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The **NORTH CAROLINA REGISTER**

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Environment, Health, and Natural Resources
Medical Examiners

LIST OF RULES CODIFIED

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ISSUE DATE: December 1, 1993

Volume 8 • Issue 17 • Pages 1569 - 1719



INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published twice a month 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 notices of public hearings filed under G.S. 150B-21.2 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. Individual issues may be purchased for eight dollars (\$8.00).

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

ADOPTION AMENDMENT, AND REPEAL OF RULES

The following is a generalized statement of the procedures to be followed for an agency to adopt, amend, or repeal a rule. For the specific statutory authority, please consult Article 2A of Chapter 150B of the General Statutes.

Any 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 (or instructions on how a member of the public may request a hearing); a statement of procedure for public comments; the text of the proposed rule or the statement of subject matter; the reason for the proposed action; a reference to the statutory authority for the action and the proposed effective date.

Unless a specific statute provides otherwise, at least 15 days must elapse following publication of the notice in the *North Carolina Register* before the agency may conduct the public hearing and at least 30 days must elapse before the agency can take action on the proposed rule. An agency may not adopt a rule that differs substantially from the proposed form published as part of the public notice, until the adopted version has been published in the *North Carolina Register* for an additional 30 day comment period.

When final action is taken, the promulgating agency must file the rule with the Rules Review Commission (RRC). After approval by RRC, the adopted rule is filed with the Office of Administrative Hearings (OAH).

A rule or amended rule generally becomes effective 5 business days after the rule is filed with the Office of Administrative Hearings for publication in the North Carolina Administrative Code (NCAC).

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency or before filing with OAH for publication in the NCAC.

TEMPORARY RULES

Under certain emergency conditions, agencies may issue temporary rules. Within 24 hours of submission to OAH, the Codifier of Rules must review the agency's written statement of findings of need for the temporary rule pursuant to the provisions in G.S. 150B-21.1. If the Codifier determines that the findings meet the criteria in G.S. 150B-21.1, the rule is entered into the NCAC. If the Codifier determines that the findings do not meet the criteria, the rule is returned to the agency. The agency may supplement its findings and resubmit the temporary rule for an additional review or the agency may respond that it will remain with its initial position. The Codifier, thereafter, will enter the rule into the NCAC. A temporary rule becomes effective either when the Codifier of Rules enters the rule in the Code or on the sixth business day after the agency resubmits the rule without change. The temporary rule is in effect for the period specified in the rule or 180 days, whichever is less. An agency adopting a temporary rule must begin rule-making procedures on the permanent rule at the same time the temporary rule is filed with the Codifier.

NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size, single spaced pages of material of which approximately 35% of is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-21.18.

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

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 10 pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 53 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication are available.

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

CITATION TO THE NORTH CAROLINA REGISTER

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

FOR INFORMATION CONTACT: Office of
Administrative Hearings, ATTN: Rules Division, P.O.
Drawer 27447, Raleigh, North Carolina 27611-7447, (919)
733-2678.

NORTH CAROLINA REGISTER



Office of Administrative Hearings
P. O. Drawer 27447
Raleigh, North Carolina 27611-7447
(919) 733-2678

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

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

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NORTH CAROLINA REGISTER

Publication Schedule (July 1993 - May 1994)

Volume and Issue Number	Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing <i>15 days from notice</i>	* End of Required Comment Period <i>30 days from notice</i>	Last Day to Submit to RRC	** Earliest Effective Date
8:7	07/01/93	06/10/93	06/17/93	07/16/93	08/02/93	08/20/93	10/01/93
8:8	07/15/93	06/23/93	06/30/93	07/30/93	08/16/93	08/20/93	10/01/93
8:9	08/02/93	07/12/93	07/19/93	08/17/93	09/01/93	09/20/93	11/01/93
8:10	08/16/93	07/26/93	08/02/93	08/31/93	09/15/93	09/20/93	11/01/93
8:11	09/01/93	08/11/93	08/18/93	09/16/93	10/01/93	10/20/93	12/01/93
8:12	09/15/93	08/24/93	08/31/93	09/30/93	10/15/93	10/20/93	12/01/93
8:13	10/01/93	09/10/93	09/17/93	10/18/93	11/01/93	11/22/93	01/01/94
8:14	10/15/93	09/24/93	10/01/93	11/01/93	11/15/93	11/22/93	01/01/94
8:15	11/01/93	10/11/93	10/18/93	11/16/93	12/01/93	12/20/93	02/01/94
8:16	11/15/93	10/22/93	10/29/93	11/30/93	12/15/93	12/20/93	02/01/94
8:17	12/01/93	11/05/93	11/15/93	12/16/93	01/03/94	01/20/94	03/01/94
8:18	12/15/93	11/24/93	12/01/93	12/30/93	01/14/94	01/20/94	03/01/94
8:19	01/03/94	12/08/93	12/15/93	01/18/94	02/02/94	02/21/94	04/01/94
8:20	01/14/94	12/21/93	12/30/93	01/31/94	02/14/94	02/21/94	04/01/94
8:21	02/01/94	01/10/94	01/18/94	02/16/94	03/03/94	03/21/94	05/01/94
8:22	02/15/94	01/25/94	02/10/94	03/02/94	03/17/94	03/21/94	05/01/94
8:23	03/01/94	02/08/94	02/15/94	03/16/94	03/31/94	04/20/94	06/01/94
8:24	03/15/94	02/22/94	03/10/94	03/30/94	04/14/94	04/20/94	06/01/94
9:1	04/04/94	03/11/94	03/18/94	04/19/94	05/04/94	05/20/94	07/01/94
9:2	04/15/94	03/24/94	03/31/94	05/02/94	05/16/94	05/20/94	07/01/94
9:3	05/02/94	04/11/94	04/18/94	05/17/94	06/01/94	06/20/94	08/01/94
9:4	05/16/94	04/25/94	05/02/94	05/31/94	06/15/94	06/20/94	08/01/94

Note: Time is computed according to the Rules of Civil Procedure, Rule 6.

* An agency must accept comments for at least 30 days after the proposed text is published or until the date of any public hearing, whichever is longer. See G.S. 150B-21.2(f) for adoption procedures.

** 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.

Revised 07/93

This Section contains public notices that are required to be published in the Register or have been approved by the Codifier of Rules for publication.

U.S. Department of Justice

Civil Rights Division

JPT:GS:TGL:emr
DJ 166-012-3
93-2899

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

October 13, 1993

David A. Holec, Esq.
City Attorney
P. O. Box 1388
Lumberton, North Carolina 28359

Dear Mr. Holec:

This refers to the August 9, 1993, annexation to the City of Lumberton in Robeson 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 August 17, 1993.

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,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division

By:

Steven H. Rosenbaum
Chief, Voting Section

TITLE 4 - DEPARTMENT OF COMMERCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina State Ports Authority intends to amend rule cited as 4 NCAC 13E .0901.

The proposed effective date of this action is March 1, 1994.

Instructions on How to Demand a Public Hearing (must be requested in writing within 15 days of notice): By mailing a request for public hearing to Thomas J. Green, Jr. at: P.O. Box 9002, 2202 Burnett Boulevard, Wilmington, N.C. 28402 on or before January 14, 1994.

Reason for Proposed Action: To update SPA traffic laws.

Comment Procedures: Comments may be made in writing to Thomas J. Green, Jr., North Carolina State Ports Authority, P.O. Box 9002, Wilmington, North Carolina on or before January 14, 1994.

CHAPTER 13 - STATE PORTS AUTHORITY

SUBCHAPTER 13E - SECURITY AND SAFETY

SECTION .0900 - SCHEDULES

.0901 WILMINGTON ORDINANCE SCHEDULES

(a) The following schedule lists maximum speed limits for specified streets in the Wilmington Terminal:

<u>NAME OF STREET</u>	<u>MAXIMUM SPEED LIMIT</u>
Myers Boulevard	20 MPH
Woodbine Street	20 MPH
Warehouse Road	20 MPH
Industrial Road	20 MPH
Commerce Street	20 MPH
Crescent Street	20 MPH
First Street	20 MPH
Second Street	20 MPH
Third Street	20 MPH
Fourth Street	20 MPH
Fifth Street	20 MPH
Maritime Boulevard	20 MPH
Sixth Street	20 MPH
Seventh Street	20 MPH
Eighth Street	20 MPH
Ninth Street	20 MPH
Tenth Street	20 MPH
Eleventh Street	20 MPH
Twelfth Street	20 MPH
Thirteenth Street	20 MPH
Fourteenth Street	20 MPH
Inside all Transit and Storage Buildings	10 MPH
All Open Berth Areas	15 MPH

(b) The following schedule lists the locations of stop signs in the Wilmington Terminal:

Myers Boulevard at North Gate House.

West side of Transit Road at intersection of Warehouse Road.
Northeast corner of Warehouse Road and First Street.
Northwest corner of Warehouse Road and Fourth Street.
Northwest corner of Fifth Street and Industrial Road.
Southeast corner of Fifth Street and Industrial Road.
Northwest corner of Maritime Boulevard and Industrial Road.
Southeast corner of Maritime Boulevard and Industrial Road.
Southeast corner of Maritime Boulevard and Transit Road.
Northwest corner of Maritime Boulevard and Fifth Street.
Southeast corner of Maritime Boulevard and Commerce Street.
Maritime Boulevard at Gate House.
Northeast corner of Industrial Road and Sixth Street.
Southwest corner of Commerce Street and Sixth Street.
Southwest corner of Industrial Road and Seventh Street.
Southeast corner of Warehouse Road and Seventh Street.
Northeast corner of Warehouse Road and Eighth Street.
Southwest corner of Industrial Road and Eighth Street.
Northeast corner of Industrial Road and Crescent Street.
Northeast corner of Warehouse Road and Ninth Street.
Southwest corner of Industrial Road and Ninth Street.
Northeast corner of Industrial Road and Tenth Street.
Northwest corner of Crescent Street and Tenth Street.
Southwest corner of Commerce Street and Tenth Street.
Northeast corner of Warehouse Road and Eleventh Street.
Southwest corner of Industrial Road and Eleventh Street.
Northeast corner of Sixth Street and Industrial Road.
Southeast corner of Eleventh Street and Industrial Road.
Northeast corner of Industrial Road and Commerce Street.

(c) The following schedule lists the locations of yield signs in the Wilmington Terminal:

Northwest corner of Transit Road and Woodbine Street.
Southeast corner of Transit Road and RR Scale Road.
Southwest corner of Transit Road and No. 1 Ramp.
Southwest corner of Transit Road and No. 2 Ramp.
Northeast corner of Transit Road and Second Street.
Southwest corner of Warehouse Road and Second Street.
Southwest corner of Transit Road and No. 3 Ramp.
Northeast corner of Transit Road and Third Street.
Southwest corner of Warehouse Road and Third Street.
Northwest corner of Industrial Road and Third Street.
Southwest corner of Transit Road and No. 4 Ramp.
Northeast corner of Transit Road and Fourth Street.
Southwest corner of Industrial Road and Fourth Street.
Northeast corner of Industrial Road and Fourth Street.
Southwest corner of Transit Road and No. 5 Ramp.
Southwest corner of Transit Road and No. 6 Ramp.
Northeast corner of Transit Road and Maritime Boulevard.
West Exit of Parking Lot at Maritime Boulevard and Industrial Road.
Southwest corner of Transit Road and No. 7 Ramp.
Northeast corner of Transit Road and Seventh Street.
Northwest corner of Warehouse Road and Commerce Street.
Northwest corner of Industrial Road and Commerce Street.
Southeast corner of Fifth Street and Industrial Road.
Southeast corner of Industrial Road and Twelfth Street.

(d) The following schedule lists the locations of railroad warning signs in the Wilmington Terminal:

North side of Transit Road and North Gate Crossing.

South side of Transit Road at North Gate Crossing.
North side of Transit Road at intersection of Warehouse Road.
South side of Transit Road at intersection of Warehouse Road.
East side of Warehouse Road at intersection of Transit Road.
Northwest corner of Third Street and Industrial Road.
Southeast corner of Third Street and Warehouse Road.
Northwest corner of Fourth Street and Industrial Road.
South side of Fourth Street south of Cargo Shelter No. 1.
West side of Transit Road at Lumber Ramp Crossing.
East side of Transit Road at Lumber Ramp Crossing.
North side of Maritime Boulevard at East Lumber Yard Crossing.
South side of Maritime Boulevard at East Lumber Yard Crossing.
South side of Maritime Boulevard at Main Gate Crossing.
North side of Maritime Boulevard at Main Gate Crossing.
South side of Industrial Road at Twelfth Street Crossing.
North side of Industrial Road at Twelfth Street Crossing.

- (e) The following schedule lists the locations of no thru traffic signs in the Wilmington Terminal:

Southwest corner of Warehouse Road and First Street.
Northeast corner of Warehouse Road and Fourth Street.
Warehouse Road.
Inside all transit and storage buildings.

- (f) The following schedule lists the locations of do not enter signs in the Wilmington Terminal:
Southwest corner of Transit Road and RR Scale Road.

- (g) The following schedule lists parking ordinances in the Wilmington Terminal:

- (1) The following schedule lists the locations of no parking between signs areas:

Southwest corner of Transit Road and Ramp No. 1 to west side of Transit Road opposite loading door No. 6 of Transit Shed No. 1.
West side of Transit Road opposite loading door No. 4 of Transit Shed No. 2, to Northwest corner of Transit Road and Ramp No. 2.
East side of Transit Road from North end of Warehouse No. 3 to North side of Personnel Office.
East side of Transit Road from South side of Personnel Office to Northeast corner of Transit Road and Second Street.
Southeast corner of Transit Road and Second Street to East side of Transit Road opposite loading door No. 4 in Warehouse No. 1.
Southeast corner of Transit Road and Third Street to Northeast corner of Transit Road and Fourth Street.
Southeast corner of Transit Road and Maritime Boulevard to Northeast corner of Transit Road and Seventh Street.
Southwest corner of Warehouse Road and Third Street to Northwest corner of Warehouse Road and Fourth Street.
Southeast corner of Warehouse Road and Third Street to Northeast corner of Warehouse Road and Fourth Street.

- (2) The following schedule lists the areas in which parking is prohibited and no parking signs will be erected:

Northwest corner of Eleventh Street.
Northwest corner of Ninth Street.
South corner of Transit Shed Number 4.
Northwest corner of Maritime Boulevard.
Open Berths 1, 2, 3, 4, 5, 6, 7, 8 and 9.
Transit Sheds T-2, T-3, T-4, T-5, T-6 and T-7.
Storage Sheds W-3, W-4 and W-5.

- (h) The following schedule lists the areas in which smoking is prohibited in the Wilmington Terminal:

- (1) Smoking is prohibited in all areas west of the railroad tracks along Transit Road and on the South Open Berth. Smoking will be permitted only within designated smoking areas.
(2) Smoking is also prohibited in Storage Warehouses 1, 2, 3, and 4 and Cargo Shelter 1 and signs

are posted in the following locations:

- North and South ends of East and West sides of Transit Shed 1.
- North and South ends of East and West sides of Transit Shed 2.
- North and South ends of East and West sides of Transit Shed 3.
- North and South ends of East and West sides of Transit Shed 4.
- North and South ends of East and West sides of Warehouse 1.
- North and South ends of East and West sides of Warehouse 2.
- North and South ends of East and West sides of Warehouse 3.
- North and South ends of East and West sides of Warehouse 4.
- North and South ends of Cargo Shelter 1.

- (i) The following schedule lists streets in the Wilmington Terminal which are one way:

Twelfth Street is limited to one-way traffic with such traffic moving from Industrial Road eastbound to Pennsylvania Avenue.

- (j) The following schedule lists parking regulations in effect on the North Carolina Maritime Building -- Wilmington facility:

- (1) The three parking areas adjacent to the North Carolina Maritime Building, 2202 Burnett Boulevard, Wilmington, N.C., and identified as parking areas one, two and three are restricted as follows:
 - (A) Parking area number one immediately north of the North Carolina Maritime Building shall be by assignment only. The executive director is hereby authorized to make assignments to individuals or companies for the parking of automobiles in this area.
 - (B) Parking area number two paralleling the driveway immediately east of the North Carolina Maritime Building is restricted to visitors to the North Carolina Maritime Building.
 - (C) Parking area number three to the south of the North Carolina Maritime Building is restricted to employees of the Ports Authority or employees of tenants on the Port Authority's premises or visitors and guests of the Ports Authority or its tenants.
- (2) Vehicles parked in violation of the foregoing regulations may be towed away at the owner's expense.

Statutory Authority G.S. 143B-461.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Marine Fisheries Commission intends to amend rules cited as 15A NCAC 3H .0001, .0003; 3I .0001, .0010; 3J .0103 -.0104, .0107, .0301, .0303; 3K .0102 -.0103, .0105, .0201 -.0202, .0301; 3L .0102, .0202; 3M .0201, .0507; 3N .0005; 3O .0101 -.0102, .0108, .0201, .0203 -.0206, .0208 -.0209; 3R .0002, .0004 -.0007; adopt rules cited as 15A NCAC 3I .0014; 3M .0511; repeal rule cited as 15A NCAC 3K .0203.

The proposed effective date of this action is March 1, 1994.

The public hearing will be conducted on the dates, times and locations:

January 4, 1994

7:00 p.m.

Guilford County Courthouse
201 S. Eugene St.
Courtroom 2A
Greensboro

January 5, 1994

7:00 p.m.

Pamlico Community College
Highway 306
Grantsboro

January 6, 1994

7:00 p.m.

Pitt Community College
Fulford Building (formerly Health Science Bldg.)
Room 153
Highway 11 South
Greenville

January 8, 1994

1:00 p.m.

NC Aquarium - Auditorium
Airport Road

Roanoke Island
Manteo

January 10, 1994

7:00 p.m.

University of North Carolina, Wilmington
Kenan Auditorium
601 S. College Rd.
Wilmington

January 11, 1994

7:00 p.m.

Joslyn Hall
Carteret Community College
Arendell Street
Morehead City

BUSINESS SESSION:

The Marine Fisheries Commission will conduct a Business Session on January 14 and 15, 1994, at Shell Island Resort, 2700 N. Lumina Avenue, Wrightsville Beach, beginning at 9:00 A.M. on the morning of January 14, to decide on these proposed rules.

Reason for Proposed Action:

15A NCAC 3H .0001 - IDENTIFICATION INFORMATION; technical amendment to correct addresses of three field offices.

15A NCAC 3H .0003 - DELEGATION OF AUTHORITY TO FISHERIES DIRECTOR; to include authority to grant leases delegated by the Secretary of the Department of Environment, Health and Natural Resources to the Fisheries Director.

15A NCAC 3I .0001 - DEFINITIONS; deletes white line from definition of peeler crab; define trip ticket and transaction. Definitions of trip ticket and transaction are needed to implement the Endorsement To Sell provision of statutory changes to commercial fishing licenses.

15A NCAC 3I .0010 - MILITARY PROHIBITED AND RESTRICTED AREAS; separates prohibited from restricted areas as defined by military; removes all Marine Fisheries Commission/Division of Marine Fisheries authorities to grant access to such areas.

15A NCAC 3I .0014 - RECORDKEEPING REQUIREMENTS; requires recordkeeping by dealers and individual sellers; needed to implement the Endorsement To Sell.

15A NCAC 3J .0103 - GILL NETS, SEINES, IDENTIFICATION, RESTRICTIONS; reduce restricted area for gill nets adjacent to pound nets

from 200 yards to 50 yards and requires that the pound net have leads and a pound or heart in place in order to for the distance restrictions to apply.

15A NCAC 3J .0104 - TRAWL NETS; reduces the amount of finfish that can be taken by trawls in inside waters to 1000 pounds March 1 through November 30 and 500 pounds December 1 through February 28; adds Friday night and daytime Saturday to the weekend prohibition of trawling; prohibits trawling at night from December 1 through February 28 in portions of the Pungo River, Pamlico River, Bay River, Neuse River, New River, and Pamlico Sound.

15A NCAC 3J .0107 - POUND NETS; deletes the use of vessel documentation name as identification on pound nets; establishes criteria for granting pound net permits; eliminates the requirement to use the set within 60 days after permit is granted; establishes procedure for transfer of permit; amends marking requirements for navigational openings; describes areas in Core Sound where pound nets are prohibited and deletes proclamation authority to designate areas for use of pound nets in Core Sound.

15A NCAC 3J .0301 - CRAB, EEL, FISH, AND SHRIMP POTS; extends proclamation authority for designation of areas for crab pots in areas described in 15A NCAC 3R .0007(b); extends proclamation authority to exempt crab pots from required escape rings to year-round; prohibits use of pots within 50 yards of a pound net when pound net has leads and a pound or heart in place.

15A NCAC 3J .0303 - DREDGES AND MECHANICAL METHODS PROHIBITED; allows use of dredges weighing more than 100 pounds in the ocean; prohibits possession of oysters on board a vessel when a dredge weighing more than 100 pounds is on board.

15A NCAC 3K .0102 - PROHIBITED RAKES; requires spacing of not less than 15/16 inch in the basket or between the teeth in rakes used to take clams.

15A NCAC 3K .0103 - SHELLFISH/SEED MANAGEMENT AREAS; established proclamation authority and criteria for designation of Shellfish Management Areas; prohibits use of trawl nets, long haul seines, or swipe nets in Shellfish/Seed Management Areas if such areas are marked.

15A NCAC 3K .0105 - NON-COMMERCIAL HARVEST OF SHELLFISH AND CRABS; establishes non-commercial limits for crabs, conchs, and mussels; prohibits use of mechanical gear to take non-commercial limits without licenses.

15A NCAC 3K .0201 - OPEN SEASON AND

POSSESSION LIMIT (OYSTERS); expands proclamation authority to allow for a smaller size limit but not less than 2 1/2 inches.

15A NCAC 3K .0202 - SIZE LIMIT AND CULLING TOLERANCE (OYSTERS); allows for proclamation authority in size limit for oysters.

15A NCAC 3K .0203 - TRAWLING ACROSS OYSTER MANAGEMENT AREAS PROHIBITED; restrictions to be included in 15A NCAC 3K .0103.

15A NCAC 3K .0301 - SEASON, SIZE AND HARVEST LIMIT (CLAMS); establishes closed season for clams from April 1 through May 31; amends restriction of 6,250 clams to inside waters only, would allow larger catches in the Ocean.

15A NCAC 3L .0102 - WEEKEND SHRIMPING PROHIBITED; adds Friday night and daytime Saturday to the weekend prohibition of trawling.

15A NCAC 3L .0202 - CRAB TRAWLING; requires use of four and one-half inch tailbags in crab trawls; adds Friday night and daytime Saturday to the weekend prohibition of trawling.

15A NCAC 3M .0201 - GENERAL (STRIPED BASS); establishes procedures for importation of striped bass during closed season.

15A NCAC 3M .0507 - HOOK-AND-LINE FISHING RESTRICTED; deletes bluefish from hook-and-line proclamation authority; to be included in 15A NCAC 3M .0511.

15A NCAC 3M .0511 - BLUEFISH; establish proclamation authority for bluefish, to provide for compliance with Fishery Management Plan for Bluefish developed by Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission.

15A NCAC 3N .0005 - PROHIBITED GEAR, SECONDARY NURSERY AREAS; prohibits use of long haul seines or swipe nets in permanent and special secondary nursery areas.

15A NCAC 3O .0101 - LICENSE AGENTS; technical amendment in referencing another rule.

15A NCAC 3O .0102 - PROCEDURE AND REQUIREMENTS TO PURCHASE LICENSE; establishes requirements for purchasing Endorsement To Sell and Shellfish and Crab Licenses; requires Endorsement To Sell on every vessel and requires that the Endorsement To Sell, for the vessel used to take the fish, be the one used when selling; allows for individuals under 16 years of age to use parent or guardian's Endorsement To Sell; allows for single fishing operations to use one Endorsement To Sell; allows for individuals catching fish from a chartered boat to sell under an individual Non-Vessel Endorsement to Sell and registered tournaments to sell fish under one Non-Vessel Endorsement To Sell; requires a land

or sell license for non-residents to land fish taken outside N.C. waters and an Endorsement To Sell to sell those fishes; allows non-residents from states which have a reciprocal agreement with North Carolina to land fish taken outside North Carolina waters with a license from their state of residence but requires an Endorsement to Sell to sell those fish.

15A NCAC 3O .0108 - LOST LICENSE REPLACEMENT; increases fee to \$5.00 for replacement of lost vessel license including Endorsement To Sell providing license has not been suspended or revoked, includes Shellfish and Crab License and Non-Vessel Endorsement to Sell replacement without charge if license is lost and is not suspended or revoked.

15A NCAC 3O .0201 - STANDARDS FOR SHELLFISH BOTTOM AND WATER COLUMN LEASES; transfers authority from Marine Fisheries Commission to Secretary of Environment, Health and Natural Resources; reduces minimum size from one acre to one-half acre for leases; allows planting effort to exempt production for a five year period.

15A NCAC 3O .0203 - SHELLFISH LEASE APPLICATION PROCESSING; transfers authority from Marine Fisheries Commission to Secretary of Environment, Health and Natural Resources.

15A NCAC 3O .0204 - MARKING SHELLFISH LEASES AND FRANCHISES; transfers authority from Marine Fisheries Commission to Secretary of Environment, Health and Natural Resources.

15A NCAC 3O .0205 - LEASE RENEWAL; establishes procedures for appealing decisions through contested case hearings.

15A NCAC 3O .0206 - LEASE PROTEST; transfers authority from Marine Fisheries Commission to Secretary of Environment, Health and Natural Resources; establishes procedures for appealing decisions through contested case hearings.

15A NCAC 3O .0208 - CANCELLATION; allows for planting effort to exempt production in considering cancellation; establishes procedures for appealing decisions through contested case hearings.

15A NCAC 3O .0209 - TRANSFER OF INTEREST; reduces minimum size from one acre to one-half acre for leases; transfers authority from Marine Fisheries Commission to Secretary of Environment, Health and Natural Resources.

15A NCAC 3R .0002 - MILITARY PROHIBITED AND RESTRICTED AREAS; notes existence of both prohibited and restricted military areas; corrects description of Neuse River (Hancock

Creek/Slocum Creek) area; deletes advisory for Piney Island.

15A NCAC 3R .0004 - PERMANENT SECONDARY NURSERY AREAS; designates Davis Creek in Brunswick County as a permanent secondary nursery area.

15A NCAC 3R .0005 - SPECIAL SECONDARY NURSERY AREAS; Onslow County and Pender County, designates New River upstream of N.C. Highway 172 Bridge and Intracoastal Waterway maintained channel from Marker #17 north of Alligator Bay to Marker #49 at Morris Landing and Intracoastal Waterway maintained channel and 100 feet on either side from Marker #49 to the N.C. Highway 50-210 Bridge at Surf City as special secondary nursery areas.

15A NCAC 3R .0006 - TRAWL NETS PROHIBITED; adds portions of the following bodies of water to those areas where trawling is prohibited: Pamlico Sound, Stumpy Point Bay, Pamlico River, Goose Creek, Pungo River, Bay River (Dump Creek, Rockhole Bay, Vandemere Creek, Cedar Creek, Chapel Creek, Upper Bay River), Pierce Creek, Turnagain Bay, Long Bay-Ditch Bay, West Thorofare Bay, Cedar Island Bay, Thorofare Bay-Barry Bay, Nelson Bay, Brett Bay, Jarrett Bay, North River (portions of North River from the oyster house to a point on the east shore, and Ward Creek) and Newport River.

15A NCAC 3R .0007 - DESIGNATED POT AREAS; technical changes in descriptions of designated pot areas; eliminates designated pot areas in military areas; allow proclamation authority to open and close portions of the following bodies of water to the use of pots: Wysocking Bay (Lone Tree Creek, Mt. Pleasant Bay), Juniper Bay, Rose Bay, Spencer Bay, Bay River, Neuse River (Swan Creek, Gum Thicket Creek, Cockle Point area, Beards Creek).

Comment Procedures: Comments and statements, both written and oral, may be presented at the hearings. Written comments are encouraged and may be submitted to the Marine Fisheries Commission, P.O. Box 769, Morehead City, NC 28557. These written and oral comments must be received no later than January 14, 1994. Oral presentation lengths may be limited depending on the number of people that wish to speak at the public hearings.

CHAPTER 3 - MARINE FISHERIES

SUBCHAPTER 3H - IDENTIFICATION AND

DELEGATION OF AUTHORITY

.0001 IDENTIFICATION INFORMATION

(a) The Marine Fisheries Division of the Department of Environment, Health, and Natural Resources maintains its office headquarters at the Marine Fisheries Building, 3411 Arendell St., Post Office Box 769, Morehead City, North Carolina 28557. Telephone (919) 726-7021, or 1-800-682-2632, toll free in North Carolina.

(b) The coastal area is divided into four management/enforcement districts, each with a District Manager and a District Operations Office. The District Offices are:

- (1) Northern District, ~~Rt. 6, Box 203~~ 1367 U.S. 17 South, Elizabeth City, NC 27909. Telephone (919) 264-3911, or 1-800-338-7805, toll free in North Carolina.
- (2) Pamlico District, ~~Post Office Box 1507~~ 1424 Carolina Avenue, Washington, NC 27889. Telephone (919) 946-6481, or 1-800-338-7804, toll free in North Carolina.
- (3) Central District, Post Office Box 769, Morehead City, NC 28557. Telephone (919) 726-7021, or 1-800-682-2632, toll free in North Carolina.
- (4) Southern District, ~~7225-Wrightsville Avenue~~ 127 Cardinal Dr. Ext., Wilmington, NC ~~28403~~ 28405. Telephone (919) ~~256-4541~~ 395-3900, or 1-800-248-4536, toll free in North Carolina.

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

.0003 DELEGATION OF AUTHORITY TO FISHERIES DIRECTOR

(a) The following specific functions have been delegated by the Secretary to the Fisheries Director:

- (1) The authority to return confiscated property when satisfied that the owner of such property had no knowledge of the use of the property for illegal purposes pursuant to G.S. 113-137;
- (2) The authority to select license agents pursuant to G.S. 113-151.1;
- (3) The authority to suspend or revoke all licenses pursuant to G.S. 113-166;
- (4) The authority to grant, renew or terminate shellfish leases pursuant to G.S. 113-202, 113-202.1 and 113-202.2;
- (5) The authority to settle claims of

ownership of estuarine bottoms pursuant to G.S. 113-206; and

- (6) The authority to issue Scientific Collecting Permits pursuant to G.S. 113-261.

(b) The proclamation authority granted to the Fisheries Director by the Marine Fisheries Commission within this Chapter includes the authority to close as well as open seasons and areas, to establish conditions governing various activities, and to reduce or increase the size and harvest limits from those stated in rule when specifically authorized. It is unlawful to violate the provisions of any proclamation issued by the authority of Marine Fisheries Commission Rule.

Statutory Authority G.S. 113-134; 113-137; 113-151.1; 113-166; 113-182; 113-202; 113-202.1; 113-202.2; 113-206; 113-261; 143B-289.4.

SUBCHAPTER 3I - GENERAL RULES

.0001 DEFINITIONS

(a) All definitions set out in Subchapter IV of Chapter 113 of the General Statutes apply in these Rules.

(b) The following additional terms are hereby defined:

- (1) Commercial Fishing Equipment. All fishing equipment used in coastal fishing waters except:
 - (A) Seines less than 12 feet in length;
 - (B) Spears;
 - (C) A dip net having a handle not more than eight feet in length and a hoop or frame to which the net is attached not exceeding 60 inches along the perimeter;
 - (D) Hook-and-line and bait-and-line equipment other than multiple-hook or multiple-bait trotline;
 - (E) A landing net used to assist in taking fish when the initial and primary method of taking is by the use of hook and line; and
 - (F) Cast Nets.
- (2) Fixed or stationary net. A net anchored or staked to the bottom, or some structure attached to the bottom, at both ends of the net;
- (3) Mesh Length. The diagonal distance from the inside of one knot to the outside of the other knot, when the net is stretched hand-tight;

- (4) Possess. Any actual or constructive holding whether under claim of ownership or not;
- (5) Transport. Ship, carry, or cause to be carried or moved by public or private carrier by land, sea, or air;
- (6) Use. Employ, set, operate, or permit to be operated or employed;
- (7) Purse Gill Nets. Any gill net used to encircle fish when the net is closed by the use of a purse line through rings located along the top or bottom line or elsewhere on such net;
- (8) Gill Net. A net set vertically in the water to capture fish by entanglement by the gills in its mesh as a result of net design, construction, mesh size, webbing diameter or method in which it is used.
- (9) Seine. A net set vertically in the water and pulled by hand or power to capture fish by encirclement and confining fish within itself or against another net, the shore or bank as a result of net design, construction, mesh size, webbing diameter, or method in which it is used.
- (10) Internal Coastal Waters or Internal Waters. All coastal fishing waters except the Atlantic Ocean;
- (11) Channel Net. A net used to take shrimp which is anchored or attached to the bottom at both ends or with one end anchored or attached to the bottom and the other end attached to a boat;
- (12) Dredge. A device towed by engine power consisting of a frame, tooth bar or smooth bar, and catchbag used in the harvest of oysters, clams, crabs, scallops, or conchs;
- (13) Mechanical methods for clamming. Includes, but not limited to, dredges, hydraulic clam dredges, stick rakes and other rakes when towed by engine power, patent tongs, kicking with propellers or deflector plates with or without trawls, and any other method that utilizes mechanical means to harvest clams;
- (14) Mechanical methods for oystering. Includes, but not limited to, dredges, patent tongs, stick rakes and other rakes when towed by engine power and any other method that utilizes mechanical means to harvest oysters;
- (15) Depuration. Purification or the

- removal of adulteration from live oysters, clams, and mussels by any natural or artificially controlled means;
- (16) Peeler Crab. A blue crab that has a soft shell developing under a hard shell and having a definite pink, ~~white~~, or red line or rim on the outer edge of the back fin or flipper;
- (17) Length of finfish. Determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the tip of the compressed caudal (tail) fin;
- (18) Licensee. Any person holding a valid license from the Department to take or deal in marine fisheries resources.
- (19) Aquaculture operation. An operation that produces artificially propagated stocks of marine or estuarine resources or obtains such stocks from authorized sources for the purpose of rearing in a controlled environment. A controlled environment provides and maintains throughout the rearing process one or more of the following: predator protection, food, water circulation, salinity, ~~and~~ or temperature controls utilizing proven technology not found in the natural environment.
- (20) Critical habitat areas are those fragile estuarine and marine areas that support juvenile and adult populations of economically important seafood species, as well as forage species important in the food chain. Critical habitats include nursery areas, beds of submerged aquatic vegetation, shellfish producing areas, anadromous fish spawning and anadromous fish nursery areas, in all coastal fishing waters as determined through marine and estuarine survey sampling. Critical habitats are vital for portions, or the entire life cycle, including the early growth and development of important seafood species.
- (A) Beds of submerged aquatic vegetation are those habitats in public trust and estuarine waters vegetated with one or more species of submerged vegetation such as eelgrass (*Zostera marina*), shoalgrass (*Halodule wrightii*) and widgeongrass (*Ruppia maritima*). These vegetation beds occur in both subtidal and intertidal zones and may

occur in isolated patches or cover extensive areas. In either case, the bed is defined by the presence of above-ground leaves or the below-ground rhizomes and propagules together with the sediment on which the plants grow. In defining beds of submerged aquatic vegetation, the Marine Fisheries Commission recognizes the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et. seq.) and does not intend the submerged aquatic vegetation definition and its implementing rules to apply to or conflict with the non-development control activities authorized by that Act.

- (B) Shellfish producing habitats are those areas in which economically important shellfish, such as, but not limited to clams, oysters, scallops, mussels, and whelks, whether historically or currently, reproduce and survive because of such favorable conditions as bottom type, salinity, currents, cover, and cultch. Included are those shellfish producing areas closed to shellfish harvest due to pollution.
- (C) Anadromous fish spawning areas are defined as those areas where evidence of spawning of anadromous fish has been documented by direct observation of spawning, capture of running ripe females, or capture of eggs or early larvae.
- (D) Anadromous fish nursery areas are defined as those areas in the riverine and estuarine systems utilized by post-larval and later juvenile anadromous fish.
- (21) Intertidal Oyster Bed. A formation, regardless of size or shape, formed of shell and live oysters of varying density.
- (22) North Carolina Trip Ticket. Multiple-part form provided by the Department to fish dealers who are required to record and report transactions on such forms.
- (23) Transaction. Act of doing business such that fish are sold, offered for sale, exchanged, bartered, distributed or landed. The point of landing shall be considered a transaction when the fisherman is the fish dealer.

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

.0010 MILITARY PROHIBITED AND RESTRICTED AREAS

(a) Pursuant to Title 34 33 United States Code Section 3, the United States Army Corps of Engineers has adopted regulations which restrict access to and activities within certain areas of coastal and inland fishing waters. Federal Rules codified at 33 CFR 334.410 through 334.450 designate prohibited and restricted military areas, including locations within North Carolina coastal fishing waters, and specify activities allowed in these areas. The areas described in 33 CFR 334.420 (a) (1) BT-9 Brant Island and 334.420 (b) (1) (i) BT-11 Piney Island are designated as prohibited areas and are closed to navigation by the public at all times. The N.C. Marine Fisheries Commission and Division of Marine Fisheries do not have the authority to provide for fishing access to these areas. Therefore, the two above described areas will be excluded from any rule promulgated by the Marine Fisheries Commission and any proclamation issued by the Fisheries Director which provide fishing access to areas adjacent to the two above described areas. Access to the military prohibited and restricted areas and enforcement of the federal rules applicable therein is the sole responsibility of the respective federal military organization listed for each restricted area in the federal regulations. North Carolina fishermen should be warned that the unlawful use of military prohibited areas for fishing or any other purpose will expose such trespassers to the risk of death or serious injury, and The designated areas are used for military training which may include bombing with live ordnance. Fishermen who enter and fish within the areas should follow Federal Regulations to avoid exposure to undetonated ordnance, fragments from exploding ordnance and other dangerous activities. Federal federal law provides substantial penalties for violations of the federal regulations.

(b) The designated areas are shown on navigational charts and specifically described in the Coastal Pilot and the Code of Federal Regulations (CFR). The descriptions in 15A NCAC 3R .0002(a) show the general location of each such area, the Federal Regulation specifically describing the areas, the Federal Regulations stating the limitations on access to and use of each such area, and the designated military authority to contact for information about permits and/or for access to each such area.

~~(c) The Brant Island Range in Pamlico Sound~~

~~has been used for live bomb delivery training since World War II and continues to be used for such training. Military safety studies confirm that the area adjacent to the target has many undetonated ordnanees on the bottom. Because of the accompanying hazards, fishermen are strongly advised to restrict fishing activities within the Brant Island range.~~

~~(d) Because of the types of military training at the Piney Island range in Pamlico Sound, fishermen are strongly advised not to use fixed gear including, but not limited to, pots, pound nets, and gill nets in the area described in 15A NCAC 3R .0002(b).~~

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

.0014 RECORDKEEPING REQUIREMENTS

(a) Transactions which do not require the seller to possess an endorsement to sell are exempt from recordkeeping requirements.

(b) It is unlawful for a fish dealer:

(1) To fail to accurately and legibly complete all mandatory items on the North Carolina trip ticket for each transaction;

(2) To fail to provide to the Department a completed no transaction form by the tenth day of the following month when no transactions occurred for a month.

(c) It is unlawful for a seller licensed under G.S. 113-153 or G.S. 113-154.1 to fail to provide to the fish dealer, at the time of transaction, the following:

(1) A current and valid endorsement to sell or appropriate endorsement number for the fishing operation used to take the fish;

(2) Complete and accurate information on, but not limited to, harvest method and area of catch.

Statutory Authority G.S. 113-134; 113-154.1; 113-156; 143B-289.4.

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

SECTION .0100 - NET RULES, GENERAL

.0103 GILL NETS, SEINES, IDENTIFICATION, RESTRICTIONS

(a) The Fisheries Director may, by

proclamation, limit or prohibit the use of gill nets or seines in coastal waters, or any portion thereof, or impose any or all of the following restrictions on the use of gill nets or seines:

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

(b) It is unlawful to use fixed or stationary gill nets in the Atlantic Ocean or any gill nets in internal waters unless such nets are marked by attaching to them at each end two separate yellow buoys which shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. Gill nets which are not connected together at the top line shall be considered as individual nets, requiring two buoys at the end of each individual net. Gill nets connected together at the top line shall be considered as a continuous net requiring two buoys at each end of the continuous net. Any other marking buoys on gill nets shall be yellow except that one additional identification buoy of any color or any combination of colors may be used at either or both ends. The owner shall always be identified on a buoy on each end either by using engraved buoys or by attaching engraved metal or plastic tags to the buoys. Such identification shall include one of the following:

- (1) Owner's N.C. motor boat registration number, or
- (2) Owner's U.S. vessel documentation name, or
- (3) Owner's last name and initials.

(c) It is unlawful to use gill nets:

- (1) Within ~~200~~ 50 yards of any pound net ~~with lead and pound or heart which is in use except in Chowan River as provided in 15A NCAC 3J .0203(7);~~
- (2) From March 1 through October 31 in the Intracoastal Waterway within 150 yards of any railroad or highway bridge.

(d) It is unlawful to use gill nets within 100 feet either side of the center line of the Intracoastal Waterway Channel south of Quick Flasher No. 54 in Alligator River at the southern entrance to the Intracoastal Waterway to the South Carolina line, unless such net is used in accordance with the following conditions:

- (1) No more than two gill nets per boat may be used at any one time;

(2) Any net used must be attended by the fisherman from a boat who shall at no time be more than 100 yards from either net; and

(3) Any individual setting such nets shall remove them, when necessary, in sufficient time to permit unrestricted boat navigation.

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

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

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

.0104 TRAWL NETS

(a) It is unlawful to use trawl nets for the taking of finfish in internal waters, except that it shall be permissible to take or possess finfish incidental to crab or shrimp trawling in accordance with the following limitations:

- (1) It is unlawful to possess aboard a vessel while using a trawl in internal waters more than ~~4,000~~ 500 pounds of finfish from December 1 through February 28 and 1,000 pounds of finfish from March 1 through November 30 except flounder of legal size may be taken and possessed without limit in quantity in internal waters while engaged in crab trawling.
- (2) The Fisheries Director may, by proclamation, close any area to trawling for specific time periods in order to secure compliance of this Rule.

(b) It is unlawful to use trawl nets:

- (1) In internal coastal waters, between one hour after sunset Friday and one hour before sunset on Sunday;
- ~~(2)~~ For the taking of oysters;
- ~~(3)~~ In Albemarle Sound and its tributaries;
- ~~(4)~~ In that area the areas of Shackleford Banks as described in 15A NCAC 3R .0006;
- (5) From December 1 through February 28 from one hour after sunset to one hour before sunrise in the following areas:

- (A) In Pungo River north of a line beginning at a point on Wades Point 35° 23' 17" N - 76° 34' 30" W; running

060° (M) to a point on Currituck Point 35° 24' 35" N - 76° 32' 19" W.

(B) In Pamlico River west of a line beginning at a point on the south shore near Fulford Point 35° 19' 52" N - 76° 35' 56" W; running 026° (M) through Flashing Red Marker "1" to a point on Wades Point 35° 23' 17" N - 76° 34' 30" W.

(C) In Bay River west of a line beginning at a point on Maw Point 35° 09' 02" N - 76° 32' 10" W; running 021° (M) through Flashing Green Marker "1" to a point on Bay Point 35° 11' 01" N - 76° 31' 35" W.

(D) In Neuse River west of a line beginning at a point off Cherry Point 34° 56' 17" N - 76° 48' 37" W; running 020° (M) through Flashing Red Marker "9" to a point off Wilkinson Point 34° 57' 58" N - 76° 48' 22" W.

(E) In New River all waters upstream of the N.C. Highway 172 Bridge.

(F) In an area of Pamlico Sound northwest of Ocracoke Island within that area bounded by a line beginning at a point on Core Banks 34° 58' 18" N - 76° 10' 33" W; running 320° (M) to Kingfish Shoal Marker 35° 00' 21" N - 76° 13' 22" W; thence running 029° (M) to Flashing Green Marker "5" 35° 09' 11" N - 76° 09' 35" W; thence running 092° (M) 76° 04' 25" W to Flashing Green Marker "1" 35° 09' 43" N; thence running 098° (M) to Flashing Green Marker "1" 35° 09' 42" N - 76° 04' 27" W; thence running 076° (M) to Flashing Red Marker "2" at Shark Shoal 35° 16' 43" N - 76° 44' 22" W; thence following Rollinson channel to Hatteras Island.

(c) Minimum mesh sizes for shrimp and crab trawls are presented in 15A NCAC 3L .0103 and .0202.

(d) The Fisheries Director may, with prior consent of the Marine Fisheries Commission, by proclamation, require finfish excluder devices or codend modifications in trawl nets to reduce the catch of finfish that do not meet size limits or are unmarketable as individual foodfish by reason of size.

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

.0107 POUND NETS

(a) It is unlawful to use pound or fyke nets in internal coastal fishing waters without the owner's identification being clearly printed on a sign no less than six inches square, securely attached on an outside corner stake of each such net. Such identification must include one of the following:

- (1) For pound nets, the pound net permit number and the owner's last name and initials.
- (2) For fyke nets, the owner's N.C. motorboat registration number, ~~the owner's U.S. vessel documentation name,~~ or the owner's last name and initials.

Any pound or fyke net or any part thereof found set in internal coastal fishing waters without proper identification will be in violation and may be removed and disposed of in accordance with law.

(b) It is unlawful to set pound nets, or any part thereof except location identification stakes at each end of proposed new locations without first obtaining a Pound Net Permit from the Fisheries Director. ~~Within 60 days of application, the Fisheries Director shall issue a public notice of intent to consider issuance of a Pound Net Permit for new locations, and may hold public meetings and approve or take other action which may include the denial of Pound Net Permits, deemed necessary to avoid potential user conflicts and to protect traditional uses of the area including construction or use of piers. The Fisheries Director's final decision to approve, deny or modify the pound net permit application may be appealed by requesting in writing, within 20 days of notice of such action, an administrative hearing before the Marine Fisheries Commission. A Pound Net Permit for a new location may be issued following evaluation by the Fisheries Director and will expire 365 days from the date of issue.~~

(e) ~~It is unlawful to set pound nets in previously registered or permitted locations without first obtaining a Pound Net Permit for each location from the Fisheries Director. Such permits will expire 365 days from the date of issue. Failure to obtain a Pound Net Permit annually, or abandonment of pound net sets without removal of all stakes, shall constitute a violation and be grounds for refusal of any Pound Net Permit. Application for renewal of Pound Net Permits must be filed not less than ten days prior to expiration and will not be processed unless filed by~~

~~the prior registrant. When an objection to a renewal is filed during the term of the permit, the Fisheries Director shall review and may deny the permit renewal under the criteria for issuance of new Pound Net Permits. Failure to use a pound net site within 60 days of issuance of a Pound Net Permit shall also constitute a violation and be grounds for refusal and/or revocation of other Pound Net Permits. It is unlawful to abandon a pound net set without removal of all stakes.~~

~~(d) It is unlawful to use a pound net without leaving a marked navigational opening of at least 25 feet at the end of every third pound. Such openings shall be marked with yellow signs at least six inches square.~~

~~(e) It is unlawful to set a pound net, pound net stakes, or other related equipment in internal coastal fishing waters without yellow light reflective tape or devices on each pound. The light reflective tape or devices must be affixed to a stake of at least three inches in diameter on the offshore end of each pound, must cover a vertical distance not less than 12 inches, and must be visible from a vessel when approached from all directions.~~

(1) For proposed new locations, the Fisheries Director shall issue a public notice of intent to consider issuance of a Pound Net Permit, and may hold public meetings to take comments on the proposed pound net set. The Fisheries Director shall approve or deny the permit within 60 days of application. The Fisheries Director may deny the permit application if it is determined that granting the permit will be inconsistent with one or more of the following permitting criteria:

- (A) The application is in any name other than an individual.
- (B) The proposed pound net set, either alone or when considered cumulatively with other existing pound net sets in the area, will not unduly interfere with public navigation.
- (C) The proposed pound net set, either alone or when considered cumulatively with other existing pound net sets in the area, will not unduly interfere with existing, traditional uses of the area other than navigation.
- (D) The proposed pound net set will not interfere with the rights of any

riparian or littoral landowner, including the construction or use of piers.

- (E) The proposed pound net set will not, by its proximate location, unduly interfere with existing pound net sets in the area.
- (F) The applicant has not in the past complied with fisheries laws related to pound nets.
- (G) The proposed pound net set is otherwise not in the public interest.

Approval may be conditional based upon the applicant's continuing compliance with specific conditions contained in the Pound Net Permit that would ensure that the operation of the pound net is consistent with the criteria for permit denial set out in (A) through (G) of this Subparagraph. The Fisheries Director's final decision to approve or deny the Pound Net Permit application may be appealed by requesting in writing, within 20 days notice of such action, an administrative hearing before the Marine Fisheries Commission.

(2) An application for renewal of an existing Pound Net Permit shall be filed not less than 10 days prior to the date of expiration of the existing permit, and will not be processed unless filed by the prior permittee. When a written objection to a renewal has been received during the term of the existing permit, the Fisheries Director shall review the renewal application under the criteria for issuance of a new Pound Net Permit, and may decline to renew the permit accordingly.

(3) A Pound Net Permit, whether a new or renewal permit, shall expire 365 days from the date of issuance.

(c) It is unlawful to abandon an existing pound net set without completely removing from the public bottom or coastal waters all stakes and associated structures, gear and equipment within 30 days, or to fail within 30 days to completely remove from the public bottom or coastal waters all stakes and other structures, gear and equipment associated with any pound net set for which a permit is revoked or denied. For purposes of this subsection, the term "abandonment" shall include the failure of a permittee to ensure that the pound net set has been fully operational within 365 days

of the issuance of a Pound Net Permit. A violation under this subsection shall be grounds for the Fisheries Director to revoke any other Pound Net Permits held by the violator and for denial of any future pound net set proposed by the offender.

(d) It is unlawful to transfer ownership of a pound net without notification to the Division of Marine Fisheries within 30 days of the date of the transfer. Such notification shall be made by the new owner in writing and shall be accompanied by a copy of the previous owner's permit and an application for a pound net permit in the new owner's name. Failure to do so will result in revocation of the pound net permit.

(e) Every pound net set shall have a marked navigational opening of at least 25 feet in width at the end of every third pound. Such opening shall be marked with yellow light reflective tape or devices on each side of the opening. The light reflective tape or devices shall be affixed to a stake of at least three inches in diameter, shall cover a vertical distance of not less than 12 inches, and shall be visible from all directions by a vessel approaching the pound net set. In addition, every pound net in internal coastal fishing waters shall have yellow light reflective tape or devices on each pound. The light reflective tape or devices shall be affixed to a stake of at least three inches in diameter on the offshore end of each pound, shall cover a vertical distance of not less than 12 inches, and shall be visible from all directions by a vessel approaching the pound net set. If a permittee notified of a violation under this subsection fails or refuses to take corrective action sufficient to remedy the violation within 15 days of receiving notice of the violation, the Fisheries Director shall revoke the permit.

(f) In Core Sound, ~~the Fisheries Director shall by proclamation designate areas for the use of pound and fyke nets; it is unlawful to use pound nets in the following areas:~~

- (1) That area bounded by a line beginning at Green Day Marker #3 near Hog Island Point running 124° (M) to Green Flasher #13; thence 026° (M) to Green Flasher #11; thence 294° (M) to a point on shore north of Great Ditch 34° 58' 54" N - 76° 15' 06" W; thence following the shoreline to Hog Island Point 34° 58' 27" N - 76° 15' 49" W; thence 231° (M) back to Green Day Marker #3.
- (2) That area bounded by a line beginning at Green Day Marker #3 near Hog Island Point running 218° (M) to Cedar

Island Point 34° 57' 33" N - 76° 16' 34" W; thence 156° (M) to Red Flasher #18; thence 011° (M) to Red Flasher #2; thence 302° (M) back to Green Marker #3.

- (3) That area bounded by a line beginning on Long Point 34° 56' 52" N - 76° 16' 42" W; thence running 105° (M) to Red Marker #18; thence running 220° (M) to Green Marker #19; thence following the six foot contour past the Wreck Beacon to a point at 34° 53' 45" N - 76° 18' 11" W; thence 227° (M) to Red Marker #26; thence 229° (M) to Green Marker #27; thence 271° (M) to Red Flasher #28; thence 225° (M) to Green Flasher #29; thence 256° (M) to Green Flasher #31; thence 221° (M) to Green Flasher #35; thence 216° (M) to Green Flasher #37; thence 291° (M) to Bells Point 34° 43' 42" N - 76° 29' 59" W; thence north following the shoreline of Core Sound across the mouth of Jarrett Bay, Oyster Creek, Fulcher Creek, Willis Creek, Nelson Bay, Styron Bay, East Thorofare Bay and Rumley Bay, back to Long Point.

(g) In Pamlico Sound, it is unlawful to set a pound net, pound net stakes, or any other related equipment without radar reflective metallic material and yellow light reflective tape or devices on each end of the pound net set. The radar reflective material and the light reflective tape or devices must be affixed to a stake of at least three inches in diameter, must cover a vertical distance of not less than 12 inches, and must be detectable by radar and light from a vessel when approached from all directions. Light reflective tape or devices may be affixed to the radar reflective material.

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

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

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

SECTION .0300 - POTS, DREDGES, AND

OTHER FISHING DEVICES

.0301 CRAB, EEL, FISH, AND SHRIMP POTS

(a) It is unlawful to use pots except during time periods and in areas specified herein:

- (1) From November 1 through April 30 except that all pots, except fish pots upstream of U.S. 17 Bridge across Chowan River and upstream of a line across the mouth of Roanoke, Cashie, Middle and Eastmost Rivers to the Highway 258 Bridge, shall be removed from internal waters from January 24 through February 7. The Fisheries Director may, by proclamation, reopen various waters to the use of pots after January 28 if it is determined that such waters are free of pots.

- (2) From May 1 through October 31, north and east of the Highway 58 Bridge at Emerald Isle;

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

(B) To allow for the variable spatial distribution of crustacea and finfish, the Fisheries Director may, by proclamation, specify time periods for or designate the areas ~~in Wysocking Bay~~ described in 15A NCAC 3R .0007 (4)(a) (b) or any part thereof, ~~and adjust designated areas in Long Shoal River for the use of pots during this time period.~~

- (3) From May 1 through October 31 in the Atlantic Ocean and west and south of the Highway 58 Bridge at Emerald Isle in areas and during time periods designated by the Fisheries Director by proclamation.

(b) It is unlawful to use pots in any navigation channel maintained and marked by State or Federal agencies.

(c) It is unlawful to use pots unless each pot is marked by attaching a floating buoy which shall be of solid foam or other solid buoyant material and no less than five inches in diameter and no less than five inches in length. Buoys may be of any color except yellow. The owner shall always be identified on the attached buoy by using engraved buoys or by engraved metal or plastic tags attached to the buoy. Such identification shall include one of the following:

- (1) owner's N.C. motorboat registration number; or

- (2) owner's U.S. vessel documentation name; or

- (3) owner's last name and initials.

(d) Pots attached to shore or a pier shall be exempt from (a)(2), (a)(3), and (c) of this Rule.

(e) It is unlawful to use shrimp pots with mesh lengths smaller than one and one-fourth inches stretch or five-eighths inch bar.

(f) It is unlawful to use eel pots with mesh sizes smaller than one inch by one-half inch unless such pots contain an escape panel that is at least four inches square with a mesh size of 1" x 1/2" located in the outside panel of the upper chamber of rectangular pots and in the rear portion of cylindrical pots, except that not more than two eel pots per fishing operation with a mesh of any size may be used to take eels for bait.

(g) It is unlawful to use crab pots in coastal waters unless each pot contains no less than two escape rings that are at least 2 5/16 inches inside diameter and located in the opposite outside panels of the upper chamber of the pot. Peeler pots with a mesh size less than 1 1/2 inches shall be exempt from the escape ring requirement. The Fisheries Director may, by proclamation, exempt the escape ring requirement ~~during the period November through March,~~ in order to allow the harvest of peeler crabs or mature female crabs and may impose any or all of the following restrictions:

- (1) Specify areas, and

- (2) Specify time.

(h) It is unlawful to use more than 150 pots per vessel in Newport River.

(i) Any pots found in violation of this Rule or 15A NCAC 3J .0302 may be removed by marine fisheries enforcement officers and disposed of in accordance with law.

(j) It is unlawful to use pots within 50 yards of any pound net with lead and pound or heart in use.

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

.0303 DREDGES AND MECHANICAL METHODS PROHIBITED

(a) It is unlawful to use ~~or have aboard a vessel~~ any dredge weighing more than 100 pounds except in the Atlantic Ocean.

(b) It is unlawful to use more than one dredge per vessel to take oysters or crabs or to use any dredges or mechanical methods between sunset and sunrise.

(c) It is unlawful to possess oysters aboard a vessel with a dredge weighing more than 100 pounds on board.

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

SUBCHAPTER 3K - OYSTERS, CLAMS, SCALLOPS AND MUSSELS

SECTION .0100 - SHELLFISH, GENERAL

.0102 PROHIBITED RAKES

(a) It is unlawful to use a rake more than 12 inches wide or weighing more than six pounds to take oysters or scallops.

(b) It is unlawful to use a rake with a spacing less than 15/16 inch in the basket or between the teeth to take clams from public bottom.

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

.0103 SHELLFISH/SEED MANAGEMENT AREAS

(a) The Fisheries Director may, by proclamation, designate Shellfish Management Areas which meet any of the following criteria. The area has:

- (1) Conditions of bottom type, salinity, currents, cover or cultch necessary for shellfish growth;
- (2) Shellfish populations or shellfish enhancement projects which may produce commercial quantities of shellfish at ten bushels or more per acre;
- (3) Shellfish populations or shellfish enhancement projects which may produce shellfish suitable for transplanting as seed or for relaying from polluted areas.

(b) It is unlawful to use a trawl net, long haul seine, or swipe net for any purpose in any Shellfish/Seed Management area which has been designated by proclamation. These areas will be marked with signs or buoys in so far as may be practicable. Unmarked and undesignated tributaries shall be the same classification as the designated waters to which they connect or into which they flow. No unauthorized removal or relocation of any such marker shall have the effect of changing the designation of any such body of water or portion thereof, nor shall any such unauthorized removal or relocation or the absence of any marker affect the applicability of any rule pertaining to any such body of water or portion thereof.

(a c) It is unlawful to take oysters or clams from

any Shellfish/Seed Management Area which has been closed and posted, except that the Fisheries Director may, by proclamation, open specific areas to allow the taking of oysters and clams and may designate time, place, character, or dimensions of any method or equipment that may be employed.

(b d) It is unlawful to take oysters or clams from Seed Management Areas for planting on private bottoms without first obtaining a permit from the Fisheries Director.

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

.0105 NON-COMMERCIAL HARVEST OF SHELLFISH AND CRABS

(a) It is unlawful for individuals claiming exemption from the ~~oyster, clam and scallop~~ shellfish and crab license required by G.S. 113-154, by reason of non-commercial harvest, to take more than:

- (1) One bushel of oysters per person per day, not to exceed two bushels per vessel per day;
- (2) One hundred clams per person per day, not to exceed two hundred clams per vessel per day; ~~and~~
- (3) One-half bushel of scallops per person per day, not to exceed one bushel per vessel per day; ;
- (4) Fifty blue crabs per person per day not to exceed one hundred blue crabs per vessel per day;
- (5) Ten conchs per person per day not to exceed twenty conchs per vessel per day;
- (6) One hundred mussels per person per day not to exceed two hundred mussels per vessel per day.

(b) It is unlawful to take shellfish and crabs by mechanical means without having first procured an individual shellfish and crab license and a vessel license. A vessel license, as required by G.S. 113-152 for the use of other commercial fishing equipment as defined in 15A NCAC 3I .0001(b)(1) is not required for the non-commercial harvest of shellfish in accordance with limits in Paragraph (a) of this Rule.

(c) It is unlawful to take oysters and clams on Sundays and scallops on Saturdays and Sundays except:

- (1) during open seasons, and
- (2) in accordance with limits outlined in Paragraph (a) of this Rule with or without license.

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

SECTION .0200 - OYSTERS

.0201 OPEN SEASON AND POSSESSION LIMIT

It is unlawful to take, buy, sell, or possess any oysters from public bottoms except during the open season which begins October 15 for hand harvest, and November 1 for mechanical methods and may extend through March 31. During any open season that may be allowed within the time periods stated herein, the Fisheries Director may, by proclamation, close and open the season or close and open any of the various waters to the taking of oysters and may impose any or all of the following restrictions:

- (1) Specify number of days;
- (2) Specify areas;
- (3) Specify means and methods which may be employed in the taking;
- (4) Specify time period; ~~and~~
- (5) Specify the quantity, but shall not exceed possession of more than 50 bushels aboard a vessel; ~~;~~ and
- (6) Specify minimum size limit by shell length but not less than 2 1/2 inches.

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

.0202 SIZE LIMIT AND CULLING TOLERANCE

(a) It is unlawful to possess oysters which have accumulated dead shell, accumulated oyster cultch material, a shell length of less than ~~three inches~~ that specified by proclamation, or any combination thereof that exceeds a 10 percent tolerance limit by volume. In determining whether the tolerance limit is exceeded, the Fisheries Director and his agents are authorized and empowered to grade all, or any portion, or any combination of portions of the entire quantity being graded, and in cases of violations, may require seizure and return to public bottom or other disposition as authorized by law.

(b) All oysters shall be culled by the catcher where harvested and all oysters of less than legal size, accumulated dead shell and cultch material, shall be immediately returned to the bottom from which taken.

(c) This Rule shall not apply to oysters imported from out-of-state solely for shucking at shucking houses which are currently certified for shucking and packing by the Division of Environmental

Health and which hold a valid shucker-packer license.

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

.0203 TRAWLING ACROSS OYSTER MANAGEMENT AREAS PROHIBITED

~~It is unlawful to tow or pull a trawl net for any purpose across any oyster bed which has been planted and posted by the state.~~

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

SECTION .0300 - HARD CLAMS (MERCENARIA)

.0301 SEASON, SIZE AND HARVEST LIMIT

(a) It is unlawful to take, buy, sell or possess any hard clams from public bottom except during the open season which begins June 1 and extends through March 31.

(a ~~b~~) It is unlawful to take, land, or possess aboard a vessel more than 6,250 hard clams per fishing operation from public bottom in internal waters. It is unlawful to take, possess, sell, or purchase any clams (except Rangia or freshwater clams) less than one inch thick except in accordance with 15A NCAC 3K .0305(b). Clams shall be culled where harvested and all clams of less than legal size with their shell, shall be immediately returned to the bottom from which taken. The Fisheries Director and his agents are authorized and empowered to grade all, or any portion, or any combination of portions of the entire quantity of clams being graded and may require seizure and return to public bottom or other disposition as authorized by law of the entire quantity being graded or any portion thereof.

(~~b~~ c) For temporary openings made upon the recommendation of Shellfish Sanitation, for maintenance dredging operations, or for relaying of polluted clams to private shellfish bottoms as permitted by 15A NCAC 3K .0104, size and harvest limits established in Paragraph (a) of this Rule and the season and area limitations established in 15A NCAC 3K .0302 may not apply.

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

SUBCHAPTER 3L - SHRIMP, CRABS, AND LOBSTER

SECTION .0100 - SHRIMP

.0102 WEEKEND SHRIMPING PROHIBITED

It is unlawful to take shrimp by any method between one hour after sunset on any Saturday Friday and one hour before sunset on the following Sunday, except:

- (1) In the Atlantic Ocean; and
- (2) With the use of fixed and channel nets, hand seines, and cast nets.

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

SECTION .0200 - CRABS

.0202 CRAB TRAWLING

(a) It is unlawful to take or possess aboard a vessel crabs taken by trawl in internal waters except in areas and during such times as the Fisheries Director may specify by proclamation.

(b) It is unlawful to use any crab trawl with a mesh length less than ~~three four and one-half~~ inches for taking hard crabs, ~~except that the Fisheries Director may, by proclamation, increase the minimum mesh length to not more than four inches.~~

(c) It is unlawful to use trawls with a mesh length less than two inches or with a corkline exceeding 25 feet in length for taking soft or "peeler" crabs.

(d) It is unlawful to take crabs with trawls between one hour after sunset on any Saturday Friday and one hour before sunset on the following Sunday, except in the Atlantic Ocean.

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

SUBCHAPTER 3M - FINFISH

SECTION .0200 - STRIPED BASS

.0201 GENERAL

(a) Striped bass is defined as striped bass (*Morone saxatilis*) and its hybrids taken in coastal and joint waters.

(b) Hook-and-line fishing equipment is not commercial fishing equipment in the striped bass fishery. It is unlawful to sell or purchase striped bass taken by hook-and-line. Striped bass taken

legally with hook-and-line may be possessed and transported.

(c) It is unlawful to possess striped bass imported from other states less than 18 inches long (total length).

(d) It is unlawful to import, buy, sell, transport, offer to buy or sell, or possess striped bass except:

- (1) During the open season in internal coastal waters established in 15A NCAC 3M .0202, ~~or~~
- (2) During any open season established for the Atlantic Ocean in 15A NCAC 3M .0204; ~~or~~
- (3) During any open season of another state without all of the following:
 - (A) An importation permit issued by the North Carolina Division of Marine Fisheries;
 - (B) A bill of lading as described in 15A NCAC 3O .0104;
 - (C) A numbered, state-issued tag from the State of origin affixed through the mouth and gill cover. This tag must remain affixed until processed for consumption by the consumer.

(e) It is unlawful, during the closed season for striped bass, to import, buy, sell, transport, offer to buy or sell, or possess any striped bass filets, provided that this shall not apply to those lawfully acquired and possessed at the residence of an individual.

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

SECTION .0500 - OTHER FINFISH

.0507 HOOK-AND-LINE FISHING RESTRICTED

The Fisheries Director may, by proclamation, establish size and harvest limit restrictions for the following species taken by hook-and-line:

- (1) Blue marlin;
- (2) White marlin;
- (3) Sailfish;
- (4) Cobia;
- (5) Dolphin;
- ~~(6) Bluefish;~~
- ~~(76)~~ Spotted seatrout;
- ~~(87)~~ Tunas; and
- ~~(98)~~ Flounder.

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

.0511 BLUEFISH

In order to comply with the management requirements incorporated in the Fishery Management Plan for Bluefish developed cooperatively by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission, the Fisheries Director may, by proclamation, impose any or all of the following restrictions in the bluefish fishery:

- (1) Specify size;
- (2) Specify seasons;
- (3) Specify areas;
- (4) Specify quantity;
- (5) Specify means/methods; and
- (6) Require submission of statistical and biological data.

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

SUBCHAPTER 3N - NURSERY AREAS

.0005 PROHIBITED GEAR, SECONDARY NURSERY AREAS

(a) It is unlawful to use trawl nets, long haul seines or swipe nets for any purpose in any of the permanent secondary nursery areas described in 15A NCAC 3R .0004.

(b) It is unlawful to use trawl nets, long haul seines or swipe nets for any purpose in any of the special secondary nursery areas described in 15A NCAC 3R .0005, except that the Fisheries Director, may, by proclamation, open any or all of the special secondary nursery areas, or any portion thereof, listed in 15A NCAC 3R .0005 with the exception of those listed in 15A NCAC 3R .0006 to shrimp or crab trawling from August 16 through May 14 subject to the provisions of 15A NCAC 3L .0100 and .0200.

(c) Permanent and special secondary nursery areas described in 15A NCAC 3R .0004 and .0005 generally pertain to those areas located between the described line and the primary nursery area lines or Inland-Coastal boundary lines where applicable.

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

SUBCHAPTER 3O - LICENSES, LEASES, AND FRANCHISES

SECTION .0100 - LICENSES

.0101 LICENSE AGENTS

(a) The total number of license agents in the counties which contain or border on coastal fishing waters shall not exceed 43. The license agents authorized for each county as of October 1, 1983, shall be allowed to renew their agency authorization subject to the terms of this Rule. The desired number of license agents for coastal fishing waters counties is three agents for Carteret, Dare, New Hanover and Onslow counties; two agents for Beaufort, Brunswick and Craven counties; and one agent for the remaining counties.

(b) In the selection of license agents, the Secretary shall consider the following requirements:

- (1) Willingness to attend annual training seminars conducted at the Division field offices;
- (2) Demonstrated ability, either through past performance or through present capabilities, to maintain an accurate accounting of licenses and funds received from the sale of licenses; and
- (3) That no two license agents be located within a 10 mile radius.

(c) License agents appointed after October 1, 1983, shall receive a temporary appointment for a six month period. The Secretary shall review the appointment and determine whether the appointment should continue on the same terms applicable to other license agents.

(d) It is unlawful for a Division appointed license agent or any other person who is acting in such agent's behalf to:

- (1) withhold or misappropriate funds from the sale of licenses;
- (2) falsify records of licenses sold;
- (3) willfully and knowingly assist or allow a person to obtain a license for which he is ineligible;
- (4) willfully issue a backdated license;
- (5) willfully on records or licenses to include false information or omit material information as to:
 - (A) a person's entitlement to a particular license; or
 - (B) the applicability or term of a particular license;
- (6) refuse to return all consigned licenses, or to remit the net value of consigned licenses sold or unaccounted for upon demand from an authorized employee of the Division.

(e) The Secretary may temporarily suspend, revoke, or refuse to renew a person's appointment as a license agent if he or his employees fail in a timely manner to submit required reports, remit

monies due the Division, or otherwise comply with qualifications and standards set by the Division of Marine Fisheries. Any appeal of the Secretary's decision to temporarily suspend, revoke or refuse to renew an appointment of a license agent shall be conducted pursuant to the process set out in 15A NCAC 3N .0302 3P .0002.

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

.0102 PROCEDURE AND REQUIREMENTS TO PURCHASE LICENSE

(a) ~~Buy boats, run boats, or any other vessels used in connection with commercial fishing operations, except vessels without motors used in connection with other licensed vessels and purse boats used in connection with menhaden mother ships, are required to meet the vessel license requirements of G.S. 113-152.~~

(b) ~~Licenses for residents, and non-resident vessels fishing outside North Carolina's territorial waters but landing and offloading in North Carolina, may be obtained by contacting the Division of Marine Fisheries, P.O. Box 769, Morehead City, NC 28557-0769 or one of its license agents located in each coastal county and in several inland counties.~~

(c) ~~Licenses for fish spotter planes, menhaden fishing, non-resident vessels fishing in the coastal waters of North Carolina, and licensing by mail will be handled only by the Division of Marine Fisheries, P.O. Box 769, Morehead City, NC 28557-0769.~~

(d) ~~For non-resident vessels fishing in the coastal waters of North Carolina, there is a period of 45 days following receipt of a completed license application with fees during which it will be determined if the applicant is eligible for a license based on standards in G.S. 113-166. License fees are not refundable if the license is denied.~~

(ea) To obtain a ~~commercial fishing vessel license, an endorsement to sell fish or a shellfish and crab license~~, the following information is required:

- (1) ~~Owner's full~~ Full name, address, and date of birth, and signature on license application;
- (2) ~~Pictured identification of purchaser when purchasing a shellfish and crab license;~~
- (3) ~~Valid documentation papers or current motor boat registration or copy thereof when purchasing a vessel license;~~
- (24) ~~Vessel information, including overall~~

~~Overall length of vessel, port of landing, number in crew, and other pertinent information listed in vessel ownership documents~~ Any vessel with length involving inches shall be rounded off to the nearest foot. Less than six inches will be dropped off; six inches or more will be raised to the next foot;

- (35) Statistical information such as type and size of equipment used in commercial fishing activities; and
- (46) Other miscellaneous information as may be required.

(f) ~~Any vessel with length involving inches shall be rounded off to the nearest foot. Less than six inches will be dropped off; six inches or more will be raised to the next foot.~~

(b) ~~Buy boats, run boats, or any other vessels used in conjunction with commercial fishing operations, except vessels without motors used in connection with other licensed vessels and purse boats used in connection with menhaden mother ships, are required to meet the vessel license requirements of G.S. 113-152.~~

(c) ~~Licenses for fish spotter planes, menhaden fishing and licensing by mail will be handled only by the Division of Marine Fisheries, P.O. Box 769, Morehead City, N.C. 28557-0769. All other licenses may be purchased at any of several authorized license agents located throughout the coastal counties and in several inland counties.~~

(d) ~~A vessel endorsement to sell must be purchased for every vessel used to take fish for sale and the endorsement to sell on a specific vessel must be used when fish taken by that vessel are sold.~~

(e) ~~An endorsement to sell may not be transferred except that an individual under 16 may sell fish under the license of a parent or guardian. The license may be transferred within a single fishing operation defined as an aquaculture operation or a single vessel.~~

(f) ~~The non-vessel endorsement to sell fish can only be used to sell fish when a vessel was not used to take such fish except that fish taken on vessels for hire or in conjunction with a fishing tournament may be sold with the non-vessel endorsement to sell. Fish taken during a sanctioned tournament may only be sold by an authorized tournament agent possessing a non-vessel endorsement to sell. To be eligible for a non-vessel endorsement license tournaments must register with the Division of Marine Fisheries 30 days prior to the tournament and must designate an authorized tournament selling and reporting agent.~~

Any tournament so registered is a sanctioned tournament within the meaning of this subsection.

(g) Vessel owners from states which have reciprocal land or sell agreements with North Carolina may land fish taken outside North Carolina waters without purchasing a land or sell license as required by G.S. 113-153. A vessel endorsement to sell fish with an endorsement card at the established fee based on vessel length will be required to sell fish in North Carolina.

(h) Vessel owners from states which do not have reciprocal land or sell agreements with North Carolina taking fish only outside North Carolina coastal fishing waters may land those fish with a land or sell license. To sell fish in North Carolina, the vessel owner must also possess an endorsement to sell at the established fee based on the vessel length.

Statutory Authority G.S. 113-152; 113-153; 143B-289.4.

.0108 LOST LICENSE REPLACEMENT

(a) Lost vessel license ~~decal~~ including endorsement to sell and decal may be replaced upon payment of a fee of ~~fifty cents (\$0.50)~~ five dollars (\$5.00) and submission of evidence to the Division of Marine Fisheries that a current license for the vessel in question has been purchased and is not suspended or revoked.

(b) Lost Dealer's, Ocean Pier, and Shellfish and Crab and non-vessel endorsement to sell Licenses licenses may be replaced upon submission of evidence to the Division of Marine Fisheries that a current license has been purchased and is not suspended or revoked.

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

SECTION .0200 - LEASES AND FRANCHISES

.0201 STANDARDS FOR SHELLFISH BOTTOM AND WATER COLUMN LEASES

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

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

(A) The lease area must not contain a natural shellfish bed which is defined as ten bushels or more of shellfish per

acre.

(B) The lease area must not be closer than 100 feet to a developed shoreline. In an area bordered by undeveloped shoreline, no minimum setback is required. When the area to be leased borders the applicant's property or borders the property of riparian owners who have consented in a notarized statement, the ~~Commission~~ Secretary may reduce the distance from shore required by this Rule.

(C) Unless the applicant can affirmatively establish a necessity for greater acreage through the management plan that is attached to the application and other evidence submitted to the ~~Commission~~ Secretary, the lease area shall not be less than ~~one~~ one-half acre and shall not exceed:

- (i) 10 acres for oyster culture;
- (ii) 5 acres for clam culture; or
- (iii) 5 acres for any other species.

This Section shall not be applied to reduce any holdings as of July 1, 1983.

(2) Produce and market 25 bushels of shellfish per acre per year to meet the minimum commercial production requirement ~~for leased bottoms or plant~~ 25 bushels of cultch or seed shellfish per acre per year as determined by Division biologists to meet commercial production by planting effort. Planting effort will be considered in lieu of commercial production for five consecutive years beginning March 1, 1994, or for the first five consecutive years for any lease granted after March 1, 1994.

(b) Water columns superjacent to leased bottoms shall meet the standards in G.S. 113-202.1 in order to be deemed suitable for leasing for aquaculture purposes.

(c) Water columns superjacent to duly recognized perpetual franchises shall meet the standards in G.S. 113-202.2 in order to be deemed suitable for leasing for aquaculture purposes.

(d) Water column leases must produce and market 100 bushels of shellfish per acre per year to meet the minimum commercial production requirement ~~or plant~~ 100 bushels of cultch or seed shellfish per acre per year as determined by Division biologists to meet commercial production by planting effort. Planting effort will be considered in lieu of commercial production for

five consecutive years beginning March 1, 1994, or for the first five consecutive years for any lease granted after March 1, 1994.

Statutory Authority G.S. 113-134; 113-201; 113-202; 113-202.1; 113-202.2; 143B-289.4.

.0203 SHELLFISH LEASE APPLICATION PROCESSING

(a) Upon acceptance of a completed application, the proposed lease area will be inspected within a reasonable time by agents of the Division. Proposed lease areas inconsistent with applicable standards contained or referenced in 15A NCAC 30 .0201 will result in the return of applications for amendment to remove the inconsistencies. If the boundaries of the proposed lease area are modified, the stakes identifying such areas shall be relocated accordingly by the applicant. The failure of applicants to amend applications or modify lease area identification, when required, will result in denial of such applications.

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

(c) The ~~Marine Fisheries Commission~~ Secretary will consider the lease application, the Division's proposed lease area analysis, and public comments, and may in its discretion lease or decline to lease the proposed lease area or any part thereof. Special conditions may be imposed so that leases may be issued which would otherwise be denied. Should an applicant decide not to accept any special condition imposed on the lease by the ~~Commission~~ Secretary, the application shall be considered denied.

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

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

- (2) Maps shall bear the certificate:
 "I _____ certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision); that the error of closure as calculated by latitudes and departures is 1: _____, that the area is _____ acres. Witness my hand and seal this _____ day of _____ AD _____."

Surveyor or Engineer

- (3) The phrase "other appropriate natural monuments or landmarks" in 21 NCAC 56 .1604(e)(9) shall include bridges, roads, highways, intersections, publicly maintained aids to navigation, houses and other permanent buildings, radio, telephone, TV, and water towers; docks; piers, and bulkheads; but does not include stakes marking the boundaries of adjoining leases, points of marsh, junctions of streams, or other landmarks which are particularly subject to change through natural processes, storms, or the effect of man.
- (4) A written description of the survey suitable for official documents shall be provided with the survey.

(e) Proposed shellfish bottom lease areas remain public bottom until a formal lease has been executed by the Secretary.

(f) Proposed water column lease areas superjacent to shellfish bottom leases and recognized perpetual franchises remain public water until a formal lease has been executed by the Secretary.

Statutory Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 143B-289.4.

.0204 MARKING SHELLFISH LEASES AND FRANCHISES

(a) All shellfish bottom leases, franchises, and water column leases shall be marked as follows:

- (1) Shellfish bottom leases and franchises shall be marked by:
 - (A) Stakes of wood or plastic material at least three inches in diameter at the water level and extending at least four feet above the high water mark. The stakes shall be firmly jettied or driven

into the bottom at each corner.

- (B) Signs displaying the number of the lease or franchise and the name of the owner printed in letters at least three inches high must be firmly attached to each corner stake.
- (C) Supplementary stakes of wood or plastic material, not farther apart than 50 yards or closer together than 50 feet and extending at least four feet above the high water mark, must be placed along each boundary, except when such would interfere with the use of traditional navigation channels.
- (2) Water column leases shall be marked by anchoring two yellow buoys, meeting the material and minimum size requirements specified in 15A NCAC 3J .0103(a b) at each corner of the area or by other means as identified and approved by the ~~Marine Fisheries Commission~~ Secretary in the Management Plan.

(b) Stakes marking areas of management within shellfish bottom leases or franchises, as approved in the management plan, must conform to Subparagraph (a)(1)(C) of this Rule and may not exceed one for each 1,200 square feet. Marking at concentrations of stakes greater than one for each 1,200 square feet constitutes use of the water column and a water column lease is required in accordance with G.S. 113-202.1 or G.S. 113-202.2.

(c) All areas claimed in filings made pursuant to G.S. 113-205 as deeded bottoms through oyster grants issued by the county clerk of court or as private bottoms through perpetual franchises issued by the Shellfish Commission shall be marked in accordance with Paragraph (a) of this Rule, except the sign shall include the number of the franchise rather than the number of the lease. However, claimed areas not being managed and cultivated shall not be marked.

(d) It is unlawful to fail to remove all stakes, signs, and markers within 30 days of receipt of notice from the Secretary pursuant to Departmental Rule 15A NCAC 1H .0207 that a G.S. 113-205 claim to a marked area has been denied.

(e) It is unlawful to exclude or attempt to exclude the public from allowable public trust use of navigable waters on shellfish leases and franchises including, but not limited to, fishing, hunting, swimming, wading and navigation.

(f) The Division has no duty to protect any shellfish bottom lease, franchise, or water column

lease not marked in accordance with Paragraph (a) of this Rule.

Statutory Authority G.S. 76-40; 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; 143B-289.4.

.0205 LEASE RENEWAL

(a) Lease renewal applications will be provided to lessees as follows:

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

(b) Lease renewal applications shall be accompanied by management plans meeting the requirements of 15A NCAC 3O .0202(b). A filing fee of fifty dollars (\$50.00) shall accompany each renewal application for shellfish bottom leases.

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

(d) When it is determined, after due notice to the lessee, and after opportunity for the lessee to be heard, that the lessee has not complied with the requirements of this Section or that the lease as issued is inconsistent with this Section, the Secretary may decline to renew, at the end of the current terms, any shellfish bottom or water column lease. The lessee may appeal the Secretary's decision ~~to the Marine Fisheries Commission pursuant to G.S. 113-202(p)~~ by initiating a contested case as outlined in 15A NCAC 3P .0002.

(e) Pursuant to G.S. 113-202(a)(6), the Secretary is not authorized to recommend approval of renewal of a shellfish lease in an area closed to shellfishing by reason of pollution. Shellfish leases partially closed due to pollution must be amended to exclude the area closed to shellfishing prior to renewal. For the purposes of this Paragraph, an area will be considered closed to shellfishing by reason of pollution when the area has been classified as prohibited or has been closed for four or more consecutive years prior to renewal upon recommendation by the State Health Director, except shellfish leases in areas which have been closed for four or more years and continue to meet established production requirements by sale of shellfish through relay periods or other recognized means shall not be considered closed due to pollution for renewal

purposes.

(f) If the Secretary declines to renew a lease that has been determined to be inconsistent with the standards of this Section, the Secretary, with the agreement of the lessee, may issue a renewal lease for all or part of the area previously leased to the lessee that contains conditions necessary to conform the renewal lease to the minimum requirements of this Section for new leases.

Statutory Authority G.S. 113-134; 113-201; 113-202; 113-202.1; 113-202.2; 143B-289.4.

.0206 LEASE PROTEST

(a) Should any person object to the granting of any initial or renewal lease, he has the right to protest its issuance prior to the granting of the lease by the ~~Commission~~ Secretary. The protestant may file a sworn statement of protest with the Division stating the grounds for protest. The Secretary will notify both the prospective lessee and the protestant upon receipt of a protest, and will conduct such investigation as he deems necessary, and will notify both parties of the outcome of his investigation. Protestants or applicants receiving an adverse recommendation on the lease application from the Secretary may request in writing within 20 days notice of such action an administrative hearing ~~before the Marine Fisheries Commission~~ as outlined in 15A NCAC 3P .0002.

(b) Any member of the public shall be allowed an opportunity to comment on any lease application during the public hearing at which the lease application is being considered by the Secretary.

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

.0208 CANCELLATION

(a) In addition to the grounds established by G.S. 113-202, the Secretary will begin action to terminate leases and franchises for failure to produce and market ~~oysters or clams~~ shellfish or for failure to maintain a planting effort of cultch or seed shellfish at the following ~~rate rates~~:

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

These production and marketing rates will be averaged over the most recent three-year period after January 1 following the second anniversary of

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

(b) Action to terminate a shellfish franchise shall begin when there is reason to believe that the patentee, or those claiming under him, have done or omitted an act in violation of the terms and conditions on which the letters patent were granted, or have by any other means forfeited the interest acquired under the same. The Division shall investigate all such rights issued in perpetuity to determine whether the Secretary should request that the Attorney General initiate an action pursuant to G.S. 146-63 to vacate or annul the letters patent granted by the state.

(c) Action to terminate a shellfish lease or franchise shall begin when the Fisheries Director has cause to believe the holder of private shellfish rights has encroached or usurped the legal rights of the public to access public trust resources in navigable waters.

(d) In the event action to terminate a lease is begun, the owner shall be notified by registered mail and given a period of 30 days in which to correct the situation. Petitions to review the Secretary's decision must be filed with the Office of Administrative Hearings ~~consistent with the provisions of 26 NCAC Chapter 3~~ as outlined in 15A NCAC 3P .0002.

(e) The Secretary's decision to terminate a lease may be appealed ~~to the Marine Fisheries Commission by the owner as provided in G.S. 113-202(p)~~ by initiating a contested case as outlined in 15A NCAC 3P .0002.

Statutory Authority G.S. 113-134; 113-201; 113-202; 113-202.1; 113-202.2; 143B-289.4.

.0209 TRANSFER OF INTEREST

(a) Within 30 days after transfer of ownership of all or any portion of interest in a shellfish lease or franchise, the new owner shall notify the Division, and provide the number of the lease or franchise and the county in which it is located. Such notification shall be accompanied by a management plan prepared by the new owner in accordance with 15A NCAC 30 .0202(b).

(b) If the new owner obtains a portion of an existing shellfish bottom lease or franchise, it shall not contain less than ~~one~~ one-half acre and the required notification to the Division shall be accompanied by a survey prepared in accordance

with the standards in 15A NCAC 30 .0203(d).

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

(d) In the event the transferee involved in a lease is a nonresident, the Secretary must initiate termination proceedings.

Statutory Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; 143B-289.4.

SUBCHAPTER 3R - DESCRIPTIVE BOUNDARIES

.0002 MILITARY PROHIBITED AND RESTRICTED AREAS

(a) Designated military prohibited and restricted areas referenced in 15A NCAC 3I .0010(b) and used for military training purposes are located as follows:

- (1) Currituck Sound:
 - (aA) North Landing River; and
 - (bB) Northern part of Currituck Sound (See 33 CFR 334.410 (a) (1) and (a) (2); Contact Commander Fleet Air Norfolk);
- (2) Albemarle Sound:
 - (aA) Along north shore at the easternmost tip of Harvey Point (See 33 CFR 334.410 (b) (1) and (b) (2); Contact Commander Fleet Air Norfolk); and
 - (bB) Along south shore of Albemarle Sound (See 33 CFR 334.410 (b) (1) and (b) (2); Contact Commander Fleet Air Norfolk);
- (3) Pamlico Sound:
 - (aA) In the vicinity of Long Shoal (See 33 CFR 334.410 (c); Contact Commander Fleet Air Norfolk);
 - (bB) In the vicinity of Brant Island (See 33 CFR 334.420 (a) (1); Contact Commander Marine Corp Air Bases, East, Cherry Point); and
 - (cC) In the vicinity of Piney Island including waters of Rattan Bay, Cedar Bay and Turnagain Bay (See 33 CFR 334.420 (b); Contact Commander Marine Corps Air Bases, East, Cherry Point);
- (4) Neuse River and tributaries, that portion of Neuse River within 500 feet of the shore along the reservation of the Marine Corps Air Station, Cherry Point, North Carolina, extending from the mouth of

Hancock Creek to a point approximately ~~6,000~~ 6,800 feet west of the mouth of Slocum Creek, and all waters of Hancock and Slocum Creeks and their tributaries within the boundaries of the reservations (See 33 CFR 334.430 (a); contact Commanding General, United States Marine Corps Air Station, Cherry Point);

- (5) Atlantic Ocean:
 - (aA) In the vicinity of Bear Inlet; and
 - (bB) East of New River Inlet (See 33 CFR 334.440 (a) and (d); Contact Commanding General, Marine Corps Base, Camp Lejeune);
- (6) Brown's Inlet area between Bear Creek, Onslow Beach Bridge and the Atlantic Ocean (See 33 CFR 334.440 (e); Contact Commanding General, Marine Corps Base, Camp Lejeune);
- (7) New River within eight sections:
 - (aA) Trap Bay Sector,
 - (bB) Courthouse Bay Sector,
 - (cC) Stone Bay Sector,
 - (dD) Stone Creek Sector,
 - (eE) Grey Point Sector,
 - (fF) Farnell Bay Sector,
 - (gG) Morgan Bay Sector, and
 - (hH) Jacksonville Sector (See 33 CFR 334.440(a); Contact Commanding General, Marine Corps Base, Camp Lejeune);
- (8) Cape Fear River due west of the main ship channel extending from U.S. Coast Guard Buoy No. 31A at the north approach channel to Sunny Point Terminal to U.S. Coast Guard Buoy No. 23A at the south approach channel to Sunny Point Army Terminal and all waters of its tributaries therein (See 33 CFR 334.450 (a); Contact Commander, Sunny Point Area Terminal, Southport).

~~(b) The areas included in the advisory against the use of fixed fishing gear at the Piney Island range, as referenced in 15A NCAC 3I .0010(d) is Rattan Bay southeast of a line beginning at a point 35° 02' 41" N 76° 29' 00" W, running 027° (M) to a point 35° 03' 28" N 76° 28' 42" W, and including all of Rattan Bay which is within the Piney Island military range in southern Pamlico Sound.~~

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

.0004 PERMANENT SECONDARY

NURSERY AREAS

The permanent secondary nursery areas referenced in 15A NCAC 3N .0005(a) and (c) are delineated in the following coastal water areas:

(1) In the Pamlico Sound Area:

- (a) Long Shoal River - north of a line beginning at a point on Pains Point 35° 35' 07" N - 75° 51' 25" W, running 282° (M) to a point on the west shore at the 5th Avenue Canal 35° 35' 12" N - 75° 53' 16" W;
- (b) Pains Bay - east of a line beginning at a point on the south shore 35° 34' 28" N - 75° 50' 58" W, running 350° (M) to a point on the north shore 35° 35' 04" N - 75° 51' 12" W;
- (c) Wysocking Bay - north and west of a line beginning at Benson Point 35° 22' 58" N - 76° 03' 39" W, running 058° (M) to Long Point 35° 24' 37" N - 76° 01' 19" W;
- (d) Juniper Bay-Cunning Harbor - north of a line beginning at a point on the west shore of Juniper Bay 35° 20' 34" N - 76° 15' 28" W, running 105° (M) through Juniper Bay Point to a point on the east shore of Cunning Harbor 35° 20' 15" N - 76° 12' 23" W;
- (e) Swanquarter Bay - north of a line beginning at a point at The Narrows 35° 20' 54" N - 76° 20' 38" W, running 080° (M) to a point on the east shore 35° 21' 31" N - 76° 18' 22" W;
- (f) Deep Cove-The Narrows - north and east of a line beginning at a point on the west shore 35° 20' 54" N - 76° 23' 52" W, running 122° (M) to a point on the east shore 35° 20' 34" N - 76° 22' 57" W, and west of a line at The Narrows beginning at a point on the north shore 35° 20' 54" N - 76° 20' 38" W, running 175° (M) to a point on the south shore 35° 20' 44" N - 76° 20' 35" W;
- (g) Rose Bay - north of a line beginning at a point on the west shore 35° 23' 17" N - 76° 26' 10" W, running 144° (M) to a point on Judith Island 35° 22' 29" N - 76° 25' 15" W;
- (h) Spencer Bay - west and north of a line beginning at a point on Willow Point 35° 22' 22" N - 76° 27' 52" W, running 065° (M) to a point 35° 23' 17" N - 76° 26' 10" W;
- (i) Able Bay - north and east of a line

(j)

(k)

(l)

(m)

(n)

In the Bay River Area:

- (i) Bonner Bay - south of a line beginning at a point on the west shore 35° 09' 36" N - 76° 36' 14" W, running 074° (M) to a point on the east shore 35° 09' 57" N - 76° 35' 14" W;
- (ii) Gales Creek-Bear Creek (tributaries of Bay River) - north and west of a line beginning at a point on Sanders Point 35° 11' 17" N - 76° 35' 54" W, running 067° (M) through Beacon No. 27 to a point on the east shore 35° 11' 54" N - 76° 34' 17" W;

(2) In the Pamlico River Area:

- (a) (In the Pungo River Area): Fortescue Creek, east of a line beginning at a point on the north shore 35° 25' 55" N - 76° 31' 58" W; running 195° (M) to a point on the south shore 35° 25' 36" N - 76° 32' 01" W;
- (b) North Creek - north of a line beginning at a point on the west shore 35° 25' 24" N - 76° 40' 04" W, running 120° (M) through Marker No. 4 to a point on the east shore 35° 25' 16" N - 76° 40' 18" W;
- (c) In the Goose Creek area:
 - (i) Campbell Creek - west of a line beginning at a point on the south shore 35° 17' 00" N - 76° 37' 06" W, running 349° (M) to a point on the

- west shore 35° 17' 19" N - 76° 37' 08" W;
- (ii) Eastham Creek - east of a line beginning at a point on the south shore 35° 17' 36" N - 76° 36' 24" W, running 327° (M) to a point on the north shore 35° 17' 44" N - 76° 36' 30" W;
- (d) Oyster Creek-Middle Prong - southwest of a line beginning at a point on Cedar Island 35° 19' 28" N - 76° 32' 14" W, running 135° (M) to a point on Beard Island Point 35° 19' 10" N - 76° 31' 44" W;
- (3) In the Neuse River Area:
- (a) Lower Broad Creek - northwest of a line beginning at a point on the northeast shore 35° 05' 47" N - 76° 35' 25" W, running 228° (M) to a point on the southwest shore 35° 05' 34" N - 76° 35' 43" W;
- (b) Greens Creek - above Highway 1308 Bridge;
- (c) Dawson Creek - above Highway 1302 Bridge;
- (d) Clubfoot Creek - south of a line beginning at a point on the east shore 34° 54' 29" N - 76° 45' 26" W, running 284° (M) to a point on the west shore 34° 54' 33" N - 76° 45' 43" W;
- (e) (In the Adams Creek Area) Cedar Creek - east of a line beginning at a point on the south shore 34° 55' 52" N - 76° 38' 49" W, running 004° (M) to a point on the north shore 34° 56' 05" N - 76° 38' 48" W;
- (4) Virginia Creek - all waters of the natural channel northwest of the primary nursery area line;
- (5) Old Topsail Creek - all waters of the dredged channel northwest of the primary nursery area line;
- (6) Mill Creek - all waters west of a line beginning at a point on the south shore 34° 24' 17" N - 77° 42' 15" W, running 028° (M) to a point on the north shore 34° 20' 36" N - 77° 42' 06" W;
- (7) Pages Creek - all waters west of a line beginning at a point on the south shore 34° 15' 52" N - 77° 46' 18" W, running 044° (M) to a point on the north shore 34° 16' 09" N - 77° 46' 01" W;
- (8) Bradley Creek - all waters west of a line beginning on the south shore 34° 12' 23"

N - 77° 49' 14" W, running 021° (M) to a point on the north shore 34° 12' 38" N - 77° 49' 09" W;

- (9) Davis Creek, all waters east of a line beginning at a point on Oak Island 33° 54' 51" N - 78° 12' 49" W, running 010° (M) to a point on Horse Island 33° 54' 57" N - 78° 12' 49" W and Davis Canal, all waters southeast of a line beginning at a point on a spoil island at the southwest intersection of the ICWW and Davis Canal 33° 55' 23" N - 78° 11' 39" W, running 060° (M) across the mouth of Davis Canal to a point on Pinner Point 33° 55' 26" N - 78° 11' 38" W.

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

.0005 SPECIAL SECONDARY NURSERY AREAS

The special secondary nursery areas referenced in 15A NCAC 3N .0005 (b) and (c) are delineated in the following coastal water areas:

- (1) In the Pamlico River Area, Pamlico River, west of a line beginning at a point on Mauls Point 35° 26' 56" N - 76° 55' 33" W; running 073° (M) to a point on Ragged Point 35° 27' 33" N - 76° 54' 21" W;
- (a) Pungo River:
- (i) Pungo Creek, west of a line beginning at a point on Persimmon Tree Point 35° 31' 06" N - 76° 37' 49" W; running 241° (M) to a point on Windmill Point 35° 30' 48" N - 76° 38' 18" W;
- (ii) Pungo River, north of a line beginning at a point on the east shore 35° 32' 05" N - 76° 28' 09" W; running 277° (M) through Beacon No. 21 to a point on the west shore 35° 32' 12" N - 76° 29' 15" W;
- (iii) Scranton Creek, south and east of a line beginning at a point on the west shore 35° 30' 37" N - 76° 28' 36" W; running 085° (M) to a point on the east shore 35° 30' 39" N - 76° 28' 12" W;
- (iv) Slade Creek, east of a line beginning at a point on the south shore 35° 27' 39" N - 76° 32' 46" W; running 328° (M) to a point on the north shore 35° 27' 52" N - 76° 33' 00"

- W;
- (b) South Creek, west of a line beginning at a point on Hickory Point 35° 21' 44" N - 76° 41' 37" W; running 195° (M) to a point on Fork Point 35° 20' 44" N - 76° 41' 48" W;
 - (c) Bond Creek/Muddy Creek, south of a line beginning at a point on Fork Point 35° 20' 44" N - 76° 41' 48" W; running 135° (M) to a point on Gum Point 35° 20' 32" N - 76° 41' 30" W;
- (2) In the Neuse River Area:
- (a) Goose Creek, north and east of a line beginning at a point on the south shore 35° 02' 08" N - 76° 56' 02" W; running 331° (M) to a point on the north shore 35° 02' 37" N - 76° 56' 27" W;
 - (b) Upper Broad Creek, northeast of a line beginning at a point on the north shore 35° 03' 26" N - 76° 57' 14" W; running 153° (M) to a point on the south shore 35° 02' 56" N - 76° 56' 49" W;
- (3) In the West Bay Area:
- (a) West Thorofare Bay - south of a line beginning at a point on the west shore 34° 57' 22" N - 76° 24' 03" W, running 090° (M) through FL R "10WB" to a point on the east shore 34° 57' 28" N - 76° 23' 06" W;
 - (b) Long Bay-Ditch Bay - west of a line beginning at a point 34° 57' 52" N - 76° 26' 37" W, running southwest 226° (M) to a point 34° 57' 13" N - 76° 27' 13" W, thence south of a line running southeast 134° (M) to a point 34° 56' 46" N - 76° 26' 26" W;
 - (c) Turnagain Bay - south of a line beginning at a point on the west shore at 34° 59' 23" N - 76° 30' 11"; thence running 084° (M) to a point on the east shore at 34° 59' 33" N - 76° 29' 23" W;
- (4) In the Core Sound Area:
- (a) Cedar Island Bay - northwest of a line beginning at a point near the telephone tower 34° 57' 49" N - 76° 16' 58" W, running 049° (M) to a point at the gun club or "clubhouse" dock 34° 58' 43" N - 76° 16' 00" W;
 - (b) Thorofare Bay-Barry Bay - northwest of a line beginning at a point on Hall Point 34° 54' 25" N - 76° 19' 09" W, running 046° (M) to a point at Rumley Hammock 34° 55' 27" N - 76° 18' 13" W;
- (c) Nelson Bay - northwest of a line beginning at a point on the west shore of Nelson Bay 34° 51' 08" N - 76° 24' 36" W, and running 062° (M) through Beacon No. 1 in Nelson Bay to a point on Drum Point 34° 51' 36" N - 76° 23' 48" W;
 - (d) Brett Bay - all waters north of a line beginning at Piney Point 34° 49' 32" N - 76° 25' 06" W; running 258° (M) to a point on the west shore 34° 49' 23" N - 76° 26' 02" W;
 - (e) Jarrett Bay - north of a line beginning at a point east of Davis Island 34° 45' 46" N - 76° 28' 45" W, and running 266° (M) to a point on the west shore (site of Old Chimney) 34° 45' 31" N - 76° 30' 04" W;
- (5) In the North River area:
- (a) North River - north of a line beginning at a point on the west shore at the oyster house 34° 46' 28" N - 76° 37' 07" W, running 096° (M) to a point on the east shore 34° 46' 30" N - 76° 35' 47" W;
 - (b) Ward Creek - east of a line beginning on the north shore 34° 46' 13" N - 76° 34' 58" W, running 182° (M) to a point on the south shore 35° 45' 34" N - 76° 35' 00" W;
- (6) Newport River - west of a line beginning at Penn Point at 34° 45' 44" N - 76° 43' 35" W; thence running 022° (M) to a point on the north shore at 34° 46' 47" N - 76° 43' 15" W;
- (7) New River upstream of the N.C. Highway 172 Bridge;
- (8) Intracoastal Waterway - all waters in the Intracoastal Waterway maintained channel from Marker No. 17 north of Alligator Bay to Marker No. 49 at Morris Landing and all waters in the Intracoastal Waterway maintained channel and 100 feet on either side from Marker No. 49 to the N.C. Highway 50-210 Bridge at Surf City;
- (79) Cape Fear River - beginning at a point on the south side of the Spoil Island at the intersection of the ICWW and the Cape Fear River ship channel 34° 01' 37" N - 77° 56' 05" W, running 106° (M) to a point on the east shore of the Cape Fear River 34° 01' 32" N - 77°

55' 00" W, running south and bounded by the shoreline to a point near the Ferry Slip at Federal Point 33° 57' 52" N - 77° 56' 28" W, running 353° (M) north to a point on Bird Island 33° 58' 24" N - 77° 56' 36" W, running 013° (M) back to point of origin;

- (810) Lockwood Folly River - beginning at a point on Howells Point 33° 55' 21" N - 78° 12' 47" W and running in a westerly direction along the ICWW to a point near ICWW Marker No. 46 33° 55' 18" N - 78° 13' 54" W;
- (911) Saucepan Creek - all waters north of a line beginning at a point on the west shore 33° 54' 36" N - 78° 22' 54" W, running 062° (M) to a point on the east shore 33° 54' 38" N - 78° 22' 49" W.

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

.0006 TRAWL NETS PROHIBITED

It is unlawful to use trawl nets;

- (1) ~~in~~ In that area south of Shackleford Banks which is east of a line which begins at the navigation aid (buoy or beacon) at the westward end of the Cape Lookout westernmost jetty and running thence N 06° 45" E degrees (M) to the Harkers' Island water tower; The excluded area includes all of Cape Lookout Bight, that area west of the Bight but east of the line above that portion of Bardens Inlet which lies southwestward of a line which begins at the Cape Lookout Lighthouse and runs N 28° 15' W degrees (M) to the southern end of Shackleford Banks; ;
- (2) In Pamlico Sound, within the area bounded by a line beginning at a point on the north side of Swash Inlet 34° 58' 50" N - 76° 09' 13" W; thence running 272° (M) 5,420 yards to a point in Wainwright Channel 34° 59' 30" N - 76° 12' 22" W immediately east of the northern tip of Wainwright Island; thence 019° (M) 2,000 yards to red 4 second interval flashing beacon "2CS" 35° 00' 16" N - 76° 12' 12" W; thence 033° (M) 2,900 yards to 4 second interval flashing beacon "HL" 35° 01' 35" N - 76° 11' 27" W; thence 043° (M) 14,450 yards to a point in Pamlico Sound 35° 07' 06" N - 76° 06' 54" W; from which point green

4 second interval flashing beacon "3" on Royal Shoal bears 005° (M) 6,000 yards; green 6 second interval flashing beacon "5" on Royal Shoal bears 325° (M) 6,220 yards; and a yellow 6 second interval flashing beacon on Royal Shoal bears 257° (M) 3,000 yards; thence 078° (M) 7,800 yards to green 2.5 second interval flashing beacon "9" 35° 08' 26" N - 76° 02' 30" W in Nine Foot Shoal Channel; thence 067° (M) 3,640 yards to red 4 second interval flashing beacon "14BF" 35° 09' 21" N - 76° 00' 39" W in Big Foot Slough Channel; thence 078° (M) 26,260 yards to a quick-flashing beacon 35° 14' 00" N - 75° 45' 50" W; southwest of Oliver Reef; thence 033° (M) 6,100 yards to 2.5 second interval flashing beacon "1" 35° 16' 46" N - 75° 44' 16" W in Rollinson Channel; thence 079° (M) 13,920 yards to red 4 second interval flashing beacon "2" 35° 19' 02" N - 75° 36' 19" W in Cape Channel; thence 038° (M) 8,800 yards to green 4 second interval flashing beacon "1" at 35° 22' 48" N - 75° 33' 36" W in Avon Channel; thence 027° (M) 11,900 yards to a point on Gull Island at 35° 28' 27" N - 75° 31' 21" W; thence 012° (M) 15,400 to 4 second interval flashing beacon "ICC" 35° 36' 00" N - 75° 31' 12" W at Chicamacomico Channel; thence 331° (M) 8,600 yards to a point in Pamlico Sound at 35° 39' 21" N - 75° 34' 24" W; thence 013° (M) 7,250 yards to a point in Pamlico Sound at 35° 42' 57" N - 75° 34' 09" W; thence 045° (M) 7,200 yards to a point on the shore of Hatteras Island at 35° 45' 54" N - 75° 31' 06" W; thence running southward with the shoreline of Hatteras Island to a point 35° 11' 30" N - 75° 44' 48" W on the southwest end of Hatteras Island; thence 269° (M) 2,380 yards across Hatteras Inlet to a point 35° 11' 18" N - 75° 46' 15" W on the northeast end of Ocracoke Island; thence southwest with the shoreline of Ocracoke Island to a point 35° 03' 54" N - 76° 00' 54" W on the southwest end of Ocracoke Island; thence 268° (M) 2,220 yards across Ocracoke Inlet to a point 35° 03' 42" N - 76° 02' 15" W on the northeast end of Portsmouth Island; thence running southwest with the shoreline of

- Portsmouth Island and Core Banks to a point on the north side of Swash Inlet 34° 58' 50" N - 76° 09' 13" W, to the point of the beginning;
- (3) In Northern Pamlico Sound, Stumpy Point Bay, north of a line beginning at a point on Kazer Point 35° 40' 37" N - 75° 45' 39" W; running 079° (M) to a point on Drain Point 35° 40' 57" N - 75° 44' 28" W;
- (4) In the Pamlico River area:
- (a) In Pamlico River, west of a line beginning at a point on Maul Point 35° 26' 56" N - 76° 55' 33" W; running 073° (M) to a point on Ragged Point 35° 27' 33" N - 76° 54' 21" W;
- (b) In lower Goose Creek, south of a line beginning at a point on Fulford Point 35° 19' 42" N - 76° 36' 39" W; running 308° (M) through Beacon No. 6 to a point on the west shore 35° 20' 00" N - 76° 37' 28" W;
- (5) In Pungo River, north of a line beginning at a point on the east shore 35° 32' 05" N - 76° 28' 09" W; running 277° (M) through Beacon No. 21 to a point on the west shore 35° 32' 12" N - 76° 29' 15" W;
- (6) In the Bay River Area:
- (a) Dump Creek, north of a line beginning at a point on the west shore 35° 11' 38" N - 76° 33' 25" W; running 129° (M) to a point on the east shore 35° 11' 21" N - 76° 32' 53" W;
- (b) Rockhole Bay, north of a line beginning at a point on the west shore 35° 11' 21" N - 76° 32' 53" W; running 123° (M) to a point on the east shore 35° 11' 06" N - 76° 32' 12" W;
- (c) Vandemere Creek, north of a line beginning at a point on the west shore 35° 11' 15" N - 76° 39' 28" W; running 162° (M) to a point on the east shore 35° 11' 05" N - 76° 39' 22" W;
- (d) Cedar Creek, west of a line beginning at a point on the north shore of Cedar Creek 35° 11' 15" N - 76° 39' 28" W; running 224° (M) to a point on the south shore of an unnamed tributary 35° 11' 04" N - 76° 39' 40" W;
- (e) Chapel Creek, north of a line beginning at a point on the west shore of Chapel Creek 35° 08' 42" N - 76° 42' 50" W; running 091° (M) to a point on the east shore 35° 08' 44" N - 76° 42' 24" W;
- (f) Upper Bay River, west of a line beginning at a point on the north shore of Bay River 35° 08' 39" N - 76° 43' 06" W; running 209° (M) to a point on the south shore 35° 08' 25" N - 76° 43' 13" W;
- (7) In the Neuse River Area, Pierce Creek, west of a line beginning at a point on the southwest shore of Pierce Creek 35° 02' 18" N - 76° 39' 42" W; running 022° (M) to a point on the northeast shore 35° 02' 24" N - 76° 39' 43" W;
- (8) In Turnagain Bay - south of a line beginning at a point on the west shore at 34° 59' 23" N - 76° 30' 11"; thence running 084° (M) to a point on the east shore at 34° 59' 33" N - 76° 29' 23" W;
- (9) In Long Bay-Ditch Bay - west of a line beginning at a point 34° 57' 52" N - 76° 26' 37" W, running southwest 226° (M) to a point 34° 57' 13" N - 76° 27' 13" W, thence south of a line running southeast 134° (M) to a point 34° 56' 46" N - 76° 26' 26" W;
- (10) In West Thorofare Bay - south of a line beginning at a point on the west shore 34° 57' 22" N - 76° 24' 03" W, running 090° (M) through FL R "10WB" to a point on the east shore 34° 57' 28" N - 76° 23' 06" W;
- (11) In Cedar Island Bay - northwest of a line beginning at a point near the telephone tower 34° 57' 49" N - 76° 16' 58" W, running 049° (M) to a point at the gun club or "clubhouse" dock 34° 58' 43" N - 76° 16' 00" W;
- (12) In Thorofare Bay-Barry Bay - northwest of a line beginning at a point on Hall Point 34° 54' 25" N - 76° 19' 09" W, running 046° (M) to a point at Rumley Hammock 34° 55' 27" N - 76° 18' 13" W;
- (13) In Nelson Bay - northwest of a line beginning at a point on the west shore of Nelson Bay 34° 51' 08" N - 76° 24' 36" W, and running 062° (M) through Beacon No. 1 in Nelson Bay to a point on Drum Point 34° 51' 36" N - 76° 23' 48" W;
- (14) In Brett Bay - all waters north of a line beginning at Piney Point 34° 49' 32" N - 76° 25' 06" W; running 258° (M) to a point on the west shore 34° 49' 23" N - 76° 26' 02" W;
- (15) In Jarrett Bay - north of a line beginning

at a point east of Davis Island $34^{\circ} 45' 46''$ N - $76^{\circ} 28' 45''$ W, and running 266° (M) to a point on the west shore (site of Old Chimney) $34^{\circ} 45' 31''$ N - $76^{\circ} 30' 04''$ W;

(16) In the North River area:

(a) North River - north of a line beginning at a point on the west shore at the oyster house $34^{\circ} 46' 28''$ N - $76^{\circ} 37' 07''$ W, running 096° (M) to a point on the east shore $34^{\circ} 46' 30''$ N - $76^{\circ} 35' 47''$ W;

(b) Ward Creek - east of a line beginning on the north shore $34^{\circ} 46' 13''$ N - $76^{\circ} 34' 58''$ W, running 182° (M) to a point on the south shore $35^{\circ} 45' 34''$ N - $76^{\circ} 35' 00''$ W;

(17) In Newport River - west of a line beginning at Penn Point at $34^{\circ} 45' 44''$ N - $76^{\circ} 43' 35''$ W; thence running 022° (M) to a point on the north shore at $34^{\circ} 46' 47''$ N - $76^{\circ} 43' 15''$ W.

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

.0007 DESIGNATED POT AREAS

(a) As referenced in 15A NCAC 3J .0301, it is unlawful to use pots north and east of the Highway 58 Bridge at Emerald Isle from May 1 through October 31, except in areas described below:

- (1) In Albemarle Sound and tributaries.
- (2) In Roanoke Sound and tributaries.
- (3) In Croatan Sound and tributaries.
- (4) In Pamlico Sound and tributaries, except the following areas and areas further described in Paragraphs (5), (6), and (7) of this Rule:

(aA) In Wysocking Bay:

- (i) Bound by a line beginning at a point on the south shore of Lone Tree Creek $35^{\circ} 25' 05''$ N - $76^{\circ} 02' 05''$ W running 239° (M) 1000 yards to a point $35^{\circ} 24' 46''$ N - $76^{\circ} 02' 32''$ W; thence 336° (M) 2200 yards to a point $35^{\circ} 25' 42''$ N - $76^{\circ} 03' 16''$ W; thence 062° (M) 750 yards to a point on shore $35^{\circ} 25' 54''$ N - $76^{\circ} 02' 54''$ W; thence following the shoreline and the Lone Tree Creek primary nursery area line to the beginning point;
- (ii) Bound by a line beginning at a point on the south shore of Mt.

Pleasant Bay $35^{\circ} 23' 07''$ N - $76^{\circ} 04' 12''$ W running 083° (M) 1200 yards to a point $35^{\circ} 23' 17''$ N - $76^{\circ} 03' 32''$ W; thence 023° (M) 2400 yards to a point $35^{\circ} 24' 27''$ N - $76^{\circ} 03' 12''$ W; thence 299° (M) 1100 yards to a point on shore $35^{\circ} 24' 38''$ N - $76^{\circ} 04' 48''$ W; thence following the shoreline and the Browns Island and Mt. Pleasant Bay primary nursery area line to the beginning point; except pots may be set no more than 50 yards from the shoreline.

(bB) In Juniper Bay bound by a line beginning at a point on Juniper Bay Point $35^{\circ} 20' 18''$ N - $76^{\circ} 13' 22''$ W running 275° (M) 2300 yards to a point $35^{\circ} 20' 15''$ N - $76^{\circ} 14' 45''$ W; thence 007° (M) 2100 yards to Daymarker No. 3; thence 040° (M) 1100 yards to a point on shore $35^{\circ} 21' 45''$ N - $76^{\circ} 14' 24''$ W; thence following the shoreline and the Buck Creek and the Laurel Creek primary nursery area line to the beginning point.

(eC) In Swanquarter Bay, bound by a line beginning at a point on the north shore of Caffee Bay $35^{\circ} 21' 57''$ N - $76^{\circ} 17' 44''$ W; running 191° (M) 800 yards to a point on the south shore $35^{\circ} 21' 35''$ N - $76^{\circ} 17' 45''$ W; thence following the shoreline to a point on shore $35^{\circ} 21' 37''$ N - $76^{\circ} 18' 22''$ W; thence running 247° (M) 1300 yards to a point $35^{\circ} 21' 17''$ N - $76^{\circ} 19' 03''$ W; thence 340° (M) 1350 yards to a point $35^{\circ} 21' 51''$ N - $76^{\circ} 19' 27''$ W; thence 081° (M) 1150 yards to a point on the north shore $35^{\circ} 22' 02''$ N - $76^{\circ} 18' 48''$ W; thence following the shoreline and the primary nursery area line to the beginning point.

(dD) In Deep Cove east of a line beginning at a point on the south shore $35^{\circ} 20' 33''$ N - $76^{\circ} 22' 57''$ W, running 021° (M) 1800 yards to a point on the north shore $35^{\circ} 21' 55''$ N - $76^{\circ} 22' 43''$ W and west of a line beginning at a point on the south shore $35^{\circ} 20' 44''$ N - $76^{\circ} 22' 05''$ W running 003° (M) 1400 yards to a point on the

north shore 35° 21' 26" N - 76° 22' 11" W.

- (eE) Off Striking Bay bound by a line beginning at a point on the west shore of Striking Bay 35° 23' 20" N - 76° 26' 59" W running 190° (M) 1900 yards to a point 35° 22' 23" N - 76° 27' 00" W; thence 097° (M) 900 yards to Beacon No. 2; thence 127° (M) 1600 yards to a point 35° 21' 55" N - 76° 25' 43" W; thence following the shoreline to a point 35° 22' 30" N - 76° 25' 14" W; thence 322° (M) 2200 yards to a point 35° 23' 17" N - 76° 26' 10" W; thence following the shoreline to a point 35° 23' 19" N - 76° 26' 24" W; thence 335° (M) 900 yards to a point 35° 23' 40" N - 76° 26' 43" W; thence 059° (M) 500 yards to a point 35° 23' 30" N - 76° 26' 58" W; thence following the shoreline to the beginning point.
- (fF) In Rose Bay bound by a line beginning at a point southwest of Swan Point 35° 23' 56" N - 76° 23' 39" W running 288° (M) 1500 yards to a point on shore 35° 24' 03" N - 76° 24' 33" W; thence 162° (M) 1650 yards to a point 35° 23' 19" N - 76° 24' 04" W; thence 084° (M) 1350 yards to a point on shore 35° 23' 29" N - 76° 23' 17" W; thence following the shoreline to the beginning point.
- (gG) In Spencer Bay bound by a line beginning at a point on shore at Willow Point 35° 22' 26" N - 76° 28' 00" W running 059° (M) 1700 yards to a point 35° 22' 57" N - 76° 27' 13" W; thence 317° (M) 1500 yards to a point 35° 23' 25" N - 76° 27' 57" W; thence 243° (M) 1300 yards to a point on shore 35° 23' 02" N - 76° 28' 35" W; thence following the shoreline and the unnamed primary nursery area line to the beginning point.
- (hH) In Big Porpoise Bay bound by a line beginning at a point on shore 35° 15' 58" N - 76° 29' 10" W running 182° (M) 750 yards to Sage Point 35° 15' 36" N - 76° 29' 06" W; thence 116° (M) 850 yards to a point 35° 15' 28" N - 76° 28' 36" W; thence 023° (M) 700 yards to a point on shore 35° 15'

48" N - 76° 28' 30" W; thence following the shoreline to the beginning point.

- (iI) In Middle Bay bound by a line beginning at Middle Bay Point 35° 14' 53" N - 76° 28' 41" W; running 210° (M) 3650 yards to Sow Island Point 35° 13' 09" N - 76° 29' 28" W; thence following the shoreline of Middle Bay to Big Fishing Point 35° 14' 05" N - 76° 29' 52" W; thence 008° (M) 1100 yards to a point on the north shore 35° 14' 31" N - 76° 29' 52" W; thence following the shoreline to the point of beginning.
- (jJ) In Jones Bay bound by a line beginning at a point on Sow Island Point 35° 13' 09" N - 76° 29' 28" W running 204° (M) 2600 yards to Green Flasher No. 5; thence 322° (M) 2450 yards to a point 35° 12' 48" N - 76° 30' 58" W; thence 217° (M) 1200 yards to a point on shore 35° 12' 20" N - 76° 31' 16" W; thence 284° (M) 740 yards to a point on shore 35° 12' 26" N - 76° 31' 46" W; thence following the shoreline to a point 35° 12' 36" N - 76° 32' 01" W; thence 051° (M) 600 yards to a point 35° 12' 52" N - 76° 31' 45" W; thence parallel with the shoreline no more than 600 yards from shore to a point 35° 13' 11" N - 76° 32' 07" W; thence 038° (M) to a point 600 yards from the north shore 35° 13' 39" N - 76° 31' 54" W; thence parallel with the shoreline no more than 600 yards from shore to a point 35° 13' 09" N - 76° 30' 48" W; thence 009° (M) 600 yards to a point on shore 35° 13' 26" N - 76° 30' 47" W; thence following the shoreline to the beginning point.
- (kK) In an area bound by a line beginning at Boar Point 35° 12' 07" N - 76° 31' 04" W running 106° (M) 2000 yards to Green Flasher No. 5; thence 200° (M) 2200 yards to a point 35° 10' 56" N - 76° 30' 10" W; thence 282° (M) 2350 yards to Bay Point 35° 11' 02" N - 76° 31' 35" W; thence following the shoreline to the beginning point.
- (5) In Pamlico River west of a line from a point on Pamlico Point 35° 18' 42" N

- 76° 28' 58" W running 009° (M) through Daymarker No. 1 and Willow Point Shoal Beacon to a point on Willow Point 35° 22' 23" N - 76° 28' 48" W pots may be used in the following areas:
- (aA) In that area bound by a line beginning at a point on the line from Pamlico Point to Willow Point 35° 19' 24" N - 76° 28' 56" W running westerly parallel to the shoreline at a distance of no more than 1000 yards to Green Flasher No. 1 at the mouth of Goose Creek; thence 248° (M) parallel to the ICWW to a point off Fulford Point 35° 19' 59" N - 76° 36' 41" W; thence 171° (M) to a point on Fulford Point 35° 19' 41" N - 76° 36' 34" W.
 - (bB) All coastal waters and tributaries of Oyster Creek, James Creek, Middle Prong and Clark Creek.
 - (cC) All coastal waters of Goose Creek:
 - (i) In that area bound by a line beginning at a point on Reed Hammock 35° 20' 24" N - 76° 36' 51" W running 171° (M) 300 yards to a point 35° 20' 16" N - 76° 36' 48" W; thence parallel with the shoreline no more than 300 yards from shore to a point 35° 20' 09" N - 76° 37' 10" W; thence 302° (M) 300 yards to a point on shore 35° 20' 13" N - 76° 37' 19" W.
 - (ii) In that area bound by a line beginning at a point on shore 35° 19' 58" N - 76° 37' 33" W; running 291° (M) 300 yards to a point 35° 19' 57" N - 76° 37' 21" W; thence parallel to the shoreline no more than 300 yards from shore to a point 35° 18' 16" N - 76° 37' 16" W; thence 292° (M) to a point on the north shore of Snode Creek 35° 18' 15" N - 76° 37' 27" W.
 - (iii) In that area bound by a line beginning at a point at the mouth of Goose Creek 35° 19' 59" N - 76° 36' 41" W; running 348° (M) to Green Daymarker No. 5; thence south parallel to the shoreline no more than 300 yards from shore to a point 35° 18' 12" N - 76° 37' 07" W; thence 112° (M) to Store Point 35° 18' 09" N - 76° 36' 57" W.
 - (iv) Between the line from Store Point to Snode Creek and a line beginning at a point on Long Neck Point running 264° (M) through Beacon No. 15 to Huskie Point from the shoreline to no more than 150 yards from shore.
 - (v) All coastal waters southeast of the line from Long Neck Point through Beacon No. 15 to Huskie Point.
 - (vi) Campbell Creek - west of a line from a point on Huskie Point 35° 17' 00" N - 76° 37' 06" W running 004° (M) to Pasture Point 35° 17' 20" N - 76° 37' 08" W, to the Inland-Commercial line.
 - (dD) All coastal waters bound by a line beginning on Reed Hammock 35° 20' 24" N - 76° 36' 51" W running 171° (M) to a point 35° 20' 16" N - 76° 36' 47" W; thence 100° (M) 800 yards to Red Daymarker No. 4; thence 322° (M) 1200 yards to a point 35° 20' 40" N - 76° 36' 48" W; thence westerly parallel to the shoreline at a distance of 300 yards to a point in Bond Creek 35° 20' 40" N - 76° 41' 37" W; thence 199° (M) to a point on the south shore of Muddy Creek 35° 20' 18" N - 76° 41' 34" W, including all waters of Muddy Creek up to the Inland-Coastal boundary line.
 - (eE) Along the west shore of Bond Creek from Fork Point to the Coastal-Inland boundary line from the shoreline to no more than 50 yards from shore.
 - (fF) All coastal waters of South Creek upstream of a line beginning at a point on Fork Point 35° 20' 45" N - 76° 41' 47" W running 017° (M) to a point on Hickory Point 35° 21' 44" N - 76° 41' 36" W.
 - (gG) In that area bound by a line beginning at a point at the six foot depth contour south of Hickory Point 35° 21' 33" N - 76° 41' 39" W; thence easterly following the six foot depth contour to a point off the east end of Indian Island 35° 21' 42" N - 76° 38' 04" W; thence 270° (M) to a point on the

east end of Indian Island 35° 21' 38" N - 76° 38' 36" W; thence following the shoreline of Indian Island to a point on the west end 35° 21' 37" N - 76° 39' 40" W; thence 293° (M) toward Daymarker No. 1 to a point at the six foot depth contour 35° 21' 46" N - 76° 40' 16" W; thence following the six foot depth contour in a westerly direction to a point off Long Point 35° 22' 42" N - 76° 42' 44" W; thence 233° (M) to a point on shore 35° 22' 24" N - 76° 43' 05" W.

- (hH) Beginning at a point on shore near Long Point 35° 22' 29" N - 76° 43' 25" W, running 001° (M) to a point 300 yards offshore 35° 22' 39" N - 76° 43' 26" W; thence westerly parallel to the shoreline at a distance of 300 yards to a point 35° 22' 39" N - 76° 43' 59" W; thence 209° (M) to a point on shore 35° 22' 30" N - 76° 44' 03" W.
- (iI) Beginning at a point on shore 35° 22' 30" N - 76° 44' 27" W, running 355° (M) to a point offshore 35° 22' 40" N - 76° 44' 31" W; thence westerly parallel to the shoreline at a distance of 300 yards to a point 35° 22' 53" N - 76° 45' 00" W; thence running 251° (M) to a point on shore 35° 22' 46" N - 76° 45' 14" W.
- (jJ) Beginning at a point on shore 35° 22' 54" N - 76° 45' 43" W; running 003° (M) to a point offshore 35° 23' 03" N - 76° 45' 43" W; thence westerly parallel to the shoreline at a distance of 300 yards to the intersection of a line beginning on the north shore at Gum Point 35° 25' 09" N - 76° 45' 33" W; running 210° (M) to a point on the south shore 35° 23' 28" N - 76° 46' 26" W.
- (kK) All coastal waters west of a line beginning on the north shore at Gum Point 35° 25' 09" N - 76° 45' 33" W running 210° (M) to a point on the south shore 35° 23' 28" N - 76° 46' 26" W.
- (lL) On the north side of Pamlico River bound by a line beginning at the intersection of the line from Gum Point to the south shore 500 yards from shore 35° 24' 55" N - 76° 45'

39" W running easterly parallel to the shoreline at a distance of 500 yards to a point at the six foot contour near Adams Point 35° 23' 08" N - 76° 35' 59" W.

- (mM) All waters and tributaries of North Creek except the marked navigation channel.
- (nN) In that area bound by a line beginning at a point at the six foot contour near Adams Point 35° 23' 08" N - 76° 35' 59" W running westerly following the six foot depth contour to a point off Wades Point 35° 23' 28" N - 76° 34' 09" W.
- (oQ) Pungo River:
 - (i) Bound by a line beginning at Wades Point 35° 23' 16" N - 76° 34' 30" W running 059° (M) to a point at the six foot depth contour, 35° 23' 28" N - 76° 34' 09" W; thence northerly following the six foot depth contour to a point near Beacon No. 3 35° 25' 44" N - 76° 34' 46" W; thence 272° (M) 950 yards to a point on shore 35° 25' 41" N - 76° 35' 22" W.
 - (ii) Bound by a line beginning at a point on shore 35° 25' 50" N - 76° 35' 37" W running 050° (M) 1150 yards to a point at 35° 26' 17" N - 76° 35' 10" W; thence northerly following the six foot depth contour to a point 35° 26' 54" N - 76° 36' 09" W; thence 314° (M) 350 yards to a point on shore 35° 27' 00" N - 76° 36' 20" W.
 - (iii) Bound by a line beginning at a point on shore 35° 27' 14" N - 76° 36' 26" W running 077° (M) 800 yards to a point 35° 27' 23" N - 76° 36' 02" W; thence northerly following the six foot depth contour to a point off Windmill Point 35° 30' 50" N - 76° 38' 09" W; thence 076° (M) to a point 200 yards west of Daymarker No. 3 35° 31' 21" N - 76° 36' 37" W; thence 312° (M) to a point at the "Breakwater" 35° 31' 36" N - 76° 37' 05" W.
 - (iv) All coastal waters bound by a line

- beginning at a point at the "Breakwater" 200 yards northeast of Beacon No. 6 35° 31' 47" N - 76° 36' 51" W running 132° (M) to a point 200 yards from Daymarker No. 4 35° 31' 31" N - 76° 36' 21" W; thence running 102° (M) to a point 35° 31' 28" N - 76° 35' 59" W; thence running 010° (M) to Beacon No. 1; thence running 045° (M) 700 yards to a point on shore 35° 32' 22" N - 76° 35' 42" W.
- (v) All coastal waters north and east of a line beginning at a point on shore west of Lower Dowry Creek 35° 32' 25" N - 76° 35' 07" W running 177° (M) 1950 yards to a point 200 yards north of Daymarker No. 11 35° 31' 31" N - 76° 35' 06" W; thence easterly parallel to the marked navigation channel at a distance of 200 yards to a point on the shore northwest of Wilkerson Creek 35° 33' 13" N - 76° 27' 36" W.
 - (vi) All coastal waters south of a line beginning on shore south of Wilkerson Creek 35° 33' 02" N - 76° 27' 20" W running westerly parallel to the marked navigation channel at a distance of 200 yards to a point southeast of Daymarker No. 14 35° 31' 05" N - 76° 32' 34" W; thence running 208° (M) to a point on shore 35° 30' 28" N - 76° 32' 47" W.
 - (vii) All coastal waters bound by a line beginning on shore east of Durants Point 35° 30' 29" N - 76° 33' 25" W running 347° (M) to a point southwest of Daymarker No. 12 35° 31' 08" N - 76° 33' 53" W; thence westerly parallel to the marked navigation channel at a distance of 200 yards to a point south of Beacon No. 10 35° 31' 08" N - 76° 35' 35" W; thence running 185° (M) to a point at the six foot depth contour between Beacon No. 8 and the eastern shore of Pungo River 35° 30' 08" N - 76° 35' 28" W; thence following the six foot depth contour to a point 35° 28' 09" N - 76° 33' 43" W; thence 127° (M) to a point on shore 35° 28' 00" N - 76° 33' 25" W; thence 159° (M) to a point at the six foot depth contour 35° 27' 40" N - 76° 33' 12" W including the waters of Slades Creek and its tributaries; thence 209° (M) to a point on shore 35° 27' 22" N - 76° 33' 21" W; thence 272° (M) to a point at the six foot depth contour 35° 27' 18" N - 76° 33' 53" W; thence southerly following the six foot depth contour to a point south of Sandy Point 35° 26' 35" N - 76° 33' 50" W; thence 087° (M) to a point on shore 35° 26' 38" N - 76° 33' 34" W.
 - (viii) In that area bound by a line beginning at a point on shore 35° 26' 20" N - 76° 33' 18" W running 176° (M) to a point at the six foot depth contour 35° 26' 05" N - 76° 33' 13" W; thence southerly following the six foot depth contour throughout Fortescue Creek to a point off Fortescue Creek 35° 25' 44" N - 76° 32' 09" W; thence 145° (M) to a point on shore 35° 25' 36" N - 76° 32' 01" W.
 - (ix) In that area bound by a line beginning at a point on shore 35° 25' 20" N - 76° 32' 01" W running 258° (M) to a point at the six foot depth contour 35° 25' 17" N - 76° 32' 18" W; thence following the six foot depth contour to a point 500 yards west of Currituck Point 35° 24' 30" N - 76° 32' 42" W; thence southeasterly parallel to the shoreline and including Abel Bay at a distance of 500 yards to a point at the intersection of the line from Pamlico Point to Willow Point 35° 22' 09" N - 76° 28' 48" W.
- (6) In Bay River west of a line beginning at a point on Maw Point 35° 09' 02" N - 76° 32' 09" W running 022° (M) to a point on Bay Point 35° 11' 02" N - 76° 31' 34" W, pots may be used in the following areas:
 - (aA) In that area beginning at a point on

Maw Point 35° 09' 02" N - 76° 32' 09" W; running 018° (M) to Green Daymarker No. 1; thence 223° (M) to a point on shore in Fisherman Bay 35° 09' 18" N - 76° 32' 23" W.

- (bB) In Fisherman Bay bound by a line beginning at a point on the shore west of Maw Point 35° 09' 18" N - 76° 33' 02" W; thence 351° (M) 3200 yards to lighted Beacon No. 3 in Bay River; thence 230° (M) 1200 yards to a point on the shore 35° 10' 24" N - 76° 34' 00" W.
- (eC) In that area bound by a line beginning at a point on the east shore at the mouth of Bonners Bay 35° 10' 05" N - 76° 35' 18" W; thence 306° (M) 300 yards to a point in Bay River, 35° 10' 10" N - 76° 35' 30" W; thence parallel to the shoreline no more than 300 yards from shore to a point in Bay River 35° 10' 40" N - 76° 34' 42" W; thence 188° (M) to a point on shore 35° 10' 27" N - 76° 34' 42" W.
- (dD) In Bonner Bay bound by a line beginning at a point on the east shore 35° 10' 05" N - 76° 35' 18" W running 306° (M) 200 yards to a point 35° 10' 09" N - 76° 35' 25" W; thence parallel to the shoreline no more than 200 yards offshore to a point 35° 09' 16" N - 76° 35' 18" W; thence 097° (M) 200 yards to a point on shore 35° 09' 16" N - 76° 35' 13" W.
- (eE) In Bonner Bay, Spring Creek and Long Creek south of a line beginning at a point on the east shore 35° 09' 16" N - 76° 35' 13" W running 274° (M) to a point on the west shore 35° 09' 14" N - 76° 35' 43" W.
- (fF) In Bonner Bay bound by a line beginning at a point on the west shore 35° 09' 14" N - 76° 35' 44" W running 094° (M) 100 yards to a point 35° 09' 13" N - 76° 35' 39" W; thence parallel to the shoreline no more than 100 yards offshore to a point in Riggs Creek 35° 09' 15" N - 76° 36' 08" W; thence 142° (M) to a point on shore 35° 09' 13" N - 76° 36' 08" W.
- (gG) In that area bound by a line beginning on the south shore of Bay River west

of Bell Point 35° 09' 40" N - 76° 40' 00" W, running 314° (M) to a point 200 yards offshore 35° 09' 43" N - 76° 40' 06" W; thence no more than 200 yards from the shoreline to a point 35° 09' 53" N - 76° 36' 45" W; thence 102° (M) to a point 35° 09' 50" N - 76° 35' 54" W; thence 181° (M) to a point 35° 09' 36" N - 76° 35' 51" W; thence 237° (M) to a point in Riggs Creek 35° 09' 18" N - 76° 36' 12" W; thence 322° (M) to a point on shore at the mouth of Riggs Creek 35° 09' 21" N - 76° 36' 18" W.

- (hH) In that area on the south side of Bay River bound by a line beginning at a point on shore at the confluence of Bay River and Trent Creek 35° 08' 27" N - 76° 43' 12" W running 016° (M) 150 yards to a point 35° 08' 31" N - 76° 43' 11" W; thence no more than 150 yards from shore to a point 35° 08' 57" N - 76° 40' 19" W; thence 116° (M) to a point on shore at Moores Creek 35° 08' 57" N - 76° 40' 14" W.
- (iI) In Bay River and Trent Creek west of a line beginning at a point on the south shore 35° 08' 27" N - 76° 43' 12" W running 016° (M) to a point on the north shore 35° 08' 41" N - 76° 43' 09" W.
- (jJ) In that area on the north shore of Bay River bound by a line beginning at a point west of Vandemere Creek 35° 10' 53" N - 76° 39' 42" W running 135° (M) 150 yards to a point 35° 10' 52" N - 76° 39' 39" W; thence no more than 150 yards from shore to a point at the confluence of Bay River and Trent Creek 35° 08' 37" N - 76° 43' 10" W; thence to a point on the north shore 35° 08' 39" N - 76° 43' 09" W.
- (kK) In Vandemere Creek northeast of a line beginning at a point on the east shore 35° 11' 04" N - 76° 39' 22" W running 315° (M) to a point on the west shore 35° 11' 12" N - 76° 39' 36" W.
- (lL) In that area bound by a line beginning at a point at the mouth of Vandemere Creek 35° 11' 04" N - 76° 39' 22" W, running 216° (M) 200 yards to a

point in Bay River 35° 10' 58" N - 76° 39' 25" W; thence parallel to the shoreline no more than 200 yards from shore to a point in Bay River northwest of Beacon No. 4 35° 10' 40" N - 76° 36' 38" W; thence 344° (M) 200 yards to a point on shore 35° 10' 45" N - 76° 36' 42" W.

(mM) In that area bound by a line beginning at a point on Sanders Point 35° 11' 19" N - 76° 35' 54" W; running 067° (M) 200 yards to a point 35° 11' 23" N - 76° 35' 47" W; thence following the shoreline no more than 200 yards from shore to a point in Bay River northwest of Beacon No. 4 35° 10' 40" N - 76° 36' 38" W; thence 344° (M) 200 yards to a point on the shore 35° 10' 45" N - 76° 36' 42" W.

(nN) In that area beginning at a point on shore 35° 11' 53" N - 76° 35' 54" W of a line running 170° (M) to a point 35° 11' 40" N - 76° 35' 51" W; thence parallel to the shoreline no more than 500 yards from shore to a point 35° 11' 57" N - 76° 35' 05" W; thence running 344° (M) to a point on shore at the mouth of Gales Creek 35° 12' 10" N - 76° 35' 12" W.

(oO) In that area bound by a line beginning at a point on shore at the mouth of Gale Creek 35° 12' 08" N - 76° 34' 52" W, running 278° (M) 200 yards to a point in Bay River 35° 12' 08" N - 76° 35' 02" W; thence running parallel to the shoreline at a distance of 200 yards to a point in Bay River 35° 11' 32" N - 76° 33' 24" W; thence running 352° (M) 200 yards to a point on shore at Dump Creek 35° 11' 39" N - 76° 33' 25" W.

(pP) In Gale Creek except the Intracoastal Waterway north of a line beginning at a point on the west shore 35° 12' 08" N - 76° 35' 12" W running 098° (M) to a point on the west shore 35° 12' 08" N - 76° 34' 52" W.

(qQ) In an area bound by a line beginning at a point on the eastern shore at the mouth of Rockhole Bay 35° 11' 06" N - 76° 32' 11" W; thence 180° (M) 600 yards to a point in Bay River 35° 10' 49" N - 76° 32' 09" W; thence

east with the five foot curve 1100 yards to a point 35° 10' 36" N - 76° 31' 30" W; thence 000° (M) 850 yards to a point on Bay Point 35° 11' 02" N - 76° 31' 34" W.

(7) In the Neuse River and West Bay Area south and west of a line beginning at a point on Maw Point 35° 09' 02" N - 76° 32' 09" W, running 137° (M) through the Maw Point Shoal Day Marker No. 2 and through the Neuse River Entrance Light to a point at the mouth of West Bay 35° 02' 09" N - 76° 21' 53" W, pots may be set in the following areas:

(aA) All coastal fishing waters northwest of a line beginning at a point at the mouth of Slocum Creek 34° 57' 02" N - 76° 53' 42" W, running 029° (M) to a point at the mouth of Beards Creek 35° 00' 08" N - 76° 52' 13" W. Pots may also be set in coastal fishing waters of Goose Bay and Upper Broad Creek.

(bB) In that area bound by a line beginning at a point on the north shore at Mill Creek 34° 59' 34" N - 76° 51' 06" W; thence running 223° (M) approximately 300 yards into the river to a point 34° 59' 25" N - 76° 51' 14" W; thence along the six foot depth curve southeast to a point at the rock jetty 34° 58' 06" N - 76° 49' 14" W; thence 016° (M) approximately 300 yards to a point on the shore 34° 58' 17" N - 76° 49' 12" W.

(cC) In that area bound by a line beginning at a point on the north shore approximately 500 yards west of Pierson Point 34° 58' 32" N - 76° 46' 38" W; thence running 171° (M) approximately 300 yards into the river to a point 34° 58' 24" N - 76° 46' 34" W; thence east and northeast along the six foot curve to a point in the river 34° 58' 47" N - 76° 45' 39" W; thence 330° (M) approximately 700 yards to a point on the shore 50 yards west of an existing pier 34° 59' 04" N - 76° 45' 54" W.

(dD) In that area bound by a line beginning at a point on the north shore east of Dawson Creek Bridge 34° 59' 34" N - 76° 45' 12" W; thence running 244° (M) approximately 500 yards to

Day Marker No. 4 (entrance to Dawson Creek Channel); thence running east 117° (M) to a point 34° 59' 22" N - 76° 45' 19" W; thence east and northeast along the six foot curve to a point 50 yards west of Day Marker No. 3 (channel to Oriental) 35° 01' 02" N - 76° 41' 51" W; thence 303° (M) approximately 600 yards to a point on the eastern tip of Windmill Point 35° 01' 10" N - 76° 42' 08" W.

(eE) In Greens Creek (Oriental) west of a line at the confluence of Greens and Kershaw Creeks beginning at a point on the south shore 35° 01' 28" N - 76° 42' 55" W running 005° (M) to a point on the north shore 35° 01' 38" N - 76° 42' 54" W, no more than 75 yards from the shoreline east of this line to the Highway 55 bridge.

(fF) In that area bound by a line beginning at a point on Whittaker Point 35° 01' 37" N - 76° 40' 56" W; thence running 192° (M) approximately 500 yards to a point in the river 35° 01' 23" N - 76° 40' 57" W; thence along the six foot depth curve northeast to a point in the river off Orchard Creek 35° 03' 18" N - 76° 37' 53" W; thence 280° (M) approximately 900 yards to a point on the eastern tip of Cockle Point 35° 03' 20" N - 76° 38' 27" W.

(gG) In that area bound by a line beginning at a point on the north shore near the mouth of Orchard Creek 35° 03' 38" N - 76° 37' 54" W running 177° (M) approximately 400 yards to a point 35° 03' 27" N - 76° 37' 54" W; thence along the six foot depth curve to a point eastward; thence 174° (M) 600 yards to a point on the north shore 35° 03' 56" N - 76° 36' 42" W.

(hH) In that area bound by a line beginning at a point on the north shore approximately 400 yards south of Gum Thicket Creek 35° 04' 12" N - 76° 36' 11" W; thence running 132° (M) approximately 600 yards to a point 35° 03' 55" N - 76° 35' 48" W; thence along the six foot depth curve eastward to a point 35° 04' 10" N - 76° 34' 37" W; thence 304° (M) to a

point on the shore 400 yards north of Gum Thicket Creek 35° 04' 38" N - 76° 35' 42" W.

(iI) In Lower Broad Creek ~~east~~ west of a line running 188° (M) through Red Day Marker No. 4. No more than 150 yards from shore between a line running 188° (M) through Red Day Marker No. 4 and a line running 228° (M) through Green Marker No. 3. Pots may not be set in Burton Creek.

(jJ) Piney Point Shoal Area, in that area bound by a line beginning at a point on the north side of a creek (locally known as Wadin or Persimmon Creek) 35° 07' 17" N - 76° 33' 26" W running 115° (M) approximately 300 yards to a point near the six foot depth curve 35° 07' 15" N - 76° 33' 16" W; thence south and southeast along the six foot depth curve to a point east of the old lighthouse 35° 05' 17" N - 76° 32' 42" W; thence 288° (M) through the old lighthouse to a point on shore north of Red Day Marker No. 2 at the mouth of Broad Creek 35° 05' 42" N - 76° 35' 18" W.

(kK) In that area bound by a line beginning at a point on the south shore of Maw Bay 35° 08' 32" N - 76° 32' 38" W; thence running 114° (M) to Maw Point Shoal Day Marker No. 2; thence 317° (M) to Maw Point 35° 08' 55" N - 76° 32' 11" W.

(lL) In that area east of Slocum Creek bound by a line beginning at a point 34° 57' 02" N - 76° 53' 42" W; thence running 029° (M) approximately 1100 yards to a point 34° 57' 32" N - 76° 53' 28" W; thence along the six foot curve to a point 34° 56' 34" N - 76° 49' 38" W; thence 176° (M) approximately 300 yards to a point 34° 56' 26" N - 76° 49' 35" W.

(mM) In that area bound by a line beginning at a point 34° 56' 22" N - 76° 49' 05" W, running 057° (M) approximately 1100 yards to Day Marker "2" off Cherry Point; thence 097° (M) approximately 200 yards to a point 34° 56' 42" N - 76° 48' 27" W; thence along the six foot curve to a point 34° 55' 10" N - 76° 45' 40"

- W; thence 187° (M) approximately 400 yards to a point on Temple Point 34° 54' 58" N - 76° 45' 40" W.
- (nN) In that area southeast of a line beginning at a point at the mouth of Clubfoot Creek 34° 55' 20" N - 76° 45' 09" W running 076° (M) to a point on shore 34° 55' 37" N - 76° 44' 23" W.
- (eO) In Clubfoot Creek south of a line beginning at a point on the east shore 34° 54' 30" N - 76° 45' 26" W, running 284° (M) to a point on the west shore 34° 54' 33" N - 76° 45' 43" W. Pots may be set 50 yards from shore north of this line.
- (pP) In that area bound by a line beginning at the western tip of Great Island 34° 55' 47" N - 76° 44' 50" W; thence running 275° (M) approximately 500 yards to a point 34° 55' 46" N - 76° 45' 07" W; thence 029° (M) approximately 1400 yards to a point 34° 56' 24" N - 76° 44' 48" W; thence 120° (M) to a point 34° 56' 06" N - 76° 43' 59" W; thence 232° (M) to a point on Great Island 34° 55' 50" N - 76° 44' 17" W.
- (qQ) In that area bound by a line beginning at a point west of Long Creek 34° 55' 38" N - 76° 44' 18" W running 064° (M) to a point 34° 55' 57" N - 76° 43' 43" W; thence 138° (M) to a point on shore at the mouth of Great Neck Creek 34° 55' 50" N - 76° 43' 25" W.
- (rR) In that area bound by a line beginning at a point at the mouth of Great Neck Creek 34° 55' 50" N - 76° 43' 25" W, running 318° (M) 750 yards to a point 34° 56' 04" N - 76° 43' 47" W; thence following the shoreline no more than 750 yards from shore to a point 34° 56' 50" N - 76° 43' 11" W; thence 116° (M) 750 yards to a point on shore at Courts Creek 34° 56' 42" N - 76° 42' 46" W.
- (sS) In that area bound by a line beginning at a point on Courts Creek 34° 56' 42" N - 76° 42' 46" W, running 296° (M) 1000 yards to a point 34° 56' 52" N - 76° 43' 20" W; thence parallel with the shoreline no more than 1000 yards to a point 34° 57' 53" N - 76° 41' 59" W; thence 190° (M) 1000 yards to a point on shore 34° 57' 24" N - 76° 42' 00" W.
- (tT) In that area bound by a line beginning at a point on shore, 34° 57' 24" N - 76° 42' 00" W, running 010° (M) 500 yards to a point 34° 57' 38" N - 76° 42' 00" W; thence running parallel to the shoreline no more than 500 yards from shore to a point 34° 57' 33" N - 76° 41' 00" W; thence 179° (M) to a point 34° 57' 23" N - 76° 40' 58" W; thence 260° (M) to a point on shore at the mouth of Adams Creek 34° 57' 22" N - 76° 41' 10" W.
- (uU) In that area bound by a line beginning at a point on the northeast side of Adams Creek 34° 57' 30" N - 76° 40' 36" W; thence 278° (M) 225 yards offshore to a point 34° 57' 30" N - 76° 40' 45" W; thence 359° (M) to a point off Winthrop Point 34° 58' 26" N - 76° 40' 56" W; thence running 056° (M) to a point off Cedar Point 34° 59' 07" N - 76° 40' 04" W; thence 140° (M) to the shoreline on Cedar Point 34° 58' 50" N - 76° 39' 41" W.
- (vV) In that area bound by a line beginning at a point on Cedar Point 34° 58' 50" N - 76° 39' 41" W, running 320° (M) 750 yards to a point 34° 59' 05" N - 76° 40' 01" W; thence parallel to the shoreline no more than 750 yards from shore to a point 34° 59' 16" N - 76° 39' 31" W; thence 167° (M) to a point on shore 34° 58' 56" N - 76° 39' 21" W.
- (wW) In that area bound by a line beginning at a point on shore 34° 58' 56" N - 76° 39' 21" W running 347° (M) to a point 34° 59' 03" N - 76° 39' 24" W; thence parallel to the shoreline no more than 200 yards from shore to a point 34° 59' 08" N - 76° 38' 47" W; thence 184° (M) to a point on shore 34° 59' 01" N - 76° 35' 25" W.
- (xX) In that area bound by a line beginning at a point west of Garbacon Creek 34° 59' 01" N - 76° 38' 43" W, running 004° (M) 750 yards to a point 34° 59' 23" N - 76° 38' 46" W; thence parallel with the shoreline no more than 750 yards from shore to

a point off Browns Creek 35° 00' 20" N - 76° 33' 45" W; thence 172° (M) to the shoreline on the west side of Browns Creek 34° 59' 57" N - 76° 33' 35" W.

(yY) In that area bound by a line beginning at a point on shore at the mouth of Browns Creek 34° 59' 55" N - 76° 33' 29" W, running 352° (M) 750 yards to a point on 35° 00' 22" N - 76° 33' 34" W; thence parallel to the shoreline no more than 750 yards from shore to a point 35° 03' 01' 56" 45" N - 76° 28' 29' 56" 51" W; thence 136° 162° (M) 750 yards to a point on shore north of ~~Rattan Bay~~ Cedar Bay Point 35° 03' 01' 45" 22" N - 76° 28' 29' 32" 34" W.

(zZ) In that area bound by a line beginning on the north side of Rattan Bay at a point on the shoreline 35° 03' 45" N - 76° 28' 32" W; thence running 316° (M) 600 yards offshore to a point 35° 03' 54" N - 76° 28' 52" W; thence running parallel with the shoreline 600 yards offshore to a point 35° 04' 09" N - 76° 26' 44" W; thence 239° (M) 600 yards to a point on shore 35° 04' 57" N - 76° 27' 00" W.

(aaAA) In Adams Creek:

- (i) Between a line running 080° (M) through Red Flasher No. 4 at the mouth of Adams Creek and a line beginning at a point on the south shore of Cedar Creek 34° 55' 52" N - 76° 38' 49" W, running 297° (M) to a point on the west shore of Adams Creek 34° 56' 03" N - 76° 39' 27" W, no more than 200 yards from shore.
- (ii) Between a line beginning at a point at the mouth of Cedar Creek 34° 55' 52" N - 76° 38' 49" W; running 297° (M) to a point on the west shore of Adams Creek 34° 56' 03" N - 76° 39' 27" W, and a line beginning at a point on the east shore 34° 54' 55" N - 76° 39' 36" W; running 280° (M) to a point on the west shore 34° 54' 55" N - 76° 40' 01" W; no more than 300 yards from the west shore and 200 yards from the east shore.

- (iii) South of a line beginning at a point on the east shore 34° 54' 55" N - 76° 39' 36" W, running 280° (M) to a point on the west shore 34° 54' 55" N - 76° 40' 01" W, except in the marked navigation channel.

(bbBB) In South River:

- (i) Southeast of a line beginning at a point on the southwest shore 34° 58' 35" N - 76° 35' 25" W, running 049° (M) through Red Flasher No. 2 to a point on the northeast shore 34° 59' 07" N - 76° 34' 52" W, no more than 200 yards from the shoreline.
- (ii) That area bound by a line beginning at a point on the southwest shore 34° 58' 35" N - 76° 35' 25" W, running 049° (M) to Red Flasher No. 2; thence running 207° (M) to a point north of Hardy Creek 34° 58' 13" N - 76° 35' 22" W; thence following the shoreline to the point of beginning.

(eeCC) In Turnagain Bay:

- (i) Between a line running 077° (M) through Green Flasher No. 1 and a line beginning at a point on the east shore 34° 59' 04" N - 76° 29' 01" W; running 276° (M) to a point on the west shore 34° 59' 03" N - 76° 29' 28" W, no more than 300 yards on the east shore and 100 yards on the west shore.
- (ii) Between a line beginning at a point on the east shore 34° 59' 04" N - 76° 29' 01" W, running 276° (M) to a point on the west shore 34° 59' 03" N - 76° 29' 28" W, and a line beginning at a point on the east shore 34° 57' 56" N - 76° 29' 25" W, running 275° (M) to a point on the west shore 34° 57' 58" N - 76° 29' 44" W, no more than 150 yards from shore.

~~(dd) In Cedar Bay east of a line beginning at a point 35° 00' 51" N - 76° 29' 42" W running 023° (M) to a point 35° 01' 09" N - 76° 29' 37" W, not more than 200 yards from the shoreline.~~

(eeDD) In West Bay - North Bay area:

- (i) In that area bound by a line beginning at a point 35° 02' 32" N - 76° 22' 27" W; thence southwest 220° (M) to Marker No. 5 WB; thence southeast 161° (M) to a point in West Bay 35° 00' 34" N - 76° 21' 50" W; thence southwest 184° (M) to Deep Bend Point 34° 58' 36" N - 76° 21' 48" W; thence following the shoreline of West Bay and North Bay to a point 35° 02' 09" N - 76° 21' 53" W; thence 317° (M) to the beginning point.
- (ii) In West Bay bound by a line beginning at a point on shore 35° 03' 34" N - 76° 26' 24" W, running 033° (M) 100 yards to a point 35° 03' 38" N - 76° 26' 23" W; thence parallel to the shoreline no more than 100 yards from shore to a point 35° 00' 06" N - 76° 25' 24" W, running 278° (M) to a point on shore 35° 00' 06" N - 76° 25' 28" W.
- (iii) In West Bay bound by a line beginning at a point 35° 00' 06" N - 76° 25' 28" W, running 098° (M) 500 yards to a point 35° 00' 06" N - 76° 25' 12" W; thence 171° (M) 2800 yards to a point 34° 58' 45" N - 76° 24' 42" W; thence 270° (M) 1400 yards to a point on shore 34° 58' 39" N - 76° 25' 22" W.
- (#EE) In West Thorofare Bay and Merkle Bay south and southeast of a line beginning at a point in West Bay at Tump Point 34° 58' 42" N - 76° 22' 49" W; thence southwest 258° (M) to Marker F1 R15 ft. 3M 8 WB; thence southwest 203° (M) to Long Bay Point 34° 57' 52" N - 76° 24' 12" W.
- (ggFF) In Long Bay:
 - (i) In that area bound by a line beginning at a point on the south side of Stump Bay in Long Bay 34° 57' 13" N - 76° 27' 12" W; running northeast 077° (M) across Stump Bay to a point 34° 57' 39" N - 76° 25' 51" W; thence 032° (M) to a point 34° 58' 39" N - 76° 25' 22" W, following the shoreline to the beginning point.
 - (ii) Southwest of a line beginning on the west shore 34° 57' 13" N - 76° 27' 12" W, running 134° (M) to a point on the east shore at Swimming Point 34° 56' 46" N - 76° 26' 26" W.
 - (iii) In the area bound by a line beginning at a point on shore at Swimming Point 34° 56' 46" N - 76° 26' 26" W, running 314° (M) 300 yards to a point 34° 56' 52" N - 76° 26' 33" W; thence parallel to the shoreline no more than 300 yards from shore to a point 34° 58' 03" N - 76° 24' 10" W; thence 203° (M) to Long Bay Point 34° 57' 52" N - 76° 24' 12" W.
- (hhGG) Raccoon Island, on the northeast shore between a point on the northwest shore 35° 04' 27" N - 76° 26' 16" W and a point on the southwest shore 35° 04' 00" N - 76° 25' 33" W from the shoreline no more than 150 yards from shore; on the south and west shores, no more than 50 yards from the shoreline.
- (8) Core Sound, Back Sound and the Straits and their tributaries.
- (9) North River:
 - (aA) In that area bound by a line beginning at a point on the shore on the east side of North River south of Goose Bay 34° 43' 35" N - 76° 34' 55" W; thence running 252° (M) to a point in the river 34° 43' 28" N - 76° 35' 14" W; thence running 355° (M) to a point in the river 34° 45' 20" N - 76° 35' 45" W; thence running 060° (M) to a point in the river 34° 45' 45" N - 76° 35' 04" W; thence running 165° (M) to a point on the shore at the mouth of South Leopard Creek 34° 45' 36" N - 76° 34' 59" W; thence with the shoreline to the point of beginning.
 - (bB) In that area bound by a line beginning at a point on the west side of North River near Steep Point 34° 43' 40" N - 76° 37' 20" W; thence running 040° (M) to a point 34° 44' 35" N - 76° 36' 36" W; thence running 291° M 300 yards to a point 34° 44' 37" N - 76° 36' 45" W; thence running 219° (M) to a point 34° 44' 13" N -

76° 37' 05" W; thence running 307° (M) to a point 34° 44' 16" N - 76° 37' 12" W; thence running 018° (M) to a point 34° 45' 20" N - 76° 36' 56" W following the shoreline to the beginning point.

(eC) In that area of the North River marshes bound by a line beginning at Red Flasher No. "6" running 038° (M) along the southeast side of Steep Point Channel through Red Day Marker No. "8" to a point 34° 44' 08" N - 76° 36' 52" W; thence 125° (M) to a point 34° 43' 48" N - 76° 36' 08" W; thence 144° (M) to a point 34° 43' 30" N - 76° 35' 47" W; thence 188° (M) to a point 34° 42' 23" N - 76° 35' 47" W; thence 221° (M) to Red Flasher No. "56"; thence 278° (M) to a point 34° 42' 14" N - 76° 36' 43" W; thence 346° (M) to a point 34° 42' 45" N - 76° 36' 58" W; thence 008° (M) to a point 34° 43' 14" N - 76° 36' 58" W; thence 318° (M) to the beginning point.

(dD) In the area north of a line beginning on the east shore at 34° 46' 11" N - 76° 35' 13" W; thence running 270° (M) to a point on the west shore at 34° 46' 11" N - 76° 37' 01" W.

(10) Newport River:

(aA) In that area east and south of a line beginning at a point on the south shore 34° 45' 30" N - 76° 43' 10" W; thence running 026° (M) to a point on the north shore Newport River near Oyster Creek; thence following the shoreline to a point on the west bank of Core Creek at 34° 47' 05" N - 76° 41' 14" W; thence running 099° (M) through Marker "21" to a point on the east shore at 34° 47' 05" N - 76° 41' 10" W; thence following the shoreline southward to Gallant Point at 34° 44' 00" N - 76° 40' 19" W; thence running 271° (M) to Marker "2" at 34° 43' 58" N - 76° 40' 32" W; thence running 148° (M) to a point at 34° 43' 42" N - 76° 40' 05" W; thence running 182° (M) to a point at 34° 43' 21" N - 76° 40' 11" W at the Beaufort Causeway; thence running west with U.S. Highway 70 and the shoreline as the southern border to the

point of beginning.

(bB) In that area bound by a line beginning at a point on the shore on the south side of Russell's Creek 34° 45' 28" N - 76° 39' 46" W running 278° (M) 1000 yards to Quick Flasher Beacon No. 29 in the Intracoastal Waterway; thence running 173° (M) 1700 yards with the shoal to a point 34° 44' 37" N - 76° 40' 06" W; thence 195° (M) 1050 yards to a point on Gallant Point 34° 44' 06" N - 76° 40' 11" W; thence east and north with the shoreline to the beginning point.

(eC) In the mouth of Harlowe Creek north of a line beginning at a point near White Rock 34° 46' 28" N - 76° 43' 28" W, running 089° (M) to a point 34° 46' 33" N - 76° 42' 46" W.

(11) Bogue Sound:

(aA) In that area bound by a line beginning at a point 34° 42' 16" N - 76° 49' 24" W on the south shore of Bogue Sound (locally known as McGinnis Point) running 008° (M) to a point in Bogue Sound 34° 43' 12" N - 76° 49' 24" W thence running 099° (M) to Atlantic Beach Bridge 34° 43' 08" N - 76° 44' 12" W; thence 119° (M) to a point on the shore at Tar Landing Bay 34° 42' 30" N - 76° 42' 12" W; thence 191° (M) to a point on Bogue Banks 34° 42' 00" N - 76° 42' 15" W; thence with the shoreline to the beginning point.

(bB) In that area north of the Intracoastal Waterway beginning at the Atlantic Beach Bridge and running parallel with the Intracoastal Waterway to Channel Marker (Beacon) No. 39 at Bogue (Guthrie Point).

(eC) In that area on the north side of the Intracoastal Waterway from the Old Ferry Channel to the Highway 58 bridge.

(12) Designated primary nursery areas in all coastal fishing waters which are listed in 15A NCAC 3R .0003, except Burton Creek off Lower Broad Creek in Pamlico County.

(13) West and south of the Highway 58 Bridge at Emerald Isle from May 1 through October 31 in areas and during such times as the Fisheries Director shall designate by proclamation.

(b) It is unlawful to use pots from May 1 through October 31 in the areas described in Subparagraphs (b) (1) through (6) of this Rule except in accordance with 15A NCAC 3J .0301(a)(2)(B):

(1) In Wysocking Bay:

(A) Bound by a line beginning at a point on the south shore of Lone Tree Creek 35° 25' 05" N - 76° 02' 05" W running 239° (M) 1000 yards to a point 35° 24' 46" N - 76° 02' 32" W; thence 336° (M) 2200 yards to a point 35° 25' 42" N - 76° 03' 16" W; thence 062° (M) 750 yards to a point on shore 35° 25' 54" N - 76° 02' 54" W; thence following the shoreline and the Lone Tree Creek primary nursery area line to the beginning point;

(B) Bound by a line beginning at a point on the south shore of Mt. Pleasant Bay 35° 23' 07" N - 76° 04' 12" W running 083° (M) 1200 yards to a point 35° 23' 17" N - 76° 03' 32" W; thence 023° (M) 2400 yards to a point 35° 24' 35" N - 76° 04' 00" W; thence 299° (M) 1100 yards to point on shore 35° 24' 38" N - 76° 04' 48" W; thence following the shoreline and the Browns Island and Mt. Pleasant Bay primary nursery area line to the beginning point; except pots may be set no more than 50 yards from the shoreline;

(2) In Juniper Bay bound by a line beginning at a point on Juniper Bay Point 35° 20' 18" N - 76° 13' 22" W running 275° (M) 2300 yards to a point 35° 20' 15" N - 76° 14' 45" W; thence 007° (M) 2100 yards to Daymarker No. 3; thence 040° (M) 1100 yards to a point on shore 35° 21' 45" N - 76° 14' 24" W; thence following the shoreline and the Buck Creek primary nursery area line to the beginning point;

(3) In Rose Bay bound by a line beginning at a point southwest of Swan Point 35° 23' 56" N - 76° 23' 39" W running 288° (M) 1500 yards to a point 35° 24' 03" N - 76° 24' 33" W; thence 162° (M) 1650 yards to a point 35° 23' 19" N - 76° 24' 04" W; thence 084° (M) 1350 yards to a point on shore 35° 23' 29" N - 76° 23' 17" W; thence following the shoreline to the beginning

point;

(4) In Spencer Bay bound by a line beginning at a point on shore at Willow Point 35° 22' 26" N - 76° 28' 00" W running 059° (M) 1700 yards to a point 35° 22' 57" N - 76° 27' 13" W; thence 317° (M) 1500 yards to a point 35° 23' 25" N - 76° 27' 57" W; thence 243° (M) 1300 yards to a point on shore 35° 23' 02" N - 76° 28' 35" W; thence following the shoreline to the beginning point;

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

(6) In Neuse River:

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

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

(C) Beginning at a point on the eastern tip of Cockle Point 35° 03' 20" N - 76° 38' 27" W; thence running 100° (M) to a point 35° 03' 18" N - 76° 37' 53" W; thence running 005° (M) to a point on shore 35° 03' 38" N - 76° 37' 54" W; thence following the primary nursery area line to the beginning point 35° 03' 20" N - 76° 38' 27" W;

(D) Beginning at a point on shore on the eastern side of the MBYB channel 34° 58' 16" N - 76° 49' 05" W

running 186° (M) to a point on the six foot depth contour 34° 58' 07" N - 76° 49' 05" W; thence following the six foot depth contour to a point 34° 58' 24" N - 76° 46' 34" W; thence running 351° (M) to a point on shore 34° 58' 32" N - 76° 46' 38" W;

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

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend rules cited as 15A NCAC 10B .0114, .0212, .0404; 10C .0205, .0407; 10D .0002, and .0004.

The proposed effective date of this action is July 1, 1994.

The public hearing will be conducted at 10:00 a.m. on January 4, 1994 at the Archdale Building, 3rd Floor Conference Room, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

Reason for Proposed Action:

15A NCAC 10B .0114 - To clarify the prohibition against carrying certain weapons or tools while training dogs and to clarify that no hunting weapons or firearms may be possessed during certain field trials.

15A NCAC 10B .0212 - To be consistent with recent passage of local laws and general statutes.

15A NCAC 10B .0404 - To include any applicable general statutes or rules.

15A NCAC 10C .0205 - To change boundaries of particular trout waters.

15A NCAC 10C .0407 - To regulate the taking of nongame fishes by special devices.

15A NCAC 10D .0002 - To clarify the inclusive dates for training dogs.

15A NCAC 10D .0004 - To exempt particular waters from trout water designation.

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 1, 1993 to January 4, 1994. 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 COMMISSION

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

.0114 DOG TRAINING AND FIELD TRIALS

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

(b) A person serving as judge of a commission-sanctioned field trial and any nonresident participating therein may do so without having a North Carolina license, provided such nonresident has in his possession a valid hunting license issued by the state of his residence. A "commission-sanctioned" field trial is one which, pursuant to a written request from the sponsoring organization, has been officially authorized in writing and scheduled for occurrence by an authorized representative of the Wildlife Resources Commission.

(c) Persons without license may participate in commission-sanctioned field trials for beagles conducted without firearms on private field trial areas which are fenced in accordance with G.S. 113-276(k).

(d) Except as allowed by regulations pertaining to authorized field trials, it is unlawful to carry

firearms, axes, saws or climbing irons while training or running dogs during closed season on game animals.

(e) Except as authorized in this Paragraph, no firearms or other hunting weapons may be carried possessed or used during any field trial for foxhounds or any field trial conducted during the closed hunting season for any other species of wildlife serving as the quarry or prey. On a commission-sanctioned field trial for retrievers or bird dogs, shotguns containing live ammunition or firearms using only blank ammunition may be used only when the application for and the authorization of the field trial so provide. No wild waterfowl, quail or pheasant may be used in field trials when shotguns with live ammunition are permitted. All waterfowl, quail and pheasants so used must be

obtained from a licensed game bird propagator. Each specimen of waterfowl so obtained shall be marked by one of the methods provided by 50 C.F.R. 21.13. Each pheasant or quail so obtained shall be banded by the propagator prior to delivery with a metal leg band which is imprinted with the number of his propagation license. The purchaser of such birds shall obtain a copy of the receipt from the propagator showing the date and the number and species of birds purchased. The copy of the receipt shall be available for inspection by any authorized agent of the Wildlife Resources Commission during the time and at the place where the trial is being held.

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

SECTION .0200 - HUNTING

.0212 FOXES (GRAY AND RED)

(a) Seasons

~~(1) No closed season on taking foxes with dogs;~~

(1) (2) First Saturday to fourth Saturday in January with weapons or traps in the following counties:

Brunswick	Henderson	Stokes
Caswell	Johnston	Tyrrell
Clay	Macon	
Graham	Sampson	

~~(2) (3) No open weapons or trapping season in any other county, except where provided by local laws.~~

(b) Bag Limit.

- (1) Except in areas of open season for taking foxes with weapons or traps, foxes may not be intentionally killed by any method;
- (2) In areas of open season set by the North Carolina Wildlife Resources Commission for taking foxes with weapons or traps the season harvest in each county is limited to the number of tags allotted for that county. Each fox must be immediately tagged at the scene of taking with tag previously obtained as provided by 15A NCAC 10B .0403(d);
- (3) In areas of open season in all areas east of Interstate Highway 77 as set by the Legislature, the following bag limit applies: Daily, two; season, ten.

Note: Where local laws governing the taking of foxes conflict with these Regulations, the local laws shall prevail.

Statutory Authority G.S. 113-134; 113-291.2; 113-291.4.

SECTION .0400 - TAGGING FURS

.0404 TRAPPERS AND HUNTERS

(a) Every fox taken in an area of open season as provided by G.S. 113-291.4 shall be tagged at the scene of taking.

(b) Every person taking any bobcat or otter in this State, or any foxes under a depredation permit, general statute, rule, or local law that permits taking, shall obtain the necessary tags and affix each carcass or pelt with a proper tag before selling or transferring the same to any other person or transporting the same for any purpose, except that:

- (1) A person may transport the same from the place of taking to his residence and from his residence

- to a fur tag agent or taxidermist's place of business.
- (2) A person may transport the same from the place of taking to the nearest place in this State where the appropriate tag may be obtained.
 - (3) The carcass, pelt or mounted specimen is exempt from tagging requirements while in the taxidermist's place of business or after the mount is completed.
 - (4) A licensed trapper may take live foxes during any legal trapping season, except foxes taken under G.S. 113-291.4, without tagging them and sell them to a licensed controlled hunting preserve for fox in accordance with G.S. 113-273(g).
 - (5) A person may take live foxes pursuant to a valid depredation permit issued under G.S. 113-274(c)(1a), without tagging them and sell them to a licensed controlled hunting preserve for fox in accordance with G.S. 113-273(g).

No carcass or pelt of any bobcat, otter or fox taken within this State may be removed from the state without a proper fur tag having been affixed thereto, except a licensed taxidermist may ship the same to a tannery for processing. Any carcass or pelt remaining in a person's possession, except those in a licensed taxidermist's place of business or his taxidermy preservation facility, after the end of the season shall be properly tagged by him within 10 days following the close of such season.

(c) In any case where the taking of foxes with weapons or traps and the sale thereof is authorized by local legislation, except live foxes taken by licensed trappers who live-trap foxes for sale during any open season or persons who take live foxes pursuant to a depredation permit in accordance with Rule .0409 of this Section, the hunter or trapper taking any such fox shall, in the absence of a specific provision to the contrary, obtain and affix the carcass or pelt with a proper tag before selling or transferring the same to any other person, or transporting the same for any purpose than as authorized by Paragraph (a) of this Rule.

Statutory Authority G.S. 113-134; 113-276.1; 113-291.4; S.L. 1985, chs. 108, 179, 180, 664 and 722.

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

SECTION .0200 - GENERAL REGULATIONS

.0205 PUBLIC MOUNTAIN TROUT WATERS

(a) Designation of Public Mountain Trout Waters. On game lands located in western North Carolina certain waters are designated as public mountain trout waters and classified as wild trout waters or hatchery supported waters. For specific classifications see Subparagraphs (1) and (2) of Paragraph (a) of this Rule. Other streams, portions of streams, and bodies of water which are not located on game lands are designated within this Rule as public mountain trout waters and are classified as hatchery supported trout waters or wild trout waters. These waters are posted and lists thereof are filed with the clerks of superior court of the counties in which they are located:

- (1) Hatchery Supported Trout Waters. The hatchery supported public mountain trout waters are designated in this Subparagraph under the counties where located. Where specific watercourses are listed indentation indicates the watercourse named is tributary to the next preceding watercourse named and not so indented. The designation applies to the entire watercourse or impoundment named, including tributaries when on game lands, 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

- Waterfalls 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.
- (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 South Fork New River)
 - Nathans Creek
 - Peak Creek (headwaters to Trout Lake, except Blue Ridge Parkway waters)
 - Trout Lake (Delayed harvest regulations apply)
 - 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
 - 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)
 - 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]
 - Gragg Prong
 - Webb Prong
 - Buck Timber Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]
 - Cary 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:
 - 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)
 - Stony Creek
 - Mineral Creek
 - Corner Rock Creek
 - Reems Creek (~~Woodfin Watershed dam~~ Sugar Camp Fork 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 (a)(5) of this Rule.
 - Johns River (not trout water)
 - Parks Creek (not trout water)
 - Carroll Creek (game lands above SR 1405)
 - Linville River (game lands portion below the Blue Ridge Parkway and from 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:
 - 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,~~ Ashturn Creek to Valley River)
- (H) Clay County:
 - 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:
 - 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)
 - West Buffalo Creek
 - ~~Santeelah Creek (Johns Branch to mouth)~~
 - Huffman Creek (Little Buffalo Creek)
 - Squalla Creek
 - South Fork Squalla Creek
 - Santeelah Creek (Johns Branch to mouth)
 - Big Snowbird Creek (old railroad junction to mouth)
 - Mountain Creek (game lands boundary to SR 1138 bridge)
 - Long Creek (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:
 - 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~~ 1302 bridge (west) to SR ~~1302~~ 1307 bridge]
 - Hemphill Creek
 - West Fork Pigion River (headwaters to Champion International property line, except Middle Prong)
- (K) Henderson County:
 - Broad River (not trout water)
 - Rocky Broad River (one-half mile north of Bat Cave to Rutherford County line)
 - Green River - upper (mouth of Bob Creek to mouth of Rock Creek)
 - Green River - lower (Lake Summit Dam to Polk County line)
 - Camp Creek (SR 1919 to Polk County line)
 - Big Hungry River
 - Little Hungry River
 - North Fork Mills River (game lands portion below the Hendersonville watershed dam)
- (L) Jackson County:
 - Tuckasegee River (confluence with West Fork Tuckasegee River to bridge at Wilmot)
 - 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)
 - Shoal Creek (Glenville Reservoir pipeline to mouth)
- (M) Macon County:
 - 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 (a)(5) of this Rule.
 - Queens Creek Lake
 - Roaring Fork Creek (game land boundary 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)
 - Tessentee Creek (Nichols Branch to Little Tennessee River, except where posted against trespassing)
 - Savannah River (not trout water)
 - Big Creek (base of falls to Georgia State line)
- (N) Madison County:
 - French Broad River (not trout water)
 - Shut-In Creek
 - Spring Creek (junction of NC 209 and NC 63 to lower US Forest Service boundary line)
 - Meadow Fork Creek
 - Roaring Fork
 - Little Creek
 - Max Patch Pond
 - Mill Ridge Pond
 - Big Laurel Creek (Mars Hill Watershed boundary to Rice's Mill Dam)
 - Shelton Laurel Creek (headwaters to NC 208 bridge)
 - Big Creek (headwaters to lower game land boundary)
 - Mill Creek
 - Spillcorn 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)
 - 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 U.S. 70 Bridge, 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:
 - 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 above and below water supply reservoir)
 - Green River (Henderson County line to mouth of Brights Creek)
 - Little Cove Creek
 - Cove 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:
 - Little Tennessee River (not trout water)
 - Calderwood Reservoir (Cheoah Dam to Tennessee State line)
 - Cheoah Reservoir
 - Fontana Reservoir (not trout water)
 - Alarka Creek
 - Nantahala River (Macon County line to existing Fontana Reservoir water level)
 - 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:
 - French Broad River (junction of west and north forks to US 276 bridge)
 - Davidson River (Avery Creek 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)
- (W) Watauga County:
 - New River (not trout waters)
 - North Fork New River (from confluence with Maine and Mine branches to Ashe County line)

Maine Branch (headwaters to North Fork New River)
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 Amantha)
 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 (Delayed Harvest Regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.)
 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)
 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 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)
 - Stone Mountain Creek (that portion on Stone Mountain State Park)
- (B) Ashe County:
 - Big Horse Creek (Virginia State Line to SR 1361 bridge) Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.
- (C) Avery County:
 - Birchfield Creek (entire stream)
 - 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)
 - Rockhouse Creek (entire stream)
 - South Harper Creek (entire stream)
 - Wilson Creek (Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) 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 Shinny 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) Jackson County:
 - Gage Creek (entire stream)
 - 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)
- (H) Mitchell County:
 - Green Creek (headwaters to Green Creek Bridge, except where posted against trespass)
 - Little Rock Creek (headwaters to Green Creek Bridge, except where posted against trespass)
 - Wiles Creek (game land boundary to mouth)
- (I) Transylvania County:
 - South Fork Mills River (entire stream)
 - Whitewater River (downstream from Silver Run Creek to South Carolina State line)
- (J) 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)
 - Dutch Creek (headwaters to second bridge on SR 1134)
- (K) 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)
- (L) 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 Trout Waters. 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:

(A) Ashe County:

Big Horse Creek (Virginia State line to SR 1361 bridge excluding tributaries)
Three Top Creek (portion located on Elk Ridge Game Land)

(B) Avery County:

Wilson Creek (game land portion)

(C) Buncombe County:

Carter Creek (game land portion)

(D) Jackson County:

Flat Creek
Tuckasegee River (upstream of Clarke property)

(E) McDowell County:

Newberry Creek (game land portion)

(F) Wilkes County:

Harris Creek (portion on Stone Mountain State Park)

(G) Yancey County:

Lower Creek
Upper Creek
~~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 Elk Ridge Game Lands, Ashe County)~~
~~Wilson Creek (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~~
~~Newberry Creek (game land portion, McDowell County)~~

- (4) Catch and Release/Artificial Flies Only Trout Waters. 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:

(A) Avery County:

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

(B) Transylvania County:

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

(C) Watauga County:

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

(D) Yancey County:

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

~~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 Trout Waters. 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, it is unlawful to possess natural bait and 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 (from Bullhead Creek downstream to the lower Stone Mountain State Park boundary, Wilkes County)
 - Trout Lake (Ashe County)
 - Stone Mountain Creek (from falls at Alleghany County line to confluence with East Prong Roaring River and Bullhead Creek in Stone Mountain State Park, Wilkes County)
 - Jacob Fork (Shinny Creek to lower South Mountain State Park boundary, Burke County)
 - Nantahala River (portion from Whiteoak Creek to the Nantahala Power and Light powerhouse discharge canal, ~~Swain~~ Macon 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 natural 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**

**.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:
 - (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, East 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 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 cast 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 except Freedom Park Pond and Hornet's Nest Ponds;
- (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 Occaneechee 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;
- (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 Hyco 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 Scuppernong 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 is prohibited without first

having obtained specific written approval of such entry or use from an authorized agent of the Wildlife Resources Commission.

- (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, other than fox, 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 (e) 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~~ from April 1 and through 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, unless such person:

- (1) is a participant in scheduled bird dog field trials held on the Sandhills Game Land; or
- (2) is a disabled license holder pursuant to G.S. 113-270.2 and G.S. 113-271 and the underlying basis for obtaining such license was limited physical mobility. Persons meeting this criteria may operate electric wheelchairs and All Terrain Vehicles on those game lands owned by the Wildlife Resources Commission. For purposes of this Rule, the term "wheelchair" is defined as a device that is designed solely to be used by mobility-impaired individuals for locomotion. The term "All Terrain Vehicle" is defined as those vehicles having three or four wheels, tire pressure of no more than five pounds per square inch and a gross vehicle weight of no more than 600 pounds. Notwithstanding this Rule, no person shall operate an electric wheelchair, an All Terrain Vehicle, or any other motorized vehicle on wildlife plantings, high risk areas of erosion, dedicated nature preserves, other areas in which no access is permitted or in streams except at ford crossings.

(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.

.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 required to fish on 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 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 are designated public mountain trout waters, 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,~~ and Mill Ridge Pond and Cheoah River downstream of Santeetlah Reservoir. ~~are designated public mountain trout waters.~~

Elk Ridge Game Land, Ashe County
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 (b)(2) of this Rule are wild trout waters unless classified otherwise. [See 15A NCAC 10C .0205(a)(1)].

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 Re-

sources Commission intends to amend rules cited as 15A NCAC 10B .0202, .0203, .0209, .0212; 10C .0205, .0305, .0401, .0404; 10D .0002 and .0003.

The proposed effective date of this action is July 1, 1994.

The public hearings will be conducted:

7:00 P.M.

January 24, 1994

District 9

Sylva

Courthouse

7:00 P.M.

January 25, 1994

District 8

Morganton

Morganton Civic Center Auditorium

7:00 P.M.

January 26, 1994

District 7

Elkin

High School

7:00 P.M.

February 1, 1994

District 6

Albemarle

North Stanley High School

7:00 P.M.

February 2, 1994

District 5

Graham

Courthouse

7:00 P.M.

February 3, 1994

District 4

Elizabethtown

Courthouse

7:00 P.M.

February 7, 1994

District 1

Edenton

Swain Auditorium

7:00 P.M.
February 8, 1994
District 2
New Bern
Courthouse

7:00 P.M.
February 9, 1994
District 3
Nashville
Courthouse

Reason for Proposed Action:

15A NCAC 10B .0202 - To regulate the harvest of bear by setting seasons.

15A NCAC 10B .0203 - To regulate the harvest of deer by setting seasons and bag limits.

15A NCAC 10B .0209 - To regulate the harvest of wild turkeys by setting seasons and bag limits.

15A NCAC 10B .0212 - To regulate the harvest of foxes by setting seasons and bag limits.

15A NCAC 10C .0205 - To regulate the taking of trout on particular waters of the State.

15A NCAC 10C .0305 - To regulate the taking of fishes by setting season, size, and creel limits.

15A NCAC 10C .0401 - To require a license to take fish by means of grabbling and to add two urban lakes to the restrictions of catfish.

15A NCAC 10C .0404 - To regulate the taking of fish with special devices.

15A NCAC 10D .0002 - To establish a Disabled Sportsman Program to be administered on game lands and to prohibit the release of animals or birds on game land.

15A NCAC 10D .0003 - To establish hunting seasons on game lands.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearings. In addition, the record of hearing will be open for receipt of written comments from December 1, 1993 to February 9, 1994. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0200 - HUNTING

.0202 BEAR

(a) Open Seasons

- (1) Monday on or nearest October 15 to the Saturday before Thanksgiving and the third Monday after Thanksgiving to January 1 in and west of the boundary formed by NC 16 from the Virginia State line to Wilkesboro and NC 18 from Wilkesboro to the South Carolina State line.
- (2) Second Monday in November to the following Saturday in Beaufort, Camden, Craven, Dare, Gates, Hyde, Jones, Pamlico, Pasquotank, Tyrrell, and Washington Counties; and in that part of Bertie County southeast of US 17, and that part of Chowan County north of a line formed by SR 1002, SR 1222 and SR 1221 and in Currituck County except the Outer Banks.
- (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.

(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
 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	Richmond**
Bertie	Edgecombe	Martin	Robeson
Bladen	Franklin	<u>Moore**</u>	Sampson
Brunswick	Gates	Nash	Scotland
Camden	Greene	New Hanover	Tyrrell
Carteret	Halifax	Northampton	Vance
Chowan	<u>Harnett</u>	Onslow	<u>Wake</u>
Columbus*	Hertford	Pamlico	Warren
Craven	Hoke	Pasquotank	Washington
<u>Cumberland</u>	Hyde	Pender	Wayne
Currituck	<u>Johnston</u>	Perquimans	Wilson
Dare	Jones	Pitt	

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

~~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.~~

~~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(e)(2) for seasons on Sandhills Game Land.

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

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

- (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	Mecklenburg	Rockingham
Anson	Durham	Montgomery	Rowan
Cabarrus	Granville	Orange	Stanly
Caswell	Guilford	Person	Union
Chatham	Lee	Randolph	

~~Cumberland: That part north of NC 24 and west of I-95.~~

~~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.~~

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

Avery: That part south of the Blue Ridge Parkway.

~~(E) Friday and Saturday of the week following Thanksgiving in all of Dare County and in the following parts of counties:~~

~~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.~~

~~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.~~

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

~~(F) (E) Wednesday to Saturday of the week following Thanksgiving in all of Cumberland, Dare, Greene, Harnett, Hoke, Mecklenburg, Tyrrell, Union, and Wilson Counties and in the following parts of counties:~~

~~Cabarrus: That part west of US 52 and east of I-85.~~

Currituck: That part known as the Outer Banks.
 Johnston: That part north of US 70 or west of I-95.
~~Moore: All of the county, 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.
 Rowan: That part west of US 52.
 Scotland: That part north of US 74 except game lands.
~~Stanly: That part west of US 52.~~
~~Wayne: That part north of US 70.~~

- (G) (F) Wednesday of the week following Thanksgiving to Saturday of next succeeding week in all of Alamance, Caswell, Camden, Chatham, Franklin, Greene, Guilford, Lee, Orange, Pasquotank, Person, ~~Randolph~~, Rockingham, Stanley, Vance, and Washington Counties and in the following parts of counties:

Cabarrus: That part east of US 52.
 Carteret: All of the county except game lands.
 Chowan: That part north of US 17 and west of NC 32.
 Columbus: That part west of US 74, SR 1005, and SR 1125.
 Currituck: All of the county except the Outer Banks.
 Davidson: ~~That part south of I-85,~~ Except on game lands southeast of NC 49.
 Durham: All of the county except Butner-Falls of Neuse Game Land.
 Granville: All of the county except Butner-Falls of Neuse Game Land.
 Lenoir: That part west of NC 11.
 Montgomery: All of the county except ~~on game lands~~ Unharrie Game Land.
~~Moore~~ All of the county except Sandhills Game Land.
 Nash: That part south of US 64.
~~Randolph:~~ All of the county except on game lands.
 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.~~
 Wake: All of the county except Butner-Falls of Neuse Game Land.
 Wayne: That part ~~south~~ north of US 70.

- (H) (G) 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.

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

Anson: All of the county except game lands.
 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 or east of NC 32.
 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.
 Halifax: All of the county except Roanoke River Wetlands.
 Hyde: All of the county except game lands.
 Johnston: That part south of US 70 and east of I-95.
 Jones: All of the county except game lands.
 Lenoir: That part east of NC 11.
 Martin: All of the county except Roanoke River Wetlands.

Nash: That part north of US 64.
 New Hanover: That part north of US 74, except game lands.
 Onslow: All of the county except game lands.
 Pamlico: All of the county except game lands.
 Pender: All of the county except game lands.
 Sampson: That part south of NC 24.
Wayne: That part south of US 70.

- (+) (I) The second Wednesday after Thanksgiving to the third Saturday after Thanksgiving in all of Alexander, Cleveland, Davie, Iredell, Rutherford, Stokes, Surry, and Wilkes Counties.
- (K) (J) The third Friday after Thanksgiving to the third Saturday after Thanksgiving in all of Alleghany, Ashe, Burke, Caldwell, Cleveland, Forsyth, McDowell, Watauga, and Yadkin Counties.
- (L) (K) In those counties or parts of counties listed in Paragraph (b) (2) (I), except on game lands, two antlerless deer may be taken during that part of the regular gun season in which no other either sex season is open and must be tagged with the Antlerless deer tag or the Bonus Antlerless deer tag.
- (M) (L) In those counties or parts of counties listed in Part (b)(2)(G), except on game lands, one antlerless deer may be taken during that part of the regular gun season in which no other either-sex season is open and must be tagged with the Antlerless deer tag.
- (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(e)(4) and (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.

this Rule, and on Sandhills Game Land.

(2) Restrictions

- (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 (D) of Subparagraph (b) (1) of this Rule and deer of either sex may be taken on the last day of muzzle-loading firearms season in those counties or parts of counties listed in Part (B) and (C) 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: Daily, two; possession, five, one of which must be antlerless; season, five, one of which must be antlerless. In those areas listed in Part (b)(2)(I) of this Rule one additional antlerless deer may be taken provided it is tagged with the Bonus Antlerless deer tag. Antlerless deer include males with knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin.
- (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:

Second Saturday in April to Saturday of the fourth week thereafter on bearded turkeys in the following counties: Alleghany, Ashe, Caswell, Cherokee, Clay, ~~Durham~~, Gates, Graham, ~~Granville~~, Haywood, Henderson, Hertford, Hyde, Jackson, Macon, Madison, Orange, Person, Polk, Rockingham, Rutherford, **Scotland, Swain, Transylvania, Watauga, 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 and that part east of NC 145 and south of US 74.

** Bertie: That part west of a line formed by NC 45 from the Hertford County line to Colerain, NC 42 to Powellsville, US 13 to US 17 South, US 17 South to SR 1500, SR 1500 to NC 308, and NC 308 to the Washington County line.

** Bladen: That part south of US 701 and east of NC 87 or SR 1730.

Brunswick: That part north of US 74-76 or east of NC 133.

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 and west of NC 18 and NC 181.

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

Chatham: That part north of US 64 and west of SR 1008.

Columbus: That part south of US 74 and west of NC 410 and that part north of NC 87.

Craven: That part west of US 70, and south of SR 1101 and that part north of the Neuse River, south of a line formed by US 17 and US 17 Business, and east of a line formed by SR 1440 and SR 1441.

Durham: That part west of US 501.

Granville: All of the county except that part south of US 158 and west of I-85.

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

~~Hertford: That part east of US 13.~~

Hoke: That part south and west of NC 211.

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 125 from Williamston to the junction with NC 142, and north of NC 142 to the Edgecombe County line.

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.

Montgomery: All of the county except that part north of NC 24/27 and east of NC 134.

**** Moore:** That part south of NC 211.

New Hanover: That part west of NC 133.

Northampton: That part south of a boundary formed by US 158 from the Halifax County line to Jackson, NC 305 from Jackson to Rich Square, US 258 from Rich Square to NC 308, and NC 308 to the Bertie County line and that part south of NC 186, east of SR 1341, and north of SR 1333 and SR 1351.

Onslow: All of the county except that part east of a line formed by US 17, SR 1434 and SR 1442.

Pender: ~~That Starting at the Sampson County line,~~ that part west of ~~US 421~~ a line formed by US 421, NC 210, and NC 133.

**** Richmond:** All of the county except that part south of US 74 and east of US 1.

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

~~Rutherford:~~ That part west of US 221.

Surry: That part west of I-77.

Wilkes: That part north of NC 268.

Yancey: That part north of US 19W and SR 1417.

**** The Sandhills Game Land in Richmond, Scotland, and Moore Counties, the Bladen Lakes State Forest Game Lands in Bladen County, and the Roanoke River Wetlands in Bertie, Halifax, and Martin Counties are closed to turkey hunting except by holders of special permits authorizing turkey hunting as provided in G.S. 113-264(d). Application forms for permits to participate in managed turkey hunts on game lands, together with pertinent information and instructions are found in the Regulation Digest, which may be obtained from hunting and fishing license agents and from the Wildlife Resources Commission. Completed applications must be postmarked no later than January 20, 1993.**

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

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

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

Statutory Authority G.S. 113-134; 113-264; 113-270.3; 113-276.1; 113-291.2.

.0212 FOXES (GRAY AND RED)

(a) Seasons

(1) No closed season on taking foxes with dogs;

(2) First Saturday to fourth Saturday in January with weapons or traps in the following counties:

Brunswick	Henderson	Stokes
Caswell	Johnston	Tyrrell
Clay	Macon	
Graham	Sampson	

(3) ~~No open weapons or trapping season in any other county, except where provided by local laws. The Saturday next preceding Thanksgiving through January 1 by bow and arrow in all areas of the State east of Interstate Highway 77 and in Mitchell County.~~

(b) Bag Limit.

(1) Except in areas of open season for taking foxes with weapons or traps, foxes may not be intentionally killed by any method;

(2) In areas of open season set by the North Carolina Wildlife Resources Commission in Subparagraph (a)(2) of this Rule for taking foxes with weapons or traps the season harvest in each county is limited to the number of tags allotted for that county. Each fox must be immediately tagged at the scene of taking with tag previously obtained as provided by 15A NCAC 10B .0403(d);

(3) In areas of open season in all areas east of Interstate Highway 77 as set by the Legislature and in Subparagraph (a)(3) of this Rule, the following bag limit applies: Daily, two; season, ten.

Note: Where local laws governing the taking of foxes conflict with these Regulations, the local laws shall prevail.

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

SECTION .0200 - GENERAL REGULATIONS

.0205 PUBLIC MOUNTAIN TROUT WATERS

(a) Designation of Public Mountain Trout Waters. On game lands located in western North Carolina certain waters are designated as public mountain trout waters and classified as wild trout waters or hatchery supported waters. For specific classifications see Subparagraphs (1) and (2) of Paragraph (a) of this Rule. Other streams, portions of streams, and bodies of water which are not located on game lands are designated within this Rule as public mountain trout waters and are classified as hatchery supported trout waters or wild trout waters. These waters are posted and lists thereof are filed with the clerks of superior court of the counties in which they are located:

- (1) Hatchery Supported Trout Waters. The hatchery supported public mountain trout waters are designated in this Subparagraph under the counties where located. Where specific watercourses are listed indentation indicates the watercourse named is tributary to the next preceding watercourse named and not so indented. The designation applies to the entire watercourse or impoundment named, including tributaries when on game lands, 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

Waterfalls 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.

(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 South Fork New River)

Nathans Creek

Peak Creek (headwaters to Trout Lake, except Blue Ridge Parkway waters)

Trout Lake (Delayed harvest regulations apply)

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

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)~~

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]

Gragg Prong

Webb Prong

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

Cary 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:

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)

Stony Creek

Mineral Creek

Corner Rock Creek

Reems Creek (Woodfin Watershed dam to US 19-23 bridge, except where posted against trespass)

Swannanoa River (SR 2702 bridge near Ridgecrest to Sayles Bleachery in Asheville, except where posted against trespass)

Bent Creek (headwaters to N.C. Arboretum boundary line)

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 (a)(5) of this Rule.

Johns River (not trout water)

- Parks Creek (not trout water)
- Carroll Creek (game lands above SR 1405)
- Linville River (game lands portion below the Blue Ridge Parkway and from 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:
 - Hiwassee River (not trout water)
 - Shuler Creek (headwaters to Tennessee line, except where posted against trespass)
 - North Shoal Creek (Crane Creek) (headwaters to SR 1325)
 - Persimmon Creek
 - Davis Creek
 - Bald Creek
 - Beaver Dam Creek (headwaters to SR 1326 bridge)
 - Valley River
 - Hyatt Creek
 - Webb Creek
 - Junaluska Creek (bridge at U.S. Forest Service road 440, Section No. 4, to Valley River)
- (H) Clay County:
 - Hiwassee River (not trout water)
 - Fires Creek (~~bear sanctuary line~~ the fish barrier 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:
 - 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 (game lands boundary to SR 1138 bridge)
 - Long Creek (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:
- 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 Pigion River (headwaters to Champion International property line, except Middle Prong)
 - Richland Creek (Russ Avenue bridge to US 19A-23 bridge) Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
- (K) Henderson County:
- Broad River (not trout water)
 - Rocky Broad River (one-half mile north of Bat Cave to Rutherford County line)
 - Green River - upper (mouth of Bob Creek to mouth of Rock Creek)
 - Green River - lower (Lake Summit Dam to Polk County line)
 - Camp Creek (SR 1919 to Polk County line)
 - Big Hungry River
 - Little Hungry River
 - North Fork Mills River (game lands portion below the Hendersonville watershed dam)
 - Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
- (L) Jackson County:
- Tuckasegee River (confluence with West Fork Tuckasegee River to SR 1392 bridge at Wilmot) Delayed Harvest Regulations apply to that portion between Dicks Gap Bridge on SR 1002 and Cullowhee Dam. See Subparagraph (a)(5) of this Rule.
 - Scott Creek (entire stream, except where posted against trespass)
 - Dark Ridge Creek (Jones Creek to Scotts Creek)
 - 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)
 - Shoal Creek (Glenville Reservoir pipeline to mouth)
- (M) Macon County:
- 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 (a)(5) of this Rule.
 - Queens Creek Lake
 - Roaring Fork Creek (game land boundary 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)
- Tessentee Creek (Nichols Branch to Little Tennessee River, except where posted against trespassing)
- Savannah River (not trout water)
- Big Creek (base of falls to Georgia State line)
- (N) Madison County:
 - French Broad River (not trout water)
 - Shut-In Creek
 - Spring Creek (junction of NC 209 and NC 63 to lower US Forest Service boundary line)
 - Meadow Fork Creek
 - Roaring Fork
 - Little Creek
 - Max Patch Pond
 - Mill Ridge Pond
 - Big Laurel Creek (Mars Hill Watershed boundary to Rice's Mill Dam)
 - Shelton Laurel Creek (headwaters to NC 208 bridge)
 - Big Creek (headwaters to lower game land boundary)
 - Mill Creek
 - Spillcorn 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)
 - 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 U.S. 70 Bridge, 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:
 - 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 above and below water supply reservoir)
 - Green River (Henderson County line to mouth of Brights Creek)
 - Little Cove Creek
 - Cove 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~~ the Business US 52 bridge) 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:

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:

French Broad River (junction of west and north forks to US 276 bridge)

Davidson River (Avery Creek 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 Joanassee water level)~~

Thompson River (SR 1152 to South Carolina state line, except where posted against trespass)

(W) Watauga County:

New River (not trout waters)

North Fork New River (from confluence with Maine and Mine branches to Ashe County line)

Maine Branch (headwaters to North Fork New River)

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~~ at Foscoe downstream to NC 105 bridge) Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.

Beech Creek

Buckeye Creek Reservoir

Coffee Lake

Laurel Creek

Cove Creek (SR 1233 bridge at Zionville to SR 1233 bridge at Amantha)

Dutch Creek (second bridge on SR 1134 to mouth)

~~Crab Orchard Creek~~

Boone Fork (headwaters to SR 1562)

(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 (Delayed Harvest Regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.)

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)

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 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:

Big Sandy Creek (portion on Stone Mountain State Park)

Ramey Creek (entire stream)

Stone Mountain Creek (that portion on Stone Mountain State Park)

(B) Ashe County:

Big Horse Creek (Virginia State Line to SR 1361 bridge) Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.

(C) Avery County:

Birchfield Creek (entire stream)

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)

Roaring Creek (entire stream)

Rockhouse Creek (entire stream)

South Harper Creek (entire stream)

Wilson Creek (Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) 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 Shinny 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) Jackson County:

Gage Creek (entire stream)

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)

(H) Mitchell County:

Green Creek (headwaters to Green Creek Bridge, except where posted against trespass)

Little Rock Creek (headwaters to Green Creek Bridge, except where posted against trespass)

Wiles Creek (game land boundary to mouth)

(I) Transylvania County:

South Fork Mills River (entire stream)

Whitewater River (downstream from Silver Run Creek to South Carolina State line)

(J) 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)

Dutch Creek (headwaters to second bridge on SR 1134)

(K) 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)

(L) Yancey County:

Licksillet 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 Elk Ridge Game Lands, Ashe County)

Wilson Creek (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

Newberry Creek (game land portion, McDowell 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 one-half hour after sunset on 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. These waters are closed to fishing between one-half hour after sunset on the Friday before the first Saturday in June and 6:00 a.m. on the first Saturday in June. At 6:00 a.m. on the first Saturday in June these streams revert to open for fishing under Hatchery Supported Waters regulations:

(A) Ashe County:

Trout Lake

(B) Burke County:

Jacob Fork (Shinny Creek to lower South Mountains State Park boundary)

(C) Haywood County:

Richland Creek (Russ Avenue bridge to US 19A-23 bridge)

(D) Henderson County:

North Fork Mills River (game land portion below the Hendersonville watershed dam)

(E) Jackson County:

Tuckasegee River (Dicks Gap bridge on SR 1002 downstream to Cullowhee Dam)

(F) Macon County:

Nantahala River (portion from Whiteoak Creek to the Nantahala Power and Light power house discharge canal)

(G) Surry County:

Ararat River (SR 1727 downstream to Business US 52 bridge)

(H) Watauga County:

Watauga River (SR 1559 bridge at Foscoe downstream to NC 105 bridge)

(I) Wilkes County:

East Prong Roaring River (from Bullhead Creek downstream to the Stone Mountain State Park lower boundary)

Stone Mountain Creek (from falls at Allegheny County line to confluence with East Prong Roaring River and Bullhead Creek in Stone Mountain State Park)

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

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

~~Trout Lake (Ashe County)~~

~~Stone Mountain Creek (from falls at Alleghany County line to confluence with East Prong Roaring River and Bullhead Creek in Stone Mountain State Park, Wilkes County)~~

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

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

- (6) Wild Trout/Natural Bait Waters. Those portions of designated Wild Trout Waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Wild Trout/Natural Bait Waters. All artificial lures and natural baits, except live fish, are allowed provided they are fished using only one single hook. The creel limit, size limit, and open season are the same as other Wild Trout Waters [see 15A NCAC 10C .0305(a)].

(A) Cherokee County:

Tellico River (Fain Ford to Tennessee state line excluding tributaries)

(B) Clay County:

Buck Creek (game land portion downstream of US 64 bridge)

(C) Graham County:

Deep Creek

Long Creek (game land portion)

(D) Jackson County:

Chattooga River (SR 1100 bridge to South Carolina state line)

(lower) Fowler Creek (game land portion)

Scotsman Creek (game land portion)

(E) Macon County:

Chattooga River

Jarrett Creek (game land portion)

Kimsey Creek

Overflow Creek (game land portion)

Park Creek

Tellico Creek (game land portion)

Turtle Pond Creek (game land portion)

(F) Transylvania County:

North Fork French Broad River (game land portions downstream of SR 1392)

(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), ~~and~~ (6) 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 natural bait while fishing wild trout waters except those waters listed in 15A NCAC 10C .0205(a)(6).
 - (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 .0300 - GAME FISH

.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. 14)	ALL YEAR (exc. 2)
Hatchery Sup-	7	None	All year, except

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ported Trout Waters and undesignated waters			March 1 to 7:00 6:00 a.m. on first Saturday in April (excs. 2 & 3)
Muskellunge and Tiger Musky	2	30 in.	ALL YEAR
Chain Pickerel (Jack)	None	None	ALL YEAR
Walleye	8 (excs. 9 & 10)	None (exc. 9)	ALL YEAR
Sauger	8	15 in.	ALL YEAR
Black Bass: Largemouth	5 (exc. 10)	14 in. (excs. 4, 8 & 11)	ALL YEAR
Smallmouth and Spotted	5 (exc. 10)	12 in. (excs. 4, 8 & 11)	ALL YEAR
White Bass	25	None	ALL YEAR
Sea Trout (Spotted or Speckled)	None	12 in.	ALL YEAR
Flounder	None	13 in.	ALL YEAR
Red drum (channel bass, red fish, puppy drum)	5	18 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, 15, & 17)
Kokanee Salmon	7	None	ALL YEAR
Panfishes	None (excs. 5 ₂ & 13 ₂ & 18)	None (exc. 13)	ALL YEAR (exc. 5)
NONGAME FISHES	None (exc. 16)	None (exc. 16)	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, and Lake Norman, 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 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, Pee-Dee, Pungo and Tar-Pamlico rivers and their tributaries and the Roanoke River and its tributaries, including the Cashie, Middle, and Eastmost rivers, extending upstream to the first impoundment, the daily creel limit for striped bass and their hybrids is three fish and the minimum length limit is 18 inches. In the Roanoke River and its tributaries, including the Cashie, Middle, and Eastmost rivers from April 1 to May 31 no fish between the lengths of 22 inches and 27 inches may be retained.
 - (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, in Lake Mackintosh in Alamance and Guilford counties, in Lake Rim in Cumberland 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 High Rock Lake downstream of I-85, in Tuckertown Lake, in Badin Lake, in Falls Lake, in Lake Tillery, and in Blewett Falls Lake. In and west of Madison, Buncombe, Henderson and Polk Counties and in designated public mountain trout waters 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, and 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-Lex in Davidson County.
 - (12) In all impounded inland waters and their tributaries, except those waters described in Exceptions (1), the daily creel limit of striped bass and their hybrids may include not more than two fish of smaller size than the minimum size limit.
 - (13) In Lake Tillery, Falls Lake, High Rock Lake, Badin Lake, ~~and Tuckertown Lake,~~ Lake Hyco, and Cane Creek Lake a daily creel limit of 20 fish and a minimum size limit of 8 inches apply to crappie.
 - (14) In Slick Rock Creek the minimum size is 7 inches for brook trout and 10 inches for brown and rainbow trout.
 - (15) In designated inland fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), striped bass fishing season, size limits and creel limits shall be the same as those established by duly adopted rules or proclamations of the Marine Fisheries Commission in adjacent joint or coastal fishing waters.
 - (16) 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).
 - (17) The Executive Director may, by proclamation, suspend or extend the hook-and-line season for striped bass in the inland and joint waters of coastal rivers and their tributaries. It is unlawful to violate the provisions of any proclamation issued under this authority.
 - (18) In all public fishing waters east of I-95, except Tar River Reservoir in Nash County, and in all of the Lumber River the daily creel limit for all sunfish, except black bass and crappie, is 25 in

aggregate, no more than 12 of which may be redbreast sunfish.

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 or grabbling~~. Nongame fishes may be taken by ~~such~~ hook and line ~~methods or grabbling~~ at any time without restriction as to size limits or creel limits, except that no trotlines or set-hooks may be used in the impounded waters located on the Sandhills Game Land or in designated public mountain trout waters, and in Lake Waccamaw, trotlines or set-hooks may be used only from October 1 through April 30. 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, grabbling methods or by licensed special devices may be 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 below 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:

Cedar Rock Pond, Alamance County

Bur-Mil Park Ponds, Guilford County

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.

.0404 SPECIAL DEVICE FISHING

(a) Bow and Arrow. The use of longbow and arrow as a licensed special device is authorized for taking nongame fishes at any time from all inland fishing waters other than impounded waters located on the Sandhills Game Land and designated public mountain trout waters. Unless specifically prohibited, longbow and arrow may be used in joint fishing waters. It is unlawful to take fish with crossbow and arrow in any inland fishing waters.

(b) Nets. Manually operated nets, including seines and bow, cast, dip, gill, drift and fyke nets may be used under the special device fishing license.

- (1) No fixed gill net or other stationary net which may be authorized as a special fishing device may be more than 100 yards in length, nor shall any such net be placed within 50 yards of any other fixed net. Fixed nets must be set so that they run parallel to the nearest shoreline, except in the Neuse, Trent, Northeast Cape Fear, Cape Fear, and Black Rivers and their tributaries. No anchored or fixed gill net or drift net shall be used unless such net is marked for the protection of boat operators. A net shall be deemed so marked when there is attached to it at each end two separate yellow buoys which shall be of solid foam or other solid buoyant material no less than five inches in its smallest dimensions. The owner shall always be identified on a buoy on each end either by using engraved buoys or by attaching engraved metal or plastic tags to the buoys. Such identification shall include one of the following: owner's N.C. motor boat registration number, or owner's U.S. vessel documentation name, or owner's last name and initials.

(2) It is unlawful to attach gill nets to any wire, rope, or similar device extended across any navigable watercourse.

(c) Traps. Baskets and traps, including automobile tires, may be used under the special device fishing license. Such devices when set and left unattended shall be affixed with a card or tag furnished by the license holder and upon which his name and address shall be legibly and indelibly inscribed. No fish trap may exceed ~~ten~~ five feet in length or ~~three~~ two feet in depth or width. No lead nets, wing nets, or other device designed to guide or herd fish may be attached to the trap or used or set within 25 feet of the trap.

(d) Spears. Manually operated gigs or under-water spear or harpoon guns may be used under the special fishing device license in the inland waters having a season for their use specified in Rule .0407 of this Section.

(e) Crab pots. Persons owning property adjacent to the inland fishing waters of coastal rivers and their tributaries are permitted to set two crab pots to be attached to their property and not subject to special device license requirements.

Statutory Authority G.S. 113-134; 113-272.2; 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 is prohibited without first having obtained specific written approval of such entry or use from an authorized agent of the Wildlife Resources Commission.
- (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, other than fox, 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 (e) 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, unless such person:

- (1) is a participant in scheduled bird dog field trials held on the Sandhills Game Land; or
- (2) is a disabled license holder pursuant to G.S. 113-270.2 and G.S. 113-271 and the underlying basis for obtaining such license was limited physical mobility. Persons meeting this criteria may operate electric wheelchairs and All Terrain Vehicles on those game lands owned by the Wildlife Resources Commission. For purposes of this Rule, the term "wheelchair" is defined as a device that is designed solely to be used by mobility-impaired individuals for locomotion. The term "All Terrain Vehicle" is defined as those vehicles having three or four wheels, tire pressure of no more than five pounds per square inch and a gross vehicle weight of no more than 600 pounds. Notwithstanding this Rule, no person shall operate an electric wheelchair, an All Terrain Vehicle, or any other motorized vehicle on wildlife plantings, high risk areas of erosion, dedicated nature preserves, other areas in which no access is permitted or in streams except at ford crossings.

(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.

(k) **Disabled Sportsman Program.** In order to qualify for special hunts for disabled sportsmen listed in 15A NCAC 10D .0003 an individual must have in their possession a Disabled Sportsman permit issued by the Commission. In order to qualify for the permit, the applicant must provide medical certification of one or more of the following disabilities:

- (1) amputation of one or more limbs;
- (2) paralysis of one or more limbs;
- (3) dysfunction of one or more limbs rendering the person unable to walk without mechanical assistance other than a cane;
- (4) disease or injury or defect confining the person to a wheelchair, walker, or crutches; or
- (5) legal deafness.

Participants in the program, except those qualifying by deafness, may operate vehicles on ungated or open-gated roads normally closed to vehicular traffic and may use All Terrain Vehicles, as defined in Paragraph (h) of this Rule, off-roads on game lands owned by the Commission. Each program participant may be accompanied by one able-bodied companion provided such companion has in his possession the companion permit issued with the Disabled Sportsman permit.

(l) **Release of Animals.** It is unlawful to release pen-raised animals or birds, or wild animals or birds on game lands without prior written authorization from the Executive Director.

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. 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: For purposes of this Section "Eastern" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(A); "Central" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(D); "Northwestern" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(B); "Western" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(C).

- (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. Special hunts on other days may also be set up for participants in the Disabled Sportsman Program. 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
 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 Mondays, Wednesdays, and Saturdays from ~~on~~ the first Wednesday after Thanksgiving through the following Wednesday and on the second Saturday after Thanksgiving. Deer of either sex may also be taken the Saturday preceding Eastern bow season with bow and arrow and the Friday preceding the Eastern muzzle-loading season with any legal weapon (with weapons exceptions described in this Paragraph) by participants in the Disabled Sportsman Program.

Wild turkey hunting is by permit only.)

Caswell County--Caswell Game Land -- (Deer of either sex may also be taken the Friday preceding the Central muzzle-loading season by participants in the Disabled Sportsman Program.)

Catawba and Iredell Counties--Catawba Game Land (No deer may be taken from the tract known as Island Point and deer may be taken with bow and arrow only from the tract known as 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 Mondays, Wednesdays, and Saturdays from the first Wednesday after Thanksgiving through the third Saturday after Thanksgiving. Deer of either sex may also be taken the Friday preceding the Eastern muzzle-loading season with any legal weapon and the Saturday preceding Eastern bow season with bow and arrow by participants in the Disabled Sportsman Program.)

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. Either sex deer hunting with any legal weapon will also be permitted on all areas the Thursday and Friday prior to the muzzle-loading season described in this Paragraph for participants in the Disabled Sportsman Program. 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--Robeson Game Land

Robeson County--Bullard and Branch Hunting Preserve Game Land

Sampson County--Sampson Game Lands

Stokes County--Sauratown Plantation Game Land (Deer of either sex may be taken with any legal weapon on the Friday prior to regular gun season in the Northwestern area by participants in the Disabled Sportsman Program.)

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, Graham, Jackson, Macon, Madison, Polk, and Swain, game birds may be hunted with dogs.
 - (ii) In the counties of Cherokee, Clay, Graham, 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, Jordan, and Shearon Harris Game Lands, and posted waterfowl impoundments on Goose Creek 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. After November 1, on the Pamlico Point, Campbell Creek, and Spring Creek impoundments, located on the Goose Creek Game Lands, a special permit is required for hunting on opening and closing days of the duck seasons, Saturdays of the duck

- seasons, 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 Anson, New Lake, Pee Dee River, 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 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;
 - (I) On Angola Bay, Butner-Falls of Neuse, ~~Croatan~~, Goose Creek, ~~and Hofmann Forest~~, and Sutton Lake Game Lands deer of either sex may be taken from the first Wednesday after Thanksgiving through the following Saturday;
 - (J) On Croatan and Neuse River Game Lands deer of either sex may be taken from the first Wednesday after Thanksgiving through the following Tuesday;
 - (K) 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;
 - (L) On the posted waterfowl impoundments on the Jordan and Butner-Falls of Neuse game lands a special permit is required for all waterfowl hunting;
 - (M) 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--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 -- Bertie County Game Land

Bertie and Washington Counties--Bachelor Bay Game Lands

Beaufort and Pamlico Counties--Goose Creek Game Land

Brunswick County--Green Swamp Game Land

Burke and Cleveland Counties--South Mountains Game Lands

Caldwell, Watauga and Wilkes Counties--Yadkin Game Land

Camden -- Camden County Game Land

Carteret, Craven and Jones Counties--Croatan Game Lands

Chatham County--Chatham Game Land

Chatham, Durham, Orange, and Wake Counties--Jordan Game Lands (On areas posted as "archery zones" hunting is limited to bow and arrow. Horseback riding, including all equine species, is prohibited. Target shooting is prohibited except on designated target shooting areas.)

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 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

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 that part marked as the Penny Bend Rabbit Research Area no hunting is permitted. Horseback riding, including all equine species, is prohibited. Target shooting is prohibited except on designated target shooting areas.)

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 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

Tyrrell and Washington Counties--Lantern Acres 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 (Deer of either sex may be taken with bow and arrow on the Saturday prior to Northwestern bow and arrow season by participants of the Disabled Sportsman Program.)

- (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

Thursday and Friday of the week before Thanksgiving Week:

Sandhills east of US 1

Sandhills west of US 1

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 September next preceding the dates of hunt. Permits are issued by random computer selection, are mailed to the permittees prior to the hunt, and are nontransferable. 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.

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.

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Environment, Health, and Natural Resources, Division of Radiation Protection intends to adopt rule cited as 15A NCAC 11 .1423.

The proposed effective date of this action is July 1, 1993.

The public hearing will be conducted at 3:00 p.m. and 7:00 p.m. on January 11, 1994 at 3825 Barrett Drive, Room 101, Raleigh, NC 27609 .

Reason for Proposed Action: Establish annual fees on persons registered pursuant to the provisions of 15A NCAC 11, Section .1400 to cover the anticipated costs of tanning equipment inspection and enforcement activities of the agency.

Comment Procedures: Written comments should be submitted to the Division of Radiation Protection, P.O. Box 27687, Raleigh, NC 27611-7687. Any person requiring information concerning these rules should contact Lanny L. Watkins, Chief Electronic Product Radiation Section. Written comments will be accepted until January 31, 1994.

CHAPTER 11 - RADIATION PROTECTION

SECTION .1400 - TANNING FACILITIES

.1423 FEES AND PAYMENT

(a) This Rule establishes annual fees on persons registered pursuant to the provisions of this Section to cover the anticipated costs of tanning equipment inspection and enforcement activities of the agency.

(b) All fees established in this Rule shall be due on the effective date of this Rule and on the first day of July of each subsequent year.

(c) Notwithstanding Paragraph (b) of this Rule, when a new 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 registration.

(d) The initial fee in Paragraph (c) of this Rule shall be computed as follows:

(1) When any new registration is issued before the first day of January of any year, the initial fee shall be the full amount specified in this Rule; and

(2) When any new 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 this Rule.

(e) All fees received by the agency pursuant to provisions of this Rule shall be nonrefundable.

(f) Each registrant shall pay all fees by check or money order made payable to "Division of Radiation Protection" and mail such payment to: Division of Radiation Protection, North Carolina Department of Environment, Health, and Natural Resources, P.O. Box 27687, Raleigh, North Carolina 27611-7687. Such payment may be delivered to the agency at its office located at 3825 Barrett Drive, Raleigh, North Carolina 27609-7221.

(g) Within five days after the due dates established in Paragraphs (b) and (c) of this Rule, the agency shall mail to each registrant, who has not already submitted payment, a notice which indicates the due date, delinquent date and the amount of fees due.

(h) Payment of fees established in this Rule shall be delinquent, if not received by the agency within 60 days after the due date specified in Paragraphs (b) and (c) of this Rule.

PROPOSED RULES

(i) If a registrant remits a fee in the form of a check or other instrument which is uncollectible from the paying institution, the agency shall notify the registrant by certified mail and allow the registrant 15 days to correct the matter.

(j) If payment of fees is uncollectible from the paying institution or not submitted to the agency by the delinquent date, the agency may institute appropriate legal action to collect.

(k) Annual fees for persons registered pursuant to provisions of this Section are as listed in the following table:

<u>Type of registered facility</u>	<u>Letters appearing in registration number</u>	<u>Facility plus first Piece of Tanning Equipment</u>	<u>Each additional Piece of Tanning Equipment</u>
<u>Tanning Facility</u>	<u>B</u>	<u>\$100.00</u>	<u>\$16.00</u>
<u>Tanning Equipment Services</u>	<u>F</u>	<u>\$100.00</u>	<u>NA</u>

Statutory Authority G.S. 104E-9(8); 104E-19(a).

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that EHNR - Commission for Health Services intends to amend rule cited as 15A NCAC 13B .1628.

The proposed effective date of this action is April 9, 1994.

The public hearing will be conducted at 10:00 a.m. on December 20, 1993 at the Ground Floor Hearing Room, Archdale Building, 512 North Salisbury Street, Raleigh, NC.

Reason for Proposed Action: To provide local governments in North Carolina with an additional Mechanism to comply with financial assurance requirements for municipal solid waste landfill facilities. The amendment would also allow local governments to comply with the financial assurance rule without expending funds while expediting compliance with financial assurance requirements.

Comment Procedures: All persons interested in these matters are invited to attend the public hearing. Written comments may be presented at the public hearing or submitted to Brad Rutledge, Division of Solid Waste Management, Solid Waste Section, P.O. Box 27687, Raleigh, NC 27611-7687. All written comments must be received by January 3, 1994. Persons who wish to speak at the hearing should contact Mr. Rutledge at (919) 733-0692. Persons who call in advance of the hearing will be given priority on the speaker's list. Oral presentation lengths may be limited depending on the number of people that wish to speak at the public hearing. Only persons who have made comments at a public hearing or who have submitted written comments will be allowed to speak at the Commission meeting. Comments made at the Commission meeting must either clarify previous comments or proposed changes from staff pursuant to comments made during the public hearing process.

IT IS VERY IMPORTANT THAT ALL INTERESTED AND POTENTIALLY AFFECTED PERSONS, GROUPS, BUSINESSES, ASSOCIATIONS, INSTITUTIONS OR AGENCIES MAKE THEIR VIEWS AND OPINIONS KNOWN TO THE COMMISSION FOR HEALTH SERVICES THROUGH THE PUBLIC HEARING AND COMMENT PROCESS, WHETHER THEY SUPPORT OR OPPOSE ANY OR ALL PROVISIONS OF THE PROPOSED RULES. THE COMMISSION MAY MAKE CHANGES TO THE RULES AT THE COMMISSION MEETING IF THE CHANGES COMPLY WITH G.S. 150B-21.2(f).

Editor's Note: This Rule was filed as a temporary amendment effective November 9, 1993 for a period

of 180 days or until the permanent rule becomes effective, whichever is sooner.

CHAPTER 13 - SOLID WASTE MANAGEMENT

SUBCHAPTER 13B - SOLID WASTE MANAGEMENT

SECTION .1600 - REQUIREMENTS FOR MUNICIPAL SOLID WASTE LANDFILL FACILITIES
(MSWLFs)

.1628 FINANCIAL ASSURANCE RULE

(a) Applicability and Effective Date.

- (1) The requirements of this Rule apply to owners and operators of all MSWLF units that receive waste on or after October 9, 1993, except owners or operators who are State or Federal government entities whose debts and liabilities are the debts and liabilities of a State or the United States.
- (2) The requirements of this Rule are effective April 9, 1994.
- (3) MSWLF units owned and operated by units of local government or public authorities may elect to use a Capital Reserve Fund as described in Paragraph (e)(1)(I) of this Rule.
- (4) Owners and operators of all MSWLF units shall submit detailed cost estimates for closure and post-closure in accordance with Rule .1629 and this Rule; and, if necessary, for corrective action programs in accordance with Rule .1637 and this Rule.
- (5) Under this Rule, when documents are required to be placed in the operating record of a MSWLF unit, three copies shall be forwarded to the Division.
- (6) When allowable mechanisms as specified in Paragraph (e) of this Rule are used in combination to provide financial assurance for closure, post-closure or corrective action, no more than one allowable mechanism shall be provided by the same financial institution or its corporate entities.

(b) Financial Assurance for Closure.

- (1) The owner or operator must have a detailed written estimate, in current dollars, of the cost of hiring a third party to close the largest area of all MSWLF units at any time during the active life in accordance with the closure plan required under Rule .1629. A copy of the closure cost estimate must be placed in the MSWLF's closure plan and the operating record.
 - (A) The cost estimate must equal the cost of closing the largest area of all MSWLF units at any time during the active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan as set forth in Rule .1629 of this Section.
 - (B) During the active life of the MSWLF unit, the owner or operator must annually adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s). For owners and operators using the local government financial test, the closure cost estimate must be updated for inflation within 30 days after the close of the local government's fiscal year and before submission of updated information to the Division.
 - (C) The owner or operator must increase the closure cost estimate and the amount of financial assurance provided under Subparagraph (2) of this Paragraph if changes to the closure plan or MSWLF unit conditions increase the maximum cost of closure at any time during the remaining active life.
 - (D) The owner or operator may reduce the closure cost estimate and the amount of financial assurance provided under Subparagraph (2) of this Paragraph if the cost estimate exceeds the maximum cost of closure at any time during the remaining life of the MSWLF unit. Prior to any reduction of the closure cost estimate by the owner or operator, a written justification for the reduction must be submitted to the Division. No reduction of the closure cost estimate shall be allowed without Division approval. The reduction justification and the Division approval must be placed in the MSWLF's operating record.
- (2) The owner or operator of each MSWLF unit must establish financial assurance for closure of the MSWLF unit in compliance with Paragraph (e) of this Rule. The owner or operator must provide continuous coverage for closure until released from financial assurance requirements by demonstrating compliance with Rule .1627(c) for final closure certification.

(c) Financial Assurance for Post-Closure Care.

- (1) The owner or operator must have a detailed written estimate, in current dollars, of the cost of hiring a third party to conduct post-closure care for the MSWLF unit in compliance with the post-closure plan developed under Rule .1629 of this Section. The post-closure cost estimate used to demonstrate financial assurance in Subparagraph (2) of this Paragraph must account for the total costs of conducting post-closure care, including annual and periodic costs as described in the post-closure plan over the entire post-closure care period and be placed in the operating record.
 - (A) The cost estimate for post-closure care must be based on the most expensive costs of post-closure care during the post-closure care period.
 - (B) During the active life of the MSWLF unit and during the post-closure care period, the owner or operator must annually adjust the post-closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s). For owners and operators using the local government financial test, the post-closure cost estimate must be updated for inflation within 30 days after the close of the local government's fiscal year and before submission of updated information to the Division.
 - (C) The owner or operator must increase the post-closure care cost estimate and the amount of financial assurance provided under Subparagraph (2) of this Paragraph if changes in the post-closure plan or MSWLF unit conditions increase the maximum costs of post-closure care.
 - (D) The owner or operator may reduce the post-closure cost estimate and the amount of financial assurance provided under Subparagraph (2) of this Paragraph if the cost estimate exceeds the maximum costs of post-closure care remaining over the post-closure care period. Prior to any reduction of the post-closure cost estimate by the owner or operator, a written justification for the reduction must be submitted to the Division. No reduction of the post-closure cost estimate shall be allowed without Division approval. The reduction justification and the Division approval must be placed in the MSWLF's operating record.
 - (2) The owner or operator of each MSWLF unit must establish, in a manner in accordance with Paragraph (e) of this Rule, financial assurance for the costs of post-closure care as required under Rule .1629 (c) of this Section. The owner or operator must provide continuous coverage for post-closure care until released from financial assurance requirements for post-closure care by demonstrating compliance with Rule .1627(d) of this Section.
- (d) Financial Assurance for Corrective Action.
- (1) An owner or operator of a MSWLF unit required to undertake a corrective action program under Rule .1637 of this Section must have a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action program for the entire corrective action period. The owner or operator must notify the Division that the estimate has been placed in the operating record.
 - (A) The owner or operator must annually adjust the estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) until the corrective action program is completed in accordance with Rule .1637(f) of this Section. For owners and operators using the local government financial test, the corrective action cost estimate must be updated for inflation within 30 days after the close of the local government's fiscal year and before submission of updated information to the Division.
 - (B) The owner or operator must increase the corrective action cost estimate and the amount of financial assurance provided under Subparagraph (2) of this Paragraph if changes in the corrective action program or MSWLF unit conditions increase the maximum costs of corrective action.
 - (C) The owner or operator may reduce the corrective action cost estimate and the amount of financial assurance provided under Subparagraph (2) of this Paragraph if the cost estimate exceeds the maximum remaining costs of corrective action. Prior to any reduction of the corrective action cost estimate by the owner or operator, a written justification for the reduction must be submitted to the Division. No reduction of the corrective action cost estimate shall be allowed without Division approval. The reduction justification and the Division approval must be placed in the MSWLF's operating record.
 - (2) The owner or operator of each MSWLF unit required to undertake a corrective action program under Rule .1637 of this Section must establish, in a manner in accordance with Paragraph (e) of this Rule, financial assurance for the most recent corrective action program. The owner or

operator must provide continuous coverage for corrective action until released from financial assurance requirements for corrective action by demonstrating compliance with Rule .1637(f) and (g) of this Section.

(e) Allowable Mechanisms.

- (1) The mechanisms used to demonstrate financial assurance under this Rule must ensure that the funds necessary to meet the costs of closure, post-closure care, and corrective action for known releases will be available whenever they are needed. Owners and operators must choose from the options specified in Parts (A) through (I) of this Paragraph.

(A) Trust Fund.

- (i) An owner or operator may satisfy the requirements of this Paragraph by establishing a trust fund which conforms to the requirements of this Part. The trustee must be 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. A copy of the trust agreement must be placed in the facility's operating record.
- (ii) Payments into the trust fund must be made annually by the owner or operator over the term of the initial permit or over the remaining life of the MSWLF unit, in the case of a trust fund for closure or post-closure care, or over one-half of the estimated length of the corrective action program in the case of corrective action for known releases. This period is referred to as the pay-in period.
- (iii) For a trust fund used to demonstrate financial assurance for closure and post-closure care, the first payment into the fund must be at least equal to the current cost estimate for closure or post-closure care, except as provided in Part (J) of this Paragraph, divided by the number of years in the pay-in period as defined in Part (A)(ii) of this Paragraph. The amount of subsequent payments must be determined by the following formula:

$$\text{Next Payment} = \frac{\text{CE}-\text{CV}}{\text{Y}}$$

where CE is the current cost estimate for closure or post-closure care (updated for inflation or other changes), CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

- (iv) For a trust fund used to demonstrate financial assurance for corrective action, the first payment into the trust fund must be at least equal to one-half of the current cost estimate for corrective action, except as provided in Part (J) of this Paragraph. The amount of subsequent payments must be determined by the following formula:

$$\text{Next Payment} = \frac{\text{CE}-\text{CV}}{\text{Y}}$$

where CE is the current cost estimate for corrective action (updated for inflation or other changes), CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

- (v) The initial payment into the trust fund must be made before the initial receipt of waste or before the effective date of this Rule (April 9, 1994), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Rule .1636 of this Section. Subsequent payments shall be made no later than 30 days after each anniversary date of the first payment.
- (vi) If the owner or operator establishes a trust fund after having used one or more alternate mechanisms specified in this Paragraph, the initial payment into the trust fund must be at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to the specifications of this Part.
- (vii) The owner or operator, or other person authorized to conduct closure, post-closure care, or corrective action activities may request reimbursement from the trustee and Division for these expenditures. Requests for reimbursement will be granted only if sufficient funds are remaining in the trust fund to cover the remaining costs of closure, post-closure care, or

corrective action, and if justification and documentation of the cost is placed in the operating record. The owner or operator must document in the operating record that reimbursement has been received.

- (viii) The trust fund may be terminated by the owner or operator only if the owner or operator substitutes alternate financial assurance as specified in this Rule or if no longer required to demonstrate financial responsibility in accordance with the requirements of Paragraph (b)(2), (c)(2) or (d)(2) of this Rule.
 - (ix) The trust agreement shall be accompanied by a formal certification of acknowledgement. Schedule A of the trust agreement shall be updated within 60 days after any change in the amount of the current cost estimate covered by the agreement.
- (B) Surety Bond Guaranteeing Payment or Performance.
- (i) An owner or operator may demonstrate financial assurance for closure or post-closure care by obtaining a payment or performance surety bond which conforms to the requirements of this Part. An owner or operator may demonstrate financial assurance for corrective action by obtaining a performance bond or a payment bond which conforms to the requirements of this Part. The bond must be effective before the initial receipt of waste or before the effective date of this Rule, (April 9, 1994), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Rule .1636 of this Section. The owner or operator must place a copy of the bond in the operating record. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.
 - (ii) The penal sum of the bond must be in an amount at least equal to the current closure, post-closure care or corrective action cost estimate, whichever is applicable, except as provided in Paragraph (e)(1)(J) of this Rule.
 - (iii) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.
 - (iv) The owner or operator must establish a standby trust fund. The standby trust fund must meet the requirements of Paragraph (e)(1) (A) of this Rule except the requirements for initial payment and subsequent annual payments specified in Paragraph (e)(1)(A)(ii), (iii), (iv) and (v) of this Rule.
 - (v) Payments made under the terms of the bond will be deposited by the surety directly into the standby trust fund. Payments from the trust fund must be approved by the trustee and Division.
 - (vi) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner and operator and to the Division 120 days in advance of cancellation. If the surety cancels the bond, the owner or operator must obtain alternate financial assurance as specified in this Rule.
 - (vii) The owner or operator may cancel the bond only if alternate financial assurance is substituted as specified in this Rule or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with Paragraph (b)(2), (c)(2) or (d)(2) of this Rule.
- (C) Letter of Credit.
- (i) An owner or operator may satisfy the requirements of this Paragraph by obtaining an irrevocable standby letter of credit which conforms to the requirements of this Part. The letter of credit must be effective before the initial receipt of waste or before the effective date of this Rule (April 9, 1994), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Rule .1636 of this Section. The owner or operator must place a copy of the letter of credit in the operating record. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a Federal or State agency.
 - (ii) A letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: name and address of the facility, and the amount of funds assured, must be included with the letter of credit in the operating record.

- (iii) The letter of credit must be irrevocable and issued for a period of at least one year in an amount at least equal to the current cost estimate for closure, post-closure care or corrective action, whichever is applicable, except as provided in Paragraph (e)(1)(J) of this Rule. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless the issuing institution has canceled the letter of credit by sending notice of cancellation by certified mail to the owner and operator and to the Division 120 days in advance of cancellation. If the letter of credit is canceled by the issuing institution, the owner or operator must obtain alternate financial assurance.
 - (iv) The owner or operator may cancel the letter of credit only if alternate financial assurance is substituted as specified in this Rule or if the owner or operator is released from the requirements of Paragraph (b)(2), (c)(2) or (d)(2) of this Rule.
 - (v) The owner or operator must establish a standby trust fund. The standby trust fund must meet the requirements of Paragraph (e)(1)(A) of this Rule except the requirements for initial payment and subsequent annual payments specified in Paragraph (e)(1)(A)(ii), (iii), (iv) and (v) of this Rule.
 - (vi) Payments made under the terms of the letter of credit will be deposited by the issuing institution directly into the standby trust fund. Payments from the trust fund must be approved by the trustee and the Division.
- (D) Insurance.
- (i) An owner or operator may demonstrate financial assurance for closure and post-closure care by obtaining insurance which conforms to the requirements of this Part. The insurance must be effective before the initial receipt of waste or before the effective date of this Rule, (April 9, 1994), whichever is later. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in North Carolina. The owner or operator must place a copy of the insurance policy in the operating record.
 - (ii) The closure or post-closure care insurance policy must guarantee that funds will be available to close the MSWLF unit whenever final closure occurs or to provide post-closure care for the MSWLF unit whenever the post-closure care period begins, whichever is applicable. The policy must also guarantee that once closure or post-closure care begins, the insurer will be responsible for the paying out of funds to the owner or operator or other person authorized to conduct closure or post-closure care, up to an amount equal to the face amount of the policy.
 - (iii) The insurance policy must be issued for a face amount at least equal to the current cost estimate for closure or post-closure care, whichever is applicable, except as provided in (e)(1)(J) of this Rule. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.
 - (iv) An owner or operator, or any other person authorized to conduct closure or post-closure care, may receive reimbursements for closure or post-closure expenditures, whichever is applicable. Requests for reimbursement will be granted by the insurer only if the remaining value of the policy is sufficient to cover the remaining costs of closure or post-closure care, and if justification and documentation of the cost is placed in the operating record. The owner or operator must document in the operating record that reimbursement and Division approval has been received.
 - (v) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided that such consent is not unreasonably refused.
 - (vi) The insurance policy must provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the owner and operator and to the Division 120 days in advance of cancellation. If the insurer cancels the policy, the owner or operator must obtain alternate financial assurance as specified in this Rule.

- (vii) For insurance policies providing coverage for post-closure care, commencing on the date that liability to make payments pursuant to the policy accrues, the insurer will thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.
- (viii) The owner or operator may cancel the insurance policy only if alternate financial assurance is substituted as specified in this Rule or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with the requirements of Paragraph (b)(2), (c)(2) or (d)(2) of this Rule.
- (E) Corporate Financial Test.
[Reserved]
- ~~(F) Local Government Financial Test.~~
~~[Reserved]~~
- (F) Local Government Financial Test. An owner or operator of a MSWLF which is a unit of local government may satisfy the requirements of this Paragraph by demonstrating that it meets the requirements of the local government financial test as specified in this Part. Financial terms used in this Part are to be interpreted consistent with generally accepted accounting principles. The test consists of a financial component, a public notice component, and a record-keeping and reporting component. A unit of local government shall satisfy each of the three components annually to pass the test.
 - (i) Financial Component. In order to satisfy the financial component of the test, a unit of local government shall meet the criteria of either (I) or (II) of this Subpart and in addition shall meet the conditions outlined in (III) of this Subpart.
 - (I) A ratio of the current cost estimates for closure, post-closure, corrective action, or the sum of the combination of such costs to be covered, and any other environmental obligations assured by a financial test, to total revenue [as stated on the Local Government Commission's Annual Financial Information Report (AFIR) Part 2] less than or equal to 0.43; a ratio of operating cash plus investments (as stated on the AFIR Part 7) to total operating expenditures (as stated on the AFIR Part 4 Columns a and b and Part 5 for municipalities or Part 5 excluding educational capital outlays for counties) greater than or equal to 0.05; and a ratio of annual debt service (as stated on the AFIR Part 4 Section I) to total operating expenditures less than or equal to 0.20.
 - (II) A current bond rating of Baa or above as issued by Moody's, BBB or above as issued by Standard & Poor's, BBB or above as issued by Fitch's, or 75 or above as issued by the Municipal Council; a ratio of the current cost estimates for closure, post-closure, corrective action, or the sum of the combination of such costs to be covered, and any other environmental obligations assured by a financial test to total revenue less than or equal to 0.43.
 - (III) A unit of local government must not have operated at a total operating fund deficit equal to five percent or more of total annual revenue in either of the past two fiscal years; it must not currently be in default on any outstanding general obligation bonds or any other long-term obligations; and it must not have any outstanding general obligation bonds rated lower than Baa as issued by Moody's, BBB as issued by Standard & Poor's, BBB as issued by Fitch's or lower than 75 as issued by the Municipal Council.
 - (ii) Public Notice Component. In order to satisfy the Public Notice Component of the test, a unit of local government shall disclose its closure, post-closure, and corrective action cost estimates and relevant information in accordance with generally accepted accounting principles.
 - (iii) Record-keeping and Reporting Component. To demonstrate that the unit of local government meets the requirements of this test, a letter signed by the unit of local government's chief financial officer (CFO) and worded as specified in Part (e)(2)(G) of this Rule shall be placed in the operating record in accordance with the deadlines of Subpart (iv) of this Part. The letter shall:
 - (I) List all the current cost estimates covered by a financial test, as described in Subpart (v)

of this Part:

- (II) Provide evidence and certify that the unit of local government meets the conditions of either Subpart (i)(I) or (i)(II) of this Part; and
- (III) Certify that the unit of local government meets the conditions of Subpart (i)(III) of this Part.
- (iv) In the case of closure and post-closure care, the Chief Financial Officer's letter shall be placed in the operating record before the initial receipt of waste or by April 9, 1994, whichever is later. In the case of corrective action, the CFO's letter shall be placed in the operating record no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Rule .1636.
- (v) When calculating the "current cost estimates for closure, post-closure, corrective action, or the sum of the combination of such costs to be covered, and any other environmental obligations assured by a financial test" referred to in Part (F)(i) of this Paragraph, the unit of local government shall include cost estimates required for municipal solid waste management facilities under 15A NCAC 13B .1600, as well as cost estimates required for all other environmental obligations it assures through a financial test, including but not limited to those associated with hazardous waste treatment, storage, and disposal facilities under 15A NCAC 13A .0009 and .0010, petroleum underground storage tank facilities under 15A NCAC 2N .0100 through .0800, Underground Injection Control facilities under 15A NCAC 2D .0400 and 15A NCAC 2C .0200, and PCB storage facilities under 15A NCAC 2O .0100 and 15A NCAC 2N .0100.
- (vi) Annual updates of the financial test letter shall be placed in the operating record within 120 days after the close of each succeeding fiscal year.
- (vii) If the unit of local government no longer meets the requirements of Parts (i), (ii), and (iii) of this Paragraph, the unit of local government shall notify the Division of intent to establish alternate financial assurance within 120 days after the end of the fiscal year for which the year-end financial data show that the unit of local government no longer meets the requirements. The unit of local government shall provide alternate financial assurance within 150 days after the end of said fiscal year.
- (viii) The unit of local government is no longer required to comply with the requirements of this Part if alternate financial assurance is substituted as specified in this Rule or if the unit of local government is no longer required to demonstrate financial responsibility in accordance with Paragraph (b)(2), (c)(2) or (d)(2) of this Rule.
- (G) Corporate Guarantee.
[Reserved]
- (H) Local Government Guarantee.
[Reserved]
- (I) Capital Reserve Fund.
 - (i) MSWLF units owned or operated by units of local government or public authority may satisfy the requirements of this Paragraph by establishing a capital reserve fund which conforms to the requirements of this Part. The unit of local government or public authority must be an entity which has the authority to establish a capital reserve fund under authority of G.S. 159 and whose financial operations are regulated and examined by a State agency. The capital reserve fund must be established consistent with auditing, budgeting and government accounting practices as prescribed in G.S. 159 and by the Local Government Commission. A copy of the capital reserve fund ordinance or resolution with a certified copy of the meeting minutes and a copy of documentation of initial and subsequent year's deposits must be placed in the MSWLF's operating record.
 - (ii) Payments into the capital reserve fund must be made annually by the unit of local government or public authority over the term of the initial permit or over the remaining life of the MSWLF unit, in the case of a capital reserve fund for closure or post-closure care, or over one-half of the estimated length of the corrective action program in the case of corrective action for known releases. This period is referred to as the pay-in period. The pay-in period shall not exceed December 31, 1997 for an existing MSWLF unit not designed and constructed with a base liner system approved by the Division.

- (iii) For a capital reserve fund used to demonstrate financial assurance for closure and post-closure care, the first payment into the fund must be at least equal to the current cost estimate for closure or post-closure care, divided by the number of years in the pay-in period as defined in Subpart (ii) of this Part. The amount of subsequent payments must be determined by the following formula:

$$\text{Next Payment} = \frac{\text{CE}-\text{CV}}{\text{Y}}$$

where CE is the current cost estimate for closure or post-closure care (updated for inflation or other changes), CV is the current value of the capital reserve fund, and Y is the number of years remaining in the pay-in period.

- (iv) For a capital reserve fund used to demonstrate financial assurance for corrective action, the first payment into the capital reserve fund must be at least equal to one-half of the current cost estimate for corrective action. The amount of subsequent payments must be determined by the following formula:

$$\text{Next Payment} = \frac{\text{CE}-\text{CV}}{\text{Y}}$$

where CE is the current cost estimate for corrective action (updated for inflation or other changes), CV is the current value of the capital reserve fund, and Y is the number of years remaining in the pay-in period.

- (v) The initial payment into the capital reserve fund must be made before the initial receipt of waste or before the effective date of this Rule (April 9, 1994), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Rule .1636 of this Section. Subsequent payments shall be made no later than 30 days after each anniversary date of the first payment.
- (vi) If the unit of local government or public authority establishes a capital reserve fund after having used one or more alternate mechanisms specified in this Paragraph, the initial payment into the capital reserve fund must be at least the amount that the fund would contain if the capital reserve fund were established initially and annual payments made according to the specifications of this Part.
- (vii) The unit of local government or public authority authorized to conduct closure, post-closure care or corrective action activities may expend capital reserve funds to cover the remaining costs of closure, post-closure care, corrective action activities or for the debt service payments on financing arrangements for closure, post-closure care or corrective action activities. Monies in the capital reserve fund can only be used for these purposes unless the fund is terminated in accordance with Paragraph (e)(1)(I)(viii) of this Rule. The unit of local government or public authority must document justifying expenditures and place a copy in the operating record.
- (viii) The capital reserve fund may be terminated by the unit of local government or public authority only if it substitutes alternate financial assurance as specified in this Rule or if no longer required to demonstrate financial responsibility in accordance with the requirements of Paragraph (b)(2), (c)(2) or (d)(2) of this Rule.
- (J) Use of Multiple Financial Mechanisms. An owner or operator may satisfy the requirements of this Paragraph by establishing more than one financial mechanism per facility. The mechanisms must be as specified in Parts (A), (B), (C), (D), (E), (F), (G), (H) and (I) of this Paragraph, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care or corrective action, whichever is applicable. The financial test and a guarantee provided by a corporate parent, sibling, or grandparent may not be combined if the financial statements of the two firms are consolidated. Mechanisms guaranteeing performance, rather than payment, may not be combined with other instruments.

- (K) The wording of the instruments shall be identical to the wording specified in Paragraph (e)(2) of this Rule.
- (2) Wording of Instruments.
 - (A) Trust Agreement.
 - (i) A trust agreement for a trust fund, as specified in Paragraph (e)(1)(A) of this Rule, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

TRUST AGREEMENT

Trust Agreement, the "Agreement," entered into as of [date] by and between [name of the owner or operator], a [name of State] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the State of _____" or "a national bank"], the "Trustee."

Whereas, the Division of Solid Waste Management, the "Division," an agency of the State of North Carolina, has established certain regulations applicable to the Grantor, requiring that an owner or operator of a solid waste management facility shall provide assurance that funds will be available when needed for closure, post-closure care, or corrective action of the facility,

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facilities identified herein,

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

- (a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.
- (b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facilities and Cost Estimates. This Agreement pertains to the facilities and cost estimates identified on Schedule A [on Schedule A, for each facility list the Solid Waste Section Permit Number, name, address, and the current closure, post-closure, or corrective action cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement].

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Division. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B.

Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the Division.

Section 4. Payment for Closure, Post-Closure Care, and Corrective Action. The Trustee shall make payments from the Fund as the Division of Solid Waste Management (the "Division") shall direct, in writing, to provide for the payment of the costs of closure, post-closure care, or corrective action of the facilities covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the Division from the Fund for closure, post-closure, and corrective action expenditures in such amounts as the

Division shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the Division specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

- (i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or State government;
- (ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and
- (iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

- (a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and
- (b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

- (a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;
- (b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;
- (d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued

- by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and
- (e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the Division a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the Division shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in writing sent to the Grantor, the Division, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Division to the Trustee shall be in writing, signed by the Division, or his designee, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or Division hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor or Division, except as provided for herein.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor and the Division by certified mail within 10 days following expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing

executed by the Grantor, the Trustee, and the Division, or by the Trustee and the Division if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the Division, or by the Trustee and the Division, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Division issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of North Carolina.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written: The parties below certify that the wording of this Agreement is identical to the wording specified in Paragraph (e)(2)(A)(i) of this Rule as were constituted on the date first above written.

[Signature of Grantor]
[Title]

Attest:
[Title]
[Seal]

[Signature of Trustee]

Attest:
[Title]
[Seal]

- (ii) The following is an example of the certification of acknowledgment which must accompany the trust agreement for a trust fund.

State of
County of

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

- (B) A surety bond guaranteeing payment into a trust fund, as specified in Paragraph (e)(1)(B) of this Rule, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

FINANCIAL GUARANTEE BOND

Date bond executed:

Effective date:

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual", "joint venture", "partnership", or "corporation"]

State of incorporation:

Surety(ies): [name(s) and business address(es)]

Solid Waste Section Permit Number, name, address, and closure, post-closure, or corrective action amount(s) for each facility guaranteed by this bond [indicate closure, post-closure, and corrective action amounts separately]:

Total penal sum of bond: \$

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the North Carolina Division of Solid Waste Management (hereinafter called the Division), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas, said Principal is required, under the Solid Waste Management Rule .0201 as amended, to have a permit in order to own or operate each solid waste management facility identified above, and

Whereas, said Principal is required to provide financial assurance for closure, post-closure care, or corrective action, as a condition of the permit, and

Whereas, said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, Therefore, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure, post-closure, and corrective action of each facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

Or, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after a final order to begin closure, post-closure, and corrective action is issued by the Division or a U.S. district court or other court of competent jurisdiction,

Or, if the Principal shall provide alternate financial assurance and obtain the Division's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the Division from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the Division that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the Division.

PROPOSED RULES

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Division, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the Division, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Division.

[The following paragraph is an **optional** rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new closure, post-closure, or corrective action amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Division.

In Witness Whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in Paragraph (e)(2)(B) of this Rule as were constituted on the date this bond was executed.

Principal

[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

Corporate Surety(ies)

[Name and address]
State of incorporation:
Liability limit: \$
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]
[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]
Bond premium: \$

- (C) A surety bond guaranteeing performance of closure, post-closure care, or corrective action, as specified in Paragraph (e)(1)(B) of this Rule, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

PERFORMANCE BOND

Date bond executed:

Effective date:

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual", "joint venture", "partnership", or "corporation"]

State of incorporation:

Surety(ies): [name(s) and business address(es)]

Solid Waste Section Permit Number, name, address, and closure, post-closure, or corrective action amount(s) for each facility guaranteed by this bond [indicate closure, post-closure, and corrective action amounts separately]:

Total penal sum of bond: \$

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the North Carolina Division of Solid Waste Management (hereinafter called the Division), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas, said Principal is required, under the Solid Waste Management Rule .0201 as amended, to have a permit in order to own or operate each solid waste management facility identified above, and

Whereas, said Principal is required to provide financial assurance for closure, post-closure care, or corrective action as a condition of the permit, and

Whereas, said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, Therefore, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of each facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

And, if the Principal shall faithfully perform post-closure care of each facility for which this bond guarantees post-closure care, in accordance with the post-closure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations as such laws, statutes, rules, and regulations may be amended,

And, if the Principal shall faithfully perform corrective action of each facility for which this bond guarantees corrective action, in accordance with the corrective action program and other requirements of the permit, as such program and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations as such laws, statutes, rules, and regulations may be amended,

Or, if the Principal shall provide alternate financial assurance and obtain the Division's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the Division from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the Division that the Principal has been found in violation of the closure requirements for a facility for which this bond guarantees performance of closure, the Surety(ies) shall either perform

closure in accordance with the closure plan and other permit requirements or place the closure amount guaranteed for the facility into the standby trust fund as directed by the Division.

Upon notification by the Division that the Principal has been found in violation of the post-closure requirements for a facility for which this bond guarantees performance of post-closure care, the Surety(ies) shall either perform post-closure care in accordance with the post-closure plan and other permit requirements or place the post-closure amount guaranteed for the facility into the standby trust fund as directed by the Division.

Upon notification by the Division that the Principal has been found in violation of the corrective action requirements for a facility for which this bond guarantees performance of corrective action, the Surety(ies) shall either perform corrective action in accordance with the corrective action program and other permit requirements or place the corrective action amount guaranteed for the facility into the standby trust fund as directed by the Division.

Upon notification by the Division that the Principal has failed to provide alternate financial assurance and obtain written approval of such assurance from the Division during the 90 days following receipt by both the Principal and the Division of a notice of cancellation of the bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the Division.

The Surety(ies) hereby waive(s) notification of amendments to closure and post-closure plans, and corrective action programs, permits, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Division, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the Division, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Division.

[The following paragraph is an **optional** rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new closure, post-closure, or corrective action amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Division.

In Witness Whereof, The Principal and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in Paragraph (e)(2)(C) of this Rule as was constituted on the date this bond was executed.

Principal

[Signature(s)]

[Name(s)]

[Title(s)]
[Corporate seal]

Corporate Surety(ies)

[Names and address]
State of incorporation:
Liability limit: \$
[Signature(s)]
[Names(s) and title(s)]
[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: \$

- (D) A letter of credit, as specified in Paragraph (e)(1)(C) of this Rule, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

IRREVOCABLE STANDBY LETTER OF CREDIT

North Carolina Department of Environment, Health, and Natural Resources
Solid Waste Management Division
Solid Waste Section
P.O. Box 27687
Raleigh, North Carolina 27611-7687

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in your favor, at the request and for the account of [owner's or operator's name and address] up to the aggregate amount of [in words] U.S. dollars \$ _____, available upon presentation of

- (1) your sight draft, bearing reference to this letter of credit No. _____, and
- (2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to requirements of 15A NCAC 13B .1628 as amended."

This letter of credit is effective as of [date] and shall expire on [date at least 1 year later], but such expiration date shall be automatically extended for a period of [at least 1 year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and [owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and [owner's or operator's name], as shown on the signed return receipts.

Whenever this letter of credit is drawn on, under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [owner's or operator's name] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in Paragraph

(e)(2)(D) of this Rule as were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution], [Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code"].

- (E) A certificate of insurance, as specified in Paragraph (e)(1)(D) of this Rule, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

CERTIFICATE OF INSURANCE FOR CLOSURE OR POST-CLOSURE CARE

Name and Address of Insurer
(herein called the "Insurer"):

Name and Address of Insured
(herein called the "Insured"):

Facilities Covered: [List for each facility: The Solid Waste Section Permit Number, name, address, and the amount of insurance for closure or the amount for post-closure care (these amounts for all facilities covered must total the face amount shown below).]

Face Amount:
Policy Number:
Effective Date:

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for [insert "closure" or "closure and post-closure care" or "post-closure care"] for the facilities identified above.

The Insurer further warrants that such policy conforms in all respects with the requirements of Paragraph (e)(1) of this Rule, as applicable and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the North Carolina Division of Solid Waste Management (Division), the Insurer agrees to furnish to the Division a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the wording of this certificate is identical to the wording specified in Paragraph (e)(2)(E) of this Rule as were constituted on the date shown immediately below.

[Authorized signature for Insurer]
[Name of person signing]
[Title of person signing]
Signature of witness or notary:

[Date]

- (F) A capital reserve fund, as specified in Paragraph (e)(1)(I) of this Rule, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

CAPITAL RESERVE FUND RESOLUTION

ESTABLISHMENT AND MAINTENANCE
OF THE
MUNICIPAL SOLID WASTE LANDFILL
CAPITAL RESERVE FUND

WHEREAS, there is a need in [location of landfill site, (e.g. City of Raleigh, County of Wake)] to provide funds for [closure, post-closure, or corrective action] for the [permit number], [name] landfill; and

WHEREAS, the [location] must bear the cost of [closure, post-closure, or corrective action] for the landfill at an estimated cost of [cost estimate].

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD THAT:

Section 1. The Governing Board hereby creates a Capital Reserve Fund for the purpose of [closure, post-closure, or corrective action] for the [permit number] landfill.

Section 2. This Fund will remain operational for a period not to exceed the life of the landfill and the post-closure care plan beginning [date] and ending [date] or until a cumulative sum not to exceed [cost estimate in words] ([cost estimate in numbers]) has been received.

Section 3. The Board will appropriate or transfer an amount of no less than [annual payment] each year to this Fund.

Section 4. This Resolution shall become effective and binding upon its adoption.

[Signature of County Commissioner]

[Signature of Chief Financial Officer]

[Date]

(G) A local government financial test, as specified in Part (e)(1)(F) of this Rule, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

LETTER FROM CHIEF FINANCIAL OFFICER

[Address to the Department of Environment, Health, and Natural Resources, Solid Waste Section, Post Office Box 27687, Raleigh, North Carolina 27611-7687.]

I am the chief financial officer of [name and address of unit of local government]. This letter is in support of this unit of local government's use of the financial test to demonstrate financial assurance, as specified in 15A NCAC 13B .1628 (e)(1)(F).

[Fill out the following paragraph regarding the municipal solid waste facilities and associated cost estimates. For each facility, include its permit number, name, address and current closure, post-closure, or corrective action cost estimates. Identify each cost estimate as to whether it is for closure, post-closure care, or corrective action.]

This unit of local government is the owner or operator of the following facilities for which financial assurance

PROPOSED RULES

for closure, post-closure, or corrective action is demonstrated through the financial test specified in 15A NCAC 13B .1628 (e)(1)(F). The current closure, post-closure, or corrective action cost estimates covered by the test are shown for each facility.

The fiscal year of this unit of local government ends on [month, day, year]. The figures for the following items marked with an asterisk are derived from this unit of local government's Annual Financial Information Report (AFIR) for the latest completed fiscal year, ended [date].

[Fill in the Ratio Indicators of Financial Strength section if the criteria of 15A NCAC 13B .1628 (e)(1)(F)(i)(I) are used. Fill in Bond Rating Indicator of Financial Strength section if the criteria of 15A NCAC 13B .1628 (e)(1)(F)(i)(II) are used.]

RATIO INDICATORS OF FINANCIAL STRENGTH

- | | | |
|-----|--|---------|
| 1. | <u>Sum of current closure, post-closure and corrective action cost estimates [total of all cost estimates shown in the paragraphs above]</u> | \$..... |
| *2. | <u>Sum of cash and investments (AFIR Part 7)</u> | \$..... |
| *3. | <u>Total expenditures (AFIR Part 4 Columns a & b and Part 5 for municipalities or Part 5 excluding educational capital outlays for counties)</u> | \$..... |
| *4. | <u>Annual debt service (AFIR Part 4 Section I)</u> | \$..... |
| 5. | <u>Assured environmental costs to demonstrate financial responsibility in the following amounts under Division rules:</u> | |
| | <u>MSWLF under 15A NCAC 13B .1600</u> | \$..... |
| | <u>Hazardous waste treatment, storage and disposal facilities under 15A NCAC 13A .0009 and .0010</u> | \$..... |
| | <u>Petroleum underground storage tanks under 15A NCAC 2N .0100 - .0800</u> | \$..... |
| | <u>Underground Injection Control System facilities under 15A NCAC 2D .0400 and 15A NCAC 2C .0200</u> | \$..... |
| | <u>PCB commercial storage facilities under 15A NCAC 2O .0100 and 15A NCAC 2N .0100</u> | \$..... |
| | <u>Total assured environmental costs</u> | \$..... |
| *6. | <u>Total Annual Revenue (AFIR Part 2)</u> | \$..... |

Circle either "yes" or "no" to the following questions.

- | | | |
|----|--|--------|
| 7. | Is line 5 divided by line 6 less than or equal to 0.43? | yes/no |
| 8. | Is line 2 divided by line 3 greater than or equal to 0.05? | yes/no |
| 9. | Is line 4 divided by line 3 less than or equal to 0.20? | yes/no |

BOND RATING INDICATOR OF FINANCIAL STRENGTH

PROPOSED RULES

1. Sum of current closure, post-closure and corrective action cost estimates [total of all cost estimates shown in the paragraphs above] \$.....
2. Current bond rating of most recent issuance and name of rating service
3. Date of issuance bond
4. Date of maturity of bond
5. Assured environmental costs to demonstrate financial responsibility in the following amounts under Division rules:

MSWLF under 15A NCAC 13B .1600 \$.....

Hazardous waste treatment, storage and disposal facilities under 15A NCAC 13A .0009 and .0010 \$.....

Petroleum underground storage tanks under 15A NCAC 2N .0100 - .0800 \$.....

Underground Injection Control System facilities under 15A NCAC 2D .0400 and 15A NCAC 2C .0200 \$.....

PCB commercial storage facilities under 15A NCAC 2O .0100 and 15A NCAC 2N .0100 \$.....

Total assured environmental costs \$.....
- *6. Total Annual Revenue (AFIR Part 2) \$.....

Circle either "yes" or "no" to the following question.

7. Is line 5 divided by line 6 less than or equal to 0.43? yes/no

I hereby certify that the wording of this letter is identical to the wording specified in 15A NCAC 13B Rule .1628 (e)(2)(G) as such rules were constituted on the date shown immediately below. I further certify the following: (1) that the unit of local government has not operated at a total operating fund deficit equal to five percent or more of total annual revenue in either of the past two fiscal years, (2) that the unit of local government is not in default on any outstanding general obligations bonds or long-term obligations, and (3) does not have any outstanding general obligation bonds rated lower than Baa as issued by Moody's, BBB as issued by Standard & Poor's, BBB as issued by Fitch's, or 75 as issued by the Municipal Council.

[Signature]

[Name]

[Title]

[Date]

Statutory Authority G.S. 130A-294.

**TITLE 21 - OCCUPATIONAL
LICENSING BOARD**

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Medical Examiners of the State of North Carolina intends to amend rules cited as 21 NCAC 32B .0209, .0212, .0305, .0402, and .0706.

The proposed effective date of this action is March 1, 1994.

The public hearing will be conducted at 9:00 a.m. on December 16, 1993 at the NC Medical Board, 1203 Front Street, Raleigh, NC 27609.

Reason for Proposed Action:

21 NCAC 32B .0209 - To increase the fee for examination for medical license.

21 NCAC 32B .0212 - To allow more flexibility in examination arrangements.

21 NCAC 32B .0305 - To define more clearly what other written exams are considered equivalent to the NC written examination.

21 NCAC 32B .0402 - To increase the fee for temporary license.

21 NCAC 32B .0706 - To increase fee for visiting professor registration.

Comment Procedures: *Persons interested may present written or oral statement relevant to the actions proposed at a hearing to be held as indicated above. Written statements not presented at the hearing should be directed before January 3, 1994 to the following address: Administrative Procedures, NC Medical Board, P.O. Box 26808, Raleigh, NC 27611-6808.*

**CHAPTER 32 - BOARD OF
MEDICAL EXAMINERS**

**SUBCHAPTER 32B - LICENSE
TO PRACTICE MEDICINE**

**SECTION .0200 - LICENSE BY
WRITTEN EXAMINATION**

.0209 EXAMINATION FEE

(a) FLEX fee

- (1) The fee for both components of the FLEX written examination taken to-

gether is two hundred and fifty dollars (\$250.00), plus the cost of test materials, due at the time of application.

- (2) If the two FLEX components are taken separately, the fee for each component is due at the time of application for that component as follows:

- (A) for the first component, two hundred and fifty dollars (\$250.00) plus the cost of test materials;
- (B) for the second component, one hundred and fifty dollars (\$150.00) plus the cost of test materials.

(b) USMLE fee - The fee for USMLE is ~~two hundred and fifty dollars (\$250.00)~~ four hundred dollars (\$400.00), plus the cost of test materials, due at the time of the application.

(c) Fees are non-refundable.

Statutory Authority G.S. 90-15.

.0212 EXAMINATION TIMES

~~The Board holds Two licensing examinations each year, one in June and one in December, in Raleigh, North Carolina.~~

Statutory Authority G.S. 90-5.

**SECTION .0300 - LICENSE
BY ENDORSEMENT**

**.0305 EXAMINATION BASIS
FOR ENDORSEMENT**

(a) To be eligible for license by endorsement of credentials, graduates of medical schools approved by the LCME or AOA must supply certification of passing scores on one of the following examinations:

- (1) National Board of Medical Examiners;
- (2) FLEX - under Rule .0314 of this Section;
- (3) Written examination administered by an allopathic or composite state medical board which issued the original license on the basis of written examination other than FLEX ~~from the state board which issued the original license by written examination;~~
- (4) National Board of Osteopathic Examiners, all parts taken after January 1, 1990; or
- (5) USMLE - Step 1, Step 2, Step 3 of USMLE or a combination of examinations as set out in Rule .0215 of this

Subchapter.

(b) Graduates of medical schools not approved by LCME or AOA must supply certification of passing scores on one of the following written examinations:

- (1) FLEX - under Rule .0314 of this Section;
- (2) Written examination other than FLEX from the state board which issued the applicant's original license by written examination together with American Specialty Board certification; or
- (3) USMLE - Step 1, Step 2, Step 3 of the USMLE or a combination of examinations as set out in Rule .0215 of this Subchapter.

(c) A physician who has a valid and unrestricted license to practice medicine in another state, based on a written examination testing general medical knowledge, and who within the past five years has become, and is at the time of application, certified or recertified by an American Specialty Board, is eligible for license by endorsement.

(d) Applicants for license by endorsement of credentials with FLEX scores that do not meet the requirements of Rule .0314 of this Section must meet the requirements of Paragraph (c) in this Rule.

Statutory Authority G.S. 90-10; 90-13.

SECTION .0400 - TEMPORARY LICENSE BY ENDORSEMENT OF CREDENTIALS

.0402 TEMPORARY LICENSE FEE

A fee of ~~fifty dollars (\$50.00)~~ one hundred and fifty dollars (\$150.00) is due at the time of application. This fee is not applicable to full licensure and is not refundable.

Statutory Authority G.S. 90-15.

SECTION .0700 - CERTIFICATE OF REGISTRATION FOR VISITING PROFESSORS

.0706 FEE FOR VISITING PROFESSORS CERTIFICATE OF REGISTRATION

A fee of ~~fifty dollars (\$50.00)~~ one hundred and fifty dollars (\$150.00) is due at the time of application. No portion of the fee is refundable.

Statutory Authority G.S. 90-15.

The List of Rules Codified is a listing of rules that were filed with OAH in the month indicated.

Key:

<i>Citation</i>	=	<i>Title, Chapter, Subchapter and Rule(s)</i>
<i>AD</i>	=	<i>Adopt</i>
<i>AM</i>	=	<i>Amend</i>
<i>RP</i>	=	<i>Repeal</i>
<i>With Chgs</i>	=	<i>Final text differs from proposed text</i>
<i>Corr</i>	=	<i>Typographical errors or changes that requires no rulemaking</i>
<i>Eff. Date</i>	=	<i>Date rule becomes effective</i>
<i>Temp. Expires</i>	=	<i>Rule was filed as a temporary rule and expires on this date or 180 days</i>

NORTH CAROLINA ADMINISTRATIVE CODE

OCTOBER 93

TITLE	DEPARTMENT	TITLE	DEPARTMENT
2	Agriculture	15A	Environment, Health, and
4	Commerce		Natural Resources
10	Human Resources	21	Occupational Licensing Boards
11	Insurance		19 - Electrolysis
12	Justice		20 - Registration for Foresters
13	Labor		48 - Physical Therapy
			50 - Plumbing and Heating Contractors
		23	Community Colleges

Citation				AD	AM	RP	With Chgs	Corr	Eff. Date	Temp. Expires
2	NCAC	20B	.0106		✓				11/01/93	
4	NCAC	2R	.1502		✓				11/01/93	
		3I	.0101	✓			✓		11/01/93	
			.0201 - .0204	✓					11/01/93	
			.0301 - .0304	✓					11/01/93	
			.0305	✓			✓		11/01/93	
			.0306	✓					11/01/93	
			.0401 - .0406	✓					11/01/93	
			.0501 - .0503	✓					11/01/93	
			.0601 - .0602	✓			✓		11/01/93	
			.0603	✓					11/01/93	
			.0604 - .0605	✓			✓		11/01/93	

LIST OF RULES CODIFIED

Citation				AD	AM	RP	With Chgs	Corr	Eff. Date	Temp. Expires
4	NCAC	3I	.0701	✓					11/01/93	
			.0702	✓			✓		11/01/93	
			.0703 - .0704	✓					11/01/93	
			.0705	✓			✓		11/01/93	
			.0706	✓					11/01/93	
10	NCAC	3C	.2021		✓				12/01/93	
			.2031	✓			✓		12/01/93	
			.2032	✓					12/01/93	
		3H	.0108		✓		✓		12/01/93	
			.0315		✓				12/01/93	
			.0317		✓		✓		12/01/93	
			.1151		✓				12/01/93	
			.1161	✓			✓		12/01/93	
			.1162	✓					12/01/93	
		3R	.6001 - .6004	✓					10/25/93	180 DAYS
		14J	.0201		✓				11/01/93	
			.0203		✓		✓		11/01/93	
			.0204 - .0205		✓				11/01/93	
			.0206		✓		✓		11/01/93	
			.0207		✓				11/01/93	
			.0210	✓					11/01/93	
		14L	.0407		✓				11/01/93	
		19C	.0209		✓				12/01/93	
		22G	.0504		✓				11/01/93	
			.0505 - .0506		✓		✓		11/01/93	
			.0508			✓			11/01/93	
			.0509 - .0510		✓		✓		11/01/93	
			.0511			✓			11/01/93	
			.0512 - .0514	✓			✓		11/01/93	
			.0515	✓					11/01/93	
		22S	.0101	✓					11/01/93	
			.0102	✓			✓		11/01/93	
			.0201	✓					11/01/93	

LIST OF RULES CODIFIED

Citation				AD	AM	RP	With Chgs	Corr	Eff. Date	Temp. Expires
10	NCAC	22S	.0202	✓			✓		11/01/93	
			.0301	✓			✓		11/01/93	
			.0302 - .0303	✓					11/01/93	
			.0401 - .0402	✓					11/01/93	
			.0403	✓			✓		11/01/93	
			.0404	✓					11/01/93	
			.0501	✓			✓		11/01/93	
			.0502 - .0503	✓					11/01/93	
			.0601 - .0602	✓					11/01/93	
			.0603	✓			✓		11/01/93	
			.0701 - .0703	✓					11/01/93	
			.0704 - .0706	✓			✓		11/01/93	
			.0801 - .0803	✓			✓		11/01/93	
	23E		.0302		✓				11/01/93	
			.0304 - .0309		✓				11/01/93	
	26H		.0301		✓				11/01/93	
			.0302 - .0304		✓		✓		11/01/93	
			.0305	✓			✓		11/01/93	
			.0306 - .0307	✓					11/01/93	
			.0308	✓			✓		11/01/93	
			.0309	✓					11/01/93	
	42B		.2401	✓					12/01/93	
	42C		.2004		✓				12/01/93	
			.2302		✓				12/01/93	
			.2402		✓				12/01/93	
			.2501		✓				12/01/93	
			.3601		✓				12/01/93	
	42D		.1826	✓					12/01/93	
	49E		.0002		✓		✓		12/01/93	
11	NCAC	15	.0011	✓			✓		11/01/93	
12	NCAC	9A	.0103		✓		✓		11/01/93	
			.0107		✓		✓		11/01/93	
			.0201		✓				11/01/93	

LIST OF RULES CODIFIED

Citation				AD	AM	RP	With Chgs	Corr	Eff. Date	Temp. Expires
12	NCAC	9A	.0204 - .0205		✓		✓		11/01/93	
		9B	.0101		✓		✓		11/01/93	
			.0104		✓				11/01/93	
			.0202		✓				11/01/93	
			.0211		✓		✓		11/01/93	
			.0217			✓			11/01/93	
			.0220 - .0222		✓				11/01/93	
			.0309 - .0310		✓				11/01/93	
			.0403		✓				11/01/93	
			.0404		✓		✓		11/01/93	
		9C	.0303		✓				11/01/93	
			.0308		✓				11/01/93	
			.0601		✓		✓		11/01/93	
			.0603 - .0604		✓				11/01/93	
		11	.0209	✓			✓		11/01/93	
13	NCAC	7F	.0201		✓				11/01/93	
			.0501 - .0502		✓				11/15/93	
15A	NCAC	2H	.0610					✓		
		2L	.0103		✓		✓		11/04/93	
			.0106					✓		
		10F	.0102 - .0103		✓				11/01/93	
			.0301		✓		✓		11/01/93	
		13B	.1628		✓				11/09/93	180 DAYS
		21D	.1202					✓		
21	NCAC	19	.0602 - .0603	✓					11/01/93	
			.0605 - .0612	✓			✓		11/01/93	
			.0614 - .0617	✓			✓		11/01/93	
			.0618	✓					11/01/93	
			.0619 - .0621	✓			✓		11/01/93	
		20	.0014		✓				11/01/93	
			.0020	✓					11/01/93	
			.0021 - .0022	✓			✓		11/01/93	
		48D	.0009		✓				11/01/93	

LIST OF RULES CODIFIED

Citation				AD	AM	RP	With Chgs	Corr	Eff. Date	Temp. Expires
21	NCAC	48E	.0101		✓				11/01/93	
		50	.0106		✓				11/01/93	
			.0306		✓		✓		11/01/93	
			.0310 - .0311	✓			✓		11/01/93	
			.0402 - .0403		✓		✓		11/01/93	
			.0407		✓				11/01/93	
			.0412	✓			✓		11/01/93	
			.0506		✓		✓		11/01/93	
			.0510	✓			✓		11/01/93	
			.1006	✓			✓		11/01/93	
			.1101		✓		✓		11/01/93	
23	NCAC	2D	.0202 - .0203		✓				11/01/93	180 DAYS
			.0325 - .0326		✓				11/01/93	180 DAYS
		2E	.0402		✓				11/01/93	180 DAYS

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).

AGRICULTURE

North Carolina State Fair

<i>2 NCAC 20B .0106 - General</i>	<i>RRC Objection 09/17/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 10/21/93</i>

COMMERCE

Banking Commission

<i>4 NCAC 31 .0305 - Issuance of Certificate of Registration</i>	<i>RRC Objection 10/21/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 10/21/93</i>

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Coastal Management

<i>15A NCAC 7H .2002 - Approval Procedures</i>	<i>RRC Objection 09/17/93</i>
<i>Agency Responded</i>	<i>Obj. Cont'd 10/21/93</i>
<i>15A NCAC 7H .2004 - General Conditions</i>	<i>RRC Objection 09/17/93</i>
<i>Agency Responded</i>	<i>Obj. Cont'd 10/21/93</i>

Environmental Management

<i>15A NCAC 2L .0103 - Policy</i>	<i>RRC Objection 09/17/93</i>
<i>Agency Revised Rule</i>	<i>RRC Objection 09/17/93</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd 10/21/93</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff. 11/04/93</i>

HUMAN RESOURCES

Aging

<i>10 NCAC 22G .0505 - Staffing</i>	<i>RRC Objection 10/21/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 10/21/93</i>
<i>10 NCAC 22G .0506 - Congregate Site Requirements</i>	<i>RRC Objection 10/21/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 10/21/93</i>
<i>10 NCAC 22G .0509 - Home-Delivered Meals Standards</i>	<i>RRC Objection 10/21/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 10/21/93</i>
<i>10 NCAC 22G .0510 - Congregate Food Requirements</i>	<i>RRC Objection 10/21/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 10/21/93</i>
<i>10 NCAC 22G .0514 - Administration Requirements</i>	<i>RRC Objection 10/21/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 10/21/93</i>
<i>10 NCAC 22S .0102 - Withdrawal of Area on Aging Designation</i>	<i>RRC Objection 10/21/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 10/21/93</i>

Children's Services

<i>10 NCAC 41R .0002 - Administration and Organization</i>	<i>RRC Objection</i>	<i>07/15/93</i>
<i>Agency Responded</i>	<i>Obj. Cont'd</i>	<i>08/20/93</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>09/17/93</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/93</i>

Facility Services

<i>10 NCAC 3H .0108 - Definitions</i>	<i>RRC Objection</i>	<i>10/21/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/21/93</i>

JUSTICE**Criminal Justice Education and Training Standards**

<i>12 NCAC 9A .0107 - Rule-Making and Administrative Hearing Procedures</i>	<i>RRC Objection</i>	<i>10/21/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/21/93</i>
<i>12 NCAC 9B .0101 - Minimum Standards for Criminal Justice Officers</i>	<i>RRC Objection</i>	<i>10/21/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/21/93</i>

LICENSING BOARDS AND COMMISSIONS**Electrolysis Examiners**

<i>21 NCAC 19 .0604 - Program Directors</i>	<i>RRC Objection</i>	<i>10/21/93</i>
<i>21 NCAC 19 .0611 - Identification of Students</i>	<i>RRC Objection</i>	<i>10/21/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/21/93</i>
<i>21 NCAC 19 .0613 - Student/Teacher Ratio and Equipment</i>	<i>RRC Objection</i>	<i>10/21/93</i>

Foresters

<i>21 NCAC 20 .0020 - Certification of Consulting Foresters</i>	<i>RRC Objection</i>	<i>09/17/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/21/93</i>
<i>21 NCAC 20 .0021 - Rejection of Consultant Affidavit</i>	<i>RRC Objection</i>	<i>09/17/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/21/93</i>
<i>21 NCAC 20 .0022 - Handling of Complaints</i>	<i>RRC Objection</i>	<i>09/17/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/21/93</i>

Plumbing, Heating and Fire Sprinkler Contractors

<i>21 NCAC 50 .0506 - Minor Repairs and Alterations</i>	<i>RRC Objection</i>	<i>10/21/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/21/93</i>

REVENUE**Corporate Income and Franchise Tax**

<i>17 NCAC 5C .0904 - The Term Employee</i>	<i>RRC Objection</i>	<i>10/21/93</i>
<i>Agency Repealed Rule</i>	<i>Obj. Removed</i>	<i>10/21/93</i>

TRANSPORTATION**Departmental Rules**

<i>19A NCAC 1B .0202 - Contents of Petition</i>	<i>RRC Objection</i>	<i>10/21/93</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/21/93</i>

19A NCAC 1B .0302 - Record of Hearing
Agency Revised Rule

RRC Objection 10/21/93
Obj. Removed 10/21/93

Division of Highways

19A NCAC 2D .0403 - Use of Dust Allaying Materials
Agency Revised Rule

RRC Objection 10/21/93
Obj. Removed 10/21/93

19A NCAC 2D .0404 - Maintenance Within Municipalities
Agency Revised Rule

RRC Objection 10/21/93
Obj. Removed 10/21/93

19A NCAC 2D .0405 - Examples of Construction and Maintenance Activities
Agency Revised Rule

RRC Objection 10/21/93
Obj. Removed 10/21/93

19A NCAC 2D .0601 - Permits-Authority, Application and Enforcement
Agency Revised Rule

RRC Objection 10/21/93
Obj. Removed 10/21/93

19A NCAC 2D .0633 - Denial: Revocation: Refusal/Renew: Appeal: Invalidation
Agency Revised Rule

RRC Objection 10/21/93
Obj. Removed 10/21/93

19A NCAC 2D .0801 - Pre-Qualifying to Bid: Requalification
No Response from Agency

RRC Objection 09/17/93
Obj. Cont'd 10/21/93

19A NCAC 2D .0802 - Invitation to Bid
No Response from Agency

RRC Objection 09/17/93
Obj. Cont'd 10/21/93

19A NCAC 2D .0803 - Advertisement and Invitations for Bids
No Response from Agency

RRC Objection 09/17/93
Obj. Cont'd 10/21/93

19A NCAC 2D .0821 - Return of Bid Bond or Bid Deposit
No Response from Agency

RRC Objection 09/17/93
Obj. Cont'd 10/21/93

19A NCAC 2E .0404 - Highway Obstructions Interfering/Traffic/Maintenance
Agency Revised Rule

RRC Objection 10/21/93
Obj. Removed 10/21/93

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.

1 NCAC 5A .0010 - ADMINISTRATIVE PROCEDURES

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared two portions of Rule 1 NCAC 5A .0010 void as applied in *Stauffer Information Systems, Petitioner v. The North Carolina Department of Community Colleges and The North Carolina Department of Administration, Respondent and The University of Southern California, Intervenor-Respondent* (92 DOA 0666).

10 NCAC 3H .0315(b) - NURSING HOME PATIENT OR RESIDENT RIGHTS

Dolores O. Nesnow, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 3H .0315(b) void as applied in *Barbara Jones, Petitioner v. North Carolina Department of Human Resources, Division of Facility Services, Licensure Section, Respondent* (92 DHR 1192).

10 NCAC 3R .1124(f) - ACCESSIBILITY TO SERVICES

Beecher R. Gray, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 3R .1124(f) void as applied in *Britthaven, Inc. d/b/a Britthaven of Morganton, Petitioner v. N.C. Department of Human Resources, Division of Facility Services, Certificate of Need Section, Respondent and Valdesse Nursing Home, Inc., Respondent-Intervenor* (92 DHR 1785).

15A NCAC 3O .0201(a)(1)(A) - STDS FOR SHELLFISH BOTTOM & WATER COLUMN LEASES

Julian Mann III, Chief Administrative Law Judge with the Office of Administrative Hearings, declared Rule 15A NCAC 3O .0201(a)(1)(A) void as applied in *William R. Willis, Petitioner v. North Carolina Division of Marine Fisheries, Respondent* (92 EHR 0820).

15A NCAC 19A .0202(d)(10) - CONTROL MEASURES - HIV

Brenda B. Becton, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 15A NCAC 19A .0202(d)(10) void as applied in *ACT-UP TRIANGLE (AIDS Coalition to Unleash Power Triangle), Steven Harris, and John Doe, Petitioners v. Commission for Health Services of the State of North Carolina, Ron Levine, as Assistant Secretary of Health and State Health Director for the Department of Environment, Health, and Natural Resources of the State of North Carolina, William Cobey, as Secretary of the Department of Environment, Health, and Natural Resources of the State of North Carolina, Dr. Rebecca Meriwether, as Chief, Communicable Disease Control Section of the North Carolina Department of Environment, Health, and Natural Resources, Wayne Bobbitt Jr., as Chief of the HIV/STD Control Branch of the North Carolina Department of Environment, Health, and Natural Resources, Respondents* (91 EHR 0818).

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698.

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
ADMINISTRATION				
LMS Express, Inc. v. Administration, Div of Purchase & Contract	92 DOA 0735	Morgan	06/04/93	
Stauffer Information Systems v. Community Colleges & Administration	92 DOA 0803	West	06/10/93	8:7 NCR 613
McLaurin Parking Co. v. Administration	92 DOA 1662	Morrison	04/02/93	8:3 NCR 320
Warren H. Arrington Jr. v. Division of Purchase & Contract	93 DOA 0132	West	07/21/93	
Travel, Incorporated v. Administration	93 DOA 0362	Nesnow	11/08/93	
ALCOHOLIC BEVERAGE CONTROL COMMISSION				
Alcoholic Beverage Control Comm. v. Ann Oldham McDowell	92 ABC 0260	Morgan	04/01/93	
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Barbara W. Catlett v. Human Resources	92 DCS 0577	West	03/15/93	
Laurel Langford v. Human Resources	92 DCS 1181	Gray	05/04/93	8:5 NCR 441
Ida Diane Davis v. Human Resources	92 DCS 1200	Gray	03/29/93	
Hatsuko Klein v. Human Resources	92 DCS 1271	Reilly	05/05/93	
Karen Mullins Martin v. Human Resources	92 DCS 1783	West	08/04/93	
Ora Lee Brinkley v. David T. Flaherty, Secretary of Human Resources	92 DHR 0608	Chess	08/27/93	
Mary McDuffie v. Human Resources Child Development	93 DHR 0651	Becton	09/10/93	
Leon Barbee v. Human Resources	92 DHR 0658	Morrison	04/30/93	8:4 NCR 392
Carrollton of Dunn, Inc. v. Human Resources	92 DHR 1101	Morgan	07/26/93	
Dialysis Care of North Carolina, Inc., d/b/a Dialysis Care of Cumberland County v. Human Resources, Division of Facility Services, Certificate of Need Section, and Bio-Medical Applications of Fayetteville d/b/a Fayetteville Kidney Center, Webb-Lohavichan-Melton Rentals, Bio-Medical Applications of North Carolina, Inc., d/b/a BMA of Raeford and Webb-Lohavichan Rentals	92 DHR 1109*	Morgan	06/22/93	8:8 NCR 687
Dialysis Care of North Carolina, Inc., d/b/a Dialysis Care of Cumberland County v. Human Resources, Division of Facility Services, Certificate of Need Section, and Bio-Medical Applications of Fayetteville d/b/a Fayetteville Kidney Center, Webb-Lohavichan-Melton Rentals, Bio-Medical Applications of North Carolina, Inc., d/b/a BMA of Raeford and Webb-Lohavichan Rentals	92 DHR 1110*	Morgan	06/22/93	8:8 NCR 687
Bio-Medical Applications of North Carolina, Inc., d/b/a BMA of Raeford, Webb-Lohavichan-Melton Rentals, Bio-Medical Applications of North Carolina, Inc., d/b/a BMA of Fayetteville d/b/a Fayetteville Kidney Center and Webb-Lohavichan Rentals v. Human Resources, Division of Facility Services, Certificate of Need Section and Dialysis Care of North Carolina, Inc., d/b/a Dialysis Care of Hoke County	92 DHR 1116*	Morgan	06/22/93	8:8 NCR 687
Renal Care of Rocky Mount, Inc. v. Human Resources, Division of Facility Services, Certificate of Need Section, and Bio-Medical Applications of North Carolina, Inc., d/b/a BMA of Tarboro, Rocky Mount Nephrology Associates, Inc., Bio-Medical Applications of North Carolina, Inc., d/b/a BMA of Rocky Mount d/b/a Rocky Mount Kidney Center, and Rocky Mount Kidney Center Associates	92 DHR 1120	Gray	06/18/93	8:8 NCR 687

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James H. Hunt Jr. v. Division of Medical Assistance	92 DHR 1145	Becton	05/13/93	8:5 NCR 443
Barbara Jones v. Human Resources	92 DHR 1192	Nesnow	04/02/93	8:3 NCR 313
Joyce P. Williams v. Human Resources	92 DHR 1275	Gray	03/15/93	
Snoopy Day Care, Diane Hamby v. Child Day Care Licensing	92 DHR 1320	Morgan	05/21/93	
Cynthia Reed v. Human Resources	92 DHR 1329	Chess	05/10/93	
The Neighborhood Center v. Human Resources	92 DHR 1375	Chess	08/02/93	
Helm's Rest Home, Ron J. Schimpf/Edith H. Wilson v. Human Resources	92 DHR 1604	Reilly	05/10/93	
Jo Ann Kinsey v. NC Memorial Hospital Betty Hutton, Volunteer Svc.	92 DHR 1612	Chess	03/08/93	
Amy Clara Williamson v. NC Mem Hosp Betty Hutton, Volunteer Svc.	92 DHR 1613	Chess	03/08/93	
Betty Butler v. Human Resources	92 DHR 1614	Chess	03/09/93	
Wayne Sanders and Brenda Sanders v. Human Resources	92 DHR 1699	Reilly	06/07/93	8:7 NCR 632
Brithaven, Inc. v. Human Resources & Valdece Nursing Home, Inc.	92 DHR 1785	Gray	09/17/93	
Samuel Benson v. Office of Admin. Hearings for Medicaid	93 DHR 0010	Becton	03/11/93	
James W. McCall, Alice V. McCall v. Human Resources	93 DHR 0102	Morgan	10/05/93	
Vernice Whisnant v. Human Resources	93 DHR 0332	Morgan	09/23/93	
Cabarrus Cty Dept. of Social Svcs. v. Human Resources	93 DHR 0373	Morgan	07/20/93	
Hannah F. Tonkel v. Human Resources	93 DHR 0378	Nesnow	09/10/93	
Fannie Lewis v. Human Resources	93 DHR 0379	Gray	06/28/93	
Human Resources, Div. of Child Development v. Susan Amato	93 DHR 0418	Morgan	08/26/93	
Katie Kelly v. Human Resources	93 DHR 0441	Chess	07/26/93	
Venola Hall, Agape Day Care v. Human Resources	93 DHR 0535	Mann	10/22/93	
Christopher Durrer, Wilson Memorial Hospital v. Human Resources	93 DHR 0566	Chess	09/17/93	
Darryl A. Richardson v. Human Resources	93 DHR 0679	Becton	09/30/93	
Home Health Prof., Barbara P. Bradsher, Admin v. Human Resources	93 DHR 0737	Chess	09/23/93	
Sandra Gail Wilson v. Child Abuse/Neglect, Div. of Child Development	93 DHR 0782	Nesnow	09/09/93	
Thomas M. Moss v. Human Resources	93 DHR 0864	Chess	11/05/93	
Frank S. & Susie R. Wells v. New Hanover Cty. Dept of Social Svcs.	93 DHR 0922	Nesnow	11/08/93	

INSURANCE

Carolyn M. Hair v. St Employees Comprehensive Major Medical	92 INS 1464	Chess	03/10/93	
Scotland Memorial Hospital, Mary Horne Odom v. Bd./Trustees// St. of N.C. Teachers' & St. Emp. Comp. Major Medical Plan, and David G. Devries, as Exec. Admin. of the N.C. Teachers' & St. Emp. Comp. Major Medical Plan	92 INS 1791	Reilly	08/19/93	
Phyllis C. Harris v. Teachers' & St. Emp. Comp. Major Med. Plan	93 INS 0197	Nesnow	07/29/93	

JUSTICE

Philip B. Cates v. Justice, Attorney General's Office	90 DOJ 0353	Morgan	08/30/93	8:13 NCR 1281
Donald Willard Johnson v. Criminal Justice Ed. & Training Stds. Comm.	92 DOJ 0420	West	11/05/93	8:17 NCR 1705
Jennings Michael Bostic v. Sheriffs' Ed. & Training Stds. Comm.	92 DOJ 0656*	West	06/22/93	
Colin Carlisle Mayers v. Sheriffs' Ed. & Training Stds. Comm.	92 DOJ 0761	Morrison	05/10/93	
Jennings Michael Bostic v. Sheriffs' Ed. & Training Stds. Comm.	92 DOJ 0829*	West	06/22/93	
Michael Charles Kershner v. Criminal Justice Ed & Training Stds Comm	92 DOJ 0869	Morgan	08/11/93	
George Wilton Hawkins v. Criminal Justice Ed. & Training Stds. Comm.	92 DOJ 1081*	Morgan	07/09/93	
Marilyn Jean Britt v. Criminal Justice Ed. & Training Stds. Comm.	92 DOJ 1088	Morrison	03/16/93	
Tim McCoy Deck v. Criminal Justice Ed. & Training Stds. Comm.	92 DOJ 1367	Chess	04/01/93	
Richard Zander Frink v. Criminal Justice Ed. & Training Stds. Comm.	92 DOJ 1465	Nesnow	05/28/93	
Sherri Ferguson Revis v. Sheriffs' Ed. & Training Stds. Comm.	92 DOJ 1756	Gray	03/23/93	
Mark Thomas v. Sheriffs' Ed. & Training Standards Commission	93 DOJ 0151	West	04/21/93	
George Wilton Hawkins v. Sheriffs' Ed. & Training Stds. Comm.	93 DOJ 0156*	Morgan	07/09/93	
Louise Allen Fox v. Sheriffs' Ed. & Training Standards Commission	93 DOJ 0196	Morrison	08/09/93	
Alarm Systems Licensing Bd. v. Eric Hoover	93 DOJ 0201	Becton	07/12/93	
Alarm Systems Licensing Bd. v. Vivian Darlene Gaither	93 DOJ 0202	Chess	05/10/93	
Rebecca W. Stevenson v. Criminal Justice Ed. & Training Stds. Comm.	93 DOJ 0357	Morrison	09/13/93	
Lloyd Harrison Bryant Jr. v. Criminal Justice Ed & Training Stds Comm	93 DOJ 0377	Reilly	08/31/93	
William B. Lipscomb v. Private Protective Services Board	93 DOJ 0458	Morrison	06/01/93	
Private Protective Svcs. Bd. v. Fred D. Rector	93 DOJ 0479	Mann	08/19/93	
Private Protective Svcs. Bd. v. Alan D. Simpson	93 DOJ 0480	West	07/21/93	
William M. Medlin v. Sheriffs' Ed. & Training Stds. Comm.	93 DOJ 0569	Chess	10/06/93	
Carl Michael O'Byrne v. Alarm Systems Licensing Board	93 DOJ 0844	Nesnow	09/08/93	8:13 NCR 1300

LABOR

Greensboro Golf Center, Inc. v. Labor	92 DOL 0204	Nesnow	04/15/93	
Ronald Dennis Hunt v. Labor	92 DOL 1319	Morgan	06/17/93	
Jeffrey M. McKinney v. Labor	92 DOL 1333	Morrison	06/21/93	

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MORTUARY SCIENCE				
Board of Mortuary Science v. Triangle Funeral Chapel, Inc.	92 BMS 1169	Reilly	04/29/93	8:4 NCR 396
PUBLIC INSTRUCTION				
Arnold O. Herring v. Public Instruction	91 EDC 0858	Becton	10/20/93	
Frances F. Davis, Parent of Joseph E. Davis v. Public Instruction	93 EDC 0628	Mann	07/29/93	
Donna Marie Snyder v. Public Instruction	93 EDC 0731	Nesnow	09/16/93	
STATE PERSONNEL				
Frances K. Pate v. Transportation	88 OSP 0340	Morrison	05/03/93	
Lawrence D. Wilkie, Jerry R. Evans, Jules R. Hancart, James H. Johnson, James D. Fishel v. Justice	90 OSP 1064 ^{*4}	Mann	05/04/93	
Lawrence D. Wilkie, Jerry R. Evans, Jules R. Hancart, James H. Johnson, James D. Fishel v. Justice	90 OSP 1065 ^{*4}	Mann	05/04/93	
Lawrence D. Wilkie, Jerry R. Evans, Jules R. Hancart, James H. Johnson, James D. Fishel v. Justice	90 OSP 1066 ^{*4}	Mann	05/04/93	
Lawrence D. Wilkie, Jerry R. Evans, Jules R. Hancart, James H. Johnson, James D. Fishel v. Justice	90 OSP 1067 ^{*4}	Mann	05/04/93	
Lawrence D. Wilkie, Jerry R. Evans, Jules R. Hancart, James H. Johnson, James D. Fishel v. Justice	90 OSP 1068 ^{*4}	Mann	05/04/93	
Connie B. Lee v. Justice	91 OSP 0011	Morgan	10/05/93	8:15 NCR 1498
Donald Allen Rutschman v. UNC Greensboro, Office of Human Res.	91 OSP 0305	Chess	10/19/93	
Bernie B. Kelly v. Correction	91 OSP 0344	Morrison	05/27/93	
Brenda G. Mitchell v. Correction	91 OSP 0625	West	03/08/93	8:1 NCR 75
Walton M. Pittman v. Correction	91 OSP 0805	Morgan	10/06/93	
Adolph Alexander Justice Jr. v. Motor Vehicles, Transportation	91 OSP 0860	Chess	07/19/93	
Clayton Brewer v. North Carolina State University	91 OSP 0941	West	04/02/93	8:3 NCR 306
Sherman Daye v. Transportation	91 OSP 0951	West	05/07/93	
Donnie M. White v. Correction	91 OSP 1236	Morgan	04/05/93	
Gregory Samuel Parker v. Environment, Health, & Natural Resources	91 OSP 1344 ^{*5}	Chess	05/20/93	
Renee E. Shepherd v. Winston-Salem State University	91 OSP 1391	Morgan	04/28/93	
Eva Dockery v. Human Resources	92 OSP 0010	Chess	05/03/93	
Lee P. Crosby v. Michael Kelly, William Meyer and EHR	92 OSP 0056	Gray	06/07/93	
William Marshall Boyd Jr. v. County Commissioners of Hyde & Certain Board of Health Members	92 OSP 0090	Gray	08/25/93	
Gregory Samuel Parker v. Environment, Health, & Natural Resources	92 OSP 0188 ^{*6}	Chess	05/20/93	
Willie Granville Bailey v. Winston-Salem State University	92 OSP 0285	Morrison	03/10/93	
Mattie W. Smith v. State Agricultural and Technical University	92 OSP 0298 ^{*12}	Reilly	09/14/93	
Julia Spinks v. Environment, Health, & Natural Resources	92 OSP 0313	Becton	04/12/93	8:4 NCR 382
James B. Price v. Transportation	92 OSP 0375	Gray	04/13/93	
I. Cary Nailling v. UNC-CH	92 OSP 0394	Becton	04/20/93	
Deborah Barber v. Correction	92 OSP 0396	Chess	03/04/93	
Laverne B. Hill v. Transportation	92 OSP 0431 ^{*4}	West	03/08/93	
Jimmy D. Wilkins v. Transportation	92 OSP 0432 ^{*4}	West	03/08/93	
Sarah W. Britt v. Human Resources, C.A. Dillon School, CPS	92 OSP 0455	West	05/26/93	8:6 NCR 484
Charles Robinson v. Revenue	92 OSP 0553	Morgan	07/21/93	
Anna L. Spencer v. Mecklenburg County Area Mental Health	92 OSP 0584	Becton	08/16/93	
Herman James Goldstein v. UNC-Chapel Hill et al.	92 OSP 0634	Morrison	05/04/93	
Ronnie H. Mazingo v. Correction	92 OSP 0644	Mann	10/11/93	
Glinda C. Smith v. Wildlife Resources Commission	92 OSP 0653	Morrison	03/12/93	
Cindy G. Bartlett v. Correction	92 OSP 0671	Morgan	06/08/93	
William Kenneth Smith Jr. v. Broughton Hospital (Human Resources)	92 OSP 0684	Becton	05/10/93	
Larry O. Nobles v. Human Resources	92 OSP 0732	Mann	04/23/93	
Beatrice Wheelless v. Lise M. Miller, University Payroll Off., NC St. Univ.	92 OSP 0744 ^{*10}	Morgan	07/16/93	
Tracey Hall v. N.C. Central U., Off. of Scholarship & Student Aid	92 OSP 0815	Morgan	09/16/93	
Sondra Williams v. Winston-Salem State University	92 OSP 0847	Morrison	08/06/93	
Willie Thomas Hope v. Transportation	92 OSP 0947	Morgan	03/23/93	
David Scales v. Correction	92 OSP 0989	Chess	06/24/93	
Suzanne Ransley Hill v. Environment, Health, & Nat. Res.	92 OSP 0992	Reilly	03/18/93	8:2 NCR 224
Herman James Goldstein v. UNC-Chapel Hill et al.	92 OSP 1047	Morrison	05/04/93	
Charles M. Blackwelder v. Correction	92 OSP 1082	Morrison	10/15/93	8:15 NCR 1500
Beatrice Wheelless v. Lise M. Miller, University Payroll Off., NC St. Univ.	92 OSP 1124 ^{*10}	Morgan	07/16/93	
John B. Sauls v. Wake County Health Department	92 OSP 1142	Reilly	03/08/93	8:1 NCR 88
Patti G. Newsome v. Transportation	92 OSP 1180	Becton	09/22/93	8:14 NCR 1346

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Nancy McAllister v. Camden County Department of Social Services	92 OSP 1185	Chess	09/07/93	
Gilbert Jaeger v. Wake County Alcoholism Treatment Center	92 OSP 1204	Reilly	05/10/93	
Joseph Henry Bishop v. Environment, Health, & Natural Res.	92 OSP 1243	Reilly	03/05/93	
Glenn D. Fuqua v. Rockingham County Board of Social Services	92 OSP 1318	Morrison	08/03/93	
Dorothy D. Johnson v. Correction	92 OSP 1395	Nesnow	10/29/93	
Willie L. Hudson v. Correction	92 OSP 1468	Becton	05/26/93	
Brenda K. Campbell v. Employment Security Commission	92 OSP 1505	Morrison	03/17/93	
Christie L. Guthrie v. Environment, Health, & Natural Resources	92 OSP 1555	Becton	05/31/93	
Sharon Reavis v. Crime Control & Public Safety	92 OSP 1606	Morrison	08/19/93	8:12 NCR 1163
James B. Price v. Transportation	92 OSP 1657	Mann	03/19/93	
Jerry L. Jones v. N.C.S.U. Physical Plant	92 OSP 1661	Chess	07/06/93	
Mattie W. Smith v. State Agricultural and Technical University	92 OSP 1691 ^{*12}	Reilly	09/14/93	
Gina Renee Cox v. UNC Chapel Hill	92 OSP 1692	Becton	10/18/93	
Roland W. Holden v. University of North Carolina at Chapel Hill	92 OSP 1715	Becton	08/30/93	8:13 NCR 1292
Betty Bradsher v. UNC-CH	92 OSP 1733	Becton	03/30/93	
Anthony M. Little v. Human Resources, John Umstead Hospital	92 OSP 1734	Becton	09/01/93	
Jannie C. Sykes v. Employment Security Commission	92 OSP 1738	Gray	10/25/93	
Jamal Al Bakkat-Morris v. Glenn Sexton (DSS)	92 OSP 1741	Becton	03/24/93	
Rebecca Beauchesne v. University of North Carolina at Chapel Hill	92 OSP 1767	Becton	10/01/93	
Brenda Kay Barnes v. Human Resources	92 OSP 1768	Morrison	03/17/93	
Larry G. Riddle v. Correction, Division of Prisons	92 OSP 1774	Gray	04/26/93	
Stevie E. Dunn v. Polk Youth Center	92 OSP 1789	Becton	04/19/93	
Buford D. Viergege Jr. v. N.C. State University, University Dining	92 OSP 1796	Morrison	05/27/93	
Dorothy Ann Harris v. Correction	93 OSP 0013	Morrison	09/15/93	
Brenda B. Miles v. University of North Carolina Chapel Hill	93 OSP 0033	Morrison	09/10/93	
Deborah J. Whitfield v. Caswell Center	93 OSP 0064	West	09/20/93	
Karen Canter v. Appalachian State University	93 OSP 0079	Reilly	06/15/93	
Terry Steve Brown v. Iredell County Health Department	93 OSP 0101	Morgan	08/06/93	
Barbara A. Johnson v. Human Resources	93 OSP 0103	Morrison	03/17/93	
Carrie P. Smith v. County of Stanly	93 OSP 0109	Becton	04/01/93	
George W. Allen v. Human Resources, Correction, Agri & EHNRR	93 OSP 0111	Reilly	04/16/93	
William G. Fisher v. St Bd of Ed, Albermarle City Schools & Bd of Ed	93 OSP 0134	Becton	04/20/93	
Grace Jean Washington v. Caswell Center	93 OSP 0153	Morgan	06/03/93	
Ralph Snipes v. Transportation and Correction	93 OSP 0157	Mann	10/29/93	
Clifton E. Simmons v. Correction	93 OSP 0159	Morrison	04/21/93	
Willie L. James v. Caswell Center	93 OSP 0171	Morgan	05/27/93	
Irving S. Rodgers v. C.A. Dillon, Division of Youth Services	93 OSP 0177	West	04/21/93	
Richard E. Howell v. Correction, Wayne Correctional Center	93 OSP 0245	Gray	08/25/93	
Brian Dale Barnhardt v. State Highway Patrol	93 OSP 0251	Reilly	07/27/93	
F.R. "Don" Bowen v. Human Resources	93 OSP 0253	Morgan	08/06/93	
Michael L. Pegram v. Correction	93 OSP 0275 [*]	Reilly	06/28/93	
Jerry D. Doss Sr. v. Correction	93 OSP 0287	Gray	05/17/93	
Debbie Renee Robinson v. Correction	93 OSP 0383	Nesnow	06/07/93	
Linda R. Wharton v. N.C. A & T University	93 OSP 0456	Chess	09/22/93	
Michael L. Pegram v. Correction	93 OSP 0472 [*]	Reilly	06/28/93	
Ralph W. Burcham v. Transportation	93 OSP 0493	Chess	10/15/93	8:16 NCR 1558
Hubert L. Holmes v. Transportation	93 OSP 0572	Reilly	08/17/93	
Vernell Ellis Turner v. NC A & T Police Dept, NC Agricultural Tech U	93 OSP 0577	Becton	11/03/93	
Timothy E. Blevins v. UNC A/K/A Western Carolina University	93 OSP 0604	Morgan	09/29/93	
Xantippe Blackwell v. Human Resources, Murdoch Center	93 OSP 0632	Reilly	09/01/93	
Wayne Bradley Johnson v. State Computing Center	93 OSP 0694	Chess	10/11/93	
Harold Kovolenko v. Lynn C. Phillips, Director of Prisons	93 OSP 0697	Nesnow	09/08/93	
Daniel Thomas Wheeler, Kye Lee Wheeler v. Caldwell County Department of Social Services	93 OSP 0752	Nesnow	09/16/93	
Terry Johnson v. Correction	93 OSP 0757	Gray	10/06/93	
Kathleen E. Conran v. New Bern Police Dept., City of New Bern; and City of New Bern Police Civil Service Board	93 OSP 0797	Morrison	09/21/93	
Berton Hamm Jr. v. Wake County Child & Family Services	93 OSP 0809	Becton	10/27/93	
John R. Woods Sr. v. Wake County Child & Family Services	93 OSP 0810	Becton	11/02/93	
Coleman F. Tyrance Jr. v. Wake County Child & Family Services	93 OSP 0811	Becton	11/02/93	
John Augusta Page v. Wake County Child & Family Services	93 OSP 0812	Becton	11/02/93	
Thomas James v. Wake County Child & Family Services	93 OSP 0813	Becton	11/02/93	
James E. Hargrove v. Wake County Child & Family Services	93 OSP 0814	Becton	11/02/93	
Ricky Harrell v. Wake County Child & Family Services	93 OSP 0815	Becton	11/02/93	
Bruce Creecy v. Wake County Child & Family Services	93 OSP 0816	Becton	11/02/93	
Dana Phillips v. Administrative Office of the Courts	93 OSP 0822	West	09/09/93	
Terry P. Chappell v. Correction	93 OSP 0834	Nesnow	10/11/93	

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<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
STATE TREASURER				
Juanita M. Braxton v. Bd. of Trustees/Teachers' & St Emp Ret Sys	91 DST 0017	West	09/07/93	
Herman D. Brooks v. Bd of Trustees/Teachers' & St Emp Ret Sys	91 DST 0566	Gray	04/13/93	
Henrietta Sandlin v. Teachers' & State Emp Comp Major Medical Plan	92 DST 0305	Morgan	04/12/93	
Frances Billingsley v. Bd/Trustees/Teachers' & St. Emp. Ret. Sys.	92 DST 0996	West	09/20/93	
Dennis Willoughby v. Bd./Trustees/Teachers' & St. Emp. Ret. Sys.	92 DST 1439	West	09/20/93	8:14 NCR 1356
Mary Alyce Carmichael v. Bd/Trustees/Teachers' & St Emp Ret Sys	92 DST 1506	Chess	04/08/93	
W. Rex Perry v. Bd/Trustees/Teachers' & St Emp Ret Sys	93 DST 0133	West	08/12/93	8:11 NCR 992
Rory Dale Swiggett v. Bd./Trustees/N.C. Local Govtl. Emp. Ret. Sys.	93 DST 0198	West	09/28/93	8:14 NCR 1360
TRANSPORTATION				
Yates Construction Co., Inc. v. Transportation	92 DOT 1800	Morgan	03/25/93	
UNIVERSITY OF NORTH CAROLINA HOSPITALS				
Constance V. Graham v. UNC Hospital	93 UNC 0269	Morgan	07/20/93	
Jacqueline Florence v. UNC Hospitals	93 UNC 0355	Becton	06/16/93	

STATE OF NORTH CAROLINA

COUNTY OF GASTON

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
92 DOJ 0420**

V.

PROPOSAL FOR DECISION

1705

Captain Bobby Gene Hayes - Assistant Chief, Kings Mountain Police Department.

Donald W. Johnson - Petitioner

EXHIBITS

The following exhibits were received into evidence:

R1A	R2A
R1B	R2B
R1C	R3A
R1D	R3B
R1E	R3C
R1F	R4
R1G	R5
R1H	R6
	R7

Based upon the substantial evidence admitted at the hearing, the undersigned finds the following to be the facts:

FINDINGS OF FACT

1. Respondent North Carolina Criminal Justice Education and Training Standards Commission (hereafter, "Commission") is the Commission established by the General Assembly of North Carolina to supervise the education, training, and certification of criminal justice officers in North Carolina. In order for a person to serve as a sworn law enforcement officer, the person must be certified by the Commission.
2. Petitioner Donald W. Johnson (hereafter, "Johnson") is certified by the Commission as a criminal justice officer. Johnson is a sworn law enforcement officer employed by the Kings Mountain Police Department.
3. At the date of this hearing, Johnson was thirty-four (34) years of age. Johnson graduated from Kings Mountain High School in 1977, successfully completed BLET training in 1982, and was certified as a criminal justice officer in 1983.
4. On February 18, 1992, the Commission gave Johnson notice that probable cause existed to suspend Johnson's certification based upon his alleged failure to comply with 12 NCAC 9A .0204(b)(6). That administrative rule empowers the Commission to suspend or revoke certification of a criminal justice officer when it is found that the certified officer has knowingly made a material misrepresentation of any information required for certification .
5. The Commission has alleged that Johnson violated 12 NCAC 9A .0204(b)(6) in the following manner:
 - A. March 21, 1983 - Falsified the Personal History Statement (Commission Form F-3) completed as part of Johnson's application for certification as a reserve law enforcement officer with Kings Mountain Police Department by failing to list, in response to question #49, the following criminal charges on Johnson's criminal record:
 - i. Injury to Personal Property - Dismissed 6/10/76
 - ii. Assault on a Female - Frivolous; Prosecuting witness to pay costs 8/29/78
 - iii. DUI - Dismissed 6/17/80
 - iv. Simple Assault and Assault and Battery - Dismissed 7/3/81

v. Assault with a Deadly Weapon - Dismissed 9/10/81

- B. October 22, 1984 - Falsified the Personal History Statement completed for the Kings Mountain Police Department by answering "No" in response to question #49 which asks if the applicant has ever been arrested or detained by police.
- C. June 22, 1987 - Failed to list any criminal record in Cleveland County in response to question #50 on the Personal History Statement in connection with an application for employment by the Belmont Police Department.
- D. July 13, 1987 - Failed to list any criminal record on the Report of Appointment/Application for Certification (Commission Form F-5A LE) submitted to the Commission by the Belmont Police Department.
- E. February 8, 1989 - Failed to list any criminal history from Cleveland County on the Report of Appointment/Application for Certification (Form F-5A LE) that was submitted by the Belmont Police Department to the Commission on behalf of Johnson.

6. Pursuant to 12 NCAC 9A .0205(b), when "... the Commission suspends ... the certification of a criminal justice officer, the period of sanction shall be not less than five years...." However, the Commission may reduce or suspend the sanction period or place the criminal justice officer in lieu of suspending certification following an administrative hearing where the cause of the sanction is a material misrepresentation of any information required for certification.

7. On May 28, 1976, while a resident of Kings Mountain in Cleveland County, Johnson was charged with Injury to Personal Property. Johnson was backing out of the driveway of a female with whom he was or wanted to be romantically involved when he hit the car of another suitor. The charges were DISMISSED on June 10, 1976.

8. On August 12, 1978, while a resident of Kings Mountain, Johnson was charged with Assault on a Female. The Court DISMISSED the charges, describing them as "frivolous" and ordered the prosecuting witness to pay the costs of court.

9. On May 25, 1980, while a resident of Kings Mountain, Johnson was charged by the Highway Patrol with Driving while under the influence. The charge was DISMISSED on June 17, 1980.

10. On June 17, 1981, while a resident of Kings Mountain, Johnson was charged by the Kings Mountain police with Simple Assault and Assault and Battery. The charge was DISMISSED on July 3, 1981.

11. On August 19, 1981, while a resident of Kings Mountain, Johnson was charged by the Kings Mountain police with Assault with a Deadly Weapon. The charge was DISMISSED on August 10, 1981.

12. Prior to going to work with the Kings Mountain Police Department, Johnson was in management with Family Dollar Stores. The incident which gave rise to the Assault and Battery charge in 1981 occurred at the Family Dollar Store in Kings Mountain. Johnson observed a person whom he believed to be shoplifting. Johnson detained the person, there was a scuffle, and when the Kings Mountain police arrived, they arrested the suspected shoplifter. The person subsequently swore out a warrant against Johnson for Assault. The charge against Johnson was DISMISSED. The complainant was convicted of shoplifting.

The incident which gave rise to the Assault with a Deadly Weapon charge in 1981 also occurred at the Family Dollar store in Kings Mountain. Johnson observed one Michael Patterson at the checkout counter. Johnson had observed Patterson days earlier at the store and believed Johnson to be shoplifting. Johnson had told Patterson not to come back to the store. When Johnson subsequently saw Patterson at the store on another day, Johnson told Patterson he was going to charge Patterson with Trespass. A scuffle resulted. Patterson was later charged and convicted of Trespass. Patterson swore out a warrant against Johnson

charging him with Assault with a Deadly Weapon. The charge was DISMISSED by the court.

Patterson is well known to the Kings Mountain police since at some time in 1983 or 1984 he stole a Kings Mountain police squad car. Johnson helped arrest Patterson while he was serving as a Reserve Officer with the Kings Mountain police and while he was still employed by Family Dollar stores.

13. On or about March 21, 1983, Johnson applied with the Kings Mountain Police Department to become a Reserve officer. Johnson completed a Kings Mountain personnel form and among other things a Personal History Statement promulgated by the Commission and introduced into evidence as Exhibit R3A. In answer to question #49, "Have you ever been arrested or detained by police?", Johnson listed a charge of Carrying a Concealed Weapon for which he was fined \$45.00 in 1977, and an Assault charge from Gastonia which was DISMISSED in 1978. Johnson did not list any of the five charges listed in Findings of Fact 7 - 11. Johnson was a resident of Kings Mountain when all five of the charges described in Findings 7 - 11 were made. All but the DUI charge were processed by the Kings Mountain Police Department.

14. The Chief of the Kings Mountain Police Department from 1977 to 1987 was Chief Jackie Dean Barrett. Chief Barrett had known Johnson for many years.

15. A Criminal Records check was done of Johnson at the Cleveland County Courthouse by the Kings Mountain Police.

16. On October 22, 1984, Johnson applied with Kings Mountain to be a full time police officer. Johnson completed the Personal History Statement promulgated by the Commission and introduced into evidence as Exhibit R3B. In answer to question #49 "Have you ever been arrested or detained by police?", Johnson answered, "No".

17. On or about July 13, 1987, Johnson applied with the Belmont Police Department for a position as a law enforcement officer. As part of that application, on July 13, 1987, Johnson signed a Report of Appointment/Application (Form F-5A LE) promulgated by the Commission and introduced as Exhibit R2A. The form had been typed by a police force secretary. The form contains a place where all applicants are to list their criminal offense record. The section is blank on Exhibit R2A.

18. Johnson's application was handled as a lateral transfer from the Kings Mountain force to the Belmont force. Dewey Duncan and then Chief Thomas Henson asked Capt. Hayes of the Kings Mountain force what kind of officer Johnson was and were told he was a fine officer. Johnson was given a physical. His fingerprints were taken and a background check was done by the Belmont force. Lt. Duncan interviewed Johnson. Johnson told him that he had had charges against him that been dismissed and asked Duncan if he had to list charges on the Report of Appointment/Application for Certification that been dismissed. Lt. Duncan told Johnson that you did not.

19. Johnson also completed another Personal History Statement (Form F-3) on June 23, 1987. In response to question #50, "Have you ever been arrested by police?", Johnson answered "Yes". Johnson listed the 1976 charge of Carrying a concealed weapon, 1976 charge of Driving under the influence, and a 1976 charge of having an open container of alcohol in the passenger area. All three charges originated with the Highway Patrol. All three charges were DISMISSED.

20. Johnson was dismissed from the Belmont police force in 1988 by direction of the City Manager. The City Manager told then Chief Henson that the Manager had gone into Town Hall one evening at 7:30 p.m. and found Johnson and a female city employee in the building with the lights out. The City Manager told Henson to fire Johnson. Later, in 1989, upon advice of the Town Attorney, the City Manager directed then Chief Henson to re-hire Johnson.

21. As part of the rehiring procedure, Johnson signed another Report of Appointment/Application for Certification form on February 8, 1989.

22. An employee of the Commission, Buddy Mozingo was in the Belmont Police offices on February 8, 1989 performing a field audit. Lt. Duncan asked Mozingo if charges that had been dismissed had to be listed on Form F-5A. Mozingo told Duncan that all charges had to be listed on the form. Lt. Duncan told Johnson to put down all charges.

23. As part of the rehiring process, Belmont did a criminal record check of Johnson in both Cleveland and Gaston County. Judicial notice is taken that Kings Mountain is in Cleveland County and Belmont is in Gaston County. Judicial notice is taken that the two towns are approximately twenty to twenty-five miles apart.

24. As a result of the criminal records check, Lt. Duncan learned of the five charges between 1976 and 1981 which form the basis of the Commission's charge. Lt. Duncan told then Assistant Chief Flowers. Chief Flowers and Chief Henson discussed between themselves their responsibility to notify the Commission, and in 1989 notified the Commission.

25. In 1989, when Lt. Duncan learned of the five charges at issue in this case, he went into Johnson's personnel record at the Belmont Police force and filled in information on the Form F-5A LE signed by Johnson in 1987.

26. In February, 1990, Johnson was promoted by then Chief Henson from patrolman to sergeant. Twelve other patrolman were eligible for the promotion. Assistant Chief Flowers served on the Promotion Board. Chief Flowers did not object to the promotion. Both Flowers and Henson were aware at the time of the promotion of the charges at issue in this case.

27. Chief Henson wrote a letter in October 1991 to Buddy Mozingo with the Commission regarding Johnson and the charges at issue in this case. The catalyst for the letter was a charge by one Mark Bowen that Johnson assaulted him when Johnson arrested him. Belmont first learned of Bowen's complaint while Bowen was an inmate at Polk Youth Center and Chief Flowers was interviewing him in connection with another case. The charge is what made the lack of assault charges being reported on Exhibit 2A significant to Chief Henson. Chief Henson would not have written the Commission in 1991 if the charge had not been made by Bowen.

28. The offense of Carrying a concealed weapon for which Johnson was convicted in 1976 and fined \$50.00 could not have prevented his certification as a criminal justice officer.

29. Assault with a Deadly Weapon is a Class "B" misdemeanor. The other assault charges filed against Johnson are Class "A" misdemeanors. The Commission takes the position that disclosure of all of the charges is material because despite the fact all charges were dismissed, the Commission might have taken the position that the assaults did in fact occur.

30. Former Chief Barrett of the Kings Mountain police could not recall on the stand whether in 1983 when Johnson first signed a Report of Appointment/Application for Certification (Form F-5A LE) the form required the listing of charges. In 1987, when Johnson signed the Report of Appointment/ Application for Certification (Form F-5A LE) in Belmont, that police force did not understand that charges had to be listed. It was not until 1989, after talking with Buddy Mozingo of the Commission that the command officers of the Belmont force came to the understanding that charges had to be listed on Form F-5A LE.

31. The Probable Cause committee has taken no action against any of Johnson's commanders.

Based on the foregoing, the undersigned makes the following:

CONCLUSIONS OF LAW

This contested case is like contested cases 92 DOJ 0656 and 92 DOJ 0829, Jennings Michael Bostic v. North Carolina Sheriffs' Education and Training Standards Commission in many respects and I urge the parties and the Commission to read the Bostic case before the Final Decision is made in this case.

This case and the Bostic case illustrate the lack of importance the command structure in three departments placed on the state wide certification of law enforcement officers which ensures applicants are minimally qualified and protects citizens from the consequences of unqualified people being cloaked with legitimacy and immunity.

The language at issue in the Personal History form and the Report of Appointment/Application for Certification form is patently clear. In the F-3 form the question is asked, "Have you ever been arrested or detained by police?". The form goes on to ask the "Disposition of Case". The F-5A LE form has a section for all applicants asking the "Offense Charged" and the "Disposition". These words are patently clear. They are even clearer, if that is possible, when read together in context. The words are even clearer to law enforcement officers. The plain meaning of the questions is that the Commission wants to know what an applicant has been charged with, by whom, and how the charge was disposed of.

Yet, not until 1989, after a direct face to face question was asked of the Commission's field representative, did any of Johnson's superior officers understand that applicants were required to list all charges - even those that had been dismissed. One of those officers then took it upon himself to go back into Johnson's personnel record and supplement the form F-5A LE.

Even then, Johnson's superior officers did not feel compelled to report the incomplete information to the Commission. It was only after a convicted criminal charged Johnson with assaulting him during an arrest that Johnson's superior officers made the Commission aware in writing of the incomplete information in Johnson's file. The Administrative Law Judge takes judicial notice that it is the pendency of this charge which resulted in the continuance of the hearing of this contested case, and takes official notice that Johnson was not convicted of the assault.

Johnson did not misrepresent his criminal record to the Kings Mountain police.

Johnson did not misrepresent his criminal record to the Belmont police.

Assuming, arguendo, that Johnson did misrepresent his criminal record to the Belmont police, the misrepresentation was immaterial. After learning of all charges, Belmont promoted Johnson, rather than dismissing him.

The issue in this contested case is, however, whether Johnson knowingly made material misrepresentations to the Commission.

I conclude that Johnson made misrepresentations:

On or about March 21, 1983 on Commission Form F-3 (Exhibit R3A);

On or about October 22, 1984 on Commission Form F-3 (Exhibit R3B);

On or about June 23, 1987 on Commission Form F-3 (Exhibit R3C); and

On or about July 13, 1987 on Commission Form F-5A LE (Exhibit R2A).

However, because of the ignorance or indifference of Johnson's command structure to what information was required, I conclude that the misrepresentations were not knowing. The misrepresentations were material because it is material for a sworn law enforcement officer to tell the truth, the whole truth, and nothing but the truth. In addition, the misrepresentations were material because of the pattern of allegations of assaultive behavior, and because of the seriousness of the charge of Assault with a Deadly Weapon and Assault on a Female.

I conclude that Johnson knowingly misrepresented his Criminal Offense Record on the Form F-5A LE signed on February 8, 1989, by failing to list all of the charges against him. I conclude that the

misrepresentation was knowing because Johnson was aware of all of the charges at issue in this contested case and aware of his responsibility to list them. The misrepresentation was material for the reasons stated in the immediately preceding paragraph.

Based on the foregoing, the undersigned makes the following:

RECOMMENDED DECISION

The Commission should suspend Johnson's certification for a period of one year. The suspension of certification should be suspended for the reasons stated above in the CONCLUSIONS OF LAW, and because of testimony of Chief Barrett and Chief Flowers tending to show Johnson's competence as a criminal justice officer.

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions and proposed findings of fact and to present oral and written arguments to the agency. G.S. 150B-40(e).

A copy of the final agency decision or order shall be served upon each party personally or by certified mail addressed to the party at the latest address given by the party to the agency and a copy shall be furnished to his attorney of record. G.S. 150B-42(a). It is requested that the agency furnish a copy to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the North Carolina Criminal Justice Education and Training Standards Commission.

This the 5th day of November, 1993.

Thomas R. West
Administrative Law Judge

4. Hatteras Island, where the Respondent establishment is located, is about two miles wide and several miles long.
5. Approximately 80% of the patrons of the Respondent establishment are from locations outside of North Carolina.
6. William Silver has been a bartender at the Respondent establishment since July 1992.
7. Silver was familiar with Sumners, because the two men "hung around" the same crowd of people and met at a party in the summer of 1991.
8. In 1991, Silver was aware that Sumners was not 21 years of age.
9. During the first half of the summer of 1992, Silver regularly visited and attended parties at Sumners' trailer which Sumners rented from a friend of Silver's.
10. Silver stopped going to Sumners' trailer when Silver began working at the Respondent establishment.
11. Leon Jennette, Jr. worked at the Respondent establishment's door, with the responsibility of checking patrons' identification, for approximately six months.
12. The Respondent establishment's policy was to have its doorman to check identifications.
13. Sumners began to come to the Respondent establishment about the middle of the summer of 1992 with local people with whom he worked at a local marina.
14. Sumners patronized the Respondent establishment virtually every weekend after he moved to the Hatteras Island area.
15. Sumners is not originally from the Hatteras Island area.
16. Jennette did not personally know Sumners, but recognized Sumners because Sumners knew the men with whom Sumners came to the Respondent establishment.
17. Jennette checked Sumners' identification on two occasions, during the middle of the summer of 1992.
18. Sumners' identification which Jennette checked at the Respondent establishment was in the form of a driver's license.
19. Sumners' identification which Jennette checked at the Respondent establishment showed that Sumners was over 21 years old.
20. Jennette did not check the identification of Sumners' companions at the Respondent establishment, because Jennette was aware that these other people were over 21 years of age.
21. Jennette eventually stopped checking Sumners' identification at the Respondent establishment.
22. Andrew Tawes worked intermittently at the Respondent establishment as a bartender for a period of a little over one year.
23. Tawes recognized Sumners from a television commercial in which Sumners appeared.
24. Tawes checked Sumners' identification, which was a North Carolina driver's license, on one occasion in the early part of the summer of 1992 when Sumners ordered a beer.

25. Based upon Tawes' recall that Sumners was in a television commercial, Tawes checked Sumners' identification only once because Tawes remembered Sumners after this occasion.
26. Tawes had seen Sumners drinking alcoholic beverages at parties which were given at Sumners' home.
27. By the summer of 1992, Silver assumed that Sumners was 21 years old because Silver often saw beer at Sumners' house.
28. Tawes trained Silver as a bartender at the Respondent establishment.
29. On one occasion, Tawes noticed that Silver was asking Sumners for identification at the Respondent establishment when Sumners had ordered a beer.
30. Tawes told Silver that it was permissible to serve a beer to Sumners.
31. Silver thought that Sumners was at least 21 years of age because Tawes had previously checked Sumners' identification and Tawes had told Silver that it was permissible to serve beer to Sumners.
32. Silver did not ever check Sumners' identification because Tawes told Silver that Sumners was over the age of 21 years and Silver trusted Tawes' judgment that Sumners was over 21 years old.
33. There were patrons of the Respondent establishment other than Sumners whom Tawes "okayed" for Silver to serve alcohol, without an identification check by Silver, while Tawes was orienting Silver as a bartender.
34. Sumners was 20 years of age on December 21, 1992.
35. On December 21, 1992 Sumners spoke to Silver and purchased a case of beer from Silver.
36. Sumners stated that he has not ever had false identification, that he did not ever show a false identification to Jennette and has not ever fraudulently presented an identification at the Respondent establishment.
37. In a criminal trial, Silver was found "not guilty" of the offense of selling alcoholic beverages to an underage person.

CONCLUSIONS OF LAW

1. North Carolina General Statutes Section 18B-302(a)(1) states, in pertinent part, that it shall be unlawful for any person to sell malt beverages to anyone less than 21 years old.
2. Title 4, Chapter 2S, Rule .0211 of the North Carolina Administrative Code states, in pertinent part, that no permittee or his employee shall sell or knowingly permit the possession on the licensed premises of any kind of alcoholic beverages, the sale or possession of which is not authorized by the ABC laws.
3. N.C.G.S. §18B-302(d)(2) states, in pertinent part, that it shall be a defense to a violation of N.C.G.S. §18B-302(a) if the seller produces evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least the required age.
4. Evidence produced at the contested case hearing by the Respondent that Scott Leslie Sumners was observed consuming alcoholic beverages at parties by the Respondent establishment's employee Andrew Tawes, that the Respondent's employee William Silver often saw beer at Sumners' home, that Sumners' regular companions at the Respondent establishment were known by the Respondent

establishment's doorman Leon Jennette, Jr. to be over 21 years of age, that Jennette had observed a driver's license on two occasions in Sumners' possession which showed that Sumners was over 21 years of age, that Tawes had observed a North Carolina driver's license on one occasion in Sumners' possession which was shown to Tawes and that Tawes instructed Silver to serve beer to Sumners because Tawes had previously checked Sumners' identification and assumed that Sumners was over 21 years of age are facts which reasonably indicate that the Respondent establishment's employee Silver, as the seller of malt beverages to Sumners on December 21, 1992 at about 11:00 PM, considered the malt beverages purchaser Sumners to be at least the required age to purchase malt beverages.

5. The Respondent has sufficiently shown, as a defense to Silver's unlawful act of selling malt beverages to the underaged purchaser Sumners, that there was evidence of other facts that reasonably indicated, at the time of Silver's sale of malt beverages to Sumners, that Sumners was at least the required age to make the legal purchase of malt beverages.

RECOMMENDATION

It is recommended that the Petitioner North Carolina Alcoholic Beverage Control Commission refrain from taking any action against the Respondent.

DISCUSSION

Both parties presented controverted evidence regarding Sumners' possession of a fraudulent identification, with the Petitioner's evidence tending to show that Sumners did not ever present a false identification at the Respondent establishment which showed him to be 21 years old and the Respondent's evidence tending to show that Sumners displayed such false identification at the Respondent establishment. The resolution of this discrepancy in the evidence is not dispositive of the legal issue here. The undersigned's decision primarily pivots on the application of the language of N.C.G.S. §18B-302(d)(2) to the undisputed fact that the malt beverages seller Silver relied on the representation of fellow Respondent establishment employee Tawes that Sumners was at least 21 years old, which served as a reasonable indication to Silver that Sumners was at least the required age to purchase malt beverages.

ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. G.S. 150B-36(a).

The agency is required by G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the North Carolina Alcoholic Beverage Control Commission.

This the 10th day of November, 1993.

Michael Rivers Morgan
Administrative Law Judge

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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