does not have the authority to issue a Concealed Carry Permit. However, a licensee, trainer, or registrant who has complied with all provisions of G.S. 14, Article 54B and applicable rules adopted by the N.C. Criminal Justice Education and Training Standards Commission pursuant thereto and has been issued a current concealed handgun permit by a Sheriff may carry a concealed handgun after complying with the concealed handgun provisions for training and qualifications set forth in Paragraph (b) of this Rule.

(b) A licensee, trainee, registrant, or firearms trainer shall comply with each of the following requirements to carry a concealed handgun while engaged in a private protective services business:

- (1) Hold a current Armed Security Guard Registration Permit by complying with all requirements for armed registration as prescribed in this Section.
- (2) Complete standards set forth by the N.C. Criminal Justice Education and Training Standards Commission to include knowledge of North Carolina firearms laws including the limitation on concealed handgun possession on specified property and within certain buildings.

(c) Upon application to the Board, a licensee, trainee, registrant, or firearms trainer meeting the requirements of this Section shall be issued a concealed handgun endorsement to the current Armed Security Guard Registration Permit for the term of the Armed Security Guard Registration Permit without additional permit fees, but any additional training costs necessary to comply with this Section shall be borne directly by the applicant. The endorsement shall be renewed at the time of the Armed Security Guard Registration Permit renewal pursuant to this Rule on payment of the armed security guard registration renewal fee and proof of possession of a current Concealed Handgun Permit. There shall be no additional fee for the concealed handgun endorsement renewal.

History Note: Authority G.S. 74C-5; 74C-13; Eff. June 1, 1984; Temporary Amendment Eff. December 1, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. June 1, 1996; Transferred and Recodified from 12 NCAC 07D .0808 Eff. July 1, 2015; Readopted Eff. November 1, 2019.

14B NCAC 16 .0809 AUTHORIZED FIREARMS

Armed licensees or registrants are authorized, while in the performance of official duties or traveling directly to and from

work, to carry a standard revolver from .32 caliber to .357 caliber, a standard semi-automatic pistol from .354 caliber to .45 caliber, any standard 12 gauge shotgun, or any standard semi-automatic or bolt action .223, .308, 5.56 X 45 mm NATO caliber, or any above handgun caliber rifle as long as the licensee or registrant has been trained pursuant to Rule .0807 of this Section. For purposes of this Section, a "standard" firearm means a firearm that has not been modified or altered from its original manufactured design.

History Note: Authority G.S. 74C-5; 74C-13; Eff. June 1, 1984; Amended Eff. January 1, 2015; June 1, 1993; November 1, 1991; July 1, 1987; Transferred and Recodified from 12 NCAC 07D .0809 Eff. July 1, 2015; Amended Eff. February 1, 2016; Readopted Eff. November 1, 2019.

14B NCAC 16.0901 REQUIREMENTS FOR A FIREARMS TRAINER CERTIFICATE

- (a) Firearms trainer applicants shall:
- (1) meet the minimum standards established by Rule .0703 of this Chapter;
 - (2) have a minimum of one year of experience in security with a contract security company or proprietary security organization, or one year of experience with any federal, state, county or municipal law enforcement agency;
 - (3) attain a 90 percent score on a firearm's prequalification course approved by the Board and the Secretary of Public Safety, with a copy of the firearm's course certificate to be kept on file in the administrator's office;
 - (4) to teach handgun qualification, complete a training course approved by the Board and the Secretary of Public Safety that shall consist of a minimum of 32 hours of classroom and practical range training in safety and maintenance, range operations, night firearm training, control and safety procedures, and methods of handgun firing;
 - (5) to teach shotgun qualification, complete a training course approved by the Board and the Secretary of Public Safety that shall consist of a minimum of 12 hours of classroom and practical range training in shotgun safety and maintenance, range operations, night firearm training, control and safety procedures, and methods of shotgun firing;
 - (6) to teach rifle qualification, complete a training course approved by the Board and the Secretary of Public Safety that shall consist of a minimum of 16 hours of classroom and practical range training in rifle safety and maintenance, range operations, night firearm training, control and safety procedures, and methods of rifle firing;

- (7) pay the certified trainer application fee established in Rule .0903(a)(1) of this Section; and
- (8) successfully complete the requirements of the Unarmed Trainer Certificate set forth in Rule .0909 of this Section.

(b) The applicant's score on the prequalification course set forth in Subparagraph (a)(3) of this Rule is valid for 180 days after completion of the course.

(c) In lieu of completing the training course set forth in Subparagraph (a)(4) of this Rule, an applicant may submit to the Board a current Criminal Justice Specialized Law Enforcement Firearms Instructor Certificate from the North Carolina Criminal Justice Education and Training Standards Commission.

(d) In lieu of Subparagraphs (a)(2) and (4) of this Rule, an applicant may establish that the applicant satisfies the conditions set forth in G.S. 93B-15.1(a) for firearm instruction and two years of verifiable experience within the past five years in the U.S. Armed Forces as a firearms instructor.

(e) All applicants subject to Paragraph (c) of this Rule shall comply with the provisions of Subparagraph (a)(3), pay the application fee amount as set forth in Rule .0903 of this Section, and complete the eight-hour course given by the Board on rules and regulations.

(f) All applicants subject to Paragraph (d) of this Rule shall comply with the provisions of Subparagraph (a)(3) and complete the eight-hour course given by the Board on rules and regulations. No application fee shall be required.

(g) In addition to the requirements of Section .0200 of this Chapter, an applicant for a firearms trainer certificate who is the spouse of an active duty member of the U.S. Armed Forces shall establish that the application satisfies the conditions set forth in G.S. 93B-15.1(b). No application fee shall be required.

(h) A Firearms Trainer Certificate expires two years after the date of issuance.

History Note: Authority G.S. 74C-5; 74C-9; 74C-13; 93B-15.1; Eff. June 1, 1984; Amended Eff. July 1, 2014; October 1, 2013; December 1, 2008; January 1, 2008; August 1, 2004; November 1, 1991; Transferred and Recodified from 12 NCAC 07D .0901 Eff. July 1, 2015; Amended Eff. February 1, 2016; October 1, 2015; Readopted Eff. November 1, 2019.

14B NCAC 16.0904 RENEWAL OF A FIREARMS TRAINER CERTIFICATE

(a) Each applicant for renewal of a firearms trainer certificate shall complete a renewal form provided by the Board and available on its website at www.ncdps.gov/PPS. This form shall be submitted not less than 30 days prior to the expiration of the applicant's current certificate and shall be accompanied by:

- (1) certification of the successful completion of a firearms trainer refresher course approved by the Board and the Secretary of Public Safety by shooting a score of 90 percent on the firing range and by completing classroom training consisting of a minimum of eight hours of

classroom and practical range training in safety and maintenance of the applicable firearm (i.e. handgun, shotgun, or rifle), range operations, control and safety procedures, methods of firing, and night firing. This training shall be completed within 180 days of the submission of the renewal application;

- (2) a certified statement of the result of a criminal records search from the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 48 months;
- (3) the applicant's renewal fee; and
- (4) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board.

(b) Members of the armed forces whose certification is in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall receive that same extension of time to pay the certification renewal fee and to complete any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue shall be furnished to the Board.

(c) Any firearms trainer who fails to qualify with the minimum score during the refresher course shall not continue to instruct during the period between the failure to qualify and the expiration of his or her permit.

(d) The holder of a firearms trainer certificate may utilize a dedicated light system or gun mounted light for personal requalification.

History Note: Authority G.S. 74C-5; 74C-8.1(a); 74C-13; Eff. June 1, 1984; Amended Eff. January 1, 2013; October 1, 2010; June 1, 2009; December 1, 1995; December 1, 1985; Transferred and Recodified from 12 NCAC 07D .0904 Eff. July 1, 2015; Amended Eff. November 1, 2017; February 1, 2016; October 1, 2015; Readopted Eff. November 1, 2019.

14B NCAC 16 .0906 RECORDS RETENTION

(a) A Certified Firearms Trainer shall retain the following in each applicant's armed certification file:

- (1) a copy of the post delivery report listing the name(s) of individual(s) who qualified or attempted to qualify for armed security guard registration, and hour(s) of training, firearms qualification scores and any other information thereon;
- (2) a copy of the individual's Firearm Training Certificate; and
- (3) the individual's B-27 target and the Certified Firearms Trainer's Documentation Record.

(b) The individual's B-27 qualification attempt target shall be retained for a minimum of 18 calendar months from the date of each qualification attempt. Each B-27 target shall contain the full name of the individual that fired the qualification course of fire, the date that qualification attempt took place, and the printed name and signature of the private protective service Certified Firearms Trainer who scored the target and the score. The qualification target shall also show letter "N" or "D" to indicate if the qualification attempt was a day time ("D") or night time ("N") qualification attempt. The information required by this Paragraph shall be placed on the B-27 target in ink or permanent marker.

History Note: Authority G.S. 74C-5; 74C-13; Eff. May 3, 1993; Amended Eff. December 1, 2008; Transferred and Recodified from 12 NCAC 07D .0906 Eff. July 1, 2015; Readopted Eff. November 1, 2019.

14B NCAC 16 .0909 UNARMED TRAINER CERTIFICATE

(a) To receive an unarmed trainer certificate, an applicant shall meet the following requirements:

- (1) comply with the requirements of Rule .0703 of this Chapter;
- (2) have a minimum of one year of experience in security with a contract security company or proprietary security organization, or one year of experience with any federal, state, county or municipal law enforcement agency;
- (3) complete a training course approved by the Board and the Secretary of Public Safety that shall consist of classroom instruction to include the following topic areas:
 - (A) civil liability for the security trainer -- (minimum of two hours);
 - (B) interpersonal communications in instruction -- (minimum of three hours);
 - (C) teaching adults -- (minimum of four hours);
 - (D) principles of instruction -- (minimum of one hour);
 - (E) methods and strategies of instruction - - (minimum of one hour);
 - (F) principles of instruction: audio-visual aids -- (minimum of three hours); and
 - (G) student performance -- (minimum 45 minute presentation);
- (4) receive a favorable recommendation from the employing or contracting licensee or other individual with knowledge of the applicant's experience and teaching skills; and
- (5) submit the application required by Rule .0910 of this Section, which is available on the Board's website at www.ncdps.gov/PPS.

(b) In lieu of completing the training course set forth in Subparagraph (a)(3) of this Rule, an applicant may submit to the Board:

- (1) a Criminal Justice General Instructor Certificate from the North Carolina Criminal Justice Education and Training Standards Commission; or
 - (2) any training certification that meets or exceeds the requirements of Subparagraph (a)(3) of this Rule and is approved by the Director of PPS.
- (c) In lieu of the experience requirement of Subparagraph (a)(2) of this Rule and completing the training course set forth in Subparagraph (a)(3) of this Rule, an applicant may establish that the applicant satisfies the conditions set forth in G.S. 93B-15.1(a) for an unarmed trainer and two years of verifiable experience within the past five years in the U.S. Armed forces as an unarmed guard trainer. No application fee shall be required.
- (d) In addition to the requirements of Section .0200 of this Chapter, an applicant for an unarmed guard trainer certificate that is the spouse of an active duty member of the U.S. Armed Forces shall establish that the applicant satisfies the conditions set forth in G.S. 93B-15.1(b). No application fee shall be required.
- (e) The holder of an unarmed trainer certificate may teach as:
- (1) an employee of a licensed security guard and patrol business;
 - (2) as a contractor of a licensed security guard and patrol business; and
 - (3) in a program sponsored by a public high school defined by G.S. 115C-75(a)(2) or a community college defined by G.S. 115D-2(2).
- (f) An Unarmed Trainer Certificate expires two years after the date of issuance.

History Note: Authority G.S. 74C-8; 74C-9; 74C-11; 93B-15.1; Eff. October 1, 2004; Amended Eff. October 1, 2013; January 1, 2013; January 1, 2008; Transferred and Recodified from 12 NCAC 07D .0909 Eff. July 1, 2015; Amended Eff. October 1, 2015; Readopted Eff. November 1, 2019.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 02B .0101 GENERAL PROCEDURES

- (a) The rules contained in Sections .0100, .0200 and .0300 of this Subchapter, which pertain to the series of classifications and water quality standards, shall be known as the "Classifications and Water Quality Standards Applicable to the Surface Waters and Wetlands of North Carolina."
- (b) The Environmental Management Commission (hereinafter referred to as the Commission), prior to classifying and assigning standards of water quality to any waters of the State, shall proceed as follows:
- (1) The Commission, or its designee, shall determine waters to be studied for the purpose of classification and assignment of water quality standards on the basis of user requests, petitions, or the identification of existing or attainable water uses, as defined by Rule .0202

- of this Subchapter, not presently included in the water classification.
- (2) In determining the best usage of waters and assigning classifications of such waters, the Commission shall consider the criteria specified in G.S. 143-214.1(d). In determining whether to revise a designated best usage for waters through a revision to the classifications, the Commission shall follow the requirements of 40 CFR 131.10 which is incorporated by reference including subsequent amendments and editions. A copy of the most current version of the requirements is available free of charge at <https://www.govinfo.gov>.
 - (3) When revising the classification of waters, the Division shall collect water quality data within the watershed for those substances that require more stringent control than required by the existing classification. However, such sampling may be limited to only those parameters that are of concern. If the revision to classifications involves the removal of a designated use, the Division shall conduct a use attainability analysis as required by the provisions of 40 CFR 131.10.
 - (4) After studies of the identified waters to obtain the data and information required for determining the revised classification of the waters or segments of water are completed, the Commission, or its designee, shall make a decision on whether to initiate proceedings to modify the classifications and water quality standards of identified waters.
 - (5) In the case of a petition for classification and assignment of water quality standards according to the requirements of G.S. 150B-20 and 15A NCAC 02I .0500, the Director shall make a preliminary recommendation on the appropriate classifications and water quality standards of the identified waters on the basis of the study findings or information included in the petition supporting the classification and standards changes.
 - (6) The Commission shall make a decision on whether to grant or deny a petition in accordance with the provisions of G.S. 150B-20 and 15A NCAC 02I .0500 based on the information included in the petition and the recommendation of the Director.
 - (7) The chairman of the Commission shall give due notice of public hearings regarding water quality classifications or standards in accordance with the requirements of 40 CFR 131.20, 40 CFR 25.5, G.S. 143-214.1 and G.S. 150B-21.2 and shall appoint a hearing officer(s) in consultation with the Director.
 - (8) After completion of a public hearing regarding water quality classifications or standards, the hearing officer(s) shall submit a report of the

proceedings of the hearing to the Commission. The hearing officer(s) shall include in the report a transcript or summary of testimony presented at such public hearing, exhibits, a summary of information from the stream studies conducted by the technical staff of the Commission, and final recommendations as to classification of the designated waters and the standards of water quality and best management practices to be applied to the classifications recommended.

- (9) The Commission shall consider the provisions of G.S. 143-214.1, the hearing record(s), and final recommendation(s) of the hearing officer(s) before taking final action with respect to the assignment of classifications and any applicable standards or best management practices applicable as rule(s) to the waters under consideration.
- (10) The final action of the Commission with respect to the assignment of classification with its accompanying standards and best management practices shall contain the Commission's conclusions relative to the various factors in G.S. 143-214.1(d) and shall include the class or classes to which such designated waters in the watershed or watersheds shall be assigned on the basis of best usage in the interest of the public.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. February 1, 1976;
 Amended Eff. August 1, 1995; February 1, 1993; August 3, 1992; August 1, 1990;
 RRC Objection Eff. July 18, 1996 due to lack of statutory authority and ambiguity;
 Amended Eff. October 1, 1996;
 Readopted Eff. November 1, 2019.

15A NCAC 02B .0103 ANALYTICAL PROCEDURES

(a) Chemical/Physical Procedures. Tests or analytical procedures to determine conformity with standards shall, insofar as practicable and applicable, conform to the guidelines by the U.S. Environmental Protection Agency (EPA) codified as 40 CFR, Part 136, which are hereby incorporated by reference including subsequent amendments and editions. A copy of the most current version of 40 CFR Part 136 is available free of charge at <https://www.govinfo.gov>. Methods not codified by 40 CFR, Part 136 shall, insofar as practicable and applicable, conform to the American Public Health Association (APHA), American Water Works Association (AWWA), and Water Environment Federation (WEF) publication "Standard Methods for the Examination of Water and Wastewater" (20th edition), which is incorporated by reference, including subsequent amendments and editions. The 20th edition is available for inspection at the Department of Environmental Quality, Division of Water Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604-1170. A print copy of the most current edition of "Standard Methods for the Examination of Water and Wastewater" is available for purchase at a cost of three hundred and ninety-five

dollars (\$395.00) from the following places: APHA, 8001 Street, NW Washington, DC 20001; AWWA, 6666 W. Quincy Avenue, Denver, CO 80235; or WEF, 601 Wythe Street, Alexandria, VA 22314.

(b) Biological Procedures. Biological tests to determine conformity with standards shall be based on methods published by the EPA as codified as 40 CFR, Part 136, which are incorporated by reference including subsequent amendments and editions. A copy of the most current version of 40 CFR Part 136 is available free of charge at <https://www.govinfo.gov>.

(c) Wetland Evaluation Procedures. Evaluations of wetlands for the presence of existing uses shall be based on procedures approved by the Director. The Director shall approve wetland evaluation procedures that have been demonstrated to produce verifiable and repeatable results and that have widespread acceptance in the scientific community. Copies of approved methods or guidance may be obtained at no cost by submitting a written request NCDWR, Wetlands Branch, 1617 Mail Service Center, Raleigh, NC 27699-1617.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. February 1, 1976;
 Amended Eff. February 1, 1993; October 1, 1989; January 1, 1985; September 9, 1979;
 RRC Objection Eff. July 18, 1996 due to lack of statutory authority and ambiguity;
 Amended Eff. October 1, 1996;
 Readopted Eff. November 1, 2019.

15A NCAC 02B .0104 CONSIDERATIONS/ASSIGNING/IMPLEMENTING WATER SUPPLY CLASSIFICATIONS

(a) In determining the suitability of waters for use as a source of water supply for drinking, culinary, or food processing purposes after approved treatment, the Commission shall consider the physical, chemical, and bacteriological maximum contaminant levels specified by U.S. Environmental Protection Agency regulations adopted pursuant to the Public Health Service Act, 42 U.S.C. 201 et seq., as amended by the Safe Drinking Water Act, 42 U.S.C. 300(f) et seq. In addition, the Commission shall be guided by the requirements for unfiltered and filtered water supplies and the maximum contaminant levels specified in 15A NCAC 18C .1100, .1200 and .1500, which are incorporated by reference including subsequent amendments and editions.

(b) All waters used for water supply purposes or intended for future water supply use shall be classified to the most appropriate water supply classification as determined by the Commission in accordance with Sections .0100 and .0200 of this Subchapter. A more protective water supply classification may be applied to existing water supply watersheds after receipt of a resolution from all local governments having land use jurisdiction within the designated water supply watershed requesting a more protective water supply classification. Requests for reclassification of non-water supply segments and watersheds to a water supply classification shall include submittal to the Commission of resolutions from all local governments having land use jurisdiction within the proposed water supply watershed for which a water supply classification is being requested, provided that the Commission may reclassify waters without the consent of local governments if the Commission deems such reclassifications

appropriate and necessary in accordance with Rule .0101 of this Section. Local governments requesting water supply reclassifications shall provide a topographic map (such as a 1:24,000 scale USGS map) indicating the normal pool elevation for backwaters of water supply reservoirs, longitude and latitude coordinates of intended water supply intakes, and critical areas and other watershed boundaries as appropriate.

(c) In considering the reclassification of waters for water supply purposes, the Commission shall take into consideration the risks posed by pollutants and the relative proximity, quantity, composition, natural dilution, and diminution of potential sources of pollution.

(d) The water supply watershed protection requirements of Rules .0620 through .0624 of this Subchapter and G.S. 143-214.5 that are applicable to State agencies and units of local government with land use authority in water supply watersheds that were classified as such on or before August 3, 1992, shall be effective no later than:

- (1) August 3, 1992 - Activities administered by the State of North Carolina, such as the issuance of permits for landfills, NPDES wastewater discharges, and land application of sludge/residuals, and road construction activities;
- (2) July 1, 1993 - Municipalities with a population greater than 5,000;
- (3) October 1, 1993 - Municipalities with a population less than 5,000; and
- (4) January 1, 1994 - County governments and other units of local government, as applicable.

(e) The water supply watershed protection requirements of Rules .0620 through .0624 of this Subchapter and G.S. 143-214.5 that are applicable to State agencies and units of local government with land use authority in water supply watersheds that were classified as such after August 3, 1992, shall be effective no later than:

- (1) for activities administered by the State of North Carolina, such as the issuance of permits for landfills, NPDES wastewater dischargers, and land application of sludge or residuals, and road construction activities, the date the reclassification became effective; and
- (2) for local governments, the date the local watershed ordinance was adopted or revised to reflect the reclassification, but no later than 270 days after receiving notice of a reclassification from the Commission.

(f) Discharge from groundwater remediation projects addressing water quality problems shall be allowed if an engineering alternatives analysis submitted for approval in accordance with 15A NCAC 02H .0105(c) demonstrates that no practicable alternative exists to such a discharge. Such discharges shall meet applicable requirements of Rules .0212 through .0218 of this Subchapter.

(g) For previously unknown existing unpermitted wastewater discharges to surface water, an engineering alternatives analysis shall be submitted for approval in accordance with 15A NCAC 02H .0105(c). If the analysis finds that no practicable alternative exists to surface water discharges, such discharges shall meet the

"Minimum treatment requirements" as defined in Rule .0403 of this Subchapter.

(h) A more protective classification may be allowed by the Commission although minor occurrences of nonconforming activities are present prior to reclassification. When the Commission allows a more protective classification, expansions of existing wastewater discharges that otherwise would have been prohibited may be allowed if there is no increase in permitted pollutant loading. Other discharges of treated wastewater existing at the time of reclassification may be required to meet more stringent effluent limitations in accordance with Section .0400 of this Subchapter. Consideration of all practicable alternatives to surface water discharge shall be documented.

(i) Animal operations deemed permitted, as defined in 15A NCAC 02T .0103, and permitted under 15A NCAC 02T .1300 are allowed in all classified water supply watersheds.

(j) Local government water supply watershed ordinances for water supply classified watersheds shall be implemented in accordance with Rules .0620 through .0624 of this Subchapter.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. August 1, 1995; August 3, 1992; March 1, 1991; October 1, 1989; Readopted Eff. November 1, 2019.

15A NCAC 02B .0106 CONSIDERATIONS/ASSIGNING CLASSIFICATIONS FOR PRIMARY RECREATION

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. October 1, 1989; January 1, 1985; September 9, 1979; Repealed Eff. November 1, 2019.

15A NCAC 02B .0108 CONSIDERATIONS IN ASSIGNING THE SHELLFISHING AREA CLASSIFICATION

History Note: Authority G.S. 143-214.1; Eff. January 1, 1985; Amended Eff. October 1, 1989; Repealed Eff. November 1, 2019.

15A NCAC 02B .0110 CONSIDERATIONS FOR FEDERALLY-LISTED THREATENED OR ENDANGERED AQUATIC SPECIES

Certain waters provide habitat for federally-listed aquatic animal species that are listed as threatened or endangered by the U.S. Fish and Wildlife Service or National Marine Fisheries Service under the provisions of the Endangered Species Act, 16 U.S.C. 1531-1544 and subsequent modifications. Maintenance and recovery of the water quality conditions required to sustain and recover federally-listed threatened and endangered aquatic animal species contributes to the support and maintenance of a balanced and indigenous community of aquatic organisms and thereby protects the biological integrity of the waters. Rules .0225 and .0227 of this Subchapter shall apply to the development of site-specific strategies to maintain or recover the water quality conditions

required to sustain and recover federally-listed threatened or endangered aquatic animal species. Nothing in this Rule shall prevent the Division or Commission from taking other actions within its authority to maintain and restore the quality of these waters.

History Note: Authority G. S. 143-214.1; 143-215.3(a)(1); 143-215.8A; Eff. August 1, 2000; Readopted Eff. November 1, 2019.

15A NCAC 02B .0201 ANTIDegradation Policy

(a) The requirements for the antidegradation policy and implementation methods in 40 CFR 131.12 are incorporated by reference including subsequent amendments and editions. This material is available for inspection at the Department of Environmental Quality, Division of Water Resources, 512 North Salisbury Street, Raleigh, North Carolina, 27604-1170. A copy of the most current version of 40 CFR 131.12 is available free of charge at <https://www.govinfo.gov>. These requirements shall be implemented in North Carolina as set forth in this Rule.

(b) The Commission shall protect existing uses, as defined by Rule .0202 of this Section, and the water quality to protect such uses by classifying surface waters and having standards sufficient to protect these uses. In cases where the Commission or its designee determines that an existing use is not included in the classification of waters in accordance with Rule .0101(b)(1) of this Subchapter, a project that affects these waters shall not be permitted unless the existing uses are protected.

(c) The Commission shall consider the present and anticipated usage of waters with quality higher than the standards, including any uses not specified by the assigned classification (such as outstanding national resource waters or waters of exceptional water quality), and shall not allow degradation of the quality of waters with quality higher than the standards below the water quality necessary to maintain existing and anticipated uses of those waters. Waters with quality higher than the standards are defined by Rule .0202 of this Section. The following procedures shall be implemented in order to meet the requirements of this Rule:

- (1) Each applicant for an National Pollutant Discharge Elimination System (NPDES) permit or NPDES permit expansion to discharge treated waste shall document non-discharge alternatives considered pursuant to 15A NCAC 02H .0105(c)(2).
- (2) Public Notices for NPDES permits shall list parameters that would be water quality limited and state whether the discharge will use the entire available load capacity of the receiving waters and may, as a result, cause more stringent water quality based effluent limitations to be established for dischargers downstream.
- (3) The Division may require supplemental documentation from an affected local government to show that a proposed project or parts of the project are necessary for important

economic and social development under 40 CFR 131.12.

- (4) Local governments shall have the option to work with the Commission and Division to identify and develop management strategies or classifications for waters with unused pollutant loading capacity to accommodate future economic growth.

Waters with quality higher than the standards shall be identified by the Division on a case-by-case basis through the NPDES permitting and waste load allocation processes, pursuant to the provisions of 15A NCAC 02H .0100. Dischargers affected by the requirements of this Paragraph and the public at large shall be notified according to the provisions described herein and all other appropriate provisions pursuant to 15A NCAC 02H .0109. If an applicant objects to the requirements to protect waters with quality higher than the standards and believes degradation is necessary to accommodate important social and economic development, the applicant may contest these requirements according to the provisions of G.S. 143-215.1(e) and 150B-23.

(d) The Commission shall consider the present and anticipated uses of High Quality Waters (HWQ), including any uses not specified by the assigned classification (such as outstanding national resource waters or waters of exceptional water quality) and shall not allow degradation of the quality of High Quality Waters below the water quality necessary to maintain existing and anticipated uses of those waters pursuant to Rule .0224 of this Section.

(e) The water quality of waters classified as Outstanding Resource Waters (ORW), as described in Rule .0225 of this Section, shall be maintained such that existing uses, including the outstanding resource values of said Outstanding Resource Waters, are maintained and protected.

(f) Activities regulated under Section 404 of the federal Clean Water Act 33 U.S.C. 1344 that require a water quality certification as described in Section 401 of the federal Clean Water Act 33 U.S.C. 1341 shall be evaluated according to the procedures outlined in 15A NCAC 02H .0500. Activities that receive a water quality certification pursuant to the procedures in 15A NCAC 02H .0500 shall not be considered to remove existing uses. The evaluation of permits issued pursuant to G.S. 143-215.1 that involve the assimilation of wastewater or stormwater by wetlands shall incorporate the criteria found in 15A NCAC 02H .0506(c)(1) through (5) in determining the potential impact of the proposed activity on the existing uses of the wetland as described in Rule .0231(a) of this Section.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. October 1, 1995; August 1, 1995; February 1, 1993; April 1, 1991; August 1, 1990; RRC Objection Eff. July 18, 1996 due to lack of statutory authority and ambiguity; Amended Eff. October 1, 1996; Readopted Eff. November 1, 2019.

15A NCAC 02B .0202 DEFINITIONS

The definition of any word or phrase used in this Section shall be the same as given in G.S. 143, Article 21. The following words and phrases, which are not defined in this article, shall be interpreted as follows:

- (1) "Acute toxicity to aquatic life" means lethality or other harmful effects sustained by either resident aquatic populations or indicator species used as test organisms in a controlled toxicity test due to a short-term exposure (relative to the life cycle of the organism) of 96 hours or less to a specific chemical or mixture of chemicals (as in an effluent). Acute toxicity shall be determined using the following procedures:
 - (a) for specific chemical constituents or compounds, acceptable levels shall be equivalent to a concentration of one-half or less of the Final Acute Value (FAV) as determined according to "Guidelines for Deriving Numerical Water Quality Criteria for the Protection of Aquatic Life and its Uses" published by the Environmental Protection Agency and referenced in the Federal Register (50 FR 30784, July 29, 1985) which is incorporated by reference including subsequent amendments and editions.
 - (b) for specific chemical constituents or compounds for which values described under Sub-Item (a) of this Item cannot be determined, acceptable levels shall be equivalent to a concentration of one-third or less of the lowest available LC50 value.
 - (c) for effluents, acceptable levels shall be defined as no statistically measurable lethality (99 percent confidence level using Student's t-test) during a specified exposure period. Concentrations of exposure shall be based on permit requirements and procedures in accordance with 15A NCAC 02H .1110.
 - (d) in instances where detailed dose response data indicate that levels of acute toxicity are different from those defined in this Rule, the Director may determine on a case-by-case basis an alternate acceptable level through statistical analyses of the dose response in accordance with 15A NCAC 02H .1110.
- (2) "Acute to Chronic Ratio" or "ACR" means the ratio of acute toxicity expressed as an LC50 for a specific toxicant or an effluent to the chronic value for the same toxicant or effluent.
- (3) "Agricultural uses" means the use of waters for stock watering, irrigation, and other farm purposes.
- (4) "Applicator" means any person, firm, corporation, wholesaler, retailer, or distributor; any local, State, or federal governmental agency; or any other person who applies fertilizer to the land of a consumer or client or to land that they own, lease, or otherwise hold rights.
- (5) "Approved treatment," as applied to water supplies, means treatment approved by the Division in accordance with 15A NCAC 18C .0301 through .0309, as authorized by G.S. 130A-315 and G.S. 130A-317.
- (6) "Attainable water uses" means uses that can be achieved by the imposition of effluent limits and cost effective and reasonable best management practices (BMP) for nonpoint source control.
- (7) "Average" means the arithmetical average of the analytical results of all representative samples taken under prevailing environmental conditions during a specified period (for example: daily, weekly, or monthly).
- (8) "Best Management Practice" or "BMP" means a structural or nonstructural management-based practice used singularly or in combination to reduce point source or nonpoint source inputs to receiving waters in order to achieve water quality protection goals.
- (9) "Best usage" or "Best use" of waters, as specified for each class, means those uses as determined by the Environmental Management Commission in accordance with the provisions of G.S. 143-214.1.
- (10) "Bioaccumulation factor" or "BAF" means a unitless value that describes the degree to which substances are taken up or accumulated into tissues of aquatic organisms from water directly and from food or other ingested materials containing the accumulated substances, and is measured as a ratio of a substance's concentration in tissue versus its concentration in water in situations where exposure to the substance occurs from both water and the food chain.
- (11) "Bioconcentration factor" or "BCF" means a unitless value that describes the degree to which substances are absorbed or concentrated into tissues of aquatic organisms from water directly and is measured as a ratio of substance's concentration in tissue versus its concentration in water in situations where exposure to the substance occurs from water only.
- (12) "Biological integrity" means the ability of an aquatic ecosystem to support and maintain a balanced and indigenous community of organisms having species composition,

- diversity, population densities, and functional organization similar to that of reference conditions.
- (13) "Buffer" means a natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.
- (14) "Chronic toxicity to aquatic life" means any harmful effect sustained by either resident aquatic populations or indicator species used as test organisms in a controlled toxicity test due to long-term exposure (relative to the life cycle of the organism) or exposure during a substantial portion of the duration of a sensitive period of the life cycle to a specific chemical substance or mixture of chemicals (as in an effluent). In absence of extended periods of exposure, early life stage or reproductive toxicity tests may be used to define chronic impacts.
- (15) "Chronic value for aquatic life" means the geometric mean of two concentrations identified in a controlled toxicity test as the No Observable Effect Concentration (NOEC) and the Lowest Observable Effect Concentration (LOEC).
- (16) "Commercial applicator" means any person, firm, corporation, wholesaler, retailer, distributor, or any other person who for hire or compensation applies fertilizer to the land of a consumer or client.
- (17) "Concentration" means the mass of a substance per volume of water and, for the purposes of this Section, shall be expressed as milligrams per liter (mg/l), micrograms per liter (ug/l), or nanograms per liter (ng/l).
- (18) "Contiguous" means those wetlands landward of the mean high water line or normal water level and within 575 feet of classified surface waters that appear as solid blue lines on the most recently published versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps, which are available at no cost at <http://www.usgs.gov/pubprod/>.
- (19) "Critical area" means the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than risk associated with pollution from the remaining portions of the watershed. The boundary of a critical area is defined as:
- (a) extending either 1/2 mile in a straight line fashion upstream from and draining to the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed, whichever is nearest the normal pool elevation of the reservoir;
- (b) extending either 1/2 mile in a straight line fashion upstream from and draining to the intake (or other appropriate downstream location associated with the water supply) located directly in the stream or river (run-of-the-river) or to the ridge line of the watershed, whichever is nearest the intake; or
- (c) extending a different distance from the reservoir or intake as adopted by the Commission during the reclassification process pursuant to Rule .0104 of this Subchapter.
- Since WS-I watersheds are essentially undeveloped, establishment of a critical area is not required.
- (20) "Cropland" means agricultural land that is not covered by a certified animal waste management plan and is used for growing corn, grains, oilseed crops, cotton, forages, tobacco, beans, or other vegetables or fruits.
- (21) "Designated Nonpoint Source Agency" means an agency specified by the Governor in the North Carolina Nonpoint Source Management Program, as approved by the Environmental Protection Agency pursuant to the 1987 amendments to the federal Clean Water Act 33 U.S.C. 1329 that established Section 319 Nonpoint source management programs.
- (22) "Director" means the Director of the Division.
- (23) "Discharge" means the addition of any man-induced waste effluent either directly or indirectly to State surface waters.
- (24) "Division" means the Division of Water Resources or its successors.
- (25) "Domestic wastewater discharge" means the discharge of sewage, non-process industrial wastewater, other domestic wastewater, or any combination of these items. Domestic wastewater includes, but is not limited to, liquid waste generated by domestic water using fixtures and appliances from any residence, place of business, or place of public assembly, even if it contains no sewage. Examples of domestic wastewater include once-through non-contact cooling water, seafood packing facility discharges, and wastewater from restaurants.
- (26) "Effluent channel" means a discernable confined and discrete conveyance that is used for transporting treated wastewater to a receiving stream or other body of water, as provided in Rule .0228 of this Section.
- (27) "Existing uses" mean uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards.

- (28) "Fertilizer" means any substance containing nitrogen or phosphorus that is used primarily as plant food.
- (29) "Fishing" means the taking of fish by recreational or commercial methods, the consumption of fish or shellfish, the propagation of fish, or the propagation of other aquatic life as is necessary to protect the biological integrity of the environment for fish.
- (30) "Forest vegetation" means the plants of an area that grow in disturbed or undisturbed conditions in wooded plant communities in any combination of trees, saplings, shrubs, vines, and herbaceous plants, including mature and successional forests and cutover stands.
- (31) "Freshwater" means all waters that under natural conditions have a chloride ion content of 500 mg/l or less.
- (32) "Industrial discharge" means the discharge of industrial process treated wastewater or wastewater other than sewage. Stormwater shall not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater. Industrial discharge includes:
- (a) wastewater resulting from any process of industry or manufacture or from the development of any natural resource;
 - (b) wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants; and
 - (c) wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.
- (33) "Land-disturbing activity" means any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation.
- (34) "LC50" means that concentration of a toxic substance that is lethal or immobilizing to 50 percent of the sensitive aquatic toxicity testing species tested during a specified exposure period, as required by NPDES permit, under aquatic conditions characteristic of the receiving waters. Sensitive species for aquatic toxicity testing is defined by Subparagraph (50) of this Rule.
- (35) "Local government" means a city or county in singular or plural as defined in G.S. 160A-1(2) and G.S. 158A-10.
- (36) "Lower piedmont and coastal plain waters" means those waters of the Catawba River Basin below Lookout Shoals Dam; the Yadkin River Basin below the junction of the Forsyth, Yadkin, and Davie County lines; and all of the waters of Cape Fear, Lumber, Roanoke, Neuse, Tar-Pamlico, Chowan, Pasquotank, and White Oak River Basins; except tidal salt waters which are assigned S classifications.
- (37) "MF" means the membrane filter procedure for bacteriological analysis.
- (38) "Mixing zone" means a region of the receiving water in the vicinity of a discharge within which dispersion and dilution of constituents in the discharge occurs. Zones shall be subject to conditions established in accordance with Rule .0204(b) of this Section.
- (39) "Mountain and upper piedmont waters" means all of the waters of the Hiwassee; Little Tennessee, including the Savannah River drainage area; French Broad; Broad; New; and Watauga River Basins; and those portions of the Catawba River Basin above Lookout Shoals Dam and the Yadkin River Basin above the junction of the Forsyth, Yadkin, and Davie County lines.
- (40) "Nonpoint source pollution" means pollution that enters waters mainly as a result of precipitation and subsequent runoff from lands that have been disturbed by man's activities and includes all sources of water pollution that are not required to have a permit in accordance with G.S. 143-215.1(c).
- (41) "Non-process discharge" means industrial effluent not directly resulting from the manufacturing process. An example is non-contact cooling water from a compressor.
- (42) "Offensive condition" means any condition or conditions resulting from the presence of sewage, industrial wastes, or other wastes within the waters of the State or along the shorelines thereof that shall either directly or indirectly cause foul or noxious odors, unsightly conditions, or breeding of abnormally large quantities of mosquitoes or other insect pests; damage private or public water supplies or other structures; result in the development of gases which destroy or damage surrounding property, herbage or grasses; cause the impairment of taste such as from fish flesh tainting; or affect the health of any person residing or working in the area.
- (43) "Primary contact recreation" means swimming, diving, skiing, and similar uses involving human body contact with water where such activities take place in an organized or on a frequent basis.
- (44) "Primary nursery area" or "PNA" means tidal saltwaters that provide essential habitat for the early development of commercially important fish and shellfish and are so designated by the Marine Fisheries Commission.
- (45) "Protected area" means the area adjoining and upstream of the critical area in a WS-IV water supply in which protection measures are

- required. The boundary of a protected area is defined as:
- (a) extending either five miles in an as-the-river-runs manner upstream from and draining to the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed, whichever is nearest the normal pool elevation of the reservoir;
 - (b) extending either 10 miles in an as-the-river-runs manner upstream from and draining to the intake located directly in the stream or river run-of-the-river or to the ridge line of the watershed, whichever is nearest the intake. In some cases the protected area shall encompass the entire watershed; or
 - (c) extending a different distance from the reservoir or intake as adopted by the Commission during the reclassification process pursuant to Rule .0104 of this Subchapter.
- (46) "Residential development" means buildings for residence such as attached and detached single family dwellings, apartment complexes, condominiums, townhouses, cottages, and their associated outbuildings such as garages, storage buildings, and gazebos.
- (47) "Residuals" has the same meaning as in 15A NCAC 02T.0103.
- (48) "Riparian area" means an area that is adjacent to a body of water.
- (49) "Secondary contact recreation" means wading, boating, other uses not involving human body contact with water, and activities involving human body contact with water where such activities take place on an infrequent, unorganized, or incidental basis.
- (50) "Sensitive species for aquatic toxicity testing" means any species utilized in procedures accepted by the Commission or its designee in accordance with Rule .0103 of this Subchapter, and the following genera:
- (a) Daphnia;
 - (b) Ceriodaphnia;
 - (c) Salmo;
 - (d) Pimephales;
 - (e) Mysidopsis;
 - (f) Champia;
 - (g) Cyprinodon;
 - (h) Arbacia;
 - (i) Penaeus;
 - (j) Menidia;
 - (k) Notropis;
 - (l) Salvelinus;
 - (m) Oncorhynchus;
 - (n) Selenastrum;
 - (o) Chironomus;
- (p) Hyalella;
 - (q) Lumbriculus.
- (51) "Shellfish culture" means the use of waters for the propagation, storage, and gathering of oysters, clams, and other shellfish for market purposes.
- (52) "Swamp waters" means those waters that are classified as such by the Environmental Management Commission, pursuant to Rule .0101 of this Subchapter, and that have natural characteristics due to topography, such as low velocity, dissolved oxygen, or pH, that are different from streams draining steeper topography.
- (53) "Tidal salt waters" means all waters that have a natural chloride ion content in excess of 500 parts per million.
- (54) "Toxic substance" or "Toxicant" means any substance or combination of substances (including disease-causing agents) that, after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth), or physical deformities in such organisms or their offspring.
- (55) "Trout waters" means those waters that are classified as such by the Environmental Management Commission, pursuant to Rule .0101 of this Subchapter, and have conditions that sustain and allow for natural trout propagation and survival and for year-round maintenance of stocked trout.
- (56) "Water dependent structures" means those structures that require access or proximity to or siting within surface waters to fulfill its purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.
- (57) "Water quality based effluent limits (or limitations) and management practices" mean limits and practices developed by the Division to protect water quality standards and best uses of surface waters, consistent with the requirements of G.S. 143-214.1 and the federal Water Pollution Control Act, as amended.
- (58) "Waters with quality higher than the standards" means waters that the Director determines (pursuant to Rule .0206 of this Section) have the capacity to receive additional pollutant loading and continue to meet applicable water quality standards.

- (59) "Watershed" means a natural area of drainage, including all tributaries contributing to the supply of at least one major waterway within the State, the specific limits of each separate watershed to be designated by the Commission as defined by G.S. 143-213(21).
- (60) "WER" or "Water effect ratio" expresses the difference between the measures of the toxicity of a substance in laboratory waters and the toxicity in site water.
- (61) "Wetlands" are "waters" as defined by G.S. 143-212(6) that are inundated or saturated by an accumulation of surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do not include prior converted cropland as defined in the National Food Security Act Manual, Fifth Edition, which is hereby incorporated by reference, not including subsequent amendments and editions, and is available free of charge at <https://directives.sc.egov.usda.gov/RollupViewer.aspx?hid=29340>.

History Note: Authority G.S. 143-213; 143-214.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. August 1, 1995; February 1, 1993; August 3, 1992; August 1, 1990; RRC Objection Eff. July 18, 1996 due to lack of authority and ambiguity; Amended Eff. August 1, 1998; October 1, 1996; Readopted Eff. November 1, 2019.

**15A NCAC 02B.0203 PROTECTION OF WATERS
DOWNSTREAM OF RECEIVING WATERS**

Water quality based effluent limitations and management practices for direct or indirect discharges of waste or for other sources of water pollution shall be developed by the Division such that the water quality standards and best usage of receiving waters and all downstream waters will not be impaired.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. October 1, 1989; January 1, 1985; September 9, 1979; Readopted Eff. November 1, 2019.

**15A NCAC 02B.0204 LOCATION OF SAMPLING
SITES AND MIXING ZONES**

(a) In conducting tests or making analytical determinations of classified waters to determine whether they conform with the water quality standards established in accordance with this Subchapter, samples shall be collected outside of mixing zones. However, if required by NPDES permit, samples shall be collected within the mixing zone in order to ensure compliance

with in-zone water quality requirements as outlined in Paragraph (b) of this Rule.

(b) A mixing zone may be established in the area of a discharge in order to provide opportunity for the mixture of the wastewater with the receiving waters. Water quality standards shall not apply within regions designated as mixing zones, except that such zones shall be subject to the conditions established in accordance with this Rule. The need for and limits of such mixing zones shall be determined by the Division on a case-by-case basis after consideration of the magnitude and character of the waste discharge and the size and character of the receiving waters. Mixing zones shall be designated such that discharges will not:

- (1) result in acute toxicity to aquatic life, defined in Rule .0202(1) of this Section, or prevent free passage of aquatic organisms around the mixing zone;
- (2) result in offensive conditions;
- (3) produce undesirable aquatic life or result in a dominance of nuisance species outside of the assigned mixing zone; or
- (4) endanger the public health or welfare.

In addition, a mixing zone shall not be designated for point source discharges of fecal coliform organisms in waters classified "WS-II," "WS-III," "B," or "SA," as defined in Rule .0301 of this Subchapter. Mixing zones shall not be designated for point source discharges of enterococci in waters classified "SB" or "SA," as defined in Rule .0301 of this Subchapter. For the discharge of heated wastewater, compliance with federal rules and regulations pursuant to Section 316(a) of the Clean Water Act, as amended, shall constitute compliance with Paragraph (b) of this Rule.

History Note: Authority G.S. 143-214.1; Eff. February 1, 1976; Amended Eff. May 1, 2007; October 1, 1989; February 1, 1986; September 9, 1979; Readopted Eff. November 1, 2019.

**15A NCAC 02B.0205 NATURAL CHARACTERISTICS
OUTSIDE STANDARDS LIMITS**

Natural waters may on occasion, or temporarily, have characteristics outside of the normal range established by the water quality standards in this Subchapter. The adopted water quality standards relate to the condition of waters as affected by the discharge of sewage, industrial wastes, or other wastes including those from nonpoint sources and other sources of water pollution. Water quality standards shall not be considered violated if values outside the normal range are caused by natural conditions. If wastes are discharged to such waters, the discharger shall not be deemed a contributor to substandard conditions if maximum treatment in compliance with permit requirements is maintained and, therefore, meeting the established limits is beyond the discharger's control.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. October 1, 1989; January 1, 1985; Readopted Eff. November 1, 2019.

15A NCAC 02B .0206 FLOW DESIGN CRITERIA FOR EFFLUENT LIMITATIONS

(a) Water quality based effluent limitations shall be developed to allow appropriate frequency and duration of deviations from water quality standards so that the designated uses of receiving waters are protected. There are water quality standards for a number of categories of pollutants and to protect a range of water uses. For this reason, the appropriate frequency and duration of deviations from water quality standards shall not be the same for all pollutants. A flow design criterion shall be used in the development of water quality based effluent limitations as a simplified means of estimating the acceptable frequency and duration of deviations. Effluent limitations shall be developed using the following flow design criteria:

- (1) All standards except toxic substances and aesthetics shall be protected using the minimum average flow for a period of seven consecutive days that has an average recurrence of once in ten years (7Q10 flow). Other governing flow strategies, such as varying discharges with the receiving waters ability to assimilate wastes, may be designated by the Commission or its designee on a case-by-case basis if the discharger or permit applicant provides evidence that establishes that the alternative flow strategies will give equal or better protection for the water quality standards. "Better protection for the water quality standards" means that deviations from the standard would be expected less frequently than provided by using the 7Q10 flow.
- (2) Toxic substance standards to protect aquatic life from chronic toxicity shall be protected using the 7Q10 flow.
- (3) Toxic substance standards to protect aquatic life from acute toxicity shall be protected using the 1Q10 flow.
- (4) Toxic substance standards to protect human health shall be the following:
 - (A) The 7Q10 flow for standards to protect human health through the consumption of water, fish, and shellfish from noncarcinogens; and
 - (B) The mean annual flow to protect human health from carcinogens through the consumption of water, fish, and shellfish unless site specific fish contamination concerns necessitate the use of an alternative design flow;
- (5) Aesthetic quality shall be protected using the minimum average flow for a period of 30 consecutive days that has an average recurrence of once in two years (30Q2 flow).

More complex modeling techniques may also be used to set effluent limitations directly based on frequency and duration criteria published by the U.S. Environmental Protection Agency, available free of charge at <http://water.epa.gov/scitech/swguidance/standards/criteria/curren>

t/index.cfm and incorporated by reference, including subsequent amendments and editions, and the Commission or its designee has determined, on a case-by-case basis, that the techniques will protect the designated uses of receiving waters.

(b) If the stream flow is regulated, a minimum daily low flow may be used as a substitute for the 7Q10 flow, except in cases where there are acute toxicity concerns for aquatic life. In the cases where there are acute toxicity concerns, an alternative low flow, such as the instantaneous minimum release, shall be approved if the Director determines, on a case-by-case basis, that the designated uses of receiving waters are protected.

(c) Flow design criteria shall be used to develop water quality based effluent limitations and in the design of wastewater treatment facilities. Deviations from a specific water quality standard resulting from discharges that are demonstrated to be in compliance with water quality based effluent limitations for that standard shall not be a violation pursuant to G.S. 143-215.6 when the actual stream flow is less than the design flow.

(d) If the 7Q10 flow of the receiving stream is estimated to be zero, water quality based effluent limitations shall be assigned as follows:

- (1) If the 30Q2 flow is estimated to be greater than zero, effluent limitations for new or expanded (additional) discharges of oxygen consuming waste shall be set at BOD₅ = 5 mg/l, NH₃-N = 2 mg/l and DO = 6 mg/l, unless it is determined by the Director through modeling or other analysis that these limitations will not protect water quality standards. Requirements for existing discharges shall be determined on a case-by-case basis by the Director. More stringent limits shall be applied if violations of water quality standards are predicted to occur for a new or expanded discharge with the limits set pursuant to this Rule or if existing limits are determined to be inadequate to protect water quality standards.
- (2) If the 30Q2 and 7Q10 flows are both estimated to be zero, no new or expanded discharge of oxygen consuming waste shall be allowed. Requirements for existing discharges to streams where the 30Q2 and 7Q10 flows are both estimated to be zero shall be determined on a case-by-case basis.
- (3) Other water quality standards shall be protected by requiring the discharge to meet the standards set forth in this Subchapter, unless the Director determines that alternative limitations protect the classified water uses.

(e) Receiving water flow statistics shall be estimated through consultation with the U.S. Geological Survey. Estimates for any given location may be based on actual flow data, modeling analyses, or other methods determined to be appropriate by the Commission or its designee.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. January 1, 2015; February 1, 1993; October 1, 1989; August 1, 1985; January 1, 1985;

Readopted Eff. November 1, 2019.

15A NCAC 02B .0208 STANDARDS FOR TOXIC SUBSTANCES AND TEMPERATURE

(a) Toxic Substances: the concentration of toxic substances, either alone or in combination with other wastes, in surface waters shall not render waters injurious to aquatic life or wildlife, recreational activities, or public health, nor shall it impair the waters for any designated uses. Specific standards for toxic substances to protect freshwater and tidal saltwater uses are listed in Rules .0211 and .0220 of this Section, respectively. The narrative standard for toxic substances and numerical standards applicable to all waters shall be interpreted as follows:

- (1) The concentration of toxic substances shall not result in chronic toxicity to aquatic life. Any levels in excess of the chronic value for aquatic life shall be considered to result in chronic toxicity. In the absence of direct measurements of chronic toxicity, the concentration of toxic substances shall not exceed the concentration specified by the fraction of the lowest LC50 value that predicts a no effect chronic level as

- (A) For non-carcinogens, these concentrations shall be determined using a Reference Dose (RfD) as published by the EPA pursuant to Section 304(a) of the Federal Water Pollution Control Act as amended, a RfD issued by the EPA as listed in the Integrated Risk Information System (IRIS) file, or a RfD approved by the Director after consultation with the State Health director. Water quality standards or criteria used to calculate water quality based effluent limitations to protect human health through the different exposure routes shall be determined as follows:

- (i) Fish tissue consumption:

$$WQS = (RfD \times RSC) \times \text{Body Weight} / (FCR \times BCF)$$
 where:

WQS = water quality standard or criteria;
 RfD = reference dose;
 RSC = Relative Source Contribution;
 FCR = fish consumption rate (based upon 17.5 gm/person-day);
 BCF = bioconcentration factor or bioaccumulation factor (BAF), as appropriate.

Pursuant to Section 304(a) of the Federal Water Pollution Control Act as amended, BCF or BAF values, literature values, or site specific bioconcentration data shall be based on EPA publications; FCR values shall be average consumption rates for a 70 Kg adult for the lifetime of the population; alternative FCR values may be used when it is considered necessary to protect localized populations that may be consuming fish at a higher rate; RSC values, when made available through EPA publications pursuant to Section 304(a) of the Federal Clean Water Pollution Control Act to account for non-water sources of exposure may be either a percentage (multiplied) or amount subtracted, depending on whether multiple criteria are relevant to the chemical;

- (ii) Water consumption (including a correction for fish consumption):

$$WQS = (RfD \times RSC) \times \text{Body Weight} / [WCR + (FCR \times BCF)]$$
 where:

WQS = water quality standard or criteria;
 RfD = reference dose;
 RSC = Relative Source Contribution;
 FCR = fish consumption rate (based upon 17.5 gm/person-day);
 BCF = bioconcentration factor or bioaccumulation factor (BAF), as appropriate;
 WCR = water consumption rate (assumed to be two liters per day for adults).

To protect sensitive groups, exposure shall be based on a 10 Kg child drinking one liter of water per day. Standards may also be based on drinking water standards based on the requirements of the Federal Safe Drinking Water Act, 42 U.S.C. 300(f)(g)-1. For non-carcinogens, specific numerical water quality standards have not been included in this Rule because water quality standards to protect aquatic life for all toxic substances for which standards have been considered are more stringent than numerical standards to protect

determined by the use of an acceptable Acute to Chronic Ratio (ACR) in accordance with U.S. Environmental Protection Agency (EPA) "Guidelines for Deriving Numerical Water Quality Criteria for the Protection of Aquatic Life and its Uses." In the absence of an ACR, that toxic substance shall not exceed one-one hundredth (0.01) of the lowest LC50 or, if it is demonstrated that a toxic substance has a half-life of less than 96 hours, the maximum concentration shall not exceed one-twentieth (0.05) of the lowest LC50.

- (2) The concentration of toxic substances shall not exceed the level necessary to protect human health through exposure routes of fish tissue consumption, water consumption, recreation, or other route identified for the water body. Fish tissue consumption shall include the consumption of shellfish. These concentrations of toxic substances shall be determined as follows:

human health from non-carcinogens through consumption of fish. Standards to protect human health from non-carcinogens through water consumption are listed under the water supply classification standards in Rule .0211 of this Section. The equations listed in this Subparagraph shall be used to develop water quality based effluent limitations on a case-by-case basis for toxic substances that are not presently included in the water quality standards. Alternative FCR values may be used when it is necessary to protect localized populations that may be consuming fish at a higher rate;

- (B) For carcinogens, the concentrations of toxic substances shall not result in unacceptable health risks and shall be based on a Carcinogenic Potency Factor (CPF). An unacceptable health risk for cancer shall be more than one case of cancer per one million people exposed (10^{-6} risk level). The CPF is a measure of the cancer-causing potency of a substance estimated by the upper 95 percent confidence limit of the slope of a straight line calculated by the Linearized Multistage Model or other appropriate model according to U.S. Environmental Protection Agency Guidelines, FR 51 (185): 33992-34003; and FR 45 (231 Part V): 79318-79379. Water quality standards or criteria for water quality based effluent limitations shall be calculated using the procedures given in this Part and in Part (A) of this Subparagraph. Standards to protect human health from carcinogens through water consumption are listed under the water supply classification standards in Rules .0212, .0214, .0215, .0216, and .0218 of this Section. Standards to protect human health from carcinogens through the consumption of fish (and shellfish) only shall be applicable to all waters as follows:
- (i) Aldrin: 0.05 ng/l;
 - (ii) Arsenic: 10 ug/l;
 - (iii) Benzene: 51 ug/l;
 - (iv) Carbon tetrachloride: 1.6 ug/l;
 - (v) Chlordane: 0.8 ng/l;
 - (vi) DDT: 0.2 ng/l;
 - (vii) Dieldrin: 0.05 ng/l;
 - (viii) Dioxin: 0.000005 ng/l;
 - (ix) Heptachlor: 0.08 ng/l;
 - (x) Hexachlorobutadiene: 18 ug/l;
 - (xi) Polychlorinated biphenyls (total of all identified PCBs and congeners): 0.064 ng/l;
 - (xii) Polynuclear aromatic hydrocarbons (total of all PAHs): 31.1 ng/l;
 - (xiii) Tetrachloroethane (1,1,2,2): 4 ug/l;

- (xiv) Tetrachloroethylene: 3.3 ug/L;
 - (xvi) Trichloroethylene: 30 ug/l;
 - (xvii) Vinyl chloride: 2.4 ug/l.
- The values listed in Subparts (i) through (xvii) of this Part may be adjusted by the Commission or its designee on a case-by-case basis to account for site-specific or chemical-specific information pertaining to the assumed BCF, FCR, or CPF values or other data.

(b) Temperature: the Commission may establish a water quality standard for temperature for specific water bodies other than the standards specified in Rules .0211 and .0220 of this Section upon a case-by-case determination that thermal discharges to these waters that serve or may serve as a source or receptor of industrial cooling water provide for the maintenance of the designated best use throughout a portion of the water body. Such revisions of the temperature standard shall be consistent with the provisions of Section 316(a) of the Federal Water Pollution Control Act, as amended. A list of such revisions shall be maintained and made available to the public by the Division.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. May 1, 2007; April 1, 2003; February 1, 1993; October 1, 1989; January 1, 1985; September 9, 1979; Readopted Eff. November 1, 2019.

15A NCAC 02B .0211 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS C WATERS

In addition to the standards set forth in Rule .0208 of this Section, the following water quality standards shall apply to all Class C waters. Additional standards applicable to other freshwater classifications are specified in Rules .0212, .0214, .0215, .0216, .0218, .0219, .0223, .0224, .0225, and .0231 of this Section.

- (1) The best usage of waters shall be aquatic life propagation, survival, and maintenance of biological integrity (including fishing and fish); wildlife; secondary contact recreation as defined in Rule .0202 of this Section; agriculture; and any other usage except for primary contact recreation or as a source of water supply for drinking, culinary, and food processing purposes. All freshwaters shall be classified to protect these uses at a minimum.
- (2) The conditions of waters shall be such that waters are suitable for all best uses specified in this Rule. Sources of water pollution that preclude any of these uses on either a short-term

- or long-term basis shall be deemed to violate a water quality standard;
- (3) Chlorine, total residual: 17 ug/l;
 - (4) Chlorophyll a (corrected): not greater than 40 ug/l for lakes, reservoirs, and other waters subject to growths of macroscopic or microscopic vegetation not designated as trout waters, and not greater than 15 ug/l for lakes, reservoirs, and other waters subject to growths of macroscopic or microscopic vegetation designated as trout waters (not applicable to lakes or reservoirs less than 10 acres in surface area). The Commission or its designee may prohibit or limit any discharge of waste into surface waters if the surface waters experience or the discharge would result in growths of microscopic or macroscopic vegetation such that the standards established pursuant to this Rule would be violated or the intended best usage of the waters would be impaired;
 - (5) Cyanide, total: 5.0 ug/l;
 - (6) Dissolved oxygen: not less than 6.0 mg/l for trout waters; for non-trout waters, not less than a daily average of 5.0 mg/l with an instantaneous value of not less than 4.0 mg/l; swamp waters, lake coves, or backwaters, and lake bottom waters may have lower values if caused by natural conditions;
 - (7) Fecal coliform: shall not exceed a geometric mean of 200/100ml (MF count) based upon at least five samples taken over a 30-day period, nor exceed 400/100ml in more than 20 percent of the samples examined during such period. Violations of this Item are expected during rainfall events and may be caused by uncontrollable nonpoint source pollution. All coliform concentrations shall be analyzed using the membrane filter technique. If high turbidity or other conditions would cause the membrane filter technique to produce inaccurate data, the most probable number (MPN) 5-tube multiple dilution method shall be used.
 - (8) Floating solids, settleable solids, or sludge deposits: only such amounts attributable to sewage, industrial wastes, or other wastes as shall not make the water unsafe or unsuitable for aquatic life and wildlife or impair the waters for any designated uses;
 - (9) Fluoride: 1.8 mg/l;
 - (10) Gases, total dissolved: not greater than 110 percent of saturation;
 - (11) Metals:
 - (a) With the exception of mercury and selenium, acute and chronic freshwater aquatic life standards for metals shall be based upon measurement of the dissolved fraction of the metal. Mercury and selenium water quality standards shall be based upon measurement of the total recoverable metal;
 - (b) With the exception of mercury and selenium, aquatic life standards for metals listed in this Sub-Item shall apply as a function of the pollutant's water effect ratio (WER). The WER shall be assigned a value equal to one unless any person demonstrates to the Division's satisfaction in a permit proceeding that another value is developed in accordance with the "Water Quality Standards Handbook: Second Edition" published by the US Environmental Protection Agency (EPA-823-B-12-002), which is hereby incorporated by reference, including subsequent amendments and editions, and can be obtained free of charge at <http://water.epa.gov/scitech/swguidance/standards/handbook/>. Alternative site-specific standards may also be developed when any person submits values that demonstrate to the Commission that they were derived in accordance with the "Water Quality Standards Handbook: Second Edition, Recalculation Procedure or the Resident Species Procedure", which is hereby incorporated by reference including subsequent amendments and can be obtained free of charge at <http://water.epa.gov/scitech/swguidance/standards/handbook/>.
 - (c) Freshwater metals standards that are not hardness-dependent shall be as follows:
 - (i) Arsenic, dissolved, acute: WER· 340 ug/l;
 - (ii) Arsenic, dissolved, chronic: WER· 150 ug/l;
 - (iii) Beryllium, dissolved, acute: WER· 65 ug/l;
 - (iv) Beryllium, dissolved, chronic: WER· 6.5 ug/l;
 - (v) Chromium VI, dissolved, acute: WER· 16 ug/l;
 - (vi) Chromium VI, dissolved, chronic: WER· 11 ug/l;
 - (vii) Mercury, total recoverable, chronic: 0.012 ug/l;
 - (viii) Selenium, total recoverable, chronic: 5 ug/l;
 - (ix) Silver, dissolved, chronic: WER· 0.06 ug/l;
 - (d) Hardness-dependent freshwater metals standards shall be derived using the equations specified in Table A: Dissolved Freshwater Standards

for Hardness-Dependent Metals. If the actual instream hardness (expressed as CaCO₃ or Ca+Mg) is less than 400 mg/l, standards shall be calculated

based upon the actual instream hardness. If the instream hardness is greater than 400 mg/l, the maximum applicable hardness shall be 400 mg/l.

Table A: Dissolved Freshwater Standards for Hardness-Dependent Metals
 Numeric standards calculated at 25 mg/l hardness are listed below for illustrative purposes. The Water Effects Ratio (WER) is equal to one unless determined otherwise under Sub-Item (11)(b) of this Rule.

Metal	Equations for Hardness-Dependent Freshwater Metals (ug/l)	Standard at 25 mg/l hardness (ug/l)
Cadmium, Acute	$WER \cdot [\{1.136672 - [\ln \text{ hardness}](0.041838) \} \cdot e^{\{0.9151 [\ln \text{ hardness} - 3.1485] \}}]$	0.82
Cadmium, Acute, Trout waters	$WER \cdot [\{1.136672 - [\ln \text{ hardness}](0.041838) \} \cdot e^{\{0.9151 [\ln \text{ hardness} - 3.6236] \}}]$	0.51
Cadmium, Chronic	$WER \cdot [\{1.101672 - [\ln \text{ hardness}](0.041838) \} \cdot e^{\{0.7998 [\ln \text{ hardness} - 4.4451] \}}]$	0.15
Chromium III, Acute	$WER \cdot [0.316 \cdot e^{\{0.8190 [\ln \text{ hardness}] + 3.7256\}}]$	180
Chromium III, Chronic	$WER \cdot [0.860 \cdot e^{\{0.8190 [\ln \text{ hardness}] + 0.6848\}}]$	24
Copper, Acute	$WER \cdot [0.960 \cdot e^{\{0.9422 [\ln \text{ hardness}] - 1.700\}}]$ Or, Aquatic Life Ambient Freshwater Quality Criteria-Copper 2007 Revision (EPA-822-R-07-001)	3.6 NA
Copper, Chronic	$WER \cdot [0.960 \cdot e^{\{0.8545 [\ln \text{ hardness}] - 1.702\}}]$ Or, Aquatic Life Ambient Freshwater Quality Criteria-Copper 2007 Revision (EPA-822-R-07-001)	2.7 NA
Lead, Acute	$WER \cdot [\{1.46203 - [\ln \text{ hardness}](0.145712) \} \cdot e^{\{1.273 [\ln \text{ hardness}] - 1.460\}}]$	14
Lead, Chronic	$WER \cdot [\{1.46203 - [\ln \text{ hardness}](0.145712) \} \cdot e^{\{1.273 [\ln \text{ hardness}] - 4.705\}}]$	0.54
Nickel, Acute	$WER \cdot [0.998 \cdot e^{\{0.8460 [\ln \text{ hardness}] + 2.255\}}]$	140
Nickel, Chronic	$WER \cdot [0.997 \cdot e^{\{0.8460 [\ln \text{ hardness}] + 0.0584\}}]$	16
Silver, Acute	$WER \cdot [0.85 \cdot e^{\{1.72 [\ln \text{ hardness}] - 6.59\}}]$	0.30
Zinc, Acute	$WER \cdot [0.978 \cdot e^{\{0.8473 [\ln \text{ hardness}] + 0.884\}}]$	36
Zinc, Chronic	$WER \cdot [0.986 \cdot e^{\{0.8473 [\ln \text{ hardness}] + 0.884\}}]$	36

- (e) Compliance with acute instream metals standards shall only be evaluated using an average of two or more samples collected within one hour. Compliance with chronic instream metals standards shall only be evaluated using an average of a minimum of four samples taken on consecutive days or as a 96-hour average;
- (12) Oils, deleterious substances, or colored or other wastes: only such amounts as shall not render the waters injurious to public health, secondary recreation, or to aquatic life and wildlife, or adversely affect the palatability of fish, aesthetic quality, or impair the waters for any designated uses. For the purpose of implementing this Rule, oils, deleterious substances, or colored or other wastes shall include substances that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, as described in 40 CFR 110.3(a)-(b), incorporated by reference including subsequent amendments and editions.

- This material is available, free of charge, at: <http://www.ecfr.gov/>;
- (13) Pesticides:
- (a) Aldrin: 0.002 ug/l;
 - (b) Chlordane: 0.004 ug/l;
 - (c) DDT: 0.001 ug/l;
 - (d) Demeton: 0.1 ug/l;
 - (e) Dieldrin: 0.002 ug/l;
 - (f) Endosulfan: 0.05 ug/l;
 - (g) Endrin: 0.002 ug/l;
 - (h) Guthion: 0.01 ug/l;
 - (i) Heptachlor: 0.004 ug/l;
 - (j) Lindane: 0.01 ug/l;
 - (k) Methoxychlor: 0.03 ug/l;
 - (l) Mirex: 0.001 ug/l;
 - (m) Parathion: 0.013 ug/l; and
 - (n) Toxaphene: 0.0002 ug/l;
- (14) pH: shall be between 6.0 and 9.0 except that swamp waters may have a pH as low as 4.3 if it is the result of natural conditions;
- (15) Phenolic compounds: only such levels as shall not result in fish-flesh tainting or impairment of other best usage;
- (16) Polychlorinated biphenyls (total of all PCBs and congeners identified): 0.001 ug/l;
- (17) Radioactive substances, based on at least one sample collected per quarter:
- (a) Combined radium-226 and radium-228: the average annual activity level for combined radium-226 and radium-228 shall not exceed five picoCuries per liter;
 - (b) Alpha Emitters: the average annual gross alpha particle activity (including radium-226, but excluding radon and uranium) shall not exceed 15 picoCuries per liter;
 - (c) Beta Emitters: the average annual activity level for strontium-90 shall not exceed eight picoCuries per liter, nor shall the average annual gross beta particle activity (excluding potassium-40 and other naturally occurring radionuclides) exceed 50 picoCuries per liter, nor shall the average annual activity level for tritium exceed 20,000 picoCuries per liter;
- (18) Temperature: not to exceed 2.8 degrees C (5.04 degrees F) above the natural water temperature, and in no case to exceed 29 degrees C (84.2 degrees F) for mountain and upper piedmont waters and 32 degrees C (89.6 degrees F) for lower piedmont and coastal plain Waters; the temperature for trout waters shall not be increased by more than 0.5 degrees C (0.9 degrees F) due to the discharge of heated liquids, but in no case to exceed 20 degrees C (68 degrees F);
- (19) Toluene: 0.36 ug/l in trout classified waters or 11 ug/l in all other waters;
- (20) Trialkyltin compounds: 0.07 ug/l expressed as tributyltin;
- (21) Turbidity: the turbidity in the receiving water shall not exceed 50 Nephelometric Turbidity Units (NTU) in streams not designated as trout waters and 10 NTU in streams, lakes, or reservoirs designated as trout waters; for lakes and reservoirs not designated as trout waters, the turbidity shall not exceed 25 NTU; if turbidity exceeds these levels due to natural background conditions, the existing turbidity level shall not be increased. Compliance with this turbidity standard shall be deemed met when land management activities employ Best Management Practices (BMPs), as defined by Rule .0202 of this Section, recommended by the Designated Nonpoint Source Agency, as defined by Rule .0202 of this Section.
- (22) Toxic Substance Level Applicable to NPDES Permits: Chloride: 230 mg/l. If chloride is determined by the waste load allocation to be exceeded in a receiving water by a discharge under the specified 7Q10 criterion for toxic substances, the discharger shall monitor the chemical or biological effects of the discharge. Efforts shall be made by all dischargers to reduce or eliminate chloride from their effluents. Chloride shall be limited as appropriate in the NPDES permit if sufficient information exists to indicate that it may be a causative factor resulting in toxicity of the effluent.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. January 1, 2015; May 1, 2007; April 1, 2003; August 1, 2000; October 1, 1995; August 1, 1995; April 1, 1994; February 1, 1993; Readopted Eff. November 1, 2019.

15A NCAC 02B .0212 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS WS-I WATERS

The following water quality standards shall apply to surface waters within water supply watersheds classified as WS-I. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section shall also apply to Class WS-I waters.

- (1) The best usage of waters classified as WS-I shall be as a source of water supply for drinking, culinary, or food processing purposes for those users desiring maximum protection of their water supplies in the form of the most stringent WS classification, and any best usage specified for Class C waters. Class WS-I waters are waters located on land in public ownership and waters located in undeveloped watersheds.
- (2) The best usage of waters classified as WS-I shall be maintained as follows:

- (a) Water quality standards in a WS-I watershed shall meet the requirements as specified in Item (3) of this Rule.
 - (b) Wastewater and stormwater point source discharges in a WS-I watershed shall meet the requirements as specified in Item (4) of this Rule.
 - (c) Nonpoint source pollution in a WS-I watershed shall meet the requirements as specified in Item (5) of this Rule.
 - (d) Following approved treatment, as defined in Rule .0202 of this Section, the waters shall meet the Maximum Contaminant Level concentrations considered safe for drinking, culinary, and food-processing purposes that are specified in 40 CFR Part 141 National Primary Drinking Water Regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1500, incorporated by reference including subsequent amendments and editions.
 - (e) Sources of water pollution that preclude any of the best uses on either a short-term or long-term basis shall be deemed to violate a water quality standard.
 - (f) The Class WS-I classification may be used to protect portions of Class WS-II, WS-III, and WS-IV water supplies. For reclassifications occurring after the July 1, 1992 statewide reclassification, a WS-I classification that is requested by local governments shall be considered by the Commission if all local governments having jurisdiction in the affected areas have adopted a resolution and the appropriate ordinances as required by G.S. 143-214.5(d) to protect the watershed or if the Commission acts to protect a watershed when one or more local governments has failed to adopt protective measures as required by this Sub-Item.
- (3) Water quality standards applicable to Class WS-I Waters shall be as follows:
- (a) MBAS (Methylene-Blue Active Substances): not greater than 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;
 - (b) Total coliforms shall not exceed 50/100 ml (MF count) as a monthly geometric mean value in watersheds serving as unfiltered water supplies;
 - (c) Chlorinated phenolic compounds: not greater than 1.0 ug/l to protect water supplies from taste and odor problems from chlorinated phenols;
 - (d) Solids, total dissolved: not greater than exceed 500 mg/l;
 - (e) Total hardness: not greater than 100 mg/l as calcium carbonate (CaCO₃ or Ca + Mg);
 - (f) Toxic and other deleterious substances that are non-carcinogens:
 - (i) Barium: 1.0 mg/l;
 - (ii) Chloride: 250 mg/l;
 - (iii) Nickel: 25 ug/l;
 - (iv) Nitrate nitrogen: 10.0 mg/l;
 - (v) 2,4-D: 70 ug/l;
 - (vi) 2,4,5-TP (Silvex): 10 ug/l; and
 - (vii) Sulfates: 250 mg/l;
 - (g) Toxic and other deleterious substances that are carcinogens:
 - (i) Aldrin: 0.05 ng/l;
 - (ii) Arsenic: 10 ug/l;
 - (iii) Benzene: 1.19 ug/l;
 - (iv) Carbon tetrachloride: 0.254 ug/l;
 - (v) Chlordane: 0.8 ng/l;
 - (vi) Chlorinated benzenes: 488 ug/l;
 - (vii) DDT: 0.2 ng/l;
 - (viii) Dieldrin: 0.05 ng/l;
 - (ix) Dioxin: 0.000005 ng/l;
 - (x) Heptachlor: 0.08 ng/l;
 - (xi) Hexachlorobutadiene: 0.44 ug/l;
 - (xii) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;
 - (xiii) Tetrachloroethane (1,1,2,2): 0.17 ug/l;
 - (xiv) Tetrachloroethylene: 0.7 ug/l;
 - (xv) Trichloroethylene: 2.5 ug/l; and
 - (xvi) Vinyl Chloride: 0.025 ug/l.
- (4) Wastewater and stormwater point source discharges in a WS-I watershed shall be permitted pursuant to 15A NCAC 02B .0104.
- (5) Nonpoint source pollution in a WS-I watershed shall not have an adverse impact, as defined in 15A NCAC 02H .1002, on use as a water supply or any other designated use.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. January 1, 2015; May 1, 2007; April 1, 2003; October 1, 1995; February 1, 1993; March 1, 1991; October 1, 1989; Readopted Eff. November 1, 2019.

15A NCAC 02B .0214 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS WS-II WATERS

The following water quality standards shall apply to surface waters within water supply watersheds classified as WS-II. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section shall also apply to Class WS-II waters.

- (1) The best usage of waters classified as WS-II shall be as a source of water supply for drinking, culinary, or food-processing purposes for those users desiring maximum protection for their water supplies where a WS-I classification is not feasible as determined by the Commission in accordance with Rule .0212 of this Section and any best usage specified for Class C waters.
- (2) The best usage of waters classified as WS-II shall be maintained as follows:
 - (a) Water quality standards in a WS-II watershed shall meet the requirements as specified in Item (3) of this Rule.
 - (b) Wastewater and stormwater point source discharges in a WS-II watershed shall meet the requirements as specified in Item (4) of this Rule.
 - (c) Nonpoint source pollution in a WS-II watershed shall meet the requirements as specified in Item (5) of this Rule.
 - (d) Following approved treatment, as defined in Rule .0202 of this Section, the waters shall meet the Maximum Contaminant Level concentrations considered safe for drinking, culinary, and food-processing purposes that are specified in 40 CFR Part 141 National Primary Drinking Water Regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1500.
 - (e) Sources of water pollution that preclude any of the best uses on either a short-term or long-term basis shall be deemed to violate a water quality standard.
 - (f) The Class WS-II classification may be used to protect portions of Class WS-III and WS-IV water supplies. For reclassifications of these portions of Class WS-III and WS-IV water supplies occurring after the July 1, 1992 statewide reclassification, a WS-II classification that is requested by local governments shall be considered by the Commission if all local governments having jurisdiction in the affected areas have adopted a resolution and the appropriate ordinances as required by G.S. 143-214.5(d) to protect the watershed or if the Commission acts to protect a

watershed when one or more local governments has failed to adopt protective measures as required by this Sub-Item.

- (3) Water quality standards applicable to Class WS-II Waters shall be as follows:
 - (a) MBAS (Methylene-Blue Active Substances): not greater than 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;
 - (b) Odor producing substances contained in sewage or other wastes: only such amounts, whether alone or in combination with other substances or wastes, as shall not cause organoleptic effects in water supplies that cannot be corrected by treatment, impair the palatability of fish, or have an adverse impact, as defined in 15A NCAC 02H .1002, on any best usage established for waters of this class;
 - (c) Chlorinated phenolic compounds: not greater than 1.0 ug/l to protect water supplies from taste and odor problems from chlorinated phenols;
 - (d) Total hardness: not greater than 100 mg/l as calcium carbonate (CaCO₃ or Ca + Mg);
 - (e) Solids, total dissolved: not greater than 500 mg/l;
 - (f) Toxic and other deleterious substances that are non-carcinogens:
 - (i) Barium: 1.0 mg/l;
 - (ii) Chloride: 250 mg/l;
 - (iii) Nickel: 25 ug/l;
 - (iv) Nitrate nitrogen: 10.0 mg/l;
 - (v) 2,4-D: 70 ug/l;
 - (vi) 2,4,5-TP (Silvex): 10 ug/l; and
 - (vii) Sulfates: 250 mg/l;
 - (g) Toxic and other deleterious substances that are carcinogens:
 - (i) Aldrin: 0.05 ng/l;
 - (ii) Arsenic: 10 ug/l;
 - (iii) Benzene: 1.19 ug/l;
 - (iv) Carbon tetrachloride: 0.254 ug/l;
 - (v) Chlordane: 0.8 ng/l;
 - (vi) Chlorinated benzenes: 488 ug/l;
 - (vii) DDT: 0.2 ng/l;
 - (viii) Dieldrin: 0.05 ng/l;
 - (ix) Dioxin: 0.000005 ng/l;
 - (x) Heptachlor: 0.08 ng/l;
 - (xi) Hexachlorobutadiene: 0.44 ug/l;
 - (xii) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;

- (xiii) Tetrachloroethane (1,1,2,2): 0.17 ug/l;
 - (xiv) Tetrachloroethylene: 0.7 ug/l;
 - (xv) Trichloroethylene: 2.5 ug/l; and
 - (xvi) Vinyl Chloride: 0.025 ug/l.
- (4) Wastewater and stormwater point source discharges in a WS-II watershed shall meet the following requirements:
- (a) Discharges that qualify for a General NPDES Permit pursuant to 15A NCAC 02H .0127 shall be allowed in the entire watershed.
 - (b) Discharges from trout farms that are subject to Individual NPDES Permits shall be allowed in the entire watershed.
 - (c) Stormwater discharges that qualify for an Individual NPDES Permit pursuant to 15A NCAC 02H .0126 shall be allowed in the entire watershed.
 - (d) No discharge of sewage, industrial, or other wastes shall be allowed in the entire watershed except for those allowed by Sub-Items (a) through (c) of this Item or Rule .0104 of this Subchapter, and none shall be allowed that have an adverse effect on human health or that are not treated in accordance with the permit or other requirements established by the Division pursuant to G.S. 143-215.1. Upon request by the Commission, a discharger shall disclose all chemical constituents present or potentially present in their wastes and chemicals that could be spilled or be present in runoff from their facility that may have an adverse impact on downstream water quality. These facilities may be required to have spill and treatment failure control plans as well as perform special monitoring for toxic substances.
 - (e) New domestic and industrial discharges of treated wastewater that are subject to Individual NPDES Permits shall not be allowed in the entire watershed.
 - (f) No new landfills shall be allowed in the Critical Area, and no NPDES permits shall be issued for landfills that discharge treated leachate in the remainder of the watershed.
 - (g) No new permitted sites for land application of residuals or petroleum contaminated soils shall be allowed in the Critical Area.

- (5) Nonpoint source pollution in a WS-II watershed shall meet the following requirements:
 - (a) Nonpoint source pollution shall not have an adverse impact on waters for use as a water supply or any other designated use.
 - (b) Class WS-II waters shall be protected as water supplies that are located in watersheds that meet average watershed development density levels specified for Class WS-II waters in Rule .0624 of this Subchapter.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. May 10, 1979; Amended Eff. January 1, 2015; May 1, 2007; April 1, 2003; January 1, 1996; October 1, 1995; Readopted Eff. November 1, 2019.

15A NCAC 02B .0215 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS WS-III WATERS

The following water quality standards shall apply to surface waters within water supply watersheds classified as WS-III. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section shall also apply to Class WS-III waters.

- (1) The best usage of waters classified as WS-III shall be as a source of water supply for drinking, culinary, or food-processing purposes for those users where a more protective WS-I or WS-II classification is not feasible as determined by the Commission in accordance with Rules .0212 and .0214 of this Section and any other best usage specified for Class C waters.
- (2) The best usage of waters classified as WS-III shall be maintained as follows:
 - (a) Water quality standards in a WS-III watershed shall meet the requirements as specified in Item (3) of this Rule.
 - (b) Wastewater and stormwater point source discharges in a WS-III watershed shall meet the requirements as specified in Item (4) of this Rule.
 - (c) Nonpoint source pollution in a WS-III watershed shall meet the requirements as specified in Item (5) of this Rule.
 - (d) Following approved treatment, as defined in Rule .0202 of this Section, the waters shall meet the Maximum Contaminant Level concentrations considered safe for drinking, culinary, or food-processing purposes that are specified in 40 CFR Part 141 National Primary Drinking Water Regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1500.

- (e) Sources of water pollution that preclude any of the best uses on either a short-term or long-term basis shall be deemed to violate a water quality standard.
 - (f) The Class WS-III classification may be used to protect portions of Class WS-IV water supplies. For reclassifications of these portions of WS-IV water supplies occurring after the July 1, 1992 statewide reclassification, a WS-II classification that is requested by local governments shall be considered by the Commission if all local governments having jurisdiction in the affected areas have adopted a resolution and the appropriate ordinances as required by G.S. 143-214.5(d) to protect the watershed or if the Commission acts to protect a watershed when one or more local governments has failed to adopt protective measures as required by this Sub-Item.
- (3) Water quality standards applicable to Class WS-III Waters shall be as follows:
- (a) MBAS (Methylene-Blue Active Substances): not greater than 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;
 - (b) Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or wastes, as shall not cause organoleptic effects in water supplies that cannot be corrected by treatment, impair the palatability of fish, or have an adverse impact, as defined in 15A NCAC 02H .1002, on any best usage established for waters of this class;
 - (c) Chlorinated phenolic compounds: not greater than 1.0 ug/l to protect water supplies from taste and odor problems from chlorinated phenols;
 - (d) Total hardness: not greater than 100 mg/l as calcium carbonate (CaCO₃ or Ca + Mg);
 - (e) Solids, total dissolved: not greater than 500 mg/l;
 - (f) Toxic and other deleterious substances that are non-carcinogens:
 - (i) Barium: 1.0 mg/l;
 - (ii) Chloride: 250 mg/l;
 - (iii) Nickel: 25 ug/l;
 - (iv) Nitrate nitrogen: 10.0 mg/l;
 - (v) 2,4-D: 70 ug/l;
 - (vi) 2,4,5-TP (Silvex): 10 ug/l; and
 - (vii) Sulfates: 250 mg/l;
- (g) Toxic and other deleterious substances that are carcinogens:
- (i) Aldrin: 0.05 ng/l;
 - (ii) Arsenic: 10 ug/l;
 - (iii) Benzene: 1.19 ug/l;
 - (iv) Carbon tetrachloride: 0.254 ug/l;
 - (v) Chlordane: 0.8 ng/l;
 - (vi) Chlorinated benzenes: 488 ug/l;
 - (vii) DDT: 0.2 ng/l;
 - (viii) Dieldrin: 0.05 ng/l;
 - (ix) Dioxin: 0.000005 ng/l;
 - (x) Heptachlor: 0.08 ng/l;
 - (xi) Hexachlorobutadiene: 0.44 ug/l;
 - (xii) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;
 - (xiii) Tetrachloroethane (1,1,2,2): 0.17 ug/l;
 - (xiv) Tetrachloroethylene: 0.7 ug/l;
 - (xv) Trichloroethylene: 2.5 ug/l; and
 - (xvi) Vinyl Chloride: 0.025 ug/l.
- (4) Wastewater and stormwater point source discharges in a WS-III watershed shall meet the following requirements:
- (a) Discharges that qualify for a General NPDES Permit pursuant to 15A NCAC 02H .0127 shall be allowed in the entire watershed.
 - (b) Discharges from trout farms that are subject to Individual NPDES Permits shall be allowed in the entire watershed.
 - (c) Stormwater discharges that qualify for an Individual NPDES Permit pursuant to 15A NCAC 02H .0126 shall be allowed in the entire watershed.
 - (d) New domestic wastewater discharges that are subject to Individual NPDES Permits shall not be allowed in the Critical Area and are allowed in the remainder of the watershed.
 - (e) New industrial wastewater discharges that are subject to Individual NPDES Permits except non-process industrial discharges shall not be allowed in the entire watershed.
 - (f) No discharge of sewage, industrial, or other wastes shall be allowed in the entire watershed except for those allowed by Sub-Items (a) through (e) of this Item or Rule .0104 of this

Subchapter, and none shall be allowed that have an adverse effect on human health or that are not treated in accordance with the permit or other requirements established by the Division pursuant to G.S. 143-215.1. Upon request by the Commission, a discharger shall disclose all chemical constituents present or potentially present in their wastes and chemicals that could be spilled or be present in runoff from their facility that may have an adverse impact on downstream water quality. These facilities may be required to have spill and treatment failure control plans as well as perform special monitoring for toxic substances.

- (g) No new landfills shall be allowed in the Critical Area, and no NPDES permits shall be issued for landfills to discharge treated leachate in the remainder of the watershed.
- (h) No new permitted sites for land application of residuals or petroleum contaminated soils shall be allowed in the Critical Area.
- (5) Nonpoint source pollution in a WS-III watershed shall meet the following requirements:
 - (a) Nonpoint source pollution shall not have an adverse impact on waters for use as a water supply or any other designated use.
 - (b) Class WS-III waters shall be protected as water supplies that are located in watersheds that meet average watershed development density levels specified Class WS-III waters in Rule .0624 of this Subchapter.

determined by the Commission in accordance with Rules .0212 through .0215 of this Section and any other best usage specified for Class C waters.

- (2) The best usage of waters classified as WS-IV shall be maintained as follows:
 - (a) Water quality standards in a WS-IV watershed shall meet the requirements as specified in Item (3) of this Rule.
 - (b) Wastewater and stormwater point source discharges in a WS-IV watershed shall meet the requirements as specified in Item (4) of this Rule.
 - (c) Nonpoint source pollution in a WS-IV watershed shall meet the requirements as specified in Item (5) of this Rule.
 - (d) Following approved treatment, as defined in Rule .0202 of this Section, the waters shall meet the Maximum Contaminant Level concentrations considered safe for drinking, culinary, or food-processing purposes that are specified in 40 CFR Part 141 National Primary Drinking Water Regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1500.
 - (e) Sources of water pollution that preclude any of the best uses on either a short-term or long-term basis shall be deemed to violate a water quality standard.
 - (f) The Class WS-II or WS-III classifications may be used to protect portions of Class WS-IV water supplies. For reclassifications of these portions of WS-IV water supplies occurring after the July 1, 1992 statewide reclassification, a WS-IV classification that is requested by local governments shall be considered by the Commission if all local governments having jurisdiction in the affected areas have adopted a resolution and the appropriate ordinances as required by G.S. 143-214.5(d) to protect the watershed or if the Commission acts to protect a watershed when one or more local governments has failed to adopt protective measures as required by this Sub-Item.
- (3) Water quality standards applicable to Class WS-IV Waters shall be as follows:
 - (a) MBAS (Methylene-Blue Active Substances): not greater than 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. September 9, 1979; Amended Eff. January 1, 2015; May 1, 2007; April 1, 2003; January 1, 1996; October 1, 1995; October 1, 1989; Readopted Eff. November 1, 2019.

15A NCAC 02B .0216 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS WS-IV WATERS

The following water quality standards shall apply to surface waters within water supply watersheds classified as WS-IV. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section shall also apply to Class WS-IV waters.

- (1) The best usage of waters classified as WS-IV shall be as a source of water supply for drinking, culinary, or food-processing purposes for those users where a more protective WS-I, WS-II or WS-III classification is not feasible as

- (b) Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause organoleptic effects in water supplies that cannot be corrected by treatment, impair the palatability of fish, or have an adverse impact, as defined in 15A NCAC 02H .1002, on any best usage established for waters of this class;
 - (c) Chlorinated phenolic compounds: not greater than 1.0 ug/l to protect water supplies from taste and odor problems due to chlorinated phenols shall be allowed. Specific phenolic compounds may be given a different limit if it is demonstrated not to cause taste and odor problems and not to be detrimental to other best usage;
 - (d) Total hardness: not greater than 100 mg/l as calcium carbonate (CaCO₃ or Ca + Mg);
 - (e) Solids, total dissolved: not greater than 500 mg/l;
 - (f) Toxic and other deleterious substances that are non-carcinogens:
 - (i) Barium: 1.0 mg/l;
 - (ii) Chloride: 250 mg/l;
 - (iii) Nickel: 25 ug/l;
 - (iv) Nitrate nitrogen: 10.0 mg/l;
 - (v) 2,4-D: 70 ug/l;
 - (vi) 2,4,5-TP (Silvex): 10 ug/l; and
 - (vii) Sulfates: 250 mg/l;
 - (g) Toxic and other deleterious substances that are carcinogens:
 - (i) Aldrin: 0.05 ng/l;
 - (ii) Arsenic: 10 ug/l;
 - (iii) Benzene: 1.19 ug/l;
 - (iv) Carbon tetrachloride: 0.254 ug/l;
 - (v) Chlordane: 0.8 ng/l;
 - (vi) Chlorinated benzenes: 488 ug/l;
 - (vii) DDT: 0.2 ng/l;
 - (viii) Dieldrin: 0.05 ng/l;
 - (ix) Dioxin: 0.000005 ng/l;
 - (x) Heptachlor: 0.08 ng/l;
 - (xi) Hexachlorobutadiene: 0.44 ug/l;
 - (xii) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;
 - (xiii) Tetrachloroethane (1,1,2,2): 0.17 ug/l;
 - (xiv) Tetrachloroethylene: 0.7 ug/l;
 - (xv) Trichloroethylene: 2.5 ug/l; and
 - (xvi) Vinyl Chloride: 0.025 ug/l.
- (4) Wastewater and stormwater point source discharges in a WS-IV watershed shall meet the following requirements:
- (a) Discharges that qualify for a General NPDES Permit pursuant to 15A NCAC 02H .0127 shall be allowed in the entire watershed.
 - (b) Discharges from domestic facilities, industrial facilities and trout farms that are subject to Individual NPDES Permits shall be allowed in the entire watershed.
 - (c) Stormwater discharges that qualify for an Individual NPDES Permit pursuant to 15A NCAC 02H .0126 shall be allowed in the entire watershed.
 - (d) No discharge of sewage, industrial wastes, or other wastes shall be allowed in the entire watershed except for those allowed by Sub-Items (a) through (c) of this Item or Rule .0104 of this Subchapter, and none shall be allowed that have an adverse effect on human health or that are not treated in accordance with the permit or other requirements established by the Division pursuant to G.S. 143-215.1. Upon request by the Commission, dischargers or industrial users subject to pretreatment standards shall disclose all chemical constituents present or potentially present in their wastes and chemicals that could be spilled or be present in runoff from their facility which may have an adverse impact on downstream water supplies. These facilities may be required to have spill and treatment failure control plans as well as perform special monitoring for toxic substances.
 - (e) New industrial discharges of treated wastewater in the critical area shall meet the provisions of Rule .0224(c)(2)(D), (E), and (G) of this Section and Rule .0203 of this Section.
 - (f) New industrial connections and expansions to existing municipal discharges with a pretreatment program pursuant to 15A NCAC 02H .0904 shall be allowed in the entire watershed.
 - (g) No new landfills shall be allowed in the Critical Area.
 - (h) No new permitted sites for land application residuals or petroleum

- contaminated soils shall be allowed in the Critical Area.
- (5) Nonpoint source pollution in a WS-IV watershed shall meet the following requirements:
- (a) Nonpoint source pollution shall not have an adverse impact on waters for use as a water supply or any other designated use.
 - (b) Class WS-IV waters shall be protected as water supplies that are located in watersheds that meet average watershed development density levels specified for Class WS-IV waters in Rule .0624 of this Subchapter.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. February 1, 1986; Amended Eff. January 1, 2015; May 1, 2007; April 1, 2003; June 1, 1996; October 1, 1995; August 1, 1995; June 1, 1994; Readopted Eff. November 1, 2019.

15A NCAC 02B .0218 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS WS-V WATERS

The following water quality standards shall apply to surface waters within water supply watersheds classified as WS-V. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section shall also apply to Class WS-V waters.

- (1) The best usage of waters classified as WS-V shall be as waters that are protected as water supplies which are generally upstream and draining to Class WS-IV waters; waters previously used for drinking water supply purposes; or waters used by industry to supply their employees, but not municipalities or counties, with a raw drinking water supply source, although this type of use is not restricted to WS-V classification; and all Class C uses.
- (2) The best usage of waters classified as WS-V shall be maintained as follows:
 - (a) Water quality standards in a WS-V water shall meet the requirements as specified in Item (3) of this Rule.
 - (b) Wastewater and stormwater point source discharges in a WS-V water shall meet the requirements as specified in Item (4) of this Rule.
 - (c) Nonpoint source pollution in a WS-V water shall meet the requirements as specified in Item (5) of this Rule.
 - (d) Following approved treatment, as defined in Rule .0202 of this Section, the waters shall meet the Maximum Contaminant Level concentrations considered safe for drinking, culinary, or food-processing purposes that are specified in 40 CFR Part 141 National Primary Drinking Water Regulations and in the North Carolina Rules

- (e) Governing Public Water Supplies, 15A NCAC 18C .1500. The Commission or its designee may apply management requirements for the protection of waters downstream of receiving waters provided in Rule .0203 of this Section.
- (f) The Commission shall consider a more protective classification for the water supply if a resolution requesting a more protective classification is submitted from all local governments having land use jurisdiction within the affected watershed.
- (g) Sources of water pollution that preclude any of the best uses on either a short-term or long-term basis shall be deemed to violate a water quality standard;
- (3) Water quality standards applicable to Class WS-V Waters shall be as follows:
 - (a) MBAS (Methylene-Blue Active Substances): not greater than 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;
 - (b) Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause organoleptic effects in water supplies that can not be corrected by treatment, impair the palatability of fish, or have an adverse impact, as defined in 15A NCAC 02H .1002, on any best usage established for waters of this class;
 - (c) Chlorinated phenolic compounds: not greater than 1.0 ug/l to protect water supplies from taste and odor problems due to chlorinated phenols. Specific phenolic compounds may be given a different limit if it is demonstrated not to cause taste and odor problems and not to be detrimental to other best usage;
 - (d) Total hardness: not greater than 100 mg/l as calcium carbonate (CaCO₃ or Ca + Mg);
 - (e) Solids, total dissolved: not greater than 500 mg/l;
 - (f) Toxic and other deleterious substances that are non-carcinogens:
 - (i) Barium: 1.0 mg/l;
 - (ii) Chloride: 250 mg/l;
 - (iii) Nickel: 25 ug/l;
 - (iv) Nitrate nitrogen: 10.0 mg/l;
 - (v) 2,4-D: 70 ug/l;
 - (vi) 2,4,5-TP (Silvex): 10 ug/l; and

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| <p>(g) Sulfates: 250 mg/l;</p> <p>Toxic and other deleterious substances that are carcinogens:</p> <p>(i) Aldrin: 0.05 ng/l;</p> <p>(ii) Arsenic: 10 ug/l;</p> <p>(iii) Benzene: 1.19 ug/l;</p> <p>(iv) Carbon tetrachloride: 0.254 ug/l;</p> <p>(v) Chlordane: 0.8 ng/l;</p> <p>(vi) Chlorinated benzenes: 488 ug/l;</p> <p>(vii) DDT: 0.2 ng/l;</p> <p>(viii) Dieldrin: 0.05 ng/l;</p> <p>(ix) Dioxin: 0.000005 ng/l;</p> <p>(x) Heptachlor: 0.08 ng/l;</p> <p>(xi) Hexachlorobutadiene: 0.44 ug/l;</p> <p>(xii) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;</p> <p>(xiii) Tetrachloroethane (1,1,2,2): 0.17 ug/l;</p> <p>(xiv) Tetrachloroethylene: 0.7 ug/l;</p> <p>(xv) Trichloroethylene: 2.5 ug/l; and</p> <p>(xvi) Vinyl Chloride: 0.025 ug/l.</p> <p>(4) No discharge of sewage, industrial wastes, or other wastes shall be allowed that have an adverse effect on human health or that are not treated in accordance with the permit or other requirements established by the Division pursuant to G.S. 143-215.1. Upon request by the Commission, dischargers or industrial users subject to pretreatment standards shall disclose all chemical constituents present or potentially present in their wastes and chemicals that could be spilled or be present in runoff from their facility which may have an adverse impact on downstream water quality. These facilities may be required to have spill and treatment failure control plans as well as perform special monitoring for toxic substances.</p> <p>(5) Nonpoint Source pollution in a WS-V water shall not have an adverse impact on waters for use as water supply or any other designated use.</p> | <p>quality standards applicable to Class C waters as described in Rule .0211 of this Section also apply to Class B waters.</p> <p>(1) The best usage of Class B waters shall be primary contact recreation and any other best usage specified for Class C waters.</p> <p>(2) Class B waters shall meet the standards of water quality for outdoor bathing places as specified in Item (3) of this Rule and shall be of sufficient size and depth for primary contact recreation. In assigning the B classification to waters intended for primary contact recreation, the Commission shall consider the relative proximity of sources of water pollution and the potential hazards involved in locating swimming areas close to sources of water pollution and shall not assign this classification to waters in which such water pollution could result in a hazard to public health. Sources of water pollution that preclude any of these uses on either a short-term or long-term basis shall be deemed to violate a water quality standard.</p> <p>(3) Quality standards applicable to Class B waters:</p> <p>(a) Sewage, industrial wastes, or other wastes: none shall be allowed that are not treated to the satisfaction of the Commission. In determining the degree of treatment required for such waste when discharged into waters to be used for bathing, the Commission shall consider the quality and quantity of the sewage and wastes involved and the proximity of such discharges to waters in this class. Discharges in the immediate vicinity of bathing areas shall not be allowed if the Director determines that the waste cannot be treated to ensure the protection of primary contact recreation;</p> <p>(b) Fecal coliforms shall not exceed a geometric mean of 200/100 ml (MF count) based on at least five samples taken over a 30-day period, nor exceed 400/100 ml in more than 20 percent of the samples examined during such period.</p> <p>(4) Wastewater discharges to waters classified as B shall meet the reliability requirements specified in 15A NCAC 02H .0124. Discharges to waters where a primary contact recreational use is determined by the Director to be attainable shall be required to meet water quality standards and reliability requirements to protect this use concurrently with reclassification efforts.</p> |
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History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. October 1, 1989; Amended Eff. January 1, 2015; May 1, 2007; April 1, 2003; October 1, 1995; Readopted Eff. November 1, 2019.

15A NCAC 02B .0219 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS B WATERS

The following water quality standards shall apply to surface waters that are for primary contact recreation as defined in Rule .0202 of this Section, and are classified as Class B waters. Water

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. January 1, 1990; Amended Eff. October 1, 1995; Readopted Eff. November 1, 2019.

15A NCAC 02B .0220 TIDAL SALT WATER QUALITY STANDARDS FOR CLASS SC WATERS

In addition to the standards set forth in Rule .0208 of this Section, the following water quality standards shall apply to all Class SC waters. Additional standards applicable to other tidal salt water classifications are specified in Rules .0221 and .0222 of this Section.

- (1) The best usage of waters classified as SC shall be aquatic life propagation, survival, and maintenance of biological integrity (including fishing, fish, and Primary Nursery Areas (PNAs)); wildlife; secondary contact recreation as defined in Rule .0202 in this Section; and any usage except primary contact recreation or shellfishing for market purposes. All saltwaters shall be classified to protect these uses at a minimum.
- (2) The best usage of waters classified as SC shall be maintained as specified in this Rule. Any source of water pollution that precludes any of these uses on either a short-term or a long-term basis shall be deemed to violate a water quality standard;
- (3) Chlorophyll a (corrected): not greater than 40 ug/l in sounds, estuaries, and other waters subject to growths of macroscopic or microscopic vegetation. The Commission or its designee may prohibit or limit any discharge of waste into surface waters if the Director determines that the surface waters experience or the discharge would result in growths of microscopic or macroscopic vegetation such that the standards established pursuant to this Rule would be violated or the intended best usage of the waters would be impaired;
- (4) Cyanide: 1 ug/l;
- (5) Dissolved oxygen: not less than 5.0 mg/l, except that swamp waters, poorly flushed tidally influenced streams or embayments, or estuarine bottom waters may have lower values if caused by natural conditions;
- (6) Enterococcus, including Enterococcus faecalis, Enterococcus faecium, Enterococcus avium and Enterococcus gallinarium: not exceed a geometric mean of 35 enterococci per 100 ml based upon a minimum of five samples taken over a 30-day period. For the purposes of beach monitoring and notification, "Coastal Recreational Waters Monitoring, Evaluation and Notification" regulations (15A NCAC 18A .3400), available free of charge at: <http://www.ncoah.com/>, are incorporated by reference including subsequent amendments and editions;
- (7) Floating solids, settleable solids, or sludge deposits: only such amounts attributable to sewage, industrial wastes, or other wastes as shall not make the waters unsafe or unsuitable

for aquatic life and wildlife, or impair the waters for any designated uses;

- (8) Gases, total dissolved: not greater than 110 percent of saturation;
- (9) Metals:
 - (a) With the exception of mercury and selenium, acute and chronic tidal salt water quality standards for metals shall be based upon measurement of the dissolved fraction of the metals. Mercury and selenium shall be based upon measurement of the total recoverable metal;
 - (b) With the exception of mercury and selenium, acute and chronic tidal saltwater quality aquatic life standards for metals listed in this Sub-Item shall apply as a function of the pollutant's water effect ratio (WER). The WER shall be assigned a value equal to one unless any person demonstrates to the Division in a permit proceeding that another value is developed in accordance with the "Water Quality Standards Handbook: Second Edition" published by the US Environmental Protection Agency (EPA-823-B-12-002). Alternative site-specific standards may also be developed when any person submits values that demonstrate to the Commission that they were derived in accordance with the "Water Quality Standards Handbook: Second Edition, Recalculation Procedure or the Resident Species Procedure."
 - (c) Acute and chronic tidal salt water quality metals standards shall be as follows:
 - (i) Arsenic, acute: WER· 69 ug/l;
 - (ii) Arsenic, chronic: WER· 36 ug/l;
 - (iii) Cadmium, acute: WER· 40 ug/l;
 - (iv) Cadmium, chronic: WER· 8.8 ug/l;
 - (v) Chromium VI, acute: WER· 1100 ug/l;
 - (vi) Chromium VI, chronic: WER· 50 ug/l;
 - (vii) Copper, acute: WER· 4.8 ug/l;
 - (viii) Copper, chronic: WER· 3.1 ug/l;
 - (ix) Lead, acute: WER· 210 ug/l;
 - (x) Lead, chronic: WER· 8.1 ug/l;

- (xi) Mercury, total recoverable, chronic: 0.025 ug/l;
- (xii) Nickel, acute: WER: 74 ug/l;
- (xiii) Nickel, chronic: WER: 8.2 ug/l;
- (xiv) Selenium, total recoverable, chronic: 71 ug/l;
- (xv) Silver, acute: WER: 1.9 ug/l;
- (xvi) Silver, chronic: WER: 0.1 ug/l;
- (xvii) Zinc, acute: WER: 90 ug/l; and
- (xviii) Zinc, chronic: WER: 81 ug/l;
- (d) Compliance with acute instream metals standards shall only be evaluated using an average of two or more samples collected within one hour. Compliance with chronic instream metals standards shall only be evaluated using averages of a minimum of four samples taken on consecutive days, or as a 96-hour average;
- (10) Oils, deleterious substances, or colored or other wastes: only such amounts as shall not render the waters injurious to public health, secondary recreation, aquatic life, and wildlife or adversely affect the palatability of fish, aesthetic quality, or impair the waters for any designated uses. For the purpose of implementing this Rule, oils, deleterious substances, or colored or other wastes shall include substances that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, as described in 40 CFR 110.3, incorporated by reference including any subsequent amendments and editions. This material is available free of charge at <https://www.govinfo.gov>.
- (11) Pesticides:
 - (a) Aldrin: 0.003 ug/l;
 - (b) Chlordane: 0.004 ug/l;
 - (c) DDT: 0.001 ug/l;
 - (d) Demeton: 0.1 ug/l;
 - (e) Dieldrin: 0.002 ug/l;
 - (f) Endosulfan: 0.009 ug/l;
 - (g) Endrin: 0.002 ug/l;
 - (h) Guthion: 0.01 ug/l;
 - (i) Heptachlor: 0.004 ug/l;
 - (j) Lindane: 0.004 ug/l;
 - (k) Methoxychlor: 0.03 ug/l;
 - (l) Mirex: 0.001 ug/l;
 - (m) Parathion: 0.178 ug/l; and
 - (n) Toxaphene: 0.0002 ug/l;
- (12) pH: shall be between 6.8 and 8.5, except that swamp waters may have a pH as low as 4.3 if it is the result of natural conditions;
- (13) Phenolic compounds: only such levels as shall not result in fish-flesh tainting or impairment of other best usage;
- (14) Polychlorinated biphenyls: (total of all PCBs and congeners identified) 0.001 ug/l;
- (15) Radioactive substances, based on at least one sample collected per quarter:
 - (a) Combined radium-226 and radium-228: the average annual activity level for combined radium-226, and radium-228 shall not exceed five picoCuries per liter;
 - (b) Alpha Emitters: the average annual gross alpha particle activity (including radium-226, but excluding radon and uranium) shall not exceed 15 picoCuries per liter;
 - (c) Beta Emitters: the average annual activity level for strontium-90 shall not exceed eight picoCuries per liter, nor shall the average annual gross beta particle activity (excluding potassium-40 and other naturally occurring radionuclides exceed 50 picoCuries per liter, nor shall the average annual activity level for tritium exceed 20,000 picoCuries per liter;
- (16) Salinity: changes in salinity due to hydrological modifications shall not result in removal of the functions of a PNA. Projects that are determined by the Director to result in modifications of salinity such that functions of a PNA are impaired shall employ water management practices to mitigate salinity impacts;
- (17) Temperature: shall not be increased above the natural water temperature by more than 0.8 degrees C (1.44 degrees F) during the months of June, July, and August, shall not be increased by more than 2.2 degrees C (3.96 degrees F) during other months, and shall in no case exceed 32 degrees C (89.6 degrees F) due to the discharge of heated liquids;
- (18) Trialkyltin compounds: 0.007 ug/l expressed as tributyltin;
- (19) Turbidity: the turbidity in the receiving water shall not exceed 25 Nephelometric Turbidity Units (NTU); if turbidity exceeds this level due to natural background conditions, the existing turbidity level shall not be increased. Compliance with this turbidity standard shall be deemed met when land management activities employ Best Management Practices (BMPs), defined by Rule .0202 of this Section, recommended by the Designated Nonpoint Source Agency, as defined by Rule .0202 of this Section.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1);
 Eff. October 1, 1995;
 Amended Eff. January 1, 2015; May 1, 2007; August 1, 2000;
 Readopted Eff. November 1, 2019.

15A NCAC 02B .0221 TIDAL SALT WATER QUALITY STANDARDS FOR CLASS SA WATERS

In addition to the standards set forth in Rules .0220 and .0222 of this Section, the following water quality standards shall apply to tidal surface waters that are used for shellfishing for market purposes and that are classified SA.

- (1) The best usage of waters classified as SA shall be shellfishing for market purposes and any other usage specified by the "SB" or "SC" classification;
- (2) The best usage of waters classified as SA shall be maintained as specified in this Rule. In determining the safety or suitability of Class SA waters to be used for shellfishing for market purposes, the Commission shall consider the existing water quality of the area in relation to the standards to protect shellfishing uses, the potential contamination of the area from both point and nonpoint sources of pollution, and the presence of harvestable quantities of shellfish or the potential for the area to have harvestable quantities through management efforts of the Division of Marine Fisheries. Waters shall meet the current sanitary and bacteriological standards in 15A NCAC 18A .0400, which is hereby incorporated by reference, as adopted by the Commission for Public Health and shall be suitable for shellfish culture. Any source of water pollution that precludes any of these uses, on either a short-term or a long-term basis shall be deemed to violate a water quality standard. Waters shall not be classified SA without the written concurrence of the Division of Marine Fisheries.
- (3) The following water quality standards shall apply to Class SA Waters:
 - (a) Floating solids, settleable solids, or sludge deposits: none attributable to sewage, industrial wastes, or other wastes;
 - (b) Sewage: none;
 - (c) Industrial wastes or other wastes shall not be allowed unless they are treated in accordance with the permit or other requirements established by the Division pursuant to G.S. 143-215.1; and
 - (d) Organisms of the fecal coliform group shall meet the bacteriological standards in 15A NCAC 18A .0431(4).

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1);
 Eff. October 1, 1995;

Amended Eff. May 1, 2007;
Readopted Eff. November 1, 2019.

15A NCAC 02B .0222 TIDAL SALT WATER QUALITY STANDARDS FOR CLASS SB WATERS

In addition to the standards set forth in Rule .0220 of this Section, the following water quality standards shall apply to tidal surface waters that are used for primary contact recreation as defined in Rule .0202 of this Section and that are classified SB.

- (1) The best usage of waters classified as SB shall be primary contact recreation and any other usage specified by the "SC" classification;
- (2) The best usage of waters classified as SB shall be maintained as specified in this Rule. In assigning the SB classification to waters intended for primary contact recreation, the Commission shall consider the relative proximity of sources of water pollution and the potential hazards involved in locating swimming areas close to sources of water pollution, and shall not assign this classification to waters in which such water pollution could result in a hazard to public health. The waters shall meet accepted sanitary standards of water quality for outdoor bathing places as specified in Item (3) of this Rule and shall be of sufficient size and depth for primary contact recreation purposes. Any source of water pollution that precludes any of these uses, on either a short-term or a long-term basis, shall be deemed to violate a water quality standard.
- (3) The following water quality standards shall apply to Class SB waters:
 - (a) Floating solids, settleable solids, or sludge deposits: none attributable to sewage, industrial wastes, or other wastes;
 - (b) Sewage, industrial wastes, or other wastes: none shall be allowed that are not treated to the satisfaction of the Commission. In determining the degree of treatment required for such waters discharged into waters that are to be used for bathing, the Commission shall consider the quantity and quality of the sewage and other wastes involved and the proximity of such discharges to the waters in this class. Discharges in the immediate vicinity of bathing areas shall not be allowed if the Director determines that the waste cannot be treated to ensure the protection of primary contact recreation;
 - (c) Enterococcus, including Enterococcus faecalis, Enterococcus faecium, Enterococcus avium and Enterococcus gallinarum: not exceed a geometric mean of 35 enterococci per 100 ml

based upon a minimum of five samples taken over a 30-day period. In accordance with Clean Water Act, 33 U.S.C. 1313 for the purposes of beach monitoring and notification, "Coastal Recreation Waters Monitoring, Evaluation and Notification" regulations (15A NCAC 18A .3400) are incorporated by reference including subsequent amendments and editions.

- (4) Wastewater discharges to waters classified as SB shall meet the reliability requirements specified in 15A NCAC 02H .0124. Discharges to waters where a primary contact recreational use is determined by the Director to be attainable shall be required to meet water quality standards and reliability requirements to protect this use concurrently with reclassification efforts.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. October 1, 1995; Amended Eff. May 1, 2007; Readopted Eff. November 1, 2019.

15A NCAC 02B .0223 WATER QUALITY STANDARDS FOR NUTRIENT SENSITIVE WATERS

- (a) In addition to existing classifications, the Commission may classify any surface waters of the State as Nutrient Sensitive Waters (NSW) upon a finding that such waters are experiencing or are subject to excessive growths of microscopic or macroscopic vegetation. Excessive growths are growths that the Commission determines impair the best usage of the water as determined by the classification applied to such waters. In classifying waters as NSW, the Commission shall consider the criteria specified in G.S. 143-214.1.
- (b) NSW may include any or all waters within a particular river basin as the Commission deems necessary to control excessive growths of microscopic or macroscopic vegetation.
- (c) For the purpose of this Rule, the term "nutrients" shall mean phosphorous or nitrogen or any other chemical parameter or combination of parameters that the Commission determines to be contributing to excessive growths of microscopic or macroscopic vegetation. In determining whether such parameters are contributing to excessive growths of microscopic or macroscopic vegetation, the Commission shall consider information such as chemical, physical, and biological data and reports.
- (d) Those waters of the State that are classified as NSW shall be identified in the appropriate river basin classification schedule. The schedules are available online at <http://portal.ncdenr.org/web/wq/ps/csu/classifications>.
- (e) Nutrient strategies applicable to NSW shall be developed by the Commission to limit nutrients so as to control the magnitude, duration, or frequencies of excessive growths of microscopic or macroscopic vegetation so that the existing and designated uses of the waterbody are protected or restored. Nutrient strategies applicable to NSW are set forth in this Subchapter.

History Note: Authority G.S. 143-214.1; 143-215.8B; Eff. October 1, 1995; Amended Eff. August 1, 2000; Readopted Eff. November 1, 2019.

15A NCAC 02B .0224 WATER QUALITY STANDARDS FOR HIGH QUALITY WATERS

- (a) High Quality Waters (HQW) are a subset of "waters with quality higher than the standards" as defined in Rule .0202(58) of this Section. This Rule shall be implemented in order to meet the requirements of Rule .0201(d) of this Section.
- (b) High Quality Waters (HQW) shall include:
- (1) water supply watersheds that are classified as Class WS-I or WS-II;
 - (2) waters classified as Class SA; and
 - (3) surface waters of the State that the Commission classifies as HQW upon finding that such waters are:
 - (A) rated excellent based on biological and physical/chemical characteristics through monitoring or special studies; or
 - (B) primary nursery areas (PNA) and other functional nursery areas designated by the Marine Fisheries Commission or the Wildlife Resources Commission.
- (c) New or expanded wastewater discharges in High Quality Waters shall comply with the following:
- (1) Discharges from new single family residences shall be prohibited. Existing subsurface systems for single family residences that fail and must discharge shall install a septic tank, dual or recirculating sand filters, disinfection, and step aeration.
 - (2) All new National Pollutant Discharge Elimination System (NPDES) wastewater discharges, except those for single family residences, shall comply with the following:
 - (A) Oxygen Consuming Wastes: Effluent limitations for oxygen consuming wastes shall be BOD₅ = 5 mg/l, NH₃-N = 2 mg/l, and DO = 6 mg/l. More stringent limitations shall be set, if necessary, to ensure that the cumulative pollutant discharge of oxygen-consuming wastes does not cause the DO of the receiving water to drop more than 0.5 mg/l below background levels, and in no case below the standard. Where background information is not available, evaluations shall assume a percent saturation determined by staff to be applicable to that hydroenvironment.
 - (B) Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of

- 10 mg/l for trout waters and HQW-classified PNAs and 20 mg/l for all other High Quality Waters.
- (C) Disinfection: Alternative methods to chlorination shall be required for discharges to trout streams, except that single family residences may use chlorination if other options are not economically feasible, as determined on a case-by-case basis. Domestic discharges to SA waters shall be prohibited.
- (D) Emergency Requirements: Reliable treatment designs shall be employed, such as stand-by power capability for entire treatment works, dual train design for all treatment components, or other reliable treatment designs in accordance with 15A NCAC 02H .0124.
- (E) Volume: The total volume of treated wastewater for all discharges combined shall not exceed 50 percent of the total instream flow under 7Q10 conditions.
- (F) Nutrients: Where nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus or nitrogen, or both.
- (G) Toxic substances: In cases where complex wastes (those containing or potentially containing toxicants) may be present in a discharge, a safety factor shall be applied to any chemical or whole effluent toxicity allocation. The limit for a specific chemical constituent shall be allocated at one-half of the normal standard at design conditions. Whole effluent toxicity shall be allocated to protect for chronic toxicity at an effluent concentration equal to twice that which is acceptable under design conditions. In all instances there may be no acute toxicity in an effluent concentration of 90 percent. Ammonia toxicity shall be evaluated according to EPA guidelines promulgated in "Ambient Water Quality Criteria for Ammonia - 1984"; EPA document number 440/5-85-001; NITS number PB85-227114; July 29, 1985 (50 FR 30784) or "Ambient Water Quality Criteria for Ammonia (Saltwater) - 1989"; EPA document number 440/5-88-004; NTIS number PB89-169825. This material related to ammonia toxicity is available at no cost at

<https://www.epa.gov/wqc/aquatic-life-criteria-ammonia> and <https://www.epa.gov/sites/production/files/2019-02/documents/ambient-wqc-ammonia-saltwater-1989.pdf>, and is hereby incorporated by reference including subsequent amendments and editions.

- (3) All expanded NPDES wastewater discharges in High Quality Waters shall comply with Subparagraph (2) of this Paragraph, except for those existing discharges that expand with no increase in permitted pollutant loading.

(d) Development activities that require an Erosion and Sedimentation Control Plan in accordance with rules established by the NC Sedimentation Control Commission and which drain to and are within one mile of High Quality Waters (HQW) shall comply with the stormwater management rules as specified in 15A NCAC 02H .1019 (coastal county waters) or .1021 (non-coastal county waters).

(e) Waters Classified HQW with Specific Actions: Thorpe Reservoir [Little Tennessee River Basin, Index No. 2-79-23-(1)], including its tributaries, shall be managed with respect to wastewater discharges as required by Paragraph (c) of this Rule. Paragraph (d) of this Rule shall not apply to Thorpe Reservoir and its tributaries.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. October 1, 1995; Amended Eff. August 1, 1998; April 1, 1996; Readopted Eff. November 1, 2019.

15A NCAC 02B .0225 WATER QUALITY STANDARDS FOR OUTSTANDING RESOURCE WATERS

(a) The Commission shall classify surface waters of the State as outstanding resource waters (ORW) upon finding, on a case-by-case basis, that such waters are of exceptional State or national recreational or ecological significance that require additional protection to maintain existing uses, as described in this Rule, and that the waters meet the following conditions:

- (1) the water quality is rated as excellent based on physical, chemical or biological information; and
- (2) the characteristics that make these waters of exceptional State or national recreational or ecological significance may not be protected by the assigned narrative and numerical water quality standards.

(b) For purposes of this Rule, a water body shall be deemed to be of exceptional State or national recreational or ecological significance if it exhibits one or more of the following ORW uses:

- (1) there are outstanding fish or commercially-important aquatic species habitat and fisheries;
- (2) there is a high level of water-based recreation or the potential for such recreation;
- (3) the waters have received a designation such as a North Carolina or National Wild and Scenic

- (4) River or a National Wildlife Refuge, which do not provide any water quality protection; the waters represent an important component of a State or national park or forest; or
- (5) the waters are of ecological or scientific significance, such as habitat for rare or endangered species or as areas for research and education.

(c) Quality Standards for ORW.

- (1) Freshwater: Water quality conditions shall be maintained to protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values shall be developed on a site-specific basis during the proceedings to classify waters as ORW in accordance with Rule .0101 of the Subchapter. No new discharges or expansions of existing discharges shall be permitted, and stormwater controls for all new development activities requiring an Erosion and Sedimentation Control Plan in accordance with rules established by the NC Sedimentation Control Commission shall comply with the stormwater provisions set forth in 15A NCAC 02H .1000, including the specific stormwater management requirements for freshwater ORW areas set forth in 15A NCAC 02H .1019 and .1021.
- (2) Saltwater: Water quality conditions shall be maintained to protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values shall be developed on a site-specific basis during the proceedings to classify waters as ORW in accordance with Rule .0101 of this Subchapter. New development shall comply with the stormwater provisions set forth in 15A NCAC 02H .1000, including the specific stormwater management requirements for saltwater ORW areas set forth in 15A NCAC 02H .1019 and .1021. No dredge or fill activities shall be allowed if those activities would result in a reduction of the beds of "submerged aquatic vegetation habitat" or "shellfish producing habitat," defined in 15A NCAC 03I.0101, and incorporated by reference including subsequent amendments and editions, except for maintenance dredging, such as that required to maintain access to existing channels and facilities located within the designated areas, or maintenance dredging for activities such as agriculture. The Commission shall hold a public hearing before granting a permit to discharge to waters classified as ORW.

Additional, site-specific actions to protect resource values shall be considered during the proceedings to classify waters as ORW and shall be specified in Paragraph (d) of this Rule. These actions may include anything within the powers of the Commission, as set forth in G.S. 143-21 and G.S. 143B-282. The Commission shall

also consider local actions that have been taken to protect a water body in determining the additional, site-specific actions.

- (d) Listing of Waters Classified ORW with Specific Actions.
 - (1) Roosevelt Natural Area [White Oak River Basin, Index Nos. 20-36-9.5-(1) and 20-36-9.5-(2)], including all fresh and saline waters within the property boundaries of the natural area: New development on a site within 575 feet of and naturally draining to the Roosevelt Natural Area shall comply with the low density option in the stormwater rules set forth in 15A NCAC 02H .1019.
 - (2) Chattooga River ORW Area (Little Tennessee River Basin and Savannah River Drainage Area): the following undesignated waterbodies that are tributary to ORW designated segments shall comply with Subparagraph (c)(1) of this Rule in order to protect the designated waters as per Rule .0203 of this Section. However, expansions of existing discharges to the following segments shall be allowed if there is no increase in pollutant loading:
 - (A) North and South Fowler Creeks and associated tributaries;
 - (B) Green and Norton Mill Creeks and associated tributaries;
 - (C) Cane Creek and associated tributaries;
 - (D) Ammons Branch and associated tributaries; and
 - (E) Glade Creek and associated tributaries.
 - (3) Henry Fork ORW Area (Catawba River Basin): the following undesignated waterbodies that are tributary to ORW designated segments shall comply with Subparagraph (c)(1) of this Rule in order to protect the designated waters as per Rule .0203 of this Section:
 - (A) Ivy Creek and associated tributaries; and
 - (B) Rock Creek and associated tributaries.
 - (4) South Fork New and New Rivers ORW Area [New River Basin (Index Nos. 10-1-33.5 and 10)]: the following management strategies, in addition to the discharge requirements set forth in Subparagraph (c)(1) of this Rule, shall apply to the designated ORW areas:
 - (A) Stormwater controls described in Subparagraph (c)(1) of this Rule shall apply to land within one mile of and that drains to the designated ORW areas;
 - (B) New or expanded National Pollutant Discharge Elimination System (NPDES) permitted wastewater discharges located upstream of the designated ORW (for the North Fork New River ORW area, see Subparagraph (14) of this Paragraph) shall be permitted such that the

following water quality standards are maintained in the ORW segment:

- (i) the total volume of treated wastewater for all upstream discharges combined shall not exceed 50 percent of the total instream flow in the designated ORW under 7Q10 conditions, which are defined in Rule .0206(a)(1) of this Section;
 - (ii) a safety factor shall be applied to any chemical allocation such that the effluent limitation for a specific chemical constituent shall be the more stringent of either the limitation allocated under design conditions pursuant to Rule .0206 of this Section for the normal standard at the point of discharge, or the limitation allocated under design conditions for one-half the normal standard at the upstream border of the ORW segment;
 - (iii) a safety factor shall be applied to any discharge of complex wastewater (those containing or potentially containing toxicants) to protect for chronic toxicity in the ORW segment by setting the whole effluent toxicity limitation at the higher effluent concentration determined under design conditions pursuant to Rule .0206 of this Section for either the instream effluent concentration at the point of discharge or twice the effluent concentration calculated as if the discharge were at the upstream border of the ORW segment;
- (C) New or expanded NPDES permitted wastewater discharges located upstream of the designated ORW (for the North Fork New River ORW area, see Subparagraph (14) of this Paragraph) shall comply with the following:
- (i) Oxygen Consuming Wastes: Effluent limitations for oxygen consuming wastes shall be BOD = 5 mg/1, and NH₃-N = 2 mg/1;
 - (ii) Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters;
 - (iii) Emergency Requirements: Reliable treatment designs shall be employed, such as stand-by power capability for entire treatment works, dual train design for all treatment components, or other reliable treatment designs in accordance with 15A NCAC 02H .0124;
 - (iv) Nutrients: If nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus, nitrogen, or both;
- (5) Old Field Creek (New River Basin): the undesignated portion of Old Field Creek from its source to Call Creek shall comply with Subparagraph (c)(1) of this Rule in order to protect the designated waters as per Rule .0203 of this Section;
- (6) In the following designated waterbodies, no additional restrictions shall be placed on new or expanded marinas. The only new or expanded NPDES permitted discharges that shall be allowed shall be non-domestic, non-process industrial discharges. The Alligator River Area (Pasquotank River Basin), extending from the source of the Alligator River to the U.S. Highway 64 bridge, including New Lake Fork, North West Fork Alligator River, Juniper Creek, Southwest Fork Alligator River, Scouts Bay, Gum Neck Creek, Georgia Bay, Winn Bay, Stumpy Creek Bay, Stumpy Creek, Swann Creek (Swann Creek Lake), Whipping Creek (Whipping Creek Lake), Grapevine Bay, Rattlesnake Bay, The Straits, The Frying Pan, Coopers Creek, Babbitt Bay, Goose Creek, Milltail Creek, Boat Bay, Sandy Ridge Gut (Sawyer Lake) and Second Creek, but excluding the Intracoastal Waterway (Pungo River-Alligator River Canal) and all other tributary streams and canals;
- (7) In the following designated waterbodies, the only type of new or expanded marina that shall be allowed shall be those marinas located in upland basin areas, or those with fewer than 10 slips having no boats over 24 feet in length and no boats with heads. The only new or expanded

NPDES permitted discharges that shall be allowed shall be non-domestic, non-process industrial discharges:

- (A) the Northeast Swanquarter Bay Area including all waters northeast of a line from a point at Lat. 35E 23N 51O and Long. 76E 21N 02O thence southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as defined by the 1935 Presidential Proclamation and depicted on the U.S. Fish and Wildlife Service Swanquarter National Wildlife Refuge map at <https://www.fws.gov/southeast/pdf/map/swanquarter-national-wildlife-refuge.pdf>, incorporated by reference) to Drum Point;
- (B) the Neuse-Southeast Pamlico Sound Area (Southeast Pamlico Sound Section of the Southeast Pamlico, Core and Back Sound Area); (Neuse River Basin) including all waters within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point;
- (C) the Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including all waters of Core Sound and its tributaries, but excluding Nelson Bay, Little Port Branch and Atlantic Harbor at its mouth, and those tributaries of Jarrett Bay that are closed to shellfishing;
- (D) the Western Bogue Sound Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin), including all waters within an area defined by a line from Bogue Inlet to the mainland at SR 1117 to a line across Bogue Sound from the southwest side of Gales Creek to Rock Point and including Taylor Bay and the Intracoastal Waterway;
- (E) the Stump Sound Area (Cape Fear River Basin), including all waters of Stump Sound and Alligator Bay from marker Number 17 to the western end of Permuda Island, but excluding Rogers Bay, the Kings Creek Restricted Area, and Mill Creek; and
- (F) the Topsail Sound and Middle Sound Area (Cape Fear River Basin), including all estuarine waters from New Topsail Inlet to Mason Inlet and

including the Intracoastal Waterway and Howe Creek, but excluding Pages Creek and Futch Creek.

- (8) In the following designated waterbodies, no new or expanded NPDES permitted discharges and only new or expanded marinas with fewer than 10 slips having no boats over 24 feet in length and no boats with heads shall be allowed:
 - (A) the Swanquarter Bay and Juniper Bay Area (Tar-Pamlico River Basin), including all waters within a line beginning at Juniper Bay Point and running south and then west below Great Island, then northwest to Shell Point and including Shell, Swanquarter, and Juniper Bays and their tributaries, but excluding all waters northeast of a line from a point at Lat. 35E 23N 51O and Long. 76E 21N 02O thence southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as defined by the 1935 Presidential Proclamation and depicted on the U.S. Fish and Wildlife Service Swanquarter National Wildlife Refuge map at <https://www.fws.gov/southeast/pdf/map/swanquarter-national-wildlife-refuge.pdf>, incorporated by reference) to Drum Point and also excluding the Blowout, Hydeland, Juniper, and Quarter Canals;
 - (B) the Back Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including that area of Back Sound extending from Core Sound west along Shackelford Banks, then north to the westernmost point of Middle Marshes and along the northwest shore of Middle Marshes (to include all of Middle Marshes), then west to Rush Point on Harker's Island, and along the southern shore of Harker's Island back to Core Sound;
 - (C) the Bear Island Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin), including all waters within an area defined by a line from the western most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to the northern most point on Huggins Island, then southeast along the shoreline of Huggins Island to the southeastern most point of Huggins Island, then south to the northeastern

- most point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern tip of Bear Island; and
- (D) the Masonboro Sound Area (Cape Fear River Basin), including all waters between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro Inlet.
- (9) Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5), 18-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies shall be required in addition to the discharge requirements specified in Subparagraph (c)(1) of this Rule:
- (A) Stormwater controls described in Subparagraph (c)(1) of this Rule shall apply to land within one mile of and that drains to the designated ORW areas;
- (B) New or expanded NPDES permitted wastewater discharges located one mile upstream of the stream segments designated ORW (upstream on the designated mainstem and upstream into direct tributaries to the designated mainstem) shall comply with the following discharge restrictions:
- (i) Oxygen Consuming Wastes: Effluent limitations shall be as follows: BOD shall not exceed 5 mg/l and NH₃-N shall not exceed 2 mg/l;
- (ii) Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 20 mg/l;
- (iii) Emergency Requirements: Reliable treatment designs shall be employed, such as stand-by power capability for entire treatment works, dual train design for all treatment components, or other reliable treatment designs in accordance with 15A NCAC 02H.0124;
- (iv) Nutrients: If nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus, nitrogen, or both.
- (v) Toxic substances: If complex discharges (those containing or potentially containing toxicants) may be currently present in the discharge, a safety factor shall be applied to any chemical or whole effluent toxicity allocation. The limit for a specific chemical constituent shall be allocated at one-half of the normal standard at design conditions. Whole effluent toxicity shall be allocated to protect for chronic toxicity at an effluent concentration equal to twice that which is acceptable under flow design criteria pursuant to Rule .0206 of the Section.
- (10) Lake Waccamaw ORW Area (Lumber River Basin) [Index No. 15-2]: all undesignated waterbodies that are tributary to Lake Waccamaw shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section;
- (11) Swift Creek and Sandy Creek ORW Area (Tar-Pamlico River Basin) [portion of Index No. 28-78-(0.5) and Index No. 28-78-1-(19)]: all undesignated waterbodies that drain to the designated waters shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section and to protect outstanding resource values found in the designated waters as well as in the undesignated waters that drain to the designated waters;
- (12) Fontana Lake North Shore ORW Area (Little Tennessee River Basin and Savannah River Drainage Area) [Index Nos. 2-96 through 2-164] (excluding all waterbodies that drain to the south shore of Fontana Lake) consists of the entire watersheds of all creeks that drain to the north shore of Fontana Lake between Eagle and Forney Creeks, including Eagle and Forney Creeks. In addition to the requirements set forth in Subparagraph (c)(1) of this Rule, any person conducting development activity disturbing greater than or equal to 5,000 square feet of land area in the designated ORW area shall undertake the following actions to protect the outstanding resource values of the designated ORW and downstream waters:
- (A) investigate for the presence of and identify the composition of acid-producing rocks by exploratory drilling or other means and characterize the net neutralization potential of the acid-producing rocks prior to commencing the land-disturbing activity;
- (B) to the maximum extent practicable, taking into account site-specific

- factors including technical and cost considerations as well as protection of water quality, avoid areas where acid-producing rocks are found with net neutralization potential of -5 or less;
- (C) establish background levels of acidity and mineralization prior to commencing land-disturbing activity and monitor and maintain baseline water quality conditions for the duration of the land-disturbing activity and thereafter for a period of at least two years as determined by the Division as part of a certification issued in accordance with 15A NCAC 02H .0500 or stormwater permit issued pursuant to this Rule;
- (D) obtain a NPDES permit for construction pursuant to Rule 15A NCAC 02H .0126 prior to initiating land-disturbing activity;
- (E) design stormwater control systems to control and treat stormwater runoff from all surfaces generated by one inch of rainfall, in accordance with 15A NCAC 02H .1003(3), .1003(5), and .1050; and
- (F) post development, replicate pre-development runoff characteristics and mimic the natural hydrology of the site.
- (13) Horsepasture River ORW Area (Savannah Drainage Area) [Index No. 4-13-(0.5) and Index No. 4-13-(12.5)]: all undesignated waterbodies that are located within the Horsepasture River watershed shall comply with Subparagraph (c)(1) of this Rule in order to protect the designated waters as per Rule .0203 of this Section and to protect outstanding resource values throughout the watershed. However, new domestic wastewater discharges and expansions of existing wastewater discharges shall be allowed provided that:
- (A) Oxygen Consuming Wastes: Effluent limitations shall be as follows: BOD shall not exceed 5 mg/l and NH₃-N shall not exceed 2 mg/l;
- (B) Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/l for trout waters and to 20 mg/l for all other waters except for mining operations, which shall be held to their respective NPDES TSS permit limits;
- (C) Nutrients: If nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus, nitrogen, or both; and
- (D) Volume: The total volume of treated wastewater for all discharges combined shall not exceed 25 percent of the total instream flow in the designated ORW under 7Q10 conditions, as defined in Rule .0206(a)(1) of this Section;
- (14) North Fork New River ORW Area (New River Basin) [Index Nos. 10-2-(1), 10-2-(11) and 10-2-(12)]: all non-ORW waterbodies, including Little Buffalo Creek and Claybank Creek [Index Nos. 10-2-20-1 and 10-2-20-1-1], that are located within the North Fork New River watershed shall comply with Rule .0224 of this Section in order to protect the ORW designated waters.

History Note: Authority G.S. 143-214.1; S.L. 2005-97; Eff. October 1, 1995; Amended Eff. August 1, 2003 (see S.L. 2003-433, s.2); August 1, 2000; April 1, 1996; January 1, 1996; Temporary Amendment Eff. October 7, 2003; Amended Eff. December 1, 2010; July 1, 2009; January 1, 2007; June 1, 2004; Readopted Eff. November 1, 2019.

15A NCAC 02B .0226 EXEMPTIONS FROM SURFACE WATER QUALITY STANDARDS

Variations from applicable standards, revisions to water quality standards or site-specific water quality standards may be granted by the Commission on a case-by-case basis pursuant to G.S. 143-215.3(e), 143-214.3 or 143-214.1. A listing of existing variances shall be maintained and made available to the public by the Division. Exemptions established pursuant to this Rule shall be reviewed as part of the Triennial Review of Water Quality Standards conducted pursuant to 40 CFR 131.10(g).

History Note: Authority G.S. 143-214.1; 143-214.3; 143-215.3(e); Eff. October 1, 1995; Readopted Eff. November 1, 2019.

15A NCAC 02B .0227 WATER QUALITY MANAGEMENT PLANS

(a) In implementing the water quality standards to protect the "existing uses" [as defined by Rule .0202 of this Section] of the waters of the State or the water quality that supports those uses, the Commission shall develop water quality management plans on a priority basis to attain, maintain or enhance water quality throughout the State. Additional specific actions deemed necessary by the Commission to protect the water quality or the existing uses of the waters of the State shall be specified in Paragraph (b) of this Rule. These actions may include anything within the powers of the Commission, as set forth in G.S. 143-21 and G.S. 143B-282. The Commission may also consider local actions that have been taken to protect a waterbody in determining the appropriate protection options to be incorporated into the water quality management plan.

(b) All waters determined by the Commission to be protected by a water quality management plan are listed with specific actions either in Rules .0601 - .0608 of this Subchapter that address the Goose Creek watershed (Yadkin Pee-Dee River Basin) or as follows:

- (1) The Lockwoods Folly River Area (Lumber River Basin), which includes all waters of the lower Lockwoods Folly River in an area extending north from the Intracoastal Waterway to a line extending from Genoes Point to Mullet Creek, shall be protected by the specific actions described in Parts (A) through (D) of this Subparagraph.
 - (A) New development activities within 575' of the mean high water line that require a Sedimentation Erosion Control Plan or a CAMA major development permit shall comply with the low density option of the coastal stormwater requirements as specified in 15A NCAC 02H .1005(3)(a).
 - (B) New or expanded NPDES permits shall be issued only for non-domestic, non-industrial process type discharges, such as non-industrial process cooling or seafood processing discharges. Pursuant to 15A NCAC 02H .0111, a public hearing shall be mandatory for any proposed (new or expanded) NPDES permit to this protected area.
 - (C) New or expanded marinas shall be located in upland basin areas.
 - (D) No dredge or fill activities shall be allowed if those activities would result in a reduction of the beds of "submerged aquatic vegetation habitat" or "shellfish producing habitat" that are defined in 15A NCAC 03I .0101, except for maintenance dredging, such as that required to maintain access to existing channels and facilities located within the protected area or maintenance dredging for activities such as agriculture.
- (2) A part of the Cape Fear River (Cape Fear River Basin) comprised of a section of Index No.18-(71) from upstream mouth of Toomers Creek to a line across the river between Lilliput Creek and Snows Cut shall be protected by the Class SC Sw standards as well as the following site-specific action: All new individual NPDES wastewater discharges and expansions of existing individual NPDES wastewater discharges shall be required to provide treatment for oxygen consuming wastes as described in Parts (A) through (C) of this Subparagraph.

- (A) Effluent limitations shall be as follows: BOD₅ = 5 mg/l, NH₃-N = 1 mg/l and DO = 6 mg/l, or utilize site-specific best available technology on a case-by-case basis for industrial discharges in accordance with Rule .0406 (e) of this Subchapter.
- (B) Seasonal effluent limits for oxygen consuming wastes shall be considered in accordance with Rule .0404 of this Subchapter.
- (C) Any new or expanded permitted pollutant discharge of oxygen consuming waste shall not cause the dissolved oxygen of the receiving water to drop more than 0.1 mg/l below the modeled in-stream dissolved oxygen at total permitted capacity for all discharges.

History Note: Authority G.S. 143-214.1; 143-215.8A; Eff. October 1, 1995; Amended Eff. June 30, 2017; January 1, 1996; Readopted Eff. November 1, 2019.

15A NCAC 02B .0228 EFFLUENT CHANNELS

The standards of water quality contained in this Section shall not apply to waters within effluent channels, as defined in Rule .0202 of this Section, except that said waters shall be maintained at a quality that shall prevent the occurrence of offensive conditions, protect public health, and allow maintenance of the standards applicable to all downstream waters. Effluent channels shall be designated by the Director on a case-by-case basis prior to permit issuance. To be designated as such, effluent channels shall:

- (1) be contained entirely on property owned (or otherwise controlled) by the discharger, as demonstrated by land records, deeds, contracts, written agreements, or other legal instruments;
- (2) not contain natural waters except when such waters occur in direct response to rainfall events by overland runoff; and
- (3) be so constructed or modified as to minimize the migration of fish into said channel.

History Note: Authority G.S. 143-214.1; Eff. October 1, 1995; Amended Eff. January 1, 1996; Readopted Eff. November 1, 2019.

15A NCAC 02B .0230 ACTIVITIES DEEMED TO COMPLY WITH WETLANDS STANDARDS

(a) The following activities for which Section 404 permits are not required pursuant to Section 404(f)(1) of the Clean Water Act and which are not recaptured into the permitting process pursuant to Section 404(f)(2) are deemed to be in compliance with wetland standards in 15A NCAC 02B .0231 provided that they comply with the most current versions of the federal regulations to implement Section 404 (f)(US Environmental Protection Agency

and US Army Corps of Engineers including 40 C.F.R. 232.3) and the Sedimentation Pollution Control Act, G.S. 113A, Article 4:

- (1) normal, on-going silviculture, farming, and ranching activities, such as plowing, seeding, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices, provided that relevant silvicultural activities comply with U.S. Environmental Protection Agency and U.S. Army Corps of Engineers Memorandum to the Field entitled "Application of Best Management Practices to Mechanical Silvicultural Site Preparation Activities for the Establishment of Pine Plantations in the Southeast", November 28, 1995 which is available at no cost at <https://www.epa.gov/cwa-404/memorandum-application-best-management-practices-mechanical-silvicultural-site-preparation> and is hereby incorporated by reference including any subsequent amendments and editions;
- (2) maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures, and other maintenance, repairs or modification to existing structures as required by the NC Dam Safety Program. Information about the NC Dam Safety Program can be found at <https://deq.nc.gov/about/divisions/energy-mineral-land-resources/energy-mineral-land-permits/dam-safety>;
- (3) construction and maintenance of farm or stock ponds or irrigation ditches. In addition, new pond construction in designated river basins with riparian buffer protection programs as set forth in this Subchapter shall comply with the applicable requirements of the riparian buffer protection rules as set forth in this Subchapter.
- (4) maintenance of drainage ditches, provided that spoil is removed to high ground, placed on top of previous spoil, or placed parallel to one side or the other of the ditch within a distance of 20 feet and spoils are placed in a manner that minimizes damages to existing wetlands; and ditch maintenance is no greater than the original depth, length and width of the ditch;
- (5) construction of temporary sediment control measures or best management practices as required by the NC Erosion and Sediment Control Program on a construction site, provided that the temporary sediment control measures or best management practices are restored to natural grade and stabilized within two months of completion of the project and native woody vegetation is reestablished during the next appropriate planting season and

maintained. Information about the NC Erosion and Sediment Control Program can be found at <https://deq.nc.gov/about/divisions/energy-mineral-land-resources/energy-mineral-land-permits/dam-safety>; and

- (6) construction or maintenance of farm roads, forest roads, and temporary roads for moving mining equipment where such roads are constructed and maintained in accordance with best management practices, as defined in 40 C.F.R. 232.3 (c)(6)(i-xv), to assure that flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired, that the reach of navigable waters is not reduced, and that any adverse effects on the aquatic environment will be otherwise minimized.

(b) Where the Director determines, in consultation with the US Army Corps of Engineers or the US Environmental Protection Agency, and considering existing or projected environmental impact, that an activity is not exempt from permitting under Section 404(f), or where the appropriate Best Management Practices are not implemented and maintained in accordance with Paragraph (a) of this Rule, the Director may require restoration of the wetlands as well as imposition of enforcement measures as authorized by G.S. 143-215.6A (civil penalties), G.S. 143-215.6B (criminal penalties) and G.S. 143-215.6C (injunctive relief).

History Note: Authority G.S. 143-214.1; 143-214.7; 143-215; 143-215.3; 143-215.6A; 143-215.6B; 143-215.6C; Temporary Adoption Eff. November 24, 1999; Eff. April 1, 2001; Readopted Eff. November 1, 2019.

15A NCAC 02B .0231 WETLAND STANDARDS

(a) Wetlands shall be assigned to one of the following classifications:

- (1) Class WL: waters that meet the definition of wetlands as defined in Rule .0202 of this Section except those designated as SWL; or
- (2) Class SWL: waters that meet the definition of coastal wetlands as defined by 15A NCAC 07H .0205, which are landward of the mean high water line, and wetlands contiguous to estuarine waters as defined by 15A NCAC 07H .0206.

In addition, the EMC may classify wetlands as unique wetlands (Class UWL) that are of exceptional State or national ecological significance which require special protection to maintain existing uses. Class UWL wetlands may include wetlands that have been documented as habitat essential for the conservation of State or federally listed threatened or endangered species.

(b) The water quality standards for all wetlands are designed to protect, preserve, restore, and enhance the quality and uses of wetlands and other waters of the State influenced by wetlands.

The following are wetland uses:

- (1) Storm and flood water storage and retention;
- (2) Moderation of water level fluctuations;
- (3) Hydrologic functions, including groundwater discharge that contributes to maintain dry

weather streamflow and, at other locations or times, groundwater recharge that replenishes the groundwater system;

- (4) Filtration or storage of sediments, nutrients, toxic substances, or other pollutants that would otherwise have an adverse impact, as defined in 15A NCAC 02H.1002, on the quality of other waters of the State;
- (5) Shoreline protection against erosion through the dissipation of wave energy and water velocity and stabilization of sediments;
- (6) Habitat for the propagation of resident wetland-dependent aquatic organisms, including fish, crustaceans, mollusks, insects, annelids, planktonic organisms, and the plants and animals upon which these aquatic organisms feed and depend upon for their needs in all life stages; and
- (7) Habitat for the propagation of resident wetland-dependent wildlife species, including mammals, birds, reptiles, and amphibians for breeding, nesting, cover, travel corridors, and food.

(c) The following standards shall be used to assure the maintenance or enhancement of the existing uses of wetlands identified in Paragraph (b) of this Rule:

- (1) Liquids, fill or other solids, or dissolved gases shall not be present in amounts that may cause adverse impacts on existing wetland uses;
- (2) Floating or submerged debris, oil, deleterious substances, or other material shall not be present in amounts that may cause adverse impacts on existing wetland uses;
- (3) Materials producing color or odor shall not be present in amounts that may cause adverse impacts on existing wetland uses;
- (4) Materials that adversely affect the palatability of fish or aesthetic quality of the wetland shall not be present in amounts that may cause adverse impacts on existing wetland uses;
- (5) Concentrations or combinations of substances that are toxic or harmful to human, animal, or plant life shall not be present in amounts which individually or cumulatively may cause adverse impacts on existing wetland uses;
- (6) Hydrological conditions necessary to support the biological and physical characteristics naturally present in wetlands shall be protected to prevent detrimental impacts on:
 - (A) Water currents, erosion or sedimentation patterns;
 - (B) Natural water temperature variations;
 - (C) The chemical, nutrient, and dissolved oxygen regime of the wetland;
 - (D) The movement of aquatic fauna;
 - (E) The pH of the wetland; and
 - (F) Water levels or elevations.
- (7) The populations of wetland flora and fauna shall be maintained to protect biological

integrity as defined in Rule .0202 of this Section.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); RRC Objection Eff. July 18, 1996 due to lack of statutory authority and ambiguity; Eff. October 1, 1996; Readopted Eff. November 1, 2019.

15A NCAC 02B.0301 CLASSIFICATIONS: GENERAL

(a) The classifications assigned to the waters of the State of North Carolina are set forth in river basin classification schedules provided at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification> and in Rules .0302 to .0317 of this Section. These classifications are based upon procedures described in Rule .0101 of this Subchapter.

(b) Classifications. The classifications assigned to the waters of North Carolina are denoted by the letters C, B, WS-I, WS-II, WS-III, WS-IV, WS-V, WL, SC, SB, SA, SWL, Tr, Sw, NSW, ORW, HQW, and UWL. The "best usage", as defined in Rule .0202 of this Subchapter, for each classification is defined in the rules as follows:

- (1) Fresh Waters Classifications:
 - (A) Class C: Rule .0211 of this Subchapter;
 - (B) Class B: Rule .0219 of this Subchapter;
 - (C) Class WS-I (Water Supply): Rule .0212 of this Subchapter;
 - (D) Class WS-II (Water Supply): Rule .0214 of this Subchapter;
 - (E) Class WS-III (Water Supply): Rule .0215 of this Subchapter;
 - (F) Class WS-IV (Water Supply): Rule .0216 of this Subchapter;
 - (G) Class WS-V (Water Supply): Rule .0218 of this Subchapter; and
 - (H) Class WL (Wetlands): Rule .0231 of this Subchapter.
- (2) Tidal Salt Waters Classifications:
 - (A) Class SC: Rule .0220 of this Subchapter;
 - (B) Class SB: Rule .0222 of this Subchapter;
 - (C) Class SA: Rule .0221 of this Subchapter; and
 - (D) Class SWL: Rule .0231 of this Subchapter.
- (3) Supplemental Classifications:
 - (A) Class Tr (Trout Waters): Rule .0202 of this Subchapter;
 - (B) Class Sw (Swamp): Rule .0202 of this Subchapter;
 - (C) Class NSW (Nutrient Sensitive Waters): Rule .0223 of this Subchapter;

- (D) Class ORW (Outstanding Resource Waters): Rule .0225 of this Subchapter;
- (E) Class HQW (High Quality Waters): Rule .0224 of this Subchapter; and
- (F) Class UWL (Unique Wetlands): Rule .0231 of this Subchapter.

(c) Water Quality Standards. The water quality standards applicable to each classification assigned are those established in the rules of Section .0200 of this Subchapter.

(d) Index Number. The index number is an identification number assigned to each stream or segment of a stream, indicating the specific tributary progression between the main stem stream and tributary stream. The index number can be referenced to the Division's river basin classification schedules (hydrologic and alphabetic) for each river basin.

(e) Classification Date. The classification date indicates the date on which enforcement of the provisions of General Statutes 143-215.1 became effective with reference to the classification assigned to the various streams in North Carolina.

(f) Unnamed Streams.

- (1) Any stream that is not listed in a river basin classification schedule carries the same classification as that assigned to the stream segment to which it is tributary except:
 - (A) unnamed freshwaters tributary to tidal saltwaters will be classified "C"; or
 - (B) after November 1, 1986, any areas of tidal saltwater created by dredging projects approved in accordance with 15A NCAC 07H .0208 and connected to Class SA waters shall be classified "SC" unless case-by-case reclassification proceedings are conducted per Rule .0101 of this Subchapter.
- (2) In addition to Subparagraph (f)(1) of this Rule, for unnamed streams entering other states or for specific areas of a river basin, the following Rules shall apply:
 - (A) Hiwassee River Basin (Rule .0302 of this Section);
 - (B) Little Tennessee River Basin and Savannah River Drainage Area (Rule .0303 of this Section);
 - (C) French Broad River Basin (Rule .0304 of this Section);
 - (D) Watauga River Basin (Rule .0305 of this Section);
 - (E) Broad River Basin (Rule .0306 of this Section);
 - (F) New River Basin (Rule .0307 of this Section);
 - (G) Catawba River Basin (Rule .0308 of this Section);
 - (H) Yadkin-Pee Dee River Basin (Rule .0309 of this Section);
 - (I) Lumber River Basin (Rule .0310 of this Section);

- (J) Roanoke River Basin (Rule .0313 of this Section);
- (K) Tar-Pamlico River Basin (Rule .0316 of this Section); and
- (L) Pasquotank River Basin (Rule .0317 of this Section).

History Note: Authority G.S. 143-214.1; 143-214.5; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. August 1, 1995; August 3, 1992; August 1, 1990; October 1, 1989; Readopted Eff. November 1, 2019.

15A NCAC 02B .0302 HIWASSEE RIVER BASIN

(a) Classifications assigned to the waters within the Hiwassee River Basin are set forth in the Hiwassee River Basin Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Asheville Regional Office
2090 US 70
Swannanoa, North Carolina; and
 - (B) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed streams entering Georgia or Tennessee shall be classified "C Tr."

(c) The Hiwassee River Basin Classification Schedule was amended effective:

- (1) August 9, 1981;
- (2) February 1, 1986;
- (3) March 1, 1989;
- (4) August 1, 1990;
- (5) August 3, 1992;
- (6) July 1, 1995;
- (7) August 1, 2002.

(d) The Hiwassee River Basin Classification Schedule was amended effective March 1, 1989 as follows:

- (1) Fires Creek (Index No. 1-27) and all tributary waters were reclassified from Class C-trout and Class C to Class C-trout ORW and Class C ORW.
- (2) Gipp Creek (Index No. 1-52-23) and all tributary waters were reclassified from Class C-trout and Class C to Class C-trout ORW and Class C ORW.

(e) The Hiwassee River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which

became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(f) The Hiwassee River Basin Classification Schedule was amended effective July 1, 1995 with the reclassification of the Hiwassee River [Index Nos. 1-(42.7) and 1-(48.5)] from McComb Branch to the Town of Murphy water supply intake including tributaries from Classes WS-IV and WS-IV CA to Classes WS-IV, WS-IV CA, WS-V and C.

(g) The Hiwassee River Basin Classification Schedule was amended effective August 1, 2002 with the reclassification of the Hiwassee River [portion of Index No. 1-(16.5)] from a point 1.2 mile upstream of mouth of McComb Branch to a point 0.6 mile upstream of McComb Branch (Town of Murphy proposed water supply intake) from Class WS-IV to Class WS-IV CA.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. August 1, 2002; July 1, 1995; August 3, 1992; August 1, 1990; March 1, 1989; Readopted Eff. November 1, 2019.

15A NCAC 02B.0303 LITTLE TENNESSEE RIVER BASIN AND SAVANNAH RIVER DRAINAGE AREA

(a) Classifications assigned to the waters within the Little Tennessee River Basin and Savannah River Drainage Area are set forth in the Little Tennessee River Basin and Savannah River Drainage Area Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina; and
 - (B) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed streams entering Georgia or Tennessee shall be classified "C Tr." Such streams in the Savannah River drainage area entering South Carolina shall be classified "B Tr."

(c) The Little Tennessee River Basin and Savannah River Drainage Area Classification Schedule was amended effective:

- (1) February 16, 1977;
- (2) March 1, 1977;
- (3) July 13, 1980;
- (4) February 1, 1986;
- (5) October 1, 1987;
- (6) March 1, 1989;
- (7) January 1, 1990;

- (8) July 1, 1990;
- (9) August 1, 1990;
- (10) March 1, 1991;
- (11) August 3, 1992;
- (12) February 1, 1993;
- (13) August 1, 1994;
- (14) September 1, 1996;
- (15) August 1, 1998;
- (16) August 1, 2000;
- (17) April 1, 2003;
- (18) January 1, 2007;
- (19) November 1, 2007;
- (20) July 1, 2009.

(d) The Little Tennessee Basin and Savannah River Drainage Area Classification Schedule was amended effective March 1, 1989 as follows:

- (1) Nantahala River (Index No. 2-57) from source to the backwaters of Nantahala Lake and all tributary waters were reclassified from Class B-trout, Class C-trout and Class C to Class B-trout ORW, Class C-trout ORW and Class C ORW.
- (2) Chattooga River (Index No. 3) including Scotsman Creek, Overflow Creek, Big Creek, Talley Mill Creek and all tributary waters were reclassified from Class B-trout, Class C-trout and Class C to Class B-trout ORW, Class C-trout ORW and Class C ORW and Clear Creek and all tributary waters were reclassified from Class C-trout and Class C to Class B-trout and Class B.

(e) The Little Tennessee River Basin and Savannah River Drainage Area Classification Schedule was amended effective January 1, 1990 as follows:

- (1) North Fork Coweeta Creek (Index No. 2-10-4) and Falls Branch (Index No. 2-10-4-1) were reclassified from Class C to Class B.
- (2) Burningtown Creek (Index No. 2-38) was reclassified from C-trout to B-trout.

(f) The Little Tennessee River Basin and Savannah River Drainage Area Classification Schedule was amended effective July 1, 1990 by the reclassification of Alarka Creek (Index No. 2-69) from source to Upper Long Creek (Index No. 2-69-2) including all tributaries from Classes C and C Tr to Classes C HQW and C Tr HQW.

(g) The Little Tennessee River Basin and Savannah River Drainage Area Classification Schedule was amended effective March 1, 1991 as follows:

- (1) Cartoogechaye Creek [Index Nos. 2-19-(1) and 2-19-(16)] from Gibson Cove Branch to bridge at U.S. Hwy. 23 and 441 and from the bridge at U.S. Hwy. 23 and 441 to the Little Tennessee River was reclassified from Classes WS-III Tr and C Tr to Classes WS-III and B Tr and B Tr respectively.
- (2) Coweeta Creek (Index Nos. 2-10) from its source to the Little Tennessee River including all tributaries except Dryman Fork (Index No. 2-10-3) and North Fork Coweeta Creek (Index

No. 2-10-4) was reclassified from Classes C and C Tr to Classes B and B Tr.

(h) The Little Tennessee River Basin and Savannah River Drainage Area Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(i) The Little Tennessee River Basin and Savannah River Drainage Area Classification Schedule was amended effective February 1, 1993 as follows:

- (1) Bearwallow Creek from its source to 2.3 miles upstream of the Toxaway River [Index No. 4-7-(1)] was revised to indicate the application of an additional management strategy (Rule .0201(d) of this Subchapter) to protect downstream waters; and
- (2) the Tuckasegee River from its source to Tennessee Creek [Index No. 2-79-(0.5)] including all tributaries was reclassified from Classes WS-III&B Tr HQW, WS-III HQW and WS-III to Classes WS-III Tr ORW and WS-III ORW.

(j) The Little Tennessee River Basin and Savannah River Drainage Area Classification Schedule was amended effective August 1, 1994 with the reclassification of Deep Creek [Index Nos. 2-79-63-(1) and 2-79-63-(16)] from its source to the Great Smokey Mountains National Park Boundary including tributaries from Classes C Tr, B Tr and C Tr HQW to Classes WS-II Tr and WS-II Tr CA.

(k) The Little Tennessee River Basin and Savannah River Drainage Area Classification Schedule was amended effective September 1, 1996 as follows:

- (1) Deep Creek from the Great Smoky Mountains National Park Boundary to the Tuckasegee River [Index no. 2-79-63-(21)] was reclassified from Class C Tr to Class B Tr; and
- (2) the Tuckasegee River from the West Fork Tuckasegee River to Savannah Creek and from Macks Town Branch to Cochran Branch [Index Nos. 2-79-(24), 2-79(29.5) and 2-79-(38)] was reclassified from Classes WS-III Tr, WS-III Tr CA and C to Classes WS-III&B Tr, WS-III&B Tr CA and B.

(l) The Little Tennessee River Basin and Savannah River Drainage Area Classification Schedule was amended effective August 1, 1998 with the reclassifications of Thorpe Reservoir (Lake Glenville), Hurricane Creek, and Laurel Branch [Index Nos. 2-79-23-(1), 2-79-23-2, and 2-79-23-2-1 respectively] from classes WS-III&B, WS-III Tr and WS-III to classes WS-III&B HQW, WS-III Tr HQW, and WS-III HQW.

(m) The Little Tennessee River Basin and Savannah River Drainage Area Classification Schedule was amended August 1, 2000 with the reclassification of Wesser Creek [Index No. 2-79-52-5-1] from its source to Williams Branch from Class C to Class C Tr.

(n) The Little Tennessee River Basin and Savannah River Drainage Area Classification Schedule was amended April 1, 2003 with the reclassification of a portion of the Little Tennessee River [Index No. 2-(1)] from a point 0.4 mile upstream of N.C. Highway 28 to Nantahala River Arm of Fontana Lake from Class C to Class B.

(o) The Little Tennessee River Basin and Savannah River Drainage Area Classification Schedule was amended January 1, 2007 with the reclassification of the entire watersheds of all creeks that drain to the north shore of Fontana Lake between Eagle and Forney Creeks, including Eagle and Forney Creeks, [Index Nos. 2-96 through 2-164 (excluding all waterbodies that drain to the south shore of Fontana Lake)] from Class B, C Tr, WS-IV Tr CA, WS-IV Tr, and WS-IV & B CA to Class B ORW, C Tr ORW, WS-IV Tr ORW CA, WS-IV Tr ORW, and WS-IV & B ORW CA, respectively. Additional site-specific management strategies are outlined in Rule .0225(e)(12) of this Subchapter.

(p) The Little Tennessee River Basin and Savannah River Drainage Area Classification Schedule was amended effective November 1, 2007 with the reclassification of Richland Balsam Seep near Beechflat Creek [Index No. 2-79-28-3-2] to Class WL UWL. The Division of Water Resources maintains a Geographic Information Systems data layer of the UWL.

(q) The Little Tennessee River Basin and Savannah River Drainage Area Classification Schedule was amended July 1, 2009 with the reclassification of the watershed of the lower portion of the Horsepasture River [portion of Index Number 4-13-(12.5)] from a point approximately 0.60 miles downstream of N.C. 281 (Bohaynee Road) to the NC-SC state line from Class B Tr to Class B Tr ORW, and the watershed of the upper portion of the Horsepasture River [Index Number 4-13-(0.5) and a portion of Index Number 4-13-(12.5)] from source to a point approximately 0.60 miles downstream of N.C. 281 (Bohaynee Road) to include only the ORW management strategy as represented by "+". The "+" symbol means that all undesignated waterbodies that are located within the watershed of the upper portion of Horsepasture River shall comply with Rule .0225(c) of this Subchapter in order to protect the designated waters as per Rule .0203 of this Subchapter and to protect outstanding resource values found throughout the entire Horsepasture River watershed. Site-specific management strategies are outlined in Rule .0225(e)(13) of this Subchapter.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); S.L. 2005-97;

Eff. February 1, 1976;

Amended Eff. July 1, 2009; November 1, 2007; January 1, 2007; April 1, 2003; August 1, 2000; August 1, 1998; September 1, 1996; August 1, 1994; February 1, 1993; August 3, 1992; March 1, 1991;

Readopted Eff. November 1, 2019.

15A NCAC 02B .0304 FRENCH BROAD RIVER BASIN

(a) Classifications assigned to the waters within the French Broad River Basin are set forth in the French Broad River Basin Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina; and
 - (B) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed streams entering Tennessee are classified "B."

(c) The French Broad River Basin Classification Schedule was amended effective:

- (1) September 22, 1976;
- (2) March 1, 1977;
- (3) August 12, 1979;
- (4) April 1, 1983;
- (5) August 1, 1984;
- (6) August 1, 1985;
- (7) February 1, 1986;
- (8) May 1, 1987;
- (9) August 1, 1990.

(d) The French Broad River Basin Classification Schedule was amended effective March 1, 1989 as follows:

- (1) Cataloochee Creek (Index No. 5-41) and all tributary waters were reclassified from Class C-trout and Class C to Class C-trout ORW and Class C ORW.
- (2) South Fork Mills River (Index No. 6-54-3) down to Queen Creek and all tributaries were reclassified from Class WS-I and Class WS-III-trout to Class WS-I ORW and Class WS-III-trout ORW.

(e) The French Broad River Basin Classification Schedule was amended effective October 1, 1989 as follows: Cane River (Index No. 7-3) from source to Bowlens Creek and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.

(f) The French Broad River Basin Classification Schedule was amended effective January 1, 1990 as follows: North Toe River (Index No. 7-2) from source to Cathis Creek (Christ Branch) and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.

(g) The French Broad River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS

classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(h) The French Broad River Basin Classification Schedule was amended effective October 1, 1993 as follows: Reasonover Creek [Index No. 6-38-14-(1)] from source to Reasonover Lake Dam and all tributaries were reclassified from Class B Trout to Class WS-V and B Trout, and Reasonover Creek [Index No. 6-38-14-(4)] from Reasonover Lake Dam to Lake Julia Dam and all tributaries were reclassified from Class C Trout to Class WS-V Trout.

(i) The French Broad River Basin Classification Schedule was amended effective July 1, 1995 with the reclassification of Cane Creek [Index Nos. 6-57-(1) and 6-57-(9)] from its source to the French Broad River from Classes WS-IV and WS-IV Tr to Classes WS-V, WS-V Tr and WS-IV.

(j) The French Broad River Basin Classification Schedule was amended effective November 1, 1995 as follows: North Toe River [Index Numbers 7-2-(0.5) and 7-2-(37.5)] from source to a point 0.2 miles downstream of Banjo Branch, including tributaries, has been reclassified from Class WS-III, WS-III Trout and WS-III Trout CA (critical area) to Class WS-IV Trout, WS-IV, WS-IV Trout CA, and C Trout.

(k) The French Broad River Basin Classification Schedule was amended effective January 1, 1996 as follows: Stokely Hollow [Index Numbers 6-121.5-(1) and 6-121.5-(2)] from source to mouth of French Broad River has been reclassified from Class WS-II and Class WS-II CA to Class C.

(l) The French Broad River Basin Classification Schedule was amended April 1, 1996 with the reclassification of the French Broad River [Index No. 6-(1)] from a point 0.5 miles downstream of Little River to Mill Pond Creek to Class WS-IV; French Broad River [Index No. 6-(51.5)] from a point 0.6 miles upstream of Mills River to Mills River to Class WS-IV CA (Critical Area), from Mills River to a point 0.1 miles upstream of Boring Mill Branch to Class C; and the Mills River [Index No. 6-54-(5)] was reclassified from City of Hendersonville water supply intake to a point 0.7 miles upstream of mouth of Mills River to Class WS-III, and from a point 0.7 miles upstream of mouth of Mills River to French Broad River to Class WS-III CA (Critical Area).

(m) The French Broad River Basin Classification Schedule was amended August 1, 1998 with the revision to the primary classification for portions of the French Broad River [Index No. 6-(38.5)] and the North Toe River 7-2-(10.5) from Class IV to Class C.

(n) The French Broad River Basin Classification Schedule was amended August 1, 1998 with the reclassification of Clear Creek [Index No. 6-55-(1)] from its source to Lewis Creek from Class C Tr to Class B Tr.

(o) The French Broad River Basin Classification Schedule was amended August 1, 2000 with the reclassification of Rough Creek [Index No. 5-8-4-(1)], including all tributaries, from its source to the Canton Reservoir from Class WS-I to Class WS-I Tr ORW.

(p) The French Broad River Basin Classification Schedule was amended August 1, 2002 with the revision to the primary classification for the French Broad River [Index No. 6-(1), 6-(27), 6-(47.5), 6-(52.5), and 6-(54.5)] including its four headwater

forks' mainstems, watershed of tributary Davidson River, and watershed of tributary Bent Creek below Powhatan Dam, and the Nolichucky River [Index No. 7] including a lower portion of the North Toe River from Class C and Class WS-IV to Class B.

(q) The French Broad River Basin Classification Schedule was amended August 1, 2002 with the reclassification of the North Toe River [Index No. 7-2-(0.5)], including all tributaries, from source to a point 0.2 mile upstream of Pyatt Creek, from Class C Tr to Class WS-V Tr.

(r) The French Broad River Basin Classification Schedule was amended September 1, 2004 with the reclassification of a portion of Richland Creek [Index No. 5-16(1)], from source to a point approximately 11.2 miles from source (Boyd Avenue), from Class B to Class B Tr, and all tributaries to the portion of the creek referenced in this Paragraph from C, C HQW, and WS-I HQW, and WS-I HQW to C Tr, C HQW Tr, and WS-I HQW Tr, respectively, except Hyatt Creek [Index No. 5-16-6], Farmer Branch [Index No. 5-16-11], and tributaries already classified as Tr.

(s) The French Broad River Basin Classification Schedule was amended effective November 1, 2007 with the reclassification of McClure's Bog near Gash Creek [Index No. 6-47] to Class WL UWL. The North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of the UWL.

(t) The French Broad River Basin Classification Schedule was amended effective September 1, 2009 with the reclassification of the entire watershed of Big Laurel Creek (Index No. 6-112) from source to the French Broad River from Class C Tr to Class C ORW Tr.

(u) The French Broad River Basin Classification Schedule was amended effective September 1, 2009 with the reclassification of the entire watershed of Spring Creek [Index No. 6-118-(1) and 6-118-(27)] from source to the French Broad River from Class C Tr and Class C to Class C ORW Tr and Class C ORW.

(v) The French Broad River Basin Classification Schedule was amended December 1, 2011 with the reclassification of a portion of the French Broad River [Index No. 6-(54.5)] from the confluence of the Mills River to a point 0.2 miles downstream of the confluence of the Mills River from Class B to Class WS-IV&B CA.

(w) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended January 1, 2019 with the reclassification of Enka Lake, which is a portion of the Bill Moore Creek (Index No. 6-76-7) from Class C to Class B.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);

Eff. February 1, 1976;

Amended Eff. January 1, 2019; December 1, 2011; September 1, 2009; November 1, 2007; September 1, 2004; August 1, 2002; August 1, 2000; August 1, 1998; April 1, 1996; January 1, 1996; November 1, 1995; July 1, 1995;

Readopted Eff. November 1, 2019.

15A NCAC 02B .0305 WATAUGA RIVER BASIN

(a) Classifications assigned to the waters within the Watauga River Basin are set forth in the Watauga River Basin Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification> and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Asheville Regional Office
2090 US Highway 70
Swannanoa, Carolina;
 - (B) Winston-Salem Regional Office
450 West Hanes Mill Road
Winston-Salem, North Carolina; and
 - (C) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed streams entering the State of Tennessee are classified "C."

(c) The Watauga River Basin Classification Schedule was amended effective:

- (1) August 12, 1979;
- (2) February 1, 1986;
- (3) October 1, 1987;
- (4) August 1, 1989;
- (5) August 1, 1990;
- (6) December 1, 1990;
- (7) April 1, 1992;
- (8) August 3, 1992;
- (9) February 1, 1993;
- (10) April 1, 1994;
- (11) August 1, 1998;
- (12) November 1, 2007.

(d) The Watauga River Basin Classification Schedule was amended effective July 1, 1989 as follows:

- (1) Dutch Creek (Index No. 8-11) was reclassified from Class C-trout to Class B-trout.
- (2) Pond Creek (Index No. 8-20-2) from water supply intake (located just above Tamarack Road) to Beech Creek and all tributary waters were reclassified from Class WS-III to C.

(e) The Watauga River Basin Classification Schedule was amended effective December 1, 1990 with the reclassification of the Watauga River from the US Highway 321 bridge to the North Carolina/Tennessee state line from Class C to Class B.

(f) The Watauga River Basin Classification Schedule was amended effective April 1, 1992 with the reclassification of Pond Creek from Classes WS-III and C to Classes WS-III Trout and C Trout.

(g) The Watauga River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 2B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification

after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(h) The Watauga River Basin Classification Schedule was amended effective February 1, 1993 with the reclassification of Boone Fork (Index No. 8-7) and all tributary waters from Classes C Tr HQW and C HQW to Classes C Tr ORW and C ORW.

(i) The Watauga River Basin Classification Schedule was amended effective April 1, 1994 with the reclassification of the Elk River from Peavine Branch to the North Carolina/Tennessee state line [Index No. 8-22-(3)] from Class C Tr to Class B Tr.

(j) The Watauga River Basin Classification Schedule was amended effective August 1, 1998 with the reclassification of East Fork Pond Creek from its source to the backwater of Santis Lake, [Index No. 8-20-2-1.5] from Class WS-II Tr to Class WS-III Tr; the reclassification of West Fork Pond Creek (Santis Lake) [Index No. 8-20-2-1-(2)] from the backwaters of Santis Lake to Pond Creek from WS-II Tr CA to WS-III Tr CA; and the reclassification of the connecting stream of Lake Coffey [Index No. 8-20-2-2] from the dam at Lake Coffey to Pond Creek from WS-II Tr CA to C Tr.

(k) The Watauga River Basin Classification Schedule was amended effective November 1, 2007 with the reclassification of the Beech Creek Bog near Beech Creek [Index No. 8-20] to Class WL UWL. The North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of the UWL.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. November 1, 2007; August 1, 1998; April 1, 1994; February 1, 1993; August 3, 1992; April 1, 1992; Readopted Eff. November 1, 2019.

15A NCAC 02B .0306 BROAD RIVER BASIN

(a) Classifications assigned to the waters within the Broad River Basin are set forth in the Broad River Basin Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Mooresville Regional Office
610 East Center Avenue
Suite 301
Mooresville, North Carolina;
 - (B) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina; and
 - (C) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed streams entering South Carolina are classified "C."

(c) The Broad River Basin Classification Schedule was amended effective:

- (1) March 1, 1977;

- (2) February 12, 1979;
- (3) August 12, 1979;
- (4) April 1, 1983;
- (5) February 1, 1986.

(d) The Broad River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and 0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(e) The Broad River Basin Classification Schedule was amended effective September 1, 1994 with the reclassification of the Second Broad River [Index No. 9-41-(0.5)] from its source to Roberson Creek including associated tributaries was reclassified from Class WS-V to Classes WS-V, WS-IV and WS-IV CA.

(f) The Broad River Basin Classification Schedule was amended effective August 1, 1998 with the revision to the primary classification for portions of the Broad River [Index No. 9-(23.5)] from Class WS-IV to Class C and Second Broad River [Index Nos. 9-41-(10.5) and 9-41-(14.5)] and First Broad River [Index No. 9-50-(11)] from Class WS-IV to Class WS-V.

(g) The Broad River Basin Classification Schedule was amended August 1, 2000 with the reclassification of the Green River [Index No. 9-29-(1)], including all tributaries, from its source to its mouth in Lake Summit at elevation 2011 from Class C Tr to Class B Tr.

(h) The Broad River Basin Classification Schedule was amended effective August 1, 2000 with the reclassification of Lake Montonia [Index No. 9-54-1-(1)], and all tributaries, from Class B to Class B HQW.

(i) The Broad River Basin Classification Schedule was amended effective April 1, 2001 with the reclassification of the Green River [Index No. 9-29-(1)], including all tributaries, from its source to the downstream side of the mouth of Rock Creek from Class B Tr to Class B Tr HQW.

(j) The Broad River Basin Classification Schedule was amended effective March 1, 2007 with the reclassification of the North Fork First Broad River (Index No. 9-50-4), including all tributaries, from its source to the First Broad River from Class C Tr to Class C Tr ORW.

(k) The Broad River Basin Classification Schedule was amended effective March 1, 2007 with the reclassification of a segment of the Broad River [Index No. 9-(25.5)] from a point 0.5 mile upstream of the City of Shelby proposed water supply intake to the City of Shelby proposed water supply intake from Class C to Class WS-IV CA, and from a point 0.5 mile upstream of the City of Shelby proposed water supply intake to a point approximately 0.3 mile downstream of its confluence with Cane Creek from Class C to Class WS-IV. The City of Shelby proposed water supply intake is to be placed on the Broad River at a point approximately one mile upstream of its confluence with the First Broad River.

(l) The Broad River Basin Classification Schedule was amended effective March 1, 2007 with the reclassification of a segment of the Broad River [Index No. 9-(25.5)] from a point 0.5 mile upstream of the Town of Forest City proposed water supply intake to the Town of Forest City proposed water supply intake from Class C to Class WS-IV CA, and from a point 0.5 mile upstream of the Town of Forest City proposed water supply intake to a point approximately 0.2 mile downstream of Rutherford County SR 1145 (Town of Rutherfordton water supply intake) from Class C to Class WS-IV. The Town of Forest City proposed water supply intake is to be placed on the Broad River at a point approximately 0.4 mile downstream of McKinney Creek.

(m) The Broad River Basin Classification Schedule amended effective September 1, 2014, in order to allow a water supply intake to be placed in Lake Adger by Polk County, as follows:

- (1) a portion of the Green River [Index No. 9-29-(33)], including tributaries, from the dam at Lake Adger to a point 0.35 mile downstream of Rash Creek from Class C to Class WS-IV CA. The CA extends 0.5 mile from and draining to the normal pool elevation of Lake Adger.
- (2) a portion of the Green River from a point 0.35 mile [Index No. 9-29-(33)], including tributaries, downstream of Rash Creek to a point 300 feet downstream of Laurel Branch from Class C to Class WS-IV. The PA extends 5.0 miles from and draining to the normal pool elevation of Lake Adger.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. September 1, 2014; March 1, 2007; April 1, 2001; August 1, 2000; August 1, 1998; September 1, 1994; August 3, 1992; February 1, 1986; January 1, 1985; Readopted Eff. November 1, 2019.

15A NCAC 02B.0307 NEW RIVER BASIN

(a) Classifications assigned to the waters within the New River Basin are set forth in the New River Basin Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina;
 - (B) Winston-Salem Regional Office
450 West Hanes Mill Road
Winston-Salem, North Carolina; and
 - (C) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed streams entering the State of Tennessee are classified "C."

(c) The New River Basin Classification Schedule was amended effective:

- (1) August 10, 1980 (see Paragraph (d) of this Rule);
- (2) April 1, 1983 (see Paragraph (e) of this Rule);
- (3) February 1, 1986 (see Paragraph (f) of this Rule);
- (4) August 1, 1989 (see Paragraph (g) of this Rule);
- (5) August 1, 1990 (see Paragraph (h) of this Rule);
- (6) August 3, 1992 (see Paragraph (i) of this Rule);
- (7) February 1, 1993 (see Paragraph (j) of this Rule);
- (8) August 1, 1998 (see Paragraph (k) of this Rule);
- (9) November 1, 2007 (see Paragraph (l) of this Rule);
- (10) December 1, 2010 (see Paragraph (m) of this Rule); and
- (11) July 3, 2012 (see Paragraph (n) of this Rule).

(d) The New River Basin Classification Schedule was amended effective August 10, 1980 as follows:

- (1) South Fork New River [Index No. 10-1-(1)] from the confluence of the Middle Fork South Fork New River and the East Fork South Fork New River to Winkler Creek was reclassified from Class C to Class A-II;
- (2) Middle Fork South Fork New River [Index Nos. 10-1-2-(6) and 10-1-2-(14)] from Brown Branch to the South Fork New River was reclassified from Class C and C Trout to Class A-II and A-II Trout;
- (3) East Fork South Fork New River [Index Nos. 10-1-3-(1) and 10-1-3-(7)] was reclassified from Class C and C Trout to Class A-II and A-II Trout; and
- (4) Winkler Creek [Index No. 10-1-4-(2) from Boone water supply intake dam to Watauga County SR 1549 and Flannery Fork [Index No. 10-1-4-3-(2)] from the dam at Camp Sky Ranch Bathing Lake to Winkler Creek were reclassified from Class C Trout to Class A-II Trout.

(e) The New River Basin Classification Schedule was amended effective April 1, 1983 as follows: Naked Creek [Index No. 10-1-32] was reclassified from Class C Trout to Class C.

(f) The New River Basin Classification Schedule was amended effective February 1, 1986 with the reclassification of all Class A-I and A-II streams to Class WS-I and WS-III in the New River Basin.

(g) The New River Basin Classification Schedule was amended effective August 1, 1989 as follows: South Fork New River [Index No. 10-1-(30)] from Dog Creek to New River and all tributary waters were reclassified from Class C-trout and Class C to Class B-trout and B.

(h) The New River Basin Classification Schedule was amended effective August 1, 1990 as follows:

- (1) New River [Index No. 10] from the confluence of the North and South Forks New River to the last point at which the New River crosses the

- (2) North Carolina/Virginia State line was reclassified from Class C to Class C HQW; South Fork New River [Index Nos. 10-1-(14.5), 10-1-(26), 10-1-(30), and 10-1-(33.5)] from Elk Creek to the confluence of the New River and North Fork New River was reclassified from Class C, B and WS-III to Class C HQW, B HQW and WS-III HQW;
- (3) Howard Creek [Index Nos. 10-1-9-(1) and 10-1-9-(6)] from source to the South Fork New River was reclassified from Class WS-III Trout and C Trout to Class WS-III Trout HQW and C Trout HQW;
- (4) Big Horse Creek [Index No. 10-2-21-(5.5)] from North Carolina/Virginia State line to lower Ashe County SR 1361 bridge was reclassified from Class C Trout to Class C Trout HQW; and
- (5) Little River [Index No. 10-9-(11.5)] from N.C. Hwy. 18 bridge to the North Carolina/Virginia State line was reclassified from Class C to Class C HQW.

(i) The New River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(j) The New River Basin Classification Schedule was amended effective February 1, 1993 as follows:

- (1) the South Fork New River (Index No. 10-1-33.5) from Dog Creek to the New River was reclassified from Class B HQW to Class B ORW;
- (2) the New River (Index No. 10) from the confluence of the North and South Fork New Rivers to the last point at which it crosses the North Carolina/Virginia State line was reclassified from Class C HQW to Class C ORW; and
- (3) Old Field Creek (Index No. 10-1-22) from Call Creek to the South Fork New River, and Call Creek (Index No. 10-1-22-1) from its source to Old Field Creek were reclassified from Class WS-IV Trout to Class WS-IV Trout ORW.

(k) The New River Basin Classification Schedule was amended effective August 1, 1998 with the revision to the primary classification for a portion of the South Fork New River [Index No. 10-1 (20.5)] from Class WS-IV to Class WS-V.

(l) The New River Basin Classification Schedule was amended effective November 1, 2007 with the reclassification of Bluff Mountain Fen near Buffalo Creek [Index No. 10-2-20] to Class

WL UWL. The North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of the UWL.

(m) The New River Basin Classification Schedule was amended effective December 1, 2010 with the reclassification of the North Fork New River [Index Nos. 10-2-(1), 10-2-(12)] and its tributaries from C+, C+ Trout and C Trout HQW to C ORW and C Trout ORW with the exception of the following:

- (1) Index Nos. 10-2-21-9, 10-2-21-(8), 10-2-(11) and 10-2-20 were reclassified from C+ and C Trout + to C HQW and C Trout HQW; and
- (2) Little Buffalo Creek and Claybank Creek (Index Nos. 10-2-20-1 and 10-2-20-1-1) did not qualify for the ORW or HQW designation; however, these waters shall be managed in the same way as the downstream designated HQW areas.

(n) The New River Basin Classification Schedule was amended effective July 3, 2012 as follows:

- (1) the portion of the South Fork New River [Index No. 10-1-(14.5)] from the Town of Boone's intake, located nearly 0.5 miles upstream of SR 1100, to 875 feet downstream of SR 1351 from C HQW to WS-IV CA HQW;
- (2) the portion of the South Fork New River [Index No. 10-1-(14.5)] from 875 feet downstream of SR 1351 to Elk Creek from C HQW to WS-IV HQW; and
- (3) the portion of the South Fork New River [Index No. 10-1-(3.5)] from Elk Creek to 1.75 miles upstream of SR 1351 from C+ to WS-IV +.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. July 3, 2012; December 1, 2010; November 1, 2007; August 1, 1998; February 1, 1993; August 3, 1992; August 1, 1990; August 1, 1989; Readopted Eff. November 1, 2019.

15A NCAC 02B .0308 CATAWBA RIVER BASIN

(a) Classifications assigned to the waters within the Catawba River Basin are set forth in the Catawba River Basin Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Mooresville Regional Office
610 East Center Avenue, Suite 301
Mooresville, North Carolina;
 - (B) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina; and
 - (C) Division of Water Resources
Central Office

512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed streams entering South Carolina are classified "C."

(c) The Catawba River Basin Classification Schedule was amended effective:

- (1) March 1, 1977 (see Paragraph (d) of this Rule);
- (2) August 12, 1979 (see Paragraph (e) of this Rule);
- (3) April 1, 1982 (see Paragraph (f) of this Rule; Rule);
- (4) January 1, 1985 (see Paragraph (g) of this Rule);
- (5) August 1, 1985 (see Paragraph (h) of this Rule);
- (6) February 1, 1986 (see Paragraph (i) of this Rule);
- (7) March 1, 1989 (see Paragraph (j) of this Rule);
- (8) May 1, 1989 (see Paragraph (k) of this Rule);
- (9) March 1, 1990 (see Paragraph (l) of this Rule);
- (10) August 1, 1990 (see Paragraph (m) of this Rule);
- (11) August 3, 1992 (see Paragraph (n) of this Rule);
- (12) April 1, 1994 (see Paragraph (o) of this Rule);
- (13) July 1, 1995 (see Paragraph (p) of this Rule);
- (14) September 1, 1996 (see Paragraph (q) of this Rule);
- (15) August 1, 1998 (see Paragraph (r) of this Rule);
- (16) April 1, 1999 (see Paragraph (s) of this Rule);
- (17) August 1, 2000 (see Paragraph (t) of this Rule);
- (18) August 1, 2004 (see Paragraph (u) of this Rule);
- (19) May 1, 2007 (see Paragraph (v) of this Rule);
- (20) September 1, 2010 (see Paragraph (w) of this Rule);
- (21) March 1, 2013 (see Paragraph (x) of this Rule); and
- (22) July 1, 2017 (see Paragraph (y) of this Rule).

(d) The Catawba River Basin Classification Schedule was amended effective March 1, 1977 as follows:

- (1) Torrence Branch (Index No. 11-136) from source to North Carolina-South Carolina State Line was reclassified from Class D to Class B; and
- (2) Edwards Branch (Index No. 11-137-8-2-1) from source to Brier Creek was reclassified from Class D to Class C.

(e) The Catawba River Basin Classification Schedule was amended effective August 12, 1979 as follows: Unnamed Tributary to Lower Little River (Robinette Creek)(Index No. 11-69-1.5) from source to Lower Little River was reclassified from Class C to Class B.

(f) The Catawba River Basin Classification Schedule was amended effective April 1, 1982 as follows:

- (1) Spainhour Creek (Index No. 11-39-3) from source to Lower Creek was reclassified from Class C (1) to Class C; and
- (2) Allen Creek (Index No. 11-129-5-7-2-4) from source to Maiden Creek was reclassified from Class C to Class A-II.

(g) The Catawba River Basin Classification Schedule was amended effective January 1, 1985 as follows: Catawba Creek

from source to N.C. Highway 275 was reclassified from Class C(1) to Class C.

(h) The Catawba River Basin Classification Schedule was amended effective August 1, 1985 as follows:

- (1) Brier Creek (Index No. 11-137-8-2) from source to Little Sugar Creek was reclassified from Class C (1) to Class C;
- (2) Little Hope Creek (Index No. 11-137-8-3) from source to Little Sugar Creek was reclassified from Class C (1) to Class C; and
- (3) McMullen Creek (Index No. 11-137-9-5) from source to N.C. Highway 16 was reclassified from Class C (1) to Class C.

(i) The Catawba River Basin Classification Schedule was amended effective February 1, 1986 with the reclassification of all A-I and A-II streams to WS-I and WS-III in the Catawba River Basin.

(j) The Catawba River Basin Classification Schedule was amended effective March 1, 1989 as follows:

Wilson Creek (Index No. 11-38-34) and all tributary waters were reclassified from Class B-trout and Class C-trout to Class B-trout ORW and Class C-trout ORW.

(k) The Catawba River Basin Classification Schedule was amended effective May 1, 1989 as follows:

- (1) Henry Fork [Index Nos. 11-129-1-(1) and 11-129-1-(2)] from source to Laurel Creek, including all tributaries, were reclassified from Class WS-I, C and C trout to Class WS-IORW, C ORW and C trout ORW, except Ivy Creek and Rock Creek which will remain Class C trout and Class C; and
- (2) Jacob Fork [Index Nos. 11-129-2-(1) and 11-129-2-(4)] from source to Camp Creek, including all tributaries, were reclassified from Class WS-III trout and WS-III to WS-III trout ORW and WS-III ORW.

(l) The Catawba River Basin Classification Schedule was amended effective March 1, 1990 as follows:

- (1) Upper Creek [Index No. 11-35-2-(1)] from source to Timbered Branch including all tributaries except Timbered Branch (Index No. 11-35-2-9) was reclassified from Class C Trout to Class C Trout ORW; and
- (2) Steels Creek [Index No. 11-35-2-12(1)] from source to Little Fork and all tributaries was reclassified from Class C Trout to Class C Trout ORW.

(m) The Catawba River Basin Classification Schedule was amended effective August 1, 1990 as follows:

- (1) The classification for the portion of Mackey Creek [Index No. 11-15-(2)] from Marion Water Supply Intake to Laurel Fork was reclassified from Class C to Class C HQW;
- (2) Laurel Fork Creek [Index No. 11-15-3] from source to Mackey Creek was reclassified from Class C Tr to Class C Tr HQW;
- (3) Armstrong Creek [Index No. 11-24-14-(1)] from source to Bee Rock Creek was reclassified from Class WS-III Tr to Class WS-III Tr HQW;

- (4) Two segments of Linville River [Index Nos. 11-29-(16) and 11-29-(19)] were reclassified from Class B Tr and Class B to Class B Tr HQW and Class B HQW, respectively;
- (5) Upper Creek [Index No. 11-35-2-(8.5)] and its named tributaries were reclassified from Class C Tr to Class C Tr HQW;
- (6) Upper Creek (Clear Water Beach Lake) [Index No. 11-35-2-(10)] from Holly Spring Branch to Dam Clear Water Beach Lake was reclassified from Class B Tr to Class B Tr HQW;
- (7) Holly Spring Branch [Index No. 11-35-2-11] from source to Upper Creek was reclassified from Class C Tr to Class Tr HQW;
- (8) Steels Creek [Index No. 11-35-2-12-(5)] from Little Fork to a point 1.7 miles upstream from N.C. Highway 181 Bridge was reclassified from Class B Tr to Class B Tr HQW and Steels Creek [Index No. 11-35-2-12-(7)] from a point 1.7 miles upstream from N.C. Highway 181 bridge to Clear Water Beach Lake, Upper Creek was reclassified from Class B to Class B HQW;
- (9) Upper Creek [Index No. 11-35-2-(13)] from Dam at Clear Water Beach Lake to Warrior Fork was reclassified from Class WS-III Tr to Class WS-III Tr HQW;
- (10) The portion of Johns River [Index No. 11-38-(28)] from Wilson Creek to Rhodhiss Lake, Catawba River was reclassified from Class C to Class C HQW;
- (11) Mulberry Creek [Index No. 11-38-32-(1)] from source to Boone Fork and its tributaries Left Fork Mulberry Creek [Index No. 11-38-32-2], Right Fork Mulberry Creek [Index No. 11-38-32-3], Roaring Creek [Index No. 11-38-32-8] and Clark Branch [Index No. 11-38-32-10] were reclassified from Class C Tr to Class C Tr HQW;
- (12) Amos Creek [Index No. 11-38-32-4] and Mills Creek [Index No. 11-38-32-5] and their named tributaries were reclassified from Class C to Class C HQW;
- (13) Cane Branch [Index No. 11-38-32-6], Rush Branch [11-38-32-7] and Frankum Creek [11-38-32-9] and its named tributaries were reclassified from Class C to Class C HQW;
- (14) Mulberry Creek [Index No. 11-38-32-(11)] from Boone Branch to Dam at Mulberry Beach was reclassified from Class B to Class B HQW;
- (15) Boone Branch (Fork) [Index No. 11-38-32-12] and its named tributaries from source to Mulberry Creek were reclassified from Class B to Class B HQW;
- (16) Brown Branch [Index No. 11-38-32-13] and Moore Branch [Index No. 11-38-32-14] were reclassified from Class B to Class B HQW; and
- (17) Anderson Creek [Index No. 11-38-32-16] was reclassified from Class C to Class C HQW.
- (n) The Catawba River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.
- (o) The Catawba River Basin Classification Schedule was amended effective April 1, 1994 as follows:
 - (1) Friday Lake (Index No. 11-125.5) from its source to Little Paw Creek was reclassified from Class C to Class B; and
 - (2) The Linville River [Index No. 12-29-(1)] from Grandmother Creek to Linville Falls was reclassified from Class C Tr to Class B Tr.
- (p) The Catawba River Basin Classification Schedule was amended effective July 1, 1995 with the reclassification of Clark Creek from a point 0.6 mile downstream of Catawba County SR 2014 to 0.4 mile upstream of Larkard Creek [Index No. 11-129-5-(4.5)], and Howards Creek from its source to 0.7 mile upstream of Lincoln County State Road 1200 [Index No. 11-129-4], including associated tributaries from Class WS-IV to Classes C and WS-IV.
- (q) The Catawba River Basin Classification Schedule was amended effective September 1, 1996 as follows:
 - (1) North Fork Catawba River [Index No. 11-24-(1)] from Laurel Branch to Armstrong Creek from Class C Tr to Class B Tr; and
 - (2) Catawba River (Lake Hickory) from Rhodhiss dam to highway 321 [Index No. 11-(51)] from Class WS-IV CA to Class WS-IV B CA.
- (r) The Catawba River Basin Classification Schedule was amended effective August 1, 1998 as follows:
 - (1) The primary classification for portions of South Fork Catawba River [Index No. 11-129-(0.5)] and Hoyle Creek [Index No. 11-129-15-(1)] was reclassified from Class WS-IV to Class WS-V;
 - (2) Mill Creek [Index No. 11-7] from its source to Swannanoa Creek, including all tributaries, from Class C Tr to Class Tr HQW;
 - (3) Toms Creek [Index Nos. 11-21-(1) and 11-21-(2)] from its source to Harris Creek, including all tributaries were reclassified from Class C Tr to Class Tr HQW; and
 - (4) Harris Creek to McDowell County SR 1434, including all tributaries were reclassified from Class C to Class HQW.
- (s) The Catawba River Basin Classification Schedule was amended effective April 1, 1999 as follows:
 - (1) Portion of the Catawba River [Index Nos. 11-(27.5) and 11-(31)] from Class WS-IV B and WS-IV to Class WS-V B and WS-V;

- (2) Armstrong Creek [Index Nos. 11-24-14-(1), 11-24-14-(13.5) and 11-24-14-(14)], and all tributaries from Classes WS-II Tr, WS-II, WS-II CA and C Tr to Classes C Tr HQW and C HQW;
 - (3) Lookout Shoals Lake from Oxford Dam to Island Creek [Index No. 11-(67)] from Class WS-V to Class WS-IV CA, from Island Creek to Elk Shoal Creek [Index No. 11-(70.5)] from Class WS-IV to Class WS-IV CA and from Elk Shoal Creek to a point one half mile upstream of Lookout Shoals Dam [Index No. 11-(72)] from Class WS-IV B to Class WS-IV B CA;
 - (4) The classifications of tributary streams that are within five miles and draining to the normal pool elevation of Lookout Shoals Lake (Protected Area) have been revised to Class WS-IV; and
 - (5) The classifications of tributary streams that are within one half mile and draining to the normal pool elevation of Lookout Shoals Lake (Critical Area) have been revised to Class WS-IV CA.
- (t) The Catawba River Basin Classification Schedule was amended August 1, 2000 with the reclassification of Little Grassy Creek (Index No. 11-29-2), including all tributaries, from its source to the Linville River from Class C Tr to Class C Tr ORW.
- (u) The Catawba River Basin Classification Schedule was amended August 1, 2004 with the reclassification of a segment of three surface waters, more specifically Henry Fork [11-129-1-(1)], Jerry Branch [11-129-1-3-(1)], and He Creek [11-129-1-4-(1)], from source to a formerly used City of Morganton Water Intake from Class WS-I ORW to Class WS-V ORW.
- (v) The Catawba River Basin Classification Schedule was amended May 1, 2007 with the reclassification of the Catawba River [Index No. 11-(31.5)] from a point 0.6 mile upstream of Muddy Creek to a point 1.2 miles upstream of Canoe Creek from WS-IV to WS-IV Tr and Catawba River [Index No. 11-(32.3)] from a point 1.2 miles upstream of Canoe Creek to a point 0.7 mile upstream of Canoe Creek (Morganton water supply intake) from WS-IV CA to WS-IV Tr CA. Named and unnamed tributaries to this portion of the Catawba River are not classified as Trout. Between the last day of May and the first day of November the water quality standard for dissolved oxygen shall not be less than a daily average of 5.0 mg/l with a minimum instantaneous value of not less than 4.0 mg/l.
- (w) The Catawba River Basin Classification Schedule was amended September 1, 2010 with the reclassification of the portion of the Catawba River [Index No. 11-(1)], from its source to the Left Prong Catawba River confluence, and its named tributaries, Chestnut Branch (Fork) [Index No. 11-2], Clover Patch Branch [Index No. 11-3], Youngs Fork Creek [Index No. 11-4], Spring Branch [Index No. 11-5], and Left Prong Catawba River [Index No. 11-6] from Class C Tr to Class C Tr HQW.
- (x) The Catawba River Basin Classification Schedule was amended March 1, 2013 as follows:
- (1) the portion of Maiden Creek [Index No. 11-129-5-7-2-(1)] from source to a point 0.7 mile upstream from backwaters of Maiden Reservoir, and its named tributary, Bee Branch

- [Index No. 11-129-5-7-2-2], from Class WS-II HQW to WS-V;
 - (2) the portion of Maiden Creek [Index No. 11-129-5-7-2-(2.5)] from a point 0.7 mile upstream from backwaters of Maiden Reservoir to dam at Maiden Reservoir from Class WS-II HQW CA to WS-V;
 - (3) the portion of Allen Creek [Index No. 11-129-5-7-2-4-(1)] from source to a point 0.7 mile upstream of Maiden water supply intake from Class WS-II HQW to WS-V; and
 - (4) the portion of Allen Creek [Index No. 11-129-5-7-2-4-(2)] from a point 0.7 mile upstream of Maiden water supply intake to Maiden water supply intake from Class WS-II HQW CA to WS-V.
- (y) The Catawba River Basin Classification Schedule was amended July 1, 2017 as follows:
- (1) a portion of the Catawba River [Index No. 11-(23)], including tributaries, from Bridgewater Dam to North Fork Catawba River from Class WS-V & B to Class WS-IV CA & B, and a portion of the Catawba River [part of Index No. 11-(8)], including tributaries, from North Fork Catawba River to a point 0.7 mile downstream of SR 1501 from Class C to Class WS-IV CA. The CA extends 0.5 mile from and draining to the normal pool elevation of Lake James.
 - (2) a portion of the Catawba River [part of Index No. 11-(8)], including tributaries, from a point 0.7 mile downstream of SR 1501 to a point 0.2 mile upstream of SR 1221 from Class C to Class WS-IV. The PA extends 5.0 miles from and draining to the normal pool elevation of Lake James.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. July 1, 2017; March 1, 2013; December 1, 2010; September 1, 2010; May 1, 2007; August 1, 2004; August 1, 2000; April 1, 1999; August 1, 1998; September 1, 1996; July 1, 1995; April 1, 1994; August 3, 1992; August 1, 1990; Readopted Eff. November 1, 2019.

15A NCAC 02B .0309 YADKIN-PEE DEE RIVER BASIN

- (a) Classifications assigned to the waters within the Yadkin-Pee Dee River Basin are set forth in the Yadkin River Basin Classification Schedule, which may be inspected at the following places:
- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
 - (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Mooresville Regional Office
610 East Center Avenue, Suite 301

- (B) Mooresville, North Carolina;
Winston-Salem Regional Office
450 West Hanes Mill Road
Winston-Salem, North Carolina;
- (C) Fayetteville Regional Office
225 Green Street
Systel Building Suite 714
Fayetteville, North Carolina;
- (D) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina; and
- (E) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed streams entering Virginia are classified "C," and such streams entering South Carolina are classified "C".

(c) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective:

- (1) February 12, 1979;
- (2) March 1, 1983;
- (3) August 1, 1985;
- (4) February 1, 1986;
- (5) October 1, 1988;
- (6) March 1, 1989;
- (7) January 1, 1990;
- (8) August 1, 1990;
- (9) January 1, 1992;
- (10) April 1, 1992;
- (11) August 3, 1992;
- (12) December 1, 1992;
- (13) April 1, 1993;
- (14) September 1, 1994;
- (15) August 1, 1995;
- (16) August 1, 1998;
- (17) April 1, 1999;
- (18) July 1, 2006;
- (19) September 1, 2006;
- (20) November 1, 2007.

(d) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective October 1, 1988 as follows:

- (1) Mitchell River [Index No. 12-62-(1)] from source to mouth of Christian Creek (North Fork Mitchell River) including all tributaries has been reclassified from Class B Tr to Class B Tr ORW.
- (2) Mitchell River [Index No. 12-62-(7)] from mouth of Christian Creek (North Fork Mitchell River) to Surry County SR 1315 including all tributaries has been classified from Class C Tr to C Tr ORW, except Christian Creek and Robertson Creek which will be reclassified from Class B Tr to Class B Tr ORW.
- (3) Mitchell River [Index No. 12-62-(12)] from Surry County SR 1315 to mouth of South Fork Mitchell River including all tributaries from Class C to Class C ORW.

(e) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective March 1, 1989 as follows: Elk Creek [Index

Nos. 12-24-(1) and 12-24-(10)] and all tributary waters were reclassified from Class B-trout, Class C-trout and Class B to Class B-trout ORW, Class C-trout ORW and Class B ORW.

(f) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective January 1, 1990 as follows: Barnes Creek (Index No. 13-2-18) was reclassified from Class C to Class C ORW.

(g) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective January 1, 1992 as follows:

- (1) Little River [Index Nos. 13-25-(10) and 13-25-(19)] from Suggs Creek to Densons Creek has been reclassified from Classes WS-III and C to Classes WS-III HQW and C HQW.
- (2) Densons Creek [Index No. 13-25-20-(1)] from its source to Troy's Water Supply Intake including all tributaries has been reclassified from Class WS-III to Class WS-III HQW.
- (3) Bridgers Creek (Index No. 13-25-24) from its source to the Little River has been reclassified from Class C to Class C HQW.

(h) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective April 1, 1992 with the reclassification of the North Prong South Fork Mitchell River from Class C to Class C Trout.

(i) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(j) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective December 1, 1992 as follows:

- (1) Pike Creek (Index No. 12-46-1-2) was reclassified from Class C Tr to Class C Tr HQW;
- (2) Basin Creek (Index No. 12-46-2-2) was reclassified from Class C Tr to Class C Tr ORW;
- (3) Bullhead Creek (Index No. 12-46-4-2) was reclassified from Class C Tr to Class C Tr ORW;
- (4) Rich Mountain Creek (Index No. 12-46-4-2-2) was reclassified from Class Tr to Class C Tr ORW; and
- (5) Widows Creek (Index No. 12-46-4-4) was reclassified from Class C Tr HQW to Class C Tr ORW.

(k) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective September 1, 1994 as follows:

- (1) Lanes Creek [Index Nos. 13-17-40-(1) and 13-17-40-(10.5)] from its source to the Marshville

water supply dam including tributaries was reclassified from Classes WS-II and WS-II CA to Class WS-V.

- (2) The South Yadkin River [Index Nos. 12-108-(9.7) and 12-108-(15.5)] from Iredell County SR 1892 to a point 0.7 mile upstream of the mouth of Hunting Creek including associated tributaries was reclassified from Classes WS-V, C and WS-IV to Classes WS-V, WS-IV, C and WS-IV CA.
- (3) The Yadkin River [Index Nos. 12-(53) and 12-(71)] from a point 0.3 mile upstream of the mouth of Elkin Creek (River) to the Town of King water supply intake including associated tributaries was reclassified from Classes C and WS-IV to Classes WS-IV and WS-IV CA.
- (4) The Yadkin River [Index Nos. 12-(80.5), 12-(81.5) and 12-(84.5)] from the Town of King water supply intake to the Davie County water supply intake reclassified from Classes C, B, WS-IV and WS-V to Classes WS-IV, WS-IV B and WS-IV CA.

(l) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective August 1, 1995 as follows: Bear Creek [Index Nos. 12-108-18-(3), 12-108-18-(3.3)], Little Bear Creek (Index No. 12-108-18-2), and Blue Branch (Index No. 12-108-18-2-1) were reclassified from WS-II and WS-II CA (Critical Area) to C and WS-IV.

(m) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective August 1, 1998 with the revision to the primary classification for portions of the Yadkin River [Index No. 12-(45)] from Class WS-IV to WS-V, Yadkin River [Index No. 12-(67.5)] from Class WS-IV to Class C, Yadkin River [Index Nos. 12-(93.5) and 12-(98.5)] from Class WS-IV to Class WS-V, South Yadkin River [Index No. 12-108-(12.5)] from Class WS-IV to Class WS-V, and South Yadkin River [Index Nos. 12-108-(19.5) and 12-108-(22)] from Class WS-IV to Class C.

(n) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective April 1, 1999 with the reclassification of a portion of the Yadkin River [Index No. 12-(80.5)] from WS-IV CA to WS-IV. A portion of the Yadkin River 0.5 mile upstream of Bashavia Creek was reclassified from WS-IV to WS-IV CA. Bashavia Creek [Index Nos. 12-81-(0.5) and 12-81-(2)] was reclassified from WS-IV and WS-IV CA to Class C. Tributaries to Bashavia Creek were also reclassified to Class C. Portions of the Yadkin River [Index Nos. 12-(25.5) and 12-(27)] were reclassified from WS-IV to Class C and from WS-IV & B to Class B. Tributaries were reclassified from Class WS-IV to Class C. Supplemental classifications were not changed.

(o) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective July 1, 2006 with the reclassification of a portion of the Uwharrie River. More specifically, Index No. 13-2-(25), Index No. 13-2-(17.5), and a portion of Index No. 13-2-(1.5) was reclassified from Class WS-IV CA, WS-IV, and C, to Class WS-IV B CA, WS-IV B, and B, respectively.

(p) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective September 1, 2006 with the reclassification of a segment of the Yadkin River [portion of Index No. 12-(53)] from a point 0.3 mile upstream of the Town of Elkin proposed

water supply intake to the Town of Elkin proposed water supply intake from C to WS-IV CA. The Town of Elkin proposed water supply intake is to be placed on the Yadkin River at a point directly above the mouth of Elkin Creek.

(q) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective November 1, 2007 with the reclassifications as listed below, and the North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of these UWLs.

- (1) Black Ankle Bog near Suggs Creek [Index No. 13-25-12] was reclassified to Class WL UWL.
- (2) Pilot Mountain Floodplain Pool near Horne Creek [Index No. 12-75] was reclassified to Class WL UWL.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);

Eff. February 1, 1976;

Amended Eff. November 1, 2007; September 1, 2006; July 1, 2006; April 1, 1999; August 1, 1998; August 1, 1995; September 1, 1994; April 1, 1993; December 1, 1992;

Readopted Eff. November 1, 2019.

15A NCAC 02B .0310 LUMBER RIVER BASIN

(a) Classifications assigned to the waters within the Lumber River Basin are set forth in the Lumber River Basin Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Fayetteville Regional Office
225 Green Street
Systel Building Suite 714
Fayetteville, North Carolina;
 - (B) Wilmington Regional Office
127 Cardinal Drive Extension
Wilmington, North Carolina; and
 - (C) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed streams entering South Carolina are classified "C Sw".

(c) The Lumber River Basin Classification Schedule was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) September 14, 1980;
- (4) April 12, 1981;
- (5) April 1, 1982;
- (6) February 1, 1986;
- (7) July 1, 1990;
- (8) August 1, 1990;
- (9) August 3, 1992;
- (10) September 1, 1996;
- (11) August 1, 2000;

(12) November 1, 2007.

(d) The Lumber River Basin Classification Schedule was amended effective July 1, 1990 by the reclassification of Naked Creek (Index No. 14-2-6) from source to Drowning Creek including all tributaries from Class WS-III to Class WS-III ORW.

(e) The Lumber River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(f) The Lumber River Basin Classification Schedule was amended effective September 1, 1996 by the reclassification of the Lumber River from 2.0 miles upstream of highway 401 to a point 0.5 mile upstream of Powell Branch [Index Nos. 14-(3), 14-(4), 14-(4.5), 14-(7) and 14-(10.3)] from Classes WS-IV Sw HQW, WS-IV Sw HQW CA and C Sw HQW to Classes WS-IV B Sw HQW, WS-IV B Sw HQW CA and B Sw HQW.

(g) The Lumber River Basin Classification Schedule was amended effective August 1, 2000 with the reclassification of Lake Waccamaw [Index No. 15-2] from Class B Sw to Class B Sw ORW.

(h) The Lumber River Basin Classification Schedule was amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of these UWLs:

- (1) Waccamaw Natural Lake Shoreline near Lake Waccamaw [Index No. 15-2] was reclassified to Class WL UWL.
- (2) Green Swamp Small Depression Pond near Royal Oak Swamp [Index No. 15-25-1-12] was reclassified to Class WL UWL.
- (3) Old Dock Savanna near Gum Swamp Run [Index No. 15-6] was reclassified to Class WL UWL.
- (4) Myrtle Head Savanna near Mill Branch [Index No. 15-7-7] was reclassified to Class WL UWL.
- (5) Goosepond Bay near Big Marsh Swamp [Index No. 14-22-2] was reclassified to Class WL UWL.
- (6) Antioch Bay near Raft Swamp [Index No. 14-10-(1)] was reclassified to Class WL UWL.
- (7) Pretty Pond Bay near Big Marsh Swamp [Index No. 14-22-2] was reclassified to Class WL UWL.
- (8) Dunahoe Bay near Big Marsh Swamp [Index No. 14-22-2] was reclassified to Class WL UWL.
- (9) Hamby's Bay near Raft Swamp [Index No. 14-10-(1)] was reclassified to Class WL UWL.

- (10) Oak Savanna Bay near Smith Branch [Index No. 14-10-3] was reclassified to Class WL UWL.
- (11) Big Island Savanna near Driving Creek [Index No. 15-7-1] was reclassified to Class WL UWL.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. November 1, 2007; August 1, 2000; September 1, 1996; August 3, 1992; August 1, 1990; July 1, 1990; February 1, 1986; Readopted Eff. November 1, 2019.

15A NCAC 02B .0311 CAPE FEAR RIVER BASIN

(a) Classifications assigned to the waters within the Cape Fear River Basin are set forth in the Cape Fear River Basin Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Winston-Salem Regional Office
450 West Hanes Mill Road
Winston-Salem, North Carolina;
 - (B) Fayetteville Regional Office
225 Green Street
Systel Building Suite 714
Fayetteville, North Carolina;
 - (C) Raleigh Regional Office
3800 Barrett Drive
Raleigh, North Carolina;
 - (D) Washington Regional Office
943 Washington Square Mall
Washington, North Carolina;
 - (E) Wilmington Regional Office
127 Cardinal Drive Extension
Wilmington, North Carolina; and
 - (F) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) The Cape Fear River Basin Classification Schedule was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) December 14, 1980;
- (4) August 9, 1981;
- (5) April 1, 1982;
- (6) December 1, 1983;
- (7) January 1, 1985;
- (8) August 1, 1985;
- (9) December 1, 1985;
- (10) February 1, 1986;
- (11) July 1, 1987;

- (12) October 1, 1987;
 - (13) March 1, 1988;
 - (14) August 1, 1990.
- (c) The Cape Fear River Basin Classification Schedule was amended effective June 1, 1988 as follows:
- (1) Cane Creek [Index No. 16-21-(1)] from source to a point 0.5 mile north of N.C. Hwy. 54 (Cane Reservoir Dam) including the Cane Creek Reservoir and all tributaries has been reclassified from Class WS-III to WS-I.
 - (2) Morgan Creek [Index No. 16-41-1-(1)] to the University Lake dam including University Lake and all tributaries has been reclassified from Class WS-III to WS-I.
- (d) The Cape Fear River Basin Classification Schedule was amended effective July 1, 1988 by the reclassification of Crane Creek (Crains Creek) [Index No. 18-23-16-(1)] from source to mouth of Beaver Creek including all tributaries from C to WS-III.
- (e) The Cape Fear River Basin Classification Schedule was amended effective January 1, 1990 as follows:
- (1) Intracoastal Waterway (Index No. 18-87) from southern edge of White Oak River Basin to western end of Permuda Island (a line from Morris Landing to Atlantic Ocean), from the eastern mouth of Old Topsail Creek to the southwestern shore of Howe Creek and from the southwest mouth of Shinn Creek to channel marker No. 153 including all tributaries except the King Creek Restricted Area, Hardison Creek, Old Topsail Creek, Mill Creek, Futch Creek and Pages Creek were reclassified from Class SA to Class SA ORW.
 - (2) Topsail Sound and Middle Sound ORW Area which includes all waters between the Barrier Islands and the Intracoastal Waterway located between a line running from the western most shore of Mason Inlet to the southwestern shore of Howe Creek and a line running from the western shore of New Topsail Inlet to the eastern mouth of Old Topsail Creek was reclassified from Class SA to Class SA ORW.
 - (3) Masonboro Sound ORW Area which includes all waters between the Barrier Islands and the mainland from a line running from the southwest mouth of Shinn Creek at the Intracoastal Waterway to the southern shore of Masonboro Inlet and a line running from the Intracoastal Waterway Channel marker No. 153 to the southside of the Carolina Beach Inlet was reclassified from Class SA to Class SA ORW.
- (f) The Cape Fear River Basin Classification Schedule was amended effective January 1, 1990 as follows: Big Alamance Creek [Index No. 16-19-(1)] from source to Lake Mackintosh Dam including all tributaries has been reclassified from Class WS-III NSW to Class WS-II NSW.
- (g) The Cape Fear River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-

II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(h) The Cape Fear River Basin Classification Schedule was amended effective June 1, 1994 as follows:

- (1) The Black River from its source to the Cape Fear River [Index Nos. 18-68-(0.5), 18-68-(3.5) and 18-65-(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW.
- (2) The South River from Big Swamp to the Black River [Index Nos. 18-68-12-(0.5) and 18-68-12(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW.
- (3) Six Runs Creek from Quewhiffle Swamp to the Black River [Index No. 18-68-2] was reclassified from Class C Sw to Class C Sw ORW.

(i) The Cape Fear River Basin Classification Schedule was amended effective September 1, 1994 with the reclassification of the Deep River [Index No. 17-(36.5)] from the Town of Gulf-Goldston water supply intake to US highway 421 including associated tributaries from Class C to Classes C, WS-IV and WS-IV CA.

(j) The Cape Fear River Basin Classification Schedule was amended effective August 1, 1998 with the revision to the primary classification for portions of the Deep River [Index No. 17-(28.5)] from Class WS-IV to Class WS-V, Deep River [Index No. 17-(41.5)] from Class WS-IV to Class C, and the Cape Fear River [Index 18-(10.5)] from Class WS-IV to Class WS-V.

(k) The Cape Fear River Basin Classification Schedule was amended effective April 1, 1999 with the reclassification of Buckhorn Creek (Harris Lake) [Index No. 18-7-(3)] from the backwaters of Harris Lake to the Dam at Harris Lake from Class C to Class WS-V.

(l) The Cape Fear River Basin Classification Schedule was amended effective April 1, 1999 with the reclassification of the Deep River [Index No. 17-(4)] from the dam at Oakdale-Cotton Mills, Inc. to the dam at Randleman Reservoir (located 1.6 mile upstream of U.S. Hwy 220 Business), and including tributaries from Class C and Class B to Class WS-IV and Class WS-IV & B. Streams within the Randleman Reservoir Critical Area have been reclassified to WS-IV CA. The Critical Area for a WS-IV reservoir is defined as 0.5 mile and draining to the normal pool elevation of the reservoir. All waters within the Randleman Reservoir Water Supply Watershed are within a designated Critical Water Supply Watershed and are subject to a special management strategy specified in Rule .0248 of this Subchapter.

(m) The Cape Fear River Basin Classification Schedule was amended effective August 1, 2002 as follows:

- (1) Mill Creek [Index Nos. 18-23-11-(1), 18-23-11-(2), 18-23-11-3, 18-23-11-(5)] from its source to the Little River, including all tributaries was reclassified from Class WS-III

NSW and Class WS-III B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.

- (2) McDeed's Creek [Index Nos. 18-23-11-4, 18-23-11-4-1] from its source to Mill Creek, including all tributaries was reclassified from Class WS III NSW and Class WS-III B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.

The "@" symbol as used in this Paragraph means that if the governing municipality has deemed that a development is covered under a "5/70 provision" as described in Rule .0215(3)(b)(i)(E) of this Subchapter, then that development is not subject to the stormwater requirements as described in 15A NCAC 02H .1006.

(n) The Cape Fear River Basin Classification Schedule was amended effective November 1, 2004 as follows:

- (1) the portion of Rocky River [Index Number 17-43-(1)] from a point 0.3 mile upstream of Town of Siler City upper reservoir dam to a point 0.3 mile downstream of Lacy Creek from WS-III to WS-III CA.
- (2) the portion of Rocky River [Index Number 17-43-(8)] from dam at lower water supply reservoir for Town of Siler City to a point 65 feet below dam (site of proposed dam) from C to WS-III CA.
- (3) the portion of Mud Lick Creek (Index No. 17-43-6) from a point 0.4 mile upstream of Chatham County SR 1355 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.
- (4) the portion of Lacy Creek (17-43-7) from a point 0.6 mile downstream of Chatham County SR 1362 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.

(o) The Cape Fear River Basin Classification Schedule was amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of these UWLs.

- (1) Military Ocean Terminal Sunny Point Pools, all on the eastern shore of the Cape Fear River [Index No. 18-(71)] were reclassified to Class WL UWL.
- (2) Salters Lake Bay near Salters Lake [Index No. 18-44-4] was reclassified to Class WL UWL.
- (3) Jones Lake Bay near Jones Lake [Index No. 18-46-7-1] was reclassified to Class WL UWL.
- (4) Weymouth Woods Sandhill Seep near Mill Creek [18-23-11-(1)] was reclassified to Class UWL.
- (5) Fly Trap Savanna near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL.
- (6) Lily Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL.
- (7) Grassy Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL.

- (8) The Neck Savanna near Sandy Run Swamp [Index No. 18-74-33-2] was reclassified to Class WL UWL.

- (9) Bower's Bog near Mill Creek [Index No. 18-23-11-(1)] was reclassified to Class WL UWL.

- (10) Bushy Lake near Turnbull Creek [Index No. 18-46] was reclassified to Class WL UWL.

(p) The Cape Fear River Basin Classification Schedule was amended effective January 1, 2009 as follows:

- (1) the portion of Cape Fear River [Index No. 18-(26)] (including tributaries) from Smithfield Packing Company's intake, located approximately 2 miles upstream of County Road 1316, to a point 0.5 miles upstream of Smithfield Packing Company's intake from Class C to Class WS-IV CA.

- (2) the portion of Cape Fear River [Index No. 18-(26)] (including tributaries) from a point 0.5 miles upstream of Smithfield Packing Company's intake to a point 1 mile upstream of Grays Creek from Class C to Class WS-IV.

(q) The Cape Fear River Basin Classification Schedule was amended effective August 11, 2009 with the reclassification of all Class C NSW waters and all Class B NSW waters upstream of the dam at B. Everett Jordan Reservoir from Class C NSW and Class B NSW to Class WS-V NSW and Class WS-V & B NSW, respectively. All waters within the B. Everett Jordan Reservoir Watershed are within a designated Critical Water Supply Watershed and are subject to a special management strategy specified in Rules .0262 through .0273 of this Subchapter.

(r) The Cape Fear River Basin Classification Schedule was amended effective September 1, 2009 with the reclassification of a portion of the Haw River [Index No. 16-(28.5)] from the Town of Pittsboro water supply intake, which is located approximately 0.15 mile west of U.S. 15/501, to a point 0.5 mile upstream of the Town of Pittsboro water supply intake from Class WS-IV to Class WS-IV CA.

(s) The Cape Fear River Basin Classification Schedule was amended effective March 1, 2012 with the reclassification of the portion of the Haw River [Index No. 16-(1)] from the City of Greensboro's intake, located approximately 650 feet upstream of Guilford County 2712, to a point 0.5 miles upstream of the intake from Class WS-V NSW to Class WS-IV CA NSW, and the portion of the Haw River [Index No. 16-(1)] from a point 0.5 miles upstream of the intake to a point 0.6 miles downstream of U.S. Route 29 from Class WS-V NSW to Class WS-IV NSW.

(t) The Cape Fear River Basin Classification Schedule was amended effective June 30, 2017 with the reclassification of a section of 18-(71) from upstream mouth of Toomers Creek to a line across the river between Lilliput Creek and Snows Cut from Class SC to Class SC Sw. A site-specific management strategy is outlined in 15A NCAC 02B .0227.

(u) The Cape Fear River Basin Classification Schedule was amended effective September 1, 2019 with the reclassification of a portion of Sandy Creek [Index No. 17-16-(1)] (including tributaries) from a point 0.4 mile upstream of SR-2481 to a point 0.6 mile upstream of N.C. Hwy 22 from WS-III to WS-III CA. The reclassification resulted in an updated representation of the water supply watershed for the Sandy Creek reservoir.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. June 30, 2017; March 1, 2012; September 1, 2009; August 11, 2009; January 1, 2009; November 1, 2007; November 1, 2004; August 1, 2002; April 1, 1999; August 1, 1998; September 1, 1994; June 1, 1994; August 3, 1992; August 1, 1990; Readopted Eff. November 1, 2019.

15A NCAC 02B.0312 WHITE OAK RIVER BASIN

(a) Classifications assigned to the waters within the White Oak River Basin are set forth in the White Oak River Basin Classification Schedule, which may be inspected in the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Washington Regional Office
943 Washington Square Mall
Washington, North Carolina;
 - (B) Wilmington Regional Office
127 Cardinal Drive Extension
Wilmington, North Carolina; and
 - (C) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) The White Oak River Basin Classification Schedule was amended effective:

- (1) December 13, 1979 see Paragraph (c);
- (2) June 1, 1988 see Paragraph (d);
- (3) January 1, 1990 see Paragraph (e);
- (4) August 1, 1990 see Paragraph (f);
- (5) August 1, 1991 see Paragraph (g);
- (6) June 1, 1992 see Paragraph (h);
- (7) December 1, 1992 see Paragraph (i);
- (8) November 1, 2007 see Paragraph (j);
- (9) July 1, 2011 see Paragraph (k).

(c) The White Oak River Basin Classification Schedule was amended effective December 13, 1979 with the reclassification of a portion of the White Oak River Restricted Area (Index No. 20-32) and a portion of the Newport River (Morehead City and Beaufort Harbors Restricted Area) [Index No. 21-(31)] from Class SC to Class SA.

(d) The White Oak River Basin Classification Schedule was amended effective June 1, 1988 with the reclassification of unnamed waters as follows:

- (1) a portion of the Roosevelt Natural Area Swamp, which drains to Bogue Sound (20-36), from Class SA to Class C Sw ORW.
- (2) another portion of the Roosevelt Natural Area Swamp, which drains to Bogue Sound (20-36), from Class SA to Class SA Sw ORW.

(e) The White Oak River Basin Classification Schedule was amended effective January 1, 1990 as follows:

- (1) Intracoastal Waterway (Index No. 19-39) from northeastern boundary of Cape Fear River Basin to Daybeacon No. 17 including all unnamed bays, guts, and channels, except Rogers Bay and Mill Creek and Intracoastal Waterway (Index No. 19-41) from the northeast mouth of Goose Creek to the southwest mouth of Queen Creek were reclassified from Class SA to Class SA ORW.
- (2) Bear Island ORW Area, which includes all waters within an area north of Bear Island defined by a line from the western most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to the northern most point on Huggins Island, then southeast along the shoreline of Huggins Island to the southeastern most point of Huggins Island, then south to the northeastern most point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern tip of Bear Island to the western mouth of Foster Creek including Cow Channel were reclassified from Class SA to Class SA ORW.
- (3) Bogue Sound (including Intracoastal Waterway from White Oak River Basin to Beaufort Inlet)(Index No. 20-36) from Bogue Inlet to a line across Bogue Sound from the southwest side of mouth of Gales Creek to Rock Point and all tributaries except Hunting Island Creek, Goose Creek, and Broad Creek were reclassified from Class SA to Class SA ORW.
- (4) Core Sound (Index No. 21-35-7) from northern boundary of White Oak River Basin (a line from Hall Point to Drum Inlet) to Back Sound and all tributaries except Atlantic Harbor Restricted Area, Nelson Bay, Jarrett Bay, Williston Creek, Wade Creek and Middens Creek were reclassified from Class SA to Class SA ORW.
- (5) Back Sound (Index No. 21-35) from a point on Shackleford Banks at lat. 34 degrees 40' 57" and long 76 degrees 37' 30" north to the western most point of Middle Marshes and along the northwest shoreline of Middle Marshes (to include all of Middle Marshes) to Rush Point on Harkers Island and along the southern shore of Harkers Island back to Core Sound and all tributaries were reclassified from Class SA to Class SA ORW.
- (f) The White Oak River Basin Classification Schedule was amended effective August 1, 1990 with the reclassification of a portion of the White Oak River [Index No. 20-(1)] from Spring Branch to Hunters Creek from Class C to Class C HQW.
- (g) The White Oak River Basin Classification Schedule was amended effective August 1, 1991 by adding the supplemental classification NSW (Nutrient Sensitive Waters) to all waters in the New River Drainage Area above a line running across the New

River from Grey Point to a point of land approximately 2,200 yards downstream of the mouth of Duck Creek.

(h) The White Oak River Basin Classification Schedule was amended effective June 1, 1992 with the reclassification of Peletier Creek (Index No. 20-36-11) from its source to Bogue Sound from Class SA to Class SB with the requirement that no discharges be allowed.

(i) The White Oak River Basin Classification Schedule was amended effective December 1, 1992 with the reclassification of the Atlantic Harbor Restricted Area (Index No. 21-35-7-2) from Class SC to Class SA ORW.

(j) The White Oak River Basin Classification Schedule was amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of these UWLs:

- (1) Theodore Roosevelt Maritime Swamp Forest near Roosevelt Natural Area Swamp [Index No. 20-36-9.5-(1)] was reclassified to Class WL UWL.
- (2) Bear Island Maritime Wet Grassland near the Atlantic Ocean [Index No. 99-(4)] was reclassified to Class WL UWL.

(k) The White Oak River Basin Classification Schedule was amended effective July 1, 2011 with the reclassification of a portion of Southwest Creek [Index No. 19-17-(0.5)] from a point approximately 0.5 mile upstream of Mill Run to Mill Run from Class CNSW to Class SC NSW, and another portion of Southwest Creek [Index No. 19-17-(6.5)] from Mill Run to New River from Class C HQW NSW to Class SC HQW NSW.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. July 1, 2011; November 1, 2007; December 1, 1992; June 1, 1992; August 1, 1991; August 1, 1990; Readopted Eff. November 1, 2019.

15A NCAC 02B.0313 ROANOKE RIVER BASIN

(a) Classifications assigned to the waters within the Roanoke River Basin are set forth in the Roanoke River Basin Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Raleigh Regional Office
3800 Barrett Drive
Raleigh, Carolina;
 - (B) Washington Regional Office
943 Washington Square Mall
Washington, Carolina;
 - (C) Winston-Salem Regional Office
450 West Hanes Mill Road
North Carolina; and
 - (D) Division of Water Resources

Regional Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed streams entering Virginia are classified "C", except that all backwaters of John H. Kerr Reservoir and the North Carolina portion of streams tributary thereto not otherwise named or described shall carry the classification "B," and all backwaters of Lake Gaston and the North Carolina portion of streams tributary thereto not otherwise named or described shall carry the classification "C and B".

(c) The Roanoke River Basin Classification Schedule was amended effective:

- (1) May 18, 1977;
- (2) July 9, 1978;
- (3) July 18, 1979;
- (4) July 13, 1980;
- (5) March 1, 1983;
- (6) August 1, 1985;
- (7) February 1, 1986.

(d) The Roanoke River Basin Classification Schedule was amended effective July 1, 1991 with the reclassification of Hyco Lake (Index No. 22-58) from Class C to Class B.

(e) The Roanoke River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(f) The Roanoke River Basin Classification Schedule was amended effective August 1, 1998 with the reclassification of Cascade Creek (Camp Creek) [Index No. 22-12] and its tributaries from its source to the backwaters at the swimming lake from Class B to Class B ORW, and reclassification of Indian Creek [index No. 22-13] and its tributaries from its source to Window Falls from Class C to Class C ORW.

(g) The Roanoke River Basin Classification Schedule was amended effective August 1, 1998 with the reclassification of Dan River and Mayo River WS-IV Protected Areas. The Protected Areas were reduced in size.

(h) The Roanoke River Basin Classification Schedule was amended effective April 1, 1999 as follows:

- (1) Hyco River, including Hyco Lake below elevation 410 [Index No. 22-58-(0.5)] was reclassified from Class B to Class WS-V B.
- (2) Mayo Creek (Maho Creek)(Mayo Reservoir) [Index No. 22-58-15] was reclassified from its source to the dam of Mayo Reservoir from Class C to Class WS-V.

(i) The Roanoke River Basin Classification Schedule was amended effective April 1, 2001 as follows:

- (1) Fullers Creek from source to a point 0.8 mile upstream of Yanceyville water supply dam

[Index No. 22-56-4-(1)] was reclassified from Class WS-II to Class WS-III.

- (2) Fullers Creek from a point 0.8 mile upstream of Yanceyville water supply dam to Yanceyville water supply dam [Index No. 22-56-4-(2)] was reclassified from Class WS-II CA to Class WS-III CA.

(j) The Roanoke River Basin Classification Schedule was amended effective November 1, 2007 with the reclassification of Hanging Rock Hillside Seepage Bog near Cascade Creek [Index No. 22-12-(2)] to Class WL UWL. The Division of Water Resources maintains a Geographic Information Systems data layer of the UWL.

(k) The Roanoke River Basin Classification Schedule was amended effective July 3, 2012 as follows:

- (1) a portion of the Dan River [Index No. 22-(39)] (including tributaries) from the City of Roxboro's intake, located approximately 0.7 mile upstream of NC Highway 62, to a point approximately 0.5 mile upstream of the City of Roxboro's intake from Class C to Class WS-IV CA.
- (2) a portion of the Dan River [Index No. 22-(39)] (including tributaries) from a point approximately 0.5 mile upstream of the City of Roxboro's intake to the North Carolina-Virginia state line from Class C to Class WS-IV.

(l) The Roanoke River Basin Classification Schedule was amended effective January 1, 2013 as follows:

- (1) a portion of the Roanoke River [Index No. 23-(26)] (including tributaries) from the Martin County Regional Water And Sewer Authority's intake, located approximately 0.3 mile upstream of US 13/US 17, to a point approximately 0.5 mile upstream of the Martin County Regional Water And Sewer Authority's intake from Class C to Class WS-IV CA.
- (2) a portion of the Roanoke River [Index No. 23-(26)] (including tributaries) from a point approximately 0.5 mile upstream of the Martin County Regional Water And Sewer Authority's intake to a point approximately 1 mile downstream of Coniott Creek (Town Swamp) from Class C to Class WS-IV.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. January 1, 2013; July 3, 2012; November 1, 2007; April 1, 2001; April 1, 1999; August 1, 1998; August 3, 1992; July 1, 1991; February 1, 1986; August 1, 1985; Readopted Eff. November 1, 2019.

15A NCAC 02B.0314 CHOWAN RIVER BASIN

(a) Classifications assigned to the waters within the Chowan River Basin are set forth in the Chowan River Basin Classification Schedule, which may be inspected in the following places:

- (1) the Internet at [https://deq.nc.gov/about/divisions/water-](https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification)

resources/water-planning/classification-standards/river-basin-classification; and the following offices of the North Carolina Department of Environmental Quality:

- (A) Raleigh Regional Office
3800 Barrett Drive
Raleigh, North Carolina;
- (B) Washington Regional Office
943 Washington Square Mall
Washington, North Carolina; and
- (C) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed streams entering Virginia are classified "C."

(c) All classifications assigned to the waters of the Chowan River Basin are additionally classified as Nutrient Sensitive Waters (NSW) in accordance with the provisions of Rule .0214 of this Subchapter.

(d) The Chowan River Basin Classification Schedule was amended effective August 1, 1985.

History Note:

Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. November 1, 1978; March 1, 1977; Emergency Amendment [(f)] Eff. March 10, 1979, for a period of 120 days to expire on September 7, 1979; Emergency Amendment [(f)] Made Permanent Eff. September 6, 1979; Amended Eff. August 1, 1985; January 1, 1985; Readopted Eff. November 1, 2019.

15A NCAC 02B.0315 NEUSE RIVER BASIN

(a) Classifications assigned to the waters within the Neuse River Basin are set forth in the Neuse River Basin Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Raleigh Regional Office
3800 Barrett Drive
Raleigh, North Carolina;
 - (B) Washington Regional Office
943 Washington Square Mall
Washington, North Carolina;
 - (C) Wilmington Regional Office
127 Cardinal Drive Extension
Wilmington, North Carolina; and
 - (D) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) The Neuse River Basin Classification Schedule was amended effective:

- (1) March 1, 1977 see Paragraph (c) of this Rule;

- (2) December 13, 1979 see Paragraph (d) of this Rule;
 - (3) September 14, 1980 see Paragraph (e) of this Rule;
 - (4) August 9, 1981 see Paragraph (f) of this Rule;
 - (5) January 1, 1982 see Paragraph (g) of this Rule;
 - (6) April 1, 1982 see Paragraph (h) of this Rule;
 - (7) December 1, 1983 see Paragraph (i) of this Rule;
 - (8) January 1, 1985 see Paragraph (j) of this Rule;
 - (9) August 1, 1985 see Paragraph (k) of this Rule;
 - (10) February 1, 1986 see Paragraph (l) of this Rule;
 - (11) May 1, 1988 see Paragraph (m) of this Rule;
 - (12) July 1, 1988 see Paragraph (n) of this Rule;
 - (13) October 1, 1988 see Paragraph (o) of this Rule;
 - (14) January 1, 1990 see Paragraph (p) of this Rule;
 - (15) August 1, 1990;
 - (16) December 1, 1990 see Paragraph (q) of this Rule;
 - (17) July 1, 1991 see Paragraph (r) of this Rule;
 - (18) August 3, 1992;
 - (19) April 1, 1994 see Paragraph (t) of this Rule;
 - (20) July 1, 1996 see Paragraph (u) of this Rule;
 - (21) September 1, 1996 see Paragraph (v) of this Rule;
 - (22) April 1, 1997 see Paragraph (w) of this Rule;
 - (23) August 1, 1998 see Paragraph (x) of this Rule;
 - (24) August 1, 2002 see Paragraph (y) of this Rule;
 - (25) July 1, 2004 see Paragraph (z) of this Rule;
 - (26) November 1, 2007 see Paragraph (aa) of this Rule;
 - (27) January 15, 2011 see Paragraph (bb) of this Rule; and
 - (28) July 1, 2012 see Paragraph (cc) of this Rule.
- (c) The Neuse River Basin Classification Schedule was amended effective March 1, 1977 with the a total of 179 streams in the Neuse River Basin reclassified from Class D to Class C.
- (d) The Neuse River Basin Classification Schedule was amended effective December 13, 1979 as follows: Little River [Index No. 27-57-(21.5)] from source to the dam at Wake Forest Reservoir has been reclassified from Class A-II to Class A-II and B.
- (e) The Neuse River Basin Classification Schedule was amended effective September 14, 1980 as follows: The Eno River from Durham County State Road 1003 to U.S Highway 501 [Index No. 27-2-(16)] was reclassified from Class C and B to Class A-II and B.
- (f) The Neuse River Basin Classification Schedule was amended effective August 9, 1981 to remove the swamp water designation from all waters designated SA in the Neuse River Basin.
- (g) The Neuse River Basin Classification Schedule was amended effective January 1, 1982 as follows: The Trent River from the mouth of Brice Creek to the Neuse River [Index No. 27-101-(39)] was reclassified from Class SC Sw to Class SB Sw.
- (h) The Neuse River Basin Classification Schedule was amended effective April 1, 1982 as follows:
- (1) Longview Branch from source to Crabtree Creek [Index No. 27-33-(21)] was reclassified from Class C1 to Class C.
 - (2) Watson Branch from source to Walnut Creek [Index No. 27-34-(8)] was reclassified from Class C1 to Class C.
- (i) The Neuse River Basin Classification Schedule was amended effective December 1, 1983 to add the Nutrient Sensitive Waters classification to the entire river basin above Falls dam.
- (j) The Neuse River Basin Classification Schedule was amended effective January 1, 1985 as follows: Nobel Canal from source to Swift Creek [Index No. 27-97-(2)] was reclassified from Class C1 to Class C.
- (k) The Neuse River Basin Classification Schedule was amended effective August 1, 1985 as follows:
- (1) Southeast Prong Beaverdam Creek from source to Beaverdam Creek [Index No. 27-33-15(2)] was reclassified from Class C1 to Class C.
 - (2) Pigeon House branch from source to Crabtree Creek [Index No. 27-33-(18)] was reclassified from Class C1 to Class C.
 - (3) Rocky Branch from source to Pullen Road [Index No. 27-34-6-(1)] was reclassified from Class C1 to Class C.
 - (4) Chavis Branch from source to Watson Branch [Index No. 27-37-8-1] was reclassified from Class C1 to Class C.
- (l) The Neuse River Basin Classification Schedule was amended effective February 1, 1986 to reclassify all Class A-I and Class A-II streams in the Neuse River Basin to WS-I and WS-III.
- (m) The Neuse River Basin Classification Schedule was amended effective May 1, 1988 to add the Nutrient Sensitive Waters classification to the waters of the Neuse River Basin below the Falls Lake dam.
- (n) The Neuse River Basin Classification Schedule was amended effective July 1, 1988 as follows:
- (1) Smith Creek [Index No. 27-23-(1)] from source to the dam at Wake Forest Reservoir has been reclassified from Class WS-III to WS-I.
 - (2) Little River [Index No. 27-57-(1)] from source to the N.C. Hwy. 97 Bridge near Zebulon including all tributaries has been reclassified from Class WS-III to WS-I.
 - (3) An unnamed tributary to Buffalo Creek just upstream of Robertson's Pond in Wake County from source to Buffalo Creek including Leo's Pond has been reclassified from Class C to B.
- (o) The Neuse River Basin Classification Schedule was amended effective October 1, 1988 as follows:
- (1) Walnut Creek (Lake Johnson, Lake Raleigh) [Index No. 27-34-(1)]. Lake Johnson and Lake Raleigh have been reclassified from Class WS-III to Class WS-III B.
 - (2) Haw Creek (Camp Charles Lake) (Index No. 27-86-3-7) from the backwaters of Camp Charles Lake to dam at Camp Charles Lake has been reclassified from Class C to Class B.
- (p) The Neuse River Basin Classification Schedule was amended effective January 1, 1990 as follows:
- (1) Neuse-Southeast Pamlico Sound ORW Area which includes all waters within a line beginning at the southwest tip of Ocracoke

Island, and extending north west along the Tar-Pamlico River Basin and Neuse River Basin boundary line to Lat. 35 degrees 06' 30", thence in a southwest direction to Ship Point and all tributaries, were reclassified from Class SA NSW to Class SA NSW ORW.

- (2) Core Sound (Index No. 27-149) from northeastern limit of White Oak River Basin (a line from Hall Point to Drum Inlet) to Pamlico Sound and all tributaries, except Thorofare, John Day Ditch were reclassified from Class SA NSW to Class SA NSW ORW.

(q) The Neuse River Basin Classification Schedule was amended effective December 1, 1990 with the reclassification of the following waters as described in (1) through (3) of this Paragraph.

- (1) Northwest Creek from its source to the Neuse River (Index No. 27-105) from Class SC Sw NSW to Class SB Sw NSW;
- (2) Upper Broad Creek [Index No. 27-106-(7)] from Pamlico County SR 1103 at Lees Landing to the Neuse River from Class SC Sw NSW to Class SB Sw NSW; and
- (3) Goose Creek [Index No. 27-107-(11)] from Wood Landing to the Neuse River from Class SC Sw NSW to Class SB Sw NSW.

(r) The Neuse River Basin Classification Schedule was amended effective July 1, 1991 with the reclassification of the Bay River [Index No. 27-150-(1)] within a line running from Flea Point to the Hammock, east to a line running from Bell Point to Darby Point, including Harper Creek, Tempe Gut, Moore Creek and Newton Creek, and excluding that portion of the Bay River landward of a line running from Poorhouse Point to Darby Point from Classes SC Sw NSW and SC Sw NSW HQW to Class SA NSW.

(s) The Neuse River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(t) The Neuse River Basin Classification Schedule was amended effective April 1, 1994 as follows:

- (1) Lake Crabtree [Index No. 27-33-(1)] was reclassified from Class C NSW to Class B NSW.
- (2) The Eno River from Orange County State Road 1561 to Durham County State Road 1003 [Index No. 27-10-(16)] was reclassified from Class WS-IV NSW to Class WS-IV B NSW.
- (3) Silver Lake (Index No. 27-43-5) was reclassified from Class WS-III NSW to Class WS-III B NSW.

(u) The Neuse River Basin Classification Schedule was amended effective July 1, 1996 with the reclassification of Austin Creek [Index Nos. 27-23-3-(1) and 27-23-3-(2)] from its source to Smith Creek from classes WS-III NSW and WS-III NSW CA to class C NSW.

(v) The Neuse River Basin Classification Schedule was amended effective September 1, 1996 with the reclassification of an unnamed tributary to Hannah Creek (Tuckers Lake) [Index No. 27-52-6-0.5] from Class C NSW to Class B NSW.

(w) The Neuse River Basin Classification Schedule was amended effective April 1, 1997 with the reclassification of the Neuse River (including tributaries) from mouth of Marks Creek to a point 1.3 miles downstream of Johnston County State Road 1908 to class WS-IV NSW and from a point 1.3 miles downstream of Johnston County State Road 1908 to the Johnston County Water Supply intake (located 1.8 miles downstream of Johnston County State Road 1908) to class WS-IV CA NSW [Index Nos. 27-(36) and 27-(38.5)].

(x) The Neuse River Basin Classification Schedule was amended effective August 1, 1998 with the revision of the Critical Area and Protected Area boundaries surrounding the Falls Lake water supply reservoir. The revisions to these boundaries are the result of the US Army Corps of Engineers raising the lake's normal pool elevation. The result of these revisions is the Critical and Protected Area boundaries (classifications) may extend further upstream than the current designations. The Critical Area for a WS-IV reservoir is defined as 0.5 miles and draining to the normal pool elevation. The Protected Area for a WS-IV reservoir is defined as 5 miles and draining to the normal pool elevation. The normal pool elevation of the Falls Lake reservoir has changed from 250.1 feet mean sea level (msl) to 251.5 feet msl.

(y) The Neuse River Basin Classification Schedule was amended effective August 1, 2002 with the reclassification of the Neuse River [portions of Index No. 27-(56)], including portions of its tributaries, from a point 0.7 mile downstream of the mouth of Coxes Creek to a point 0.6 mile upstream of Lenoir County proposed water supply intake from Class C NSW to Class WS-IV NSW and from a point 0.6 mile upstream of Lenoir County proposed water supply intake to Lenoir proposed water supply intake from Class C NSW to Class WS-IV CA NSW.

(z) The Neuse River Basin Classification Schedule was amended effective July 1, 2004 with the reclassification of the Neuse River (including tributaries in Wake County) [Index Nos. 27-(20.7), 27-21, 27-21-1] from the dam at Falls Lake to a point 0.5 mile upstream of the Town of Wake Forest Water Supply Intake (former water supply intake for Burlington Mills Wake Finishing Plant) from Class C NSW to Class WS-IV NSW and from a point 0.5 mile upstream of the Town of Wake Forest proposed water supply intake to Town of Wake Forest proposed water supply intake [Index No. 27-(20.1)] from Class C NSW to Class WS-IV NSW CA. Fantasy Lake [Index No. 27 -57-3-1-1], a former rock quarry within a WS-II NSW water supply watershed, was reclassified from Class WS-II NSW to Class WS-II NSW CA.

(aa) The Neuse River Basin Classification Schedule was amended effective November 1, 2007 with the reclassification of the entire watershed of Deep Creek (Index No. 27-3-4) from source to Flat River from Class WS-III NSW to Class WS-III ORW NSW.

(bb) The Neuse River Basin Classification Schedule was amended effective January 15, 2011 with the reclassification of all Class C NSW waters and all Class B NSW waters upstream of the dam at Falls Reservoir from Class C NSW and Class B NSW to Class WS-V NSW and Class WS-V & B NSW, respectively. All waters within the Falls Watershed are within a designated Critical Water Supply Watershed and are subject to a special management strategy specified in Rules .0275 through .0283 of this Subchapter.

(cc) The Neuse River Basin Classification Schedule was amended effective July 1, 2012 as follows:

- (1) Johnston County owned quarry near Little River [Index No. 27-57-(20.2)] from Class C NSW to Class WS-IV NSW CA. The Division of Water Resources maintains a Geographic Information Systems data layer of this quarry;
- (2) a portion of the Neuse River [Index Number 27-(41.7)] from a point approximately 1.4 miles downstream of Gar Gut to a point approximately 1.7 miles upstream of Bawdy Creek from Class WS-V NSW to Class WS-IV NSW; and
- (3) a portion of the Neuse River [Index No. 27-(49.5)] from a point approximately 0.5 mile upstream of S.R. 1201 (Johnston County intake) to S.R. 1201 (Johnston County intake) from Class WS-IV NSW to Class WS-IV NSW CA.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);

Eff. February 1, 1976;

Amended Eff. November 1, 2007; July 1, 2004 (see SL2001-361); August 1, 2002; August 1, 1998; April 1, 1997; September 1, 1996; July 1, 1996; April 1, 1994; August 3, 1992; July 1, 1991; Amended Eff. January 15, 2011 (this permanent rule replaces the temporary rule approved by the RRC on December 16, 2010);

Amended Eff. July 1, 2012;

Readopted Eff. November 1, 2019.

15A NCAC 02B .0316 TAR-PAMLICO RIVER BASIN

(a) Classifications assigned to the waters within the Tar-Pamlico River Basin are set forth in the Tar-Pamlico River Basin Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Raleigh Regional Office
3800 Barrett Drive
Raleigh, North Carolina;
 - (B) Washington Regional Office
943 Washington Square Mall
Washington, North Carolina; and
 - (C) Division of Water Resources
Central Office

512 North Salisbury Street

Raleigh, North Carolina.

(b) All drainage canals not noted in the schedule are classified "C Sw," except the main drainage canals to Pamlico Sound and its bays which are classified "SC."

(c) The Tar-Pamlico River Basin Classification Schedule was amended effective:

- (1) March 1, 1977;
- (2) November 1, 1978;
- (3) June 8, 1980;
- (4) October 1, 1983;
- (5) June 1, 1984;
- (6) August 1, 1985;
- (7) February 1, 1986;
- (8) August 1, 1988;
- (9) January 1, 1990;
- (10) August 1, 1990;
- (11) August 3, 1992;
- (12) April 1, 1994;
- (13) January 1, 1996;
- (14) September 1, 1996;
- (15) October 7, 2003;
- (16) June 1, 2004;
- (17) November 1, 2007.

(d) The Tar-Pamlico River Basin Classification Schedule was amended effective August 1, 1988 as follows: Tar River (Index No. 28-94) from a point 1.2 miles downstream of Broad Run to the upstream side of Tranters Creek from Class C to Class B.

(e) The Tar-Pamlico River Basin Classification Schedule was amended effective January 1, 1990 by the reclassification of Pamlico River and Pamlico Sound [Index No. 29-(27)] which includes all waters within a line beginning at Juniper Bay Point and running due south to Lat. 35° 18' 00", long. 76° 13' 20", thence due west to lat. 35° 18' 00", long 76° 20' 00", thence northwest to Shell Point and including Shell Bay, Swanquarter and Juniper Bays and their tributaries, but excluding the Blowout, Hydeland Canal, Juniper Canal and Quarter Canal were reclassified from Class SA and SC to SA ORW and SC ORW.

(f) The Tar-Pamlico River Basin Classification Schedule was amended effective January 1, 1990 by adding the supplemental classification NSW (Nutrient Sensitive Waters) to all waters in the basin from source to a line across Pamlico River from Roos Point to Persimmon Tree Point.

(g) The Tar-Pamlico River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(h) The Tar-Pamlico River Basin Classification Schedule was amended effective April 1, 1994 with the reclassification of

Blounts Creek from Herring Run to Blounts Bay [Index No. 29-9-1-(3)] from Class SC NSW to Class SB NSW.

(i) The Tar-Pamlico River Basin Classification Schedule was amended effective January 1, 1996 with the reclassification of Tranters Creek [Index Numbers 28-103- (4.5), 28-103- (13.5), 28-103- (14.5) and 28-103- (16.5)] from a point 1.5 miles upstream of Turkey Swamp to the City of Washington's former auxiliary water supply intake, including tributaries, from Class WS-IV Sw NSW and Class WS-IV CA Sw NSW to Class C Sw NSW.

(j) The Tar-Pamlico River Basin Classification Schedule was amended effective September 1, 1996 with the addition of Huddles Cut (previously unnamed in the schedule) classified as SC NSW with an Index No. of 29-25.5.

(k) The Tar-Pamlico River Basin Classification Schedule was temporarily amended effective October 7, 2003 and permanently amended June 1, 2004 with the reclassification of a portion of Swift Creek [Index Number 28-78-(0.5)] and a portion of Sandy Creek [Index Number 28-78-1-(19)] from Nash County SR 1004 to Nash County SR 1003 from Class C NSW to Class C ORW NSW, and the waters that drain to these two creek portions to include only the ORW management strategy as represented by "+". The "+" symbol means that all undesignated waterbodies that drain to the portions of the two creeks referenced in this Paragraph shall comply with Rule .0225(c) of this Subchapter in order to protect the designated waters as per Rule .0203 of this Subchapter and to protect outstanding resource values found in the designated waters as well as in the undesignated waters that drain to the designated waters.

(l) The Tar-Pamlico River Basin Classification Schedule was amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of these UWLs.

- (1) Goose Creek Tidal Freshwater Marsh along the confluence of Goose Creek [Index No. 29-33] and the Pamlico River [Index No. 29-(27)], along Flatty Creek [Index No. 29-11-4] a length of the Pamlico River shoreline [Index No. 29-(27)] was reclassified to Class WL UWL.
- (2) Mallard Creek Tidal Freshwater Marsh along Mallard Creek [Index No. 29-13-(1)] 0.2 miles above its confluence with the Pamlico River to Class WL UWL.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);

Eff. February 1, 1976;

Amended Eff. August 1, 2003 (see S.L. 2003-433, s.1); September 1, 1996; January 1, 1996; April 1, 1994; August 3, 1992; August 1, 1990;

Temporary Amendment Eff. October 7, 2003;

Amended Eff. November 1, 2007; June 1, 2004;

Readopted Eff. November 1, 2019.

15A NCAC 02B.0317 PASQUOTANK RIVER BASIN

(a) Classifications assigned to the waters within the Pasquotank River Basin are set forth in the Pasquotank River Basin

Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Washington Regional Office
943 Washington Square Mall
Washington, North Carolina; and
 - (B) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) All drainage canals not noted in the schedule are classified "C."

(c) The Pasquotank River Basin Classification Schedule was amended effective:

- (1) March 1, 1977;
- (2) May 18, 1977;
- (3) December 13, 1979;
- (4) January 1, 1985;
- (5) February 1, 1986;
- (6) January 1, 1990;
- (7) August 1, 1990;
- (8) August 3, 1992;
- (9) August 1, 1998;
- (10) August 1, 2000;
- (11) November 1, 2007.

(d) The Pasquotank River Basin Classification Schedule was amended effective January 1, 1990 by the reclassification of Alligator River [Index Nos. 30-16-(1) and 30-16-(7)] from source to U.S. Hwy. 64 and all tributaries except Swindells Canal, Florida Canal, New Lake, Fairfield Canal, Carters Canal, Dunbar Canal and Intracoastal Waterway (Pungo River - Alligator River Canal) were reclassified from C Sw and SC Sw to C Sw ORW and SC Sw ORW.

(e) The Pasquotank River Basin Classification Schedule was amended effective August 1, 1990 as follows:

- (1) Croatan Sound [Index No. 30-20-(1)] from a point of land on the southern side of mouth of Peter Mashoes Creek on Dare County mainland following a line eastward to Northwest Point on Roanoke Island and then from Northwest Point following a line west to Reeds Point on Dare County mainland was reclassified from Class SC to Class SB.
- (2) Croatan Sound [Index No. 30-20-(1.5)] from Northwest Point on Roanoke Island following a line west to Reeds Point on Dare County mainland to William B. Umstead Memorial Bridge was reclassified from Class SC to Class SA.

(f) The Pasquotank River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply

protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(g) The Pasquotank River Basin Classification Schedule was amended effective August 1, 1998 with the revision to the primary classification for a portion of the Pasquotank River [Index No. 30-3-(1.7)] from Class WS-IV to Class WS-V.

(h) The Pasquotank River Basin Classification Schedule was amended effective August 1, 2000 with the reclassification of Lake Phelps [Index No. 30-14-4-6-1] from Class C Sw to Class B Sw ORW.

(i) The Pasquotank River Basin Classification Schedule was amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of these UWLs.

- (1) Phelps Lake Natural Lake Shoreline near Phelps Lake [Index No. 30-14-4-6-1] was reclassified to Class WL UWL.
- (2) Nags Head Woods near Buzzard Bay [Index No. 30-21-1] was reclassified to Class WL UWL.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. November 1, 2007; August 1, 2000; August 1, 1998; August 3, 1992; August 1, 1990; January 1, 1990; February 1, 1986; Readopted Eff. November 1, 2019.

15A NCAC 02D.0601 PURPOSE AND SCOPE

(a) The purpose of this Section is to set forth the requirements of the Commission for monitoring air pollution emissions and filing reports covering their discharge into the outdoor atmosphere of the state.

(b) This Section shall apply to all persons subject to the provisions of Subchapters 02D or 02Q of this Chapter.

(c) Monitoring, recordkeeping, and reporting may also be required by other rules including 15A NCAC 02D .0524, .0536, .1110, or .1111.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4); Eff. February 1, 1976; Amended Eff. July 1, 1984; June 18, 1976; Temporary Amendment Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner; Amended Eff. April 1, 1999; July 1, 1996; July 1, 1994; Readopted Eff. November 1, 2019.

15A NCAC 02D.0602 DEFINITIONS

For the purpose of this Section, the following definitions apply:

- (1) "Applicable requirement" means any rule, standard, or requirement established in Subchapters 02D or 02Q of this Chapter or Article 21 of the North Carolina General Statutes.
- (2) "Calendar quarter" means:
 - (a) the time period from January 1 through March 31;
 - (b) the time period from April 1 through June 30;
 - (c) the time period from July 1 through September 30; or
 - (d) the time period from October 1 through December 31.
- (3) "Capacity factor" means the ratio of the average load on a machine or equipment for a defined time period considered to the capacity rating of the machine or equipment.
- (4) "Distillate oils" means fuel oil, including recycled oil, that complies with the specifications for fuel oil numbers 1 or 2, as defined by the American Society for Testing and Materials in ASTM D-396, "Standard Specification for Fuel Oils."
- (5) "Emission standard" means a State rule or federal regulation setting forth:
 - (a) an allowable rate of emissions, level of opacity, or prescribing equipment;
 - (b) fuel specifications;
 - (c) workplace standards; or
 - (d) material usage that result in control of air pollution emissions.
- (6) "Excess emissions" means emissions of an air pollutant in excess of an emission standard.
- (7) "Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.
- (8) "Good operation and maintenance" means minimizing air pollutant emissions from air pollution control equipment, reducing equipment malfunctions, and ensuring continued compliance with State rules, federal regulations, and permit requirements.
- (9) "Nitric acid plant" means any facility producing nitric acid 30 to 70 percent in strength by either the pressure or atmospheric pressure process.
- (10) "Permit condition" means:
 - (a) a condition set to comply with or to avoid any applicable requirement; or
 - (b) a condition set to maintain compliance with toxic air pollutant acceptable ambient levels or ambient air quality standards.
- (11) "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate oils, residual oils, lubricants, or other products through the distillation of petroleum or

- through the redistillation, cracking, or reforming of unfinished petroleum derivatives.
- (12) "Residual oils" means crude oil, fuel oil that does not comply with the specifications according to the definition of distillate oil, or all fuel oil numbers 4, 5, and 6, as defined by the American Society for Testing and Materials in ASTM D-396, "Standard Specification for Fuel Oils."
- (13) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge, but does not include facilities where conversion to sulfuric acid is used primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4); Eff. February 1, 1976; Amended Eff. April 1, 1999; July 1, 1984; June 18, 1976; Readopted Eff. November 1, 2019.

15A NCAC 02D .0604 EXCEPTIONS TO MONITORING AND REPORTING REQUIREMENTS

- (a) Unless a rule specifies otherwise, during a period of monitoring system malfunction the owner or operator of a source shall not be required to monitor or report emissions if the owner or operator of the source shows that the malfunction was unavoidable, is being repaired as expeditiously as practicable, and no applicable requirements are violated. The owner or operator of the source shall, upon request of the Director, provide documentation of continuous monitoring system performance when system repairs or adjustments have been made. Malfunctions of the monitoring system that result from inadequate or poor operation and maintenance practices shall not be exempted from monitoring and reporting requirements. Operation and maintenance practices may be specified by the manufacturer, federal regulation, Rule, or a permit condition.
- (b) The owner or operator of a source that operates less than 30 days per 12-month period shall not be required to monitor emissions from that source unless Subchapters 02D and 02Q of this Chapter specifies otherwise. However, the owner or operator shall maintain records to document that the source was operated less than 30 days per 12-month period.
- (c) The owner or operator of a source exempted from needing a permit by 15A NCAC 02Q .0102 shall not be required to monitor emissions from that source unless;
- (1) required by a specific rule in Subchapters 02D and 02Q of this Chapter, or
 - (2) required as a part of an enforcement settlement.
- However, the owner or operator shall maintain records to document that the source qualifies for the permit exemption.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4); Eff. February 1, 1976;

Amended Eff. April 1, 1999; July 1, 1996; July 1, 1988; July 1, 1984; June 18, 1976; Readopted Eff. November 1, 2019.

15A NCAC 02D .0605 GENERAL RECORDKEEPING AND REPORTING REQUIREMENTS

- (a) The owner or operator of a source subject to a requirement of this Subchapters 02D or 02Q of this Chapter shall maintain:
- (1) records detailing all malfunctions pursuant to 15A NCAC 02D .0535;
 - (2) records of all testing conducted pursuant to rules in Subchapter 02D;
 - (3) records of all monitoring conducted pursuant to Subchapters 02D or 02Q of this Chapter,
 - (4) records detailing activities relating to any compliance schedule in this Subchapter; and
 - (5) for unpermitted sources, records necessary to determine compliance with rules in Subchapters 02D or .02Q of this Chapter.
- (b) The permit shall specify:
- (1) the type of monitoring required and the frequency of the monitoring;
 - (2) the type of records to be maintained; and
 - (3) the type of reports to be submitted and the frequency of submitting these reports, as necessary to determine compliance with rules in Subchapters 02D or 02Q of this Chapter or with an emission standard or permit condition.
- (c) If the Director has evidence that a source is violating an emission standard or permit condition, the Director may require the owner or operator of any source subject to the requirements in Subchapters 02D or 02Q of this Chapter to submit to the Director any information necessary to determine the compliance status of the source.
- (d) The owner or operator of a source of excess emissions that last for more than four hours and that results from a malfunction, a breakdown of process or control equipment, or any other abnormal conditions shall report excess emissions in accordance with the requirements of 15A NCAC 02D .0535.
- (e) Copies of all records and reports generated in response to the requirements pursuant to 15A NCAC 02D .0600 shall be retained by the owner or operator for a period of two years after the date that the record was made or the report submitted, except that the retention period shall be extended if necessary to comply with other State or federal requirements.
- (f) All records and reports generated in response to the requirements of 15A NCAC 02D .0600 shall be made available to personnel of the Division for inspection.
- (g) The owner or operator of a source subject to the requirements of 15A NCAC 02D .0600 shall comply with the requirements of 15A NCAC 02D .0600 at his or her own cost.
- (h) No person shall falsify any information required by a rule in Subchapter 02D or a permit issued pursuant to 15A NCAC 02Q. No person shall knowingly submit any falsified information required by a rule in Subchapter 02D or a permit issued pursuant to Subchapter 02Q of this Chapter.

History Note: Authority G.S. 143-215.3(a)(1); 143-215-65; 143-215.66; 143-215.1078(a)(4);

*Eff. February 1, 1976;
Amended Eff. January 1, 2007; April 1, 1999; July 1, 1984; June 18, 1976;
Readopted Eff. November 1, 2019.*

**15A NCAC 02D .0606 SOURCES COVERED BY
APPENDIX P OF 40 CFR PART 51**

(a) The following sources shall be monitored as described in 40 CFR Part 51, Appendix P:

- (1) fossil fuel-fired steam generators;
- (2) nitric acid plants;
- (3) sulfuric acid plants; and
- (4) petroleum refineries.

Sources covered by 15A NCAC 02D .0524 shall be exempt from this Rule.

(b) The monitoring systems required by Paragraph (a) of this Rule shall meet the minimum specifications described in Paragraphs 3.3 through 3.8 of Appendix P of 40 CFR Part 51.

(c) The excess emissions recorded by the monitoring systems required to be installed by this Rule shall be reported no later than 30 days after the end of the quarter to the Division in the manner described in Paragraphs 4 and 5.1 through 5.3.3 of Appendix P of 40 CFR Part 51 except that a six-minute time period shall be an appropriate alternative opacity averaging period as described in Paragraph 4.2 of Appendix P of 40 CFR Part 51. The owner or operator of any source subject to this Rule that is required to monitor emissions of sulfur dioxide or nitrogen oxides pursuant to any other State rule or federal regulation with continuous emission monitoring systems, shall monitor compliance with the sulfur dioxide emission standard in 15A NCAC 02D .0516, shall monitor the nitrogen oxide emission standard in 15A NCAC 02D .0519 or 15A NCAC 02D .1400 with a continuous emission monitoring system. Compliance with sulfur dioxide and nitrogen oxide emission standards shall be determined by averaging hourly continuous emission monitoring system values over a 24-hour block period beginning at midnight. To compute the 24-hour block average, the average hourly values shall be added and the sum shall be divided by 24. With the exception of opacity monitoring, a minimum of four data points containing one data point in each of the 15-minute quadrants of the hour shall be required to determine a valid hour value unless the continuous emission monitoring system is installed to meet the provisions of 40 CFR Part 75. If a continuous emission monitoring system is installed that meets the requirements of 40 CFR Part 75, the minimum number of data points shall be determined by 40 CFR Part 75.

(d) For emissions of sulfur dioxide, fuel analysis may be used in place of a continuous emissions monitoring system if the source is not required to monitor emissions of sulfur dioxide using a continuous emissions monitoring system pursuant to another State rule or federal regulation. If fuel analysis is used as an alternative method to determine emissions of sulfur dioxide, the test methods described in 15A NCAC 02D .2600 shall be used except that gross or composite samples, gross caloric value, moisture content, and sulfur content shall be determined per shipment. Alternatively, gross or composite samples, gross caloric value, moisture content, and sulfur content may be determined by sampling the fuel as fired if the owner or operator demonstrates that sampling as fired provides a more accurate estimate of sulfur dioxide emissions

than sampling each shipment. If sulfur dioxide emissions are determined by sampling fuel as fired, then a fuel sample shall be taken every four hours. These four-hour samples shall be composited into a daily sample, and the daily sample shall be composited into a weekly sample. This weekly sample shall be analyzed using the procedures in 15A NCAC 02D .2600. The sulfur dioxide emission rate shall also be determined using fuel analysis data. Sulfur retention credit shall be granted and used for computing sulfur dioxide emission rates if a source, on a case-by-case basis, quantitatively and empirically demonstrates the sulfur retention.

(e) If a referenced portion of Appendix P of 40 CFR Part 51 speaks of the "state" or "state plan," the requirements described in Appendix P of 40 CFR Part 51 shall apply to those sources to which the requirements pertain.

(f) The owner or operator of the source shall conduct a daily zero and span check of the continuous opacity monitoring system and continuous emission monitoring system following the manufacturer's recommendations and shall comply with the requirements 15A NCAC 02D .0613.

(g) The owner or operator of the source may request to use a different procedure or methodology than that required by this Rule if one of the conditions identified in 40 CFR Part 51, Appendix P, Section 3.9 exists. The person requesting to use a different procedure or methodology shall submit the request to the Director along with a description of the different procedure or methodology proposed to be used, an explanation of why the procedure or methodology required by this Rule will not work, and a showing that the proposed procedure or methodology is equivalent to the procedure or methodology being replaced. The Director shall approve the use of this procedure or methodology if one of the conditions identified in 40 CFR Part 51, Appendix P, Section 3.9 exists, the procedure or methodology required by this Rule will not work, and that the proposed procedure or methodology is equivalent to the procedure or methodology that it will replace.

(h) The owner or operator of the source shall report to the Director no later than 30 days following the end of the quarter the following information:

- (1) for fuel analysis per shipment:
 - (A) the quantity and type of fuels burned;
 - (B) the BTU value;
 - (C) the sulfur content in percent by weight; and
 - (D) the calculated sulfur dioxide emission rates expressed in the same units as the applicable standard.
- (2) for continuous monitoring of emissions:
 - (A) the daily calculated sulfur dioxide and nitrogen oxide emission rates expressed in the same units as the applicable standard for each day; and
 - (B) other information required by Appendix P of 40 CFR Part 51.

(i) If emission testing for compliance with the sulfur dioxide emission standard is required, the testing shall be done according to 40 CFR Part 60, Appendix A, Method 6, 6C, or other approved methods in 15A NCAC 02D .2600.

(j) If emission testing for compliance with the nitrogen oxide emission standard is required, the testing shall be done according to 40 CFR Part 60, Appendix A, Method 7, 7E, or other approved methods in 15A NCAC 02D .2600.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4); Eff. February 1, 1976; Amended Eff. June 1, 2008; January 1, 2005; April 1, 2003; April 1, 1999; May 1, 1985; July 1, 1983; December 1, 1976; June 18, 1976; Readopted Eff. November 1, 2019.

15A NCAC 02D .0607 LARGE WOOD AND WOOD-FOSSIL FUEL COMBINATION UNITS

(a) This Rule shall apply to wood-fired steam generator units with a heat input from wood fuels, or the sum of the heat inputs from wood fuels and liquid or solid fossil fuels for generators not covered by 15A NCAC 02D .0524 or .0606, that exceeds 250 million Btu per hour and with an annual average capacity factor greater than 30 percent as demonstrated to the Director by the owner or operator of the source.

(b) The owner or operator of a wood-fired steam generator unit governed by this Rule shall install, calibrate, maintain, and operate, as specified in 40 CFR Part 60 Appendix B Performance Specification 1, opacity continuous emission monitoring systems on all stacks discharging the flue gases from one or more steam generator units governed by this Rule.

(c) The owner or operator of the source shall conduct a daily zero and span check of the opacity continuous emission monitoring system following the manufacturer's recommendations and shall comply with the requirements of 15A NCAC 02D .0613.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); Eff. February 1, 1976; Amended Eff. July 1, 1999; July 1, 1984; June 18, 1976; Readopted Eff. November 1, 2019.

15A NCAC 02D .0608 OTHER LARGE COAL OR RESIDUAL OIL BURNERS

(a) The owner or operator of a fuel burning unit shall determine sulfur dioxide emissions into the ambient air if the unit:

- (1) burns coal or residual oil;
- (2) is not required to monitor sulfur dioxide emissions by 15A NCAC 02D .0524 or 02D .0606;
- (3) has a total heat input of more than 250 million Btu per hour from coal and residual oil; and
- (4) has an annual average capacity factor greater than 30 percent as determined from the three most recent calendar year reports to the Federal Power Commission or as otherwise demonstrated by the owner or operator. If the unit has not been in existence for three calendar years, its three-calendar-year average capacity factor shall be determined by estimating its annual capacity factors for enough future years to allow a three-calendar-year average capacity

factor to be computed. If this three-calendar-year average capacity factor exceeds 30 percent, the unit shall be monitored. If this three-calendar-year average capacity factor does not exceed 30 percent, the unit is not required to be monitored.

(b) Once the unit is being monitored in accordance with Paragraph (a) of this Rule, it shall continue to be monitored until its most recent three-calendar-year average capacity factor does not exceed 25 percent. If the unit is not being monitored in accordance with Subparagraph (a) of this Rule, it need not be monitored until its most recent three-calendar-year average capacity factor exceeds 35 percent.

(c) If units required to be monitored have a common exhaust or if units required to be monitored have a common exhaust with units not required to be monitored, then the common exhaust may be monitored and the sulfur dioxide emissions is not required to be apportioned among the units with the common exhaust.

(d) The owner or operator of the source shall determine sulfur dioxide emissions by:

- (1) an instrument for continuous monitoring and recording of sulfur dioxide emissions; or
- (2) analyses of representative samples of fuels to determine Btu value and percent sulfur content.

(e) The owner or operator of a source subject to this Rule that is required to monitor emissions of sulfur dioxide pursuant to any State rule or federal regulation with continuous emission monitoring systems shall monitor compliance with the sulfur dioxide emission standard in 15A NCAC 02D .0516 with a continuous emission monitoring system. Compliance with sulfur dioxide emission standards shall be determined by averaging hourly continuous emission monitoring system values over a 24-hour block period beginning at midnight. To compute the 24-hour block average, the average hourly values are added and the sum shall be divided by 24. With the exception of opacity monitoring, a minimum of four data points, containing one data point in each of the 15-minute quadrants of the hour is required to determine a valid hour value unless the continuous emission monitoring system is installed that meets the requirements of 40 CFR Part 75. If a continuous emission monitoring system is installed that meets the requirements of 40 CFR Part 75, the minimum number of data points shall be determined by 40 CFR Part 75.

(f) For emissions of sulfur dioxide, fuel analysis may be used in place of a continuous emissions monitoring system if the source is not required to monitor emissions of sulfur dioxide using a continuous emissions monitoring system pursuant to a State rule or federal regulation. If fuel analysis is used as an alternative method to determine emissions of sulfur dioxide, then:

- (1) for coal, the test methods described in 15A NCAC 02D .2600 shall be used except that gross or composite samples, gross caloric value, moisture content, and sulfur content shall be determined per shipment. Alternatively, gross or composite samples, gross caloric value, moisture content, and sulfur content may be determined by sampling the fuel as fired if the owner or operator demonstrates that sampling as fired provides a more accurate estimate of sulfur dioxide emissions than sampling each

shipment. If sulfur dioxide emissions are determined by sampling fuel as fired, then a fuel sample shall be taken every four hours. These four-hour samples shall be composited into a daily sample and the daily sample shall be composited into a weekly sample. This weekly sample shall be analyzed using the procedures in 15A NCAC 02D .2600. The sulfur dioxide emission rate shall also be determined using fuel analysis data. Sulfur retention credit shall be granted and used for computing sulfur dioxide emission rates if a source, on a case-by-case basis, quantitatively and empirically demonstrates the sulfur retention.

- (2) for residual oil, the test methods described in 15A NCAC 02D .2600 shall be used except that sulfur content shall be determined per shipment. Alternatively, gross or composite samples, gross caloric value, moisture content, and sulfur content may be determined sampling the fuel as fired if the owner or operator demonstrates that by sampling as fired provides a more accurate estimate of sulfur dioxide emissions than sampling each shipment. If sulfur dioxide emissions are determined by sampling fuel as fired, then a fuel sample shall be taken every four hours. These four-hour samples shall be composited into a daily sample and the daily sample shall be composited into a weekly sample. This weekly sample shall be analyzed using the procedures in Section .2600 of this Subchapter. Residual oil shall be collected in accordance with ASTM D4177 or D4057.

(g) The owner or operator of the source may request to use a different procedure or methodology than that required by this Rule if one of the conditions identified in 40 CFR Part 51, Appendix P, Section 3.9 exists. The person requesting to use a different procedure or methodology shall submit the request to the Director along with a description of the different procedure or methodology proposed to be used, an explanation of why the procedure or methodology required by this Rule will not work, and a showing that the proposed procedure or methodology is equivalent to the procedure or methodology being replaced. The Director shall approve the use of this procedure or methodology if he or she finds that one of the conditions identified in 40 CFR Part 51, Appendix P, Section 3.9 exists, that the procedure or methodology required by this Rule will not work, and that the proposed procedure or methodology is equivalent to the procedure or methodology that it will replace.

(h) The owner or operator of the source shall report to the Director no later than 30 days following the end of the quarter the following information:

- (1) for fuel analysis per shipment:
 - (A) the quantity and type of fuels burned;
 - (B) the Btu value;
 - (C) the sulfur content in percent by weight; and

- (D) the calculated sulfur dioxide emission rates expressed in the same units as the applicable standard.
- (2) for continuous monitoring of emissions:
 - (A) the daily calculated sulfur dioxide emission rates expressed in the same units as the applicable standard for each day; and
 - (B) other information required by Appendix P of 40 CFR Part 51.
- (i) The owner or operator of the source shall conduct a daily zero and span check of the continuous emission monitoring system, following the manufacturer's recommendations, and shall comply with the requirements of 15A NCAC 02D .0613.
- (j) If emission testing for compliance with the sulfur dioxide emission standard is required, the testing shall be done according to 40 CFR Part 60, Appendix A, Method 6, 6C, or other approved methods in 15A NCAC 02D .2600.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4); Eff. June 18, 1976; Amended Eff. June 1, 2008; January 1, 2005; April 1, 2003; April 1, 1999; July 1, 1996; July 1, 1988; July 1, 1984; Readopted Eff. November 1, 2019.

15A NCAC 02D .0610 FEDERAL MONITORING REQUIREMENTS

- (a) This Rule shall apply to sources subject to monitoring, recordkeeping, or reporting requirements contained in:
- (1) 40 CFR Part 60, New Source Performance Standards (NSPS);
 - (2) 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAP);
 - (3) 40 CFR Part 63, Maximum Achievable Control Technology (MACT) or Generally Available Control Technology (GACT);
 - (4) 40 CFR Part 75, Acid Rain; or
 - (5) 40 CFR Part 97, Cross State Air Pollution Rule CSAPR.
- (b) An air pollutant from sources governed pursuant to Paragraph (a) of this Rule for which monitoring is not required by Paragraph (a) of this Rule shall comply with the requirements set forth in 15A NCAC 02D .0611 if the pollutant from this source is subject to an emission standard.
- (c) Sources that are not subject to any monitoring, recordkeeping, or reporting requirements set forth in Paragraph (a) of this Rule shall comply with the requirements in 15A NCAC 02D .0611.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4); Eff. June 18, 1976; Amended Eff. April 1, 1999; July 1, 1984; Readopted Eff. November 1, 2019.

15A NCAC 02D .0611 MONITORING EMISSIONS FROM OTHER SOURCES

(a) This Rule shall apply to sources of air pollutants, including toxic air pollutants, from sources that are not covered by 15A NCAC 02D .0606, .0607, .0608, or .0610(a).

(b) The owner or operator of a source shall maintain records of production rates, throughputs, material usage, and other process operational information necessary to determine compliance with the facility's permit and all applicable requirements. The Director shall specify in the facility's permit, pursuant to 15A NCAC 02D .0605, the types of records that the owner or operator shall maintain.

(c) If the records maintained under Paragraph (b) of this Rule are inadequate to determine compliance with the facility's permit and all applicable requirements, the Director may require the owner or operator to use monitoring instruments, and if monitoring instruments are necessary to demonstrate compliance with rules in Subchapters 02D or 02Q of this Chapter or with an emission standard or permit condition, the owner or operator of a source shall:

- (1) install, calibrate, operate, and maintain, in accordance with applicable performance specifications in 40 CFR Part 60 Appendix B, process and control equipment monitoring instruments or procedures necessary to demonstrate compliance with the emission standards in Subchapters 02D and 02Q of this Chapter;
- (2) comply with the requirements of 15A NCAC 02D .0613; and
- (3) maintain, in writing, data and reports of any monitoring instruments or procedures necessary to comply with Subparagraph (1) of this Paragraph that will document the compliance status of the sources or control equipment.

(d) If monitoring instruments are necessary to demonstrate good operation and maintenance, the owner or operator of a source shall:

- (1) install, calibrate, operate, and maintain, in accordance with applicable performance specifications in 40 CFR Part 60 Appendix B, process and control equipment monitoring instruments or procedures necessary to demonstrate good operation and maintenance;
- (2) comply with the requirements of 15A NCAC 02D .0613 unless otherwise specified in any other applicable State rule or federal regulation, including 40 CFR Part 75 and 40 CFR 60.13. The Director shall determine that compliance with the quality assurance provisions of 40 CFR Part 51, Appendix P, is adequate if the data demonstrates that good operation and maintenance is being achieved; and
- (3) maintain, in writing, data and reports of any monitoring instruments or procedures necessary to comply with Subparagraph (1) of this Paragraph that will document that good operation and maintenance is being achieved.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4); Eff. April 1, 1999; Readopted Eff. November 1, 2019.

15A NCAC 02D .0612 ALTERNATIVE MONITORING AND REPORTING PROCEDURES

(a) Except as set forth in Paragraph (b) of this Rule, the owner or operator of a source may petition the Director to allow monitoring or data reporting procedures varying from those prescribed by Subchapters 02D or 02Q of this Chapter.

(b) This Rule shall not apply to monitoring or reporting requirements of 40 CFR Part 60, 61, 62, 63, 75, or 97.

(c) To petition to use alternative monitoring or data reporting procedures in place of those procedures in Rules 15A NCAC 02D .0606, .0607, or .0608 or Sections 15A NCAC 02D .0900, .1200, or .1400, the owner or operator of the source shall submit a written petition to the Director containing the following:

- (1) the name and address of the company and the name and telephone number of a responsible official, as defined by 15A NCAC 02Q .0303;
- (2) a description of the sources at the facility to which the petition applies;
- (3) identification of the rule or rules for which the alternative is sought;
- (4) the basis or reason that alternative monitoring and reporting procedure is more desirable than those prescribed by the rule;
- (5) a proposal of alternative monitoring and reporting procedure;
- (6) a demonstration that the alternative procedure is at least as accurate as that prescribed by the rule;
- (7) a showing that one or more of the following conditions exist:
 - (A) a continuous monitoring system or other device prescribed by the rule would not provide accurate determinations of emissions;
 - (B) the emissions from two or more sources of different design and operating characteristics are combined before release to the atmosphere or the emissions are released to the atmosphere, through more than one point;
 - (C) the requirements prescribed by the rule would impose an extreme economic burden on the source owner or operator. The determination of an extreme economic burden shall be made on the basis of whether meeting the requirements prescribed by the rule would produce serious hardship without equal or greater benefit to the public;
 - (D) the monitoring systems prescribed by the rule cannot be installed because of physical limitations at the facility. The

determination of such limitations shall be made on the basis of whether meeting the requirements prescribed by this Rule would necessitate reconstruction of the facility; or

(E) the alternative monitoring or reporting procedure is more accurate and precise than that prescribed by the rule;

(8) any other information that the petitioner believes would be helpful to the Director in evaluating the application.

(d) The Director may require the petitioner to submit other information that is necessary to evaluate the proposed monitoring or reporting procedures.

(e) The Director may approve the petition for alternative monitoring and reporting procedures if:

(1) the petition is submitted in accordance with this Rule and contains all the information required by Paragraph (c) of this Rule;

(2) the petition satisfies the showing required by Subparagraph (c)(7) of this Rule;

(3) the proposed alternative monitoring or data reporting procedures provide information of sufficient quality to determine the amount of emissions or the adequacy of the emission control device or practice, such that the compliance status of the source can be determined by reviewing this information; and

(4) the facility is in compliance with, or under a schedule for compliance with, all applicable air quality rules.

(f) If monitoring or reporting requirements that differ from those specified in the appropriate rule in Subchapters 02D or 02Q of this Chapter are approved by the Director, the permit shall contain a condition stating such monitoring or reporting requirements.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4); Eff. April 1, 1999; Readopted Eff. November 1, 2019.

15A NCAC 02D .0613 QUALITY ASSURANCE PROGRAM

(a) Any owner or operator of a facility required to operate a monitoring device by this Subchapters 02D or 02Q of this Chapter shall develop and implement a quality assurance program for the monitoring device.

(b) The Director shall require the owner or operator of a facility required to operate a monitoring device by Subchapters 02D or 02Q of this Chapter to submit a description of the quality assurance program if:

- (1) the maximum actual emission rate is more than 75 percent of the applicable emission standard;
- (2) the facility has violated an emission standard or a permit condition; or
- (3) the facility has failed to obtain quality assured data.

A description of the quality assurance program shall be submitted to the Director within 60 days upon receipt of request.

(c) Except for gaseous continuous emission monitoring systems, the quality assurance program required by Paragraph (a) or (b) of this Rule shall include, if applicable:

- (1) procedures and frequencies for calibration;
- (2) standards traceability;
- (3) operational checks;
- (4) maintenance;
- (5) auditing;
- (6) data validation; and
- (7) a schedule for implementing the quality assurance program.

Continuous opacity monitoring systems may satisfy the requirements of Paragraph (a) of this Rule by complying with 40 CFR Part 51, Appendix M, Method 203, as proposed in 57 FR 46114, or 40 CFR Part 60, Appendix F, Procedure 3. Except for opacity monitors and gaseous continuous emission monitoring systems, a manufacturer's recommended quality assurance procedure may be used as a quality assurance program if it includes the applicable requirements in Subparagraphs (c)(1) through (c)(7) of this Paragraph.

(d) Owners or operators that operate continuous emission monitoring systems for a gaseous pollutant may satisfy the requirements of Paragraphs (a) or (b) of this Rule by developing and implementing a written quality assurance program containing information required by 40 CFR Part 60, Appendix F, Section 3, Quality Assurance Procedures.

(e) The owner or operator of a facility shall certify all opacity and gaseous continuous emission monitoring systems following applicable performance specifications in 40 CFR Part 60, Appendix B, within 60 days of monitor installation unless otherwise specified in permit or any other applicable rules. The owner or operator of a facility required to install an opacity or gaseous continuous emission monitoring systems shall notify the Director at least 60 days before installation unless otherwise specified in permit or in 40 CFR Part 60, 61, 63, or 75. The notification shall include plans or schematic diagrams of the proposed monitor location.

(f) Quality assurance programs for ambient monitors shall comply with the requirements in 40 CFR Part 58.

(g) A description of the quality assurance program shall be available on-site for inspection within 30 days of monitor certification.

(h) The Director shall approve the quality assurance program within 30 days of submittal if he or she finds that the quality assurance program will assure that the precision and accuracy of the data for the pollutants being measured are within the design limits of the instruments being used. If the Director finds that the proposed quality assurance program does not meet the requirements of this Paragraph, he or she shall notify the owner or operator of the facility of any deficiencies in the proposed quality assurance program. The owner or operator shall have 30 days after receiving written notification from the Director to correct the deficiencies.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4); Eff. April 1, 1999; Readopted Eff. November 1, 2019.

15A NCAC 02D .0614 COMPLIANCE ASSURANCE MONITORING

(a) General Applicability. Except as set forth in Paragraph (b) of this Rule, the requirements of this Paragraph shall apply to a pollutant-specific emissions unit at a facility required to obtain a permit pursuant to 15A NCAC 02Q .0500 if the unit:

- (1) is subject to an emission limitation or standard for the applicable regulated air pollutant, or a surrogate thereof, other than an emission limitation or standard that is exempt pursuant to Subparagraph (b)(1) of this Rule;
- (2) uses a control device to achieve compliance with any such emission limitation or standard; and
- (3) has potential pre-control device emissions of the applicable regulated air pollutant that are equal to or greater than 100 percent of the amount, in tons per year, required for a source to be classified as a major source. For purposes of this Subparagraph, "potential pre-control device emissions" means the same as "potential to emit" as defined in 15A NCAC 02Q .0103, except that emission reductions achieved by the applicable control device shall not be taken into account.

(b) The following exemptions to this Rule shall apply.

- (1) Exempt emission limitations or standards. The requirements of this Rule shall not apply to any of the following emission limitations or standards:
 - (A) emission limitations or standards proposed by the Administrator of the Environmental Protection Agency after November 15, 1990, pursuant to section 111 or 112 of the federal Clean Air Act;
 - (B) stratospheric ozone protection requirements pursuant to Title VI of the federal Clean Air Act;
 - (C) Acid Rain Program requirements pursuant to sections 404, 405, 406, 407(a), 407(b), or 410 of the federal Clean Air Act;
 - (D) emission limitations or standards or other applicable requirements that apply solely under an emissions trading program approved under the rules of Subchapters 02D and 02Q of this Chapter and that are incorporated in a permit issued pursuant to 15A NCAC 02Q .0500;
 - (E) an emissions cap that is approved pursuant to the rules of Subchapters 02D and 02Q of this Chapter and incorporated in a permit issued pursuant to 15A NCAC 02Q .0500; or
 - (F) emission limitations or standards for which a permit issued pursuant to 15A NCAC 02Q .0500 specifies a

continuous compliance determination method, as defined in 40 CFR 64.1. This exemption shall not apply if the applicable compliance method includes an assumed control device emission reduction factor that could be affected by the actual operation and maintenance of the control device, such as a surface coating line controlled by an incinerator for which continuous compliance is determined by calculating emissions on the basis of coating records and an assumed control device efficiency factor based on an initial performance test. In this example, 15A NCAC 02D .0614 would apply to the control device and capture system, but not to the remaining elements of the coating line, such as raw material usage.

(2) Exemption for backup utility power emissions units. The requirements of this Rule shall not apply to a utility unit, as defined in 40 CFR 72.2, that is municipally-owned if the owner or operator provides documentation in a permit application submitted pursuant to 15A NCAC 02Q .0500 that:

- (A) the utility unit is exempt from all monitoring requirements in 40 CFR Part 75, including the appendices thereto;
- (B) the utility unit is operated for the sole purpose of providing electricity during periods of peak electrical demand or emergency situations and will be operated consistent with that purpose throughout the permit term. The owner or operator shall provide historical operating data and relevant contractual obligations to document that this criterion is satisfied; and
- (C) the actual emissions from the utility unit, based on the average annual emissions over the last three calendar years of operation, or such shorter time period that is available for units with fewer than three years of operation, are less than 50 tons per year and are expected to remain so.

(c) For the purposes of this Rule, the definitions in 40 CFR 64.1 shall apply with the following exceptions:

- (1) "Applicable requirement" and "regulated air pollutant" shall have the same definition as in 15A NCAC 02Q .0103.
- (2) "Part 70 or 71 permit application" means an application, or any supplement to a previously submitted application, submitted by the owner or operator to obtain a permit under 15A NCAC 02Q .0500.

- (3) "Part 70 or 71 permit" means a permit issued under 15A NCAC 02Q .0500.
- (4) "Permitting authority" means the Division of Air Quality.

(d) The owner or operator subject to the requirements of this rule shall comply with these requirements:

- (1) 40 CFR 64.3, Monitoring Design Criteria;
- (2) 40 CFR 64.4, Submittal Requirements;
- (3) 40 CFR 64.5, Deadlines for Submittals;
- (4) 40 CFR 64.7, Operation of Approved Monitoring; and
- (5) 40 CFR 64.9, Reporting and Recordkeeping Requirements.

(e) The Division shall follow the procedures and requirements in 40 CFR Part 64.6, Approval of Monitoring, in reviewing and approving or disapproving monitoring plans and programs submitted under this Rule.

(f) Based on the result of a determination made pursuant to 40 CFR 64.7(d)(2), the Director may require the owner or operator to develop and implement a quality improvement plan. If a quality improvement plan is required, the quality improvement plan shall be developed and implemented according to the procedures and requirements of 40 CFR 64.8, Quality Improvement Plan (QIP) Requirements.

History Note: Authority G.S. 143-215.3(a)(3); 143-215.65; 143-215.66; 143-215.107(a)(4); Eff. April 1, 1999; Amended Eff. January 1, 2009; Readopted Eff. November 1, 2019.

15A NCAC 02D .2101 APPLICABILITY

(a) This Section shall apply to an owner or operator of a stationary source with more than a threshold quantity of a regulated substance in a process as determined by 40 CFR 68.115, except as set forth in Paragraph (b) of this Rule. An owner or operator of a stationary source shall comply with this Section no later than the latest of the following dates:

- (1) June 21, 1999;
- (2) three years after the date on which a regulated substance is first listed according to 40 CFR 68.130; or
- (3) the date on which a regulated substance is first present above a threshold quantity in a process.

(b) The following substances shall be exempt from the provisions of this Section:

- (1) ammonia used as an agricultural nutrient, when held by farmers, pursuant to 40 CFR 68.125; and
- (2) a flammable substance listed in Tables 3 and 4 of 40 CFR 68.130 that is used as a fuel or held for sale as a fuel at a retail facility pursuant to 40 CFR 68.126.

(c) A covered process that meets the requirements of 40 CFR 68.10(b) is eligible for Program 1 requirements.

(d) A covered process that meets the requirements of 40 CFR 68.10(c) is subject to Program 2 requirements.

(e) A covered process that meets the requirements of 40 CFR 68.10(d) is subject to Program 3 requirements.

(f) If at any time a covered process no longer meets the eligibility criteria of its Program level, the owner or operator of the stationary source shall comply with the requirements of the new Program level as set forth in Paragraphs (c), (d), and (e) of this Rule as it applies to the process and shall update the risk management plan as required by 40 CFR 68.190.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); Eff. July 1, 2000; Readopted Eff. November 1, 2019.

15A NCAC 02D .2102 DEFINITIONS

For the purpose of this Section the definitions set forth in 40 CFR 68.3 shall apply with the following exception: "Implementing agency" means the Division of Air Quality.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); Eff. July 1, 2000; Readopted Eff. November 1, 2019.

15A NCAC 02D .2103 REQUIREMENTS

Except as provided in 40 CFR 68.2 and 15A NCAC 02D .2101(b), the owner or operator of a stationary source governed by this Section shall comply with all the applicable requirements in:

- (1) 40 CFR 68.12, General Requirements;
- (2) 40 CFR 68.15, Management;
- (3) 40 CFR Part 68, Subpart B, Hazard Assessment, including 40 CFR Part 68, Appendix A, Table of Toxic Endpoints;
- (4) 40 CFR Part 68, Subpart C, Program 2 Prevention Program;
- (5) 40 CFR Part 68, Subpart D, Program 3 Prevention Program;
- (6) 40 CFR Part 68, Subpart E, Emergency Response;
- (7) 40 CFR Part 68, Subpart G, Risk Management Plan;
- (8) 40 CFR 68.200, Recordkeeping; and
- (9) 40 CFR 68.220(f).

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); Eff. July 1, 2000; Readopted Eff. November 1, 2019.

15A NCAC 02D .2104 IMPLEMENTATION

(a) The owner or operator of a stationary source governed by this Section shall:

- (1) submit a risk management plan, or a revised plan as required by 40 CFR 68.150, to the Environmental Protection Agency; and
- (2) submit a source certification or, in its absence, submit a compliance schedule to meet the requirements of 15A NCAC 02Q .0508(h)(2).

(b) The Division shall use one or more mechanisms such as completeness checks, source audits, record reviews, or facility inspections to ensure that facilities covered under this Rule are in

compliance with the requirements of this Section. The Division shall conduct periodic audits in accordance with the audit procedures in 40 CFR 68.220.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); Eff. July 1, 2000; Readopted Eff. November 1, 2019.

15A NCAC 02D .2301 PURPOSE

This Section provides for the creation, banking, transfer, and use of emission reduction credits for:

- (1) nitrogen oxides (NOx);
- (2) volatile organic compounds (VOC);
- (3) sulfur dioxide (SO₂);
- (4) fine particulate (PM_{2.5}); and
- (5) ammonia (NH₃);

for offsets pursuant to 15A NCAC 02D .0531, Sources in Nonattainment Area.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12); Eff. December 1, 2005; Readopted Eff. November 1, 2019.

15A NCAC 02D .2302 DEFINITIONS

For the purposes of this Section, the following definitions shall apply:

- (1) "Air permit" means a construction and operation permit issued pursuant to 15A NCAC 02Q .0300, Construction and Operation Permits, or 15A NCAC 02Q .0500, Title V Procedures.
- (2) "Banking" means a system for recording emission reduction credits so that they may be used or transferred in the future.
- (3) "Enforceable" means enforceable by the Division. Methods for ensuring that emission reduction credits are enforceable include conditions in air permits issued by the Division.
- (4) "Federally designated ozone nonattainment area in North Carolina" means an area designated as nonattainment for ozone and described in 40 CFR 81.334.
- (5) "Federally designated fine particulate (PM_{2.5}) nonattainment area in North Carolina" means an area designated as nonattainment for fine particulate (PM_{2.5}) and described in 40 CFR 81.334.
- (6) "Netting Demonstration" means the act of calculating a "net emissions increase" pursuant to the preconstruction review requirements of Title I, Part D of the federal Clean Air Act and 15A NCAC 02D .0530, Prevention of Significant Deterioration, or 15A NCAC 02D .0531, Sources in Nonattainment Area.
- (7) "Permanent" means assured for the life of the corresponding emission reduction credit

through an enforceable mechanism such as a permit condition or revocation.

- (8) "Quantifiable" means that the amount, rate, and characteristics of the emission reduction credit can be estimated through a reliable, reproducible method.
- (9) "Real" means a reduction in actual emissions emitted into the air.
- (10) "Surplus" means not required by any local, State, or federal law, rule, order, or requirement and in excess of reductions used by the Division in issuing any air permit, in excess of any conditions in an air permit to avoid an otherwise applicable requirement, or to demonstrate attainment of ambient air quality standards in 15A NCAC 02D .0400 or reasonable further progress towards achieving attainment of ambient air quality standards. For determining the amount of surplus emission reductions, a seasonal emission limitation or standard shall be assumed to apply throughout the year. The following shall not be considered surplus:
 - (a) emission reductions that have previously been used to avoid 15A NCAC 02D .0530 or .0531 (new source review) through a netting demonstration;
 - (b) emission reductions in hazardous air pollutants listed pursuant to Section 112(b) of the federal Clean Air Act to the extent needed to comply with 15A NCAC 02D .1109, .1111, or .1112. However, emission reductions in hazardous air pollutants that are also volatile organic compounds beyond that necessary to comply with 15A NCAC 02D .1109, .1111, or .1112 shall be surplus; or
 - (c) emission reductions used to offset excess emissions from another source as part of an alternative mix of controls ("bubble") demonstration pursuant to 15A NCAC 02D .0501.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12); Eff. December 1, 2005; Readopted Eff. November 1, 2019.

15A NCAC 02D .2303 APPLICABILITY AND ELIGIBILITY

- (a) Applicability. Any facility that has the potential to emit nitrogen oxides, volatile organic compounds, sulfur dioxide, ammonia, or fine particulate (PM_{2.5}) in amounts greater than 25 tons per year and that is in a federally designated ozone or fine particulate (PM_{2.5}) nonattainment area in North Carolina is eligible to create and bank nitrogen oxides, volatile organic compounds, sulfur dioxide, ammonia, or fine particulate (PM_{2.5}) emission reduction credits.

(b) Eligibility of emission reductions.

- (1) To be approved by the Director as an emission reduction credit, a reduction in emissions shall be real, permanent, quantifiable, enforceable, and surplus and shall have occurred:
 - (A) for ozone after December 31, 2002 for areas previously designated nonattainment according to the 1997 8-hour ozone standard, including the Charlotte-Gastonia-Rock Hill, NC-SC nonattainment area, the Raleigh-Durham-Chapel Hill nonattainment area, the Rocky Mount nonattainment area, and the Haywood and Swain Counties (Great Smoky Mountains National Park) nonattainment area, and after December 31, 2000 for all other nonattainment areas.
 - (B) for fine particulate (PM2.5) after December 31, 2002 for the areas previously designated nonattainment according to the 1997 PM2.5 standard, including the former Greensboro-Winston-Salem-High Point, NC and Hickory-Morganton-Lenoir, NC nonattainment areas.
- (2) To be eligible for consideration as emission reduction credits, emission reductions may be created by any of the following methods:
 - (A) installation of control equipment beyond what is necessary to comply with existing rules;
 - (B) a change in process inputs, formulations, products or product mix, fuels, or raw materials;
 - (C) a reduction in the actual emission rate;
 - (D) a reduction in operating hours;
 - (E) production curtailment or reduction in throughput;
 - (F) shutdown of emitting sources or facilities; or
 - (G) any other enforceable method resulting in real, permanent, quantifiable, enforceable, and surplus reduction of emissions.

(c) Ineligible for emission reduction credit. Emission reductions from the following shall not be eligible to be banked as emission reduction credits:

- (1) sources covered by a special order or variance until compliance with the emission standards that are the subject of the special order or variance is achieved;
- (2) sources that have operated less than 24 months;
- (3) emission allocations and allowances used in a federal emissions budget trading program;
- (4) emission reductions outside North Carolina; or
- (5) mobile sources.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12); Eff. December 1, 2005; Amended Eff. July 1, 2007; Readopted Eff. November 1, 2019.

15A NCAC 02D .2304 QUALIFICATION OF EMISSION REDUCTION CREDITS

For purposes of calculating the amount of emission reduction that can be quantified as an emission reduction credit, the following procedures shall be followed:

- (1) The source's average actual annual emissions before the emission reduction shall be calculated in tons per year. In calculating average actual annual emissions before the emission reduction, data from the 24-month period immediately preceding the reduction in emissions shall be used. The Director may allow the use of a different time period, not to exceed seven years immediately preceding the reduction in emissions, if the owner or operator of the source documents that such period is more representative of normal source operation.
- (2) The emission reduction credit generated by the emission reduction shall be calculated by subtracting the allowable annual emissions rate following the reduction from the average actual annual emissions prior to the reduction.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12); Eff. December 1, 2005; Readopted Eff. November 1, 2019.

15A NCAC 02D .2305 CREATING AND BANKING EMISSION REDUCTION CREDITS

(a) The owner or operator of a source seeking to create and bank emission reduction credits shall submit, under signature of the responsible official as defined in 15A NCAC 02Q .0303, the following information, which shall be on an application form provided by the Division:

- (1) the company name, contact person and telephone number, and street address of the source seeking the emission reduction credit;
- (2) a description of the type of source where the proposed emission reduction occurred or will occur;
- (3) a detailed description of the method or methods to be employed to create the emission reduction;
- (4) the date that the emission reduction occurred or will occur;
- (5) quantification of the emission reduction credit as described in 15A NCAC 02D .2304;
- (6) a demonstration that the proposed method for ensuring the reductions are permanent and enforceable, including any necessary application to amend the facility's air permit or,

for a shutdown of an entire facility, a request for permit rescission;

- (7) whether any portion of the reduction in emissions to be used to create the emission reduction credit has previously been used to avoid the requirements of 15A NCAC 02D .0530 Prevention of Significant Deterioration or .0531 Nonattainment Major New Source Review through a netting demonstration;
- (8) other information necessary to demonstrate that the reduction in emissions is real, permanent, quantifiable, enforceable, and surplus; and
- (9) a complete permit application if the permit needs to be modified to create or enforce the emission reduction credit.

(b) The Director shall issue the source a certificate of emission reduction credit after the facility's permit is modified, if necessary, to reflect the permanent reduction of emissions, if:

- (1) all the information required to be submitted by Paragraph (a) of this Rule has been submitted;
- (2) the source is eligible pursuant to 15A NCAC 02D .2303; and
- (3) the reduction in emissions is real, permanent, quantifiable, enforceable, and surplus.

The Director shall register the emission reduction credit for use only after the reduction has occurred.

(c) Processing schedule.

- (1) The Division shall send written acknowledgement of receipt of the request to create and bank emission credits within 10 days of receipt of the request.
- (2) The Division shall review requests to create and bank emission credits within 30 days of receipt to determine whether the application is complete. If the application is incomplete the Division shall notify the applicant of the deficiency. The applicant shall have 90 days to submit the requested information. If the applicant fails to provide the requested information within 90 days, the Division shall deny the application.
- (3) The Director shall either approve or disapprove the request within 90 days after receipt of a complete application requesting the banking of emission reduction credits. Upon approval the Director shall issue a certificate of emission reduction credit.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12); Eff. December 1, 2005; Readopted Eff. November 1, 2019.

15A NCAC 02D .2306 DURATION OF EMISSION REDUCTION CREDITS

Banked emission reduction credits shall be permanent until withdrawn by the owner or operator, or by the Director pursuant to 15A NCAC 02D .2310.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12); Eff. December 1, 2005; Readopted Eff. November 1, 2019.

15A NCAC 02D .2307 USE OF EMISSION REDUCTION CREDITS

(a) The owner or operator holding emission reduction credits may withdraw the emission reduction credits and may use them in any manner consistent with this Section.

(b) An emission reduction credit may be withdrawn only by the owner of record or the Director pursuant to 15A NCAC 02D .2310 and may be withdrawn in whole or in part. In the case of a partial withdrawal, the Director shall issue a revised certificate of emission reduction credit to the owner of record reflecting the new amount of the credit and shall revoke the original certificate.

(c) Emission reduction credits may be used for the following purposes:

- (1) as offsets or netting demonstrations required by 15A NCAC 02D .0531 for a major new source or a major modification to an existing major source of:
 - (A) nitrogen oxides or volatile organic compounds in a federally designated ozone nonattainment area, or
 - (B) fine particulate (PM2.5) in a federally designated PM2.5 nonattainment area; or
- (2) to remove a permit condition that created an emission reduction credit.

(d) Emission reduction credits generated through reducing emissions of one pollutant shall not be used for trading with or offsetting another pollutant. For example, emission reduction credits for volatile organic compounds in an ozone nonattainment area shall not be used to offset nitrogen oxide emissions.

(e) Limitations on use of emission reduction credits.

- (1) Emission reduction credits shall not be used to exempt a source from:
 - (A) nonattainment major new source review (15A NCAC 02D .0531), unless the emission reduction credits have been banked by the facility at which the new or modified source is located and have been banked during the period specified in 15A NCAC 02D .0531. This Subparagraph shall not preclude the use of emission reductions not banked as emission credits to complete netting demonstrations;
 - (B) new source performance standards (15A NCAC 02D .0524), national emission standards for hazardous air pollutants (15A NCAC 02D .1110), or maximum achievable control technology (15A NCAC 02D .1109, .1111, or .1112); or
 - (C) any other requirement of 15A NCAC 02D unless the emission reduction

credits have been banked by the facility at which the new or modified source is located.

- (2) Emission reduction credits shall not be used to allow a source to emit above the limit established by a rule in 15A NCAC 02D. If the owner or operator seeks to permit a source to emit above the limit established by a rule in 15A NCAC 02D, he or she shall follow the procedures in 15A NCAC 02D .0501 for an alternative mix of controls ("bubble").

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12); Eff. December 1, 2005; Readopted Eff. November 1, 2019.

15A NCAC 02D .2308 CERTIFICATES AND REGISTRY

(a) Certificates of emission reduction credit issued by the Director shall contain the following information:

- (1) the pollutant reduced (nitrogen oxides, volatile organic compounds, sulfur dioxide, ammonia, fine particulate);
- (2) the amount of the credit in tons per year;
- (3) the date the reduction occurred;
- (4) company name, the street address, and county of the source where the reduction occurred; and
- (5) the date of issuance of the certificate.

(b) The Division shall maintain an emission reduction credit registry that constitutes the official record of all certificates of emission reduction credit issued and all withdrawals made. The registry shall be available for public review. For each certificate issued, the registry shall show the amount of the emission reduction credit, the pollutant reduced, the name and location of the facility generating the emission reduction credit, and the facility contact person. The Division shall maintain records of all deposits, deposit applications, withdrawals, and transactions.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12); Eff. December 1, 2005; Readopted Eff. November 1, 2019.

15A NCAC 02D .2309 TRANSFERRING EMISSION REDUCTION CREDITS

(a) If the owner of a certificate of emission reduction credit transfers the certificate to a new owner, the Director shall issue a certificate of emission reduction credit to the new owner and shall revoke the certificate held by the current owner of record.

(b) If the owner of a certificate of emission reduction credit transfers part of the emission reduction credits represented by the certificate to a new owner, the Director shall issue a certificate of emission reduction credit to the new owner reflecting the transferred amount and shall issue a certificate of emission reduction credit to the current owner of record reflecting the amount of emission reduction credit remaining after the transfer. The Director shall revoke the original certificate of emission reduction credit.

(c) For any transferred emission reduction credits, the creator of the emission reduction credit shall comply with the conditions in the appropriate permit that assure permanency of the emission reduction. The user of any transferred emission reduction credits shall not be held liable for any failure of the creator to comply with its permit.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12); Eff. December 1, 2005; Readopted Eff. November 1, 2019.

15A NCAC 02D .2310 REVOCATION AND CHANGES OF EMISSION REDUCTION CREDITS

(a) The Director may withdraw emission reduction credits if the emission reduction credits:

- (1) have already been used;
- (2) are incorrectly calculated; or
- (3) achieved emission reductions that are less than those claimed in the certificate of emission reduction credit.

(b) If a banked emission reduction credit was calculated using an emission factor and the emission factor changes, the Director shall revise the banked emission reduction credit to reflect the change in the emission factor. If a banked emission reduction credit had been used, then no change shall be made in the used credit.

(c) If a rule is adopted or amended in Subchapters 02D or 02Q of this Chapter, the Director shall adjust the banked emission reduction credits to account for changes in emissions that would be allowed by the new emission limitation with which the source must currently comply. If a source has permanently ceased operations, then the Director shall make no adjustments in its banked emissions reduction credits. If a banked emission reduction credit has been used, no change shall be made in the used credit.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12); Eff. December 1, 2005; Readopted Eff. November 1, 2019.

15A NCAC 02D .2311 MONITORING

The owner or operator of a source whose emissions are being reduced to create an emission reduction credit shall verify the reduction in emissions with a source test, continuous emission monitoring, or other methods that measure the actual emissions as defined in 15A NCAC 02Q .0202, or may require the use of parametric monitoring to show that the source or its control device is being operated in the manner that it is designed or is permitted.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.66; 143-215.107(a)(12); Eff. December 1, 2005; Readopted Eff. November 1, 2019.

15A NCAC 02D .2601 PURPOSE AND SCOPE

(a) The purpose of this Section is to assure consistent application of testing methods and methodologies to demonstrate compliance with emission standards.

- (b) This Section shall apply to all air pollution sources.
- (c) Emission compliance testing shall comply with the procedures of this Section, except as otherwise required by:
- (1) 40 CFR Part 60, New Source Performance Standards in 15A NCAC 02D .0524;
 - (2) 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants in 15A NCAC 02D .1110; or
 - (3) 40 CFR Part 63, Maximum Achievable Control Technology requirements in 15A NCAC 02D .1111.
- (d) Applicable source test audit requirements shall comply with the procedures specified in 40 CFR 60.8, 40 CFR 61.13, or 40 CFR 63.7.
- (e) Test methods other than those specified in this Section may be used pursuant to 15A NCAC 02D .2602(h)(3). Requests for the use of alternative test methods shall be submitted to the Director at least 45 days prior to testing.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); Eff. June 1, 2008; Readopted Eff. November 1, 2019.

15A NCAC 02D .2602 GENERAL PROVISIONS ON TEST METHODS AND PROCEDURES

- (a) The owner or operator of a source shall perform all required tests at his or her own expense.
- (b) The owner or operator of an air pollution source shall arrange for air emission testing protocols to be provided to the Director prior to air pollution testing. The testing protocol, using the requirements in 15A NCAC 02D .2603, shall not be required to be pre-approved by the Director prior to air pollution testing. If requested by the owner or operator at least 45 days before conducting the test, the Director shall review air emission testing protocols for pre-approval prior to testing.
- (c) Any person proposing to conduct an emissions test to demonstrate compliance with an applicable standard shall notify the Director at least 15 days before beginning the test.
- (d) The owner and operator of the source shall provide:
- (1) sampling ports, pipes, lines, or appurtenances for the collection of samples and data required by the test procedure;
 - (2) scaffolding and safe access to the sample and data collection locations in compliance with Occupational Safety and Health Administration regulations; and
 - (3) light, electricity, and other utilities required for sample and data collection.
- (e) The owner or operator of the source shall arrange for controlling and measuring the production rates during the period of air testing. The owner or operator of the source shall ensure that the equipment or process being tested is operated at a production rate that meets the purpose of the test. The individual conducting the emission test shall describe the procedures used to obtain accurate process data and include in the test report the average production rates determined during each testing period.
- (f) The final air emission test report shall be submitted to the Director no later than 30 days following sample collection.

- (1) The final test report shall include a signed statement by the responsible official, as defined in 15A NCAC 02Q .0303, indicating the compliance or noncompliance of the stack test results with the applicable emission standards.
- (2) The results of the tests shall be expressed in the same units as the emission limits given in the corresponding compliance rule, unless otherwise specified in the applicable permit or pre-approved air emissions testing protocol.
- (3) The final test report shall describe the training and air testing experience of the person directing the test.
- (4) The owner or operator may request an extension of time in which to submit the final test report. The Director shall approve an extension request if he or she finds the cause of the delay was unforeseeable and beyond the control of the owner or operator.

(g) Within 15 days of submission of a test report signifying noncompliance, the owner, operator, or responsible official shall submit to the Director a written plan that includes:

- (1) interim actions to minimize emissions pending demonstration of compliance;
- (2) corrective actions in place or proposed to return the source to compliance;
- (3) a proposed date for the compliance retest; and
- (4) changes necessary to update the site-specific test plan prior to a retest.

(h) The Director shall make the final determination regarding a testing procedure deviation and the validity of the compliance test. The Director shall:

- (1) allow deviations from a method specified in a rule in this Section if the owner or operator of the tested source demonstrates that the deviation is appropriate.
- (2) prescribe alternate test procedures on an individual basis if the alternative method is necessary to secure more reliable test data.
- (3) prescribe or approve methods on an individual basis for sources or pollutants for which no test method is specified in this Section if the methods can be demonstrated to determine compliance of permitted emission sources or pollutants.

(i) The Director shall authorize the Division of Air Quality to conduct independent tests of any source subject to a rule in this Subchapter if necessary to determine the compliance status of that source or to verify test data submitted relating to that source. Test results obtained by the Division of Air Quality using the appropriate testing procedures described in this Section shall be presumed accurate despite differing results from any other test.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); Eff. July 1, 2008; Readopted Eff. November 1, 2019.

15A NCAC 02D .2603 TESTING PROTOCOL

- (a) Testing protocols shall include:
- (1) the facility and testing company contact information, including a mailing address, email, and phone number;
 - (2) the air permit number and revision including permitted source name and ID number;
 - (3) an introduction explaining the purpose of the proposed test, including identifying the regulations and permit requirements for which compliance is being demonstrated and the allowable emission limits;
 - (4) a description of the facility and the source to be tested;
 - (5) a description of the test procedures, including sampling equipment, analytical procedures, sampling locations, reporting and data reduction requirements, and internal quality assurance and quality control activities;
 - (6) source test audit requirements applicable to the proposed test methods;
 - (7) all modifications made to the test methods referenced in the protocol;
 - (8) the permitted maximum process rate, maximum normal operation process rate, and the proposed target process rate during testing;
 - (9) a description of how production or process data will be documented during testing; and
 - (10) the proposed test schedule.
- (b) The tester shall not deviate from the protocol or test plan unless the owner or operator documents the deviation in the test report.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); Eff. July 1, 2008; Readopted Eff. November 1, 2019.

15A NCAC 02D .2604 NUMBER OF TEST POINTS

- (a) Method 1 of Appendix A to 40 CFR Part 60 shall be used to select a suitable site and the appropriate number of test points for the following situations:
- (1) particulate testing;
 - (2) volatile organic compounds testing;
 - (3) velocity and volume flow rate measurements;
 - (4) testing for acid mist or other pollutants occurring in liquid droplet form;
 - (5) sampling for which velocity and volume flow rate measurements are necessary for computing final test results; or
 - (6) isokinetic sampling.
- (b) Method 1 of Appendix A to 40 CFR Part 60 shall be used as written with the following clarifications:
- (1) Testing installations with multiple ducts may be accomplished by testing the discharge stacks to which the ducts exhaust. If the multiple ducts are individually tested, then Method 1 shall be applied to each duct individually.

- (2) If test ports in a duct are less than two diameters downstream or less than one-half diameter upstream from any disturbance, such as a fan, elbow, change in diameter, or other physical feature disturbing the gas flow, the acceptability of the test location shall be determined by the Director before the test and after a review of technical and economic factors.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); Eff. June 1, 2008; Readopted Eff. November 1, 2019.

15A NCAC 02D .2605 VELOCITY AND VOLUME FLOW RATE

Method 2 of Appendix A to 40 CFR Part 60 shall be applied as written and used concurrently with any test method requiring velocity and volume flow rate measurements.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); Eff. June 1, 2008; Readopted Eff. November 1, 2019.

15A NCAC 02D .2606 MOLECULAR WEIGHT

(a) Except as allowed by Paragraph (b) of this Rule, Method 3 of Appendix A to 40 CFR Part 60 shall be applied as written and used concurrently with any test method if necessary to determine the molecular weight of the gas being sampled by determining the fraction of carbon dioxide, oxygen, carbon monoxide, and nitrogen.

(b) The grab sample technique may be substituted using instruments such as Bacharach Fyrite™, with the following restrictions:

- (1) Instruments such as the Bacharach Fyrite™ shall only be used for the measurement of carbon dioxide.
- (2) Gas samples shall be taken during the emission test run to account for variations in the carbon dioxide concentration. At least four samples shall be taken during a one-hour test run.
- (3) The total concentration of gases other than carbon dioxide, oxygen, and nitrogen shall be less than one percent.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); Eff. June 1, 2008; Readopted Eff. November 1, 2019.

15A NCAC 02D .2607 DETERMINATION OF MOISTURE CONTENT

Method 4 of Appendix A to 40 CFR Part 60 shall be applied as written and used concurrently with any test method requiring determination of gas moisture content.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); Eff. June 1, 2008; Readopted Eff. November 1, 2019.

15A NCAC 02D .2608 NUMBER OF RUNS AND COMPLIANCE DETERMINATION

Each test, excluding fuel sample tests, shall consist of three consecutive runs of the applicable test method at the same operating condition. If other operating conditions or scenarios are to be tested, then three consecutive runs shall be performed for each of these operating conditions or scenarios. For determining compliance with an applicable emission standard, the average of the results of all repetitions shall apply. On a case-by-case basis, compliance may be determined using the arithmetic average of two run results if the Director determines that an unavoidable and unforeseeable event happened beyond the owner's, operator's, or tester's control and that a third run could be not be completed.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); Eff. June 1, 2008; Readopted Eff. November 1, 2019.

15A NCAC 02D .2609 PARTICULATE TESTING METHODS

(a) Except as allowed by Paragraph (b) of this Rule, Method 5 of Appendix A to 40 CFR Part 60 and Method 202 of Appendix M to 40 CFR Part 51 shall be used to demonstrate compliance with particulate emission standards. The owner or operator may request an exemption from using Method 202 and the Director shall approve the exemption if the Director determines the demonstration of compliance with an applicable emission standard is unlikely to change with or without the Method 202 results included.

(b) Method 17 of Appendix A to 40 CFR Part 60 may be used instead of Method 5 if:

- (1) the stack gas temperature does not exceed 320° F;
- (2) particulate matter concentrations are known to be independent of temperature over the normal range of temperatures characteristic of emissions from a specified source category; and
- (3) the stack does not contain liquid droplets or is not saturated with water vapor.

(c) Particulate testing on steam generators that use soot blowing as a routine means for cleaning heat transfer surfaces shall be conducted so the contribution of the soot blowing is represented as follows:

- (1) If the soot blowing periods are expected to represent less than 50 percent of the total particulate emissions, only one of the test runs shall include a soot blowing cycle.
- (2) If the soot blowing periods are expected to represent more than 50 percent of the total particulate emissions, two of the test runs shall each include a soot blowing cycle. No more than two of the three test runs shall include soot blowing.

(3) The average emission rate of particulate matter for steam generators that use soot blowing shall be calculated by the equation:

$$E_{AVG} = (S * E_S) / [(A + B) / (A * R)] + E_N [((R - S) / R) - (B * S) / (A * R)]$$

where:

E_{AVG} = the average emission rate in pounds per million Btu for daily operating time;

E_S = the average emission rate in pounds per million Btu during soot blowing runs;

E_N = the average emission rate in pounds per million Btu during non-soot blowing runs;

A = number of hours of soot blowing during soot blowing runs;

B = number of hours without soot blowing during soot blowing runs;

R = average number of hours of operation per 24 hours; and

S = average number of hours of soot blowing per 24 hours.

(4) The Director may approve an alternate method of prorating the emission rate during soot blowing if the owner or operator of the source demonstrates that changes in boiler load or stack flow occurred during soot blowing that are not representative of normal soot blowing operations.

(d) Unless otherwise specified by an applicable rule or federal subpart, the minimum time per test point for particulate testing shall be two minutes and the minimum time per test run shall be one hour.

(e) Unless otherwise specified by an applicable rule or federal subpart, the sample gas drawn during each test run shall be at least 30 dry standard cubic feet.

(f) Method 201 in combination with Method 202 of Appendix M to 40 CFR Part 51 or Method 201A in combination with Method 202 of Appendix M to 40 CFR Part 51 shall be used to determine compliance with PM2.5 or PM10 emission standards. If the exhaust gas contains entrained moisture droplets, Method 5 of Appendix A of 40 CFR Part 60 in combination with Method 202 of Appendix M to 40 CFR Part 51 shall be used to determine PM2.5 or PM10 emission compliance.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); Eff. June 1, 2008; Readopted Eff. November 1, 2019.

15A NCAC 02D .2610 OPACITY

(a) Method 9 of Appendix A to 40 CFR Part 60 shall be used to show compliance with opacity standards if opacity is determined by visual observation.

(b) Method 22 of Appendix A to 40 CFR Part 60 shall be used to determine compliance with opacity standards if these standards are based upon the frequency of fugitive emissions that are visible during the observation period specified in the applicable rule or by permit condition.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); Eff. June 1, 2008; Readopted Eff. November 1, 2019.

15A NCAC 02D .2611 SULFUR DIOXIDE TESTING METHODS

(a) If compliance with a sulfur dioxide emission standard is to be demonstrated for a combustion source through stack sampling, the procedures described in Method 6 or Method 6C to Appendix A of 40 CFR Part 60 shall be used as follows:

- (1) If Method 6 of Appendix A to 40 CFR Part 60 is used to determine compliance, compliance shall be determined by averaging six 20-minute runs without more than 20 minutes elapsing between any two consecutive runs.
- (2) If Method 6C of Appendix A to 40 CFR Part 60 is used to determine compliance, the sampling shall be performed continuously during each run.

(b) Method 8 of Appendix A to 40 CFR Part 60 shall be used to determine compliance with emission standards for sulfuric acid manufacturing plants governed by 15A NCAC 02D .0517 and spodumene ore roasting plants governed by 15A NCAC 02D .0527. Compliance shall be determined by averaging emissions measured from three one-hour test runs, unless otherwise specified in the applicable rule or federal subpart.

(c) For stationary gas turbines, Method 20 of Appendix A to 40 CFR Part 60 shall be used to demonstrate compliance with applicable sulfur dioxide emissions standards.

(d) Fuel burning sources not required to use continuous emissions monitoring to demonstrate compliance with sulfur dioxide emission standards may determine compliance with sulfur dioxide emission standards by stack sampling or by analyzing sulfur content of the fuel.

(e) For a combustion source demonstrating compliance with the sulfur dioxide emission standards by analysis of sulfur in fuel, the sampling, preparation, and analysis of fuels shall be according to the following American Society of Testing and Materials (ASTM) methods. The Director shall approve ASTM methods different from those described in this Paragraph if they will provide equivalent results. The Director shall prescribe alternate ASTM methods on an individual basis if that action is necessary to secure reliable test data.

- (1) For coal sampling, the following methods shall be used:
 - (A) **Sampling Location.** Coal shall be collected from a location in the handling or processing system that provides a sample representative of the fuel bunkered or burned during a boiler-operating day. For the purpose of this method, a "fuel lot size" is defined as the weight of coal bunkered or consumed during each boiler-operating day. For reporting and calculation purposes, the gross sample shall be identified with the calendar day on which sampling began. The

Director shall approve alternate definitions of fuel lot sizes if the alternative will provide a more representative sample.

- (B) **Sample Increment Collection.** A coal sampling procedure shall be used that meets the requirements of ASTM D2234 Type I, condition A, B, and C, and systematic spacing for collection of sample increments. All requirements and restrictions regarding increment distribution and sampling device constraints shall be observed.
 - (C) **Gross Samples.** ASTM D2234 8.1.1.2 Table 2 shall be used except as provided in 8.1.1.5 to determine the number and weight of increments from a composite or gross sample.
 - (D) **Preparation.** ASTM D2013 shall be used for sample preparation from a composite or gross sample.
 - (E) **Gross Caloric Value (GCV).** ASTM D5865 shall be used to determine GCV on a dry basis from a composite or gross sample.
 - (F) **Moisture Content.** ASTM D3173 shall be used to determine moisture from a composite or gross sample.
 - (G) **Sulfur Content.** ASTM D4239 shall be used to determine the percent sulfur on a dry basis from a composite or gross sample.
- (2) For fuel oil sampling, the following methods shall be used:
- (A) **Sample Collection.** A sample shall be collected at the pipeline inlet to the fuel-burning unit after sufficient fuel has been drained from the line to remove all fuel that may have been standing in the line.
 - (B) **Heat of Combustion.** ASTM Method D240 or D4809 shall be used to determine the heat of combustion. The BTU content of the fuel shall be reported on a dry basis.
 - (C) **Sulfur Content.** ASTM Method D129 or D1552 shall be used to determine the sulfur content. The sulfur content of the fuel shall be reported on a dry basis.
- (f) If the test methods described in Subparagraph (e)(1) or (e)(2) of this Rule are used to demonstrate that the ambient air quality standards for sulfur dioxide set forth in 15A NCAC 02D .0402 are not exceeded, the sulfur content shall be determined at least once per year from a composite of:
- (1) at least three samples over a three-hour period for sources that are most likely to exceed the maximum three-hour ambient standard; or

- (2) at least 24 samples over a 24-hour period for sources that are most likely to exceed the maximum 24-hour ambient standard.

This Paragraph shall not apply to sources that are only using fuel analysis in place of continuous monitoring to meet the requirements of 15A NCAC 02D .0600.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); Eff. June 1, 2008; Readopted Eff. November 1, 2019.

15A NCAC 02D .2612 NITROGEN OXIDE TESTING METHODS

(a) Combustion sources not required to use continuous emissions monitoring to demonstrate compliance with nitrogen oxide emission standards shall demonstrate compliance with nitrogen oxide emission standards using Method 7 or Method 7E of Appendix A to 40 CFR Part 60.

(b) Method 20 of Appendix A to 40 CFR Part 60 shall be used to demonstrate compliance with nitrogen oxide emissions standards for stationary gas turbines.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); Eff. June 1, 2008; Readopted Eff. November 1, 2019.

15A NCAC 02D .2613 VOLATILE ORGANIC COMPOUND TESTING METHODS

(a) For surface coating material, such as paint, varnish, stain, and lacquer, the volatile matter content, water content, density, volume of solids, and weight of solids shall be determined by Method 24 of Appendix A to 40 CFR Part 60.

(b) For printing inks and related coatings, the volatile matter and density shall be determined by Method 24A of Appendix A to 40 CFR Part 60.

(c) For solvent metal cleaning equipment as defined in 15A NCAC 02D .0930, the following procedure shall be followed to perform a material balance test:

- (1) clean the degreaser sump before testing;
- (2) record the amount of solvent added to the tank with a flow meter;
- (3) record the weight and type of workload degreased each day;
- (4) at the end of the test run, pump out the used solvent and measure the amount with a flow meter. In addition, estimate the volume of metal chips and other material remaining in the emptied sump;
- (5) bottle a sample of the used solvent and analyze it to find the percent that is oil and other contaminants. The oil and solvent proportions may be estimated by weighing samples of used solvent before and after boiling off the solvent; and
- (6) compute the volume of oils in the used solvent. The volume of solvent displaced by this oil plus

the volume of makeup solvent added during operations equals the solvent emissions.

(d) For bulk gasoline terminals as defined in 15A NCAC 02D .0927, emissions of volatile organic compounds shall be determined by the procedures in 40 CFR 60.503.

(e) For organic process equipment, leaks of volatile organic compounds shall be determined by Method 21 of Appendix A to 40 CFR Part 60. Organic process equipment shall include valves, flanges and other connections, pumps and compressors, pressure relief devices, process drains, open-ended valves, pump and compressor seal system degassing vents, accumulator vessel vents, access door seals, and agitator seals.

(f) For determination of solvent in filter waste, such as muck and distillation waste, in accordance with 15A NCAC 02D .0912, the tester shall derive the quantity of volatile organic compounds per quantity of discarded filter muck. The procedure to be used in making this determination shall be the test method "Standard Method of Test for Dilution of Gasoline-Engine Crankcase Oils," ASTM D322 except the filter muck is to be used instead of crankcase oil.

(g) For sources of volatile organic compounds not covered by the methods specified in Paragraphs (b) through (e) of this Rule, one of the applicable test methods in Appendix M to 40 CFR Part 51 or Appendix A to 40 CFR Part 60 shall be used to determine compliance with volatile organic compound emission standards.

(h) Compounds excluded from the definition of volatile organic compound in 15A NCAC 02D .0901 shall be treated as water.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); Eff. June 1, 2008; Readopted Eff. November 1, 2019.

15A NCAC 02D .2614 DETERMINATION OF VOC EMISSION CONTROL SYSTEM EFFICIENCY

(a) This Rule shall apply to any test method used to determine the capture or control efficiency of any device or system designed, installed, and operated for the purpose of reducing volatile organic compound emissions.

(b) The control efficiency of volatile organic compound emission control systems shall be determined using the following procedures:

- (1) The volatile organic compound containing material shall be sampled and analyzed using the procedures set forth in this Section.
- (2) Samples of the gas stream containing volatile organic compounds shall be taken simultaneously at the inlet and outlet of the emissions control device.
- (3) The efficiency of the control device shall be expressed as a percent of the total combustible carbon content reduction achieved.

(c) The volatile organic compound mass emission rate shall be the sum of emissions from the control device and the emissions not collected by the capture system.

(d) Capture efficiency shall be determined using the EPA recommended capture efficiency protocols and test methods described in the EPA document, EMTIC GD-035, "Guidelines for Determining Capture Efficiency." This document is hereby

incorporated by reference including subsequent amendments or editions. A copy of the referenced materials may be obtained free of charge via the Internet from the EPA TTN website at <http://www3.epa.gov/ttn/emc/guidlnd/gd-036.pdf>.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.68; 143-215.107(a)(5);
Eff. June 1, 2008;
Readopted Eff. November 1, 2019.*

15A NCAC 02D.2616 FLUORIDES

The procedures for determining compliance with fluoride emissions standards shall be completed using:

- (1) Method 13A or 13B of Appendix A to 40 CFR Part 60 for determining total fluoride emissions from stacks;
- (2) Method 14 of Appendix A to 40 CFR Part 60 for determining total fluoride emissions from roof monitors not employing stacks or pollutant collection systems; or
- (3) Method 26 or Method 26A of Appendix A to 40 CFR Part 60 for determining hydrogen halide and halogen emissions.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5);
Eff. June 1, 2008;
Readopted Eff. November 1, 2019.*

15A NCAC 02D.2617 TOTAL REDUCED SULFUR

(a) Method 16 of Appendix A to 40 CFR Part 60 or Method 16A of Appendix A to 40 CFR Part 60 shall be used to determine emission rates and compliance with total reduced sulfur emission standards.

(b) Method 15 of Appendix A to 40 CFR Part 60 may be used as an alternative method to determine total reduced sulfur emissions from tail gas control units of sulfur recovery plants, hydrogen sulfide in fuel gas for fuel gas combustion devices, and if specified in other applicable federal subparts.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5);
Eff. June 1, 2008;
Readopted Eff. November 1, 2019.*

15A NCAC 02D.2618 MERCURY

The procedures for determining compliance with mercury emission standards shall be performed using one of the following methods:

- (1) Method 29 of Appendix A to 40 CFR Part 60;
- (2) Method 30A of Appendix A to 40 CFR Part 60;
- (3) Method 30B of Appendix A to 40 CFR Part 60;
- (4) Method 101 of Appendix B to 40 CFR Part 61;
- (5) Method 101A of Appendix B to 40 CFR Part 61; or
- (6) Method 102 of Appendix B to 40 CFR Part 61.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5);

*Eff. June 1, 2008;
Readopted Eff. November 1, 2019.*

15A NCAC 02D.2619 ARSENIC, BERYLLIUM, CADMIUM, HEXAVALENT CHROMIUM

(a) Method 29 of Appendix A to 40 CFR Part 60 shall be used to show compliance for arsenic, beryllium, cadmium, and hexavalent chromium metals emission standards.

(b) SW-846 Test Method 3060 shall be used to differentiate hexavalent chromium from total chromium. EPA publication SW-846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," is incorporated by reference including subsequent amendments or editions. A copy of chapters, methods, and supporting documents for SW-846 may be obtained free of charge via the Internet from the EPA website at <http://www.epa.gov/hw-sw846/sw-846-compendium>.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5);
Eff. June 1, 2008;
Readopted Eff. November 1, 2019.*

15A NCAC 02D.2620 DIOXINS AND FURANS

Method 23 of Appendix A to 40 CFR Part 60 shall be used to determine emission rates and compliance with polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans emission standards.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5);
Eff. June 1, 2008;
Readopted Eff. November 1, 2019.*

15A NCAC 02D.2621 DETERMINATION OF POLLUTANT EMISSIONS USING THE F FACTOR

(a) Emissions for wood or fuel burning sources expressed in units of pounds per million Btu shall be determined by the "Oxygen-Based F Factor Procedure" described in Section 12.2.1 of Method 19 of Appendix A to 40 CFR Part 60. Other procedures described in Method 19 may be used if appropriate.

(b) A continuous oxygen (O₂) or carbon dioxide (CO₂) analyzer meeting the requirements of Method 3A of Appendix A to 40 CFR Part 60 may be used if the average of all values during the run are used to determine the average O₂ or CO₂ concentrations.

(c) If the continuous monitor method in Paragraph (b) of this Rule is not used, an integrated bag sample shall be taken for the duration of each test run. For simultaneous testing of multiple ducts, there shall be a separate bag sample for each sampling train. Each bag sample shall be analyzed with an Orsat analyzer by Method 3 of Appendix A to 40 CFR Part 60. The specifications stated in Method 3 for the construction and operation of the bag sampling apparatus shall be followed.

(d) The Director shall review the use of alternative methods according to 15A NCAC 02D.2601(e) and shall approve them if they meet the requirements of Method 3 of Appendix A to 40 CFR Part 60.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5);

Eff. June 1, 2008;
Readopted Eff. November 1, 2019.

15A NCAC 10H.0901 GAME BIRD PROPAGATION LICENSE

(a) The game bird propagation license shall authorize the purchase, possession, propagation, sale, transportation, transfer, and release of propagated upland game birds, except wild turkey, and migratory game birds and their eggs, subject to the following limitations and conditions:

- (1) The sale of dead pen-raised quail for food is governed by the regulations of the North Carolina Department of Agriculture; and
- (2) The purchase, possession, sale, transportation, and transfer of migratory game birds and their eggs is subject to additional requirements in 50 CFR 21, which is hereby incorporated by reference, including subsequent amendments and editions. 50 CFR 21 may be found free of charge at: www.ecfr.gov.

(b) Application for a game bird propagation license shall be made on a form available from the Commission at www.ncwildlife.org or at the Commission headquarters located at 1751 Varsity Drive, Raleigh, NC 27606-2576. Information required from the applicant shall include the applicant's:

- (1) name;
- (2) mailing address;
- (3) residence address;
- (4) telephone number; and
- (5) date of birth.

(c) The game bird propagation license shall be posted and displayed at the propagation facility so that it is visible to visitors or patrons at all times.

History Note: Authority G.S. 106-549.94; 113-134; 113-273; 50 C.F.R., Part 21; Eff. January 1, 1981; Amended Eff. July 1, 1988; July 1, 1987; Temporary Amendment Eff. July 1, 2001; Amended Eff. June 1, 2005; July 18, 2002; Readopted Eff. November 1, 2019.

15A NCAC 10H.0903 ACQUISITION OF GAME BIRDS OR GAME BIRD EGGS

(a) A game bird propagation license holder shall not take game birds or game bird eggs from the wild for the purpose of propagation or sale.

(b) License holders may purchase or acquire live game birds or game bird eggs from other licensed game bird propagators.

(c) The license holder shall obtain a receipt of the transaction showing the date, names, and license numbers of both parties, as well as the species and quantity of the game birds or game bird eggs acquired. This receipt shall be retained by the license holder as provided by Rule .0906 of this Section.

History Note: Authority G.S. 113-134; 113-273; Eff. January 1, 1981;

Readopted Eff. November 1, 2019.

15A NCAC 10H.0904 DISPOSITION OF GAME BIRDS OR GAME BIRD EGGS

(a) **Diseased Birds.** It shall be unlawful for a game bird propagation license holder to knowingly sell or otherwise transfer possession of any live game bird that shows evidence of a communicable disease, except for transfers to a veterinarian or pathologist for examination and diagnostic purposes. Disposition of any game bird with a communicable disease not likely to infect wild game bird populations shall be the responsibility of the license holder.

(b) **Sale of Live Birds or Eggs.** Subject to the limitations set forth in Rule .0901 of this Section, any game birds that are authorized to be propagated under this Section, or the eggs thereof, may be sold or transferred alive by a licensed game bird propagator to another licensed game bird propagator or licensed controlled shooting preserve operator or to any person that holds a valid license or permit that authorizes possession.

(c) **Receipt Required.** Upon sale or transfer, a written receipt of the transaction shall be prepared in duplicate showing the date, the names and license or permit numbers of both parties, and the species and quantity of the game birds or game bird eggs transferred. A copy of the receipt shall be retained by each of the parties as provided by Rule .0906 of this Section.

(d) **Bird Marking.** Any live migratory waterfowl sold or transferred to any person for use in training retrievers or conducting retriever trials shall be marked by one of the methods provided by 50 CFR 21.13, which is hereby incorporated by reference, including subsequent amendments and editions. 50 CFR 21.13 may be found free of charge at: www.ecfr.gov. All other domestically raised game birds sold or transferred for the same purposes shall be individually marked on one leg with a band imprinted with the propagator's license number.

(e) **Sale of Dead Game Birds as Food.** Subject to Rule .0901 of this Section and to any applicable laws and regulations relating to pure foods, public health, and advertising, game birds produced by licensed game bird propagators may be killed at any time in any manner, except by shooting during the closed season. Dead game birds, except for dead pen-raised quail, and game bird eggs may be sold for food purposes as follows:

- (1) **Sale Direct to Consumer.** Unprocessed dead game birds may be sold directly to a consumer when accompanied by a receipt showing the name of the consumer, the name and license number of the propagator, and the quantity and species of the game birds sold. A copy of the receipt shall be retained by the propagator for one year after the transaction. It shall be unlawful for the consumer to resell unprocessed dead game birds.
- (2) **Sale to or Through a Processor.**
 - (A) Unprocessed dead game birds may be sold to a commercial food processor that holds a permit to possess them or transferred to a commercial food processor for processing and packaging prior to sale. Sale or transfer shall be evidenced by written

receipt retained by each party for a year after the sale or transfer, that includes the following information:

- (i) the processor's name and permit number;
 - (ii) the propagator's name and license number; and
 - (iii) the number and species of game birds sold or transferred.
- (B) Game bird carcasses processed by a commercial food processor for wholesale or retail sale shall be enclosed in a wrapper or container marked with the following:
- (i) the number and species of game birds contained;
 - (ii) the license number of the propagator; and
 - (iii) the words "domestically raised."
- (3) Propagated game bird eggs shall not be sold for food.

History Note: Authority G.S. 113-134; 113-273; 50 C.F.R., Part 21.13; Eff. January 1, 1981; Amended Eff. August 1, 2010; May 1, 2008; June 1, 2005; Readopted Eff. November 1, 2019.

15A NCAC 10H.0905 TRANSPORTATION

- (a) Live Game Birds or Game Bird Eggs
- (1) Private Carriers. Live propagated game birds or game bird eggs may be transported by private carrier when accompanied by a copy of the receipt specified in Rules .0903 or .0904 of this Section.
 - (2) Common Carriers. When live propagated game birds or game bird eggs are transported by common carrier, each separate container shall be tagged or labeled with the name, address, and license number of the shipping propagator; the name, address, and license or permit number of the consignee; and the number and species of game birds or game bird eggs contained therein.
- (b) Dead Game Birds
- (1) Private Consumers. Unprocessed dead game birds may be transported by consumers or hunters when accompanied by a receipt from a licensed game bird propagator required by Rule .0904(e)(1) of this Section or by a copy of the receipt from a controlled shooting preserve operator as required by 15A NCAC 10H.0105.
 - (2) Processed Game Birds. The carcasses of processed propagated game birds other than quail may be transported in any manner when packaged in a wrapper or container marked as required by Rule .0904(e)(2) of this Section.

History Note: Authority G.S. 113-134; 113-273; Eff. January 1, 1981; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. November 1, 2019.

15A NCAC 10H.0906 RECORDS

- (a) Licensed game bird propagators shall maintain a file of receipts by calendar year with the following information:
- (1) The dates and sources of acquisition of game birds and game bird eggs;
 - (2) The species and quantities of the game birds and game bird eggs, as required by Rule .0903 of this Section; and
 - (3) Receipts showing all transfers of propagated game birds, except dead quail sold for food purposes, and game bird eggs as required by Rule .0904 of this Section.
- (b) Records shall be made available for inspection at the request of the Commission.
- (c) Records shall be retained for at least one year following the license year to which they pertain.

History Note: Authority G.S. 113-134; 113-273; Eff. January 1, 1981; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. November 1, 2019.

15A NCAC 10H.0907 QUAIL CALL-PEN TRAPS

- Licensed game bird propagators that raise and release pen-raised quail on his or her property for dog training shall be authorized to use quail call-pen traps to recover released quail, subject to the following requirements:
- (1) All traps shall be marked with an attached, weather-resistant permanent tag that includes the propagator's name and address written legibly on it;
 - (2) No trap shall be located within 100 yards of any boundary of the property; and
 - (3) No trapped, unbanded quail shall be retained.

History Note: Authority G.S. 113-134; 113-273; 113-291.1; Eff. January 1, 1981; Amended Eff. May 1, 2009; July 1, 1987; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. November 1, 2019.

15A NCAC 10H.1101 FURBEARER PROPAGATION LICENSE

- (a) The furbearer propagation license shall authorize the propagation of furbearing animals and red foxes, including all color phases, for use as fur. Furbearer propagation license holders shall be authorized to do the following:
- (1) Breed the species of animal designated on the license;
 - (2) Raise live specimens for the production of marketable fur;

- (3) Sell domestically produced fur to a licensed fur dealer; and
- (4) Buy and sell live specimens from or to a furbearer propagation license holder, a captivity license holder, or a licensed non-resident producer of ranch-raised breeding stock.

(c) The furbearer propagation license shall be posted and displayed at the propagation facility so that it is visible to visitors or patrons at all times.

History Note: Authority G.S. 113-134; 113-273; Eff. April 1, 1986; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. November 1, 2019.

(b) Application for a furbearer propagation license shall be made on a form available from the Commission at www.ncwildlife.org or at the Commission headquarters located at 1751 Varsity Drive, Raleigh, NC 27606-2576. Information required from the applicant shall include:

- (1) The applicant's name;
- (2) The applicant's residence or mailing address;
- (3) The physical address of the propagation facility;
- (4) The applicant's telephone number; and
- (5) The species of animal to be propagated.

**15A NCAC 10H .1102 LICENSE AUTHORIZATION
15A NCAC 10H .1103 POSTING AND DISPLAY OF LICENSE**

History Note: Authority G.S. 113-134; 113-273; Eff. April 1, 1986; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Repealed Eff. November 1, 2019.

15A NCAC 10H .1104 MINIMUM STANDARDS FOR CAGING AND CARE

- (a) Breeder cages shall be used to hold a pair of animals for breeding and to hold the female and her litter from the time the litter is born until weaning.
- (b) Pelter cages shall only be used to hold single animals.
- (c) The minimum dimensions of cages in depth (d), width (w), and height (h) measured in feet shall be as follows depending on the species of animals being held:

SPECIES	BREEDER CAGE (d x w x h)	PELTER CAGE (d x w x h)
Beaver	3 x 6 x 2.5	3 x 4 x 2.5
Bobcat	3 x 6 x 2.5	3 x 4 x 2.5
Fox	5.0 x 3.0 x 3.0	2.5 x 3.0 x 3.0
Mink	2.0 x 0.8 x 1.0	2.0 x 0.5 x 1.0
Nutria	3 x 3 x 2.0	3 x 2 x 2.0
Opossum	3 x 3 x 2.0	3 x 2 x 2.0
Otter	3 x 5 x 1.5	3 x 3 x 1.5
Raccoon	3 x 4 x 2.0	3 x 2 x 2.0
Skunk	3 x 3 x 1.5	3 x 2 x 1.5
Weasel	2 x 2 x 1.5	1 x 2 x 1.5

(d) Each license holder shall comply with the following general cage requirements:

- (1) cages shall be constructed of non-toxic, corrosion-resistant materials sufficient to retain animals without tethers or chains;
- (2) cages shall have a den area large enough for all the animals in that cage to turn around and lie down;
- (3) cages shall be housed in an area that provides protection from direct sunlight, precipitation, wind, and other weather conditions;
- (4) cages shall be designed to minimize heat build-up and provide sufficient light to maintain the animal's circadian rhythms;
- (5) caging shall be ventilated;
- (6) cages shall be solidly based at least two feet above ground or floor level to facilitate cleaning;

(7) cages shall be arranged in rows to allow visual and physical inspection of all areas and all species and to allow space for operations and cleaning; and

(8) a perimeter fence shall be maintained around the housing area and shall include a dig barrier designed to prevent escape and access by domestic and wild animals.

(e) Each license holder shall comply with the following general care requirements:

- (1) water: clean drinking water shall be provided. All pools, tanks, water areas, and water containers provided for swimming, wading, or drinking shall be clean. Enclosures shall provide drainage for surface water and runoff;
- (2) sanitation: water disposal and waste disposal shall be in accordance with all applicable local, State, and federal laws;

- (3) food: food shall be of a type and quantity that is appropriate for the particular species and shall be provided in an unspoiled and uncontaminated condition;
- (4) waste: fecal and food waste shall be removed from inside, under, and around enclosures and disposed of in a manner that prevents noxious odors or pests;
- (5) ectoparasites: a program for the control of ectoparasites and vermin shall be established and maintained. Methods to control insects shall be employed and only EPA-approved insecticides shall be used. Biological pest control methods may be used where appropriate.

History Note: Authority G.S. 113-134; 113-273; Eff. April 1, 1986; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. November 1, 2019.

15A NCAC 10H.1105 SANITATION AND CARE

History Note: Authority G.S. 113-134; 113-273; Eff. April 1, 1986; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Repealed Eff. November 1, 2019.

15A NCAC 10H.1106 HUMANE TREATMENT

Animals shall be observed daily for signs of poor health or injury. Animals that are visibly sick, injured, in pain, or suffering shall be provided medical care or euthanized as soon as possible. The euthanization of the animal shall be by a method designed to cause minimal distress and pain as well as rapid, irreversible loss of consciousness and cardiac arrest. The license holder shall confirm death by ensuring respiration has ceased.

History Note: Authority G.S. 113-134; 113-273; Eff. April 1, 1986; Readopted Eff. November 1, 2019.

15A NCAC 10H.1107 RECORDS AND INSPECTIONS

- (a) Furbearer propagation license holders shall maintain records containing the following information:
 - (1) the numbers and species of furbearing animals or foxes acquired;
 - (2) the dates and sources of acquisition;
 - (3) the numbers of animals produced by breeding and the numbers raised for market; and
 - (4) the numbers of animals or pelts sold or otherwise disposed of, the dates of disposition, and the identities of the recipients, if the animals were sold alive.
- (b) The records required by this Rule shall be maintained by calendar year and shall be retained for one year following the end of the calendar year to which they pertain. The records required

- pursuant to this Rule shall be available for inspection at the request of the Commission.
- (c) Representatives of the Commission shall be permitted to enter the premises of a license holder's furbearer propagation facility upon request or during the facility's business hours for inspection, enforcement, or scientific purposes.

History Note: Authority G.S. 113-134; 113-273; Eff. April 1, 1986; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. November 1, 2019.

15A NCAC 10H.1108 INSPECTIONS

History Note: Authority G.S. 113-134; 113-273; Eff. April 1, 1986; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Repealed Eff. November 1, 2019.

15A NCAC 10H.1301 COMMERCIAL TAKE OF CERTAIN TURTLES PROHIBITED

- (a) For the purposes of this Rule, "commercial taking" means the taking, possession, collection, transportation, purchase, or sale of five or more individual turtles or any turtle part, per person in a calendar year.
- (b) It shall be unlawful to engage in the commercial taking of any native turtle species in the families Emydidae or Trionychidae.
- (c) The prohibition on commercial taking in this Rule shall not apply to the following:

- (1) A licensed veterinarian when holding for purposes of medical treatment;
- (2) A holder of a valid captivity permit for the purposes of rehabilitation;
- (3) A publicly-financed zoo, scientific research facility or institution of higher education, or any State or federal agency;
- (4) Any person who accidentally collects five or more turtles incidental to any lawful activity, and who immediately returns them to the wild; or
- (5) Property owners who legally apply for and receive depredation permits from the Wildlife Resources Commission, or one of its Wildlife Damage Control Agents.

- (d) No native turtle shall be sold, except:
 - (1) as authorized by 10A NCAC 41A .0302; and
 - (2) snapping turtles (*Chelydra serpentina*) with a curved carapace length of 11 inches or greater.
- (e) Violators shall be subject to a replacement cost per individual turtle that shall equal the replacement cost for "species with no open season" as set forth in 15A NCAC 10B .0117(c).

History Note: Authority G.S. 113-333(a)(6); Eff. May 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. November 1, 2019.

15A NCAC 10H .1302 POSSESSION OF REPTILES AND AMPHIBIANS

(a) Possession permits are required for the possession, importation, transportation, purchase, and sale of:

- (1) 25 or more individuals of any combination of native amphibian species; or
- (2) five or more individuals of native reptile species.

(b) Possession permits shall not be required for the possession, importation, transportation, purchase, and sale of:

- (1) 24 or fewer individuals of any combination of native amphibian species; or
- (2) four or fewer individuals of native reptile species.

(c) Nothing in this Rule shall be construed to authorize the collection of any wildlife resources from the wild or the taking, possession, transportation, sale, purchase, or release to the wild of any wildlife resources or their parts in violation of State or federal laws or regulations.

(d) At no time shall permitted animals be released to the wild, except under situations of research or rehabilitation with written permission from the Wildlife Resources Commission.

(e) The sale of native turtles shall be unlawful, except as authorized by 10A NCAC 41A .0302 and snapping turtles (*Chelydra serpentina*) with a curved carapace length of 11 inches or greater.

(f) A possession permit shall not be issued for:

- (1) holding reptiles and amphibians that were acquired unlawfully;
- (2) holding reptiles and amphibians for unlawful sale or trade;
- (3) selling snapping turtles (*Chelydra serpentina*) less than 11 inches (curved carapace length);
- (4) collecting five or more individual native turtles from the families Emydidae or Trionychidae from the wild in a given year, except those entities exempted from collection in Rule .1301(c) of this Section;
- (5) collecting five or more individuals in aggregate from other native reptile families or 25 or more individual amphibians from the wild in a given year without first having secured a valid Collection License;
- (6) individuals in violation of the requirements of a collection license, as set forth in 15A NCAC 10B .0119, endangered species permit, as set forth in 15A NCAC 10I .0100, or possession permit as set forth in this Section; or
- (7) individuals who do not first obtain possession permits prior to acquiring the following wildlife resources in Paragraph (a) of this Rule.

(g) The permit shall be valid from January 1 through December 31 of the applicable year.

(h) Individuals permitted under this Rule shall submit a report to the Wildlife Resources Commission within 15 days following the date of permit expiration. The report shall contain the numbers of each species held under the permit and the use or disposition thereof.

History Note: Authority G.S. 113-274(c)(1c);

Eff. May 1, 2007;

Amended Eff. May 1, 2009;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Amended Eff. November 1, 2019; August 1, 2017.

15A NCAC 13B .1201 DEFINITIONS

For the purpose of this Section, the following definitions apply:

- (1) "Blood and body fluids" means liquid blood, serum, plasma, other blood products, emulsified human tissue, spinal fluids, and pleural and peritoneal fluids. Blood and body fluids does not include dialysates, feces, or urine if not removed during surgeries and autopsies.
- (2) "Generator" and "Generating facility" mean any business, integrated medical facility, and volunteer or non-profit healthcare services where medical waste is produced, including any medical or dental facility, mortuary, laboratory, veterinary hospital, and blood bank; but does not include households.
- (3) "Integrated medical facility" means one or more health service facilities as defined in G.S. 131E-176(9b) that are:
 - (a) located in a single county or two contiguous counties;
 - (b) affiliated with a university medical school or that are under common ownership and control; and
 - (c) serve a single service area.
- (4) "Medical waste" means the term defined in G.S. 130A-290(17a).
- (5) "Microbiological waste" means the term defined in Rule .0101(26) of this Subchapter.
- (6) "Non-hazardous pharmaceutical waste" is a medical waste and means a medical drug that is expired, unused, contaminated, damaged, or no longer needed or used for its prescribed purpose and that is not a hazardous waste as defined in G.S. 130A-290(a)(8).
- (7) "Nuisance" means odorous outside of the property boundary or transport vehicle; or attracting vermin or disease vectors.
- (8) "Package" means the total contents of a box, drum, or vessel containing medical waste, including labeling and markings.
- (9) "Pathological waste" means the term defined in Rule .0101(31) of this Subchapter.
- (10) "Record" means any data required to be kept on file by the operator or responsible party, or submitted to the Division in accordance with the rules of this Section. A record may be a paper copy or electronic format that is legible and in English.

- (11) "Regulated Medical Waste" means the term defined in Rule .0101(34) of this Subchapter.
- (12) "Responsible party" means the entity that is in possession of and has accepted the regulated medical waste.
- (13) "Sharps" means the term defined in G.S. 130A-309.26(a)(1).
- (14) "Trace chemotherapy waste" means medical waste containing no more than three percent by weight of a medical drug used for chemotherapy, but is not a radioactive waste. Trace chemotherapy waste includes gowns, gloves, wipes, and other handling, preparation, administration, cleaning, and decontamination items used in association with chemotherapy.
- (15) "Transfer or storage operations" means the act of, and process by which, regulated medical waste is removed from a transport vehicle and placed in another transport vehicle or in storage awaiting transport.
- (16) "Transport vehicle" means a vehicle or other conveyance type used to transport regulated medical waste to and from transfer or storage operations or to and from a treatment facility.
- (17) "Treatment" means the term as defined in G.S. 130A-309.26(a)(2).
- (18) "Treatment facility" means a regulated medical waste treatment facility permitted by the Division in accordance with the rules of this Section.
- (19) "Solid waste" means the term defined in G.S. 130A-290(a)(35).
- (f) Medical waste shall not become putrescent. Medical waste shall be disposed of or treated within three calendar days of becoming putrescent.
- (g) Medical waste shall not become a nuisance.
- (h) Medical waste accepted at transfer or storage operations or a treatment facility shall not be subject to the requirements of Rule .1203(a) and (b)(2) of this Section.
- (i) Medical waste treatment and disposal methods:
 - (1) Blood and body fluids in individual containers in volumes greater than 20 milliliters shall be disposed of by sanitary sewer if the local sewage treatment authority has been notified; or treated by incineration or steam sterilization.
 - (2) Microbiological waste shall be treated by incineration, steam sterilization, ozonation, microwave, or chemical treatment.
 - (3) Non-hazardous pharmaceutical waste shall be treated by incineration or disposed of at a municipal solid waste landfill. The requirements of this Subparagraph shall not prevent non-hazardous pharmaceuticals from being returned to the vendor.
 - (4) Pathological waste shall be treated by incineration or ozonation.
 - (5) Trace chemotherapy waste shall be treated by incineration or ozonation.
 - (6) Noninfectious medical waste and blood and body fluids in individual containers in volumes of 20 milliliters or less may be disposed of in a municipal solid waste landfill, or treated by the treatment methods as described in this Paragraph. Blood and body fluids in individual containers in volumes of 20 milliliters or less may also be disposed of in a sanitary sewer. The requirements of this Subparagraph shall not prevent noninfectious medical waste such as textiles, plastic, glass, or metal from being recycled.

*History Note: Authority G.S. 130A-309.26;
 Eff. October 1, 1990;
 Amended Eff. April 1, 1993;
 Readopted Eff. November 1, 2019.*

15A NCAC 13B.1202 GENERAL REQUIREMENTS FOR MEDICAL WASTE

- (a) Medical waste is subject to the rules in 15A NCAC 13B, "Solid Waste Management."
- (b) Sharps and other sharp objects such as syringes with attached needles, capillary tubes, slides and cover slips, lancets, auto injectors, connection needles and sets, exposed ends of dental wires, and objects that can penetrate the skin shall be placed in a rigid, leak-proof when in an upright position, and puncture-resistant container, and shall not be compacted prior to off-site transportation unless placed in a sealed compactor unit that is hauled off for disposal by the transporter.
- (c) Blood and body fluids in individual containers in volumes of 20 milliliters or less shall be stored in an area accessible only to the responsible party or their designated representative, and shall not be compacted prior to off-site transportation.
- (d) Regulated medical waste shall not be compacted prior to treatment.
- (e) Only the responsible party or their designated representative shall have access to regulated medical waste.

- (j) Medical waste treated at the generating facility is not subject to the requirements of Paragraphs (o), (p), and (q) of this Rule, and Rule .1204(b)(1), (b)(3), and (b)(8) of this Section.
- (k) Crematoriums are not subject to the requirements of this Section.
- (l) Transport vehicles, transfer or storage operations, and treatment facilities shall:
 - (1) be kept free of leaked, spilled, and unpackaged medical waste;
 - (2) not contain porous floor coverings;
 - (3) be ventilated;
 - (4) not create a nuisance; and
 - (5) have a method of leak control or spill cleanup, including decontamination.
- (m) A responsible party shall be present when regulated medical waste is being transferred by means of transfer or storage operations.
- (n) Regulated medical waste shall be transported and stored in a manner that prevents exposure to the environment and inclement weather.

- (o) Unrefrigerated regulated medical waste shall be treated within 21 calendar days of shipment from the generator.
- (p) Refrigeration at an ambient temperature of a maximum of 45 degrees Fahrenheit (7.22 degrees Celsius) shall be maintained for regulated medical waste not treated within 21 calendar days of shipment from the generator.
- (q) All regulated medical waste shall be treated within 60 calendar days of shipment from the generator.

History Note: Authority G.S. 130A-309.26; Eff. October 1, 1990; Amended Eff. January 4, 1993; March 1, 1991; Readopted Eff. November 1, 2019.

15A NCAC 13B.1203 REQUIREMENTS FOR REGULATED MEDICAL WASTE GENERATORS, TRANSPORTERS, AND TRANSFER AND STORAGE OPERATIONS

- (a) Regulated medical waste packaging requirements:
 - (1) All Sections of the Code of Federal Regulations (CFR) cited in this Paragraph are hereby incorporated by reference, including subsequent amendments and editions and can be accessed at no cost at <https://www.gpo.gov/>.
 - (2) Regulated medical waste may be packaged in accordance with 49 CFR 173.134, 49 CFR 173.196, 49 CFR 173.197, or 49 CFR 173.199.
 - (3) A plastic film bag shall be used as inner packaging, unless it is not required per the regulated medical waste type when used in conjunction with one of the package designs pursuant to Subparagraph (2) of this Paragraph.
 - (4) The plastic film bag used as inner packaging shall be sealed to prevent leaks.
 - (5) A rigid box, drum, or vessel constructed to prevent leakage shall be used as outer packaging.
 - (6) Outer package labeling shall be legible and written in English.
 - (7) Outer packaging shall contain the universal biohazard symbol as described in 29 CFR 1910.1030(g).
 - (8) Each package shall be handled to prevent leaks, damage, and changes to the package, labeling, and markings.
 - (9) Labels and markings on the outside of each package shall contain the following information:
 - (A) state that the content is an "infectious substance" or a "biohazard;"
 - (B) the generator name, physical address, and phone number;
 - (C) the transporter name, physical address, and phone number;
 - (D) the treatment facility name, physical address, and phone number, unless the label contains a tracking number that corresponds to a record that includes the treatment facility name, physical

address, and phone number, and the record is provided to the Division at the time of inspection and upon request; and

- (E) the date of shipment from the generating facility, unless the label contains a tracking number that corresponds to a record that includes the date of shipment, and the record is provided to the Division at the time of inspection and upon request.

- (b) Generator requirements:
 - (1) The generating facility shall package medical waste by treatment method type in accordance with Rule .1202(i) of this Section.
 - (2) The generating facility shall maintain a record of each shipment of regulated medical waste transported off-site for a period of three years that includes the following information:
 - (A) the number of packages;
 - (B) the transporter name, physical address, and phone number;
 - (C) the treatment facility name, physical address, and phone number; and
 - (D) the date of shipment from the generating facility.

The requirements of this Subparagraph do not apply to generating facilities that generate less than 50 pounds of regulated medical waste per month.

- (c) Transporter requirements:
 - (1) The transporter shall not accept regulated medical waste that does not meet the requirements of Paragraph (a) of this Rule.
 - (2) The universal biohazard symbol shall be displayed on the outside of a transport vehicle on both sides and rear of the vehicle's cargo area, shall be legible, and shall not be obstructed from view.
 - (3) Transport vehicles shall only transport medical waste for treatment, other solid wastes, and supplies related to the handling of solid wastes. If a medical waste package leaks or spills, all of the solid waste, except for hazardous waste, within the same storage area of the transport vehicle as the leaking or spilled package shall be treated at a medical waste treatment facility. If the solid waste that leaked or spilled is a hazardous waste, all of the solid waste within the same storage area of the transport vehicle as the leaking or spilled package shall be brought to a hazardous waste treatment facility.
 - (4) Transport vehicles shall be free of medical waste and disinfected with a mycobactericidal disinfectant before being reused if any packages spilled or leaked while in the vehicle, and prior to discontinuing use of the transport vehicles to haul medical waste.

- (5) The vehicle operator shall keep a contingency plan as described in Rule .1204(b)(4)(H) of this Section in the transport vehicle and shall be trained to implement the contingency plan prior to transporting medical waste.
- (6) The transporter shall be in compliance with Rule .1202(o), (p), and (q) of this Section.
- (d) Transfer or storage operations requirements:
- (1) The responsible party for transfer or storage operations occurring at a treatment facility shall include a description of the transfer or storage operations in the facility operations plan submitted to the Division in accordance with Rule .1204(b)(4) of this Section.
- (2) The responsible party for transfer or storage operations occurring at a location other than a treatment facility shall submit a record to the Division within 14 calendar days of commencing transfer or storage operations, and once every two years thereafter, while the responsible party is managing the transfer or storage operations. The record shall include the following information:
- (A) the name, mailing address, physical address, office and mobile phone numbers, and email address for the responsible party(s) and operator(s);
- (B) county GIS property data for the location where transfer or storage operations occur;
- (C) procedures for how the medical waste will be received, handled, stored, and transferred;
- (D) the frequency that transfer or storage operations occur;
- (E) the amount of medical waste that is expected to be on site at the transfer or storage operations; and
- (F) additional information that the Division may request pertaining to the transfer or storage operations if it is necessary to determine compliance with the rules of this Subchapter.
- The responsible party shall submit an updated record to the Division within 14 calendar days if any of the information required to be submitted by this Subparagraph changes.
- (3) If the transfer or storage operations cease, the responsible party shall submit to the Division a record within 14 calendar days. The record shall include the following information:
- (A) a signed statement by the responsible party(s) that transfer or storage operations have ceased and all medical waste has been removed;
- (B) digital pictures of the area that was utilized for transfer or storage operations taken after operations have ceased and all medical waste has been removed; and
- (C) additional information that the Division may request pertaining to the transfer or storage operations if it is necessary to determine compliance with the rules of this Subchapter.
- (4) Within 90 days of the readopted effective date of this Rule, existing transfer or storage operations shall comply with Subparagraph (2) of this Paragraph.
- (5) The transfer or storage operations shall comply with Rule .1202(o), (p), and (q) of this Section.

History Note: Authority G.S. 130A-309.26; Eff. October 1, 1990; Amended Eff. April 1, 1993; Readopted Eff. November 1, 2019.

15A NCAC 13B .1204 REQUIREMENTS FOR THE TREATMENT OF REGULATED MEDICAL WASTE

- (a) General requirements for treated regulated medical waste:
- (1) Treated regulated medical waste shall be covered to prevent exposure to the environment and inclement weather.
- (2) Treated regulated medical waste may be placed uncovered in or under a weather resistant structure while dewatering or while in the process of being covered.
- (3) Treated regulated medical waste shall be stored no longer than 14 calendar days after treatment unless the facility's operations plan states that the storage unit is a necessary part of the operation of the treatment process and is enclosed, sealed, and watertight.
- (4) Treated regulated medical waste storage and transport containers, compactors, trailers, and cargo bays shall be maintained in accordance with the manufacturer's specifications.
- (5) Treated regulated medical waste shall not be transported off site uncovered.
- (6) The exterior of treated regulated medical waste storage and transport containers, compactors, trailers, and cargo bays shall be free of solid waste and solid waste residue.
- (7) Treated regulated medical waste shall not become putrescent. Putrescent treated regulated medical waste shall be disposed of within three calendar days.
- (8) Treated regulated medical waste shall not become a nuisance.
- (9) Treated regulated medical waste shall be noninfectious.
- (b) General requirements for treatment facilities:
- (1) The treatment facility shall be compliant with Rule .1202(o), (p), and (q) of this Section.
- (2) The treatment facility shall issue a written record notifying the generating facility if it becomes aware of a package of medical waste

- received that is not in compliance with Rule .1202(i) of this Section for the treatment method utilized. A copy of the record shall be maintained at the treatment facility.
- (3) The treatment facility shall maintain a record of each shipment of regulated medical waste received for treatment for a period of three years to include the following information:
- (A) the number of packages;
 - (B) the generator name, physical address, and phone number;
 - (C) the transporter name, physical address, and phone number;
 - (D) the date each package was picked up from the generator;
 - (E) the date each package was received at the treatment facility;
 - (F) the weight of each package in pounds; and
 - (G) the date each package was treated.
- (4) The treatment facility shall submit a facility operations plan to the Division with the permit application required in accordance with the rules of this Subchapter that shall include the following information:
- (A) the name, mailing address, physical address, office and mobile phone numbers, and email address for the responsible party(s), owner(s), and operator(s);
 - (B) the physical address and the county GIS property data for the facility location;
 - (C) types and estimated amounts of medical waste to be accepted at and shipped out from the facility;
 - (D) a description of the treatment process or processes, and treatment unit specifications;
 - (E) procedures for how the medical waste will be received, handled, stored, transferred, or treated at the facility;
 - (F) procedures for sampling or testing required by the rules of this Section;
 - (G) procedures that the facility shall use to prevent medical waste from becoming a nuisance or putrescent, and procedures for abatement if medical waste becomes a nuisance or putrescent;
 - (H) contingency plan identifying risks and describing how the facility or transporter will respond to incidents or emergencies, including a phone number for a facility or transporter representative that is available to respond 24 hours a day and seven days a week, and how regulated medical waste will be handled or redirected
- when facilities or transport vehicles are unavailable due to maintenance, adverse weather, or other emergencies; and
- (I) additional information that the Division may request pertaining to the facility operations if it is necessary to determine compliance with the rules of this Section.
- A copy of the operations plan shall be kept at the facility and shall be available for review by the Division during facility inspections or upon request by the Division. If the information required by this Paragraph changes, the facility shall submit a revised facility operations plan to the Division and update the copies of the plan kept by the facility.
- (5) The treatment facility shall maintain a record of the disposal facility's contact information including the facility name, permit number, physical location and mailing address, and contact name and phone number.
 - (6) The treatment facility shall maintain a record of the dates and tonnages of treated regulated medical waste sent for disposal.
 - (7) The treatment facility shall maintain operating records and monitoring, testing, and maintenance records required in accordance with the rules of this Section for a period of three years.
 - (8) The facility shall submit an annual report to the Division in accordance with G.S. 130A-309.09D(b).
- (c) Steam sterilization treatment requirements:
- (1) Steam under pressure shall be provided to maintain a temperature of not less than 250 degrees Fahrenheit for 45 minutes at 15 pounds per square inch of gauge pressure during each cycle.
 - (2) The steam sterilization unit shall have a device that records the start and end time of each cycle.
 - (3) The steam sterilization unit shall have a device that records the pressure and a device that records the temperature throughout each cycle.
 - (4) Testing of treatment under conditions of full loading to confirm compliance with Subparagraph (a)(9) of this Rule shall be performed no less than once per week using a biological indicator of *Geobacillus stearothermophilus* spores having a population of not less than 1.0×10^4 placed within the waste load.
 - (5) A record of each test performed shall be maintained and shall include the type of indicator used, the test date, the start and end times, and the test result.
- (d) Incineration treatment requirements:
- (1) The Division shall not issue a solid waste management permit in accordance with the

- rules of this Subchapter to the treatment facility unless the Division of Air Quality (DAQ) has issued a permit for operation of the incinerator.
- (2) The treatment facility shall maintain the DAQ permit for the operation of the incinerator.
 - (3) Regulated medical waste shall be subjected to a burn temperature in the primary chamber of not less than 1200 degrees Fahrenheit.
 - (4) The incinerator shall have a monitoring device that records the primary chamber temperature. A record of the continuous monitoring of the primary chamber temperature while in use shall be maintained.
 - (5) Interlocks or other process control devices shall be provided to prevent the introduction of regulated medical waste into the primary chamber until the secondary chamber achieves operating temperature as defined in the permit for incinerator operation issued by DAQ.
 - (6) Procedures for obtaining uniform representative composite ash samples shall be submitted to the Division for approval in the facility operations plan in accordance with Rule .1204(b)(4) of this Section. Ash sampling procedures shall be approved if the procedures are compliant with the requirements of this Subchapter, are protective of human health and the environment, and if the samples collected using the procedures are representative of the incinerator ash shipped from the facility for disposal.
 - (7) The ash samples shall be collected from the dewatered ash collection container or containers.
 - (8) For the first three months of incinerator operation, the ash sampling procedures required by Subparagraph (6) of this Paragraph shall include the collection of a representative ash sample of one kilogram (2.2 pounds):
 - (A) once for every eight hours of operation for an incinerator that is operated on a continuous schedule;
 - (B) once for every 24 hours of operation for an incinerator that is operated on an intermittent schedule; or
 - (C) once for every batch for an incinerator that is batch-loaded.

The ash samples shall be composited in a closed container weekly and shall be mixed and reduced to a uniform ash sample. The weekly ash samples shall be composited into a monthly ash sample, and the monthly ash sample shall be analyzed.
 - (9) For the remainder of the first year of incinerator operation, a representative ash sample shall be collected once per month using the procedures described in the facility operations plan. The monthly ash samples shall be composited and reduced to a uniform quarterly ash sample, and the quarterly ash samples shall be analyzed.
- (10) After the first year of incinerator operation, representative composite ash samples shall be collected using the procedures described in the facility operations plan twice per calendar year, with no less than four months between sample collection, and the samples shall be analyzed.
 - (11) Ash samples required to be analyzed in accordance with Subparagraphs (8) through (10) of this Paragraph shall be analyzed in accordance with 40 CFR 261.24 for the eight metals listed in Table 1 (arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver). 40 CFR 261 is incorporated by reference including subsequent amendments and editions; and can be accessed at no cost at <https://www.gpo.gov/>.
 - (12) A record of the testing and analysis results shall be submitted to the Division for the first year of incinerator operation, and upon request from the Division thereafter. The record shall be maintained at the facility and available for inspection by the Division. The record shall include:
 - (A) the composite ash sample date and time;
 - (B) the ash sample date and time;
 - (C) the ash sample identification number;
 - (D) the ash sample analysis results; and
 - (E) the testing laboratory name and contact information and certification number.
 - (13) The Division may require the treatment facility to collect additional composite ash samples or analyze the samples for the full contaminant list in accordance with 40 CFR 261.24 Table 1 if the results of the analysis required in Subparagraphs (8) through (11) of this Paragraph indicate an exceedance of the regulatory level provided in 40 CFR 261.24 Table 1; or during a permitting action, a facility inspection, or when a complaint is received if it is necessary to determine compliance with the rules of this Subchapter. The requirements of this Paragraph shall not prevent a municipal solid waste landfill that is accepting incinerator ash from a treatment facility from requiring that additional ash samples be taken and analyzed to determine compliance with the rules of this Subchapter before the ash is accepted for disposal.
- (e) Chemical treatment requirements:
- (1) Microbiological waste shall be treated with 10 percent chlorine solution for no less than one hour.
 - (2) Testing of treatment under conditions of full loading to confirm compliance with Subparagraph (a)(9) of this Rule shall be

performed no less than once per week using a biological indicator of *Bacillus atrophaeus* spores having a population of not less than 1.0×10^6 .

- (3) A record of each test performed shall be maintained and shall include the type of indicator used, the test date, the start and end times, and the test result.

(f) Microwave treatment requirements:

- (1) Microwave energy of appropriate output frequency shall be provided at a temperature of not less than 203 degrees Fahrenheit (95 degrees Celsius) for no less than 30 minutes each cycle.
- (2) The microwave treatment system shall be provided with a monitoring device that records time and temperature of each cycle. A record of the monitoring of the time and temperature of each cycle shall be maintained.
- (3) Testing of treatment under conditions of full loading to confirm compliance with Subparagraph (a)(9) of this Rule shall be performed no less than once per week using a biological indicator of *Bacillus atrophaeus* spores having a population of not less than 1.0×10^6 and in accordance with the equipment manufacturer's instructions.
- (4) A record of each test performed shall be maintained and shall include the type of indicator used, the test date, the start and end times, and the test result.

(g) Ozonation treatment requirements:

- (1) Testing of treatment under conditions of full loading to confirm compliance with Subparagraph (a)(9) of this Rule shall be performed no less than once per week using a biological indicator of *Bacillus atrophaeus* spores having a population of not less than 1.0×10^6 and in accordance with the equipment manufacturer's instructions.
- (2) Once every six months samples collected under conditions of full loading shall be submitted to an independent laboratory to confirm compliance with Subparagraph (a)(9) of this Rule.
- (3) A record of each test performed shall be maintained and shall include the type of indicator used, the test date, the start and end times, and the test result.

(h) Alternative treatment methods.

- (1) A treatment facility owner or operator may request to use a method of, or procedures for, regulated medical waste treatment not listed or described in this Rule by submitting a request to the Division for approval. The request shall include documentation that describes the alternative treatment method, explains the procedures and provides analysis results to demonstrate that the treatment method will

render the regulated medical waste noninfectious, and describes how the treatment method meets the requirements of the rules of this Section.

- (2) A request for an alternate method of chemical treatment shall also describe the chemical used to treat the specific microbiological agent(s) of concern for the regulated medical waste type, and shall consider factors such as temperature, contact time, pH, concentration, and the presence and state of dispersion, penetrability, and reactivity of organic material at the site of application.

- (3) The Division shall approve the alternative treatment method by issuing the permit or an approval letter if the alternative treatment method renders the regulated medical waste noninfectious, and the alternative treatment method is compliant with the rules of this Section and protective of human health and the environment.

History Note: Authority G.S. 130A-309.26; Eff. October 1, 1990; Amended Eff. October 1, 1992; December 1, 1991; March 1, 1991; Readopted Eff. November 1, 2019.

**15A NCAC 13B .1205 REQUIREMENTS FOR TRANSPORTERS OF REGULATED MEDICAL WASTE
15A NCAC 13B .1206 REQUIREMENTS FOR STORAGE OF REGULATED MEDICAL WASTE
15A NCAC 13B .1207 OPERATIONAL REQ/REGULATED MEDICAL WASTE TREATMENT FACILITIES**

History Note: Authority G.S. 130A-309.26; Eff. October 1, 1990; Amended Eff. April 1, 1993; January 4, 1993; Repealed Eff. November 1, 2019.

15A NCAC 13B .1401 REQUIREMENT FOR PERMIT

(a) No person shall construct, operate, expand, or modify a facility that produces compost from solid waste or solid waste co-composted with other wastes unless it has a currently valid permit issued by the Division for a solid waste compost facility, except as provided in Rule .1402(f) and (g) of this Section. General provisions, siting, design, application, operational, distribution, reporting, and closure requirements shall be in accordance with Rules .1402 through .1410 of this Section.

(b) Plans for a Large Type 3 or Type 4 Solid Waste Compost Facility, as defined in Rule .1402(e) of this Section, or plans for any facility located over a closed-out disposal area, shall be submitted with the permit application in accordance with Rule .0202(a)(3) of this Subchapter.

(c) Compost permits shall be issued for a period of 10 years. An application for renewal of a permit shall be submitted to the Division in accordance with Rule .1405 of this Section no less than four months prior to expiration of the existing permit.

(d) Permit modifications.

- (1) The owner or operator shall submit to the Division a permit application in accordance with Rule .1405 of this Section for a major modification to the existing permit issued by the Division, For the purpose of this Section, a major modification means any of the following: a change in the property or facility operator or ownership, a change in facility type as defined in Rule .1402 of this Section, an expansion or relocation of the operations area in the existing permit, or a change to the operations or design plan such as changes in the compost method, waste receipt and handling, feedstock storage, or processing layout. A permit issued by the Division as a result of a permit modification shall be in compliance with Paragraph (c) of this Rule.
- (2) The owner or operator shall not be required to submit a permit application to the Division in accordance with Rule .1405 of this Section for a change to a plan that was submitted in accordance with Rule .1405 of this Section if the Division determines that the change does not meet the definition of a major modification provided in Subparagraph (1) of this Paragraph, the change complies with the requirements of this Section, and the owner or operator submits to the Division written notice of the change, including documentation of the updated information such as revised pages or addendums to the plan. The Division shall acknowledge receipt of the change by sending written notice to the owner or operator.

(e) For purposes of this Section, "operations area" means the total area used for mixing, grinding, processing, composting, curing, and wood waste and feedstock unloading and storage. Operations area shall not include buffer areas.

(f) For purposes of the Section, "material onsite" means wood wastes, feedstocks, mixtures, and active and curing compost, but shall not include finished product.

History Note: Authority G.S. 130A-294; 130A-309.03; 130A-309.11; 130A-309.29; Eff. December 1, 1991; Amended Eff. May 1, 1996; Readopted Eff. November 1, 2019.

15A NCAC 13B.1402 GENERAL PROVISIONS FOR SOLID WASTE COMPOST FACILITIES

(a) The provisions of this Rule shall apply to the following facilities:

- (1) facilities that produce compost or mulch from yard waste or from residues from agricultural products and processing;
- (2) vermicomposting facilities;
- (3) anaerobic digestion facilities; and
- (4) compost facilities that compost solid waste or co-compost solid waste with sludges that are

not classified as a solid waste functioning as a nutrient source.

(b) Facilities that co-compost with sewage sludge shall comply with all applicable federal regulations regarding sludge management in 40 CFR 503, which is incorporated by reference including subsequent amendments and editions. Copies of the Code of Federal Regulations may be obtained from the U.S. Government Publishing Office website at www.gpo.gov at no cost.

(c) The provisions of this Section shall not apply to compost facilities that compost only wastewater treatment sludge with solid waste functioning only as a bulking agent.

(d) Solid waste compost produced outside the State of North Carolina and imported into the state shall comply with the requirements specified in Rule .1407 of this Section.

(e) Solid waste compost facilities shall be classified based on the types and amounts of materials to be composted as follows:

- (1) Type 1 facilities may receive yard and garden waste, silvicultural waste, and untreated and unpainted wood waste.
- (2) Type 2 facilities may receive pre-consumer meat-free food processing waste, vegetative agricultural waste, source separated paper, and other source separated specialty wastes that are low in pathogens and physical contaminants. Waste acceptable for a Type 1 facility may be composted at a Type 2 facility.
- (3) Type 3 facilities may receive manures and other agricultural waste, meat, post-consumer source-separated food wastes, and other source-separated specialty wastes that are low in physical contaminants but may have high levels of pathogens. Waste acceptable for a Type 1 or 2 facility may be composted at a Type 3 facility.
- (4) Type 4 facilities may receive industrial solid waste, non-solid waste sludges functioning as a nutrient source or other similar compostable organic wastes, or any combination thereof. Waste acceptable for a Type 1, 2, or 3 facility may be composted at a Type 4 facility.
- (5) In determining whether a specific waste stream listed in Subparagraphs (1) through (4) of this Paragraph is acceptable for composting, the Division shall consider the method of handling the waste prior to delivery to the facility as well as the physical characteristics of the waste. Testing for pathogens and physical contaminants shall be required if a determination cannot be made based upon prior knowledge of the waste. Test methods and constituents tested shall comply with Rule .1407(b)(2), (b)(3), (b)(5), and (b)(6) of this Section.
- (6) Small facilities.
 - (A) Small Type 1 facilities shall have an operations area less than two acres in size and shall be limited to no more than 6,000 cubic yards material onsite

- at any given time, including finished product.
- (B) Small Type 2, 3, and 4 facilities shall have an operations area less than two acres in size and shall be limited to no more than 1,000 cubic yards material onsite at any given time.
- (7) Large facilities.
- (A) Large Type 1 facilities shall have an operations area of two or more acres in size or have more than 6,000 cubic yards material onsite at any given time.
- (B) Large Type 2, 3, and 4 facilities shall have an operations area of two or more acres in size or have more than 1,000 cubic yards material onsite at any given time.
- (f) The following operations shall be exempt from the requirements of this Section:
- (1) backyard composting;
 - (2) farming operations and silvicultural operations if the compost is produced from materials grown on the owner's land and re-used on the owner's land or associated farming operations and not offered to the public; and
 - (3) persons receiving no more than 30 cubic yards of leaves from an offsite source on an annual basis.
- (g) The following operations shall be exempt from the permitting requirements in Rule .1401 of this Section:
- (1) Small Type 1 Facilities meeting the following conditions:
 - (A) notification to the Division prior to operation and on an annual basis as to:
 - (i) the facility location;
 - (ii) the name(s) and contact information of the owner and operator;
 - (iii) type and amount of wastes received;
 - (iv) the composting process to be used;
 - (v) the intended distribution of the finished product; and
 - (vi) for new facilities only, a letter from the unit of government having zoning jurisdiction over the site that states that the proposed use is allowed within the existing zoning, if any, and that any necessary zoning approval or permit has been obtained;
 - (B) the facility operates in accordance with the operational requirements as set forth in Rule .1406(1) through (11) and (16) of this Section and the setbacks in Rule .1404(a)(1) through (a)(10) of this Section;
 - (C) the facility operates in accordance with all other state or local laws, ordinances, rules, regulations or orders;
 - (D) the facility shall not be located over a closed-out disposal site; and
 - (E) safety measures shall be taken to prevent fires and access to fire equipment or fire-fighting services shall be provided.
- (2) Compost facilities meeting the following conditions:
- (A) the site receives for composting pre- and post-consumer food waste, manure, vegetative agricultural waste, yard and garden waste, land-clearing debris, untreated and unpainted wood waste, or source separated paper;
 - (B) material onsite, not including finished compost, shall not exceed 100 cubic yards at any time;
 - (C) the operations area shall be less than 1.0 acres total;
 - (D) the site operates in accordance with operational requirements as set forth in Rule .1406 of this Section and the setbacks in Rule .1404(a)(1) through (a)(10) of this Section, except that the buffer between property line and operations area shall be at least 50 feet and the buffer between the operations area and residences or dwellings not owned and occupied by the operator shall be at least 200 feet;
 - (E) the site is operated to prevent the release of particulates and odors outside of the property boundary, and the site does not attract vectors such as insects and rodents;
 - (F) for facilities producing compost that is distributed to the public or used in public areas, compost produced from the facility shall meet the pathogen testing and record keeping requirements per Rule .1407(b) and Rule .1408(a) of this Section; and
 - (G) the site operates in accordance with all applicable State or local laws, ordinances, rules, regulations, or orders.
- History Note: Authority G.S. 130A-294; 130A-309.03; 130A-309.11; 130A-309.29; Eff. December 1, 1991; Amended Eff. May 1, 1996; Readopted Eff. November 1, 2019.*

15A NCAC 13B.1403 GENERAL PROHIBITIONS FOR SOLID WASTE COMPOST FACILITIES

- (a) Neither hazardous waste nor asbestos-containing waste shall be accepted at a facility or processed into compost.
- (b) Household hazardous waste shall not be accepted by a facility, except in an area designated by facility site plans for storage, and shall not be processed into compost.
- (c) Compost made from solid waste that cannot be used pursuant to the requirements of this Rule shall be reprocessed or disposed of pursuant to the requirements of this Subchapter.

History Note: Authority G.S. 130A-294; 130A-309.03; 130A-309.11; 130A-309.29; Eff. December 1, 1991; Amended Eff. May 1, 1996; Readopted Eff. November 1, 2019.

15A NCAC 13B.1404 SITING/DESIGN REQUIREMENTS FOR SOLID WASTE COMPOST FACILITIES

(a) A site shall meet the requirements of this Rule at the time of initial permitting and shall continue to meet these requirements throughout the life of the permit only on the site property owned or controlled by the applicant or by the landowner(s) at the time of permitting.

- (1) A site located in a floodplain shall not restrict the flow of the 100-year flood, reduce the temporary storage capacity of the floodplain, or result in washout of solid waste, so as to pose a hazard to human life, wildlife, land, or water resources.
- (2) A 100-foot buffer shall be maintained between all property lines and compost areas for Type 3 and 4 facilities, 50-foot for Type 1 or 2 facilities.
- (3) A 500-foot buffer shall be maintained between compost areas and residences or dwellings not owned and occupied by the permittee, except that Type 1 and Small Type 2 and 3 facilities shall maintain a 200-foot buffer.
- (4) A 100-foot buffer shall be maintained between all wells and compost areas, except monitoring wells.
- (5) A 50-foot buffer shall be maintained between perennial streams and rivers and compost areas.
- (6) A compost facility shall be located in accordance with 15A NCAC 02B .0200, Classification and Water Quality Standards Applicable to Surface Waters in North Carolina.
- (7) All portions of a compost facility located over a closed-out disposal area shall be designed with a pad adequate to protect the disposal area cap from being disturbed, as defined in Part (a)(10)(C) of this Rule, and there shall be no runoff from the pad onto the cap or side slopes of the closed out area.

- (8) A 25-foot minimum distance shall be maintained between compost areas and swales or berms;
- (9) A site shall meet the following surface water requirements:
 - (A) a site shall not cause a discharge of materials or fill materials into waters or wetlands of the State that is in violation of Section 404 of the Clean Water Act;
 - (B) a site shall not cause a discharge of pollutants into waters of the State that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES), pursuant to Section 402 of the Clean Water Act; and
 - (C) a site shall not cause non-point source pollution of waters of the State that violates the water quality standards as set forth in 15A NCAC 02B.
- (10) A site shall meet the following groundwater and operations area pad requirements:
 - (A) a site shall not contravene groundwater standards as set forth in 15A NCAC 02L;
 - (B) the operations area of Type 1, 2, and 3 facilities shall have one of the following:
 - (i) a soil pad with a soil texture finer than loamy sand. For a Type 1 or 2 facility, the depth to the seasonal high water table shall be maintained at least 12 inches. For a Type 3 facility, the depth to the seasonal high water table shall be maintained at least 24 inches; or
 - (ii) a pad in accordance with Part (C) of this Subparagraph;
 - (C) the operations area of a Type 4 facility shall have a pad with a linear coefficient of permeability no greater than 1×10^{-7} cm/sec. The pad shall consist of one of the following:
 - (i) a non-soil pad, such as concrete and asphalt, designed and constructed to meet the weight requirements of the compost operation and to prevent infiltration of liquids to groundwater; or
 - (ii) a soil pad of at least 18 inches constructed in accordance with Rule .1624(b)(8) and Rule .1621 of this Subchapter. A 12-inch soil layer shall be maintained

- (D) over the pad to protect it from damage and desiccation: and finished product shall be stored where the depth to the seasonal high water table is at least 12 inches below ground surface.

(b) For Subparagraphs (a)(2) through (a)(4) and Part (a)(10)(B) of this Rule, alternative minimum buffers or requirements may be modified by the Division, based on the waste type, facility design, and regional topography, if necessary to protect public health and the environment or to prevent the creation of a nuisance.

(c) A site shall meet the following design requirements:

- (1) a site shall not allow unauthorized public access;
- (2) a site shall meet the requirements of Sedimentation Control (15A NCAC 04);
- (3) a site shall meet the requirements of the Air Pollution Control Requirements (15A NCAC 02D) to minimize fugitive emissions and odors; and
- (4) a site shall be designed to minimize odors at the property boundary by means such as expanded buffers, consideration of topography and wind patterns, or process layout design.

History Note: Authority G.S. 130A-294; 130A-309.03; 130A-309.11; 130A-309.29; Eff. December 1, 1991; Amended Eff. May 1, 1996; Readopted Eff. November 1, 2019.

15A NCAC 13B.1405 APPLICATION REQUIREMENTS FOR SOLID WASTE COMPOST FACILITIES

One paper copy and one electronic copy of a solid waste compost facility permit application shall be submitted to the Division. The following information shall be required for an application for a permit to construct and operate a Large Type 1, Small or Large Type 2 or 3 or all Type 4 solid waste compost facilities:

- (1) the name and contact information of the facility owner and operator;
- (2) documentation of property ownership, including:
 - (a) the property owners;
 - (b) a current property deed; and
 - (c) a notarized acknowledgement letter from the landowner of use of the property as a solid waste facility if the landowner is not the facility owner or operator.
- (3) an aerial photograph or scaled drawing, at a scale of one inch to less than or equal to 400 feet, showing the area within one-fourth mile of the proposed site's boundaries with the following identified:
 - (a) the entire property owned or leased by the person proposing the facility;
 - (b) the location of all homes, wells, industrial buildings, public or private

utilities, roads, watercourses, and the topography within 500 feet of the proposed facility; and

- (c) the land use zoning of the proposed site.
- (4) a letter from the unit of government having zoning jurisdiction over the site that states that the proposed use is allowed within the existing zoning, if any, and that necessary zoning approvals or permits have been obtained;
- (5) an explanation of how the site complies with siting and design standards required by Rule .1404 of this Section;
- (6) a report indicating the following:
 - (a) the waste types, the source and estimated quantity of the solid waste to be composted including the source and expected quantity of any bulking agent or amendment (if applicable), expected recycling of bulking agent or compost, and seasonal variations in the solid waste type or quantity; and
 - (b) for facilities that use natural soils as a pad, a soil evaluation of the site conducted by a licensed soil scientist down to a depth of four feet or to bedrock or evidence of a seasonal high water table, evaluating all physical soil properties and depth of the seasonal high water table;
- (7) a site plan at a scale of one inch to less than or equal to 100 feet that delineates the following:
 - (a) the existing and proposed contours, at intervals appropriate to the topography;
 - (b) the location and elevations of dikes, trenches, and other water control devices and structures for the diversion and controlled removal of surface water;
 - (c) the designated setbacks and property lines;
 - (d) the proposed utilities and structures;
 - (e) the areas for unloading, processing, active composting, curing, and storing of material;
 - (f) the access roads and details on traffic patterns;
 - (g) the wetlands, streams, and 100-year floodplains; and
 - (h) the proposed surface and groundwater monitoring locations, if required.
- (8) an operations plan that includes the following:
 - (a) the name and contact information for the person responsible for the operation of the facility;
 - (b) a list of personnel and the responsibilities of each position;

- (c) a schedule for operations, including days and hours that the facility will be open, preparations before opening, and procedures to be followed after closing for the day;
 - (d) special precautions or procedures for operating during wind, heavy rain, snow, freezing or other adverse conditions;
 - (e) a description of actions to be taken to minimize noise, vibrations, and air borne particulates;
 - (f) a description of the use for the finished compost, the method for removal from the site, and a contingency plan for disposal or alternative use of residues or finished compost that cannot be used in the expected manner due to poor quality or change in market conditions;
 - (g) contingency plan describing actions to be taken for equipment breakdown, unauthorized waste arriving at the facility, spills, and fires;
 - (h) a discussion of compliance with the operational requirements listed in Rule .1406 of this Section; and
 - (i) for Large Type 1, Large Type 2, Large Type 3, and all Type 4 facilities, include the following:
 - (i) a description of procedures for incoming material inspections;
 - (ii) a description of procedures to meet the final product sampling and analyses requirements specified in in Rule .1407 of this Section;
 - (iii) a description of procedures to meet the record keeping requirements specified in Rule .1408 of this Section; and
 - (iv) a copy of all applicable local, state, and federal permits and approvals necessary for the operation of the facility.
 - (9) a report on the design of the facility, including:
 - (a) the design capacity of the facility;
 - (b) a process flow diagram of the entire facility, including the type, size, and location of all equipment used in the compost process, and feedstock flow streams. The flow streams shall indicate the quantity of materials by weight and volume;
 - (c) a description and sizing of the storage facilities for feedstocks, amendments, and finished compost;
 - (d) the means for measuring, shredding, mixing, and proportioning input materials;
 - (e) the anticipated process duration, including receiving, preparation, composting, curing, and distribution;
 - (f) a description of the location of all temperature and any other type of monitoring points within the compost windrow, and the frequency of monitoring;
 - (g) a description of how the temperature control and monitoring equipment will demonstrate that the facility meets the requirements in Rule .1406(11), (12), or (13) of this Section, as appropriate for the feedstock;
 - (h) the method of aeration provided and the capacity of aeration equipment;
 - (i) a description of the method to control surface water run-on and run-off and the method to control, collect, treat, and dispose of leachate generated;
 - (j) the separation, processing, storage, and ultimate disposal of non-compostable materials, if applicable;
 - (k) a description of dust control and other air emission control measures; and
 - (l) a description of recycling or other material handling processes used at the facility.
- (10) Odor Control Plan. Operators of Large Type 2, Large Type 3, and all Type 4 facilities shall prepare, submit to the Division, and implement an odor control plan that details site specific conditions to meet the design requirement in Rule .1404(c)(4) of this Section. Existing facilities permitted prior to the readopted effective date of this Rule shall meet these requirements at the time of permit renewal. The plan shall contain the following:
- (a) an identification of all onsite potential odor sources;
 - (b) a description of onsite weather conditions that may affect odor migration, such as prevailing wind direction, topography, and seasonal variations;
 - (c) a plan to monitor onsite odor and record odor data for the odor sources with the potential to migrate offsite. Data shall include date, time, site specific conditions, weather conditions, wind direction, and characteristics and intensity of odor;
 - (d) a description of the facility's odor complaint protocol, including forms used, odor verification by operator

- both onsite and offsite, what the response will be, and who will be contacted;
 - (e) a description of complaint record keeping; and
 - (f) a description of odor control design and operating best management practices to be used onsite, including:
 - (i) personnel training;
 - (ii) feedstock characteristics;
 - (iii) the initial mixing of feedstocks to reach targeted carbon to nitrogen (C:N) ratios and moisture levels;
 - (iv) maintenance of compost piles for moisture;
 - (v) aeration methods, frequency, and protocol;
 - (vi) leachate and liquids management;
 - (vii) weather monitoring and protocol;
 - (viii) management of airborne emissions; and
 - (ix) windrow covering;
 - (11) engineering plans and specifications for the facility, including manufacturer's performance data for all equipment selected; and
 - (12) documentation that the local fire protection authority has been notified of the site use.
- (5) NCAC 02B prior to the discharge of leachate to surface waters.
Access and Security Requirements.
 - (a) Large facilities as defined in Rule .1402(e)(7) of this Section shall be secured to prevent unauthorized entry by means such as gates, chains, berms, or fences.
 - (b) An operator shall be on duty at the site at all times while the facility is open for public use, and shall prevent unauthorized access to the facility operations area.
 - (c) The access road to the site shall be of all-weather construction and maintained.
 - (6) A site shall only accept those solid wastes that it is permitted to receive.
 - (7) Safety Requirements.
 - (a) Open burning of solid waste shall be prohibited.
 - (b) Equipment shall be provided to control accidental fires and arrangements made with the local fire protection agency to provide fire-fighting services when needed.
 - (c) Personnel training shall be provided to ensure that all employees are trained in site specific safety, remedial, and corrective action procedures.
 - (8) Reporting Fires. Fires shall be reported to the Division orally within 24 hours of the incident and in writing within 15 days of the incident.
 - (9) Sign Requirements.
 - (a) Signs providing information on waste that may be received, dumping procedures, the hours during which the site is open for public use, and the permit number shall be posted at the site entrance.
 - (b) Traffic signs and markers shall be provided to direct traffic to and from the discharge area.
 - (c) Signs shall be posted stating that no hazardous waste, asbestos containing waste, or medical waste may be received at the site.
 - (10) Monitoring Requirements.
 - (a) Temperature monitoring shall meet the record-keeping requirements in Rule .1408 of this Section.
 - (b) The temperature of all compost produced shall be monitored sufficiently to ensure that the pathogen reduction criteria are met. Onsite thermometers shall be calibrated annually and records of calibration shall be maintained.

History Note: Authority G.S. 130A-294; 130A-309.03; 130A-309.11; 130A-309.29; Eff. December 1, 1991; Amended Eff. May 1, 1996; Readopted Eff. November 1, 2019.

15A NCAC 13B.1406 OPERATIONAL REQUIREMENTS FOR SOLID WASTE COMPOST FACILITIES

A person who maintains or operates a solid waste compost facility shall maintain and operate the site to conform with the practices and operational requirements of this Rule.

- (1) Plan and Permit Requirements.
 - (a) Approved plans and conditions of the permit shall be followed.
 - (b) A copy of the permit, plans, and operational reports shall be maintained on site at all times.
- (2) Erosion control measures shall be practiced to prevent on-site erosion and to control the movement of silt or contaminants from the site.
- (3) Stormwater shall be diverted from the operations area.
- (4) Leachate shall be contained on site or treated prior to discharge. A National Pollutant Discharge Elimination System (NPDES) permit may be required in accordance with 15A

- (11) Compost process at Type 1 and Type 2 facilities shall be maintained at or above 55 degrees Celsius (131 degrees F) for three days and aerated to maintain elevated temperatures.
- (12) Vector Attraction Reduction (VAR). Types 2, 3 and 4 facilities shall maintain the compost process at a temperature above 40 degrees Celsius (104 degrees F) for 14 days or longer and the average temperature for that time shall be higher than 45 degrees Celsius (113 degrees F).
- (13) Process to Further Reduce Pathogens (PFRP). The composting process shall qualify as a process to further reduce pathogens for all Type 3 and Type 4 facilities. The following shall be acceptable methods:
 - (a) the windrow composting method, in which the following requirements apply:
 - (i) aerobic conditions shall be maintained during the composting process;
 - (ii) a temperature of 131 degrees F (55 degrees Celsius) or greater shall be maintained in the windrow for at least 15 days; and
 - (iii) during the high temperature period, the windrow shall be turned at least five times.
 - (b) the static aerated pile composting method, in which the following requirements apply:
 - (i) aerobic conditions shall be maintained during the composting process; and
 - (ii) the temperature of the compost pile shall be maintained at 131 degrees F (55 degrees Celsius) or greater for at least three days.
 - (c) the within-vessel composting method, in which the temperature in the compost piles shall be maintained at a minimal temperature of 131 degrees F (55 degrees Celsius) for three days.
- (14) Putrescible feedstocks added to the compost process shall be incorporated using methods to minimize odor such as reducing mixing time or the addition of organic material.
- (15) The finished compost shall meet the classification, testing, and distribution requirements in Rule .1407 of this Section.
- (16) The amount of compost stored at the facility shall not exceed the designed storage capacity.
- (17) The site shall be operated to minimize odors at the property boundary by means such as windrow covers, maintaining design process indicator parameters, and maintaining carbon to nitrogen design ratios.
- (18) Odor Corrective Action.
 - (a) If the Odor Control Plan prepared in accordance with Rule .1405(10) of this Section has been followed and the Division determines during a site visit that offsite odors are not being minimized, the owner or operator shall submit to the Division an Odor Corrective Action Report. The report shall contain the following:
 - (i) a summary of the actions taken in the Odor Control Plan;
 - (ii) an identification of onsite odor sources, in order of severity;
 - (iii) an evaluation and identification of odorous feedstocks as they relate to odor complaints;
 - (iv) an evaluation of current operation process indicators including carbon to nitrogen (C:N) ratio, pH, moisture content, oxygen levels, temperature, porosity, and particle size;
 - (v) an evaluation of the compost recipe calculation with C:N ratio testing that is performed by an independent laboratory for each feedstock;
 - (vi) an identification of potential offsite odor receptors based on their proximity to the odor sources and on weather patterns;
 - (vii) a description of new odor reduction methods, if proposed, and an evaluation of their feasibility, in terms of effectiveness, cost, and equipment needs;
 - (ix) an evaluation of the elimination of specific odorous feedstocks; and
 - (x) recommendations for implementing new corrective action measures for odor minimization, including a schedule.
 - (b) The owner or operator shall implement the new corrective action measures for odor minimization recommended in the Odor Corrective Action Report if the Division determines that the new corrective

measures will reduce odors outside of the property boundary and will comply with the requirements of this Section. The Division may require the elimination of specific odorous feedstocks if a facility fails to meet the odor minimization required by Item (17) of this Rule. The Division shall provide written notice to the owner or operator of the determination.

- (c) The owner or operator shall develop and implement additional corrective action measures if necessary to meet the requirements of Item (17) of this Rule to minimize odors at the property boundary.
- (19) Compost Facility Training Requirements.
- (a) Facilities permitted as Large Type 1, Large Type 2, all Type 3, and all Type 4 shall have an operator, supervisor, or manager trained in accordance with the requirements in G.S. 130A-309.25. No less than one trained operator, supervisor, or manager meeting the requirements of this Sub-item shall be onsite during the facility's operating hours or available at a phone number provided in the facility permit.
 - (i) Training in accordance with G.S. 130A-309.25(c) shall be required every five years.
 - (ii) Persons who have achieved and maintain compost operator certification by the US Composting Council Certification Commission or equivalent shall be considered as having met the training requirements in G.S. 130A-309.25 for the permitted facility.
 - (b) Owners or operators shall provide annual training for facility staff, including a review of the operations plan and permit documents.
 - (c) Documentation of training required in Sub-items (a) and (b) of this Item shall be maintained at the facility and made available to the Division upon request.
 - (d) Facilities permitted before the readopted effective date of this Rule shall meet the requirements of Sub-item (a) of this Item within three years of the readopted effective date of this Rule. Facilities permitted after the readopted effective date of this Rule shall meet the requirements of Sub-

item (a) of this Item within 18 months of permit issuance.

History Note: Authority G.S. 130A-294; 130A-309.03; 130A-309.11; 130A-309.29; Eff. December 1, 1991; RRC objection Eff. April 18, 1996 due to lack of statutory authority; Amended Eff. June 1, 1996; Readopted Eff. November 1, 2019.

15A NCAC 13B .1407 CLASSIFICATION, TESTING, AND DISTRIBUTION OF SOLID WASTE COMPOST PRODUCTS

(a) Compost or mulch that is produced at a Type 1 facility, is free from offensive odor, contains no sharp particles, and, for compost, has met the temperature requirements in Rule .1406(11) of this Section shall be classified Grade A and have unrestricted application and distribution. Compost analytical testing shall not be required for Type 1 compost if temperature requirements in Rule .1406(11) of this Section have been met and documented.

(b) Compost produced from Type 2, 3, and 4 facilities shall be sampled and analyzed as follows:

- (1) a composite sample of the compost produced at each compost facility shall be analyzed at intervals of every 20,000 tons of compost produced or every six months, whichever comes first, for metals and pathogens;
- (2) compost samples shall be analyzed for the metals listed in 40 CFR 503.13(b)(3), except that analysis for mercury shall not be required for Type 2 and 3 facilities, and analysis for arsenic and selenium shall not be required for Type 2 facilities. The concentration of metals in compost offered for sale or distribution to the public shall not exceed the pollutant concentration limits listed in 40 CFR 503.13(b)(3). 40 CFR 503.13 and 40 CFR 503.32 are incorporated by reference including subsequent amendments and editions. Copies of the Code of Federal Regulations may be obtained from the U.S. Government Publishing Office website at www.gpo.gov at no cost;
- (3) compost samples shall be analyzed for pathogens, either for fecal coliform or salmonella bacteria. The concentration of pathogens in compost offered for sale or distribution to the public shall not exceed the concentration limits listed in 40 CFR 503.32(a)(3);
- (4) sample collection, preservation, and analysis shall assure valid and representative results. At least three individual samples of equal volume shall be taken from each batch produced in separate areas along the side of the batch. Each sampling point shall be sampled from a depth of two to six feet into the pile from the outside surface of the pile as follows:

- (A) metals samples shall be composited and accumulated over a six-month period or at intervals of every 20,000 tons of product produced, whichever comes first; and
- (B) pathogens samples shall be a representative composite sample of the compost and shall be processed within a period of time required by the testing procedure;
- (5) analytical testing methods shall be in accordance with the procedures of one of the following:
 - (A) EPA publication SW-846, "Test Methods for Evaluating Solid Waste: Physical/Chemical Methods." This document is incorporated by reference, including subsequent amendments and editions, and may be obtained free of charge at <https://www.epa.gov/hw-sw846>;
 - (B) the U.S. Department of Agriculture/U.S. Compost Council publication "Test Methods for the Examination of Composting and Compost" (TMECC). This document is incorporated by reference including subsequent amendments and editions, and may be obtained for a fee of three hundred fifty dollars (\$350.00) at <https://compostingcouncil.org/tmecc/> or a copy may be reviewed free of charge at the Division of Waste Management, Solid Waste Section office at 217 West Jones Street, Raleigh, N.C. 27603; or
 - (C) other methods that are approved by the Division as providing equivalent standards of analysis; and
- (6) the Division may decrease or increase the parameters to be analyzed or the frequency of analysis based upon monitoring data, changes in the waste stream or processing, or information regarding the potential for the presence of contaminants that are not required to be analyzed in this Paragraph.

(c) Compost produced from Types 2, 3, and 4 facilities that meet the requirements of Subparagraphs (b)(2) and (b)(3) of this Rule shall be classified Grade A compost and shall have unlimited, unrestricted distribution, except as otherwise determined by the Division based on analyses of parameters pursuant to Subparagraph (b)(6) of this Rule.

(d) The facility operator shall be responsible for meeting the requirements of the North Carolina Department of Agriculture and Consumer Services Plant Industry Division Seed and Fertilizer Section concerning the distribution of this product.

History Note: Authority G.S. 130A-309.11; Eff. December 1, 1991;

*RRC objection Eff. April 18, 1996 due to lack of statutory authority;
Amended Eff. June 1, 1996;
Readopted Eff. November 1, 2019.*

15A NCAC 13B .1408 RECORDKEEPING AND REPORTING REQUIREMENTS

(a) Record Keeping: Facility owners or operators shall maintain records for no less than five years. The following records shall be available for inspection by Division personnel during the facility's normal business hours and shall be sent to the Division upon request:

- (1) daily operational records that include temperature data (length of the composting period) and quantity of material processed;
- (2) analytical results of compost testing;
- (3) the quantity, type, and source of waste received;
- (4) the quantity of waste processed into compost;
- (5) the odor management records required by Rule .1405(10) of this Section; and
- (6) the quantity of compost removed for use or disposal and the market or permitted disposal facility.

(b) Annual Reporting: An annual report for the period July 1 to June 30 shall be submitted by all facility owners or operators to the Division by August 1 of each year and shall contain:

- (1) the facility name, address, and permit number;
- (2) the total quantity in tons, with sludge values expressed in dry weight, and the type of waste received at the facility during the year covered by the report, including tons of waste received from local governments of origin;
- (3) the total quantity in tons of compost produced at the facility during the year covered by the report;
- (4) the total quantity in tons of compost removed for use or disposal from the facility during the year covered by the report;
- (5) monthly temperature monitoring to support Rule .1406 of this Section; and
- (6) the results of analytical testing required by Rule .1407 of this Section.

(c) Yearly totals of solid waste received and composted shall be reported back to the local government of origin for annual recycling reporting.

*History Note: Authority G.S. 130A-294; 130A-309.03; 130A-309.11; 130A-309.29; Eff. December 1, 1991;
RRC objection Eff. April 18, 1996 due to lack of statutory authority;
Amended Eff. June 1, 1996;
Readopted Eff. November 1, 2019.*

15A NCAC 13B .1409 ALTERNATIVE PROCEDURES, VERMICOMPOSTING, AND ANAEROBIC DIGESTION REQUIREMENTS

(a) An owner or operator of a composting facility subject to the provisions of this Section may request in writing the approval of

an alternative procedure for the facility or the compost that is produced. The following information shall be submitted to the Solid Waste Section:

- (1) the specific facility for which the exception is requested;
- (2) the specific provisions of this Section for which the exception is requested;
- (3) the basis for the exception;
- (4) the alternate procedure or requirement for which the approval is sought and a demonstration that the alternate procedure or requirement provides equivalent protection of the public health and the environment; and
- (5) a demonstration of the effectiveness of the proposed alternate procedure.

The Division shall approve the request if the alternative procedure is equivalent to procedures provided in the rules of this Section and is protective of the public health and the environment.

(b) Vermicompost Facilities. This Paragraph shall be applicable to vermicompost facilities that receive solid waste as defined in G.S. 130A-290. Facilities that receive only animal manure or only municipal wastewater treatment sludge, or both, shall not be subject to this Paragraph.

- (1) The following operations shall be exempt from the requirements of this Section:
 - (A) backyard vermicomposting; and
 - (B) farming operations where the vermicompost is produced from materials grown on the owner's land and re-used on the owner's land.
- (2) Vermicompost facilities meeting the following conditions shall be exempt from the permitting requirements in Rule .1405 of this Section:
 - (A) the site receives pre- and post-consumer food waste, manure, vegetative agricultural waste, yard and garden waste, untreated, unpainted, and uncontaminated wood material, source separated paper, or any combination thereof;
 - (B) no more than 100 cubic yards of material shall be onsite at any time. This volume shall include feedstock storage, processing, pre-composting, and active vermicomposting, but shall not include finished vermicompost;
 - (C) outdoor areas of the site used for feedstock storage, processing, pre-composting, or vermicomposting in open areas or open containers or bins shall meet the siting criteria and setback requirements of Rule .1404(a)(1) through (a)(10) of this Section, except that the minimum setback to the property line shall be at least 50 feet and the minimum setback to residences or dwellings not owned and occupied by the owner or operator shall be at least 200 feet;

- (D) outdoor feedstock storage, processing, pre-composting, and vermicomposting operations areas, that are enclosed on all sides in containers or bins shall maintain a minimum setback to the property line of at least 25 feet;
- (E) the site is operated to prevent the release of particulates and odors outside of the property boundary, and the site does not attract vectors such as insects and rodents;
- (F) surface water shall be diverted from the operational and storage areas. Leachate shall be contained onsite and treated to meet the standards of the applicable off-site disposal method;
- (G) for facilities producing vermicompost that is distributed to the public or used in public areas, the owner meets the pathogen testing and record keeping requirements of Rule .1407(b) and .1408(a) of this Section for a Type 3 facility; and
- (H) the site operates in accordance with all applicable State or local laws, ordinances, rules, regulations, or orders.

- (3) A permit shall be required for vermicompost facilities that do not meet the conditions of Subparagraphs (1) or (2) of this Paragraph. A permit application for a vermicomposting facility shall include the information required by Rules .1404 and .1405 of this Section, except that Rules .1405(9)(f) through (9)(h) of this Section do not apply. Operations or parts of operations that are indoors shall be exempt from the siting requirements of Rule .1404 of this Section. Permitted vermicomposting facilities shall be subject to:
 - (A) Rule .1406(1) through (9), (14), and (16) of this Section;
 - (B) Rule .1407 of this Section;
 - (C) Rule .1408 of this Section; and
 - (D) Rule .1410 of this Section.

(c) Anaerobic Digestion Facilities. This Paragraph shall be applicable to anaerobic digestion facilities that receive solid waste as defined in G.S. 130A-290. Facilities that receive only animal manure or only municipal wastewater treatment sludge, or both, shall not be subject to this Paragraph.

- (1) A solid waste management permit shall be required for the areas of the facility that manage solid waste. These areas shall include the incoming waste receiving area, the digestate handling area, and the digestate final disposition and any other areas of the operation where solid waste is exposed to the environment.
- (2) A permit application shall contain:

- (A) the information required by Rules .1404 and .1405 of this Section, with the exception of Rule .1405(9)(f) through (9)(h). Operations or parts of operations that are in buildings enclosed on all sides shall be exempt from the siting requirements of Rule .1404 of this Section; and
- (B) drawings of the following within the waste management areas:
 - (i) hoppers, bays, or vessels, and all other site-specific features related to solid waste management activities; and
 - (ii) for indoor operations, plan and profile drawings of the buildings with areas and features labeled.
- (3) Permitted anaerobic digestion facilities shall be subject to:
 - (A) Rule .1406(1) through (9), (14), and (16) of this Section;
 - (B) Rule .1407 of this Section for the digestate;
 - (C) Rule .1408 of this Section; and
 - (D) Rule .1410 of this Section.

History Note: Authority G.S. 130A-294; 130A-309.03; 130A-309.11; 130A-309.29; Eff. December 1, 1991; RRC objection due to lack of statutory authority Eff. April 18, 1996; Amended Eff. June 1, 1996; Readopted Eff. November 1, 2019.

15A NCAC 13B.1410 CLOSURE REQUIREMENTS

- (a) When the permitted compost facility ceases operations, the owner or operator shall meet the following conditions:
 - (1) all feedstock and unfinished compost materials shall be removed from the site and taken to a permitted solid waste facility within 180 days;
 - (2) finished compost materials left onsite shall comply with G.S. 130A-309.05; and
 - (3) the owner or operator shall notify the Division in writing upon completion of the requirements of Subparagraph (1) of this Paragraph.
- (b) When a permitted compost facility has been closed in accordance with the requirements of Subparagraph (a) of this Rule, the permit shall be terminated. Future compost operations at the site shall require submittal of a new permit application in accordance with Rule .1405 of this Section.

History Note: Authority G.S. 130A-294; 130A-309.03; 130A-309.11; 130A-309.29; Eff. November 1, 2019.

CHAPTER 16 – BOARD OF DENTAL EXAMINERS

21 NCAC 16V.0101 DEFINITION: UNPROFESSIONAL CONDUCT BY A DENTIST

- Unprofessional conduct by a dentist shall include the following:
- (1) having professional discipline imposed, including the denial of licensure, by the dental licensing authority of another state, territory, or country. For purposes of this Rule, the surrender of a license under threat of disciplinary action shall be considered the same as if the licensee had been disciplined;
 - (2) presenting false or misleading testimony, statements, or records to the Board or the Board's investigator or employees during the scope of any investigation, or at any hearing of the Board;
 - (3) being convicted of or entering a plea of guilty or nolo contendere to any charge for a crime that is violent or sexual in nature;
 - (4) violating any order of the Board previously entered in a disciplinary hearing, or failing to comply with a subpoena of the Board;
 - (5) conspiring with any person to commit an act, or committing an act that would coerce, intimidate, or preclude any patient or witness from testifying against a licensee in any disciplinary hearing, or retaliating in any manner against any patient or other person who testifies or cooperates with the Board during any investigation under the Dental Practice or Dental Hygiene Acts;
 - (6) failing to identify to a patient, patient's guardian, or the Board the name of an employee, employer, contractor, or agent who renders dental treatment or services upon request;
 - (7) prescribing, procuring, dispensing, or administering any controlled substance for personal use, which does not include those prescribed, dispensed, or administered by a practitioner authorized to prescribe them;
 - (8) pre-signing blank prescription forms or using pre-printed or rubber stamped prescription forms containing the dentist's signature or the name of any controlled substance;
 - (9) forgiving the co-payment provisions of any insurance policy, insurance contract, health prepayment contract, health care plan, or nonprofit health service plan contract by accepting the payment received from a third party as full payment, unless the dentist discloses to the third party that the patient's payment portion will not be collected;
 - (10) failing to provide radiation safeguards required by the State Department of Health and Human Services, the federal Occupational and Safety Health Administration, the Food and Drug

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

- Administration, or the Environmental Protection Agency;
- (11) having professional connection with or lending one's name to the unlawful practice of dentistry, including as set forth in G.S. 90-41(a)(9);
 - (12) using the name of any deceased or retired dentist on any office door, directory, stationery, bill heading, or any other means of communication any time after one year following the death or retirement from practice of said dentist;
 - (13) failing to comply with any provision of any contract or agreement with the Caring Dental Professionals Program;
 - (14) failing to file a truthful response to a notice of complaint filed with the Board within the time allowed in the notice;
 - (15) failing to notify the Board of a change in current primary physical address, which shall be either a personal address or a business address at the licensee's election, within 10 business days;
 - (16) permitting more than two dental hygienists for each licensed dentist in the office to perform clinical hygiene tasks, as set forth in G.S. 90-233(b);
 - (17) failing to produce diagnostic radiographs or other treatment records on request of the Board or its investigator;
 - (18) soliciting employment of potential patients in person or by telephone or permitting or directing another to do so;
 - (19) giving or accepting anything of value in exchange for a promise to refer or referral of potential patients;
 - (20) failing to offer 30 days of emergency care upon dismissing a patient from a dental practice;
 - (21) withholding or refusing to complete a treatment procedure for an existing patient conditioned upon payment of an outstanding balance;
 - (22) using protected patient health information, as defined by 45 CFR 160.103, to solicit potential patients;
 - (23) making misleading or untruthful statements for the purpose of procuring potential patients, or directing or allowing an employee or agent to do so;
 - (24) making false statements or omissions in any communication with the Board or its agents regarding the subject of any disciplinary matter under investigations by the Board;
 - (25) refusing to permit a Board agent or employee to conduct a sterilization inspection;
 - (26) acquiring any controlled substance from any source by fraud, deceit or misrepresentation;
 - (27) practicing outside the scope of dentistry, as set forth in G.S. 90-29; and
 - (28) committing any act that would constitute civil assault or civil battery in connection with the provision of dental services. The North

Carolina Pattern Jury Instructions for Civil 800.50, Assault, and for Civil 800.51, Battery, are hereby incorporated by reference, including subsequent amendments and editions. These documents may be accessed at no cost at <https://www.sog.unc.edu/resources/microsites/north-carolina-pattern-jury-instructions/north-carolina-pattern-jury-instructions-civil-cases>.

History Note: Authority G.S. 90-28; 90-29; 90-41; 90-48; 90-223(b);
 Eff. August 1, 1998;
 Amended Eff. August 1, 2016; July 1, 2015; October 1, 2001; August 1, 2000;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
 Amended Eff. November 1, 2019.

**21 NCAC 16V .0102 DEFINITION:
 UNPROFESSIONAL CONDUCT BY A DENTAL
 HYGIENIST**

Unprofessional conduct by a dental hygienist shall include the following:

- (1) having professional discipline imposed, including the denial of licensure, by the dental hygiene licensing authority of another state, territory, or country. For purposes of this Rule, the surrender of a license under threat of disciplinary action shall be considered the same as if the licensee had been disciplined;
- (2) presenting false or misleading testimony, statements, or records to the Board or the Board's investigator or employees during the scope of any investigation or at any hearing of the Board;
- (3) being convicted of or entering a plea of guilty or nolo contendere to any charge for a crime that is violent or sexual in nature;
- (4) violating an order of the Board previously entered in a disciplinary hearing or failing to comply with a subpoena of the Board;
- (5) conspiring with any person to commit an act, or committing an act that would coerce, intimidate, or preclude any patient or witness from testifying against a licensee in any disciplinary hearing, or retaliating in any manner against any patient or other person who testifies or cooperates with the Board during any investigation under the Dental Practice or Dental Hygiene Acts;
- (6) failing to identify to a patient, patient's guardian, an employer, or the Board the name of any person or agent who renders dental treatment or services upon request;
- (7) procuring, dispensing, or administering any controlled substance for personal use except those prescribed, dispensed, or administered by a practitioner authorized to prescribe them;

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| <p>(8) acquiring any controlled substance from any pharmacy or other source by misrepresentation, fraud or deception;</p> <p>(9) having professional connection with or lending one's name to the illegal practice of dental hygiene, including as set forth in G.S. 90-229(11);</p> <p>(10) failing to comply with any provision of any contract or agreement with the Caring Dental Professionals Program;</p> <p>(11) failing to file a truthful response to a notice of complaint filed with the Board within the time allowed in the notice;</p> <p>(12) failing to notify the Board of a change in current primary physical address, which shall be either a personal address or a business address at the licensee's election, within 10 business days;</p> <p>(13) working in a clinical hygiene position if the ratio of hygienists to licensed dentists present in the office is greater than 2:1, as set forth in G.S. 90-233(b);</p> <p>(14) soliciting employment of potential patients in person or by telephone or permitting or directing another to do so;</p> <p>(15) giving or accepting anything of value in exchange for a promise to refer or referral of potential patients;</p> <p>(16) using protected patient health information, as defined by 45 CFR 160.103, to solicit potential patients;</p> | <p>(17) making misleading or untruthful statements for the purpose of procuring potential patients or assisting another to do so;</p> <p>(18) making false statements or omissions in any communication with the Board or its agents regarding the subject of any disciplinary matter under investigation by the Board;</p> <p>(19) practicing outside the scope of dental hygiene, as defined in G.S. 90-221(a); and</p> <p>(20) committing any act that would constitute civil assault or civil battery in connection with the provision of dental hygiene services. The North Carolina Pattern Jury Instructions for Civil 800.50, Assault, and for Civil 800.51, Battery, are hereby incorporated by reference, including subsequent amendments and editions. These documents may be accessed at no cost at https://www.sog.unc.edu/resources/microsites/north-carolina-pattern-jury-instructions/north-carolina-pattern-jury-instructions-civil-cases.</p> |
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History Note: Authority G.S. 90-29; 90-221; 90-223; 90-229; Eff. August 1, 1998;
Amended Eff. August 1, 2016; July 1, 2015; October 1, 2001; August 1, 2000; September 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. November 1, 2019.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission December 19, 2019 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jeff Hyde (Chair)
Robert A. Bryan, Jr.
Margaret Currin
Brian P. LiVecchi
W. Tommy Tucker, Sr.

Appointed by House

Jeanette Doran (1st Vice Chair)
Andrew P. Atkins
Anna Baird Choi (2nd Vice Chair)
Paul Powell
Garth Dunklin

COMMISSION COUNSEL

Amber Cronk May (919) 431-3074
Amanda Reeder (919) 431-3079
Ashley Snyder (919) 431-3081

RULES REVIEW COMMISSION MEETING DATES

December 19, 2019 January 16, 2019
February 20, 2019 March 19, 2019

AGENDA

RULES REVIEW COMMISSION

THURSDAY, DECEMBER 19, 2019 9:00 A.M.

1711 New Hope Church Rd., Raleigh, NC 27609

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
 - A. Board of Elections - 08 NCAC 10B .0103 (May)
 - B. Commission for the Blind - 10A NCAC 63C .0203, .0204, .0403, .0601 (Reeder)
 - C. Alcoholic Beverage Control Commission - 14B NCAC 15A .1406 (Snyder)
 - D. Environmental Management Commission - 15A NCAC 02B .0229, .0232, .0234, .0235, .0236, .0237, .0238, .0239, .0240, .0255, .0256, .0257, .0258, .0701, .0730 (Reeder)
 - E. Environmental Management Commission - 15A NCAC 02B .0402, .0403, .0404, .0406, .0407, .0408, .0501, .0502, .0503, .0504, .0505, .0506, .0508, .0511; 02H .0101, .0102, .0103, .0105, .0106, .0107, .0108, .0109, .0111, .0112, .0113, .0114, .0115, .0116, .0117, .0118, .0120, .0121, .0124, .0125, .0127, .0138, .0139, .0140, .0141, .0142, .0143, .0401, .0402, .0403, .0404, .0405, .0406, .0407, .1201, .1202, .1203, .1204, .1205, .1206 (May)
 - F. State Board of Opticians – 21 NCAC 40 .0321 (Snyder)
 - G. Building Code Council - Residential Code, N1106.2 (R406.2); Energy Conservation Code, R202; Energy Conservation Code R406.2 (Reeder)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between October 22, 2019 through November 20, 2019
 - Medical Care Commission (May)
 - Commission for Public Health (Snyder)
 - Private Protective Services Board (Reeder)
 - Board of Certified Public Accountant Examiners (Snyder)
 - Board of Chiropractic Examiners (May)
 - Board of Occupational Therapy (May)
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review

- Review of Reports
 1. 04 NCAC 19N,O,P,Q – DHHS/Division of Aging & Adult Services (Reeder)
- Readoptions

VII. Commission Business

- Next meeting: Thursday, January 16, 2020

**Commission Review
Log of Permanent Rule Filings
October 22, 2019 through November 20, 2019**

MEDICAL CARE COMMISSION

The rules in Subchapter 13C concern licensing of ambulatory surgical facilities including general provisions (.0100); licensing procedures (.0200); governing authority and management (.0300); medical and surgical services (.0400); anesthesia services (.0500); pathology services (.0600); radiology services (.0700); pharmaceutical services (.0800); nursing services (.0900); medical records services (.1000); surgical facilities and equipment (.1100); functional safety (.1200); control and sanitation (.1300); and physical plant construction (.1400).

<u>Definitions</u>	10A	NCAC	13C	.1401
Amend*				
<u>List of Referenced Guidelines, Codes, Standards, and Regu...</u>	10A	NCAC	13C	.1402
Amend*				
<u>General and Emergency</u>	10A	NCAC	13C	.1403
Amend*				
<u>Equivalency and Conflicts with Requirements</u>	10A	NCAC	13C	.1404
Readopt with Changes*				
<u>Mechanical Requirements</u>	10A	NCAC	13C	.1405
Readopt/Repeal*				
<u>Plumbing and Other Piping Systems</u>	10A	NCAC	13C	.1406
Readopt/Repeal*				
<u>Electrical Requirements</u>	10A	NCAC	13C	.1407
Readopt/Repeal*				
<u>General</u>	10A	NCAC	13C	.1408
Repeal*				
<u>List of Referenced Codes and Standards</u>	10A	NCAC	13C	.1409
Repeal*				
<u>Application of Physical Plant Requirements</u>	10A	NCAC	13C	.1410
Readopt/Repeal*				

The rules in Subchapter 13F concern licensing of homes for the aged and infirm and include definitions (.0100); licensing (.0200); physical plant (.0300); staff qualification (.0400); staff orientation training, competency and continuing education (.0500); staffing (.0600); admission and discharge (.0700); resident assessment and care plan (.0800); resident care and services (.0900); medication (.1000); Resident's funds and refunds (.1100); policies; records and reports (.1200); special care units for alzheimer and related disorders (.1300); special care units for mental health disorders (.1400); use of physical restraints and alternatives (.1500); and rated certificates (.1600).

<u>Persons not Eligible for New Adult Care Home Licenses</u>	10A	NCAC	13F	.0203
Readopt/Repeal*				
<u>Change of License</u>	10A	NCAC	13F	.0207
Readopt with Changes*				
<u>Suspension of Admissions</u>	10A	NCAC	13F	.0214
Readopt/Repeal*				

<u>Marketing</u> Readopt with Changes*	10A NCAC 13F .1206
<p>The rules in Subchapter 13G concern licensing of family care homes including definitions (.0100); licensing (.0200); the building (.0300); staff qualifications (.0400); staffing orientation, training, competency and continuing education (.0500); staffing of the home (.0600); admission and discharge (.0700); resident assessment and care plan (.0800); resident care and services (.0900); medications (.1000); management and resident's funds and refunds (.1100); policies, records and reports (.1200); use of physical restraints and alternatives (.1300); and rated certificates (.1600).</p>	
<u>Change of Licensee</u> Readopt with Changes*	10A NCAC 13G .0207
<u>Suspension of Admissions</u> Readopt/Repeal*	10A NCAC 13G .0214
<u>Marketing</u> Readopt with Changes*	10A NCAC 13G .1207

PUBLIC HEALTH, COMMISSION FOR

The rules in Chapter 41 concern epidemiology health.

The rules in Subchapter 41C concern occupational health including general provisions (.0100); dusty trades program (.0200); industrial hygiene consultation program (.0300); occupational health nursing consultation program (.0400); asbestos hazard management program (.0600); occupational health surveillance (.0700); lead-based paint hazard management program (.0800); and lead-based paint hazard management program for renovation, repair and painting (.0900).

<u>Definitions</u> Readopt with Changes*	10A NCAC 41C .0701
<u>Reportable Diseases, Illnesses, and Injuries</u> Amend*	10A NCAC 41C .0702
<u>Method of Reporting</u> Readopt with Changes*	10A NCAC 41C .0703

The rules in Chapter 43 concern personal health.

The rules in Subchapter 43D concern WIC/Nutrition including definitions (.0100); WIC program general information (.0200); selection of local WIC agencies (.0300); eligibility for WIC program participation (.0400); WIC program food package (.0500); WIC program nutrition education (.0600); WIC program food delivery system (.0700); WIC program administrative appeals (.0800); WIC program participant fair hearings (.0900); consultation services (.1000); and maternal and child health block grant nutrition program (.1200).

<u>Definitions</u> Amend*	10A NCAC 43D .0202
<u>Waiting List</u> Amend*	10A NCAC 43D .0408
<u>Supplemental Foods</u> Amend*	10A NCAC 43D .0501
<u>The North Carolina Automated WIC System</u> Amend*	10A NCAC 43D .0701
<u>Issuance of Food Benefits</u> Amend*	10A NCAC 43D .0702
<u>Use of Food Benefits</u> Amend*	10A NCAC 43D .0703
<u>Validity of Food Instruments and Cash-Value Vouchers</u> Repeal*	10A NCAC 43D .0704
<u>Payment of WIC Food Benefits</u>	10A NCAC 43D .0705

Amend*					
<u>Vendor Peer Groups</u>	10A	NCAC	43D	.0706	
Amend*					
<u>Vendor Applicants</u>	10A	NCAC	43D	.0707	
Amend*					
<u>Authorized Vendors</u>	10A	NCAC	43D	.0708	
Amend*					
<u>Vendor Violations and Sanctions</u>	10A	NCAC	43D	.0710	
Amend*					
<u>Notice of Hearing</u>	10A	NCAC	43D	.0908	
Amend*					

PRIVATE PROTECTIVE SERVICES BOARD

The rules in Chapter 16 are from the Private Protective Services Board and cover organization and general provisions (.0100); licenses and trainee permits (.0200); security guard patrol and guard dog service (.0300); private investigator: electronic countermeasures (.0400); polygraph (.0500); psychological stress evaluator (PSE) (.0600); unarmed security guard registration (.0700); armed security guard firearm registration permit (.0800); trainer certificate (.0900); recovery fund (.1000); training and supervision for private investigator associates (.1100); continuing education (.1300); and armed armored car service guards firearm registration permit (.1400).

<u>Application Completion Deadline</u>	14B	NCAC	16	.0114	
Readopt/Amend*					
<u>Application for Licenses and Trainee Permits</u>	14B	NCAC	16	.0201	
Readopt/Amend*					
<u>Fees for Licenses and Trainee Permits</u>	14B	NCAC	16	.0202	
Readopt/Amend*					
<u>Renewal or Re-issue of Licenses and Trainee Permits</u>	14B	NCAC	16	.0203	
Readopt/Amend*					
<u>Company Business License</u>	14B	NCAC	16	.0205	
Readopt/Amend*					
<u>Polygraph Trainee Permit Requirements</u>	14B	NCAC	16	.0502	
Readopt/Amend*					
<u>Application for Unarmed Security Guard Registration</u>	14B	NCAC	16	.0701	
Readopt/Amend*					
<u>Fees for Unarmed Security Guard Registration</u>	14B	NCAC	16	.0702	
Readopt/Amend*					
<u>Unarmed Security Guard Registration Identification Cards</u>	14B	NCAC	16	.0705	
Readopt/Amend*					
<u>Renewal of Unarmed Security Guard Registration</u>	14B	NCAC	16	.0706	
Readopt/Amend*					
<u>Application/Armed Security Guard Firearm Registration Permit</u>	14B	NCAC	16	.0801	
Readopt/Amend*					
<u>Fees for Armed Security Guard Firearm Registration Permit</u>	14B	NCAC	16	.0802	
Readopt/Amend*					
<u>Renewal of Armed Security Guard Firearm Registration Permit</u>	14B	NCAC	16	.0806	
Amend*					
<u>Application for Firearms Trainer Certificate</u>	14B	NCAC	16	.0902	
Readopt/Amend*					
<u>Fees for Trainer Certificate</u>	14B	NCAC	16	.0903	
Readopt/Amend*					
<u>Renewal of a Firearms Trainer Certificate</u>	14B	NCAC	16	.0904	
Amend*					

<u>Unarmed Trainer Certificate</u> Amend*	14B	NCAC	16	.0909
<u>Application for an Unarmed Trainer</u> Readopt/Amend*	14B	NCAC	16	.0910
<u>Renewal of an Unarmed Trainer Certificate</u> Readopt/Amend*	14B	NCAC	16	.0911
<u>Rosters of Unarmed Trainer Classes</u> Readopt/Amend*	14B	NCAC	16	.0912
<u>Application for Unarmed Armored Car Service Guard Registration...</u> Readopt/Amend*	14B	NCAC	16	.1301
<u>Fees for Unarmed Armored Car Service Guard Registration</u> Readopt/Amend*	14B	NCAC	16	.1302
<u>Renewal or Reissue of Unarmed Car Service Guard Registration</u> Readopt/Amend*	14B	NCAC	16	.1306
<u>Application/Armed Armored Car Service Guard Firearm Registration...</u> Readopt/Amend*	14B	NCAC	16	.1401
<u>Fees for Armed Armored Car Service Guard Firearm Registration...</u> Readopt/Amend*	14B	NCAC	16	.1402
<u>Renewal of Armed Armored Car Service Guard Firearm Registration...</u> Readopt/Amend*	14B	NCAC	16	.1406

CERTIFIED PUBLIC ACCOUNTANT EXAMINERS, BOARD OF

The rules in Subchapter 8G are the continuing professional education requirements including general provisions (.0100); responsibilities to clients and colleagues (.0200); and other responsibilities and requirements (.0300 and .0400).

<u>CPE Requirements for CPAS</u> Amend*	21	NCAC	08G	.0401
<u>Qualification of CPE Sponsors</u> Amend*	21	NCAC	08G	.0403
<u>Requirements for CPE Credit</u> Amend*	21	NCAC	08G	.0404
<u>Administration of Requirement</u> Repeal*	21	NCAC	08G	.0405
<u>Compliance with CPE Requirements</u> Amend*	21	NCAC	08G	.0406
<u>Computation of CPE Credits</u> Amend*	21	NCAC	08G	.0409
<u>Professional Ethics and Conduct CPE</u> Repeal*	21	NCAC	08G	.0410

CHIROPRACTIC EXAMINERS, BOARD OF

The rules in Chapter 10 include organization of the Board (.0100); the practice of chiropractic (.0200); rules of unethical conduct (.0300); rule-making procedures (.0400); investigation of complaints (.0500); contested cases and hearings in contested cases (.0600-.0700); and miscellaneous provisions (.0800).

<u>Structure of Board</u> Amend*	21	NCAC	10	.0103
<u>Licensure</u> Amend*	21	NCAC	10	.0204
<u>Certification of Radiologic Technologists</u> Amend*	21	NCAC	10	.0206

RULES REVIEW COMMISSION

<u>Continuing Education Seminars</u> Amend*	21	NCAC	10	.0207
<u>Certification of Clinical Assistants</u> Amend*	21	NCAC	10	.0213
<u>Petition for Predetermination</u> Adopt*	21	NCAC	10	.0215
<u>Advertising and Publicity</u> Amend*	21	NCAC	10	.0302
<u>Petitions for Adoptions of Rules</u> Amend*	21	NCAC	10	.0401
<u>Procedure for Adoption of Rules</u> Amend*	21	NCAC	10	.0403
<u>Declaratory Rulings</u> Amend*	21	NCAC	10	.0406
<u>Filing Complaints</u> Amend*	21	NCAC	10	.0501
<u>Determination of Probable Cause</u> Amend*	21	NCAC	10	.0503
<u>Conduct of Board Hearing</u> Adopt*	21	NCAC	10	.0706
<u>Continuances for Board Hearings</u> Adopt*	21	NCAC	10	.0708
<u>Subpoenas</u> Adopt*	21	NCAC	10	.0709

OCCUPATIONAL THERAPY, BOARD OF

The rules in Chapter 38 cover organization and general provisions (.0100); application for license (.0200); licensing (.0300); business conduct (.0400); provisions concerning rulemaking (.0500); administrative hearing procedures (.0600); professional corporations (.0700); continuing competence activity (.0800); supervision, supervisory roles, and clinical responsibilities of occupational therapists and occupational therapy assistants (.0900); supervision of limited permittees (.1000); and supervision of unlicensed personnel (.1100).

<u>Continuing Competence Definitions</u> Amend*	21	NCAC	38	.0801
<u>Scope of Qualified Activities for Maintaining Continuing ...</u> Amend*	21	NCAC	38	.0804
<u>Qualified Activities for Maintaining Continuing Competence</u> Amend*	21	NCAC	38	.0805

CONTESTED CASE DECISIONS

This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncoah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: oah.clerks@oah.nc.gov or phone 919-431-3000.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge

JULIAN MANN, III

Senior Administrative Law Judge

FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Melissa Owens Lassiter
Don Overby
J. Randall May
David Sutton
Tenisha Jacobs

A. B. Elkins II
Selina Malherbe
J. Randolph Ward
Stacey Bawtinheimer

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				<u>Published</u>			
19	DHR	00787	9/27/2019	FRAN Inc	v.	NC Department of Health and Human Services, Division of Child Development and Early Education	Sutton
19	DHR	02190	9/12/2019	David Simmons	v.	Division of Health Benefits	Elkins
19	DHR	02737	9/5/2019	William Edward Mills	v.	DHHS	Ward
19	DOA	02825	9/5/2019	The Wheel of Hope Wayne L Lofton	v.	SECC	Ward
19	INS	01845	9/11/2019	Karen Vick Bates	v.	North Carolina State Health Plan	Elkins
19	OSP	01862	9/17/2019	Shenita Roberts	v.	Regina Garden Gaston County Department of Health & Human Services	Malherbe
				<u>Unpublished</u>			
19	ABC	03557	9/6/2019	NC Alcoholic Beverage Control Commission	v.	Eusleydi Paulino T/A 3Y Smoke Shop	May
19	ABC	04248	9/25/2019	NC Alcoholic Beverage Control Commission	v.	Mohamed Musa Ahmed T/A Discount Tobacco	Jacobs
19	BPP	02387	9/4/2019	Timothy David Spahr	v.	North Carolina Psychology Board Dr April Harris-Britt Keshawna Solomon	Jacobs

CONTESTED CASE DECISIONS

19	CPS	00281	9/20/2019	Wheeler E Lloyd	v.	NC Crime Victims Compensation Commission	Jacobs
19	CPS	03051	9/23/2019	Tiffany Ann Robinson Kyle Storm Lee (deceased victim)	v.	Liddie Shropshire Crime Victims Compensation Commission	Sutton
19	CRA	01434	9/3/2019	Takoby C Cofield	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
19	DCS	03887	9/3/2019	Sherry Massey	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Overby
19	DCS	04172	9/20/2019	Daisy Castillo	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
19	DHR	00820	9/3/2019	Vintage Inn Retirement Community LLC Licensee Facility Vintage Inn Retirement Village License Number HAL-058-010	v.	North Carolina Department of Health and Human Services, Division of Health Service Regulation	Overby
19	DHR	02824	9/30/2019	New Beginnings Youth Facility	v.	NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification	May
19	DHR	03156	9/9/2019	Kristie L Sluder Foster Mother	v.	NC Department of Health and Human Services, Division of Social Services Child Welfare Child Protective Services	Mann
19	DHR	03206	9/11/2019	Care Health Services 1	v.	NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification	Mann
19	DHR	03355	9/4/2019	Brandon M Hudspeth	v.	NC Department of Health and Human Services, Food and Nutrition Services	May
19	DHR	03447	9/27/2019	Robin Grant Lee	v.	NC Dept of Health and Human Service	Lassiter
19	DHR	03448	9/6/2019	Tity Hayes	v.	NC Department of Health and Human Services, Division of Health Service Regulation	May
19	DHR	03553	9/16/2019	Keara Starkes	v.	NC Department of Health and Human Services, Division of Health Service Regulation	May
19	DHR	03579	9/3/2019	Life Stages Assisted Living LLC Torey Morris	v.	Division of Health Service Regulation Adult Care Licensure Section	May
19	DHR	03668	9/23/2019	Fortress F Saah	v.	Department of Health and Human Services, Division of Health Service Regulation	Malherbe
19	DHR	03778	9/16/2019	Geneva Andreal Davis	v.	NC Dept of Health and Human Svcs, Division of Child Development	Lassiter
19	DHR	04372	9/24/2019	New Hope Home III MHL# 036-303 Desareta Jones	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Malherbe

CONTESTED CASE DECISIONS

19	DHR	04500	9/13/2019	Inreach Myisha Hayes	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Malherbe
19	DHR	04501	9/11/2019	Skyline Superette Aimee Kennedy	v.	NC Dept Health & Human Services	Malherbe
19	DHR	04508	9/5/2019	Niquia D Hart	v.	Department of Health and Human Services, Division of Health Service Regulation	Malherbe
18	DOJ	07522	9/20/2019	Soomo Karnath	v.	NC Private Protective Services Board	Jacobs
19	DOJ	00715	9/5/2019	Donald Wayne Clanton	v.	NC Criminal Justice Education and Training Standards Commission	Elkins
19	DOJ	01473	9/20/2019	Jeremy Derell Herring	v.	NC Private Protective Services Board	Jacobs
19	DOJ	01474	9/23/2019	Donnell Thomas	v.	NC Private Protective Services Board	Jacobs
19	DOJ	03747	9/20/2019	Devon Quinn Covert	v.	NC Private Protective Services Board	Jacobs
19	DOJ	04082	9/23/2019	Robert Crowe	v.	NC Criminal Justice Education and Training Standards Commission	Sutton
19	DOJ	04084	9/17/2019	Joseph M Stewart	v.	NC Criminal Justice Education and Training Standards Commission	Lassiter
19	INS	04274	9/27/2019	John M McHugh	v.	Blue Cross Blue Shield of North Carolina	Malherbe
19	UNC	03247	9/9/2019	Christopher Wellington	v.	University of North Carolina Hospitals	Lassiter