

The **NORTH CAROLINA REGISTER**

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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 letters of single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

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

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for one page or less, plus fifteen cents (\$0.15) per 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 are available 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, 1991** refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1991.

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NORTH CAROLINA REGISTER



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NORTH CAROLINA REGISTER

Publication Schedule

(October 1991 - December 1992)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing	Earliest Date for Adoption by Agency	Last Day to Submit to RRC	* Earliest Effective Date
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10/15/91	09/24/91	10/01/91	10/30/91	11/14/91	11/20/91	01/02/92
11/01/91	10/11/91	10/18/91	11/16/91	12/01/91	12/20/91	02/03/92
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12/15/92	11/24/92	12/01/92	12/30/92	01/14/93	01/20/93	03/01/93

* The "Earliest Effective Date" is computed assuming that the agency follows the publication schedule above, that the Rules Review Commission approves the rule at the next calendar month meeting after submission, and that RRC delivers the rule to the Codifier of Rules five (5) business days before the 1st business day of the next calendar month.

VOTING RIGHTS ACT FINAL DECISION LETTERS

[G.S. 120-30.9H, effective July 16, 1986, requires that all letters and other documents issued by the Attorney General of the United States in which a final decision is made concerning a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 be published in the North Carolina Register.]

U.S. Department of Justice
Civil Rights Division

JRD:RBJ:JAC:lrj
DJ 166-012-3
91-3578

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

November 22, 1991

Michael Crowell, Esq.
Tharrington, Smith & Hargrove
P. O. Box 1151
Raleigh, North Carolina 27602

Dear Mr. Crowell:

This refers to the 1991 redistricting of the board of commissioner districts for Granville County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on October 2, 1991.

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

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

VOTING RIGHTS ACT FINAL DECISION LETTERS

U.S. Department of Justice
Civil Rights Division

JRD:RBJ:JAC:lrj
DJ 166-012-3
91-3579

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

November 22, 1991

Michael Crowell, Esq.
Tharrington, Smith & Hargrove
P. O. Box 1151
Raleigh, North Carolina 27601

Dear Mr. Crowell:

This refers to the 1991 redistricting plan for the Granville County School District in Granville County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on October 2, 1991.

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

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

TITLE 2 - DEPARTMENT OF
AGRICULTURE

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Pesticide Board intends to amend rule(s) cited as 2 NCAC 9L .0509.

The proposed effective date of this action is April 1, 1992.

The public hearing will be conducted at 1:00 p.m. on February 6, 1992 at the Agriculture Building, Board Room, 2 West Edenton Street, Raleigh, NC 27601.

Reason for Proposed Action: The North Carolina Pesticide Board is considering changing the requirements for licensing as a pest control consultant.

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 John L. Smith, Secretary, North Carolina Pesticide Board, P.O. Box 27647, Raleigh, NC 27611.

CHAPTER 9 - FOOD AND DRUG PROTECTION
DIVISION

SUBCHAPTER 9L - PESTICIDE SECTION

SECTION .0500 - PESTICIDE LICENSES

.0509 CONSULTANT EDUCATION
REQUIREMENTS

(a) A Ph.D., master's, bachelor's, or two-year associate degree with training in the general area of entomology, plant pathology, weed control, or equivalent training pertinent to the category is required to be a licensed pesticide consultant.

(b) No experience is required if the above educational requirements are fulfilled.

(c) The chairman of the pesticide advisory committee is authorized to appoint a special panel to consider experience in an area in lieu of formal education.

(d) The North Carolina Pesticide Board may waive the requirement for taking parts of the North Carolina consultant examination provided the applicant has a Ph.D., master's, or bachelor's degree in the discipline pertinent to the category for which a license is desired and provided the applicant has demonstrated successful completion of pertinent academic training or has passed a written or oral examination offered by

another state or a professional organization. Applicants will be required to successfully complete written, or written and oral, examination(s) which demonstrates adequate knowledge of pertinent subject matter not specifically completed in academic training including knowledge of applicator state and federal pesticide laws and related subject matter.

(a) An applicant for a pest control consultant license must possess a Ph.D., master's, or bachelor's degree in an agricultural or biological science from an accredited college or university with a minimum of 30 semester hours or 45 quarter hours of credit in subject areas pertinent to the category in which the applicant seeks to obtain a license. Emphasis of study should include insect, plant, bacterial, and fungal pests, as applicable to the category, and integrated pest management.

(b) The provisions of this Section shall not apply to anyone holding a valid North Carolina pest control consultant license on or before April 1, 1992.

Statutory Authority G.S. 143-455; 143-460(27).

TITLE 11 - DEPARTMENT OF
INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the N.C. Department of Insurance intends to amend rule(s) cited as 11 NCAC 6A .0801 - .0807, .0809 - .0811.

The proposed effective date of this action is March 1, 1992.

The public hearing will be conducted at 10:00 a.m. on January 17, 1992 at the Dobbs Building, 3rd Floor Hearing Room, 430 N. Salisbury Street, Raleigh, N.C. 27611.

Reason for Proposed Action: To conform with legislation enacted during the 1991 General Assembly.

Comment Procedures: Written comments may be sent to Rick Johnson, Agent Services Division, P.O. Box 26387, Raleigh, N.C. 27611. Oral presentations may be made at the public hearing. Anyone having questions should call Rick Johnson at (919) 733-7487 or Ellen Sprengel at (919) 733-4529.

CHAPTER 6 - AGENT SERVICES DIVISION

SUBCHAPTER 6A - AGENT SERVICES
DIVISION

SECTION .0800 - CONTINUING EDUCATION

.0801 DEFINITIONS

As used in this Section:

- (1) "Cluster of courses" means a number of courses, each of which is less than 120 minutes in length, but altogether 120 minutes or more in length, that are offered within one state or national program or convention.
- (2) (4) "Course" means a continuing education course directly related to insurance principles and practices or a course designed and approved specifically for licensees; but does not mean a business course of a general nature or an insurance marketing or sales course.
- (2) "Credit hour" means a value assigned to a course by the Commissioner upon review and approval of course information.
- (3) "Disinterested third party" means a person not concerned, with respect to possible gain or loss, in the result of a pending course final examination.
- (4) "Distance learning" means an educational program in which the licensee and the instructor are in different physical locations and interact with each other through various methods of telecommunication.
- (5) "Insurance continuing education credit or 'ICEC'" means a value assigned to a course by the Commissioner after review and approval of a course information. This term means the same as "credit hour" as used in G.S. 58-33-130.
- (6) (5) "Instructor" means an individual who teaches, lectures, leads, or otherwise instructs a course.
- (7) (6) "Licensee" means a duly licensed fire and casualty insurance, life, accident, and health insurance, or accident and health insurance agent or broker who is required to comply with this Section.
- (8) (7) "Supervised examination" means a timed, closed book examination that is monitored by a disinterested third party and graded by a nationally recognized insurance education program.
- (9) (8) "Supervised individual study" means audio tapes, video tapes, computer programs, programmed learning courses, and similar types of learning experiences that are completed in the presence of an approved instructor.

.0802 LICENSEE REQUIREMENTS

(a) Life, accident, and health licensees shall obtain 12 ~~credit hours~~ ICECs during each calendar year in approved life, accident, and health courses, including the mandatory statute and rule update.

(b) Fire and casualty licensees shall obtain 12 ~~credit hours~~ ICECs during each calendar year in approved fire and casualty courses, including the mandatory statute and rule update.

(c) Accident and health licensees shall obtain 12 ~~credit hours~~ ICECs during each calendar year in approved accident and health courses, including the mandatory statute and ~~rules~~ rule update.

(d) Any person holding more than one license to which this Section applies shall obtain 18 ~~credit hours~~ ICECs during each calendar year, including the mandatory statute and rule update ~~for each license; this includes~~ and a minimum of six ~~credit hours~~ ICECs for each kind of license.

(e) An instructor may receive up to twice the ~~credit hours~~ ICECs received by the students for some courses but may receive no ~~credit hours~~ ICECs for others, in the discretion of the Commissioner.

(f) Licensees shall not receive ~~credit hours~~ ICECs for ~~instructing or taking or instructing and taking~~ the same course more often than one time in any three calendar year period except when there are major revisions within the course. The Commissioner shall determine whether the revisions are substantial enough to ~~allow licensees to retake or reinstruct an approved course qualify~~ for additional ICECs within a three calendar year period.

(g) Licensees do not have to obtain ~~credit hours~~ ICECs for the calendar year in which they are initially licensed.

(h) Licensees shall receive ~~credit hours~~ ICECs for a course only for the calendar year in which the course is completed. Any course requiring an examination shall not be considered completed until the licensee passes the examination.

(i) Licensees shall not receive ~~credit hours~~ ICECs for courses completed prior to January 1, 1991.

(j) Licensees shall maintain records of all ~~credit hours~~ ICECs for three years following the obtaining of such ~~credit hours~~ ICECs, which records shall be available for inspection upon the Commissioner's request.

(k) Nonresident licensees who meet continuing education requirements in their home states meet the continuing education requirements of this Section. Nonresident licensees whose home states have no continuing education requirements shall meet the ~~credit hour~~ requirements of this

Statutory Authority G.S. 58-2-40; 58-33-130.

Section, except for the mandatory statute and rule update.

(l) Licensees will be required to complete only the mandatory statute and rule update each year if they:

- (1) are age 65 or older; and
- (2) have been continuously licensed in the line of insurance for at least 25 years; and either
- (3) hold a nationally recognized professional designation for the line of insurance. Acceptable designations include those listed in 11 NCAC 6A .0803 (a) and (b); or
- (4) meet the requirements of Subparagraphs (1) and (2) of this Paragraph and certify to the Department of Insurance annually they are inactive agency owners who neither solicit applications for insurance nor take part in the day to day operation of the agency.

(m) Courses completed prior to the issue date of a new license do not meet the requirements of this Section for that new license.

(n) No credit will be given for courses taken before they have been approved by the Department.

Statutory Authority G.S. 58-2-40; 58-33-130.

.0803 COURSES SPECIFICALLY APPROVED

(a) Courses that are necessary to obtain the following nationally recognized designations are approved as they exist on the effective date of this Section for ~~20 credit hours~~ 18 ICECs upon successful completion of the national examination for each part:

- (1) Accredited Advisor in Insurance (AAI);
- (2) Associate in Claims (AIC);
- (3) Associate in Loss Control Management (ALCM);
- (4) Associate in Risk Management (ARM);
- (5) Associate in Underwriting (AU);
- (6) Certified Employees Benefit Specialist (CEBS);
- (7) Chartered Financial Consultant (ChFC);
- (8) Chartered Life Underwriter (CLU);
- (9) Chartered Property and Casualty Underwriter (CPCU);
- (10) Fellow Life Management Institute (FLMI);
- (11) General Insurance (INS);
- (12) Life Underwriter Training Council Fellow, 26 week (LUTCF).

(b) Courses that are necessary to obtain the following nationally recognized designations are approved as they exist on the effective date of this Section for an amount of ~~credit hours~~ ICECs to

be determined by the Commissioner's evaluation process:

- (1) Agency Management Training Course Graduate;
- (2) Certified Insurance Counselor (CIC);
- (3) Certified Insurance Service Representative (CISR);
- (4) Certified Professional Service Representative (CPSR);
- (5) Fraternal Insurance Counselor (FIC);
- (6) Health Insurance Associate (HIA);
- (7) Life Underwriter Training Council Fellow, 13 weeks (LUTCF);
- (8) Registered Health Underwriter (RHU).

(c) Courses that are taught by a college or university that is accredited by the Southern Association of Colleges and Schools are approved as they exist on the effective date of this Section for a number of ~~credit hours~~ ICECs to be determined by the Commissioner's evaluation process.

(d) Each course provider or designee shall submit a ~~provider~~ fee of one dollar (\$1.00) per approved ~~credit hour~~ ICEC per individual that successfully completes the course.

(e) The statute and rule update prepared by the Commissioner is approved as a mandatory component of each resident licensee's continuing education requirement for a number of ~~credit hours~~ ICECs to be determined annually by the Commissioner's evaluation process.

Statutory Authority G.S. 58-2-40; 58-33-130.

.0804 CARRYOVER CREDIT

(a) No more than 75 percent of the ~~credit hours~~ ICECs required shall be carried forward from the previous year. Licensees holding one license shall carry over no more than nine ~~credit hours~~ ICECs. Licensees holding more than one license shall carry over no more than six ~~credit hours~~ ICECs for any one license. No carry over credit will be given for Medicare supplement long-term care courses or for the mandatory statute and rule update course.

(b) Only whole ~~credit hours~~ ICECs can be carried over.

Statutory Authority G.S. 58-2-40; 58-33-130.

.0805 CALCULATION OF ICECs

The following standards shall be used to evaluate courses submitted for continuing education approval:

(l) Programs requiring meeting or classroom attendance:

- (a) Courses or clusters of courses of less than 120 minutes will not be evaluated for

continuing education credit hours.
ICECs.

- (b) Courses will not be approved for less than one credit hour. ICEC.
- (c) One credit hour ICEC shall be awarded for each 60 minutes of instruction unless the Commissioner assigns fewer credit hours ICECs based upon the evaluation of the submitted course materials. Courses will only be approved for whole credit hours. ICECs.
- (d) Course providers must properly monitor participants for attendance and attention.
- (2) Independent study programs:
 - (a) Independent study programs qualify for continuing education only when there is a proctored supervised examination. administered by a disinterested third party, such as a testing center, and graded by the course provider. No examination administered or graded by insurance company personnel for its own employees will be considered to be administered by a disinterested third party.
 - (b) Only those courses that have been approved by the Commissioner in advance will be considered for credit hours.
 - (b) (c) Each course shall be assigned a particular credit hour or hours and such credit hour or hours will ICECs, which shall be awarded upon the successful passing of such proctored the supervised examination.
- (3) Distance Learning Programs:
 - (a) Distance learning qualifies only when an approved instructor is available to respond to questions and to maintain attendance records.
 - (b) Any organization sponsoring a teleconference shall have a person approved to be an on-site instructor.

Statutory Authority G.S. 58-2-40; 58-33-130.

.0806 ATTENDANCE

- (a) ~~Meeting or classroom courses with no exam:~~
- (1) If four credit hours six ICECs or less are assigned to a course, the licensee must attend 100 percent of the course to receive any credit. ICECs.
- (2) If more than four credit hours are assigned to a course, the licensee must attend a minimum of 80 percent of the course to receive any credit.
- (1) ~~Meeting or classroom programs with exams:~~

- (1) If four credit hours or less are assigned to a course, the licensee must attend 100 percent of the course to receive any credit.
- (b) (2) If more than four credit hours six ICECs are assigned to a course, and the licensee passes the exam and attends at least 80 percent of the course, the licensee shall receive 100 percent of the credit hours ICECs assigned to the course.
- (c) (3) If more than four credit hours six ICECs are assigned to a course, and the licensee fails does not pass the exam but attends at least 80 percent of the course, the licensee shall receive 50 80 percent of the credit hours ICECs assigned to the course.

Statutory Authority G.S. 58-2-40; 58-33-130.

.0807 HARDSHIP

A licensee may appeal for relief to the Commissioner by January 15 of the year immediately following the calendar year for which the minimum required credit hours ICECs were not obtained. Upon a finding of reasonable cause, the Commissioner may extend the time for the licensee to complete the requirement.

Statutory Authority G.S. 58-2-40; 58-33-130.

.0809 APPROVAL OF COURSES

(a) Providers of all courses specifically approved under 11 NCAC 6A .0803 must file copies of program catalogs, course outlines, copies of advertising literature, a filing fee of one hundred dollars (\$100.00) or the total cost to one student taking the course, whichever is greater, per course up to a two thousand five hundred dollar (\$2,500) a year maximum, and any other documents or related materials that the Commissioner requests, prior to January 1, 1991, and within 30 days of any changes to such programs in the future.

(b) All providers of courses not specifically approved under 11 NCAC 6A .0803 must do the following:

- (1) Any individual, school, insurance company, insurance industry association, or other organization intending to provide classes, seminars, or other forms of instruction as approved courses shall apply on forms provided by the Commissioner; pay a filing fee of one hundred dollars (\$100.00) or the total cost to one student taking the course, whichever is greater, per course up to a two thousand five hundred dollar (\$2,500) a year maximum and provide the requested number of copies of detailed outlines of the subject matter to be covered, copies of handouts to be

given, the qualifications of each instructor, and other information requested by the Commissioner to support the request for approval.

- (2) ~~The outline shall include a statement of the method used to determine whether there will be meaningful attainments of education by licensees to be certified upon their satisfactory completion of the course. Such method may be a written examination, a written report, certification of attendance only, or other methods approved by the Commissioner. The outline shall describe the method of presentation.~~

- (2) ~~(3)~~ Providers of supervised individual study programs must file the requested number of copies of the study programs. Extra copies will be returned to a provider after course approval if a return fee is paid in advance.

- (3) ~~(4)~~ Such applications and accompanying information must be received by the Commissioner at least 30 days prior to the intended beginning date of the course.

- (4) ~~(5)~~ The Commissioner shall approve or deny the application; and shall indicate the number of ~~credit hours~~ ICECs that have been assigned to the course if approved. If a course is not approved or disapproved within 60 days after receipt of all required information, the course is deemed to be approved at the end of the 60-day period.

- (5) ~~(6)~~ If a course approval application is denied, a written explanation of the reason for such action shall be furnished with the denial.

(c) Course approval applications must include all of the following forms and attached information in exactly the following order:

- (1) A cover letter with payment of a filing fee of one hundred dollars (\$100.00) ~~or the total cost to one student taking the course, whichever is greater,~~ per course attached with separate paragraphs for the following:

- (A) a request that the course be evaluated;
- (B) for whom the course is designed;
- (C) the course objectives;
- (D) the names and duties of all persons who will be affiliated in an official capacity with the course; and
- (E) the course provider's tuition and fee refund policy;
- (F) an outline that shall include a statement of the method used to determine whether

there will be meaningful attainments of education by licensees to be certified upon their satisfactory completion of the course. Such method may be a written examination, a written report, certification of attendance only, or other methods approved by the Commissioner. The outline shall describe the method of presentation;

- (2) The course content outline with instruction hours assigned to the major topics;

- (3) Instructor qualification form and instructor resume if not previously approved; ~~and~~

- (4) Schedule of dates, beginning and ending times and places the course will be offered, along with the names of instructors for each course session. Schedules shall be submitted at least 30 days in advance of any subsequent course offerings but it will not be necessary that courses be resubmitted unless there are substantial changes in content; ~~and~~

- (5) a copy of the course completion certificate.

(d) The Commissioner may waive any part of this Section for programs offered by the University of North Carolina system schools and/or the North Carolina Department of Community Colleges.

(e) A provider may request that its materials be kept confidential if they are of a proprietary nature. The Commissioner will review and promptly return such extra copies of materials if a return fee is paid in advance.

(f) Courses awarded more than six ICECs must have an exam. No course shall have more than six hours of instruction daily.

(g) Cancelled course schedules must be submitted five days before the scheduled course offering. All students scheduled to attend the cancelled course must be informed of the cancellation.

Statutory Authority G.S. 58-2-40; 58-33-130.

.0810 ADVERTISING

~~(a) This Rule applies to for-profit course providers.~~

(a) ~~(b)~~ Courses shall not be advertised as approved for ~~credit hours~~ ICECs unless such approval has been granted by the Commissioner in writing.

(b) ~~(c)~~ When a course has been approved for ~~credit hours~~ ICECs and is advertised as such, the advertisement shall include:

- (1) the provider name, assigned provider number, course title, and assigned course number;

- (2) ~~(1)~~ the number of approved ~~credit hours~~; ICFCs;
- (3) ~~(2)~~ the type of licensee for whom the course would be most applicable; and
- (4) ~~(3)~~ all fees and associated expenses.
- (c) ~~(4)~~ Advertisements shall be complete, truthful, clear, and not deceptive or misleading.
- (d) ~~(5)~~ The Commissioner may withdraw his approval of any violator to provide or conduct courses.

Statutory Authority G.S. 58-2-40; 58-33-130.

.0811 SANCTIONS FOR NONCOMPLIANCE

(a) This Rule establishes sanctions for licensees who fail to complete their annual continuing education requirements and for licensees, course providers, ~~and~~ course provider personnel, course presenters, course presenter personnel, and course instructors who falsify any records or documents in connection with the continuing education program or who do not comply with G.S. 58-33-125 or this Section.

(b) The failure of a licensee to meet the annual continuing education requirement shall result in the cancellation of his or her license for the subsequent calendar year. The license will be reinstated upon proof that the licensee has completed the continuing education requirements and subsequently passed the agent's licensing examination by July 1 of each year of cancellation. If requirements for reinstatement are not completed by July 1, the licensee will be required to complete the full pre-licensing education requirement and pass the agent's licensing examination before the license will be reinstated.

(c) The Commissioner may suspend, revoke, or refuse to renew a license for any of the following causes:

- (1) Failure to timely respond to insurance department inquiries, including continuing education audit requests.
- (2) Requesting an extension or waiver under false pretenses.
- (3) Refusing to cooperate with insurance department employees in an investigation or inquiry.

(d) The Commissioner may suspend, revoke, or refuse to renew a course provider's, presenter's or instructor's authority to offer courses for any of the following causes:

- (1) Advertising that a course is approved before the Commissioner has granted such approval in writing.
- (2) Submitting a course outline with material inaccuracies, either in length, presentation time, or topic content.

- (3) Presenting or using unapproved material in providing an approved course.
- (4) Failing to conduct a course for the full time specified in the approval request submitted to the Commissioner.
- (5) Preparing and distributing certificates of attendance or completion before the course has been approved.
- (6) Issuing certificates of attendance or completion prior to the completion of the course.
- (7) Failing to issue certificates of attendance or completion to any licensee who satisfactorily completes a course.
- (8) Failing to promptly notify the Commissioner of suspected or known improper activities including attendance and attention irregularities in writing.
- (9) Any violation of the North Carolina General Statutes or Administrative Code.
- (10) Failing to diligently monitor attendance and attention of attendees.

(e) ~~A course provider is~~ Course providers and presenters are responsible for the activities of persons conducting, supervising, instructing, proctoring, monitoring, moderating, facilitating, or in any way responsible for the conduct of any of the activities associated with the course.

(f) In addition, the Commissioner may require any one of the following upon a finding of a violation of this Section:

- (1) Refunding all course tuition and fees to licensees.
- (2) Providing licensees with a suitable course to replace the course that was found in violation.
- (3) Withdrawal of approval of courses ~~sponsored~~ offered by such provider, presenter, or instructor for a period determined by the Commissioner.

~~(g) The Commissioner may suspend, revoke, or refuse to renew the insurance licenses of provider personnel for noncompliance with G.S. 58-33-130 or this Section.~~

Statutory Authority G.S. 58-2-40; 58-33-130.

Notice is hereby given in accordance with G.S. 150B-21.2 that the N.C. Department of Insurance intends to adopt rule(s) cited as 11 NCAC 11C .0131.

The proposed effective date of this action is May 1, 1992.

The public hearing will be conducted at 10:00 a.m. on February 18, 1992 at the Dobbs Building, 3rd Floor Hearing Room, 430 N. Salisbury Street, Raleigh, N.C. 27611.

Reason for Proposed Action: To conform with recent legislation enacted by the N.C. General Assembly.

Comment Procedures: Written comments may be sent to Ray Martinez, P.O. Box 26387, Raleigh, N.C. 27611. Oral presentations may be made at the public hearing. Anyone having questions should call Ray Martinez at (919) 733-2002, or Ellen Sprengel at (919) 733-4529.

Editor's Note: This Rule has been filed as a temporary rule effective January 1, 1992 for a period of 180 days to expire on June 29, 1992.

CHAPTER 11 - FINANCIAL EVALUATION DIVISION

SUBCHAPTER 11C - ANALYSIS AND EXAMINATIONS

SECTION .0100 - GENERAL PROVISIONS

.0131 VALUATION OF DEBT SECURITIES

The investments in bonds and other evidences of indebtedness specified in G.S. 58-7-190 shall be valued in accordance with the procedures and instructions contained in the Valuations of Securities Manual of the National Association of Insurance Commissioners unless the Commissioner determines that a more conservative valuation is appropriate.

Statutory Authority G.S. 58-2-40; 58-7-190.

TITLE 13 - DEPARTMENT OF LABOR

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Labor intends to adopt rule(s) cited as 13 NCAC 7C .0107 - .0109.

The proposed effective date of this action is March 1, 1992.

The public hearing will be conducted at 2:00 p.m. on January 15, 1992 at the Third Floor Boardroom, Education Building, 116 West Edenton Street, Raleigh, N.C.

Reason for Proposed Action: The reason for the proposed action is to clarify for employers which standards places of employment must conform to.

Comment Procedures: People wanting to present oral testimony at the hearing should provide a written summary of the proposed testimony to the department by January 10, 1992. Written comments will be accepted until the close of the hearing. Direct all correspondence to Bobby Bryan, NC Department of Labor, 4 W. Edenton Street, Raleigh, NC 27601.

CHAPTER 7 - OSHA

SUBCHAPTER 7C - SAFETY AND HEALTH

SECTION .0100 - GENERAL INDUSTRY: CONSTRUCTION AND AGRICULTURE

.0107 BUILDING CODE

(a) Except as specified in Paragraph (b) of this Rule, all places of employment newly occupied after the effective date of this Rule shall be constructed, maintained, and occupied in accordance with the standards set out in Chapters 2 through 32 of the Standard Building Code of the Southern Building Code Congress International (1991 edition) which is hereby incorporated by reference. This incorporation shall not include any subsequent amendments or editions of this code. Copies of this code may be obtained from the Southern Building Code Congress International, 900 Montclair Road, Birmingham, Alabama 35213-1206, for sixty dollars (\$60.00).

(b) The Standard Building Code shall be subject to the following modifications:

- (1) Section 506.6.2.6. Sequential and Selective Operation. Add a sentence to read: "Hydraulic elevators which do not serve more than three floors shall be designed and installed with their own emergency power to complete the lowering process."
- (2) Section 701.1.2, Table 700. Elevator shaft enclosures and elevator machine rooms shall have a two-hour fire resistive rating and the opening protectives shall have a one and one-half hour fire resistive rating.
- (3) Section 2402.6.3. Vents. Delete the last sentence in the first paragraph and add in its place a sentence to read as follows: "Vents may be closed when designed to be opened automatically if a smoke detector and heat detector located at the top of the hoistway is activated."

Statutory Authority G.S. 95-131.

.0108 LIFE SAFETY CODE

All places of employment shall be designed, constructed, maintained, and occupied in accordance with the standards set out in the 1991 edition of the Code for Safety to Life from Fire in Buildings and Structures, ANSI/NFPA 101, which is hereby incorporated by reference. This incorporation shall not include any subsequent editions or amendments to this code. Copies of this code may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, for twenty-seven dollars and fifty cents (\$27.50). This rule supercedes any standards based on earlier editions of the Life Safety Code.

Statutory Authority G.S. 95-131.

.0109 FIRE PREVENTION CODE

All places of employment shall be maintained and occupied in accordance with the standards set out in Chapters 2 through 43 of the Standard Fire Prevention Code of the Southern Building Code Congress International (1991 edition) which is hereby incorporated by reference. This incorporation shall not include any subsequent amendments or editions of this code. Copies of this code may be obtained from the Southern Building Code Congress International, 900 Montclair Road, Birmingham, Alabama 35213-1206, for forty-five dollars (\$45.00).

Statutory Authority G.S. 95-131.

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Labor intends to amend rule(s) cited as 13 NCAC 13 .0101, .0203, .0205, .0211, .0213, .0415.

The proposed effective date of this action is March 1, 1992.

The public hearing will be conducted at 2:00 p.m. on January 13, 1992 at the Third Floor Boardroom, Education Building, 116 West Edenton Street, Raleigh, N.C.

Reason for Proposed Action: This action will increase and restructure to simplify the fees charged by the Boiler and Pressure Vessel Division, allow certain boilers and pressure vessels which have operated in other states to operate in North Carolina, and make other clarifying changes in the rules governing boilers and pressure vessels.

Comment Procedures: People wanting to present oral testimony at the hearing should provide a written summary of the proposed testimony to the Department until January 8, 1992. Written comments will be accepted by the Department until January 15, 1992. Direct all correspondence to Bobby Bryan, NC Department of Labor, 4 W. Edenton Street, Raleigh, NC 27601.

CHAPTER 13 - BOILER AND PRESSURE VESSEL

SECTION .0100 - DEFINITIONS

.0101 DEFINITIONS

The following definitions are applicable throughout this Chapter:

(1) "ASME Code" means all sections of the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers that have been adopted by the Boiler and Pressure Vessel Division.

(2) "Appurtenance" means any control, fitting, appliance, or device attached to or working in conjunction with the boiler proper or pressure vessel proper.

Note: The term "appurtenance" is used in Section III of the ASME Code (Nuclear) in a manner different from the definition herein. Section III is incorporated into these Rules by reference (see Rule .0401). When construing the provisions of Section III, apply the special use of the term therein.

(3) "Authorized inspection agency" means one of the following:

(a) a department or division established by a state, commonwealth, or municipality of the United States, or a province of Canada, which has adopted one or more sections of the ASME Code (of which one shall be Section I) and whose inspectors hold valid commissions with the National Board of Boiler and Pressure Vessel Inspectors;

(b) an inspection agency of an insurance company licensed to write boiler and pressure vessel insurance and whose inspectors hold valid North Carolina commissions; or

(c) an owner-user inspection agency that meets the requirements of G.S. 95-69.15.

(4) "Boiler," as defined in G.S. 95-69.9(b), includes the following types of boilers:

(a) "Power boiler" means a boiler in which steam or other vapor is generated at a pressure of more than 15 psig and includes

- a high-pressure, high-temperature water boiler and an unfired steam boiler;
- (b) "High-pressure, high-temperature water boiler" means a water boiler operating at pressures exceeding 160 psig or temperatures exceeding 250° F or both at or near the boiler outlet;
- (c) "Unfired steam boiler" means an unfired pressure vessel in which steam pressure is generated by the application of heat from an indirect source;
- (d) "Heating boiler" means a steam boiler operated at pressures not exceeding 15 psig, or a hot water heating boiler operated at pressures not exceeding 160 psig and temperatures not exceeding 250° F, at or near the boiler outlet; and
- (e) "Hot water supply or storage vessel" means a boiler or pressure vessel completely filled with water that furnishes hot water to be used externally to itself at pressures not exceeding 160 psig or temperatures not exceeding 250° F at or near the hot water outlet.
- (5) "Boiler or pressure vessel proper" means the internal mechanism, shell, and heads of a boiler or pressure vessel terminating at:
- (a) the first circumferential joint for welded end connections;
- (b) the face of the first flange in bolted flange connections; or
- (c) the first threaded joint in threaded connections.
- Note:** Superheaters, economizers and other pressure parts connected directly to the boiler or pressure vessel without intervening valves are part of the boiler or pressure vessel proper.
- (6) "Certificate of competency" means the certificate issued to a person who has passed the inspector's examination given by the Board of Boiler and Pressure Vessel Rules and who is employed by an authorized inspection agency.
- (7) "Certificate inspection" means an inspection, the report of which is used by the Director as justification for issuing, withholding or revoking the inspection certificate, and may consist of an internal or a general inspection.
- Note:** For the inspection required of a particular boiler or pressure vessel, see Rule .0211 of this Chapter on "Frequency of Inspection."
- (8) "Commission, national board" means the Commission issued by the National Board to a holder of a certificate of competency who desires to make shop inspections or

- field inspections in accordance with the national board bylaws and whose employer submits the inspector's application to the national board for such commission.
- (9) "Commission, North Carolina" means the Commission issued to holders of certificates of competency authorizing them to conduct shop and field inspections in this State.
- (10) "Condemned boiler or pressure vessel" means a boiler or pressure vessel:
- (a) that has been found not to comply with G.S. Chapter 95, Article 7A, or these Rules;
- (b) constitutes a menace to public safety; and
- (c) cannot be repaired or altered so as to comply with G.S. Chapter 95, Article 7A, and these Rules.
- (11) "Design criteria" means ASME and divisional requirements relating to the mode of design and construction of a boiler or pressure vessel.
- (12) "Division" means the Boiler and Pressure Vessel Division of the North Carolina Department of Labor.
- (13) "External inspection" means an inspection of the external surfaces and appurtenances of a power boiler while it is in operation.
- (14) "General inspection" means as complete an examination as can reasonably be made of the internal and external surfaces and appurtenances of a heating boiler or pressure vessel preferably while it is in operation. A general inspection may entail the "shutting down" of a heating boiler or pressure vessel for a closer examination if an authorized inspector feels this action is warranted.
- (15) "Internal inspection" means as complete an examination as can reasonably be made of the internal and external surfaces and appurtenances of a power boiler while it is shut down.
- (16) "Nonstandard boiler or pressure vessel" means:
- (a) power boilers contracted for or installed before December 7, 1935;
- (b) heating boilers contracted for or installed before January 1, 1951;
- (c) pressure vessels contracted for or installed before January 1, 1976;
- (d) non ASME Code constructed hydropneumatic storage tanks containing water under pressure at ambient temperatures contracted for or installed before January 1, 1986; and
- (e) unfired pressure vessels used in air conditioning/refrigeration systems operated entirely full of water or other liquid which is not materially more hazardous

than water contracted for or installed before July 1, 1985, provided the owner or user has registered the vessel with the Division prior to February 28, 1987, and the manufacturer of such vessel provides an extended warranty or similar protection when the Commissioner determines that such vessel may be operated without serious threat to life or property. At the time the owner or user registers the vessel he shall provide full documentation regarding the date the vessel was contracted for, the date the vessel was installed, the age of the vessel, the date the owner or user accepted the vessel, a copy of any insurance policy covering the vessel and a full explanation of the location of the vessel including its proximity to electric wiring or conduits and an analysis of any possible damage or injury to persons or property that would occur should the vessel rupture. Following such registration and application, the Commissioner shall make his decision concerning the type of warranty or similar protection that will be required within 30 days immediately following the receipt of the registration and application. **Note:** This classification includes ASME Code constructed boilers and pressure vessels installed or contracted for prior to the enactment of applicable legislation regulating its use.

- (17) "Factor of safety" means the ratio of allowable stress to strength.
- (18) "Menace to public safety" means a boiler or pressure vessel that cannot be operated without a substantial risk of injury to persons and property.
- (19) "National Board" means The National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229, whose membership is composed of the chief inspectors of government jurisdictions who are charged with the enforcement of the provisions of the ASME Code.
- (20) "National Board Inspection Code" means the inspection handbook published by the National Board, as adopted by the Division.
- (21) "Nuclear energy system" means and refers to any closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof under pressure or vacuum for use externally to itself by the direct application of heat from nuclear energy and associated components, vessels, piping systems, pumps, valves, storage

tanks, and appurtenances, as "appurtenances" is used in Section III of the ASME Code.

- (22) "Owner or user" means any person or legal entity responsible for the safe operation of any boiler or pressure vessel installed in this State.
- (23) "Pressure piping" means piping, including welded piping, external to power boilers from the boiler to the first stop valve in a single installation or from the boiler to the second stop valve in a battery of two or more boilers with manholes.
- (24) "Pressure vessel proper"; see boiler or pressure vessel proper.
- (25) "PSIG" means pounds per square inch gauge.
- (26) "Shop inspection" means an inspection performed by a state inspector pursuant to an inspection service agreement ~~or by a special inspector~~ whereby the fabrication process for a boiler or pressure vessel is inspected.
- (27) "Special inspection" means any inspection performed by the state other than a regularly scheduled inspection and includes instances where the original inspection was rescheduled due to the owner's or user's failure to prepare the boiler or pressure vessel after notification.

Statutory Authority G.S. 95-69.11; 95-69.14.

SECTION .0200 - ADMINISTRATION

.0203 NORTH CAROLINA COMMISSION CARD

(a) When requested by the employer, a North Carolina commission card, bearing the signatures of the chairperson of the board and director, will be issued by the board to persons meeting the qualifications in G.S. 95-69.15(a) and G.S. 95-69.15(c).

(b) Requests for a North Carolina commission card are processed upon proof of a certificate of competency issued by the National Board and payment of a ~~five dollar (\$5.00)~~ ten dollar (\$10.00) fee.

(c) North Carolina commission cards are valid through December 31, at which time each inspector shall submit a renewal application and a ~~five dollar (\$5.00)~~ ten dollar (\$10.00) fee.

(d) The North Carolina commission card shall be returned by the inspector to the Division upon termination of employment.

(e) A North Carolina commission may be suspended or revoked by the board, in accordance with G.S. 95-69.17 for incompetence,

PROPOSED RULES

untrustworthiness or willful falsification of any statement in an application or inspection report.

Statutory Authority G.S. 95-69.11; 95-69.15.

.0205 OWNER-USER INSPECTION AGENCY

(a) A company seeking to institute an owner-user inspection agency shall file an application with the Director and obtain approval from the Board of Boiler and Pressure Vessel Rules.

(b) The company shall, in its application, designate an experienced technician or engineer within its employ as its inspector-supervisor, who, upon approval of the application, shall:

- (1) ascertain that the company's inspectors, pursuant to Rules .0202 and .0203 are issued certificates of competency and owner-user commission cards;
- (2) supervise inspections of boilers and pressure vessels and see that an inspection report, signed by the owner-user inspector, is filed at the equipment site;
- (3) promptly notify the Director of any unsafe boiler or pressure vessel;
- (4) maintain a master file of inspection records:
 - (A) identifying each boiler and pressure vessel by serial number and abbreviated description;
 - (B) showing the date of the last and next scheduled inspection; and
 - (C) made available for examination by the Director or his representative during business hours; and
- (5) file, on a date mutually agreed upon with the Director, an annual statement signed by the supervising inspector, showing the number of pressure vessels and certifying that each inspection was performed pursuant to these Rules, accompanied by a filing fee of ~~ten dollars (\$10.00)~~ fifteen dollars (\$15.00) per vessel.

(c) Inspection certificates are not required for boilers and pressure vessels inspected under an owner-user program.

.0213 FEES

(a) ~~A fourteen dollar (\$14.00)~~ An eighteen dollar (\$18.00) certificate fee for each boiler or pressure vessel inspected by a special inspector and found to be in compliance with these Rules shall be paid to the ~~director~~ North Carolina Department of Labor.

(b) An inspection and certificate fee shall be paid to the ~~director~~ North Carolina Department of Labor for each boiler or pressure vessel inspected by the state. ~~Except where specifically noted in (1) of this Rule, a general inspection conducted on a power boiler shall carry the internal inspection fee.~~

(1) Power boilers:

- (A) miniature boilers, which do not exceed 16 inches inside diameter of shell,
100 pounds per square inch maximum allowable working pressure;

general inspection.....\$15.00;

Statutory Authority G.S. 95-69.11; 95-69.15.

.0211 FREQUENCY OF INSPECTIONS

(a) An authorized inspector shall inspect all boilers and pressure vessels at the time of installation and at regular intervals thereafter, as provided in this Rule.

(b) Subject to the exceptions in (d) and (e) of this Rule, and after seven days notice is given to the owner or user, an authorized inspector shall conduct an internal inspection for a power boiler at the time of installation and annually thereafter. Six months after the internal inspection, an external inspection shall be performed. Issuance of the inspection certificate shall be based on the results of the internal inspection.

(c) In place of the first internal inspection for a power boiler being placed into service for the first time, an inspector may conduct a general inspection if the inspector feels that data sufficient to determine compliance with the rules of this Chapter can be gathered from a general inspection.

(d) Miniature boilers and coil-type water tube boilers operating as power boilers shall undergo a general inspection annually. Miniature boilers and coil-type watertube boilers operating as heating boilers shall undergo a general inspection biennially.

(e) Heating boilers (low-pressure) and pressure vessels shall undergo a general inspection biennially.

(f) Owner-user inspectors shall conduct inspections for boilers and pressure vessels as prescribed in this Rule.

(g) Boiler and pressure vessel components of nuclear energy systems shall be inspected pursuant to Section XI of the ASME Code.

(h) Authorized inspectors may order coverings removed, internal inspections, external inspections, or pressure tests whenever conditions warrant further evaluation of a boiler, pressure vessel, or nuclear energy system.

Statutory Authority G.S. 95-69.11; 95-69.14.

PROPOSED RULES

(B) firetube boilers with handholes only:	
internal inspection.....	\$25.00;
external inspection while under pressure.....	\$15.00;
(C) firetube boilers with manholes:	
internal inspection.....	\$40.00;
external inspection while under pressure.....	\$15.00;
(D) watertube boilers (coil type):	
general inspection.....	\$15.00;
(E) watertube boilers with not more than 500 square feet of heating surface:	
internal inspection.....	\$40.00;
external inspection while under pressure.....	\$15.00;
(F) watertube boilers with more than 500 but not more than 3,000 square feet of heating surface:	
internal inspection.....	\$60.00;
external inspection while under pressure.....	\$15.00;
(G) watertube boilers with more than 3,000 square feet of heating surface:	
internal inspection.....	\$80.00;
external inspection while under pressure.....	\$20.00;
(2) Heating boilers and pressure vessels:	
(A) low pressure steam and hot water boilers, equipped only with handholes and washout plugs.....	\$20.00;
(B) low pressure steam and hot water boilers, equipped with manhole.....	\$30.00;
(C) fired hot water supply boilers and fired hot water heaters equipped with a manhole.....	\$25.00;
(D) fired hot water supply boilers and fired hot water heaters without a manhole.....	\$15.00;
(E) each pressure vessel subject to inspection equipped with a manhole or removable heads.....	\$25.00;
(F) each pressure vessel subject to inspection without a manhole.....	\$15.00;
(1) General Inspection [Rule .0101(14)]:	
(A) vessel entry not required.....	\$ 25.00;
(B) vessel entry required.....	\$ 35.00;
(2) External Inspection [Rule .0101(13)]:	\$ 25.00;
(3) Internal Inspection [Rule .0101(15)]:	
(A) vessel entry not required.....	\$ 35.00;
(B) vessel entry required:	
(i) if heating surface is less than 3,000 square feet.....	\$ 80.00;
(ii) if heating surface is 3,000 square feet or more.....	\$100.00;

(c) Special Inspection - forty dollars (\$40.00) A fee of fifty dollars (\$50.00) per hour plus expenses including travel, hotel and meals shall be paid to the North Carolina Department of Labor for each special inspection [Rule .0101(27)]. The fee for special inspections performed outside of normal working hours is computed at the shop rate.

(d) Shop Inspection - one hundred thirty-five dollars (\$135.00) A fee of one hundred eighty-five dollars (\$185.00) per one-half day (four hours) or any part of one-half day or two hundred and fifty dollars (\$250.00) three hundred dollars (\$300.00) for one day (four to eight hours) or one thousand one hundred and fifty dollars (\$1,150) one thousand four hundred dollars (\$1,400) per week (36 to 40 hours), plus, in either case, all expenses including travel, hotel, and meals shall be paid to the North Carolina Department of Labor for each shop inspection [Rule .0101(26)]. This fee does not include the regular fee for inspection when the boiler or pressure vessel is installed. Shop inspections performed outside of normal working hours shall be computed at one and one-half times the normal rate plus expenses. Normal working hours shall be between the hours of 6:00 a.m. and 8:00 p.m., Monday through Friday, except for state recognized holidays.

(e) A fee of two hundred dollars (\$200.00) per one-half day (four hours) or any part of one-half day or three hundred fifty dollars (\$350.00) for one day (four to eight hours) or one thousand six hundred dollars (\$1,600) per week (36 to 40 hours), plus, in either case, all expenses including travel, hotel and meals shall be paid to the North Carolina Department of Labor for each nuclear inspection. This fee does not include the regular fee for inspection when the boiler or pressure vessel is installed. Nuclear inspections performed outside of normal working hours shall be computed at one and one-half times

the normal rate plus expenses. Normal working hours shall be between the hours of 6:00 a.m. and 8:00 p.m., Monday through Friday, except for state recognized holidays.

(f) A fee of four hundred dollars (\$400.00) per day (up to eight hours) plus all expenses including travel, hotel and meals shall be paid to the North Carolina Department of Labor for each audit. Audits performed outside of normal working hours shall be computed at seventy-five dollars (\$75.00) per hour. Normal working hours shall be between the hours of 6:00 a.m. and 8:00 p.m., Monday through Friday, except for state recognized holidays. Audits include activities other than those identified as inspections, including:

- (1) reviews and surveys for ASME and National Board stamp issuance and renewal, and
- (2) audits pursuant to evaluation for the issuance of North Carolina Specials.

Statutory Authority G.S. 95-69.11.

SECTION .0400 - GENERAL REQUIREMENTS

.0415 NORTH CAROLINA SPECIAL

(a) Preconstruction special. The ~~director~~ North Carolina Department of Labor may issue an inspection certificate for a boiler or pressure vessel constructed under standards equivalent to those established in the ASME Code if an application as provided in (b) of this Rule for permission to construct and install a North Carolina Special is submitted to and approved by the Director prior to commencing construction.

~~(b) The manufacturer or owner shall file an application for permission to construct and install a North Carolina Special.~~ The application shall contain relevant data proving that its construction is equivalent to ASME standards, including but not limited to:

- (1) design calculations;
- (2) certified mill tests or their equivalent;
- (3) a record of welding qualifications and performance tests as required by Section IX of the ASME Welding and Brazing Qualifications Code;
- (4) shop drawings; and
- (5) weld joint details.

~~(c) The Director or his designee may elect to visit, at the expense of the owner, user or manufacturer, the facility where the boiler or pressure vessel is under construction in order to audit the manufacturer's construction techniques, personnel qualifications, and quality control program.~~

(b) Out-of-state special. The North Carolina Department of Labor may issue an inspection certificate for a boiler or pressure vessel which has operated in another state even if the ASME construction and stamping requirements otherwise contained in these Rules are not satisfied if the following requirements are satisfied:

- (1) the state in which the boiler or pressure vessel was operated enforces ASME Code requirements for similar boilers and pressure vessels;
- (2) the boiler or pressure vessel was inspected during construction by an inspector com-

missioned by the state in which the item was installed or manufactured;

- (3) all documentation as required in Paragraph (a) of this Rule is submitted to the Director and found acceptable;
- (4) the boiler or pressure vessel complies with the ASME Code as far as practicable, as determined by the Director;
- (5) the report from the last certificate inspection performed in the state in which the boiler or pressure vessel was previously installed is made available to the Director, and the inspection resulted in the applicable authorization for operation;
- (6) design calculations for pressure vessels to be operated in excess of 3,000 psi include a fatigue analysis as described in ASME Section VIII, Division 2, to determine the operating lifetime of the pressure vessel, and the proposal for operation details the owner's monitoring program to verify compliance to the fatigue analysis;
- (7) the results of any additional examination or test deemed necessary by the Director are satisfactory; and
- (8) the maximum allowable working pressure for the boiler or pressure vessel as established in the calculations is consistent with what is required by the ASME Code for similar boilers or pressure vessels.

(c) Boilers and pressure vessels operating pursuant to Paragraphs (a) and (b) of this Rule shall meet all installation, alteration, inspection, repair and operation requirements of these Rules.

Statutory Authority G.S. 95-69.11; 95-69.14.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that EHN - Division of Water Re-

sources intends to adopt rule(s) cited as 15A NCAC 2G .0601 - .0603.

The proposed effective date of this action is March 1, 1992.

The public hearing will be conducted at 10:00 a.m. on January 10, 1992 at the Ground Floor Hearing Room, 512 N. Salisbury St., Raleigh, NC 27604-1148.

Reason for Proposed Action: These Rules establish the State's Noxious Aquatic Weed List (Authority, Criteria, List of Species). The Aquatic Weed Control Act of 1991 empowers the Secretary of EHNR to designate certain troublesome plants as "noxious aquatic weeds" and therefore direct their "control, eradication, and regulation." This Act became effective October 1, 1991.

Comment Procedures: Persons interested may present written or oral statements relevant to the actions proposed at a hearing to be held as indicated above. Written statements not presented at the hearing should be directed to the following address: David DeMont, Division of Water Resources, P.O. Box 27687, Raleigh, NC 27611-7687, Tele: (919) 733-4064. Written comments must be received no later than January 15, 1992.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2G - WATER RESOURCES PROGRAMS

SECTION .0600 - AQUATIC WEED CONTROL

.0601 THE AQUATIC WEED CONTROL ACT

The North Carolina Aquatic Weed Control Act of 1991 empowers the State of North Carolina to control, eradicate, and regulate plants designated as noxious aquatic weeds. Unless specific exemptions are granted, the Aquatic Weed Control Act and the existing powers of the Commissioner of Agriculture prohibit importation, sale, use, culture, collection, transportation, and distribution of these plants in North Carolina. Permits for the movement of noxious aquatic weeds may be obtained from the Commissioner of Agriculture pursuant to 2 NCAC 48A .1705 and .1706, subject to the conditions stated therein.

Statutory Authority G.S. 113A-222; 113A-223; 113A-224.

.0602 DEFINITION OF CATEGORIES

Noxious aquatic weeds are listed in three categories (A, B, and C) which indicate national priority and status in North Carolina.

(1) Category A includes:

(a) Aquatic species listed on the Federal Noxious Weed List. These will be designated by an asterisk in Rule .0603 of this Section;

(b) Additional aquatic plants not native to North Carolina, nor known to occur here, which would pose a serious threat to the State's resources should they be introduced.

(2) Category B includes aquatic plants not native to North Carolina, with limited distribution in the State, and posing a serious threat to the State's natural resources.

(3) Category C includes other noxious aquatic plants present in North Carolina which pose a threat to the State's natural resources.

Statutory Authority G.S. 113A-222.

.0603 NOXIOUS AQUATIC WEED LIST

Category A:

**Azolla pinnata* R. Brown - Mosquito fern
**Eichornia azurea* (SW.) Kunth - Anchored waterhyacinth

**Hydrilla verticillata* (L.F.) Royle - Hydrilla

**Hygrophila polysperma* (Roxb.) T.

Anderson - Indian hygrophila

**Ipomoea aquatica* Forsk. : Swamp

morningglory, water spinach

**Lagarosiphon major* - African elodea

**Limnophila sessiflora* (Vahl) Blume :

Limnophila

**Monorhia hastata* (L.) Solms :

Arrowleaved monorhia

**Sagittaria sagittifolia* L. - Arrowhead

**Salvinia auriculata* Aubl. - Giant salvinia

**Salvinia biloba* - Giant salvinia

**Salvinia herzogii* - Giant salvinia

**Salvinia molesta* Mitch. - Giant Salvinia

**Sparganium erectum* L. - Branched burreed

**Stratiotes aloides* L. - Crab's-claw

Crassula helmsii - Swamp stonecrop

Ipomoea spp. (All aquatic species) :

Aquatic morningglories

Lagarosiphon spp. (All species) - African

elodea

Salvinia spp. (All except *S. rotundifolia*) :

Water fern

Trapa spp. (All species) - Water Chestnut

Category B:

Eichhornia crassipes (Mart.) Solms :

Waterhyacinth

PROPOSED RULES

Ludwigia uruguayensis (Comb.) Hara -
Uruguay waterprimrose
Lythrum salicaria L. - Purple loosestrife
Phragmites australis (Cav.) Trin.ex Steud. -
Common reed

Category C:

Alternaria philoxeroides (Mart.) Griseb -
Alligatorweed
Egeria densa Planch. - Brazilian elodea
Myriophyllum spicatum L. - Eurasian
watermilfoil
Najas minor All. - Brittleleaf naiad

Statutory Authority G.S. 113A-222.

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that EHNR - Environmental Management Commission intends to amend rule(s) cited as 15A NCAC 2H .0101, .0103, .0126, .0138, .1203, .1205; and adopt rule(s) cited as 15A NCAC 2H .1206.

The proposed effective date of this action is April 1, 1992.

The public hearings will all be conducted at 7:00 p.m. on the following dates and locations:

January 6, 1992
Humanities Lecture Hall
UNC Asheville
Asheville, NC

January 8, 1992
Ground Floor Hearing Room
Archdale Building
512 North Salisbury Street
Raleigh, NC

January 9, 1992
Superior Court Room
Craven County Court House
406 Craven Street
New Bern, NC

Reason for Proposed Action: This proposed amendments to 15A NCAC 2H .0101, .0103, .0126, and .0138 address technical changes including adding two definitions "new" and "existing" with respect to implementing the NPDES permit program. These definitions are needed to allow the permit applicants a better understanding of the requirements that will be placed on their facilities. These definitions represent a change in

policy by the Division. The criteria that was previously used was that facilities that had valid permits were considered existing regardless of the facilities construction status. With the development of new stream classifications with more restrictive criteria for new facilities, it has become ever more important to change these criteria for all future applications and modifications. The proposed amendments to 15A NCAC 2H .1203, .1205, and the adoption of .1206 clarify and formalize EMC procedures on water quality special orders by consent.

Comment Procedures: Comments, statements, data and other information may be submitted in writing prior to, during or within 15 days after the hearing or may be presented orally at the hearing. Oral statements may be limited at the discretion of the hearing officer. Submittal of written copies of oral statements is encouraged. For more information contact Dennis R. Ramsey, Division of Environmental Management, P.O. Box 29535, Raleigh, NC 27626-0535, (919)733-5083.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2H - PROCEDURES FOR PERMITS: APPROVALS

SECTION .0100 - WASTEWATER DISCHARGES TO THE SURFACE WATERS

.0101 PURPOSE

(a) These Rules implement G.S. 143-215.1 which requires permits for control of sources of water pollution by providing the requirements and procedures for application and issuance of state NPDES permits for a discharge from an outlet, point source, or disposal system discharging to the surface waters of the state, and for the construction, entering a contract for construction, and operation of treatment works with such a discharge (see Section .0200 of this Subchapter regarding permits for disposal systems not discharging to the surface waters of the state). These Rules also contain the requirements and procedures for issuance of state permits for pretreatment facilities. (See Section .0900 of this Subchapter for rules for permits issued by local pretreatment programs).

(b) Rules and Statutes referenced in this Section may be obtained by writing or visiting the Division of Environmental Management, Water Quality Section's offices at the following locations:

- Permits and Engineering Unit,
Archdale Building

P.O. Box ~~27687~~, 29535,
512 N. Salisbury St.,
Raleigh, N.C. ~~27611~~ 27626-0535

- Raleigh Regional Office
3800 Barrett Dr.,
Raleigh, N.C. 27611
- Asheville Regional Office
~~150 59 Woodfin St., Place,~~
Asheville, N.C. 28802
- Mooresville Regional Office
919 N. Main St.,
Mooresville, N.C. 28115
- Fayetteville Regional Office
Wachovia Bldg. Suite 714,
Fayetteville, N.C. 28301
- Washington Regional Office
1424 Carolina Avenue,
Washington, N.C. 27889
- Wilmington Regional Office
~~7225 Wrightsville Ave.,~~
127 Cardinal Drive Extension
Wilmington, N.C. ~~28403~~ 28405-3845
- Winston-Salem Regional Office
8025 North Point Blvd.,
Winston-Salem, N.C. 27106

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

.0103 DEFINITION OF TERMS

The terms used in this Section shall be as defined in G.S. 143-213 and as follows:

- (1) "Certificate of Coverage" means the approval given dischargers that meet the requirements of coverage under a general permit.
- (2) "Committee" means the NPDES committee of the Environmental Management Commission.
- (3) "Director" means the Director of the Division of Environmental Management, Department of Environment, Health, and Natural Resources or his designee.
- (4) "EPA" means the United States Environmental Protection Agency.
- (5) "Existing", with respect to implementing the NPDES permitting program, means:
 - (a) Facilities which physically exist and have been legally constructed, i.e., health department or other agency approval or

- constructed prior to any regulatory requirements.
- (b) Facilities which have received an NPDES Permit and have received an Authorization to Construct and have constructed or begun significant construction of any wastewater treatment facilities within the term of the current permit.
- (c) Facilities which have received a phased NPDES Permit and have received an Authorization to Construct for a phase of the permitted flow and have constructed or begun significant construction of the phased wastewater treatment facilities.
- (6) ~~(5)~~ "NPDES" means the National Pollutant Discharge Elimination System.
- (7) "New", with respect to implementing the NPDES permitting program, means:
 - (a) Proposed facilities that do not have a NPDES Permit nor have any facilities constructed.
 - (b) Facilities which physically exist, however, illegally constructed, i.e., no required agency approvals.
 - (c) Facilities which have received an NPDES Permit and have received an Authorization to Construct but have not begun construction of any wastewater treatment facilities within the term of the current permit.
 - (d) Any additional increases in treatment plant capacity, which has not received an Authorization to Construct will be considered new and new effluent limitations and other requirements, if applicable, would be imposed for the entire facility.
- (8) ~~(6)~~ "New Source" means any industrial installation, from which there may be a discharge, the construction or modification of which is commenced on or after the date of publication of new source performance standards and/or pretreatment standards for new sources by the Environmental Protection Agency.
- (9) ~~(7)~~ "New Source Performance Standards" means those standards of performance applied to industrial discharges defined as new sources.
- (10) ~~(8)~~ "POTW" means Publicly Owned Treatment Works.
- (11) ~~(9)~~ "Pretreatment standard" means any regulation containing pollutant discharge limits for indirect dischargers for ensuring compliance with Section 30F(b) and (c) of the Clean Water Act, 33 U.S.C. Section 1251 et seq. This term includes prohibited discharge limits and local sewer use ordinance limits.

- (12) ~~(40)~~ "Primary industry" means an industry listed in 40 CFR 122, Appendix A is hereby incorporated by reference as amended through July 1, 1986 or any later adopted amendments or editions of this document as is allowed by G.S. 150B-14(c). July 18, 1991, and any subsequent amendments. Copies of this publication are available from the Government Institutes, Inc., 4 Research Place, Suite 200, Rockville, MD 20850-1714 for a cost of thirty-six dollars (\$36.00) each plus four dollars (\$4.00) shipping and handling. Copies are also available at the Division of Environmental Management, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27604.
- (13) ~~(44)~~ "Professional Engineer" means a person who is presently registered and licensed as a professional engineer by the North Carolina State Board of Registration For Professional Engineers and Land Surveyors.
- (14) ~~(42)~~ "Staff" means the staff of the Division of Environmental Management, Department of Environment, Health, and Natural Resources.
- (15) ~~(43)~~ "General permit" means an NPDES "permit" issued under G.S. 143-215.1(b)(3) and (4) and 40 CFR 122.28 authorizing a category of discharges which all involve the same or substantially similar types of operations, discharge the same types of wastes, require the same effluent limitations or operating conditions, require the same or similar monitoring, and in the opinion of the Director are more appropriately controlled under a general permit than under individual permits.
- (16) ~~(44)~~ "Mine dewatering" means discharges of uncontaminated infiltrate and stormwater from mine excavation and the water that is removed to lower the water table to allow mining in an area.
- (17) ~~(45)~~ "Notice of Intent" means formal written notification to the Division that a proposed discharge is intended to be covered by a general permit and takes the place of "application" used with individual permits.
- (18) ~~(46)~~ "Oil terminal storage facilities" means petroleum bulk storage, product transfer, loading, unloading, and related areas but does not include marinas or facilities primarily engaged in the retail sale of petroleum products. Oil/water separators such as those at maintenance garages, gas stations, and National Guard and military reserve facilities are included in this definition.
- (19) ~~(47)~~ "Once-through non-contact cooling water" means water taken from wells, sur-

face waters, or water supply systems and used in a non-contact cooling system without the addition of biocides or other chemical additives. Boiler blowdown waters are included in this definition. Nuclear and fossil fuel electric generating plants are not included in this definition.

- (20) ~~(48)~~ "Sand dredge" means a facility to remove sand from river bottoms. No other mining activities are included in this definition.
- (21) ~~(49)~~ "Seafood packing facility" means a business which is primarily engaged in the sorting and packing of fresh seafood and which has a discharge consisting entirely of washdown and rinse water. Trout packing facilities are included in this definition. Wastewaters from seafood processing plants are not included in this definition.
- (22) ~~(23)~~ "Stormwater" means the flow of water which results from precipitation and which occurs immediately following rainfall or a snowmelt.
- (23) ~~(20)~~ "Swimming pool filter backwash" means normal filter backwash water from both public and private swimming pools as well as spas with backwash filter facilities.
- (24) ~~(21)~~ "Trout farm" means a facility for the commercial production of trout.
- (25) ~~(22)~~ "Water filtration facility" means backwash filters and sludge disposal systems associated with water treatment plants and backwash filters associated with wells.

Statutory Authority G.S. 143-215.3(a)(1); 143-213.

.0126 STORMWATER DISCHARGES

Permits for stormwater ~~treatment and disposal systems which discharge~~ discharges to surface waters shall be issued in accordance with United States Environmental Protection Agency regulations 40 CFR 122.21 and 122.26 which are ~~adopted hereby incorporated~~ by reference as amended through ~~August 20, 1985. July 18, 1991, and any subsequent amendments. Copies of this publication are available from the Government Institutes, Inc., 4 Research Place, Suite 200, Rockville, MD 20850-1714 for a cost of thirty-six dollars (\$36.00) each plus four dollars (\$4.00) shipping and handling. Copies are also available at the Division of Environmental Management, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27604.~~

Statutory Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a)(1).

.0138 SUBMISSION OF PLANS AND SPECIFICATIONS

(a) Required. After a permit has been issued by the Division of Environmental Management in accordance with this Section, construction of wastewater treatment facilities or additions thereto shall not begin until final plans and specifications have been submitted to and written approval has been issued to the permittee by the Division of Environmental Management. If an Authorization to Construct has not been applied for in accordance with the requirements of the NPDES permit during the term of the permit, the permit will be considered void upon expiration and future actions will be considered as a new application.

(b) Application.

- (1) Application for approval of plans and specifications must be made in triplicate on official forms completely filled out, where applicable, and fully executed. The signature of the consulting engineer or other agent will be accepted on the application only if accompanied by a letter of authorization.
- (2) Required sets of plans and specifications:
 - (A) regular projects -- three sets of detailed plans and specifications,
 - (B) federal and state grants projects -- four sets of detailed plans and specifications plus federal assurances required by appropriate federal agency;
- (3) Specifications describing all materials to be used, methods of construction and means for assuring the quality and integrity of the finished project.
- (4) When required, a statement submitted that the wastewater treatment facility involved will be properly disconnected and the wastewater discharged into an adequate district or municipal system when it becomes available.
- (5) If more than one contiguous acre of land is to be uncovered by a project, documentation should be supplied verifying that the applicant has completed an erosion control plan.
- (6) A 110 volt power source and a potable water supply must be available at the treatment system to allow for maintenance, clean-up and sampling. In cases where this is not reasonable or economically achievable, an exception may be granted by the Water Quality Section Chief.
- (7) For those wastewater disposal facilities which have the potential to cause a

contravention of groundwater standards, hydrogeologic information must be provided as specified in Rule 2H .0205 of this Subchapter.

Statutory Authority G.S. 143-215.1(c)(1).

SECTION .1200 - SPECIAL ORDERS

.1203 PUBLIC NOTICE

(a) Notice of proposed Consent Order:

- (1) The Director is delegated the authority to prepare the notice of the proposed Consent Order and shall advertise it as specified in G.S. 143-215.2(a1)(1) at least 45 days prior to any final action by the Commission or the Director.
- (2) The Notice shall include at least the following:
 - (A) name, address, and phone number of the agency issuing the public notice;
 - (B) name and address of the person to whom the order is directed;
 - (C) a brief summary of the proposed conditions of the agreement including a disclosure of the final compliance date and the major permit conditions which the permittee will be allowed to exceed;
 - (D) a brief description of the procedures to be followed by the Commission or Director in reaching a final determination on the proposed agreement. This shall include explanations of the comment period and how interested persons may influence or comment on the proposal along with procedures to request a public meeting. The description shall specify that requests for a public meeting and comments are to be received by the Division within 30 days following the newspaper publication of the public notice;
 - (E) a description of the information available for public review, where it can be found, and procedures for obtaining copies of pertinent documents.
- (b) Notice of public meetings for proposed Consent Order:
 - (1) The Director shall consider all requests for a public meeting and if he determines that there is significant public interest, then he will cause such a meeting to be held.
 - (2) Public meetings shall be noticed by the Director at least 30 days prior to the meeting.
 - (3) The Notice shall be advertised in a local newspaper and provided to those persons specified in G.S. 143-215.2(a1)(2) for water quality special orders and G.S.

143-215.110(a1)(2) for air quality special orders.

- (4) The Notice shall include the information specified in (a)(2)(A), (B), (C) and (E) of this Rule relative to the identification of the parties involved, the conditions of the proposal, how to obtain additional information and the procedures to be followed by the Commission in reaching a final determination. It should also provide full information regarding the time and location for the meeting along with procedures for the various methods of providing comment.

(c) Any person may request to receive copies of all notices required by this Rule, and the Director shall mail copies of notices to those who have submitted a request.

(d) The Director may combine the requirements in Paragraphs (a) and (b) of this Rule with a combination comment period and public meeting notice.

(e) Any Special Order by Consent may ~~provide that the Director may agree to be amended by the Director to incorporate minor modifications, such as reallocations of allowable flows, modification of standard conditions to reflect updated versions, correct typographical errors and interim date extensions, in a consent order without going back to public notice provided that the said modifications may not extend final compliance date by more than four months.~~

(f) The requirements of this Rule for public notice and public meeting were developed to apply to Special Orders by Consent. The Commission may specify other conditions for Special Orders issued without consent.

Statutory Authority G.S. 143-215.2; 143-215.3 (a) (1); 143-215.3 (a) (3); 143-215.3 (a) (4); 143-215.110.

1205 ACTION ON SPECIAL ORDERS ISSUED WITHOUT CONSENT

The Commission may issue a proposed Special Order without the consent of the person affected. The Commission shall notify the affected person of the procedure set out in G.S. 150B-23 to contest the proposed ~~special order~~. Special Order.

Statutory Authority G.S. 143-215.2(b); 143-215.3 (a) (1); 143-215.110 (b).

1206 WATER QUALITY SPECIAL ORDERS BY CONSENT

(a) Applications:

- (1) Applications must be made in triplicate on forms supplied by the Division of En-

vironmental Management along with a nonrefundable four hundred dollar (\$400.00) processing fee and all other required information.

- (2) Applications found to be incomplete will be returned to the applicant with an explanation of deficiencies.

- (3) Applications must be signed as follows:

(A) in the case of corporations, by a principal executive officer of at least the level of vice-president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility for which the Order is being requested;

(B) in the case of a partnership, by a general partner and in the case of a limited partnership, by a general partner;

(C) in the case of a sole proprietorship, by the proprietor;

(D) in the case of a municipal, state, or other public entity by either a principal executive officer, ranking elected official or other duly authorized employee.

- (b) Processing of the applications:

(1) Applications will not be processed unless it is demonstrated by the applicant to the satisfaction of the Director that noncompliance is not due to failure by the applicant to properly operate, manage and maintain the wastewater treatment system and that the existing wastewater treatment system is being operated in such a way as to attain the highest degree of treatment possible under the existing conditions. This demonstration must be made in the form of a report prepared by an independent consultant (a professional with expertise in wastewater treatment) or by the Municipal Compliance Initiative program of the Construction Grants and Loans Section of the Division of Environmental Management.

- (2) Applications will not be processed unless the applicant can demonstrate to the satisfaction of the Director that:

(A) Funds needed to meet the requirements of the proposed order or will be available to meet the compliance schedule and any interim effluent limitations; or

(B) That the applicant can adopt specific alternative steps to achieve compliance where the applicant cannot assure total financing of needed facilities.

- (c) Development of the Special Order:

(1) The compliance schedule in the order must be sufficiently detailed to insure that the applicant is constantly progressing to-

ward final compliance. This schedule should normally include, but not be limited to, activities such as submission of plans and specifications, starting of construction, completion of construction and achievement of final compliance.

- (2) The interim effluent limitations must be based on the optimum expected efficiency of the existing treatment system. In cases of phased construction or expected interim treatment facility improvements, the interim limitations should reflect these expected improvements. Likewise, if treatment units must be taken off line due to construction, the interim limitations may be modified during the period of actual outage.
- (3) To insure compliance with all schedule dates and interim effluent limitations, all orders must contain stipulated penalties for violations of specified requirements. Also a monetary settlement should be included in the order to settle previous violations.
- (4) The order must contain a condition that advises the applicant that it is responsible for funding the treatment system improvements and that lack of funds will not be a defense in contesting stipulated penalties.

(d) Acceptance of additional wastewater into a wastewater treatment system owned or operated by a unit of government, in accordance with North Carolina General Statute 143-215.67.(b).

- (1) Additional flows will only be allowed as part of a Consent Order when the following demonstrations can be made:

(A) New or improved wastewater treatment facilities will be constructed in the near future that will adequately treat the existing and additional waste or the applicant can adopt specific alternative steps to offset the adverse effects of the additional waste.

(B) The flows are needed to provide minimum reasonable service to identified new residential, commercial and industrial sources or equivalent substitutions for those sources as approved by the Director.

(C) The nature of the additional flows is such that the waste characteristics do not exceed those generally associated with domestic waste or are pretreated to domestic strengths. Waste of greater than normal domestic strength may be accepted if the parameter(s) are not those for which interim limitations have been developed and it can be demonstrated to the

satisfaction of the Director that the additional waste will not adversely affect the treatment efficiency of the treatment system for any modified parameter or result in the violation of any other permit limitation.

(D) All new and proposed industrial waste tributary to the system must be controlled using all needed mechanisms including but not limited to adoption and implementation of industrial waste control and pretreatment ordinances.

(E) The cumulative impacts of wastewater allowed under the order will not result in any significant degradation in the quality of the waters ultimately receiving the wastewater during flow conditions between and including the 7-day, 10-year minimum flow (7Q10) and the average flow. The Division must consider any special or protected waters such as but not limited to, High Quality Waters, Water Supply Waters, Trout Waters and Shellfish Waters in conducting this evaluation. Significant degradation shall be defined as follows:

(i) A predictive decrease in dissolved oxygen of 0.5 mg/l or greater at the point of maximum dissolved oxygen sag; In cases where existing (prior to adding the requested wastewater) dissolved oxygen conditions are above 3.0 mg/l at or above 7Q10 conditions, the amount of wastewater added will not be allowed to depress oxygen levels below 3.0 mg/l at the corresponding stream flow levels. No additional wastewater will be allowed if measured or predicted dissolved oxygen levels at any stream flow at or above 7Q10 are less than 3.0 mg/l; or

(ii) A predictive increase in the length of the affected segment (that segment in which the predicted dissolved oxygen is less than dissolved oxygen standards) of 0.5 miles or greater; or

(iii) An increase in coliform bacteria density predicted to exceed applicable water quality standards; or

(iv) Increases in the coliform density, decreases in dissolved oxygen, or changes in any other water quality parameters which are predicted to result in fish or other aquatic mortality, closing of swimming areas or significant impact on other water uses, regardless of compliance with conditions in Subparagraphs (d)(1)(F)(i)-(iii) of this Rule;

(v) No wastewater can be accepted which will add toxic pollutants in quantities not generally associated with domestic wastewater characteristics, unless the acceptance of the additional wastewater can be supported through appropriate analyses acceptable to the Director.

(2) Approvals of additional wastewater flows may be immediately rescinded by the Director for any schedule or condition violation, or limit violations in two consecutive months, or any other violation he considers sufficiently severe to warrant such action.

Statutory Authority G.S. 143-215.2; 143-215.3.
(a) (1).

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend rule(s) cited as 15A NCAC 10B .0105, .0202 - .0203; 10C .0206, .0212, .0302, .0305, .0401, .0407; 10D .0002 - .0004.

The proposed effective date of this action is April 1, 1992.

The public hearing will be conducted at 10:00 a.m. on January 8, 1992 at the Archdale Building, Room 386, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

Reason for Proposed Action: 15A NCAC 10B .0105 - To allow flexibility in selecting tag material. 15A NCAC 10B .0202 - Withdrawal of permission of the landowner to allow bear hunting on that particular tract. 15A NCAC 10B .0203 - To accurately reflect property name changes and to accommodate landowner requests in public hunt dates. 15A NCAC 10C .0206 - Trotlines and sethooks are prohibited in Lake Waccamaw to prevent the decline in game fish populations. 15A NCAC 10C .0212 - To allow for the restocking of game fish subsequent to repair of the dam and spillway. 15A NCAC 10C .0302 - To provide consistency between enforcement policy and the administrative rules. 15A NCAC 10C .0305 - To clarify the creel and size limits of particular species of fish. 15A NCAC 10C .0401 - Trotlines and sethooks are prohibited in Lake Waccamaw to prevent the decline in the game fish populations. To enable biologists to document the growth of stocked game fish as required for federal funding

of the stocking program. 15A NCAC 10C .0407 - Establishment of a cast net season for special device license holders to offset the effects of the prohibition against the sale of bait collected under a hook and line license. 15A NCAC 10D .0002 - Travel is to be restricted to reduce the disturbance of waterfowl on the refuge. 15A NCAC 10D .0003 - To reflect name changes and acquisitions of game lands. Restricts particular activities which disturb wildlife or their habitat or are otherwise unsuitable for the particular game land. 15A NCAC 10D .0004 - Clarifies the necessity of having a game land license while fishing on game lands where there are designated public mountain trout waters.

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 December 16, 1991 to January 15, 1992. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

.0105 MIGRATORY GAME BIRDS

(a) Cooperative State Rules

- (1) The taking of sea ducks (scoter, eider and old squaw) during any special federally-announced season for these species shall be limited to the waters of the Atlantic Ocean, and to those coastal waters south of US 64 which are separated by a distance of at least 800 yards of open water from any shore, island or marsh.
- (2) The extra daily bag and possession limits allowed by the federal regulations on scaup apply in all coastal waters east of U.S. Highway 17, except Currituck Sound north of US 158.
- (3) Tundra swans may be taken during the open season by permit only subject to limitations imposed by the U. S. Fish and Wildlife Service. A limited number of nontransferable swan permits will be issued by the Wildlife Resources Commission to applicants who will be selected at random by computer, and only one swan may be taken under each permit which must be cancelled at the time of the kill by cutting out the month and day of the

kill. Accompanying the permit is a ~~metal~~ tag which must be affixed ~~at the base of the right wing of~~ to the swan at the time and place of the kill. The permit must be affixed in accordance with instructions provided with the permit. In addition, a preaddressed post-paid card is supplied to each permittee on which to report the number of days hunted and the details of the kill if made. It is unlawful to hunt swans without having the permit and the tag in possession or to possess a swan without the cancelled permit in possession and the tag properly affixed to the swan. It is unlawful to possess a swan permit or tag while hunting that was assigned to another person or to alter the permit or tag in any way other than cutting out the proper month and day of kill.

- (4) Canada geese may be taken west of I-95 during the open season by permit holders only subject to limitations imposed by the U.S. Fish and Wildlife Service. Permits will be issued by the North Carolina Wildlife Resources Commission. It is unlawful to hunt or possess Canada geese west of I-95 without having the permit in possession. It is unlawful to possess a Canada goose permit while hunting that was assigned to another person or to alter the permit in any way.

(b) Notwithstanding the provisions of G.S. 113-291.1(a) and (b), the following restrictions apply to the taking of migratory game birds:

- (1) No migratory game bird may be taken:
 - (A) With a rifle;
 - (B) With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so as to limit its total capacity to not more than three shells.
- (2) No migratory game bird may be taken:
 - (A) From or by the use of a sinkbox or any other type of low floating device affording the hunter a means of concealment beneath the surface of the water;
 - (B) With the aid of bait, or on, over or within 300 yards of any place where any grain, salt or other feed is exposed so as to constitute an attraction to migratory game birds or has been so exposed during any of the 10 consecutive days preceding the taking, except that this Part shall not apply to standing crops, flooded croplands, grain crops properly shocked on the field where grown, or grains found

scattered solely as the result of normal agricultural planting or harvesting;

- (C) With the aid of live decoys, or on, over or within 300 yards of any place where tame or captive migratory game birds are present, unless such birds are and have been for a period of 10 consecutive days prior to such taking confined within an enclosure which substantially reduces the audibility of their calls and totally conceals them from the sight of wild migratory game birds.
- (3) Waterfowl hunting and harassment and other unauthorized activities shall be prohibited on posted waterfowl management areas established by the Wildlife Resources Commission for Canada Geese and ducks restoration.
- (4) In that area of Roanoke Sound adjacent to and immediately Northeast of Roanoke Island as marked by buoys designating the waterfowl rest area, it shall be unlawful to harass or take any waterfowl.

Authority G.S. 113-134; 113-274; 113-291.1; 50 C.F.R. 20.21; 50 C.F.R. 20.105.

SECTION .0200 - HUNTING

.0202 BEAR

(a) Open Seasons

- (1) Monday on or nearest October 15 to the Saturday before Thanksgiving and the third Monday after Thanksgiving to January 1 in and west of the boundary formed by NC 16 from the Virginia State line to Wilkesboro and NC 18 from Wilkesboro to the South Carolina State line.
- (2) Second Monday in November to the following Saturday in Beaufort, Camden, Craven, Dare, Gates, Hyde, Jones, Pamlico, Pasquotank, Tyrrell, and Washington Counties; and in that part of Bertie County southeast of US 17, and that part of Chowan County north of a line formed by SR 1002, SR 1222 and SR 1221.
- (3) Second Monday in November to January 1 in Bladen, Carteret, Duplin, New Hanover, Onslow and Pender Counties; in that part of Cumberland County south of NC 24 and east of the Cape Fear River; and in that part of Sampson county south of NC 24.
- (4) Second Monday in December to January 1 in Brunswick and Columbus Counties.

PROPOSED RULES

(b) No Open Season. There is no open season in any area not included in Paragraph (a) of this Rule or in those parts of counties included in the following posted bear sanctuaries:

Avery, Burke and Caldwell Counties--Daniel Boone bear sanctuary
 Beaufort, Bertie and Washington Counties--Bachelor Bay bear sanctuary
 Beaufort and Pamlico Counties--Gum Swamp bear sanctuary
 Bladen County--Suggs Mill Pond bear sanctuary
 Brunswick County--Green Swamp bear sanctuary
 Buncombe, Haywood, Henderson and Transylvania Counties--Pisgah bear sanctuary
 Carteret, Craven and Jones Counties--Croatan bear sanctuary
 Clay County--Fires Creek bear sanctuary
 Currituck County--North River bear sanctuary
 Dare County--Bombing Range bear sanctuary
 Haywood County--Harmon Den bear sanctuary
 Haywood County--Sherwood bear sanctuary
 Hyde County--Gull Rock bear sanctuary

Hyde County--Pungo River bear sanctuary
 Jackson County--Panthertown-Bonas Defeat bear sanctuary
 Jones and Onslow Counties--Hofmann bear sanctuary
 Macon County--Standing Indian bear sanctuary
 Macon County--Wayah bear sanctuary
 Madison County--Rich Mountain bear sanctuary
 McDowell and Yancey Counties--Mt. Mitchell bear sanctuary
 Mitchell and Yancey Counties--Flat Top bear sanctuary
~~Washington County--Bull Bay bear sanctuary~~
 Wilkes County--Thurmond Chatham bear sanctuary

(c) Bag limits: daily, one; possession, one; season, one.

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

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

.0203 DEER (WHITE-TAILED)

(a) Closed Season. All counties and parts of counties not listed under the open seasons in Paragraph (b) in this Rule are closed to deer hunting.

(b) Open Seasons (All Lawful Weapons)

(1) Male Deer With Visible Antlers. Male deer with antlers or spikes protruding through the skin, as distinguished from knobs or buttons covered by skin or velvet, may be taken during the following seasons:

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

Beaufort	Duplin	Lenoir	Pitt
Bertie	Edgecombe	Martin	Richmond**
Bladen	Franklin	Nash	Robeson
Brunswick	Gates	New Hanover	Scotland**
Camden	Greene	Northampton	Tyrrell
Carteret	Halifax	Onslow	Vance
Chowan	Hertford	Pamlico	Warren
Columbus*	Hoke	Pasquotank	Washington
Craven	Hyde	Pender	Wayne
Currituck	Jones	Perquimans	Wilson
Dare			

Cumberland: That part south of NC 24.

Harnett: That part west of NC 87.

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

Moore**: All of the county except that part north of NC 211 and west of US 1.

Sampson: All of the county except that part west of NC 242 and north of US 13.

Wake: That part north of I-40.

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

**See 15A NCAC 10D .0003(d)(2) for seasons on Sandhills Game Land.

PROPOSED RULES

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

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

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

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

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

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

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

Cumberland: That part north of NC 24.

Harnett: That part east of NC 87.

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

Moore: That part north of NC 211 and west of US 1.

Sampson: That part west of NC 242 and north of US 13.

Wake: That part south of I-40.

- (2) Deer of Either Sex. Deer of either sex may be taken during the open seasons and in the counties and portions of counties listed in this Subparagraph:
- (A) The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the first Saturday in October to January 1 in those parts of Hyde, Tyrrell and Washington Counties known as the Pungo Pocosin Lakes National Wildlife Refuge, in those parts of Camden, Gates and Pasquotank Counties known as the Dismal Swamp National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge and those parts of Anson and Richmond Counties known as Pee Dee National Wildlife Refuge.
- (B) The open either-sex deer hunting dates established by the appropriate military commands during the period from Monday on or nearest October 15 to January 1 in that part of Brunswick County known as the Sunny Point Military Ocean Terminal, in that part of Craven County known and marked as Cherry Point Marine Base, in that part of Onslow County known and marked as the Camp Lejeune Marine Base, on Fort Bragg Military Reservation, and on Camp Mackall Military Reservation.
- ~~(C) The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the Monday on or nearest October 15 to January 1 in those parts of Anson and Richmond Counties known as the Pee Dee National Wildlife Refuge.~~
- ~~(C) (D)~~ Third Second Saturday in October for youth either sex deer hunting by permit only on a designated portion of Belews Creek Steam Station in Stokes County.
- ~~(D) (F)~~ The second Saturday in December in all of Buncombe, Cleveland, Haywood, Henderson, Madison, Polk, Rutherford and Transylvania Counties.
- ~~(E) (F)~~ Wednesday of the week following Thanksgiving in all of Catawba, Cleveland, Forsyth, Mitchell, and Rutherford Counties; and in the following parts of Counties:
Alleghany: All of the county except game lands.
-

Ashe: All of the county except game lands.

Avery: That part south of the Blue Ridge Parkway, except game lands.

Burke: All of the county except game lands.

Caldwell: All of the county except game lands.

Cumberland: That part south of SR 1709, west of SR 1802, west of US 301 and east of the Cape Fear River.

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

McDowell: All of the county except game lands.

Mecklenburg: That part west of I-77, south of NC 73, east of the Catawba River, and north of NC 16 and SR 2004 except for the Cowan's Ford Waterfowl Refuge.

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

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

(F) ~~(G)~~ Wednesday and Thursday of the week following Thanksgiving in all of Dare, Iredell and Surry Counties and in the following parts of counties:

Alexander: All of the county except game lands.

Cabarrus: That part west of US 52 and south of a line formed by NC 49 from the Mecklenburg County line to Mount Pleasant and east of SR 1006 from Mount Pleasant to the Rowan County line.

Davie: All of the county except game lands.

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

Scotland: That part north of US 74, except game lands.

Stokes: All of the county except game lands.

Tyrrell: That part south of US 64.

Wilkes: All of the county except game lands.

(G) ~~(H)~~ Wednesday to Saturday of the week following Thanksgiving in all of Alamance, Camden, Caswell, Chatham, Durham, Granville, Greene, Lee, Orange, Pasquotank, Person, Rockingham, Wake, and Wilson Counties and in the following parts of counties:

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

Cumberland: That part east of I-95 and south of NC 24.

Currituck: That part north and west of the Intracoastal Waterway.

Franklin: That part west of US 1.

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

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

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

Nash: That part south of US 64.

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

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

Richmond: That part east of a line formed by US 220 from the Montgomery County line to Rockingham and US 1 from Rockingham to the South Carolina line, except on game lands.

Robeson: That part east of I-95.

Stanly: That part west of US 52.

Wayne: That part north of US 70.

(H) ~~(I)~~ Wednesday of the week following Thanksgiving to Saturday of next succeeding week in all of Hyde, Vance, and Warren Counties and in the following parts of counties:

Anson: All of the county except game lands.

Cabarrus: That part east of US 52.

Carteret: All of the county except game lands.

Chowan: That part north of US 17.

Currituck: That part south and east of the Intracoastal Waterway, except the Outer Banks.

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

Edgecombe: That part south of US 64.

Franklin: That part east of US 1.

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

Lenoir: That part west of NC 11.

Montgomery: All of the county except on game lands.

Nash: That part north of US 64.

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

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

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

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

Wayne: That part south of US 70.

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

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

Beaufort: All of the county except game lands.

Bertie: All of the county except Roanoke River Wetlands and Roanoke River National Wildlife Refuge.

Bladen: All of the county except game lands.

Chowan: That part south of US 17.

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

Craven: All of the county except game lands.

Duplin: All of the county except game lands.

Edgecombe: That part north of US 64.

Halifax: All of the county except Roanoke River Wetlands.

Jones: All of the county except game lands.

Lenoir: That part east of NC 11.

Martin: All of the county except Roanoke River Wetlands.

New Hanover: That part north of US 74.

Onslow: All of the county except game lands.

Pamlico: All of the county except game lands.

Pender: All of the county except game lands.

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

Sampson: That part south of NC 24.

- (3) Game Lands Either-Sex Hunts. On the hunt dates indicated, deer of either sex may be taken by permittees engaged in managed hunts conducted on game lands in accordance with 15A NCAC 10D .0003(d)(4) (5).

(c) Open Seasons (Bow and Arrow)

- (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph and the bag limits set out in Paragraph (e) of this Rule, deer of either sex may be taken with bow and arrow during the following seasons:

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

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

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

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

(2) Restrictions

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

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

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

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

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

- (A) Monday on or nearest October 8 to the following Saturday in the counties and parts of counties having the open seasons for male deer specified by Items (A) and (C) of Subparagraph (b)(1) of this Rule, except on Sandhills Game Land.
- (B) Monday to Saturday of the week preceding Thanksgiving week in the counties and parts of counties having the open seasons for male deer specified by Item (B) of Subparagraph (b)(1) of this Rule.
- (C) Monday to Saturday of the second week before Thanksgiving week in the counties and parts of counties having the open season for male deer specified by Part (D) of Subparagraph (b)(1) of this Rule, and on Sandhills Game Land.
- (2) Restrictions
 - (A) Only male deer with visible antlers may be taken during the muzzle-loading firearms season except that:
 - (i) On the last day of the established muzzle-loading firearms season a maximum of two antlerless deer may be substituted for an equal number of antlered deer when taken in that part of any county listed in this Subparagraph that has an established gun either-sex deer season.

Alexander	Caldwell	Iredell	Stokes
Alleghany	Catawba	Mecklenburg	Surry
Ashe	Cleveland	McDowell	Wilkes
Avery	Davie	Mitchell	
Burke	Forsyth	Rutherford	
 - (ii) In those areas with an established gun either-sex deer season in counties or parts of counties listed in Paragraph (b)(1)(A) or (D) of this Rule a maximum of two antlerless deer may be substituted for an equal number of antlered deer and one additional antlerless deer is permitted without substitution.
 - (B) Dogs may not be used for hunting deer during the muzzle-loading firearms seasons.
 - (C) Pistols may not be carried while hunting deer during the muzzle-loading firearms seasons.
- (e) Bag Limits
 - (1) Male Deer With Visible Antlers. Daily, two; possession, four; season, four.
 - (2) Antlerless Deer. Where antlerless deer may be lawfully taken, a maximum of two antlerless deer may be substituted for an equal number of antlered deer in the limits contained in Subparagraph (1) of this Paragraph. Antlerless deer include males with knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin.
 - (3) In those areas with an established gun either-sex deer season in counties and parts of counties listed in Paragraph (b)(1)(A) or (D) of this Rule, one additional antlerless deer is permitted without substitution when taken during a gun either-sex, bow and arrow or muzzle-loading firearms season. In those counties or parts of counties listed in Paragraph (b)(2)(k), this one additional antlerless deer may be taken during any part of the gun deer season except on game lands where this deer cannot be taken during any part of a gun season not open to either sex deer hunting. When taken during the regular gun season this additional antlerless deer must be tagged with the antlerless only deer tag.
- (f) Kill Reports. The carcass of each deer shall be tagged and the kill reported as provided by 15A NCAC 10B .0113.

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

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

SECTION .0200 - GENERAL REGULATIONS

.0206 TROT LINES AND SET-HOOKS

Trotlines and set-hooks may be set in the inland waters of North Carolina, provided no live bait is used; except that no trotlines or set-hooks may be set in designated public mountain trout waters, Lake Waccamaw, or in any of the impounded waters on the Sandhills Game Land. For the purposes of this Regulation, a set-hook

is defined as any hook and line which is attached at one end only to a stationary or floating object and which is not under immediate control and attendance of the person using such device. Each trotline shall have attached the name and address of the user legibly and indelibly inscribed. Each trotline shall be conspicuously marked at each end with a flag, float, or other prominent object so that its location is readily discernable by boat operators and swimmers. Trotlines must be set parallel to the nearest shore in ponds, lakes, and reservoirs. All trotlines and throwlines must be

fished at least once daily and all fish removed at that time. Untended trotlines, as evidenced by the absence of bait, may be removed from the water by wildlife enforcement officers when located in areas of multiple water use.

Recognizing the safety hazards to swimmers, boaters and water skiers which are created by floating metal cans and glass jugs, it is unlawful to use metal cans or glass jugs as floats. This shall not be construed to prohibit the use of plastic jugs, cork, styrofoam, or similar materials as floats.

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

.0212 FISH HATCHERIES

~~Except on Lake Rim, it~~ It is unlawful to fish by any method or at any time in the waters of, or upon any property used in conjunction with, any state fish hatchery. On Lake Rim it is unlawful to fish from July 1, 1992 through June 30, 1993, to use power-driven boats, except those powered by electric motors. ~~It is unlawful to swim or bathe in the waters of Lake Rim at any time, or to use, or have in possession, any minnows or other species of fish except golden shiners (shad roaches) for use as bait. or to attempt to take fish by any means except by hook and line.~~

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

SECTION .0300 - GAME FISH

.0302 MANNER OF TAKING INLAND GAME FISHES

Except as provided below, it is unlawful for any person to take inland game fishes from any of the waters of North Carolina by any method other than with hook and line, rod and reel, or by casting. Landing nets may be used to land fishes caught on hook and line. Game fishes taken incidental to commercial fishing operations in joint fishing waters or coastal fishing waters shall be immediately returned to the water unharmed, except that licensed commercial pound net fishermen may retain one daily limit of 25 panfishes for each operation. Game fishes taken incidental to the use of licensed special devices for taking nongame fishes from inland fishing waters as authorized by 15A NCAC 10C .0407 shall be immediately returned to the water unharmed, except that spotted sea trout may be retained without limit.

Statutory Authority G.S. 113-134; 113-273; 113-292; 113-302.

.0305 OPEN SEASONS: CREEL AND SIZE LIMITS

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

GAME FISHES	DAILY CREEL LIMITS	MINIMUM SIZE LIMITS	OPEN SEASON
Mountain Trout:			
Wild Trout Waters	4	7 in. (exc. 15)	All year (exc. 2)
Hatchery Supported Trout Waters and <u>undesignated waters</u>	7	None	All year, except March 1 to 7:00 a.m. on first Saturday in April (exes. 2 & 3)
Muskellunge and Tiger Musky	2	30 in.	ALL YEAR
Chain Pickerel (Jack)	None	None	ALL YEAR
Walleye	8 (exes. 9 & 10)	None (exc. 9)	ALL YEAR
Sauger	8	15 in.	ALL YEAR

PROPOSED RULES

Black Bass:			
Largemouth	5 (exc. 10)	14 in. (excs. 4, 8 & 11)	ALL YEAR (exc. 13)
Smallmouth and Spotted	5 (exc. 10)	12 in. (excs. 4, 8 & 11)	ALL YEAR
White Bass	25	None	ALL YEAR
Sea Trout (Spot- ted or Speckled)	None	12 in.	ALL YEAR
Flounder	None	13 in.	ALL YEAR
Red drum (channel bass, red fish, puppy drum)	None	14 in.	ALL YEAR
Striped Bass and their hybrids (Morone Hybrids)	8 aggregate (excs. 1 & 6)	16 in. (excs. 1, 6 & 12)	ALL YEAR (excs. 6 & 16)
Kokanee Salmon	7	None	ALL YEAR
Panfishes	None (excs. 5 & 14)	None (exc. 14)	ALL YEAR (exc. 5)
NONGAME FISHES	None (<u>exc. 17</u>)	None (<u>exc. 17</u>)	ALL YEAR (exc. 7)

(b) Exceptions

- (1) In the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam, and in John H. Kerr, Gaston, and Roanoke Rapids Reservoirs, the creel limit on striped bass and Morone hybrids is four in the aggregate and the minimum size limit is 20 inches.
- (2) In designated public mountain trout waters the season for taking all species of fish is the same as the trout fishing season. There is no closed season on taking trout from Nantahala River and all tributaries (excluding impoundments) upstream from Nantahala Lake, and the impounded waters of power reservoirs and municipally-owned water supply reservoirs open to the public for fishing.
- (3) Under an agreement with Tennessee, the minimum size limit on trout in Calderwood Reservoir is seven inches.
- (4) Bass taken from streams designated as public mountain trout waters or from Calderwood Reservoir may be retained without restriction as to size limit.
- (5) On Mattamuskeet Lake, special federal regulations apply.
- (6) In the inland fishing waters of Cape Fear, Neuse, Pungo and Tar-Pamlico Rivers and their tributaries extending upstream to the first impoundment, the daily creel limit for striped bass and their hybrids is one fish and the minimum length limit is 18 inches. In the Roanoke River up to the first impoundment, from July 1 through March 31 and June 1 through June 30 the daily creel limit for striped bass is one fish and the minimum length limit is 18 inches; from April 1 to May 31 the daily creel limit is three fish, no fish between the lengths of 22 inches and 27 inches may be retained, and the minimum length limit is 16 inches, except no fish may be retained in Roanoke River and its tributaries including Cashie, Middle and Eastmost rivers from May 1 to December 31, 1991.
- (7) See 15A NCAC 10C .0407 for open seasons for taking nongame fishes by special devices.
- (8) The maximum combined number of black bass of all species that may be retained per day is five fish, no more than two of which may be smaller than the applicable minimum size limit.

The minimum size limit for all species of black bass is 14 inches, with no exception in Lake Luke Marion in Moore County, in Reedy Creek Park lakes in Mecklenburg County, and in Currituck Sound and tributaries north of Wright Memorial Bridge; in North River and tributaries in Currituck and Camden Counties north of a line between Camden Point and the end of SR 1124. In and west of Madison, Buncombe, Henderson and Polk Counties the minimum size limit is 12 inches. In B. Everett Jordan Reservoir a minimum size limit of 16 inches, with no exception, applies to largemouth bass. In Falls of Neuse Reservoir, east of SR 1004, Sutton Lake and Tuckertown Lake no black bass between the lengths of 12 inches and 16 inches may be retained, and the minimum size limit for black bass is 16 inches, except that the daily creel may contain two black bass of less than 12 inches in length. In W. Kerr Scott Reservoir there is no minimum size limit for spotted bass.

- (9) A minimum size limit of 15 inches applies to walleye taken from Lake James and its tributaries, and the daily creel limit for walleye is four fish in Linville River upstream from the NC 126 bridge above Lake James.
- (10) The creel limit for black bass and walleye taken from Calderwood Reservoir is 10.
- (11) The minimum size limit for all black bass, with no exception, is 18 inches in the following trophy bass lakes:
 - (A) Cane Creek Lake in Union County; and
 - (B) Lake Thom-A-Jex in Davidson County.
- (12) In all impounded inland waters and their tributaries, except those waters described in Exceptions (1), the daily creel limit of striped bass and their hybrids may include not more than two fish of smaller size than the minimum size limit.
- (13) In Cane Creek Reservoir (Orange County) the season for taking largemouth bass is closed.
- (14) In Lake Tillery, Falls Lake, Badin Lake, and Tuckertown Lake a daily creel limit of 20 fish and a minimum size limit of 8 inches apply to crappie.
- (15) In Slick Rock Creek the minimum size is 7 inches for brook trout and 10 inches for brown and rainbow trout.
- (16) In designated inland fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Seppernong River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), striped bass fishing season is closed when adjacent joint or coastal fishing waters are closed to hook and line fishing for striped bass by the Marine Fisheries Commission.
- (17) The daily creel and length limits for channel, white, and blue catfish in designated urban lakes are provided for in 15A NCAC 10C .0401(d).

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

SECTION .0400 - NONGAME FISH

.0401 MANNER OF TAKING NONGAME FISHES: PURCHASE AND SALE

(a) Except as permitted by the rules in this Section, it is unlawful to take nongame fishes from the inland fishing waters of North Carolina in any manner other than with hook and line, rod and reel, trotline or set-hook. Nongame fishes may be taken by such hook and line methods at any time without restriction as to size limits or creel limits, except that no trotlines or set-hooks may be used in Lake Waccamaw, in the impounded waters located on the Sandhills Game Land or in designated public mountain trout waters. The season for taking nongame fishes by other hook and line methods in designated public mountain trout waters shall be the same as the trout fishing season.

(b) Nongame fishes taken by hook and line methods or by licensed special devices may be ~~bought and~~ sold.

(c) Freshwater mussels may only be taken from impounded waters, except mussels shall not be taken in Lake Waccamaw and in University Lake in Orange County.

(d) In the Urban Lakes listed in this Paragraph it is unlawful to take channel, white or blue catfish (forked tail catfish) by means other than hook and line; the daily creel limit for forked tail catfish is six fish in aggregate and the minimum length limit is 12 inches:

Oka T. Hester Pond, Guilford County
Lake Luke Marion, Moore County
Lake Crabtree, Wake County
Shelley Lake, Wake County
Freedom Park Pond, Mecklenburg County
Hornet's Nest Ponds, Mecklenburg County
Campus Hills Pond, Durham County
Twin Lake Ponds, Durham County

Rocky Mount City Lake, Nash County

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

**.0407 PERMITTED SPECIAL DEVICES
AND OPEN SEASONS**

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

(1) Alamance:

(a) July 1 to August 31 with seines in Alamance Creek below NC 49 bridge and Haw River;

(b) July 1 to June 30 with gigs in all public waters;

(2) Alexander: July 1 to June 30 with traps and gigs in all public waters; and with spear guns in Lake Hickory and Lookout Shoals Reservoir;

(3) Alleghany: July 1 to June 30 with gigs in New River, except designated public mountain trout waters;

(4) Anson:

(a) July 1 to June 30 with traps and gigs in all public waters;

(b) December 1 to June 5 with dip and bow nets in Pee Dee River below Blewett Falls Dam, and with gill nets in Pee Dee River below the lower end of Goat Island;

(c) July 1 to August 31 with seines in all running public waters, except Pee Dee River from Blewett Falls downstream to the Seaboard Coast Line Railroad trestle;

(5) Ashe: July 1 to June 30 with gigs in New River (both forks), except designated public mountain trout waters;

(6) Beaufort:

(a) July 1 to June 30 with traps in the Pungo River, and in the Tar and Pamlico Rivers above Norfolk and Southern Railroad bridge; and with gigs in all inland public waters;

(b) December 1 to June 5 with dip and bow nets in all inland public waters; with drift gill nets in Tar River upstream from the Norfolk and Southern Railroad bridge at Washington to the Pitt County line; and with gill nets in all other inland public waters, except Blounts Creek, Chocowinity Bay, Durham Creek, Mixon Creek and Nevil Creek and their tributaries.

(7) Bertie:

(a) July 1 to June 30 with traps in the Broad Creek (tributary of Roanoke);

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

(8) Bladen:

(a) December 1 to March 1 with gill nets in all inland public waters, except Jones, Salters, White, Singletary and Baytree (Black) Lakes;

(b) December 1 to May 1 with gill nets in Black River;

(c) December 1 to June 5 with dip and bow nets in Black River;

(9) Brunswick:

(a) December 1 to March 1 with gill nets in all inland public waters;

(b) December 1 to May 1 with dip, bow, and gill nets in Alligator Creek, Hoods Creek, Indian Creek, Orton Creek below Orton Pond, Rices Creek, Sturgeon Creek and Town Creek;

(10) Buncombe: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;

(11) Burke:

(a) July 1 to August 31 with seines in all running public waters, except Johns River and designated public mountain trout waters;

(b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters and Lake James;

(12) Cabarrus:

(a) July 1 to August 31 with seines in all running public waters,

(b) July 1 to June 30 with traps and gigs in all public waters;

(13) Caldwell: July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters;

(14) Camden:

(a) July 1 to June 30 with traps in all inland public waters;

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

(15) Carteret: December 1 to June 5 with dip, bow, and gill nets in all inland public waters except South River and the tributaries of the White Oak River;

(16) Caswell:

PROPOSED RULES

- (a) July 1 to June 30 with gigs in all public waters;
- (b) July 1 to August 31 with seines in all running public waters, except Moons Creek;
- (c) July 1 to June 30 with traps in Hyco Reservoir;
- (17) Catawba:
 - (a) July 1 to August 31 with seines in all running public waters, except Catawba River below Lookout Dam;
 - (b) July 1 to June 30 with traps, spear guns, and gigs in all public waters;
- (18) Chatham:
 - (a) December 1 to April 15 with dip and gill nets in the Cape Fear River, Deep River, Haw River and Rocky River (local law);
 - (b) July 1 to August 31 with seines in the Cape Fear River, and Haw River;
 - (c) July 1 to June 30 with traps in Deep River; and with gigs in all public waters;
- (19) Cherokee: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (20) Chowan:
 - (a) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with gill nets in all inland public waters, except Bennetts Mill Pond and Dillard Pond;
 - (b) July 1 to June 30 with traps in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (21) Clay: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (22) Cleveland:
 - (a) July 1 to August 31 with seines in all running public waters;
 - (b) July 1 to June 30 with gigs, traps and spear guns in all public waters;
- (23) Columbus:
 - (a) December 1 to March 1 with gill nets and gigs in all inland public waters, except Lake Waccamaw and its inlets;
 - (b) December 1 to June 5 with dip, bow, and gill nets in Livingston Creek;
- (24) Craven:
 - (a) July 1 to June 30 with traps in the main run of the Trent and Neuse Rivers;
 - (b) December 1 to June 5 with dip, bow, and gill nets in all inland public waters, except Pitch Kettle, Grindle, Slocum, Spring and Hancock Creeks and their tributaries; with dip and bow nets in Slocum Creek above the US 70 bridge; and with seines in the Neuse River;
- (25) Cumberland: December 1 to March 1 with gill nets in all inland public waters;
- (26) Currituck:
 - (a) July 1 to June 30 with traps in Tulls Creek and Northwest River;
 - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with gill nets in Northwest River and Tulls Creek;
- (27) Dare:
 - (a) July 1 to June 30 with traps in Mashoes Creek, Milltail Creek, Fast Lake and South Lake;
 - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with gill nets in Martin Point Creek;
- (28) Davidson:
 - (a) July 1 to August 31 with seines in all running public waters.
 - (b) July 1 to June 30 with gigs in all public waters, and with traps in all public waters except Leonard's Creek, Abbott's Creek below Lake Thom-A-Lex dam, and the Abbott's Creek arm of High Rock Lake upstream from the NC 8 bridge;
- (29) Davie:
 - (a) July 1 to June 30 with traps and gigs in all public waters;
 - (b) July 1 to August 31 for taking only carp and suckers with seines in Dutchmans Creek from US 601 to Yadkin River and in Hunting Creek from SR 1338 to South Yadkin River;
- (30) Duplin:
 - (a) December 1 to March 1 with gill nets in Baysden Pond and in the Northeast Cape Fear River, including old channels from a point one mile above SR 1700 (Serecta) Bridge downstream to the county line;
 - (b) December 1 to June 5 with dip, bow, and gill nets and seines in the main run of the Northeast Cape Fear River downstream from a point one mile above Serecta Bridge;
- (31) Durham:
 - (a) July 1 to August 31 with seines in Neuse River.
 - (b) July 1 to June 30 with gigs in all public waters;
- (32) Edgecombe:
 - (a) December 1 to March 15 with gill nets in Noble Mill Pond and Wiggins Lake;
 - (b) December 1 to June 5 with dip and bow nets in all public waters; and with drift gill

PROPOSED RULES

- nets in Tar River below the bridge at Old Sparta to the Pitt County line;
- (33) Forsyth: July 1 to June 30 with traps and gigs in all public waters, except traps may not be used in Belews Creek Reservoir;
- (34) Franklin:
- (a) December 1 to March 1 with gill nets in Clifton Pond, Parrish Pond, Jackson Pond and Lake Royale;
 - (b) July 1 to August 31 with seines in Tar River;
 - (c) July 1 to June 30 with gigs in all public waters, except Parrish, Laurel Mill, Jackson, Clifton, Moore's and Perry's Ponds, and in the Franklinton City ponds;
- (35) Gaston:
- (a) July 1 to August 31 with seines in all running public waters;
 - (b) July 1 to June 30 with gigs, traps and spear guns in all public waters;
- (36) Gates: December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with gill nets in all inland public waters, except Williams (Merchants Mill) Pond;
- (37) Graham: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (38) Granville:
- (a) July 1 to June 30 with gigs in all public waters, except Kerr Reservoir;
 - (b) July 1 to August 31 with seines in the Neuse River and the Tar River below US 158 bridge;
 - (c) July 1 to June 30 with dip and ~~east~~ nets in Kerr Reservoir;
 - (d) July 1 to June 30 with cast nets in all public waters;
- (39) Greene: December 1 to June 5 with dip, bow, and gill nets and reels in Contentnea Creek;
- (40) Guilford:
- (a) July 1 to August 31 with seines in Haw River, Deep River below Jamestown Dam, and Reedy Fork Creek below US 29 bridge;
 - (b) July 1 to June 30 with gigs in all public waters;
- (41) Halifax:
- (a) December 1 to March 1 with gill nets in White's Mill Pond;
 - (b) December 1 to June 5 with dip and bow nets in Beech Swamp, Clarks Canal, Conoconnara Swamp, Fishing Creek below the Fishing Creek Mill Dam, Kehukee Swamp, Looking Glass Gut, Quankey Creek, and White's Mill Pond Run;
- (c) July 1 to June 30 with dip and cast nets in Gaston Reservoir and Roanoke Rapids Reservoir;
- (42) Harnett:
- (a) December 1 to March 1 with gill nets in all inland public waters;
 - (b) January 1 to May 31 with gigs in Cape Fear River and tributaries;
 - (c) December 1 to June 5 with dip and bow nets in Cape Fear River;
- (43) Haywood: July 1 to June 30 with gigs in all public waters, except Lake Junaluska and designated public mountain trout waters;
- (44) Henderson: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (45) Hertford:
- (a) July 1 to June 30 with traps in Wiccacon Creek;
 - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with gill nets in all inland public waters, except mill ponds;
- (46) Hoke: December 1 to March 1 with gill nets in all inland public waters;
- (47) Hyde:
- (a) July 1 to June 30 with traps in all inland waters;
 - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with gill nets in Pungo River and tributaries upstream from US 264 bridge, Scranton Creek, and Long Shoal River and tributaries;
- (48) Iredell: July 1 to June 30 with traps and gigs in all public waters; and with spear guns in Lookout Shoals Reservoir and Lake Norman;
- (49) Jackson: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (50) Johnston:
- (a) December 1 to March 1 with gill nets in Cattails Lake, Holts Lake, Holts Pond, and Wendell Lake;
 - (b) December 1 to June 5 with dip and bow nets in Black Creek, Little River, Middle Creek, Mill Creek, Neuse River, and Swift Creek;
- (51) Jones:
- (a) July 1 to June 30 with traps in the Trent River below US 17 bridge and White Oak River below US 17 bridge;

- (b) December 1 to June 5 with dip, bow, and gill nets in all inland public waters, except the White Oak River and its tributaries;
- (c) December 1 to June 5 with dip and bow nets in the main run of the White Oak River;
- (d) March 1 to April 30 with gill nets in the main run of the White Oak River;
- (52) Lee:
 - (a) December 1 to April 15 with dip and gill nets (local law) in Cape Fear River and Deep River; and with gill nets in Morris Pond;
 - (b) July 1 to August 31 with seines in Cape Fear River;
 - (c) July 1 to June 30 with traps in Deep River, and with gigs in all public waters;
- (53) Lenoir:
 - (a) July 1 to June 30 with traps in Neuse River below US 70 bridge at Kinston;
 - (b) December 1 to June 5 with dip, bow, and gill nets in Neuse River and Contentnea Creek upstream from NC 118 bridge at Grifton; and with seines in Neuse River;
- (54) Lincoln:
 - (a) July 1 to August 31 with seines in all running public waters;
 - (b) July 1 to June 30 with traps, gigs and spear guns in all public waters;
- (55) McDowell:
 - (a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;
 - (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters and Lake James;
- (56) Macon: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (57) Madison: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (58) Martin: December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with gill nets in all inland public waters;
- (59) Mecklenburg:
 - (a) July 1 to August 31 with seines in all running public waters;
 - (b) July 1 to June 30 with traps, gigs and spear guns in all public waters;
- (60) Montgomery:
 - (a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake Tillery dam at Hydro and the mouth of Rocky River;
- (b) July 1 to June 30 with traps and gigs in all public waters;
- (61) Moore:
 - (a) December 1 to April 15 with gill nets in Deep River and all tributaries;
 - (b) July 1 to August 31 with seines in all running public waters except in Deep River;
 - (c) July 1 to June 30 with gigs in all public waters, except lakes located on the Sandhills Game Land; and with traps in Deep River and its tributaries;
- (62) Nash:
 - (a) December 1 to March 1 with gill nets in Boddies Pond and Camp Charles Lake;
 - (b) July 1 to June 30 with gigs in all public waters, except Tar River;
 - (c) December 1 to June 5 with dip and bow nets in the Tar River below Harris' Landing and Fishing Creek below the Fishing Creek Mill Dam;
- (63) New Hanover: December 1 to June 5 with dip, bow, and gill nets in all inland public waters, except Sutton (Catfish) Lake;
- (64) Northampton:
 - (a) July 1 to June 30 with gigs in all public waters, except Gaston and Roanoke Rapids Reservoirs and the Roanoke River above the US 301 bridge;
 - (b) December 1 to June 5 with dip and bow nets in Oconeechee Creek, Old River Landing Gut; and with dip, bow and gill nets in Vaughans Creek below Watsons Mill;
 - (c) July 1 to June 30 with dip and cast nets in Gaston Reservoir and Roanoke Rapids Reservoir;
- (65) Onslow:
 - (a) July 1 to June 30 with traps in White Oak River below US 17 bridge;
 - (b) August 1 to March 31 with eel pots in the main run of New River between US 17 bridge and the mouth of Hawkins Creek;
 - (c) December 1 to March 1 with gill nets in Catherine Lake and Baysden Pond;
 - (d) December 1 to June 5 with dip, bow, and gill nets in the main run of New River; and with dip and bow nets in the main run of the White Oak River;
 - (e) March 1 to April 30 with gill nets in the main run of the White Oak River; and with dip, bow and gill nets in Grant's Creek;
- (66) Orange:
 - (a) July 1 to August 31 with seines in Haw River,

PROPOSED RULES

- (b) July 1 to June 30 with gigs in all public waters;
- (67) Pamlico: December 1 to June 5 with dip, bow and gill nets in all inland public waters;
- (68) Pasquotank:
 - (a) July 1 to June 30 with traps in all inland waters;
 - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with gill nets in all inland public waters;
- (69) Pender:
 - (a) December 1 to June 5 with dip, bow, and gill nets in the Northeast Cape Fear River and Long Creek; with dip and bow nets in Black River; and with seines in the main run of Northeast Cape Fear River;
 - (b) December 1 to May 1 with gill nets in Black River; and with dip, bow, and gill nets in Moore's Creek approximately one mile upstream to New Moon Fishing Camp;
- (70) Perquimans:
 - (a) July 1 to June 30 with traps in all inland waters;
 - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with gill nets in all inland public waters;
- (71) Person:
 - (a) July 1 to August 31 with seines in Hyeo Creek and Mayo Creek;
 - (b) July 1 to June 30 with gigs in all public waters.
- (72) Pitt:
 - (a) July 1 to June 30 with traps in Neuse River and in Tar River below the mouth of Hardee Creek east of Greenville;
 - (b) December 1 to June 5 with dip, bow and drift gill nets and with seines in Tar River; and with dip, bow and gill nets in all other inland public waters, except Grindle Creek, and Contentnea Creek between NC 118 bridge at Grifton and the Neuse River;
- (73) Polk: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (74) Randolph:
 - (a) December 1 to March 1 with gill nets in Deep River and Uwharrie River;
 - (b) July 1 to August 31 with seines in Deep River above the Coleridge Dam and Uwharrie River;
 - (c) July 1 to June 30 with gigs in all public waters;
- (75) Richmond:
 - (a) July 1 to August 31 with seines in all running public waters, except Pee Dee River from Blewett Falls downstream to the Seaboard Coast Line Railroad trestle;
 - (b) July 1 to June 30 with traps and gigs in all public waters, except lakes located on the Sandhills Game Land;
 - (c) December 1 to June 5 with dip and bow nets in Pee Dee River below Blewett Falls Dam, and with gill nets in Pee Dee River below the mouth of Cartledge Creek;
- (76) Robeson: December 1 to March 1 with gill nets and gigs in all inland public waters;
- (77) Rockingham:
 - (a) July 1 to August 31 with seines in Dan River and Haw River;
 - (b) July 1 to June 30 with traps in Dan River; and with gigs in all public waters;
- (78) Rowan:
 - (a) July 1 to August 31 with seines in all running public waters,
 - (b) July 1 to June 30 with traps and gigs in all public waters;
- (79) Rutherford:
 - (a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;
 - (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters;
- (80) Sampson:
 - (a) December 1 to March 1 with gill nets in all inland public waters;
 - (b) December 1 to May 1 with gill nets in Big Coharie Creek, Black River, and Six Runs Creek;
 - (c) May 2 to June 5 with gill nets of no less than five and one-half inch stretch measure in Big Coharie Creek, Black River, and Six Runs Creek;
 - (d) December 1 to June 5 with dip and bow nets in Big Coharie Creek, Black River, and Six Runs Creek;
- (81) Scotland: December 1 to March 1 with gill nets in all inland public waters, except lakes located on the Sandhills Game Land;
- (82) Stanly:
 - (a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake Tillery dam at Hydro and the mouth of Rocky River;
 - (b) July 1 to June 30 with traps and gigs in all public waters;
- (83) Stokes: July 1 to June 30 with traps and gigs in all public waters, except designated

- public mountain trout waters, and traps may not be used in Belews Creek Reservoir;
- (84) Surry: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters; and with traps in the main stem of Yadkin River;
- (85) Swain: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (86) Transylvania: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (87) Tyrrell:
- (a) July 1 to June 30 with traps in Scuppernon River, Alligator Creek, and the drainage canals of Lake Phelps except Bee Tree Canal within 50 yards of the Lake Phelps fish ladder;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding Lake Phelps, Bee Tree Canal within 50 yards of the Lake Phelps fish ladder, public lakes, ponds and other impounded waters; and with gill nets in Alligator Creek;
- (88) Union:
- (a) July 1 to August 31 with seines in all running public waters;
- (b) July 1 to June 30 with traps and gigs in all public waters;
- (89) Vance:
- (a) December 1 to March 1 with gill nets in Southerlands Pond and Ellis Pond;
- (b) July 1 to August 31 with seines in the Tar River;
- (c) July 1 to June 30 with gigs in all public waters, except Rolands, Faulkners, Southerlands, and Weldon Ponds, City Lake, and Kerr Reservoir;
- (d) July 1 to June 30 with dip ~~and cast~~ nets in Kerr Reservoir;
- (e) July 1 to June 30 with cast nets in all public waters;
- (90) Wake:
- (a) July 1 to June 30 with gigs in all public waters, except Sunset, Benson, Wheeler, Raleigh, and Johnson Lakes;
- (b) December 1 to June 5 with dip and bow nets in the Neuse River below Milburnie Dam, and Swift Creek below Lake Benson Dam;
- (91) Warren:
- (a) July 1 to August 31 with seines in Fishing Creek, Shocco Creek, and Walker Creek; excluding Duck and Hammes Mill Ponds;
- (b) July 1 to June 30 with gigs in all public waters, except Duck and Hammes Mill

- Ponds, Kerr Reservoir, and Gaston Reservoir;
- (c) July 1 to June 30 with dip ~~and cast~~ nets in Kerr Reservoir and Gaston Reservoir;
- (d) July 1 to June 30 with cast nets in all public waters;
- (92) Washington:
- (a) July 1 to June 30 with traps in the drainage canals of Lake Phelps;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding Lake Phelps, public lakes, ponds and other impoundments; and with gill nets in Conaby Creek;
- (93) Wayne:
- (a) December 1 to March 1 with gill nets in Sasser's Mill Pond and Sleepy Creek Lake;
- (b) December 1 to June 5 with dip and bow nets in Little River, Mill Creek, and Neuse River, except from Quaker Neck Dam downstream to SR 1008 (Tolar) bridge;
- (94) Wilkes: July 1 to June 30 with traps in Yadkin River below W. Kerr Scott Reservoir; and with gigs and spear guns in all public waters, except designated public mountain trout waters;
- (95) Wilson:
- (a) July 1 to June 30 with gigs in Contentnea Creek (except Buckhorn Reservoir), including unnamed tributaries between Flowers Mill and SR 1163 (Deans) bridge;
- (b) December 1 to June 5 with dip and bow nets in Contentnea Creek below US 301 bridge and in Toisnot Swamp downstream from the Lake Toisnot Dam;
- (c) January 1 to March 1 with gill nets in Silver Lake;
- (96) Yadkin: July 1 to June 30 with gigs in all public waters, and with traps in the main stem of Yadkin River.

Statutory Authority G.S. 113-134; 113-276; 113-292.

SUBCHAPTER 10D - GAME LANDS REGULATIONS

.0002 GENERAL REGULATIONS REGARDING USE

- (a) Trespass. Entry on game lands for purposes other than hunting, trapping or fishing shall be as authorized by the landowner and there shall be no removal of any plants or parts thereof, or other materials, without the written authorization of the landowner. Travel is restricted, except by authorized personnel, to direct

access from SR 2074 to the established waterfowl viewing stands on Cowan's Ford Waterfowl Refuge. The Wildlife Resources Commission may designate areas on game lands as either an Archery Zone, Safety Zone or Restricted Zone.

- (1) Archery Zone. On portions of game lands posted as "Archery Zones" hunting is limited to bow and arrow hunting only.
 - (2) Safety Zone. On portions of game lands posted as "Safety Zones" hunting is prohibited. No person shall hunt or discharge a firearm or bow and arrow within, into, or across a posted safety zone on any game land.
 - (3) Restricted Zone. Portions of game lands posted as "Restricted Zones" are closed to all use by the general public, and entry upon such an area for any purpose, except as authorized by permit from the Executive Director of the Wildlife Resources Commission or by authorized personnel in the performance of their duties, is prohibited.
 - (4) Establishment of Archery and Restricted Zones. The Commission will conduct a public input meeting in the area where the game land is located before establishing any archery or restricted zone. After the input meeting the public comments will be presented to an official Commission meeting for final determination.
- (b) Littering. No person shall deposit any litter, trash, garbage, or other refuse at any place on any game land except in receptacles provided for disposal of such refuse at designated camping and target-shooting areas. No garbage dumps or sanitary landfills shall be established on any game land by any person, firm, corporation, county or municipality, except as permitted by the landowner.
- (c) Possession of Hunting Devices. It is unlawful to possess a firearm or bow and arrow on a game land at any time except during the open hunting seasons or hunting days for game birds or game animals thereon unless said device is cased or not immediately available for use, provided that such devices may be possessed and used by persons participating in field trials on field trial areas and on target shooting areas designated by the landowner, and possessed in designated camping areas for defense of persons and property; and provided further that .22 caliber pistols with barrels not greater than seven and one-half inches in length and shooting only short, long, or long rifle ammunition may be carried as side arms on game lands at any time other than by hunters during the special bow and arrow and muzzle-loading firearms deer hunting seasons and

by individuals training dogs during closed season without field trial authorization. This Rule shall not prevent possession or use of a bow and arrow as a licensed special fishing device in those waters where such use is authorized. During the closed firearms seasons on big game (deer, bear, boar, wild turkey), no person shall possess a shotgun shell containing larger than No. 4 shot or any rifle or pistol larger than a .22 caliber rimfire while on a game land, except that shotgun shells containing any size steel or non-toxic shot may be used while waterfowl hunting. No person shall hunt with or have in possession any shotgun shell containing lead or toxic shot while hunting on any posted waterfowl impoundment on any game land, or while hunting waterfowl on Butner-Falls of Neuse Game Land or New Hope Game Land, except shotgun shells containing lead buckshot may be used while deer hunting.

(d) Game Lands License

(1) Hunting and Trapping

(A) Requirement. Except as provided in Part (B) of this Subparagraph, any person entering upon any game land for the purpose of hunting, trapping, or participating in dog training or field trial activities must have in his possession a game lands license in addition to the appropriate hunting or trapping licenses.

(B) Exceptions

- (i) A person under 16 years of age may hunt on game lands on the license of his parent or legal guardian.
 - (ii) The resident and nonresident sportsman's licenses include game lands use privileges.
 - (iii) Judges and nonresidents participating in field trials under the circumstances set forth in Subsection (c) of this Rule may do so without the game lands license.
 - (iv) On the game lands listed in Rule .0003(d)(1) of this Subchapter the game lands license is required only for hunting doves; all other activities are subject to the control of the landowners.
- (2) Trout Fishing. Any person 16 years of age or over, including an individual fishing with natural bait in the county of his residence, entering a game land for the purpose of fishing in designated public mountain trout waters located thereon must have in his possession a game lands license in addition to the regular fishing license and special trout license. The game lands license is not required to fish in that part of Slick Rock Creek which coincides with the Tennessee State line,

or when fishing from boat on Calderwood Lake. The resident and nonresident sportsman's licenses and short-term comprehensive fishing licenses include trout fishing privileges on game lands.

(e) **Field Trials and Training Dogs.** A person serving as judge of a field trial which, pursuant to a written request from the sponsoring organization, has been officially authorized in writing and scheduled for occurrence on a game land by an authorized representative of the Wildlife Resources Commission, and any nonresident participating therein may do so without procuring a game lands license, provided such nonresident has in his possession a valid hunting license issued by the state of his residence.

Any individual or organization sponsoring a field trial on the Sandhills Field Trial grounds or the Laurinburg Fox Trial facility shall file with the commission's agent an application to use the area and facility accompanied by a check for the facility use fee computed at the rate of fifty dollars (\$50.00) for each scheduled day of the trial. The total facility use fee will cover the period from 12:00 noon of the day preceding the first scheduled day of the trial to 10:00 a.m. of the day following the last scheduled day of the trial. The facility use fee must be paid for all intermediate days on which for any reason trials are not run but the building or facilities are used or occupied. A fee of twenty-five dollars (\$25.00) per day shall be charged to sporting, educational, or scouting groups for scheduled events utilizing the club house only. No person or group of persons or any other entity shall enter or use in any manner any of the physical facilities located on the Laurinburg Fox Trial or the Sandhills Field Trial grounds without first having obtained specific written approval of such entry or use from an authorized agent of the Wildlife Resources Commission, and no such entry or use of any such facility shall exceed the scope of or continue beyond the specific approval so obtained.

The Sandhills Field Trial facilities shall be used only for field trials scheduled with the approval of the Wildlife Resources Commission. No more than 16 days of field trials may be scheduled for occurrence on the Sandhills facilities during any calendar month, and no more than four days may be scheduled during any calendar week; provided, that a field trial requiring more than four days may be scheduled during one week upon reduction of the maximum number of days allowable during some other week so that the monthly maximum of 16 days is not exceeded. Before October 1 of each year, the North Carolina Field Trial Association or other organization desiring use of the Sandhills facilities

between October 22 and November 18 and between December 3 and March 31 must submit its proposed schedule of such use to the Wildlife Resources Commission for its consideration and approval. The use of the Sandhills Field Trial facilities at any time by individuals for training dogs is prohibited; elsewhere on the Sandhills Game Lands dogs may be trained only on Mondays, Wednesdays and Saturdays from October 1 through April 1.

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

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

- (1) on the field trial course of the Sandhills Game Land;
- (2) on the Harmon Den and Sherwood bear sanctuaries in Haywood County;
- (3) in posted "safety zones" located on any game land;
- (4) by the use of multiple sets (with anchors less than 15 feet apart) or bait on the National Forest Lands bounded by the Blue Ridge Parkway on the south, US 276 on the north and east, and NC 215 on the west;
- (5) on that portion of the Butner-Falls of Neuse Game Lands marked as the Penny Bend Rabbit Research area;
- (6) on Cowan's Ford Waterfowl Refuge in Gaston, Lincoln and Mecklenburg Counties;
- (7) on the Hunting Creek Swamp Waterfowl Refuge.

On those areas of state-owned land known collectively as the Roanoke River Wetlands and including the Broadneck, Company Swamp, Conine Island, Speller-Outlaw and Urquhart tracts, controlled trapping is allowed under a permit system. For information contact the Division of Wildlife Management of the Wildlife Resources Commission.

(g) **Use of Weapons.** No person shall hunt or discharge a firearm or bow and arrow from a vehicle, or within 200 yards of any building or designated camping area, or within, into, or across a posted "safety zone" on any game land. No person shall hunt with or discharge a firearm within, into, or across a posted "restricted zone" on any game land.

(h) **Vehicular Traffic.** No person shall drive a motorized vehicle on any game land except on

those roads constructed and maintained for vehicular travel and those trails posted for vehicular travel; provided that this provision shall not apply to participants in scheduled bird dog field trials held on the Sandhills Game Land.

(i) Camping. No person shall camp on any game land except on an area designated by the landowner for camping.

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

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

.0003 HUNTING ON GAME LANDS

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

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

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

(d) Time and Manner of Taking. Except where closed to hunting or limited to specific dates by these regulations, hunting on game lands is permitted during the open season for the game or furbearing species being hunted. On managed waterfowl impoundments, hunters shall not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates, and hunting is prohibited after 1:00 p.m. on such hunting dates; decoys may not be set out prior to 4:00 a.m. and must be removed by 3:00 p.m. each day. No person shall operate any vessel or vehicle powered by an internal combustion engine on a managed waterfowl impoundment.

No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal which has been so mutilated.

No person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization of the commission or its agent. ~~and no~~ No person shall take or attempt to take any game birds or game animals attracted to such foods.

No live wild animals or wild birds shall be removed from any game land.

(e) Hunting Dates:

- (1) Doves may be taken on the following game lands and dove hunting is limited to Mondays, Wednesdays, Saturdays and to Thanksgiving, Christmas and New Year's Days within the federally-announced season:

Buncombe County--Browntown Farms Game Land

Guilford County--Guilford County Farm Game Land

Lenoir County--Caswell Farm Game Land

Wayne County--Cherry Farm Game Land

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

Ashe County--Carson Woods Game Land

Bertie County--Bertie County Game Lands

Bladen County--Bladen Lakes State Forest Game Lands (Handguns may not be carried and, except for muzzle-loaders, rifles larger than .22 caliber rimfire may not be used or possessed. On the Breece Tract and the Singletary Tract deer and bear may be taken only by still hunting. Deer of either sex may be taken on the first Wednesday after Thanksgiving and on the second Saturday after Thanksgiving.)

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

Catawba and Iredell Counties--Catawba Game Land (~~No deer may be taken from the tracts known as Island Point or Molly's Backbone.~~)

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

Onslow County--White Oak River Impoundment Game Land (In addition

to the dates above indicated, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.)

Pender County--Holly Shelter Game Land (In addition to the dates above indicated, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons. Deer of either sex may be taken on the first Wednesday after Thanksgiving and on the second Saturday after Thanksgiving.)

Richmond, Scotland and Moore Counties--Sandhills Game Land (The regular gun season for deer consists of the open hunting dates from the second Monday before Thanksgiving to the third Saturday after Thanksgiving except on the field trial grounds where the gun season is from the second Monday before Thanksgiving to the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting dates during the bow and arrow season, as well as during the regular gun season. Deer may be taken with muzzle-loading firearms on Monday, Wednesday and Saturday of the second week before Thanksgiving week, and during the regular gun season. Except for the deer seasons above indicated and the managed either-sex permit hunts, the field trial grounds are closed to all hunting during the period October 22 to March 31. In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.) Wild turkey hunting is by permit only.

Robeson County--Bullard and Branch Hunting Preserve Game Land

Stokes County--Sauratown Plantation Game Land

Yadkin County--Huntsville Community Farms Game Land

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

- (A) Bears may not be taken on lands designated and posted as bear sanctuaries;

- (B) Wild boar may not be taken with the use of dogs on such bear sanctuaries, and wild boar may be hunted only during the bow and arrow seasons, the muzzle-loading deer season and the regular gun season on male deer on bear sanctuaries located in and west of the counties of Madison, Buncombe, Henderson and Polk;

- (C) On game lands open to deer hunting located in or west of the counties of Rockingham, Guilford, Randolph, Montgomery and Anson, the following rules apply to the use of dogs during the regular season for hunting deer with guns:

- (i) Except for the counties of Cherokee, Clay, Jackson, Macon, Madison, Polk, and Swain, game birds may be hunted with dogs.

- (ii) In the counties of Cherokee, Clay, Jackson, Macon, Madison, Polk, and Swain, small game in season may be hunted with dogs on all game lands except on bear sanctuaries.

- (D) On Croatan, Goose Creek, New Hope and Shearon Harris Game Lands waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons; except that outside the posted waterfowl impoundments on Goose Creek Game Land hunting any waterfowl in season is permitted any week day during the last 10 days of the regular duck season as established by the U.S. Fish and Wildlife Service; On the Pamlico Point, Campbell Creek, and Spring Creek impoundments a special permit is required for hunting on those opening and closing days of the waterfowl season as well as on those Saturdays that fall after November 1 of the season and on Thanksgiving and New Year's day;

- (E) On the posted waterfowl impoundments of Gull Rock Game Land hunting of any species of wildlife is limited to Mondays, Wednesdays, Saturdays; Thanksgiving, Christmas, and New Year's Days; and the opening and closing days of the applicable waterfowl seasons;

- (F) On bear sanctuaries in and west of Madison, Buncombe, Henderson and Polk Counties dogs may not be trained or allowed to run unleashed between March 1 and October 11;

- (G) On Butner-Falls of Neuse and Person Game Lands waterfowl may be taken only on Tuesdays, Thursdays and Saturdays, Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons;

- (H) On Angola Bay, Croatan, Goose Creek, and Hofmann Forest and ~~Tuscarora Game Land~~, deer of either sex may be taken from the first Wednesday

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after Thanksgiving through the following Saturday;

- (I) Horseback riding is allowed on the Caswell and Thurmond Chatham game lands only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to engaging in such activity;
- (J) On the posted waterfowl impoundments on the New Hope and Butner-Falls of Neuse game lands a special permit is required for all waterfowl hunting.
- (K) Additional restrictions or modifications apply as indicated in parentheses following specific designations:

Alexander and Caldwell Counties--Brushy Mountains Game Lands

Anson County--Anson Game Land

Ashe County--~~Bluff Mountain Game Lands~~
Elk Ridge Game Lands

Ashe County--Cherokee Game Lands

Ashe and Watauga Counties--Elk Knob Game Land

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

Bertie and Washington Counties--Bachelor Bay Game Lands

Beaufort and Pamlico Counties--Goose Creek Game Land

Brunswick County--Green Swamp Game Land

Burke County and Cleveland Counties--South Mountains Game Lands

Caldwell, Watauga and Wilkes Counties--Yadkin Game Land

Carteret, Craven and Jones Counties--Croatan Game Lands

Chatham County--Chatham Game Land

Chatham, Durham, Orange, and Wake Counties--New Hope Game Lands (On areas posted as "archery zones" hunting is limited to bow and arrow. Horseback riding, including all equine species, is prohibited.)

Chatham and Wake Counties--Shearon Harris Game Land

Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania Counties--Nantahala Game Lands. Raccoon and opossum may be hunted only from sunset Friday until sunrise on Saturday and from sunset until 12:00 midnight on Saturday on Fires Creek Bear Sanctuary in Clay County and in that part of Cherokee County north of US 64 and NC 294, east of Persimmon Creek and Hiwassee Lake, south of Hiwassee Lake and west of Nottely River; in the same part of Cherokee County dog training is prohibited from March 1 to October 11. ~~It is unlawful to train dogs or allow dogs to run unleashed on Fires Creek Bear Sanctuary at any time, except that dogs may be used when hunting raccoon or opossum and for hunting grouse and rabbits during the open seasons.~~ It is unlawful to train dogs or allow dogs to run unleashed on any game land in Graham County between March 1 and October 11.

Chowan County--Chowan Game Land

Cleveland County--Gardner-Webb Game Land

Craven County--Neuse River Game Land

~~Craven County--Tuscarora Game Land~~

Currituck County--North River Game Land

Currituck County--Northwest River Marsh Game Land

Dare County--Dare Game Land (No hunting on posted parts of bombing range.)

Davidson, Davie, Montgomery, Rowan and Stanly Counties--Alcoa Game Land

Davidson County--Linwood Game Land

Davidson, Montgomery and Randolph Counties--Uwharrie Game Land

Duplin and Pender Counties--Angola Bay Game Land

Durham, Granville and Wake Counties--Butner-Falls of Neuse Game Land (On portions of the Butner-Falls of Neuse Game Land designated and posted as "safety zones" and on that part marked as the Penny Bend Rabbit Research Area no hunting is permitted. On portions posted as "restricted zones" hunting is limited to bow and arrow during the bow and arrow season and the regular gun season for deer. Horseback riding, including all equine species, is prohibited.)

Franklin County--Franklin Game Lands

Gates County--Chowan Swamp Game Land

Henderson, Polk and Rutherford Counties--
-Green River Game Lands
Hyde County--Gull Rock Game Land
Hyde County--Pungo River Game Land
Hyde and Tyrrell Counties--New Lake
Game Land
Jones and Onslow Counties--Hofmann
Forest Game Land
Lee County--Lee Game Land
McDowell County--Hickory Nut Mountain
Game Land
McDowell and Rutherford Counties--
Dysartsville Game Lands
Moore County--Moore Game Land
New Hanover County--Sutton Lake Game
Land
Person County--Person Game Land
Transylvania County--Toxaway Game Land
Vance County--Vance Game Land (The use
of dogs, centerfire rifles and handguns for
hunting deer is prohibited on the Nutbush
Peninsula tract of Vance Game Lands.)
Wilkes County--Thurmond Chatham Game
Land

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

Friday and Saturday of the first week after
Thanksgiving Week:

Uwharrie and Alcoa southeast of NC 49

Third Saturday after Thanksgiving Day:

Carson Woods

Thurmond Chatham

Thursday and Friday of the week before
Thanksgiving Week:

Sandhills east of US 1

Sandhills west of US 1

Fourth Saturday after Thanksgiving Day:

Dysartsville in McDowell County

Hickorynut Mountain in McDowell
County

Pisgah in Avery County

Pisgah in Burke County

Pisgah in Caldwell County

Pisgah in McDowell County

Pisgah in Yancey County

South Mountains

Thurmond Chatham

Application forms for permits to participate
in managed deer hunts on game lands, to-
gether with pertinent information and in-
structions, may be obtained from hunting
and fishing license agents and from the
Wildlife Resources Commission. Com-

pleted applications must be received by the
Commission not later than the first day of
October next preceding the dates of hunt.
Permits are issued by random computer se-
lection, are mailed to the permittees 30 days
prior to the hunt, and are nontransferable.
Each permit is accompanied by an appro-
priate big game tag. A hunter making a kill
must tag the deer and report the kill to a
wildlife cooperator agent.

- (5) The following game lands and Federal
Wildlife Refuge are closed to all hunting
except to those individuals who have ob-
tained a valid and current permit from the
Wildlife Resources Commission: Bertie,
Halifax and Martin Counties--Roanoke
River Wetlands;
Bertie County--Roanoke River National
Wildlife Refuge.
Caswell County--Caswell Game Land (That
portion designated and posted as a "Safety
Zone")
Dare County--Dare Game Lands (Those
parts of bombing range posted against
hunting)
Davie--Hunting Creek Swamp Waterfowl
Refuge
Gaston, Lincoln and Mecklenburg
Counties--Cowan's Ford Waterfowl Re-
fuge (except for youth either-sex deer
hunts by permit only on the first and sec-
ond Saturdays in October).

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

.0004 FISHING ON GAME LANDS

(a) Generally. Except as otherwise indicated
herein, fishing on game lands which are open to
fishing shall be in accordance with the statewide
regulations. All game lands are open to public
fishing except restocked ponds on the New Hope
Game Land when posted against fishing, Hunt-
ing Creek Swamp Waterfowl Refuge, Grogan
Creek in Transylvania County, and in the case
of private ponds where fishing may be prohibited
by the owners thereof. No trotline or set-hook
or any net, trap, gig, bow and arrow or other
special fishing device of a type mentioned in 15A
NCAC 10C .0403 may be used in any of the
impounded waters located on the Sandhills
Game Land. The game lands license is ~~not~~
required to fish on ~~the central and eastern game
lands where there are no~~ designated public
mountain trout waters on game lands.

(b) Designated Public Mountain Trout Waters

(1) Fishing Hours. It is unlawful to fish in
designated public mountain trout waters

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on any game land from one-half hour after sunset to one-half hour before sunrise, except that night fishing is permitted in the game lands sections of the Nantahala River located downstream from the Swain County line.

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

Bluff Mountain Game Land, Ashe County
~~Green River Game Land in the Counties of Henderson and Polk~~

Nantahala National Forest Game Lands in the Counties of Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania
 Pisgah National Forest Game Lands in the Counties of Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania and Yancey

South Mountains Game Land in Burke County

Thurmond Chatham Game Land in Wilkes County

Toxaway Game Land in Transylvania County

- (3) All designated public mountain trout waters located on game lands in and east of Yancey, McDowell and Rutherford Counties are wild trout waters unless classified otherwise. [See 15A NCAC 10C .0205(a)(1)]. In and west of Madison, Buncombe, Henderson, and Polk all designated public mountain trout waters are hatchery supported waters unless classified otherwise. [See 15A NCAC 10C .0205(a)(2)].

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

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend rule(s) cited as 15A NCAC 10B .0105, .0203, .0209; 10C .0205, .0402; 10D .0003 - .0004; 10E .0004.

The proposed effective date of this action is July 1, 1992.

The public hearings will be conducted at 7:00 p.m. on the following dates and locations:

January 27, 1992

District 9

Courthouse

Marshall, NC

January 28, 1992

District 8

Morganton Civic Center Auditorium

Morganton, NC

January 29, 1992

District 7

High School

Elkin, NC

February 3, 1992

District 6

North Stanley High School

Albemarle, NC

February 4, 1992

District 5

Courthouse

Graham, NC

February 5, 1992

District 4

Courthouse

Elizabethtown, NC

February 10, 1992

District 1

Swain Auditorium

Edenton, NC

February 11, 1992

District 2

Courthouse

New Bern, NC

February 12, 1992

District 3

Courthouse

Nashville, NC

Reason for Proposed Action: 15A NCAC 10B .0105 - To assist with the collection of Canada goose harvest data. 15A NCAC 10B .0203 - To regulate the deer harvest in accordance with the deer population. 15A NCAC 10B .0209 - To regulate the harvest of wild turkey in accordance with the wild turkey population. 15A NCAC 10C .0205 - To appropriately designate public moun-

tain trout waters. 15A NCAC 10C .0402 - To restrict the taking of bait fish for personal use. 15A NCAC 10D .0003 - To regulate the harvest of deer on game lands in accordance with the deer populations. 15A NCAC 10D .0004 - To appropriately designate trout waters. 15A NCAC 10E .0004 - To reduce the incidence of those activities which may inhibit fishing.

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 December 16, 1991 to February 12, 1992. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

.0105 MIGRATORY GAME BIRDS

(a) Cooperative State Rules

- (1) The taking of sea ducks (scoter, eider and old squaw) during any special federally-announced season for these species shall be limited to the waters of the Atlantic Ocean, and to those coastal waters south of US 64 which are separated by a distance of at least 800 yards of open water from any shore, island or marsh.
- (2) The extra daily bag and possession limits allowed by the federal regulations on scaup apply in all coastal waters east of U.S. Highway 17, except Currituck Sound north of US 158.
- (3) Tundra swans may be taken during the open season by permit only subject to limitations imposed by the U. S. Fish and Wildlife Service. A limited number of nontransferable swan permits will be issued by the Wildlife Resources Commission to applicants who will be selected at random by computer, and only one swan may be taken under each permit which must be cancelled at the time of the kill by cutting out the month and day of the kill. Accompanying the permit is a metal tag which must be affixed at the base of the right wing of the swan at the time and place of the kill. In addition, a pre-addressed post-paid card is supplied to each permittee on which to report the number of days hunted and the details of the kill

if made. It is unlawful to hunt swans without having the permit and the tag in possession or to possess a swan without the cancelled permit in possession and the tag properly affixed to the swan. It is unlawful to possess a swan permit or tag while hunting that was assigned to another person or to alter the permit or tag in any way other than cutting out the proper month and day of kill.

- (4) Canada geese may be taken west of I-95 during the open season by permit holders only subject to limitations imposed by the U.S. Fish and Wildlife Service. Permits will be issued by the North Carolina Wildlife Resources Commission. It is unlawful to hunt or possess Canada geese west of I-95 without having the permit in possession. It is unlawful to possess a Canada goose permit while hunting that was assigned to another person or to alter the permit in any way.

- (5) Canada geese east of I-95 may be taken during the open season by permit only subject to limitations imposed by the U.S. Fish and Wildlife Service. A limited number of nontransferable goose permits will be issued by the Wildlife Resources Commission to applicants who will be selected at random by computer. Accompanying the permit will be a tag or tags which must be affixed to the goose at the time and place of the kill. These tags must be cancelled at the time of the kill by cutting out the month and day of the kill and attached in accordance with instructions provided with the permit. It is unlawful to hunt geese east of I-95 without having the permit and tag in possession or to possess a goose without the cancelled tag properly affixed to the goose. It is unlawful to possess a goose permit or tag while hunting that was assigned to another person or to alter the permit or tag in any way other than cutting out the proper month and day of kill.

- (b) Notwithstanding the provisions of G.S. 113-291.1(a) and (b), the following restrictions apply to the taking of migratory game birds:

- (1) No migratory game bird may be taken:

- (A) With a rifle;

- (B) With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so as to limit its total capacity to not more than three shells.

- (2) No migratory game bird may be taken:

PROPOSED RULES

- (A) From or by the use of a sinkbox or any other type of low floating device affording the hunter a means of concealment beneath the surface of the water;
- (B) With the aid of bait, or on, over or within 300 yards of any place where any grain, salt or other feed is exposed so as to constitute an attraction to migratory game birds or has been so exposed during any of the 10 consecutive days preceding the taking, except that this Part shall not apply to standing crops, flooded croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting;
- (C) With the aid of live decoys, or on, over or within 300 yards of any place where tame or captive migratory game birds are present, unless such birds are and have

been for a period of 10 consecutive days prior to such taking confined within an enclosure which substantially reduces the audibility of their calls and totally conceals them from the sight of wild migratory game birds.

- (3) Waterfowl hunting and harassment and other unauthorized activities shall be prohibited on posted waterfowl management areas established by the Wildlife Resources Commission for Canada Geese and ducks restoration.
- (4) In that area of Roanoke Sound adjacent to and immediately Northeast of Roanoke Island as marked by buoys designating the waterfowl rest area, it shall be unlawful to harass or take any waterfowl.

Authority G.S. 113-134; 113-274; 113-291.1; 50 C.F.R. 20.21; 50 C.F.R. 20.105.

SECTION .0200 - HUNTING

.0203 DEER (WHITE-TAILED)

- (a) Closed Season. All counties and parts of counties not listed under the open seasons in Paragraph (b) in this Rule are closed to deer hunting.

(b) Open Seasons (All Lawful Weapons)

- (1) Male Deer With Visible Antlers. Male deer with antlers or spikes protruding through the skin, as distinguished from knobs or buttons covered by skin or velvet, may be taken during the following seasons:

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

Beaufort	Dare	Martin	Robeson
Bertie	Duplin	Nash	Sampson
Bladen	Edgecombe	New Hanover	Scotland**
Brunswick	Gates	Northampton	Tyrrell
Camden	Greene	Onslow	Vance
Carteret	Halifax	Pamlico	Warren
Chowan	Hertford	Pasquotank	Washington
Columbus*	Hoke	Pender	Wayne
Craven	Hyde	Perquimans	Wilson
Cumberland	Jones	Pitt	
Currituck	Lenoir	Richmond**	

~~Cumberland: That part south of NC 24.~~

~~Harnett: That part west of NC 87.~~

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

~~Moore**: All of the county except that part north of NC 211 and west of US 1.~~

~~Sampson: All of the county except that part west of NC 242 and north of US 13.~~

~~Wake: That part north of I-40.~~

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

**See 15A NCAC 10D .0003(d)(2) for seasons on Sandhills Game Land.

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

~~Alexander~~

~~Davie~~

~~Iredell~~

~~Watauga~~

PROPOSED RULES

<u>Alleghany</u>	<u>Forsyth</u>	<u>Lincoln</u>	<u>Wilkes</u>
<u>Ashe</u>	<u>Gaston</u>	<u>Stokes</u>	<u>Yadkin</u>
<u>Catawba</u>	<u>Davie</u>	<u>Surry</u>	

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

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

<u>Alexander</u>	<u>Clay</u>	<u>Jackson</u>	<u>Surry</u>
<u>Alleghany</u>	<u>Cleveland</u>	<u>Lincoln</u>	<u>Swain</u>
<u>Ashe</u>	<u>Davie</u>	<u>Macon</u>	<u>Transylvania</u>
<u>Avery</u>	<u>Forsyth</u>	<u>Madison</u>	<u>Watauga</u>
<u>Buncombe</u>	<u>Gaston</u>	<u>McDowell</u>	<u>Wilkes</u>
<u>Burke</u>	<u>Graham</u>	<u>Mitchell</u>	<u>Yadkin</u>
<u>Caldwell</u>	<u>Haywood</u>	<u>Polk</u>	<u>Yancey</u>
<u>Catawba</u>	<u>Henderson</u>	<u>Rutherford</u>	
<u>Cherokee</u>	<u>Iredell</u>	<u>Stokes</u>	

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

<u>Alamance</u>	<u>Davidson</u>	<u>Mecklenburg</u>	<u>Rockingham</u>
<u>Anson</u>	<u>Durham</u>	<u>Montgomery</u>	<u>Rowan</u>
<u>Cabarrus</u>	<u>Granville</u>	<u>Orange</u>	<u>Stanly</u>
<u>Caswell</u>	<u>Guilford</u>	<u>Person</u>	<u>Union</u>
<u>Chatham</u>	<u>Lee</u>	<u>Randolph</u>	

Cumberland: That part north of NC 24.

Harnett: That part east of NC 87.

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

Moore: That part north of NC 211 and west of US 1.

Sampson: That part west of NC 242 and north of US 13.

Wake: That part south of I-40.

(2) Deer of Either Sex. Deer of either sex may be taken during the open seasons and in the counties and portions of counties listed in this Subparagraph:

(A) The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the first Saturday in October to January 1 in those parts of Hyde and Washington Counties known as the Pungo National Wildlife Refuge, in those parts of Camden, Gates and Pasquotank Counties known as the Dismal Swamp National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.

(B) The open either-sex deer hunting dates established by the appropriate military commands during the period from Monday on or nearest October 15 to January 1 in that part of Brunswick County known as the Sunny Point Military Ocean Terminal, in that part of Craven County known and marked as Cherry Point Marine Base, in that part of Onslow County known and marked as the Camp Lejeune Marine Base, on Fort Bragg Military Reservation, and on Camp Mackall Military Reservation.

(C) The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the Monday on or nearest October 15 to January 1 in those parts of Anson and Richmond Counties known as the Pee Dee National Wildlife Refuge.

(D) Third Saturday in October for youth either sex deer hunting by permit only on a designated portion of Belews Creek Steam Station in Stokes County.

(E) The second Saturday in December in all of Buncombe, Cleveland, Catawba, Haywood, Henderson, Lincoln, Madison, Mitchell, Polk, Rutherford and Transylvania and Yancey Counties and the following parts of counties:

Avery: That part south of the Blue Ridge Parkway.

Cumberland: That part south of SR 1709, west of SR 1802, west of US 301 and east of the Cape Fear River.

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

PROPOSED RULES

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

~~Alleghany: All of the county except game lands.~~

~~Asher: All of the county except game lands.~~

~~Avery: That part south of the Blue Ridge Parkway, except game lands.~~

~~Burke: All of the county except game lands.~~

~~Caldwell: All of the county except game lands.~~

~~Cumberland: That part south of SR 1709, west of SR 1802, west of US 301 and east of the Cape Fear River.~~

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

~~McDowell: All of the county except game lands.~~

~~Mecklenburg: That part west of I-77, south of NC 73, east of the Catawba River, and north of NC 16 and SR 2004 except for the Cowan's Ford Waterfowl Refuge.~~

~~Rowan: That part west of US 52, except game lands.~~

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

(F) (G) ~~Wednesday and Thursday Friday and Saturday~~ of the week following Thanksgiving in all of ~~Dare, Hedell and Surry Counties County~~ and in the following parts of counties:

~~Alexander: All of the county except game lands.~~

~~Cabarrus: That part west of US 52 and south of a line formed by NC 49 from the Mecklenburg County line to Mount Pleasant and east of SR 1006 from Mount Pleasant to the Rowan County line.~~

~~Davie: All of the county except game lands.~~

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

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

~~Mecklenburg: That part north of US 74.~~

~~Rowan: That part west of US 52, except game lands.~~

~~Scotland: That part north of US 74, except game lands.~~

~~Stokes: All of the county except game lands.~~

~~Tyrrell: That part south of US 64.~~

~~Wilkes: All of the county except game lands.~~

~~Union: That part south of US 74 and NC 75.~~

(G) (H) ~~Wednesday to Saturday of the week following Thanksgiving in all of Alamance, Camden, Caswell, Chatham, Durham, Granville, Cumberland, Greene, Lee, Orange, Pasquotank, Person, Rockingham, Wake, and Wilson Counties and in the following parts of counties:~~

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

~~Cumberland: That part east of I-95 and south of NC 21.~~

~~Currituck: That part north and west of the Intracoastal Waterway.~~

~~Franklin: That part west of US 1.~~

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

~~Johnston: That part north of US 70 and or west of I-95.~~

~~Moore: That part south of NC 211, All of the county except on game lands.~~

~~Nash: That part south of US 64.~~

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

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

~~Richmond: That part east of a line formed by US 220 from the Montgomery County line to Rockingham and US 1 from Rockingham to the South Carolina line, except on game lands.~~

~~Robeson: That part east of I-95.~~

~~Stanly: That part west of US 52.~~

~~Tyrrell: That part south of US 64.~~

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

~~Wayne: That part north of US 70.~~

(H) (I) ~~Wednesday of the week following Thanksgiving to Saturday of next succeeding week in all of Alamance, Caswell, Chatham, Durham, Franklin, Granville, Guilford, Lee, Orange, Person, Randolph, Rockingham, and Hyde, Vance and Warren Counties and in the following parts of counties: following parts of counties:~~

~~Anson: All of the county except game lands.~~

~~Cabarrus: That part east of US 52.~~

~~Carteret: All of the county except game lands.~~

Chowan: That part north of US 17.

Columbus: That part west of US 74, SR 1065, and SR 1125.

Currituck: That part south and east of the Intracoastal Waterway, except the Outer Banks.

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

Edgecombe: That part south of US 64.

~~Franklin: That part east of US 1.~~

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

Lenoir: That part west of NC 11.

Montgomery: All of the county except on game lands.

Nash: That part north of US 64.

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

Robeson: That part east of I-95.

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

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

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

Wayne: That part south of US 70.

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

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

Beaufort: All of the county except game lands.

Bertie: All of the county except Roanoke River Wetlands and Roanoke River National Wildlife Refuge.

Bladen: All of the county except game lands.

Chowan: That part south of US 17.

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

Craven: All of the county except game lands.

Duplin: All of the county except game lands.

Edgecombe: That part north of US 64.

Halifax: All of the county except Roanoke River Wetlands.

Hyde: All of the county except game lands.

Jones: All of the county except game lands.

Lenoir: That part east of NC 11.

Martin: All of the county except Roanoke River Wetlands.

New Hanover: That part north of US 74.

Onslow: All of the county except game lands.

Pamlico: All of the county except game lands.

Pender: All of the county except game lands.

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

Sampson: That part south of NC 24.

- (K) The second Wednesday after Thanksgiving to the third Saturday after Thanksgiving in all of Alexander, Davie, Iredell, Stokes, Surry, and Wilkes Counties.

- (L) The third Friday after Thanksgiving to the third Saturday after Thanksgiving in all of Alleghany, Ashe, Burke, Caldwell, Cleveland, Forsyth, McDowell, Rutherford, Watauga, and Yadkin Counties.

- (3) Game Lands Either-Sex Hunts. On the hunt dates indicated, deer of either sex may be taken by permittees engaged in managed hunts conducted on game lands in accordance with 15A NCAC 10D .0003(d)(4) (5).

(c) Open Seasons (Bow and Arrow)

- (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph and the bag limits set out in Paragraph (e) of this Rule, deer of either sex may be taken with bow and arrow during the following seasons:

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

PROPOSED RULES

- (B) ~~Monday on or nearest September 10 to the second Saturday before Thanksgiving in the counties and parts of counties having the open seasons for male deer specified by Part (B) of Subparagraph (b)(1) of this Rule.~~
- (B) ~~(C)~~ Monday on or nearest September 10 to the ~~fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving~~ second Saturday before Thanksgiving in the counties and parts of counties having the open seasons for male deer specified by Part ~~(C)~~ (B) of Subparagraph (b)(1) of this Rule.
- (C) ~~(D)~~ Monday on or nearest September 10 to the third Saturday before Thanksgiving in the counties and parts of counties having the open season for male deer specified by Part ~~(D)~~ (C) of Subparagraph (b)(1) of this Rule, and on Sandhills Game Land.
- (2) Restrictions
- (A) Dogs may not be used for hunting deer during the bow and arrow season.
- (B) It is unlawful to carry any type of firearm while hunting with a bow during the bow and arrow deer hunting season.
- (C) Only bows and arrows of the types authorized in 15A NCAC 10B .0116 for taking deer may be used during the bow and arrow deer hunting season.
- (d) Open Seasons (Muzzle-Loading Rifles and Shotguns)
- (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph, deer may be taken only with muzzle-loading firearms or bow and arrow of the type authorized in 15A NCAC 10B .0116 during the following seasons:
- (A) Monday on or nearest October 8 to the following Saturday in the counties and parts of counties having the open seasons for male deer specified by Items (A) ~~and (C)~~ of Subparagraph (b)(1) of this Rule, except on Sandhills Game Land.
- (B) Monday to Saturday of the week preceding Thanksgiving week in the counties and parts of counties having the open seasons for male deer specified by Item (B) of Subparagraph (b)(1) of this Rule.
- (C) Monday to Saturday of the second week before Thanksgiving week in the counties and parts of counties having the open season for male deer specified by Part ~~(D)~~ (C) of Subparagraph (b)(1) of this Rule, and on Sandhills Game Land.
- (2) Restrictions
- (A) Only male deer with visible antlers may be taken during the muzzle-loading firearms season except that:
- (i) On the last day of the established muzzle-loading firearms season a maximum of two antlerless deer may be substituted for an equal number of antlered deer when taken in that part of any county listed in this Subparagraph that has an established gun either-sex deer season:
- | | | |
|-----------|-------------|------------|
| Alexander | Catawba | McDowell |
| Alleghany | Cleveland | Mitchell |
| Ashe | Davie | Rutherford |
| Avery | Forsyth | Stokes |
| Burke | Iredell | Surry |
| Caldwell | Mecklenburg | Wilkes |
- (ii) In those areas with an established gun either-sex deer season in counties or parts of counties listed in Paragraph (b)(1)(A) or (D) of this Rule a maximum of two antlerless deer may be substituted for an equal number of antlered deer and one additional antlerless deer is permitted without substitution.
- (A) Deer of either sex may be taken during muzzle-loading firearms season in those counties or parts of counties listed in Parts (A) and (C) of Subparagraph (b)(1) of this Rule and deer of either sex may be taken on that last day of muzzle-loading firearms season in those counties or parts of counties listed in Part (B) of Subparagraph (b)(1) of this Rule.
- (B) Dogs may not be used for hunting deer during the muzzle-loading firearms seasons.
- (C) Pistols may not be carried while hunting deer during the muzzle-loading firearms seasons.
- (e) Bag Limits
- (1) Male Deer With Visible Antlers. Daily, two; possession, ~~four~~ five; season, ~~four~~ five.
- (2) Antlerless Deer. Where antlerless deer may be lawfully taken, a ~~maximum of two~~ antlerless deer may be substituted for an equal number of antlered deer in the limits contained in Subparagraph (1) of this Paragraph. Antlerless deer include males with knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin.

- (c) In those areas with an established gun either-sex deer season in counties and parts of counties listed in Paragraph (b)(1)(A) or (D) of this Rule, one additional antlerless deer is permitted without substitution when taken during a gun either-sex, bow and arrow or muzzle-loading firearm season. In those counties or parts of counties listed in Paragraph (b)(2)(k), this one additional antlerless deer may be taken during any part of the gun deer season except on game lands where this deer cannot be taken during any part of a gun season not open to either sex deer hunting. When taken during the regular gun season this additional antlerless deer must be tagged with the antlerless only deer tag.

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

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

.0209 WILD TURKEY (BEARDED TURKEYS ONLY)

(a) Open Season:

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

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

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

Bertie: That part west of a line formed by NC 45 from the Hertford County line to Colerain, NC 42 to Powellville, US 43 to US 47 South, US 47 South to SR 1500, SR 1500 to NC 308, and NC 308 to the Washington County line.

Bladen: That part south of NC 704 and east of a line formed by NC 240, NC 53, SR 1730.

Brunswick: That part north of US 74-76.

Buncombe: All of the county except that part north and east of a boundary formed by US 19, 23, I-240, and I-40.

Burke: That part north of I-40.

Caldwell: That part west of US 321.

Carteret: That part west of US 70 and north of NC 24.

Chatham: That part north of US 64.

Chowan: That part south of US 47.

Columbus: That part south of US 74 and west of NC 440 and that part north of NC 87.

Craven: That part west of US 70, and south of SR 1104 and that part north of the Neuse River, south of a line formed by US 47 and US 47 Business, and east of a line formed by SR 1110 and SR 1111.

Halifax: That part north of NC 903 and east of I-95.

Hoke: That part south and west of NC 244.

Jackson: That part south of US 74 except the portion bounded on the north by NC 281, on the west by NC 107, and on the south by US 64.

Johnston: That part south of US 70 and I-95 and east of US 701.

Madison: All of the county except that part east of SR 1434 and NC 212, north of SR 1318, US 23 and SR 1503.

Martin: That part north of a boundary formed by US 64 from the Washington County line to Williamston, north of NC 425 from Williamston to the junction with NC 442, and north of NC 442 to the Edgecombe County line.

Montgomery: That part south of NC 24-27.

Northampton: That part south of a boundary formed by US 458 from the Halifax County line to Jackson, NC 305 from Jackson to Rich Square, US 258 from Rich Square to NC 308, and NC 308 to the Bertie County line.

Onslow: All of the county except that part east of a line formed by US 47, SR 4434 and SR 4442.

Pender: That part west of US 421.

Perquimans: That part south of US 47.

Richmond: That part north of US 74.

Robeson: That part east of I-95 and south of US 74.

McDowell: That part north of US 70 and that part south of I-40.

Mitchell: That part north and west of a boundary formed by NC 197, NC 226, and NC 261.

Rutherford: That part west of US 221.

Surry: That part west of I-77.

Swain: All of the county except that part south of US 40 and west of NC 28.

Transylvania: All of the county except that part west of US 478, and south of US 64.

PROPOSED RULES

- (B) ~~Monday on or nearest September 10 to the second Saturday before Thanksgiving in the counties and parts of counties having the open seasons for male deer specified by Part (B) of Subparagraph (b)(1) of this Rule.~~
- (B) ~~(C)~~ Monday on or nearest September 10 to the fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving second Saturday before Thanksgiving in the counties and parts of counties having the open seasons for male deer specified by Part (C) of Subparagraph (b)(1) of this Rule.
- (C) ~~(D)~~ Monday on or nearest September 10 to the third Saturday before Thanksgiving in the counties and parts of counties having the open season for male deer specified by Part (C) of Subparagraph (b)(1) of this Rule, and on Sandhills Game Land.
- (2) Restrictions
- (A) Dogs may not be used for hunting deer during the bow and arrow season.
- (B) It is unlawful to carry any type of firearm while hunting with a bow during the bow and arrow deer hunting season.
- (C) Only bows and arrows of the types authorized in 15A NCAC 10B .0116 for taking deer may be used during the bow and arrow deer hunting season.
- (d) Open Seasons (Muzzle-Loading Rifles and Shotguns)
- (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph, deer may be taken only with muzzle-loading firearms or bow and arrow of the type authorized in 15A NCAC 10B .0116 during the following seasons:
- (A) Monday on or nearest October 8 to the following Saturday in the counties and parts of counties having the open seasons for male deer specified by Items (A) and (C) of Subparagraph (b)(1) of this Rule, except on Sandhills Game Land.
- (B) Monday to Saturday of the week preceding Thanksgiving week in the counties and parts of counties having the open seasons for male deer specified by Item (B) of Subparagraph (b)(1) of this Rule.
- (C) Monday to Saturday of the second week before Thanksgiving week in the counties and parts of counties having the open season for male deer specified by Part (C) of Subparagraph (b)(1) of this Rule, and on Sandhills Game Land.
- (2) Restrictions
- (A) Only male deer with visible antlers may be taken during the muzzle-loading firearms season except that:
- (i) On the last day of the established muzzle-loading firearms season a maximum of two antlerless deer may be substituted for an equal number of antlered deer when taken in that part of any county listed in this Subparagraph that has an established gun either-sex deer season.
- | | | |
|-----------|-------------|------------|
| Alexander | Catawba | McDowell |
| Alleghany | Cleveland | Mitchell |
| Ashe | Davie | Rutherford |
| Avery | Forsyth | Stokes |
| Burke | Iredell | Surry |
| Caldwell | Mecklenburg | Wilkes |
- (ii) In those areas with an established gun either-sex deer season in counties or parts of counties listed in Paragraph (b)(1)(A) or (D) of this Rule a maximum of two antlerless deer may be substituted for an equal number of antlered deer and one additional antlerless deer is permitted without substitution.
- (A) Deer of either sex may be taken during muzzle-loading firearms season in those counties or parts of counties listed in Parts (A) and (C) of Subparagraph (b)(1) of this Rule and deer of either sex may be taken on that last day of muzzle-loading firearms season in those counties or parts of counties listed in Part (B) of Subparagraph (b)(1) of this Rule.
- (B) Dogs may not be used for hunting deer during the muzzle-loading firearms seasons.
- (C) Pistols may not be carried while hunting deer during the muzzle-loading firearms seasons.
- (e) Bag Limits
- (1) Male Deer With Visible Antlers. Daily, two; possession, ~~four;~~ five; season, ~~four;~~ five.
- (2) Antlerless Deer. Where antlerless deer may be lawfully taken, a maximum of two antlerless deer may be substituted for an equal number of antlered deer in the limits contained in Subparagraph (1) of this Paragraph. Antlerless deer include males with knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin.

PROPOSED RULES

except as otherwise indicated in parentheses following the name. Other clarifying information may also be included parenthetically:

(A) Alleghany County:

New River (not trout water)
Little River (Whitehead to McCann Dam)
Crab Creek
Brush Creek (except where posted against trespass)
Little Pine Creek
Big Pine Creek
Little Glade Creek
Laurel Branch
Big Glade Creek
Bledsoe Creek
Pine Swamp Creek
South Fork Little River (except where posted against trespass)
South Fork New River (not trout water)
Prather Creek
Cranberry Creek
Piney Fork
Meadow Fork
Yadkin River (not trout water)
Roaring River (not trout water)
East Prong Roaring River (that portion on Stone Mountain State Park) Delayed Harvest Waters regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.
Stone Mountain Creek

(B) Ashe County:

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

South Beaver Creek (headwaters to Ashe Lake)

Pine Swamp Creek (all forks)

Old Fields Creek

Call Creek (West Prong Old Fields Creek)

Mill Creek (except where posted against trespass)

(C) Avery County:

Nolichucky River (not trout waters)
North Toe River (headwaters to Mitchell County line, except where posted against trespass)
Plumtree Creek
Roaring Creek
Squirrel Creek
Horse Creek
Elk River (SR 1306 crossing to Tennessee State line)
Elk River (Lees-McRae College boundary line to NC 194 bridge at Heaton, except where posted against trespass)
Cranberry Creek
Catawba River (not trout water)
Johns River (not trout water)
Wilson Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]
Lost Cove Creek [not Hatchery Supported trout water, see Subparagraph (4) of Paragraph (a) of this Rule]
Rockhouse Creek
Gragg Prong
Webb Prong
~~Andrews Creek~~ Buck Timber Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]
Carey Flat Branch [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]
Boyde Coffey Lake
Archie Coffey Lake
Linville River (Sloop Dam to Blue Ridge Parkway boundary line)
Milltimber Creek
Linville River [Land Harbor line (below dam) to Ben Aldridge line, except Bob Miller property]
(D) Buncombe County:
~~All streams located on game lands, except those listed in Subparagraph (2) of Paragraph (a) of this Rule.~~
French Broad River (not trout water)
Big Ivy Creek (Ivy River) (Dillingham Creek to US 19-23 bridge)
Dillingham Creek (Corner Rock Creek to Big Ivy Creek)

PROPOSED RULES

Stony Creek
Mineral Creek
~~Carter Creek (portion not on game lands)~~

Corner Rock Creek
Reems Creek (Woodfin Watershed dam to US 19-23 bridge, except where posted against trespass)
Swannanoa River (SR 2702 bridge near Ridgecrest to Sayles Bleachery in Asheville, except where posted against trespass)

Bent Creek

Lake Powhatan
Cane Creek (headwaters to SR 3138 bridge)

(E) Burke County:

Catawba River (not trout water)
South Fork Catawba River (not trout water)
Henry Fork (lower Morganton watershed line downstream to SR 1919 at Ivy Creek)
Jacob Fork (Shinny Creek to lower South Mountain State Park boundary) Delayed Harvest Regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.

Johns River (not trout water)
Parks Creek (not trout water)
Carroll Creek (game lands above SR 1405)

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

(F) Caldwell County:

Catawba River (not trout water)
Johns River (not trout water)
Wilson Creek (Phillips Branch to Browns Mountain Beach dam, except where posted against trespass)
Estes Mill Creek (not trout water)
Thorpe Creek (falls to NC 90 bridge)
Mulberry Creek (not trout water)
Boone Fork (not Hatchery Supported trout water)

Boone Fork Pond

(G) Cherokee County:

All streams located on game lands, except those listed in Subparagraph (2) of Paragraph (a) of this Rule.

Hiwassee River (not trout water)
~~Shuler Creek (headwaters to Tennessee line, except where posted against trespass)~~
North Shoal Creek (Crane Creek) (headwaters to SR 1325)
Persimmon Creek

Davis Creek

~~Bald Creek~~

Beaver Dam Creek (headwaters to SR 1326 bridge)

Valley River

Hyatt Creek

Webb Creek

Junaluska Creek (bridge at U.S. Forest Service road 440, Section No. 4, to Valley River)

(H) Clay County:

All streams located on game lands, except those listed in Subparagraph (2) of Paragraph (a) of this Rule.

Hiwassee River (not trout water)

Fires Creek (bear sanctuary line to SR 1300)

Tusquitee Creek (headwaters to lower SR 1300 bridge)

~~Tuni Creek~~

Chatuge Lake (not trout water)

Shooting Creek (headwaters to US 64 bridge at SR 1338)

Hothouse Branch

Vineyard Creek

(I) Graham County:

All streams located on game lands, except those listed in Subparagraph (2) of Paragraph (a) of this Rule.

Little Tennessee River (not trout water)

Calderwood Reservoir (Cheoah Dam to Tennessee State line)

Cheoah River (not trout water)

Yellow Creek

West Buffalo Creek

Santeelah Reservoir (not trout water)

Santeelah Creek (Johns Branch to mouth)

~~Huffman Creek (Little Buffalo Creek)~~

Squalla Creek

~~South Fork Squalla Creek~~

Big Snowbird Creek (old railroad junction to mouth)

~~Mountain Creek (headwaters to SR 1138 bridge)~~

~~Long Creek (headwaters to lower bridge on SR 1127) (portion not on game lands)~~

Tulula Creek (headwaters to lower bridge on SR 1211)

Franks Creek

Cheoah Reservoir

Fontana Reservoir (not trout water)

Stecoah Creek

Sawyer Creek

Panther Creek

(J) Haywood County:

~~All streams located on game lands, except those listed in Subparagraph (2) of Paragraph (a) of this Rule.~~

Pigeon River (not trout water)

Hurricane Creek

Cold Springs Creek

Jonathans Creek - lower (concrete bridge in Dellwood to Pigeon River)

Jonathans Creek - upper [SR 1307 bridge (west) to SR 1302 bridge]

Hemphill Creek

West Fork Pigeon River (headwaters to Champion International property line)

(K) Henderson County:

~~All streams located on game lands, except those listed in Subparagraph (2) Paragraph (a) of this Rule.~~

Broad River (not trout water)

Rocky Broad River (one-half mile north of Bat Cave to Rutherford County line)

Green River - upper (mouth of Bob Creek to mouth of Rock Creek)

Green River - lower (Lake Summit Dam to Polk County line) [not hatchery supported trout water. See Subparagraph (2) of Paragraph (a) of this Rule.]

Camp Creek (Polk County line to SR 1919) (SR 1919 to Polk County line)

Big Hungry River

Little Hungry River

(L) Jackson County:

~~All streams located on game lands, except those listed in Subparagraph (2) of Paragraph (a) of this Rule.~~

Tuckasegee River (confluence with West Fork Tuckasegee River to bridge at Wilmont)

Scott Creek (entire stream, except where posted against trespass)

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

North Fork Scott Creek

Savannah Creek (Headwaters to Bradley's Packing House on NC 116)

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

Cullowhee Creek (Tilley Creek to Tuckasegee River, except portion posted for Western Carolina University outdoor classroom)

Bear Creek Lake

Wolf Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]

Wolf Creek Lake

Balsam Lake

Tanasee Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]

Tanasee Creek Lake

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

Little Glenville Lake

Shoal Creek (Glenville Reservoir pipeline to mouth)

(M) Macon County:

~~All streams located on game lands, except those listed in Subparagraph (2) of Paragraph (a) of this Rule.~~

Little Tennessee River (not trout water)

Nantahala River (Nantahala Dam to Swain County line) Delayed Harvest Regulations apply to the portion from Whiteoak Creek to the Nantahala Power and Light powerhouse discharge canal. See Subparagraph (5) of Paragraph (a) of this Rule.

Queens Creek Lake

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

Burningtown Creek

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

Ellijay Creek (except where posted against trespass)

Skitty Creek (not trout water)

Cliffside Lake

Cartoogechaye Creek (US 64 bridge to Little Tennessee River)

Fessentee Creek (Nichols Branch to Little Tennessee River, except where posted against trespassing)

Savannah River (not trout water)

Big Creek (base of falls to Georgia State line)

(N) Madison County:

~~All streams located on game lands, except those listed in Subparagraph (2) of Paragraph (a) of this Rule.~~

French Broad River (not trout water)

Shut-In Creek

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

Meadow Fork Creek (except Little Creek)

Roaring Fork

Little Creek

Max Patch Pond

Mill Ridge Pond

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

PROPOSED RULES

- Shelton Laurel Creek (headwaters to NC 208 bridge)
~~Big Creek (headwaters to lower game land boundary)~~
Mill Creek
Spilleorn Creek
Puncheon Fork (Hampton Creek to Big Laurel Creek)
- (O) McDowell County:
Catawba River (not trout water)
Buck Creek (not trout water)
Little Buck Creek (game land portion)
Curtis Creek (fish barrier to US 70 bridge)
Newberry Creek (game land portion)
North Fork Catawba River (headwaters to North Cove School, SR 1569)
Armstrong Creek (Cato Holler line downstream to upper Greenlee line)
Mill Creek (upper railroad bridge to Old Fort Dam, except where posted against trespass)
- (P) Mitchell County:
Nolichucky River (not trout water)
Big Rock Creek (headwaters to fishing club property above A.D. Harrel farm)
Little Rock Creek (Green Creek Bridge to Big Rock Creek, except where posted against trespass)
Cane Creek (SR 1219 to Nolichucky River)
Grassy Creek (East Fork Grassy Creek to mouth)
East Fork Grassy Creek
North Toe River (Avery County line to SR 1121, Altapass Road)
- (Q) Polk County:
~~All streams located on game lands, except those listed in Subparagraph (2) of Paragraph (a) of this Rule.~~
Broad River (not trout water)
North Pacolet River (Pacolet Falls to NC 108 bridge)
Fork Creek (Fork Creek Church on SR 1128 to North Pacolet River)
Big Fall Creek (portion below water supply reservoir)
Green River (Henderson County line Fishstop Falls to mouth of Brights Creek)
~~Oatin Creek (Grease Creek) (Upper Hulbert Cove Road bridge on SR 1112 to existing Lake Adger water level, except where posted against trespass)~~
Laurel Branch
Little Cove Creek
Big Cove Creek
Rixhaven Creek
- Camp Creek [Henderson County line (top of falls) to Green River]
Fulloms Creek (SR 1154 to Green River)
- (R) Rutherford County:
Broad River (not trout water)
Rocky Broad River (Henderson County line to head of rapids at Goose Pond Hole, except where posted against trespass)
- (S) Stokes County:
Dan River (lower Flippin property line below SR 1416 to 200 yards downstream from end of SR 1421)
- (T) Surry County:
Yadkin River (not trout water)
Ararat River (SR 1727 downstream to SR 1759) Delayed Harvest regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.
Stewarts Creek (not trout water)
Pauls Creek (Virginia State line to SR 1625)
Fisher River (Cooper Creek) (Virginia State line to NC 89 bridge)
Little Fisher River (Virginia State line to NC 89 bridge)
Merritt Creek
- (U) Swain County:
~~All streams located on game lands, except those listed in Subparagraph (2) of Paragraph (a) of this Rule.~~
Little Tennessee River (not trout water)
Calderwood Reservoir (Cheoah Dam to Tennessee State line)
Cheoah Reservoir
Tuckasegee River (not trout water)
Deep Creek (Great Smoky Mountains National Park boundary line to Tuckasegee River)
Oconaluftee River (not trout water)
Connelly Creek
Alarka Creek
Nantahala River (Macon County line to existing Fontana Lake water level)
- (V) Transylvania County:
~~All streams located on game lands, except those listed in Subparagraph (2) of Paragraph (a) of this Rule.~~
French Broad River (junction of west and north forks to US 276 bridge)
Little River (not trout water)
Laurel Creek (headwaters to existing Cascade Lake water level)
Davidson River (game land boundary to Ecusta intake)
East Fork French Broad River (Glady Branch to French Broad River)

- Middle Fork French Broad River
 West Fork French Broad River (SR 1312 and SR 1309 intersection to junction of west and north forks)
 Savannah River (not trout water)
 Horsepasture River (Jackson County line to existing Lake Jocassee water level)
 Thompson River (SR 1152 to South Carolina state line, except where posted against trespass)
~~Gumbottom Creek (SR 1152 to Thompson River)~~
- (W) Watauga County:
 New River (not trout waters)
 North Fork New River (headwaters to Ashe County line)
 South Fork New River (not trout water)
 Meat Camp Creek
 Norris Fork Creek
 Howards Creek (downstream from lower falls)
 Middle Fork New River (Lake Chetola Dam to South Fork New River)
 Yadkin River (not trout water)
 Stony Fork (headwaters to Wilkes County line)
 Elk Creek (headwaters to gravel pit on SR 1508, except where posted against trespass)
 Watauga River (SR 1559 to SR 1114 bridge)
 Beech Creek
 Buckeye Creek Reservoir
 Coffee Lake
 Laurel Creek
 Cove Creek (SR 1233 bridge at Zionville to SR 1233 bridge at Amantia)
 Dutch Creek (second bridge on SR 1134 to mouth)
 Crab Orchard Creek
 Boone Fork (headwaters to SR 1562)
- (X) Wilkes County:
 Yadkin River (not trout water)
 Roaring River (not trout water)
 East Prong Roaring River (Bullhead Creek to Brewer's Mill on SR 1943) (Delayed harvest regulations apply to portion on Stone Mountain State Park) See Subparagraph (5) of Paragraph (a) of this Rule.
 Stone Mountain Creek (Alleghany County line to Bullhead Creek)
 Middle Prong Roaring River (headwaters to second bridge on SR 1736)
 Harris Creek (end of SR 1716 to mouth)
 Pell Branch Pond
- Boundary Line Pond
 West Prong Roaring River (not trout waters)
 Pike Creek
 Pike Creek Pond
 Reddies River (not trout water)
 Middle Fork Reddies River (Clear Prong) (headwaters to bridge on SR 1580)
 South Fork Reddies River (headwaters to NC 16 bridge)
 North Fork Reddies River (Vannoy Creek) (headwaters to Union School bridge on SR 1559)
 North Prong Reddies River (Darnell Creek) (downstream ford on SR 1569 to confluence with North Fork)
 Lewis Fork Creek (not trout water)
 South Prong Lewis Fork (headwaters to Lewis Fork Baptist Church)
 Fall Creek (except portions posted against trespass)
 Stony Fork Creek (headwaters to Mt. Zion bridge near intersection of SR 1155 and SR 1167)
- (Y) Yancey County:
 Nolichucky River (not trout water)
 Cane River (Cattail Creek to Bowlens Creek)
 Bald Mountain Creek (except portions posted against trespass)
~~Bald Creek (not trout water)~~
~~Lickskill Creek~~
~~Elk Wallow (Schronce Creek)~~
 Indian Creek (not trout water)
 Price Creek (junction of SR 1120 and SR 1121 to Indian Creek)
 South Toe River (Clear Creek to lower boundary line of Yancey County recreation park except where posted against trespass)
- (2) Wild Trout Waters. All designated public mountain trout waters located on game lands ~~in and east of Yancey, McDowell and Rutherford Counties~~ are classified as wild trout waters unless classified otherwise. The trout waters listed in this Subparagraph are also classified as wild trout waters. On game lands all tributaries to wild trout waters are also classified as wild trout waters.
- (A) Alleghany County:
 Ramey Creek (entire stream)
- (B) Ashe County:
 Big Horse Creek (Virginia State Line to SR 1361 bridge) Catch and Release Artificial Lures Only Regu-

- lations apply. See Subparagraph (3) of Paragraph (a) of this Rule.
- (C) Avery County:
- Birchfield Creek (entire stream)
 - Buck Timber Creek (game land boundary downstream to its mouth at Wilson Creek, excluding Flat Land Branch)
 - Cary Flat Branch (headwaters to upper game land boundary, excluding Archie Coffey and Boyde Coffey Lakes, and from lower game land boundary to mouth at Buck Timber Creek)
 - Cow Camp Creek (entire stream)
 - Cranberry Creek (entire stream)
 - Horse Creek (entire stream)
 - Jones Creek (entire stream)
 - Kentucky Creek (entire stream)
 - North Harper Creek (entire stream) (non-game land portions)
 - Rockhouse Creek (entire stream)
 - South Harper Creek (entire stream)
 - Wilson Creek (upper Bill Crump property line downstream to the upper game land boundary) [Catch and Release/Artificial Lures Only regulations apply. See Subparagraph (3) of Paragraph (a) of this Rule.]
- (D) Buncombe County:
- Carter Creek (game land portion) (Catch and Release Artificial Lures only regulations apply. See Subparagraph (3) of Paragraph (a) of this Rule.)
- (E) Burke County:
- All waters located on South Mountain State Park, except the main stream of Jacob Fork between the mouth of Shinnny Creek and the lower park boundary where delayed harvest regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.
- (F) Caldwell County:
- Buffalo Creek (headwaters to lower Dahl property line)
 - Joe Fork (Watauga County line to falls)
 - Rockhouse Creek (entire stream)
- (G) Cherokee County:
- Bald Creek (entire stream)
 - North Shoal Creek (Crane Creek) (headwaters to SR 1325)
 - Shuler Creek (headwaters to Tennessee State line, except where posted against trespass)
- (H) ~~(G)~~ Clay County:
- Buck Creek (game land portion)
 - Fires Creek (game land portion)
 - Tuni Creek (entire stream)
- (I) ~~(H)~~ Graham County:
- Big Snow Bird Creek (upstream from old railroad junction)
 - Slick Rock Creek (entire stream)
 - Huffman Creek (Little Buffalo Creek) (entire stream)
 - Mountain Creek (game lands boundary to SR 1138 bridge)
 - Sawyer Creek (entire stream)
 - South Fork Squalla Creek (entire stream)
- (J) Haywood County:
- Big Creek (game land portion)
 - Big East Fork Pigeon River (game land portion)
 - Cataloochee Creek (game land portion)
 - Little East Fork Pigeon River (game land portion)
 - Middle Prong West Fork Pigeon River
- (K) Henderson County:
- Big Creek (entire stream)
 - Bradley Creek (entire stream)
 - Fletcher Creek (entire stream)
 - South Mills River (game land portion)
 - Green River (Lake Summit Dam to Polk County line)
- (L) Jackson County:
- Caney Fork Creek (game land portion)
 - Buff Creek (SR 1457 bridge below Bill Johnson's place to Scott Creek)
 - Gage Creek (entire stream)
 - North Fork Scott Creek (game lands boundary to mouth)
 - Tanasee Creek (entire stream)
 - Whitewater River (downstream from Silver Run Creek to South Carolina State line)
 - Wolf Creek (entire stream, except Balsam Lake and Wolf Creek Lake)
- (M) Macon County:
- Nantahala River (upstream from bear sanctuary line at Rainbow Springs)
 - Roaring Fork Creek (Game lands boundary to mouth)
- (N) ~~(M)~~ Madison County:
- Big Creek (headwaters to lower game land boundary)
 - Little Creek (entire stream)
- (O) ~~(N)~~ Mitchell County:
- Green Creek (headwaters to Green Creek Bridge, except where posted against trespass)
 - Little Rock Creek (headwaters to Green Creek Bridge, except where posted against trespass)
 - Wiles Creek (game land boundary to mouth)
- (P) Polk County:
- Big Fall Creek (portion above water supply reservoir)

- Green River (Henderson County line to Fishstop Falls)
Little Cove Creek (entire stream)
(P) ~~(N)~~ Transylvania County:
Avery Creek (entire stream)
Bradley Creek (entire stream)
Davidson River (upstream of Avery Creek, excluding Grogan Creek) [Catch and Release Fly Fishing Only regulations apply. See Subparagraph (4) of Paragraph (a) of this Rule.]
Looking Glass Creek (entire stream)
North Fork Broad River [game land portion upstream from Long Branch (Courthouse Creek)]
Middle Fork French Broad River (entire stream)
South Fork Mills River (entire stream)
Whitewater River (downstream from Silver Run Creek to South Carolina State line)
(Q) ~~(H)~~ Watauga County:
Watauga River (Avery County line to SR 1559)
Boone Fork (Blue Ridge Parkway boundary line to Watauga River) [Catch and Release Fly Fishing Only regulations apply. See Subparagraph (4) of Paragraph (a) of this Rule.]
Howards Creek (headwaters to lower falls)
(R) ~~(P)~~ Wilkes County:
Big Sandy Creek (portion on Stone Mountain State Park)
Garden Creek (portion on Stone Mountain State Park)
Harris Creek and tributaries [portions on Stone Mountain State Park] [Catch and Release Artificial Lures Only regulations apply. See Subparagraph (4) of Paragraph (a) of this Rule.]
Widow Creek (portion on Stone Mountain State Park)
(S) ~~(Q)~~ Yancey County:
Lickskillet Creek (entire stream)
Middle Creek (game land boundary to mouth)
Rock Creek (game land boundary to mouth)
South Toe River (game land boundary downstream to Clear Creek)
(3) Catch and Release Artificial Lures Only. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release Artificial Lures Only waters. Only artificial lures having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:
Harris Creek and tributaries (portions on Stone Mountain State Park, Wilkes County)
Big Horse Creek, excluding tributaries (Virginia state line to SR 1361 bridge, Ashe County)
Three Top Creek (portion located on Bluff Mountain Game Lands, Ashe County)
Wilson Creek (~~headwaters to game land boundary above Edgemont, excluding tributaries, Avery County~~) (game lands portion including tributaries, Avery County)
Upper Creek, Yancey County
Lower Creek, Yancey County
Tuckasegee River including all tributaries above the Clarke property, Jackson County
Flat Creek, Jackson County
Carter Creek (game lands portion), Buncombe County
(4) Catch and Release Artificial Flies Only. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release Fly Fishing Only waters. Only artificial flies having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:
Boone Fork (portion between Blue Ridge Parkway boundary and the Watauga River, Watauga County)
South Toe River (portion from the concrete bridge above Black Mountain Campground downstream to the game land boundary, excluding Camp Creek and Neals Creek, Yancey County)
Lost Cove Creek (game land portion, excluding Gragg Prong and Rockhouse Creek, Avery County)
Davidson River (headwaters to Avery Creek excluding Avery Creek, Looking Glass Creek, and Grogan Creek, Transylvania County)
(5) Delayed Harvest. Those portions of designated Hatchery Supported Trout Waters as listed in this Subparagraph, excluding tributaries except as noted, are further classified as Delayed Harvest Waters. Between 1 March and the Friday before the first Saturday in June, inclusive, only artificial lures with one single hook may be used. No fish may be harvested or be in possession while fishing these streams

during this time. On the first Saturday in June these streams revert to Hatchery Supported Waters regulations:

Ararat River (SR 1727 downstream to SR 1759, Surry County)

East Prong Roaring River (~~portion on Stone Mountain State Park, Wilkes County~~) (from Bullhead Creek downstream to the lower Stone Mountain State Park boundary, Wilkes County)

Jacobs Fork (Shinny Creek to lower South Mountain State Park boundary, Burke County)

Nantahala River (portion from Whiteoak Creek to the ~~powerhouse~~, Nantahala Power and Light power house discharge canal, Swain County)

(b) Fishing in Trout Waters

(1) Hatchery Supported Trout Waters. It is unlawful to take fish of any kind by any manner whatsoever from designated public mountain trout waters during the closed seasons for trout fishing. The seasons, size limits, creel limits and possession limits apply in all waters, whether designated or not, as public mountain trout waters. Except in power reservoirs and city water supply reservoirs so designated, it is unlawful to fish in designated public mountain trout waters with more than one line. Night fishing is not allowed in most hatchery supported trout waters on game lands [see 15A NCAC 10D .0004(b)(1)].

(2) Wild Trout Waters. Except as otherwise provided in Subparagraphs (3) and (4) of Paragraph (a) of this Rule, the following rules apply to fishing in wild trout waters.

(A) Open Season. There is a year round open season for the licensed taking of trout.

(B) Creel Limit. The daily creel limit is four trout.

(C) Size Limit. The minimum size limit is seven inches.

(D) Manner of Taking. Only artificial lures having only one single hook may be used. No person shall possess live or preserved bait while fishing wild trout waters.

(E) Night Fishing. Fishing on wild trout waters is not allowed between one-half hour after sunset and one-half hour before sunrise.

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

SECTION .0400 - NONGAME FISH

.0402 TAKING BAIT FISHES AND FISH BAIT

(a) It is unlawful to take bait fishes in the inland waters of North Carolina using equipment other than:

- (1) a net of dip net design not greater than six feet across;
- (2) a seine of not greater than 12 feet in length and with a bar mesh measure of not more than one-fourth inch;
- (3) a cast net with a square mesh of not more than three-eighths inch;
- (4) minnow traps not exceeding 12 inches in diameter and 24 inches in length, with funnel openings not exceeding one inch in diameter, and which are under the immediate control and attendance of the individual operating them.

(b) It is unlawful to sell nongame fishes or aquatic animals taken under this Subsection.

(c) ~~(b)~~ Game fishes and their young taken while netting for bait shall be immediately returned unharmed to the water. No person shall take more than 200 bait fish from inland fishing waters during one day. It is unlawful to take bait fishes or fish bait from designated public mountain trout waters and:

- (1) Chatham County:
Deep River
Rocky River
Bear Creek
- (2) Lee County:
Deep River
- (3) Moore County:
Deep River
- (4) Randolph County:
Deep River below the Coleridge Dam
Fork Creek.

Statutory Authority G.S. 113-134; 113-135; 113-272; 113-272.3; 113-292.

SUBCHAPTER 10D - GAME LANDS REGULATIONS

.0003 HUNTING ON GAME LANDS

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

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

(c) Tree Stands. It is unlawful to erect or to occupy, for the purpose of hunting, any tree

stand or platform attached by nails, screws, bolts or wire to a tree on any game land designated herein. This prohibition shall not apply to lag-screw steps or portable stands that are removed after use with no metal left remaining in or attached to the tree.

(d) Time and Manner of Taking. Except where closed to hunting or limited to specific dates by these regulations, hunting on game lands is permitted during the open season for the game or furbearing species being hunted. On managed waterfowl impoundments, hunters shall not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates, and hunting is prohibited after 1:00 p.m. on such hunting dates; decoys may not be set out prior to 4:00 a.m. and must be removed by 3:00 p.m. each day. No person shall operate any vessel or vehicle powered by an internal combustion engine on a managed waterfowl impoundment.

No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal which has been so mutilated.

No person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization of the commission or its agent and no person shall take or attempt to take any game birds or game animals attracted to such foods.

No live wild animals or wild birds shall be removed from any game land.

(e) Hunting Dates:

- (1) Doves may be taken on the following game lands and dove hunting is limited to Mondays, Wednesdays, Saturdays and to Thanksgiving, Christmas and New Year's Days within the federally-announced season:

Buncombe County--Browntown Farms Game Land

Guilford County--Guilford County Farm Game Land

I enoir County--Caswell Farm Game Land

Wayne County--Cherry Farm Game Land

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

dicated in parentheses following specific designations:

Ashe County--Carson Woods Game Land
Bertie County--Bertie County Game Lands
Bladen County--Bladen Lakes State Forest

Game Lands (Handguns may not be carried and, except for muzzle-loaders, rifles larger than .22 caliber rimfire may not be used or possessed. On the ~~Breece Tract~~ and the Singletary Tract deer and bear may be taken only by still hunting. Deer of either sex may be taken on the first Wednesday after Thanksgiving and on the second Saturday after Thanksgiving.)

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

Catawba and Iredell Counties--Catawba Game Land (No deer may be taken from the tracts known as Island Point or Molly's Backbone.)

Durham, Granville and Wake Counties--Butner-Falls of Neuse Game Land (On that part marked as the Penny Bend Rabbit Research Area no hunting is permitted. In addition to the dates indicated in Paragraph (e) of this Rule, waterfowl may be taken on opening and closing days of the applicable waterfowl seasons.)

I enoir County--H.M. Bizzell, Sr., Game Land

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

Pender County--Holly Shelter Game Land (In addition to the dates above indicated, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons. Deer of either sex may be taken on Mondays, Wednesdays, and Saturdays from the first Wednesday after Thanksgiving and on the second through the third Saturday after Thanksgiving.)

Richmond, Scotland and Moore Counties--Sandhills Game Land (The regular gun season for deer consists of the open hunting dates from the second Monday before Thanksgiving to the third Saturday after Thanksgiving except on the field trial grounds where the gun season is from the

second Monday before Thanksgiving to the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting dates during the bow and arrow season, as well as during the regular gun season. Deer may be taken with muzzle-loading firearms on Monday, Wednesday and Saturday of the second week before Thanksgiving week, and during the regular gun season. Except for the deer seasons above indicated and the managed either-sex permit hunts, the field trial grounds are closed to all hunting during the period October 22 to March 31. In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.) Wild turkey hunting is by permit only.

Robeson County--Bullard and Branch Hunting Preserve Game Land

Stokes County--Sauratown Plantation Game Land

Yadkin County--Huntsville Community Farms Game Land

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

(A) Bears may not be taken on lands designated and posted as bear sanctuaries;

(B) Wild boar may not be taken with the use of dogs on such bear sanctuaries, and wild boar may be hunted only during the bow and arrow seasons, the muzzle-loading deer season and the regular gun season on male deer on bear sanctuaries located in and west of the counties of Madison, Buncombe, Henderson and Polk;

(C) On game lands open to deer hunting located in or west of the counties of Rockingham, Guilford, Randolph, Montgomery and Anson, the following rules apply to the use of dogs during the regular season for hunting deer with guns:

(i) Except for the counties of Cherokee, Clay, Jackson, Macon, Madison, Polk, and Swain, game birds may be hunted with dogs.

(ii) In the counties of Cherokee, Clay, Jackson, Macon, Madison, Polk, and Swain, small game in season may be hunted with dogs on all game lands except on bear sanctuaries.

(D) On Croatan, Goose Creek, New Hope, Person, and Shearon Harris Game Lands waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on

Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons; except that outside the posted waterfowl impoundments on Goose Creek Game Land hunting any waterfowl in season is permitted any week day during the last 10 days of the regular duck season as established by the U.S. Fish and Wildlife Service; On the Pamlico Point, Campbell Creek, and Spring Creek impoundments a special permit is required for hunting on those opening and closing days of the waterfowl season as well as on those Saturdays that fall after November 1 of the season and on Thanksgiving and New Year's day;

(E) On the posted waterfowl impoundments of Gull Rock Game Land hunting of any species of wildlife is limited to Mondays, Wednesdays, Saturdays; Thanksgiving, Christmas, and New Year's Days; and the opening and closing days of the applicable waterfowl seasons;

(F) On bear sanctuaries in and west of Madison, Buncombe, Henderson and Polk Counties dogs may not be trained or allowed to run unleashed between March 1 and October 11;

(G) ~~On Butner Falls of Neuse and Person Game Lands waterfowl may be taken only on Tuesdays, Thursdays and Saturdays, Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons. On New Lake, Pungo River, and Gull Rock Game Lands deer of either sex may be taken from the first Wednesday after Thanksgiving through the third Saturday after Thanksgiving.~~

(H) On Angola Bay, Croatan, Goose Creek, Hofmann Forest and Tuscarora Game Lands deer of either sex may be taken from the first Wednesday after Thanksgiving through the following Saturday;

(I) Horseback riding is allowed on the Caswell and Thurmond Chatham game lands only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to engaging in such activity;

(J) On the posted waterfowl impoundments on the New Hope and Butner-Falls of

- Neuse game lands a special permit is required for all waterfowl hunting.
- (K) Additional restrictions or modifications apply as indicated in parentheses following specific designations:
- Alexander and Caldwell Counties--Brushy Mountains Game Lands
- Anson County--Anson Game Land
- Anson, Montgomery, Richmond, and Stanly Counties--Pee Dee River Game Lands
- Ashe County--Bluff Mountain Game Lands
- Ashe County--Cherokee Game Lands
- Ashe and Watauga Counties--Elk Knob Game Land
- Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Jackson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey Counties--Pisgah Game Lands (Harmon Den and Sherwood Bear Sanctuaries in Haywood County are closed to hunting raccoon, opossum and wildcat. Training raccoon and opossum dogs is prohibited from March 1 to October 11 in that part of Madison County north of the French Broad River, south of US 25-70 and west of SR 1319.)
- Bertie and Washington Counties--Bachelor Bay Game Lands
- Beaufort and Pamlico Counties--Goose Creek Game Land
- Brunswick County--Green Swamp Game Land
- Burke County--South Mountains Game Lands
- Caldwell, Watauga and Wilkes Counties--Yadkin Game Land
- Carteret, Craven and Jones Counties--Croatan Game Lands
- Chatham County--Chatham Game Land
- Chatham, Durham, Orange, and Wake Counties--New Hope Game Lands (On areas posted as "archery zones" hunting is limited to bow and arrow.)
- Chatham and Wake Counties--Shearon Harris Game Land
- Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania Counties--Nantahala Game Lands. Raccoon and opossum may be hunted only from sunset Friday until sunrise on Saturday and from sunset until 12:00 midnight on Saturday on Fires Creek Bear Sanctuary in Clay County and in that part of Cherokee County north of US 64 and NC 294, east of Persimmon Creek and Hiwassee Lake, south of Hiwassee Lake and west of Nottely River; in the same part of Cherokee County dog training is prohibited from March 1 to October 11. It is unlawful to train dogs or allow dogs to run unleashed on Fires Creek Bear Sanctuary at any time, except that dogs may be used when hunting raccoon or opossum and for hunting grouse and rabbits during the open seasons. It is unlawful to train dogs or allow dogs to run unleashed on any game land in Graham County between March 1 and October 11.
- Chowan County--Chowan Game Land
- Cleveland County--Gardner-Webb Game Land
- Craven County--Neuse River Game Land
- Craven County--Tuscarora Game Land
- Currituck County--North River Game Land
- Currituck County--Northwest River Marsh Game Land
- Dare County--Dare Game Land (No hunting on posted parts of bombing range.)
- Davidson, Davie, Montgomery, Rowan and Stanly Counties--Alcoa Game Land
- Davidson County--Linwood Game Land
- Davidson, Montgomery and Randolph Counties--Uwharrie Game Land
- Duplin and Pender Counties--Angola Bay Game Land
- ~~Durham, Granville and Wake Counties--Butner Falls of Neuse Game Land (On portions of the Butner Falls of Neuse Game Land designated and posted as "safety zones" and on that part marked as the Penny Bend Rabbit Research Area no hunting is permitted. On portions posted as "restricted zones" hunting is limited to bow and arrow during the bow and arrow season and the regular gun season for deer.)~~
- Franklin County--Franklin Game Lands
- Gates County--Chowan Swamp Game Land
- Henderson, Polk and Rutherford Counties--Green River Game Lands
- Hyde County--Gull Rock Game Land
- Hyde County--Pungo River Game Land
- Hyde and Tyrrell Counties--New Lake Game Land
- Jones and Onslow Counties--Hofmann Forest Game Land
- Lee County--Lee Game Land
- McDowell County--Hickory Nut Mountain Game Land
- McDowell and Rutherford Counties--Dysartsville Game Lands
- Moore County--Moore Game Land

New Hanover County--Sutton Lake Game Land

Person County--Person Game Land

Transylvania County--Toxaway Game Land

Vance County--Vance Game Land

Wilkes County--Thurmond Chatham Game Land

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

Friday and Saturday of the first week after Thanksgiving Week:

Uwharrie and Alcoa southeast of NC 49

~~Third Saturday after Thanksgiving Day:~~

~~Carson Woods~~

~~Thurmond Chatham~~

Thursday and Friday of the week before Thanksgiving Week:

Sandhills east of US 1

Sandhills west of US 1

~~Fourth Saturday after Thanksgiving Day:~~

~~Dysartsville in McDowell County~~

~~Hickorynut Mountain in McDowell County~~

~~Pisgah in Avery County~~

~~Pisgah in Burke County~~

~~Pisgah in Caldwell County~~

~~Pisgah in McDowell County~~

~~Pisgah in Yancey County~~

~~South Mountains~~

~~Thurmond Chatham~~

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

- (5) The following game lands and Federal Wildlife Refuge are closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission:

Bertie, Halifax and Martin Counties--Roanoke River Wetlands;

Bertie County--Roanoke River National Wildlife Refuge.

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

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

Davie--Hunting Creek Swamp Waterfowl Refuge

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

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

.0004 FISHING ON GAME LANDS

(a) Generally. Except as otherwise indicated herein, fishing on game lands which are open to fishing shall be in accordance with the statewide regulations. All game lands are open to public fishing except restocked ponds on the New Hope Game Land when posted against fishing, Hunting Creek Swamp Waterfowl Refuge, Grogan Creek in Transylvania County, and in the case of private ponds where fishing may be prohibited by the owners thereof. No trotline or set-hook or any net, trap, gig, bow and arrow or other special fishing device of a type mentioned in 15A NCAC 10C .0403 may be used in any of the impounded waters located on the Sandhills Game Land. The game lands license is not required to fish on the central and eastern game lands where there are no designated public mountain trout waters.

(b) Designated Public Mountain Trout Waters

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

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

Bluff Mountain Game Land, Ashe County
Green River Game Land in the Counties of Henderson and Polk

Nantahala National Forest Game Lands in the Counties of Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania
 Pisgah National Forest Game Lands in the Counties of Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania and Yancey
 South Mountains Game Land in Burke County
 Thurmond Chatham Game Land in Wilkes County
 Toxaway Game Land in Transylvania County

- (3) All designated public mountain trout waters located on the game lands listed in Subparagraph (2) of this Paragraph ~~in and east of Yancey, McDowell and Rutherford Counties~~ are wild trout waters unless classified otherwise. [See 15A NCAC 10C .0205(a)(1)]. ~~In and west of Madison, Buncombe, Henderson, and Polk all designated public mountain trout waters are hatchery supported waters unless classified otherwise. [See 15A NCAC 10C .0205(a)(2)].~~

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

SUBCHAPTER 10E - FISHING AND BOATING ACCESS AREAS

.0004 USE OF AREAS REGULATED

(a) No person shall leave any vehicle, boat trailer or other obstruction on any access area in such a location, position or condition that it will prevent, impede, or inconvenience the use by other persons of any ramp or other facility constructed for the purpose of launching or landing boats. No person shall leave parked any vehicle, boat, boat trailer or other object at any place on any access area other than on such place or zone as is designated as an authorized parking zone and posted or marked as such.

(b) No person shall possess a loaded firearm on any boat access area. No person shall operate a vehicle on any boat access area in a manner so as to endanger life or property.

(c) No person, when using any access area, shall deposit any debris or refuse anywhere on the grounds of the area. No person, when using any access area, shall do any act which is prohibited or neglect to do any act which is required by signs or markings placed on such area under authority of this Regulation for the purpose of regulating the use of the area. At any time when all designated parking zones on any access area

are fully occupied, any person may enter and use such facilities, provided such person makes other arrangements for parking and violates none of the provisions of this Regulation or the signs or markings made or posted pursuant hereto.

(d) No person shall operate a motorboat in the public waters of North Carolina within 50 yards of a Commission-owned or managed boat launching ramp at greater than "no wake" speed. For the purpose of this Regulation, "no wake" speed shall mean idling speed or a slow speed creating no appreciable wake.

(e) Except where facilities are provided, it is unlawful to use any boating access area for purposes other than the launching of boats and parking vehicles and boat trailers. All other uses--including swimming, skiing, camping, building fires, operating concessions or other activities not directly involved with launching of boats--are expressly prohibited.

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

(g) It is unlawful to use any public fishing area for purposes other than fishing. All other uses including swimming, sunbathing, skiing, building fires, operating concessions, or other activities not directly associated with fishing are expressly prohibited.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend rule(s) cited as 15A NCAC 10C .0302.

The proposed effective date of this action is April 1, 1992.

The public hearing will be conducted at 7:00 p.m. on January 7, 1992 at the Chowan County Courthouse, Edenton, N.C.

Reason for Proposed Action: To provide consistency in the prohibition of the use of commercial fishing gear to take inland game fish.

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 December 16, 1991 to January 15, 1992. Such written comments must be delivered or mailed to

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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 .0300 - GAME FISH

.0302 MANNER OF TAKING INLAND GAME FISHES

Except as provided below, it is unlawful for any person to take inland game fishes from any of the waters of North Carolina by any method other than with hook and line, rod and reel, or by casting. Game fishes taken incidental to commercial fishing operations in joint fishing waters or coastal fishing waters shall be immediately returned to the water unharmed. ~~except that licensed commercial pound net fishermen may retain one daily limit of 25 panfishes for each operation.~~ Game fishes taken incidental to the use of licensed special devices for taking nongame fishes from inland fishing waters as authorized by 15A NCAC 10C .0407 shall be immediately returned to the water unharmed, except that spotted sea trout may be retained without limit.

Statutory Authority G.S. 113-134; 113-273; 113-292; 113-302.

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environment, Health, & Natural Resources, Division of Radiation Protection

intends to adopt rule(s) cited as 15A NCAC 11 .0352, .0353, .0354, .0355; amend rule(s) cited as 15A NCAC 11 .0104, .0111, .0203, .0205, .0301, .0307, .0316, .0317, .0338, .0339, .0350, .0402, .0403, .0411, .0417, .0420, .0503, .0602, .0605, .0608, .0703, .0910, .1002, .1007, .1008, .1102, .1202, .1206, .1229, .1324, .1403, .1405, .1418, .1419; repeal rule cited as 15A NCAC 11 .0347.

The proposed effective date of this action is May 1, 1992.

The public hearing will be conducted at 5:30 p.m. on January 15, 1992 at 3825 Barrett Drive, Room 101, Raleigh, North Carolina 27609.

Reason for Proposed Action: Make changes in amended rules to correct addresses, names and form numbers that are no longer valid. Proposed amendments and adoptions of new rules that are necessary to bring North Carolina licensees into compliance with U.S. Nuclear Regulatory Commission's regulations. Changes to regulations to correct typographical errors.

Comment Procedures: Written comments should be submitted to the Division of Radiation Protection, P.O. Box 27687, Raleigh, North Carolina 27611-7687. Written comments will be accepted until January 15, 1992. Any person requiring information concerning the proposed rules should contact Richard Fry at 919 571-4141. Persons that wish to speak at the public hearing are encouraged to notify Mr. Fry at least three days prior to the hearing.

CHAPTER 11 - RADIATION PROTECTION

SECTION .0100 - GENERAL PROVISIONS

.0104 DEFINITIONS

As used in these Regulations, the following definitions shall apply.

- (1) "Accelerator produced material" means any material made radioactive by use of a particle accelerator.
- (2) "Act" means North Carolina Radiation Protection Act as defined in G.S. 104E-1 which is hereby adopted by reference pursuant to G.S. 150B-14(c).
- (3) "Activity" of a quantity of a radioactive material means the quotient of dN by dt, where dN is the number of spontaneous nuclear transformations which occur in this quantity in the time interval dt.

Note: The term nuclear transformation is meant to designate a change of nuclide or an isomeric transition.

A special unit of activity is the curie (Ci).

- (4) "Agency" means the North Carolina Department of Environment, Health, and Natural Human Resources.

- (5) "Agreement state" means any state with which the United States Nuclear Regulatory Commission has entered into an effective agreement under Subsection 274b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689).
- (6) "Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, mists, vapors, or gases.
- (7) "Airborne radioactivity area" means any room, enclosure, or operating area in which airborne radioactive material exists in concentrations in excess of the amounts specified in Table 1, Column 1 of Rule .0423(a)(1) of this Chapter; or any room, enclosure, or operating area in which airborne radioactive material exists in concentrations which, averaged over the number of hours in any week during which individuals are in the area, exceed 25 percent of the amounts specified in Table 1, Column 1 of Rule .0423(a)(1) of this Chapter.
- (8) "Authorized representative" means an employee of the agency, or an individual outside the agency when the individual is specifically so designated by the agency under Rule .0112 of this Section.
- (9) "Byproduct material" means any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.
- (10) "Calendar quarter" means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be so arranged that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. No licensee or registrant shall change the method observed by him of determining calendar quarters for purposes of these Regulations except at the beginning of a calendar year.
- (11) "Commission" means the North Carolina Radiation Protection Commission.
- (12) "Curie" means an activity of 3.7×10^{10} disintegrations per second (dps) or 2.2×10^2 disintegrations per minute (dpm), except as provided in Rules .0423 and .0424 of this Chapter. Commonly used multiples and sub-multiples of the curie(Ci) are kilocurie (1kCi = 1000 Ci), millicurie (1mCi = 0.001 Ci = 3.7×10^7 dps or 2.22×10^9 dpm) and microcurie (1 microcurie = 0.000001 Ci = 3.7×10^4 dps or 2.22×10^6 dpm).
- (13) "Decommission" means to remove (as a facility) safely from service and reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the license.
- (14) ~~(13)~~ "Department" means the North Carolina Department of Environment, Health, and Natural Human Resources.
- (15) ~~(14)~~ "Depleted uranium" means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.
- (16) ~~(15)~~ "Dose" means, for the purposes of these Regulations, absorbed dose or dose equivalent as appropriate.
- (17) ~~(16)~~ "Dose, absorbed" is the energy imparted to matter by ionizing radiation per unit mass of irradiated material at the place of interest. The special unit of absorbed dose is the rad.
- (18) ~~(17)~~ "Dose commitment" means the total radiation dose to a part of the body that will result from retention in the body of radioactive material. For purposes of estimating the dose commitment, it is assumed that from the time of intake the period of exposure to retained material will not exceed 50 years.
- (19) ~~(18)~~ "Dose equivalent" means a quantity that expresses on a common scale for all radiations, a measure of the biological effect on a given organ or organism. It is defined as the absorbed dose multiplied by certain modifying factors. The unit of dose equivalent is the rem.
- (20) ~~(19)~~ "Equipment services" means the selling, installation, rebuilding, conversion, repair, inspection, testing, survey or calibration of equipment which can affect compliance with these Regulations by a licensee or registrant.
- (21) ~~(20)~~ "Exposure" means the quotient of dQ by dm where dQ is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (both positive and negative) liberated by photons in a volume element of air having mass dm are completely stopped in air. A special unit of exposure is the roentgen (R).
- (22) ~~(21)~~ "Exposure rate" means the exposure per unit of time, such as R min and mR h.

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- (23) ~~(22)~~ "Gray", symbolized Gy, means an alternative special unit of dose, such that the energy deposition is 1 joule (J) per kilogram (kg) of irradiated material. Multiples and sub-multiples such as kilogray (kGy) = 1000 Gy, or cGy = 0.01 Gy, etc., may be used. Note that 1 cGy = 1 rad.
- (24) ~~(23)~~ "High radiation area" means any area, accessible to individuals, in which there exists radiation(s) at such levels that a major portion of an individual's body could receive in any one hour a dose equivalent in excess of 100 millirems.
- (25) ~~(24)~~ "Hospital" means a facility that provides as its primary functions diagnostic services and intensive medical and nursing care in the treatment of acute stages of illness.
- (26) ~~(25)~~ "Human use" means the internal or external administration of radiation or radioactive materials to human beings.
- (27) ~~(26)~~ "Individual" means any human being.
- (28) ~~(27)~~ "Inspection" means an official examination or observation to determine compliance with rules, regulations, orders, requirements and conditions of the agency or the Commission.
- (29) ~~(28)~~ "License", except where otherwise specified, means a license issued pursuant to Section .0300 of this Chapter.
- (30) ~~(29)~~ "Licensee" means any person who is licensed by the agency pursuant to Section .0300 of this Chapter.
- (31) ~~(30)~~ "Licensing state" means any state with regulations equivalent to the Conference of Radiation Control Program Directors, Inc. Suggested State Regulations for Control of Radiation relating to, and an effective program for, the regulatory control of naturally occurring and accelerator produced radioactive material (NARM) and so designated as such by the Conference of Radiation Control Program Directors, Inc. Unless the context clearly indicates otherwise, use of the term Agreement State in this Chapter shall be deemed to include licensing state with respect to NARM.
- (32) ~~(31)~~ "Misadministration" means the administration of:
- (a) a radiopharmaceutical or source of radiation other than the one intended;
 - (b) a radiopharmaceutical or radiation to the wrong patient;
 - (c) a radiopharmaceutical or radiation by a route of administration other than that intended by the prescribing physician;
 - (d) a diagnostic dosage of a radiopharmaceutical or source of radiation differing from the prescribed dosage by more than 50 percent;
 - (e) a therapy dosage of a radiopharmaceutical differing from the prescribed dosage by more than ten percent; or
 - (f) a therapy radiation dose from a source of radiation such that errors in the source calibration, time of exposure, or treatment geometry result in a calculated total treatment dose differing from the final prescribed total treatment dose by more than ten percent.
- (33) ~~(32)~~ "Mobile nuclear medicine service" means the transportation and medical use of radioactive material.
- (34) ~~(33)~~ "Natural radioactivity" means radioactivity of naturally occurring nuclides.
- (35) ~~(34)~~ "Occupational dose" means the dose received in a restricted area or in the course of employment in which an individual's duties involve exposure to radiation; provided that occupational dose shall not be deemed to include any dose received by the individual when undergoing medical diagnosis or medical therapy.
- (36) ~~(35)~~ "Particle accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles.
- (37) ~~(36)~~ "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of these entities.
- (38) ~~(37)~~ "Personnel monitoring equipment" means devices, such as film badges, pocket dosimeters, and thermoluminescent dosimeters, designed to be worn or carried by an individual for the purpose of estimating the dose received by the individual.
- (39) ~~(38)~~ "Pharmacist" means an individual licensed by this state to compound and dispense drugs, prescriptions and poisons.
- (40) ~~(39)~~ "Physician" means an individual currently licensed to practice medicine in this state.
- (41) ~~(40)~~ "Rad" means a special unit of measure for absorbed dose. One rad corresponds with the absorption of 100 ergs of energy per gram of irradiated material at the point of interest. See also "Gray" in Subparagraph (22) of this Rule.

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- (42) ~~(41)~~ "Radiation" means ionizing radiation and includes: gamma rays, x-rays, alpha and beta particles, high speed electrons, neutrons, high speed protons and other nuclear particles.
- (43) ~~(42)~~ "Radiation area" means any area, accessible to individuals, in which there exists radiation at such levels that, a major portion of the body could receive in any one hour a dose in excess of five millirems, or in any five consecutive days a dose in excess of 100 millirems.
- (44) ~~(43)~~ "Radiation machine" means any device capable of producing radiation except devices which produce radiation only from radioactive material.
- (45) ~~(44)~~ "Radiation safety officer" means one who has the knowledge and responsibility to apply appropriate radiation protection regulations.
- (46) ~~(45)~~ "Radioactive material" means any material, solid, liquid, or gas, which emits radiation spontaneously.
- (47) ~~(46)~~ "Radioactive waste disposal facility" means any low-level radioactive waste disposal facility, as defined in G.S. 104E-5(9c), established for the purpose of receiving low-level radioactive waste, as defined in Rule .1202 of this Chapter, generated by another licensee for the purpose of disposal.
- (48) ~~(47)~~ "Radioactive waste processing facility" means any low-level radioactive waste facility, as defined in G.S. 104E-5(9b), established for the purpose of receiving waste, as defined in Subparagraph (72) of this Rule, generated by another licensee to be stored, compacted, incinerated or treated.
- (49) ~~(48)~~ "Radioactivity" means the disintegration of unstable atomic nuclei by emission of radiation.
- (50) ~~(49)~~ "Registrant" means any person who is registered with the agency as required by provisions of these Regulations or the Act.
- (51) ~~(50)~~ "Registration" means registration with the agency in accordance with these Regulations.
- (52) ~~(51)~~ "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100-189.
- (53) ~~(52)~~ "Rem" means a measure of the dose equivalent delivered by any radiation to body tissue, expressed in terms of its estimated biological effect relative to the effect of the dose resulting from irradiation of the tissue by one roentgen (IR) of x-rays. One millirem (mrem) equals 0.001 rem. For the purpose of these Regulations any of the following is considered to be equivalent to one rem:
- (a) The dose received when the exposure is one roentgen (IR) of x- or gamma- radiation;
 - (b) An absorbed dose of one rad due to x-, gamma-, or beta- radiation;
 - (c) A dose of 0.1 rad due to neutrons or high energy protons;
 - (d) A dose of 0.05 rad due to particles heavier than protons and with sufficient energy to reach the lens of the eye;
 - (e) If it is more convenient to measure the neutron flux, or equivalent, than to determine the neutron dose in rads, as provided in Subparagraph (49)(c) of this Rule, one rem of neutron radiation may, for purposes of these Regulations, be assumed to be equivalent to 14 million neutrons per square centimeter incident upon the body; or, if there exists sufficient information to estimate with reasonable accuracy the approximate distribution in energy of the neutrons, the incident number of neutrons per square centimeter equivalent to one rem may be estimated from the following table:

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Neutron Flux Dose Equivalents

neutron energy (MeV)	number of neutrons per square centimeter equivalent to a dose of 1 rem (neutrons/cm ²)	average flux to deliver 100 millirem in 40 hrs. (neutrons/ cm ² per sec.)
Thermal	970 x 10 ⁶	670
0.0001	720 x 10 ⁶	500
0.005	820 x 10 ⁶	570
0.02	400 x 10 ⁶	280
0.1	120 x 10 ⁶	80
0.5	43 x 10 ⁶	30
1.0	26 x 10 ⁶	18
2.5	29 x 10 ⁶	20
5.0	26 x 10 ⁶	18
7.5	24 x 10 ⁶	17
10.0	24 x 10 ⁶	17
10 to 30	14 x 10 ⁶	10

(54) ~~(53)~~ "Research and development" means:

- (a) theoretical analysis, exploration, or experimentation; or
- (b) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

(55) ~~(54)~~ "Restricted area" means any area, access to which is controlled by a licensee or registrant for purposes of protection of individuals from exposure to radiation and radioactive materials. Restricted area shall not include any areas used for residential quarters, although a separate room or rooms in a residential building may be set apart as a restricted area.

(56) ~~(55)~~ "Roentgen" (R) means the special unit of exposure. One roentgen equals $2.58 \times (1/10^4)$ coulombs/kilogram of air.

(57) ~~(56)~~ "Sealed Source" means radioactive material that is permanently bonded, fixed or encapsulated so as to prevent release and dispersal of the radioactive material under the most severe conditions which are likely to be encountered in normal use and handling.

(58) ~~(57)~~ "Source material" means:

- (a) uranium or thorium, or any combination thereof, in any physical or chemical form; or
- (b) ores which contain by weight 0.05 percent or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material.

(59) ~~(58)~~ "Source of radiation" means any radioactive material, or any device or equipment emitting or capable of producing radiation.

(60) ~~(59)~~ "Special form radioactive material" means radioactive material which satisfies the following conditions:

- (a) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;
- (b) The piece or capsule has at least one dimension not less than five millimeters (0.197 inch); and
- (c) It satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission and the tests prescribed in Rule .0114 of this Section. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1984, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation either designed or constructed after June 30, 1985, must meet requirements of this definition applicable at the time of its design or construction.

(61) ~~(60)~~ "Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope uranium-235 in quantities not exceeding 350 grams of contained uranium-235; uranium-233 in quantities not exceeding 200 grams; plutonium in quantities not

exceeding 200 grams; or any combination of uranium-235, uranium enriched in uranium-235 and plutonium in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified in this Rule for the same kind of special nuclear material. The sum of these ratios for all the kinds of special nuclear material in combination shall not exceed unity. For example, the following quantities in combination would not exceed the limitations and are within the formula, as follows:

$$\frac{175 \text{ (grams contained U-235)}}{350} + \frac{50 \text{ (grams U-233)}}{200} + \frac{50 \text{ (grams Pu)}}{200} \text{ less than or equal to } 1.$$

(62) ~~(61)~~ "State" means the State of North Carolina.

(63) ~~(62)~~ "Survey" means an evaluation of the production, use, release, disposal, or presence of sources of radiation under a specific set of conditions to determine actual or potential radiation hazards.

(64) ~~(63)~~ "These Regulations" and "these Rules" means Chapter 11 of this Title.

(65) ~~(64)~~ "Type A quantity" means a quantity of radioactive material, the aggregate radioactivity of which does not exceed A_1 for special form radioactive material or A_2 for normal form radioactive material, where A_1 and A_2 are given in Rule .0113 of this Section or may be determined by procedures described in Rule .0113 of this Section. All quantities of radioactive material greater than a Type A quantity are Type B.

(66) ~~(65)~~ "U.S. Department of Energy" means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the department exercises functions formerly vested in the U.S. Atomic Energy Commission, its chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the administrator thereof pursuant to sections 104(b), (c) and (d) of the Energy Reorganization Act of 1974 (Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237, effective January 19, 1975) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (Public Law 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977.)

(67) ~~(66)~~ "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.

(68) ~~(67)~~ "Unrestricted area" means any area access to which is not controlled by a licensee or registrant for purposes of protection of individuals from exposure to radiation and radioactive materials, and any area used for residential quarters.

(69) ~~(68)~~ "Worker" means an individual engaged in work under a license or registration issued by the agency and controlled by a licensee or registrant, but does not include the licensee or registrant.

(70) ~~(69)~~ "Class A Waste" is defined in Rule .0425(a)(1) of this Chapter.

(71) ~~(70)~~ "Class B Waste" is defined in Rule .0425(a)(2) of this Chapter.

(72) ~~(71)~~ "Class C Waste" is defined in Rule .0425(a)(3) of this Chapter.

(73) ~~(72)~~ "Waste" means low-level radioactive waste as defined in G.S. 104E-5(9a) and includes licensed naturally occurring and accelerator produced radioactive material which is not subject to regulation by the U.S. Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended, except as defined differently in Rule .1202 of this Chapter.

(74) ~~(73)~~ "Toxic or Hazardous Constituent of the Waste" means the nonradioactive content of waste which, notwithstanding the radioactive content, would be classified as "hazardous waste" as defined in 15A NCAC 10F .0002(a).

Statutory Authority G.S. 104E-7(2).

.0111 COMMUNICATIONS

All communications and reports concerning these Regulations, and applications filed thereunder, shall be addressed mailed to the agency at Division of Radiation Protection, P. O. Box 27687, Raleigh, North Carolina 27611-7687 or delivered to the agency at its office located at 3825 Barrett 704 Barbour Drive, Raleigh, North Carolina 27603-2008, 27609-7221.

Statutory Authority G.S. 104E-7.

SECTION .0200 - REGISTRATION OF RADIATION MACHINES: FACILITIES AND SERVICES

.0203 APPLICATION: REGISTRATION: RADIATION MACHINES: FACILITIES

(a) Each person having an unregistered radiation machine or facility shall:

- (1) apply for registration of such facility and each radiation machine within 30 days following initial operation of that facility and each radiation machine. Application for registration shall be completed on agency forms and shall contain all information required by the forms and accompanying instructions. The registration of the first radiation machine at a facility constitutes registration of the facility itself.

(2) designate on the application form an individual who shall be responsible for radiation protection.

(b) Agency forms ~~DPS 5100, 5102, 5104~~ described in Subparagraph (a) (1) of this Rule require the following and other information:

- (1) name, address and telephone number of the radiation machine facility;
- (2) name of the person responsible for radiation protection in the facility;
- (3) name, training and experience of the person designated in Subparagraph (a)(2) of this Rule;
- (4) the manufacturer, model number, serial number and type of each radiation machine located within the facility;
- (5) the date of the application and the signatures of the persons specified in Subparagraphs (b)(2) and (3) of this Rule.

Statutory Authority G.S. 104E-7.

.0205 APPLICATION FOR REGISTRATION OF SERVICES

(a) Each person who is engaged in the business of installing or offering to install radiation machines and machine components or is engaged in the business of furnishing or offering to furnish any equipment services listed in Paragraph (d) of this Rule in this state, to any agency licensee or registrant, shall apply for registration of such services with the agency within 30 days following the amended effective date of this Rule or thereafter prior to furnishing or offering to furnish any of these services.

(b) Application for registration shall be completed on appropriate form(s) provided by the agency ~~form DPS 5104~~ and shall contain all information required by the agency as indicated on the form and accompanying instructions. This information shall include:

- (1) the name, address and telephone number of:
 - (A) the individual or the company to be registered;
 - (B) the owner(s) of the company;

(2) the description of the services to be provided;

(3) the name, training and experience of each person who provides services specified in (d) of this Rule;

(4) the date of the application and the signature of the person responsible for the company; and

(5) any additional information the agency determines to be necessary for evaluation of the application for registration.

(c) Each person applying for registration under Paragraph (a) of this Rule shall certify that he has read and understands the requirements of the Rules in this Chapter.

(d) For the purpose of this Section, equipment services are:

- (1) direct sale and transfer of radiation machines and machine components to end users;
- (2) installation or servicing of radiation machines and associated radiation machine components;
- (3) diagnostic radiographic facility and shielding design;
- (4) diagnostic fluoroscopic facility and shielding design;
- (5) diagnostic area radiation survey, e.g., shielding evaluation;
- (6) radiation instrument calibration;
- (7) therapeutic facility and shielding design, area radiation survey or calibration;
- (8) personnel dosimetry services;
- (9) general health physics consulting, e.g., independent diagnostic radiation output measurements, dose analysis, design of safety programs and radiation safety training programs, non-healing arts facility and shielding design and area radiation surveys; and
- (10) such other equipment services which can affect compliance with these Regulations by a licensee or registrant, as determined by the agency.

(e) Applicants for registration of services are subject to the applicable requirements of Rules .0213 and .0214 of this Section.

Statutory Authority G.S. 104E-7.

SECTION .0300 - LICENSING OF RADIOACTIVE MATERIAL

.0301 PURPOSE AND SCOPE

(a) This Section provides for the licensing of radioactive material. No person shall receive, possess, use, transfer, own or acquire radioactive material except as authorized in a specific or

general license issued pursuant to, or as otherwise provided in, this Section.

(b) In addition to the requirements of this Section,

- (1) All licensees are subject to the requirements of Sections .0400 and .1000 of this Chapter, except as otherwise provided in the Rules of this Section;
- (2) Licensees engaged in industrial radiographic operations are subject to the requirements of Section .0500 of this Chapter;
- (3) Licensees using sealed sources in the healing arts are subject to the requirements of Section .0700 of this Chapter;
- (4) Licensees engaged in the operation of radioactive waste disposal facilities are subject to the requirements of Section .1200 of this Chapter; and
- (5) Licensees engaged in well-logging operations are subject to the requirements of Section .1300 of this Chapter.

(c) In addition to the requirements of this Section, all licensees are subject to the annual fee provisions contained in Section .1100 of this Chapter.

(d) The Rules in this Section do not apply to persons licensed pursuant to the Rules in Section .1200 of this Chapter except as specifically provided otherwise in Section .1200.

Statutory Authority G.S. 104E-7; 104E-9(8); 104E-10(b); 104E-19.

.0307 GENERAL LICENSES: SOURCE MATERIAL

(a) A general license shall be issued authorizing use and transfer of not more than fifteen (15) pounds of source material at any one time by persons in the following categories:

- (1) pharmacists using the source material solely for the compounding of medicinals;
- (2) physicians using the source material for medicinal purposes;
- (3) persons receiving possession of source material from pharmacists and physicians in the form of medicinals or drugs;
- (4) commercial and industrial firms, and research, educational, and medical institutions, and state and local governmental agencies for research, development, educational, commercial or operational purposes.

(b) Pursuant to this general license no person shall receive more than a total of 150 pounds of source material in any one calendar year.

(c) Persons who receive, possess, use, or transfer source material pursuant to the general license

issued in (a) of this Rule are exempt from the provisions of Sections .0400 and .1000 of this Chapter to the extent that the receipt, possession, use, or transfer is within the terms of the general license, provided that this exemption shall not be deemed to apply to any person who is also in possession of source material under a specific license issued pursuant to the rules in this Section.

(d) A general license shall be issued authorizing the receipt of title to source material without regard to quantity. This general license does not authorize any person to receive, possess, use, or transfer source material.

(e) A general license shall be issued to receive, acquire, possess, use, or transfer in accordance with the provisions of Subparagraphs (e)(2), (3), (4) and (5) of this Rule, depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device.

- (1) The general license in (e) of this Rule applies only to industrial products or devices which have been manufactured either in accordance with a specific license issued to the manufacturer of the products or devices pursuant to Rule .0336 of this Section or in accordance with a specific license issued to the manufacturer by the U.S. Nuclear Regulatory Commission or an agreement state which authorizes manufacture of the products or devices for distribution to persons generally licensed by the U.S. Nuclear Regulatory Commission or an agreement state.

- (2) Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by Paragraph (e) of this Rule shall file agency form DFS 5212, "Registration Certificate - Use of Depleted Uranium Under General License", with the agency appropriate form(s) provided by the agency. The form shall be submitted within 30 days after the first receipt or acquisition of such depleted uranium. The registrant shall furnish on appropriate form(s) provided by the agency form DFS 5212 the following information and such other information as may be required by that form:

- (A) name and address of the registrant;
- (B) a statement that the registrant has developed and will maintain procedures designed to establish physical control over the depleted uranium described in (c) of this Rule and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not au-

- thorized to receive the depleted uranium; and
- (C) name, title, address, and telephone number of the individual duly authorized to act for and on behalf of the registrant in supervising the procedures identified in Subparagraph (c)(2)(B) of this Rule.
- (3) The registrant possessing or using depleted uranium under the general license established by Paragraph (e) of this Rule shall report in writing to the agency any changes in information furnished by him on the appropriate form(s) provided by the agency. ~~form DRS-5212, "Registration Certificate - Use of Depleted Uranium Under General License"~~. The report shall be submitted within 30 days after the effective date of such change.
- (4) A person who receives, acquires, possesses, or uses depleted uranium pursuant to the general license established by (e) of this Rule shall:
- (A) not introduce such depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;
- (B) not abandon such depleted uranium;
- (C) transfer or dispose of such depleted uranium only by transfer in accordance with the provisions of ~~Rule .0344~~ Rule .0343 of this Chapter Section;
- (i) In the case where the transferee receives the depleted uranium pursuant to the general license established by Paragraph (e) of this Rule, the transferor shall furnish the transferee a copy of this ~~regulation~~ Rule and a copy of the appropriate agency form DRS-5212 described in Subparagraph (c)(2) of this Rule;
- (ii) In the case where the transferee receives the depleted uranium pursuant to a general license contained in the U.S. Nuclear Regulatory Commission or agreement state regulations equivalent to Paragraph (e) of this Rule, the transferor shall furnish the transferee a copy of this ~~regulation~~ Rule and a copy of the appropriate agency form DRS-5212 accompanied by a note explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or agreement state under requirements substantially the same as those in this Rule;

- (D) within 30 days of any transfer, report in writing to the agency the name and address of the person receiving the depleted uranium pursuant to such transfer;
- (E) not export such depleted uranium except in accordance with a license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR Part 110.
- (5) Any person receiving, acquiring, possessing, using, or transferring depleted uranium pursuant to the general license established by (e) of this Rule is exempt from the requirements of Sections .0400 and .1000 of this Chapter with respect to the depleted uranium covered by that general license.

Statutory Authority G.S. 104E-7; 104E-10(b).

**.0316 GENERAL LICENSES:
TRANSPORTATION**

- (a) Except for persons exempt from these Regulations pursuant to Rule .0106(b) and (c) of this Chapter, a general license is hereby issued to any common, contract or other carrier to transport and store radioactive material in the regular course of their carriage for another or storage incident thereto; provided the transportation and storage is in accordance with the applicable requirements of the regulations appropriate to the mode of transport of the U.S. Department of Transportation in 49 CFR Part 170-189 and the U.S. Postal Service in the Postal Service Manual, Domestic Mail Manual, Section 111.1, 1974; insofar as, such regulations relate to the packaging of radioactive material, marking and labeling of the package, loading and storage of packages, placarding of the transportation vehicle, monitoring requirements and accident reporting. Any common, contract or other carrier transporting nuclear waste or spent nuclear fuel under this general license shall comply with the provisions in (c) of this Rule. Persons who transport and store radioactive material pursuant to the general license in this Paragraph are exempt from the requirements of Sections .0400 and .1000 of this Chapter.
- (b) Except for persons exempt from these Regulations pursuant to Rule .0106(b) and (c) of this Chapter, a general license is hereby issued to any private carrier to transport radioactive material; provided, the transportation is in accordance with the applicable requirements of the regulations, appropriate to the mode of transport of the U.S. Department of Transportation in 49 CFR Part 170-189 and the U.S. Postal Service in the Postal Service Manual, Domestic Mail Manual, Section 111.1, 1974; insofar as, such regu-

lations relate to the packaging, loading and storage of packages, placarding of the transportation vehicle, monitoring requirements and accident reporting. The following exemptions and requirements shall apply to transportation of radioactive material under this general license:

- (1) Persons who transport radioactive material pursuant to the license in (b) of this Rule are exempt from the requirements in Sections .0400 and .1000 of this Chapter to the extent that they transport radioactive material. Any notification of incidents referred to in those requirements shall be filed with, or made to, the agency.
- (2) Physicians, as defined in Rule .0104(36) of this Chapter, are exempt from the requirements in (b) of this Rule to the extent that they transport in their private vehicle radioactive material for use in the practice of medicine.
- (3) Any person who transports nuclear waste within or through this state under this general license shall comply with the provisions in (c) of this Rule.
- (c) No carrier shall transport within or through this state any nuclear waste or spent nuclear fuel unless the shipper has notified the "governor's designee" in accordance with the requirements of 10 CFR Part ~~71.5(b)~~ 71.97 for nuclear waste and 10 CFR 73.37(f) for spent nuclear fuel. The governor's designee and contact information is as follows:
 - (1) designee: N.C. Highway Patrol Headquarters, Operations Officer;
 - (2) mailing address: P.O. Box ~~27686~~ 27687, Raleigh, North Carolina ~~27611-7686~~ 27611-7687;
 - (3) telephone 919 733-4030 from 8 a.m. to 5 p.m. workdays and 919 733-3861 all other times.
- (d) As used in (a) through (d) of this Rule:
 - (1) "Shipment" means any single vehicle carrying one or more containers of nuclear waste.
 - (2) "Nuclear Waste" means:
 - (A) any large quantity of radioactive material required by 10 CFR Part 71 to be in Type B packaging while transported within or through this state to a disposal site, or to a collection point for transport to a disposal site; or
 - (B) any large quantity of irradiated fuel required by 10 CFR Part 71 to be in Type B packaging while transported within or through this state irrespective of destination if the quantity of irradiated fuel is less than that subject to advance notification requirements of 10 CFR Part 73.

- (3) "Spent Nuclear Fuel" means a quantity of irradiated reactor fuel in excess of 100 grams in net weight of irradiated fuel exclusive of cladding or other structural or packaging material which has a total external radiation dose rate in excess of 100 rems per hour at a distance of three feet from any accessible surface without intervening shielding.

Statutory Authority G.S. 104E-7; 104E-10(b); 104E-15(a); 20-167.1.

.0317 SPECIFIC LICENSES: FILING APPLICATION AND GENERAL REQUIREMENT

- (a) Applications for specific licenses shall be filed on an agency form. Completed applications shall include the following information and other information required by the agency form:
 - (1) name, address and use location of the applicant;
 - (2) training and experience of radioactive material users and of the person responsible for radiation protection;
 - (3) types, quantities and uses of radioactive materials;
 - (4) description of facilities, equipment and safety program;
 - (5) procedures for disposal of radioactive material.
- (b) The agency may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the agency to determine whether the application should be granted or denied or whether a license should be modified or revoked.
- (c) Each application shall be signed by the applicant or licensee or a person duly authorized to act on his behalf.
- (d) An application for a license may include a request for a license authorizing one or more activities.
- (e) Applications and documents submitted to the agency may be made available for public inspection except as may be determined otherwise by the agency pursuant to the provisions of G.S. 104E-9(4) which is hereby adopted by reference pursuant to G.S. 150B-14(c).
- (f) A license application will be approved if the agency determines that:
 - (1) the applicant is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these Regulations in such a manner as to minimize danger to public health and safety or property;

- (2) the applicant's proposed equipment, facilities, and procedures are adequate to protect public health from radiation hazards and minimize radiological danger to life or property;
- (3) the issuance of the license will not be inimical to the health and safety of the public; and
- (4) the applicant satisfies any applicable special requirements in Rules .0318 to .0336 of this Section.

(g) As provided by Rule .0353 of this Section, certain applications for specific licenses filed under this Section must contain a proposed decommissioning funding plan or a certification of financial assurance for decommissioning. In the case of renewal applications submitted before the effective date of this Rule, this submittal may follow the renewal application but must be submitted on or before the effective date of this Rule.

Statutory Authority G.S. 104E-7; 104E-10(b); 104E-12.

.0338 SPECIFIC TERMS AND CONDITIONS OF LICENSES

(a) Each license issued pursuant to this part shall be subject to all the provisions of the Act, now or hereafter in effect, to all rules and regulations adopted pursuant to provisions of the Act and to orders of the agency.

(b) No license issued or granted pursuant to this Section and no right to possess or utilize radioactive material granted by any license issued pursuant to this Section shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the agency, after securing full information, finds that the transfer is in accordance with the provisions of the Act, and gives its consent in writing.

(c) Each person licensed by the agency pursuant to this Section shall confine his use and possession of the radioactive material licensed to the locations and purposes authorized in the license.

(d) Each licensee shall notify the agency in writing immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title 11 (Bankruptcy) of the United States Code by or against:

- (1) licensee;
- (2) an entity [as that term is defined in 11 U.S.C. 101(14)] controlling the licensee or listing the license or licensee as property of the estate; or

- (3) an affiliate [as that term is defined in 11 U.S.C. 101(2)] of the licensee.

(e) The notification in (d) of this Rule shall indicate:

- (1) the bankruptcy court in which the petition for bankruptcy was filed; and
- (2) the date of the filing of the petition.

(f) Licensees required to submit emergency plans pursuant to Rule .0352 of this Section shall follow the emergency plan approved by the agency. The licensees may change the approved plan without agency approval only if the changes do not decrease the effectiveness of the plan and are submitted to the agency as soon as practical. The licensee shall furnish the change to affected offsite response organizations within six months after the change is made. Proposed changes that decrease, or potentially decrease, the effectiveness of the approved emergency plan may not be implemented without prior application to and prior approval by the agency.

Statutory Authority G.S. 104E-7; 104E-10(b).

.0339 EXPIRATION AND TERMINATION OF LICENSES

(a) Except as provided in ~~Rule .0344(b)~~ Rule .0340(b) of this Section, each specific license shall expire at the end of the day, in the month and year stated ~~therein~~ in the license.

(b) Each licensee shall notify the agency promptly, in writing, and request termination of the license when the licensee decides to terminate all activities involving materials authorized under the license. This notification and request for termination of the license must include the reports and information specified in Subparagraphs (c) (4) and (5) of this Rule and a plan for completion of decommissioning if required by Paragraph (d) of this Rule or by a license condition.

(c) If a licensee does not submit an application for license renewal pursuant to Rule .0340 of this Section, the licensee shall on or before the expiration date specified in the license:

- (1) terminate use of radioactive material;
- (2) remove radioactive contamination to the extent practicable except for those procedures covered by Paragraph (d) of this Rule;
- (3) properly dispose of radioactive material;
- (4) submit a completed "Certificate of Disposition" form, which certifies information concerning the disposition of materials; and
- (5) conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demon-

strates that the premises are suitable for release for unrestricted use in some other manner. The licensee shall, as appropriate:

(A) report levels of radiation in units of microrads per hour of beta and gamma radiation at one centimeter and gamma radiation at one meter from surfaces;

(B) report levels of radioactivity, including alpha, beta and gamma emitters, in units of disintegrations per minute (or microcuries) per 100 square centimeters removable and fixed for surfaces, microcuries per milliliter for water, and picocuries per gram for solids such as soils or concrete; and

(C) specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(d) In addition to the information required under Subparagraphs (c) (4) and (5) of this Rule, the licensee shall submit a plan for completion of decommissioning if the procedures necessary to carry out decommissioning have not been previously approved by the agency and could increase potential health and safety impacts to workers or to the public health such as in any of the following cases:

(1) procedures would involve techniques not applied routinely during cleanup or maintenance operations; or

(2) workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation; or

(3) procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(4) procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(e) Procedures with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(f) The proposed decommissioning plan, if required by Paragraph (d) of this Rule or by license condition, must include:

(1) description of planned decommissioning activities;

(2) description of methods used to assure protection of workers and the environment against radiation hazards during decommissioning;

(3) a description of the planned final radiation survey; and

(4) an updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and plan for assuring the availability of adequate funds for completion of decommissioning.

(g) The proposed decommissioning plan will be approved by the agency if the information therein demonstrates that the decommissioning will be completed as soon as is reasonable and that the health and safety of workers and the public will be adequately protected.

(h) Upon approval of the decommissioning plan by the agency, the licensee shall complete decommissioning in accordance with the approved plan. As a final step in decommissioning, the licensee shall again submit the information required in Subparagraph (c) (5) of this Rule and shall certify the disposition of accumulated wastes from decommissioning.

(i) If the information submitted under Subparagraph (c) (5) or Paragraph (h) of this Rule does not adequately demonstrate that the premises are suitable for release for unrestricted use, the agency will inform the licensee of the appropriate further actions required for termination of license.

(j) Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of residual radioactive material present as contamination until the agency notifies the licensee in writing that the license is terminated. During this time, the licensee shall:

(1) limit actions involving radioactive material to those related to decommissioning; and

(2) continue to control entry to restricted areas until they are suitable for release for unrestricted use and the agency notifies the licensee in writing that the license is terminated.

(k) Specific licenses will be terminated by written notice to the licensee when the agency determines that:

(1) radioactive material has been properly disposed;

(2) reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(3) a radiation survey has been performed which demonstrates that the premises are suitable for release for unrestricted use; or other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release for unrestricted use.

Statutory Authority: G.S. 104E-7; 104E-10(b).

**.0347 SECURITY REQUIREMENTS
(REPEALED)**

Statutory Authority G.S. 104E-18.

**.0350 RECORDS AND REPORTS
OF MISADMINISTRATION**

(a) When a misadministration involves any therapy procedure, the licensee shall notify the agency by telephone. The licensee shall also notify the referring physician of the affected patient and the patient or a responsible relative or guardian, unless the referring physician agrees to inform the patient. However, if the referring physician believes, based on medical judgment, that telling the patient or the patient's responsible relative or guardian, would be harmful to one or the other, respectively, such notification is not required. These notifications must be made within 24 hours after the licensee discovers the misadministration. If the referring physician, patient, or the patient's responsible relative or guardian cannot be reached within 24 hours, the licensee shall notify them as soon as practicable. The licensee is not required to notify the patient or the patient's responsible relative or guardian without first consulting the referring physician. However, the licensee shall not delay medical care for the patient because of this notification requirement.

(b) Within 15 days after an initial therapy misadministration report to the agency, the licensee shall report, in writing, to the agency and to the referring physician, and furnish a copy of the report to the patient or the patient's responsible relative or guardian if either was previously notified by the licensee as required by Paragraph (a) of this Rule. The written report must include:

- (1) the licensee's name;
- (2) referring physician's name;
- (3) a brief description of the event;
- (4) the effect on the patient;
- (5) the action taken to the prevent recurrence; and
- (6) confirmation that the licensee informed the patient or the patient's responsible relative or guardian, or documentation of

the reasons why the patient or the patient's responsible relative or guardian was not informed.

The report must not include the patient's name or other information that could lead to identification of the patient.

(c) When a misadministration involves a diagnostic procedure, the radiation safety officer shall promptly investigate its cause, make a record for agency review, and retain the record as directed in Paragraph (d) of this Rule. The licensee shall also notify the referring physician and the agency in writing on ~~DFS-5215~~ the appropriate form(s) provided by the agency within 15 days if the misadministration involved the use of radioactive material not intended for medical use, administration of dosage five times different than the intended dosage, or administration of radioactive material such that the patient is likely to receive an organ dose greater than two rems or a whole body dose greater than 500 millirems. Licensees shall use dosimetry tables in package inserts, corrected only for amount of radioactivity administered, to determine whether a report is required.

(d) Each licensee shall retain a record of each misadministration for ten years. The record must contain:

- (1) the names of all individuals involved in the event (including the physician, allied health personnel, the patient, and the patient's referring physician);
- (2) the patient's social security number or identification number, if one has been assigned;
- (3) a brief description of the event;
- (4) the effect on the patient; and
- (5) the action taken, if any, to prevent recurrence.

(e) Aside from the notification requirements, nothing in this Rule shall affect the rights or duties of licensees, and physicians in relation to each other, patients, or responsible relatives or guardians.

Statutory Authority G.S. 104E-7(a)(2).

.0352 EMERGENCY PLANS

(a) Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in the table in Paragraph (c) of this Rule must contain either:

- (1) an evaluation showing that the maximum dose to a person off-site due to a release of radioactive materials would not exceed one rem effective dose equivalent or five rems to the thyroid; or
- (2) an emergency plan for responding to a release of radioactive material.

(b) One or more of the following factors may be used to support an evaluation submitted under Subparagraph (a)(1) of this Rule:

- (1) the radioactive material is physically separated so that only a portion could be involved in an accident;

- (2) all or part of the radioactive material is not subject to release during an accident because of the way its is stored or packaged;
- (3) the release fraction in the respirable size range would be lower than the release fraction shown in Paragraph (e) of this Rule due to the chemical or physical form of the material;
- (4) the solubility of the radioactive material would reduce the dose received;
- (5) facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in Paragraph (e) of this Rule;
- (6) operating restrictions or procedures would prevent a release fraction as large as that shown in Paragraph (e) of this Rule; or
- (7) other factors appropriate for the specific facility.
- (c) An emergency plan for responding to a release of radioactive material submitted under Subparagraph (a)(2) of this Rule must include the following information:
 - (1) brief description of the licensee's facility and area near the site;
 - (2) identification of each type of radioactive materials accident for which protective actions may be needed;
 - (3) classification system for classifying accidents as alerts or site area emergencies;
 - (4) identification of the means of detecting each type of accident in a timely manner;
 - (5) brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers on-site, and a description of the program for maintaining the equipment;
 - (6) brief description of the methods and equipment to assess releases of radioactive materials;
 - (7) brief description of the responsibilities of licensee personnel, should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the agency, and responsibilities for developing, maintaining, and updating the plan;
 - (8) brief description of notification and coordination, to include a commitment to and a brief description of the means to promptly notify off-site response organizations and request off-site assistance, including medical assistance for the treatment of contaminated injured on-site workers when appropriate, provided that:
 - (A) a control point shall be established;
 - (B) the notification and coordination shall be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination;
 - (C) the licensee shall also commit to notify the agency immediately after notification of the appropriate off-site response organizations, not to exceed one hour after the licensee declares an emergency; and
 - (D) the reporting requirements in Subparagraph (c)(8) of this Rule do not substitute for or relieve the licensee from responsibility for complying with the requirements in the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Public Law 99-499 or other state or federal reporting requirements;
 - (9) brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to off-site response organizations and to the agency;
 - (10) brief description of the frequency, performance objectives and plans for the training that the licensee will provide workers on how to respond to an emergency, including any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel, where such training shall:
 - (A) familiarize personnel with site-specific emergency procedures; and
 - (B) thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios;
 - (11) brief description of the means of restoring the facility to a safe condition after an accident;
 - (12) brief description of provisions for conducting quarterly communications checks with off-site response organizations and biennial on-site exercises to test response to simulated emergencies where such provisions shall meet the following specific requirements:
 - (A) quarterly communications checks with off-site response organizations shall include the check and update of all necessary telephone numbers;
 - (B) while participation of off-site response organizations in biennial exercises is encouraged but not required, the licensee shall invite off-site response organizations to participate in the biennial exercises;

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- (C) accident scenarios for biennial exercises shall not be known to most exercise participants;
 (D) the licensee shall critique each exercise using individuals who do not have direct implementation responsibility for the plan; and
 (E) critiques of exercises shall evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response; and
 (F) deficiencies found by the critiques in Subparagraph (c)(12)(E) of this Rule shall be corrected;
 (13) certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Public Law 99-499, if applicable to the applicant's activities at the proposed place of use of the radioactive material.

(d) The licensee shall allow the off-site response organizations expected to respond in case of an accident 60 days to comment on the licensee's emergency plan before submitting it to the agency. The licensee shall provide any comments received within the 60 day comment period to the agency with the emergency plan.

(e) Quantities of radioactive material requiring consideration of the need for an emergency plan for responding to a release as used in this Rule and special instructions for use are:

(1) TABLE

<u>RADIOACTIVE MATERIAL</u>	<u>RELEASE FRACTION</u>	<u>QUANTITY (CURIES)</u>
Actinium-228	.001	4,000
Americium-241	.001	2
Americium-242	.001	2
Americium-243	.001	2
Antimony-124	.01	4,000
Antimony-126	.01	6,000
Barium-133	.01	10,000
Barium-140	.01	30,000
Bismuth-207	.01	5,000
Bismuth-210	.01	600
Cadmium-109	.01	1,000
Cadmium-113	.01	80
Calcium-45	.01	20,000
Californium-252	.001	9 (20 mg)
Strontium-89	.01	3,000
Strontium-90	.01	90
Sulfur-35	.5	900
Technitium-99	.01	10,000
Technitium-99 m	.01	400,000
Tellurium-127 m	.01	5,000
Tellurium-129 m	.01	5,000
Terbium-160	.01	4,000
Thulium-170	.01	4,000
Tin-113	.01	10,000
Tin-123	.01	3,000
Tin-126	.01	1,000
Titanium-44	.01	100
Vanadium-48	.01	7,000
Xenon-133	1.0	900,000
Yttrium-91	.01	2,000
Zinc-65	.01	5,000
Zirconium-93	.01	400
Zirconium-95	.01	5,000
Any other beta-gamma emitter	.01	10,000
Mixed fission products	.01	1,000
Mixed corrosion products	.01	10,000
Contaminated equipment beta-gamma	.001	10,000
Irradiated material, any form other than		

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<u>solid noncombustible</u>	<u>.01</u>	<u>1,000</u>
<u>Irradiated material, solid noncombustible</u>	<u>.001</u>	<u>10,000</u>
<u>Mixed radioactive waste, beta-gamma</u>	<u>.01</u>	<u>1,000</u>
<u>Packaged mixed waste, beta-gamma</u>	<u>.001</u>	<u>10,000</u>
<u>Any other alpha emitter</u>	<u>.001</u>	<u>2</u>
<u>Contaminated equipment, alpha</u>	<u>.0001</u>	<u>20</u>
<u>Packaged waste, alpha</u>	<u>.0001</u>	<u>20</u>

- (2) For combinations of radioactive materials, consideration of the need for an emergency plan is required if the sum of the ratios of the quantity of each radioactive material authorized to the quantity listed for that material in the table in Subparagraph (c)(1) of this Rule exceeds one.
- (3) Waste packaged in Type B containers, as defined in 10 C.F.R. Part 71.4, does not require an emergency plan.

Statutory Authority G.S. 104E-7.

.0353 FINANCIAL ASSURANCE AND RECORD-KEEPING FOR DECOMMISSIONING

(a) Each applicant for a specific license authorizing the possession and use of unsealed radioactive material of half-life greater than 120 days and in quantities such that R divided by 10^5 is greater than one (unity rule), where R is defined here as the sum of the ratios of the quantity of each isotope to the applicable value in the table in Rule .0424 of this Chapter, shall submit a decommissioning funding plan as described in Paragraph (g) of this Rule.

(b) Each holder of a specific license issued before the effective date of this Rule, and of a type described in Paragraph (a) of this Rule shall submit, no later than 60 days after the effective date of this Rule, a decommissioning funding plan or a certification of financial assurance for decommissioning in an amount of at least seven hundred and fifty thousand dollars (\$750,000) in accordance with the criteria set forth in this Rule. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan at this time, the licensee shall include a decommissioning funding plan in any application for license renewal.

(c) Each applicant for a specific license authorizing possession and use of radioactive material of half-life greater than 120 days and in quantities specified in Paragraph (f) of this Rule shall either:

- (1) submit a decommissioning funding plan as described in Paragraph (g) of this Rule; or
- (2) submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by Paragraph (f) of this Rule using one of the methods described in Rule .0354 of this Section. For an applicant, this certification may state that the appropriate assurance will be obtained after the

application has been approved and the license issued but prior to the receipt of licensed material. As part of the certification, the applicant shall submit to this agency, a copy of the financial instrument obtained to satisfy the requirements of Paragraph (g) of this Rule.

(d) Each holder of a specific license issued before the effective date of this Rule, and of a type described in Paragraph (c) of this Rule shall submit, no later than 60 days after the effective date of this Rule, a certification of financial assurance for decommissioning or a decommissioning funding plan in accordance with the criteria set forth in this Rule.

(e) Each holder of a specific license issued on or after the effective date of this Rule, which is of a type described in Paragraph (a) or (c) of this Rule, shall provide financial assurance for decommissioning in accordance with the criteria set forth in this Rule.

(f) Required amounts of financial assurance for decommissioning by quantity of radioactive material where R is defined as the sum of the ratios of the quantity of each isotope to the applicable value in Rule .0424 of this Chapter are as follows:

- (1) for unsealed form, if R divided by 10^5 is greater than one then the minimum financial assurance amount is seven hundred and fifty thousand dollars (\$750,000) and shall be as stated in an approved decommissioning funding plan as described in Paragraph (g) of this Rule;
- (2) for unsealed form, if R divided by 10^4 is greater than one but R divided by 10^5 is less than or equal to one, then the financial assurance amount is seven hundred and fifty thousand dollars (\$750,000);
- (3) for unsealed form, if R divided by 10^3 is greater than one but R divided by 10^4 is less than or equal to one, then the finan-

cial assurance amount is one hundred and fifty thousand dollars (\$150,000);

- (4) for sealed sources or plated foils, if R, divided by 10¹⁰ is greater than one, then the financial assurance amount is seventy five thousand dollars (\$75,000).

(g) Each decommissioning funding plan shall contain a cost estimate for decommissioning and a description of the method of assuring funds for decommissioning as referenced in Rule .0354 of this Section, including means of adjusting cost estimates and associated funding levels periodically over the life of the facility.

(h) Each person licensed under this Section of this Chapter shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the license is terminated by the agency. If records of relevant information are kept for other purposes, reference to these records and their locations may be used. Information the agency considers important to decommissioning includes, but is not limited to:

- (1) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site.

(A) These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete.

(B) These records shall include any known information on identification of involved nuclides, quantities, forms, and concentrations.

- (2) As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are being used and or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination.

(A) If required drawings are reference, each relevant document need not be indexed individually.

(B) If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

- (3) Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.

Statutory Authority G.S. 104E-7.

.0354 METHODS OF FINANCIAL ASSURANCE FOR DECOMMISSIONING

(a) Financial assurance for decommissioning as required by Rule .0353 of this Section must be provided by one or more of the following methods:

- (1) prepayment, where:

(A) Prepayment is the deposit prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs; and

(B) Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

- (2) a surety method, insurance, or other guarantee method, where:

(A) These methods guarantee that decommissioning costs will be paid should the licensee default;

(B) A surety method may be in the form of a surety bond, letter of credit, or line of credit;

(C) A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the parent company and guarantee meet the criteria contained in Rule .0355 of this Section;

(D) A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this Section; and

(E) Any surety method or insurance used to provide financial assurance for decommissioning shall contain the following conditions:

(i) The surety method or insurance shall be open-ended or, if written for a specified term, such as five years, shall be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the agency, the beneficiary, and the licensee of its intention not to renew;

(ii) The surety method or insurance shall provide that the full face amount be paid to the beneficiary automatically prior to the expiration date without proof of forfeiture if the licensee fails to provide a replacement acceptable to the agency within 30 days after receipt of notification of cancellation;

- (iii) The surety method or insurance shall be payable to a trust established for decommissioning costs. The trustee and trust shall be acceptable to the agency. An acceptable trust includes an appropriate state or federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency;
- (iv) The surety method or insurance shall remain in effect until the agency has terminated the license.
- (3) an external sinking fund where:
 - (A) Deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund;
 - (B) An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected;
 - (C) An external sinking fund may be in the form of a trust escrow account, government fund, certificate of deposit or deposits of government securities; and
 - (D) The surety or insurance provisions shall be as stated in Subparagraph (a)(2) of this Rule.
- (4) in the case of federal, state or local government licensees, a statement of intent containing a cost estimate for decommissioning or an amount based on the provisions of Rule .0353 of this Section, and indicating that funds for decommissioning shall be obtained when required by the agency.

Statutory Authority G.S. 104E-7.

.0355 FIN. TESTS/PARENT CO. GUARANTEES: DECOMMISSIONING FUNDING

(a) An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on obtaining a parent company guarantee that funds will be available for decommissioning costs and on a demonstration that the parent company passes a financial test. This Rule establishes criteria for passing the financial test and for obtaining the parent company guarantee.

(b) To pass the financial test, the parent company shall meet the criteria of either Subparagraph (b)(1) or (b)(2) of this Rule as follows:

- (1) The parent company shall have:
 - (A) two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and
 - (B) net working capital and tangible net worth each at least six times the current decommissioning cost estimates (or prescribed amount if a certification is used); and
 - (C) tangible net worth of at least ten million dollars (\$10,000,000); and
 - (D) assets located in the United States amounting to at least 90 percent of total assets or at least six times the current decommissioning cost estimates (or prescribed amount if a certification is used).
- (2) The parent company shall have:
 - (A) a current rating for its most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; and
 - (B) tangible net worth at least six times the current decommissioning cost estimate (or prescribed amount if a certification is used); and
 - (C) tangible net worth of at least ten million (\$10,000,000); and
 - (D) assets located in the United States amounting to at least 90 percent of total assets or at least six times the current decommissioning cost estimates (or prescribed amount if certification is used).

(c) The parent company's independent certified public accountant shall have compared the data used by the parent company in the financial test, which is derived from the independently audited, year end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure the licensee shall inform the agency within 90 days of any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

(d) After the initial financial test, the parent company shall repeat the passage of the test within 90 days after the close of each succeeding fiscal year.

(e) If the parent company no longer meets the requirements of Paragraph (b) of this Rule, the licensee shall send notice to the agency of intent

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to establish alternate financial assurance as specified in this Section. The notice shall be sent by certified mail within 90 days after the end of the fiscal year for which the year end financial data show that the parent company no longer meets the financial test requirements. The licensee shall provide alternate financial assurance within 120 days after the end of such fiscal year.

(f) The terms of a parent company guarantee which an applicant or licensee obtains shall provide that:

- (1) the parent company guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the licensee and the agency. Cancellation shall not occur; however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the licensee and the agency, as evidenced by the return receipts.

- (2) if the licensee fails to provide alternate financial assurance as specified in this Section within 90 days after receipt by the licensee and the agency of a notice of cancellation of the parent company guarantor, the guarantor will provide such alternative financial assurance in the name of the licensee.

(g) The parent company guarantee and financial test provisions shall remain in effect until the agency has terminated the license.

(h) If a trust is established for decommissioning costs, the trustee and trust shall be acceptable to the agency. An acceptable trustee includes an appropriate state or federal agency or an entity to act as a trustee who trust operations are regulated and examined by a federal or state agency.

Statutory Authority G.S. 104E-7.

SECTION .0400 - STANDARDS FOR PROTECTION AGAINST RADIATION

.0402 RADIATION DOSE TO INDIVIDUALS IN RESTRICTED AREAS

(a) Except as provided in (c) of this Rule, no licensee or registrant shall possess, use, receive, or transfer sources of radiation in such a manner as to cause any individual in a restricted area to receive in any period of one calendar quarter from all sources of radiation in the licensee's or registrant's possession a dose in excess of the limits specified in the following table:

	Rems, Calendar Quarter
Whole body; head and trunk;	1.25
Active blood-forming organs;	
Lens of eyes; or Gonads	
Hands and forearms;	18.75
Feet and ankles	
Skin of whole body	7.50

(b) For determining the doses specified in this Rule, a dose from x or gamma rays up to 10 MeV may be assumed to be equivalent to the exposure measured by a properly calibrated appropriate instrument in air at or near the body surface in the region of the highest dose rate.

(c) A licensee or registrant may permit an individual in a restricted area to receive a dose to the whole body greater than that permitted under (a) of this Rule provided that:

- (1) During any calendar quarter the dose to the whole body from sources of radiation in the licensee's or registrant's possession shall not exceed three rems;
- (2) The dose to the whole body, when added to the accumulated occupational dose to the whole body, shall not exceed 5(N-18) rems where "N" equals the individual's age in years at his last birthday; and
- (3) The licensee or registrant has determined the individual's accumulated occupational dose to the whole body on appropriate form(s) provided by the agency ~~form DHS-5250~~ or on a clear and legible record containing all the information required in that form and has otherwise complied with the requirements of Rule .0403 of this Section. As used in this Rule "dose to the whole body" shall be deemed to include any dose to the whole body, gonads, active blood-forming organs, head and trunk, or lens of eyes.

Statutory Authority G.S. 104E-7.

.0403 DETERMINATION OF PRIOR DOSE

(a) Each licensee or registrant shall require any individual, prior to first entry of the individual into the licensee's or registrant's restricted area during each employment or work assignment under such circumstances that the individual will receive or is likely to receive in any period of one calendar quarter

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an occupational dose in excess of 25 percent of the applicable standards specified in Rules .0402(a) and .0405(a) of this Section, to disclose in a written, signed statement, either:

- (1) that the individual has no prior occupational dose during the current calendar quarter, or
- (2) the nature and amount of any occupational dose which the individual may have received during that specifically identified current calendar quarter from sources of radiation possessed or controlled by other persons.

Each licensee or registrant shall maintain records of such statements until the agency authorizes their disposition.

(b) Before permitting any individual in a restricted area to be exposed to radiation in excess of the limits specified in Rule .0402(a) of this Section, each licensee or registrant shall:

- (1) obtain a certificate on appropriate form(s) provided by the agency ~~form DFS-5250~~ or on a clear and legible record containing all the information required in that form, signed by the individual, showing each period of time after the individual attained the age of 18 in which the individual received an occupational dose of radiation; and
- (2) calculate on the agency form, in accordance with the instructions appearing therein, or on a clear and legible record containing all information required in that form, the previously accumulated occupational dose received by the individual and the additional dose allowed for that individual under Rule .0402(c) of this Section.

(c) In the preparation of the appropriate agency form(s) ~~form DFS-5250~~ or a clear and legible record containing all the information required in that form, the licensee or registrant shall make a reasonable effort to obtain reports of the individual's previously accumulated occupational dose. For each period for which the licensee or registrant obtains these reports, he shall use the dose shown in the report in preparing the form. In any case where a licensee or registrant is unable to obtain reports of the individual's occupational dose for a previous complete calendar quarter, it shall be assumed that the individual has received the occupational dose specified in whichever of the following columns apply:

	Column 1	Column 2
	Assumed Dose in Rems for Calendar Quarters Prior to January 1, 1961	Assumed Dose in Rems for Calendar Quarters Beginning on or after January 1, 1961
Part of Body	3.75	1.25
Whole body		
Gonads		
Active blood-		
forming organs		
Head and trunk		
Lens of eyes		

(d) The licensee or registrant shall retain and preserve records used in preparing the appropriate agency form(s) ~~form DFS-5250~~. If calculation of the individual's accumulated occupational dose for all periods prior to January 1, 1961 yields a result higher than the applicable accumulated dose value for the individual as of that date as specified in Rule .0402(c) of this Section, the excess may be disregarded.

Statutory Authority: G.S. 104E-7; 104E-12(a)(2).

.0411 CAUTION SIGNS: LABELS: AND SIGNALS

(a) General requirements are as follows:

- (1) Except as otherwise authorized by the agency, symbols prescribed by this Section shall use the conventional radiation caution colors, magenta or purple on yellow background. The symbol prescribed by this Section is the conventional three-bladed design, radiation symbol.

Radiation Symbol

- (A) Crosshatched area is to be magenta or purple.
- (B) Background is to be yellow.

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- (2) In addition to the contents of signs and labels prescribed in this Section, a licensee or registrant may provide on or near these signs and labels any additional information which may be appropriate in aiding individuals to minimize exposure to radiation.
- (3) The word "danger" may be substituted for the word "caution" in the signs described in this Rule.
- (b) Each radiation area shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

CAUTION RADIATION AREA

- (c) High radiation areas shall be posted and protected as follows:
- (1) Each high radiation area shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

CAUTION HIGH RADIATION AREA

- (2) Each entrance or access point to a high radiation area shall be posted with the sign described in Subparagraph (c)(1) of this Rule and shall be:
 - (A) equipped with a control device which shall cause the level of radiation to be reduced below that at which an individual might receive a dose of 100 millirems in one hour upon entry into the area; or
 - (B) equipped with a control device which shall energize a conspicuous visible or audible alarm signal in such a manner that the individual entering the high radiation area and the licensee, registrant, or a supervisor of the activity are made aware of the entry; or
 - (C) maintained locked except during periods when access to the area is required, with positive control over each individual entry.
- (3) The controls required by Subparagraph (c)(2) of this Rule shall be established in such a way that no individual will be prevented from leaving a high radiation area.
- (4) In the case of a high radiation area established for a period of 30 days or less, direct surveillance to prevent authorized unauthorized entry may be substituted for the controls required by Subparagraph (c)(2) of this Rule.
- (5) Any licensee, registrant or applicant for a license or registration may apply to the agency for approval of methods not included in Subparagraphs (c)(2) and (4) of this Rule for controlling access to high radiation areas. The agency will approve the proposed alternatives if the licensee, registrant or applicant demonstrates that the alternative methods of control will prevent unauthorized entry into a high radiation area, and that the requirements of Subparagraph (c)(2) of this Rule are met.
- (6) Each area in which there may exist radiation levels in excess of 500 rems in one hour at one meter from a sealed radioactive source that is used to irradiate materials shall meet the requirements which follow:
 - (A) Each entrance or access point shall:
 - (i) be equipped with entry control devices which shall function automatically to prevent any individual from inadvertently entering the area when these radiation levels exist;
 - (ii) permit deliberate entry into the area only after actuation of a control device which shall cause the radiation level within the area, from the sealed source, to be reduced below that at which it would be possible for an individual to receive a dose in excess of 100 mrem in one hour; and
 - (iii) prevent operation of the source if the source would produce radiation levels in the area that could result in a dose to an individual in excess of 100 mrem in one hour.
 - (B) Each area shall be equipped with additional control devices such that upon failure of the entry control devices to function as required by Subparagraph (c)(6)(A) of this Rule, the radiation level within the area, from the sealed source, shall be reduced below that at which it would be possible for an individual to receive a dose in excess of 100 mrem in one hour. Visible and audible alarm signals shall be generated to make:
 - (i) an individual attempting to enter the area aware of the hazard; and
 - (ii) the licensee, or at least one other individual who is familiar with the activity and prepared to render or summon assistance, aware of the failure of the entry control devices.
 - (C) Each area shall be equipped with control devices, such that:
 - (i) upon failure or removal of physical radiation barriers, other than the source's shielded storage container, the radiation level from the source shall be reduced below that at which it would be possible for an individual to receive a dose in excess of 100 mrem in one hour;

(ii) visible and audible alarm signals shall be generated to make:

- (I) potentially affected individuals aware of the hazard, and
- (II) the licensee, or at least one other individual who is familiar with the activity and prepared to render or summon assistance, aware of the failure or removal of the physical barrier.

When the shield for the stored source is a liquid, means shall be provided to monitor the integrity of the shield and to signal, automatically, loss of adequate shielding. Physical radiation barriers that comprise permanent structural components, such as walls that have no credible probability of failure or removal in ordinary circumstances, need not meet the requirements of this Subparagraph.

- (D) Each area shall be equipped with devices that will automatically generate visible and audible alarm signals to alert personnel in the area before the source can be put into operation and in sufficient time for any individual in the area to operate a clearly identified control device which shall be installed in the area and which can prevent the source from being put into operation.
 - (E) Each area shall be controlled by use of such administrative procedures and such devices as are necessary to assure that the area is cleared of personnel prior to each use of the source preceding which use it might have been possible for an individual to have entered the area.
 - (F) Each area shall be checked by a physical radiation measurement to assure that prior to the first individual's entry into the area after any use of the source, the radiation level from the source in the area is below that at which it would be possible for an individual to receive a dose in excess of 100 mrem in one hour.
 - (G) The licensee shall test the entry control devices required in Subparagraph (c)(6)(A) of this Rule for proper functioning prior to initial operation with the source of radiation on any day that operations are not uninterruptedly continued from the previous day or before resuming operations after any unintended interruption.
 - (i) The licensee shall maintain records of the dates, times and results of such tests of function. No such operations other than those necessary to place the source in safe condition or to effect repairs on controls shall be conducted with the source unless control devices are functioning properly.
 - (ii) The licensee shall submit an acceptable schedule for more complete periodic tests of the entry control and warning systems to be established and adhered to as a condition of the license.
 - (H) The licensee shall have those entry and exit portals that are used in transporting materials to and from the irradiation area and, that are not intended for use by individuals, controlled by such devices and administrative procedures as are necessary to physically protect and warn against inadvertent entry by any individual through these portals. Exit portals for processed materials shall be equipped to detect and signal the presence of loose radiation sources that are carried toward such an exit and to automatically prevent the loose sources from being carried out of the area.
- (7) Licensees with, or applicants for, licenses for radiation sources that:
- (A) are within the purview of Subparagraph (c)(6) of this Rule;
 - (B) must be used in a variety of positions or in peculiar locations, such as open fields or forests; and
 - (C) make it impracticable to comply with certain requirements of Subparagraph (c)(6) of this Rule, such as those for the automatic control of radiation levels;
- may apply to the agency for approval prior to use of safety measures that are alternative to those specified in Subparagraph (c)(6) of this Rule, and that will provide at least an equivalent degree of personnel protection in the use of these sources.
- (8) At least one of the alternative measures pursuant to Subparagraph (c)(7) of this Rule must include an entry-preventing interlock control based on a physical measurement of radiation that assures the absence of high radiation levels before an individual can gain access to an area where the sources are used.
- (9) Subparagraph (c)(6) of this Rule does not apply to radioactive sources that are used in:
- (A) teletherapy,
 - (B) radiography, or
 - (C) completely shielded irradiators within which the source:
 - (i) is both stored and operated within:
 - (I) the same shielded radiation barrier, and
 - (II) the designed configuration of the irradiator;

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- (ii) is always inaccessible to any individual; and
- (iii) cannot create high levels of radiation in an area that is accessible to any individual.
- (d) Each airborne radioactivity area shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

CAUTION
AIRBORNE RADIOACTIVITY AREA

(e) Additional Requirements

- (1) Each area or room in which any radioactive material, other than natural uranium or thorium, is used or stored in an amount exceeding ten times the quantity of radioactive material specified in Rule .0424(a) of this Section shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

CAUTION
RADIOACTIVE MATERIAL

- (2) Each area or room in which natural uranium or thorium is used or stored in an amount exceeding 100 times the quantity specified in Rule .0424(a) of this Section shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

CAUTION
RADIOACTIVE MATERIAL

(f) Containers

- (1) Except as provided in Subparagraph (f)(3) of this Rule each container of radioactive material shall bear a durable, clearly visible label identifying the radioactive contents.
- (2) A label required pursuant to Subparagraph (f)(1) of this Rule shall bear the radioactive caution symbol and the words:

CAUTION
RADIOACTIVE MATERIAL

It shall also provide sufficient information to permit individuals handling or using the containers, or working in the vicinity thereof, to take precautions to avoid or minimize exposures. The information shall include radiation levels, kinds of material, estimate of activity and date for which activity is estimated as appropriate.

- (3) Notwithstanding the provisions of Subparagraph (f)(1) of this Rule, labeling is not required for containers which:
 - (A) do not contain radioactive material in quantities greater than the applicable quantities listed in Rule .0424(a) of this Section;
 - (B) contain only natural uranium or thorium in quantities no greater than ten times the applicable quantities listed in Rule .0424(a) of this Section;
 - (C) do not contain radioactive material in concentrations greater than the applicable concentrations listed in Column 2, Table I in Rule .0423(a) of this Section;
 - (D) are attended by an individual who takes the precautions necessary to prevent the exposure of any individual to radiation or radioactive material in excess of the limits established by the regulations in this Section;
 - (E) are in transport and are packaged and labeled in accordance with regulations published by the Department of Transportation;
 - (F) accessible only to individuals authorized to handle or use them or to work in the vicinity thereof, provided that the contents are identified to such individuals by a readily available written record, for example, containers in locations such as waterfilled canals, storage vaults, or hot cells; and
 - (G) are manufacturing and processing equipment such as piping and tanks.
- (4) Each licensee shall, prior to disposal of an empty uncontaminated container to unrestricted areas, remove or deface the radioactive material label or otherwise clearly indicate that the container no longer contains radioactive materials.
- (g) All radiation machines shall be labeled in a manner which cautions individuals that radiation is produced when the machine is being operated.

Statutory Authority G.S. 104E-7; 104E-12(a)(1).

.0417 RECORDS

- (a) Each licensee or registrant shall maintain records showing the radiation exposures of all

individuals for whom personnel monitoring is required under Rule .0410 of this Section. Such records shall be kept on appropriate form(s) provided by the agency ~~form DHS 5254~~ in ac-

cordance with the instructions contained in that form, or on clear and legible records containing all the information required by the agency form. ~~DPS-5251~~ The doses entered on the forms or records shall be for periods of time not exceeding one calendar quarter.

(b) Each licensee or registrant shall maintain records in the same units used in this Section, showing the results of surveys required by Rule .0409 of this Section, monitoring required by Rules .0415(c) and (e) of this Section, and disposal made pursuant to the provisions of Rule .0416(b) and (d) of this Section.

(c) Records of individual exposure to radiation and to radioactive material which must be maintained pursuant to the provisions of (a) of this Rule and records of bioassays, including results of whole body counting examinations, made pursuant to Rule .0408 of this Section shall be preserved until the agency authorizes disposition.

(d) Records of the results of surveys and monitoring which must be maintained pursuant to (b) of this Rule shall be preserved for two years after completion of the survey except that the following records shall be maintained until the agency authorizes their disposition:

- (1) records of the results of surveys to determine compliance with Rule .0404(a) of this Section;
- (2) in the absence of personnel monitoring data, records of the results of surveys to determine external radiation dose;
- (3) records of the results of surveys used to evaluate the release of radioactive effluents to the environment;
- (4) records of licensed radioactive material which is disposed of pursuant to provisions of Rule .0416(b) and (e) of this Section shall be maintained until the agency authorizes their disposition.

(e) Records of disposal of radioactive material made pursuant to Rule .0416 of this Section shall be maintained until the agency authorizes their disposition.

(f) Records which must be maintained pursuant to this Section may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by agency regulations.

(g) If there is a conflict between the agency regulations in this Section, license condition, or other written agency approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this Section for such records shall apply unless the agency, pursuant to Rule

.0106 of this Chapter of these Regulations, has granted a specific exemption from the record retention requirements specified in the regulations in this Section.

(h) The discontinuance of or curtailment of activities, does not relieve the licensee or registrant of responsibility for retaining all records required by this Rule. A licensee or registrant may, however, request the agency to accept such records. The acceptance of the records by the agency relieves the licensee or registrant of subsequent responsibility only in respect to their preservation as required by this Rule.

Statutory Authority G.S. 104E-7(2); 104E-12(a).

.0420 OVEREXPOSURES AND EXCESSIVE LEVELS AND CONCENTRATIONS

(a) In addition to any notification required by Rule .0419 of this Section, each licensee or registrant shall make a report in writing within 30 days to the agency of:

- (1) each exposure of an individual to radiation or concentrations of radioactive material in excess of any applicable limit as set forth in this Section or as otherwise approved by the agency;
- (2) any incident for which notification is required by Rule .0419 of this Section;
- (3) levels of radiation or concentrations of radioactive material in an unrestricted area in excess of ten times any applicable limit as set forth in this Section or as otherwise approved by the agency, but not involving excessive exposure of any individual.

(b) Each report required under this Paragraph Rule shall describe the extent of exposure of individuals to radiation or to radioactive material, including estimates of each individual's dose as required by Subparagraph (a)(1) of this Rule; levels of radiation and concentrations of radioactive material involved; the cause of exposure, levels of concentrations, and corrective steps taken or planned to assure against a recurrence.

(c) Any report filed with the agency pursuant to this Rule shall include, for each individual exposed, the name, social security number, and date of birth; and an estimate of the individual's dose. The report shall be prepared so that this information is stated in a separate part of the report.

Statutory Authority G.S. 104E-7.

SECTION .0500 - SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHY OPERATIONS

**.0503 EQUIPMENT RADIATION
LEVEL LIMITS**

Radiographic exposure devices measuring less than four inches from the sealed source storage position to any exterior surface of the device shall have no radiation level in excess of 50 milliroentgens per hour at six inches from any exterior surface of the device. Radiographic exposure devices measuring a minimum of four inches from the sealed source storage position to any exterior surface of the device, and all storage containers for sealed sources or outer containers for radiographic exposure devices, shall have no radiation level in excess of 200 milliroentgens per hour at any exterior surface, and ten milliroentgens per hour at one meter from any exterior surface. The radiation levels specified are with the sealed source in the shielded off position.

Statutory Authority G.S. 104E-7.

**SECTION .0600 - X-RAYS IN THE HEALING
ARTS**

.0602 DEFINITIONS

(a) As used in this Section, the following definitions shall apply:

- (1) "Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.
- (2) "Added filter" means the filter added to the inherent filtration.
- (3) "Aluminum equivalent" means the thickness of aluminum, type 1100 alloy, affording the same attenuation, under specified conditions, as the material in question. The nominal composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum and 0.12 percent copper.
- (4) "Attenuation block" means a block or stack, having dimensions 20 cm by 20 cm by 3.8 cm, of type 1100 aluminum alloy or other materials having equivalent attenuation.
- (5) "Automatic exposure control" means a device which automatically controls one or more technique factors in order to obtain, at a preselected location(s), a required quantity of radiation. Phototimer is described separately.
- (6) "Beam axis" means a line from the source of x-rays through the centers of the x-ray fields.
- (7) "Beam-limiting device" means a device which provides a means to restrict the dimensions of the x-ray field.

- (8) "Cephalometric device" means a device intended for the radiographic visualization and measurement of the dimensions of the human head.
- (9) "Changeable filters" means any added filter which can be removed from the useful x-ray beam through any electronic, mechanical or physical process.
- (10) "Contact therapy system" means that the x-ray tube target is put within five centimeters of the surface being treated.
- (11) "Control panel" means that part of the x-ray control upon which are mounted the switches, knobs, pushbuttons and other hardware necessary for manually setting the technique factors.
- (12) "Cooling curve" means the graphical relationship between heat units stored and cooling time.
- (13) "Dead-man switch" means a switch so constructed that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator.
- (14) "Diagnostic source assembly" means the tube housing assembly with a device attached.
- (15) "Diagnostic-type protective tube housing" means a tube housing so constructed that the leakage radiation measured at a distance of one meter from the source does not exceed 100 mR in one hour when the tube is operated at its leakage technique factors.
- (16) "Diagnostic x-ray system" means an x-ray system designed for irradiation of any part of the human body for the purpose of diagnosis or visualization.
- (17) "Direct scattered radiation" means that radiation which has been deviated in direction by materials irradiated by the useful beam. (See also scattered radiation).
- (18) "Entrance exposure rate" means the roentgens per unit time at the point where the center of the useful beam enters the patient.
- (19) "Exposure" means the quotient of dQ by dm where " dQ " is the absolute value of the total charge of the ions of one sign produced in air when all the electrons, negatrons and positrons, liberated by photons in a volume element of air having mass " dm " are completely stopped in air. The special unit of exposure is the roentgen.
- (20) "Field emission equipment" means equipment which uses an x-ray tube in which electron emission from the cathode

- is due solely to the action of an electric field.
- (21) "Filter" means material placed in the useful beam to preferentially attenuate selected radiations.
 - (22) "Fluoroscopic imaging assembly" means a subsystem in which x-ray photons produce a fluoroscopic image. It includes the image receptor(s) such as the image intensifier and spot-film device, electrical interlocks and structural material providing linkage between the image receptor and the diagnostic source assembly.
 - (23) "General purpose radiographic x-ray system" means any radiographic x-ray system which, by design, is not limited to radiographic examination of specific anatomical regions.
 - (24) "Gonad shield" means a protective barrier used to reduce exposure to the testes or ovaries.
 - (25) "Half-value layer (HVL)" means the thickness of specified material which attenuates the beam of radiation to an extent such that the exposure rate is reduced to one-half of its original value. In this definition the contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded.
 - (26) "Healing arts mass screening" means the examination of human beings using x-rays for the detection or evaluation of health indications when such tests are not specifically and individually ordered by a licensed practitioner of the healing arts who is legally authorized to prescribe such x-ray tests for the purpose of diagnosis or treatment. It does not include the use of x-ray tests as a requirement for hospital admission or as a condition of employment.
 - (27) "Image intensifier" means a device, including housing, which converts an x-ray pattern into a corresponding light image of higher energy density.
 - (28) "Image receptor" means any device, such as fluorescent screen or radiographic film, which transforms incident x-ray photons either into a visible image or into another form which can be made into a visible image by further transformations.
 - (29) "Inherent filtration" means the filtration permanently in the useful beam; it includes the window of the x-ray tube and any permanent tube or source enclosure.
 - (30) "Installation" means the act of physical movement of a radiographic system from one location to another in conjunction with a change of ownership.
 - (31) "Lead equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.
 - (32) "Leakage radiation" means radiation emanating from a diagnostic or therapeutic source assembly except for:
 - (A) the useful beam and
 - (B) radiation produced when the exposure switch or timer is not activated.
 - (33) "Leakage technique factors" means the technique factors associated with the diagnostic or therapeutic source assembly (i.e., tube housing and beam limiting device) which are used in measuring leakage radiation. They are defined as follows:
 - (A) for diagnostic source assemblies intended for capacitor energy storage equipment, the maximum rated peak tube potential and the maximum rated number of exposures in an hour for operation at the maximum rated peak tube potential with the quantity of charge per exposure being ten millicoulombs (~~mAs~~) (mC) or the minimum obtainable from the unit, whichever is larger;
 - (B) for diagnostic source assemblies intended for field emission equipment rated for pulsed operation, the maximum rated peak tube potential and the maximum rated number of x-ray pulses in an hour for operation at the maximum rated peak tube potential; and
 - (C) for all other diagnostic or therapeutic source assemblies, the maximum rated peak tube potential and the maximum rated continuous tube current for the maximum rated peak tube potential.
 - (34) "Light field" means that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the illumination is one-fourth of the maximum in the intersection.
 - (35) "Maximum line current" means the rms (root-mean-square) current in the supply line of an x-ray machine operating at its maximum rating.
 - (36) "Mobile equipment" (see x-ray equipment).
 - (37) "Peak tube potential" means the maximum value of the potential difference across the x-ray tube during an exposure.

- (38) "Phototimer" means a method for controlling radiation exposures to image receptors by the amount of radiation which reaches a radiation monitoring device(s). The radiation monitoring device(s) is part of an electronic circuit which controls the duration of time the tube is activated (see also "Automatic exposure control").
- (39) "Portable equipment" (see x-ray equipment).
- (40) "Position indicating device (PID)" means a device on dental x-ray equipment used to indicate the beam position and to establish a definite source-skin distance. It may or may not incorporate or serve as a beam-limiting device.
- (41) "Primary protective barrier" means the material, excluding filters, placed in the useful beam, for radiation protection purposes, to reduce the radiation exposure.
- (42) "Protective apron" means an apron made of radiation attenuating materials used to reduce radiation exposure.
- (43) "Protective barrier" means a barrier of radiation attenuating material(s) used to reduce radiation exposure. Types of protective barriers are defined in Rules .0602(41) and .0602(53).
- (44) "Protective glove" means a glove made of radiation attenuating materials used to reduce radiation exposure.
- (45) "Qualified expert" means an individual who has demonstrated to the satisfaction of the agency that he possesses the knowledge and training to measure ionizing radiation parameters, to evaluate safety techniques and to advise regarding radiation protection needs and who is registered pursuant to Rule .0205 of this Chapter.
- (46) "Radiograph" means an image receptor on which the image has been created directly or indirectly by an x-ray pattern and results in a permanent record.
- (47) "Radiographic imaging system" means any system whereby a permanent or semi-permanent image is recorded on an image receptor by the action of ionizing radiation.
- (48) "Rating" means the operating limits as specified by the component manufacturer.
- (49) "Recording" means producing a permanent form of an image resulting from x-ray photons such as film and video tape.
- (50) "Registrant", as used in this Section, means any person who owns or possesses and administratively controls an x-ray system which is used to deliberately expose humans or animals to the useful beam of the system and is required by the provisions contained in Sections .0100 and .0200 of this Chapter to register with the agency.
- (51) "Response time" means the time required for an instrument system to reach 90 percent of its final reading when the radiation-sensitive volume of the instrument system is exposed to a step change in radiation flux from zero sufficient to provide a steady state mid-scale reading.
- (52) "Scattered radiation" means radiation that, during passage through matter, has been deviated in direction. (See also "direct scattered radiation".)
- (53) "Secondary protective barrier" means a barrier sufficient to attenuate the stray radiation to the required degree.
- (54) "SID" means source-image receptor distance.
- (55) "Source" means the focal spot of the x-ray tube.
- (56) "Source-image receptor distance (SID)" means the distance from the source to the center of the input surface of the image receptor.
- (57) "Spot film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.
- (58) "Stationary equipment" (see x-ray equipment).
- (59) "Stray radiation" means the sum of leakage and scattered radiation.
- (60) "Technique factors" means the conditions of operation. They are specified as follows:
- (A) for capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs;
 - (B) for field emission equipment rated for pulsed operation, peak tube potential in kV and number of x-ray pulses; and
 - (C) for all other equipment, peak tube potential in kV and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.
- (61) "Therapeutic-type protective tube housing" means the tube housing with tube installed, and it includes high voltage and filament transformers and other appropriate elements when they are contained within that housing.

- (62) "Transportation equipment" means x-ray equipment which is installed in a vehicle or trailer.
- (63) "Tube" means an x-ray tube, unless otherwise specified.
- (64) "Tube housing assembly" means the tube housing with tube installed. It includes high-voltage and filament transformers and other appropriate elements when they are contained within the tube housing.
- (65) "Tube rating chart" means the set of curves which specify the rated limits of operation of the tube in terms of the technique factors.
- (66) "Useful beam" means the radiation which passes through the tube housing port and the aperture of the beam-limiting device when the exposure switch or timer is activated.
- (67) "Variable-aperture beam-limiting device" means a beam-limiting device which has capacity for stepless adjustment of the x-ray field size at the given SID.
- (68) "Visible area" means that portion of the input surface of the image receptor over which incident x-ray photons produce a visible image.
- (69) "X-ray control" means a device which controls input power to the x-ray high-voltage generator or the x-ray tube. It includes equipment such as timers, phototimers, automatic brightness stabilizers and similar devices which control the technique factors of an x-ray exposure.
- (70) "X-ray equipment" means an x-ray system, subsystem or component thereof.
 - (A) "Mobile equipment" means x-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.
 - (B) "Portable equipment" means x-ray equipment designed to be hand-carried.
 - (C) "Stationary equipment" means x-ray equipment which is installed in a fixed location.
- (71) "X-ray field" means that area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the exposure rate is one-fourth of the maximum in the intersection.
- (72) "X-ray high-voltage generator" means a device which transforms electrical energy from the potential supplied by the x-ray control to the tube operating potential.

The device may also include means for transforming alternating current to direct current, filament transformers for the x-ray tube(s), high-voltage switches, electrical protective devices and other appropriate elements.

- (73) "X-ray system" means an assemblage of components for the controlled production of x-rays. It includes minimally an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.
- (74) "X-ray subsystem" means any combination of two or more components of an x-ray system for which there are requirements specified in this Section.
- (75) "X-ray tube" means an electron tube which is designed for the conversion of electrical energy into x-ray energy.
- (b) Other definitions applicable to this Section may be found in Sections .0100 and .0200 of this Chapter.

Statutory Authority G.S. 104E-7.

.0605 FLUOROSCOPIC X-RAY SYSTEMS

All fluoroscopic x-ray systems shall meet the following requirements:

- (1) Limitation of useful beam
 - (a) The fluoroscopic tube shall not produce x-rays unless the primary protective barrier is in position to intercept the entire useful beam at all times.
 - (b) The entire cross section of the useful beam shall be intercepted by the primary protective barrier of the fluoroscopic image assembly at any SID.
 - (c) Limitation to the Imaging Surface
 - (i) The x-ray field produced by fluoroscopic equipment without image intensification shall not extend beyond the entire visible area of the image receptor. This requirement applies to field size during both fluoroscopic procedures and spot-filming procedures.
 - (ii) Image-intensified fluoroscopy and spot-filming shall comply with the following:
 - (A) During fluoroscopic or spot-filming procedures, neither the length nor the width of the x-ray field in the plane of the image receptor shall exceed the visible area of the image receptor by more than three percent of the SID. The sum of the excess length and the excess

width shall be no greater than four percent of the SID.

- (B) Compliance shall be determined with the beam axis perpendicular to the image receptor. For rectangular x-ray fields used with circular image reception, the error in alignment shall be determined along the length and width dimensions of the x-ray field which pass through the center of the visible area of the image receptor.
- (iii) In addition to other requirements of this Rule, equipment manufactured after the effective date of these Regulations shall comply with the following:
 - (A) Means shall be provided between the source and the patient for adjustment of the x-ray field size in the plane of the film to the size of that portion of the film which has been selected on the spot-film selector. This adjustment shall be automatically accomplished except when the x-ray field size in the plane of the film is smaller than that of the selected portion of the film.
 - (B) It shall be possible to adjust the x-ray field size in the plane of the film to a size smaller than the selected portion of the film. The minimum field size at the greatest SID, shall be equal to or less than five centimeters by five centimeters.
 - (C) The center of the x-ray field in the plane of the film shall be aligned with the center of the selected portion of the film to within two percent of the SID.
- (2) X-ray production in the fluoroscopic mode shall be controlled by a device which requires continuous pressure by the fluoroscopist for the entire time of any exposure. When recording serial fluoroscopic images, the fluoroscopist shall be able to terminate the x-ray exposure(s) at any time, but means may be provided to permit completion of any single exposure of the series in process.
- (3) Entrance exposure rates shall be limited as required in the following:
 - (a) Fluoroscopic equipment shall not be operated at any combination of tube potential and current which will result in an exposure rate in excess of ten roentgens per minute at the point where the center of the useful beam enters the patient, except:
 - (i) during recording of fluoroscopic images; or
 - (ii) when provided with optional high level control, the equipment shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of five roentgens per minute at the point where the center of the beam enters the patient unless the high level control is activated. Special means of activation of high level controls, such as additional pressure applied continuously by the operator, shall be required to avoid accidental use. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.
 - (b) In addition to the other requirements of this Rule equipment manufactured after August, 1974, which does not incorporate an automatic exposure control (e.g., automatic brightness control or ionization chamber control) shall not be operated at any combination of tube potential and current which will result in an exposure rate in excess of five roentgens per minute at the point where the center of the useful beam enters the patient except during the recording of fluoroscopic images or when provided with an optional high level control.
 - (c) Compliance with the provisions of Subparagraph (3) of this Rule shall be determined as follows:
 - (i) Movable grids and compression devices shall be removed from the useful beam during the measurement.
 - (ii) If the source is below the table, the exposure rate shall be measured one centimeter above the tabletop or cradle.
 - (iii) If the source is above the table, the exposure rate shall be measured at 30 centimeters above the tabletop with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement.
 - (iv) In a C-arm type ~~of~~ fluoroscope, the exposure rate shall be measured 30 centimeters from the input surface of the fluoroscopic imaging assembly.
 - (d) Periodic measurement of entrance exposure rate limits shall comply with the following:
 - (i) Such measurements shall be made every two years or after any maintenance of the system which might affect the exposure rate.
 - (ii) Results of these measurements shall be available or posted where any fluoroscopist may have ready access to

them and shall be in the record required in Rule .0603(a)(2)(B) of this Section. Results of the measurements shall include the exposure rate, as well as the physical factors used to determine all data: the name of the person approved by the agency performing the measurements and the date the measurements were performed.

(iii) Entrance exposure rate shall be determined with the attenuation block in Rule .0602(a)(4) in the primary beam.

(4) Radiation transmitted through the primary protective barrier of the fluoroscopic imaging assembly shall comply with the following requirements:

(a) The exposure rate resulting from transmission through the primary protective barrier with the attenuation block in the useful beam, combined with radiation from the image intensifier, if provided, shall not exceed two milliroentgens per hour at ten centimeters from any accessible surface of the fluoroscopic imaging assembly beyond the plane of the image receptor for each roentgen per minute of entrance exposure rate.

(b) Measurements to determine compliance with Subparagraph (4)(a) of this Rule shall be in accordance with the following:

(i) The exposure rate resulting from transmission through the primary protective barrier combined with radiation from the image intensifier shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters;

(ii) If the source is below the tabletop, the measurement shall be made with the input surface of the fluoroscopic imaging assembly, positioned 30 centimeters above the tabletop.

(iii) If the source is above the tabletop and the SID is variable, the measurement shall be made with the end of the beam-limiting device or spacer as close to the tabletop as it can be placed, provided that it shall not be closer than 30 centimeters;

(iv) Movable grids and compression devices shall be removed from the useful beam during the measurement;

(v) The attenuation block shall be positioned in the useful beam ten centimeters from the point of measurement of entrance exposure rate and between this point and the input surface of the fluoroscopic imaging assembly.

(5) During fluoroscopy and cinefluorography, x-ray tube potential and current shall be continuously indicated.

(6) The source-skin distance shall not be less than:

- (a) 38 centimeters on stationary fluoroscopes,
- (b) 30 centimeters on all mobile fluoroscopes, or
- (c) 20 centimeters for image intensified fluoroscopes during surgical application.

(7) Fluoroscopic timers shall meet the following requirements:

(a) Means shall be provided to preset the cumulative on-time of the fluoroscopic tube. The maximum cumulative time of the timing device shall not exceed five minutes without resetting.

(b) A signal audible to the fluoroscopist shall indicate the completion of any preset cumulative on-time. Such signal shall continue to sound while x-rays are produced until the timing device is reset.

(8) Mobile fluoroscopes, in addition to the other requirements of this Rule, shall provide image intensification.

(9) Scattered radiation shall be controlled in accordance with the following requirements:

(a) A shielding device of at least 0.25 mm lead equivalent for covering the Bucky slot during fluoroscopy shall be provided.

(b) A shield of at least 0.25 mm lead equivalent, such as overlapping protective drapes or hinged or sliding panels, shall be provided to intercept scattered radiation which would otherwise reach the fluoroscopist and others near the machine.

(c) Upon application to the agency with adequate justification, exceptions from Subparagraphs (9)(a) or (9)(b) of this Rule may be made in some special procedures where a sterile field will not permit the use of the normal protective barriers or where the protective barriers would interfere with the procedures.

Statutory Authority G.S. 104E-7.

**.0608 THERAPEUTIC X-RAY
INSTALLATIONS: LESS THAN
ONE MeV**

(a) Unless specifically provided otherwise by the Rules in this Chapter, the requirements in this Rule shall apply only to therapeutic x-ray installations which are not capable of operating at or above one MeV. Therapeutic x-ray equipment subject to the provisions of this Rule shall comply with the following requirements:

- (1) When the tube is operated at its leakage technique factors, the leakage radiation in any direction shall not exceed the value specified at the distance specified for the classification of that x-ray system.
 - (A) For contact therapy systems, the leakage radiation shall not exceed 100 mR/hr at five centimeters from the tube housing.
 - (B) Systems operating from zero to 150 kVp which are manufactured or installed prior to the effective date of this Rule shall have a leakage radiation which does not exceed one R in one hour at one meter from the source.
 - (C) Systems operating from zero to 150 kVp which are manufactured on or after the effective date of this Rule shall have a leakage radiation which does not exceed 100 mR in one hour at one meter from the source.
 - (D) Systems operating from 151 to 999 kVp shall have leakage radiation which does not exceed one R in one hour at one meter from the source, except systems which operate in excess of 500 kVp may have a leakage radiation in one hour at one meter from the source equivalent to 0.1 percent of the exposure in the useful beam in one hour at a distance of one meter from the source.
- (2) Permanent beam limiting devices used for collimating the useful beam shall provide the same or higher degree of protection as that required by the tube housing assembly.
- (3) Adjustable or removable beam limiting devices shall transmit not more than five percent of the useful beam as determined at the maximum tube potential and maximum treatment filter.
- (4) The filter system shall be so designed that:
 - (A) Filters cannot be accidentally displaced from the useful beam at any tube orientation;
 - (B) Each filter is marked as to its material of construction and its thickness or wedge angle for wedges;
 - (C) It shall be possible for the operator to determine the presence of and identify each filter and the orientation of each wedge filter in the useful beam when the operator is positioned at the control panel either by display at the control panel or by direct observation;
 - (D) The filters and filter insertion slot opening shall be so designed that the radiation at five centimeters from the filter insertion slot opening does not exceed 30 roentgens per hour under all operating conditions; and
 - (E) Each machine equipped with a beryllium or other low filtration window shall be clearly labeled as such upon the tube head housing and upon the control panel.
- (5) The tube housing assembly shall be immobilized during stationary treatments.
- (6) The tube housing assembly shall be so marked that it is possible to determine the location of the focal spot to within five millimeters and such marking shall be readily accessible.
- (7) Equipment of greater than 150 kVp installed after the effective date of this Rule shall be provided with a beam monitor system.
- (8) The exposure timer shall meet the following requirements:
 - (A) A timer shall be provided which has a display at the treatment control panel. The timer shall have a preset time selector and shall terminate irradiation when a preselected time has elapsed.
 - (B) The timer shall switch on and off with the radiation and retain its reading after irradiation is interrupted or terminated.
- (9) The control panel shall have:
 - (A) an indication of whether electrical power is present and activation of the x-ray tube is possible;
 - (B) an indication of whether x-rays are being produced;
 - (C) the means for indicating ~~kV~~ kVp and x-ray tube current;
 - (D) the means for terminating an exposure at any time;
 - (E) a locking device which will prevent unauthorized use of the x-ray system and, for systems not having a lock at the control panel, an alternate method of preventing unauthorized use, shall be provided;
 - (F) for equipment manufactured after the effective date of this Rule, a positive display of specific filter(s) in the beam.
- (10) When a control panel may energize more than one x-ray tube:
 - (A) It shall be possible to activate only one x-ray tube during any one time interval;
 - (B) There shall be an indication at the control panel identifying which x-ray tube can be energized; and
 - (C) There shall be an indication at the x-ray tube if that tubehood can be energized.

- (11) There shall be means of determining the target to patient distance to within one centimeter.
- (12) If exposures are controlled by a timer, that timer:
 - (A) shall permit the setting of exposure times at least as short as one second, and
 - (B) shall not permit an exposure if set at zero or "off".
- (13) Unless it is possible to bring the x-ray exposure rate to its prescribed value within five seconds of actuating the x-ray "on" control, the tube housing shall be fitted with a shutter operable only from the control panel, and of lead equivalent not less than that of the tube housing. In addition:
 - (A) the status of the shutter "Beam On", "Beam Off" or "Shutter Open", "Shutter Closed" or equivalent description, shall be indicated at the control panel.
 - (B) It shall not be possible to initiate an exposure sequence unless the shutter has first been placed in the "Beam Off" or "Shutter Closed" position.
 - (C) The shutter shall automatically go to the "Beam Off" or "Shutter Closed" position if the exposure is terminated by:
 - (i) the operation of the timer,
 - (ii) the dose monitoring system, if provided,
 - (iii) the operation of a safety interlock, or
 - (iv) a power failure.
- (b) In addition to shielding adequate to meet requirements of Section .0400 of this Chapter, the following treatment room design requirements shall be met:
 - (1) Treatment room entrances shall be provided with warning lights in a readily observable position, which will indicate when the useful beam is "on".
 - (2) Provision shall be made for two-way communication with the patient from the control room.
 - (3) A system shall be provided to permit continuous observation of the patient during irradiation and shall be so located that the operator may see the patient and the control panel from the same position.
 - (4) Facilities which contain an x-ray system which may be operated above 150 kVp shall:
 - (A) have all necessary shielding, except for any beam interceptor, provided by fixed barriers;
 - (B) have the control panel in a protected area which is outside the treatment room;
 - (C) have all entrance doors to the treatment room electrically connected such that the x-ray production cannot be initiated unless all doors are closed and shall cease if any door is opened during x-ray production;
 - (D) if the radiation output of the x-ray tube is affected by any door opening, be so designed that it is possible to initiate x-ray production only by:
 - (i) closing all doors and, subsequently,
 - (ii) reinitiating the exposure by manual action at the control panel.
 - (c) Operating procedures, surveys, and calibration shall comply with the following requirements:
 - (1) All new facilities and existing facilities not previously surveyed shall have a radiation protection survey made by, or under the direction of, a qualified expert. This shall also be done after any change in the facility which might produce a radiation hazard. The expert shall report his findings in writing to the person in charge of the facility, and a copy of this report shall be transmitted by the registrant to the agency at the address in Rule .0111 of this Chapter.
 - (2) The radiation output of each therapeutic x-ray machine shall be calibrated by, or under the direction of a qualified expert who is physically present at the facility during the calibration procedure. The calibration shall be repeated after any change, in or replacement of, components of the x-ray generating equipment which could cause a change in x-ray output. Calibration of the therapy beam shall be performed with a measurement instrument, the calibration of which is traceable to national standards for exposure or absorbed dose, and which shall have been calibrated within the preceding 12 months. Records of radiation outputs shall be provided to and maintained by the registrant.
 - (3) Each therapeutic x-ray machine shall be calibrated as described in Subparagraph (c)(2) of this Rule at time intervals not exceeding one year. The calibration shall include at least the following determinations:
 - (A) the accurate determination of the air exposure rate or the dose rate at a reference point within a suitable phantom, as appropriate;
 - (B) the congruence between the radiation field and light localizer, when such is used;

- (C) the half-value layer for every combination of kVp and filter used for radiation therapy.
- (4) Therapeutic x-ray systems capable of operation at greater than 150 kVp, in addition to the annual calibration required in Subparagraphs (c)(2) and (3) of this Rule, shall have spot checks performed.
 - (A) The spot check methods and frequency shall be designed and in writing by a qualified expert. Spot checks shall include verification of continued congruency between the radiation field and the localizing device where an optical field illuminator is used.
 - (B) Whenever a spot check indicates a significant change in the operating characteristics of a machine, as specified in the qualified expert's spot check design, the machine shall be recalibrated as required.
 - (C) A log shall be kept of all spot check measurements.
- (5) Therapeutic x-ray machines shall not be left unattended unless the locking device required by Subparagraph (a)(10)(E) of this Rule is set to prevent activation of the useful beam.
- (6) Except as provided in Rule .0603(a)(1)(II) of this Section, no individual other than the patient shall be in the treatment room during exposures unless he is protected by a barrier sufficient to meet the requirements of Rule .0402 of this Chapter, and no individual other than the patient shall be in the treatment room when the kVp exceeds 150 during exposures.
- (7) The tube housing assembly shall not be held by hand during operation unless the system is designed to require such holding and the peak tube potential of the system does not exceed 50 kVp. In such cases the holder shall wear protective gloves and apron of not less than 0.5 mm lead equivalency at 100 kVp.

Statutory Authority G.S. 104E-7, 104E-12(a).

**SECTION .0700 - USE OF SEALED
RADIOACTIVE SOURCES IN THE HEALING
ARTS**

.0703 TELETHERAPY

(a) Any licensee authorized under Rule .0322 of this Chapter to use teletherapy units for treating humans shall cause full calibration measurements to be performed on each teletherapy unit.

- (1) Such measurement shall be done at all of the following times:

- (A) prior to the first use of the unit for treating humans;
 - (B) prior to treating humans whenever:
 - (i) spot-check measurements indicate that the output value differs by more than five percent from the value obtained at the last full calibration corrected mathematically for physical decay, or
 - (ii) following replacement of the radiation source or following reinstallation of the teletherapy unit in a new location, or
 - (iii) following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and
 - (C) at intervals not exceeding one year.
- (2) Full calibration measurements required by Subparagraph (a)(1) of this Rule shall include determination of:
 - (A) the exposure rate or dose rate to an accuracy within plus or minus three percent for the range of field sizes and for the range of distances (or for the axis distance) used in radiation therapy;
 - (B) the congruence between the radiation field and the field indicated by the light beam localizing device;
 - (C) the uniformity of the radiation field and its dependence upon the orientation of the useful beam;
 - (D) timer accuracy; and
 - (E) the accuracy of all distance-measuring devices used for treating humans.
 - (3) Full calibration measurements shall be made in accordance with the procedures recommended by the Scientific Committee on Radiation Dosimetry of the American Association of Physicists in Medicine (Physics in Medicine and Biology, Vol. 16, No. 3, 1971, pp. 379-396).
 - (4) The exposure rate or dose rate values determined in Subparagraph (a)(2)(A) of this Rule shall be corrected mathematically for physical decay for intervals not exceeding one month.
 - (5) Full calibration measurements required by Subparagraph (a)(1) of this Rule and physical decay corrections required by Subparagraph (a)(4) of this Rule shall be performed by an expert qualified by training and experience in accordance with Subparagraph (d)(1) of this Rule.
 - (b) Any licensee authorized under Rule .0322 of this Chapter to use teletherapy units for treating humans shall cause spot-check measurements to be performed on each teletherapy unit at intervals not exceeding one month.

- (1) Required spot-check measurements shall include determination of:
 - (A) timer accuracy;
 - (B) the congruence between the radiation field and the field indicated by the light beam localizing device;
 - (C) the accuracy of all distance-measuring devices used for treating humans;
 - (D) the exposure rate, dose rate, or a quantity related in a known manner to these rates for one typical set of operating conditions; and
 - (E) the difference between the measurement made in Subparagraph (b)(1)(D) of this Rule and the anticipated output, expressed as a percentage of the anticipated output (i.e., the value obtained at last full calibration corrected mathematically for physical decay).
- (2) Required spot-check measurements shall be performed in accordance with procedures established by an expert qualified by training and experience in accordance with Paragraph (d) of this Rule.
- (c) Any licensee responsible for the performance of full calibration and or spot-check measurements shall be required to calibrate the instruments used in making such determinations.
 - (1) Full calibration measurements required by Paragraph (a) of this Rule shall be performed using a dosimetry system that has been calibrated by the National Bureau of Standards or by a Regional Calibration Laboratory accredited by the American Association of Physicists in Medicine. The dosimetry system shall have been calibrated within the previous two years and after any servicing that may have affected system calibration.
 - (2) Spot-check measurements required by Paragraph (b) of this Rule shall be performed using a dosimetry system that has been calibrated in accordance with Subparagraph (c)(1) of this Rule. Alternatively, a dosimetry system used solely for spot-check measurements may be calibrated by direct intercomparison with a system that has been calibrated in accordance with Subparagraph (c)(1) of this Rule. This alternative calibration method shall have been performed within the previous one year and after each servicing that may have affected system calibration. Dosimetry systems calibrated by this alternative method shall not be used for full calibration measurements.
- (d) The licensee shall determine if a person is an expert qualified by training and experience to calibrate a teletherapy unit and establish procedures for and review the results of spot-check measurements.
 - (1) The licensee shall determine that the expert is qualified by his:
 - (A) being certified by the American Board of Radiology in therapeutic radiological physics, radiological physics, roentgen-ray and gamma-ray physics, or x-ray and radium physics; or
 - (B) having the following minimum training and experience:
 - (i) a master's or doctor's degree in physics, biophysics, radiological physics or health physics;
 - (ii) one year of full-time training in therapeutic radiological physics; and
 - (iii) one year of full-time experience in a radiotherapy facility including personal calibration and spot check of at least one teletherapy unit.
 - (2) The licensee who has his teletherapy units calibrated by persons who do not meet the criteria for minimum training and experience stated in Subparagraph (d)(1)(B) of this Rule may request a license amendment excepting them from these requirements.
 - (A) Such request shall include:
 - (i) the name of the proposed qualified expert;
 - (ii) a description of his training and experience including information similar to that specified in Subparagraph (d)(1)(B) of this Rule;
 - (iii) reports of at least one calibration and spot-check program based on measurements personally made by the proposed expert within the last ten years; and
 - (iv) written endorsement of the technical qualifications of the proposed expert from personal knowledge by a physicist certified by the American Board of Radiology in one of the specialties listed in Subparagraph (d)(1)(A) of this Rule.
 - (B) The individual's qualifications will be evaluated by the Division of Radiation Protection, Section, North Carolina Department of Environment, Health, and Natural Human Resources.
 - (C) The amendment request must be addressed to the agency at the address found in Rule .0111 of this Chapter.
 - (e) The licensee shall maintain, for inspection by the agency, records of the measurements, tests, corrective actions, and instrument calibrations made under Paragraphs (a), (b), and (c)

of this Rule, and records of the licensee's evaluation of the qualified expert's training and experience made under (d) of this Rule for the following periods of time:

- (1) Records of the full calibration measurements under (a) of this Rule and the calibration of the instruments used to make these measurements under (c) of this Rule shall be preserved for five years after completion of the calibration.
- (2) Records of the spot-check measurements and corrective actions under (b) of this Rule and the calibration of instruments used to make spot-check measurements under (c) of this Rule shall be preserved for two years after completion of the spot-check measurements and corrective actions.
- (3) Records of the licensee's evaluation of the qualified expert's training and experience under (d) of this Rule shall be preserved for five years after the qualified expert's last performance of a full calibration on the licensee's teletherapy unit.
- (f) Each teletherapy room shall be equipped with a radiation monitoring device which continuously monitors the teletherapy beam condition and is equipped with a back-up battery power supply for emergency operation.
 - (1) This device shall energize a visible signal to make the operator continuously aware of teletherapy beam conditions in order that appropriate emergency procedures may be instituted to prevent unnecessary radiation exposure.
 - (2) Operating procedures shall be modified to require daily operational testing of the installed radiation monitor.
 - (3) If a radiation monitor is inoperable for any reason, any person entering the teletherapy room shall use a properly operating portable radiation survey instrument or a personal dosimeter with an audible alarm to monitor for any malfunction of the source exposure mechanism which may have resulted in an exposed or partially exposed source.
 - (4) Survey instruments or dosimeters shall be tested daily before use.
- (g) The licensee shall cause each teletherapy unit used to treat humans to be fully inspected and serviced during source replacement or at intervals not to exceed five years, whichever comes first, to assure proper functioning of the source exposure mechanism.
- (h) Inspection and servicing of the teletherapy unit shall be performed by persons specifically authorized to perform such services by a specific

license issued by the agency, the U.S. Nuclear Regulatory Commission or an agreement state.

Statutory Authority G.S. 104E-7(2).

SECTION .0900 - REQUIREMENTS FOR PARTICLE ACCELERATORS

.0910 VENTILATION SYSTEMS

(a) Adequate ventilation shall be provided in areas where airborne radioactivity may be produced to comply with Rule .0404 of this Chapter.

(b) The ~~registrant~~ licensee shall not vent, release or otherwise discharge airborne radioactive material to an unrestricted area in excess of the limits specified in Rule .0407 of this Chapter.

Statutory Authority G.S. 104E-7.

SECTION .1000 - NOTICES; INSTRUCTIONS; REPORTS AND INSPECTIONS

.1002 POSTING OF NOTICES TO WORKERS

(a) Each licensee or registrant shall post current copies of the following documents:

- (1) the Regulations in this Section and in Section .0400 of this Chapter;
- (2) the license, certificate of registration, conditions or documents incorporated into the license by reference and amendments thereto;
- (3) the operating procedures applicable to work under the license or registration;
- (4) any notice of violation involving radiological working conditions, any order issued pursuant to Section .0100 of this Chapter and any response from the licensee or registrant.

(b) If posting of a document specified in Subparagraphs (a)(1), (2) or (3) of this Rule is not practicable, the licensee or registrant may post a notice which describes the document and states where it may be examined.

(c) ~~The agency form Agency Form DFS 5720~~ "Notice to Employees" shall be posted by each licensee or registrant wherever individuals work in or frequent any portion of a restricted area.

(d) ~~The agency form Agency Form DFS 5720~~ "Notice To Employees" contains information to employees regarding employer's responsibility, worker's responsibility, the subjects covered by this Section, reports on radiation exposure history, inspections, and any other information that the agency may include.

(e) Documents, notices or forms posted pursuant to this Rule shall appear in a sufficient number of places to permit individuals engaged

in work under the license or registration to observe them on the way to or from any particular work location to which the document applies, shall be conspicuous, and shall be replaced if defaced or altered.

(f) Agency documents posted pursuant to Subparagraph (a)(4) of this Rule shall be posted within two working days after receipt of the documents from the agency; the licensee's or registrant's response, if any, shall be posted within two working days after dispatch from the licensee or registrant. Such documents shall remain posted for a minimum of five working days or until action correcting the violation has been completed, whichever is later.

Statutory Authority G.S. 104E-7; 104E-10.

.1007 REQUESTS FOR INSPECTIONS

(a) Any worker or representative of workers who believes that a violation of the Act, provisions of this Chapter or license conditions exists or has occurred in work under a license or registration with regard to radiological working conditions in which the worker is engaged, may request an inspection by giving notice of the alleged violation to the Chief Director of the Division of Radiation Protection, ~~Section~~, P.O. Box 27687, Raleigh, North Carolina 27611-7687. Any such notice shall be in writing, shall set forth the specified grounds for the notice, and shall be signed by the worker or representative of the workers. A copy shall be provided to the licensee or registrant by the Chief Director of the Division of Radiation Protection ~~Section~~ no later than at the time of inspection except that, upon request of the worker giving such notice, his name and the name of individuals referred to therein shall not appear in such copy or on any record published, released, or made available by the agency, except for good cause shown.

(b) If, upon receipt of such notice, the Chief Director of the Division of Radiation Protection ~~Section~~ determines that the complaint meets the requirements set forth in Paragraph (a) of this Rule and that there are reasonable grounds to believe that the alleged violation exists or has occurred, he shall cause an inspection to be made as soon as practicable, to determine if such alleged violation exists or has occurred. Inspections pursuant to this Rule need not be limited to matters referred to in the complaint.

(c) No licensee or registrant shall discharge or in any manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under this Chapter or has testified or is about to testify in any such proceeding or be-

cause of the exercise by such worker on behalf of himself or others of any option afforded by this Section.

Statutory Authority G.S. 104E-7; 104E-10.

.1008 INSPECTIONS NOT WARRANTED

(a) If the Chief Director of the Division of Radiation Protection ~~Section~~ determines, with respect to a complaint under Rule .1007 of this Section that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists or has occurred, the Chief Director of the Division of Radiation Protection ~~Section~~ shall notify the complainant in writing of such determination. The complainant may obtain review of such determination by submitting a written statement of position with the Director of the Division of Facility Services, ~~Secretary, Department of Environment, Health, and Natural Resources~~, P.O. Box 27687, Raleigh, North Carolina 27611-7687, who will provide the licensee or registrant with a copy of such statement by certified mail, excluding, at the request of the complainant, the name of the complainant. The licensee or registrant may submit an opposing written statement of position with the Director of the Division of Facility Services, ~~Secretary, Department of Environment, Health, and Natural Resources~~ who will provide the complainant with a copy of such statement by certified mail. Upon the request of the complainant, the Director of the Division of Facility Services ~~Secretary, Department of Environment, Health, and Natural Resources~~ may hold an informal conference in which the complainant and the licensee or registrant may orally present their views. An informal conference may also be held at the request of the licensee or registrant, but disclosure of the identity of the complainant will be made only following receipt of written authorization from the complainant. After considering all written or oral views presented, the Director of the Division of Facility Services, ~~Secretary, Department of Environment, Health, and Natural Resources~~ shall affirm, modify, or reverse the determination of the Chief Director of the Division of Radiation Protection ~~Section~~ and furnish the complainant and the licensee or registrant a written notification of his decision and the reason therefor.

(b) If the Chief Director of the Division of Radiation Protection ~~Section~~ determines that an inspection is not warranted

because the requirements of Rule .1007(a) of this Section have not been met, he shall notify the complainant in writing of such determi-

nation. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of Rule .1007(a) of this Section.

Statutory Authority G.S. 104E-7; 104E-10.

SECTION .1100 - FEES

.1102 PAYMENT DUE

(a) All fees established in this Section shall be due on the effective date of this Rule and on the first day of July of each subsequent year.

(b) Notwithstanding (a) of this Rule, when a new license or registration is issued by the agency after the first day of July of any year, the initial fee shall be due on the date of issuance of the license or registration.

(c) The initial fee in (b) of this Rule shall be computed as follows:

(1) When any new license or registration is issued before the first day of January of any year, the initial fee shall be the full amount specified in Rule .1105 of this Section; and

(2) When any new license or registration is issued on or after the first day of January of any year, the initial fee shall be one-half of the amount specified in Rule .1105 of this Section.

(d) All fees received by the agency pursuant to provisions of this Section shall be nonrefundable.

(e) Each licensee or registrant shall pay all fees by check or money order made payable to "Division of ~~Facility Services~~ Radiation Protection" and mail or deliver such payment to: Division of Radiation Protection, Section, Division of Facility Services, N.C. North Carolina Department of Environment, Health, and Natural Human Resources, 701 Barbour Drive, P. O. Box 27687, Raleigh, North Carolina 27603-2008 27611-7687. Such payment may be delivered to the agency at its office located at 3825 Barrett Drive, Raleigh, North Carolina 27609-7221.

Statutory Authority G.S. 104E-9(8); 104E-19(a).

SECTION .1200 - LAND DISPOSAL OF RADIOACTIVE WASTE

.1202 DEFINITIONS

As used in this Section, the following definitions shall apply.

(1) "Active maintenance" means any significant remedial activity needed during the period of institutional control to maintain a reasonable assurance that the performance objectives in Rules .1223 and .1224 of this Section are met. Such active maintenance

includes ongoing activities such as the pumping and treatment of water from a disposal unit or one-time measures such as replacement of a disposal unit cover. Active maintenance does not include custodial activities such as repair of fencing, repair or replacement of monitoring equipment, revegetation, minor additions to soil cover, minor repair of disposal unit covers, and general disposal site upkeep such as mowing grass.

(2) "Buffer zone" is a portion of the disposal site that is controlled by the licensee and that lies under the disposal units and between the disposal units and the boundary of the site.

(3) "Chelating agent" means amine polycarboxylic acids (e.g., EDTA, DTPA), hydroxy-carboxylic acids, and polycarboxylic acids (e.g., citric acid, carboxylic acid, and gluconic acid).

(4) "Commencement of construction" means clearing of land, excavation, or other substantial action that would adversely affect the environment of a land disposal facility. The term does not mean disposal site exploration, necessary roads for disposal site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the disposal site or the protection of environmental values.

(5) "Custodial agency" means the North Carolina Low-Level Radioactive Waste Management Authority.

(6) "Disposal" means the isolation of waste from the biosphere inhabited by man and his food chains by emplacement in a land disposal facility.

(7) "Disposal site" means that portion of a land disposal facility which is used for disposal of waste. It consists of disposal units and a buffer zone.

(8) "Disposal system" means the components relied on to ensure that the land disposal facility meets the performance objectives and other requirements of this Section. These components include the site and its characteristics, the facility and disposal unit design, and engineered barriers therein, the waste, facility operations and closure, intruder barriers and institutional control.

(9) "Disposal unit" means a discrete portion of the disposal site into which waste is placed for disposal. For near-surface disposal, the disposal unit is usually a trench.

(10) "Engineered barrier" means engineered barrier as defined in G.S. 104E-5(7a).

- (11) "Explosive material" means any chemical compound, mixture, or device, which produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.
- (12) "Government agency" means any executive department, commission, independent establishment, or corporation, wholly or partly owned by the United States of America or the State of North Carolina and which is an instrumentality of the United States or the State of North Carolina; or any board, bureau, department, division, service, office, officer, authority, administration, or other establishment in the executive branch of the government.
- (13) "Hazardous waste" means those wastes designated as hazardous by U.S. Environmental Protection Agency regulations in 40 CFR Part 261.
- (14) "Hydrogeologic unit" means any soil or rock unit or zone which by virtue of its porosity or permeability, or lack thereof, has a distinct influence on the storage or movement of groundwater.
- (15) "Inadvertent intruder" means a person who might occupy the disposal site after closure and engage in normal activities, such as agriculture, dwelling construction, or other pursuits in which the person might be unknowingly exposed to radiation from the waste.
- (16) "Intruder barrier" means a sufficient depth of cover over the waste that inhibits contact with waste and helps to ensure that radiation exposures to an inadvertent intruder will meet the performance objectives set forth in this Section, or engineered structures that provide equivalent protection to the inadvertent intruder.
- (17) "Institutional control" means control of the site after the site is closed and stabilized and responsibility for all disposed waste and site maintenance is assumed by the custodial agency.
- (18) "Land disposal facility" means low-level radioactive waste disposal facility as defined in G.S. 104E-5(9c).
- (19) "Low-level radioactive waste" means low-level radioactive waste as defined in G.S. 104E-5(9a) and includes naturally occurring and accelerator produced radioactive material which is not subject to regulation by the U.S. Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended, and is suitable for land disposal under the provisions in this Section.
- (20) "Mixed waste" means waste that satisfies the definition of low-level radioactive waste in Subparagraph (19) of this Rule and contains hazardous waste that either:
 - (a) is listed as a hazardous waste in Subpart D of 40 CFR Part 261 or
 - (b) causes the low-level radioactive waste to exhibit any of the hazardous waste characteristics identified in Subpart C of 40 CFR Part 261.
- (21) "Monitoring" means observing and making measurements to provide data to evaluate the performance and characteristics of the disposal site.
- (22) "Near-surface disposal facility" means a land disposal facility in which waste is disposed of within approximately the upper 30 meters of the earth's surface.
- (23) "Reconnaissance level information" is any information or analysis that can be retrieved or generated without the performance of new comprehensive site-specific investigations. Reconnaissance level information includes but is not limited to drilling records required by state agencies, ~~such as the Department of Natural Resources and Community Development, other Divisions of this Department,~~ and other relevant published scientific literature.
- (24) "Retrieval" means a remedial action for removal of Class B and C waste from a disposal unit.
- (25) "Shallow land burial" means shallow land burial as defined in G.S. 104E-5(14a).
- (26) "Site closure and stabilization" means those actions that are taken upon completion of operations that prepare the disposal site for custodial care and that assure that the disposal site will remain stable and will not need ongoing active maintenance.
- (27) "State" means the State of North Carolina.
- (28) "Surveillance" means monitoring and observation of the disposal site for purposes of visual detection of need for maintenance, custodial care, evidence of intrusion, and compliance with other license and regulatory requirements.
- (29) "Waste" means low-level radioactive waste that is acceptable for disposal in a land disposal facility. For the purpose of this Section, the words "waste" and "low-level radioactive waste" have the same meaning.

Statutory Authority: G.S. 104E-5; 104E-7; 104E-10; 104E-25.

1206 SPECIFIC TECHNICAL INFORMATION

(a) The specific technical information shall include the following information needed for demonstration that the performance objectives and the applicable technical requirements of this Section will be met:

- (1) a description of the principal design criteria and their relationship to the performance objectives, along with identification of operating facilities of the same or similar design;
- (2) a description of the design basis natural events or phenomena and their relationship to the principal design criteria;
- (3) a description of codes and standards which the applicant has applied to the design and which will apply to construction of the land disposal facility;
- (4) a description of the design features of the land disposal facility, the disposal units and engineered barriers, to include those design features related to:
 - (A) infiltration of water;
 - (B) leachate collection and removal;
 - (C) integrity of covers for disposal units and structural stability of backfill, engineered barriers, and covers;
 - (D) contact of wastes with standing water and groundwater;
 - (E) disposal site drainage;
 - (F) disposal site closure and stabilization;
 - (G) elimination to the extent practicable of long-term disposal site maintenance, inadvertent intrusion, occupational exposures, and disposal site monitoring;
 - (H) adequacy of the size of the buffer zone for monitoring and potential mitigative measures; and
 - (I) retrieval;
- (5) a description of the construction and operation of the land disposal facility, to include, as a minimum:
 - (A) the methods of construction of disposal units and engineered barriers;
 - (B) waste emplacement;
 - (C) the procedures for and areas of waste segregation;
 - (D) accurate drawings and descriptions of on-site buildings including, but not limited to, construction, foundation details, ventilation, plumbing and fire suppression systems, and proximity to creeks or culverts;
 - (E) types of intruder barriers;
 - (F) on-site traffic and drainage systems;
 - (G) physical security system;
 - (H) survey control program;
 - (I) methods and areas of waste storage;

- (J) facilities for and methods of handling waste including improperly packaged shipments;
 - (K) methods to control surface water and groundwater access to the wastes;
 - (L) methods to be employed in the handling and disposal of wastes containing chelating agents or other nonradiological substances that might affect the meeting of the performance objectives of this Section; and
 - (M) a flow diagram of waste handling and disposal operations, a description and accurate drawings of handling equipment, and any special handling techniques to be employed;
- (6) a description of the types, chemical and physical forms, quantities, classification, and specifications of the radioactive material proposed to be received, possessed, handled, and disposed of at the land disposal facility, which shall include:
 - (A) estimated volume and activity of each waste class to be received annually at the facility, and
 - (B) method for control of the rate at which waste is received;
 - (7) a description of the quality control program, including audits and managerial controls, for the determination of natural disposal site characteristics and for quality control during the design, construction, operation, and closure of the land disposal facility and during the receipt, handling, and emplacement of waste;
 - (8) a description of the radiation safety program for control and monitoring of radioactive effluents to ensure compliance with the performance objective in Rule .1223 of this Section and occupational radiation exposure to ensure compliance with the requirements of Section .0400 of this Chapter and to control contamination of personnel, vehicles, equipment, buildings, and the disposal site; which description shall address
 - (A) both routine operations and accidents; and
 - (B) procedures, instrumentation, facilities, and equipment;
 - (9) an emergency response plan which addresses:
 - (A) on-site response;
 - (B) public alert and notification;
 - (C) roles of local, county, state and regional agencies;
 - (D) training and public information; and

- (E) if available, copies of most current emergency response plans submitted to the U.S. Nuclear Regulatory Commission or an agreement state;
- (10) a manual of operating procedures and emergency procedures including, but not limited to, those for fires, spills or other events which result in contamination;
- (11) a description of the administrative procedures that the applicant will apply to control activities at the land disposal facility including hours of proposed operation;
- (12) a description of the radiation protection program including provisions for keeping radiation doses to workers and to members of the public as low as reasonably achievable (ALARA) and within applicable limits specified in the Rules of this Chapter;
- (13) a description of the natural and demographic disposal site characteristics as determined by disposal site selection and characterization activities where the description must include geologic, geotechnical, hydrologic, meteorologic, climatologic, air quality, natural radiation background and biotic features of the disposal site and vicinity; where the site characterization shall include sufficient and suitable data for design and performance analysis; and where the minimum requirements include, but are not limited to, the following:
 - (A) geologic description to include:
 - (i) regional geologic framework including stratigraphy, tectonics, structure, physiography, seismology and geomorphology;
 - (ii) site specific stratigraphy, lithology, structural geology, geochemistry, topography, and an analysis of landforms including any evidence of destructive geomorphic processes;
 - (iii) a regional geologic map at a scale of 1:62,500;
 - (iv) a site specific topographic map at a scale of 1:1,200; and
 - (v) a site specific geologic map at a scale of 1:1,200 with accompanying cross-sections;
 - (B) geotechnical description to include:
 - (i) soil and saprolite characteristics related to slope stability, cover integrity, erosion, compaction characteristics for backfill materials, foundation analyses, gradations for proposed ~~filter~~ filter material, and possible interactions between the soils and waste containers; and
 - (ii) bedrock characteristics related to foundation analyses and hydrology;
 - (C) hydrologic description to include:
 - (i) surface water hydrology including the upstream drainage area contributing flow across the site and the downstream drainage area to a distance of approximately ten miles;
 - (ii) an inventory of existing surface water users and public water supplies within approximately ten miles downstream of the site;
 - (iii) an inventory of potential surface water impoundments that will be precluded by siting of a disposal facility;
 - (iv) an inventory and description of all significant hydrologic units underlying the site to a depth of 100 feet below the level of waste disposal;
 - (v) site specific data sufficient to describe the characteristics, present water quality, occurrence and movement of water in both the unsaturated and saturated zones;
 - (vi) an inventory of existing groundwater users within approximately two miles of the site, both from groundwater wells and at points of groundwater discharge, e.g. springs;
 - (vii) identification of the nearest down-gradient groundwater users and the nearest municipal supply relying on groundwater; and
 - (viii) an inventory of potential groundwater supplies that will be precluded by siting of a disposal facility;
 - (D) meteorologic description to include:
 - (i) determination of a water budget for the disposal site;
 - (ii) typical weather patterns; and
 - (iii) determination of the frequency, probability, and potential consequences of severe meteorological phenomena;
 - (F) climatologic description to include:
 - (i) normal seasonal fluctuations and extremes predicated from historical records;
 - (ii) air temperatures and soil temperatures;
 - (iii) frost penetration; and
 - (iv) solar radiation;
 - (F) air quality description to include:
 - (i) measurement of suspended particulates; and
 - (ii) the level of airborne radionuclides contributed by atmospheric fallout, na-

- tural radiation released from the soil, and agricultural activities;
- (G) natural radiation background description to include:
 - (i) sampling of air, soil (both on and off site), water (both on and off site), flora, fauna, and farm products (including grains and milk); and
 - (ii) both total background and contribution from individual radionuclides; and
- (H) biotic description to include:
 - (i) an accurate, site-specific inventory of flora and fauna in and within three miles of the site;
 - (ii) inventory and distribution of livestock and crops within three miles of the site;
- (14) an identification of the known natural resources at the disposal site, whose exploitation could result in inadvertent intrusion into the wastes after removal of active institutional control;
- (15) a description of baseline, operational, and long-term environmental monitoring programs to include:
 - (A) inspection and monitoring of waste packages prior to disposal;
 - (B) criteria and procedures to stop acceptance of waste at the facility, including action levels; and
 - (C) if available, a copy of the last environmental monitoring reports filed with the U.S. Nuclear Regulatory Commission or agreement state program or other authorities;
- (16) decontamination, decommissioning and site closure plans, including:
 - (A) those design features which are intended to facilitate disposal site closure and to eliminate the need for ongoing active maintenance;
 - (B) schedule;
 - (C) procedure, including documentation that procedure is effective; and
 - (D) radioactive waste disposal plan; and
- (17) a description of an action plan which would be implemented in the event of unforeseen differences between expected and actual behavior of the disposal system and which includes:
 - (A) a description of conditions which require remedial action, such as:
 - (i) erosion and other damage to the stability of the site;
 - (ii) failure of physical security features, equipment or procedures;
 - (iii) deterioration of trench or disposal unit covers;
 - (iv) deterioration of leachate collection system;
 - (v) clogging or siltation of monitoring and observation wells;
 - (vi) the presence of leachate in individual disposal units;
 - (vii) the migration of disposed radioactive material;
 - (viii) changes in site characteristics or other events which cause or threaten to cause failure of the facility to meet the performance objectives of this Section;
 - (ix) specific action levels, events or other conditions for which the licensee will institute specific remedial actions; and
 - (x) presence of radioactive concentrations in groundwater above preoperationally determined background;
 - (B) provisions for early identification of conditions requiring remedial action, such as:
 - (i) detection of water in any disposal unit;
 - (ii) detection of radioactive contamination in ground water with sufficient sampling locations and frequencies to permit identification of the disposal unit(s) causing the contamination;
 - (iii) establishment of specific sampling locations, sampling frequencies and sample types as part of the licensee's environmental monitoring program;
 - (iv) methods and frequencies for detection of water or leachate in disposal units or trenches;
 - (v) any methods and associated frequencies for inspecting, testing, maintaining or otherwise assessing the condition and performance of disposal units, trenches and covers;
 - (vi) method and frequency for monitoring condition and physical stability of the site;
 - (vii) any special monitoring, inspection or testing which the licensee will institute in response to specific natural or man-made occurrences which may affect the ability of the facility to meet the performance objectives of this Section; and
 - (viii) any periodic or ongoing evaluation of site characteristics or changes in site characteristics which relate to the ability of the facility to meet the performance objectives of this Section;
 - (C) a description of the corrective measures that will be taken to correct the condition and otherwise assure compliance with the

performance objectives and technical requirements of this Section, such as:

- (i) continued vigilance;
 - (ii) water and leachate detention;
 - (iii) pumping or repair of the disposal unit;
 - (iv) procedures for timely repair or waste retrieval after problem detection;
 - (v) redesign of disposal units;
 - (vi) repair or redesign of engineered barriers;
 - (vii) revision of site operating procedures, site personnel training, waste segregation practices, and monitoring and testing programs;
 - (viii) revision of disposal methodology; and
 - (ix) revision of site waste acceptability criteria; and
- (D) identification of facility features which facilitate remedial actions, such as:
- (i) design of disposal units and engineered barriers which allows access for remedial action; and
 - (ii) other features necessary to implement the action plan.

(b) Prior to implementation of detailed site investigations, the applicant or the North Carolina Low-Level Radioactive Waste Management Authority shall develop a site characterization plan and submit it for approval by the agency to ensure that:

- (1) all available data on the site is obtained;
- (2) unnecessary laboratory and field investigations are not done;
- (3) required or desired data is obtained;
- (4) a proper sequencing and timely acquisition of the required or desired data is planned and executed;
- (5) site survey data stations will be designed and located, insofar as feasible, so as to serve as planned permanent monitoring stations as necessary; and
- (6) technical and administrative coordination of laboratory and field efforts is planned and executed.

(c) As site characterization proceeds, the applicant or the North Carolina Low-Level Radioactive Waste Management Authority and the agency shall together review the site characterization results and the site characterization plan at least once every 90 days to ensure that the plan is still valid. The site characterization plan shall be modified as required by the agency.

(d) Time-variant site characteristics that require site-specific measurements shall be measured at such frequency and duration so as to adequately define the seasonal range of the values. The

minimum period of measurement shall be one year and shall be supplemented, where possible, with regional data covering a longer time period.

Statutory Authority G.S. 104E-7; 104E-9(3); 104E-10(b); 104E-25; 104E-26.

.1229 SITE DESIGN FOR LAND DISPOSAL

(a) Shallow land burial is prohibited as provided in G.S. 104E-20(b).

(b) Site design features shall be directed toward long-term isolation and avoidance of the need for continuing active maintenance after site closure.

(c) The disposal site design and operation shall be compatible with the disposal site closure and stabilization plan and lead to disposal site closure that provides reasonable assurance that the performance objectives of this Section will be met.

(d) The disposal site shall be designed to complement and improve, where appropriate, the ability of the disposal site's natural characteristics to assure that the performance objectives of this Section will be met.

(e) Covers shall be designed to minimize water infiltration, to direct percolating or surface water away from the disposed waste, and to resist degradation by surface geologic processes and biotic activity.

(f) Surface features shall direct surface water drainage away from disposal units at velocities and gradients which will not result in erosion that will require ongoing active maintenance.

(g) The disposal site shall be designed to minimize the contact of water with waste during storage, the contact of standing water with waste during disposal, and the contact of percolating or standing water with wastes after disposal.

(h) The disposal units shall incorporate engineered barriers. The disposal units and incorporated engineered barriers shall be designed and constructed to meet the performance objectives, technical requirements and design criteria in G.S. 104E-25 and the following additional requirements:

- (1) The engineered barriers shall provide reasonable assurance that they will ~~complement~~ **complement**, and where appropriate improve, the land disposal facility's ability to isolate the radioactive waste through the institutional control period;
- (2) Engineered barrier structural integrity shall be maintained under normal and abnormal conditions of operation;
- (3) Engineered barriers shall prevent contact between the surrounding earth and the waste, except for earth that may be used as fill material within the disposal unit; and

- (4) The disposal units shall be constructed or emplaced in a manner which will ensure that the bottom of the disposal facility is at least seven feet above the seasonal high water table or more if necessary to meet the performance objectives of this Section.
- (i) The licensee shall develop, operate and maintain the site in a manner that will not diminish the hydrogeological performance of the site below the requirements contained in the Rules of this Section.

Statutory Authority G.S. 104E-7; 104E-10; 104E-25; 104E-26.

**SECTION .1300 - REQUIREMENTS FOR
WIRELINE-SERVICE OPERATORS AND
SUBSURFACE-TRACER STUDIES**

.1324 NOTIFICATION OF INCIDENTS:

ABANDONMENT: AND LOST SOURCES

(a) The licensee shall comply with the applicable notification requirements in Section .0400 of this Chapter for incidents and sources lost in other than downhole logging operations.

(b) Whenever a sealed source or device containing radioactive material is lodged downhole, the licensee shall:

- (1) monitor at the surface for the presence of radioactive contamination with a radiation survey instrument or logging tool during logging tool recovery operations; and
 - (2) notify the agency immediately by telephone if radioactive contamination is detected at the surface or if the source appears to be damaged.
- (c) When it becomes apparent that efforts to recover the radioactive source will not be successful, the licensee shall:
- (1) advise the well-operator of the rules of the appropriate state agency with jurisdiction over abandonment and appropriate method of abandonment, which shall include:
 - (A) the immobilization and sealing in place of the radioactive source with a concrete plug;
 - (B) the setting of a whipstock or other deflection device; and
 - (C) the mounting of a permanent identification plaque, at the surface of the well, containing the appropriate information required by (d) of this Rule;
 - (2) notify the agency by telephone, giving the circumstances of the loss and requesting approval of the proposed abandonment procedures; and

(3) file a written report with the agency within 30 days of the abandonment, setting forth the following information:

- (A) date of occurrence and a brief description of attempts to recover the source; and
- (B) a description of the radioactive source involved, including radionuclide, quantity, and chemical and physical form:
 - (i) surface location and identification of well,
 - (ii) results of efforts to immobilize and set the source in place,
 - (iii) depth of the radioactive source,
 - (iv) depth of the top of the cement plug,
 - (v) depth of the well, and
 - (vi) information contained on the permanent identification plaque.
- (d) Whenever a sealed source containing radioactive material is abandoned downhole, the licensee shall provide a permanent plaque for posting the well or well-bore. This plaque shall:
 - (1) be constructed of long-lasting material, such as stainless steel or monel, and
 - (2) contain the following information engraved on its face:
 - (A) the word "CAUTION";
 - (B) the radiation symbol without the conventional color requirement;
 - (C) the date of abandonment;
 - (D) the name of the well-operator or well owner;
 - (E) the well name and well identification number(s) or other designation;
 - (F) the sealed source(s) by radionuclide and quantity of activity;
 - (G) the source depth and the depth to the top of the plug; and
 - (II) an appropriate warning, depending on the specific circumstances of each abandonment, which may include:
 - (i) "Do not drill below plug back depth".
 - (ii) "Do not enlarge casing", or
 - (iii) "Do not re-enter the hole" before contacting the North Carolina Division of Radiation Protection Section at the address in Rule .0111 of this Chapter.
- (e) The licensee shall immediately notify the agency by telephone and subsequently by confirming letter if the licensee knows or has reason to believe that radioactive material has been lost in or to an underground potable water source. Such notice shall designate the well location and shall describe the magnitude and extent of loss of radioactive material, assess the consequences of such loss, and explain efforts planned or being taken to mitigate the consequences.

Statutory Authority G.S. 104E-7.

SECTION .1400 - TANNING FACILITIES

.1403 DEFINITIONS

As used in this Section, the following definitions shall apply:

- (1) "Agency" means the North Carolina Department of Environment, Health, and Natural Human Resources.
- (2) "Consumer" means any individual who is provided access to a tanning facility which is required to be registered pursuant to provisions of this Section.
- (3) "Individual" means any human being.
- (4) "Operator" means any individual designated by the registrant to operate or to assist and instruct the consumer in the operation and use of the tanning facility or tanning equipment.
- (5) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of these entities.
- (6) "Registrant" means any person who is registered with the agency as required by provisions of this Section.
- (7) "Registration" means registration with the agency in accordance with provisions of this Section.
- (8) "Tanning equipment" means ultraviolet or other lamps and equipment containing such lamps intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation.
- (9) "Tanning facility" means any location, place, area, structure or business which provides consumers access to tanning equipment. For the purpose of this definition tanning equipment registered to different persons at the same location and tanning equipment registered to the same person, but at separate locations, shall constitute separate tanning facilities.
- (10) "Ultraviolet radiation" means electromagnetic radiation with wavelengths in air between 200 nanometers and 400 nanometers.

Statutory Authority G.S. 104E-7(7).

.1405 APPLICATION FOR REGISTRATION OF TANNING FACILITIES

(a) Each person having a tanning facility on the effective date of this Rule shall apply for registration of such facility no later than 60 days following the effective date of this Rule.

(b) Each person acquiring or establishing a tanning facility after the effective date of this Rule shall apply to the agency for registration of such facility prior to beginning operation.

(c) The application required in (a) and (b) of this Rule shall be completed on forms provided by the agency and shall contain all the information required by such forms and any accompanying instructions.

(d) The agency shall require at least the following information on the forms provided for applying for registration of tanning facilities:

- (1) name, physical address, mail address and telephone number of the tanning facility;
- (2) name(s), mail address(es) and telephone number(s) of the owner(s) of the tanning facility.
- (3) name(s) of the tanning facility operator(s) with a certification of each operator's training as provided in Rules .1418(g) and (h) of this Section;
- (4) the manufacturer(s), model number(s) and type(s) of ultraviolet lamp(s) or tanning equipment located at the tanning facility;
- (5) name(s) of the tanning equipment supplier(s), installer(s) and service agent(s);
- (6) the geographic areas of the state to be covered, if the application is for a mobile tanning facility;
- (7) copies of any posted warnings or notices which are not required by this Section and which address the safety and proper use of tanning equipment and protective devices;
- (8) copies of the consent forms and statements which the consumer, parent or guardian will be required to sign pursuant to ~~Rules .1418(c)~~ Rule .1418(a) and (d) of this Section;
- (9) procedures which the operator(s) will be required to follow for the correct use of tanning equipment to include: instructions to the consumer, use of protective eyewear, suitability of prospective consumers for tanning equipment use, determination of duration of tanning exposures, periodic testing of tanning equipment and timers, handling of complaints of injury from consumers, and records to be maintained on each consumer; and

- (10) certification that the applicant has read and understands the requirements of the Rules in this Section, such certification to be signed and dated by the manager and the owner of the tanning facility.

Statutory Authority G.S. 104E-7(7).

**.1418 RECORDS: REPORTS AND
OPERATING REQUIREMENTS**

(a) Prior to initial exposure, the tanning facility operator shall provide each consumer the opportunity to read a copy of the warning specified in Rule .1414(b) of this Section and request that the consumer sign a statement that the information has been read and understood. For illiterate or visually impaired persons unable to sign their name, the warning statement shall be read by the operator, in the presence of a witness, and the witness and the operator shall sign the statement.

(b) The registrant shall maintain a record of each consumer's total number of tanning visits and dates and durations of tanning exposures.

(c) The registrant shall submit to the agency a written report of injury for which medical attention was sought or obtained from the use of registered tanning equipment within five working days after occurrence. The report shall include:

- (1) the name of the affected individual,
- (2) the name and location of the tanning facility involved,
- (3) the nature of the actual or alleged injury, and
- (4) any other information relevant to the actual or alleged injury, to include the date and duration of exposure and any documentation of medical attention sought or obtained.

(d) The registrant shall not allow individuals under the age of 18 to use tanning equipment unless the individual provides a consent form and a statement, described in Paragraph (a) of this Rule, signed by that individual's parent or legal guardian.

(e) The registrant shall replace defective or burned out lamps, bulbs or filters with a type intended for use in the affected tanning equipment as specified by the manufacturer's product label and having the same spectral distribution (certified equivalent lamp).

(f) The registrant shall replace ultraviolet lamps and bulbs, which are not otherwise defective or damaged, at such frequency or after such duration of use as may be recommended by the manufacturer of such lamps and bulbs.

(g) The registrant shall certify that all tanning equipment operators are adequately trained in at least the following:

- (1) the requirements of this Section,
- (2) procedures for correct operation of the tanning facility and tanning equipment,
- (3) recognition of injury or overexposure to ultraviolet radiation,
- (4) the tanning equipment manufacturer's procedures for operation and maintenance of the tanning equipment,
- (5) the determination of skin type of customers and appropriate determination of duration of exposure to registered tanning equipment, and
- (6) emergency procedures to be followed in case of injury.

(h) ~~No later than two years after the effective date of this Rule.~~ Effective January 1, 1993 the registrant shall allow operation of tanning equipment only by persons who have successfully completed formal training courses which cover the topics in Subparagraphs (g)(1) to (6) of this Rule and have been approved by the agency.

(i) The registrant shall maintain a record of operator training required in Paragraphs (g) and (h) of this Rule for inspection by authorized representatives of the agency.

Statutory Authority G.S. 104E-7(7).

**.1419 COMMUNICATIONS WITH THE
AGENCY: AGENCY ADDRESS**

Applications for registration, reports, notifications and other communications required by this Section shall be ~~directed~~ mailed to the Division of Radiation Protection Section, Division of Family Services, P. O. Box 27687, 704 Barbour Drive, Raleigh, North Carolina 27603-2008, 27611-7687 or delivered to the agency at its office located at 3825 Barrett Drive, Raleigh, North Carolina 27609-7221.

Statutory Authority G.S. 104E-7(7).

RRC OBJECTIONS

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

Temporary Rules are noted by "". These Rules have already gone into effect.*

ADMINISTRATION

State Construction

<i>1 NCAC 30F .0101 - Authority</i>	<i>RRC Objection</i>	<i>10 17 91</i>
<i>1 NCAC 30F .0103 - Definitions</i>	<i>RRC Objection</i>	<i>10 17 91</i>
<i>1 NCAC 30F .0202 - Pre-Bid Conferences and Site Reviews</i>	<i>RRC Objection</i>	<i>10 17 91</i>
<i>1 NCAC 30F .0301 - Definitions</i>	<i>RRC Objection</i>	<i>10 17 91</i>
<i>1 NCAC 30F .0302 - Overall Job Performance</i>	<i>RRC Objection</i>	<i>10 17 91</i>
<i>1 NCAC 30F .0303 - Interim Contractor Evaluation</i>	<i>RRC Objection</i>	<i>10 17 91</i>
<i>1 NCAC 30F .0305 - Report Compilation</i>	<i>RRC Objection</i>	<i>10 17 91</i>
<i>1 NCAC 30F .0401 - Post-Occupancy Evaluation</i>	<i>RRC Objection</i>	<i>10 17 91</i>
<i>1 NCAC 30F .0403 - Appeals of Assigned Eval or Disqual from Bidding</i>	<i>RRC Objection</i>	<i>10 17 91</i>

AGRICULTURE

Plant Industry

<i>2 NCAC 9M .0001 - Manufacturer Registration</i>	<i>RRC Objection</i>	<i>10 17 91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10 17 91</i>
<i>2 NCAC 48A .1701 - Definitions</i>	<i>RRC Objection</i>	<i>10 17 91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10 17 91</i>
<i>2 NCAC 48A .1702 - Noxious Weeds</i>	<i>RRC Objection</i>	<i>10 17 91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10 17 91</i>
<i>2 NCAC 48A .1703 - Regulated Areas</i>	<i>RRC Objection</i>	<i>10 17 91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10 17 91</i>
<i>2 NCAC 48A .1704 - Regulated Articles</i>	<i>RRC Objection</i>	<i>10 17 91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10 17 91</i>
<i>2 NCAC 48E .0101 - Definitions</i>	<i>RRC Objection</i>	<i>10 17 91</i>
<i>Agency Revised Rule</i>	<i>RRC Objection</i>	<i>10 17 91</i>

ECONOMIC AND COMMUNITY DEVELOPMENT

Credit Union Division

<i>4 NCAC 6C .0311 - Surety Bond and Insurance Coverage</i>	<i>RRC Objection</i>	<i>11 21 91</i>
<i>4 NCAC 6C .0401 - Delinquent Loans and Loan Losses</i>	<i>RRC Objection</i>	<i>11 21 91</i>
<i>4 NCAC 6C .0402 - Charge-Off of Uncollectible Loans</i>	<i>RRC Objection</i>	<i>11 21 91</i>
<i>4 NCAC 6C .0403 - Real Estate Loans</i>	<i>RRC Objection</i>	<i>11 21 91</i>
<i>4 NCAC 6C .1301 - Liquidity Reserves</i>	<i>RRC Objection</i>	<i>11 21 91</i>

Employment and Training

<i>* 4 NCAC 20B .0903 - Allocation of Grants</i>	<i>ARRC Objection</i>	<i>8 22 91</i>
<i>No Response from Agency</i>		<i>9 19 91</i>
<i>No Response from Agency</i>		<i>10 17 91</i>
<i>* 4 NCAC 20B .0905 - Eligibility</i>	<i>ARRC Objection</i>	<i>8 22 91</i>
<i>No Response from Agency</i>		<i>9 19 91</i>

RRC OBJECTIONS

<i>No Response from Agency</i>		10/17/91
* 4 NCAC 20B .0907 - Cost Limitations Categories	ARRC Objection	8/22/91
<i>No Response from Agency</i>		9/19/91
<i>No Response from Agency</i>		10/17/91
* 4 NCAC 20B .0908 - Reporting	ARRC Objection	8/22/91
<i>No Response from Agency</i>		9/19/91
<i>No Response from Agency</i>		10/17/91
* 4 NCAC 20B .0909 - Performance Standards	ARRC Objection	8/22/91
<i>No Response from Agency</i>		9/19/91
<i>No Response from Agency</i>		10/17/91
* 4 NCAC 20B .0911 - Fund Availability	ARRC Objection	8/22/91
<i>No Response from Agency</i>		9/19/91
<i>No Response from Agency</i>		10/17/91

EDUCATION

Elementary and Secondary Education

16 NCAC 6B .0001 - School Bus Drivers	ARRC Objection	9/19/91
<i>Agency Revised Rule</i>	Obj. Removed	10/17/91
16 NCAC 6D .0103 - Graduation Requirements	ARRC Objection	9/19/91
<i>No Response from Agency</i>		10/17/91
* 16 NCAC 6E .0301 - Driver Training	ARRC Objection	8/22/91
<i>Agency Responded</i>		9/19/91
<i>Agency Revised Rule</i>	Obj. Removed	10/17/91

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Adult Health

15A NCAC 16A .0804 - Financial Eligibility	ARRC Objection	1/18/91
<i>No Response from Agency</i>		2/25/91
<i>Agency Responded</i>	No Action	3/21/91
<i>No Response from Agency</i>	No Action	4/18/91
15A NCAC 16A .0806 - Billing the HIV Health Services Program	ARRC Objection	1/18/91
<i>No Response from Agency</i>		2/25/91
<i>Agency Responded</i>	No Action	3/21/91
<i>No Response from Agency</i>	No Action	4/18/91

Coastal Management

15A NCAC 7J .0301 - Who is Entitled to a Contested Case Hearing	ARRC Objection	9/19/91
<i>No Response from Agency - Rule Returned to Agency</i>		10/17/91
15A NCAC 7J .0302 - Petition for Contested Case Hearing	ARRC Objection	9/19/91
<i>No Response from Agency - Rule Returned to Agency</i>		10/17/91
15A NCAC 7J .0402 - Criteria for Grant or Denial of Permit Applications	RRC Objection	10/17/91
15A NCAC 7M .0201 - Declaration of General Policy	RRC Objection	10/17/91
15A NCAC 7M .0202 - Policy Statements	RRC Objection	10/17/91
15A NCAC 7M .0303 - Policy Statements	RRC Objection	10/17/91
15A NCAC 7M .0403 - Policy Statements	RRC Objection	10/17/91
15A NCAC 7M .0901 - Declaration of General Policy	RRC Objection	10/17/91

Environmental Management

15A NCAC 2D .1102 - Applicability	ARRC Objection	8/22/91
	No Action	9/19/91

RRC OBJECTIONS

<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10 17 91</i>
<i>15A NCAC 2D .1208 - Operator Training Requirements</i>	<i>ARRC Objection</i>	<i>8 22 91</i>
<i>Agency Withdrew Rule</i>	<i>No Action</i>	<i>9 19 91</i>
		<i>10 17 91</i>

Forest Resources

<i>15A NCAC 9C .1007 - America the Beautiful Grant Program</i>	<i>ARRC Objection</i>	<i>9 19 91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9 19 91</i>

Health: Epidemiology

<i>15A NCAC 19A .0202 - Control Measures - HIV</i>	<i>RRC Objection</i>	<i>10 17 91</i>
<i>15A NCAC 19H .0702 - Research Requests</i>	<i>RRC Objection</i>	<i>11 21 91</i>

Wildlife

<i>15A NCAC 10A .1001 - Particular Offenses</i>	<i>ARRC Objection</i>	<i>9 19 91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9 19 91</i>

HUMAN RESOURCES

Aging

<i>10 NCAC 22M .0101 - Scope of Care Management</i>	<i>ARRC Objection</i>	<i>9 19 91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10 17 91</i>
<i>10 NCAC 22M .0102 - Definitions</i>	<i>ARRC Objection</i>	<i>9 19 91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10 17 91</i>
<i>10 NCAC 22M .0103 - Target Population</i>	<i>ARRC Objection</i>	<i>9 19 91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10 17 91</i>
<i>10 NCAC 22M .0203 - Assessment and Reassessment</i>	<i>ARRC Objection</i>	<i>9 19 91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10 17 91</i>
<i>10 NCAC 22M .0204 - Care Planning</i>	<i>ARRC Objection</i>	<i>9 19 91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10 17 91</i>
<i>10 NCAC 22N .0101 - Definitions for Confidentiality of Client Data</i>	<i>ARRC Objection</i>	<i>9 19 91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10 17 91</i>
<i>10 NCAC 22N .0205 - Security of Records</i>	<i>ARRC Objection</i>	<i>9 19 91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10 17 91</i>
<i>10 NCAC 22N .0208 - Client Access to Records</i>	<i>ARRC Objection</i>	<i>9 19 91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10 17 91</i>

Children's Services

<i>10 NCAC 411 .0304 - Receiving Info: Initiating Prompt Invest of Rpts</i>	<i>RRC Objection</i>	<i>10 17 91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10 17 91</i>
<i>10 NCAC 411 .0406 - Responsibility for Training of Team Members</i>	<i>ARRC Objection</i>	<i>7 18 91</i>
<i>Pending Correction</i>		<i>8 22 91</i>

Economic Opportunity

<i>* 10 NCAC 51F .0102 - Definitions</i>	<i>ARRC Objection</i>	<i>8 22 91</i>
<i>No Response from Agency</i>		<i>9 19 91</i>
<i>Agency Responded</i>	<i>No Action</i>	<i>10 17 91</i>
<i>* 10 NCAC 51F .0202 - Ineligible Activities</i>	<i>ARRC Objection</i>	<i>8 22 91</i>
<i>No Response from Agency</i>		<i>9 19 91</i>
<i>Agency Responded</i>	<i>No Action</i>	<i>10 17 91</i>

RRC OBJECTIONS

* 10 NCAC 51F .0402 - Eligibility Requirements	ARRC Objection	8/22/91
No Response from Agency		9/19/91
Agency Responded	No Action	10/17/91
* 10 NCAC 51F .0501 - Grant Agreement	ARRC Objection	8/22/91
No Response from Agency		9/19/91
Agency Responded	No Action	10/17/91

Facility Services

10 NCAC 3C .1927 - Brain Injury Extended Care Phys Services	RRC Objection	10/17/91
Agency Revised Rule	Obj. Removed	10/17/91
10 NCAC 3J .2905 - Personal Hygiene Items	RRC Objection	10/17/91
10 NCAC 3J .3202 - Health Screening Form	RRC Objection	10/17/91
Agency Revised Rule	Obj. Removed	10/17/91
10 NCAC 3J .3926 - Health Screening Form	RRC Objection	10/17/91
Agency Revised Rule	Obj. Removed	10/17/91
10 NCAC 3U .0604 - General Safety Requirements	ARRC Objection	8/22/91
Agency Revised Rules	Obj. Removed	9/19/91
10 NCAC 3U .0804 - Infectious and Contagious Diseases	ARRC Objection	8/22/91
Agency Revised Rules	Obj. Removed	9/19/91

Individual and Family Support

10 NCAC 42H .0908 - Competency Requirements	RRC Objection	10/17/91
Agency Revised Rule	Obj. Removed	10/17/91
10 NCAC 42H .0909 - Time Frames for Completing Competency Req.	RRC Objection	10/17/91
Agency Revised Rule	Obj. Removed	10/17/91
10 NCAC 42H .0911 - Selection of Aides	RRC Objection	10/17/91
Agency Revised Rule	Obj. Removed	10/17/91
10 NCAC 42H .0913 - Quality Assurance Requirements	RRC Objection	10/17/91
Agency Revised Rule	Obj. Removed	10/17/91

Medical Assistance

10 NCAC 26H .0108 - Reimbursement Methods/State-Operated Facilities	RRC Objection	10/17/91
10 NCAC 50B .0305 - Deprivation	ARRC Objection	8/22/91
Agency Revised Rule	Obj. Removed	8/22/91

Mental Health: General

10 NCAC 14K .0103 - Definitions	ARRC Objection	9/19/91
Agency Revised Rule	Obj. Removed	9/19/91
10 NCAC 14K .0320 - Incident Reporting	ARRC Objection	9/19/91
Agency Revised Rule	Obj. Removed	9/19/91
10 NCAC 14K .0337 - Emergency Care Permission	ARRC Objection	9/19/91
Agency Revised Rule	Obj. Removed	9/19/91
10 NCAC 14K .0351 - Administration of Medication	ARRC Objection	9/19/91
Agency Revised Rule	Obj. Removed	9/19/91
10 NCAC 14M .0206 - Day Services	ARRC Objection	9/19/91
Agency Revised Rule	Obj. Removed	9/19/91
10 NCAC 14M .0209 - Community Resources	ARRC Objection	9/19/91
Agency Revised Rule	Obj. Removed	9/19/91
10 NCAC 14M .0409 - Community Resources	ARRC Objection	9/19/91
Agency Revised Rule	Obj. Removed	9/19/91
10 NCAC 14O .0310 - Provision of Appropriate Activities	ARRC Objection	9/19/91

RRC OBJECTIONS

<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 14P .0101 - Scope</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 14P .0102 - Definitions</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 14Q .0101 - Policy Rights Restrictions Interventions</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 14R .0104 - Seclusion Restraint Isolation Time Out</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 14R .0105 - Protective Devices</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 14S .0102 - Communication Rights</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Responded</i>		<i>10/17/91</i>
<i>10 NCAC 14S .0103 - Living Environment</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Responded</i>		<i>10/17/91</i>

Mental Health: Other Programs

<i>10 NCAC 18A .0127 - Certification</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 18A .0128 - Out-of-Compliance Finding</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 18A .0135 - Appeals and Waivers</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>10 NCAC 18L .0603 - Svc Purpose Eligibility Requirements</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 18M .0704 - Staff Requirements</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>10 NCAC 18Q .0809 - Agreement Between Resident and Program</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>

JUSTICE

Criminal Information

<i>12 NCAC 4E .0103 - Advisory Policy Board</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>12 NCAC 4E .0104 - Definitions</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>12 NCAC 4E .0106 - Manuals</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>12 NCAC 4E .0203 - Non-Terminal Access</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>12 NCAC 4E .0301 - User Agreement</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>12 NCAC 4E .0302 - User Access Fee Agreement</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>12 NCAC 4E .0401 - DCI Terminal Operator</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>12 NCAC 4E .0403 - Suspension Revocation of Operator Certification</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>12 NCAC 4F .0203 - Hit Confirmation</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>12 NCAC 4F .0301 - Arrest Fingerprint Card</i>	<i>ARRC Objection</i>	<i>9/19/91</i>

RRC OBJECTIONS

<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>12 NCAC 4F .0404 - Ind's Right Review His Her Crim History Record</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>12 NCAC 4F .0405 - Use, CCH Lic, Non-Criminal Justice Emp Purposes</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>12 NCAC 4F .0501 - Expungements</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>12 NCAC 4G .0102 - Penalty Provisions</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>12 NCAC 4G .0201 - Notice of Violation</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>12 NCAC 4G .0301 - Informal Hearing Procedure</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>

LICENSING BOARDS AND COMMISSIONS

Architecture

<i>21 NCAC 2 .0211 - Unauthorized Practice</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>21 NCAC 2 .0601 - Committee on Investigations</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>

Certified Public Accountant Examiners

<i>* 21 NCAC 8G .0313 - Firm Name</i>	<i>RRC Objection</i>	<i>10/17/91</i>
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Electrolysis Examiners

<i>* 21 NCAC 19 .0202 - App Licensure, Electrologist Practicing 1/1/92</i>	<i>RRC Objection</i>	<i>11/21/91</i>
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Practicing Psychologists

<i>21 NCAC 54 .1701 - Information Required</i>	<i>ARRC Objection</i>	<i>8/22/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
<i>21 NCAC 54 .2103 - Reinstatement</i>	<i>ARRC Objection</i>	<i>8/22/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>

STATE PERSONNEL

Office of State Personnel

<i>25 NCAC 1L .0301 - Purpose</i>	<i>RRC Objection</i>	<i>11/21/91</i>
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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.

15A NCAC 7J .0301 - WHO IS ENTITLED TO A CONTESTED CASE HEARING

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 15A NCAC 7J .0301(b) void as applied in *Lucy R. Hanson, Stanley P. and Jean C. Szwed, Petitioners v. N.C. Department of Environment, Health, and Natural Resources, Division of Coastal Management, Respondent* (91 FHR 0551, 91 FHR 0557).

15A NCAC 21D .0802(b)(2) - AVAILABILITY

Robert Roosevelt Reilly Jr., Administrative Law Judge with the Office of Administrative Hearings, declared Rule 15A NCAC 21D .0802(b)(2) void as applied in *Wilson's Supermarket #12, Petitioner v. Department of Environment, Health, and Natural Resources, Respondent* (91 EHR 0795).

15A NCAC 21D .0805 - DECISION

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 15A NCAC 21D .0805 void as applied in *Glenn E. Davis Davis Grocery, Petitioner v. N.C. Department of Environment, Health, and Natural Resources, Division of Maternal and Child Health, WIC Section, Respondent* (91 FHR 0694).

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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4	Economic and Community Development	Certified Public Accountant Examiners	8
5	Correction	Chiropractic Examiners	10
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7	Cultural Resources	Cosmetic Art Examiners	14
8	Elections	Dental Examiners	16
9	Governor	Electrical Contractors	18
10	Human Resources	Foresters	20
11	Insurance	Geologists	21
12	Justice	Hearing Aid Dealers and Fitters	22
13	Labor	Landscape Architects	26
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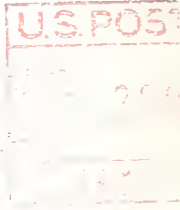
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