

# NORTH CAROLINA

# IN THIS ISSUE

## REGISTER



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November 1, 2004

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**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.*

<b>NCAC TITLES</b>		<b>TITLE 21 LICENSING BOARDS</b>	<b>TITLE 24 INDEPENDENT AGENCIES</b>
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
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/Transliterator	
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**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 January 2004 – December 2004

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 <sup>th</sup> day from publication in the Register
18:13	01/02/04	12/08/03	01/17/04	03/02/04	03/22/04	05/01/04	05/10/04	09/28/04
18:14	01/15/04	12/19/03	01/30/04	03/15/04	03/22/04	05/01/04	05/10/04	10/11/04
18:15	02/02/04	01/09/04	02/17/04	04/02/04	04/20/04	06/01/04	01/26/05	10/29/04
18:16	02/16/04	01/26/04	03/02/04	04/16/04	04/20/04	06/01/04	01/26/05	11/12/04
18:17	03/01/04	02/09/04	03/16/04	04/30/04	05/20/04	07/01/04	01/26/05	11/26/04
18:18	03/15/04	02/23/04	03/30/04	05/14/04	05/20/04	07/01/04	01/26/05	12/10/04
18:19	04/01/04	03/11/04	04/16/04	06/01/04	06/21/04	08/01/04	01/26/05	12/27/04
18:20	04/15/04	03/24/04	04/30/04	06/14/04	06/21/04	08/01/04	01/26/05	01/10/05
18:21	05/03/04	04/12/04	05/18/04	07/02/04	07/20/04	09/01/04	01/26/05	01/28/05
18:22	05/17/04	04/26/04	06/01/04	07/16/04	07/20/04	09/01/04	01/26/05	02/11/05
18:23	06/01/04	05/10/04	06/16/04	08/02/04	08/20/04	10/01/04	01/26/05	02/26/05
18:24	06/15/04	05/24/04	06/30/04	08/16/04	08/20/04	10/01/04	01/26/05	03/12/05
19:01	07/01/04	06/10/04	07/16/04	08/30/04	09/20/04	11/01/04	01/26/05	03/28/05
19:02	07/15/04	06/23/04	07/30/04	09/13/04	09/20/04	11/01/04	01/26/05	04/11/05
19:03	08/02/04	07/12/04	08/17/04	10/01/04	10/20/04	12/01/04	01/26/05	04/29/05
19:04	08/16/04	07/26/04	08/31/04	10/15/04	10/20/04	12/01/04	01/26/05	05/13/05
19:05	09/01/04	08/11/04	09/16/04	11/01/04	11/22/04	01/01/05	01/26/05	05/29/05
19:06	09/15/04	08/24/04	09/30/04	11/15/04	11/22/04	01/01/05	01/26/05	06/12/05
19:07	10/01/04	09/10/04	10/16/04	11/30/04	12/20/04	02/01/05	05/00/06	06/28/05
19:08	10/15/04	09/24/04	10/30/04	12/14/04	12/20/04	02/01/05	05/00/06	07/12/05
19:09	11/01/04	10/11/04	11/16/04	12/31/04	01/20/05	03/01/05	05/00/06	07/29/05
19:10	11/15/04	10/22/04	11/30/04	01/14/05	01/20/05	03/01/05	05/00/06	08/12/05
19:11	12/01/04	11/05/04	12/16/04	01/31/05	02/21/05	04/01/05	05/00/06	08/28/05
19:12	12/15/04	11/22/04	12/30/04	02/14/05	02/21/05	04/01/05	05/00/06	09/11/05

## 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**  
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.

**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.

**EXECUTIVE ORDER NO. 70  
PROCLAMATION OF STATE OF EMERGENCY  
BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA**

Section 1. I have determined that a state of emergency, as defined in N.C.G.S. § 14-288.1(10), exists in the State of North Carolina, due to Hurricane Jeanne, which began on September 27, 2004, which is expected to produce excessive rainfall, widespread flooding and tornadoes across the regions of the State.

Section 2. Pursuant to N.C.G.S. § 14-288.15, I, therefore, proclaim the existence of a state of emergency in the State.

Section 3. I hereby order all state and local government entities and agencies to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan.

Section 4. I hereby delegate to Bryan E. Beatty, Secretary of Crime Control and Public Safety, and/or his designee, all power and authority granted to me and required of me by Chapter 166A, and Article 36A of Chapter 14 of the General Statutes for the purpose of implementing the said Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in the State.

Section 5. Further, Bryan E. Beatty, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in N.C.G.S. § 143B-476.

Section 6. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and; (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

Section 7. This proclamation shall become effective immediately and shall continue until it is terminated in writing.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Carolina at the Capitol in Raleigh this 27th day of September in the year of our Lord two thousand and four, and of the Independence of the United States of America the two hundred and twenty-eighth.

\_\_\_\_\_  
MICHAEL F. EASLEY  
GOVERNOR

ATTEST:

\_\_\_\_\_  
ELAINE MARSHALL  
SECRETARY OF STATE

*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.*

**STATE BOARD OF ELECTIONS**

6400 Mail Service Center • Raleigh, NC 27699-6400

GARY O. BARTLETT  
Director

June 21, 2004

Mailing Address  
PO Box 27255  
Raleigh, NC 27611-7255  
(919)733-7173  
Fax (919)733-0135

Mr. John R. Wallace  
Wallace, Creech & Sarda, LLP  
P.O. Box 12065  
Raleigh, NC 27605

Re: North Carolina Democratic Party's Request for Advisory Opinion pursuant to N.C Gen. Stat. § 163-27.23 on  
Use of Private Aircraft

Dear Mr. Wallace:

You have requested a written opinion pursuant to N.C. Gen. Stat. § 163-278.23 on the application of the reporting requirements and contribution limits of Article 22A of Chapter 163 of the North Carolina General Statutes to the use of private aircraft by the North Carolina Democratic Party and its nominees. You anticipate that representatives and nominees of the Party, particularly statewide candidates, will travel extensively this election year and may use private aircraft at times. Private individuals have on occasion offered to the Party's representatives, including nominees, the use of private aircraft in which they have an ownership interest. You request guidance on several specific questions that may arise with the respect to the use of private aircraft.

There are several means by which a candidate or party political committee may obtain the use of aircraft. A political committee may purchase a ticket on commercial aircraft or may contract with a charter airline service in an arms-length transaction. In both instance, the actual expenditure for the ticket or the charter service should be reported.

Contributions may not exceed \$4,000 per primary or election and must be made by an individual. G.S. 163-278.13. Aircraft may be owned by an individual or may be owned by a corporation or other business entity. If the aircraft is individually owned and its use is donated to a candidate or political committee, the fair market value of the donated use should be reported as an in-kind contribution by the recipient committee under G. S. 163-278.6(6) and 278.8.

The use of an aircraft owned by a corporation or business entity, however, may not be donated to a candidate, party or political committee. G.S. 163-278.19(a). However, in the instance in which a corporate executive is allotted a certain and finite use of a corporate aircraft in compensation for and in consideration of employment, the individual may upon prior approval of the campaign reporting office, donate his or her right to use such aircraft. In the event such donation is intended, the prospective donee must advise the State Board Campaign Reporting Office five (5) business days prior to the intended use of the corporate aircraft providing the State Board of the following matters: (1) a description of the plane to be used including manufacturer, model number and weight; (2) the intended flight path and distance; (3) whether the crew members are volunteers or are to be provided by the corporation along with the use of the aircraft; (4) expected terminal and related charges; and (5) whether the executive is provided with unlimited or limited usage of the corporate aircraft and if limited, the number of hours or miles such use which are granted per annum.

Upon review of the submission, the State Board may determine that the proposed usage is acceptable and upon such determination, such usage shall constitute an in-kind contribution by the individual donor, the value of which shall be established in accordance with the subsequent paragraphs of the instant advisory opinion. However, the State Board of Elections Campaign Reporting Office may determine that the proposed flight will constitute a contribution by a corporation or business entity not otherwise permitted to contribute and may decline to approve the contribution. In any event, with respect to any approved flight, usage of the aircraft may only be approved where the access and usage to the aircraft is part of an employee's compensation package and is reported to state and federal tax and other regulatory authorities. Furthermore, the employee may only donate the use of his or her share of such aircraft to a candidate or committee in an amount not to exceed \$4000.00 per primary or general election.

A more difficult question is how to value fairly the donation of the use of aircraft. I have been unable to locate any established, controlling legal or accounting standard ascertaining the value of the use of a donated aircraft; however, there is information publicly available that should permit political committees to ascertain a fair valuation of donated aircraft and crew. David Roy Blackwell, a licensed pilot and Special Deputy Attorney General in the Attorney General's Office, has identified multiple, publicly available sources for assessing the costs of owning and operation private aircraft. See Memorandum from D. Blackwell to G. Bartlett (6 May 2004) (copy attached).

In calculating the donated use, or in evaluating how much compensation is owed for the use of a private aircraft that is not donated, the first step is to determine the average cost per flight hour of the make and model aircraft. The average cost per flight hour may be determined from one of the web sites listed in Mr. Blackwell's letter. Once the average cost per flight hour is determined, it should be multiplied by the number of flight hours fairly attributable to the political committee's use. These hours would include flight time necessary to reposition the aircraft.

Some of the average cost per hour data includes the average cost of the appropriate crew for the aircraft. If so, you do not need to separately determine the crew costs per flight hour. If the crew costs are not included, you must first determine if the pilot is a volunteer. Sometimes pilots who own their own aircraft will volunteer flight time to a candidate or political committee. Volunteer services are not included in the definition of a contribution. G.S. 163-278.6(6). If the pilot or pilots services are not voluntarily given, then Mr. Blackwell has surveyed the current costs and they range per hour from \$30 per flight hour for a single engine pilot with a three-hour minimum to \$90 per flight hour with a \$300 per day minimum for a turboprop or light jet twin-engine aircraft. Any time associated with the trip that the pilot or crew must spend in addition to actual flight time, and travel expenses they charge in addition to their other compensation, should be added to the estimated value of the contribution if it is paid by someone other than the committee. If the pilot costs are paid by the committee, then they would be reported as expenditures.

In sum, if a political committee wishes to accept the donated use of an aircraft or its crew, it is essential that the committee report that use as an in-kind contribution. Information is available by which a committee may assign a reasonable value to the donation. In auditing reports listing contributions or expenditures for the use of aircraft, this office will use the above principles and information to evaluate the reasonableness of the value assigned. The committee should specifically disclose the type of aircraft used, the number of hours it was used, and the number of crew members who were compensated for the use. The committee should be prepared to explain the assumptions it used in calculating the costs associated with committee's use of the aircraft. Finally, the total contributions of an individual donor should not exceed \$4,000. This office will be happy to answer any questions that may arise as a committee determines the value of a particular contribution of the use of an aircraft.

This opinion is based upon the facts as stated in your letter dated February 19, 2004. If those facts should change, you should evaluate whether this opinion is still applicable and binding. In addition, changes in statutes or case law may affect this opinion and you should evaluate their applicability. This opinion will be filed with the Codifier of Rules to be published unedited in the North Carolina Register and the North Carolina Administrative Code.

Sincerely,

Gary O. Bartlett  
Executive Director

cc: Julian Mann III, Codifier of Rules  
Kelly L. Loving, Robinson Bradshaw & Hinson

**U.S. Department of Justice**

Civil Rights Division

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JDR:RPL:NT:par  
DJ 166-012-3  
2004-3404

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

September 30, 2004

David A. Holec, Esq.  
City Attorney  
P.O. Box 7207  
Greenville, North Carolina 27835-7207

Dear Mr. Holec:

This refers to seven annexations (Ordinance Nos. 04-42 and 04-61 through 04-66) and their designation to districts of the City of Greenville in Pitt County, 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, 2004.

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. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. 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

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JDR:RPL:NT:maf  
DJ 166-012-3  
2004-3363

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

September 27, 2004

Michael Crowell, Esq.  
Tharrington Smith  
P.O. Box 1151  
Raleigh, NC 27602-1151

Dear Mr. Crowell:

This refers to Session Law 2004-41, which reschedules the postponed November 2001, election for three specified seats on the merged Cleveland County School District, to November 8, 2005, and reschedules the postponed November 2003, election for the remaining six seats, originally designated for members of the former merged school boards, to November 6, 2007; and requires a November 2005, special election to fill any vacancy in any of the six seats for the District in Cleveland County, 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 3, 2004.

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

Session Law 2004-41 includes provisions that are enabling in nature. Therefore, the District is not relieved of its responsibility to seek Section 5 review of any changes affecting voting proposed to be implemented pursuant to this legislation (e.g., procedures for conducting any special vacancy election). See 28 C.F.R. 51-15.

Sincerely,

Joseph D. Rich  
Chief, Voting Section

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

Pursuant to NCGS 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: Shawn Luton  
Hancor, Inc.  
1207 Savannah Lane  
Monroe, GA 30655  
770-267-2757

For: Modification to "Hancor" chambered sewage effluent disposal system Innovative Approval

DENR Contact: Dr. Robert Uebler  
1-252-946-6481  
FAX 252-975-3716  
[bob.uebler@ncmail.net](mailto:bob.uebler@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/](http://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. Andy Adams, Chief, On-site Wastewater Section, 1642 Mail Service Center, Raleigh, NC 27699-1642, or [andy.adams@ncmail.net](mailto:andy.adams@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.

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

**Main Street Properties of Chapel Hill. L.L.C.**

Pursuant to N.C.G.S. § 130A-310.34, Main Street Properties of Chapel Hill. L.L.C. has filed with the North Carolina Department of Environment and Natural Resources (“DENR”) a Notice of Intent to Redevelop a Brownfields Property (“Property”) in Carrboro, Orange County, North Carolina. The Property consists of 23,091 square feet and is located at 206 East Main Street. Environmental contamination exists on the Property in soil and groundwater. Main Street Properties of Chapel Hill L.L.C. has committed itself to redevelopment of the Property for commercial retail, restaurant, office and parking uses, and as an arts performance, teaching and exhibit center, all in conjunction with the renovation and expansion of the adjoining shopping center. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Main Street Properties of Chapel Hill L.L.C., 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 Carrboro Town Hall, 301 W. Main St., Carrboro, by contacting James Harris at 919-918-7318, JHarris@ci.carrboro.nc.us; or at 401 Oberlin Rd., Raleigh, NC 27605 by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net, or at (919) 733-2801, ext. 336, where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents. 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  
Brownfields Program Manager  
Division of Waste Management  
NC Department of Environment and Natural Resources  
401 Oberlin Road, Suite 150  
Raleigh, North Carolina 27605

**NOTICE OF PUBLIC HEARING AND DRAFT GENERAL PERMITS  
BY THE  
NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION**

**SUBJECT:** The Division of Water Quality has prepared two draft stormwater NPDES general permits for two State National Pollutant Discharge Elimination System (NPDES) General Permits for Point Source Discharges of Stormwater associated with the following activities:

The point source discharge of stormwater from small municipal separate storm sewer systems discharging to the waters of North Carolina.

**PURPOSE:** On the basis of preliminary staff review and application of Article 21 of Chapter 143, General Statutes of North Carolina, and other lawful standards and regulations, the North Carolina Environmental Management Commission proposes to issue two State NPDES General Permits subject to specific conditions. The Director of the Division of Water Quality, pursuant to NCGS 143-215.1(c) (3) and Regulation 15 NCAC 2H, Section .0100, has determined that it is in the public interest that a public hearing be held to receive all pertinent public comment on whether to issue the general permits as drafted, issue modified versions of the draft general permits, or to not issue the general permits.

**HEARING**

**PROCEDURE:** The hearing will be conducted in the following manner:

1. The staff of the Division of Water Quality will present an explanation of the NC Environmental Management Commission's general permit procedure and components of the draft general permits proposed for issuance.
2. Public Comment - Comments, statements, data, and other information may be submitted in writing prior to or during the hearing, or may be presented orally at the hearing. Persons desiring to speak will indicate this intent at the time of registration at the hearing. So that all persons desiring to speak may do so, lengthy statements may be limited at the discretion of the Hearing Officer. Lengthy oral presentations must be accompanied by three (3) written copies which will be filed with the Hearing Clerk at the time of registration.
3. Cross examination of persons speaking will not be allowed; however, the Hearing Officer may ask questions for clarification.
4. The public hearing record will remain open for two weeks after the conclusion of the public hearing. Written comments regarding the draft permits may be submitted to the Division of Water Quality at the address shown below. All comments received by the Division whether in writing prior to the hearing, or presented at the hearing, or presented in writing within the two week open record period, will be taken into consideration by the Hearing Officer in his recommendations to the Director of the Division of Water Quality prior to the Director making a final decision on the matter of permit issuance.

**WHEN/WHERE:** December 2, 2004, 7:00 p.m. – 9:00 p.m.  
Administrative Building Auditorium, Catawba Valley Community College, Hickory, NC

December 9, 2004, 6:00 p.m. – 8:30 p.m.  
Wayne County Public Library, Goldsboro, NC

December 14, 2004, 7:00 p.m. – 9:30 p.m.  
Northeast Regional Library, Wilmington, NC

December 16, 2004, 6:30 p.m. – 8:30 p.m.  
May Memorial Library, Burlington, NC

COPIES: Copies of the draft general permits and supporting fact sheets are available by contacting:

Mr. Ken Pickle  
NC Division of Water Quality  
1617 Mail Service Center  
Raleigh, North Carolina 27699-1617

Telephone number: (919) 733-5083, extension 584  
Ken.pickle@ncmail.net

All comments and requests should reference draft general permits numbers NCG230000 and NCG240000.

Date: October 11, 2004

(signed) Bradley Bennett  
for Alan W. Klimek, Director  
Division of Water Quality

NOTICE OF RULE MAKING PROCEEDINGS AND PUBLIC HEARING

NORTH CAROLINA BUILDING CODE COUNCIL

Notice of Rule-making Proceedings is hereby given by N.C. Building Code Council in accordance with G.S. 150B-21.5(d).

**Citation to Existing Rule Affected by this Rule-Making:** *North Carolina Building, Fire Prevention, Mechanical and Residential Codes*

**Authority for Rule-making:** *G.S. 143-136; 143-138.*

**Reason for Proposed Action:** *To incorporate changes in the NC Building Code as a result of rulemaking petitions filed with the NC Building Code Council and incorporate changes proposed by the Council.*

**Public Hearing:** *December 13, 2004, 1:00PM, NC Department of Insurance, 322 Chapanoke Road, Suite 200, Raleigh, NC 27603*

**Comment Procedures:** *Written comments may be sent to Barry Gupton, Secretary, N.C. Building Code Council, c/o NC Department of Insurance, 322 Chapanoke Road, Suite 200, Raleigh, NC 27603. Comment period expires on December 13, 2004.*

**Statement of Subject Matter:**

**1. Request by NCBIA to modify the NC Building Code as follows:**

**1003.3.1.8 Locks and Latches.** Egress doors shall be readily openable from the egress side without the use of a key or special knowledge of effort.

**Exceptions:**

1. Places of detention or restraint
2. In buildings in occupancy Group A having an occupant load ~~300 less than 100~~, Groups B, F, M and S, ~~and in churches~~ the main exterior door or doors are permitted to be equipped with key operated locking devices from the egress side provided:

2.1 The locking device is readily distinguishable as locked and provided with a key that cannot be removed when the door is locked from the inside.

This code change is proposed to coordinate Section 1003.3.1.8 with the requirements for panic hardware in Section 1003.3.1.9.

**2. Request by NCBIA to modify the NC Residential Code as follows:**

**R318.3 Specific approval.** Plastic foam not meeting the requirements of Sections R318.1 and R318.2 may be specifically on the basis of one of the following approved tests: ~~ASTM E 84~~, FM 4880, UL 1040, ASTM E 152, or UL 1715, or fire tests related to actual end-use configurations. The specific approval may be based on the end use, quantity, location and similar considerations where such tests would not be applicable or practical.

This code change is proposed to eliminate a conflict between the general requirements of R318 and the specific requirements of R318.3.

**3. Request by NC Fire Service Code Revision Committee to modify the NC Fire Prevention Code as follows:**

**804.1.1 Restricted occupancies.** Natural cut trees shall be prohibited in Group A, E, I-1, I-2, I-3, I-4, M, R-1, R-2, and R-4 occupancies.

**Exceptions:**

1. Trees located in areas protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 shall not be prohibited in Groups A, E, M, R-1 and R-2.
2. In religious assembly occupancies when in the opinion of the Fire Official adequate safeguards have been taken treated natural cut Christmas trees are permitted. The tree shall be treated and maintained flame resistant in accordance with the test protocol listed in Appendix H.
3. Trees shall be permitted within dwelling units in Group R-2 occupancies.

This code change is proposed to clarify that the Fire Code does not restrict the use of Christmas trees within dwelling units.

**4. Request by Tim McLaughlin, NCPMA to modify the NC Mechanical Code as follows:**

**1301.2 Permits.** Fuel-oil storage systems shall comply with the International Fire Code. Fuel-oil piping systems shall comply with the requirements of this code.

**Exception:** Fuel-oil storage tanks for one- and two-family dwellings and townhouses shall comply with Section 1309.

**SECTION 1309 OIL TANKS FOR ONE-AND TWO-FAMILY DWELLINGS AND TOWNHOUSES**

**1309.1 Materials.** Supply tanks shall be listed and labeled and shall conform to UL 142 for aboveground tanks, UL 58 for underground tanks, and UL 80 for inside tanks.

**1309.2 Above-ground tanks.** The maximum amount of fuel oil stored above ground or inside of a building shall be 660 gallons (2498 L). The supply tank shall be supported on rigid noncombustible supports to prevent settling or shifting.

**1309.2.1 Tanks with buildings.** Supply tanks for use inside of buildings shall be of such size and shape to permit installation and removal from dwellings as whole units. Supply tanks larger than 10 gallons (38 L) shall be placed not less than 5 feet (1524 mm) from any fire or flame either within or external to any fuel-burning appliance.

**1309.2.2 Outside above-ground tanks.** Tanks installed outside above ground shall be a minimum of 5 feet (1524 mm) from an adjoining property line. Such tanks shall be suitably protected from the weather and from physical damage.

**1309.3 Underground Tanks.** Excavations for underground tanks shall not undermine the foundations of existing structures. The clearance from the tank to the nearest wall of a basement, pit or property line shall not be less than 1 foot (305 mm). Tanks shall be set on and surrounded with noncorrosive inert materials such as clean earth, sand or gravel well tamped in place. Tanks shall be covered with not less than 1 foot (305mm) of earth. Corrosion protection shall be provided in accordance with section 1309.8.

**1309.4 Multiple tanks.** Cross connection of two supply tanks shall be permitted in accordance with Section 1309.7.

**1309.5 Oil Gauges.** Inside tanks shall be provided with a device to indicate when the oil in the tank has reached a predetermined safe level. Glass gauges or a gauge subject to breakage that could result in the escape of oil from the tank shall not be used.

**1309.6 Flood-resistant installation.** In areas prone to flooding as established by Table R301.2(1) of the International Residential Code, tanks shall be installed at or above the design flood elevation established in Section R327 of the International Residential Code or shall be anchored to prevent flotation, collapse and lateral movement under conditions of the design flood.

**1309.7 Cross connection of tanks.** Cross connection of supply tanks, not exceeding 660 gallons (2498 L) aggregate capacity, with gravity flow from one tank to another, shall be acceptable provided that the two tanks are on the same horizontal plane.

**1309.8 Corrosion protection.** Underground tanks and buried piping shall be protected by corrosion resistant coatings or special alloys or fiberglass-reinforced plastic.

This code change is proposed to provide minimum requirements for fuel-oil systems associated with one-and two-family dwellings and townhouses.

**5. Request by NCBIA to modify the NC Building Code as follows:**

**707.14.1 Elevator lobby.** ~~An elevators opening into a fire resistance rated corridor as required by Section 1016.1 lobby shall be provided with an elevator lobby at each floor containing such a corridor where an elevator shaft enclosure connects more than three stories. The lobby shall separate the elevators shaft enclosure doors from the corridor each floor by fire partitions and the required opening protection. Elevator lobbies shall have at least one means of egress complying with Chapter 10 and other provisions within this code.~~

**Exceptions:**

1. (No change to current text)
2. Elevators not required to be located in a shaft enclosure in accordance with Section 707.2.

3. (No change to current text)
4. In other than Group I-3, and buildings having occupied floors located more than ~~four stories~~ 75 feet above the lowest level of fire department vehicle access, lobby separation is not required where the building, ~~including the lobby and corridors leading to the lobby,~~ is protected by an automatic sprinkler system installed throughout in accordance with Section 903.3.1.1 or 903.3.1.2.
5. Smoke partitions shall be permitted to separate the elevator lobby at each floor where the building is protected by an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.
6. Elevator lobbies are not required provided that the elevator shaft enclosure is pressurized in accordance with Section 909.20.5.

This code change is proposed to limit the spread of smoke in mid-rise and high-rise construction.



**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 10A– DEPARTMENT OF HEALTH AND HUMAN SERVICES**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Health Services intends to amend the rules cited as 10A NCAC 41A .0102, .0202.*

**Proposed Effective Date:** April 1, 2005

**Public Hearing:**

**Date:** November 30, 2004

**Time:** 2:00 p.m.

**Location:** Room G1-A, 1330 St. Mary's Street, Raleigh, NC

**Reason for Proposed Action:**

*10A NCAC 41A .0102 – It is necessary to amend this rule in order to update those tests used to diagnose AIDS. Prompt identification of and reporting of AIDS is imperative if the Division of Public Health is to take prompt action to prevent or effectively control this disease in the state.*

*10A NCAC 41A .0202 – It is necessary to amend this rule in order to retain HIV partner identifying information longer in order to enable Disease Intervention Specialists to better locate individuals who have been exposed to AIDS. These data will be destroyed as stipulated in the official records retention and disposition schedule. Identification and location of exposed individuals is important if the Division of Public Health is to take prompt action to prevent or effectively control this disease in the state.*

**Procedure by which a person can object to the agency on a proposed rule:** *Objections may be submitted in writing to Chris Hoke, JD, the Rule-Making Coordinator, during the public comment period. Additionally, objections may be made verbally and in writing at the public hearing for this rule.*

**Written comments may be submitted to:** *Chris G. Hoke, JD, 1915 MSC, Raleigh, NC 27699-1915, Phone (919)715-4168, email chris.hoke@ncmail.net.*

**Comment period ends:** December 31, 2004

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, 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 day following the day the Commission approves the rule. 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 41 – HEALTH: EPIDEMIOLOGY**

**SUBCHAPTER 41A – COMMUNICABLE DISEASE CONTROL**

**SECTION .0100 – REPORTING OF COMMUNICABLE DISEASES**

**10A NCAC 41A .0102 METHOD OF REPORTING**

(a) When a report of a disease or condition is required to be made pursuant to G.S. 130A-135 through 139 and 10A NCAC 41A .0101, with the exception of laboratories, which shall proceed as in Subparagraph (d), the report shall be made to the local health director as follows:

- (1) For diseases and conditions required to be reported within 24 hours, the initial report shall be made by telephone, and the report required by Subparagraph (2) of this Paragraph shall be made within seven days.
- (2) In addition to the requirements of Subparagraph (1) of this Paragraph, the report shall be made on the communicable disease report card or in an electronic format provided by the Division of Public Health and shall include the name and address of the patient, the name and address of the parent or guardian if the patient is a minor, and epidemiologic information.
- (3) In addition to the requirements of Subparagraphs (1) and (2) of this Paragraph, forms or electronic formats provided by the Division of Public Health for collection of information necessary for disease control and documentation of clinical and epidemiologic information about the cases shall be completed and submitted for the following reportable diseases and conditions identified in 15A NCAC 19A .0101(a) acquired immune deficiency syndrome (AIDS); brucellosis;

cholera; cryptosporidiosis; cyclosporiasis; E. coli 0157:H7 infection; ehrlichiosis; Haemophilus influenzae, invasive disease; Hemolytic-uremic syndrome/thrombotic thrombocytopenic purpura; hepatitis A; hepatitis B; hepatitis B carriage; hepatitis C; human immunodeficiency virus (HIV) confirmed; legionellosis; leptospirosis; Lyme disease; malaria; measles (rubeola); meningitis, pneumococcal; meningococcal disease; mumps; paralytic poliomyelitis; psittacosis; Rocky Mountain spotted fever; rubella; rubella congenital syndrome; tetanus; toxic shock syndrome; trichinosis; tuberculosis; tularemia; typhoid; typhoid carriage (Salmonella typhi); vibrio infection (other than cholera); and whooping cough.

- (4) Communicable disease report cards, surveillance forms, and electronic formats are available from the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915, and from local health departments.

(b) Notwithstanding the time frames established in 10A NCAC 41A .0101 a restaurant or other food or drink establishment shall report all outbreaks or suspected outbreaks of foodborne illness in its customers or employees and all suspected cases of foodborne disease or foodborne condition in food-handlers at the establishment by telephone to the local health department within 24 hours in accordance with Subparagraph (a)(1) of this Rule. However, the establishment is not required to submit a report card or surveillance form pursuant to Subparagraphs (a)(2) and (a)(4) of this Rule.

(c) For the purposes of reporting by restaurants and other food or drink establishments pursuant to G.S.130A-138, the following diseases and conditions listed in 10A NCAC 41A .0101(a) shall be reported: anthrax; botulism; brucellosis; campylobacter infection; cholera; cryptosporidiosis; cyclosporiasis; E. coli 0157:H7 infection; hepatitis A; salmonellosis; shigellosis; streptococcal infection, Group A, invasive disease; trichinosis; tularemia; typhoid; typhoid carriage (Salmonella typhi); and vibrio infection (other than cholera).

(d) Laboratories required to report test results pursuant to G.S. 130A-139 and 10A NCAC 41A .0101(c) shall report as follows:

- (1) The results of the specified tests for syphilis, chlamydia and gonorrhea shall be reported to the local health department by the first and fifteenth of each month. Reports of the results of the specified tests for gonorrhea, chlamydia and syphilis shall include the specimen collection date, the patient's age, race, and sex, and the submitting physician's name, address, and telephone numbers.
- (2) Positive darkfield examinations for syphilis, all reactive prenatal and delivery STS titers, all reactive STS titers on infants less than one year old and STS titers of 1:8 and above shall be reported within 24 hours by telephone to the HIV/STD Prevention and Care Branch at

(919) 733-7301, or the HIV/STD Prevention and Care Branch Regional Office where the laboratory is located.

- (3) With the exception of positive laboratory tests for human immunodeficiency virus, positive laboratory tests as defined in G.S. 130A-139(1) and 10A NCAC 41A .0101(c) shall be reported to the Division of Public Health electronically, by mail, by secure telefax or by telephone within the time periods specified for each reportable disease or condition in 10A NCAC 41A .0101(a). Confirmed positive laboratory tests for human immunodeficiency virus as defined in 10A NCAC 41A .0101(b) and for CD4 results defined in 10A NCAC 41A .0101(c)(4) shall be reported to the HIV/STD Prevention and Care Branch within seven days of obtaining reportable test results. Reports shall include as much of the following information as the laboratory possesses: the specific name of the test performed; the source of the specimen; the collection date(s); the patient's name, age, race, sex, address, and county; and the submitting physician's name, address, and telephone number.

*Authority G.S. 130A-134; 130A-135; 130A-138; 130A-139; 130A-141.*

### **SECTION .0200 - CONTROL MEASURES FOR COMMUNICABLE DISEASES**

#### **10A NCAC 41A .0202 CONTROL MEASURES – HIV**

The following are the control measures for the Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV) infection:

- (1) Infected persons shall:
  - (a) refrain from sexual intercourse unless condoms are used; exercise caution when using condoms due to possible condom failure;
  - (b) not share needles or syringes, or any other drug-related equipment, paraphernalia, or works that may be contaminated with blood through previous use;
  - (c) not donate or sell blood, plasma, platelets, other blood products, semen, ova, tissues, organs, or breast milk;
  - (d) have a skin test for tuberculosis;
  - (e) notify future sexual intercourse partners of the infection; if the time of initial infection is known, notify persons who have been sexual intercourse and needle partners since the date of infection; and, if the date of initial infection is unknown, notify persons who have been sexual

- intercourse and needle partners for the previous year.
- (2) The attending physician shall:
- (a) give the control measures in Item (1) of this Rule to infected patients, in accordance with 10A NCAC 41A .0210;
  - (b) If the attending physician knows the identity of the spouse of an HIV-infected patient and has not, with the consent of the infected patient, notified and counseled the spouse, the physician shall list the spouse on a form provided by the Division of Epidemiology and shall mail the form to the Division; the Division shall undertake to counsel the spouse; the attending physician's responsibility to notify exposed and potentially exposed persons is satisfied by fulfilling the requirements of Sub-Items (2)(a) and (b) of this Rule;
  - (c) advise infected persons concerning clean-up of blood and other body fluids;
  - (d) advise infected persons concerning the risk of perinatal transmission and transmission by breastfeeding.
- (3) The attending physician of a child who is infected with HIV and who may pose a significant risk of transmission in the school or day care setting because of open, oozing wounds or because of behavioral abnormalities such as biting shall notify the local health director. The local health director shall consult with the attending physician and investigate the circumstances.
- (a) If the child is in school or scheduled for admission and the local health director determines that there may be a significant risk of transmission, the local health director shall consult with an interdisciplinary committee, which shall include school personnel, a medical expert, and the child's parent or guardian to assist in the investigation and determination of risk. The local health director shall notify the superintendent or private school director of the need to appoint such an interdisciplinary committee.
    - (i) If the superintendent or private school director establishes such a committee within three days of notification, the local health director shall consult with this committee.
    - (ii) If the superintendent or private school director does not establish such a committee within three days of notification, the local health director shall establish such a committee.
  - (b) If the child is in school or scheduled for admission and the local health director determines, after consultation with the committee, that a significant risk of transmission exists, the local health director shall:
    - (i) notify the parents;
    - (ii) notify the committee;
    - (iii) assist the committee in determining whether an adjustment can be made to the student's school program to eliminate significant risks of transmission;
    - (iv) determine if an alternative educational setting is necessary to protect the public health ;
    - (v) instruct the superintendent or private school director concerning protective measures to be implemented in the alternative educational setting developed by appropriate school personnel; and
    - (vi) consult with the superintendent or private school director to determine which school personnel directly involved with the child need to be notified of the HIV infection in order to prevent transmission and ensure that these persons are instructed regarding the necessity for protecting confidentiality.
  - (c) If the child is in day care and the local health director determines that there is a significant risk of transmission, the local health director shall notify the parents that the child must be placed in an alternate child care setting that eliminates the significant risk of transmission.
- (4) When health care workers or other persons have a needlestick or nonsexual non-intact skin or mucous membrane exposure to blood or body fluids that, if the source were infected with HIV, would pose a significant risk of HIV transmission, the following shall apply:

- (a) When the source person is known:
    - (i) The attending physician or occupational health care provider responsible for the exposed person, if other than the attending physician of the person whose blood or body fluids is the source of the exposure, shall notify the attending physician of the source that an exposure has occurred. The attending physician of the source person shall discuss the exposure with the source and shall test the source for HIV infection unless the source is already known to be infected. The attending physician of the exposed person shall be notified of the infection status of the source.
    - (ii) The attending physician of the exposed person shall inform the exposed person about the infection status of the source, offer testing for HIV infection as soon as possible after exposure and at reasonable intervals up to one year to determine whether transmission occurred, and, if the source person was HIV infected, give the exposed person the control measures listed in Sub-Items (1)(a) through (c) of this Rule. The attending physician of the exposed person shall instruct the exposed person regarding the necessity for protecting confidentiality.
  - (b) When the source person is unknown, the attending physician of the exposed persons shall inform the exposed person of the risk of transmission and offer testing for HIV infection as soon as possible after exposure and at reasonable intervals up to one year to determine whether transmission occurred.
  - (c) A health care facility may release the name of the attending physician of a source person upon request of the attending physician of an exposed person.
- (5) The attending physician shall notify the local health director when the physician, in good faith, has reasonable cause to suspect a patient infected with HIV is not following or cannot follow control measures and is thereby causing a significant risk of transmission. Any other person may notify the local health director when the person, in good faith, has reasonable cause to suspect a person infected with HIV is not following control measures and is thereby causing a significant risk of transmission.
  - (6) When the local health director is notified pursuant to Item (5) of this Rule, of a person who is mentally ill or mentally retarded, the local health director shall confer with the attending mental health physician or mental health authority and the physician, if any, who notified the local health director to develop a plan to prevent transmission.
  - (7) The Director of Health Services of the North Carolina Department of Correction and the prison facility administrator shall be notified when any person confined in a state prison is determined to be infected with HIV. If the prison facility administrator, in consultation with the Director of Health Services, determines that a confined HIV infected person is not following or cannot follow prescribed control measures, thereby presenting a significant risk of HIV transmission, the administrator and the Director shall develop and implement jointly a plan to prevent transmission, including making recommendations to the unit housing classification committee.
  - (8) The local health director shall ensure that the health plan for local jails include education of jail staff and prisoners about HIV, how it is transmitted, and how to avoid acquiring or transmitting this infection.
  - (9) Local health departments shall provide testing for HIV infection with pre- and post-test counseling at no charge to the patient. Third party payors may be billed for HIV counseling and testing when such services are provided and the patient provides written consent.
  - (10) Counseling for HIV testing shall include risk assessment, risk reduction guidelines, referrals for medical and psychosocial services, and, when the person tested is found to be infected with HIV, control measures. Pre-test counseling may be done in a group or individually, as long as each individual is provided the opportunity to ask questions in private. Post-test counseling must be individualized.
  - (11) A local health department or the Department may release information regarding an infected person pursuant to G.S. 130A-143(3) only

when the local health department or the Department has provided direct medical care to the infected person and refers the person to or consults with the health care provider to whom the information is released.

- (12) Notwithstanding Rule .0201(d) of this Section, a local or state health director may require, as a part of an isolation order issued in accordance with G.S. 130A-145, compliance with a plan to assist the individual to comply with control measures. The plan shall be designed to meet the specific needs of the individual and may include one or more of the following available and appropriate services:
  - (a) substance abuse counseling and treatment;
  - (b) mental health counseling and treatment; and
  - (c) education and counseling sessions about HIV, HIV transmission, and behavior change required to prevent transmission.
- (13) The Division of Epidemiology shall conduct a partner notification program to assist in the notification and counseling of partners of HIV infected persons. ~~All partner identifying information obtained as a part of the partner notification program shall be destroyed within two years.~~
- (14) Every pregnant woman shall be given HIV pre-test counseling, as described in 15A NCAC 19A .0202(10), by her attending physician as early in the pregnancy as possible. At the time this counseling is provided, and after informed consent is obtained, the attending physician shall test the pregnant woman for HIV infection, unless the pregnant woman refuses the HIV test.

Authority G.S. 130A-133; 130A-135; 130A-144; 130A-145; 130A-148(h).

**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 10B .0105, 10D .0103.*

**Proposed Effective Date:** May 1, 2005

**Public Hearing:**

**Date:** February 2, 2005

**Time:** 2:00 pm

**Location:** WRC Conference Room, 3<sup>rd</sup> floor of Archdale Building, 512 North Salisbury Street, Raleigh, NC

**Reason for Proposed Action:**

*15A NCAC 10B .0105 - The purposed of the action proposed to be taken regarding Migratory Game Birds is to remove the migratory waterfowl rules pertaining to scaup and Canada geese that no longer conform to federal hunting options and requirements.*

*15A NCAC 10D .0103 - The purpose of the action proposed to be taken on gamelands is to establish additional game lands in certain counties, and to change the name of the one of the gamelands. **Note:** Rule 10D .0103 will be heard both at the local hearing listed AND at the statewide district hearings notice starting on page 768.*

**Procedure by which a person can object to the agency on a proposed rule:** *Persons may object by writing Dr. David Cobb, 1701 Mail Service Center, Raleigh, NC 27699-1701.*

**Written comments may be submitted to:** *Dr. David Cobb, 1701 Mail Service Center, Raleigh, NC 27699-1701.*

**Comment period ends:** *February 13, 2005*

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, 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 day following the day the Commission approves the rule. 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

**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)(2)~~ 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 10D - GAME LANDS REGULATIONS

SECTION .0100 - GAME LANDS REGULATIONS

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 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, 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;

(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.

(f) 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.
- (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.
- (4) Bachelor 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.
- (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.
- (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 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.
- (8) Brunswick County Game Land in Brunswick County: Permit Only Area
- ~~(9)~~ Buckhorn Game Land in Orange County: Permit Only Area
- ~~(9)~~(10) Buckridge Game Land in Tyrrell 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) 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.
- ~~(11)~~ Buffalo Cove Game Land in Caldwell and Wilkes 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. Deer may be taken with bow and arrow on open days beginning the Monday on or nearest September 10 to the fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving and during the deer with visible antlers season. Deer may be taken with muzzle-loading firearms on open days beginning the Monday on or nearest October 8 through the following Saturday, and during the Deer With Visible Antlers season.



- (C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (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.
- (+0)(12) 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.
- (+1)(13) 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.
- (C) Waterfowl ~~may~~ shall 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.
- (G) The use of dogs for hunting deer is prohibited on that portion west of NC 50 and south of Falls Lake.
- (+2)(14) 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.
- (+3)(15) 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 Thursday and 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 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.
- (+4)(16) 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.
- (+5)(17) 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.
- (+6)(18) Chatham Game Land in Chatham ~~and Harnett counties~~ 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.
- (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.
- (+7)(19) 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.
- ~~(18)~~(20) 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.
- ~~(19)~~(21) 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.
- ~~(20)~~(22) Cold Mountain Game Land in Haywood Count
- (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.
- ~~(21)~~(23) 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.
- ~~(22)~~(24) 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~~ shall be taken only on the following days: 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.
- (i) the opening and closing days of the applicable waterfowl seasons;
- (ii) Thanksgiving, Christmas, New Year's and Martin Luther King Days; and
- (iii) Mondays, Wednesday and Saturdays, except that when the United States Fish and Wildlife Service's waterfowl season framework for North Carolina exceeds 45 days, the permissible days of the week shall instead be on Tuesdays and Thursdays.
- ~~(23)~~(25) Currituck Banks Game Land in Currituck County
- (A) Six Days per Week Area
- (B) Permanent waterfowl blinds in Currituck Sound 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 shall be used to attach a tree stand or blind to a tree.
- ~~(24)~~(26) Dare Game Land in Dare County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last day of the 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.
- ~~(25)~~(27) 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.
- ~~(26)~~ ~~Dysartsville Game Land in McDowell and Rutherford 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.~~
- ~~(27)~~(28) 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.
- ~~(28)~~(29) 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) Except as provided in Subparagraph (D) of this Section, waterfowl in posted waterfowl impoundments shall be taken only on the following days: 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.
- (i) the opening and closing days of the applicable waterfowl seasons; and
- (ii) Thanksgiving, Christmas, New Year's and Martin Luther King Days; and
- (iii) Mondays, Wednesday and Saturdays, except that when the United States Fish and Wildlife Service's waterfowl season framework for North Carolina exceeds 45 days, the permissible days of the week shall be on Tuesdays and Thursdays.
- (D) 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 applicable waterfowl seasons, Saturdays of the applicable waterfowl seasons, and on Thanksgiving, Christmas, New Year's and Martin Luther King Days.
- ~~(D)~~(E) Camping is restricted to Sep. 1-Feb 28 and April 7- May 14 in areas both designated and posted as camping areas.
- ~~(29)~~(30) 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.
- ~~(30)~~(31) 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.
- ~~(31)~~(32) Gull Rock 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.
- (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. Waterfowl on posted waterfowl impoundments shall be taken only on the following days:
- (i) the opening and closing days of the applicable waterfowl seasons; and
- (ii) Thanksgiving, Christmas, New Year's and Martin Luther King Days; and
- (iii) Mondays, Wednesday and Saturdays, except that when the United States Fish and Wildlife Service's waterfowl season framework for North Carolina exceeds 45 days, the permissible days of the week shall be on Tuesdays and Thursdays.
- (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.
- (33) Harris Game Land in Chatham, Harnett 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 shall 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 shall be prohibited.
- (E) Wild turkey hunting is by permit only.
- ~~(32)~~(34) Holly Shelter Game Land in Pender County
- (A) Three Days per Week Area, except that portion which lies west of the Shaw Highway, which will be a Six Days per Week Area during the bow, muzzleloading and gun deer season.
- (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~~ occur, provided however, that waterfowl in posted waterfowl impoundments shall be taken only on the following days:
- (i) the opening and closing days of the applicable waterfowl seasons;
- (ii) Thanksgiving, Christmas, New Year's and Martin Luther King Days; and
- (iii) Mondays, Wednesday and Saturdays, except that when the United States Fish and Wildlife Service's waterfowl season framework for North Carolina exceeds 45 days, the permissible days of the week shall be on Tuesdays and Thursdays.
- (D) Camping is restricted to Sep. 1-Feb 28 and April 7- May 14 in areas both designated and posted as camping areas.
- (E) On that portion west of the Shaw Highway, deer may be still hunted during the bow, muzzleloading and gun deer seasons on Tuesdays, Thursdays and Fridays with any legal weapon.
- ~~(33)~~(35) 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.
- ~~(34)~~(36) J. Morgan Futch Game Land in Tyrrell County, Permit Only Area.
- ~~(35)~~(37) 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.
- (38) Kerr Scott Game Land in Wilkes County
- (A) Six Days per Week Area
- (B) Use of centerfire rifles shall be prohibited.
- (C) Use of muzzleloaders, shotguns, or rifles for hunting deer during the applicable Deer With Visible Antlers Season shall be prohibited.
- (D) Tree stands shall not be left overnight and no screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.
- (E) Deer of either sex may be taken on all open days of the applicable deer with visible antlers season.
- ~~(36)~~(39) 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.
- ~~(37)~~(40) 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.
- ~~(38)~~(41) 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.
- ~~(39)~~(42) 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 open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl ~~may~~ shall 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.
- ~~(40)~~(43) 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~~ shall 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.
- ~~(44)~~ Needmore Game Land in Macon and Swain counties.
- (A) Six Days per Week Area
- (B) Horseback riding shall be prohibited except on designated trails May 16 through August 31 and all horseback riding shall be prohibited from September 1 through May 15. This rule includes all equine species.
- ~~(41)~~(45) 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.
- ~~(42)~~(46) 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.
- ~~(43)~~(47) 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.
- ~~(44)~~(48) 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.
- ~~(45)~~(49) 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.
- ~~(46)~~(50) 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.
- ~~(47)~~(51) 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.
- ~~(48)~~(52) 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 open days of the applicable Deer With Visible Antlers Season.
- ~~(49)~~(53) 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.
- ~~(50)~~(54) Roanoke Sound Marshes Game Land in Dare County-Hunting is by permit only.
- ~~(51)~~(55) 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.
- ~~(52)~~(56) 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.
- ~~(53)~~(57) 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 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 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)~~(58) 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.

- ~~(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.
- ~~(E)~~ Wild turkey hunting is by permit only.
- ~~(56)~~(59) 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.
- ~~(57)~~(60) 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.
- (C) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (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.
- (61) Stones Creek Game Land in Onslow County
- (A) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(58)~~(62) 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.
- ~~(59)~~(63) 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.
- (64) Tar River Game Land in Edgecombe 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) Waterfowl may be taken on the following days
- (i) the opening and closing days of the applicable waterfowl seasons;
- (ii) Thanksgiving, Christmas, and New Year's Days; and
- (iii) Mondays, Wednesday and Saturdays, except that when the United States Fish and Wildlife Service's waterfowl season framework for North Carolina exceeds 45 days, waterfowl may be taken as indicated in Subparts (i) and (ii) of this Subparagraph, but shall also include Martin Luther King Day, and the permissible days of the week shall be on Tuesdays and Thursdays instead of Monday, Wednesdays and Saturdays.
- ~~(60)~~(65) 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.
- ~~(61)~~(66) Thurmond Chatham Game Land in Wilkes 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. 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.

- (62)(67) 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.

- (63)(68) 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.

- (64)(69) 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.

- (65)(70) 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.

- (66)(71) 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) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days: ~~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 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.~~

- (i) the opening and closing days of the applicable waterfowl seasons; and
- (ii) Thanksgiving, Christmas, New Year's and Martin Luther King Days; and
- (iii) Mondays, Wednesday and Saturdays, except that when the United States Fish and Wildlife Service's waterfowl season framework for North Carolina exceeds 45 days, the permissible days of the week shall be on Tuesdays and Thursdays.

(D) After October 1, a special permit is required for hunting on opening and closing days of the applicable waterfowl seasons, Saturdays of the applicable waterfowl seasons, and on Thanksgiving, Christmas, New Year's and Martin Luther King Days.

(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 cooperater 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
- Balden 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.

\*\*\*\*\*



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 .0101, .0107, .0120, .0202-.0203, .0209, .0215, .0302-.0303, 10C .0107, .0110-.0111, .0205-.0206, .0209, .0211, .0301, .0305, .0401, .0407, 10D .0102, 10H .0104, .0901, .0904 and 10J .0102.

Proposed Effective Date: May 1, 2005

Public Hearing:

Time: 7:00 p.m.

Location:

January 11, 2005

Southwestern Community College, 447 College Dr, Sylva, NC

January 12, 2005

City of Morganton Municipal Auditorium, 401 S. College St, Morganton, NC

January 13, 2005

Starmount High School, 2516 Longtown Rd, Boonville, NC

January 18, 2005

Elizabethtown Courthouse, 106 Courthouse Dr, Elizabeth, NC

January 19, 2005

Graham Courthouse, 212 W. Elm St, Graham, NC

January 20, 2005

South Stanly High School, 40488 South Stanly School Rd, Norwood, NC

January 25, 2005

Swain Auditorium, 100 Court St, Edenton, NC

January 26, 2005

New Bern Courthouse, 302 Broad St, New Bern, NC

January 27, 2005

Nash County Courthouse, 234 W. Washington St, Nashville, NC

Reason for Proposed Action:

- 15A NCAC 10B .0101 – Establish disease testing requirements
15A NCAC 10B .0107 – Remove restrictions on taking or possessing a wild boar weighing less than 30 pounds
15A NCAC 10B .0120 – Remove barrel length restriction and standardize caliber requirements
15A NCAC 10B .0202 – Change definition of bear cub and zone for hunting
15A NCAC 10B .0203 – Adjust seasons
15A NCAC 10B .0209 – Establish a Youth Hunt Day
15A NCAC 10B .0215 – Change crow season
15A NCAC 10B .0302 – Allow coyote trapping during certain fox seasons and adjust otter seasons
15A NCAC 10B .0303 – Set bag limits
15A NCAC 10C .0107 – Conform to Marine Fisheries Rules
15A NCAC 10C .0110 – Conform to Marine Fisheries Rules
15A NCAC 10C .0111 – Conform to Marine Fisheries Rules
15A NCAC 10C .0205 – Set boundaries and adjust definitions

- 15A NCAC 10C .0206 – Adjust requirements for Trotline
15A NCAC 10C .0209 – Prohibit transport of certain fish
15A NCAC 10C .0211 – Prohibit stocking of certain fish
15A NCAC 10C .0301 – List game fishes taxonomically
15A NCAC 10C .0305 – Adjust size limits and seasons
15A NCAC 10C .0401 – Adjust manner of taking for certain fishes
15A NCAC 10C .0407 – Adjust seasons
15A NCAC 10D .0102 – Adjust seasons for waterfowl
15A NCAC 10H .0104 – Establish disease testing
15A NCAC 10H .0901 – Add "release" to the list of activities authorized under Game Bird Propagation License
15A NCAC 10H .0904 – Establish disease testing
15A NCAC 10J .0102 – Adjust requirements for anglers

Procedure by which a person can object to the agency on a proposed rule: Persons may object by writing to Dr. David Cobb, 1701 Mail Service Center, Raleigh, NC 27699-1701.

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

Comment period ends: February 13, 2005

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, 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 day following the day the Commission approves the rule. 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 .0101 IMPORTATION OF WILD ANIMALS AND BIRDS

(a) Before any live wild bird or wild animal is imported into North Carolina for any purpose, a permit shall be obtained from the Executive Director of the North Carolina Wildlife Resources

Commission authorizing the importation, using application forms provided by the Commission.

(b) No deer, elk, or other species in the family Cervidae may be imported into the state of North Carolina for any purpose until the U.S. Department of Agriculture (USDA) establishes a Chronic Wasting Disease (CWD) program that includes a test to detect Chronic Wasting Disease along with requirements for monitoring cervids that shall establish a basis for determining whether a cervid and any cervid herd or farm on which the tested animal has resided has been free of CWD for five years, provided that the program, test and monitoring requirements are recommended for application to wild animals by the Southeastern Cooperative Wildlife Disease Study.

(c) Cervids imported into North Carolina shall be individually identified by tags provided by the Wildlife Resources Commission that shall be affixed by the licensee to each cervid as set forth in these Rules.

(d) Waterfowl imported into North Carolina shall be tested for Avian Influenza (AI) and Exotic Newcastle Disease (END) by use of serological screening methods and according to the following sample sizes:

- <100 birds - test 95% of source flock or shipment
- 101-200 birds - test 44% of source flock or shipment
- 201-300 birds - test 26% of source flock or shipment
- 301-400 birds - test 18% of source flock or shipment
- 401-500 birds - test 14% of source flock or shipment
- >500 birds - test 58 individuals from source flock or shipment.

(e) Waterfowl that have tested positive in seriological tests shall be tested further by virus isolation/polymerase-chain-reaction (PCR) tests and identification techniques.

(f) Cloacal swabs pooled into groups of no more than five samples for testing shall be used for virus isolation or PCR tests for AI and END.

(g) Final virus isolation/PCR tests that are required because of positive results of serological tests shall be conducted within 10 days prior to release of birds.

(h) The Wildlife Resources Commission shall not accept Directigen<sup>®</sup> test results for AI tests on captive-reared waterfowl.

(i) Test results shall not be used to accept or reject any individual bird(s) from shipments or flocks that have positive results on any assay.

(j) All test results shall be submitted directly from the testing lab to the Wildlife Resources Commission, Division of Wildlife Management.

(k) Neither permit nor license shall be issued until tests are negative for AI and END.

*Authority G.S. 113-134; 113-274; 113-291.3; 113-292; 106.549-97(b).*

**15A NCAC 10B .0107 BLACK BEAR**

It is unlawful to take or possess a female bear with a cub or cubs at its side, or to take or possess a cub bear. For the purpose of this Regulation, Rule, a cub bear is defined as any bear weighing less than 50 100 pounds. ~~It is unlawful to take or possess a wild bear (of either sex) weighing less than 30 pounds.~~

*Authority G.S. 113-134; 113-291.2; 113-291.7.*

**15A NCAC 10B .0120 TAKING BIG GAME WITH HANDGUNS**

~~(a) Barrel Length.~~ Handguns used ~~in taking to take~~ big game animals ~~must have barrels at least five and one half inches in length and must~~ shall be capable of receiving and firing a type of ammunition approved for such use by this rule.

(b) Type of Ammunition. Only metallic center-fire cartridges firing single projectiles ~~may~~ shall be used ~~in taking to take~~ big game with handguns. Armor-piercing projectiles ~~may~~ shall not be used.

~~(c) Power and Caliber.~~ Caliber. Handgun ammunition used to take big game shall be no less than .24 caliber.

~~(1) Straight walled handgun ammunition used in taking big game must be at least as powerful as the .357 magnum pistol cartridge and must be no less than .357 caliber. The .38 special ammunition shall not be used.~~

~~(2) Bottleneck handgun ammunition used in taking big game must be no less than .24 caliber and must have a total cartridge length including the projectile of no less than two inches.~~

*Authority G.S. 113-134; 113-291.1.*

**SECTION .0200 - HUNTING**

**15A NCAC 10B .0202 BEAR**

(a) Open Seasons for bear shall be from the:

- (1) Monday on or nearest October 15 to the Saturday before Thanksgiving and the third Monday after Thanksgiving to January 1 in and west of the boundary formed by ~~NC 113 I-77~~ from the Virginia State line to the intersection with I-40, continuing along I-40 west until the intersection of NC 18 and NC 18 to the South Carolina State line.
- (2) Second Monday in November to the following Saturday and the third Monday after Thanksgiving to the following Wednesday in all of Hertford County and Martin counties; and in the following parts of counties:  
Halifax: that part east of US 301.  
Northampton: that part east of US 301.
- (3) Second Monday in November to January 1 in all of Bladen, Carteret, Duplin, New Hanover, Onslow and Pender counties; and in the following parts of counties:  
Cumberland: that part south of NC 24 and east of the Cape Fear River.  
Sampson: that part south of NC 24.
- (4) Second Monday in December to January 1 in Brunswick and Columbus counties.
- (5) Second Monday in November to the following Saturday and the third Monday after Thanksgiving to the fifth Saturday after Thanksgiving in all of Beaufort, Bertie, Camden, Craven, Dare, Gates, Hyde, Jones,

Pamlico, Pasquotank, Tyrrell, and Washington counties, and in the following parts of counties:

Chowan: that part north of US 17.

Currituck: except Knotts Island and the Outer Banks.

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

Avery, Burke and Caldwell counties--Daniel Boone bear sanctuary

Beaufort, Bertie and Washington counties--Bachelor Bay bear sanctuary

Beaufort and Pamlico counties--Gum Swamp bear sanctuary

Bladen County--Suggs Mill Pond bear sanctuary

Brunswick County--Green Swamp bear sanctuary

Buncombe, Haywood, Henderson and Transylvania counties--Pisgah bear sanctuary

Carteret, Craven and Jones counties--Croatan bear sanctuary

Clay County--Fires Creek bear sanctuary

Columbus County--Columbus County bear sanctuary

Currituck County--North River bear sanctuary

Dare County--Bombing Range bear sanctuary except by permit only

Haywood County--Harmon Den bear sanctuary

Haywood County--Sherwood bear sanctuary

Hyde County--Gull Rock bear sanctuary

Hyde County--Pungo River bear sanctuary

Jackson County--Panthertown-Bonas Defeat bear sanctuary

Macon County--Standing Indian bear sanctuary

Macon County--Wayah bear sanctuary

Madison County--Rich Mountain bear sanctuary

McDowell and Yancey counties--Mt. Mitchell bear sanctuary

Mitchell and Yancey counties--Flat Top bear sanctuary

Wilkes County--Thurmond Chatham bear sanctuary

(c) Bag limits shall be:

- (1) daily, one;
- (2) possession, one;
- (3) season, one.

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

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

**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)(53)(B) for seasons on Sandhills Game Land.

(B) Saturday before Thanksgiving through the fourth Saturday 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) Monday of Thanksgiving week through the fifth Saturday after Thanksgiving Day in all of Cleveland and Rutherford 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; and the second Saturday in November for youth either-sex deer hunting by permit only on apportion 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, Transalvania, 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, Catawba, Gaston, Lincoln, McDowell, Polk and Watauga and the following parts of counties:  
 Camden: That part south of US 158.
- (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, Robeson, 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.~~

Scotland: That part north of US 74.

- (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, Columbus, 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 except for that portion of Buffalo Cove Game Land in Wilkes County.

- (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.
- (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.

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

**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, Caswell, Granville, Person, Rockingham, Stokes, Surry, Watauga and Wilkes 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~~ west of I-95.
- (3) Spring Wild Turkey Season shall be from the First Saturday in April through the Saturday of the fourth week thereafter on bearded turkeys only in all counties east of I-95.
- (4) Spring Youth Only Wild Turkey Season shall be for one day on the first Saturday in April on bearded wild turkeys only. This Rule shall not apply to Game Lands unless provided on certain Game Lands by special permit. For purposes of this Rule a youth hunter shall be less than 16 years of age. Each youth hunting during this season shall be accompanied by a properly licensed adult at least 21 years of age. An adult shall accompany only one youth during any particular hunt.

(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 and the Spring Youth Only Wild Turkey Season shall be prohibited.

(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.*

**15A NCAC 10B .0215 CROWS**

(a) Open Seasons: ~~Wednesday, Thursday,~~ Friday and Saturday of each week from June 1 to the last day of February and on Labor Day and Christmas Day.

Note: Federal law protects crows and limits state seasons to a maximum of 124 days per year.

(b) Bag Limits: No restriction.

*Authority G.S. 113-134; 113-291.2; 50 C.F.R. 20.133.*

**SECTION .0300 - TRAPPING**

**15A NCAC 10B .0302 OPEN SEASONS**

(a) General. Subject to the restrictions set out in Paragraph (b) of this Rule, the following seasons for taking furbearing animals as defined in G.S. 113-129(7a), coyotes, and groundhogs shall apply as indicated, all dates being inclusive:

- (1) November 7 through February 12 in and west of Surry, Wilkes, Alexander, Catawba, Burke and Cleveland counties.
- (2) December 15 through February 28 in and east of Hertford, Bertie, Martin, Pitt, Greene, Lenoir, Duplin, Pender and New Hanover counties, except that in the marshes adjoining Currituck Sound in Currituck County the season is December 15-March 12 and nutria may not be shot at any time (day or night) during the open season for migratory waterfowl.
- (3) December 1 through February 20 in all other counties.
- (4) November 1 through March 31 statewide for beaver only.
- (5) Trapping coyotes is allowed during times and with methods described by local laws in counties where local laws have established fox trapping seasons even when those seasons fall outside the regular trapping seasons described in this Rule.

(b) Restrictions

- (1) It is unlawful to trap or take otter ~~in and west of Stokes, Forsyth, Davie, Iredell, and Mecklenburg counties~~ and on Roanoke Island north of US 64/264 in Dare County.
- (2) It is unlawful to set steel traps for muskrat or mink in and west of Surry, Wilkes, Alexander, Catawba, Burke and Cleveland counties except in or adjacent to the waters of lakes, streams or ponds.
- (3) It is unlawful to trap raccoon in Yadkin County and in and west of Surry, Wilkes, Alexander, Catawba, Lincoln and Gaston counties.

Note: See 15A NCAC 10D .0102(f) for other trapping restrictions on game lands.

*Authority G.S. 113-134; 113-291.1; 113-291.2.*

**15A NCAC 10B .0303 BAG LIMITS**

(a) Raccoon

- (1) In and east of Rockingham, Guilford, Randolph, Montgomery and Anson counties, the season limit shall be 30 raccoons taken by trapping.
- (2) In Cabarrus, Davidson, Davie, Forsyth, Iredell, Mecklenburg, Rowan, Stanly, Stokes and Union counties, the season limit for raccoons taken by trapping shall be 20.

(b) There shall be no restrictions on bag limits of furbearers, coyotes, or ~~groundhogs~~, groundhogs except that a season limit of 5 otters shall apply to otters trapped in and west of Stokes, Forsyth, Davie, Iredell, and Mecklenburg counties.

Note: Where local laws govern trapping, or are in conflict with these regulations, the local law shall prevail.

*Authority G.S. 113-134; 113-291.2.*

**SUBCHAPTER 10C - INLAND FISHING REGULATIONS**

**SECTION .0100 - JURISDICTION OF AGENCIES:  
CLASSIFICATION OF WATERS**

**15A NCAC 10C .0107 SPECIAL REGULATIONS:  
JOINT WATERS**

In order to effectively manage all fisheries resources in joint waters and in order to confer enforcement powers on both fisheries enforcement officers and wildlife enforcement officers with respect to certain rules; the Marine Fisheries Commission and the Wildlife Resources Commission deem it necessary to adopt special rules for joint waters. Such rules supersede any inconsistent rules of the Marine Fisheries Commission or the Wildlife Resources Commission that would otherwise be applicable in joint waters under the provisions of 15A NCAC 10C .0106:

- (1) Striped Bass
  - (a) It ~~shall be~~ is unlawful to possess any striped bass or striped bass hybrid taken by any means which is less than 18 inches long (total length).
  - (b) It ~~shall be~~ is unlawful to possess more than ~~three striped bass or their hybrids taken by hook and line in any one day from joint waters; one daily creel limit of striped bass or their hybrids, in the aggregate, per person per day, regardless of the number of management areas fished, and fish possessed by the individual shall be in compliance with the size and creel limits for the management area being fished.~~
  - (c) It ~~shall be~~ is unlawful to engage in net fishing for striped bass or their hybrids in joint waters except as authorized by ~~duly adopted~~ rules of the Marine Fisheries Commission.
  - (d) ~~It is unlawful to possess striped bass or striped bass hybrids in the joint waters of Albemarle, Currituck, Roanoke and Croatan Sounds and their tributaries, excluding the Roanoke River, except during seasons as authorized by duly adopted rules of the Marine Fisheries Commission.~~
  - (e) ~~In the joint waters of the Roanoke River and its tributaries, including~~

Cashie, Middle and Eastmost Rivers, striped bass and hybrid striped bass fishing season, size limits and creel limits shall be the same as those established by authorized by duly adopted rules of the Wildlife Resources Commission for adjacent inland fishing waters.

- (2) Lake Mattamuskeet
  - (a) It shall be is unlawful to set or attempt to set any gill net in Lake Mattamuskeet canals designated as joint waters.
  - (b) It shall be is unlawful to use or attempt to use any trawl net or seines in Lake Mattamuskeet canals designated as joint waters.
- (3) Cape Fear River. It shall be is unlawful to use or attempt to use any net or net stakes within 800 feet of the dam at Lock No. 1 on the Cape Fear River.
- (4) Shad: It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken by hook-and-line.

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

**15A NCAC 10C .0110 MANAGEMENT RESPONSIBILITY FOR ESTUARINE STRIPED BASS IN JOINT WATERS**

(a) The management areas for estuarine striped bass fisheries in coastal North Carolina are designated in 15A NCAC 03R .0201.  
 (b) In order to effectively manage the recreational hook and line harvest in joint waters of the Albemarle Sound-Roanoke River stock of striped bass, the Marine Fisheries Commission and the Wildlife Resources Commission deem it necessary to establish two management areas for the joint waters of the Albemarle Sound and the Roanoke River, along with their defined tributaries. areas: the Albemarle Sound Management Area and the Roanoke River Management Area as designated in 15A NCAC 03R.0201. The Wildlife Resources Commission shall have principal management responsibility for the stock when it is in the joint and inland fishing waters of the Roanoke River Management Area, and its tributaries, including Cashie, Middle and Eastmost Rivers. The Marine Fisheries Commission shall have principal management responsibility for the stock in the remaining coastal, joint and inland waters of the Albemarle, Currituck, Roanoke and Croatan Sounds and their tributaries, including joint and inland waters. Albemarle Sound Management Area. The annual quota for recreational harvest of the Albemarle Sound-Roanoke River striped bass stock shall be divided equally between the two management areas. Each Commission shall implement management actions for recreational harvest within their respective management areas that shall be consistent with the North Carolina Estuarine Striped Bass Fishery Management Plan. ~~develop a management plan for recreational harvest within their respective management areas.~~ The management plans shall:

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

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

**15A NCAC 10C .0111 IMPLEMENTATION OF ESTUARINE STRIPED BASS MANAGEMENT PLANS: RECREATIONAL FISHING**

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

- (1) In the Roanoke River ~~and tributaries, Management Area,~~ the exclusive authority to open and close seasons and ~~areas, areas and~~ establish size and creel limits, whether inland or joint fishing waters, shall be vested in the Wildlife Resources Commission. ~~The Wildlife Resources Commission shall initiate action to close the management area when 90% of the assigned quota has been taken.~~ An instrument closing any management area in joint waters shall operate as and shall be a jointly issued instrument opening or closing seasons or areas to harvest in the Roanoke River ~~management area-Management Area.~~
- (2) In the Albemarle Sound ~~management area, Management Area,~~ the exclusive authority to open and close seasons and ~~areas, areas and~~ establish size and creel limits, whether coastal or joint fishing waters shall be vested in the Marine Fisheries Commission. ~~The Marine Fisheries Commission shall initiate action to close the management area when 90% of the assigned quota has been taken. The season shall close by proclamation if the quota is about to be exceeded.~~ In the Albemarle Sound ~~management area Management Area~~ administered by the Marine Fisheries Commission, ~~an instrument or action by the Marine Fisheries Commission a proclamation~~ affecting the harvest in joint and coastal waters, excluding the Roanoke River ~~Management area, Area~~ shall automatically be implemented and effective as a Wildlife Resources Commission action in the inland waters and tributaries to the waters affected.

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



**SECTION .0200 - GENERAL REGULATIONS**

**15A NCAC 10C .0205 PUBLIC MOUNTAIN TROUT WATERS**

(a) Designation of Public Mountain Trout Waters. For the purposes of this Rule, artificial lures are defined as spinners, plugs, flies and spoons with one single hook. The hook of an artificial lure shall not be tipped with any substance. It is unlawful to possess any lure or bait, natural or artificial, other than as provided in this Rule in waters classified as Wild, Delayed Harvest or Catch and Release. 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 (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
- 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
- Yadkin River (not trout water)
- Roaring River (not trout water)

(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)
  - 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)
- (C) Avery County:
- Nolichucky River (not trout waters)

East Prong Roaring River (that portion on Stone Mountain State Park) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]

North Toe River (headwaters to Mitchell County line, except where posted against trespass)

Squirrel Creek

Elk River (SR ~~1306~~ 1305 crossing immediately upstream of the Elk River Falls Fishing Club boundary 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)

Ivy Creek (Ivy River) (Dillingham Creek to US 19-23 bridge)

Dillingham Creek (Corner Rock Creek to 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 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 (Muddy Creek to the City of Morganton water intake dam) [Special Regulations apply. See Subparagraph (a)(7)(A) of this Rule.]

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

- (F) Lake James powerhouse to Muddy Creek
- 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)
    - Webb Creek (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)
    - Big 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
      - 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)
- (Junaluska Creek (Ashturn Creek to Valley River, including portions of tributaries on game lands)

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~~) (Stamey Cove Branch to US 19-23 bridge)  
 Cold Springs Creek (including portions of tributaries on game lands)  
 Jonathans Creek - lower (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)  
 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~~ Rock Creek to mouth of ~~Rock Creek~~ Bobs 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)  
 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~~ Sequayah 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 Section located on game lands)
- (N) Madison County:  
 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  
 Big Laurel Creek (Mars Hill Watershed boundary to 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 (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 (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)  
Armstrong Creek (Cato  
Holler line downstream to  
upper Greenlee line)  
Mill Creek (upper railroad  
bridge to U.S. 70 Bridge,  
except where posted against  
trespass)
- (P) Mitchell County:  
Nolichucky River (not trout  
water)  
Big Rock Creek (headwaters  
to 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 Creek (Fork Creek  
Church on SR 1100 to  
North Pacolet River)  
Big Fall Creek (portion  
above and below water  
supply reservoir)  
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 (Glady 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
  - 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.]
- (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.
- Beech Creek
    - Buckeye Creek Reservoir
    - Coffee Lake
    - Beaverdam Creek (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)

- 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  
 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 Creek (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)  
 (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 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~~) (headwaters to US 19E/NC 194 bridge)  
 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 Shinny Creek 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.  
 Nettle Branch (game land portion)
- (F) 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.]
- (M) Mitchell County:  
 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:  
 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:

- (G) Nantahala River (portion from Whiteoak Creek to the Nantahala Power and Light power house discharge canal) 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 land 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:  
Mitchell River (0.6 mile upstream of the end of SR 1333 to the SR 1330 bridge below Kapps Mill Dam)
- (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)
- (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)
- (7) Special Regulation Trout Waters. Those portions of Designated Public Mountain Trout Waters as listed in this Subparagraph, excluding tributaries as noted, are further classified as Special Regulation Trout Waters. Regulations specific to each water are defined below:
- (A) Burke County  
Catawba River (Muddy Creek to City of Morganton water intake dam).  
Regulation: The daily creel limit is 7 trout and only one of which may be greater than 14 inches in length; no bait restrictions; no closed season.
- (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 .0206 TROT LINES AND SET-HOOKS**

Trotlines and set-hooks may be set in the inland waters of North Carolina, provided no live bait is used; except that no trotlines or set-hooks may be set in designated public mountain trout waters or in any of the impounded waters on the Sandhills Game Land, and in Lake Waccamaw, trotlines or set-hooks may be set only from October 1 through April 30. For the purposes of this Rule, a set-hook is defined as any hook and line which is attached at one end only to a stationary or floating object and which is not under immediate control and attendance of the person using such device. Each trotline and set-hook, except jug-hooks, shall have attached the name and address of the user legibly and indelibly inscribed. For purposes of this Rule, a "jug-hook" is a single hook and line attached to a floating jug. Each trotline shall be conspicuously marked at each end and each set-hook conspicuously marked at one end with a flag, float, or other prominent object so that its location is readily discernable by boat operators and swimmers. Trotlines must be set parallel to the nearest shore in ~~ponds, lakes, and reservoirs.~~ all inland fishing waters unless otherwise prohibited. All trotlines and throwlines must be fished at least once daily and all fish removed at that time. Untended trotlines and set-hooks other than jug hooks may be removed from the water by wildlife enforcement officers when located in areas of multiple water use. For purposes of this Rule, a trotline or set-hook is considered "untended" when no bait is present on the device.

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

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

**15A NCAC 10C .0209 TRANSPORTATION OF LIVE FISH**

(a) Fish Transport: It is unlawful for any person, firm, or corporation to transport live freshwater nongame fishes, or live game fishes in excess of the possession limit, or fish eggs without having in possession a permit obtained from the North Carolina Wildlife Resources Commission.

(b) Fish Stocking: It is unlawful for any person, firm, or corporation to stock any life stage of any species of fish in the inland fishing waters of this State without having first procured a stocking permit from the North Carolina Wildlife Resources Commission.

- (1) Application for a stocking permit shall be made on a form provided by the Commission. The applicant shall specify the purpose for the stocking, species to be stocked, the source of the stock, the number of individual specimens to be released, the location where release is desired, and other such information as may be required by the Commission.

- (2) Before issuing a stocking permit, the Executive Director shall review the application and determine, based on sound principles of wildlife management and biological science, that the proposed stocking will not:

- (A) threaten the introduction of epizootic disease; or
- (B) create a danger to or an imbalance in the environment inimical to the conservation of wildlife resources.

- (3) Based on the determination made in Subparagraph (2):

(A) If the Executive Director determines that either or both conditions cannot be met under any circumstances, the application shall be denied.

(B) If the Executive Director determines that both conditions may be met only by the introduction of fewer than the number requested, a permit only for the number that may be safely released shall be issued.

(C) If the Executive Director determines that the number requested may be safely released, he shall issue the permit.

- (4) Any stocking permit issued by the Commission may impose reasonable conditions or restrictions including:

(A) Location where the permitted number of fish may be stocked.

- (B) Certification that fish are free of certifiable diseases by the vendor or a laboratory qualified to make such determination.
  - (C) Documentation of the date, time and location of the release.
  - (D) Access by the Commission to the property where fish introductions occur to assess impacts of the introduction.
  - (E) Such other reasonable restrictions deemed appropriate to carry out the purposes of this Rule by the Commission.
  - (F) All conditions required shall be included in writing on the permit.
- (5) Based on the criteria in Subparagraph (2), the Executive Director has determined that no permit shall be issued to stock any of the following species under any circumstances in the areas indicated:
- | <u>SPECIES</u>  | <u>LOCATION</u>  |
|---|------------------|
| <u>Salmonids except brown, brook, and rainbow trout</u> | <u>Statewide</u> |
| <u>Flathead catfish</u>                                 | <u>Statewide</u> |
- (6) As used in this Rule, stocking is the introduction or attempted introduction of one or more individuals of a particular species of live fish into public waters for any purpose other than:
- (A) As bait affixed to a hook and line; or
  - (B) A release incidental to "catch and release" fishing in an area within the same body of water where the fish was caught, or within an adjacent body of water not separated from that body by any natural or manmade obstruction to the passage of that species.
- (7) The release of more than the daily creel limit, or if there is no established creel limit for the species, more than five individuals of the species, shall constitute prima facie evidence of an intentional release.

*Authority G.S. 113-134; 113-135; 113-274; 113-292.*

**15A NCAC 10C .0211 POSSESSION OF CERTAIN FISHES**

It is unlawful to transport, purchase, possess, or sell any live individuals of piranha, "walking catfish" (*Clarias batrachus*), snakehead fish (from the Family Channidae, formerly Ophiocephalidae), black carp (*Mylopharyngodon piceus*), rudd (*Scardinius erythrophthalmus*), round goby (*Neogobius melanostomus*), tubenose goby (*Proterorhinus marmoratus*), ruffe (*Gymnocephalus cernuus*), Japanese mysterysnail (*Cipangopaludina japonica*), Chinese mysterysnail (*Cipangopaludina chinensis malleata*), red-rim melania (*Melanoides tuberculatus*), red swamp crayfish (*Procambarus*

*(Scapulicambarus) clarkia*), virile crayfish (*Orconectes (Gremicambarus) virilis*), rusty crayfish (*Orconectes (Procericambarus) rusticus*) or white amur or "grass carp" (*Ctenopharyngodon idella*), swamp or "rice" eel (*Monopterus albus*), or red shiner (*Cyprinella lutrensis*) or to stock any of them in the public or private waters of North Carolina, except that the triploid grass carp certified to be sterile by genetic testing at a federal, state, or university laboratory may be bought, possessed and stocked locally for control of aquatic vegetation under a permit issued by the Executive Director. Red Swamp Crayfish species may be possessed at aquaculture facilities licensed by the North Carolina Department of Agriculture provided that measures are taken to prevent escape.

*Authority G.S. 113-134; 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;~~ muskellunge, chain (jack) and redfin pickerel;
- (3) ~~chain pickerel (jack);~~ yellow perch when found in inland waters, walleye and sauger;
- (4) ~~walleye;~~
- (5)(4) black bass, including ~~spotted, smallmouth and largemouth~~ bass; largemouth, smallmouth, spotted and redeye bass;
- (6)(5) white bass; black and white crappie;
- (6) sunfish, including bluegill (bream), redbreast (robin), redear (shellcracker), pumpkinseed, warmouth, rock bass, (redeye), flier, Roanoke bass, and all other species of the sunfish family (*Centrarchidae*) not specifically listed in this Rule;
- (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~~ bass, white bass, white perch and Morone hybrids (striped bass-white bass), when found in inland fishing waters;
- (11) American and hickory shad, when found in inland fishing waters;
- (12) ~~hickory shad, when found in inland fishing waters;~~ kokanee salmon;
- (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.~~

**PROPOSED RULES**

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

- (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:

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

<b>GAME FISHES</b>	<b>DAILY CREEL LIMITS</b>	<b>MINIMUM SIZE LIMITS</b>	<b>OPEN SEASON</b>
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	2 (exc. 20)	30 in.	ALL YEAR
<del>Chain Pickerel</del> Pickerel: chain (Jack) and redbfin	None	None	ALL YEAR
Walleye	8 (exc. 8)	None (exc. 8)	ALL YEAR
Sauger	8	15 in.	ALL YEAR
Black Bass:			
Largemouth	5	14 in. (excs. 7 & 9)	ALL YEAR (exc. 16)
Smallmouth and Spotted	5	12 in. (excs. 7 & 9)	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. (exc18)	ALL YEAR
Striped Bass and their hybrids (Morone Hybrids)	8 aggregate (excs. 1, 4,5,10 &12)	16 in. (excs. 1, 4,5,10 &12)	ALL YEAR (excs. 5, 12 &14)
Shad: (American and hickory)	10 aggregate	None	ALL YEAR (exc. 17)
Kokanee Salmon	7	None	ALL YEAR
<del>Panfishes</del> Crappie and sunfish	None (excs. 3, 11 & 15)	None (exc. 11)	ALL YEAR (exc. 3)
<b>NONGAME FISHES</b>	None (excs. 13 & 19)	None (exc. 19)	ALL YEAR (exc. 6)

(b) Exceptions

- (1) In the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam, the Cape Fear River upstream of Buckhorn Dam and the Deep and Haw rivers to the first impoundment and in John H. Kerr, Gaston, Roanoke Rapids and B. Everett Jordan reservoirs and Lake Norman, the creel limit on striped bass and Morone hybrids is four in the aggregate and the minimum size limit is 20 inches. In Lake Norman, there is no minimum

- size limit for striped bass from June 1 – September 30.
- (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, Linville River from Linville Falls to the NC 126 bridge, Catawba River from Muddy Creek to the City of Morganton water intake dam, and the 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.
- (3) On Mattamuskeet Lake, special federal regulations apply.
- (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.
- (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. Only one fish larger than 27 inches may be retained in the daily creel limit.
- (6) See 15A NCAC 10C .0407 for open seasons for taking nongame fishes by special devices.
- (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, 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, ~~Lake, Lake, and the following waters and their tributaries: the New River in Onslow County, Roanoke Sound, Croatan Sound, Currituck Sound, Albemarle Sound, Alligator River, Scuppernon 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, in Lake Lure, and Buckhorn Reservoir in Wilson and Nash counties the minimum size limit for largemouth bass is 16 inches, with no exception. In Lake Lure the minimum size limit for smallmouth bass is 14 inches, with no exception. In Lake Phelps and Shearon Harris Reservoir no black bass between 16 and 20 inches shall be possessed.
- (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.
- (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 County.  
~~(C) Sutton Lake in New Hanover County.~~
- (10) In all impounded inland waters and their tributaries, except those waters described in Exceptions (1) and (4), 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.
- (11) A daily creel limit of 20 fish and a minimum size limit of 10 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, Scuppernon 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.

- (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.
- (13) The daily creel limits for channel, white, and blue catfish in designated urban lakes are stated in 15A NCAC 10C .0401(e).
- (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.
- (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 I-95, 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.
- (16) In Sutton Lake, no largemouth bass shall be retained from December 1 through March 31.
- (17) The season for taking American and hickory shad with dip nets and bow nets is March 1 through April 30.
- (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(d).
- (20) On the French Broad River and its tributaries upstream of the US 64 bridge near Etowah, no muskellunge shall be retained.

grabbling at any time without restriction as to size limits or creel limits, 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 6 inches in length from the inland fishing waters of coastal rivers and their tributaries up to the first impoundment dam 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 taken or possessed on Lake James, Lake Norman and Mountain Island, Gaston and Roanoke Rapids reservoirs, except that two fish per day may be taken by bow and arrow.
- (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.
- (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.

(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) 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.

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

(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 Julian, Buncombe County
- Lake Tomahawk, Buncombe County
- Frank Liske Park Pond, Cabarrus County
- Rabbit Shuffle Pond, Caswell County
- Lake Rim, Cumberland County
- Etheridge Pond on the Barnhill Public Fishing Area, Edgecombe County

*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



Indian Lake, Edgecombe County  
 Newbold Pond on the Barnhill Public Fishing Area,  
 Edgecombe 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  
 Park Road Pond, Mecklenburg County  
 Reedy Creek Park Ponds, Mecklenburg County  
Squirrel Park Pond, Mecklenburg County  
 Lake Luke Marion, Moore County  
 Anderson Community Park, Orange County  
 Lake Michael, Orange County  
 River Park North Pond, Pitt County  
 Ellerbe Community Lake, Richmond County  
 Hamlet City Lake, Richmond County  
Indian Camp 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  
 Harris Lake County Park Ponds, Wake County

- (4) Anson:
  - (a) July 1 to June 30 with traps and gigs in all public waters;
  - (b) March 1 to April 30 with dip and bow nets in Pee Dee River below Blewett Falls Dam;
  - (c) July 1 to August 31 with seines in all running public waters, except Pee Dee River from Blewett Falls downstream to the Seaboard Coast Line Railroad trestle;
- (5) Ashe: July 1 to June 30 with gigs in New River (both forks), except designated public mountain trout waters;
- (6) Beaufort:
  - (a) July 1 to June 30 with traps in the Pungo River, and in the Tar and Pamlico Rivers above Norfolk and Southern Railroad bridge; and with gigs in all inland public waters;
  - (b) December 1 to June 5 with dip and bow nets in all inland public waters;
- (7) Bertie:
  - (a) July 1 to June 30 with traps in the Broad Creek (tributary of Roanoke);
  - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (8) Bladen: December 1 to June 5 with dip and bow nets in Black River;
- (9) Brunswick:
  - (a) March 15 to April 15 (Thursdays, Fridays, and Saturdays only) with attended gill nets in Town Creek;
  - (b) December 1 to May 1 with dip and bow nets in Alligator Creek, Hoods Creek, Indian Creek, Orton Creek below Orton Pond, Rices Creek, Sturgeon Creek and Town Creek;
- (10) Buncombe: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (11) Burke:
  - (a) July 1 to August 31 with seines in all running public waters, except Johns River and designated public mountain trout waters;
  - (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters and Lake James;
- (12) Cabarrus:
  - (a) July 1 to August 31 with seines in all running public waters,
  - (b) July 1 to June 30 with traps and gigs in all public waters;

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

**15A NCAC 10C .0407 PERMITTED SPECIAL DEVICES AND OPEN SEASONS**

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

- (1) Alamance:
  - (a) July 1 to August 31 with seines in Alamance Creek below NC 49 bridge and Haw River;
  - (b) July 1 to June 30 with gigs in all public waters;
- (2) Alexander: July 1 to June 30 with traps and gigs in all public waters; and with spear guns in Lake Hickory and Lookout Shoals Reservoir;
- (3) Alleghany: July 1 to June 30 with gigs in New River, except designated public mountain trout waters;

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| <p>(13) Caldwell: July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters;</p> <p>(14) Camden:</p> <p>(a) July 1 to June 30 with traps in all inland public waters;</p> <p>(b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;</p> <p>(15) Carteret: December 1 to June 5 with dip and bow nets in all inland public waters except South River and the tributaries of the White Oak River;</p> <p>(16) Caswell:</p> <p>(a) July 1 to June 30 with gigs in all public waters;</p> <p>(b) July 1 to August 31 with seines in all running public waters, except Moons Creek;</p> <p>(c) July 1 to June 30 with traps in Hyco Reservoir;</p> <p>(17) Catawba:</p> <p>(a) July 1 to August 31 with seines in all running public waters, except Catawba River below Lookout Dam;</p> <p>(b) July 1 to June 30 with traps, spear guns, and gigs in all public waters;</p> <p>(18) Chatham:</p> <p>(a) December 1 to April 15 with dip and gill nets in the Cape Fear River, Deep River, Haw River and Rocky River (local law);</p> <p>(b) July 1 to August 31 with seines in the Cape Fear River, and Haw River;</p> <p>(c) July 1 to June 30 with traps in Deep River; and with gigs in all public waters;</p> <p>(19) Cherokee: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(20) Chowan:</p> <p>(a) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;</p> <p>(b) July 1 to June 30 with traps in all inland public waters, excluding public lakes, ponds, and other impounded waters;</p> <p>(21) Clay: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(22) Cleveland:</p> <p>(a) July 1 to August 31 with seines in all running public waters;</p> <p>(b) July 1 to June 30 with gigs, traps and spear guns in all public waters;</p> <p>(23) Columbus:</p> | <p>(a) December 1 to March 1 with gigs in all inland public waters, except Lake Waccamaw and its tributaries;</p> <p>(b) December 1 to June 5 with dip and bow nets in Livingston Creek;</p> <p>(24) Craven:</p> <p>(a) July 1 to June 30 with traps in the main run of the Trent and Neuse Rivers;</p> <p>(b) December 1 to June 5 with dip and bow nets in all inland public waters, except Pitch Kettle, Grindle, Slocum (downstream of the US 70 bridge), Spring and Hancock Creeks and their tributaries; and with seines in the Neuse River;</p> <p>(25) Currituck:</p> <p>(a) July 1 to June 30 with traps in Tulls Creek and Northwest River;</p> <p>(b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;</p> <p>(26) Dare:</p> <p>(a) July 1 to June 30 with traps in Mashoes Creek, Milltail Creek, East Lake and South Lake;</p> <p>(b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;</p> <p>(27) Davidson:</p> <p>(a) July 1 to August 31 with seines in all running public waters;</p> <p>(b) July 1 to June 30 with gigs in all public waters, and with traps in all public waters except Leonard's Creek, Abbott's Creek below Lake Thom-A-Lex dam, and the Abbott's Creek arm of High Rock Lake upstream from the NC 8 bridge;</p> <p>(28) Davie:</p> <p>(a) July 1 to June 30 with traps and gigs in all public waters;</p> <p>(b) July 1 to August 31 for taking only carp and suckers with seines in Dutchmans Creek from US 601 to Yadkin River and in Hunting Creek from SR 1338 to South Yadkin River;</p> <p>(29) Duplin: December 1 to June 5 with dip and bow nets and seines in the main run of the Northeast Cape Fear River downstream from a point one mile above Serecta Bridge;</p> <p>(30) Durham:</p> <p>(a) July 1 to August 31 with seines in Neuse River;</p> <p>(b) July 1 to June 30 with gigs in all public waters;</p> |
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- (31) Edgecombe: December 1 to June 5 with dip and bow nets in all public waters;
- (32) Forsyth: July 1 to June 30 with traps and gigs in all public waters, except traps may not be used in Belews Creek Reservoir;
- (33) Franklin:  
 (a) July 1 to August 31 with seines in Tar River;  
 (b) July 1 to June 30 with gigs in all public waters, except Parrish, Laurel Mill, Jackson, Clifton, Moore's and Perry's Ponds, and in the Franklinton City ponds;
- (34) Gaston:  
 (a) July 1 to August 31 with seines in all running public waters;  
 (b) July 1 to June 30 with gigs, traps and spear guns in all public waters;
- (35) Gates: December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (36) Graham: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (37) Granville:  
 (a) July 1 to June 30 with gigs in all public waters, except Kerr Reservoir;  
 (b) July 1 to August 31 with seines in the Neuse River and the Tar River below US 158 bridge;  
 (c) July 1 to June 30 with dip and cast nets in Kerr Reservoir;  
~~(d) July 1 to June 30 with cast nets in all public waters;~~
- (38) Greene: December 1 to June 5 with dip and bow nets and reels in Contentnea Creek;
- (39) Guilford:  
 (a) July 1 to August 31 with seines in Haw River, Deep River below Jamestown Dam, and Reedy Fork Creek below US 29 bridge;  
 (b) July 1 to June 30 with gigs in all public waters;
- (40) Halifax:  
~~(a) December 1 to June 5 with dip and bow nets in Beech Swamp, Clarks Canal, Conoconnara Swamp, Fishing Creek below the Fishing Creek Mill Dam, Kehukee Swamp, Looking Glass Gut, Quankey Creek, and White's Mill Pond Run;~~  
~~(b) July 1 to June 30 with dip and cast nets in Gaston Reservoir and Roanoke Rapids Reservoir;~~
- (41) Harnett:  
 (a) January 1 to May 31 with gigs in Cape Fear River and tributaries;
- (b) December 1 to June 5 with dip and bow nets in Cape Fear River;
- (42) Haywood: July 1 to June 30 with gigs in all public waters, except Lake Junaluska and designated public mountain trout waters;
- (43) Henderson: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (44) Hertford:  
 (a) July 1 to June 30 with traps in Wiccacon Creek;  
 (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (45) Hyde:  
 (a) July 1 to June 30 with traps in all inland waters;  
 (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (46) Iredell: July 1 to June 30 with traps and gigs in all public waters; and with spear guns in Lookout Shoals Reservoir and Lake Norman;
- (47) Jackson: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (48) Johnston: December 1 to June 5 with dip and bow nets in Black Creek, Little River, Middle Creek, Mill Creek, Neuse River and Swift Creek;
- (49) Jones:  
 (a) July 1 to June 30 with traps in the Trent River below US 17 bridge and White Oak River below US 17 bridge;  
 (b) December 1 to June 5 with dip and bow nets in all inland public waters, except the tributaries to the White Oak River;
- (50) Lee:  
 (a) December 1 to April 15 with dip and gill nets (local law) in Cape Fear River and Deep River; and with gill nets in Morris Pond;  
 (b) July 1 to August 31 with seines in Cape Fear River;  
 (c) July 1 to June 30 with traps in Deep River, and with gigs in all public waters;
- (51) Lenoir:  
 (a) July 1 to June 30 with traps in Neuse River below US 70 bridge at Kinston;  
 (b) December 1 to June 5 with dip and bow nets in Neuse River and Contentnea Creek upstream from NC 118 bridge at Grifton; and with seines in Neuse River;

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| <p>(52) Lincoln:</p> <p style="padding-left: 20px;">(a) July 1 to August 31 with seines in all running public waters;</p> <p style="padding-left: 20px;">(b) July 1 to June 30 with traps, gigs and spear guns in all public waters;</p> <p>(53) McDowell:</p> <p style="padding-left: 20px;">(a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;</p> <p style="padding-left: 20px;">(b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters and Lake James;</p> <p>(54) Macon: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(55) Madison: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(56) Martin: December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;</p> <p>(57) Mecklenburg:</p> <p style="padding-left: 20px;">(a) July 1 to August 31 with seines in all running public waters;</p> <p style="padding-left: 20px;">(b) July 1 to June 30 with traps, gigs and spear guns in all public waters except Freedom Park Pond and Hornet's Nest Ponds;</p> <p>(58) Montgomery:</p> <p style="padding-left: 20px;">(a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake Tillery dam at Hydro and the mouth of Rocky River;</p> <p style="padding-left: 20px;">(b) July 1 to June 30 with traps and gigs in all public waters;</p> <p>(59) Moore:</p> <p style="padding-left: 20px;">(a) December 1 to April 15 with gill nets in Deep River and all tributaries;</p> <p style="padding-left: 20px;">(b) July 1 to August 31 with seines in all running public waters except in Deep River;</p> <p style="padding-left: 20px;">(c) July 1 to June 30 with gigs in all public waters, except lakes located on the Sandhills Game Land; and with traps in Deep River and its tributaries;</p> <p>(60) Nash:</p> <p style="padding-left: 20px;">(a) July 1 to June 30 with gigs in all public waters, except Tar River;</p> <p style="padding-left: 20px;">(b) December 1 to June 5 with dip and bow nets in the Tar River below Harris' Landing and Fishing Creek below the Fishing Creek Mill Dam;</p> <p>(61) New Hanover: December 1 to June 5 with dip and bow nets in all inland public waters, except Sutton (Catfish) Lake;</p> | <p>(62) Northampton:</p> <p style="padding-left: 20px;">(a) July 1 to June 30 with gigs in all public waters, except Gaston and Roanoke Rapids Reservoirs and the Roanoke River above the US 301 bridge;</p> <p style="padding-left: 20px;">(b) December 1 to June 5 with dip and bow nets in Occaneechee Creek, Old River Landing Gut and Vaughans Creek below Watsons Mill;</p> <p style="padding-left: 20px;"><del>(c) July 1 to June 30 with dip and cast nets in Gaston Reservoir and Roanoke Rapids Reservoir;</del></p> <p>(63) Onslow:</p> <p style="padding-left: 20px;">(a) July 1 to June 30 with traps in White Oak River below US 17 bridge;</p> <p style="padding-left: 20px;">(b) August 1 to March 31 with eel pots in the main run of New River between US 17 bridge and the mouth of Hawkins Creek;</p> <p style="padding-left: 20px;">(c) December 1 to June 5 with dip and bow nets in the main run of New River and in the main run of the White Oak River;</p> <p style="padding-left: 20px;">(d) March 1 to April 30 with dip and bow nets in Grant's Creek;</p> <p>(64) Orange:</p> <p style="padding-left: 20px;">(a) July 1 to August 31 with seines in Haw River,</p> <p style="padding-left: 20px;">(b) July 1 to June 30 with gigs in all public waters;</p> <p>(65) Pamlico: December 1 to June 5 with dip and bow nets in all inland public waters, except Dawson Creek;</p> <p>(66) Pasquotank:</p> <p style="padding-left: 20px;">(a) July 1 to June 30 with traps in all inland waters;</p> <p style="padding-left: 20px;">(b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;</p> <p>(67) Pender:</p> <p style="padding-left: 20px;">(a) December 1 to June 5 with dip and bow nets in the Northeast Cape Fear River, Long Creek and Black River; and with seines in the main run of Northeast Cape Fear River;</p> <p style="padding-left: 20px;">(b) December 1 to May 1 with dip and bow nets in Moore's Creek approximately one mile upstream to New Moon Fishing Camp;</p> <p>(68) Perquimans:</p> <p style="padding-left: 20px;">(a) July 1 to June 30 with traps in all inland waters;</p> <p style="padding-left: 20px;">(b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;</p> <p>(69) Person:</p> |
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**PROPOSED RULES**

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|      |  |      |   |
|      | (a) July 1 to August 31 with seines in Hyco Creek and Mayo Creek;  |      | designated public mountain trout waters;  |
|      | (b) July 1 to June 30 with gigs in all public waters.  | (78) | Sampson: December 1 to June 5 with dip and bow nets in Big Coharie Creek, Black River and Six Runs Creek;   |
| (70) | Pitt:  |      |   |
|      | (a) July 1 to June 30 with traps in Neuse River and in Tar River below the mouth of Hardee Creek east of Greenville;   | (79) | Stanly:   |
|      | (b) December 1 to June 5 with dip and bow nets in all inland public waters, except Grindle Creek, and Contentnea Creek between NC 118 bridge at Grifton and the Neuse River; |      | (a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake Tillery dam at Hydro and the mouth of Rocky River;   |
|      | (c) December 1 to June 5 with seines in Tar River;   | (80) | (b) July 1 to June 30 with traps and gigs in all public waters;   |
| (71) | Polk: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;  |      | (80) Stokes: July 1 to June 30 with traps and gigs in all public waters, except designated public mountain trout waters, and traps may not be used in Belews Creek Reservoir; |
| (72) | Randolph:  | (81) | Surry: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters; and with traps in the main stem of Yadkin River;                     |
|      | (a) December 1 to March 1 with gill nets in Deep River and Uwharrie River;   | (82) | Swain: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;  |
|      | (b) July 1 to August 31 with seines in Deep River above the Coleridge Dam and Uwharrie River;  | (83) | Transylvania: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;   |
|      | (c) July 1 to June 30 with gigs in all public waters;  | (84) | Tyrrell:  |
| (73) | Richmond:  |      | (a) July 1 to June 30 with traps in Scuppernong River, Alligator Creek, and the drainage canals of Lake Phelps;   |
|      | (a) July 1 to August 31 with seines in all running public waters, except Pee Dee River from Blewett Falls downstream to the Seaboard Coast Line Railroad trestle;            |      | (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding Lake Phelps, public lakes, ponds and other impounded waters;                            |
|      | (b) July 1 to June 30 with traps and gigs in all public waters, except lakes located on the Sandhills Game Land;   | (85) | Union:  |
|      | (c) March 1 to April 30 with dip and bow nets in Pee Dee River below Blewett Falls Dam;  |      | (a) July 1 to August 31 with seines in all running public waters,   |
| (74) | Robeson: December 1 to March 1 with gigs in all inland public waters.  |      | (b) July 1 to June 30 with traps and gigs in all public waters;   |
| (75) | Rockingham:  | (86) | Vance:  |
|      | (a) July 1 to August 31 with seines in Dan River and Haw River;  |      | (a) July 1 to August 31 with seines in the Tar River;   |
|      | (b) July 1 to June 30 with traps in Dan River; and with gigs in all public waters;   |      | (b) July 1 to June 30 with gigs in all public waters, except Rolands, Faulkners, Southerlands, and Weldon Ponds, City Lake, and Kerr Reservoir;                               |
| (76) | Rowan:   |      | (c) July 1 to June 30 with dip and cast nets in Kerr Reservoir;   |
|      | (a) July 1 to August 31 with seines in all running public waters,  |      | <del>(d) July 1 to June 30 with cast nets in all public waters;</del>   |
|      | (b) July 1 to June 30 with traps and gigs in all public waters;  | (87) | Wake:   |
| (77) | Rutherford:  |      | (a) July 1 to June 30 with gigs in all public waters, except Sunset, Benson, Wheeler, Raleigh, and Johnson Lakes;   |
|      | (a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;  |      |   |
|      | (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except  |      |   |

- (b) December 1 to June 5 with dip and bow nets in the Neuse River below Milburnie Dam, and Swift Creek below Lake Benson Dam;
- (88) Warren:
  - (a) July 1 to August 31 with seines in Fishing Creek, Shocco Creek, and Walker Creek; excluding Duck and Hammes Mill Ponds;
  - (b) July 1 to June 30 with gigs in all public waters, except Duck and Hammes Mill Ponds, Kerr Reservoir, and Gaston Reservoir;
  - (c) July 1 to June 30 with dip and cast nets in Kerr Reservoir and Gaston Reservoir;
  - ~~(d) July 1 to June 30 with cast nets in all public waters;~~
- (89) Washington:
  - (a) July 1 to June 30 with traps in the drainage canals of Lake Phelps;
  - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding Lake Phelps, public lakes, ponds and other impoundments;
- (90) Wayne: December 1 to June 5 with dip and bow nets in Little River, Mill Creek and Neuse River.
- (91) Wilkes: July 1 to June 30 with traps in Yadkin River below W. Kerr Scott Reservoir; and with gigs and spear guns in all public waters, except designated public mountain trout waters;
- (92) Wilson:
  - (a) July 1 to June 30 with gigs in Contentnea Creek (except Buckhorn Reservoir), including unnamed tributaries between Flowers Mill and SR 1163 (Deans) bridge;
  - (b) December 1 to June 5 with dip and bow nets in Contentnea Creek below US 301 bridge and in Toisnot Swamp downstream from the Lake Toisnot Dam;
- (93) Yadkin: July 1 to June 30 with gigs in all public waters, and with traps in the main stem of Yadkin River.

the landowner. 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. "Valid need" includes 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

*Authority G.S. 113-134; 113-276; 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

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.

A field trial 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 or Firearms. In addition to zone restrictions described in Paragraph (a), ~~(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.~~

- (1) No person shall discharge a weapon within 150 yards of any residence located on or adjacent to game lands, nor within 150 yards of any Game Lands building or designated Game Lands camping area, except where posted otherwise; and
- (2) No person shall discharge a firearm within 150 yards of any residence located on or adjacent to Butner-Falls of Neuse and Jordan 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 Paragraph (n) of this Rule 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 be given when release of such animals is determined by a North Carolina Wildlife Resources Commission biologist not to be harmful to native wildlife in the area and such releases are in the public interest or advance 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 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, 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.*

**SUBCHAPTER 10H - REGULATED ACTIVITIES**

**SECTION .0100 - CONTROLLED HUNTING PRESERVES FOR DOMESTICALLY RAISED GAME BIRDS**

**15A NCAC 10H .0104 QUALITY OF BIRDS RELEASED**

All birds purchased or raised for release on hunting preserves shall be healthy and free from disease. Possession of unhealthy or diseased birds ~~will~~ shall be ~~justifiable~~ grounds for revocation or denial of a controlled hunting preserve license.

- (1) Waterfowl shall be tested for Avian Influenza (AI) and Exotic Newcastle Disease (END) by use of serological screening methods and according to the following sample sizes:  
 <100 birds - test 95% of source flock or shipment  
 101-200 birds - test 44% of source flock or shipment  
 201-300 birds - test 26% of source flock or shipment  
 301-400 birds - test 18% of source flock or shipment  
 401-500 birds - test 14% of source flock or shipment  
 >500 birds - test 58 individuals from source flock or shipment.

(b) Waterfowl that have tested positive in seriological tests shall be tested further by virus isolation/polymerase-chain-reaction (PCR) tests and identification techniques.

(c) Cloacal swabs pooled into groups of no more than five samples for testing shall be used for virus isolation or PCR tests for AI and END.

(d) Final virus isolation/PCR tests that are required because of positive results of serological tests shall be conducted within 10 days prior to release of birds.

(e) The Wildlife Resources Commission shall not accept Directigen® test results for AI tests on captive-reared waterfowl.

(f) Test results shall not be used to accept or reject any individual bird(s) from shipments or flocks that have positive results on any assay.

(g) All test results shall be submitted directly from the testing lab to the Wildlife Resources Commission, Division of Wildlife Management. (h) Neither permit nor license shall be issued until tests are negative for AI and END.

*Authority G.S. 113-134; 113-273.*

**SECTION .0900 – GAME BIRD PROPAGATORS**

**15A NCAC 10H .0901 GAME BIRD PROPAGATION LICENSE**

The game bird propagation license authorizes the purchase, possession, propagation, sale, ~~and transportation~~ and release of propagated upland game birds, except wild turkey, ~~and migratory game birds, birds~~ and their ~~eggs~~ eggs, ~~in accordance with the other rules of this Section~~, subject to the following limitations and conditions:

- (1) The sale of dead pen-raised quail for food is governed by the regulations of the North Carolina Department of Agriculture;
- (2) The possession, sale, and transfer of migratory game birds is subject to additional requirements contained in Title 50 of the Code of Federal Regulations.
- (3) No propagation license ~~will~~ shall be issued for wild turkeys.

*Authority G.S. 106-549.94; 113-134; 113-273; 50 C.F.R., Part 21.*

**15A NCAC 10H .0904 DISPOSITION OF BIRDS OR EGGS**

(a) Diseased Birds. No game bird propagator licensed under this Section shall knowingly sell or otherwise transfer possession of any live game bird which shows evidence of any communicable disease, except that such transfer may be made to a qualified veterinarian or pathologist for examination and diagnosis. Disposition of any game bird having a communicable disease in a manner not likely to infect wild game bird populations shall be the responsibility of the licensee.

- (1) Waterfowl shall be tested for Avian Influenza (AI) and Exotic Newcastle Disease (END) by use of serological screening methods and according to the following sample sizes:  
 <100 birds - test 95% of source flock or shipment  
 101-200 birds - test 44% of source flock or shipment  
 201-300 birds - test 26% of source flock or shipment

301-400 birds - test 18% of source flock or shipment  
401-500 birds - test 14% of source flock or shipment  
>500 birds - test 58 individuals from source flock or shipment.

- (2) Waterfowl that have tested positive in seriological tests shall be tested further by virus isolation/polymerase-chain-reaction (PCR) tests and identification techniques.
- (3) Cloacal swabs pooled into groups of no more than five samples for testing shall be used for virus isolation or PCR tests for AI and END.
- (4) Final virus isolation/PCR tests that are required because of positive results of serological tests shall be conducted within 10 days prior to release of birds.
- (5) The Wildlife Resources Commission shall not accept Directigen<sup>®</sup> test results for AI tests on captive-reared waterfowl.
- (6) Test results shall not be used to accept or reject any individual bird(s) from shipments or flocks that have positive results on any assay.
- (7) All test results shall be submitted directly from the testing lab to the Wildlife Resources Commission, Division of Wildlife Management.
- (8) Neither permit nor license shall be issued until tests are negative for AI and END.

(b) Sale of Live Birds or Eggs. Subject to the limitations set forth in Paragraph (b) of Rule .0901 of this Section, any healthy game birds which are authorized to be propagated under this Section, or the eggs thereof, may be sold or transferred alive by any licensed game bird propagator to any other licensed game bird propagator. Licensed game bird propagators may also sell or transfer healthy live game birds to licensed controlled shooting preserve operators or to any person who holds a valid state license or permit to possess the same. Upon any such sale or transfer, a receipt or other written evidence of the transaction shall be prepared in duplicate showing the date, the names and license or permit numbers of both parties, and the species and quantity of the game birds or eggs transferred. A copy of such receipt or writing shall be retained by each of the parties as a part of his records as provided by Rule .0906 of this Section. Any live migratory waterfowl sold or transferred to any person for use in training retrievers or conducting retriever trials must be marked by one of the methods provided by 50 C.F.R. 21.13. Each pheasant sold or transferred for such purposes shall be banded prior to the transfer with a metal leg band which is imprinted with the number of the propagator's license.

(c) Sale of Dead Game Birds as Food. Subject to the limitations and conditions indicated in Paragraph (b) of Rule .0901 of this Section and to any applicable laws and regulations relating to pure foods, public health and advertising, game birds produced by game bird propagators licensed under this Section may be killed at any time in any manner, except by shooting during the closed season on the species concerned, and sold for food purposes as provided by the following Subparagraphs:

- (1) Sale Direct to Consumer. Unprocessed dead game birds may be sold directly to a consumer when accompanied by a receipt showing the name of the consumer, the name and license number of the propagator, and the quantity and species of the game birds sold. A copy of such receipt shall be retained by the propagator as part of his records. No such bird shall be resold by any such consumer.
- (2) Sale To or Through a Processor. Game birds may be sold to any commercial food processor who holds a permit to possess them or delivered to such a processor for processing and packaging prior to sale. In either case, the transfer shall be evidenced by a duplicate receipt identifying the processor by name and permit number and the propagator by name and license number, and indicating the number and species of birds transferred. A copy of such receipt shall be retained by each of the parties as part of his records. The processed carcasses of the birds shall be enclosed in a wrapper or container on the outside of which is indicated the number and species of birds contained, the license number of the propagator, and the fact that such birds were domestically raised. When so packaged, such processed game birds may be sold at wholesale or at retail through ordinary channels of commerce. This Paragraph shall not apply to dead quail marketed for food purposes under the regulations of the North Carolina Department of Agriculture.
- (3) The eggs of propagated game birds may not be sold for food purposes.

*Authority G.S. 113-134; 113-273; 50 C.F.R., Part 21.13.*

**SUBCHAPTER 10J - WILDLIFE CONSERVATION  
 AREA REGULATIONS**

**15A NCAC 10J .0102 GENERAL REGULATIONS  
 REGARDING USE OF CONSERVATION AREAS**

- (a) Trespass. Entry on areas posted as Wildlife Conservation Areas for purposes other than wildlife observation, hunting, trapping or fishing shall be as authorized by the landowner and there shall be no removal of any plants or parts thereof, or live or dead nongame wildlife species or parts thereof, or other materials, without the written authorization of the landowner: Restrictions. On those areas designated and posted as Colonial Waterbird Nesting Areas, entry is prohibited during the period of April 1 through August 31 of each year, except by written permission of the landowner. Entry into Colonial Waterbird Nesting Areas during the period of September 1 through March 31 will be as authorized by the landowner.
- (b) Littering. No person shall deposit any litter, trash, garbage, or other refuse at any place on any wildlife conservation area except in receptacles provided for disposal of such refuse. No garbage dumps or sanitary landfills shall be established on any

wildlife conservation area 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 designated wildlife conservation area at any time except during the open hunting seasons or hunting days for game birds or game animals thereon unless such device is cased or not immediately available for use, provided that such devices may be 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 designated wildlife conservation areas at any time other than by hunters during the special bow and arrow and muzzle-loading firearms deer hunting seasons. This Rule shall not prevent possession or use of 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 larger than No. 4 shot or any rifle or pistol larger than a .22 caliber rimfire while on a designated wildlife conservation area except that shotgun shells containing any size steel or non-toxic shot may be used while waterfowl hunting. No person shall hunt with or have in possession any shotgun shell containing lead or toxic shot while hunting waterfowl on any area designated as a wildlife conservation area, except shotgun shells containing lead buckshot may be used while deer hunting.

(d) License Requirements:

- (1) ~~Hunting, Trapping and Fishing; Hunting and Trapping:~~
  - (A) Requirement. Except as provided in Paragraph (d)(1)(B) of this Rule, any person entering upon any designated wildlife conservation area for the purpose of ~~hunting, trapping or fishing~~ hunting or trapping shall ~~must~~ have in his possession a game lands use license in addition to the appropriate ~~hunting, trapping, or fishing licenses.~~ hunting or trapping licenses.
  - (B) Exception. A person under 16 years of age may hunt on designated wildlife conservation areas on the license of his parent or legal guardian.
- (2) Trout Fishing. Any person 16 years of age or over, including an individual fishing with natural bait in the county of his residence, entering a designated wildlife conservation area for the purpose of fishing in designated

public mountain trout waters located thereon must have in his possession a regular fishing license and special trout license. The resident and nonresident sportsman's licenses and short-term comprehensive fishing licenses include trout fishing privileges on designated wildlife conservation areas.

(e) Training Dogs. Dogs may not be trained on designated wildlife conservation areas except during open hunting seasons for game animals or game birds thereon. Dogs may not be allowed to enter any wildlife conservation area designated and posted as a colonial waterbird nesting area during the period of April 1 through August 31.

(f) Trapping. Subject to the restrictions contained in 15 NCAC 10B .0110, .0302, and .0303, trapping of furbearing animals is permitted on any area designated and posted as a wildlife conservation area during the applicable open seasons, except that trapping is prohibited:

- (1) on the Nona Pitt Hinson Cohen Wildlife Conservation Area in Richmond County;
- (2) in posted "safety zones" located on any Wildlife Conservation Area.

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

(h) Vehicular Traffic. No person shall drive a motorized vehicle on a road, trail or area posted against vehicular traffic or other than on roads maintained for vehicular use on any designated wildlife conservation area.

(i) Camping. No person shall camp on any designated wildlife conservation area except on an area designated by the landowner for camping. On the coastal islands designated wildlife conservation areas, camping will be allowed except on those areas designated and posted as Colonial Waterbird Nesting Areas.

(j) Swimming. Swimming is prohibited in the waters located on designated wildlife conservation areas, except that swimming is allowed in waters adjacent to coastal island wildlife conservation areas.

(k) Motorboats. No person shall operate any vessel powered by an internal combustion engine on the waters located on designated wildlife conservation areas.

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

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**RULES REVIEW COMMISSION**

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*This Section contains information for the meeting of the Rules Review Commission on Thursday, November 18, 2004, 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 Monday, November 15, 2004 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  
Jeffrey P. Gray

**Appointed by House**

Jennie J. Hayman - Chairman  
Graham Bell  
Lee Settle  
Dana E. Simpson  
Dr. John Tart

**RULES REVIEW COMMISSION MEETING DATES**

November 18, 2004

December 16, 2004

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**LIST OF APPROVED PERMANENT RULES**

**October 21, 2004 Meeting**

**BUILDING COMMISSION**

Pre-Selection 01 NCAC 30D .0302

**MEDICAL CARE COMMISSION**

Supplemental Rules 10A NCAC 13B .3401  
Definitions 10A NCAC 13B .3402  
Licensure Application 10A NCAC 13B .3403  
Federally Certified Primary Care Hospital 10A NCAC 13B .3404  
Designated Critical Access 10A NCAC 13B .3405  
Neonatal Level II and Level IV Nursery 10A NCAC 13B .6204

**CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

Admission of Trainees 12 NCAC 09B .0203  
DJJDP Specialized Instructor Training-Restraints, Control... 12 NCAC 09B .0241  
Terms and Conditions of Specialized Instructor Certification 12 NCAC 09B .0305

**CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

Suspension: Revocation: or Denial of Certification 12 NCAC 09G .0504  
Suspension: Revocation: or Denial of Certification 12 NCAC 09G .0505

**CRIME CONTROL & PUBLIC SAFETY, DEPARTMENT OF**

Equipment-Boxing 14A NCAC 12 .0106

Fouls-Boxing	14A NCAC 12 .0108
Permits	14A NCAC 12 .0110
Licensing Requirements and Duties of Licensees	14A NCAC 12 .0111
Contacts and Financial Arrangements	14A NCAC 12 .0112

**ENVIRONMENTAL MANAGEMENT COMMISSION**

Cape Fear River Basin	15A NCAC 02B .0311
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**MARINE FISHERIES COMMISSION**

Grants to Commercial Shrimping Industry for Economic	15A NCAC 03S .0102
Grants to Commercial Blue Crabbing Industry	15A NCAC 03S .0103

**COASTAL RESOURCES COMMISSION**

General Use Standards for Ocean Hazard Areas	15A NCAC 07H .0306
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**WILDLIFE RESOURCES COMMISSION**

Waiver	15A NCAC 10A .1101
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**EDUCATION, STATE BOARD OF**

Application for Approval: Criteria	16 NCAC 06C .0202
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**REVENUE, DEPARTMENT OF**

Free Distribution by Manufacturer	17 NCAC 04C .0802
Attribution/Expenses/Nontaxable Income	17 NCAC 05C .0304
Preliminary Statement	17 NCAC 05C .0601
Division of Income in General	17 NCAC 05C .0701
Proration of Deductions	17 NCAC 05C .0704
In General	17 NCAC 05C .0801
Property Used for the Production of Business Income	17 NCAC 05C .0802
Denominator of Payroll Factor	17 NCAC 05C .0906
Numerator of Payroll Factor	17 NCAC 05C .0907
Sales Incidental to General Business Operations	17 NCAC 05C .1002
Corporations Allocating Their Net Income	17 NCAC 05C .1506
Business Income or Nonbusiness Income	17 NCAC 05C .1702
Dividends Received from Disc	17 NCAC 05C .2404

**CERTIFIED PUBLIC ACCOUNTANT EXAMINERS, BOARD OF**

Professional Ethics and Conduct CPE	21 NCAC 08G .0410
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**INTERPRETER AND TRANSLITERATOR LICENSING BOARD**

Definitions	21	NCAC	25	.0101
Reciprocity	21	NCAC	25	.0206
Mentoring and Training Exemption	21	NCAC	25	.0207
Grounds for Suspension or Revocation of a License	21	NCAC	25	.0208

**FUNERAL SERVICE, BOARD OF**

Authorized Practice: Supervision	21	NCAC	34B	.0103
Funeral Director Trainee Application Form	21	NCAC	34B	.0105
Embalmer Trainee Application Form	21	NCAC	34B	.0106
Funeral Service Trainee Application Form	21	NCAC	34B	.0107
Reports on Work	21	NCAC	34B	.0110
Work Report Form	21	NCAC	34B	.0111
Trainee Final Affidavit Form	21	NCAC	34B	.0120
Expiration Notice	21	NCAC	34B	.0121
Application form for Funeral Director's License	21	NCAC	34B	.0203
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Application Form for Funeral Service License	21	NCAC	34B	.0205
Passing Score	21	NCAC	34B	.0208
Request for Review of Examination	21	NCAC	34B	.0210
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License Certificate for Practice of Funeral Directing	21	NCAC	34B	.0302
License Certificate for Practice of Embalming	21	NCAC	34B	.0303
License Certificate for Practice of Funeral Service	21	NCAC	34B	.0304
Change of License Request	21	NCAC	34B	.0305
License Renewal Form	21	NCAC	34B	.0309
Establishment and Approval of Courses	21	NCAC	34B	.0401
Continuing Education Card	21	NCAC	34B	.0404
Application Form for Approval of Course	21	NCAC	34B	.0405
Application Form for Approval of Sponsor	21	NCAC	34B	.0406
Purpose and Definitions	21	NCAC	34B	.0407
Accreditation of Sponsors and Programs	21	NCAC	34B	.0410
Application Form for License by Out-of-State Licensees	21	NCAC	34B	.0502
Application Form for Courtesy Card	21	NCAC	34B	.0508
Courtesy Card Renewal Form	21	NCAC	34B	.0510
Part-Time and Independent Contractors Affidavit	21	NCAC	34B	.0612
Funeral Establishment Inspection Form	21	NCAC	34B	.0615
Indication of Approval of Forms	21	NCAC	34D	.0104
Record and Bookkeeping Requirements	21	NCAC	34D	.0301
Certificate of Performance	21	NCAC	34D	.0303
Application for Reimbursement	21	NCAC	34D	.0402
Processing Applications	21	NCAC	34D	.0403

**PHARMACY, BOARD OF**

Administration of Vaccines by Pharmacists 21 NCAC 46 .2507

**PHYSICAL THERAPY EXAMINERS, BOARD OF**

Foreign-Trained Physical Therapists 21 NCAC 48E .0110

**RESPIRATORY CARE BOARD**

Application Process 21 NCAC 61 .0201

License Renewal 21 NCAC 61 .0302

**COMMUNITY COLLEGES, STATE BOARD OF**

Tuition and Fees for Curriculum Programs 23 NCAC 02D .0202

**STATE PERSONNEL COMMISSION**

Leave Credits 25 NCAC 01E .0203

Sick Leave Credits 25 NCAC 01E .0301

Leave Employee Transfer 25 NCAC 01E .1004

Leave with Pay for Time to Locate New Residence 25 NCAC 01E .1007

Leave with Pay When Moving to New Residence 25 NCAC 01E .1008

Participation and Purpose 25 NCAC 01L .0302

Responsibilities: Agencies 25 NCAC 01L .0303

Course Scheduling and Site Selections 25 NCAC 01L .0307

## 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 <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*

#### RULES DECLARED VOID

04 NCAC 02S .0212 CONSUMPTION: INTOXICATION BY PERMITTEE PROHIBITED  
Pursuant to G.S. 150B-33(b)(9), Administrative Law Judge James L. Conner, II declared 04 NCAC 02S .0212(b) void as applied in NC Alcoholic Beverage Control Commission v. Midnight Sun Investments, Inc. t/a Tiki Cabaret (03 ABC 1732).

20 NCAC 02B .0508 FAILURE TO RESPOND  
Pursuant to G.S. 150B-33(b)(9), Administrative Law Judge Melissa Owens Lassiter declared 20 NCAC 02B .0508 void as applied in Burton L. Russell v. Department of State Treasurer, Retirement Systems Division (03 DST 1715).

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b><u>ABC COMMISSION</u></b>				
ABC Commission v. Pantry, Inc. T/A Pantry 355	03 ABC 1094	Gray	09/01/04	
ABC Commission v. Richard Martin Falls, Jr., T/A Falls Quick Stop	04 ABC 0341	Mann	07/16/04	
ABC Commission v. Red Lion Manestream, Inc., T/A Red Lion Manestream	04 ABC 0695	Wade	07/20/04	
ABC Commission v. KOL, Inc, T/A Wards Grocery	04 ABC 0872	Wade	09/21/04	
<b><u>VICTIMS COMPENSATION</u></b>				
Lonnie Jones v. Dept. Crime Control & Public Safety, Victims Compensation	03 CPS 2320	Conner	07/23/04	
Angelique M. Jones on behalf of a juvenile victim, her son, Jaquial Jones v. Victims Compensation Commission	03 CPS 2353	Conner	07/12/04	
Jean Stevens on Behalf of Amber Nichole Sewell v. Victim and Justice Services	04 CPS 0399	Chess	09/16/04	
Krista Chmiel v. Crime Victims Compensation Commission Case #CV-65-04-0020899	04 CPS 0992	Gray	09/31/04	
<b><u>DEPARTMENT OF AGRICULTURE</u></b>				
NC Spring Water Assoc, Inc., Wiley Fogleman (President) v. DOA, David McLeod and Table Rock Spring Water Co.	04 DAG 0110	Gray	07/21/04	
<b><u>DEPARTMENT OF ADMINISTRATION</u></b>				
Larry Yancey v. GACPD, DOA	04 DOA 0896	Morrison	07/28/04	
<b><u>HEALTH AND HUMAN SERVICES</u></b>				
Bejeer Smiles Child Care Learning Center, Inc. v. DHHS, Div of Child Development	98 DHR 0235	Gray	09/16/04	
Margaret Bollo v. DHHS, Broughton Hospital	03 DHR 0444	Gray	07/21/04	
Walter Ray Nelson, Jr., Karen Marie Nelson v. DHHS	03 DHR 0884	Lassiter	05/18/04	
Olufemi Augustine Ohome v. DHHS, Div. of Facility Services	03 DHR 1062	Lassiter	05/24/04	
Karen A. Anders v. DHHS, Div of Facility Services	03 DHR 1217	Gray	09/20/04	
Charles Crawford Cox v. DHHS	03 DHR 1546	Lassiter	07/07/04	
Bio-Medical Applications of North Carolina, Inc v. DHHS, Div of Facility Services, CON Section and Total Renal Care of NC, LLC	03 DHR 1553	Chess	06/02/04	
Lativia L. Gibbs v. DHHS, Div. of Child Development	03 DHR 1746	Smith	07/23/04	



**CONTESTED CASE DECISIONS**

Rebecca Stephens Short v. DHHS, Div of Facility Services	03 DHR 1806	Conner	06/11/04
Jacqueline Haltiwanger v. DHHS, Div of Facility Services	03 DHR 1818	Conner	09/24/04
Loretta Kaye Dulakis v. DHHS, Div. of Facility Services	03 DHR 1848	Wade	08/20/04
Pamela Narron (Legal Guardian for) Benjamin Chad Pierce v. DHHS, Div of Mental Health – DD-SA	03 DHR 2377	Conner	07/19/04
Mooreville Hospital Management Assoc, Inc d/b/a Lake Norman Reg. Medical Center v. DHHS, Div of Facility Services, CON Section and Novant Health, Inc. (Lessor) and Forsyth Memorial Hospital (Lessee) d/b/a Forsyth Medical Center	03 DHR 2404	Conner	06/08/04
Louvenia Jones, Sheryl Willie – General Power of Attorney v. DHHS, Div of Child Development	03 DHR 2445	Gray	06/15/04
Antonia Marie Collins v. DHHS, Div of Facility Services	03 DHR 2450	Mann	09/15/04
John Michael Thompson v. DHHS, DFS	04 DHR 0046	Lassiter	07/27/04
Donna R. Gardner v. Health Care Personnel Registry, DHHS, Div of Facility Services	04 DHR 0048	Gray	09/17/04
Johnny Rouse v. DHHS, Div of Facility Services	04 DHR 0107	Wade	10/07/04
Alisa Hodges Yarborough v. DHHS, DFS	04 DHR 0176	Elkins	07/19/04
LaDunna K. Brewington v. DHHS, Div of Medical Assistance	04 DHR 0192	Mann	06/09/04
Martha Williams, Kidtz Town v Div of Child Development	04 DHR 0200	Elkins	06/11/04
Mary P. Daniels v. DHHS	04 DHR 0232	Gray	08/09/04
Paulette Simato v. DHHS, Div of Facility Services	04 DHR 0302	Conner	09/22/04
Eula P. Street v. DHHS, DFS	04 DHR 0332	Elkins	07/14/04
Donnell Williams v. Harnet County DSS	04 DHR 0334	Conner	06/28/04
Terry William Waddell v. Medicaid/NC Health Choice	04 DHR 0335	Mann	06/04/04
Paula Una Simon v. DHHS	04 DHR 0386	Chess	09/10/04
Nathan E. Lang vs DHHS	04 DHR 0439	Conner	06/23/04
Phyllis S. Weaver v. DHHS	04 DHR 0457	Conner	07/19/04
Bervin D. Pearson Sr. v. DHHS, Broughton Hospital	04 DHR 0476	Morrison	09/09/04
Tracy M. Anderson v. DHHS, Div. of Facility Services	04 DHR 0501	Conner	09/14/04
Ray J. Bobbitt v. Nash County Dept. of Social Services	04 DHR 0529	Elkins	07/13/04
Connie Watt Redice v. DHHS	04 DHR 0546	Lassiter	06/29/04
Edrica Mekoyo v. DHHS, Div. of Facility Services	04 DHR 0560	Gray	09/17/04
Emelie Kashangura v. DHHS, DFS	04 DHR 0602	Elkins	07/14/04
Rush Street Food Mart, Ghassan Dahir v. DHHS, WIC, Div. of Public Health	04 DHR 0640	Elkins	09/24/04
Zack's Food Mart, Nidal Dahir v. DHHS, WIC, Div of Public Health	04 DHR 0641	Elkins	09/24/04
Sabrina Betts v. NC Health Personnel Registry	04 DHR 0644	Lassiter	06/02/04
Amy Hensley v. DHHS	04 DHR 0696	Elkins	09/01/04
Tanisha Mitchell v. DHHS, Div. of Facility Services	04 DHR 0787	Mann	06/23/04
Stacey Curtis v. Dorothea Dix Hospital	04 DHR 0791	Lassiter	09/01/04
Progressive Child Care, Inc. Drake Groves/Director v. Div of Child Development c/o Forsyth County Department of Social Services	04 DHR 0844	Mann	09/22/04
Fox's Tot, Inc., Connie Fox v. DHHS	04 DHR 0881	Elkins	07/20/04
Oyetoun M Oladipo v. Health Care Personnel Registry, DHHS	04 DHR 0887	Morrison	09/23/04
Kids Kingdon Christian Learning Center, Inc., v. Div. of Child Development, Regulatory Services Section	04 DHR 0974	Conner	08/10/04
Sandra Elaine Patrick v. DHHS, Div of Facility Services	04 DHR 1073	Conner	10/01/04
New Beginnings Childcare v. Div. of Child Dev. & Lee Co. DSS	04 DHR 1112	Lassiter	08/18/04
Roberta Bell v. DHHS, Div of Medical Assistance	04 DHR 1134	Wade	09/15/04
Manley Yates & Cynthis Yates, Ham Grocery, Inc. v. DHHS, WIC	04 DHR 1136	Elkins	09/14/04
Grace A. Wright v. Wake County Human Services Program Integrity – Dedi H. Bateman	04 DHR 1152	Mann	09/23/04
Michael J. Shelton, Pinnacle Homes #2 v. DHHS, Div. of Medical Assistance	04 DHR 1166	Gray	09/03/04

A list of Child Support Decisions may be obtained by accessing the OAH Website: [www.ncoah.com/decisions](http://www.ncoah.com/decisions).

**DEPARTMENT OF JUSTICE**

Larry Mitchel Batton, Jr. v. Crimianl Justice Educ. & Training Stds. Comm	03 DOJ 1067	Lassiter	06/15/04
Steve A. Matthews v. Sheriff's Educ. & Traning Stds. Comm	03 DOJ 1702	Conner	05/10/04
Tony M. Evans and Kristopher D. Harris v. Criminal Justice Educ. & Training Standards Commission	03 DOJ 2354	Mann	07/19/04
Tony M. Evans and Kristopher D. Harris v. Criminal Justice Educ. & Training Standards Commission	03 DOJ 2355	Mann	07/19/04
Addie Joanne Foreman v. Private Protective Services Board	03 DOJ 2405	Elkins	08/26/04
Charles Robert Branham v. Criminal Justice Educ & Training Stds. Comm.	03 DOJ 2431	Conner	06/22/04
Robert R. Johnson, Jr. v. Sheriff's Education & Training Standards Comm.	04 DOJ 0062	Chess	08/23/04
Bernard Cotton v. DOJ	04 DOJ 0063	Chess	06/03/04
Linnell Davis, Jr. v. Private Protective Services Board	04 DOJ 0299	Elkins	08/26/04
Jason Oneil Rice v. Sheriffs' Education & Training Standards Commission	04 DOJ 0318	Mann	06/24/04
Guy Wesly Prevette v. Criminal Justice Educ. & Training Standards Comm.	04 DOJ 0511	Chess	07/08/04
Connelly Allen Locklear v. Criminal Justice Educ. & Training Stds. Comm	04 DOJ 0514	Gray	07/15/04
Charlie Ray Hunt v. Criminal Justice Educ. & Training Stds. Comm	04 DOJ 0658	Gray	09/20/04
Robert Dustin Bryan v. Private Protective Services Board	04 DOJ 0708	Gray	09/16/04
George Eugene White v. Sheriffs' Education & Training Standards Comm	04 DOJ 0732	Wade	10/04/04
Jerry Adrian Crawley v. Sheriffs' Education & Training Standards Comm	04 DOJ 0828	Gray	09/16/04
Maureen Cleary Williams v. Sheriffs' Education & Training Standards Comm	04 DOJ 0829	Mann	07/28/04
Tommy Dwight Hunt v. Sheriffs' Educ & Training Stds. Comm	04 DOJ 0830	Elkins	08/24/04
Randall Douglas Hughes v. Criminal Justice Education & Training Standards Comm	04 DOJ 1078	Elkins	09/30/04

**CONTESTED CASE DECISIONS**

Kenneth R. Moore v. Dept of Justice, Company Police Program Comm	04 DOJ 1180	Gray	09/29/04	
Gordon Shane Smith v. Criminal Justice Education & Training Standards Comm	04 DOJ 1241	Gray	09/29/04	
<b><u>DEPARTMENT OF TRANSPORTATION</u></b>				
Harrison Holdings, LLC d/b/a Ultimate Imports v. Dept. & Comm. Of Motor Vehicles	04 DOT 0452	Chess	09/13/04	
<b><u>DEPARTMENT OF TREASURER</u></b>				
Mary Pender v. DOT, Retirement Systems Division	04 DST 0027	Conner	07/23/04	
<b><u>DEPARTMENT OF PUBLIC INSTRUCTION</u></b>				
Alice Bins Rainey, Michele R Rotosky and Madeline Davis Tucker	02 EDC 2310	Lassiter	06/01/04	19:01 NCR 153
Emily H. Thompson v. Dept. of Public Instruction	03 EDC 1958	Chess	09/15/04	
<b><u>ENVIRONMENT AND NATURAL RESOURCES</u></b>				
Beltex Corporation, a Debtor-in Possession v. DENR, Div of Air Quality	00 EHR 1706	Gray	06/18/04	
J.L. Marsh Smith Farms, Inc v. DENR, Div of Air Quality	00 EHR 2116	Gray	06/04/04	
Raymond Wallace, The Golden Mirror vs. Div of Radiation Protection	01 EHR 1558	Mann	06/17/04	
Friends of the Green Swamp, et al, v. DENR, Div. of Water Quality and Riegel Ridge, LLC, and Waste Management of Carolinas, Inc	03 EHR 0058	Conner	08/26/04	
Old Beau Golf Club v. DENR	03 EHR 1260	Conner	07/28/04	
Sandy Mush Properties, Inc v. DENR, Div of Air Quality	03 EHR 1411	Conner	06/28/04	
Ronald Frye v DENR	03 EHR 1636	Gray	06/23/04	
Alliance for Legal Action, Inc, Piedmont Quality of Life Coalition (an unincorporated association), Alberta Anderson, Cameron Anderson, Jean Black, Richard Black, Walter S. Druce, Ron Goga, Gil Happel, Carol Hoppe, Michael Hoppe, Patricia Nussbaum, Christine Peeler, Laura Pollak, Randall Schultz, Roch Smith, Jr., and Vassilia Smith v. Div of Water Quality of DENR And Piedmont Triad Airport Authority	03 EHR 1664	Gray	09/08/04	
Robert I. Swinson Sr. v. DENR, Div of Marine Fisheries	03 EHR 2248	Chess	06/10/04	
Winston N. Cahoon v. DENR	03 EHR 2305	Lassiter	07/01/04	
Jimmy Mathis, Mathis Pump & Well v. DENR	03 EHR 2336	Wade	05/25/04	
James D & Jane Lathan Ray; James D. & Brenda W Moser, Jr.; John G. & Sheila A Conner v. DENR, Div. of Coastal Resources and R. Carter Pate	04 EHR 0073 <sup>1</sup>	Wade	08/13/04	
R. Carter Pate v. DENR, Div. of Coastal Resources & Steve Bond	04 EHR 0150 <sup>1</sup>	Wade	08/13/04	
Big Beaver Drilling Rig v. UST Trust Fund Section Final Agency Decision	04 EHR 0612	Wade	05/25/04	
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<b><u>DEPARTMENT OF INSURANCE</u></b>				
Speros J. Fleggas vs. DOI	04 INS 0251	Elkins	06/10/04	
<b><u>MISCELLENOUS</u></b>				
Alesia Braswell Al Wahshi v. Deborah Mcintyre, Wayne Co, Dept. of Social Services	04 MIS 0146	Gray	06/18/04	
O'marr S. Reid v. Gaston Co. Judicial System and Defendants 1,2,3,4,5,6, 7,8,9,10	04 MIS 0682	Elkins	06/22/04	
Larry Yancey v. State Bar Grievance Com., Dept of Justice	04 MIS 0891	Morrison	07/27/04	
Larry Yancey v. State Bar Grievance Com., Dept of Justice	04 MIS 0892	Morrison	07/27/04	
Larry Yancey v. Durham Housing Authority, City of Durham, State of NC	04 MIS 0893	Morrison	07/27/04	
Larry Yancey v. Independent Living Rehab Prog, Div of VRS State of NC	04 MIS 0894	Morrison	07/27/04	
Larry Yancey v. Durham Dept. of Social Services, State of NC	04 MIS 0895	Morrison	07/27/04	
<b><u>OFFICE OF STATE PERSONNEL</u></b>				
Kathy M Sledge v. DOC	02 OSP 2117	Conner	08/03/04	
Pearl A. Wilkins v. NCSU	03 OSP 0400	Gray	07/26/04	
Phillip Harris v. Dept. of Juvenile Justice & Delinquency Prevention	03 OSP 0836	Gray	09/17/04	
James A. Ray v. Mr. Don Shore, Human Resources, UNC Greensboro	03 OSP 2451	Elkins	06/01/04	
James A. Ray v. Sherry Stevens and Facility Services Management., UNC Greensboro	03 OSP 2452	Elkins	06/01/04	
James A. Ray v. Hoyte Phifer and Fac. Svcs Mgmt, UNC Greensboro	03 OSP 2453	Elkins	06/01/04	
Terry H. Mitchell v. Elizabeth City State University	04 OSP 0015	Conner	07/23/04	
Miracle L. Smith v. NC State Highway Patrol	04 OSP 0039	Gray	07/14/04	
Samuel Williams v. DOC, Div of Alcoholism, Chemical Dependency Programs	04 OSP 0194	Mann	06/09/04	
Jerry William Wiley v. Div of Public Health and DHHS	04 OSP 0210	Elkins	06/23/04	
Lillian Marie Adcock v. UNCG	04 OSP 0380	Lassiter	09/23/04	
Barbara Hoffner v. DOC, Div of Prisons, Central Prison	04 OSP 0415	Chess	06/17/04	
Jeff Nichols v. DOC	04 OSP 0419	Conner	06/29/04	
Adriel Williams v. UNC Chapel Hill	04 OSP 0435	Chess	09/20/04	
Phyllis Holt v. UNC Chapel Hill	04 OSP 0486	Chess	06/01/04	
John V. Smith v. NCSU	04 OSP 0505	Chess	06/17/04	
David Earl Beasley v. NCSU	04 OSP 0513	Gray	08/27/04	

**CONTESTED CASE DECISIONS**

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Mark A. Boyce v. Dept. of Commerce	04 OSP 0543	Gray	07/06/04
Eldredia B. Mizelle v. Craven Correctional Institution, Dept. of Corrections, David W. Chester, Capt. Kathryn Brown	04 OSP 0582	Wade	06/24/04
Bernadine Ralph v. O'Berry Center	04 OSP 0706	Lassiter	06/29/04
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Lekisha Branch Thorpe v. The Whitaker School	04 OSP 0923	Morrison	09/09/04
Katrina Pittman v. Kenny Gibbs, Div of Vocational Rehab	04 OSP 0930	Lassiter	08/06/04
Veronica J. Johnson v. SOS	04 OSP 0961	Morrison	07/23/04
Gregory Tabron v. John Umstead Hospital	04 OSP 1014	Lassiter	07/26/04
James Clint Dixon Sr. v. Butner Public Safety, Crime Control & Public Safety	04 OSP 1104	Lassiter	10/08/04
Sharon Carr v. DHHS, Div of Social Services, Human Resources Gwen Sanders	04 OSP 1270	Mann	09/24/04

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Carrie Ann Sykes v. Chapel Hill Hospital	04 UNC 0245	Elkins	06/25/04
Danielle Catoe v. UNC Hospitals	04 UNC 0291	Elkins	06/25/04
Rex A. Coughenour v. UNC Hospitals	04 UNC 0306	Elkins	06/22/04
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P. Nettles v. UNC Hospitals	04 UNC 0393	Morrison	07/23/04
Vanessa Bailey v. UNC Hospitals	04 UNC 0440	Conner	08/09/04
Dennis McCuller v. UNC Hospitals	04 UNC 0458	Chess	08/02/04
Joe Hatcher v. UNC Hospitals	04 UNC 0480	Morrison	07/23/04
Cattrual Heggins v. UNC Hospitals	04 UNC 0496	Chess	08/09/04
Tammy Bottoms v. UNC Hospitals	04 UNC 0502	Elkins	07/21/04
Sandra Lee Petty v. UNC Hospitals	04 UNC 0522	Chess	07/23/04
Thomas Sherman Tate v. UNC Hospitals	04 UNC 0538	Chess	06/15/04
Sherry Smith v. UNC Hospitals	04 UNC 0585	Wade	10/01/04
Tracy Lane v. UNC Hospitals	04 UNC 0601	Gray	07/23/04
Carl Graves, Jr. v. UNC Hospitals	04 UNC 0613	Wade	09/21/04
Betty Tripp v. UNC Hospitals	04 UNC 0660	Wade	10/01/04
Ellen Lamoureux v. UNC Hospitals	04 UNC 0677	Wade	10/01/04
Chris Oduok v. UNC Hospitals	04 UNC 0760	Morrison	07/26/04
Pamela L. Chevalier v. UNC Hospitals	04 UNC 0773	Morrison	07/26/04

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1 Combined Cases