

NORTH CAROLINA



REGISTER

Volume 18, Issue 10
Pages 743 - 823

November 17, 2003

This issue contains documents officially filed through October 24, 2003.

Office of Administrative Hearings
Rules Division
424 North Blount Street (27601)
6714 Mail Service Center
Raleigh, NC 27699-6714
(919) 733-2678
FAX (919) 733-3462

Julian Mann III, Director
Camille Winston, Deputy Director
Molly Masich, Director of APA Services
Ruby Creech, Publications Coordinator
Linda Dupree, Editorial Assistant
Dana Sholes, Editorial Assistant
Rhonda Wright, Editorial Assistant

IN THIS ISSUE

I. IN ADDITION

ENR – Notice of Intent to Redevelop a Brownfields Property – Citiline, LLC.....	743
ENR – Notice of Intent to Redevelop a Brownfields Property – Salem Recreational Fields, LLC	744
ENR – Application for Innovative Approval of a Wastewater System for On -site Subsurface Use...	746
Labor – Order 2002-V-01, Continental General Tire, Inc., Permanent Variance.....	745
Voting Rights Letters	747 - 749

II. PROPOSED RULES

Environment and Natural Resources	
Wildlife Resources Commission.....	775 - 813
Insurance	
Admission Requirements	774
Consumer Services	750
Financial Evaluation Division.....	750 - 774
Justice	
Private Protective Services	774 - 775

III. RULES REVIEW COMMISSION.....814 - 819

IV. CONTESTED CASE DECISIONS

Index to ALJ Decisions	820 - 823
------------------------------	-----------

For the **CUMULATIVE INDEX to the NC Register** go to:
<http://oahnt.oah.state.nc.us/register/CI.pdf>

North Carolina Register is published semi-monthly for \$195 per year by the Office of Administrative Hearings, 424 North Blount Street, Raleigh, NC 27601. *North Carolina Register* (ISSN 15200604) to mail at Periodicals Rates is paid at Raleigh, NC. POSTMASTER: Send Address changes to the *North Carolina Register*, 6714 Mail Service Center, Raleigh, NC 27699-6714.

NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

The North Carolina Administrative Code (NCAC) has four major classifications of rules. Three of these, titles, chapters, and sections are mandatory. The major classification 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. Subchapters are optional classifications to be used by agencies when appropriate.

NCAC TITLES		TITLE 21 LICENSING BOARDS	TITLE 24 INDEPENDENT AGENCIES
1	ADMINISTRATION	1 Acupuncture	1 Housing Finance
2	AGRICULTURE & CONSUMER SERVICES	2 Architecture	2 Agricultural Finance Authority
3	AUDITOR	3 Athletic Trainer Examiners	3 Safety & Health Review Board
4	COMMERCE	4 Auctioneers	4 Reserved
5	CORRECTION	6 Barber Examiners	5 State Health Plan Purchasing Alliance Board (Repealed)
6	COUNCIL OF STATE	8 Certified Public Accountant Examiners	
7	CULTURAL RESOURCES	10 Chiropractic Examiners	
8	ELECTIONS	11 Employee Assistance Professionals	
9	GOVERNOR	12 General Contractors	
10A	HEALTH AND HUMAN SERVICES	14 Cosmetic Art Examiners	
11	INSURANCE	16 Dental Examiners	
12	JUSTICE	17 Dietetics/Nutrition	
13	LABOR	18 Electrical Contractors	
14A	CRIME CONTROL & PUBLIC SAFETY	19 Electrolysis	
15A	ENVIRONMENT & NATURAL RESOURCES	20 Foresters	
16	PUBLIC EDUCATION	21 Geologists	
17	REVENUE	22 Hearing Aid Dealers and Fitters	
18	SECRETARY OF STATE	25 Interpreter/Transliterater (Reserved)	
19A	TRANSPORTATION	26 Landscape Architects	
20	TREASURER	28 Landscape Contractors	
21*	OCCUPATIONAL LICENSING BOARDS	29 Locksmith Licensing Board	
22	ADMINISTRATIVE PROCEDURES (REPEALED)	30 Massage & Bodywork Therapy	
23	COMMUNITY COLLEGES	31 Marital and Family Therapy	
24*	INDEPENDENT AGENCIES	32 Medical Examiners	
25	STATE PERSONNEL	33 Midwifery Joint Committee	
26	ADMINISTRATIVE HEARINGS	34 Funeral Service, Board of	
27	NC STATE BAR	36 Nursing	
28	JUVENILE JUSTICE AND DELINQUENCY PREVENTION	37 Nursing Home Administrators	
		38 Occupational Therapists	
		40 Opticians	
		42 Optometry	
		44 Osteopathic Examination (Repealed)	
		45 Pastoral Counselors, Fee-Based Practicing	
		46 Pharmacy	
		48 Physical Therapy Examiners	
		50 Plumbing, Heating & Fire Sprinkler Contractors	
		52 Podiatry Examiners	
		53 Professional Counselors	
		54 Psychology Board	
		56 Professional Engineers & Land Surveyors	
		57 Real Estate Appraisal Board	
		58 Real Estate Commission	
		60 Refrigeration Examiners	
		61 Respiratory Care Board	
		62 Sanitarian Examiners	
		63 Social Work Certification	
		64 Speech & Language Pathologists & Audiologists	
		65 Therapeutic Recreation Certification	
		66 Veterinary Medical Board	
		68 Substance Abuse Professionals	
		69 Soil Scientists	

Note: Title 21 contains the chapters of the various occupational licensing boards and Title 24 contains the chapters of independent agencies.

NORTH CAROLINA REGISTER
 Publication Schedule for July 2003 – December 2003

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment period	Deadline to submit to RRC for review at next meeting	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule (first legislative day of the next regular session)	270 th day from publication in the Register
17:13	01/02/03	12/06/02	01/17/03	03/03/03	03/20/03	05/01/03	05/10/04	09/29/03
17:14	01/15/03	12/19/02	01/30/03	03/17/03	03/20/03	05/01/03	05/10/04	10/12/03
17:15	02/03/03	01/10/03	02/18/03	04/04/03	04/21/03	06/01/03	05/10/04	10/31/03
17:16	02/17/03	01/27/03	03/04/03	04/21/03	04/21/03	06/01/03	05/10/04	11/14/03
17:17	03/03/03	02/10/03	03/18/03	05/02/03	05/20/03	07/01/03	05/10/04	11/28/03
17:18	03/17/03	02/24/03	04/01/03	05/16/03	05/20/03	07/01/03	05/10/04	12/12/03
17:19	04/01/03	03/11/03	04/16/03	06/02/03	06/20/03	08/01/03	05/10/04	12/27/03
17:20	04/15/03	03/25/03	04/30/03	06/16/03	06/20/03	08/01/03	05/10/04	01/10/04
17:21	05/01/03	04/09/03	05/16/03	06/30/03	07/21/03	09/01/03	05/10/04	01/26/04
17:22	05/15/03	04/24/03	05/30/03	07/14/03	07/21/03	09/01/03	05/10/04	02/09/04
17:23	06/02/03	05/09/03	06/17/03	08/01/03	08/20/03	10/01/03	05/10/04	02/27/04
17:24	06/16/03	05/23/03	07/01/03	08/15/03	08/20/03	10/01/03	05/10/04	03/12/04
18:01	07/01/03	06/10/03	07/16/03	09/02/03	09/22/03	11/01/03	05/10/04	03/27/04
18:02	07/15/03	06/23/03	07/30/03	09/15/03	09/22/03	11/01/03	05/10/04	04/10/04
18:03	08/01/03	07/11/03	08/16/03	09/30/03	10/20/03	12/01/03	05/10/04	04/27/04
18:04	08/15/03	07/25/03	08/30/03	10/14/03	10/20/03	12/01/03	05/10/04	05/11/04
18:05	09/02/03	08/11/03	09/17/03	11/03/03	11/20/03	01/01/04	05/10/04	05/29/04
18:06	09/15/03	08/22/03	09/30/03	11/14/03	11/20/03	01/01/04	05/10/04	06/11/04
18:07	10/01/03	09/10/03	10/16/03	12/01/03	12/22/03	02/01/04	05/10/04	06/27/04
18:08	10/15/03	09/24/03	10/30/03	12/15/03	12/22/03	02/01/04	05/10/04	07/11/04
18:09	11/03/03	10/13/03	11/18/03	01/02/04	01/20/04	03/01/04	05/10/04	07/30/04
18:10	11/17/03	10/24/03	12/02/03	01/16/04	01/20/04	03/01/04	05/10/04	08/13/04
18:11	12/01/03	11/05/03	12/16/03	01/30/04	02/20/04	04/01/04	05/10/04	08/27/04
18:12	12/15/03	11/20/03	12/30/03	02/13/04	02/20/04	04/01/04	05/10/04	09/10/04

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 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (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.

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.

FILING DEADLINES

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 after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

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.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

**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 60 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.

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.

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.

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

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY**

Citiline, LLC

Pursuant to G.S. 130A-310.34, Citiline, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in the City of Charlotte, Mecklenburg County, North Carolina. The Property consists of 2.88 acres and is located at 2028-2040 South Tryon Street. Environmental contamination exists on the Property in groundwater. Citiline, LLC has committed itself to redevelopment of the Property for no use other than commercial purposes such as office and showroom condominiums. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Citiline, LLC, which in turn includes (a) a legal description of the Property, (b) a map showing the location of the Property, (c) a description of the contaminants involved and their concentrations in the media of the Property, (d) the above-stated description of the intended future use of the Property, and (e) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35. The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at 600 East Trade Street, Neighborhood Development Key Business, Charlotte, NC, 28217 by contacting Carolyn Minnich at that address, at carolyn.minnich@ncmail.net or at (704) 336-3499; or at 401 Oberlin Rd., Raleigh, NC 27605 by contacting Scott Ross at that address, at scott.ross@ncmail.net, or at (919)733-2801, ext. 328. Written public comments may be submitted to DENR within 60 days after the date this Notice is published in a newspaper of general circulation serving the area in which the Brownfields property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 30 days after the period for written public comments begins. All such comments and requests should be addressed as follows:

Mr. Bruce Nicholson
Head, Special Remediation Branch
Superfund Section
Division of Waste Management
NC Department of Environment and Natural Resources
401 Oberlin Road, Suite 150
Raleigh, North Carolina 27605

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY**

Salem Recreational Fields, LLC

Pursuant to G.S. 130A-310.34, Salem Recreational Fields, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Winston-Salem, Forsyth County, North Carolina. The Property, currently a city park that Salem Recreational Fields, LLC has contracted to purchase, consists of 7.23 acres and is located on South Salem Avenue near its intersection with South Main Street. Environmental contamination exists on the Property in groundwater beneath the former landfill. Salem Recreational Fields, LLC has committed itself to allow no use of the Property other than for outdoor recreation. When not used by Salem Academy and College, the fields will be available for use by the City of Winston-Salem and its citizens, subject to reasonable restrictions that may be imposed by Salem Recreational Fields, LLC. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Salem Recreational Fields, LLC which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35. The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the North Carolina Room of the Forsyth County Central Library, 660 West Fifth Street, Winston-Salem, NC 27101 by contacting Jerry Carroll, at (336)727-2264, ext. 9; or at 401 Oberlin Rd., Raleigh, NC 27605 by contacting Scott Ross at that address, at scott.ross@ncmail.net, or at (919)733-2801, ext. 328. Written public comments may be submitted to DENR within 60 days after the date this Notice is published in a newspaper of general circulation serving the area in which the Brownfields property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 30 days after the period for written public comments begins. All such comments and requests should be addressed as follows:

Mr. Bruce Nicholson
Head, Brownfields Program
Division of Waste Management
NC Department of Environment and Natural Resources
401 Oberlin Road, Suite 150
Raleigh, North Carolina 27605

NORTH CAROLINA DEPARTMENT OF LABOR
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
RALEIGH, NORTH CAROLINA

Order 2002-V-01
Continental General Tire, Inc.
Permanent Variance

Order:

In accordance with G.S. 95-132(b) and 13 NCAC 07A .0700, Continental General Tire, Inc. ("Continental") is granted the permission to exceed the maximum storage limit requirements for Liquid Petroleum ("LP") gas storage in a single location as specified in 29 C.F.R. 1910.110(f)(4)(i). The standard prohibits the storage of LP in excess of 300 pounds in a single building. This permission is limited to Continental site located at 1900 Continental Boulevard in Charlotte, North Carolina.

Discussion:

Continental is located in an extremely large facility, which covers approximately 25 acres, with a total of more than two million square feet. The facility is divided into twelve "sub-buildings" designed for different functions (general office spaces, warehouses, and manufacturing, etc.).

There are 85 forklifts located in this huge facility which are powered by LP gas. The LP gas used to power these forklifts is stored in LP gas cylinders containing 33 pounds of gas each, and spare cylinders are also stored at the facility. The combination of the used and unused LP gas cylinders exceed the 300 pound limit set forth in the standard. However, these LP gas cylinders are dispersed among multiple sub-locations of the building, with no sub-location containing more than 300 pounds of gas on a given day. The first LP gas storage area, located in the southwest corner of the building, is at least 300 feet away from the second LP storage area, located in the northeast corner of a different subsection of the building. In addition, a two-hour fire-rated wall separates these two areas. The third storage area for LP gas is located in another sub-building, which is more than one-quarter of a mile from the other two locations. Furthermore, the entire building is protected by sprinkler systems, and is classified as low hazard building.

The permission granted by this Order is contingent upon Continental ensuring that no more than 300 pounds of LP gas are stored in any one of the three location clusters established at the time of the variance inspection. This limitation equates to a maximum of nine (9) 33-pound LP gas cylinders in one cluster, including empty cylinders. This arrangement complies with the spirit and intent of the standard, and is as safe and healthful as strict compliance with the standard. In addition, Continental should also comply with the requirements of Chapter 5 of NFPA 58 – Liquefied Petroleum Gas Code (2001 Edition), which concerns the storage of LP gas cylinders awaiting use, and which is administered by the NC Department of Agriculture and Consumer Services – Standards Division.

Action:

This order grants Continental's request for a permanent variance. This permanent variance will remain in effect until modified or revoked pursuant to G.S. 95-132(b) and 13 NCAC 07A.0709.

This the 24th day of November, 2003.

Allen M. McNeely
Director, North Carolina Department of Labor –
Occupational Safety and Health Division

11/17/2003
Effective Date

Signed on Original
Allen M. McNeely
Director, North Carolina Department of Labor –
Occupational Safety and Health Division

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WASTEWATER SECTION, DIVISION OF ENVIRONMENTAL HEALTH

Notice of Application for Innovative Approval of a Wastewater System for On-site Subsurface Use

Pursuant to G.S. 130A-343(g), the North Carolina Department of Environment and Natural Resources (DENR) shall publish a Notice in the NC Register that a manufacturer has submitted a request for approval of a wastewater system, component, or device for on-site subsurface use. The following application has been submitted to DENR:

Application by: On-Site Wastewater Section
Division of Environmental Health
1642 Mail Service Center
Raleigh, NC 27699-1642
919-733-2895
Fax 919-715-3227

For: Component Substitution for Four-Inch Corrugated Plastic Tubing in Nitrification Lines

DENR Contact: Steven Berkowitz
1-919-715-3271
FAX 919-715-3227
steven.berkowitz@ncmail.net

The application may be reviewed by contacting the applicant or at 2728 Capital Blvd., Raleigh, NC, On-Site Wastewater Section, Division of Environmental Health. Draft proposed innovative approvals and proposed final action on the application by DENR can be viewed on the On-Site Wastewater Section web site: www.deh.enr.state.nc/oww/.

Written public comments may be submitted to DENR within 30 days of the date of the Notice publication in the North Carolina Register. All written comments should be submitted to Mr. Bill Jeter, Chief, On-site Wastewater Section, 1642 Mail Service Center, Raleigh, NC 27699-1642, or bill.jeter@ncmail.net, or Fax 919.715.3227. Written comments received by DENR in accordance with this Notice will be taken into consideration before a final agency decision is made on the innovative subsurface wastewater system application.

U.S. Department of Justice

Civil Rights Division

JDR:TCH:AMS:jdh
DJ 166-012-3
2003-2769

*Voting Section – NWB.
950 Pennsylvania Ave., NW
Washington, D.C. 20530*

October 6, 2003

Mr. Gary O. Bartlett
Executive Director
State Board of Elections
P.O. Box 27255
Raleigh, NC 27611-7255

Dear Mr. Bartlett:

This refers to Session Law 2003-12, which establishes a state election fund; Session Law 2003-226, which adopts changes to implement the Help America Vote Act of 2002, 42 U.S.C. 15301-15545 ("HAVA"), including: providing that the statewide voter registration list is the official list for all elections; enabling the State Board of Elections to make changes in the statewide list to conform it to HAVA requirements, to interface the list with other databases, to verify voter identification, and to assign each voter a unique identifier; providing for electronic voter registration applications and electronically captured signatures; providing for the posting of certain information at polling places with the State Board of Elections to prescribe the format; providing for modifications to the state voter registration form; enabling the State Board of Elections to adopt rules to ensure that voting systems comply with HAVA, including definitions of what constitutes a vote on each voting system; abolishing lever voting systems; providing for provisional balloting with the State Board of Elections to prescribe certain rules; providing identification procedures for voters who register to vote for the first time by mail; enabling the State Board of Elections to develop a procedure for resolving HAVA complaints; providing new procedures for registration and balloting for voters covered by the Uniformed and Overseas Citizens Absentee Voting Act; and enabling the State Board of Elections to adopt rules and guidelines for implementing HAVA; and State Board of Elections guidelines regarding processing voter registration forms, accessible polling places, and complaint procedures for the State of North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on August 6, 2003; supplemental information was received on September 17, 2003.

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

Session Law 2003-226 includes provisions that are enabling in nature. Therefore, any changes affecting voting that are adopted pursuant to this legislation require Section 5 review (e.g., procedures adopted by the State Board of Elections concerning HAVA minimum requirements, voting systems, definition of what constitutes a vote, statewide voter registration database, and provisional voting). See 28 C.F.R. 51.15.

Sincerely,

Joseph D. Rich
Chief, Voting Section

U.S. Department of Justice

Civil Rights Division

JDR:CMK:TGL:nj
DJ 166-012-3
2003-2768

*Voting Section – NWB.
950 Pennsylvania Ave., NW
Washington, D.C. 20530*

October 6, 2003

Mr. Gary O. Bartlett
Executive Director
State Board of Elections
P.O. Box 27255
Raleigh, NC 27611-7255

Dear Mr. Bartlett:

This refers to Session Law 2003-346, which provides for a boundary definition, candidate qualifying procedures, the conduct of the elections by Granville County, absentee voting procedures, concurrent terms, and the at-large method of election, for the Butner Advisory Council Jurisdiction (formerly known as the Camp Butner Reservation) in Durham and Granville Counties, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on August 5, 2003.

We have considered our earlier determination regarding the use of at-large elections based on the adoption of concurrent rather than staggered terms, information and arguments you have advanced, along with other information and comments received from interested persons.

Accordingly, pursuant to Section 51.48(b) of the Procedures for the Administration of Section 5 (28 C.F.R.) the objection interposed to the at-large method of election is hereby withdrawn.

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

Sincerely,

Joseph D. Rich
Chief, Voting Section

U.S. Department of Justice

Civil Rights Division

JDR:RSB:CMK:TGL:jdh:par
DJ 166-012-3
1996-3224
2003-2768

Voting Section
950 Pennsylvania Ave., NW
Washington, D.C. 20530

October 16, 2003

Mr. Gary O. Bartlett
Executive Director
State Board of Elections
P.O. Box 27255
Raleigh, NC 27611-7255

Dear Mr. Bartlett:

This refers to our October 6, 2003, letter regarding the Butner Advisory Council Jurisdiction. The purpose of that letter was to inform you that no objection would be interposed to Session Law 2003-346.

However, the letter mistakenly informed you that the Attorney General was withdrawing the February 3, 1997, objection to Chapter 667 (1996). The State did not ask for reconsideration of that objection, the Attorney General did not give the appropriate public notice that he was reconsidering it, and the State does not require that the objection be withdrawn in order to implement the changes contained in Session Law 2003-346. Session Law 2003-346 is a different piece of legislation from chapter 667 (1996) and implements a different election system than the one to which the 1997 objection was interposed. Accordingly, please accept this letter as notification that the February 3, 1997, objection to Chapter 667 (1996) remains in effect.

Please accept our apology for any confusion the October 6, 2003, letter may have caused and do not hesitate to contact us should you have any questions.

Sincerely,

Joseph D. Rich
Chief, Voting Section

Note from the Codifier: The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days.

Statutory reference: G.S. 150B-21.2.

TITLE 11 – DEPARTMENT OF INSURANCE

- Substantive (≥\$3,000,000)
- None

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Department of Insurance intends to amend the rule cited as 11 NCAC 04 .0427.

CHAPTER 04 - CONSUMER SERVICES DIVISION

SECTION .0400 - PROPERTY AND LIABILITY

Proposed Effective Date: March 1, 2004

Public Hearing:

Date: December 2, 2003

Time: 10:00 a.m.

Location: Dobbs Building, 3rd floor Hearing Room, Raleigh, NC

Reason for Proposed Action: S.L. 2003-395 (HB 986) has incorporated the language in Paragraph (b) of this Rule into G.S. 58-36-95(a).

Procedure by which a person can object to the agency on a proposed rule: The Department of Insurance will accept written objections to the amendment of this Rule until the expiration of the comment period (1/16/04). Objections need to be specific and sent to the attention of the APA Coordinator.

Written comments may be submitted to: Ellen K. Sprenkel, PO Box 26837, Raleigh, NC 27611, phone (919) 733-4529, fax (919) 733-6495, and email esprenke@ncdoi.net.

Comment period ends: January 16, 2004

Procedure for Subjecting a Proposed Rule to Legislative Review: Any person who objects to the adoption of a permanent rule may submit written comments to the agency. A person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the 6th business day preceding the end of the month in which a rule is approved. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
- Local

11 NCAC 04 .0427 DISCLOSURE REQUIREMENTS

(a)—Every insurer that writes motor vehicle insurance in this state and that intends to require or specify the use of after market parts must disclose to its policyholders in writing, either in the policy or on a sticker attached thereto, the following information in no smaller print than ten point type:

IN THE REPAIR OF YOUR COVERED AUTO UNDER THE PHYSICAL DAMAGE COVERAGE PROVISIONS OF THIS POLICY, WE MAY REQUIRE OR SPECIFY THE USE OF AUTOMOBILE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. THESE PARTS ARE REQUIRED TO BE AT LEAST EQUAL IN TERMS OF FIT, QUALITY, PERFORMANCE AND WARRANTY TO THE ORIGINAL MANUFACTURER PARTS THEY REPLACE.

(b) ~~An insurer must disclose to a claimant in writing, either on the estimate or on a separate document attached to the estimate, the following information in no smaller print than ten point type:~~

~~THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF AUTOMOBILE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. PARTS USED IN THE REPAIR OF YOUR VEHICLE BY OTHER THAN THE ORIGINAL MANUFACTURER ARE REQUIRED TO BE AT LEAST EQUAL IN TERMS OF FIT, QUALITY, PERFORMANCE AND WARRANTY TO THE ORIGINAL MANUFACTURER PARTS THEY ARE REPLACING.~~

All after market parts installed on a motor vehicle shall be clearly identified on the estimate and invoice for such repair.

Authority G.S. 58-2-40.

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Department of Insurance intends to adopt the rules cited as 11 NCAC 11F .0601-.0605 and repeal the rules cited as 11 NCAC 11B .0104, .0106, .0108-.0111, .0113-.0114, .0119, .0122-.0131, .0133-.0137, .0139, .0144-.0147, .0149-.0151; 11C .0110, .0122, .0124-.0126, .0131, .0206, .0309; 11D .0115-.0167.

Proposed Effective Date: March 1, 2004

Public Hearing:

Date: December 2, 2003

Time: 10:00 a.m.

Location Dobbs Building, 3rd Floor Hearing Room, Raleigh, NC

Reason for Proposed Action:

11 NCAC 11B .0104, .0106, .0108-.0111, .0113-.0114, .0119, .0122-.0131, .0133-.0137, .0139, .0144-.0147, .0149-.0151; 11C .0110, .0122, .0124-.0126, .0131, .0206, .0309; 11D .0115-.0167 - These Rules are being repealed because they are outdated.

11 NCAC 11F .0601-.0605 - The adoption of these Rules is needed to be in compliance with NAIC Model Laws.

Procedure by which a person can object to the agency on a proposed rule: The Department of Insurance will accept written objections to the adoption or repeal of these Rules until the expiration of the comment period (1/16/04). Objections need to be specific and sent to the attention of the APA Coordinator.

Written comments may be submitted to: Ellen K. Sprenkel, PO Box 26837, Raleigh, NC 27611, phone (919) 733-4529, fax (919) 733-6495, and email esprenke@ncdoi.net.

Comment period ends: January 16, 2004

Procedure for Subjecting a Proposed Rule to Legislative Review: Any person who objects to the adoption of a permanent rule may submit written comments to the agency. A person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the 6th business day preceding the end of the month in which a rule is approved. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
Local
Substantive (>=\$3,000,000)
None

CHAPTER 11 - FINANCIAL EVALUATION DIVISION

SUBCHAPTER 11B - SPECIAL PROGRAMS

SECTION .0100 - SECURITIES

11 NCAC 11B .0104 REPLACEMENT UPON REDUCTION OF MARKET VALUE SECURITIES

When any company licensed in North Carolina is required to have a deposit of securities in this state in accordance with Article 5 of G.S. 58 or pursuant to any rule of the Department of Insurance, the amount of such deposit required shall be at the market value thereof and shall be increased from time to time as necessary to maintain the required amount of deposit.

Authority G.S. 58-2-40; 58-5-25.

11 NCAC 11B .0106 DEPOSITS REQUIRED: REVOCATION/LICENSE: FOREIGN COMPANIES

The Commissioner may require any insurance company licensed in this state to make and maintain deposits of securities in such amounts as the Commissioner may deem necessary for the sole protection of North Carolina policyholders, upon one or more of the following grounds:

- (1) The insurer is operating with unsatisfactory results as determined by the Commissioner from an annual statement or an interim financial statement, or a report on examination; or
(2) The insurer has sustained a substantial loss in surplus as reflected in an annual statement or an interim financial statement, or a report on examination; or
(3) The insurer is found by the commissioner to be in such an unsound condition that the company is potentially unable to fulfill policyholder contracts.

Authority G.S. 58-2-40(1); 58-3-100; 58-5-40; 58-5-45.

11 NCAC 11B .0108 RIGHT OF COMPANY TO RECEIVE INTEREST

The right of a company to receive earned interest from the securities on deposit in this state shall be extended to all deposits made under all rules of the Department and the right of the Department to withhold interest in accordance with G.S. 58-5-60 shall also extend to all such deposits. Interest checks from issuing agents or institutions on bonds, notes, debentures or other securities on deposit shall be forwarded to the master trust bank. The interest shall be transmitted to the insurance company in a manner as detailed by the Department and the Master Trust Bank.

Authority G.S. 58-2-40; 58-5-1; 58-5-60.

11 NCAC 11B .0109 RIGHT OF THE COMMISSIONER TO RECEIVE AND HOLD INTEREST

The Commissioner may in his discretion receive and retain the interest on deposits of a company licensed in North Carolina which is placed in conservatorship, rehabilitation or receivership by its state of domicile, and where the Commissioner has reason to believe that such company may potentially be unable to meet its claims obligation in North Carolina. Such interest will be placed in an interest bearing account at the master bank account and will be held in trust by the Commissioner for policyholders of the company.

Authority G.S. 58-2-40; 58-5-60; 58-183.

11 NCAC 11B .0110 SALE OF DEPOSIT FOR PAYMENT OF LIABILITIES

Any company licensed in this state and refusing to pay a claim of a North Carolina resident, after such claim has been reduced to a final judgment and no appeals are outstanding, shall be subject to this Rule. The parties due the claim shall ask the commissioner to sell such deposit of securities as needed to pay claims plus all expenses involved in settling such claim. It is understood that such sale will be done by our master trust bank as further defined under 11 NCAC 11B .0131. The procedure for this sale is as follows:

- (1) ~~The claimant must inform the company or its North Carolina agent in writing 20 days in advance of his intentions to petition the Commissioner for sale of bonds.~~
- (2) ~~After receiving the petition from the claimant the Commissioner shall advertise in a daily paper in Raleigh at least 30 days before the sale. Such advertising shall include, as a minimum, the following information:~~
 - (a) ~~securities to be sold;~~
 - (b) ~~company having the deposit;~~
 - (c) ~~the law under which these securities are being sold.~~

The Commissioner will notify the company after the deposit has been sold, replace the deposit in an amount deemed to be adequate and reasonable by the Commissioner. The right of the commissioner to sell at public auction such amount of the securities on deposit with him as is necessary to pay an outstanding liability of a company as provided by G.S. 58-5-65 shall extend to all deposits made under all rules of the Department.

Authority G.S. 58-2-40; 58-5-1; 58-5-65.

11 NCAC 11B .0111 CONVERSION TO CASH MASTER TRUST

- (a) ~~As used in this Rule and elsewhere in this Section:~~
 - (1) ~~"DTC" means the electronic transfer of municipal securities through the Deposit Trust Corporation.~~
 - (2) ~~"Federal Book Entry" means the electronic transfer of U.S. Treasury obligations and cash through member banks of the Federal Reserve System.~~
- (b) ~~The Department shall process and release securities that have matured only upon receipt of a written request from the company and where adequate replacement has been made by the company. Securities eligible for Federal Book Entry or DTC shall be converted to cash at maturity. Certificates of deposit shall be redeemed or rolled over at maturity.~~

Authority G.S. 58-2-40; 58-5-1; 58-5-75.

11 NCAC 11B .0113 DEPOSIT REQUIRED UPON INITIAL LICENSING

Any company seeking admission to this state which is required to deposit securities with this state shall deposit such securities within 30 days after its license is granted.

Authority G.S. 58-2-40; 58-5-5; 58-5-10; 58-5-50.

11 NCAC 11B .0114 DEPOSITS HELD IN TRUST BY COMMISSIONER OF INSURANCE

The establishment and servicing of deposits shall be done by authority of the Commissioner of Insurance only. The deposits shall be in the custody of the Master Trust Bank. The procedure for replacement of the deposit shall be as follows:

- (1) ~~The company desiring to replace bonds or notes shall make a written request for replacement to the Commissioner of Insurance. This request shall be made in advance of the shipment of any securities.~~
- (2) ~~The replacement deposit shall be of an equal value to the bond or note being replaced.~~
- (3) ~~The Commissioner shall require additional securities at the time of replacement if the citizens and policyholders of this state will have less protection as a result of the replacement.~~

Authority G.S. 58-2-40; 58-5-1; 58-5-40; 58-5-90; 58-5-95.

11 NCAC 11B .0119 CONTINUATION OF DEPOSITS OF SECURITIES OF MERGING COMPANIES

The deposits of securities of a licensed company which is merged into another company may be transferred to the account of the surviving company, thus increasing the original deposit of the surviving company by the amount of the deposit of the merged company.

Authority G.S. 58-2-40; 58-5-40; 58-5-55.

11 NCAC 11B .0122 EXCHANGE OF DEPOSIT: PROCEDURAL HANDLING

It shall be the responsibility of the insurance company to make arrangements with this department at least five working days before exchange of deposit is required. There are no forms required in making an exchange. This department must have the eligible replacement deposit at the master trust bank before any deposit can be returned. Such replacement deposit must be on a market value basis.

Authority G.S. 58-2-40; 58-5-1.

11 NCAC 11B .0123 SALE OF SECURITIES BY THE INSURANCE COMPANY PROHIBITED

Insurance companies are prohibited from selling bonds or notes which are on deposit with this department without the express written consent of this department prior to sale, and after arrangements for replacements of equal value have been finalized.

Authority G.S. 58-2-40.

11 NCAC 11B .0124 MASTER TRUST CREATION THEREOF

In order to allow insurance companies to use Federal Book Entry and DTC Systems, the North Carolina Department of Insurance

~~has entered an agreement with a Master Trust Bank. This bank has transferred all securities from the vault at the State Treasurers Office to its safekeeping facility at the Master Trust Bank or its duly appointed fiduciary. Enactment of statute to allow the Department of Insurance to create such an agreement was necessary to insure that insurance companies be allowed to participate in purchase of Non-Physical Government Securities in Federal Book Entry and other electronic wire transfers of assets.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

**11 NCAC 11B .0125 MASTER TRUST USE
PROCEDURAL HANDLING STEP 1**

~~Any insurance company making a deposit of securities for the North Carolina Department of Insurance must have written approval from the Department of Insurance as to the amount and type of eligible securities to be used in fulfillment of the deposit requirements. Such request for approval must be forwarded to the appropriate named individual in the N.C. Department of Insurance as soon as is feasible by the insurance company but not later than 90 days after admission to North Carolina (See also Rule 11 NCAC 11B .0113).~~

~~Authority G.S. 58-2-40; 58-5-1.~~

**11 NCAC 11B .0126 MASTER TRUST USE
PROCEDURAL HANDLING STEP 2**

~~After approval has been granted the insurance company is required to contact the appropriate named individual for instructions as to shipment and/or wire transfer of the eligible securities. The Department of Insurance will notify the Master Trust Bank when new or increased securities will be forthcoming.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

**11 NCAC 11B .0127 MASTER TRUST USE
PROCEDURAL HANDLING STEP 3**

~~After securities are shipped or wired to the Master Trust Bank, the Master Trust Bank will provide the Department of Insurance with a signed receipt indicating securities in question are at the Master Trust Bank.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

**11 NCAC 11B .0128 MASTER TRUST USE
PROCEDURAL HANDLING STEP 4**

~~The Master Trust Bank may place the security in Federal Book Entry or DTC in any form which in fact perfects the security interest of this state so long as it is understood that the securities are held for protection of N.C. policyholders in the cases of foreign insurance companies and for protection of all policyholders wheresoever situated in cases of domestic insurance companies unless otherwise noted. The Master Trust Bank understands and agrees that all securities held under this trust arrangement are to be separated at all times from other assets of the bank and other trust arrangements at the bank.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

**11 NCAC 11B .0129 MASTER TRUST USE
PROCEDURAL HANDLING STEP 5**

~~The Master Trust Bank understands and agrees that securities while held by them can be in a street name or any other convenient designation so long as such securities can be determined to be the property of the insurance company and the State of North Carolina and not the property of the bank.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

**11 NCAC 11B .0130 MASTER TRUST SOLVENT
COMPANIES**

~~All interest from securities on deposit will be forwarded to the insurance company in a manner as detailed by the N.C. Department of Insurance and the Master Trust Bank.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

**11 NCAC 11B .0131 MASTER TRUST INSOLVENT
COMPANIES**

~~All interest from securities on deposit will be deposited in an interest bearing account at the Master Trust Bank. This action will occur after receipt of a court order declaring the insurance company to be insolvent. Also at this time the principal will be sold by the Master Trust to the best bidder from a field of at least two bids. It is conclusively presumed that the sale of securities to the best bidder from a field of two bids will constitute a public sale.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

**11 NCAC 11B .0133 DEPOSIT/AMOUNT FOREIGN
FIRE AND/OR CASUALTY INSURERS**

~~All foreign fire and casualty insurance companies being licensed in North Carolina must make and maintain a deposit of securities in accordance with the Department of Insurance Admission Data Guidelines form 11 NCAC 14 .0143. Such deposit must be made in accordance with the Master Trust Agreement between the Department of Insurance and a bank in North Carolina.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

**11 NCAC 11B .0134 DEPOSIT REQUIRED AMOUNT
DOMESTIC LIFE INSURERS**

~~All domestic life insurance companies being formed and licensed in North Carolina must make and maintain a deposit of securities in accordance with the general regulatory authority of the Insurance Commission for the State of N. C. Such deposit must be made in accordance with the Master Trust Agreement between the Department of Insurance and a bank in North Carolina.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

**11 NCAC 11B .0135 DEPOSIT/AMOUNT DOMESTIC
FIRE AND/OR CASUALTY INSURERS**

~~All domestic fire and/or casualty insurance companies being licensed in North Carolina must make and maintain a deposit of securities in accordance with the general regulatory authority of the Commissioner of Insurance for the State of N. C. Such deposit must be made in accordance with the Master Trust~~

~~Agreement between the Department of Insurance and a bank in North Carolina.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

11 NCAC 11B .0136 FOREIGN DEPOSIT REQUIRED AMOUNT FOREIGN MISC INSURERS

~~All miscellaneous insurance companies being licensed in North Carolina must make and maintain a deposit of securities in accordance with the Department of Insurance Admission Data Guidelines from 11 NCAC 14 .0143. Such deposit must be made in accordance with the Master Trust Agreement between the Department of Insurance and a bank in North Carolina.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

11 NCAC 11B .0137 DEPOSIT REQUIRED AMOUNT DOMESTIC MISCELLANEOUS INSURERS

~~All domestic miscellaneous fire and/or casualty insurance companies being formed and licensed in North Carolina must make and maintain a deposit of securities in accordance with the general regulatory authority of the Commissioner of Insurance for the State of N. C. Such deposit must be made in accordance with the Master Trust Agreement between the Department of Insurance and a bank in North Carolina.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

11 NCAC 11B .0139 DEPOSIT USE OF MASTER TRUST ALL NEW COMPANIES

~~Insurance companies required to deposit securities in fulfillment of the North Carolina Department Admissions Data Guidelines, and admission rules shall make such deposits with the Master Trust Bank selected by the North Carolina Commissioner of Insurance.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

11 NCAC 11B .0144 MASTER TRUST DK TRANSACTION

~~It shall be the responsibility of the insurance company to notify their custodian bank of items to be wired from the Master Trust Bank. Prompt and consistent attention to this matter will prevent delays in the releasing transactions. DK Transactions are conclusively presumed to mean transactions rejected by the sending or receiving bank due to a lack of advance notice of the receipt.~~

~~Authority G.S. 58-2-40(1); 58-5-1.~~

11 NCAC 11B .0145 MASTER TRUST CHARGES

~~The Master Trust Bank will notify the insurance companies as to the charges relative to safekeeping the assets held by the Master Trust Bank. All insurance companies are required to pay these charges in accordance with the fee structure as provided by the N.C. Department of Insurance.~~

~~Authority G.S. 58-2-40(1); 58-5-1.~~

11 NCAC 11B .0146 MASTER TRUST BANK ABILITY TO REGISTER SECURITIES

~~From time to time registration of securities shall be changed by the Master Trust Bank to facilitate the redemption, sale, or transfer of securities on deposit. Such changes shall be made after a written request for approval has been made by the Master Trust Bank and received and approved by the Commissioner of Insurance.~~

~~Authority G.S. 58-2-40; 58-5-1; 58-5-30; 58-5-63; 58-5-70; 58-5-90; 58-5-95.~~

11 NCAC 11B .0147 USE OF FEDERAL BOOK ENTRY/DEPOSITORY TRUST CORP/SHIPPING

~~Where securities are eligible for Federal Book Entry or Depository Trust Corp such securities must be placed in these systems prior to shipment to the Department of Insurance or to its appointed Master Trust Bank. Securities ineligible for the above systems will be delivered to the N.C. Department of Insurance or the Master Trust Bank in accordance with written instructions to the shipping insurance company from the N.C. Department of Insurance.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

11 NCAC 11B .0149 MASTER TRUST USE OF DTC

~~Where securities are eligible for DTC such securities may be placed in this system unless otherwise directed by the Commissioner of Insurance.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

11 NCAC 11B .0150 MASTER TRUST-RELEASE OF SECURITIES

~~All requests for releasing securities must be delivered in writing to the Department of Insurance at least five working days prior to the requested release date. All release requests must be signed by an officer of the insurance company. Requests from custodian banks or brokerage firms will not be honored. All requests for release of items in Federal Book Entry must identify the servicing Federal Reserve Bank account name, bank ABA number and other required information. All requests for release of items in DTC must give the bank name, address and DTC number. All requests for release of ineligible items must give sufficient information to make the proper transfer.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

11 NCAC 11B .0151 MASTER TRUST - PAYMENT OF INTEREST

~~In order to make the Master Trust Bank fully accountable, all interest must be forwarded from the paying agent to the Master Trust Bank. The Master Trust Bank will forward the interest to the insurance company or its designated receiving bank. Unless the insurance company notifies the North Carolina Department of Insurance in writing, all interest will be forwarded to the last known home office address given the Department of Insurance.~~

~~Authority G.S. 58-2-40; 58-5-1.~~

SUBCHAPTER 11C - ANALYSIS AND EXAMINATIONS

SECTION .0100 - GENERAL PROVISIONS

Authority G.S. 58-2-40; 58-7-85; 58-7-90.

11 NCAC 11C .0110 INVESTMENT IN GOLD OR GOLD FUTURES BY INSURANCE COMPANIES

The investment in gold or gold futures by domestic insurance companies is not permitted by the Department. The investment in gold or gold futures by a foreign insurer admitted to do business or seeking admission to North Carolina will be afforded no value in determining compliance with the statutory requirements for such type companies in this state, even if such investment was authorized under the laws of the state of domicile.

Authority G.S. 58-2-40(1); 58-7-85; 58-7-90.

11 NCAC 11C .0122 SALE OF EXCHANGE: TRADED CALL OPTIONS

An insurer may sell exchange traded call options only through an exchange and only with respect to stock which it owns. Insurers may not sell any other options. Any insurer selling an option:

- (1) shall enter into an escrow agreement which provides that its escrowed stock is kept segregated by the bank from other securities owned by the company, and from securities owned by others, which are deposited with the same bank; and
- (2) must obtain and retain in its possession a copy of an escrow receipt identifying with particularity the escrowed stock.

Authority G.S. 58-2-40; 58-7-85; 58-7-90.

11 NCAC 11C .0124 ACCOUNTING PROCEDURES

The price received for selling a call option shall not be included in income at the time of receipt, but shall be carried in a deferred account until:

- (1) The call option expires through the passage of time. The price for the option shall be treated as investment income.
- (2) The insurer sells the underlying stock pursuant to an exercise of the call option. The price received for the option shall be treated as increasing the amount realized upon the sale of the stock and shall be included in determining capital gain or loss.
- (3) The insurer engages in a closing purchase transaction. In this event the difference between the price received from the sale of the call option and the price paid in the closing purchase transaction shall be treated as an addition to or deduction from investment income.

Authority G.S. 58-2-40; 58-7-85; 58-7-90.

11 NCAC 11C .0125 VALUATION

The stock on which an option has been sold shall be valued, so long as the obligation under the option exists, at the lesser of:

- (1) the exercise price of the option, or
- (2) the current market price of the stock.

11 NCAC 11C .0126 PROHIBITION AGAINST SPECULATING IN OPTIONS

The authority granted to insurers herein to engage in option transactions shall be used solely in a manner consistent with the insurer's obligation to exercise prudent judgment in the conservative management of its assets. Each option transaction shall reflect such prudent judgment and shall have a rationale related to such conservative management of assets rather than speculation. Nothing herein shall be construed to authorize an insurer to engage in option transactions to an extent or to a degree which would, under the relevant circumstances, be inordinate or speculative. The insurer shall establish and maintain records as to each transaction, demonstrating compliance with this Section.

Authority G.S. 58-2-40; 58-7-85; 58-7-90.

11 NCAC 11C .0131 VALUATION OF DEBT SECURITIES

The investments in bonds and other evidences of indebtedness specified in G.S. 58-7-190 shall be valued in accordance with the procedures and instructions contained in the Valuations of Securities Manual of the National Association of Insurance Commissioners: Provided, however, that the Commissioner may apply a more conservative valuation method to any insurer for which any of the standards specified in G.S. 58-30-60(b) are applicable.

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

SECTION .0200 - FIRE AND CASUALTY

11 NCAC 11C .0206 ACCOUNTING FOR PREMIUM OVER 90 DAYS PAST DUE

Premiums that are not more than 90 days past due are allowable as admitted assets under G.S. 58-7-162(5). For purposes of this determination, premiums are considered more than 90 days past due under any of the following conditions:

- (1) Original, deposit, and renewal premiums on policies and bonds effective more than 90 days before the date of determination.
- (2) Premiums covering endorsements on which the effective dates were more than 90 days before the date of determination.
- (3) Installment premiums due more than 90 days before the date of determination. If any installments are overdue, all of the unpaid installment premiums on the same policy or bond shall be classified as overdue.
- (4) Audit and additional earned premiums determined by audits made more than 90 days before the date of determination, or charged upon an assured's payroll statements received more than 90 days before the date of determination.
- (5) Audits and additional earned premiums determined by audits covering periods expiring more than 180 days before the date of determination. The dates when the periods

expire are determined by the provisions of the insurance contract.

- (6) ~~When original, deposit, endorsement, or audit premiums are overdue, all premiums subsequently charged on the same policies or bonds are overdue.~~
- (7) ~~When original, deposit, installment endorsement, or audit premiums on a policy or bond are overdue, all premiums charged on policies or bonds issued as renewals are overdue.~~
- (8) ~~Premiums resulting from an experience modification are admitted assets, provided that not more than 90 days have elapsed since the modification has been received from a rating organization; or not more than 90 days have elapsed since the modification has been calculated by the insurer. Premiums resulting from an experience modification are not admitted assets if premiums on the same or prior policy are overdue in accordance with this Rule.~~
- (9) ~~Additional premiums developed through the application of a retrospective rating formula and billed to the insured in accordance with contractual provisions are admitted assets; provided that not more than 90 days have elapsed since the billing date and not more than 180 days have elapsed since the accounting date set forth in the insurance contract. Additional retrospective premiums are not admitted assets if premiums on the same or prior policy are overdue in accordance with this Rule.~~

Authority G.S. 58-2-40; 58-7-162(5).

SECTION .0300 - LIFE: GENERAL NATURE

11 NCAC 11C .0309 ADMITTED ASSETS: HMO

For the purpose of determining the working capital or net worth of any HMO seeking admission to do business in this State and of any HMO admitted to do business in this State, admitted assets for an HMO do not include:

- (1) ~~prepaid expenses;~~
- (2) ~~intangible assets;~~
- (3) ~~the depreciated cost of furniture and equipment, except furniture and equipment directly used in providing medical services and electronic data processing equipment;~~
- (4) ~~amounts receivable from affiliates that are outstanding for over 90 days;~~
- (5) ~~amounts receivable from affiliates that do not have immediate resources to repay the debts; nor~~
- (6) ~~any other assets determined by the Commissioner to be of an illiquid nature, other than real property.~~

Authority G.S. 58-2-40; 58-2-40(1); 58-67-20; 58-67-110(b).

SUBCHAPTER 11D - PROXY: LIQUIDATION AND MERGER

SECTION .0100 - GENERAL PROVISIONS

11 NCAC 11D .0115 PROXIES: ETC DOMESTIC INSURERS: APPLICATION OF RULES

~~Pursuant to the provisions of G.S. 58-2-40, rules for proxies, consents and authorizations of domestic stock insurers are designated as 11 NCAC 11D .0115 to 11 NCAC 11D .0124.~~

~~Relative thereto, 11 NCAC 11D .0125 to 11 NCAC 11D .0139 set forth the information required in proxy statements and 11 NCAC 11D .0140 to 11 NCAC 11D .0144 set forth information to be included in statements filed by or on behalf of a participant (other than the insurer) in a proxy solicitation in an election contest.~~

~~These rules are applicable to each domestic stock insurer which has any class of equity security held of record by one hundred or more persons; provided, however, that these rules shall not apply to any insurer if 95 percent or more of its equity securities are owned or controlled by a parent or an affiliated insurer and the remaining securities are held of record by less than 500 persons. A domestic stock insurer which files with the Securities and Exchange Commission forms of proxies, consents and authorizations complying with the requirements of the Securities Exchange Act of 1934, as amended, and the applicable regulations promulgated thereunder, shall be exempt from the provisions of this regulation with respect to any class of securities subject to SEC jurisdiction.~~

Authority G.S. 58-2-40.

11 NCAC 11D .0116 PROXIES: CONSENTS AND AUTHORIZATIONS

~~No domestic stock insurer, or any director, officer or employee of such insurer subject to 11 NCAC 11D .0115, or any other person, shall solicit, or permit the use of his name to solicit, by mail or otherwise, any proxy, consent or authorization in respect of any class of equity security of such insurer held of record by 100 persons in contravention of these rules.~~

Authority G.S. 58-2-40(2).

11 NCAC 11D .0117 PROXIES: DISCLOSURE OF EQUIVALENT INFORMATION

~~Unless proxies, consents or authorizations in respect of any class of equity securities of a domestic insurer subject to 11 NCAC 11D .0115 are solicited by or on behalf of the management of such insurer from the holders of record of such security in accordance with these rules prior to any annual or other meeting of such security holders, such insurer shall, in accordance with these rules and such further rules as the Commissioner may adopt, file with the Commissioner and transmit to all security holders of record information substantially equivalent to the information which would be required to be transmitted if a solicitation were made. Such insurer shall transmit a written information statement containing the information specified in 11 NCAC 11D .0119 (d) to every security holder who is entitled to vote in regard to any matter to be acted upon at the meeting and from whom a proxy is not solicited on behalf of the management of the insurer; provided, that in the case of a class of securities in~~

~~unregistered or bearer form such statement need be transmitted only to those security holders whose names and addresses are known to the insurer.~~

~~Authority G.S. 58-2-40(2).~~

11 NCAC 11D .0118 PROXIES: DEFINITIONS AND INSTRUCTIONS

~~(a) The definitions and instructions set out in Schedule SIS, as promulgated by the NAIC shall be applicable for purposes of this Section.~~

~~(b) The terms "solicit" and "solicitation" for purposes of this Section includes:~~

- ~~(1) any request for a proxy, whether or not accompanied by or included in a form of proxy; or~~
- ~~(2) any request to execute or not to execute, or to revoke, a proxy; or~~
- ~~(3) the furnishing of a proxy or other communication to security holders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.~~

~~(c) The terms "solicit" and "solicitation" shall not include:~~

- ~~(1) any solicitation by a person in respect of equity security of which he is the beneficial owner;~~
- ~~(2) action by a broker or other person in respect to equity security carried in his name or in the name of his nominee in forwarding to the beneficial owner of such equity security soliciting material received from the company, or impartially instructing such beneficial owner to forward a proxy to the person, if any, to whom the beneficial owner desires to give a proxy, or impartially requesting instructions from the beneficial owner with respect to the authority to be conferred by the proxy and stating that a proxy will be given if the instructions are received by a certain date;~~
- ~~(3) the furnishing of a form of proxy to a security holder upon the unsolicited request of such security holder, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.~~

~~Authority G.S. 58-2-40.~~

11 NCAC 11D .0119 PROXIES: INFORMATION TO BE FURNISHED TO SECURITY HOLDERS

~~(a) No solicitation subject to these rules shall be made unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the information specified in 11 NCAC 11D .0125 to 11 NCAC 11D .0139.~~

~~(b) If the solicitation is made on behalf of the management of the insurer and relates to an annual meeting of security holders at which directors are to be elected, each proxy statement furnished pursuant to Paragraph (a) of this Rule shall be accompanied or preceded by an annual report (in preliminary or final form) to such security holders containing such financial statements for~~

~~the last fiscal year as are referred to in Schedule SIS under the heading "Financial Reporting to Security Holders." Subject to the foregoing requirements with respect to financial statements the annual report to security holders may be in any form deemed suitable by the management.~~

~~(c) Two copies of each report sent to the security holders pursuant to this Rule shall be mailed to the Commissioner not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies of solicitation material are filed with the Commissioner pursuant to 11 NCAC 11D .0121(a) whichever date is later.~~

~~(d) If no solicitation is being made by management of the insurer with respect to any annual or other meeting, such insurer shall mail to every security holder of record at least 20 days prior to the meeting date, an information statement as required by 11 NCAC 11D .0117, containing the information called for by 11 NCAC 11D .0125 to 11 NCAC 11D .0139 except 11 NCAC 11D .0125, .0127, and .0128, which would be applicable to any matter to be acted upon at the meeting if proxies were to be solicited in connection with the meeting. If such information statement relates to an annual meeting at which directors are to be elected, it shall be accompanied by an annual report to such security holders in the form provided in Paragraph (b) of this Rule.~~

~~Authority G.S. 58-2-40(2).~~

11 NCAC 11D .0120 PROXIES: REQUIREMENTS AS TO PROXY

~~(a) The form of proxy shall indicate in bold face type whether or not the proxy is solicited on behalf of the management, shall provide a specifically designated blank space for dating the proxy and shall identify clearly and impartially each matter or group of related matters intended to be acted upon, whether proposed by the management, or security holders. No reference need be made to proposals as to which discretionary authority is conferred pursuant to Paragraph (c) of this Rule.~~

~~(b) Means shall be provided in the proxy for the person solicited to specify by ballot a choice between approval or disapproval of each matter or group of related matters referred to therein, other than elections to office. A proxy may confer discretionary authority with respect to matters as to which a choice is not so specified if the form of proxy states in bold face type how it is intended to vote the shares or authorization represented by the proxy in each such case. A form of proxy which provides both for elections to office and for action on other specified matters shall be prepared so as to clearly provide, by a box or otherwise, means by which the security holder may withhold authority to vote for elections to office. Any such form of proxy which is executed by the security holder in such manner as not to withhold authority, to vote for elections to office shall be deemed to grant such authority, provided the form of proxy so states in bold face type.~~

~~(c) A proxy may confer discretionary authority with respect to other matters which may come before the meeting, provided the persons on whose behalf the solicitation is made are not aware a reasonable time prior to the time the solicitation is made that any other matters are to be presented for action at the meeting and provided further that a specific statement to that effect is made in the proxy statement or in the form of proxy.~~

~~(d) No proxy shall confer authority to vote for the election of any person to any office for which a bona fide nominee is not named in the proxy statement, or to vote at any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to security holders.~~

~~(e) The proxy statement or form of proxy shall provide, subject to reasonable specified conditions, that the proxy will be voted and that where the person solicited specified by means of ballot provided pursuant to Paragraph (b) of this Rule a choice with respect to any matter to be acted upon, the vote will be in accordance with the specifications so made. The information included in the proxy statement or information statement shall be clearly presented and the statements made shall be divided into groups according to subject matter, with appropriate headings. All printed proxy statements or information statements shall be clearly and legibly presented.~~

Authority G.S. 58-2-40(2).

11 NCAC 11D .0121 PROXIES: MATERIAL REQUIRED TO BE FILED

~~(a) Two preliminary copies of the information statement or the proxy statement and form of proxy and any other soliciting material to be furnished to security holders concurrently therewith shall be filed with the Commissioner at least 10 days prior to the date definitive copies of such material are first sent or given to security holders, or such shorter period prior to that date as the Commissioner may authorize upon a showing of good cause therefor.~~

~~(b) Two preliminary copies of any additional soliciting material relating to the same meeting or subject matter to be furnished to security holders subsequent to the proxy statements shall be filed with the Commissioner at least two days (exclusive of Saturdays, Sundays or holidays) prior to the date copies of this material are first sent or given to security holders or a shorter period prior to such date as the Commissioner may authorize upon a showing of good cause therefor.~~

~~(c) Two definitive copies of the information statement or the proxy statement, form of proxy and all other soliciting material, in the form in which this material is furnished to security holders, shall be filed with, or mailed for filing to, the Commissioner not later than the date such material is first sent or given to the security holder.~~

~~(d) Where any information statement or proxy statement, form of proxy or other material filed pursuant to these rules is amended or revised, two of the copies shall be marked to clearly show such changes. Copies of replies to inquiries from security holders requesting further information and copies of communications which do no more than request that forms of proxy theretofore solicited be signed and returned need not be filed pursuant to this Rule.~~

~~(e) Notwithstanding the provisions of Paragraphs (a) and (b) of this Rule and 11 NCAC 11D .0124(e), copies of soliciting material in form of speeches, press releases and radio or television scripts may, but need not, be filed with the Commissioner prior to use or publication. Definitive copies, however, shall be filed with or mailed for filing to the Commissioner as required by Paragraph (c) of this Rule not later than the date such material is used or published. The provisions of Paragraphs (a) and (b) of this Rule and 11 NCAC 11D~~

~~.0124(e) shall apply, however, to any reprints or reproductions of all or any part of such material.~~

Authority G.S. 58-2-40(2).

11 NCAC 11D .0122 PROXIES: FALSE OR MISLEADING STATEMENTS

~~No proxy statement, form of proxy, notice of meeting, information statement, or other communication, written or oral, subject to these rules, shall contain any statement which at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the same meeting or subject matter which has become false or misleading.~~

Authority G.S. 58-2-40(2).

11 NCAC 11D .0123 PROXIES: PROHIBITION OF CERTAIN SOLICITATIONS

~~No person making a solicitation which is subject to these rules shall solicit any undated or postdated proxy or any proxy which provides that it shall be deemed to be dated as of any date subsequent to the date on which it is signed by the security holder.~~

Authority G.S. 58-2-40(2).

11 NCAC 11D .0124 PROXIES: SPECIAL PROVISIONS APPLICABLE TO ELECTION CONTEST

~~(a) Applicability. This Rule shall apply to any solicitation subject to these rules by any person or group for the purpose of opposing a solicitation subject to these rules by any other person or group with respect to the election or removal of directors at any annual or special meeting of security holders.~~

~~(b) Participant or Participant in a Solicitation~~

~~(1) For purposes of this Rule the terms "participant" and "participant in a solicitation" include:~~

- ~~(A) insurer;~~
- ~~(B) any director of the insurer and any nominee for whose election as a director proxies are solicited;~~
- ~~(C) any other person, acting alone or with one or more other persons, committees or groups, in organizing, directing or financing the solicitation.~~

~~(2) For the purposes of this Rule the terms "participant" and "participant in a solicitation" do not include:~~

- ~~(A) a bank, broker or dealer who, in the ordinary course of business, lends money or executes orders for the purchase or sale of equity security and who is not otherwise a participant;~~
- ~~(B) any person or organization retained or employed by a participant to solicit security holders or any person who~~

~~merely transmits proxy soliciting material or performs ministerial or clerical duties;~~

- ~~(C) any person employed in the capacity of attorney, accountant, or advertising, public relations or financial adviser, and whose activities are limited to the performance of his duties in the course of such employment;~~
- ~~(D) any person regularly employed as an officer or employee of the insurer or any of its subsidiaries or affiliates who is not otherwise a participant; or~~
- ~~(E) any officer or director of, or any person regularly employed by any other participant, if such officer, director, or employee is not otherwise a participant.~~

~~(c) Filing of Information Required by 11 NCAC 11D .0140~~

- ~~(1) No solicitation subject to this Rule shall be made by any person other than the management of an insurer unless at least five business days prior thereto, or such shorter period as the Commissioner may authorize upon a showing of good cause therefor, there has been filed, with the Commissioner by or on behalf of each participant in such solicitation, a statement in duplicate containing the information specified by 11 NCAC 11D .0140 through 11 NCAC 11D .0144 and a copy of any material proposed to be distributed to security holders in furtherance of such solicitation. Where preliminary copies of any materials are filed, distribution to security holders should be deferred until the Commissioner's comments have been received and complied with.~~
- ~~(2) Within five business days after a solicitation subject to this Rule is made by the management of an insurer, or such longer period as the Commissioner may authorize upon a showing of good cause therefor, there shall be filed with the Commissioner by or on behalf of each participant in such solicitation, other than the insurer, and by or on behalf of each management nominee for director, a statement in duplicate containing the information specified by 11 NCAC 11D .0140 to 11 NCAC 11D .0144.~~
- ~~(3) If any solicitation on behalf of management or any other person has been made, or if proxy material is ready for distribution, prior to a solicitation subject to this Rule in opposition thereto, a statement in duplicate containing the information specified in 11 NCAC 11D .0140 to 11 NCAC 11D .0144 shall be filed with the Commissioner by or on behalf of each participant in such prior solicitation, other than the insurer, as soon as reasonably practicable~~

~~after the commencement of the solicitation in opposition thereto.~~

- ~~(4) If, subsequent to the filing of the statements required by Subparagraphs (1), (2) and (3) or Paragraph (c) of this Rule, additional persons become participants in a solicitation subject to this Rule, there shall be filed with the Commissioner by or on behalf of each such person, a statement in duplicate containing the information specified by 11 NCAC 11D .0140 to 11 NCAC 11D .0144 within three business days after such person becomes a participant, or such longer period as the Department may authorize upon a showing of good cause therefor.~~
- ~~(5) If any material change occurs in the facts reported in any statement filed by or on behalf of any participant, an appropriate amendment to such statement shall be filed promptly with the Commissioner. Each statement and amendment thereto filed pursuant to this Paragraph shall be part of the public files of the Commissioner.~~

~~(d) Solicitations Prior to Furnishing Required Written Proxy Statement. Notwithstanding the provisions of 11 NCAC 11D .0119 (a), a solicitation subject to this Section may be made prior to furnishing security holders a written proxy statement containing the information specified in 11 NCAC 11D .0125 to 11 NCAC 11D .0139 with respect to such solicitation, provided that:~~

- ~~(1) The statements required by Paragraph (c) of this Rule are filed by or on behalf of each participant in such solicitation.~~
- ~~(2) No form of proxy is furnished to security holders prior to the time the written proxy statement required by 11 NCAC 11D .0119(a) is furnished to such persons: Provided, however, that this Subparagraph (2) shall not apply where a proxy statement then meeting the requirements of 11 NCAC 11D .0125 to 11 NCAC 11D .0139 has been furnished to security holders.~~
- ~~(3) At least the information specified in Subparagraphs (2) and (3) of the statements required by Paragraph (c) of this Rule to be filed by each participant, or an appropriate summary thereof, are included in each communication sent or given to security holders in connection with the solicitation.~~
- ~~(4) A written proxy statement containing the information specified in 11 NCAC 11D .0125 to 11 NCAC 11D .0139 with respect to a solicitation is sent or given security holders at the earliest practicable date.~~

~~(e) Solicitations Prior to Furnishing Required Written Proxy Statement Filing Requirements. Two copies of any soliciting material proposed to be sent or given to security holders prior to the furnishing of the written proxy statement required by 11 NCAC 11D .0119(a) shall be filed with the Commissioner in preliminary form at least five business days prior to the date definitive copies of such material are first sent or given to such~~

persons, or shorter period as the Commissioner may authorize upon a showing of good cause therefor.

~~(f) Application of this Section to Report. Notwithstanding the provisions of Paragraphs (b) and (c) in 11 NCAC 11D .0119, two copies of any portion of the report referred to in Paragraph (b) of 11 NCAC 11D .0119 which comments upon or refers to any solicitation subject to this Rule, or to any participant in such solicitation, other than the solicitation by the management, shall be filed with the Commissioner as proxy material subject to these rules. Such portion of the report shall be filed with the Commissioner in preliminary form at least five business days prior to the date copies of the report are first sent or given to security holders.~~

Authority G.S. 58-2-40(2).

11 NCAC 11D .0125 PROXY INFORMATION REQUIRED: REVOCABILITY OF PROXY

~~Every proxy statement must state whether or not the person giving the proxy has the power to revoke it. If the right of revocation before the proxy is exercised is limited or is subject to compliance with any formal procedure, the statement must briefly describe such limitation or procedure.~~

Authority G.S. 58-2-40(2).

11 NCAC 11D .0126 PROXY INFORMATION REQUIRED: DISSENTERS' RIGHT OF APPRAISAL

~~Every proxy statement must outline briefly the rights of appraisal or similar rights of dissenting security holders with respect to any matter to be acted upon and indicate any statutory procedure required to be followed by such security holders in order to perfect their rights. Where such rights may be exercised only within a limited time after the date of the adoption of a proposal, the filing of a charter amendment, or other similar act, the statement must state whether the person solicited will be notified of such date.~~

Authority G.S. 58-2-40(2).

11 NCAC 11D .0127 PROXY INFORMATION REQUIRED: SUBJECT TO 11 NCAC 11D .0124

Every proxy statement must:

- (1) if the solicitation is made by the management of the insurer, so state; Give the name of any director of the insurer who has informed the management in writing that he intends to oppose any action intended to be taken by the management and indicate the action which he intends to oppose;
- (2) if the solicitation is made otherwise than by the management of the insurer, state the names and addresses of the persons by whom and on whose behalf it is made and the names and addresses of the persons by whom the cost of solicitation has been or will be borne, directly or indirectly;
- (3) if the solicitation is to be made by specially engaged employees or paid solicitors, state the material features of any contract or arrangement for such solicitation and identify

~~the parties and the cost or anticipated cost thereof.~~

Authority G.S. 58-2-40(2).

11 NCAC 11D .0128 PROXY INFO REQUIRED: INTEREST IN MATTERS TO BE ACTED UPON

~~Every proxy statement must describe briefly any substantial interest, direct or indirect, by security holders or otherwise, of any director, nominee for election for director, officer and, if the solicitation is made otherwise than on behalf of management, each person on whose behalf the solicitation is made, in any matter to be acted upon other than election to office.~~

Authority G.S. 58-2-40(2).

11 NCAC 11D .0129 PROXY INFORMATION REQUIRED: VOTING SECURITIES

Every proxy statement must:

- (1) state, as to each class of voting equity security of the insurer entitled to be voted at the meeting, the number of shares outstanding and the number of votes to which each class is entitled;
- (2) give the date as of which the record list of security holders entitled to vote at the meeting will be determined. If the right to vote is not limited to security holders of record on that date, indicate the conditions under which other security holders may be entitled to vote;
- (3) if action is to be taken with respect to the election of directors and if the persons solicited have cumulative voting rights, make a statement that they have such rights and state briefly and conditions precedent to the exercise thereof.

Authority G.S. 58-2-40(2).

11 NCAC 11D .0130 PROXY INFORMATION REQUIRED: NOMINEE AND DIRECTORS

Every proxy statement must, if action is to be taken with respect to the election of directors, furnish the following information, in tabular form to the extent practicable with respect to each person nominated for election as a director and each other person whose term of office as a director will continue after the meeting:

- (1) name each such person, state when his term of office or the term of office for which he is a nominee will expire, and all other positions and offices with the insurer presently held by him, and indicate which persons are nominees for election as directors at the meeting;
- (2) state his present principal occupation or employment and give the name and principal business of any corporation or other organization in which such employment is carried on; furnish similar information as to all of his principal occupations or employments during the last five years, unless he is now a director and was elected to his present term of office by a vote of security holders at a

meeting for which proxies were solicited under this Regulation;

- (3) if he is or has previously been a director of the insurer, state the period or periods during which he has served as such;
- (4) state, as of the most recent practicable date, the approximate amount of each class of stock of the insurer or any of its parents, subsidiaries or affiliates other than directors qualifying shares, beneficially owned directly or indirectly by him; if he is not the beneficial owner of any such equity securities make a statement to that effect.

Authority G.S. 58-2-40(2).

11 NCAC 11D .0131 PROXY INFORMATION REQUIRED: TRANSACTIONS WITH MANAGEMENT

Every proxy statement must furnish the information reported or required in Item 1 of Schedule SIS under the heading "Information Regarding Management and Directors" if action is to be taken with respect to:

- (1) the election of directors;
- (2) any remuneration plan, contract or arrangement in which any director, nominee for election as a director, or officer of the insurer will participate;
- (3) any person or retirement plan in which any such person will participate; or
- (4) the granting extension to any such person of any options, warrants or rights issued to security holders, as such, on a pro rata basis.

If the solicitation is made on behalf of persons other than the management, information shall be furnished only as to Item 1A of the aforesaid heading of Schedule SIS.

Authority G.S. 58-2-40(2).

11 NCAC 11D .0132 PROXY INFO REQUIRED: BONUS: PROFIT SHARING: REMUNERATION

Every proxy statement must, if action is to be taken with respect to any bonus, profit sharing, or other remuneration plan, of the insurer, furnish the following information:

- (1) A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of such participation;
- (2) The amount which would have been distributable under the plan during the last year to:
 - (a) each person named in 11 NCAC 11D .0131;
 - (b) directors and officers as a group; and
 - (c) to all other employees as a group, if the plan had been in effect.
- (3) If the plan to be acted upon may be amended (other than by a vote of security holders) in a manner which would materially increase the cost thereof to the insurer or materially alter the allocation of the benefits as between the

groups specified in Paragraph (2) of this Rule, the nature of such amendments should be specified.

Authority G.S. 58-2-40(2).

11 NCAC 11D .0133 PROXY INFORMATION REQUIRED: PENSION AND RETIREMENT PLANS

Every proxy statement must, if action is to be taken with respect to any pension or retirement plan of the insurer, furnish the following information:

- (1) A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of such participation;
- (2) State:
 - (a) the approximate total amount necessary to fund the plan with respect to past services, the period over which such amount is to be paid, and the estimated annual payments necessary to pay the total amount over such period;
 - (b) the estimated annual payment to be made with respect to current services; and
 - (c) the amount of such annual payments to be made for the benefit of:
 - (i) each person named in 11 NCAC 11D .0131,
 - (ii) directors and officers as a group, and
 - (iii) employees as a group.
- (3) If the plan to be acted upon may be amended (other than by a vote of security holders) in a manner which would materially increase the cost thereof to the insurer or materially alter the allocation of the benefits as between the groups specified in Subparagraph (2)(c) of this Rule, the nature of such amendment should be specified.

Authority G.S. 58-2-40(2).

11 NCAC 11D .0134 PROXY INFORMATION REQUIRED: OPTIONS: WARRANTS OR RIGHTS

Every proxy statement must, if action is to be taken with respect to the granting or extension of any options, warrants or rights (all referred to herein as "warrant") to purchase stock of the insurer or any subsidiary or affiliate, other than warrants issued to all security holders on a pro rata basis, furnish the following information:

- (1) the title and amount of equity security called for or to be called for, the prices, expiration dates and other material conditions upon which the warrants may be exercised, the consideration received or to be received by the insurer, subsidiary or affiliate for the granting or extension of the warrants and the market value of the equity security called for or to be

- called for by the warrants, as of the latest practicable date;
- (2) ~~if known, state separately the amount of equity security called for or to be called for by warrants received or to be received by the following persons, naming each such person:~~
- ~~(a) named in 11 NCAC 11D .0131, and~~
- ~~(b) who will be entitled to acquire five percent or more of the equity security called for or to be called for by such warrants;~~
- (3) ~~if known, state also the total amount of equity security called for or to be called for by such warrants, received or to be received by all directors and officers of the company as a group and all employees, without naming them.~~

- ~~(c) the business done by the company to be acquired or whose assets are being acquired;~~
- ~~(d) if available, the high and low sales prices for each quarterly period within two years;~~
- ~~(e) the percentage of outstanding shares which must approve the transaction before it is consummated.~~
- (2) ~~for each company involved in a merger, consolidation or acquisition, furnish the following financial statements:~~
- ~~(a) a comparative balance sheet as of the close of the last two fiscal years;~~
- ~~(b) a comparative statement of operating income and expenses for each of the last two fiscal years and, as a continuation of each statement, a statement of earnings per share after related taxes and cash dividends paid per share;~~
- ~~(c) a pro forma combined balance sheet and income and expenses statement for the last fiscal year giving effect to the necessary adjustments with respect to the resulting company.~~

Authority G.S. 58-2-40(2).

11 NCAC 11D .0135 PROXY INFO REQUIRED: AUTHORIZATION OR ISSUANCE OF STOCK

Every proxy statement must:

- (1) ~~If action is to be taken with respect to the authorization of issuance of any equity security of the insurer, furnish the title, amount and description of the equity security to be authorized or issued;~~
- (2) ~~If the shares of equity security are other than additional shares or common equity security of a class outstanding, furnish a brief summary of the following, if applicable: dividend, voting, liquidation, preemptive and conversion rights, redemption and sinking fund provisions, interest rate and date of maturity;~~
- (3) ~~If the shares of equity security to be authorized or issued are other than additional shares of common equity security of a class outstanding, the Commissioner may require financial statements comparable to those contained in the annual report.~~

Authority G.S. 58-2-40(2).

11 NCAC 11D .0137 PROXY INFORMATION REQUIRED: RESTATEMENT OF ACCOUNTS

Every proxy statement must, if action is to be taken with respect to the restatement of any asset, capital, or surplus of the insurer, furnish the following information:

- (1) ~~state the nature of the restatement and the date as of which it is to be effective,~~
- (2) ~~outline briefly the reasons for the restatement and for the selection of the particular effective date,~~
- (3) ~~state the name and amount of each account affected by the restatement and the effect of the restatement thereon.~~

Authority G.S. 58-2-40(2).

11 NCAC 11D .0136 PROXY INFO REQUIRED: MERGER: CONSOLIDATION: ACQUISITION

Every proxy statement must:

- (1) ~~if action is to be taken with respect to merger, consolidation, acquisition, or similar matter, furnish in brief outline the following information:~~
- ~~(a) the rights of appraisal or similar rights of dissenters with respect to any matters to be acted upon; indicate any procedure required to be followed by dissenting security holders in order to perfect such rights;~~
- ~~(b) the material features of the plan or agreement;~~

11 NCAC 11D .0138 PROXY INFO REQUIRED: MATTERS NOT REQUIRED TO BE SUBMITTED

Every proxy statement must, if action is to be taken with respect to any matter which is not required to be submitted to a vote of security holders, state the nature of such matter, the reason for submitting it to a vote of security holders and what action is intended to be taken by the management in the event of a negative vote on the matter by the security holders.

Authority G.S. 58-2-40(2).

11 NCAC 11D .0139 PROXY INFORMATION REQUIRED: AMENDMENT OF CHARTER: BY-LAWS

Every proxy statement must, if action is to be taken with respect to any amendment of the insurer's charter, by-laws or other documents as to which information is not required above, state

briefly the reasons for and general effect of such amendment and the vote needed for its approval.

Authority G.S. 58-2-40(2).

11 NCAC 11D .0140 PROXY INFORMATION REQUIRED: IN ELECTION CONTEST

The rules set forth herein and designated as 11 NCAC 11D .0140 to 11 NCAC 11D .0144 reflect the information required to be included in proxy statements filed by or on behalf of a participant (other than the insurer) in a proxy solicitation in an election contest and as more specifically required by 11 NCAC 11D .0124.

Authority G.S. 58-2-40(2).

11 NCAC 11D .0141 PROXY STATEMENT IN ELEC: INSURER: IDENTITY AND BACKGROUND

(a) Every proxy statement must contain the name and business address of the insurer.

(b) Every proxy statement must contain the following information about the identity and background of the participant:

- (1) name and business address;
- (2) present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is carried on;
- (3) residence address;
- (4) information as to all material occupations, positions, offices or employments during the last 10 years, giving starting and ending dates of each and the name, principal business and address of any business corporation or other business organization in which each such occupation, position, office or employment was carried on;
- (5) state whether or not you are or have been a participant in any other proxy contest involving this company or other companies within the past 10 years; if so, identify the principals, the subject matter and your relationship to the parties and the outcome;
- (6) state whether or not, during the past 10 years, you have been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case; A negative answer to this Sub-item need not be included in the proxy statement or other proxy soliciting material.

Authority G.S. 58-2-40(2).

11 NCAC 11D .0142 PROXY STATEMENT IN ELECTION: INTEREST IN EQUITY SECURITY

Every proxy statement must contain the following information:

- (1) The amount of each class of equity security of the insurer which you own beneficially, directly or indirectly; state the amount of each class of equity security of the insurer which

you own of record but not beneficially; and state with respect to the equity security specified herein, the amount acquired within the past two years, the dates of acquisition and the amounts acquired on each date;

- (2) If any part of the purchase price or market value of any of the equity security specified in Paragraph (1) is represented by funds borrowed or otherwise obtained for the purpose of acquiring or holding such equity security, so state and indicate the amount of the indebtedness as of the latest practicable date. If such funds were borrowed or obtained otherwise than pursuant to a margin account or bank loan in the regular course of business of a bank, broker or dealer, briefly describe the transaction and state the names of the parties;
- (3) Whether or not you are a party to any contracts, arrangements or understandings with any person with respect to any equity security of the insurer, including but not limited to joint ventures, loan or option arrangements, puts or calls guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. If so name the persons with whom such contracts, arrangements, or understanding exist and give the details thereof;
- (4) The amount of equity security of the insurer owned beneficially, directly or indirectly, by each of your associates and the name and address of each such associate;
- (5) The amount of each class of equity security of any parent, subsidiary or affiliate of the insurer which you own beneficially, directly, or indirectly.

Authority G.S. 58-2-40(2).

11 NCAC 11D .0143 PROXY STATEMENT IN ELECTION CONTEST: FURTHER MATTERS

Every proxy statement shall:

- (1) describe the time and circumstances under which you became a participant in the solicitation and state the nature and extent of your activities or proposed activities as a participant;
- (2) describe briefly, and where practicable state the approximate amount of, any material interest, direct or indirect, of yourself and of each of your associates in any material transactions since the beginning of the company's last fiscal year, or in any material proposed transactions, to which the company of any of its subsidiaries or affiliates was or is to be a party;
- (3) state whether or not you or any of your associates have any arrangement or understanding with any person:

- (a) ~~with respect to any future employment by the insurer or its subsidiaries or affiliates, or~~
- (b) ~~with respect to any future transactions to which the insurer or any of its subsidiaries or affiliates will or may be a party.~~

If so, describe such arrangement or understanding and state the names of the parties thereto.

Authority G.S. 58-2-40(2).

11 NCAC 11D .0144 PROXY STATEMENT IN ELECTION CONTEST: SIGNATURE

The statement shall be dated and signed in the following manner:

I certify that the statements made in this statement are true, complete, and correct, to the best of my knowledge and belief. This certification shall be dated and signed by the participant or authorized representative.

Authority G.S. 58-2-40(2).

11 NCAC 11D .0145 INSIDER TRADING OF STOCK: DEFINITIONS

- (a) ~~The following definitions contained in this Rule are applicable to insider trading of equity securities of a domestic stock insurance company as contained in 11 NCAC 11D .0145 to 11 NCAC 11D .0167.~~
- (b) ~~Insurer. "Insurer" means any domestic stock insurance company with an equity security subject to the provisions of G.S. 58-7-145 and not exempt thereunder.~~
- (c) ~~Act. "Act" means G.S. 58-7-145.~~
- (d) ~~Officer. "Officer" means a president, vice president, treasurer, actuary, secretary, controller and any other person who performs for the insurer functions corresponding to those performed by the foregoing officer.~~
- (e) ~~Equity Security. "Equity Security" means any stock or similar security; or any voting trust certificate or certificate of deposit for such a security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right.~~
- (f) ~~Securities Held of Record. "Securities held of record" shall mean:~~

- (1) ~~For the purpose of determining whether the equity securities of an insurer are held of record by 100 or more persons, securities shall be deemed to be held of record by each person who is identified as the owner of such securities on records of security holders maintained by or on behalf of the insurer, subject to the following:~~
 - (A) ~~In any case where the records of security holders have not been maintained in accordance with accepted practice, any additional person who would be identified as such an owner on such records if they had been maintained in accordance~~

~~with accepted practice shall be included as a holder of record.~~

- (B) ~~Securities identified as held of record by a corporation, a partnership, a trust whether or not the trustees are named, or other organization shall be included as so held by one person.~~
- (C) ~~Securities identified as held of record by one or more persons as trustees, executors, guardians, custodians or in other fiduciary capacities with respect to a single trust, estate or account shall be included as held of record by one person.~~
- (D) ~~Securities held by two or more persons as co owners shall be included as held by one person.~~
- (E) ~~Each outstanding unregistered or bearer certificate shall be included as held of record by a separate person, except to the extent that the insurer can establish that, if such securities were registered, they would be held of record, under the provisions of this Rule, by a lesser number of persons.~~
- (F) ~~Securities registered in substantially similar names where the insurer has reason to believe because of the address or other indications that such names represent the same person, may be included as held of record by one person.~~

(2) ~~Notwithstanding the provisions of Paragraph (f) (1) of this Rule:~~

- (A) ~~Securities held, to the knowledge of the insurer, subject to a voting trust, deposit agreement or similar arrangement shall be included as held of record by the record holders of the voting trust certificates, certificates of deposit, receipts or similar evidences of interest in such securities; provided however, that the insurer may rely in good faith on such information as is received in response to its request from a nonaffiliated insurer of the certificates or evidences of interest.~~
- (B) ~~If the insurer knows or have reason to know that the form of holding securities of record is used primarily to circumvent the provisions of the act, the beneficial owners of such securities shall be deemed to be the record owners thereof.~~

(g) ~~Class. "Class" means all securities of an insurer which are of substantially similar character and the holders of which enjoy substantially similar rights and privileges.~~

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0146 WHO MUST FILE UNDER

INSIDER TRADING OF STOCK

Every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security of a domestic stock insurance company or who is a director or an officer of such company, shall file in the office of the Commissioner within 10 days after he becomes such beneficial owner, director or officer, a statement in such form as prescribed by the Commissioner.

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0147 WHAT MUST BE FILED UNDER INSIDER TRADING OF STOCK

(a) The initial statements of beneficial ownership of equity securities required by 11 NCAC 11D .0147 shall be filed on a form as prescribed by the Commissioner. Statements of changes in such beneficial ownership as required by G.S. 58-7-145 shall be filed on a form as prescribed by the Commissioner. All such statements shall be prepared and filed in accordance with the requirements of the applicable form.

(b) Any director or officer who is required to file a statement with respect to any change in his beneficial ownership of equity securities which occurs within six months after he became a director or officer of the issuer of such securities, or within six months after equity securities of such issuer first became subject to the provisions of the act, shall include in the first such statement the information called for with respect to all changes in his beneficial ownership of equity securities of such issuer which occurred within six months prior to the date of the changes which requires the filing of such statement.

(c) Any person who has ceased to be a director or officer of an issuer which has equity securities subject to the provisions of the act, shall file a statement with respect to any change in his beneficial ownership of equity securities of such issuer which shall occur on or after the date on which he ceased to be such director or officer, or the date on which the issuer ceased to have any equity securities subject to the provisions of the act, as the case may be, if such change shall occur within six months after any change in his beneficial ownership of such securities prior to such date. The statement shall be filed within 10 days after the end of the month in which the reported change in beneficial ownership occurs.

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0148 DETERMINING BENEFICIAL OWNERSHIP: INSIDER TRADING OF STOCK

(a) In determining, for the purpose of the act, whether a person is the beneficial owner, directly or indirectly, of more than 10 percent of any class of any equity security, such class shall be deemed to consist of the total amount of such class outstanding, exclusive of any securities of such class held by or for the account of the insurer or a subsidiary of the insurer; except that for the purpose of determining percentage ownership of voting trust certificates or certificates of deposit for equity securities, the class of voting trust certificates or certificates of deposit shall be deemed to consist of the amount of voting trust certificates or certificates of deposit issuable with respect to the total amount of outstanding equity securities of the class which may be deposited under the voting trust agreement or deposit agreement in question, whether or not all of such outstanding securities

have been so deposited. For the purpose of this Rule a person acting in good faith may rely on the information contained in the latest convention form statement filed with the Commissioner with respect to the amount of securities of a class outstanding or in the case of voting trust certificates or certificates of deposit the amount thereof issuable.

(b) In determining for the purpose of the act whether a person is the beneficial owner, directly or indirectly, of more than 10 percent of any class of equity securities, such person shall be deemed to be the beneficial owner of securities of such class which such person has the right to acquire through the exercise of presently exercisable options, warrants or rights or through the conversion of presently convertible securities. The securities subject to such options, warrants, rights or conversion privileges held by a person shall be deemed to be outstanding for the purpose of computing, in accordance with the first paragraph of this Rule, the percentage of outstanding securities of the class owned by such person but shall not be deemed outstanding for the purpose of computing the percentage of the class owned by any other person. The first paragraph of this Rule shall not be construed to relieve any person of any duty to comply with the act with respect to any equity securities consisting of options, warrants, rights or convertible securities which are otherwise subject as a class to the act.

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0149 DISCLAIMER OF BENEFICIAL OWNERSHIP: INSIDER TRADING

Any person filing a statement may expressly declare therein that the filing of such statement shall not be construed as an admission that such person is, for the purpose of the act, the beneficial owner of any equity securities covered by the statement.

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0150 EXEMPTIONS FROM SUBSECTIONS (A) AND (B) OF THE ACT

(a) During the period of 12 months following their appointment and qualification, securities held by the following persons shall be exempt from subsections (a) and (b) of the act:

- (1) — executors or administrators of the estate of a decedent;
- (2) — guardians or committees for an incompetent; and
- (3) — receivers, trustees in bankruptcy, assigners for the benefit of creditors, conservators, liquidating agents, and other similar persons duly authorized by law to administer the estate or assets of other persons.

(b) After the 12 month period following their appointment or qualification the foregoing persons shall be required to file reports with respect to the securities held by the estates which they administer under subsection (a) of the act and shall be liable for profits realized from trading in such securities pursuant to subsection (b) of the act only when the estate being administered is a beneficial owner of more than 10 percent of any class of equity security of an insurer subject to the act.

~~(c) Securities reacquired by or for the account of an insurer and held by it for its account shall be exempt from subsections (a) and (b) during the time they are held by the insurer.~~

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0151 SECURITIES BOUGHT OR SOLD BY ODD-LOT DEALERS: EXEMPTION

~~Securities purchased or sold by an odd-lot dealer:~~

- ~~(1) in odd lots so far as reasonably necessary to carry on odd-lot transactions or~~
- ~~(2) in round lots to offset odd-lot transactions previously or simultaneously executed or reasonably anticipated in the usual course of business, shall be exempt from the provisions of the act with respect to participation by such odd-lot dealer in such transactions.~~

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0152 CERTAIN TRANSACTIONS SUBJECT TO SUBSECTION (A) OF THE ACT

~~The acquisition or disposition of any transferable option, put, call, spread or straddle shall be deemed such a change in the beneficial ownership of the security to which such privilege relates as to require the filing of a statement reflecting the acquisition or disposition of such privilege. Nothing in this Rule, however, shall exempt any person from filing the statements required upon the exercise of such option, put, call, spread or straddle.~~

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0153 OWNERSHIP OF SECURITIES HELD IN TRUST: INSIDER TRADING

~~(a) Beneficial ownership of a security for the purposes of this Rule shall include:~~

- ~~(1) the ownership of securities as a trustee where either the trustee or members of his immediate family have a vested interest in the income or corpus of the trust,~~
- ~~(2) the ownership of a vested beneficial interest in a trust, and~~
- ~~(3) the ownership of securities as a settlor of a trust in which the settlor has the power to revoke the trust without obtaining the consent of all the beneficiaries.~~

~~(b) Except as provided in the next Paragraph (c) of this Rule, beneficial ownership of securities solely as a settlor or beneficiary of a trust shall be exempt from the provisions of Subsection (a) of G.S. 58-7-145 where less than 20 percent in market value of the securities having a readily ascertainable market value held by such trust, determined as of the end of the preceding fiscal year of the trust, consists of equity securities with respect to which reports would otherwise be required. Exemption is likewise accorded from Subsection (a) of G.S. 58-7-145 with respect to any obligation which would otherwise be imposed solely by reason of ownership as settlor or beneficiary of securities held in trust, where the ownership, acquisition, or disposition of such securities by the trust is made without prior approval by the settlor or beneficiary. No~~

~~exemption pursuant to this Subsection shall, however, be acquired or lost solely as a result of changes in the value of the trust assets during any fiscal year or during any time when there is no transaction by the trust in the securities otherwise subject to the reporting requirements of Subsection (a) of G.S. 58-7-145.~~

~~(c) In the event that 10 percent of any class of any equity security of an insurer is held in trust, that trust and the trustees thereof as such shall be deemed a person required to file the reports specified in subsection (a) of the act.~~

~~(d) Not more than one report need to be filed to report any holdings or with respect to any transaction in securities held by a trust, regardless of the number of officers, directors or 10 percent stockholders who are either trustees, settlors, or beneficiaries of a trust, provided that the report filed shall disclose the names of all trustees, settlors, and beneficiaries who are officers, directors or 10 percent stockholders. A person having an interest only as a beneficiary of a trust shall not be required to file any such report so long as he relies in good faith upon an understanding that the trustee of such trust will file whatever reports might otherwise be required of such beneficiary. As used in this Rule the "immediate family" of a trustee means:~~

- ~~(1) a son or daughter of the trustee, or a descendant of either;~~
- ~~(2) a stepson or stepdaughter of the trustee;~~
- ~~(3) the father or mother of the trustee, or an ancestor of either;~~
- ~~(4) a stepfather or stepmother of the trustee; or~~
- ~~(5) a spouse of the trustee.~~

~~For the purpose of determining whether any of the foregoing relations exists, a legally adopted child of a person shall be considered a child of such person by blood.~~

~~(e) In determining, for the purposes of subsection (a) of the act, whether a person is the beneficial owner, directly or indirectly, of more than 10 percent of any class of any equity security, the interest of such person in the remainder of a trust shall be excluded from the computation. No report shall be required by any person, whether or not otherwise subject to the requirement of filing reports under subsection (a) with respect to his indirect interest in portfolio securities held by:~~

- ~~(1) a pension or retirement plan holding securities of an insurer whose employees generally are the beneficiary of the plan,~~
- ~~(2) a business trust with over 25 beneficiaries.~~

~~Nothing in this Rule shall be deemed to impose any duties or liabilities with respect to reporting any transaction or holding prior to its effective date.~~

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0154 EXEMPTION FOR SMALL TRANSACTIONS: INSIDER TRADING OF STOCK

~~(a) Any acquisition of securities shall be exempt from subsection (a) of the act where:~~

- ~~(1) The person effecting the acquisition does not within six months thereafter effect any disposition, other than by way of gift of securities of the same class; and~~
- ~~(2) The person effecting such acquisition does not participate in acquisitions or in dispositions of securities of the same class having a total market value in excess of three thousand~~

dollars (\$3,000) for any six month period during which the acquisition occurs.

(b) Any acquisition or disposition of securities by way of gift, where the total amount of such gifts does not exceed three thousand dollars (\$3,000) in market value for any six month period, shall be exempt from subsection (a) of the act and may be excluded from the computations prescribed in Paragraph (a) (2) of this Rule.

(c) Any person exempted by Paragraph (a) or (b) of this Rule shall include in the first report filed by him after a transaction within the exemption a statement showing his acquisitions and dispositions for each six month period or portion thereof which has elapsed since his last filing.

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0155 EXEMPTIONS IN GENERAL: INSIDER TRADING OF STOCK

If an exemption is granted from subsection (b) of the act then such an exemption need not be reported under subsection (a) of the act. Any transaction which has been or shall be exempted from the requirements of subsection (a) of the act shall, insofar as it is otherwise subject to the provisions of subsection (b), be likewise exempted from subsection (b) of the act.

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0156 EXEMPTION EFFECTED IN CONNECTION WITH A DISTRIBUTION

(a) Any transaction of purchase and sale, or sale and purchase, of a security which is effected in connection with the distribution of a substantial block of securities shall be exempt from the provisions of subsection (b) of the act, to the extent specified in this section as not comprehended within the purpose of said subsection of the act, upon the following conditions:

- (1) The person effecting the transaction is engaged in the business of distributing securities and is participating in good faith, in the ordinary course of such business, in the distribution of such block of securities;
- (2) The security involved in the transaction is:
 - (A) a part of such block of securities and is acquired by the person effecting the transaction, with a view to the distribution thereof, from the insurer or other person on whose behalf such securities are being distributed or from a person who is participating in good faith in the distribution of such block of securities or
 - (B) a security purchase in good faith by or for the account of the person effecting the transaction for the purpose of stabilizing the market price of securities of the class being distributed or to cover an over allotment or other short position created in connection with such distribution; and
- (3) Other persons not within the purview of subsection (b) of the act are participating in the

distribution of such block of securities on terms at least as favorable as those on which such person is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of subsection (b) of the act by this Rule. However, the performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions shall not preclude an exemption which would otherwise be available under this Rule.

(b) The exemption of a transaction pursuant to this Rule with respect to the participation therein of one party thereto shall not render such transaction exempt with respect to participation of any other party therein unless such other party also meets the conditions of this Rule.

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0157 EXEMPTION STOCK OPTIONS: STOCK BONUS OR SIMILAR PLANS

Any acquisition of shares of stock (other than stock acquired upon the exercise of an option, warrant or right) pursuant to a stock bonus profit sharing, retirement, incentive, thrift, savings or similar plan, or any acquisition of a qualified or a restricted stock option pursuant to a qualified or a restricted stock option plan, or a stock option pursuant to an employee stock purchase plan, by a director or officer of an insurer issuing such stock or stock option shall be exempt from the operation of subsection (b) of the act if the plan meets the following conditions:

- (1) The plan has been approved, directly or indirectly:
 - (a) by the affirmative votes of the holders of a majority of the securities of such insurer present, or represented, and entitled to vote at a meeting duly held in accordance with the applicable laws of the State of North Carolina; or
 - (b) the written consent of the holders of a majority of the securities of such insurer entitled to vote: provided, however, that if such vote of written consent was not solicited substantially in accordance with the proxy rules and regulations prescribed by the National Association of Insurance Commissioners, if any, in effect at the time of such vote or written consent, the insurer shall furnish in writing to the holders of record of the securities entitled to vote for the plan substantially the same information concerning the plan which would be required by any such rules and regulations so prescribed and in effect at the time such information is furnished, if proxies to be voted with respect to the approval or disapproval

of the plan were then being solicited, on or prior to the date of the first annual meeting of security holders held subsequent to the later of:

- (i) the date the act first applies to such insurer, or
- (ii) the acquisition of such equity security for which exemption is claimed.

Such written information may be furnished by mail to the last known address of the security holders of record within 30 days prior to the date of mailing. Four copies of such written information shall be filed with, or mailed for filing to, the Commissioner not later than the date on which it is first sent or given to security holders of the insurer. For the purposes of this Paragraph the term "insurer" includes a predecessor corporation if the plan or obligations to participate thereunder were assumed by the insurer in connection with the succession.

(2) If the selection of any director or officer of the insurer to whom stock may be allocated or to whom qualified, restricted or employee stock purchase plan stock options may be granted pursuant to the plan, or the determination of the number or maximum number of shares of stock which may be allocated to any such director or officer or which may be covered by qualified, restricted or employee stock purchase plan stock options granted to any such director or officer, is subject to the discretion of any person, then such discretion shall be exercised only as follows:

- (a) With respect to the participation of directors:
 - (i) by the board of directors of the insurer, a majority of which board and majority of the directors acting in the matter are disinterested persons;
 - (ii) by, or only in accordance with the recommendations of, a committee of three or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons; or
 - (iii) otherwise in accordance with the plan, if the plan:
 - (A) specifies the number or maximum number of shares of stock which directors may acquire or which may be subject to qualified, restricted or employee stock purchase plan stock options granted to

directors and the terms upon which, and the times at which, or the periods within which, such stock may be acquired or such options may be acquired and exercised; or

- (B) sets forth, by formula or otherwise, effective and determinable limitations with respect to the foregoing based upon earnings of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time or similar factors.

- (b) With respect to the participation of officers who are not directors:
 - (i) by the board of directors of the insurer or a committee of three or more directors; or
 - (ii) by, or only in accordance with the recommendations of, a committee of three or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons.

For the purpose of this Paragraph, a director or committee member shall be deemed to be a disinterested person only if such person is not at the time such discretion is exercised eligible and has not at any time within one year prior thereto been eligible for selection as a person to whom stock may be allocated or to whom qualified, restricted or employee stock purchase plan stock options may be granted pursuant to the plan or any other plan of the insurer or any of its affiliates entitling the participants therein to acquire stock or qualified, restricted or employee stock purchase plan stock options of the insurer or any of its affiliates.

- (c) The provisions of this Paragraph shall not apply with respect to any option granted, or other equity security acquired, prior to the date that subsections (a), (b), and (c) of the act first become applicable with respect to any class of equity securities of any insurer.

(3) ~~As to each participant or as to all participants the plan effectively limits the aggregate dollar amount or the aggregate number of shares of stock which may be allocated, or which may be subject to qualified, restricted, or employee stock purchase plan stock options granted, pursuant to the plan. The limitations may be established on an annual basis, or for the duration of the plan, whether or not the plan has a fixed termination date; and may be determined either by fixed or maximum dollar amounts or fixed or maximum numbers of shares or by formulas based upon earnings of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors which will result in an effective and determinable limitation. Such limitations may be subject to any provisions for adjustment of the plan or of stock allocable or options outstanding thereunder to prevent dilution or enlargement of rights.~~

(4) ~~Unless the context otherwise requires, all terms used in this Rule shall have the same meaning as in the act and in these rules. In addition, the following definitions apply:~~

(a) ~~The term "plan" includes any plan, whether or not set forth in any formal written document or documents and whether or not approved in its entirety at one time.~~

(b) ~~The definition of the terms "qualified stock option" and "employee stock purchase plan" that are set forth in Rules 422 and 423 of the Internal Revenue Code of 1954, as amended, are to be applied to those terms where used in this Rule. The term "restricted stock option" as defined in Rule 424(b) of the Internal Revenue Code of 1954, as amended, shall be applied to that term as used in this Rule, provided however, that for the purposes of this Rule an option which meets all of the conditions of that section, other than the date of issuance shall be deemed to be a "restricted stock option."~~

(c) ~~The term "exercise of an option, warrant or right" contained in the parenthetical clause of the first Paragraph of this Rule shall not include:~~

(i) ~~the making of any election to receive under any plan and award of compensation in the form of stock or credits therefor, provided, that such election is made prior to the making of the award; and~~

~~provided further, that such election is irrevocable until at least six months after termination of employment;~~

(ii) ~~the subsequent crediting of such stock;~~

(iii) ~~the making of any election as to a time for delivery of such stock after termination of employment, provided that such election is made at least six months prior to any such delivery;~~

(iv) ~~the fulfillment of any condition to the absolute right to receive such stock; or~~

(v) ~~the acceptance of certificates for shares of such stock.~~

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0158 OTHER SECURITIES: EXEMPTION RECEIVED BY REDEEMING

~~Any acquisition of an equity security (other than a convertible security or right to purchase a security) by a director or officer of the insurer issuing such security shall be exempt from the operation of subsection (b) of the act upon condition that:~~

(1) ~~That equity security is acquired by way of redemption of another security of an insurer substantially all of whose assets other than cash (or government bonds) consist of securities of the insurer issuing the equity security so acquired, and which:~~

(a) ~~represented substantially and in practical effect a stated or readily ascertainable amount of such equity security,~~

(b) ~~had a value which was substantially determined by the value of such equity security, and~~

(c) ~~conferred upon the holder the right to receive such equity security without the payment of any consideration other than the security redeemed;~~

(2) ~~No security of the same class as the security redeemed was acquired by the director or officer within six months prior to such redemption or is acquired within six months after such redemption;~~

(3) ~~The insurer issuing the equity security acquired has recognized the applicability of Paragraph (a) of this Rule by appropriate corporate action.~~

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0159 EXEMPTION OF LONG TERM PROFITS WITHIN SIX MONTHS OF OPTION

~~(a) To the extent specified in Paragraph (b) of this Rule the commissioner hereby exempts as not contemplated within the~~

~~purposes of subsection (b) of the act any transaction or transactions involving the purchase and sale, or sale and purchase, of any equity security where such purchase is pursuant to the exercise of an option or similar right either:~~

- ~~(1) — acquired more than six months before its exercise, or~~
- ~~(2) — acquired pursuant to the terms of an employment contract entered into more than six months before its exercise.~~

~~(b) In respect of transactions specified in Paragraph (a) of this Rule, the profits inuring to the insurer shall not exceed the difference between the proceeds of sale and the lowest market price of any security of the same class within six months before or after the date of sale. Nothing in this Rule shall be deemed to enlarge the amount of profit which would inure to each insurer in the absence of this Rule.~~

~~(c) The Commissioner also hereby exempts, as not contemplated within the purpose of subsection (b) of the act, the disposition of a security, purchased in a transaction specified in Paragraph (a) of this Rule pursuant to a plan or agreement for merger or consolidation, or reclassification of the insurer's securities, or for the exchange of its securities, or for the securities of another person which has acquired its assets, or which is in control, as defined in Section 368(c) of the Internal Revenue Code of 1954, of a person which has acquired its assets, where the terms of such plan or agreement are binding upon all stockholders of the insurer except to the extent that dissenting stockholders may be entitled, under statutory provisions or provisions contained in the certificate of incorporation, to receive the appraised or fair value of their holdings.~~

~~(d) The exemption provided by this Rule shall not apply to any transaction made unlawful by subsection (c) of the act or by any rules and regulations thereunder.~~

~~(e) The burden of establishing market price of a security for the purpose of this Rule shall rest upon the person claiming the exemption.~~

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0160 EXEMPTIONS: ACQUISITIONS: DISPOSITIONS PURSUANT TO MERGER

~~(a) The following transactions shall be exempt from the provisions of subsection (b) of the act as not contemplated within the purpose of said section:~~

- ~~(1) — the acquisition of a security of an insurer, pursuant to a merger or consolidation, in exchange for a security of a company which, prior to said merger or consolidation, owned 85 percent or more of the equity securities of all other companies involved in the merger or consolidation except, in the case of consolidation, the resulting company;~~
- ~~(2) — the disposition of a security, pursuant to a merger or consolidation of an insurer which, prior to said merger or consolidation, owned 85 percent or more of the equity securities of all other companies involved in the merger or consolidation except, in the case of consolidation, the resulting company;~~

~~(3) — the acquisition of a security of an insurer, pursuant to a merger or consolidation, in exchange for a security of a company which, prior to said merger or consolidation, held 85 percent of the combined assets of all the companies undergoing merger or consolidation, computed according to their book values prior to the merger or consolidation, as determined by reference to their most recent available financial statements for a 12 month period prior to the merger or consolidation;~~

~~(4) — the disposition of a security, pursuant to a merger or consolidation, of an insurer which, prior to said merger or consolidation, held over 85 percent of the combined assets of all the companies undergoing merger or consolidation, computed according to their book values prior to merger or consolidation, as determined by reference to their most recent available financial statements for a 12 month period prior to the merger or consolidation.~~

~~(b) A merger within the meaning of this Rule shall include the sale or purchase of substantially all the assets of one insurer by another in exchange for stock which is then distributed to the security holders of the insurer which sold its assets.~~

~~(c) Notwithstanding the foregoing, if an officer, director or stockholder shall make any purchase (other than a purchase exempted by this Rule) of a security in any company involved in the merger or consolidation and any sale (other than a sale exempted by this Rule) of a security in any other company involved in the merger or consolidation within any period of less than six months during which the merger or consolidation took place, the exemption provided by this Rule shall be unavailable to such officer, director, or stockholder to the extent of such purchase and sale.~~

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0161 EXEMPTION: DEPOSIT OR WITHDRAWAL OF EQUITY SECURITIES

~~Any acquisition or disposition of an equity security involved in the deposit of such security under, or the withdrawal of such security from, a voting trust or deposit agreement, and the acquisition or disposition in connection therewith of the certificate representing such security, shall be exempt from the operation of subsection (b) of the act if substantially all of the assets held under the voting trust or deposit agreement immediately after the deposit or immediately prior to the withdrawal, as the case may be, consisted of equity securities of the same class as the security deposited or withdrawn: provided, however, that this Rule shall not apply to the extent that there shall have been either:~~

- ~~(1) — a purchase of an equity security of the class deposited and a sale of any certificate representing an equity security of such class, or~~
- ~~(2) — a sale of an equity security of the class deposited and a purchase of any certificate representing an equity security of such class [otherwise than in a transaction involved in~~

such deposit or withdrawal or in a transaction exempted by any other provision of the regulations under subsection (b) of the act] within a period of less than six months which includes the date of the deposit or withdrawal.

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0162 EXEMPTION INVOLVING THE CONVERSION OF EQUITY SECURITIES

~~(a) Any acquisition or disposition of an equity security involved in the conversion of an equity security which, by its terms or pursuant to the terms of the insurer's charter or other governing instruments, is convertible immediately or after a stated period of time into another equity security of the same insurer, shall be exempt from the operation of subsection (b) of the act; provided, however, that this Rule shall not apply to the extent that there shall have been either:~~

- ~~(1) a purchase of any equity security of the class convertible (including any acquisition of or change in a conversion privilege) and a sale of any equity security of the class issuable upon conversion, or~~
- ~~(2) a sale of any equity security of the class convertible and any purchase of any equity security issuable upon conversion [otherwise than in a transaction involved in such conversion or in a transaction exempted by any other provision of the rules under subsection (b) of the act] within a period of less than six months which includes the date of conversion.~~

~~(b) For the purpose of this Rule, an equity security shall not be deemed to be acquired or disposed of upon conversion of an equity security if the terms of the equity security converted require the payment or entail the receipt, in connection with such conversion, of cash or other property (other than equity securities involved in the conversion) equal in value at the time of conversion to more than 15 percent of the value of the equity security issued upon conversion.~~

~~(c) For the purpose of this Rule, an equity security shall be deemed convertible if it is convertible at the option of the holder or of some other person or by operation of the terms of the security or the governing instruments.~~

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0163 EXEMPTION INVOLVING THE SALE OF SUBSCRIPTION RIGHTS

~~(a) Any sale of a subscription right to acquire any subject security of the same insurer shall be exempt from the provision of subsection (b) of the act, to the extent prescribed in this Rule, as not comprehended with the purpose of said section of the act, if:~~

- ~~(1) Such subscription right is acquired, directly or indirectly, from the insurer without the payment of consideration;~~
- ~~(2) Such subscription right by its terms expires within 45 days after the issuance thereof;~~

~~(3) Such subscription right by its terms is issued on a pro rata basis to all holders of the beneficiary security of the insurer; and~~

~~(4) A registration statement under the Securities Act of 1933 is in effect as to each subject security, or the applicable terms of any exemption from such registration have been met in respect to each subject security.~~

~~(b) When used within this Rule the following terms shall have the meaning indicated:~~

- ~~(1) The term "subscription rights" means any warrant or certificate evidencing a right to subscribe to or otherwise acquire an equity security;~~
- ~~(2) The term "beneficiary security" means a security registered pursuant to Rule 12 of the Securities Exchange Act, to holders of which a subscription right is granted;~~
- ~~(3) The term "subject security" means a security which is the subject of subscription right.~~

~~(c) Notwithstanding anything contained herein to the contrary, if a person purchases subscription rights for cash or other consideration, then a sale by such person of subscription rights otherwise exempted by this Rule will not be so exempted to the extent of such purchases within the six month period preceding or following such sale.~~

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0164 EXEMPTION OF SECURITIES FROM SUBSECTION (C) OF THE ACT

~~Any security shall be exempt from the operation of subsection (c) of the act to the extent necessary to render lawful under such section the execution by a broker of an order for an account in which he has no direct or indirect interest.~~

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0165 EXEMPTION FROM SUBSECTION (C): DISTRIBUTION

~~Any security shall be exempt from the operation of subsection (c) of the act to the extent necessary to render lawful under such section any sale made by or on behalf of a dealer in connection with a distribution of a substantial block of securities, upon the following conditions:~~

- ~~(1) The sale is represented by an over allotment in which the dealer is participating as a member of an underwriting group, or the dealer or a person acting on his behalf intends in good faith to offset such sale with a security to be acquired by or on behalf of the dealer as a participant in an underwriting, selling or soliciting dealer group of which the dealer is a member at the time of the sale, whether or not the security to be so acquired is subject to prior offering to existing security holders or some other class of persons; and~~
- ~~(2) Other persons not within the purview of subsection (c) of the act are participating in the distribution of such block of securities on terms at least as favorable as those on which~~

~~such dealer is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of subsection (c) of the act by this Rule. However, the performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions shall not preclude an exemption which would otherwise be available under this Rule.~~

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0166 EXEMPTION FROM SUBSECTION (C) SALES OF SECURITIES

~~(a) Whenever any person is entitled, as an incident to his ownership of an issued security and without the payment of consideration, to receive another security "when issued" or "when distributed," the security to be acquired shall be exempt from the operation of subsection (c) of the act, provided that:~~

- ~~(1) The sale is made subject to the same conditions as those attaching to the right of acquisition; and~~
- ~~(2) Such person exercises reasonable diligence to deliver such security to the purchaser promptly after his right of acquisition matures; and~~
- ~~(3) Such person reports the sale on the appropriate form for reporting transactions by persons subject to subsection (a) of the act.~~

~~(b) This Rule shall not be construed as exempting transactions involving both a sale of a security "when issued" or "when distributed" and a sale of the security by virtue of which the seller expects to receive the "when issued" or "when distributed" security, if the two transactions combined result in a sale of more units than the aggregate of those owned by the seller plus those to be received by him pursuant to his right of acquisition.~~

Authority G.S. 58-2-40; 58-7-145.

11 NCAC 11D .0167 ARBITRAGE TRANSACTIONS UNDER SUBSECTION (E) OF THE ACT

~~It shall be unlawful for any director or officer of an insurer to effect any foreign or domestic arbitrage transaction in any equity security of such insurer, unless he shall include such transaction in the statements required by subsection (a) of the act and shall account to such insurer for the profits arising from such transaction, as provided in subsection (b) thereof. The provisions of subsection (c) shall not apply to such arbitrage transactions. The provisions of the act shall not apply to any bona fide foreign or domestic arbitrage transaction insofar as it is effected by any person other than such director or officer of the insurer.~~

Authority G.S. 58-2-40; 58-7-145.

SUBCHAPTER 11F – ACTUARIAL

SECTION .0600 – RECOGNITION OF THE 2001 CSO MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS

11 NCAC 11F .0601 DEFINITIONS

As used in this Section:

- (1) "2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the *Proceedings of the NAIC (2nd Quarter 2002)*. Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.
- (2) "2001 CSO Mortality Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.
- (3) "2001 CSO Mortality Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.
- (4) "Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.
- (5) "Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

Authority G.S. 58-2-40; 58-58-50(k); 58-58-50(l); 58-58-55(e).

11 NCAC 11F .0602 2001 CSO MORTALITY TABLE AS MINIMUM STANDARD

(a) At the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this Section, the 2001 CSO Mortality Table may be used as the minimum standard for policies issued on or after January 1, 2005, and before the date specified in Paragraph (b) of this Rule to which G.S. 58-58-50(c)(2)(a), G.S. 58-58-55(e)(4)h.6, 11 NCAC 11F .0403(a) or 11 NCAC 11F .0403(b) are applicable. If the company elects to use the 2001 CSO Mortality Table, it shall do so for both valuation and nonforfeiture purposes.

(b) Subject to the conditions stated in this Rule, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued on or after January 1, 2009, to which G.S. 58-58-50(c)(2)(a), G.S. 58-58-55(e)(4)h.6, 11 NCAC 11F .0403(a) or 11 NCAC 11F .0403(b) are applicable.

(c) The 2001 CSO Mortality Table shall be the basis for computation of minimum values related to extended term benefits for policies for which the 2001 CSO Mortality Table is the minimum standard for valuation and nonforfeiture purposes.

Authority G.S. 58-2-40; 58-58-50(k); 58-58-50(l); 58-58-55(e).

11 NCAC 11F .0603 CONDITIONS

(a) For each plan of insurance with separate rates for smokers and nonsmokers an insurer shall use one of the following:

- (1) Composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits;
- (2) Smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by G. S. 58-58-50(g) and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or
- (3) Smoker and nonsmoker mortality to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(b) For plans of insurance without separate rates for smokers and nonsmokers the composite mortality tables shall be used.

(c) For the purpose of determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the 2001 CSO Mortality Table may, at the option of the company for each plan of insurance, be used in its ultimate or select and ultimate form, subject to the restrictions of 11 NCAC 11F .0604 and 11 NCAC 11F .0400, relative to use of the select and ultimate form.

(d) When the 2001 CSO Mortality Table is the minimum reserve standard for any plan for a company, the actuarial opinion in the annual statement filed with the Commissioner shall be based on an asset adequacy analysis as specified in 11 NCAC 11F .0303.

Authority G.S. 58-2-40; 58-58-50(k); 58-58-50(l); 58-58-55(e).

11 NCAC 11F .0604 APPLICABILITY OF THE 2001 CSO MORTALITY TABLE TO 11 NCAC 11F .0400

(a) For policies for which the 2001 CSO Mortality Table is the minimum standard for valuation and nonforfeiture purposes, 11F .0400 shall be applied in the following manner:

- (1) To comply with 11 NCAC 11F .0401(a)(2)(B), the net level reserve premium shall be based on the ultimate mortality rates in the 2001 CSO Mortality Table;
- (2) To comply with 11 NCAC 11F .0402(2), all calculations shall be made using the 2001 CSO Mortality Rate, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in Subparagraph (a)(4) of this Rule; The value of " q_{x+k+t} " is the valuation mortality rate for deficiency reserves in policy year $k+t$, but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.
- (3) To comply with 11 NCAC 11F .0403(a), the 2001 CSO Mortality Table shall be the minimum standard for basic reserves;

(4) To comply with 11 NCAC 11F .0403(b), the 2001 CSO Mortality Table shall be the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in 11 NCAC 11F .0403(b)(3). In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, unless the combination is explicitly required by rule or necessary to be in compliance with relevant Actuarial Standards of Practice;

(5) To comply with 11 NCAC 11F .0404(c), the valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO Mortality Table;

(6) To comply with 11 NCAC 11F .0404(e)(4), the calculations specified in 11 NCAC 11F .0404(e) shall use the ultimate mortality rates in the 2001 CSO Mortality Table;

(7) To comply with 11 NCAC 11F .0404(f)(4), the calculations specified in 11 NCAC 11F .0404(f) shall use the ultimate rates in the 2001 CSO Mortality Table;

(8) To comply with 11 NCAC 11F .0404(g)(2), the calculations specified in 11 NCAC 11F .0404(g) shall use the ultimate mortality rates in the 2001 CSO Mortality Table; and

(9) To comply with 11 NCAC 11F .0405(a)(1)(B), the one-year valuation premium shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table.

(b) Nothing in this Rule shall be construed to expand the applicability of 11 NCAC 11F .0400 to include life insurance policies exempted under 11 NCAC 11F .0401(a).

Authority G.S. 58-2-40; 58-58-50(k); 58-58-50(l); 58-58-55(e).

11 NCAC 11F .0605 GENDER-BLENDED TABLES

(a) For any ordinary life insurance policy delivered or issued for delivery in this state on or after January 1, 2005, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may, at the option of the company for each plan of insurance, be substituted for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. Notwithstanding this Rule, the 2001 CSO Mortality Table, consisting of separate rates of mortality for male and female lives, shall be the minimum valuation standard even if blended tables are used in determining minimum cash surrender values and nonforfeiture benefits.

(b) When using a gender-blended table for determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the company shall choose from among the blended tables developed by the American Academy of

PROPOSED RULES

Actuaries CSO Task Force and adopted by the NAIC in December 2002.

(c) An insurer's issuance of the same kind of policy of life insurance on both a sex-distinct and a sex-neutral basis shall not solely constitute a violation of G.S. 58, Article 63.

Authority G.S. 58-2-40; 58-58-50(k); 58-58-50(l); 58-58-55(e).

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Department of Insurance intends to repeal the rules cited as 11 NCAC 14 .0415, .0705.

Proposed Effective Date: March 1, 2004

Public Hearing:

Date: December 2, 2003

Time: 10:00 a.m.

Location: Dobbs Building, 3rd Floor Hearing Room, Raleigh, NC

Reason for Proposed Action: These rules are being repealed because they are outdated

Procedure by which a person can object to the agency on a proposed rule: The Department of Insurance will accept written objections to the repeal of these Rules until the expiration of the comment period (1/16/04). Objections need to be specific and sent to the attention of the APA Coordinator.

Written comments may be submitted to: Ellen K. Sprenkel, P.O. Box 26387, Raleigh, NC 27611, phone (919) 733-4529, fax (919) 733-6495, and email esprenke@ncdoi.net.

Comment period ends: January 16, 2004

Procedure for Subjecting a Proposed Rule to Legislative Review: Any person who objects to the adoption of a permanent rule may submit written comments to the agency. A person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the 6th business day preceding the end of the month in which a rule is approved. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
- Local
- Substantive (≥\$3,000,000)
- None

CHAPTER 14 - ADMISSION REQUIREMENTS

SECTION .0400 - DESCRIPTION OF FORMS

11 NCAC 14 .0415 PETITION FOR ADMISSION

The Petition for Admission is a form used in the application process to certify compliance with certain basic admission requirements. The form contains the applicant company name, state of domicile, certain financial data of the company, and other pertinent information.

Authority G.S. 58-16-5(2).

SECTION .0700 - FEDERAL RISK RETENTION ACT ENTITIES

11 NCAC 14 .0705 FILING AND PAYMENT OF PREMIUM TAXES

(a) Each risk retention group registered to transact business in North Carolina shall file with the Commissioner, on or before March 15 of each year, a report of all premiums paid to it for risks insured within North Carolina in the form described in 11 NCAC 14.0431.

(b) Each purchasing group registered to transact business in North Carolina shall file with the Commissioner, on or before March 15 of each year, a report of all premiums paid to it for risks insured within the state in the form described in 11 NCAC 14.0430.

Authority G.S. 58-22-20; 58-22-35.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Private Protective Services Board intends to adopt the rule cited as 12 NCAC 07D .1201 and amend the rule cited as 12 NCAC 07D .0707.

Proposed Effective Date: March 1, 2004

Public Hearing:

Date: December 2, 2003

Time: 9:00 a.m.

Location: Conference Room, PPSB Administrative Offices, 1631 Midtown Place, Suite 104, Raleigh, NC 27609

Reason for Proposed Action:

12 NCAC 07D .0707 - The Private Protective Services Board has revamped the training requirements for unarmed security guards. The Board has determined that the training requirements need to be amended in order to further professionalize the industry and further protect the public health, safety, and welfare, which is directly impacted by the competency of the unarmed security officers that work posts across the state.

12 NCAC 07D .1201 - The Board has determined that it is necessary to adopt a regulatory rule for the courier profession in North Carolina. Several regulatory rules were proposed for adoption to further protect the public health, safety, and welfare. The Board is given the statutory authority to regulate the courier profession pursuant to G.S. 74C-3(a)(4).

Procedure by which a person can object to the agency on a proposed rule: *Written comments may be provided to the Board by submission to W. Wayne Woodard, Administrator, Private Protective Services Board, 1631 Midtown Place, Suite 104, Raleigh, NC 27609. The comment period ends January 16, 2004.*

Written comments may be submitted to: *W. Wayne Woodard, Administrator, 1631 Midtown Place, Suite 104, Raleigh, 27609. Phone: (919) 875-3611.*

Comment period ends: *January 16, 2004*

Procedure for Subjecting a Proposed Rule to Legislative Review: Any person who objects to the adoption of a permanent rule may submit written comments to the agency. A person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the 6th business day preceding the end of the month in which a rule is approved. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
- Local
- Substantive (≥\$3,000,000)
- None

CHAPTER 07 - PRIVATE PROTECTIVE SERVICES

SUBCHAPTER 07D - PRIVATE PROTECTIVE SERVICES BOARD

SECTION .0700 - SECURITY GUARD REGISTRATION (UNARMED)

12 NCAC 07D .0707 TRAINING REQUIREMENTS FOR UNARMED SECURITY GUARDS

(a) Applicants for an unarmed security guard registration shall complete a basic training course for unarmed security guards within 80 30 days from ~~hire consisting of a minimum of four hours of classroom instruction including hire.~~ The course will consist of a minimum of 16 hours of classroom instruction including:

- (1) ~~Chapter 74C of the General Statutes; The Security Officer in North Carolina - (minimum of one hour);~~
- (2) ~~report writing; Legal Issues for Security Officers - (minimum of three hours);~~
- (3) ~~legal aspects of an unarmed security guard; Emergency Response - (minimum of three hours);~~

- (4) ~~controlled substance identification and handling; and Communications - (minimum of two hours);~~
- (5) ~~department. Patrol Procedures - (minimum of three hours);~~
- (6) ~~Note Taking and Report Writing - (minimum of three hours);~~
- (7) ~~Department - (minimum of one hour).~~

A minimum of four hours of classroom instruction will be completed prior to a security guard being placed on a duty station. These four hours will include The Security Officer in North Carolina and Legal Issues for Security Officers.

(b) Licensees shall submit the name and resume for a proposed certified unarmed security guard trainer to the ~~Administrator~~ Director for Board Approval.

(c) Training shall be conducted by a Board approved certified unarmed security guard trainer. A Board approved lesson plan ~~and training video~~ covering the training requirements in 12 NCAC 07D .0707(a) will be made available to each trainer. The Board may approve other media training materials to be used to deliver the training requirements of 12 NCAC 07D .0707(a).

(d) These provisions shall not apply to:

- (1) temporary unarmed security guards as defined by G.S. 74C-11(f); and
- (2) any unarmed security guard registered with the Board on January 1, 1990.

Authority G.S. 74C-11; 74C-13.

SECTION .1200 - COURIER

12 NCAC 07D .1201 EXPERIENCE REQUIREMENTS FOR COURIER LICENSE

In addition to the requirements of 12 NCAC 07D .0200, applicants for a courier service license shall:

- (1) establish to the Board's satisfaction two years experience within the past 10 years as a manager, supervisor, administrator, or courier with a contract security or courier company or proprietary security organization performing courier functions; or
- (2) establish to the Board's satisfaction two years experience within the past 10 years as a manager, supervisor, administrator, or courier with any federal, U.S. Armed Forces, state, county, or municipal agency performing courier functions.

Authority G.S. 74C-3(a)(4); 74C-5; 74C-13.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10A .1001; 10B .0105; 10F .0326, .0336, .0343, .0352, .0360.

Proposed Effective Date: *May 1, 2004*

Public Hearing:

Date: December 12, 2003

Time: 9:00 a.m.

Location: Archdale Building, Third Floor, Room 332, 512 N. Salisbury St., Raleigh, NC

Reason for Proposed Action:

15A NCAC 10A .1001 – To set forth those violations for which a warning ticket may be issued.

15A NCAC 10B .0105 – To establish a refuge for geese.

15A NCAC 10F .0326 – To adjust a current no wake zone within Pamlico County.

15A NCAC 10F .0336 – To add no wake zones in Warren and Northampton Counties.

15A NCAC 10F .0343 – To establish a no wake zone within Chatham County.

15A NCAC 10F .0352 – To add a no wake zone in Camden County.

15A NCAC 10F .0360 – To establish a no wake zone within Graham County.

Procedure by which a person can object to the agency on a proposed rule:

Notification by letter or email to Joan Troy, 1701 Mail Service Center, Raleigh, NC 27699-1701 and email joan.troy@ncwildlife.org.

Written comments may be submitted to: Joan Troy, 1701 Mail Service Center, Raleigh, NC 27699-1701.

Comment period ends: February 16, 2004

Procedure for Subjecting a Proposed Rule to Legislative Review:

Any person who objects to the adoption of a permanent rule may submit written comments to the agency. A person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the 6th business day preceding the end of the month in which a rule is approved. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State**
- Local** 15A NCAC 10F .0336, .0352
- Substantive** (≥\$3,000,000)
- None** 15A NCAC 10A .1001; 10B .0105; 10F .0326, .0343, .0360

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10A - WILDLIFE RESOURCES COMMISSION

15A NCAC 10A .1001 PARTICULAR OFFENSES

(a) Warning Tickets Prohibited. Wildlife Enforcement Officers shall not issue warning tickets for the following offenses, classes of offenses or offenses committed in a particular manner:

- (1) second offense of a similar charge;
- (2) hunting, fishing, or trapping without a license, except as listed in this Rule;
- (3) exceeding bag or creel limits;
- (4) taking fish or wildlife by use of poison, explosives, or electricity;
- (5) hunting, fishing, or trapping in closed season;
- (6) hunting on Game Lands during closed days;
- (7) firefighting deer;
- (8) unlawful taking or possession of antlerless deer;
- (9) unlawful taking or possession of bear or wild turkey;
- (10) unlawful purchase or sale of wildlife;
- (11) unlawful taking of fox; or
- (12) taking wildlife with the aid of or from a motor vehicle or boat under power or while in motion.

(b) Warning Tickets Permitted. In accordance with the conditions provided in G.S. 113-140(c) and where there is a contemporaneous occurrence of more than three violations of the motorboat statutes or administrative rules, Wildlife Enforcement Officers may issue a citation on the two most serious violations and a warning ticket on the lesser violation(s). In addition, Wildlife Enforcement Officers may issue warning tickets for the following offenses:

- (1) Boating Violations:
 - (A) number missing, lack of contrast, not properly spaced or less than three inches in height;
 - (B) no validation decal affixed or incorrect placement;
 - (C) fire extinguisher not charged or non-approved;
 - (D) no fire extinguisher on boats with false bottoms not completely sealed to hull or filled with flotation material;
 - (E) failure to notify North Carolina Wildlife Resources Commission of change of address of boat owner;
 - (F) personal flotation device not Coast Guard approved;
 - (G) failure to display navigation lights when there is evidence that lights malfunctioned while underway;
 - (H) no sound device (on Class I boats only);
 - (I) muffler not adequate;
 - (J) loaded firearm on access area;
 - (K) parking on access area in other than designated parking area, provided traffic to ramp not impeded;
 - (L) motorboat registration expired ten days or less;

PROPOSED RULES

- (M) no Type IV throwable personal flotation device on board, but other personal flotation device requirements met; ~~or~~
 - (N) violation of no-wake speed zone when mitigating circumstances ~~present~~; present;
 - (O) running lights on motorboat are obstructed, not visible or improperly configured;
 - (P) personal flotation device is not readily accessible on board motorboat;
 - (Q) failure to wear a kill-switch lanyard on personal watercraft;
 - (R) exceeding capacity of personal watercraft while towing a skier;
 - (S) allowing youth under the age of 12 to operate a personal watercraft while accompanied by an adult; or
 - (T) operate a personal watercraft wearing an inflatable personal flotation device.
- (2) License Violations:
- (A) persons under 16 hunting, trapping, or trout fishing without meeting statutory requirements;
 - (B) senior citizens hunting or fishing without valid license(s) (Senior citizens are those persons 65 years old or older);
 - (C) when it appears evident that the wrong license was purchased or issued by mistake;
 - (D) failure to carry required license or identification on person, if positive identification can be established;
 - (E) non-resident hunting, fishing, or trapping with resident license, if domicile is established, but not 60 days;
 - (F) hunting, fishing, or trapping on Game Lands or fishing in Designated Trout Waters that are not properly posted or have been posted for no more than 30 days; or
 - (G) persons who are 18 years or older or who do not reside with their parents, when such persons are taking wildlife upon their parent's land without a license as required by G.S. 113-270.2, 113-270.3(b) except for subdivision (5), 113-270.5, 113-271, or 113-272.
- (3) Game Lands Violations:
- (A) camping on Game Lands in other than designated area; or
 - (B) possession of weapons readily available for use while on game land thoroughfare, during closed season.
- (4) Trapping Violations:
- (A) improper chain length at dry land sets;
 - (B) trap tag not legible;
 - (C) trap tag missing, but with a group of properly tagged traps;
 - (D) trap tag missing, but evidence that animal destroyed;
 - (E) improper jawsizes;
 - (F) failure to comply with "offset" jaw requirement for traps with jaw spread of more than 5 ½ inches;
 - (G) failure to attend traps daily, during severe weather (ice, high water, heavy snow); or
 - (H) no written permission, but on right-of-way of public road.
- (5) Miscellaneous Violations:
- (A) allowing dogs, not under the control of the owner to chase deer during closed season;
 - (B) attempting to take deer with dogs, or allowing dogs to chase deer in restricted areas;
 - (C) using dogs to track wounded deer during primitive weapon season;
 - (D) failure to report big game kill to nearest cooperators agent, when game is tagged and subject is enroute to another agent;
 - (E) training dogs or permitting them to run unleashed on Game Lands west of I-95 during the period of April 1 through August 15;
 - (F) violation of newly adopted regulations, when not readily available to the public;
 - (G) violation of local laws, when information not available to the public;
 - (H) all permits (except for fox depredation permit);
 - (I) closed season, if misprinted in digest or suddenly changed;
 - (J) minor record violation (taxidermist);
 - (K) failure to put name and address on marker (trotline); or
 - (L) failure to put name and address on nets.
- (c) Special Consideration. Special consideration may be given in local areas where the offender is hunting or fishing out of his normal locality and is unfamiliar with the local law. Consideration may also be given for violations on newly opened or established Game Lands and on reclassified or newly Designated Mountain Trout Waters. Special consideration may be given to offenders under 18 years of age.

Authority G.S. 113-140.

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

15A NCAC 10B .0105 MIGRATORY GAME BIRDS:

(a) Cooperative State Rules:

- (1) The taking of sea ducks (scoter, eider and old squaw) during any special federally-announced season for these species shall be limited to the waters of the Atlantic Ocean, and to those coastal waters south of US 64 which are separated by a distance of at least 800 yards of open water from any shore, island or marsh.
- (2) The extra daily bag and possession limits allowed by the federal regulations on scaup apply in all coastal waters east of US Highway 17, except Currituck Sound north of US 158.
- (3) Tundra swans may be taken during the open season by permit only subject to annual limitations imposed by the U. S. Fish and Wildlife Service. Based upon the annual limitations imposed by the U.S. Fish and Wildlife Service, nontransferable swan permits will be issued by the Wildlife Resources Commission to applicants who will be selected at random by computer, and only one swan may be taken under each permit which must be cancelled at the time of the kill by cutting out the month and day of the kill. Accompanying the permit is a tag which must be affixed to the swan at the time and place of the kill. The tag must be affixed in accordance with instructions provided with the permit. In addition, a preaddressed post-paid card is supplied to each permittee on which to report the number of days hunted and the details of the kill if made. It is unlawful to hunt swans without having the permit and the tag in possession or to possess a swan without the cancelled permit in possession and the tag properly affixed to the swan. It is unlawful to possess a swan permit or tag while hunting that was assigned to another person or to alter the permit or tag in any way other than cutting out the proper month and day of kill.
- (4) Canada geese may be taken during the open season by permit holders only subject to limitations imposed by the U.S. Fish and Wildlife Service. Permits will be issued by the North Carolina Wildlife Resources Commission. It is unlawful to hunt or possess Canada geese without having the permit in possession. It is unlawful to possess a Canada goose permit while hunting that was assigned to another person or to alter the permit in any way.

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

- (1) No migratory game bird may be taken:
 - (A) With a rifle;

- (B) With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so as to limit its total capacity to not more than three shells.
- (2) No migratory game bird may be taken:
 - (A) From or by the use of a sinkbox or any other type of low floating device affording the hunter a means of concealment beneath the surface of the water;
 - (B) With the aid of bait, or on, over or within 300 yards of any place where any grain, salt or other feed is exposed so as to constitute an attraction to migratory game birds or has been so exposed during any of the 10 consecutive days preceding the taking, except that this Part shall not apply to standing crops, flooded croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting;
 - (C) With the aid of live decoys, or on, over or within 300 yards of any place where tame or captive migratory game birds are present, unless such birds are and have been for a period of 10 consecutive days prior to such taking confined within an enclosure which substantially reduces the audibility of their calls and totally conceals them from the sight of wild migratory game birds.
- (3) Waterfowl hunting and harassment and other unauthorized activities shall be prohibited on posted waterfowl management areas established by the Wildlife Resources Commission for Canada Geese and ducks restoration.
- (4) In that area of Roanoke Sound adjacent to and immediately Northeast of Roanoke Island as marked by buoys designating the waterfowl rest area, it shall be unlawful to harass or take any waterfowl.
- (5) The area east of US 17 shall be designated as an experimental September teal season zone as referenced by the Federal frameworks calling for state rules designating experimental areas.
- (6) It shall be unlawful to harass or take any geese during established goose hunting season that occurs after October 1 in each year in the Gaddy Goose Refuge, which is in that area of Anson County starting at the NC 109 bridge over the Pee Dee River and following NC 109 south to Dennis Road (SR1650); west on Dennis Road to Pleasant Grove Church Road

(SR 1649); continue west on Pleasant Grove Church Road to US 52; south on US 52 to Lockhart Road (SR 1652); west on Lockhart Road to Brown Creek Church-Cox Road (SR 1641); west on Brown Creek Church-Cox Road to NC 742; northwest on NC 742 to Lanes Creek; Lanes Creek north (downstream) to Rocky River; Rocky River downstream to the Pee Dee River; and from Pee Dee River downstream to the beginning of the NC 109 bridge.

Authority G.S. 113-134; 113-274; 113-291.1; 113-291.2; 50 C.F.R. 20.21; 50 C.F.R. 20.105.

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F .0326 PAMLICO COUNTY

(a) Regulated Areas. This Rule applies to the following waters or portions of waters in Pamlico County:

- (1) Silverthorn Bay: the waters of Silverthorn Bay, a tributary of Lower Broad Creek;
- (2) Intracoastal Waterway: that portion of the Intracoastal Waterway beginning at the north side of the State Forestry Dock and extending to the land cut entrance on the south side of Jones Bay;
- (3) Minnesott Beach: the Minnesott Beach Yacht Basin and its access channel inland from the shoreline to 30 yards beyond the outermost points of the rock jetties in Neuse River.

(b) Speed Limit. No person shall operate any motorboat or vessel at greater than no-wake speed in the regulated areas described in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Pamlico County is designated a suitable agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0336 NORTHAMPTON AND WARREN COUNTIES

(a) Regulated Area. This Rule applies only to that portion of Lake Gaston which lies within the boundaries of Northampton and Warren Counties.

(b) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area established with the approval of the Executive Director, or his representative, on the waters of Gaston Lake in Northampton and Warren Counties.

(c) Speed Limit Near Shore Facilities. No person shall operate a vessel at greater than no-wake speed within 50 yards of any marked boat launching area, dock, pier, bridge, marina, boat

storage structure, or boat service area on the waters of the regulated areas described in Paragraph (a) of this Rule.

(d) Speed Limit in specific waters. No person shall operate a vessel at greater than no-wake speed within the following bodies of water:

- (1) the North Point Cove Section B located on the north shore of Gaston Lake within Northampton County at the end of "Vincent Lane";
- (2) Big Stonehouse Creek at State Road 1357;
- (3) Songbird Creek at State Road 1360;
- (4) Six Pound Creek at State Road 1334; and
- (5) Lizard Creek at SR 1362.

~~(d)~~(e) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area established with the approval of the Executive Director, or his representative, on the waters of Gaston Lake in Northampton and Warren Counties.

~~(e)~~(f) Placement and Maintenance of Markers. The Board of Commissioners of Northampton County and Warren County are designated as suitable agencies for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and United States Army Corps of Engineers. With regard to marking Gaston Lake, all of the supplementary standards listed in Rule .0301(g) of this Section shall apply.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0343 CHATHAM COUNTY

(a) Definitions. In addition to the definitions set forth in Paragraph (b) of Rule .0301 of this Section, the following definitions apply in this Rule:

- (1) Corps - Corps of engineers, United States Army;
 - (2) Regulated Area - That portion of the B. Everette Jordan Reservoir located within the boundaries of Chatham County.
- (b) Speed Limit. No person shall operate a vessel at greater than no-wake speed on the regulated area as follows:
- (1) within 50 yards of any public boat launching ramp;
 - (2) within the restricted zone adjacent to the Crosswinds Marina located north of US 64 and west of SR 1008 as indicated by markers located with approval of the Executive Director of the Wildlife Resources Commission;
 - (3) within 100 feet of all ~~bridges, bridges; and~~
 - (4) within the restricted zone at the Ebenezer Church Road access point.

(c) Restricted Swimming Areas. No person operating or responsible for the operation of any vessel, surfboard or water skis shall permit the same to enter any marked swimming area located on the regulated area.

(d) Placement and Maintenance of Markers. The Board of Commissioners of Chatham County is designated a suitable agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the corps. With regard to marking the regulated area described in Paragraph (a) of this Rule, the supplementary standards listed in

PROPOSED RULES

Subparagraphs (1) through (8) of Rule .0301(g) of this Section shall apply.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0352 CAMDEN COUNTY

(a) Regulated Areas. This Rule applies to the waters described below:

- (1) Edgewater Canal running parallel with and along the south shore of Camden Point in Camden County and the connecting channels to Albemarle Sound;
- (2) That portion of the ICW also known as the South Mills Shores Canal parallel to Bingham Road for a distance of approximately 1,000 feet to be marked at each end by appropriate markers;
- (3) The canals known as Canals No. 1, 2, 3 and 4 in Whitehall ~~Shores. Shores; and~~
- (4) ~~The area known as Roland Creek.~~

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within the regulated area described in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Camden County is designated a suitable agency for placement and maintenance of the markers implementing this Rule.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0360 GRAHAM COUNTY IS PROPOSED FOR AMENDMENT AS FOLLOWS:

(a) Regulated Area. This Rule applies to the waters and portions of waters described as follows:

- (1) Lake Santeetlah Boat Dock on Lake Santeetlah in Graham County.
- (2) Entrance of Fontana Boat Dock in Fontana Lake in Graham County.
- (3) Thomas Boat Dock on Fontana Lake in Graham County.
- (4) Crisp's Boat Dock, Panther Creek on Fontana Lake in Graham County.
- (5) Deyton Camp Boat Dock off the main channel of the Tallulah prong of Santeetlah Lake.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within 50 yards of the regulated areas as described in Paragraph (a) of this Rule.

(c) Cheoah Point Swimming Area, Lake Santeetlah - No person shall operate a vessel within the Cheoah Point Swimming Area which begins at the head of Cheoah Point Cove and extends to the mouth of the Cove as designated by marker buoys and float lines.

(d) Placement and Maintenance of Markers. The Graham County Board of Commissioners is designated as a suitable agency for the placement and maintenance of markers implementing this Rule.

Authority G.S. 75A-3; 75A-15.

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Wildlife Resources Commission intends to amend the rule cited as 15A NCAC 10B .0209.

Proposed Effective Date: May 1, 2004

Public Hearing:

Date: February 5, 2004

Time: 7:00 p.m.

Location: Wilson County Agricultural Center, 1806 Goldsboro St., Wilson, NC

Reason for Proposed Action: Set season for turkey in Wilson County.

Procedure by which a person can object to the agency on a proposed rule: Notification by letter or email to Joan Troy, 1701 Mail Service Center, Raleigh, NC 27699-1701 and email joan.troy@ncwildlife.org.

Written comments may be submitted to: Joan Troy, 1701 Mail Service Center, Raleigh, NC 27699-1701.

Comment period ends: February 16, 2004

Procedure for Subjecting a Proposed Rule to Legislative Review:

Any person who objects to the adoption of a permanent rule may submit written comments to the agency. A person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the 6th business day preceding the end of the month in which a rule is approved. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
- Local
- Substantive (≥\$3,000,000)
- None

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0200 – HUNTING

15A NCAC 10B .0209 WILD TURKEY

(a) Open Seasons:

- (1) Winter Either-Sex Wild Turkey Season shall be from the Monday on or nearest to January 15 through the following Saturday on bearded or beardless turkeys in Alleghany, Ashe,

PROPOSED RULES

Caswell, Granville, Person, Rockingham, Stokes, Surry, and Watauga counties except on Game Lands.

(2) Spring Wild Turkey Season shall be from the Second Saturday in April through the Saturday of the fourth week thereafter on bearded turkeys only in all counties statewide.

(b) Bag Limits: The daily bag limit shall be one bird and the annual bag limit shall be two birds only one of which may be taken during the Winter Either-Sex Wild Turkey Season. Possession limit is two birds.

(c) Dogs: The use of dogs for hunting wild turkeys during the Spring Wild Turkey Season shall be prohibited.

(a) Open Season for wild turkey shall be from the: Second Saturday in April to Saturday of the fourth week thereafter on bearded turkeys in the following counties: Alamance, Alexander, Alleghany, Anson, Ashe, Avery, Beaufort, **Bertie, **Bladen, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, **Camden, Carteret, Caswell, Catawba, **Chatham, Cherokee, Chowan, Clay, Cleveland, Craven, Currituck, Davie, Duplin, **Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, **Granville, Halifax, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Jones, Lee, Lenoir, Lincoln, Macon, Madison, **Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Northampton, Onslow, **Orange, Pasquotank, Perquimans, Person, Pitt, Polk, **Richmond, Rockingham, Rowan, Rutherford, Sampson, **Scotland, Stanley, Stokes, Surry, Swain, Transylvania, **Tyrrell, Vance, Wake, **Washington, , Warren, Watauga, Wilkes, Yadkin, Yancey and in the following portions of counties:

Columbus: All of the county except that part east of NC 701 and west of SR 1005.

Cumberland: That part west of NC 53 or I 95.

Davidson: That part south of I 85.

Guilford: That part north of I 40.

Hoke: That part south and west of NC 211 and that part known as Fort Bragg.

Johnston: That part east of I 95.

Nash: All of the county except that part east of NC 581 and south of US 64.

New Hanover: Starting at the Brunswick County line, that part north and west of a line formed by NC 133 and SR 1002.

Pamlico: That part west of NC 306.

**Pender: All of the county except that part west of I 40, north of NC 53, and east of US 421.

Randolph: That part west of US 220.

Robeson: That part east of I 95.

Union: That part south of US 74.

Wayne: That part south of US 70.

**The Sandhills Game Land in Hoke, Moore, Richmond, and Scotland, counties; the Bladen Lakes State Forest Game Lands in Bladen County; the North River Game Lands in Camden County; the Northeast Cape Fear Wetlands Game Lands in Pender County; the Jordan Game Land in Chatham, Durham, Orange, and Wake counties; the Butner Falls of the Neuse Game Land in Durham, Granville, and Wake counties; the Roanoke River Wetlands in Bertie, Halifax, and Martin counties; Chatham Game Land in Chatham and Harnett counties; Lantern Acres Game Land in Washington and Tyrrell counties; and the Shearon-Harris Game Land in Chatham and Wake counties are

closed to turkey hunting except by holders of special permits authorizing turkey hunting as provided in G.S. 113-264(d).

(b) Bag Limits shall be:

(1) daily, one;

(2) possession, two; and

(3) season, two.

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

(d) Kill Reports. The kill shall be validated at the site of kill and the kill reported as provided by 15A NCAC 10B .0113.

Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.2; 113-291.5.

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Wildlife Resources Commission intends amend the rules cited as 15A NCAC 10B .0409; 10H .1201-.1204.

Proposed Effective Date: May 1, 2004

Public Hearing:

Date: February 2, 2004

Time: 9:00 a.m.

Location: Archdale Building, Room 332, 512 N. Salisbury St., Raleigh, NC

Reason for Proposed Action:

15A NCAC 10B .0409 – Add coyote as an animal that may be trapped and sold to controlled hunting preserve (with license).

15A NCAC 10H .1201-.1204 – To conform rules to recent legislation affecting the taking of coyote in NC.

Procedure by which a person can object to the agency on a proposed rule:

Notification by letter or email to Joan Troy, 1701 Mail Service Center, Raleigh, NC 27699-1701 and joan.troy@ncwildlife.org.

Written comments may be submitted to: Joan Troy, 1701 Mail Service Center, Raleigh, NC 27699-1701.

Comment period ends: February 16, 2004

Procedure for Subjecting a Proposed Rule to Legislative Review:

Any person who objects to the adoption of a permanent rule may submit written comments to the agency. A person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the 6th business day preceding the end of the month in which a rule is approved. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
- Local
- Substantive (≥\$3,000,000)
- None

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0400 - TAGGING FURS

15A NCAC 10B .0409 SALE OF LIVE FOXES TO CONTROLLED FOX HUNTING PRESERVES

~~In accordance with G.S. 113-273(g), licensed~~ Licensed trappers ~~may may,~~ subject to the restrictions on taking foxes in G.S. 113-291.4, live-trap foxes and coyotes during any open trapping season for foxes and coyotes, ~~except those listed in accordance with G.S. 113-291.4, for trapping foxes~~ and sell them to licensed controlled fox hunting preserves in accordance with the following conditions:

- (1) Licensed trappers are exempt from caging, captivity permit or captivity license requirements set forth in 15A NCAC 10H .0300 for any live-trapped foxes or coyotes trapped for the purpose of sale to controlled hunting preserves. This exemption shall apply during the trapping season and for a period of 10 days after the trapping season.
- (2) Licensed trappers are exempt from tagging requirements set forth in this Section so long as the foxes are kept alive as set forth in Subparagraph (1) of this Rule.
- (3) Live foxes and coyotes taken under a depredation permit may be sold to controlled hunting preserves.

Authority G.S. 113-134; 113-273(g); 113-291.4.

SUBCHAPTER 10H - REGULATED ACTIVITIES

SECTION .1200 - CONTROLLED FOX HUNTING PRESERVES

15A NCAC 10H.1201 LICENSE TO OPERATE:

It shall be unlawful for any individual, firm, association or corporation to operate a controlled fox hunting preserve without first obtaining from the North Carolina Wildlife Resources Commission a license for this purpose. A controlled fox hunting preserve license shall entitle the holder or holders ~~thereof,~~ and their guests, to hunt foxes and coyotes at any time within the fenced area. Applications for controlled fox hunting preserve licenses shall be made on standard forms obtainable from the Commission. Applicants must be prepared to show satisfactory proof of ownership of the land contained in the proposed controlled fox hunting preserve or that they have this land under proper lease for the duration of the license period. Upon receipt of an application accompanied by the statutory fee, the Commission shall issue a license, provided it is determined that the location and operation of such a hunting preserve is

consistent with the wildlife conservation program and in the public interest; and further provided ~~provided,~~ that all regulations herein regarding establishment of such areas have been complied with. Controlled fox hunting preserve licenses shall not be transferable, either as to operator or as to site of operation.

Authority G.S. 113-134; 113-273(g).

15A NCAC 10H .1202 ESTABLISHMENT AND OPERATION

(a) Size of Preserve. Controlled fox hunting preserves operated for commercial purposes shall be an area of not less than 500 acres except that smaller areas containing terrain and topographical features which offer adequate escape cover to the fox and coyote population ~~populations~~ are allowed under special approval by the Wildlife Resources Commission.

(b) Boundary of Preserve. A controlled fox hunting preserve must be enclosed with a dog-proof fence that is also designed to prevent the escape of foxes and coyotes released within the pen. This fencing must be properly maintained at all times.

(c) Stocking Preserve With Game:

- (1) In addition to purchasing live foxes and coyotes as provided in G.S. 113-273(g), operators of controlled fox hunting preserves may also purchase live foxes and coyotes from licensed controlled fox hunting preserves, licensed North Carolina fur propagators, or persons holding foxes legally under a North Carolina wildlife captivity license.
- (2) Licensed controlled fox hunting preserve operators may hold legally obtained foxes and coyotes under rules that apply to a captivity license and may transport legally acquired foxes and coyotes from the place of purchase to the controlled fox hunting preserve.
- (3) Foxes and coyotes may not be imported into North Carolina for release into controlled fox hunting preserves.
- (4) The release of ~~coyotes or~~ exotic wildlife into the controlled fox hunting preserves is specifically prohibited.
- (5) The possession of ~~coyotes or~~ exotic wildlife on controlled fox hunting preserves is specifically prohibited.

Authority G.S. 113-134; 113-273(g).

15A NCAC 10H .1203 QUALITY OF FOXES RELEASED

All foxes and coyotes purchased or raised for release on controlled fox hunting preserves shall be healthy and free from disease of any kind. An examination and inspection of the foxes and coyotes by the Wildlife Resources Commission may be conducted at any time. All dead ~~foxes,~~ foxes and coyotes, except those killed by dogs during a hunt, or diseased foxes and coyotes found within the pen shall be submitted to a North Carolina Department of Agriculture diagnostic lab for diagnosis. A copy of the diagnostic report shall be mailed to the Wildlife Resources Commission. Possession of unhealthy or diseased foxes and coyotes will be justifiable grounds for revocation or

PROPOSED RULES

denial of a controlled fox hunting preserve license. The Commission may quarantine any controlled fox hunting preserve where contagious fox-diseases are located.

Authority G.S. 113-134; 113-273(g).

15A NCAC 10H .1204 RECORDS REQUIRED

An accurate record including bill of sale for all foxes and coyotes ~~taken from or~~ released into the controlled fox hunting preserve ~~must~~ shall be maintained and available for inspection by officials of the North Carolina Wildlife Resources Commission at all times.

Authority G.S. 113-134; 113-273(g).

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10B .0113, .0203, .0205, .0212; 10C .0301, .0305, .0401-.0402; 10D .0102-.0103.

Proposed Effective Date: May 1, 2004

Public Hearing:

Date: January 13, 2004

Time: 7:00 p.m.

Location: Southwestern Community College, Sylva, NC

Date: January 14, 2004

Time: 7:00 p.m.

Location: City of Morganton Municipal Auditorium, Morganton, NC

Date: January 15, 2004

Time: 7:00 p.m.

Location: Dixon Auditorium, Elkin High School, Elkin, NC

Date: January 20, 2004

Time: 7:00 p.m.

Location: Courthouse, Elizabethtown, NC

Date: January 21, 2004

Time: 7:00 p.m.

Location: Courthouse, Graham, NC

Date: January 22, 2004

Time: 7:00 p.m.

Location: Union County Courthouse, Monroe, NC

Date: January 27, 2004

Time: 7:00 p.m.

Location: Swain Auditorium, Edenton, NC

Date: January 28, 2004

Time: 7:00 p.m.

Location: Courthouse, New Bern, NC

Date: January 29, 2004

Time: 7:00 p.m.

Location: Courthouse, Nashville, NC

Reason for Proposed Action:

15A NCAC 10B .0113 – To encourage the use of the internet for reporting big kills.

15A NCAC 10B .0203 – Set season for white-tailed deer.

15A NCAC 10C .0205 – Set season by location for public mountain trout waters.

15A NCAC 10C .0212 – Regulate fish hatcheries.

15A NCAC 10C .0301 – Removing "tiger muskie" from the list of fishes classified as inland game fishes.

15A NCAC 10C .0305 – To set seasons and size limits for creel.

15A NCAC 10C .0401 – Regulate the manner of taking of nongame fishes for purchase or sale.

15A NCAC 10C .0402 – Regulate the taking of nongame fish for bait.

15A NCAC 10D .0102 – To amend general regulations regarding use of gamelands to permit falconry within the archery zone.

15A NCAC 10D .0103 – To regulate hunting on gamelands to include new gameland areas and to remove some existing gameland areas.

Procedure by which a person can object to the agency on a proposed rule:

Notification by letter or email to Joan Troy, 1701 Mail Service Center, Raleigh, NC 27699-1701 or joan.troy@ncwildlife.org prior to the close of the comment period on February 16, 2004.

Written comments may be submitted to: Joan Troy, 1701 Mail Service Center, Raleigh, NC 27699-1701.

Comment period ends: February 16, 2004

Procedure for Subjecting a Proposed Rule to Legislative Review:

Any person who objects to the adoption of a permanent rule may submit written comments to the agency. A person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the 6th business day preceding the end of the month in which a rule is approved. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
- Local
- Substantive (≥\$3,000,000)
- None

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

15A NCAC 10B .0113 BIG GAME KILL REPORTS

(a) Upon killing a bear, deer, wild boar, or wild turkey and before moving the animal from the site of kill, the successful hunter must validate the Big Game Harvest Report Card furnished with the big game hunting license by cutting or punching out the validation box that correctly identifies the big game animal harvested.

(b) Before any harvested bear, deer, wild boar, or wild turkey is skinned, dressed, or dismembered for consumption and within 24 hours of the kill, the animal must be ~~transported to a registered with a Wildlife Cooperator Agent within the immediate area of open season to be registered or reported or registered through the toll-free Electronic Big Game Reporting System.~~ The hunter may field dress the animal at the site of kill or before registering it ~~at a Wildlife Cooperator Agent or by telephone~~ by bleeding and removing the digestive, respiratory, and circulatory organs; but, the hunter may not mutilate the carcass in a manner that obscures its species identity, age, or sex. When the kill occurs in a remote area, which prevents the animal from being transported as an entire carcass, the animal may be skinned and quartered before being ~~reported by telephone or transported to a Wildlife Cooperator Agent to be~~ registered. When a hunter harvests a big game animal in a remote area and plans to remain in the remote area for longer than a day, the 24-hour time limit to register the kill is extended until the hunter leaves the area. Upon leaving the remote area, the hunter shall ~~proceed directly to a telephone or to a Wildlife Cooperator Agent to register the kill, kill within 24 hours.~~

(c) When a ~~successful hunter presents a big game kill registers a kill~~ at a Wildlife Cooperator Agent ~~for registration,~~ the Wildlife Cooperator Agent shall issue an authorization ~~number, which number that~~ includes the date of ~~kill, kill~~ to the ~~successful big game hunter.~~ The hunter shall record the authorization number given by the Wildlife Cooperator Agent or obtained ~~by telephone through the Electronic Big Game Reporting System~~ in the space provided immediately adjacent to the validation box that has been cut or punched out on the Big Game Harvest Report Card. The record entered on the Big Game Harvest Report Card shall thereafter constitute authorization for continued possession of the carcass. Possession of a harvested bear, deer, wild boar, or wild turkey without a validated Big Game Harvest Report Card including the authorization number obtained from a Wildlife Cooperator Agent or through the ~~toll free Electronic Big Game Reporting System~~ shall be unlawful.

(d) Persons killing a big game animal and leaving it unattended must identify the carcass with their name, their hunting license number, and the date of kill. Once an unattended animal is registered the animal need only be identified with the authorization number ~~received at the Wildlife Cooperator Agent or by telephone,~~ received by registering the kill. It shall be unlawful for a person to possess a Big Game Harvest Report Card on which the species validation box has been cut or punched out, but on which the authorization number ~~from a Wildlife Cooperator Agent received by registering the kill~~ has not been recorded, unless the animal is in the person's possession ~~and being transported to a Wildlife Cooperator Agent or is identified as described in this Paragraph. Paragraph and not more than 24 hours have passed since the harvest.~~

(e) Persons who are by law exempt from the big game hunting license shall obtain a Big Game Harvest Report Card for License Exempt Hunters from a Wildlife Service Agent at no cost. Upon harvesting a bear, deer, wild boar, or wild turkey, the exempt person shall validate the Big Game Harvest Record Card and ~~report the big game kill at a Wildlife Cooperator Agent or by telephone~~ register the kill as provided by this Rule.

(f) Persons killing antlerless deer under the Deer Management Assistance Program pursuant to G. S. 113-291.2(e) shall follow the tagging and reporting requirements set forth by statute and are not obligated to take any action under this Rule.

Authority G.S. 113-134; 113-270.3; 113-276.1.

SECTION .0200 – HUNTING

15A NCAC 10B .0203 DEER (WHITE-TAILED)

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

(b) Open Seasons (All Lawful Weapons)

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

- (A) Saturday on or nearest October 15 through January 1 in all of Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus*, Craven, Currituck, Dare, Duplin, Edgecombe, Franklin, Gates, Greene, Halifax, Hertford, Hoke, Hyde, Johnston, Jones, Lenoir, Martin, Nash, New Hanover, Northampton, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Pitt, Richmond**, Robeson, Sampson, Scotland**, Tyrrell, Vance, Wake, Warren, Washington, Wayne, and Wilson counties, and the following parts of counties:

Cumberland: All of the county except that part east of US 401, north of NC 24, and west of I-95;

Harnett: That part west of NC 87;

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

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

**Refer to 15A NCAC 10D .0103(f) ~~(54)(53)(B)~~ for seasons on Sandhills Game Land.

- (B) Saturday before Thanksgiving through the ~~third Saturday~~ fourth Friday after Thanksgiving Day in all Alexander, Alleghany, Ashe, Catawba, Davie, Forsyth, Gaston,

- Iredell, Lincoln, Stokes, Surry, Watauga, Wilkes, and Yadkin counties.
- (C) Monday of Thanksgiving week through the third Saturday after Thanksgiving Day in all of Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Swain, Transylvania, and Yancey counties.
- (D) Two Saturdays before Thanksgiving through January 1 in all of Alamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Durham, Granville, Guilford, Lee, Mecklenburg, Montgomery, Orange, Person, Randolph, Rockingham, Rowan, Stanly, and Union counties, and in the following parts of counties:
 Cumberland: That part east of US 401, north of NC 24 and west of I-95;
 Harnett: That part east of NC 87;
 Moore: That part north of NC 211 and west of US 1;
- (E) Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge, in those parts of Hyde, Tyrrell and Washington counties known as the Pocosin Lakes National Wildlife Refuge, in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge;
- ~~(F) Saturday before Thanksgiving week through the fifth Saturday after Thanksgiving Day in all of Gaston and Lincoln counties.~~
- ~~(G)~~(F) Monday of Thanksgiving week through the fifth Saturday after Thanksgiving Day in all of Cleveland and Rutherford ~~counties.~~ counties except for South Mountain Game Land.
- (2) Deer of Either Sex. Except on Game Lands, deer of either sex may be taken during the open seasons and in the counties and portions of counties listed in this Subparagraph (Refer to 15A NCAC 10D .0103 for either sex seasons on Game Lands):
- (A) The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge, in those parts of Hyde, Tyrrell and Washington counties known as the Pocosin Lakes National Wildlife Refuge, in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.
- (B) The open either-sex deer hunting dates established by the appropriate military commands during the period from Saturday on or nearest October 15 through January 1 in that part of Brunswick County known as the Sunny Point Military Ocean Terminal, in that part of Craven County known and marked as Cherry Point Marine Base, in that part of Onslow County known and marked as the Camp Lejeune Marine Base, on Fort Bragg Military Reservation, and on Camp Mackall Military Reservation.
- (C) Youth either sex deer hunts. First Saturday in October for youth either sex deer hunting by permit only on a portion of Belews Creek Steam Station in Stokes County designated by agents of the Commission and the third Saturday in October for youth either-sex deer hunting by permit only on Mountain Island State Forest in Lincoln and Gaston ~~counties.~~ counties; and the second Saturday in November for youth either-sex deer hunting by permit only on a portion of Warrior Creek located on W. Kerr Scott Reservoir, Wilkes County designated by agents of the Commission.
- (D) The last open day of the Deer with Visible Antlers season described in Subparagraph (b)(1) of this Rule in all of Avery, Buncombe, Haywood, Henderson, Madison, Mitchell, Transylvania, and Yancey counties and the following parts of counties: Dare, except the Outer Banks north of Whalebone.
 Robeson: That part south of NC 211 and west of I-95.
 Scotland: That part south of US 74.
- (E) The last six open days of the Deer With Visible Antlers season described in Subparagraph (b)(1) of this Rule in all of Burke, Caldwell,

PROPOSED RULES

Catawba, Gaston, Lincoln, McDowell, Polk and Watauga and the following parts of counties:
Camden: That part south of US 158.
~~Dare: Except the Outer Banks north of Whalebone.~~

(F) The first six open days and the last six open days of the Deer with Visible Antlers season described in Subparagraph (b)(1) of this Rule in all of Carteret, Cleveland, Hoke, Richmond, Rutherford, counties and in the following parts of counties:
Columbus: That part west of US 74, SR 1005, and SR 1125.
Cumberland: That part west of I-95.
Harnett: That part west of NC 87.
Moore: All of the county except that part north of NC 211 and west of US 1.
Robeson: All of the county except that part south of NC 211 and west of I-95.

(G) All the open days of the Deer With Visible Antlers season described in Subparagraph (b)(1) of this Rule in all of Alamance, Alexander, Alleghany, Anson, Ashe, Beaufort, Bertie, Bladen, Brunswick, Cabarrus, Caswell, Chatham, Chowan, Craven, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gates, Granville, Greene, Guilford, Halifax, Hertford, Hyde, Iredell, Johnston, Jones, Lee, Lenoir, Martin, Mecklenburg, Montgomery, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph, Rockingham, Rowan, Sampson, Stanly, Stokes, Surry, Tyrrell, Union, Vance, Wake, Warren, Washington, Wilkes, Wayne, Wilson, and Yadkin counties, and in the following parts of counties:
Buncombe: That part east of NC 191, south of the French Broad and Swannanoa Rivers, west of US 25, and north of NC 280.
Camden: That part north of US 158.
Columbus: That part east of a line formed by US 74, SR 1005, and SR 1125.
Cumberland: That part east of I-95.
Currituck: All of the county except the Outer Banks.
Dare: That part of the Outer Banks north of Whalebone.
Harnett: That part east of NC 87.

Henderson. That part east of NC 191 and north and west of NC 280.
Moore: That part north of NC 211 and west of US 1.
Richmond: That part west of Little River.

(c) Open Seasons (Bow and Arrow)

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

- (A) Saturday on or nearest September 10 to the fourth Friday thereafter in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (A) of Subparagraph (b)(1) of this Rule, except on the Sandhills Game Land and the area known as the Outer Banks in Currituck County.
- (B) Saturday on or nearest September 10 to the second Friday before Thanksgiving in the counties and parts of counties having the open seasons for Deer with Visible Antlers specified by Part (B) of Subparagraph (b)(1) of this ~~Rule Rule and in Gaston and Lincoln Counties.~~
- (C) Monday on or nearest September 10 to the fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (C) of Subparagraph (b)(1) of this Rule and in Cleveland and Rutherford counties.
- (D) Saturday on or nearest September 10 to the third Friday before Thanksgiving in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (D) of Subparagraph (b)(1) of this Rule, and on Sandhills Game Land.

(2) Restrictions

- (A) Dogs may not be used for hunting deer during the bow and arrow season.
- (B) It is unlawful to carry any type of firearm while hunting with a bow during the bow and arrow deer hunting season.
- (C) Only bows and arrows of the types authorized in 15A NCAC 10B .0116 for taking deer may be used during the bow and arrow deer hunting season.

- (d) Open Seasons (Muzzle -Loading Rifles and Shotguns)
- (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph, deer may be taken only with muzzle-loading firearms (except that bow and arrow may be used on designated and posted game land Archery Zones) during the following seasons:
- (A) The Saturday on or nearest October 8 to the following Friday in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (A) of Subparagraph (b)(1) of this Rule, except on Sandhills Game Land and the area known as the Outer Banks in Currituck County.
- (B) The second Saturday preceding Thanksgiving until the following Friday in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (B) of Subparagraph (b)(1) of this ~~Rule~~ ~~Rule and in Gaston and Lincoln counties.~~
- (C) Monday on or nearest October 8 to the following Saturday in Cleveland and Rutherford counties and in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part C of Subparagraph (b)(1) of this Rule.
- (D) The third Saturday preceding Thanksgiving until the following Friday in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (D) of Subparagraph (b)(1) of this Rule, and on Sandhills Game Land.
- (2) Restrictions
- (A) Deer of either sex may be taken during muzzle-loading firearms season in and east of the following counties: Polk, Rutherford, McDowell, Burke, Caldwell, Wilkes, and Ashe. Deer of either sex may be taken on the last day of muzzle-loading firearms season in all other counties.
- (B) Dogs shall not be used for hunting deer during the muzzle-loading firearms seasons.
- (C) Pistols shall not be carried while hunting deer during the muzzle-loading firearms seasons.
- (e) In those counties or parts of counties listed in Part (b)(1)(A) of Subparagraph (b)(1) of this Rule and those counties or parts of counties listed in Part (b)(1)(D) of this Rule in which hunting deer with dogs is allowed, the daily bag limit shall be two and the possession limit six, two of which shall be antlerless. The season limit shall be six, two of which shall be antlerless. In all

other counties or parts of counties, the daily bag limit shall be two and the possession limit six, four of which shall be antlerless. The season limit shall be six, four of which shall be antlerless. Antlerless deer include males with knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin. The antlerless bag limits described above do not apply to antlerless deer harvested in areas covered in the Deer Management Assistance Program as described in G.S. 113-291.2(e). Individual daily antlerless bag limits on these areas shall be determined by the number of special tags, issued by the Division of Wildlife Management as authorized by the Executive Director, that shall be in the possession of the hunter. Season antlerless bag limits shall be set by the number of tags available. All antlerless deer harvested on these areas, regardless of the date of harvest, shall be tagged with these special tags but the hunter does not have to validate the Big Game Harvest Report Card provided with the hunting license.

(f) Kill Reports. The kill shall be validated at the site of kill and the kill reported as provided by 15A NCAC 10B .0113.

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

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

SECTION .0200 - GENERAL REGULATIONS

15A NCAC 10C .0205 PUBLIC MOUNTAIN TROUT WATERS

(a) Designation of Public Mountain Trout Waters. The waters listed herein or in 15A NCAC 10D 0104 are designated as Public Mountain Trout Waters and further classified as Wild Trout Waters or Hatchery Supported Waters. For specific classifications, see Subparagraphs (1) through (6) of this Paragraph. These waters are posted and lists thereof are filed with the clerks of superior court of the counties in which they are located:

- (1) Hatchery Supported Trout Waters. The listed waters in the counties in Subparagraphs ~~(1)(A)-(Y)~~ (a)(1)(A) through (Y) are classified as Hatchery Supported Public Mountain Trout Waters. Where specific watercourses or impoundments are listed, indentation indicates that the watercourse or impoundment listed is tributary to the next preceding watercourse or impoundment listed and not so indented. This classification applies to the entire watercourse or impoundment listed except as otherwise indicated in parentheses following the listing. Other clarifying information may also be included parenthetically. The tributaries of listed watercourses or impoundments are not included in the classification unless specifically set out therein. Otherwise, Wild Trout regulations apply to the tributaries.
- (A) Alleghany County:
 New River (not trout water)
 Little River (Whitehead to McCann Dam)
 Crab Creek

PROPOSED RULES

- Brush Creek (except where posted against trespass)
- Big Pine Creek
- Laurel Branch
- Big Glade Creek
- Bledsoe Creek
- Pine Swamp Creek
- South Fork New River (not trout water)
- Prather Creek
- Cranberry Creek
- Piney Fork
- Meadow Fork
- (B) Yadkin River (not trout water)
 - Roaring River (not trout water)
 - East Prong Roaring River (that portion on Stone Mountain State Park) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- (B) Ashe County:
 - New River (not trout waters)
 - North Fork New River (Watauga Co. line to Sharp Dam)
 - Helton Creek (Virginia State line to New River) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
 - Big Horse Creek (Mud Creek at SR 1363 to Tuckerdale)
 - Buffalo Creek (headwaters to junction of NC 194-88 and SR 1131)
 - Big Laurel Creek
 - Three Top Creek (portion not on game lands)
 - Hoskins Fork (Watauga County line to North Fork New River)
 - South Fork New River (not trout waters)
 - Cranberry Creek (Alleghany County line to South Fork New River)
 - Nathans Creek
 - Peak Creek (headwaters to Trout Lake, except Blue Ridge Parkway waters)
- (C) Avery County:
 - Nolichucky River (not trout waters)
 - North Toe River (headwaters to Mitchell County line, except where posted against trespass)
 - Squirrel Creek
 - Elk River (SR 1306 crossing to Tennessee State line, including portions of tributaries on game lands)
 - Catawba River (not trout water)
 - Johns River (not trout water)
 - Wilson Creek [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule.]
 - Lost Cove Creek [not Hatchery Supported trout water, see Subparagraph (a)(4) of this Rule.]
 - Buck Timber Creek [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule.]
 - Cary Flat Branch [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule.]
 - Boyde Coffey Lake
 - Archie Coffey Lake
 - Linville River [Land Harbor line (below dam) to Blue Ridge Parkway boundary line, except where posted against trespass]
 - Milltimber Creek
- (D) Buncombe County:
 - French Broad River (not trout water)
- Trout Lake [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- Roan Creek
- North Beaver Creek
- Pine Swamp Creek (all forks)
- Old Fields Creek
- Mill Creek (except where posted against trespass)

PROPOSED RULES

Big Ivy Creek (Ivy River)

(Dillingham Creek to US 19-23 bridge)

Dillingham Creek (Corner Rock Creek to Big Ivy Creek)

Stony Creek Mineral Creek (including portions of tributaries on game lands)

Corner Rock Creek (including tributaries, except Walker Branch)

Reems Creek (Sugar Camp Fork to US 19-23 bridge, except where posted against trespass)

Swannanoa River (SR 2702 bridge near Ridgecrest to ~~Sayles Bleachery~~ Wood Avenue Bridge, intersection of NC 81W and US 74A in Asheville, except where posted against trespass)

Bent Creek (headwaters to N.C. Arboretum boundary line, including portions of tributaries on game lands)

Lake Powhatan

Cane Creek (headwaters to SR 3138 bridge)

(E) Burke County:

Catawba River ~~(not trout water)~~ (Muddy Creek to the City of Morganton water intake dam)

South Fork Catawba River (not trout water)

Henry Fork (lower South Mountains State Park line downstream to SR 1919 at Ivy Creek)

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

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

Johns River (not trout water) Parks Creek (portion not on game lands not trout water)

Carroll Creek (game lands portion above SR 1405 including tributaries)

Linville River (game lands portion below the Blue Ridge Parkway including portions of tributaries on game lands and from first bridge on SR 1223 below Lake James powerhouse to Muddy Creek)

(F) Caldwell County:

Catawba River (not trout water)

Johns River (not trout water) Wilson Creek (Phillips Branch to Browns Mountain Beach dam, except where posted against trespass)

Estes Mill Creek (not trout water)

Thorps Creek (falls to NC 90 bridge)

Mulberry Creek (portion not on game lands not trout water)

Boone Fork [not Hatchery Supported trout water. See Subparagraph (a)(2) of this Rule.]

Boone Fork Pond Yadkin River (not trout water)

Buffalo Creek (mouth of Joes Creek to McCloud Branch)

Joes Creek (first falls upstream of SR 1574 to confluence with Buffalo Creek)

(G) Cherokee County:

Hiwassee River (not trout water)

Shuler Creek (headwaters to Tennessee line, except where posted against trespass including portions of tributaries on game lands)

North Shoal Creek (Crane Creek) (headwaters to SR 1325, including portions of tributaries on game lands)

Persimmon Creek Davis Creek (confluence of Bald and Dockery creeks to Hanging Dog Creek)

Beaver Dam Creek (headwaters to SR 1326 bridge, including portions of tributaries on game lands)

Valley River Hyatt Creek (including portions of tributaries on game lands)

PROPOSED RULES

- Webb Creek
(including portions of
tributaries on game lands)
- Junaluska Creek
(Ashturn Creek to
Valley River, including
portions of
tributaries on game
lands)
- (H) Clay County:
 - Hiwassee River (not trout water)
 - Fires Creek (first bridge
above the lower game land
line on US Forest Service
road 442 to SR 1300)
 - Tusquitee Creek (headwaters
to lower SR 1300 bridge,
including portions of Bluff
Branch on game lands)
 - Tuni Creek
(including portions of
tributaries on game lands)
 - Chatuge Lake (not trout
water)
 - Shooting Creek (SR 1349
bridge to US 64 bridge at SR
1338)
 - Hothouse Branch
(including portions of
tributaries on gamelands)
 - Vineyard Creek
(including portions of
tributaries on game lands)
- (I) Graham County:
 - Little Tennessee River (not trout
water)
 - Calderwood Reservoir
(Cheoah Dam to Tennessee
State line)
 - Cheoah River (not trout
water)
 - Yellow Creek
 - Santeetlah Reservoir
(not trout water)
 - West
Buffalo Creek
 - ~~Huffman
Creek (Little Buffalo Creek)~~
Little Buffalo Creek
 - Santeetlah Creek
(Johns Branch to
mouth including
portions of
tributaries within
this section located
on game lands,
excluding Johns
Branch and Little
Santeetlah Creek)
 - (Big) Snowbird
Creek (old railroad
- junction to mouth,
including portions
of tributaries on
game lands)
- Mountain Creek
(game lands boundary to SR
1138 bridge)
- Long
Creek (portion not on game
lands)
- Tulula
Creek (headwaters to lower
bridge on SR 1275)
- Franks
Creek
- Cheoah Reservoir
- Fontana Reservoir (not
trout water)
- Stecoah Creek
- Sawyer Creek
- Panther Creek
(including portions of
tributaries on game lands)
- (J) Haywood County:
 - Pigeon River (not trout water)
 - Cold Springs Creek
(including portions of
tributaries on game lands)
 - Jonathans Creek - lower
(~~concrete bridge in
Dellwood SR 1394 bridge~~ to
Pigeon River)
 - Jonathans Creek - upper [SR
1302 bridge (west) to SR
1307 bridge]
 - Hemphill Creek
 - West Fork Pigeon River
(triple arch bridge on
highway NC 215 to
Queens Creek,
including portions of
tributaries within this
section located on game
lands, except Middle
Prong)
 - Richland Creek (Russ
Avenue bridge to US 19A-
23 bridge)
 - ~~[Delayed Harvest
Regulations apply. See
Subparagraph (a)(5) of this
Rule.]~~
 - West Fork Pigeon River
(Queen Creek to the first
game land boundary
upstream of Lake Logan)
 - [Delayed Harvest
Regulations apply. See
Subparagraph (a)(5) of this
Rule.]
- (K) Henderson County:

(Rocky) Broad River (one-half mile north of Bat Cave to Rutherford County line)
 Green River - upper (mouth of Bobs Creek to mouth of Rock Creek)
 Green River - lower (Lake Summit Dam to I-26 bridge)
 Camp Creek (SR 1919 to Polk County line)
 (Big) Hungry River
 Little Hungry River

French Broad River (not trout water)
Cane Creek (SR 1551 bridge to US 25 bridge)
Mud Creek (not trout water)
Clear Creek (SR 1591 bridge at Jack Mountain Lane to SR 1572)
 Mills River (not trout water)
 North Fork Mills River (game lands portion below the Hendersonville watershed dam). [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]

(L) Jackson County:
 Tuckasegee River (confluence with West Fork Tuckasegee River to SR 1534 bridge at Wilmot) [Delayed Harvest Regulations apply to that portion between NC 107 bridge at Love Field and the Dillsboro dam. See Subparagraph (a)(5) of this Rule.]
 Scott Creek (entire stream, except where posted against trespass)
 Dark Ridge Creek (Jones Creek to Scotts Creek)
Buff Creek (uppermost crossing on SR 1457 to Scott Creek (SR 1457 bridge below Bill Johnson's place to Scott Creek))
 Savannah Creek (Headwaters to Bradley's Packing House on NC 116)
 Greens Creek (Greens Creek Baptist Church on SR 1730 to Savannah Creek)
 Cullowhee Creek (Tilley Creek to Tuckasegee River)
 Bear Creek Lake
 Wolf Creek [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule.]
 Wolf Creek Lake

Balsam Lake
 Tanasee Creek [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule.]
 Tanasee Creek Lake
 West Fork Tuckasegee River (Shoal Creek to existing water level of Little Glenville Lake)
 Shoal Creek (Glenville Reservoir pipeline to mouth)

(M) Macon County:
 Little Tennessee River (not trout water)
 Nantahala River (Nantahala Dam to Swain County line) [Delayed Harvest Regulations apply to the portion from Whiteoak Creek to the Nantahala Power and Light powerhouse discharge canal. See Subparagraph (a)(5) of this Rule.]
 Queens Creek Lake
 Burningtown Creek (including portions of tributaries on game lands)
 Cullasaja River (Sequoah Dam to US 64 bridge near junction of SR 1672, including portions of tributaries on game lands, excluding those portions of Big Buck Creek and Turtle Pond Creek on game lands. [Wild Trout Regulations apply. See Subparagraphs (a)(2) and (a)(6) of this Rule.]
 Ellijay Creek (except where posted against trespass, including portions of tributaries on game lands)
 Skitty Creek
 Cliffside Lake
 Cartoogechaye Creek (US 64 bridge to Little Tennessee River)
 Tessentee Creek (Nichols Branch to Little Tennessee River, except where posted against trespassing)
 Savannah River (not trout water)
 Big Creek (base of falls to Georgia State line, including portions of tributaries within this

PROPOSED RULES

- (N) Madison County:
 Section located on game lands)
 French Broad River (not trout water)
 Shut-In Creek (including portions of tributaries on game lands)
 Spring Creek (junction of NC 209 and NC 63 to lower US Forest Service boundary line, including portions of tributaries on game lands)
 Meadow Fork Creek
 Roaring Fork (including portions of tributaries on game lands)
 Little Creek
 Max Patch Pond
~~Mill Ridge Pond~~
 Big Laurel Creek (Mars Hill Watershed boundary to Rice's Mill Dam, the SR 1318 bridge, also known as Big Laurel Road bridge, downstream of Bearpen Branch)
 Big Laurel Creek (NC 208 bridge to US 25-70 bridge) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
Spillcorn Creek (entire stream, excluding tributaries)
 Shelton Laurel Creek (confluence of Big Creek and Mill Creek to NC 208 bridge at Belva)
 Shelton Laurel Creek (NC 208 bridge at Belva to the confluence with Big Laurel Creek) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
 Mill Creek (~~upper game lands boundary~~ headwaters to confluence with Big Creek)
 Puncheon Fork (Hampton Creek to Big Laurel Creek)
 Big Pine Creek (SR 1151 bridge to French Broad River)
- (O) McDowell County:
 Catawba River (~~portion not on game lands, not trout water~~)
- (P) Mitchell County:
 Nolichucky River (not trout water)
 Big Rock Creek (headwaters to NC 226 bridge at SR 1307 intersection)
 Little Rock Creek (Green Creek Bridge to Big Rock Creek, except where posted against trespass)
 Cane Creek (SR 1219 to NC 226 bridge)
 Cane Creek (NC 226 bridge to NC 80 bridge) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
 Grassy Creek (East Fork Grassy Creek to mouth)
 East Fork Grassy Creek
 North Toe River (Avery County line to SR 1121 bridge)
- (Q) Polk County:
 Broad River (not trout water)
 North Pacolet River (Pacolet Falls to NC 108 bridge)
 Fork Geek (Fork Creek Church on SR 1100 to North Pacolet River)
 Big Fall Creek (portion above and below water supply reservoir)
- (Catawba Falls Campground to Old Fort Recreation Park)
 Buck Creek (portion not on game lands, not trout water)
 Little Buck Creek (game land portion including portions of tributaries on game lands)
 Curtis Creek game lands portion downstream of US Forest Service boundary at Deep Branch. [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
 North Fork Catawba River (headwaters to SR 1569 bridge)
 Armsstrong Creek (Cato Holler line downstream to upper Greenlee line)
 Mill Creek (upper railroad bridge to U.S. 70 Bridge, except where posted against trespass)

PROPOSED RULES

- Green River (Fishtop Falls Access Area to mouth of Brights Creek) [Delayed Harvest Regulations apply to the portion from Fishtop Falls Access Area to Cove Creek. See Subparagraph (a)(5) of this Rule.]
 - Little Cove Creek (including portions of tributaries on game lands)
 - Cove Creek (including portions of tributaries on game lands)
 - Camp Creek [Henderson County line (top of falls) to Green River]
- (R) Rutherford County:
 - (Rocky) Broad River (Henderson County line to US 64/74 bridge, except where posted against trespass)
- (S) Stokes County:
 - Dan River (Virginia State line downstream to a point 200 yards below the end of SR 1421)
- (T) Surry County:
 - Yadkin River (not trout water)
 - Ararat River (SR 1727 bridge downstream to the NC 103 bridge)
 - Stewarts Creek (not trout water)
 - Pauls Creek (Virginia State line to 0.3 mile below SR 1625 bridge - lower Caudle property line)
 - Fisher River (Cooper Creek) (Virginia State line to SR 1331 bridge)
 - Little Fisher River (Virginia State line to NC 89 bridge)
 - Mitchell River (0.6 mile upstream of the end of SR 1333 to the SR 1330 bridge below Kapps Mill Dam) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- (U) Swain County:
 - Little Tennessee River (not trout water)
 - Calderwood Reservoir (Cheoah Dam to Tennessee State line)
 - Cheoah Reservoir
- Fontana Reservoir (not trout water)
 - Alarka Creek (game lands boundary to Fontana Reservoir)
 - Nantahala River (Macon County line to existing Fontana Reservoir water level)
- Tuckasegee River (not trout water)
 - Deep Creek (Great Smoky Mountains National Park boundary line to Tuckasegee River)
 - Connelly Creek (including portions of tributaries on game lands)
- (V) Transylvania County:
 - French Broad River (junction of west and north forks to US 276 bridge)
 - Davidson River (Avery Creek to Ecusta intake)
 - East Fork French Broad River (Gladly Fork to French Broad River) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
 - Little River (confluence of Lake Dense outflow to Hooker Falls) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
 - Middle Fork French Broad River
 - West Fork French Broad River (SR 1312 and SR 1309 intersection to junction of west and north forks, including portions of tributaries within this section located on game lands)
- (W) Watauga County:
 - New River (not trout waters)
 - North Fork New River (from confluence with Maine and Mine branches to Ashe County line)
 - Maine Branch (headwaters to North Fork New River)
 - South New Fork River (not trout water)
 - Meat Camp Creek
 - Norris Fork Creek

PROPOSED RULES

- Howards Creek (downstream from lower falls)
 - Middle Fork New River (Lake Chetola Dam to South Fork New River)
 - Yadkin River (not trout water)
 - Stony Fork (headwaters to Wilkes County line)
 - Elk Creek (headwaters to gravel pit on SR 1508, except where posted against trespass)
 - Watauga River (SR 1557 bridge to NC 105 bridge and SR 1114 bridge to NC 194 bridge at Valle Crusis). [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
 - Beech Creek
 - Buckeye Creek Reservoir
 - Coffee Lake
 - ~~Beaverdam Creek (SR 1209 bridge at Bethel)~~ confluence of Beaverdam Creek and Little Beaverdam Creek to an unnamed tributary adjacent to the intersection of SR 1201 and SR 1203)
 - Laurel Creek
 - Cove Creek (SR 1233 bridge at Zionville to SR 1233 bridge at Amantha)
 - Dutch Creek (second bridge on SR 1134 to mouth)
- (X) Wilkes County:
- Yadkin River (not trout water)
 - Roaring River (not trout water)
 - East Prong Roaring River (Bullhead Creek to Brewer's Mill on SR 1943) [Delayed Harvest Regulations apply to portion on Stone Mountain State Park. See Subparagraph (a)(5) of this Rule.]
 - Stone Mountain Creek [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
 - Middle Prong Roaring River (headwaters to second bridge on SR 1736)
 - Bell Branch Pond
 - Boundary Line Pond
- (Y) Yancey County:
- Nolichucky River (not trout water)
 - Cane River [Bee Branch (SR 1110) to Bowlens Creek]
 - Bald Mountain Creek (except portions posted against trespass)
 - Indian Creek (not trout water)
 - Price Creek (junction of SR 1120 and SR 1121 to Indian Creek)
 - North Toe River (not trout water)
 - South Toe River (Clear Creek to lower boundary line of Yancey County recreation park except where posted against trespass)
- (2) Wild Trout Waters. All waters designated as Public Mountain Trout Waters on the game lands listed in Subparagraph (b)(2) of 15A
- West Prong Roaring River (not trout waters)
 - Pike Creek
 - Pike Creek Pond
 - Reddies River (not trout water)
 - Middle Fork Reddies River (Clear Prong) (headwaters to bridge on SR 1580)
 - South Fork Reddies River (headwaters to confluence with Middle Fork Reddies River)
 - North Fork Reddies River (Vannoy Creek) (headwaters to Union School bridge on SR 1559)
 - Darnell Ceek (North Prong Reddies River) (downstream ford on SR 1569 to confluence with North Fork Reddies River)
 - Lewis Fork Creek (not trout water)
 - South Prong Lewis Fork (headwaters to Lewis Fork Baptist Church)
 - Fall Creek (except portions posted against trespass)

PROPOSED RULES

NCAC 10D .0104, are classified as Wild Trout Waters unless specifically classified otherwise in Subparagraph (a)(1) of this Rule. The trout waters listed in this Subparagraph are also classified as Wild Trout Waters.

- (A) Alleghany County:
 - Big Sandy Creek (portion on Stone Mountain State Park)
 - Ramey Creek (entire stream)
 - Stone Mountain Creek (that portion on Stone Mountain State Park)
- (B) Ashe County:
 - Big Horse Creek (Virginia State Line to Mud Creek at SR 1363) [Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.]
 - Unnamed tributary of Three Top Creek (portion located on Three Top Mountain Game Land) [Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.]
- (C) Avery County:
 - Birchfield Creek (entire stream)
 - Cow Camp Creek (entire stream)
 - Cranberry Creek (entire stream)
 - Elk River (portion on Lees-McRae College property, excluding the millpond) [Catch and Release/Artificial Flies Only Regulations apply. See Subparagraph (a)(4) of this Rule.]
 - Gragg Prong (entire stream)
 - Horse Creek (entire stream)
 - Jones Creek (entire stream)
 - Kentucky Creek (entire stream)
 - North Harper Creek (entire stream)
 - Plumtree Creek (entire stream)
 - Roaring Creek (entire stream)
 - Rockhouse Creek (entire stream)
 - South Harper Creek (entire stream)
 - Webb Prong (entire stream)
 - Wilson Creek [Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.]
- (D) Buncombe County:
 - Carter Creek (game land portion) [Catch and Release/Artificial Lures only Regulations apply. See Subparagraph (a)(3) of this Rule.]
- (E) Burke County:
 - All waters located on South Mountain State Park, except the main stream of Jacob Fork
 - Between the mouth of Shinnycreek and the lower park boundary where

Delayed Harvest Regulations apply, and Henry Fork and tributaries where Catch and Release/Artificial Lures Only Regulations apply. See Subparagraphs (a)(3) and (a)(5) of this Rule.

- (F) Nettle Branch (game land portion)
- Caldwell County:
 - Buffalo Creek (Watauga County line to Long Ridge Branch)
 - Joes Creek (Watauga County line to first falls upstream of the end of SR 1574)
 - Rockhouse Creek (entire stream)
- (G) Cherokee County:
 - Bald Creek (game land portions, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
 - Dockery Creek (game land portions, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
- (H) Graham County:
 - South Fork Squally Creek (entire stream)
 - Squally Creek (entire stream)
- (I) Haywood County
 - Hurricane Creek (including portions of tributaries on game lands) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
- (J) Henderson County:
 - Green River (I-26 bridge to Henderson/Polk County line)
- (K) Jackson County:
 - Gage Creek (entire stream)
 - North Fork Scott Creek (entire stream)
 - Tanasee Creek (entire stream)
 - Whitewater River (downstream from Silver Run Creek to South Carolina State line)
 - Wolf Creek (entire stream, except Balsam Lake and Wolf Creek Lake)
- (L) Madison County:
 - Big Creek (headwaters to the lower game land boundary, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
 - ~~Spillcorn Creek (entire stream) [Wild Trout/Natural Bait Waters regulations apply. See Subparagraph (a)(6) of this Rule.]~~
- (M) Mitchell County:

PROPOSED RULES

- Green Creek (headwaters to Green Creek Bridge, except where posted against trespass)
- Little Rock Creek (headwaters to Green Creek Bridge, including all tributaries, except where posted against trespass)
- Wiles Creek (game land boundary to mouth)
- (N) Polk County
Green River (Henderson County line to Fishtop Falls Access Area)
Pulliam (Fulloms) Creek and tributaries (game lands portions)
- (O) Transylvania County:
All waters located on Gorges State Park
Whitewater River (downstream from Silver Run Creek to South Carolina State line)
- (P) Watauga County:
Dutch Creek (headwaters to second bridge on SR 1134)
Howards Creek (headwaters to lower falls)
Watauga River (Avery County line to steel bridge at Riverside Farm Road)
- (Q) Wilkes County:
Big Sandy Creek (portion on Stone Mountain State Park)
Garden Creek (portion on Stone Mountain State Park)
Harris Creek and tributaries (portions on Stone Mountain State Park) [Catch and Release
Artificial Lures Only Regulations apply. See Subparagraph (a)(4) of this Rule.]
Widow Creek (portion on Stone Mountain State Park)
- (R) Yancey County:
Cattail Creek (Bridge at Mountain Farm Community Road (Pvt) to NC 197 bridge)
Lickskillet Creek (entire stream)
Middle Creek (game land boundary to mouth)
Rock Creek (game land boundary to mouth)
South Toe River (game land boundary downstream to Clear Creek)
- (3) Catch and Release/Artificial Lures Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release/Artificial Lures Only waters. Only artificial lures having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:
- (A) Ashe County:
Big Horse Creek (Virginia State line to Mud Creek at SR 1363 excluding tributaries)
Unnamed tributary of Three Top Creek (portion located on Three Top Mountain Game Lands)
- (B) Avery County:
Wilson Creek (game land portion)
- (C) Buncombe County:
Carter Creek (game land portion)
- (D) Burke County:
Henry Fork (portion on South Mountains State Park)
- (E) Jackson County:
Flat Creek
Tuckasegee River (upstream of Clarke property)
- (F) McDowell County:
Newberry Creek (game land portion)
- (G) Wilkes County:
Harris Creek (portion on Stone Mountain State Park)
- (H) Yancey County:
Lower Creek
Upper Creek
- (4) Catch and Release/Artificial Flies Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release/Fly Fishing Only waters. Only artificial flies having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:
- (A) Avery County:
Elk River (portion on Lees-McRae College property, excluding the millpond)
Lost Cove Creek (game land portion, excluding Gragg Prong and Rockhouse Creek)
- (B) Transylvania County:
Davidson River (headwaters to Avery Creek, excluding Avery Creek, Looking Glass Creek and Grogan Creek)
- (C) Yancey County:
South Toe River (portion from the concrete bridge above Black Mountain Campgroup downstream to game land boundary, excluding Camp Creek and Big Lost Cove Creek)
- (5) Delayed Harvest Trout Waters. Those portions of designated Hatchery Supported Trout Waters as listed in this Subparagraph, excluding tributaries except as noted, are

further classified as Delayed Harvest Waters. Between 1 October and one-half hour after sunset on the Friday before the first Saturday of the following June, inclusive, it is unlawful to possess natural bait and only artificial lures with one single hook may be used. No fish may be harvested or be in possession while fishing these streams during this time. These waters are closed to fishing between one-half hour after sunset on the Friday before the first Saturday in June and 6:00 a.m. on the first Saturday in June. At 6:00 a.m. on the first Saturday in June these streams open for fishing under Hatchery Supported Waters rules:

- (A) Ashe County:
Trout Lake
Helton Creek (Virginia state line to New River)
- (B) Burke County:
Jacob Fork (Shinny Creek to lower South Mountains State Park boundary)
- (C) Haywood County:
~~Richland Creek (Russ Avenue bridge to US 19A 23 bridge)~~
West Fork Pigeon River (Queen Creek to the first game land boundary upstream of Lake Logan)
- (D) Henderson County:
North Fork Mills River (game land portion below the Hendersonville watershed dam)
- (E) Jackson County:
Tuckasegee River (NC 107 bridge at Love Field Downstream to the Dillsboro dam)
- (F) Macon County:
Nantahala River (portion from Whiteoak Creek to the Nantahala Power and Light power house discharge canal)
- (G) Madison County:
Big Laurel Creek (NC 208 bridge to the US 25-70 bridge)
Shelton Laurel Creek (NC 208 bridge at Belva to the confluence with Big Laurel Creek)
- (H) McDowell County:
Curtis Creek (game lands portion downstream of U.S. Forest Service boundary at Deep Branch)
- (I) Mitchell County:
Cane Creek (NC 226 bridge to NC 80 bridge)
- (J) Polk County:
Green River (Fishtop Falls Access Area to confluence with Cove Creek)
- (K) Surry County:

- (L) Transylvania County:
East Fork French Broad River (Glady Fork to French Broad River)
Little River (confluence of Lake Dense outflow to Hooker Falls)
- (M) Watauga County:
Watauga River (SR 1557 bridge to NC 105 bridge and SR 1114 bridge to NC 194 bridge at Valle Crucis)
- (N) Wilkes County:
East Prong Roaring River (from Bullhead Creek downstream to the Stone Mountain State Park lower boundary)
Stone Mountain Creek (from falls at Allegheny County line to confluence with East Prong Roaring River and Bullhead Creek in Stone Mountain State Park)
- (6) Wild Trout/Natural Bait Waters. Those portions of designated Wild Trout Waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Wild Trout/Natural Bait Waters. All artificial lures and natural baits, except live fish, are allowed provided they are fished using only one single hook. The creel limit, size limit, and open season are the same as other Wild Trout Waters [see 15A NCAC 10C .0305(a)].
 - (A) Cherokee County:
Bald Creek (game land portions)
Dockery Creek (game land portions)
Tellico River (Fain Ford to Tennessee state line excluding tributaries)
 - (B) Clay County:
Buck Creek (game land portion downstream of US 64 bridge)
 - (C) Graham County:
Deep Creek
Long Creek (game land portion)
 - (D) Haywood County:
Hurricane Creek (including portions of tributaries on game lands)
 - (E) Jackson County:
Chattooga River (SR 1100 bridge to South Carolina state line)
(lower) Fowler Creek (game land portion)
Scotsman Creek (game land portion)
 - (F) Macon County:
Chattooga River (SR 1100 bridge to South Carolina state line)
Jarrett Creek (game land portion)
Kimsey Creek
Overflow Creek (game land portion)
Park Creek
Tellico Creek (game land portion)

Turtle Pond Creek (game land portion)

- (G) Madison County:
Big Creek (headwaters to the lower game land boundary, including tributaries)
~~Spillcorn Creek (entire stream, excluding tributaries)~~

- (H) Transylvania County:
North Fork French Broad River (game land portions downstream of SR 1326)
Thompson River (SR 1152 to South Carolina state line, except where posted against trespass, including portions of tributaries within this section located on game lands)

(b) Fishing in Trout Waters

- (1) Hatchery Supported Trout Waters. It is unlawful to take fish of any kind by any manner whatsoever from designated public mountain trout waters during the closed seasons for trout fishing. The seasons, size limits, creel limits and possession limits apply in all waters, whether designated or not, as public mountain trout waters. Except in power reservoirs and city water supply reservoirs so designated, it is unlawful to fish in designated public mountain trout waters with more than one line. Night fishing is not allowed in most hatchery supported trout waters on game lands [see 15A NCAC 10D .0104(b)(1)].
- (2) Wild Trout Waters. Except as otherwise provided in Subparagraphs (a)(3), (a)(4), and (a)(6) of this Rule, the following rules apply to fishing in wild trout waters.
 - (A) Open Season. There is a year round open season for the licensed taking of trout.
 - (B) Creel Limit. The daily creel limit is four trout.
 - (C) Size Limit. The minimum size limit is seven inches.
 - (D) Manner of Taking. Only artificial lures having only one single hook may be used. No person shall possess natural bait while fishing wild trout waters except those waters listed in 15A NCAC 10C .0205(a)(6).
 - (E) Night Fishing. Fishing on wild trout waters is not allowed between one-half hour after sunset and one-half hour before sunrise.

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

15A NCAC 10C .0212 FISH HATCHERIES

It is unlawful to fish by any method or at any time in the waters ~~of, of Bones Creek from the Lake Rim Dam to the US 401 Bypass (Raeford Road)~~ or upon any property used in conjunction with, any state fish ~~hatchery-hatchery~~, except during fishing events authorized by the North Carolina Wildlife Resources Commission. On Lake Rim it is unlawful to use power-driven boats, except those powered by electric motors, to swim or bathe at any time, or to use, or have in possession, any minnows or other species of fish except golden shiners (shad roaches) for use as bait.

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

SECTION .0300 - GAME FISH

15A NCAC 10C .0301 INLAND GAME FISHES DESIGNATED

The following fishes are classified and designated as inland game fishes:

- (1) mountain trout, all species including but not limited to rainbow, steelhead, golden, brown and brook trout;
- (2) muskellunge ~~and tiger muskie~~;
- (3) chain pickerel (jack);
- (4) walleye;
- (5) black bass, including spotted, smallmouth and largemouth bass;
- (6) white bass;
- (7) spotted sea trout (speckled trout), when found in inland fishing waters;
- (8) flounder, when found in inland fishing waters;
- (9) red drum (channel bass, red fish, puppy drum), when found in inland fishing waters;
- (10) striped bass and Morone hybrids (striped bass-white bass), when found in inland fishing waters;
- (11) American shad, when found in inland fishing waters;
- (12) hickory shad, when found in inland fishing waters;
- (13) kokanee salmon;
- (14) Panfishes, including as a group, white perch and yellow perch (when found in inland fishing waters), crappie, warmouth, redbreast or robin, bluegill or bream, rock bass, redeye, sauger, and all other species of sunfish, perch and pickerel not specifically listed in this Rule.

Authority G.S. 113-134; 113-129.

15A NCAC 10C .0305 OPEN SEASONS: CREEL AND SIZE LIMITS

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

PROPOSED RULES

GAME FISHES	DAILY CREEL LIMITS	MINIMUM SIZE LIMITS	OPEN SEASON
Mountain Trout:			
Wild Trout Waters	4	7 in.	ALL YEAR (exc. 2)
Hatchery Supported Trout Waters and undesignated waters	7 (exc. 2)	None (exc. 2)	All year, except March 1 to 6:00 a.m. on first Saturday in April (exc. 2)
Muskellunge and Tiger Musky	2	30 in.	ALL YEAR
Chain Pickerel (Jack)	None	None	ALL YEAR
Walleye	8 (ex. 9)(exc. 8)	None (ex. 9)(exc. 8)	ALL YEAR
Sauger	8	15 in.	ALL YEAR
Black Bass:			
Largemouth	5	14 in. (excs. 3, 8 & 10) <u>7 & 9</u>)	ALL YEAR (exc. 17)
Smallmouth and Spotted	5	12 in. (excs. 3, 8 & 10) <u>7 & 9</u>)	ALL YEAR
White Bass	25	None	ALL YEAR
Sea Trout (Spotted or Speckled)	10	12 in.	ALL YEAR
Flounder	None	13 in.	ALL YEAR
Red drum (channel bass, red fish, puppy drum)	1	18 in. (exc. 20) <u>18</u>)	ALL YEAR
Striped Bass and their hybrids (Morone Hybrids)	8 aggregate (excs. 1, 5, 6, 11 & 13) <u>4, 5, 10 & 12</u>)	16 in. (excs. 1, 5, 6, 11 & 13) <u>4, 5, 10 & 12</u>)	ALL YEAR (excs. 6, 13 & 15) <u>5, 12 & 14</u>)
Shad: (American and hickory)	10 aggregate (exc. 18) <u>17</u>)	None	ALL YEAR (exc. 18) <u>17</u>)
Kokanee Salmon	7	None	ALL YEAR
Panfishes	None (excs. 4, 12 & 16) <u>3, 11 & 15</u>)	None (exc. 12) <u>11</u>)	ALL YEAR (exc. 4) <u>3</u>)
NONGAME FISHES	None (exc. 14) (excs. 13 & 19)	None (exc. 20) <u>19</u>)	ALL YEAR (excs. (exc. 6)
(b) Exceptions			impounded waters of power reservoirs and municipally-owned water supply reservoirs open to the public for fishing. In Lake Lure the daily creel limit for trout is five fish and minimum size limit for trout is 15 inches.
(1)	In the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam, <u>the Cape Fear River upstream of Buckhorn Dam and the Deep and Haw rivers to the first impoundment</u> and in John H. Kerr, Gaston, and Roanoke Rapids <u>and B. Everett Jordan Reservoirs, and Lake Norman, reservoirs and Lake Norman,</u> the creel limit on striped bass and Morone hybrids is four in the aggregate and the minimum size limit is 20 inches.		(3) Bass taken from Calderwood Reservoir may be retained without restriction as to size limit.
(2)	In designated public mountain trout waters the season for taking all species of fish is the same as the trout fishing season. There is no closed season on taking trout from Nantahala River and all tributaries (excluding impoundments) upstream from Nantahala Lake, <u>Linville River from Linville Falls to the NC 125 bridge, Catawba River from Muddy Creek to the City of Morganton water intake dam,</u> and the		(4)(3) On Mattamuskeet Lake, special federal regulations apply. (5)(4) In the inland fishing waters of Cape Fear, Neuse, Pee Dee, Pungo and Tar Pamlico rivers and their tributaries extending upstream to the first impoundment of the main course on the river or its tributaries, and Lake Mattamuskeet, the daily creel limit for striped bass and their hybrids is three fish in aggregate and the minimum length limit is 18 inches. In the Tar-Pamlico River and its tributaries upstream of the Grimesland bridge and in the Neuse River and its tributaries upstream of the NC 55 bridge in Lenoir County, no striped bass or

- striped bass hybrids between the lengths of 22 inches and 27 inches shall be retained during the period April 1 through May 31.
- (6)(5) In the inland and joint fishing waters [as identified in 15A NCAC 10C .0107(1)(e)] of the Roanoke River Striped Bass Management Area, which includes the Roanoke, Cashie, Middle and Eastmost rivers and their tributaries, the open season for taking and possessing striped bass and their hybrids is March 1 through April 15 from the joint-coastal fishing waters boundary at Albemarle Sound upstream to the US 258 bridge and is March 15 through April 30 from the US 258 bridge upstream to Roanoke Rapids Lake dam. During the open season the daily creel limit for striped bass and their hybrids is two fish in aggregate, the minimum size limit is 18 inches. No fish between 22 inches and 27 inches in length shall be retained in the daily creel limit.
- (7)(6) See 15A NCAC 10C .0407 for open seasons for taking nongame fishes by special devices.
- (8)(7) The maximum combined number of black bass of all species that may be retained per day is five fish, no more than two of which may be smaller than the applicable minimum size limit. The minimum size limit for all species of black bass is 14 inches, with no exception in Lake Luke Marion in Moore County, Reedy Creek Park lakes in Mecklenburg County, Lake Rim in Cumberland County, ~~High Rock Lake downstream of I-85, Badin Lake, Falls Lake, Lake Tillery, Blewett Falls Lake, Tuckertown Lake~~ and in the entire Lumber River from the Camp MacKall bridge (SR 1225, at the point where Richmond, Moore, Scotland, and Hoke counties join) to the South Carolina State line and in all public fishing waters east of I-95, except Tar River Reservoir in Nash County, the Yadkin-Pee Dee River from Idols Dam to the South Carolina State line including High Rock Lake, Tuckertown Lake, Badin Lake, Falls Lake, Lake Tillery and Blewett Falls Lake, and the following waters and their tributaries: the New River in Onslow County, Roanoke Sound, Croatan Sound, Currituck Sound, Albemarle Sound, Alligator River, Scuppernong River, Chowan River, Cashie River, Roanoke River downstream of U.S. 258 bridge, Lake Mattamuskeet, Pungo Lake, Alligator Lake and New Lake. In and west of Madison, Buncombe, Henderson and Polk Counties and in designated public mountain trout waters the minimum size limit is 12 inches. In B. Everett Jordan Reservoir, ~~in~~ Falls of the Neuse Reservoir, east of SR 1004, ~~and in~~ Lake ~~Lure~~Lure, and Buckhorn Reservoir in Wilson and Nash counties the minimum size limit for largemouth bass is 16 inches, with no exception. ~~In W. Kerr Scott Reservoir there is no minimum size limit for spotted bass.~~ In Lake Lure the minimum size limit for smallmouth bass is 14 inches, with no exception. In Lake Phelps ~~the minimum size for black bass is 14 inches, with no exception, and no fish between 16 and 20 inches shall be possessed.~~ In Shearon Harris Reservoir no black bass between 16 and 20 inches shall be ~~possessed~~ possessed.
- (9)(8) A minimum size limit of 15 inches applies to walleye taken from Lake James and its tributaries, and the daily creel limit for walleye is four fish in Linville River upstream from the NC 126 bridge above Lake James.
- (40)(9) The minimum size limit for all black bass, with no exception, is 18 inches in the following trophy bass lakes:
 (A) Cane Creek Lake in Union County;
 (B) Lake Thom-A-Lex in Davidson County; and
 (C) Sutton Lake in New Hanover County.
- (44)(10) In all impounded inland waters and their tributaries, except those waters described in Exceptions (1) and (5), the daily creel limit of striped bass and their hybrids may include not more than two fish of smaller size than the minimum size limit.
- (42)(11) A daily creel limit of 20 fish and a minimum size limit of ten inches apply to crappie in B. Everett Jordan Reservoir. A daily creel limit of 20 fish and a minimum size limit of eight inches apply to crappie in the following waters: the Yadkin-Pee Dee River from Idols Dam to the South Carolina State line including High Rock Lake, Tuckertown Lake, Badin Lake, Falls Lake, Lake Tillery, and Blewett Falls Lake, Lake Norman, Lake Hyco, Lake Ramseur, Cane Creek Lake, and the following waters and all their tributaries: Roanoke Sound, Croatan Sound, Currituck Sound, Albemarle Sound, Alligator River, Scuppernong River, Chowan River, Cashie River, Roanoke River downstream of U. S. 258 bridge, lake Mattamuskeet, Lake Phelps, Pungo Lake, Alligator Lake and New Lake. In and west of Madison, Buncombe and Rutherford counties, in Lake James and in Buckhorn Reservoir in Wilson and Nash counties a daily creel limit of 20 fish applies to crappie.
- (43)(12) In designated inland fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), striped bass fishing season, size limits and creel limits shall be the same as those established by duly adopted rules or proclamations of the Marine Fisheries

Commission in adjacent joint or coastal fishing waters.

- ~~(14)~~(13) The daily creel limits for channel, white, and blue catfish in designated urban lakes are stated in 15A NCAC 10C .0401(e).
- ~~(15)~~(14) The Executive Director may, by proclamation, suspend or extend the hook-and-line season for striped bass in the inland and joint waters of coastal rivers and their tributaries. It is unlawful to violate the provisions of any proclamation issued under this authority.
- ~~(16)~~(15) In the entire Lumber River from the Camp MacKall bridge (SR 1225, at the point where Richmond, Moore, Scotland, and Hoke counties join) to the South Carolina state line and in all public fishing waters east of I95, except Tar River Reservoir in Nash County, the daily creel limit for sunfish is 30 in aggregate, no more than 12 of which shall be redbreast sunfish.
- ~~(17)~~(16) In Sutton Lake, no largemouth bass shall be retained from December 1 through March 31.
- ~~(18)~~(17) The season for taking American and hickory shad with dip nets and bow nets is March 1 through April 30.
- ~~(19)~~(18) No red drum greater than 27 inches in length may be retained.
- (19) The daily possession limit for herring (alewife and blueback in aggregate) greater than six inches in length is specified in 15A NCAC 10C .0401(a) and in 15A NCAC 10C .0402(c).

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

SECTION .0400 - NONGAME FISH

15A NCAC 10C .0401 MANNER OF TAKING NONGAME FISHES: PURCHASE AND SALE

(a) Except as permitted by the rules in this Section, it is unlawful to take nongame fishes from the inland fishing waters of North Carolina in any manner other than with hook and line or grabbling. Nongame fishes may be taken by hook and line or grabbling at any time without restriction as to size limits or creel limits, ~~except that no trotlines or set-hooks may be used in the impounded waters located on the Sandhills Game Land or in designated public mountain trout waters. IN Lake Waccamaw, trotlines or set-hooks may be used only from October 1 through April 30. The season for taking nongame fishes by other hook and line methods in designated public mountain trout waters shall be the same as the trout fishing season, with the following exceptions:~~

- (1) Blue crabs must have a minimum carapace width of five inches (point to point);
- (2) No person shall take or possess during one day more than 25 herring (alewife and blueback in aggregate) that are greater than six inches in length from the inland fishing waters of coastal rivers and their tributaries up to the first impoundment of the main course on the rivers. First impoundment dams are: Roanoke Rapids Dam on Roanoke River, rocky Mount

Mill Dam on Tar River, Milburnie Dam on Neuse River, Buckhorn Dam on Cape Fear River, Lake Waccamaw Dam on Waccamaw River and Blewett Falls Dam on Pee-Dee River;

- (3) Grass carp may not be possessed on Lake James and Mountain Island, Gaston and Roanoke Rapids reservoirs;
- (4) No trotlines or set-hooks shall be used in the impounded waters located on the Sandhills Game Land or in designated public mountain trout waters; and
- (5) In Lake Waccamaw, trotlines or set-hooks may be used only from October 1 through April 30.

(b) The season for taking nongame fishes by other hook and line methods in designated public mountain trout waters shall be the same as the trout fishing season.

~~(b)(c)~~ Nongame fishes, except alewife and blueback herring (greater than six inches in length) and bowfin, taken by hook and line, grabbling or by licensed special devices may be sold. Alewife and blueback herring less than 6 inches in length may be sold except in those waters specified in Paragraph (d) of Rule .0402 of this Section, where their possession is prohibited. Eels less than six inches in length may not be taken from inland waters for any purpose.

~~(d)~~(d) Freshwater mussels, including the Asiatic clam (Corbicula fluminea), may only be taken from impounded waters, except mussels shall not be taken in Lake Waccamaw and in University Lake in Orange County. It shall be unlawful to possess more than 200 freshwater mussels.

~~(d)(e)~~ It is unlawful to use boats powered by gasoline engines on impoundments located on the Barnhill Public Fishing Area.

~~(e)(f)~~ In the posted Community Fishing Program waters listed below it is unlawful to take channel, white or blue catfish (forked tail catfish) by means other than hook and line; the daily creel limit for forked tail catfish is six fish in aggregate:

- Cedarrock Pond, Alamance County
- Lake Tomahawk, Buncombe County
- Frank Liske Park Pond, Cabarrus County
- Lake Rim, Cumberland County
- C.G. Hill Memorial Park Pond, Forsyth County
- Kernersville Lake, Forsyth County
- Winston Pond, Forsyth County
- Bur-Mil Park Ponds, Guilford County
- Hagan-Stone Park Ponds, Guilford County
- Oka T. Hester Pond, Guilford County
- San-Lee Park Ponds, Lee County
- Kinston Neuseway Park Pond, Lenoir County
- Freedom Park Pond, Mecklenburg County
- Hornet's Nest Pond, Mecklenburg County
- McAlpine Lake, Mecklenburg County
- Reedy Creek Park Ponds, Mecklenburg County
- Lake Luke Marion, Moore County
- Anderson Community Park, Orange County
- Lake Michael, Orange County
- River Park North Pond, Pitt County
- Hamlet City Lake, Richmond County
- Salisbury Community Lake, Rowan County
- Big Elkin Creek, Surry County
- Apex Community Lake, Wake County

Bass Lake, Wake County
Bond Park Lake, Wake County
 Lake Crabtree, Wake County
 Shelley Lake, Wake County
 Simpkins Pond, Wake County
 Lake Toisnot, Wilson County
 Ellerbe Community Lake, Richmond County
 Indian Lake, Edgecombe County
 Harris Lake County Park Ponds, Wake County
 Park Road Pond, Mecklenburg County
 Etheridge Pond on the Barnhill Public Fishing Area,
 Edgecombe County
 Newbold Pond on the Barnhill Public Fishing Area,
 Edgecombe County

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

15A NCAC 10C .0402 TAKING NONGAME FISHES FOR BAIT

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

- (1) a net of dip net design not greater than six feet across;
- (2) a seine of not greater than 12 feet in length (except in Lake Waccamaw where there is no length limitation) and with a bar mesh measure of not more than one-fourth inch;
- (3) a cast net; or
- (4) minnow traps not exceeding 12 inches in diameter and 24 inches in length, with funnel openings not exceeding one inch in diameter, and which are under the immediate control and attendance of the individual operating them.

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

(c) Game fishes and their young taken while netting for bait shall be immediately returned unharmed to the water. No person shall take or possess more than 50 eels or 200 eels, 200 herring (alewife and blueback in aggregate), no more than 25 of which may be greater than six inches in length from the inland fishing waters of coastal rivers and their tributaries up to the first impoundment of the main course on the river or 200 nongame fish of other species for bait pursuant to this Subchapter from inland fishing waters during one day. First impoundment dams are Roanoke Rapids Dam on Roanoke River, Rocky Mount Mill Dam on Tar River, Milburnie Dam on Neuse River, Buckhorn Dam on Cape Fear River, Lake Waccamaw Dam on Waccamaw River and Blewett Falls Dam on Pee-Dee River. Any fishes taken for bait purposes are included within the daily possession limit for that species, if one is specified. It is unlawful to take nongame fish for bait or any other fish bait from designated public mountain trout waters and:

- (1) Chatham County
 Deep River
 Rocky River
 Bear Creek
- (2) Lee County
 Deep River
- (3) Moore County
 Deep River
- (4) Randolph County

Deep River below the Coleridge Dam
 Fork Creek

(d) In the waters of the Little Tennessee River, the Catawba River upstream of Lookout Shoals Dam, including all the tributaries and impoundments thereof, and on adjacent shorelines, docks, access ramps and bridge crossings, it is unlawful to transport, possess or release live alewife or live blueback herring.

Authority G.S. 113-134; 113-135; 113-135.1; 113-272; 113-272.3; 113-292.

SUBCHAPTER 10D - GAME LANDS REGULATIONS

SECTION .0100 - GAME LANDS REGULATIONS

15A NCAC 10D .0102 GENERAL REGULATIONS REGARDING USE

(a) Trespass. Entry on game lands for purposes other than hunting, trapping or fishing shall be as authorized by the landowner and there shall be no removal of any plants or parts thereof, or other materials, without the written authorization of the landowner. ~~Travel is restricted, except by authorized personnel, to direct access from SR 2074 to the established waterfowl viewing stands on Cowan's Ford Waterfowl Refuge.~~ The Wildlife Resources Commission may designate areas on game lands as either an Archery Zone, Safety Zone; Restricted Firearms Zone, or Restricted Zone.

- (1) Archery Zone. On portions of game lands posted as "Archery Zones" hunting is limited to bow and arrow hunting and falconry only.
- (2) Safety Zone. On portions of game lands posted as "Safety Zones" hunting is prohibited. No person shall hunt or discharge a firearm or bow and arrow within, into, or across a posted safety zone on any game land. Falconry is exempt from this provision.
- (3) Restricted Firearms Zone. On portions of game lands posted as "Restricted Firearms Zones" the use of centerfire rifles is prohibited.
- (4) Restricted Zone. Portions of game lands posted as "Restricted Zones" are closed to all use by the general public, and entry upon such an area for any purpose is prohibited without first having obtained specific written approval of such entry or use from an authorized agent of the Wildlife Resources Commission. Entry shall be authorized only when such entry will not compromise the primary purpose for establishing the Restricted Zone and the person or persons requesting entry can demonstrate a valid need or such person is a contractor or agent of the Commission conducting official business. Examples of "valid need" include issues of access to private property, scientific investigations, surveys, or other access to conduct activities in the public interest.
- (5) Establishment of Archery, Restricted Firearms, and Restricted Zones. The Commission shall

conduct a public input meeting in the area where the game land is located before establishing any archery, restricted firearms or restricted zone. After the input meeting the public comments shall be presented to an official Commission meeting for final determination.

(b) Littering. No person shall deposit any litter, trash, garbage, or other refuse at any place on any game land except in receptacles provided for disposal of such refuse at designated camping and target-shooting areas. No garbage dumps or sanitary landfills shall be established on any game land by any person, firm, corporation, county or municipality, except as permitted by the landowner.

(c) Possession of Hunting Devices. It is unlawful to possess a firearm or bow and arrow on a game land at any time except during the open hunting seasons or hunting days for game birds or game animals, other than fox, thereon unless said device is cased or not immediately available for use, provided that such devices may be possessed and used by persons participating in field trials on field trial areas and on target shooting areas designated by the landowner, and possessed in designated camping areas for defense of persons and property; and provided further that .22 caliber pistols with barrels not greater than seven and one-half inches in length and shooting only short, long, or long rifle ammunition may be carried as side arms on game lands at any time other than by hunters during the special bow and arrow and muzzle-loading firearms deer hunting seasons and by individuals training dogs during closed season without field trial authorization. This Rule shall not prevent possession or use of a bow and arrow as a licensed special fishing device in those waters where such use is authorized. During the closed firearms seasons on big game (deer, bear, boar, wild turkey), no person shall possess a shotgun shell containing larger than No. 4 shot or any rifle or pistol larger than a .22 caliber rimfire while on a game land, except that shotgun shells containing any size steel or non-toxic shot may be used while waterfowl hunting. Furthermore, only shotguns with any size shot may be possessed during the big game season for turkey. No person shall hunt with or have in possession any shotgun shell containing lead or toxic shot while hunting on any posted waterfowl impoundment on any game land, or while hunting waterfowl on Butner-Falls of Neuse Game Land or New Hope Game Land, except shotgun shells containing lead buckshot may be used while deer hunting.

(d) Game Lands License: Hunting and Trapping

(1) Requirement. Except as provided in Subparagraph (2) of this Paragraph, any person entering upon any game land for the purpose of hunting, trapping, or participating in dog training or field trial activities shall have in his possession a game lands license in addition to the appropriate hunting or trapping licenses.

(2) Exceptions

(A) A person under 16 years of age may hunt on game lands on the license of his parent or legal guardian.

(B) The resident and nonresident sportsman's licenses include game lands use privileges.

(C) Judges and nonresidents participating in field trials under the circumstances set forth in Paragraph (e) of this Rule may do so without the game lands license.

(D) On the game lands described in Rule .0103(e)(2) of this Section the game lands license is required only for hunting doves; all other activities are subject to the control of the landowners.

(e) Field Trials and Training Dogs. A person serving as judge of a field trial which, pursuant to a written request from the sponsoring organization, has been officially authorized in writing and scheduled for occurrence on a game land by an authorized representative of the Wildlife Resources Commission, and any nonresident participating therein may do so without procuring a game lands license, provided such nonresident has in his possession a valid hunting license issued by the state of his residence. Any individual or organization sponsoring a field trial on the Sandhills Field Trial grounds or the Laurinburg Fox Trial facility shall file with the commission's agent an application to use the area and facility accompanied by the facility use fee computed at the rate of one hundred dollars (\$100.00) for each scheduled day of the trial. The total facility use fee shall cover the period from 12:00 noon of the day preceding the first scheduled day of the trial to 10:00 a.m. of the day following the last scheduled day of the trial. The facility use fee shall be paid for all intermediate days on which for any reason trials are not run but the building or facilities are used or occupied. A fee of twenty-five dollars (\$25.00) per day shall be charged to sporting, educational, or scouting groups for scheduled events utilizing the club house only. No person or group of persons or any other entity shall enter or use in any manner any of the physical facilities located on the Laurinburg Fox Trial or the Sandhills Field Trial grounds without first having obtained specific written approval of such entry or use from an authorized agent of the Wildlife Resources Commission, and no such entry or use of any such facility shall exceed the scope of or continue beyond the specific approval so obtained. The Sandhills Field Trial facilities shall be used only for field trials scheduled with the approval of the Wildlife Resources Commission. No more than 16 days of field trials may be scheduled for occurrence on the Sandhills facilities during any calendar month, and no more than four days may be scheduled during any calendar week; provided, that a field trial requiring more than four days may be scheduled during one week upon reduction of the maximum number of days allowable during some other week so that the monthly maximum of 16 days is not exceeded. Before October 1 of each year, the North Carolina Field Trial Association or other organization desiring use of the Sandhills facilities between October 22 and November 18 and between December 3 and March 31 shall submit its proposed schedule of such use to the Wildlife Resources Commission for its consideration and approval. The use of the Sandhills Field Trial facilities at any time by individuals for training dogs is prohibited; elsewhere on the Sandhills Game Lands dogs may be trained only on Mondays, Wednesdays and Saturdays from October 1 through April 1. Dogs may not be trained or permitted to run unleashed from April 1 through August 15 on any game land located west of I-95, except when participating in

field trials sanctioned by the Wildlife Resources Commission. Additionally, on game lands located west of I-95 where special hunts are scheduled for sportsmen participating in the Disabled Sportsman Program, dogs may not be trained or allowed to run unleashed during legal big game hunting hours on the dates of the special hunts. Field trials shall be authorized when such field trial does not conflict with other planned activities on the Game Land or field trial facilities and the applying organization can demonstrate their experience and expertise in conducting genuine field trial activities. Entry to physical facilities, other than by field trial organizations under permit, shall be granted when they do not conflict with other planned activities previously approved by the Commission and they do not conflict with the primary goals of the agency.

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

- (1) on the field trial course of the Sandhills Game Land;
- (2) on the Harmon Den and Sherwood bear sanctuaries in Haywood County;
- (3) in posted "safety zones" located on any game land;
- (4) by the use of multiple sets (with anchors less than 15 feet apart) or bait on the National Forest Lands bounded by the Blue Ridge Parkway on the south, US 276 on the north and east, and NC 215 on the west;
- (5) on Cowan's Ford Waterfowl Refuge in Gaston, Lincoln and Mecklenburg Counties;
- (6) on the Hunting Creek Swamp Waterfowl Refuge;
- (7) on the John's River Waterfowl Refuge in Burke County;
- (8) on the Dupont State Forest Game Lands.
On those areas of state-owned land known collectively as the Roanoke River Wetlands controlled trapping is allowed under a permit system.

(g) Use of Weapons. In addition to zone restrictions described in Paragraph (a) no person shall discharge a weapon from a vehicle, or within 150 yards of any Game Lands building or designated Game Lands camping area, except where posted otherwise, or within 150 yards of any residence located on or adjacent to game lands.

(h) Vehicular Traffic. No person shall drive a motorized vehicle on any game land except on those roads constructed, maintained and opened for vehicular travel and those trails posted for vehicular travel, unless such person:

- (1) is a participant in scheduled bird dog field trials held on the Sandhills Game Land; or
- (2) holds a Disabled Access Program Permit as described in (n) below and is abiding by the rules described in that paragraph.

(i) Camping. No person shall camp on any game land except on an area designated by the landowner for camping. Camping and associated equipment in designated Hunter Camping Areas at Butner-Falls of the Neuse, Caswell, and Sandhills Game Lands is limited to Sept. 1 - Feb. 29 and Apr. 7 - May 14.

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

(k) Disabled Sportsman Program. In order to qualify for special hunts for disabled sportsmen listed in 15A NCAC 10D .0103 an individual shall have in their possession a Disabled Sportsman permit issued by the Commission. In order to qualify for the permit, the applicant shall provide medical certification of one or more of the following disabilities:

- (1) amputation of one or more limbs;
- (2) paralysis of one or more limbs;
- (3) dysfunction of one or more limbs rendering the person unable to perform the task of grasping and lifting with the hands and arms or unable to walk without mechanical assistance, other than a cane;
- (4) disease or injury or defect confining the person to a wheelchair, walker, or crutches; or
- (5) legal deafness, meaning the inability to hear or understand oral communications with or without assistance of amplification devices.
Participants in the program, except those qualifying by deafness, may operate vehicles on ungated or open-gated roads normally closed to vehicular traffic on Game Lands owned by the Wildlife Resources Commission. Each program participant may be accompanied by one able-bodied companion provided such companion has in his possession the companion permit issued with the Disabled Sportsman permit.

(l) Release of Animals and Fish. It is unlawful to release pen-raised animals or birds, wild animals or birds, or hatchery-raised fish on game lands without prior written authorization. Also, it is unlawful to move wild fish from one stream to another on game lands without prior written authorization. Written authorization shall only be given when release of such animals is judged by the appropriate management biologist not to be harmful to native wildlife on the area and such releases can be demonstrated to be in the public interest or advancing the programs and goals of the Wildlife Resources Commission.

(m) Non-Highway Licensed Vehicles. It is unlawful to operate motorized land vehicles not licensed for highway use on Game Lands except for designated areas on National Forests. People who have obtained a Disabled Access Program permit are exempt from this rule but must comply with the terms of their permit.

(n) Disabled Access Program. Permits issued under this program shall be based upon ~~competent~~ medical evidence submitted by the person verifying that a handicap exists that limits physical mobility to the extent that normal utilization of the game lands is not possible without vehicular assistance. Persons meeting this requirement may operate electric wheel chairs, all terrain vehicles, and other passenger vehicles on ungated or open-gated roads otherwise closed to vehicular traffic on game lands owned by the Wildlife Resources Commission and on game lands whose owners have agreed to such use. Those game lands where this special rule applies shall be designated in the game land rules and map book. This special access rule for disabled sportsmen does not permit vehicular access on fields, openings, roads, paths, or trails planted to wildlife food or cover. One able-bodied companion, who is

identified by a special card issued to each qualified disabled person, may accompany a disabled person to provide assistance, provided the companion is at all times in visual or verbal contact with the disabled person. The companion may participate in all lawful activities while assisting a disabled person, provided license requirements are met. Any vehicle used by a qualified disabled person for access to game lands under this provision shall prominently display the vehicular access permit issued by the Wildlife Resources Commission in the passenger area of the vehicle. It shall be unlawful for anyone other than those holding a Disabled Access Permit to hunt, during waterfowl season, within 100 yards of a waterfowl blind designated by the Wildlife Resources Commission as a Disabled Sportsman's hunting blind.

(o) Public nudity. Public nudity, including nude sunbathing, is prohibited on any ~~game land~~ Game Land, including land or water. For the purposes of this Section, "public nudity" means a person's intentional failure to cover with a fully opaque covering the person's genitals, pubic area, anal area, or female breasts below a point from the top of the areola while in a public place.

(p) Definitions: For the purpose of this Subchapter "Permanent Hunting Blind" shall be defined as any structure, that is used for hunter concealment, constructed from man made or natural materials, and that is not disassembled and removed at the end of each day's hunt.

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

15A NCAC 10D .0103 HUNTING ON GAME LANDS

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

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

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

(d) Time and Manner of Taking. Except where closed to hunting or limited to specific dates by this Chapter, hunting on game lands is permitted during the open season for the game or furbearing species being hunted. On managed waterfowl impoundments, hunters shall not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates, and hunting is prohibited after 1:00 p.m. on such hunting dates; decoys shall not be set out prior to 4:00 a.m. and must be removed by 3:00 p.m. each day. No person shall operate any vessel or vehicle powered by an internal combustion engine on a managed waterfowl impoundment. No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal which has been so mutilated. No person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization of the commission or its

agent. A decision to grant or deny authorization shall be made based on the best management practices for the wildlife species in question. No person shall take or attempt to take any game birds or game animals attracted to such foods. No live wild animals or wild birds shall be removed from any game land.

(e) Definitions:

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

(2) For purposes of this Section, "Dove Only Area" refers to a Game Land on which doves may be taken and dove hunting is limited to Mondays, Wednesdays, Saturdays and to Thanksgiving, Christmas and New Year's Days within the federally-announced season.

(3) For purposes of this Section, "Three Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays and Thanksgiving, Christmas and New Year's Days. These "open days" also apply to either-sex hunting seasons listed under each game land. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays.

(4) For purposes of this Section, "Six Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons, except that:

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

(B) Wild boar shall not be taken with the use of dogs on such bear sanctuaries, and wild boar may be hunted only during the bow and arrow seasons, the muzzle-loading deer season and the regular gun season on ~~male~~ deer on bear sanctuaries;

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

(i) Except for the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison,

PROPOSED RULES

- Polk, and Swain, game birds may be hunted with dogs.
- (ii) In the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison, Polk, and Swain, small game in season may be hunted with dogs on all game lands except on bear sanctuaries.
- (iii) Additionally, raccoon and opossum may be hunted when in season on Uwharrie Game ~~Lands~~. Lands;

(D) On bear sanctuaries in and west of Madison, Buncombe, Henderson and Polk counties dogs shall not be trained or allowed to run unleashed between March 1 and the Monday on or nearest ~~October 15~~; October 15.

(f) ~~Game Lands Seasons and Other Restrictions apply as follows:~~ The listed seasons and restrictions apply in the following game lands:

- (1) Alcoa Game Land in Davidson, Davie, Montgomery, Rowan and Stanly counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season in that portion in Montgomery county and deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season in those portions in Davie, Davidson, Rowan and Stanly counties.
- (2) Alligator River Game Land in Tyrrell County
 - (A) Six Day per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.
- (~~2~~)(3) Angola Bay Game Land in Duplin and Pender counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (~~3~~)(4) Bachlelor Bay Game Land in Bertie and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (4)(5) Bertie County Game Land in Bertie County
 - (A) Six Days per Week Area

- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (~~5~~)(6) Bladen Lakes State Forest Game Land in Bladen County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Saturday preceding Eastern bow season with bow and arrow and the Friday preceding the Eastern muzzle-loading season with any legal weapon (with weapons exceptions described in this Paragraph) by participants in the Disabled Sportsman Program.
 - (C) Handguns shall not be carried and, except for muzzle-loaders, rifles larger than .22 caliber rimfire shall not be used or possessed.
 - (D) ~~On the Breece Tract and the Singletary Lake Tract~~ deer and bear may be taken only by still hunting.
 - (E) Wild turkey hunting on the Singletary Lake Tract is by permit only.
 - (F) Camping is restricted to Sep. 1-Feb 28 and April 7- May 14 in areas both designated and posted as camping areas.
- (7) Broad River Game Land in Cleveland County.
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer with Visible Antlers Season.
 - (C) Use of centerfire rifles is prohibited.
- (~~6~~)(8) Brunswick County Game Land in Brunswick County: Permit Only Area
- (7)(9) Buckridge Game Land in Tyrrell County.
 - (A) ~~Six~~ Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days of the second week of the December Bear Season.
- (~~8~~)(10) Bullard and Branch Hunting Preserve Game Lands in Robeson County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (~~9~~)(11) Butner - Falls of Neuse Game Land in Durham, Granville and Wake counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.

PROPOSED RULES

- (C) Waterfowl may be taken only on Tuesdays, Thursdays and Saturdays; Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons. Waterfowl shall not be taken after 1:00 p.m. On the posted waterfowl impoundments a special permit is required for all waterfowl hunting after November 1.
 - (D) Horseback riding, including all equine species, is prohibited.
 - (E) Target shooting is prohibited
 - (F) Wild turkey hunting is by permit only.
- ~~(10)~~(12) Cape Fear Game Land in Pender County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Turkey Hunting is by permit only on that portion known as the Roan Island Tract.
- ~~(11)~~(13) Caswell Game Land in Caswell County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Friday preceding the Central muzzle-loading season by participants in the Disabled Sportsman Program.
 - (C) Horseback riding is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to engaging in such activity.
 - ~~(D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.~~
 - ~~(E) The area encompassed by the following roads is closed to all quail and woodcock hunting and all bird dog training: From Yanceyville south on NC 62 to the intersection of SR 1746, west on SR1746 to the intersection of SR 1156, south on SR 1156 to the intersection of SR 1783, east on SR 1783 to the intersection of NC 62, north on NC62 to the intersection of SR 1736, east on SR 1736 to the intersection of SR 1730, east on SR 1730 to NC 86, north on NC 86 to NC 62.~~
- ~~(12)~~(14) Caswell Farm Game Land in Lenoir County-Dove-Only Area
- (A) Dove hunting is by permit only from opening day through either the first Saturday or Labor Day which ever comes last of the first segment of dove season.
- ~~(13)~~(15) Catawba Game Land in Catawba County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
 - (C) Deer may be taken with bow and arrow only from the tract known as Molly's Backbone.
- ~~(14)~~(16) Chatham Game Land in Chatham and Harnett counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Wild turkey hunting is by permit only.
 - ~~(D) Horseback riding, including all equine species, is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons.~~
- ~~(15)~~(17) Cherokee Game Land in Ashe County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(16)~~(18) Chowan Game Land in Chowan County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers Season.
- ~~(17)~~(19) Chowan Swamp Game Land in Gates County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(18)~~(20) Cold Mountain Game Land in Haywood County
- (A) Six Days per Week Area
 - (B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- ~~(19)~~(21) Columbus County Game Land in Columbus County.
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

PROPOSED RULES

~~(20)~~(22) Croatan Game Land in Carteret, Craven and Jones counties

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.

~~(25)~~(27) Elk Knob Game Land in Ashe and Watauga counties

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.

~~(26) Gardner Webb Game Land in Cleveland County~~

- ~~(A) Six Days per Week Area~~
- ~~(B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.~~

(21)(23) Currituck Banks Game Land in Currituck County

- (A) Six Days per Week Area
- (B) Permanent waterfowl blinds in Currituck Sound ~~adjacent to~~ on these game lands shall be hunted by permit only after November 1.
- (C) Licensed hunting guides may accompany the permitted individual or party provided the guides do not possess or use a firearm.
- (D) The boundary of the Game Land shall extend 5 yards from the edge of the marsh or shoreline.
- (E) Dogs shall be allowed only for waterfowl hunting by permitted waterfowl hunters on the day of their hunt.
- (F) No screws, nails, or other objects penetrating the bark ~~will~~ shall be used to attach a tree stand or blind to a tree.

(27)(28) Goose Creek Game Land in Beaufort and Pamlico counties

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) On posted waterfowl impoundments waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the duck hunting seasons. After November 1, on the Pamlico Point, Campbell Creek, Hunting Creek and Spring Creek impoundments, a special permit is required for hunting on opening and closing days of the duck seasons, Saturdays of the duck seasons, and on Thanksgiving and New Year's ~~day~~ Day.
- (D) Camping is restricted to Sep. 1-Feb 28 and April 7- May 14 in areas both designated and posted as camping areas.

~~(22)~~(24) Dare Game Land in Dare County

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last ~~six open days~~ day of the ~~applicable~~ Deer With Visible Antlers Season.
- (C) No hunting on posted parts of bombing range.
- (D) The use and training of dogs is prohibited from March 1 through June 30.

~~(28)~~(29) Green River Game Land in Henderson, and Polk counties

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (C) Horseback riding is prohibited except on designated trails May 16 through-August 31 and all horseback riding is prohibited from September 1 through May 15. This rule includes all equine species.

~~(23)~~(25) Dupont State Forest Game Lands in Henderson and Transylvania counties

- (A) Hunting is by Permit only.
- (B) The training and use of dogs for hunting except during scheduled small game permit hunts for squirrel, grouse, rabbit, or quail is prohibited.
- (C) Participants of the Disabled Sportsman Program may also take deer of either sex with any legal weapon on the Saturday prior to the first segment of the Western bow and arrow season.

~~(29)~~(30) Green Swamp Game Land in Brunswick County

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(24)(26) Dysartsville Game Land in McDowell and Rutherford counties

(30)(31) Gull Rock Game Land in Hyde County

- (A) Six Days per Week Area

PROPOSED RULES

- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) On the posted waterfowl impoundments of Gull Rock Game Land hunting of any species of wildlife is limited to Mondays, Wednesdays, Saturdays; Thanksgiving, Christmas, and New Year's Days; and the opening and closing days of the applicable waterfowl seasons.
- (D) Camping is restricted to Sep. 1-Feb 28 and April 7- May 14 in areas both designated and posted as camping areas.
- (F) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season on the Long Shoal River Tract of Gull Rock Game Land.
- ~~(31) Hickorynut Mountain Game Land in McDowell County~~
 - ~~(A) Six Days per Week Area~~
 - ~~(B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.~~
- ~~(32) Hofmann Forest Game Land in Jones and Onslow counties~~
 - ~~(A) Six Days per Week Area~~
 - ~~(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.~~
- ~~(33)~~(32) Holly Shelter Game Land in Pender County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Friday preceding the Eastern muzzle-loading season with any legal weapon and the Saturday preceding Eastern bow season with bow and arrow by participants in the Disabled Sportsman Program
 - (C) Waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons regardless of the day of the week on which they occur.
 - (D) Camping is restricted to Sep. 1-Feb 28 and April 7- May 14 in areas both designated and posted as camping areas.
- ~~(34)~~(33) Hyco Game land in Person County
 - (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(35)~~(34) J. Morgan Futch Game Land in Tyrrell County, Permit Only Area.
- ~~(36)~~(35) Jordan Game Land in Chatham, Durham, Orange and Wake counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.
 - (D) Horseback riding, including all equine species, is prohibited except on those areas posted as American Tobacco Trail and other areas specifically posted for equestrian use. Unless otherwise posted, horseback riding is permitted on posted portions of the American Tobacco Trail anytime the trail is open for use. On all other trails posted for equestrian use, horseback riding is allowed only during June, July and August, and on Sundays the remainder of the year except during open turkey and deer seasons.
 - (E) Target shooting is prohibited.
 - (F) Wild turkey hunting is by permit only.
- ~~(37)~~(36) Lantern Acres Game Land in Tyrrell and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Wild turkey hunting is by permit only.
- ~~(38)~~(37) Lee Game Land in Lee County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(39)~~(38) Linwood Game Land in Davidson County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken on all of the open days of the applicable Deer With Visible Antlers Season.
- ~~(40)~~(39) Mayo Game Land in Person County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six

PROPOSED RULES

- open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl may be taken only on Tuesdays, Thursdays and Saturdays; Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons.
- ~~(41)~~(40) Nantahala Game Land in Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season in that portion located in Transylvania County.
 - (C) Raccoon and opossum may be hunted only from sunset Friday until sunrise on Saturday and from sunset until 12:00 midnight on Saturday on Fires Creek Bear Sanctuary in Clay County and in that part of Cherokee County north of US 64 and NC 294, east of Persimmon Creek and Hiwassee Lake, south of Hiwassee Lake and west of Nottely River; in the same part of Cherokee County dog training is prohibited from March 1 to the Monday on or nearest October 15.
- ~~(42)~~(41) Neuse River Game Land in Craven County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(43)~~(42) New Lake Game Land in Hyde County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(44)~~(43) North River Game Land in Currituck and Camden counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season except in that part in Camden County south of US 158 where the season is the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
 - (D) Wild turkey hunting is by permit only on that portion in Camden County.
- ~~(45)~~(44) Northwest River Marsh Game Land in Currituck County
 - (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
- ~~(46)~~(45) Pee Dee River Game Land in Anson, Montgomery, Richmond and Stanly counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Use of centerfire rifles prohibited in that portion in Anson and Richmond counties North of US-74.
 - ~~(D) On that part of Pee Dee River Game Lands between Blewett Falls Dam and the South Carolina state line, waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons. Waterfowl shall not be taken after 1:00 PM in this area.~~
- ~~(47)~~(46) Perkins Game Land in Davie County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- ~~(48)~~(47) Pisgah Game Land in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season except on that portion in Avery and Yancey counties and that portion in Haywood County encompassed by US 276 on the north, US 74 on the west, and the Blue Ridge Parkway on the south and east.
 - (C) Harmon Den and Sherwood Bear Sanctuaries in Haywood County are closed to hunting raccoon, opossum and wildcat. Training raccoon and opossum dogs is prohibited from March 1 to the Monday on or nearest October 15 in that part of Madison County north of the French Broad River, south of US 25-70 and west of SR 1319.
- ~~(49)~~(48) Pungo River Game Land in Hyde County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six

PROPOSED RULES

- open days of the applicable Deer With Visible Antlers Season.
- ~~(50)~~(49) Roanoke River Wetlands in Bertie, Halifax and Martin counties
 - (A) Hunting is by Permit only.
 - (B) Vehicles are prohibited on roads or trails except those operated on official Commission business or by permit holders.
 - (C) Camping is restricted to Sep. 1-Feb 28 and April 7- May 14 in areas both designated and posted as camping areas.
- ~~(51)~~(50) Roanoke Sound Marshes Game Land in Dare County-Hunting is by permit only.
- ~~(52)~~(51) Robeson Game Land in Robeson County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(53)~~(52) Sampson Game Land in Sampson County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(54)~~(53) Sandhills Game Land in Hoke, Moore, Richmond and Scotland counties
 - (A) Three Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving except on the field trial grounds where the gun season is open days from the second Monday before Thanksgiving through the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting days during the bow and arrow season, as well as during the regular gun season. Deer may be taken with muzzle-loading firearms on open days beginning the third Saturday before Thanksgiving through the following Wednesday, and during the Deer With Visible Antlers season.
 - (C) Gun either-sex deer hunting is by permit only. For participants in the Disabled Sportsman Program, either-sex deer hunting with any legal weapon is permitted on all areas the Thursday and Friday prior to the muzzle-loading season described in the preceding paragraph. Except for the deer, opossum, rabbit, and raccoon seasons specifically indicated for the field trial grounds in this Rule and Disabled Sportsman Program hunts, the field trial grounds are closed to all hunting during the period October 22 to March 31.
- (D) In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons
- (E) Wild turkey hunting is by permit only.
- (F) Dove hunting on the field trial grounds will be prohibited from the second Sunday in September through the remainder of the hunting season.
- (G) Opossum, ~~rabbit~~, and raccoon hunting on the field trial grounds will be allowed on open days from the second Monday before Thanksgiving through the Saturday following ~~Thanksgiving~~ Thanksgiving and rabbit season on the field trial grounds will be from the Saturday preceding Thanksgiving through the Saturday following Thanksgiving.
- (H) The following areas are closed to all quail and woodcock hunting and dog training on birds: In Richmond County: that part east of US 1; In Scotland County: that part east of east of SR 1001 and west of US 15/501.
- (I) Horseback riding on field trial grounds from October 22 through March 31 shall be prohibited except by participants in authorized field trials.
- ~~(54)~~ ~~Sauratown Plantation Game Land in Stokes County~~
 - ~~(A)~~ ~~Three Days per Week Area~~
 - ~~(B)~~ ~~Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.~~
- ~~(56)~~(54) Scuppernong Game Land in Tyrrell and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(57)~~(55) Shearon Harris Game Land in Chatham and Wake counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl may be taken only on Tuesdays, Fridays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.
 - (D) The use or construction of permanent hunting blinds is prohibited.

PROPOSED RULES

- (E) Wild turkey hunting is by permit only.
- ~~(58)~~(56) Shocco Creek Game Land in Franklin and Warren Counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(59)~~(57) South Mountains Game Land in Burke, Cleveland, McDowell and Rutherford counties
 - (A) Six Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving through the third Saturday after Thanksgiving.
 - ~~(B)~~(C) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - ~~(C)~~(D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
 - (E) That part of South Mountains Game Land in Cleveland, McDowell, and Rutherford counties is closed to all grouse, quail and woodcock hunting and all bird dog training.
- ~~(60)~~(58) Suggs Mill Pond Game Land in Bladen County;
 - (A) Hunting is by Permit only.
 - (B) Camping is restricted to Sep. 1-Feb 28 and April 7- May 14 in areas both designated and posted as camping areas.
- ~~(61)~~(59) Sutton Lake Game Land in New Hanover County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(62)~~(60) Three Top Mountain Game Land in Ashe County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- ~~(63)~~(61) Thurmond Chatham Game Land in Wilkes County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable
- Deer With Visible Antlers Season.
- Participants of the Disabled Sportsman Program may also take either-sex deer with bow and arrow on the Saturday prior to Northwestern bow and arrow season.
- (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species. Participants must obtain a game lands license prior to horseback riding on this area.
- ~~(64)~~(62) Toxaway Game Land in Transylvania County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season. Participants of the Disabled Sportsman Program may also take deer of either sex with any legal weapon on the Saturday prior to the first segment of the Western bow and arrow season.
 - (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- ~~(65)~~(63) Uwharrie Game Land in Davidson, Montgomery and Randolph counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last open six days of the applicable Deer With Visible Antlers Season.
- ~~(66)~~(64) Vance Game Land in Vance County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) The use of dogs, centerfire rifles and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.
- ~~(67)~~(65) Van Swamp Game Land in Beaufort and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(68)~~(66) White Oak River Impoundment Game Land in Onslow County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on

PROPOSED RULES

Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the statewide waterfowl hunting seasons. After October 1, a special permit is required for hunting waterfowl on opening and closing days of the duck seasons, Saturdays of the duck seasons, and on Thanksgiving and New Year's day.

(g) On permitted type hunts deer of either sex may be taken on the hunt dates indicated on the permit. Completed applications must be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits shall be issued by random computer selection, shall be mailed to the permittees prior to the hunt, and shall be nontransferable. A hunter making a kill must validate the kill and report the kill to a wildlife cooperator agent or by phone.

(h) The following game lands and refuges shall be closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission:

Bertie, Halifax and Martin counties--Roanoke River Wetlands
Bertie County--Roanoke River National Wildlife Refuge
Bladen County—Suggs Mill Pond Game Lands
Burke County—John's River Waterfowl Refuge
Dare County--Dare Game Lands (Those parts of bombing range posted against hunting)
Dare County--Roanoke Sound Marshes Game Lands
Davie--Hunting Creek Swamp Waterfowl Refuge
Gaston, Lincoln and Mecklenburg counties--Cowan's Ford Waterfowl Refuge
Henderson and Transylvania counties--Dupont State Forest Game Lands

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

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission on Thursday, October 16, 2003, 10:00 a.m. at 1307 Glenwood Avenue, Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments by Friday, October 10, 2003 to the RRC staff, the agency, and the individual Commissioners. 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

Jim R. Funderburke - 1st Vice Chair
David Twiddy - 2nd Vice Chair
Thomas Hilliard, III
Robert Saunders

Appointed by House

Jennie J. Hayman - Chairman
Graham Bell
Dr. Walter Futch
Dr. John Tart

RULES REVIEW COMMISSION MEETING DATES

November 20, 2003 December 18, 2003

RULES REVIEW COMMISSION October 16, 2003 MINUTES

The Rules Review Commission met on Friday morning, October 16, 2003, in the Assembly Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. Commissioners present were: Graham Bell, Walter Futch, Jeffrey Gray, Jennie Hayman, Thomas Hilliard, Robert Saunders, John Tart and David Twiddy.

Staff members present were: Joseph DeLuca, Staff Director; Bobby Bryan, Rules Review Specialist; and Lisa Johnson.

The following people attended:

Emily Lee	Department of Transportation
Dedra Alston	DENR
Bill Scoggin	Kennedy Covington Attorneys at Law
Molly Masich	OAH
Bill Sturges	Attorney
Rick Zechini	NC Association of Realtors
Jim Stephenson	NC Coastal Federation
Trip Van Noppen	Southern Environmental Law Center
Craig Bromby	Hunton & Williams Attorneys at Law
George F. Givens	General Assembly
Wade Rawlins	News & Observer
Francis Crawley	Attorney General's Office
Bradley Bennett	DENR/DWQ
Mary Penny Thompson	Attorney General's Office
Grady McCallie	NC Conservation Network
Charles Case	Hunton & Williams Attorneys at Law
Alice Graham Underhill	
Bettie H. Bell	Carteret County Board of Commissioners
Michelle Nowlin	SELC
S.C. Kitchen	Attorney/Durham County
Torrey McLean	DHHS/Commission for Health Services
Kim Hibbard	NCLM
Christine Mele	Pamlico County
Missy Baskervill	Pamlico County
Sheila Green	DENR/Coastal
Michael Lopazanski	DENR/Coastal Management
Dan Wright	State Board of Elections
Paul Wilms	NC Home Builders Association

RULES REVIEW COMMISSION

Ellie Sprenkel	Department of Insurance
Frank Folger	Department of Insurance
Denise Stanford	Dental Board
Vandella Bradley	Division of Social Services
Kevin Kelly	Division of Social Services
Jeff Manning	DENR/DWQ
Lisa Martin	NC Home Builders Association
Pryor Gibson	NC House of Representatives
Allan Russ	Secretary of State
Robin Smith	DENR

APPROVAL OF MINUTES

Before the meeting was called to order, Jeffrey Gray took his oath of office for the Rules Review Commission.

The meeting was called to order at 9:07 a.m. with Commissioner Hayman presiding. Chairman Hayman asked for any discussion, comments, or corrections concerning the minutes of the August 21, 2003, meeting and the September 26, 2003, meeting. The minutes were approved as written after the corrections to the August meeting, noted last month, were made.

FOLLOW-UP MATTERS FROM SEPTEMBER 26, 2003 MEETING

2 NCAC 52B .0204: Department of Agriculture – The Commission approved the rewritten rule upon recommendation from the commissioners present at the previous meeting.

19A NCAC 2E .1204: Department of Transportation – The Commission approved the rewritten rule upon recommendation from the commissioners present at the previous meeting.

21 NCAC 46 .1812; .2502: Board of Pharmacy – The Commission voted to return these rules to the agency at the agency’s request.

LOG OF FILINGS FROM SEPTEMBER 26, 2003 MEETING

Chairman Hayman presided over the review of the log. There were four commissioners present at the September meeting so final action was not taken at that time. Those commissioners recommended approval of the rules to the full commission, and those rules were approved unanimously with the following exceptions:

10 NCAC 43F .1203: Commission for Health Services - The Commission objected to the rule due to ambiguity. While this Rule mandates physiological screening in each ear for infants born in North Carolina, it nowhere tells who is responsible for ensuring that it is done. It is not clear who has ultimate responsibility. In (a)(i), it is not clear what is meant by “birth discharge.” It is not clear if it is the same as the “discharge home” in (ii). In (a)(iii), it is not clear what is meant by “primary care provider.” There are also technical changes which need to be made to this rule.

15A NCAC 7H .1402: DENR/Coastal Resources Commission – The Commission objected to the rule due to ambiguity. In (b)(2), it is not clear what standards the DCM staff is to use in determining that comments “are worthy of more in-depth review.” This objection applies to existing language in this rule.

15A NCAC 7H .1404: DENR/Coastal Resources Commission - The Commission objected to the rule due to ambiguity. In (c), it is not clear what would constitute “significant” interference. This objection applies to existing language.

18 NCAC 6 .1401: Secretary of State - The Commission objected to the rule due to ambiguity. In (a)(5), it is not clear what other information the Administration requires on the application. This objection applies to existing language.

FOLLOW-UP MATTERS

1 NCAC 35 .0101; .0103; .0201-.0205; .0301; .0302; .0304-.0306; .0308; .0309: Department of Administration – The Commission approved these rules.

8 NCAC Chapter 1-12 - The commission carried these rules over to the next meeting.

10A NCAC 43F .1203: Commission for Health Services – The Commission approved the rewritten rule submitted by the agency. Commissioner Saunders recused himself from the Environmental Management Commission rules.

15A NCAC 2B .0243; .0244: Environmental Management Commission - The Commission objected to rules .0243 and .0244 based on ambiguity. It is unclear what constitutes “enhancement” in .0243(2)(n), page 3 line 24, and .0244(9), page 5 line 12, or why it is used in this context. The term does not appear to be defined. This was part of the basis of the objection in August. It is unclear in .0243(3), page 4, and (4)(a), page 7; and .0244(8)(c)(iii), page 3 lines 27-28, where the vertical line from which the riparian buffer width is to be measured, is to be located. In addition to those objections there is another issue that needs to be resolved. There is language in .0243(3)(a)(ii)(E) referring to a “vested right.” Now that we have received a different rewritten rule from the EMC deleting that same term, we need to determine if this “vested right” is the same as the other one; if the agency would desire to change this one (if it was the same and wanted to be consistent); and if they did not want to change it, whether it was authorized and clear. We would like the

agency to address this issue and tell us their opinion of what the agency desires to do about this language and their opinion of its status.

15A NCAC 2H .0126; .1014: Environmental Management Commission – The Commission objected to both rules on the basis of lack of statutory authority and ambiguity. Rules .0126 and .1014 are both ambiguous in that each is formatted in such a way that they are almost impossible to read and follow. There are as many as six sub-levels [e.g., see (2)(b)(ii)(A)(I)(1) – (3), Rule .0126 page 4 lines 16–23] in these two rules spread out over 26 pages. That is too many and too difficult to follow. The rules need to be rewritten. It may be possible to preserve them as one rule each by rewriting them completely and reformatting them. More likely they need to be broken down into multiple discrete rules to satisfy this objection. As a rule of thumb you should consider that if you need to go beyond three sub-levels within a single rule, that rule is a good candidate to be broken down into separate rules. Rule .0126 is beyond the authority delegated to the agency by the legislature. There is no authority cited that allows the agency to require units of local government to enact ordinances that would require other people to comply with those local government ordinances. To the extent the rule does this, it is beyond the agency’s authority. Rule .1014 is unclear in whether or not the rule applies to counties who are not owners or operators of stormwater discharge systems. It appears that counties have been told that counties, not regulated under .0126, are to be subject to this rule. It further appears that the agency may have intended this, but the rule does not seem to actually require anything from counties or other regulated public entities that do not have “stormwater discharges to the surface waters of the State.” The rule needs to be rewritten to clarify the intent and requirement of the agency. In addition the RRC objected to this rule based on lack of authority. There is no authority cited for the requirements in this rule as they apply to county or other governments not regulated under Rule .0126. Because of the difficulty of understanding the rules, and the possibility that changes in the rules to satisfy these objections might lead to a different analysis of the rules, the RRC refrained from any further judgments concerning these rules at this time. At such time as rewritten rules are submitted to satisfy these objections, the Commission will continue its review of these rules and may raise further problems with these rules.

15A NCAC 2I .0601: Environmental Management Commission – The Commission approved the rewritten rule submitted by the agency.

15A NCAC 2I .0602: Environmental Management Commission - The Commission objected to rule .0602 based on ambiguity. It is unclear what or who is meant by a “person” who desires to petition to become “a party-intervenor” in (d). The APA gives a “person aggrieved” the right to participate in a declaratory ruling case.

15A NCAC 2I .0603: Environmental Management Commission – The Commission objected to rule .0603 based on lack of statutory authority and ambiguity. The rule remains unclear in that (e)(1) seems to continue to require that there be some sort of agreement among different parties as to what the facts are. Declaratory rulings do not require an agreed state of facts. G.S. 150B-4(a) only requires a “given” state of facts. It is the petitioner who gives the statement of facts. To the extent the rule requires “agreed” facts, that is beyond the agency’s authority. There are normally not “parties,” in the sense of a plaintiff and defendant, to a declaratory ruling, only a petitioner. To the extent that the rule requires or allows the Department to be a party to the ruling, as it does in (c), lines 11 and 12, then the rule exceeds the agency’s authority. Normally there would not be any facts at all involved in “a declaratory ruling as to the validity of a rule.” G.S. 150B-4(a). So the rule is unclear if it means to imply that there would always be a party and facts in any given declaratory ruling situation.

15A NCAC 7H .1402; .1404: Coastal Resources Commission – The Commission approved the rewritten rules submitted by the agency.

18 NCAC 6 .1401: Secretary of State – The Commission approved the rewritten rules submitted by the agency.

Commissioner Futch did not vote on the Dental Board rules.

21 NCAC 16Q .0101; .0201; .0301; .0302; .0303; .0401: Dental Board Examiners – The Commission approved the rewritten rules submitted by the agency.

21 NCAC 29 .0401; .0402; .0502; .0503: Locksmith Licensing Board – The Commission approved the rewritten rules submitted by the agency.

LOG OF FILINGS

Chairman Hayman presided over the review of the log and all rules were approved unanimously with the following exceptions:

Commissioner Saunders recused himself concerning the DHHS rules.

10A NCAC 14C .2702: DHHS – The Commission objected to the rule due to ambiguity. In (e)(2), it is not clear what is meant by continuously. This objection applies to existing language in the rule.

10 NCAC 70I .0101: Social Services Commission - The Commission objected to the rule due to ambiguity. In (d)(1), it is not clear how long is a “reasonable time” or alternatively what standards the Children’s Services Section is to use in establishing a “reasonable time”. This objection applies to existing language in the rule.

15A NCAC 3H .0104: DENR/Marine Fisheries Commission – At the request of the agency the rules are carried over to the next meeting.

15A NCAC 3I .0110: DENR/Marine Fisheries Commission – At the request of the agency the rules are carried over to the next meeting.

15A NCAC 3J .0103; .0104; .0107; .0109; .0202; .0206; .0208; .0301; .0402: DENR/Marine Fisheries Commission – At the request of the agency the rules are carried over to the next meeting.

15A NCAC 3K .0204; .0401 - .0405: DENR/Marine Fisheries Commission – At the request of the agency the rules are carried over to the next meeting.

RULES REVIEW COMMISSION

15A NCAC 3L .0102; .0202: DENR/Marine Fisheries Commission – At the request of the agency the rules are carried over to the next meeting.

15A NCAC 3N .0103; .0105: DENR/Marine Fisheries Commission – At the request of the agency the rules are carried over to the next meeting.

15A NCAC 3O .0101; .0105; .0503: DENR/Marine Fisheries Commission – At the request of the agency the rules are carried over to the next meeting.

15A NCAC 3Q .0201; .0202: DENR/Marine Fisheries Commission – At the request of the agency the rules are carried over to the next meeting.

15A NCAC 3R .0101-.0106; .0109-.0113: DENR/Marine Fisheries Commission – At the request of the agency the rules are carried over to the next meeting.

COMMISSION PROCEDURES AND OTHER BUSINESS

The Commission discussed the possibility of another meeting to be scheduled to handle any temporary rules that may come in before the regular meeting on November 20, 2003. Commissioner Hayman, Tart and Gray said they would be available for such a meeting. The meeting will be scheduled if temporary rules are filed.

The meeting adjourned at 1:13 p.m.

The next meeting of the Commission is Thursday, November 20, 2003 at 10:00 a.m.

Respectfully submitted,
Lisa Johnson

RULES REVIEW COMMISSION
Commission Review/Administrative Rules

Log of Filings (Log #203)
September 21, 2003 through October 20, 2003

MEDICAL CARE COMMISSION/DIVISION OF MEDICAL ASSISTANCE

Definitions	10A NCAC 21A .0201	Amend
Corrective Actions	10A NCAC 21A .0602	Amend
Time Limits for Corrections	10A NCAC 21A .0603	Amend
Monitoring Thresholds and Corrective Action	10A NCAC 21A .0605	Amend
Timeliness	10A NCAC 21A .0606	Amend
Local Corrective Action Team	10A NCAC 21A .0607	Amend
State Corrective Action Team	10A NCAC 21A .0608	Amend
Acceptance of Application	10A NCAC 21B .0201	Amend
Face to Face Interview	10A NCAC 21B .0202	Amend
Application Processing Standards	10A NCAC 21B .0203	Amend
Effective Date of Assistance	10A NCAC 21B .0204	Amend
Disposition	10A NCAC 21B .0206	Amend
Referrals at a Face to Face Interview	10A NCAC 21B .0207	Amend
Hours for Accepting Financial and Medical Assist	10A NCAC 21B .0209	Amend
Reserve	10A NCAC 21B .0310	Amend
Transfer or Resources	10A NCAC 21B .0311	Amend

MEDICAL CARE COMMISSION/COMMISSION FOR HEALTH SERVICES

Infection Control Health Care Settings	10A NCAC 41A .0206	Amend
--	--------------------	-------

JUSTICE/NC PRIVATE PROTECTIVE SERVICES BOARD

Fees for Licenses and Trainee Permits	12 NCAC 07D .0202	Amend
Fees for Unarmed Security Guard Registration	12 NCAC 07D .0702	Amend
Fees for Armed Security Guard Firearm Registration	12 NCAC 07D .0802	Amend
Fees for Firearms Trainer Certificate	12 NCAC 07D .0903	Amend
Pre-Delivery Report for Firearms Training Courses	12 NCAC 07D .0907	Adopt
Post-Delivery Report for Firearms Training Courses	12 NCAC 07D .0908	Adopt

JUSTICE/CRIMINAL JUSTICE EDUCATION & TRAINING STANDARDS COMMISSION

Investigation of Violation of Rules	12 NCAC 09A .0201	Amend
Summary Suspensions	12 NCAC 09A .0206	Amend
Administration of Programs	12 NCAC 09C .0101	Amend

RULES REVIEW COMMISSION

Investigation of Violation of Rules	12 NCAC 09G .0501	Amend
Summary Suspensions	12 NCAC 09G .0506	Amend
DEPARTMENT OF LABOR		
Discrimination Against Miners	13 NCAC 06 .0309	Amend
Incorporated by Reference	13 NCAC 07A .0301	Amend
Definitions Relative to ABC Restrictions	13 NCAC 12 .0408	Amend
Inspection Fee Schedule	13 NCAC 15 .0704	Amend
DENR/ENVIRONMENTAL MANAGEMENT COMMISSION		
Catawba River Basin	15A NCAC 02B .0308	Amend
REVENUE, DEPARTMENT OF		
Spoilage or Destruction of Non-tax paid Beer or Wine	17 NCAC 04E .0301	Amend
TRANSPORTATION, DEPARTMENT OF/DIVISION OF HIGHWAYS		
Acquisition of Right of Way for Secondary	19A NCAC 02C .0108	Amend
STATE BOARDS/STATE BOARD OF EXAMINERS OF PLUMBING, HEATING, AND FIRE SPRINKLER CONTRACTORS		
Review of Examination	21 NCAC 50 .0308	Amend
Permits	21 NCAC 50 .0402	Amend
Active Employment	21 NCAC 50 .0404	Amend
Change of Trade Name	21 NCAC 50 .0408	Amend
Reinstatement of Expired License	21 NCAC 50 .0409	Amend
Joint Venture	21 NCAC 50 .0502	Amend
Administrative Hearing Procedures	21 NCAC 50 .1014	Amend
Examination Fees	21 NCAC 50 .1101	Amend
License Fees	21 NCAC 50 .1102	Amend
Fees for Copies of Records and Returned Checks	21 NCAC 50 .1104	Amend
STATE PERSONNEL COMMISSION/STATE PERSONNEL COMMISSION		
Eligible Employees	25 NCAC 01E .1402	Amend
Family Illness Leave	25 NCAC 01E .1412	Adopt
Purpose	25 NCAC 01K .0311	Amend
Eligibility	25 NCAC 01K .0312	Amend
Approved Courses	25 NCAC 01K .0313	Amend
Educational Leave	25 NCAC 01K .0314	Amend
Thesis/Dissertation Research Courses	25 NCAC 01K .0315	Repeal
Thesis/Dissertation Research Courses	25 NCAC 01K .0315	Repeal
Academic Costs	25 NCAC 01K .0316	Amend
Reimbursement of Academic Costs	25 NCAC 01K .0317	Amend
Tax Status	25 NCAC 01K .0318	Repeal
Application Procedures	25 NCAC 01K .0319	Repeal
Exceptional Situations	25 NCAC 01K .0320	Amend
Courses Taken At Agency/University Request	25 NCAC 01K .0321	Amend
Extended Educational Leave	25 NCAC 01K .0322	Amend
Certification/Licensing	25 NCAC 01K .0323	Amend
Administration Responsibility	25 NCAC 01K .0324	Amend

**AGENDA
RULES REVIEW COMMISSION
November 20, 2003**

- I. Call to Order and Opening Remarks
- II. Review of minutes of last meeting
- III. Follow Up Matters
 - A. DHHS – 10A NCAC 14C .2702 (Bryan)
 - B. Social Services Commission – 10A NCAC 70I .0101 (Bryan)
 - C. Environmental Management Commission – 15A NCAC 2B .0243; .0244 (DeLuca)
 - D. Environmental Management Commission – 15A NCAC 2I .0602; .0603 (DeLuca)
 - E. Marine Fisheries Commission – 15A NCAC 3H ; 3I; 3J; 3K; 3L; 3N; 3O; 3Q; 3R (DeLuca)

RULES REVIEW COMMISSION

- Department of Administration – 1 NCAC 30H .0102; .0201-.0205; .0301; .0303; .0305; .0404; .0701; .0801; .1001 (DeLuca)
- Board of Elections – 8 NCAC Chapter 1-12 (DeLuca)
- Environmental Management Commission – 15A NCAC 2H .0126; .1014 (DeLuca)

IV. Review of Rules (Log Report #203)

V. Commission Business

IV. Next meeting: December 18, 2003

CONTESTED CASE DECISIONS

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. Also, the Contested Case Decisions are available on the Internet at the following address: <http://www.ncoah.com/hearings>.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge

JULIAN MANN, III

Senior Administrative Law Judge

FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Sammie Chess Jr.

Beecher R. Gray

Melissa Owens Lassiter

James L. Conner, II

Beryl E. Wade

A. B. Elkins II

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOLIC BEVERAGE CONTROL COMMISSION</u>				
Carolina Sports Arena LLC T/A NC Sports Arena v ABC Comm.	02 ABC 1491	Conner	09/11/03	
ABC v. Fast Fare Inc, T/A Fast Fare NC 576	02 ABC 1882	Gray	09/22/03	
Ki Young Kim v. Ann H. Johnson, ABC Commission in Raleigh	03 ABC 0177	Mann	06/17/03	
ABC Commission v. Pantana Bob's, Inc. T/A Pantana Bob's	03 ABC 0233	Mann	10/03/03	
C&C Entertainment, Inc. d/b/a Carolina Live	03 ABC 1037	Lassiter	09/30/03	
<u>AGRICULTURE</u>				
Phoenix Ski Corp. v. Dept. of Ag. & Cons. Svcs. & Dept. of Admin. & Carolina Cable Lift, LLC.	02 DAG 0560	Lewis	06/30/03	18:03 NCR 217
<u>CRIME CONTROL AND PUBLIC SAFETY</u>				
Myrtle J. Price v. Crime Victims Comp. Comm, Dept. of Crime Control & Public Safety, Victims Compensation Services Division	03 CPS 0173	Wade	06/27/03	
Fredrica Wood-Jones v DOCC&PS, Div of Victim Comp. & Svcs.	03 CPS 0804	Gray	10/06/03	
Michael L Pompey v. Crime Control & Public Safety, Div. of Victim Compensation Services	03 CPS 0828	Gray	09/03/03	
Tricia Diane Gerke v. Victim's Compensation Commission	03 CPS 1413	Gray	10/06/03	
<u>HEALTH AND HUMAN SERVICES</u>				
A list of Child Support Decisions may be obtained by accessing the OAH Website: www.ncoah.com/decisions .				
Guilford Co Comm Action Program Inc v. DHHS	00 DHR 0984	Gray	09/08/03	
Mary Edge v DHHR, Div of Child Development	01 DHR 0720	Gray	09/23/03	
Robbie Cummings v. DHHS	02 DHR 0815	Conner	06/09/03	
Linda Ann Tyson v. Div. of Facility Services, Health Care Personnel Registry Section	02 DHR 1103	Lassiter	05/12/03	
Ricky Roberts for Angela Roberts v. DHHS, Div. of Med. Assistance	02 DHR 1138	Lassiter	04/25/03	18:01 NCR 52
Wanda J. Vanhook v. DHHS, Div. of Med. Assistance	02 DHR 1459	Gray	04/24/03	
Elaine B Shelton v. DHHS, Div. of Facility Services	02 DHR 1489	Conner	05/28/03	
Juli A Murphy, Murphy's Munchkin Land Daycare ID 54000197 v. Div. of Child Development	02 DHR 1555	Lassiter	09/05/03	
Jones Hill Day Care, Ola M Jones v. (CACPP) Child & Adult Care Food Program	02 DHR 1601	Lassiter	05/16/03	
Michelle's Lullaby Day Care, Jerri Howell v. Div. of Child Development June Locklear	02 DHR 1672	Wade	06/10/03	
Joanne F Ranta v. DHHS, Div. of Facility Services	02 DHR 1752	Mann	05/15/03	
Gregory Tabron v. DHHS, Div. of Facility Services	02 DHR 1789	Elkins	05/16/03	
Oncology Svcs Corp & Mountainside Holdings LLC v. DHHS, Div of Fac Svcs, Cert of Need Section & Scotland Mem Hospital, Inc.	02 DHR 1983	Wade	08/13/03	18:06 NCR 439
Doretha Leonard v. DHHS, Div. of Medical Assistance	02 DHR 2183	Lassiter	06/13/03	
Jonathan Louis Jefferson, a minor by & through his parents, Cynthia & Louie Jefferson v. DHHS< Div. of Medical Assistance	02 DHR 2186	Lassiter	10/08/03	
Veronica Walker, Ph.D v. DHHS, Div. of Facility Services	02 DHR 2246	Chess	06/20/03	
Gloria Howard v. DHHS	02 DHR 2256	Gray	09/04/03	
Latrese Sherell Harris v. Nurse Aide Registry	02 DHR 2290	Chess	06/16/03	

CONTESTED CASE DECISIONS

Wanda S Hudson v. Wake County Public School System	02 DHR 2305	Wade	09/22/03
James E Hill v. DHHS, Div. of Facility Services	03 DHR 0028	Wade	05/30/03
Duffie G Hunt v. Medicaid	03 DHR 0085	Conner	06/06/03
Sarah P Jordan v. DHHS, Div. of Facility Services	03 DHR 0155	Gray	06/18/03
Martha Banks (ID #72000027) v. Div. of Child Dev., Child Abuse/Neglect Dept., Perquimans Co. DSS	03 DHR 0168	Wade	06/12/03
Aaron Atwater v. DHHS, Div. of Medical Assistance	03 DHR 0262	Chess	08/18/03
Grace Browning, Gorge D Browning Jr v John Umstead Hospital	03 DHR 0285	Mann	10/03/03
Nakeisha Shawon Leak v. DHHS, Office of Legal Affairs	03 DHR 0308	Wade	06/25/03
Krystal Hyatt v. Broughton Hospital	03 DHR 0316	Chess	07/07/03
Cahterine Williams v. DHHS	03 DHR 0320	Mann	07/17/03
Rachel Peek, Yancey Co. DSS v. DHHS	03 DHR 0330	Chess	07/24/03
Lisa Mendez v. Health Care Personnel Registry	03 DHR 0351	Gary	06/27/03
Twan Fields v. DHHS, Div. of Facility Services	03 DHR 0355	Morrison	09/10/03
Kevin Douglas Heglar v. DHHS, Dorothea Dix Hospital	03 DHR 0357	Gray	09/17/03
Yolanda Covington v. RHA Health Svcs, DHS	03 DHR 0360	Lassiter	07/17/03
Constance Basnight v. Pasquotank County DSS	03 DHR 0385	Lassiter	05/29/03
Waddell B Taylor v DHHS, John Umstead Hospital	03 DHR 0394	Gray	09/23/03
Dorothy Ann Bell v. DHHS, Div. of Facility Services	03 DHR 0437	Morrison	06/30/03
Edmund Bond Small v. DHHS, Walter B Jones, ADATC	03 DHR 0445	Lassiter	07/21/03
Janitta Brown v. DHHS, Dorothea Dix Hospital	03 DHR 0461	Lassiter	09/15/03
Gerry Dwayne Cashwell v. DHHS	03 DHR 0469	Gray	07/28/03
Gregory Lewis Berry v. Burke Co. Dept of Social Services	03 DHR 0514	Wade	08/19/03
Donna Kay Kirkland v. DHHS, Broughton Hospital	03 DHR 0547	Wade	08/29/03
Grace Browning v. John Umstead Hospital	03 DHR 0571	Mann	10/03/03
Sabrina Regina Betts v. DHHS, Div. of Facility Services	03 DHR 0595	Gray	09/12/03
Andrea Ford v DHHS, Div. of Facility Services	03 DHR 0609	Morrison	06/04/03
Wallace C Levi v. Div. of Medical Assistance	03 DHR 0633	Wade	08/12/03
Timothy Batts v. DHHS, Div. of Facility Services	03 DHR 0640	Gray	09/12/03
Bestway Food's, Osama M Dari v. DOH WIC, Cory Menees, Unit Super.	03 DHR 0662	Morrison	07/28/03
Denise A Worthington v. DHHS, Office of the Controller	03 DHR 0672	Gray	10/06/03
Wake Radiology Services, LLC, Wake Radiology Consultants, P.A., Raleigh MR Imaging Center Ltd Partnership & Wake Radiology Diagnostic Imaging, Inc. v. DHHS, Div. of Facility Svcs., CON Sec., Robert J. Fitzgerald, Dir, Lee B Hoffman, Chief of CON Sec. & Mobile Imaging of North Carolina, LLC	03 DHR 0676	Gray	07/07/03
Nedall H Hassan d/b/a GNS Express Mart v. DHHS	03 DHR 0695	Lassiter	10/14/03
Samantha Jacobs v. DHHS, Div. of Facility Services	03 DHR 0697	Lassiter	06/19/03
Jane McMillan v. DHHS, Div. of Facility Services	03 DHR 0698	Lassiter	06/19/03
Veronica Williams v. Div. of Med. Assistance, Dana Harris, Super.	03 DHR 0737	Mann	08/28/03
Patti L Cain Small Fries by Patti v. Nutrition Services	03 DHR 0768	Morrison	07/31/03
Brian Keith Heilig v. DHHS, Div. of Medical Assistance	03 DHR 0779	Mann	07/17/03
Mrs Soon Ja An v. DHHS	03 DHR 0780	Morrison	07/28/03
Kimberly Donyelle Miles v. DHHS, Div. of Facility Services	03 DHR 0795	Lassiter	09/11/03
Pamela Powell v. DMA Outpatient Therapy	03 DHR 0834	Lassiter	10/13/03
Angela Carter Precious Love Turtledove v. Tarin Goodwin, St. of NC, DCD	03 DHR 0850	Connor	09/23/03
Kimberly Roberts v. DHHS, Div. of Facility Services	03 DHR 0927	Gray	08/15/03
Michael Hillis v. Department of Revenue	03 DHR 0935	Conner	07/28/03
Alvin Paulk v. DHHS, Div. of Child Development	03 DHR 0971	Conner	07/25/03
Victor J Gray v Dorothea Dix Hospital	03 DHR 1039	Morrison	09/29/03
Doris Froneberger v. DHHS, Div. of Facility Services	03 DHR 1081	Gray	09/12/03
Jaris Davis v. DHHS, Div. of Facility Services	03 DHR 1136	Gray	10/07/03
Albert Brower v. DHHS	03 DHR 1153	Wade	09/04/03
Lisa Dupree v. NC State Veterans Nursing Home	03 DHR 1306	Lassiter	09/15/03
Calvin Harris, Jr. v. Health Care Personnel Registry	03 DHR 1434	Wade	10/06/03

JUSTICE

Alarm Systems Licensing Board

Gregory L Swicegood, Jr. v. Alarm System Licensing Board	03 DOJ 0503	Morrison	05/16/03
Alan Bradford Foehner v. Alarm System Licensing Board	03 DOJ 0709	Morrison	08/05/03

Private Protective Services Board

Anthony Lamont Henderson v. Private Protective Services Board	03 DOJ 0502	Morrison	07/08/03
John Lee Powell v. Private Protective Services Board	03 DOJ 0694	Morrison	07/09/03
Howard Leon Fisher v. Private Protective Services Board	03 DOJ 0898	Morrison	08/14/03
William Houston King Jr v. Private Protective Services Board	03 DOJ 0899	Morrison	07/11/03
Derrick Lee McDonald v. Private Protective Services Board	03 DOJ 0946	Morrison	08/05/03

Sheriffs' Education & Training Standards Commission

Harvey Clinton Blanton v. Sheriffs' Educ. & Trng. Stds. Comm.	02 DOJ 1202	Gray	06/05/03	18:03 NCR	222
Jonathan Mims v. Sheriffs' Education & Training Standards. Comm.	02 DOJ 1263	Gray	06/03/03	18:03 NCR	229
Laura Dawn Watts v. Sheriffs' Education & Training Standards Comm.	02 DOJ 1926	Lassiter	05/22/03		
Allen Wilson York v. Sheriffs' Education & Training Standards Comm.	02 DOJ 2042	Elkins	05/16/03		
Fred Hines, Jr v. Criminal Justice Educ. & Trng. Stds. Comm.	03 DOJ 0428	Conner	07/29/03		
Harvey Levale Cook v. Criminal Justice Educ & Trng Stds. Comm.	03 DOJ 0515	Lassiter	07/09/03		
Cynthia Darlene Harris v. Criminal Justice Educ. & Trng. Stds. Comm.	03 DOJ 0516	Lassiter	06/06/03		
Mary Katherine McVey v. Criminal Justice Educ. & Trng. Stds. Comm.	03 DOJ 0517	Wade	08/11/03		
Brian Carroll Hatley v Sheriffs' Education & Trng. Stds. Comm.	03 DOJ 0649	Mann	10/02/03		
Michael Ray Walker v. Criminal Justice Educ. & Trng. Stds. Comm.	03 DOJ 1138	Lassiter	09/23/03		
Loy S. Lentz Jr v. Sheriffs' Educ. & Trng. Stds. Comm.	03 DOJ 1229	Gray	10/02/03		

CONTESTED CASE DECISIONS

DEPARTMENT OF TRANSPORTATION

Chris Azar v. Department of Transportation 03/DOT 1345 Morrison 09/08/03

DEPARTMENT OF STATE TREASURER

Shirlyn D. Brickhouse v. Dept. of St. Treasurer, Ret. Sys. Div. 02 DST 2315 Chess 06/03/03

DEPARTMENT OF PUBLIC INSTRUCTION

Robert Andrew Bartlett Sr. v. Dept. of Public Instruction 00 EDC 1306 Gray 08/04/03
 Charles Wordsworth v. State Board of Education 02 EDC 0572 Lassiter 10/17/03
 Charles Eugene Smith v. Department of Public Instruction 02 EDC 1082 Mann 05/26/03

ENVIRONMENT AND NATURAL RESOURCES

Larry E. Sadler v. DENR 00 EHR 1322 Gray 07/02/03
 Lester Hill v. Person Co. Health Dept., DENR 00 EHR 1392 Gray 05/29/03
 John Burr v. Health Department, Mecklenburg County 01 EHR 1204 Gray 05/28/03
 Richard S Pacula v. CAMA-Coastal Area Mgmt. Assoc. 01 EHR 2269¹ Chess 05/14/03
 Rosa & Eddie Brame v. DENR 02 EHR 0319 Wade 06/27/03
 Trafalgar Properties LLC v. County of Durham 03 EHR 0630 Wade 07/18/03
 Gerald Max Toney and Lynn N. Toney v. DENR (McDowell Co.) 02 EHR 0887 Mann 05/28/03
 Forest Sound Homeowners Assoc, James P Hynes, Pres. V. DENR, Div. of Coastal Management 02 EHR 1078 Wade 06/09/03
 Richard S Pacula v. CAMA-Coastal Area Mgmt. Assoc. 02 EHR 1119¹ Chess 05/14/03
 Former Center Mart, Joe Fred Ledbetter v. DENR, Div. of Waste Mgmt. 02 EHR 1302 Conner 05/29/03
 Lee Roy Smyre v. DENR, Div. of Water Quality 02 EHR 1509 Wade 09/05/03
 Murphy's All Land Dev Inc d/b/a Emerald Cove Town homes at Wells Lake v. DENR 02 EHR 1735 Conner 07/22/03
 Glenn Sasser v. DENR, Division of Coastal Management 02 EHR 1794 Morrison 08/28/03 18:07 NCR 485
 Michael E Hendrix v. Caldwell Co. Dept of Environmental Health 03 EHR 0006 Gray 07/02/03
 Lawndale Service Ctr, Inc. C Valley v. DENR 03 EHR 0016 Lassiter 06/05/03
 Daniel W Bulla III v. Env. Health Section Stokes Co Health Dept. 03 EHR 0156 Conner 09/11/03
 Robert Calvin Wyatt Jr, Calvin Wyatt v. DENR 03 EHR 0535 Wade 07/31/03
 Pacemaker Leasing Co v. DENR 03 EHR 0711 Conner 09/10/03
 Curtis Carney v. Pitt Co Health Dept., Env. Health Div. 03 EHR 0766 Conner 07/25/03
 Danny L Ottaway v. DENR, Div. of Air Quality 03 EHR 0948 Gray 08/15/03
 Robert L Shepard v. Alamance Co. Health Board 03 EHR 0949 Gray 07/30/03
 Megan Powell v. DENR 03 EHR 1071 Lassiter 08/18/03
 Redditt Alexander, Ida L Alexander v. Co. of Durham, Eng. Dept. 03 EHR 1074 Morrison 07/31/03
 St. Paul's Lutheran Church v. DENR 03 EHR 1151 Morrison 10/01/03

HUMAN RELATIONS FAIR HOUSING

Sara E. Parker v. Human Relations Fair Housing 02 HRC 0621 Gray 05/16/03

TEACHERS' & STATE EMPLOYEES COMP. MAJOR MED PLAN

Alma Louise Triplett v. Teachers' & St Emp Comp Maj Med Plan 02 INS 0268 Gray 07/15/03 18:04 NCR 338
 Shawna J Talley v. Teachers' & St. Emp. Comp. Maj. Med. Plan 02 INS 1257 Conner 08/06/03 18:05 NCR 405
 Bertha Reeves by her husband Laconya Reeves v. Teachers' & St. Emp. Comp Maj. Med. Plan 02 INS 1285 Chess 08/26/03
 Larry Pendry on behalf of Charles Elledge v Teachers' & St. Emp. Comp. Major Medical Plan 03 INS 0280 Chess 09/11/03
 JEL Company, Leonard Jackson v. DOI & Diane G Miller, Asst Atty. 03 INS 0811 Mann 08/28/03

OFFICE OF STATE PERSONNEL

Dorris D Wright v. Cabarrus Co. Dept. of Social Services 00 OSP 1506 Gray 04/22/03
 Robert Banks Hinceman v. DHHS/Broughton Hospital 01 OSP 0827 Elkins 05/01/03 18:01 NCR 45
 Robin Ritzheimer Austin v. Jim Jones, Hlth Dir, Judie DeMuth, Admin Asst & the County of Stanly 01 OSP 0888⁴ Lassiter 09/08/03
 Edward Allen Hughes, Jr v. Department of Correction 01 OSP 1011 Gray 08/01/03
 Wanda Gore v. Department of Correction 01 OSP 1286 Gray 05/16/03
 James F Pridgen Jr v. A&T State University 01 OSP 2182 Gray 08/08/03
 Jerry Thomas Ferrell v. Department of Correction 02 OSP 0375 Conner 09/15/03
 Carolyn Davis v. Durham MH/DD/SA Area Authority d/b/a The Durham Ctr 02 OSP 1001 Lassiter 08/06/03 18:05 NCR 410
 Carolyn Davis v. Durham MH/DD/SA Area Authority d/b/a The Durham Ctr 02 OSP 1001 Lassiter 08/06/03 18:07 NCR 494
 Terence G Westry v A&T State University 02 OSP 1019 Conner 06/30/03
 Robert L. Swinney v. Department of Transportation 02 OSP 1109 Gray 05/07/03
 Robin Ritzheimer Austin v. Jim Jones Hlth Dir Stanly County 02 OSP 1166⁴ Lassiter 09/08/03
 Cynthia Michelle Guess-Godwin v. Winston Salem State Univ 02 OSP 1255 Gray 09/04/03
 Norman Burton v. Chatham County 02 OSP 1483² Gray 05/12/03
 Jonah Uduabomen v. Department of Transportation 02 OSP 1597 Gray 06/19/03
 Charles M Alexander v. ESC of NC 02 OSP 1613 Chess 07/01/03
 Gregory M Lewis v. DMV, Enforcement Section 02 OSP 1624³ Gray 07/23/03
 Norman Burton v. Chatham County 02 OSP 1625² Gray 05/12/03
 Edward K Royal v. Dept. of Crime Control & Public Safety, Div. of State Highway Patrol 02 OSP 1631 Lassiter 06/25/03
 Gregory M Lewis v. DMV, Enforcement Section 02 OSP 1695³ Gray 07/23/03
 Patricia A Mabry v. Department of Corrections 02 OSP 1774 Chess 06/27/03
 Chester Michael Martin v. Cumberland Co. Dept. of Social Services 02 OSP 1797 Conner 05/09/03
 Linda H Boyle v. Wayne Co. Mental Health Area Board 02 OSP 1951 Wade 08/13/03
 Patricia Doggett v. Trend Mental Health 02 OSP 2128 Conner 07/08/03
 Sharon F Greene v. Weldon Freeman, Crime Control & Public Safety 02 OSP 2144 Chess 08/29/03
 William Michael McDuffie v. Wake Co Juvenile Detention Center 03 OSP 0013 Wade 08/11/03

CONTESTED CASE DECISIONS

Steven Wayne McCartney v. Lumberton Correctional Institution	03 OSP 0026	Conner	05/29/03
Walter D Giese v. George O'Daniel Onslow Co Health Dept.	03 OSP 1017	Morrison	09/08/03
Eric M Petree v. Department of Corrections	03 OSP 0116	Lassiter	06/24/03
Monica Lynn Johnson v. NC School of the Arts	03 OSP 0180	Conner	07/29/03
Jeffrey W Byrd v. Fayetteville State University	03 OSP 0204	Chess	06/04/03
Tina Marie Walker v. Buncombe Co Dept of Social Services	03 OSP 0429	Chess	08/18/03
Lisa C Banks v. Craven Co Child Support Enforcement Office	03 OSP 0268	Conner	07/31/03
Beverly M Jennings v. Juv Justice, Swannanoa Valley Youth Dev Center	03 OSP 0408	Chess	08/11/03
Maranda Sharpe v. Department of Transportation	03 OSP 0412	Chess	06/03/03
James E. Sharpe v Department of Transportation, Div. 14 (Graham Co.)	03 OSP 0413	Chess	06/03/03
Larry S Height v. NC Utilities Commission	03 OSP 0507	Conner	07/17/03
Gary Melvin Moore v. Western Piedmont Community College	03 OSP 0548	Wade	07/29/03
Joan Milligan, Patricia Flanigan, Pauletta Highsmith, Edna Cummings v. Fayetteville State University	03 OSP 0562	Conner	06/06/03
Lisa D Barrett v. East Carolina University	03 OSP 0597	Mann	08/05/03
Wrenete Oladoye v Whitaker School	03 OSP 0620	Conner	08/15/03
Melinda O Wiggins v. Moore Co Health Department	03 OSP 0632	Morrison	09/17/03
William Harold Maready Jr v. DOC, Pasquotank Correctional Inst.	03 OSP 0644	Conner	08/01/03
Henry Earl Stewart v Department of Transportation	03 OSP 0645	Lassiter	08/26/03
Derwin D Johnson v. Department of Correction	03 OSP 0660	Lassiter	06/24/03
Wanda Steward-Medley v. Department of Corrections, Div. of Prisons	03 OSP 0656	Conner	06/20/03
Priscilla Sledge v. Department of Correction	03 OSP 0675	Conner	08/13/03
Jerry B Davis v. Dorothea Dix Hospital/DHHS	03 OSP 0678	Gray	07/14/03
Leslie AllenWhittington v. Swannanoa Youth Dev. Center	03 OSP 0696	Lassiter	09/24/03
Cathy S Carson v. NC School for the Deaf	03 OSP 0715	Wade	07/22/03
Edwin E Kirton III v. DOC, Warren Correctional	03 OSP 0769	Conner	07/17/03
David L McMurray Jr. v. Highway Patrol	03 OSP 0801	Lassiter	06/19/03
Harold Lorenzo Person v. E. Reg. Off. DOC, Div. of Prisons	03 OSP 0805	Conner	08/21/03
LaWanda J Abeguunrin v. Franklin Correctional Center	03 OSP 0825	Gray	06/18/03
Lazona Gale Spears v. Employment Security Commission	03 OSP 0859	Lassiter	06/26/03
Martin Hernandez v. Dobbs Youth Dev Ctr, DOJJ&DP	03 OSP 0862 ²	Morrison	09/29/03
Gail Hernandez v. Dobbs Youth Dev Ctr, DOJJ&DP	03 OSP 0863 ⁵	Morrison	09/29/03
Wanda Steward-Medley v Dept of Corrections, Div of Prisons	03 OSP 0873	Morrison	08/12/03
Jeffrey J Medley v. Department of Correction	03 OSP 0879	Gray	06/30/03
Comatha B Johnson v. DHHS, Cherry Hospital	03 OSP 0942	Chess	08/19/03
Monica Dockery v. DOC, Div. of Prisons	03 OSP 1016	Mann	07/18/03
Theresa R Rogers v. Off of the Secretary of State of NC	03 OSP 1044	Morrison	09/25/03
David Upchurch v. DOC	03 OSP 1076	Connor	09/23/03
Leon C Rogers v. John Umstead Hospital	03 OSP 1152	Morrison	09/11/03
Sharon D Wallace v. Department of Corrections	03 OSP 1231	Wade	09/17/03
Walter Eugene Agers v. Winston-Salem State University	03 OSP 1321	Lassiter	09/24/03
Dennis D Foster v. Durham Co Sheriff's Department	03 OSP 1353	Morrison	09/12/03

UNIVERSITY OF NORTH CAROLINA HOSPITALS

Donald R. Smith v. UNC Hospitals	02 UNC 1361	Conner	06/05/03
Martin B Strickland v. UNC Hospitals, Patient Accounts Services	02 UNC 1620	Wade	08/29/03
Mary Dieudone Frantz v. UNC Hospitals	03 UNC 0409	Mann	08/07/03
Susan Kay Fryar v. UNC Hospitals	03 UNC 0410	Mann	08/07/03
Kendall Adams v. UNC Hospitals	03 UNC 0536	Gray	08/11/03
Janice Block v. UNC Hospitals	03 UNC 0720	Gray	09/04/03
Alfred Tilden Ward, Jr. v. UNC Hospitals & UNC Physicians & Assoc.	03 UNC 0723	Gray	06/23/03
Ieshia Marlina Baskett v. UNC Hospitals, Patient Account Services	03 UNC 0894	Gray	09/04/03
Steven R. Wilkerson v. UNC Hospitals	03 UNC 1177	Chess	09/18/03

- 1 Combined Cases
- 2 Combined Cases
- 3 Combined Cases
- 4 Combined Cases
- 5 Combined Cases