

The **NORTH CAROLINA REGISTER**

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ISSUE DATE: MAY 1, 1991

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INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

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

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

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 27447, Raleigh, N. C. 27611-7447, Attn: *Subscriptions*.

ADOPTION, AMENDMENT, AND REPEAL OF RULES

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

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

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

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

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

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

TEMPORARY RULES

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

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

NORTH CAROLINA ADMINISTRATIVE CODE

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

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

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 1 page or less, plus fifteen cents (\$.15) per each additional page.
- (2) The full publication consists of 53 volumes totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

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

NOTE

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

CITATION TO THE NORTH CAROLINA REGISTER

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

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NORTH CAROLINA REGISTER



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NORTH CAROLINA REGISTER

Publication Schedule

(April 1991 - December 1992)

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

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

EXECUTIVE ORDER NUMBER 139
ESTABLISHING THE GOVERNOR'S
VOLUNTEER
ADVISORY COUNCIL

WHEREAS, Congress has passed and the President has signed the National and Community Service Act of 1990; and

WHEREAS, the Act requires that the Governor or his designee submit one consolidated application for funding to the National Service Act Commission; and

WHEREAS, I find that an advisory council is necessary to assist me in the development of a consolidated, statewide plan for volunteer programs in North Carolina;

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

Section 1. Establishment. There is hereby established the Governor's Volunteer Advisory Council.

Section 2. Membership. Members of the Volunteer Advisory Council shall be appointed by the Governor. The Council shall consist of no fewer than 15 and no more than 18 members. In establishing the Volunteer Advisory Council, the Governor shall appoint 8 members for a term of one year, and 7 to 10 members for a term of two years. Following expiration of the one-year term, all appointments shall be for two-year terms. Members may not serve more than two consecutive terms. Members shall be representatives from the public, private, and non-profit sectors and individuals with a special interest in the promotion of volunteerism.

Section 3. Officers. The Officers of the Volunteer Advisory Council shall be Chairman, Vice-Chairman, and Secretary. The Chairman shall be appointed by the Governor. The Vice-Chairman and Secretary shall be elected by the Council. All officers shall serve for a term of one year. In the event of a vacancy in the office of Chairman, the Governor shall appoint a replacement to finish the unexpired term. Vacancies in the offices of Vice-Chairman and Secretary shall be filled by election by the Council.

Chairman: It shall be the duty of the Chairman to preside at all meetings of the Advisory Council; to appoint all committee chairmen; to assist all chairmen in the planning of committee activ-

ities; to supervise all chairmen as to the management of committee plans; to call all special meetings with the approval of the Governor's Office of Citizen Affairs Executive Director; and to be an ex-officio member of all committees.

Vice-Chairman: The Vice-Chairman shall assist the Chairman, and in the absence of the Chairman shall perform the duties of the Chairman. The Vice-Chairman shall accept special assignments from the Chairman and perform other duties as delegated by the Volunteer Advisory Council.

Secretary: The Secretary shall be responsible for the minutes of the meetings of the Advisory Council and the Executive Committee; shall keep an updated list of names, addresses and phone numbers of Volunteer Advisory Council members; and shall keep a record of attendance at meetings.

Section 4. Executive Committee. There shall be an Executive Committee consisting of the Officers of the Volunteer Advisory Council, the Executive Director of the Governor's Office of Citizen Affairs, and the Governor's Volunteer Program Coordinator. The Executive Committee shall have authority to act as the full Council in instances where it is impossible to assemble the entire Council.

Section 5. Meetings. The Advisory Council shall meet at least bi-monthly. Failure to attend at least 75 percent of called meetings in any calendar year shall result in removal from the Council. At least fourteen days prior to a full Volunteer Advisory Council meeting, notice in writing shall be given to each member by first class mail, postage prepaid and sent to the member's last known address as shown in the records of the Commission. A quorum shall consist of a simple majority of the current Volunteer Advisory Council membership. Roberts Rules of Order, revised, shall be the parliamentary authority for all matters of procedure.

Section 6. Purpose. The Governor's Volunteer Advisory Council shall advise, assist, and support the Governor and his Office of Citizen Affairs in matters involving volunteerism and the planning and implementation of volunteer programs. This Council shall, in its advisory role, assist the Governor's National Service designee and the Governor's Office of Citizen Affairs in the development and coordination of a consolidated statewide plan for volunteer programming in North Carolina.

Section 7. Duties. The Council shall have the following duties:

- (1) Assist the Governor's designee with the planning and submission of a coordinated statewide plan for volunteer programs in each of the Title areas of the National and Community Service Act of 1990;
- (2) Make recommendations for innovative, creative programs to increase volunteer participation in all age groups;
- (3) Assist the Governor's Office of Citizen Affairs in the planning and implementation of volunteer programs;
- (4) Develop and establish a centralized, organized system of obtaining information and advice concerning volunteerism throughout North Carolina;
- (5) Assist the Governor's Office of Citizen Affairs in forming a partnership between government (state and federal), non-profit organizations, private volunteer organizations, and the business community to ensure support and further the advancement of North Carolina's volunteer community;
- (6) Assist in the planning of statewide recognition and recruitment of volunteers and promotion of volunteerism;

(7) Serve as advocates for volunteerism in matters involving legislation on the state and federal levels;

(8) Advise and assist in the development of future Governor's Office of Citizen Affairs goals and objectives concerning volunteerism in North Carolina;

(9) Serve as representatives of the Governor at volunteer functions throughout the State.

Section 8. Administration and Expenses. The staff of the Governor's Office of Citizen Affairs shall serve as administrative support for the Advisory Council. A Governor's Office of Citizen Affairs staff member shall serve as Administrator to the Advisory Council. Permanent records of all Volunteer Advisory Council business shall be maintained in the Governor's Office of Citizen Affairs and shall be the responsibility of the Council Administrator.

No per diem allowances shall be paid to members of the Council. Members of the Council may be reimbursed for necessary travel and subsistence expenses as authorized by N.C.G.S. 138-5. Funds for reimbursement of such expenses shall be made available from funds authorized by the Governor's Office of Citizen Affairs.

This Order effective this the 28th day of March, 1991.

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 48F .0301 and .0302.

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

The public hearing will be conducted at 10:00 a.m. on May 31, 1991 at the Board Room, Agriculture Bldg., 1 W. Edenton St., Raleigh, NC.

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 Cecil Frost, Secretary of the North Carolina Plant Conservation Board, P. O. Box 27647, Raleigh, NC 27611.

CHAPTER 48 - PLANT INDUSTRY

SUBCHAPTER 48F - PLANT CONSERVATION

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

.0301 ENDANGERED PLANT SPECIES LIST

The North Carolina Plant Conservation Board hereby establishes the following list of endangered plant species:

- (1) *Aeschynomene virginica* -- (L.) B.S.P.
Sensitive Jointvetch;
- (2) ~~*Arethusa*~~ *Arethusa* *bulbosa* -- L.
Bog Rose;
- (3) *Asplenium heteroresiliens* -- W. H. Wagner
Carolina Spleenwort;
- (4) *Asplenium monanthes* -- L.
Single-sorus Spleenwort;
- (5) *Aster depauperatus* -- Fernald
Serpentine Aster;
- (6) ~~(5)~~ *Bryocrumia andersonii* -- (Bartr.)
Anders. Gorge Moss;
- (7) ~~(6)~~ *Buckleya distichophylla* -- (Nuttall)
Torrey Piratebush;
- (8) ~~(7)~~ *Calamagrostis cainii* -- Hitchcock
Cain's Reed Grass;
- (9) ~~(8)~~ *Calamovilfa brevipilis* -- (Torrey)
Scribner Pine Barrens Sandreed;
- (10) ~~(9)~~ *Cardamine micranthera* -- Rollins
Small-anthered Bittercress;
- (11) ~~(10)~~ *Carex aenea* -- Fernald
Fernald's Hay Sedge;

- (12) ~~(11)~~ *Carex barrattii* -- Schweinitz and
Torrey Barratt's Sedge;
- (12) ~~*Carex purpurifera* -- Mackenzie~~
~~Purple Sedge;~~
- (13) *Carex manhartii* -- Bryson
Manhart's Sedge;
- (14) ~~(13)~~ *Carex schweinitzii* -- Dewey ex
Schweinitz Schweinitz's Sedge;
- (15) *Chrysoma pauciflosculosa* -- (Michx.)
Greene Woody Goldenrod;
- (16) *Conioselinum chinense* -- (L.) B.S.P.
Hemlock Parsley;
- (17) ~~(14)~~ *Cystopteris tennesseensis* -- Shaver
Tennessee Bladderfern;
- (18) ~~(15)~~ *Dalibarda repens* -- L.
Robin Runaway;
- (19) ~~(16)~~ *Delphinium exaltatum* -- Aiton
Tall Larkspur;
- (20) ~~(17)~~ *Echinacea laevigata* -- (Boynton
and Beadle) Blake Smooth Coneflower;
- (21) ~~(18)~~ *Eriocaulon lineare* -- Small
Linear Pipewort;
- (22) ~~(19)~~ *Eupatorium resinosum* -- Torrey ex
DC Resinous Boneset;
- (23) ~~(20)~~ *Gentianopsis crinita* -- (Froelich) Ma
Fringed Gentian;
- (24) ~~(21)~~ *Geum radiatum* -- Michaux
Spreading Avens;
- (22) ~~*Glycyca nubiigena* -- W.A. Anderson~~
~~Smoky Mountain Mannagrass;~~
- (25) ~~(23)~~ *Grammitis nimbata* -- (Jenm.) Proctor
Dwarf Polypody Fern;
- (26) ~~(24)~~ *Helianthus schweinitzii* -- T. & G.
Schweinitz's Sunflower;
- (27) ~~(25)~~ *Hexastylis contracta* -- Blomquist
Mountain Heartleaf;
- (28) ~~(26)~~ *Hexastylis naniflora* -- Blomquist
Dwarf-flowered Heartleaf;
- (29) ~~(27)~~ *Houstonia purpurea* var. *montana* --
(Small) Terrell Mountain Bluet;
- (30) ~~(28)~~ *Hydrastis canadensis* -- L.
Goldenseal;
- (31) ~~(29)~~ *Isotria medeoloides* -- (Pursh) Raf.
Small Whorled Pogonia;
- (32) ~~(30)~~ *Juncus trifidus* ssp. *carolinianus* --
Hamet Ahti One-flowered Rush;
- (33) ~~(31)~~ *Kalmia cuneata* -- Michaux
White Wicky;
- (34) ~~(32)~~ *Lindera melissaefolia* -- (Walter)
Blume Southern Spicebush;
- (35) ~~(33)~~ *Lindera subcoriacea* -- Wofford
Bog Spicebush;
- (36) *Lophiola aurea* -- Ker-Gawl. Golden
Crest;
- (37) ~~(34)~~ *Lysimachia asperulacfolia* -- Poiret
Rough-leaf Loosestrife;
- (38) ~~(35)~~ *Lysimachia fraseri* -- Duby
Fraser's Loosestrife;

- (39) ~~(36)~~ *Minuartia godfreyi* -- (Shinners)
McNeill Godfrey's Sandwort;
(40) ~~(37)~~ *Minuartia uniflora* -- (Walter)
Mattfield Single-flowered Sandwort;
(41) ~~(38)~~ *Muhlenbergia torreyana* -- (Schultes)
Hitchcock Torrey's Muhly;
(42) *Myrica gale* -- L.
Sweet Gale;
(43) ~~(39)~~ *Narthecium americanum* -- Ker
Bog Asphodel;
(44) ~~(40)~~ *Orbexilum macrophyllum* -- (Rowlee
ex Small) Rydberg Bingleaf Scurfpea;
(45) ~~(41)~~ *Orthotrichum keeverae* -- Crum &
Anders. Keever's Kistle Moss;
(46) ~~(42)~~ *Oxypolis canbyi* -- (Coult. & Rose)
Fern. Canby's Cowbane;
(47) ~~(43)~~ *Parnassia caroliniana* -- Michaux
Carolina Grass-of-Parnassus;
(48) ~~(44)~~ *Pellaea wrightiana* -- Hooker
Wright's Cliff-brake Fern;
(49) ~~(45)~~ *Plantago cordata* -- Lam.
Heart-leaf Plantain;
(50) ~~(46)~~ *Plantago sparsiflora* -- Michaux
Pineland Plantain;
(51) ~~(47)~~ *Platanthera integrilabia* -- (Correll)
Leur White Fringeless Orchid;
(52) *Poa paludigena* -- Fernald & Wiegand.
Bog Bluegrass;
(53) ~~(48)~~ *Portulaca smallii* -- P. Wilson
Small's Portulaca;
(54) ~~(49)~~ *Pteroglossaspis cristata* -- (Fernald)
Rolfé Eulophia;
(55) ~~(50)~~ *Ptilimnium nodosum* -- (Rose)
Mathias Harperella;
(56) ~~(51)~~ *Pyxidanthra barbulata* var. *brevifolia*
-- (Wells) Ahles Wells' Pyxie-moss;
(57) ~~(52)~~ *Rhus michauxii* -- Sargent
Michaux's Sumac;
(58) ~~(53)~~ *Sagittaria fasciculata* -- E.O. Beal
Bunched Arrowhead;
(59) ~~(54)~~ *Sarracenia jonesii* -- Wherry
Mountain Sweet Pitcher Plant;
(60) ~~(55)~~ *Sarracenia oreophila* -- (Kearney)
Wherry Green Pitcher Plant;
(61) ~~(56)~~ *Schwalbea americana* -- L.
Chaffseed;
(62) ~~(57)~~ *Sedum pusillum* -- Michaux
Puck's Orpine;
(63) ~~(58)~~ *Sedum rosea* -- (L.) Scop.
Roseroot;
(64) ~~(59)~~ *Senecio schweinitzianus* -- Nuttall
Schweinitz's Groundsel;
(65) ~~(60)~~ *Shortia galacifolia* -- T. & G.
Oconee Bells;
(66) ~~(61)~~ *Sisyrinchium dichotomum* -- Bicknell
Reflexed Blue-eyed Grass;
(67) *Solidago ptarmicoides* -- (Nees) Boivin
Prairie Goldenrod;

- (68) ~~(62)~~ *Solidago pulchra* -- Small
Carolina Goldenrod;
(69) ~~(63)~~ *Solidago spithamea* -- M.A. Curtis
Blue Ridge Goldenrod;
(70) ~~(64)~~ *Solidago verna* -- M.A. Curtis ex T.
& G. Spring-flowering Goldenrod;
(71) ~~(65)~~ *Spiraea virginiana* -- Britton
Virginia Spiraea;
(72) ~~(66)~~ *Sporobolus heterolepis* -- Gray
Prairie Dropseed;
(73) ~~(67)~~ *Stylisma pickeringii* var. *pickeringii* --
(Torrey ex M.A. Curtis) Gray
Pickering's Morning Glory;
(74) ~~(68)~~ *Thalictrum cooleyi* -- Ahles
Cooley's Meadowrue;
(75) ~~(69)~~ *Trillium pusillum* -- Michaux
Carolina Least Trillium;
(76) ~~(70)~~ *Trisetum spicatum* var. *molle* --
(Michaux) Beal Soft Trisetum.

Statutory Authority G.S. 106-202.15.

.0302 THREATENED PLANT SPECIES LIST

The North Carolina Plant Conservation Board hereby establishes the following list of threatened plant species:

- (1) *Amaranthus pumilus* -- Raf.
Seabeach Amaranth;
- (2) *Cacalia rugelia* -- (Shuttl. 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;
- (6) ~~(7)~~ *Carya myristicaeformis* -- (Michaux f.)
Nuttall Nutmeg Hickory;
- (7) ~~(8)~~ *Eleocharis halophila* -- Fern. & Brack.
Salt Spikerush;
- (8) ~~(9)~~ *Fimbristylis perpusilla* -- Harper ex
Small & Britton Harper's Fringe-rush;
- (9) ~~(10)~~ *Geum geniculatum* -- Michaux
Bent Avens;
- (10) *Glyceria nubigena* -- W.A. Anderson
Smoky Mountain Mannagrass;
- (11) *Gymnoderma lineare* -- (Evans)
Yoshimura & Sharp Gnome Finger Lichen;
- (12) *Helonias bullata* -- L.
Swamp Pink;
- (13) *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) ~~*Nestronia umbellula* -- Raf.~~
~~*Nestronia*~~;
- (21) (22) *Platanthera integra* -- (Nuttall) Gray
ex Beck Yellow Fringeless Orchid;
- (22) (23) *Rhexia aristosa* -- Britton
Awned Meadow-beauty;
- (23) (24) *Rudbeckia heliopsisidis* -- T. & G.
Sun-facing Coneflower;
- (24) (25) *Sabatia kennedyana* -- Fern.
Plymouth Gentian;
- (25) (26) *Schisandra glabra* -- (Brickel) Rehder
Magnolia-vine;
- (26) (27) *Schlotheimia lancifolia* -- Bartr.
Highlands Moss;
- (27) (28) *Senecio millefolium* -- T. & G.
Divided-leaf Ragwort;
- (28) (29) *Sporobolus teretifolius* -- Harper
Wireleaf Dropseed;
- (29) (30) *Thelypteris simulata* -- (Davenp.)
Nieuwl. Bog Fern;
- (30) (31) *Trichomanes boschianum* -- Sturm ex
Bosch Appalachian Filmy-fern;
- (31) (32) *Trichomanes petersii* -- A. Gray
Dwarf Filmy-fern;
- (32) (33) *Trillium discolor* -- Wray ex Hook.
Mottled Trillium;
- (33) (34) *Utricularia olivacea* -- Wright ex
Grisebach Dwarf Bladderwort.

Statutory Authority G.S. 106-202.15.

TITLE 4 - DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

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 19L .0906 and .0907.

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

The public hearing will be conducted at 2:00 p.m. on June 3, 1991 at 1307 Glenwood Ave., Suite 250, Raleigh, N. C. 27605.

Comment Procedures: Written comments may be sent to Bob Chandler, Division of Community Assistance, 1307 Glenwood Avenue, Suite 250, Raleigh, N. C. 27605. Oral presentations may be made at the public hearing. Persons having questions should call Steve Culnon at (919) 733-2850.

CHAPTER 19 - DIVISION OF COMMUNITY ASSISTANCE

SUBCHAPTER 19L - NORTH CAROLINA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

SECTION .0900 - GRANT ADMINISTRATION

.0906 FINANCIAL MANAGEMENT SYSTEMS

Recipient financial management systems shall provide for accurate, current and complete disclosure of the financial results of each grant program in accordance with reporting requirements set forth in G.S. 159, Subchapter III, the Local Government Budget and Fiscal Control Act. Recipients shall meet the following requirements:

- (2) A recipient may deposit or invest all or part of the cash balance of any grant fund; however, all interest earned shall be returned to the Department in accordance with ~~Rule .0905(e)~~ Rule .0907(c) of this Section;

Authority G.S. 14-234; 143-323; 143B-10; 24 C.F.R. 570.489; 24 C.F.R. 570.496; U.S.C.A. 5304(b),(d),(e).

.0907 PROGRAM INCOME

(c) All interest earned on grant funds prior to distribution shall be returned to the Department, except as follows:

- (1) as may be required by Rule .0904 and Rule .0905 of this Subchapter; and
- (2) recipients may keep one hundred dollars (\$100.00) per year for administrative expenses in accordance with 24 CFR Part 85, 21(1).

Authority G.S. 143-323; 143B-10; 24 C.F.R. 570.489; 24 C.F.R. 570.494; 42 U.S.C.A. 5304(b)(4).

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Child Day Care Commission intends to adopt rules cited as 10 NCAC 3U .0207 - .0208, .1905; amend rules cited as 10 NCAC 3U

.0102, .0206, .0303, .0510 - .0511, .0604, .0702, .0705, .0707, .0710 - .0714, .0802, .0804, .0901, .1003, .1403, .1612, .1717, .1903, .2201, .2206, .2508, .2510, .2606, .2611 repeal rules cited as 10 NCAC 3U .1101 - .1104; 1201 - .1203.

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

The public hearing will be conducted at 10:00 a.m. to 2:00 p.m. on June 1, 1991 at the Mission Valley Inn, 2110 Avent Ferry Road, Raleigh, NC.

Comment Procedures: Any interested person may present his or her views and comments either in writing to or at the hearing or orally at the hearing. Any person may request permission to be heard or information about the proposed rules by writing or calling Dolores Whittemore, Child Day Care Section, 701 Barbour Drive, Raleigh, NC 27603; (919) 733-4801.

CHAPTER 3 - FACILITY SERVICES

SUBCHAPTER 3U - CHILD DAY CARE STANDARDS

SECTION .0100 - PURPOSE AND DEFINITIONS

.0102 DEFINITIONS

The terms and phrases used in this Subchapter shall be defined as follows except when the content of the rule clearly requires a different meaning. The definitions prescribed in G.S. 110-86 also apply to these Rules.

- (21) "Preschool-aged child" means any child between birth and five years of age under 13 years of age who does not fit the definition of school-aged child in this Rule.
- (29) "Substitute" means any person who temporarily assumes the duties of a regular staff person for a time period not to exceed two consecutive months.
- (30) ~~(29)~~ "Teacher" means the caregiver who has responsibility for planning and implementing the daily program of activities for each group of children.
- (31) ~~(30)~~ "Temporary care arrangement" means any child day care arrangement required to be regulated pursuant to G.S. 110-86 which provides either drop-in care or care on a seasonal or other part-time basis.
- (32) ~~(31)~~ "Temporary license" means the license which may be issued when a licensed center changes location or changes ownership.
- (33) ~~(22)~~ "Volunteer" means a person who works in a day care center or day care home

and is not monetarily compensated by the center or home.

Statutory Authority G.S. 110-88; 143B-168.3.

SECTION .0200 - GENERAL PROVISIONS RELATED TO LICENSING

.0206 CAPACITY OF THE FACILITY

(b) Except as provided in the definition of large home in Rule .0102 of this Subchapter, the number of children ~~present at~~ enrolled to attend the facility at any one time shall not exceed the ~~licensed~~ permit capacity of the facility.

Statutory Authority G.S. 110-86(3); 110-91(6); 143B-168.3.

.0207 SCHOOL-AGE CHILDREN OF THE OPERATOR

The operator's own school-age children shall not be considered to be enrolled in the facility and, therefore, shall not be counted when determining the facility's compliance with the rules of this Subchapter.

Statutory Authority G.S. 110-86(3); 143B-168.3.

.0208 PERMISSION FOR CHILDREN TO PLAY OUTSIDE THE PROTECTED OUTDOOR AREA

When the facility uses areas outside the fenced outdoor play area for children's activities or takes children off the premises for play or outings, the parent of each child shall be asked to give written permission for the child to be included in such activities. The permission may be a blanket permission or one specific to only certain activities or places. The facility shall maintain the signed permission in the child's record. Children may be included in only those activities outside the fenced play area or off the premises for which their parents have given written permission.

Statutory Authority G.S. 110-85(2); 110-91(3), (6); 143B-168.3.

SECTION .0300 - PROCEDURES FOR OBTAINING A LICENSE

.0303 RENEWAL OF A LICENSE

(a) Each licensee must annually apply for renewal of the license using forms supplied by the section.

- (2) The ~~licensee must~~ operator shall notify the local ~~sanitarian and fire inspector that~~ sanitarian and fire inspector when it is time for their the facility's annual renewal inspection.

(3) If the last sanitation inspection occurred more than 12 months prior to the permit renewal date, the operator shall request an inspection of the facility prior to the permit renewal date by the sanitarian. The operator shall have on file an inspection report showing the facility to be approved as determined by the local or district health inspector at the latest sanitation inspection.

(4) ~~(3)~~ A new building inspection is not required unless the licensee wants to begin using space not previously approved for day care, has made major renovations to the building, has added new construction, or wants to remove any restriction related to building codes currently on the license.

Statutory Authority G.S. 110-88(5); 110-93; 143B-168.3; 150B-3.

SECTION .0500 - AGE APPROPRIATE ACTIVITIES FOR CENTERS

.0510 ACTIVITY AREAS: PRESCHOOL-AGED CHILDREN TWO YEARS AND OLDER

(d) Each center shall make at least four of the activity areas listed in Paragraph (e) of this Rule available daily to children daily preschool-age children two years or older as follows:

- (1) Medium and large centers shall have at least four activity areas available in the space occupied by each group of children.
- (2) Small day care centers shall have at least four activity areas available daily. In small centers, separate groups of children may share use of the same activity areas.

Statutory Authority G.S. 110-91(6),(12); 143B-168.3.

.0511 ACTIVITIES FOR INFANTS AND TODDLERS

(f) Children shall be toilet trained according to individual readiness.

Statutory Authority G.S. 110-91(2),(12); 143B-168.3.

SECTION .0600 - SAFETY REQUIREMENTS FOR DAY CARE CENTERS

.0604 GENERAL SAFETY REQUIREMENTS

(j) ~~Children shall play inside the fenced outdoor play area.~~ Gates to the fenced outdoor play area shall remain securely closed while children occupy the ~~outdoor play area~~. Children may play outside the area or be taken off the premises on outings if the facility follows a written plan to

ensure the safety of the children. When children are taken off the premises, staff accompanying the children shall have a list of the names of all children participating in the outing.

Statutory Authority G.S. 110-85(2); 110-91(3),(6); 143B-168.3.

SECTION .0700 - HEALTH AND OTHER STANDARDS FOR CENTER STAFF

.0702 HEALTH STANDARDS FOR SUBSTITUTES AND VOLUNTEERS

(a) ~~Arrangements shall be made for substitutes when regular staff are absent.~~

(a) ~~(b)~~ The substitute staff and volunteers who are counted in the child day care staff/child ratio shall comply with the health standards contained in this Section.

(b) ~~(c)~~ All substitutes and volunteers not included in the child day care staff/child ratio shall complete the health questionnaire described in Rule .0701 of this Section prior to coming into contact with children at the center and will complete a health questionnaire annually thereafter as long as they continue to work in the center.

Statutory Authority G.S. 110-91(1),(8),(9); 143B-168.3.

.0705 SPECIAL TRAINING REQUIREMENTS

(b) The ~~center facility~~ shall have on file verification that there is at least one staff person who is present at the center at all times children are in care who has successfully completed a course in basic first aid within the last three years. The basic first aid course at a minimum shall address principles for responding to emergencies and techniques for handling common childhood injuries, accidents and illnesses such as: choking, burns, fractures, bites and stings, wounds, scrapes, bruises, cuts and lacerations, poisoning, seizures, bleeding, allergic reactions, eye and nose injuries and sudden changes in body temperature.

(d) At least one person who has a current ~~Red Cross Advanced Life Saving or Water Safety Instructor certificate~~ life saving training certificate, issued by the Red Cross or other issuing entity approved by the Section, appropriate for both the type of body of water and type of aquatic activities shall supervise the children whenever they are participating in swimming or other aquatic activities in or near a swimming pool or other body of water as required in Rule .1403 of this Subchapter.

(e) Each day care facility shall have at least one person on the premises at all times who is certified by either the American Heart Association or the American Red Cross to perform ~~child~~

cardiopulmonary resuscitation appropriate for the ages of children in care.

Statutory Authority G.S. 110-91; 143B-168.3.

.0707 IN-SERVICE TRAINING REQUIREMENTS

(b) The center director and any staff who have responsibility for planning and supervising a day care program, as well as staff who work directly with children, shall participate in in-service training activities annually, according to the individual's assessed needs. Staff may choose one of the following options for meeting the in-service requirement:

- (1) ~~The staff person shall complete 20 clock hours of in-service training activities which are related to child care or to the person's job responsibilities; or Each staff person shall complete in-service training activities which are related to child care or to the person's job responsibilities as specified in the following Subparagraphs:~~

(A) persons with a four-year degree in a child care-related field of study from a regionally accredited college or university shall complete three clock hours of training annually;

(B) persons with a two-year degree in a child care-related field of study from a regionally accredited college or university, or persons with at least fifteen years documented, professional experience in a licensed or registered child care arrangement and a cumulative total of more than 50 hours of approved in-service training shall complete five clock hours of training annually;

(C) persons with a one-year certificate in a child care-related field of study from a regionally accredited college or university, or persons with at least 10 years documented, professional experience in a licensed or registered child care arrangement and a cumulative total of more than 50 hours of approved in-service training, or persons with a Child Development Associate Credential shall complete seven clock hours of training annually;

(D) all other persons shall complete 20 clock hours of training annually; or

- (2) If the staff person has completed six quarter hours or 66 clock hours of early childhood education or child development and is enrolled in an early childhood or child development curriculum program, completion of or enrollment in a course

which is required or approved for completion of that curriculum program will fulfill the annual in-service requirement.

(d) Clock hours of training or education related to child care may be accumulated indefinitely and counted toward the annual in-service training requirement.

Statutory Authority G.S. 110-91(11); 143B-168.3.

.0710 PRESERVICE REQUIREMENTS FOR TEACHERS AND AIDES

(a) The teacher-caregiver with responsibility for planning and implementing the daily program for each group of children shall be at least 18 years of age, literate, and have at least one of the following:

- (1) A high school or general education diploma and one of the following:

(A) One year of verifiable experience working in a child day care center; or

(B) Twenty additional hours of training within the first six months of employment; or

(C) Successful completion of the Department of Public Instruction's Child Care Services Occupational Home Economics Program; or

(D) A passing grade in at least the equivalent of four semester hours in child development at a regionally accredited college or university.

- (2) A Child Development Associate Credential.

(3) Graduation from a child care or early childhood curriculum program at a community college or technical college.

(4) An undergraduate or graduate degree with at least the equivalent of four semester hours in child development.

(5) Five years of verifiable experience working in child day care.

Statutory Authority G.S. 110-91(8); 143B-168.3.

.0711 PRESERVICE REQUIREMENTS FOR OTHER STAFF

(a) Any person whose job responsibility includes driving a vehicle to transport children shall:

- (1) Be at least 18 years of age; or a duly licensed school bus driver; and

(2) Have no conviction of Driving While Impaired (DWI) or other impaired driving offense within the last three years; and

(3) Have a valid driver's license of the type required under North Carolina Motor

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Vehicle Law for the vehicle being driven or comparable license from the state in which the driver resides. ~~or~~

- (4) ~~If regularly transporting more than twelve persons, have a valid North Carolina Class B license, or comparable license from the state in which the driver resides.~~

(c) Any teacher substitute shall be at least 18 years old and literate. Any substitute driver shall be at least 18 years old and possess a valid driver's license of the type required under North Carolina Motor Vehicle Law for the vehicle being driven or comparable license from the state in which the driver resides.

Statutory Authority G.S. 110-91(8); 143B-168.3.

.0712 STAFF/CHILD RATIOS FOR SMALL CENTERS

(a) The staff/child ratios and group sizes for a small day care center are as follows:

Age of Children	No. Children
0 to 5 years	<u>7</u> 7
1 to 5 years	<u>7</u> 10
2 to 5 years	10
3 to 5 years	15
5 years and older	20

No. Staff	Group Size
1	<u>4</u> 4
<u>1</u>	<u>14</u> 20
1	25
1	25

(b) When only one caregiver is required to meet the staff/child ratio, and children under ~~three~~ two years of age are in care, that person shall ~~not be responsible for~~ may concurrently perform food preparation or other duties which are not direct child care responsibilities.

Statutory Authority G.S. 110-91(7); 143B-168.3.

.0713 STAFF/CHILD RATIOS FOR MEDIUM AND LARGE CENTERS

(a) The staff/child ratios and group sizes for single-age groups of children in medium and large day care centers are as follows:

Age of Children	No. Children
<u>0 to 2 years</u>	<u>7</u> 6
0 to 1 year	6
<u>1 to 2 years</u>	<u>7</u> 12
2 to 3 years	12
3 to 4 years	15
4 to 5 years	20
5 years and older	25

No. Staff	Group Size
-----------	------------

4	14
1	12
1	14
1	24
1	25
1	25
1	25

(g) When only one caregiver is required to meet the staff/child ratio, and no children under ~~three~~ two years of age are in care, that person ~~shall not be responsible for~~ may concurrently perform food preparation or other duties which are not direct child care responsibilities as long as supervision of the children as specified in Rule .0714(c) of this Section is maintained.

(i) Except as provided in Paragraph (g) of this Rule, staff members and administrators who are counted in meeting the staff/child ratios as stated in this Rule shall not concurrently ~~have responsibility for~~ perform food preparation or other duties which are not direct child care responsibilities.

Statutory Authority G.S. 110-91(7); 143B-168.3.

.0714 OTHER STAFFING REQUIREMENTS

(g) Arrangements shall be made for qualified substitutes or temporary replacements when regular staff are absent. When regular staff fail to report to work or leave work for a reason which can not be scheduled or planned, such as personal emergencies or illness, the person in charge of the center shall replace the absent staff with a substitute within two hours of the time the regular staff was scheduled to begin work or left work. Supervision of all children as specified in Paragraph (e) of this Rule shall be maintained, even if staff/child ratio and space occupancy requirements must be violated until the substitute arrives. This allowance does not apply to failure to return on time from regular lunch or break times. Centers in which this allowance is used more than three times within a month will lose for three months the right to violate staff/child ratio or space occupancy requirements in such circumstances without penalty. When this provision is used, the circumstances that required its use shall be documented by the person in charge.

Statutory Authority G.S. 110-91(7),(8); 143B-168.3.

SECTION .0800 - HEALTH STANDARDS FOR CHILDREN

.0802 EMERGENCY MEDICAL CARE

(b) Emergency medical care information shall be on file for each individual child and staff per-

son. That information shall include the name, address, and telephone number of the parent or other person to be contacted in case of an emergency, the child's physician, individual's choice of health care provider, and preferred hospital; any chronic illness the child individual has and any medication the child is given taken for that illness; and any other information that has a direct bearing on assuring safe medical treatment for the child individual. This emergency medical care information shall be on file in the center on the child's first day of attendance or the staff person's first day of employment.

Statutory Authority G.S. 110-91(1),(2),(9); 143B-168.3.

.0804 INFECTIOUS AND CONTAGIOUS DISEASES

(a) Any child with an infectious or contagious disease such as red measles, mumps, chicken pox, or tuberculosis, shall not attend the center until the disease is cured or has run its course.

(b) Any child who becomes ill at the center and is suspected of having an infectious or contagious disease shall be separated from the other children until the parent or other authorized person comes for the child. That child shall not return to the center until the disease is cured, or has run its course, or has been diagnosed by a physician or authorized health professional as not being infectious or contagious.

(c) Any child who has a mild cold may attend the center if the child does not have a fever and is able to participate in regularly scheduled daily activities.

(d) The person in charge at the center may refuse to admit any child who is suspected of having an infectious or contagious disease to the center.

(a) Facilities may care for a mildly ill child who has a temperature of less than 102 degrees Fahrenheit and who remains capable of participating in routine group activities; provided the child does not:

- (1) have acute diarrhea characterized by an increased number of bowel movements compared to the child's normal pattern and with increased stool water; or
 - (2) have two or more episodes of acute vomiting within a 12 hour period; or
 - (3) have a red eye or eyes accompanied by a discharge that is not clear in color; or
 - (4) have scabies or lice; or
 - (5) have a physician's diagnosis requiring that the child be separated from other children.
- (b) Facilities which choose to care for mildly ill children shall:

- (1) follow all procedures to prevent the spread of communicable diseases described in 15A NCAC 3U .2800, "Sanitation of Child Day Care Facilities", as adopted by the Health Services Commission;
- (2) separate from the other children any child who becomes ill while in care or who is suspected of having a communicable disease or condition other than as described in Paragraph (a) of this Rule until the child leaves the facility;
- (3) notify all parents at enrollment that the facility will be caring for mildly ill children;
- (4) immediately notify the parent of any child who becomes ill while in care or who is suspected of being ill with a communicable condition other than as described in Paragraph (a) of this Rule that the child is ill and may not remain in care;
- (5) immediately notify the parent of any sick child in care if the child's condition improves or worsens while the child is in care.

Statutory Authority G.S. 110-91(1),(2); 143B-168.3.

SECTION .0900 - NUTRITION STANDARDS

.0901 GENERAL NUTRITION REQUIREMENTS

(b) Menus for nutritious meals and snacks shall be planned at least one week in advance. shall be dated and At least one dated copy of the current week's menu shall be posted where they it can be seen easily by parents and food preparation staff when food is prepared or provided by the center. Menus shall also be posted in the food preparation area. A variety of food shall be included in meals and snacks. Any substitution will be of comparable food value and will be recorded on the menu.

Statutory Authority G.S. 110-91(2); 143B-168.3.

SECTION .1000 - TRANSPORTATION STANDARDS

.1003 SAFE PROCEDURES

(f) The driver shall be 18 years old or a duly licensed school bus driver and have a valid driver's license of the type required under North Carolina Motor Vehicle Law for the vehicle being driven or comparable license from the state in which the driver resides and no convictions of Driving While Impaired (DWI) or any other impaired driving offense within the last three years. Anyone who regularly drives a vehicle carrying

more than 12 passengers shall have a North Carolina Class "B" license or comparable license from the state in which he/she resides.

Statutory Authority G.S. 110-91(13); 143B-168.3.

SECTION .1100 - SANITATION INSPECTIONS

- .1101 DEFINITIONS (REPEALED)
- .1102 APPROVAL OF CONSTRUCTION: RENOVATION PLANS (REPEALED)
- .1103 INSPECTIONS AND REPORTS (REPEALED)
- .1104 SCORING: APPROVAL/DISAPPROVAL (REPEALED)

Statutory Authority G.S. 110-91(1); 110-92; 143B-168.3.

SECTION .1200 - SANITATION STANDARDS FOR CENTERS

- .1201 SANITATION REQUIREMENTS (REPEALED)
- .1202 PROCEDURE WHEN INFECTION SUSPECTED (REPEALED)
- .1203 SEVERABILITY (REPEALED)

Statutory Authority G.S. 110-91(1); 110-92; 130A-145; 143B-168.3.

SECTION .1400 - SPACE REQUIREMENTS

.1403 SWIMMING POOLS

(a) Except as provided in Paragraph (b) of this Rule, when children participate in swimming or other aquatic activities, in or near a swimming pool or other body of water deeper than 18 inches, a person who has a current Red Cross Advanced Life Saving or Water Safety Instructor certificate life saving certificate, issued by the Red Cross or other issuing entity approved by the Section, appropriate for both the type of body of water and type of aquatic activities shall be present to supervise the swimming area children in or near the water and shall not be counted in the staff-child ratio.

(b) A person with lifeguard certification is not required when there are no more than 12 children present and the body of water has no portion deeper than 30 inches and the total surface area is not more than 400 square feet. The children shall be supervised by at least one adult who is certified to perform cardiopulmonary resuscitation appropriate for the ages of children in care.

(c) ~~(b)~~ The staff-child ratios set forth in G.S. 110-91(7) shall be maintained whenever children participate in swimming activities, including swimming instruction.

(d) ~~(e)~~ Any swimming pool deeper than 18 inches which is located on the day care center premises shall be enclosed by a fence and must be separated from the remaining outdoor play area by that fence.

Statutory Authority G.S. 110-88(5); 110-91(6); 143B-168.3.

SECTION .1600 - AA REQUIREMENTS

.1612 AA CAREGIVING ACTIVITIES FOR PRESCHOOL-AGED CHILDREN

(b) Each AA center providing care to preschool-age children aged two years old or older shall comply with the requirements for activity areas for preschool-age children in Rule .0510 except that all five of the activity areas listed in Paragraph (e) of Rule .0510 shall be available each day and the activities listed in Paragraph (g) of Rule .0510 shall be offered for each group of children at least once per week.

Statutory Authority G.S. 110-88(7); 143B-168.3.

SECTION .1700 - DAY CARE HOME STANDARDS

.1717 HEALTH, SAFETY AND SANITATION REQUIREMENTS

(a) Each day care home shall comply with the following standards in order to maintain a safe, healthy and sanitary environment for children:

(1) To assure a healthy environment, the operator shall:

(I) be certified by the American Heart Association or the American Red Cross to perform child CPR appropriate for the ages of children in care prior to registration.

(5) To assure a sanitary environment, the operator shall:

(A) ~~have a well or water system that complies with the requirements of the local health department and the Division of Health Services, Department of Environment, Health, and Natural Resources. Written verification of well approval is required.~~ if a well is used for the children's water supply, collect and submit samples of water from the well for bacteriological analysis to the local health department or a laboratory certified to analyze drinking water for public water supplies by the North Carolina Division of Laboratory Services prior to registration and before each renewal. Results of the analysis shall be on file in the home.

Statutory Authority G.S. 110-88(3); 110-101; 143B-168.3.

SECTION .1900 - SPECIAL PROCEDURES
CONCERNING ABUSE/NEGLECT IN DAY
CARE

.1903 INVESTIGATION PROCEDURES

(f) The final written report of findings and further action shall be made within 90 days of receipt of the allegation. If the investigation is not complete at that time, an interim report explaining the status of the investigation shall be made to the operator 90 days after receipt of the allegation and every 30 days thereafter until the final report is made. The county department of social services shall be sent a copy of each interim report.

Statutory Authority G.S. 7A-543; 110-88(5); 110-105; 110-105.1; 143B-168.3.

.1905 RECORDS REGARDING
UNSUBSTANTIATED REPORTS

When the Section's investigation does not substantiate the allegation of abuse or neglect, all documentation of the allegation, its investigation and resulting evidence and all correspondence relating to that allegation shall be kept in a confidential file separate from the public file for the day care arrangement.

Statutory Authority G.S. 7A-543; 110-88(5); 110-105; 110-105.1; 143B-168.3.

SECTION .2200 - CIVIL PENALTIES

.2201 SCOPE AND PURPOSE

Any operator who commits any violation of Article 7 of Chapter 110 of the General Statutes or of this Subchapter which is listed in Rule .2206(a) of this Section shall be considered to be in violation of the licensing law and a civil penalty may be levied against the operator by the Secretary or designee pursuant to rules and schedules of penalties adopted by the Commission. Any operator registrant who violates any other provision of Article 7 of Chapter 110 of the General Statutes or of this Subchapter who fails to take corrective action after being provided adequate written notice by the section shall be considered to be in willful violation of the licensing law and a civil penalty may be levied against the operator by the Secretary or designee pursuant to rules and schedules of penalties adopted by the Commission.

Statutory Authority G.S. 110-90(9); 110-103.1; 143B-168.3.

.2206 SCHEDULE OF CIVIL PENALTIES FOR
DAY CARE FACILITIES

(a) A civil penalty in an amount up to one thousand dollars (\$1,000) may be imposed for the following violations:

- (3) Exceeding licensed capacity of ~~center~~, facility, or use of unauthorized space;
- (4) Change of ownership or relocation of ~~center~~ facility without prior notification to the section;
- (5) Substantiation that a child (or children) was abused or neglected while in the care of the ~~center~~, facility; or

Statutory Authority G.S. 110-90(9); 110-103.1; 143B-168.3.

SECTION .2500 - DAY CARE FOR
SCHOOL-AGE CHILDREN

.2508 AGE APPROPRIATE ACTIVITIES

(b) The requirements for age appropriate activities and materials set forth in Rules .0506 - .0509 shall apply to school-age programs which operate for more than three hours per day and which routinely operate a program of care indoors for more than 25 percent of each day in space designated, and which has been approved by the section, for that purpose. School-age programs which routinely operate a program of care indoors for more than 25 percent of each day in space designated and approved by the Section for that purpose shall make activities which are appropriate for the ages of children in care available on a daily basis. School-age programs which operate for three or fewer hours per day shall make at least three of the following activities available daily; those which operate for more than three hours per day shall make at least four of the following activities available daily:

- (1) active outdoor play,
- (2) arts and crafts,
- (3) block play,
- (4) books and language,
- (5) carpentry,
- (6) community awareness,
- (7) creative art,
- (8) cultural studies,
- (9) dramatic play,
- (10) environmental studies,
- (11) field trips,
- (12) food experiences,
- (13) games for individuals and small groups,
- (14) health and safety,
- (15) life-related chores,
- (16) money-making projects,
- (17) music, rhythm and creative movement,
- (18) number concepts,

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- (19) problem solving,
- (20) sand and water play,
- (21) science and nature,
- (22) self help skills,
- (23) sewing.

Statutory Authority G.S. 110-91(6), (12); 143B-168.3.

.2510 STAFF QUALIFICATIONS

(e) Whenever children participate in swimming or other aquatic activities, the following provisions shall apply:

- (1) The children shall be supervised by persons having ~~American National Red Cross Lifeguard certificates or equivalent~~ life saving certificates, issued by the Red Cross or other issuing entity approved by the Section, appropriate for the type of body of water and type of aquatic activities;
 - (A) One lifeguard is required for groups of 25 or fewer children.
 - (B) Two lifeguards are required for groups of 26 or more children.
- (2) A person with lifeguard certification is not required when there are no more than 12 children present and the body of water has no portion deeper than 30 inches and the total surface area is not more than 400 square feet. The children shall be supervised by at least one adult who is certified to perform cardiopulmonary resuscitation appropriate for the ages of children in care.

Statutory Authority G.S. 110-91(8), (11); 143B-168.3.

SECTION .2600 - REQUIREMENTS FOR LARGE DAY CARE HOMES

.2606 STAFF REQUIREMENTS

(g) The operator and each staff person required to meet the staff/child ratio shall participate in a ~~minimum of 20 hours of inservice training annually.~~ in-service training activities in accordance with the provisions of Paragraphs (b), (c) and (d) of Rule .0707, and with Rule .0708 of this Subchapter. The content of the training shall be directly related to the care of children and shall meet the criteria of Rule .0708.

Statutory Authority G.S. 110-86(3); 110-91(8),(11); 143B-168.3.

.2611 PHYSICAL FACILITY AND SPACE REQUIREMENTS

(j) The requirements relating to hazardous items, materials and equipment as specified in Rule .0601(b) of this Subchapter shall apply to large homes.

(k) The requirements relating to safety as specified in Rule .0604 of this Subchapter shall apply to large homes.

Statutory Authority G.S. 110-86(3); 110-91(3),(4),(5),(6); 143B-168.3.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources/Division of Medical Assistance intends to amend rule(s) cited as 10 NCAC 26H .0202, .0204, .0206.

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

The public hearing will be conducted at 1:30 p.m. on June 3, 1991 at the North Carolina Division of Medical Assistance, 1985 Umstead Drive, Room 297, Raleigh, North Carolina 27603.

Comment Procedures: Written comments concerning these amendments must be submitted by July 5, 1991, to: Division of Medical Assistance, 1985 Umstead Drive, Raleigh, North Carolina 27603, ATTN: Bill Hottel, APA Coordinator. Oral comments may be presented at the hearing. In addition, a fiscal impact statement which estimates increased expenditures of \$151,282,719 for 1990-91 and \$183,000,000 for 1991-92 is available upon written request from the same address. These amendments are proposed in order to eliminate target days and to implement the disproportionate share hospital plan. Copies of rules are available for inspection in each county department of social services.

CHAPTER 26 - MEDICAL ASSISTANCE

SUBCHAPTER 26H - REIMBURSEMENT PLANS

SECTION .0200 - HOSPITAL INPATIENT REIMBURSEMENT PLAN

.0202 RATE SETTING METHODS

(a) An annual rate is determined for each hospital to be effective for dates of service beginning each July 1. Rates are derived from cost reports for a base-year period or from previous appeal decisions. The initial base-year is the cost-reporting period ending in 1981. Services pro-

vided prior to July 1, 1986 are reimbursed at rates not to exceed the rates effective July 1, 1985.

(b) The prospective rate is the sum of the operating rate component and the capital rate component. The capital rate component is the higher of the base-year capital per diem cost or the most recent capital rate as adjusted upon previous appeal. The base-year capital cost per diem is computed by dividing total capital costs allocated to inpatient services by total inpatient days. The operating rate component is determined by inflating the Medicaid base-year operating cost per diem to the rate year. The base-year operating cost per diem is computed by subtracting the capital cost per diem from the total base-year Medicaid cost per diem. Base-year Medicaid costs include inpatient routine, special care, and ancillary services, malpractice insurance, interns' and residents' services, and other covered inpatient services.

(c) Inflation factors for the operating rate components are based on the National Hospital Market Basket Index and the most recent actual and projected cost data available from the North Carolina Office of State Budget and Management.

(d) ~~This plan intends to encourage the use of lower cost hospitals for routine illnesses. Hospitals with rates at or below the all-hospital mean will be reimbursed at the full prospective rate without day limits. Hospitals with rates higher than the mean rate of all hospitals will be reimbursed at the full prospective rate up to an annual days limit. Days in excess of the limit will be reimbursed at the mean rate of hospitals below the all-hospital mean.~~

(d) ~~(e)~~ The prospective rate for a new hospital is set at the lower of:

- (1) The all-hospital mean rate; or
- (2) Seventy-five percent of the hospital's projected average gross inpatient revenue per day during the first year of operations.

This provision applies to a hospital if a cost report covering at least twelve months of normal operations has not been filed. This rate is the base-year rate until a desk-reviewed cost report covering at least twelve months of normal operations is available.

(e) ~~(f)~~ Out-of-state hospital services are reimbursed according to the rates established by the Medicaid Agency of the State in which the hospital is located. If a usable rate cannot be obtained, services are reimbursed at 75 percent of billed charges or a negotiated rate not to exceed reasonable cost.

(f) ~~(g)~~ The initial base-year for psychiatric hospitals is the cost reporting period ending in 1989, or 1990 if a full year cost report is available as of

April 1, 1991. The total base-year per diem cost for a hospital is limited to the median per diem cost in the base-year of all psychiatric hospitals. The limit does not apply to or reduce any amortization of start-up costs of an individual hospital. The provisions of Rule .0202(d) do not apply to psychiatric hospitals. State-operated hospitals are not included in the calculation of the median per diem cost.

(g) ~~(h)~~ To assure compliance with the separate upper payment limit for State-operated facilities, the hospitals operated by the Department of Human Resources will be reimbursed their reasonable costs in accordance with the provisions of the Medicare Provider Reimbursement Manual.

(h) This plan intends to encourage the use of lower-cost hospitals for routine illnesses. Hospitals with rates at or below the all-hospital mean will be reimbursed at the full prospective rate without day limits. Hospitals with rates higher than the mean rate of all hospitals will be reimbursed at the full prospective rate up to an annual days limit. Days in excess of the limit will be reimbursed at the mean rate of hospitals below the all-hospital mean. This reimbursement limitation will be eliminated for claims paid in April, May and June 1991 and thereafter if and when:

- (1) the Health Care Financing Administration, U.S. Department of Health and Human Services, approves amendments submitted to HCFA by the Director of the Division of Medical Assistance on or about March 14, 1991 as #MA 91-10 and #MA 91-11, wherein the Director proposes amendment of the State Plan to eliminate the "Annual Days Limit" to the Plan, and
- (2) the Director of the Division of Medical Assistance determines that sufficient funds are available pursuant to Rule .0206(b)(2) of this Section or otherwise for this purpose.

Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1985, c. 479, s. 86; 42 C.F.R. 447, Subpart C.

.0204 ADMINISTRATIVE RECONSIDERATION REVIEWS

(a) Reconsideration reviews of rate determinations will be processed in accordance with the provisions of 10 NCAC 26K. Requests for reconsideration reviews must be submitted to the Division of Medical Assistance within 60 days after rate notification, unless unexpected conditions causing intense financial hardship arise, in

which case a reconsideration review may be considered at any time.

(b) Operating rate reconsideration reviews are considered only on the basis of the actual additional cost of essential new services or patient mix changes incurred since the base year.

(c) Capital rate reconsideration reviews are considered only for the additional cost of new construction, renovations and equipment, consistent with the Certificate of Need approval if required.

(d) A hospital's adjusted rate for one or more of the factors cited in the Paragraphs (a) - (c) of this Rule cannot exceed a rate limit computed by applying the methods described in Rule .0202 (b) and (c) of this Subchapter to the hospital's allowable Medicaid cost in the most recent annual cost report available.

(e) Hospitals that serve a disproportionate share of low-income patients are eligible to receive rate adjustments. The cost report data and financial information that is required in order to qualify as a disproportionate share hospital effective April 1, 1991 is based on the fiscal year ending in 1989 for each hospital, as submitted to the Division of Medical Assistance on or before April 1, 1991. The cost report data and financial information to qualify as a disproportionate share hospital effective July 1, 1991 is based on the fiscal year ending in 1990 for each hospital, as submitted to the Division of Medical Assistance on or before September 1, 1991. In subsequent years, qualifications effective July 1, of any particular year are based on each hospital's fiscal year ending in the preceding calendar year. The patient days, costs, revenues, or charges related to nursing facility services, swing-bed services, home health services, outpatient services, or any other service that is not a hospital inpatient service, cannot be used to qualify for disproportionate share status. A hospital is deemed to be a disproportionate share hospital if:

- (1) ~~(+)~~ The hospital has at least 2 obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals eligible for Medicaid. In the case of a hospital located in a rural area, the term obstetrician includes any physician with staff privileges at the hospital to perform non-emergency obstetric procedures. This requirement does not apply to a hospital which did not offer non-emergency obstetric services as of December 21, 1987 or to a hospital that predominantly serves individuals under 18 years of age; and

- (2) ~~(+)~~ The hospital's Medicaid inpatient utilization rate, defined as the percentage re-

sulting from dividing Medicaid patient days by total patient days, is at least one standard deviation above the mean Medicaid inpatient utilization rate for all hospitals that receive Medicaid payments in the state; or

- (3) ~~(2)~~ The hospital's low-income utilization rate exceeds 25 percent. The low-income utilization rate is the sum of:

- (A) the ratio of the sum of Medicaid inpatient revenues plus cash subsidies received from the State and local governments, divided by the hospital's total patient revenues; and

- (B) the ratio of the hospital's gross inpatient charges for charity care less the cash subsidies for inpatient care received from the State and local governments, divided by the hospital's total inpatient charges; or

- (4) ~~(3)~~ The sum of the hospital's Medicaid revenues, bad debts allowance net of recoveries, and charity care exceeds 20 percent of gross patient revenues; and or

- (5) The hospital, in a ranking of hospitals in the State, from most to least in number of Medicaid patient days provided, is among the top group that accounts for 50 percent of the total Medicaid patient days provided by all hospitals in the State.

(f) ~~The rate adjustment for a disproportionate share hospital is equal to the higher of the percentage adjustment received in the fiscal year 1987-88 or 2.5 percent plus one-fourth of one percent for each percentage point that a hospital's Medicaid inpatient utilization rate exceeds one standard deviation of the mean Medicaid inpatient utilization rate in the State. The rate adjustment is applied to a hospital's payment rate exclusive of any previous disproportionate share adjustments.~~

(g) For hospitals eligible under Paragraph (e) of this Rule, an additional payment adjustment may be made to each hospital for services provided in the months of April, May, and June, 1991 equal to the product of the ratio of each hospital's total Medicaid inpatient days divided by the total Medicaid inpatient days provided by all disproportionate share hospitals in the state during their fiscal years ending in 1989 multiplied by an amount of funds to be determined by the Director of the Division of Medical Assistance, but not to exceed one hundred forty million dollars (\$140,000,000). Each hospital's payment adjustment will be paid retrospectively in up to three installments. An additional payment adjustment by this methodology may be made for services provided in the months of July, August, September, October, November and December,

1991 based on the Medicaid and total inpatient days as filed in the hospital cost reports for fiscal years ending in 1990. The amount of funds to be determined by the Director shall not exceed one hundred sixty million dollars (\$160,000,000).

(h) ~~(g)~~ Except as otherwise specified in this Rule, rate adjustments are considered based on the most recent annual cost report, audited financial statements when necessary and other required information as submitted by a hospital provider. An adjustment cannot be made if the necessary information is not submitted or if the information is incomplete or incorrect. A rate adjustment can be applied retroactively to the most recent July 1 effective date, but cannot be applied to previous fiscal years.

(i) For hospitals eligible under Paragraph (e), a payment adjustment is available for services involving exceptionally high costs or exceptionally long lengths of stay for patients under six years of age. A payment adjustment is available for all the other hospitals for such services provided to patients under one year of age. A five percent increase above the normal payment amount (as described in Paragraph (f) of this Rule) will be provided for the inpatient claims with billed charges in excess of fifty-five thousand dollars (\$55,000) or with stays in excess of 65 days. The fifty-five thousand dollar (\$55,000) threshold will be increased annually by the inflation factor described under Paragraph (c) of this Rule of the Rate Setting Methods section of this plan. This provision is effective for dates of service beginning July 1, 1991.

Authority G.S. 108A-25(b); 108A-54; 108A-55; 150B-11; S.L. 1985, c. 479, s. 86; 42 C.F.R. 447, Subpart C.

.0206 PAYMENT ASSURANCE

(a) The state will pay each hospital the amount determined for inpatient services provided by the hospital according to the standards and methods set forth in this Section. (Reference the North Carolina Title XIX Hospital Inpatient Prospective Reimbursement Plan in the State Plan for Medical Assistance.) In all circumstances involving third party payment, Medicaid will be the payor of last resort.

(b) If contributions are made pursuant to General Statute 143-23.2 during calendar year 1991, the Department has determined that it will use them as follows:

(1) the Department will present the contributed funds to the federal government to be matched pursuant to federal financial participation rules. The total of the con-

tributed and matched funds hereinafter will be referred to as the "Funds" to be disbursed in the order set forth in this Rule.

(2) the contributed funds will provide the total non-federal share of Medicaid expenditures made with the Funds.

(3) up to forty million dollars (\$40,000,000) of the Funds will be used to fund elimination of the target day provision [as described in 10 NCAC 26H .0202(h)] for fiscal years 1990-91 and 1991-92, and to further other State Medicaid purposes for those fiscal years.

(4) any remaining Funds, not to exceed one hundred forty million dollars (\$140,000,000), will be used to make an additional payment adjustment to disproportionate share hospitals for services provided in April, May and June, 1991, as provided in Rule .0204(g) of this Section.

(5) any remaining Funds, not to exceed twenty-two million five hundred thousand dollars (\$22,500,000), will be used to fund elimination of the target day provision referenced in Paragraph (b)(3) of this Rule for fiscal year '92-'93 and to further other state Medicaid purposes.

(6) any remaining Funds, not to exceed one hundred sixty million dollars (\$160,000,000), will be used to make an additional payment adjustment to disproportionate share hospitals for services provided in July, August, September, October, November and December, 1991, as provided in Rule .0204(g).

(c) If contributions are made pursuant to General Statute 143-23.2 at any time subsequent to calendar year 1991, the Department shall determine how it wishes to use such funds at that time.

(d) Contributed funds shall be earmarked and maintained in a segregated account in accordance with General Statute 143-23.2(b).

Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1985, c. 479, s. 86; 42 C.F.R. 447, Subpart C.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources, Division of Medical Assistance intends to amend rule(s) cited as 10 NCAC 26H .0507.

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

The public hearing will be conducted at 1:30 p.m. on May 31, 1991 at the North Carolina Division of Medical Assistance, 1985 Umstead Drive, Room 201, Raleigh, North Carolina 27603.

Comment Procedures: Written comments concerning this amendment must be submitted by May 31, 1991, to: Division of Medical Assistance, 1985 Umstead Drive, Raleigh, North Carolina 27603, ATTN: Bill Hottel, APA Coordinator. Oral comments may be presented at the hearing. In addition, a fiscal impact statement is available upon written request from the same address.

CHAPTER 26 - MEDICAL ASSISTANCE

SUBCHAPTER 26H - REIMBURSEMENT PLANS

SECTION .0500 - REIMBURSEMENT FOR SERVICES

.0507 INDEPENDENT LABORATORY SERVICES

Fees for independent laboratory services shall be ~~set based on the following in the stated order of precedence:~~ the lower of the submitted charge or the appropriate fee from the fee schedules in effect on July 1, 1990:

- (1) ~~Title XVIII maximum fee. This will be used when available.~~ Annual fees are increased each January 1 based on the forecast of the Gross National Product (GNP) implicit price deflator, but not to exceed the percentage increase granted by the N.C. State Legislature and not to exceed the Medicare maximum fees.
- (2) ~~The 75th percentile of charges from the calendar year 1979. This will be used when (1) is not available.~~ Fees for new services are established based on fees for similar existing services. If there are no similar services the fee is set at the Medicare maximum fee. If there is no Medicare fee available, the fee is established at 60 percent of charges until a Medicare fee is established.
- (3) ~~A rate established by the state agency based on current charges. This will be used when neither (1) nor (2) is available.~~

~~These maximum rates~~ The methodology as addressed in this Rule shall also apply to laboratory services paid to hospital outpatient facilities, physicians, and any other provider supplying outpatient laboratory services.

Authority G.S. 108A-25(b); 108A-54; 108A-55; P.L. 93-369; P.L. 99-272; 42 C.F.R. 447.10; 42 C.F.R. 447.342.

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Social Services intends to amend rule(s) cited as 10 NCAC 29B .0003.

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

The public hearing will be conducted at 10:00 a.m. on June 5, 1991 at the Disability Determination Services, 321 Chapanoke Road, Raleigh, N.C.

Comment Procedures: Comments may be presented in writing anytime before or at the public hearing, or orally at the hearing. Time limits for oral remarks may be imposed by the Commission Chairman. Any person may request copies of this Rule by calling or writing to Donna Creech, Division of Social Services, 325 N. Salisbury St., Raleigh, NC 27611, (919) 733-3055.

CHAPTER 29 - INCOME MAINTENANCE: GENERAL

SUBCHAPTER 29B - LOW INCOME ENERGY ASSISTANCE PROGRAM

.0003 ELIGIBILITY REQUIREMENTS

A household must meet the following requirements to be eligible for the Low Income Energy Assistance Program:

- (1) Income: A household's income for the base period used to establish eligibility cannot exceed 110 percent of the current non-farm poverty level. Income will be defined as gross income less the standard medical deduction for household members with only unearned income; actual child or dependent care costs up to one hundred sixty dollars (\$160.00) per child or dependent; for any child in the household; and a standard deduction for work related expenses (a table shall be used to determine the appropriate amount to deduct). To compute income, all income will be counted with the exception of:
 - (a) Earned income of a child under 14 or under ~~20~~ 18 if in school at least half-time;
 - (b) Income of a child participating in Job Training Partnership Program when he is

- under age 19 and he is under the parental control of another household member;
- (c) Income from incentive payments and training allowances from WIN funded training; Reimbursements paid to JOBS, Food Stamp Workfare, or Employment and Training participants;
 - (d) Income for supportive services or reimbursement of out-of-pocket expenses to volunteers serving as foster grandparents, senior health aides or companions, SCORE, AGE or any other programs under Titles I, II, and III of PL 93-113;
 - (e) Foster Care payments equal to or below the state maximum rates to foster parents;
 - (e) ~~(f)~~ In-kind contributions;
 - (f) ~~(g)~~ Payments made directly to vendors on behalf of a household except when made by HUD for utility assistance;
 - (g) ~~(h)~~ Irregular earned income;
 - (h) ~~(i)~~ Personal loans;
 - (i) ~~(j)~~ Payments made under the Alaska Native Claims Settlement Act, PL 92-203;
 - (j) ~~(k)~~ Payments to certain Indian tribes as permitted by PL 94-114;
 - ~~(k)~~ Child support being routed through the child support enforcement section and kept by them;
 - (k) ~~(m)~~ That portion of educational loans, grants, or scholarships, including a payment under the GI Bill actually used for tuition, room, board, books, fees, equipment, special clothing needs, required school insurance and child care services necessary for school attendance;
 - ~~(n)~~ Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Secretary of Education under the Higher Education Act;
 - ~~(o)~~ Assistance from other agencies and organizations if such aid is for rehabilitation purposes, special training or educational opportunities and provided no duplication exists;
 - ~~(p)~~ Incentive payments made to an applicant or recipient participating in a vocational rehabilitation program as long as a training plan is in effect;
 - ~~(q)~~ Weekly incentive payments made by the manpower agency to any participant in institutional and work experience training under the WIN program;
 - ~~(r)~~ Housing improvement grants to low-income families approved by the North Carolina Commission of Indian Affairs or any funds distributed per capita to or held in trusts for members of any Indian tribe under P.L. 92-254, P.L. 93-134, or P.L. 94-540;
 - ~~(s)~~ Experimental housing allowance program payments made under annual contributions contracts entered into prior to January 1, 1975 under Section 23 of the U.S. Housing Act of 1937, as amended;
 - ~~(l)~~ ~~(t)~~ Title XX of the Social Security Act and State In-Home funds received to pay for services rendered by another individual or agency;
 - ~~(m)~~ ~~(u)~~ Disaster assistance;
 - ~~(n)~~ ~~(v)~~ HUD community development block grant funds received to finance the renovation of a privately owned residence;
 - ~~(w)~~ Money paid to attendant or chore provider;
 - ~~(o)~~ ~~(x)~~ All federally mandated exclusions;
 - ~~(y)~~ Child support AFDC disregard checks;
 - ~~(z)~~ Any HUD payment paid to or on behalf of an applicant;
 - ~~(p)~~ ~~(aa)~~ The value of the Food Stamp Coupon allotment;
 - ~~(q)~~ ~~(bb)~~ The value of USDA donated foods (surplus commodities);
 - ~~(r)~~ ~~(cc)~~ Relocation payments provided under the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
 - ~~(s)~~ ~~(dd)~~ Benefits received under Title VII, Nutrition Program for the Elderly Older Americans Act, Older American Community Service Programs, Foster Grandparents Program, Service Corps of Retired Executives (SCORE), and Active Corps of Executives (ACE);
 - ~~(t)~~ ~~(ee)~~ The value of supplemental food assistance received under the Child Nutrition Act and the special food service program for children under the National School Lunch Act;
 - ~~(u)~~ ~~(ff)~~ Payments distributed pursuant to any judgment of the Indian Claims Commission of the Court of Claims in favor of any Indian Tribe;
 - ~~(v)~~ ~~(gg)~~ Assistance to prevent fuel cutoffs and to promote energy efficiency under the Emergency Energy Conservation Services Program or the Energy Crisis Assistance Program as authorized by the Economic Opportunity Act of 1964, as amended;
 - ~~(hh)~~ Any wages, allowances, or reimbursement for transportation and attendant care costs, unless excepted on a case-by-case basis, when received by an eligible handicapped individual employed in a project under Title VI of the Rehabilitation Act of 1973, as amended;

- (w) ~~(iii)~~ Any penalty payments paid to applicants for delayed AFDC or Medicaid applications as referenced by Alexander v. Hill;
- (x) ~~(iii)~~ Prorata share of an ineligible alien's income. Prorata share is determined by dividing the gross income of the ineligible alien by the number of people in the household;
- (y) Any AFDC-EA, CIP, or Project Share paid to or on behalf of an applicant;
- (z) Employment and training benefits received under Title V of the Older Americans Act;
- (aa) Disregard payments received under the Repatriated Americans Programs if the person receiving the payment is required to sign an express agreement to repay the funds received.

Authority G.S. 108A-25; 143B-153; 42 U.S.C. 8621(a); 8622(2); 8624(b).

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Social Services intends to amend rule(s) cited as 10 NCAC 411.0313.

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

The public hearing will be conducted at 10:00 a.m. on June 5, 1991 at the Disability Determination Bldg., 321 Chapanoke Road, Raleigh, N.C.

Comment Procedures: Petition for rulemaking was granted to Ryal W. Tayloe pursuant to G.S. 150B-16. Comments may be given verbally or written prior to the hearing, or orally at the hearing. The Chairman may limit time for comments. Comments or inquiries may be directed to Donna A. Creech, Special Assistant, Division of Social Services, 325 N. Salisbury St., Raleigh, NC 27603, (919) 733-3055.

CHAPTER 41 - CHILDREN'S SERVICES

SUBCHAPTER 41I - PROTECTIVE SERVICES

SECTION .0300 - CHILD PROTECTIVE SERVICES: GENERAL

.0313 CONFIDENTIALITY OF COUNTY DSS PROTECTIVE SERVICES RECORDS

(a) The county director shall not allow anyone outside of the county department of social services other than state and federal agency personnel carrying out their lawful responsibilities for program audit and review to examine a protective services case record as described in Rule .0312 of this Subchapter unless:

- (1) the judge orders the county director to allow examination; or
- (2) the child or the child's attorney requests to examine his own record.

(b) The county director in carrying out his duties may share information and a summary of documentation from the case record without a court order with public or private agencies or individuals that are being utilized to provide or facilitate the provision of protective services to a child.

(c) The county director shall allow the District Attorney or his designee access to the case record, including any information or documentation therein, which he needs to carry out his mandated responsibilities that result from a report of confirmed abuse or from the county director's decision not to file a petition.

Statutory Authority G.S. 143B-153; 7A-675; 7A-544.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Social Services intends to amend rule(s) cited as 10 NCAC 46H.0201, .0203.

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

The public hearing will be conducted at 10:00 a.m. on June 5, 1991 at the Disability Determination Conference Room, 321 Chapanoke Road, Raleigh, N.C.

Comment Procedures: Comments may be presented in writing anytime before or at the public hearing, or orally at the hearing. Time limits for oral remarks may be imposed by the Commission Chairman. Any person may request copies of this Rule by calling or writing to Donna Creech, Division of Social Services, 325 N. Salisbury St., Raleigh, NC 27611, (919) 733-3055.

CHAPTER 46 - DAY CARE RULES

SUBCHAPTER 46II - POLICIES FOR PROVISION OF CHILD DAY CARE SERVICES

SECTION .0200 - ELIGIBILITY FOR SERVICES

.0201 BASIC ELIGIBILITY CRITERIA

(a) In addition to the requirements of 10 NCAC 46H .0100, in order for an individual to be determined eligible to receive child day care services funded under the Social Services Block Grant (SSBG) or the State Day Care Fund, it must be established that he is eligible:

- (1) on the basis of income maintenance status;
- (2) on the basis of income eligible status; or
- (3) for day care to support protective services as described in 10 NCAC 46H .0106, on the basis of need without regard to income.

(b) When child day care services are provided as support to employment or training for the parent, eligibility must be determined on the basis of the status of the parent; except that when the child is in foster care, eligibility is determined on the basis of the child's circumstances.

Statutory Authority G.S. 143B-153.

.0203 INCOME ELIGIBLE STATUS

(a) Individuals other than those eligible on the basis of income maintenance status may be determined eligible on the basis of the family's monthly gross income.

(b) In order to be eligible on the basis of income eligible status, an individual's family monthly gross income may not exceed the state's established income for that size family and the maximum income level for child day care services.

(c) For purposes of determining income eligibility, an individual's family size and income must be determined:

- (1) For purposes of determining family size, family means the basic family unit consisting of one or more adults and children, if any, related by blood, marriage, or adoption and residing in the same household. Where related adults, other than spouses, or unrelated adults reside together, each is considered a separate family. Children living with non-legally responsible relatives, emancipated minors, and children living under the care of unrelated persons are also considered to be one-person families.

- (2) Components of income that are considered in computing family monthly gross income are set forth in the Family Services Manual, as described in 10 NCAC 35A .0003.

(a) For the purpose of the rules in this Subchapter, the term "income unit" shall apply to

persons who reside in the same household and who, according to North Carolina law, are responsible for the financial support of the individual whose eligibility for child day care services is being determined. Also for the purpose of determining eligibility for day care services, the terms "income unit" and "family" are used interchangeably in the rules in this Subchapter.

(b) When the amount of income available to an individual is a condition of eligibility for child day care services, it is necessary to determine the number of persons in the individual's income unit and the amount of the gross income available to the income unit.

- (1) The number of individuals in the income unit is referred to as the "income unit size" or "family size". These terms are used interchangeably in the rules in this Subchapter.

- (2) The total amount of the income used to determine day care eligibility is referred to as the "gross income of the income unit" or "family income". These terms are used interchangeably in the rules in this Subchapter.

(c) Child day care services may be provided to individuals other than those described in 10 NCAC 46D .0103(e) and in Rules .0202 and .0206 of this Subchapter provided the gross monthly income of the individual's income unit does not exceed the state's established income (as defined in Rule .0204 of this Subchapter) for the number of persons in that income unit.

(d) The following are defined as separate income units for the purposes of determining eligibility and client fees for child day care services:

- (1) Biological and adoptive parents and their minor children.
- (2) A minor parent and his or her children.
- (3) Each adult whether related or unrelated, other than spouses.
- (4) Children living with anyone other than their biological or adoptive parents.

(e) Income to be considered when computing the gross income of the income unit is listed in the Division of Social Services Family Services Manual, as described in 10 NCAC 35A .0003.

Statutory Authority G.S. 143B-153.

TITLE 11 - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Department of Insurance intends to amend rule(s) cited as 11 NCAC 16

.0106; and adopt rule(s) cited as 11 NCAC 16.0108.

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

The public hearing will be conducted at 10:00 a.m. on June 5, 1991 at the Dobbs Building, 430 N. Salisbury Street, Third Floor Hearing Room, Raleigh, N.C. 27611.

Comment Procedures: Written comments may be sent to Ed Jordan, P.O. Box 26387, Raleigh, N.C. 27611. Oral presentations may be made at the public hearing. Anyone having questions should call Ed Jordan at (919) 733-3284 or Ellen Sprenkel at (919) 733-4700.

CHAPTER 16 - ACTUARIAL SERVICES DIVISION

SECTION .0100 - FIRE AND CASUALTY STATISTICAL DATA

.0106 CREDIT PROPERTY INSURANCE

To fulfill the requirements of G.S. 58-57-90, each writer of North Carolina credit property insurance shall by April 1 of each year submit the data described in this Rule for each of the latest five calendar years on a direct basis to the Actuarial Services Division. (Note: If a company does not currently collect any data required by this Rule, that company shall commence as of the effective date of this Rule December 1, 1990 to collect such data prospectively.)

- (1) North Carolina premium, loss, and expense: ~~for each of the five latest calendar years on a direct basis:~~
 - (a) Written premium;
 - (b) Earned premium;
 - (c) Paid losses and claims;
 - (d) Incurred losses and claims;
 - (e) Paid loss adjustment expense;
 - (f) Incurred loss adjustment expense;
 - (g) Incurred commissions and brokerage expenses;
 - (h) Incurred other acquisition costs;
 - (i) Incurred premium taxes;
 - (j) Other incurred expenses;
 - (k) Incurred loss and loss adjustment expense ratio;
 - (l) Incurred loss, loss adjustment expense, and other underwriting expense ratio;
 - (m) Dividends paid;
 - (n) Retrospective rate credits paid;
 - (o) Commissions paid.

- (2) Investment income on loss, loss expense, and unearned premium reserves: ~~on a direct basis:~~
 - (a) Loss reserve at the beginning of the year;
 - (b) Loss reserve at the end of the year;
 - (c) Loss expense reserve at the beginning of the year;
 - (d) Loss expense reserve at the end of the year;
 - (e) Unearned premium reserve at the beginning of the year;
 - (f) Unearned premium reserve at the end of the year;
 - (g) Investment income earned on loss, loss expense, and unearned premium reserves.
- (3) Nonrefundable fees collected:
 - (a) Total number of transactions;
 - (b) Transactions involving insured values less than two hundred fifty dollars (\$250.00);
 - (c) Transactions involving insured values of two hundred fifty dollars (\$250.00) or more but less than five hundred dollars (\$500.00);
 - (d) Transactions involving insured values of five hundred dollars (\$500.00) or more.
- (4) Insured values:
 - (a) Insured values for single interest insurance at the beginning of the year;
 - (b) Insured values for single interest insurance at the end of the year;
 - (c) Insured values for dual interest insurance at the beginning of the year;
 - (d) Insured values for dual interest insurance at the end of the year.
- (5) Supplementary information:
 - (a) Identification of the Page 14 Annual Statement line under which the experience is reported;
 - (b) Explanations for of any changes change in premiums, loss ratios, or expense ratios the amounts reported in Subparagraphs (1)(a), (1)(k) and (1)(l) of this Rule that are is greater than 50 percent of the previous calendar year's value.

Statutory Authority G.S. 58-2-40; 58-57-90(b).

.0108 SINGLE OR DUAL INTEREST AUTOMOBILE PHYSICAL DAMAGE INSURANCE

To fulfill the requirements of General Statute 58-57-100(b), all writers of North Carolina Single or Dual Interest Automobile Physical Damage Insurance shall by April 1 of each year submit the following data described in this Rule for each of the latest five calendar years on a direct basis to the Actuarial Services Division. (Note: If a company does not currently collect any data re-

quired by this Rule, that company shall commence as of the effective date of this Rule to collect such data prospectively.)

- (1) North Carolina premium, loss, and expense:
 - (a) Written premium and car year exposures;
 - (b) Earned premium and car year exposures;
 - (c) Paid losses and claims;
 - (d) Incurred losses and claims;
 - (e) Paid loss adjustment expense;
 - (f) Incurred loss adjustment expense;
 - (g) Incurred commissions and brokerage expenses;
 - (h) Incurred other acquisition costs;
 - (i) Incurred premium taxes;
 - (j) Other incurred expenses;
 - (k) Incurred loss and loss adjustment expense ratio;
 - (l) Incurred loss, loss adjustment expense and other underwriting expense ratio;
 - (m) Policyholder dividends paid.
- (2) Investment income on loss, loss expense, and unearned premium reserves:
 - (a) Loss reserve at the beginning of the year;
 - (b) Loss reserve at the end of the year;
 - (c) Loss expense reserve at the beginning of the year;
 - (d) Loss expense reserve at the end of the year;
 - (e) Unearned premium reserve at the beginning of the year;
 - (f) Unearned premium reserve at the end of the year;
 - (g) Investment income earned on loss, loss expense, and unearned premium reserves.
- (3) Insured values:
 - (a) Insured values for single interest insurance at the beginning of the year;
 - (b) Insured values for single interest insurance at the end of the year;
 - (c) Insured values for dual interest insurance at the beginning of the year;
 - (d) Insured values for dual interest insurance at the end of the year.
- (4) Supplementary information:
 - (a) Identification of the Page 14 Annual Statement line under which the experience is reported;
 - (b) Explanations of any change in the amounts reported in Subparagraphs (1)(a), (1)(k) and (1)(l) of this Rule that is greater than 50 percent of the previous calendar year's value.

Statutory Authority G.S. 58-2-40; 58-57-100.

TITLE 12 - DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Private Protective Services Board intends to amend rule(s) cited as 12 NCAC 7D .0807, .0809, .0901.

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

The public hearing will be conducted at 12:00 p.m. on June 21, 1991 at the O.J. Miller Auditorium, The Electric Center, 500 S. Church St., Charlotte, N.C.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. Additionally, the record will be open for receipt of written comments until the hearing. Such written comments must be delivered or mailed to Mr. James F. Kirk, N.C. Private Protective Services Board, 3320 Old Garner Rd., Post Office Box 29500, Raleigh, NC 27626-0500.

CHAPTER 7 - PRIVATE PROTECTIVE SERVICES

SUBCHAPTER 7D - PRIVATE PROTECTIVE SERVICES BOARD

SECTION .0800 - ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT

.0807 TRAINING REQUIREMENTS FOR ARMED SECURITY GUARDS

(a) Applicants for an armed security guard firearm registration permit shall complete a basic training course for armed security guards which consists of a minimum of four at least eight hours of classroom instruction including:

- (1) legal limitations on the use of handguns and on the powers and authority of an armed security guard;
- (2) familiarity with rules and regulations relating to armed security guards;
- (3) range firing procedures, handgun safety, and maintenance; and
- (4) any other topics of armed security guard training which the Board and the Attorney General deem necessary.

(b) Applicants shall attain a ~~70~~ 80 percent score on a firearms course approved by the Board and the Attorney General, a copy of which is on file in the administrator's office.

(c) All armed security guard training required by 12 NCAC 7D shall be administered by a certified trainer and shall be successfully completed no more than 90 days prior to the date of issuance of the armed security guard firearm registration permit.

(d) All applicants for an armed security guard firearm registration permit must obtain training under the provisions of this Section using their duty weapon and their duty ammunition.

Statutory Authority G.S. 74C-5; 74C-13.

.0809 AUTHORIZED FIREARMS

Armed security officers are authorized, while in the performance of official duties or traveling directly to and from work, to carry a standard .38 caliber, .32 caliber or .357 caliber revolver or any standard 12 gauge shotgun, as long as they have been properly trained on such a weapon pursuant to 12 NCAC 7D .0807.

Statutory Authority G.S. 74C-5; 74C-13.

SECTION .0900 - FIREARMS TRAINER CERTIFICATE

.0901 REQUIREMENTS FOR A FIREARMS TRAINER CERTIFICATE

Firearms trainer applicants shall:

- (1) meet the minimum standards established by 12 NCAC 7D .0703;
- (2) have a minimum of one year supervisory experience in security with a contract security company or proprietary security organization, or one year experience with any federal, U.S. military, state, county or municipal law enforcement agency;
- (3) attain ~~an~~ 85 a 90 percent score on a firearm's course approved by the Board and the Attorney General, a copy of which is on file in the administrator's office; and
- (4) successfully complete a training course approved by the Board and the Attorney General which shall consist of a minimum of ~~20~~ 40 hours of classroom and practical range training in handgun and shotgun safety and maintenance, range operations, night firearm training, control and safety procedures, and methods of handgun and shotgun firing.

Statutory Authority G.S. 74C-5; 74C-13.

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

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Marine Fisheries Commission and N.C. Wildlife Resources Commission intends to amend rule(s) cited as 15A NCAC 3H .0003; 3I .0001, .0004, .0011; 3J .0103, .0107,

.0202 - .0204, .0301; 3K .0104 - .0105, .0201 - .0202, .0205, .0303, .0305; 3L .0202; 3M .0201 - .0202, .0501, .0505 - .0507; 3N .0003 - .0005; 3O .0104, .0201 - .0210; 3Q .0107 - .0109, .0202; 3R .0001 - .0003, .0007 - .0008, .0010; repeal rule(s) cited as 15A NCAC 3J .0201, .0205; 3M .0203 adopt rule(s) cited as 15A NCAC 3M .0508; 3P .0003

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

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

*June 3, 1991
NC Aquarium
Manteo, NC*

*June 4, 1991
District Courtroom
Washington, NC*

*June 5, 1991
Joslyn Hall
Carteret Community College
Morehead City, NC*

*June 6, 1991
Courtroom 302
New Hanover Courthouse
Wilmington, NC*

*June 10, 1991
Ground Floor Hearing Room
Archdale Building
512 North Salisbury St.
Raleigh, NC*

MFC Business Session will be at 9:00 a.m. on June 13-14 at the Sheraton, New Bern.

Comment Procedures: Comments and statements, both written and oral, may be presented at the hearings. Written comments are encouraged and may be submitted to the Marine Fisheries Commission, PO Box 769, Morehead City, NC 28557. These written and oral comments must be received no later than June 11, 1991.

CHAPTER 3 - MARINE FISHERIES

SUBCHAPTER 3H - IDENTIFICATION AND DELEGATION OF AUTHORITY

.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, 113-202.1 and 113-202.2;
- (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 authority to close as well as open seasons and areas, to establish conditions governing various activities, and to reduce or increase the size and/or harvest limits from those stated in rule when specifically authorized. It is unlawful to violate the provisions of any proclamation issued by the authority of Marine Fisheries Commission Rule.

Statutory Authority G.S. 113-134; 113-137; 113-151.1; 113-166; 113-182; 113-202; 113-202.1; 113-202.2; 113-206; 113-261; 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 the mouth closed to the tip of the compressed caudal (tail) fin;
- (16) Licensee. Any person holding a valid licence from the Department to take or deal in marine fisheries resources;
- (17) Aquaculture operation. Any operation that produces artificially propagated stocks of marine or estuarine resources or obtains such stocks from authorized sources for the purpose of rearing in a controlled environment providing and maintaining throughout the rearing process, predator protection, food, water circulation, salinity, and/or temperature controls utilizing proven technology not found in the natural environment.

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

.0004 INTRODUCTIONS AND TRANSFERS OF MARINE AND ESTUARINE ORGANISMS

It is unlawful to introduce into the waters of the state, any live aquatic animal or 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*).

(a) In order to protect the marine and estuarine resources of North Carolina from undesirable predators, pests, parasites, and disease, it is unlawful, without first obtaining a permit from the Fisheries Director:

- (1) To introduce into the waters of the state any live aquatic animal or plant not native to the immediate water area concerned.
- (2) To transfer into the waters of the state species which are native but which originated outside the state's boundaries.
- (3) To hold or maintain any imported marine or estuarine organism in a quarantine or isolation system for brood stock or growout.

(b) Any person desiring to obtain a permit for introductions or transfers must make written application to the Division of Marine Fisheries, P.O. Box 769, Morehead City, NC 28557-0769. The application must contain sufficient information for the Fisheries Director to determine that the action will not endanger any native marine resource or its environment. In the case of transfers into the state of native species, a certifi-

ication verifiable by the exporting state's natural resource agency that the imported organisms are free of any infectious disease, pests, or parasites must be included.

(c) The Fisheries Director may hold public meetings prior to granting permits for activities specified in Subparagraphs (a)(1), (2), and (3) of this Rule and shall issue permits only after applicants have shown that such activities will not pose a threat to native species or environments.

Statutory Authority G.S. 113-134; 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:

- (1) 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:

- (A) ~~(1)~~ Specify species,
- (B) ~~(2)~~ Specify quantity and/or size,
- (C) ~~(3)~~ Specify time period,
- (D) ~~(4)~~ Specify location,
- (E) ~~(5)~~ Specify gear and/or vendors,
- (F) ~~(6)~~ Specify other conditions as appropriate.

- (2) ~~(a)~~ 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)~~ Subparagraph ~~(b)~~(1) of this Rule.

- (3) ~~(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.

(c) ~~(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.

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

SECTION .0100 - NET RULES, GENERAL

.0103 GILL NETS, IDENTIFICATION,
RESTRICTIONS

(a) The Fisheries Director may, by proclamation, limit or prohibit the use of gill nets in coastal waters, or any portion thereof, and/or impose any or all of the following restrictions on the use of gill nets:

- (1) Specify area.
- (2) Specify season.
- (3) Specify gill net mesh length except that the mesh length shall not be less than 2 1/2 inches.
- (4) Specify means/methods.
- (5) Specify gill net number and length.

(b) ~~(a)~~ It is unlawful to use fixed or stationary gill nets in the Atlantic Ocean or any gill nets in internal waters unless such nets are marked by attaching to them at each end two separate yellow buoys which shall be of solid foam or other solid buoyant material no less than five inches in diameter and 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.

(c) ~~(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 drift gill nets used in Roanoke River as provided in 15A NCAC 3J .0205(2);

(2) ~~(3)~~ From March 1 through October 31 in the Intracoastal Waterway within 150 yards of any railroad or highway bridge.

(d) ~~(c)~~ It is unlawful to use gill nets within 100 feet either side of the 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.

(e) ~~(d)~~ It is unlawful to use drift gill nets in violation of 15A NCAC 3J .0101 ~~(1)~~ and (2) and Paragraph (c) of this Rule.

(f) ~~(e)~~ It is unlawful to use unattended gill nets or block or stop nets in the Atlantic Ocean within 300 yards of the beach from Beaufort Inlet to the South Carolina line from sunset Friday to sunrise Monday from Memorial Day through Labor Day.

Statutory Authority G.S. 113-134; 113-182; 113-221; 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 permit 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 except location identification stakes in at each end of proposed 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 60 days prior to installation including the setting of stakes. The Within 60 days of application, the Fisheries Director shall issue a public notice of intent to consider issuance of a Pound Net Per-

mit for new locations, and may hold public meetings and approve or take other action which may include the 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. The Fisheries Director's final decision to approve, deny or modify the pound net permit application may be appealed by requesting in writing, within 20 days of notice of such action, an administrative hearing before the Marine Fisheries Commission. 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 criteria 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~~ yellow 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 yellow light reflective tape or light reflective paint devices on each pound. The light reflective tape or paint devices must be affixed to a stake of at least three inches in diameter on the offshore end of each pound, must cover an area a vertical distance not less than 12 inches, vertically, and visible from all directions. and must be visible from a vessel when approached 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 and yellow light reflective tape or devices on each end of the pound net set. covering an area not less than 12 inches vertically, and visible from all directions. The radar reflective material and the light reflective tape or devices must be affixed to a stake of at least three inches in diameter, must cover a vertical distance of not less than 12 inches, and must be detectable by radar and light from a vessel when approached from all directions. Light reflective tape or devices may be affixed to the radar reflective material.

(h) The Fisheries Director may, by proclamation, between August 1 and January 31, require escape panels in pound nets and may impose any or all of the following restrictions on the use of escape panels:

- (1) Specify size, number, and location.
- (2) Specify mesh length, but not more than six inches.
- (3) Specify time and/or season.
- (4) Specify areas.

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

SECTION .0200 - NET RULES, SPECIFIC AREAS

.0201 ALBEMARLE SOUND AND TRIBUTARIES (REPEALED)

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 F1); 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.~~
- (3) ~~(4)~~ It is unlawful to set a pound net within 200 yards parallel to any other pound net in the Chowan River.
- (4) ~~(5)~~ It is unlawful to use a seine within 1,000 yards of the mouth of any creek tributary to the Chowan River.
- (5) ~~(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 Wicacoa 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, CASHE, MIDDLE AND EASTMOST RIVERS (REPEALED)

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:

(A) In areas described in 15A NCAC 3R .0007 (a), ~~except that~~

(B) The Fisheries Director may, by proclamation, designate the areas in Wysocking Bay described in 15A NCAC 3R .0007 (1)(a) and adjust designated areas in Long Shoal River (b), or any part thereof, 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 unless such pots contain an escape panel that is at least four inches square with a mesh size of 1" x 1/2" located in the outside panel of the upper chamber of rectangular pots and in the rear portion of cylindrical pots, 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. The Fisheries Director may, by proclamation, exempt the escape ring requirement during the period November through March, and may impose any or all of the following restrictions:

- (1) Specify areas, and
- (2) Specify time.

(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 3J .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.

SUBCHAPTER 3K - OYSTERS, CLAMS, SCALLOPS AND MUSSELS

SECTION .0100 - SHELLFISH, GENERAL

.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, and ~~method by~~ from which ~~oysters such~~ shellfish 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 Between 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; 113-203; 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 3I .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; and

(2) ~~By means and methods described in Paragraph (b) of this Rule; and~~

(2) (3) Oysters and clams may also be taken on Sundays and scallops may also be taken on Saturdays and Sundays during regular open seasons.

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

SECTION .0200 - OYSTERS

.0201 OPEN SEASON AND POSSESSION LIMIT

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 mechanical methods 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~~ Specify the quantity, but shall not exceed possession of more than 50 bushels aboard a vessel.

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

.0202 SIZE 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 10 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.~~

(c) (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.

.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, the daily quantity to be taken, and the method of harvest. ~~With each sale or other disposition of oysters It is unlawful to sell, purchase or possess oysters during the regular closed season without the permittee shall complete and deliver delivering~~ 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)

.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, rule,~~ 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.

.0305 CLAM SIZE AND HARVEST LIMIT EXEMPTION

(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) Possession and sale of clams by a hatchery or clam aquaculture operation and purchase and possession of clams from a hatchery or clam aquaculture operation shall be exempt from bag and size limit restrictions in 15A NCAC 3K .0301(a). It is unlawful to possess, sell, purchase, or transport such clams unless ~~they are identified in a manner that will permit immediate determination of the point of origin and the ultimate~~

~~destination.~~ in compliance with all conditions of the Aquaculture Operation Permit.

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

SUBCHAPTER 3L - SHRIMP, CRABS, AND LOBSTER

SECTION .0200 - CRABS

.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, except that the Fisheries Director may, by proclamation, increase the minimum mesh length to not more than four and one-half inches.

(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.

SUBCHAPTER 3M - FINFISH

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 ~~44~~ 18 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, SIZE AND HARVEST
LIMIT: INTERNAL COASTAL WATERS**

(a) 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) ~~(A)~~ for hook-and-line fishing.
 - (b) ~~(B)~~ for commercial fishing equipment between October 1 and April 30.
- (2) Specify areas,
- (3) Specify quantity, but shall not exceed possession of more than three fish in any one day taken by hook-and-line.
- (4) Specify means/methods,
- (5) Specify size, but the minimum size specified shall not be less than 18 inches total length.
- (6) Require submission of statistical and biological data.

(b) ~~This Rule will be effective until September 1, 1992.~~ Fish that do not meet the minimum size limit specified by proclamation shall immediately be returned to the waters from which taken regardless of condition.

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

**.0203 SIZE AND CREEL LIMIT: INTERNAL
COASTAL WATERS (REPEALED)**

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.~~

(a) ~~(d)~~ The Fisheries Director, may by proclamation, impose any or all of the following ~~addi-~~tional restrictions on the taking of red drum:

- (1) Specify areas.
- (2) Specify seasons.
- (3) Specify quantity, but shall not exceed possession of more than two fish over 32 inches total length in any one day.
- (4) Specify means methods.

(5) Specify size, but the minimum size specified shall not be less than 14 inches total length.

(b) 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.

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

.0505 SHARK

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 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.

.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 taken by hook-and-line:

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

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

.0508 STURGEON

It is unlawful to possess sturgeon in North Carolina.

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

SUBCHAPTER 3N - NURSERY AREAS

.0003 MAPS AND MARKING

(a) Maps or charts showing all primary and secondary nursery areas identified in 15A NCAC 3R .0003, .0004, and .0005 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~~ method 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 3R .0005~~, 15A NCAC 3R .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) Permanent and special secondary nursery 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 3O - LICENSES, LEASES, AND FRANCHISES

SECTION .0100 - LICENSES

.0104 SHIPPING AND TRANSPORTING SEAFOOD

(a) It is unlawful to sell oysters, hard clams, or mussels in the shell without identifying the harvest area, water body, county, date, harvester's name and harvester's Oyster, Clam and Scallop License number on water-resistant identification tags attached to each container in which the oysters, clams, or mussels are packaged.

(b) ~~(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)~~ Fishermen who transport their catch to dealers are not required to abide by this ~~Rule~~. Paragraph.

(c) It is unlawful for any dealer to purchase, sell, possess or transport any fish that are not in compliance with rules or proclamations of the Marine Fisheries Commission and the Division of Marine Fisheries.

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

SECTION .0200 - LEASES AND FRANCHISES

.0201 STANDARDS FOR SHELLFISH BOTTOM AND WATER COLUMN LEASES

(a) All areas of the public bottoms underlying coastal fishing waters ~~must~~ shall:

(1) Meet the following standards in addition to the standards in G.S. 113-202 in order to be deemed suitable for leasing for shellfish purposes:

- (A) ~~(1)~~ The lease area must not contain a natural shellfish bed which is defined as ten bushels or more of shellfish per acre.
- (B) ~~(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.
- (C) ~~(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:
- (i) ~~(A)~~ 10 acres for oyster culture;
 - (ii) ~~(B)~~ 5 acres for clam culture; or
 - (iii) ~~(C)~~ 5 acres for any other species.
- This Section shall not be applied to reduce any holdings as of July 1, 1983.
- (2) ~~(b)~~ Leased areas must produce and market 25 bushels of shellfish per acre per year to meet the minimum commercial production requirement for leased bottoms.
- (b) Water columns superjacent to leased bottoms shall meet the standards in G.S. 113-202.1 in order to be deemed suitable for leasing for aquaculture purposes.
- (c) Water columns superjacent to duly recognized perpetual franchises shall meet the standards in G.S. 113-202.2 in order to be deemed suitable for leasing for aquaculture purposes.
- (d) Water column leases must produce and market 100 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 BOTTOM AND WATER COLUMN 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. Application forms are available from the Division's office headquarters referenced in 15A NCAC 3H .0001 for persons desiring to apply for shellfish bottom and water column leases. ~~(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:~~ information requirements contained in the application including

- ~~(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 an inset vicinity map which shows showing the location of the proposed lease with detail sufficient detail to allow ready, permit on-site identification and location. of the area by investigating biologists and members of the public.~~
- ~~(e) The application and map or diagram must be returned to the above address accompanied by a filing fee of one hundred dollars (\$100.00).~~
- ~~(b) (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 .0201; ~~(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; and
 - (5) Describes the productivity of any other leases or franchises held by the applicant.
- The completed application, map or diagram, and management plan for the requested lease will not be accepted by the Division unless

accompanied by a non-refundable filing fee of one hundred dollars (\$100.00). An incomplete application will be returned and not considered further until re-submitted complete with all required information.

(d) ~~(e)~~ Immediately after the an application is deemed to have met all requirements and is accepted by the Division, the applicant must mark identify the area of public bottom for which a lease is requested. The area shall be marked at each corner with stakes at each corner in accordance with the provision of 15A NCAC 30 .0204(a)(1) (A). The applicant shall firmly attach to each stake a sign, provided by the Division. The applicant shall place in the appropriate spaces containing 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 Proposed lease areas inconsistent with the applicable standards contained or referenced 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 will result in the return of applications for amendment to remove the inconsistencies. If the boundaries of the proposed leasehold lease area are modified, the stakes identifying such areas shall be moved re-located accordingly by the applicant. The failure of applicants to amend applications or modify lease area identification, when required, will result in denial of such applications.

(b) If the initial or amended lease application is deemed consistent with all applicable requirements, the Secretary or his designee shall notify the applicant and publish notices of intention to lease in accordance with standards in G.S. 113-202(f).

(c) When an applicant has been notified under (a) of this Rule that the Division considers the application inconsistent with applicable stand-

ards 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 application shall be considered denied.

(c) ~~(d)~~ The Marine Fisheries Commission shall will consider the lease application, the Division's determination, proposed lease area analysis, and any public comments, and may in its discretion lease or decline to lease the proposed lease 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 thereof. The Commission may impose special Special conditions may be imposed 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.

(d) ~~(e)~~ Upon approval of the lease leases by the Commission, the applicant applicants shall define mark the bounds of the area approved for leasing with markers shellfish bottom leases in accordance with 15A NCAC 30 .0204 (a)(1), water column leases in accordance with 15A NCAC 30 .0204(a)(2), and shall within 90 days submit to the Division a survey acceptable surveys of the area areas approved for leasing except that a water column lease which entirely covers a shellfish bottom lease or franchise with an accepted survey on file does not require another survey. The survey Such surveys will be made at the applicant's expense of applicants and must meet the following standards:

(1) The survey and map Surveys and maps shall meet all the requirements of 21 NCAC 56 .1600, Standards of Practice for Land Surveying in North Carolina.

(2) The map Maps 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: _____, that the area is _____ acres. 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, highways, intersections, publicly maintained aids to navigation, houses and other permanent buildings, radio, telephone, TV, and water towers; 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.
- (4) A written description of the survey suitable for official documents shall be provided with the survey.
- (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.~~
- (c) ~~(h) Until a lease has been executed by the Secretary, the area proposed for leasing remains Proposed shellfish bottom lease areas remain 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, until a formal lease has been executed by the Secretary.~~
- (f) Proposed water column lease areas superjacent to shellfish bottom leases and recognized perpetual franchises remain public water until a formal lease has been executed by the Secretary.

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

.0204 MARKING SHELLFISH LEASES AND FRANCHISES

- (a) All shellfish bottom leases, and franchises, and water column leases shall be marked by ~~by~~ as follows:
- (1) Shellfish bottom leases and franchises shall be marked by:
- (A) Stakes of wood or plastic material 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.

- (B) ~~(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.
- (C) ~~(3)~~ Supplementary stakes of wood or plastic material, 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.
- (2) Water column leases shall be marked by anchoring two yellow buoys, meeting the material and minimum size requirements specified in 15A NCAC 3J .0103(a) at each corner of the area or by other means as identified and approved by the Marine Fisheries Commission in the Management Plan.
- (b) Stakes marking areas of management within shellfish bottom leases or franchises, as approved in the management plan, must conform to Subparagraph (a)(3) ~~(a)(1)(C)~~ 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 or G.S. 113-202.2.
- (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 Paragraph (a) of this Rule, except the sign shall include the number of the ~~grant or deed franchise~~ 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 1H .0207 that ~~the a~~ G.S. 113-205 claim to ~~the a~~ marked area has been denied.
- (e) The Division has no duty to protect any shellfish bottom lease, or franchise, or water column lease 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 LEASE 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. Lease renewal applications will be provided to lessees as follows:~~

- (1) ~~For shellfish bottom leases, renewal applications will be provided in January of the year of expiration.~~
- (2) ~~For water column leases, renewal applications will be provided at least 90 days prior to expiration dates.~~

(b) ~~Each Lease renewal application applications shall be accompanied by a management plan that meets plans meeting the requirements of 15A NCAC 30 .0202 (b). (4) 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 A filing fee of fifty dollars (\$50.00) shall accompany each renewal application for shellfish bottom leases.~~

(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.~~

(c) ~~A survey for renewal leases will be required at the applicant's expense when the Division determines that the area leased to the renewal applicant is inconsistent with the survey on file.~~

(d) ~~(e) When the Secretary determines, it is determined, 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. shellfish bottom or water column lease.~~

(f) ~~The lessee may appeal the denial of the Secretary to renew a lease Secretary's decision to the Marine Fisheries Commission pursuant to G.S. 113-202(p).~~

(e) ~~(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 LEASE PROTEST

(a) Should any person 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. Protestants and applicants receiving an adverse recommendation on the lease application from the Secretary may request in writing within 20 days notice of such action an administrative hearing before the Marine Fisheries Commission.~~

~~(b) (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. Secretary.~~

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

.0207 PRODUCTION REPORTS

(a) ~~The owner owners of each shellfish lease or franchise must file with the Division an leases and franchises shall provide annual production report reports to the Division showing the amounts of material planted and harvested in connection with management for commercial production. Reporting forms will be provided to owners of shellfish bottom leases and recognized franchises by the Division during the period that annual notices of rent due are provided to lessees owners of shellfish bottom leases in accordance with G.S. 113-202(j). Reporting forms will be provided to owners of water column leases prior to each annual anniversary date.~~

(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 and franchises 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 at the following rate:

- (1) For shellfish bottom leases and franchises, 25 bushels per acre per year.
- (2) For water column leases, 100 bushels per acre per year.

These production and marketing rates will be averaged over the most recent three-year period after January 1 following the second anniversary of initial bottom leases and recognized franchises and throughout the terms of renewal leases. For water column leases, these production and marketing rates will be averaged over the first five year period for initial leases and over the most recent three year period thereafter.

(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 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.

(d) The Secretary's decision to terminate a lease may be appealed to the Marine Fisheries Commission by the owner as provided 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).

(b) If the new owner obtains a portion of an existing shellfish bottom 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 (e), (d).

(c) Water column leases are not transferrable except when the Commission approves such transfer in accordance with G.S. 113-202.1(f) and G.S. 113-202.2(f).

(d) ~~(e)~~ 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 is~~ governed by standards in Departmental Rules ~~15A NCAC 11 .0200 and .0300.~~ 15A NCAC 1G .0200 and .0300. For a claim that has been recognized as a valid shellfish franchise, following receipt of notification that a claim has a valid chain of title, the owner shall provide to the Division within 90 days

~~(4)~~ a survey prepared in accordance with the standards in 15A NCAC 30 .0203 (e), and (d).

~~(2)~~ A management plan prepared in accordance with the standards in 15A NCAC 30 .0202(d). Failure to provide the required survey within the time period specified will result in denial of the claim.

(b) Acceptable management plans, prepared in accordance with the standards in 15A NCAC 30 .0202(b), shall be provided to the Division within 30 days following formal recognition of a valid chain of title and at ten-year intervals following acceptance of a management plan submitted in accordance with Subparagraph (a)(2) of this Rule, thereafter.

(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)~~ (a)(2) 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
AND PETITIONS

.0003 PETITIONS FOR REGULATORY
ACTIVITY

(a) Any person(s) desiring to request the adoption, amendment, or repeal of a rule may make such request in a petition filed pursuant to G.S. 150B-16, addressed to the Marine Fisheries Commission, and mailed to the Division of Marine Fisheries. Such petitions shall contain the following information:

- (1) A draft of the proposed rule or a summary of its intent.
- (2) Reasons for adoption of the proposed rule(s) and affect on existing rules and practices.
- (3) Name and address of the petitioner(s).

(b) Petitions will be placed on the agenda for the next regularly scheduled Marine Fisheries Commission meeting if received at least four weeks prior to the meeting. The Fisheries Director will prepare recommended responses to petitions for the Commission's consideration. Petitions will be considered in accordance with the requirements of G.S. 150B-16.

Statutory Authority G.S. 113-134; 143B-289.6; 150B-16.

SUBCHAPTER 3Q - JURISDICTION OF
AGENCIES: CLASSIFICATION OF WATERS

SECTION .0100 - GENERAL REGULATIONS:
JOINT

.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~~, rules, the Marine Fisheries Commission and the Wildlife Resources Commission deem it necessary to adopt special ~~regulations~~ rules for joint waters. Such ~~regulations~~ rules supersede any inconsistent ~~regulations~~ rules 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 ~~46~~ 18 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.
- (d) It is unlawful to possess striped bass or striped bass hybrids in the joint waters of Albemarle, Currituck, Roanoke, and Croatan Sounds and their tributaries, excluding the Roanoke River, except during seasons as authorized by duly adopted rules of the Marine Fisheries Commission.
- (e) It is unlawful to possess striped bass or striped bass hybrids in the joint waters of the Roanoke River and its tributaries including Cashie, Middle and Eastmost Rivers, except during seasons as authorized by duly adopted rules of the Wildlife Resources 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.

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

.0108 MANAGEMENT PLANS FOR STRIPED
BASS IN JOINT WATERS

In order to effectively manage the recreational hook and line harvest in joint waters of the Albemarle-Roanoke stock of striped bass, the Marine Fisheries Commission and the Wildlife Resources Commission deem it necessary to establish two management areas for the joint waters of the Albemarle Sound and the Roanoke River, along with their defined tributaries. The Wildlife Resources Commission shall have principal management responsibility for the stock when it is in the joint and inland fishing waters of the Roanoke River and its tributaries including Cashie, Middle, and Eastmost Rivers. The Marine Fisheries Commission shall have principal management responsibility for the stock in the remaining waters of the Albemarle, Currituck, Roanoke and Croatan Sounds and their tributaries, including joint and inland waters. The annual quota for recreational harvest

of the Albemarle-Roanoke striped bass stock shall be divided equally between the two management areas. Each Commission shall develop a management plan for recreational harvest within their respective management areas. The management ~~plan plans~~ shall:

- (1) Be consistent with the guidelines established in the Atlantic States Marine Fisheries Commission Plan for Striped Bass.
- ~~(2) Allow for harvest throughout the year.~~
- (2) ~~(3)~~ Limit harvest to a one fish per person per day creel limit in areas for which no data collection program is ongoing.

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

.0109 IMPLEMENTATION OF STRIPED BASS MGMT PLANS: RECREATIONAL FISHING

The Marine Fisheries and Wildlife Resources Commissions shall implement their respective striped bass management plans for recreational fishing pursuant to their respective rule-making powers. To preserve jurisdictional authority of each Commission while establishing a means to implement their management plans, the Commissions find it necessary to create a means through which management measures can be implemented by a single instrument in each management area.

- (1) In the Roanoke River and tributaries, the exclusive authority to open and close sea-

sons and areas, whether inland or joint fishing waters ~~in the Roanoke River and its tributaries~~, shall be vested in the Wildlife Resources Commission. The Wildlife Resources Commission shall initiate action to close the management area when 90 percent of the assigned quota has been taken. An instrument closing any management area in joint waters shall operate as and shall be a jointly issued instrument opening or closing seasons or areas to harvest in the Roanoke River management area.

- (2) In the Albemarle Sound management area, the exclusive authority to open and close seasons and areas, whether coastal or joint fishing waters shall be vested in the Marine Fisheries Commission. The Marine Fisheries Commission shall initiate action to close the management area when 90 percent of the assigned quota has been taken. In the Albemarle Sound management area administered by the Marine Fisheries Commission, an instrument or action by the Marine Fisheries Commission affecting the harvest in joint and coastal waters, excluding the Roanoke River management area, shall automatically be implemented and effective as a Wildlife Resources Commission action in the inland waters and tributaries to the waters affected.

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

SECTION .0200 - BOUNDARY LINES: COASTAL-JOINT-INLAND FISHING WATERS

.0202 DESCRIPTIVE BOUNDARIES FOR COASTAL-JOINT-INLAND WATERS

Descriptive boundaries for Coastal-Joint-Inland Waters referenced in 15A NCAC 3Q .0201 are as follows:

(19) Onslow County:

Beasleys (Barlow) Creek-----	C
Kings Creek-----	C
Turkey Creek-----	C
Mill Creek-----	C
New River-----	Inland Waters above, Coastal Waters below US 17 bridge at Jacksonville
Wheeler Creek-----	C
Everett Creek-----	C
Stones Creek-----	C
Muddy Creek-----	C
<u>Mill Creek</u> -----	C
Lewis Creek-----	C
Southwest Creek-----	Inland Waters above, Coastal Waters below

PROPOSED RULES

	Maple Hill (Maple) Landing	
Brinson Creek -----		I
Northeast Creek -----	Inland Waters above, Coastal Waters below railroad bridge	
Wallace Creek -----	Inland Waters above, Coastal Waters below the first bridge upstream from the mouth	
Codells Creek -----		I
French Creek -----		I
Duck Creek -----		I
Freeman (Browns) Creek -----		C
Bear Creek -----		C
Queens Creek -----	Inland Waters above, Coastal Waters below Frazier's Landing	
Parrotts Swamp -----		C
White Oak River -----	Inland Waters above, Coastal Waters below Grants Creek	
Stevens Creek -----		C
Holland Mill (Mill Pond) Creek -----		C
Webbs Creek -----	Inland Waters above, Coastal Waters below railroad bridge	
Freemans Creek -----		I
Calebs Creek -----		I
Grant's Creek -----		I

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

SUBCHAPTER 3R - DESCRIPTIVE BOUNDARIES

.0001 SEA TURTLE SANCTUARY

The sea turtle sanctuary referenced in 15A NCAC 3I .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 bound-

ary 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 shoreward with the southwestern boundary of the restricted zone to a point off the mouth of Brown's Inlet 34° 35.6' N - 77° 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° 34.7' N - 77° 15.1' W, said point being about 1,200 feet 151° M from the northernmost observation tower on Onslow Beach; thence running southeast 151° M to a point 34° 34.3' N - 77° 14.7' W, said point being about 3/4 mile offshore; thence running south-

west to the New River Inlet Bell Buoy (BW "NR"); thence from said buoy to the southernmost tip of Onslow Beach 34° 31.9' N - 77° 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 3I .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)~~; (a); 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 3I .0010(d) is Rattan Bay southeast of a line beginning at a point 35° 02' 41" N - 76° 29' 00" W, running 027° (M) to a point 35° 03' 28" N - 76° 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

The primary nursery areas referenced in 15A NCAC 3N .0004 are delineated in the following coastal water areas:

- (1) In the Roanoke Sound Area.
 - (a) Shallowbag Bay:
 - (i) Dough Creek, northwest of a line beginning at a point on the east shore 35° 54' 28" N -- 75° 40' 00" W; running 242° (M) to a point on the west shore 35° 54' 19" N -- 75° 40' 09" W;
 - (ii) Scarborough Creek, all waters south of a line beginning at a point on the east shore 35° 54' 00" N -- 75° 39' 33" W; running 246° (M) to a point on the west shore 35° 53' 59" N -- 75° 39' 36" W.
 - (b) 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.

- (2) In the Northern Pamlico Sound Area.
 - (a) Long Shoal River:
 - (i) 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;
 - (ii) 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;
 - (iii) 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;
 - (iv) 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;
 - (v) 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;
 - (vi) 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;
 - (vii) 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;
 - (b) 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;
 - (c) 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;
 - (d) Wysocking Bay:
 - (i) 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;
 - (ii) 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;
 - (iii) 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;
 - (iv) 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;
 - (e) 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;
 - (f) Cuning 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;
 - (g) Juniper Bay:
 - (i) 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;
 - (ii) 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;
 - (iii) 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;
 - (iv) 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;
 - (v) 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;
 - (h) Swanquarter Bay:
 - (i) 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;
 - (ii) Oyster Creek, east of a line beginning at a point on the north shore 35° 23' 06"

- N -- 76° 18' 58" W; running 187° (M) to a point on the south shore 35° 22' 00" N -- 76° 18' 58" W;
- (iii) Caffee Bay:
- (A) Unnamed tributary, north of a line beginning at a point on the west shore 35° 22' 09" N - 76° 18' 52" W; running 111° (M) to a point on the east shore 35° 22' 06" N - 76° 18' 45" W;
- (B) Unnamed tributary, north of a line beginning at a point on the east shore 35° 22' 05" N - 76° 18' 12" W; running 288° (M) to a point on the west shore 35° 22' 09" N - 76° 18' 28" W;
- (C) Upper Caffee Bay (Haulover), east of a line beginning at a point on the south shore 35° 21' 43" N - 76° 17' 25" W; running 330° (M) to a point on the north shore 35° 21' 52" N - 76° 17' 26" W.
- (i) Rose Bay:
- (i) Rose Bay, north of a line beginning at a point on Watch Point 35° 26' 52" N -- 76° 25' 02" W; running 272° (M) to Channel Marker No. 6; thence 248° (M) to a point on the west shore 35° 26' 40" N -- 76° 25' 30" W;
- (ii) Island Point Creek, west of a line beginning at a point on the north shore 35° 25' 59" N - 76° 25' 06" W; running 154° (M) to a point on the south shore 35° 25' 54" N - 76° 25' 00" W;
- (iii) Tooley Creek, west of a line beginning on the north shore 35° 25' 26" N -- 76° 25' 30" W; running 187° (M) to a point on the south shore 35° 25' 09" N -- 76° 25' 30" W;
- (iv) Broad Creek, east of a line beginning at a point on the south shore 35° 23' 54" N - 76° 23' 34" W; running 023° (M) to a point 35° 24' 15" N - 76° 26' 10" W; thence 080° (M) to a point 35° 24' 18" N - 76° 25' 57" W;
- (v) Lightwood Snag Bay, west and north of a line beginning at a point on the south shore 35° 23' 54" N - 76° 26' 18" W running 023° (M) to a point 35° 24' 15" N - 76° 26' 10" W; thence 080° (M) to a point 35° 24' 18" N - 76° 25' 57" W;
- (vi) Deep Bay:
- (A) Old Haulover, north of a line beginning at a point on the west shore 35° 23' 09" N - 76° 22' 52" W; running 101° (M) to a point on the east shore 35° 23' 09" N - 76° 22' 46" W;
- (B) Drum Cove (Stinking Creek), south of a line beginning at a point on the west shore 35° 22' 32" N - 76° 24' 44" W; running 122° (M) to a point on the east shore 35° 22' 26" N - 76° 24' 28" W;
- (vii) Eastern tributaries (Cedar Hammock and Long Creek), east of a line beginning at a point on the north shore 35° 24' 53" N - 76° 23' 12" W; running 206° (M) to a point on the south shore 35° 24' 39" N - 76° 23' 18" W;
- (j) Spencer Bay:
- (i) Germantown Bay:
- (A) Ditch Creek, west of a line beginning at a point on the north shore 35° 24' 11" N -- 76° 27' 54" W; running 224° (M) to a point on the south shore 35° 24' 05" N -- 76° 27' 59" W;
- (B) Jenette Creek, west of a line beginning at a point on the north shore 35° 24' 30" N - 76° 27' 40" W; running 204° (M) to a point on the south shore 35° 24' 25" N - 76° 27' 40" W;
- (C) Headwaters at northeast of a line beginning at a point on the northwest shore 35° 24' 50" N - 76° 27' 16" W; running 158° (M) to a point on the southeast shore 35° 24' 30" N - 76° 27' 11" W;
- (D) Swan Creek, southeast of a line beginning at a point on the north shore 35° 24' 30" N - 76° 27' 11" W; running 234° (M) to a point on the south shore 35° 24' 24" N - 76° 27' 17" W;
- (ii) Unnamed western tributary, west of a line beginning at a point on the south shore 35° 22' 48" N -- 76° 28' 19" W; running 356° (M) to a point on the north shore 35° 22' 59" N -- 76° 28' 21" W;
- (iii) Unnamed tributary, west of a line beginning on the south shore 35° 23' 04" N - 76° 28' 36" W; running 016° (M) to a point on the north shore 35° 23' 08" N - 76° 28' 35" W;
- (iv) Unnamed tributary, west of a line beginning at a point on the south shore 35° 23' 21" N - 76° 28' 37" W; running 306° (M) to a point on the north shore 35° 23' 25" N - 76° 28' 46" W;
- (v) Unnamed tributaries, northwest of a line beginning at a point on the north shore 35° 23' 45" N - 76° 28' 38" W; running 231° (M) to a point on the south shore 35° 23' 30" N - 76° 28' 48" W;
- (vi) 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;

- (vii) 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;
- (k) 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;
- (l) 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;
- (m) 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;
- (n) 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.
- (3) In the Pungo River Area.
 - (a) Fortescue Creek:
 - (i) Headwaters of Fortescue Creek, southeast 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;
 - (ii) 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;
 - (iii) 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;
 - (iv) 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;
 - (v) 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;
 - (vi) 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;
 - (b) Slade Creek:
 - (i) 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;
 - (ii) 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;
 - (iii) 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;
 - (iv) 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;
 - (v) 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;
 - (vi) 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;
 - (vii) 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;
 - (viii) 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;
 - (ix) 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;
 - (x) Allison and Foeman Creek, south of a line beginning at a point on Parmalee Point 35° 27' 15" N -- 76° 33' 07" W; running 286° (M) to a point on the southwest shore 35° 27' 18" N -- 76° 33' 12" W;
 - (c) Flax Pond, west of a line beginning at a point on the south shore 35° 31' 52" N - 76° 33' 15" W; running 009° (M) to a

- point on the north shore 35° 31' 56" N - 76° 33' 15" W;
- (d) Battalina and Tooleys Creeks, northwest of a line beginning at a point on the north shore 35° 32' 21" N - 76° 36' 12" W; running 226° (M) to a point on the south shore 35° 32' 02" N - 76° 36' 24" W;
- (4) In the Pamlico River Area.
- (a) North Creek:
- (i) North Creek, north of a line beginning at a point on the west shore 35° 25' 35" N -- 76° 40' 06" W; running 048° (M) to a point on the east shore 35° 25' 40" N -- 76° 40' 01" W;
- (ii) East Fork:
- (A) Northeast of a line beginning at a point on the northwest shore 35° 25' 48" N -- 76° 39' 04" W; running 144° (M) to a point on the southeast shore 35° 25' 43" N -- 76° 39' 00" W;
- (B) Unnamed tributary of East Fork northwest of a line beginning at a point on the north shore 35° 25' 41" N - 76° 39' 28" W; running 215° (M) to a point on the south shore 35° 25' 37" N - 76° 39' 30" W;
- (iii) Frying Pan Creek, east of a line beginning at a point on Chambers Point 35° 24' 51" N -- 76° 39' 48" W; running 051° (M) to a point on the north shore 35° 25' 00" N -- 76° 39' 33" W;
- (iv) Little East Creek, west of a line beginning at a point on Cousin Point 35° 25' 00" N -- 76° 40' 26" W; running 028° (M) to a point on the north shore 35° 25' 08" N -- 76° 40' 22" W;
- (b) Goose Creek:
- (i) Creek north of Bostic Point, west of a line beginning at a point on the north shore 35° 19' 57" N -- 76° 37' 37" W; running 179° (M) to a point on the south shore 35° 19' 54" N -- 76° 37' 34" W;
- (ii) Upper Spring Creek:
- (A) Headwaters of Upper Spring Creek, east of a line beginning at a point on the north shore 35° 16' 20" N - 76° 35' 56" W; running 139° (M) to a point on the south shore 35° 16' 14" N - 76° 35' 48" W;
- (B) Unnamed tributary, north of a line beginning at a point on the west shore 35° 16' 50" N -- 76° 36' 27" W; running 099° (M) to a point on the east shore 35° 16' 50" N -- 76° 36' 24" W;
- (iii) Eastham Creek:
- (A) Slade Landing Creek, south of a line beginning at a point on the west shore 35° 17' 32" N -- 76° 35' 59" W; running 139° (M) to a point on the east shore 35° 17' 29" N -- 76° 35' 54" W;
- (B) Mallard Creek, north of a line beginning at a point on the west shore 35° 17' 49" N -- 76° 36' 09" W; running 122° (M) to a point on the east shore 35° 17' 47" N -- 76° 36' 04" W;
- (iv) Mud Gut, north and east of a line beginning at a point on the south shore 35° 17' 48" N -- 76° 36' 46" W; running 349° (M) to a point on the north shore 35° 17' 52" N -- 76° 36' 48" W;
- (v) Wilkerson Creek, east of a line beginning at a point on the south shore 35° 18' 20" N -- 76° 36' 44" W; running 025° (M) to a point on the north shore 35° 18' 23" N -- 76° 36' 45" W;
- (vi) Dixon Creek, east of a line beginning at a point on the north shore 35° 18' 53" N -- 76° 36' 37" W; running 205° (M) to a point on the south shore 35° 18' 37" N -- 76° 36' 42" W;
- (c) Oyster Creek; Middle Prong:
- (i) Oyster Creek:
- (A) West of a line beginning at a point on the north shore 35° 19' 29" N -- 76° 34' 02" W; running 166° (M) to a point on the south shore 35° 19' 25" N -- 76° 34' 00" W;
- (B) Duck Creek, south of a line beginning at a point on the west shore 35° 19' 06" N -- 76° 33' 18" W; running 055° (M) to a point on the east shore 35° 19' 10" N -- 76° 33' 12" W;
- (ii) James Creek, southwest of a line beginning at a point on the north shore 35° 18' 36" N -- 76° 32' 20" W; running 136° (M) to a point on the southeast shore 35° 18' 28" N -- 76° 32' 05" W;
- (iii) Middle Prong, south of a line beginning at a point on the west shore 35° 17' 50" N -- 76° 32' 06" W; running 141° (M) to a point on the east shore 35° 17' 43" N -- 76° 31' 57" W;
- (iv) Clark Creek:
- (A) Headwaters of 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;
- (B) Boat Creek, east of a line beginning at a point on 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;
- (v) 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.
- (5) In the Western Pamlico Sound Area.
- (a) Mouse Harbor:
- (i) 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;
 - (ii) 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;
 - (iii) 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;
- (b) 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;
- (c) 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;
- (d) Jones Bay, west of the IWW:
- (i) 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;
 - (ii) 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;
 - (iii) 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;
 - (iv) 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;
- (v) 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;
- (vi) 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;
- (vii) 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.
- (6) In the Bay River Area:
- (a) 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;
 - (b) 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;
 - (c) 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;
 - (d) 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;
 - (e) Bonner Bay:
 - (i) 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;
 - (ii) 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;
 - (iii) 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;
 - (iv) 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;
- (v) 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;
- (vi) 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;
- (f) 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;
- (g) 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;
- (h) 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;
- (i) 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;
- (j) 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;
- (k) 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;
- (l) 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;
- (m) All small tributaries to Bay River from Petty Point to Sanders Point, closed at mouth;
- (n) In Vandemere Creek:
- (i) 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;
- (ii) 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;
- (iii) 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;
- (o) 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;
- (p) 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;
- (q) 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;
- (r) 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.
- (7) In the Neuse River Area North Shore.
- (a) 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;
- (b) Broad Creek:
- (i) 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;
- (ii) 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;
- (iii) Burton Creek, west of a line beginning at a point on the south shore 35° 05' 37" N -- 76° 36' 32" W; running 034° (M) to a point on the north shore 35° 05' 43" N -- 76° 36' 30" W;
- (iv) 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° 05' 38" N -- 76° 37'

- 49° W; running 109° (M) to a point on the east shore of the eastern most tributary 35° 05' 27" N -- 76° 36' 47" W;
- (v) Brown Creek, northwest of a line beginning at a point on the southwest shore 35° 05' 30" N -- 76° 37' 51" W; running 032° (M) to a point on the northeast shore 35° 05' 37" N -- 76° 37' 48" W;
- (vi) Broad Creek including Gideon Creek, west of a line beginning at a point on the south shore 35° 05' 18" N -- 76° 37' 49" W; running 013° (M) to a point on the north shore 35° 05' 30" N -- 76° 37' 51" W;
- (vii) Tar Creek, south of a line beginning at a point on the west shore 35° 05' 15" N -- 76° 37' 36" W; running 097° (M) to a point on the east shore 35° 05' 15" N -- 76° 37' 30" W;
- (viii) Small tributaries east of Tar Creek, south of a line beginning at a point on the west shore of the western tributary 35° 05' 18" N -- 76° 37' 03" W; running 106° (M) to a point on the east shore of the eastern tributary 35° 05' 14" N -- 76° 36' 27" W;
- (ix) Mill Creek and Cedar Creek, south of a line beginning at a point on the west shore of Mill Creek 35° 05' 26" N -- 76° 36' 02" W; running 109° (M) to a point on the east shore of the eastern tributary 35° 05' 22" N -- 76° 35' 36" W;
- (c) Orchard Creek north of a line beginning at a point on the west shore 35° 03' 21" N -- 76° 38' 26" W; running 061° (M) to a point on the east shore 35° 03' 37" N -- 76° 37' 58" W;
- (d) Pierce Creek, north of a line beginning at a point on the west shore 35° 02' 29" N -- 76° 40' 07" W; running 083° (M) to a point on the east shore 35° 02' 31" N -- 76° 40' 01" W;
- (e) Whittaker Creek, north of a line beginning at a point on the west shore 35° 01' 37" N -- 76° 41' 12" W; running 095° (M) to a point on the east shore 35° 01' 37" N -- 76° 40' 58" W;
- (f) Oriental:
- (i) Smith and Morris Creek, north of a line beginning at a point on the west shore 35° 02' 15" N -- 76° 42' 19" W; running 096° (M) to a point on the east shore 35° 02' 16" N -- 76° 42' 12" W;
- (ii) Tributary off Smith Creek west, west of a line beginning at a point on the north shore 35° 02' 10" N -- 76° 42' 19" W; running 186° (M) to a point on the south shore 35° 02' 08" N -- 76° 42' 19" W;
- (iii) Tributary off Smith Creek, east, east of a line beginning at a point on the south shore 35° 02' 06" N -- 76° 42' 12" W; running 026° (M) to a point on the north shore 35° 02' 08" N -- 76° 42' 11" W;
- (iv) Creek west of Dewey Point, north of a line beginning at a point on the west shore 35° 01' 34" N -- 76° 42' 35" W; running 049° (M) to a point on the west shore 35° 01' 36" N -- 76° 42' 32" W;
- (v) 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° 01' 24" N -- 76° 42' 49" W; running 110° (M) to a point on the east shore of the eastern creek 35° 01' 19" N -- 76° 42' 27" W;
- (vi) Greens Creek, west of a line beginning at a point on the north shore 35° 01' 34" N -- 76° 43' 02" W; running 154° (M) to a point on the south shore 35° 01' 28" N -- 76° 42' 57" W;
- (vii) Kershaw Creek, north of a line beginning at a point on the west shore 35° 01' 34" N -- 76° 43' 02" W; running 070° (M) to a point on the east shore 35° 01' 38" N -- 76° 42' 53" W;
- (viii) Windmill Point, southwest of a line beginning at a point on the northwest shore 35° 01' 11" N -- 76° 42' 18" W; running 130° (M) to a point on the southeast shore 35° 01' 09" N -- 76° 42' 14" W.
- (g) Dawson Creek:
- (i) Unnamed eastern tributary of Dawson Creek, east of a line beginning at a point on the north shore 35° 00' 12" N - 76° 45' 19" W; running 155° (M) to a point on the south shore 35° 00' 07" N - 76° 45' 15" W;
- (ii) Unnamed tributary of Dawson Creek (at mouth), south of a line beginning at a point on the east shore 34° 59' 39" N - 76° 45' 09" W; running 256° (M) to a point on the south shore 34° 59' 38" N - 76° 45' 14" W;
- (h) Beard Creek tributary, southeast of a line beginning at a point on the north shore 35° 00' 17" N - 76° 51' 55" W; running 214° (M) to a point on the southwest shore 35° 00' 12" N - 76° 51' 58" W.
- (8) In the Neuse River Area South Shore:
- (a) 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;

- (i) 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;
- (ii) 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;
- (b) Adams Creek:
 - (i) 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;
 - (ii) 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;
 - (iii) 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;
 - (iv) 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;
 - (v) 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;
 - (vi) 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;
 - (vii) 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;
 - (viii) 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;
 - (ix) Dumpling 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;
 - (x) 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;
 - (c) 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;
 - (d) South River:
 - (i) 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;
 - (ii) 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;
 - (e) 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;
 - (f) Turnagain Bay:
 - (i) 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;
 - (ii) 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;
 - (iii) 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;
 - (iv) 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;
 - (v) 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.
 - (9) West Bay; Long Bay Area:
 - (a) 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;
- (b) 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.
- (10) Core Sound Area:
- (a) 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;
- (b) 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;
- (c) Thorofare Bay:
- (i) 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;
- (ii) 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;
- (d) Nelson Bay:
- (i) 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;
- (ii) 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;
- (e) 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;
- (f) Oyster Creek, northwest of the Highway 70 bridge;
- (g) Jarretts Bay Area:
- (i) Smyrna Creek, northwest of the Highway 70 bridge;
- (ii) 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;
- (iii) 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;
- (iv) 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;
- (v) 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;
- (vi) Williston Creek, northwest of the Highway 70 bridge;
- (vii) 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;
- (viii) 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;
- (ix) 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;
- (x) 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;
- (xi) 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.
- (11) Straits, North River, Newport River Area.
- (a) Straits:
- (i) 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;
- (ii) Whitehurst Creek, north of a line from a point on the west shore 34° 43' 28" N -- 76° 33' 22" W; running 072° (M) to a point on the east shore 34° 43' 33" N -- 76° 33' 13" W;
- (b) North River, north of Highway 70 bridge;

- (i) Ward Creek, north of Highway 70 bridge:
 - (A) 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;
 - (B) 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;
- (ii) 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;
- (c) 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;
- (i) 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;
- (ii) 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;
- (iii) 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;
- (iv) 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;
- (v) 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;
- (vi) 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;
- (vii) 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;
- (viii) 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.
- (12) Bogue Sound; Bogue Inlet Area:
 - (a) Gales Creek, above the Highway 24 bridge;
 - (b) Broad Creek, above the Highway 24 bridge;
 - (c) 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;
 - (d) 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;
 - (e) 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;
 - (i) 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.
 - (ii) 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.
 - (f) 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;
 - (g) Queen's Creek, north of country road number 1509 bridge:
 - (i) 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;
 - (ii) 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;
 - (iii) 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;
- (h) Bear Creek, west of Willis Landing.
- (13) New River Area:
- (a) 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;
- (b) 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;
- (c) New River:
- (i) 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;
- (ii) Courthouse Bay:
- (A) 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;
- (B) 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;
- (C) 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;
- (iii) 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;
- (iv) 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;
- (v) Snead'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;
- (vi) Everette 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;
- (vii) 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;
- (viii) 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;
- (ix) 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;
- (x) 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;
- (xi) 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;
- (xii) 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;
- (xiii) 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;
- (xiv) 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;
- (xv) 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;
- (d) Chadwick Bay, all waters between a line beginning at a point on Roses Point $34^{\circ} 32' 12''$ N -- $77^{\circ} 22' 19''$ W; running 075° (M) to Marker No. 6 and the IWW:
- (i) Fullard Creek (including Charles Creek), northwest of a line beginning at a point on the south shore $34^{\circ} 32' 03''$ N -- 77°

- 22' 41" W; running 326° (M) to a point on the north shore 34° 32' 12" N -- 77° 22' 50" W;
- (ii) 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.
- (14) 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.
- (15) Topsail Sound Area:
- (a) 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;
- (b) 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;
- (c) 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;
- (d) 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' 48" W.
- (16) Middle Sound Area:
- (a) 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.];
- (b) 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 Baldeagle Point 34° 18' 09" N -- 77° 44' 22" W;
- (c) 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;
- (d) 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.
- (17) Greenville Sound Area:
- (a) 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;
- (b) 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;
- (c) Bradley Creek, west of Highway 17, 74 and 76 bridge;
- (d) 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.
- (18) Masonboro Sound Area:
- (a) 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° 12' 23" N --

- 77° 49' 14" W; to Beacon No. 161 34° 03' 32" N -- 77° 53' 22" W;
- (b) 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° 11' 06" N - 77° 48' 51" W; running 301° (M) to a point near IWW Marker No. 129 34° 11' 22" N - 77° 49' 36" W; thence running along the east side of the IWW to Marker No. 161 34° 03' 32" N - 77° 53' 22" W; (with the exception of Old Masonboro Channel and Carolina Beach Inlet Channel).
- (19) Cape Fear River Area:
- (a) Cape Fear River, all waters north of a line beginning at a point on the east shore 34° 10' 25" N -- 77° 57' 03" W; running 275° (M) through Beacon No. 53 to a point on the west shore 34° 10' 25" N -- 77° 57' 46" W with the exception of the maintained channel, and all waters north of a line beginning at a point on the east shore 34° 04' 38" N -- 77° 55' 28" W; running 275° (M) through Beacon No. 37 to a point on the west shore 34° 04' 38" N -- 77° 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);
- (b) The Basin (Ft. Fisher area), east of a line beginning at a point on the north shore 33° 57' 17" N -- 77° 56' 08" W; running 156° (M) to a point on the south shore 33° 57' 04" N -- 77° 56' 07" W;
- (c) Walden Creek, northwest of county road No. 1528 bridge;
- (d) Baldhead Island Creeks:
- (i) Baldhead Creek, southeast of a line beginning at a point on the south shore 33° 51' 42" N -- 77° 59' 10" W; running 070° (M) to a point on the north shore 33° 52' 07" N -- 77° 59' 06" W;
- (ii) Cape Creek, southeast of a line beginning at a point on the south shore 33° 51' 39" N -- 77° 58' 28" W; running 026° (M) to a point on the north shore 33° 52' 05" N -- 77° 58' 23" W;
- (iii) Bluff Island Creek (East Beach Creek), south of a line beginning at a point on the west shore 33° 52' 39" N -- 77° 58' 11" W; running 092° (M) to a point on the east shore 33° 52' 40" N -- 77° 58' 07" W;
- (iv) Deep Creek, south of a line from a point on the southwest shore 33° 52' 42" N -- 77° 58' 05" W; running 046° (M) to a point on the northeast shore 33° 52' 46" N -- 77° 58' 01" W;
- (e) Dutchman Creek, north of a line beginning at a point on the east shore 33° 55' 07" N -- 78° 02' 39" W; running 294° (M) to a point on the west shore 33° 55' 08" N -- 78° 02' 44" W;
- (f) Denis Creek, west of a line beginning at a point on the south shore 33° 55' 00" N -- 78° 03' 32" W; running 006° (M) to a point on the north shore 33° 55' 02" N -- 78° 03' 32" W;
- (g) Piney Point Creek, west of a line beginning at a point on the south shore 33° 54' 32" N -- 78° 03' 32" W; running 007° (M) to a point on the north shore 33° 54' 37" N -- 78° 03' 31" W;
- (h) 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;
- (i) Oak Island area, all waters north and south of the IWW from Marker No. 9 33° 55' 12" N -- 78° 03' 49" W; to Beacon No. 18 33° 55' 45" N -- 78° 10' 17" W.
- (20) Lockwoods Folly Inlet Area:
- (a) Davis Creek and Davis Canal, east of a line beginning at a point on the north shore 33° 55' 13" N -- 78° 10' 43" W; running 198° (M) to a point on the south shore 33° 54' 59" N -- 78° 10' 43" W;
- (b) Lockwoods Folly River, north of a line beginning at a point on the east shore 33° 56' 35" N -- 78° 12' 47" W; running 268° (M) to a point on the west shore 33° 56' 34" N -- 78° 13' 24" W;
- Spring Creek (Galloway Flats area), all waters northwest of a line beginning at a point on the south shore 33° 55' 31" N -- 78° 13' 48" W; running 040° (M) to a point on the north shore 33° 55' 41" N -- 78° 13' 42" W.
- (21) Shallotte Inlet Area:
- (a) Shallotte River, north of a line beginning at a point on Bill Holden's Landing 33° 55' 52" N -- 78° 22' 07" W; running 024° (M) to a point on Gibbins Point 33° 56' 20" N -- 78° 21' 54" W;
- (b) Shallotte River, excluding Gibbs Creek, north of a line beginning at Long Point 33° 54' 20" N - 78° 21' 42" W; running 312° (M) to a point on Sage Island 33° 54' 37" N - 78° 22' 06" W; east of a line beginning at Sage Island running 026° (M) to a point 33° 55' 06" N - 78° 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.
- (c) 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;
 - (d) 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;
 - (e) 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.
- (22) Little River Inlet Area:
- (a) 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;
 - (b) Eastern Channel Area:
 - (i) 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;
 - (ii) 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;
 - (iii) 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;
 - (iv) 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;
 - (v) 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;
 - (vi) Horseford 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;
 - (vii) 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;
 - (viii) 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;
 - (c) The Big Narrows Area:
 - (i) 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;
 - (ii) 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;
 - (iii) 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;
 - (d) 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;
 - (e) Calabash River, east of state road No. 1164 bridge.

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

.0007 DESIGNATED POT AREAS

(a) As referenced in 15A NCAC 3J .0301 (a)(2)(A), 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 de-

scribed 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 $35^{\circ} 25' 05''$ N - $76^{\circ} 02' 05''$ W running 239° (M) 1000 yards to a point $35^{\circ} 24' 46''$ N - $76^{\circ} 02' 32''$ W; thence 336° (M) 2200 yards to a point $35^{\circ} 25' 42''$ N - $76^{\circ} 03' 16''$ W; thence 062° (M) 750 yards to a point on shore $35^{\circ} 25' 54''$ N - $76^{\circ} 02' 54''$ 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 $35^{\circ} 23' 07''$ N - $76^{\circ} 04' 12''$ W running 083° (M) 1200 yards to a point $35^{\circ} 23' 17''$ N - $76^{\circ} 03' 32''$ W; thence 023° (M) 2400 yards to a point $35^{\circ} 24' 27''$ N - $76^{\circ} 03' 12''$ W; thence 299° (M) 1100 yards to a point on shore $35^{\circ} 24' 38''$ N - $76^{\circ} 04' 48''$ 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 $35^{\circ} 20' 18''$ N - $76^{\circ} 13' 22''$ W running 275° (M) 2300 yards to a point $35^{\circ} 20' 15''$ N - $76^{\circ} 14' 45''$ W; thence 007° (M) 2100 yards to Daymarker No. 3; thence 040° (M) 1100 yards to a point on shore $35^{\circ} 21' 45''$ N - $76^{\circ} 14' 24''$ 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 $35^{\circ} 21' 57''$ N - $76^{\circ} 17' 44''$ W; running 191° (M) 800 yards to a point on the south shore $35^{\circ} 21' 35''$ N - $76^{\circ} 17' 45''$ W; thence following the shoreline to a point on shore $35^{\circ} 21' 37''$ N - $76^{\circ} 18' 22''$ W; thence running 247° (M) 1300 yards to a point $35^{\circ} 21' 17''$ N - $76^{\circ} 19' 03''$ W; thence 340° (M) 1350 yards to a point $35^{\circ} 21' 51''$ N - $76^{\circ} 19' 27''$ W; thence 081° (M) 1150 yards to a point on the north shore $35^{\circ} 22' 02''$ N - $76^{\circ} 18' 48''$ 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 $35^{\circ} 20' 33''$ N - $76^{\circ} 22' 57''$ W; running 021° (M) 1800 yards to a point on the north shore $35^{\circ} 21' 55''$ N - $76^{\circ} 22' 43''$ W and west of a

line beginning at a point on the south shore $35^{\circ} 20' 44''$ N - $76^{\circ} 22' 05''$ W running 003° (M) 1400 yards to a point on the north shore $35^{\circ} 21' 26''$ N - $76^{\circ} 22' 11''$ 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 $35^{\circ} 20' 12''$ N - $76^{\circ} 24' 18''$ W; thence 206° (M) 3250 yards to a point $35^{\circ} 18' 40''$ N - $76^{\circ} 24' 54''$ W; thence 128° (M) 2000 yards to a point $35^{\circ} 18' 11''$ N - $76^{\circ} 23' 51''$ 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 $35^{\circ} 23' 20''$ N - $76^{\circ} 26' 59''$ W running 190° (M) 1900 yards to a point $35^{\circ} 22' 23''$ N - $76^{\circ} 27' 00''$ W; thence 097° (M) 900 yards to Beacon No. 2; thence 127° (M) 1600 yards to a point $35^{\circ} 21' 55''$ N - $76^{\circ} 25' 43''$ W; thence following the shoreline to a point $35^{\circ} 22' 30''$ N - $76^{\circ} 25' 14''$ W; thence 322° (M) 2200 yards to a point $35^{\circ} 23' 17''$ N - $76^{\circ} 26' 10''$ W; thence following the shoreline to a point $35^{\circ} 23' 19''$ N - $76^{\circ} 26' 24''$ W; thence 335° (M) 900 yards to a point $35^{\circ} 23' 40''$ N - $76^{\circ} 26' 43''$ W; thence 050° (M) 500 yards to a point $35^{\circ} 23' 30''$ N - $76^{\circ} 26' 58''$ W; thence following the shoreline to the beginning point.
- (A) (g) In Rose Bay bound by a line beginning at a point southwest of Swan Point $35^{\circ} 23' 56''$ N - $76^{\circ} 23' 39''$ W running 288° (M) 1500 yards to a point on shore $35^{\circ} 24' 03''$ N - $76^{\circ} 24' 33''$ W; thence 162° (M) 1650 yards to a point $35^{\circ} 23' 19''$ N - $76^{\circ} 24' 04''$ W; thence 084° (M) 1350 yards to a point on shore $35^{\circ} 23' 29''$ N - $76^{\circ} 23' 17''$ W; thence following the shoreline to the beginning point.
- (B) (h) In Spencer Bay bound by a line beginning at a point on shore at Willow Point $35^{\circ} 22' 26''$ N - $76^{\circ} 28' 00''$ W running 059° (M) 1700 yards to a point $35^{\circ} 22' 57''$ N - $76^{\circ} 27' 13''$ W; thence 317° (M) 1500 yards to a point $35^{\circ} 23' 25''$ N - $76^{\circ} 27' 57''$ W; thence 243° (M) 1300 yards to a point on shore $35^{\circ} 23' 02''$ N - $76^{\circ} 28' 35''$ W; thence following the shoreline to the beginning point.
- (i) In Big Porpoise Bay bound by a line beginning at a point on shore $35^{\circ} 15' 58''$ N - $76^{\circ} 29' 10''$ W running 182° (M) 750 yards to Sage Point $35^{\circ} 15' 36''$ N - $76^{\circ} 29' 06''$ W; thence 116° (M) 850 yards to

a point $35^{\circ} 15' 28''$ N - $76^{\circ} 28' 36''$ W; thence 023° (M) 700 yards to a point on shore $35^{\circ} 15' 48''$ N - $76^{\circ} 28' 30''$ W; thence following the shoreline to the beginning point.

- (j) In that area north of the target ship beginning at a point $35^{\circ} 14' 25''$ N - $76^{\circ} 27' 05''$ W; running 071° (M) 2000 yards to a point $35^{\circ} 14' 52''$ N - $76^{\circ} 26' 00''$ W; thence 168° (M) 1800 yards to a point $35^{\circ} 14' 03''$ N - $76^{\circ} 25' 30''$ W; thence 273° (M) 2000 yards to a point $35^{\circ} 13' 57''$ N - $76^{\circ} 26' 55''$ W; thence 350° (M) 1000 yards to the beginning point.

(C) (k) In Middle Bay-Jones Bay area bound by a line beginning at Middle Bay Point $35^{\circ} 14' 49''$ N - $76^{\circ} 28' 41''$ W running 131° (M) 3550 yards to a point $35^{\circ} 13' 51''$ N - $76^{\circ} 26' 53''$ W; thence 214° (M) 2600 yards to a point $35^{\circ} 12' 43''$ N - $76^{\circ} 27' 34''$ W; thence 291° (M) 2700 yards to Sow Island; thence 181° (M) 2350 yards to a point $35^{\circ} 11' 51''$ N - $76^{\circ} 28' 57''$ 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 $35^{\circ} 13' 09''$ N - $76^{\circ} 29' 28''$ W; thence following the shoreline of Middle Bay to Big Fishing Point $35^{\circ} 14' 02''$ N - $76^{\circ} 29' 52''$ W; thence 008° (M) 1100 yards to a point on the north shore $35^{\circ} 14' 33''$ N - $76^{\circ} 29' 52''$ W; thence following the shoreline to a point $35^{\circ} 14' 46''$ N - $76^{\circ} 29' 14''$ W; thence no more than 75 yards from the shoreline to the beginning point.

(D) (h) In Jones Bay bound by a line beginning at a point on Sow Island Point $35^{\circ} 13' 09''$ N - $76^{\circ} 29' 28''$ W running 204° (M) 2600 yards to Green Flasher No. 5; thence 322° (M) 2450 yards to a point $35^{\circ} 12' 48''$ N - $76^{\circ} 30' 58''$ W; thence 217° (M) 1200 yards to a point on shore $35^{\circ} 12' 20''$ N - $76^{\circ} 31' 16''$ W; thence following the shoreline to a point $35^{\circ} 12' 52'' 36''$ N - $76^{\circ} 31' 32' 45'' 01''$ W; thence 231° (M) 600 yards to a point $35^{\circ} 12' 52''$ N - $76^{\circ} 31' 45''$ W; thence parallel with the shoreline no more than 600 yards from shore to a point $35^{\circ} 13' 11''$ N - $76^{\circ} 32' 07''$ W; thence 038° (M) to a point 600 yards from the north shore $35^{\circ} 13' 39''$ N - $76^{\circ} 31' 54''$ W; thence parallel with the shoreline no more than 600 yards from shore to a point $35^{\circ} 13' 09''$ N - $76^{\circ} 30' 48''$ W; thence 009° (M) 600 yards to a point on shore $35^{\circ} 13' 26''$ N - $76^{\circ} 30' 47''$

W; thence following the shoreline to the beginning point.

(E) (m) In an area bound by a line beginning at Boar Point $35^{\circ} 12' 07''$ N - $76^{\circ} 31' 04''$ W running 106° (M) 2000 yards to Green Flasher No. 5; thence 200° (M) 2200 yards to a point $35^{\circ} 10' 56''$ N - $76^{\circ} 30' 10''$ W; thence 282° (M) 2350 yards to Bay Point $35^{\circ} 11' 02''$ N - $76^{\circ} 31' 35''$ W; thence following the shoreline to the beginning point.

(F) (n) In an area at the mouth of Bay River bound by a line beginning at a point on Maw Point $35^{\circ} 08' 55''$ N - $76^{\circ} 32' 10''$ W running 020° (M) 1600 yards to Daymarker 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.

(G) (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 $35^{\circ} 12' 30''$ N - longitude $76^{\circ} 26' 30''$ W.

- (5) In Pamlico River west of a line from a point on Pamlico Point $35^{\circ} 18' 42''$ N - $76^{\circ} 28' 58''$ W running 009° (M) through Daymarker No. 1 and Willow Point Shoal Beacon to a point on Willow Point $35^{\circ} 22' 23''$ N - $76^{\circ} 28' 48''$ W pots may be used in the following areas:

(A) (a) In that area bound by a line beginning at a point on the line from Pamlico Point to Willow Point $35^{\circ} 19' 24''$ N - $76^{\circ} 28' 56''$ W running westerly parallel to the shoreline at a distance of no more than 1000 yards to a point $35^{\circ} 19' 24''$ N - $76^{\circ} 29' 09''$ W; thence running 218° (M) 900 yards to a point $35^{\circ} 19' 02''$ N - $76^{\circ} 29' 24''$ W 100 yards from shore; thence westerly parallel to the shoreline at a distance of 100 yards to a point $35^{\circ} 19' 02''$ N - $76^{\circ} 29' 59''$ W; thence 006° (M) 950 yards to a point $35^{\circ} 19' 30''$ N - $76^{\circ} 30' 00''$ W; thence westerly parallel to the shoreline at a distance of 1000 yards to a point $35^{\circ} 20' 06''$ N - $76^{\circ} 32' 54''$ W; thence 198° (M) 550 yards to a point 400 yards from shore $35^{\circ} 19' 49''$ N - $76^{\circ} 32' 59''$ W; thence parallel to the shoreline at a distance of 400 yards to a point $35^{\circ} 19' 50''$ N - $76^{\circ} 33' 27''$ W; thence 008° (M) to a point 1000 yards from shore $35^{\circ} 20' 09''$ N - $76^{\circ} 33' 27''$ W; thence westerly parallel to the shoreline at a distance of 1000 yards to a point $35^{\circ} 20' 12''$ N - $76^{\circ} 33' 55''$ 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) ~~(B)~~ All coastal waters and tributaries of Oyster Creek, James Creek, Middle Prong and Clark Creek.

(C) ~~(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) ~~(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) ~~(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) ~~(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) ~~(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' 21' 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) ~~(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) ~~(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) ~~(H)~~ 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) ~~(H)~~ 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) ~~(H)~~ 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) ~~(H)~~ All waters and tributaries of North Creek except the marked navigation channel.
- (N) ~~(H)~~ 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) ~~(H)~~ 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" 32'~~ 25" N - 76° 35' ~~23' 07"~~ 23' 07" W running 177° (M) 1950 yards to a point 200 yards north of Daymarker No. 11 35° ~~36' 27"~~ 31' 31" N - 76° 35' ~~40' 06"~~ 40' 06" 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' 28"~~ 56' 28" N - 76° 32' ~~58' 47"~~ 58' 47" 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' 42" W; thence southeasterly parallel to the shoreline and including Abel Bay at a distance of 500 yards to a point at the intersection 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' 40" 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' 44" 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°~~ 35° 08' ~~50°~~ 57" N - 76° 40' 19" W; thence 116° (M) to a point on shore at Moores Creek ~~34°~~ 35° 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°~~ 41" 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° ~~42°~~ 02" 11' 53" N - 76° 35' ~~58°~~ 54" W of a line running ~~162°~~ 170° (M) ~~500 yards~~ to a point 35° 11' ~~38°~~ 40" N - 76° 35' ~~50°~~ 51" W; thence parallel to the shoreline no more than 500 yards from shore to a point 35° 11' ~~56°~~ 57" N - 76°

35° ~~04°~~ 05" W; thence ~~339°~~ running 344° (M) ~~500 yards~~ to a point on shore at the mouth of Gales Creek 35° 12' ~~00°~~ 10" 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 Intra-coastal 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) ~~(E)~~ 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) ~~(H)~~ 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) ~~(A)~~ 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) ~~(H)~~ 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) ~~(E)~~ 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) ~~(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) ~~(H)~~ 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) ~~(H)~~ 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) ~~(H)~~ 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) ~~(H)~~ 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) ~~(H)~~ 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) ~~(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) ~~(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) ~~(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) ~~(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) ~~(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) ~~(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) ~~(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 F1

R15 ft. 3M 8 WB; thence southwest 203° (M) to Long Bay Point 34° 57' 52" N - 76° 24' 12" W.

(GG) ~~(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) ~~(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) ~~(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) ~~(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) ~~(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) ~~(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) ~~(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) ~~(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) ~~(e)~~ In the mouth of Harlowe Creek north of a line beginning at a point near White Rock $34^{\circ} 46' 28''$ N - $76^{\circ} 43' 28''$ W, running 089° (M) to a point $34^{\circ} 46' 33''$ N - $76^{\circ} 42' 46''$ W.
- (11) Bogue Sound:
- (A) ~~(a)~~ In that area bound on the west by a line beginning at a point $34^{\circ} 42' 16'' 40' 55''$ N - $76^{\circ} 49' 24' 55' 54''$ W on the south shore of Bogue Sound (locally known as McGinnis Point) running $008^{\circ} 001'$ (M) to Channel Marker No. 26 at a point in Bogue Sound $34^{\circ} 43' 12' 42' 47''$ N - $76^{\circ} 49' 24' 56' 22''$ W near the mouth of Broad Creek and bound on the east by the thence running 090° (M) to Atlantic Beach Bridge. $34^{\circ} 43' 08''$ N - $76^{\circ} 44' 12''$ W; thence 119° (M) to a point on the shore at Tar Landing Bay $34^{\circ} 42' 30''$ N - $76^{\circ} 42' 12''$ W; thence 191° (M) to a point on Bogue Banks $34^{\circ} 42' 00''$ N - $76^{\circ} 42' 15''$ W; thence with the shoreline to the beginning point.
- (B) ~~(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) ~~(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, north of a line beginning on the west shore $35^{\circ} 05' 36''$ N - $76^{\circ} 36' 30''$ W running 065° (M) to a point on the east shore $35^{\circ} 05' 42''$ N - $76^{\circ} 36' 17''$ W.
- (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.
- (b) It is unlawful to use pots from May 1 through October 31 in the areas described in Subparagraphs (b)(1) through (12) of this Rule except in accordance with 15A NCAC 3J .0301(a)(2)(B):
- (1) In Long Shoal River north of a line beginning at Pingleton Point on the west shore $35^{\circ} 34' 32''$ N - $75^{\circ} 52' 54''$ W running 102° (M) to a point on the east shore $35^{\circ} 34' 28''$ N - $75^{\circ} 51' 00''$ W.
- (2) In Wysocking Bay:
- (A) Bound by a line beginning at a point on the south shore of Lone Tree Creek $35^{\circ} 25' 05''$ N - $76^{\circ} 02' 05''$ W running 239° (M) 1000 yards to a point $35^{\circ} 24' 46''$ N - $76^{\circ} 02' 32''$ W; thence 336° (M) 2200 yards to a point $35^{\circ} 25' 42''$ N - $76^{\circ} 03' 16''$ W; thence 062° (M) 750 yards to a point on shore $35^{\circ} 25' 54''$ N - $76^{\circ} 02' 54''$ W; thence following the shoreline and the Lone Tree Creek primary nursery area line to the beginning point.
- (B) Bound by a line beginning at a point on the south shore at Mt. Pleasant Bay $35^{\circ} 23' 07''$ N - $76^{\circ} 04' 12''$ W running 083° (M) 1200 yards to a point $35^{\circ} 23' 17''$ N - $76^{\circ} 03' 32''$ W; thence 023° (M) 2400 yards to a point $35^{\circ} 24' 35''$ N - $76^{\circ} 04' 00''$ W; thence 299° (M) 1100 yards to a point on shore $35^{\circ} 24' 38''$ N - $76^{\circ} 04' 48''$ 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.
- (3) In Juniper Bay bound by a line beginning at a point on Juniper Bay Point $35^{\circ} 20' 18''$ N - $76^{\circ} 13' 22''$ W running 275° (M) 2300 yards to a point $35^{\circ} 20' 15''$ N - $76^{\circ} 14' 45''$ W; thence 007° (M) 2100 yards to Daymarker No. 3; thence 040° (M) 1100 yards to a point on shore $35^{\circ} 21' 45''$ N - $76^{\circ} 14' 24''$ W; thence following the shoreline and the Buck Creek primary nursery area line to the beginning point.
- (4) 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 $35^{\circ} 20' 12''$ N - $76^{\circ} 24' 18''$ W; thence 206° (M) 3250 yards to a point $35^{\circ} 18' 40''$ N - $76^{\circ} 24' 54''$ W; thence 128° (M) 2000 yards to a point $35^{\circ} 18' 11''$ N - $76^{\circ} 23' 51''$ W; thence 015° (M) through the "Dope Boat" Beacon 3250 yards to the beginning point.
- (5) In Rose Bay bound by a line beginning at a point southwest of Swan Point $35^{\circ} 23' 56''$ N - $76^{\circ} 23' 39''$ W running 288° (M) 1500 yards to a point $35^{\circ} 24' 03''$ N - $76^{\circ} 24' 33''$ W; thence 162° (M) 1650 yards to a point $35^{\circ} 23' 19''$ N - $76^{\circ} 24' 04''$ W; thence 084° (M) 1350 yards to a point on shore $35^{\circ} 23' 29''$ N - $76^{\circ} 23' 17''$ W; thence following the shoreline to the beginning point.
- (6) In Spencer Bay bound by a line beginning at a point on shore at Willow Point $35^{\circ} 22' 26''$ N - $76^{\circ} 28' 00''$ W running 059° (M) 1700 yards to a point $35^{\circ} 22' 57''$ 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.

(7) In Pungo River:

(A) Beginning at a point on shore north of Grassy Point 35° 25' 41" N - 76° 35' 22" W running 092° (M) to a point near Beacon No. 3 35° 25' 44" N - 76° 34' 46" W; thence running 338° (M) to a point 35° 26' 17" N - 76° 35' 10" W; thence running 230° (M) to a point on shore 35° 25' 50" N - 76° 35' 37" W.

(B) Beginning at a point on shore south of Jordan Creek 35° 27' 00" N - 76° 36' 20" W running 134° (M) to a point 35° 26' 54" N - 76° 36' 09" W; thence running 020° (M) to a point 35° 27' 23" N - 76° 36' 02" W; thence running 257° (M) to a point on shore 35° 27' 14" N - 76° 36' 26" W.

(C) Beginning at a point on shore south of Sandy Point 35° 26' 38" N - 76° 33' 34" W; thence 267° (M) to a point 35° 26' 35" N - 76° 33' 50" W; thence running 143° (M) to a point 35° 26' 05" N - 76° 33' 13" W; thence running 356° (M) to a point on shore 35° 26' 20" N - 76° 33' 18" W.

(D) Beginning at a point on shore south of Fortescue Creek 35° 25' 36" N - 76° 32' 01" W running 325° (M) to a point off Fort Creek 35° 25' 44" N - 76° 32' 09" W; thence running 202° (M) to a point 35° 25' 17" N - 76° 32' 18" W; thence running 078° (M) to a point on shore 35° 25' 20" N - 76° 32' 01" W.

(8) In Pamlico River:

(A) Beginning at a point 400 yards from shore 35° 19' 49" N - 76° 32' 59" W; thence running 018° (M) to a point 35° 20' 06" N - 76° 32' 54" W; thence running 287° (M) to a point 35° 20' 09" N - 76° 33' 27" W; thence running 188° (M) to a point 35° 19' 50" N - 76° 33' 27" W; thence returning to the beginning point 35° 19' 49" N - 76° 32' 59" W.

(B) Beginning at a point 35° 19' 55" N - 76° 33' 56" W; thence running 011° (M) to a point 35° 20' 12" N - 76° 33' 55" W; thence running 288° (M) to a point 35° 20' 19" N - 76° 34' 35" W; thence running 184° (M) to a point 35° 20' 00" N - 76° 34' 34" W; thence running 104° (M) to the beginning point 35° 19' 55" N - 76° 33' 56" W.

(C) Beginning at a point 100 yards from shore 35° 19' 02" N - 76° 29' 24" W; thence running 038° (M) to a point 35° 19' 24" N - 76° 29' 09" W; thence running 288° (M) to a point 35° 19' 30" N - 76° 30' 00" W; thence running 182° (M) to a point 35° 19' 02" N - 76° 29' 59" W; thence running 099° (M) to the beginning point 35° 19' 02" N - 76° 29' 24" W.

(9) 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.

(10) 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 Daymarker No. 1; thence 134° (M) 3800 yards to Neuse River Junction Quick Flasher; thence 236° (M) 1700 yards to Red Day Marker No. 2PA; thence 314° (M) 2750 yards to the beginning point.

(11) In Bay River, beginning at a point on shore at Moore Creek 35° 08' 51" N - 76° 40' 14" W; running 296° (M) to a point 35° 08' 59" N - 76° 50' 19" W; thence no more than 150 yards from shore to a point 35° 09' 43" N - 76° 40' 06" W; thence running 134° (M) to a point on shore west of Bell Point 35° 09' 40" N - 76° 40' 00" W.

(12) In Neuse River:

(A) Beginning at a point on shore north of Swan Creek 35° 07' 17" N - 76° 33' 26" W running 115° (M) to a point near the six foot depth contour 35° 07' 15" N - 76° 33' 16" W; thence running 074° (M) to Beacon No. 2 at Maw Point Shoal; thence running 294° (M) to a point on shore 35° 08' 30" N - 76° 32' 36" W; thence following the shoreline to the beginning point 35° 07' 17" N - 76° 33' 26" W.

(B) Beginning at a point on shore north of Gum Thicket Creek 36° 04' 40" N - 76° 35' 38" W; thence running 129° (M) to a point 35° 04' 12" N - 76° 34' 37" W; thence running 355° (M) to Beacon No. 1 in Broad Creek; thence running the six foot contour line to Green Marker No. 3.

(C) Beginning at a point on the eastern tip of Cockle Point 35° 03' 20" N - 76° 38' 27" W; thence running 100° (M) to a point 35° 03' 18" N - 76° 37' 53" W;

thence running 005° (M) to a point on shore $35^{\circ} 03' 38''$ N - $76^{\circ} 37' 54''$ W; thence following the primary nursery area line to the beginning point $35^{\circ} 03' 20''$ N - $76^{\circ} 38' 27''$ W.

(D) Beginning at a point on shore on the eastern side of the MBYB channel $34^{\circ} 58' 16''$ N - $76^{\circ} 49' 05''$ W running 186° (M) to a point on six foot depth contour $34^{\circ} 58' 07''$ N - $76^{\circ} 49' 05''$ W; thence following the six foot depth contour to a point $34^{\circ} 58' 24''$ N - $76^{\circ} 46' 34''$ W; thence running 351° (M) to a point on shore $34^{\circ} 58' 32''$ N - $76^{\circ} 46' 38''$ W.

(E) Beginning at a point on shore at Beards Creek $35^{\circ} 00' 08''$ N - $76^{\circ} 52' 13''$ W; thence running 209° (M) to a point $34^{\circ} 59' 52''$ N - $76^{\circ} 52' 20''$ W; thence running along the six foot depth contour to a point $34^{\circ} 59' 25''$ N - $76^{\circ} 51' 14''$ W; thence running 043° (M) to a point on shore at Mill Creek $34^{\circ} 59' 34''$ N - $76^{\circ} 51' 06''$ W.

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 $34^{\circ} 58' 50''$ N - $76^{\circ} 09' 13''$ W; thence running 272° (M) 5,420 yards to a point in Wainwright Channel $34^{\circ} 59' 30''$ N - $76^{\circ} 12' 22''$ W immediately east of the northern tip of Wainwright Island; thence 019° (M) 2,000 yards to red 4 second interval flashing beacon "2CS" $35^{\circ} 00' 16''$ N - $76^{\circ} 12' 12''$ W; thence 033° (M) 2,900 yards to 4 second interval flashing beacon "HL" $35^{\circ} 01' 35''$ N - $76^{\circ} 11' 27''$ W; thence 043° (M) 14,450 yards to a point in Pamlico Sound $35^{\circ} 07' 06''$ N - $76^{\circ} 06' 54''$ W; from which point green 4 second interval flashing beacon "3" on Royal Shoal bears 005° (M) 6,000 yards; green 6 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" $35^{\circ} 08' 26''$ N - $76^{\circ} 02' 30''$ W in Nine Foot Shoal Channel; thence 067° (M) 3,640 yards to red 4 second interval flashing beacon "14BF" $35^{\circ} 09' 21''$ N - $76^{\circ} 00' 39''$ W in Big Foot Slough Channel; thence 078° (M) 26,260 yards to a quick-flashing beacon $35^{\circ} 14' 00''$ N - $75^{\circ} 45' 50''$ W; southwest of Oliver Reef; thence 033° (M) 6,100 yards to 2.5 second interval flashing beacon "1" $35^{\circ} 16' 46''$ N - 75°

$44' 16''$ W in Rollinson Channel; thence 079° (M) 13,920 yards to red 4 second interval flashing beacon "2" $35^{\circ} 19' 02''$ N - $75^{\circ} 36' 19''$ W in Cape Channel; thence 139° (M) 8,340 yards to a point on the shoreline of Hatteras Island near Buxton $35^{\circ} 16' 18''$ N - $75^{\circ} 32' 20''$ W; thence southwest thence 038° (M) 8,800 yards to green 4 second interval flashing beacon "1" at $35^{\circ} 22' 48''$ N - $75^{\circ} 33' 36''$ W in Avon Channel; thence 027° (M) 11,900 yards to a point on Gull Island at $35^{\circ} 28' 27''$ N - $75^{\circ} 31' 21''$ W; thence 012° (M) 15,400 to 4 second interval flashing beacon "ICC" $35^{\circ} 36' 00''$ N - $75^{\circ} 31' 12''$ W at Chicamacomico Channel; thence 331° (M) 8,600 yards to a point in Pamlico Sound at $35^{\circ} 39' 21''$ N - $75^{\circ} 34' 24''$ W; thence 013° (M) 7,250 yards to a point in Pamlico Sound at $35^{\circ} 42' 57''$ N - $75^{\circ} 34' 09''$ W; thence 045° (M) 7,200 yards to a point on the shore of Hatteras Island at $35^{\circ} 45' 54''$ N - $75^{\circ} 31' 06''$ W; thence running southward with the shoreline of Hatteras Island to a point $35^{\circ} 11' 30''$ N - $75^{\circ} 44' 48''$ W on the southwest end of Hatteras Island; thence 269° (M) 2,380 yards across Hatteras Inlet to a point $35^{\circ} 11' 18''$ N - $75^{\circ} 46' 15''$ W on the northeast end of Ocracoke Island; thence southwest with the shoreline of Ocracoke Island to a point $35^{\circ} 03' 54''$ N - $76^{\circ} 00' 54''$ W on the southwest end of Ocracoke Island; thence 268° (M) 2,220 yards across Ocracoke Inlet to a point $35^{\circ} 03' 42''$ N - $76^{\circ} 02' 15''$ 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 $34^{\circ} 58' 50''$ N - $76^{\circ} 09' 13''$ 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 $34^{\circ} 58' 50''$ N - $76^{\circ} 09' 13''$ W, and running 292° (M) to a point off Hog Island Reef $35^{\circ} 00' 06''$ N - $76^{\circ} 14' 52''$ W.

(c) It is unlawful to use mechanical methods to take oysters in any of the following areas: Back Bay at Hog Island, North Bay, the Straits, Back Sound, North River, Newport River, Bogue Sound, White Oak River, New River, Lockwoods Folly River, Shallotte River, and Saucepan Creek (Brunswick County), except on private bottom by permit.

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 $35^{\circ} 47' 42''$ N -- $75^{\circ} 32' 21''$ 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 $35^{\circ} 47' 59''$ N -- $75^{\circ} 31' 51''$ W; thence 159° (M), 4,000 yards to a point $35^{\circ} 46' 21''$ N -- $75^{\circ} 30' 40''$ W; thence 248° (M), 880 yards to a point on the high water line of the Atlantic Ocean $35^{\circ} 46' 06''$ N -- $75^{\circ} 31' 08''$ 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 $35^{\circ} 43' 42''$ N -- $75^{\circ} 30' 54''$ 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 $35^{\circ} 43' 42''$ N -- $75^{\circ} 32' 12''$ W; thence 344° (M), 8,100 yards to a point $35^{\circ} 47' 16''$ N -- $75^{\circ} 34' 09''$ W (present location of channel marker "2"); thence 17° (M), 2,800 yards to a point on the high water line of Bodie Island $35^{\circ} 48' 45''$ N -- $75^{\circ} 33' 54''$ 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 $35^{\circ} 10' 40''$ N -- $75^{\circ} 44' 31''$ 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 $35^{\circ} 12' 05''$ N -- $75^{\circ} 43' 21''$ 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 $35^{\circ} 13' 38''$ N -- $75^{\circ} 45' 26''$ W; thence 235° (M), 7,200 yards to a point $35^{\circ} 11' 04''$ N -- $75^{\circ} 48' 26''$ W on the eastern edge of Outer Green Island; thence on a bearing of 150° (M), 1,050 yards to a point $35^{\circ} 10' 42''$ N -- $75^{\circ} 47' 54''$ 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 $35^{\circ} 11' 19''$ N -- $75^{\circ} 46' 15''$ 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 $35^{\circ} 03' 43''$ N -- $76^{\circ} 04' 50''$ 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 $35^{\circ} 03' 03''$ N -- $76^{\circ} 03' 05''$ W; thence seaward 154° (M), 880 yards to a point in the Atlantic Ocean $35^{\circ} 02' 38''$ N -- $76^{\circ} 02' 43''$ W; thence 64° (M), 1,280 yards to a point $35^{\circ} 02' 58''$ N -- $76^{\circ} 02' 05''$ W; thence 83° (M), 3,500 yards to a point $35^{\circ} 03' 23''$ N -- $76^{\circ} 00' 03''$ W; thence 55° (M), 1,725 yards to a point $35^{\circ} 03' 58''$ N -- $75^{\circ} 59' 18''$ W; thence 324° (M), 880 yards to a point $35^{\circ} 04' 20''$ N -- $75^{\circ} 59' 43''$ 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 $35^{\circ} 06' 12''$ N -- $75^{\circ} 59' 22''$ 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 $35^{\circ} 05' 51''$ N -- $76^{\circ} 04' 25''$ 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 $34^{\circ} 50' 09''$ N -- $76^{\circ} 20' 25''$ W; thence 326° (M), 2,000 yards to a point in Core Sound $34^{\circ} 50' 50''$ N -- $76^{\circ} 21' 15''$ W; thence 50° (M), 8,000 yards to a point in Core Sound $34^{\circ} 53' 44''$ N -- $76^{\circ} 18' 03''$ W; thence 151° (M), 2,390 yards to a point on the high water line of Core Sound on Core Banks $34^{\circ} 52' 48''$ N -- $76^{\circ} 17' 12''$ 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 at the edge of Lighthouse 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 waterline 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.

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 10C .0107.

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

The public hearing will be conducted at 7:00 p.m. on June 10, 1991 at the Ground Floor Hearing Room, Archdale Building, 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 May 27, 1991 to June 25, 1991. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

SECTION .0100 - JURISDICTION OF AGENCIES: CLASSIFICATION OF WATERS

.0107 SPECIAL REGULATIONS: 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~~ rules; the Marine Fisheries Commission and the Wildlife Resources Commission deem it necessary to adopt special ~~regulations~~ rules for joint waters. Such ~~regulations~~ rules supersede any inconsistent ~~regulations~~ rules of the Marine Fisheries Commission or the Wildlife Resources Commission that would otherwise be applicable in joint waters under the provisions of 15A NCAC 10C .0106:

- (1) Striped Bass

- (a) It shall be unlawful to possess any striped bass or striped bass hybrid taken by any means which is less than ~~46~~ 18 inches long (total length).

Statutory Authority G.S. 113-132; 113-134; 113-138; 113-292.

TITLE 21 - OCCUPATIONAL LICENSING BOARD

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Real Estate Commission intends to amend rule(s) cited as 21 NCAC 58C .0302 and 58D .0201.

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

The public hearing will be conducted at 2:00 p.m. on June 11, 1991 at the Office of the North Carolina Real Estate Commission, 1313 Navaho Drive, Raleigh, NC 27609.

Comment Procedures: Comments regarding the rules may be made orally or submitted in writing at the public hearing. Written comments not submitted at the hearing may be delivered to the North Carolina Real Estate Commission, Post Office Box 17100, Raleigh, North Carolina 27619-7100, so as to be received by the hearing date.

CHAPTER 58 - REAL ESTATE COMMISSION

SUBCHAPTER 58C - REAL ESTATE AND APPRAISAL EDUCATION

SECTION .0300 - PRE-LICENSING AND PRE-CERTIFICATION COURSES

.0302 PROGRAM STRUCTURING

(b) Except as provided in Paragraph (d) of this Rule, residential appraiser pre-licensing/pre-certification education programs must consist of include the following three courses, each involving a minimum of 30 classroom hours in order for a school to be approved or licensed, as appropriate, to conduct those appraisal pre-licensing or pre-certification courses:

- (1) Introduction to Real Estate Appraisal;
- (2) Valuation Principles and Procedures; and
- (3) Applied Residential Property Valuation.

These courses must be completed sequentially in the order listed.

(c) Except as provided in Paragraph (d) of this Rule, general appraiser pre-certification education programs must consist of the following three

courses, each involving a minimum of 30 classroom hours, in addition to the three residential appraiser courses prescribed in Paragraph (b) of this Rule, in order for a school to be approved or licensed, as appropriate, to conduct those appraisal pre-certification courses:

- (1) Introduction to Income Property Appraisal;
- (2) Advanced Income Capitalization Procedures; and
- (3) Applied Income Property Valuation.

These courses must be completed sequentially in the order listed and completion of the residential appraiser courses within the previous five years or possession of a current appraiser license must be a prerequisite for enrollment in the general appraiser courses.

Authority G.S. 93A-4(a),(d); 93A-33; 93A-75(a); 12 U.S.C. 3332, 3345, and 3347; 12 C.F.R. 34.42.

SUBCHAPTER 58D - REAL ESTATE APPRAISERS

SECTION .0200 - APPRAISER LICENSING AND CERTIFICATION

.0201 QUALIFICATIONS FOR APPRAISER LICENSURE AND CERTIFICATION

(a) Applicants for licensure as a state-licensed residential real estate appraiser and for certification as a state-certified real estate appraiser must satisfy the qualification requirements stated in G.S. 93A-73 as further set forth in Subparagraphs (a) (1), (2) and (3) of this Rule, provided however that licensure as a state-licensed residential real estate appraiser is not a prerequisite for certification as a state-certified residential or general real estate appraiser:

- (1) Applicants for licensure as a state-licensed residential real estate appraiser shall have completed courses in Introduction to Real Estate Appraisal, Valuation Principles and Practices, and Applied Residential Property Valuation each consisting of at least 30 classroom hours of instruction, or appraisal education found by the Commission to be equivalent to such courses; and have at least 2,000 hours of appraisal experience of which at least 75 percent must have been in appraising residential real estate.
- (2) Applicants for certification as a state-certified residential real estate appraiser shall have completed those courses required for licensure as a state-licensed residential real estate appraiser or equivalent education and, in addition, a course

in Introduction to Income Property Appraisal consisting of at least 30 classroom hours of instruction or equivalent education; and have at least 2,000 hours of appraisal experience acquired over a minimum period of two calendar years of which at least 75 percent must have been in appraising residential real estate.

- (3) Applicants for certification as a state-certified general real estate appraiser shall have completed those courses required for certification as a state-certified residential real estate appraiser or equivalent education and, in addition, courses in Advanced Income Capitalization Procedures and Applied Income Property Valuation each consisting of at least 30 classroom hours of instruction or equivalent education; and have at least 2,000 hours of appraisal experience acquired over a minimum period of two calendar years of which at least 50 percent must have been in appraising non-residential real estate.

Authority G.S. 93A-73; 93A-77; 12 U.S.C. 3332, 3345, and 3347; 12 C.F.R. 34.42.

TITLE 25 - OFFICE OF STATE PERSONNEL

Notice is hereby given in accordance with G.S. 150B-12 that the Office of State Personnel/State Personnel Commission intends to amend rule(s) cited as 25 NCAC 1D .0211, .0308, .0509, .0611, .0706; 1J .0606; repeal rule(s) cited as 25 NCAC 1B .0401 - .0402; and adopt rule(s) cited as 25 NCAC 1A .0006; 1B .0437 - .0438.

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

The public hearing will be conducted at 9:00 a.m. on June 6, 1991 at the Personnel Development Center, 101 W. Peace Street, Raleigh, North Carolina.

Comment Procedures: Interested persons may present statements either orally or in writing at the Public Hearing or in writing prior to the hearing by mail addressed to Drake Maynard, Office of State Personnel, 116 W. Jones Street, Raleigh, North Carolina 27603.

CHAPTER 1 - OFFICE OF STATE PERSONNEL

SUBCHAPTER 1A - GENERAL PROVISIONS

.0006 DELEGATION OF AUTHORITY: DECENTRALIZATION OF PERSONNEL ADMIN

(a) The Office of State Personnel, under the direction of the State Personnel Director, has sole responsibility for the implementation of the State Personnel Commission's rules, policies and procedures. The State Personnel Director has the exclusive authority for final approval of all personnel actions under these Rules and policies.

(b) The State Personnel Director may delegate authority for final approval and accountability of certain personnel actions to the heads of state agencies and universities, and by extension, to the head of their personnel administration function. The decision to delegate authority for final approval of certain personnel actions or not to delegate, as well as the matters to be delegated, shall be at the discretion of the State Personnel Director. The delegation decision by the State Personnel Director shall be made based upon these factors:

- (1) the willingness of agency heads and chancellors to accept the accountability of their own personnel functions under a delegation of authority from the Office of State Personnel;
- (2) the record of agency cooperation and compliance with Commission policies and procedures;
- (3) an informed assessment of the performance history of the agency's personnel function;
- (4) the demonstrated knowledge and expertise in the administration of the Commission's policies and procedures by the personnel staff of the agency; and
- (5) the staff size of the agency personnel function, including the number of professional level personnel positions.

(c) Delegation shall be achieved through decentralization agreements which shall specify agency responsibility for implementing Personnel Commission programs and shall identify those personnel actions for which the agency shall have final approval authority. The agreement shall provide that the decentralized personnel administration authority may be unilaterally withdrawn or modified by the State Personnel Director based upon demonstrated inability or unwillingness on the part of the agency or university to maintain the level of personnel administration as measured by factors in Paragraph (b) of this Rule.

(d) The Office of State Personnel shall perform routine, ongoing monitoring of all agency and university decentralization agreements for compliance with specified levels of authority and with

Commission rules, policies and procedures. The Office of State Personnel shall perform periodic on-site performance audits. These monitoring and auditing procedures shall be in accordance with accepted auditing principles and with the advice of the State Auditor.

Statutory Authority G.S. 126-4.

**SUBCHAPTER 1B - STATE PERSONNEL
COMMISSION**

SECTION .0400 - APPEAL TO COMMISSION

.0401 APPEAL (REPEALED)

.0402 WHEN APPEAL ALLOWED (REPEALED)

Statutory Authority G.S. 126-4(9); 150A-34(a); 150B, Article 3.

.0437 AWARD OF ATTORNEYS FEES; COSTS

(a) The State Personnel Commission may award attorney's fees following the submission and review of an itemized listing of services provided and time spent. Any award of services provided shall be limited to time directly associated with the departmental grievance procedure and/or a case under G.S. Chapters 126. No other legal services for the same client shall be reimbursed.

(b) The State Personnel Commission shall consider all available information in determining what constitutes a reasonable hourly rate in order to award attorney's fees, including the most recent North Carolina Bar Association Economic Survey. It shall be the responsibility of the attorney seeking to be awarded attorney's fees to set forth sufficient information on his background, practice and any other relevant factors to allow the Commission to identify the appropriate hourly rate.

(c) Usual and normal costs associated directly with legal representation during the departmental grievance procedure and/or a contested case pursuant to Chapter 126 may also be reimbursed.

(d) Time charged and expenses requested associated with travel in connection with legal representation shall be strictly examined.

(e) No oral argument solely on the question of attorney's fees shall be allowed. Each party shall have the right to present briefs and/or legal memoranda to the Commission in the event that some or all of a requested award of attorney's fees is contested.

Statutory Authority G.S. 126-4(11).

**.0438 APPEAL TO THE STATE PERSONNEL
COMMISSION: PROCEDURES**

The State Personnel Commission shall receive the record in the contested case forwarded by the Office of Administrative Hearings and make a final administrative decision in the case. The Office of State Personnel shall be responsible for the administrative management of contested cases coming before the Commission for its review and decision.

(1) Oral Argument. Either party to a contested case may request the opportunity to appear before the State Personnel Commission and make oral argument. Such arguments must be based solely on the information contained in the record submitted by OAH. Oral arguments must be requested in writing no more than 15 calendar days after notice of review by the Commission has been sent to the parties. The notice of review shall contain the date, time and place of the Commission meeting at which the case will be reviewed. If a party fails to request oral argument in a timely fashion, that party may not present oral argument without specific permission from the full Commission. Each party requesting argument shall be allotted a maximum of 15 minutes for the presentation, unless the time period is extended by a vote of the Commission.

(2) Briefs, Legal Memoranda, Attorney's Fees Requests. All briefs, legal memoranda, or attorney's fees requests must be received by the Office of State Personnel no later than 10 working days prior to the date of the Commission meeting for which a case is scheduled for review. Such documents must also be submitted on a timely basis to the opposing party. Such a document received after the deadline will be presented to the Commission only after the party has shown that the opposing party received the document at least 10 working days before the Commission meeting and the Commission has voted to receive it.

(3) Written Exceptions, Proposed Alternative Findings, Conclusions and Recommendations. Each party shall submit written exceptions to the recommended decision of the Administrative Law Judge, unless the party accepts the recommended decision in its entirety. Any party may choose to submit proposed alternative findings of fact and conclusions of law. Exceptions and alternative findings and conclusions must be received by the Office of State Personnel no later than 10 working days prior to the date of the Commission meeting for which a case is scheduled for review. Written exceptions must be specifically drawn. Exceptions shall

indicate which finding, conclusion or recommendation is being excepted to and the basis for the exception being taken. Reference must be made to transcript pages (and volumes, where applicable), if a transcript of the hearing was made. Where a party excepts to a finding, conclusion or recommendation and requests its deletion or amendment, an alternative finding, conclusion or recommendation shall be made. Such a document received after the deadline will be presented to the Commission only after the party has shown that the opposing party received the document at least 10 working days before the Commission meeting and the Commission has voted to receive it. The Commission shall have the authority to adopt the findings of fact and conclusions of the Administrative Law Judge, or to amend the same, or to adopt alternative findings of fact and conclusions of law, either from those submitted by the parties or drawn from its own review of the whole record.

(4) Proposed Decision and Order. Each party to a contested case shall submit a proposed Decision and Order for consideration by the Commission in that case. The proposed Decision and Order must be received by the Office of State Personnel no later than 10 working days prior to the date of the Commission meeting for which a case is scheduled for review. The Commission may, in its discretion, delay decision in a case until all parties have submitted a proposed Decision and Order. The proposed Decision and Order shall indicate which findings, conclusions and recommendations of the Administrative Law Judge are being adopted, which findings, conclusions and recommendations of the Administrative Law Judge are being deleted or amended and why, and what new findings, and conclusions are being adopted. The proposed Decision and Order shall contain a order in the case, consistent with and supported by the findings and conclusions.

(5) Service on Opposing Parties. Copies of all documents required by this Rule shall be served on the opposing party, but no later than 10 working days prior to the date of the Commission meeting for which a case is scheduled for review.

(6) Notification. The parties will be notified, by certified mail, return receipt requested, of the Commission's decision. The Commission's decision will be prepared and sent out by the Office of State Personnel. Copies

or the content of a specific decision and order shall not be released to non-parties until the Office of State Personnel has knowledge that all parties have received a copy of the Decision and Order.

(7) This Rule is based upon the assumption that both parties are represented by legal counsel. If any party is not represented by legal counsel, this Rule shall be interpreted liberally so as not to deny a fair opportunity to any party for Commission review of a recommended decision.

Statutory Authority G.S. 126-4.

SUBCHAPTER 1D - COMPENSATION

SECTION .0200 - NEW APPOINTMENTS

.0211 SALARY RATE

(b) It is intended that agencies make as few appointments above the hiring rate (or applicable special entry rate) as possible. Rates above this may be requested when:

(2) the applicant possesses exceptional qualifications above the hiring requirements of the class specification, and operational needs exist which justify filling the position at the salary above the minimum of the range. The additional experience and training must be in the same or closely related area to that stated as acceptable in the class specification. Generally, up to ~~five~~ four percent above the minimum rate may be considered for each qualifying year of directly related experience and/or education above the minimum requirements not to exceed the midpoint of the range without prior approval of the State Personnel Director.

Statutory Authority G.S. 126-4(2).

SECTION .0300 - PROMOTION

.0308 SALARY INCREASES

The purpose of a promotional pay increase is to reward the employee for the assumption of duties more responsible and more difficult than those in the current position. Subject to the availability of funds, salary increases, not to exceed the maximum of the range, may be given in accordance with the following:

(1) Permanent Promotion:

(c) If the employee being promoted has had directly related training and experience which exceeds the minimum qualifications for the position, the salary may be increased by more than five percent

commensurate with the related training and experience, the total not to exceed five percent for each salary grade provided by the promotion. The nature and magnitude of the change in jobs, the need to maintain equity of salaries within the work unit, and other management needs must be given consideration when making such requests. However, if an employee has been reduced to a lower salary grade through demotion, reassignment, reallocation or salary range revision, but without a corresponding reduction in salary, and the employee is later promoted to a position with a higher grade, the number of grades in the original reduction shall be considered to have been compensated and shall not be considered in the salary setting procedure in this Rule.

Statutory Authority G.S. 126-4.

SECTION .0500 - SEPARATION

.0509 SEVERANCE SALARY CONTINUATION

Severance salary continuation shall be paid to a state employee who is terminated as a result of reduction-in-force and for whom there is no foreseeable opportunity for reemployment at the time of separation. This policy provides for uniform application of severance salary continuation for employees who are involuntarily separated due to reduction-in-force. Payment is based on total state service supplemented by an age factor. The age factor recognizes that older employees, although protected from discrimination on the basis of age, do have a more difficult time finding new employment due to lack of transferable skills, current salary level, geographic location and other factors.

(1) Eligible Employees:

- (a) A permanent full-time or part-time (20 hours or over) employee who does not obtain another permanent job in state government by the effective date of the reduction-in-force shall be eligible for severance salary continuation when separated. Also eligible are employees with trainee appointments who have completed six months of service, and employees who attained permanent status prior to entering a trainee appointment. This shall not apply to employees whose reduction-in-force is not considered permanent; that is, employees who are reduced-in-force on a temporary or seasonal basis with the expectation that they will return to work within 12 months.

(2) Amount and Method of Payment:

- (a) Severance salary continuation shall be based on total state service (except as noted in this Rule) and supplemented by an age adjustment factor as follows:

(i) Amount of Salary Continuation:

Years of Service	Payment
Less than 1 year	2 weeks
1 but less than 5 years	1 month
5 but less than 10 years	2 months
10 but less than 20 years	3 months
<u>10 but less than 15 years</u>	<u>3 months</u>
<u>15 but less than 20 years</u>	<u>3.5 months</u>
20 or more years	4 months

- (h) Funds for severance salary continuation will be provided as directed by the Office of State Budget and Management. ~~G.S. 143-27.2 provides that severance wages are authorized by the Director of the Budget, upon written request of a state agency and with recommendation by the State Personnel Director. All severance payments are contingent upon the availability of funds. If funds are not sufficient for full payment to all employees, distribution of available funds shall be on a pro-rata basis such that all employees will receive a pro-rated payment in accordance with their age and service. In cases where the agency is not paying the full amount, the agency shall submit documentation signed by the agency head to the State Personnel Director and the State Budget Director.~~

Statutory Authority G.S. 126-4(10); 143-27.2.

SECTION .0600 - REALLOCATION

.0611 REALLOCATION/SALARY RATE

- (a) When an employee's position is assigned to a higher grade as a result of reallocation, subject to the availability of funds and satisfactory employee performance, salary increases, not to exceed the maximum of the range, may be given in accordance with the following:

- (3) Salaries within the range may remain the same; or if funds are available and where appropriate, individual salary increases may be considered, based on the employee's directly related training and experience which exceeds the minimum qualifications for the position, but not to exceed five percent for each salary grade provided by the reallocation. Salary equity within the work unit and other management needs must be given consideration when making such requests.

Statutory Authority G.S. 126-4.

SECTION .0700 - SALARY RANGE REVISION

.0706 ASSIGNMENT TO A HIGHER GRADE

(a) When a classification is assigned to a higher grade as a result of changes in the labor market, employees whose job performance is not satisfactory or who are in formal disciplinary procedure for either performance or personal conduct are not eligible for any increase in salary. All increases are subject to the availability of funds and cannot exceed the maximum of the range. Increases are also subject to the following conditions:

- (3) Salaries within the range do not have to be increased, but if funds are available and where appropriate, individual salary increases of any amount may be considered, but the total cannot exceed a five percent increase for each salary grade the dollar amount provided by the salary range revision difference in the minimum salaries of the old range and the new range. Salary equity within the work unit must be maintained and other management needs must be given consideration when making such requests. However, if an employee has been reduced to a lower salary grade through demotion, reassignment, reallocation or salary range revision, but without a corresponding reduction in salary, and the employee's position is later assigned to a higher grade as a result of salary range revision, the number of grades in the original reduction shall be considered to have been compensated and shall not be considered in the salary setting procedure in Subparagraph (3) of this Rule. If the reduction in grade occurred as much as 24 months previously, the agency may give consideration to granting a salary increase within the provisions of this policy. The need to maintain equity of salaries within the work unit must be a major consideration.

Statutory Authority G.S. 126-4.

SUBCHAPTER 1J - EMPLOYEE RELATIONS

SECTION .0600 - DISCIPLINARY ACTION: SUSPENSION AND DISMISSAL

.0606 DISMISSAL

Before an employee may be dismissed on the basis of job performance, the following shall occur:

- (1) The supervisor recommending dismissal should discuss the recommendation with, and receive the approval of, appropriate agency management. The Supervisor recommending dismissal shall discuss the recommendation with appropriate agency management and receive management's authorization to hold a pre-dismissal conference with the employee. The purpose of the pre-dismissal conference is to review the recommendation with the affected employee, and by listening to and considering information put forth by the employee, to insure that such a significant personnel action is not based on mistaken or erroneous information and conclusions.
- (2) A pre-dismissal conference shall be held between the supervisor or other appropriate manager and the employee. Witnesses, a second management representative or security personnel may be present at management's request. The management representative shall give the employee verbal or written notice including the specific reasons for the proposed dismissal and a brief summary of the information which management believes supports the proposed dismissal. The employee shall have the right to respond to that notice of proposed dismissal in the conference. The Supervisor or designated management representative shall schedule and conduct a pre-dismissal conference with the employee. Advance notice of the pre-dismissal conference must be given to the employee. A second management representative or security personnel may be present at management's discretion. No attorneys representing either side may attend the conference. In the conference, the Supervisor shall give the employee oral or written notice of the recommendation for dismissal, including specific reasons for the proposed dismissal and a summary of the information supporting that recommendation. The employee shall have an opportunity to respond to the proposed dismissal, to refute information supporting the recommended dismissal action and to offer information or arguments to support his position. Every effort shall be made by the Supervisor or the designated management representative to assure that the employee has had a full opportunity to set forth any information in his possession in opposition to his dismissal prior to the end of the conference.
- (3) If, at the end of the pre-dismissal conference, the management representative determines

that dismissal is still justified, he may present the employee with a letter of dismissal. However, the management representative may elect to defer the dismissal based on information presented by the employee, and reconsider the proposed dismissal. If, following such reconsideration, the decision is to dismiss, then no further pre-dismissal conference is required. Following the conference, management shall review and consider the response of the employee and reach a decision on the proposed recommendation. If management's decision is to dismiss the employee, a written letter of dismissal shall be prepared containing the specific reasons for dismissal and the employee's appeal rights. To minimize the risk of dismissal upon erroneous information, and to allow time following the conference for management to review all necessary information, the decision to dismiss should normally not be communicated to the employee prior to the beginning of the next business day following the conclusion of the pre-dismissal conference. The employee shall be informed of the decision and furnished, either in person or by mail, a copy of the letter of dismissal, receipt of which

shall constitute dismissal. A management decision not to dismiss the employee may be communicated to the employee at any time following the conclusion of the conference.

- (4) The employee must be given written notice of the dismissal. This written notice must include specific reasons for the dismissal and the employee's right of appeal.
- (5) Upon dismissal on the basis of unsatisfactory job performance only an employee may be given up to two weeks' pay in lieu of two weeks' notice. Pay in lieu of notice shall not apply to dismissals based on personal conduct.
- (4) A permanent employee who is to be dismissed for unsatisfactory job performance should be given up to two weeks' working notice of his dismissal. In management's discretion, an employee may be given up to two weeks' pay in lieu of the working notice. Such working notice or pay in lieu of notice is applicable only to dismissals for unsatisfactory job performance.

Statutory Authority G.S. 126-4.

ARRC OBJECTIONS

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

ECONOMIC AND COMMUNITY DEVELOPMENT

Banking Commission

4 NCAC 3G .0203 - Expiration and Renewal	ARRC Objection 3/21/91
4 NCAC 3G .0502 - Annual Report	ARRC Objection 3/21/91
4 NCAC 3G .0601 - Revocation or Suspension; Hearings	ARRC Objection 3/21/91

Community Assistance

4 NCAC 19R .0103 - Waivers	ARRC Objection 2/25/91
Agency Withdrew Rule	3/21/91
4 NCAC 19R .0303 - Distribution of Funds	ARRC Objection 2/25/91
Agency Revised Rule	Obj. Removed 3/21/91
4 NCAC 19R .0304 - Reallocation	ARRC Objection 2/25/91
Agency Revised Rule	Obj. Removed 3/21/91
4 NCAC 19R .0602 - Reporting	ARRC Objection 2/25/91
Agency Revised Rule	Obj. Removed 3/21/91

Energy

4 NCAC 12C .0005 - Forms	ARRC Objection 2/25/91
Agency Revised Rule	Obj. Removed 3/21/91
4 NCAC 12C .0006 - Scope and Purpose of State Set-Aside	ARRC Objection 2/25/91
Agency Revised Rule	Obj. Removed 3/21/91

Hazardous Waste Management Commission

4 NCAC 18 .0309 - Final Site	ARRC Objection 1/18/91
Agency Returned Rule Unchanged	No Action 2/25/91

EDUCATION

Elementary and Secondary Education

16 NCAC 6C .0205 - Teacher Education Program State Review Standards	ARRC Objection 3/21/91
Agency Revised Rule	Obj. Removed 3/21/91
16 NCAC 6C .0310 - Standard Examinations	ARRC Objection 3/21/91
Agency Revised Rule	Obj. Removed 3/21/91
16 NCAC 6H .0010 - Special Education Due Process Procedures	ARRC Objection 3/21/91
Agency Revised Rule	Obj. Removed 3/21/91

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Adult Health

15A NCAC 16A .0804 - Financial Eligibility	ARRC Objection 1/18/91
No Response from Agency	2/25/91
Agency Responded	No Action 3/21/91

ARRC OBJECTIONS

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

Coastal Management

15A NCAC 7J .0409 - Civil Penalties	ARRC Objection	1/18/91
Agency Returned Rule Unchanged	No Action	2/25/91
15A NCAC 7J .1109 - Permit Fee	ARRC Objection	1/18/91
Agency Withdrew Rule		2/25/91

Environmental Health

15A NCAC 18A .2515 - Design Details	ARRC Objection	3/21/91
Agency Revised Rule	Obj. Removed	3/21/91
15A NCAC 18A .2516 - Pool Profile	ARRC Objection	3/21/91
Agency Revised Rule	Obj. Removed	3/21/91
15A NCAC 18A .2517 - Diving Equipment	ARRC Objection	3/21/91
Agency Revised Rule	Obj. Removed	3/21/91
15A NCAC 18A .2519 - Filters	ARRC Objection	3/21/91
Agency Revised Rule	Obj. Removed	3/21/91
15A NCAC 18A .2523 - Depth Markings and Safety Ropes	ARRC Objection	3/21/91
Agency Revised Rule	Obj. Removed	3/21/91
15A NCAC 18A .2529 - User Loading	ARRC Objection	3/21/91
Agency Revised Rule	Obj. Removed	3/21/91
15A NCAC 18A .2534 - Chemical Storage	ARRC Objection	3/21/91
Agency Revised Rule	Obj. Removed	3/21/91
15A NCAC 18A .2535 - Water Quality Standards	ARRC Objection	3/21/91
Agency Revised Rule	Obj. Removed	3/21/91
15A NCAC 18A .2537 - Appeals	ARRC Objection	3/21/91
15A NCAC 18A .2614 - Outdoor Dining	ARRC Objection	3/21/91
Agency Revised Rule	Obj. Removed	3/21/91
15A NCAC 18A .2618 - Cleaning of Equipment and Utensils	ARRC Objection	3/21/91
15A NCAC 18A .2711 - Toilet Facilities	ARRC Objection	3/21/91
15A NCAC 18A .2901 - Disbursement of Funds	ARRC Objection	3/21/91
Agency Revised Rule	Obj. Removed	3/21/91

Solid Waste Management

15A NCAC 13A .0016 - Special Purpose Com Hazardous Waste Facility	ARRC Objection	2/25/91
Agency Responded	Obj. Removed	3/21/91
15A NCAC 13A .0017 - Fee Schedules	ARRC Objection	2/25/91
Agency Responded	Obj. Removed	3/21/91

Wildlife Resources Commission

15A NCAC 10H .0807 - Classes of Permits	ARRC Objection	2/25/91
Agency Revised Rule	Obj. Removed	3/21/91

WTP Operators Certification Commission

15A NCAC 8B .0404 - Temporary Certification	ARRC Objection	3/21/91
Agency Revised Rule	Obj. Removed	3/21/91

HUMAN RESOURCES

ARRC OBJECTIONS

Individual and Family Support

10 NCAC 42B .1201 - Personnel Requirements	ARRC Objection	1/18/91
No Response from Agency		2/25/91
Agency Returned Rule Unchanged	No Action	3/21/91
10 NCAC 42C .2001 - Qualifications of Administrator	ARRC Objection	1/18/91
No Response from Agency		2/25/91
Agency Returned Rule Unchanged	No Action	3/21/91
10 NCAC 42C .2002 - Qualifications of Supervisor-in-Charge	ARRC Objection	1/18/91
No Response from Agency		2/25/91
Agency Returned Rule Unchanged	No Action	3/21/91
10 NCAC 42C .2006 - Qualifications of Activities Coordinator	ARRC Objection	1/18/91
No Response from Agency		2/25/91
Agency Returned Rule Unchanged	No Action	3/21/91
10 NCAC 42C .3301 - Existing Building	ARRC Objection	11/14/90
Agency Returned Rule Unchanged	No Action	12/20/90
10 NCAC 42D .1401 - Qualifications of Administrator/Co-Administrator	ARRC Objection	11/14/90
Agency Returned Rule Unchanged	No Action	12/20/90

Services for the Deaf

10 NCAC 20F .0502 - Definitions	ARRC Objection	3/21/91
Agency Revised Rule	Obj. Removed	3/21/91
10 NCAC 20F .0506 - Classification	ARRC Objection	3/21/91
Agency Revised Rule	Obj. Removed	3/21/91

LICENSING BOARDS AND COMMISSIONS

Auctioneer's Commission

21 NCAC 4B .0602 - Advertising	ARRC Objection	3/21/91
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CPA Examiners

21 NCAC 8M .0306 - Due Professional Care	ARRC Objection	2/25/91
Agency Withdrew Rule		3/21/91

Cosmetic Art Examiners

21 NCAC 14A .0101 - Definitions	ARRC Objection	2/25/91
Agency Revised Rule	Obj. Removed	3/21/91
21 NCAC 14G .0003 - Space Requirements	ARRC Objection	2/25/91
Agency Revised Rule	Obj. Removed	3/21/91
21 NCAC 14G .0007 - Equipment and Teachers	ARRC Objection	2/25/91
Agency Revised Rule	Obj. Removed	3/21/91
21 NCAC 14I .0103 - Inspections and Reports of Student Hours	ARRC Objection	2/25/91
Agency Revised Rule	Obj. Removed	3/21/91
21 NCAC 14I .0109 - Summary of Cosmetic Art Education	ARRC Objection	2/25/91
Agency Revised Rule	Obj. Removed	3/21/91
21 NCAC 14I .0302 - Library	ARRC Objection	2/25/91
Agency Responded	No Action	3/21/91
21 NCAC 14L .0101 - Qualifications - Cosmetologist Teachers	ARRC Objection	2/25/91
Agency Revised Rule	Obj. Removed	3/21/91
21 NCAC 14L .0210 - Effect on Student-Teacher Ratio	ARRC Objection	2/25/91
Agency Responded	No Action	3/21/91

ARRC OBJECTIONS

Dental Examiners

21 NCAC 16C .0310 - Reexamination	ARRC Objection 3/21/91
21 NCAC 16D .0101 - Eligibility Requirements	ARRC Objection 3/21/91

Medical Examiners

21 NCAC 32B .0309 - Personal Interview	ARRC Objection 2/25/91
Agency Responded	No Action 3/21/91
21 NCAC 32M .0007 - Termination of NP Approval	ARRC Objection 11/14/90
Agency Revised Rule	Obj. Removed 12/20/90

Nursing, Board of

21 NCAC 36 .0217 - Revocation, Suspension, or Denial of License	ARRC Objection 12/20/90
No Response from Agency	1/18/91
Agency Revised Rule	Obj. Removed 2/25/91
21 NCAC 36 .0504 - Certificate of Registration	ARRC Objection 1/18/91
Agency Revised Rule	Obj. Removed 2/25/91
21 NCAC 36 .0505 - General and Administrative Provisions	ARRC Objection 1/18/91
Agency Revised Rule	Obj. Removed 2/25/91
21 NCAC 36 .0507 - Fees	ARRC Objection 1/18/91
Agency Revised Rule	Obj. Removed 2/25/91

Physical Therapy

21 NCAC 48C .0102 - Responsibilities	ARRC Objection 9/20/90
Agency Returned Rule Unchanged	No Action 10/18/90
Agency Revised Rule	Obj. Removed 2/25/91
21 NCAC 48C .0501 - Exemption for Students	ARRC Objection 9/20/90
Agency Returned Rule Unchanged	No Action 10/18/90
Agency Revised Rule	Obj. Removed 2/25/91

SECRETARY OF STATE

Securities Division

18 NCAC 6 .1210 - Securities Exchs/Autod Quot. Sys. Approved Admin	ARRC Objection 12/20/90
Agency Responded to Objection	No Action 1/18/91

STATE PERSONNEL

25 NCAC 1D .0509 - Severance Salary Continuation	ARRC Objection 1/18/91
Agency's Response Unacceptable	2/25/91

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

10 NCAC 26I .0101 - PURPOSE: SCOPE/NOTICE OF CHANGE IN LEVEL OF CARE

10 NCAC 26I .0102 - REQUESTS FOR RECONSIDERATION AND RECIPIENT APPEALS

10 NCAC 26I .0104 - FORMAL APPEALS

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rules 10 NCAC 26I .0101, 10 NCAC 26I .0102 and 10 NCAC 26I .0104 void as applied in *Linda Allred, Petitioner v. North Carolina Department of Human Resources, Division of Medical Assistance, Respondent* (90 DHR 0940).

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

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

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

16 NCAC 6D .0105 - USE OF SCHOOL DAY

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

15A NCAC 7H .0308 - SPECIFIC USE STANDARDS

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

NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

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

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5	Correction	Chiropractic Examiners	10
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Note: Title 21 contains the chapters of the various occupational licensing boards.

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NORTH CAROLINA ADMINISTRATIVE CODE

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