

C.1 RBR KNO/7434/11

RECEIVED

APR 4 1990

LAW LIBRARY

The **NORTH CAROLINA REGISTER**

IN THIS ISSUE

PROPOSED RULES

Agriculture

**Crime Control and
Public Safety**

**Economic and Community
Development**

**Environment, Health, and
Natural Resources**

Human Resources

Public Education

FINAL RULES

List of Rules Codified

ISSUE DATE: APRIL 2, 1990

Volume 5 • Issue 1 • Pages 1-151



INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF RULES

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

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

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

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

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

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

TEMPORARY RULES

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

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

NORTH CAROLINA ADMINISTRATIVE CODE

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

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

The NCAC is available in two formats.

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

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

NOTE

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

CITATION TO THE NORTH CAROLINA REGISTER

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

North Carolina Register. Published bi-monthly by the Office of Administrative Hearings, P.O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions one hundred and five dollars (\$105.00) per year.

North Carolina Administrative Code. Published in looseleaf notebooks with supplement service by the Office of Administrative Hearings, P.O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions seven hundred and fifty dollars (\$750.00). Individual volumes available.

NORTH CAROLINA REGISTER



*Office of Administrative Hearings
P. O. Drawer 11666
Raleigh, NC 27604
(919) 733 - 2678*

Julian Mann III,
Director
James R. Scarcella Sr.,
Deputy Director
Molly Masich,
Director APA Services

Staff:
Ruby Creech,
Publications Coordinator
Teresa Kilpatrick,
Editorial Assistant
Jean Shirley,
Editorial Assistant

ISSUE CONTENTS

I. PROPOSED RULES

Agriculture

N.C. Plant Conservation Board.....	1
Structural Pest Control Committee.....	7

Crime Control and

Public Safety

State Highway Patrol	53
----------------------------	----

Economic and Community

Development

Banking Commission	16
Community Assistance.....	25
Milk Commission.....	24

Environment, Health, and

Natural Resources

Coastal Management.....	136
Environmental Management....	54
Marine Fisheries	63
Wildlife Resources Commission	137

Human Resources

Mental Health, Mental Retardation and Substance Abuse Services.....	29
Water Treatment Facility Operators.....	27

Public Education

Elementary and Secondary.....	141
-------------------------------	-----

II. FINAL RULES

List of Rules Codified.....	143
-----------------------------	-----

III. CUMULATIVE INDEX.....151

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

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
01/02/90	12/07/89	12/14/89	02/01/90	05/01/90
01/16/90	12/20/89	12/29/89	02/15/90	05/01/90
02/01/90	01/10/90	01/18/90	03/03/90	06/01/90
02/15/90	01/25/90	02/01/90	03/17/90	06/01/90
03/01/90	02/08/90	02/15/90	03/31/90	07/01/90
03/15/90	02/22/90	03/01/90	04/14/90	07/01/90
04/02/90	03/12/90	03/19/90	05/02/90	08/01/90
04/16/90	03/23/90	03/30/90	05/16/90	08/01/90
05/01/90	04/09/90	04/17/90	05/31/90	09/01/90
05/15/90	04/24/90	05/01/90	06/14/90	09/01/90
06/01/90	05/10/90	05/17/90	07/01/90	10/01/90
06/15/90	05/24/90	06/01/90	07/15/90	10/01/90
07/02/90	06/11/90	06/18/90	08/01/90	11/01/90
07/16/90	06/22/90	06/29/90	08/15/90	11/01/90
08/01/90	07/11/90	07/18/90	08/31/90	12/01/90
08/15/90	07/25/90	08/01/90	09/14/90	12/01/90
09/04/90	08/13/90	08/20/90	10/04/90	01/01/91
09/14/90	08/24/90	08/31/90	10/14/90	01/01/91
10/01/90	09/10/90	09/17/90	10/31/90	02/01/91
10/15/90	09/25/90	10/02/90	11/14/90	02/01/91
11/01/90	10/11/90	10/18/90	11/30/90	03/01/91
11/15/90	10/24/90	10/31/90	12/14/90	03/01/91
12/03/90	11/08/90	11/15/90	01/02/91	04/01/91
12/14/90	11/21/90	11/30/90	01/13/91	04/01/91
01/02/91	12/07/90	12/14/90	02/01/91	05/01/91
02/01/91	01/10/91	01/18/91	03/03/91	06/01/91
03/01/91	02/08/91	02/15/91	03/31/91	07/01/91
04/01/91	03/11/91	03/18/91	05/01/91	08/01/91
05/01/91	04/10/91	04/17/91	05/31/91	09/01/91
06/03/91	05/10/91	05/17/91	07/03/91	10/01/91
07/01/91	06/10/91	06/17/91	07/31/91	11/01/91
08/01/91	07/11/91	07/18/91	08/31/91	12/01/91
09/03/91	08/12/91	08/19/91	10/03/91	01/01/92
10/01/91	09/10/91	09/17/91	10/31/91	02/01/92
11/01/91	10/11/91	10/18/91	12/01/91	03/01/92
12/02/91	11/07/91	11/14/91	01/01/92	04/01/92

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

TITLE 2 - DEPARTMENT OF
AGRICULTURE

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Plant Conservation Board intends to amend rule(s) cited as 2 NCAC 10G .0301 - .0302, .0304 - .0305, .0501, .0508 - .0511; and adopt rule(s) cited as 2 NCAC 10G .0512 - .0515.

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

The public hearing will be conducted at 1:30 p.m. on May 4, 1990 at Mountain Horticultural Crops Research and Extension Center, 2016 Fanning Bridge Road, Fletcher, NC 28732-9216.

Comment Procedures: Interested persons may present statements either orally or in writing at the public hearing or in writing prior to the hearing by mail addressed to the Plant Conservation Program, NC Department of Agriculture, P.O. Box 27647, Raleigh, NC 27611.

CHAPTER 10 - PESTICIDE AND PLANT
PROTECTION DIVISION

SUBCHAPTER 10G - PLANT INDUSTRY

SECTION .0300 - ENDANGERED PLANT
SPECIES LIST: THREATENED PLANT SPECIES
LIST: LIST OF SPECIES OF SPECIAL
CONCERN

.0301 ENDANGERED PLANT SPECIES LIST

As authorized by G.S. 106-202.12 through 106-202.19 of the Plant Protection and Conservation Act of 1979, the The North Carolina Plant Conservation Board hereby establishes the following list of endangered plant species:

- (1) ~~Aeschynomene~~ Aeschynomene virginica -- (L.) B.S.P.
Sensitive ~~Joint Vetch~~; Jointvetch;
- (2) ~~Arenaria alabamensis~~ -- (McCormick, Bozeman & Spongberg) Wyatt
Alabama sandwort;
- (3) ~~Arenaria godfreyi~~ -- Shimmers
Godfrey's Sandwort;
- (4) ~~Arenaria uniflora~~ -- (Walter) Muhl.
Single Flowered Sandwort;
- (2) ~~Arethua bulbosa~~ -- L.
Bog Rose;
- (3) ~~Asplenium heteroresiliens~~ heteroresiliens -- W. H. Wagner
Carolina Spleenwort; ~~Fern~~;
- (4) ~~Asplenium monanthes~~ -- L.
Single Sorus Spleenwort; ~~Fern~~;

- (5) ~~(8)~~ Bryocrumia andersonii -- (Bartr.) Anders.
Gorge moss; Moss;
- (6) ~~(9)~~ Buckleya distichophylla -- (Nuttall) Torrey
Piratebush;
- (7) Calamagrostis cainii -- Hitchcock
Cain's Reed Grass;
- (8) ~~(10)~~ Calamovilfa brevipilis -- (Torrey) Scribner
Pine Barrens Reedgrass; Sandreed;
- (9) ~~(11)~~ Cardamine micranthera -- Rollins
Small-anthered Bittercress;
- (10) ~~(12)~~ Carex aenea -- Fernald
Fernald's Hay Sedge;
- (11) ~~(13)~~ Carex barrattii -- Schweinitz and Torrey
Barratts Sedge;
- (12) ~~(14)~~ Carex purpurifera -- Mackenzie
Purple Sedge;
- (13) ~~(15)~~ Carex schweinitzii -- Dewey ex-Schweinitz
Schweinitz's Sedge;
- (14) ~~(16)~~ Cystopteris tennesseensis - Shaver
Tennessee Bladder Fern; Bladderfern;
- (15) ~~(17)~~ Dalibarda repens -- L.
False Violet; Robin Runaway;
- (16) ~~(18)~~ Delphinium exaltatum -- Aiton
Tall Larkspur;
- (17) ~~(19)~~ Echinacea laevigata -- (Boynton and Beadle) Blake
Smooth Coneflower;
- (18) Eriocaulon lineare -- Small
Linear Pipewort;
- (19) ~~(20)~~ Eupatorium resinosum -- Torrey ex DC
Resinous Joe-Pye Weed; Boneset;
- (20) ~~(21)~~ Gentiana gentianopsis crinita -- Froelich (Froelich) Ma
Fringed Gentian;
- (21) ~~(22)~~ Geum radiatum -- Michaux
Spreading Avens;
- (22) ~~(23)~~ Glyceria rubigena -- W.A. Anderson
Smoky Mtn. Smoky Mountain Manna-grass;
- (23) ~~(24)~~ Grammitis nimbata -- (Jcnm.) Proctor
Dwarf Polypody Fern;
- (24) ~~(25)~~ Helianthus schweinitzii -- T. & G. Schweinitz
Schweinitz's Sunflower;
- (25) ~~(26)~~ Hexastylis contracta contracta -- Blomquist
Mountain Heart Leaf; Heartleaf;
- (26) ~~(27)~~ Hexastylis naniflora -- Blomquist
Dwarf-flowered Heart Leaf; Heartleaf;
- (27) Houstonia purpurea var. montana -- (Small) Terrell
Mountain Bluet;
- (28) Hydrastis canadensis - L.

- Goldenseal;
 (29) *Isotria medeoloides* -- (Pursh) Raf.
 Small Whorled Pogonia;
 (30) *Juncus trifidus* ssp. *carolinianus* -- Hamet
~~Aht.~~ Ahti
~~One-flowered~~ One-flowered Rush;
 (31) *Kalmia cuneata* -- Michaux
 White Wicky;
 (32) *Lindera melissaefolia* -- (Walter) Blume
 Southern Spicebush;
 (33) *Lindera* ~~subcoreacea~~ subcoriacea -- Wof-
 ford
~~Bob Spice Bush;~~ Bog Spicebush;
 (34) *Lysimachia asperulaefolia* -- Poiret
 Rough-leaf Loosestrife;
 (35) *Lysimachia fraseri* -- Duby
 Fraser's Loosestrife;
 (36) *Minuartia godfreyi* -- (Shinners) McNeill
Godfrey's Sandwort;
 (37) *Minuartia uniflora* -- (Walter) Mattfield
Single-flowered Sandwort;
 (38) ~~(36)~~ *Muhlenbergia torreyana* -- (Schultes)
 Hitchcock
 Torrey's Muhly;
 (39) ~~(37)~~ *Narthecium americanum* -- Ker
 Bog Asphodel;
 (40) *Orbexilum macrophyllum* -- (Rowlee ex
 Small) Rvdberg
Bigleaf Scurfpea;
 (41) ~~(38)~~ *Orthotrichum keeverae* -- Crum &
 Anders.
 Keever's ~~bristle moss;~~ Bristle Moss;
 (42) ~~(39)~~ *Oxypolis canbyi* -- (Coult. & Rose)
 Fern.
 Canby's ~~cowbane;~~ Cowbane;
 (43) ~~(40)~~ *Parnassia caroliniana* -- Michaux
 Carolina Grass-of-Parnassus;
 (44) ~~(41)~~ *Pellaea* ~~X~~ *wrightiana* -- Hooker
 Wright's Cliff-brake Fern;
 (45) ~~(42)~~ *Plantago cordata* -- Lam.
 Heart-leaf Plantain;
 (46) ~~(43)~~ *Plantago sparsiflora* -- Michaux
 Pineland Plantain;
 (47) ~~(44)~~ *Platanthera integrilabia* -- (Correll)
 I eur
 White Fringeless Orchid;
 (45) ~~*Pterodea macrophylla* -- Rowlee~~
~~Bigleaf Scurfpea;~~
 (48) *Portulaca smallii* -- P. Wilson
Small's Portulaca;
 (49) ~~(46)~~ *Pteroglossaspis cristata* -- (Fernald)
 Rolfe
 Fulophia;
 (50) ~~(47)~~ *Ptilimnium nodosum* -- (Rose) Mat-
 hias
 Harperella;
 (51) ~~(48)~~ *Pyxidanthera barbulata* var. *brevifolia*
 -- (Wells) Ahles

- ~~Well's Wells' Pyxie-moss;~~
 (52) ~~(49)~~ *Rhus michauxii* -- Sargent
 Michaux' False Sumac;
 (53) ~~(50)~~ *Sagittaria fasciculata* -- E.O. Beal
 Bunched Arrowhead;
 (54) ~~(51)~~ *Sarracenia jonesii* -- Wherry
 Mountain Sweet Pitcher plant;
 (55) ~~(52)~~ *Sarracenia oreophila* -- (Kearney)
 Wherry
 Green Pitcher Plant;
 (56) ~~(53)~~ *Schwalbea americana* -- L.
 Chaffseed;
 (57) ~~(54)~~ *Sedum* ~~pusillum~~ pusillum -- Michaux
 Puck's Orpine;
 (58) ~~(55)~~ *Sedum rosea* -- (L.) Scop.
 Roseroot;
 (59) ~~(56)~~ *Senecio schweinitzianus* -- Nuttall
~~Robbins~~ Schweinitz's Groundsel;
 (60) ~~(57)~~ *Shortia galacifolia* -- T. & G.
 Oconee Bells;
 (61) ~~(58)~~ *Sisyrinchium dichotomum* -- Bicknell
 Reflexed Blue-eyed Grass;
 (62) ~~(59)~~ *Solidago pulchra* -- Small
 Carolina Goldenrod;
 (63) ~~(60)~~ *Solidago spithamea* -- M.A. Curtis
 Blue Ridge Goldenrod;
 (64) ~~(61)~~ *Solidago verna* -- M.A. Curtis ex T.
 & G.
 Spring-flowering Goldenrod;
 (65) ~~(62)~~ *Spiraea* ~~Virginiana~~ virginiana -- Britton
 Virginia Spiraea;
 (66) ~~(63)~~ *Sporobolus heterolepis* -- Gray
 Prairie Dropseed;
 (67) ~~(64)~~ *Stylisma pickeringii* var. *pickeringii* --
 (Torrey ex M.A. Curtis) Gray
 Pickering's Morning Glory;
 (68) ~~(65)~~ *Thalictrum cooleyi* -- Ahles
 Cooley's ~~Meadowme;~~ Meadowrue;
 (69) ~~(66)~~ *Trillium pusillum* -- Michaux
 Carolina Least Trillium;
 (70) ~~(67)~~ *Trisetum spicatum* var. *molle* -- (Mi-
 chaux) Beal
 Soft Trisetum.

Statutory Authority G.S. 106-202.15.

.0302 THREATENED PLANT SPECIES LIST
 As authorized by G.S. 106-202.12 through
 106-202.19 of the Plant Protection and Conser-
 vation Act of 1979, the The North Carolina
 Plant Conservation Board hereby establishes the
 following list of threatened plant species:

- (1) *Amaranthus pumilus* -- Raf.
 Seabeach Amaranth;
- (2) *Cacalia rugelii* -- (Shuttl. ~~exchapm~~) ex
Chapm) Barkley & Cronq.
 Rugel's Ragwort;
- (3) *Camassia scilloides* -- (Raf.) Cory

- Wild Hyacinth;
 (4) *Carex chapmanii* -- Steudel
 Chapman's Sedge;
 (5) *Carex conoidea* -- Willd.
 Cone-shaped Sedge;
 (6) *Carex misera* -- Buckley
 Wretched Sedge;
 (7) *Carya ~~Myristicaeformis~~ myristicaeformis*
 -- (Michaux ~~f.~~) Nuttall
 Nutmeg Hickory;
 (8) *Eleocharis halophila* -- ~~Fernald~~ Fern. &
 Brack.
~~Split~~ Salt Spikerush;
 (9) *Fimbristylis perpusilla* -- ~~Auth.~~ Harper ex
 Small & Britton
 Harper's Fringe-rush;
 (10) *Geum geniculatum* -- Michaux
 Bent Avens;
 (11) *Gymnoderma lineare* -- (Evans) Yoshi-
 mura & Sharp
 Gnome Finger Lichen;
 (12) ~~Habenaria integra~~ -- (Nuttall) Spongell
 Yellow Fringeless Orchid;
 (12) ~~(13)~~ *Helonias bullata* -- L.
 Swamp Pink;
 (13) ~~(14)~~ *Hudsonia montana* -- Nuttall
 Mountain Golden Heather;
 (14) *Ilex collina* -- Alexander
 Long-stalked Holly;
 (15) *Isoetes piedmontana* -- (Pfeiffer) Reed
 Piedmont Quillwort;
 (16) *Liatris helleri* -- (Porter) Porter
 Heller's Blazing Star;
 (17) *Lilaeopsis carolinensis* -- Coult. & Rose
 Carolina Lilaeopsis;
 (18) *Lilium grayi* -- Watson
 Gray's Lily;
 (19) *Menyanthes trifoliata* -- L.
 Buckbean;
 (20) *Myriophyllum laxum* -- Schuttlew. ex
 Chapman
 Loose Watermilfoil;
 (21) ~~Nemopanthus collinus~~ -- (Alexander)
 Clark
 Long-stalked Holly;
 (21) ~~(22)~~ *Nestronia umbellula* -- Raf.
 Nestronia;
 (22) *Platanthera integra* -- (Nuttall) Gray ex
 Beck
 Yellow Fringeless Orchid;
 (23) *Rhexia aristosa* -- Britton
 Awned Meadow - beauty;
 (24) *Rudbeckia heliopsisidis* -- T. & G.
 Sun-facing Coneflower;
 (25) *Sabatia ~~Kennedyana~~ kennedyana* -- Fern.
 Sea Pink; Plymouth Gentian;
 (26) *Schisandra glabra* -- (Brickel) Rehder
 Magnolia Vine;

- (27) ~~Schlotheimia~~ *Schlotheimia lancifolia* --
 Bartr.
 Highlands ~~moss~~; Moss;
 (28) *Senecio millefolium* -- T. & G.
 Divided-leaf Ragwort;
 (29) *Sporobolus teretifolius* -- Harper
 Wireleaf Dropseed;
 (30) *Thelypteris simulata* -- (Davenp.) Nieuwl.
 Bog Fern;
 (31) *Trichomanes boschianum* -- Sturm ex
 Bosch
 Appalachian Filmy-fern;
 (32) *Trichomanes petersii* -- A. Gray
 Peter's Dwarf Filmy-fern;
 (33) *Trillium discolor* -- Wray ex Hook.
 Mottled Trillium
 (34) *Utricularia olivacea* -- Wright ex Grise-
 bach
 Dwarf Bladderwort.

Statutory Authority G.S. 106-202.15.

.0304 PLANT SPECIES OF SPECIAL CONCERN

(a) Special concern endangered plant species are those species that appear on both the Endangered Species List and on the Special Concern Species List and which can be offered for propagation to qualified propagators under permit.

- (1) *Cystopteris tennesseensis* -- Shaver
 Tennessee Bladderfern;
 (2) ~~(4)~~ *Delphinium exaltatum* -- Aiton
 Tall Larkspur;
 (3) *Echinacea laevigata* -- (Boynton & Bea-
 dle) Blake
 Smooth Coneflower;
 (4) *Gentianopsis crinita* -- (Froehlich) Ma
 Fringed Gentian;
 (5) *Geum radiatum* -- Michaux
 Spreading Avens;
 (6) ~~(2)~~ *Hydrastis canadensis* -- L.
 Goldenseal, Orangeroot;
 (3) *Ilex amelanchier* -- M. A. Curtis
 Sarvis Holly;
 (7) ~~(4)~~ *Kalmia cuneata* -- Michaux
 White Wicky;
 (8) *Pellaea wrightiana* -- Hooker
 Wright's Cliff-brake Fern;
 (9) ~~(5)~~ *Rhus michauxii* -- Sargent
 Michaux's False Sumac;
 (10) ~~(6)~~ *Sarracenia jonesii* -- Wherry
 Mountain Sweet Pitcher Plant;
 (11) *Sarracenia oreophila* -- (Kearney) Wherry
 Green Pitcher Plant;
 (12) ~~(7)~~ *Shortia galacifolia* -- T. & G. Oconee
 Bells.

(b) Special Concern Threatened Plant Species are those species that appear on both the

Threatened Species List and on the Special Concern Species List and which can be offered for propagation to qualified propagators under permit.

- (4) Geum radiatum -- Gray
Spreading Avens;
- (1) Helonias bullata -- L.
Swamp Pink;
- (2) Liatris helleri -- (Porter) Porter
Heller's Blazing Star;
- (3) Lilium grayi -- Watson
Gray's Lily;
- (4) Sabatia kennedyana -- Fern.
Plymouth Gentian;
- (5) Schisandra glabra -- (Brickel) -- Rehder
Magnolia Vine.

(c) Except as otherwise provided in the regulations it shall be unlawful to sell, barter, trade, exchange, export, or to offer for sale, barter, trade, exchange or export or give away for any purpose including advertising or other promotional purposes any plant which is on the Special Concern Not Endangered or Threatened Plant Species List, are those species that appear on the Special Concern Species List but do not appear on the Endangered Species List or the Threatened Species List and which it shall be unlawful to distribute, sell or offer for sale except as otherwise provided in the rules.

- (4) Clematis verticillaris DC
Rock Clematis;
- (2) Hexastylis lewisii (Fern.) -- Blomquist & Oosting
Lewis' heart leaf;
- (1) Panax quinquefolium quinquefolius -- L.
Ginseng.
- (4) Rhododendron vaseyi -- Gray
Pink shell azalea;
- (5) Saxifraga caroliniana -- Gray
Carolina Saxifrage;

Statutory Authority G.S. 106-202.12 through 106-202.22.

.0305 COLLECTION AND SALE OF GINSENG

(a) Definitions:

- (1) Department. The North Carolina Department of Agriculture.
- (2) Ginseng. Any plant of the species Panax quinquefolium quinquefolius including cuttings, roots, fruits, seeds, propagules or any other plant part.
- (3) Ginseng Dealer. Any person in North Carolina who purchases or otherwise obtains ginseng roots which have been collected or cultivated in North Carolina in any quantity for commercial use. This

definition does not include those persons, who directly collect or cultivate ginseng roots, or who obtain ginseng roots for their own personal use.

- (4) Export Certificate. A document issued to allow the export or shipment of ginseng out of the State by certifying that the ginseng covered by the document was legally collected or grown in North Carolina.
- (5) Inspector. An employee of the North Carolina Department of Agriculture or any other person authorized by the Commissioner to enforce these Regulations, Rules.
- (6) Person. Individual, corporation, partnership, firm or association.
- (7) Record of Ginseng Purchase. A document completed by a person buying cultivated or collected ginseng recording the seller, the weight of roots bought, the date, the nursery grown in or the counties in which the roots were collected and a signature verifying the accuracy of the record and the legal collection of the roots.
- (8) Record of Harvest Season Collection. A document completed and signed by a collector of wild ginseng and by an Inspector, certifying that the ginseng covered by the document was legally collected during the harvest season.
- (9) Statement Indicating Legal Collection of Ginseng from One's Own Land. A document completed and signed by a person verifying that the wild collected ginseng being sold was collected from that person's own land.

(b) Policy. The trade and biology of ginseng is monitored in North Carolina to obtain federal approval for the export of ginseng from the state, to support the ginseng trade within the state and to protect the species from over collection and extinction.

(c) Collection of Ginseng:

- (1) Harvest Season for the Collection of Ginseng. The ginseng harvest season will be from September 1 through April 1. Harvesting ginseng outside of this period is unlawful except if prohibited except when the plants are dug from one's own land.
- (2) Collectors Harvesting or Selling Outside of the Harvest Season. Any person collecting wild ginseng outside of the harvest season must complete a Statement Indicating Legal Collection of Ginseng from One's Own Land and before selling the ginseng. This form is available from ginseng

dealers. Any person collecting ginseng within the harvest season but wishing to sell the ginseng outside of the season must complete a Record of Harvest Season Collection and have it signed by an Inspector before the end of the harvest season; the form is available from Inspectors.

- (3) ~~(2)~~ The Collection Replanting of Ginseng. All persons collecting ginseng from the wild are encouraged to plant the seeds of collected plants in the immediate vicinity of where they are found.

- (d) Purchase and Sale of Ginseng:

- (1) ~~Registration of Ginseng Dealers.~~ Ginseng Dealer Permits. All ginseng dealers shall ~~register after June 1 of each year, obtain a permit from the Plant Industry Division of the Department prior to purchasing ginseng, with the North Carolina Department of Agriculture, pesticide and plant protection division.~~ Permits shall be valid from July 1 or the date of issue, whichever is later, to the following June 30. No ginseng may be purchased by a ginseng dealer without a current permit.

- (2) ~~Buying Season for Ginseng.~~ The buying season for wild collected ginseng will be from September 1 through the following April 1 for green ginseng and from September 15 through the following April 1 for dried ginseng. To buy wild collected ginseng outside of this buying season a ginseng dealer must obtain from the collector either:

- (A) a completed Statement Indicating Legal Collection of Ginseng from One's Own Land; or

- (B) a Record of Harvest Season Collection completed by the collector and signed by an Inspector.

- (3) ~~(2)~~ Purchase of Ginseng. Records. Ginseng dealers Every ginseng dealer shall keep a record of each purchase of ginseng collected or grown in North Carolina on the applicable Record of Ginseng Purchases ~~on a record of ginseng purchase form~~ provided by the North Carolina Department of Agriculture. Such records Forms from previous years, copies, or any forms other than those provided by the Department for the current license period shall not be used. Records of Ginseng Purchases shall be made available for inspection by an Inspector and shall be surrendered to an Inspector upon issuance of an Export Certificate or on a periodic basis. The applicable Statement Indicating Legal Collection of Ginseng

from One's Own Land or Record of Harvest Season Collection shall be attached to any Record of Ginseng Purchases recording a purchase of wild collected ginseng collected outside of the harvest season or bought outside of the buying season.

- (4) ~~(3)~~ Purchase of Ginseng ~~between from other Ginseng Dealers.~~ All ginseng dealers who purchase ginseng from other ginseng dealers located in North Carolina shall ~~only purchase only from those ginseng dealers that are registered.~~ have valid dealer permits. Such purchases shall be recorded in a Record of Dealer-Dealer Transactions. Ginseng purchased from ~~unregistered~~ ginseng dealers who lack valid permits will not be certified for export or shipment out of the State.

- (5) ~~(4)~~ Exportation and Shipment of Ginseng. All persons who have ginseng in any quantity and wish to export or ship any amount out of the state ~~can~~ shall obtain an export certificate from an Inspector. ~~of the North Carolina Department of Agriculture.~~ To obtain an export certificate a person must have accurately kept accurate records of his purchases, present and surrender the original Record of Ginseng Purchases upon issuance of an export certificate and be a registered ginseng dealer. possess a valid ginseng dealer's permit.

Statutory Authority G.S. 106-202.12 through 106-202.22.

SECTION .0500 - FORMS

.0501 DESIGNATIONS

The forms used by the plant protection section in plant protection and conservation activities will be known by the following title and numerical designations:

- (7) application for a ginseng dealer registration form dealer's permit - PC-7;
- (8) record of native wild collected ginseng purchases - PC-8;
- (9) record of cultivated ginseng purchases - PC-9;
- (10) ginseng export certification - PC-10;
- (11) ginseng dealer's permit - PC-11;
- (12) record of dealer-dealer transactions - PC-12;
- (13) statement indicating legal collection of ginseng from one's own land - PC-13;
- (14) record of harvest season collection - PC-14.

Statutory Authority G.S. 106-202.12 through 106-202.22.

.0508 FORM PC-7

Form PC-7 is the ~~ginseng dealer registration form~~ application for a ginseng dealer's permit and is issued to ginseng dealers who wish to purchase ginseng after June 1 of each year. The following information is required:

- (1) The company name, name of owner, manager or agent, address and telephone number of the ginseng dealer;
- (2) The location of ginseng records and roots; and
- (3) Names of agents representing the dealer;
- (4) ~~(3)~~ Signature of ginseng dealer and date of signing.

Statutory Authority G.S. 106-202.12 through 106-202.22.

.0509 FORM PC-8

Form PC-8 is the record of ~~native wild~~ collected ginseng purchases to be completed by ginseng dealers. The following information is required:

- (1) A sheet number corresponding to the number of wild collected ginseng purchase records completed by the ginseng dealers in that harvest season;
- (2) The year in which the harvest season begins;
- (3) ~~(2)~~ The ginseng dealer's name and address;
- (4) ~~(3)~~ A record number for each purchase on a sheet;
- (5) ~~(4)~~ The date the ginseng is purchased;
- (6) ~~(5)~~ The name, address and telephone number of the collector of the ginseng purchased;
- (7) ~~(6)~~ The amount of green or dry ginseng purchased, in pounds and ounces;
- (8) ~~(7)~~ The counties in which the ginseng roots were collected;
- (9) ~~(8)~~ Form PC-8 is signed and dated by the ginseng dealer certifying that the records are accurate and that all ginseng purchased was collected legally.

Statutory Authority G.S. 106-202.12 through 106-202.22.

.0510 FORM PC-9

Form PC-9 is the record of cultivated ginseng purchases to be completed by ginseng dealers. The following information is required:

- (1) A sheet number corresponding to the number of cultivated ginseng purchase records completed by the ginseng dealer in that harvest season;

- (2) The year in which the harvest season begins;

- (3) ~~(2)~~ The ginseng dealer's name and address;
- (4) ~~(3)~~ A record number for each purchase on a sheet;
- (5) ~~(4)~~ The date the ginseng is purchased;
- (6) ~~(5)~~ The name, address and telephone number of the cultivator of the ginseng;
- (7) ~~(6)~~ The amount of ginseng purchased, in pounds and ounces;
- (8) ~~(7)~~ The nursery and nursery certificate number, if any, where the ginseng was cultivated; and
- (9) ~~(8)~~ Form PC-9 is signed and dated by the ginseng dealer certifying that the records are accurate and that the ginseng purchased was cultivated.

Statutory Authority G.S. 106-202.12 through 106-202.22.

.0511 FORM PC-10

Form PC-10 is the ginseng export certification issued to ginseng dealers for export or shipment out of state of legally collected or cultivated roots. The following information is required:

- (1) Certificate number, assigned by the Department;
- (2) Dealer permit number;
- (3) Dealer's shipment number for that harvest season;
- (4) ~~(4)~~ The total amount of ginseng to be exported; covered by this certificate, in pounds and ounces stated in both numerals and words;
- (5) ~~(5)~~ The amount of collected and cultivated ginseng to be exported;
- (6) Whether the ginseng is wild or cultivated;
- (7) Whether the ginseng is green or dry;
- (8) ~~(6)~~ The purchase dates of the ginseng to be exported; covered by this certificate;
- (9) ~~(7)~~ The name and address of the ginseng dealer;
- (10) ~~(8)~~ The transfer records purchase record sheet numbers of the ginseng covered by this certificate; and
- (11) ~~(9)~~ Form PC-10 is signed by the Plant Pest Administrator, Director, Plant Industry Division, the ginseng dealer and the inspector issuing the export certification.

Statutory Authority G.S. 106-202.12 through 106-202.22.

.0512 FORM PC-11

Form PC-11 is a permit issued to a ginseng dealer who has met requirements as established in G.S. 106-202.12 - 202.22 and 2 NCAC 10G

.0100 through .0500. The permit number will be used to identify shipments for which export documents are issued. The following information is required:

- (1) Permit number;
- (2) Date of issuance;
- (3) Expiration date;
- (4) Company name and address of the ginseng dealer;
- (5) Signature of the Director, Plant Industry Division, North Carolina Department of Agriculture.

Statutory Authority G.S. 106-202.12 through 106-202.22.

.0513 FORM PC-12

Form PC-12 is the record of dealer-dealer transactions to be completed by ginseng dealers for purchases of ginseng from other dealers. The following information is required:

- (1) A sheet number corresponding to the number of dealer-dealer ginseng purchase records completed by the purchasing ginseng dealer in that harvest season;
- (2) The year in which the harvest season begins;
- (3) The name and address of the purchasing ginseng dealer;
- (4) A record number for each purchase on a sheet;
- (5) The date the ginseng is purchased;
- (6) The name of the dealer selling the ginseng;
- (7) The selling ginseng dealer's permit number;
- (8) The amount of green or dry ginseng purchased, in pounds and ounces;
- (9) The purchase record sheet numbers of the seller covering the original purchases of the ginseng;
- (10) Form PC-12 is signed and dated by the purchasing ginseng dealer certifying that the records are accurate and that the ginseng was legally collected.

Statutory Authority G.S. 106-202.12 through 106-202.22.

.0514 FORM PC-13

Form PC-13 is the statement indicating legal collection of ginseng from one's own land and is completed by collectors who collect wild ginseng from their own property between April 1 and September 1. The following information is required:

- (1) Date ginseng is sold;
- (2) Amount of green and dry ginseng sold, in pounds and ounces;

- (3) Exact location of land where this ginseng was dug;
- (4) Seller's name and address;
- (5) Seller's signature and date signed.

Statutory Authority G.S. 106-202.12 through 106-202.22.

.0515 FORM PC-14

Form PC-14 is the record of harvest season collection issued by an inspector to a collector for wild ginseng collected between September 1 and April 1 but not sold by April 1. The following information is required:

- (1) Amount of green and dry ginseng, in pounds and ounces;
- (2) Collector's signature and date signed;
- (3) Inspector's signature and date signed.

Statutory Authority G.S. 106-202.12 through 106-202.22.

Notice is hereby given in accordance with G.S. 150B-12 that the NC Department of Agriculture, Structural Pest Control Committee intends to amend rules cited as 2 NCAC 34 .0102, .0301 - .0302, .0305 - .0306, .0310, .0313, .0317 - .0320, .0323, .0326, .0505, .0605, .0904, .1004, .1102 - .1103; repeal rules cited as 2 NCAC 34 .0304, .0322; adopt rule cited as 2 NCAC 34 .0506.

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

The public hearing will be conducted at 1:00 p.m. on May 9, 1990 at L.Y. Ballentine Building, 2109 Blue Ridge Road, Raleigh, NC 27607-6469.

Comment Procedures: Interested persons may present statements either orally or in writing at the public hearing or in writing prior to the hearing by mail addressed to David S. McLeod, Chairman of the Structural Pest Control Committee, P.O. Box 27647, Raleigh, NC 27611.

CHAPTER 34 - STRUCTURAL PEST CONTROL DIVISION

SECTION .0100 - INTRODUCTION AND DEFINITIONS

.0102 DEFINITIONS

For the purpose of interpretation of the rules, regulations, definitions, and requirements of the North Carolina Structural Pest Control Com-

mittee and the Structural Pest Control Law, and unless otherwise required by the context, the following definitions shall prevail, to wit:

- (7) "Commercial structure" means any structure which is not a residential structure; including but not limited to shopping centers, offices, nursing homes and similar structures.
- (8) ~~(7)~~ "Complete surface residual spray" means the over-all application of any pesticide by spray or otherwise, to any surface areas within, on, under, or adjacent to, any structure in such a manner that the pesticide will adhere to surfaces and remain toxic to household pests and rodents or other pests for an extended period of time.
- (9) ~~(8)~~ "Continuing education units" means units of non-credit education awarded by the division of continuing education, North Carolina State University or comparable educational institution, for satisfactorily completing course work.
- (10) ~~(9)~~ "Continuing certification units unit" means a unit of credit awarded by the Committee upon satisfactory completion ~~(70 percent or more) of correct answers on any test or problem set~~ of one clock hour of instruction in any approved course of study (one CCU is equal to one tenth CEU of approved course work).
- (11) ~~(10)~~ "Deficient soil sample" shall mean any soil sample which, when analyzed, is found to contain less than 25 percent of the termiticide applied by a licensee which would be found if the termiticide had been applied at the lowest concentration and dosage recommended by the labeling.
- (12) ~~(11)~~ "Department" means the Department of Agriculture of the State of North Carolina.
- (13) ~~(12)~~ "Disciplinary action" means any action taken by the committee as provided under the provisions of G.S. 106-65.28.
- (14) ~~(13)~~ "Division" means the structural pest control division of the Department of Agriculture of the State of North Carolina.
- (15) ~~(14)~~ "Enclosed space" means any structure by whatever name known, including household structures, commercial buildings, warehouses, docks, vacant structures, and places where people congregate, such as hospitals, schools, churches, and others; railroad cars, trucks, ships, aircraft, and common carriers. It shall also mean vaults, tanks, chambers, and special rooms designed for use, being used, or intended to be used for fumigation operations.
- (16) ~~(15)~~ "Enforcement agency" means the structural pest control division of the De-

partment of Agriculture of the State of North Carolina.

- (17) ~~(16)~~ "EPA" means the Environmental Protection Agency of the United States Government.
- (18) ~~(17)~~ "EPA registration number" means the number assigned to a pesticide label by EPA.
- (19) ~~(18)~~ "Flammable pesticidal fog" means the fog dispelled into space and produced:
 - (A) from oil solutions of pesticides finely atomized by a blast of heated air or exhaust gases from a gasoline engine, or from mixtures of water and pesticidal oil solutions passed through a combustion chamber, the water being converted to steam, which exerts a shearing action, breaking up the pesticidal oil into small droplets (thermal fog); or
 - (B) from oil solutions of pesticides which are forced through very narrow space by centrifugal force and atomized as they are thrown off into the air (mechanical or cold fogs).
- (20) ~~(19)~~ "Fog or fogging" means micron sized particles of pesticide(s) dispersed by means of a thermal generator.
- (21) ~~(20)~~ "Fumigation" means the use of fumigants within an enclosed space, or in, or under a structure, in concentrations which may be hazardous to man.
- (22) ~~(21)~~ "Fumigation crew" or "crew" means personnel performing the fumigation operation.
- (23) ~~(22)~~ "Fumigation operation" means all details prior to application of fumigant(s), the application of fumigant(s), fumigation period, and post fumigation details as outlined in these rules and regulations.
- (24) ~~(23)~~ "Fumigation period" means the period of time from application of fumigant(s) until ventilation of the fumigated structure(s) is completed, and the structure or structures are declared safe for occupancy for human beings or domestic animals.
- (25) ~~(24)~~ "Fumigator" means a person licensed under the provisions of G.S. 106-65.25(a)(3) or certified under the provisions of G.S. 106-65.25(b)(1) to engage in or supervise fumigation operations.
- (26) ~~(25)~~ "Gas-retaining cover" means a cover which will confine fumigant(s) to the space(s) intended to be fumigated.
- (27) ~~(26)~~ "General fumigation" means the application of fumigant(s) to one or more rooms and their contents in a structure, at the desired concentration and for the neces-

- sary length of time to control rodents, insects, or other pests.
- (28) ~~(27)~~ "Household" means any structure and its contents which are used for man.
- (29) ~~(28)~~ "Household pest control" means that phase of structural pest control other than the control of wood-destroying organisms and fumigation and shall include the application of remedial measures for the purpose of curbing, reducing, preventing, controlling, eradicating, and repelling household pests and rodents.
- (30) ~~(29)~~ "Inactive license" shall mean any structural pest control license held by an individual who has no employees and is not engaged in any structural pest control work.
- (31) ~~(30)~~ "Infestation of a specific organism" means evidence of past or present activity by that organism, visible in, on, or under a structure, or in or on debris under the structure.
- (32) ~~(31)~~ "Inspection for a specific wood-destroying organism" means the careful visual examination of all accessible areas of a building and the sounding of accessible structural members to determine the presence of and the damage by that specific wood-destroying organism.
- (33) ~~(32)~~ "Inspector" means any employee of the structural pest control division of the Department of Agriculture of the State of North Carolina.
- (34) ~~(33)~~ "Jobs not meeting the minimum requirements of these rules and regulations" means any job that is not treated in accordance with the minimum requirements as herein set forth.
- (35) ~~(34)~~ "Licensed structural pest control operation," or "pest control operation," or "operator," or "licensed operator" means any person licensed under the provisions of G.S. 106-65.25(a) or unlicensed who, for direct or indirect hire or compensation is engaged in the business of controlling, destroying, curbing, mitigating, preventing, repelling, offering advice on control methods and procedures, inspecting and identifying infestations and populations of insects, rodents, fungi, and other pests within, under and on structures of any kind, or the nearby surrounding ground areas or where people may assemble or congregate including work defined under G.S. 106-65.24(23).
- (36) ~~(35)~~ "Liquefied gas aerosol" means the spray produced by the extreme rapid volatilization of a compressed and liquefied gas, to which has been added a non-volatile oil solution containing a pesticide.
- (37) ~~(36)~~ "Non-commercial certified applicator" shall mean any certified applicator not employed by a licensed individual.
- (38) ~~(37)~~ "Open porch" means any porch without fill in which the distance from the bottom of the slab to the top of the soil beneath the slab is greater than 12 inches.
- (39) ~~(38)~~ "Percolation" (as used in Rule .0503(c)(2) of Section .0500) means the leakage or movement of a pesticide from the initial point of application by the action of the water.
- (39) ~~"Practical experience" means the application of, or direct supervision of the application of, measures, excluding mechanical devices, employed in the control of household pests, the control of wood-destroying organisms, and fumigation.~~
- (40) "Residential structure" means any building or structure whether public or private, vacant or occupied, and adjacent outside areas which serve as living quarters for man, used as a permanent dwelling such as a single- or multi-family home, a condominium or townhouse or an apartment.
- (41) ~~"Restricted use pesticide" means any pesticide formulation which has been determined restricted in its use by the United States Environmental Protection Agency, under Section 3 of Public Law 92-516 and/or the North Carolina Pesticide Board.~~
- (41) ~~(42)~~ "Secretary" means the Secretary to the North Carolina Structural Pest Control Committee.
- (42) ~~(43)~~ "Service vehicle" means any vehicle used to transport the licensee or certified applicator or serviceman and/or their equipment and pesticides used in providing structural pest control services.
- (43) ~~(44)~~ "Slab-on-ground" means a concrete slab in which all or part of that concrete slab is resting on or is in direct contact with the ground immediately beneath the slab.
- (44) ~~(45)~~ "Solid masonry cap" means a continuous concrete or masonry barrier covering the entire top, width and length, of any wall, or any part of a wall, that provides support for the exterior or structural parts of a building.
- (45) ~~(46)~~ "Space spray" means any pesticide regardless of its particle size, which is applied to the atmosphere within an enclosed space in such a manner that dispersal of the pesticide particles is uncontrolled. Pesticidal fogs or aerosols, including those produced by thermal-aerosol generators (fogging machines), shall be considered space sprays.

- (46) ~~(47)~~ "Spot fumigation" means the application of a fumigant to a localized space or harborage within, on, under, outside of, or adjacent to, a structure for local household pest or rodent control.
- (47) ~~(48)~~ "Spot surface residual spray" means the application of pesticidal spray directly to a surface and only in specific areas where necessary and in such a manner that the pesticidal material will largely adhere to the surface where applied and will remain toxic to household pests or rodents or other pests for which applied for an extended period of time.
- (48) ~~(49)~~ "Structure" means all parts of a building, whether vacant or occupied, in all stages of construction.
- (49) ~~(50)~~ "Structural pests" means all pests that occur in any type of structure of man and all pests associated with the immediate environs of such structures.
- (50) ~~(51)~~ "Sub-slab fumigation" means the application of a fumigant below or underneath a concrete slab and is considered spot fumigation.
- (51) ~~(52)~~ "Telephone answering service location" means any location used for the sole purpose of receiving telephone messages.
- (52) ~~(53)~~ "Termiticide(s)" (as used in Rule .0503, Subterranean Termite Control, and Rule .0505, Subterranean Termite Prevention) means those pesticides specified in Rule .0502, Pesticides for Subterranean Termite Prevention and or Control.
- (53) ~~(54)~~ "To use any pesticide in a manner inconsistent with its labeling" means to use any pesticide in a manner not permitted by the labeling. Provided that, the term shall not include:
- (A) applying a pesticide at any dosage, concentration or frequency less than that specified on the labeling;
 - (B) applying a pesticide against any target pest not specified on the labeling if the application is to the site specified on the labeling, unless the EPA has required that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling;
 - (C) employing any method of application not prohibited by the labeling.
- (54) ~~(55)~~ "Type of treatment" means the method used to apply a pesticide formulation to a specific location.
- (55) ~~(56)~~ "Unauthorized personnel" means any individual or individuals not given specific

authorization by the licensee or certified applicator to areas to which access is restricted by these regulations.

- (56) ~~(57)~~ "Under direct supervision of" means the act or process whereby application of a pesticide is made by a competent person acting under the instructions and control of a licensee or certified applicator who is responsible for the action of that person and who is available if and when needed, even though such licensee or certified applicator is not physically present at the time and place the pesticide is applied.
- (57) ~~(58)~~ "Waiver" means a standard form prescribed by the committee which will, when completed correctly, permit the licensee to deviate from or omit one or more of the minimum treatment methods and procedures for structural pests which are set forth in the committee rules, regulations, definitions and requirements.
- (58) ~~(59)~~ "Wood-destroying insect report" means any written statement or certificate issued, by an operator or his authorized agent, regarding the presence or absence of wood-destroying insects or their damage in a structure.
- (59) ~~(60)~~ "Wood-destroying organism" is an organism such as a termite, beetle, other insect, or fungus which may invade, inhabit, devour, or destroy wood or wood products and other cellulose material found in, on, under, in contact with, and around structures.
- (60) ~~(61)~~ "Wood-destroying organism report" means any written statement or certificate issued, by an operator or his authorized agent, regarding the presence or absence of wood-destroying organisms or their damage in a structure.

Statutory Authority G.S. 106-65.29.

SECTION .0300 - LICENSING AND CERTIFICATION

.0301 FEES

(a) License, certified applicator's identification card, and ~~operator's registered technician's~~ identification card fees shall not be prorated. All license, certified applicator's identification card and ~~operator's registered technician's~~ identification card fees shall be paid, in full, in advance of the examination.

~~(b) No license, certified applicator's identification card, or operator's identification card shall be issued or renewed, or the results of an examination made known where the fee is tendered in~~

the form of a personal check until the check has cleared the bank.

(b) ~~(e)~~ Personal checks for fees returned unpaid for any reason shall be treated in the same manner as though no fee had been tendered.

(c) ~~(d)~~ All moneys tendered in payment of fees shall be in the exact amount required for said fees.

Statutory Authority G.S. 106-65.29.

.0302 APPLICATION FOR LICENSES AND CARDS: EXAMINATION

(a) Application for licenses under the provisions of G.S. 106-65.26(a) and (c):

(10) ~~Any applicant for a license who fails to pass an examination may take one re-examination on a regularly scheduled examination date within one year from the date of the first examination without paying another examination fee.~~

(10) ~~(11)~~ All applicants passing the examination(s) for licenses shall apply for said licenses within six months from the date on which the examinations were passed. If such applicants fail to make application for said licenses, within the specified period, such applicants shall be required to take and satisfactorily pass re-examinations covering phases of structural pest control work for which licenses were applied before said licenses are issued.

(12) ~~Any applicant who fails an examination may obtain his score from the committee secretary, if application therefor is made in writing within 60 days from the date of the committee secretary's written notice to the applicant of his failure.~~

(11) ~~(13)~~ If an applicant [within 60 days after notification that he has failed an examination] requests to review the examination(s), the division shall allow such review the examination(s) with the applicant during the earliest possible regular review session.

(b) Application for certified applicator's identification card under the provisions of G.S. 106-65.26(a) and (b):

(5) ~~Any applicant for a certified applicator's identification card who fails to pass an examination may take one re-examination on a regularly scheduled examination date within one year from the date of the first examination without paying another examination fee.~~

(5) (6) All applicants passing the examination(s) for certified applicator's

identification cards shall apply for said cards within six months from the date on which the examinations were passed. If such applicants fail to make application for said certified applicator's identification cards within the specified period, such applicants shall be required to take and satisfactorily pass re-examinations covering phases of structural pest control work for which certified applicator's identification cards were applied before said cards are issued.

(6) ~~(7)~~ Upon receipt of the application for examination, the committee secretary shall provide the necessary forms for the applicant to pre-register for the examination as required in Rule .0302(c).

(7) ~~(8)~~ Rule .0302(a)(2), (3), (5), (6), (7), (12) and (13) of this Section shall also apply to all applicants for certified applicator's identification cards.

Statutory Authority G.S. 106-65.29.

.0304 BRANCH OFFICE (REPEALED)

Statutory Authority G.S. 106-65.29.

.0305 FILING FORMS

~~In order to carry out the provisions of G.S. 106-65.25 and in the interest of the public and structural pest control licensees, and certified applicators, all operator's identification card applications filed pursuant to G.S. 106-65.31, and all license and certified applicator's identification card applications All applications for a structural pest control license, certified applicator's card or registered technician's identification card shall be made on forms prescribed by the division. Incomplete forms shall be returned to the applicant. No license, or certified applicator's identification card, or operator's registered technician's identification card shall be issued, renewed, or re-issued until completed forms and required fees are received by the office of the structural pest control division.~~

Statutory Authority G.S. 106-65.29.

.0306 MAILING OF RENEWAL FORMS

On or before May 1 of each year the structural pest control division shall forward renewal forms prescribed by the division, for licenses, certified applicator's identification cards, and operator's identification cards to all holders of licenses and identification cards for their use in applying for renewal of said licenses, certified applicator's identification cards, and/or operator's registered

technician's identification cards. Mailing of these forms shall be the only notice for renewal.

Statutory Authority G.S. 106-65.29.

.0310 COLLECTION OF CARDS OF FORMER EMPLOYEES

(a) It shall be the responsibility of every licensee who has requested certified applicator's identification cards and or ~~operator's~~ registered technician's identification cards for employees to notify the ~~structural pest control~~ division of all employees whose employment has terminated with that company prior to the end of the license year. Such notification shall be mailed to the ~~structural pest control~~ division not more than ten days after termination of employment.

Statutory Authority G.S. 106-65.29.

.0313 INFORMATION ON REGISTERED TECHNICIAN'S IDENTIFICATION CARDS

(a) ~~An operator's~~ A registered technician's identification card shall contain, but not be limited to, the following information:

- (1) name of registrant;
- (2) name of licensee or employer;
- (3) name of licensee's company;
- (4) address of licensee's company;
- (5) license number and phase(s) of licensee;
- (6) age, weight, height, color of hair and eyes of registrant;
- (7) job classification of card holder;
- (8) issuance date, expiration date and license year covered by card.

(b) The ~~operator's~~ registered technician's identification card and the license of the employer of the card holder shall bear the same license number and license phase(s). Each ~~operator's~~ registered technician's identification card shall bear only one license number, one company name, and not more than three license phases.

(c) A licensee or non-commercial certified applicator applying for the issuance or renewal of ~~an operator's~~ registered technician's identification card for his employee shall certify to the division that the employee has completed employee training approved by the committee in structural pest control work.

(d) In the event the committee approves employee training materials produced by the division, such materials shall be purchased by all ~~structural pest control~~ licensees and by at least one non-commercial certified applicator at each business location at a cost determined by the committee; provided, however, a licensee who is performing work under the structural pest con-

trol license of another shall not be required to purchase the training materials.

Statutory Authority G.S. 106-65.29.

.0317 LICENSE AND/OR CARD ISSUED TO ADDRESS OR HOME OFFICE

The license and or certified applicator's identification card shall be issued to the licensee and/or certified applicator at the address of his ~~branch~~ home office in North Carolina.

Statutory Authority G.S. 106-65.29.

.0318 CHANGE IN STATUS OF LICENSEE AND/OR CERTIFIED APPLICATOR

(c) ~~When there is a transfer or other change of ownership, management or operation of a business of a licensee as provided in G.S. 106-65.27(c), the individual, firm, partnership, corporation or other entity shall, within 10 days designate in writing to the division, the name of the person responsible for and in charge of the structural pest control operations of said business or agency during the 90-day period.~~

Statutory Authority G.S. 106-65.29.

.0319 FILING CALL OFFICE LOCATIONS

A complete listing of all ~~telephone answering service call office~~ locations in North Carolina, including complete names and addresses, shall be filed with the committee secretary on or before July 1 of each year by the licensee on a form prescribed by the division. All deletions, additions, and other changes in ~~telephone answering service call office~~ locations shall be filed with the committee secretary, within 30 days of such change, by the licensee, on a form prescribed by the division. This form may be obtained by writing the North Carolina Department of Agriculture, Structural Pest Control Division, P.O. Box 27647, Raleigh, NC 27611 or by calling (919) 733-6100.

Statutory Authority G.S. 106-65.29.

.0320 DISPLAY OF LICENSE NUMBER ON SERVICE VEHICLE

The license number and phase(s) of each licensee in charge of ~~an a branch~~ office or the company name of the licensee as specified in Rule .0326 shall be prominently displayed on both sides of all service vehicles of that ~~branch~~ office, but shall not be required on vehicles used exclusively in selling structural pest control work. Vehicles requiring display of license number(s) and phase(s) or company name shall bear such display within 30 days after the date on which

said vehicle(s) is required to be so identified. The license number and license phase(s) or company name displayed on said vehicles of a ~~branch~~ an office shall be the same as the license number and license phase(s) or company name borne by the license or the person in charge of that ~~branch~~ office. All said vehicles of a company may bear the same license number even though the company may have more than one licensee or ~~branch~~ office; provided, however, notice is made in writing annually to the committee and the committee approves the license number used in such cases. The license number and license phase(s) or company name and all other letters displayed on said vehicles, shall be a minimum of two inches in height, in bold print on a background of contrasting color. The license number shall be designated as: North Carolina Pest Control License No. _____. This may be abbreviated to N.C. Pest Control Lic. _____.

Statutory Authority G.S. 106-65.29.

.0322 EXPIRATION OF LICENSES AND CARDS (REPEALED)

Statutory Authority G.S. 106-65.29.

.0323 DISPLAY OF LICENSE AT PLACE(S) OF BUSINESS

All structural pest control licenses shall be kept at the business address on the license. In the case of a non-resident license holder, the license shall be kept at the ~~branch~~ office shown on license certificate, unless authorization is obtained from the division to keep the license at the address of the resident agent. All licenses shall be subject to inspection by the ~~enforcement agency~~ division anytime during regular business hours.

Statutory Authority G.S. 106-65.29.

.0326 INFORMATION ON LICENSE CERTIFICATE

- (a) The license certificate shall contain, but not be limited to, the following information:
 - (3) address of ~~branch~~ office,

Statutory Authority G.S. 106-65.29.

SECTION .0500 - WOOD-DESTROYING INSECTS

.0505 SUBTERRANEAN TERMITTE PREVENTION/RES. BLDGS UNDER CONST.

- (a) Basement or Crawl-Space Construction
 - (1) ~~Treat the soil~~ Establish a vertical barrier in the soil along inside of the main founda-

tion wall; the entire perimeter of all multiple masonry chimney bases, pillars, pilasters, and piers; and both sides of partition or inner walls with a termiteicide from the top of the grade to the top of the footing.

- (2) After a building or structure has been completed and the excavation filled and leveled, so that the final grade has been reached along the outside of the main foundation wall, ~~treat the soil~~ establish a vertical barrier in the soil adjacent to, along and not more than eight inches from, the outside of the main foundation wall with a termiteicide from the top of the grade to the top of the footing; except that, where drain tile, french drains or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiteicide into the drainage system.
- (3) ~~Treat all voids of masonry foundation walls, piers, pillars, pilasters, chimneys, and other supporting or attached unit masonry structures except where voids are to be capped with a solid masonry cap consisting of solid concrete or masonry.~~
- (3) (4) ~~Treat soil~~ Establish a horizontal barrier in the soil within three feet of the main foundation, under slabs, such as patios, walkways, driveways, terraces, gutters, etc., attached to the building. Treatment shall be performed before slab is poured, but after fill material has been spread.
- (4) (5) ~~Treat soil~~ Establish a horizontal barrier in the soil under the entire surface of floor slabs, such as basements, porches, entrance platforms, garages, carports, breezeways, sun rooms, etc. The treatment shall be performed before slab is poured but after fill material has been spread.
- (5) (6) ~~Treat soil~~ Establish a vertical barrier in the soil around all critical areas, such as expansion and construction joints and plumbing and utility conduits, at their point of penetration of the slab or floor or, for crawl space construction, at the point of contact with the soil.
- (6) If concrete slabs are poured prior to treatment, treatment of slabs shall be performed as required by Rule .0503(a) or (b): Except that; the buyer of the property may release the licensee from further treatment of slab areas under this Rule provided such release is obtained in writing on the form prescribed by the Divi-

sion. This form may be obtained by writing the North Carolina Department of Agriculture, Structural Pest Control Division, P.O. Box 27647, Raleigh, NC 27611 or by calling (919) 733-6100.

Statutory Authority G.S. 106-65.29.

.0506 SUBTERRANEAN TERMITE PREVENTION/COML. BLDGS. UNDER CONST.

(a) All treatments performed pursuant to Rule .0506 shall be performed at the label recommended rate and concentration only.

(b) Minimum Treatment Requirements:

- (1) Establish a vertical barrier in the soil along inside of the main foundation wall; the entire perimeter of all multiple masonry chimney bases, pillars, pilasters, and piers; and both sides of partition or inner walls with a termiticide from the top of the grade to the top of the footing.
- (2) After a building or structure has been completed and the excavation filled and leveled, so that the final grade has been reached along the outside of the main foundation wall, establish a vertical barrier in the soil adjacent to, along and not more than eight inches from, the outside of the main foundation wall with a termiticide from the top of the grade to the top of the footing; except that, where drain tile, french drains or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage system.
- (3) Establish a horizontal barrier in the soil within three feet of the main foundation, under slabs, such as patios, walkways, driveways, terraces, gutters, etc. Treatment shall be performed before slab is poured, but after fill material has been spread.
- (4) Establish a vertical barrier in the soil around all critical areas, such as expansion and construction joints and plumbing and utility conduits, at their point of penetration of the slab of floor or, for crawl space construction, at the point of contact with the soil.
- (5) If concrete slabs are poured prior to treatment, treatment of slabs shall be performed as required by Rule .0503(a) or (b).

Statutory Authority G.S. 106-65.29.

SECTION .0600 - WOOD-DESTROYING ORGANISMS AGREEMENTS

.0605 CONTRACTUAL AGREEMENTS WOOD-DESTROYING ORGANISMS

(a) All agreements for the control and/or prevention of wood-destroying organisms in existing structures shall be in writing. A copy of the executed written agreement and waiver (if applicable) pertaining to said treatment(s) shall be presented to and furnished the property owner or his authorized agent, for acceptance, and shall clearly set forth or include the following:

(2) Exact location of ~~inspected~~ inspected property inspected and/or treated;

(e) If the licensee provides preventive treatment(s) for subterranean termites to a structure(s) for someone such as a builder or construction company who is constructing the building(s) for someone else or with the purpose of offering the building(s) for sale, the licensee may enter into a single master agreement with the builder to provide the preventive treatment(s) for subterranean termites. This single master agreement shall include the following:

(2) That information required in Rules .0605(d)(4), (5), (6), (7), (8), (9), (10), (11), and (12), and (13) of this Section.

(f) When a structure is treated under an a single master agreement with a builder, and the buyer of said treated structure, or his authorized agent is issued a written agreement, the written agreement issued the buyer shall include the following: the licensee shall:

(1) Following completion of the treatment, and upon notification by the builder or buyer, issue a written agreement to the initial buyer. The written agreement issued to the buyer shall include the following:

(A) ~~(1)~~ Complete name and address of the builder, or his authorized agent as it appears on the builder's single master agreement;

(B) ~~(2)~~ That information required in Rules .0605(d)(1), (2), (3), (4), (5), (6), (7), (8), (9), and (11) ~~and (13)~~ of this Section. The builder shall be issued a copy of any written agreement issued the buyer. ~~The builder's copy shall also show the total price charged for the treatment. Rule .0604(a) of this Section shall also be followed.~~

(2) Maintain a record of each treatment performed on each structure to include the following information:

(A) Exact location of the structure treated;

- (B) Date each treatment was performed;
(C) The portion(s) of the structure treated.

Statutory Authority G.S. 106-65.29.

SECTION .0900 - DUTIES AND RESPONSIBILITIES OF LICENSEE

.0904 PROHIBITED ACTS

(b) The use of ~~North Carolina State~~ a structural pest control license(s), ~~or~~ certified applicator's identification card(s), ~~or operator's registered technician's~~ identification card(s) or licensee identification card(s) for any purpose other than identification is prohibited.

(d) No licensee shall advertise, in any way or manner, as a contractor for structural pest control services, in any phase(s) of work for which he does not hold a valid license(s) as provided for under G.S. 106-65.25(a), unless said licensee shall hold a valid certified applicator's identification card or ~~operator's registered technician's~~ identification card, as provided for under G.S. 106-65.31, as an employee of a person who does hold a valid state license(s) covering phases of structural pest control work advertised.

(f) No licensee, ~~or~~ certified applicator or ~~operator's registered technician's~~ identification card holder shall advertise or hold himself out in any manner in connection with the practice of structural pest control as an entomologist, plant pathologist, horticulturist, public health engineer, sanitarian, and the like, unless such person shall be qualified in such field(s) by required professional and educational standards for the title used.

Statutory Authority G.S. 106-65.29.

SECTION .1000 - TIME FOR FILING COMPLAINTS

.1004 PROHIBITION AGAINST ASSOCIATION OF SUSPENDED OPERATOR

Any person who has been denied a ~~North Carolina State structural pest control~~ license, ~~or~~ certified applicator's identification card or ~~operator's registered technician's~~ identification card for any of the reasons specified in G.S. 106-65.26(d) and/or G.S. 106-65.31(b), or who has had his license, ~~or~~ certified applicator's identification card or ~~operator's registered technician's~~ identification card revoked, or whose license, ~~or~~ certified applicator's identification card or ~~operator's registered technician's~~ identification card is under suspension under the provisions of G.S. 106-65.28, or while acting as a member, officer, director, associate or employee of any structural pest control partnership, corporation, firm or as-

sociation participating in any of the prohibited acts of these Rules and Regulations or the Structural Pest Control Law for which the license, ~~or~~ certified applicator's identification card or ~~operator's registered technician's~~ identification card was denied, suspended or revoked, shall be prohibited from serving as an officer, director, associate, or employee of a licensee and shall not participate in any phase of structural pest control work covered by said suspended or revoked license or card.

Statutory Authority G.S. 106-65.29.

SECTION .1100 - INSPECTION FEES

.1102 DESIGNATION OF DEVIATIONS

(a) ~~For the purpose of these rules and regulations a discrepancy shall mean failure of the licensee or certified applicator to follow any rule, regulation, or requirement as herein before set forth.~~

(a) ~~(b)~~ The committee shall designate such discrepancies as major and minor discrepancies all deviations as either primary or secondary and shall ~~furnish~~ notify each licensee and certified applicator a copy of its the designations.

(b) ~~(c)~~ If a discrepancy deviation is found by the ~~enforcement agency, division, the agency division~~ shall notify the licensee or certified applicator responsible for the discrepancy deviation on an inspection report or other form(s) prescribed by the committee. All such discrepancies deviations shall be corrected within 30 days of written notice from the ~~enforcement agency division~~ and the ~~enforcement agency division~~ notified, in writing, when this has been accomplished. Failure of the licensee or certified applicator to correct all such discrepancies deviations within this 30-day period, is a ground for disciplinary action by the committee. The committee secretary may, upon written request and for good cause shown, extend the period for correcting such discrepancies deviations.

Statutory Authority G.S. 106-65.29.

.1103 RE-INSPECTIONS

(a) If a ~~major discrepancy, primary deviation,~~ as defined by the committee, is found by the division, the licensee or certified applicator responsible for said discrepancy deviation shall be notified, in writing, as specified in Rule .1102 ~~(c)~~ (b) of this Section of the ~~discrepancy, deviation.~~ At the end of 30 days from the date of notification a reinspection shall be made by the division to determine if the discrepancy deviation has been corrected. The licensee or certified appli-

cator responsible for the ~~discrepancy~~ deviation shall be charged a fee of ten dollars (\$10.00) for the reinspection. The disclosure of a ~~major discrepancy~~ primary deviation by the division shall require a reinspection and correction of the ~~major discrepancy~~ primary deviation before the date of reinspection shall not relieve the licensee or certified applicator of the responsibility to pay the reinspection fee as heretofore set forth. If the ~~major discrepancy~~ primary deviation is not corrected on the first reinspection date, the licensee or certified applicator shall be notified, in writing, and a second reinspection shall be made at the end of 30 days from the date of notification. A fee of fifty dollars (\$50.00) shall be charged the licensee or certified applicator for the second reinspection. If the ~~major discrepancy~~ primary deviation is not corrected on the second reinspection date, the licensee or certified applicator shall be notified, in writing, and a third reinspection shall be made at the end of 30 days from the date of notification. A fee of one hundred dollars (\$100.00) shall be charged the licensee or certified applicator for the third reinspection. This reinspection procedure shall be repeated at 30-day intervals thereafter until all ~~major discrepancies~~ primary deviations have been corrected. A fee of one hundred dollars (\$100.00) shall be charged the licensee or certified applicator for each reinspection made after the date of the third reinspection. If more than one ~~major discrepancy~~ primary deviation is found on a job at any time by the division or committee, the licensee or certified applicator shall be charged only one reinspection fee for each reinspection of the job. All such reinspection fees, as set forth herein, shall be paid within 30 days of written notice from the division or the committee. Failure of the licensee or certified applicator to pay all such fees, within the time specified herein, is a ground for disciplinary action by the committee.

(b) If a ~~minor discrepancy~~ secondary deviation, as defined by the committee, is found by the ~~enforcement agency~~ division, the licensee or certified applicator responsible for said ~~discrepancy~~ deviation shall be notified, in writing, as specified in Rule .1102 (e) (b) of this Section, of the ~~discrepancy~~ deviation. At the end of 30 days from the date of notification, a reinspection shall be made by the ~~enforcement agency~~ division to determine if the ~~discrepancy~~ deviation has been corrected. If all ~~minor discrepancies~~ secondary deviations are not corrected on the first reinspection date, the ~~discrepancies~~ deviations shall become ~~major discrepancies~~ primary deviations and handled thereafter as specified in Rule .1103 (a) of this Section.

Statutory Authority G.S. 106-65.29.

TITLE 4 - DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Banking Commission intends to amend rule(s) cited as 4 NCAC 3C .0901 - .0903, .1001 - .1002; 3D .0301.

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

The public hearing will be conducted at 8:00 a.m. on May 3, 1990 at North Carolina Banking Commission, Dobbs Building - 6th Floor (Room 6210), 430 North Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Comments must be submitted in writing not later than Friday, April 27, 1990. Written comments should be directed to:

*L. McNeil Chestnut
General Counsel
North Carolina Banking Commission
Post Office Box 29512
Raleigh, North Carolina 27526-0512*

CHAPTER 3 - BANKING COMMISSION

SUBCHAPTER 3C - BANKS

SECTION .0900 - OPERATIONS

.0901 BOOKS AND RECORDS

Each bank shall keep in permanent form, and available for examination by the representatives of the Commissioner of Banks, books and records which reflect all the transactions of the bank in its true financial condition. Such records shall be so kept as to permit and facilitate a speedy examination, which will, in turn, reflect such financial condition to the representatives of the Commissioner of Banks. Without implying that these are the only books and records to be kept, but, on the contrary, that these are necessary books and records, as well as other books and records usually kept, the following are required to be kept in the bank unless otherwise approved by the Commissioner of Banks:

(1) Each commercial bank or branch thereof in which notes or other forms of similar obligations are retained must keep a an alphabetical liability ledger. ~~In this ledger there must be shown separately the direct and in-~~

~~direct obligations of each person indebted to the bank. Where the total direct and indirect lines do not exceed ten thousand dollars (\$10,000.00), the indirect line need not be shown. The direct line liability ledger must be kept in balance with the general ledger control. In a commercial bank whose automated record system is not able to produce an alphabetical liability ledger the bank must be able to produce an alphabetical listing of borrowers showing all of a customer's loan or customer account numbers and the amount outstanding under each number when called upon by the Commissioner of Banks or his duly authorized agent. In addition to the direct liability ledger, each commercial bank or branch thereof in which notes or other forms of similar obligations are retained must keep an alphabetical indirect liability ledger showing a customer's indirect obligations by loan name or account number and the balance outstanding under each account. Where the total of the direct and indirect lines do not exceed ten thousand dollars (\$10,000), the indirect line may be omitted from the indirect liability ledger. The indirect liability ledger must be updated at least monthly. Each commercial bank shall have the ability to produce both the direct and indirect liability ledgers in hard copy form upon call by the Commissioner of Banks or his duly authorized agent.~~

- (2) A permanent reconciliation record must be kept, showing the monthly reconciliation of each account with correspondent banks. A signed review of such reconciliations must be made by some officer or employee of the bank other than the person composing same.
- (3) A permanent record must be kept of all stocks and bonds bought or sold. Also, there must be retained for review by examiners all original invoices of purchases and sales of securities. The record must show dates of purchases and sales, interest rates, maturities, par value, cost value, all write-ups or write-downs, a full description of the security, from whom purchased, to whom sold, selling price, and when, where and why pledged or deposited. This record must be maintained in balance with the general ledger control.
- (4) A permanent record must be kept of all articles deposited for safekeeping. This record must be ~~so~~ maintained ~~so~~ as to make it possible to easily verify or trace any article ~~so~~ deposited. Receipts must be given and taken for all articles deposited or delivered.

~~Inventory~~ An inventory of parcels is not required.

- (5) A permanent record must be kept of all items charged off. All chargeoffs must be authorized or approved by the executive committee or by the board of directors and such action recorded in their minutes. This record, among other things, must show the date of the chargeoff, a description of the asset and the amount. The record must be supported by the actual charged off items, or the final disposition of ~~same~~ any item. In this record must also be recorded all recoveries, giving dates and amounts. This Rule shall also apply to trust department chargeoffs which may be authorized and approved by the trust committee of the board of directors.
- (6) A real estate record must be kept on all parcels owned, including the banking house. This record must show when, from whom, and how the property was acquired; date, cost price, book value, detailed income and detailed expenses. This record should be supported by appraisals, title certificates showing assessed value, tax receipts, and insurance policies.
- (7) Proper minutes, showing clearly its action, must be kept for each committee, board of directors, board of managers, and stockholders' meetings. All minutes must be signed by the chairman and the secretary of this meeting.
- (8) A permanent daily record must be kept of all cash items held over from the day's business, including all checks that would cause an overdraft if handled in the regular way. This record must show the name of the account on whom the item is drawn or is obligated for payment, the reason the item is being held, the date the item was placed in the cash items account, and the amount of the item. This record must be a daily record showing only those items held over at the end of each day's business and be kept in balance with the general ledger or control figure.
- (9) A detailed record of income and expenses must be kept, balanced monthly, and a report thereof made to the executive committee or board of directors, and the receipt of same noted in their minutes.
- (10) In the discretion of the Commissioner of Banks, he may require the preparation or maintenance of further books or records by specific banks or branches thereof.
- (11) Each industrial bank, ~~at the time of the preparation of each call when preparing a~~

report of condition and income, must ~~pre-~~
~~pare~~ include and make a part of such ~~this~~
report a list of those whose obligations to
the bank, whether ~~such~~ the obligations ~~be~~
are direct or indirect, ~~or of~~ and including
paper purchased by the bank, are in excess
of ten percent of capital, ~~and surplus~~, sur-
plus and undivided profits. In lieu of ~~such~~
~~a report~~, this list, the bank must maintain a
liability ledger in accordance with Sub-
section (1) of this Rule. Any commercial
bank making installment loans may, with
reference to such installment loans, make the
report specified in this section in lieu of the
liability ledger required under Subsection (1)
of this Rule.

*Statutory Authority G.S. 53-92; 53-110;
150B-11(1).*

.0902 REQUIRED ACCOUNTS

In order that the books and records of the bank
may properly reflect all of its liabilities, the fol-
lowing reserve accounts must be set up and be
properly maintained by all banks:

- (1) Reserve for Interest Due Depositors. This
reserve must be set up and proper entries
made thereto at least once each month. As
interest is paid to depositors, ~~such~~ payments
~~shall~~ must be charged to this account. Each
month, as credits are made to this reserve,
the amount should be charged to interest
paid to depositors' accounts.
- (2) Reserve for Unearned Interest on Loans.
All interest collected on notes must be cred-
ited to this account on the day it is collected.
At least once each month earned interest
must be computed, be charged to this ac-
count, and be credited to earned interest ac-
count. Provided however, this
Subparagraph does not apply to loans where
interest is accounted for through an income
earned not collected account.
- (3) Reserve for Taxes, Insurance, Etc. Based
upon available information, including past
experience, the approximate sum to be re-
quired for taxes of all kinds and for insur-
ance, including surety bond premiums, for
all purposes for the year, must be estimated
and this account must be credited at least
once each month, and debits made to ex-
pense accounts, for one-twelfth of the total.
All payments for taxes and insurance, when
made, must be charged to this reserve ac-
count. Provided, however, in lieu of using
a reserve account, a prepayment account
may be established for insurance, and

monthly charges made to the account to
expense the appropriate amount.

- (4) Reserve for Depreciation. In order that the
values carried on the books of the bank re-
presenting fixed assets may be as nearly cor-
rect as possible, each bank must set up and
properly maintain a reserve for depreciation.
Credits must be made to this account at least
once each month for one-twelfth of the an-
nual rate permitted for that particular asset
by the United States Internal Revenue Ser-
vice.
- (5) Bond Income Earned; Not Collected. At
least once each month, the income on bonds
earned during the month shall be charged to
this account and credited to the bond in-
come account. As coupons are collected,
they shall be credited to this account.

*Statutory Authority G.S. 53-92; 53-110;
150B-11(1).*

Eff. February 1, 1976.

.0903 RETENTION: REPRODUCTION AND DISPOSITION OF BANK RECORDS

- (a) Each bank or branch thereof shall keep and
retain in some safe and secure place the books,
ledgers, records, and documents hereinafter set
forth for the periods specified.

Bank Records to be Retained	Minimum Retention Period
--------------------------------	-----------------------------

ACCOUNTING

1. Daily Reserve Calculation and Averages	3 years
2. Difference Records (Over/Short)	2 years
3. Paid Bills and Invoices	3 years
4. Quarterly Report of Condition and <u>Income</u> and Supporting Work Papers	5 years
5. <u>Quarterly Report of</u> <u>Income and Supporting</u> <u>Work Papers</u>	5 years
6. <u>Report of Liquidity</u>	2 years

ADMINISTRATIVE

1. Documentation of Charged-off Assets	10 years
2. Escheat Reports and Records	10 years
3. Minute Books of Meetings of Stockholders, Directors, and Executive Committee	Permanent

PROPOSED RULES

AUDIT

- | | | | |
|--|---------|---------------------------------------|---------|
| 1. Audit Reports (Internal and External) and Directors' Examinations | 3 years | 1. Checks and Debits | 5 years |
| 2. Audit Work Papers (Internal) | 3 years | 2. Daily Report on Overdrafts | 2 years |
| | | 3. Deposit Resolutions (After Closed) | 3 years |
| | | 4. Deposit Tickets and Credits | 5 years |

BANK PROPERTIES

- | | | | |
|---|----------------|---|-----------------|
| 1. Fixed Assets-Evidence of Ownership (After Acquisition) | 5 years | 5. Ledgers, Statements, or Stubs | 5 years |
| 2. Fixed Assets-Leases (After Termination) | 5 years | 6. Letters of Administration | 5 years |
| 3. Real Estate-Construction Records | 5 years | 7. Posting or Transaction Journals | 2 years |
| 4. Real Estate-Deeds | Until conveyed | 8. Powers of Attorney | 5 years |
| 5. Real Estate-Leases (After Termination) | 5 years | 9. Return Item Records | 1 year |
| | | 10. Signature Cards (After Closed) | 5 years |
| | | 11. Stop Payment Orders | 1 year |
| | | 12. Tax Waivers | 1 year |
| | | 13. Undelivered Statements | 1 year |
| | | 14. Unidentified or Unclaimed Deposit Records | Until escheated |

CAPITAL

- | | |
|---|-----------|
| 1. Capital Stock Certificate Books, Stubs, or Interleaves | Permanent |
| 2. Capital Stock Ledger | Permanent |
| 3. Capital Stock Transfer Register | Permanent |
| 4. Proxies | 3 years |

COLLECTIONS

- | | |
|---|-------------------------------------|
| 1. Collection Registers (Income <u>Incoming</u> and Outgoing) | 3 years after item paid or returned |
| 2. Receipts and Advices (After Closed) | 1 year |

CREDIT CARDS

- | | |
|---|-----------|
| 1. Borrowing Authority Resolutions (After Closed) | 3 years |
| 2. Customer Application (After Closed) | 1 year |
| 3. Disclosure and Compliance Documents | 25 months |
| 4. Merchants' Agreement (After Closed) | 2 years |
| 5. Posting or Transaction Journal | 2 years |
| 6. Sales Tickets or Drafts | 3 years |
| 7. Statement of Account | 5 years |

DEMAND DEPOSIT AND TRANSACTION ACCOUNTS

DUE FROM BANKS

- | | |
|------------------------------------|------------|
| 1. Advise of Entry (After Cleared) | 3 months |
| 2. Drafts (After Paid) | 5 years |
| 3. Draft Register or Carbon Copy | Until paid |
| 4. Reconcilements | 3 years |
| 5. Statements | 3 years |

GENERAL LEDGER

- | | |
|---|----------|
| 1. Daily Statement of Condition | 5 years |
| 2. General Journal (If Book of Original Entries, with Descriptions) | 15 years |
| 3. General Ledgers | 15 years |
| 4. General Ledger Tickets | 5 years |

INSURANCE

- | | |
|--|---------|
| 1. Bankers Blanket Bond and Excess | 5 years |
| 2. General Casualty Liability Policies Expired | 5 years |

INTERNATIONAL

- | | |
|------------------------------------|-------------------------------------|
| 1. Bankers Acceptances | 3 years |
| 2. Collection Records | 3 years after item paid or returned |
| 3. Letters of Credit and Documents | 3 years after expiration |

PROPOSED RULES

4. Transfer Orders (Wire or Written) 1 year

INVESTMENTS

1. Accrual and Bond Amortization or Accretion Records (After Period Ends) 3 years
2. Brokers' Confirmations, Invoices, Statements 3 years
3. Ledgers 3 years

LEASE RECEIVABLES (OTHER THAN REAL ESTATE)

1. Lease Agreements and Documents (After Termination) 5 years
2. Rental Payment Records 5 years
3. Record of Disposition of Property 5 years

LEGAL JUDICIAL AUTHORIZATION

1. Attachments and or Garnishments 10 years
2. Court Case Records (After Final Disposition) 10 years
3. Probate Court Appointment (After Closed) 10 years

LOANS (COMMERCIAL, CONSUMER, MORTGAGE)

1. Appraisals, Financing Statements, and Title Opinions Pertaining to Collateral Until paid
2. Borrowing Resolutions 3 years
after payment
of debt
3. Credit Files (Financial Statements, Applications, Correspondence) (After Paid) 2 years
4. Collateral Records (After Released) 5 years
5. Interest Rebate Records 1 year
6. Liability Cards and or Ledgers (After Closed) 3 years
7. Loan Ledger Cards or History Sheets (After Paid) 3 years
8. Loan Proceeds Disbursement Records Until paid
9. Loans Paid Record 3 years

10. Mortgage Files and Supporting Documents (After Paid) 2 years
11. Note and or Loan Register (After Paid) 3 years
12. Posting or Transaction Journal 2 years

MAIL

1. Insurance Records of Registered and Certified 1 year
2. Registered and Certified Records (In and Out) 1 year
3. Return Receipt Record 1 year

MISCELLANEOUS

1. Cash and Security Vault Records-Opening, Closing 6 months
2. Taxes-Returns and Supporting Papers 3 years or until cleared by IRS and Dept. of Revenue
3. Travelers Checks-Applications 1 year

MONEY TRANSFER

1. Copy of Incoming and Outgoing Transfers 1 year
2. General Correspondence 1 year
3. Receipts and Advices (After Closed) 1 year
4. Transfer Request Records 1 year

NIGHT DEPOSITORY

1. Customer Agreement (After Closed) 1 year
2. Customer Receipt 1 year
3. Daily Inventory 1 year

OFFICIAL CHECKS

1. Official Checks (Dividend, Cashiers, Expense, Loan) and Money Orders (After Paid) 5 years
2. Official Check Register or Carbon Copy Until paid or escheated
3. Certified Checks or Receipts (After Paid) 5 years
4. Certified Check Register or File Copy Until paid or

PROPOSED RULES

5. Affidavits and Indemnity pertaining to Issuance of Duplicate Checks	escheated Permanent	11. Unidentified or Unclaimed Deposit Records	Until escheated
		TELLERS	

PROOF AND TRANSIT

1. Advice of Correction	6 months
2. Cash Tickets	6 months
3. Outgoing Cash Letters and Accompanying Items (Microfilm)	2 years
4. Proof Sheets, Tapes, and Listings	2 years

SAFE DEPOSIT

1. Access Records (After Closed)	3 years
2. Box History Card	Permanent
3. Contracts and Agreements (After Closed)	3 years
4. Forced Entry Records	10 years

SAFEKEEPING AND CUSTOMER SECURITIES

1. Broker Confirmations, Invoices, Statements	3 years
2. Buy and Sell Orders	3 years
3. Customer Contracts and Agreements (After Closed)	3 years
4. In and Out Records (Movement of Securities)	3 years
5. Safekeeping Receipts (After Closed)	3 years

SAVINGS AND TIME DEPOSITS

1. Certificates of Deposit Paid	5 years
2. Certificates of Deposit Records (Register, Ledger, Copy)	Until paid or escheated
3. Daily Report of Overdrafts	2 years
4. Debits and Withdrawals	5 years
5. Deposit and Credit Tickets	5 years
6. Deposit Resolution (After Closed)	3 years
7. Ledgers or Statements	5 years
8. Posting or Transaction Journal	1 year
9. Signature Cards, Contracts, and Agreements (After Closed)	5 years
10. Undelivered Statements	1 year

1. Balance Sheets, Recaps, or Records	1 year
2. Cash Item Report	1 year
3. Machine Tapes, Cash Ticket Copies, Posting or Transaction Journals	6 months

TRUST (Corporate)

1. Account Ledger or Record	7 years after account closed
2. Posting or Transaction Journal	7 years
3. Bonds of Indemnity	Permanent
4. Stock Certificates (Cancelled)	until returned to corporation
5. Dividend Checks -- Paid	5 years
6. Dividend Check Register or Carbon Copy	Until paid
7. Bonds and Coupons -- Cancelled or Cremation Certificates	7 years after paid or until returned to corporation
8. Resolutions and Authorizations	7 years after account closed

TRUST (Employee Benefit)

1. <u>Accountings</u>	<u>6 years after account closed</u>
2. <u>Agreements, Authorizations and Resolutions</u>	<u>6 years after account closed</u>
3. <u>Account Ledger or Record</u>	<u>6 years after account closed</u>
4. <u>Disbursement Checks</u>	<u>6 years</u>
5. <u>Check Register or Carbon Copy</u>	<u>Until Paid</u>
6. <u>Bonds of Indemnity</u>	<u>Permanent</u>

TRUST (Personal)

1. Accountings	3 years after account closed
2. Agreements and Authorizations	5 years after account closed
3. Account Ledger or Record	7 years after account closed

4. Minutes of Committee Meetings	Permanent
5. Receipts for Assets Delivered	3 years after account closed
6. Tax Return	10 years or until IRS clears
7. Disbursement Checks	5 years
8. Check Register or Carbon Copy	Until paid
9. Bonds of Indemnity	Permanent

Statutory Authority G.S. 53-92; 53-104; 53-110; 150B-11(1).

SECTION 1000 - LOAN ADMINISTRATION AND LEASING

1001 CREDIT INFORMATION

Each bank or branch thereof where notes are retained must have the following information:

(1) Current financial statements, ~~obtained at least annually, dated within the preceding 18 months,~~ and properly certified, must be on file from those directly liable to the bank in an amount of ten thousand dollars (\$10,000.00) or more, which obligations are unsecured, to the extent of ten thousand dollars (\$10,000.00), or secured only by endorsements. This applies, also, to the endorser where such endorsements are the basis of credit. ~~Where the maker or endorser is a person of well known financial standing, a statement signed by three members of the board of directors or the executive committee, estimating the worth of the maker(s) and/or endorser(s), will be acceptable in lieu of a financial statement.~~

(2) This Subpart does not apply to loans secured by real property:

(a) A written appraisal of all collateral to loans must be made by the executive committee or loan committee of the bank or branch, or other reliable persons familiar with the value of the collateral, and must be kept on file where ~~in the bank or branch in which the note is lodged.~~ All appraisals must be renewed every 12 months, annually, except as required in (2)(d) of this Rule.

(b) The appraisal must include:

- (i) name of borrower,
- (ii) date made,
- (iii) value of collateral,
- (iv) signatures of at least two persons making the appraisal except as permitted in (2)(c) of this Rule,

- (v) brief description of collateral,
 - (vi) amount of prior lien,
 - (vii) original amount or outstanding balance of the loan.
- (c) No appraisal is required:
- (i) on collateral to notes of less than twenty thousand dollars (\$20,000.00);
 - (ii) on loans fully secured by obligations of the United States or the State of North Carolina;
 - (iii) on loans fully secured by deposits in the bank making the loan;
 - (iv) on loans fully secured by the cash surrender or loan value of life insurance policies;
 - (v) on loans fully secured by bonded warehouse receipts;
 - (vi) on loans fully secured by listed securities, unless such loans are within the provisions of the Securities Exchange Act of 1934 as defined by Regulation "U," as amended, of the Board of Governors of the Federal Reserve System; On a loan of this type, an appraisal must be made and kept on file until the loan is paid;
 - (vii) on floor plan loans to dealers fully secured by new automobiles, stationwagons, vans, and trucks;
 - (viii) on discounted notes for a dealer where the note is given as the purchase price of an automobile, television set, washing machine, or property of a like character.
- (d) Appraisals need not be renewed annually:
- (i) where an automobile, stationwagon, or house trailer is the sole collateral to a loan;
 - (ii) where a truck or van not exceeding 8,000 pounds empty weight is the sole collateral to a loan.
- (e) Appraisals may be signed by only one person:
- (i) where an automobile or stationwagon is the sole collateral to a loan;
 - (ii) where a truck or van not exceeding 8,000 pounds empty weight is the sole collateral to a loan.
- (3) All real estate given as security to loans of twenty thousand dollars (\$20,000.00) or over, whether directly or indirectly pledged, must be appraised either by ~~the executive or loan committee, or by not less than two persons familiar with real estate values in the community where the property is located.~~ This appraisal must be in writing, must be dated, must be signed by at least two of the persons making such appraisal and be on file ~~in the bank.~~ The appraisal must state the amount of the loan, amount of prior liens as disclosed by the attorney's title certificate,

value of improvements thereon, insurance carried, and taxes due, and should describe the property so it may be easily identified: Provided, however, that an appraisal performed by a certified professional appraiser having no interest in the property may be accepted in lieu of an appraisal by bank personnel, and further provided that such independent appraisal meet the minimum requirements provided above. two members of the executive or loan committee who are familiar with real estate values in the community where the property is located, or by two bank employees who are familiar with real estate values in the community where the property is located and who are not involved in the loan transaction secured by the property being appraised, or singularly by a State-licensed real estate appraiser or State-certified real estate appraiser or a person certified as a real estate appraiser by an appraisal trade organization. The person making an appraisal as provided by this Rule must be selected by the bank. The appraisal must be independent in that the appraiser is not involved in the loan transaction secured by the property being appraised and has no interest, financial or otherwise, in the property. The appraisal must be in writing, must be dated, must be signed as required in this Subparagraph by the person(s) making the appraisal, and be on file with the loan documents. The appraisal must state the basis or approach used to determine the value of the property. A bank's appraisal form must show the amount of the loan, the current balance of any prior liens disclosed by the attorney's title certificate, segregate values of improvements from values of land, and describe the property so it may be easily identified. If a professional appraisal form is used which does not have all of the required information in this Subparagraph, the bank must complete and attach its own appraisal form, signed by one of its employees, to the outside appraisal report disclosing the required information.

- (4) A certificate of title furnished by a competent attorney at law or title insurance issued by a company approved by the Commissioner of Banks must accompany each deed of trust or mortgage given as security on loans of ten thousand dollars (\$10,000.00) or over. For loans secured by real property, a certificate of title furnished by a competent attorney at law or title insurance issued by a company licensed by the Commissioner

of Insurance must accompany each deed of trust or mortgage given as security on loans of twenty thousand dollars (\$20,000) or over. Provided that any loan which is based primarily on the borrower's general credit-worthiness and projected income, whether or not accompanied by a deed of trust or mortgage, is not considered a loan secured by real property, and the first sentence of this Subparagraph shall not apply to any such loan.

- (5) Where stock certificates, or similar securities, are accepted as collateral to loans, they must be endorsed and witnessed in ink, or accompanied by a power of attorney signed and witnessed in ink. Where such collateral is in the name of another, other than the maker or endorser of the note, there must be on file in the bank written authority from the owner permitting the hypothecation of the collateral.
- (6) Loans made directly to corporations must be supported by certified copies of resolutions of the board of directors of the corporation, authorizing the making of such loans.
- (7) Loans made directly to partnerships ~~unless all partners sign the note~~, must be supported by a declaration by the partners showing the composition of the partnership ~~and the proportionate part owned by each partner, and unless all partners sign the note, the authority of to the partner partner(s) executing the note to bind the partnership. therefor.~~
- (8) Full credit information on all unlisted securities, now owned or hereafter purchased or acquired, must be secured and kept on file in the bank.

Statutory Authority G.S. 53-92; 53-110; 150B-11(1).

.1002 LEASING OF PERSONAL PROPERTY

Each bank or branch thereof acquiring and leasing personal property or personal property subject to an existing lease together with the lessor's interest therein and incurring such additional obligations as may be incident to becoming an owner and lessor of such property may do so only when subject to the following restrictions:

- (1) Before the acquisition thereof upon the specific request and for the use of the customer the prospective lessee shall execute an agreement to lease such property.
- (2) During the minimum period of the lease, terms require payment to the bank rentals which in the aggregate will exceed the total

expenditures by the bank for or in connection with the ownership, maintenance, and protection of the property. In determining the total expenditures under this Regulation, a bank may deduct a realistic residual value in determining the rentals to be charged during the term of a lease agreement. Any unguaranteed portion of the estimated residual value relied upon by the bank to calculate total expenditures under this Regulation may not exceed 25 percent of the original cost of the property to the lessor. The amount of any estimated residual value guaranteed by a manufacturer, the lessee, or a third party, which is not an affiliate of the bank, may exceed 25 percent of the original cost of the property where the bank has determined, and can provide full, supporting documentation, that the guarantor has the resources to meet the guarantee.

- (3) The total leasing obligations or rentals to any bank of any person, partnership association, or corporation shall at no time exceed the legal limit permitted by G.S. 53-48.
- (4) The overall investment of the bank in such property leased to all lessees shall at no time exceed 200 percent of its unimpaired capital fund as defined in G.S. 53-1(9).
- (5) The bank shall at all times maintain adequate protection by way of insurance or indemnity provided by the lessee. or both, against tort liability or liabilities on warranties as to such properties.
- (6) No such lease or other agreement shall obligate the bank to maintain, repair, or service personal property in connection with any lease held by it.
- (7) No personal property acquired pursuant to the ownership or lease of personal property shall be included in the computable investment in fixed assets under G.S. 53-43(3).
- (8) Rental payments collected by the bank under lease arrangements shall be rent and shall not be deemed to be interest or compensation for the use of money loaned.
- (9) Upon expiration of any lease whether by virtue of the lease agreement or by virtue of the retaking of possession by the bank, such personal property shall be re-let, sold, or otherwise disposed of, or charged off within one year from the time of expiration of such lease.

Statutory Authority G.S. 53-92; 53-104; 150B-11(1).

SUBCHAPTER 3D - BANKS ACTING IN A FIDUCIARY CAPACITY

SECTION .0300 - TRUST DEPARTMENT

.0301 DEFINITIONS

As used in this Section, the following definitions apply:

- (1) The term "trust business" shall be construed to mean the business of settling estates, administering trusts and guardianships and performing agencies in all appropriate cases for individuals; partnerships; associations; business corporations; public, educational, social, recreational, and charitable institutions; and units of government.
- (2) The term "trust" shall be construed to include, where the text does not indicate to the contrary, all property held by the trust department of a bank in a fiduciary capacity.
- (3) "Fiduciary" means a bank undertaking to act alone or jointly with others primarily for the benefit of another in all matters connected with its duties and responsibilities as trustee executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics, managing agent, and any other similar capacity.
- (4) "Managing agent" means the fiduciary relationship assumed by a bank upon the creation of an account which confers investment discretion on the bank and which imposes upon it the fiduciary responsibilities imposed upon executors, administrators, guardians, or trustees under will or deed, but as to which the technical legal relationship is that of agent and principal.
- (5) The term "bank" shall be construed to include, where the text does not indicate to the contrary, any bank or nondepository trust company acting as fiduciary.

Statutory Authority G.S. 53-92; 53-104; 150B-11(1).

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Milk Commission intends to amend rule cited as 4 NCAC 7 .0518.

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

The public hearing will be conducted at 10:00 a.m. on May 3, 1990 at Room 3147, Dobbs

Building, 430 N. Salisbury Street, Raleigh, N.C. 27611.

Comment Procedures: Written comments, data, opinions and arguments concerning the proposed amendments must be submitted by May 3, 1990, to the North Carolina Milk Commission, 430 N. Salisbury Street, Raleigh, N.C. 27611, Attention: Grady Cooper, Jr., Executive Secretary.

CHAPTER 7 - MILK COMMISSION

SECTION .0500 - MARKETING REGULATIONS

.0518 ASSESSMENT

(a) For the purpose of defraying the expenses of the Milk Commission there is hereby levied an assessment of ~~two cents (\$0.02)~~ three cents (\$0.03) per hundredweight on all milk handled from all sources by the distributor and ~~two cents (\$0.02)~~ three cents (\$0.03) per hundredweight on all milk sold by producers. Each distributor shall pay the assessment levied on him and shall deduct from producer payments the assessment of ~~two cents (\$0.02)~~ three cents (\$0.03) per hundredweight on all producer milk and pay all such assessments to the Milk Commission.

(b) The distributor assessments on all milk sold or transferred to other distributors where both the shipping and receiving distributor are located in an established marketing area shall be paid by the first distributor. Milk received by a distributor from sources where no assessment by the Milk Commission is in effect shall be included in such distributor assessment.

(c) All assessments shall be paid to the Milk Commission not later than the 18th day of each month following the delivery period and shall be deposited immediately in the designated State Depository to the Treasurer of North Carolina for credit to the "Milk Commission Account."

Statutory Authority G.S. 106-266.8(7); 106-266.11; 106-266.12.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Community Assistance intends to amend rule(s) cited as 4 NCAC 19Q .0102; .0202; .0301-.0304; repeal rule(s) cited as 4 NCAC 19Q .0501-.0503.

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

The public hearing will be conducted at 3:00 p.m. on May 10, 1990 at Second Floor Conference Room, 1307 Glenwood Avenue, Suite 250, Raleigh, N. C.

Comment Procedures: Comments may be presented at the hearing or submitted by mail to: Deborah G. McCrae, Division of Community Assistance, 1307 Glenwood Avenue, Suite 250, Raleigh, N. C. 27605.

CHAPTER 19 - DIVISION OF COMMUNITY ASSISTANCE

SUBCHAPTER 19Q - EMERGENCY SHELTER GRANTS PROGRAM ADMINISTRATIVE RULES

SECTION .0100 - GENERAL PROVISIONS

.0102 DEFINITIONS

The following terms shall apply to the rules of this Subchapter:

- (1) "Act" means the Stewart B. McKinney Homeless Assistance Act, P.L. 100-77, as amended.
- (2) "Applicant" means a local government which makes an application pursuant to the provisions of this Subchapter.
- (3) "ESGP" means the state-administered Emergency Shelter Grants Program.
- (4) "Local Government" means any unit of general city or county government in the state.
- (5) ~~"NRCD"~~ "ECD" means the North Carolina Department of ~~Natural Resources~~ Economic and Community Development.
- (6) "Recipient" means a local government that has been awarded an ESGP grant and has executed a Grant Agreement with ~~NRCD~~ ECD.
- (7) "Secretary" means the Secretary of the Department of ~~Natural Resources~~ Economic and Community Development or his designee.
- (8) "Shelter" means an individual facility with the capacity to provide overnight lodging whose purpose is to assist homeless persons through activities funded under this Subchapter. For purposes of this program, the term "shelter" excludes substance abuse rehabilitation centers.
- (9) "State" means the State of North Carolina.
- (10) "Subrecipient" means a nonprofit service-providing agency that a recipient contracts with to carry out services and activities funded under this Subchapter.

- (11) "Rehabilitation" means labor, materials, tools and other costs of improving buildings, including:
 - (a) repair directed toward an accumulation of deferred maintenance;
 - (b) replacement of principal fixtures and components of existing buildings;
 - (c) installation of security devices; and
 - (d) improvement through alterations and additions to or enhancement of existing buildings, including improvement to increase the efficient use of energy in buildings.
- (12) "Renovation" means rehabilitation that involves costs of 75 percent or less of the value of the building before rehabilitation.
- (13) "Major rehabilitation" means rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation.
- (14) (11) "Obligated" means the recipient or subrecipient has placed orders, awarded contracts, or performed similar transactions that require payment from the ESGP grant amount.
- (15) (12) "Expended" means purchases have been made, deliveries received, or costs incurred for goods and services to be paid with ESGP funds.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.3; P.L. 100-77.

SECTION .0200 - ELIGIBLE AND INELIGIBLE ACTIVITIES

.0201 ELIGIBLE ACTIVITIES

This Subchapter, in accordance with G.S. 150B-14(c), adopts by reference as eligible activities those Operations Services and Rehabilitation activities described as such in 24 CFR 576.21(a) and in corresponding sections of the Act, as amended. Copies of these sections of federal law and regulation are available for public distribution from the Division of Community Assistance of ~~NRCDFCD~~.

Authority G.S. 143-323; 143B-10; 150B-14; 24 C.F.R. 576.21.

SECTION .0300 - GENERAL REQUIREMENTS

.0301 APPLICATION REQUIREMENTS

(a) Local governments are required to submit applications in a manner prescribed by ~~NRCDFCD~~ in order to be considered for funding. Selection of applications for funding will be based primarily on information contained in the appli-

cation, thus applications must provide sufficient information for ~~NRCDFCD~~ to evaluate them.

(b) Applicants may apply for more than one grant and be awarded more than one grant, providing the total amount of funds awarded to a single shelter does not exceed the maximum limits described in Rule .0302 of this Section.

(c) ~~NRCDFCD~~ shall designate specific dates for submission of ESGP grant applications. Grant application submission dates will be announced by ~~NRCDFCD~~ a minimum of 20 days before the date applications are due.

(d) Applications must be received by ~~NRCDFCD~~ administrative offices in Raleigh before 5:00 p.m. on the submission date or, if sent by mail, must be postmarked on or before the submission date.

(e) The applicant shall certify to ~~NRCDFCD~~ that it will comply with all applicable federal and state laws, regulations, rules and executive orders.

(1) Copies of these federal and state documents are available for public distribution from the Division of Community Assistance of ~~NRCDFCD~~.

(2) Notwithstanding the provisions of Paragraph (d) in this Rule, certifications of compliance may be postmarked or received by ~~NRCDFCD~~ up to two weeks after the date the application is due. This provision applies only to certifications.

(f) Applicants must comply with the Act, all applicable federal and state laws, regulations, rules, executive orders and guidelines issued by ~~NRCDFCD~~.

(g) Applicants shall direct subrecipients to collaborate with appropriate local service agencies (including local area mental health, mental retardation and substance abuse authorities) when appropriate and feasible, in providing services to their clients.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.81.

.0302 SIZE OF GRANTS

Grants are applied for and awarded in ~~two categories~~ one category: Operations Services, and Rehabilitation.

- (1) Operations Services. The maximum amount which may be applied for and awarded in the Operations Services category depends on the size of the shelter on whose behalf the application is made. Shelter size shall be determined by overnight lodging capacity. Maximum awards per shelter are:
 - (a) ~~Twenty~~ Thirty thousand dollars (~~\$20,000~~) (\$30,000) for a shelter with a capacity of 10 or fewer persons per night;

- (b) ~~Thirty~~ Forty-five thousand dollars ~~(\$30,000)~~ (\$45,000) for a shelter with a capacity from 11 to 20 persons per night;
- (c) ~~Forty Sixty~~ thousand dollars ~~(\$40,000)~~ (\$60,000) for a shelter with a capacity of 21 to 30 persons per night;
- (d) ~~Fifty Seventy-five~~ thousand dollars ~~(\$50,000)~~ (\$75,000) for a shelter with a capacity of 31 or more persons per night.
- (2) ~~Rehabilitation. The maximum grant amount per shelter which may be applied for or awarded in the Rehabilitation category is forty five thousand dollars (\$45,000).~~
- (2) The minimum grant which may be applied for ~~in either of the above categories or~~ awarded is one thousand five hundred dollars (\$1,500).
- (3) Notwithstanding the provisions of ~~Paragraphs Paragraph (1) and (2) in this Rule, NRCD ECD~~ reserves the right to award grants for less than the requested amount in the event that the total amount of funds requested exceeds the total amount of funds available; ~~NRCD ECD~~ also reserves the right to award grants exceeding the amount requested if the total amount of funds requested is less than the total amount of funds available.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.

.0303 DISTRIBUTION OF FUNDS

A maximum of ~~25~~ 20 percent of ESGP funds will be awarded to domestic violence shelters.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.

.0304 REALLOCATION

Any ESGP funds recaptured by ~~ECD, NRCD,~~ as provided for in Rule .0604 and Rule .0505 of this Subchapter will, if practicable, be added to the amount available for the next round of funding. If this is not feasible, the recaptured funds will be reallocated in a manner to be prescribed by ~~NRCD, ECD.~~

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.61.

SECTION .0500 - REHABILITATION CATEGORY

.0501 DEFINITION (REPEALED)

.0502 ELIGIBILITY REQUIREMENTS (REPEALED)

.0503 AWARDS (REPEALED)

Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.21(a)(1).

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Water Treatment Facility Operators Board of Certification intends to amend rules cited as 10 NCAC 10E .0203, .0205; and repeal rule cited as 10 NCAC 10E .0204.

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

The public hearing will be conducted at 9:00 a.m. on June 12, 1990 at James S. McKimmon Center, N.C. State University, Western Boulevard, Raleigh, NC.

Comment Procedures: Any person requiring information may contact Mr. John C. McFadyen, P.O. Box 27687, Raleigh, NC 27611, Telephone (919) 733-0379. Written comments may be submitted to the above address 30 days prior to the public hearing. Written and oral comments may also be presented at the public hearing. Notice of an oral presentation must be given to the above address at least 3 days prior to the public hearing.

CHAPTER 10 - HEALTH: ENVIRONMENTAL HEALTH

SUBCHAPTER 10E - WATER TREATMENT FACILITY OPERATORS

SECTION .0200 - QUALIFICATION OF APPLICANTS AND CLASSIFICATION OF FACILITIES

.0203 DETERMINATION OF VARIOUS CLASSES OF CERTIFICATION

(a) Determination of various classes of certification shall be based on the classification of water treatment facilities to be operated.

(b) The designation of plant classification shall be based on ~~a~~ the following point system: ~~determined by the board and including the following items:~~

Unit	Rating Value
Ground -----	3
Surface -----	5
Surface with Reservoir -----	6
Coliform Bacteria less than 1.0 per 100 ml -----	2
Coliform Bacteria 1.0 - 100 per 100 ml -----	4
Coliform Bacteria 100 - 1,000 per 100 ml -----	6
Coliform Bacteria	

PROPOSED RULES

1,000 - 5,000 per 100 ml -----	8
Coliform Bacteria	
5,000 - 20,000 per 100 ml -----	12
Aeration -----	2
Coagulation -----	10
Sedimentation -----	5
Filtration -----	10
Disinfection -----	10
Ion Exchange -----	5
Adsorption -----	2
Chemical Oxidation -----	2
Softening -----	2
Stabilization -----	2
Fluoridation -----	10
Raw Water Pumping -----	5
Receiving Basin -----	4
Finished Water Pumping -----	5
Storage at Plant -----	4
Storage - System -----	2
Pumpage - See .0204 of this Section -----	1-50

Note: The above bacterial quality to be determined by methods as defined in the latest edition of "Standard Methods for the Examination of Water and Wastewater".

PARAMETER	RATING VALUE POINTS
(1) <u>Surface Water Source</u>	
(A) <u>flowing stream</u>	5
(B) <u>flowing stream with impoundment</u>	7
(C) <u>raw water treatment (CuSO₄, etc.)</u>	3
(2) <u>Ground Water Source</u>	
(A) <u>first five wells</u>	5
(B) <u>add 1 point per 5 wells or fraction thereof over 5</u>	1
(3) <u>Coagulation</u>	
(A) <u>aluminum sulfate, ferric chloride, etc.</u>	10
(B) <u>polymer</u>	5
(4) <u>Mixing</u>	
(A) <u>baffle</u>	2
(B) <u>mechanical</u>	4
(C) <u>air</u>	3
(5) <u>Oxidation (pre-treatment)</u>	
(A) <u>Cl₂ O₂</u>	5
(B) <u>ozone</u>	5
(C) <u>KMnO₄</u>	3
(D) <u>Cl₂</u>	3
(6) <u>Carbon Treatment</u>	2
(7) <u>Aeration</u>	
(A) <u>mechanical draft</u>	3
(B) <u>coke tray splash tray</u>	2
(C) <u>diffused</u>	3
(D) <u>packed tower (VOC reduction)</u>	10

(8) <u>pH Adjustment (primary)</u>	
(A) <u>NaOH</u>	5
(B) <u>lime/soda ash</u>	3
(C) <u>acid (H₂SO₄, HCl, etc.)</u>	5
(9) <u>Sedimentation</u>	
(A) <u>standard rate</u>	5
(B) <u>tube settlers</u>	3
(C) <u>upflow</u>	8
(D) <u>pulsators and plates, etc.</u>	5
(10) <u>Contact Tank</u>	1
(11) <u>Filtration</u>	
(A) <u>pressure</u>	
(i) <u>sand anthracite</u>	8
(ii) <u>synthetic media (brim)</u>	8
(iii) <u>granular activated carbon (GAC)</u>	10
(B) <u>gravity</u>	
(i) <u>sand</u>	10
(ii) <u>anthracite (mixed) GAC</u>	12
(iii) <u>with surface wash or air scour</u>	2
(12) <u>Ion Exchange</u>	
(A) <u>softener, Na cycle</u>	5
(B) <u>softener, H cycle</u>	7
(C) <u>Fe and Mn (greensand)</u>	10
(D) <u>mixed bed or split stream</u>	12
(13) <u>Lime Softening</u>	
(A) <u>spiractors</u>	10
(B) <u>clarifier with coagulation</u>	12
(C) <u>fuel burner (recarbonation)</u>	5
(14) <u>Phosphate (sequestering agent)</u>	5
(15) <u>Stabilization</u>	
(A) <u>acid feed</u>	5
(B) <u>phosphate</u>	2
(C) <u>caustic (NaOH)</u>	5
(D) <u>lime soda ash</u>	3
(E) <u>contact units (calcifier, etc.)</u>	5
(16) <u>Reverse Osmosis, Electrodialysis</u>	15
(17) <u>Disinfection</u>	
(A) <u>gas Cl₂</u>	10
(B) <u>hypochlorite solution</u>	7
(C) <u>Cl₂ O₂ (sodium chlorite and Cl₂)</u>	13
(D) <u>ozone</u>	13
(E) <u>ammonia and Cl₂</u>	12
(18) <u>Fluoridation</u>	
(A) <u>saturator</u>	8
(B) <u>dry feed</u>	8
(C) <u>solution (acid)</u>	10
(19) <u>Pumping</u>	
(A) <u>raw</u>	3
(B) <u>intermediate</u>	1

PROPOSED RULES

(C) finished	3
(D) system booster	2
(20) Storage	
(A) raw	1
(B) treated ground level tank	1
(C) elevated in system (each extra tank 1 pt)	2
(D) hydropneumatic	2
(21) Population Served	
1 point per 1,000 persons served	50 max.
(22) Plant Capacity	
1 point per 1 MGD capacity	25 max.
(23) On-Site Quality Control	
(A) bacteriological	
(i) MPN/MF	5
(ii) IIPC	2
(iii) MMO-MUG (Colilert)	2
(B) pH	
(i) meter	2
(ii) test kit	1
(C) fluoride	
(i) meter	3
(ii) colorimetric	3
(D) chlorine	
(i) titrator	3
(ii) colorimeter/spec.	2
(iii) test kit	1
(E) iron	1
(F) hardness	1
(G) alkalinity	1
(H) turbidity	1
(I) manganese	1
(J) others (1 pt. each)	1
(K) A.A. Spec. or G.C. Unit	5 each

Statutory Authority G.S. 90A-21(c); 90A-22.

.0204 PUMPAGE CHART (REPEALED)

Statutory Authority G.S. 90A-21(c); 90A-22.

.0205 CLASSIFICATION OF WATER TREATMENT FACILITIES

(a) Classification of water treatment facilities will be based on the source of water and the number of points assigned each facility as taken from the table in .0203(b) of this Section. Classifications are as follows:

Class C Well	0 - 40 points
Class C Surface	0 - 60 points
Class B Well	41 - 80 points
Class B Surface	61 - 80 points
Class A	81 and over

(b) In arriving at the number of points to be allowed for pumpage in the table in (a) of this

Rule, please refer to the chart described in .0204 of this Section which is used in arriving at the pumpage points.

(c) The class C certificate is automatically required for surface supplies.

Class C	0-50 points
Class B	51-110 points
Class A	over 110 points

Statutory Authority G.S. 90A-21(c); 90A-22.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Commission for Mental Health, Mental Retardation and Substance Abuse Services intends to amend rules cited as 10 NCAC 14K .0103, .0309, .0314 - .0315; 18I .0120; 18M .0408 - .0409; adopt rules cited as 10 NCAC 14P .0101 - .0102; 14Q .0101 - .0104, .0201 - .0204; .0301 - .0306; 14R .0101 - .0107, .0201, .0301 - .0303; 14S .0101 - .0106.

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

The public hearing will be conducted at 10:00 a.m. on May 9, 1990 at Plaza Hotel, 4100 Glenwood Avenue, Raleigh, NC 27612.

Comment Procedures: Any interested person may present his/her comments by oral presentation or by submitting a written statement. Persons wishing to make oral presentations should contact Marilyn Brothers, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 325 N. Salisbury St., Raleigh, NC 27611, (919) 733-4774 by May 9, 1990. The hearing record will remain open for written comments from April 9, 1990 through May 9, 1990. Written comments must be sent to the above address and must state the rule(s) to which the comments are addressed. Fiscal information on these rules is also available from the same address.

CHAPTER 14 - MENTAL HEALTH: GENERAL

SUBCHAPTER 14K - CORE LICENSURE RULES FOR MENTAL HEALTH: MENTAL RETARDATION AND OTHER DEVELOPMENTAL DISABILITIES: AND SUBSTANCE ABUSE FACILITIES

SECTION .0100 - GENERAL INFORMATION

.0103 DEFINITIONS

(c) The following terms shall have the meanings specified:

- (33) "Early Intervention Services" means those services provided for infants and toddlers specified in Section 303.12 of Subpart A of Part 303 of Title 34 of the Code of Federal Regulations. This adoption by reference is in accordance with G.S. 150B-14(c).
- (34) ~~(33)~~ "Evaluation" means an assessment service which identifies the nature and extent of an individual's problem through a systematic appraisal for the purposes of diagnosis and determination of the disability of the individual and the most appropriate plan, if any, for services. Such appraisal shall include one or more of the following: mental, physical, behavioral, functional, social, economic and intellectual resources of the individual.
- (35) ~~(34)~~ "First aid" means emergency treatment for injury or sudden illness before regular medical care is available. First aid includes artificial respiration, the Heimlich maneuver, or other Red Cross first aid techniques for relieving airway obstruction, care of wounds and burns, and temporary administering of splints.
- (36) ~~(35)~~ "Governing body" means those persons who by law, charter, articles of incorporation, partnership agreement, or other legally recognized manner have full legal authority for the overall operation of the facility.
- (37) "Health Services" means those services provided for infants and toddlers specified in Section 303.13 of Subpart A of Part 303 of Title 34 of the Code of Federal Regulations. This adoption by reference is in accordance with G.S. 150B-14(c).
- (38) ~~(36)~~ "Hearing" means a contested case hearing under G.S. 150B, Article 3.
- (39) ~~(37)~~ "High risk children" means those from birth to 36 months of age who:
- (A) have a diagnosed physical or mental condition which has a high probability of resulting in developmental delay or atypical development;
 - (B) have significant atypical patterns of development (perceptual, sensory, physical, behavioral, motor anomalies) that have a high probability of resulting in developmental delay or atypical development; or
 - (C) have responded well to intervention efforts but for whom there is evidenced that their continued developmental progress cannot be assured without continued intervention.
- (40) ~~(38)~~ "Hours of operation" means an indication of the minimum operational hours that a service is expected to be available to clients, but not prohibiting the typical closing of a service to accommodate holidays, vacations, staff development activities and weather and facility-related conditions but taking into consideration the type of service being provided.
- (41) ~~(39)~~ "ICF/MR" (Intermediate Care Facility/Mentally Retarded) means a facility certified as having met federal ICF/MR requirements and which provides 24-hour personal care, habilitation, developmental and supportive services to persons with mental retardation or related conditions.
- (42) ~~(40)~~ "Incident" means any happening which is not consistent with the routine operation of the facility or the routine care of a client and that is likely to lead to adverse effects upon a client.
- (43) ~~(41)~~ "Individual goal plan" (for clients with mental retardation or other developmental disabilities) means a written plan which includes measurable, date-specific, short-range objectives which are assessed and developed or restated at least quarterly based on the strengths and needs of the client and which identifies specific staff responsibilities and relates to the annual individual program plan.
- (44) ~~(42)~~ "Individual program plan" (for clients with mental retardation or other developmental disabilities) which is sometimes referred to as an "habilitation plan," means a written plan which includes long-range objectives for the client based on evaluations, observations and other client assessment data and which is implemented following admission of the client, and assessed and redeveloped at least annually from the date of placement. The individual program plan includes a written summary of the client's progress regarding previous program plans.
- (45) ~~(43)~~ "Individual treatment plan" (for mental health and substance abuse clients) means a plan of treatment for the client. The plan contains time-specific short and long term goals and strategies for implementing the goals, and identifies direct care staff responsible for the provision of treatment and rehabilitation services to the client. The individual treatment plan is synonymous with the individual service plan.
- (46) ~~(44)~~ "Infant" means an individual from birth through two years of age.

- (47) ~~(45)~~ "Isolation time-out" means the removal of a client from positive reinforcement to a separate room from which exit is barred but which is not locked and where there is continuous supervision by staff.
- (48) ~~(46)~~ "Legend drug" means a drug that cannot be dispensed without a prescription.
- (49) ~~(47)~~ "License" means a permit to operate a facility which is issued by DFS under G.S. 122C, Article 2.
- (50) ~~(48)~~ "Medication" means a substance recognized in the official "United States Pharmacopoeia" or "National Formulary" intended for use in the diagnosis, mitigation, treatment or prevention of disease.
- (51) ~~(49)~~ "Minor client" means a person under 18 years of age who has not been married or who has not been emancipated by a decree issued by a court of competent jurisdiction or is not a member of the armed forces.
- (52) ~~(50)~~ "Neighborhood" - See "residential setting".
- (53) ~~(51)~~ "Nurse" means a person licensed to practice in the State of North Carolina either as a registered nurse or as a licensed practical nurse.
- (54) ~~(52)~~ "Operator" means the designated agent of the governing body who is responsible for the management of a licensable facility.
- (55) ~~(53)~~ "Parent" means the biological or adoptive mother or father of a minor client or person who has been appointed to serve as a surrogate parent.
- (56) ~~(54)~~ "Physical examination" means the procedures used by a physician or physician extender on behalf of a physician to determine the physiological and anatomical condition of the client. Physical examination also means medical examination.
- (57) ~~(55)~~ "Physician extender" means a nurse practitioner or a physician assistant approved to perform medical acts by the Board of Medical Examiners of the State of North Carolina.
- (58) ~~(56)~~ "Preschool age child" means a child from three through five years of age.
- (59) ~~(57)~~ "Private facility" means a facility not operated by or under contract with an area program.
- (60) ~~(58)~~ "Program evaluation" means the systematic documented assessment of program activity to determine the effectiveness, efficiency and scope of the system under investigation, to define its strengths and weaknesses and thereby to provide a basis for informed decision-making.
- (61) ~~(59)~~ "Provider" means an individual, agency or organization that provides mental health, mental retardation or substance abuse services.
- (62) ~~(60)~~ "Psychiatric nurse" means an individual who is licensed to practice as a registered nurse in the State of North Carolina by the North Carolina Board of Nursing and who is a graduate of an accredited master's level program in psychiatric mental health nursing with two years of experience, or has a master's degree in behavioral science with two years of supervised clinical experience, or has four years of experience in psychiatric mental health nursing.
- (63) ~~(61)~~ "Psychiatric social worker" means an individual who holds a master's degree in social work from an accredited school of social work and has two years of clinical social work experience.
- (64) ~~(62)~~ "Psychiatrist" means an individual who is licensed to practice medicine in the State of North Carolina and who has completed an accredited training program in psychiatry.
- (65) ~~(63)~~ "Psychotherapy" means a form of treatment of mental illness or emotional disorders which is based primarily upon verbal or non-verbal communication with the patient. Treatment is provided by a trained professional for the purpose of removing or modifying existing symptoms, of attenuating or reversing disturbed patterns of behavior, and of promoting positive personality growth and development.
- (66) ~~(64)~~ "Psychotropic medication" means medication with the primary function of treating mental illness, personality or behavior disorders. These medications include, but are not limited to, antipsychotics, antidepressants, neuroleptics, lithium and minor tranquilizers.
- (67) ~~(65)~~ "Qualified alcoholism professional" means an individual who is certified by the North Carolina Substance Abuse Professional Certification Board or who is a graduate of a college or university with a baccalaureate or advanced degree in a human service related field with documentation of at least two years of supervised experience in the profession of alcoholism counseling.

- (68) ~~(66)~~ "Qualified developmental disabilities professional" means an individual holding at least a baccalaureate degree in a discipline related to developmental disabilities, and at least two years of supervised habilitative experience in working with the mentally retarded or otherwise developmentally disabled or holding a baccalaureate degree in a field other than one related to developmental disabilities and having three years of supervised experience in working with the mentally retarded or otherwise developmentally disabled.
- (69) ~~(67)~~ "Qualified drug abuse professional" means an individual who is certified by the North Carolina Substance Abuse Professional Certification Board or who is a graduate of a college or university with a baccalaureate or advanced degree in a human service related field with documentation of at least two years of supervised experience in the profession of drug abuse counseling.
- (70) ~~(68)~~ "Qualified mental health professional" means any one of the following: psychiatrist, psychiatric nurse, practicing psychologist, psychiatric social worker, an individual with at least a master's degree in a related human service field and two years of supervised clinical experience in mental health services or an individual with a baccalaureate degree in a related human service field and four years of supervised clinical experience in mental health services.
- (71) ~~(69)~~ "Qualified nutritionist" means an individual who has a Master's degree in nutrition, nutrition education or public health nutrition and who may or may not be a registered dietitian.
- (72) ~~(70)~~ "Qualified substance abuse professional" means an individual who is:
- (A) certified by the North Carolina Substance Abuse Professional Certification Board; or
 - (B) a graduate of a college or university with a baccalaureate or advanced degree in a human service related field with documentation of at least two years of supervised experience in the profession of alcoholism and drug abuse counseling.
- (73) ~~(71)~~ "Registered dietitian" means an individual who has successfully completed a national examination for the Commission on Dietetic Registration and maintains registration with that commission through approved continuing education activities and events.
- (74) ~~(72)~~ "Rehabilitation" means training, care and specialized therapies undertaken to assist a client to reacquire or maximize any or all lost skills or functional abilities.
- (75) ~~(73)~~ "Research" means inquiry involving a trial or special observation made under conditions determined by the investigator to confirm or disprove an hypothesis, or to explicate some principle or effect. The term "research" as used in this document means research which is not standard or conventional; involves a trial or special observation which would place the subject at risk for injury (physical, psychological or social injury), or increase the chance of disclosure of treatment; utilizes elements or steps not ordinarily employed by qualified professionals treating similar disorders of this population; or is a type of procedure that serves the purpose of the research only and does not include treatment designed primarily to benefit the individual.
- (76) ~~(74)~~ "Residential setting" means a living area or zone in which the primary purpose is family residential living and which may be located in an area zoned either urban residential or rural.
- (77) ~~(75)~~ "Respite discharge" means that point in time when no additional incidents of respite service are anticipated and the client record is closed.
- (78) ~~(76)~~ "Respite episode" means an uninterrupted period of time during which a client receives respite services. The episode may vary in length from one hour or less to one month.
- (79) ~~(77)~~ "Restraint" means the limitation of a client's freedom of movement by:
- (A) physical hold for the purpose of subduing the client;
 - (B) "mechanical restraint" which is the use of mechanical devices for the purpose of controlling behavior including, but not limited to, cuffs, ankle straps, sheets, or restraining shirts; or
 - (C) "protective restraint" which is the use of protective devices to provide support and safety for weak and feeble clients, or to prevent medically ill clients from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes, etc. Such devices may include posey vests, geri-chairs, table top chairs or soft ties.
- (80) ~~(78)~~ "Restrictive facility" means a facility which employs the use of mechanical re-

straint or seclusion in order to restrict a client's freedom of movement. A judicial determination as specified in G.S. 122C-223 and G.S. 122C-232 is required for minor clients and incompetent adult clients who are admitted to a restrictive facility.

(81) ~~(79)~~ "Screening" means an assessment service which provides for a brief face-to-face appraisal of each individual who presents himself for services, in order to determine the nature of the individual's problem and his need for services. Screening may also include referral to other appropriate community resources.

(82) ~~(80)~~ "Seclusion" means isolating a client in a separate locked room for the purpose of controlling a client's behavior.

(83) ~~(81)~~ "Secretary" means the Secretary of the Department of Human Resources or designee.

(84) ~~(82)~~ "Severely physically disabled person" means for the purpose of ADAP (Adult Developmental Activity Program) a person:

(A) who has a severe physical disability which seriously limits his functional capabilities (mobility, communication, self-care, self-direction, work tolerance or work skills);

(B) who has one or more physical disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia and end stage renal disease; and

(C) whose habilitation or rehabilitation can be expected to require multiple habilitation or rehabilitation services over an extended period of time.

(85) ~~(83)~~ "Sheltered employment" means a facility's provision of work and work training by:

(A) subcontracting from industries in the community and bringing work to the facility to be performed; or

(B) manufacturing its own products in the facility.

Clients served in a sheltered employment model are those who consistently achieve earning levels exceeding one-half of the minimum wage but who are not ready for independent employment activities.

(86) ~~(84)~~ "Staff member" means any individual who is employed by the facility.

(87) ~~(85)~~ "Substantially mentally retarded person" means for the purpose of ADAP a person who is mentally retarded to the degree of seriously limiting his functional capabilities, whose habilitation or rehabilitation can be expected to extend over a period of time, and including:

(A) moderately mentally retarded persons;

(B) severely mentally retarded persons;

(C) profoundly mentally retarded persons; or

(D) mentally retarded persons with a handicapping condition so severe as to lack the potential for employment at this time, either in a sheltered or competitive setting. In addition, such individuals must have a deficit in self-help, communication, socialization or occupational skills and be recommended by the vocational rehabilitation counselor for consideration of placement in an ADAP.

(88) ~~(86)~~ "Support services" means services provided to enhance an individual's progress in his primary treatment/habilitation program.

(89) ~~(87)~~ "Supported employment" means a day/night service which involves paid work in a job which would otherwise be done by a non-disabled worker. Supported employment is carried out in an integrated work site where a small number of people with disabilities work together and where the work site is not immediately adjacent to another program serving persons with disabilities. It includes intensive involvement of staff working with the individuals in these integrated settings.

(90) ~~(88)~~ "Toddler" means an individual from one through three years of age.

(91) ~~(89)~~ "Treatment" means the process of providing for the physical, emotional, psychological and social needs of clients through services.

(92) ~~(90)~~ "Twenty-four hour facility in which medical care is an integral component" means a facility in which:

(A) the medication needs of clients may be evaluated, medication prescribed and laboratory tests ordered to assist in the diagnosis, treatment and ~~for~~ monitoring of problems associated with the mental health, mental retardation or other developmental disabilities or substance abuse disorder of clients; and

- (B) proper referral of the client is made to medical specialists when needed.

Statutory Authority G.S. 122C-3; 122C-26; 143B-147.

SECTION .0300 - FACILITY AND PROGRAM MANAGEMENT

.0309 CLIENT FEE FOR SERVICE

The governing body shall develop written policies for client fee assessment and collection practices. When infants or toddlers with or at risk for atypical development or developmental delays are served, fees shall not be charged to the parents for the following services:

- (1) child identification and screening;
- (2) assessment;
- (3) case management; and
- (4) administrative and coordinative activities related to the development, review and implementation of the Individualized Family Service Plan (IFSP), implementation of procedural safeguards and other administrative activities related to services for this population.

Statutory Authority G.S. 122C-26; 122C-146; 143B-147.

.0314 ASSESSMENT

(c) ~~Mental Retardation or other Developmental Disability~~ Disabilities Facilities and Sheltered Workshops:

- (1) Within 30 days following admission, the following assessment information shall be completed:
 - (A) the present condition of the client reported in objective, behavioral terms, and where possible a description of the client's condition by family members. For all facilities serving infants, toddlers and preschool age children, except those providing respite services, the assessment of levels of physical, including vision and hearing, language and speech, cognitive, psychosocial and self-help skills development shall be completed. There shall be a determination of the child's unique needs in terms of these areas of development and identification of services appropriate to meet those needs. Also, for all facilities serving infants, toddlers and preschoolers except for respite, the assessment process shall include, if the family so desires, a determination of the strengths and needs of the family related to enhancing the development of the child.

The family focused assessment shall be based on information provided through a personal interview and incorporate the family's description of the strengths and needs. The assessment process shall include procedures for ensuring participation by the client's family or the legally responsible person;

- (B) social, developmental and medical histories and assessments. Additional histories and assessments shall be completed as appropriate (e.g., vocational, psychiatric, legal, educational and nutritional). Histories and assessments generated by other facilities or service providers may be used for respite programs;
 - (C) determination of, and request for, additional referrals for special diagnostic tests, assessments or evaluations, if needed;
 - (D) results of other standardized and non-standardized evaluations in the areas identified in (c)(1)(B) of this Rule;
 - (E) summary of client and, if appropriate, family strengths and weaknesses;
 - (F) copies of relevant evaluations from other agencies or service providers.
- (2) An ADAP which operates within a sheltered workshop that meets the requirements of the Division of Vocational Rehabilitation Services shall be considered to have an approved ADAP evaluation program which may provide the information for the evaluation report.
 - (3) No more than 30 days prior to admission to a facility, a medical assessment shall be completed indicating the client's ability to participate in the program, presence of a communicable disease or a communicable condition that presents a significant risk for transmission within the facility, and compliance with the immunization requirements in G.S. 130A-152. If the client has specific medical problems, the physician's assessment shall include a written statement regarding management of the client, including control measures required for communicable diseases and conditions by G.S. 130A-144. The physician's assessment shall be updated at least annually during the client's placement in the facility except for ADAP, alternative family living and supervised independent living.
 - (4) For all facilities serving infants, toddlers and preschoolers except for respite:
 - (A) tests and other evaluation materials and procedures shall be administered in the

native language of the parents or other mode of communication unless it is clearly not feasible to do so;

(B) any assessment procedures and materials that are used are selected and administered so as not to be racially or culturally discriminatory;

(C) no single procedure shall be used as the sole criterion for determining a child's eligibility under this part;

(D) assessments shall be carried out by professionals privileged according to procedures outlined in the Division's publication, "REGULATIONS FOR PRIVILEGING PROFESSIONALS WORKING WITH INFANTS AND TODDLERS WITH OR AT RISK FOR DEVELOPMENTAL DELAY OR ATYPICAL DEVELOPMENT", APSM 120-1 (04 01 89) or comparable procedures approved by the Division;

(E) the assessment process shall be a multidisciplinary one and reflect the involvement of two or more disciplines or professions with the specific number and types of disciplines determined by the needs of the particular child;

(F) the evaluation process must be based on informed clinical opinion;

(G) the assessment process shall be completed within 45 calendar days from the date of referral; and

(H) the child's family or legally responsible person shall be fully informed of the results of the assessment process.

Statutory Authority G.S. 122C-26; 130A-144; 130A-152; 143B-147.

.0315 INDIVIDUAL TREATMENT/PROGRAM PLAN

(d) ~~Mental Retardation or other~~ Developmental Disability Disabilities Facilities and Sheltered Workshops:

(I) Individual program plans shall be developed and implemented within 30 days of admission to all facilities with the exception of respite care programs. The plan shall be reviewed at least quarterly and assessed and redeveloped at least annually. For clients in ADAP-facility based models and sheltered workshop placements, the annual assessment shall include a review to determine the need for referral to Vocational Rehabilitation or other services. For clients in ADAP-Supported Employment-Long-Term Support, it shall include an indication of the level of need for

long-term support activities and the specific type of support required. Program plans shall provide the basis for the development of individual goal plans. Program plans shall provide a systematic approach to the habilitation of the client and substantiate the appropriateness of the habilitation goals. Program plans shall be developed in partnership with clients or individuals acting in behalf of clients. Clinical responsibility for the development and implementation of program plans shall be designated. In addition, in facilities serving infants, toddlers or preschool age children, except for those providing respite services, the program plan is referred to as the Individualized Family Service Plan (IFSP) and shall include:

(A) a description of the child's present levels of physical development, including vision, hearing and health status, cognitive development, language and speech development, psychosocial development and self-help skills;

(B) with the concurrence of the family, a description of the family's strengths and needs related to enhancing the development of the child;

(C) ~~(A)~~ goals for the client's child's family as well as goals for the client; child;

(D) ~~(B)~~ criteria and timeframe to be used to determine progress towards goals;

(E) ~~(C)~~ planned habilitation procedures related to the goals;

(F) ~~(D)~~ a statement of the specific early intervention services to be provided to meet the identified client child and family needs, and the initiation dates, frequency and method, duration, intensity and location of service delivery and the persons or agencies responsible;

(G) ~~(E)~~ the designation of the staff member responsible for case management services; and

(H) ~~(F)~~ the plans for transition into services which are the responsibility of the N.C. Department of Public Instruction.

(I) the payment arrangements for the specific services delineated in Subparagraph (d)(I)(F); and

(J) a description of medical and other services that the child needs but which are not required under P.L. 99-457 and the strategies to be pursued to secure those services through public or private resources.

- (2) The initial development and annual review process for the IFSP for infants, toddlers and preschoolers shall include participation by:
 - (A) the parent or parents of the child;
 - (B) other family members, as requested by the parent;
 - (C) an advocate or person outside of the family if the parent requests that the person participate;
 - (D) the provider of the early intervention services;
 - (E) the case manager designated for the family if different; and
 - (F) the provider of the assessment service if different.

The quarterly review process shall include participation by persons identified in Subparagraphs (d)(2)(A) through (F). If any of these individuals are unable to attend one of the referenced development or review meetings, arrangements shall be made for the person's involvement through other means such as participation in a telephone conference call, having a knowledgeable authorized representative attend the meeting or making pertinent records available at the meeting.
- (3) The IFSP for infants, toddlers and preschoolers is based upon the results of the assessment referenced in 10 NCAC 14K .0314(c). However, early intervention services may commence before completion of this assessment if parental consent is obtained, the assessment is completed within the time period referenced in 10 NCAC 14K .0312(4)(c), and an interim IFSP is developed. The interim IFSP shall include:
 - (A) The name of the case manager who will be responsible for the implementation of the IFSP and coordination with other agencies and individuals;
 - (B) Short-term quarterly goals for the child and family when recommended;
 - (C) Those early intervention services that are needed immediately; and
 - (D) Suggested activities that may be carried out by the family members.
- (4) Each facility or individual who has a direct role in the provision of early intervention services specified in the IFSP is responsible for making a good faith effort to assist each eligible child in achieving the goals set forth in the IFSP.
- (5) The IFSP shall be developed within 45 days of referral for those children determined to be eligible.

- (6) ~~(2)~~ Individual goal plans shall be developed in the appropriate developmental and vocational skill areas. Goal plans shall be assessed on a quarterly basis in all facilities with the exception of developmental disability/behavior disorder group homes wherein goal plans shall be assessed on a monthly basis. Such assessment shall address the client's progress or lack of progress toward meeting the plan and review of the plan for appropriateness of established goals. Individual goal plans are not required for clients in supervised independent living, alternative family living, sheltered workshops and ADAP clients in supported employment. Individual goal plans are also not required for ADAP clients targeted for supported employment or those in the intensive training period or the long-term support period of supported employment. To be targeted as a supported employment client, the client must have been determined in writing to be appropriate for supported employment by representatives of the facility, the local unit of the Division of Vocational Rehabilitation Services and the Area Developmental Disabilities Specialist of the Area Mental Health, Mental Retardation and Substance Abuse Program or his designee.
- (7) ~~(3)~~ In specialized community residential centers, nursing care plans shall be developed and implemented in addition to the individual program plan. The nursing care plan must address medical needs and nursing care. Such plans shall be integrated with individual goal plans.
- (8) ~~(4)~~ In developmental disability and behavior disorder group homes, the individual program plan shall specify a time-specific admission of less than six months, to be extended as needed on a six-month basis, and shall emphasize programming objectives that assist the client in exiting to a less restrictive setting.
- (9) ~~(5)~~ Progress notes shall be completed which reflect the client's progress or lack of progress toward meeting program plan goals, staff interventions and any information which may have a significant impact on the client's condition. Documentation shall be made of any conferences or involvements with the client's family or involved agencies.
- (A) Progress notes for respite services shall be completed after each respite episode.

- (B) Progress notes for developmental disability and behavior disorder group homes shall be completed at least monthly.
- (C) Progress notes in all other services shall be on at least a quarterly basis.
- (D) Except for respite services, when the client is a minor, progress reports regarding the program plan shall be given to the legally responsible person on a quarterly basis.

Statutory Authority G.S. 122C-26; 143B-147.

SUBCHAPTER 14P - PROCEDURES AND GENERAL INFORMATION

SECTION .0100 - SCOPE AND DEFINITIONS

.0101 SCOPE

These Rules set forth procedures governing the protection of client rights in public and private programs providing mental health, developmental disabilities and substance abuse services, with the exception of state operated facilities. In addition to these Rules, the governing body shall comply with the provisions of G.S. 122C, Article 3, regarding client rights.

Statutory Authority G.S. 122C-51; 131E-67; 143B-17; 143B-147.

.0102 DEFINITIONS

(a) In addition to the definitions contained in this Rule, the terms defined in G.S. 122C-3, G.S. 122C-4 and G.S. 122C-53(f) also apply to all Rules in Subchapters 14P, 14Q 14R and 14S.

(b) As used in these Rules, the following terms have the meanings specified:

- (1) "Abuse" means the infliction of physical or mental pain or injury by other than accidental means, or unreasonable confinement, or the deprivation by an employee of services which are necessary to the mental and physical health of the client. Temporary discomfort that is part of an approved and documented treatment plan or use of a documented emergency procedure shall not be considered abuse.
- (2) "Basic necessities" means the essential items or substances needed to support life and health which include, but are not limited to, a nutritionally sound diet balanced during three meals per day, access to water and bathroom facilities at frequent intervals, seasonable clothing, medications prescribed by a physician, time for sleeping and frequent access to social contacts.

- (3) "Consent" means concurrence by a client or legally responsible person following receipt of sufficient information by the qualified professional who will administer the proposed treatment or procedure. Informed consent implies that the client or legally responsible person was provided with sufficient information concerning proposed treatment, including both benefits and risks, in order to make an educated decision with regard to such treatment.
- (4) "Dangerous articles or substances" means, but is not limited to, any weapon or potential weapon, heavy blunt object, sharp objects, potentially harmful chemicals, or drugs of any sort, including alcohol.
- (5) "Director of Clinical Services" means medical director, director of medical services or other qualified professional designated by the governing body as the director of clinical services, or a designee.
- (6) "Emergency" means a situation in which a client is in imminent danger of causing abuse or injury to self or others or when substantial property damage is occurring as a result of unexpected and severe forms of inappropriate behavior and rapid intervention by the staff is needed.
- (7) "Exclusionary time-out" means the removal of a client to a separate area or room from which exit is not barred for the purpose of modifying behavior.
- (8) "Exploitation" means the illegal or improper use of a client or a client's resources for another person's profit, business or advantage. The term includes taking or using personal property from a client with or without the client's permission.
- (9) "Governing body" means those persons or a designee, who by law, charter, articles of incorporation, partnership agreement, or other legally recognized manner have full legal authority for the overall operation of the facility.
- (10) "Governor's Advocacy Council for Persons with Disabilities (GACPD)" means a council mandated by state government to provide protection and advocacy systems and promote employment for all persons with disabilities in North Carolina.
- (11) "Intervention Advisory Committee" means a group of three to five concerned citizens established by the governing body to provide an additional safeguard in pro-

- grams that utilize intrusive treatment or habilitation interventions specified in Subchapter 14R, Rule .0106.
- (12) "Intervention procedures" refers to the following interventions: seclusion, restraint, isolation time-out, exclusionary time-out for more than 15 minutes, time-out for more than one hour, contingent withdrawal or delay of access to personal possessions or goods to which the client is ordinarily entitled, consistent deprivation of items or cessation of an activity which the client is scheduled to receive (other than basic necessities) and over-correction to which the client resists.
- (13) "Intrusive intervention" refers to an intervention procedure which presents a significant risk to the client and, therefore, requires additional safeguards. Such an intervention may include the use of:
- (A) seclusion, restraint or isolation time-out employed as a measure of therapeutic treatment;
 - (B) seclusion, restraint or isolation time-out used on an emergency basis more than 40 hours in a calendar month or more than one episode of 24 hours;
 - (C) unpleasant tasting foodstuffs;
 - (D) planned non-attention to a specific undesirable behavior when the target behavior is health threatening;
 - (E) contingent deprivation of any basic necessity;
 - (F) contingent application of any noxious substance which includes, but is not limited to, noise, bad smells or splashing with water; and
 - (G) any potentially physically painful procedure or stimulus which is administered to the client for the purpose of reducing the frequency or intensity of a behavior.
- (14) "Isolation time-out" means the removal of a client to a separate room from which exit is barred but not locked and where there is continuous supervision by staff for the purpose of modifying behavior.
- (15) "Major physical injury" means damage caused to the body resulting in substantial bleeding or contusion of tissues, fracture of a bone, damage to internal organs, loss of consciousness, loss of normal neurological function (inability to move or coordinate movement) or any other painful condition caused by such injury.
- (16) "Minor client" means a person under 18 years of age who has not been married or who has not been emancipated by a decree issued by a court of competent jurisdiction or is not a member of the armed forces.
- (17) "Neglect" means the failure to provide care or services necessary to maintain the mental health, physical health and well-being of the client.
- (18) "Neuroleptic medication" means a category of psychotropic drugs used to treat schizophrenia and related disorders. Neuroleptics are the only category of psychotropic drugs with long-term side effects of major consequence (e.g., tardive dyskinesia). Examples of neuroleptic medications are Chlorpromazine, Thioridazine and Haloperidol.
- (19) "Normalization" means the utilization of culturally valued means to establish or maintain personal behaviors, experiences and characteristics that are culturally normative or valued.
- (20) "Privileged" means authorization by the governing body for a professional to provide specific treatment or habilitation services to clients, within well-defined limits, based on the professional's education, training, experience, competence and judgment.
- (21) "Protective device" means an intervention which provides support for medically fragile clients or enhances the safety of self-injurious clients. Such devices may include geri-chairs or table top chairs to provide support and safety for clients with major physical handicaps; devices such as seizure helmets or helmets and mittens for self-injurious behaviors; or soft ties used to prevent medically ill clients from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes, or similar medical devices. Protective devices do not include mechanical restraints as defined in Subparagraph (24)(A) of this Rule.
- (22) "Responsible professional" shall have the meaning specified in G.S. 122C-3 except the "responsible professional" shall also be a qualified professional as defined in G.S. 122C-3(31).
- (23) "Restraint" means the limitation of one's freedom of movement and includes the following:
- (A) mechanical restraint which means restraint of a client with the intent of controlling behavior with mechanical devices which include, but are not limited to, cuffs, ankle straps, sheets or restraining shirts.

- (B) physical restraint which means restraint of a client by physically holding or subduing the client until calm. As used in these Rules, the term physical restraint does not apply to the use of professionally recognized methods for therapeutic holds of brief duration (five minutes or less).
- (24) "Seclusion" means isolating a client in a separate locked room for the purpose of controlling a client's behavior.
- (25) "Strike" means, but is not limited to, hitting, kicking, slapping or beating whether done with a part of one's body or with an object.
- (26) "Time-out" means the removal of a client from positive reinforcement and other clients to another space within the same activity area for the purpose of modifying behavior.
- (27) "Treatment" means the process of providing for the physical, emotional, psychological and social needs of clients through services.
- (28) "Treatment or program plan" means an individual goal plan (for mentally retarded clients) or individual treatment plan (for mental health or substance abuse clients), as defined in 10 NCAC 14K .0315 of division publication APSM 40-2, 7/1/89 (LICENSURE RULES FOR MENTAL HEALTH, MENTAL RETARDATION AND OTHER DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE FACILITIES) adopted pursuant to G.S. 150B-14(c).
- (29) "Treatment or habilitation team" means an interdisciplinary group of qualified professionals sufficient in number and variety by discipline to adequately assess and address the identified needs of a client and which is responsible for the formulation, implementation and periodic review of the client's treatment or program plan.

Statutory Authority G.S. 122C-3; 122C-4; 122C-51; 122C-53(f); 131E-67; 143B-147.

SUBCHAPTER 14Q - GENERAL RIGHTS

SECTION .0100 - GENERAL POLICIES AND PROCEDURES

.0101 POLICY ON RIGHTS RESTRICTIONS AND INTERVENTIONS

(a) For each service provided in a facility where rights will not be restricted and interventions as specified in Section .0100 of Subchapter 14R of these Rules will not be employed, the governing body shall implement policies to ensure that such

rights will not be restricted nor such interventions employed.

(b) For each service provided in a facility where rights may be restricted or interventions as specified in Section .0100 of Subchapter 14R of these Rules may be employed, the governing body shall develop and implement policies which:

- (1) identify the rights specified in G.S. 122C-62(b) and (d) that may be restricted and interventions specified in Rule .0103, Rule .0104 and Rule .0106 of Subchapter 14R that may be employed in each of its programs or services;
- (2) designate an individual responsible for informing the client;
- (3) specify procedures for the following:
 - (A) informing each client at the time of admission or entry into the program, or as soon as feasible, but no longer than 72 hours thereafter, of rights, potential restrictions and use of interventions;
 - (B) assuring that a written summary of rights are provided to the client and legally responsible person and that materials are explained in a manner or at a level consistent with the client's capacity for comprehension;
 - (C) educating the client and the legally responsible person regarding the purposes, goals and reinforcement structure of any behavior management system that is allowed by governing body policy to restrict client rights or utilize interventions as specified in Subparagraph (a)(2) of this Rule; and
 - (D) documentation in the client record that rights have been explained including mode of communication used.

Statutory Authority G.S. 122C-51; 143B-147.

.0102 SUSPENSION AND EXPULSION POLICY

(a) Clients shall be free from threat or fear of unwarranted suspension or expulsion from services.

(b) The governing body shall develop and implement policies assuring due process procedures for suspending or expelling clients from services. Policies shall address the criteria to be used for any suspension, expulsion or other discharge not mutually agreed upon and establish documentation requirements which shall include:

- (1) the specific time and conditions for resuming services following a suspension;
- (2) designation of an alternative program determined to meet the client's needs; and
- (3) discharge plan.

Statutory Authority G.S. 122C-51; 143B-147.

.0103 SEARCH AND SEIZURE POLICY

(a) Clients shall be free from unwarranted invasion of privacy. The governing body shall establish a policy regarding the need to search clients or private living areas.

(b) This policy shall specify whether searches of clients or private living areas are allowed or whether they are prohibited. If searches are allowed, the policy shall address the following:

- (1) scope of search;
- (2) reason for search;
- (3) search procedures; and
- (4) disposition of seized property.

Statutory Authority G.S. 122C-51; 143B-147.

.0104 ANNUAL INTERNAL AUDIT

Each governing body shall assure the conduct of an annual internal compliance audit in each of its programs of the implementation of client rights as specified in G.S. 122C, Article 3 and these Rules. A written report of such findings shall be maintained by the governing body for a period of two years.

Statutory Authority G.S. 122C-51; 143B-147.

SECTION .0200 - INFORMING CLIENTS AND STAFF OF RIGHTS

.0201 INFORMING CLIENTS OF RIGHTS AND RESTRICTIONS

(a) A written summary of client rights as specified in G.S. 122C, Article 3 shall be made available to all clients and legally responsible persons.

(b) Policies specified in Rule .0101(b) of this Subchapter shall assure that all clients and legally responsible persons are informed:

- (1) of the client's rights, potential restrictions or use of interventions;
- (2) that the legally responsible person of a minor or incompetent adult client may request notification after any occurrence of the use of an intervention procedure as specified in Subchapter 14R, Section .0100 of these Rules;
- (3) that the competent adult client may designate an individual to receive notification, in accordance with G.S. 122C-53(a), after any occurrence of the use of an intervention procedure as specified in Subchapter 14R, Section .0100 of these Rules;
- (4) of notification provisions regarding emergency and intervention procedures, as delineated in Subchapter 14R, Section .0100 of these Rules; and

- (5) of notification provisions regarding the restriction of client rights as specified in G.S. 122C-62(e).

Statutory Authority G.S. 122C-51; 143B-147.

.0202 INFORMING CLIENTS OF PROGRAM POLICIES

(a) Each client shall be informed of program policies at the time of admission or entry into the program, or as soon as feasible, but no longer than 72 hours thereafter. Documentation in the client record shall reflect that the client or legally responsible person has been informed of program policies.

(b) Procedures shall be implemented to assure that each client and legally responsible person shall be informed of the following:

- (1) the procedure for obtaining a copy of the client's treatment or program plan and discharge plan;
- (2) any program rules that the client is expected to follow and possible penalties for violations;
- (3) the governing body grievance procedures including the individual to contact and procedures for assisting clients as needed;
- (4) the governing body policy regarding suspension and expulsion;
- (5) the governing body policy regarding fee assessment and collection practices for treatment or habilitation services;
- (6) the client's protections regarding disclosure of confidential information, as delineated in G.S. 122C-52 through G.S. 122C-56; and
- (7) program policy on search and seizure.

Statutory Authority G.S. 122C-51 through 122C-56; 122C-62; 143B-147.

.0203 INFORMING CLIENTS OF ADVOCACY SERVICES

Procedures shall be implemented to assure that:

- (1) Every client is informed of his right to contact the Governor's Advocacy Council for Persons with Disabilities (GACPD), the statewide agency designated under federal and state law to protect and advocate the rights of persons with disabilities;
- (2) there is compliance with applicable provisions of the federal law governing advocacy services to the mentally ill, as specified in the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319) and amended by Public Law 100-509 (1988); and

- (3) there is compliance with applicable provisions of the federal laws governing advocacy services to the developmentally disabled, the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. § 6000 et. seq.

Statutory Authority G.S. 122C-53; 143B-147; 143B-403.1; 143B-403.2.

.0204 INFORMING STAFF OF POLICIES

All staff shall be informed at the time of employment and annually thereafter, of the rights of clients as specified in 122C, Article 3 and be familiar with policies specified in this manual. Documentation of receipt of information shall be signed by the staff member and remain a part of the individual's personnel record.

Statutory Authority G.S. 122C-51; 143B-147.

SECTION .0300 - GENERAL CIVIL, LEGAL AND HUMAN RIGHTS

.0301 SOCIAL INTEGRATION

Each client shall be encouraged to participate in appropriate and generally acceptable social interactions and activities with other clients and non-client members of the community, including non-handicapped persons other than staff unless restricted in writing in the client record in accordance with G.S. 122C-62(e).

Statutory Authority G.S. 122C-51; 122C-62; 143B-147.

.0302 CLIENT SELF GOVERNANCE

The governing body shall establish a process for client input into program governance and encourage and support the development of client self governance groups.

Statutory Authority G.S. 122C-58.

.0303 INFORMED CONSENT

(a) Consents required in these Rules and G.S. 122C-57(f) shall be obtained in writing.

(b) Information which is necessary to adequately inform the client shall be documented in the client record and shall include the following:

- (1) name of the procedure or treatment and its purpose expressed in laymen's terms;
- (2) evidence that the benefits, risks, possible complications and possible alternative methods of treatment have been explained to the client or legally responsible person;
- (3) notification that the consent may be withdrawn at any time without reprisal;

- (4) specific length of time for which consent is valid;
- (5) permission granted to perform the procedure or treatment;
- (6) signature of the client or legally responsible person on written authorizations.

Statutory Authority G.S. 122C-51; 122C-57; 131E-67; 143B-147.

.0304 CORPORAL PUNISHMENT

Corporal punishment is prohibited, as specified in G.S. 122C-59. The use of corporal punishment by employees is considered abuse and investigated as such as specified in Rule .0306 of this Section.

Statutory Authority G.S. 122C-59; 143B-147.

.0305 PROTECTION FROM HARM, ABUSE, NEGLECT OR EXPLOITATION

(a) Each governing body shall develop policies in accordance with G.S. 122C-59, G.S. 122C-65, and G.S. 122C-66.

(b) Employees shall protect clients from harm, abuse, neglect and exploitation in accordance with G.S. 122C-66.

(c) Employees shall not subject a client to any sort of neglect or indignity, or inflict physical or mental abuse upon any client including, but not limited to, striking, burning, cutting, teasing, pinching, taunting, jerking, pushing, tripping or baiting a client.

(d) Employees shall not sell or buy goods or services to or from a client except through established governing body policy.

(e) Employees shall use only that degree of force necessary to repel or secure a violent and aggressive client and which is permitted by governing body policy. The degree of force that is necessary depends upon the individual characteristics of the client (such as age, size and physical and mental health) and the degree of aggressiveness displayed by the client. Use of intervention techniques shall be in compliance with Subchapter 14R of this Chapter.

(f) Each governing body must develop monitoring procedures to assure compliance with G.S. 122C-59, G.S. 122C-65, and G.S. 122C-66.

Statutory Authority G.S. 122C-59; 122C-65; 122C-66; 143B-147.

.0306 REPORTING ABUSE, NEGLECT OR EXPLOITATION

The governing body shall implement procedures to assure that all instances of alleged or suspected abuse, neglect or exploitation of clients shall be

reported to the County Department of Social Services as specified in G.S. 108A, Article 6 or G.S. 7A, Article 44.

Statutory Authority G.S. 7A, Article 44; 108A, Article 6; 122C-51; 122C-59; 122C-65; 122C-66; 143B-147; 143B-403.1; PAMII Act, 42 U.S.C. 10801.

SUBCHAPTER 14R - TREATMENT OR HABILITATION RIGHTS

SECTION .0100 - PROTECTIONS REGARDING INTERVENTION PROCEDURES

.0101 LEAST RESTRICTIVE ALTERNATIVE

(a) The goal of all treatment and habilitation shall be to provide services in the least restrictive, most appropriate and effective positive treatment modalities.

(b) Any intervention procedure designed to reduce a behavior shall always be accompanied by positive treatment or habilitation methods.

Statutory Authority G.S. 122C-51; 122C-53; 131E-67; 143B-147.

.0102 PROHIBITED PROCEDURES

Each governing body shall develop policies regarding prohibited interventions. Such policies shall specify:

- (1) those interventions which have been prohibited by statute or rule which shall include:
 - (a) any intervention which would be considered corporal punishment under G.S. 122C-59;
 - (b) the contingent use of painful body contact;
 - (c) substances administered to induce painful bodily reactions, exclusive of Antabuse;
 - (d) electric shock (excluding medically administered electroconvulsive therapy);
 - (e) insulin shock; and
- (2) those interventions determined by the governing body to be unacceptable for use in the facility or prohibited by the funding agencies or regulations.

Statutory Authority G.S. 122C-51; 122C-57; 122C-59; 131E-67; 143B-147.

.0103 GENERAL POLICIES REGARDING INTERVENTION PROCEDURES

(a) This Rule applies only to services utilizing the following interventions:

- (1) exclusionary time-out for more than 15 minutes;
- (2) time-out for more than one hour;

- (3) contingent withdrawal or delay of access to personal possessions or goods to which the client would ordinarily be entitled;
- (4) consistent deprivation of items or cessation of an activity which the client is scheduled to receive (other than basic necessities);
- (5) overcorrection to which the client resists; and
- (6) other interventions specified in Rule .0104 and Rule .0106 of this Section.

(b) The governing body shall develop policies and procedures for the use of interventions specified in Paragraph (a) of this Rule, determined to be acceptable for use in the facility. Such policies shall include:

- (1) procedures for ensuring that the competent adult client or legally responsible person of a minor client or incompetent adult client is informed:
 - (A) of the general types of interventions that are authorized for use by the facility; and
 - (B) that the legally responsible person can request notification of each use of an intervention as specified in this Rule, in addition to those situations required by G.S. 122C-62. When multiple interventions are required during a 24-hour period, such notification may be summarized to the legally responsible person one time during each 24-hour period;
- (C) that the competent adult client may designate an individual to receive notification, in accordance with G.S. 122C-53(a), after any occurrence of the use of an intervention procedure as specified in Subchapter 14R, Section .0100 of this Chapter.
- (2) provisions for humane, secure and safe conditions in areas used for the intervention, such as adequate ventilation, light and a room temperature consistent with the rest of the facility;
- (3) appropriate attention paid to the need for fluid intake and the provision of regular meals, bathing and the use of the toilet. Such attention shall be documented in the client record; and
- (4) procedures for assuring that when an intervention as specified in this Rule has been used with a client three or more times in a calendar month, the following requirements are met:
 - (A) A treatment or program plan developed within ten working days of the third intervention. The treatment or program plan shall include, but not be limited to:

- (i) indication of need;
 - (ii) specific description of problem behavior;
 - (iii) specific goal to be achieved and estimated duration of procedure;
 - (iv) specific early intervention when precursor behaviors are exhibited;
 - (v) specific procedure to be employed;
 - (vi) specific methodology of the intervention;
 - (vii) methods for measuring treatment efficacy;
 - (viii) guidelines for discontinuation of the procedure;
 - (ix) the accompanying positive treatment or habilitation methods which are intended to be as strong as the negative aspects of the plan; and
 - (x) the specific limitations on approved uses of the intervention per episode and per day and requirements for on-site assessments by the responsible professional.
- (B) In emergency situations, a qualified professional may continue to use the intervention until the planned intervention is addressed in the treatment or program plan.
- (C) The qualified professional shall explain the intervention and the reason for the intervention to the client and the legally responsible person, if applicable, and document such explanation in the client record.
- (D) Before implementation of the planned intervention, the treatment or habilitation team, if there is one, shall approve the treatment or program plan.
- (E) The use of the intervention shall be reviewed at least monthly by the treatment or habilitation team.
- (F) If a client or legally responsible person refuses the use of such procedures, the right to refuse treatment procedures as required in Rule .0302 of this Subchapter shall be followed.
- (G) The interventions specified in this Rule shall never be the sole treatment modality designed to eliminate the target behavior. Interventions are to be used consistently and shall always be accompanied by positive treatment or habilitation methods.
- (c) Whenever the interventions as specified in this Subchapter result in the restriction of a right in a 24-hour facility as specified in G.S. 122C-62(b) and (d), procedures specified in G.S. 122C-62(e) shall be followed. Exceptions to this

Rule include the use of seclusion, restraint and isolation time-out, which are regulated in Rule .0104 of this Section.

(d) Facility employees who authorize and implement interventions shall be privileged to do so, as well as to utilize alternative approaches. Such assurances shall be documented and maintained in the personnel records of facility employees.

(e) Statistical records that reflect the frequency and duration of the individual uses of interventions specified in this Rule shall be maintained. This statistical record shall be made available to the human rights committee, if there is one, and the governing body at least quarterly.

Statutory Authority G.S. 122C-51; 122C-53; 122C-60; 122C-62; 131E-67; 143B-147.

.0104 SECLUSION, RESTRAINT AND ISOLATION TIME OUT

(a) This Rule delineates the procedures to be followed for seclusion, restraint and isolation time-out in addition to the procedures specified in Rule .0103(b) through (e) of this Section.

(b) Those facilities which intend to employ the use of mechanical restraint or seclusion of a client shall be designated as a restrictive facility by the Division of Facility Services.

(c) This Rule governs the use of specific physical or behavioral interventions which are used to terminate a behavior or action in which a client is in imminent danger of abuse or injury to self or other persons or when substantial property damage is occurring, or which is used as a measure of therapeutic treatment. Such interventions include:

- (1) seclusion;
- (2) restraint; and
- (3) isolation time-out.

(d) The use of seclusion, restraint and isolation time-out shall be limited to those situations specified in G.S. 122C-60, which include:

- (1) emergency interventions (planned and unplanned); and
- (2) therapeutic treatment as specified in Rule .0106 of this Section.

(e) If determined to be acceptable for use within the facility, the governing body shall establish written policies and procedures that govern the use of seclusion, restraint and isolation time-out which shall include the following:

- (1) process for identifying and privileging facility employees who may authorize and implement such interventions;
- (2) provisions that a qualified or responsible professional shall:

- (A) review the use of the intervention as soon as possible but at least within one hour of the initiation of its use;
 - (B) verify the inadequacy of less restrictive intervention techniques; and
 - (C) document in the client record evidence of approval or disapproval of continued use.
- (3) procedures for documenting in the client record the intervention which occurred, to include, but not be limited to:
- (A) the rationale for the use of the intervention which also addresses the inadequacy of less restrictive intervention techniques;
 - (B) notation of the frequency, intensity and duration of the behavior and any precipitating circumstance contributing to the onset of the behavior;
 - (C) description of the intervention and the date, time and duration of its use; and
 - (D) signature and title of the facility employee responsible for the use of the intervention.
- (4) procedures for the notification of others to include:
- (A) those to be notified as soon as possible but no more than 72 hours after the behavior has been controlled to include:
 - (i) the treatment or habilitation team, or its designee, after each use of the intervention; and
 - (ii) a designee of the governing body.
 - (B) notification in a timely fashion of the legally responsible person of a minor client or an incompetent adult client when such notification has been requested.
- (5) procedures to identify clients with reasonably foreseeable physical consequences to the use of restraint, shall include, but not be limited to:
- (A) documentation of clients with physical disability or past surgical procedures that would make affected nerves and bones sensitive to injury; and
 - (B) the identification and documentation of alternative emergency procedures if needed.
- (f) Any room used for seclusion or isolation time-out shall meet the following criteria:
- (1) The room shall be designed and constructed to ensure the health, safety and well-being of the client.
 - (2) The floor space shall not be less than 50 square feet, with a ceiling height of not less than eight feet.
 - (3) Floor and wall coverings, as well as any contents of the room, shall have a one-hour fire rating and shall not produce toxic fumes if burned.
 - (4) The walls shall be kept completely free of objects.
 - (5) A lighting fixture, equipped with a minimum of a 75 watt bulb, shall be mounted in the ceiling and be screened to prevent tampering by the client.
 - (6) One door of the room shall be equipped with a window mounted in a manner which allows inspection of the entire room. Glass in any windows shall be impact resistant and shatterproof.
 - (7) The room temperature and ventilation shall be comparable and compatible with the rest of the facility.
 - (8) In a room where the door is not under direct observation by staff and if a staff person is not assigned to continuously observe the area during the duration of the confinement, the lock on the room shall be interlocked with the fire alarm system so that the door automatically unlocks when the fire alarm is activated.
 - (g) Seclusion, restraint and isolation time-out shall not be employed as retaliation or for the convenience of staff or used in a manner that causes harm or undue physical or mental discomfort or pain to the client.
 - (h) Whenever seclusion, restraint or isolation time-out is used on an emergency basis prior to inclusion in the treatment or program plan, the following procedures shall be followed:
 - (1) A facility employee privileged to administer emergency interventions may employ such procedures for up to 15 minutes without further authorization.
 - (2) A qualified professional who has experience and training in the use of seclusion, restraint or isolation time-out and who has been privileged to employ such interventions, may authorize the continued use of such interventions for up to one hour from the time of initial employment of the intervention. If a qualified professional is not immediately available to conduct an assessment of the client, but after discussion with the facility employee, concurs that the intervention is justified for longer than 15 minutes, continuation of the intervention may be verbally authorized for up to one hour. The qualified professional shall observe and assess the client within one hour after authorizing the continued use of the intervention. If the intervention needs to be continued for longer than one hour, the professional

responsible for the client's treatment or program plan shall be consulted.

- (3) Use of isolation time-out shall not exceed one hour in Intermediate Care Facilities for the Mentally Retarded (ICF/MR).
- (4) The continued use of seclusion or restraint for over one hour shall only be authorized by the responsible professional. If the responsible professional is not immediately available to conduct a clinical assessment of the client, but after discussion with the qualified professional, concurs that the seclusion or restraint is justified for longer than one hour, continuation of the intervention may be verbally authorized until an on-site assessment of the client can be made. The responsible professional shall meet with and conduct an assessment of the client and write such authorization within 12 hours from the time of initial employment of the intervention.

(i) Whenever a client is in seclusion, restraint or isolation time-out for more than 24 continuous hours, the client's rights, as specified in G.S. 122C-62(b) and (d), are restricted. The documentation requirements in this Rule shall satisfy the requirements specified in G.S. 122C-62(e) for restriction of rights in G.S. 122C-62(b) and (d). Rights specified in G.S. 122C-62(a) and (b) shall be exercised at reasonable intervals.

(j) Whenever seclusion, restraint, or isolation time-out is used more than three times in 30 consecutive days, the procedure shall be addressed as a planned intervention in the treatment or program plan.

(k) In addition to the requirements in this Rule, additional safeguards as specified in Rule .0106 of this Section shall be initiated under the following conditions:

- (1) whenever a client exceeds spending 40 hours, or more than one episode of 24 or more continuous hours in emergency seclusion, restraint or isolation time-out during 30 consecutive days; or
- (2) whenever seclusion, restraint or isolation time-out is used as a measure of therapeutic treatment as specified in G.S. 122C-60 and is limited to specific planned behavioral interventions designed for the extinction of dangerous, aggressive or undesirable behaviors.
- (l) The written approval of the designee of the governing body shall be required when seclusion, restraint or isolation time-out is utilized for longer than 24 continuous hours.
- (m) Standing orders or PRN orders shall not be used to authorize the use of seclusion, restraint or isolation time-out.

(n) The client shall be removed from seclusion, restraint or isolation time-out as soon as therapeutically appropriate but in no case shall the client remain in seclusion, restraint or isolation time-out longer than 30 minutes after gaining behavioral control. If the client is unable to gain self-control within the time frame specified in the authorization, a new authorization must be obtained.

(o) While the client is in seclusion, restraint or isolation time-out, the following precautions shall be followed:

- (1) Whenever a client is in seclusion or restraint, periodic observation of the client shall occur at least every 15 minutes, or more often as necessary, to assure the safety of the client. Appropriate attention shall be paid to the provision of regular meals, bathing, and the use of the toilet. Such observation and attention shall be documented in the client record.
- (2) Whenever a client is in isolation time-out, there shall be a facility employee in attendance with no other immediate responsibility than to monitor the client who is placed in isolation time-out. There shall be continuous observation and verbal interaction with the client when appropriate. Such observation shall be documented in the client record.
- (3) When restraint is used in the absence of seclusion and the client may be subject to injury, a facility employee shall remain present with the client continuously.
- (p) Reviews and reports on the use of seclusion, restraint and isolation time-out shall be conducted as follows:
 - (1) all uses of seclusion, restraint and isolation time-out shall be reviewed in a timely fashion by a designee of the governing body and unusual or possibly unwarranted patterns of utilization shall be investigated;
 - (2) a log which includes the following information on each use of restraint, seclusion and isolation time-out shall be maintained:
 - (A) name of the client;
 - (B) name of the responsible professional;
 - (C) date of each intervention;
 - (D) time of each intervention;
 - (E) type of intervention;
 - (F) duration of each intervention; and
 - (G) reason for use of the intervention.
- (q) Nothing in this Rule shall be interpreted to prohibit the use of voluntary seclusion, restraint or isolation time-out at the client's request; however, the procedures in this Rule shall apply

with the exception of Subparagraphs (e)(3)(A) and (B) and Paragraph (h) of this Rule.

Statutory Authority G.S. 122C-51; 122C-53; 122C-60; 122C-62; 131E-67; 143B-147.

.0105 PROTECTIVE DEVICES

(a) Whenever protective devices are utilized for clients, the governing body shall develop policies to ensure that:

- (1) the necessity for the protective device has been assessed and the device applied by a professional who has been trained and privileged in the utilization of protective devices;
- (2) the protective device is the least restrictive appropriate measure;
- (3) the client is frequently observed and provided opportunities for toileting, exercise, etc. as needed. Protective devices which limit the client's freedom of movement shall be observed at least every hour. Whenever the client is restrained and subject to injury by another client, a facility employee shall remain present with the client continuously. Observations and interventions shall be documented in the client record;
- (4) protective devices are cleaned at regular intervals; and
- (5) the utilization of protective devices in the treatment or program plan shall be subject to review by the human rights committee, if there is one.

(b) In addition to the requirements specified in Paragraph (a) of this Rule, protective devices used for behavioral control which have the effect of significantly restraining the client's freedom of movement shall comply with the requirements specified in Rule .0103 and Rule .0104 of this Section.

Statutory Authority G.S. 122C-51; 122C-53; 122C-60; 131E-67; 143B-147.

.0106 INTERVENTIONS REQUIRING ADDITIONAL SAFEGUARDS

(a) This Rule applies only to services utilizing interventions specified in Paragraph (b) of this Rule which present a significant risk to the client and, therefore, require additional safeguards. These procedures shall be followed in addition to the procedures specified in Rule .0103 and Rule .0104 of this Section if seclusion, restraint or isolation time-out is utilized.

(b) The following interventions are designed for the primary purpose of reducing the incidence of aggressive, dangerous or self injurious behavior

to a level which will allow the use of less intrusive treatment or habilitation procedures. Such interventions include the use of:

- (1) seclusion, restraint or isolation time-out employed as a measure of therapeutic treatment;
- (2) seclusion, restraint, isolation time-out used on an emergency basis more than 40 hours in a calendar month or more than one episode of 24 hours;
- (3) unpleasant tasting foodstuffs;
- (4) planned non-attention to specific undesirable behaviors when the target behavior is health threatening;
- (5) contingent deprivation of any basic necessity;
- (6) contingent application of any noxious substances which include but are not limited to noise, bad smells or splashing with water; and
- (7) any potentially physically painful procedure or stimulus which is administered to the client for the purpose of reducing the frequency or intensity of a behavior.

(c) Such interventions shall never be the sole treatment modality for the elimination of target behavior. The intervention shall always be accompanied by positive treatment or habilitation methods which include the deliberate teaching and reinforcement of behaviors which are non-injurious; the improvement of conditions associated with non-injurious behaviors such as an enriched educational and social environment; and the alteration or elimination of environmental conditions which are reliably correlated with self-injury.

(d) Prior to the implementation of any planned use of the interventions specified in Paragraph (b) of this Rule, the following written approvals and notifications shall be obtained and documented in the client record:

- (1) The responsible professional and the treatment or habilitation team if there is one shall approve the plan.
- (2) Each client whose treatment or program plan includes interventions with reasonably foreseeable physical consequences shall receive an initial medical examination and periodic planned monitoring by a physician.
- (3) The governing body shall assure that a client advocate has been identified and informed that the intervention has been planned for the client and the rationale for utilization of the intervention.
- (4) The governing body shall assure that an Intervention Advisory Committee as defined in Rule .0107 of this Section has

been organized and informed regarding the intervention being planned for the client. Confidential information provided to the advisory committee shall be within the constraints of G.S. 122C-53(a).

- (5) A designee of the treatment or habilitation team shall explain the intervention and the reason for the intervention to the client and the legally responsible person, if applicable. The prior written consent of the client or legally responsible person shall be obtained except for those situations specified in Rule .0104(k)(1) of this Section. If the client or legally responsible person, if applicable, refuses the intervention, the governing body's procedures regarding the right to refuse treatment procedures shall be followed.

(e) If any of the persons or committees specified in Subparagraphs (d)(1), (2), (4), or (5) of this Rule do not approve the continued use of a planned intervention, the planned intervention shall be terminated. The governing body shall establish an appeal mechanism for the resolution of any disagreement over the use of the intervention.

(f) Neither the consents nor the approvals specified in Paragraph (d) of this Rule shall be considered valid for more than six months. The responsible professional and the treatment or habilitation team, if there is one, shall re-evaluate the use of the intervention and obtain the client's and legally responsible person's consent for continued use of the intervention. The decision to continue the intervention shall be based on clear and recent behavioral evidence that the intervention is having a positive impact and continues to be needed.

(g) The plan shall be reviewed at the next meeting of the Intervention Advisory Committee within the constraints of 10 NCAC 18D .0215, division publication APSM 45-1, 1/10/86, (CONFIDENTIALITY RULES), adopted pursuant to G.S. 150B-14(c). The committee, by majority vote, may recommend approval or disapproval of the plan or may abstain from making a recommendation. Implementation of the intervention shall be reviewed by the Committee within 30 days of the initiation of the plan.

(h) The intervention shall be used only when the responsible professional and the treatment or habilitation team, if there is one, has determined and documented in the client record the following:

- (1) that the client is engaging in behaviors that are dangerous, aggressive and likely to result in injury to self or others;

- (2) that other methods of treatment or habilitation employing less intrusive interventions are not appropriate or effective, with the reasons supporting this determination;

- (3) the frequency, intensity and duration of the target behavior, and the behavior's probable antecedents and consequences; and

- (4) that in the case of aversive interventions, a systematic study on alternatives to such interventions has been conducted and other non-aversive techniques have been tried and did not work;

(i) Accurate and up-to-date written records shall be maintained on the application of the intervention and accompanying positive procedures. These records shall include at a minimum the following:

- (1) data which reflect the frequency, intensity and duration with which the targeted behavior occurs (scientific sampling procedures are acceptable);
- (2) data which reflect the frequency, intensity and duration of the intervention and any accompanying positive procedures; and
- (3) data which reflect the facility employees who administered the interventions.

(j) The governing body shall assure that the interventions are evaluated at least weekly and are documented in the client record. A qualified professional shall be involved in this evaluation at least every other week.

(k) During the use of the intervention, the intervention advisory committee shall be given the opportunity to review the treatment or program plan within the constraints of 10 NCAC 18D .0215 division publication APSM 45-1, 1/10/86, (CONFIDENTIALITY RULES) adopted pursuant to G.S. 150B-14(c).

Statutory Authority G.S. 122C-51; 122C-53; 122C-57; 122C-60; 122C-62; 131E-67; 143B-147.

.0107 INTERVENTION ADVISORY COMMITTEES

(a) Intervention advisory committees shall be established to provide an additional safeguard in those programs that utilize intrusive treatment or habilitation interventions specified in Rule 14R .0106.

(b) The committee shall be composed of three to five concerned citizens who are not employees of, or members of the governing body. One of the individuals shall be a professional with training and expertise in the use of the type of interventions being utilized, who is not involved in the treatment or habilitation of the client. The

committee shall also include at least one person who is or has been a consumer or who is a close relative of a consumer.

(e) Each committee shall have policies governing its operation.

(d) The governing body shall assure that the committee is supplied with appropriate statutes and rules governing client rights and related issues and literature about the proposed interventions and their alternatives. The governing body shall also assure that each member of the committee has received specific training and orientation as to the charge of the committee.

(e) The committee shall maintain minutes of each meeting. Care shall be taken that the minutes do not violate the provisions of G.S. 122C-52.

(f) Each committee shall make an annual written report to the governing body on the activities of the committee.

(g) Committee members shall have access to client records on a need to know basis only upon the written informed consent of the client or his legally responsible person as specified in G.S. 122C-53(a). This access shall be given only when necessary for committee members to perform their duties.

(h) Committee members shall treat the client record as confidential information in accordance with G.S. 122C-52 through G.S. 122C-56.

(i) Each committee shall have a caseload of not more than 30 clients whose intrusive interventions are being reviewed.

(j) A Human Rights Committee serving this function shall comply with this Rule.

Statutory Authority G.S. 122C-51 through 122C-56; 143B-147.

SECTION .0200 - PROTECTIONS REGARDING MEDICATIONS

.0201 SAFEGUARDS REGARDING MEDICATIONS

(a) The facility shall follow the Rules in 10 NCAC 14K .0349 through .0355, G.S. 122C-57, and G.S. 90, Articles 1, 4A and 9A when utilizing drugs or medication.

(b) The use of experimental drugs or medication shall be considered research and shall be governed by 10 NCAC 14K .0333 and .0334 and G.S. 122C-57(f).

(c) The governing body of a medical service which utilizes neuroleptic medications shall establish the following policies and procedures relative to utilization of such medications and safeguards for prevention of tardive dyskinesia:

- (1) methods for minimizing the risk of tardive dyskinesia by prescribing neuroleptic medication judiciously and in the lowest possible therapeutic dosages.
- (2) training aimed at education of program staff regarding indications for using neuroleptic medication, expected therapeutic effects of neuroleptic medication and common side effects including indications of tardive dyskinesia; and
- (3) procedures for monitoring clients on neuroleptic medications for signs of tardive dyskinesia including the following:
 - (A) designation of a standardized procedure or rating system;
 - (B) frequency of client examinations;
 - (C) training and privileging of examiners in the selected methodology; and
 - (D) documentation in the client record.

Statutory Authority G.S. 122C-51; 122C-57; 131E-67; 143B-147.

SECTION .0300 - RIGHT TO REFUSE TREATMENT

.0301 THERAPEUTIC AND DIAGNOSTIC PROCEDURES

In addition to the treatment procedures specified in G.S. 122C-57(a) through (f), other intrusive procedures which are not routine medical diagnostic or treatment procedures shall require the express and informed written consent of the client or legally responsible person prior to their initiation except in medical emergencies. Procedures requiring written consent shall include, but are not limited to, the prescription or administration of the following drugs:

- (1) Antabuse; and
- (2) Depo-Provera when used for non-FDA approved uses.

Statutory Authority G.S. 90-21.1; 90-21.13; 122C-51; 122C-57; 131E-67; 143B-147.

.0302 INTRUSIVE INTERVENTIONS

(a) Interventions as specified in Rules .0103 through .0106 of this Subchapter shall not be administered to a voluntary client in a non-emergency situation if the client or legally responsible person refuses the interventions except for those situations specified in Rule 14R .0104(k)(1).

(b) The governing body shall develop and implement policies assuring due process procedures for involuntary clients who refuse the use of intrusive interventions.

Statutory Authority G.S. 122C-51; 122C-57; 131E-67; 143B-147.

.0303 REFUSAL OF CONSENT

Refusal of consent shall not be used as sole grounds for termination or threat of termination of services unless such procedures are the only viable treatment option available.

Statutory Authority G.S. 122C-51; 122C-57; 143B-147.

SUBCHAPTER 14S - 24-HOUR FACILITIES

SECTION .0100 - SPECIFIC RULES FOR 24-HOUR FACILITIES

.0101 SCOPE

Clients of mental health, developmental disabilities and substance abuse services are provided certain rights through the General Statutes. This Subchapter delineates those rights that are relevant to residential and inpatient services.

Statutory Authority G.S. 122C-51; 122C-62; 143B-147.

.0102 COMMUNICATION RIGHTS

(a) Except as provided in G.S. 122C-62(e), clients in 24-hour facilities maintain communication rights as specified in 122C-62 at all reasonable times.

(b) In order to ensure the protection of client rights specified in G.S. 122C-62(a)(1) and G.S. 122C-62(d)(2), each facility shall make limited postage available to indigent clients.

(c) Adult clients shall have access to telephones in private areas, when requested by the client, in order to ensure the protection of the client right specified in G.S. 122C-62(b)(1). Access shall also be in accordance with Section 504 of the Rehabilitation Act of 1973 and 1978.

Statutory Authority G.S. 122C-62; 143B-147.

.0103 LIVING ENVIRONMENT

(a) Efforts shall be made to:

- (1) provide a quiet atmosphere for uninterrupted sleep during scheduled sleeping hours; and
- (2) provide areas accessible to the client for personal privacy, for at least limited periods of time, unless determined inappropriate by the treatment or habilitation team.

(b) Each client may suitably decorate his room, or portion of a multi-resident room, with respect to the client's choice, normalization principles,

and with respect for the physical structure. The governing body may establish written policies and justifications which limit this right in certain circumstances such as resource limitations and for special admissions (e.g., short-term admissions where admission is for less than 30 days).

Statutory Authority G.S. 122C-51; 122C-62; 143B-147.

.0104 HEALTH, HYGIENE AND GROOMING

(a) Each client shall be assured the right to dignity, privacy and humane care in the provision of personal health, hygiene and grooming care including, but not limited to the:

- (1) opportunity for a shower or tub bath daily, or more often as needed;
- (2) opportunity to shave at least daily;
- (3) opportunity to obtain the services of a barber or a beautician; and
- (4) provision of linens and towels, toilet paper and soap for all clients and other individual personal hygiene articles for indigent clients. Such other articles include but are not limited to toothpaste, toothbrush, sanitary napkins, tampons, shaving cream and shaving utensil.

(b) Bathtubs or showers and toilets which ensure individual privacy shall be available.

(c) Adequate toilets, lavatory and bath facilities equipped for use by clients with mobility impairments shall be available.

Statutory Authority G.S. 122C-51; 122C-62; 143B-147.

.0105 STORAGE AND PROTECTION OF CLOTHING AND POSSESSIONS

The facility shall make every effort to protect the client's personal clothing and possessions from theft, damage, destruction, loss, and misplacement. This includes, but is not limited to, assisting the client in developing and maintaining an inventory of clothing and personal possessions if the client or legally responsible person desires.

Statutory Authority G.S. 122C-62; 143B-147.

.0106 CLIENT'S PERSONAL FUNDS

(a) This Rule applies to 24-hour facilities which typically provide residential services to individual clients for more than 30 days.

(b) Competent adult clients and minors above the age of 16 shall be assisted and encouraged to maintain or invest their money in personal fund accounts other than at the facility. This shall include, but not be limited to, investment of funds in interest bearing accounts.

(c) If funds are managed for clients by the facility, the governing body shall develop written policies and procedures for internal personal fund accounts which:

- (1) assure to the client the right to deposit and withdraw money;
- (2) regulate the receipt and distribution of funds in personal fund accounts;
- (3) provide for the receipt of deposits in personal fund accounts from friends, relatives or others and withdrawal by the client;
- (4) provide for the keeping of adequate financial records on all transactions affecting funds on deposit in personal fund accounts;
- (5) assure that the funds will be kept separate from any operating funds of the facility;
- (6) provide for the deduction from personal fund accounts for treatment or habilitation services when authorized by the client or legally responsible person upon or subsequent to admission of the client.
- (7) provide for the issuance of receipts to persons depositing or withdrawing funds; and
- (8) provide the client with a quarterly accounting of personal fund accounts.

(c) The facility may not deduct from a personal fund account any amount owed or alleged to be owed to the facility or an employee or visitor to the facility or other client of the facility for damages done or alleged to have been done by the client to the facility, employee, visitor or other client, unless the legally responsible person authorizes the deduction.

(d) The facility may not use the fact that a client or legally responsible person does not authorize a deduction as grounds for termination or threat of termination of services.

Statutory Authority G.S. 122C-51; 122C-58; 122C-62; 143B-147.

CHAPTER 18 - MENTAL HEALTH: OTHER PROGRAMS

SUBCHAPTER 18I - GENERAL REQUIREMENTS

SECTION .0100 - PURPOSE: SCOPE: APPLICABILITY AND DEFINITIONS

.0120 DEFINITIONS

(a) For the rules contained in Subchapter 18I through 18Q of this Chapter the following definitions apply:

- (36) "Early Intervention Services" means the term as defined in 10 NCAC 14K .0103.

- (37) ~~(36)~~ "Emergency Service" means an assessment service which is provided on a 24-hour non-scheduled basis to individuals for immediate screening/assessment of presenting problems. Crisis intervention or referral to other services are provided as indicated. These services may be provided either in a hospital or non-hospital setting.

- (38) ~~(37)~~ "First Aid" means the term as defined in 10 NCAC 14K .0103.

- (39) ~~(38)~~ "Follow Along" (for mental retardation clients) means provision by the agency for a continuing relationship with the client for the purpose of assuring that the client's changing needs are recognized and appropriately met.

- (40) ~~(39)~~ "Foster Parent" means an individual who provides substitute care for a planned period for a child when his own family or legal guardian cannot care for him; and who is licensed by the N.C. Department of Human Resources and supervised by the County Department of Social Services or by a private program licensed or approved to engage in child care or child placing activities.

- (41) ~~(40)~~ "Governing Body" means the term as defined in 10 NCAC 14K .0103.

- (42) ~~(41)~~ "He/His/Him" means pronouns used throughout these standards for convenience and consistency for reference to both sexes.

- (43) "Health Services" means the term as defined in 10 NCAC 14K .0103.

- (44) ~~(42)~~ "High risk children" means the term as defined in 10 NCAC 14K .0103.

- (45) ~~(43)~~ "Hours of Operation" means the term as defined in 10 NCAC 14K .0103.

- (46) ~~(44)~~ "Individual Goal Plan" (for clients with mental retardation or otherwise developmentally disabled) means the term as defined in 10 NCAC 14K .0103.

- (47) ~~(45)~~ "Individual Program Plan" (for clients with mental retardation or otherwise developmentally disabled) means the term as defined in 10 NCAC 14K .0103.

- (48) ~~(46)~~ "Individualized Education Program" means a written statement for a child with special needs that is developed and implemented pursuant to 16 NCAC 2E .1500 (Rules Governing Programs and Services for Children with Special Needs) available from the Department of Public Instruction.

- (49) ~~(47)~~ "Individual Treatment Plan" (for mental health substance abuse clients)

means the term as defined in 10 NCAC 14K .0103.

- (50) ~~(48)~~ "Infant" means the term as defined in 10 NCAC 14K .0103.
- (51) ~~(49)~~ "Inpatient service" means a service provided in a hospital setting on a 24-hour basis under the direction of a physician. The service provides continuous, close supervision for individuals with moderate to severe mental or substance abuse problems.
- (52) ~~(50)~~ "Justice Treatment Services" means consultation, treatment or educational services offered by the area program to components of the criminal justice system for individuals who have been indicted, prosecuted or incarcerated.
- (53) ~~(51)~~ "Legend Drug" means the term as defined in 10 NCAC 14K .0103.
- (54) ~~(52)~~ "Medication" means the term as defined in 10 NCAC 14K .0103.
- (55) ~~(53)~~ "Minor Client" means the term as defined in 10 NCAC 14K .0103.
- (56) ~~(54)~~ "Normalization Principle" means the principle of helping individuals to obtain an existence as close to normal as possible by making available to them patterns and conditions of every day life that are as close as possible to the norms and patterns of the mainstream of society.
- (57) ~~(55)~~ "Nurse" means the term as defined in 10 NCAC 14K .0103.
- (58) ~~(56)~~ "Parent" means the term as defined in 10 NCAC 14K .0103.
- (59) ~~(57)~~ "Peer Review" means the formal assessment by professional staff of the quality and efficiency of services ordered or performed by other professional staff.
- (60) ~~(58)~~ "Periodic Service" means a service provided through short recurring visits for individuals who are mentally ill, mentally retarded or substance abusers who can function in their normal environment.
- (61) ~~(59)~~ "Preschool age child" means the term as defined in 10 NCAC 14K .0103.
- (62) ~~(60)~~ "Prevention/intervention Service" means a service provided to the general public or major segments of a community. Service activities include counseling, information, instruction, and technical assistance with the goals of preventing dysfunction and promoting well being.
- (63) ~~(61)~~ "Privileging" means a process by which each staff member's credentials, training and experience are examined and a determination made as to which treatment/habilitation modalities he is qualified to provide.

- (64) ~~(62)~~ "Program Evaluation" means the term as defined in 10 NCAC 14K .0103.
- (65) ~~(63)~~ "Psychiatric Nurse" means the term as defined in 10 NCAC 14K .0103.
- (66) ~~(64)~~ "Psychiatric Social Worker" means the term as defined in 10 NCAC 14K .0103.
- (67) ~~(65)~~ "Psychiatrist" means the term as defined in 10 NCAC 14K .0103.
- (68) ~~(66)~~ "Psychotherapy" means the term as defined in 10 NCAC 14K .0103.
- (69) ~~(67)~~ "Psychotropic Medication" means the term as defined in 10 NCAC 14K .0103.
- (70) ~~(68)~~ "Qualified Alcoholism Professional" means the term as defined in 10 NCAC 14K .0103.
- (71) ~~(69)~~ "Qualified Client Record Manager" means an individual who is a graduate of a curriculum accredited by the Council on Medical Education and Registration of the American Medical Record Association and who is currently registered or accredited by the American Medical Record Association.
- (72) ~~(70)~~ "Qualified Drug Abuse Professional" means the term as defined in 10 NCAC 14K .0103.
- (73) ~~(71)~~ "Qualified Mental Health Professional" means the term as defined in 10 NCAC 14K .0103.
- (74) ~~(72)~~ "Qualified Mental Retardation Professional" means the same as the term "Qualified developmental disabilities professional" as defined in 10 NCAC 14K .0103.
- (75) ~~(73)~~ "Qualified Nutritionist" means the term as defined in 10 NCAC 14K .0103.
- (76) ~~(74)~~ "Qualified Substance Abuse Professional" means the term as defined in 10 NCAC 14K .0103.
- (77) ~~(75)~~ "Registered Dietitian" means the term as defined in 10 NCAC 14K .0103.
- (78) ~~(76)~~ "Rehabilitation" means the term as defined in 10 NCAC 14K .0103.
- (79) ~~(77)~~ "Research" means the term as defined in 10 NCAC 14K .0103.
- (80) ~~(78)~~ "Research Review Board" means a group comprised of at least five members which has the authority to approve, require modification, or disapprove proposed research projects of the area program or its contract agencies. Individuals not directly associated with research projects under consideration comprise a majority of the review board. The review board may be established by the program conducting research activities

or by another public or private agency, institution or organization.

- (81) ~~(79)~~ "Residential Service" means a service provided in a 24-hour living environment in a non-hospital setting where room, board, and supervision are an integral part of the care, treatment, habilitation or rehabilitation provided the individual.
- (82) ~~(80)~~ "Respite episode" means the term as defined in 10 NCAC 14K .0103.
- (83) ~~(81)~~ "Screening" means the term as defined in 10 NCAC 14K .0103.
- (84) ~~(82)~~ "Severely Physically Disabled Person" means for the purpose of ADAP (Adult Developmental Activity Program) the term as defined in 10 NCAC 14K .0103.
- (85) ~~(83)~~ "Standard Client Record" means a written account of all services provided a client from the time of formal acceptance of the client by the area program or contract agency until termination of services. This information is documented on standard forms which are filed in a standard order.
- (86) ~~(84)~~ "Standards" means specifications of the required basic levels of activity and required basic levels of human and technical resources necessary for the implementation and operation of mental health, mental retardation and substance abuse programs. Standards are officially titled "Standards for Area Programs and Their Contract Agencies", are codified in 10 NCAC 18I through 18Q and are published by the Division as APSM 35-1.
- (87) ~~(85)~~ "State Facility" means a facility operated by the Division and which provides mental health, mental retardation or substance abuse services.
- (88) ~~(86)~~ "Student" means an individual who is participating in a prescribed course of instruction, for example, an individual who is enrolled in an alcohol and drug education traffic school or a drug education school.
- (89) ~~(87)~~ "Substantially Mentally Retarded Person" means the term as defined in 10 NCAC 14K .0103.
- (90) ~~(88)~~ "Support Services" means the term as defined in 10 NCAC 14K .0103.
- (91) ~~(89)~~ "Telephone Counseling Service" means an organized and publicized service providing short-term supportive counseling, referral, crisis intervention and information.
- (92) ~~(90)~~ "Testing Services" means the administration and interpretation of the results

of standardized instruments for the assessment, diagnosis or evaluation of psychological or developmental disorders.

- (93) ~~(91)~~ "Toddler" means the term as defined in 10 NCAC 14K .0103.
- (94) ~~(92)~~ "Utilization Review" means examination of the appropriateness of admission, services ordered and provided, length of treatment and discharge practice usually on a concurrent basis. Utilization review focuses upon the individual client.
- (95) ~~(93)~~ "Vocational Rehabilitation Services" means services available to eligible mentally and physically disabled citizens who, with reasonable accommodations, can perform the essential function of the job in question as defined in the Rehabilitation Act of 1973 (P.L. 93-112 as amended).

Statutory Authority G.S. 122C-3; 143B-147.

SUBCHAPTER 18M - REQUIRED SERVICES

SECTION .0400 - CASE MANAGEMENT FOR INDIVIDUALS OF ALL DISABILITY GROUPS

.0408 CASE MANAGEMENT ACTIVITIES

(a) Case management activities shall include:

- (1) comprehensive assessment of the client's treatment/habilitation needs or problem areas;
- (2) the allocation of responsibilities for implementation and monitoring of the treatment/habilitation plan;
- (3) establishment of separate and joint responsibilities among staff and service agencies involved in helping the individual;
- (4) planning for need ~~4~~ or problem resolution through the identification or development of an appropriate service network inclusive of all available resources; and
- (5) the evaluation of outcomes.

(b) When infants and toddlers are served, the following additional activities are included:

- (1) developing transition plans in conjunction with the family related to entry into pre-school which are the responsibility of the Department of Public Instruction or other involved public or private service providers;
- (2) facilitating and participating in the development, review and evaluation of individualized family service plans;
- (3) informing families of the availability of advocacy services;
- (4) coordinating with medical and health providers; and

- (5) assisting parents of eligible children in gaining access to the early intervention services and other services identified in the individualized family services plan.

Statutory Authority G.S. 122C-63; 143B-147.

.0409 STAFF QUALIFICATIONS

When infants, toddlers and preschoolers are served, the case manager shall have demonstrated knowledge and understanding about:

- (1) infants and toddlers with or at risk for developmental delays or atypical development;
- (2) Part H of PL 99-457, the federal regulations related to it and relevant state statutes and standards;
- (3) effective and appropriate help-giving behaviors; and
- (4) the nature and scope of the services available under the state's early intervention program, resources available for payment for services and other related information.

Statutory Authority G.S. 122C-63; 143B-147.

TITLE 14A - DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Crime Control & Public Safety/Division of State Highway Patrol intends to amend rules cited as 14A NCAC 911 .0302, .0801 - .0804.

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

The public hearing will be conducted at 10:00 a.m. on May 3, 1990 at Library, Second Floor, Archdale Building, 512 N. Salisbury Street, Raleigh, NC 27611.

Comment Procedures: Any interested person may present comments relevant to the action proposed at the public hearing either in writing or oral form. Written statements not presented at the public hearing may be directed prior to the hearing to Wanda D. Goodson, Administrative Procedures Coordinator, First Floor, Archdale Building, 512 N. Salisbury Street, P.O. Box 27687, Raleigh, NC 27611-7687.

CHAPTER 9 - STATE HIGHWAY PATROL

SUBCHAPTER 9H - ENFORCEMENT REGULATIONS

SECTION .0300 - WRECKER SERVICE

.0302 ROTATION OF WRECKER REQUESTS

(a) When a motorist does not request a particular wrecker service, members shall inform the telecommunicator as to the person making the request and shall inform the telecommunicator that the person has no preference as to a wrecker service. Troop commanders may arrange for telecommunicators to maintain a computerized rotation wrecker service log on which private business concerns providing dependable, 24-hour wrecker service may be listed at their request, provided they conform with the laws governing the operation of wreckers. Telecommunicators shall be responsible for assuring that each service is called on a regular and equal rotating basis, unless emergency circumstances require a deviation from the rotation policy, as described in ~~Paragraph~~ Paragraphs (c) and (d) of this Regulation, or the Patrol Troop Commander approves the use of a "Zone Wrecker Services" concept for a particular jurisdiction because of special considerations.

(b) The telecommunicator shall enter in the computerized ~~note on the~~ log the name of the wrecker service contacted and the response by the service to the request. The telecommunicator shall note in the log the date and time of the call and shall initial his entry in the log. The date and time of the call is automatically recorded in the computerized log as well as the identification number of the telecommunicator making the entry.

(c) When an emergency exists, members shall not be required to call wreckers requested by motorists or required by the rotation log, but shall instead call the nearest available wrecker service, when an emergency exists. (For example, when traffic congestion is a major problem, when persons are pinned in the wreckage, when danger of fire or explosion is present, or when other emergency situations exist.)

(d) In the event the computerized rotation log is not in service (CAD down), the member requesting wrecker service shall be notified. The member shall request the nearest available rotation wrecker. The request shall be entered on the slip log by the communications center as "CAD DOWN NEAREST ROTATION WRECKER REQUESTED BY (UNIT CALL NUMBER)".

Statutory Authority G.S. 20-184; 20-185; 20-187; 20-188.

SECTION .0800 - PERSONS IN CUSTODY

.0801 SEARCH FOR WEAPONS

Members shall search all ~~male~~ prisoners and take possession of all weapons and evidence. Exceptions may be made to this Rule as noted in Rule .0802.

Statutory Authority G.S. 15A-231; 15A-401; 20-184; 20-185; 20-187; 20-188.

.0802 SEARCH OF PRISONERS OF THE OPPOSITE SEX

(a) A ~~male~~ member shall search a ~~female~~ prisoner of the opposite sex only when an immediate search is necessary to assure the safety of the prisoner, member or others, or to preserve evidence which might otherwise be destroyed. If a member of the same sex as the prisoner is not available, only a pat-down search will be conducted unless circumstances warrant an immediate, thorough search.

(b) A pat-down search may be delayed until the arrival of a second officer. If a second officer is not available and or there is a safety issue, the pat-down search will not be delayed.

(c) ~~(b)~~ Searches made under such conditions shall be made with all possible regard for decency and, if possible, a witness should be present.

Statutory Authority G.S. 15A-231; 15A-401; 20-184; 20-185; 20-187; 20-188.

.0803 TRANSPORTING PRISONERS

Members shall ~~transport prisoners to an appropriate place of detention without delay and shall not accompany a prisoner to the prisoner's place of residence without the consent of a superior officer.~~ search and handcuff all persons under arrest or in custody prior to transportation and shall not remove the handcuffs until the prisoner is delivered to a detention facility. Exceptions to this Rule may be made within the discretionary guidelines of Directive 72, Security and Transportation of Prisoners.

Statutory Authority G.S. 20-184; 20-185; 20-187; 20-188.

.0804 TRANSPORTING PRISONERS OF THE OPPOSITE SEX

(a) ~~A male member shall not transport a female without a third person being present throughout the trip.~~ When transportation of a person of the opposite sex is necessary, a third person, if possible, should be present throughout the trip. Exceptions may be made whenever it is impossible or impractical to have a third person present.

(b) Whenever it is necessary for a ~~male~~ member to transport a ~~female~~ person of the opposite sex

without the presence of a third person, he /she shall:

- (1) Notify the telecommunicator on duty of the time of departure or arrest, the odometer reading, destination and estimated time of arrival at that location; identity and description of the person, reason for arrest or transportation, location, destination and odometer reading.
- (2) Upon arrival at the destination the member shall notify the telecommunicator of the time and the odometer reading, such arrival, with a repeat of the identity of the person transported and the odometer reading.

(c) Exceptions may be made to the Rules set forth in this Section in individual cases when authorized by a First Sergeant or higher authority.

Statutory Authority G.S. 20-184; 20-185; 20-187; 20-188.

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

Notice is hereby given in accordance with G.S. 150B-12 that the Environmental Management Commission intends to amend rule(s) cited as 15A NCAC 2B .0315.

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

The public hearing will be conducted at 7:00 p.m. on June 7, 1990 at Superior Courtroom, Craven County Courthouse, 302 Broad Street, New Bern, N.C.

Comment Procedures: All persons interested in this matter are invited to attend. Comments, statements, data, and other information may be submitted in writing prior to, during, or within 30 days after the hearing or may be presented orally at the hearing. Oral statements may be limited at the discretion of the hearing officer. Submittal of written copies of oral statements is encouraged. For more information please contact Suzanne H. Keen, Division of Environmental Management, P.O. Box 27687, Raleigh, NC 27611 (919) 733-5083.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER STANDARDS: MONITORING

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

.0315 NEUSE RIVER BASIN

(b) The Neuse River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) September 14, 1980;
- (4) August 9, 1981;
- (5) January 1, 1982;
- (6) April 1, 1982;
- (7) December 1, 1983;
- (8) January 1, 1985;
- (9) August 1, 1985;
- (10) February 1, 1986;
- (11) May 1, 1988;
- (12) July 1, 1988;
- (13) October 1, 1988;
- (14) January 1, 1990;
- (15) November 1, 1990.

(f) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective November 1, 1990 with the reclassification of the following waters described in Paragraphs (f)(1) through (3):

- (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-(4)] 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-(6)] from Wood Landing to the Neuse River from Class SC Sw NSW to Class SB Sw NSW.

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

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the EHNR - Division of Environmental Management intends to adopt rule(s) cited as 15A NCAC 2N .0101 - .0104; .0201 - .0203; .0301 - .0303; .0401 - .0405; .0501 - .0506; .0601 - .0604; .0701 - .0708; .0801 - .0805.

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

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

Asheville
May 2, 1990
Humanities Lecture Hall
UNC-Asheville

Raleigh
May 7, 1990
Ground Floor Hearing Room
Archdale Building
512 N. Salisbury Street

New Bern
May 10, 1990
Craven County Courthouse
302 Broad Street
2nd Floor

Comment Procedures: Oral comments may be made at a hearing, or written statements may be submitted to the agency prior to April 30, 1990. Written copies of oral statements exceeding three minutes are requested. Oral statements may be limited at the discretion of the hearing officers. Send comments to: Randy Prillaman, Envir. Specialist, EHNR-DEM-Groundwater, P. O. Box 27687, Raleigh, NC 27611. Telephone (919) 733-3221.

SUBCHAPTER 2N - UNDERGROUND STORAGE TANKS

SECTION .0100 - GENERAL CONSIDERATIONS

.0101 GENERAL

(a) The purpose of this Subchapter is to establish the technical standards and corrective action requirements for owners and operators of underground storage tanks.

(b) The Groundwater Section of the Division of Environmental Management shall administer the underground storage tank program for the State of North Carolina.

(c) Division staff may conduct inspections as necessary to ensure compliance with these Rules.

(d) Subsequent to the effective date of this Rule land owners shall ensure that the presence and location of all UST systems are recorded on all deeds, at the time of transfer, to any property on which the UST systems are located.

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h).

.0102 COPIES OF REFERENCED FEDERAL REGULATIONS

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

of Environment, Health and Natural Resources regional offices. They are:

- (1) Asheville Regional Office, Interchange Building, 59 Woodfin Place, Post Office Box 370, Asheville, North Carolina 28802;
- (2) Winston-Salem Regional Office, Suite 100, 8025 North Point Boulevard, Winston-Salem, North Carolina 27106;
- (3) Mooresville Regional Office, 919 North Main Street, Mooresville, North Carolina 28115;
- (4) Raleigh Regional Office, 3800 Barrett Drive, Post Office Box 27687, Raleigh, North Carolina 27611;
- (5) Fayetteville Regional Office, Wachovia Building, Suite 714, Fayetteville, North Carolina 28301;
- (6) Washington Regional Office, 1424 Carolina Avenue, Farish Building, Washington, North Carolina 27889;
- (7) Wilmington Regional Office, 7225 Wrightsville Avenue, Wilmington, North Carolina 28403.

(b) Copies of such regulations can be made at these regional offices for ten cents (\$0.10) per page.

Statutory Authority G.S. 7A-308(a)(12); 143-215.3(a)(15); 143B-282(2)(h).

.0103 ADOPTION BY REFERENCE UPDATES

The Code of Federal Regulations adopted by reference in this Subchapter shall automatically include any later amendments thereto as allowed by G.S. 150B-14(c).

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h).

.0104 IDENTIFICATION OF TANKS

(a) Owners and operators shall maintain at each facility a diagram that clearly indicates, for each underground storage tank:

- (1) location with respect to property boundaries and any permanent on-site structures;
- (2) total storage capacity, in gallons;
- (3) the exact type of petroleum product (such as unleaded gasoline, No. 2 fuel oil, diesel) or hazardous substance stored; and
- (4) the year the tank was installed.

(b) The diagram shall be made available for inspection, during normal operating hours, to authorized representatives of the Department.

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h).

SECTION .0200 - PROGRAM SCOPE AND INTERIM PROHIBITION

.0201 APPLICABILITY

The provisions for "Applicability" contained in 40 CFR 280.10 (Subpart A) have been adopted by reference in accordance with G.S. 150B-14(c) except that underground storage tanks containing de minimis concentrations of regulated substances are subject to the requirements for permanent closure in Rules .0802 and .0803 of this Subchapter.

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0202 INTERIM PROHIBITION FOR DEFERRED UST SYSTEMS

The provisions for "Interim Prohibition for deferred UST systems" contained in 40 CFR 280.11 (Subpart A) have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0203 DEFINITIONS

(a) The definitions contained in 40 CFR 280.12 (Subpart A) have been adopted by reference in accordance with G.S. 150B-14(c).

(b) This Rule shall apply throughout this Subchapter except that:

- (1) "Implementing agency" shall mean the "Division of Environmental Management."
- (2) "Division" shall mean the "Division of Environmental Management."
- (3) "Director" and "Director of the Implementing Agency" shall mean the "Director of the Division of Environmental Management."

(c) The following definitions shall apply throughout this Subchapter:

- (1) "De minimis concentration" means:
 - (A) In an UST system which contains both a hazardous substance measured as mass per unit volume of liquid, and petroleum, that amount of hazardous substance which does not alter the detectability, effectiveness of corrective action, toxicity or carcinogenicity of the petroleum product to any significant degree, or
 - (B) In an UST system which contains a petroleum product, solely or in combination with one or more non-hazardous substances, that amount of petroleum which does not exceed one percent of the capacity of the tank, excluding piping or vent lines.

- (2) "Expediently emptied after use" means the removal of a regulated substance from an emergency spill or overflow containment UST system within 48 hours after the necessity for use of the UST system has ceased.
- (3) "Previously closed" means:
 - (A) An UST system from which all regulated substances had been removed using commonly employed practices, the tank filled with a solid inert material, and tank openings were sealed or capped prior to December 22, 1988, or
 - (B) An UST system removed from the ground prior to December 22, 1988.
- (4) "Temporarily closed" means:
 - (A) An UST system from which the product has been removed such that not more than one inch of product and residue are present in any portion of the tank; or
 - (B) Any UST system in use as of December 22, 1988 which complies with the provisions of 15A NCAC 2M .0801.
- (5) "Licensed geologist" means a person who is presently registered and licensed as a geologist by the North Carolina Board for Licensing of Geologists.
- (6) "Professional engineer" means a person who is presently registered and licensed as a professional engineer by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors.
- (7) "Secondary containment" means a method or combination of methods of release detection for UST systems that includes, but is not limited to:
 - (A) For tanks, double-walled construction, external liners (including vaults) or other methods, approved by the Division, which meets the provisions of 40 CFR 280.42(b)(5); and
 - (B) For underground piping, trench liners, double-walled construction or other methods, approved by the Division, which meet the provisions of 40 CFR 280.42(b)(5).

Authority G.S. 143-215.3 (a) (15); 143B-282 (2) (h); 150B-14 (c); 40 C.F.R. 280.12.

SECTION .0300 - UST SYSTEMS: DESIGN, CONSTRUCTION, INSTALLATION, AND NOTIFICATION

.0301 PERFORMANCE STANDARDS FOR NEW UST SYSTEMS

- (a) The "Performance standards for new UST systems" contained in 40 CFR 280.20 (Subpart

B) have been adopted by reference in accordance with G.S. 150B-14(c) except that:

- (1) 40 CFR 280.20(a)(2)(iv) has been changed to read "Cathodic protection systems are operated and maintained in accordance with 15A NCAC 2N .0402, or as approved by the Director;"
- (2) 40 CFR 280.20(b)(2)(iv) has been changed to read "Cathodic protection systems are operated and maintained in accordance with 15A NCAC 2N .0402 or as approved by the Director;"
- (3) 40 CFR 280.20(a)(4) is not adopted by reference; and
- (4) 40 CFR 280.20(b)(3) is not adopted by reference.
- (b) No UST system shall be installed:
 - (1) within 100 feet of a well serving a public water system, as defined in 10 NCAC 10D .0702, or within 50 feet of any other well supplying water for human consumption; or
 - (2) within 100 feet of any surface water classified as WS-I, WS-II, WS-III, SA or ORW, as defined in 15A NCAC 2B .0200, or any other source of public water supplies.
- (c) An UST system must meet the requirements of Rule .0503 of this Subchapter if it is installed:
 - (1) within 500 feet of a well serving a public water system, as defined in 10 NCAC 10D .0702 or within 100 feet of any other well supplying water for human consumption; or
 - (2) within 500 feet of any surface water classified as WS-I, WS-II, WS-III, SA or ORW, as defined in 15A NCAC 2B .0200, or any other source of public water supplies; and
 - (3) in a location determined by the Director to be unsuitable for conventional installation based on an evaluation of the site by Division staff.

NOTE: ALTERNATIVE TO PROPOSED .0301

.0301 PERFORMANCE STANDARDS FOR NEW UST SYSTEMS

- (a) The "Performance standards for new UST systems" contained in 40 CFR 280.20 (Subpart B) have been adopted by reference in accordance with G.S. 150B-14(c) except that:

- (1) 40 CFR 280.20(a)(2)(iv) has been changed to read "Cathodic protection systems are operated and maintained in accordance with 15A NCAC 2N .0402, or as approved by the Director;"

- (2) 40 CFR 280.20(b)(2)(iv) has been changed to read "Cathodic protection systems are operated and maintained in accordance with 15A NCAC 2N .0402 or as approved by the Director;"
- (3) 40 CFR 280.20(a)(4) is not adopted by reference; and
- (4) 40 CFR 280.20(b)(3) is not adopted by reference.
- (b) No UST system shall be installed:
 - (1) within 500 feet of a well serving a public water system, as defined in 10 NCAC 10D .0702, or within 50 feet of any other well supplying water for human consumption; or
 - (2) within 500 feet of any surface water classified as WS-I, WS-II, WS-III, SA or ORW, as defined in 15A NCAC 2B .0200, or any other source of public water supplies.
- (c) All UST system must meet the release detection requirements of Rule .0503 of this Subchapter.

Authority G.S. 143-215.3 (a) (15); 143B-282 (2) (h); 150B-14 (c); 40 C.F.R. 280.20.

.0302 UPGRADING OF EXISTING UST SYSTEMS

- (a) The provisions for "Upgrading of existing UST systems" contained in 40 CFR 280.21 (Subpart B) have been adopted by reference in accordance with G.S. 150B-14(c).
- (b) Owners must submit to the Division, on forms provided by the Division, and within 30 days following completion, a description of the upgrading of any UST system conducted in accordance with the requirements of 40 CFR 280.21.

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0303 NOTIFICATION REQUIREMENTS

The "Notification requirements" contained in 40 CFR 280.22 (Subpart B) have been modified as follows:

- (1) Any owner of an UST system must submit to the Division, on forms provided by the Division, a notice of intent to conduct any of the following activities:
 - (a) Installation of a new UST system;
 - (b) Installation of a leak detection device installed outside of the outermost wall of the tank and piping, such as vapor detection or groundwater monitoring devices; and

- (c) Permanent closure or change-in-service of an UST system.
- (2) Notification as required in Paragraph (a) of this Rule shall be given at least 30 days before the activity is begun except as authorized by the Director.
- (3) Owners and operators of UST systems that were in the ground on or after May 8, 1986, were required to notify the Division in accordance with the Hazardous and Solid Waste Amendments of 1984, Public Law 98-616, on a form published by the Environmental Protection Agency on November 8, 1985 (50-FR 46602) unless notice was given pursuant to Section 103(c) of CERCLA. Owners or operators who have not complied with the notification requirements may complete the appropriate portions of the form, provided by the Division, and submit the form to the Division.
- (4) Beginning October 24, 1988, any person who sells a tank intended to be used as an underground storage tank must notify the purchaser of such tank of the owners's notification obligations under Paragraphs (a) and (b) of this Rule.
- (5) Any reference in 40 CFR 280 to the notification form in Appendix I shall refer to the North Carolina notification form approved by the Division and EPA.

Authority G.S. 143-215.3 (a) (15); 143B-282 (2) (h); 150B-14 (c); 40 C.F.R. 280.22.

SECTION .0400 - GENERAL OPERATING REQUIREMENTS

.0401 SPILL AND OVERFILL CONTROL

The provisions for "Spill and overfill control" contained in 40 CFR 280.30 (Subpart C) have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0402 OPERATION AND MAINTENANCE OF CORROSION PROTECTION

The provisions for "Operation and maintenance of corrosion protection" contained in 40 CFR 280.31 (Subpart C) have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0403 COMPATIBILITY

The provisions for "Compatibility" contained in 40 CFR 280.32 (Subpart C) have been

adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0404 REPAIRS ALLOWED

(a) The "Repairs allowed" provisions contained in 40 CFR 280.33 (Subpart C) have been adopted by reference in accordance with G.S. 150B-14(c).

(b) Owners must submit to the Division, on forms provided by the Division, and within 30 days following completion, a description of the repairs made to any UST system performed in accordance with 40 CFR 280.33.

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0405 REPORTING AND RECORDKEEPING

(a) The "Reporting and recordkeeping" procedures contained in 40 CFR 280.34 (Subpart C) have been adopted by reference in accordance with G.S. 150B-14(c).

(b) Owners and operators must also submit to the Division, on forms provided by the Division and within 30 days following completion, results of the site investigation conducted:

- (1) at permanent closure; or
- (2) to insure compliance with the requirements for installation of vapor monitoring and groundwater monitoring devices, as specified in 40 CFR 280.43(e)(1) through (e)(4) and 280.43(f)(1) through (f)(5), respectively.

(c) Owners must submit to the Division, on forms provided by the Division, and within 30 days following completion:

- (1) A description of the repairs made to any UST system performed in accordance with 40 CFR 280.33;
- (2) A description of the upgrading of any UST system conducted in accordance with the requirements of 40 CFR 280.21;
- (3) Certification of the proper operation of a corrosion protection system, as demonstrated by testing, at a frequency and in a manner specified in 40 CFR 280.31;
- (4) Certification of compliance with the requirements for leak detection specified in 40 CFR 280.40, 40 CFR 280.41, 40 CFR 280.42, 40 CFR 280.43 and 40 CFR 280.44. The certification must specify the leak detection method and date of compliance for each UST.

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

SECTION .0500 - RELEASE DETECTION

.0501 GENERAL REQUIREMENTS FOR ALL UST SYSTEMS

The "General requirements for all UST systems" provisions contained in 40 CFR 280.40 (Subpart D) have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0502 REQUIREMENTS FOR PETROLEUM UST SYSTEMS

The "Requirements for petroleum UST systems" provisions contained in 40 CFR 280.41 (Subpart D) have been adopted by reference in accordance with G.S. 150B-14(c).

NOTE: ALTERNATIVE TO PROPOSED .0502

.0502 REQUIREMENTS FOR PETROLEUM UST SYSTEMS

(a) "Requirements for petroleum UST systems" provisions contained in 40 CFR 280.41 (Subpart D) have been adopted by reference in accordance with G.S. 150B-14(c).

(b) All petroleum UST systems shall also comply with the "Requirements for hazardous substance UST systems" provisions contained in 40 CFR 280.42 (Subpart D).

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0503 REQUIREMENTS FOR HAZARDOUS SUBSTANCE UST SYSTEMS

The "Requirements for hazardous substance UST systems" provisions contained in 40 CFR 280.42 (Subpart D) have been adopted by reference in accordance with G.S. 150B-14(c).

NOTE: ALTERNATIVE TO PROPOSED .0503

.0503 REQUIREMENTS FOR HAZARDOUS SUBSTANCE UST SYSTEMS

The "Requirements for hazardous substance UST systems" provisions contained in 40 CFR 280.42 (Subpart D) have been adopted by reference in accordance with G.S. 150B-14(c), except that the requirements shall also apply to petroleum UST systems as designated at Rule .0301(c).

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0504 METHODS OF RELEASE DETECTION FOR TANKS

(a) The "Methods of release detection for tanks" contained in 40 CFR 280.43 (Subpart D) have been adopted by reference in accordance with G.S. 150B-14(c) except that:

- (1) 40 CFR 280.43 (d)(2) is amended to read: "Inventory control, or another test of equivalent performance approved by the Department, conducted in accordance with the requirements of 40 CFR 280.43(a)";
 - (2) 40 CFR 280.43(f)(7) is amended to read: "Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements of 40 CFR 280.43(f)(1) through (f)(5), as modified by this Rule, and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains products"; and
 - (3) 40 CFR 280.43(f)(3), (f)(4), and (f)(5) are not adopted by reference.
- (b) Wells used for monitoring or testing for liquids on the groundwater shall be:
- (1) For new installations, located within and at the end of the excavation having the lowest elevation and along piping at intervals not exceeding 50 feet; or
 - (2) For existing installations, located in the excavation zone or as near to it as technically feasible and installed in a borehole at least four inches larger than the diameter of the casing;
 - (3) A minimum of two inches in diameter. The number of wells installed must be sufficient to detect releases from the UST system;
 - (4) Equipped with a screen that extends from two feet below land surface to a depth of 20 feet below land surface or the seasonal low water level, whichever is shallower. The screen shall be designed and installed to prevent the migration of natural soils or filter pack into the well while allowing the entry of regulated substances into the well under both high and low groundwater level conditions;
 - (5) Surrounded with a clean sand or gravel to the the top of the screen, plugged and grouted the remaining distance to finished grade with cement grout;
 - (6) Constructed of a permanent casing and screen material that is inert to the stored substance and is corrosion resistant;

- (7) Developed upon completion of installation until the water is clear and relatively sediment free;
- (8) Protected with a water tight cover and lockable cap;
- (9) Labeled as a liquid monitor well; and
- (10) Equipped with a continuously operating liquid leak detection device; or
 - (A) For tanks storing petroleum products, tested at least once every 14 days with a device hydrocarbon-sensitive paste capable of detecting the liquid stored; or
 - (B) For tanks storing hazardous substances, sampled and tested at least once every 14 days for the presence of the stored substance.
- (c) Wells used for monitoring or testing for liquids on the groundwater at new installations, and constructed in accordance with Paragraph (b) of this Rule, shall be deemed to be permitted in accordance with the requirements of 15A NCAC 2B .0105.
- (d) Any person completing or abandoning any well, used for testing of vapors or monitoring for liquids on the groundwater, shall submit the record required by Rule .0114(b) of the Well Construction Standards (15A NCAC 2C .0100).
- (e) The site assessments required by 40 CFR 280.43(e)(6) and 40 CFR 280.43(f)(7) shall be conducted by or under the supervision of a licensed geologist or professional engineer.
- (f) Wells used for monitoring for the presence of vapors in the soil gas of the excavation zone shall be equipped with a continuously operating vapor detection device or tested at least once every 14 days for the presence of the substance stored.

Authority G.S. 143-215.3 (a) (15); 143B-282 (2) (h); 150B-14 (c); 40 C.F.R. 280.43.

.0505 METHODS OF RELEASE DETECTION FOR PIPING

The "Methods of release detection for piping" provisions contained in 40 CFR 280.44 (Subpart D) have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0506 RELEASE DETECTION RECORDKEEPING

The provisions for "Release detection record-keeping" contained in 40 CFR 280.45 (Subpart D) have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

SECTION .0600 - RELEASE REPORTING, INVESTIGATION, AND CONFIRMATION

.0601 REPORTING OF SUSPECTED RELEASES

The provisions for "Reporting of suspected releases" contained in 40 CFR 280.50 (Subpart E) have been adopted by reference in accordance with G.S. 150B-14(c), except that the words, "or another reasonable time period specified by the implementing agency," are deleted from the first sentence.

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0602 INVESTIGATION DUE TO OFF-SITE IMPACTS

The "Investigation due to off-site impacts" provisions contained in 40 CFR 280.51 (Subpart E) have been adopted by reference in accordance with G.S. 150B-14(c).

Authority G.S. 143-215.3 (a) (15); 143B-282 (2) (h); 150B-14 (c); 40 C.F.R. 280.51

.0603 RELEASE INVESTIGATION AND CONFIRMATION STEPS

The "Release investigation and confirmation steps" provisions contained in 40 CFR 280.52 (Subpart E) have been adopted by reference in accordance with G.S. 150B-14(c), except that the first sentence has been rewritten to read: "Unless corrective action is initiated in accordance with Subpart F, owners must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under Section 280.50 within seven days, unless prior approval for an extension of time has been granted by the Director before the seven days have expired, using either the following steps or another procedure approved by the Division."

Authority G.S. 143-215.3 (a) (15); 143B-282 (2) (h); 150B-14 (c); 40 C.F.R. 280.52.

.0604 REPORTING AND CLEANUP OF SPILLS AND OVERFILLS

The "Reporting and cleanup of spills and overfills" provisions contained in 40 CFR 280.53 (Subpart E) have been adopted by reference in accordance with G.S. 150B-14(c), except that:

- (1) In 40 CFR 280.53(a) and (b), the words, "or another reasonable time period specified by the implementing agency," are not adopted by reference;

- (2) In 40 CFR 280.53(a)(1) and (b), the words, "or another reasonable amount specified by the implementing agency" are not adopted by reference; and

- (3) In 40 CFR 280.53(b), the words, "or another reasonable amount specified by the implementing agency" and the words "or another reasonable time period specified by the implementing agency," are not adopted by reference.

Authority G.S. 143-215.3 (a) (15); 143B-282 (2) (h); 150B-14 (c); 40 C.F.R. 280.53.

SECTION .0700 - RELEASE RESPONSE AND CORRECTIVE ACTION FOR UST SYSTEMS CONTAINING PETROLEUM OR HAZARDOUS SUBSTANCES

.0701 GENERAL

(a) The "General" provisions contained in 40 CFR 280.60 (Subpart F) have been adopted by reference in accordance with G.S. 150B-14(c).

(b) Any corrective action undertaken in accordance with this Section must meet the requirements and standards specified in 15A NCAC 2L .0106.

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0702 INITIAL RESPONSE

The provisions for "Initial response" contained in 40 CFR 280.61 (Subpart F) have been adopted by reference in accordance with G.S. 150B-14(c), except that the words, "or another reasonable time period specified by the implementing agency," in the first sentence are not adopted by reference.

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0703 INITIAL ABATEMENT MEASURES AND SITE CHECK

The provisions for "Initial abatement measures and site check" contained in 40 CFR 280.62 (Subpart F) have been adopted by reference in accordance with G.S. 150B-14(c), except that:

- (1) 40 CFR 280.61(a)(6) is rewritten to read, "Investigate to determine the possible presence of free product, and begin free product removal within ten days, unless prior approval for an extension of time has been granted by the Director before the ten days have expired, and in accordance with 40 CFR 280.64;" and
- (2) In 40 CFR 280.62(b) the words, "or within another reasonable period of time deter-

mined by the implementing agency," are not adopted by reference.

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0704 INITIAL SITE CHARACTERIZATION

The provisions for "Initial site characterization" contained in 40 CFR 280.63 (Subpart F) have been adopted by reference in accordance with G.S. 150B-14(c), except that in 40 CFR 280.63(b) the words, "or another reasonable period of time determined by the implementing agency," are replaced by the words, "unless prior approval has been granted by the Director before the 45 days have expired."

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0705 FREE PRODUCT REMOVAL

The provisions for "Free product removal" contained in 40 CFR 280.64 (Subpart F) have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0706 INVESTIGATIONS FOR SOIL AND GROUND WATER CLEANUP

The provisions for "Investigations for soil and ground-water cleanup" contained in 40 CFR 280.65 (Subpart F) have been adopted by reference in accordance with G.S. 150B-14(c), except that 40 CFR 280.65(b) has been rewritten to read, "Owners and operators must conduct the investigation and submit the information collected under Paragraph (a) of this Section in accordance with a special order, consent special order or similar document."

Authority G.S. 143-215.3 (a) (15); 143B-282 (2) (h); 150B-14 (c); 40 C.F.R. 280.65.

.0707 CORRECTIVE ACTION PLAN

The provisions for a "Corrective action plan" contained in 40 CFR 280.66 (Subpart F) have been adopted by reference in accordance with G.S. 150B-14(c), except that:

- (1) 40 CFR 280.66(a) has been rewritten to read: "At any point after reviewing the information submitted in compliance with 40 CFR 280.61 through 40 CFR 280.63, the Division may require owners and operators to submit additional information or to develop and submit a corrective action plan for responding to contaminated soils and

groundwater. If a plan is required, owners and operators must submit the plan according to a schedule and format established by the Division. Owners and operators are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the Division, and must modify their plan as necessary to meet this standard"; and

- (2) In 40 CFR 280.66(c) the words "schedule and in a format established by the implementing agency," are replaced by the words "special order, consent special order, or similar document."

Authority G.S. 143-215.3 (a) (15); 143B-282 (2) (h); 150B-14 (c); 40 C.F.R. 280.66.

.0708 PUBLIC PARTICIPATION

(a) The provisions for "Public participation" contained in 40 CFR 280.67 (Subpart F) have been adopted by reference in accordance with G.S. 150B-14(c).

(b) For each confirmed release that requires a corrective action plan, the Division will provide for public participation and notice to those members of the public directly affected by the release and the planned corrective action in accordance with provisions of G.S. 143-215.4(b).

Authority G.S. 143-215.3 (a) (15); 143B-282 (2) (h); 150B-14 (c); 40 C.F.R. 280.67.

SECTION .0800 - OUT-OF-SERVICE UST SYSTEMS AND CLOSURE

.0801 TEMPORARY CLOSURE

The provisions for "Temporary closure" contained in 40 CFR 280.70 (Subpart G) have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0802 PERMANENT CLOSURE AND CHANGES-IN-SERVICE

The provisions for "Permanent closure and changes-in-service" contained in 40 CFR 280.71 (Subpart G) have been adopted by reference in accordance with G.S. 150B-14(c) except that an UST system containing de minimis concentrations of a regulated substance must meet the closure requirements of this Rule within 12 months of the effective date of these Rules.

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

**.0803 ASSESSING THE SITE AT CLOSURE
OR CHANGE-IN-SERVICE**

The provisions for "Assessing the site at closure or change-in-service" contained in 40 CFR 280.72 (Subpart G) have been adopted by reference in accordance with G.S. 150B-14(c), except that:

- (1) references to methods and requirements have been expanded to include all applicable references and methods listed in 15A NCAC 2M .0504;
- (2) site assessments shall be conducted by or under the supervision of a licensed geologist or professional engineer;
- (3) the number and location of samples, and method of their collections shall be determined in accordance with procedures established by the Department; and
- (4) the requirements of this Rule do not apply to USTs which were temporarily closed prior to December 22, 1988.

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

**.0804 APPLICABILITY TO PREVIOUSLY
CLOSED UST SYSTEMS**

The "Applicability to previously closed UST systems" provisions contained in 40 CFR 280.73 (Subpart G) have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

.0805 CLOSURE RECORDS

The "Closure records" provisions contained in 40 CFR 280.74 (Subpart G) have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-14(c).

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Marine Fisheries Commission intends to adopt rule(s) cited as 15A NCAC 3H .0001 - .0004; 3I .0001 - .0012; 3J .0101 - .0109, .0201 - .0207, .0301 - .0304; 3K .0101 - .0107, .0201 - .0205, .0301 - .0305, .0401 - .0403, .0501 - .0506; 3L .0101 - .0104, .0201 - .0205, .0301 - .0302; 3M .0101 - .0102, .0201 - .0206, .0301 - .0302, .0401 - .0404, .0501 - .0507; 3N .0001 - .0005; 3O .0101 - .0109, .0201 - .0210; 3P .0001 - .0002; 3Q .0101 - .0107, .0201 - .0202; 3R .0001 - .0011; and repeal rule(s) cited as 15A

NCAC 3A .0001 - .0002, .0004 - .0005; 3B .0101 - .0103, .0105, .0107 - .0109, .0111, .0113 - .0117, .0201 - .0203, .0205 - .0207, .0301 - .0302, .0304 - .0310, .0401 - .0404, .0408 - .0410, .0413, .0501 - .0505, .0602, .0701 - .0702, .0801 - .0802, .0901 - .0907, .1001 - .1005, .1101 - .1103, .1105 - .1109, .1111, .1201 - .1205, .1401 - .1408, .1501 - .1507, .1601 - .1605; 3C .0102 - .0104, .0110, .0114, .0201, .0203, .0206, .0209 - .0210, .0212, .0302 - .0305, .0308 - .0312, .0314; 3E .0101; 3F .0101 - .0107, .0201 - .0202; 3G .0001 - .0011.

The proposed effective date of this action is January 1, 1991, with the exception of Rule 3K .0202 proposed for September 1, 1991.

The public hearing will be conducted at 7:30 p.m. on:

May 7, 1990
Beaufort County Superior Courtroom
Washington

May 8, 1990
Elizabeth City State University
Elizabeth City

May 9, 1990
NC Aquarium
Manteo

May 10, 1990
Civic Center
Hatteras

May 14, 1990
Archdale Building
Ground Floor Hearing Room
Raleigh

May 15, 1990
Government Complex
Bolivia

May 16, 1990
New Hanover County Courthouse
Room 302
Wilmington

May 17, 1990
Duke University Marine Lab
Beaufort

Comment Procedures: Comments and statements, both written and oral, may be presented at the hearings. Each hearing will be preceded by a public meeting to begin at 7:00 p.m. Written

comments are encouraged and may be submitted to the Marine Fisheries Commission, PO Box 769, Morehead City, NC 28557. These written and oral comments must be received no later than June 4, 1990.

CHAPTER 3 - MARINE FISHERIES

SUBCHAPTER 3A - DIVISION RULES

- .0001 IDENTIFICATION INFORMATION (REPEALED)
- .0002 BASIC PURPOSE AND FUNCTION OF THE DIVISION (REPEALED)

Statutory Authority G.S. 113-134; 150B-11.

- .0004 DEFINITIONS (REPEALED)
- .0005 DELEGATION OF AUTHORITY TO FISHERIES DIRECTOR (REPEALED)

Statutory Authority G.S. 113-134; 143B-10; 150B-10.

SUBCHAPTER 3B - FISHERIES REGULATIONS FOR COASTAL WATERS

SECTION .0100 - GENERAL REGULATIONS

- .0101 SCOPE AND FUNCTION (REPEALED)
- .0102 DEFINITIONS (REPEALED)
- .0103 TEMPORARY SUSPENSION OF REGULATIONS (REPEALED)

Statutory Authority G.S. 113-121; 113-134; 143B-289.4.

- .0105 LEGAL SIZES AND CREEL LIMITS (REPEALED)

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

- .0107 CONFISCATION AND DISPOSITION (REPEALED)
- .0108 INTRODUCTION OF EXOTICS (REPEALED)
- .0109 OCEAN FISHING PIERS (REPEALED)

Statutory Authority G.S. 113-134; 113-137; 113-182; 113-185; 113-221; 143B-289.4.

- .0111 ARTIFICIAL REEFS AND RESEARCH SANCTUARIES (REPEALED)

Statutory Authority G.S. 113-134; 113-181; 113-182; 143B-289.4.

- .0113 PROTECTION OF SEA TURTLES (REPEALED)
- .0114 SEA TURTLE SANCTUARY (REPEALED)

- .0115 ENDANGERED OR THREATENED SPECIES (REPEALED)
- .0116 SHIPPING AND TRANSPORTING SEAFOOD (REPEALED)
- .0117 MILITARY RESTRICTED AREAS (REPEALED)

Statutory Authority G.S. 113-132; 113-134; 113-138; 113-181; 113-182; 113-224; 143B-289.4.

SECTION .0200 - LICENSES

- .0201 LICENSE AGENTS (REPEALED)
- .0202 DEALER'S AND OCEAN PIER LICENSE DISPLAY (REPEALED)
- .0203 VESSEL LICENSE (REPEALED)

Statutory Authority G.S. 113-134; 113-151.1; 113-152; 143B-289.4.

- .0205 BAIT DEALERS (REPEALED)
- .0206 SURRENDER OF LICENSES (REPEALED)
- .0207 SALE OF FISH (REPEALED)

Statutory Authority G.S. 113-134; 113-151; 113-156; 113-166; 143B-289.4.

SECTION .0300 - NET REGULATIONS: GENERAL

- .0301 FIXED OR STATIONARY NETS (REPEALED)
- .0302 NETS OR NET STAKES (REPEALED)

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

- .0304 GILL NETS (REPEALED)
- .0305 TRAWL NETS (REPEALED)
- .0306 PURSE SEINES AND PURSE GILL NETS (REPEALED)
- .0307 CHANNEL NETS (REPEALED)
- .0308 POUND NETS (REPEALED)
- .0309 NETS PULLED BY MORE THAN ONE BOAT (REPEALED)
- .0310 SEINES PULLED BY ONE OR MORE BOATS (REPEALED)

Statutory Authority G.S. 113-134; 113-182; 113-221; 143B-286; 143B-289.4.

SECTION .0400 - NET REGULATIONS: SPECIFIC

- .0401 ALBEMARLE SOUND AND TRIBUTARIES (REPEALED)
- .0402 ATLANTIC OCEAN (REPEALED)
- .0403 CHOWAN RIVER AND ITS TRIBUTARIES (REPEALED)
- .0404 CURRITUCK SOUND AND ITS TRIBUTARIES (REPEALED)

PROPOSED RULES

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

- .0408 PAMLICO SOUND (REPEALED)
- .0409 ROANOKE, CASHIE, MIDDLE, AND EASTMOST RIVERS (REPEALED)
- .0410 SOUTHPORT BOAT HARBOR (REPEALED)

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

- .0413 CAROLINA POWER AND LIGHT INTAKE CANAL (REPEALED)

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

SECTION .0500 - DREDGES, POTS, RAKES AND OTHER FISHING DEVICES

- .0501 DREDGES AND MECHANICAL METHODS (REPEALED)
- .0502 MISCELLANEOUS FISHING DEVICES (REPEALED)
- .0503 LEAVING DEVICES UNATTENDED (REPEALED)
- .0504 EEL: CRAB: FISH: SHRIMP POTS (REPEALED)
- .0505 RAKES (REPEALED)

Statutory Authority G.S. 113-134; 113-137; 113-182; 113-221; 143B-289.4.

SECTION .0600 - USE OF FINFISH FOR OTHER THAN HUMAN CONSUMPTION

- .0602 UNMARKETABLE FOOD OR SCRAP FISH (REPEALED)

Statutory Authority G.S. 113-134; 113-185; 143B-289.4.

SECTION .0700 - SHRIMP AND SHRIMPING (REPEALED)

- .0701 USE OF NETS IN TAKING SHRIMP
- .0702 SHRIMPING SEASON

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

SECTION .0800 - CRABS (REPEALED)

- .0801 TAKING OF CRABS
- .0802 CRAB SPAWNING SANCTUARIES

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

SECTION .0900 - CLAMS (REPEALED)

- .0901 SIZE AND HARVEST LIMIT, PERMIT, METHOD OF TAKING CLAMS
- .0902 PROHIBITED CLAMMING AREAS
- .0903 RANGIA CLAMS
- .0904 POSSESSION OF UNAPPROVED CLAMS
- .0905 TAKING OR UNLOADING CLAMS ON SUNDAY OR AT NIGHT
- .0906 PERMITS FOR TAKING CLAMS FOR PLANTING
- .0907 CLAM HATCHERIES

Statutory Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-203; 113-221; 143B-289.4.

SECTION .1000 - SCALLOPS (REPEALED)

- .1001 SOAKED OR SWELLED SCALLOPS PROHIBITED
- .1002 BAY SCALLOP SEASON AND HARVEST LIMITS
- .1003 PROHIBITED DREDGES
- .1004 CALICO SCALLOP SEASON
- .1005 SEA SCALLOPS

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

SECTION .1100 - OYSTERS

- .1101 OYSTER SEASON (REPEALED)
- .1102 SHELLFISH MANAGEMENT AREAS (REPEALED)
- .1103 SIZE LIMIT AND CULLING TOLERANCE (REPEALED)

Statutory Authority G.S. 113-134; 113-182; 113-201; 113-221; 143B-289.4.

- .1105 POSSESSION OF UNAPPROVED OYSTERS (REPEALED)
- .1106 MARKETING OYSTERS TAKEN FROM PRIVATE BEDS (REPEALED)
- .1107 PERMITS FOR TAKING OYSTERS FOR PLANTING (REPEALED)
- .1108 TRAWLING ACROSS OYSTER MANAGEMENT BEDS (REPEALED)
- .1109 TAKING OR UNLOADING OYSTERS ON SUNDAY OR AT NIGHT (REPEALED)

Statutory Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-203; 143B-286; 143B-289.4.

- .1111 TAKING OYSTERS, CLAMS, AND MUSSELS FROM POLLUTED WATERS (REPEALED)

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

SECTION .1200 - LOBSTER (REPEALED)

- .1201 MINIMUM SIZE LIMIT

- .1202 EGG BEARING AND SCRUBBED LOBSTERS
- .1203 SHUCKED LOBSTER MEAT
- .1204 DETACHED LOBSTER PARTS
- .1205 LOBSTER TRAPS

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

**SECTION .1400 - NURSERY AREAS
(REPEALED)**

- .1401 SCOPE AND PURPOSE
- .1402 NURSERY AREAS DEFINED
- .1403 MAPS AND MARKING
- .1404 VIOLATION TO USE SPECIFIC NETS AND DREDGES
- .1405 DESCRIPTIVE BOUNDARIES: PRIMARY NURSERY AREAS
- .1406 VIOLATION TO USE SPECIFIC EQUIPMENT
- .1407 DESCRIPTIVE BOUNDARIES: PERMANENT SECONDARY NURSERY AREAS
- .1408 DESCRIPTIVE BOUNDARIES-SPECIAL SECONDARY NURSERY AREAS

Statutory Authority G.S. 113-134; 113-182; 113-221; 113-229; 143B-289.4.

**SECTION .1500 - STRIPED BASS AND MULLET
(REPEALED)**

- .1501 STRIPED BASS: GENERAL
- .1502 STRIPED BASS: SEASON, INTERNAL COASTAL WATERS
- .1503 STRIPED BASS: SIZE AND CREEL LIMIT, INTERNAL COASTAL WATERS
- .1504 STRIPED BASS: SEASON AND SIZE LIMIT: ATLANTIC OCEAN
- .1505 STRIPED BASS: TRAWL NETS
- .1506 HYBRID STRIPED BASS CULTURE
- .1507 MULLET

Statutory Authority G.S. 113-132; 113-134; 113-182; 113-221; 143B-289.4.

**SECTION .1600 - DEPURATION OF
SHELLFISH (REPEALED)**

- .1601 HARVEST SEASON
- .1602 HARVEST AREAS, TIMES AND METHODS
- .1603 HARVEST PERMITS
- .1604 TRANSPORT
- .1605 MECHANICAL DEPURATION FACILITIES

Statutory Authority G.S. 113-134; 113-182; 113-201; 113-221; 143B-289.4.

**SUBCHAPTER 3C - LICENSES; PERMITS; AND
LEASES**

SECTION .0100 - LICENSES

- .0102 APPLICATION FOR A COMMERCIAL FISHING LICENSE (REPEALED)
- .0103 PROCEDURE TO PURCHASE A COMMERCIAL FISHING LICENSE (REPEALED)
- .0104 VESSEL LENGTH DESCRIPTION (REPEALED)

Statutory Authority G.S. 113-151; 113-152; 143B-289.4.

- .0110 APPLICATION FOR AN OYSTER: SCALLOP: CLAM LICENSE (REPEALED)

Statutory Authority G.S. 113-151; 113-154; 143B-289.4.

- .0114 DEALER LICENSES: DEFINITIONS (REPEALED)

Statutory Authority G.S. 113-151; 113-156; 143B-289.4.

SECTION .0200 - PERMITS

- .0201 IN GENERAL (REPEALED)

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

- .0203 PERMIT FOR MECHANICAL HARVEST OF CLAMS (REPEALED)

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

- .0206 PERMITS, SEED MANAGEMENT AREAS (REPEALED)

Statutory Authority G.S. 113-201; 113-203; 143B-289.4.

- .0209 SCIENTIFIC COLLECTING PERMIT (REPEALED)

- .0210 TERMINATION AND EXPIRATION OF LICENSES AND PERMITS (REPEALED)

Statutory Authority G.S. 113-134; 113-151; 113-166; 113-182; 113-261; 143B-289.4; 150B-23.

- .0212 PERMITS FOR AQUACULTURE OPERATIONS (REPEALED)

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

**SECTION .0300 - SHELLFISH LEASES AND
FRANCHISES**

- .0302 SUITABLE AREAS FOR LEASING (REPEALED)
- .0303 SHELLFISH LEASE APPLICATIONS (REPEALED)
- .0304 SHELLFISH LEASE APPLICATION PROCESSING (REPEALED)
- .0305 MARKING SHELLFISH LEASES AND FRANCHISES (REPEALED)

Statutory Authority G.S. 76-40; 113-134; 113-182; 113-201; 113-202; 113-205; 143B-289.4.

- .0308 SHELLFISH LEASE RENEWAL (REPEALED)
- .0309 SHELLFISH LEASE PROTEST (REPEALED)
- .0310 PRODUCTION REPORTS (REPEALED)
- .0311 CANCELLATION (REPEALED)
- .0312 TRANSFER OF INTEREST (REPEALED)

Statutory Authority G.S. 113-134; 113-201; 113-202; 143B-289.4.

- .0314 SHELLFISH FRANCHISES (REPEALED)

Statutory Authority G.S. 113-134; 113-201; 113-202; 113-205; 143B-289.4.

SUBCHAPTER 3E - MARINE FISHERIES COMMISSION

SECTION .0100 - HEARING PROCEDURES

- .0101 CONTESTED CASE HEARING PROCEDURES (REPEALED)

Statutory Authority G.S. 113-134; 143B-289.4; 150B-14(c); 150B-23.

SUBCHAPTER 3F - JURISDICTION OF AGENCIES: CLASSIFICATION OF WATERS

SECTION .0100 - GENERAL REGULATIONS: JOINT (REPEALED)

- .0101 SCOPE AND PURPOSE
- .0102 INLAND FISHING WATERS
- .0103 COASTAL FISHING WATERS
- .0104 JOINT FISHING WATERS
- .0105 POSTING DIVIDING LINES
- .0106 APPLICABILITY OF REGULATIONS: JOINT WATERS
- .0107 SPECIAL REGULATIONS: JOINT WATERS

Statutory Authority G.S. 113-132; 113-134; 143B-286; 143B-289.4.

SECTION .0200 - BOUNDARY LINES: COASTAL-JOINT-INLAND FISHING WATERS (REPEALED)

- .0201 SPECIFIC CLASSIFICATION OF WATERS
- .0202 DESCRIPTIVE BOUNDARIES

Statutory Authority G.S. 113-132; 113-134; 143B-289.4.

SUBCHAPTER 3G - DESCRIPTIVE BOUNDARIES (REPEALED)

- .0001 SEA TURTLE SANCTUARY
- .0002 MILITARY RESTRICTED AREAS
- .0003 TRAWL NETS PROHIBITED
- .0004 PURSE SEINES PROHIBITED
- .0005 MECHANICAL METHODS PROHIBITED
- .0006 DESIGNATED POT AREAS
- .0007 TAKING CRABS WITH DREDGES
- .0008 CRAB SPAWNING SANCTUARIES
- .0009 PRIMARY NURSERY AREAS
- .0010 PERMANENT SECONDARY NURSERY AREAS
- .0011 SPECIAL SECONDARY NURSERY AREAS

Statutory Authority G.S. 113-134; 113-181; 113-182; 113-221; 143B-289.4.

SUBCHAPTER 3H - IDENTIFICATION AND DELEGATION OF AUTHORITY

.0001 IDENTIFICATION INFORMATION

(a) The Marine Fisheries Division of the Department of Environment, Health, and Natural Resources maintains its office headquarters at the Marine Fisheries Building, 3411 Arendell St., Post Office Box 769, Morehead City, North Carolina 28557. Telephone (919) 726-7021, or 1-800-682-2632, toll free in North Carolina.

(b) The coastal area is divided into four management/enforcement districts, each with a District Manager and a District Operations Office. The District Offices are:

- (1) Northern District, Rt. 6, Box 203, Elizabeth City, NC 27909. Telephone (919) 264-3911, or 1-800-338-7805, toll free in North Carolina.
- (2) Pamlico District, Post Office Box 1507, Washington, NC 27889. Telephone (919) 946-6481, or 1-800-338-7804, toll free in North Carolina.
- (3) Central District, Post Office Box 769, Morehead City, NC 28557. Telephone (919) 726-7021, or 1-800-682-2632, toll free in North Carolina.
- (4) Southern District, 7225 Wrightsville Avenue, Wilmington, NC 28403. Telephone (919) 256-4541, or 1-800-248-4536, toll free in North Carolina.

Statutory Authority G.S. 113-134; 150B-11.

.0002 SCOPE AND PURPOSE

(a) The Division of Marine Fisheries is charged with the stewardship of the marine and estuarine resources of the State of North Carolina and is responsible for the management of all marine and estuarine resources. This responsibility includes the administration and enforcement of all statutes and rules governing commercial and recreational fishing in coastal waters, the development and improvement of the cultivation and harvesting of shellfish, and submerged land claims in North Carolina.

(b) In its constant effort to meet its obligations, the Division of Marine Fisheries administers programs in commercial and recreational fisheries management and enforcement, applied research and monitoring, fisheries statistics, shellfish rehabilitation, bottom leasing, submerged land claims, and information and education.

(c) The rules herein are applicable in all coastal waters of North Carolina, including joint fishing waters, and in the Atlantic Ocean.

(d) The rules are designed to carry out, in part, the duty of the Division of Marine Fisheries to maintain, preserve, protect, and develop all the marine and estuarine resources of the State.

Statutory Authority G.S. 113-134; 143B-289.4; 150B-11.

.0003 DELEGATION OF AUTHORITY TO FISHERIES DIRECTOR

(a) The following specific functions have been delegated by the Secretary to the Fisheries Director:

- (1) The authority to return confiscated property when satisfied that the owner of such property had no knowledge of the use of the property for illegal purposes pursuant to G.S. 113-137;
- (2) The authority to select license agents pursuant to G.S. 113-151.1;
- (3) The authority to suspend or revoke all licenses pursuant to G.S. 113-166;
- (4) The authority to renew or terminate shellfish leases pursuant to G.S. 113-202;
- (5) The authority to settle claims of ownership of estuarine bottoms pursuant to G.S. 113-206; and
- (6) The authority to issue Scientific Collecting Permits pursuant to G.S. 113-261.

(b) The proclamation authority granted to the Fisheries Director by the Marine Fisheries Commission within this Chapter includes the author-

ity to close as well as open seasons and areas and establish conditions governing various activities.

Statutory Authority G.S. 113-134; 113-137; 113-151.1; 113-166; 113-182; 113-202; 113-206; 113-261; 143B-289.4.

.0004 DELEGATION OF ENFORCEMENT AUTHORITY TO FEDERAL OFFICERS

(a) In accordance with the authority granted in G.S. 113-138, the Fisheries Director may confer, or cause to be conferred, enforcement jurisdiction upon duly appointed Special Conservation Officers of the National Marine Fisheries Service that have been certified as law enforcement officers under standards of the North Carolina Criminal Justice and Training Standards Act. Such jurisdiction conferred may be rescinded at any time by the Fisheries Director.

(b) The enforcement powers conferred by the authority of this Rule are limited to:

- (1) Matters within the jurisdiction of the North Carolina Marine Fisheries Commission with respect to marine and estuarine resources, and are invalid until completion of the oath required of public officers before an officer authorized to administer oaths; and
- (2) The time period of Federal employment as Special Conservation Officers while assigned to duty stations in North Carolina.

Statutory Authority G.S. 113-134; 113-138; 113-182; 143B-289.4.

SUBCHAPTER 3I - GENERAL RULES

.0001 DEFINITIONS

(a) Except as otherwise provided, all definitions set out in Subchapter IV of Chapter 113 of the General Statutes apply in these Rules.

(b) The following additional terms are hereby defined:

- (1) Commercial Fishing Equipment. All fishing equipment used in coastal fishing waters except:
 - (A) Seines less than 12 feet in length;
 - (B) Spears;
 - (C) A dip net having a handle not more than eight feet in length and a hoop or frame to which the net is attached not exceeding 60 inches along the perimeter;
 - (D) Hook-and-line and bait-and-line equipment other than multiple-hook or multiple-bait trotline;
 - (E) A landing net used to assist in taking fish when the initial and primary method

of taking is by the use of hook and line; and

- (F) Cast Nets.
- (2) Fixed or stationary net. A net anchored or staked to the bottom, or some structure attached to the bottom, at both ends of the net;
 - (3) Mesh Length. The diagonal distance from the inside of one knot to the outside of the other knot, when the net is stretched hand-tight;
 - (4) Possess. Any actual or constructive holding whether under claim of ownership or not;
 - (5) Transport. Ship, carry, or cause to be carried or moved by public or private carrier by land, sea, or air;
 - (6) Use. Employ, set, operate, or permit to be operated or employed;
 - (7) Purse Gill Nets. Any gill net used to encircle fish when the net is closed by the use of a purse line through rings located along the top or bottom line or elsewhere on such net;
 - (8) Internal Coastal Waters or Internal Waters. All coastal fishing waters except the Atlantic Ocean;
 - (9) Channel Net. A net used to take shrimp which is anchored or attached to the bottom at both ends or with one end anchored or attached to the bottom and the other end attached to a boat;
 - (10) Dredge. A device towed by engine power consisting of a frame, tooth bar or smooth bar, and catchbag used in the harvest of oysters, clams, crabs, scallops, or conchs;
 - (11) Mechanical methods for clamming. Includes, but not limited to, dredges, hydraulic clam dredges, stick rakes and other rakes when towed by engine power, patent tongs, kicking with propellers and/or deflector plates with or without trawls, and any other method that utilizes mechanical means to harvest clams;
 - (12) Mechanical methods for oystering. Includes, but not limited to, dredges, patent tongs, stick rakes and other rakes when towed by engine power and any other method that utilizes mechanical means to harvest oysters;
 - (13) Depuration. Purification or the removal of adulteration from live oysters, clams, and mussels by any natural or artificially controlled means;
 - (14) Peeler Crab. A blue crab that has a soft shell developing under a hard shell and having a definite pink, white, or red line

or rim on the outer edge of the back fin or flipper;

- (15) Length of finfish. Determined by measuring along a straight line the distance from the tip of the snout with mouth closed to the tip of the caudal (tail) fin;
- (16) Licensee. Any person holding a valid licence from the Department to take or deal in marine fisheries resources.

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

.0002 TEMPORARY SUSPENSION OF RULES

The Fisheries Director is authorized to suspend, in whole or in part, until the next meeting of the Marine Fisheries Commission, or for a lesser period, the operation of any rule of the Marine Fisheries Commission regarding coastal fisheries which may be affected by variable conditions.

Statutory Authority G.S. 113-121; 113-134; 143B-289.4.

.0003 CONFISCATION AND DISPOSITION

The Fisheries Director is directed to establish administrative procedures for the summary disposition of confiscated live or perishable fish, not inconsistent with the provisions of G.S. 113-137(d). In so doing, he may require inspectors to obtain and file receipts for any fish so disposed of.

Statutory Authority G.S. 113-134; 113-137; 113-221; 143B-289.4.

.0004 INTRODUCTION OF EXOTICS

It is unlawful to introduce into the waters of the State, any live aquatic animal of live aquatic plant, not native to the immediate water area concerned, without first obtaining a permit from the Fisheries Director. This prohibition shall include but not be limited to piranha and walking catfish (*Clarias batrachus*).

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

.0005 LEAVING DEVICES UNATTENDED

It is unlawful to leave stakes, anchors, nets, pots, buoys, or floating devices in any coastal fishing waters when such devices are not being employed in fishing operations, and none of the devices in this Rule may be left in any waters during a time when they could not be legally fished in those waters. Devices used in conjunction with fyke and channel net operations which have not been used in fishing operations for 12 consecutive months shall be deemed abandoned

and shall be removed by the person or persons responsible for their placement. Any fishing equipment found set in coastal fishing waters in violation of this Section or which contains edible species of fish, unfit for human consumption, may be removed and disposed of at the discretion of the Fisheries Director.

Statutory Authority G.S. 113-134; 113-137; 113-182; 143B-289.4.

.0006 SCIENTIFIC COLLECTING PERMIT

It is unlawful to take any marine or estuarine species for scientific purposes which is out of season or otherwise protected without first securing a scientific collecting permit from the Secretary. If the Secretary determines that the request is for a valid scientific purpose and will not result in a significant adverse effect on fisheries management, the permit may be issued. Such permit will be subject to any restrictions concerning areas, times, and sampling methods as the Secretary deems appropriate.

Statutory Authority G.S. 113-134; 113-182; 113-261; 143B-289.4.

.0007 ENDANGERED OR THREATENED SPECIES

(a) Pursuant to a cooperative agreement entered into on February 5, 1979, by the Department of Environment, Health, and Natural Resources, the Marine Fisheries Commission, and the Wildlife Resources Commission, the Wildlife Resources Commission will exercise regulatory jurisdiction over any species of sea turtle, and their eggs and nests, consistent with designation of such species as endangered or threatened by the U.S. Fish and Wildlife Service. As provided by said agreement, the law enforcement officers of both the Marine Fisheries Division and the Wildlife Resources Commission have jurisdiction to enforce any State laws and rules, including those contained in 15A NCAC 101, relating to endangered or threatened species of sea turtles and their eggs and nests.

(b) The Fisheries Director may close or restrict by proclamation any coastal waters with respect to taking or attempting to take any or all kinds of marine resources when the method (equipment) used is a serious threat to an endangered or threatened species listed pursuant to 16 USC 1533(c). Copies of this list may be obtained from the Division of Marine Fisheries, PO Box 769, 3411 Arendell St., Morehead City, North Carolina 28557-0769.

(c) It is unlawful to use any commercial fishing equipment in the sea turtle sanctuary located in

the Atlantic Ocean adjacent to Onslow County as described in 15A NCAC 3R .0001 from June 1 through August 31, except that the Fisheries Directory may, by proclamation, modify the sanctuary within the described area and vary implementation between specified dates for the protection of the sea turtle population.

Statutory Authority G.S. 113-132; 113-134; 113-138; 113-181; 113-182; 113-224; 143B-289.4.

.0008 OCEAN FISHING PIERS

(a) It is unlawful to fish with nets of any kind or from boats within the zone adjacent to any ocean fishing pier meeting the requirements of G.S. 113-185(a), if such zone is marked by one of the following methods or a combination of methods:

(1) Yellow range poles at least three inches in diameter and extending not less than six feet above the surface of the ground, and which are parallel to the pier and identified by signs with the name of the pier printed in letters at least three inches high; or

(2) Buoys, which shall be yellow in color and not less than nine inches in diameter and extend no less than three feet above the surface of the water.

(b) It is unlawful to define a zone that extends more than 750 feet from the pier. When a marking system defines a smaller area than authorized, the limitations on fishing activities shall apply within the marked zone. When the marking system does not include buoys placed seaward of the pier's offshore end, the zone protected under G.S. 113-185 shall be limited to the areas parallel to the sides of the pier and shall include no area seaward of the offshore end of the pier.

(c) Owners of qualifying ocean piers shall be responsible for complying with all applicable local, state and federal regulations for marking systems.

Statutory Authority G.S. 113-134; 113-181; 113-182; 143B-289.4.

.0009 ARTIFICIAL REEFS AND RESEARCH SANCTUARIES

(a) The Fisheries Director may, by proclamation, prohibit or restrict the taking of fish and the use of any equipment in and around any artificial reef or research sanctuary. Any closure or restriction is subject to the following conditions:

(1) Artificial reefs shall not be closed or restricted beyond 500 yards in the Atlantic Ocean or 250 yards in internal coastal

waters. Artificial reefs shall be marked as near center as feasible by one readily identifiable official buoy and distances for closures or restrictions shall be measured from such buoy.

- (2) Any closure or restriction shall be for no more than one year, subject to renewal in the discretion of the Fisheries Director.
- (3) The economic effect of the closure or restriction on fishing interests with respect to the size and location of the area and the nature of the equipment affected shall be considered before such closure is made and findings shall be made in writing which findings shall be available for public inspection at the office of Division of Marine Fisheries in Morehead City.

(b) It is unlawful to engage in any fishing activity, use any equipment, or conduct any other operation which has been prohibited by proclamation issued under this authority.

Statutory Authority G.S. 113-134; 113-181; 113-182; 143B-289.4.

.0010 MILITARY RESTRICTED AREAS

(a) Pursuant to Title 31 United States Code Section 3, the United States Corps of Engineers has adopted regulations which restrict access to and activities within certain areas of coastal and inland fishing waters. The designated areas are used for military training which may include bombing with live ordnance. Fishermen who enter and fish within the areas should follow Federal Regulations to avoid exposure to undetonated ordnance, fragments from exploding ordnance and other dangerous activities. Federal law provides substantial penalties for violations of the federal regulations.

(b) The designated areas are shown on navigational charts and specifically described in the Coastal Pilot and the Code of Federal Regulations (CFR). The descriptions in 15A NCAC 3R .0002(a) show the general location of each such area, the Federal Regulation specifically describing the areas, the Federal Regulations stating the limitations on access to and use of each such area, and the designated military authority to contact for information about permits and/or for access to each such area.

(c) The Brant Island Range in Pamlico Sound has been used for live bomb delivery training since World War II and continues to be used for such training. Military safety studies confirm that the area adjacent to the target has many undetonated ordnances on the bottom. Because of the accompanying hazards, fishermen are

strongly advised to restrict fishing activities within the Brant Island range.

(d) Because of the types of military training at the Piney Island range in Pamlico Sound, fishermen are strongly advised not to use fixed gear including, but not limited to, pots, pound nets, and gill nets in the area described in 15A NCAC 3R .0002(b).

Statutory Authority G.S. 113-134; 113-181; 113-182; 143B-289.4.

.0011 PERMITS FOR AQUACULTURE OPERATIONS

(a) It is unlawful to conduct aquaculture operations without first obtaining a permit from the Fisheries Director. Such permit will be issued on a calendar year basis. All aquaculture operations not required to be permitted by the Wildlife Resources Commission must be permitted by the Fisheries Director.

(b) It is unlawful to take fisheries resources from coastal waters for aquaculture purposes during closed seasons without first obtaining a permit from the Fisheries Director. The Fisheries Director may impose any or all of the following restrictions on the taking of fisheries resources for aquaculture purposes:

- (1) Specify species,
- (2) Specify quantity and/or size,
- (3) Specify time period,
- (4) Specify location,
- (5) Specify gear and/or vendors,
- (6) Specify other conditions as appropriate.

(c) It is unlawful to sell, or use for any purpose not related to North Carolina aquacultural operations, fisheries resources taken under a permit issued in accordance with Paragraph (b) of this Rule.

(d) It is unlawful to fail to submit to the Fisheries Director an annual report specifying the amount and disposition of fisheries resources collected under authority of this permit.

(e) Lawfully permitted shellfish relaying activities authorized by 15A NCAC 3K .0103 and .0104 are exempt from requirements of this Rule.

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

.0012 SPECIAL PERMIT REQUIRED FOR SPECIFIC MANAGEMENT PURPOSES

The Fisheries Director may, by proclamation, require that licensees obtain a special permit and keep such records and accounts as may be reasonably required for participation in a fishery for which harvest quotas and other specific manage-

ment measures are necessary to control the harvest.

Statutory Authority G.S. 113-134; 113-163; 113-182; 113-221; 143B-289.4.

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

SECTION .0100 - NET RULES, GENERAL

.0101 FIXED OR STATIONARY NETS

It is unlawful to use or set fixed or stationary nets:

- (1) In the channel of the Intracoastal Waterway or in any other location where it may constitute a hazard to navigation;
- (2) So as to block more than two-thirds of any natural or manmade waterway, sound, bay, creek, inlet or any other body of water;
- (3) In the middle third of any marked navigation channel;
- (4) In the channel third of the following rivers: Roanoke, Cashie, Middle, Eastmost, Chowan, Little, Perquimans, Pasquotank, North, Alligator, Pungo, Pamlico, and Yeopim.

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

.0102 NETS OR NET STAKES

It is unlawful to use nets or net stakes:

- (1) Within 150 yards of railroad or highway bridge crossing the Northeast Cape Fear River, New River, White Oak River, Trent River, Neuse River, Pamlico River, Roanoke River, and Alligator River;
- (2) Within 300 yards of any highway bridge crossing Albemarle Sound, Chowan River, Croatan Sound, Currituck Sound and Roanoke Sound;
- (3) If such net stakes are of metallic material.

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

**.0103 GILL NETS, IDENTIFICATION,
RESTRICTIONS**

(a) It is unlawful to use gill nets in internal waters unless such net is marked by attached to it at each end two separate yellow buoys which shall be of solid foam or other solid buoyant material no less than five inches in length. Gill nets which are not connected together at the top line shall be considered as individual nets, requiring two buoys at the end of each individual net. Gill nets connected together at the top line shall be considered as a continuous net requiring

two buoys at each end of the continuous net. Any other marking buoys on gill nets shall be yellow except that one additional identification buoy of any color or any combination of colors may be used at either or both ends. The owner shall always be identified on a buoy on each end either by using engraved buoys or by attaching engraved metal or plastic tags to the buoys. Such identification shall include one of the following:

- (1) owner's N.C. motor boat registration number, or
- (2) owner's U.S. vessel documentation name, or
- (3) owner's last name and initials.

(b) It is unlawful to use gill nets:

- (1) Within 200 yards of any pound net which is in use except in Chowan River as provided in 15A NCAC 3J .0203(7).
- (2) With a mesh length less than two and one-half inches except:
 - (A) The Atlantic Ocean, and
 - (B) Drift gill nets used in Roanoke River as provided in 15A NCAC 3J .0205(2).
- (3) March 1 through October 31 in the Intracoastal Waterway within 150 yards of any railroad or highway bridge.
- (4) In the Atlantic Ocean within three nautical miles of the shore:

(A) Unless such nets are marked by attaching to each end a yellow buoy which shall be no less than 24 inches in diameter; and

(B) Without meeting the identification requirements specified in Subparagraphs (1), (2), or (3) of Paragraph (a) of this Rule.

The buoy requirements for the Atlantic Ocean must be complied with no later than January 1, 1993.

(c) It is unlawful to use gill nets within 100 feet either side of center line of the Intracoastal Waterway Channel south of the Highway 33 Bridge at Hobucken Quick Flasher No. 54 in Alligator River at the southern entrance to the Intracoastal Waterway to the South Carolina line, unless such net is used in accordance with the following conditions:

- (1) No more than two gill nets per boat may be used at any one time;
- (2) Any net used must be attended by the fisherman from a boat who shall at no time be more than 100 yards from either net; and
- (3) Any individual setting such nets shall remove them, when necessary, in sufficient time to permit unrestricted boat navigation.

(d) It is unlawful to use unattended drift gill nets in violation of standards in 15A NCAC 3J .0101 and Paragraph (c) of this Rule.

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

.0104 TRAWL NETS

(a) It is unlawful to use trawl nets for the taking of finfish in internal waters, except that it shall be permissible to possess aboard a vessel not more than 200 pounds of finfish taken incidental to crab or shrimp trawling. The Fisheries Director may, by proclamation, close any area to trawling for specific time periods in order to secure compliance of this Rule.

(b) It is unlawful to use trawl nets in the following areas from November 1 through March 31:

- (1) Pamlico/Pungo Rivers - west of a line beginning at a point on Pamlico Point at 35° 18' 43" N - 76° 29' 00" W; thence running 010° (M) through Willow Point Shoal Light to a point on Willow Point at 35° 22' 19" N - 76° 28' 48" W;
- (2) Bay River - west of a line beginning at a point on Maw Point at 35° 09' 02" N - 76° 31' 11" W; thence running 021° (M) through Flashing Green Marker "1" to a point on Bay Point at 35° 11' 01" N - 76° 31' 06" W;
- (3) Neuse River - west of a line beginning at a point on Great Neck Point at 34° 56' 18" N - 76° 42' 25" W; thence running 002° (M) to a point on Wiggins Point at 35° 00' 15" N - 76° 42' 45" W;
- (4) New River - upstream of the Highway 172 Bridge.

(c) It is unlawful to use trawl nets:

- (1) For the taking of oysters or to possess oysters on board a vessel during any open season with a trawl net on such vessel;
- (2) In Albemarle Sound and its tributaries;
- (3) In that area of Shackleford Banks as described in 15A NCAC 3R .0006.

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

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

.0105 PURSE SEINES PROHIBITED

It is unlawful to use purse seines except for the taking of menhaden or Atlantic thread herring.

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

.0106 CHANNEL NETS

(a) It is unlawful to use a channel net:

- (1) Until the Fisheries Director specifies by proclamation, time periods and areas for the use of channel nets and other fixed nets for shrimping.
- (2) Without yellow light reflective tape on the top portion of each staff or stake and on any buoys located at either end of the net.
- (3) With any portion of the set including boats, anchors, cables, ropes or nets within 50 feet of the center line of the Intracoastal Waterway Channel.
- (4) In the middle third of any navigation channel marked by Corps of Engineers and/or U.S. Coast Guard.
- (5) Unless attended by the fisherman who shall be no more than 50 yards from the net at all times.

(b) It is unlawful to use or possess aboard a vessel any channel net with a corkline exceeding 40 yards.

(c) It is unlawful to leave any channel net, channel net buoy, or channel net stakes in coastal fishing waters from December 1 through March 1.

(d) It is unlawful to use floats or buoys of metallic material for marking a channel net set.

(e) From March 2 through November 30, cables used in a channel net operation shall, when not attached to the net, be connected together and any attached buoy shall be connected by non-metal line.

(f) It is unlawful to leave channel net buoys in coastal fishing waters without yellow light reflective tape on each buoy and without the owner's identification being clearly printed on each buoy. Such identification must include one of the following:

- (1) Owner's N.C. motorboat registration number; or
- (2) Owner's U.S. vessel documentation name; or
- (3) Owner's last name and initials.

(g) It is unlawful to use any channel nets, anchors, lines, or buoys in such a manner as to constitute a hazard to navigation.

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

.0107 POUND NETS

(a) It is unlawful to use pound or fyke nets in internal coastal fishing waters without the owner's identification being clearly printed on a sign no less than six inches square, securely attached on an outside corner stake of each such net.

Such identification must include one of the following:

- (1) For pound nets, the pound net registration number and the owner's last name and initials.
- (2) For fyke nets, the owner's N.C. motorboat registration number, the owner's U.S. vessel documentation name, or the owner's last name and initials.

Any pound or fyke net or any part thereof found set in internal coastal fishing waters without proper identification will be in violation and may be removed and disposed of in accordance with law.

(b) It is unlawful to set pound nets, or any part thereof including stakes, in new locations without first obtaining a Pound Net Permit from the Fisheries Director. Application for such Pound Net Permits must be made not less than 90 days prior to installation including the setting of stakes. The Fisheries Director shall issue a public notice of intent to consider issuance of a Pound Net Permit for new locations, and may hold public meetings and take other action which may include denial of Pound Net Permits, deemed necessary to avoid potential user conflicts and to protect traditional uses of the area including construction or use of piers. A Pound Net Permit for a new location may be issued following evaluation by the Fisheries Director and will expire 365 days from the date of issue.

(c) It is unlawful to set pound nets in previously registered or permitted locations without first obtaining a Pound Net Permit for each location from the Fisheries Director. Such permits will expire 365 days from the date of issue. Failure to obtain a Pound Net Permit annually, or abandonment of pound net sets without removal of all stakes, shall constitute a violation and be grounds for refusal of any Pound Net Permit. Application for renewal of Pound Net Permits must be filed not less than ten days prior to expiration and will not be processed unless filed by the prior registrant. When an objection to a renewal is filed during the term of the permit, the Fisheries Director shall review and may deny the permit renewal under the standards for issuance of new Pound Net Permits. Failure to use a pound net site within 60 days of issuance of a Pound Net Permit shall also constitute a violation and be grounds for refusal and or revocation of other Pound Net Permits. It is unlawful to abandon a pound net set without removal of all stakes.

(d) It is unlawful to use a pound net without leaving a marked navigational opening of at least 25 feet at the end of every third pound. Such

openings shall be marked with international orange signs at least six inches square.

(e) It is unlawful to set a pound net, pound net stakes, or other related equipment in internal coastal fishing waters without light reflective tape or light reflective paint on each pound. The tape or paint must cover an area not less than 12 inches vertically, and visible from all directions.

(f) In Core Sound, the Fisheries Director shall by proclamation designate areas for the use of pound and fyke nets.

(g) In Pamlico Sound, it is unlawful to set a pound net, pound net stakes, or any other related equipment without radar reflective tape or metallic material on each end of the pound net set covering an area not less than 12 inches vertically, and visible from all directions.

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

.0108 NETS PULLED BY MORE THAN ONE BOAT

It is unlawful to pull or tow a net with more than one boat except in long-haul fishing operations.

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

.0109 LONG-HAUL FISHING OPERATIONS, IDENTIFICATION REQUIREMENTS

It is unlawful to tow or pull a net in a long-haul or swipe net fishing operation:

- (1) Without a floating buoy attached a minimum of every 100 yards along the cork line. The buoy shall be international orange and shall be no less than five inches in diameter and no less than 11 inches in length; and
- (2) Without a flag, square in shape, international orange in color, at least 24 inches by 24 inches in size, flying in the rigging so as to be visible when approaching the vessel from any direction.

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

SECTION .0200 - NET RULES, SPECIFIC AREAS

.0201 ALBEMARLE SOUND AND TRIBUTARIES

In Albemarle Sound and tributaries: (including Chowan River, excluding Currituck Sound and its tributaries):

- (1) From January 1 through May 31, it is unlawful to use gill nets with a mesh length less than three inches in Albemarle Sound and tributaries, between the mouth of Roanoke,

Middle, Eastmost and Cashie Rivers and the U.S. 64-264 bridges across Roanoke and Croatan Sounds.

- (2) From June 1 through September 30, it is unlawful to use gill nets with a mesh length less than five inches in the Albemarle Sound and tributaries between the mouth of Roanoke, Middle, Eastmost, and Cashie Rivers and the U.S. 64-264 bridges across Roanoke and Croatan Sounds. The Fisheries Director may by proclamation allow the use of gill nets with a mesh length of three inches or less and may require the nets be attended by the fisherman at all times. It is unlawful for any fisherman to use more than 400 yards of nets with a mesh length of three inches or less.
- (3) From October 1 through December 31, it is unlawful to use gill nets with a mesh length less than three and one-half inches in Albemarle Sound and tributaries between the mouth of Roanoke, Middle, Eastmost, and Cashie Rivers and the U.S. 64-264 bridges across Roanoke and Croatan Sounds except attended gill nets as described in Subparagraph (2) of this Rule may be used. Gill nets which have a mesh length three and one-half inches and greater and less than four and one-quarter inches must be sunk to the bottom, set in no less than eight feet of water in the tributaries, ten feet of water in the Sound, and be no more than 35 meshes deep.

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

.0202 ATLANTIC OCEAN

In the Atlantic Ocean:

- (1) It is unlawful to use nets from June 15 through August 15 in the waters of Masonboro Inlet or in the ocean within 300 yards of the beach between Masonboro Inlet and a line running 138° through the water tank on the northern end of Wrightsville Beach, a distance parallel with the beach of 4,400 yards.
- (2) It is unlawful to use trawls within one-half mile of the beach between the Virginia line and Oregon Inlet.
- (3) It is unlawful to use a trawl with a mesh length less than four inches in the main body, three inches in the extension, and one and three-fourths inches in the cod end or tail bag inshore of a line beginning at a point 34° 41' 18" N - 76° 40' 08" W on the western side of Beaufort Inlet Channel (the present location of buoy "11" QK 11); thence

westward parallel to and one-half mile from the ocean back to a point 34° 40' 32" N - 76° 53' 45" W off Salter Path.

- (4) It is unlawful to use gill nets with a mesh length greater than six inches from February 1 through June 30 from Carolina Beach Inlet to the South Carolina line.

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

.0203 CHOWAN RIVER AND ITS TRIBUTARIES

In the Chowan River and its tributaries:

- (1) It is unlawful to anchor the lead line of any net closer than 50 feet from shore except in the Meherrin River.
- (2) It is unlawful to use pound nets or gill nets in any tributary creek or within 150 yards of the mouth of any such tributary creek of the Chowan River.
- (3) It is unlawful to use gill nets with a mesh length less than two and one-half inches in the Meherrin River from January 1 through May 31.
- (4) It is unlawful to set a pound net within 200 yards parallel to any other pound net in the Chowan River.
- (5) It is unlawful to use a seine within 1,000 yards of the mouth of any creek tributary to the Chowan River.
- (6) It is unlawful to set a trotline within 100 yards of a pound net from February 1 through May 31.
- (7) In the Chowan River from the mouth of Wiccacon River to the North Carolina/Virginia border, gill nets may be set perpendicular to the channel a distance of at least 50 feet from the outer portion of a pound net while in use.

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

.0204 CURRITUCK SOUND AND ITS TRIBUTARIES

In Currituck Sound and its tributaries:

- (1) It is unlawful to use any net or seine with more than one power boat.
- (2) It is unlawful to use any seine or haul net which is more than 900 yards in length or which has a mesh length of less than three inches.
- (3) It is unlawful to use gill nets with a mesh length less than three inches from January 1 through May 31.
- (4) From June 1 through September 30, it is unlawful to use gill nets with a mesh length

of five inches or less except gill nets with a mesh length of three and one-fourth inches or less which are attended by the fisherman at all times. It is unlawful to use more than 400 yards of nets with a mesh length of three and one-fourth inches or less.

- (5) From October 1 through December 31, it is unlawful to use gill nets with a mesh length less than three and one-half inches or to set within 300 yards of the shoreline, except gill nets with a mesh length five inches and greater and attended gill nets as described in Subparagraph (4) of this Rule.

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

.0205 ROANOKE, CASHIE, MIDDLE AND EASTMOST RIVERS

In the Roanoke, Cashie, Middle and Eastmost Rivers:

- (1) It is unlawful to use more than one drift gill net per boat and such net must be attended at all times.
- (2) It is unlawful to use drift gill nets with a mesh length of less than two and one-fourth inches or greater than three inches and fixed or stationary gill nets with a mesh greater than three inches, from the mouth of Roanoke, Cashie, Middle and Eastmost Rivers to the Highway 258 bridge during the period April 1 through May 31.
- (3) It is unlawful to use gill nets from June 1 through September 30.

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

.0206 SOUTHPORT BOAT HARBOR

It is unlawful to use any commercial fishing gear in the Southport Boat Harbor, Brunswick County, north of an east-west line across the mouth of the harbor; said line running 34° 55' 00" N and which intersects beacon number 6 at the entrance to the harbor.

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

.0207 CAROLINA POWER AND LIGHT INTAKE CANAL

It is unlawful to use any commercial fishing equipment in the Carolina Power and Light Intake Canal between the fish diversion screen and the Carolina Power and Light Brunswick nuclear power plant.

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

SECTION .0300 - POTS, DREDGES, AND OTHER FISHING DEVICES

.0301 CRAB, EEL, FISH, AND SHRIMP POTS

(a) It is unlawful to use pots except during time periods and in areas specified herein:

- (1) From November 1 through April 30 except that all pots shall be removed from internal waters from January 24 through February 7. The Fisheries Director may, by proclamation, reopen various waters to the use of pots after January 28 if it is determined that such waters are free of pots.
- (2) From May 1 through October 31, north and east of the Highway 58 Bridge at Emerald Isle in areas described in 15A NCAC 3R .0007, except that the Fisheries Director may, by proclamation, designate the areas in Wysocking Bay described in 15A NCAC 3R .0007(4)(a) and adjust designated areas in Long Shoal River for the use of pots during this time period.
- (3) From May 1 through October 31 in the Atlantic Ocean and west and south of the Highway 58 Bridge at Emerald Isle in areas and during time periods designated by the Fisheries Director by proclamation.

(b) It is unlawful to use pots in any navigation channel maintained and marked by State or Federal agencies.

(c) It is unlawful to use pots unless each pot is marked by attaching a floating buoy which shall be of solid foam or other solid buoyant material and no less than five inches in diameter and no less than five inches in length. Buoys may be of any color except yellow. The owner shall always be identified on the attached buoy by using engraved buoys or by engraved metal or plastic tags attached to the buoy. Such identification shall include one of the following:

- (1) owner's N.C. motorboat registration number; or
- (2) owner's U.S. vessel documentation name; or
- (3) owner's last name and initials.

(d) Pots attached to shore or a pier shall be exempt from (a) (2), (a) (3), and (c) of this Rule.

(e) It is unlawful to use shrimp pots with mesh lengths smaller than one and one-fourth inches stretch or five-eighths inch bar.

(f) It is unlawful to use eel pots with mesh sizes smaller than one inch by one-half inch except that not more than two eel pots per fishing operation with a mesh of any size may be used to take eels for bait.

(g) It is unlawful to use crab pots in coastal waters unless each pot contains no less than two escape rings that are at least 2 5/16 inches inside diameter and located in the opposite outside panels of the upper chamber of the pot. Peeler pots with a mesh size less than 1 1/2 inches shall be exempt from the cull ring requirement.

(h) It is unlawful to use more than 150 pots per vessel in Newport River.

(i) Any pots found in violation of this Rule or 15A NCAC 2J .0302 may be removed by marine fisheries enforcement officers and disposed of in accordance with law.

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

.0302 NON-COMMERCIAL USE OF POTS

(a) Pots may be attached to shore or a pier any time of year with the exception of the closed clean-up period specified in 15A NCAC 3J .0301(a)(1).

(b) Pots attached to shore or a pier are not required to meet the buoy and identification requirements specified in 15A NCAC 3J .0301(c), but must meet the minimum mesh length and escape ring requirements specified in 15A NCAC 3J .0301(e), (f) and (g).

(c) The license requirements of G.S. 113-152 apply if a vessel is used in connection with the use of pots.

(d) All provisions of 15A NCAC 3J .0301 apply if pots are not attached to shore or a pier.

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

.0303 DREDGES AND MECHANICAL METHODS PROHIBITED

(a) It is unlawful to use or have aboard a vessel any dredge weighing more than 100 pounds.

(b) It is unlawful to use more than one dredge per vessel to take oysters or crabs or to use any dredges or mechanical methods between sunset and sunrise.

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

.0304 ELECTRICAL FISHING DEVICE

It is lawful to take catfish by the use of a hand-operated device generating pulsating electrical current in the Cape Fear River between Lock and Dam No. 1 in Bladen County downstream to where the Black River joins the Cape Fear River.

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

SUBCHAPTER 3K - OYSTERS, CLAMS, SCALLOPS AND MUSSELS

SECTION .0100 - GENERAL

.0101 PROHIBITED SHELLFISH AREAS/ACTIVITIES

(a) It is unlawful to possess, sell, or take oysters, clams or mussels from areas which have been designated as prohibited (polluted) by proclamation by the Fisheries Director except as provided in 15A NCAC 3K .0103, .0104, and .0401. The Fisheries Director shall issue such proclamations upon notice by the Division of Environmental Health that duly adopted criteria for approved shellfish harvest areas have not been met. The Fisheries Director may reopen any such closed area upon notification from the Division of Environmental Health that duly adopted criteria for approved shellfish harvest areas have been met.

Copies of these proclamations and maps of these areas are available upon request at the Division of Marine Fisheries, 3411 Arendell St., Morehead City, NC 28557; (919) 726-7021.

(b) The Fisheries Director may, by proclamation, close areas to the taking of oysters, clams, scallops and mussels in order to protect the shellfish populations for management purposes or for public health purposes not specified in (a) of this Rule.

(c) It is unlawful to possess or sell oysters, clams, or mussels taken from polluted waters outside North Carolina.

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

.0102 PROHIBITED RAKES

It is unlawful to use a rake more than 12 inches wide or weighing more than six pounds to take oysters or scallops.

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

.0103 SHELLFISH/SEED MANAGEMENT AREAS

(a) It is unlawful to take oysters or clams from any Shellfish Management Area which has been closed and posted, except that the Fisheries Director may, by proclamation, open specific areas to allow the taking of oysters and clams and may designate time, place, character, or dimensions of any method or equipment that may be employed.

(b) It is unlawful to take oysters or clams from Seed Management Areas for planting on private bottoms without first obtaining a permit from the Fisheries Director.

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

.0104 PERMITS FOR PLANTING SHELLFISH FROM POLLUTED AREAS

(a) It is unlawful to take oysters or clams from polluted public waters for planting on private bottoms except:

- (1) As authorized by G.S. 113-203, provided that such person shall first obtain a permit from the Fisheries Director setting forth the time and area from which oysters may be taken. Relaying of oysters from polluted waters shall begin within five days following the statewide closure of the oyster season and shall continue for a period not to exceed six weeks.
- (2) During the period April 1 through May 15, by permit from the Fisheries Director setting forth the time, area and method by which clams may be taken.

(b) The Fisheries Director, acting upon recommendations of the Division of Environmental Health, shall close and reopen by proclamation any private shellfish beds for which the owner has obtained a permit to relay oysters and clams from polluted public waters.

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

.0105 NON-COMMERCIAL HARVEST OF SHELLFISH

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

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

(b) A vessel license, as required by G.S. 113-152 for the use of commercial fishing equipment as defined in 15A NCAC 31 .0001(b)(1) is not required for the non-commercial harvest of shellfish in accordance with limits in Paragraph (a) of this Rule when:

- (1) Oysters are taken by hand tongs, hand rakes in accordance with 15A NCAC 3K .0102, or by hand;
 - (2) Clams are taken by hand tongs, hand rakes, or by hand; and
 - (3) Scallops are taken by hand tongs, hand rakes in accordance with 15A NCAC 3K .0102, dip nets, or by hand.
- (c) It is unlawful to take oysters, clams, or scallops for non-commercial purposes at any time except:
- (1) During regular open seasons;
 - (2) By means and methods described in Paragraph (b) of this Rule; and
 - (3) Oysters and clams may also be taken on Sundays and scallops may also be taken on Saturdays and Sundays during regular open seasons.
- (d) It is unlawful for individuals not meeting shellfish licensing requirements to be aboard a vessel used in connection with a commercial shellfish operation or to take shellfish for non-commercial purposes when such shellfish are taken in connection with a commercial shellfish operation.

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

.0106 TAKING OR UNLOADING OYSTERS AND CLAMS ON SUNDAY OR AT NIGHT

(a) It is unlawful to take oysters or clams on Sunday, except in accordance with 15A NCAC 3K .0105(c), or between the hours of sunset and sunrise on any day.

(b) It is unlawful to unload oysters or clams from any vessel or remove any vessel containing oysters or clams from the water on Sunday or between sunset and sunrise on any day except that in New Hanover, Pender and Brunswick Counties, oysters and clams may be unloaded until two hours after sunset. Oysters and clams taken on Sunday under the provisions of 15A NCAC 3K .0105 are exempt from the Sunday unloading prohibition.

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

.0107 DEPURATION OF SHELLFISH

(a) It is unlawful to take clams, oysters or mussels from the public or private prohibited (polluted) waters of the state for the purpose of depuration in an approved depuration operation except when the harvest will utilize shellfish that would otherwise be destroyed in maintenance dredging operations. All harvest and transport activities within the State of North Carolina re-

lated to depuration shall be under the direct supervision of the Division of Marine Fisheries and/or the Division of Environmental Health.

(b) The Fisheries Director, may, by proclamation, impose any or all of the following restrictions on the harvest of shellfish for depuration:

- (1) Specify species,
- (2) Specify areas except harvest will not be allowed from designated buffer zones adjacent to sewage outfall facilities,
- (3) Specify harvest days,
- (4) Specify time period,
- (5) Specify quantity and/or size,
- (6) Specify harvest methods,
- (7) Specify record keeping requirements.

(c) Harvest permits:

- (1) All persons harvesting clams, oysters or mussels from prohibited (polluted) waters for the purpose of depuration shall first obtain a permit from the Division of Marine Fisheries and Division of Environmental Health setting forth the method of harvest to be employed.
- (2) The permit application shall provide the name, address, location and telephone number of the depuration operation where the shellfish will be depurated.
- (3) Persons desiring to harvest polluted shellfish for depuration shall apply for a harvest permit at least 15 days prior to initiation of harvest.

(d) Transport of clams, oysters or mussels for depuration:

- (1) Clams, oysters or mussels harvested from prohibited (polluted) waters for depuration in an approved depuration operation located within the State of North Carolina shall be transported under the direct supervision of the Division of Marine Fisheries and/or the Division of Environmental Health.
- (2) Clams, oysters or mussels harvested from prohibited (polluted) waters for depuration in an approved depuration operation outside the State of North Carolina shall not be transported within the State of North Carolina except under the direct supervision of the Division of Marine Fisheries or the Division of Environmental Health.

(e) It is unlawful to ship shellfish harvested for depuration to depuration facilities located in a state other than North Carolina unless the facility is in compliance with the applicable rules and laws of the shellfish control agency of that state.

Statutory Authority G.S. 113-134; 113-182; 113-201; 143B-289.4.

SECTION .0200 - OYSTERS

.0201 OPEN SEASON

It is unlawful to take, buy, sell, or possess any oysters from public bottoms except during the open season which begins October 15 for hand harvest, and November 1 for dredges and may extend through March 31. During any open season that may be allowed within the time periods stated herein, the Fisheries Director may, by proclamation, close and open the season or close and open any of the various waters to the taking of oysters and may impose any or all of the following restrictions:

- (1) Specify number of days;
- (2) Specify areas;
- (3) Specify means and methods which may be employed in the taking;
- (4) Specify time period; and
- (5) Limit the quantity.

Statutory Authority G.S. 113-134; 113-182; 113-201; 113-221; 143B-289.4.

.0202 SIZE/POSSESSION LIMIT AND CULLING TOLERANCE

(a) It is unlawful to possess oysters which have accumulated dead shell, accumulated oyster cultch material, a shell length of less than three inches, or any combination thereof that exceeds a five percent tolerance limit by volume. In determining whether the tolerance limit is exceeded, the Fisheries Director and his agents are authorized and empowered to grade all, or any portion, or any combination of portions of the entire quantity being graded, and in cases of violations, may require seizure and return to public bottom or other disposition as authorized by law.

(b) All oysters shall be culled by the catcher where harvested and all oysters of less than legal size, accumulated dead shell and cultch material, shall be immediately returned to the bottom from which taken.

(c) It is unlawful to take, land, or possess aboard a vessel more than 50 bushels of oysters at any one time.

(d) This Rule shall not apply to oysters imported from out-of-state solely for shucking at shucking houses which are currently certified for shucking and packing by the Division of Environmental Health and which hold a valid shucker-packer license.

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

**.0203 TRAWLING ACROSS OYSTER
MANAGEMENT AREAS PROHIBITED**

It is unlawful to tow or pull a trawl net for any purpose across any oyster bed which has been planted and posted by the state.

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

**.0204 DREDGES/MECHANICAL METHODS
PROHIBITED**

It is unlawful to use any dredge or other mechanical method to take oysters:

- (1) In Pamlico Sound within the area described in 15A NCAC 3R .0008(a).
- (2) In Core Sound and its tributaries within the area described in 15A NCAC 3R .0008(b).
- (3) On any posted bottoms upon which oysters or shells have been planted by the state, unless such bottoms have been opened to the public and dredging permitted.
- (4) In any of the areas and their tributaries designated in 15A NCAC 3R .0008(c).

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

**.0205 MARKETING OYSTERS TAKEN FROM
PRIVATE SHELLFISH BOTTOMS**

(a) It is unlawful to take, possess, buy, or sell oysters from private beds during the open season unless such oysters have been culled in accordance with Rule 15A NCAC 3K .0202.

(b) It is unlawful to take, possess, or sell oysters from private beds during the regular closed season without first securing from the Fisheries Director a permit showing the name of the person or persons taking the oysters, the location of the private bed, and the method of harvest. With each sale or other disposition of oysters during the regular closed season, the permittee shall complete and deliver to the purchaser or other recipient a certification that the oysters were taken pursuant to a valid permit. Certification forms shall be furnished by the Department to each permittee upon issuance of a permit. It is unlawful to possess oysters during the closed season except as provided herein.

Statutory Authority G.S. 113-134; 113-182; 113-201; 143B-289.4.

**SECTION .0300 - HARD CLAMS
(MERCENARIA)**

.0301 SIZE AND HARVEST LIMIT

(a) It is unlawful to take, land, or possess aboard a vessel more than 6,250 hard clams per

fishing operation from public bottom. It is unlawful to take, possess, sell, or purchase any clams (except Rangia or freshwater clams) less than one inch thick. Clams shall be culled where harvested and all clams of less than legal size with their shell, shall be immediately returned to the bottom from which taken. The Fisheries Director and his agents are authorized and empowered to grade all, or any portion, or any combination of portions of the entire quantity of clams being graded and may require seizure and return to public bottom or other disposition as authorized by law of the entire quantity being graded or any portion thereof.

(b) For temporary openings made upon the recommendation of Shellfish Sanitation, for maintenance dredging operations, or for relaying of polluted clams to private shellfish bottoms as permitted by 15A NCAC 3K .0104, size and harvest limits established in Paragraph (a) of this Rule and the season and area limitations established in 15A NCAC 3K .0302 may not apply.

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

.0302 MECHANICAL HARVEST SEASON

(a) It is unlawful to take, buy, sell, or possess any hard clams taken by mechanical methods from public bottom except that the Fisheries Director may, by proclamation, open and close the season at any time between December 1 through March 31. The Fisheries Director is further empowered to impose any or all of the following restrictions:

- (1) specify number of days,
- (2) specify areas,
- (3) specify time period,
- (4) specify quantity and/or size, and
- (5) specify means/methods. Any proclamation specifying means and/or methods must be approved by the Marine Fisheries Commission prior to issuance.

(b) The Fisheries Director may, by proclamation, open only areas in Core and Bogue Sounds, Newport, North, White Oak and New Rivers and the Intracoastal Waterway north of "BC" Marker at Topsail Beach which have been opened at any time from January, 1977, through September, 1988, and the Atlantic Ocean to the harvest of clams by mechanical methods. Other areas opened for purposes as set out in 15A NCAC 3K .0301(b) will open only for those purposes.

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

.0303 MECHANICAL HARVEST PERMIT REQUIREMENT

(a) It is unlawful to harvest hard clams by the use of mechanical methods from public or private bottom without first obtaining a permit. Permits are valid only in areas, at times, and under conditions specified by the Fisheries Director based on concerns for other fisheries resources in the vicinity of the areas within which such activity is permitted. Such permit may impose conditions and requirements reasonably necessary for management and enforcement purposes.

(b) The permit will be revoked or suspended under the following conditions:

- (1) If any permit holder refuses to provide clam harvest information upon contact by division staff, either by telephone or in person, his permit shall be suspended. Permits may be reinstated ten days after requested information is provided.
- (2) Upon conviction of violation of marine fisheries law, regulation, or proclamation involving the use of mechanical methods, the owner's permit will be suspended for no less than the following time periods: first conviction -- 10 days; second conviction within three years -- 30 days; third conviction within three years -- 60 days; and upon the fourth conviction within a three-year period, the permit will be permanently revoked.
- (3) Upon conviction of violation of 15A NCAC 3K .0101 or conviction of taking clams with the use of mechanical methods from coastal waters that are closed by proclamation because of pollution, the owner's permit will be suspended for 30 days for the first conviction, and after the second conviction within a three-year period the permit will be permanently revoked.
- (4) In the event the person makes application for a new permit during the period of suspension, no new permit will be issued during the time specified in this Rule. In cases of permanent revocation the minimum waiting period before application for a new permit will be considered will be six months; then only after a hearing before the Fisheries Director or his agent and a finding that issuance of the permit will be in the best interest of fisheries management may a new permit be issued.

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

.0304 PROHIBITED TAKING

(a) It is unlawful to take clams by any method, other than by hand tongs, hand rakes, or by hand, except as provided in Rules 15A NCAC 3K .0302 and .0303. Regardless of the areas which may be opened, it is unlawful to take clams by any method other than hand tongs, hand rakes as described in 15A NCAC 3K .0102, or by hand in any live oyster bed, or in any established bed of aquatic vegetation which is defined as those marine and estuarine areas of North Carolina where eelgrass (*Zostera marina*), shoalgrass (*Halodule wrightii*), widgeon grass (*Ruppia maritima*), and smooth or salt water cordgrass (*Spartina alterniflora*) that may exist together or separately. These vegetation beds occur in both subtidal and intertidal zones, and may occur in isolated patches or cover extensive areas. In either case, the bed is defined by the presence of and consists of entire plants (which during some seasons may be mostly underground) including the above ground leaves and the below ground rhizomes, together with the sediment in which the plant grows.

(b) It is unlawful to possess clam trawls aboard a vessel at any time, or have kick/deflector plates normally used in the mechanical harvest of clams affixed to a vessel at any time, except during the open mechanical clam harvest season. A period of 14 days before and after the mechanical clam harvest season will be allowed for the installation and removal of kick/deflector plates and clam trawls or cages. Vessels with permits for activities provided for in Rules 15A NCAC 3K .0104, .0107, .0303(a), and .0401 shall be exempt from this Rule during the times such activities are permitted.

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

.0305 CLAM HATCHERY PERMIT; RESTRICTIONS

(a) It is unlawful to operate a clam hatchery without first obtaining a permit from the Fisheries Director. Such permit will be issued on a calendar year basis. A clam hatchery is defined as any operation which obtains clams through the process of artificial spawning and/or culture methods.

(b) It is unlawful to possess undersized clams from a hatchery unless such clams are identified in a manner that will permit immediate determination of the point of origin and the ultimate destination.

(c) Possession and sale of clams by a hatchery and purchase and possession of clams from a hatchery shall be exempt from bag and size limit restrictions in 15A NCAC 3K .0301(a), except

that it is unlawful to possess, sell, or transport undersize clams for purposes other than grow-out to legal size for market.

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

SECTION .0400 - RANGIA CLAMS

.0401 PERMIT REQUIREMENT

It is unlawful to take Rangia clams by mechanical methods from all waters, or by any method from polluted waters, without first securing a permit from the Fisheries Director. The permit shall be issued to the boat owner/operator, shall list all crew members involved in the operation, and must accompany the vessel at all times. Such permit shall designate the area and time(s) in which Rangia clams may be taken.

Statutory Authority G.S. 113-134; 113-201; 113-202; 143B-289.4.

.0402 SEASON, SIZE AND HARVEST LIMITS

Season, size, and harvest limits applicable to hard clams in Section 15A NCAC 3K .0300 do not apply to Rangia clams.

Statutory Authority G.S. 113-134; 113-201; 113-202; 143B-289.4.

.0403 DISPOSITION OF MEATS

All meats from clams taken from polluted waters shall be disposed of in a manner (other than for human consumption) acceptable to the North Carolina Divisions of Marine Fisheries and Environmental Health.

Statutory Authority G.S. 113-134; 113-201; 113-202; 143B-289.4.

SECTION .0500 - SCALLOPS

.0501 BAY SCALLOPS - SEASONS AND HARVEST LIMITS

(a) It is unlawful to take bay scallops except that the Fisheries Director may, by proclamation, open the season for harvest, sale, possession and transport of bay scallops for up to four days in December and between the second Monday in January and the last Friday in May. The Fisheries Director may, by proclamation, provide for an open season during the period August 1 through September 15 to hand harvest only (by hand, dip nets, scoops, hand tongs and hand rakes). The Fisheries Director is further empowered to impose any or all of the following restrictions:

(1) specify number of days;

(2) specify areas;

(3) specify means and methods which may be employed in the taking;

(4) specify time period; and

(5) limit the quantity.

(b) For any season provided from December through May, it is unlawful to take more than 20 standard U.S. bushels per person in any one day or to exceed a total of 40 standard U.S. bushels per day in any combined fishing operation.

(c) For any season provided from August 1 through September 15, it is unlawful to take more than ten standard U.S. bushels per person in any one day or exceed a total of 20 standard U.S. bushels per day in any combined fishing operation.

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

.0502 TAKING BAY SCALLOPS AT NIGHT AND ON WEEKENDS

It is unlawful to take bay scallops between sunset and sunrise, or on Saturdays or Sundays, except as provided in 15A NCAC 3K .0105(c).

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

.0503 PROHIBITED BAY SCALLOP DREDGE

It is unlawful to take bay scallops with dredges weighing more than 50 pounds or equipped with teeth. Any other instrument or device designed to drag the bottom to aid in the taking of bay scallops is also prohibited.

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

.0504 CALICO SCALLOP SEASON

It is unlawful to land or possess aboard a vessel calico scallops except at such times as designated by the Fisheries Director by proclamation.

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

.0505 SEA SCALLOPS SIZE LIMIT AND TOLERANCE

It is unlawful to land or possess sea scallops with a shell height (length) of less than three and one-half inches. A tolerance of not more than ten percent by number for undersized sea scallop shell height shall be allowed. In determining whether the proportion of undersized sea scallops exceeds the ten percent tolerance limit, the Fisheries Director and his agents are authorized and empowered to grade all, or any portion, or any

combination of portions of the entire quantity being graded, and in cases of violations, may require seizure or other disposition as authorized by law.

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

**.0506 SOAKED OR SWELLED SCALLOPS
PROHIBITED**

It is unlawful to possess, sell, or take part in the production of soaked or swelled scallops that have been shucked. It is unlawful to permit scallops to be placed in still or standing water.

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

**SUBCHAPTER 3L - SHRIMP, CRABS, AND
LOBSTER**

SECTION .0100 - SHRIMP

.0101 SEASON

(a) It is unlawful to take shrimp with nets until the Fisheries Director, by proclamation, opens the season in various waters. Proclamations may specify any hours of day or night or both and any other conditions appropriate to management of the fishery. If sampling indicates primarily undersized shrimp or juveniles of any other species of major economic importance, the Fisheries Director may close such waters to shrimping and prohibit the use of nets for any purpose except cast nets as provided in 15A NCAC 3L .0102. Prominent landmarks or other permanent-type markers shall be considered when establishing closure lines even if such lines extend beyond the area of concern.

(b) It is unlawful to take shrimp in violation of conditions specified by proclamation.

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

.0102 WEEKEND SHRIMPING PROHIBITED

It is unlawful to take shrimp by any method between one hour after sunset on any Saturday and one hour before sunset on the following Sunday, except:

- (1) In the Atlantic Ocean; and
- (2) With the use of fixed and channel nets, hand seines, and cast nets.

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

**.0103 PROHIBITED NETS AND MESH
SIZES**

(a) It is unlawful to take shrimp with nets with mesh lengths less than the following:

- (1) Trawl net - one and one-half inches;
- (2) Fixed nets, channel nets, float nets, butterfly nets, and hand seines - one and one-fourth inches; and
- (3) Cast net - no restriction.

(b) It is unlawful to take shrimp with a net constructed in such a manner as to contain an inner or outer liner of any mesh size. Net material used as chafing gear shall be no less than four inches mesh length except that chafing gear with small mesh may be used only on the bottom one-half of the tailbag. Such chafing gear shall not be tied in a manner that forms an additional tailbag.

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

.0104 UNLAWFUL TO USE OR TAKE

It is unlawful to:

- (1) Use channel nets except as provided in 15A NCAC 3J .0106.
- (2) Use shrimp pots except as provided in 15A NCAC 3J .0301.
- (3) Take or possess more than 100 shrimp per person per day while fishing in a closed area with a cast net.

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

SECTION .0200 - CRABS

**.0201 SIZE LIMIT AND CULLING
TOLERANCE**

It is unlawful to possess hard crabs smaller than five inches from tip of spike to tip of spike except mature females and "peelers". Crabs shall be culled where harvested and all crabs less than legal size shall be immediately returned to the waters from which taken. "Peelers" shall be separated from the entire catch before reaching shore or dock. Tolerance of not more than 15 percent by number of any portion examined shall be allowed. In determining whether the proportion of undersize crabs exceeds the 15 percent tolerance limit, the Fisheries Director and his agents are authorized and empowered to grade all, or any portion, or any combination of portions of the entire quantity of crabs being graded, and may require seizure and return to the waters, or other disposition as authorized by law, of the entire quantity being graded, or of any portion thereof, if undersized crabs in excess of the tolerance limit are found.

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

.0202 CRAB TRAWLING

(a) It is unlawful to take or possess aboard a vessel crabs taken by trawl in internal waters except in areas and during such times as the Fisheries Director may specify by proclamation.

(b) It is unlawful to use any crab trawl with a mesh length less than three inches for taking hard crabs.

(c) It is unlawful to use trawls with a mesh length less than two inches or with a corkline exceeding 25 feet in length for taking soft or "peeler" crabs. The minimum corkline length shall not apply in Dare County.

(d) It is unlawful to take crabs with trawls between one hour after sunset on any Saturday and one hour before sunset on the following Sunday, except in the Atlantic Ocean.

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

.0203 CRAB DREDGING

(a) It is unlawful to take crabs with dredges except:

(1) From January 1 through March 1 in the area of Pamlico Sound described in 15A NCAC 3R .0009.

(2) Crabs may be taken incidental to lawful oyster dredging operations provided the weight of the crabs shall not exceed:

(A) 50 percent of the total weight of the combined oyster and crab catch; or

(B) 500 pounds, whichever is less.

(b) It is unlawful to take crabs with dredges between sunset and sunrise and between sunset on any Saturday and sunrise on the following Monday, except in the Atlantic Ocean.

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

.0204 CRAB POTS

It is unlawful to take crabs with pots except as provided in 15A NCAC 3J .0301 and .0302.

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

.0205 CRAB SPAWNING SANCTUARIES

(a) It is unlawful to use a trawl net or take crabs with the use of commercial fishing equipment from the crab spawning sanctuaries described in 15A NCAC 3R .0010 from April 1 through August 31.

(b) From September 1 through March 31, the Fisheries Director may, by proclamation, close the crab spawning sanctuaries and may impose any or all of the following restrictions:

(1) Specify number of days;

(2) Specify areas;

(3) Specify means and methods which may be employed in the taking;

(4) Specify time period;

(5) Limit the quantity.

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

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

SECTION .0300 - LOBSTER

.0301 SIZE LIMIT

It is unlawful to possess northern lobster with a carapace length less than the minimum specified by proclamation. The Fisheries Director may, by proclamation, specify the minimum carapace length for northern lobster recommended by the Atlantic States Marine Fisheries Commission as the result of a duly adopted Interstate Fisheries Management Plan, or adopted as a federal rule by the National Marine Fisheries Service as the result of a duly adopted Regional Fishery Management Plan prepared by the Fishery Management Councils.

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

.0302 ACTIVITIES PROHIBITED

It is unlawful to:

(1) Possess egg-bearing lobster or lobster from which the eggs have been scrubbed;

(2) Land or possess aboard a vessel shucked northern lobster meat, detached tails, claws, or other parts unless accompanied by head sections for the purpose of determining legal size; and

(3) Use or have aboard a vessel lobster traps unless such traps are equipped with escape vents of a size adequate to minimize retention of undersized lobsters.

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

SUBCHAPTER 3M - FINFISH

SECTION .0100 - FINFISH, GENERAL

.0101 UNDERSIZED AND MUTILATED FINFISH

(a) It is unlawful to fail to immediately return to the waters from which taken any finfish, regardless of condition, that would be illegal to possess because of size or harvest limit restrictions.

(b) It is unlawful to possess aboard a vessel or land any striped bass, red drum, spotted seatrout or flounder mutilated to the extent that accurate length measurements, number harvested, or species identification cannot be determined.

Statutory Authority G.S. 113-134; 113-185; 143B-289.4.

.0102 UNMARKETABLE FOOD OR SCRAP FISH

(a) It is unlawful to land or dispose of finfish as trash or scrap fish if in violation of minimum size or possession limits established by rule or proclamation.

(b) It is unlawful to land or dispose of finfish as trash or scrap fish taken in connection with legitimate commercial fishing operation which are unmarketable as individual food fish by reason of size, except that a quantity not exceeding 5,000 pounds (50 boxes) or 40 percent of the total catch by weight or volume, whichever is greater, per vessel or fishing operation per day may be:

- (1) Landed and sold to a licensed finfish dealer, a licensed fish dehydrating plant or licensed finfish processing plant, and
- (2) Purchased or accepted by a licensed finfish dealer, a licensed fish dehydrating plant or licensed finfish processor.

Statutory Authority G.S. 113-134; 113-185; 143B-289.4.

SECTION .0200 - STRIPED BASS

.0201 GENERAL

(a) Striped bass is defined as striped bass (*Morone saxatilis*) and its hybrids taken in coastal and joint waters.

(b) Hook-and-line fishing equipment is not commercial fishing equipment in the striped bass fishery. It is unlawful to sell or purchase striped bass taken by hook-and-line. Striped bass taken legally with hook-and-line may be possessed and transported.

(c) It is unlawful to possess striped bass imported from other states less than 14 inches long (total length).

(d) It is unlawful to buy, sell, transport, or possess striped bass except:

- (1) During the open season in internal coastal waters established in 15A NCAC 3M .0202, or
- (2) During any open season established for the Atlantic Ocean in 15A NCAC 3M .0204.

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

.0202 SEASON: INTERNAL COASTAL WATERS

The Fisheries Director may, by proclamation, impose any or all the following restrictions in addition to restrictions in 15A NCAC 3M .0203, on the taking of striped bass in internal coastal waters:

- (1) Specify season or seasons:
 - (a) for hook-and-line,
 - (b) for commercial fishing equipment between October 1 and April 30.
- (2) Specify areas,
- (3) Specify quantity,
- (4) Specify means/methods,
- (5) Specify size,
- (6) Require submission of statistical and biological data.

This Rule will be effective until September 1, 1992.

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

.0203 SIZE AND CREEL LIMIT: INTERNAL COASTAL WATERS

(a) It is unlawful to possess striped bass harvested from internal coastal waters less than 14 inches long (total length). Fish that do not meet the minimum size limit shall immediately be returned to the waters from which taken regardless of condition.

(b) It is unlawful for any person to possess more than three striped bass in any one day taken by hook-and-line from internal coastal waters.

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

.0204 SEASON, SIZE AND HARVEST LIMIT: ATLANTIC OCEAN

(a) It is unlawful for any person to possess striped bass taken in the Atlantic Ocean less than the size limit as determined by the Atlantic States Marine Fisheries Commission in their Interstate Fisheries Management Plan for striped bass. The Fisheries Director shall issue proclamations necessary to bring North Carolina's size limit in compliance with the Interstate Fisheries Management Plan.

(b) It is unlawful to buy, sell, transport, or possess striped bass from the Atlantic Ocean by any means except that the Fisheries Director may establish an open season at any time, and is further empowered to impose any or all of the following restrictions:

- (1) Specify number of days,
- (2) Specify areas,
- (3) Specify means and methods which may be employed in the taking,
- (4) Specify time period,
- (5) Limit the quantity, both commercially and recreationally, and
- (6) Provide for biological sampling of fish harvested.

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

.0205 PROHIBITED TRAWLING

(a) It is unlawful to possess striped bass on a vessel with a trawl net on that vessel in internal coastal waters except during transit from ocean fishing grounds to port during any open season in the Atlantic Ocean established by proclamation. Striped bass so possessed must meet the minimum size limit set by proclamation.

(b) It is unlawful to possess striped bass on a vessel in the Atlantic Ocean with a trawl net on that vessel except during any open season in the Atlantic Ocean established by proclamation.

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

.0206 HYBRID STRIPED BASS CULTURE

Culture and sale of hybrid striped bass conducted in accordance with Rule 15A NCAC 10H Section .0700 of the North Carolina Wildlife Resources Commission shall be exempt from regulations of the North Carolina Marine Fisheries Commission concerning striped bass.

Statutory Authority G.S. 113-132; 113-134; 143B-289.4.

SECTION .0300 - SPANISH AND KING MACKEREL

.0301 HARVEST LIMIT

It is unlawful to possess aboard or land from a vessel, or combination of vessels that form a single operation, more than 3,500 pounds of Spanish or King Mackerel in the aggregate, in any one day. The Fisheries Director, may by proclamation, impose any or all of the following restrictions on the taking of Spanish and or King Mackerel:

- (1) Specify areas.
- (2) Specify seasons.
- (3) Specify quantity.
- (4) Specify means/methods.
- (5) Specify size.

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

.0302 PURSE GILL NET PROHIBITED

It is unlawful to have a purse gill net on board a vessel when taking or landing Spanish or King Mackerel.

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

SECTION .0400 - MENHADEN AND ATLANTIC THREAD HERRING

.0401 SEASON AND AREAS

(a) It is unlawful to take menhaden or Atlantic thread herring with a purse seine in violation of any of the following limitations:

- (1) In the Atlantic Ocean within an area described in 15A NCAC 3R .0011.
- (2) Between January 16 and May 14 in internal waters and in the Atlantic Ocean within one mile of shore.
- (3) Between January 16 and March 31 in Core Sound.
- (4) In internal waters except in:
 - (A) Pamlico Sound,
 - (B) Pamlico River east of a line from Wades Point to Intracoastal Waterway Marker No. 1 at the mouth of Goose Creek,
 - (C) Neuse River east of a line from Wilkinson Point to Cherry Point,
 - (D) Adams Creek,
 - (E) Core Sound and its tributaries,
 - (F) Back Sound, the Straits, and North River,
 - (G) Newport River,
 - (H) North River,
 - (I) Newport River, and
 - (J) Bogue Sound.

(5) The Fisheries Director may, by proclamation, open the Atlantic Ocean within one mile of shore and the internal waters specified in Subparagraph (4) of this Rule between April 1 and May 14.

(b) Menhaden and Atlantic thread herring may be taken at any time with a purse seine from beyond one mile of shore in the Atlantic Ocean and transported to port except as prohibited in 15A NCAC 3M .0403.

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

.0402 FOODFISH PROHIBITED

It is unlawful to land from a vessel licensed for menhaden fishing foodfish in excess of one percent of the total amount of fish on board, or to land foodfish from any vessel taking fish with the aid of a purse seine. In determining whether the portion of foodfish exceeds one percent of the total fish on board, the Fisheries Director or his agents are authorized and empowered to grade any portion of the total catch on board. In selecting the size of the portion for the determination of the amount of foodfish present, the portion shall be no less than an amount required to fill a standard five-gallon container for each 100,000 fish on board.

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

.0403 FISHING ON WEEKENDS AND HOLIDAYS PROHIBITED

(a) It is unlawful to take menhaden or Atlantic thread herring by use of a purse seine between sunset on any Friday and sunrise of the following Monday from the Friday of the Memorial Day weekend through sunset on Labor Day each year.

(b) It is unlawful to take menhaden or Atlantic thread herring by use of a purse seine between the hours of sunrise and sunset on the following official holidays:

- (1) Memorial Day;
- (2) Fourth of July, when the Fourth of July falls on any calendar day between sunrise Friday and sunset Monday; and
- (3) Labor Day.

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

.0404 FISH SPILL REPORTING MANDATORY

When a fish spill occurs, the responsible menhaden fishing company shall:

- (1) Immediately notify the office of the Fisheries Director of the North Carolina Division of Marine Fisheries of such spill; and
- (2) Report to the Fisheries Director of the North Carolina Division of Marine Fisheries in writing on the circumstances associated with each spill and costs of its clean-up.

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

SECTION .0500 - OTHER FINFISH

.0501 RED DRUM

(a) It is unlawful to take or possess more than two red drum exceeding 32 inches in length in any one day.

(b) It is unlawful to possess red drum less than 14 inches in length.

(c) It is unlawful to remove red drum from any type of net with the aid of any boat hook, gaff, spear, gig, or similar device.

(d) The Fisheries Director, may by proclamation, impose any or all of the following additional restrictions on the taking of red drum:

- (1) Specify areas.
- (2) Specify seasons.
- (3) Specify quantity.
- (4) Specify means/methods.
- (5) Specify size.

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

.0502 MULLET

The Fisheries Director may, by proclamation, impose any or all of the following restrictions on the taking of mullet:

- (1) Specify season,
- (2) Specify areas,
- (3) Specify quantity,
- (4) Specify means/methods,
- (5) Specify size.

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

.0503 FLOUNDER

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

(b) The Fisheries Director may, by proclamation, establish fishing gear specifications for trawls used within three nautical miles of the beach from October 1 through April 30 in order to protect small flounder. It is unlawful to violate the provisions of any proclamation issued under this authority.

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

.0504 SPOTTED SEATROUT

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

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

.0505 SIHARK

The Fisheries Director may, by proclamation, until September 1, 1991, impose any or all of the following restrictions in the shark fishery:

- (1) Specify size;
- (2) Specify seasons;
- (3) Specify quantity;
- (4) Specify means methods; and
- (5) Require submission of statistical and biological data.

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

.0506 SNAPPER-GROUPER

The Fisheries Director may, by proclamation, until September 1, 1991, impose any or all of the following restrictions in the fishery for species of the snapper-grouper complex listed in the South Atlantic Fishery Management Council Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region:

- (1) Specify size;
- (2) Specify seasons;
- (3) Specify areas;
- (4) Specify quantity;
- (5) Specify means methods; and
- (6) Require submission of statistical and biological data.

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

.0507 HOOK-AND-LINE FISHING RESTRICTED

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

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

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

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

SUBCHAPTER 3N - NURSERY AREAS

.0001 SCOPE AND PURPOSE

To establish and protect those fragile estuarine areas which support juvenile populations of economically important seafood species, these Rules will set forth permanent nursery areas in all

coastal fishing waters as defined through extensive estuarine survey sampling conducted by Marine Fisheries personnel of the Operations Section. Nursery areas are necessary for the early growth and development of virtually all of North Carolina's important seafood species. Nursery areas need to be maintained, as much as possible, in their natural state, and the populations within them must be permitted to develop in a normal manner with as little interference from man as possible. In order to protect the integrity and resources of nursery areas, it is necessary to prohibit the use of bottom-disturbing gears and severely restrict or prohibit excavation and/or filling activities.

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

.0002 NURSERY AREAS DEFINED

Nursery areas are defined as those areas in which for reasons such as food, cover, bottom type, salinity, temperature and other factors, young finfish and crustaceans spend the major portion of their initial growing season:

- (1) Primary nursery areas are those areas in the estuarine system where initial post-larval development takes place. These areas are usually located in the uppermost sections of a system where populations are uniformly very early juveniles.
- (2) Secondary nursery areas are those areas in the estuarine system where later juvenile development takes place. Populations are usually composed of developing sub-adults of similar size which have migrated from an upstream primary nursery area to the secondary nursery area located in the middle portion of the estuarine system.

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

.0003 MAPS AND MARKING

(a) Maps or charts showing all primary and secondary nursery areas are available for inspection at the Division of Marine Fisheries' Office, Morehead City.

(b) The Division of Marine Fisheries will mark the downstream boundary of each primary and secondary nursery area with signs insofar as may be practicable. No unauthorized removal or relocation of any such marker or sign shall have the effect of changing the classification of any body of water or portion thereof, nor shall any such unauthorized removal or relocation or the absence of any marker or sign affect the applicability of any rule pertaining to any such body of

water or portion thereof. Where there is conflict between markers and charts, charts shall prevail.

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

.0004 PROHIBITED GEAR, PRIMARY NURSERY AREAS

It is unlawful to use any trawl net, long haul seine, swipe net, dredge or mechanical methods for clams or oysters, for the purpose of taking any marine fishes in any of the primary nursery areas described in 15A NCAC 3R .0003.

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

.0005 PROHIBITED GEAR, SECONDARY NURSERY AREAS

(a) It is unlawful to use trawl nets for any purpose in any of the permanent secondary nursery areas described in 15A NCAC 3R .0004.

(b) It is unlawful to use trawl nets for any purpose in any of the special secondary nursery areas described in 15A NCAC 3P .0005, except that the Fisheries Director, may, by proclamation, open any or all of the special secondary nursery areas, or any portion thereof, listed in 15A NCAC 3R .0005 to shrimp or crab trawling from August 16 through May 14 subject to the provisions of 15A NCAC 3L .0100 and .0200.

(c) Areas described in 15A NCAC 3R .0004 and .0005 generally pertain to those areas located between the described line and the primary nursery area lines or Inland-Coastal boundary lines where applicable.

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

SUBCHAPTER 30 - LICENSES, LEASES, AND FRANCHISES

SECTION .0100 - LICENSES

.0101 LICENSE AGENTS

(a) The total number of license agents in the counties which contain or border on coastal fishing waters shall not exceed 43. The license agents authorized for each county as of October 1, 1983, shall be allowed to renew their agency authorization subject to the terms of this Regulation. The desired number of license agents for coastal fishing waters counties is three agents for Carteret, Dare, New Hanover and Onslow counties; two agents for Beaufort, Brunswick and Craven counties; and one agent for the remaining counties.

(b) In the selection of license agents, the Secretary shall consider the following requirements;

- (1) Willingness to attend annual training seminars conducted at the Division field offices;
- (2) Demonstrated ability, either through past performance or through present capabilities, to maintain an accurate accounting of licenses and funds received from the sale of licenses; and
- (3) That no two license agents be located within a 10 mile radius.

(c) License agents appointed after October 1, 1983 shall receive a temporary appointment for a six month period. The Secretary shall review the appointment and determine whether the appointment should continue on the same terms applicable to other license agents.

(d) It is unlawful for a Division appointed license agent or any other person who is acting in such agent's behalf to:

- (1) withhold or misappropriate funds from the sale of licenses;
- (2) falsify records of licenses sold;
- (3) willfully and knowingly assist or allow a person to obtain a license for which he is ineligible;
- (4) willfully issue a backdated license;
- (5) willfully on records or licenses to include false information or omit material information as to:
 - (A) a person's entitlement to a particular license; or
 - (B) the applicability or term of a particular license;
- (6) refuse to return all consigned licenses, or to remit the net value of consigned licenses sold or unaccounted for upon demand from an authorized employee of the Division.

(e) The Secretary may temporarily suspend, revoke, or refuse to renew a person's appointment as a license agent if he or his employees fail in a timely manner to submit required reports, remit monies due the Division, or otherwise comply with qualifications and standards set by the Division of Marine Fisheries. Any appeal of the Secretary's decision to temporarily suspend, revoke or refuse to renew an appointment of a license agent shall be conducted pursuant to the process set out in 15A NCAC 3N .0302.

Statutory Authority G.S. 113-134; 113-151.1; 143B-289.4.

.0102 PROCEDURE TO PURCHASE LICENSE

(a) It is unlawful to command a nonresident vessel engaged in commercial fishing operations

without the state that results in landing and off-loading fish in North Carolina to fail to obtain a nonresident vessel license prior to offloading such fish unless exempted by provisions of G.S. 113-153.

(b) Buy-boats, run boats, or any other vessels used in connection with commercial fishing operations, except vessels without motors used in connection with other licensed vessels and purse boats used in connection with menhaden mother ships, are required to meet the vessel license requirements of G.S. 113-152.

(c) Licenses for residents, and non-resident vessels fishing outside North Carolina's territorial waters but landing and offloading in North Carolina, may be obtained by contacting the Division of Marine Fisheries, P.O. Box 769, Morehead City, NC 28557-0769 or one of its license agents located in each coastal county and in several inland counties.

(d) Licenses for fish spotter planes, menhaden fishing, non-resident vessels fishing in the coastal waters of North Carolina, and licensing by mail will be handled only by the Division of Marine Fisheries, P.O. Box 769, Morehead City, NC 28557-0769.

(e) For non-resident vessels fishing in the coastal waters of North Carolina, there is a period of 45 days following receipt of a completed license application with fees during which it will be determined if the applicant is eligible for a license based on standards in G.S. 113-166. License fees are not refundable if the license is denied.

(f) To obtain a commercial fishing vessel license, the following information is required:

- (1) Owner's full name, address, and date of birth;
- (2) Vessel information, including overall length, port of landing, number in crew, and other pertinent information listed in vessel ownership documents;
- (3) Statistical information such as type and size of equipment used in commercial fishing activities; and
- (4) Other miscellaneous information as may be required.

(g) Any vessel with length involving inches shall be rounded off to the nearest foot. Less than six inches will be dropped off; six inches or more will be raised to the next foot.

Statutory Authority G.S. 113-152; 113-153; 143B-289.4.

.0103 DEALER LICENSES: DEFINITIONS

The following definitions shall apply:

- (1) Shucker-packer (oyster, scallop or clam) - shucking and packing and offering for general market distribution;
- (2) Shell stock shipper - all other oyster, scallop or clam dealer activities not defined in shucker-packer;
- (3) Crab processor - cooking, picking and preparing hard crab meat and offering for general market distribution;
- (4) Unprocessed crab - all other crab dealer activities not defined in crab processor;
- (5) Shrimp processor - peeling, deveining and/or breading and offering for general market distribution;
- (6) Unprocessed shrimp - all other shrimp dealer activities not defined in shrimp processor;
- (7) Finfish processor - finfish processed through the stages of heading, gutting, filleting (or similar stage), canning, deboning, and/or grinding, and offered for general wholesale market distribution;
- (8) Unprocessed finfish - all other finfish dealer activities not defined in finfish processor;
- (9) Processor will include dehydrating for the species for which a processor license has been secured. Dehydration of any species for which a processor license has not been secured will be contained in unprocessed finfish;
- (10) Any person subject to fish dealer licensing requirements who deals in fish not included in the categories of this Rule must secure the appropriate finfish dealer license.

Statutory Authority G.S. 113-151; 113-156; 143B-289.4.

.0104 SHIPPING AND TRANSPORTING SEAFOOD

(a) It is unlawful to transport seafood without having ready at hand for inspection a bill of consignment (bill of lading) provided by the shipping dealer showing thereon the name of the consignee, name of the shipper, the date of the shipment, and the quantity of each product shipped. In the event the fisherman taking the seafood is also a dealer and ships from the point of landing, all records of bills of consignment shall be recorded at the point of landing.

(b) It is unlawful to ship seafood without attaching to each box, bag, or other such container a tag identifying the shipper, the date shipped, and the seafood and quantity within such container, except that shellfish meeting the labelling requirements of the Division of Environmental Health are exempt from this requirement.

PROPOSED RULES

(c) Fishermen who transport their catch to dealers are not required to abide by this Rule.

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

.0105 BAIT DEALERS

Persons dealing in minnows, live shrimp, or both minnows and live shrimp for bait purposes, who are subject to licensing requirements under G.S. 113-156 are required to purchase only the license applicable to finfish dealers. A bona fide dealer in shrimp, licensed under the provisions of G.S. 113-156, may, however, deal in minnows as well as live shrimp for bait purposes, as an incident of his operations under his shrimp dealer's license.

Statutory Authority G.S. 113-134; 113-151; 113-156; 143B-289.4.

.0106 RETAIL SALE OF FISH

It is unlawful to offer for sale fish purchased from a licensed dealer without having ready at hand a receipt or bill of purchase to verify the purchase of said fish.

Statutory Authority G.S. 113-134; 113-156; 143B-289.4.

.0107 DISPLAY OF LICENSE

(a) Any vessel required to be licensed under the provisions of G.S. 113-152 shall carry a current license decal mounted on an exterior surface or in the rigging so as to be plainly visible at all times when anyone is approaching the vessel from its port side. The display of any license decal other than the decal issued for the vessel displaying it is prohibited.

(b) The person in charge of a vessel must have ready at hand for inspection the current license receipt for the vessel concerned.

(c) It is unlawful to fail to display any dealer's licenses required by G.S. 113-156 and ocean pier license required by G.S. 113-156.1 in prominent public view in each location subject to licensing.

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

.0108 LOST LICENSE REPLACEMENT

(a) Lost vessel license decals may be replaced upon payment of a fee of fifty cents (\$0.50) and submission of evidence to the Division of Marine Fisheries that a current license for the vessel in question has been purchased.

(b) Lost Dealer's, Ocean Pier, and Shellfish Licenses may be replaced upon submission of evidence to the Division of Marine Fisheries that a current license has been purchased.

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

.0109 SURRENDER OF LICENSES

It is unlawful for any licensee to refuse to surrender to an agent of the Secretary all license certificates, license receipts, license decals, and other forms and records relating to the license following personal service of notice of suspension or revocation of licenses in accordance with G.S. 113-166(d). It is unlawful for any person in custody or possession of any such certificate, receipt, decal, form, or record required to be surrendered to refuse to surrender same to an agent of the Secretary making such demand.

Statutory Authority G.S. 113-134; 113-166; 143B-289.4.

SECTION .0200 - LEASES AND FRANCHISES

.0201 STANDARDS FOR SHELLFISH LEASE AREAS

(a) All areas of the public bottoms underlying coastal fishing waters must meet the following standards in addition to the standards in G.S. 113-202 in order to be deemed suitable for leasing:

- (1) The lease area must not contain a natural shellfish bed which is defined as ten bushels or more of shellfish per acre.
- (2) The lease area must not be closer than 100 feet to a developed shoreline. In an area bordered by undeveloped shoreline, no minimum setback is required. When the area to be leased borders the applicant's property or borders the property of riparian owners who have consented in a notarized statement, the Commission may reduce the distance from shore required by this Rule.
- (3) Unless the applicant can affirmatively establish a necessity for greater acreage through the management plan that is attached to the application and other evidence submitted to the Commission, the lease area shall not be less than one acre and shall not exceed:

- (A) 10 acres for oyster culture;
- (B) 5 acres for clam culture; or
- (C) 5 acres for any other species.

This Section shall not be applied to reduce any holdings as of July 1, 1983.

(b) Leased areas must produce 25 bushels of shellfish per acre per year to meet the minimum commercial production requirement.

Statutory Authority G.S. 113-134; 113-201; 113-202; 143B-289.4.

.0202 SHELLFISH LEASE APPLICATIONS

(a) Any person desiring to apply for a lease must make written application to the Division by completing the Application for Lease of Shellfish Bottom Form. The forms are available from the Division of Marine Fisheries, P.O. Box 769, Morehead City, North Carolina 28557-0769.

(b) Each application must be accompanied by a map or diagram. The map or diagram will be prepared at the applicant's expense and must meet the following standards:

- (1) A scaled diagram or sketch on ordinary 8-1/2 x 14 inch paper, which shows a properly oriented north arrow;
- (2) The diagram or sketch shall clearly show the boundaries of the proposed leasehold and the relationship between the boundaries and each of the following items:
 - (A) physical features such as shoreline, navigation markers, piers, etc.;
 - (B) geographic features such as bays, sounds, creeks, points, islands, etc.; and
 - (C) existing oyster and clam or shellfish leases in the area identified with the owner's name and lease number;
- (3) A title block labeled "SHELLFISH LEASE APPLICATION MAP" that contains:
 - (A) the applicant's name, address and telephone number;
 - (B) the name of the body of water wherein the proposed leasehold is sited; and
 - (C) the county, date of the map, scale of the map, and the estimated lease acreage; and
- (4) An inset vicinity map which shows the location of the proposed lease with sufficient detail to allow ready, on-site identification and location of the area by investigating biologists and members of the public.

(c) The application and map or diagram must be returned to the above address accompanied by a filing fee of one hundred dollars (\$100.00).

(d) As a part of the application, the applicant must submit a management plan for the area to be leased on a form provided by the Division which meets the following standards:

- (1) States the methods through which the applicant will cultivate and produce shellfish consistent with the minimum requirement in 15A NCAC 30 .0302(b);

(2) States the time intervals during which various phases of the cultivation and production plan will be achieved;

(3) States the materials and techniques that will be utilized in management of the lease; and

(4) Forecasts the results expected to be achieved by the management activities;

(e) Immediately after the application is accepted by the Division, the applicant must mark the area of public bottom for which a lease is requested. The area shall be marked at each corner with stakes in accordance with the provision of 15A NCAC 30 .0204(a)(1). The applicant shall firmly attach to each stake a sign provided by the Division. The applicant shall place in the appropriate spaces the name of the applicant, the date the application was filed and the estimated acres.

(f) Application processing will begin when an application that is apparently complete is accepted by the Division. An incomplete or deficient application will be returned to the applicant and will not be considered until it is re-submitted and determined by the Division to be complete and sufficient.

Statutory Authority G.S. 113-134; 113-201; 113-202; 143B-289.4.

.0203 SHELLFISH LEASE APPLICATION PROCESSING

(a) Upon acceptance of a completed application, the proposed lease area will be inspected within a reasonable time by agents of the Division. If the agents of the Division determine that the area proposed to be leased is inconsistent with the standards in G.S. 113-202 (a) and 15A NCAC 30 .0201, the Division shall notify the applicant who may then amend the application to exclude the inconsistencies. If the boundaries of the proposed leasehold are modified, the stakes shall be moved accordingly by the applicant.

(b) If the initial or amended lease application is deemed consistent with all applicable requirements, the Secretary or his designee shall notify the applicant via first class mail and shall publish at least two notices of intention to lease in a newspaper of general circulation in the county or counties in which the proposed leasehold lies. The first publication must precede by more than 20 days the meeting of the Marine Fisheries Commission at which the granting of the lease or renewal of the lease is to be considered; the second publication must follow the first by 7 to 11 days. The notice of intention will include:

- (1) A description of the area;

(2) The date and location of the Commission meeting at which the lease will be considered, and

(3) A statement of the Division's determination regarding consistency with the applicable requirements.

(c) When an applicant has been notified under (a) of this Rule that the Division considers the application inconsistent with applicable standards and the applicant does not amend the application to make it consistent, the Division shall recommend to the Commission that the application be denied or that a conditional lease be issued which is consistent with the applicable standards. After receipt of an applicant's response to a notice of inconsistency, stating that no amendment of the application will be made, the Division shall publish at least two notices of the request for a lease in accordance with (b) of this Rule.

(d) The Marine Fisheries Commission shall consider the lease application, the Division's determination, and any public comments and may in its discretion lease or decline to lease the area of public bottom, or any part of the area, in accordance with its duty to conserve the marine and estuarine resources of the state. The Commission may impose special conditions on leases so that leases may be issued which would otherwise be denied. Should an applicant decide not to accept any special condition imposed on the lease by the Commission, the application shall be considered denied. The applicant will be notified of any action within a reasonable time.

(e) Upon approval of the lease by the Commission, the applicant shall define the bounds of the area approved for leasing with markers in accordance with 15A NCAC 30 .0204 and shall within 90 days, submit to the Division a survey of the area approved for leasing. The survey will be made at the applicant's expense and must meet the following standards:

(1) The survey and map shall meet all the requirements of 21 NCAC 56 .1600, Standards of Practice for Land Surveying in North Carolina.

(2) The map shall bear the certificate:

"I _____ certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision); that the error of closure as calculated by latitudes and departures is 1: _____.

Witness my hand and seal this _____ day of _____ AD _____."

Surveyor or Engineer

(3) The phrase "other appropriate natural monuments or landmarks" in 21 NCAC 56 .1604(e)(9) shall include bridges, roads and highways; publicly maintained aids to navigations; houses and other permanent buildings radio, telephone, TV, and water towers; and docks; piers, and bulkheads; but does not include stakes marking the boundaries of adjoining leases, points of marsh, junctions of streams, or other landmarks which are particularly subject to change through natural processes, storms, or the effect of man.

(f) After the Division has deemed a survey acceptable, the applicant shall pay all fees and rents due in advance. The Secretary shall then execute the lease on forms approved by the Attorney General.

(g) If the applicant and the Division are unable to agree that the area approved for lease is that shown in the survey, the Division shall report the matter with reasonable dispatch to the Marine Fisheries Commission for resolution.

(h) Until a lease has been executed by the Secretary, the area proposed for leasing remains public bottom and any member of the public may harvest the shellfish found growing within the area in a manner consistent with all other rules that are applicable to the harvest of shellfish.

Statutory Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-289.4.

.0204 MARKING SHELLFISH LEASES AND FRANCHISES

(a) All shellfish leases and franchises shall be marked by:

(1) Stakes at least three inches in diameter at the water level and extending at least four feet above the high water mark. The stakes shall be firmly jettied or driven into the bottom at each corner.

(2) Signs displaying the number of the lease or franchise and the name of the owner printed in letters at least three inches high must be firmly attached to each corner stake.

(3) Supplementary stakes, not farther apart than 50 yards or closer together than 50 feet and extending at least four feet above the high water mark, must be placed along each boundary, except when such would interfere with the use of traditional navigation channels.

(b) Stakes marking areas of management within leases or franchises, as approved in the management plan, must conform to Subparagraph (a)(3) of this Rule and may not exceed one for each 1,200 square feet. Marking at concentrations of stakes greater than one for each 1,200 square feet constitutes use of the water column and a water column lease is required in accordance with G.S. 113-202.1.

(c) All areas claimed in filings made pursuant to G.S. 113-205 as deeded bottoms through oyster grants issued by the county clerk of court or as private bottoms through perpetual franchises issued by the Shellfish Commission shall be marked in accordance with (a) of this Rule, except the sign shall include the number of the grant or deed rather than the number of the lease. However, claimed areas not being managed and cultivated shall not be marked.

(d) It is unlawful to fail to remove all stakes, signs, and markers within 30 days of receipt of notice from the Secretary pursuant to Departmental Rule 15A NCAC 111.0207 that the G.S. 113-205 claim to the marked area has been denied.

(e) The Division has no duty to protect any shellfish lease or franchise not marked in accordance with Paragraph (a) of this Rule.

Statutory Authority G.S. 76-40; 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-205; 143B-289.4.

.0205 RENEWAL

(a) Each lessee shall receive renewal applications from the Division in January of the year in which the lease is to expire. Application for renewal should be made before April 1.

(b) Each renewal application shall be accompanied by a management plan that meets the requirements of 15A NCAC 30 .0202 (d) and a map or diagram that meets the requirements of 15A NCAC 30 .0202(b).

(c) The renewal application and management plan must be returned to the Division address given in 15A NCAC 30 .0202 (a) accompanied by a filing fee of fifty dollars (\$50.00).

(d) When the Division determines that the area shown in the map or diagram is inconsistent with the area leased to the renewal applicant, the Division shall request that the Marine Fisheries Commission require the area be surveyed prior to renewal of the lease at the applicant's expense.

(e) When the Secretary determines, after due notice to the lessee, and after opportunity for the lessee to be heard, that the lessee has not complied with the requirements of this Section or that the lease as issued is inconsistent with this

Section, the Secretary may decline to renew, at the end of the current terms, any oyster or clam bottom lease.

(f) The lessee may appeal the denial of the Secretary to renew a lease to the Marine Fisheries Commission pursuant to G.S. 113-202(p).

(g) If the Secretary declines to renew a lease that has been determined to be inconsistent with the standards of this Section, the Secretary, with the agreement of the lessee, may issue a renewal lease for all or part of the area previously leased to the lessee that contains conditions necessary to conform the renewal lease to the minimum requirements of this Section for new leases.

Statutory Authority G.S. 113-134; 113-201; 113-202; 143B-289.4.

.0206 PROTEST

(a) Should any object to the granting of any initial or renewal lease, he has the right to protest its issuance prior to the granting of the lease by the Commission.

(b) The protestant may file a sworn statement of protest with the Division stating the grounds for protest.

(c) The Secretary will notify both the prospective lessee and the protestant upon receipt of a protest, and will conduct such investigation as he deems necessary, and will notify both parties of the outcome of his investigation.

(d) Any member of the public shall be allowed an opportunity to comment on any lease application during the public hearing at which the lease application is being considered by the Commission.

Statutory Authority G.S. 113-134; 113-201; 113-202; 143B-289.4.

.0207 PRODUCTION REPORTS

(a) The owner of each shellfish lease or franchise must file with the Division an annual production report showing the amounts of material planted and harvested in connection with management for commercial production. Reporting forms will be provided to owners of leases and franchises by the Division during the period annual notices of rent due are provided to lessees in accordance with G.S. 113-202(j).

(b) Failure to furnish the required production report, correct and in detail requested, or filing a report containing false information, can constitute grounds for termination.

Statutory Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-289.4.

.0208 CANCELLATION

(a) In addition to the grounds established by G.S. 113-202, the Secretary will begin action to terminate leases for failure to produce and market at least 25 bushels of oysters and/or clams per acre per year, averaged over the most recent three-year period after January 1 following the second anniversary of an initial lease and throughout the term of a renewal lease.

(b) Action to terminate a shellfish franchise shall begin when there is reason to believe that the patentee, or those claiming under him, have done or omitted an act in violation of the terms and conditions on which the letters patent were granted, or have by any other means forfeited the interest acquired under the same. The Division shall investigate all such rights issued in perpetuity to determine whether the Secretary should request that the Attorney General initiate an action pursuant to G.S. 146-63 to vacate or annul the letters patent granted by the state.

(c) In the event action to terminate a lease or franchise is begun, the owner shall be notified by registered mail and given a period of 30 days in which to correct the situation. Petitions to review the Secretary's decision must be filed with the Office of Administrative Hearings consistent with the provisions of 26 NCAC Chapter 3. The owner may appeal the Secretary's decision to terminate to the Marine Fisheries Commission as set out in G.S. 113-202(p).

Statutory Authority G.S. 113-134; 113-201; 113-202; 143B-289.4.

.0209 TRANSFER OF INTEREST

(a) Within 30 days after transfer of ownership of all or any portion of interest in a shellfish lease or franchise, the new owner shall notify the Division, at the address given in 15A NCAC 30 .0202 (a), and provide the number of the lease or franchise and the county in which it is located. Such notification shall be accompanied by a management plan prepared by the new owner in accordance with the standards in 15A NCAC 30 .0202(d).

(b) If the new owner obtains a portion of an existing lease or franchise, it shall not contain less than one acre and the required notification to the Division shall be accompanied by a survey prepared in accordance with the standards in 15A NCAC 30 .0203 (c).

(c) In the event the transferee involved in a lease is a nonresident, the Secretary must initiate termination proceedings.

Statutory Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-205; 143B-289.4.

.0210 SHELLFISH FRANCHISES

(a) The resolution of claims filed under G.S. 113-205 are governed by standards in Departmental Rules 15A NCAC 1H .0200 and .0300. For a claim that has been recognized as a valid shellfish franchise, the owner shall provide to the Division within 90 days:

- (1) A survey prepared in accordance with the standards in 15A NCAC 30 .0203(e), and
- (2) A management plan prepared in accordance with the standards in 15A NCAC 30 .0202(d).

(b) Acceptable management plans shall be provided at ten-year intervals following acceptance of a management plan submitted in accordance with Subparagraph (a)(2) of this Rule.

(c) The survey and management plan requirements in Paragraphs (a) and (b) of this Rule, and all other requirements and conditions of this Section affecting management of franchises, shall apply to all valid shellfish franchises recognized prior to September 1, 1989.

(d) Commercial production requirements for franchises shall be identical to that required for leases in 15A NCAC 30 .0201(b) averaged over the most recent three-year period after January 1 following the second anniversary of the dates of recognition of claims as valid shellfish franchises and continuing throughout the term of management plans required in Paragraph (b) of this Rule. Annual reporting of commercial production shall be submitted upon receipt of forms provided by the Division for that purpose.

Statutory Authority G.S. 113-134; 113-201; 113-202; 113-205; 143B-289.4.

SUBCHAPTER 3P - HEARING PROCEDURES

**.0001 LICENSE/PERMIT DENIAL:
INFORMAL HEARING PROCEDURES**

(a) If the Division decides to deny or limit a renewal of a license or permit for an activity of a continuing nature, the license sought to be renewed will continue in effect as provided in G.S. 150B-3.

(b) Except in cases where G.S. 113-166 is applicable, before the Division may commence proceedings for suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of a license or permit, notice will be given to the license or permit holder notifying him that:

- (1) He may request an opportunity to show compliance with all lawful requirements for retention of the license in an informal meeting with Division personnel respon-

sible for the initiation of the action to revoke the license; and

- (2) He has a right through filing a request for a contested case hearing in the Office of Administrative Hearings to an administrative law judge and a final agency decision by the Marine Fisheries Commission.

(c) Any requests for an informal meeting or administrative hearing shall be made to the person designated in the notice.

(d) The Division may order summary suspension of a license or permit if it finds that the public health, safety, or welfare requires emergency action. Upon such determination the Fisheries Director will issue an order giving the reasons for the emergency action. The effective date of the order shall be the date specified on the order or the date of service of a certified copy of the order at the last known address of the license or permit holder whichever is later.

(e) When a license is summarily suspended and a request is made for an informal meeting or a hearing, the proceeding shall be promptly commenced and determined.

Statutory Authority G.S. 113-134; 113-151; 113-166; 150B-23.

.0002 CONTESTED CASE HEARING PROCEDURES

(a) Administrative hearings shall be held in accordance with G.S. 150B, and the administrative hearing procedures codified at 15A NCAC 1B .0200 et seq., are hereby adopted by reference pursuant to G.S. 150B-14(c).

(b) Copies of 15A NCAC 1B .0200 may be inspected in the offices of the Division of Marine Fisheries, 3411 Arendell Street, Morehead City, North Carolina 28557. Copies may also be inspected in the Division of Planning and Assessment, 512 North Salisbury Street, 8th Floor, Archdale Building, Raleigh, North Carolina 27611. Copies may be obtained at the previous locations or from the Rules Division of the N.C. Office of Administrative Hearings.

Statutory Authority G.S. 113-134; 143B-259.4.

SUBCHAPTER 3Q - JURISDICTION OF AGENCIES: CLASSIFICATION OF WATERS

SECTION .0100 - GENERAL REGULATIONS: JOINT

.0101 SCOPE AND PURPOSE

The following rules pertain to the classification of the waters of North Carolina as coastal fishing waters, inland fishing waters and joint fishing waters. These rules are adopted jointly by the

Marine Fisheries Commission and the Wildlife Resources Commission. In addition to the classification of the waters of the state these joint rules set forth guidelines to determine which fishing activities in joint waters are regulated by the Marine Fisheries Commission and which are regulated by the Wildlife Resources Commission. Finally, the joint rules set forth special fishing regulations applicable in joint waters that can be enforced by officers of the Division of Marine Fisheries and the Wildlife Resources Commission. These regulations do not affect the jurisdiction of the Marine Fisheries Commission and the Wildlife Resources Commission in any matters other than those specifically set out.

Statutory Authority G.S. 113-132; 113-134; 143B-259.4.

.0102 INLAND FISHING WATERS

Inland fishing waters are all inland waters except private ponds; and all waters connecting with or tributary to coastal sounds or the ocean extending inland from the dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission. All waters which are tributary to inland fishing waters and which are not otherwise designated by agreement between the Marine Fisheries Commission and the Wildlife Resources Commission are inland fishing waters. The regulation and licensing of fishing in inland fishing waters is under the jurisdiction of the Wildlife Resources Commission. Regulations and laws administered by the Wildlife Resources Commission regarding fishing in inland fishing waters are enforced by wildlife enforcement officers.

Statutory Authority G.S. 113-132; 113-134; 143B-259.4.

.0103 COASTAL FISHING WATERS

Coastal fishing waters are the Atlantic Ocean; the various coastal sounds; and estuarine waters up to the dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission. All waters which are tributary to coastal fishing waters and which are not otherwise designated by agreement between the Marine Fisheries Commission and the Wildlife Resources Commission are coastal fishing waters. The regulations and licensing of fishing in coastal fishing waters is under the jurisdiction of the Marine Fisheries Commission; except that inland game fish (exclusive of spotted seatrout, weakfish, and striped bass) are subject

to regulations by the Wildlife Resources Commission in coastal fishing waters. Regulations and laws administered by the Marine Fisheries Commission regarding fishing in coastal waters are enforced by fisheries enforcement officers. Regulations regarding inland game fish in coastal fishing waters are enforced by wildlife enforcement officers unless otherwise agreed to by the Wildlife Resources Commission.

Statutory Authority G.S. 113-132; 113-134; 143B-289.4.

.0104 JOINT FISHING WATERS

Joint fishing waters are those coastal fishing waters, hereinafter set out, denominated by agreement of the Marine Fisheries Commission and the Wildlife Resources Commission pursuant to G.S. 113-132(e) as joint fishing waters. All waters which are tributary to joint fishing waters and which are not otherwise designated by agreement between the Marine Fisheries Commission and the Wildlife Resources Commission are classified as joint fishing waters. The regulation and licensing of fishing in joint waters shall be as stated in 15A NCAC 3Q .0106.

Statutory Authority G.S. 113-132; 113-134; 143B-289.4.

.0105 POSTING DIVIDING LINES

The dividing lines of all major bodies of water and watercourses which are divided by the agreement of the Marine Fisheries Commission and the Wildlife Resources Commission so that portions of the same are constituted inland fishing waters, coastal fishing waters, or joint fishing waters shall be marked with signs in so far as may be practicable. Unmarked and undesignated tributaries shall have the same classification as the designated waters to which they connect or into which they flow. No unauthorized removal or relocation of any such marker shall have the effect of changing the classification of any body of water or portion thereof, nor shall any such unauthorized removal or relocation or the absence of any marker affect the applicability of any regulation pertaining to any such body of water or portion thereof.

Statutory Authority G.S. 113-132; 113-134; 143B-289.4.

.0106 APPLICABILITY OF RULES: JOINT WATERS

(a) All coastal fishing laws and regulations administered by the Department of Environment, Health, and Natural Resources and the Marine

Fisheries Commission apply to joint waters except as otherwise provided, and shall be enforced by fisheries enforcement officers.

(b) The following inland fishing laws and regulations administered by the Wildlife Resources Commission apply to joint waters and shall be enforced by wildlife enforcement officers:

- (1) all laws and regulations pertaining to inland game fishes,
- (2) all laws and regulations pertaining to inland fishing license requirements for hook and line fishing,
- (3) all laws and regulations pertaining to hook and line fishing except as hereinafter provided.

Statutory Authority G.S. 113-132; 113-134; 143B-289.4.

.0107 SPECIAL RULES: JOINT WATERS

In order to effectively manage all fisheries resources in joint waters and in order to confer enforcement powers on both fisheries enforcement officers and wildlife enforcement officers with respect to certain regulations, the Marine Fisheries Commission and the Wildlife Resources Commission deem it necessary to adopt special regulations for joint waters. Such regulations supersede any inconsistent regulations of the Marine Fisheries Commission or the Wildlife Resources Commission that would otherwise be applicable in joint waters under the provisions of 15A NCAC 3Q .0106:

- (1) Striped bass
 - (a) It is unlawful to possess any striped bass or striped bass hybrid taken by any means which is less than 16 inches long (total length).
 - (b) It is unlawful to possess more than three striped bass or striped bass hybrids taken by hook and line in any one day from joint waters.
 - (c) It is unlawful to engage in net fishing for striped bass or striped bass hybrids in joint waters except as authorized by duly adopted rules of the Marine Fisheries Commission.
- (2) Lake Mattamuskeet
 - (a) It is unlawful to set or attempt to set any gill net in Lake Mattamuskeet canals designated as joint waters.
 - (b) It is unlawful to use or attempt to use any trawl net or seines in Lake Mattamuskeet canals designated as joint waters.
- (3) Cape Fear River. It is unlawful to use or attempt to use any net or net stakes within 800 feet of the dam at Lock No. 1 on the Cape Fear River.

PROPOSED RULES

Statutory Authority G.S. 113-132; 113-134; 143B-289.4.

SECTION .0200 - BOUNDARY LINES: COASTAL-JOINT-INLAND FISHING WATERS

.0201 SPECIFIC CLASSIFICATION OF WATERS

The several sounds and estuarine and tributary waters all or portions of which are specifically classified as inland, joint, or coastal fishing waters by agreement of the Marine Fisheries Commission and the Wildlife Resources Commission are listed in the following regulations under the coastal counties in which such waters or portions thereof are located. Indentation indicates the watercourse named is tributary to the next preceding watercourse named and not so indented. Where a watercourse is divided into more than one class, the dividing point or portions are described and the waters upstream, downstream, or between are stated as above or below. The classifications of the waters or designated portions thereof are indicated by the following symbols:

Inland fishing watersI
Joint fishing waters.....J
Coastal fishing waters.....C

Statutory Authority G.S. 113-132; 113-134; 143B-289.4.

.0202 DESCRIPTIVE BOUNDARIES

(a) Beaufort County

Pamlico-Tar River -----Inland Waters
-----above, Coastal
-----Waters below
-----N and S RR
-----bridge at
-----Washington
All Man-Made tributaries, except Atlantic
Intracoastal Waterway -----J
Pungo River-----Inland Waters
-----above US 264
-----bridge at
-----Leechville, Joint
-----Waters below
-----US 264 bridge
-----at Leechville
-----to Smith Creek,
-----Coastal Waters
-----below Smith
-----Creek
Flax Pond Bay -----C
Upper Dowery Creek -----I
Lower Dowery Creek -----I
George Best Creek-----C
Toms Creek -----C

Pantego Creek-----I
Pungo Creek -----Inland Waters
-----above, Coastal
-----Waters below
-----NC 92 bridge
Vale Creek -----I
Scotts Creek -----I
Smith Creek -----I
Woodstock (Little) Creek -----I
Jordan Creek -----I
Satterwaite Creek -----I
Wright Creek -----I
North Creek -----J
St. Clair Creek -----I
Mixons Creek -----I
Bath Creek -----I
Duck Creek -----I
Mallards Creek-----I
Upper Goose Creek-----I
Broad Creek -----I
Herring Run (Runyan Creek) -----I
Chocowinity Bay -----I
Calf Tree Creek -----I
Hills Creek-----I
Blounts Creek-----I
Nevil Creek-----I
Barris Creek -----I
Durham Creek -----I
Lees Creek-----I
Hudies Gut -----I
South Creek-----Inland Waters
-----above, Coastal
-----Waters below
-----Deephole Point
Tooleys Creek-----I
Drinkwater Creek-----I
Jacobs Creek -----I
Jacks Creek -----I
Whitehurst Creek -----I
Little Creek -----I
Short Creek -----I
Long Creek -----I
Bond Creek -----I
Muddy Creek-----I
Davis Creek-----I
Strawhorn Creek-----I
Lower Goose Creek -----C
Lower Spring Creek -----I
Peterson Creek -----I
Snoder Creek -----I
Campbell Creek-----Inland Waters
-----above, Coastal
-----Waters below
-----Smith Creek
Smith Creek -----I
Hunting Creek -----I
(b) Bertie County
Albemarle Sound -----C

PROPOSED RULES

All Man-Made Tributaries-----J	-----Waters below
Roanoke River -----Joint Waters	-----NC 130 bridge
-----below US 258	Grisset Swamp-----C
-----bridge to mouth	Little Shallotte River
Quinine-----I	and Tributaries-----C
Wire Gut-----I	Lockwood Folly River-----Inland Waters
Apple Tree Creek-----I	-----above, Coastal
Indian Creek-----I	-----Waters below
Coniott Creek-----I	-----NC 211 bridge
Conine Creek-----J	-----at Supply
Old Mill Creek-----I	Stanberry Creek-----C
Cut Cypress Creek-----I	Pompeys Creek-----C
Broad Creek-----I	Maple Creek-----C
Thoroughfare-----J	Ruby's Creek-----C
Cashie River-----Inland Waters	Big Doe Creek-----C
-----above San Souci	Lennons Creek-----C
-----ferry Joint Waters	Mercers Mill Pond Creek -Inland Waters
-----below San Souci	-----above, Coastal
-----ferry to mouth	-----Waters below
Cashoke Creek-----I	-----Mill
Moore's Creek-----I	Elizabeth River-----C
Broad Creek-----I	Ash Creek-----C
Grinnel Creek-----I	Beaverdam Creek-----C
Middle River-----J	Dutchman Creek-----C
Eastmost River-----J	Calf Gully Creek-----C
Mud Gut-----I	Jumpin Run-----C
Black Walnut Swamp-----I	Fiddlers Creek-----C
Salmon Creek-----I	Cape Fear River-----Joint Waters
Chowan River-----Joint Waters	-----below Lock and
-----from confluence	-----Dam No. 1 to
-----to 300 yds below	-----old US 17-74-76
-----US 17 bridge	-----bridge at
Barkers Creek-----I	-----Wilmington
Willow Branch-----I	-----Coastal Waters
Keel (Currituck) Creek-----I	-----below old
(c) Bladen County	-----US 17-74-76
Cape Fear River-----Inland Waters	-----bridge at
-----above Lock and	-----Wilmington
-----Dam No. 1 Joint	Carolina Power and Light
-----Waters below	Intake Canal-----C
-----Lock and Dam	Walden Creek-----C
-----No. 1 to old US	Orton Creek-----I
-----17-74-76 bridge	Lilliput Creek-----I
-----at Wilmington	Sandhill Creek-----I
Natmore Creek-----I	Town Creek-----I
(d) Brunswick County	Mallory Creek-----I
Calabash River and Tributaries-----C	Brunswick River-----J
Saucepan Creek-----C	Alligator Creek-----I
Flat Marsh-----C	Jackeys Creek-----I
Shallotte River-----Inland Waters	Sturgeon Creek-----I
-----above, Coastal	Cartwheel Creek-----I
-----Waters below	Indian Creek-----I
-----US-17-130	Hood Creek-----I
Mill Dam Branch-----C	Northwest Creek-----I
Squash Creek-----C	(e) Camden County
Mill Pond-----C	Albemarle Sound-----C
Charles Branch-----Inland Waters	All Man-Made Tributaries-----J
-----above, Coastal	Pasquotank River-----Inland Waters

PROPOSED RULES

-----above, Joint	Hadnotts Creek-----Inland Waters
-----Waters below	-----above, Coastal
-----US 158 bridge	-----Waters below
-----at Elizabeth City	-----NC 58 bridge
Raymond Creek-----I	Neds Creek-----C
Portohonk Creek-----I	Hunter Creek-----I
Areneuse Creek-----I	(g) Chowan County
North River-----Inland Waters	Albemarle Sound-----C
-----above, Joint	All Man-Made Tributaries-----J
-----Waters below a	Yeopim River-----Inland Waters
-----line from Long	-----above, Joint
-----Creek to Green	-----Waters below
-----Island Creek	-----Noreum Point
Wading Gut-----I	Queen Anne Creek-----I
Little Broad Creek-----I	Pollock Swamp (Pembroke Creek)-----I
Broad Creek-----I	Chowan River-----Joint Waters
Hunting Creek-----I	-----from confluence
Abel Creek-----I	-----to 300 yds below
Back Landing Creek-----I	-----US 17 bridge
Public Creek-----I	Rocky Hook Creek-----I
Cow Creek-----I	Dillard (Indian) Creek-----I
Great Creek-----I	Stumpy Creek-----I
Indiantown Creek-----I	Catherine (Warwick) Creek-----I
(f) Carteret County	(h) Columbus County
Neuse River-----C	Cape Fear River-----J
Adams Creek-----C	Livingston Creek-----I
Back (Black) Creek-----C	Waymans Creek-----I
Cedar Creek-----C	(i) Craven County
Garbacon Creek-----C	Neuse River-----Inland Waters
South River-----Inland Waters	-----above Pitch
-----above, Coastal	-----Kettle Creek
-----Waters below	-----Joint Waters
-----the Forks	-----below Pitch
Big Creek-----C	-----Kettle Creek to
Southwest Creek-----C	-----US 17 bridge
West Fork-----I	-----at New Bern
East Fork-----I	-----Coastal Waters
Eastman Creek-----C	-----below US 17
Browns Creek-----C	-----bridge at
North River and Tributaries-----C	-----New Bern
Panther Cat Creek-----C	Adams Creek-----C
Cypress Creek-----C	Back Creek-----C
Newport River-----Inland Waters	Courts Creek-----I
-----above, Coastal	Long Branch-----I
-----Waters below	Clubfoot Creek-----C
-----the Narrows	Gulden Creek-----C
Core Creek-----C	Mitchell Creek-----C
Harlowe Creek-----C	Morton Mill Pond-----I
Bogue Sound and Tributaries-----C	Hancock Creek-----I
White Oak River-----Inland Waters	Slocum Creek-----I
-----above, Coastal	Scott Creek-----I
-----Waters below	Trent River-----Inland Waters
-----Grants Creek	-----above, Joint
Pettiford Creek-----Inland Waters	-----Waters below
-----above, Coastal	-----Wilson's Creek
-----Waters below	Brice Creek-----I
-----NC 58 bridge	Wilson Creek-----I
Little Hadnotts Creek-----I	Jack Smith Creek-----I

PROPOSED RULES

Bachelor Creek-----I	-----US 64 bridge
Dollys Gut-----I	Whipping Creek-----I
Greens Thoroughfare-----I	Swan Creek-----I
Greens Creek-----I	Milltail Creek-----I
Turkey Quarter Creek-----I	Laurel Bay Lake (Creek)-----I
Pitch Kettle Creek-----I	East Lake-----I
Taylors Creek-----I	Albemarle Sound-----C
Pine Tree Creek-----I	All Man-Made Tributaries-----J
Stumpy Creek-----I	Kitty Hawk Bay-----J
Swift Creek-----I	Peter Mashoes Creek-----I
Reels Creek-----I	Tom Mann Creek-----I
Mill Creek-----I	Croatan Sound-----C
Duck Creek-----I	All Man-Made Tributaries-----J
Northwest Creek-----I	Spencer Creek-----I
Upper Broad Creek-----Inland Waters	Calahan Creek-----I
-----above, Coastal	Roanoke Sound-----C
-----Waters below	Buzzard Bay-----J
-----the Tidelands	Pamlico Sound-----C
-----EMC power lines	Stumpy Point Bay-----C
(j) Currituck County	All Man-Made Tributaries-----J
Albemarle Sound-----C	Long Shoal River-----Inland Waters
All Man-Made Tributaries-----J	-----above, Coastal
North River-----Inland Waters	-----Waters below
-----above, Joint	-----US 264 bridge
-----Waters below a	All Man-Made Tributaries-----J
-----line from Long	Pains Bay-----C
-----Creek to Green	Pains Creek-----Inland Waters
-----Island Creek	-----above, Coastal
Duck Creek-----I	-----Waters below
Barnett Creek-----I	-----US 264 bridge
Lutz Creek-----I	Deep Creek-----Inland Waters
Goose Pond-----I	-----above, Coastal
Deep Creek-----I	-----Waters below
Narrow Ridges Creek-----I	-----US 264 bridge
Bump Landing Creek-----I	Currituck Sound-----J
Taylor Bay-----J	All Man-Made Tributaries-----J
Intracoastal Waterway from	Martin Point Creek-----I
Taylor Bay to	(l) Gates County
Coinjock Bay-----J	Chowan River-----Joint Waters
Indiantown Creek-----I	-----from confluence
Currituck Sound-----J	-----to 300 yds below
All Man-Made Tributaries-----J	-----US 17 bridge
Coinjock Bay-----I	Catherine (Warwick) Creek-----I
Nelson (Nells) Creek-----I	Bennetts Creek-----I
Hog Quarter Creek-----I	Beef Creek-----I
Parkers Creek-----I	Sarem Creek-----I
North Landing River-----I	Shingle (Island) Creek-----I
Northwest River-----I	Barnes Creek-----I
Gibbs Canal-----I	Spikes Creek-----I
Tull Creek-----I	Buckhorn Creek (Run Off Swamp)---I
West Landing-----I	Mud Creek-----I
(k) Dare County	Somerton Creek-----I
Alligator River-----Joint Waters	(m) Halifax County
-----below Cherry	Roanoke River-----Inland Waters
-----Ridge Landing	-----above US 258
-----to US 64	-----bridge Joint
-----bridge Coastal	-----Waters to mouth
-----Waters below	Kehukee Swamp-----I

PROPOSED RULES

Clarks Canal-----I
 (n) Hertford County
 Chowan River-----Joint Waters
 -----from confluence
 -----to 300 yds below
 -----US 17 bridge
 Keel (Currituck) Creek-----I
 Snake Creek-----I
 Swain Mill (Taylor Pond) Creek-----I
 Goose Creek-----I
 Wiccacon River-----I
 Hodges Creek-----I
 Catherine Creek-----I
 Harris (Hares) Mill Creek-----I
 Meherrin River-----J
 Potecasi Creek-----I
 Sallie Gut-----I
 Mapleton Gut-----I
 Liverman Creek-----I
 Vaughan's Creek-----I
 Banks Creek-----I
 Toms Gut-----I
 Sudd Grass Creek-----I
 Forked Gut-----I
 Riddicksville Gut-----I
 Buckhorn Creek-----I
 Warrens Gut-----I
 (o) Hyde County
 Pamlico Sound-----C
 Pungo River-----Inland Waters
 -----above US 264
 -----bridge at
 -----Leechville, Joint
 -----Waters below
 -----US 264 bridge
 -----at Leechville
 -----to Smith Creek,
 -----Coastal Waters
 -----below Smith
 -----Creek
 Rutman Creek-----I
 Wilkerson Creek-----I
 Atlantic Intracoastal Waterway
 from Wilkerson Creek to
 Alligator River at
 Winn Bay-----J
 Horse Island Creek-----I
 Tarkiln Creek-----I
 Scranton Creek-----Inland Waters
 -----above, Joint
 -----Waters below
 -----US 264 bridge
 Smith Creek-----I
 Fishing Creek-----I
 Slades Creek-----C
 Fortesque Creek-----C
 Rose Bay-----C
 Neals Creek-----C

Deep Creek-----C
 Reden Creek-----C
 Rose Bay Creek-----C
 Rose Bay Canal-----Inland Waters
 -----above, Joint
 -----Waters below
 -----SR 1305 bridge
 Swan Quarter Bay-----C
 Oyster Creek-----C
 Juniper Bay-----C
 Juniper Bay Creek-----J
 Juniper Bay Creek Canal-----I
 Lake Mattamuskeet-----I
 Outfall Canal-----Inland Waters
 -----above, Joint
 -----Waters below
 -----US 264 bridge
 Lake Landing Canal-----Inland Waters
 -----above, Joint
 -----Waters below
 -----US 264 bridge
 Waupopin Canal-----Inland Waters
 -----above, Joint
 -----Waters below
 -----SR 1311 bridge
 All other Man-Made
 Tributaries to
 Lake Mattamuskeet-----I
 Middletown Creek-----C
 Long Shoal River-----Inland Waters
 -----above, Coastal
 -----Waters below
 -----US 264 bridge
 All Man-Made Tributaries-----J
 Broad Creek-----C
 Flag Creek-----I
 Cumberland Creek-----I
 Alligator River-----Inland Waters
 -----above Cherry
 -----Ridge Landing,
 -----Joint Waters
 -----below Cherry
 -----Ridge Landing
 -----to US 64 bridge
 Swan Creek and Lake-----I
 Alligator Creek-----I
 (p) Martin County
 Roanoke River-----J
 Prices Gut-----I
 Rainbow Gut-----I
 Conoho Creek-----I
 Sweetwater Creek-----I
 Peter Swamp-----I
 Devils Gut-----J
 Upper Deadwater-----J
 Lower Deadwater-----J
 Gardner Creek-----I
 Roses Creek-----I

PROPOSED RULES

Welch Creek-----I	Northeast Creek -----Inland Waters
(q) New Hanover County	-----above, Coastal
Cape Fear River-----Joint Waters	-----Waters below
-----below Lock and	-----railroad bridge
-----Dam No. 1 to	Wallace Creek-----Inland Waters
-----old US 17-74-76	-----above, Coastal
-----bridge at	-----Waters below
-----Wilmington Coastal	-----the first bridge
-----Waters below	-----upstream from
-----old US 17-74-76	-----the mouth
-----bridge at	Codells Creek -----I
-----Wilmington	French Creek-----I
Lords Creek -----I	Duck Creek-----I
Todds Creek-----I	Freeman (Browns) Creek -----C
Barnards Creek -----I	Bear Creek-----C
Greenfield Lake Outlet -----I	Queens Creek -----Inland Waters
Tommer Creek-----I	-----above, Coastal
Catfish Creek-----I	-----Waters below
Northeast Cape Fear River--Inland Waters	-----Frazier's Landing
-----above, Joint	Parrotts Swamp-----C
-----Waters below	White Oak River-----Inland Waters
-----NC 210 bridge	-----above, Coastal
Smiths Creek -----I	-----Waters below
Ness Creek-----I	-----Grants Creek
Dock Creek-----I	Stevens Creek -----C
Fishing Creek -----I	Holland Mill (Mill Pond) Creek -----C
Prince George Creek -----I	Webbs Creek-----Inland Waters
Sturgeon Creek -----I	-----above, Coastal
Island Creek-----I	-----Waters below
(r) Northampton County	-----railroad bridge
Roanoke River -----Inland Waters	Freemans Creek -----I
-----above US 258	Calebs Creek -----I
-----bridge Joint	Grant's Creek -----I
-----Waters below	(t) Pamlico County
-----US 258 bridge	Pamlico River -----Inland Waters
Sandy Run (Norfleet Gut)-----I	-----above, Coastal
Graveyard Gut -----I	-----Waters below
(s) Onslow County	-----R and S RR
Beasleys (Barlow) Creek -----C	-----bridge at
Kings Creek -----C	-----Washington
Turkey Creek -----C	Lower Goose Creek-----C
Mill Creek -----C	Dixons Creek-----C
New River-----Inland Waters	Patons Creek -----C
-----above, Coastal	Wilson Creek -----C
-----Waters below	Fastham Creek-----Inland Waters
-----US 17 bridge at	-----above, Coastal
-----Jacksonville	-----Waters below
Wheeler Creek -----C	-----end of SR 1236
Everett Creek-----C	Upper Spring Creek-----C
Stones Creek -----C	Intracoastal Waterway from
Muddy Creek -----C	Upper Spring Creek
Lewis Creek -----C	to Gale Creek -----C
Southwest Creek-----Inland Waters	Oyster Creek -----C
-----above, Coastal	Clark Creek-----C
-----Waters below	Middle Prong-----C
-----Maple Hill	James Creek -----C
----- (Maple) Landing	Pamlico Sound -----C
Brinson Creek-----I	Porpoise Creek-----C

PROPOSED RULES

Drum Creek-----	C	-----end of SR 1350
Bay River-----	Inland Waters	Tarklin Creek-----I
-----	above, Coastal	Gatlin Creek-----I
-----	Waters below	Little Creek-----I
-----	NC 55 bridge	Mill Creek-----I
-----	at Bayboro	Beard Creek-----Inland Waters
Gale Creek-----	Inland Waters	-----above, Coastal
-----	above, Coastal	-----Waters below
-----	Waters below	-----end of SR 1117
-----	NC 304 bridge	Lower Duck Creek-----I
Chadwick Creek-----	C	Goose Creek-----Inland Waters
Bear Creek-----	C	-----above, Coastal
Vandemere Creek-----	Inland Waters	-----Waters below end
-----	above, Coastal	-----of SR 1110
-----	Waters below	Upper Broad Creek-----Inland Waters
-----	NC 304 bridge	-----above, Coastal
Long Creek-----	C	-----Waters below
Smith Creek-----	C	-----Tidelands EMC
Chapel Creek-----	Inland Waters	-----power line
-----	above, Coastal	(u) Pasquotank County
-----	Waters below	Albemarle Sound-----C
-----	NC 304 bridge	All Man-Made Tributaries-----J
Raccoon Creek-----	C	Little River-----Inland Waters
Trent Creek-----	Inland Waters	-----above, Joint
-----	above, Coastal	-----Waters below
-----	Waters below	-----a line from
-----	NC 55 bridge	-----Manston Creek
Thomas Creek-----	I	-----to Davis Creek
Masons Creek-----	C	Symonds Creek-----I
Moore Creek-----	C	Manston Creek-----I
Rices Creek-----	C	Big Flatty Creek-----Inland Waters
Ball Creek-----	C	-----above, Joint
Cabin Creek-----	C	-----Waters below
Riggs Creek-----	C	-----a line from
Spring Creek-----	C	-----Long Point
Long Creek-----	C	-----to Folly Creek
Neuse River-----	Coastal Waters	Marsh Landing-----I
-----	below US 17	Folly Creek-----I
-----	bridge at New Bern	Pasquotank River-----Inland Waters
Swan Creek-----	C	-----above, Joint
Lower Broad Creek-----	C	-----Waters below
Greens Creek-----	C	-----US 158 bridge
Pittman Creek-----	C	-----at Elizabeth City
Burton Creek-----	C	Little Flatty Creek-----I
Brown Creek-----	C	New Begun Creek-----Inland Waters
Spice Creek-----	C	-----above, Joint
Gideon Creek-----	C	-----Waters below a
Tar Creek-----	C	-----line from the
Parris Creek-----	C	-----mouth of Paling
Orchard Creek-----	C	-----Creek to the
Pierce Creek-----	C	-----mouth of James
Whitaker Creek-----	C	-----Creek
Smith Creek-----	J	Paling Creek-----I
Greens Creek-----	J	James Creek-----I
Kershaw Creek-----	J	Charles Creek-----I
Dawson Creek-----	Inland Waters	(v) Pender County
-----	above, Coastal	Cape Fear River-----I
-----	Waters below	Thoroughfare-----I

PROPOSED RULES

Black River-----	Inland Waters	-----	Ridge Landing
-----	above, Joint	-----	Joint Waters
-----	Waters below	-----	below Cherry
-----	the point where	-----	Ridge Landing
-----	the Thoroughfare	-----	to US 64
-----	joins the	-----	bridge Coastal
-----	Black River	-----	Waters below
Northeast Cape Fear River--	Inland Waters	-----	US 64 bridge
-----	above, Joint	-----	Little Alligator River-----I
-----	Waters below	-----	Second Creek-----I
-----	NC 210 bridge	-----	Goose Creek-----I
Cowpen Creek-----	I	-----	The Frying Pan-----J
Long Creek-----	I	-----	Gum Neck Landing Ditch-----I
Turkey Creek-----	I	-----	(y) Washington County
Old Creek-----	I	-----	Albemarle Sound-----C
Honey Creek-----	I	-----	All Man-Made Tributaries-----J
Harrisons Creek-----	I	-----	Roanoke River-----Joint Waters
Island Creek-----	I	-----	-----below US 258
Topsail Sound and Tributaries-----	C	-----	-----bridge to mouth
Beasleys (Barlow) Creek-----	C	-----	Conaby Creek-----I
(w) Perquimans County		-----	Mackeys (Kendrick) Creek-----I
Albemarle Sound-----	C	-----	Pleasant Grove Creek
All Man-Made Tributaries-----	J	-----	(Cherry Swamp)-----I
Yeopim River-----	Inland Waters	-----	Chapel Swamp Creek-----I
-----	above, Joint	-----	Bull Creek-----I
-----	Waters below	-----	Deep Creek-----I
-----	Norcum Point	-----	Banton (Maybell) Creek-----I
Yeopim Creek-----	I	-----	Scuppernong River-----I
Perquimans River-----	Inland Waters		
-----	above, Joint		
-----	Waters below old		
-----	US 17 bridge		
-----	at Hertford		
Walter's Creek-----	I		
Mill Pond Creek-----	I		
Suttons Creek-----	I		
Jackson (Cove) Creek-----	I		
Muddy Creek-----	I		
Little River-----	Inland Waters		
-----	above, Joint		
-----	Waters below		
-----	a line from		
-----	Manston Creek		
-----	to Davis Creek		
Deep Creek-----	I		
Davis Creek-----	I		
(x) Tyrrell County			
Albemarle Sound-----	C		
All Man-Made Tributaries-----	J		
Scuppernong River-----	Inland waters		
-----	above, joint		
-----	Waters below		
-----	First (Rider's)		
-----	Creek		
First (Rider's) Creek-----	I		
Furlough Creek-----	I		
Alligator River-----	Inland Waters		
-----	above Cherry		

Statutory Authority G.S. 113-132; 113-134; 143B-286.

SUBCHAPTER 3R - DESCRIPTIVE BOUNDARIES

0001 SEA TURTLE SANCTUARY

The sea turtle sanctuary referenced in 15A NCAC 31 .0007 is in the Atlantic Ocean adjacent to Onslow County enclosed by a line, beginning at the easternmost end of Hammocks Beach (Bear Island) at 34° 38.4' N - 77° 07' W, and running southeastward 1,000 feet offshore toward the Bogue Inlet Bell Buoy (BW "BI"); thence continuing toward the Bogue Inlet Bell Buoy (BW "BI"); thence continuing southwest 1,000 feet offshore parallel with the ocean shoreline of Bear Island to a point 34° 37.1' N - 77° 10.1' W where said line intersects the northeastern edge of that restricted zone between Bear and Browns Inlets, designated as part of the Camp Lejeune restricted area; thence seaward along the boundary of this restricted zone to a point 34° 36.7' N - 77° 09.8' W, said point being about 3.4 mile 157° M from the western end of Bear Island; thence from said point southwest across the restricted zone to a point 34° 35.1' N - 77° 13.2' W where said line intersects the southwestern boundary of the restricted zone, thence shore-

ward with the southwestern boundary of the restricted zone to a point off the mouth of Brown's Inlet $34^{\circ} 35.6' N - 77^{\circ} 13.6' W$, said point being about 1,000 feet offshore of the western shore of Brown's Inlet; thence southwest parallel with the ocean shoreline 1,000 feet offshore to a point $34^{\circ} 34.7' N - 77^{\circ} 15.1' W$, said point being about 1,200 feet $151^{\circ} M$ from the northernmost observation tower on Onslow Beach; thence running southeast $151^{\circ} M$ to a point $34^{\circ} 34.3' N - 77^{\circ} 14.7' W$, said point being about 3.4 mile offshore; thence from said buoy to the southernmost tip of Onslow Beach $34^{\circ} 31.9' N - 77^{\circ} 20.3' W$.

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

.0002 MILITARY RESTRICTED AREAS

(a) Designated military restricted areas referenced in 15A NCAC 31 .0010(b) and used for military training purposes are located as follows:

- (1) Currituck Sound:
 - (A) North Landing River; and
 - (B) Northern part of Currituck Sound (See 33 CFR 334.410 (a) (1) and (a) (2); Contact Commander Fleet Air Norfolk);
- (2) Albemarle Sound:
 - (A) Along north shore at the easternmost tip of Harvey Point; and
 - (B) Along south shore of Albemarle Sound (See 33 CFR 334.410 (b) (1) and (b) (2); Contact Commander Fleet Air Norfolk);
- (3) Pamlico Sound:
 - (A) In the vicinity of Long Shoal (See 33 CFR 334.410 (c); Contact Commander Fleet Air Norfolk);
 - (B) In the vicinity of Brant Island (See 33 CFR 334.420 (a) (1); Contact Commander Marine Corp Air Bases, East, Cherry Point); and
 - (C) In the vicinity of Piney Island including waters of Rattan Bay, Cedar Bay and Turnagain Bay (See 33 CFR 334.420 (b); Contact Commander Marine Corps Air Bases, East, Cherry Point);
- (4) Neuse River and tributaries, that portion of Neuse River within 500 feet of the shore along the reservation of the Marine Corps Air Station, Cherry Point, North Carolina, extending from the mouth of Hancock Creek to a point approximately 6,000 feet west of the mouth of Slocum Creek, and all waters of Hancock and Slocum Creeks and their tributaries within the boundaries of the reservations (See 33 CFR 334.430 (a); contact Commanding General, United States Marine Corps Air Station, Cherry Point);

- (5) Atlantic Ocean:
 - (A) In the vicinity of Bear Inlet; and
 - (B) East of New River Inlet
(See 33 CFR 334.440 (a) and (d); Contact Commanding General, Marine Corps Base, Camp Lejeune);
- (6) Brown's Inlet area between Bear Creek, Onslow Beach Bridge and the Atlantic Ocean (See 33 CFR 334.440 (e); Contact Commanding General, Marine Corps Base, Camp Lejeune);
- (7) New River within eight sections:
 - (A) Trap Bay Sector,
 - (B) Courthouse Bay Sector,
 - (C) Stone Bay Sector,
 - (D) Stone Creek Sector,
 - (E) Grey Point Sector,
 - (F) Farnell Bay Sector,
 - (G) Morgan Bay Sector, and
 - (H) Jacksonville Sector
(See 33 CFR 334.440 (b); Contact Commanding General, Marine Corps Base, Camp Lejeune);
- (8) Cape Fear River due west of the main ship channel extending from U.S. Coast Guard Buoy No. 31A at the north approach channel to Sunny Point Terminal to U.S. Coast Guard Buoy No. 23A at the south approach channel to Sunny Point Army Terminal and all waters of its tributaries therein (See 33 CFR 334.450 (a); Contact Commander, Sunny Point Area Terminal, Southport).
 - (b) The areas included in the advisory against the use of fixed fishing gear at the Piney Island range, as referenced in 15A NCAC 31 .0010(d) is Rattan Bay southeast of a line beginning at a point $35^{\circ} 02' 41'' N - 76^{\circ} 29' 00'' W$, running $027^{\circ} (M)$ to a point $35^{\circ} 03' 28'' N - 76^{\circ} 28' 42'' W$, and include all of Rattan Bay which is within the Piney Island military range in southern Pamlico Sound.

Statutory Authority G.S. 113-134; 113-181; 113-182; 143B-289.4.

.0003 PRIMARY NURSERY AREAS

- (a) In the Roanoke Sound Area.
 - (1) Shallowbag Bay:
 - (A) Dough Creek, northwest of a line beginning at a point on the east shore $35^{\circ} 54' 28'' N - 75^{\circ} 40' 00'' W$; running $242^{\circ} (M)$ to a point on the west shore $35^{\circ} 54' 19'' N - 75^{\circ} 40' 09'' W$;
 - (B) Scarborough Creek, all waters south of a line beginning at a point on the east shore $35^{\circ} 54' 00'' N - 75^{\circ} 39' 33'' W$;

- running 246° (M) to a point on the west shore 35° 53' 59" N -- 75° 39' 36" W.
- (2) Broad Creek, north of a line beginning at a point on the east shore 35° 52' 24" N -- 75° 38' 26" W; running 306° (M) to a point on the west shore 35° 52' 22" N -- 75° 38' 30" W.
- (b) In the Northern Pamlico Sound Area.
- (1) Long Shoal River:
- (A) Long Shoal River, west of a line beginning at a point on the north shore 35° 38' 00" N -- 75° 52' 57" W; running 208° (M) to a point on the south shore 35° 37' 47" N -- 75° 53' 03" W;
- (B) Deep Creek, east of a line beginning at a point on the north shore 35° 37' 50" N -- 75° 52' 14" W; running 204° (M) to a point on the south shore 35° 37' 38" N -- 75° 52' 18" W;
- (C) Broad Creek, west of a line beginning at a point on the north shore 35° 35' 57" N -- 75° 53' 42" W; running 209° (M) to a point on the south shore 35° 35' 46" N -- 75° 53' 49" W;
- (D) Muddy Creek, east of a line beginning at a point on the north shore 35° 36' 24" N -- 75° 52' 08" W; running 181° (M) to a point on the south shore 35° 36' 15" N -- 75° 52' 10" W;
- (E) Pains Bay, north of a line beginning at a point on the west shore 35° 35' 26" N -- 75° 49' 12" W; running 097° (M) to a point on the east shore 35° 35' 26" N -- 75° 48' 50" W;
- (F) Otter Creek, southwest of a line beginning at a point on the east shore 35° 33' 07" N -- 75° 55' 00" W; running 277° (M) to a point on the west shore 35° 33' 07" N -- 75° 55' 15" W;
- (G) Clark Creek, northeast of a line beginning at a point on the north shore 33° 35' 45" N - 75° 51' 30" W; running 158° (M) to a point on the south shore 35° 35' 46" N - 75° 51' 28" W;
- (2) Far Creek, east of a line beginning at a point on Gibbs Point 35° 30' 06" N -- 75° 57' 46" W; running 007° (M) to a point on the east shore 35° 30' 53" N -- 75° 57' 46" W;
- (3) Middletown Creek, west of a line beginning at a point on the north shore 35° 28' 26" N -- 75° 59' 55" W; running 097° (M) to a point on the south shore 35° 28' 06" N -- 75° 59' 55" W;
- (4) Wysocking Bay:
- (A) Lone Tree Creek, east of a line beginning at a point on the south shore 35° 25' 06" N -- 76° 02' 06" W; running 342° (M) to a point on the north shore 35° 25' 33" N -- 76° 02' 18" W;
- (B) Wysocking Bay, north of a line beginning at a point on the east shore 35° 25' 55" N -- 76° 02' 58" W; running 265° (M) to a point on the west shore 35° 25' 44" N -- 76° 03' 33" W;
- (C) Douglas Bay, northwest of a line beginning at a point on Mackey Point 35° 25' 11" N -- 76° 03' 14" W; running 229° (M) to a point on the south shore 35° 24' 50" N -- 76° 03' 42" W;
- (D) Tributaries west of Brown Island, west of a line beginning at a point on the north shore of Brown Island 35° 24' 10" N -- 76° 04' 24" W; running 007° (M) to a point 35° 24' 24" N -- 76° 04' 24" W; and north of a line beginning at a point on the most southern point of Brown Island 35° 23' 51" N -- 76° 04' 32" W; running 277° (M) to a point on the west shore 35° 23' 51" N -- 76° 04' 48" W;
- (5) East Bluff Bay, Harbor Creek east of a line beginning at a point on the south shore 35° 21' 25" N - 76° 07' 48" W; running 323° (M) to a point on the north shore 35° 21' 31" N - 76° 07' 56" W;
- (6) Cunning Harbor tributaries, north of a line beginning at a point on the east shore 35° 20' 40" N - 76° 12' 15" W; running 280° (M) to a point on the west shore 35° 20' 42" N - 76° 12' 37" W;
- (7) Juniper Bay:
- (A) Upper Juniper Bay, north of a line beginning at a point on the east shore 35° 23' 09" N - 76° 15' 00" W; running 277° (M) to a point on the west shore 35° 23' 09" N - 76° 15' 12" W;
- (B) Rattlesnake Creek, west of a line beginning at a point on the north shore 35° 22' 55" N - 76° 15' 19" W, running 211° (M) to a point on the south shore 35° 22' 50" N - 76° 15' 21" W;
- (C) Buck Creek, east of a line beginning at a point on the south shore 35° 21' 22" N - 76° 13' 46" W; running 328° (M) to a point on the north shore 35° 21' 29" N - 76° 13' 54" W;
- (D) Laurel Creek, east of a line beginning at a point on the north shore 35° 20' 38" N - 76° 13' 21" W; running 170° (M) to a point on the south shore 35° 20' 36" N - 76° 13' 22" W;
- (E) Old Haulover, west of a line beginning on the south shore 35° 21' 58" N - 76° 15' 36" W; running 008° (M) to a point on the north shore 35° 22' 05" N - 76° 15' 35" W;

(8) Swanquarter Bay:

- (A) Upper Swanquarter Bay, north of a line beginning on the east shore and running 270° (M) through Day Marker No. 7 to the west shore;
- (B) Oyster Creek, east of a line beginning at a point on the north shore $35^{\circ} 23' 06''$ N -- $76^{\circ} 18' 58''$ W; running 187° (M) to a point on the south shore $35^{\circ} 22' 00''$ N -- $76^{\circ} 18' 58''$ W;
- (C) Caffee Bay:

- (i) Unnamed tributary, north of a line beginning at a point on the west shore $35^{\circ} 22' 09''$ N - $76^{\circ} 18' 52''$ W; running 111° (M) to a point on the east shore $35^{\circ} 22' 06''$ N - $76^{\circ} 18' 45''$ W;
- (ii) Unnamed tributary, north of a line beginning at a point on the east shore $35^{\circ} 22' 05''$ N - $76^{\circ} 18' 12''$ W; running 288° (M) to a point on the west shore $35^{\circ} 22' 09''$ N - $76^{\circ} 18' 28''$ W;
- (iii) Upper Caffee Bay (Haulover), east of a line beginning at a point on the south shore $35^{\circ} 21' 43''$ N - $76^{\circ} 17' 25''$ W; running 330° (M) to a point on the north shore $35^{\circ} 21' 52''$ N - $76^{\circ} 17' 26''$ W.

(9) Rose Bay:

- (A) Rose Bay, north of a line beginning at a point on Watch Point $35^{\circ} 26' 52''$ N -- $76^{\circ} 25' 02''$ W; running 272° (M) to Channel Marker No. 6; thence 248° (M) to a point on the west shore $35^{\circ} 26' 40''$ N -- $76^{\circ} 25' 30''$ W;
- (B) Island Point Creek, west of a line beginning at a point on the north shore $35^{\circ} 25' 59''$ N - $76^{\circ} 25' 06''$ W; running 154° (M) to a point on the south shore $35^{\circ} 25' 54''$ N - $76^{\circ} 25' 00''$ W;
- (C) Tooley Creek, west of a line beginning on the north shore $35^{\circ} 25' 26''$ N -- $76^{\circ} 25' 30''$ W; running 187° (M) to a point on the south shore $35^{\circ} 25' 09''$ N -- $76^{\circ} 25' 30''$ W;
- (D) Broad Creek, east of a line beginning at a point on the south shore $35^{\circ} 23' 54''$ N - $76^{\circ} 23' 34''$ W; running 023° (M) to a point $35^{\circ} 24' 15''$ N - $76^{\circ} 26' 10''$ W; thence 080° (M) to a point $35^{\circ} 24' 18''$ N - $76^{\circ} 25' 57''$ W;
- (E) Lightwood Snag Bay, west and north of a line beginning at a point on the south shore $35^{\circ} 23' 54''$ N - $76^{\circ} 26' 18''$ W running 023° (M) to a point $35^{\circ} 24' 15''$ N - $76^{\circ} 26' 10''$ W; thence 080° (M) to a point $35^{\circ} 24' 18''$ N - $76^{\circ} 25' 57''$ W;
- (F) Deep Bay:

- (i) Old Haulover, north of a line beginning at a point on the west shore $35^{\circ} 23' 09''$ N - $76^{\circ} 22' 52''$ W; running 101° (M) to a point on the east shore $35^{\circ} 23' 09''$ N - $76^{\circ} 22' 46''$ W;

- (ii) Drum Cove (Stinking Creek), south of a line beginning at a point on the west shore $35^{\circ} 22' 32''$ N - $76^{\circ} 24' 44''$ W; running 122° (M) to a point on the east shore $35^{\circ} 22' 26''$ N - $76^{\circ} 24' 28''$ W;

- (G) Eastern tributaries (Cedar Hammock and Long Creek), east of a line beginning at a point on the north shore $35^{\circ} 24' 53''$ N - $76^{\circ} 23' 12''$ W; running 206° (M) to a point on the south shore $35^{\circ} 24' 39''$ N - $76^{\circ} 23' 18''$ W;

(10) Spencer Bay:

(A) Germantown Bay:

- (i) Ditch Creek, west of a line beginning at a point on the north shore $35^{\circ} 24' 11''$ N -- $76^{\circ} 27' 54''$ W; running 224° (M) to a point on the south shore $35^{\circ} 24' 05''$ N -- $76^{\circ} 27' 59''$ W;

- (ii) Jenette Creek, west of a line beginning at a point on the north shore $35^{\circ} 24' 30''$ N - $76^{\circ} 27' 40''$ W; running 204° (M) to a point on the south shore $35^{\circ} 24' 25''$ N - $76^{\circ} 27' 40''$ W;

- (iii) Headwaters at northeast of a line beginning at a point on the northwest shore $35^{\circ} 24' 50''$ N - $76^{\circ} 27' 16''$ W; running 158° (M) to a point on the southeast shore $35^{\circ} 24' 30''$ N - $76^{\circ} 27' 11''$ W;

- (iv) Swan Creek, southeast of a line beginning at a point on the north shore $35^{\circ} 24' 30''$ N - $76^{\circ} 27' 11''$ W; running 234° (M) to a point on the south shore $35^{\circ} 24' 24''$ N - $76^{\circ} 27' 17''$ W;

- (B) Unnamed western tributary, west of a line beginning at a point on the south shore $35^{\circ} 22' 48''$ N -- $76^{\circ} 28' 19''$ W; running 356° (M) to a point on the north shore $35^{\circ} 22' 59''$ N -- $76^{\circ} 28' 21''$ W;

- (C) Unnamed tributary, west of a line beginning on the south shore $35^{\circ} 23' 04''$ N - $76^{\circ} 28' 36''$ W; running 016° (M) to a point on the north shore $35^{\circ} 23' 08''$ N - $76^{\circ} 28' 35''$ W;

- (D) Unnamed tributary, west of a line beginning at a point on the south shore $35^{\circ} 23' 21''$ N - $76^{\circ} 28' 37''$ W; running 306° (M) to a point on the north shore $35^{\circ} 23' 25''$ N - $76^{\circ} 28' 46''$ W;

- (E) Unnamed tributaries, northwest of a line beginning at a point on the north shore $35^{\circ} 23' 45''$ N - $76^{\circ} 28' 38''$ W; run-

- ning 231° (M) to a point on the south shore 35° 23' 30" N - 76° 28' 48" W;
- (F) Upper Spencer Bay, northwest of a line beginning at a point on the south shore 35° 24' 00" N - 76° 28' 48" W; running 028° (M) to a point on the north shore 35° 24' 23" N - 76° 28' 36" W;
- (G) Swan Creek, east of a line beginning at a point on the south shore 35° 23' 51" N - 76° 27' 26" W; running 018° (M) to a point on the north shore 35° 24' 02" N - 76° 27' 25" W;
- (11) Long Creek, north of a line beginning at a point on the west shore 35° 22' 26" N - 76° 29' 00" W; running 119° (M) to a point on the east shore 35° 22' 21" N - 76° 28' 49" W;
- (12) Willow Creek, east of a line beginning at a point on the north shore 35° 23' 06" N - 76° 28' 54" W; running 137° (M) to a point on the south shore 35° 23' 01" N - 76° 28' 45" W;
- (13) Abels Bay, above a line beginning at a point on the west shore 35° 24' 04" N -- 76° 30' 24" W; running 132° (M) to a point on the east shore 35° 23' 57" N -- 76° 30' 09" W; thence 204° (M) to a point on the south shore 35° 23' 40" N -- 76° 30' 14" W;
- (14) Crooked Creek, north of a line beginning at a point on the east shore 35° 24' 21" N - 76° 32' 04" W; running 282° (M) to a point on the west shore 35° 24' 27" N - 76° 32' 14" W.
- (c) In the Pungo River Area.
- (1) Fortescue Creek:
- (A) Headwaters of Fortescue Creek, south-east of a line beginning at a point on the southwest shore 35° 25' 26" N -- 76° 30' 42" W; running 060° (M) to a point on the northeast shore 35° 25' 30" N -- 76° 30' 33" W;
- (B) Warner Creek, north of a line from a point on the east shore 35° 26' 18" N -- 76° 31' 30" W; running 262° (M) to a point on the west shore 35° 26' 16" N -- 76° 31' 36" W;
- (C) Island Creek, north of a line beginning at a point on the west shore 35° 26' 04" N -- 76° 32' 22" W; running 093° (M) to a point on the east shore 35° 26' 06" N -- 76° 32' 18" W;
- (D) Dixon Creek, south of a line beginning at a point above Lupton Point 35° 25' 34" N -- 76° 31' 54" W; running 279° (M) to a point on the west shore 35° 25' 35" N -- 76° 31' 44" W;
- (E) Pasture Creek, north of a line beginning at a point on the east shore 35° 26' 00" N -- 76° 31' 54" W; running 277° (M) to a point above Pasture Point 35° 26' 00" N -- 76° 31' 57" W;
- (F) All tributaries on the northeast shore of lower Fortescue Creek, northeast of a line beginning at a point 35° 26' 05" N -- 76° 21' 12" W; running 135° (M) to a point 35° 25' 36" N -- 76° 30' 36" W;
- (2) Slade Creek:
- (A) Slade Creek, south of a line beginning at a point above Jones Creek 35° 27' 56" N -- 76° 30' 44" W; running 102° (M) to a point on the north shore 35° 27' 54" N -- 76° 30' 33" W;
- (B) Jarvis Creek, northeast of a line beginning at a point on the southeastern shore 35° 28' 14" N -- 76° 30' 51" W; running 325° (M) to a point 35° 28' 15" N -- 76° 30' 56" W;
- (C) Jones Creek, south of a line beginning at a point on the east shore 35° 27' 56" N -- 76° 30' 53" W; running 331° (M) to a point on the west shore 35° 28' 00" N -- 76° 30' 57" W;
- (D) Becky Creek, north of a line beginning at a point on the east shore 35° 28' 42" N -- 76° 31' 37" W; running 277° (M) to a point on the west shore 35° 28' 42" N -- 76° 31' 40" W;
- (E) Neal Creek, north of a line beginning at a point on the east shore 35° 28' 49" N -- 76° 31' 49" W; running 275° (M) to a point on the west shore 35° 28' 48" N -- 76° 31' 54" W;
- (F) Wood Creek, north of a line beginning at a point on the east shore 35° 28' 38" N -- 76° 32' 22" W; running 277° (M) to a point on the west shore 35° 28' 38" N -- 76° 32' 30" W;
- (G) Spellman Creek, north of a line beginning at a point on the east shore 35° 28' 14" N -- 76° 32' 42" W; running 215° (M) to a point on the west shore 35° 28' 13" N -- 76° 32' 44" W;
- (11) Speer Creek, east of a line beginning at a point on the north shore 35° 27' 58" N -- 76° 32' 24" W; running 207° (M) to a point on the south shore 35° 27' 55" N -- 76° 32' 24" W;
- (1) Church Creek and Speer Gut, east of a line beginning at a point on the northeast shore 35° 27' 35" N -- 76° 32' 46" W; running 228° (M) to a point on the southwest shore 35° 27' 33" N -- 76° 32' 52" W;

- (J) Allison and Foeman Creek, south of a line beginning at a point on Parmalee Point $35^{\circ} 27' 15''$ N -- $76^{\circ} 33' 07''$ W; running 286° (M) to a point on the southwest shore $35^{\circ} 27' 18''$ N -- $76^{\circ} 33' 12''$ W;
- (3) Flax Pond, west of a line beginning at a point on the south shore $35^{\circ} 31' 52''$ N - $76^{\circ} 33' 15''$ W; running 009° (M) to a point on the north shore $35^{\circ} 31' 56''$ N - $76^{\circ} 33' 15''$ W;
- (4) Battalina and Tooleys Creeks, northwest of a line beginning at a point on the north shore $35^{\circ} 32' 21''$ N - $76^{\circ} 36' 12''$ W; running 226° (M) to a point on the south shore $35^{\circ} 32' 02''$ N - $76^{\circ} 36' 24''$ W;
- (d) In the Pamlico River Area.
- (1) North Creek:
- (A) North Creek, north of a line beginning at a point on the west shore $35^{\circ} 25' 35''$ N -- $76^{\circ} 40' 06''$ W; running 048° (M) to a point on the east shore $35^{\circ} 25' 40''$ N -- $76^{\circ} 40' 01''$ W;
- (B) East Fork:
- (i) Northeast of a line beginning at a point on the northwest shore $35^{\circ} 25' 48''$ N -- $76^{\circ} 39' 04''$ W; running 144° (M) to a point on the southeast shore $35^{\circ} 25' 43''$ N -- $76^{\circ} 39' 00''$ W;
- (ii) Unnamed tributary of East Fork northwest of a line beginning at a point on the north shore $35^{\circ} 25' 41''$ N - $76^{\circ} 39' 28''$ W; running 215° (M) to a point on the south shore $35^{\circ} 25' 37''$ N - $76^{\circ} 39' 30''$ W;
- (C) Frying Pan Creek, east of a line beginning at a point on Chambers Point $35^{\circ} 24' 51''$ N -- $76^{\circ} 39' 48''$ W; running 051° (M) to a point on the north shore $35^{\circ} 25' 00''$ N -- $76^{\circ} 39' 33''$ W;
- (D) Little East Creek, west of a line beginning at a point on Cousin Point $35^{\circ} 25' 00''$ N -- $76^{\circ} 40' 26''$ W; running 028° (M) to a point on the north shore $35^{\circ} 25' 08''$ N -- $76^{\circ} 40' 22''$ W;
- (2) Goose Creek:
- (A) Creek north of Bostic Point, west of a line beginning at a point on the north shore $35^{\circ} 19' 57''$ N -- $76^{\circ} 37' 37''$ W; running 179° (M) to a point on the south shore $35^{\circ} 19' 54''$ N -- $76^{\circ} 37' 34''$ W;
- (B) Upper Spring Creek:
- (i) Headwaters of Upper Spring Creek, east of a line beginning at a point on the north shore $35^{\circ} 16' 20''$ N - $76^{\circ} 35' 56''$ W; running 139° (M) to a point on the south shore $35^{\circ} 16' 14''$ N - $76^{\circ} 35' 48''$ W;
- (ii) Unnamed tributary, north of a line beginning at a point on the west shore $35^{\circ} 16' 50''$ N -- $76^{\circ} 36' 27''$ W; running 099° (M) to a point on the east shore $35^{\circ} 16' 50''$ N -- $76^{\circ} 36' 24''$ W;
- (C) Eastham Creek:
- (i) Slade Landing Creek, south of a line beginning at a point on the west shore $35^{\circ} 17' 32''$ N -- $76^{\circ} 35' 59''$ W; running 139° (M) to a point on the east shore $35^{\circ} 17' 29''$ N -- $76^{\circ} 35' 54''$ W;
- (ii) Mallard Creek, north of a line beginning at a point on the west shore $35^{\circ} 17' 49''$ N -- $76^{\circ} 36' 09''$ W; running 122° (M) to a point on the east shore $35^{\circ} 17' 47''$ N -- $76^{\circ} 36' 04''$ W;
- (D) Mud Gut, north and east of a line beginning at a point on the south shore $35^{\circ} 17' 48''$ N -- $76^{\circ} 36' 46''$ W; running 349° (M) to a point on the north shore $35^{\circ} 17' 52''$ N -- $76^{\circ} 36' 48''$ W;
- (E) Wilkerson Creek, east of a line beginning at a point on the south shore $35^{\circ} 18' 20''$ N -- $76^{\circ} 36' 44''$ W; running 025° (M) to a point on the north shore $35^{\circ} 18' 23''$ N -- $76^{\circ} 36' 45''$ W;
- (F) Dixon Creek, east of a line beginning at a point on the north shore $35^{\circ} 18' 53''$ N -- $76^{\circ} 36' 37''$ W; running 205° (M) to a point on the south shore $35^{\circ} 18' 37''$ N -- $76^{\circ} 36' 42''$ W;
- (3) Oyster Creek; Middle Prong:
- (A) Oyster Creek:
- (i) West of a line beginning at a point on the north shore $35^{\circ} 19' 29''$ N -- $76^{\circ} 34' 02''$ W; running 166° (M) to a point on the south shore $35^{\circ} 19' 25''$ N -- $76^{\circ} 34' 00''$ W;
- (ii) Duck Creek, south of a line beginning at a point on the west shore $35^{\circ} 19' 06''$ N -- $76^{\circ} 33' 18''$ W; running 055° (M) to a point on the east shore $35^{\circ} 19' 10''$ N -- $76^{\circ} 33' 12''$ W;
- (B) James Creek, southwest of a line beginning at a point on the north shore $35^{\circ} 18' 36''$ N -- $76^{\circ} 32' 20''$ W; running 136° (M) to a point on the southeast shore $35^{\circ} 18' 28''$ N -- $76^{\circ} 32' 05''$ W;
- (C) Middle Prong, south of a line beginning at a point on the west shore $35^{\circ} 17' 50''$ N -- $76^{\circ} 32' 06''$ W; running 141° (M) to a point on the east shore $35^{\circ} 17' 43''$ N -- $76^{\circ} 31' 57''$ W;
- (D) Clark Creek:
- (i) Headwaters of Clark Creek, southeast of a line beginning at a point on the southwest shore $35^{\circ} 18' 06''$ N -- $76^{\circ} 31' 12''$ W; running 056° (M) to a point on

- the northeast shore 35° 18' 12" N -- 76° 31' 06" W;
- (ii) Boat Creek, east of a line beginning at a point of the south shore 35° 18' 24" N - 76° 31' 16" W; running 358° (M) to a point on the north shore 35° 18' 32" N - 76° 31' 18" W;
- (E) Clark Creek, southeast of a line beginning at a point on the southwest shore 35° 18' 06" N -- 76° 31' 12" W; running 056° (M) to a point on the northeast shore 35° 18' 12" N -- 76° 31' 06" W.
- (e) In the Western Pamlico Sound Area.
- (1) Mouse Harbor:
- (A) Long Creek, north of a line beginning at a point on the west shore 35° 18' 26" N -- 76° 29' 48" W; running 070° (M) to a point on the east shore 35° 18' 30" N -- 76° 29' 37" W;
- (B) Small tributary east of Long Creek, northeast of a line beginning at a point on the west shore 35° 18' 31" N -- 76° 29' 13" W; running 137° (M) to a point on the east shore 35° 18' 28" N -- 76° 29' 10" W;
- (C) Cedar Creek and adjacent tributary, south of a line beginning at a point on the west shore 35° 16' 54" N -- 76° 29' 53" W; running 136° (M) to a point on the east shore 35° 16' 39" N -- 76° 29' 31" W;
- (2) Big Porpoise Bay, west of a line beginning at a point on the north shore 35° 15' 44" N -- 76° 29' 29" W; running 154° (M) to a point on the south shore 35° 15' 38" N -- 76° 29' 22" W;
- (3) Middle Bay, west of a line beginning at a point on the south shore 35° 14' 22" N -- 76° 31' 14" W; running 055° (M) to a point on the north shore 35° 14' 36" N -- 76° 30' 50" W;
- Little Oyster Creek, north of a line beginning at a point on the west shore 35° 14' 28" N -- 76° 30' 14" W; running 074° (M) to a point on the east shore 35° 14' 35" N -- 76° 29' 59" W;
- (4) Jones Bay, west of the IWW:
- (A) Little Drum Creek, Little Eve Creek, two small tributaries on the south shore at the mouth of Jones Bay, south of a line beginning at a point on the west shore 35° 12' 26" N - 76° 31' 46" W; running 104° (M) to a point on the east shore 35° 12' 20" N - 76° 31' 16" W;
- (B) Ditch Creek, south of a line beginning at a point on the west shore 35° 13' 21" N -- 76° 33' 40" W; running 115° (M) to a point on the east shore 35° 13' 14" N -- 76° 33' 14" W;
- (C) Lambert Creek, west of a line beginning at a point on the south shore 35° 13' 49" N - 76° 34' 20" W; running 016° (M) to a point on the north shore 35° 13' 50" N - 76° 34' 19" W;
- (D) Headwaters of Jones Bay, (west of the IWW), west of a line beginning at a point on the south shore 35° 14' 25" N -- 76° 35' 26" W; running 009° (M) to a point on the north shore at 35° 14' 28" N -- 76° 35' 26" W;
- (E) Bills Creek, north of a line beginning at a point on the west shore 35° 14' 29" N - 76° 34' 47" W; running 150° (M) to a point on the east shore 35° 14' 26" N - 76° 34' 43" W;
- (F) Doll Creek, north of a line beginning at a point on the west shore 35° 14' 20" N -- 76° 34' 14" W; running 129° (M) to a point on the east shore 35° 14' 15" N -- 76° 34' 04" W;
- (G) Drum Creek, north of a line beginning at a point on the west shore 35° 14' 10" N -- 76° 33' 17" W; running 116° (M) to a point on the east shore 35° 14' 08" N -- 76° 33' 05" W.
- (f) In the Bay River Area:
- (1) Mason Creek, southeast of a line beginning at a point on the southwest shore 35° 08' 10" N -- 76° 41' 39" W; running 041° (M) to a point on the east shore 35° 08' 15" N -- 76° 41' 34" W;
- (2) Moore Creek, southeast of a line beginning at a point on the southwest shore 35° 08' 52" N -- 76° 40' 18" W; running 032° (M) to a point on the north shore 35° 08' 58" N -- 76° 40' 15" W;
- (3) Small tributaries from Bell Point to Ball Creek, southwest of a line beginning at a point on the northwest shore 35° 09' 57" N -- 76° 39' 26" W; running 128° (M) to a point on the southeast shore 35° 09' 45" N -- 76° 38' 54" W;
- (4) Ball Creek-Cabin Creek, south of a line beginning at a point on the west shore 35° 09' 39" N -- 76° 38' 01" W; running 116° (M) to a point on the east shore 35° 09' 34" N -- 76° 37' 38" W;
- (5) Bonner Bay:
- (A) Riggs Creek, west of a line beginning at a point on the north shore 35° 09' 24" N -- 76° 36' 15" W; running 156° (M) to a point on the south shore 35° 09' 13" N -- 76° 36' 07" W;
- (B) Spring Creek, west of a line beginning at a point on the north shore 35° 08' 29" N -- 76° 36' 13" W; running 165° (M) to

- a point on the south shore 35° 08' 20" N -- 76° 36' 07" W;
- (C) Bryan Creek, south of a line beginning at a point on the west shore 35° 08' 22" N -- 76° 35' 53" W; running 069° (M) to a point on the east shore 35° 08' 25" N -- 76° 35' 43" W;
- (D) Dipping Vat Creek, east of a line beginning at a point on the north shore 35° 09' 17" N -- 76° 34' 21" W; running 164° (M) to a point on the south shore 35° 09' 09" N -- 76° 34' 18" W;
- (E) Long Creek, south of a line beginning at a point on the west shore 35° 08' 12" N -- 76° 34' 38" W; running 098° (M) to a point on the east shore 35° 08' 12" N -- 76° 34' 30" W;
- (F) Small tributary off Long Creek, west of a line beginning at a point on the north shore 35° 08' 30" N -- 76° 34' 42" W; running 164° (M) to a point on the south shore 35° 08' 24" N -- 76° 34' 38" W;
- (6) Rock Hole Bay, northeast of a line beginning at a point on the west shore 35° 11' 39" N -- 76° 32' 36" W; running 150° (M) to a point on the east shore 35° 11' 16" N -- 76° 32' 15" W;
- (7) Dump Creek, north of a line beginning at a point on the west shore 35° 11' 42" N -- 76° 33' 27" W; running 057° (M) to a point on the east shore 35° 11' 48" N -- 76° 33' 20" W;
- (8) Tributaries east of IWW at Gales Creek, east of a line beginning at a point on the north shore of the northern tributary 35° 12' 54" N -- 76° 35' 29" W; running 158° (M) to a point on the south shore of the southern tributary 35° 12' 22" N -- 76° 35' 06" W;
- (9) Gales Creek and adjacent tributary, west of a line beginning at a point on the north shore of Gales Creek 35° 12' 55" N -- 76° 35' 46" W; running 160° (M) to a point on the south shore of adjacent creek 35° 12' 27" N -- 76° 35' 25" W;
- (10) Chadwick Creek and No Jacket Creek, north of a line beginning at a point on the west shore 35° 11' 58" N -- 76° 35' 56" W; running 079° (M) to a point on the east shore 35° 12' 04" N -- 76° 35' 33" W;
- (11) Bear Creek, north of a line beginning at a point on the west shore 35° 11' 35" N -- 76° 36' 22" W; running 037° (M) to a point on the east shore 35° 11' 44" N -- 76° 36' 15" W;
- (12) Little Bear Creek, north of a line beginning at a point on the west shore 35° 11' 06" N -- 76° 36' 20" W; running 045° (M) to a point on the east shore 35° 11' 16" N -- 76° 36' 07" W;
- (13) All small tributaries to Bay River from Petty Point to Sanders Point, closed at mouth;
- (14) In Vandemere Creek:
- (A) Cedar Creek, north of a line beginning at a point on the west shore 35° 11' 13" N -- 76° 39' 36" W; running 078° (M) to a point on the east shore 35° 11' 14" N -- 76° 39' 33" W;
- (B) Long Creek, east of a line beginning at a point on the north shore 35° 11' 27" N -- 76° 38' 49" W; running 177° (M) to a point on the south shore 35° 11' 23" N -- 76° 38' 48" W;
- (C) Little Vandemere Creek, north of a line beginning at a point on the west shore 35° 12' 07" N -- 76° 39' 17" W; running 120° (M) to a point on the east shore 35° 12' 06" W -- 76° 39' 14" W;
- (15) Smith Creek, north of a line beginning at a point on the west shore 35° 10' 23" N -- 76° 40' 15" W; running 054° (M) to a point on the east shore 35° 10' 27" N -- 76° 40' 13" W;
- (16) Harper Creek, west of a line beginning at a point on the south shore 35° 09' 09" N -- 76° 41' 54" W; running 024° (M) to a point on the north shore 35° 09' 15" N -- 76° 41' 51" W;
- (17) Chapel Creek, north of a line beginning at a point on the west shore 35° 08' 56" N -- 76° 42' 52" W; running 076° (M) to a point on the east shore 35° 08' 58" N -- 76° 42' 48" W;
- (18) Swindell Bay, south of a line beginning at a point on the west shore 35° 08' 16" N -- 76° 42' 57" W; running 135° (M) to a point on the east shore 35° 08' 13" N -- 76° 42' 50" W.
- (g) In the Neuse River Area North Shore.
- (1) Swan Creek, west of a line beginning at a point on the north shore 35° 06' 46" N -- 76° 33' 41" W; running 042° (M) to a point on the south shore 35° 06' 18" N -- 76° 34' 02" W;
- (2) Broad Creek:
- (A) Greens Creek, east of a line beginning at a point on the north shore 35° 06' 05" N -- 76° 35' 28" W; running 154° (M) to a point on the south shore 35° 06' 00" N -- 76° 35' 24" W;
- (B) Pittman Creek, north of a line beginning at a point on the west shore 35° 05' 48" N -- 76° 36' 10" W; running 068° (M) to a point on the east shore 35° 05' 54" N -- 76° 36' 02" W;

- (C) Burton Creek, west of a line beginning at a point on the south shore $35^{\circ} 05' 37''$ N -- $76^{\circ} 36' 32''$ W; running 034° (M) to a point on the north shore $35^{\circ} 05' 43''$ N -- $76^{\circ} 36' 30''$ W;
- (D) All small tributaries on the north shore of Broad Creek, north of a line beginning at a point on the west shore of the western most tributary $35^{\circ} 05' 38''$ N -- $76^{\circ} 37' 49''$ W; running 109° (M) to a point on the east shore of the eastern most tributary $35^{\circ} 05' 27''$ N -- $76^{\circ} 36' 47''$ W;
- (E) Brown Creek, northwest of a line beginning at a point on the southwest shore $35^{\circ} 05' 30''$ N -- $76^{\circ} 37' 51''$ W; running 032° (M) to a point on the northeast shore $35^{\circ} 05' 37''$ N -- $76^{\circ} 37' 48''$ W;
- (F) Broad Creek including Gideon Creek, west of a line beginning at a point on the south shore $35^{\circ} 05' 18''$ N -- $76^{\circ} 37' 49''$ W; running 013° (M) to a point on the north shore $35^{\circ} 05' 30''$ N -- $76^{\circ} 37' 51''$ W;
- (G) Tar Creek, south of a line beginning at a point on the west shore $35^{\circ} 05' 15''$ N -- $76^{\circ} 37' 36''$ W; running 097° (M) to a point on the east shore $35^{\circ} 05' 15''$ N -- $76^{\circ} 37' 30''$ W;
- (H) Small tributaries east of Tar Creek, south of a line beginning at a point on the west shore of the western tributary $35^{\circ} 05' 18''$ N -- $76^{\circ} 37' 03''$ W; running 106° (M) to a point on the east shore of the eastern tributary $35^{\circ} 05' 14''$ N -- $76^{\circ} 36' 27''$ W;
- (I) Mill Creek and Cedar Creek, south of a line beginning at a point on the west shore of Mill Creek $35^{\circ} 05' 26''$ N -- $76^{\circ} 36' 02''$ W; running 109° (M) to a point on the east shore of the eastern tributary $35^{\circ} 05' 22''$ N -- $76^{\circ} 35' 36''$ W;
- (3) Orchard Creek north of a line beginning at a point on the west shore $35^{\circ} 03' 21''$ N -- $76^{\circ} 38' 26''$ W; running 061° (M) to a point on the east shore $35^{\circ} 03' 37''$ N -- $76^{\circ} 37' 58''$ W;
- (4) Pierce Creek, north of a line beginning at a point on the west shore $35^{\circ} 02' 29''$ N -- $76^{\circ} 40' 07''$ W; running 083° (M) to a point on the east shore $35^{\circ} 02' 31''$ N -- $76^{\circ} 40' 01''$ W;
- (5) Whittaker Creek, north of a line beginning at a point on the west shore $35^{\circ} 01' 37''$ N -- $76^{\circ} 41' 12''$ W; running 095° (M) to a point on the east shore $35^{\circ} 01' 37''$ N -- $76^{\circ} 40' 58''$ W;
- (6) Oriental:
 (A) Smith and Morris Creek, north of a line beginning at a point on the west shore $35^{\circ} 02' 15''$ N -- $76^{\circ} 42' 19''$ W; running 096° (M) to a point on the east shore $35^{\circ} 02' 16''$ N -- $76^{\circ} 42' 12''$ W;
- (B) Tributary off Smith Creek west, west of a line beginning at a point on the north shore $35^{\circ} 02' 10''$ N -- $76^{\circ} 42' 19''$ W; running 186° (M) to a point on the south shore $35^{\circ} 02' 08''$ N -- $76^{\circ} 42' 19''$ W;
- (C) Tributary off Smith Creek, east, east of a line beginning at a point on the south shore $35^{\circ} 02' 06''$ N -- $76^{\circ} 42' 12''$ W; running 026° (M) to a point on the north shore $35^{\circ} 02' 08''$ N -- $76^{\circ} 42' 11''$ W;
- (D) Creek west of Dewey Point, north of a line beginning at a point on the west shore $35^{\circ} 01' 34''$ N -- $76^{\circ} 42' 35''$ W; running 049° (M) to a point on the west shore $35^{\circ} 01' 36''$ N -- $76^{\circ} 42' 32''$ W;
- (E) Two tributaries on the south shore of Greens Creek, south of a line beginning at a point on the west shore of the western creek $35^{\circ} 01' 24''$ N -- $76^{\circ} 42' 49''$ W; running 110° (M) to a point on the east shore of the eastern creek $35^{\circ} 01' 19''$ N -- $76^{\circ} 42' 27''$ W;
- (F) Greens Creek, west of a line beginning at a point on the north shore $35^{\circ} 01' 34''$ N -- $76^{\circ} 43' 02''$ W; running 154° (M) to a point on the south shore $35^{\circ} 01' 28''$ N -- $76^{\circ} 42' 57''$ W;
- (G) Kershaw Creek, north of a line beginning at a point on the west shore $35^{\circ} 01' 34''$ N -- $76^{\circ} 43' 02''$ W; running 070° (M) to a point on the east shore $35^{\circ} 01' 38''$ N -- $76^{\circ} 42' 53''$ W;
- (H) Windmill Point, southwest of a line beginning at a point on the northwest shore $35^{\circ} 01' 11''$ N -- $76^{\circ} 42' 18''$ W; running 130° (M) to a point on the southeast shore $35^{\circ} 01' 09''$ N -- $76^{\circ} 42' 14''$ W.
- (7) Dawson Creek:
 (A) Unnamed eastern tributary of Dawson Creek, east of a line beginning at a point on the north shore $35^{\circ} 00' 12''$ N - $76^{\circ} 45' 19''$ W; running 155° (M) to a point on the south shore $35^{\circ} 00' 07''$ N - $76^{\circ} 45' 15''$ W;
- (B) Unnamed tributary of Dawson Creek (at mouth), south of a line beginning at a point on the east shore $34^{\circ} 59' 39''$ N - $76^{\circ} 45' 09''$ W; running 256° (M) to a point on the south shore $34^{\circ} 59' 38''$ N - $76^{\circ} 45' 14''$ W;
- (8) Beard Creek tributary, southeast of a line beginning at a point on the north shore $35^{\circ} 00' 17''$ N - $76^{\circ} 51' 55''$ W; running

- 214° (M) to a point on the southwest shore 35° 00' 12" N - 76° 51' 58" W.
- (h) In the Neuse River Area South Shore:
- (1) Clubfoot Creek, south of a line beginning at a point on the west shore 34° 52' 15" N -- 76° 45' 48" W; running 095° (M) to a point on the east shore 34° 52' 15" N -- 76° 45' 36" W;
 - (A) Mitchell Creek, west of a line beginning at a point on the south shore 34° 54' 15" N -- 76° 45' 51" W; running 021° (M) to a point on the north shore 34° 54' 25" N -- 76° 45' 48" W;
 - (B) Gulden Creek, east of a line beginning at a point on the south shore 34° 54' 04" N -- 76° 45' 31" W; running 032° (M) to a point on the north shore 34° 54' 12" N -- 76° 45' 29" W;
 - (2) Adams Creek:
 - (A) Godfrey Creek, southwest of a line beginning at a point on the northwest shore 34° 57' 18" N -- 76° 41' 08" W; running 151° (M) to a point on the south shore 34° 57' 16" N -- 76° 41' 05" W;
 - (B) Delamar Creek, southwest of a line beginning at a point on the northwest shore 34° 57' 02" N -- 76° 40' 45" W; running 138° (M) to a point on the south shore 34° 57' 00" N -- 76° 40' 43" W;
 - (C) Kellum Creek, west of a line beginning at a point on the north shore 34° 55' 28" N -- 76° 39' 50" W; running 160° (M) to a point on the south shore 34° 55' 25" N -- 76° 39' 50" W;
 - (D) Kearney Creek and unnamed tributary north, west of a line beginning at a point on the north shore of the north creek 34° 55' 09" N -- 76° 40' 00" W; running 194° (M) to a point on the south shore of Kearney Creek 34° 54' 58" N -- 76° 40' 01" W;
 - (E) Isaac Creek, southeast of a line beginning at a point on the west shore 34° 54' 16" N -- 76° 40' 07" W; running 102° (M) to a point on the east shore 34° 54' 15" N -- 76° 40' 02" W;
 - (F) Back Creek, south of a line beginning at a point on the west shore 34° 54' 33" N -- 76° 39' 43" W; running 059° (M) to a point on the east shore 34° 54' 38" N -- 76° 39' 33" W;
 - (G) Cedar Creek, south of a line beginning at a point on the west shore 34° 55' 45" N -- 76° 38' 38" W; running 095° (M) to a point on the east shore 34° 55' 45" N -- 76° 38' 32" W;
 - (H) Jonaquin Creek, north of a line beginning at a point on the west shore 34° 56' 06" N -- 76° 38' 32" W; running 095° (M) to a point on the east shore 34° 56' 06" N -- 76° 38' 30" W;
 - (I) Dimpling Creek, east of a line beginning at a point on the north shore 34° 56' 54" N -- 76° 39' 33" W; running 142° (M) to a point on the south shore 34° 56' 52" N -- 76° 39' 31" W;
 - (J) Sandy Huss Creek, north of a line beginning at a point on the west shore 34° 57' 14" N -- 76° 39' 50" W; running 116° (M) to a point on the east shore 34° 57' 10" N -- 76° 39' 43" W;
 - (3) Garbacon Creek, south of a line beginning at a point on the west shore 34° 59' 00" N -- 76° 38' 34" W; running 097° (M) to a point on the east shore 34° 59' 00" N -- 76° 38' 30" W;
 - (4) South River:
 - (A) Big Creek, southwest of a line beginning at a point on the northwest shore 34° 56' 55" N - 76° 35' 22" W; running 160° (M) to a point on the southeast shore 35° 56' 49" N - 76° 35' 16" W;
 - (B) Horton Bay, north of a line beginning at a point on the west shore 34° 59' 08" N - 76° 34' 44" W; running 088° (M) to a point on the west shore 34° 59' 11" N - 76° 34' 30" W;
 - (5) Brown Creek, south of a line beginning at a point on the west shore 34° 59' 51" N -- 76° 33' 34" W; running 097° (M) to a point on the east shore 34° 59' 51" N -- 76° 33' 30" W;
 - (6) Turnagain Bay:
 - (A) Abraham Bay, west of a line beginning at a point on the north shore 35° 00' 09" N -- 76° 30' 48" W; running 187° (M) to a point on the south shore 34° 59' 50" N -- 76° 30' 44" W;
 - (B) Broad Creek and adjacent tributary, west of a line from a point on the north shore 34° 59' 11" N -- 76° 30' 26" W; running 151° (M) to a point on the south shore 34° 58' 57" N -- 76° 30' 08" W;
 - (C) Mulberry Point Creek, Tump Creek and adjacent tributary, east of a line beginning at a point on the north shore 35° 00' 28" N -- 76° 29' 47" W; running 166° (M) to a point on the south shore 34° 59' 40" N -- 76° 29' 23" W;
 - (D) Deep Gut, east of a line beginning at a point on the north shore 34° 59' 35" N -- 76° 29' 03" W; running 156° (M) to a point on the south shore 34° 59' 28" N -- 76° 28' 58" W;
 - (E) Big Gut, southeast of a line beginning at a point on the north shore 34° 59' 04"

- N - 76° 28' 44" W; running 219° (M) to a point on the south shore 34° 58' 55" N - 76° 28' 44" W.
- (i) West Bay; Long Bay Area:
- (1) Fur Creek and Henrys Creek, west of a line beginning at a point on the north shore 34° 56' 33" N -- 76° 27' 42" W; running 156° (M) to a point on the south shore 34° 56' 23" N -- 76° 27' 28" W;
 - (2) Cadduggen Creek, west of a line beginning at a point on the north shore 34° 56' 26" N -- 76° 23' 59" W; running 143° (M) to a point on the south shore 34° 56' 17" N -- 76° 23' 41" W.
- (j) Core Sound Area:
- (1) Cedar Island Bay, northwest of a line beginning at a point on the southwest shore 34° 59' 00" N -- 76° 17' 58" W; running 038° (M) through Beacon No. 6 to a point on the northeast shore 34° 59' 45" N -- 76° 17' 25" W;
 - (2) Lewis Creek, north of a line beginning at a point on the west shore 34° 56' 56" N -- 76° 16' 54" W; running 097° (M) to a point on the east shore 34° 56' 56" N -- 76° 16' 51" W;
 - (3) Thorofare Bay:
 - (A) Tributary off upper Thorofare Bay, southwest of a line beginning at a point on the northwest shore 34° 55' 27" N -- 76° 21' 28" W; running 132° (M) to a point on the southeast shore 34° 55' 22" N -- 76° 21' 16" W;
 - (B) Barry's Bay, west of a line beginning at a point on the north shore 34° 54' 30" N -- 76° 20' 48" W; running 155° (M) to a point on the south shore 34° 54' 24" N -- 76° 20' 35" W;
 - (4) Nelson Bay:
 - (A) Willis Creek and Fulchers Creek, west of a line beginning at a point on the north shore of Willis Creek 34° 51' 06" N -- 76° 24' 36" W; running 194° (M) to a point on the south shore of Fulchers Creek 34° 50' 11" N -- 76° 24' 54" W;
 - (B) Lewis Creek, west of a line beginning at a point on the south shore 34° 51' 44" N -- 76° 24' 40" W; running 011° (M) to a point on the north shore 34° 51' 54" N -- 76° 24' 39" W;
 - (5) Cedar Creek between Sea Level and Atlantic, west of a line beginning at a point on the south shore 34° 52' 00" N -- 76° 22' 44" W; running 007° (M) to a point on the north shore 34° 52' 03" N -- 76° 22' 44" W;
 - (6) Oyster Creek, northwest of the Highway 70 bridge;
 - (7) Jarretts Bay Area:
 - (A) Smyrna Creek, northwest of the Highway 70 bridge;
 - (B) Ditch Cove and adjacent tributary, east of a line beginning at a point on the north shore 34° 48' 00" N - 76° 28' 26" W; running 017° (M) to a point on the south shore 34° 47' 35" N - 76° 28' 30" W;
 - (C) Broad Creek, north of a line beginning at a point on the west shore 34° 47' 53" N - 76° 29' 18" W; running 081° (M) to a point on the east shore 34° 47' 58" N - 76° 28' 59" W;
 - (D) Howland Creek, northwest of a line beginning at a point on the southwest shore 34° 47' 21" N - 76° 29' 53" W; running 050° (M) to a point on the northeast shore 34° 47' 26" N - 76° 29' 47" W;
 - (E) Great Creek, southeast of a line beginning at a point on the southwest shore 34° 47' 08" N - 76° 29' 12" W; running 053° (M) to a point on the northeast shore 34° 47' 17" N - 76° 29' 02" W;
 - (F) Williston Creek, northwest of the Highway 70 bridge;
 - (G) Wade Creek, northwest of a line beginning at a point on the south shore 34° 46' 10" N -- 76° 30' 22" W; running 042° (M) to a point on the north shore 34° 46' 17" N -- 76° 30' 17" W;
 - (H) Jump Run, north of a line beginning at a point on the west shore 34° 45' 31" N -- 76° 30' 26" W; running 097° (M) to a point on the west shore 34° 45' 31" N -- 76° 30' 21" W;
 - (I) Middens Creek, west of a line beginning at a point on the south shore 34° 45' 23" N -- 76° 30' 59" W; running 007° (M) to a point on the north shore 34° 45' 29" N -- 76° 30' 59" W;
 - (J) Tusk Creek, northwest of a line beginning at a point on the southwest shore 34° 44' 37" N -- 76° 30' 47" W; running 033° (M) to a point on the north shore 34° 44' 48" N -- 76° 30' 38" W;
 - (K) Creek west of Bells Island, west of a line beginning at a point on the north shore 34° 43' 56" N -- 76° 30' 26" W; running 161° (M) to a point on the south shore 34° 43' 46" N -- 76° 30' 23" W.
 - (k) Straits, North River, Newport River Area.
 - (l) Straits:
 - (A) Sleepy Creek, north of a line beginning at a point on the west shore 34° 43' 21" N -- 76° 31' 32" W; running 096° (M) to a point on the east shore 34° 43' 21" N -- 76° 31' 20" W;

- (B) Whitehurst Creek, north of a line from a point on the west shore $34^{\circ} 43' 28''$ N -- $76^{\circ} 33' 22''$ W; running 072° (M) to a point on the east shore $34^{\circ} 43' 33''$ N -- $76^{\circ} 33' 13''$ W;
- (2) North River, north of Highway 70 bridge:
- (A) Ward Creek, north of Highway 70 bridge:
- (i) North Leopard Creek, southeast of a line beginning at a point on the southwest shore $34^{\circ} 45' 57''$ N -- $76^{\circ} 34' 27''$ W; running 055° (M) to a point on the northeast shore $34^{\circ} 46' 01''$ N -- $76^{\circ} 34' 19''$ W;
- (ii) South Leopard Creek, southeast of a line beginning at a point on the southwest shore $34^{\circ} 45' 29''$ N -- $76^{\circ} 34' 47''$ W; running 057° (M) to a point on the northeast shore $34^{\circ} 45' 33''$ N -- $76^{\circ} 34' 40''$ W;
- (B) Turner Creek (Gibbs Creek), west of a line beginning at a point on the south shore $34^{\circ} 43' 23''$ N -- $76^{\circ} 37' 43''$ W; running 012° (M) to a point on the north shore $34^{\circ} 43' 30''$ N -- $76^{\circ} 37' 40''$ W;
- (3) Newport River, west of a line beginning at a point at Lawton Point $34^{\circ} 45' 41''$ N -- $76^{\circ} 44' 03''$ W; running 356° (M) to a point on the north shore $34^{\circ} 46' 34''$ N -- $76^{\circ} 44' 18''$ W;
- (A) Russel Creek, north of a line beginning at a point on the west shore $34^{\circ} 45' 36''$ N -- $76^{\circ} 39' 47''$ W; running 097° (M) to a point on the east shore $34^{\circ} 45' 35''$ N -- $76^{\circ} 39' 46''$ W;
- (B) Ware Creek, northeast of a line beginning at a point on the northwest shore $34^{\circ} 46' 28''$ N -- $76^{\circ} 40' 30''$ W; running 153° (M) to a point on the southeast shore $34^{\circ} 46' 23''$ N -- $76^{\circ} 40' 27''$ W;
- (C) Bell Creek, northeast of a line beginning at a point on the northwest shore $34^{\circ} 47' 19''$ N -- $76^{\circ} 40' 58''$ W; running 166° (M) to a point on the southeast shore $34^{\circ} 47' 02''$ N -- $76^{\circ} 40' 56''$ W;
- (D) Eastman Creek, east of a line beginning at a point on the north shore $34^{\circ} 47' 57''$ N -- $76^{\circ} 41' 04''$ W; running 184° (M) to a point on the south shore $34^{\circ} 47' 47''$ N -- $76^{\circ} 41' 04''$ W;
- (E) Oyster Creek, north of a line beginning at a point on the west shore $34^{\circ} 46' 32''$ N -- $76^{\circ} 42' 32''$ W; running 080° (M) to a point on the east shore $34^{\circ} 46' 37''$ N -- $76^{\circ} 42' 14''$ W;
- (F) Harlow Creek, north of a line beginning at a point on the west shore $34^{\circ} 46' 41''$ N -- $76^{\circ} 43' 28''$ W; running 060° (M) to a point on the northeast shore $34^{\circ} 46' 50''$ N -- $76^{\circ} 43' 15''$ W;
- (G) Calico Creek, west of a line beginning at a point on the north shore $34^{\circ} 43' 42''$ N -- $76^{\circ} 43' 11''$ W; running 208° (M) to a point on the south shore $34^{\circ} 43' 37''$ N -- $76^{\circ} 43' 13''$ W;
- (H) Crab Point Bay, northwest of a line beginning at a point on the southwest shore $34^{\circ} 44' 03''$ N -- $76^{\circ} 43' 09''$ W; running 047° (M) to a point on the northeast shore $34^{\circ} 44' 08''$ N -- $76^{\circ} 43' 05''$ W.
- (I) Bogue Sound; Bogue Inlet Area:
- (1) Gales Creek, above the Highway 24 bridge;
- (2) Broad Creek, above the Highway 24 bridge;
- (3) Goose Creek, north of a line beginning at a point on the west shore $34^{\circ} 41' 46''$ N -- $77^{\circ} 00' 45''$ W; running 070° (M) to a point on the east shore $34^{\circ} 41' 51''$ N -- $77^{\circ} 00' 32''$ W;
- (4) Archer Creek, west of a line beginning at a point on the north shore $34^{\circ} 40' 27''$ N -- $77^{\circ} 00' 47''$ W; running 186° (M) to a point on the south shore $34^{\circ} 40' 22''$ N -- $77^{\circ} 00' 47''$ W;
- (5) White Oak River, north of a line beginning at a point on the west shore $34^{\circ} 45' 27''$ N -- $77^{\circ} 07' 39''$ W; running 095° (M) to a point on the east shore $34^{\circ} 45' 27''$ N -- $77^{\circ} 07' 07''$ W;
- (A) Pettiford Creek, east of a line beginning at a point on the north shore $34^{\circ} 42' 51''$ N -- $77^{\circ} 05' 24''$ W; running 175° (M) to a point on the south shore $34^{\circ} 42' 37''$ N -- $77^{\circ} 05' 20''$ W.
- (B) Holland Mill Creek, west of a line beginning at a point on the north shore $34^{\circ} 43' 49''$ N -- $77^{\circ} 11' 58''$ W; running 184° (M) to a point on the south shore $34^{\circ} 43' 38''$ N -- $77^{\circ} 11' 58''$ W.
- (6) Hawkins Creek, north of a line beginning at a point on the west shore $34^{\circ} 41' 06''$ N -- $77^{\circ} 07' 44''$ W; running 085° (M) to a point on the east shore $34^{\circ} 41' 07''$ N -- $77^{\circ} 07' 35''$ W;
- (7) Queen's Creek, north of country road number 1509 bridge:
- (A) Dick's Creek, west of a line beginning at a point on the south shore $34^{\circ} 39' 55''$ N -- $77^{\circ} 09' 21''$ W; running 338° (M) to a point on the north shore $34^{\circ} 39' 58''$ N -- $77^{\circ} 09' 21''$ W;
- (B) Parrot Swamp, west of a line beginning at a point on the south shore $34^{\circ} 40' 22''$ N -- $77^{\circ} 09' 39''$ W; running 333° (M) to

- a point on the north shore $34^{\circ} 40' 36''$ N -- $77^{\circ} 09' 48''$ W;
- (C) Hall's Creek, east of a line beginning at a point on the south shore $34^{\circ} 41' 00''$ N -- $77^{\circ} 09' 42''$ W; running 337° (M) to a point on the north shore $34^{\circ} 41' 06''$ N -- $77^{\circ} 09' 44''$ W;
- (8) Bear Creek, west of Willis Landing.
- (m) New River Area:
- (1) Salliers Bay area, all waters north and northwest of the IWW beginning at a point on Cedar Point $34^{\circ} 32' 48''$ N -- $77^{\circ} 19' 14''$ W to Beacon No. 58 $34^{\circ} 37' 56''$ N -- $77^{\circ} 12' 20''$ W including Howard Bay, Mile Hammock Bay, Salliers Bay, and Freeman Creek;
- (2) New River Inlet area (including Hellgate Creek and Ward's Channel), all waters south of the IWW from Beacon No. 65 $34^{\circ} 32' 41''$ N -- $77^{\circ} 18' 57''$ W to Beacon No. 15 $34^{\circ} 31' 03''$ N -- $77^{\circ} 22' 18''$ W, excluding the marked New River Inlet Channel;
- (3) New River:
- (A) Trap's Bay, northeast of a line beginning at a point on the east shore $34^{\circ} 33' 47''$ N -- $77^{\circ} 20' 25''$ W; running 317° (M) to a point on the west shore $34^{\circ} 34' 07''$ N -- $77^{\circ} 20' 59''$ W;
- (B) Courthouse Bay:
- (i) Tributary of Courthouse Bay, southeast of a line beginning at a point on Harvey's Point $34^{\circ} 34' 59''$ N -- $77^{\circ} 22' 25''$ W; running 066° (M) to a point on the east shore $34^{\circ} 35' 05''$ N -- $77^{\circ} 22' 11''$ W;
- (ii) Tributary of Courthouse Bay, northwest of a line beginning at a point on the west shore $34^{\circ} 35' 02''$ N -- $77^{\circ} 22' 40''$ W; running 057° (M) to a point on the east shore $34^{\circ} 35' 10''$ N -- $77^{\circ} 22' 31''$ W;
- (iii) Rufus Creek, east of a line beginning at a point on Wilken's Bluff $34^{\circ} 34' 19''$ N -- $77^{\circ} 21' 41''$ W; running 002° (M) to a point on the north shore $34^{\circ} 34' 27''$ N -- $77^{\circ} 21' 41''$ W;
- (C) Wheeler Creek, south of a line beginning at a point on Poverty Point $34^{\circ} 34' 04''$ N -- $77^{\circ} 23' 15''$ W; running 267° (M) to a point on the west shore $34^{\circ} 34' 03''$ N -- $77^{\circ} 23' 26''$ W;
- (D) Fannie Creek, west of a line beginning at a point on the south shore $34^{\circ} 34' 07''$ N -- $77^{\circ} 23' 35''$ W; running 333° (M) to a point on the north shore $34^{\circ} 34' 08''$ N -- $77^{\circ} 23' 40''$ W;
- (E) Sneed's Creek, northwest of a line beginning at a point on the east shore $34^{\circ} 35' 19''$ N -- $77^{\circ} 23' 31''$ W; running 219° (M) to a point on the west shore $34^{\circ} 35' 17''$ N -- $77^{\circ} 23' 34''$ W;
- (F) Everett Creek, south of a line beginning at a point on the east shore $34^{\circ} 34' 13''$ N -- $77^{\circ} 24' 44''$ W; running 273° (M) to a point on the west shore $34^{\circ} 34' 12''$ N -- $77^{\circ} 24' 49''$ W;
- (G) Stone's Creek, southwest of a line beginning at a point on the southeast shore $34^{\circ} 36' 34''$ N -- $77^{\circ} 26' 51''$ W; running 301° (M) to a point on the northwest shore $34^{\circ} 36' 37''$ N -- $77^{\circ} 26' 52''$ W;
- (H) Muddy Creek, north of a line beginning at a point on the west shore $34^{\circ} 36' 52''$ N -- $77^{\circ} 26' 38''$ W; running 087° (M) to a point on the east shore $34^{\circ} 36' 52''$ N -- $77^{\circ} 26' 37''$ W;
- (I) Mill Creek, north of a line beginning at a point on the west shore $34^{\circ} 37' 11''$ N -- $77^{\circ} 25' 47''$ W; running 109° (M) to a point on the east shore $34^{\circ} 37' 11''$ N -- $77^{\circ} 25' 37''$ W;
- (J) Whitehurst Creek, west and south of a line beginning at a point on the south shore $34^{\circ} 38' 04''$ N -- $77^{\circ} 22' 37''$ W; running 280° (M) to a point on the north shore $34^{\circ} 38' 04''$ N -- $77^{\circ} 22' 38''$ W;
- (K) Town Creek, west of a line beginning at a point on the south shore $34^{\circ} 39' 34''$ N -- $77^{\circ} 23' 06''$ W; running 007° (M) to a point on the north shore $34^{\circ} 39' 37''$ N -- $77^{\circ} 23' 06''$ W;
- (L) Lewis Creek, southwest of a line beginning at a point on the southeast shore $34^{\circ} 40' 56''$ N -- $77^{\circ} 24' 56''$ W; running 301° (M) to a point on the northwest shore $34^{\circ} 40' 55''$ N -- $77^{\circ} 24' 58''$ W;
- (M) Northeast Creek, east of a line beginning at a point on the south shore $34^{\circ} 43' 23''$ N -- $77^{\circ} 23' 35''$ W; running 316° (M) to a point at the mouth of Scale's Creek $34^{\circ} 43' 46''$ N -- $77^{\circ} 24' 06''$ W;
- (N) Southwest Creek, southwest of a line beginning at a point on the east shore $34^{\circ} 41' 30''$ N -- $77^{\circ} 25' 20''$ W; running 328° (M) to a point on the north shore $34^{\circ} 41' 50''$ N -- $77^{\circ} 25' 40''$ W;
- (O) Upper New River, north of a line beginning at a point on Mumford Point $34^{\circ} 43' 15''$ N -- $77^{\circ} 25' 00''$ W; running 271° (M) through Beacon No. 53 to a point on the west shore $34^{\circ} 43' 14''$ N -- $77^{\circ} 25' 49''$ W;
- (4) Chadwick Bay, all waters between a line beginning at a point on Roses Point 34°

32° 12' N -- 77° 22' 19" W; running 075° (M) to Marker No. 6 and the IWW;

(A) Fullard Creek (including Charles Creek), northwest of a line beginning at a point on the south shore 34° 32' 03" N -- 77° 22' 41" W; running 326° (M) to a point on the north shore 34° 32' 12" N -- 77° 22' 50" W;

(B) Bump's Creek, north of a line beginning at a point on the west shore 34° 32' 19" N -- 77° 22' 29" W; running 035° (M) to a point on the east shore 34° 32' 28" N -- 77° 22' 23" W.

(n) Stump Sound Area.

Stump Sound, all waters north and south of IWW from Beacon No. 15 34° 31' 03" N -- 77° 22' 17" W; to Marker No. 78 34° 25' 23" N -- 77° 34' 12" W; except 100 feet of either side of the IWW from Beacon No. 49 at Morris Landing to Marker No. 78 at the mouth of Beckys Creek and except the dredged canals at Old Settler's Beach and the dredged channel from the IWW north of Marker No. 57 to the Old Settler's Beach Canals.

(o) Topsail Sound Area:

(1) Virginia Creek, all waters northwest of a line beginning on the southwest shore at a point near the mouth 34° 24' 48" N - 77° 35' 38" W; running 056° (M) 700 yards to a point 34° 25' 02" N - 77° 35' 19" W; thence running 074° (M) 1900 yards and intersecting the nursery area line at Becky's Creek at a point 34° 25' 24" N - 77° 34' 16" W, with the exception of the natural channel as marked by the North Carolina Division of Marine Fisheries;

(2) Old Topsail Creek, all waters northwest of a line beginning at a point on the southwest shore 34° 21' 33" N - 77° 40' 37" W; running 065° (M) to a point on the northeast shore 34° 21' 43" N - 77° 40' 14" W, with the exception of the dredged channel as marked by the North Carolina Division of Marine Fisheries;

(3) Topsail Sound, all waters enclosed within a line starting at beacon "BC" 34° 24' 35" N -- 77° 35' 43" W; running 174° (M) to a point 34° 23' 58" N -- 77° 35' 33" W; running 235° (M) to a point 34° 21' 14" N -- 77° 39' 18" W; running 300° (M) to Marker No. 16 34° 21' 32" N -- 77° 40' 15" W; running 056° (M) back to point of origin;

(4) Mallard Bay Area, all waters northwest of the IWW from Beacon No. 93 34° 23' 54" N -- 77° 36' 43" W; to Beacon No. 96 34° 22' 34" N -- 77° 38' 45" W.

(p) Middle Sound Area:

(1) Howard Channel and Long Point Channel area, all waters southeast of the IWW from Beacon No. 98 34° 21' 33" N -- 77° 40' 32" W to a point on the north side of the Figure 8 Island Marina Channel 34° 16' 28" N -- 77° 45' 35" W [with the exception of Howard Channel from the IWW to New Topsail Inlet, Green Channel from Marker No. 105 to Rich's Inlet, Butler's Creek (Utley's Channel) from the IWW, north of Marker No. 112, to Nixon's Channel, and Nixon's Channel from IWW to Rich's Inlet; Tributaries to above named channels will remain closed.];

(2) Futch Creek, northwest of a line beginning at a point on the north shore of Porter's Neck 34° 18' 00" N -- 77° 44' 33" W; running 064° (M) to a point on Baldagle Point 34° 18' 09" N -- 77° 44' 22" W;

(3) Page's Creek, northwest of a line beginning at a point on the north shore 34° 16' 46" N -- 77° 46' 42" W; running 229° (M) to a point on the south shore 34° 16' 38" N -- 77° 46' 51" W;

(4) All waters bound on the north by the Figure Eight Island Causeway, on the east by Mason's Channel, on the south by Mason's Inlet Channel and on the west by the Intracoastal Waterway, with the exception of Mason's Channel.

(q) Greenville Sound Area:

(1) Shell Island area, all waters east of the IWW from Marker No. 123 34° 14' 52" N -- 77° 47' 00" W to a point on the north shore of Old Moore Inlet Channel 34° 13' 56" N -- 77° 47' 48" W;

(2) Howe Creek (Moore's Creek), northwest of a line beginning at a point on the south shore 34° 14' 42" N -- 77° 47' 26" W; running 030° (M) to a point on the north shore 34° 14' 53" N -- 77° 47' 13" W;

(3) Bradley Creek, west of Highway 17, 74 and 76 bridge;

(4) Wrightsville Beach area, all waters in an area enclosed by a line beginning at a point across the IWW from the mouth of Bradley Creek 34° 12' 21" N - 77° 49' 08" W, running 091° (M) to a point (near the Borrow Pit) 34° 12' 22" N - 77° 48' 32" W, running 144° (M) to a point 34° 11' 56" N - 77° 48' 19" W, running 224° (M) to a point 34° 11' 20" N - 77° 49' 05" W; running 306° (M) to a point 34° 11' 30" N - 77° 49' 31" W; running 024° (M) back to point of origin.

(r) Masonboro Sound Area:

- (1) Masonboro--Myrtle Grove Sound area (west side)--all waters west northwest of the IWW beginning at a point at the mouth of Bradley Creek $34^{\circ} 12' 23''$ N -- $77^{\circ} 49' 14''$ W; to Beacon No. 161 $34^{\circ} 03' 32''$ N -- $77^{\circ} 53' 22''$ W;
- (2) Masonboro--Myrtle Grove Sound area (east side) - all waters south and southeast of a line beginning at a point on the north end of Masonboro Island $34^{\circ} 11' 06''$ N - $77^{\circ} 48' 51''$ W; running 301° (M) to a point near IWW Marker No. 129 $34^{\circ} 11' 22''$ N - $77^{\circ} 49' 36''$ W; thence running along the east side of the IWW to Marker No. 161 $34^{\circ} 03' 32''$ N - $77^{\circ} 53' 22''$ W; (with the exception of Old Masonboro Channel and Carolina Beach Inlet Channel).
- (s) Cape Fear River Area:
 - (1) Cape Fear River, all waters north of a line beginning at a point on the east shore $34^{\circ} 10' 25''$ N -- $77^{\circ} 57' 03''$ W; running 275° (M) through Beacon No. 53 to a point on the west shore $34^{\circ} 10' 25''$ N -- $77^{\circ} 57' 46''$ W, and all waters north of a line beginning at a point on the east shore $34^{\circ} 04' 38''$ N -- $77^{\circ} 55' 28''$ W; running 275° (M) through Beacon No. 37 to a point on the west shore $34^{\circ} 04' 38''$ N -- $77^{\circ} 56' 31''$ W, with the exception of 300 yards east and west of the main shipping channel up to Beacon No. 53 (mouth of Brunswick River);
 - (2) The Basin (Ft. Fisher area), east of a line beginning at a point on the north shore $33^{\circ} 57' 17''$ N -- $77^{\circ} 56' 08''$ W; running 156° (M) to a point on the south shore $33^{\circ} 57' 04''$ N -- $77^{\circ} 56' 07''$ W;
 - (3) Walden Creek, northwest of county road No. 1528 bridge;
 - (4) Baldhead Island Creeks:
 - (A) Baldhead Creek, southeast of a line beginning at a point on the south shore $33^{\circ} 51' 42''$ N -- $77^{\circ} 59' 10''$ W; running 070° (M) to a point on the north shore $33^{\circ} 52' 07''$ N -- $77^{\circ} 59' 06''$ W;
 - (B) Cape Creek, southeast of a line beginning at a point on the south shore $33^{\circ} 51' 39''$ N -- $77^{\circ} 58' 28''$ W; running 026° (M) to a point on the north shore $33^{\circ} 52' 05''$ N -- $77^{\circ} 58' 23''$ W;
 - (C) Bluff Island Creek (East Beach Creek), south of a line beginning at a point on the west shore $33^{\circ} 52' 39''$ N -- $77^{\circ} 58' 11''$ W; running 092° (M) to a point on the east shore $33^{\circ} 52' 40''$ N -- $77^{\circ} 58' 07''$ W;
 - (D) Deep Creek, south of a line from a point on the southwest shore $33^{\circ} 52' 42''$ N -- $77^{\circ} 58' 05''$ W; running 046° (M) to a point on the northeast shore $33^{\circ} 52' 46''$ N -- $77^{\circ} 58' 01''$ W;
- (5) Dutchman Creek, north of a line beginning at a point on the east shore $33^{\circ} 55' 07''$ N -- $78^{\circ} 02' 39''$ W; running 294° (M) to a point on the west shore $33^{\circ} 55' 08''$ N -- $78^{\circ} 02' 44''$ W;
- (6) Denis Creek, west of a line beginning at a point on the south shore $33^{\circ} 55' 00''$ N -- $78^{\circ} 03' 32''$ W; running 006° (M) to a point on the north shore $33^{\circ} 55' 02''$ N -- $78^{\circ} 03' 32''$ W;
- (7) Piney Point Creek, west of a line beginning at a point on the south shore $33^{\circ} 54' 32''$ N -- $78^{\circ} 03' 32''$ W; running 007° (M) to a point on the north shore $33^{\circ} 54' 37''$ N -- $78^{\circ} 03' 31''$ W;
- (8) Molasses, Coward and Smokehouse Creeks, all waters bound by the IWW and the Elizabeth River on the north and east, the Oak Island Coast Guard canal on the east, Oak Island on the south and the CP and L Discharge canal on the west;
- (9) Oak Island area, all waters north and south of the IWW from Marker No. 9 $33^{\circ} 55' 12''$ N -- $78^{\circ} 03' 49''$ W; to Beacon No. 18 $33^{\circ} 55' 45''$ N -- $78^{\circ} 10' 17''$ W.
- (t) Lockwoods Folly Inlet Area:
 - (1) Davis Creek and Davis Canal, east of a line beginning at a point on the north shore $33^{\circ} 55' 13''$ N -- $78^{\circ} 10' 43''$ W; running 198° (M) to a point on the south shore $33^{\circ} 54' 59''$ N -- $78^{\circ} 10' 43''$ W;
 - (2) Lockwoods Folly River, north of a line beginning at a point on the east shore $33^{\circ} 56' 35''$ N -- $78^{\circ} 12' 47''$ W; running 268° (M) to a point on the west shore $33^{\circ} 56' 34''$ N -- $78^{\circ} 13' 24''$ W;
- Spring Creek (Galloway Flats area), all waters northwest of a line beginning at a point on the south shore $33^{\circ} 55' 31''$ N -- $78^{\circ} 13' 48''$ W; running 040° (M) to a point on the north shore $33^{\circ} 55' 41''$ N -- $78^{\circ} 13' 42''$ W.
- (u) Shallotte Inlet Area:
 - (1) Shallotte River, north of a line beginning at a point on Bill Holden's Landing $33^{\circ} 55' 52''$ N -- $78^{\circ} 22' 07''$ W; running 024° (M) to a point on Gibbins Point $33^{\circ} 56' 20''$ N -- $78^{\circ} 21' 54''$ W;
 - (2) Shallotte River, excluding Gibbs Creek, north of a line beginning at Long Point $33^{\circ} 54' 20''$ N - $78^{\circ} 21' 42''$ W; running 312° (M) to a point on Sage Island $33^{\circ} 54' 37''$ N - $78^{\circ} 22' 06''$ W; east of a line beginning at Sage Island running 026° (M) to a point $33^{\circ} 55' 06''$ N - $78^{\circ} 22' 09''$ W,

- and south of a line beginning at the previous point running 081° (M) to a point on the shore 33° 55' 18" N - 78° 21' 35" W.
- (3) Shallotte Creek (Little Shallotte River), east of a line beginning at a point on Shell Landing 33° 55' 44" N -- 78° 21' 40" W; running 159° (M) to a point on Boone's Neck Point 33° 55' 35" N -- 78° 21' 34" W;
 - (4) Saucepan Creek, northwest of a line beginning at a point on the east shore (mouth of Old Mill Creek) 33° 54' 56" N -- 78° 23' 28" W; running 182° (M) to a point on the west shore 33° 54' 41" N -- 78° 23' 28" W;
 - (5) Old Channel area, all waters south of the IWW from Beacon No. 83 33° 54' 16" N -- 78° 23' 17" W; to Ocean Isle Beach bridge 33° 53' 44" N -- 78° 26' 22" W; except the dredged finger canals at Ocean Isle Beach located on the south side of the IWW between the Ocean Isle Beach Bridge and IWW Marker No. 90.
- (v) Little River Inlet Area:
- (1) Gause Landing area, all waters north of the IWW from Beacon No. 90 33° 53' 53" N -- 78° 25' 37" W to the South Carolina line;
 - (2) Eastern Channel Area:
 - (A) Needhamhole Creek, north of a line beginning at a point on the east shore 33° 53' 19" N -- 78° 26' 48" W; running 274° (M) to a point on the west shore 33° 53' 19" N -- 78° 26' 51" W;
 - (B) Springbranch Creek, north of a line beginning at a point on the east shore 33° 53' 14" N -- 78° 27' 17" W; running 250° (M) to a point on the west shore 33° 53' 13" N -- 78° 27' 21" W;
 - (C) Goldmine Creek, north of a line beginning at a point on the east shore 33° 53' 13" N -- 78° 27' 33" W; running 260° (M) to a point on the west shore 33° 53' 13" N -- 78° 27' 36" W;
 - (D) Clam Creek, north of a line beginning at a point on the east shore 33° 53' 12" N -- 78° 27' 55" W; running 219° (M) to a point on the west shore 33° 53' 10" N -- 78° 27' 55" W;
 - (E) Sol's Creek, all waters north of a line beginning at a point on the east shore 33° 53' 02" N -- 78° 28' 08" W; running 224° (M) to a point on the west shore 33° 53' 00" N -- 78° 28' 12" W; and all waters south of a line beginning at a point on the east shore of Sol's Creek 33° 53' 22" N -- 78° 28' 10" W; running 252° (M) to a point on the west shore 33° 53' 21" N -- 78° 28' 14" W;
 - (F) Horsford Creek, north of a line beginning at a point on the east shore 33° 52' 53" N -- 78° 28' 24" W; running 279° (M) to a point on the west shore 33° 52' 53" N -- 78° 28' 29" W;
 - (G) Still Creek, all waters north of a line beginning at a point on the east shore, 33° 52' 53" N -- 78° 28' 44" W; running 254° (M) to a point on the west shore 33° 52' 51" N -- 78° 28' 48" W; and all waters south of a line beginning at a point on the east shore of Still Creek, 33° 53' 15" N -- 78° 29' 02" W; running 270° (M) to a point on the west shore 33° 53' 15" N -- 78° 29' 05" W;
 - (H) Cooter Creek, north of a line beginning at a point on the east shore 33° 52' 52" N -- 78° 29' 46" W; running 288° (M) to a point on the west shore 33° 52' 53" N -- 78° 29' 49" W;
- (3) The Big Narrows Area:
- (A) Big Teague Creek, west of a line beginning at a point on the south shore 33° 52' 46" N -- 78° 29' 59" W; running 343° (M) to a point on the north shore 33° 52' 47" N -- 78° 30' 01" W;
 - (B) Little Teague Creek, west of a line beginning at a point on the south shore 33° 52' 54" N -- 78° 30' 09" W; running 306° (M) to a point on the north shore 33° 52' 54" N -- 78° 30' 10" W;
 - (C) Big Norge Creek, south of a line beginning at a point on the west shore 33° 52' 50" N -- 78° 30' 39" W; running 076° (M) to a point on the east shore 33° 52' 51" N -- 78° 30' 36" W;
- (4) Mad Inlet area, all waters south of the IWW from the Sunset Beach bridge 33° 52' 52" N -- 78° 30' 42" W to the South Carolina line with the exception of Bonaparte Creek;
 - (5) Calabash River, east of state road No. 1164 bridge.

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

.0004 PERMANENT SECONDARY NURSERY AREAS

- (a) In the Pamlico Sound Area:
- (1) Long Shoal River - north of a line beginning at a point on Pains Point 35° 35' 07" N - 75° 51' 25" W, running 282° (M) to a point on the west shore at the 5th Avenue Canal 35° 35' 12" N - 75° 53' 16" W.

- (2) Pains Bay - east of a line beginning at a point on the south shore 35° 34' 28" N - 75° 50' 58" W, running 350° (M) to a point on the north shore 35° 35' 04" N - 75° 51' 12" W.
- (3) Wysocking Bay - north and west of a line beginning at Benson Point 35° 22' 58" N - 76° 03' 39" W, running 058° (M) to Long Point 35° 24' 37" N - 76° 01' 19" W.
- (4) Juniper Bay-Cunning Harbor - north of a line beginning at a point on the west shore of Juniper Bay 35° 20' 34" N - 76° 15' 28" W, running 105° (M) through Juniper Bay Point to a point on the east shore of Cunning Harbor 35° 20' 15" N - 76° 12' 23" W.
- (5) Swanquarter Bay - north of a line beginning at a point at The Narrows 35° 20' 54" N - 76° 20' 38" W, running 080° (M) to a point on the east shore 35° 21' 31" N - 76° 18' 22" W.
- (6) Deep Cove-The Narrows - north and east of a line beginning at a point on the west shore 35° 20' 54" N - 76° 23' 52" W, running 122° (M) to a point on the east shore 35° 20' 34" N - 76° 22' 57" W, and west of a line at The Narrows beginning at a point on the north shore 35° 20' 54" N - 76° 20' 38" W, running 175° (M) to a point on the south shore 35° 20' 44" N - 76° 20' 35" W.
- (7) Rose Bay - north of a line beginning at a point on the west shore 35° 23' 17" N - 76° 26' 10" W, running 144° (M) to a point on Judith Island 35° 22' 29" N - 76° 25' 15" W.
- (8) Spencer Bay - west and north of a line beginning at a point on Willow Point 35° 22' 22" N - 76° 27' 52" W, running 065° (M) to a point 35° 23' 17" N - 76° 26' 10" W.
- (9) Able Bay - north and east of a line beginning at a point on the west shore 35° 23' 36" N - 76° 31' 00" W, running 130° (M) to a point on the east shore 35° 23' 00" N - 76° 29' 47" W.
- (10) Mouse Harbor - west of a line beginning at a point on the south shore 35° 17' 13" N - 76° 28' 50" W, running 352° (M) to a point on the north shore 35° 18' 19" N - 76° 29' 06" W.
- (11) Big Porpoise Bay - west of a line beginning at a point on the south shore 35° 14' 57" N - 76° 28' 50" W, running 042° (M) to a point on the north shore 35° 15' 41" N - 76° 28' 12" W.
- (12) Middle Bay - west of a line beginning at a point on the south shore 35° 13' 33" N - 76° 29' 36" W, running 022° (M) to a point on the north shore 35° 14' 45" N - 76° 29' 44" W.
- (13) Jones Bay - west of a line beginning at a point on Boar Point 35° 12' 22" N - 76° 31' 16" W, running 011° (M) to a point on Mink Trap Point 35° 13' 27" N - 76° 31' 08" W.
- (14) In the Bay River Area:
 - (A) Bonner Bay - south of a line beginning at a point on the west shore 35° 09' 36" N - 76° 36' 14" W, running 074° (M) to a point on the east shore 35° 09' 57" N - 76° 35' 14" W.
 - (B) Gales Creek-Bear Creek (tributaries of Bay River) - north and west of a line beginning at a point on Sanders Point 35° 11' 17" N - 76° 35' 54" W, running 067° (M) through Beacon No. 27 to a point on the east shore 35° 11' 54" N - 76° 34' 17" W.
- (b) In the Pamlico River Area:
 - (1) (In the Pungo River Area): Fortescue Creek, east of a line beginning at a point on the north shore 35° 25' 55" N - 76° 31' 58" W; running 195° (M) to a point on the south shore 35° 25' 36" N - 76° 32' 01" W.
 - (2) North Creek - north of a line beginning at a point on the west shore 35° 25' 24" N - 76° 40' 04" W, running 120° (M) through Marker No. 4 to a point on the east shore 35° 25' 16" N - 76° 40' 18" W.
 - (3) In the Goose Creek area:
 - (A) Campbell Creek - west of a line beginning at a point on the south shore 35° 17' 00" N - 76° 37' 06" W, running 349° (M) to a point on the west shore 35° 17' 19" N - 76° 37' 08" W.
 - (B) Eastham Creek - east of a line beginning at a point on the south shore 35° 17' 36" N - 76° 36' 24" W, running 327° (M) to a point on the north shore 35° 17' 44" N - 76° 36' 30" W.
 - (4) Oyster Creek-Middle Prong - southwest of a line beginning at a point on Cedar Island 35° 19' 28" N - 76° 32' 14" W, running 135° (M) to a point on Beard Island Point 35° 19' 10" N - 76° 31' 44" W.
- (c) In the Neuse River Area:
 - (1) Lower Broad Creek - northwest of a line beginning at a point on the northeast shore 35° 05' 47" N - 76° 35' 25" W, running 228° (M) to a point on the southwest shore 35° 05' 34" N - 76° 35' 43" W.

- (2) Greens Creek - above Highway 1308 Bridge.
- (3) Dawson Creek - above Highway 1302 Bridge.
- (4) Clubfoot Creek - south of a line beginning at a point on the east shore 34° 54' 29" N - 76° 45' 26" W, running 284° (M) to a point on the west shore 34° 54' 33" N - 76° 45' 43" W.
- (5) (In the Adams Creek Area) Cedar Creek - east of a line beginning at a point on the south shore 34° 55' 52" N - 76° 38' 49" W, running 004° (M) to a point on the north shore 34° 56' 05" N - 76° 38' 48" W.
- (d) Virginia Creek - all waters of the natural channel northwest of the primary nursery area line;
- (e) Old Topsail Creek - all waters of the dredged channel northwest of the primary nursery area line;
- (f) Mill Creek - all waters west of a line beginning at a point on the south shore 34° 24' 17" N - 77° 42' 15" W, running 028° (M) to a point on the north shore 34° 20' 36" N - 77° 42' 06" W;
- (g) Pages Creek - all waters west of a line beginning at a point on the south shore 34° 15' 52" N - 77° 46' 18" W, running 044° (M) to a point on the north shore 34° 16' 09" N - 77° 46' 01" W;
- (h) Bradley Creek - all waters west of a line beginning on the south shore 34° 12' 23" N - 77° 49' 14" W, running 021° (M) to a point on the north shore 34° 12' 38" N - 77° 49' 09" W.

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

.0005 SPECIAL SECONDARY NURSERY AREAS

(a) In the Pamlico River Area, Pamlico River, west of a line beginning at a point on Mauls Point 35° 26' 56" N - 76° 55' 33" W; running 073° (M) to a point on Ragged Point 35° 27' 33" N - 76° 54' 21" W:

(1) Pungo River:

(A) Pungo Creek, west of a line beginning at a point on Persimmon Tree Point 35° 31' 06" N - 76° 37' 49" W; running 241° (M) to a point on Windmill Point 35° 30' 48" N - 76° 38' 18" W.

(B) Pungo River, north of a line beginning at a point on the east shore 35° 32' 05" N - 76° 28' 09" W; running 277° (M) through beacon No. 21 to a point on the west shore 35° 32' 12" N - 76° 29' 15" W.

(C) Scranton Creek, south and east of a line beginning at a point on the west shore 35°

30' 37" N - 76° 28' 36" W; running 085° (M) to a point on the east shore 35° 30' 39" N - 76° 28' 12" W.

(D) Slade Creek, east of a line beginning at a point on the south shore 35° 27' 39" N - 76° 32' 46" W; running 328° (M) to a point on the north shore 35° 27' 52" N - 76° 33' 00" W.

(2) South Creek, west of a line beginning at a point on Hickory Point 35° 21' 44" N - 76° 41' 37" W; running 195° (M) to a point on Fork Point 35° 20' 44" N - 76° 41' 48" W.

(3) Bond Creek/Muddy Creek, south of a line beginning at a point on Fork Point 35° 20' 44" N - 76° 41' 48" W; running 135° (M) to a point on Gum Point 35° 20' 32" N - 76° 41' 30" W.

(b) In the Neuse River Area:

(1) Goose Creek, north and east of a line beginning at a point on the south shore 35° 02' 08" N - 76° 56' 02" W; running 331° (M) to a point on the north shore 35° 02' 37" N - 76° 56' 27" W.

(2) Upper Broad Creek, northeast of a line beginning at a point on the north shore 35° 03' 26" N - 76° 57' 14" W; running 153° (M) to a point on the south shore 35° 02' 56" N - 76° 56' 49" W.

(c) In the West Bay Area:

(1) West Thorofare Bay - south of a line beginning at a point on the west shore 34° 57' 22" N - 76° 24' 03" W, running 090° (M) through FL R "10WB" to a point on the east shore 34° 57' 28" N - 76° 23' 06" W.

(2) Long Bay-Ditch Bay - west of a line beginning at a point 34° 57' 52" N - 76° 26' 37" W, running southwest 226° (M) to a point 34° 57' 13" N - 76° 27' 13" W, thence south of a line running southeast 134° (M) to a point 34° 56' 46" N - 76° 26' 26" W.

(3) Turnagain Bay - south of a line beginning at a point on the west shore at 34° 59' 23" N - 76° 30' 11"; thence running 084° (M) to a point on the east shore at 34° 59' 33" N - 76° 29' 23" W.

(d) In the Core Sound Area:

(1) Cedar Island Bay - northwest of a line beginning at a point near the telephone tower 34° 57' 49" N - 76° 16' 58" W, running 049° (M) to a point at the gun club or "clubhouse" dock 34° 58' 43" N - 76° 16' 00" W.

(2) Thorofare Bay-Barry Bay - northwest of a line beginning at a point on Hall Point 34° 54' 25" N - 76° 19' 09" W, running

046° (M) to a point at Rumley Hammock 34° 55' 27" N - 76° 18' 13" W.

- (3) Nelson Bay - northwest of a line beginning at a point on the west shore of Nelson Bay 34° 51' 08" N - 76° 24' 36" W, and running 062° (M) through Beacon No. 1 in Nelson Bay to a point on Drum Point 34° 51' 36" N - 76° 23' 48" W.
- (4) Brett Bay - all waters north of a line beginning at Piney Point 34° 49' 32" N - 76° 25' 06" W; running 258° (M) to a point on the west shore 34° 49' 23" N - 76° 26' 02" W.
- (5) Jarrett Bay - north of a line beginning at a point east of Davis Island 34° 45' 46" N - 76° 28' 45" W, and running 266° (M) to a point on the west shore (site of Old Chimney) 34° 45' 31" N - 76° 30' 04" W.
- (e) In the North River area:
 - (1) North River - north of a line beginning at a point on the west shore at the oyster house 34° 46' 28" N - 76° 37' 07" W, running 096° (M) to a point on the east shore 34° 46' 30" N - 76° 35' 47" W.
 - (2) Ward Creek - east of a line beginning on the north shore 34° 46' 13" N - 76° 34' 58" W, running 182° (M) to a point on the south shore 35° 45' 34" N - 76° 35' 00" W.
 - (f) Newport River - west of a line beginning at Penn Point at 34° 45' 44" N - 76° 43' 35" W; thence running 022° (M) to a point on the north shore at 34° 46' 47" N - 76° 43' 15" W.
 - (g) Cape Fear River - beginning at a point on the south side of the Spoil Island at the intersection of the ICWW and the Cape Fear River ship channel 34° 01' 37" N - 77° 56' 05" W, running 106° (M) to a point on the east shore of the Cape Fear River 34° 01' 32" N - 77° 55' 00" W, running south and bounded by the shoreline to a point near the Ferry Slip at Federal Point 33° 57' 52" N - 77° 56' 28" W, running 353° (M) north to a point on Bird Island 33° 58' 24" N - 77° 56' 36" W, running 013° (M) back to point of origin.
 - (h) Lockwood Folly River - beginning at a point on Howells Point 33° 55' 21" N - 78° 12' 47" W and running in a westerly direction along the ICWW to a point near ICWW Marker No. 46 33° 55' 18" N - 78° 13' 54" W.
 - (i) Saucepan Creek - all waters north of a line beginning at a point on the west shore 33° 54' 36" N - 78° 22' 54" W, running 062° (M) to a point on the east shore 33° 54' 38" N - 78° 22' 49" W.

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

.0006 TRAWL NETS PROHIBITED

It is unlawful to use trawl nets in that area south of Shackleford Banks which is east of a line which begins at the navigation aid (buoy or beacon) at the westward end of the Cape Lookout westernmost jetty and running thence N 06° 45" E degrees (M) to the Harkers' Island water tower; The excluded area includes all of Cape Lookout Bight, that area west of the Bight but east of the line above that portion of Bardens Inlet which lies southwestward of a line which begins at the Cape Lookout Lighthouse and runs N 28° 15' W degrees (M) to the southern end of Shackleford Banks.

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

.0007 DESIGNATED POT AREAS

As referenced in 15A NCAC 3J .0301, it is unlawful to use pots north and east of the Highway 58 Bridge at Emerald Isle from May 1 through October 31, except in areas described below:

- (1) In Albemarle Sound and tributaries;
- (2) In Roanoke Sound and tributaries;
- (3) In Croatan Sound and tributaries;
- (4) In Pamlico Sound and tributaries, except the following areas and areas further described in Paragraphs (5), (6), and (7) of this Rule:
 - (a) In Wysocking Bay:
 - (i) Bound by a line beginning at a point on the south shore of Lone Tree Creek 35° 25' 05" N - 76° 02' 05" W running 239° (M) 1000 yards to a point 35° 24' 46" N - 76° 02' 32" W; thence 336° (M) 2200 yards to a point 35° 25' 42" N - 76° 03' 16" W; thence 062° (M) 750 yards to a point on shore 35° 25' 54" N - 76° 02' 54" W; thence following the shoreline and the Lone Tree Creek primary nursery area line to the beginning point;
 - (ii) Bound by a line beginning at a point on the south shore of Mt. Pleasant Bay 35° 23' 07" N - 76° 04' 12" W running 083° (M) 1200 yards to a point 35° 23' 17" N - 76° 03' 32" W; thence 023° (M) 2400 yards to a point 35° 24' 27" N - 76° 03' 12" W; thence 299° (M) 1100 yards to a point on shore 35° 24' 38" N - 76° 04' 48" W; thence following the shoreline and the Browns Island and Mt. Pleasant Bay primary nursery area line to the beginning point; except pots may be set no more than 50 yards from the shoreline.
 - (b) In Juniper Bay bound by a line beginning at a point on Juniper Bay Point 35° 20'

- 18° N - 76° 13' 22" W running 275° (M) 2300 yards to a point 35° 20' 15" N - 76° 14' 45" W; thence 007° (M) 2100 yards to Daymarker No. 3; thence 040° (M) 1100 yards to a point on shore 35° 21' 45" N - 76° 14' 24" W; thence following the shoreline and the Buck Creek primary nursery area line to the beginning point.
- (c) In Swanquarter Bay, bound by a line beginning at a point on the north shore of Caffee Bay 35° 21' 57" N - 76° 17' 44" W; running 191° (M) 800 yards to a point on the south shore 35° 21' 35" N - 76° 17' 45" W; thence following the shoreline to a point on shore 35° 21' 37" N - 76° 18' 22" W; thence running 247° (M) 1300 yards to a point 35° 21' 17" N - 76° 19' 03" W; thence 340° (M) 1350 yards to a point 35° 21' 51" N - 76° 19' 27" W; thence 081° (M) 1150 yards to a point on the north shore 35° 22' 02" N - 76° 18' 48" W; thence following the shoreline and the primary nursery area line to the beginning point.
- (d) In Deep Cove east of a line beginning at a point on the south shore 35° 20' 33" N - 76° 22' 57" W, running 021° (M) 1800 yards to a point on the north shore 35° 21' 55" N - 76° 22' 43" W and west of a line beginning at a point on the south shore 35° 20' 44" N - 76° 22' 05" W running 003° (M) 1400 yards to a point on the north shore 35° 21' 26" N - 76° 22' 11" W.
- (e) In that area bound by a line beginning at Beacon No. 1 at the mouth of Deep Cove running 314° (M) 1400 yards to a point on shore 35° 20' 12" N - 76° 24' 18" W; thence 206° (M) 3250 yards to a point 35° 18' 40" N - 76° 24' 54" W; thence 128° (M) 2000 yards to a point 35° 18' 11" N - 76° 23' 51" W; thence 015° (M) through the "Dope Boat" Beacon 3250 yards to the beginning point.
- (f) Off Striking Bay bound by a line beginning at a point on the west shore of Striking Bay 35° 23' 20" N - 76° 26' 59" W running 190° (M) 1900 yards to a point 35° 22' 23" N - 76° 27' 00" W; thence 097° (M) 900 yards to Beacon No. 2; thence 127° (M) 1600 yards to a point 35° 21' 55" N - 76° 25' 43" W; thence following the shoreline to a point 35° 22' 30" N - 76° 25' 14" W; thence 322° (M) 2200 yards to a point 35° 23' 17" N - 76° 26' 10" W; thence following the shoreline to a point 35° 23' 19" N - 76° 26' 24" W; thence 335° (M) 900 yards to a point 35° 23' 40" N - 76° 26' 43" W; thence 059° (M) 500 yards to a point 35° 23' 30" N - 76° 26' 58" W; thence following the shoreline to the beginning point.
- (g) In Rose Bay bound by a line beginning at a point southwest of Swan Point 35° 23' 56" N - 76° 23' 39" W running 288° (M) 1500 yards to a point on shore 35° 24' 03" N - 76° 24' 33" W; thence 162° (M) 1650 yards to a point 35° 23' 19" N - 76° 24' 04" W; thence 084° (M) 1350 yards to a point on shore 35° 23' 29" N - 76° 23' 17" W; thence following the shoreline to the beginning point.
- (h) In Spencer Bay bound by a line beginning at a point on shore at Willow Point 35° 22' 26" N - 76° 28' 00" W running 059° (M) 1700 yards to a point 35° 22' 57" N - 76° 27' 13" W; thence 317° (M) 1500 yards to a point 35° 23' 25" N - 76° 27' 57" W; thence 243° (M) 1300 yards to a point on shore 35° 23' 02" N - 76° 28' 35" W; thence following the shoreline to the beginning point.
- (i) In Big Porpoise Bay bound by a line beginning at a point on shore 35° 15' 58" N - 76° 29' 10" W running 182° (M) 750 yards to Sage Point 35° 15' 36" N - 76° 29' 06" W; thence 116° (M) 850 yards to a point 35° 15' 28" N - 76° 28' 36" W; thence 023° (M) 700 yards to a point on shore 35° 15' 48" N - 76° 28' 30" W; thence following the shoreline to the beginning point.
- (j) In that area north of the target ship beginning at a point 35° 14' 25" N - 76° 27' 05" W; running 071° (M) 2000 yards to a point 35° 14' 52" N - 76° 26' 00" W; thence 168° (M) 1800 yards to a point 35° 14' 03" N - 76° 25' 39" W; thence 273° (M) 2000 yards to a point 35° 13' 57" N - 76° 26' 55" W; thence 350° (M) 1000 yards to the beginning point.
- (k) In Middle Bay-Jones Bay area bound by a line beginning at Middle Bay Point 35° 14' 49" N - 76° 28' 41" W running 131° (M) 3550 yards to a point 35° 13' 51" N - 76° 26' 53" W; thence 214° (M) 2600 yards to a point 35° 12' 43" N - 76° 27' 34" W; thence 291° (M) 2700 yards to Sow Island; thence 181° (M) 2350 yards to a point 35° 11' 51" N - 76° 28' 57" W; thence 254° (M) 2000 yards to Red Daymarker No. 4; thence 024° (M) 3600 yards through Green Flasher No. 5 to Sow Island Point 35° 13' 09" N - 76° 29' 28" W; thence following the shoreline of Middle Bay to Big Fishing Point 35° 14'

- 02° N - 76° 29' 52" W; thence 008° (M) 1100 yards to a point on the north shore 35° 14' 33" N - 76° 29' 52" W; thence following the shoreline to a point 35° 14' 46" N - 76° 29' 14" W; thence no more than 75 yards from the shoreline to the beginning point.
- (l) In Jones Bay bound by a line beginning at a point on Sow Island Point 35° 13' 09" N - 76° 29' 28" W running 204° (M) 2600 yards to Green Flasher No. 5; thence 322° (M) 2450 yards to a point 35° 12' 48" N - 76° 30' 58" W; thence 217° (M) 1200 yards to a point on shore 35° 12' 20" N - 76° 31' 16" W; thence following the shoreline to a point 35° 12' 52" N - 76° 31' 45" W; thence 231° (M) 600 yards to a point 35° 12' 52" N - 76° 31' 45" W; thence parallel with the shoreline no more than 600 yards from shore to a point 35° 13' 11" N - 76° 32' 07" W; thence 038° (M) to a point 600 yards from the north shore 35° 13' 39" N - 76° 31' 54" W; thence parallel with the shoreline no more than 600 yards from shore to a point 35° 13' 09" N - 76° 30' 48" W; thence 009° (M) 600 yards to a point on shore 35° 13' 26" N - 76° 30' 47" W; thence following the shoreline to the beginning point.
- (m) In an area bound by a line beginning at Boar Point 35° 12' 07" N - 76° 31' 04" W running 106° (M) 2000 yards to Green Flasher No. 5; thence 200° (M) 2200 yards to a point 35° 10' 56" N - 76° 30' 10" W; thence 282° (M) 2350 yards to Bay Point 35° 11' 02" N - 76° 31' 35" W; thence following the shoreline to the beginning point.
- (n) In an area at the mouth of Bay River bound by a line beginning at a point on Maw Point 35° 08' 55" N - 76° 32' 10" W running 020° (M) 1600 yards to Day-marker No. 1; thence 134° (M) 3800 yards to Neuse River Junction Quick Flasher; thence 236° (M) 1700 yards to Red Day Marker No. 2 PA; thence 314° (M) 2750 yards to the beginning point.
- (o) The waters within a circular area with a radius of 1,000 yards having its center on the southern side of Brant Island at latitude 35° 12' 30" N - longitude 76° 26' 30" W.
- (5) In Pamlico River west of a line from a point on Pamlico Point 35° 18' 42" N - 76° 28' 58" W running 009° (M) through Day-marker No. 1 and Willow Point Shoal Beacon to a point on Willow Point 35° 22' 23" N - 76° 28' 48" W pots may be used in the following areas:
- (a) In that area bound by a line beginning at a point on the line from Pamlico Point to Willow Point 35° 19' 24" N - 76° 28' 56" W running westerly parallel to the shoreline at a distance of no more than 1000 yards to a point 35° 19' 24" N - 76° 29' 09" W; thence running 218° (M) 900 yards to a point 35° 19' 02" N - 76° 29' 24" W 100 yards from shore; thence westerly parallel to the shoreline at a distance of 100 yards to a point 35° 19' 02" N - 76° 29' 59" W; thence 006° (M) 950 yards to a point 35° 19' 30" N - 76° 30' 00" W; thence westerly parallel to the shoreline at a distance of 1000 yards to a point 35° 20' 06" N - 76° 32' 54" W; thence 198° (M) 550 yards to a point 400 yards from shore 35° 19' 49" N - 76° 32' 59" W; thence parallel to the shoreline at a distance of 400 yards to a point 35° 19' 50" N - 76° 33' 27" W; thence 008° (M) to a point 1000 yards from shore 35° 20' 09" N - 76° 33' 27" W; thence westerly parallel to the shoreline at a distance of 1000 yards to a point 35° 20' 12" N - 76° 33' 55" W; thence 191° (M) to a point 400 yards from shore 35° 19' 55" N - 76° 33' 56" W; thence westerly parallel to the shoreline at a distance of 400 yards to a point 35° 20' 00" N - 76° 34' 34" W; thence 004° (M) 600 yards to a point 1000 yards from shore 35° 20' 19" N - 76° 34' 35" W; thence westerly parallel to the shoreline at a distance of 1000 yards to Green Flasher No. 1; thence 248° (M) parallel to the ICWW to a point off Fulford Point 35° 19' 59" N - 76° 36' 41" W; thence 171° (M) to a point on Fulford Point 35° 19' 41" N - 76° 36' 34" W.
- (b) All coastal waters and tributaries of Oyster Creek, James Creek, Middle Prong and Clark Creek.
- (c) All coastal waters of Goose Creek:
- (i) In that area bound by a line beginning at a point on Reed Hammock 35° 20' 24" N - 76° 36' 51" W running 171° (M) 300 yards to a point 35° 20' 16" N - 76° 36' 48" W; thence parallel with the shoreline no more than 300 yards from shore to a point 35° 20' 09" N - 76° 37' 10" W; thence 302° (M) 300 yards to a point on shore 35° 20' 13" N - 76° 37' 19" W.
- (ii) In that area bound by a line beginning at a point on shore 35° 19' 58" N - 76° 37' 33" W; running 291° (M) 300 yards to a point 35° 19' 57" N - 76° 37' 21" W;

- thence parallel to the shoreline no more than 300 yards from shore to a point 35° 18' 16" N - 76° 37' 16" W; thence 292° (M) to a point on the north shore of Snode Creek 35° 18' 15" N - 76° 37' 27" W.
- (iii) In that area bound by a line beginning at a point at the mouth of Goose Creek 35° 19' 59" N - 76° 36' 41" W; running 348° (M) to Green Daymarker No. 5; thence south parallel to the shoreline no more than 300 yards from shore to a point 35° 18' 12" N - 76° 37' 07" W; thence 112° (M) to Store Point 35° 18' 09" N - 76° 36' 57" W.
 - (iv) Between the line from Store Point to Snode Creek and a line beginning at a point on Long Neck Point running 264° (M) through Beacon No. 15 to Huskie Point from the shoreline to no more than 150 yards from shore.
 - (v) All coastal waters southeast of the line from Long Neck Point through Beacon No. 15 to Huskie Point.
 - (vi) Campbell Creek - west of a line from a point on Huskie Point 35° 17' 00" N - 76° 37' 06" W running 004° (M) to Pasture Point 35° 17' 20" N - 76° 37' 08" W, to the Inland-Commercial line.
 - (d) All coastal waters bound by a line beginning on Reed Hammock 35° 20' 24" N - 76° 36' 51" W running 171° (M) to a point 35° 20' 16" N - 76° 36' 47" W; thence 100° (M) 800 yards to Red Daymarker No. 4; thence 322° (M) 1200 yards to a point 35° 20' 40" N - 76° 36' 48" W; thence westerly parallel to the shoreline at a distance of 300 yards to a point in Bond Creek 35° 20' 40" N - 76° 41' 37" W; thence 199° (M) to a point on the south shore of Muddy Creek 35° 20' 18" N - 76° 41' 34" W, including all waters of Muddy Creek up to the Inland-Coastal boundary line.
 - (e) Along the west shore of Bond Creek from Fork Point to the Coastal-Inland boundary line from the shoreline to no more than 50 yards from shore.
 - (f) All coastal waters of South Creek upstream of a line beginning at a point on Fork Point 35° 20' 45" N - 76° 41' 47" W running 017° (M) to a point on Hickory Point 35° 21' 44" N - 76° 41' 36" W.
 - (g) In that area bound by a line beginning at a point at the six foot depth contour south of Hickory Point 35° 21' 33" N - 76° 41' 39" W; thence easterly following the six foot depth contour to a point off the east end of Indian Island 35° 21' 42" N - 76° 38' 04" W; thence 270° (M) to a point on the east end of Indian Island 35° 21' 38" N - 76° 38' 36" W; thence following the shoreline of Indian Island to a point on the west end 35° 32' 37" N - 76° 39' 40" W; thence 293° (M) toward Daymarker No. 1 to a point at the six foot depth contour 35° 21' 46" N - 76° 40' 16" W; thence following the six foot depth contour in a westerly direction to a point off Long Point 35° 22' 42" N - 76° 42' 44" W; thence 233° (M) to a point on shore 35° 22' 24" N - 76° 43' 05" W.
 - (h) Beginning at a point on shore near Long Point 35° 22' 29" N - 76° 43' 25" W, running 001° (M) to a point 300 yards offshore 35° 22' 39" N - 76° 43' 26" W; thence westerly parallel to the shoreline at a distance of 300 yards to a point 35° 22' 39" N - 76° 43' 59" W; thence 209° (M) to a point on shore 35° 22' 30" N - 76° 44' 03" W.
 - (i) Beginning at a point on shore 35° 22' 30" N - 76° 44' 27" W, running 355° (M) to a point offshore 35° 22' 40" N - 76° 44' 31" W; thence westerly parallel to the shoreline at a distance of 300 yards to a point 35° 22' 53" N - 76° 45' 00" W; thence running 251° (M) to a point on shore 35° 22' 46" N - 76° 45' 14" W.
 - (j) Beginning at a point on shore 35° 22' 54" N - 76° 45' 43" W; running 003° (M) to a point offshore 35° 23' 03" N - 76° 45' 43" W; thence westerly parallel to the shoreline at a distance of 300 yards to the intersection of a line beginning on the north shore at Gum Point 35° 25' 09" N - 76° 45' 33" W; running 210° (M) to a point on the south shore 35° 23' 28" N - 76° 46' 26" W.
 - (k) All coastal waters west of a line beginning on the north shore at Gum Point 35° 25' 09" N - 76° 45' 33" W running 210° (M) to a point on the south shore 35° 23' 28" N - 76° 46' 26" W.
 - (l) On the north side of Pamlico River bound by a line beginning at the intersection of the line from Gum Point to the south shore 500 yards from shore 35° 24' 55" N - 76° 45' 39" W running easterly parallel to the shoreline at a distance of 500 yards to a point at the six foot contour near Adams Point 35° 23' 08" N - 76° 35' 59" W.
 - (m) All waters and tributaries of North Creek except the marked navigation channel.

- (n) In that area bound by a line beginning at a point at the six foot contour near Adams Point 35° 23' 08" N - 76° 35' 59" W running westerly following the six foot depth contour to a point off Wades Point 35° 23' 28" N - 76° 34' 09" W.
- (o) Pungo River:
- (i) Bound by a line beginning at Wades Point 35° 23' 16" N - 76° 34' 30" W running 059° (M) to a point at the six foot depth contour, 35° 23' 28" N - 76° 34' 09" W; thence northerly following the six foot depth contour to a point near Beacon No. 3 35° 25' 44" N - 76° 34' 46" W; thence 272° (M) 950 yards to a point on shore 35° 25' 41" N - 76° 35' 22" W.
- (ii) Bound by a line beginning at a point on shore 35° 25' 50" N - 76° 35' 37" W running 050° (M) 1150 yards to a point at 35° 26' 17" N - 76° 35' 10" W; thence northerly following the six foot depth contour to a point 35° 26' 54" N - 76° 36' 09" W; thence 314° (M) 350 yards to a point on shore 35° 27' 00" N - 76° 36' 20" W.
- (iii) Bound by a line beginning at a point on shore 35° 27' 14" N - 76° 36' 26" W running 077° (M) 800 yards to a point 35° 27' 23" N - 76° 36' 02" W; thence northerly following the six foot depth contour to a point off Windmill Point 35° 30' 50" N - 76° 38' 09" W; thence 076° (M) to a point 200 yards west of Daymarker No. 3 35° 31' 21" N - 76° 36' 37" W; thence 312° (M) to a point at the "Breakwater" 35° 31' 36" N - 76° 37' 05" W.
- (iv) All coastal waters bound by a line beginning at a point at the "Breakwater" 200 yards northeast of Beacon No. 6 35° 31' 47" N - 76° 36' 51" W running 132° (M) to a point 200 yards from Daymarker No. 4 35° 31' 31" N - 76° 36' 21" W; thence running 102° (M) to a point 35° 31' 28" N - 76° 35' 59" W; thence running 010° (M) to Beacon No. 1; thence running 045° (M) 700 yards to a point on shore 35° 32' 22" N - 76° 35' 42" W.
- (v) All coastal waters north and east of a line beginning at a point on shore west of Lower Dowry Creek 35° 37' 24" N - 76° 35' 23" W running 177° (M) 1950 yards to a point 200 yards north of Daymarker No. 11 35° 36' 27" N - 76° 35' 10" W; thence easterly parallel to the marked navigation channel at a distance of 200 yards to a point on the shore northwest of Wilkerson Creek 35° 33' 13" N - 76° 27' 36" W.
- (vi) All coastal waters south of a line beginning on shore south of Wilkerson Creek 35° 33' 02" N - 76° 27' 20" W running westerly parallel to the marked navigation channel at a distance of 200 yards to a point southeast of Daymarker No. 14 35° 31' 05" N - 76° 32' 34" W; thence running 208° (M) to a point on shore 35° 30' 56" N - 76° 32' 58" W.
- (vii) All coastal waters bound by a line beginning on shore east of Durants Point 35° 30' 29" N - 76° 33' 25" W running 347° (M) to a point southwest of Daymarker No. 12 35° 31' 08" N - 76° 33' 53" W; thence westerly parallel to the marked navigation channel at a distance of 200 yards to a point south of Beacon No. 10 35° 31' 08" N - 76° 35' 35" W; thence running 185° (M) to a point at the six foot depth contour between Beacon No. 8 and the eastern shore of Pungo River 35° 30' 08" N - 76° 35' 28" W; thence following the six foot depth contour to a point 35° 28' 09" N - 76° 33' 43" W; thence 127° (M) to a point on shore 35° 28' 00" N - 76° 33' 25" W; thence 159° (M) to a point at the six foot depth contour 35° 27' 40" N - 76° 33' 12" W including the waters of Slades Creek and its tributaries; thence 209° (M) to a point on shore 35° 27' 22" N - 76° 33' 21" W; thence 272° (M) to a point at the six foot depth contour 35° 27' 18" N - 76° 33' 53" W; thence southerly following the six foot depth contour to a point south of Sandy Point 35° 26' 35" N - 76° 33' 50" W; thence 087° (M) to a point on shore 35° 26' 38" N - 76° 33' 34" W.
- (viii) In that area bound by a line beginning at a point on shore 35° 26' 20" N - 76° 33' 18" W running 176° (M) to a point at the six foot depth contour 35° 26' 05" N - 76° 33' 13" W; thence southerly following the six foot depth contour throughout Fortescue Creek to a point off Fortescue Creek 35° 25' 44" N - 76° 32' 09" W; thence 145° (M) to a point on shore 35° 25' 36" N - 76° 32' 01" W.
- (ix) In that area bound by a line beginning at a point on shore 35° 25' 20" N - 76° 32' 01" W running 258° (M) to a point at the six foot depth contour 35° 25' 17" N - 76° 32' 18" W; thence following the six foot depth contour to a point 500 yards west of Currituck Point 35° 24' 30" N - 76° 32' 12" W; thence southeasterly parallel to the shoreline and including Abel Bay at a distance of 500 yards to a point at the in-

- tersection of the line from Pamlico Point to Willow Point 35° 22' 09" N - 76° 28' 48" W.
- (6) In Bay River west of a line beginning at a point on Maw Point 35° 09' 02" N - 76° 32' 09" W running 022° (M) to a point on Bay Point 35° 11' 02" N - 76° 31' 34" W, pots may be used in the following areas:
- (a) In that area beginning at a point on Maw Point 35° 09' 02" N - 76° 32' 09" W; running 018° (M) to Green Daymarker No. 1; thence 223° (M) to a point on shore in Fisherman Bay 35° 09' 10" N - 76° 32' 38" W.
- (b) In Fisherman Bay bound by a line beginning at a point on the shore west of Maw Point 35° 09' 18" N - 76° 33' 02" W; thence 351° (M) 3200 yards to lighted Beacon No. 3 in Bay River; thence 230° (M) 1200 yards to a point on the shore 35° 10' 24" N - 76° 34' 00" W.
- (c) In that area bound by a line beginning at a point on the east shore at the mouth of Bonners Bay 35° 10' 05" N - 76° 35' 18" W; thence 306° (M) 300 yards to a point in Bay River, 35° 10' 10" N - 76° 35' 30" W; thence parallel to the shoreline no more than 300 yards from shore to a point in Bay River 35° 10' 40" N - 76° 34' 42" W; thence 188° (M) to a point on shore 35° 10' 27" N - 76° 34' 42" W.
- (d) In Bonner Bay bound by a line beginning at a point on the east shore 35° 10' 05" N - 76° 35' 18" W running 306° (M) 200 yards to a point 35° 10' 09" N - 76° 35' 25" W; thence parallel to the shoreline no more than 200 yards offshore to a point 35° 09' 16" N - 76° 34' 38" W; thence 097° (M) 200 yards to a point on shore 35° 09' 16" N - 76° 35' 13" W.
- (e) In Bonner Bay, Spring Creek and Long Creek south of a line beginning at a point on the east shore 35° 09' 16" N - 76° 35' 13" W running 274° (M) to a point on the west shore 35° 09' 14" N - 76° 35' 43" W.
- (f) In Bonner Bay bound by a line beginning at a point on the west shore 35° 09' 14" N - 76° 35' 14" W running 094° (M) 100 yards to a point 35° 09' 13" N - 76° 35' 39" W; thence parallel to the shoreline no more than 100 yards offshore to a point in Riggs Creek 35° 09' 15" N - 76° 36' 08" W; thence 142° (M) to a point on shore 35° 09' 13" N - 76° 36' 08" W.
- (g) In that area bound by a line beginning on the south shore of Bay River west of Bell Point 35° 09' 40" N - 76° 40' 00" W, running 314° (M) to a point 200 yards offshore 35° 09' 43" N - 76° 40' 06" W; thence no more than 200 yards from the shoreline to a point 35° 09' 53" N - 76° 36' 45" W; thence 102° (M) to a point 35° 09' 50" N - 76° 35' 54" W; thence 181° (M) to a point 35° 09' 36" N - 76° 35' 51" W; thence 237° (M) to a point in Riggs Creek 35° 09' 18" N - 76° 36' 12" W; thence 322° (M) to a point on shore at the mouth of Riggs Creek 35° 09' 21" N - 76° 36' 18" W.
- (h) In that area on the south side of Bay River bound by a line beginning at a point on shore at the confluence of Bay River and Trent Creek 35° 08' 27" N - 76° 43' 12" W running 016° (M) 150 yards to a point 35° 08' 31" N - 76° 43' 11" W; thence no more than 150 yards from shore to a point 34° 08' 59" N - 76° 40' 19" W; thence 116° (M) to a point on shore at Moores Creek 34° 08' 57" N - 76° 40' 14" W.
- (i) In Bay River and Trent Creek west of a line beginning at a point on the south shore 35° 08' 27" N - 76° 43' 12" W running 016° (M) to a point on the north shore 35° 08' 39" N - 76° 43' 09" W.
- (j) In that area on the north shore of Bay River bound by a line beginning at a point west of Vandemere Creek 35° 10' 53" N - 76° 39' 42" W running 135° (M) 150 yards to a point 35° 10' 52" N - 76° 39' 39" W; thence no more than 150 yards from shore to a point at the confluence of Bay River and Trent Creek 35° 08' 37" N - 76° 43' 10" W; thence to a point on the north shore 35° 08' 39" N - 76° 43' 09" W.
- (k) In Vandemere Creek northeast of a line beginning at a point on the east shore 35° 11' 04" N - 76° 39' 22" W running 315° (M) to a point on the west shore 35° 11' 12" N - 76° 39' 36" W.
- (l) In that area bound by a line beginning at a point at the mouth of Vandemere Creek 35° 11' 04" N - 76° 39' 22" W, running 216° (M) 200 yards to a point in Bay River 35° 10' 58" N - 76° 39' 25" W; thence parallel to the shoreline no more than 200 yards from shore to a point in Bay River northwest of Beacon No. 4 35° 10' 40" N - 76° 36' 38" W; thence 344° (M) 200 yards to a point on shore 35° 10' 45" N - 76° 36' 42" W.
- (m) In that area bound by a line beginning at a point on Sanders Point 35° 11' 19" N - 76° 35' 54" W; running 067° (M) 200 yards to a point 35° 11' 23" N - 76° 35'

- 47° W; thence following the shoreline no more than 200 yards from shore to a point in Bay River northwest of Beacon No. 4 35° 10' 40" N - 76° 36' 38" W; thence 344° (M) 200 yards to a point on the shore 35° 10' 45" N - 76° 36' 42" W.
- (n) In that area beginning at a point on shore 35° 12' 02" N - 76° 35' 58" W, running 162° (M) 500 yards to a point 35° 11' 38" N - 76° 35' 50" W; thence parallel to the shoreline no more than 500 yards from shore to a point 35° 11' 56" N - 76° 35' 04" W; thence 339° (M) 500 yards to a point on shore at the mouth of Gales Creek 35° 12' 09" N - 76° 35' 12" W.
- (o) In that area bound by a line beginning at a point on shore at the mouth of Gale Creek 35° 12' 08" N - 76° 34' 52" W, running 278° (M) 200 yards to a point in Bay River 35° 12' 08" N - 76° 35' 02" W; thence running parallel to the shoreline at a distance of 200 yards to a point in Bay River 35° 11' 32" N - 76° 33' 24" W; thence running 352° (M) 200 yards to a point on shore at Dump Creek 35° 11' 39" N - 76° 33' 25" W.
- (p) In Gale Creek except the Intracoastal Waterway north of a line beginning at a point on the west shore 35° 12' 08" N - 76° 35' 12" W running 098° (M) to a point on the west shore 35° 12' 08" N - 76° 34' 52" W.
- (q) In an area bound by a line beginning at a point on the eastern shore at the mouth of Rockhole Bay 35° 11' 06" N - 76° 32' 11" W; thence 180° (M) 600 yards to a point in Bay River 35° 10' 49" N - 76° 32' 09" W; thence east with the five foot curve 1100 yards to a point 35° 10' 36" N - 76° 31' 30" W; thence 000° (M) 850 yards to a point on Bay Point 35° 11' 02" N - 76° 31' 34" W.
- (7) In the Neuse River and West Bay Area south and west of a line beginning at a point on Maw Point 35° 09' 02" N - 76° 32' 09" W, running 137° (M) through the Maw Point Shoal Day Marker No. 2 and through the Neuse River Entrance Light to a point at the mouth of West Bay 35° 02' 09" N - 76° 21' 53" W, pots may be set in the following areas:
- (a) All coastal fishing waters northwest of a line beginning at a point at the mouth of Slocum Creek 34° 57' 02" N - 76° 53' 42" W, running 029° (M) to a point at the mouth of Beards Creek 35° 00' 08" N - 76° 52' 13" W. Pots may also be set in coastal fishing waters of Goose Bay and Upper Broad Creek.
- (b) In that area bound by a line beginning at a point on the north shore at Mill Creek 34° 59' 34" N - 76° 51' 06" W; thence running 223° (M) approximately 300 yards into the river to a point 34° 59' 25" N - 76° 51' 14" W; thence along the six foot depth curve southeast to a point at the rock jetty 34° 58' 06" N - 76° 49' 14" W; thence 016° (M) approximately 300 yards to a point on the shore 34° 58' 17" N - 76° 49' 12" W.
- (c) In that area bound by a line beginning at a point on the north shore approximately 500 yards west of Pierson Point 34° 58' 32" N - 76° 46' 38" W; thence running 171° (M) approximately 300 yards into the river to a point 34° 58' 24" N - 76° 46' 34" W; thence east and northeast along the six foot curve to a point in the river 34° 58' 47" N - 76° 45' 39" W; thence 330° (M) approximately 700 yards to a point on the shore 50 yards west of an existing pier 34° 59' 04" N - 76° 45' 54" W.
- (d) In that area bound by a line beginning at a point on the north shore east of Dawson Creek Bridge 34° 59' 34" N - 76° 45' 12" W; thence running 244° (M) approximately 500 yards to Day Marker No. 4 (entrance to Dawson Creek Channel); thence running east 117° (M) to a point 34° 59' 22" N - 76° 45' 19" W; thence east and northeast along the six foot curve to a point 50 yards west of Day Marker No. 3 (channel to Oriental) 35° 01' 02" N - 76° 41' 51" W; thence 303° (M) approximately 600 yards to a point on the eastern tip of Windmill Point 35° 01' 10" N - 76° 42' 08" W.
- (e) In Greens Creek (Oriental) west of a line at the confluence of Greens and Kershaw Creeks beginning at a point on the south shore 35° 01' 28" N - 76° 42' 55" W running 005° (M) to a point on the north shore 35° 01' 38" N - 76° 42' 54" W, no more than 75 yards from the shoreline east of this line to the Highway 55 bridge.
- (f) In that area bound by a line beginning at a point on Whittaker Point 35° 01' 37" N - 76° 40' 56" W; thence running 192° (M) approximately 500 yards to a point in the river 35° 01' 23" N - 76° 40' 57" W; thence along the six foot depth curve northeast to a point in the river off Orchard Creek 35° 03' 18" N - 76° 37' 53" W; thence 280° (M) approximately 900 yards to a point

- on the eastern tip of Cockle Point 35° 03' 20" N - 76° 38' 27" W.
- (g) In that area bound by a line beginning at a point on the north shore near the mouth of Orchard Creek 35° 03' 38" N - 76° 37' 54" W running 177° (M) approximately 400 yards to a point 35° 03' 27" N - 76° 37' 54" W; thence along the six foot depth curve to a point eastward; thence 174° (M) 600 yards to a point on the north shore 35° 03' 56" N - 76° 36' 42" W.
 - (h) In that area bound by a line beginning at a point on the north shore approximately 400 yards south of Gum Thicket Creek 35° 04' 12" N - 76° 36' 11" W; thence running 132° (M) approximately 600 yards to a point 35° 03' 55" N - 76° 35' 48" W; thence along the six foot depth curve eastward to a point 35° 04' 10" N - 76° 34' 37" W; thence 304° (M) to a point on the shore 400 yards north of Gum Thicket Creek 35° 04' 38" N - 76° 35' 42" W.
 - (i) In Lower Broad Creek east of a line running 188° (M) through Red Day Marker No. 4. No more than 150 yards from shore between a line running 188° (M) through Red Day Marker No. 4 and a line running 228° (M) through Green Marker No. 3. Pots may not be set in Burton Creek.
 - (j) Piney Point Shoal Area, in that area bound by a line beginning at a point on the north side of a creek (locally known as Wadin or Persimmon Creek) 35° 07' 17" N - 76° 33' 26" W running 115° (M) approximately 300 yards to a point near the six foot depth curve 35° 07' 15" N - 76° 33' 16" W; thence south and southeast along the six foot depth curve to a point east of the old lighthouse 35° 05' 17" N - 76° 32' 42" W; thence 288° (M) through the old lighthouse to a point on shore north of Red Day Marker No. 2 at the mouth of Broad Creek 35° 05' 42" N - 76° 35' 18" W.
 - (k) In that area bound by a line beginning at a point on the south shore of Maw Bay 35° 08' 32" N - 76° 32' 38" W; thence running 114° (M) to Maw Point Shoal Day Marker No. 2; thence 317° (M) to Maw Point 35° 08' 55" N - 76° 32' 11" W.
 - (l) In that area east of Slocum Creek bound by a line beginning at a point 34° 57' 02" N - 76° 53' 42" W; thence running 029° (M) approximately 1100 yards to a point 34° 57' 32" N - 76° 53' 28" W; thence along the six foot curve to a point 34° 56' 34" N - 76° 49' 38" W; thence 176° (M) approximately 300 yards to a point 34° 56' 26" N - 76° 49' 35" W.
 - (m) In that area bound by a line beginning at a point 34° 56' 22" N - 76° 49' 05" W, running 057° (M) approximately 1100 yards to Day Marker "2" off Cherry Point; thence 097° (M) approximately 200 yards to a point 34° 56' 42" N - 76° 48' 27" W; thence along the six foot curve to a point 34° 55' 10" N - 76° 45' 40" W; thence 187° (M) approximately 400 yards to a point on Temple Point 34° 54' 58" N - 76° 45' 40" W.
 - (n) In that area southeast of a line beginning at a point at the mouth of Clubfoot Creek 34° 55' 20" N - 76° 45' 09" W running 076° (M) to a point on shore 34° 55' 37" N - 76° 44' 23" W.
 - (o) In Clubfoot Creek south of a line beginning at a point on the east shore 34° 54' 30" N - 76° 45' 26" W, running 284° (M) to a point on the west shore 34° 54' 33" N - 76° 45' 43" W. Pots may be set 50 yards from shore north of this line.
 - (p) In that area bound by a line beginning at the western tip of Great Island 34° 55' 47" N - 76° 44' 50" W; thence running 275° (M) approximately 500 yards to a point 34° 55' 46" N - 76° 45' 07" W; thence 029° (M) approximately 1400 yards to a point 34° 56' 24" N - 76° 44' 48" W; thence 120° (M) to a point 34° 56' 06" N - 76° 43' 59" W; thence 232° (M) to a point on Great Island 34° 55' 50" N - 76° 44' 17" W.
 - (q) In that area bound by a line beginning at a point west of Long Creek 34° 55' 38" N - 76° 44' 18" W running 064° (M) to a point 34° 55' 57" N - 76° 43' 43" W; thence 138° (M) to a point on shore at the mouth of Great Neck Creek 34° 55' 50" N - 76° 43' 25" W.
 - (r) In that area bound by a line beginning at a point at the mouth of Great Neck Creek 34° 55' 50" N - 76° 43' 25" W, running 318° (M) 750 yards to a point 34° 56' 04" N - 76° 43' 47" W; thence following the shoreline no more than 750 yards from shore to a point 34° 56' 50" N - 76° 43' 11" W; thence 116° (M) 750 yards to a point on shore at Courts Creek 34° 56' 42" N - 76° 42' 46" W.
 - (s) In that area bound by a line beginning at a point on Courts Creek 34° 56' 42" N - 76° 42' 46" W, running 296° (M) 1000 yards to a point 34° 56' 52" N - 76° 43'

- 20° W; thence parallel with the shoreline no more than 1000 yards to a point 34° 57' 53" N - 76° 41' 59" W; thence 190° (M) 1000 yards to a point on shore 34° 57' 24" N - 76° 42' 00" W.
- (t) In that area bound by a line beginning at a point on shore, 34° 57' 24" N - 76° 42' 00" W, running 010° (M) 500 yards to a point 34° 57' 38" N - 76° 42' 00" W; thence running parallel to the shoreline no more than 500 yards from shore to a point 34° 57' 33" N - 76° 41' 00" W; thence 179° (M) to a point 34° 57' 23" N - 76° 40' 58" W; thence 260° (M) to a point on shore at the mouth of Adams Creek 34° 57' 22" N - 76° 41' 10" W.
- (u) In that area bound by a line beginning at a point on the northeast side of Adams Creek 34° 57' 30" N - 76° 40' 36" W; thence 278° (M) 225 yards offshore to a point 34° 57' 30" N - 76° 40' 45" W; thence 359° (M) to a point off Winthrop Point 34° 58' 26" N - 76° 40' 56" W; thence running 056° (M) to a point off Cedar Point 34° 59' 07" N - 76° 40' 04" W; thence 140° (M) to the shoreline on Cedar Point 34° 58' 50" N - 76° 39' 41" W.
- (v) In that area bound by a line beginning at a point on Cedar Point 34° 58' 50" N - 76° 39' 41" W, running 320° (M) 750 yards to a point 34° 59' 05" N - 76° 40' 01" W; thence parallel to the shoreline no more than 750 yards from shore to a point 34° 59' 16" N - 76° 39' 31" W; thence 167° (M) to a point on shore 34° 58' 56" N - 76° 39' 21" W.
- (w) In that area bound by a line beginning at a point on shore 34° 58' 56" N - 76° 39' 21" W running 347° (M) to a point 34° 59' 03" N - 76° 39' 24" W; thence parallel to the shoreline no more than 200 yards from shore to a point 34° 59' 08" N - 76° 38' 47" W; thence 184° (M) to a point on shore 34° 59' 01" N - 76° 35' 25" W.
- (x) In that area bound by a line beginning at a point west of Garbacon Creek 34° 59' 01" N - 76° 38' 43" W, running 004° (M) 750 yards to a point 34° 59' 23" N - 76° 38' 46" W; thence parallel with the shoreline no more than 750 yards from shore to a point off Browns Creek 35° 00' 20" N - 76° 33' 45" W; thence 172° (M) to the shoreline on the west side of Browns Creek 34° 59' 57" N - 76° 33' 35" W.
- (y) In that area bound by a line beginning at a point on shore at the mouth of Browns Creek 34° 59' 55" N - 76° 33' 29" W, running 352° (M) 750 yards to a point on 35° 00' 22" N - 76° 33' 34" W; thence parallel to the shoreline no more than 750 yards from shore to a point 35° 03' 56" N - 76° 28' 56" W; thence 136° (M) 750 yards to a point on shore north of Rattan Bay 35° 03' 45" N - 76° 28' 32" W.
- (z) In that area bound by a line beginning on the north side of Rattan Bay at a point on the shoreline 35° 03' 45" N - 76° 28' 32" W; thence running 316° (M) 600 yards offshore to a point 35° 03' 54" N - 76° 28' 52" W; thence running parallel with the shoreline 600 yards offshore to a point 35° 04' 09" N - 76° 26' 44" W; thence 239° (M) 600 yards to a point on shore 35° 04' 57" N - 76° 27' 00" W.
- (aa) In Adams Creek:
- (i) Between a line running 080° (M) through Red Flasher No. 4 at the mouth of Adams Creek and a line beginning at a point on the south shore of Cedar Creek 34° 55' 52" N - 76° 38' 49" W, running 297° (M) to a point on the west shore of Adams Creek 34° 56' 03" N - 76° 39' 27" W, no more than 200 yards from shore.
- (ii) Between a line beginning at a point at the mouth of Cedar Creek 34° 55' 52" N - 76° 38' 49" W; running 297° (M) to a point on the west shore of Adams Creek 34° 56' 03" N - 76° 39' 27" W, and a line beginning at a point on the east shore 34° 54' 55" N - 76° 39' 36" W; running 280° (M) to a point on the west shore 34° 54' 55" N - 76° 40' 01" W; no more than 300 yards from the west shore and 200 yards from the east shore.
- (iii) South of a line beginning at a point on the east shore 34° 54' 55" N - 76° 39' 36" W, running 280° (M) to a point on the west shore 34° 54' 55" N - 76° 40' 01" W, except in the marked navigation channel.
- (bb) In South River:
- (i) Southeast of a line beginning at a point on the southwest shore 34° 58' 35" N - 76° 35' 25" W, running 049° (M) through Red Flasher No. 2 to a point on the northeast shore 34° 59' 07" N - 76° 34' 52" W, no more than 200 yards from the shoreline.
- (ii) that area bound by a line beginning at a point on the southwest shore 34° 58' 35" N - 76° 35' 25" W, running 049° (M) to Red Flasher No. 2; thence running 207° (M) to a point north of Hardy Creek 34° 58' 13" N - 76° 35' 22" W; thence following the shoreline to the point of beginning.

(cc) In Turnagain Bay:

- (i) Between a line running 077° (M) through Green Flasher No. 1 and a line beginning at a point on the east shore 34° 59' 04" N - 76° 29' 01" W; running 276° (M) to a point on the west shore 34° 59' 03" N - 76° 29' 28" W, no more than 300 yards on the east shore and 100 yards on the west shore.
- (ii) Between a line beginning at a point on the east shore 34° 59' 04" N - 76° 29' 01" W, running 276° (M) to a point on the west shore 34° 59' 03" N - 76° 29' 28" W, and a line beginning at a point on the east shore 34° 57' 56" N - 76° 29' 25" W, running 275° (M) to a point on the west shore 34° 57' 58" N - 76° 29' 44" W, no more than 150 yards from shore.
- (dd) In Cedar Bay east of a line beginning at a point 35° 00' 51" N - 76° 29' 42" W running 023° (M) to a point 35° 01' 09" N - 76° 29' 37" W, not more than 200 yards from the shoreline.
- (ee) In West Bay - North Bay area:
 - (i) In that area bound by a line beginning at a point 35° 02' 32" N - 76° 22' 27" W; thence southwest 220° (M) to Marker No. 5 WB; thence southeast 161° (M) to a point in West Bay 35° 00' 34" N - 76° 21' 50" W; thence southwest 184° (M) to Deep Bend Point 34° 58' 36" N - 76° 21' 48" W; thence following the shoreline of West Bay and North Bay to a point 35° 02' 09" N - 76° 21' 53" W; thence 317° (M) to the beginning point.
 - (ii) In West Bay bound by a line beginning at a point on shore 35° 03' 34" N - 76° 26' 24" W, running 033° (M) 100 yards to a point 35° 03' 38" N - 76° 26' 23" W; thence parallel to the shoreline no more than 100 yards from shore to a point 35° 00' 06" N - 76° 25' 24" W, running 278° (M) to a point on shore 35° 00' 06" N - 76° 25' 28" W.
 - (iii) In West Bay bound by a line beginning at a point 35° 00' 06" N - 76° 25' 28" W, running 098° (M) 500 yards to a point 35° 00' 06" N - 76° 25' 12" W; thence 171° (M) 2800 yards to a point 34° 58' 45" N - 76° 24' 42" W; thence 270° (M) 1400 yards to a point on shore 34° 58' 39" N - 76° 25' 22" W.
- (ff) In West Thorofare Bay and Merkle Bay south and southeast of a line beginning at a point in West Bay at Tump Point 34° 58' 42" N - 76° 22' 49" W; thence southwest 258° (M) to Marker FI R15 ft. 3M S WB; thence southwest 203° (M) to

Long Bay Point 34° 57' 52" N - 76° 24' 12" W.

(gg) In Long Bay:

- (i) In that area bound by a line beginning at a point on the south side of Stump Bay in Long Bay 34° 57' 13" N - 76° 27' 12" W; running northeast 077° (M) across Stump Bay to a point 34° 57' 39" N - 76° 25' 51" W; thence 032° (M) to a point 34° 58' 39" N - 76° 25' 22" W, following the shoreline to the beginning point.
- (ii) Southwest of a line beginning on the west shore 34° 57' 13" N - 76° 27' 12" W, running 134° (M) to a point on the east shore at Swimming Point 34° 56' 46" N - 76° 26' 26" W.
- (iii) In the area bound by a line beginning at a point on shore at Swimming Point 34° 56' 46" N - 76° 26' 26" W, running 314° (M) 300 yards to a point 34° 56' 52" N - 76° 26' 33" W; thence parallel to the shoreline no more than 300 yards from shore to a point 34° 58' 03" N - 76° 24' 10" W; thence 203° (M) to Long Bay Point 34° 57' 52" N - 76° 24' 12" W.
- (hh) Raccoon Island, on the northeast shore between a point on the northwest shore 35° 04' 27" N - 76° 26' 16" W and a point on the southwest shore 35° 04' 00" N - 76° 25' 33" W from the shoreline no more than 150 yards from shore; on the south and west shores, no more than 50 yards from the shoreline.
- (8) Core Sound, Back Sound and the Straits and their tributaries.
- (9) North River:
 - (a) In that area bound by a line beginning at a point on the shore on the east side of North River south of Goose Bay 34° 43' 35" N - 76° 34' 55" W; thence running 252° (M) to a point in the river 34° 43' 28" N - 76° 35' 14" W; thence running 355° (M) to a point in the river 34° 45' 20" N - 76° 35' 45" W; thence running 060° (M) to a point in the river 34° 45' 45" N - 76° 35' 04" W; thence running 165° (M) to a point on the shore at the mouth of South Leopard Creek 34° 45' 36" N - 76° 34' 59" W; thence with the shoreline to the point of beginning.
 - (b) In that area bound by a line beginning at a point on the west side of North River near Steep Point 34° 43' 40" N - 76° 37' 20" W; thence running 040° (M) to a point 34° 44' 35" N - 76° 36' 36" W; thence running 291° (M) 300 yards to a point 34° 44' 37" N - 76° 36' 45" W; thence running 219° (M) to a point 34°

- 44' 13" N - 76° 37' 05" W; thence running 307° (M) to a point 34° 44' 16" N - 76° 37' 12" W; thence running 018° (M) to a point 34° 45' 20" N - 76° 36' 56" W following the shoreline to the beginning point.
- (c) In that area of the North River marshes bound by a line beginning at Red Flasher No. "6" running 038° (M) along the southeast side of Steep Point Channel through Red Day Marker No. "8" to a point 34° 44' 08" N - 76° 36' 52" W; thence 125° (M) to a point 34° 43' 48" N - 76° 36' 08" W; thence 144° (M) to a point 34° 43' 30" N - 76° 35' 47" W; thence 188° (M) to a point 34° 42' 23" N - 76° 35' 47" W; thence 221° (M) to Red Flasher No. "56"; thence 278° (M) to a point 34° 42' 14" N - 76° 36' 43" W; thence 346° (M) to a point 34° 42' 45" N - 76° 36' 58" W; thence 008° (M) to a point 34° 43' 14" N - 76° 36' 58" W; thence 318° (M) to the beginning point.
- (d) In the area north of a line beginning on the east shore at 34° 46' 11" N - 76° 35' 13" W; thence running 270° (M) to a point on the west shore at 34° 46' 11" N - 76° 37' 01" W.
- (10) Newport River:
- (a) In that area bound by a line beginning at a point on the south shore 34° 45' 30" N - 76° 43' 10" W; thence running 026° (M) to a point on the north shore of Newport River 34° 46' 33" N - 76° 42' 46" W; thence with the shoreline to Beacon No. 24 in Core Creek; thence south with the Intracoastal Waterway to a point near Newport Marshes 34° 44' 56" N - 76° 45' 38" W; thence 274° (M) to Crab Point 34° 44' 54" N - 76° 42' 12" W; thence with the shoreline to the beginning point.
- (b) In that area bound by a line beginning at a point on the shore on the south side of Russell's Creek 34° 45' 28" N - 76° 39' 46" W running 278° (M) 1000 yards to Quick Flasher Beacon No. 29 in the Intracoastal Waterway; thence running 173° (M) 1700 yards with the shoal to a point 34° 44' 37" N - 76° 40' 06" W; thence 195° (M) 1050 yards to a point on Gallant Point 34° 44' 06" N - 76° 40' 11" W; thence east and north with the shoreline to the beginning point.
- (c) In the mouth of Harlowe Creek north of a line beginning at a point near White Rock 34° 46' 28" N - 76° 43' 28" W, running 089° (M) to a point 34° 46' 33" N - 76° 42' 46" W.
- (11) Bogue Sound:
- (a) In that area bound by a line beginning at a point 34° 42' 16" N - 76° 49' 24" W on the south shore of Bogue Sound (locally known as McGinnis Point) running 008° (M) to a point in Bogue Sound 34° 43' 12" N - 76° 49' 24" W; thence running 099° (M) to Atlantic Beach Bridge 34° 43' 08" N - 76° 44' 12" W; thence 119° (M) to a point on the shore at Tar Landing Bay 34° 42' 30" N - 76° 42' 12" W; thence 191° (M) to a point on Bogue Banks 34° 42' 00" N - 76° 42' 15" W; thence with the shoreline to the beginning point.
- (b) In that area north of the Intracoastal Waterway beginning at the Atlantic Beach Bridge and running parallel with the Intracoastal Waterway to Channel Marker (Beacon) No. 39 at Bogue (Guthrie Point).
- (c) In that area on the north side of the Intracoastal Waterway from the Old Ferry Channel to the Highway 58 bridge.
- (12) Designated primary nursery areas in all coastal fishing waters which are listed in Rule 15A NCAC 3R .0003, except Burton Creek off Lower Broad Creek in Pamlico County.
- (13) West and south of the Highway 58 Bridge at Emerald Isle from May 1 through October 31 in areas and during such times as the Fisheries Director shall designate by proclamation.

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

.0008 MECHANICAL METHODS PROHIBITED

(a) It is unlawful to use mechanical methods to take oysters in Pamlico Sound, within the area bounded by a line beginning at a point on the north side of Swash Inlet 34° 58' 50" N - 76° 09' 13" W; thence running 272° (M) 5,420 yards to a point in Wainwright Channel 34° 59' 30" N - 76° 12' 22" W immediately east of the northern tip of Wainwright Island; thence 019° (M) 2,000 yards to red 4 second interval flashing beacon "2CS" 35° 00' 16" N - 76° 12' 12" W; thence 033° (M) 2,900 yards to 4 second interval flashing beacon "HL" 35° 01' 35" N - 76° 11' 27" W; thence 043° (M) 14,450 yards to a point in Pamlico Sound 35° 07' 06" N - 76° 06' 54" W; from which point green 4 second interval flashing beacon "5" on Royal Shoal bears 325° (M) 6,220 yards; and a yellow 6 second interval flashing beacon on Royal Shoal bears 257° (M) 3,000 yards; thence 078° (M) 7,800 yards to green 2.5 second interval flashing beacon "9" 35° 08'

26° N - 76° 02' 30" W in Nine Foot Shoal Channel; thence 067° (M) 3,640 yards to red 4 second interval flashing beacon "14BF" 35° 09' 21" N - 76° 00' 39" W in Big Foot Slough Channel; thence 078° (M) 26,260 yards to a quick-flashing beacon 35° 14' 00" N - 75° 45' 50" W; southwest of Oliver Reef; thence 033° (M) 6,100 yards to 2.5 second interval flashing beacon "1" 35° 16' 46" N - 75° 44' 16" W in Rollinson Channel; thence 079° (M) 13,920 yards to red 4 second interval flashing beacon "2" 35° 19' 02" N - 75° 36' 19" W in Cape Channel; thence 139° (M) 8,340 yards to a point on the shoreline of Hatteras Island near Buxton 35° 16' 18" N - 75° 32' 20" W; thence southwest with the shoreline of Hatteras Island to a point 35° 11' 30" N - 75° 44' 48" W on the southwest end of Hatteras Island; thence 269° (M) 2,380 yards across Hatteras Inlet to a point 35° 11' 18" N - 75° 46' 15" W on the northeast end of Ocracoke Island; thence southwest with the shoreline of Ocracoke Island to a point 35° 03' 54" N - 76° 00' 54" W on the southwest end of Ocracoke Island; thence 268° (M) 2,220 yards across Ocracoke Inlet to a point 35° 03' 42" N - 76° 02' 15" W on the northeast end of Portsmouth Island; thence running southwest with the shoreline of Portsmouth Island and Core Banks to a point on the north side of Swash Inlet 34° 58' 50" N - 76° 09' 13" W, to the point of the beginning.

(b) It is unlawful to use mechanical methods to take oysters in Core Sound and its tributaries southwest of a line beginning at a point on the north side of Swash Inlet 34° 58' 50" N - 76° 09' 13" W, and running 292° (M) to a point off Hlog Island Reef 35° 00' 06" N - 76° 14' 52" W.

(c) It is unlawful to use mechanical methods to take oysters in any of the following areas: Back Bay at Hlog Island, North Bay, the Straits, Back Sound, North River, Newport River, Bogue Sound, White Oak River, New River, Lockwoods Folly River, Shallotte River, and Saucan Creek (Brunswick County), except on private bottom by permit.

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

.0009 TAKING CRABS WITH DREDGES

It is unlawful to take crabs with dredges except during the period January 1 through March 1 within the area in Pamlico Sound bounded by a line beginning at a point on Sandy Point 35° 37' 35" N - 75° 43' 46" W running 008° 10.1 nautical miles to a point on shore 35° 47' 45" N - 75° 43' 56" W; thence 051° (M) 1.75 nautical miles to a white daybeacon 35° 49' 03" N - 75° 42' 28" W; thence 098° 7 nautical miles to the Bodie Island

Lighthouse; thence 157° (M) 3.6 nautical miles to the Oregon Inlet Coast Guard Station flasher; thence 182° (M) 9.7 nautical miles to Flasher No. 3 at Chicamacomico Channel 35° 36' 21" N - 75° 30' 00" W; thence 285° (M) 11.3 nautical miles to the point of beginning.

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

.0010 CRAB SPAWNING SANCTUARIES

The crab spawning sanctuaries within which the taking of crabs may be restricted or prohibited during the period of April 1 through August 31 are described as follows:

(1) In the Oregon Inlet Area. Beginning at a point 35° 47' 42" N -- 75° 32' 21" W at the elevation of mean high water on the ocean beach one mile north of North Point on Bodie Island, thence seaward 66° (M) 880 yards to a point in the Atlantic Ocean 35° 47' 59" N -- 75° 31' 51" W; thence 159° (M), 4,000 yards to a point 35° 46' 21" N -- 75° 30' 40" W; thence 248° (M), 880 yards to a point on the high water line of the Atlantic Ocean 35° 46' 06" N -- 75° 31' 08" W, said point being one mile south of South Point; thence running with the high water line of the Atlantic Ocean on Pea Island northward to South Point; thence around South Point with the high water line of Pamlico Sound approximately 7,000 yards to a point 35° 43' 42" N -- 75° 30' 54" W on the high water line of the south point of Eagle Nest Bay; thence 273° (M), 2,200 yards to a point in Pamlico Sound 35° 43' 42" N -- 75° 32' 12" W; thence 344° (M), 8,100 yards to a point 35° 47' 16" N -- 75° 34' 09" W (present location of channel marker "2"); thence 17° (M), 2,800 yards to a point on the high water line of Bodie Island 35° 48' 45" N -- 75° 33' 54" W, said point being near the eastern edge of Off Island; thence southward with the high water line of Pamlico Sound approximately 6,880 yards to North Point on Bodie Island; thence northward along the high water line of the Atlantic Ocean on Bodie Island approximately one mile to the point and place of the beginning.

(2) In the Hatteras Inlet Area. Beginning at a point 35° 10' 40" N -- 75° 44' 31" W at the elevation of mean high water on the eastern side of Hatteras Inlet; thence northeasterly along the elevation of mean high water on the northwestern side of Hatteras Island to a point 35° 12' 05" N -- 75° 43' 21" W on the shore of Pamlico Sound; thence on a bearing

of 333° (M), 4,700 yards to a point in Pamlico Sound southeast of Ira Peele's Fishing Pier 35° 13' 38" N -- 75° 45' 26" W; thence 235° (M), 7,200 yards to a point 35° 11' 04" N -- 75° 48' 26" W on the eastern edge of Outer Green Island; thence on a bearing of 150° (M), 1,050 yards to a point 35° 10' 42" N -- 75° 47' 54" W; at the elevation of mean high water on the northwest side of Ocracoke Island; thence northeasterly along the elevation of mean high water to a point 35° 11' 19" N -- 75° 46' 15" W on the western side of Hatteras Inlet; then on a bearing of 083° (M), 2,930 yards across Hatteras Inlet to the point of beginning.

- (3) In the Ocracoke Inlet Area. Beginning at a point 35° 03' 43" N -- 76° 04' 50" W on the high water line of Portsmouth Island, [said point being 252° (M), 2,100 yards from the spire of Portsmouth Methodist Church]; thence northeasterly and easterly along the high water line of Pamlico Sound on Portsmouth Island approximately 3,800 yards to the high water line at the western shore of Ocracoke Inlet; thence with the high water line southeastward approximately 2,000 yards to the high water line of the Atlantic Ocean on Portsmouth Island; thence southwesterly approximately 1,600 yards along the high water line of the Atlantic Ocean to a point 35° 03' 03" N -- 76° 03' 05" W; thence seaward 154° (M), 880 yards to a point in the Atlantic Ocean 35° 02' 38" N -- 76° 02' 43" W; thence 64° (M), 1,280 yards to a point 35° 02' 58" N -- 76° 02' 05" W; thence 83° (M), 3,500 yards to a point 35° 03' 23" N -- 76° 00' 03" W; thence 55° (M), 1,725 yards to a point 35° 03' 58" N -- 75° 59' 18" W; thence 324° (M), 880 yards to a point 35° 04' 20" N -- 75° 59' 43" W on the high water line of the Atlantic Ocean on Ocracoke Island; thence southwesterly along the high water line of the Atlantic Ocean approximately 2,100 yards to the high water line of Ocracoke Inlet; thence northwesterly with the high water line of Ocracoke Inlet approximately 600 yards to the high water line of Pamlico Sound; thence northeasterly with the high water line of Pamlico Sound, approximately 5,900 yards to a point 35° 06' 12" N -- 75° 59' 22" W (said point being just south of the western tip of Springers Point); thence 273° (M) (through the present location of channel marker "25", the north edge of Beacon Island and Shell Castle Island), 8,400 yards to a point in Pamlico Sound 35° 05' 51" N -- 76° 04' 25" W (said point being at or near the western extremity

of Shell Castle Island); thence 197° (M), 4,380 yards to the point and place of the beginning.

- (4) In the Drum Inlet Area. Beginning at a point on the high water line of Core Sound on Core Banks 34° 50' 09" N -- 76° 20' 25" W; thence 326° (M), 2,000 yards to a point in Core Sound 34° 50' 50" N -- 76° 21' 15" W; thence 50° (M), 8,000 yards to a point in Core Sound 34° 53' 44" N -- 76° 18' 03" W; thence 151° (M), 2,390 yards to a point on the high water line of Core Sound on Core Banks 34° 52' 48" N -- 76° 17' 12" W; thence with said high water line southwesterly approximately 4,400 yards to Drum Inlet; thence with the high water line around Drum Inlet and northward approximately 4,400 yards to a point on the high water line of the Atlantic Ocean 34° 52' 36" N -- 76° 17' 03" W; thence seaward 151° (M), 880 yards to a point in the Atlantic Ocean 34° 52' 13" N -- 76° 16' 45" W; thence 231° (M), 7,500 yards to a point in the Atlantic Ocean 34° 49' 30" N -- 76° 19' 51" W; thence 326° (M), 880 yards to a point on the high water line of the Atlantic Ocean on Core Banks 34° 49' 54" N -- 76° 20' 16" W; thence northwardly along the high water line of the Atlantic Ocean to the south side of Drum Inlet; thence around the high water line of Drum Inlet and southward along the high water line of Core Sound on Core Banks to the point and place of the beginning.
- (5) In the Bardens Inlet Area. Beginning at a point 34° 40' 42" N -- 76° 29' 33" W on the high water mark of Core Sound; thence 278° (M) 4,350 yards to a point 34° 43' 02" N -- 76° 29' 29" W (the present location of channel marker "39"); thence 224° (M), 5,900 yards to a point at the edge of Light-house Channel 34° 40' 42" N -- 76° 31' 36" W (the present location of channel marker "35"); thence 211° (M), 3,500 yards to a point on the high water line of Shackleford Banks 34° 39' 06" N -- 76° 32' 27" W (this line running through Beargrass Island, and the point being at the tip of a prominent point of marsh immediately shoreward of Beargrass Island); thence along the high water line of Back Sound on Shackleford Banks eastward approximately 2,500 yards to Bardens Inlet; thence southward with the high water line of the western shoreline of Bardens Inlet approximately 1,700 yards to the high water line of the Atlantic Ocean; thence westward along the high water line of the Atlantic Ocean on Shackleford Banks approximately 2,000 yards to a point 34° 38'

30° N -- 76° 32' 38" W on the high water line of the Atlantic Ocean; thence 218° (M) through the present location of buoy R "4", 3,375 yards to a point 34° 37' 05" N -- 76° 33' 43" W (the present location of buoy R "2"); thence 131° (M), 1,075 yards to a point 34° 36' 47" N -- 76° 33' 11" W (this point being at the base of Cape Lookout jetty at the high water line); thence northward with the high water line of the Atlantic Ocean approximately 1,800 yards to the northern tip of Power Squadron Spit; thence southward, eastward, and northward along the high water line around the shoreline of Cape Lookout Bight approximately 5,000 yards to the high water line on the eastern shoreline of Bardens Inlet; thence northeasterly with the high water line of Core Banks.

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

.0011 PURSE SEINES PROHIBITED

It is unlawful to take menhaden or Atlantic thread herring by the use of a purse seine from the Atlantic Ocean within an area bounded by a line extending from Bald Head Lighthouse bearing 242° (M) to Cape Fear River ship channel buoy "7", then bearing 320° (M) to the foot of the Yaupon Beach Fishing Pier on Oak Island, then following the shoreline eastward to a point near Fort Caswell (33° 53' 13" N - 78° 01' 11" W), then running 138° (M) to the Bald Head Lighthouse.

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

Notice is hereby given in accordance with G.S. 150B-12 that the EHNH - Division of Coastal Management intends to adopt rule(s) cited as 15A NCAC 7M .1101 - .1102.

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

The public hearing will be conducted at 10:00 a.m. on May 24, 1990 at Small Business Center, College of the Albemarle, US 17 North, Elizabeth City, NC 27909.

Comment Procedures: All persons interested in these matters are invited to attend the public

hearing. The Coastal Resources Commission will receive written comments up to the date of the hearing. Any persons desiring to present lengthy comments is requested to submit a written statement for inclusion in the record of proceedings at the public hearing. Additional information concerning the hearing or the proposals may be obtained by contacting: Portia Rochelle, Division of Coastal Management, PO Box 27687, Raleigh, NC 27611-7687, (919) 733-2293.

CHAPTER 7 - COASTAL MANAGEMENT

SUBCHAPTER 7M - GENERAL POLICY GUIDELINES FOR THE COASTAL AREA

SECTION .1100 - POLICIES TO MAINTAIN PRODUCTIVITY OF ESTUARINE RESOURCES

.1101 DECLARATION OF GENERAL POLICY

(a) It is hereby declared that the continued productivity and economic viability of North Carolina's estuarine and public trust resources are necessary to maintain and support commercial fishing, recreational fishing, and aquaculture projects that rely on marine and estuarine resources. These industries are important to the economy and lifestyle of North Carolina. The species of fish and shellfish that support these industries depend upon good water quality and availability of high quality habitat for their growth and survival.

(b) Habitat protection and management of the utilization of coastal resources is the responsibility of many agencies. The CRC has direct authority for controlling many development activities such as dredging, marina siting and water quality impacts and has undertaken control measures to address these activities. Reasonable and effective regulations should be developed by all responsible agencies to protect critical habitats and control harvesting techniques that have the likelihood of damaging these resources. It is hereby declared that the general welfare and public interest require that all State, Federal and local agencies coordinate their activities to insure optimal estuarine productivity.

Statutory Authority G.S. 113A-102(b); 113A-107; 113A-124.

.1102 POLICY STATEMENTS

(a) The Coastal Resources Commission recognizes the importance of protecting the highest quality coastal waters and aquatic habitats such as Outstanding Resource Waters and Primary Nursery Areas and encourages the Marine Fisheries Commission and other resource agencies to

take the necessary steps to prevent environmental harm to aquatic resources from fishing practices.

(b) Activities that have a high probability of degrading water quality or damaging the habitat and its living resources shall not be allowed in these special areas.

(c) The Coastal Resources Commission encourages the Marine Fisheries Commission to develop and maintain regulations governing fish and shellfish harvest practices, including mechanical harvesting and other bottom disturbing activities to protect water quality and habitat integrity.

(d) The Marine Fisheries Commission is further encouraged to develop and maintain appropriate fishing regulations to address the adverse impacts of trawling and other activities that are determined to be detrimental to the productivity of the State's coastal rivers and sounds.

Statutory Authority G.S. 113A-102(b); 113A-107; 113A-124.

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend rule cited as 15A NCAC 10F .0327.

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

The public hearing will be conducted at 10:00 a.m. on May 4, 1990 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from April 19, 1990 to May 18, 1990. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27611.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

.0327 MONTGOMERY COUNTY

(a) Regulated Areas. This Rule applies only to the portions of Badin Lake, Lake Tillery and Tuckertown Reservoir which lie within the boundaries of Montgomery County.

(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 ~~area~~ areas described in Paragraph (a) of this Rule.

(c) Boating Safety Zones. No person shall operate a vessel at greater than no-wake speed within 50 yards of any marked hazardous or congested area established with approval of the Wildlife Resources Commission on the waters of the regulated areas described in Paragraph (a) of this Rule.

~~(d) (e)~~ Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area established with the approval of the ~~Executive Director, or his representative,~~ Wildlife Resources Commission on the waters of the regulated areas described in Paragraph (a) of this Rule.

~~(e) (d)~~ Placement and Maintenance of Markers. The Board of Commissioners of Montgomery County is hereby designated a suitable agency for placement and maintenance of the markers hereby authorized, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers. With regard to marking the regulated areas described in Paragraph (a) of this Rule, supplementary standards as set forth in Rule .0301(g)(1) to (8) of this Section shall apply.

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

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend rule cited as 15A NCAC 10F .0350.

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

The public hearing will be conducted at 10:00 a.m. on May 2, 1990 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing, will be open for receipt of written comments from April 13, 1990 to May 18, 1990. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27611.

.0350 DURHAM AND WAKE COUNTIES

(a) Definitions. In addition to the definitions set forth in Paragraph (b) of Rule .0301 of this Section, the following definitions apply for the purposes of this Rule:

- (1) Corps - Corps of Engineers, United States Army;
- (2) State Parks - Division of Parks and Recreation, N. C. Department of Environment, Health, and Natural Resources;
- (3) Regulated Area - Those portions of Falls Lake located within the boundaries of Durham and Wake Counties.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed:

- (1) while within a designated mooring area established on the regulated area by or with the approval of the Corps and State Parks;
- (2) within fifty yards of any public boat launching ramp or boat service facility, including docks used for fueling or boat repair, located on the regulated area;
- (3) within 50 yards of any state road bridge crossing over that portion of Falls Lake located within the boundaries of Wake County.

(c) Restricted Zones. No person operating or responsible for the operation of any vessel, surfboard or water skis shall permit the same to enter:

- (1) any marked swimming area located on the regulated area;
- (2) any areas near the dam structures located on the regulated area that shall be marked by or with the approval of the Corps against entry by vessels.

(d) Placement and Maintenance of Markers. The Board of Commissioners of Durham County and the Board of Commissioners of Wake County are designated suitable agencies for placement and maintenance of markers implementing this Rule within their respective counties, subject to the approval of the Corps. Provided the said boards exercise their supervisory responsibilities, they may delegate the actual placement and maintenance of markers to some other responsible agency. With regard to mark-

ing of the regulated area described in Paragraph (a) of this Rule, all of the Supplementary standards listed in Paragraph (g) of Rule .0301 of this Section shall apply.

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

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend rule(s) cited as 15A NCAC 10H .0302.

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

The public hearing will be conducted at 10:00 a.m. on May 16, 1990 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, N.C.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from May 1, 1990 to May 30, 1990. Such written comments must be delivered or mailed to the N.C. Wildlife Commission, 512 N. Salisbury Street, Raleigh, NC 27611.

SUBCHAPTER 10H - REGULATED ACTIVITIES

SECTION .0300 - HOLDING WILDLIFE IN CAPTIVITY

.0302 MINIMUM STANDARDS

(g) Cougar

(1) Educational Institutions and Zoos Operated or Established by Governmental Agencies

(A) Enclosure. A permanent, stationary metal cage, at least nine feet wide by 18 feet long by nine feet high and located in the shade or where shaded during the afternoon hours of summer, is required. The cage shall have a concrete floor. The bars of the cage shall be of iron or steel at least one-fourth inch in diameter, or heavy gauge steel chain link fencing may be used. The gate shall be equipped with a lock or safety catch, and guard rails shall be placed outside the cage so as to prevent contact between the observer and the caged animal. The cage must contain a den at least five feet long by five feet wide by four feet high and so constructed as to be easily cleaned. A "scratch log" shall

be placed inside the cage. The cage shall be equipped with a removable food trough. Running water shall be provided for flushing the floor and changing the pool.

(B) Sanitation and Care. Adequate food shall be provided daily; and clean, clear drinking water shall be available at all times. In hot weather, the floor of the cage and the food trough shall be flushed with water and the water in the pool changed daily. The den shall be flushed and cleaned at least once each week in hot weather. An effective program for the control of insects, ectoparasites, disease, and odor shall be established and maintained. Brush, canvas, or other suitable material shall be placed over the cage to provide additional shade when necessary. The use of collars, tethers or stakes to restrain the cougar is prohibited, except as a temporary safety device.

(2) Application. The following specifications are required for the development of plans for holding cougars in captivity as prescribed by G.S. 113-272.5(e)(4). Applicants for a Wildlife Captivity License for cougar must apply on forms supplied by the Commission and include copies of proposed plans for confining cougars in conditions simulating natural habitats.

(3) Conditions Simulating Natural Habitat. Cougars held in captivity by other than educational institutions or governmental zoos must be held without caging under conditions simulating a natural habitat approved by the Wildlife Resources Commission. For a holding facility to be deemed in simulation of a natural habitat, the following conditions must be satisfied:

(A) The method of confinement is by chain link fence, without the use of chains or tethers.

(i) Nine gauge chain link fencing shall be at least 12 feet in height with a four foot fence overhang at a 45 degree angle on the inside of the pen to prevent escape from climbing and jumping.

(ii) Fence posts and at least six inches of the fence skirt shall be permanently imbedded in a six inch wide by one foot deep concrete footer to prevent escape by digging.

(B) The area of confinement shall be at least one acre for one or two cougars with an additional one-eighth acre for each additional cougar, except that smaller areas containing terrain and topographical fea-

tures which offer adequate escape cover and refuge and meeting all other specifications are allowed under special approval by the Wildlife Resources Commission. Cougars shall be free under normal conditions to move throughout such area.

(C) At least one-half of the area of confinement shall be wooded with living trees, shrubs and other perennial vegetation capable of providing shelter from sun and wind; and that a 20 foot wide strip along the inside of the fence shall be maintained free of trees, shrubs and any other obstructions which could provide a base from which escape through leaping could occur.

(D) The area of confinement shall contain a pool not less than one and one-half feet deep and not less than four by five feet in size.

(E) Each cougar shall be provided a den to which the cougar may retire for rest, shelter from the elements, or respite from public observation. Each den shall be four feet wide by four feet high by four feet deep. Each den shall be enclosed entirely within at least an eight feet wide by ten feet deep by 12 feet high security cage. The security cage shall be completely within the confines of the facility, cement-floored, shall require nine gauge fencing on all sides and the top, and shall require a four foot, 45 degree fence overhang around the outside top edge to prevent cougar access to the top of the security cage.

(F) The area of confinement shall present an overall appearance of a natural habitat and afford the cougars protection from harassment or annoyance.

(4) Provisions shall be made for adequate food and water and for maintenance of sanitation.

(5) No circumstance shall exist which is calculated to avoid, circumvent, defeat or subvert the purpose of the law or these recommendations.

(6) The applicant must demonstrate by satisfactory evidence that he owns or has some other long-term legal interest in the real property upon which the holding facility is located.

(h) ~~(g)~~ Other Wild Animals

Statutory Authority G.S. 19A-11; 113-134; 113-272.5.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend rule(s) cited as 15A NCAC 10H .0302.

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

The public hearing will be conducted at 10:00 a.m. on May 16, 1990 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, N.C.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from May 1, 1990 to May 30, 1990. Such written comments must be delivered or mailed to the N.C. Wildlife Commission, 512 N. Salisbury Street, Raleigh, NC 27611.

SUBCHAPTER 10H - REGULATED ACTIVITIES

SECTION .0300 - HOLDING WILDLIFE IN CAPTIVITY

.0302 MINIMUM STANDARDS

(g) Cougar

(1) Educational Institutions and Zoos Operated or Established by Governmental Agencies

(A) Enclosure. A permanent, stationary metal cage, at least nine feet wide by 18 feet long by nine feet high and located in the shade or where shaded during the afternoon hours of summer, is required. The cage shall have a concrete floor. The bars of the cage shall be of iron or steel at least one-fourth inch in diameter, or heavy gauge steel chain link fencing may be used. The gate shall be equipped with a lock or safety catch, and guard rails shall be placed outside the cage so as to prevent contact between the observer and the caged animal. The cage must contain a den at least five feet long by five feet wide by four feet high and so constructed as to be easily cleaned. A "scratch log" shall be placed inside the cage. The cage shall be equipped with a removable food trough. Running water shall be provided for flushing the floor and changing the pool.

(B) Sanitation and Care. Adequate food shall be provided daily; and clean, clear drinking water shall be available at all

times. In hot weather, the floor of the cage and the food trough shall be flushed with water and the water in the pool changed daily. The den shall be flushed and cleaned at least once each week in hot weather. An effective program for the control of insects, ectoparasites, disease, and odor shall be established and maintained. Brush, canvas, or other suitable material shall be placed over the cage to provide additional shade when necessary. The use of collars, tethers or stakes to restrain the cougar is prohibited, except as a temporary safety device.

(2) Application. The following specifications are required for the development of plans for holding cougars in captivity as prescribed by G.S. 113-272.5(e)(4). Applicants for a Wildlife Captivity License for cougar must apply on forms supplied by the Commission and include copies of proposed plans for confining cougars in conditions simulating natural habitats.

(3) Conditions Simulating Natural Habitat. Cougars held in captivity by other than educational institutions or governmental zoos must be held without caging under conditions simulating a natural habitat approved by the Wildlife Resources Commission. For a holding facility to be deemed in simulation of a natural habitat, the following conditions must be satisfied:

(A) The method of confinement is by chain link fence, without the use of chains or tethers.

(i) Nine gauge chain link fencing shall be at least 12 feet in height with a four foot fence overhang at a 45 degree angle on the inside of the pen to prevent escape from climbing and jumping.

(ii) Fence posts and at least six inches of the fence skirt shall be permanently imbedded in a six inch wide by one foot deep concrete footer to prevent escape by digging.

(B) The area of confinement shall be at least one acre for one or two cougars with an additional one-eighth acre for each additional cougar, except that smaller areas containing terrain and topographical features which offer adequate escape cover and refuge and meeting all other specifications are allowed under special approval by the Wildlife Resources Commission. Cougars shall be free under normal conditions to move throughout such area.

(C) At least one-half of the area of confinement shall be wooded with living

trees, shrubs and other perennial vegetation capable of providing shelter from sun and wind; and that a 20 foot wide strip along the inside of the fence shall be maintained free of trees, shrubs and any other obstructions which could provide a base from which escape through leaping could occur.

(D) The area of confinement shall contain a pool not less than one and one-half feet deep and not less than four by five feet in size.

(E) Each cougar shall be provided a den to which the cougar may retire for rest, shelter from the elements, or respite from public observation. Each den shall be four feet wide by four feet high by four feet deep. Each den shall be enclosed entirely within at least an eight feet wide by ten feet deep by 12 feet high security cage. The security cage shall be completely within the confines of the facility, cement-floored, shall require nine gauge fencing on all sides and the top, and shall require a four foot, 45 degree fence overhang around the outside top edge to prevent cougar access to the top of the security cage.

(F) The area of confinement shall present an overall appearance of a natural habitat and afford the cougars protection from harassment or annoyance.

(4) Provisions shall be made for adequate food and water and for maintenance of sanitation.

(5) No circumstance shall exist which is calculated to avoid, circumvent, defeat or subvert the purpose of the law or these recommendations.

(6) The applicant must demonstrate by satisfactory evidence that he owns or has some other long-term legal interest in the real property upon which the holding facility is located.

(h) ~~(g)~~ Other Wild Animals

Statutory Authority G.S. 19A-11; 113-134; 113-272.5.

TITLE 16 - DEPARTMENT OF PUBLIC EDUCATION

Notice is hereby given in accordance with G.S. 150B-12 that the State Board of Education intends to amend rule cited as 16 NCAC 6C .0312.

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

The public hearing will be conducted at 9:30 a.m. on May 4, 1990 at 3rd Floor Board Room, Education Building, 116 W. Edenton Street, Raleigh, NC 27603-1712.

Comment Procedures: Any interested person may present views and comments either in writing prior to or at the hearing or orally at the hearing.

CHAPTER 6 - PUBLIC ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 6C - PERSONNEL

SECTION .0300 - CERTIFICATION

.0312 CERTIFICATE SUSPENSION AND REVOCATION

(a) The SBE may suspend or revoke a certificate issued by the department only for the following reasons:

- (1) fraud, material misrepresentation or concealment in the application for certification;
- (2) changes in or corrections of the certificate documentation which makes the individual ineligible to hold a certificate;
- (3) conviction or entry of a plea of no contest, as an adult, of a crime if there is a reasonable and adverse relationship between the underlying crime and the continuing ability of the person to perform any of his/her professional functions in an effective manner;
- (4) final dismissal of a person by a local board pursuant to G.S. 115C-325(c)(1)b., if there is a reasonable and adverse relationship between the underlying misconduct and the continuing ability of the person to perform any of his/her professional functions effectively;
- (5) final dismissal of a person by a LEA under G.S. 115C-325(c)(1)e.;
- (6) resignation from employment with a LEA without 30 work days' notice, except with the prior consent of the local superintendent; and
- (7) revocation of a certificate by another state; ~~and when the person's North Carolina certificate was issued on the basis of reciprocity.~~
- (8) any other illegal or immoral conduct by a person, if there is a reasonable and adverse relationship between the underlying conduct and the continuing ability of the

person to perform any of his/her professional functions in an effective manner.

(b) Upon the receipt of a written request and substantiating information from any LEA, local superintendent or other person in a position to present information as a basis for the suspension or revocation of a person's certificate, the Superintendent of Public Instruction will conduct an investigation sufficient to determine whether reasonable cause exists to believe that the person's certificate should be suspended or revoked.

(1) If the Superintendent determines that reasonable cause exists to believe that the person's certificate should be suspended or revoked on one or more of the grounds specified in Paragraph (a) of this Rule, the Superintendent shall prepare and file written charges with the SBE.

(2) The SBE will review the written charges and determine whether the person's certificate should be suspended or revoked based on the information contained in the written charges. If the SBE determines that the written charges constitute grounds for suspension or revocation, it shall provide the person with a copy of the written charges, and notify the person that it will revoke the person's certificate unless the person, within 30 days of re-

ceipt of notice, initiates administrative proceedings under Article 3, Chapter 150B of the General Statutes. The notice will be sent certified mail, return receipt requested.

(3) If the person initiates administrative proceedings the SBE will defer final action on the matter until receipt of a proposed decision as provided for in G.S. 150B-24. If the person does not initiate administrative proceedings within 30 days of receipt of notice, the SBE may suspend or revoke the person's certificate at its next meeting.

(c) The SBE may suspend an individual's certificate for a stated period of time or may permanently revoke the certificate, except as limited by G.S. 115C-325(o).

(d) The SBE may reinstate a suspended or revoked certificate or may grant a new certificate upon application and a showing of good cause by the individual. The burden of proving good cause is on the applicant.

(e) The SBE will notify all other states of all actions which involve the suspension, revocation or reinstatement of a certificate.

Authority G.S. 115C-12(9)a.; N.C. Constitution, Article IX, Sec. 5.

FINAL RULES

The List of Rules Codified is a listing of rules that were filed to be effective in the month indicated.

Rules filed for publication in the NCAC may not be identical to the proposed text published previously in the Register. Please contact this office if you have any questions.

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

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

*Punctuation, typographical and technical changes to rules are incorporated into the **List of Rules Codified** and are noted as * **Correction**. These changes do not change the effective date of the rule.*

NORTH CAROLINA ADMINISTRATIVE CODE

LIST OF RULES CODIFIED

APRIL 1990

AGENCY				ACTION TAKEN	
<u>DEPARTMENT OF COMMERCE</u>					
4	NCAC	7	.0501		Amended
			.0507		Amended
		12C	.0007		Temp. Amended
					Expires 08-27-90
		16A	.0100 - .0400		* Correction
		16D	.0100		* Correction
		16I	.0700		* Correction
			.0900 - .1000		* Correction
		18	.0203		Adopted
			.0303		Amended
			.0303		Temp. Amended
					Expires 07-24-90
		19L	.0103		Amended
			.0401		Amended
			.0403 - .0404		Amended
			.0407		Amended
			.0907		Amended
			.1302 - .1303		Amended
<u>DEPARTMENT OF CORRECTION</u>					
5	NCAC	2H	.0106		Adopted
<u>OFFICES OF THE GOVERNOR AND LIEUTENANT GOVERNOR</u>					
9	NCAC	2B	Executive Order Number 106		
			Eff. February 22, 1990		

DEPARTMENT OF HUMAN RESOURCES

10	NCAC	10A .0444	* Correction
		14A .0101 - .0103	Repealed
		.0201 - .0202	Repealed
		.0301 - .0304	Repealed
		.0401 - .0403	Repealed
		.0501 - .0504	Repealed
		.0601 - .0604	Repealed
		.0701 - .0704	Repealed
		.0801 - .0804	Repealed
		.0901 - .0910	Repealed
		.1001 - .1002	Repealed
		.1101 - .1102	Repealed
		14B .0101 - .0102	Amended
		.0104	Amended
		.0106	Amended
		.0301 - .0304	Amended
		.0305	Repealed
		.0401 - .0402	Amended
		.0405	Amended
		.0503 - .0506	Amended
		.0508	Amended
		14C .0102 - .0106	Amended
		.0109	Amended
		.0322	Amended
		.0324	Amended
		.0325 - .0326	Repealed
		.0704	Repealed
		.0705 - .0706	Amended
		.0709	Amended
		.0711 - .0713	Amended
		.0715 - .0716	Amended
		.0801	Repealed
		.0807	Repealed
		.0901 - .0902	Repealed
		.1005 - .1006	Amended
		.1012 - .1014	Amended
		.1101	Amended
		.1103 - .1105	Amended
		.1107	Amended
		.1110 - .1111	Amended
		.1115 - .1121	Amended
		.1123	Amended
		.1126 - .1131	Amended
		.1134 - .1136	Amended
		.1138	Amended
		.1140 - .1141	Amended
		.1144 - .1146	Amended
		.1402 - .1404	Amended
		14D .0006	Amended
		14F .0603	Amended
		14G .0101 - .0102	Amended
		.0202	Amended
		.0204	Amended
		.0208	Amended
		.0210	Amended
		.0301	Amended

FINAL RULES

	.0303	Amended
	.0305	Amended
14H	.0203 - .0205	Amended
	.0208	Amended
	.0402	Amended
14I	.0105	Amended
	.0201 - .0203	Amended
	.0301	Amended
	.0307 - .0310	Amended
14J	.0101 - .0103	Amended
	.0105	Amended
	.0107	Amended
	.0204	Amended
	.0206	Amended
	.0301 - .0302	Amended
	.0402 - .0404	Amended
14K	.0101	Amended
	.0103	Amended
	.0203	Amended
	.0209	Amended
	.0216 - .0217	Amended
	.0303	Amended
	.0306	Amended
	.0311 - .0320	Amended
	.0324 - .0325	Amended
	.0334	Amended
	.0342	Amended
	.0344	Amended
	.0348	Amended
	.0351	Amended
	.0353 - .0355	Amended
	.0362	Amended
	.0403 - .0404	Amended
	.0407	Amended
14L	.0105	Amended
	.0201	Amended
	.0301	Amended
	.0304	Amended
	.0309	Amended
	.0407	Amended
	.0503 - .0505	Amended
	.0601 - .0608	Amended
	.0610 - .0611	Amended
	.0613	Amended
	.0701	Amended
	.0704 - .0705	Amended
	.0708	Amended
	.0710	Amended
14M	.0101	Amended
	.0103	Amended
	.0107	Amended
	.0110	Amended
	.0112 - .0113	Amended
	.0204	Amended
	.0303	Amended
	.0403 - .0405	Amended
	.0410	Amended
	.0508	Amended
	.0701	Amended

FINAL RULES

	.0704 - .0706	Amended
	.0709 - .0712	Amended
	.0714	Amended
	.0716	Amended
14N	.0101	Amended
	.0103	Amended
	.0107	Amended
	.0201	Amended
	.0307	Amended
	.0406	Amended
	.0501	Amended
	.0506	Amended
	.0701	Amended
	.0809	Amended
14O	.0103 - .0104	Amended
	.0106 - .0108	Amended
	.0203 - .0205	Amended
	.0209 - .0210	Amended
	.0303 - .0305	Amended
	.0307 - .0310	Amended
	.0313	Amended
	.0404	Amended
	.0407 - .0411	Amended
	.0414 - .0415	Amended
	.0504	Amended
	.0601	Amended
	.0606 - .0607	Amended
	.0609	Amended
	.0613	Amended
	.0619	Amended
18K	.0262 - .0263	Amended
18O	.0520	Amended
		Eff. 03-01-90
	.0523 - .0524	Amended
		Eff. 03-01-90
18Q	.0711	Amended
		Eff. 03-01-90
19A	.0101 - .0102	Repealed
	.0201 - .0202	Repealed
	.0301 - .0305	Repealed
	.0401	Repealed
	.0501 - .0505	Repealed
19B	.0104	Amended
	.0106	Amended
	.0108	Amended
19C	.0305	Amended
	.0309	Amended
	.0506	Amended
	.0601	Amended
	.0608	Amended
	.0701	Amended
	.0703	Amended
19D	.0102 - .0103	Amended
	.0201	Amended
19E	.0101	Amended
	.0105	Amended
	.0404	Amended
	.0406 - .0407	Amended
	.0410	Amended

Office of Administrative Hearings
P. O. Drawer 11666
Raleigh, North Carolina 27604

PLA
STA
HE

FOLD HERE

NORTH CAROLINA REGISTER ORDER FORM

Please enter my subscription for the *North Carolina Register* to start with the _____ issue.
(\$105.00)/year subscription)

Renew *North Carolina Register*

Check Enclosed ☐ Please bill me

Please make checks payable to Office of Administrative Hearings

NAME _____ ADDRESS _____

CITY _____ STATE _____ ZIP _____

PHONE _____

Return to Office of Administrative Hearings - fold at line, staple at bottom and affix postage.)

CHANGE OF ADDRESS:

1. Present Address

NAME

ADDRESS

CITY

STATE

ZIP

2. New Address

NAME

ADDRESS

CITY

STATE

ZIP

Office of Administrative Hearings

P. O. Drawer 11666

Raleigh, North Carolina 27604

FIRST CLASS MAIL

UNIV. OF N.C.
LAW LIBRARY
CAN. HECKE-WETMORE
CHAPEL HILL

10/14