

NORTH CAROLINA REGISTER

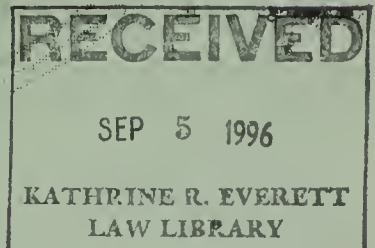
**VOLUME 11 • ISSUE 11 • Pages 880 - 958
September 3, 1996**

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Real Estate Commission
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NORTH CAROLINA REGISTER



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This issue contains documents officially
filed through August 12, 1996.

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EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2B .0103 and the Rules of Civil Procedure, Rule 6.

GENERAL	FILING DEADLINES	NOTICE OF RULE-MAKING PROCEEDINGS	NOTICE OF TEXT
<p>The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:</p> <ol style="list-style-type: none"> (1) temporary rules; (2) notices of rule-making proceedings; (3) text of proposed rules; (4) text of permanent rules approved by the Rules Review Commission; (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165; (6) Executive Orders of the Governor; (7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; (8) orders of the Tax Review Board issued under G.S. 105-241.2; and (9) other information the Codifier of Rules determines to be helpful to the public. 	<p>ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month closest to (either before or after) the first or fifteenth respectively that is not a Saturday, Sunday, or holiday for State employees.</p> <p>LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.</p>	<p>END OF COMMENT PERIOD TO A NOTICE OF RULE-MAKING PROCEEDINGS: This date is 60 days from the issue date. An agency shall accept comments on the notice of rule-making proceeding until the text of the proposed rules is published, and the text of the proposed rule shall not be published until at least 60 days after the notice of rule-making proceedings was published.</p> <p>EARLIEST REGISTER ISSUE FOR PUBLICATION OF TEXT: The date of the next issue following the end of the comment period.</p>	<p>EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.</p> <p>END OF REQUIRED COMMENT PERIOD (1) RULE WITH NON-SUBSTANTIAL ECONOMIC IMPACT: An agency shall accept comments on the text of a proposed rule for at least 30 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer. (2) RULE WITH SUBSTANTIAL ECONOMIC IMPACT: An agency shall accept comments on the text of a proposed rule published in the Register and that has a substantial economic impact requiring a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after publication or until the date of any public hearing held on the rule, whichever is longer.</p> <p>DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.</p>
<p>COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.</p>			<p>FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY: This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.</p>

**EXECUTIVE ORDER NO. 98
AMENDING E.O. NO. 97 CONCERNING
EMERGENCY RELIEF FOR DAMAGE
CAUSED BY HURRICANE BERTHA**

WHEREAS, Executive Order No. 97 was issued by me to provide emergency relief for damage caused by Hurricane Bertha by waiving certain size and weight restrictions for certain vehicles; and

WHEREAS, Executive Order No. 97 by its terms will expire on August 11, 1996; and

WHEREAS, I have determined that relief and recovery from damage caused by Hurricane Bertha and the resulting need for the provisions of Executive Order No. 97 will continue beyond August 11, 1996.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of this State, **IT IS ORDERED** that the provisions of Executive Order No. 97 remain in force until September 1, 1996.

Done in the Capital City of Raleigh, North Carolina this 9th day of August, 1996.

A Notice of Rule-making Proceedings is a statement of subject matter of the agency's proposed rule making. The agency must publish a notice of the subject matter for public comment at least 60 days prior to publishing the proposed text of a rule. Publication of a temporary rule serves as a Notice of Rule-making Proceedings and can be found in the Register under the section heading of Temporary Rules. A Rule-making Agenda published by an agency serves as Rule-making Proceedings and can be found in the Register under the section heading of Rule-making Agendas. Statutory reference: G.S. 150B-21.2.

TITLE 12 - DEPARTMENT OF JUSTICE

CHAPTER 4 - DIVISION OF CRIMINAL INFORMATION

SUBCHAPTER 4E - ORGANIZATIONAL RULES AND FUNCTIONS

SECTION .0100 - GENERAL PROVISIONS

Notice of Rule-making Proceedings is hereby given by the NC Department of Justice/State Bureau of Investigation/Division of Criminal Information in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making: 12 NCAC 4E .0103(a). Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 114-10; 114-10.1

Statement of the Subject Matter: The DCI Advisory Policy Board has agreed to add one additional member to the Board making a total of 14 members, which member will be the Criminal Justice Information Services (CJIS) Working Group Local Representative from North Carolina.

Reason for Proposed Action: The DCI Advisory Policy Board believes that the addition of the CJIS Working Group Local Representative from North Carolina will enhance the effectiveness of the Board in dealing with matters that come before it.

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 September 3, 1996 to November 4, 1996. Such written comments must be delivered or mailed to the State Bureau of Investigation/Division of Criminal Information, 407 North Blount Street, Raleigh, NC 27601.

TITLE 13 - DEPARTMENT OF LABOR

CHAPTER 7 - OFFICE OF OCCUPATIONAL SAFETY AND HEALTH

SUBCHAPTER 7A - GENERAL RULES AND OPERATIONAL PROCEDURES

Notice of Rule-making Proceedings is hereby given by the NC Department of Labor, Division of Occupational Safety and Health in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making: 13 NCAC 07A .0900. Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 95-131; 95-133; 95-138

Statement of the Subject Matter: Adoption of civil penalty factor rules.

Reason for Proposed Action: Uniform rules will be adopted that shall be applied by the Commissioner, the Occupational Safety and Health Review Board, and hearing examiners representing the Occupational Safety and Health Review Board when considering the civil penalty appropriateness factors stated in the North Carolina Occupational Safety and Health Act. N.C.G.S. 95-138(a) sets out the following factors to be considered: the numerical size of the employer, the gravity of the violation, the good faith of the employer, and the record of previous violations of the employer.

Comment Procedures: To submit comments or obtain further information contact: Angela Waldorf, NC Department of Labor, OSHA, 319 Chapanoke Road, Suite 105, Raleigh, NC 27603, (919) 662-4585 or 1-800-LABOR NC.

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

CHAPTER 3 - MARINE FISHERIES

Notice of Rule-making Proceedings is hereby given by the EHNR - Marine Fisheries Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to

adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making: 15A NCAC 3. Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 113-134; 113-182; 143B-289.4

Statement of the Subject Matter: Consider a closure of trawling for shrimp from 8:00 a.m. Saturday to 8:00 a.m. Monday to replace the current closure of one hour after sunset Friday to one hour before sunset Sunday.

Reason for Proposed Action: Fishermen have requested the amendment for religious reasons.

Comment Procedures: Written comments may be submitted to the Marine Fisheries Commission, PO Box 769, Morehead City, NC 28557. Comments will be received through October 31, 1996.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

Notice of Rule-making Proceedings is hereby given by the North Carolina Wildlife Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making: 15A NCAC 10B .0115. Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 113-134; 113-291.1; S.L. 1981, c. 410; S.L. 1981 (Second Session 1982), c. 1180

Statement of the Subject Matter: Prohibition of shining lights in deer areas during certain hours.

Reason for Proposed Action: To modify shining light prohibition in Hoke County to include period from sunset to sunrise.

Comment Procedures: The record will be open for receipt of written comments from September 3, 1996 through November 4, 1996. Such written comments must be delivered or mailed to the North Carolina Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-

1188.

TITLE 19A - DEPARTMENT OF TRANSPORTATION

CHAPTER 3 - DIVISION OF MOTOR VEHICLES

Notice of Rule-making Proceedings is hereby given by the North Carolina Department of Transportation - Division of Motor Vehicles in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rules it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making: 19A NCAC 3J .0101, .0201, .0306, .0307, .0601 Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 20-320 - 328

Statement of the Subject Matter: Rules establish parameters for commercial truck driver training schools.

Reason for Proposed Action: Proposed amendments add authority for a refresher course for commercial truck driver training schools.

Comment Procedures: Any interested person may submit written comments on the proposed rules by mailing the comments to Emily Lee, Department of Transportation, P.O. Box 25201, Raleigh, NC 27611.

This Section contains the text of proposed rules. At least 60 days prior to the publication of text, the agency published a Notice of Rule-making Proceedings. The agency must accept comments on the proposed rule for at least 30 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. The required comment period is 60 days for a rule that has a substantial economic impact of at least five million dollars (\$5,000,000). Statutory reference: G.S. 150B-21.2.

TITLE 2 - DEPARTMENT OF AGRICULTURE

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Plant Conservation Board intends to amend rules cited as 2 NCAC 48F .0301 - .0302, .0304 - .0306. Notice of Rule-making Proceedings was published in the Register on July 1, 1996. Public hearings were held on these proposed rules on July 16, 17 and 30, 1996, pursuant to a Notice of Rule-making Proceedings published at 11 NCR 7, 407, July 1, 1996.

Proposed Effective Date: April 1, 1997

Reason for Proposed Action:

2 NCAC 48F .0301, .0302, .0304 - To change the status of several native plants already on the endangered, threatened or special concern lists for which more information has become available. To remove certain species and to add several species to the lists because of completion of recent studies, and because of the recent rediscovery of a species that was thought to have been extinct.

2 NCAC 48F .0305 - To improve protection of owners of lands with native ginseng from collection without the owner's consent, or from theft of ginseng cultivated by the landowner. Existing rules require ginseng diggers to have written permission from the landowner. The proposed changes would require the collector to have the signed permission from the owner on their person while collecting, for inspection by wildlife officers.

2 NCAC 48F .0306 - To improve protection of owners of lands with native Venus Flytraps from collection without the owner's consent, or from theft of flytraps cultivated by the landowner. Existing rules require flytrap diggers to have written permission from the landowner. The proposed changes would require the collector to have the signed permission from the owner on their person while collecting, for inspection by wildlife officers.

Comment Procedures: Comments may be submitted in writing no later than October 3, 1996, to Cecil Frost, Secretary, North Carolina Plant Conservation Board, PO Box 27647, Raleigh, NC 27611.

Fiscal Note: These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

CHAPTER 48 - PLANT INDUSTRY

SUBCHAPTER 48F - PLANT CONSERVATION

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

.0301 ENDANGERED PLANT SPECIES LIST

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

- (1) Adiantum capillus-veneris -- L.
Venus Hair Fern;
- (+) (2) Aeschynomene virginica -- (L.) B.S.P.
Sensitive Jointvetch;
- (-) (3) Amorpha georgiana var. georgiana -- Wilbur
Georgia Indigo-bush;
- (-) (4) Arethusa bulbosa -- L.
Bog Rose;
- (4) (5) Asplenium heteroresiliens -- ~~W. H.~~ W.H.
Wagner
Carolina Spleenwort;
- (-) (6) Asplenium monanthes -- L.
Single-sorus Spleenwort;
- (6) (7) Aster depauperatus -- ~~Fernald~~ parviceps --
(Burgess) Mackenzie & Bush
~~Serpentine Aster;~~ Glade Aster;
- (7) (8) Bryocrumia andersonii -- (Bartr.) Anders.
Gorge Moss;
- (8) (9) Buckleya distichophylla -- (Nuttall) Torrey
Piratebush;
- (9) (10) Calamagrostis cainii -- Hitchcock
Cain's Reed Grass;
- (11) Calopogon multiflorus -- Lindl.
Many-flowered Grass-Pink;
- (+0) (12) Cardamine micranthera -- Rollins
Small-anthered Bittercress;
- (+1) (13) Carex aenea -- Fernald
Fernald's Hay Sedge;
- (+2) (14) Carex barrattii -- Schweinitz and Torrey
Barratt's Sedge;
- (15) Carex lutea -- LeBlond
Golden Sedge;
- (16) Carex oligosperma -- Michx.
Few-seeded Sedge;
- (+3) (17) Carex schweinitzii -- Dewey ex Schweinitz
Schweinitz's Sedge;
- (+4) (18) Chrysoma pauciflosculosa -- (Michx.) Greene
Woody Goldenrod;
- (+5) (19) Conioselinum chinense -- (L.) B.S.P.
Hemlock Parsley;
- (+6) (20) Cystopteris tennesseensis -- Shaver

- Tennessee Bladderfern;
(17) (21) *Delibarda repens* -- L.
Robin Runaway;
(18) (22) *Delphinium exaltatum* -- Aiton
Tall Larkspur;
(19) (23) *Echinacea laevigata* -- (Boynton and Beadle)
Blake
Smooth Coneflower;
(20) (24) *Eriocaulon lineare* -- Small
Linear Pipewort;
(21) (25) *Filipendula rubra* -- (Hill) B.L. Robins.
Queen-of-the-Prairie;
(22) (26) *Gentianopsis crinita* -- (Froelich) Ma
Fringed Gentian;
(23) (27) *Geum radiatum* -- Michaux
Spreading Avens;
(24) (28) *Grammitis nimbata* -- (Jenm.) Proctor
Dwarf Polypody Fern;
(29) Gymnocarpium appalachianum -- Pryer & Haufler
Appalachian Oak Fern;
(30) Helenium brevifolium -- (Nutt.) Wood
Littleleaf Sneezeweed;
(31) Helenium vernale -- Walt.
Spring Sneezeweed;
(25) (32) *Helianthus schweinitzii* -- T. & G.
Schweinitz's Sunflower;
(26) (33) *Hexastylis contracta* -- Blomquist
Mountain Heartleaf;
(27) ~~*Hexastylis naniflora* -- Blomquist~~
~~Dwarf-flowered Heartleaf~~;
(34) Hierochloa odorata -- (L.) Beauv.
Holy Grass;
(28) (35) *Houstonia purpurea* var. *montana* -- (Small)
Terrell
Mountain Bluet;
(29) (36) *Hudsonia montana* -- Nutt.
Mountain Golden Heather;
(30) (37) *Hydrastis canadensis* -- L.
Goldenseal;
(31) (38) *Isotria medeoloides* -- (Pursh) Raf.
Small Whorled Pogonia;
(39) Juncus caesariensis -- Coville
Rough Rush;
(32) (40) *Juncus trifidus* ssp. *carolinianus* -- Hamet
Ahti
One-flowered Rush;
(33) (41) *Kalmia cuneata* -- Michaux
White Wicky;
(34) (42) *Lindera melissaefolia* -- (Walter) Blume
Southern Spicebush;
(35) (43) *Lindera subcoriacea* -- Wofford
Bog Spicebush;
(36) (44) *Lophiola aurea* -- Ker-Gawl.
Golden Crest;
(37) (45) *Lysimachia asperulaefolia* -- Poiret
Rough-leaf Loosestrife;
(38) (46) *Lysimachia fraseri* -- Duby
Fraser's Loosestrife;
(39) (47) *Minuartia godfreyi* -- (Shinners) McNeill
Godfrey's Sandwort;
(40) (48) *Minuartia uniflora* -- (Walter) Mattfield
Single-flowered Sandwort;
(41) (49) *Muhlenbergia torreyana* -- (Schultes) Hitch-
cock
Torrey's Muhly;
(42) (50) *Myrica gale* -- L.
Sweet Gale;
(43) (51) *Narthecium americanum* -- Ker
Bog Asphodel;
(44) (52) *Orbexilum macrophyllum* -- (Rowlee ex
Small) Rydberg
Bigleaf Scurfpea;
(45) (53) *Orthotrichum keeverae* -- Crum & Anders.
Keever's Bristle Moss;
(46) (54) *Oxypolis canbyi* -- (Coult. & Rose) Fern.
Canby's Cowbane;
(55) Panicum hirstii -- Swallen
Hirst's Panic Grass;
(47) (56) *Parnassia caroliniana* -- Michaux
Carolina Grass-of-Parnassus;
(48) (57) *Pellaea wrightiana* -- Hooker
Wright's Cliff-brake Fern;
(49) (58) *Plagiochila caduciloba*
A Liverwort;
(50) (59) *Plantago cordata* -- Lam.
Heart-leaf Plantain;
(51) (60) *Plantago sparsiflora* -- Michaux
Pineland Plantain;
(52) (61) *Platanthera integrilabia* -- (Correll) Leur
White Fringeless Orchid;
(53) (62) *Poa paludigena* -- Fernald & Wiegand
Bog Bluegrass;
(54) (63) *Pteroglossaspis ecristata* -- (Fernald) Rolfe
Eulophia;
(55) (64) *Ptilimnium nodosum* -- (Rose) Mathias
Harperella;
(56) (65) *Pyxidanthra barbulata* var. *brevifolia* --
(Wells) Ahles
Wells' Pyxie-moss;
(57) (66) *Rhus michauxii* -- Sargent
Michaux's Sumac;
(58) (67) *Rhynchospora crinipes* -- Gale
Mosquito Beak Sedge;
(59) (68) *Rhynchospora macra* -- (C.B. Clarke) Small
Large Beak Sedge;
(69) Rhynchospora thornei -- Kral
Thorne's Beaksedge;
(60) (70) *Rudbeckia heliopsisidis* -- Torr. & Gray
Sun-facing coneflower;
(61) (71) *Sagittaria fasciculata* -- E.O. Beal
Bunched Arrowhead;
(62) (72) *Sarracenia jonesii* -- Wherry
Mountain Sweet Pitcher Plant;
(63) (73) *Sarracenia oreophila* -- (Kearney) Wherry

- (64) (74) *Schwalbea americana* -- L.
Chaffseed;
- (65) (75) *Sedum pusillum* -- Michaux
Puck's Orpine;
- (66) (76) *Sedum rosea* -- (L.) Scop.
Roseroot;
- (67) (77) *Senecio schweinitzianus* -- Nuttall
Schweinitz's Groundsel;
- (68) (78) *Shortia galacifolia* -- T. & G.
Oconee Bells;
- (69) (79) *Sisyrinchium dichotomum* -- Bicknell
Reflexed Blue-eyed Grass;
- (80) Solidago plumosa -- Small
Yadkin River Goldenrod;
- (70) (81) *Solidago ptarmicoides* -- (Nees) Boivin
Prairie Goldenrod;
- (71) (82) *Solidago pulchra* -- Small
Carolina Goldenrod;
- (72) (83) *Solidago spithamea* -- M.A. Curtis
Blue Ridge Goldenrod;
- (73) ~~*Solidago verna* -- M.A. Curtis ex T. & G.
Spring-flowering Goldenrod~~;
- (84) Sphagnum fuscum -- (Schimp.) Klinggr.
Brown Peatmoss;
- (74) (85) *Spiraea virginiana* -- Britton
Virginia Spiraea;
- (75) (86) *Sporobolus heterolepis* -- Gray
Prairie Dropseed;
- (76) (87) *Stylisma pickeringii* var. *pickeringii* --
(Torrey ex M.A. Curtis) Gray
Pickering's Morning Glory;
- (77) (88) *Thalictrum cooleyi* -- Ahles
Cooley's Meadowrue;
- (78) (89) *Tortula ammonsiana* -- Crum & Anders.
Ammon's Tortula;
- (79) (90) *Trillium pusillum* -- Michaux
Carolina Least Trillium;
- (80) (91) *Trisetum spicatum* var. *molle* -- (Michaux)
Beal
Soft Trisetum.

Authority G.S. 106-202.15.

.0302 THREATENED PLANT SPECIES LIST

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

- (1) *Amaranthus pumilus* -- Raf.
Seabeach Amaranth;
- (2) *Amorpha georgiana* var. *confusa* -- Wilbur
Savanna Indigo-bush;
- (3) *Aster georgianus* -- Alexander
Georgia Aster;
- (4) *Astragalus michauxii* -- (Kuntze) F.J. Herm.
Sandhills Milkvetch;
- (5) *Baptisia minor* -- Lehmann
Prairie Blue Indigo;

- (3) (6) *Cacalia rugelia* -- (Shuttl. ex Chapm) Barkley
& Cronq.
Rugel's Ragwort;
- (4) (7) *Camassia scilloides* -- (Raf.) Cory
Wild Hyacinth;
- (5) (8) *Carex conoidea* -- Willd.
Cone-shaped Sedge;
- (6) (9) *Carex exilis* -- Dewey
Coastal Sedge;
- (7) (10) *Carya myristicaeformis* -- (Michaux f.)
Nuttall
Nutmeg Hickory;
- (8) (11) *Eleocharis halophila* -- Fern. & Brack.
Salt Spikerush;
- (9) (12) *Eupatorium resinosum* -- Torr. ex DC.
Resinous Boneset;
- (10) (13) *Fimbristylis perpusilla* -- Harper ex Small &
Britton
Harper's Fringe-rush;
- (11) (14) *Geum geniculatum* -- Michaux
Bent Avens;
- (12) (15) *Glyceria nubigena* -- W.A. Anderson
Smoky Mountain Mannagrass;
- (13) (16) *Gymnoderma lineare* -- (Evans) Yoshimura
& Sharp
Gnome Finger Lichen;
- (14) (17) *Helonias bullata* -- L.
Swamp Pink;
- (18) *Hexastylis naniflora* -- Blomquist
Dwarf-flowered Heartleaf;
- (15) (19) *Ilex collina* -- Alexander
Long-stalked Holly;
- (16) (20) *Isoetes piedmontana* -- (Pfeiffer) Reed
Piedmont Quillwort;
- (17) (21) *Liatris helleri* -- (Porter) Porter
Heller's Blazing Star;
- (18) (22) *Lilaeopsis carolinensis* -- Coult. & Rose
Carolina Lilaeopsis;
- (19) (23) *Lilium grayi* -- Watson
Gray's Lily;
- (24) *Lilium iridollae* -- Henry
Pot-of-gold Lily;
- (25) *Macbridea caroliniana* -- (Walt.) Blake
Carolina Bogmint;
- (20) (26) *Menyanthes trifoliata* -- L.
Buckbean;
- (21) (27) *Myriophyllum laxum* -- Schuttlew. ex Chap-
man
Loose Watermilfoil;
- (28) *Parnassia grandifolia* -- DC.
Large-leaved Grass-of-Parnassus;
- (22) (29) *Platanthera integra* -- (Nuttall) Gray ex Beck
Yellow Fringeless Orchid;
- (23) (30) *Platanthera nivea* -- (Nutt.) Luer
Snowy Orchid;
- (24) (31) *Portulaca smallii* -- P. Wilson
Small's Portulaca;

- (25) (32) *Rhexia aristosa* -- Britton
Awned Meadow-beauty;
- (26) (33) *Ruellia humilis* -- Nutt.
Low Wild-petunia;
- (27) (34) *Sabatia kennedyana* -- Fern.
Plymouth Gentian;
- (28) (35) *Schisandra glabra* -- (Brickel) Rehder
Magnolia-vine;
- (29) (36) *Schlotheimia lancifolia* -- Bartr.
Highlands Moss;
- (30) (37) *Senecio millefolium* -- T. & G.
Divided-leaf Ragwort;
- (38) *Solidago verna* -- M.A. Curtis
Spring-flowering Goldenrod;
- (39) *Spiranthes longilabris* -- Lindl.
Giant Spiral Orchid;
- (34) (40) *Sporobolus teretifolius* -- Harper
Wireleaf Dropseed;
- (32) (41) *Thelypteris simulata* -- (Davenp.) Nieuwl.
Bog Fern;
- (33) (42) *Trichomanes boschianum* -- Sturm ex Bosch
Appalachian Filmy-fern;
- (34) (43) *Trichomanes petersii* -- A. Gray
Dwarf Filmy-fern;
- (35) (44) *Trillium discolor* -- Wray ex Hook.
Mottled Trillium;
- (36) (45) *Utricularia olivacea* -- Wright ex Grisebach
Dwarf Bladderwort.

Authority G.S. 106-202.15.

.0304 PLANT SPECIES OF SPECIAL CONCERN

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

- (1) *Cystopteris tennesseensis* -- Shaver
Tennessee Bladderfern;
- (2) *Delphinium exaltatum* -- Aiton
Tall Larkspur;
- (3) *Echinacea laevigata* -- (Boynton & Beadle) Blake
Smooth Coneflower;
- (4) *Gentianopsis crinita* -- (Froehlich) Ma
Fringed Gentian;
- (5) *Geum radiatum* -- Michaux
Spreading Avens;
- (6) *Hydrastis canadensis* -- L.
Goldenseal, Orangeroot;
- (7) *Kalmia cuneata* -- Michaux
White Wicky;
- (8) *Pellaea wrightiana* -- Hooker
Wright's Cliff-brake Fern;
- (9) *Rhus michauxii* -- Sargent
Michaux's Sumac;
- (10) *Sarracenia jonesii* -- Wherry
Mountain Sweet Pitcher Plant;

- (11) *Sarracenia oreophila* -- (Kearney) Wherry
Green Pitcher Plant;
- (12) *Shortia galacifolia* -- T. & G.
Oconee Bells.

(b) Special Concern Threatened Plant Species are those species that appear on both the Threatened Species List and on the Special Concern Species List and which can be offered for propagation to qualified propagators under permit.

- (1) *Eupatorium resinosum* -- Torr. ex DC.
Resinous Boneset;
- (+) (2) *Helonias bullata* -- L.
Swamp Pink;
- (2) (3) *Liatris helleri* -- (Porter) Porter
Heller's Blazing Star;
- (3) (4) *Lilium grayi* -- Watson
Gray's Lily;
- (4) (5) *Sabatia kennedyana* -- Fern.
Plymouth Gentian;
- (5) (6) *Schisandra glabra* -- (Brickel) Rehder
Magnolia Vine.

(c) Special Concern Not Endangered or Threatened Plant Species are those species that appear on the Special Concern Species List but do not appear on the Endangered Species List or the Threatened Species List and which it shall be unlawful to distribute, sell or offer for sale except as otherwise provided in the rules.

- (1) *Dionaea muscipula* -- Ellis
Venus Flytrap;
- (2) *Panax quinquefolius* -- L.
Ginseng.

Authority G.S. 106-202.15.

.0305 COLLECTION AND SALE OF GINSENG

(a) Definitions:

- (1) Department. The North Carolina Department of Agriculture.
- (2) Ginseng. Any plant of the species *Panax quinquefolius* including cuttings, roots, fruits, seeds, propagules or any other plant part.
- (3) Ginseng Dealer. Any person who purchases or otherwise obtains ginseng roots which have been collected or cultivated in North Carolina in any quantity for commercial use. This definition does not include those persons who directly collect or cultivate ginseng roots, or who obtain ginseng roots for their own personal use.
- (4) Export Certificate. A document issued to allow the export or shipment of ginseng out of the State by certifying that the ginseng covered by the document was legally collected or grown in North Carolina.
- (5) Inspector. An employee of the North Carolina Department of Agriculture or any other person authorized by the Commissioner to enforce these Rules.

- (6) Person. Individual, corporation, partnership, firm, or association.
- (7) Record of Ginseng Purchase. A document completed by a ginseng dealer on a form provided by the Department to record ginseng purchases.
- (8) Record of Harvest Season Collection. A document completed and signed by a collector of wild ginseng and by an Inspector, certifying that the ginseng covered by the document was legally collected during the harvest season.
- (9) Statement Indicating Legal Collection of Ginseng from One's Own Land. A document completed and signed by a person verifying that the wild collected ginseng being sold was collected from that person's own land.

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

(c) Collection of Ginseng:

- (1) Harvest Season for the Collection of Ginseng. The ginseng harvest season will be from September 1 through April 1. Harvesting ginseng outside of this period is prohibited except when the plants are dug from one's own land.
- (2) Collectors Harvesting or Selling Outside of the Harvest Season. Any person collecting wild ginseng outside of the harvest season must complete a Statement Indicating Legal Collection of Ginseng from One's Own Land before selling the ginseng. This form is available from ginseng dealers. Any person collecting ginseng within the harvest season but wishing to sell the ginseng outside of the season must complete a Record of Harvest Season Collection and have it signed by an Inspector before the end of the harvest season; the form is available from Inspectors.
- (3) The Replanting of Ginseng. All persons collecting ginseng from the wild are encouraged to plant the seeds of collected plants in the immediate vicinity of where they are found.
- (4) Any person collecting wild ginseng on the lands of another shall, at time of collection, have on their person written permission from the landowner, as required under G.S. 106-202.19(1).
- (5) Possession of freshly dug ginseng on the lands of another shall constitute prima facie evidence that the ginseng was taken from the same land on which the collector was found.

(d) Purchase and Sale of Ginseng:

- (1) Ginseng Dealer Permits. All ginseng dealers shall obtain a permit from the Plant Industry Division of the Department prior to purchasing ginseng. Permits shall be valid from July 1 or the date of issue, whichever is later, to the following June 30. No ginseng may be purchased by a ginseng

dealer without a current permit.

- (2) Buying Season for Ginseng. The buying season for wild collected ginseng will be from September 1 through the following April 1 for green ginseng and from September 15 through the following April 1 for dried ginseng. To buy wild collected ginseng outside of this buying season a ginseng dealer must obtain from the collector either:
 - (A) a completed Statement Indicating Legal Collection of Ginseng from One's Own Land; or
 - (B) a Record of Harvest Season Collection completed by the collector and signed by an Inspector.
- (3) Purchase Records. Every ginseng dealer shall keep a record of each purchase of ginseng collected or grown in North Carolina on the applicable Record of Ginseng Purchases provided by the Department. Forms from previous years, copies, or any forms other than those provided by the Department for the current permit period shall not be used. Records of Ginseng Purchases shall be made available for inspection by an Inspector and shall be surrendered to an Inspector upon issuance of an Export Certificate or on a periodic basis. The applicable Statement Indicating Legal Collection of Ginseng from One's Own Land or Record of Harvest Season Collection shall be attached to any Record of Ginseng Purchases recording a purchase of wild collected ginseng collected outside of the harvest season or bought outside of the buying season.
- (4) Purchase of Ginseng from Other Ginseng Dealers. All ginseng dealers who purchase ginseng from other ginseng dealers located in North Carolina shall purchase only from those ginseng dealers that have valid dealer permits. Such purchases shall be recorded in a Record of Dealer-Dealer Transactions. Ginseng purchased from ginseng dealers who lack valid permits will not be certified for export or shipment out of the State.
- (5) Exportation and Shipment of Ginseng. All persons who have ginseng in any quantity and wish to export or ship any amount out of the state shall obtain an export certificate from an Inspector. To obtain an export certificate a person must have accurate records of his purchases, present and surrender the original Record of Ginseng Purchases upon issuance of an export certificate and possess a valid ginseng dealer's permit.

Authority G.S. 106-202.15.

.0306 COLLECTION AND SALE OF VENUS FLYTRAP

(a) Definitions:

- (1) Department. The North Carolina Department of

Agriculture.

- (2) Flytrap, Venus Flytrap. Any plant of the species *Dionaea muscipula* including cuttings, roots, fruits, seeds, propagules or any other plant part.
 - (3) Person. Individual, corporation, partnership, firm, or association.
- (b) Collection of flytraps:
- (1) Venus Flytraps may not be uprooted, dug, taken or otherwise disturbed or removed for any purpose from the lands of another without a written permit from the owner which is dated and valid for no more than 180 days except that the incidental disturbance of flytraps during agricultural, forestry or development operations is not illegal so long as the plants are not collected for sale or barter.
 - (2) Venus Flytraps may not be uprooted, dug, taken or otherwise disturbed or removed for any purpose from public lands in North Carolina without a written permit from the agency which is responsible for administration for such public lands.
 - (3) The Replanting of Flytraps. All persons collecting flytraps from the wild are encouraged to plant the seeds of collected plants, if any, in the immediate vicinity of where they are found.
 - (4) Any person collecting Venus Flytraps on the lands of another shall, at time of collection, have on their person written permission from the landowner, as required under G.S. 106-202.19(1).
 - (5) Possession of freshly dug Venus Flytraps on the lands of another shall constitute prima facie evidence that the plants were taken from the same land on which the collector was found.
- (c) Sale of flytraps: No person may sell or offer for sale Venus Flytraps unless they have been lawfully collected, propagated from lawfully obtained stock plants or seed, or collected from one's own land.

Authority G.S. 106-202.15.

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

CHAPTER 3 - FACILITY SERVICES

SUBCHAPTER 3R - CERTIFICATE OF NEED REGULATIONS

SECTION .3000 - STATE MEDICAL FACILITIES PLAN

Notice is hereby given that the Division of Facility Services intends to extend the written comment period from September 13, 1996 to September 18, 1996 for rules cited as 10 NCAC 3R .3001, .3010, .3020, .3030, .3032, .3040, .3050. These are the permanent version of the

temporary rules which were published in Volume 11, Issue 8 of the North Carolina Register. The public hearing on these rules has been rescheduled and will be held at 10:30 a.m. on Wednesday, September 18, 1996 at the Council Building, Room 201, Dorothea Dix Campus, 701 Barbour Drive, Raleigh, NC. Questions or written comments regarding this matter may be directed to Mr. Jackie Sheppard, APA Coordinator, Division of Facility Services, 701 Barbour Drive, P.O. Box 29530, Raleigh, NC 27262-0530.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the EHN/NC Marine Fisheries Commission intends to amend rules cited as 15A NCAC 3I .0001, .0005; 3J .0202; 3L .0102, .0201; 3M .0503, .0506, 3R .0006 - .0007. Notice of Rule-making Proceedings was published in the Register on May 1, 1996 and July 1, 1996.

Proposed Effective Date: April 1, 1997

All Public Hearings will be conducted at 7:00 p.m. on:

September 19, 1996

Archdale Building
Ground Floor Hearing Room
512 N. Salisbury Street

Raleigh, NC

September 23, 1996

NC Aquarium
Airport Road
Manteo, NC

September 24, 1996

Beaufort County Community College
Six miles east of Washington
Washington, NC

September 25, 1996

UNCW

Cameron Hall
601 S. College Road
Wilmington, NC

September 26, 1996

Duke University Marine Lab Auditorium
Pivers Island
Beaufort, NC

Reason for Proposed Action:

15A NCAC 3I .0001 - (1) To amend the definition of peeler crab to prohibit the retention of white line peelers during hot temperatures when mortality is higher. (2) To define pound net, a gear regulated within existing rules.

15A NCAC 3I .0005 - To prohibit the abandonment of pots which continue to capture resources and allow for hardship provision.

15A NCAC 3L .0102 - To prohibit the use of shrimp trawls

in the Atlantic Ocean on weekends south of Baldhead Island.
15A NCAC 3L .0201 - To reduce the percentage of under-size crabs allowed and to require peelers to be separated where taken.

15A NCAC 3M .0202 - To grant proclamation authority to the Fisheries Director to establish size and bag limits for striped bass taken by hook-and-line.

15A NCAC 3M .0503 - Technical correction to reference to rules.

15A NCAC 3M .0506 - Technical amendment to correct spelling of grouper.

15A NCAC 3R .0006 - To allow the use of more than one peeler crab trawl in areas restricted to trawling.

15A NCAC 3R .0007 - Technical correction to descriptions of areas where pots may be placed.

Comment Procedures: Comments and statements, both written and oral, may be presented at the hearing. Written comments are encouraged and may be submitted to the Marine Fisheries Commission, PO Box 769, Morehead City, NC 28557. These written and oral comments must be received no later than October 31, 1996. Oral presentation lengths may be limited, depending on the number of people that wish to speak at the public hearings.

Fiscal Note: These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

CHAPTER 3 - MARINE FISHERIES

SUBCHAPTER 3I - GENERAL RULES

.0001 DEFINITIONS

(a) All definitions set out in G.S. 113, Subchapter IV apply to this Chapter.

(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. From June 15 through December 31, white line peelers do not meet the definition of peeler crab.
- (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, or temperature controls utilizing proven technology not found in the natural environment.
- (20) Critical habitat areas. The 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.
- (24) Live rock. Living marine organisms or an assemblage thereof attached to a hard substrate including dead coral or rock (excluding mollusk shells). For example, such living marine organisms associated with hard bottoms, banks, reefs, and live rock may include, but are not limited to:
 - (A) Animals:
 - (i) Sponges (Phylum Porifera);
 - (ii) Hard and Soft Corals, Sea Anemones (Phylum Cnidaria):
 - (I) Fire corals (Class Hydrozoa);
 - (II) Gorgonians, whip corals, sea pansies, anemones, Solenastrea (Class Anthozoa);
 - (iii) Bryozoans (Phylum Bryozoa);
 - (iv) Tube Worms (Phylum Annelida):
 - (I) Fan worms (Sabellidae);
 - (II) Feather duster and Christmas tree worms (Serpulidae);
 - (III) Sand castle worms (Sabellariidae).
 - (v) Mussel banks (Phylum Mollusca:Gastropoda);
 - (vi) Colonial barnacles (Arthropoda:Crustacea:Megabalanus sp.).
 - (B) Plants:
 - (i) Coralline algae (Division Rhodophyta);
 - (ii) Acetabularia sp., Udotea sp., Halimeda sp., Caulerpa sp. (Division Chlorophyta);

- (iii) Sargassum sp., Dictyopteris sp., Zonaria sp. (Division Phaeophyta).
- (25) Coral:
 - (A) Fire corals and hydrocorals (Class Hydrozoa);
 - (B) Stony corals and black corals (Class Anthozoa, Subclass Scleractinia);
 - (C) Octocorals; Gorgonian corals (Class Anthozoa, Subclass Octocorallia):
 - (i) Sea fans (Gorgonia sp.);
 - (ii) Sea whips (Leptogorgia sp. and Lophogorgia sp.);
 - (iii) Sea pansies (Renilla sp.).
- (26) Shellfish production on leases and franchises:
 - (A) The culture of oysters, clams, scallops, and mussels, on shellfish leases and franchises from a sublegal harvest size to a marketable size.
 - (B) The transplanting (relay) of oysters, clams, scallops and mussels from designated areas closed due to pollution to shellfish leases and franchises in open waters and the natural cleansing of those shellfish.
- (27) Shellfish marketing from leases and franchises. The harvest of oysters, clams, scallops, mussels, from privately held shellfish bottoms and lawful sale of those shellfish to the public at large or to a licensed shellfish dealer.
- (28) Shellfish planting effort on leases and franchises. The process of obtaining authorized cultch materials, seed shellfish, and polluted shellfish stocks and the placement of those materials on privately held shellfish bottoms for increased shellfish production.
- (29) Pound Net. A fish trap consisting of a holding pen, one or more enclosures, wings, and a lead or leaders.

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

.0005 LEAVING DEVICES UNATTENDED

(a) It is unlawful to leave stakes, anchors, nets, pots, buoys, or floating devices in any coastal fishing waters when such devices are not being employed in fishing operations except as otherwise provided by rule or General Statute.

(b) It is unlawful to leave pots in any coastal fishing waters for more than ten consecutive days, when such pots are not being employed in fishing operations, except upon a timely and sufficient showing of hardship as defined in Subparagraph (b)(2) of this Rule or as otherwise provided by General Statute.

- (1) Agents of the Fisheries Director may tag pots with a device approved by the Fisheries Director to aid and assist in the investigation and identification of unattended pots. Any such device attached to a pot by agents of the Fisheries Director must

be removed by the individual utilizing the pot within ten days of attachment in order to demonstrate that the pot is being employed in fishing operations.

- (2) For the purposes of Paragraph (b) of this Rule only, a timely and sufficient showing of hardship shall be written notice given to the Fisheries Director that the death, illness or incapacity of the owner of the pot or his immediate family prevented or will prevent employing such pots in fishing operations more than ten consecutive days. The notice shall be received by the Fisheries Director before any pot is left in coastal fishing waters for ten consecutive days without being employed in fishing operations, shall state the name of the owner or immediate family member, the date of death, the date and nature of the illness or incapacity, the number and location of the pots, and the date on which the pots will be returned to fishing operations or removed from coastal fishing waters. The Fisheries Director may require a doctor's verification of the illness or incapacity or written verification of the date of death. Failure to remove from coastal fishing waters or return to fishing operations all pots for which notice of hardship is received under this Rule within 14 days of the expiration of the hardship shall be violation of this Rule, and such pots may be removed and disposed of at the discretion of the Fisheries Director.

(c) It is unlawful to set or have any fishing equipment in coastal fishing waters in violation of this Section or which contains edible species of fish unfit for human consumption.

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

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

SECTION .0200 - NETS RULES, SPECIFIC AREAS

.0202 ATLANTIC OCEAN

In the Atlantic Ocean:

- (1) It is unlawful to use nets from June 15 through August 15 in the waters of Masonboro Inlet or in the ocean within 300 yards of the beach between Masonboro Inlet and a line running 138° through the water tank on the northern end of Wrightsville Beach, a distance parallel with the beach of 4,400 yards.
- (2) It is unlawful to use trawls within one-half mile of the beach between the Virginia line and Oregon Inlet.
- (3) It is unlawful to use a trawl with a mesh length less than four inches in the main body, three inches in the extension, and one and three-fourths

inches in the cod end or tail bag inshore of a line beginning at a point 34° 41' 18" N - 76° 40' 08" W on the western side of Beaufort Inlet Channel (the present location of buoy "11" QK F1); thence westward parallel to and one-half mile from the ocean back to a point 34° 40' 32" N - 76° 53' 45" W off Salter Path.

- (4) It is unlawful to use trawl nets, including flynets, southwest of the 9960-Y chain 40250 LORAN C line (running offshore in a southeasterly direction) from Cape Hatteras to the North Carolina/South Carolina line except:
 - (a) Shrimp trawls as defined in 15A NCAC 3L .0103;
 - (b) Crab trawls as defined in 15A NCAC 3L .0202; or
 - (c) Flounder trawls as defined in 15A NCAC 3M .0503.
- (5) 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.
- (6) It is unlawful to use gill nets in the Atlantic Ocean with a mesh length greater than seven inches from April 15 through December 15.
- (7) It is unlawful to use shrimp trawls in all waters west of a line beginning at the southeastern tip of Baldhead Island 33° 50' 29" N - 77° 57' 28" W running 173° (M) to a point in the Atlantic Ocean 33° 46' 16" N - 77° 56' 24" W, between one hour after sunset and one hour before sunrise.

Authority G.S. 113-134; 113-182; 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 trawl~~ between one hour after sunset on any Friday and one hour before sunset on the following ~~Sunday, except:~~ Sunday:

- (1) ~~In the Atlantic Ocean all internal coastal waters; and~~
- (2) ~~With the use of fixed and channel nets, hand seines, and cast nets. In all waters west of a line beginning at the southeastern tip of Baldhead Island 33° 50' 29" N - 77° 57' 28" W running 173° (M) to a point in the Atlantic Ocean 33° 46' 16" N - 77° 56' 24" W.~~

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

SECTION .0200 - CRABS

.0201 SIZE LIMIT AND CULLING TOLERANCE

(a) It is unlawful to possess ~~hard blue~~ blue crabs less than five inches from tip of spike to tip of ~~spike except mature spike.~~ Mature females females, soft and "peelers" peeler crabs are exempt from this limitation.

(b) A tolerance shall be allowed ~~Tolerance~~ of not more than 15 10 percent by number of crabs less than five inches in any container, any portion examined shall be allowed. ~~In determining whether the proportion of undersize crabs exceeds the 15 percent tolerance limit, the Fisheries Director and his agents are authorized and empowered to grade all, or any portion, or any combination of portions of the entire quantity of crabs being graded, and in cases of violations, may require seizure and return to the waters, or other disposition as authorized by law.~~

(c) ~~(b)~~ All crabs ~~shall be culled by the catcher where harvested and all crabs~~ less than legal size except mature ~~females females, soft and "peelers"~~ shall be immediately returned to the waters from which taken. "Peelers" shall be separated from the entire catch in a separate container where harvested, before reaching shore or dock. "Peelers" not separated upon inspection shall be deemed hard crabs and are not exempt from the size restrictions specified in Paragraph (a) of this Rule.

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

SUBCHAPTER 3M - FINFISH

SECTION .0500 - OTHER FINFISH

.0503 FLOUNDER

(a) It is unlawful to possess flounder less than 13 inches in length.

(b) Between October 1 and April 30, it shall be unlawful to use a trawl in the Atlantic Ocean within three miles of the ocean beach from the North Carolina/Virginia state line (35° 33' N) to Cape Lookout (34° 36' N) unless each trawl has a cod end (tailbag) mesh length greater than 5 1/2 inches diamond mesh (stretched) or 6 inches square mesh (stretched) applied throughout the cod end for at least 75 continuous meshes forward of the terminus (end) of the net, or the terminal one-third portion of a net, measured from the terminus of the cod end to the head rope for cod ends with less than 75 meshes, except as provided in Paragraphs (i) and (j) of this Rule.

(c) License to Land Flounder from the Atlantic Ocean:

- (1) It is unlawful to land more than 100 pounds per trip of flounder taken from the Atlantic Ocean unless the vessel has been issued a License to Land Flounder from the Atlantic Ocean.
- (2) It is unlawful for a fish dealer to purchase or offload more than 100 pounds of flounder taken from the Atlantic Ocean by a vessel that has not first procured a valid North Carolina License to Land Flounder from the Atlantic Ocean.
- (3) To qualify for a North Carolina License to Land

Flounder from the Atlantic Ocean, a vessel shall have:

- (A) been licensed under G.S. 113-152 or 113-153 during any two of the 1992-93, 1993-94, or 1994-95 license years, and
 - (B) landed in North Carolina at least 1,000 pounds of flounder each year from the Atlantic Ocean during any two of the 1992-93, 1993-94, or 1994-95 license years for which the vessel was licensed to land in North Carolina.
- (4) At least 10 days prior to issuance, applicants for the license shall complete an application form provided by the Division of Marine Fisheries and submit it to the North Carolina Division of Marine Fisheries, Post Office Box 769, 3441 Arendell Street, Morehead City, North Carolina 28557. The following information is required:
- (A) Valid documentation papers or current motor boat registration or copy thereof;
 - (B) Proof of required licenses and flounder landings data for that vessel during the years the vessel was licensed. Licenses shall be issued to qualifying vessels at no fee and only from the Morehead City Office of the Division of Marine Fisheries.
- (5) Licenses may only be transferred:
- (A) with the transfer of the ownership of a vessel holding a License to Land Flounder from the Atlantic Ocean to the new owner of that vessel, or
 - (B) by the owner of a vessel to another vessel under the same ownership. The vessel owner is only eligible for the same number of Licenses to Land Flounder from the Atlantic Ocean for which his boats qualify,
 - (C) any transfer of license under this Paragraph must be facilitated through the Division of Marine Fisheries Morehead City Office only.
- (6) It is unlawful for any individual to land flounder from the Atlantic Ocean without having ready at hand for inspection a valid License to Land Flounder from the Atlantic Ocean, except as specified in Subparagraph (c)(1) of this Rule.
- (7) Suspension or Revocation:
- (A) A License to Land Flounder from the Atlantic Ocean issued under this Rule shall be subject to suspension or revocation pursuant to the provisions of 15A NCAC 3P, except that this license shall be subject to revocation pursuant to the provisions of G.S. 113-166 when the licensee is convicted of a criminal offense within the jurisdiction of the Department under the provisions of Subchapter IV of G.S. 113,

or of the rules of the Marine Fisheries Commission adopted under the authority of that Subchapter.

- (B) The Division may commence proceedings under 15A NCAC 3P, for suspension or revocation of a License to Land Flounder from the Atlantic Ocean if it finds:
 - (i) the license was obtained by providing any false information or willfully omitting required information when the information is material to the securing of the license; or
 - (ii) the license was falsified, fraudulently altered, or counterfeited; or
 - (iii) the licensee practices any fraud or deception designed to evade the provisions of this Rule or reasonable administrative directives made under the authority of this Rule or G.S. 113-182(b)(3).
- (d) It is unlawful to transfer flounder taken from the Atlantic Ocean from one vessel to another.
- (e) It is unlawful to possess flounder less than 14 inches total length taken by hook-and-line or gig from the Atlantic Ocean.
- (f) It is unlawful to possess more than 8 flounder per person per day taken by hook-and-line or gig from the Atlantic Ocean.
- (g) Persons with a vessel endorsement to sell or a nonvessel endorsement to sell are exempt from the possession limit in Paragraphs (e) and (f) and ~~(g)~~ of this Rule.
- (h) Tailbag liners of any mesh size, the multiple use of two or more cod ends, or other netting material that in any way could restrict the legal size mesh required by this Rule, shall not be used or possessed on the deck of a vessel in the Atlantic Ocean between October 1 and April 30 from the North Carolina/Virginia state line (36° 33' N) to Cape Lookout (34° 36' N).
- (i) Trawls with a cod end mesh size smaller than described in Paragraph (b) of this Rule may be used or possessed on the deck of a vessel provided not more than 100 pounds of flounder per trip from May 1 through October 31 or more than 200 pounds from November 1 through April 30 is possessed aboard or landed from that vessel.
- (j) Flynets are exempt from the flounder trawl mesh requirements if they meet the following definition:
 - (1) The net has large mesh in the wings that measure 8 inches to 64 inches;
 - (2) The first body section (belly) of the net has 35 or more meshes that are at least 8 inches; and
 - (3) The mesh decreases in size throughout the body of the net to as small as 2 inches or smaller towards the terminus of the net.
- (k) Season.
 - (1) The North Carolina season for landing ocean-caught flounder shall open January 1 each year.

If 70 percent of the quota allocated to North Carolina in accordance with the joint Mid-Atlantic Fisheries Management Council-Atlantic States Marine Fisheries Commission Fishery Management Plan for Summer Flounder is projected to be taken, the Fisheries Director shall, by proclamation, close North Carolina ports to landing of flounder taken from the ocean.

- (2) During the closed season, vessels may land up to 100 pounds of flounder per trip taken from the Atlantic Ocean.
- (3) The season for landing flounder taken in the Atlantic Ocean shall reopen November 1.

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

.0506 SNAPPER-GROUPER

(a) The Fisheries Director may, by proclamation, impose any or all of the following restrictions in the fishery for species of the snapper-grouper complex listed in the South Atlantic Fishery Management Council Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region:

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

The species of the snapper-grouper complex listed in the South Atlantic Fishery Management Council Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region is hereby incorporated by reference and copies are available at the Division of Marine Fisheries, P.O. Box 769, Morehead City, North Carolina 28557 at no cost.

(b) It is unlawful to possess black sea bass less than eight inches total length taken south of Cape Hatteras (35° 15' N, Latitude).

(c) It is unlawful to possess gag grouper (gray grouper) less than 20 inches total length.

(d) It is unlawful to possess black grouper less than 20 inches total length.

(e) It is unlawful to possess red snapper less than 20 inches total length.

(f) It is unlawful to possess red grouper less than 20 inches total length.

(g) It is unlawful to possess yellowfin grouper (fireback grouper) less than 20 inches total length.

(h) It is unlawful to possess scamp less than 20 inches total length.

(i) It is unlawful to possess yellowmouth grouper less than 20 inches total length.

(j) Greater amberjack:

- (1) It is unlawful to possess greater amberjack less than 36 inches fork length except that persons

fishing under the bag limit established in Subparagraph (2) of this Paragraph may possess a minimum 28 inch amberjack.

- (2) It is unlawful to possess more than three greater amberjack per person per day.

(k) Vermilion Snapper:

- (1) It is unlawful to possess vermillion snapper (beeliner) less than 12 inches total length except that persons fishing under the bag limit established in Subparagraph (2) of this Paragraph may possess 10 inch vermillion snapper.
- (2) It is unlawful to possess more than 10 vermillion snapper per person per day taken for non-commercial purposes.

- (l) It is unlawful to possess silk snapper (yelloweye snapper) less than 12 inches total length.

(m) It is unlawful to possess blackfin snapper (hambone snapper) less than 12 inches total length.

(n) It is unlawful to possess red porgy (pink or silver snapper) less than 12 inches total length.

(o) Speckled hind (Kitty Mitchell) and Warsaw grouper:

- (1) It is unlawful to sell or offer for sale speckled hind or Warsaw grouper.
- (2) It is unlawful to possess more than one speckled hind or one Warsaw ~~group~~ grouper per vessel per trip.

(p) Combined Bag Limit for Snapper. It is unlawful to possess more than 10 vermillion snappers and 10 other species of snappers, of which no more than two may be red snapper, taken in any one day unless fishing aboard a vessel holding a federal vessel permit for snapper-grouper authorizing the bag limit to be exceeded.

(q) Combined Bag Limit for Grouper:

- (1) It is unlawful to possess more than five grouper taken in any one day unless fishing aboard a vessel holding a federal vessel permit for snapper-grouper authorizing the bag limit to be exceeded.
- (2) Vessels holding a federal permit authorizing the bag limit to be exceeded may not possess more than one speckled hind or one Warsaw grouper.

(r) It is unlawful to possess Nassau grouper or jewfish.

(s) Fish Traps/Pots:

- (1) It is unlawful to use or have on board a vessel fish traps for taking snappers and groupers except sea bass pots as allowed in Subparagraph (2) of this Paragraph.
- (2) Sea bass may be taken with pots that conform with the federal rule requirements for mesh sizes and pot size as specified in 50 CFR Part 646.2 and openings and degradable fasteners specified in 50 CFR Part 646-22(c)(2)(i).

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

SUBCHAPTER 3R - DESCRIPTIVE BOUNDARIES

.0006 TRAWL NETS PROHIBITED

It is unlawful to use trawl nets except that the Fisheries Director may, by proclamation, open the areas described in Items (11) - (16) of this Rule to peeler crab trawling to single-rigged trawls as defined in 15A NCAC 3L ~~.0202~~ .0202, or to double-rigged boats whose combined total headrope length does not exceed 25 feet and may, by proclamation, between October 15 and December 31, open the areas described in Items (8) - (16) of this Rule to the harvest of shrimp:

- (1) 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 082° (M) 5,800 yards to a point on the shore of Hatteras Island at the south point of Eagle Nest Bay 35° 43' 42" N - 75° 30' 54" 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 the south shore of Snode Creek 35° 18' 06" N - 76° 37' 34" W; running 091° (M) to Store Point 35° 18' 09" N - 76° 37' 56" 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° 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;
 - (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° 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;
 - (17) In 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.

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:
 - (A) In Wysocking Bay:
 - (i) Bound by a line beginning at a point on the south shore of Lone Tree Creek 35° 25' 05" N - 76° 02' 05" W running 239° (M) 1000 yards to a point 35° 24' 46" N - 76° 02' 32" W; thence 336° (M) 2200 yards to a point 35° 25' 42" N - 76° 03' 16" W; thence 062° (M) 750 yards to a point on shore 35° 25' 54" N - 76° 02' 54" W; thence following the shoreline and the Lone Tree Creek primary nursery area line to the beginning point;
 - (ii) Bound by a line beginning at a point on the south shore of Mt. Pleasant Bay 35° 23' 07" N - 76° 04' 12" W running 083° (M) 1200 yards to a

- point 35° 23' 17" N - 76° 03' 32" W; thence 023° (M) 2400 yards to a point 35° 24' 27" N - 76° 03' 12" W; thence 299° (M) 1100 yards to a point on shore 35° 24' 38" N - 76° 04' 48" W; thence following the shoreline and the Browns Island and Mt. Pleasant Bay primary nursery area line to the beginning point; except pots may be set no more than 50 yards from the shoreline.
- (B) In Juniper Bay bound by a line beginning at a point on Juniper Bay Point 35° 20' 18" N - 76° 13' 22" W running 275° (M) 2300 yards to a point 35° 20' 15" N - 76° 14' 45" W; thence 007° (M) 2100 yards to Daymarker No. 3; thence 040° (M) 1100 yards to a point on shore 35° 21' 45" N - 76° 14' 24" W; thence following the shoreline and the Buck Creek and the Laurel Creek primary nursery area line to the beginning point.
- (C) In Swanquarter Bay, bound by a line beginning at a point on the north shore of Caffee Bay 35° 21' 57" N - 76° 17' 44" W; running 191° (M) 800 yards to a point on the south shore 35° 21' 35" N - 76° 17' 45" W; thence following the shoreline to a point on shore 35° 21' 37" N - 76° 18' 22" W; thence running 247° (M) 1300 yards to a point 35° 21' 17" N - 76° 19' 03" W; thence 340° (M) 1350 yards to a point 35° 21' 51" N - 76° 19' 27" W; thence 081° (M) 1150 yards to a point on the north shore 35° 22' 02" N - 76° 18' 48" W; thence following the shoreline and the primary nursery area line to the beginning point.
- (D) In Deep Cove east of a line beginning at a point on the south shore 35° 20' 33" N - 76° 22' 57" W, running 021° (M) 1800 yards to a point on the north shore 35° 21' 55" N - 76° 22' 43" W and west of a line beginning at a point on the south shore 35° 20' 44" N - 76° 22' 05" W running 003° (M) 1400 yards to a point on the north shore 35° 21' 26" N - 76° 22' 11" W.
- (E) 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.
- (F) 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.
- (G) 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.
- (H) 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.
- (I) 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.
- (J) 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.

(K) 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:

(A) In that area bound by a line beginning at a point on the line from Pamlico Point to Willow Point 35° 19' 24" N - 76° 28' 56" W running westerly parallel to the shoreline at a distance of no more than 1000 yards to 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.

(B) All coastal waters and tributaries of Oyster Creek, James Creek, Middle Prong and Clark Creek.

(C) All coastal waters of Goose Creek:

(i) In that area bound by a line beginning at a point on Reed Hammock 35° 20' 24" N - 76° 36' 51" W running 171° (M) 300 yards to a point 35° 20' 16" N - 76° 36' 48" W; thence parallel with the shoreline no more than 300 yards from shore to a point 35° 20' 09" N - 76° 37' 10" W; thence 302° (M) 300 yards to a point on shore 35° 20' 13" N -

76° 37' 19" W.

(ii) In that area bound by a line beginning at a point on shore 35° 19' 58" N - 76° 37' 33" W; running 291° (M) 300 yards to a point 35° 19' 57" N - 76° 37' 21" W; thence parallel to the shoreline no more than 300 yards from shore to a point 35° 18' 16" N - 76° 37' 16" W; thence 292° (M) to a point on the north shore of Snode Creek 35° 18' 15" N - 76° 37' 27" W.

(iii) In that area bound by a line beginning at a point at the mouth of Goose Creek 35° 19' 59" N - 76° 36' 41" W; running 348° (M) to Green Daymarker No. 5; thence south parallel to the shoreline no more than 300 yards from shore to a point 35° 18' 12" N - 76° 37' 07" W; thence 112° (M) to Store Point 35° 18' 09" N - 76° 36' 57" W.

(iv) Between the line from Store Point to Snode Creek and a line beginning at a point on Long Neck Point running 264° (M) through Beacon No. 15 to Huskie Point from the shoreline to no more than 150 yards from shore.

(v) All coastal waters southeast of the line from Long Neck Point through Beacon No. 15 to Huskie Point.

(vi) Campbell Creek - west of a line from a point on Huskie Point 35° 17' 00" N - 76° 37' 06" W running 004° (M) to Pasture Point 35° 17' 20" N - 76° 37' 08" W, to the Inland-Commercial line.

(D) All coastal waters bound by a line beginning on Reed Hammock 35° 20' 24" N - 76° 36' 51" W running 171° (M) to a point 35° 20' 16" N - 76° 36' 47" W; thence 100° (M) 800 yards to Red Daymarker No. 4; thence 322° (M) 1200 yards to a point 35° 20' 40" N - 76° 36' 48" W; thence westerly parallel to the shoreline at a distance of 300 yards to a point in Bond Creek 35° 20' 40" N - 76° 41' 37" W; thence 199° (M) to a point on the south shore of Muddy Creek 35° 20' 18" N - 76° 41' 34" W, including all waters of Muddy Creek up to the Inland-Coastal boundary line.

(E) Along the west shore of Bond Creek from Fork Point to the Coastal-Inland boundary line from the shoreline to no more than 50 yards from shore.

(F) All coastal waters of South Creek upstream

- of a line beginning at a point on Fork Point 35° 20' 45" N - 76° 41' 47" W running 017° (M) to a point on Hickory Point 35° 21' 44" N - 76° 41' 36" W.
- (G) In that area bound by a line beginning at a point at the six foot depth contour south of Hickory Point 35° 21' 33" N - 76° 41' 39" W; thence easterly following the six foot depth contour to a point off the east end of Indian Island 35° 21' 42" N - 76° 38' 04" W; thence 270° (M) to a point on the east end of Indian Island 35° 21' 38" N - 76° 38' 36" W; thence following the shoreline of Indian Island to a point on the west end 35° 21' 37" N - 76° 39' 40" W; thence 293° (M) toward Daymarker No. 1 to a point at the six foot depth contour 35° 21' 46" N - 76° 40' 16" W; thence following the six foot depth contour in a westerly direction to a point off Long Point 35° 22' 42" N - 76° 42' 44" W; thence 233° (M) to a point on shore 35° 22' 24" N - 76° 43' 05" W.
- (H) Beginning at a point on shore near Long Point 35° 22' 29" N - 76° 43' 25" W, running 001° (M) to a point 300 yards offshore 35° 22' 39" N - 76° 43' 26" W; thence westerly parallel to the shoreline at a distance of 300 yards to a point 35° 22' 39" N - 76° 43' 59" W; thence 209° (M) to a point on shore 35° 22' 30" N - 76° 44' 03" W.
- (I) Beginning at a point on shore 35° 22' 30" N - 76° 44' 27" W, running 355° (M) to a point offshore 35° 22' 40" N - 76° 44' 31" W; thence westerly parallel to the shoreline at a distance of 300 yards to a point 35° 22' 53" N - 76° 45' 00" W; thence running 251° (M) to a point on shore 35° 22' 46" N - 76° 45' 14" W.
- (J) Beginning at a point on shore 35° 22' 54" N - 76° 45' 43" W; running 003° (M) to a point offshore 35° 23' 03" N - 76° 45' 43" W; thence westerly parallel to the shoreline at a distance of 300 yards to the intersection of a line beginning on the north shore at Gum Point 35° 25' 09" N - 76° 45' 33" W; running 210° (M) to a point on the south shore 35° 23' 28" N - 76° 46' 26" W.
- (K) All coastal waters west of a line beginning on the north shore at Gum Point 35° 25' 09" N - 76° 45' 33" W running 210° (M) to a point on the south shore 35° 23' 28" N - 76° 46' 26" W.
- (L) On the north side of Pamlico River bound by a line beginning at the intersection of the line from Gum Point to the south shore 500 yards from shore 35° 24' 55" N - 76° 45' 39" W running easterly parallel to the shoreline at a distance of 500 yards to a point at the six foot contour near Adams Point 35° 23' 08" N - 76° 35' 59" W.
- (M) All waters and tributaries of North Creek except the marked navigation channel.
- (N) In that area bound by a line beginning at a point at the six foot contour near Adams Point 35° 23' 08" N - 76° 35' 59" W running westerly following the six foot depth contour to a point off Wades Point 35° 23' 28" N - 76° 34' 09" W.
- (O) Pungo River:
- (i) Bound by a line beginning at Wades Point 35° 23' 16" N - 76° 34' 30" W running 059° (M) to a point at the six foot depth contour, 35° 23' 28" N - 76° 34' 09" W; thence northerly following the six foot depth contour to a point near Beacon No. 3 35° 25' 44" N - 76° 34' 46" W; thence 272° (M) 950 yards to a point on shore 35° 25' 41" N - 76° 35' 22" W.
 - (ii) Bound by a line beginning at a point on shore 35° 25' 50" N - 76° 35' 37" W running 050° (M) 1150 yards to a point at 35° 26' 17" N - 76° 35' 10" W; thence northerly following the six foot depth contour to a point 35° 26' 54" N - 76° 36' 09" W; thence 314° (M) 350 yards to a point on shore 35° 27' 00" N - 76° 36' 20" W.
 - (iii) Bound by a line beginning at a point on shore 35° 27' 14" N - 76° 36' 26" W running 077° (M) 800 yards to a point 35° 27' 23" N - 76° 36' 02" W; thence northerly following the six foot depth contour to a point off Windmill Point 35° 30' 50" N - 76° 38' 09" W; thence 076° (M) to a point 200 yards west of Daymarker No. 3 35° 31' 21" N - 76° 36' 37" W; thence 312° (M) to a point at the "Breakwater" 35° 31' 36" N - 76° 37' 05" W.
 - (iv) All coastal waters bound by a line beginning at a point at the "Breakwater" 200 yards northeast of Beacon No. 6 35° 31' 47" N - 76° 36' 51" W running 132° (M) to a point 200 yards from Daymarker No. 4 35° 31' 31" N - 76° 36' 21" W; thence running 102° (M) to a point

- 35° 31' 28" N - 76° 35' 59" W; thence running 010° (M) to Beacon No. 1; thence running 045° (M) 700 yards to a point on shore 35° 32' 22" N - 76° 35' 42" W.
- (v) All coastal waters north and east of a line beginning at a point on shore west of Lower Dowry Creek 35° 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 the intersection of the line from a point 500 yards west of Currituck Point 35° 24' 30" N - 76° 32' 42" W; thence southeasterly parallel to the shoreline and including Abel Bay at a distance of 500 yards to a point at the intersection of the line from Pamlico Point to Willow Point 35° 22' 09" N - 76° 28' 48" W.
- (6) In Bay River west of a line beginning at a point on Maw Point 35° 09' 02" N - 76° 32' 09" W running 022° (M) to a point on Bay Point 35° 11' 02" N - 76° 31' 34" W, pots may be used in the following areas:
- (A) In that area beginning at a point on Maw Point 35° 09' 02" N - 76° 32' 09" W; running 018° (M) to Green Daymarker No. 1; thence 223° (M) to a point on shore in Fisherman Bay 35° 09' 18" N - 76° 32' 23" W.
- (B) In Fisherman Bay bound by a line beginning at a point on the shore west of Maw Point 35° 09' 18" N - 76° 33' 02" W; thence 351° (M) 3200 yards to lighted Beacon No. 3 in Bay River; thence 230° (M) 1200 yards to a point on the shore 35° 10' 24" N - 76° 34' 00" W.
- (C) In that area bound by a line beginning at a point on the east shore at the mouth of Bonners Bay 35° 10' 05" N - 76° 35' 18" W; thence 306° (M) 300 yards to a point in Bay River, 35° 10' 10" N - 76° 35' 30" W; thence parallel to the shoreline no more than 300 yards from shore to a point in

- Bay River 35° 10' 40" N - 76° 34' 42" W; thence 188° (M) to a point on shore 35° 10' 27" N - 76° 34' 42" W.
- (D) In Bonner Bay bound by a line beginning at a point on the east shore 35° 10' 05" N - 76° 35' 18" W running 306° (M) 200 yards to a point 35° 10' 09" N - 76° 35' 25" W; thence parallel to the shoreline no more than 200 yards offshore to a point 35° 09' 16" N - 76° 35' 18" W; thence 097° (M) 200 yards to a point on shore 35° 09' 16" N - 76° 35' 13" W.
- (E) In Bonner Bay, Spring Creek and Long Creek south of a line beginning at a point on the east shore 35° 09' 16" N - 76° 35' 13" W running 274° (M) to a point on the west shore 35° 09' 14" N - 76° 35' 43" W.
- (F) In Bonner Bay bound by a line beginning at a point on the west shore 35° 09' 14" N - 76° 35' 44" W running 094° (M) 100 yards to a point 35° 09' 13" N - 76° 35' 39" W; thence parallel to the shoreline no more than 100 yards offshore to a point in Riggs Creek 35° 09' 15" N - 76° 36' 08" W; thence 142° (M) to a point on shore 35° 09' 13" N - 76° 36' 08" W.
- (G) In that area bound by a line beginning on the south shore of Bay River west of Bell Point 35° 09' 40" N - 76° 40' 00" W, running 314° (M) to a point 200 yards offshore 35° 09' 43" N - 76° 40' 06" W; thence no more than 200 yards from the shoreline to a point 35° 09' 53" N - 76° 36' 45" W; thence 102° (M) to a point 35° 09' 50" N - 76° 35' 54" W; thence 181° (M) to a point 35° 09' 36" N - 76° 35' 51" W; thence 237° (M) to a point in Riggs Creek 35° 09' 18" N - 76° 36' 12" W; thence 322° (M) to a point on shore at the mouth of Riggs Creek 35° 09' 21" N - 76° 36' 18" W.
- (H) In that area on the south side of Bay River bound by a line beginning at a point on shore at the confluence of Bay River and Trent Creek 35° 08' 27" N - 76° 43' 12" W running 016° (M) 150 yards to a point 35° 08' 31" N - 76° 43' 11" W; thence no more than 150 yards from shore to a point 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.
- (I) In Bay River and Trent Creek west of a line beginning at a point on the south shore 35° 08' 27" N - 76° 43' 12" W running 016° (M) to a point on the north shore 35° 08' 41" N - 76° 43' 09" W.
- (J) In that area on the north shore of Bay River bound by a line beginning at a point west of Vandemere Creek 35° 10' 53" N - 76° 39' 42" W running 135° (M) 150 yards to a point 35° 10' 52" N - 76° 39' 39" W; thence no more than 150 yards from shore to a point at the confluence of Bay River and Trent Creek 35° 08' 37" N - 76° 43' 10" W; thence to a point on the north shore 35° 08' 39" N - 76° 43' 09" W.
- (K) In Vandemere Creek northeast of a line beginning at a point on the east shore 35° 11' 04" N - 76° 39' 22" W running 315° (M) to a point on the west shore 35° 11' 12" N - 76° 39' 36" W.
- (L) In that area bound by a line beginning at a point at the mouth of Vandemere Creek 35° 11' 04" N - 76° 39' 22" W, running 216° (M) 200 yards to a point in Bay River 35° 10' 58" N - 76° 39' 25" W; thence parallel to the shoreline no more than 200 yards from shore to a point in Bay River northwest of Beacon No. 4 35° 10' 40" N - 76° 36' 38" W; thence 344° (M) 200 yards to a point on shore 35° 10' 45" N - 76° 36' 42" W.
- (M) In that area bound by a line beginning at a point on Sanders Point 35° 11' 19" N - 76° 35' 54" W; running 067° (M) 200 yards to a point 35° 11' 23" N - 76° 35' 47" W; thence following the shoreline no more than 200 yards from shore to a point in Bay River northwest of Beacon No. 4 35° 10' 40" N - 76° 36' 38" W; thence 344° (M) 200 yards to a point on the shore 35° 10' 45" N - 76° 36' 42" W.
- (N) In that area beginning at a point on shore 35° 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.
- (O) In that area bound by a line beginning at a point on shore at the mouth of Gale Creek 35° 12' 08" N - 76° 34' 52" W, running 278° (M) 200 yards to a point in Bay River 35° 12' 08" N - 76° 35' 02" W; thence running parallel to the shoreline at a distance of 200 yards to a point in Bay River 35° 11' 32" N - 76° 33' 24" W; thence running 352° (M) 200 yards to a point on shore at Dump Creek 35° 11' 39" N - 76° 33' 25" W.

- (P) In Gale Creek except the Intracoastal Waterway north of a line beginning at a point on the west shore 35° 12' 08" N - 76° 35' 12" W running 098° (M) to a point on the west shore 35° 12' 08" N - 76° 34' 52" W.
- (Q) In an area bound by a line beginning at a point on the eastern shore at the mouth of Rockhole Bay 35° 11' 06" N - 76° 32' 11" W; thence 180° (M) 600 yards to a point in Bay River 35° 10' 49" N - 76° 32' 09" W; thence east with the five foot curve 1100 yards to a point 35° 10' 36" N - 76° 31' 30" W; thence 000° (M) 850 yards to a point on Bay Point 35° 11' 02" N - 76° 31' 34" W.
- (7) In the Neuse River and West Bay Area south and west of a line beginning at a point on Maw Point 35° 09' 02" N - 76° 32' 09" W, running 137° (M) through the Maw Point Shoal Day Marker No. 2 and through the Neuse River Entrance Light to a point at the mouth of West Bay 35° 02' 09" N - 76° 21' 53" W, pots may be set in the following areas:
- (A) All coastal fishing waters northwest of a line beginning at a point at the mouth of Slocum Creek 34° 57' 02" N - 76° 53' 42" W, running 029° (M) to a point at the mouth of Beards Creek 35° 00' 08" N - 76° 52' 13" W. Pots may also be set in coastal fishing waters of Goose Bay and Upper Broad Creek.
- (B) In that area bound by a line beginning at a point on the north shore at Mill Creek 34° 59' 34" N - 76° 51' 06" W; thence running 223° (M) approximately 300 yards into the river to a point 34° 59' 25" N - 76° 51' 14" W; thence along the six foot depth curve southeast to a point at the rock jetty 34° 58' 06" N - 76° 49' 14" W; thence 016° (M) approximately 300 yards to a point on the shore 34° 58' 17" N - 76° 49' 12" W.
- (C) In that area bound by a line beginning at a point on the north shore approximately 500 yards west of Pierson Point 34° 58' 32" N - 76° 46' 38" W; thence running 171° (M) approximately 300 yards into the river to a point 34° 58' 24" N - 76° 46' 34" W; thence east and northeast along the six foot curve to a point in the river 34° 58' 47" N - 76° 45' 39" W; thence 330° (M) approximately 700 yards to a point on the shore 50 yards west of an existing pier 34° 59' 04" N - 76° 45' 54" W.
- (D) In that area bound by a line beginning at a point on the north shore east of Dawson Creek Bridge 34° 59' 34" N - 76° 45' 12" W; thence running 244° (M) approximately 500 yards to Day Marker No. 4 (entrance to Dawson Creek Channel); thence running east 117° (M) to a point 34° 59' 22" N - 76° 45' 19" W; thence east and northeast along the six foot curve to a point 50 yards west of Day Marker No. 3 (channel to Oriental) 35° 01' 02" N - 76° 41' 51" W; thence 303° (M) approximately 600 yards to a point on the eastern tip of Windmill Point 35° 01' 10" N - 76° 42' 08" W.
- (E) In Greens Creek (Oriental) west of a line at the confluence of Greens and Kershaw Creeks beginning at a point on the south shore 35° 01' 28" N - 76° 42' 55" W running 005° (M) to a point on the north shore 35° 01' 38" N - 76° 42' 54" W, no more than 75 yards from the shoreline east of this line to the Highway 55 bridge.
- (F) In that area bound by a line beginning at a point on Whittaker Point 35° 01' 37" N - 76° 40' 56" W; thence running 192° (M) approximately 500 yards to a point in the river 35° 01' 23" N - 76° 40' 57" W; thence along the six foot depth curve northeast to a point in the river off Orchard Creek 35° 03' 18" N - 76° 37' 53" W; thence 280° (M) approximately 900 yards to a point on the eastern tip of Cockle Point 35° 03' 20" N - 76° 38' 27" W.
- (G) In that area bound by a line beginning at a point on the north shore near the mouth of Orchard Creek 35° 03' 38" N - 76° 37' 54" W running 177° (M) approximately 400 yards to a point 35° 03' 27" N - 76° 37' 54" W; thence along the six foot depth curve to a point eastward; thence 174° (M) 600 yards to a point on the north shore 35° 03' 56" N - 76° 36' 42" W.
- (H) In that area bound by a line beginning at a point on the north shore approximately 400 yards south of Gum Thicket Creek 35° 04' 12" N - 76° 36' 11" W; thence running 132° (M) approximately 600 yards to a point 35° 03' 55" N - 76° 35' 48" W; thence along the six foot depth curve eastward to a point 35° 04' 10" N - 76° 34' 37" W; thence 304° (M) to a point on the shore 400 yards north of Gum Thicket Creek 35° 04' 38" N - 76° 35' 42" W.
- (I) In Lower Broad Creek 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.
- (J) Piney Point Shoal Area, in that area bound by a line beginning at a point on the north side of a creek (locally known as Wadin or Persimmon Creek) 35° 07' 17" N - 76° 33' 26" W running 115° (M) approximately 300 yards to a point near the six foot depth curve 35° 07' 15" N - 76° 33' 16" W; thence south and southeast along the six foot depth curve to a point east of the old lighthouse 35° 05' 17" N - 76° 32' 42" W; thence 288° (M) through the old lighthouse to a point on shore north of Red Day Marker No. 2 at the mouth of Broad Creek 35° 05' 42" N - 76° 35' 18" W.
- (K) In that area bound by a line beginning at a point on the south shore of Maw Bay 35° 08' 32" N - 76° 32' 38" W; thence running 114° (M) to Maw Point Shoal Day Marker No. 2; thence 317° (M) to Maw Point 35° 08' 55" N - 76° 32' 11" W.
- (L) In that area east of Slocum Creek bound by a line beginning at a point 34° 57' 02" N - 76° 53' 42" W; thence running 029° (M) approximately 1100 yards to a point 34° 57' 32" N - 76° 53' 28" W; thence along the six foot curve to a point 34° 56' 34" N - 76° 49' 38" W; thence 176° (M) approximately 300 yards to a point 34° 56' 26" N - 76° 49' 35" W.
- (M) In that area bound by a line beginning at a point 34° 56' 22" N - 76° 49' 05" W, running 057° (M) approximately 1100 yards to Day Marker "2" off Cherry Point; thence 097° (M) approximately 200 yards to a point 34° 56' 42" N - 76° 48' 27" W; thence along the six foot curve to a point 34° 55' 10" N - 76° 45' 40" W; thence 187° (M) approximately 400 yards to a point on Temple Point 34° 54' 58" N - 76° 45' 40" W.
- (N) In that area southeast of a line beginning at a point at the mouth of Clubfoot Creek 34° 55' 20" N - 76° 45' 09" W running 076° (M) to a point on shore 34° 55' 37" N - 76° 44' 23" W.
- (O) In Clubfoot Creek south of a line beginning at a point on the east shore 34° 54' 30" N - 76° 45' 26" W, running 284° (M) to a point on the west shore 34° 54' 33" N - 76° 45' 43" W. Pots may be set 50 yards from shore north of this line.
- (P) In that area bound by a line beginning at the western tip of Great Island 34° 55' 47" N - 76° 44' 50" W; thence running 275° (M) approximately 500 yards to a point 34° 55' 46" N - 76° 45' 07" W; thence 029° (M) approximately 1400 yards to a point 34° 56' 24" N - 76° 44' 48" W; thence 120° (M) to a point 34° 56' 06" N - 76° 43' 59" W; thence 232° (M) to a point on Great Island 34° 55' 50" N - 76° 44' 17" W.
- (Q) In that area bound by a line beginning at a point west of Long Creek 34° 55' 38" N - 76° 44' 18" W running 064° (M) to a point 34° 55' 57" N - 76° 43' 43" W; thence 138° (M) to a point on shore at the mouth of Great Neck Creek 34° 55' 50" N - 76° 43' 25" W.
- (R) In that area bound by a line beginning at a point at the mouth of Great Neck Creek 34° 55' 50" N - 76° 43' 25" W, running 318° (M) 750 yards to a point 34° 56' 04" N - 76° 43' 47" W; thence following the shoreline no more than 750 yards from shore to a point 34° 56' 50" N - 76° 43' 11" W; thence 116° (M) 750 yards to a point on shore at Courts Creek 34° 56' 42" N - 76° 42' 46" W.
- (S) In that area bound by a line beginning at a point on Courts Creek 34° 56' 42" N - 76° 42' 46" W, running 296° (M) 1000 yards to a point 34° 56' 52" N - 76° 43' 20" W; thence parallel with the shoreline no more than 1000 yards to a point 34° 57' 53" N - 76° 41' 59" W; thence 190° (M) 1000 yards to a point on shore 34° 57' 24" N - 76° 42' 00" W.
- (T) In that area bound by a line beginning at a point on shore, 34° 57' 24" N - 76° 42' 00" W, running 010° (M) 500 yards to a point 34° 57' 38" N - 76° 42' 00" W; thence running parallel to the shoreline no more than 500 yards from shore to a point 34° 57' 33" N - 76° 41' 00" W; thence 179° (M) to a point 34° 57' 23" N - 76° 40' 58" W; thence 260° (M) to a point on shore at the mouth of Adams Creek 34° 57' 22" N - 76° 41' 10" W.
- (U) In that area bound by a line beginning at a point on the northeast side of Adams Creek 34° 57' 30" N - 76° 40' 36" W; thence 278° (M) 225 yards offshore to a point 34° 57' 30" N - 76° 40' 45" W; thence 359° (M) to a point off Winthrop Point 34° 58' 26" N - 76° 40' 56" W; thence running 056° (M) to a point off Cedar Point 34° 59' 07" N - 76° 40' 04" W; thence 140° (M) to the shoreline on Cedar Point 34° 58' 50" N - 76° 39' 41" W.
- (V) In that area bound by a line beginning at a point on Cedar Point 34° 58' 50" N - 76°

- 39' 41" W, running 320° (M) 750 yards to a point 34° 59' 05" N - 76° 40' 01" W; thence parallel to the shoreline no more than 750 yards from shore to a point 34° 59' 16" N - 76° 39' 31" W; thence 167° (M) to a point on shore 34° 58' 56" N - 76° 39' 21" W.
- (W) In that area bound by a line beginning at a point on shore 34° 58' 56" N - 76° 39' 21" W running 347° (M) to a point 34° 59' 03" N - 76° 39' 24" W; thence parallel to the shoreline no more than 200 yards from shore to a point 34° 59' 08" N - 76° 38' 47" W; thence 184° (M) to a point on shore 34° 59' 01" N - 76° 35' 25" W.
- (X) In that area bound by a line beginning at a point west of Garbacon Creek 34° 59' 01" N - 76° 38' 43" W, running 004° (M) 750 yards to a point 34° 59' 23" N - 76° 38' 46" W; thence parallel with the shoreline no more than 750 yards from shore to a point off Browns Creek 35° 00' 20" N - 76° 33' 45" W; thence 172° (M) to the shoreline on the west side of Browns Creek 34° 59' 57" N - 76° 33' 35" W.
- (Y) In that area bound by a line beginning at a point on shore at the mouth of Browns Creek 34° 59' 55" N - 76° 33' 29" W, running 352° (M) 750 yards to a point on 35° 00' 22" N - 76° 33' 34" W; thence parallel to the shoreline no more than 750 yards from shore to a point 35° 01' 45" N - 76° 29' 51" W; thence 162° (M) 750 yards to a point on shore north of Cedar Bay Point 35° 01' 22" N - 76° 29' 34" W.
- (Z) In that area bound by a line beginning on the north side of Rattan Bay at a point on the shoreline 35° 03' 45" N - 76° 28' 32" W; thence running 316° (M) 600 yards offshore to a point 35° 03' 54" N - 76° 28' 52" W; thence running parallel with the shoreline 600 yards offshore to a point 35° 04' 09" N - 76° 26' 44" W; thence 239° (M) 600 yards to a point on shore 35° 04' 57" N - 76° 27' 00" W.
- (AA) In Adams Creek:
- (i) Between a line running 080° (M) through Red Flasher No. 4 at the mouth of Adams Creek and a line beginning at a point on the south shore of Cedar Creek 34° 55' 52" N - 76° 38' 49" W, running 297° (M) to a point on the west shore of Adams Creek 34° 56' 03" N - 76° 39' 27" W, no more than 200 yards from shore.
 - (ii) Between a line beginning at a point at the mouth of Cedar Creek 34° 55' 52" N - 76° 38' 49" W; running 297° (M) to a point on the west shore of Adams Creek 34° 56' 03" N - 76° 39' 27" W, and a line beginning at a point on the east shore 34° 54' 55" N - 76° 39' 36" W; running 280° (M) to a point on the west shore 34° 54' 55" N - 76° 40' 01" W; no more than 300 yards from the west shore and 200 yards from the east shore.
- (iii) South of a line beginning at a point on the east shore 34° 54' 55" N - 76° 39' 36" W, running 280° (M) to a point on the west shore 34° 54' 55" N - 76° 40' 01" W, except in the marked navigation channel.
- (BB) In South River:
- (i) Southeast of a line beginning at a point on the southwest shore 34° 58' 35" N - 76° 35' 25" W, running 049° (M) through Red Flasher No. 2 to a point on the northeast shore 34° 59' 07" N - 76° 34' 52" W, no more than 200 yards from the shoreline.
 - (ii) That area bound by a line beginning at a point on the southwest shore 34° 58' 35" N - 76° 35' 25" W, running 049° (M) to Red Flasher No. 2; thence running 207° (M) to a point north of Hardy Creek 34° 58' 13" N - 76° 35' 22" W; thence following the shoreline to the point of beginning.
- (CC) In Turnagain Bay:
- (i) Between a line running 077° (M) through Green Flasher No. 1 and a line beginning at a point on the east shore 34° 59' 04" N - 76° 29' 01" W; running 276° (M) to a point on the west shore 34° 59' 03" N - 76° 29' 28" W, no more than 300 yards on the east shore and 100 yards on the west shore.
 - (ii) Between a line beginning at a point on the east shore 34° 59' 04" N - 76° 29' 01" W, running 276° (M) to a point on the west shore 34° 59' 03" N - 76° 29' 28" W, and a line beginning at a point on the east shore 34° 57' 56" N - 76° 29' 25" W, running 275° (M) to a point on the west shore 34° 57' 58" N - 76° 29' 44" W, no more than 150 yards from shore.

- (DD) In West Bay - North Bay area:
- (i) In that area bound by a line beginning at a point $35^{\circ} 02' 32''$ N - $76^{\circ} 22' 27''$ W; thence southwest 220° (M) to Marker No. 5 WB; thence southeast 161° (M) to a point in West Bay $35^{\circ} 00' 34''$ N - $76^{\circ} 21' 50''$ W; thence southwest 184° (M) to Deep Bend Point $34^{\circ} 58' 36''$ N - $76^{\circ} 21' 48''$ W; thence following the shoreline of West Bay and North Bay to a point $35^{\circ} 02' 09''$ N - $76^{\circ} 21' 53''$ W; thence 317° (M) to the beginning point.
 - (ii) In West Bay bound by a line beginning at a point on shore $35^{\circ} 03' 34''$ N - $76^{\circ} 26' 24''$ W, running 033° (M) 100 yards to a point $35^{\circ} 03' 38''$ N - $76^{\circ} 26' 23''$ W; thence parallel to the shoreline no more than 100 yards from shore to a point $35^{\circ} 00' 06''$ N - $76^{\circ} 25' 24''$ W, running 278° (M) to a point on shore $35^{\circ} 00' 06''$ N - $76^{\circ} 25' 28''$ W.
 - (iii) In West Bay bound by a line beginning at a point $35^{\circ} 00' 06''$ N - $76^{\circ} 25' 28''$ W, running 098° (M) 500 yards to a point $35^{\circ} 00' 06''$ N - $76^{\circ} 25' 12''$ W; thence 171° (M) 2800 yards to a point $34^{\circ} 58' 45''$ N - $76^{\circ} 24' 42''$ W; thence 270° (M) 1400 yards to a point on shore $34^{\circ} 58' 39''$ N - $76^{\circ} 25' 22''$ 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 $34^{\circ} 58' 42''$ N - $76^{\circ} 22' 49''$ W; thence southwest 258° (M) to Marker F1 R15 ft. 3M 8 WB; thence southwest 203° (M) to Long Bay Point $34^{\circ} 57' 52''$ N - $76^{\circ} 24' 12''$ W.
- (FF) 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 $34^{\circ} 57' 13''$ N - $76^{\circ} 27' 12''$ W; running northeast 077° (M) across Stump Bay to a point $34^{\circ} 57' 39''$ N - $76^{\circ} 25' 51''$ W; thence 032° (M) to a point $34^{\circ} 58' 39''$ N - $76^{\circ} 25' 22''$ W, following the shoreline to the beginning point.
 - (ii) Southwest of a line beginning on the west shore $34^{\circ} 57' 13''$ N - $76^{\circ} 27' 12''$ W, running 134° (M) to a point on the east shore at Swimming Point $34^{\circ} 56' 46''$ N - $76^{\circ} 26' 26''$ W.
 - (iii) In the area bound by a line beginning at a point on shore at Swimming Point $34^{\circ} 56' 46''$ N - $76^{\circ} 26' 26''$ W, running 314° (M) 300 yards to a point $34^{\circ} 56' 52''$ N - $76^{\circ} 26' 33''$ W; thence parallel to the shoreline no more than 300 yards from shore to a point $34^{\circ} 58' 03''$ N - $76^{\circ} 24' 10''$ W; thence 203° (M) to Long Bay Point $34^{\circ} 57' 52''$ N - $76^{\circ} 24' 12''$ W.
- (GG) Raccoon Island, on the northeast shore between a point on the northwest shore $35^{\circ} 04' 27''$ N - $76^{\circ} 26' 16''$ W and a point on the southwest shore $35^{\circ} 04' 00''$ N - $76^{\circ} 25' 33''$ W from the shoreline no more than 150 yards from shore; on the south and west shores, no more than 50 yards from the shoreline.
- (8) Core Sound, Back Sound and the Straits and their tributaries.
- (9) North River:
- (A) In that area bound by a line beginning at a point on the shore on the east side of North River south of Goose Bay $34^{\circ} 43' 35''$ N - $76^{\circ} 34' 55''$ W; thence running 252° (M) to a point in the river $34^{\circ} 43' 28''$ N - $76^{\circ} 35' 14''$ W; thence running 355° (M) to a point in the river $34^{\circ} 45' 20''$ N - $76^{\circ} 35' 45''$ W; thence running 060° (M) to a point in the river $34^{\circ} 45' 45''$ N - $76^{\circ} 35' 04''$ W; thence running 165° (M) to a point on the shore at the mouth of South Leopard Creek $34^{\circ} 45' 36''$ N - $76^{\circ} 34' 59''$ W; thence with the shoreline to the point of beginning.
 - (B) In that area bound by a line beginning at a point on the west side of North River near Steep Point $34^{\circ} 43' 40''$ N - $76^{\circ} 37' 20''$ W; thence running 040° (M) to a point $34^{\circ} 44' 35''$ N - $76^{\circ} 36' 36''$ W; thence running 291° (M) 300 yards to a point $34^{\circ} 44' 37''$ N - $76^{\circ} 36' 45''$ W; thence running 219° (M) to a point $34^{\circ} 44' 13''$ N - $76^{\circ} 37' 05''$ W; thence running 307° (M) to a point $34^{\circ} 44' 16''$ N - $76^{\circ} 37' 12''$ W; thence running 018° (M) to a point $34^{\circ} 45' 20''$ N - $76^{\circ} 36' 56''$ W following the shoreline to the beginning point.
 - (C) In that area of the North River marshes bound by a line beginning at Red Flasher No. "6" running 038° (M) along the southeast side of Steep Point Channel through Red Day Marker No. "8" to a point $34^{\circ} 44' 08''$ N - $76^{\circ} 36' 52''$ W; thence 125° (M) to a point $34^{\circ} 43' 48''$ N - $76^{\circ} 36' 08''$ W; thence 144° (M) to a point $34^{\circ} 43'$

- 30° N - 76° 35' 47" W; thence 188° (M) to a point 34° 42' 23" N - 76° 35' 47" W; thence 221° (M) to Red Flasher No. "56"; thence 278° (M) to a point 34° 42' 14" N - 76° 36' 43" W; thence 346° (M) to a point 34° 42' 45" N - 76° 36' 58" W; thence 008° (M) to a point 34° 43' 14" N - 76° 36' 58" W; thence 318° (M) to the beginning point.
- (D) In the area north of a line beginning on the east shore at 34° 46' 11" N - 76° 35' 13" W; thence running 270° (M) to a point on the west shore at 34° 46' 11" N - 76° 37' 01" W.
- (10) Newport River:
- (A) In that area 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.
- (B) In that area north and east west of a line beginning at Penn Point 34° 45' 44" N - 76° 43' 35" W; thence running 022° (M) to a point on the north shore 34° 46' 47" N - 76° 43' 15" W near White Rock.
- (11) Bogue Sound:
- (A) In that area bound by a line beginning at a point 34° 40' 33" N - 77° 00' 48" W on the south shore of Bogue Sound at Archer Point running 014° (M) to Channel Marker No. 37 at 34° 41' 15" N - 77° 00' 43" W and in the east by the Atlantic Beach Bridge.
- (B) In that area north of the Intracoastal Waterway beginning at the Atlantic Beach Bridge and running parallel with the Intracoastal Waterway to the Highway 58 Bridge.
- (C) In that area east of the Atlantic Beach Bridge at 34° 43' 08" N - 76° 44' 12" W; thence 119° (M) to a point 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 back to the Atlantic Beach 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 35° 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.

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 EHNHR - Coastal Resources Commission intends to amend rules cited as 15A NCAC 7H .0208, .0306, .1104, .1202, .1204 - .1205, .1304, .1404, .1504, .1704, .1804, .1904, .2004, .2104; 7K .0203. Notice of Rule-making Proceedings was published in the Register on May 15, 1996.

Proposed Effective Date: April 1, 1997

A Public Hearing will be conducted at 4:00 p.m. on September 26, 1996 at Sea Trail Plantation & Golf Resort, 211 Clubhouse Road, Sunset Beach, NC 28468.

Reason for Proposed Action:

15A NCAC 7H .0208, .1202, .1204 - .1205; 7K .0203 - An examination of the current rules and the development they will allow has been presented to the NC Coastal Resources Commission. The Commission will consider amending its rules regarding pier construction to better address the impacts that can occur from that type of development. Amendments to the rules are necessary to lessen procedural problems and the various impacts associated with pier construction. Potential amendments are to the size of structure that can be built and the procedures necessary to receive approval for construction.

15A NCAC 7H .0306 - This Rule is being amended in response to objections made by the Rules Review Commission. The rule involved is broadly worded to apply to all types of development on the oceanfront. The proposed amendment has been more clearly worded -- by deleting wording which is considered unnecessary.

15A NCAC 7H .1104, .1304, .1404, .1504, .1704, .1804, .1904, .2004, .2104 - Existing general permits all have clauses explaining the discretion staff has to withhold using a general permit to approve development upon finding the potential for significant impacts to the environment, historic resources, etc. The Rules Review Commission has objected to current wording of the paragraphs providing such discretion and is asking that the rules be more clearly worded. The proposed changes will provide that clarity.

Comment Procedures: All persons interested in this matter are invited to attend the public hearings. The Coastal Resources Commission will receive mailed written comments postmarked no later than October 3, 1996. Any person desiring to present lengthy comments is requested to submit a written statement for inclusion in the record of proceedings at the public hearings. Additional information concerning

the hearings or the proposals may be obtained by contacting Preston Pate, Assistant Director, EHNHR Division of Coastal Management, PO Box 769, Morehead City, NC 28557, (919) 726-7021.

Fiscal Note: *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.*

CHAPTER 7 - COASTAL MANAGEMENT

SUBCHAPTER 7H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .0200 - THE ESTUARINE SYSTEM

.0208 USE STANDARDS

(a) General Use Standards

- (1) Uses which are not water dependent will not be permitted in coastal wetlands, estuarine waters, and public trust areas. Restaurants, residences, apartments, motels, hotels, trailer parks, private roads, factories, and parking lots are examples of uses that are not water dependent. Uses that are water dependent may include: utility easements; docks; wharfs; boat ramps; dredging; bridges and bridge approaches; revetments, bulkheads; culverts; groins; navigational aids; mooring pilings; navigational channels; simple access channels and drainage ditches.
- (2) Before being granted a permit by the CRC or local permitting authority, there shall be a finding that the applicant has complied with the following standards:
 - (A) The location, design, and need for development, as well as the construction activities involved must be consistent with the stated management objective.
 - (B) Before receiving approval for location of a use or development within these AECs, the permit-letting authority shall find that no suitable alternative site or location outside of the AEC exists for the use or development and, further, that the applicant has selected a combination of sites and design that will have a minimum adverse impact upon the productivity and biologic integrity of coastal marshland, shellfish beds, beds of submerged aquatic vegetation, spawning and nursery areas, important nesting and wintering sites for waterfowl and wildlife, and important natural erosion barriers (cypress fringes, marshes, clay soils).
 - (C) Development shall not violate water and air quality standards.
 - (D) Development shall not cause major or

irreversible damage to valuable documented archaeological or historic resources.

- (E) Development shall not measurably increase siltation.
 - (F) Development shall not create stagnant water bodies.
 - (G) Development shall be timed to have minimum adverse significant affect on life cycles of estuarine resources.
 - (H) Development shall not impede navigation or create undue interference with access to, or use of, public trust areas or estuarine waters.
- (3) When the proposed development is in conflict with the general or specific use standards set forth in this Rule, the CRC may approve the development if the applicant can demonstrate that the activity associated with the proposed project will have public benefits as identified in the findings and goals of the Coastal Area Management Act, that the public benefits clearly outweigh the long range adverse effects of the project, that there is no reasonable and prudent alternate site available for the project, and that all reasonable means and measures to mitigate adverse impacts of the project have been incorporated into the project design and will be implemented at the applicant's expense. These measures taken to mitigate or minimize adverse impacts may include actions that will:
 - (A) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;
 - (B) restore the affected environment; or
 - (C) compensate for the adverse impacts by replacing or providing substitute resources.
 - (4) Primary nursery areas are those areas in the estuarine system where initial post larval development of finfish and crustaceans takes place. They are usually located in the uppermost sections of a system where populations are uniformly early juvenile stages. They are officially designated and described by the N.C. Marine Fisheries Commission in 15A NCAC 3B .1405 and by the N.C. Wildlife Resources Commission in 15A NCAC 10C .0110.
 - (5) Outstanding Resource Waters are those estuarine waters and public trust areas classified by the N.C. Environmental Management Commission pursuant to Title 15A, Subchapter 2B .0216 of the N.C. Administrative Code as Outstanding Resource Waters (ORW) upon finding that such waters are of exceptional state or national recreational or ecological significance. In those estuarine waters and public trust areas classified as ORW by the Environmental Management Commission (EMC), no permit required by the Coastal

Area Management Act will be approved for any project which would be inconsistent with applicable use standards adopted by the CRC, EMC, or Marine Fisheries Commission (MFC) for estuarine waters, public trust areas, or coastal wetlands. For development activities not covered by specific use standards, no permit will be issued if the activity would, based on site specific information, materially degrade the water quality or outstanding resource values unless such degradation is temporary.

- (6) Beds of submerged aquatic vegetation (SAV) are those habitats in public trust and estuarine waters vegetated with one or more species of submergent vegetation. 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. In defining SAVs, the CRC recognizes the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et. seq.) and does not intend the SAV definition and its implementing rules to apply to or conflict with the non-development control activities authorized by that Act.

(b) Specific Use Standards

- (1) Navigation channels, canals, and boat basins must be aligned or located so as to avoid primary nursery areas highly productive shellfish beds, beds of submerged aquatic vegetation, or significant areas of regularly or irregularly flooded coastal wetlands.
 - (A) Navigation channels and canals may be allowed through narrow fringes of regularly and irregularly flooded coastal wetlands if the loss of wetlands will have no significant adverse impacts on fishery resources, water quality or adjacent wetlands, and, if there is no reasonable alternative that would avoid the wetland losses.
 - (B) All spoil material from new construction shall be confined landward of regularly and irregularly flooded coastal wetlands and stabilized to prevent entry of sediments into the adjacent water bodies or marsh.
 - (C) Spoil from maintenance of channels and canals through irregularly flooded wetlands shall be placed on non-wetland areas, remnant spoil piles, or disposed of by an acceptable method having no significant, long term wetland impacts. Under no circumstances shall spoil be placed on regularly flooded wetlands.
 - (D) Widths of the canals and channels shall be the minimum required to meet the applicant's needs and provide adequate water

circulation.

- (E) Boat basin design shall maximize water exchange by having the widest possible opening and the shortest practical entrance canal. Depths of boat basins shall decrease from the waterward end inland.
- (F) Any canal or boat basin shall be excavated no deeper than the depth of the connecting channels.
- (G) Canals for the purpose of multiple residential development shall have:
 - (i) no septic tanks unless they meet the standards set by the Environmental Management Commission and the Commission of Health Services;
 - (ii) no untreated or treated point source discharge;
 - (iii) storm water routing and retention areas such as settling basins and grassed swales.
- (H) Construction of finger canal systems will not be allowed. Canals shall be either straight or meandering with no right angle corners.
- (I) Canals shall be designed so as not to create an erosion hazard to adjoining property. Design may include bulkheading, vegetative stabilization, or adequate setbacks based on soil characteristics.
- (J) Maintenance excavation in canals, channels and boat basins within primary nursery areas and beds of submerged aquatic vegetation shall be avoided. However, when essential to maintain a traditional and established use, maintenance excavation may be approved if the applicant meets all of the following criteria as shown by clear and convincing evidence accompanying the permit application. This Rule does not affect restrictions placed on permits issued after March 1, 1991.
 - (i) The applicant demonstrates and documents that a water-dependent need exists for the excavation; and
 - (ii) There exists a previously permitted channel which was constructed or maintained under permits issued by the State or Federal government. If a natural channel was in use, or if a human-made channel was constructed before permitting was necessary, there must be clear evidence that the channel was continuously used for a specific purpose; and
 - (iii) Excavated material can be removed and placed in a disposal area without significantly impacting adjacent nurs-

- ery areas and beds of submerged aquatic vegetation; and
 - (iv) The original depth and width of a human-made or natural channel will not be increased to allow a new or expanded use of the channel.
- (2) Hydraulic Dredging
- (A) The terminal end of the dredge pipeline shall be positioned at a distance sufficient to preclude erosion of the containment dike and a maximum distance from spillways to allow settlement of suspended solids.
 - (B) Dredge spoil must be either confined on high ground by retaining structures or if the material is suitable, deposited on beaches for purposes of renourishment, with the exception of Part (b)(2)(G) of this Rule.
 - (C) Confinement of excavated materials shall be on high ground landward of regularly and irregularly flooded marshland and with adequate soil stabilization measures to prevent entry of sediments into the adjacent water bodies or marsh.
 - (D) Effluent from diked areas receiving disposal from hydraulic dredging operations must be contained by pipe, trough, or similar device to a point waterward of emergent vegetation or, where local conditions require, below mean low water.
 - (E) When possible, effluent from diked disposal areas shall be returned to the area being dredged.
 - (F) A water control structure must be installed at the intake end of the effluent pipe.
 - (G) Publicly funded projects will be considered by review agencies on a case-by-case basis with respect to dredging methods and spoil disposal.
 - (H) Dredge spoil from closed shellfish waters and effluent from diked disposal areas used when dredging in closed shellfish waters shall be returned to the closed shellfish waters.
- (3) Drainage Ditches
- (A) Drainage ditches located through any marshland shall not exceed six feet wide by four feet deep (from ground surface) unless the applicant shows that larger ditches are necessary for adequate drainage.
 - (B) Spoil derived from the construction or maintenance of drainage ditches through regularly flooded marsh areas shall be placed landward of these marsh areas in a manner that will insure that entry of sediment into the water or marsh will not occur. Spoil derived from the construction or maintenance of drainage ditches through irregularly flooded marshes shall be placed on non-wetlands wherever feasible. Non-wetland areas include relic disposal sites.
 - (C) Excavation of new ditches through high ground shall take place landward of a temporary earthen plug or other methods to minimize siltation to adjacent water bodies.
 - (D) Drainage ditches shall not have a significant adverse effect on primary nursery areas, productive shellfish beds, beds of submerged aquatic vegetation, or other documented important estuarine habitat. Particular attention shall be placed on the effects of freshwater inflows, sediment, and nutrient introduction. Settling basins, water gates, retention structures are examples of design alternatives that may be used to minimize sediment introduction.
- (4) Nonagricultural Drainage
- (A) Drainage ditches shall be designed so that restrictions in the volume or diversions of flow are minimized to both surface and ground water.
 - (B) Drainage ditches shall provide for the passage of migratory organisms by allowing free passage of water of sufficient depth.
 - (C) Drainage ditches shall not create stagnant water pools or significant changes in the velocity of flow.
 - (D) Drainage ditches shall not divert or restrict water flow to important wetlands or marine habitats.
- (5) Marinas. Marinas are defined as any publicly or privately owned dock, basin or wet boat storage facility constructed to accommodate more than 10 boats and providing any of the following services: permanent or transient docking spaces, dry storage, fueling facilities, haulout facilities and repair service. Excluded from this definition are boat ramp facilities allowing access only, temporary docking and none of the preceding services. Expansion of existing facilities shall also comply with these standards for all development other than maintenance and repair necessary to maintain previous service levels.
- (A) Marinas shall be sited in non-wetland areas or in deep waters (areas not requiring dredging) and shall not disturb valuable shallow water, submerged aquatic vegetation, and wetland habitats, except for dredging necessary for access to high-ground sites. The following four alternatives for siting marinas are listed in order of preference for the least damaging

alternative; marina projects shall be designed to have the highest of these four priorities that is deemed feasible by the permit letting agency:

- (i) an upland basin site requiring no alteration of wetland or estuarine habitat and providing adequate flushing by tidal or wind generated water circulation;
 - (ii) an upland basin site requiring dredging for access when the necessary dredging and operation of the marina will not result in the significant degradation of existing fishery, shellfish, or wetland resources and the basin design shall provide adequate flushing by tidal or wind generated water circulation;
 - (iii) an open water site located outside a primary nursery area which utilizes piers or docks rather than channels or canals to reach deeper water; and
 - (iv) an open water marina requiring excavation of no intertidal habitat, and no dredging greater than the depth of the connecting channel.
- (B) Marinas which require dredging shall not be located in primary nursery areas nor in areas which require dredging through primary nursery areas for access. Maintenance dredging in primary nursery areas for existing marinas will be considered on a case-by-case basis.
- (C) To minimize coverage of public trust areas by docks and moored vessels, dry storage marinas shall be used where feasible.
- (D) Marinas to be developed in waters subject to public trust rights (other than those created by dredging upland basins or canals) for the purpose of providing docking for residential developments shall be allowed no more than 27 sq. ft. of public trust areas for every one lin. ft. of shoreline adjacent to these public trust areas for construction of docks and mooring facilities. The 27 sq. ft. allocation shall not apply to fairway areas between parallel piers or any portion of the pier used only for access from land to the docking spaces.
- (E) To protect water quality of shellfishing areas, marinas shall not be located within areas where shellfish harvesting for human consumption is a significant existing use or adjacent to such areas if shellfish harvest closure is anticipated to result from the location of the marina. In compliance with Section 101(a)(2) of the Clean Water Act

and North Carolina Water Quality Standards adopted pursuant to that section, shellfish harvesting is a significant existing use if it can be established that shellfish have been regularly harvested for human consumption since November 28, 1975 or that shellfish apparently are propagating and surviving in a biologically suitable habitat and are available and suitable for harvesting for the purpose of human consumption. The Division of Marine Fisheries shall be consulted regarding the significance of shellfish harvest as an existing use and the magnitude of the quantities of shellfish which have been harvested or are available for harvest in the area where harvest will be affected by the development.

- (F) Marinas shall not be located without written consent from the controlling parties in areas of submerged lands which have been leased from the state or deeded by the state.
- (G) Marina basins shall be designed to promote flushing through the following design criteria:
- (i) the basin and channel depths shall gradually increase toward open water and shall never be deeper than the waters to which they connect; and
 - (ii) when possible, an opening shall be provided at opposite ends of the basin to establish flow-through circulation.
- (H) Marinas shall be designed to minimize adverse effects on navigation and public use of public trust areas while allowing the applicant adequate access to deep waters.
- (I) Marinas shall be located and constructed so as to avoid adverse impacts on navigation throughout all federally maintained channels and their immediate boundaries. This includes mooring sites (permanent or temporary), speed or traffic reductions, or any other device, either physical or regulatory, that may cause a federally maintained channel to be restricted.
- (J) Open water marinas shall not be enclosed within breakwaters that preclude circulation sufficient to maintain water quality.
- (K) Marinas which require dredging shall provide areas to accomplish disposal needs for future dredging consistent with the requirements in Subparagraph (b)(2) of this Rule. Proof of the ability to truck the spoil material from the marina site to an acceptable

- (L) disposal area will be acceptable.
- (M) Marina design shall comply with all applicable requirements for management of stormwater runoff.
- (N) Marinas shall post a notice prohibiting the discharge of any waste from boat toilets and explaining the availability of information on local pump-out services.
- (O) Boat maintenance areas must be designed so that all scraping, sandblasting, and painting will be done over dry land with adequate containment devices to prevent entry of waste materials into adjacent waters.
- (P) All marinas shall comply with all applicable standards for docks and piers, bulkheading, dredging and spoil disposal.
- (Q) All applications for marinas shall be reviewed to determine their potential impact and compliance with applicable standards. Such review shall consider the cumulative impacts of marina development.
- (R) Replacement of existing marinas to maintain previous service levels shall be allowed provided that the preceding rules are complied with to the maximum extent possible, with due consideration being given to replacement costs, service needs, etc.
- (6) Docks and Piers
- (A) ~~Docks and piers shall not significantly interfere with water flows. Docks and piers shall not exceed six feet in width. Wider docks and piers shall be permitted only if the greater width is necessary for safer use, to improve public access, or to support a water dependent use that cannot otherwise occur.~~
- (B) ~~To preclude the adverse effects of shading coastal wetlands vegetation, docks and piers built over coastal wetlands shall not exceed six feet in width. "T"s and platforms associated with residential piers must be at the waterward end, and must not exceed a total area of 500 sq. ft. with no more than six feet of the dimension perpendicular to the marsh edge extending over coastal wetlands. Water dependent projects requiring piers or wharfs of dimensions greater than those stated in this Rule shall be considered on a case-by-case basis. Any portion of a dock or pier (either fixed or floating) extending from the main structure and six feet or less in width shall be considered either a "T" or a finger pier.~~
- (C) Any portion of a dock or pier (either fixed or floating) greater than six feet wide will be considered a platform or deck.
- (D) "T"s, finger piers, platforms and decks of piers must not exceed a combined total area of four square feet per linear foot of shoreline. Shoreline length shall be measured by drawing a straight line between the points at which the property lines intersect the normal high water or normal water level. Projects requiring dimensions greater than those stated in this Rule shall be permitted only if the greater dimensions are necessary for safer use, or to support a water dependent use that cannot otherwise occur.
- (E) "T"s, platforms and decks shall have no more than six feet of any dimension extending over coastal wetlands.
- (F) Docks, piers and associated structures built over wetlands must be elevated at least four feet over the wetland substrate measured from the bottom of the decking.
- (G) Boathouses shall not exceed 400 square feet and shall have sides extending no further than one-half the height of the walls and only covering the top half of the walls. Measurements of square footage shall be taken of the greatest exterior dimensions. Boathouses shall not be allowed on lots with less than 75 linear feet of shoreline.
- (H) The total area enclosed by boat lifts shall not exceed 400 square feet.
- (I) Decks, platforms and boat houses shall be single-story. They may be roofed but shall not be designed to allow second-story use.
- (C) ~~Piers shall be designed to minimize adverse effects on navigation and public use of waters while allowing the applicant adequate access to deep waters by:~~
- (J) Pier length shall be limited by:
- (i) not extending beyond the established pier length along the same shoreline for similar use; (This restriction shall not apply to piers 200 100 feet or less in length unless necessary to avoid unreasonable interference with navigation or other uses of the waters by the public);
 - (ii) not extending into the channel portion of the water body; and
 - (iii) not extending more than one-third one-fourth the width of a natural water body or ~~man-made~~ human-made canal or basin. Measurements to determine widths of the ~~channels,~~ water body, canals or basins shall be made from the waterward edge of any coastal wetland vegetation which borders the water body. The ~~one-third~~ one-fourth length limitation

with ~~shall~~ not apply in areas where the U.S. Army Corps of Engineers, or a local government in consultation with the Corps of Engineers, has established an official pier-head line. The one-fourth length limitation shall not apply when the proposed pier is located between longer piers within 200 feet of the applicant's property. However, the proposed pier cannot be longer than the pier head line established by the adjacent piers, nor longer than one-third the width of the water body.

(K) Piers longer than 400 feet shall be permitted only if the proposed length gives access to deeper water at a rate of at least one foot at each 100 foot increment of pier length longer than 400 feet or if the additional length is necessary to span some obstruction to navigation. Measurements to determine pier lengths shall be made from the waterward edge of any coastal wetland vegetation that borders the water body.

~~(D) Pier alignments along federally maintained channels must meet Corps of Engineers District guidelines.~~

(L) ~~(E) Piers shall not interfere with the access to any riparian property and shall have a minimum setback of 15 feet between any part of the pier and the adjacent property owner's areas of riparian access. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the properties, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. The minimum setback provided in the rule may be waived by the written agreement of the adjacent riparian owner(s) or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the pier commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting agency prior to initiating any development of the pier. Application of this Rule may be aided by reference to an diagram illustrating the rule as applied to various shoreline configurations. Copies of the diagram may be obtained from the Division of Coastal Management. When shoreline configuration is such that a perpendicular alignment cannot be achieved, the pier shall~~

be aligned to meet the intent of this Rule to the maximum extent practicable.

(M) ~~(F) Docks and piers shall not significantly interfere with shellfish franchises or leases. leases any more than the interference created by the presence of the structure. Applicants for authorization to construct a dock or pier shall provide notice of the permit application or exemption request to the owner of any part of a shellfish franchise or lease over which the proposed dock or pier would extend.~~

(N) Where a pier would cross the line of sight from nearby properties, the pier shall be designed and positioned to minimize the impact on the line of sight from the nearby property. Applicants shall be required to provide notice as in 15A NCAC 7J .0204(b)(5) to any property owner whose line of sight is crossed by the proposed pier. Line of sight shall be determined by projecting lines into the water.

(7) Bulkheads and Shore Stabilization Measures

(A) Bulkhead alignment, for the purpose of shoreline stabilization, shall approximate mean high water or normal water level.

(B) Bulkheads shall be constructed landward of significant marshland or marshgrass fringes.

(C) Bulkhead fill material shall be obtained from an upland source, or if the bulkhead is a part of a permitted project involving excavation from a non-upland source, the material so obtained may be contained behind the bulkhead.

(D) Bulkheads or other structures employed for shoreline stabilization shall be permitted below approximate mean high water or normal water level only when the following standards are met:

(i) the property to be bulkheaded has an identifiable erosion problem, whether it results from natural causes or adjacent bulkheads, or it has unusual geographic or geologic features, e.g. steep grade bank, which will cause the applicant unreasonable hardship under the other provisions of this Rule;

(ii) the bulkhead alignment extends no further below approximate mean high water or normal water level than necessary to allow recovery of the area eroded in the year prior to the date of application, to align with adjacent bulkheads, or to mitigate the unreasonable hardship resulting

- from the unusual geographic or geologic features;
 - (iii) the bulkhead alignment will not result in significant adverse impacts to public trust rights or to the property of adjacent riparian owners;
 - (iv) the need for a bulkhead below approximate mean high water or normal water level is documented in the Field Investigation Report or other reports prepared by the Division of Coastal Management; and
 - (v) the property to be bulkheaded is in a nonoceanfront area.
 - (E) Where possible, sloping rip-rap, gabions, or vegetation shall be used rather than vertical seawalls.
- (8) Beach Nourishment
 - (A) Beach creation or maintenance may be allowed to enhance water related recreational facilities for public, commercial, and private use.
 - (B) Beaches may be created or maintained in areas where they have historically been found due to natural processes. They will not be allowed in areas of high erosion rates where frequent maintenance will be necessary.
 - (C) Placing unconfined sand material in the water and along the shoreline will not be allowed as a method of shoreline erosion control.
 - (D) Material placed in the water and along the shoreline shall be clean sand free from pollutants and highly erodible finger material. Grain size shall be equal to or larger than that found naturally at the site.
 - (E) Material from dredging projects can be used for beach nourishment if:
 - (i) it is first handled in a manner consistent with rules governing spoil disposal;
 - (ii) it is allowed to dry; and
 - (iii) only that material of acceptable grain size is removed from the disposal site for placement on the beach. Material shall not be placed directly on the beach by dredge or dragline during maintenance excavation.
 - (F) Beach creation shall not be allowed in any primary nursery areas, nor in any areas where siltation from the site would pose a threat to shellfish beds.
 - (G) Material shall not be placed on any coastal wetlands or beds of submerged aquatic vegetation.
 - (H) Material shall not be placed on any submerged bottom with significant shellfish resources.
- (I) Beach construction shall not create the potential for filling adjacent or nearby navigation channels, canals, or boat basins.
 - (J) Beach construction shall not violate water quality standards.
 - (K) Permit renewal of these projects shall require an evaluation of any adverse impacts of the original work.
 - (L) Permits issued for this development shall be limited to authorizing beach nourishment only one time during the life of the permit. Permits may be renewed for maintenance work or repeated need for nourishment.
- (9) Wooden and Riprap Groins
 - (A) Groins shall not extend more than 25 ft. waterward of the mean high water or normal water level unless a longer structure is justified by site specific conditions, sound engineering and design principals.
 - (B) Groins shall be set back a minimum of 15 ft. from the adjoining property lines. This setback may be waived by written agreement of the adjacent riparian owner(s) or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the groin commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting agency prior to initiating any development of the groin.
 - (C) Groins shall pose no threat to navigation.
 - (D) The height of groins shall not exceed 1 ft. above mean high water or the normal water level.
 - (E) No more than two structures shall be allowed per 100 ft. of shoreline unless the applicant provides evidence that more structures are needed for shoreline stabilization.
 - (F) "L" and "T" sections shall not be allowed at the end of groins.
 - (G) Riprap material used for groin construction shall be free from loose dirt or any other pollutant in other than non-harmful quantities and of a size sufficient to prevent its movement from the site by wave and current action.
- (10) "Freestanding Moorings"
 - (A) A "freestanding mooring" is any means to attach a ship, boat, vessel, floating structure or other water craft to a stationary underwater device, mooring buoy, buoyed anchor, or piling (as long as the piling is not associated with an existing or proposed

- pier, dock, or boathouse).
- (B) Freestanding moorings shall be permitted only:
- (i) to riparian property owners within their riparian corridors; or
 - (ii) to any applicant proposing to locate a mooring buoy consistent with a water use plan that may be incorporated into either the local zoning or land use plan.
- (C) All approved mooring fields shall provide suitable area for access to any mooring(s) and other land based operations which shall include but not be limited to wastewater pumpout, trash disposal and vehicle parking.
- (D) If the agreement referenced in specific condition in Part (b)(10)(C) of this Rule is terminated or the facility no longer exist, the permit shall become null and void and the permitted project removed from the AEC.
- (E) To protect water quality of shellfishing areas, mooring fields shall not be located within areas where shellfish harvesting for human consumption is a significant existing use or adjacent to such areas if shellfish harvest closure is anticipated to result from the location of the mooring field. In compliance with Section 101(a)(2) of the Federal Water Pollution Control Act, 33 U.S.C. 1251 (a)(2), and North Carolina Water Quality Standards adopted pursuant to that section, shellfish harvesting is a significant existing use if it can be established that shellfish have been regularly harvested for human consumption since November 28, 1975 or that shellfish apparently are propagating and surviving in a biologically suitable habitat and are available and suitable for harvesting for the purpose of human consumption. The Division of Marine Fisheries shall be consulted regarding the significance of shellfish harvest as an existing use and the magnitude of the quantities of shellfish which have been harvested or are available for harvest in the area where harvest will be affected by the development.
- (F) Moorings shall not be located without written consent from the controlling parties in areas of submerged lands which have been leased from the state or deeded by the state.
- (G) Moorings shall be located and constructed so as to avoid adverse impacts on navigation throughout all federally maintained channels and their immediate boundaries. This includes mooring sites (permanent or temporary), speed or traffic reductions, or any other device, either physical or regulatory, that may cause a federally maintained channel to be restricted.
- (H) Open water moorings shall not be enclosed within breakwaters that preclude circulation sufficient to maintain water quality.
- (I) Moorings and the associated land based operation design shall comply with all applicable requirements for management of stormwater runoff.
- (J) Mooring fields shall have posted in view of patrons a notice prohibiting the discharge of any waste from boat toilets or any other discharge and explaining the availability of information on local pump-out services and waste disposal.
- (K) Freestanding moorings associated with commercial shipping, public service or temporary construction/salvage operations may be permitted without a public sponsor and shall be evaluated on a case-by-case basis.
- (L) Freestanding mooring buoys and piles shall be evaluated based upon the arc of the swing including the vessel to be moored. Moorings and the attached vessel shall not interfere with the access of any riparian owner nor shall it block riparian access by blocking channels, deep water, etc. which allows riparian access. Freestanding moorings shall not interfere with the ability of any riparian owner to place a pier for access.
- (M) Freestanding moorings shall not be established in submerged cable/pipe crossing areas or in a manner which interferes with the operations of an access through any bridge.
- (N) Freestanding moorings shall be marked or colored in compliance with U.S. Coast Guard and N.C. Wildlife Resource Commission requirements and the required marking maintained for the life of the mooring(s).
- (O) The type of material used to create a mooring must be free of pollutants and of a design and type of material so as to not present a hazard to navigation or public safety.
- (P) Existing freestanding moorings (i.e. buoys/pilings) may be maintained in place for two years. However, if the moorings(s) deteriorate or are damaged such that replacement is necessary during the two

year period, the mooring(s) then must comply with those guidelines of the Division in place at that time. In any event, existing moorings must comply with these Rules within two years.

Authority G.S. 113A-107(b); 113A-108; 113A-113(b); 113A-124.

SECTION .0300 - OCEAN HAZARD AREAS

.0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

(a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in these Rules shall be located according to whichever of the following rules is applicable.

- (1) If neither a primary nor frontal dune exists in the AEC on or landward of the lot on which the development is proposed, the development shall be landward of the erosion setback line. The erosion setback line shall be set at a distance of 30 times the long-term annual erosion rate from the first line of stable natural vegetation or measurement line, where applicable. In areas where the rate is less than two feet per year, the setback line shall be 60 feet from the vegetation line or measurement line, where applicable.
- (2) If a primary dune exists in the AEC on or landward of the lot on which the development is proposed, the development shall be landward of the crest of the primary dune or the long-term erosion setback line, whichever is farthest from the first line of stable natural vegetation or measurement line, where applicable. For existing lots, however, where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located seaward of the primary dune. In such cases, the development shall be located landward of the long-term erosion setback line and shall not be located on or in front of a frontal dune. The words "existing lots" in this Rule shall mean a lot or tract of land which, as of June 1, 1979, is specifically described in a recorded plat and which cannot be enlarged by combining the lot or tract of land with a contiguous lot(s) or tract(s) of land under the same ownership.
- (3) If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot on which the development is proposed, the development shall be set landward of the frontal dune or landward of the long-term erosion setback line, whichever is farthest from the first line of stable natural vegetation or measurement line, where applicable.
- (4) Because large structures located immediately

along the Atlantic Ocean present increased risk of loss of life and property, increased potential for eventual loss or damage to the public beach area and other important natural features along the oceanfront, increased potential for higher public costs for federal flood insurance, erosion control, storm protection, disaster relief and provision of public services such as water and sewer, and increased difficulty and expense of relocation in the event of future shoreline loss, a greater oceanfront setback is required for these structures than is the case with smaller structures. Therefore, in addition to meeting the criteria in this Rule for setback landward of the primary or frontal dune or both the primary and frontal dunes, for all multi-family residential structures (including motels, hotels, condominiums and motelminiums) of more than 5,000 square feet total floor area, and for any non-residential structure with a total area of more than 5,000 square feet, the erosion setback line shall be twice the erosion setback as established in Subparagraph (a)(1) of this Rule, provided that in no case shall this distance be less than 120 feet. In areas where the rate is more than 3.5 feet per year, this setback line shall be set at a distance of 30 times the long-term annual erosion rate plus 105 feet.

- (5) Structural additions or increases in the footprint or total floor area of a building or structure represent expansions to the principal structure and both must meet the setback requirements established in Paragraph (a) of this Rule and Rule .0309(a) of this Section. The enclosure of existing roof covered porches will be exempt from this requirement if the footprint is not expanded and modifications to existing foundations are not required. New development landward of the applicable setback may be cosmetically, but not structurally, attached to an existing structure that does not conform with current setback requirements.
- (6) Established common-law and statutory public rights of access to and use of public trust lands and waters in ocean hazard areas shall not be eliminated or restricted. Development shall not encroach upon public accessways nor shall it limit the intended use of the accessways.

(b) In order to avoid weakening the protective nature of ocean beaches and primary and frontal dunes, no development will be permitted that involves the significant removal or relocation of primary or frontal dune sand or vegetation thereon. Other dunes within the ocean hazard area shall not be disturbed unless the development of the property is otherwise impracticable, and any disturbance of any other dunes shall be allowed only to the extent allowed by Rule .0308(b) of this Section.

(c) ~~In order to avoid excessive public expenditures for maintaining public safety, construction or placement of~~

~~growth-inducing public~~ Public facilities to be supported by public funds will be permitted in the ocean hazard area only when such facilities:

- (1) ~~clearly~~ exhibit ~~overriding~~ factors of national or state interest and public benefit,
- (2) will not increase existing hazards or damage natural buffers,
- (3) will be ~~reasonably~~ safe from flood and erosion related ~~damage~~, damage by complying with all local, state and federal construction requirements,
- (4) will not promote growth and development in ocean hazard areas.

Such facilities include, but are not limited to, sewers, waterlines, roads, and bridges.

(d) Development shall not cause major or irreversible damage to valuable documented historic architectural or archaeological resources documented by the Division of Archives and History, the National Historical Registry, the local land-use plan, or other reliable sources.

~~(e) Development shall be consistent with minimum lot size and set back requirements established by local regulations.~~

(e) (f) Mobile homes shall not be placed within the high hazard flood area unless they are within mobile home parks existing as of June 1, 1979.

~~(g) Development shall be consistent with general management objective for ocean hazard areas set forth in Rule .0303 of this Section.~~

(f) (h) Development shall not ~~create undue interference~~ interfere with legal access to, or use of, public resources nor shall such development increase the risk of damage to public trust areas.

(g) (i) Development proposals shall incorporate all reasonable means and methods to avoid or minimize adverse impacts of the project. These measures shall be implemented at the applicant's expense and may include actions that will:

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

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

(i) (k) All relocation of structures requires permit approval. Structures relocated with public funds shall comply with the applicable setback line as well as other applicable AEC rules. Structures including septic tanks and other essential accessories relocated entirely with non-public funds shall be relocated the maximum feasible distance

landward of the present location; septic tanks may not be located seaward of the primary structure. In these cases, all other applicable local and state rules shall be met.

(j) (l) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration. The structure(s) shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach renourishment takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed under Rule .0308(a)(2) of this Section.

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

SECTION .1100 - GENERAL PERMIT FOR CONSTRUCTION OF BULKHEADS AND THE PLACEMENT OF RIPRAP FOR SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS

.1104 GENERAL CONDITIONS

(a) This permit authorizes only the construction of bulkheads and the placement of riprap conforming to the standards herein.

(b) Individuals shall allow authorized representatives of the Department of Environment, Health, and Natural Resources to make periodic inspections at any time deemed necessary in order to be sure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

(c) There shall be no significant interference with navigation or use of the waters by the public by the existence of the bulkhead or the riprap authorized herein.

~~(d) This permit will not be applicable to proposed construction where the Department believes that the proposed activity might unnecessarily endanger adjoining properties or significantly affect areas that possess historic, cultural, scenic, conservation or recreational values, or that might significantly affect the quality of the human environment. This general permit will not be applicable to proposed construction when the Department determines after any necessary investigations, that the proposed activity would adversely affect areas which possess historic, cultural, scenic, conservation, or recreational values.~~

~~(e) This general permit will not be applicable to proposed construction where the Department determines that the proposed activity might significantly affect the quality of the human environment, or unnecessarily endanger adjoining properties. In those cases, individual permit applications and review of the proposed project will be required according to 15A NCAC 7J.~~

(e) (f) This permit does not eliminate the need to obtain any other required state, local, or federal authorization.

(f) (g) Development carried out under this permit must be consistent with all local requirements, AEC Guidelines, and local land use plans current at the time of authorization.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

SECTION .1200 - GENERAL PERMIT FOR CONSTRUCTION OF PIERS, DOCKS, AND BOAT HOUSES IN ESTUARINE AND PUBLIC TRUST WATERS

.1202 APPROVAL PROCEDURES

(a) The applicant must contact the Division of Coastal Management and complete an application form requesting approval for development. The applicant shall provide information on site location, dimensions of the project area, and his name and address.

(b) The applicant must provide:

- (1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
- (2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. Such notice should instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within ten 10 days of receipt of the notice, and, indicate that no response will be interpreted as no objection. DCM staff will review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If DCM staff finds that the comments are worthy of more in-depth review, the applicant will be notified that he must submit an application for a major development permit.

(c) Approval of individual projects will be acknowledged in writing by the Division of Coastal Management and the applicant shall be provided a copy of this Section.

(d) Construction must be completed within 90 days of the approval of the permit or the permit expires.

(e) Any modification or addition to the approved project will require prior approval from the Division of Coastal Management.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

.1204 GENERAL CONDITIONS

(a) ~~Structures authorized by this permit shall be non-commercial structures conforming to the standards~~

~~herein. Piers authorized by this general permit shall be for the exclusive use of the land owner or occupant and shall not provide either leased or rented docking space or any other commercial services. Piers designed to provide docking space for more than two boats shall, because of their greater potential for adverse impacts, be reviewed through the major permitting process and, therefore, are not authorized by this general permit.~~

(b) Individuals shall allow authorized representatives of the Department of Environment, Health, and Natural Resources to make periodic inspections at any time deemed necessary in order to be sure that the activity being performed under the authority of this general permit is in accordance with the terms and conditions prescribed herein.

(c) There shall be no unreasonable interference with navigation or use of the waters by the public by the existence of piers, docks and boat houses.

(d) This permit will not be applicable to proposed construction where the Department believes that the proposed activity might unnecessarily endanger adjoining properties or significantly affect areas that possess historic, cultural, scenic, conservation or recreational values, or that might significantly affect the quality of the human environment. ~~This general permit will not be applicable to proposed construction when the Department determines, after any necessary investigations, that the proposed activity would adversely affect areas which possess historic, cultural, scenic, conservation or recreational values.~~

~~(e) This general permit will not be applicable to proposed construction where the Department believes that the proposed activity might significantly affect the quality of the human environment, or unnecessarily endanger adjoining properties. In those cases, individual permit applications and review of the proposed project will be required according to 15A NCAC 7J.~~

(e) (f) This permit does not eliminate the need to obtain any other required state, local, or federal authorization.

(f) (g) Development carried out under this permit must be consistent with all local requirements, AEC Guidelines, and local land use plans current at the time of authorization.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

.1205 SPECIFIC CONDITIONS

(a) Piers, docks, and boat houses may extend or be located up to a maximum of 400 feet from the ~~mean high water contour~~ normal high water line, or the normal water level, whichever is applicable.

(b) Piers, docks, and boat houses shall not extend beyond the established pier length along the same shoreline for similar use. This restriction shall not apply to piers ~~200~~ 100 feet or less in length unless necessary to avoid unreasonable interference with navigation or other uses of the waters by the public. The length of piers shall be measured from the waterward edge of any wetlands that border the water body.

(c) ~~Piers and docks shall be elevated over coastal~~

wetlands and shall not exceed 6 feet in width. Piers longer than 200 feet shall be permitted only if the proposed length gives access to deeper water at a rate of at least one foot at each 100 foot increment of pier length longer than 200 feet, or if the additional length is necessary to span some obstruction to navigation. Measurements to determine pier lengths shall be made from the waterward edge of any coastal wetland vegetation which borders the water body.

(d) Piers and docks shall be no wider than six feet and shall be elevated at least four feet above any coastal wetland substrate as measured from the bottom of the decking.

(e) Any portion of a pier (either fixed or floating) extending from the main structure and six feet or less in width shall be considered either a "T" or a finger pier.

(f) Any portion of a pier (either fixed or floating) greater than six feet wide shall be considered a platform or deck.

(g) "T"s, finger piers, platforms and decks of piers on lots with shorelines 100 feet or greater in length shall not exceed a combined total area of 400 square feet. The combined total area for lots less than 100 feet shall not exceed four square feet per linear foot of shoreline. Shoreline length shall be measured by drawing a straight line between the points at which the property lines intersect the normal high water or normal water level.

(h) Platforms and decks shall have no more than six feet of any dimension extending over coastal wetlands.

(i) Boathouses shall not exceed 400 square feet and shall have sides extending no further than one-half the height of the walls and only covering the top half of the walls. Measurements of square footage shall be taken of the greatest exterior dimensions. Boathouses shall not be allowed on lots with less than 75 linear feet of shoreline.

(j) Areas enclosed by boat lifts shall not exceed 400 square feet.

(k) Decks, platforms and boat houses shall be single story. They may be roofed but shall not be designed to allow second story use.

~~(d) Boat houses shall have open sides and have a floor area not to exceed 500 square feet.~~

(l) ~~(e) Piers alignments along federally maintained channels must meet Corps of Engineers guidelines. guidelines for pier construction pursuant to Section 10 of the Rivers and Harbors Act.~~

(m) ~~(f) Piers, docks, and boat houses shall in no case extend more than 1/3 one-fourth the width of a natural water body or man-made human-made canal or basin. Measurements to determine widths of the water body, human-made canals or basins shall be made from the waterward edge of any coastal wetland vegetation that borders the water body. The one-fourth length limitation shall not apply when the proposed pier is located between longer piers within 200 feet of the applicant's property. However, the proposed pier cannot be longer than the pier head line established by the adjacent piers, nor longer than one-third the width of the water body.~~

(n) ~~(g) Piers, docks and boat houses shall not interfere~~

with the access to any riparian property, and shall have a minimum setback of 15 feet between any part of the pier and the adjacent property lines extended into the water at the points that they intersect the shoreline. ~~The minimum setbacks provided in the rule may be waived by the written agreement of the adjacent riparian owner(s), or when two adjoining riparian owners are co applicants. Should the adjacent property be sold before construction of the pier commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the Division of Coastal Management prior to initiating any development of the pier, dock, or boat house.~~ The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the property, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. Application of this Rule may be aided by reference to an approved diagram illustrating the rule as applied to various shoreline configurations. Copies of the diagram may be obtained from the Division of Coastal Management. When shoreline configuration is such that a perpendicular alignment cannot be achieved, the pier shall be aligned to meet the intent of this Rule to the maximum extent practicable.

~~(h) Piers and docks may have "T" heads or platforms not exceeding 500 square feet built at their waterward end and not covering any vegetated wetland areas.~~

~~(i) For all new or replacement floating facilities, flotation units shall be constructed of material which will not become waterlogged or sink when punctured.~~

~~(j) This general permit is not applicable on ocean beaches.~~

~~(o) Where a pier would cross the line of sight from nearby properties, the pier shall be designed and positioned to minimize the impact on the line of sight from the nearby property. Applicants shall be required to provide notice as in Rule .1202(b)(2) of this Section to any property owner whose line of sight is crossed by the proposed pier. Line of sight shall be determined by projecting property lines into the water.~~

~~(p) (k) Piers, and mooring facilities shall be designed to provide docking space for no more than 4 two boats.~~

~~(q) (l) Docks and piers shall not significantly interfere with shellfish franchises or leases. leases any more than the interference created by the presence of the structure.~~ Applicants for authorization to construct a dock or pier shall provide notice of the permit application to the owner of any part of a shellfish franchise or lease over which the proposed dock or pier would extend.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

SECTION .1300 - GENERAL PERMIT TO MAINTAIN; REPAIR AND CONSTRUCT BOAT RAMPS ALONG ESTUARINE SHORELINES AND

INTO ESTUARINE AND PUBLIC TRUST WATERS

.1304 GENERAL CONDITIONS

(a) Structures authorized by this permit shall be non-commercial boat ramps constructed of acceptable material and conforming to the standards herein.

(b) Individuals shall allow authorized representatives of the Department of Environment, Health, and Natural Resources to make periodic inspections at any time deemed necessary in order to be sure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

(c) There shall be no unreasonable interference with navigation or public use of the waters during or after construction.

(d) This permit will not be applicable to proposed construction where the Department believes that the proposed activity might unnecessarily endanger adjoining properties or significantly affect areas that possess historic, cultural, scenic, conservation or recreational values, or that might significantly affect the quality of the human environment. ~~This general permit will not be applicable to proposed construction when the Department determines, after any necessary investigations, that the proposed activity would adversely affect areas which possess historic, cultural, scenic, conservation or recreational values.~~

(e) ~~This general permit will not be applicable to proposed construction where the Department believes that the proposed activity might significantly affect the quality of the human environment, or unnecessarily endanger adjoining properties. In those cases, individual permit applications and review of the proposed project will be required according to 15A NCAC 7J.~~

(e) (f) This permit does not eliminate the need to obtain any other required state, local, or federal authorization.

(f) (g) Development carried out under this permit must be consistent with all local requirements, AEC guidelines, and local land use plans current at the time of authorization.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

SECTION .1400 - GENERAL PERMIT FOR CONSTRUCTION OF WOODEN GROINS IN ESTUARINE AND PUBLIC TRUST WATERS

.1404 GENERAL CONDITIONS

(a) Structures authorized by this permit shall be simple, wooden groins conforming to the standards herein.

(b) Individuals shall allow authorized representatives of the Department of Environment, Health, and Natural Resources to make periodic inspections at any time deemed necessary in order to be sure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

(c) There shall be no significant interference with navigation or use of the waters by the public by the exis-

tence of wooden groins authorized herein.

(d) This permit will not be applicable to proposed construction where the Department believes that the proposed activity might unnecessarily endanger adjoining properties or significantly affect areas that possess historic, cultural, scenic, conservation or recreational values, or that might significantly affect the quality of the human environment. ~~This general permit will not be applicable to proposed construction when the Department determines, after any necessary investigation, that the proposed activity would adversely affect areas which possess historic, cultural, scenic, conservation or recreational values.~~

(e) ~~This general permit will not be applicable to proposed construction where the Department believes that the proposed activity might significantly affect the quality of the human environment, or unnecessarily endanger adjoining properties. In those cases, individual permit applications and review of the proposed project will be required according to Subchapter 7J.~~

(e) (f) This permit does not eliminate the need to obtain any other required state, local, or federal authorization.

(f) (g) Development carried out under this permit must be consistent with all local requirements, AEC Guidelines, and local land use plans current at the time of authorization.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

SECTION .1500 - GENERAL PERMIT FOR EXCAVATION WITHIN OR CONNECTING TO EXISTING CANALS: CHANNELS: BASINS: OR DITCHES IN ESTUARINE WATERS: PUBLIC TRUST WATERS: AND ESTUARINE SHORELINE AEC'S

.1504 GENERAL CONDITIONS

(a) Individuals shall allow authorized representatives of the Department of Environment, Health, and Natural Resources to make periodic inspections at any time necessary to ensure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

(b) This general permit will not be applicable to proposed excavation when the Department determines that the proposed activity would adversely affect areas which possess historic, cultural, scenic, conservation or recreational values.

(c) This general permit will not be applicable to proposed maintenance excavation when the Department determines that the proposed activity will adversely affect adjacent property.

(d) This permit will not be applicable to proposed construction where the Department believes that the proposed activity might unnecessarily endanger adjoining properties or significantly affect areas that possess historic, cultural, scenic, conservation or recreational values, or that might significantly affect the quality of the human environment.

~~This general permit will not be applicable to proposed excavation where the Department believes that the proposed activity might significantly affect the quality of the environment, or unnecessarily endanger adjoining properties. In such cases an individual permit application and review of the proposed project may be initiated using the application forms, fees and procedures required by 15A NCAC 7J.~~

~~(e) This general permit authorizes maintenance excavation in canals, channels, basins and ditches within primary nursery areas as designated by the Division of Marine Fisheries except as proscribed by other provisions of this permit. Individual project requests will be evaluated on a case by case basis and coordinated with appropriate Division of Marine Fisheries personnel. Individual projects will not be allowed during periods of highest biological productivity.~~

~~(e) (f) New basins within or with connections to primary nursery areas are not allowed.~~

~~(f) (g) No new basins will be allowed that result in closure of shellfish waters according to the closure policy of the Division of Environmental Health.~~

~~(g) (h) This permit does not eliminate the need to obtain any other required state, local, or federal authorization, nor, to abide by regulations adopted by any federal or other state agency.~~

~~(h) (i) Development carried out under this permit must be consistent with all local requirements, AEC guidelines, and local Land Use Plans current at the time of authorization.~~

Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(cl).

SECTION .1700 - GENERAL PERMIT FOR EMERGENCY WORK REQUIRING A CAMA AND/OR A DREDGE AND FILL PERMIT

.1704 GENERAL CONDITIONS

(a) Work permitted by means of an emergency permit shall be subject to the following limitations:

- (1) No work shall begin until an onsite meeting is held with the applicant and appropriate Division of Coastal Management representative so that the proposed emergency work can be appropriately marked. Written authorization to proceed with the proposed development can be issued during this visit.
- (2) No work shall be permitted other than that which is necessary to reasonably protect against or reduce the imminent danger caused by the emergency to restore the damaged property to its condition immediately before the emergency, or to re-establish necessary public facilities or transportation corridors.
- (3) Any permitted erosion control projects shall be located no more than 20 feet waterward of the endangered structure.
- (4) Fill materials used in conjunction with emergency

work for storm or erosion control shall be obtained from an upland source. Excavation below MHW in the Ocean Hazard AEC may be allowed to obtain material to fill sandbags used for emergency protection.

(5) Structural work shall meet sound engineering practices.

(6) This permit allows the use of oceanfront erosion control measures for all oceanfront properties without regard to the size of the existing structure on the property or the date of construction.

(b) Individuals shall allow authorized representatives of the Department of Environment, Health, and Natural Resources to make inspections at any time deemed necessary to be sure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

(c) There shall be no unreasonable interference with navigation or public use of the waters during or after construction.

(d) This permit will not be applicable to proposed construction where the Department believes that the proposed activity might unnecessarily endanger adjoining properties or significantly affect areas that possess historic, cultural, scenic, conservation or recreational values, or that might significantly affect the quality of the human environment. This general permit will not be applicable to proposed construction when the Department determines, after any necessary investigations, that the proposed activity would adversely affect areas which possess historic, cultural, scenic, conservation, or recreational values.

~~(e) This general permit will not be applicable to proposed construction where the Department believes that the proposed activity might significantly affect the quality of the human environment, or unnecessarily endanger adjoining properties. In those cases, individual permit applications and review of the proposed project will be required according to 15A NCAC 7J.~~

~~(e) (f) This permit does not eliminate the need to obtain any other state, local, or federal authorization.~~

~~(f) (g) Development carried out under this permit must be consistent with all local requirements, CAMA rules, and local land use plans, storm hazard mitigation, and post-disaster recovery plans current at the time of authorization.~~

Authority G.S. 113-229(cl); 113A-107(a),(b); 113A-113(b); 113A-118.1.

SECTION .1800 - GENERAL PERMIT TO ALLOW BEACH BULLDOZING LANDWARD OF THE MEAN HIGH WATER MARK IN THE OCEAN HAZARD AEC

.1804 GENERAL CONDITIONS

(a) Any future setback determinations which may be required shall be made using the first line of stable natural

vegetation established prior to the bulldozing activity.

(b) Individuals shall allow authorized representatives of the Department of Environment, Health, and Natural Resources to make periodic inspections at any time deemed necessary to ensure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

(c) This general permit will not be applicable to proposed construction when the Department determines after any necessary investigation that the proposed activity would adversely affect areas which possess historical, cultural, scenic, conservation or recreational values. If a shipwreck is unearthed, all work shall stop and both the Division of Archives and history and Coastal Management shall be contacted immediately.

(d) This permit will not be applicable to proposed construction where the Department believes that the proposed activity might unnecessarily endanger adjoining properties or significantly affect areas that possess historic, cultural, scenic, conservation or recreational values, or that might significantly affect the quality of the human environment. ~~This general permit will not be applicable to proposed construction where the Department believes that the proposed activity might significantly affect the quality of the human environment or unnecessarily endanger adjoining properties. In those cases, individual permit application and review of the proposed project will be required according to 15A NCAC 7J.~~

~~(e) This general permit does not convey any rights, either in real estate or material and does not authorize any injury to property or invasion of rights of others.~~

(e) (f) This permit does not eliminate the need to obtain any other required state, local or federal authorization.

(f) (g) Development carried out under this permit must be consistent with all local requirements, AEC guidelines, and local Land Use Plans current at the time of authorization.

Authority G.S. 113-229(c1); 113A-107(a)(b); 113A-113(b); 113A-118.1.

SECTION .1900 - GENERAL PERMIT TO ALLOW FOR TEMPORARY STRUCTURES WITHIN ESTUARINE AND OCEAN HAZARD AECs

.1904 GENERAL CONDITIONS

(a) Temporary structures for the purpose of this general permit are those which are constructed within the ocean hazard or estuarine system AECs and because of dimensions or functions do not meet the criteria of the existing general permits (i.e. are not a bulkhead, pier, rip-rap, groin, etc.).

(b) There shall be no encroachment oceanward of the first line of stable vegetation within the ocean hazard AEC except for the placement of auxiliary structures such as signs, fences, posts, pilings, etc.

(c) There shall be no fill activity below the plane of mean high water associated with the structure.

(d) This permit will not be applicable to proposed construction where the Department believes that the proposed activity might unnecessarily endanger adjoining properties or significantly affect areas that possess historic, cultural, scenic, conservation or recreational values, or that might significantly affect the quality of the human environment. ~~The structure shall not be located in such a manner that will directly or indirectly adversely impact coastal wetlands.~~

~~(e) The structure shall not disrupt the movement of those species of aquatic life indigenous to the waterbody.~~

(e) (f) Individuals shall allow authorized representatives of the Department of Environment, Health, and Natural Resources to make periodic inspections at any time necessary to ensure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

(f) (g) This general permit will not be applicable to proposed structures when the Department determines that the proposed activity would adversely affect areas which possess historic, cultural, scenic, ~~conservation~~ conservation or recreational values.

(g) (h) This general permit will not be applicable when the Department determines that the proposed activity might significantly affect the quality of the environment or unnecessarily endanger adjoining properties. In such cases an individual permit application and review of the proposed project may be initiated using the application forms, fees, and procedures required by 15A NCAC 7J.

(h) (i) This permit does not eliminate the need to obtain any other state, local or federal authorization, nor, to abide by regulations adopted by any federal, state, or local agency.

(i) (j) Development carried out under this permit must be consistent with all local requirements, and local land use plans current at the time of authorization.

Authority G.S. 113-229(c1); 113A-107(a)(b); 113A-113(b); 113A-118.1.

SECTION .2000 - GENERAL PERMIT FOR AUTHORIZING MINOR MODIFICATIONS AND REPAIR TO EXISTING PIER/MOORING FACILITIES IN ESTUARINE AND PUBLIC TRUST WATERS

.2004 GENERAL CONDITIONS

(a) Structures authorized by this permit shall conform to the standards herein.

(b) Individuals shall allow authorized representatives of the Department of Environment, Health, and Natural Resources to make periodic inspections at any time deemed necessary in order to be sure that the activity being performed under the authority of this general permit is in accordance with the terms and conditions prescribed herein.

(c) There shall be no unreasonable interference with navigation or use of the waters by the public by the existence of piers or mooring pilings.

(d) ~~This permit will not be applicable to proposed construction where the Department believes that the proposed activity might unnecessarily endanger adjoining properties or significantly affect areas that possess historic, cultural, scenic, conservation or recreational values, or that might significantly affect the quality of the human environment. This general permit will not be applicable to proposed construction when the Department determines, after any necessary investigations, that the proposed activity would adversely affect areas which possess historic, cultural, scenic, conservation or recreational values.~~

(e) ~~This general permit will not be applicable to proposed construction where the Department believes that authorization may be warranted, but that the proposed activity might significantly affect the quality of the human environment, or unnecessarily endanger adjoining properties. In those cases, individual permit applications and review of the proposed project will be required according to 15A NCAC 7J.~~

(e) (f) This permit does not eliminate the need to obtain any other required state, local, or federal authorization.

(f) (g) Development carried out under this permit must be consistent with all local requirements, AEC Guidelines, and local land use plans current at the time of authorization.

(g) (h) This general permit will not be applicable where the Department determines that the proposed modification will result in closure of waters to shellfishing under rules adopted by the Commission for Health Services.

Authority G.S. 113A-107; 113A-118.1.

SECTION .2100 - GENERAL PERMIT FOR CONSTRUCTION OF MARSH ENHANCEMENT BREAKWATERS FOR SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS

.2104 GENERAL CONDITIONS

(a) This permit authorizes only the construction of breakwaters conforming to the standards herein.

(b) Individuals shall allow authorized representatives of the Department of Environment, Health, and Natural Resources to make periodic inspections at any time deemed necessary in order to be sure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

(c) There shall be no significant interference with navigation or use of the waters by the public by the existence of the breakwater authorized herein.

(d) ~~This permit will not be applicable to proposed construction where the Department believes that the proposed activity might unnecessarily endanger adjoining properties or significantly affect areas that possess historic, cultural, scenic, conservation or recreational values, or that might significantly affect the quality of the human environment. This general permit will not be applicable to proposed construction when the Department determines after any necessary investigations, that the proposed activity would adversely affect areas which possess historic, cultural,~~

~~scenic, conservation, or recreational values.~~

(e) ~~This general permit will not be applicable to proposed construction where the Department determines that authorization may be warranted, but that the proposed activity might significantly affect the quality of the human environment, or unnecessarily endanger adjoining properties. In those cases, individual permit applications and review of the proposed project will be required according to 15A NCAC 7J.~~

(e) (f) This permit does not eliminate the need to obtain any other required state, local, or federal authorization.

(f) (g) Development carried out under this permit must be consistent with all local requirements, AEC Guidelines, and local land use plans current at the time of authorization.

Authority G.S. 113A-107; 113A-118.1.

SUBCHAPTER 7K - ACTIVITIES IN AREAS OF ENVIRONMENTAL CONCERN WHICH DO NOT REQUIRE A COASTAL AREA MANAGEMENT ACT PERMIT

SECTION .0200 - CLASSES OF MINOR MAINTENANCE AND IMPROVEMENTS WHICH SHALL BE EXEMPTED FROM THE CAMA MAJOR DEVELOPMENT PERMIT REQUIREMENT

.0203 PRIVATE BULKHEADS; RIPRAP; AND PIERS EXEMPTED

(a) The N.C. Coastal Resources Commission hereby exempts from the Coastal Area Management Act permit requirement work in the estuarine shoreline and public trust waters areas of environmental concern necessary to maintain, repair, and construct private bulkheads with backfill, and to place riprap material along shorelines, and construct piers or mooring facilities in waters of North Carolina. This exemption is subject to the following conditions and limitations:

- (1) The activities exempted by this Rule shall be private, non-commercial activities conforming to the standards and conditions contained in this Rule. This exemption does not apply to development associated with multi-unit residential developments larger than duplexes or to marinas, commercial harbors, community or neighborhood boat access, fish houses or similar commercial activities.
- (2) This exemption is applicable only along estuarine shorelines void of wetland vegetation types described in NCGS 113-229, or where all construction is to be accomplished landward of such vegetation, or where the pier is elevated above said wetlands.
- (3) This exemption only applies to bulkheads, riprap, and piers in non-oceanfront areas.
- (4) This exemption does not eliminate the need to obtain any other required federal, state, or local

authorization.

- (5) Before beginning any work under this exemption the Department of Environment, Health, and Natural Resources representative must be notified of the proposed activity to allow on-site review of the bulkhead, riprap material, or pier alignment. Notification can be by telephone, in person, or in writing. Notification must include:
 - (A) the name, address, and telephone number of landowner and location of work including county, nearest community, and water body;
 - (B) the dimensions of the proposed pier, bulkhead with backfill, or the area dimensions to be covered by placement of riprap material;
 - (C) confirmation that a written statement has been obtained, signed by the adjacent riparian property owners, indicating that they have no objections to the proposed work. (These statements do not have to be presented at the time of notification of intent to perform work, but the permittee must make it available to CRC agents at their request.)
 - (6) The landowner must agree to perform the work authorized in this Rule in a manner so as to conform with standards for development in the estuarine shoreline area of environmental concern.
- (b) Bulkheads and Riprap: Conditions
- (1) The permittee shall maintain structure of areas of riprap material authorized in this Rule in good condition.
 - (2) Bulkhead with backfill, and placement of riprap material exempted by this Rule will be limited to a maximum shoreline length of 200 feet.
 - (3) The bulkhead backfill and riprap materials must be obtained from an upland source.
 - (4) No excavation is exempted under this Rule except that which may be required for installation of the bulkhead wall, deadmen, cables, piles, etc.
 - (5) The proposed bulkhead alignment or area for placement of riprap material must be staked or flagged by the landowner in consultation with, or approved by, a state or federal permit officer prior to any construction activity. The bulkhead must be positioned so as not to extend more than an average distance of two feet waterward of the mean high water contour; in no place shall the bulkhead be more than five feet waterward of the mean high water contour. Construction activities must begin 90 days after approval of the alignment or area.
 - (6) The bulkhead must be solid structure constructed of treated wood, concrete slabs, metal sheet piles, corrugated asbestos sheeting, or similar materials. A structure made of organic material, tires, car

bodies, or similar materials is not considered a bulkhead.

- (7) The bulkhead must be structurally tight so as to prevent seepage of backfill materials through the bulkhead. The bulkhead must be constructed prior to any backfilling activities.
 - (8) Riprap material must consist of clean rock or masonry materials such as marl, brick, or broken concrete. Materials such as tires, car bodies, scrap metal, paper products, tree limbs, wood debris, organic material or similar material are not considered riprap.
- (c) Piers: Conditions
- (1) Exemptions for pier construction along natural shorelines are available only for lots with shoreline lengths 75 feet or greater. Exemptions can be used on shorelines in human-made canals and basins regardless of shoreline length.
 - (2) (4) Piers and mooring facilities must not exceed 200 100 feet in total length off-shore; must not be within 150 feet of the edge of a federally maintained channel; must not extend past the four foot mean low water contour line (four foot depth at mean low water) of the water body; must not exceed six feet in width; must not include an enclosed structure; and must not interfere with established navigation rights of other users of the water body and must have a minimum setback of 15 feet between any part of the pier and the adjacent property owners' areas of riparian ~~access as described in 15A NCAC 7H .0208(b)(6)(E).~~ access. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the properties, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. The four foot mean low water restriction shall not apply to piers constructed in canals and basins dredged from areas above ~~mean high water (MHW)~~ normal high water (NHW) or normal water level (NWL).
 - ~~(2) Piers may have T heads or platforms not exceeding 500 sq. ft. built at their waterward end and not covering any wetland areas.~~
 - (3) This exemption shall not apply to docks and piers being built within shellfish franchises or leases unless the applicant for authorization to construct can provide written confirmation of no objections to the proposal from the lessee.
 - (4) Piers authorized by this exemption shall be for the exclusive use of the land owner, and shall not provide either leased or rented docking space or any other commercial services. Piers and mooring facilities designed to provide docking space for more than ~~four~~ two boats shall, because of their greater potential for adverse impacts, be

reviewed through the permitting process, and are, therefore, not authorized by this exemption.

- (5) Piers and docks shall in no case extend more than one-fourth the width of a natural water body, canal or basin. Measurements to determine widths of the water body, canals or basins shall be made from the waterward edge of any coastal wetland vegetation that borders the water body. The one-fourth length limitation shall not apply when the proposed pier is located between longer piers within 200 feet of the applicant's property. However, the proposed pier cannot be longer than the pier head line established by the adjacent piers, nor longer than one-third the width of the water body.
- (6) Any portion of a pier (either fixed or floating) extending from the main structure and six feet or less in width shall be considered either a "T" or a finger pier.
- (7) Any portion of a pier (either fixed or floating) greater than six feet wide shall be considered a platform or deck.
- (8) "T"s, finger piers, platforms and decks of piers must not exceed a combined total area of 200 square feet.

Authority G.S. 113A-103(5)c; 113A-118(a).

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to adopt rules cited as 15A NCAC 7M .0306 - .0308, amend rules .0301 - .0303, .0309 and repeal rules .0304 - .0305. Notice of Subject Matter was published in the Register on November 15, 1995.

Proposed Effective Date: April 1, 1997

Public Hearing: A public hearing on the subject matter was conducted on January 25, 1996.

Reason for Proposed Action: To amend the Coastal Resources Commission's shorefront access guidelines to reflect recent trends in the demand for shorefront access as well as changes in the enabling legislation (NCGS 11A-134.1 et. Seq.) enacted by the 1995 Session of the General Assembly.

Comment Procedures: The North Carolina Coastal Resources Commission will receive mailed written comments through October 3, 1996. Comments may be mailed or faxed to Richard Shaw, Division of Coastal Management, Post Office Box 27687, Raleigh, NC 27611-7687; fax: (919) 733-1495.

Fiscal Note: These Rules do not affect the expenditures or

revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

SUBCHAPTER 7M - GENERAL POLICY GUIDELINES FOR THE COASTAL AREA

SECTION .0300 - PUBLIC BEACH AND COASTAL WATERFRONT ACCESS POLICIES

.0301 DECLARATION OF GENERAL POLICY

It is the policy of the State of North Carolina to foster, protect, improve and ensure optimum access to recreational opportunities at ocean and estuarine water beach areas consistent with public rights, rights of private property owners and the need to protect natural resources, especially sand dunes and marsh vegetation. The State's ocean and estuarine water beaches are a resource of statewide significance held in trust for the use and enjoyment of all the citizens. The public has traditionally and customarily freely used and had access to these resources and the State has a responsibility to provide continued reasonable access to its beaches and estuarine waters. The State of North Carolina, therefore, has created a Coastal and Estuarine Water Beach Access Program for the purpose of acquiring, improving and maintaining recreational property at frequently located intervals along the oceanfront and estuarine shoreline.

Many privately owned properties in close proximity to the Atlantic Ocean and to estuarine shorelines have been and will be adversely affected by coastal hazards, making them unsuitable for permanent residences. A public purpose can be served by the acquisition and/or improvement of such properties for beach access use by the general public, provided that such properties are appropriately maintained for this and future generations. The state should acquire the lands which are most vulnerable to severe erosion only when these lands may be used for some valid public purpose, such as beach access and use. The state should seek opportunities for the acquisition of inexpensive properties. Where feasible, donations and bargain acquisitions should be encouraged.

(a) The public has traditionally and customarily had access to enjoy and freely use the ocean beaches and estuarine and public trust waters of the coastal region for recreational purposes and the State has a responsibility to provide continuous access to these resources. It is the policy of the State to foster, improve, enhance and ensure optimum access to the public beaches and waters of the 20 county coastal region. Access shall be consistent with public rights of private property owners and the concurrent need to protect important coastal natural resources such as sand dunes and coastal marsh vegetation.

(b) The State has created an access program for the purpose of acquiring, improving and maintaining waterfront recreational property at frequent intervals throughout the coastal region for pedestrian access to these important public resources.

(c) In addition, some properties, due to their location, are subject to severe erosion so that development here is not possible or feasible. In these cases, a valid public purpose may be served by the donation, acquisition and improvement of these properties for public access.

Authority G.S. 113A-124; 113A-134.1; 113A-134.3.

.0302 PURPOSE AND DEFINITIONS

The primary purpose of the Public Beach and Coastal Waterfront Access program is to provide pedestrian access to the public trust waters for the 20 coastal counties.

(a)(1) "Ocean Beach Access" is defined to include the acquisition ~~and/or~~ and improvement of properties situated along the Atlantic Ocean for parking and public passage to the oceanfront. Beach access facilities may include, but are not limited to, parking areas, restrooms, showers, picnic areas, dressing/shower rooms, concession stands, gazebos, litter receptacles, water fountains, dune crossovers, security lighting, emergency and pay telephones, interpretive and public beach access signs, and other appropriate facilities.

(b)(2) ~~"Estuarine Water Beach Access"~~ "Coastal Waterfront Access" is defined to include the acquisition ~~and/or~~ and improvement of properties located in the ~~twenty~~ 20 county area under the Coastal Area Management Act (CAMA) ~~CAMA~~ jurisdiction ~~that are situated along estuarine waters as defined by the North Carolina Wildlife Resources Commission and the Division of Marine Fisheries for parking, boating and pedestrian access to estuarine waters. that are coastal waterways to which the public has rights of access or public trust rights.~~ Estuarine water beach Coastal Waterfront access facilities may include, but are not limited to parking areas, restrooms, showers, picnic areas, ~~boat ramps,~~ fishing piers, boardwalks, dressing/shower rooms, concession stands, ~~gazebos,~~ litter receptacles, water fountains, security lighting, emergency and pay telephones, interpretive and public beach coastal waterfront access signs, ~~gazebos, water fountains,~~ and other appropriate facilities.

(e)(3) "Inlet Beach Access" is defined to include the acquisition ~~and/or~~ and improvement of buildable and unbuildable properties situated along the confluence of estuarine and ocean waters for parking and public passage to the beach area. ~~Inlet beach access facilities may include but are not limited to parking areas, restrooms, litter receptacles, security lighting, emergency and pay telephones, and public beach access signs. Facilities should be sited to minimize potential destruction by movement of the inlet. The construction of facilities other than parking, litter receptacles and public access signs is not encouraged.~~

(4) "Public Trust Waters" is defined in 15A NCAC 7H .0207(a).

(d)(5) ~~The term "beach" as used in these policies~~ "Beach" is defined as an area adjacent to the ocean extending from the mean low to the mean high water line and beyond this line to where either the growth of vegetation occurs or a distinct change in slope or elevation occurs, or riparian owners have specifically and legally restricted access above the mean high water line. This definition is intended to describe those shorefront areas customarily freely used by the public. The following policies recognize public use right into the beach areas as defined but do not in any way require private property owners to provide public access to the beach.

(e)(6) ~~Local accessways~~ "Local Access Sites" are defined to include those public access points which offer minimal or no facilities. ~~facilities if any at all. They are primarily used by pedestrians who reside within a few hundred yards of the site.~~ Generally, these accessways are a minimum of ~~ten~~ 10 feet in width and provide only a dune crossover or pier, if needed, ~~and~~ litter receptacles and public ~~beach~~ access signs ~~and are for the use of pedestrians within a few hundred yards of the site. Vehicle parking is generally not available at these access sites. However, bicycle racks may be provided.~~

(f)(7) ~~Neighborhood accessways~~ "Neighborhood Access Sites" are defined as those public access areas offering parking, usually for ~~five to twenty-five~~ 5 to 25 vehicles, a dune crossover or pier, litter receptacles and public ~~beach~~ access signs. Such accessways are typically 40 to 60 feet in width and are primarily ~~for the use of~~ used by individuals within the immediate subdivision or vicinity of the site. ~~If more than 15 parking spaces are provided, sanitation facilities should~~ Restroom facilities may be installed. Portable sanitation facilities are the minimum acceptable; septic systems and vault privies, where appropriate, are preferred.

(g)(8) ~~Regional accessways~~ "Regional Access Sites" are of such size and offer such facilities that they serve ~~individuals,~~ the public from throughout an island or community including day visitors. ~~These sites are handicapped accessible and normally provide parking for 25 to 80 vehicles, restrooms, a dune crossover, pier, boat ramp, foot showers, litter receptacles and public beach access signs. It is recommended that where~~ Where possible one-half acre of open space in addition to all required setback areas should be provided for buffering, day use, nature study or similar purposes.

(h)(9) ~~Multi-regional accessways~~ "Multi-regional Access

"Sites" are generally larger than regional accessways but smaller than state parks. Such facilities ~~should~~ may be undertaken and constructed with the involvement and support of state and local government agencies. Multi-regional accessways provide parking for a minimum of 80 and a maximum of 200 cars, ~~large~~ restrooms with indoor showers and changing rooms, and concession ~~stands, stands, and are accessible to the handicapped. It is recommended that where~~ stands, and are accessible to the handicapped. It is recommended that where ~~Where~~ possible two acres of open space in addition to all required setback areas should be provided for buffering, day use, nature study or similar purposes.

- (10) "Urban Waterfront Redevelopment Projects" improve public access to deteriorating or under utilized urban waterfronts. Such projects include the establishment or rehabilitation of boardwalk areas, shoreline stabilization measures such as the installation or rehabilitation of bulkheads, and the placement or removal of pilings for the purpose of public safety and increased access and use of the urban waterfront.
- (+)(11) Improvements, as related to beach access, are any "Improvements" are facilities which are added to promote public access at a specific designated access site. The most common improvements include dune crossovers, piers, boardwalks, litter receptacles, parking areas, restrooms, gazebos, bicycle racks and foot showers, boat ramps, and public beach access signs. showers.
- (+)(12) Maintenance "Maintenance" is the proper upkeep and repair of beach public access sites and their facilities in such a manner that public health and safety is ensured. Maintenance is to be a responsibility of the local government unless another suitable party is identified. Where the local government uses or has used access funds administered by the North Carolina Coastal Management Program (NCCMP), it shall be the local government's responsibility to provide operation and maintenance of the facility for the useful life of that facility.
- (13) "Handicapped Accessible" is defined as meeting the standards of the State Building Code and federal guidelines for handicapped accessibility. Any facility constructed with these grant funds must meet State and Federal regulations for handicapped accessibility.

Authority G.S. 113A-124; 113A-134.3.

.0303 GUIDANCE FOR PUBLIC ACCESS

(a) Development shall not interfere with the public's right of access to the ~~shorefront waterfront~~ where such access has been established through public acquisition, dedication, or customary use. If such access exists on a site where a

~~development requiring CAMA approval is to occur, access provisions including parking and satisfying local requirements must be specified in the permit. donation, acquisition, express or implied dedication or prescriptive easement.~~

(b) Public beach nourishment projects funded by the state and federal government ~~will not receive initial or additional funds unless must include~~ provisions have been made or are being made for adequate public beach access within the vicinity of the project based on applicable Division of Coastal Management standards. The public nourishment plan should ensure protection of public access rights, adequate identification of accessways with CRC public access signs, and construction of recommended numbers of parking spaces, dune crossovers and restroom facilities.

(c) Policies regarding state and federal properties with ~~shorefront waterfront~~ areas intended to be used by the public must provide for public access and adequate parking so as to achieve maximum public use and benefit of these areas consistent with established legislation.

(d) ~~State and federal funds for beach access shall be provided only to localities that also provide protection of the frontal dunes and marsh and estuarine vegetation.~~

~~(e) The State should continue in its efforts to supplement and improve highway, bridge and ferry access to and within the 20 county coastal area consistent with the approved local land use plans. Further, the State should wherever practical work to add public fishing catwalks to appropriate highway bridges and should incorporate catwalks in all plans for new construction and for remodeling bridges. It is the policy of the State to seek repeal of ordinances preventing fishing from bridges except where public safety would be compromised. Where bridges are to be replaced, the acquisition of public access at the old bridge site should be obtained. All Department of Transportation and local government efforts regarding right of way alterations within the twenty coastal counties should be coordinated with the Coastal Resources Commission to preserve and enhance public access opportunities and to afford the opportunity to acquire necessary public accessways and parking at the same time as additional road right of way is being acquired.~~

~~(f) All land use plans and state actions to provide additional shorefront access shall recognize the need for providing access to everyone regardless of their social or economic status.~~

~~(g) The Commission shall encourage as much beach access as is practical for the entire coast, based on estimated needs, with the recognition that the most appropriate type of access will vary from locality to locality.~~

~~(h)(d) Local governments are encouraged to participate in the access program to the maximum extent possible so that a shared state-local partnership will maximize the benefits to the community and to all citizens. The ocean and estuarine water beaches are recognized as a resource of state and local significance; all local governments are encouraged to actively participate in the access program to provide access facilities to accommodate state and local needs. Local governments are encouraged to acquire and~~

improve properties for public beach access on an ongoing basis to keep pace with community development. As a general guideline for long-term planning for beach access availability, the total number of beach access parking spaces should correspond to approximately three percent of the community's peak seasonal population. In communities with both ocean and estuarine shorelines, these parking spaces should be apportioned between ocean and estuarine accessways based on an analysis by the locality of the demand for the two types of access. Local government's target number of access parking spaces may be higher or lower than the recommended three percent based on a critical analysis of the community's peak season population and pattern of residential development as expressed in the local government's beach access plan. This analysis should take into consideration a reasonable estimate of the number of day visitors from the surrounding area and the percentage of the community's seasonal population that will require parking on or near the shoreline. Local governments participating in the access program maximize the state/local partnership that characterizes the coastal management program. The access program serves both year-round and seasonal users. In determining parking needs for access, particularly for day visitor destination beaches, local governments may use the peak seasonal population estimate provided in their land use plan. The total access parking space needs for a local government is roughly three percent of peak seasonal population. This total includes street parking, which may not be directly adjacent to the waterfront. This is a goal and may not be attainable on a project-by-project basis, and further local parking space needs analysis may be useful in meeting local demands.

(i)(e) Beach access projects shall, to the maximum extent feasible, be consistent with the established priorities of approved local land use plans, beach access plans and outdoor recreation plans, and will be designed to be free of architectural barriers which may limit their use by the handicapped. Where grant funds are used to acquire land or improve access opportunities, local governments may charge a user fee or fee for off-street parking if proceeds are used exclusively for beach access maintenance and improvements. Access projects should be consistent with access policies contained in the local government's land use plan or a local access plan. If a local access plan does not exist, a local recreation plan that addresses public access may provide guidance as to local needs.

(f) If Division of Coastal Management grant funds are used for a public access project, reasonable user fees may be charged as long as those fees are used exclusively for operation and maintenance of the access facility. Funding from other agencies or sources may carry different regulations about user fees. Other regulations, including schedules of operation, may also be established.

(j)(g) Local governments shall have lead responsibility for the provision of local and neighborhood access with full support and assistance from the state. Provision of local and neighborhood access must be based on identified needs

as stated in approved local land use plans, beach access plans or outdoor recreation plans. The state shall have lead responsibility for the provision of regional and multi-regional access areas. Provision of such access areas must be based on recommended siting criteria set out in these rules or based on identified needs as stated in approved local land use plans, beach access plans, and outdoor recreation plans. Local governments shall have lead responsibility for the selection and provision of public access sites. Access shall be based on identified needs as stated in approved land use plans and water access plans. The Division of Coastal Management may provide some assistance in determining the location of regional and multi-regional sites.

(k) Local governments are encouraged to pursue the legal perfection, surveying and/or signing of all accessways currently on record, be they dedicated or established by customary use, to ensure that none are lost to development or encroachment.

(l) The estuarine access program is primarily for access to estuarine water beaches; while access to estuarine waters for boating may be associated with this, it is not a primary objective.

(h) The primary purpose of the public access program is to provide pedestrian access. If however, the preponderance of a proposal is pedestrian oriented, boating and fishing facilities may be included, provided pedestrian access is the primary objective.

(m) Local governments are encouraged to plan for and develop ocean access areas so as to provide convenient access opportunities along the entire length of the shoreline within its jurisdiction. The number, size and type of access facilities in any given locality should be based on the local government's analysis of peak season population demands as set out in Paragraph (h) of this Rule as well as other local factors such as width of the community, permanent population levels and the physical nature of the shoreline. To further the long-term state goal of providing adequate access to the entirety of the oceanfront public trust area, local government are encouraged to site needed access facilities in a pattern that provides convenient access to the entire shoreline as per the following:

Local/Neighborhood Access Areas: one at either end of the average block in the community;

Regional Access Areas: one per local government jurisdiction or one per four miles of shoreline, whichever results in more frequent access opportunities;

Multi-regional Access Areas: one per barrier island or one per ten miles of shoreline, whichever results in more frequent access opportunities.

(i) Local governments with ocean beach shorelines may plan for the entire length of shoreline within their jurisdictions to provide the appropriate location, numbers, size and facilities needed. Seasonal population figures discussed earlier can help in this process. The recommended frequency of public access is as follows:

(1) Local/Neighborhood Access Sites - one per block

in the community;

- (2) Regional Access Sites - one per locality or one per four miles, whichever yields the most public access;
- (3) Multi-regional Access Sites - one per barrier island or one per 10 miles whichever yields the most public access.

(j) Local governments with estuarine or public trust shorelines may consider the following guidance in determining public access. The recommended frequency is as follows:

- (1) Local Access Sites - one per block;
- (2) Neighborhood Access Sites - one per 50 dwelling units;
- (3) Regional Access Sites - one per local government jurisdiction;
- (4) Multi-regional Access Sites - one per coastal county. Parking facilities for these projects shall be based on seasonal population estimates.

(n) ~~It is recommended that inlet access areas be established to assure and sustain public use of the inlet area for fishing and general beach recreation. Publicly dedicated roads are recommended to be maintained to inlet areas. Because inlet areas are typically migratory and highly transient, it is recommended that larger tracts of land be acquired than would be needed for the facility itself.~~

(o) ~~Local governments are encouraged to plan for and develop estuarine access areas according to the following locational guidelines, which are set forth as access goals rather than as required minimum standards, so as to provide convenient access opportunities along the entire length of the shoreline within a given local government jurisdiction:~~

~~Local: located along urbanized waterfronts parallel to the waterfront for a minimum width of 10 feet; pedestrian access perpendicular to the waterfront should be located at a distance of once every block.~~

~~Neighborhood: neighborhood access areas should be located every 1,000 feet along developed shorelines. In residential subdivisions it would be desirable to have a minimum area 100 feet long adjacent to the shore by 50 feet in depth in public ownership for each 50 residential dwelling units in a given subdivision.~~

~~Regional: regional access areas should be located on barrier islands at a frequency of one per local government jurisdiction or one per four miles of shoreline, whichever results in the provision of the greater number of facilities. On the mainland, regional accessways should be located at a frequency of one per town or county.~~

~~Multi-regional: at least one multi-regional access area should be located in each coastal county.~~

~~The total number of access areas, their size and type should be based on local government analysis of peak season population demand as set out in 7M .0303(h) and such other factors as are set out in Subparagraph (m) of this Rule. Location standards set out in this paragraph represent the recommended spacing of access areas along the shoreline; additional accessways should be constructed as needed or~~

~~desired.~~

~~(p) Land acquisition for future public access opportunities in the coastal area is a major priority for local and state governments. Planning for access should include the identification of appropriate parcels in land use plans and other policy documents.~~

~~(q)(k) The acquisition of unbuildable lots by local governments is considered a priority and is encouraged, is a high priority of the beach access program. Acquisition of such properties provide not only opportunities for public beach access and use but also limit the encroachment of private property on the public beach.~~

~~(l) The construction of facilities other than parking, litter receptacles, and public access signs is not encouraged in inlet beach areas.~~

Authority G.S. 113A-124; 113A-134.1; 113A-134.3; 153A-227(a); 160A-314(a); 16 U.S.C. Sec. 1453.

.0304 LOCAL PARTICIPATION REQUIREMENTS: BEACH ACCESS PROGRAM

~~(a) Aspects of local accessway management may be considered of such overriding state concern that all or any combination of the following conditions may be imposed on any grant for the purpose of acquisition of property or improvements to such property as follows:~~

- ~~(1) verification of coastal and estuarine water beach access inventories prepared for the locality by the Department and acceptance of all dedicated street ends and accessways providing access to ocean and estuarine shorelines; reference to the actual dimensions of each publicly dedicated right of way should also be made;~~
- ~~(2) erection, replacement and maintenance of public beach access signs approved by the Department;~~
- ~~(3) adoption of appropriate subdivision ordinances requiring the dedication, timely improvement, and identification (by posting of CRC public access signs) of, at a minimum, local and neighborhood accessways according to Division of Coastal Management location standards thereby assuring physical and visual access for the general public to the shorefront along existing and future public streets and in subdivisions where no public streets are constructed;~~
- ~~(4) establishment, posting and implementation of user, supervisory and maintenance standards for accessways under local jurisdiction;~~
- ~~(5) identification of properties unsuitable for development due to coastal hazards and acquisition and site development strategies;~~
- ~~(6) all properties acquired under the beach access program be used and maintained for public access to the shorefront;~~
- ~~(7) in order to ensure the timely completion of approved projects, time limitations may be imposed on the acquisition or improvement of appropriate~~

properties;

- (8) ~~a written explanation, where appropriate, as to why a local government chooses not to request funds for the improvement or acquisition of properties unsuitable for residential or commercial development or why a local government has not prepared public access policies or plans, or applied for grant assistance; and~~
- (9) ~~development of a local access plan or adoption of an access resolution; an access plan would identify existing access opportunities, problems and needs; establish a means for determining access requirements; establish standards and goals; specify implementation strategies; establish project priorities; examine funding alternatives; and develop appropriate local policies;~~
- (10) ~~development of local funding sources for beach access projects which may include but are not limited to developer impact fees, hotel motel tax revenues, etc.;~~
- (11) ~~recommended adoption of appropriate subdivision ordinances requiring public dedication of road rights-of-way parallel and perpendicular to ocean beaches and estuarine shorelines and at inlets; and requiring the public dedication of local and neighborhood accessways for use of the residents in the subdivision consistent with state enabling legislation.~~

(b) ~~The local government has primary responsibility for identifying a comprehensive public access plan. The local government has primary responsibility for selecting parcels for public acquisition and/or improvement for beach access and for endorsing beach access grant applications. The Division of Coastal Management has primary responsibility for administering and developing the coastal and estuarine water access program and secondary responsibility to provide appropriate technical assistance to local governments.~~

Authority G.S. 113A-124; 113A-134.3.

.0305 MANDATORY PUBLIC NOTICE

~~Prior to any grant award by the State under the Coastal Beach Access program, the project sponsoring agency will conduct a public meeting allowing discussion on the placement and maintenance of any beach access facility or the acquisition of any suitable property for beach access.~~

Authority G.S. 113A-134.3.

.0306 LOCAL GOVERNMENT AND STATE INVOLVEMENT IN ACCESS

(a) Coastal Waterfront access in the 20-county coastal area is a concern of local, state, regional and national importance. As such, the NCCMP can provide some guidance as to location of facilities that are of multi-regional

and regional significance. The local government, however, has the primary responsibility for identifying local, neighborhood and regional accessways through its land use plan policies and local access plan.

- (1) A local policy in a land use plan sets the community objectives for access; a local government may determine that public access is not a pressing issue and thus develop a policy of private sector access provision and no public involvement. Similarly local governments may:
 - (i) identify numerous access needs and develop local policy to pursue access funding;
 - (ii) develop a local access plan; and
 - (iii) solicit access sites through corporate assistance.
- (2) A local access plan should identify needs and opportunities, determine access and facility requirements, establish local standards, and develop specific project design plans or guidelines by appropriate site. A local plan should consider both financial resource availability (such as grants, impact fees or hotel/motel tax revenues) and construction timing. It should establish local priorities and devise a system for annual evaluation of the plan.
- (3) Local governments may also include provisions in local subdivision ordinances that require access for waterfront developments or require payment in lieu of access for non-water dependent subdivisions. The principle here is that, as land is subdivided and more people become residents, access and other recreation demands will follow.
- (4) Dedicated street stub outs may be acceptable for accessways when reviewed on a case-by-case basis.

(b) The NCCMP has primary responsibility for administering the coastal access program. Annually, the Division of Coastal Management (DCM) will solicit for pre-application proposals from local governments and will select competitive projects for full application submittal. A group of these final applications will be selected for funding based on guidelines in Rule 7M .0305 of this Section and anticipated fund availability.

(c) DCM will ensure all projects funded through the annual grant program are making reasonable progress throughout project implementation and ensure that completed projects are operated and maintained for access purposes.

Authority G.S. 113A-124; 113A-134.3.

.0307 ELIGIBLE APPLICANTS/GRANT SELECTION CRITERIA

Any local government in the 20 coastal county region having ocean beaches, estuarine or public trust waters within its jurisdiction may apply for access funds:

- (1) Eligible projects include:
 - (a) Land acquisition, including acquisition of

unbuildable lots;

- (b) Local Access Sites;
- (c) Neighborhood Access Sites;
- (d) Regional Access Sites;
- (e) Multi-regional Access Sites;
- (f) Urban waterfront development projects;
and
- (g) Reconstruction or relocation of existing,
damaged facilities.

(2) The following general criteria will be used to select projects that may receive financial assistance. These criteria assist the Division of Coastal Management in carrying out the goals of this program. Other factors may also be considered in the funding decision:

- (a) Applicant demonstrates a need for the project due to a high demand for public access and limited opportunities;
- (b) Project is identified in a local beach or waterfront access plan;
- (c) Applicant has not received previous assistance from this grant program;
- (d) Applicant's commitment of matching funds exceeds the required local share of the total project cost provided in Item (3) of this Rule;
- (e) Project proposal includes multiple funding sources;
- (f) The project location includes donated land deemed unbuildable due to regulations or physical limitations; and
- (g) Applicant has demonstrated its ability to complete previous projects successfully with funds from this grant program.

(3) Local government contributions must be at least 25 percent of the project costs. At least one half of the local contribution must be cash match; the remainder may be in-kind match.

(4) Multi-phase projects and previous contingency projects will be considered on their own merits within the pool of applications being reviewed in that year.

Authority G.S. 113A-124; 113A-134.3.

.0308 PUBLIC INVOLVEMENT/NOTICE

Prior to submitting its final application for a public access grant from the Division of Coastal Management, the local government shall hold a public meeting or hearing to discuss its proposal. The local government shall consider public comments prior to its decision to apply for funds from the State.

Authority G.S. 113A-124; 113A-134.3.

.0306 .0309 COMPLIANCE WITH THE NORTH CAROLINA ENVIRONMENTAL POLICY

ACT

The ~~beach~~ public access program shall comply with the requirements of the North Carolina Environmental Policy Act (NCEPA) and rules adopted by the Department of Environment, Health, and Natural Resources concerning NCEPA implementation as set out in 15A NCAC 1C .0201 - .0504. Future amendments by the Department shall be deemed to be incorporated into this Rule pursuant to G.S. 150B-14(c).

Authority G.S. 113A-2; 113A-124.

Notice is hereby given in accordance with G.S. 150B-21.2 that the EHNRR - Coastal Resources Commission intends to amend rules cited as 15A NCAC 7M .0401 - .0403.

Proposed Effective Date: April 1, 1997

A Public Hearing will be conducted at 4:00 p.m. on September 26, 1996 at Sea Trail Plantation & Golf Resort, 211 Clubhouse Road, Sunset Beach, NC 28468.

Reason for Proposed Action: *The State needs to clarify existing policy statements pertaining to energy production in the coastal region, especially for exploration and production on the Outer Continental Shelf. The proposed amendments will clarify for applicants the criteria necessary for siting energy facilities. These are the policies and the criteria the state will use to review proposed facilities and activities for consistency with the State's coastal management program.*

Comment Procedures: *All persons interested in this matter are invited to attend the public hearings. The Coastal Resources Commission will receive mailed written comments postmarked no later than October 3, 1996. Any person desiring to present lengthy comments is requested to submit a written statement for inclusion in the record of proceedings at the public hearings. Additional information concerning the hearings or the proposals may be obtained by contacting Kim Crawford, Ocean Resources Specialist, EHNRR Division of Coastal Management, PO Box 27687, Raleigh, NC 27611-7687; (919) 733-2293.*

Fiscal Note: *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.*

SECTION .0400 - COASTAL ENERGY POLICIES

.0401 DECLARATION OF GENERAL POLICY

(a) It is hereby declared that the general welfare and public interest require that a reliable ~~source~~ sources of energy be made available to the citizens of North Carolina.

It is further declared that the development of energy facilities and energy resources within the state and in offshore waters can serve important regional and national interests. However, unwise development of energy facilities or energy resources can conflict with the recognized and equally important public interest that rests in conserving and protecting the valuable land and water resources of the state and nation, particularly coastal lands and waters. Therefore, in order to balance the public benefits attached to necessary energy development against the need to protect valuable coastal resources, the planning of future land ~~uses~~ and uses, the exercise of regulatory ~~authority~~ authority, and determinations of consistency with the North Carolina Coastal Management Program shall assure that the development of energy facilities and energy resources shall avoid significant adverse impact upon vital ~~physical resources~~ coastal resources, public trust areas and public access rights.

(b) Exploration for the development of offshore and Outer Continental Shelf (OCS) energy resources has the potential to affect coastal resources. The Federal Coastal Zone Management Act of 1972, as amended, requires that federal oil and gas leasing actions of the U.S. Department of the Interior be consistent to the maximum extent practicable with the enforceable policies of the federally approved North Carolina Coastal Management Program. Plans submitted to the Department of Interior for exploration, development or production in an OCS lease area that include actions that may affect any land or water use or natural resource of the coastal area shall be consistent with enforceable policies. For the purposes of such required consistency, enforceable policies applicable to OCS activities must include all the provisions and policies of this Rule, as well as any other applicable federally approved components of the North Carolina Coastal Management Program. All permit applications, plans and assessments related to exploration or development of OCS resources and other relevant energy facilities must contain adequate information to allow in-depth analysis of the consistency of all proposed activities with these Rules and policies.

Authority G.S. 113A-102(b); 113A-107; 113A-124.

.0402 DEFINITIONS

(a) "Assessment" "Impact Assessment" is an analysis which fully discusses the environmental, economic and social consequences of a proposed project. At a minimum, the assessment ~~should~~ shall include the following information:

- (1) a full discussion of the preferred ~~site for the project~~; sites for those elements of the project affecting any land or water use or natural resources of the coastal area;

(A) In all cases where the preferred site is located within an AEC area of environmental concern (AEC) or on a barrier island, the applicant shall identify alternative sites considered and present a full discussion [in

terms of ~~(2) through (8) of this Subsection]~~ Subparagraphs (a)(2) through (8) of this Rule] of the reasons why the chosen location was deemed more suitable than another feasible alternate site;

(B) If the preferred site is not located within an AEC or on a barrier island, the applicant shall present reasonable evidence to support the proposed location over a feasible alternate site;

(C) In those cases where an applicant chooses a site previously identified by the state as suitable for such development and the site is outside an AEC or not on a barrier island, alternative site considerations will not be required as part of this assessment procedure;

- (2) a full discussion of the economic impacts, both positive and negative, of the proposed project; This discussion should focus on economic impacts to the ~~public sector and shall not be deemed to include~~ public, not on matters that are purely internal to the corporate operation of the ~~applicant, and no applicant~~. No proprietary or confidential economic data will be required. This discussion shall include analysis of likely adverse impacts upon the ability of any governmental unit to furnish necessary services or facilities as well as other secondary impacts of significance;
- (3) ~~a full discussion of potential likely or probable adverse impacts on estuarine or coastal resources; resources based on industry experience;~~
- (4) ~~a full discussion of potential likely or probable adverse impacts on existing industry or probable unreasonable and potential limitations on the availability of natural resources, particularly water, for future industrial development, based on industry experience; development;~~
- (5) ~~a full discussion of potential likely or probable significant adverse impacts on recreational uses and scenic resources, based on industry experience; scenic, archaeological and historic resources;~~
- (6) ~~a full discussion of potential likely or probable risks of danger to human life or property;~~
- (7) other specific data necessary for the various state and federal agencies and commissions with jurisdiction to evaluate the consistency of the proposed project with relevant standards and guidelines;
- (8) a specific demonstration that the proposed project is consistent with relevant local land use plans and with guidelines governing land uses in ~~areas of environmental concern~~. AECs.

If appropriate environmental documents are prepared and reviewed under the provisions of the National Environmental Policy Act (NEPA) ~~and/or~~ and the North Carolina Environmental Policy Act (NCEPA), this review will satisfy

this definition of "assessment" "impact assessment" if all issues listed in this Subsection Paragraph (a) of this Rule are addressed and these documents are submitted in sufficient time to be used to review subsequent state permit applications for the project, project or subsequent consistency determinations.

(b) "Major energy facilities" are those energy facilities which because of their size, magnitude and or scope of impacts, have the potential to significantly affect the coastal zone, any land or water use or natural resource of the coastal area. For purposes of this definition, major energy facilities shall include, but are not necessarily limited to, the following:

- (1) Any facility capable of refining oil;
- (2) Any terminals (and associated facilities) capable of handling, processing, or storing liquid propane gas, liquid natural gas, or synthetic natural gas;
- (3) Any oil or gas storage facility that is capable of storing 15 million gallons or more on a single site;
- (4) Electric generating facilities 300 MGW or larger;
- (5) Thermal energy generation;
- (6) Major pipelines 12 inches or more in diameter that carry crude petroleum, natural gas, liquid natural gas, liquid propane gas, or synthetic gas;
- (7) Structures, including drillships and floating platforms and structures relocated from other states or countries, located in offshore waters for the purposes of exploration for, or development or production of, oil or natural gas; and
- (8) Onshore support or staging facilities related to exploration for, or development or production of, oil or natural gas.

(c) "Offshore waters" - definition referencing Submerged Lands Act and Outer Continental Shelf Lands Act.

Authority G.S. 113A-102(b); 113A-107; 113A-124.

.0403 POLICY STATEMENTS

(a) The placement and operations of major energy facilities in or affecting any land or water use or natural resource of the North Carolina coastal zone area shall be done in a manner that allows for protection of the environment and local and regional socio-economic goals as set forth in the local land-use plan(s) and State guidelines in 15A NCAC 7H and 7M. The placement and operation of such facilities shall be consistent with established state standards and rules and shall comply with local land use plans and with guidelines for land uses in areas of environmental concern. AECs.

(b) Applicants Proposals, plans and permit applications for major energy facilities to be located in or affecting any land or water use or natural resource of the North Carolina coastal zone shall, area shall include prior to construction, make a full disclosure of all costs and benefits associated with the project. This disclosure shall be prepared at the

earliest feasible stage in planning for the project and shall be in the form of an impact assessment, assessment prepared by the applicant as defined in 15A NCAC 7M .0402.

(c) Local governments shall not unreasonably restrict the development of necessary energy facilities and shall facilities; however, they shall be encouraged to develop siting measures that will minimize impacts to local resources, resources and to identify potential sites suitable for energy facilities.

(d) In coastal shoreline areas which have recognized recreational benefits or with identified access problems, those major energy Energy facilities that do not require shorefront access shall be sited inland of the coastal zone-shoreline areas. In other instances when shoreline portions of the coastal zone area are necessary or preferred locations, shoreline siting will be acceptable only if it can be demonstrated that coastal waters resources and public trust waters will be adequately protected, the public's right to access and passage will not be unreasonably restricted, and all reasonable mitigating measures have been taken to minimize impacts to AECs.

(e) The scenic and visual qualities of coastal areas shall be considered and protected as important public resources. Energy facility development shall be sited and designed to protect views to and along the ocean, sounds and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas.

(f) All energy facilities in or affecting any land or water use or natural resource of the coastal area shall be sited and operated so as to be consistent with the following criteria to the maximum extent practicable.

- (1) Risks of environmental harm to fish spawning areas shall be assessed and minimized.
- (2) For facilities requiring an Oil Spill Contingency Plan pursuant to 30 CFR 250.42 or other Federal or State regulations, the Plan must be approved by the State prior to permit or consistency decisions. The Plan shall completely assess the risks of spills, evaluate possible trajectories, and enumerate response and mitigation measures employing the best available technology to be followed in the event of a spill. The Plan must adequately demonstrate that the potential for oil spills and ensuing damage to coastal resources has been minimized.
- (3) Dredging, spoil disposal and construction of related structures that are reasonably likely to affect any land or water use or natural resource of the coastal area shall be minimized, and any unavoidable actions of this sort shall minimize damage to the marine environment.
- (4) Damage to or interference with existing or traditional uses, such as fishing, navigation and access to public trust areas, and areas with high biological or recreational value, shall be avoided to the extent that such damage or interference is reason-

- ably likely to affect any land or water use or natural resource of the coastal area.
- (5) Placement of structures in geologically unstable areas, such as unstable sediments and active faults, shall be avoided to the extent that damage to such structures resulting from geological phenomena is reasonably likely to affect any land or water use or natural resource of the coastal area.
 - (6) Wildlife destruction or relocation shall be assessed and minimized to the extent that such destruction or relocation is reasonably likely to affect any land or water use or natural resource of the coastal area.
 - (7) Adverse impacts on species identified as threatened or endangered on Federal or State lists shall be avoided.
 - (8) No energy facilities will be sited in components of the North Carolina Coastal Reserve, in State-owned parks, recreation areas or historic sites, in federal or state wildlife refuges, or in national parks or seashores.
 - (9) No energy facilities will be sited in areas where they pose a threat to the integrity of the facility and surrounding areas, such as ocean front areas with high erosion rates, areas having a history of overwash or inlet formation, and areas in the vicinity of existing inlets.
 - (10) In the siting of energy facilities and related structures, the following areas shall be avoided to the maximum extent practicable:
 - (A) areas of high biological significance, including offshore reefs, rock outcrops and hard bottom areas, sea turtle nesting beaches, freshwater and saltwater wetlands, primary nursery areas, submerged aquatic vegetation beds, shellfish beds, anadromous fish spawning and nursery areas, and colonial bird nesting colonies;
 - (B) major tracts of maritime forest and other important natural areas as identified by the North Carolina Natural Heritage Program;
 - (C) crossings of streams, rivers, and lakes except for existing readily-accessible corridors;
 - (D) designated National Historic Landmarks and sites listed in or determined eligible for the National Register of Historic Places;
 - (E) anchorage areas and congested port areas;
 - (F) artificial reefs, shipwrecks, and submerged archaeological resources;
 - (G) dump sites;
 - (H) areas of large dunes or well-developed frontal dune systems;
 - (I) heavily developed and heavily used recreation areas.
 - (11) Where impacts on these areas cannot be avoided, and the impact affects any land or water use or natural resource of the coastal area, damage shall be mitigated to the maximum extent practicable, and affected areas shall be restored to their original functions pursuant to a plan of reclamation, which must be a part of the consistency determination or permit.
 - (12) Construction of energy facilities shall occur only during periods of lowest biological vulnerability. Nesting and spawning periods shall be avoided.
 - (13) If facilities located in the coastal area are abandoned, habitat of equal value to or greater than that existing prior to construction shall be restored as soon as practicable following abandonment. For abandoned facilities outside the coastal area, habitat in the areas shall be restored to its preconstruction state and functions as soon as practicable if the abandonment of the structure is reasonably likely to affect any land or water use or natural resource of the coastal area.

Authority G.S. 113A-102(b); 113A-107; 113A-124.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

CHAPTER 58 - REAL ESTATE COMMISSION

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Real Estate Commission intends to amend rule cited as 21 NCAC 58A .0104. Notice of Rule-making Proceedings was published in the Register on July 1, 1996.

Proposed Effective Date: March 1, 1997

A Public Hearing will be conducted at 9:00 a.m. on September 18, 1996 at the North Carolina Real Estate Commission, 1313 Navaho Drive, Raleigh, NC 27609.

Reason for Proposed Action: To enable a real estate firm, which represents both the buyer and the seller in the same real estate sales transaction, to designate one or more individual brokers or salesmen associated with the firm to represent only the interests of the seller and one or more other individual brokers and salesmen associated with the firm to represent only the interests of the buyer in the same transaction.

Comment Procedures: Comments regarding the rules may be made orally or submitted in writing at the public hearing. Written comments not submitted at the hearing may be sent to or delivered to Mr. Stephen L. Fussell c/o North Carolina Real Estate Commission, P.O. Box 17100, Raleigh, NC 27619-7100, so as to be received by October 3, 1996.

Fiscal Note: This Rule does not affect the expenditures or revenues of state or local government funds. This Rule does not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

SUBCHAPTER 58A - REAL ESTATE BROKERS AND SALESMEN

SECTION .0100 - GENERAL BROKERAGE

.0104 AGENCY AGREEMENTS AND DISCLOSURE

(a) Every listing agreement, buyer agency agreement or other agreement for brokerage services in a real estate sales transaction shall be in writing, shall provide for its existence for a definite period of time and shall provide for its termination without prior notice at the expiration of that period.

(b) Every listing agreement, buyer agency agreement or other agreement for brokerage services in a real estate sales transaction shall contain the following provision: The broker shall conduct all his brokerage activities in regard to this agreement without respect to the race, color, religion, sex, national origin, handicap or familial status of any buyer, prospective buyer, seller or prospective seller. The provision shall be set forth in a clear and conspicuous manner which shall distinguish it from other provisions of the agreement. For the purposes of this Rule, the term, familial status, shall be defined as it is in G.S. 41A-3(1b).

(c) Every listing agreement, buyer agency agreement or other agreement for brokerage services in a real estate sales transaction shall incorporate the "Description of Agent Duties and Relationships" prescribed by the Commission which shall be set forth in a clear and conspicuous manner and shall not include or be accompanied by any additional text which contradicts its meaning and substance. The "Description of Agent Duties and Relationships" shall read as follows:

DESCRIPTION OF AGENT DUTIES AND RELATIONSHIPS

Before you begin working with any real estate agent, you should know who the agent represents in the transaction. Every listing agreement, buyer agency agreement or other agreement for brokerage services in a real estate sales transaction in North Carolina must contain this "Description of Agent Duties and Relationships" [N.C. Real Estate Commission Rule 21 NCAC 58A .0104(c), eff. 7/1/95]. Real estate agents should carefully review this information with you prior to entering into any agency agreement.

AGENTS' DUTIES

When you contract with a real estate firm to act as your agent in a real estate transaction, the agent must help you obtain the best price and terms possible, whether you are the buyer or seller. The agent also owes you the duty to:

- Safeguard and account for any money handled for you
- Be loyal and follow reasonable and lawful instructions
- Act with reasonable skill, care and diligence
- Disclose to you any information which might influence your decision to buy or sell

Even if the agent does not represent you, the agent must still be fair and honest and disclose to you all "material facts" which the agent knows or reasonably should know. A fact is "material" if it relates to defects or other conditions affecting the property, or if it may influence your decision to buy or sell. *This does not require a seller's agent to disclose to the buyer the minimum amount the seller will accept, nor does it require a buyer's agent to disclose to the seller the maximum price the buyer will pay.*

AGENTS WORKING WITH SELLERS

A seller can enter into a "listing agreement" with a real estate firm authorizing the firm and its agent(s) to represent the seller in finding a buyer for his property. The listing agreement should state what the seller will pay the listing firm for its services, and it may require the seller to pay the firm no matter who finds the buyer.

The listing firm may belong to a listing service to expose the seller's property to other agents who are members of the service. Some of those agents may be working with buyers as buyers' agents; others will be working with buyers but still representing the sellers' interests as a agent or "subagent." When the buyer's agents and seller's subagents desire to share in the commission the seller pays to the listing firm, the listing agent may share the commission with the seller's permission.

AGENTS WORKING WITH BUYERS

A buyer may contract with an agent or firm to represent him (as a **buyer's agent**), or may work with an agent or firm that represents the seller (as a **seller's agent or subagent**). All parties in the transaction should find out at the beginning who the agent working with the buyer represents.

If a buyer wants a buyer's agent to represent him in purchasing a property, the buyer should enter into a "buyer agency agreement" with the agent. The buyer agency agreement should state how the buyer's agent will be paid. **Unless some other arrangement is made which is satisfactory to the parties, the buyer's agent will be paid by the buyer.** Many buyer agency agreements will also obligate the buyer to pay the buyer's agent no matter who finds the property that the buyer purchases.

A buyer may decide to work with a firm that is acting as agent for the seller (a **seller's agent or subagent**). If a buyer does not enter into a buyer agency agreement with the firm that shows him properties, that firm and its agents will show the buyer properties as an agent or subagent working on the seller's behalf. Such a firm represents the seller (**not the buyer**) and must disclose that fact to the buyer.

A seller's agent or subagent must still treat the buyer fairly and honestly and disclose to the buyer all material facts which the agent knows or reasonably should know. The seller's agent typically will be paid by the seller. **If the agent is acting as agent for the seller, the buyer should be careful not to give the agent any information that the buyer does not want the seller to know.**

DUAL AGENTS

A real estate agent or firm may represent more than one party in the same transaction only with the knowledge and consent of all parties for whom the agent acts. "Dual Agency" is most likely to occur when a buyer represented by a buyer's agent wants to purchase a property listed by that agent's firm. A dual agent must carefully explain to each party that the agent and the agent's firm are also acting for the other party.

In any dual agency situation, the agent must obtain a written agreement from the parties which fully describes the obligations of the agent and the agent's firm to each of them.

Immediately after the "Description of Agent Duties and Relationships", every listing and buyer agency agreement shall contain the following provision, including a box which the agent shall check when the provision is applicable: "☐ This firm represents both sellers and buyers. This means that it is possible that a buyer we represent will want to purchase a property owned by a seller we represent. When that occurs, the agent and firm listed above will act as **dual agents** if all parties agree."

(d) A broker or brokerage firm representing one party in a transaction shall not undertake to represent another party in the transaction without the express, written authority of each party.

(e) In every real estate sales transaction, a broker or salesman working directly with a prospective buyer as a seller's agent or subagent shall disclose to the prospective buyer at the first substantial contact with the prospective buyer that the broker or salesman represents the interests of the seller. The broker or salesman shall make the disclosure on the "Disclosure to Buyer from Seller's Agent or Subagent" form prescribed by the Commission. If the first substantial contact occurs by telephone or by means of other electronic communication where it is not practical to provide written disclosure, the broker or salesman shall immediately disclose by similar means whom he represents and shall immediately, but in no event later than three days from the date of first substantial contact, mail or otherwise transmit a copy of the form to the buyer.

(f) In every real estate sales transaction, a broker or salesman representing a buyer shall, at the initial contact with the seller or seller's agent, disclose to the seller or seller's agent that the broker or salesman represents the buyer's interests. In addition, in every real estate sales transaction other than auctions, the broker or salesman shall, no later than the time of delivery of an offer to the seller or seller's agent, provide the seller or seller's agent with a written confirmation disclosing that he represents the interests of the buyer. The written confirmation may be made in the buyer's offer to purchase.

(g) The provisions of Paragraphs (c), (d) and (e) of this Rule shall not apply to real estate licensees representing sellers in auction sales transactions.

(h) A broker or salesman representing a buyer in an auction sale transaction shall, no later than the time of execution of a written agreement memorializing the buyer's contract to purchase, provide the seller or seller's agent with a written confirmation disclosing that he represents the interests of the buyer. The written confirmation may be made in the written agreement.

(i) A firm which represents both the buyer and the seller in the same real estate sales transaction is a dual agent and through the brokers and salesmen associated with the firm shall disclose its dual agency to the buyer and seller.

(j) When a firm represents both the buyer and seller in the same real estate sales transaction, the firm may designate one or more individual brokers or salesmen associated with the firm to represent only the interests of the seller and one or more other individual brokers and salesmen associated with the firm to represent only the interests of the buyer in the transaction. An individual broker or salesman shall not be so designated and shall not undertake to represent only the interests of one party if the broker or salesman has actually received confidential information concerning the other party in connection with the transaction.

(k) When a firm acting as a dual agent designates an individual broker or salesman to represent the seller, the broker or salesman so designated shall represent only the interest of the seller and shall not, without the seller's permission, disclose to the buyer or a broker or salesman designated to represent the buyer:

- (1) that the seller may agree to a price, terms, or any conditions of sale other than those established by the seller;
- (2) the seller's motivation for engaging in the transaction unless disclosure is otherwise required by statute or rule;
and
- (3) any information about the seller which the seller has identified as confidential unless disclosure of the information is otherwise required by statute or rule.

(l) When a firm acting as a dual agent designates an individual broker or salesman to represent the buyer, the broker or the salesman so designated shall represent only the interest of the buyer and shall not, without the buyer's permission, disclose to the seller or a broker or salesman designated to represent the seller:

- (1) that the buyer may agree to a price, terms, or any conditions of sale other than those offered by the buyer;
- (2) the buyer's motivation for engaging in the transaction unless disclosure is otherwise required by statute or rule;
and
- (3) any information about the buyer which the buyer has identified as confidential unless disclosure of the information is otherwise required by statute or rule.

(m) A broker or salesman designated to represent a buyer or seller in accordance with Paragraph (b) of this Rule shall disclose the identity of all of the brokers and salesmen so designated to both the buyer and the seller. The disclosure shall take place no later than the presentation of the first offer to purchase or sell.

(n) When an individual broker or salesman represents both the buyer and seller in the same real estate sales transaction pursuant to a written agreement authorizing dual agency, the parties may provide in the written agreement that the broker or salesman shall not disclose the following information about one party to the other without permission from the party about whom the information pertains:

- (1) that a party may agree to a price, terms or any conditions of sale other than those offered;
- (2) the motivation of a party for engaging in the transaction, unless disclosure is otherwise required by statute or rule;
and
- (3) any information about a party which that party has identified as confidential, unless disclosure is otherwise required by statute or rule.

Authority G.S. 41A-3(1b); 93A-3(c).

The Codifier of Rules has entered the following temporary rule(s) in the North Carolina Administrative Code. Pursuant to G.S. 150B-21.1(e), publication of a temporary rule in the North Carolina Register serves as a notice of rule-making proceedings unless this notice has been previously published by the agency.

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

Rule-making Agency: EHN/NC Marine Fisheries

Rule Citation: 15A NCAC 3M .0202, .0504, .0511. *Rule-making Proceedings was published in the Register on May 1, 1996.*

Effective Date: September 1, 1996

Findings Reviewed by Julian Mann, III: *Approved*

Authority for the rule-making: G.S. 113-134; 113-182; 113-221; 143B-289.4

All Public Hearings will be conducted at 7:00 p.m. on:

September 19, 1996
Archdale Building
Ground Floor Hearing Room
512 N. Salisbury Street
Raleigh, NC

September 23, 1996
NC Aquarium
Airport Road
Manteo, NC

September 24, 1996
Beaufort County Community College
Six miles east of Washington
Washington, NC

September 25, 1996
UNCW
Cameron Hall
601 S. College Road
Wilmington, NC

September 26, 1996
Duke University Marine Lab Auditorium
Pivers Island
Beaufort, NC

Reason for Proposed Action: House Bill 1077, ratified June 21, 1996, authorizes temporary rules to establish bag limits for spotted seatrout and bag and size limits for striped bass, bluefish and weakfish.

Comment Procedures: Written comments may be submitted through October 3, 1996 to Juanita Gaskill, APA Coordinator, PO Box 769, Morehead City, NC 28557. Oral comments may be presented at the public hearings.

CHAPTER 3 - MARINE FISHERIES

SUBCHAPTER 3M - FINFISH

SECTION .0200 - STRIPED BASS

**.0202 SEASON, SIZE AND HARVEST LIMIT:
INTERNAL COASTAL WATERS**

(a) The Fisheries Director may, by proclamation, impose any or all the following restrictions on the taking of striped bass in internal coastal waters:

- (1) Specify season or seasons:
 - (A) for hook-and-line fishing,
 - (B) for commercial fishing equipment between October 1 and April 30.
- (2) Specify areas,
- (3) Specify quantity,
- (4) Specify means/methods,
- (5) ~~Specify size for fish taken by commercial fishing equipment, size, but the minimum size specified shall not be less than 18 inches total length,~~ and
- (6) Require submission of statistical and biological data.

Fish that do not meet the minimum size limit specified by proclamation shall immediately be returned to the waters from which taken regardless of condition.

(b) The Fisheries Director may, by proclamation, impose any or all the following restrictions on the taking of striped bass by hook-and-line in internal coastal waters in order to comply with the management requirements incorporated in the North Carolina Estuarine Striped Bass Plan;

- (1) Specify quantity, but shall not exceed possession of more than three fish in any one day, and
- (2) Specify size, but the minimum size specified shall not be less than 18 inches total length.

~~(b) It is unlawful to possess striped bass taken from internal coastal waters less than 18 inches total length.~~

~~(c) It is unlawful to possess more than three striped bass per person per day taken by hook and line from internal coastal waters.~~

History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.4;

Eff. January 1, 1991;

Amended Eff. March 1, 1996; November 1, 1991;

Temporary Amendment Eff. September 1, 1996.

SECTION .0500 - OTHER FINFISH

.0504 TROUT

(a) Spotted seatrout (speckled trout). ~~It is unlawful to possess spotted seatrout less than 12 inches total length.~~ The Fisheries Director may, by proclamation, specify the quantity for the taking of spotted seatrout by hook-and-line

in order to comply with the management requirements incorporated in the Atlantic States Marine Fisheries Commission Fishery Management Plan for Spotted Seatrout.

(b) Weakfish (gray trout).

- (1) The Fisheries Director may, by proclamation, impose any or all of the following restrictions on the taking of weakfish by commercial gear:
 - (A) Specify areas.
 - (B) Specify seasons.
 - (C) Specify quantity.
 - (D) Specify means/methods.
 - (E) Specify size, but the minimum size shall not be greater than 12 inches total length.

~~(2) Weakfish taken by hook and line:~~

- ~~(A) It is unlawful to possess weakfish less than 12 inches total length taken by hook and line.~~
- ~~(B) It is unlawful to possess more than four weakfish per person per day taken by hook and line.~~

(2) The Fisheries Director may, by proclamation, in order to comply with the Atlantic States Marine Fisheries Commission Weakfish Management Plan, impose any or all of the following restrictions on the taking of weakfish by hook-and-line:

- (A) Specify quantity.
- (B) Specify size.

History Note: Authority G.S. 113-134; 113-182; 143B-289.4;

Eff. January 1, 1991;

Amended Eff. March 1, 1996; March 1, 1995; February 1, 1992;

Temporary Amendment Eff. September 1, 1996.

.0511 BLUEFISH

(a) 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, take any or all of the following actions in the bluefish commercial 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.

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

(1) Specify size;

(2) Specify quantity.

~~(b) It is unlawful to possess bluefish less than 12 inches total length taken by hook and line.~~

~~(c) It is unlawful to possess more than 20 bluefish per person per day taken by hook and line.~~

History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.4;

Eff. March 1, 1994;

Amended Eff. March 1, 1996;

Temporary Amendment Eff. September 1, 1996.

Rule-making Agency: EHN/NC Marine Fisheries

Rule Citation: 15A NCAC 3M .0507

Effective Date: September 1, 1996

Findings Reviewed by Julian Mann, III: *Approved*

Authority for the rule-making: G.S. 113-134; 113-182; 113-221; 143B-289.4

Reason for Proposed Action: *National Marine Fisheries Services adopted a rule, effective June 18, 1996, changing the size limit for yellowfin tuna to 27 inches. This federal rules pre-empts NC Marine Fisheries rule.*

Comment Procedures: *Comments may be submitted in writing within 60 days after the date of publication of the issue of the North Carolina Register.*

SECTION .0500 - OTHER FINFISH

.0507 RECREATIONAL FISHING RESTRICTIONS

(a) Blue marlin:

- (1) It is unlawful to possess blue marlin less than 86 inches in length from the lower jaw to the fork in the tail.
- (2) It is unlawful to possess more than one blue marlin per person per day.

(b) White marlin:

- (1) It is unlawful to possess white marlin less than 62 inches in length from the lower jaw to the fork in the tail.
- (2) It is unlawful to possess more than one white marlin per person per day.

(c) Sailfish:

- (1) It is unlawful to possess sailfish less than 57 inches in length from the lower jaw to the fork in the tail.
- (2) It is unlawful to possess more than one sailfish per person per day.

(d) Cobia:

- (1) It is unlawful to possess cobia less than 33 inches fork length taken by hook-and-line.
- (2) It is unlawful to possess more than two cobia per person per day taken by hook-and-line.
- (e) Dolphin:
 - (1) It is unlawful to possess more than 10 dolphin per person per day.
 - (2) Exemptions:
 - (A) Charter vessels with a valid National Marine Fisheries Service Charter Vessel Coastal Migratory Pelagic Permit and licensed by the U.S. Coast Guard to carry six or less passengers for hire, may possess a maximum of 60 dolphin per day regardless of the number of people on board.
 - (B) Vessels with a valid commercial National Marine Fisheries Service Federal Coastal Migratory Pelagic Permit including charterboats when fishing with three or less persons (including captain and mate) on board are exempt from the creel limits set out in Subparagraph (e)(1) of this Rule.
- ~~(f) It is unlawful to possess yellow fin tuna less than 22 inches fork length taken by hook and line.~~

History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.4;
 Eff. January 1, 1991;
 Amended Eff. March 1, 1996; March 1, 1994; February 1, 1992; September 1, 1991;
 Temporary Amendment Eff. September 1, 1996.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

CHAPTER 37 - BOARD OF NURSING HOME ADMINISTRATORS

Rule-making Agency: North Carolina State Board of Examiners for Nursing Home Administrators

Rule Citation: 21 NCAC 37D .0202; 37G .0102

Effective Date: August 15, 1996

Findings Reviewed by Julian Mann, III: Approved

Authority for the rule-making: G.S. 90-280

Reason for Proposed Action: Pursuant to the direction of the State Budget Office, these rules are being amended to increase the initial licensure and renewal fees.

Comment Procedures: Any interested person may submit written comments on the proposed rule changes by mailing the comments to Jane Baker, 3733 National Drive, Suite

228, Raleigh, NC, 27612 by November 4, 1996.

SUBCHAPTER 37D - NEW LICENSES

SECTION .0200 - APPLICATION FOR LICENSE

.0202 INITIAL LICENSURE FEE

The applicant shall send to the Board, prior to licensure, an initial licensure fee of ~~three hundred dollars (\$300.00)~~ three hundred twenty five dollars (\$325.00) when applicant has successfully passed the examinations as required by the Board under Sections .0600 and .0700 of this Chapter.

History Note: Filed as a Temporary Amendment Eff. July 13, 1982 for a period of 120 days to expire on November 9, 1982;

Authority G.S. 90-280;

Eff. February 1, 1976;

Amended Eff. August 1, 1977;

Readopted Eff. October 1, 1981; December 15, 1977;

Amended Eff. February 1, 1991; October 1, 1982;

December 30, 1981;

Transferred and Recodified from 21 NCAC 37A .0302 Eff. April 1, 1996;

Amended Eff. August 1, 1996;

Temporary Amendment Eff. August 15, 1996.

SUBCHAPTER 37G - RENEWAL, INACTIVE, RESTORATION AND REINSTATEMENT, DUPLICATE

SECTION .0100 - RENEWAL REQUIREMENTS

.0102 RENEWAL FEE

Upon making application for a new certificate of registration a licensee shall pay a biennial licensure fee of ~~three hundred dollars (\$300.00)~~ three hundred twenty-five dollars (\$325.00).

History Note: Filed as a Temporary Amendment Eff. July 13, 1982 for a period of 120 days to expire on November 9, 1982;

Authority G.S. 90-280; 90-285; 90-286;

Eff. February 1, 1976;

Amended Eff. August 1, 1977; April 8, 1977;

Readopted Eff. December 15, 1977;

Readopted w/change Eff. October 1, 1981;

Amended Eff. February 1, 1991; May 1, 1989; December 1, 1983; October 1, 1982;

Transferred and Recodified from 21 NCAC 37A .0904 Eff. April 1, 1996;

Amended Eff. August 1, 1996;

Temporary Amendment Eff. August 15, 1996.

This Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, September 19, 1996 at 10:00 a.m. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners by Monday, September 16, 1996, at 5:00 p.m. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Vernice B. Howard
Teresa L. Smallwood
Charles H. Henry
Philip O. Redwine - Vice Chairman

Appointed by House

Jennie J. Hayman - Chairman
Bill Graham
Paul Powell
Ed Shelton

RULES REVIEW COMMISSION MEETING DATES

September 19, 1996
October 17, 1996

November 21, 1996
December 19, 1996

MEETING DATE: SEPTEMBER 19, 1996

FOLLOW UP MATTERS:

*DHR Social Services Commission -
Insurance -*

10 NCAC 41F .0707, .0813, .0814
11 NCAC 20 .0101, .0402, .0404, .0406, .0501, .0502, .0505, .0701

EHNR Environmental Management Commission -

15A NCAC 2B .0101, .0103, .0109, .0201, .0202, .0231
(Rule .0231 was Noticed as Rule .0220)

*Revenue -
Transportation*

15A NCAC 2C .0211, .0213, .0214
15A NCAC 2H .0501, .0502, .0503, .0504, .0506, .0507
17 NCAC 1C .0504

Division of Highways -

19A NCAC 2D .1102, .1108, .1111

Public Transportation and Rail Division -

19A NCAC 6B .0412

Psychology Board -

21 NCAC 54 .1901

LOG OF FILINGS

RULES SUBMITTED: JULY 23, 1996 THROUGH AUGUST 20, 1996

AGENCY/DIVISION	RULE NAME	RULE	ACTION
DEHNR/COASTAL RESOURCES COMMISSION	General Definitions	15A NCAC 7H .0106	Amend
DEHNR/WILDLIFE RESOURCES COMMISSION	Beaufort County	15A NCAC 10F .0303	Amend
	Dare County	15A NCAC 10F .0310	Amend
	Definitions and Procedures	15A NCAC 10I .0001	Repeal
DEHNR/COMMISSION FOR HEALTH SERVICES	Definitions	15A NCAC 13C .0301	Adopt
	General Provisions	15A NCAC 13C .0302	Adopt

Approval	15A NCAC 13C .0303	Adopt
Minimum Qualifications	15A NCAC 13C .0304	Adopt
Standards of Conduct	15A NCAC 13C .0305	Adopt
Technical Standards	15A NCAC 13C .0306	Adopt
Departmental Audits	15A NCAC 13C .0307	Adopt
Cleanup Levels	15A NCAC 13C .0308	Adopt

TRANSPORTATION/DIVISION OF MOTOR VEHICLES

Certificate	19A NCAC 3E .0501	Amend
Purchase of For Hire License Tags	19A NCAC 3E .0502	Amend
Interstate Carriers	19A NCAC 3E .0510	Amend
Registration	19A NCAC 3E .0511	Amend
Registration & Identification	19A NCAC 3E .0512	Amend
Evidence of Liability Security	19A NCAC 3E .0513	Amend
Issuance of Identification Stamps	19A NCAC 3E .0514	Amend
Designation of Process Agent	19A NCAC 3E .0515	Amend
Registration	19A NCAC 3E .0518	Amend
Registration Required	19A NCAC 3E .0519	Amend
Evidence of Liability Security	19A NCAC 3E .0522	Amend

NC STATE BOARD OF DENTAL EXAMINERS

Approved Education	21 NCAC 16H .0104	Amend
Specific Permitted Functions	21 NCAC 16H .0202	Amend
Permitted Functions	21 NCAC 16H .0203	Amend
Record Content	21 NCAC 16T .0001	Adopt
Transfer of Records	21 NCAC 16T .0002	Adopt
Secretary-Treasurer	21 NCAC 16U .0101	Adopt
Investigative Panel	21 NCAC 16U .0102	Adopt
Processing	21 NCAC 16U .0201	Adopt
Disposition	21 NCAC 16U .0202	Adopt
Pre-hearing Conferences	21 NCAC 16U .0203	Adopt
Settlement Conferences	21 NCAC 16U .0204	Adopt

NC STATE BOARD OF EXAMINERS OF FEE-BASED PRACTICING PASTORAL COUNSELORS

Approved Supervision	21 NCAC 45 .0801	Adopt
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NC BOARD FOR LICENSING OF SOIL SCIENTISTS

Authority	21 NCAC 69 .0101	Adopt
Duties of Officers	21 NCAC 69 .0102	Adopt
Seal of the Board	21 NCAC 69 .0103	Adopt
Fees	21 NCAC 69 .0104	Adopt
Application Procedure	21 NCAC 69 .0201	Adopt
Expirations and Renewals	21 NCAC 69 .0202	Adopt
Introduction	21 NCAC 69 .0301	Adopt
Definitions	21 NCAC 69 .0302	Adopt
Requirements	21 NCAC 69 .0303	Adopt
Units	21 NCAC 69 .0304	Adopt
Determination of Credit	21 NCAC 69 .0305	Adopt
Recordkeeping	21 NCAC 69 .0306	Adopt
Exemptions	21 NCAC 69 .0307	Adopt
Reinstatement	21 NCAC 69 .0308	Adopt
Code	21 NCAC 69 .0401	Adopt
Rules of Conduct	21 NCAC 69 .0402	Adopt
Improper Practice	21 NCAC 69 .0501	Adopt

RULES REVIEW OBJECTIONS

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Environmental Management

15A NCAC 2B .0101 - General Procedures	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
15A NCAC 2B .0103 - Analytical Procedures	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
15A NCAC 2B .0109 - Waters Affected by Dredge and Fill Activities	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
15A NCAC 2B .0201 - Antidegradation Policy	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
15A NCAC 2B .0202 - Definitions	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
15A NCAC 2B .0231 - Wetland Standards (Rule .0231 was Noticed as Rule .0220)	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
15A NCAC 2C .0211 - Permits	RRC Objection	08/15/96
15A NCAC 2C .0213 - Additional Criteria and Standards Applicable to Class 5 Wells	RRC Objection	08/15/96
15A NCAC 2C .0214 - Abandonment and Change-of-Status of Wells	RRC Objection	08/15/96
15A NCAC 2D .0501 - Compliance with Emission Control Standards	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2D .0608 - Program Schedule	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2D .0901 - Definitions	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2D .0926 - Bulk Gasoline Plants	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2D .0934 - Coating of Miscellaneous Metal Parts and Products	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2D .1109 - Case-by-Case Maximum Achievable Control Technology	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2H .0501 - Purpose	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
15A NCAC 2H .0502 - Application	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
15A NCAC 2H .0503 - Public Notice	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
15A NCAC 2H .0504 - Hearing	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
15A NCAC 2H .0506 - Criteria for Review of Applications	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
15A NCAC 2H .0507 - Issuance of Certification	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96

Commission for Health Services

15A NCAC 18A .3106 - Abatement	RRC Objection	07/18/96
Agency Revised Rule	Obj. Removed	08/15/96

Wildlife Resources Commission

15A NCAC 10F .0104 - Certificate of Number	RRC Objection	07/18/96
Agency Revised Rule	Obj. Removed	08/15/96
15A NCAC 10F .0105 - Numbering Pattern	RRC Objection	07/18/96
Agency Revised Rule	Obj. Removed	08/15/96
15A NCAC 10F .0342 - Catawba County		
Rule Withdrawn by Agency		07/18/96

HUMAN RESOURCES

Social Services Commission

10 NCAC 41F .0707 - Criminal Histories	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
10 NCAC 41F .0813 - Criminal History Checks	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
10 NCAC 41F .0814 - Training Requirements	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96

INSURANCE

11 NCAC 20 .0101 - Definitions	RRC Objection	08/15/96
11 NCAC 20 .0402 - Organization Structure	RRC Objection	08/15/96
11 NCAC 20 .0404 - Application	RRC Objection	08/15/96
11 NCAC 20 .0406 - Provider Files	RRC Objection	08/15/96
11 NCAC 20 .0501 - Program	RRC Objection	08/15/96
11 NCAC 20 .0502 - Structure	RRC Objection	08/15/96
11 NCAC 20 .0505 - Quality of Care Complaints	RRC Objection	08/15/96
11 NCAC 20 .0701 - Accessibility of Providers	RRC Objection	08/15/96

MEDICAL BOARD

21 NCAC 32H .0702 - Requests	RRC Objection	04/18/96
No Response from Agency	Obj. Cont'd	05/16/96
Rule Returned to Agency for Failure to Respond Pursuant to G.S. 150B-21.12	Obj. Cont'd	06/20/96

EXAMINERS FOR NURSING HOME ADMINISTRATORS

21 NCAC 37H .0102 - Continuing Education Programs of Study	RRC Objection	07/18/96
Agency Revised Rule	Obj. Removed	08/15/96

BOARD OF PHARMACY

21 NCAC 46 .1601 - Pharmacy Permits	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
21 NCAC 46 .1607 - Out-of-State Pharmacies		06/20/96
Rule Withdrawn by Agency		06/20/96
21 NCAC 46 .1811 - Excessive Dispensing of Prescription Drugs	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
21 NCAC 46 .2502 - Responsibilities of Pharmacist-Manager	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
21 NCAC 46 .2504 - Patient Counseling	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96

PSYCHOLOGY BOARD

21 NCAC 54 .1901 - Types	RRC Objection	08/15/96
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REAL ESTATE COMMISSION

21 NCAC 58A .0104 - Agency Agreements and Disclosure	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	07/18/96
21 NCAC 58A .0113 - Reporting Criminal Convictions	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	07/18/96
21 NCAC 58A .0502 - Business Entities	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
21 NCAC 58A .0610 - Subpoenas	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	07/18/96
21 NCAC 58E .0302 - Elective Course Component	RRC Objection	06/20/96
Agency Responded	Obj. Cont'd	07/18/96
Agency Revised Rule	Obj. Removed	08/15/96

REVENUE

17 NCAC 1C .0504 - EFT General Requirements

RRC Objection 08/15/96

TRANSPORTATION

Division of Highways

19A NCAC 2D .1102 - Definitions

RRC Objection 08/15/96

19A NCAC 2D .1108 - Goals

RRC Objection 08/15/96

19A NCAC 2D .1111 - Performance Related Replacement of Eligible Firms

RRC Objection 08/15/96

Public Transportation and Rail Division

19A NCAC 6B .0412 - Procurements

RRC Objection 08/15/96

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.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Brenda B. Becton
Sammie Chess Jr.
Beecher R. Gray
Meg Scott Phipps

Robert Roosevelt Reilly Jr.
Dolores Nesnow Smith
Thomas R. West

DECISION	CASE		DATE OF	PUBLISHED
	<u>AGENCY</u>	<u>NUMBER</u> <u>ALJ</u>	<u>DECISION</u>	<u>REGISTER CITATION</u>
ADMINISTRATION				
Douglas J. Register v. Department of Administration		96 DOA 0172 Reilly	08/16/96	
ALCOHOLIC BEVERAGE CONTROL COMMISSION				
Osama Arafat Sadar v. Alcoholic Beverage Control Commission		95 ABC 0721 Gray	07/09/96	
Alcoholic Beverage Control Commission v. James Eads Sprowles		95 ABC 0883*7 Gray	07/10/96	
Fuad Saif Murshed v. Alc. Bev. Ctl. Comm. & Durham Mem. Bapt. Ch.		95 ABC 0922 Chess	04/24/96	
Alcoholic Beverage Control Commission v. Tremik, Inc.		95 ABC 0925 Morrison	03/25/96	
Alcoholic Beverage Control Commission v. Maria Virginia Tramontano		95 ABC 1200 West	04/23/96	
Alcoholic Beverage Control Commission v. Huffman Oil Co., Inc.		95 ABC 1251 West	04/03/96	11:03 NCR 166
Pinakin P. Talate v. Alcoholic Beverage Control Commission		95 ABC 1329 West	04/10/96	
Alcoholic Beverage Control Commission v. Entrepreneur, Inc.		95 ABC 1363 Reilly	05/02/96	
Alcoholic Beverage Control Commission v. Zell, Inc.		95 ABC 1366 West	06/17/96	
Alcoholic Beverage Control Commission v. Henry Franklin Gurganus		95 ABC 1389 West	04/01/96	
Andrew Parker v. Alcoholic Beverage Control Commission		95 ABC 1402 Phipps	03/27/96	
Barraq Sabri Alquza v. Alcoholic Beverage Control Commission		95 ABC 1424 Phipps	04/03/96	
Alcoholic Beverage Control Comm. v. Partnership T/A T & L Groceries		95 ABC 1443 West	03/26/96	
Alcoholic Beverage Control Commission v. Cashion's Food Mart, Inc.		95 ABC 1444 Gray	03/13/96	
Alcoholic Beverage Control Commission v. E.K.'s II, Inc. Carl E. Collins		95 ABC 1458 Chess	08/12/96	
Bro Bee, Inc. v. Alcoholic Beverage Control Commission		95 ABC 1480 West	04/15/96	
Alcoholic Beverage Control Commission v. Donald Ray Doak		95 ABC 1488 West	03/29/96	
Alcoholic Beverage Control Commission v. Janice Lorraine Jeter		96 ABC 0013 Reilly	04/26/96	
Alcoholic Beverage Control Commission v. Well Informed, Inc.		96 ABC 0016 Chess	05/28/96	
Alcoholic Beverage Control Commission v. Kubbard, Inc.		96 ABC 0017 Reilly	05/20/96	
Alcoholic Beverage Control Commission v. Stemmermans's, Inc.		96 ABC 0018 Chess	05/28/96	
George Wright and Alice Ramsuer v. Alcoholic Beverage Control Comm.		96 ABC 0058 Becton	04/16/96	
Alcoholic Beverage Control Commission v. Robert Montgomery McKnight		96 ABC 0135 Phipps	05/09/96	
Gerald Audry Sellars v. Alcoholic Beverage Control Commission		96 ABC 0160 Becton	06/25/96	11:08 NCR 564
Alcoholic Beverage Control Commission v. Jacqueline Robin Anthony		96 ABC 0184 Phipps	05/09/96	
Alcoholic Beverage Control Commission v. Factory Night Club, Inc.		96 ABC 0226 Phipps	08/02/96	
Alcoholic Beverage Control Commission v. C.N.H. Enterprises, Inc.		96 ABC 0232 Becton	07/09/96	
Alcoholic Beverage Control Commission v. Millicent J. Green		96 ABC 0234 Nesnow Smith	06/13/96	

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Alcoholic Beverage Control Commission v. Triangle Drive-In	96 ABC 0443	Reilly	06/11/96	
Alcoholic Beverage Control Commission v. Clifton Franklin Smith	96 ABC 0474	Reilly	08/12/96	
Dilthra Smith Patton v. Alcoholic Beverage Control Commission	96 ABC 0505	Morrison	08/06/96	
Alcoholic Beverage Control Commission v. James Eads Sprowles	96 ABC 0526*	Gray	07/10/96	
Alcoholic Beverage Control Commission v. Albert S. Carter	96 ABC 0534	Morrison	08/05/96	
Alcoholic Beverage Control Comm. v. Centergrove Entertainment Ent.	96 ABC 0583	Reilly	08/12/96	
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John W. Foster v. Auctioneer Licensing Board	96 CFA 0201	Phipps	05/06/96	
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Roland Lee Kelly, Jr. v. United Family Services, Victim Assistance/Crime Victims Compensation Comm.	95 CPS 0568	Morrison	05/29/96	
Robert F. Bronsdon v. Crime Victims Compensation Commission	95 CPS 1216	Chess	05/28/96	
Helen B. Hunter-Reid v. Crime Victims Compensation Commission	95 CPS 1336	Nesnow Smith	03/29/96	11:02 NCR 93
Deborah C. Passarelli v. Crime Victims Compensation Commission	95 CPS 1399	Reilly	07/18/96	11:09 NCR 814
Kenneth Saunders v. Victims Compensation Commission	95 CPS 1445	Chess	03/26/96	
Franklin McCoy Jones v. Crime Victims Compensation Commission	96 CPS 0056	Nesnow Smith	07/03/96	
Ruby H. Ford v. Crime Victims Compensation Commission	96 CPS 0110	Reilly	04/18/96	
Manuel Cervantes v. Victims Compensation Fund	96 CPS 0118	Chess	03/19/96	
Sheila Carol Blake v. Victims Compensation Commission	96 CPS 0280	West	07/10/96	
James T. Mungo v. Victims Compensation Commission	96 CPS 0333	Reilly	07/09/96	
Donna Williams v. Crime Victims Compensation Commission	96 CPS 0493	Morrison	06/13/96	
Anthony P. Dawkins v. Crime Victims Compensation Commission	96 CPS 0716	Reilly	08/16/96	
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Wilton Evans v. Environment, Health, & Natural Resources	95 EHR 0843	Reilly	07/17/96	
David Martin Shelton v. Rockingham County Dept/Public Health, EHNR	95 EHR 0941	West	05/01/96	
Kinston Urological Associates, P.A. v. N.C. Cancer Program	95 EHR 1198*	Nesnow Smith	03/27/96	11:02 NCR 97
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Elsie & Tony Cecchini v. Environment, Health, & Natural Resources	95 EHR 1240	Reilly	04/22/96	
United Organics Corporation v. Environment, Health, & Natural Res.	96 EHR 0064	Nesnow Smith	07/01/96	
Gerald Mac Clamrock v. Environment, Health, & Natural Resources	96 EHR 0168	Phipps	05/06/96	
John Milazzo v. Environment, Health, & Natural Resources	96 EHR 0644	Reilly	08/13/96	
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J. E. Smith Construction Co. v. Division of Coastal Management	96 EHR 0074	Nesnow Smith	02/23/96	
Theodore D. Barris v. Town of Long Beach, NC & Coastal Mgmt, EHNR	96 EHR 0277	West	05/09/96	
Environmental Health				
Forest Gate Motel v. Environment, Health, and Natural Resources	96 EHR 0076	West	06/17/96	
Paradise Ridge Home Owners by Anne Norburn v. EHNR, Env. Health	96 EHR 0162	Phipps	05/06/96	
Environmental Management				
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<i>Marine Fisheries</i>				
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Grayden L. Fulcher and Michael Styron, Sr. v. Div. of Marine Fisheries	96 EHR 0003	Reilly	03/06/96	
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<i>Solid Waste Management</i>				
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<i>WIC Program</i>				
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Larry E. Mis v. USDA-Food/Cons Svc, Cory Menees-WIC Prog., EHNR	96 EHR 0164	Phipps	03/19/96	
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Medicus Robinson v. Department of Human Resources	96 DHR 0167	Nesnow Smith	04/12/96	
<i>Division of Child Development</i>				
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Molly Fallin v. Department of Human Resources	95 DHR 1013**	Gray	05/15/96	
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<i>Certificate of Need Section</i>				
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Pitt Cty Mem. Hospital, Inc. v. DHR, Div/Facility Sries, Cert/Need Sect.	95 DHR 1177**	Phipps	05/23/96	11:06 NCR 389
<i>Group Care Licensure Section</i>				
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DHR, Facility Services, Group Care Licensure Sect. v. Petrova Evans	96 DHR 0544	Phipps	08/21/96	
<i>Medical Facilities Licensure Section</i>				
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Stacey Yvette Franklin v. Facility Services, Medical Facilities Lic. Sec.	96 DHR 0358	Morrison	05/16/96	
<i>Division of Medical Assistance</i>				
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<i>Division of Social Services</i>				
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Addie & Major Short v. Department of Human Resources	95 DHR 1063	Morrison	03/19/96	
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William G. Fisher v. DHR, Div. of Social Services, Prog Integrity Branch	95 DHR 1234	Morrison	03/19/96	
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Derek Henslee v. Department of Human Resources	96 CSE 0188	Reilly	05/17/96	
Donald L. Carr, Jr. v. Department of Human Resources	96 CSE 0200	West	05/30/96	
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Lorenzo Wilson v. Department of Human Resources	96 CSE 0257	Phipps	05/06/96	
Mark Kevin Burns v. Department of Human Resources	96 CSE 0271	Morrison	06/24/96	
Cyril Lloyd Payne v. Department of Human Resources	96 CSE 0272	Reilly	05/31/96	
Charles H. Johnson v. Department of Human Resources	96 CSE 0295	West	07/15/96	
Willie James Myers v. Department of Human Resources	96 CSE 0299	Becton	07/19/96	
Christopher F. Byrne v. Department of Human Resources	96 CSE 0336	Chess	06/26/96	
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Kenneth Edward Burns v. Department of Human Resources	96 CSE 0379	Reilly	07/18/96	
Carl R. Ritter v. Department of Human Resources	96 CSE 0380	West	05/08/96	
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Dioni Delvalle, II v. Department of Human Resources	96 CSE 0407	Chess	07/17/96	
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Renee G. Arriola v. Department of Human Resources	96 CSE 0790	Becton	08/14/96	
Melinda S. Tunner v. Department of Human Resources	95 DCS 0921	Morrison	05/09/96	
Jeanne G. Bishop v. Department of Human Resources	95 DCS 0958	West	04/04/96	
Rebecca Beaver v. Department of Human Resources	95 DCS 1114	Reilly	04/26/96	
Vivian B. White v. Department of Human Resources	95 DCS 1115	Phipps	06/04/96	
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Laura Heidorf v. Department of Human Resources	96 DCS 0065	Reilly	03/22/96	
Lois Floyd Barber v. Department of Human Resources	96 DCS 0176	Gray	07/30/96	

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Arthur Wayne Dempsey v. Department of Insurance	95 INS 1255	Nesnow Smith	04/22/96	
Deborah B. Beavers v. Teachers & St. Emp. Comp. Major Med. Plan	95 INS 1411	Nesnow Smith	05/10/96	11:05 NCR 308
Nadia A. Hakim v. Department of Insurance	95 INS 1422	Nesnow Smith	03/26/96	
Mary Alice Casey v. Department of Insurance	96 INS 0148	Reilly	08/14/96	

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Carlton Gerald v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0068	Gray	03/26/96	
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John Charles Maloney v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0306	Nesnow Smith	08/16/96	
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Jerry Glenn Monette v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0420	Morrison	07/26/96	
Carlton Gerald v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0432	Becton	08/07/96	
Warren Scott Nail v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0576	Becton	08/07/96	
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William F. Combs v. Private Protective Services Board	96 DOJ 0022	West	03/22/96	
Randy C. Hoyle v. Private Protective Services Board	96 DOJ 0024	Nesnow Smith	06/10/96	
Robert A. Gibson v. Private Protective Services Board	96 DOJ 0386	Nesnow Smith	07/03/96	
Jimmy D. Matthews v. Private Protective Services Board	96 DOJ 0676	Reilly	07/11/96	
Johnnie Lee King v. Private Protective Services Board	96 DOJ 0677	Reilly	07/11/96	
Thomas R. Harris v. Private Protective Services Board	96 DOJ 0761	Reilly	07/11/96	
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PUBLIC INSTRUCTION				
Lavern K. Suggs v. NC Board of Education	95 EDC 0383	Nesnow Smith	03/13/96	11:01 NCR 50
J.T.S. & T.S., Parents of E.M.S. v. Chapel Hill-Carrboro City Schl. Sys.	95 EDC 1194	Mann	04/12/96	
L.O. v. Charlotte-Mecklenburg Board of Education	96 EDC 0285	Mann	05/31/96	
Candyce Ewanda Newsome v. Hertford County Board of Education	96 EDC 0344	Chess	05/15/96	
Blaise Malveau v. Cumberland County Board of Education	96 EDC 0613	Chess	08/14/96	
Blaise Malveau v. Cumberland County Board of Education	96 EDC 0614	Chess	08/14/96	
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John L. Archer v. Department of Public Instruction	96 EDC 0678	Nesnow Smith	08/02/96	
Pamela F. Cummings v. Department of Public Instruction	96 EDC 0742	Nesnow Smith	08/16/96	
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<i>Department of Administration</i>				
Jimmie A. Hughes, Jr. v. Department of Administration	96 OSP 0008	Reilly	07/23/96	04/25/96
Jonathan L. Fann v. Department of Administration, Admin. Personnel	96 OSP 0042	Gray	05/24/96	
Carlton Gerald v. State Capitol Police, Department of Administration	96 OSP 0116	Gray	04/25/96	
<i>Administrative Office of the Court</i>				
Ethel R. Tyson v. NC Judicial Dept., Administrative Office of the Court	96 OSP 0080	Nesnow Smith	03/15/96	
<i>Appalachian State University</i>				
Janice S. Walton v. Appalachian St University, Claude Cooper, Bill Ragan	96 OSP 0062	West	03/13/96	03/07/96
Janice S. Carroll v. Appalachian St University, Claude Cooper, Bill Ragan	96 OSP 0063	West	03/07/96	
<i>Caldwell County</i>				
Blake C. Pace v. Caldwell County	96 OSP 0047	Morrison	04/01/96	
<i>NC Central University</i>				
Francina Y. Tate v. Chancellor Julius L. Chambers, NC Central Univ.	95 OSP 1432	Nesnow Smith	04/22/96	
<i>Central North Carolina School for the Deaf</i>				
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<i>Department of Correction</i>				
Haydee Craver v. Department of Correction, Pender Correctional Inst.	95 OSP 1046	Gray	03/12/96	05/17/96
Gregory Allen Jones v. Department of Correction, Supt. Bonnie Boyette	95 OSP 1290	Phipps	05/14/96	
Calvia L. Hill v. Department of Correction, McCain Correctional Hospital	95 OSP 1460	Gray	05/17/96	

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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>
Alisha Louise Staley v. Randolph Correctional Center	96 OSP 0092	Gray	06/03/96	
Brenda Propst v. Foothills Correctional Institution	96 OSP 0199	Morrison	04/09/96	
Delon D. Solomon v. Department of Correction	96 OSP 0258	West	07/02/96	
Alisha Louise Staley v. Randolph Correctional Center	96 OSP 0261	Morrison	08/05/96	
Haydee C. Craver v. Department of Correction, Christopher Phillips	96 OSP 0348	Phipps	05/15/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0372**	Nesnow Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0373**	Nesnow Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0374**	Nesnow Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0375**	Nesnow Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0376**	Nesnow Smith	07/05/96	
Calvia L. Hill v. Department of Correction, McCain Correctional Hospital	96 OSP 0397	Gray	08/15/96	
Timothy L. Willis v. Caswell Correctional Center	96 OSP 0715	West	07/30/96	
<i>Department of Crime Control and Public Safety</i>				
Jerry Lee Fields v. State Highway Patrol	94 OSP 1174*10	Gray	08/05/96	
Gene Wells v. Crime Control & Public Safety, State Highway Patrol	95 OSP 0249*9	Nesnow Smith	07/23/96	
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<i>Durham County Health Department</i>				
Lylla D. Stockton v. Durham County Health Department	95 OSP 0176	West	07/02/96	
<i>East Carolina University</i>				
Bela E. Karvaly, Ph.D. v. ECU Bd. of Trustees, Ch. Richard R. Eakin	96 OSP 0150	Chess	05/08/96	
<i>Employment Security Commission</i>				
Gene S. Baker v. Gov. James B. Hunt, Jr., Ann Q. Duncan, Chairman, Employment Security Commission	93 OSP 0707	Becton	05/16/96	11:05 NCR 300
William Herbert Allen v. Employment Security Commission	94 OSP 1688	West	06/11/96	
Patricia Gary v. Employment Security Commission	95 OSP 0793	Chess	05/14/96	
Tonderlier Lynch v. Emp. Security Comm., Austin Quality Foods, Inc.	96 OSP 0275	Chess	05/21/96	
<i>Department of Environment, Health, and Natural Resources</i>				
Robertta Ann "Robin" Hood v. Environment, Health, & Natural Resources	95 OSP 0035	Reilly	04/09/96	
<i>Fayetteville State University</i>				
William C. Neal v. Fayetteville State University	95 OSP 0392	Nesnow Smith	04/22/96	
<i>Guilford County Area Mental Health, Developmental Disabilities and Substance Abuse</i>				
Stuart Klatte v. Guilford Cty Area MH/DD/SAS, St. Per Comm, OSP	95 OSP 1179	Nesnow Smith	07/19/96	11:10 NCR 865
<i>Department of Human Resources</i>				
Ophelia Webb v. Edard R. Inman, Dir. Alamance Cty DSS, Alamance Cty DSS, Alamance County, and DHR	96 OSP 0112	Gray	03/13/96	
Gail Marie Rodgers Lincoln v. DHR, DMH/DD/SAS-Cherry Hosp., Cherry Hospital	96 OSP 0159	Chess	06/17/96	
Johnny Earl Young v. Unit Head Director of Food & Nutrition	96 OSP 0217	Reilly	08/13/96	
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Johnny Earl Young v. Unit Head Director of Food & Nutrition	96 OSP 0543	Reilly	07/09/96	
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<i>Buncombe County Department of Social Services</i>				
Kathy Davis v. Buncombe County Department of Social Services	95 OSP 1487	West	08/09/96	

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<i>Caswell Center</i>				
Ramona C. Jenkins v. Department of Human Resources, Caswell Center	89 OSP 0411	Becton	03/26/96	
Ramona C. Jenkins v. Department of Human Resources, Caswell Center	91 OSP 0522	Becton	03/26/96	11:02 NCR 89
Franklin D. Sutton v. Department of Human Resources, Caswell Center	94 OSP 0766	Nesnow Smith	03/21/96	
<i>Durham County Department of Social Services</i>				
Jan E. Smith v. Durham County Department of Social Services	95 OSP 1121	Morrison	05/24/96	
<i>Halifax County Department of Social Services</i>				
Clairbel Thomas v. Halifax County DSS & Director, Halifax County DSS	95 OSP 0905	West	05/29/96	11:06 NCR 395
<i>Division of Medical Assistance</i>				
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<i>O'Berry Center</i>				
Samuel Geddie v. O'Berry Center	96 OSP 0414	Morrison	06/13/96	
<i>Rockingham County Department of Social Services</i>				
Loretta Lawson v. Rockingham County DSS	96 OSP 0471	West	06/13/96	
<i>Wake County Department of Social Services</i>				
Phylis Gilbert v. Wake County Department of Social Services	95 OSP 1238	Phipps	06/27/96	
<i>Department of Insurance</i>				
Larry W. Creech v. Department of Insurance	95 OSP 0631	Reilly	06/06/96	11:07 NCR 434
<i>Department of Labor</i>				
Kevin P. Kolbe, Sr. v. Department of Labor	95 OSP 0968	Morrison	03/14/96	11:01 NCR 58
<i>New Hanover County Board of Health</i>				
Tabandeh Zand v. New Hanover County Board of Health	95 OSP 1035	Nesnow Smith	03/01/96	
<i>Sandhill Community College</i>				
Earl Levon Womack v. Sandhill Community College Bd. of Trustees	96 OSP 0573	Phipps	07/25/96	
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<i>North Carolina State University</i>				
Vernell Mitchell v. North Carolina Cooperative Extension	96 OSP 0132	Gray	05/10/96	
<i>Department of Transportation</i>				
Pearlie M. Simuel-Johnson v. Department of Transportation	94 OSP 0589 ⁺¹	Gray	03/01/96	
Dorothy J. Grays v. Div. of Motor Vehicles, Dept. of Transportation	94 OSP 1044	Reilly	04/12/96	11:03 NCR 173
Pearlie M. Simuel-Johnson v. Department of Transportation	95 OSP 0837 ⁺¹	Gray	03/01/96	
Lisa Ann Lee v. Department of Transportation	95 OSP 1099	Reilly	07/31/96	
Melvin Duncan v. Department of Transportation	95 OSP 1462	Morrison	03/08/96	
Greg Brown v. Department of Transportation	96 OSP 0048	Reilly	05/02/96	
Jesse Wayne Castle v. State Highway Maint., Guess Rd., Durham, NC	96 OSP 0087	Gray	04/15/96	
Archie Brooks v. W. F. Rosser, Department of Transportation	96 OSP 0239	Nesnow Smith	05/17/96	
Jessie L. Allen et al. v. DMV Enforcement Section	96 OSP 0408	Becton	08/12/96	

⁺ Consolidated cases.

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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>
R.L. Singleton v. Department of Transportation	96 OSP 0683	Becton	08/12/96	
<i>Tri-County Mental Health Complex</i>				
Deborah Heil v. Tri-County Mental Health Complex	95 OSP 1100	Nesnow Smith	03/22/96	
<i>University of North Carolina</i>				
Pamela B. Edwards v. University of North Carolina at Chapel Hill	95 OSP 0842	Chess	06/28/96	
Keith R. Cameron v. University of North Carolina at Chapel Hill	95 OSP 1060	Morrison	06/24/96	
Jerel H. Bonner v. School of Nursing UNC at Chapel Hill	96 OSP 0026	Gray	03/12/96	11:01 NCR 61
Bela E. Karvaly, Ph.D. v. UNC Bd. of Gov., Pres. C.D. Spangler, Jr.	96 OSP 0151	Chess	05/08/96	
Carl E. Whigham v. UNC Hospitals at Chapel Hill	96 OSP 0248	Chess	06/11/96	
STATE TREASURER				
Donald B. Durham v. Teachers' & St. Employees Retirement Sys.	92 DST 1066	Chess	07/17/96	11:09 NCR 810
UNIVERSITY OF NORTH CAROLINA				
Sylvia Jeffries v. University of NC Hospitals at Chapel Hill	96 UNC 0067	Gray	04/16/96	
James E. Boudwin v. University of NC Hospitals at Chapel Hill	96 UNC 0343	Chess	07/22/96	
Rufus T. Moore Jr. v. UNC Hospital	96 UNC 0470	Reilly	08/12/96	
Marcia Spruill v. UNC Hospitals - Patient Accounts	96 UNC 0500	Becton	07/10/96	
Charles E. Houlik v. UNC Hospitals	96 UNC 0588	Morrison	08/09/96	

STATE OF NORTH CAROLINA

COUNTY OF HYDE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
96 EHR 0072

JOHNNY R. STOTESBERRY,
Petitioner,

v.

NORTH CAROLINA MARINE FISHERIES
COMMISSION,
Respondent.

RECOMMENDED DECISION

The above entitled matter was heard before Beecher R. Gray, administrative law judge, on July 18, 1996 in Swan Quarter, North Carolina. A written final Prehearing Order containing stipulations was approved and filed at the beginning of the hearing. Petitioner gave notice that he was not going to pursue appeals regarding his fishing vessels, Mr. Lee and Phillip Marshall. This notice, on the record, is treated as a Notice of Voluntary Dismissal as to the Mr. Lee and Phillip Marshall.

APPEARANCES

Petitioner: Johnny R. Stotesberry
Route 1, Box 239-H
Swan Quarter, North Carolina 27885
Appeared *Pro se*

Respondent: Jay L. Osborne
Assistant Attorney General
N.C. Department of Justice
P.O. Box 629
Raleigh, North Carolina 27602-0629

ISSUE

Whether Respondent's denial of Petitioner's application for a commercial license to land flounder from the Atlantic Ocean on the fishing vessel Cassandra, on grounds that Petitioner did not land at least 1,000 pounds of flounder during two of the preceding three years is supported by the evidence.

FINDINGS OF FACT

1. The parties stipulated on the record and in the final prehearing order that each waived the full 15 day notice of hearing requirement and that notice was proper.

2. The North Carolina Administrative Code contains certain rules promulgated by Respondent regarding the landing of Atlantic Ocean flounder on a commercial basis. Those rules, of which official notice was requested and taken, provide, in pertinent part:

.0503 FLOUNDER

(a) License to Land Flounder from the Atlantic Ocean:

...

(3) to qualify for a North Carolina License to Land Flounder from the Atlantic Ocean, a vessel is required to have:

(A) been licensed under G.S. 113-152 or 113-153 during any two of the 1992-93, 1993-94, or 1994-95 license years, and

- (B) landed in North Carolina at least 1,000 pounds for flounder each year from the Atlantic Ocean during any two of the 1992-93, 1993-94, or 1994-95 license years for which the vessel was licensed to land in North Carolina;

...

- (4) at least ten days prior to issuance, applicants for the license shall complete an application form provided by the Division of Marine Fisheries and submit it to the North Carolina Division of Marine Fisheries, Post Office Box 769, 3441 Arendell Street, Morehead City, North Carolina 28557. The following information is required:

...

- (B) proof of required licenses and flounder landings data for that vessel during the years the vessel was licensed,...
- N.C. Admin. Code tit. 15A, r. 3M.0503 (December 1995).

3. Petitioner is a resident of Hyde County where he is a lifetime commercial fisherman. He is descended from generations of fishermen in Hyde County.

4. By application dated December 20, 1996, Petitioner applied for a commercial license to land Atlantic Ocean flounder from his fifty-four foot fishing boat known as the Cassandra. Petitioner held commercial licenses for the Cassandra under the provisions of Chapter 113 of the General Statutes of North Carolina during the 1993-94 and 1994-95 license years.

5. Forms supplied by Respondent as part of the application materials include blank affidavit forms for applicants to have completed by dealers to whom the applicants have sold fish. Petitioner's application contains an affidavit form, not signed or notarized, which contains a handwritten statement that flounder were caught and sold from the Cassandra to Newman's Seafood in Swan Quarter and Engelhard Seafood in Engelhard but that the applicant had not met the 1,000 pound requirement with these seafood dealers and therefore did not ask them to notarize the form.

6. In a letter to Respondent's Division of Marine Fisheries in Morehead City, North Carolina, dated December 27, 1995, Petitioner made the following statement, referring to the vessel Cassandra:

I believe that I may have met the required amount of Atlantic Ocean caught flounder with this vessel, but can't retrieve receipts to prove it.

7. In his prehearing statement, filed on February 22, 1996, Petitioner makes the following statement:

On December 27, 1995, I was denied permits for all of my boats and filed an appeal on January 17, 1996. I have investigated my sales of Atlantic Ocean caught flounder and now know that none of my boats landed 1,000 lbs. in at least two of the last three years which would have made them eligible for the permit.

8. In a letter dated January 8, 1996, Division of Marine Fisheries Director Bruce L. Freeman denied Petitioner's application for an Atlantic Ocean flounder permit for the Cassandra because Petitioner had not been able to prove that he had landed 1,000 pounds of flounder from the Atlantic Ocean during two of the past three license years.

9. Respondent initiated a trip ticket system in 1994 which records the poundage of fish caught and sold by a commercial fisherman. Neither Petitioner nor Respondent can produce sufficient trip tickets for the Cassandra to show that it met the 1,000 pound requirement.

10. Respondent's Exhibits 6 and 7 were admitted into evidence. Exhibit 6 is a receipt dated October 21, 1993 for almost 7,000 pounds of flounder landed and sold to Clark Seafood by Petitioner. Exhibit 7 is a receipt dated January 11, 1994 for just over 1,000 pounds of flounder landed and sold to Clark Seafood by Petitioner. Neither receipt identifies the boat upon which the flounder was caught.

11. Respondent's rules contain the requirement that an applicant such as Petitioner submit proof of flounder landings data. No rule specifies the kind of proof required. Respondent's application form contains the following

preprinted recital just above the signature line:

I hereby provide documentation, receipts, and an affidavit or other supporting information verifying that I landed flounder from the Atlantic Ocean. I certify under penalty of law that the information given above is true and accurate.

12. Petitioner gave sworn testimony during this contested case hearing that he had sold flounder to at least five (5) different fish houses during the past three years and that, although he could not produce affidavits or receipts from them demonstrating the complete poundage sold, it was his testimony that he had caught 1,000 pounds or more of flounder on the Cassandra from the Atlantic Ocean in two of the last three years prior to his present application.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, I make the following conclusions of law.

1. The parties properly are before the Office of Administrative Hearings.

2. Petitioner's testimony under oath in this contested case hearing that he caught at least 1,000 pounds of flounder aboard the Cassandra from the Atlantic Ocean during at least two of the prior three license years constitutes proof of flounder landings for purposes of Respondent's rule codified as N.C. Admin. Code tit. 15A, r. 3M.0503(a)(4)(B) (December 1995). This proof is dependent upon the credibility of the witness, which from his demeanor and the evidence of his ability to land flounder in the thousands of pounds quantities, is found to be sufficient to support a finding of fact that Petitioner caught and landed the quantities of flounder he asserts.

RECOMMENDED DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby recommended that Respondent reverse the decision of the Marine Fisheries Division denying Petitioner's application for a commercial flounder license for the fishing vessel Cassandra because of inadequate poundage and that Respondent direct the issuance of the license Petitioner applied for on the strength of his testimony in this contested case hearing.

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 Department of Environment, Health and Natural Resources.

This the 19th day of August, 1996.

Beecher R. Gray
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.

TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE DEPARTMENT LICENSING BOARDS CHAPTER

1	Administration	Acupuncture	1
2	Agriculture	Architecture	2
3	Auditor	Auctioneers	4
4	Commerce	Barber Examiners	6
5	Correction	Certified Public Accountant Examiners	8
6	Council of State	Chiropractic Examiners	10
7	Cultural Resources	General Contractors	12
8	Elections	Cosmetic Art Examiners	14
9	Governor	Dental Examiners	16
10	Human Resources	Dietetics/Nutrition	17
11	Insurance	Electrical Contractors	18
12	Justice	Electrolysis	19
13	Labor	Foresters	20
14A	Crime Control & Public Safety	Geologists	21
15A	Environment, Health, and Natural Resources	Hearing Aid Dealers and Fitters	22
16	Public Education	Landscape Architects	26
17	Revenue	Landscape Contractors	28
18	Secretary of State	Marital and Family Therapy	31
19A	Transportation	Medical Examiners	32
20	Treasurer	Midwifery Joint Committee	33
*21	Occupational Licensing Boards	Mortuary Science	34
22	Administrative Procedures	Nursing	36
23	Community Colleges	Nursing Home Administrators	37
24	Independent Agencies	Occupational Therapists	38
25	State Personnel	Opticians	40
26	Administrative Hearings	Optometry	42
27	NC State Bar	Osteopathic Examination & Reg. (Repealed)	44
		Pastoral Counselors, Fee-Based Practicing	45
		Pharmacy	46
		Physical Therapy Examiners	48
		Plumbing, Heating & Fire Sprinkler Contractors	50
		Podiatry Examiners	52
		Professional Counselors	53
		Practicing Psychologists	54
		Professional Engineers & Land Surveyors	56
		Real Estate Appraisal Board	57
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work Certification	63
		Soil Scientists	69
		Speech & Language Pathologists & Audiologists	64
		Substance Abuse Professionals	68
		Therapeutic Recreation Certification	65
		Veterinary Medical Board	66

Note: Title 21 contains the chapters of the various occupational licensing boards.

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(April 1996 - March 1997)

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					Action	Date				

This index provides information related to notices, rules and other documents published in the Register. The information provided below includes notices and rules published on or after December 1, 1995 and will be cumulative through March 1997. For assistance contact the Rules Division at 919/733-2678.

Fiscal Note: S = Rule affects the expenditure or distribution of state funds. L = Rule affects the expenditure or distribution of local government funds. SE = Rule has a substantial economic impact of at least \$5,000,000 in a 12-month period. * = Rule-making agency has determined that the rule does not impact state or local funds and does not have a substantial economic impact. See G.S. 150B-21.4.

ACUPUNCTURE LICENSING BOARD

21 NCAC 01 .0301 10:22 NCR 2860

21 NCAC 01 .0705 10:17 NCR 2228

21 NCAC 01 .0709 10:17 NCR 2228

ADMINISTRATIVE HEARINGS

Hearings Division

26 NCAC 03 .0301 11:03 NCR 110

26 NCAC 03 .0302 11:03 NCR 110

26 NCAC 03 .0303 11:03 NCR 110

26 NCAC 03 .0304 11:03 NCR 110

26 NCAC 03 .0305 11:03 NCR 110

Rules Division

26 NCAC 02C 11:09 NCR 570

ADMINISTRATION

State Building Commission

1 NCAC 30G .0101 11:04 NCR 194

1 NCAC 30G .0102 11:04 NCR 194

1 NCAC 30G .0103 11:04 NCR 194

1 NCAC 30G .0104 11:04 NCR 194

1 NCAC 30G .0105 11:04 NCR 194

AGRICULTURE

2 NCAC 09C .0701 10:24 NCR 3056

2 NCAC 09C .0702 10:24 NCR 3056

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2 NCAC 09C .0704	10:24 NCR 3056	11:05 NCR 282	11:06 NCR 324	*						
2 NCAC 48A .0206	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48A .0211	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48A .0214	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48A .1103	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48A .1110	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48B .0112	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48B .0114	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48B .0119	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48B .0120	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 52B .0201	10:24 NCR 3056		11:06 NCR 324	*						

Plant Conservation Board

2 NCAC 48F .0301	11:07 NCR 407		11:11 NCR 883	*						
2 NCAC 48F .0302	11:07 NCR 407		11:11 NCR 883	*						
2 NCAC 48F .0304	11:07 NCR 407		11:11 NCR 883	*						
2 NCAC 48F .0305	11:07 NCR 407		11:11 NCR 883	*						
2 NCAC 48F .0306	11:07 NCR 407		11:11 NCR 883	*						

COMMERCE

4 NCAC 01E	11:09 NCR 569									
4 NCAC 01F	11:09 NCR 569									
4 NCAC 01H	11:09 NCR 569									
4 NCAC 01I	11:09 NCR 569									
4 NCAC 01J	11:09 NCR 569									
4 NCAC 01K	11:09 NCR 569									

Community Assistance

4 NCAC 01K .0501	11:09 NCR 569									
4 NCAC 01K .0502	11:09 NCR 569									
4 NCAC 01K .0503	11:09 NCR 569									

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					Action	Date				
4 NCAC 01K .0504	11:09 NCR 569									
4 NCAC 01K .0505	11:09 NCR 569									
4 NCAC 01K .0506	11:09 NCR 569									
4 NCAC 19L .0401	11:09 NCR 569									
4 NCAC 19L .0403	11:09 NCR 569									
4 NCAC 19L .0404	11:09 NCR 569									
4 NCAC 19L .0407	11:09 NCR 569									
4 NCAC 19L .0501	11:09 NCR 569									
4 NCAC 19L .0502	11:09 NCR 569									
4 NCAC 19L .0505	11:09 NCR 569									
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4 NCAC 19L .0911	11:09 NCR 569									
4 NCAC 19L .1002	11:09 NCR 569									
4 NCAC 19L .1004	11:09 NCR 569									
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4 NCAC 19L .1011	11:09 NCR 569									
4 NCAC 19L .1301	11:09 NCR 569									
4 NCAC 19L .1302	11:09 NCR 569									
4 NCAC 19L .1303	11:09 NCR 569									
4 NCAC 19L .1701	11:09 NCR 569									
4 NCAC 19L .1702	11:09 NCR 569									
4 NCAC 19L .1703	11:09 NCR 569									
4 NCAC 19L .1801	11:09 NCR 569									
4 NCAC 19L .1802	11:09 NCR 569									

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4 NCAC 19L .1803 11:09 NCR 569
 4 NCAC 19L .1804 11:09 NCR 569
 4 NCAC 19L .1805 11:09 NCR 569
 4 NCAC 19L .1900 11:09 NCR 569

Credit Union Division

4 NCAC 06C .0205 10:18 NCR 2398
 4 NCAC 06C .0407 10:18 NCR 2398
 4 NCAC 06C .0409 10:18 NCR 2398

Energy

4 NCAC 12C .0007

State Ports Authority

4 NCAC 13 10:24 NCR 3056

COMMUNITY COLLEGES

23 NCAC 02D .0325 10:24 NCR 3058
 23 NCAC 02E .0203 10:24 NCR 3058
 23 NCAC 03A .0113 10:24 NCR 3058

CULTURAL RESOURCES

USS North Carolina Battleship Commission

7 NCAC 05 .0202 10:18 NCR 2398
 7 NCAC 05 .0203 10:18 NCR 2398
 7 NCAC 05 .0204 10:18 NCR 2398
 7 NCAC 05 .0207 10:18 NCR 2398

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

15A Public Notice

15A Public Notice

15A NCAC 01K 10:19 NCR 2506

15A NCAC 01M .0101

15A NCAC 01M .0102

11:06 NCR 368

11:06 NCR 368

Approve 07/18/96

11:10 NCR 843

11:01 NCR 2

11:09 NCR 590

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15A NCAC 01M .0201		11:06 NCR 368								
15A NCAC 01M .0202		11:06 NCR 368								
15A NCAC 01M .0301		11:06 NCR 368								
15A NCAC 01M .0302		11:06 NCR 368								
15A NCAC 01M .0303		11:06 NCR 368								
15A NCAC 01M .0304		11:06 NCR 368								
15A NCAC 01M .0305		11:06 NCR 368								
15A NCAC 01M .0306		11:06 NCR 368								
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15A NCAC 07	11:04 NCR 183									
15A NCAC 07H .0104	10:24 NCR 3045		11:07 NCR 409	*						11:09 NCR 575
15A NCAC 07H .0106	10:16 NCR 1921		11:04 NCR 190	*						Notice Subject Matter
15A NCAC 07H .0208	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .0304	10:24 NCR 3045		11:07 NCR 409	*						11:09 NCR 575
15A NCAC 07H .0306	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .0309	11:08 NCR 442									
15A NCAC 07H .1104	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1202	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1204	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1205	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1304	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1404	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1504	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1704	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1804	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1904	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .2004	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .2104	11:04 NCR 183		11:11 NCR 907	*						

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15A NCAC 07J .0102	10:24 NCR 3045		11:04 NCR 190	*						
15A NCAC 07K .0203	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07M .0301	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0302	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0303	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0304	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0305	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0306	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0307	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0308	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0309	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0401	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0402	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0403	10:16B NCR 1921		11:11 NCR 907	*						
Environmental Management Commission										
15A NCAC 02	10:24 NCR 3045									
15A NCAC 02	11:04 NCR 183									
15A NCAC 02B .0223	11:02 NCR 75									
15A NCAC 02B .0223	11:03 NCR 109									
15A NCAC 02B .0224	10:18 NCR 2400									
15A NCAC 02B .0227	10:18 NCR 2400									
15A NCAC 02B .0229	11:03 NCR 109		11:09 NCR 572	*						
15A NCAC 02B .0231	11:02 NCR 75		11:10 NCR 824	L/SE						
15A NCAC 02B .0232	11:02 NCR 75		11:10 NCR 824	L						
15A NCAC 02B .0233	11:02 NCR 75		11:10 NCR 824	L						
15A NCAC 02B .0234	11:02 NCR 75		11:10 NCR 824	*						
15A NCAC 02B .0235	11:02 NCR 75		11:10 NCR 824	*						

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15A NCAC 02B .0236	11:02 NCR 75		11:10 NCR 824	L						
15A NCAC 02B .0303	10:18 NCR 2400									
15A NCAC 02B .0315	11:02 NCR 75		11:09 NCR 572	L						
15A NCAC 02D .0518	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0524	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0530	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0902	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0907	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0909	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0910	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0911	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0946	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0954	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .1100	11:08 NCR 442									
15A NCAC 02D .1110	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .1111	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .1402	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .1403	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02H .0610	11:08 NCR 442									
15A NCAC 02L .0106		10:19 NCR 2508								
15A NCAC 02L .0202	10:20 NCR 2591									
15A NCAC 02P .0402		10:19 NCR 2512								
15A NCAC 02Q .0102			11:06 NCR 350	*						
15A NCAC 02Q .0102	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0104	10:24 NCR 2400		11:08 NCR 472	*						
15A NCAC 02Q .0107	10:18 NCR 2400		11:08 NCR 472	*						
15A NCAC 02Q .0507	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0512	10:24 NCR 2400		11:08 NCR 472	S/L						

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15A NCAC 02Q .0514	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0515	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0517	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0700	11:08 NCR 442									
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NPDES Permits										11:06 NCR 317
										11:07 NCR 406
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15A NCAC 13B .1627	11:08 NCR 442									
15A NCAC 13B .1800	11:08 NCR 442									
15A NCAC 13C .0301	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0302	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0303	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0304	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0305	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0306	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0307	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0308	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 18A	11:04 NCR 183									
15A NCAC 18A .0134	11:08 NCR 442									
15A NCAC 18A .0136	11:08 NCR 442									
15A NCAC 18A .0137	11:08 NCR 442									
15A NCAC 18A .0159	11:08 NCR 442									
15A NCAC 18A .0168	11:08 NCR 442									
15A NCAC 18A .0169	11:08 NCR 442									
15A NCAC 18A .0173	11:08 NCR 442									
15A NCAC 18A .0174	11:08 NCR 442									
15A NCAC 18A .0175	11:08 NCR 442									
15A NCAC 18A .0176	11:08 NCR 442									

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15A NCAC 18A .0182	11:08 NCR 442									
15A NCAC 18A .0183	11:08 NCR 442									
15A NCAC 18A .0184	11:08 NCR 442									
15A NCAC 18A .0185	11:08 NCR 442									
15A NCAC 18A .0187	11:08 NCR 442									
15A NCAC 18A .0301	11:08 NCR 442									
15A NCAC 18A .0302	11:08 NCR 442									
15A NCAC 18A .0401	11:08 NCR 442									
15A NCAC 18A .0421	11:08 NCR 442									
15A NCAC 18A .0424	11:08 NCR 442									
15A NCAC 18A .0425	11:08 NCR 442									
15A NCAC 18A .0614	11:08 NCR 442									
15A NCAC 18A .0615	11:08 NCR 442									
15A NCAC 18A .0616	11:08 NCR 442									
15A NCAC 18A .0617	11:08 NCR 442									
15A NCAC 18A .0618	11:08 NCR 442									
15A NCAC 18A .0620	11:08 NCR 442									
15A NCAC 18A .0621	11:08 NCR 442									
15A NCAC 18A .0901	11:08 NCR 442									
15A NCAC 18A .1301	11:08 NCR 442									
15A NCAC 18A .1302	11:08 NCR 442									
15A NCAC 18A .1319	11:08 NCR 442									
15A NCAC 18A .1805	11:04 NCR 183		11:09 NCR 576	*					11:04 NCR 209	
15A NCAC 18A .1814					Approve	04/18/96				
15A NCAC 18A .2601		11:01 NCR 24	11:05 NCR 273	*						
15A NCAC 18A .2701					Approve	06/20/96	*		11:08 NCR 536	
15A NCAC 20D .0243					Approve	04/18/96			11:04 NCR 209	
15A NCAC 21H .0111		11:06 NCR 371								

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15A NCAC 21H .0113		11:06 NCR 371								
15A NCAC 21I .0101		11:07 NCR 422								
15A NCAC 21J .0101		11:07 NCR 422								
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15A NCAC 03	11:11 NCR 881									
15A NCAC 03I .0001	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03I .0005	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03I .0019			10:21 NCR 2737	*	Approve	05/16/96	*			
15A NCAC 03J .0202	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03J .0401			10:21 NCR 2688	*	Approve	05/16/96	*			
15A NCAC 03L .0102	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03L .0201	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03M .0202	11:03 NCR 110	11:11 NCR 938		*						
15A NCAC 03M .0503	11:07 NCR 407		11:11 NCR 938	*						
15A NCAC 03M .0504	11:03 NCR 110	11:11 NCR 938		*						
15A NCAC 03M .0506	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03M .0507		11:11 NCR 938		*						
15A NCAC 03M .0511	11:03 NCR 110	11:11 NCR 938		*						
15A NCAC 03R .0006	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03R .0007	11:07 NCR 407		11:11 NCR 888	*						
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15A NCAC 06E .0002	11:08 NCR 442									
15A NCAC 06E .0003	11:08 NCR 442									
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15A NCAC 10B .0106	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10B .0113	11:07 NCR 408									
15A NCAC 10B .0115	11:07 NCR 408									
15A NCAC 10B .0115	11:11 NCR 882									

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15A NCAC 10B .0123	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10B .0203	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10B .0208	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10B .0209	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10C .0107	11:02 NCR 76									
15A NCAC 10C .0205	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10C .0305	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10C .0401	11:02 NCR 76									
15A NCAC 10C .0401	11:07 NCR 408									
15A NCAC 10D .0002	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10D .0003	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10F .0102	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0103	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0104	10:19 NCR 2506		11:01 NCR 14	*	Approve	08/15/96	*			
15A NCAC 10F .0105	10:19 NCR 2506		11:01 NCR 14	*	Approve	08/15/96	*			
15A NCAC 10F .0106	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0107	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0109	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0300	11:01 NCR 13									
15A NCAC 10F .0302	11:05 NCR 272									
15A NCAC 10F .0303	10:24 NCR 3057		11:06 NCR 355	*						
15A NCAC 10F .0305	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96			11:10 NCR 843	
15A NCAC 10F .0307	11:02 NCR 76		11:07 NCR 412	*						
15A NCAC 10F .0307	11:08 NCR 451									
15A NCAC 10F .0310	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96				
15A NCAC 10F .0310	10:24 NCR 3057		11:06 NCR 355	*						
15A NCAC 10F .0342	10:19 NCR 2506		11:01 NCR 14	*	Withdrawn/Agcy	07/18/96				
15A NCAC 10F .0348	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	

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15A NCAC 10G .0100	11:02 NCR 76									
15A NCAC 10G .0102	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0103	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0202	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0203	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0206	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0302	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0303	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0401	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0402	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0403	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0404	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0501	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 101.0001	10:22 NCR 2829		11:04 NCR 191	*						
15A NCAC 101.0002	11:02 NCR 76		11:08 NCR 495	*						11:03 NCR 104 11:04 NCR 182
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Wildlife Proclamation										

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21 NCAC 12 .0204	10:22 NCR 2829	11:06 NCR 372	11:09 NCR 583	*						
21 NCAC 12 .0503	10:22 NCR 2829	11:06 NCR 372	11:09 NCR 584	*						

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Number 95 - Eff. 04/24/96

11:05 NCR 270

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10 NCAC 22	10:23 NCR 2956									11:10 NCR 817
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10 NCAC 03U .0102		10:20 NCR 2593	11:10 NCR 819	S						11:11 NCR 880
10 NCAC 03U .0604	11:03 NCR 109		11:09 NCR 571	*						
10 NCAC 03U .0700	11:08 NCR 449									
10 NCAC 03U .0704	10:19 NCR 2506		11:04 NCR 188	*						
10 NCAC 03U .0710	10:22 NCR 2829		11:04 NCR 188	*						
10 NCAC 03U .0901	11:08 NCR 449									
10 NCAC 03U .2510	11:08 NCR 449									
10 NCAC 03U .2606	11:08 NCR 449									
10 NCAC 03U .2701		10:20 NCR 2593	11:10 NCR 819	S						
10 NCAC 03U .2702		10:20 NCR 2593	11:10 NCR 819	S						
10 NCAC 03U .2703		10:20 NCR 2593	11:10 NCR 819	S						
10 NCAC 03U .2704		10:20 NCR 2593	11:10 NCR 819	S						
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10 NCAC 03	10:18 NCR 2399									11:11 NCR 888
10 NCAC 03R .3001		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
10 NCAC 03R .3001	10:23 NCR 2956		11:06 NCR 328	S/L/SE						11:11 NCR 888
10 NCAC 03R .3010		10:21 NCR 2699	11:08 NCR 452	S/L/SE						11:11 NCR 888
10 NCAC 03R .3020		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
10 NCAC 03R .3020	10:23 NCR 2956		11:06 NCR 328	S/L/SE						11:11 NCR 888
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10 NCAC 03R .3030	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3032		10:21 NCR 2699	11:08 NCR 452	S/L/SE						11:11 NCR 888
10 NCAC 03R .3032	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3040		10:21 NCR 2699	11:08 NCR 452	S/L/SE						11:11 NCR 888
10 NCAC 03R .3040	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3050		10:21 NCR 2699	11:08 NCR 452	S/L/SE						11:11 NCR 888
10 NCAC 03R .3050	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
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10 NCAC 26G .0707	11:08 NCR 450									
10 NCAC 26H .0506		11:02 NCR 77								
10 NCAC 26H .0506	10:21 NCR 2686									
10 NCAC 26H .0602	11:09 NCR 569									
10 NCAC 50B .0202		11:10 NCR 841								
10 NCAC 50B .0404		11:10 NCR 841								
10 NCAC 50B .0409		11:10 NCR 841								11:06 NCR 316
10 NCAC 50D										
10 NCAC 50D .0101	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0102	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0103	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0201	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0301	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0302	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0401	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0402	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0501	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0502	10:24 NCR 3057	11:04 NCR 196								

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10 NCAC 50D .0503	10:24 NCR 3057	11:04 NCR 196								
Medical Care Commission										
10 NCAC 03C .6208					Approve	04/18/96			11:04 NCR 206	
Mental Health, Developmental Disabilities and Substance Abuse Services										
10 NCAC 14V .3400	11:08 NCR 449									
10 NCAC 14V .3800	11:08 NCR 449									
10 NCAC 14V .5600	11:08 NCR 449									
10 NCAC 15A .0100	11:08 NCR 449									
10 NCAC 45H .0200	11:08 NCR 449									
Social Services Commission										
10 NCAC 41F	10:23 NCR 2956									
10 NCAC 41F .0705	10:23 NCR 2956		11:03 NCR 111	L						
10 NCAC 41F .0706		10:21 NCR 2726	11:03 NCR 111	*						
10 NCAC 41F .0707		10:21 NCR 2726	11:03 NCR 111	S	Object	07/18/96				
10 NCAC 41F .0812		10:21 NCR 2726	11:03 NCR 111	*						
10 NCAC 41F .0813		10:21 NCR 2726	11:03 NCR 111	S	Object	07/18/96				
10 NCAC 41F .0814	10:23 NCR 2956		11:03 NCR 111	L	Object	07/18/96				
10 NCAC 41I .0100	10:17 NCR 2228									
10 NCAC 41I .0102	10:17 NCR 2228		10:21 NCR 2687	*						
10 NCAC 41P .0002	11:06 NCR 323	11:08 NCR 528								
10 NCAC 41P .0005	11:06 NCR 323	11:08 NCR 528								
10 NCAC 41P .0006	11:06 NCR 323	11:08 NCR 528								
10 NCAC 41P .0008	11:06 NCR 323	11:08 NCR 528								
10 NCAC 41P .0009	11:06 NCR 323	11:08 NCR 528								
10 NCAC 41P .0010	11:06 NCR 323	11:08 NCR 528								
10 NCAC 41P .0011	11:06 NCR 323	11:08 NCR 528								
10 NCAC 41P .0012	11:06 NCR 323	11:08 NCR 528								
10 NCAC 41P .0013		11:08 NCR 528								

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					Action	Date				
10 NCAC 42A .0701		10:21 NCR 2728	11:10 NCR 823	S/L/SE						
10 NCAC 42A .0702		10:21 NCR 2728	11:10 NCR 823	*						
10 NCAC 42A .0703		10:21 NCR 2728	11:10 NCR 823	*						
10 NCAC 42B .1209		10:21 NCR 2729								
10 NCAC 42B .1210		10:21 NCR 2729								
10 NCAC 42B .1211		10:21 NCR 2729								
10 NCAC 42B .2402		10:21 NCR 2729								
10 NCAC 42B .2403		10:21 NCR 2729								
10 NCAC 42B .2404		10:21 NCR 2729								
10 NCAC 42B .2405		10:21 NCR 2729								
10 NCAC 42C .2010		10:21 NCR 2729								
10 NCAC 42C .2011		10:21 NCR 2729								
10 NCAC 42C .2012		10:21 NCR 2729								
10 NCAC 42C .3701		10:21 NCR 2729								
10 NCAC 42C .3702		10:21 NCR 2729								
10 NCAC 42C .3703		10:21 NCR 2729								
10 NCAC 42C .3704		10:21 NCR 2729								
10 NCAC 42D .1409		10:21 NCR 2729								
10 NCAC 42D .1410		10:21 NCR 2729								
10 NCAC 42D .1411		10:21 NCR 2729								
10 NCAC 42D .1827		10:21 NCR 2729								
10 NCAC 42D .1828		10:21 NCR 2729								
10 NCAC 42D .1829		10:21 NCR 2729								
10 NCAC 42D .1830		10:21 NCR 2729								
10 NCAC 42V .0201		10:20 NCR 2597	11:03 NCR 111	*	Approve	07/18/96	*		11:10 NCR 843	
10 NCAC 42V .0802		10:20 NCR 2597	11:03 NCR 111	*	Approve	07/18/96	*		11:10 NCR 843	
10 NCAC 42V .0803		10:20 NCR 2597	11:03 NCR 111	*	Approve	07/18/96	*		11:10 NCR 843	
10 NCAC 49A .0002		11:08 NCR 528								

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10 NCAC 49B .0202		11:08 NCR 528								
10 NCAC 49B .0310		11:08 NCR 528								
10 NCAC 49B .0502		11:08 NCR 528								
10 NCAC 49C .0107		10:18 NCR 2402								
Vocational Rehabilitation Services										
10 NCAC 20B .0200	11:08 NCR 450									
10 NCAC 20C .0600	11:08 NCR 450									
10 NCAC 20D .0200	11:08 NCR 450									
INSURANCE										
11 NCAC 12 .0551	10:18 NCR 2399		10:22 NCR 2831	*	Approve	05/16/96	*		11:05 NCR 283	
11 NCAC 16 .0703	10:18 NCR 2399		10:22 NCR 2832	*	Approve	05/16/96			11:05 NCR 284	
JUSTICE										
Attorney General/Company Police										
12 NCAC 021 .0101									11:04 NCR 208	
12 NCAC 021 .0206									11:04 NCR 208	
12 NCAC 021 .0210									11:04 NCR 208	
Alarm Systems Licensing Board										
12 NCAC 11 .0202	10:24 NCR 3057									
Private Protective Services Board										
12 NCAC 07D	11:10 NCR 818				Approve	04/18/96				
12 NCAC 07D .0201	11:10 NCR 818				Approve	04/18/96				
12 NCAC 07D .0504	11:10 NCR 818				Approve	04/18/96				
12 NCAC 07D .0701	11:10 NCR 818									
12 NCAC 07D .0801	11:10 NCR 818									
12 NCAC 07D .0902	11:10 NCR 818									

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12 NCAC 04E .0103 11:11 NCR 881

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					Action	Date				
Occupational Safety and Health										
13 NCAC 07A .0900	11:11 NCR 881									
13 NCAC 07F	11:03 NCR 106									
13 NCAC 07F .0101		11:03 NCR 119								
13 NCAC 07F .0201	11:03 NCR 106									
13 NCAC 07F .0201	11:09 NCR 568									
13 NCAC 07F .0301	11:03 NCR 106									
MEDICAL BOARD										
21 NCAC 3211	10:18 NCR 2400									
21 NCAC 3211 .0101	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0102	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0201	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0203	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			
21 NCAC 3211 .0301	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0302	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0303	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0401	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0402	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0403	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0404	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0406	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0407	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0408	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0409	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0501	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0502	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0504	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0505	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	

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21 NCAC 32H .0506	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0507	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0601	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0602	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96			11:04 NCR 221	
21 NCAC 32H .0701	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0702	10:18 NCR 2400		10:22 NCR 2835	*	Object	04/18/96			Returned to Agency 6/20/96	
21 NCAC 32H .0801	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0901	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0902	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96			11:04 NCR 221	
NURSING HOME ADMINISTRATORS										
21 NCAC 37D .0202		11:11 NCR 940								
21 NCAC 37G .0102		11:11 NCR 940								
PSYCHOLOGY BOARD										
21 NCAC 54 .2704					Approve	04/18/96			11:04 NCR 236	
21 NCAC 54 .2706					Approve	04/18/96			11:04 NCR 236	
PUBLIC EDUCATION										
16 NCAC 01A .0001					Approve	05/16/96			11:05 NCR 286	
16 NCAC 01A .0003					Approve	05/16/96			11:05 NCR 283	
Standards Board for Public School Administration										
16 NCAC 07 .0101	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0102	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0103	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0104	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0105	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0106	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0107	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0108	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0109	10:23 NCR 2957		11:09 NCR 576	*						

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16 NCAC 07 .0110	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0111	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0112	10:23 NCR 2957		11:09 NCR 576	*						
REAL ESTATE COMMISSION										
21 NCAC 58A .0101	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0104	11:07 NCR 408		11:31 NCR 935	*						
21 NCAC 58A .0105	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0109	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0110	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0302	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0503	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0504	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .1501	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .1502	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .1601	10:22 NCR 2835		11:03 NCR 114	*						
REFRIGERATION EXAMINERS										
21 NCAC 60 .0204	11:05 NCR 272		11:10 NCR 839	*						
21 NCAC 60 .0207	11:05 NCR 272		11:10 NCR 839	*						
21 NCAC 60 .0314	11:05 NCR 272		11:10 NCR 839	*						
REVENUE										
17 NCAC 01C .0504	10:20 NCR 2599				Object	08/15/96				
17 NCAC 01C .0506	10:20 NCR 2599				Held	08/15/96				
17 NCAC 01C .0506			11:10 NCR 838	*						
17 NCAC 05C .0102			11:03 NCR 113	*						
			11:09 NCR 582	*						
17 NCAC 05C .2101			10:24 NCR 3059	*	Approve	05/16/96	*		11:05 NCR 284	
17 NCAC 06B .0612			10:22 NCR 2833	*	Approve	04/18/96	*		11:04 NCR 211	
17 NCAC 06B .3716			10:22 NCR 2833	*	Approve	04/18/96	*		11:04 NCR 211	

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17 NCAC 07B .1101			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1105			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1108			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1109			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1110			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1112			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1114			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1123			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1602			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1701			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1702			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1802			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .2401			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .2601			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .4002			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .4004			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .4008			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .4301			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .4408			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .4902			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
Tax Review Board										11:02 NCR 72
Tax Review Board										11:06 NCR 318
SOCIAL WORK, BOARD OF										
21 NCAC 63 .0306		10:21 NCR 2739	11:03 NCR 118	*						
SOIL SCIENTISTS, BOARD FOR LICENSING										
21 NCAC 69 .0101	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0102	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						

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21 NCAC 69 .0103	10:19 NCR 2507	11:04 NCR 200	11:08 NCR 523	*						
			11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0104	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0201	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0202	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0301	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0302	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0303	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0304	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0305	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0306	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0307	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0308	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0401	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0402	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						

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21 NCAC 69 .0501	10:19 NCR 2507	11-04 NCR 200	11-08 NCR 523	*						
			11-04 NCR 200	*						
			11-08 NCR 523	*						
STATE PERSONNEL COMMISSION										
25 NCAC 01J .0613		10:23 NCR 2960								
25 NCAC 01J .0613					Approve	03/21/96			11-01 NCR 26	
SUBSTANCE ABUSE PROFESSIONALS CERTIFICATION BOARD										
21 NCAC 68	10:18 NCR 2401									
21 NCAC 68 .0101	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0102	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96			11-04 NCR 238	
21 NCAC 68 .0201	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96			11-04 NCR 238	
21 NCAC 68 .0202	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0203	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0204	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0205	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0206	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0207	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0208	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0209	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0210	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0211	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0212	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0213	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0401	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0402	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0403	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0404	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0405	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	

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					Action	Date				
21 NCAC 68 .0406	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0407	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0701	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0702	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0703	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0704	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96			11:04 NCR 238	
21 NCAC 68 .0705	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96			11:04 NCR 238	
21 NCAC 68 .0706	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96			11:04 NCR 238	
21 NCAC 68 .0707	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0708	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0709	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
TRANSPORTATION										
19A NCAC 06B .0401	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0402	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0403	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0404	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0405	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0406	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0407	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0408	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0409	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0410	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0411	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0412	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0413	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0414	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0415	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0416	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				

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					Action	Date				
19A NCAC 06B .0417	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
Highways, Division of										
19A NCAC 02D .0425					Approve	08/15/96				
19A NCAC 02D .1101	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				
19A NCAC 02D .1102	10:23 NCR 2957		11:05 NCR 274	*	Object	08/15/96				
19A NCAC 02D .1103	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*			
19A NCAC 02D .1104	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*			
19A NCAC 02D .1105	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*			
19A NCAC 02D .1106	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				
19A NCAC 02D .1107	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				
19A NCAC 02D .1108	10:23 NCR 2957		11:05 NCR 274	*	Object	08/15/96				
19A NCAC 02D .1109	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*			
19A NCAC 02D .1110	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*			
19A NCAC 02D .1111	10:23 NCR 2957		11:05 NCR 274	*	Object	08/15/96				
19A NCAC 02D .1112	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				
Motor Vehicles, Division of										
19A NCAC 03E .0500	11:01 NCR 13									
19A NCAC 03E .0501	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0502	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0510	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0511	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0512	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0513	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0514	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0515	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0518	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0519	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0522	11:01 NCR 13		11:07 NCR 416	*						

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					Action	Date				

19A NCAC 03J .0101	11:11 NCR 882									
19A NCAC 03J .0201	11:11 NCR 882									
19A NCAC 03J .0306	11:11 NCR 882									
19A NCAC 03J .0307	11:11 NCR 882									
19A NCAC 03J .0601	11:11 NCR 882									

BARCLAYS OFFICIAL NORTH CAROLINA ADMINISTRATIVE CODE - 1995

DESCRIPTION	CODE	ONE-TIME PURCHASE PRICE	ANNUAL SUBSCRIPTION PRICE
Title 1 - Dept. of Administration - Full Title	201 00 00	\$63.00	\$90.00
Division of Purchase & Contract	201 10 05	\$21.00	\$30.00
Federal Block Grant Funds	201 10 33	\$17.50	\$25.00
Title 2 - Dept. of Agriculture - Full Title	202 00 00	\$98.00	\$140.00
Food & Drug Protection Division	202 15 09	\$28.00	\$40.00
Structural Pest Control Committee	202 15 34	\$21.00	\$30.00
Agricultural Markets	202 15 43	\$21.00	\$30.00
Plant Industry	202 15 48	\$21.00	\$30.00
Animal Industry	202 15 52	\$21.00	\$30.00
Title 3 - Dept. of State Auditor - Full Title	203 00 00	\$7.00	\$10.00
Title 4 - Dept. of Commerce - Full Title	204 00 00	\$87.50	\$125.00
Alcoholic Beverage Control Commission	204 15 02	\$12.00	\$40.00
Banking Commission	204 15 03	\$24.50	\$35.00
Credit Union Division	204 15 06	\$14.00	\$20.00
Savings & Loan Division	204 15 09	\$14.00	\$20.00
Industrial Commission/Workers Compensation	204 15 10	\$14.00	\$20.00
Savings Institutions Division	204 15 16	\$24.50	\$35.00
Title 5 - Dept. of Corrections - Full Title	205 00 00	\$56.00	\$80.00
Division of Prisons	205 15 02	\$24.50	\$35.00
Title 6 - Council of State - Full Title	206 00 00	\$21.00	\$30.00
Title 7 - Dept. of Cultural Resources - Full Title	207 00 00	\$21.00	\$30.00
Title 8 - State Board of Elections - Full Title	208 00 00	\$7.00	\$10.00
Title 9 - Offices of the Governor & Lt. Governor - Full Title	209 00 00	\$31.50	\$45.00
Title 10 - Dept. of Human Resources - Full Title	210 00 00	\$346.50	\$495.00
Licensing of Health Facilities	210 20 10	\$45.50	\$65.00
Detention Facilities	210 20 20	\$31.50	\$45.00
Mental Health & Rehabilitation Services	210 20 30	\$77.00	\$110.00
Social Services	210 20 40	\$119.00	\$170.00
Children Services/Day Care	210 20 41	\$31.50	\$45.00
Services for the Aging	210 20 42	\$31.50	\$45.00
Services for the Blind	210 20 43	\$28.00	\$40.00
Services for the Deaf & Hard of Hearing	210 20 44	\$17.50	\$25.00
Employment Opportunities	210 20 45	\$35.00	\$50.00
Title 11 - Dept. of Insurance - Full Title	211 00 00	\$63.00	\$90.00
Insurance	211 10 01	\$56.00	\$80.00
Consumer Services	211 10 04	\$24.50	\$35.00
Fire & Rescue Services	211 10 05	\$17.50	\$25.00
Agent Services	211 10 06	\$28.00	\$40.00
Engineering & Building Codes	211 10 08	\$21.00	\$30.00
Title 12 - Dept. of Justice - Full Title	212 00 00	\$63.00	\$90.00
Private Protective Services	212 10 07	\$21.00	\$30.00
Police & Sheriff's Education & Training Standards	212 10 09	\$31.50	\$45.00
NC Alarm Systems Licensing Board	212 10 11	\$17.50	\$25.00
Title 13 - Dept. of Labor - Full Title	213 00 00	\$77.00	\$110.00
Mine & Quarry Safety	213 15 06	\$14.00	\$20.00
General Safety/OSHA	213 20 00	\$31.50	\$45.00
Wage & Hour Rules	213 15 12	\$14.00	\$20.00
Boiler & Pressure Vessel Safety	213 15 13	\$14.00	\$20.00
Apprenticeship & Training	213 15 14	\$14.00	\$20.00
Elevator & Amusement Device Safety	213 15 15	\$14.00	\$20.00
Title 14A - Dept. of Crime Control & Public Safety - Full Title	214 00 00	\$31.50	\$45.00
Alcohol Law Enforcement	214 00 08	\$17.50	\$25.00
Victims Compensation Fund	214 00 11	\$14.00	\$20.00
Title 15A - Dept. of Environ., Health, & Nat. Resources - Full Title	215 00 00	\$276.50	\$395.00
Environmental Management	215 15 00	\$115.50	\$165.00
Air Quality	215 15 10	\$49.00	\$70.00
Water Quality	215 15 20	\$49.00	\$70.00
Land & Waste Management	215 15 30	\$56.00	\$80.00
Solid Waste Management	215 15 31	\$35.00	\$50.00
Underground Storage Tanks	215 15 32	\$17.50	\$25.00

DESCRIPTION	CODE	ONE-TIME PURCHASE PRICE	ANNUAL SUBSCRIPTION PRICE
Coastal Management	215 15 40	\$31.50	\$45.00
Environmental Health	215 25 00	\$105.00	\$150.00
Radiation/Nuclear Waste	215 25 10	\$42.00	\$60.00
Sanitation	215 25 20	\$35.00	\$50.00
Public Health	215 25 30	\$59.50	\$85.00
Intoxilizer & Breathalyzer	215 25 31	\$17.50	\$25.00
Title 16 - Dept. of Public Instruction - Full Title	216 00 00	\$21.00	\$30.00
Elementary & Secondary Education	216 10 06	\$21.00	\$30.00
Title 17 - Dept. of Revenue - Full Title	217 00 00	\$91.00	\$130.00
Taxes on Individuals	217 15 10	\$31.50	\$45.00
Taxes on Business	217 15 20	\$56.00	\$80.00
Sales & Use Tax Division	217 15 27	\$31.50	\$45.00
Motor Fuels Tax Division	217 15 29	\$21.00	\$30.00
Title 18 - Secretary of State - Full Title	218 00 00	\$21.00	\$30.00
Securities Division	218 10 06	\$21.00	\$30.00
Title 19A - Dept. of Transportation - Full Title	219 00 00	\$63.00	\$90.00
Division of Highways	219 10 02	\$28.00	\$40.00
Division of Motor Vehicles	219 10 03	\$35.00	\$50.00
Title 20 - Dept. of the State Treasurer - Full Title	220 00 00	\$31.50	\$45.00
Title 21 - Occupational Licensing Boards - Full Title	221 00 00	\$143.50	\$205.00
Title 22 - Administrative Procedures Act - Repealed	222 00 00	\$0.00	\$0.00
Title 23 - Dept. of Community Colleges - Full Title	223 00 00	\$7.00	\$10.00
Title 24 - Independent Agencies - Full Title	224 00 00	\$7.00	\$10.00
Title 25 - Office of State Personnel - Full Title	225 00 00	\$42.00	\$60.00
Title 26 - Office of Administrative Hearings - Full Title	226 00 00	\$7.00	\$10.00
Title 27 - North Carolina State Bar - Full Title	227 00 00	\$42.00	\$60.00
North Carolina Administrative Code - Full Code (Add \$85.00 Shipping and Handling)	299 99 98	\$375.00	\$750.00
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CD-ROM North Carolina Administrative Code (When purchased with the Full Code in Print)	266 50 00	- -	\$250.00
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