

NORTH CAROLINA REGISTER

VOLUME 21 • ISSUE 11 • Pages 920 - 1061

DECEMBER 1, 2006

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Contact List for Rulemaking Questions or Concerns

For questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address, but are not inclusive.

Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.

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Rules Review Commission

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(919) 733-2721

Raleigh, North Carolina 27605

(919) 733-9415 FAX

contact: Joe DeLuca Jr., Staff Director Counsel

joe.deluca@ncmail.net

Bobby Bryan, Staff Attorney

bobby.bryan@ncmail.net

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lisa.johnson@ncmail.net

Fiscal Notes & Economic Analysis

Office of State Budget and Management

116 West Jones Street

(919) 733-7061

Raleigh, North Carolina 27603-8005

(919) 733-0640 FAX

contact: Nathan Knuffman

nathan.knuffman@ncmail.net

Governor's Review

Reuben Young

reuben.young@ncmail.net

Legal Counsel to the Governor

(919) 733-5811

116 West Jones Street (919) 733-5811

Raleigh, North Carolina 27603

Legislative Process Concerning Rule-making

Joint Legislative Administrative Procedure Oversight Committee

545 Legislative Office Building

300 North Salisbury Street

(919) 733-2578

Raleigh, North Carolina 27611

(919) 715-5460 FAX

contact: Karen Cochrane-Brown, Staff Attorney

karenc@ncleg.net

Jeff Hudson, Staff Attorney

jeffreyh@ncleg.net

County and Municipality Government Questions or Notification

NC Association of County Commissioners

215 North Dawson Street

(919) 715-2893

Raleigh, North Carolina 27603

contact: Jim Blackburn or Rebecca Troutman

jim.blackburn@ncacc.org

Rebecca Troutman

rebecca.troutman@ncacc.org

NC League of Municipalities

(919) 715-4000

215 North Dawson Street

Raleigh, North Carolina 27603

contact: Anita Watkins

awatkins@nclm.org

NORTH CAROLINA REGISTER
Publication Schedule for January 2006 – December 2006

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

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.

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|---|
| <p><i>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.</i></p> |
|---|

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY
Arbor New Bern Avenue, LLC**

Pursuant to N.C.G.S. 130A-310.34, Arbor New Bern Avenue, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Raleigh, Wake County, North Carolina. The Property, which is known as the former Cal-Tone Paints, Inc. site, consists of approximately 2.75 acres and is located at 5115 New Bern Avenue.

Environmental contamination exists on the Property in the soil and groundwater. In the short term, Arbor New Bern Avenue, LLC may lease or sell, or lease then sell, the Property to a commercial or industrial user. If Arbor New Bern Avenue, LLC does not soon lease or sell the Property, its plan is to ultimately sell or develop it as part of a more substantial retail and/or residential project involving neighboring properties.

The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Arbor New Bern Avenue, LLC, which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the Cameron Village Library, 1930 Clark Avenue, Raleigh, North Carolina, 27605 by contacting Jeffrey Hamilton at that address, at (919) 856-6710 or at jhamilton@co.wake.nc.us; or at the offices of the N.C. Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 by contacting Shirley Liggins at that address (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents), at shirley.liggins@ncmail.net or at (919) 508-8411.

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. Thus, if Arbor New Bern Avenue, LLC, as planned, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the brownfields property is located, and if it effects publication of this Summary in the North Carolina Register on the date he expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on December 2, 2006. 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 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 applications have been submitted to DENR:

Application by: Keith Dobie, President

F.R. Mahony & Associates, Inc.
273 Weymouth Street
Rockland, MA 02370

For: Innovative Approval for "Amphidrome®" advanced wastewater pretreatment systems

And: Michael Fugate, P.E.

Geoflow, Inc.
506 Tamal Plaza
Corte Madera, CA 94925

For: Modified Innovative Approval for "Geoflow" subsurface drip wastewater systems

And: Carl Thompson.

Infiltrator Systems, Inc.
P.O. Box 768
Old Saybrook, CT 06475

For: Modified Innovative Approval for "Infiltrator" chambered subsurface wastewater systems

DENR Contact: Andy Adams

1-919-733-2895

FAX 919-715-3227

andy.adams@ncmail.net

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

Written public comments may be submitted to DENR within 30 days of the date of the Notice publication in the North Carolina Register. All written comments should be submitted to Mr. Andy Adams, Chief, On-site Wastewater Section, 1642 Mail Service Center, Raleigh, NC 27699-1642, or 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.

U.S. Department of Justice

Civil Rights Division

JKT:RPL:TGL:jdh
DJ 166-012-3
2006-5592

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

October 16, 2006

Ms. Karen M. McDonald
City Attorney
P.O. Box 1513
Fayetteville, North Carolina 28302-1513

Dear Ms. McDonald:

This refers to sixteen annexations (Ordinance Nos. 2005-05-480 through 2006-06-495), adopted between May 9, 2005 and June 26, 2006, and their designation to districts of City of Fayetteville in Cumberland 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 18, 2006.

According to your submission, the areas annexed by Ordinance Nos. 2005-05-480 and 2005-07-481, were included in the territory annexed by Ordinance No. 2003-11-463 to which the Attorney General interposed no objection on May 31, 2005. Accordingly, no further determination by the Attorney General is required or appropriate under Section 5. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.35).

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

Sincerely,

John Tanner
Chief, Voting Section

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

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

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Department of Health and Human Services intends to adopt the rules cited as 10A NCAC 01G .0101 - .0102.

Proposed Effective Date: April 1, 2007

Public Hearing:

Date: January 18, 2007

Time: 10:00 a.m.

Location: Room 116, Royster Building, Dorothea Dix Campus

Reason for Proposed Action: Pursuant to Senate Bill 1277 from Session Law 2006-104 an act established the North Carolina New Organizational Vision Award (NCNOVA) Special Licensure designation as recommended by the Study Commission on Aging. As a result of this Senate Bill, Chapter 131-E of the General Statutes was amended to add a new Part. These rules are being proposed for adoption in response to the amended Statute of G.S. 131E-154.12-.14 regarding the NCNOVA licensure.

Procedure by which a person can object to the agency on a proposed rule: An individual may object to the agency on the proposed rules by submitting written comments on the proposed rules. They may also object by attending the public hearing and personally voice their objections during that time.

Comments may be submitted to: Susan Harmuth, 2001 Mail Service Center, Raleigh, North Carolina 27699-2001, phone (919) 733-4534, fax (919) 715-4645, email Susan.Harmuth@ncmail.net

Comment period ends: January 18, 2007

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 01 – OFFICE OF THE SECRETARY

SUBCHAPTER 01G – NORTH CAROLINA NEW ORGANIZATIONAL VISION AWARD (NC NOVA)

SECTION .0100 - NORTH CAROLINA NEW ORGANIZATIONAL VISION AWARD (NC NOVA)

10A NCAC 01G .0101 SCOPE

The rules contained in this Section shall apply to home care agencies and nursing homes licensed pursuant to Chapter 131E of the General Statutes, and adult care homes licensed pursuant to Article 1 of Chapter 131D of the General Statutes that are seeking NC NOVA licensure designation pursuant to G.S. 131E, Article 5.

Authority G.S. 131E-154.12; 131E-154.13; 131E-154.14.

10A NCAC 01G .0102 APPLICATION FOR NC NOVA SPECIAL LICENSURE DESIGNATION

Applicants shall obtain and complete an NC NOVA application in accordance with criteria and protocols stipulated in the NC NOVA Information Manual. Copies of the NC NOVA Information Manual can be obtained via the internet at www.ncnova.org or www.thecarolinascenter.org.

Authority G.S. 131E-154.14.

TITLE 13 – DEPARTMENT OF LABOR

Notice is hereby given in accordance with G.S. 150B-21.2 that the N.C. Department of Labor intends to amend the rules cited as 13 NCAC 12 .0601, .0703, .0804.

Proposed Effective Date: April 1, 2007

Public Hearing:

Date: December 18, 2006

Time: 10:00 a.m.

Location: 4 W. Edenton Street, Raleigh, NC 27699 (Room 249)

Reason for Proposed Action: *Due to changes made during the 2005 Session of the North Carolina General Assembly, certain administrative rule changes are needed in order to ensure that the North Carolina Administrative Code remains consistent with the Wage and Hour Act.*

Procedure by which a person can object to the agency on a proposed rule: *Objections to the proposed rules may be submitted, in writing, to Erin T. Gould, Assistant Rulemaking Coordinator, via United States mail at the following address: 1101 Mail Service Center, Raleigh, North Carolina 27699-1101; or via facsimile at (919) 733-4235. Objections may also be submitted during the public hearings conducted on these rules, which are noticed above. Objections shall include the specific rule citation(s) for the objectionable rule(s), the nature of the objection(s), and the complete name(s) and contact information for the individual(s) submitting the objection. Objections must be received by 5:00 p.m. on January 30, 2007.*

Comments may be submitted to: *Erin T. Gould, Assistant Rulemaking Coordinator, 1101 Mail Service Center, Raleigh, North Carolina 27699-1101, phone (919) 733-0368, fax (919) 733-4235, email erin.gould@nclabor.com*

Comment period ends: *January 30, 2007*

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 12 – WAGE AND HOUR

SECTION .0600 - INVESTIGATION AND ENFORCEMENT

13 NCAC 12 .0601 COMPLAINTS

The complaint required by G.S. 95-25.15 to initiate a wage payment investigation of an F.L.S.A. covered establishment shall be may be oral or in writing, made orally by contacting the Wage and Hour Bureau's complaint desk. All such complaints

will be reduced to written form by ~~the complainant or the Wage and Hour Division.~~ Bureau.

Authority G.S. 95-25.15; 95-25.17.

SECTION .0700 - CIVIL MONEY PENALTIES

13 NCAC 12 .0703 EXCEPTIONS TO CIVIL PENALTY

An employer may take an exception to a civil penalty determination by filing a written petition for a contested case hearing with the Office of Administrative Hearings (OAH) ~~pursuant to the procedures contained in Article 3 of Chapter 150B of the General Statutes, under Chapter 150B, Article 3 of the North Carolina General Statutes.~~ The penalty shall be final unless the employer takes exception to the civil penalty determination. The exception must be taken within 15 days after the employer's receipt of notification of the civil penalty or the determination will become final. penalty.

Authority G.S. 95-25.19; 95-25.23.

SECTION .0800 – RECORDKEEPING

13 NCAC 12 .0804 NOTIFICATION AT TIME OF HIRING

~~(a) An employee's signature on an employer's written notice of the promised wages which bears the date on which the employee was provided with the notice shall be presumptive evidence of the employer's notification in accordance with G.S. 95-25.13(1) and this Rule.~~
~~(b) A policy or practice which decreases the employee's wages or has the effect of decreasing the employee's wages shall not apply to any employee until after the employee has been provided with specific oral or written notice of the policy or practice.~~

Authority G.S. 95-25.13; 95-25.19.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to adopt the rule cited as 15A NCAC 10B .0125; 10H .0110, .1301 - .1302 and amend the rules cited as 15A NCAC 10B .0105, .0113, .0116, .0201 - .0205, .0209, .0302; 10D .0102 - .0103; 10H .0801; and 10J .0102.

Proposed Effective Date: *May 1, 2007*

Public Hearing:

Date: *January 8, 2007*

Time: *7:00 p.m.*

Location: *Bladen Community College Auditorium, 7418 NC Highway 41W, Dublin, North Carolina*

Date: January 10, 2007

Time: 7:00 p.m.

Location: Graham Courthouse, 212 W. Elm Street, Graham, North Carolina

Date: January 11, 2007

Time: 7:00 p.m.

Location: South Stanly High School, 40488 South Stanly School Road, Norwood, North Carolina

Date: January 16, 2007

Time: 7:00 p.m.

Location: Valdese, Heritage Middle School, 1951 Enon Road, Valdese, North Carolina

Date: January 17, 2007

Time: 7:00 p.m.

Location: Cullowhee, Ramsey Center, Western Carolina University, 100 Catamount Road, Cullowhee, North Carolina 28723

Date: January 18, 2007

Time: 7:00 p.m.

Location: Boonville, Starmount High School, 2516 Longtown Road, Boonville, North Carolina

Date: January 23, 2007

Time: 7:00 p.m.

Location: Edenton, Swain Auditorium, 100 Court Street, Edenton, North Carolina

Date: January 24, 2007

Time: 7:00 p.m.

Location: New Bern Courthouse, 302 Broad Street, New Bern, North Carolina

Date: January 25, 2007

Time: 7:00 p.m.

Location: Louisburg, Annex Building, District Court Room, 102 S. Main Street, Louisburg, North Carolina

Reason for Proposed Action:

15A NCAC 10B .0105 – Migratory Game Birds; Adjust reporting requirements.

15A NCAC 10B .0113 – Big Game Kill Reports; Adjust reporting requirements.

15A NCAC 10B .0116 – Permitted Archery Equipment; Adjust bow weight and change word "may" to "shall."

15A NCAC 10B .0125 – Possession of Mute Swans is proposed for the purpose of regulating the possession of mute swans.

15A NCAC 10B .0201 – Prohibited Taking & Manner of Take; Describe actions that constitute bear baiting.

15A NCAC 10B .0202 – Bear; Adjust season.

15A NCAC 10B .0203 – Deer; Adjust seasons and bag limits and clarify open season in urban areas.

15A NCAC 10B .0204 – Wild Boar (Both Sexes); Adjust seasons and locations and clarify reporting requirement.

15A NCAC 10B .0205 – Raccoon and Opossum; Adjust open season regulation.

15A NCAC 10B .0209 – Turkey; Adjust seasons and locations.

15A NCAC 10B .0302 – Open Seasons; Adjust trapping restrictions.

15A NCAC 10D .0102 – General Regulations Regarding Use; To clarify provisions of disabled sportsman program and provisions regarding certain zones on gamelands.

15A NCAC 10D .0103 – Adjust seasons and gamelands listing.

15A NCAC 10H .0110 – Supplemental Feeding; Describe regulated supplemental feeding on controlled hunting preserves

15A NCAC 10H .0301 – Commercial Take of Certain Turtles & Terrapins; Regulate the taking of certain turtles and terrapins.

15A NCAC 10H .0302 – Possession of Reptiles & Amphibians; Regulate the possession of reptiles and amphibians.

15A NCAC 10H .0801 – Definitions; Adjust definition of raptor with regard to bald and golden eagles.

15A NCAC 10J .0102 – Prohibit the use of alcohol on the Nona Pitt Hinson Cohen Wildlife Conservation Area.

Procedure by which a person can object to the agency on a proposed rule: Any person who wishes to object to a proposed rule may do so by writing (or emailing) the person specified in connection with a given rule within the public comment period set up for these rules. For these rules, the contact person is David Cobb, Chief, Wildlife Management Division.

Comments may be submitted to: David Cobb, 1701 Mail Service Center, Raleigh, NC 27699-1701, phone (919) 707-0050, email David.Cobb@ncwildlife.org

Comment period ends: February 2, 2007

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 (\geq \$3,000,000)
- ☒ None

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

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) 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, the Wildlife Resources Commission shall issue nontransferable swan permits 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.

(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.

(c) Reporting Requirements: For tundra swan and Canada goose seasons where a permit is required to hunt by Memorandum of

Agreement with the U.S. Fish & Wildlife Service, hunter questionnaires supplied on preaddressed, postage-paid cards must be returned to the Commission and postmarked no later than April 1 following the end of the applicable season. Failure to return the questionnaire and animal parts, if required, by this date shall make the individual ineligible to receive a permit for the following applicable season. In lieu of returning a hard copy, individuals may fill out a questionnaire on-line through the Wildlife Commission web site when this option is available by April 1 following the end of the applicable season.

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.

15A NCAC 10B .0113 BIG GAME KILL REPORTS

(a) Upon killing a bear, deer, wild boar, or wild turkey and before moving the animal from the site of kill, the successful hunter must validate the Big Game Harvest Report Card furnished with the big game hunting license by cutting or punching out the validation box that correctly identifies the big game animal harvested. In lieu of the Big Game Harvest Report Card, antlerless deer may be recorded as outlined above on the Bonus Antlerless Deer Harvest Report Card acquired from the Wildlife Resources Commission or a Wildlife Service Agent.

(b) Before any harvested bear, deer, wild boar, or wild turkey is skinned, dressed, or dismembered for consumption and within 24 hours of the kill, the animal must be registered with a Wildlife Cooperator Agent or registered through the Electronic Big Game Reporting System. Deer harvested during the urban deer season specified in 15A NCAC 10B .0203(e) shall be registered through the Electronic Big Game Reporting System and shall not be registered with a Wildlife Cooperator Agent. The hunter may field dress the animal at the site of kill or before registering it by bleeding and removing the digestive, respiratory, and circulatory organs; but, the hunter may not mutilate the carcass in a manner that obscures its species identity, age, or sex. When the kill occurs in a remote area, which prevents the animal from being transported as an entire carcass, the animal may be skinned and quartered before being registered. When a hunter harvests a big game animal in a remote area and plans to remain in the remote area for longer than a day, the 24-hour time limit to register the kill is extended until the hunter leaves the area. Upon leaving the remote area, the hunter shall register the kill within 24 hours.

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

including the authorization number obtained from a Wildlife Cooperator Agent or through the Electronic Big Game Reporting System shall be unlawful.

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

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

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

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

15A NCAC 10B .0116 PERMITTED ARCHERY EQUIPMENT

(a) Only longbows and recurved bows having a minimum pull of ~~40~~ 45 pounds and compound bows having a minimum pull of 35 pounds ~~may~~ shall be used for taking game. It is unlawful to use a crossbow or any other type of bow equipped with any device by which the bow can be set at full or partial pull and released by a trigger or any similar mechanism without a disabled sportsman's crossbow hunting permit issued by the Executive Director.

(b) Only arrows with a fixed minimum broadhead width of seven-eighths of an inch or a mechanically opening broadhead with a width of at least seven-eighths of an inch in the open position ~~may~~ shall be used for taking bear, deer, wild boar or wild turkey. Blunt-type arrow heads may be used in taking small animals and birds including, but not limited to, rabbits, squirrels, quail, grouse and pheasants. Poisonous, drugged, barbed, or explosive arrowheads ~~may~~ shall not be used for taking any game.

(c) Crossbows used under a disabled sportsman's crossbow permit shall have a minimum pull rated at least 150 pounds. Heads on bolts used with crossbows shall conform to those described for arrows in Paragraph (b) of this Rule.

Authority G.S. 113-134; 113-291.1(a).

15A NCAC 10B .0125 POSSESSION OF MUTE SWANS

It is unlawful for any individual to import, transport, export, purchase, possess, stock, release or sell any Mute Swan (*Cygnus*

olor) except as authorized under permit issued by the Executive Director pursuant to G.S. 113-274(c)(4) and subject to limitations as specified in this Rule:

- (1) Purchase, export, importation, transportation, and possession of live mute swans shall be allowed under permit provided that all specimens are pinioned or kept within a facility that provides safeguards against accidental escape.
- (2) Individuals or entities in possession of mute swans at the time of enactment of this Rule must apply for a permit by December 1, 2007.
- (3) Individuals or entities with a permit may purchase, sell, transfer or transport within North Carolina to other permitted individuals only.
- (4) Individuals or entities with a permit may sell, transfer or export swans outside of North Carolina subject to laws in the destination state.
- (5) Importation of this species is not allowed except as specified in Item (1) of this Rule.
- (6) The stocking or releasing of this species into the public or private waters in North Carolina is prohibited. Individuals or entities holding pinioned mute swans under permit near public waters shall install fencing to prevent the mute swans from accessing public waters.
- (7) Nothing in this Rule shall prohibit the possession and transportation of dead mute swans.

Authority G.S. 113-292(d); 113-274(c)(4).

SECTION .0200 - HUNTING

15A NCAC 10B .0201 PROHIBITED TAKING AND MANNER OF TAKE

(a) It is unlawful for any person to take, or have in possession, any wild animal or wild bird listed in this Section except during the open seasons and in accordance with the limits herein prescribed, or as prescribed by 15A NCAC 10B .0300 pertaining to trapping or 15A NCAC 10D applicable to game lands managed by the Wildlife Resources Commission, unless otherwise specifically permitted by law. Lawful seasons and bag limits for each species apply beginning with the first day of the listed season and continue through the last day of the listed season, with all dates being included except Sundays. On military installations under the exclusive jurisdiction of the federal government the open seasons include Sundays. When any hunting season ends on a January 1 that falls on a Sunday, that season is extended to Monday, January 2.

(b) Those animals not classified as game animals in G.S. 113-129(7c), and for which a season is set under this Section, may be taken during the hours and methods authorized for taking game animals.

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

(c) Bear Baiting. Black bears shall not be taken with the aid of a baited site.

(1) For purposes of this Subparagraph, the following definitions shall apply:

- (A) A "baited site" shall be any site upon which is placed salt, grain, fruit, honey, sugar-based material, animal parts, or other bait in a quantity discernible to a reasonable observer exercising due diligence.
- (B) An "exclusionary zone" shall be a circular area with a radius of 300 yards from the outermost edge of a baited site containing processed food products.
- (C) An "exclusionary period" is a length of time during which taking bear is prohibited in an exclusionary zone baited with a processed food product after all the bait has been removed, consumed, or has otherwise disappeared.
- (D) "Processed food products" shall be any food substance or flavoring that has been modified from its raw components by the addition of ingredients or by treatment to modify its chemical composition or enhance its aroma or taste. This definition includes but is not limited to substances modified by sugar, honey, syrups, oils, salts, spices, peanut-butter, grease, meat, bones and blood, as well as extracts of such substances, and sugary products such as candies, pastries, gums or sugar blocks.

(2) The following activities shall be construed as taking a bear with the aid of bait:

- (A) Taking a bear that is located within an exclusionary zone;
- (B) Releasing or leading dogs into or within an exclusionary zone;
- (C) Tracking or attempting to track a bear within an exclusionary zone;
- (D) Beginning a hunt within an exclusionary zone; or
- (E) Tracking a bear using dogs on a leash, releasing dogs, or otherwise taking or attempting to take a bear within a 100 yard radius around a site baited with unprocessed fruits, vegetables or grains, provided that it shall not be unlawful to take a bear being pursued by dogs in an area within a hundred yard radius of such a site if the hunt was otherwise lawfully commenced outside that radius.

- (3) Hunters may train dogs within an exclusionary zone or within a 100 yard radius around a site baited with unprocessed fruits, vegetables or grains up until 10 days prior to the opening day of a bear hunting season provided that each dog is on a leash and under complete control of a handler, and provided further that no dog on a leash as described herein may, after striking a bear, be led from the area and released.
- (4) When a site is baited with candies; pastries, including but not limited to cakes, cookies, honey buns, sweet rolls, and donuts; gums; confections or sugar products, the exclusionary period shall be 365 days.
- (5) The exclusionary period shall be the entire bear season when the presence of a bait that contains any processed food product other than the sugary baits as described in Subparagraph (c)(4) is detected on a site within 10 days of the opening of bear season. Examples of such products include but are not limited to peanut-butter, trail mix and commercial food mixes produced for wild animals, animals kept in captivity, domestic animals or livestock.
- (6) A site that has been baited shall no longer be considered baited when the presence of processed food products is undetectable by a careful observer using ordinary human senses and no more than one quart of unprocessed grains, fruits or vegetables is present in a 10 foot radius.

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

Authority G.S. 103-2; 113-291.1(a); 113-291(b)(2); 113-291.2; 113-291.3; 113-134.

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 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, Cumberland, Duplin, New Hanover, Onslow, Pender and Sampson counties, ~~counties~~; and in the following parts of

~~counties: Cumberland: that part south of NC 24 and east of the Cape Fear River.~~

- (4) First Monday in December to the third Saturday thereafter 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, Camden, Chowan, Craven, Dare, Hyde, Jones, Pamlico, Pasquotank, Tyrrell, and Washington counties.
- (6) Saturday preceding the second Monday in November to the following Saturday and the third Monday after Thanksgiving to the fifth Saturday after Thanksgiving in Bertie, ~~Camden~~, ~~Chowan~~, Currituck, Gates and ~~Pasquotank~~ Perquimans counties.

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

Avery, Burke and Caldwell counties--Daniel Boone bear sanctuary
Beaufort, Bertie and Washington counties--Bachelor Bay bear sanctuary
Beaufort and Pamlico counties--Gum Swamp bear sanctuary
Bladen County--Suggs Mill Pond bear sanctuary
Brunswick County--Green Swamp bear sanctuary
Buncombe, Haywood, Henderson and Transylvania counties--Pisgah bear sanctuary
Carteret, Craven and Jones counties--Croatan bear sanctuary
Clay County--Fires Creek bear sanctuary
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 except by permit only.
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 NCAC 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*, ~~Cumberland,~~ Craven, Currituck, Dare, Duplin, Edgecombe, Franklin, Gates, Greene, Halifax, Harnett, 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;~~

Moore**: All of the county except that part north of NC 211 and west of ~~US 1;~~ 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) for seasons on Nicholson Creek, Rockfish Creek and Sandhills Game Lands.

(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;~~

Moore: That part north of NC 211 and west of ~~US 1;~~ 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 apporportion 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 Buncombe, Haywood, Henderson, Madison and Transylvania counties and the following parts of counties:
Avery: That part south of the Blue Ridge Parkway;
Dare, except the Outer Banks north of Whalebone;
Scotland: That part south of US 74; and
Yancey: That part south of US 19 and US 19E.
- (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, Mitchell, Polk and Watauga~~ and the following parts of counties:
Avery: That part north of the Blue Ridge Parkway; and
Yancey: That part north of US 19 and US 19E.
- (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, Catawba, Cleveland, Gaston, Hoke, Lincoln, Richmond, Robeson, Rutherford, and Watauga counties and in the following parts of counties:
Moore: All of the county except that part north of NC 211 and west of US 1; and
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, Camden, Caswell, Chatham, Chowan, Columbus, Cumberland, Currituck, Craven, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gates, Granville, Greene, Guilford, Halifax, Harnett, 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;
Dare: That part of the Outer Banks north of Whalebone;
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; and
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)~~ (f) 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 Nicholson Creek, Rockfish Creek, and Sandhills Game Lands 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 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 Nicholson Creek, Rockfish Creek and Sandhills Game Lands.

(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)~~
(Primitive Weapons)

- (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph, deer may be taken only with muzzle-loading firearms and bow and arrow ~~(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 Nicholson Creek, Rockfish Creek and Sandhills Game Lands 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 Nicholson Creek, Rockfish Creek and Sandhills Game Lands.

(2) Restrictions

- (A) Deer of either sex may be taken during ~~muzzle-loading—firearms~~ primitive weapons season in and east of the following counties: Polk, Rutherford, McDowell, Burke, Caldwell, Watauga, ~~Wilkes~~, and Ashe. Deer of either sex may be taken on the last day of ~~muzzle-loading—firearms—primitive weapons~~ season in all other counties.
- (B) Dogs shall not be used for hunting deer during the ~~muzzle-loading firearms~~ primitive weapons seasons.
- (C) Pistols shall not be carried while hunting deer during the ~~muzzle-loading—firearms~~ primitive weapons seasons.

(e) Open Season (Urban Season)

- (1) Authorization. Subject to the restrictions set out in Subparagraph (3) of this Paragraph and the bag limits set out in Paragraph (f) of this Rule, deer of either sex may be taken with bow and arrow in participating cities in the state, as defined in G.S. 160A-1(2), from the second Saturday following January 1 to the fifth Saturday thereafter.
- (2) Participation. Cities that intend to participate in the urban season must send a letter to that effect no later than April 1 of the year prior to the start of the urban season to the Executive Director or his designee. Cities must also submit a map of the city's boundaries within which the urban season shall apply.

(3) Restrictions:

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

~~(e)(f)~~ 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. In addition to the bag limits described above, a hunter may obtain multiple bonus antlerless deer harvest report cards from the Wildlife Resources Commission or any Wildlife Service Agent to allow the harvest of two additional antlerless deer per card on private lands in all counties of the State when antlerless deer harvest is allowed under Subparagraph (b)(2) of this Rule, provided that the use of the bonus antlerless deer report card shall not exceed the daily bag limit defined above. 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 .0204 WILD BOAR (BOTH SEXES)

(a) Open Seasons: In Cherokee, Clay, Graham, Jackson, Macon, and Swain the Monday on or nearest October 15 to the Saturday before Thanksgiving, and the third Monday after Thanksgiving to January 1, except on bear sanctuaries located on the game lands, where the boar seasons are controlled by 15A NCAC 10D .0103. Free-ranging swine in all the other counties are considered to be feral and harvest and reporting of harvest will not be regulated by the Commission except on game lands as described in 15A NCAC 10D .0103(i).

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

(c) Kill Reports. The carcass of each wild boar shall be tagged 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.

15A NCAC 10B .0205 RACCOON AND OPOSSUM

(a) Open Season: The open season for taking raccoon and opossum shall be from sunrise Monday on or nearest October 15 through the last day of ~~February, February~~, except as follows:

- ~~(1) There is no open season for hunting raccoon or opossum in that part of Madison County lying north of the French Broad River, south of US 25 70 and west of SR 1319.~~
- ~~(2) Raccoon and opossum may be hunted only from sunset Friday until sunrise Saturday and from sunset Saturday until 12:00 midnight Saturday 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.~~
- ~~(3) The training of raccoon and opossum dogs is prohibited from March 1 to the Monday on or nearest October 15 in the following parts of counties:~~
 - ~~(A) Cherokee: That part north of US 64 and NC 294, east of Persimmon Creek and Hiwassee Lake, south of Hiwassee Lake, and west of Nottely River.~~
 - ~~(B) Madison: That part north of the French Broad River, south of US 25 70, and west of SR 1319.~~
- ~~(4) The training of raccoon and opossum dogs at night is prohibited from April 1 through August 15 in Caldwell and Rutherford Counties.~~

(b) Bag Limits:

- (1) The daily bag limit for raccoon shall be one per individual up to a maximum of two per hunting party. The possession limit shall be two and the season limit 20, except that in and east of Rockingham, Guilford, Randolph, Montgomery and Anson counties the limits are 3 daily with a possession limit of 6 and a season limit of 30. The field possession limit while hunting is the same as the applicable daily limit.
- (2) There is no restriction on bag limits for opossum.

Note: See 15A NCAC 10B .0111 prohibiting axes, saws and shooting in certain western counties.

Authority G.S. 113-134; 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~~ first Saturday in April through the Saturday of the fourth week thereafter on bearded or male turkeys only on private lands in Bladen, Brunswick, Duplin, Pender and New Hanover counties. ~~all counties statewide.~~ In all other counties of the state and on Game Lands the Spring Wild Turkey Season shall be from the Second Saturday in April through the Saturday of the fourth week thereafter on bearded or male turkeys only.
- (3) Spring Youth Only Wild Turkey Season: the Spring Youth Only Wild Turkey Season shall be for one day on the ~~first Saturday in April~~ last Saturday in March on private lands in Bladen, Brunswick, Duplin, Pender and New Hanover counties on bearded or male wild turkeys only. ~~In all other counties in the state and on Game Lands the Spring Youth Only Wild Turkey Season shall be for one day on the first Saturday in April on bearded or male wild turkeys only.~~ This Subparagraph shall not apply to Game Lands unless provided for, on certain Game Lands, by special permit issued pursuant to 15A NCAC 10D .0103. For purposes of this Subparagraph 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 may accompany only one youth during any particular hunt and only one weapon is allowed per youth hunter. The following game lands require a permit to hunt during the Spring Youth Only Wild Turkey season:
Croatan
Holly Shelter
North River
Singletary Tract, Bladen Lakes State Forest
Van Swamp

(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.

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 fur-bearing 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 above.
- (6) Nutria may be trapped at any time east of I-77.

(b) Restrictions

- (1) It is unlawful to trap or take otter 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.

SUBCHAPTER 10D - GAME LANDS REGULATIONS

SECTION .0100 - GAME LANDS REGULATIONS

15A NCAC 10D .0102 GENERAL REGULATIONS REGARDING USE

(a) Trespass. Entry on game lands for purposes other than hunting, trapping or fishing shall be as authorized by the landowner and there shall be no removal of any plants or parts thereof, or other materials, without the written authorization of the landowner. The Wildlife Resources Commission may designate areas on game lands as either an Archery Zone, Safety Zone; Restricted Firearms Zone, ~~or~~ Restricted Zone ~~Zone~~ or Scouting-only Zone.

- (1) Archery Zone. On portions of game lands posted as "Archery Zones" hunting is limited to bow and arrow hunting and falconry only. On these areas, deer of either sex may be taken on all open days of any applicable deer season.
- (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.
- (6) Scouting-only Zone. On portions of the game lands posted as "Scouting-only Zones" the discharge of firearms or bow and arrow is prohibited.

(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, unless the device is cased or not immediately available for use, provided that such devices may be possessed and used by persons participating in field trials on

field trial areas and on target shooting areas designated by the landowner, and possessed in designated camping areas for defense of persons and property; and provided further that .22 caliber pistols with barrels not greater than seven and one-half inches in length and shooting only short, long, or long rifle ammunition may be carried as side arms on game lands at any time other than by hunters during the special bow and arrow and muzzle-loading firearms deer hunting seasons and by individuals training dogs during closed season without field trial authorization. This Rule shall not prevent possession or use of a bow and arrow as a licensed special fishing device in those waters where such use is authorized. During the closed firearms seasons on big game (deer, bear, boar, wild turkey), no person shall possess a shotgun shell containing larger than No. 4 shot or any rifle or pistol larger than a .22 caliber rimfire while on a game land, except that shotgun shells containing any size steel or non-toxic shot may be used while waterfowl or coyote hunting. Furthermore, only shotguns with any size shot and archery equipment as defined in 15A NCAC 10B .0116 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. A field trial participant shall be defined as a Judge, Handler, Scout or Owner.

(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 Handler, Scout or Owner 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. In addition to zone restrictions described in Paragraph (a) no person shall discharge a weapon 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, except 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 driving in the vehicle gallery of a scheduled bird dog field trials trial~~ 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 September 1 through February 29 and April 7 through 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~~ possess a ~~Disabled Sportsman permit~~ Disabled Veteran Sportsman license, a Totally Disabled Sportsman license or a disabled sportsman hunt

certification issued by the Commission. In order to qualify for the ~~permit~~ certification, the applicant shall provide medical certification of one or more of the following disabilities:

- (1) ~~amputation missing 50 percent or more of one or more limbs; limbs, whether by amputation or natural causes;~~
- (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. deafness, meaning the inability to hear or understand oral communications with or without assistance of amplification devices.~~

Participants in the ~~program, program who also hold a disabled access permit,~~ 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 card issued by the Commission.~~

(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 Paragraph applies shall be designated in the game land rules and map book. This Paragraph 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.

(q) Shooting Ranges. On state-owned game lands, no person shall use designated shooting ranges for any purpose other than for firearm or bow and arrow marksmanship, development of shooting skills or for other safe uses of firearms and archery equipment. All other uses – including camping, building fires, operating concessions or other activities not directly involved with recreational or competitive shooting are expressly prohibited, except that activities which have been approved by the Commission and for which a permit has been issued may be conducted, provided that the permit authorizing such activity is available for inspection by wildlife enforcement officers at the time the activity is taking place. No person, when using any shooting range, shall deposit any debris or refuse on the grounds of the range. This includes any items used as targets, except that clay targets broken on the range, by the shooter, may be left on the grounds where they fall. No person shall shoot any items made of glass on the grounds of the range. No person may leave any vehicle or other obstruction in such a location or position that it will prevent, impede or inconvenience the use by other persons of any shooting range. No person shall leave parked any vehicle or other object at any place on the shooting range other than such a place or zone as is designated as an authorized parking zone and posted or marked as such. No person shall handle any firearms or bow and arrow on a shooting range in a careless or reckless manner. No person shall intentionally shoot into any target holder, post or other permanent fixture or structure while using a shooting range. No person shall shoot a firearm in a manner that would cause any rifled or smoothbore projectiles to travel off of the range, except that shotgun shot, size No. 4 or smaller may be allowed to travel from the range if it presents no risk of harm or injury to any person(s). Persons using a shooting range must obey posted range safety rules and those persons who violate range safety rules or create a public safety hazard must leave the shooting range if directed to by law enforcement officers or Commission employees. No person

shall handle any firearms on a shooting range while under the influence of an impairing substance. The consumption of alcohol or alcoholic beverages on a shooting range is prohibited. Shooting ranges are open from sunrise to sunset on Monday through Saturday. Firearms are to be unloaded and cased when being transported to the shooting range while on Game Lands. No person, when using any shooting range, shall do any act which is prohibited or neglect to do any act which is required by signs or markings placed on such area under authority of this Regulation for the purpose of regulating the use of the area.

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

15A NCAC 10D .0103 HUNTING ON GAME LANDS

(a) **Safety Requirements.** No person while hunting on any designated game land shall be under the influence of alcohol or any narcotic drug, or fail to comply with 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) 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) Bachlelor Bay Game Land in Bertie 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.
 - (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~~ Program who acquire special hunt permits.
 - (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 Sept. 1 through Feb. 28 and April 7 through May 14 in areas both designated and posted as camping areas.
 - (7) Brinkleyville Game Land in Halifax 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) Horseback riding, including all equine species, is prohibited.
 - ~~(7)~~(8) 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)~~(9) Brunswick County Game Land in Brunswick County: Permit Only Area
 - ~~(9)~~(10) Buckhorn Game Land in Orange County: Permit Only Area. ~~Area, except during the bow and arrow season for deer, during which the area shall be open as a three-day per week area.~~
 - ~~(10)~~(11) 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)~~(12) 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.
- ~~(12)~~(13) 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 first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(13)~~(14) 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 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, 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, except on those areas posted as an archery zone.
- (G) The use of dogs for hunting deer is prohibited on that portion west of NC 50 and south of Falls Lake.
- ~~(14)~~(15) 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.
- ~~(15)~~(16) Carteret County Game Land in Carteret 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) The use of dogs for hunting deer is prohibited.~~
- ~~(16)~~(17) 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 with any legal weapon by participants in the Disabled Sportsman ~~Program.~~ Program who acquire special hunt permits.
- (C) Horseback riding is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to engaging in such activity.
- (D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.
- (E) The area encompassed by the following roads is closed to all quail and woodcock hunting and all bird dog training: From Yanceyville south on NC 62 to the intersection of SR 1746, west on SR1746 to the intersection of SR 1156, south on SR 1156 to the intersection of SR 1783, east on SR 1783 to the intersection of NC 62, north on NC62 to the intersection of SR 1736, east on SR 1736 to the intersection of SR 1730, east on SR 1730 to NC 86, north on NC 86 to NC 62.
- (F) On the posted waterfowl impoundment, waterfowl hunting is by permit only after November 1.
- ~~(17)~~(18) Caswell Farm Game Land in Lenoir County
- (A) Dove-Only Area
- (B) 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.
- ~~(18)~~(19) 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.
- ~~(19)~~(20) Chatham Game Land in Chatham 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.
- ~~(20)~~(21) 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.
- ~~(21)~~(22) 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.
- ~~(22)~~(23) 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.
- ~~(23)~~(24) Cold Mountain Game Land in Haywood County
- (A) Six Days per Week Area
 - (B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- ~~(24)~~(25) 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.
- ~~(25)~~(26) 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 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, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- ~~(D)~~ Dove hunting is by permit only from opening day through the following Saturday of the first segment of dove season on posted areas. During the rest of dove season, no permit is required to hunt doves.
- ~~(26)~~(27) 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.
 - (G) Deer of either sex may be taken all the days of the applicable deer with visible antlers season.
- ~~(27)~~(28) 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.
- ~~(29)~~ Dover Bay Game Land in Craven 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

- ~~(28)~~(30) 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 who acquire special hunt permits may also take deer of either sex with any legal weapon on the Saturday prior to the first segment of the Western bow and arrow season.
- ~~(29)~~(31) 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.
- (32) Embro Game Land in Warren 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) Horseback riding, including all equine species, is prohibited.
- ~~(30)~~(33) 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 Part (D) of this Subparagraph, waterfowl in 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, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
 - (D) After November 1, on the Pamlico Point, Campbell Creek, Parker Farm, 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, Jr. Days.
 - (E) On Pamlico Point and Campbell Creek Waterfowl Impoundments all

activities, except waterfowl hunting on designated waterfowl hunting days and trapping during the trapping season, are restricted to the posted Scouting-only Zone during the period November 1 through March 15.

- ~~(E)~~(F) Camping is restricted to Sept. 1 through Feb. 28 and April 7 through May 14 in areas both designated and posted as camping areas.

- ~~(34)~~(34) 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, including all equine species, 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.

- ~~(32)~~(35) 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.

- ~~(33)~~(36) Gull Rock Game Land in Hyde 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 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, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl season.
- (D) Camping is restricted to Sept. 1 through Feb. 28 and April 7 through May 14 in areas both designated and posted as camping areas.
- (E) 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.

~~(34)~~(37) 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.

~~(35)~~(38) Holly Shelter Game Land in Pender 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 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.~~ Program who acquire special hunt permits.
- (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, 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, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (D) Camping is restricted to Sept. 1 through Feb. 28 and April 7 through May 14 in areas both designated and posted as camping areas.
- (E) On that portion north of the Bear Garden Road, west of Shaw Road to Baby Branch, east of the Northeast Cape Fear River, south of NC 53 and west of NC 50, deer hunting and bear hunting are permit only.

~~(36)~~(39) 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.
- (C) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.

~~(37)~~(40) J. Morgan Futch Game Land in Tyrrell County, Permit Only Area.

~~(38)~~(41) 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, except on those areas posted as an Archery Zone.

~~(39)~~(42) 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.

- (F) Hunting on posted waterfowl impoundments is by permit only.
- ~~(40)~~(43) 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.
- (D) The use of dogs for hunting deer on the Godley Tract is prohibited.
- ~~(41)~~(44) 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.
- ~~(42)~~(45) Light Ground Pocosin Game Land in Pamlico 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.
- ~~(43)~~(46) 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.
- ~~(47)~~ Lower Fishing Creek Game Land in Edgecombe 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) Horseback riding, including all equine species, is prohibited.
- (D) The use of dogs for hunting deer is prohibited.
- ~~(44)~~(48) 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 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.
- (D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.
- ~~(45)~~(49) Mitchell River Game Land in Surry County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six days of the applicable Deer with Visible Antlers Season.
- (C) Horseback riding, including all equine species, is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.
- ~~(46)~~(50) 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 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.~~
- ~~(47)~~(51) 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.
- ~~(48)~~(52) 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.
- ~~(49)~~(53) New Lake Game Land in Hyde and Tyrrell 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.
- ~~(50)~~(54) Nicholson Creek Game Land in Hoke County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken with bow and arrow on open hunting days from the Saturday on or nearest

- September 10 to the third Friday before Thanksgiving.
- (C) Deer of either sex may be taken with muzzle-loading firearms on open hunting days beginning the third Saturday before Thanksgiving through the following Wednesday.
- (D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving.
- (E) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (F) The use of dogs for hunting deer is prohibited.
- (G) Wild turkey hunting is by permit only.
- ~~(51)~~(55) North River Game Land in Currituck, Camden and Pasquotank 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) 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.
- (E) Hunting on the posted waterfowl impoundment is by permit only.
- ~~(52)~~(56) 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.
- ~~(53)~~(57) 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.
- ~~(54)~~(58) 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.
- ~~(55)~~(59) 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 County south of the Blue Ridge Parkway, Yancey County, 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.~~
- (D) Horseback riding, including all equine species, is prohibited on the Black Bear (McDowell County), Linville River (Burke County), and Little Tablerock Tracts (Avery, McDowell, and Mitchell counties).
- ~~(56)~~(60) Pungo River Game Land in Hyde 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.
- ~~(57)~~(61) Rhodes Pond Game Land in Cumberland County
- (A) Hunting is by permit only.
- (B) Swimming is prohibited on the area.
- ~~(58)~~(62) Roanoke River Wetlands in Bertie, ~~Halifax~~ and ~~Halifax~~, Martin and Northampton 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 Sept. 1 through Feb. 28 and April 7 through May 14 in areas both designated and posted as camping areas.
- ~~(59)~~(63) Roanoke Sound ~~Island~~ Marshes Game Land in Dare County-Hunting is by permit only.
- ~~(60)~~(64) Robeson Game Land in Robeson 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.
- ~~(61)~~(65) Rockfish Creek Game Land in Hoke County
- (A) Three Days per Week Area

- (B) Deer of either sex may be taken with bow and arrow on open hunting days from the Saturday on or nearest September 10 to the third Friday before Thanksgiving.
- (C) Deer of either sex may be taken with muzzle-loading firearms on open hunting days beginning the third Saturday before Thanksgiving through the following Wednesday.
- (D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving.
- (E) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (F) The use of dogs for hunting deer is prohibited.
- (G) Wild turkey hunting is by permit only.
- ~~(62)~~(66) 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.
- ~~(63)~~(67) 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~~, Program who acquire special hunt permits, 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, raccoon and squirrel 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, raccoon and squirrel (fox and gray) 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 unless riding~~ in authorized field trials.
- ~~(68)~~ Sandy Creek Game Land in Nash and Franklin 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) Horseback riding, including all equine species, is prohibited.
- (D) The use of dogs for hunting deer is prohibited.
- ~~(64)~~(69) Sandy Mush Game Land in Buncombe and Madison counties.
- (A) Three 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.

- ~~(65)~~ ~~Scuppernon 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.~~
- (70) Second Creek Game Land in Rowan County-
hunting is by permit only.
- ~~(66)~~(71) 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.
 (C) Horseback riding, including all equine species, is prohibited.
- ~~(67)~~(72) 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 ~~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.
 (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.
- ~~(68)~~(73) Stones Creek Game Land in Onslow 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) Swimming in all lakes is prohibited.
- ~~(69)~~(74) Suggs Mill Pond Game Land in Bladen County
 (A) Hunting is by Permit only.
 (B) Camping is restricted to Sept. 1 through Feb. 28 and April 7 through May 14 in areas both designated and posted as camping areas.
- ~~(70)~~(75) Sutton Lake Game Land in New Hanover County and Brunswick 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.

- ~~(71)~~(76) Tar River Game Land in Edgecombe County -
- hunting is by permit only.
- ~~(72)~~(77) 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 including all equine species is prohibited. ~~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.~~
- ~~(73)~~(78) 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 who acquire special hunt permits 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.
 (D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.
- (79) Tillery game Land in Halifax 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) Horseback riding, including all equine species, is prohibited.
 (D) The use of dogs for hunting deer is prohibited.
- ~~(74)~~(80) 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 who acquire special hunt permits 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.
- ~~(75)~~(81) 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.
- ~~(76)~~(82) 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.
- ~~(77)~~(83) 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.
- (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.
- ~~(78)~~(84) White Oak River 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:
- (i) the opening and closing days of the applicable waterfowl seasons; and
- (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
- (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (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, Jr. Days.
- ~~(F)~~ The Huggins Tract is a Restrictive Firearms zone with the following restrictions:
- (i) Access on Hargett Avenue requires a valid Special Permit;
- (ii) Hunting is by permit only; and
- (iii) The use of dogs for hunting deer is prohibited.
- (g) On permitted type hunts deer of either sex may be taken on the hunt dates indicated on the permit. Completed applications must be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits shall be issued by random computer selection, shall be mailed to the permittees prior to the hunt, and shall be nontransferable. A hunter making a kill must validate the kill and report the kill to a wildlife cooperator agent or by phone.
- (h) The following game lands and refuges shall be closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission: Bertie, Halifax and Martin counties-Roanoke River Wetlands Bertie County-Roanoke River National Wildlife Refuge Bladen County—Suggs Mill Pond Game Lands Burke County—John's River Waterfowl Refuge Dare County-Dare Game Lands (Those parts of bombing range posted against hunting) Dare County--Roanoke Sound Marshes Game Lands Davie-Hunting Creek Swamp Waterfowl Refuge Gaston, Lincoln and Mecklenburg counties-Cowan's Ford Waterfowl Refuge Henderson and Transylvania counties--Dupont State Forest Game Lands
- (i) Free-ranging swine may be taken by licensed hunters during the open season for any game animal using any legal manner of take allowed during those seasons, except in Cherokee, Clay, Graham, Jackson, Macon, and Swain counties. Dogs may not be used to hunt free-ranging swine except on game lands which allow the use of dogs for hunting deer or bear and during the applicable deer or bear season.

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

SUBCHAPTER 10H - REGULATED ACTIVITIES

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

15A NCAC 10H .0110 SUPPLEMENTAL FEEDING

A controlled hunting preserve operator may broadcast supplemental grain feed on the preserve. Licensed hunters may take domestically-raised pheasants, chukar partridges, Hungarian partridges, or other domestically raised game birds, except wild turkey, in supplemented areas.

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

SECTION .0800 - FALCONRY

15A NCAC 10H .0801 DEFINITIONS

In addition to the definitions contained in G.S. 113-130, and unless the context requires otherwise, as used in 15A NCAC 10B .0216 and in this Section:

- (1) "Falconry permit" or "permit" means a joint federal-state falconry permit, or a separate state falconry permit issued by this state or by another state meeting federal falconry standards and listed in Paragraph (k) of 50 C.F.R. 21.29.
- (2) "Falconry license" means the annual special purpose falconry license which is required by G.S. 113-270.3(b)(5) in addition to any other applicable general purpose or special purpose license.
- (3) "State" means the State of North Carolina, except when the context indicates reference to another state of the United States.
- (4) "Commission" means the North Carolina Wildlife Resources Commission.
- (5) "Executive director" means the Executive Director of the North Carolina Wildlife Resources Commission. When action is required by the commission by any provision of this Section, such action may be performed by the executive director on behalf of the commission.
- (6) "Bred in captivity" or "captive-bred" refers to raptors hatched in captivity from parents that mated or otherwise transferred gametes in captivity.
- (7) "Raptor" means a live migratory bird of the Order Falconiformes or the Order Strigiformes, other than a bald eagle (*Haliaeetus leucocephalus*). ~~(*Haliaeetus leucocephalus*) or a golden eagle (*Aquila chrysaetos*).~~

Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.28; 50 C.F.R. 21.29.

SECTION .1300 – REPTILES AND AMPHIBIANS

15A NCAC 10H .1301 COMMERCIAL TAKE OF CERTAIN TURTLES AND TERRAPINS PROHIBITED

(a) It shall be unlawful to engage in the commercial taking of any turtle or terrapin species in the families Emydidae or Trionychidae, except possession permits may be obtained for possession, transportation, purchase or sale of these turtles and terrapins as described in 15A NCAC 10H .0304.

(b) "Commercial taking" is defined as the taking, possession, collection, transportation, purchase or sale of five or more individual turtles or terrapins, or any part thereof, per person in any given year.

(c) This Rule shall not apply to the following:

- (1) A licensed veterinarian when holding for purposes of medical treatment;
- (2) A holder of a valid rehabilitation permit for purposes of rehabilitation;
- (3) A publicly-financed zoo, scientific research facility or institution of higher education, or any state or federal agency;
- (4) Any person who accidentally collects five or more turtles or terrapins from these families incidental to any lawful activity, and who immediately returns them to the wild;
- (5) Property owners who legally apply for and receive depredation permits from the Wildlife Resources Commission, or one of its Wildlife Damage Control Agents.

(d) Any person who was in lawful possession of five or more turtles or terrapins in aggregate at the time of this Rule's enactment shall apply for a possession permit to retain them. The permit to retain these animals shall be applied for before January 1, 2008. Permittees are subject to all requirements and conditions described in 15A NCAC 10H .1302.

(e) Any person who violates this Section is guilty of a misdemeanor and is punishable as provided in G.S. 113-135.

(f) Violators are subject to a replacement cost per individual turtle that shall equal the replacement cost for "species with no open season" as set forth in 15A NCAC 10B .0117(c) until such time as replacement costs for each genus of turtle in these families is established by the Wildlife Resources Commission.

Authority G.S. 113-333(a)(6).

15A NCAC 10H .1302 POSSESSION OF REPTILES AND AMPHIBIANS

(a) Permits required. Possession permits are required for the possession, transportation, purchase and sale of:

- (1) 25 or more individuals of any combination of native amphibian species;
- (2) five or more individuals of native reptile species and non-native turtles or terrapins from the families Emydidae and Trionychidae in any combination.

(b) Unauthorized activities. Nothing in this Rule shall be construed to authorize the collection of any wildlife resources from the wild or the taking, possession, transportation, sale, purchase or release to the wild of any wildlife resources or their parts in violation of state or federal laws or regulations. At no time shall permitted animals be released to the wild, except under situations of research or rehabilitation with written permission from the Wildlife Resources Commission.

(c) Denial of possession permits. Circumstances for which and persons to whom a possession permit shall not be issued include:

- (1) for the purpose of holding reptiles and amphibians that were acquired unlawfully;
- (2) for the purpose of holding reptiles and amphibians for unlawful sale or trade;
- (3) to persons who collect five or more individual turtles or terrapins from the families Emydidae or Trionychidae from the wild in a given year.

- except those entities exempted from commercial take in 15A NCAC 10H .1301(c);
- (4) to persons who collect five or more individuals in aggregate from other native reptile families or 25 or more individual amphibians from the wild in a given year without first having secured a valid Collecting License;
 - (5) to persons found to be in violation of Collection License, Endangered Species Permit, or Possession Permit requirements;
 - (6) to persons who do not first obtain possession permits prior to acquiring the following wildlife resources unless the acquisition of these animals was made prior to the enactment of this Rule and a permit is acquired within 12 months of the rule's enactment:
 - (A) 25 or more individuals of any combination of native amphibian species;
 - (B) five or more individuals of native reptile species and non-native turtles or terrapins from the families Emydidae and Trionychidae in any combination.

(d) Term of Permit. The permit shall be valid from January 1 through December 31 of the applicable year. Permittees who wish to extend the duration of their possession shall reapply for a possession permit.

(e) Reports on Permitted Animals. Each individual licensed under this Rule shall submit a written report to the Executive Director post-marked within 15 days following the date of expiration of the permit. The report shall be on a form supplied by the Wildlife Resources Commission and shall show the numbers of each species held under the permit and the use or disposition thereof. The Executive Director may require additional information for statistical purposes such as the source and date of acquisition of additional animals and the sex, size, weight, condition, reproductive success and approximate age of each animal in possession. Such additional information may be required on the form of report or by a separate writing accompanying the form.

(f) Other Requirements and Restrictions. The Executive Director may, pursuant to G.S. 113-274(c), impose such other requirements and restrictions on persons licensed under this Rule as he may deem to be necessary to the efficient administration of the wildlife conservation laws and regulations.

Authority G.S. 113-274(c)(1c).

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 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 or trapping shall have in his possession a game lands use license in addition to the appropriate 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 shall 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 15A NCAC 10B .0110, .0302, and .0303, trapping of fur-bearing 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 shall be allowed except on those areas designated and posted as Colonial Waterbird Nesting Areas.

(j) **Swimming.** No person shall swim in the waters located on designated wildlife conservation areas, except that a person may swim 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.

(l) **Non-Highway Licensed Vehicles.** It is unlawful to operate motorized land vehicles not licensed for highway use on Wildlife Conservation Areas. Persons who have obtained a permit issued pursuant to G.S. 113-297 are exempt from this Rule but shall comply with permit conditions.

(m) It shall be unlawful to possess or consume any type of alcoholic beverage on public use areas of the Nona Pitt Hinson Cohen Wildlife Conservation Area.

Authority G.S. 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306; 113-296; 113-297.

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to adopt the rule cited as 15A NCAC 10C .0216 and amend the rules cited as 15A NCAC 10C .0205, .0305, .0401 - .0402, .0404, .0407, and .0503.

Proposed Effective Date: May 1, 2007

Public Hearing:

Date: January 8, 2007

Time: 7:00 p.m.

Location: Bladen Community College Auditorium, 7418 NC Highway 41W, Dublin, North Carolina

Date: January 10, 2007

Time: 7:00 p.m.

Location: Graham Courthouse, 212 W. Elm Street, Graham, North Carolina

Date: January 11, 2007

Time: 7:00 p.m.

Location: South Stanly High School, 40488 South Stanly School Road, Norwood, North Carolina

Date: January 16, 2007

Time: 7:00 p.m.

Location: Valdese, Heritage Middle School, 1951 Enon Road, Valdese, North Carolina

Date: January 17, 2007

Time: 7:00 p.m.

Location: Cullowhee, Ramsey Center, Western Carolina University, 100 Catamount Road, Cullowhee, North Carolina 28723

Date: January 18, 2007

Time: 7:00 p.m.

Location: Boonville, Starmount High School, 2516 Longtown Road, Boonville, North Carolina

Date: January 23, 2007

Time: 7:00 p.m.

Location: Edenton, Swain Auditorium, 100 Court Street, Edenton, North Carolina

Date: January 24, 2007

Time: 7:00 p.m.

Location: New Bern Courthouse, 302 Broad Street, New Bern, North Carolina

Date: January 25, 2007

Time: 7:00 p.m.

Location: Louisburg, Annex Building, District Court Room, 102 S. Main Street, Louisburg, North Carolina

Reason for Proposed Action:

15A NCAC 10C .0205 – Public Mountain Trout Waters: Adjust Seasons.

15A NCAC 10C .0216 – *Fishing License Exemptions: To exempt certain activities from the requirement of a fishing license.*

15A NCAC 10C .0305 – *Open Seasons Creel & Size Limits: Adjust creel and size limits.*

15A NCAC 10C .0401 – *Manner of Taking Nongame Fishes: Purchase and Sale: Adjust herring limits.*

15A NCAC 10C .0402 – *Taking Nongame Fishes for Bait: Reconcile this rule with 15A NCAC 10C .0401 adjustment of herring limits.*

15A NCAC 10C .0404 – *Special Device Fishing: Remove provision affecting Town Creek in Brunswick County.*

15A NCAC 10C .0407 – *Permitted Special Devices and Open Seasons: Adjust seasons.*

15A NCAC 10C .0503 – *Adjust boundaries for primary nursery areas.*

Procedure by which a person can object to the agency on a proposed rule: *Any person who wishes to object to a proposed rule may do so by writing (or emailing) the person specified in connection with a given rule within the public comment period set up for this rule. For these rules, the contact person is Kent Nelson, Inland Fisheries Division.*

Comments may be submitted to: *Kent Nelson, 1701 Mail Service Center, Raleigh, NC 27699-1701, phone (919) 707-0223, email Kent.Nelson@ncwildlife.org*

Comment period ends: *February 2, 2007*

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 10C - INLAND FISHING REGULATIONS

SECTION .0200 - GENERAL REGULATIONS

15A NCAC 10C .0205 PUBLIC MOUNTAIN TROUT WATERS

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

- (1) Hatchery Supported Trout Waters. The listed waters in the counties in Subparagraphs (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)
 East Prong Roaring River (that portion on Stone Mountain State Park) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]

(B) Ashe County:

- New River (not trout waters)

- North Fork New River
(Watauga Co. line to Sharp
Dam)
 Helton Creek (Virginia
 State line to New River)
 [Delayed Harvest
 Regulations apply. See
 Subparagraph (a)(5) of
 this Rule.]
 Big Horse Creek (Mud
 Creek at SR 1363 to
 confluence with North
 Fork New River)
 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
 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)
 North Toe River (headwaters
 to Mitchell County line,
 except where posted against
 trespass)
 Squirrel Creek
 Elk River (SR 1305 crossing
 immediately upstream of Big
 Falls to the 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) 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 (portion within Linville Gorge Wilderness Area, including tributaries, and portion below Lake James powerhouse from upstream bridge on SR 1223 to Muddy Creek)
- (F) Caldwell County:
Catawba River (not trout water)
Johns River (not trout water)
Wilson Creek (Phillips Branch to Browns Mountain Beach dam, except where posted against trespass)
Estes Mill Creek (not trout water)
Thorps Creek (falls to NC 90 bridge)
- Mulberry Creek (portion not on game lands not trout water)
Boone Fork [not Hatchery Supported trout water. See Subparagraph (a)(2) of this Rule.]
Boone Fork Pond
Yadkin River (not trout water)
Buffalo Creek (mouth of Joes Creek to McCloud Branch)
Joes Creek (first falls upstream of SR 1574 to confluence with Buffalo Creek)
- (G) Cherokee County:
Hiwassee River (not trout water)
Shuler Creek (headwaters to Tennessee line, except where posted against trespass including portions of tributaries on game lands)
North Shoal Creek (Crane Creek) (headwaters to SR 1325, including portions of tributaries on game lands)
Persimmon Creek
Davis Creek (confluence of Bald and Dockery creeks to Hanging Dog Creek)
Beaver Dam Creek (headwaters to SR 1326 bridge, including portions of tributaries on game lands)
Valley River (headwaters to US 19 business bridge in Murphy)
Hyatt Creek (including portions of tributaries on game lands)
Webb Creek (including portions of tributaries on game lands)
Junaluska Creek (Ashturn Creek to Valley River, including portions of tributaries on game lands)
- (H) Clay County:
Hiwassee River (not trout water)
Fires Creek (first bridge above the lower game land line on US Forest Service road 442 to SR 1300)
Tusquitee Creek (headwaters to lower SR 1300 bridge,

- including portions of Bluff Branch on game lands)
 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 junction to ~~mouth~~, SR 1127 bridge, 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 (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 ~~Rock Creek~~ Joe Creek to mouth of 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 Sequoyah Dam to US 64 bridge near junction of SR 1672, including portions of tributaries on game lands, excluding those portions of 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)
Ivy Creek (not trout waters)
Little Ivy Creek (confluence
of Middle Fork and Paint
Fork at Beech Glen to
confluence with Ivy Creek at
Forks of Ivy)
- (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.]

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| <p style="margin-left: 40px;">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]</p> <p>(R) Rutherford County: (Rocky) Broad River (Henderson County line to US 64/74 bridge, except where posted against trespass)</p> <p>(S) Stokes County: Dan River (Virginia State line downstream to a point 200 yards below the end of SR 1421)</p> <p>(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 Interstate 77) 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.]</p> <p>(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</p> | <p style="margin-left: 40px;">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)</p> <p>(V) Transylvania County: French Broad River (junction of west and north forks to US 276 bridge) Davidson River (Avery Creek to lower US Forest Service boundary line) East Fork French Broad River (Gladly Fork to French Broad River) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.] Little River (confluence of Lake Dense outflow to Hooker Falls) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.] Middle Fork French Broad River West Fork French Broad River (SR 1312 and SR 1309 intersection to junction of west and north forks, including portions of tributaries within this section located on game lands)</p> <p>(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 Howard Creek (downstream from lower falls) Middle Fork New River (Lake Chetola Dam to South Fork New River)</p> |
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- Yadkin River (not trout water)
 Stony Fork (headwaters to Wilkes County line)
 Elk Creek (headwaters to gravel pit on SR 1508, except where posted against trespass)
 Watauga River (SR 1557 bridge to NC 105 bridge and SR 1114 bridge to NC 194 bridge at Valle Crusis). [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
 Beech Creek
 Buckeye Creek Reservoir
 Coffee Lake
 Beaverdam Creek (confluence of Beaverdam Creek and Little Beaverdam Creek to an unnamed tributary adjacent to the intersection of SR 1201 and SR 1203)
 Laurel Creek
 Cove Creek (SR 1233 bridge at Zionville to SR 1233 bridge at Amantha)
 Dutch Creek (second bridge on SR 1134 to mouth)
- (X) Wilkes County:
 Yadkin River (not trout water)
 Roaring River (not trout water)
 East Prong Roaring River (Bullhead Creek to Brewer's Mill on SR 1943) [Delayed Harvest Regulations apply to portion on Stone Mountain State Park. See Subparagraph (a)(5) of this Rule.]
 Stone Mountain Creek [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
 Middle Prong Roaring River (headwaters to second bridge on SR 1736)
 Bell Branch Pond
 Boundary Line Pond
 West Prong Roaring River (not trout waters)
 Pike Creek
 Pike Creek Pond
- Cub Creek (0.5 miles upstream of SR 2460 bridge to SR 1001 bridge)
 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 (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 including tributaries on game lands)
 - 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:
 - Little Buffalo Creek (entire stream)
 - 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)
- (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:
Nantahala River (Whiteoak Creek to the Nantahala hydropower discharge canal)
- (G) Madison County:
Big Laurel Creek (NC 208 bridge to the US 25-70 bridge)
Shelton Laurel Creek (NC 208 bridge at Belva to the confluence with Big Laurel Creek)
- (H) McDowell County:
Curtis Creek (game lands portion downstream of U.S. Forest Service boundary at Deep Branch)
- (I) Mitchell County:
Cane Creek (NC 226 bridge to NC 80 bridge)
- (J) Polk County:
Green River (Fishtop Falls Access Area to confluence with Cove Creek)
- (K) Surry County:

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

- Park Creek
Tellico Creek (game land portion)
Turtle Pond Creek (game land portion)
- (G) Madison County:
Big Creek (headwaters to the lower game land boundary, including tributaries)
- (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:

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 .0216 FISHING LICENSE EXEMPTIONS

(a) Any governmental or non-profit entity conducting an organized fishing event for educational purposes may apply to the Commission for an exemption from the requirements of the recreational fishing license for participants in the event subject to the following conditions:

- (1) Application must be made by an authorized official of the entity on a form prescribed by the Commission not less than 21 days prior to the event.
- (2) The person in charge of the event must be on-site at all times and have a copy of the exemption available for inspection on request by Commission personnel.
- (3) The exemption shall be limited to the immediate location of the event and shall remain in effect only for the duration of the event.

(b) The Commission may, in its discretion, administratively impose reasonable record-keeping such as names and number of participants and facilitators.

Authority G.S. 113-134; 113-272.2; 113-276; 113-292.

SECTION .0300 - GAME FISH

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

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

| GAME FISHES | DAILY CREEL LIMITS | MINIMUM SIZE LIMITS | OPEN SEASON |
|-------------|--------------------|---------------------|-------------|
|-------------|--------------------|---------------------|-------------|

Mountain Trout:

PROPOSED RULES

| | | | |
|---|---|--|---|
| Wild Trout Waters | 4 | 7 in. | ALL YEAR (exc. (3)) |
| Hatchery Supported Trout Waters and undesignated waters | 7 (exc. (3)) | None (exc. (3)) | All year, except March 1 to 6:00 a.m. on first Saturday in April (exc. (3)) |
| Muskellunge | 2 (exc. (21)) | 30 in. <u>(exc. (21))</u> | ALL YEAR |
| Pickeral: chain (Jack) and redbfin | None | None | ALL YEAR |
| Walleye | 8 (exc. (9)) | None (exc. (9)) | ALL YEAR |
| Sauger | 8 | 15 in. | ALL YEAR |
| Black Bass: | | | |
| Largemouth | 5 | 14 in. (excs. (8&10)) | ALL YEAR (exc. (17)) |
| Smallmouth and Spotted | 5 <u>(exc. (22))</u> | 12 in. (excs. (8&10)) <u>(8,10&22)</u>) | ALL YEAR |
| White Bass | 25 | None | ALL YEAR |
| Sea Trout (Spotted or Speckled) | 10 | 12 in. | ALL YEAR |
| Flounder | 8 | 14 in. | ALL YEAR |
| Red drum (channel bass, red fish, puppy drum) | 1 | 18 in. (exc. (19)) | ALL YEAR |
| Striped Bass and their hybrids | 8 aggregate (excs. 1,2,5,6,11,&13) | 16 in. (excs.1,2,5,6,11&13) | ALL YEAR (excs. 6,13&15) |
| (Morone Hybrids) | | | |
| Shad: (American and hickory) | 10 aggregate | None | ALL YEAR (exc. (18)) |
| Kokanee Salmon | 7 | None | ALL YEAR |
| Crappie and sunfish | None (excs. 4,12&16) | None (exc. (12)) | ALL YEAR (exc. (4)) |
| NONGAME FISHES | None (excs. (14&20)) | None (exc. (20)) | ALL YEAR (exc. (7)) |

(b) Exceptions

- (1) In the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam and in John H. Kerr Reservoir the creel limit on striped bass and Morone hybrids is two in the aggregate and the minimum size limit is 26 inches from October 1 through May 31. From June 1 through September 30 the daily creel limit on striped bass and Morone hybrids is four in aggregate with no minimum size limit.
- (2) In the Cape Fear River upstream of Buckhorn Dam and the Deep and Haw rivers to the first impoundment and in Gaston, Roanoke Rapids and B. Everett Jordan reservoirs 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 the creel limit on striped bass and Morone hybrids is four in aggregate with a minimum size limit is 16

- (3) 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 within Linville Gorge Wilderness Area (including tributaries), 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.

- (4) On Mattamuskeet Lake, special federal regulations apply.
- (5) In the inland fishing waters of Cape Fear, Neuse, Pee Dee, Pungo and Tar Pamlico rivers and their tributaries extending upstream to the first impoundment of the main course on the river or its tributaries, and Lake Mattamuskeet, the daily creel limit for striped bass and their hybrids is three fish in aggregate and the minimum length limit is 18 inches. In the Tar-Pamlico River and its tributaries upstream of the Grimesland bridge and in the Neuse River and its tributaries upstream of the NC 55 bridge in Lenoir County, no striped bass or striped bass hybrids between the lengths of 22 inches and 27 inches shall be retained during the period April 1 through May 31.
- (6) 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~~ April 30 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.
- (7) See 15A NCAC 10C .0407 for open seasons for taking nongame fishes by special devices.
- (8) The maximum combined number of black bass of all species that may be retained per day is five fish, no more than two of which may be smaller than the applicable minimum size limit. The minimum size limit for all species of black bass is 14 inches, with no exception in Lake Luke Marion in Moore County, Reedy Creek Park lakes in Mecklenburg County, Lake Rim in Cumberland County, Randleman Reservoir in Randolph and Guilford counties, Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Tar River Reservoir Dam, Neuse River downstream of Falls Lake Dam, Haw River downstream of Jordan Lake Dam, Deep River downstream of Lockville Dam, Cape Fear River, Waccamaw River downstream of Lake Waccamaw Dam, in the entire Lumber River including Drowning Creek, 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 other public fishing waters east of Interstate 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. 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 to Lake Michie Dam on the Flat River and to the mouth of Cub Creek on Eno River, 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.

- (9) A minimum size limit of 15 inches applies to walleye taken from Lake James and its tributaries, and the daily creel limit for walleye is four fish in Linville River upstream from the NC 126 bridge above Lake James.
- (10) The 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.
- (11) 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.
- (12) 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: all public waters west of Interstate 77, 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, Seppernong 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, Lake Rhodhiss, Lake Hickory, and Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Tar River Reservoir Dam, Neuse River downstream of Falls Lake Dam, Haw River downstream of Jordan Lake Dam, Deep River downstream of Lockville Dam, Cape Fear River, Waccamaw River downstream of Lake Waccamaw Dam, the entire Lumber River including Drowning Creek, in all other public fishing waters east of Interstate 95, except Tar River Reservoir in Nash County and Sutton Lake in New Hanover County. ~~in~~ In Buckhorn Reservoir in Wilson and Nash counties a daily creel limit of 20 fish applies to crappie.~~
- (13) In designated inland fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), striped bass fishing season, size limits and creel limits shall be the same as those established by duly adopted rules or proclamations of the Marine Fisheries Commission in adjacent joint or coastal fishing waters.
- (14) The daily creel limits for channel, white, and blue catfish in designated urban lakes are stated in 15A NCAC 10C .0401(e).
- (15) The Executive Director may, by proclamation, suspend or extend the hook-and-line season for striped bass in the inland and joint waters of coastal rivers and their tributaries. It is unlawful to violate the provisions of any proclamation issued under this authority.
- (16) ~~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 Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Tar River Reservoir Dam, Neuse River downstream of Falls Lake Dam, Haw River downstream of Jordan Lake Dam, Deep River downstream of Lockville Dam, Cape Fear River, Waccamaw River downstream of Lake Waccamaw Dam, the entire Lumber River including Drowning Creek, and in all other public fishing waters east of Interstate 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.
- (17) In Sutton Lake, no largemouth bass shall be retained from December 1 through March 31.
- (18) The season for taking American and hickory shad with ~~dip nets and~~ bow nets is March 1 through April 30.
- (19) No red drum greater than 27 inches in length may be retained.
- (20) No person shall take or possess herring (alewife and blueback) that are greater than six inches in length from the inland fishing waters of coastal rivers and their tributaries including Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Rocky Mount Mill Dam, Neuse River downstream of Milburnie Dam, Cape Fear River downstream of Buckhorn Dam, Pee Dee River downstream of Blewett Falls Dam, the entire Lumber River including Drowning Creek, and in all other inland fishing waters east of Interstate 95. 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).
- (21) On the French Broad River and its tributaries ~~upstream of the US 64 bridge near Etowah, no muskellunge shall be retained. between the Wilson Road bridge (SR 1540) at Pisgah Forest and the US 64 bridge near Etowah, a daily creel limit of one fish and a minimum size limit of 46 inches apply to muskellunge.~~
- (22) In the Alleghany County portion of New River downstream of Fields Dam (Grayson County, Virginia) no smallmouth bass between 14 and 20 inches in length shall be possessed and only one smallmouth bass greater than 20 inches may be possessed in the daily creel limit. No minimum size limit shall apply to smallmouth bass less than 14 inches in length in this section of New River.

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 shall be unlawful to take nongame fishes from the inland fishing waters of North Carolina in any manner other than with hook and line or grabbling. Nongame fishes may be taken by hook and line or grabbling at any time without restriction as to size limits or creel limits, with the following exceptions:

- (1) Blue crabs shall have a minimum carapace width of five inches (point to point):
- (2) No person shall take or possess herring (alewife and blueback) that are greater than six inches in length from the inland fishing waters of coastal rivers and their tributaries including Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Rocky Mount Mill Dam, Neuse River downstream of

Milburnie Dam, Cape Fear River downstream of Buckhorn Dam, Pee Dee River downstream of Blewett Falls Dam, the entire Lumber River including Drowning Creek, and in all other inland fishing waters east of Interstate 95, 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 shall not be taken or possessed on Lake James, Lookout Shoals Lake, Lake Norman, 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 shall be unlawful to use boats powered by gasoline engines on impoundments located on the Barnhill Public Fishing Area.

(f) In the posted waters listed below it shall be 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
 High Rock Pond, Caswell County
 Rabbit Shuffle Pond, Caswell County
 Lake Rim, Cumberland County
 Etheridge Pond on the Barnhill Public Fishing Area, Edgecombe County
 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
 Lake Devin, Granville 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
 Laughter Pond, Polk County
 Ellerbe Community Lake, Richmond County
 Hamlet City Lake, Richmond County
 Indian Camp Lake, Richmond County
 Hinson Lake, Richmond County
 Salisbury Community Lake, Rowan County
 Albemarle City Lake, Stanly 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

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

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

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

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

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

(c) Game fishes and their young taken while netting for bait shall be immediately returned unharmed to the water.

(d) No person shall take or possess during one day more than 200 nongame fish in aggregate for bait, subject to the following restrictions:

- (1) No more than 50 eels, none of which may be less than six inches in length, from inland fishing waters; and
- (2) No herring (alewife and blueback) that are greater than six inches in length shall be taken or possessed from the inland fishing waters of coastal rivers and their tributaries including Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Rocky Mount Mill Dam, Neuse River downstream of Milburnie Dam, Cape Fear River downstream of Buckhorn Dam, Pee Dee River downstream of Blewett Falls Dam, the entire Lumber River including Drowning Creek, and in all other inland fishing waters east of Interstate 95, up to the first impoundment dam of the main course on the river. 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.

(e) Any fishes taken for bait purposes are included within the daily possession limit for that species, if one is specified.

(f) It is unlawful to take nongame fish for bait or any other fish bait from designated public mountain trout waters and:

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

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

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

15A NCAC 10C .0404 SPECIAL DEVICE FISHING

(a) Bow and Arrow. The use of bow [as defined in 15A NCAC 10B .0116(a)] and arrow as a licensed special device is authorized for taking nongame fishes at any time from all inland fishing waters other than impounded waters located on the Sandhills Game Land and designated public mountain trout

waters. Unless specifically prohibited, bow and arrow may be used in joint fishing waters. It is unlawful to take fish with crossbow and arrow in any inland fishing waters.

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

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

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

- ~~(3) In Town Creek (Brunswick County) no more than one attended gill net, not to exceed 50 yards in length, is allowed per person. For purposes of this Rule, a gill net is "attended" if the fisherman using it is within 100 yards of his or her net at all times.~~

(c) Traps. Baskets and traps, including automobile tires, may be used under the special device fishing license. Such devices when set and left unattended shall be affixed with a card or tag furnished by the license holder and upon which his name and address shall be legibly and indelibly inscribed. No fish trap may exceed 60 inches in length or 30 inches in depth or width. No lead nets, wing nets, or other device designed to guide or herd fish may be attached to the trap or used or set within 25 feet of the trap.

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

(e) Crab pots. It is unlawful to use crab pots in inland fishing waters, except by persons owning property adjacent to the inland fishing waters of coastal rivers and their tributaries who are permitted to set two crab pots to be attached to their property and not subject to special device license requirements.

(f) Eel pots. It is unlawful to use pots with mesh sizes smaller than one inch by one-half inch unless such pots contain an escape panel that is at least four inches square with a mesh size of one inch by one-half inch located in the outside panel of the

upper chamber of rectangular pots and in the rear portion of cylindrical pots. Each pot must be marked by attaching a floating buoy which shall be of solid foam or other solid buoyant material and no less than five inches in diameter and no less than five inches in length. Buoys may be of any color except yellow. The owner shall always be identified on the attached buoy by using engraved buoys or by engraved metal or plastic tags attached to the buoy. Such identification shall include one of the following:

- (1) owner's N.C. motorboat registration number; or
- (2) owner's U.S. vessel documentation name; or
- (3) owner's last name and initials.

(g) Hand-crank electrofisher. For the purposes of this Rule, a hand-crank electrofisher is any manually-operated device which is capable of generating a low voltage electrical current not exceeding 300 volts for the taking of catfish, only where authorized by local law and only in those waters specified in 15A NCAC 10C .0407.

Authority G.S. 113-134; 113-272.2; 113-276; 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;
- (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~~ March 1 to April 30 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~~ March 1 to April 30 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;~~
 - (a) March 1 to April 30 with bow nets in Black River;
 - (b) July 1 to March 1 with hand-crank electrofishers (local law) in Cape Fear River between Lock and Dam 1 and 3 and in Black River, except that hand-crank electrofishing is prohibited within 400 yards of Lock and Dam 1, 2, and 3 on Cape Fear River;
 - (9) Brunswick:
 - ~~(a) March 15 to April 15 (Thursdays, Fridays, and Saturdays only) with attended gill nets in Town Creek;~~
 - ~~(b)~~ (a) December 1 to May 1 March 1 to April 30 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;
 - (13) Caldwell: July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters;
 - (14) Camden:

- (a) July 1 to June 30 with traps in all inland public waters;
- (b) ~~December 1 to June 5 March 1 to April 30~~ with ~~dip and~~ bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (15) Carteret: ~~December 1 to June 5 March 1 to April 30~~ with ~~dip and~~ bow nets in all inland public waters except South River and the tributaries of the White Oak River;
- (16) Caswell:
 - (a) July 1 to June 30 with gigs in all public waters;
 - (b) July 1 to August 31 with seines in all running public waters, except Moons Creek;
 - (c) July 1 to June 30 with traps in Hyco Reservoir;
- (17) Catawba:
 - (a) July 1 to August 31 with seines in all running public waters, except Catawba River below Lookout Dam;
 - (b) July 1 to June 30 with traps, spear guns, and gigs in all public waters;
- (18) Chatham:
 - (a) December 1 to April 15 with dip and gill nets in the Cape Fear River, Deep River, Haw River and Rocky River (local law);
 - (b) July 1 to August 31 with seines in the Cape Fear River, and Haw River;
 - (c) July 1 to June 30 with traps in Deep River; and with gigs in all public waters;
- (19) Cherokee: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (20) Chowan:
 - (a) ~~December 1 to June 5 March 1 to April 30~~ with ~~dip and~~ bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
 - (b) July 1 to June 30 with traps in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (21) Clay: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (22) Cleveland:
 - (a) July 1 to August 31 with seines in all running public waters;
 - (b) July 1 to June 30 with gigs, traps and spear guns in all public waters;
- (23) Columbus:
 - (a) December 1 to March 1 with gigs in all inland public waters, except Lake Waccamaw and its tributaries;
 - (b) ~~December 1 to June 5 March 1 to April 30~~ with ~~dip and~~ bow nets in Livingston Creek;
 - (c) July 1 to March 1 with hand-crank electrofishers (local law) in Waccamaw and Lumber rivers;
- (24) Craven:
 - (a) July 1 to June 30 with traps in the main run of the Trent and Neuse Rivers;
 - (b) ~~December 1 to June 5 March 1 to April 30~~ 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;
- (25) Currituck:
 - (a) July 1 to June 30 with traps in Tulls Creek and Northwest River;
 - (b) ~~December 1 to June 5 March 1 to April 30~~ with ~~dip and~~ bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (26) Dare:
 - (a) July 1 to June 30 with traps in Mashoes Creek, Milltail Creek, East Lake and South Lake;
 - (b) ~~December 1 to June 5 March 1 to April 30~~ with ~~dip and~~ bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (27) Davidson:
 - (a) July 1 to August 31 with seines in all running public waters;
 - (b) July 1 to June 30 with gigs in all public waters, and with traps in all public waters except Leonard's Creek, Abbott's Creek below Lake Thom-A-Lex dam, and the Abbott's Creek arm of High Rock Lake upstream from the NC 8 bridge;
- (28) Davie:
 - (a) July 1 to June 30 with traps and gigs in all public waters;
 - (b) July 1 to August 31 for taking only carp and suckers with seines in Dutchmans Creek from US 601 to Yadkin River and in Hunting Creek from SR 1338 to South Yadkin River;
- (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;~~

- (a) December 1 to June 5 with seines in the main run of the Northeast Cape Fear River downstream from a point one mile above Serecta Bridge;
- (b) March 1 to April 30 with bow nets in the main run of the Northeast Cape Fear River downstream from a point one mile above Serecta Bridge;
- (30) Durham:
- (a) July 1 to August 31 with seines in Neuse River;
- (b) July 1 to June 30 with gigs in all public waters;
- (31) Edgecombe: ~~December 1 to June 5~~ March 1 to April 30 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~~ March 1 to April 30 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;
- (38) Greene: ~~December 1 to June 5~~ March 1 to April 30 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: ~~December 1 to June 5~~ March 1 to April 30 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;
- (41) Harnett:
- (a) January 1 to May 31 with gigs in Cape Fear River and tributaries;
- (b) ~~December 1 to June 5~~ March 1 to April 30 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~~ March 1 to April 30 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~~ March 1 to April 30 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~~ March 1 to April 30 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~~ March 1 to April 30 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~~ March 1 to April 30 with ~~dip and~~ bow nets in Neuse River and Contentnea Creek upstream from NC 118 bridge at Grifton; and with seines in Neuse River;
- (52) Lincoln:
- (a) July 1 to August 31 with seines in all running public waters;
- (b) July 1 to June 30 with traps, gigs and spear guns in all public waters;
- (53) McDowell:
- (a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;
- (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters and Lake James;
- (54) Macon: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (55) Madison: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (56) Martin: ~~December 1 to June 5~~ March 1 to April 30 with ~~dip and~~ bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (57) Mecklenburg:
- (a) July 1 to August 31 with seines in all running public waters;
- (b) July 1 to June 30 with traps, gigs and spear guns in all public waters except Freedom Park Pond and Hornet's Nest Ponds;
- (58) Montgomery:
- (a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake Tillery dam at Hydro and the mouth of Rocky River;
- (b) July 1 to June 30 with traps and gigs in all public waters;
- (59) Moore:
- ~~(a) December 1 to April 15 with gill nets in Deep River and all tributaries;~~
- ~~(b)~~ (a) July 1 to August 31 with seines in all running public waters except in Deep River;
- ~~(c)~~ (b) 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;
- (60) Nash:
- (a) July 1 to June 30 with gigs in all public waters, except Tar River;
- (b) ~~December 1 to June 5~~ March 1 to April 30 with ~~dip and~~ bow nets in the Tar River below Harris' Landing and Fishing Creek below the Fishing Creek Mill Dam;
- (61) New Hanover: ~~December 1 to June 5~~ March 1 to April 30 with ~~dip and~~ bow nets in all inland public waters, except Sutton (Catfish) Lake;
- (62) Northampton:
- (a) July 1 to June 30 with gigs in all public waters, except Gaston and Roanoke Rapids Reservoirs and the Roanoke River above the US 301 bridge;
- (b) ~~December 1 to June 5~~ March 1 to April 30 with ~~dip and~~ bow nets in Oconeechee Creek, Old River Landing Gut and Vaughans Creek below Watsons Mill;
- (63) Onslow:
- (a) July 1 to June 30 with traps in White Oak River below US 17 bridge;
- (b) August 1 to March 31 with eel pots in the main run of New River between US 17 bridge and the mouth of Hawkins Creek;
- (c) ~~December 1 to June 5~~ March 1 to April 30 with ~~dip and~~ bow nets in the main run of New River and in the main run of the White Oak River;
- (d) March 1 to April 30 with ~~dip and~~ bow nets in Grant's Creek;
- (64) Orange:
- (a) July 1 to August 31 with seines in Haw River,
- (b) July 1 to June 30 with gigs in all public waters;
- (65) Pamlico: ~~December 1 to June 5~~ March 1 to April 30 with ~~dip and~~ bow nets in all inland public waters, except Dawson Creek;
- (66) Pasquotank:
- (a) July 1 to June 30 with traps in all inland waters;
- (b) ~~December 1 to June 5~~ March 1 to April 30 with ~~dip and~~ bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (67) Pender:
- (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;

- (b) ~~December 1 to May 1 with dip and bow nets in Moore's Creek approximately one mile upstream to New Moon Fishing Camp;~~
- (b) March 1 to April 30 with bow nets in the Northeast Cape Fear River, Long Creek, Moore's Creek approximately one mile upstream to New Moon Fishing Camp, and Black River;
- (c) July 1 to March 1 with hand-crank electrofishers (local law) in Black River;
- (68) Perquimans:
- (a) July 1 to June 30 with traps in all inland waters;
- (b) ~~December 1 to June 5~~ March 1 to April 30 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (69) Person:
- (a) July 1 to August 31 with seines in Hyco Creek and Mayo Creek;
- (b) July 1 to June 30 with gigs in all public waters.
- (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;
- (b) ~~December 1 to June 5~~ March 1 to April 30 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;
- (c) December 1 to June 5 with seines in Tar River;
- (71) Polk: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (72) Randolph:
- (a) ~~December 1 to March 1 with gill nets in Deep River and Uwharrie River;~~
- (b)(a) July 1 to August 31 with seines in Deep River above the Coleridge Dam and Uwharrie River;
- (b) July 1 to June 30 with gigs in all public waters;
- (73) Richmond:
- (a) July 1 to August 31 with seines in all running public waters, except Pee Dee River from Blewett Falls downstream to the Seaboard Coast Line Railroad trestle;
- (b) July 1 to June 30 with traps and gigs in all public waters, except lakes located on the Sandhills Game Land;
- (c) March 1 to April 30 with dip and bow nets in Pee Dee River below Blewett Falls Dam;
- (74) Robeson: December 1 to March 1 with gigs in all inland public waters.
- (75) Rockingham:
- (a) July 1 to August 31 with seines in Dan River and Haw River;
- (b) July 1 to June 30 with traps in Dan River; and with gigs in all public waters;
- (76) Rowan:
- (a) July 1 to August 31 with seines in all running public waters,
- (b) July 1 to June 30 with traps and gigs in all public waters;
- (77) Rutherford:
- (a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;
- (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters;
- (78) Sampson: ~~December 1 to June 5 with dip and bow nets in Big Coharie Creek, Black River and Six Runs Creek;~~
- (a) March 1 to April 30 with bow nets in Big Coharie Creek, Black River and Six Runs Creek;
- (b) July 1 to March 1 with hand-crank electrofishers (local law) in Black River downstream of NC 1105 bridge;
- (79) Stanly:
- (a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake Tillery dam at Hydro and the mouth of Rocky River;
- (b) July 1 to June 30 with traps and gigs in all public waters;
- (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;
- (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;
- (82) Swain: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (83) Transylvania: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (84) Tyrrell:

- (a) July 1 to June 30 with traps in ~~Scuppernong River, Alligator Creek, Scuppernong River and Alligator Creek; and the drainage canals of Lake Phelps;~~
- (b) ~~December 1 to June 5 March 1 to April 30~~ with dip and-bow nets in all inland public waters, excluding Lake Phelps, the drainage canals that connect Lake Phelps and Scuppernong River, public lakes, ponds and other impounded waters;
- (85) Union:
- (a) July 1 to August 31 with seines in all running public waters,
- (b) July 1 to June 30 with traps and gigs in all public waters;
- (86) Vance:
- (a) July 1 to August 31 with seines in the Tar River;
- (b) July 1 to June 30 with gigs in all public waters, except Rolands, Faulkners, Southerlands, and Weldon Ponds, City Lake, and Kerr Reservoir;
- (c) July 1 to June 30 with dip and cast nets in Kerr Reservoir;
- (87) Wake:
- (a) July 1 to June 30 with gigs in all public waters, except Sunset, Benson, Wheeler, Raleigh, and Johnson Lakes;
- (b) ~~December 1 to June 5 March 1 to April 30~~ 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;
- (89) Washington:
- (a) ~~July 1 to June 30 with traps in the drainage canals of Lake Phelps;~~
- (b)(a) ~~December 1 to June 5 March 1 to April 30~~ with dip and-bow nets in all inland public waters, excluding Lake Phelps, the drainage canals that connect Lake Phelps and Scuppernong River, public lakes, ponds and other impoundments;
- (90) Wayne: ~~December 1 to June 5 March 1 to April 30~~ 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 March 1 to April 30~~ 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.

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

SECTION .0500 – PRIMARY NURSERY AREAS

15A NCAC 10C .0503 DESCRIPTIVE BOUNDARIES

The following waters have been designated as primary nursery areas:

- (1) North River:
- (a) Broad Creek - Camden County - Entire stream;
- (b) Deep Creek - Currituck County - Entire stream;
- (c) Lutz Creek - Currituck County - Entire stream.
- (2) Alligator River:
- (a) East Lake - Dare County - Inland waters portion;
- (b) Little Alligator River - Tyrrell County - Entire stream.
- (3) Currituck Sound:
- (a) Martin Point Creek - Dare County - Entire stream (Jean Guite Creek);
- (b) Tull Creek and Bay - Currituck County - Tull Bay to mouth of Northwest River; Tull Creek from mouth upstream to SR 1222 bridge.
- (4) Pamlico River:
- (a) Duck Creek - Beaufort County - Entire stream;
- (b) Bath Creek - Beaufort County - Entire stream;
- (c) Mixons Creek - Beaufort County - Entire stream;
- (d) Porter Creek - Beaufort County - Entire stream;

- (e) Tooleys Creek - Beaufort County - Entire stream;
- (f) Jacobs Creek - Beaufort County - Entire stream;
- (g) Jacks Creek - Beaufort County - Entire stream;
- (h) Bond Creek - Beaufort County - Entire stream;
- (i) Muddy Creek - Beaufort County - Entire stream;
- (j) Strawhorn Creek - Beaufort County - Entire stream;
- (k) South Prong Wright Creek - Beaufort County - Entire stream;
- (l) Jordan Creek - Beaufort County - Entire stream.
- (5) Neuse River:
 - (a) Slocum Creek - Craven County - Entire stream;
 - (b) Hancock Creek - Craven County - Entire stream.
- (6) New River:
 - (a) French Creek - Onslow County - Entire stream;
 - (b) New River - Onslow County - US Highway 17 bridge to point 0.75 miles upstream.
- (7) Roanoke River: Halifax and Northampton counties - US 258 bridge to Roanoke Rapids dam.
- (8) Tar-Pamlico River: Nash, Edgecombe, Pitt and Beaufort counties - N&S railroad at Washington upstream to Rocky Mount Mills Dam.
- (9) Neuse River: Wake, Johnston, Wayne, Lenoir, Pitt and Craven counties - Pitchkettle Creek upstream to Milburnie Dam.
- (10) Cape Fear River: Chatham, Lee, Harnett, Cumberland and Bladen counties - Lock and Dam No. 1 upstream to Buckhorn Dam.
- (11) Albemarle Sound: Peter Mashoes Creek - Dare County - Entire Stream.
- (12) Croatan Sound: Spencer Creek - Dare County - Entire Stream.
- (13) New River: Onslow County - US 17 bridge upstream to NC 24/US 258 bridge.
- (14) White Oak River: Onslow and Jones counties - Grants Creek upstream to Gibson Bridge Road (SR 1118).
- (15) Northeast Cape Fear River: Pender County - NC 210 bridge upstream to NC 53 bridge.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 46 - BOARD OF PHARMACY

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Pharmacy intends to amend the rule cited as 21 NCAC 46 .1505.

Proposed Effective Date: April 1, 2007

Public Hearing:

Date: January 15, 2007

Time: 5:00 pm

Location: North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517

Reason for Proposed Action: To delete the practical examination requirement because the national examination, which includes the North American Pharmacist Licensure Examination and the Multistate Pharmacy Jurisprudence Examination, sufficiently tests the skills and knowledge necessary to ensure safe entry into the profession of pharmacy. The practical examination will be replaced by examination by Board staff to ensure the candidate meets the qualifications for licensure.

Procedure by which a person can object to the agency on a proposed rule: Persons may submit objections regarding the proposed rule changes to Jay Campbell, North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517.

Comments may be submitted to: Jay Campbell, North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517

Comment period ends: January 30, 2007

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)

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

☒ None

**SECTION .1500 - ADMISSION REQUIREMENTS:
EXAMINATIONS**

21 NCAC 46 .1505 EXAMINATION

(a) The applicant shall pass the following examinations:

- (1) a national examination; and
- (2) a jurisprudence examination; and
- (3) ~~a practical-an examination which includes an error and omission section.~~ by Board staff.

Notwithstanding the provisions of 21 NCAC 46.1206, the fee for the examination set out in Paragraph (a)(3) shall be seventy-five dollars (\$75.00).

(b) For the purpose of grading or rating, the answers, which shall be legible, shall be valued by marks or points based on their importance, as determined by the judgment of the examiners.

(c) In order to pass, a score of 75 or more is required on each examination. Candidates who obtain a score of 75 or more on each examination are deemed to have passed the respective examination provided that the candidate obtains a passing score on the remaining examinations within the next following two calendar years. If the examination is taken outside of North Carolina, the examination score shall be properly transferred to North Carolina. A candidate who fails to pass all three examinations in the two calendar year period must retake and pass all three examinations within a two calendar year period.

(d) At the time of the examination, the Board may designate certain questions which, if missed, shall require the candidate to obtain continuing education. The continuing education required will be specified by the Board and must be obtained by the candidate prior to issuance of a pharmacist license.

Authority G.S. 90-85.15; 90-85.16.

APPROVED RULES

*This Section includes the Register Notice citation to rules approved by the Rules Review Commission (RRC) at its meeting October 19, 2006 and reported to the Joint Legislative Administrative Procedure Oversight Committee pursuant to G.S. 150B-21.16. The full text of rule s are published below when the rules have been approved by RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register. The rules published in full text are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

These rules have been entered into the North Carolina Administrative Code.

| APPROVED RULE CITATION | REGISTER CITATION TO THE NOTICE OF TEXT |
|------------------------|--|
|------------------------|--|

| | |
|---------------------------|-----------|
| 10A NCAC 09 .1701* | 20:18 NCR |
| 10A NCAC 13J .0903* | 20:23 NCR |
| 10A NCAC 13J .1110* | 20:23 NCR |
| 10A NCAC 14C .0203 | 20:23 NCR |
| 10A NCAC 14C .1501 | 20:23 NCR |
| 10A NCAC 14C .1502-.1503* | 20:23 NCR |
| 10A NCAC 14C .1504 | 20:23 NCR |
| 10A NCAC 14C .1505* | 20:23 NCR |
| 10A NCAC 14C .1601-.1603* | 20:23 NCR |
| 10A NCAC 14C .1605* | 20:23 NCR |
| 10A NCAC 14C .1901* | 20:23 NCR |
| 10A NCAC 14C .2101* | 20:23 NCR |
| 10A NCAC 14C .2103* | 20:23 NCR |
| 10A NCAC 14C .2203* | 20:23 NCR |
| 10A NCAC 14C .2502* | 20:23 NCR |
| 10A NCAC 14C .2505 | 20:23 NCR |
| 10A NCAC 14C .2602* | 20:23 NCR |
| 10A NCAC 14C .2701-.2703* | 20:23 NCR |
| 10A NCAC 14C .2704 | 20:23 NCR |
| 10A NCAC 14C .2705* | 20:23 NCR |
| 10A NCAC 14C .2801* | 20:23 NCR |
| 10A NCAC 14C .2806 | 20:23 NCR |
| 10A NCAC 14C .3501-.3502 | 20:23 NCR |
| 10A NCAC 14C .3504-.3505 | 20:23 NCR |
| 10A NCAC 14C .3702* | 20:23 NCR |
| 10A NCAC 14C .3703-.3704 | 20:23 NCR |
| 10A NCAC 14C .3901 | 20:23 NCR |
| 10A NCAC 14C .3902* | 20:23 NCR |
| 10A NCAC 14C .3903-.3904 | 20:23 NCR |
| 10A NCAC 14C .3905* | 20:23 NCR |
| 10A NCAC 14C .3906 | 20:23 NCR |
| 10A NCAC 14C .4001-.4005 | 20:23 NCR |
| 12 NCAC 07D .0707* | 20:13 NCR |
| 12 NCAC 11 .0202* | 20:21 NCR |
| 12 NCAC 11 .0301 | 20:21 NCR |
| 13 NCAC 13 .0817 | 21:02 NCR |
| 15A NCAC 09C .0903* | 21:01 NCR |
| 15A NCAC 13B .0531-.0547* | 20:17 NCR |
| 15A NCAC 18A .1809 | 20:20 NCR |
| 15A NCAC 18A .2201* | 20:20 NCR |
| 15A NCAC 18D .0205-.0206* | 21:02 NCR |
| 25 NCAC 01I .2404* | 20:14 NCR |
| 26 NCAC 02C .0105* | 21:01 NCR |
| 26 NCAC 02C .0402* | 21:01 NCR |

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

**10A NCAC 09 .1701 GENERAL PROVISIONS
RELATED TO LICENSURE OF HOMES**

(a) All family child care homes shall comply with the standards for licensure set forth in this Section. A one- star rated license shall be issued to a family child care home operator who complies with the minimum standards for a license contained in this Section and G.S. 110-91.

(b) An individual who provides care for five hours or more in a week, during planned absences of the operator, shall be at least 21 years old, have a high school diploma or GED, have completed a first aid and cardiopulmonary resuscitation (CPR) course as described in Rule .1705, Subparagraphs (a)(3), (a)(4), (b)(2), and (b)(3) of this Section, have completed a health questionnaire, have proof of negative results of a tuberculosis test completed within 12 months prior to the first day of providing care, submit criminal records check forms as required in 10A NCAC 09 .2702, and annual in-service training as described in Rule .1705(b)(5) of this Section. Copies of required information shall be on file in the home available for review and shall be transferable to other family child care homes where the individual is providing care.

(c) An individual who provides care for less than five hours in a week, during planned absences of the operator shall meet all requirements listed in Paragraph (b) of this Rule, except the requirements for annual in-service training and a high school diploma or GED. The individual shall be literate.

(d) The operator shall review the appropriate requirements found in this Chapter and in G.S. 110 with any individuals who are providing care prior to the individual's assuming responsibility for the children. The operator and individual providing care shall sign and date a statement which attests that this review was completed. This statement shall be kept on file in the home available for review.

(e) An individual who provides care during unplanned absences of the operator, such as medical emergencies, shall be at least 18 years old and submit criminal records check forms as required in 10A NCAC 09 .2702, Paragraph (j). The children of an emergency caregiver shall not be counted in the licensed capacity for the first day of the emergency caregiver's service.

(f) The provisions of G.S. 110-91(8) which exclude persons with certain criminal records or personal habits or behavior which may be harmful to children from operating or being employed in a family child care home are hereby incorporated by reference and shall also apply to any person on the premises with the operator's permission when the children are present. This exclusion shall not apply to parents or other persons who enter the home only for the purpose of performing parental responsibilities; nor does it include persons who enter the home for brief periods for the purpose of conducting business with the operator and who are not left alone with the children.

(g) The parent of a child enrolled in any family child care home subject to regulation under G.S. 110, Article 7 shall be allowed unlimited access to the home during its operating hours for the purposes of contacting the child or evaluating the home and the care provided by the operator. The parent shall notify the

operator of his or her presence immediately upon entering the premises.

(h) An operator licensed to care for children overnight may sleep during the nighttime hours when all the children are asleep provided:

- (1) the operator and the children in care, excluding the operator's own children, are on ground level; and
- (2) the operator can hear and respond quickly to the children if needed; and
- (3) a battery operated smoke detector or an electrically operated (with a battery backup) smoke detector is located in each room where children are sleeping.

(i) Each operator shall develop and adopt a written plan of care for completing routine tasks; including running errands, meeting family and personal demands, and attending classes, to ensure that routine tasks shall not interfere with the care of children during hours of operation. The plan shall:

- (1) Specify typical times for completing routine tasks and include those times on the written schedule, or specify that routine tasks will not occur during hours of operation;
- (2) Specify the names of any individuals, such as additional caregivers or substitutes, who will be responsible for the care of children when the operator is attending to routine tasks;
- (3) Specify how the operator shall maintain compliance with transportation requirements specified in 10A NCAC 09 .1723 if children are transported;
- (4) Specify how parents will be notified when children accompany the operator off premises for routine tasks not specified on the written schedule;
- (5) Specify any other steps the operator shall take to ensure routine tasks will not interfere with the care of children;
- (6) Be given and explained to parents of children in care on or before the first day the child attends the home. Parents shall sign a statement acknowledging the receipt and explanation of the plan. Parents shall also give written permission for their child to be transported by the operator for specific routine tasks that are included on the written schedule. The acknowledgment and written parental permission shall be retained in the child's record as long as the child is enrolled at the home and a copy of each document shall be maintained on file for review by Division representatives.

(j) If the operator amends the written plan, the operator shall give written notice of the amendment to parents of all enrolled children at least 30 days before the amended plan is implemented. Each parent shall sign a statement acknowledging the receipt and explanation of the amendment. The operator shall retain the acknowledgement in the child's records as long

as the child is enrolled in the home and a copy shall be maintained on file for review by Division representatives.

(k) The written plan shall be developed and shared with parents of children currently enrolled within 60 days after Paragraph (i) of this Rule becomes effective.

History Note: Authority G.S. 110-85; 110-86(3); 110-88(1); 110-91; 110-99; 110-105; 143B-168.3;

Eff. January 1, 1986;

Amended Eff. November 1, 2006; April 1, 2003; April 1, 1999; July 1, 1998; January 1, 1991; January 1, 1990; July 1, 1988; January 1, 1987.

10A NCAC 13J .0903 APPLICATION FOR AND ISSUANCE OF LICENSE

(a) An application for the operation of an agency premises shall be submitted to the Department prior to the scheduling of an initial licensure survey or the issuance of a license. The agency shall establish, maintain and make available for inspection such documents, records and policies as required in this Section and statistical data sufficient to complete the licensure application and upon request of the Department, to submit an annual data report, as noted in Rule .1002(b) of this Subchapter. If the applicant cannot demonstrate to the Division of Facility Services that he or she has ever owned or operated a home care agency prior to submission of the application, the Division shall not issue a license until the applicant has received training approved by the Division which shall include the requirements for licensure, the licensure process, and the rules pertaining to the operation of a home care agency.

(b) The Department shall issue a license to each agency premises. Initial and ongoing licensure inspections may include all premises of an agency. Licensure shall be for a period of one year. Each license shall expire at midnight on the expiration date on the license and is renewable upon application.

(c) The license shall be posted in a prominent location accessible to public view within the premises. The agency shall also post a sign at the public access door with the agency name.

(d) The license shall be issued for the premises and persons named in the application and shall not be transferable. The name and street address under which the agency operates shall appear on the license. The license shall reflect the services provided by the agency.

(e) Prior to change of ownership or the establishment of a new agency, the agency must be in compliance with all the applicable statutes and rules. If the agency is authorized to provide Medicare certified Home Health Services, it shall also be in compliance with statutes and rules established under G.S. 131E, Article 9.

(f) The licensee shall notify the Department in writing of any proposed change in ownership or name at least 30 days prior to the effective date of the change.

(g) Any agency adding a new service category as outlined in G.S. 131E-136(3)(a) through (f) shall notify the Department in writing at least 30 days prior to the provision of that service to any clients. The Department shall approve the added service upon determining the agency is in compliance with the rules specific to the service being provided as contained in Section .1100 of this Subchapter.

(h) An agency shall notify the Department in writing if it discontinues or is unable to provide for a period of six continuous months any service category as outlined in G.S. 131E-136(3)(a) through (f) that is listed on the agency's license.

History Note: Authority G.S. 131E-140;

Eff. July 1, 1992;

Amended Eff. February 1, 1996; May 1, 1993;

Temporary Amendment Eff. April 1, 2006;

Amended Eff. November 1, 2006.

10A NCAC 13J .1110 SUPERVISION AND COMPETENCY OF IN-HOME AIDES OR OTHER IN-HOME CARE PROVIDERS

(a) In-home aides or other allied health personnel subject to occupational licensing laws shall meet requirements consistent with the rules established by the occupational licensing board to which they are subject. Each agency shall document that its in-home aides and other in-home care providers are competent to perform client care tasks or activities to which they are assigned. Such individuals shall perform delegated activities under the supervision of persons authorized by state law to provide such supervision.

(b) Those in-home aides and other in-home care providers who are not subject to occupational licensing laws, shall only be assigned client care activities for which they have demonstrated competency, the documentation of which is maintained by the agency. Meeting competency includes a correct demonstration of tasks to an appropriate professional. Each agency shall document that its in-home aides and other in-home care providers demonstrate competence for all assigned client care tasks or activities. Such individuals shall be supervised by the appropriate professional who may further delegate specific supervisory activities to a paraprofessional as designated by agency policy, provided that the following criteria are met:

- (1) there is continuous availability of the appropriate professional for supervision and consultation; and
- (2) accountability for supervisory activities delegated is maintained by the appropriate professional.

(c) Staff who are not licensed by the North Carolina Respiratory Care Board shall only be assigned duties for which they have demonstrated competency and shall not engage in providing Respiratory Care as that term is defined in the Respiratory Care Practice Act, G.S. 90-648(11). Agencies that are providing clinical respiratory care services must provide supervision by a licensed respiratory care practitioner or a registered nurse with sufficient education and clinical experience in the scope of the services offered.

(d) The appropriate supervisor shall supervise an in-home care provider as specified in Paragraph (a) or (b) of this Rule by making a supervisory visit to each client's place of residence at least every three months, with or without the in-home care provider's presence, and at least annually, while the in-home care provider is providing care to each client.

(e) A quarterly supervisory visit to the home of each client, by the appropriate professional supervisor for each type of in-home care provider as specified in Paragraphs (a) and (b) of this Rule,

shall meet the minimum requirement for supervision of any and all of the specified type of in-home care providers who have provided service to the client within the quarter. The supervisory visit shall include review of the client's general condition, progress and response to the services provided by the specified type of in-home care provider.

(f) Documentation of supervisory visits shall be maintained in the agency's records and shall contain:

- (1) date of visit;
- (2) findings of visit; and
- (3) signature of person performing the visit.

In order to assure effective supervision of services provided by in-home aides, geographic service areas for these services shall be limited to the area which includes the county where the agency is located, counties that are contiguous with the county where the agency is located or within 90 minutes driving time from the site where the agency is located, whichever is greater. Agencies providing services to any client prior to January 1, 2006 who resides in a geographic service areas which prior to January 1, 2006 which are is beyond the counties that are contiguous with the county where the agency is located or greater than 90 minutes driving time from the site where the agency is located, may continue to provide services to the client these areas until the client is discharged from the agency.

(g) When follow-up corrective action is needed for any or all of a specified type of in-home care provider based on findings of the supervisory visit, documentation of such corrective action by the appropriate supervisor shall be maintained in the employee(s) or other agency record.

(h) An appropriate professional conducting a supervisory visit for any and all of a specified type of in-home care provider may simultaneously conduct the quarterly case review as required in Rule .1202 of this Subchapter.

(i) The appropriate professional shall be continuously available for supervision, on-site where services are provided when necessary, during the hours that in-home care services are provided.

History Note: Authority G.S. 131E-140;

Eff. July 1, 1992;

Amended Eff. July 1, 1993;

RRC Objection due to lack of statutory authority and ambiguity Eff. November 16, 1995;

Amended Eff. February 1, 1996;

Temporary Amendment Eff. April 1, 2006;

Amended Eff. November 1, 2006.

10A NCAC 14C .1502 INFORMATION REQUIRED OF APPLICANT

(a) An applicant proposing to develop a hospice shall complete the application form for Hospice Services.

(b) An applicant proposing to develop a hospice shall provide the following information:

- (1) the annual unduplicated number of hospice patients projected to be served in each of the first two years following completion of the project and the methodology and assumptions used to make the projections;

(2) the projected number of duplicated hospice patients to be served by quarter for the first 24 months following completion of the project and the methodology and assumptions used to make the projections;

(3) the projected number of patient care days, by level of care (i.e., routine home care, respite care, and inpatient care), by quarter, to be provided in each of the first two years of operation following completion of the project and the methodology and assumptions used to make the projections shall be stated;

(4) the projected number of hours of continuous care to be provided in each of the first two years of operation following completion of the project and the methodology and assumptions used to make these projections;

(5) the projected average annual cost per hour of continuous care for each of the first two operating years following completion of the project and the methodology and assumptions used to make the projections;

(6) the projected average annual cost per patient care day, by level of care (i.e., routine home care, respite care, and inpatient care), for each of the first two operating years following completion of the project and the methodology and assumptions used to project the average annual cost; and

(7) documentation of attempts made to establish working relationships with sources of referrals to the hospice services and copies of proposed agreements for the provision of inpatient care.

(c) An applicant proposing to develop a hospice shall commit that it shall comply with all certification requirements for participation in the Medicare program within one year after issuance of the certificate of need.

History Note: Authority G.S. 131E-177(1); 131E-183;

Eff. July 1, 1994;

Amended Eff. November 1, 1996;

Temporary Amendment Eff. January 1, 2003;

Amended Eff. August 1, 2004;

Temporary Amendment Eff. February 1, 2006;

Amended Eff. November 1, 2006.

10A NCAC 14C .1503 PERFORMANCE STANDARDS

An applicant proposing to develop a hospice shall demonstrate that no less than 80 percent of the total combined number of days of hospice care furnished to Medicaid and Medicare patients will be provided in the patients' residences in accordance with 42 CFR 418.302(f)(2).

History Note: Authority G.S. 131E-177(1);

Eff. July 1, 1994;

Temporary Amendment Eff. January 1, 1999;

Temporary Eff. January 1, 1999 Expired on October 12, 1999;

Temporary Amendment Eff. January 1, 2000;

Temporary Amendment effective January 1, 2000 amends and replaces a permanent rulemaking originally proposed to be effective August 2000;

Amended Eff. April 1, 2001;

Temporary Amendment Eff. January 1, 2003;

Amended Eff. August 1, 2004;

Temporary Amendment Eff. February 1, 2006;

Amended Eff. November 1, 2006.

10A NCAC 14C .1505 STAFFING AND STAFF TRAINING

(a) An applicant proposing to develop a hospice shall document that staffing for hospice services will be provided in a manner consistent with G.S. 131E, Article 10.

(b) The applicant shall demonstrate that:

- (1) the staffing pattern will be consistent with licensure requirements as specified in 10A NCAC 13K, Hospice Licensing Rules;
- (2) training for all hospice staff and volunteers will meet the requirements as specified in 10A NCAC 13K .0400, Hospice Licensing Rules;
- (3) a volunteer program will be established and operated in accordance with 10A NCAC 13K .0400 and .0500 and 42 CFR 418.70;
- (4) an interdisciplinary team will be established which includes, a physician, a licensed nurse, a social worker, a clergy member, and a trained hospice volunteer, as specified in G.S. 131E-201;
- (5) a coordinator as set forth in 42 CFR 418.68 will coordinate the hospice interdisciplinary team to assure implementation of an integrated care plan and the continuous assessment of the needs of the patient and the patient's family or significant others;
- (6) a written care plan will be developed by the attending physician, the medical director or medical director's physician designee, and the interdisciplinary team before care is provided to a patient and the patient's family or significant others;
- (7) meetings of the interdisciplinary care team and other invited personnel will be held on a frequent and regular basis, at least once every two weeks, for the purpose of care plan review and staff support; and
- (8) each interdisciplinary team member will be provided orientation, training, and continuing education programs appropriate to their responsibilities and to the maintenance of skills necessary for the physical care of the patient and the psychosocial and spiritual care of the patient and the patient's family or significant others.

History Note: Authority G.S. 131E-177(1);

Eff. July 1, 1994;

Temporary Amendment Eff. February 1, 2006;

Amended Eff. November 1, 2006.

10A NCAC 14C .1601 DEFINITIONS

The following definitions shall apply to all rules in this Section:

- (1) "Approved" means the equipment was not in operation prior to the beginning of the review period and had been issued a certificate of need.
- (2) "Capacity" of an item of cardiac catheterization equipment means 1500 diagnostic-equivalent procedures per year. One therapeutic cardiac catheterization procedure is valued at 1.75 diagnostic-equivalent procedures. One cardiac catheterization procedure performed on a patient age 14 or under is valued at two diagnostic-equivalent procedures. All other procedures are valued at one diagnostic-equivalent procedure.
- (3) "Cardiac catheterization equipment" shall have the same meaning as defined in G.S. 131E-176(2f).
- (4) "Cardiac catheterization procedure," for the purpose of determining utilization in a certificate of need review, means a single episode of diagnostic or therapeutic catheterization which occurs during one visit to a cardiac catheterization room, whereby a flexible tube is inserted into the patient's body and advanced into the heart chambers to perform a hemodynamic or angiographic examination or therapeutic intervention of the left or right heart chamber, or coronary arteries. A cardiac catheterization procedure does not include a simple right heart catheterization for monitoring purposes as might be done in an electrophysiology laboratory, pulmonary angiography procedure, cardiac pacing through a right electrode catheter, temporary pacemaker insertion, or procedures performed in dedicated angiography or electrophysiology rooms.
- (5) "Cardiac catheterization room" means a room or a mobile unit in which there is cardiac catheterization or cardiac angioplasty equipment for the performance of cardiac catheterization procedures. Dedicated angiography rooms and electrophysiology rooms are not cardiac catheterization rooms.
- (6) "Cardiac catheterization service area" means a geographical area defined by the applicant, which has boundaries that are not farther than 90 road miles from the facility, if the facility has a comprehensive cardiac services program; and not farther than 45 road miles from the facility if the facility performs only diagnostic cardiac catheterization procedures; except that the cardiac catheterization service area of an academic medical center teaching hospital

- designated in 10A NCAC 14B shall not be limited to 90 road miles.
- (7) "Cardiac catheterization services" means the provision of diagnostic cardiac catheterization procedures or therapeutic cardiac catheterization procedures performed utilizing cardiac catheterization equipment in a cardiac catheterization room.
 - (8) "Comprehensive cardiac services program" means a cardiac services program which provides the full range of clinical services associated with the treatment of cardiovascular disease including community outreach, emergency treatment of cardiovascular illnesses, non-invasive diagnostic imaging modalities, diagnostic and therapeutic cardiac catheterization procedures, open heart surgery and cardiac rehabilitation services. Community outreach and cardiac rehabilitation services shall be provided by the applicant or through arrangements with other agencies and facilities located in the same city. All other components of a comprehensive cardiac services program shall be provided within a single facility.
 - (9) "Diagnostic cardiac catheterization procedure," for the purpose of determining utilization in a certificate of need review, means a cardiac catheterization procedure performed for the purpose of detecting and identifying defects or diseases in the coronary arteries or veins of the heart, or abnormalities in the heart structure, but not the pulmonary artery.
 - (10) "Electrophysiology procedure" means a diagnostic or therapeutic procedure performed to study the electrical conduction activity of the heart and characterization of atrial ventricular arrhythmias.
 - (11) "Existing" means the equipment was in operation prior to the beginning of the review period.
 - (12) "High-risk patient" means a person with reduced life expectancy because of left main or multi-vessel coronary artery disease, often with impaired left ventricular function and with other characteristics as referenced in the American College of Cardiology/ Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards (June 2001) report.
 - (13) "Mobile equipment" means cardiac catheterization equipment and transporting equipment which is moved to provide services at two or more host facilities.
 - (14) "Percutaneous transluminal coronary angioplasty (PTCA)" is one type of therapeutic cardiac catheterization procedure used to treat

coronary artery disease in which a balloon-tipped catheter is placed in the diseased artery and then inflated to compress the plaque blocking the artery.

- (15) "Primary cardiac catheterization service area" means a geographical area defined by the applicant, which has boundaries that are not farther than 45 road miles from the facility, if the facility has a comprehensive cardiac services program; and not farther than 23 road miles from the facility if the facility performs only diagnostic cardiac catheterization procedures; except that the primary cardiac catheterization service area of an academic medical center teaching hospital designated in 10A NCAC 14B shall not be limited to 45 road miles.
- (16) "Therapeutic cardiac catheterization procedure," for the purpose of determining utilization in a certificate of need review, means a cardiac catheterization procedure performed for the purpose of treating or resolving anatomical or physiological conditions which have been determined to exist in the heart or coronary arteries or veins of the heart, but not the pulmonary artery.

History Note: Authority G.S. 131E-177(1); 131E-183; Eff. January 1, 1987; Temporary Amendment Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. November 1, 1996; February 1, 1994; Temporary Amendment Eff. January 1, 1999; Temporary Eff. January 1, 1999 Expired on October 12, 1999; Temporary Amendment Eff. January 1, 2000; Temporary Amendment effective January 1, 2000 amends and replaces a permanent rulemaking originally proposed to be effective August 1, 2000; Temporary Amendment Eff. January 1, 2001; Temporary Amendment effective January 1, 2001 amends and replaces a permanent rulemaking originally proposed to be effective April 1, 2001; Amended Eff. August 1, 2002; Temporary Amendment Eff. February 1, 2006; Amended Eff. November 1, 2006.

10A NCAC 14C .1602 INFORMATION REQUIRED OF APPLICANT

(a) An applicant that proposes to acquire cardiac catheterization or cardiac angioplasty equipment shall use the acute care facility/medical equipment application form.

(b) The applicant shall provide the following additional information based on the population residing within the applicant's proposed cardiac catheterization service area:

- (1) the projected annual number of cardiac catheterization procedures, by CPT or ICD-9-CM codes, classified by adult diagnostic, adult therapeutic and pediatric

- cardiac catheterization procedure, to be performed in the facility during each of the first three years of operation following completion of the proposed project, including the methodology and assumptions used for these projections;
- (2) documentation of the applicant's experience in treating cardiovascular patients at the facility during the past 12 months, including:
- (A) the number of patients receiving stress tests;
 - (B) the number of patients receiving intravenous thrombolytic therapies;
 - (C) the number of patients presenting in the Emergency Room or admitted to the hospital with suspected or diagnosed acute myocardial infarction;
 - (D) the number of patients referred to other facilities for cardiac catheterization procedures or open heart surgery procedures, by type of procedure; and
 - (E) the number of diagnostic and therapeutic cardiac catheterization procedures performed during the twelve month period reflected in the most recent licensure form on file with the Division of Facility Services;
- (3) the number of cardiac catheterization patients, classified by adult diagnostic, adult therapeutic and pediatric, from the proposed cardiac catheterization service area that the applicant proposes to serve by patient's county of residence in each of the first three years of operation, including the methodology and assumptions used for these projections;
- (4) documentation of the applicant's projected sources of patient referrals that are located in the proposed cardiac catheterization service area, including letters from the referral sources that demonstrate their intent to refer patients to the applicant for cardiac catheterization procedures;
- (5) evidence of the applicant's capability to communicate with emergency transportation agencies and with an established comprehensive cardiac services program;
- (6) the number and composition of cardiac catheterization teams available to the applicant;
- (7) documentation of the applicant's in-service training or continuing education programs for cardiac catheterization team members;
- (8) a written agreement with a comprehensive cardiac services program that specifies the arrangements for referral and transfer of patients seen by the applicant and that includes
- a process to alleviate the need for duplication in cardiac catheterization procedures;
- (9) a written description of patient selection criteria including referral arrangements for high-risk patients;
- (10) a copy of the contractual arrangements for the acquisition of the proposed cardiac catheterization equipment including itemization of the cost of the equipment; and
- (11) documentation that the cardiac catheterization equipment and the procedures for operation of the equipment are designed and developed based on the American College of Cardiology/ Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards (June 2001) report.

History Note: Authority G.S. 131E-177(1); 131E-183; Eff. January 1, 1987; Temporary Amendment Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. November 1, 1996; February 1, 1994; Temporary Amendment Eff. January 1, 2005; Amended Eff. November 1, 2005; Temporary Amendment Eff. February 1, 2006; Amended Eff. November 1, 2006.

10A NCAC 14C .1603 PERFORMANCE STANDARDS

(a) An applicant proposing to acquire cardiac catheterization equipment shall demonstrate that the project is capable of meeting the following standards:

- (1) each proposed item of cardiac catheterization equipment, including mobile equipment but excluding shared fixed cardiac catheterization equipment, shall be utilized at an annual rate of at least 60 percent of capacity excluding procedures not defined as cardiac catheterization procedures in 10A NCAC 14C .1601(5), measured during the fourth quarter of the third year following completion of the project;
- (2) if the applicant proposes to perform therapeutic cardiac catheterization procedures, each of the applicant's therapeutic cardiac catheterization teams shall be performing at an annual rate of at least 100 therapeutic cardiac catheterization procedures, during the third year of operation following completion of the project;
- (3) if the applicant proposes to perform diagnostic cardiac catheterization procedures, each diagnostic cardiac catheterization team shall be performing at an annual rate of at least 200 diagnostic-equivalent cardiac catheterization procedures by the end of the third year following completion of the project;

- (4) at least 50 percent of the projected cardiac catheterization procedures shall be performed on patients residing within the primary cardiac catheterization service area;
- (b) An applicant proposing to acquire mobile cardiac catheterization equipment shall:
 - (1) demonstrate that each existing item of cardiac catheterization equipment, excluding mobile equipment, located in the proposed primary cardiac catheterization service area of each host facility shall have been operated at a level of at least 80 percent of capacity during the 12 month period reflected in the most recent licensure form on file with the Division of Facility Services;
 - (2) demonstrate that the utilization of each existing or approved item of cardiac catheterization equipment, excluding mobile equipment, located in the proposed primary cardiac catheterization service area of each host facility shall not be expected to fall below 60 percent of capacity due to the acquisition of the proposed mobile cardiac catheterization equipment;
 - (3) demonstrate that each item of existing mobile equipment operating in the proposed primary cardiac catheterization service area of each host facility shall have been performing at least an average of four diagnostic-equivalent cardiac catheterization procedures per day per site in the proposed cardiac catheterization service area in the 12 month period preceding the submittal of the application;
 - (4) demonstrate that each item of existing or approved mobile equipment to be operating in the proposed primary cardiac catheterization service area of each host facility shall be performing at least an average of four diagnostic-equivalent cardiac catheterization procedures per day per site in the proposed cardiac catheterization service area in the applicant's third year of operation; and
 - (5) provide documentation of all assumptions and data used in the development of the projections required in this Rule.
- (c) An applicant proposing to acquire cardiac catheterization equipment excluding shared fixed and mobile cardiac catheterization shall:
 - (1) demonstrate that its existing items of cardiac catheterization equipment, except mobile equipment, located in the proposed cardiac catheterization service area operated at an average of at least 80 percent of capacity during the twelve month period reflected in the most recent licensure renewal application form on file with the Division of Facility Services;
 - (2) demonstrate that its existing items of cardiac catheterization equipment, except mobile equipment, shall be utilized at an average annual rate of at least 60 percent of capacity, measured during the fourth quarter of the third year following completion of the project; and
- (3) provide documentation of all assumptions and data used in the development of the projections required in this Rule.
- (d) An applicant proposing to acquire shared fixed cardiac catheterization equipment as defined in the applicable State Medical Facilities Plan shall:
 - (1) demonstrate that each proposed item of shared fixed cardiac catheterization equipment shall perform a combined total of at least 225 cardiac catheterization and angiography procedures during the fourth quarter of the third year following completion of the project; and
 - (2) provide documentation of all assumptions and data used in the development of the projections required in this Rule.
- (e) If the applicant proposes to perform cardiac catheterization procedures on patients age 14 and under, the applicant shall demonstrate that it meets the following additional criteria:
 - (1) the facility has the capability to perform diagnostic and therapeutic cardiac catheterization procedures and open heart surgery services on patients age 14 and under; and
 - (2) the proposed project shall be performing at an annual rate of at least 100 cardiac catheterization procedures on patients age 14 or under during the fourth quarter of the third year following initiation of the proposed cardiac catheterization procedures for patients age 14 and under.

History Note: Authority G.S. 131E-177(1); 131E-183(b); Eff. January 1, 1987;
Temporary Amendment Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Amended Eff. November 1, 1996; February 1, 1994;
Temporary Amendment Eff. January 1, 1999;
Temporary Eff. January 1, 1999 Expired on October 12, 1999;
Temporary Amendment Eff. January 1, 2000;
Temporary Amendment effective January 1, 2000 amends and replaces a permanent rulemaking originally proposed to be effective August 2000;
Temporary Amendment Eff. January 1, 2001;
Temporary Amendment effective January 1, 2001 amends and replaces a permanent rulemaking originally proposed to be effective April 1, 2001;
Temporary Amendment Eff. January 1, 2002;
Amended Eff. August 1, 2002;
Temporary Amendment effective January 1, 2002 amends and replaces the permanent rule effective August 1, 2002;
Amended Eff. April 1, 2003;
Temporary Amendment Eff. February 1, 2006;
Amended Eff. November 1, 2006.

10A NCAC 14C .1605 STAFFING AND STAFF TRAINING

(a) An applicant proposing to acquire cardiac catheterization equipment shall provide documentation to demonstrate that the following staffing requirements shall be met:

- (1) one physician licensed to practice medicine in North Carolina who has been designated to serve as director of the cardiac catheterization service and who has all of the following credentials:
 - (A) board-certified in internal medicine by American Board of Internal Medicine, pediatrics by American Board of Pediatrics, or radiology by American Board of Radiologists;
 - (B) subspecialty training in cardiology, pediatric cardiology, or cardiovascular radiology; and
 - (C) clinical experience in performing physiologic procedures, angiographic procedures, or both;
- (2) at least one team to perform cardiac catheterizations, composed of at least the following professional and technical personnel:
 - (A) one physician licensed to practice medicine in North Carolina with evidence of training and experience specifically in cardiovascular disease and radiation sciences;
 - (B) one nurse with training and experience specifically in critical care of cardiac patients, cardiovascular medication, and catheterization equipment; and
 - (C) at least two technicians with training specifically in cardiac care who are capable of performing the duties of a radiologic technologist, cardiopulmonary technician, monitoring and recording technician, and darkroom technician.

(b) An applicant proposing to acquire cardiac catheterization equipment shall provide documentation to demonstrate that the following staff training shall be provided for members of cardiac catheterization teams:

- (1) American Red Cross or American Heart Association certification in cardiopulmonary resuscitation and advanced cardiac life support; and
- (2) an organized program of staff education and training which is integral to the cardiac services program and ensures improvements in technique and the proper training of new personnel.

*Temporary Amendment Eff. February 1, 2006;
Amended Eff. November 1, 2006.*

10A NCAC 14C .1901 DEFINITIONS

These definitions shall apply to all rules in this Section:

- (1) "Approved linear accelerator" means a linear accelerator which was not operational prior to the beginning of the review period.
- (2) "Complex Radiation treatment" is equal to 1.0 ESTV and means: treatment on three or more sites on the body; use of techniques such as tangential fields with wedges, rotational or arc techniques; or use of custom blocking.
- (3) "Equivalent Simple Treatment Visit [ESTV]" means one basic unit of radiation therapy which normally requires up to fifteen (15) minutes for the uncomplicated set-up and treatment of a patient on a megavoltage teletherapy unit including the time necessary for portal filming.
- (4) "Existing linear accelerator" means a linear accelerator in operation prior to the beginning of the review period.
- (5) "Intermediate Radiation treatment" means treatment on two separate sites on the body, three or more fields to a single treatment site or use of multiple blocking and is equal to 1.0 ESTV.
- (6) "Linear accelerator" shall have the same meaning as defined in G.S. 131E-176(14g).
- (7) "Linear accelerator service area" means a single or multi-county area as used in the development of the need determination in the applicable State Medical Facilities Plan.
- (8) "Megavoltage unit" means MRT equipment which provides a form of teletherapy that involves the delivery of energy greater than, or equivalent to, one million volts by the emission of x-rays, gamma rays, electrons, or other radiation.
- (9) "Megavoltage radiation therapy (MRT)" means the use of ionizing radiation in excess of one million electron volts in the treatment of cancer.
- (10) "MRT equipment" means a machine or energy source used to provide megavoltage radiation therapy including linear accelerators and other particle accelerators.
- (11) "Radiation therapy equipment" means medical equipment which is used to provide radiation therapy services.
- (12) "Radiation therapy services" means those services which involve the delivery of controlled and monitored doses of radiation to a defined volume of tumor bearing tissue within a patient. Radiation may be delivered to the tumor region by the use of radioactive implants or by beams of ionizing radiation or it

*History Note: Authority G.S. 131E-177(1); 131E-183(b);
Eff. January 1, 1987;
Amended Eff. February 1, 1994;*

- may be delivered to the tumor region systemically.
- (13) "Radiation therapy service area" means a single or multi-county area as used in the development of the need determination in the applicable State Medical Facilities Plan.
 - (14) "Simple Radiation treatment" means treatment on a single site on the body, single treatment field or parallel opposed fields with no more than simple blocks and is equal to 1 ESTV.
 - (15) "Simulator" shall have the same meaning as defined in G.S. 131E-176(24b).
 - (16) "Special technique" means radiation therapy treatments that may require increased time for each patient visit including:
 - (a) total body irradiation (photons or electrons) which equals 2.5 ESTVs;
 - (b) hemi-body irradiation which equals 2.0 ESTVs;
 - (c) intraoperative radiation therapy which equals 10.0 ESTVs;
 - (d) neutron and proton radiation therapy which equals 2.0 ESTVs;
 - (e) intensity modulated radiation treatment (IMRT) which equals 1.0 ESTV;
 - (f) limb salvage irradiation at lengthened SSD which equals 1.0 ESTV;
 - (g) additional field check radiographs which equals .50 ESTV;
 - (h) stereotactic radiosurgery treatment management with linear accelerator or gamma knife which equals 3.0 ESTVs; and
 - (i) pediatric patient under anesthesia which equals 1.5 ESTVs.

History Note: Authority G.S. 131E-177(1); 131E-183(b); Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Eff. January 4, 1994;

Amended Eff. November 1, 1996;

Temporary Amendment January 1, 1999;

Temporary Amendment Eff. January 1, 1999 expired October 12, 1999;

Temporary Amendment Eff. January 1, 2000;

Temporary Amendment effective January 1, 2000 amends and replaces a permanent rulemaking originally proposed to be effective August 2000;

Amended Eff. April 1, 2001;

Temporary Amendment Eff. January 1, 2002;

Amended Eff. April 1, 2003;

Temporary Amendment Eff. January 1, 2005;

Amended Eff. November 1, 2005;

Temporary Amendment Eff. February 1, 2006;

Amended Eff. November 1, 2006.

10A NCAC 14C .2101 DEFINITIONS

The following definitions shall apply to all rules in this Section:

- (1) "Ambulatory surgical facility" means a facility as defined in G.S. 131E-176(1b).
- (2) "Operating room" means an inpatient operating room, an outpatient or ambulatory surgical operating room, or a shared operating room.
- (3) "Ambulatory surgical program" means a program as defined in G.S. 131E-176(1c).
- (4) "Existing operating rooms" means those operating rooms in ambulatory surgical facilities and hospitals which were reported in the License Application for Ambulatory Surgical Facilities and Programs and in Part III of Hospital Licensure Renewal Application Form submitted to the Licensure Section of the Division of Facility Services and which were licensed and certified prior to the beginning of the review period.
- (5) "Approved operating rooms" means those operating rooms that were approved for a certificate of need by the Certificate of Need Section prior to the date on which the applicant's proposed project was submitted to the Agency but that have not been licensed.
- (6) "Multispecialty ambulatory surgical program" means a program as defined in G.S. 131E-176(15a).
- (7) "Outpatient or ambulatory surgical operating room" means an operating room used solely for the performance of surgical procedures which require local, regional or general anesthesia and a period of post-operative observation of less than 24 hours.
- (8) "Service area" means the Operating Room Service Area as defined in the applicable State Medical Facilities Plan.
- (9) "Shared operating room" means an operating room that is used for the performance of both ambulatory and inpatient surgical procedures.
- (10) "Specialty area" means an area of medical practice in which there is an approved medical specialty certificate issued by a member board of the American Board of Medical Specialties and includes the following: gynecology, otolaryngology, plastic surgery, general surgery, ophthalmology, urology, orthopedics, and oral surgery.
- (11) "Specialty ambulatory surgical program" means a program as defined in G.S. 131E-176(24c).
- (12) "Surgical case" means an individual who receives one or more surgical procedures in an operating room during a single operative encounter.

History Note: Authority G.S. 131E-177(1); 131E-183(b);

Eff. November 1, 1990;

Amended Eff. March 1, 1993;

Temporary Amendment Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. January 4, 1994;

Temporary Amendment Eff. January 1, 1999;

Temporary Eff. January 1, 1999 Expired on October 12, 1999;

Temporary Amendment Eff. January 1, 2000;

Temporary Amendment effective January 1, 2000 amends and replaces a permanent rulemaking originally proposed to be effective August 2000;

Amended Eff. April 1, 2001;

Temporary Amendment Eff. January 1, 2002; July 1, 2001;

Amended Eff. August 1, 2002;

Temporary Amendment effective January 1, 2002 amends and replaces the permanent rule effective August 1, 2002;

Amended Eff. April 1, 2003;

Temporary Amendment Eff. January 1, 2005;

Amended Eff. November 1, 2005;

Temporary Rule Eff. February 1, 2006;

Amended Eff. November 1, 2006.

10A NCAC 14C .2103 PERFORMANCE STANDARDS

(a) In projecting utilization, the existing, approved and proposed operating rooms shall be considered to be available for use five days per week and 52 weeks a year.

(b) A proposal to establish a new ambulatory surgical facility, to increase the number of operating rooms (excluding dedicated C-section operating rooms), to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall not be approved unless the applicant documents that the average number of surgical cases per operating room to be performed in each facility owned by the applicant in the proposed service area, is reasonably projected to be at least 2.4 surgical cases per day for each inpatient operating room (excluding dedicated open-heart and dedicated C-Section operating rooms), 4.8 surgical cases per day for each outpatient or ambulatory surgical operating room, and 3.2 surgical cases per day for each shared operating room during the third year of operation following completion of the project.

(c) A proposal to develop an additional operating room to be used as a dedicated C-section operating room shall not be approved unless the applicant documents that the average number of surgical cases per operating room to be performed in each facility owned by the applicant in the proposed service area, is reasonably projected to be at least 2.4 surgical cases per day for each inpatient operating room (excluding dedicated open-heart and dedicated C-section operating rooms), 4.8 surgical cases per day for each outpatient or ambulatory surgical operating room and 3.2 surgical cases per day for each shared operating room during the third year of operation following completion of the project.

(d) An applicant proposing to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall provide documentation to show that each existing ambulatory surgery program in the service area that performs ambulatory surgery in the same specialty area as proposed in the application is currently operating at 4.8 surgical cases per day

for each outpatient or ambulatory surgical operating room, 7.2 gastrointestinal endoscopy cases per day for each gastrointestinal endoscopy room, and 3.2 surgical cases per day for each shared operating room.

(e) An applicant proposing to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall provide documentation to show that each existing and approved ambulatory surgery program in the service area that performs ambulatory surgery in the same specialty areas as proposed in the application is reasonably projected to be operating at 4.8 surgical cases per day for each outpatient or ambulatory surgical operating room, 7.2 gastrointestinal endoscopy cases per day for each gastrointestinal endoscopy room, and 3.2 surgical cases per day for each shared surgical operating room prior to the completion of the proposed project.

(f) The applicant shall document the assumptions and provide data supporting the methodology used for each projection in this Rule.

History Note: Authority G.S. 131E-177; 131E-183(b);

Eff. November 1, 1990;

Amended Eff. March 1, 1993;

Temporary Amendment Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. January 4, 1994;

Temporary Amendment Eff. January 1, 2002; July 1, 2001;

Amended Eff. August 1, 2002;

Temporary Amendment effective January 1, 2002 amends and replaces the permanent rule effective August 1, 2002;

Amended Eff. April 1, 2003;

Temporary Amendment Eff. January 1, 2005;

Amended Eff. November 1, 2005;

Temporary Rule Eff. February 1, 2006;

Amended Eff. November 1, 2006.

10A NCAC 14C .2203 PERFORMANCE STANDARDS

(a) An applicant proposing to establish a new End Stage Renal Disease facility shall document the need for at least 10 stations based on utilization of 3.2 patients per station per week as of the end of the first operating year of the facility, with the exception that the performance standard shall be waived for a need in the State Medical Facilities Plan that is based on an adjusted need determination.

(b) An applicant proposing to increase the number of dialysis stations in an existing End Stage Renal Disease facility shall document the need for the additional stations based on utilization of 3.2 patients per station per week as of the end of the first operating year of the additional stations.

(c) An applicant shall provide all assumptions, including the methodology by which patient utilization is projected.

History Note: Authority G.S. 131E-177(1); 131E-183(b);

Temporary Adoption Eff. January 1, 2003; January 1, 2002;

Eff. April 1, 2003;

Amended Eff. August 1, 2004;

Temporary Amendment Eff. January 1, 2005;

Amended Eff. November 1, 2005;

*Temporary Amendment Eff. February 1, 2006;
Amended Eff. November 1, 2006.*

10A NCAC 14C .2502 INFORMATION REQUIRED OF APPLICANT

(a) An applicant proposing to establish new intensive treatment beds shall project resident origin by percentage by county of residence. All assumptions and the methodology for projecting occupancy shall be stated.

(b) An applicant proposing to establish new intensive treatment beds shall project an occupancy level for the entire facility for the first eight calendar quarters following the completion of the proposed project, including the average length of stay. All assumptions and the methodology for projecting occupancy shall be clearly stated.

(c) If the applicant is an existing chemical dependency treatment facility, the applicant shall document the percentage of patients discharged from the facility that are readmitted to the facility at a later date.

(d) An applicant shall document that the following items are currently available or will be made available following completion of the project:

- (1) admission criteria for clinical admissions to the facility or unit, including procedure for accepting emergency admissions;
- (2) client evaluation procedures, including preliminary evaluation and establishment of an individual treatment plan;
- (3) procedures for referral and follow-up of clients to necessary outside services;
- (4) procedures for involvement of family in counseling process;
- (5) provision of an aftercare plan; and
- (6) quality assurance/utilization review plan.

(e) An applicant shall document the attempts made to establish working relationships with the health care providers and others that are anticipated to refer clients to the proposed intensive treatment beds.

(f) An applicant shall provide copies of any current or proposed contracts or agreements or letters of intent to develop contracts or agreements for the provision of any services to the clients served in the chemical dependency treatment facility.

(g) An applicant shall document the provisions that will be made to obtain services for patients with a dual diagnosis of chemical dependency and psychiatric problems.

(h) An applicant proposing to establish new intensive treatment beds shall specify the primary site on which the facility will be located. If such site is neither owned by nor under option by the applicant, the applicant shall provide a written commitment to pursue acquiring the site if and when a certificate of need application is approved, shall specify at least one alternate site on which the facility could be located should acquisition efforts relative to the primary site ultimately fail, and shall demonstrate that the primary site and alternate sites are available for acquisition.

(i) An applicant proposing to establish new intensive treatment beds shall document that the services will be provided in a physical environment that conforms with the requirements in

10A NCAC 27G .0300 which are incorporated by reference including all subsequent amendments.

*History Note: Authority G.S. 131E-177(1); 131E-183;
Eff. December 1, 1996;
Temporary Amendment Eff. February 1, 2006;
Amended Eff. November 1, 2006.*

10A NCAC 14C .2602 INFORMATION REQUIRED OF APPLICANT

(a) An applicant proposing to establish new psychiatric beds shall project resident origin by percentage by county of residence. All assumptions and the methodology for projecting occupancy shall be stated.

(b) An applicant proposing to establish new psychiatric beds shall project an occupancy level for the entire facility for the first eight calendar quarters following the completion of the proposed project, including average length of stay. All assumptions and the methodology for projecting occupancy shall be stated.

(c) The applicant shall provide documentation of the percentage of patients discharged from the facility that are readmitted to the facility at a later date.

(d) An applicant proposing to establish new psychiatric beds shall describe the general treatment plan that is anticipated to be used by the facility and the support services to be provided, including provisions that will be made to obtain services for patients with a dual diagnosis of psychiatric and chemical dependency problems.

(e) The applicant shall document the attempts made to establish working relationships with the health care providers and others that are anticipated to refer clients to the proposed psychiatric beds.

(f) The applicant shall provide copies of any current or proposed contracts or agreements or letters of intent to develop contracts or agreements for the provision of any services to the clients served in the psychiatric facility.

(g) The applicant shall document that the following items are currently available or will be made available following completion of the project:

- (1) admission criteria for clinical admissions to the facility or unit;
- (2) emergency screening services for the targeted population which shall include services for handling emergencies on a 24-hour basis or through formalized transfer agreements;
- (3) client evaluation procedures, including preliminary evaluation and establishment of an individual treatment plan;
- (4) procedures for referral and follow-up of clients to necessary outside services;
- (5) procedures for involvement of family in counseling process;
- (6) comprehensive services which shall include individual, group and family therapy; medication therapy; and activities therapy including recreation;
- (7) educational components if the application is for child or adolescent beds;
- (8) provision of an aftercare plan; and

- (9) quality assurance/utilization review plan.
- (h) An applicant proposing to establish new psychiatric beds shall specify the primary site on which the facility will be located. If such site is neither owned by nor under option by the applicant, the applicant shall provide a written commitment to pursue acquiring the site if and when a certificate of need application is approved, shall specify at least one alternate site on which the facility could be located should acquisition efforts relative to the primary site ultimately fail, and shall demonstrate that the primary site and alternate sites are available for acquisition.
- (i) An applicant proposing to establish new psychiatric beds shall provide documentation to show that the services will be provided in a physical environment that conforms with the requirements in 10A NCAC 27G .0300.

History Note: Authority G.S. 131E-177(1); 131E-183; Eff. December 1, 1996; Temporary Amendment Eff. February 1, 2006; Amended Eff. November 1, 2006.

10A NCAC 14C .2701 DEFINITIONS

The following definitions shall apply to all rules in this Section:

- (1) "Approved MRI scanner" means an MRI scanner which was not operational prior to the beginning of the review period but which had been issued a certificate of need.
- (2) "Capacity of fixed MRI scanner" means 100 percent of the procedure volume that the MRI scanner is capable of completing in a year, given perfect scheduling, no machine or room downtime, no cancellations, no patient transportation problems, no staffing or physician delays and no MRI procedures outside the norm. Annual capacity of a fixed MRI scanner is 6,864 weighted MRI procedures, which assumes two weighted MRI procedures are performed per hour and the scanner is operated 66 hours per week, 52 weeks per year.
- (3) "Capacity of mobile MRI scanner" means 100 percent of the procedure volume that the MRI scanner is capable of completing in a year, given perfect scheduling, no machine or room downtime, no cancellations, no patient transportation problems, no staffing or physician delays and no MRI procedures outside the norm. Annual capacity of a mobile MRI scanner is 4,160 weighted MRI procedures, which assumes two weighted MRI procedures are performed per hour and the scanner is operated 40 hours per week, 52 weeks per year.
- (4) "Dedicated breast MRI scanner" means an MRI scanner that is configured to perform only breast MRI procedures and is not capable of performing other types of non-breast MRI procedures.

- (5) "Existing MRI scanner" means an MRI scanner in operation prior to the beginning of the review period.
- (6) "Extremity MRI scanner" means an MRI scanner that is utilized for the imaging of extremities and is of open design with a field of view no greater than 25 centimeters.
- (7) "Fixed MRI scanner" means an MRI scanner that is not a mobile MRI scanner.
- (8) "Magnetic Resonance Imaging" (MRI) means a non-invasive diagnostic modality in which electronic equipment is used to create tomographic images of body structure. The MRI scanner exposes the target area to nonionizing magnetic energy and radio frequency fields, focusing on the nuclei of atoms such as hydrogen in the body tissue. Response of selected nuclei to this stimulus is translated into images for evaluation by the physician.
- (9) "Magnetic resonance imaging scanner" (MRI Scanner) is defined in G.S. 131E-176(14e).
- (10) "Mobile MRI region" means either the eastern part of the State which includes the counties in Health Service Areas IV, V and VI (Eastern Mobile MRI Region), or the western part of the State which includes the counties in Health Service Areas I, II, and III (Western Mobile MRI Region). The counties in each Health Service Area are identified in Appendix A of the State Medical Facilities Plan.
- (11) "Mobile MRI scanner" means an MRI scanner and transporting equipment which is moved at least weekly to provide services at two or more host facilities.
- (12) "MRI procedure" means a single discrete MRI study of one patient.
- (13) "MRI service area" means the Magnetic Resonance Imaging Planning Areas, as defined in the applicable State Medical Facilities Plan, except for proposed new mobile MRI scanners for which the service area is a mobile MRI region.
- (14) "MRI study" means one or more scans relative to a single diagnosis or symptom.
- (15) "Related entity" means the parent company of the applicant, a subsidiary company of the applicant (i.e., the applicant owns 50 percent or more of another company), a joint venture in which the applicant is a member, or a company that shares common ownership with the applicant (i.e., the applicant and another company are owned by some of the same persons).
- (16) "Temporary MRI scanner" means an MRI scanner that the Certificate of Need Section has approved to be temporarily located in North Carolina at a facility that holds a certificate of need for a new fixed MRI

- scanner, but which is not operational because the project is not yet complete.
- (17) "Weighted MRI procedures" means MRI procedures which are adjusted to account for the length of time to complete the procedure, based on the following weights: one outpatient MRI procedure without contrast or sedation is valued at 1.0 weighted MRI procedure, one outpatient MRI procedure with contrast or sedation is valued at 1.4 weighted MRI procedures, one inpatient MRI procedure without contrast or sedation is valued at 1.4 weighted MRI procedures; and one inpatient MRI procedure with contrast or sedation is valued at 1.8 weighted MRI procedures.
- (18) "Weighted breast MRI procedures" means MRI procedures which are performed on a dedicated breast MRI scanner and are adjusted to account for the length of time to complete the procedure, based on the following weights: one diagnostic breast MRI procedure is valued at 1.0 weighted MRI procedure (based on an average of 60 minutes per procedure), one MRI-guided breast needle localization MRI procedure is valued at 1.1 weighted MRI procedure (based on an average of 66 minutes per procedure), and one MRI-guided breast biopsy procedure is valued at 1.6 weighted MRI procedures (based on an average of 96 minutes per procedure).

History Note: Authority G.S. 131E-177(1); 131E-183(b); Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. February 1, 1994; Temporary Amendment Eff. January 1, 1999; Temporary Amendment Eff. January 1, 1999 Expired on October 12, 1999; Temporary Amendment Eff. January 1, 2000; Temporary Amendment effective January 1, 2000 amends and replaces a permanent rulemaking originally proposed to be effective August 2000; Temporary Amendment Eff. January 1, 2001; Temporary Amendment effective January 1, 2001 amends and replaces a permanent rulemaking originally proposed to be effective April 1, 2001; Temporary Amendment Eff. January 1, 2002; Amended Eff. August 1, 2002; Temporary Amendment effective January 1, 2002 amends and replaces the permanent rule effective August 1, 2002; Temporary Amendment Eff. January 1, 2003; Amended Eff. August 1, 2004; April 1, 2003; Temporary Amendment Eff. January 1, 2005; Amended Eff. November 1, 2005; Temporary Amendment Eff. February 1, 2006; Amended Eff. November 1, 2006.

10A NCAC 14C .2702 INFORMATION REQUIRED OF

APPLICANT

- (a) An applicant proposing to acquire an MRI scanner, including a mobile MRI scanner, shall use the Acute Care Facility/Medical Equipment application form.
- (b) Except for proposals to acquire mobile MRI scanners that serve two or more host facilities, both the applicant and the person billing the patients for the MRI service shall be named as co-applicants in the application form.
- (c) An applicant proposing to acquire a magnetic resonance imaging scanner, including a mobile MRI scanner, shall provide the following information:
- (1) documentation that the proposed fixed MRI scanner, excluding fixed extremity and breast MRI scanners, shall be available and staffed for use at least 66 hours per week;
 - (2) documentation that the proposed mobile MRI scanner shall be available and staffed for use at least 40 hours per week;
 - (3) documentation that the proposed fixed extremity or dedicated breast MRI scanner shall be available and staffed for use at least 40 hours per week;
 - (4) the average charge to the patient, regardless of who bills the patient, for each of the 20 most frequent MRI procedures to be performed for each of the first three years of operation after completion of the project and a description of items included in the charge; if the professional fee is included in the charge, provide the dollar amount for the professional fee;
 - (5) if the proposed MRI service will be provided pursuant to a service agreement, the dollar amount of the service contract fee billed by the applicant to the contracting party for each of the first three years of operation;
 - (6) letters from physicians indicating their intent to refer patients to the proposed magnetic resonance imaging scanner and their estimate of the number of patients proposed to be referred per year, which is based on the physicians' historical number of referrals;
 - (7) for each location at which the applicant or a related entity will provide MRI services, utilizing existing, approved, or proposed MRI scanners, projections of the annual number of unweighted MRI procedures to be performed for each of the four types of MRI procedures, as identified in the SMFP, for each of the first three years of operation after completion of the project;
 - (8) for each location at which the applicant or a related entity will provide services, utilizing existing, approved, or proposed MRI scanners, projections of the annual number of weighted MRI procedures to be performed for each of the four types of MRI procedures, as identified in the SMFP, for each of the first three years of operation after completion of the project;

- (9) a detailed description of the methodology and assumptions used to project the number of unweighted MRI procedures to be performed at each location, including the number of contrast versus non-contrast procedures, sedation versus non-sedation procedures, and inpatient versus outpatient procedures;
 - (10) a detailed description of the methodology and assumptions used to project the number of weighted MRI procedures to be performed at each location;
 - (11) for each existing fixed or mobile MRI scanner owned by the applicant or a related entity and operated in North Carolina in the month the application is submitted, the vendor, tesla strength, serial number or vehicle identification number, CON project identification number, physical location for fixed MRI scanners, and host sites for mobile MRI scanners;
 - (12) for each approved fixed or mobile MRI scanner to be owned by the applicant or a related entity and approved to be operated in North Carolina, the proposed vendor, proposed tesla strength, CON project identification number, physical location for fixed MRI scanners, and host sites for mobile MRI scanners;
 - (13) if proposing to acquire a mobile MRI scanner, an explanation of the basis for selection of the proposed host sites if the host sites are not located in MRI service areas that lack a fixed MRI scanner; and
 - (14) identity of the accreditation authority the applicant proposes to use.
- (d) An applicant proposing to acquire a mobile MRI scanner shall provide copies of letters of intent from, and proposed contracts with, all of the proposed host facilities of the new MRI scanner.
- (e) An applicant proposing to acquire a dedicated fixed breast MRI scanner shall demonstrate that:
- (1) it has an existing and ongoing working relationship with a breast-imaging radiologist or radiology practice group that has experience interpreting breast images provided by mammography, ultrasound, and MRI scanner equipment, and that is trained to interpret images produced by a MRI scanner configured exclusively for mammographic studies;
 - (2) for the last 12 months it has performed the following services, without interruption in the provision of these services: breast MRI procedures on a fixed MRI scanner with a breast coil, mammograms, breast ultrasound procedures, breast needle core biopsies, breast cyst aspirations, and pre-surgical breast needle localizations;
 - (3) its existing mammography equipment, breast ultrasound equipment, and the proposed dedicated breast MRI scanner is in compliance with the federal Mammography Quality Standards Act;
 - (4) it is part of an existing healthcare system that provides comprehensive cancer care, including radiation oncology, medical oncology, surgical oncology and an established breast cancer treatment program that is based in the geographic area proposed to be served by the applicant; and,
 - (5) it has an existing relationship with an established collaborative team for the treatment of breast cancer that includes, radiologists, pathologists, radiation oncologists, hematologists/oncologists, surgeons, obstetricians/gynecologists, and primary care providers.
- (f) An applicant proposing to acquire an extremity MRI scanner, pursuant to a need determination in the State Medical Facilities Plan for a demonstration project, shall:
- (1) provide a detailed description of the scope of the research studies that shall be conducted to demonstrate the convenience, cost effectiveness and improved access resulting from utilization of extremity MRI scanning;
 - (2) provide projections of estimated cost savings from utilization of an extremity MRI scanner based on comparison of "total dollars received per procedure" performed on the proposed scanner in comparison to "total dollars received per procedure" performed on whole body scanners;
 - (3) provide projections of estimated cost savings to the patient from utilization of an extremity MRI scanner;
 - (4) commit to prepare an annual report at the end of each of the first three operating years, to be submitted to the Medical Facilities Planning Section and the Certificate of Need Section, that shall include:
 - (A) a detailed description of the research studies completed;
 - (B) a description of the results of the studies;
 - (C) the cost per procedure to the patient and billing entity;
 - (D) the cost savings to the patient attributed to utilization of an extremity MRI scanner;
 - (E) an analysis of "total dollars received per procedure" performed on the extremity MRI scanner in comparison to "total dollars received per procedure" performed on whole body scanners; and
 - (F) the annual volume of unweighted and weighted MRI procedures performed, by CPT code;

- (5) identify the operating hours of the proposed scanner;
- (6) provide a description of the capabilities of the proposed scanner;
- (7) provide documentation of the capacity of the proposed scanner based on the number of days to be operated each week, the number of days to be operated each year, the number of hours to be operated each day, and the average number of unweighted MRI procedures the scanner is capable of performing each hour;
- (8) identify the types of MRI procedures by CPT code that are appropriate to be performed on an extremity MRI scanner as opposed to a whole body MRI scanner;
- (9) provide copies of the operational and safety requirements set by the manufacturer; and
- (10) describe the criteria and methodology to be implemented for utilization review to ensure the medical necessity of the procedures performed.

History Note: Authority G.S. 131E-177(1); 131E-183(b); Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. February 1, 1994; Temporary Amendment Eff. January 1, 2003; January 1, 2002; Amended Eff. August 1, 2004; April 1, 2003; Temporary Amendment Eff. January 1, 2005; Amended Eff. November 1, 2005; Temporary Amendment Eff. February 1, 2006; Amended Eff. November 1, 2006.

10A NCAC 14C .2703 PERFORMANCE STANDARDS

- (a) An applicant proposing to acquire a mobile magnetic resonance imaging (MRI) scanner shall:
 - (1) demonstrate that each existing mobile MRI scanner which the applicant or a related entity owns a controlling interest in and operates in the mobile MRI region in which the proposed equipment will be located, except temporary MRI scanners, performed 3,328 weighted MRI procedures in the most recent 12 month period for which the applicant has data [Note: This is not the average number of weighted MRI procedures performed on all of the applicant's mobile MRI scanners.]; with the exception that in the event an existing mobile MRI scanner has been in operation less than 12 months at the time the application is filed, the applicant shall demonstrate that this mobile MRI scanner performed an average of at least 277 weighted MRI procedures per month for the period in which it has been in operation;
 - (2) demonstrate annual utilization in the third year of operation is reasonably projected to be at least 3328 weighted MRI procedures on each of the existing, approved and proposed mobile

MRI scanners owned by the applicant or a related entity to be operated in the mobile MRI region in which the proposed equipment will be located. [Note: This is not the average number of weighted MRI procedures performed on all of the applicant's mobile MRI scanners.];

- (3) document the assumptions and provide data supporting the methodology used for each projection required in this Rule.
- (b) An applicant proposing to acquire a fixed magnetic resonance imaging (MRI) scanner, except for fixed MRI scanners described in Paragraphs (c) and (d) of this Rule, shall:
 - (1) demonstrate that the existing fixed MRI scanners which the applicant or a related entity owns a controlling interest in and locates in the proposed MRI service area performed an average of 3,328 weighted MRI procedures in the most recent 12 month period for which the applicant has data;
 - (2) demonstrate that each existing mobile MRI scanner which the applicant or a related entity owns a controlling interest in and operates in the proposed MRI service area except temporary MRI scanners, performed 3,328 weighted MRI procedures in the most recent 12 month period for which the applicant has data. [Note: This is not the average number of weighted MRI procedures performed on all of the applicant's mobile MRI scanners.];
 - (3) demonstrate that the average annual utilization of the existing, approved and proposed fixed MRI scanners which the applicant or a related entity owns a controlling interest in and locates in the proposed MRI service area are reasonably expected to perform the following number of weighted MRI procedures, whichever is applicable, in the third year of operation following completion of the proposed project:
 - (A) 1,716 weighted MRI procedures in MRI service areas in which the SMFP shows no fixed MRI scanners are located,
 - (B) 3,775 weighted MRI procedures in MRI service areas in which the SMFP shows one fixed MRI scanner is located,
 - (C) 4,118 weighted MRI procedures in MRI service areas in which the SMFP shows two fixed MRI scanners are located,
 - (D) 4,462 weighted MRI procedures in MRI service areas in which the SMFP shows three fixed MRI scanners are located, or
 - (E) 4,805 weighted MRI procedures in MRI service areas in which the SMFP

- shows four or more fixed MRI scanners are located;
- (4) if the proposed MRI scanner will be located at a different site from any of the existing or approved MRI scanners owned by the applicant or a related entity, demonstrate that the annual utilization of the proposed fixed MRI scanner is reasonably expected to perform the following number of weighted MRI procedures, whichever is applicable, in the third year of operation following completion of the proposed project:
- (A) 1,716 weighted MRI procedures in MRI service areas in which the SMFP shows no fixed MRI scanners are located,
 - (B) 3,775 weighted MRI procedures in MRI service areas in which the SMFP shows one fixed MRI scanner is located,
 - (C) 4,118 weighted MRI procedures in MRI service areas in which the SMFP shows two fixed MRI scanners are located,
 - (D) 4,462 weighted MRI procedures in MRI service areas in which the SMFP shows three fixed MRI scanners are located, or
 - (E) 4,805 weighted MRI procedures in MRI service areas in which the SMFP shows four or more fixed MRI scanners are located;
- (5) demonstrate that annual utilization of each existing, approved and proposed mobile MRI scanner which the applicant or a related entity owns a controlling interest in and locates in the proposed MRI service area is reasonably expected to perform 3,328 weighted MRI procedures in the third year of operation following completion of the proposed project. [Note: This is not the average number of weighted MRI procedures to be performed on all of the applicant's mobile MRI scanners.];
- (6) document the assumptions and provide data supporting the methodology used for each projection required in this Rule.
- (c) An applicant proposing to acquire a fixed dedicated breast magnetic resonance imaging (MRI) scanner for which the need determination in the State Medical Facilities Plan was based on an approved petition for an adjustment to the need determination shall:
- (1) demonstrate annual utilization of the proposed MRI scanner in the third year of operation is reasonably projected to be at least 1,664 weighted MRI procedures which is .80 times 1 procedure per hour times 40 hours per week times 52 weeks per year; and

- (2) document the assumptions and provide data supporting the methodology used for each projection required in this Rule.
- (d) An applicant proposing to acquire a fixed extremity MRI scanner for which the need determination in the State Medical Facilities Plan was based on an approved petition for an adjustment to the need determination shall:
- (1) demonstrate annual utilization of the proposed MRI scanner in the third year of operation is reasonably projected to be at least 80 percent of the capacity defined by the applicant in response to 10A NCAC 14C .2702(f)(6); and
 - (2) document the assumptions and provide data supporting the methodology used for each projection required in this Rule.

History Note: Authority G.S. 131E-177(1); 131E-183(b); Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. February 1, 1994; Temporary Amendment Eff. January 1, 1999; Temporary Amendment Eff. January 1, 1999 Expired on October 12, 1999; Temporary Amendment Eff. January 1, 2000; Temporary Amendment effective January 1, 2000 amends and replaces a permanent rulemaking originally proposed to be effective August 2000; Temporary Amendment Eff. January 1, 2001; Temporary Amendment effective January 1, 2001 amends and replaces a permanent rulemaking originally proposed to be effective April 1, 2001; Temporary Amendment Eff. January 1, 2002; Amended Eff. August 1, 2002; Temporary Amendment Eff. January 1, 2002 amends and replaces the permanent rule effective, August 1, 2002; Temporary Amendment Eff. January 1, 2003; Amended Eff. August 1, 2004; April 1, 2003; Temporary Amendment Eff. January 1, 2005; Amended Eff. November 1, 2005; Temporary Amendment Eff. February 1, 2006; Amended Eff. November 1, 2006.

10A NCAC 14C .2704 SUPPORT SERVICES

- (a) An applicant proposing to acquire a mobile MRI scanner shall provide referral agreements between each host site and at least one other provider of MRI services in the geographic area to be served by the host site, to document the availability of MRI services if patients require them when the mobile unit is not in service at that host site.
- (b) An applicant proposing to acquire a fixed or mobile MRI scanner shall obtain accreditation from the Joint Commission for the Accreditation of Healthcare Organizations, the American College of Radiology or a comparable accreditation authority, as determined by the Certificate of Need Section, for magnetic resonance imaging within two years following operation of the proposed MRI scanner.

History Note: Authority G.S. 131E-177(1); 131E-183(b);

Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Eff. February 1, 1994;

Temporary Amendment Eff. January 1, 2005;

Amended Eff. November 1 2005;

Temporary Amendment Eff. February 1, 2006;

Amended Eff. November 1, 2006.

10A NCAC 14C .2705 STAFFING AND STAFF TRAINING

(a) An applicant proposing to acquire an MRI scanner, including extremity and breast MRI scanners, shall demonstrate that one diagnostic radiologist certified by the American Board of Radiologists shall be available to interpret the images who has had:

- (1) training in magnetic resonance imaging as an integral part of his or her residency training program; or
- (2) six months of supervised MRI experience under the direction of a certified diagnostic radiologist; or
- (3) at least six months of fellowship training, or its equivalent, in MRI; or
- (4) a combination of MRI experience and fellowship training equivalent to Subparagraph (a)(1), (2) or (3) of this Rule.

(b) An applicant proposing to acquire a dedicated breast MRI scanner shall provide documentation that:

- (1) the radiologist is trained and has expertise in breast imaging, including mammography, breast ultrasound and breast MRI procedures; and
- (2) two full time MRI technologists or two mammography technologists are available with training in breast MRI imaging and that one of these technologists shall be present during the hours operation of the dedicated breast MRI scanner.

(c) An applicant proposing to acquire a MRI scanner, including extremity but excluding dedicated breast MRI scanners, shall provide evidence of the availability of two full-time MRI technologist-radiographers and that one of these technologists shall be present during the hours of operation of the MRI scanner.

(d) An applicant proposing to acquire an MRI scanner, including extremity and breast MRI scanners, shall demonstrate that the following staff training is provided:

- (1) American Red Cross or American Heart Association certification in cardiopulmonary resuscitation (CPR) and basic cardiac life support; and
- (2) the availability of an organized program of staff education and training which is integral to the services program and ensures improvement in technique and the proper training of new personnel.

(e) An applicant proposing to acquire a mobile MRI scanner shall document that the requirements in Paragraph (a) of this

Rule shall be met at each host facility, and that one full time MRI technologist-radiographer shall be present at each host facility during all hours of operation of the proposed mobile MRI scanner.

(f) An applicant proposing to acquire an extremity MRI scanner, pursuant to a need determination in the State Medical Facilities Plan for a demonstration project, also shall provide:

- (1) evidence that at least one licensed physician shall be on-site during the hours of operation of the proposed MRI scanner;
- (2) a description of a research group for the project including a radiologist, orthopaedic surgeon, and research coordinator; and
- (3) letters from the proposed members of the research group indicating their qualifications, experience and willingness to participate on the research team.

(g) An applicant proposing to perform cardiac MRI procedures shall provide documentation of the availability of a radiologist, certified by the American Board of Radiology, with training and experience in interpreting images produced by an MRI scanner configured to perform cardiac MRI studies.

History Note: Authority G.S. 131E-177(1); 131E-183(b); Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Eff. February 1, 1994;

Temporary Amendment Eff. January 1, 2002;

Amended Eff. April 1, 2003;

Temporary Amendment Eff. January 1, 2005;

Amended Eff. November 1, 2005;

Temporary Amendment Eff. February 1, 2006;

Amended Eff. November 1, 2006.

10A NCAC 14C .2801 DEFINITIONS

The definitions in this Rule will apply to all rules in this Section.

- (1) "Rehabilitation Facility" means a facility as defined in G.S. 131E-176.
- (2) "Rehabilitation" means the process to maintain, restore or increase the function of disabled individuals so that an individual can live in the least restrictive environment, consistent with his or her objective.
- (3) "Outpatient Rehabilitation Clinic" is defined as a program of coordinated and integrated outpatient services, evaluation, or treatment with emphasis on improving the functional level of the person in coordination with the patient's family.
- (4) "Rehabilitation Beds" means inpatient beds for which a need determination is set forth in the current State Medical Facilities Plan and which are located in a hospital licensed pursuant to G.S. 131E-77.
- (5) "Traumatic Brain Injury" is defined as an insult to the brain that may produce a diminished or altered state of consciousness which results in impairment of cognitive

abilities or physical functioning. It can also result in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functional disability or psychological maladjustment.

- (6) "Stroke" (cerebral infarction, hemorrhage) is defined as the sudden onset of a focal neurologic deficit due to a local disturbance in the blood supply to the brain.
- (7) "Spinal Cord Injury" is defined as an injury to the spinal cord that results in the loss of motor or sensory function.
- (8) "Pediatric Rehabilitation" is defined as inpatient rehabilitation services provided to persons 14 years of age or younger.

History Note: Authority G.S. 131E-177; 131E-183(b); Eff. May 1, 1991; Amended Eff. February 1, 1993; Temporary Amendment Eff. February 1, 2006; Amended Eff. November 1, 2006.

10A NCAC 14C .3702 INFORMATION REQUIRED OF APPLICANT

(a) An applicant proposing to acquire a PET scanner, including a mobile PET scanner, shall use the Acute Care Facility/Medical Equipment application form.

(b) An applicant proposing to acquire a PET scanner, including a mobile PET scanner, shall provide the following information for each facility where the PET scanner will be operated:

- (1) The projected number of procedures to be performed and the projected number of patients to be served for each of the first three years following completion of the proposed project. Projections shall be listed by clinical area (e.g., oncology, cardiology), and all methodologies and assumptions used in making the projections shall be provided.
- (2) Documentation that all of the following services were provided, at each facility where the PET scanner will be operated, continuously throughout the 12 months immediately prior to the date on which the application is filed:
 - (A) nuclear medicine imaging services;
 - (B) single photon emission computed tomography (including brain, bone, liver, gallium and thallium stress);
 - (C) magnetic resonance imaging scans;
 - (D) computerized tomography scans;
 - (E) cardiac angiography;
 - (F) cardiac ultrasound; and
 - (G) neuroangiography.
- (3) Documentation that the facility will:
 - (A) establish the clinical PET unit, and any accompanying equipment used in the manufacture of positron-emitting radioisotopes, as a regional resource

that will have no administrative, clinical or charge requirements that would impede physician referrals of patients for whom PET testing would be appropriate; and

- (B) provide scheduled hours of operation for the PET scanner of a minimum of 12 hours per day, six days a week, except for mobile scanners.

(c) An applicant proposing to acquire a mobile PET scanner shall provide copies of letters of intent from and proposed contracts with all of the proposed host facilities at which the mobile PET scanner will be operated.

(d) An applicant proposing to acquire a mobile PET scanner shall demonstrate that each host facility offers or contracts with a hospital that offers comprehensive cancer services including radiation oncology, medical oncology, and surgical oncology.

(e) An applicant shall document that all equipment, supplies and pharmaceuticals proposed for the service have been certified for use by the U.S. Food and Drug Administration or will be used under an institutional review board whose membership is consistent with U.S. Department of Health and Human Services' regulations.

(f) An applicant shall document that each PET scanner and cyclotron shall be operated in a physical environment that conforms to federal standards, manufacturer's specifications, and licensing requirements. The following shall be addressed:

- (1) quality control measures and assurance of radioisotope production of generator or cyclotron-produced agents;
- (2) quality control measures and assurance of PET tomography and associated instrumentation;
- (3) radiation protection and shielding;
- (4) radioactive emission to the environment; and
- (5) radioactive waste disposal.

History Note: Authority G.S. 131E-177(1); 131E-183(b); Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. January 4, 1994; Temporary Amendment Eff. January 1, 2002; Temporary Amendment effective January 1, 2002 amends and replaces a permanent rulemaking originally proposed to be effective August 1, 2002; Amended Eff. April 1, 2003; Temporary Amendment Eff. February 1, 2006; Amended Eff. November 1, 2006.

10A NCAC 14C .3902 INFORMATION REQUIRED OF APPLICANT

(a) An applicant proposing to establish a new licensed ambulatory surgical facility for performance of GI endoscopy procedures or develop a GI endoscopy room in an existing licensed health service facility shall provide the following information:

- (1) the counties included in the applicant's proposed service area, as defined in 10A NCAC 14C .3906;

- (2) with regard to services provided in the applicant's GI endoscopy rooms, identify:
 - (A) the number of existing and proposed GI endoscopy rooms in the licensed health service facility in which the proposed rooms will be located;
 - (B) the number of existing or approved GI endoscopy rooms in any other licensed health service facility in which the applicant or a related entity has a controlling interest that is located in the applicant's proposed service area;
 - (C) the number of GI endoscopy procedures, identified by CPT code or ICD-9-CM procedure code, performed in the applicant's licensed or non-licensed GI endoscopy rooms in the last 12 months;
 - (D) the number of GI endoscopy procedures, identified by CPT code or ICD-9-CM procedure code, projected to be performed in the GI endoscopy rooms in each of the first three operating years of the project
 - (E) the number of procedures by type, other than GI endoscopy procedures, performed in the GI endoscopy rooms in the last 12 months;
 - (F) the number of procedures by type, other than GI endoscopy procedures, projected to be performed in the GI endoscopy rooms in each of the first three operating years of the project;
 - (G) the number of patients served in the licensed or non-licensed GI endoscopy rooms in the last 12 months; and,
 - (H) the number of patients projected to be served in the GI endoscopy rooms in each of the first three operating years of the project;
 - (3) with regard to services provided in the applicant's operating rooms identify:
 - (A) the number of existing operating rooms in the facility;
 - (B) the number of procedures by type performed in the operating rooms in the last 12 months; and
 - (C) the number of procedures by type projected to be performed in the operating rooms in each of the first three operating years of the project;
 - (4) the days and hours of operation of the facility in which the GI endoscopy rooms will be located;
 - (5) if an applicant is an existing facility, the type and average facility charge for each of the 10 GI endoscopy procedures most commonly performed in the facility during the preceding 12 months;
 - (6) the type and projected average facility charge for the 10 GI endoscopy procedures which the applicant projects will be performed most often in the facility;
 - (7) a list of all services and items included in each charge, and a description of the bases on which these costs are included in the charge;
 - (8) identification of all services and items (e.g., medications, anesthesia) that will not be included in the facility's charges;
 - (9) if an applicant is an existing facility, the average reimbursement received per procedure for each of the ten GI endoscopy procedures most commonly performed in the facility during the preceding 12 months; and,
 - (10) the average reimbursement projected to be received for each of the ten GI endoscopy procedures which the applicant projects will be performed most frequently in the facility.
- (b) An applicant proposing to establish a new licensed ambulatory surgical facility for provision of GI endoscopy procedures shall submit the following information:
- (1) a copy of written administrative policies that prohibit the exclusion of services to any patient on the basis of age, race, religion, disability or the patient's ability to pay;
 - (2) a written commitment to participate in and comply with conditions of participation in the Medicare and Medicaid programs within three months after licensure of the facility;
 - (3) a description of strategies to be used and activities to be undertaken by the applicant to assure the proposed services will be accessible by indigent patients without regard to their ability to pay;
 - (4) a written description of patient selection criteria including referral arrangements for high-risk patients;
 - (5) the number of GI endoscopy procedures performed by the applicant in any other existing licensed health service facility in each of the last 12 months, by facility;
 - (6) if the applicant proposes reducing the number of GI endoscopy procedures it performs in existing licensed facilities, the rationale for its change in practice pattern.

*History Note: Authority G.S. 131E-177; 131E-183(b);
Temporary Adoption Eff. February 1, 2006;
Eff. November 1, 2006.*

10A NCAC 14C .3905 STAFFING AND STAFF TRAINING

- (a) An applicant proposing to establish a new licensed ambulatory surgical facility for performance of GI endoscopy procedures or develop a GI endoscopy room in an existing

licensed health service facility shall identify the number of staff to be utilized in the following areas:

- (1) administration;
- (2) pre-operative;
- (3) post-operative;
- (4) procedure rooms;
- (5) equipment cleaning, safety, and maintenance; and
- (6) other.

(b) The applicant proposing to establish a new licensed ambulatory surgical facility for performance of GI endoscopy procedures or develop a GI endoscopy room in an existing licensed health service facility shall identify the number of physicians by specialty and board certification status that currently utilize the facility and that are projected to utilize the facility.

(c) The applicant proposing to establish a new licensed ambulatory surgical facility for performance of GI endoscopy procedures or develop a GI endoscopy room in an existing licensed health service facility shall provide the criteria to be used by the facility in extending privileges to medical personnel that will provide services in the facility.

(d) If the facility is not accredited by The Joint Commission on Accreditation of Healthcare Organizations, The Accreditation Association for Ambulatory Health Care, or The American Association for Accreditation of Ambulatory Surgical Facilities at the time the application is submitted, the applicant shall demonstrate that each of the following staff requirements will be met in the facility:

- (1) a Medical director who is a board certified gastroenterologist by American Board of Internal Medicine, colorectal surgeon by American Board of Colon and Rectal Surgery or general surgeon by American Board of Surgery is licensed to practice medicine in North Carolina and is directly involved in the routine direction and management of the facility;
- (2) all physicians performing GI endoscopy procedures in the facility shall be board eligible or board certified gastroenterologists by American Board of Internal Medicine, colorectal surgeons by American Board of Colon and Rectal Surgery or general surgeons by American Board of Surgery;
- (3) all physicians with privileges to practice in the facility will be active members in good standing at a general acute care hospital within the proposed service area;
- (4) at least one registered nurse shall be employed per procedure room;
- (5) additional staff or patient care technicians shall be employed to provide assistance in procedure rooms, as needed; and
- (6) a least one health care professional who is present during the period the procedure is performed and during postoperative recovery shall be ACLS certified; and, at least one other

health care professional who is present in the facility shall be BCLS certified.

History Note: Authority G.S. 131E-177; 131E-183(b); Temporary Adoption Eff. February 1, 2006; Eff. November 1, 2006.

TITLE 12 – DEPARTMENT OF JUSTICE

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

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

- (1) The Security Officer in North Carolina -- (minimum of one hour);
- (2) Legal Issues for Security Officers -- (minimum of three hours);
- (3) Emergency Response -- (minimum of three hours);
- (4) Communications -- (minimum of two hours);
- (5) Patrol Procedures -- (minimum of three hours);
- (6) Note Taking and Report Writing -- (minimum of three hours);
- (7) Deportment -- (minimum of one hour).

A minimum of four hours of classroom instruction shall be completed within 20 calendar days of a probationary or regular security guard being placed on a duty station. These four hours shall include The Security Officer in North Carolina and Legal Issues for Security Officers.

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

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

History Note: Authority G.S. 74C-5; 74C-11; 74C-13; Eff. January 1, 1990; Amended Eff. November 1, 2006; June 1, 2004.

12 NCAC 11 .0202 EXPERIENCE REQUIREMENTS FOR LICENSE

(a) Applicants for an alarm system license must meet the following requirements which are additional to those specified in G.S. 74D:

- (1) Establish to the Board's satisfaction two year's experience within the past five years in alarm systems installation, service, or alarm systems business management;
- (2) No longer than one year prior to the application date, successfully pass an oral or written examination deemed by the Board to

- (3) measure an individual's knowledge and competence in the alarm systems business; or
No longer than one year prior to the application date, successfully complete the Certified Alarm Technician Level I Course offered by the National Burglar and Fire Alarm Association.

(b) Any applicant who takes the examination administered by the Board under 12 NCAC 11 .0202(a)(2) and who does not successfully complete said examination after two attempts, must wait six months before being allowed to take the examination again.

History Note: Authority G.S. 74D-5;

Temporary Rule Eff. January 9, 1984, for a period of 120 days to expire on May 7, 1984;

Eff. May 1, 1984;

Amended Eff. January 1, 2007; August 1, 1998; January 1, 1995; March 1, 1993; August 3, 1992; June 1, 1990.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 09C .0903 APPROVED PRACTICES

The following practices and sub-practices are eligible for cost share payments:

- (1) Site Preparation. Preparation of a site for planting, seeding or natural regeneration of a commercial forest tree species; this may be accomplished by the following sub-practices used singularly or in combinations:
 - (a) Burning. The use of prescribed fire for the purpose of site preparation;
 - (b) Chopping. The use of a machine-pulled chopper to crush and chop non-merchantable trees, brush and other debris for the purpose of site preparation;
 - (c) Discing. The use of a machine-pulled disc to crush and destroy non-merchantable trees, brush and other debris for the purpose of site preparation;
 - (d) KG/V-Blade Shear. The use of a sharp-edged, angled blade (KG or V-blade) mounted on a tractor to shear non-merchantable trees and brush for the purpose of site preparation;
 - (e) KG and Pile. The use of a sharp-edged, angled blade (called KG blade) mounted on a tractor to shear non-merchantable trees and brush for the purpose of site preparation; this sheared material and other debris are pushed into piles or windrows;
 - (f) Rake & Pile. The use of a toothed, rake-type blade mounted on a tractor

- (g) to push logging debris, but not roots or soil, into piles or windrows;
- (g) Bedding. The use of a bedding plow pulled by a tractor to prepare a bed or ridge for the purpose of site preparation;
- (h) V-Blade Bedding. The use of a sharp angled blade (not a KG blade) mounted on a tractor to shear non-merchantable trees and brush and a bedding plow pulled by a tractor to prepare a bed or ridge for the purpose of site preparation in a single pass operation;
- (i) Furrowing. The use of a plow pulled by a tractor to prepare a shallow trench or furrow to reduce competing vegetation for the purpose of site preparation;
- (j) Bulldozing and Piling. The use of a bulldozer to push over non-merchantable trees and brush for the purpose of site preparation; the material is pushed into piles or windrows;
- (k) Other. The use of hand tools or other machines to destroy or reduce competing vegetation for the purpose of site preparation;
- (l) Chemical Control; Aerial. The use of herbicides, applied from the air, to reduce competing vegetation for the purpose of site preparation;
- (m) Chemical Control; Ground. The use of hand tools or ground chemical applications to reduce competing vegetation for the purpose of site preparation; and
- (n) Preharvest Treatment. Use of chemical or mechanical means, including hand methods, to control vegetation to develop a stand of trees from advanced hardwood regeneration, natural pine regeneration, or artificial regeneration. When using this practice the following criteria apply:
 - (i) The landowner must agree to harvest overstory stand once regeneration of at least 300 seedlings of a commercial timber species is established;
 - (ii) This practice cannot be used to prepare an area for pine straw production; and
 - (iii) The only other site preparation technique that may be cost shared at a later

- date is prescribed burning, if needed.
- (2) Silvicultural Clearcut. The felling of trees in unmerchantable stands for the purpose of removing all stems in the overstory to allow regeneration of desirable species by exposing the site to direct sunlight:
 - (a) Fell and Leave. Felling all trees on an area with no removal of merchantable material, for the purpose of accomplishing a silvicultural clearcut;
 - (b) Fell and Remove. Felling all trees on an area, both merchantable and unmerchantable, for the purpose of accomplishing a silvicultural clearcut; the stumpage value of all merchantable trees removed from the area, as determined by the Director, shall be deducted from the allowable cost of completing the practice.
 - (3) Tree Planting or Seeding. Planting seedlings or applying seed to establish a commercial forest stand. This includes:
 - (a) Hand Planting. The use of planting bars or other hand tools to plant forest tree seedlings;
 - (b) Machine Planting. The use of a planting machine to plant forest tree seedlings;
 - (c) Machine Plant – Chemical. The combined use of a planting machine to plant forest tree seedlings and application equipment to apply herbicides to reduce competing vegetation in a single pass operation.
 - (d) V-Blade Planting. The use of a tractor with attached V-shaped blade and planting machine to plant forest tree seedlings;
 - (e) Direct Seeding. The use of any type applicator to apply desirable forest tree seed directly to the soil.
 - (4) Tree Planting Followed by Site Preparation. Tree planting followed by the use of a herbicide treatment, within one year after planting.
 - (5) Mixed Stand Plantings. Tree planting to establish a mixed pine-hardwood stand, or a mixed stand of hardwood species.
 - (6) Release of Seedlings. Reducing or eliminating unwanted vegetation that is competing with the established reproduction of desired tree species to ensure adequate regeneration (at least 300 seedlings) of a commercial timber species. This may be accomplished by one of the following treatments:
 - (a) Chemical Control: Aerial. The use of herbicides, applied from the air, to reduce competing vegetation for the purpose of releasing desirable reproduction;
 - (b) Chemical Control; Ground. The use of hand tools or ground chemical applicators to reduce competing vegetation for the purpose of releasing desirable reproduction;
 - (c) Mechanical Control. The use of hand tools or machines to reduce competing vegetation for the purpose of releasing desirable reproduction.
 - (7) Uneven-Aged Management. A planned sequence of silvicultural treatments designed to maintain and regenerate a stand with three or more age classes.
 - (8) Forest Stand Improvement. Practices that improve tree growth and overall forest health to insure maximum growth potential of forest stands to commercial production levels. The practices listed below and approved for reimbursement will improve immature forest stands for silvicultural purposes:
 - (a) Understory Release – Complete removal or deadening of older trees or saplings that have no merchantable value, to improve growing conditions for desirable tree species;
 - (b) Release of Seedlings - A mechanical or chemical treatment designed to free young trees from undesirable, usually over-topping, competing vegetation;
 - (c) Cull-tree Removal – Complete removal or deadening of trees having no merchantable value because of defects or inferior species. Differs from understory release in that removal is to favor growth on remaining established poles and small sawtimber of better quality and species. This treatment is used only in stands beyond the sapling size class;
 - (d) Crop Tree Crown Release – Removal or deadening of cull trees and other undesirable trees to release the crowns of crop trees with commercial value. Crop trees are high value species, which are dominant or co-dominant in position and are well-formed and free of major forest insects and diseases. Cull trees are trees that have little or no economic value due to poor form or presence of insects or disease. Less desirable trees have poorer growth characteristics or are in poorer condition than the crop trees;

- (e) Non-Commercial Thinning – A felling, deadening or removal of immature trees in a stand (predominately seedlings and saplings) which significantly reduces the stem density to accelerate growth and improve the health and form of the remaining trees;
- (f) Prescribed Burning – The use of fire in a planned and controlled manner to provide silvicultural benefits from forest fuel reduction or reduced understory competition. Prescribed burning must be conducted under the supervision of a "certified prescribed burner" (as defined by G.S. 113-60.41 of the North Carolina Prescribed Burning Act), using a burning plan; and
- (g) Forest Fertilization – The addition of nutrient elements to the soil to overcome nutrient deficiencies or to increase growth rates.

History Note: Authority G.S. 113-60.41; 113A-177; 113A-179; 113A-183; 143B-10(j); Eff. August 8, 1978; Amended Eff. November 1, 2006; August 1, 2002; October 1, 1984.

15A NCAC 13B .0531 PURPOSE, SCOPE, AND APPLICABILITY FOR CONSTRUCTION AND DEMOLITION LANDFILLS

(a) Purpose. The purpose of Rules .0531 through .0547 of this Section is to regulate the siting, design, construction, operation, closure and post-closure of all construction and demolition solid waste landfill (C&DLF) facilities and units.

(b) Scope. Rules .0531 through .0547 of this Section describe the performance standards, application requirements, and permitting procedures for all C&DLF facilities and units. Rules .0531 through .0547 of this Section are intended to:

- (1) establish the State standards for C&DLF facilities and units to provide for effective disposal practices and protect the public health and environment; and
- (2) coordinate other State Rules applicable to landfills.

(c) Applicability. Owners and operators of C&DLF facilities and units must conform to the requirements of Rules .0531 through .0547 of this Section as follows:

- (1) C&DLF units permitted to operate prior to January 1, 2007, and which do not receive solid waste after June 30, 2008, must comply with the Conditions of the Solid Waste Permit and Rule .0510 of this Section.
- (2) C&DLF units permitted to operate prior to January 1, 2007, and which continue to receive waste after June 30, 2008, must comply with

Rule .0547 of this Section, at the time of closure of the unit(s).

- (3) C&DLF units permitted after December 31, 2006 must comply with the requirements of Rules .0531 through .0546 of this Section.

(d) Owners and operators of a C&DLF facility must comply with any other applicable Federal, State and Local laws, rules, regulations, or other requirements.

History Note: Authority G.S. 130A-294; Eff. January 1, 2007.

15A NCAC 13B .0532 DEFINITIONS FOR C&DLF FACILITIES

This Rule contains definitions for terms that appear throughout the Rules pertaining to Construction and Demolition Landfills, Rules .0531 through .0547 of this Section; additional definitions appear in the specific Rules to which they apply.

- (1) "100-year flood" means a flood that has a one-percent or greater chance of recurring in any given year or a flood of a magnitude equaled or exceeded once in 100 years on average over a significantly long period.
- (2) "Active life" means the period of operation beginning with the initial receipt of C&D solid waste and ending at completion of closure activities in accordance with Rule .0543 of this Section.
- (3) "Active portion" means that part of a facility or unit(s) that has received or is receiving wastes and that has not been closed in accordance with Rule .0543 of this Section.
- (4) "Aquifer" means a geological formation, group of formations, or portion of a formation capable of yielding ground water.
- (5) "Areas susceptible to mass movement" means those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the C&DLF unit(s), because of natural or man-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, soil fluctuation, block sliding, and rock fall.
- (6) "Base liner system" means the liner system installed on the C&DLF unit's foundation to control the flow of leachate.
- (7) "Cap system" means a liner system installed over the C&DLF unit(s) to minimize infiltration of precipitation and contain the wastes.
- (8) "C&D solid waste" means solid waste generated solely from the construction, remodeling, repair, or demolition operations on pavement and buildings or structures. C&D waste does not include municipal and

- industrial wastes that may be generated by the on-going operations at buildings or structures.
- (9) "Ground water" means water below the land surface in a zone of saturation.
- (10) "Hazardous Waste" means a solid waste as defined in G.S.130A-290 (a)(8). "Hazardous Waste" does not include those solid wastes excluded from regulation pursuant to 40 CFR 261.4, incorporated by reference in 15A NCAC 13A .0106. "Hazardous Waste" does include hazardous waste generated by conditionally exempt small quantity generators as defined in 40 CFR 261.5, incorporated by reference in 15A NCAC 13A .0106.
- (11) "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of RCRA. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.
- (12) "Karst terranes" means areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terranes include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.
- (13) "Landfill facility" means all contiguous land and structures, waste management unit(s), other appurtenances, and improvements on the land within the legal description of the site included in or proposed for the Solid Waste Permit. Existing facilities are those facilities which were permitted by the Division prior to December 31, 2006. Facilities permitted on or after January 1, 2007 are new facilities.
- (14) "Landfill unit" means a discrete area of land or an excavation that receives a particular type of waste such as C&D, industrial, or municipal solid waste, and is not a land application unit, surface impoundment, injection well, or waste pile, as defined under 40 CFR Part 257. Such a landfill unit may be publicly or privately owned, may be located at a MSWLF, an industrial landfill facility, or other waste management facility.
- (15) "Lateral expansion" means a horizontal expansion of the waste boundaries of an existing C&DLF unit(s).
- (16) "Liner system" means an engineered environmental control system which can incorporate filters, drainage layers, compacted soil liners, geomembrane liners, piping systems, and connected structures.
- (17) "Liquid waste" means any waste material that is determined to contain "free liquids" as defined by Method 9095 (Paint Filter Liquids Test), S.W. 846.
- (18) "Licensed Geologist" means an individual who is licensed to practice geology in accordance with G.S. 89E.
- (19) "Open burning" means the combustion of any solid waste without:
- (a) control of combustion air to maintain adequate temperature for efficient combustion;
 - (b) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and
 - (c) control of the emission of the combustion products.
- (20) "Poor foundation conditions" means those areas where features exist which indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a C&DLF unit(s).
- (21) "Professional Engineer" means an individual who is licensed to practice engineering in accordance with G.S. 89C.
- (22) "Project engineer" means the official representative of the permittee who is licensed to practice engineering in the State of North Carolina, who is responsible for observing, documenting, and certifying that activities related to the quality assurance of the construction of the solid waste management unit conforms to the Division approved plan, the permit to construct and the rules specified in this Section. All certifications must bear the seal and signature of the professional engineer and the date of certification.
- (23) "Registered Land Surveyor" means an individual who is licensed to practice surveying in accordance with G.S. 89C.
- (24) "Run-off" means any rainwater that drains over land from any part of a facility or unit.
- (25) "Run-on" means any rainwater that drains over land onto any part of a facility.
- (26) "Structural components" means liners, leachate collection systems, final covers, run-on or run-off systems, and any other component used in the construction and operation of the C&DLF

- that is necessary for protection of human health and the environment.
- (27) "Unstable area" means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and Karst terranes.
- (28) "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.
- (29) "Washout" means the carrying away of solid waste by waters of the base flood.

History Note: Authority G.S. 130A-294; Eff. January 1, 2007.

15A NCAC 13B .0533 GENERAL APPLICATION REQUIREMENTS AND PROCESSING FOR C&DLF FACILITIES

(a) Applicability. Owners or operators of a proposed or existing C&DLF unit or facility shall submit an application document as detailed in Rule .0535 of this Section in accordance with the criteria and scheduling requirements set forth as follows:

- (1) New facility. Owners or operators proposing to establish a C&DLF facility or unit in accordance with the following criteria shall submit a Site Study and subsequently an application for a permit to construct as set forth in Paragraph (a) of Rule .0535 of this Section. A new facility permit application is required when:
- (A) The owner or operator proposes to establish a new facility not previously permitted by the Division.
- (B) The owner or operator proposes to expand the landfill facility in order to expand the C&DLF unit(s) boundary approved in accordance with Subparagraph (a)(1) of Rule .0536 of this Section.
- (2) Amendment to the permit. For any subsequent phase of landfill development the owner or operator shall prepare an application to amend the permit to construct in accordance with Paragraph (b) of Rule .0535 of this Section and submit the application at the earlier of the following dates:
- (A) at least 180 days prior to the date scheduled for commencing construction; or
- (B) five years from the issuance date of the initial permit to operate or as specified in the effective permit.

- (3) Substantial amendment to the permit. A permit issued in accordance with Paragraph (c) of this Rule approves a facility plan for the life of the C&DLF facility and a set of plans for the initial phase of landfill development. The owner or operator shall prepare an application in accordance with Paragraph (c) of Rule .0535 of this Section and submit the application when there is:
- (A) a substantial change in accordance with N.C.G.S. 130A-294 (b1)(1); or
- (B) a proposed transfer of ownership of the C&DLF facility.
- (4) Modifications to the permit. An owner or operator proposing changes to the plans approved in the permit shall request prior approval from the Division in accordance with Paragraph (d) of Rule .0535 of this Section.
- (b) Application format guidelines. All applications and plans required by Rules .0531 through .0547 of this Section shall be prepared in accordance with the following guidelines:
- (1) The initial application shall:
- (A) contain a cover sheet stating the project title and location, the applicant's name and address, and the engineer's name, address, signature, date of signature and seal; and
- (B) contain a statement defining the purpose of the submittal signed and dated by the applicant.
- (2) The text of the application shall:
- (A) be submitted in a three ring binder;
- (B) contain a table of contents or index outlining the body of the application and the appendices;
- (C) be paginated consecutively; and
- (D) identify revised text by noting the date of revision on the page.
- (3) Drawings. The engineering drawings for all landfill facilities shall be submitted using the following format.
- (A) The sheet size with title blocks shall be at least 22 inches by 34 inches.
- (B) The cover sheet shall include the project title, applicant's name, sheet index, legend of symbols, and the engineer's name, address, signature, date of signature, and seal.
- (C) Where the requirements do not explicitly specify a minimum scale, maps and drawings shall be prepared at a scale that adequately illustrates the subject requirement(s).
- (4) Number of copies. An applicant shall submit a minimum of three copies of each original application document and any revisions to the Division. The Division shall request additional copies as necessary. The Division shall require

submittal of relevant documents in electronic format.

(c) Permitting and Public Information Procedures.

(1) Purpose and Applicability.

(A) Purpose. During the permitting process the Division shall provide for public review of and input to permit documents containing the applicable design and operating conditions. The Division shall provide for consideration of comments received and notification to the public of the permit design.

(B) Applicability. Applications for a Permit to Construct for a new facility, for a substantial amendment to the permit for an existing facility, or for a modification to the permit involving corrective remedy selection required by Paragraphs (d) through (h) of Rule .0545 of this Section shall be subject to the requirements of Subparagraphs (c)(2) through (c)(9) of this Rule. Applications submitted in accordance with Subparagraphs (a)(2) and (a)(4) of this Rule are not subject to the requirements of this Paragraph.

(2) Draft Permits.

(A) Once an application is complete, the Division shall decide whether the permit should be issued or denied.

(B) If the Division decides to deny the permit, the Division shall send a notice to deny to the applicant. Reasons for permit denial shall be in accordance with Rule .0203(e) of this Subchapter.

(C) If the Division decides the permit should be issued, the Division shall prepare a draft permit.

(D) A draft permit shall contain (either expressly or by reference) all applicable terms and conditions for the permit.

(E) All draft permits shall be subject to the procedures of Subparagraphs (3) through (9) of this Paragraph, unless otherwise specified in those Subparagraphs.

(3) Fact Sheet.

(A) The Division shall prepare a fact sheet for every draft permit.

(B) The fact sheet shall include a brief description of the type of facility or activity which is the subject of the draft permit. It shall also include a description of the area to be served and of the volume and characteristics of the waste stream, and a projection

of the useful life of the landfill. The fact sheet shall contain a brief summary of the basis for the draft permit conditions, including references to applicable statutory or regulatory provisions and appropriate supporting references to the permit application. The fact sheet shall describe the procedures for reaching a decision on the draft permit. It shall include the beginning and ending dates of the comment period under Subparagraph (4) of this Paragraph, the address where comments will be received, the procedures for requesting a public hearing and any other procedures by which the public may participate in the decision. The fact sheet shall contain the name and telephone number of a person to contact for additional information.

(C) The Division shall send this fact sheet to the applicant and make it available to the public for review or copying at the central office of the Division of Waste Management – Solid Waste Section. The Division shall post the fact sheet on the Division web site.

(4) Public Notice of Permit Actions and Public Hearings.

(A) The Division shall give public notice of each of the following: a draft permit has been prepared; a public hearing has been scheduled under Subparagraph (6) of this Paragraph; or a notice of intent to deny a permit has been prepared under Part (2)(B) of this Paragraph.

(B) No public notice is required when a request for a permit modification is denied.

(C) The Division shall give written notice of denial to the applicant.

(D) Public notices may describe more than one permit or permit action.

(E) Public notice of the preparation of a draft permit or a notice of intent to deny a permit shall allow at least 45 days for public comment.

(F) The Division shall give public notice of a public hearing at least 15 days before the hearing. Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.

(G) Public notice of activities described in Part (A) of this Subparagraph shall be given by publication on the

- Division website, by publication in a daily or weekly local newspaper of general circulation, and by any other method deemed necessary or appropriate by the Division to give actual notice of the activities to persons potentially affected.
- (H) General Public Notices. All public notices issued under this Part shall at minimum contain the following: (1) name, address and phone number of the office processing the permit action for which notice is being given; (2) name and address of the owner and operator applying for the permit; (3) a brief description of the business conducted at the facility or activity described in the permit application including the size and location of the facility and type of waste accepted; (4) a brief description of the comment procedures required by Subparagraphs (5) and (6) of this Paragraph, including a statement of procedures to request a public hearing, unless a hearing has already been scheduled, and other procedures by which the public may participate in the permit decision; (5) name, address, and telephone number of a Division staff from whom interested persons may obtain further information; (6) a description of the time frame and procedure for making an approval or disapproval decision of the application; and (7) any additional information considered necessary or proper as required by the Division.
- (I) Public Notices for Public Hearing. In addition to the general public notice described in Part (4)(A) of this Paragraph, the public notice of a public hearing shall contain the date, time, and place of the public hearing; a brief description of the nature and purpose of the public hearing, including the applicable rules and procedures; and a concise statement of the issues raised by the persons requesting the hearing.
- (5) Public Comments and Requests for Public Hearings. During the public comment period any interested person may submit written comments on the draft permit and may request a public hearing if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing.
- The Division shall consider all comments in making a final permit decision. The Division shall respond to all comments as provided in Subparagraph (9) of this Paragraph.
- (6) Public Hearings.
- (A) The Division shall hold a public hearing on a draft permit(s) when a hearing is requested. The Division may also hold a public hearing at its discretion whenever such a hearing might clarify one or more issues involved in the permit decision. Public hearings held pursuant to this Rule shall be at a location convenient to the nearest population center to the subject facility. Public notice of the hearing shall be given as specified in Subparagraph (4) of this Paragraph.
- (B) Any person may submit oral or written statements and data concerning the draft permit. The public comment period under Subparagraph (4) of this Paragraph is extended to the close of any public hearing conducted under this Subparagraph. The hearing officer may also extend the public comment period by so stating at the hearing, when information is presented at the hearing which indicates the importance of extending the period to receive additional comments, to allow potential commentors to gather more information, to allow time for submission of written versions of oral comments made at the hearing, or to allow time for rebuttals of comments made during the hearing.
- (C) The Division shall make available to the public a recording or written transcript of the hearing for review or copying at the central office of the Division of Waste Management - Solid Waste Section.
- (7) Reopening of the Public Comment Period.
- (A) If any data, information, or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit action, the Division may prepare a new draft permit, appropriately modified, under Subparagraph (2) of this Paragraph; prepare a fact sheet or revised fact sheet under Subparagraph (3) of this Paragraph and reopen the comment period under Subparagraph (4) of this Paragraph; or reopen or extend the comment period under Subparagraph (4) of this Paragraph to give

interested persons an opportunity to comment on the information or arguments submitted.

- (B) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under Subparagraph (4) of this Paragraph shall define the scope of the reopening.
- (C) Public notice of any of the actions of this Subparagraph shall be issued in accordance with Subparagraph (4) of this Paragraph.

(8) Permit Decision.

- (A) After the close of the public comment period under Subparagraph (4) of this Paragraph on a draft permit or a notice of intent to deny a permit, the Division shall issue a permit decision. The Division shall notify the applicant and each person who has submitted a written request for notice of the permit decision. For the purposes of this Subparagraph, a permit decision means a decision to issue, deny or modify a permit.
- (B) A permit decision shall become effective upon the date of the service of notice of the decision unless a later date is specified in the decision.

(9) Response to Comments.

- (A) At the time that a permit decision is issued under Subparagraph (8) of this Paragraph, the Division shall issue a written response to comments. This response shall specify which provisions, if any, of the draft permit have been changed in the permit decision, and the reasons for the change. The response shall also briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any public hearing.
- (B) The Division shall make the response to comments available to the public for review or copying at the central office of the Division of Waste Management – Solid Waste Section.

(d) Permit approval or denial. The Division shall review all permit applications in accordance with Rule .0203 of Section .0200 - PERMITS FOR SOLID WASTE MANAGEMENT FACILITIES.

15A NCAC 13B .0534 GENERAL REQUIREMENTS FOR C&DLF FACILITIES AND UNITS

(a) Applicability. Permits issued by the Division for C&DLF facilities and units shall be subject to the general requirements set forth in this Rule.

(b) Terms of the Permit. The Solid Waste Management Permit shall incorporate requirements necessary to comply with this Subchapter and the North Carolina Solid Waste Management Act including the provisions of this Paragraph.

- (1) Division Approved Plan. Permits issued after December 31, 2006 must incorporate a Division approved plan.

- (A) The scope of the Division approved plan must include the information necessary to comply with the requirements set forth in Rule .0535 of this Section.
- (B) The Division approved plans must be subject to and may be limited by the conditions of the permit.
- (C) The Division approved plans for a new facility must be described in the permit and must include the Facility Plan, Rule .0537 of this Section, Engineering Plan, Rule .0539 of this Section, Construction Quality Assurance plan, Rule .0541 of this Section, Operation Plan, Rule .0542 of this Section, Closure and Post-Closure plan, Rule .0543 of this Section, and Monitoring Plans, Rule .0544 of this Section.

- (2) Permit provisions. All C&DLF facilities and units must conform to the specific conditions set forth in the permit and the following general provisions.

- (A) Duty to Comply. The permittee must comply with all conditions of the permit, unless otherwise authorized by the Division. Any permit noncompliance, except as otherwise authorized by the Division, constitutes a violation of the Act and is grounds for enforcement action or for permit revocation, modification or suspension.
- (B) Duty to Mitigate. In the event of noncompliance with the permit, the permittee must take all reasonable steps to minimize releases to the environment, and must carry out such measures as are reasonable to prevent adverse impacts on human health or the environment.
- (C) Duty to Provide Information. The permittee must furnish to the Division any relevant information that the Division may request to determine whether cause exists for modifying,

History Note: Authority G.S. 130A-294; Eff. January 1, 2007.

- revoking or suspending the permit, or to determine compliance with the permit. The permittee must also furnish to the Division, upon request, copies of records required to be kept under the conditions of the permit.
- (D) Recordation Procedures. The permittee must comply with the requirements of Rule .0204 of this Subchapter RECORDATION OF LAND DISPOSAL PERMITS in order for a new permit to be effective.
- (E) Need to Halt or Reduce Activity. It shall not be a defense for a permittee in an enforcement action to claim that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- (F) Permit Actions. The permit may be modified, reissued, revoked, suspended or terminated in accordance with G.S. 130A-23. The filing of a request by the permittee for a permit modification, or a notification of planned changes or anticipated noncompliance, does not stay any existing permit condition.
- (G) Not Transferable. The permit is not transferable.
- (H) Construction. If construction is not commenced within 18 months from the issuance date of the permit to construct, or an amendment or substantial amendment to the permit, then the permit shall expire. The applicant may re-apply for the permit, which shall be subject to statutes and rules in effect on the date of the re-application.
- (I) Proper Operation and Maintenance. The permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.
- (J) Inspection and Entry. The permittee must allow the Division or an authorized representative to enter the permittee's premises where a regulated unit(s) or activity is located or conducted, or where records are kept under the conditions of the permit. The Division or its authorized representative shall have access in order to copy any records required to be kept under the conditions of the permit. The permittee must allow the Division or its authorized representative to inspect any facilities, equipment (including monitoring and control equipment), practices or operations regulated by the Division. For the purposes of assuring permit compliance or as otherwise authorized by the Act, the permittee must allow the Division or its authorized representative to sample or monitor, at any location under the operation or control of the permittee, the following: any materials, substances, parameters, soil, groundwater, surface water, gases or ambient air. The permittee must allow the Division or its authorized representative to take photographs for the purpose of documenting items of compliance or noncompliance at permitted facilities, or where appropriate to protect legitimate proprietary interests, require the permittee to take such photographs for the Division.
- (K) Waste Exclusions. Waste to be excluded from disposal in a C&DLF is listed in Rule .0542 of this Section. Permit conditions may include additional exclusions as they become necessary in order to protect the public health and the environment or to ensure proper landfill operation.
- (L) Additional Solid Waste Management Activities. Construction and operation of additional solid waste management activities at the landfill facility must not impede operation or monitoring of the C&DLF unit(s). Any proposed additional activities must be submitted to the Division for review, approval, and permitting, as applicable, before construction and operation.

*History Note: Authority G.S. 130A-294;
Eff. January 1, 2007.*

**15A NCAC 13B .0535 APPLICATION
REQUIREMENTS FOR C&DLF FACILITIES**

(a) Permit for a new facility. In accordance with Rule .0201 of this Section the permit for a new C&DLF facility shall have two parts:

- (1) Permit to Construct. The owner and operator of a new facility must meet the requirements of Rule .0536 of this Section prior to submitting an application for a permit to construct. A complete application for a permit to construct must contain the following:
 - (A) a facility plan that describes the comprehensive development of the C&DLF facility prepared in accordance with Rule .0537 of this Section;
 - (B) an engineering plan for the initial phase of landfill development prepared in accordance with Rule .0539 of this Section;
 - (C) a construction quality assurance plan prepared in accordance with Rule .0541 of this Section;
 - (D) an operation plan prepared in accordance with Rule .0542 of this Section;
 - (E) a closure and post-closure plan prepared in accordance with Rule .0543 of this Section; and
 - (F) monitoring plans prepared in accordance with Paragraph (a) of Rule .0544 of this Section.
- (2) Permit to Operate. The owner and operator must meet the pre-operative requirements of the permit to construct in order to qualify the constructed C&DLF unit for a permit to operate. Construction documentation must be submitted in a timely and organized manner in order to facilitate the Division's review.

(b) Amendment to the permit. A complete application for an amendment to the permit must contain:

- (1) an updated engineering plan prepared in accordance with Rule .0539 of this Section;
- (2) an updated construction quality assurance plan prepared in accordance with Rule .0541 of this Section;
- (3) an updated operation plan prepared in accordance with Rule .0542 of this Section;
- (4) an updated closure and post-closure plan prepared in accordance with Rule .0543 of this Section; and
- (5) an updated monitoring plan prepared in accordance with Rule .0544 of this Section.

(c) Substantial amendment to the permit. A complete application for a substantial amendment to the permit must contain:

- (1) a facility plan that describes the comprehensive development of the C&DLF facility prepared in accordance with Rule .0537 of this Section; and
- (2) local government approval in accordance with Subparagraph (c)(11) of Rule .0536 of this Section.

(d) Modifications to the permit. The owner or operator may propose to modify plans that were prepared and approved in accordance with the requirements set forth in this Section. A complete application must identify the requirement(s) proposed for modification and provide sufficient information in order to demonstrate compliance with the applicable requirements of this Section.

*History Note: Authority G.S. 130A-294;
Eff. January 1, 2007.*

**15A NCAC 13B .0536 SITE STUDY FOR C&DLF
FACILITIES**

(a) Purpose. As required under Rule .0535 of this Section, the owner or operator must prepare a site study which meets the requirements of this Rule. The Division shall review the site study for a proposed new facility prior to consideration of an application for a permit to construct. Following review of the site study, the Division shall notify the applicant that either:

- (1) the site is deemed suitable and the applicant is authorized to prepare an application for a permit to construct in accordance with Rule .0535 of this Section; or
- (2) the site is deemed unsuitable for establishing a C&DLF unit(s) and shall specify the reasons that would prevent the C&DLF unit(s) from being operated in accordance with G.S. 130A Article 9, or this Subchapter, and any applicable federal laws and regulations.

(b) Scope. The site is the land which is proposed for the landfill facility. The site study presents a characterization of the land, incorporating various investigations and requirements pertinent to suitability of a C&DLF facility. The scope of the site study includes criteria associated with the public health and welfare, and the environment. The economic feasibility of a proposed site is not within the scope of this study. The information in the site study must accurately represent site characteristics and must be prepared by qualified environmental professionals as set forth in Subparagraph (a)(3) of Rule .0202 of this Subchapter. New C&DLF unit(s) and lateral expansions must comply with the siting criteria set forth in Paragraph (c) of this Rule, Subparagraphs (4) through (10). In order to demonstrate compliance with specific criteria for each of the respective location restrictions, documentation or approval by agencies other than the Division of Waste Management, Solid Waste Section may be required. The scope of demonstrations including design and construction performance must be addressed in the site study.

(c) The site study prepared for a C&DLF facility must include the information required by this Paragraph.

- (1) Characterization study. The site characterization study area includes the landfill facility and a 2000-foot perimeter measured from the proposed boundary of the landfill facility. The study must include an aerial photograph taken within one year of the original submittal date, a report, and a local map. The map and photograph must be at a scale of at least one inch equals 400 feet. The study must identify the following:
 - (A) the entire property proposed for the disposal site and any on-site easements;
 - (B) existing land use and zoning;
 - (C) the location of residential structures and schools;
 - (D) the location of commercial and industrial buildings, and other potential sources of contamination;
 - (E) the location of potable wells and public water supplies;
 - (F) historic sites;
 - (G) state nature and historic preserves;
 - (H) the existing topography and features of the disposal site including: general surface water drainage patterns and watersheds, 100-year floodplains, perennial and intermittent streams, rivers, and lakes; and
 - (I) the classification of the surface water drainage from landfill site in accordance with 15A NCAC 02B .0300.
- (2) Proposed Facility Plan. A conceptual plan for the development of the facility including drawings and a report must be prepared which includes the drawings and reports described in Subparagraphs (d)(1), (e)(1), (e)(2), and (e)(3) of Rule .0537 of this Section.
- (3) Site Hydrogeologic Report. The study must be prepared in accordance with the requirements set forth in Paragraph (a) of Rule .0538 of this Section.
- (4) Floodplain Location Restrictions;
 - (A) C&DLF units or constructed embankments used to construct a C&DLF unit must not be located in a 100-year floodplain unless a variance for the facility has been issued in accordance with G.S. 143-215.54A.
 - (B) C&DLF units must not be located in floodplains unless the owners or operators demonstrate that the unit will not restrict the flow of the flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste so as to pose a

hazard to human health and the environment.

- (5) Wetlands Location Restriction. New C&DLF units and lateral expansions must not be located in wetlands, unless the owner or operator can make the following demonstrations to the Division:
 - (A) Where applicable under Section 404 of the Clean Water Act or applicable State wetlands laws, the presumption that a practicable alternative to the proposed landfill facility is available which does not involve wetlands is clearly rebutted.
 - (B) The construction and operation of the C&DLF unit(s) will not cause or contribute to violations of any applicable State water quality standards and will not violate any applicable toxic effluent standard or prohibition under Section 307 of the Clean Water Act.
 - (C) The construction and operation of the C&DLF unit(s) will not jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Federal Endangered Species Act of 1973. The construction and operation of the C&DLF unit(s) will not violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary.
 - (D) The construction and operation of the C&DLF unit(s) will not cause or contribute to significant degradation of wetlands.
 - (E) The owner or operator must demonstrate the integrity of the C&DLF unit(s) and its ability to protect ecological resources by addressing the following factors: (1) erosion, stability, and migration potential of native wetland soils, muds and deposits used to support the C&DLF unit; (2) erosion, stability, and migration potential of dredged and fill materials used to support the C&DLF unit; the volume and chemical nature of the waste managed in the C&DLF unit; (3) impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste; (4) the potential effects of catastrophic release of waste to the wetland and

- the resulting impacts on the environment; and (5) any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected to the extent required under Section 404 of the Clean Water Act or applicable State wetlands laws.
- (F) The owner or operator must demonstrate that steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent practicable as required by Part (c)(5)(A) – (D) of this Rule, then minimizing unavoidable impacts to the maximum extent practicable, and finally offsetting remaining unavoidable wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands).
- (G) The owner or operator must also demonstrate that sufficient information is available to make a reasonable determination with respect to each of the demonstrations required by this Rule.
- (H) For purposes of this Rule, wetlands means those areas that are defined in 40 CFR 232.2(r).
- (6) Unstable Area Location Restrictions. Owners and operators of new C&DLF unit(s) and lateral expansions proposed for location in an unstable area must demonstrate that engineering measures have been incorporated in the C&DLF unit's design to ensure that the integrity of any structural components of the C&DLF unit will not be disrupted. The owner and operator must consider the following factors, at a minimum, when determining whether an area is unstable:
- (A) On-site or local soil conditions that may result in significant differential settling;
- (B) On-site or local geologic or geomorphologic features; and
- (C) On-site or local human-made features or events (both surface and subsurface).
- (7) Cultural Resources Location Restrictions. A new C&DLF unit or lateral expansion must not damage or destroy a property of archaeological or historical significance which has been listed or determined eligible for a listing in the National Register of Historic Places. To aid in making a determination as to whether the property is of archeological or historical significance, the State's Historic Preservation Office in the Department of Cultural Resources may request the owner and operator to perform a site-specific survey which must be included in the Site Study.
- (8) State Nature and Historic Preserve Location Restrictions. A new C&DLF unit or lateral expansion must not have an adverse impact, considering the purposes for designation of the Preserve lands and the location, access, size and operation of the landfill, on any lands included in the State Nature and Historic Preserve.
- (9) Water Supply Watersheds Location Restrictions;
- (A) A new C&DLF unit or lateral expansion must not be located in the critical area of a water supply watershed, or in the watershed for a stream segment classified as WS-I, or in watersheds of other water bodies which indicate that no new landfills are allowed in accordance with the rules codified at 15A NCAC 02B Section .0200 entitled "Classifications and Water Quality Standards Applicable To Surface Waters Of North Carolina."
- (B) Any new C&DLF unit or lateral expansion, which proposes to discharge leachate to surface waters and must obtain a National Pollution Discharge Elimination System (NPDES) Permit from the Division of Environmental Management pursuant to Section 402 of the United States Clean Water Act, must not be located within watersheds classified as WS-II or WS-III, or in watersheds of other water bodies which indicate that no new discharging landfills are allowed, in accordance with the rules codified at 15A NCAC 02B Section .0200.
- (10) Endangered and Threatened Species Location Restrictions. A new C&DLF unit or lateral expansion must not jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Federal Endangered Species Act of 1973.
- (11) Local government approvals for C&DLFs.
- (A) If the permit applicant is a unit of local government in which jurisdiction the proposed C&DLF site is located, the approval of the

governing board shall be required. Approval may be in the form of either a resolution or a vote on a motion. A copy of the resolution or the minutes of the meeting where the vote was taken must be submitted to the Division as part of the site study.

(B) A permit applicant other than the unit of local government with jurisdiction over the proposed landfill site must obtain a franchise in accordance with G.S. 130A-294(b1)(3) from each unit of local government in whose jurisdiction the site is located. A copy of the franchise must be submitted to the Division as part of the site study.

(C) Prior to issuance of approval or a franchise, the jurisdictional local government(s) where the landfill is to be located shall hold at least one public meeting to inform the community of the proposed waste management activities as described in the proposed facility plan prepared in accordance with Subparagraph (2) of this Paragraph. The local government where the landfill is to be located shall provide a public notice of the meeting at least 30 days prior to the meeting. For purposes of this Part, public notice must include a legal advertisement placed in a newspaper or newspapers serving the county and provision of a news release to at least one newspaper serving the county. Public notice must include time, place, and purpose of the meetings required by this Part. The application for a franchise or other documentation as required by the appropriate local government(s), must be placed at a location that is accessible by the public. This location must be noted in the public notice. The permit applicant must notify the property owners of all property that shares a common border with the proposed facility by means of a U.S. Postal Service registered letter, return receipt requested. The notice must give the date, time and place of the public meeting, and must describe the facility plan for the landfill, including the areal location and final elevation of all waste disposal units, the type and amount of waste to be disposed at the landfill, any other waste management activities to be

conducted at the facility, and the proposed location of the entrance to the facility. Mailings must be postmarked a minimum of 30 days prior to the public meeting which is being noticed. The applicant must provide documentation of the content and mailing of the notices in the site study.

(D) Public notice of the meeting must be documented in the site study. A tape recording or a written transcript of the meeting, all written material submitted representing community concerns, and all other relevant written material distributed or used at the meeting must be submitted as part of the site study.

(E) A letter from the unit of local government(s) having zoning jurisdiction over the site which states that the proposal meets all the requirements of the local zoning ordinance, or that the site is not zoned, must be submitted to the Division as part of the site study.

(d) Site suitability applications for a new C&DLF facility or unit submitted in accordance with Rule .0504(1) of this Section must be submitted to the Division prior to December 31, 2006.

History Note: Authority G.S. 130A-294; Eff. January 1, 2007.

15A NCAC 13B .0537 FACILITY PLAN FOR C&DLFS

(a) Purpose. As required under Rule .0535 of this Section, a permit applicant shall prepare a facility plan which meets the requirements of this Rule.

(b) Scope.

(1) The facility plan must define the comprehensive development of the property proposed for a permit or described in the permit of an existing facility. The plan must include a set of drawings and a report which present the long-term, general design concepts related to construction, operation, and closure of the C&DLF unit(s). The scope of the plan must span the active life of the unit(s). Additional solid waste management activities located at the C&DLF facility must be identified in the plan and must meet the requirements of this Subchapter. The facility plan must define the waste stream proposed for management at the C&DLF facility. If different types of landfill units or non-disposal activities are included in the facility design, the plan must describe general waste acceptance procedures.

(2) The areal limits of the C&DLF unit(s), total capacity of the C&DLF unit(s), and the

proposed waste stream must be consistent with the Division's approval set forth in accordance with Rule .0536 (a)(1) of this Section for a new facility.

(c) Use of Terms. The terminology used in describing areas of the C&DLF unit(s) shall be defined as follows and must be used consistently throughout a permit application.

- (1) A "phase" is an area constructed that provides no more than approximately five years of operating capacity.
- (2) A "cell" is a subdivision of a phase, which describes modular or partial construction.
- (3) A "subcell" is a subdivision of a cell, which describes leachate and stormwater management, if required, for active or inactive areas of the constructed C&DLF.

(d) Facility Drawings. The facility plan must include the following drawings:

- (1) Site Development. The drawings which plot site development must be prepared on topographic maps representative of existing site conditions; the maps must locate or delineate the following:
 - (A) Delineate the areal limits of all landfill units, and incorporate the buffer requirements set forth in Item (1) of Rule .0540 of this Section;
 - (B) Locate all solid waste management facilities and facility infrastructure, including landfill units;
 - (C) Delineate the areal limits of grading, including borrow and stockpile areas;
 - (D) Define phases of development, which do not exceed approximately five years of operating capacity;
 - (E) Delineate proposed final contours for the C&DLF unit(s) and facility features for closure; and
 - (F) Delineate physical features including floodplains, wetlands, unstable areas, and cultural resource areas as defined in Rule .0536 of this Section.
- (2) Landfill Operation. The following information related to the long-term operation of the C&DLF unit must be included in facility drawings:
 - (A) proposed transitional contours for each phase of development including operational grades for existing phase(s) and construction grading for the new phase; and
 - (B) stormwater segregation features and details for inactive landfill subcells, if included in the design or required.
- (3) Survey. A survey locating all property boundaries for the proposed landfill facility certified by an individual licensed to practice land surveying in the State of North Carolina.

(e) Facility Report. The facility plan must include the following information:

- (1) Waste stream. A discussion of the characteristics of the wastes received at the facility and facility specific management plans must incorporate:
 - (A) the types of waste specified for disposal;
 - (B) average yearly disposal rates in tons and a representative daily rate that is consistent with the local government approval in accordance with Rule .0536 of this Section;
 - (C) the area served by the facility;
 - (D) procedures for segregated management at different on-site facilities; and
 - (E) equipment requirements for operation of the C&DLF unit(s).
- (2) Landfill Capacity. An analysis of landfill capacity and soil resources must be performed.
 - (A) The data and assumptions used in the analysis must be included with the facility drawings and disposal rates specified in the facility plan and representative of operational requirements and conditions.
 - (B) The conclusions must provide estimates of gross capacity of the C&DLF unit; gross capacity for each phase of development of the C&DLF unit; the estimated operating life of all C&DLF units in years; and required quantities of soil for landfill construction, operation, and closure; and available soil resources from on-site. Gross capacity is defined as the volume of the landfill calculated from the elevation of the initial waste placement through the top of the final cover, including any periodic cover.
- (3) Special engineering features.
 - (A) Leachate management systems, if proposed by the applicant. The performance of and design concepts for the leachate collection system within active areas of the C&DLF unit(s) and any storm water segregation included in the engineering design must be described. Normal operating conditions must be defined. A contingency plan must be prepared for storm surges or other considerations exceeding design parameters for the storage or treatment facilities.
 - (B) Containment and environmental control systems. A general

description of the systems designed for proper landfill operation, system components, and corresponding functions must be provided.

- (C) Base liner systems, if proposed by the applicant must be described.
- (D) Other device, components, and structures, if proposed by the applicant, must be described.

*History Note: Authority G.S. 130A-294;
Eff. January 1, 2007.*

**15A NCAC 13B .0538 GEOLOGIC AND
HYDROGEOLOGIC INVESTIGATIONS FOR C&DLF
FACILITIES**

(a) Site Hydrogeologic Report. A permit applicant must conduct a hydrogeologic investigation and prepare a report. An investigation is required to assess the geologic and hydrogeologic characteristics of the proposed site to determine the suitability of the site for solid waste management activities, which areas of the site are most suitable for C&DLF units, and the general ground-water flow paths and rates for the uppermost aquifer. The report must provide an understanding of the relationship of the site ground-water flow regime to local and regional hydrogeologic features with special emphasis on the relationship of C&DLF units to ground-water receptors (especially drinking water wells) and to ground-water discharge features. Additionally, the scope of the investigation must include the general geologic information necessary to address compliance with the pertinent location restrictions described in Rule .0536 of this Section. The Site Hydrogeologic Report must provide, at a minimum, the following information:

- (1) A report on local and regional geology and hydrogeology based on research of available literature for the area. This information is to be used in planning the field investigation. For sites located in piedmont or mountain regions, this report must include an evaluation of structurally controlled features identified on a topographic map of the area.
- (2) A report on field observations of the site that includes information on the following:
 - (A) topographic setting, springs, streams, drainage features, existing or abandoned wells, rock outcrops, (including trends in strike and dip), and other features that may affect site suitability or the ability to effectively monitor the site; and
 - (B) ground-water discharge features. For a proposed site where the owner or operator does not control the property from any landfill unit boundary to the controlling, downgradient, ground-water discharge feature(s), additional borings, geophysics or other hydrogeological investigations may

(C) be required to characterize the nature and extent of groundwater flow; and the hydrogeological properties of the bedrock, if the uppermost ground-water flow is predominantly in the bedrock. Bedrock for the purpose of this rule is defined as material below auger refusal.

- (3) Borings for which the numbers, locations, and depths are sufficient to provide an adequate understanding of the subsurface conditions and ground-water flow regime of the uppermost aquifer at the site. The number and depths of borings required will depend on the hydrogeologic characteristics of the site. At a minimum, there must be an average of one boring for each 10 acres of the proposed landfill facility unless otherwise authorized by the Division. All borings intersecting the water table must be converted to piezometers or monitoring wells in accordance with 15A NCAC 02C .0108.
- (4) A testing program for the borings which describes the frequency, distribution, and type of samples taken and the methods of analysis (ASTM Standards or test methods approved by the Division) used to obtain, at a minimum, the following information:
 - (A) standard penetration - resistance (ASTM D 1586);
 - (B) particle size analysis (ASTM D 422);
 - (C) soil classification: Unified Soil Classification System (USCS) (ASTM D 2487);
 - (D) formation descriptions; and
 - (E) saturated hydraulic conductivity, porosity, effective porosity, and dispersive characteristics for each lithologic unit of the uppermost aquifer including the vadose zone.
- (5) In addition to borings, other techniques may be used to investigate the subsurface conditions at the site, including but not limited to: geophysical well logs, surface geophysical surveys, and tracer studies.
- (6) Stratigraphic cross-sections identifying hydrogeologic and lithologic units, and stabilized water table elevations.
- (7) Water table information, including:
 - (A) tabulations of water table elevations measured at the time of boring, 24 hours, and stabilized readings for all borings (measured within a period of time short enough to avoid temporal variations in ground-water flow which could preclude accurate determination of ground-water flow direction and rate);

- (B) tabulations of stabilized water table elevations over time in order to develop an understanding of seasonal fluctuations in the water table;
 - (C) an estimation of the long-term seasonal high water table based on stabilized water table readings, hydrographs of wells in the area, precipitation and other meteorological data, and streamflow measurements from the site frequent enough to demonstrate infiltration and runoff characteristics, and any other information available; and
 - (D) a discussion of any natural or man-made activities that have the potential for causing water table fluctuations, including but not limited to, tidal variations, river stage changes, flood pool changes of reservoirs, high volume production wells, and injection wells.
- (8) The horizontal and vertical dimensions of ground-water flow including flow directions, rates, and gradients.
- (9) Ground-water contour map(s) to show the occurrence and direction of ground-water flow in the uppermost aquifer and any other aquifers identified in the hydrogeologic investigation. The ground-water contours must be superimposed on a topographic map. The location of all borings and rock cores and the water table elevations or potentiometric data at each location used to generate the ground-water contours must be shown on the ground-water contour map(s).
- (10) A topographic map of the site locating soil borings with accurate horizontal and vertical control, which are tied to a permanent onsite benchmark.
- (11) Information for wells and water intakes within the site characterization study area, in accordance with Rule .0536(c) of this Section including:
- (A) boring logs, construction records, field logs and notes, for all onsite borings, piezometers and wells;
 - (B) construction records, number and location served by wells, and production rates, for public water wells; and
 - (C) available information for all surface water intakes, including use and production rate.
- (12) Identification of other geologic and hydrologic considerations including but not limited to: slopes, streams, springs, gullies, trenches, solution features, karst terranes, sinkholes, dikes, sills, faults, mines, ground-water discharge features, and ground-water recharge/discharge areas.
- (13) A report summarizing the geological and hydrogeological evaluation of the site that includes the following:
- (A) a description of the relationship between the uppermost aquifer of the site to local and regional geologic and hydrogeologic features,
 - (B) a discussion of the ground-water flow regime of the site focusing on the relationship of C&DLF unit(s) to ground-water receptors and to ground-water discharge features,
 - (C) a discussion of the overall suitability of the proposed site for solid waste management activities and which areas of the site are most suitable for C&DLF units, and
 - (D) a discussion of the ground-water flow regime of the uppermost aquifer at the site and the ability to effectively monitor the C&DLF units in order to ensure early detection of any release of constituents to the uppermost aquifer.
- (b) Design Hydrogeologic Report
- (1) A geological and hydrogeological report must be submitted in the application for the Permit to Construct. This report must contain the information required by Subparagraph (2) of this Paragraph. The number and depths of borings required must be based on the geologic and hydrogeologic characteristics of the landfill facility. At a minimum, there must be an average of one boring for each acre of the investigative area. The area of investigation must, at a minimum, be the area within the unit footprint and unit compliance boundary, unless otherwise authorized by the Division. The scope and purpose of the investigation is as follows:
 - (A) The investigation must provide adequate information to demonstrate compliance with the vertical separation and foundation standards set forth in Items (2) and (5) of Rule .0540 of this Section.
 - (B) The report must include an investigation of the hydrogeologic characteristics of the uppermost aquifer for the proposed phase of C&DLF development and any leachate management unit(s). The purpose of this investigation is to provide more detailed and localized data on the hydrogeologic regime for this area in order to design an

- effective water quality monitoring system.
- (2) The Design Hydrogeologic Report must provide, at a minimum, the following information:
- (A) the information required in Subparagraphs (a)(4) through (a)(12) of this Rule;
 - (B) the technical information necessary to determine the design of the monitoring system as required by Paragraph (b) of Rule .0544 of this Section;
 - (C) the technical information necessary to determine the relevant point of compliance as required by Part (b)(1)(B) of Rule .0544 of this Section;
 - (D) rock cores (for sites located in the piedmont or mountain regions) for which the numbers, locations, and depths are adequate to provide an understanding of the fractured bedrock conditions and ground-water flow characteristics of at least the upper 10 feet of the bedrock. Testing for the corings must provide, at a minimum, rock types, recovery values, rock quality designation (RQD) values, saturated hydraulic conductivity and secondary porosity values, and rock descriptions, including fracturing and jointing patterns, etc.;
 - (E) a ground-water contour map based on the estimated long-term seasonal high water table that is superimposed on a topographic map and includes the location of all borings and rock cores and the water table elevations or potentiometric data at each location used to generate the ground-water contours;
 - (F) a bedrock contour map (for sites located in piedmont or mountain regions) illustrating the contours of the upper surface of the bedrock that is superimposed on a topographic map and includes the location of all borings and rock cores and the top of rock elevations used to generate the upper surface of bedrock contours;
 - (G) a three dimensional ground-water flow net or several hydrogeologic cross-sections that characterize the vertical ground-water flow regime for this area;
 - (H) a report on the ground-water flow regime for the area including ground-

water flow paths for both horizontal and vertical components of ground-water flow, horizontal and vertical gradients, flow rates, ground-water recharge areas and discharge areas;

- (I) a report on the soils in the four feet immediately underlying the waste with relationship to properties of the soil. Soil testing cited in Subparagraph (a)(4) of this Rule must be used as a basis for this discussion; and
- (J) a certification by a Licensed Geologist that all borings which intersect the water table at the site have been constructed and maintained as permanent monitoring wells in accordance with 15A NCAC 02C .0108, or that the borings will be properly abandoned in accordance with the procedures for permanent abandonment of wells as delineated in 15A NCAC 02C .0113. All piezometers within the footprint area must be overdrilled to the full depth of the boring, prior to cement or bentonite grout placement, and the level of the grout within the boring must not exceed in height the elevation of the proposed basegrade.

History Note: Authority G.S. 130A-294; Eff. January 1, 2007.

15A NCAC 13B .0539 ENGINEERING PLAN FOR C&DLF FACILITIES

- (a) Purpose. The engineering plan must incorporate the detailed plans and specifications relative to the design and performance of the C&DLF's containment and environmental control systems. This plan must set forth the design parameters and construction requirements for the components of the C&DLF's systems and must establish the responsibilities of the design engineer. The engineered components must be described in Rule .0540 of this Section. As required under Rule .0535 of this Section, the owner or operator must submit an engineering plan, which meets the requirements of this Rule.
- (b) Responsibilities of the design engineer. The engineering plan must be prepared by a Professional Engineer licensed to practice engineering in accordance with G.S. 89C and must meet the requirements of this Rule. The design engineer must incorporate a statement certifying this fact and bearing his or her seal of registration.
- (c) Scope. An engineering plan must be prepared for a phase of development not to exceed approximately five years of operating capacity consistent with the development phases and design criteria defined in the facility plan. The engineering plan shall contain a report and a set of drawings which consistently represent the engineering design.
- (d) An engineering report must contain:

- (1) A summary of the facility design that includes:
 - (A) a discussion of the analytical methods used to evaluate the design,
 - (B) definition of the critical conditions evaluated and assumptions made,
 - (C) a list of technical references used in the evaluation, and
 - (D) completion of any applicable location restriction demonstrations in accordance with Rule .0536 of this Section.
- (2) A description of the materials and construction practices that conforms to the requirements set forth in Rule .0540 of this Section.
- (3) A copy of the Design Hydrogeologic Report prepared in accordance with Paragraph (b) of Rule .0538 of this Section.
- (e) Engineering drawings must illustrate:
 - (1) existing conditions: site topography, features, existing disposal areas, roads, and buildings;
 - (2) grading plans: proposed limits of excavation, subgrade elevations, intermediate grading for partial construction;
 - (3) stormwater segregation system, if required: location and detail of features;
 - (4) cap system: base and top elevations, landfill gas devices, infiltration barrier, surface water removal, protective and vegetative cover, and details;
 - (5) temporary and permanent sedimentation and erosion control plans;
 - (6) vertical separation requirement estimates including:
 - (A) Cross-sections, showing borings, which indicate existing ground surface elevations, base grades, seasonal high ground-water level, estimated long-term seasonal high ground-water level in accordance with Part (b)(2)(E) of Rule .0538 of this Section, and bedrock level in accordance with Part (b)(2)(F) of Rule .0538 of this Section; and
 - (B) A map showing the existing ground surface elevation and base grades. The map must include labeled boring locations which indicate seasonal high ground-water level, estimated long term high ground-water level in accordance with Part (b)(2)(E) of Rule .0538 of this Section, and bedrock level in accordance with Part (b)(2)(F) of Rule .0538 of this Section.
- (f) The engineering plan must also describe and illustrate additional engineering features and details including, if proposed by the applicant, the cap system, leachate collection system and base liner system. Cap systems, leachate collection systems and base liner systems must be designed in accordance with NC

Solid Waste Management Rules 15A NCAC 13B .1620 and .1621.

History Note: Authority G.S. 130A-294; Eff. January 1, 2007.

15A NCAC 13B .0540 CONSTRUCTION REQUIREMENTS FOR C&DLF FACILITIES

This Rule establishes the performance standards and minimum criteria for designing and constructing a C&DLF unit. Additional standards for the cap system are described in Rule .0543 of this Section.

- (1) Horizontal separation requirements.
 - (a) Property line buffer. New C&DLF unit(s) at a new facility must establish a minimum 200-foot buffer between the C&DLF unit and all property lines for monitoring purposes. Existing operating units must at a minimum maintain existing upgradient buffers of 50 feet or more.
 - (b) Offsite residential structures and wells. All C&DLF units at a new facility must establish a minimum 500-foot buffer between the C&DLF unit and existing residential structures and wells.
 - (c) Surface waters. All C&DLF units at new facilities must establish a minimum 50-foot buffer between the C&DLF unit and any stream, river, lake, pond or other waters of the state as defined in G.S. 143-212.
 - (d) Existing landfill units. A monitoring zone must be established between a new C&DLF unit and any existing landfill units such as MSW, Industrial, C&DLF, or Land Clearing and Inert Debris (LCID), in order to establish a ground-water monitoring system as set forth in Rule .0544 of this Section.
- (2) Vertical separation requirements.
 - (a) C&DLF unit(s) must be constructed so that the post-settlement bottom elevation of waste is a minimum of four feet above the seasonal high ground-water table and the bedrock datum plane contours established in the Design Hydrogeological Report prepared in accordance with Paragraph (b) of Rule .0538 of this Section.
 - (b) In-situ or modified soils making up the upper two feet of separation as required by Sub-Item (a) of this Item, must consist of the following: SC, SM, ML, CL, MH, or CH soils per Unified Soil Classification System or

- as specified in the approved construction plan.
- (3) Survey control.
 - (a) One permanent benchmark of known elevation measured from a U.S. Geological Survey benchmark must be established and maintained for each 50 acres of developed landfill, or part thereof, at the landfill facility. This benchmark shall be the reference point for establishing vertical elevation control. Any survey performed pursuant to this Sub-Item must be performed by a Registered Land Surveyor.
 - (b) Latitude and Longitude, expressed in decimal degrees, must be indicated at the approximate center of the facility.
- (4) Location coordinates. The North Carolina State Plane (NCSP) coordinates must be established and one of its points must be the benchmark of known NCSP coordinates.
- (5) Landfill subgrade. The landfill subgrade is the in-situ or modified soil layer(s), constructed embankments, and select fill providing the foundation for construction of the unit. The landfill subgrade must be graded in accordance to the plans and specifications prepared in accordance to Rule .0539 of this Section, which are incorporated into the permit to construct in accordance with Paragraph (b) of Rule .0534 of this Section as follows:
 - (a) The owner or operator of the C&DLF unit must have the subgrade inspected by a qualified geologist or engineer when excavation is completed.
 - (b) The owner or operator of the C&DLF unit must notify the Division's hydrogeologist at least 24 hours before subgrade inspection.
 - (c) Compliance with the requirements of Sub-Item (2)(b) of this Rule must be in accordance with Paragraph (b) of Rule .0538 of this Section or by placement of soil in accordance with this Sub-Item and verified in accordance with Rule .0541 of this Section.
- (6) Special engineering structures. Engineering structures, including cap systems, incorporated in the design and necessary to comply with the requirements of this Section must be specified in the engineering plan. Material, construction, and certification requirements necessary to ensure that the structure is constructed in accordance with the design and acceptable engineering practices must be included in the plans prepared in accordance with Rule .0539 of this Section.

- (7) Sedimentation and erosion control. Adequate structures and measures must be designed and maintained to manage the run-on and run-off generated by the 24-hour, 25-year storm event, and conform to the requirements of the Sedimentation Pollution Control Law (15A NCAC 04) and any required NPDES permits.
- (8) Construction quality assurance (CQA) report. A CQA report must be submitted in accordance with Rule .0541 of this Section.

History Note: Authority G.S. 130A-294; Eff. January 1, 2007.

15A NCAC 13B .0541 CONSTRUCTION QUALITY ASSURANCE FOR C&DLF FACILITIES

- (a) Purpose of the construction quality control and quality assurance (CQA) plan. The CQA plan must describe the observations and tests that will be used before, during, and upon completion of construction to ensure that the construction and materials meet the design specifications and the construction and certification requirements set forth in Rule .0540 of this Section. The CQA plan must also describe the procedures to ensure that the integrity of the landfill systems will be maintained prior to waste placement.
- (b) For construction of each cell, the CQA plan must include at a minimum:
 - (1) Responsibilities and authorities. The plan must establish responsibilities and authorities for the construction management organization. A pre-construction meeting must be conducted prior to beginning construction of the initial cell, or as required by the permit. The meeting must include a discussion of the construction management organization, respective duties during construction, and periodic reporting requirements for test results and construction activities;
 - (2) Inspection activities. A description of all field observations, tests and equipment that will be used to ensure that the construction meets or exceeds all design criteria established in accordance with Rules .0539, .0540 and Rule .0543 Paragraph (d) of this Section;
 - (3) Sampling strategies. A description of all sampling protocols, sample size and frequency of sampling must be presented in the CQA plan;
 - (4) Documentation. A description of reporting requirements for CQA activities; and
 - (5) Progress and troubleshooting meetings. A plan for holding daily and monthly troubleshooting meetings. The proceedings of the meetings must be documented.
- (c) Purpose of the CQA report. The CQA report must contain the results of all the construction quality assurance and construction quality control testing including documentation of any failed test results, descriptions of procedures used to correct the improperly installed material, and results of all retesting

performed. The CQA report must contain as-built drawings noting any deviation from the approved engineering plans and must also contain a comprehensive narrative including, but not limited to, daily reports from the project engineer, a series of color photographs of major project features, and documentation of proceedings of all progress and troubleshooting meetings.

(d) For construction of each cell, the CQA report must be submitted:

- (1) after completion of landfill construction in order to qualify the constructed C&DLF unit for a permit to operate;
- (2) after completion of construction of the cap system in accordance with the requirements of Rule .0543 of this Section; and
- (3) in accordance with the reporting schedule developed in accordance with Paragraph (b) of this Rule.
- (4) The CQA report must bear the seal of the project engineer and a certification that construction was completed in accordance with:
 - (A) the CQA plan,
 - (B) the conditions of the permit to construct,
 - (C) the requirements of this Rule, and
 - (D) acceptable engineering practices.

(e) The Division must review the CQA report within 30 days of a complete submittal to ensure that the report meets the requirements of this Rule.

*History Note: Authority G.S. 130A-294;
Eff. January 1, 2007.*

15A NCAC 13B .0542 OPERATION PLAN AND REQUIREMENTS FOR C&DLF FACILITIES

(a) The owner or operator of a C&DLF unit must maintain and operate the facility in accordance with the operation plan prepared in accordance with this Rule. The operation plan must be submitted in accordance with Rule .0535 of this Section. Each phase of operation must be defined by an area which contains approximately five years of disposal capacity.

(b) Operation Plan. The owner or operator of a C&DLF unit must prepare an operation plan for each phase of landfill development. The plan must include drawings and a report defining the information as identified in this Rule.

- (1) Operation drawings. Drawings must be prepared for each phase of landfill development. The drawings must be consistent with the engineering plan and prepared in a format which is useable for the landfill operator. The operation drawings must illustrate the following:
 - (A) existing conditions including the known limits of existing disposal areas;
 - (B) progression of operation including initial waste placement, daily operations, yearly contour transitions, and final contours;

- (C) stormwater controls for active and inactive subcells, if required;
- (D) special waste handling areas, such as asbestos disposal area, within the C&DLF unit;
- (E) buffer zones, noting restricted use;
- (F) stockpile and borrow operations; and
- (G) other solid waste activities, such as tire disposal or storage, yard waste storage, white goods storage, recycling pads, etc.

(2) Operation Plan Description. The owner and operator of any C&DLF unit must maintain and operate the unit in accordance with the operation plan as described in Paragraphs (c) through (l) of this Rule.

(c) Waste Acceptance and Disposal Requirements.

- (1) A C&DLF must accept only those solid wastes it is permitted to receive. The landfill owner or operator must notify the Division within 24 hours of attempted disposal of any waste the C&DLF is not permitted to receive, including waste from outside the area the landfill is permitted to serve.
- (2) Asbestos waste must be managed in accordance with 40 CFR 61, which is hereby incorporated by reference including any subsequent amendments and additions. Copies of 40 CFR 61 are available for inspection at the Department of Environment and Natural Resources, Division of Waste Management. The regulated asbestos waste must be covered immediately with soil in a manner that will not cause airborne conditions and must be disposed of separate and apart from other solid wastes, as shown on Operation drawings:
 - (A) in a defined isolated area within the footprint of the landfill, or
 - (B) in an area not contiguous with other disposal areas. Separate areas must be designated so that asbestos is not exposed by future land-disturbing activities.

(d) Wastewater treatment sludge must not be accepted for disposal. Wastewater treatment sludge may be accepted, with the approval of the Division, for utilization as a soil conditioner and incorporated into or applied onto the vegetative growth layer. The wastewater treatment sludge must neither be applied at greater than agronomic rates nor to a depth greater than six inches.

(e) Waste Exclusions. The following wastes must not be disposed of in a C&DLF unit:

- (1) Containers such as tubes, drums, barrels, tanks, cans, and bottles unless they are empty and perforated to ensure that no liquid, hazardous or municipal solid waste is contained therein,
- (2) Garbage as defined in G.S. 130A-290(a)(7),

- (3) Hazardous waste as defined in G.S. 130A-290(a)(8), to also include hazardous waste from conditionally exempt small quantity generators,
 - (4) Industrial solid waste unless a demonstration has been made and approved by the Division that the landfill meets the requirements of Rule .0503(2)(d)(ii)(A),
 - (5) Liquid wastes,
 - (6) Medical waste as defined in G.S. 130A-290(a)(18),
 - (7) Municipal solid waste as defined in G.S. 130A-290(a)(18a),
 - (8) Polychlorinated biphenyls (PCB) wastes as defined in 40 CFR 761,
 - (9) Radioactive waste as defined in G.S. 104E-5(14),
 - (10) Septage as defined in G.S. 130A-290(a)(32),
 - (11) Sludge as defined in G.S. 130A-290(a)(34),
 - (12) Special wastes as defined in G.S. 130A-290(a)(40),
 - (13) White goods as defined in G.S. 130A-290(a)(44), and
 - (14) Yard trash as defined in G.S. 130A-290(a)(45),
 - (15) The following wastes cannot be received if separate from C&DLF waste: lamps or bulbs including but not limited to halogen, incandescent, neon or fluorescent; lighting ballast or fixtures; thermostats and light switches; batteries including but not limited to those from exit and emergency lights and smoke detectors; lead pipes; lead roof flashing; transformers; capacitors; and copper chrome arsenate (CCA) and creosote treated woods.
 - (16) Waste accepted for disposal in a C&DLF unit must be readily identifiable as C&D waste and must not have been shredded, pulverized, or processed to such an extent that the composition of the original waste cannot be readily ascertained except as specified in Subparagraph (17) of this Paragraph.
 - (17) C&D waste that has been shredded, pulverized or otherwise processed may be accepted for disposal from a facility that has received a permit from an authorized regulatory authority which specifies such activities are inspected by the authority, and whose primary purpose is recycling and reuse of the C&D material. A waste screening plan and waste acceptance plan must be made available to the Division upon request.
 - (18) The owner or operator of a C&DLF must not knowingly dispose any type or form of C&D waste that is generated within the boundaries of a unit of local government that by ordinance:
 - (A) Prohibits generators or collectors of C&D waste from disposing that type or form of C&D waste.
 - (B) Requires generators or collectors of C&D waste to recycle that type or form of C&D waste.
- (f) Cover material requirements.
- (1) Except as provided in Subparagraph (3) of this Paragraph, the owners and operators of all C&DLF units must cover the solid waste with six inches of earthen material when the waste disposal area exceeds one-half acre and at least once weekly. Cover must be placed at more frequent intervals if necessary to control disease vectors, fires, odors, blowing litter, and scavenging. A notation of the date and time of the cover placement must be recorded in the operating record as specified in Paragraph (n) of this Rule.
 - (2) Except as provided in Subparagraph (3) of this Paragraph, areas which will not have additional wastes placed on them for three months or more, but where final termination of disposal operations has not occurred, must be covered and stabilized with vegetative ground cover or other stabilizing material.
 - (3) Alternative materials or an alternative thickness of cover may be approved by the Division if the owner or operator demonstrates that the alternative material or thickness controls disease vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment. A C&DLF owner or operator may apply for approval of an alternative cover material. If approval is given by the Division, approval would extend to all C&DLF units at one specific facility.
- (g) Spreading and Compacting requirements.
- (1) C&DLF units must restrict solid waste into the smallest area feasible.
 - (2) Solid waste must be compacted as densely as practical into cells.
 - (3) Appropriate methods such as fencing and diking must be provided within the area to confine solid waste which is subject to be blown by the wind. At the conclusion of each operating day, all windblown material resulting from the operation must be collected and disposed of by the owner and operator.
- (h) Disease vector control. Owners and operators of all C&DLF units must prevent or control on-site populations of disease vectors using techniques appropriate for the protection of human health and the environment. For purposes of this item, "disease vectors" means any rodents, flies, mosquitoes, or other animals or insects, capable of transmitting disease to humans.
- (i) Air Criteria and Fire Control.
- (1) Owners and operators of all C&DLF units must ensure that the units do not violate any

applicable requirements developed under a State Implementation Plan (SIP) approved or promulgated by the U.S. EPA Administrator pursuant to Section 110 of the Clean Air Act, as amended.

- (2) Open burning of solid waste, except for the approved burning of land clearing debris generated on-site or debris from emergency clean-up operations, is prohibited at all C&DLF facilities. Prior to any burning a request must be sent to the Division for review. The Division will determine the burning to be approved if it is one of the two types of burning as referenced in this Subparagraph. A notation of the date of approval and the name of the Division personnel who approved the burning must be included in the operating record.
- (3) Equipment must be provided to control accidental fires and arrangements must be made with the local fire protection agency to immediately provide fire-fighting services when needed.
- (4) Fires and explosions that occur at a C&DLF require verbal notice to the Division within 24 hours and written notification within 15 days. Written notification must include the suspected cause of fire or explosion, the response taken to manage the incident, and the action(s) to be taken to prevent the future occurrence of fire or explosion.

(j) Access and safety requirements.

- (1) The C&DLF must be adequately secured by means of gates, chains, berms, fences and other security measures approved by the Division to prevent unauthorized entry.
- (2) In accordance with G.S. 130A-309.25, an individual trained in landfill operations must be on duty at the site while the facility is open for public use and at all times during active waste management operations to ensure compliance with operational requirements.
- (3) The access road to the site and access roads to monitoring locations must be of all-weather construction and maintained in good condition.
- (4) Dust control measures must be implemented.
- (5) Signs providing information on disposal procedures, the hours during which the site is open for public use, the permit number and other pertinent information specified in the permit conditions must be posted at the site entrance.
- (6) Signs must be posted which at a minimum list liquid, hazardous and municipal solid waste as being excluded from the C&DLF unit.
- (7) Traffic signs or markers must be provided as necessary to promote an orderly traffic pattern to and from the discharge area and to maintain efficient operating conditions.

- (8) The removal of solid waste from a C&DLF is prohibited unless the unit has included in its operational plan a recycling program which has been approved by the Division. The general public is prohibited from removal activities on the working face.

(k) Erosion and sedimentation control requirements.

- (1) Adequate sediment control measures consisting of vegetative cover, materials, structures or devices must be utilized to prevent sediment from leaving the C&DLF facility.
- (2) Adequate sediment control measures consisting of vegetative cover, materials, structures or devices must be utilized to prevent excessive on-site erosion of the C&DLF facility or unit.
- (3) Provisions for a vegetative ground cover sufficient to restrain erosion must be accomplished as directed by appropriate state or local agency upon completion of any phase of C&DLF development consistent with Rule .0543(c)(5) of this Section.

(l) Drainage control and water protection requirements.

- (1) Surface water must be diverted from the operational area.
- (2) Surface water must not be impounded over or in waste.
- (3) Solid waste must not be disposed of in water.
- (4) Leachate must be contained on-site or treated prior to discharge. An NPDES permit may be required prior to the discharge of leachate to surface waters.
- (5) C&DLF units must not:
 - (A) Cause a discharge of pollutants into waters of the United States, including wetlands, that violates any requirements of the Clean Water Act, including the National Pollutant Discharge Elimination System (NPDES) requirements, pursuant to Section 402.
 - (B) Cause the discharge of a nonpoint source of pollution to waters of the United States, including wetlands, that violates any requirement of an area-wide or State-wide water quality management plan that has been approved under Section 208 or 319 of the Clean Water Act, as amended.

- (m) Survey for Compliance. Within 60 days of the permittee's receipt of the Division's written request, the permittee must cause to be conducted a survey of active or closed portions of unit or units at the facility in order to determine whether operations are being conducted in accordance with the approved design and operational plans. The permittee must report the results of such survey, including a map produced by the survey, to the Division within 90 days of receipt of the Division's request.

- (1) A survey shall be required by the Division:
 - (A) If there is reason to believe that operations are being conducted in a manner that deviates from the plan listed in the effective permit, or
 - (B) As a verification that operations are being conducted in accordance with the plan listed in the effective permit.
- (2) Any survey performed pursuant to this Paragraph must be performed by a registered land surveyor duly authorized under North Carolina law to conduct such activities.
- (n) Operating Record and Recordkeeping requirements.
 - (1) The owner and operator of a C&DLF unit must record and retain at the facility, or in an alternative location near the facility, the following information:
 - (A) records of random waste inspections, monitoring results, certifications of training, and training procedures required by Rule .0544 of this Section;
 - (B) amounts by weight of solid waste received at the facility to include, consistent with G.S. 130A-309.09D, county of generation;
 - (C) any demonstration, certification, finding, monitoring, testing, or analytical data required by Rules .0544 through .0545 of this Section;
 - (D) any closure or post-closure monitoring, testing, or analytical data as required by Rule .0543 of this Section;
 - (E) any cost estimates and financial assurance documentation required by Rule .0546 of this Section;
 - (F) notation of date and time of placement of cover material; and
 - (G) all audit records, compliance records and inspection reports.
 - (2) All information contained in the operating record must be furnished to the Division according to the permit or upon request, or be made available for inspection by the Division.
 - (3) The operating record must also include:
 - (A) A copy of the approved operation plan required by this Rule and the engineering plan required by Rule .0539 of this Section;
 - (B) A copy of the current Permit to Construct and Permit to Operate; and
 - (C) The Monitoring Plan, in accordance with Rule .0544 of this Section, included as appendices to the Operation Plan.

15A NCAC 13B .0543 CLOSURE AND POST-CLOSURE REQUIREMENTS FOR C&DLF FACILITIES

(a) Purpose. This Rule establishes criteria for the closure of all C&DLF units and subsequent requirements for post-closure compliance. The owner and operator must develop specific plans for the closure and post-closure of the C&DLF facility or units that comply with these rules, and submit them to the Division for review and approval.

(b) Scope.

(1) Closure. Standards must be established for the scheduling and documenting of closure of all C&DLF units and design of the cap system. Construction requirements for the cap system must incorporate requirements from Rules .0540 and .0541 of this Section.

(2) Post-closure. Standards are must be established for the monitoring and maintenance of the C&DLF unit(s) following closure.

(c) Closure criteria.

(1) C&DLF units must install a cap system that is designed to minimize infiltration and erosion. The cap system must be designed and constructed to:

(A) have a permeability less than or equal to soils underlying the landfill, or the permeability specified for the final cover in the effective permit, or a permeability no greater than 1.0 x 10⁻⁵ cm/sec, whichever is less;

(B) minimize infiltration through the closed C&DLF unit by the use of a low-permeability barrier that contains a minimum 18 inches of earthen material; and

(C) minimize erosion of the cap system and protect the low-permeability barrier from root penetration by use of an erosion layer that contains a minimum of 18 inches of earthen material that is capable of sustaining native plant growth.

(2) Construction of the cap system for all C&DLF units must conform to the plans prepared in accordance with Rule .0540 of this Section and the following requirements:

(A) post-settlement surface slopes must be a minimum of five percent and a maximum of 25 percent; and

(B) a gas venting or collection system must be installed below the low-permeability barrier to minimize pressures exerted on the barrier.

(3) The Division may approve an alternative cap system or alternative post-settlement slopes if the owner or operator can demonstrate the following:

History Note: Authority G.S. 130A-294; Eff. January 1, 2007.

- (A) the alternative cap system will achieve a reduction in infiltration equivalent to or greater than the low-permeability barrier specified in Subparagraph (1) of this Paragraph;
 - (B) the erosion layer will provide protection equivalent to or greater than the erosion layer specified in Subparagraph (1) of this Paragraph; and
 - (C) the alternative post-settlement slopes must be stable, encourage runoff, be safe to operate, and be safe to construct during operation and closure activities.
- (4) Prior to beginning closure of each C&DLF unit as specified in Subparagraph (5) of this Paragraph, an owner or operator must notify the Division that a notice of the intent to close the unit has been placed in the operating record, as specified in Paragraph (n) of Rule .0542.
- (5) The owner and operator must begin closure activities for that portion of each C&DLF unit meeting one or more of the following requirements, unless an extension has been granted by the Division. Extensions beyond the deadline for beginning closure may be granted by the Division if the owner or operator demonstrates that the portion of the C&DLF unit has the capacity to receive additional wastes and the owner and operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed C&DLF unit.:
- (A) No later than 30 days after the date on which the C&DLF unit receives the known final receipt of wastes;
 - (B) No later than 30 days after the date that a 10 acre or greater area of waste, is within 15 feet of final design grades; or
 - (C) No later than one year after the most recent receipt of wastes, if the C&DLF unit has remaining capacity.
- (6) The owner and operator of all C&DLF units must complete closure activities of each C&DLF unit in accordance with the closure plan within 180 days following the beginning of closure as specified in Subparagraph (5) of this Paragraph. Extensions of the closure period may be granted by the Division if the owner or operator demonstrates that closure will, of necessity, take longer than 180 days and they have taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed C&DLF unit.
- (7) Following closure of each C&DLF unit, the owner or operator must notify the Division that a certification, signed by the project engineer verifying that closure has been completed in accordance with the closure plan, has been placed in the operating record.
- (8) Recordation.
- (A) Following closure of all C&DLF units, the owner or operator must record a notation on the deed to the landfill facility property at the local county Register of Deeds office, or some other instrument that is normally examined during title search, and notify the Division that the notation has been recorded and a copy has been placed in the operating record.
 - (B) The notation on the deed shall in perpetuity notify any potential purchaser of the property that the land has been used as a C&DLF unit or facility and its use is restricted under the closure plan approved by the Division.
- (9) The owner or operator may request permission from the Division to remove the notation from the deed if all wastes are removed from the facility.
- (d) Closure plan contents. The owner and operator must prepare a written closure plan that describes the steps necessary to close all C&DLF units at any point during their active life in accordance with the cap system requirements in Paragraph (c) of this Rule. The closure plan, at a minimum, must include the following information:
- (1) a description of the cap system and the methods and procedures to be used to install the cap that conforms to the requirements set forth in Paragraph (c) of this Rule;
 - (2) an estimate of the largest area of the C&DLF unit requiring the specified cap system at any time during the active life that is consistent with the drawings prepared for:
 - (A) the operation plan for an existing C&DLF unit, or
 - (B) the engineering plan or facility plan for a lateral expansion or new C&DLF unit;
 - (3) an estimate of the maximum inventory of wastes on-site over the active life of the landfill facility;
 - (4) a schedule for completing all activities necessary to satisfy the closure criteria set forth in Paragraph (c) of this Rule; and

- (5) the cost estimate for closure activities as required under Rule .0546 of this Section.
- (e) Post-closure criteria.
- (1) Following closure of each C&DLF unit, the owner and operator must conduct post-closure care. Post-closure care must be conducted for 30 years, except as provided under Subparagraph (2) of this Paragraph, and consist of at least the following:
 - (A) maintaining the integrity and effectiveness of any cap system including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the cap system;
 - (B) monitoring the ground water and surface water in accordance with the requirements of Rules .0544 through .0545 of this Section and maintaining the ground-water monitoring system, if applicable;
 - (C) maintaining and operating the gas monitoring system in accordance with the requirements of Rule .0544 of this Section; and
 - (D) maintaining, operating and decommissioning the leachate collection system, if present, in accordance with the requirements of Rule .0544 of this Section. The Division may allow the owner and operator to stop managing leachate if the owner or operator demonstrates that leachate no longer poses a threat to human health and the environment.
 - (2) The length of the post-closure care period may be:
 - (A) decreased by the Division if the owner or operator demonstrates that the reduced period is sufficient to protect human health and the environment and this demonstration is approved by the Division; or
 - (B) increased by the Division if the Division determines that the lengthened period is necessary to protect human health and the environment.
 - (3) Following completion of the post-closure care period for each C&DLF unit, the owner or operator must notify the Division that a certification, signed by a registered professional engineer, verifying that post-closure care has been completed in accordance with the post-closure plan, has been placed in the operating record.
 - (f) Post-closure plan contents. The owner and operator of all C&DLF units must submit a written post-closure plan that includes, at a minimum, the following information:
 - (1) a description of the monitoring and maintenance activities required for each C&DLF unit, and the frequency at which these activities must be performed;
 - (2) name, address, and telephone number of the person or office responsible for the facility during the post-closure period;
 - (3) a description of the planned uses of the property during the post-closure period. Post-closure use of the property must not disturb the integrity of the cap system, base liner system, or any other components of the containment system, or the function of the monitoring systems unless necessary to comply with the requirements in this Section. The Division may approve disturbance if the owner or operator demonstrates that disturbance of the cap system, base liner system, or other component of the containment system, including any removal of waste, will not increase the potential threat to human health or the environment; and
 - (4) the cost estimate for post-closure activities required under Rule .0546 of this Section.

History Note: Authority G.S. 130A-294; Eff. January 1, 2007.

15A NCAC 13B .0544 MONITORING PLANS AND REQUIREMENTS FOR C&DLF FACILITIES

- (a) A Monitoring Plan must be submitted that contains the following information and must apply to all C&DLF units. The Monitoring Plan must be prepared in accordance with this Rule.
- (b) Ground-water monitoring plan. A ground-water monitoring plan, including information on the proposed ground-water monitoring system(s), sampling and analysis requirements, and detection monitoring requirements that fulfills the requirements of Part (1)(A) through (1)(E) of this Paragraph, must be submitted.
- (1) A ground-water monitoring system must be installed that consists of a sufficient number of wells, installed at appropriate locations and depths, to yield ground-water samples from the aquifer that:
 - (A) Represent the quality of the background ground water that has not been affected by leakage from the unit. Normally, determination of background water quality will be based on sampling of a well or wells that are hydraulically upgradient of the waste management area. However, the determination of background water quality may include sampling of wells that are not hydraulically upgradient of the waste

- management area where hydrogeologic conditions do not allow the owner and operator to determine which wells are hydraulically upgradient, or hydrogeologic conditions do not allow the owner and operator to place a well in a hydraulically upgradient location, or sampling at other wells will provide an indication of background ground-water quality that is as representative as that provided by the upgradient well(s); and
- (B) Represent the quality of ground water passing the relevant point of compliance as approved by the Division. The downgradient monitoring system must be installed at the relevant point of compliance so as to ensure detection of ground-water contamination in the uppermost aquifer. The relevant point of compliance must be established no more than 250 feet from a waste boundary, or must be at least 50 feet within the facility property boundary, whichever point is closer to the waste boundary. In determining the relevant point of compliance, the Division shall consider recommendations made by the owner and operator based upon consideration of at least the hydrogeologic characteristics of the facility and surrounding land; the quantity, quality, and direction of flow of the ground water; the proximity and withdrawal rate of the ground-water users; the existing quality of the ground water, including other sources of contamination and their cumulative impacts on the ground water, and whether the ground water is currently used or reasonably expected to be used for drinking water; public health, safety, and welfare effects; and practicable capability of the owner and operator.
- (C) The ground-water monitoring programs must include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide an accurate representation of ground-water quality at the background and downgradient wells. The plan must include procedures and techniques for sample collection; sample preservation and shipment; chain-of-custody control; and quality assurance and quality control.
- (D) Detection ground-water monitoring program. The monitoring programs must include sampling and analytical methods that are appropriate for ground-water sampling and that accurately measure target constituents and other monitoring parameters in ground-water samples. Detection monitoring is required at C&DLF units at all ground-water monitoring wells that are part of the detection monitoring system as established in the approved monitoring plan. At a minimum, the detection monitoring program must include monitoring for the constituents listed in Appendix I of 40 CFR Part 258, Mercury, Chloride, Manganese, Sulfate, Iron, specific conductance, pH, temperature, Alkalinity, and Total Dissolved Solids. The monitoring frequency for all detection monitoring constituents must be at least semiannual during the active life of the facility, and during the closure and post-closure periods. A minimum of one sample from each well, background and downgradient, must be collected and analyzed for the constituents before waste placement in each cell or phase. At least one sample from each well, background and downgradient, must be collected and analyzed during subsequent semiannual sampling events. The Classifications and Water Quality Standards Applicable to the Groundwaters of North Carolina (15A NCAC 02L) are incorporated by reference, including subsequent amendments and editions. Copies of this material may be inspected or obtained at the Department of Environment and Natural Resources or on the Department website.
- (E) The sampling procedures and frequency must be protective of human health and the environment.
- (F) Each time ground-water is sampled elevations must be measured in each well immediately prior to purging. Ground-water elevations in wells which monitor the same waste management area must be measured within a 24 hour period of time to avoid temporal variations in ground-water flow which could preclude

- accurate determination of ground-water flow rate and direction. In order to accurately determine ground-water elevations for each monitoring well, the wells must have been accurately surveyed by a North Carolina Registered Land Surveyor. The survey of the wells must conform to at least the following levels of accuracy: horizontal location to the nearest 0.1 foot, vertical control for the ground surface elevation to the nearest 0.01 foot, and vertical control for the measuring reference point on the top of the inner well casing to the nearest 0.01 foot. In order to determine the rate of ground-water flow, the owner or operator must provide data for hydraulic conductivity and porosity for the formation materials at each of the well locations.
- (G) The owner or operator must establish existing conditions of ground-water quality in hydraulically upgradient or background well(s) for each of the monitoring parameters or constituents required in the particular ground-water monitoring program that applies to the C&DLF unit.
- (H) Within 120 days of completing a ground-water sampling event, the owner or operator must submit to the Division a report, with one copy in electronic format, that includes information from the sampling event; including: field observations relating to the condition of the monitoring wells; field data; summary of the laboratory data; field sampling quality assurance and quality control data; information on ground-water flow direction; ground-water flow rate for each well with constituents that exceed ground-water standards over background levels; and any other pertinent information related to the sampling event.
- (I) The owner or operator may demonstrate that a source other than the C&DLF unit or a natural variation in ground-water quality has caused contamination, or an error in sampling or analysis of data has resulted in false reporting of contamination. A report documenting this demonstration must be certified by a Licensed Geologist or Professional Engineer and must be submitted to the Division for review. The Division shall date and stamp the demonstration "approved" if the conditions of this Paragraph are met. A copy of the approved report must also be placed in the operating record.
- (2) Monitoring wells must be designed and constructed in accordance with the applicable North Carolina Well Construction Standards as codified in 15A NCAC 02C.
- (A) Owners and operators must obtain approval from the Division for the design, installation, development, and decommission of any monitoring well or piezometer. Documentation must be placed in the operating record and provided to the Division.
- (B) The monitoring wells and piezometers must be operated, maintained, and accessible so that they perform to design specifications throughout the life of the monitoring program.
- (3) The number, spacing, and depths of monitoring points must be determined based upon site-specific technical information that must include investigation of:
- (A) aquifer thickness, ground-water flow rate, and ground-water flow direction, including seasonal and temporal fluctuations in ground-water flow; and
- (B) unsaturated and saturated geologic units (including fill materials) overlying and comprising the uppermost aquifer, including thickness, stratigraphy, lithology, hydraulic conductivities, porosities and effective porosities.
- (4) The Division may require or allow the use of alternative monitoring systems in addition to ground-water monitoring wells:
- (A) at sites where the owner and operator does not control the property from any landfill unit to the ground-water discharge feature(s); or
- (B) at sites with hydrogeologic conditions favorable to detection monitoring by alternative methods.
- (5) Owners and operators of C&DLF units must comply with the ground-water monitoring, assessment and corrective action requirements under Rules .0544 through .0545 of this Section according to the following schedule:
- (A) new C&DLF units must be in compliance with the requirements before waste can be placed in the unit; and

- (B) lateral expansions to existing C&DLF units must be in compliance with the requirements before waste can be placed in the expansion area.
 - (c) Surface water monitoring plan. The Surface Water Monitoring System must be as follows:
 - (1) The Division shall require a solid waste management facility to provide such surface water monitoring capability as the Division determines to be necessary to detect the effects of the facility on surface water in the area. In making such a determination, the Division shall consider the following factors:
 - (A) the design of the facility, the nature of the process it will use, and the type of waste it will handle;
 - (B) drainage patterns and other hydrological conditions in the area;
 - (C) proximity of surface water to the facility;
 - (D) uses that are being or may be made of any surface water that may be affected by the facility; and
 - (E) any other factors that reasonably relate to the potential for surface water effects from the facility.
 - (2) Responsibility for sample collection and analysis must be defined as a part of the monitoring plan.
 - (d) Gas control plan.
 - (1) Owners and operators of all C&DLF units must ensure that:
 - (A) the concentration of methane gas or other explosive gases generated by the facility does not exceed 25 percent of the lower explosive limit in on-site facility structures (excluding gas control or recovery system components);
 - (B) the concentration of methane gas or other explosive gases does not exceed the lower explosive limit for methane or other explosive gases at the facility property boundary; and
 - (C) the facility does not release methane gas or other explosive gases in any concentration that can be detected in offsite structures.
 - (2) Owners and operators of all C&DLF units must implement a routine methane monitoring program to ensure that the standards of this Paragraph are met.
 - (A) The type of monitoring must be determined based on soil conditions, the hydrogeologic conditions under and surrounding the facility, hydraulic conditions on and surrounding the facility, the location of facility structures and property boundaries, and the location of all off-site structures adjacent to property boundaries.
 - (B) The frequency of monitoring shall be quarterly or as approved by the Division.
 - (3) If methane or explosive gas levels exceeding the limits specified in Subparagraph (d)(1) of this Rule are detected, the owner and operator must:
 - (A) immediately take all steps necessary to ensure protection of human health and notify the Division;
 - (B) within seven days of detection, place in the operating record the methane or explosive gas levels detected and a description of the steps taken to protect human health; and
 - (C) within 60 days of detection, implement a remediation plan for the methane or explosive gas releases, place a copy of the plan in the operating record, and notify the Division that the plan has been implemented. The plan must describe the nature and extent of the problem and the proposed remedy.
 - (4) Based on the need for an extension demonstrated by the operator, the Division may establish alternative schedules for demonstrating compliance with Parts (3)(B) and (3)(C) of this Paragraph.
 - (5) For purposes of this Item, "lower explosive limit" means the lowest percent by volume of a mixture of explosive gases in air that will propagate a flame at 25 C and atmospheric pressure.
- (e) A waste acceptability program. Owners and operators of all C&DLF units must implement a program at the facility for detecting and preventing the disposal of industrial, hazardous, liquid, municipal solid waste and excluded wastes in accordance with the Operating Plan or the effective permit. This program must include, at a minimum:
- (1) random inspections of incoming loads or other comparable procedures;
 - (2) records of any inspections;
 - (3) training of facility personnel to recognize industrial, hazardous, liquid, municipal and excluded waste; and
 - (4) development of a contingency plan to properly manage any identified industrial hazardous, liquid, municipal or excluded waste. The plan must address identification, removal, storage and final disposition of the waste.
- (f) The Monitoring Plan must include any other monitoring plan or program which is necessary according to the Operating Plan or the effective permit.
- (g) Monitoring plans must be prepared under the responsible charge of and bear the seal of a Licensed Geologist or

Professional Engineer in accordance with G.S. 89E or 89C, respectively.

(h) Monitoring plans must be certified by a Licensed Geologist or Professional Engineer to be effective in providing early detection of any release of hazardous constituents from any point in a disposal cell or leachate surface impoundment to the uppermost aquifer, air, surface waters, or proximal area, so as to be protective of public health and the environment.

(i) Monitoring plans must be submitted to the Division for review. The Division shall date and stamp the monitoring plans "approved" if they meet the conditions of this Rule. A copy of the approved monitoring plan must be placed in the operating record.

(j) Once established at a C&DLF facility, all monitoring must be conducted throughout the active life and post-closure care period for all C&DLF units.

*History Note: Authority G.S. 130A-294;
Eff. January 1, 2007.*

**15A NCAC 13B .0545 ASSESSMENT AND
CORRECTIVE ACTION PROGRAM FOR C&DLF
FACILITIES AND UNITS**

(a) Assessment Program. Assessment is required if one or more constituents, as listed in Part (b)(1)(D) of Rule .0544 of this Section are detected above the current ground-water quality standards in accordance with 15A NCAC 02L .0202, in any sampling event. The owner and operator must also immediately:

- (1) Install at least one additional groundwater monitoring well or methane gas monitoring well at the facility boundary or the compliance boundary, as defined in 15A NCAC 02L .0100, in the direction of contaminant migration. The new sampling point must be installed at the facility boundary or compliance boundary at the location most likely to show impact based on the known geology and hydrogeology;
- (2) Notify all persons who own land or reside on land that directly overlies any part of the plume of contamination if contaminants have migrated off-site or are thought to have migrated off site;
- (3) Within 30 days of triggering an assessment monitoring program, the owner and operator must submit an assessment monitoring work plan for Division review. The Division shall date and stamp the assessment monitoring program "approved" if the conditions in Paragraph (b) of this Rule are met. The owner and operator must place the approved program in the operation record, and notify all appropriate local government officials.

(b) Assessment Monitoring Work Plan. The assessment monitoring work plan must be in accordance with the following:

- (1) Install additional monitoring wells to characterize the nature and extent of the release by determining the following:

- (A) Lithology of the aquifer and unsaturated zone;
- (B) Hydraulic conductivity of the aquifer and unsaturated zone;
- (C) Ground-water flow rates;
- (D) Minimum distance of travel;
- (E) Resource value of the aquifer; and
- (F) Nature, fate, and transport of any detected constituents.

(2) Analyze for additional parameters, which may include constituents on the Appendix II of 40 CFR Part 258 as directed by the Division. For any constituent detected in the downgradient wells as the result of analyzing of additional parameters, a minimum of four independent samples from each well (background and downgradient) must be collected and analyzed to establish background for the new constituents.

(3) If the new constituents do not have an established 15A NCAC 02L .0202 groundwater quality standard, the owner or operator must obtain a determination from the Division on establishing a groundwater protection standard for each constituent detected in groundwater. The groundwater protection standard must be the most protective of the following:

- (A) For constituents for which a maximum contamination level (MCL) has been promulgated under the Section 1412 of the Safe Drinking Water Act codified under 40 CFR Part 141, the MCL for that constituent;
- (B) For constituents for which a water quality standard has been established under the North Carolina Rules Governing Public Water Systems, 15A NCAC 18C, the water quality standard for that constituent;
- (C) For constituents for which MCLs or water quality standards have not been promulgated, the background concentration for the constituent established from wells in accordance with Rule .1631(a)(1) of this Section; or
- (D) For constituents for which the background level is higher than the MCL or water quality standard or health based levels identified under Paragraph (i) of this Rule, the background concentration.

(4) The Division may establish an alternative ground-water protection standard for constituents for which neither an MCL or water quality standard has not been established. These ground-water protection

standards must be appropriate health based levels that satisfy the following criteria:

- (A) The level is derived in a manner consistent with E.P.A. guidelines for assessing the health risks of environmental pollutants;
 - (B) The level is based on scientifically valid studies conducted in accordance with the Toxic Substances Control Act Good Laboratory Practice Standards (40 CFR Part 792) or equivalent;
 - (C) For carcinogens, the level represents a concentration associated with an excess lifetime cancer risk level (due to continuous lifetime exposure) of 1×10^{-6} ;
 - (D) For systemic toxicants, the level represents a concentration to which the human population (including sensitive subgroups) could be exposed on a daily basis that is likely to be without appreciable risk of deleterious effects during a lifetime. For the purposes of this Rule, systemic toxicants include toxic chemicals that cause effects other than cancer or mutation.
- (5) In establishing ground-water protection standards under Paragraph (b) of this Rule the Division may consider the following:
- (A) Multiple contaminants in the ground water;
 - (B) Exposure threats to sensitive environmental receptors; and
 - (C) Other site-specific exposure or potential exposure to ground water.
- (6) The Division may specify an appropriate subset of wells to be sampled and analyzed during assessment monitoring. The Division may delete any of the additional monitoring parameters if it can be shown that the removed constituents are not reasonably expected to be in or derived from the waste contained in the unit.
- (7) After obtaining the results from the initial and subsequent sampling events, the owner or operator must submit an assessment monitoring report to the Division which must be certified by a Licensed Geologist.
- (8) The owner or operator may demonstrate that a source other than a C&DLF caused the contamination. An alternate source demonstration report must be prepared by a certified Licensed Geologist and submitted for approval by the Division. A copy of the approved report must also be placed in the operating record. If a successful demonstration is made, the owner or operator

may discontinue assessment monitoring, and may return to detection monitoring if the constituents are at or below background values and 15A NCAC 02L .0202 or approval is given by the Division according to Subparagraph (9) of this Paragraph. Until a successful demonstration is made, the owner or operator must comply with Paragraph (b) of this Rule.

- (9) The Division may give approval to the owner or operator to return to detection monitoring if:
 - (A) The concentrations of the constituents are shown to be at or below background values and 15A NCAC 02L .0202 for two consecutive sampling events;
 - (B) The plume is not migrating horizontally or vertically; and
 - (C) The plume has not exceeded the compliance boundary.
- (10) If constituents are consistently detected above background, 15A NCAC 02L .0202, and the approved groundwater protection standards, the owner or operator must initiate Assessment of Corrective Measures.

(c) **Assessment of Corrective Measures.** Assessment of corrective measures is required upon completion of Paragraphs (a) and (b) of this Rule as determined by the Division. The assessment of corrective measures must include an analysis of the effectiveness of potential corrective actions in meeting all of the requirements and objectives of the remedy as described under this Rule. The assessment of corrective measures document must address the following at a minimum:

- (1) the performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;
- (2) the time required to begin and to complete the remedy;
- (3) the costs of remedy implementation; and
- (4) the institutional requirements such as State and Local permit requirements or other environmental or public health requirements that may substantially affect implementation of the remedy(s).

(d) The owner and operator must discuss the results of the assessment of corrective measures, prior to the selection of the remedy, in a public meeting with interested and affected parties. The owner and operator must provide a public notice of the meeting at least 30 days prior to the meeting. The notice must include the time, place, date, and purpose of the meeting required by this Paragraph of this Rule. A copy of the public notice must be forwarded to the Division at least five days prior to publication. The owner and operator must mail a copy of the public notice to those persons requesting notification. Public notice must be in accordance with Rule .0533(c)(4) of this Section.

(e) Selection of Remedy. Based on the results of the Assessment of Corrective Actions, the owner and operator must select a remedy that, at a minimum, meets the standards listed in Subparagraph (2) of this Paragraph as follows:

- (1) Within 30 days of selecting a remedy, the permittee must submit an application to modify the permit describing the selected remedy to the Division for evaluation and approval. The application must be subject to the processing requirements set forth in Rule .0533(c) of this Section. The application must include the demonstrations necessary to comply with the financial assurance requirements set forth in accordance with Rule .0546 of this Section.
- (2) Remedies must:
 - (A) be protective of human health and the environment;
 - (B) attain the approved ground-water protection standards;
 - (C) control the source(s) of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of constituents into the environment that may pose a threat to human health or the environment; and
 - (D) comply with standards for management of wastes as specified in Paragraph (k) of this Rule.
- (3) In selecting a remedy that meets the standards of Subparagraph (e)(2) of this Rule, the owner and operator must consider the following evaluation factors:
 - (A) The long-term and short-term effectiveness and protectiveness of the potential remedy(s), along with the degree of certainty that the remedy will prove successful based on consideration of the magnitude of reduction of existing risks; magnitude of residual risks in terms of likelihood of further releases due to wastes remaining following implementation of a remedy; the type and degree of long-term management required, including monitoring, operation, and maintenance; short-term risks that might be posed to the community, to workers, or to the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redisposal or containment; time until full protection is achieved; potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the

environment associated with excavation, transportation, redisposal, or containment; long-term reliability of the engineering and institutional controls; and potential need for replacement of the remedy.

- (B) The effectiveness of the remedy in controlling the source to reduce further releases, based on consideration of the extent to which containment practices will reduce further releases, and the extent to which treatment technologies may be used.
 - (C) The ease or difficulty of implementing a potential remedy, based on consideration of the degree of difficulty associated with constructing the technology; the expected operational reliability of the technologies; the need to coordinate with and obtain necessary approvals and permits from other agencies; the availability of necessary equipment and specialists; and available capacity and location of needed treatment, storage, and disposal services.
 - (D) The practicable capability of the owner and operator, including a consideration of the technical and economic capability.
- (4) The owner and operator must specify as part of the selected remedy a schedule for initiating and completing remedial activities included in a corrective action plan. This schedule must be submitted to the Division for review and approval. Such a schedule must require the initiation of remedial activities within a reasonable period of time, taking into consideration the factors set forth in this Rule. The owner and operator must consider the following factors in determining the schedule of remedial activities:
- (A) nature and extent of contamination;
 - (B) practical capabilities of remedial technologies in achieving compliance with the approved ground-water protection standards and other objectives of the remedy;
 - (C) availability of treatment or disposal capacity for wastes managed during implementation of the remedy;
 - (D) desirability of utilizing technologies that are not currently available, but which may offer advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;

- (E) potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;
- (F) resource value of the aquifer, including current and future uses; proximity and withdrawal rate of users; ground-water quantity and quality; the potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to contaminants; the hydrogeologic characteristics of the facility and surrounding land; ground-water removal and treatment costs; the costs and availability of alternative water supplies;
- (G) practical capability of the owner and operator; and
- (H) other relevant factors.

(f) The Division may determine that active remediation of a release of any detected constituent from a C&DLF unit is not necessary if the owner or operator demonstrates to the satisfaction of the Division that:

- (1) The ground-water is additionally contaminated by substances that have originated from a source other than a C&DLF unit and those substances are present in concentrations such that active cleanup of the release from the C&DLF unit would provide no significant reduction in risk to actual or potential receptor;
- (2) The constituent or constituents are present in ground-water that is not currently or reasonably expected to be a source of drinking water and is not hydraulically connected with water to which the constituents are migrating or are likely to migrate in concentrations that would exceed the approved ground-water protection standards;
- (3) Remediation of the release is technically impracticable; or
- (4) Remediation results in unacceptable cross-media impacts.

(g) A determination by the Division pursuant to this Paragraph must not affect the authority of the State to require the owner and operator to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the ground water, to prevent exposure to the ground water, or to remediate ground water to concentrations that are technically practicable and reduce threats to human health or the environment.

(h) Implementation of the Corrective Action Program. Based on the approved schedule for initiation and completion of remedial activities, the owner and operator must submit in a corrective action plan:

- (1) Establish and implement a corrective action ground-water monitoring program that:
 - (A) at a minimum, meets the requirements of an assessment

- monitoring program under Paragraphs (a) and (b) of this Rule;
- (B) indicates the effectiveness of the corrective action remedy; and
- (C) demonstrates compliance with ground-water protection standards pursuant to Paragraph (i) of this Rule.
- (2) Implement the approved corrective action remedy; and
- (3) Take any interim measures necessary to ensure the protection of human health and the environment. Interim measures must be consistent with the objectives of and contribute to the performance of any remedy that may be required. The following factors must be considered by an owner and operator in determining whether interim measures are necessary:
 - (A) time required to develop and implement a final remedy;
 - (B) actual or potential exposure of nearby populations or environmental receptors to hazardous constituents;
 - (C) actual or potential contamination of drinking water supplies or sensitive ecosystems;
 - (D) further degradation of the ground water that may occur if remedial action is not initiated expeditiously;
 - (E) weather conditions that may cause hazardous constituents to migrate or be released;
 - (F) risks of fire or explosion, or potential for exposure to hazardous constituents as a result of an accident or failure of a container or handling system; and
 - (G) other situations that may pose threats to human health or the environment.

(i) The owner or operator or the Division may determine, based on information developed after implementation of the remedy has begun or other information, that compliance with requirements of Subparagraph (e)(2) of this Rule are not being achieved through the remedy selected. In such cases, the owner and operator must implement other methods or techniques, as approved by the Division that could practicably achieve compliance with the requirements, unless the owner or operator makes the determination under Paragraph (f) of this Rule.

(j) If the owner or operator determines that compliance with requirements of Subparagraph (e)(2) of this Rule cannot be practically achieved with any currently available methods, the owner and operator must:

- (1) obtain certification of a Licensed Geologist or Professional Engineer and approval from the Division that compliance with the requirements under Subparagraph (e)(2) of this Rule cannot be practically achieved with any currently available methods;

- (2) implement alternate measures to control exposure of humans or the environment to residual contamination, as necessary to protect human health and the environment;
 - (3) implement alternate measures for control of the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures that are:
 - (A) technically practicable and
 - (B) consistent with the overall objective of the remedy; and
 - (4) submit a report justifying the alternative measures to the Division for review. The Division shall date and stamp the report "approved" if the conditions of this paragraph are satisfied. The approved report must be placed in the operating record prior to implementing the alternative measures.
- (k) All solid wastes that are managed pursuant to a remedy required under Paragraph (e) of this Rule, or an interim measure required under Paragraph (e) of this Rule, must be managed in a manner:
- (1) that is protective of human health and the environment, and
 - (2) that complies with applicable state and federal requirements.
- (l) Remedies selected pursuant to Paragraph (e) of this Rule shall be considered complete when:
- (1) the owner and operator complies with the ground-water protection standards at all points within the plume of contamination that lie beyond the relevant point of compliance;
 - (2) compliance with the ground-water protection standards has been achieved by demonstrating that concentrations of constituents have not exceeded these standards for a period of three consecutive years, consistent with performance standards in Subparagraph (e)(2) of this Rule; and
 - (3) all actions required to complete the remedy have been satisfied.
- (m) Upon completion of the remedy, the owner and operator must submit a report to the Division documenting that the remedy has been completed in compliance with Paragraph (l) of this Rule. This report must be signed by the owner and by a Licensed Geologist or Professional Engineer. Upon approval by the Division, this report must be placed in the operating record.
- (n) When, upon completion of the certification, the Division determines that the corrective action remedy has been completed in accordance with Paragraph (l) of this Rule, the owner and operator shall be released from the requirements for financial assurance for corrective action under Rule .0546 of this Section.
- (a) Owners and operators of C&DLF facilities and units must provide proof of financial assurance in accordance with the financial responsibility for landfills adopted pursuant to G.S. 130A-294(b) and 130A-309.27.
 - (b) Owners and operators of C&DLF facilities and units permitted under these Rules must provide proof of financial assurance to ensure closure of the site in accordance with these Rules and to cover closure, post-closure, and corrective action of the landfill. Financial assurance may be demonstrated through surety bonds, insurance, letters of credit, a funded trust, or local government financial test. Documentation of financial assurance must be kept current, and updated annually as required by changes in these Rules, changes in operation of the site, and inflation.
 - (c) Owners and operators of C&DLF facilities and units must demonstrate the following minimum amounts of financial assurance for closure and post-closure care:
 - (1) The owner and operator must have a written estimate, in current dollars, of the cost of hiring a third party to close the entire area of all C&DLF units, which have received permits to operate, at any time during the active life in accordance with the closure plan required under Rule .0543 of this Section. A copy of the closure cost estimate must be placed in the C&DLF's closure plan and the operating record.
 - (A) The cost estimate must equal the cost of closing the entire area of all C&DLF units, which have received permits to operate, at any time during the active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan as set forth in Rule .0543 of this Section.
 - (B) During the active life of the C&DLF, the owner and operator must annually adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s). For owners and operators using the local government financial test, the closure cost estimate must be updated for inflation within 30 days after the close of the local government's fiscal year and before submission of updated information to the Division.
 - (C) The owner and operator must increase the closure cost estimate and the amount of financial assurance provided under Subparagraph (2) of this Paragraph if changes to the closure plan or C&DLF unit conditions increase the maximum cost of closure at any time during the remaining active life.

*History Note: Authority G.S. 130A-294;
Eff. January 1, 2007.*

**15A NCAC 13B .0546 FINANCIAL ASSURANCE
REQUIREMENTS FOR C&DLF FACILITIES AND
UNITS**

- (D) The owner or operator may reduce the closure cost estimate and the amount of financial assurance provided under Subparagraph (2) of this Paragraph if the cost estimate exceeds the maximum cost of closure at any time during the remaining life of the C&DLF unit. Prior to any reduction of the closure cost estimate or the amount of financial assurance by the owner or operator, a written justification for the reduction must be submitted to the Division for review. The Division shall date and stamp the justification "approved" if the conditions of this paragraph are met. The reduction justification and the Division approval must be placed in the C&DLF's operating record. No reduction of the closure cost estimate or the amount of financial assurance shall be allowed without Division approval.
- (2) The owner and operator of each C&DLF unit must establish financial assurance for closure of the C&DLF unit in compliance with Paragraph (a) of this Rule. The owner and operator must provide continuous coverage for closure until released from financial assurance requirements by demonstrating compliance with Rule .0543 of this Section for final closure certification.
- (3) The owner and operator must have a written estimate, in current dollars, of the cost of hiring a third party to conduct post-closure care for the C&DLF unit(s) in compliance with the post-closure plan developed under Rule .0543 of this Section. The post-closure cost estimate used to demonstrate financial assurance in Subparagraph (2) of this Paragraph must account for the total costs of conducting post-closure care, including annual and periodic costs as described in the post-closure plan over the entire post-closure care period. The post-closure cost estimate must be placed in the operating record.
 - (A) The cost estimate for post-closure care must be based on the most expensive costs of post-closure care during the post-closure care period.
 - (B) During the active life of the C&DLF unit(s) and during the post-closure care period, the owner and operator must annually adjust the post-closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s). For owners and operators using the local government financial test, the post-closure cost estimate must be updated for inflation within 30 days after the close of the local government's fiscal year and before submission of updated information to the Division.
- (C) The owner and operator must increase the post-closure care cost estimate and the amount of financial assurance provided under Subparagraph (2) of this Paragraph if changes in the post-closure plan or C&DLF unit(s) conditions increase the maximum costs of post-closure care.
- (D) The owner or operator may reduce the post-closure cost estimate and the amount of financial assurance provided under Subparagraph (2) of this Paragraph if the cost estimate exceeds the maximum costs of post-closure care remaining over the post-closure care period. Prior to any reduction of the post-closure cost estimate by the owner or operator, a written justification for the reduction shall be submitted to the Division for review. The Division shall date and stamp the justification "approved" if the conditions of this paragraph are met. The written justification and the Division approval must be placed in the C&DLF operating record. No reduction of the post-closure cost estimate shall be allowed without Division approval.
- (4) The owner and operator of each C&DLF unit must establish, in a manner in accordance with Paragraph (a) of this Rule, financial assurance for the costs of post-closure care as required under Rule .0543 of this Section. The owner and operator must provide continuous coverage for post-closure care until released from financial assurance requirements for post-closure care by demonstrating compliance with Rule .0543 of this Section. Maintenance of financial assurance in the required amounts in Subparagraphs (c)(1) and (c)(2) of this Rule does not in any way limit the responsibility of owners and operators for the full costs of site closure and clean-up, the expenses of any on-site or off-site environmental restoration necessitated by activities at the site, and liability for all damages to third parties or private or public properties caused by the establishment and operation of the site.
- (5) An owner and operator of a C&DLF unit required to undertake a corrective action program under Rule .0545 of this Section must have a written estimate, in current dollars, of

the cost of hiring a third party to perform the corrective action. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action program for the entire corrective action period. The owner and operator must notify the Division that the estimate has been placed in the operating record.

- (A) The owner and operator must annually adjust the estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) until the corrective action program is completed in accordance with Rule .0545(m) of this Section. For owners and operators using the local government financial test, the corrective action cost estimate must be updated for inflation within 30 days after the close of the local government's fiscal year and before submission of updated information to the Division.
- (B) The owner and operator must increase the corrective action cost estimate and the amount of financial assurance provided under Subparagraph (2) of this Paragraph if changes in the corrective action program or C&DLF unit conditions increase the maximum costs of corrective action.
- (C) The owner or operator may reduce the corrective action cost estimate and the amount of financial assurance provided under Subparagraph (2) of this Paragraph if the cost estimate exceeds the maximum remaining costs of corrective action. Prior to any reduction of the corrective action cost estimate by the owner or operator, a written justification for the reduction must be submitted to the Division for review. The Division shall date and stamp the justification "approved" if the conditions of this Paragraph are met. The reduction justification and the Division approval must be placed in the C&DLF's operating record. No reduction of the corrective action cost estimate shall be allowed without Division approval. The reduction justification and the Division approval must be placed in the C&DLF's operating record.
- (6) The owner and operator of each C&DLF unit required to undertake a corrective action program under Rule .0545 of this Section must

establish, in a manner in accordance with Paragraph (a) of this Rule, financial assurance for the most recent corrective action program. The owner or operator must provide continuous coverage for corrective action until released from financial assurance requirements for corrective action by demonstrating compliance with Rule .0545(m) of this Section.

*History Note: Authority G.S. 130A-294;
Eff. January 1, 2007.*

15A NCAC 13B .0547 EXISTING C&DLF UNITS AS OF JANUARY 1, 2007

An owner and operator of an existing C&DLF unit(s), those receiving waste prior to January 1, 2007, must close or submit an application document according to the criteria and scheduling requirements set forth in this Rule. All C&DLF unit(s) must conform to the specific conditions set forth in the permit and the following general provisions.

- (1) Closure of existing C&DLF unit(s). C&DLF unit(s), which did not and will not receive solid waste after June 30, 2008, must comply with the Solid Waste Permit, the Conditions of Permit, and Rule .0510 of this Section.
- (2) Financial Assurance for existing C&DLF facilities and units. Owners and operators of existing C&DLF facilities and units must submit the following by July 1, 2008:
 - (a) a closure and post-closure plan prepared in accordance with Rule .0543 of this Section; and
 - (b) financial responsibility in accordance with Rule .0546 of this Section.
- (3) Application for a Permit to Construct a new phase of an existing C&DLF facility or unit must be subject to the following. An owner and operator of an existing C&DLF must submit an application 120 days prior to the expiration date of the effective permit to operate or at least 180 days prior to the date scheduled for constructing a phase of C&DLF development not approved in the effective permit to operate, whichever occurs first. The application must consist of the following:
 - (a) a facility plan that defines the comprehensive development of the property. The plan includes a set of drawings and a report which presents the long-term, general design concepts related to construction, operation, and closure of the C&DLF unit(s). The scope of the plan spans the active life of the unit(s). A facility plan must be prepared in accordance with Subparagraphs (d)(1), (e)(1), (e)(2), and (e)(3) of Rule .0537 of this Section. Additional solid waste

management activities located at the C&DLF facility must be identified in the plan and must meet the requirements of this Subchapter. The facility plan defines the waste stream proposed for management at the C&DLF facility. If different types of landfill units or non-disposal activities are included in the facility design, the plan must describe general waste acceptance and segregation procedures. The areal limits of the C&DLF unit(s), total capacity of the C&DLF unit(s), and the proposed waste stream must be in accordance with the current permit for an existing facility applying for a Permit to Construct a new phase not approved in the current permit;

- (b) an engineering plan that is prepared for the initial phase of landfill development prepared in accordance with Rule .0539 of this Section;
 - (c) a construction quality assurance plan prepared in accordance with Rule .0541 of this Section;
 - (d) an operation plan prepared in accordance with Rule .0542 of this Section, with an appended monitoring plan in accordance with Rule .0544 of this Section; and
 - (e) a closure and post-closure plan prepared in accordance with Rule .0543 of this Section.
- (4) Owners and operators of existing C&DLF units on top of closed MSWLFs must submit a permit application by July 1, 2008, for the continued operations of those units. The permit must be reviewed at the end of each five-year period. The permit will be reissued upon receipt of a complete permit amendment prepared in accordance with Rule .0535(b) and upon determination that the corrective action plan prepared in accordance with Rule .0547(4)(c) is being implemented. The application must contain:
- (a) local government approval in accordance with Rule .0536(c)(11) of this Section,
 - (b) an operations plan in accordance with Rule .0542 of this Section, including a five-year phase of development and a waste acceptance plan in accordance with the existing permit,
 - (c) a corrective action plan for the closed MSWLF, as required by Rule .1635 of this Subchapter, prepared in accordance with Rules .1636 and .1637 of this Subchapter,

- (d) a closure and post-closure plan in accordance with Rule .1627 of this Subchapter, and
- (e) financial assurance in accordance with Rule .1628 of this Subchapter.

History Note: Authority G.S. 130A-294; Eff. January 1, 2007.

15A NCAC 18A .2201 DEFINITIONS

The following definitions shall apply throughout this Section:

- (1) "Bed and Breakfast Home" means a private home offering bed and breakfast accommodations to eight or fewer persons per night for a period of less than a week.
- (2) "Division" means the North Carolina Division of Environmental Health. The term also means the authorized representative of the Division.
- (3) "Director" means the Director of the Division of Environmental Health of the Department of Environment and Natural Resources.
- (4) "Permittee" means the person in charge who resides in and owns or rents the home.
- (5) "Potentially Hazardous Food" means any food or ingredient, natural or synthetic, in a form capable of supporting the growth of infectious or toxigenic microorganisms, including *Clostridium botulinum*. This term includes raw or heat treated foods of animal origin, raw seed sprouts, and treated foods of plant origin. The term does not include foods which have a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less.
- (6) "Sanitarian" means a person authorized to represent the Division in making inspections and evaluations pursuant to this Section.

History Note: Authority G.S. 130A-250; Eff. April 1, 1984; Amended Eff. November 1, 2006; November 1, 2002; September 1, 1990.

15A NCAC 18D .0205 CLASSIFICATION OF WATER TREATMENT FACILITIES

(a) With the exception of Class D-Well, the public water system treatment classification shall be based on the source of water and the number of points assigned to each facility as taken from the table in Rule .0203(b) of this Section. Classifications are as follows:

| | |
|---------|-----------------|
| Class C | 1-50 points |
| Class B | 51-110 points |
| Class A | over 110 points |

Class D-Well is any non-community public water system with hypochlorite solution as the only treatment applied to the water.

(b) The classification of distribution systems shall apply to all community and non-transient non-community public water systems. The distribution system class level shall be the greater of the treatment plant class level from Paragraph (a) of this Rule

or the following class level based on the number of service connections and fire protection:

- (1) Class D-DISTRIBUTION is any system with 100 or fewer service connections with no fire protection system;
- (2) Class C-DISTRIBUTION is any system with more than 100 service connections but not exceeding 1,000 service connections, with no fire protection system;
- (3) Class B-DISTRIBUTION is any system with more than 1,000 service connections but not exceeding 3,300 service connections or any system not exceeding 1,000 service connections with a fire protection system; and
- (4) Class A-DISTRIBUTION is any system with more than 3,300 service connections.

(c) The classification CROSS-CONNECTION-CONTROL is also applied to any distribution system with requirement for five or more testable backflow prevention assemblies to be installed within the water distribution system.

History Note: Authority G.S. 90A-21(c); 90A-22;

Eff. February 1, 1976;

Amended Eff. September 1, 1977;

Readopted Eff. March 1, 1979;

Amended Eff. November 1, 2006; August 1, 2002; August 1, 2000; August 3, 1992; September 1, 1990; December 31, 1980; January 1, 1980.

15A NCAC 18D .0206 CERTIFIED OPERATOR REQUIRED

(a) All public water systems, except transient non-community systems with either or both ultraviolet light disinfection, or softening (not required by the North Carolina Department of Environmental Health - Public Water Supply Section), as the only treatment applied to water, must have a certified operator in responsible charge for each water treatment facility that alters the physical, chemical, or microbiological characteristics of the water; has approved plans for such alterations; or has equipment installed for such alterations. Upon vacancy of a position resulting in noncompliance with this requirement each facility must notify the Board Office and Division of Environmental Health Public Water Supply Section Regional Office, in writing, within 10 days.

(b) There must be an operator holding at least a Grade C-Surface certification or above assigned to be on duty on the premises when a surface water treatment facility is treating water. Implementation of this requirement is subject to the following provisions:

- (1) Upon vacancy of a position resulting in noncompliance with this requirement each facility must notify the Board Office within 24 hours or at the start of the next regular business day of such vacancy;
- (2) Upon such vacancy the facility must fill the position with a certified grade C-Surface operator or an operator with a temporary C-Surface within 90 days.

(c) There must be an operator in responsible charge for the distribution portion of the community and non-transient non-community public water systems. This operator must possess a valid certificate issued by the Board equivalent to or exceeding the distribution classification of the facility for which he or she is designated. A system serving 100 or fewer service connections is exempt from this requirement if it has an operator in responsible charge as required in Paragraph (a) of this Rule. A system which is classified as D-distribution only may use a state certified distribution, well or surface operator to meet the operator in responsible charge requirements of this Rule.

(d) Effective July 1, 2003 there must be an operator in responsible charge for the cross-connection-control facilities of the distribution system for all public water systems required by 15A NCAC 18C to have five or more testable backflow prevention assemblies. This operator must possess a valid Grade Cross-Connection-Control certificate issued by the Board.

(e) All operators of community and non-transient non-community public water systems must follow the standard operating procedures established by the operator in responsible charge. Any decisions about water quality or quantity that affect public health which have not been defined in the standard operating procedures must be referred to the operator in responsible charge or to the certified operator on duty.

(f) No operator in responsible charge is required for transient non-community public water systems with ultraviolet light (uv) disinfection or softening (not required by the North Carolina Department of Environmental Health - Public Water Supply Section) as the only treatment applied to water.

History Note: Authority G.S. 90A-20; 90A-28; 90A-29; 90A-32;

Eff. July 1, 1991;

Amended Eff. November 1, 2006; August 1, 2004; August 1, 2002; August 1, 2000; May 1, 1994; May 3, 1993.

TITLE 25 – OFFICE OF STATE PERSONNEL

25 NCAC 01I .2404 SYSTEM PORTION IV: EMPLOYEE RELATIONS

(a) In order to be declared substantially equivalent in the area of employee relations, a county shall adopt a policy that includes the following policy provisions:

- (1) A provision that employees shall not be disciplined, including dismissed, except for just cause.
- (2) A provision that allows for action, including dismissal, on the basis of unsatisfactory job performance or unacceptable personal conduct.
- (3) A provision that the policy shall be available to all employees.
- (4) A provision that the county shall train all supervisors and managers in the appropriate use of the employee relations policy.

(b) In order to be declared substantially equivalent in the area of employee relations, a county shall adopt a grievance procedure that includes all of the following:

- (1) A provision that extends coverage to at least all county employees subject to North Carolina General Statutes Chapter 126.
- (2) A provision that all employees who have completed a probationary period shall have access to the grievance procedure on at least these issues:
 - (A) Just cause to impose disciplinary demotion in pay or position, disciplinary suspension without pay or dismissal;
 - (B) Allegations of discrimination based on race, sex (including allegations of sexual harassment), religion, age, national origin, handicapping condition, creed or color in hiring, promotion, any disciplinary action, compensation, transfer or training.
- (3) A provision for a hearing before an impartial hearing officer, or a hearing panel appointed by the County Manager and the Human Resources Director. No person who reports directly to the County Manager or who works in the Human Resources area may be a hearing officer or may serve on the hearing panel.
- (4) A provision for a public hearing with the ability of each party to be represented by attorney. The hearing officer or hearing panel shall have the authority to compel attendance at such hearing. The hearing shall be recorded so that a record may be prepared and forwarded to Superior Court.
- (5) A provision that the hearing officer or hearing panel shall make a recommendation to the local appointing authority. The local appointing authority shall make a final, binding decision in the grievance.
- (6) A provision that the final decision shall state in writing that if the employee/grievant disagrees with the decision of the local appointing authority, appeal from that decision may be made to the Superior Court of the county.
- (7) Specific time limits on management responses and decisions, and a provision that if management fails to comply with the time limits of the procedure, that the employee may unilaterally choose to advance to the next step in the procedure.

(c) All provisions of this Section shall be complied with in order for substantial equivalent status to be granted by the Commission.

(d) The Office of State Personnel shall provide technical assistance and advice to any county wishing to apply for substantial equivalent status in employee relations.

(e) Any county that was approved for substantial equivalent status in the area of employee relations prior October 1, 2006 shall re-apply for approval before October 1, 2007. Failure to apply within that period shall automatically terminate that county's substantial equivalent status in employee relations. Any

county that was approved for substantial equivalent status in the area of employee relations prior to October 1, 2006, shall remain substantially equivalent until October 1, 2007, or until approved for substantial equivalent status based on this Section.

(f) The State Personnel Commission may waive any condition set out in this section and approve a county's request for substantial equivalent status based on a recommendation from the Office of State Personnel. Such recommendation shall specify that waiver would result in a more effective system of employee relations. Factors to be considered by the Commission in granting a waiver include the following: compliance with the condition would increase the time involved for employees in the overall grievance procedure; the presence of sufficient limits on management's ability to increase the time involved in the grievance procedure; and the assistance from the county available to employees to proceed through the grievance procedure.

History Note: Authority G.S. 126-11; Eff. August 3, 1992; Amended Eff. November 1, 2006.

TITLE 26 – OFFICE OF ADMINISTRATIVE HEARINGS

26 NCAC 02C .0105 ELECTRONIC VERSION

(a) The electronic version must be a 3 1/2 inch (1.44 Mb) high density diskette or CD compatible with or convertible to the most recent version of Microsoft Word. The filed electronic version must identify the name of the document to be retrieved and the software used. OAH shall refuse to accept for publication any document in which the electronic version is not compatible with or convertible to the most recent version of Microsoft Word.

(b) The diskette or CD may contain multiple rules filed at the same time. Each rule must be saved as a separate document.

(c) An electronic version is not required if an agency that is unable to provide an electronic version that is compatible with or convertible to the most recent version of Microsoft Word submits a written statement to the Codifier of Rules to that effect. This statement must be signed by the agency head or rule-making coordinator.

History Note: Authority G.S. 150B-21.17; 150B-21.18; 150B-21.19; Temporary Adoption Eff. November 1, 1995; Eff. April 1, 1996; Amended Eff. November 1, 2006; January 1, 2006; April 1, 2004; August 1, 2000.

26 NCAC 02C .0402 PUBLICATION OF A PERMANENT RULE

An agency must submit a permanent rule for publication in the Code with the following:

- (1) An original submission form and copy (Rule .0403 of this Section).
- (2) If applicable, a letter delegating authority for the signature on the submission form (Rule .0113 of this Subchapter).

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| <p>(3) An original and copies of the permanent rule (Rule .0103 of this Subchapter) prepared in accordance with Rule .0108 of this Subchapter containing:</p> <ul style="list-style-type: none">(a) an introductory statement (Rule .0404 of this Section);(b) the body of the rule (Rule .0405 of this Section);(c) any changes in the rule (Rule .0405 of this Section);(d) the history note (Rule .0406 of this Section). | <p>(4) A return copy, if desired (Rule .0104 of this Subchapter).</p> <p>(5) An electronic version of the rule prepared in accordance with Rule .0105 of this Subchapter.</p> <p><i>History Note: Authority G.S. 150B-21.19; Temporary Adoption Eff. November 1, 1995; Eff. April 1, 1996; Amended Eff. November 1, 2006; April 1, 2004.</i></p> |
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This Section contains information for the meeting of the Rules Review Commission on Thursday November 16 & December 14, 2006, 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 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
John B. Lewis
Mary Beach Shuping
Judson A. Welborn
John Tart

RULES REVIEW COMMISSION MEETING DATES

December 14, 2006 January 18, 2007
February 15, 2007 March 15, 2007

Note: The following minutes have not yet been approved as final by the RRC and are subject to change until they are approved. They will be reviewed, corrected if necessary, and approved at the next monthly meeting of the RRC. If you have any questions or corrections concerning the minutes or action taken by the RRC please contact: Lisa Johnson at 919-733-3962, Joe DeLuca at 919-715-8655, or Bobby Bryan at 919-733-0928.

**RULES REVIEW COMMISSION
NOVEMBER 16, 2006
MINUTES**

The Rules Review Commission met on Thursday, November 16, 2006, in the Cabinet Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. Commissioners present were: Jim Funderburk, Jeff Gray, Jennie Hayman, Thomas Hilliard, Robert Saunders, Mary Shuping, John Tart, and Judson Welborn.

Staff members present were: Joseph DeLuca, Staff Counsel; Bobby Bryan, Rules Review Specialist; Lisa Johnson and Barbara Townsend, Administrative Assistants.

The following people attended:

| | |
|-------------------|--|
| Ben F. Massey Jr. | NC Board of Physical Therapy Examiners |
| Jean H. Stanley | NC Board of Nursing |
| Erin Gould | NC Dept. of Labor |
| Carlotta Dixon | DHHS/DSS |
| Becky Garrett | NC Board of Recreational Therapy |
| Barry Gupton | Building Code Council |
| Ann B. Wall | Secretary of State |
| Nancy Pate | DENR |
| Michael Boles | Resources for Seniors, Inc. |
| Susan Dail | DHHS/DSS |
| Shannon Crane | DHHS/DAAS |
| Rich Carpenter | DENR |
| Robert Privott | Home Builders Association |
| Glenda Artis | DHHS/DAAS |
| John Silverstein | NC Board of Physical Therapy Examiners |
| Dana Sholes | OAH |
| Julie Edwards | OAH |

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|------------------|-------------------------------|
| Felicia Williams | OAH |
| Dedra Alston | Division of Child Development |
| Dee Lupton | DENR |
| Angie Tate | DENR |
| Mike Marshall | DENR |
| Catherine Blum | DENR |
| Jack Nichols | Attorney/Board of Nursing |
| Jerry Rimmer | DENR/DWQ |

APPROVAL OF MINUTES

The meeting was called to order at 10:15 a.m. with Chairman Hayman presiding. Chairman Hayman reminded the Commission that all members have a duty to avoid conflicts of interest and appearances of conflict pursuant to Governor Easley's Executive Order No. 1. Chairman Hayman asked for any discussion, comments, or corrections concerning the minutes of the October 19, 2006 meeting. The minutes were approved as written. Chairman Hayman read a letter to the Commission from Commissioner Shuping to the Board of Ethics notifying them of her employment change.

FOLLOW-UP MATTERS

12 NCAC 11 .0201: Alarm Systems Licensing Board – The Commission approved the rewritten rule submitted by the agency.

21 NCAC 14J .0502: Cosmetic Art Examiners - The Commission returned this rule to the agency at the request of the agency.

21 NCAC 48G .0601: Physical Therapy Examiners – The Commission approved the rewritten rule submitted by the agency.

23 NCAC 3A .0113: Board of Community Colleges - The Commission did not receive any response from the agency therefore no action was taken.

LOG OF FILINGS

Chairman Hayman presided over the review of the log of permanent rules. All rules were approved unanimously with the following exceptions:

04 NCAC 06C .1202: Credit Union Division - The Commission objected to the rule due to ambiguity. In (6), it is not clear what is meant by “in light of applicable safety and soundness considerations.” It is also not clear what standards the Administrator will use in granting or denying the applications.

10A NCAC 06R .0305: The Commission objected to the rule due to ambiguity. In (a)(3), it is not clear how extensive a criminal history record check is required of all newly hired employees.

2006 Residential Code: Building Code Council – This rule was withdrawn by the agency and re-submitted for next month.

Commissioner Shuping did not vote nor participate in any discussion concerning the Medical Board and Nursing Board rules.

21 NCAC 32M .0104: Medical Board – The Commission objected to the rule due to ambiguity. In (1) the rule provides that a nurse practitioner's approval to practice as a nurse practitioner terminates when the nurse practitioner “discontinues working within the approved nurse practitioner-supervising physician(s) arrangements....” It then goes on to provide for a waiver to this requirement that “shall be given” in an emergency situation.” There are two problems with this provision: (1) It is unclear what the waiver applies to – whether it is the automatic termination of the approval to practice or the requirement to notify both boards in writing or both requirements; (2) It is unclear what constitutes an “emergency situation” that would entitle the nurse practitioner to the waiver. If the Board actually intended for the waiver to be discretionary then there is the additional problem of the lack of standards to determine whether to grant the waiver.

21 NCAC 36 .0217: Nursing Board - The Commission objected to the rule due to ambiguity. It is unclear what crimes may result in disciplinary action. There are specific crimes or classes of crimes that are mentioned in (c)(2) – (4). In addition there are certain actions specified in the remaining items within (c) that may also constitute criminal offenses. At the same time G.S. 90-171.48(a)(2) refers to a quite specific type of criminal activity that “bears on an applicant's fitness for licensure to practice nursing.” That law does allow the board to state other types of criminal activity that bear on an applicant's fitness as well. Since this part of the rule is older

than the statute, it creates some ambiguity in determining which type of criminal activity “may result in disciplinary action” by the board. It seems that it would be worthwhile to take a new look at all the items within this paragraph and clarify the specific criminal activity the board wishes to use in determining whether to license or discipline an applicant or licensee.

21 NCAC 36 .0804: Nursing Board - The Commission objected to the rule due to ambiguity. In (l) the rule provides that a nurse practitioner’s approval to practice as a nurse practitioner terminates when the nurse practitioner “discontinues working within the approved nurse practitioner-supervising physician(s) arrangements....” It then goes on to provide for a waiver to this requirement that “shall be given” in an “emergency situation.” There are two problems with this provision:(1) It is unclear what the waiver applies to – whether it is the automatic termination of the approval to practice or the requirement to notify both boards in writing or both requirements; (2) It is unclear what constitutes an “emergency situation” that would entitle the nurse practitioner to the waiver. If the Board actually intended for the waiver to be discretionary then there is the additional problem of the lack of standards to determine whether to grant the waiver.

21 NCAC 61 .0103: Respiratory Care Board – The Commission objected to the rule based on lack of authority to declare certain activity as constituting the practice of respiratory care. In (3)h line 29 it is stated that the specific activity of [providing] “smoking cessation programs” is an activity included within the practice of respiratory care. While the agency is free to specify activities that are included within the broad definition of “respiratory care” conducting a “smoking cessation program” is outside the scope of respiratory care practices, although aspects of a smoking cessation program such as “respiratory function testing” may well be within the scope of practice. G.S. 150B-19(2) prohibits an agency from “enlarge[ing] the scope of a profession, occupation, or field of endeavor for which an occupational license is required.” The agency has no authority to expand the scope of its license as established and defined by the General Assembly. The agency is free to declare that “respiratory function testing within a smoking cessation program” is the practice of respiratory care.

21 NCAC 65 .0205: Recreational Therapy Licensure Board - The Commission objected to the rule based on ambiguity. In (1)(f) it is unclear whether it is the LRT who “will determine” when or whether the recreational therapy practice standards require co-signatures of the LRT and LRTA on chart documentation, or whether it is the written agency policy required by this rule that makes the determination. It may be that the LRT is the one who makes the determination based on standards set out in the written policy, but that is not what the rule states.

21 NCAC 65 .0401: Recreational Therapy Licensure Board – The Commission objected to the rule based on ambiguity. In paragraphs (b) and (c) respectively it is unclear what the application deadline is for submitting the renewal application package. There is no authority to set it outside rulemaking. It can be set by specific date or a formula.

21 NCAC 65 .0601: Recreational Therapy Licensure Board – The Commission objected to the rule based on ambiguity. In paragraphs (b) and (c) respectively it is unclear what the application deadline is for submitting the renewal application package. There is no authority to set it outside rulemaking. It can be set by specific date or a formula.

21 NCAC 65 .1001: Recreational Therapy Licensure Board – The Commission objected to the rule based on ambiguity. The sanctions listed in (5)(a)–(i) are all within the board’s authority. However because of punctuation problems and some confusion in terminology the rule is ambiguous and needs rewriting. It is difficult to determine the distinctions among the sanctions and perhaps what may be required to be re-licensed. With some judicious rewriting of the provisions of this item it should be possible to preserve the agency’s listing of its various sanctions and yet make them clearer, easier to understand, and less likely to confuse licensees, the public, and perhaps even the board itself over what sanctions may be imposed.

TEMPORARY RULES

Chairman Hayman presided over the review of the log of temporary rules. All rules were approved unanimously.

COMMISSION PROCEDURES AND OTHER BUSINESS

Joe DeLuca reminded the Commission of the changed meeting date in December which will be December 14, due to the third Thursday falling close to the Christmas holiday.

The meeting adjourned at 11:12 a.m.

The next scheduled meeting of the Commission is Thursday, December 14, 2006 at 10:00 a.m.

Respectfully submitted,

Barbara Townsend

LIST OF APPROVED PERMANENT RULES
November 16, 2006 Meeting**ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF**

| | | | | |
|---|----|------|----|-------|
| <u>Definitions</u> | 01 | NCAC | 12 | .0601 |
| <u>Name Change</u> | 01 | NCAC | 12 | .0602 |
| <u>Forms</u> | 01 | NCAC | 12 | .0603 |
| <u>Appeals</u> | 01 | NCAC | 12 | .0604 |
| <u>Powers and Duties</u> | 01 | NCAC | 12 | .0605 |
| <u>Staff</u> | 01 | NCAC | 12 | .0701 |
| <u>Bylaws</u> | 01 | NCAC | 12 | .0702 |
| <u>Agenda</u> | 01 | NCAC | 12 | .0703 |
| <u>Minutes</u> | 01 | NCAC | 12 | .0704 |
| <u>When Use is Less Than 60 Days</u> | 01 | NCAC | 12 | .1001 |
| <u>When Use Exceeds Days</u> | 01 | NCAC | 12 | .1002 |
| <u>Applications Forwarded by Office of Marine Affairs</u> | 01 | NCAC | 12 | .1003 |
| <u>Review of Applications</u> | 01 | NCAC | 12 | .1004 |
| <u>Notification to Applicant</u> | 01 | NCAC | 12 | .1005 |
| <u>Annual Renewal</u> | 01 | NCAC | 12 | .1006 |
| <u>Criteria for Selecting Applicants</u> | 01 | NCAC | 12 | .1007 |
| <u>Approval or Denial</u> | 01 | NCAC | 12 | .1008 |

CREDIT UNION DIVISION

| | | | | |
|--|----|------|-----|-------|
| <u>Automatic Liens Upon All Shares to Secure All Debts</u> | 04 | NCAC | 06C | .1205 |
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SOCIAL SERVICES COMMISSION

| | | | | |
|---|-----|------|-----|-------|
| <u>Limitations</u> | 10A | NCAC | 06P | .0201 |
| <u>State Division of Aging and Adult Responsibilities</u> | 10A | NCAC | 06P | .0401 |
| <u>Certification Requirement</u> | 10A | NCAC | 06R | .0101 |
| <u>Corrective Action</u> | 10A | NCAC | 06R | .0102 |
| <u>Definitions</u> | 10A | NCAC | 06R | .0201 |
| <u>Governing Body</u> | 10A | NCAC | 06R | .0301 |
| <u>Agreements</u> | 10A | NCAC | 06R | .0303 |
| <u>Personnel Day Care Homes Only Staff Person Is Operator</u> | 10A | NCAC | 06R | .0306 |
| <u>Building Construction</u> | 10A | NCAC | 06R | .0402 |
| <u>Equipment and Furnishings</u> | 10A | NCAC | 06R | .0403 |
| <u>Planning Program Activities</u> | 10A | NCAC | 06R | .0501 |
| <u>Nutrition</u> | 10A | NCAC | 06R | .0502 |
| <u>Transportation</u> | 10A | NCAC | 06R | .0503 |
| <u>Emergencies and First Aid</u> | 10A | NCAC | 06R | .0504 |
| <u>Medications</u> | 10A | NCAC | 06R | .0505 |
| <u>Hours and Days of Operations</u> | 10A | NCAC | 06R | .0506 |
| <u>Availability and Accessibility of Program Policies</u> | 10A | NCAC | 06R | .0507 |
| <u>Records</u> | 10A | NCAC | 06R | .0508 |

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| <u>Procedure</u> | 10A NCAC 06R .0601 |
| <u>Residential Building Code Requirements</u> | 10A NCAC 06R .0701 |
| <u>Fire and Safety Requirments</u> | 10A NCAC 06R .0702 |
| <u>Other</u> | 10A NCAC 06R .0703 |
| <u>Definitions</u> | 10A NCAC 06S .0102 |
| <u>Staffing Pattern</u> | 10A NCAC 06S .0203 |
| <u>Staff Requirements</u> | 10A NCAC 06S .0204 |
| <u>Requirements</u> | 10A NCAC 06S .0301 |
| <u>Additional Enrollment and Participation Requirements</u> | 10A NCAC 06S .0402 |
| <u>Health and Personal Care Services</u> | 10A NCAC 06S .0403 |
| <u>Transportation</u> | 10A NCAC 06S .0404 |
| <u>Emergencies and First Aid</u> | 10A NCAC 06S .0405 |

CHILD CARE COMMISSION

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| <u>Quality Point Options</u> | 10A NCAC 09 .2823 |
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BUILDING CODE COUNCIL

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| <u>614 Partial Sprinkler Protection in One-And Two-Family D...</u> | 11 NCAC 08 |
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ALARM SYSTEMS LICENSING BOARD

| | |
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| <u>Application for License</u> | 12 NCAC 11 .0201 |
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LABOR, DEPARTMENT OF

| | |
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| <u>Definitions</u> | 13 NCAC 07F .0602 |
| <u>Regulation of Waterslides</u> | 13 NCAC 15 .0440 |

MARINE FISHERIES COMMISSION

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|---|--------------------|
| <u>Definitions</u> | 15A NCAC 03I .0101 |
| <u>Stone Crabs</u> | 15A NCAC 03L .0208 |
| <u>Procedure and Requirements to Obtain Licenses</u> | 15A NCAC 03O .0101 |
| <u>Recreational Fishing Tournament License to Sell Fish</u> | 15A NCAC 03O .0102 |
| <u>Display of Licenses and Registrations</u> | 15A NCAC 03O .0106 |
| <u>Lost License Replacement</u> | 15A NCAC 03O .0107 |
| <u>Primary Nursery Areas</u> | 15A NCAC 03R .0103 |

SOIL AND WATER CONSERVATION COMMISSION

| | |
|-----------------------------------|--------------------|
| <u>Objectives</u> | 15A NCAC 06G .0101 |
| <u>Eligibility</u> | 15A NCAC 06G .0102 |
| <u>Conservation Plan</u> | 15A NCAC 06G .0103 |
| <u>Approving State Agreements</u> | 15A NCAC 06G .0104 |
| <u>Payment</u> | 15A NCAC 06G .0105 |

COASTAL RESOURCES COMMISSION

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| <u>Single Family Residences Exempted</u> | 15A NCAC 07K .0208 |
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WATER POLLUTION CONTROL SYSTEM OPERATOR CERTIFICATION COMMISSION

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|---|--------------------|
| <u>Definitions</u> | 15A NCAC 08G .0102 |
| <u>Requirements for Certified Operators</u> | 15A NCAC 08G .0201 |
| <u>Responsibilities of System Owners</u> | 15A NCAC 08G .0202 |
| <u>Responsibilities of All Certified Operators</u> | 15A NCAC 08G .0203 |
| <u>Responsibilities of An Operator In Responsible Charge</u> | 15A NCAC 08G .0204 |
| <u>Responsibilities of a Back-Up Operator In Responsible Charge</u> | 15A NCAC 08G .0205 |
| <u>Applicability</u> | 15A NCAC 08G .0301 |
| <u>Classification of Biological Water Pollution Control Trea...</u> | 15A NCAC 08G .0302 |
| <u>Classification of Water Pollution Control Collections Sys...</u> | 15A NCAC 08G .0303 |
| <u>Classification of Surface Irrigation Water Pollution Cont...</u> | 15A NCAC 08G .0304 |
| <u>Classification of Land Application of Residual Systems</u> | 15A NCAC 08G .0305 |
| <u>Classification of Physical/Chemical Water Pollution Control</u> | 15A NCAC 08G .0306 |
| <u>General Requirements</u> | 15A NCAC 08G .0401 |
| <u>Eligibility Requirements for Biological Water Pollution C...</u> | 15A NCAC 08G .0402 |
| <u>Eligibility Requirements for Water Pollution Control Coll...</u> | 15A NCAC 08G .0403 |
| <u>Eligibility Requirments for Land Application of Residuals...</u> | 15A NCAC 08G .0404 |
| <u>Eligibility Requirments for Physical/Chemical Water Pollu...</u> | 15A NCAC 08G .0405 |
| <u>Eligibility Requirments for Suface Irrigation Water Pollu...</u> | 15A NCAC 08G .0406 |
| <u>Eligibility Requirements for Subsurface Water Pollution C...</u> | 15A NCAC 08G .0407 |
| <u>Eligibility Requirements for Operator in Training</u> | 15A NCAC 08G .0408 |
| <u>Eligibility Requirements for Conditional Water Pollution ...</u> | 15A NCAC 08G .0409 |
| <u>Reciprocity Certification</u> | 15A NCAC 08G .0410 |
| <u>Applying for Examination</u> | 15A NCAC 08G .0501 |
| <u>Ineligible Applicants</u> | 15A NCAC 08G .0502 |
| <u>Examination Administration</u> | 15A NCAC 08G .0503 |
| <u>Examination Grading</u> | 15A NCAC 08G .0504 |
| <u>Examination Reviews</u> | 15A NCAC 08G .0505 |
| <u>Reciprocity Certification</u> | 15A NCAC 08G .0601 |
| <u>Temporary Certification</u> | 15A NCAC 08G .0602 |
| <u>Temporary Certificate Renewal</u> | 15A NCAC 08G .0603 |
| <u>Conversion of Voluntary Certification to Mandatory Certif...</u> | 15A NCAC 08G .0604 |
| <u>Requirements</u> | 15A NCAC 08G .0701 |
| <u>Grounds for Disciplinary Actions</u> | 15A NCAC 08G .0801 |
| <u>Disciplinary Actions</u> | 15A NCAC 08G .0802 |
| <u>Certification Following Disciplinary Actions</u> | 15A NCAC 08G .0803 |
| <u>Contested Case Procedures</u> | 15A NCAC 08G .0804 |
| <u>Annual Report</u> | 15A NCAC 08G .0902 |
| <u>Petitions for Regulatory Activity</u> | 15A NCAC 08G .1001 |
| <u>Refunding of Fees</u> | 15A NCAC 08G .1101 |

MEDICAL BOARD

| | |
|--|-------------------|
| <u>Definitions</u> | 21 NCAC 32M .0101 |
| <u>Nurse Practitioner Registration</u> | 21 NCAC 32M .0103 |
| <u>Education and Certification Requirements for Registration</u> | 21 NCAC 32M .0105 |

RULES REVIEW COMMISSION

| | | | | |
|---|----|------|-----|-------|
| <u>Inactive Status</u> | 21 | NCAC | 32M | .0108 |
| NURSING, BOARD OF | | | | |
| <u>Change of Name</u> | 21 | NCAC | 36 | .0208 |
| <u>Temporary License</u> | 21 | NCAC | 36 | .0219 |
| <u>Definitions</u> | 21 | NCAC | 36 | .0801 |
| <u>Nurse Practitioner Registration</u> | 21 | NCAC | 36 | .0803 |
| <u>Education and Certification Requirements for Registration...</u> | 21 | NCAC | 36 | .0805 |
| <u>Inactive Status</u> | 21 | NCAC | 36 | .0808 |
| PHYSICAL THERAPY EXAMINERS | | | | |
| <u>Prohibited Actions</u> | 21 | NCAC | 48G | .0601 |
| RECREATIONAL THERAPY LICENSURE, BOARD OF | | | | |
| <u>Name-Short Title</u> | 21 | NCAC | 65 | .0101 |
| <u>Meetings</u> | 21 | NCAC | 65 | .0102 |
| <u>Reciprocity</u> | 21 | NCAC | 65 | .0103 |
| <u>Academic-TRS Examination</u> | 21 | NCAC | 65 | .0104 |
| <u>Provisional TRS</u> | 21 | NCAC | 65 | .0105 |
| <u>Certification Fees</u> | 21 | NCAC | 65 | .0106 |
| <u>Certificate Renewals</u> | 21 | NCAC | 65 | .0107 |
| <u>Revocation and other Sanctions</u> | 21 | NCAC | 65 | .0108 |
| <u>Licensed Recreational Therapist Scope of Practice</u> | 21 | NCAC | 65 | .0203 |
| <u>Licensed Recreational Therapy Assistant Scope of Practice</u> | 21 | NCAC | 65 | .0204 |
| <u>Minimum Level of Education and Competency for Licensed Re...</u> | 21 | NCAC | 65 | .0302 |
| <u>Licensure Fees</u> | 21 | NCAC | 65 | .0501 |
| <u>Reinstatement of Lapsed License</u> | 21 | NCAC | 65 | .0701 |
| <u>Inactive Status</u> | 21 | NCAC | 65 | .0801 |
| <u>Endorsement</u> | 21 | NCAC | 65 | .0901 |

LIST OF APPROVED TEMPORARY RULES
November 16, 2006 Meeting

ALCOHOLIC BEVERAGE CONTROL COMMISSION

| | | | | |
|---|----|------|-----|-------|
| <u>Keg Registration Transportation Permit</u> | 04 | NCAC | 02S | .0237 |
|---|----|------|-----|-------|

LABOR, DEPARTMENT OF

| | | | | |
|------------------------------|----|------|----|-------|
| <u>Definitions</u> | 13 | NCAC | 20 | .0101 |
| <u>Current Employees</u> | 13 | NCAC | 20 | .0302 |
| <u>Prospective Employees</u> | 13 | NCAC | 20 | .0303 |

AGENDA
RULES REVIEW COMMISSION
December 14, 2006, 10:00 A.M.

- I. Reminder of Governor's Executive Order #1
- II. Review of minutes of last meeting
- III. Follow-Up Matters
 - A. Credit Union Division – 04 NCAC 06C .1202 (Bryan)
 - B. Social Services Commission – 10A NCAC 06R .0305 (Bryan)
 - C. Medical Board – 21 NCAC 32M .0104 (DeLuca)
 - D. Board of Nursing – 21 NCAC 36 .0217; 0804 (DeLuca)
 - E. Respiratory Care Board – 21 NCAC 61 .0103 (DeLuca)
 - F. Recreational Therapy Licensure – 21 NCAC 65 .0205; .0401; .0601; .1001 (DeLuca)
 - G. Board of Community Colleges – 23 NCAC 3A .0113 (DeLuca)
- IV. Review of Rules (Log Report)
- V. Review of Temporary Rules (If Any)
- VI. Commission Business
- VII. Next meeting: January 18, 2007

Commission Review/Permanent Rules
Log of Filings
October 23, 2006 through November 20, 2006

AGRICULTURE, BOARD OF

The rules in Chapter 48 concern plant industry.

The rules in Subchapter 48B concern fertilizer including fertilizer standards (.0100).

Application for Registration of Fertilizers
Amend/*

02 NCAC 48B .0121

HHS-FACILITY SERVICES

The rules in Chapter 14 concern services provided by the Division of Facility Services.

The rules in Subchapter 14C are Certificate of Need regulations including general provisions (.0100); applications and review process (.0200); exemptions (.0300); appeal process (.0400); enforcement and sanctions (.0500); and criteria and standards for nursing facility or adult care home services (.1100); intensive care services (.1200); pediatric intensive care services (.1300); neonatal services (.1400); hospices, hospice inpatient facilities, and hospice residential care facilities (.1500); cardiac catheterization equipment and cardiac angioplasty equipment (.1600); open heart surgery services and heart-lung bypass machines (.1700); diagnostic centers (.1800); radiation therapy equipment (.1900); home health services (.2000); surgical services and operating rooms (.2100); and stage renal disease services (.2200); computed tomography equipment (.2300); immediate care facility/mentally retarded (ICF/MR) (.2400); substance abuse/chemical dependency treatment beds (.2500); psychiatric beds

(.2600); magnetic resonance imaging scanner (.2700); rehabilitation services (.2800); bone marrow transplantation services (.2900); solid organ transplantation services (.3000); major medical equipment (.3100); lithotripter equipment (.3200); air ambulance (.3300); burn intensive care services (.3400); oncology treatment centers (.3500); gamma knife (.3600); positron emission tomography scanner (.3700); acute care beds (.3800); criteria and standards for gastrointestinal endoscopy procedure rooms in licensed health service facilities (.3900); and criteria and standards for hospice inpatient facilities and hospice residential care facilities (.4000).

| | | | | |
|------------------------------|-----|------|-----|-------|
| <u>Performance Standards</u> | 10A | NCAC | 14C | .2503 |
| Amend/* | | | | |

HEALTH SERVICES, COMMISSION FOR

The rules in Chapter 43 concern personal health.

The rules in Subchapter 43G deal with developmental evaluation centers: specialized serves branch and include general policies (.0100); agency management procedures (.0200); service provisions (.0300); record-keeping confidentiality of client information (.0400); and dec contract funds (.0500).

| | | | | |
|---|-----|------|-----|-------|
| <u>General Policies</u> | 10A | NCAC | 43G | .0101 |
| Repeal/* | | | | |
| <u>Definitions</u> | 10A | NCAC | 43G | .0102 |
| Repeal/* | | | | |
| <u>Location of Services</u> | 10A | NCAC | 43G | .0103 |
| Repeal/* | | | | |
| <u>Types of Services Provided</u> | 10A | NCAC | 43G | .0104 |
| Repeal/* | | | | |
| <u>Eligibility for Direct Services</u> | 10A | NCAC | 43G | .0105 |
| Repeal/* | | | | |
| <u>Fees</u> | 10A | NCAC | 43G | .0107 |
| Repeal/* | | | | |
| <u>Administration</u> | 10A | NCAC | 43G | .0108 |
| Adopt/* | | | | |
| <u>Children's Developmental Services Agencies</u> | 10A | NCAC | 43G | .0109 |
| Adopt/* | | | | |
| <u>Eligibility</u> | 10A | NCAC | 43G | .0110 |
| Adopt/* | | | | |
| <u>Service Plan -Service Delivery</u> | 10A | NCAC | 43G | .0111 |
| Adopt/* | | | | |
| <u>Center-Program Operations Manual</u> | 10A | NCAC | 43G | .0201 |
| Repeal/* | | | | |
| <u>Personnel Management</u> | 10A | NCAC | 43G | .0202 |
| Repeal/* | | | | |
| <u>Safety</u> | 10A | NCAC | 43G | .0203 |
| Repeal/* | | | | |
| <u>Annual Program Planning and Performance Evaluation</u> | 10A | NCAC | 43G | .0204 |
| Repeal/* | | | | |
| <u>Integration of Services with Local Communities</u> | 10A | NCAC | 43G | .0205 |
| Repeal/* | | | | |
| <u>Forms</u> | 10A | NCAC | 43G | .0206 |
| Repeal/* | | | | |
| <u>Clinical Assessment Services</u> | 10A | NCAC | 43G | .0301 |
| Repeal/* | | | | |
| <u>Treatment and Client/Family Instruction Services</u> | 10A | NCAC | 43G | .0302 |

| | | | | |
|--|-----|------|-----|-------|
| Repeal/* | | | | |
| <u>Case Management Services</u> | 10A | NCAC | 43G | .0303 |
| Repeal/* | | | | |
| <u>Screening Services</u> | 10A | NCAC | 43G | .0304 |
| Repeal/* | | | | |
| <u>Case-Specific Technical Assistance Services</u> | 10A | NCAC | 43G | .0305 |
| Repeal/* | | | | |
| <u>Confidentiality</u> | 10A | NCAC | 43G | .0401 |
| Repeal/* | | | | |
| <u>Information from Other Agencies</u> | 10A | NCAC | 43G | .0402 |
| Repeal/* | | | | |
| <u>Ownership of Records</u> | 10A | NCAC | 43G | .0403 |
| Repeal/* | | | | |
| <u>Security of Records</u> | 10A | NCAC | 43G | .0404 |
| Repeal/* | | | | |
| <u>Right of Access</u> | 10A | NCAC | 43G | .0405 |
| Repeal/* | | | | |
| <u>Withholding Information from the Client</u> | 10A | NCAC | 43G | .0406 |
| Repeal/* | | | | |
| <u>Contested Information</u> | 10A | NCAC | 43G | .0407 |
| Repeal/* | | | | |
| <u>Procedure Obtaining Permission for Release of Information</u> | 10A | NCAC | 43G | .0408 |
| Repeal/* | | | | |
| <u>Disclosure for the purpose of Research</u> | 10A | NCAC | 43G | .0409 |
| Repeal/* | | | | |
| <u>Disclosure Pursuant to a Court Order</u> | 10A | NCAC | 43G | .0410 |
| Repeal/* | | | | |
| <u>Definitions</u> | 10A | NCAC | 43G | .0502 |
| Repeal/* | | | | |
| <u>Provider Eligibility</u> | 10A | NCAC | 43G | .0503 |
| Repeal/* | | | | |
| <u>Client Eligibility</u> | 10A | NCAC | 43G | .0504 |
| Repeal/* | | | | |
| <u>Allocation of Funds</u> | 10A | NCAC | 43G | .0505 |
| Repeal/* | | | | |
| <u>Allocation of Funds</u> | 10A | NCAC | 43G | .0506 |
| Repeal/* | | | | |
| <u>Reporting Requirements</u> | 10A | NCAC | 43G | .0507 |
| Repeal/* | | | | |
| <u>Client and Third Party Fees</u> | 10A | NCAC | 43G | .0508 |
| Repeal/* | | | | |
| <u>Application for Funds</u> | 10A | NCAC | 43G | .0509 |
| Repeal/* | | | | |
| <u>Budgeting of Grant Funds</u> | 10A | NCAC | 43G | .0510 |
| Repeal/* | | | | |
| <u>Annual Plan</u> | 10A | NCAC | 43G | .0511 |
| Repeal/* | | | | |
| <u>Renewal of Grant Funds</u> | 10A | NCAC | 43G | .0512 |
| Repeal/* | | | | |

INSURANCE, DEPARTMENT OF

The rules in Chapter 5 deal with fire and rescue services division. The rules in Subchapter 5A include general provisions (.0100); state volunteer fire department (.0200); firemen's relief fund (.0300); administration of other funds (.0400); initial certification/re-inspection fire departments (.0500); volunteer fire department fund (.0600); and volunteer rescue/ems fund (.0700).

| | | | | |
|---|----|------|-----|-------|
| <u>Requirements</u> Amend/* | 11 | NCAC | 05A | .0603 |
| <u>Requirements for Units Required to Match Grants</u> Amend/* | 11 | NCAC | 05A | .0703 |

The rules in Chapter 6 are from the Agent Services Division.

The rules in Subchapter 6A cover general provisions (.0100); forms (.0200); examinations (.0300); licensing (.0400); license renewals and cancellations (.0500); license denials (.0600); prelicensing education (.0700); continuing education (.0800); and public adjusters (.0900).

| | | | | |
|---|----|------|-----|-------|
| <u>Licensee Requirements</u> Amend/* | 11 | NCAC | 06A | .0802 |
| <u>Courses Specifically Approved</u> Amend/* | 11 | NCAC | 06A | .0803 |
| <u>Attendance</u> Amend/* | 11 | NCAC | 06A | .0806 |
| <u>Hardship</u> Amend/* | 11 | NCAC | 06A | .0807 |
| <u>Sanctions for Noncompliance</u> Amend/* | 11 | NCAC | 06A | .0811 |

BUILDING CODE COUNCIL

| | | | | |
|--|----|------|----|--|
| <u>2006 Residential Code Item B-2</u> Adopt/** R 322.1 R404.1.5.1 R703.7.2.1 4502 4505.8 | 11 | NCAC | 08 | |
|--|----|------|----|--|

SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION

Rules in Subchapter 10B are from the N.C. Sheriffs' Education and Training Standards Commission. These rules govern the commission organization and procedure (.0100); enforcement rules (.0200); minimum standards for employment as a justice officer (deputy or jailer) (.0300); certification of justice officers (.0400); standards and accreditation for justice officers schools, training programs, and the instructors (.0500-.0900); certificate and awards programs for sheriffs, deputies, justice officers, jailers, reserve officers, and telecommunicators (.1000-.1700); in-service training (.2000); and firearms in-service training and re-qualification (.2100).

| | | | | |
|--|----|------|-----|-------|
| <u>Suspension: Revocation: or Denial of Certification</u> Amend/* | 12 | NCAC | 10B | .0204 |
| <u>Period of Suspension: Revocation: or Denial</u> Amend/* | 12 | NCAC | 10B | .0205 |
| <u>Background Investigations</u> Amend/* | 12 | NCAC | 10B | .0305 |
| <u>Admission of Trainees</u> Amend/* | 12 | NCAC | 10B | .0713 |
| <u>Sheriff Responsibilities</u> | 12 | NCAC | 10B | .1701 |

| | | | | |
|---|----|------|-----|-------|
| Repeal/* | | | | |
| <u>Instructors</u> | 12 | NCAC | 10B | .1702 |
| Repeal/* | | | | |
| <u>Minimum Training Requirements</u> | 12 | NCAC | 10B | .1703 |
| Repeal/* | | | | |
| <u>Domestic Violence In-Service Training Program Specifications</u> | 12 | NCAC | 10B | .1704 |
| Repeal/* | | | | |
| <u>Failure to Complete in-Service Domestic Violence Training...</u> | 12 | NCAC | 10B | .1705 |
| Repeal/* | | | | |
| <u>Sheriff Responsibilities</u> | 12 | NCAC | 10B | .1801 |
| Repeal/* | | | | |
| <u>Instructors</u> | 12 | NCAC | 10B | .1802 |
| Repeal/* | | | | |
| <u>Minimum Training Requirements</u> | 12 | NCAC | 10B | .1803 |
| Repeal/* | | | | |
| <u>Law Enforcement In-Service Training Program Specifications</u> | 12 | NCAC | 10B | .1804 |
| Repeal/* | | | | |
| <u>Failure to Complete Law Enforcement Training Program</u> | 12 | NCAC | 10B | .1805 |
| Repeal/* | | | | |
| <u>In-Service Training Coordinator</u> | 12 | NCAC | 10B | .1806 |
| Repeal/* | | | | |
| <u>In-Service Training for Justice Officers</u> | 12 | NCAC | 10B | .2001 |
| Amend/* | | | | |
| <u>Certification-Specific Programs</u> | 12 | NCAC | 10B | .2002 |
| Amend/* | | | | |
| <u>In-Service Training Coordinator</u> | 12 | NCAC | 10B | .2003 |
| Adopt/* | | | | |
| <u>Instructors</u> | 12 | NCAC | 10B | .2004 |
| Adopt/* | | | | |
| <u>Minimum Training Requirements</u> | 12 | NCAC | 10B | .2005 |
| Adopt/* | | | | |
| <u>In-Service Training Program Specifications</u> | 12 | NCAC | 10B | .2006 |
| Adopt/* | | | | |
| <u>Sheriff/Agency head Responsibilities</u> | 12 | NCAC | 10B | .2007 |
| Adopt/* | | | | |
| <u>Failure to Complete in-Service Training Programs</u> | 12 | NCAC | 10B | .2008 |
| Adopt/* | | | | |

LABOR, DEPARTMENT OF

The rules in Chapter 12 are from the Department of Labor and concern wage and hour including general provision (.0100); subminimum wages (.0200); wages (.0300); youth employment (.0400); jurisdiction and exemptions (.0500); investigation and enforcement (.0600); civil money penalties (.0700); and recordkeeping (.0800).

| | | | | |
|---|----|------|----|-------|
| <u>Handicapped Worker Certification</u> | 13 | NCAC | 12 | .0202 |
| Amend/* | | | | |
| <u>Withholding of Wages</u> | 13 | NCAC | 12 | .0304 |
| Amend/* | | | | |
| <u>Authorization for Withholding of Wages</u> | 13 | NCAC | 12 | .0305 |
| Amend/* | | | | |
| <u>Vacation Pay</u> | 13 | NCAC | 12 | .0306 |
| Amend/* | | | | |

RULES REVIEW COMMISSION

| | | | | |
|--|----|------|----|-------|
| <u>Bonuses, Commissions and Other Forms of Wage Calculation</u> Amend/* | 13 | NCAC | 12 | .0307 |
| <u>Application for a Youth Employment Certificate</u> Amend/* | 13 | NCAC | 12 | .0402 |
| <u>Review Issuance and Maintenance of Certificates</u> Amend/* | 13 | NCAC | 12 | .0403 |
| <u>Waiver</u> Amend/* | 13 | NCAC | 12 | .0404 |
| <u>Revocation</u> Amend/* | 13 | NCAC | 12 | .0405 |
| <u>Parental Exemption</u> Repeal/* | 13 | NCAC | 12 | .0409 |

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Chapter 2 concern environmental management and are promulgated by the Environmental Management Commission and the Department of Environment and Natural Resources.

The rules in Subchapter 2B pertain to surface water standards and monitoring including procedures for assignment of water quality standards (.0100); the standards and classifications themselves (.0200); stream classifications (.0300); effluent limitations (.0400); and monitoring and reporting requirements (.0500).

| | | | | |
|--|-----|------|-----|-------|
| <u>Outstanding Resource Waters</u> Amend/* | 15A | NCAC | 02B | .0225 |
| <u>Little Tennessee River Basin and Savannah River Drainage ...</u> Amend/* | 15A | NCAC | 02B | .0303 |

The rules in Subchapter 2D are air pollution control requirements including definitions and references (.0100); air pollution sources (.0200); air pollution emergencies (.0300); ambient air quality standards (.0400); emission control standards (.0500); air pollutants monitoring and reporting (.0600); complex sources (.0800); volatile organic compounds (.0900); motor vehicle emission control standards (.1000); control of toxic air pollutants (.1100); control of emissions from incinerators (.1200); oxygenated gasoline standard (.1300); nitrogen oxide standards (.1400); transportation conformity (.1500); general conformity for federal actions (.1600); emissions at existing municipal solid waste landfills (.1700); control of odors (.1800); open burning (.1900); transportation conformity (.2000); risk management program (.2100); special orders (.2200); emission reduction credits (.2300); and clean air interstate rules.

| | | | | |
|---|-----|------|-----|-------|
| <u>New Source Performance Standards</u> Amend/* | 15A | NCAC | 02D | .0524 |
| <u>General Recordkeeping and Reporting Requirements</u> Amend/* | 15A | NCAC | 02D | .0605 |
| <u>Bulk Gasoline Terminals</u> Amend/* | 15A | NCAC | 02D | .0927 |
| <u>Gasoline Truck Tanks and Vapor Collection Systems</u> Amend/* | 15A | NCAC | 02D | .0932 |
| <u>Sale and Service of Analyzers</u> Adopt/* | 15A | NCAC | 02D | .1006 |
| <u>Maximum Achievable Control Technology</u> Amend/* | 15A | NCAC | 02D | .1111 |
| <u>Purpose and Applicability</u> Adopt/* | 15A | NCAC | 02D | .2501 |
| <u>Definitions</u> Adopt/* | 15A | NCAC | 02D | .2502 |
| <u>Mercury Emission</u> Adopt/* | 15A | NCAC | 02D | .2503 |

RULES REVIEW COMMISSION

| | | | | |
|--|-----|------|-----|-------|
| <u>Permitting</u> Adopt/* | 15A | NCAC | 02D | .2504 |
| <u>Monitoring, Reporting, and Recordkeeping</u> Adopt/* | 15A | NCAC | 02D | .2505 |
| <u>Designated Representative</u> Adopt/* | 15A | NCAC | 02D | .2506 |
| <u>Computation of Time</u> Adopt/* | 15A | NCAC | 02D | .2507 |
| <u>New Source Growth</u> Adopt/* | 15A | NCAC | 02D | .2508 |
| <u>Periodic Review and Reallocation</u> Adopt/* | 15A | NCAC | 02D | .2509 |
| <u>Trading Program and Banking</u> Adopt/* | 15A | NCAC | 02D | .2510 |
| <u>Mercury Emission Limits</u> Adopt/* | 15A | NCAC | 02D | .2511 |

The rules in Subchapter 2H concern procedures for permits: approvals including point source discharges to the surface waters (.0100); waste not discharged to surface waters (.0200); coastal waste treatment disposal (.0400); water quality certification (.0500); laboratory certification (.0800); local pretreatment programs (.0900); stormwater management (.1000); biological laboratory certification (.1100); special orders (.1200); and discharges to isolated wetlands and isolated waters (.1300).

| | | | | |
|---|-----|------|-----|-------|
| <u>Universal Stormwater Management Program</u> Adopt/* | 15A | NCAC | 02H | .1020 |
|---|-----|------|-----|-------|

The rules in Subchapter 2Q are rules relating to applying for and obtaining air quality permits and include general information (.0100); fees (.0200); application requirements (.0300); acid rain program requirements (.0400); Title V requirements (.0500); transportation facility requirements (.0600); toxic air pollutant procedures (.0700); and exempt categories (.0800).

| | | | | |
|--|-----|------|-----|-------|
| <u>Permits requiring Public Participation</u> Amend/* | 15A | NCAC | 02Q | .0306 |
| <u>Definitions</u> Amend/* | 15A | NCAC | 02Q | .0503 |
| <u>Permit Content</u> Amend/* | 15A | NCAC | 02Q | .0508 |
| <u>Administrative Permit</u> Amend/* | 15A | NCAC | 02Q | .0514 |

The rules in Subchapter 2T set out the requirements for the issuance of permits for waste systems that do not discharge to the surface waters of the state and include general requirements (.0100); and requirements for wastewater pump and haul systems (.0200); sewer extensions (.0300); system-wide collection system permitting (.0400); wastewater irrigation systems (.0500); single-family residence wastewater irrigation systems (.0600); high rate infiltration systems (.0700); other non-discharge wastewater systems (.0800); reclaimed water systems (.0900); closed-loop recycle systems (.1000); residuals management (.1100); coal combustion products management (.1200); animal waste management systems (.1300); manure hauler operations (.1400); soil remediation (.1500); and groundwater remediation systems (.1600).

| | | | | |
|--|-----|------|-----|-------|
| <u>Local Program Approval</u> Adopt/* | 15A | NCAC | 02T | .0915 |
|--|-----|------|-----|-------|

COASTAL RESOURCES COMMISSION

The rules in Chapter 7 are coastal management rules.

The rules in Subchapter 7B are land use planning guidelines including introduction (.0600); land use planning (.0700); CAMA land use plan review and CRC certification (.0800); and CAMA land use plan amendments (.0900).

| | | | | |
|---|-----|------|-----|-------|
| <u>Public Hearing and Local Adoption Requirements</u> | 15A | NCAC | 07B | .0801 |
| Amend/* | | | | |

The rules in Subchapter 7H are the state guidelines for areas of environmental concern including introduction and general comments (.0100); the estuarine system (.0200); ocean hazard areas (.0300); public water supplies (.0400); natural and cultural resource areas (.0500); development standards (.0600); general permits for construction or maintenance of bulkheads and the placement of riprap for shoreline protection in estuarine and public trust waters, (.1100); piers, docks and boat houses in estuarine and public trust waters (.1200); boat ramps along estuarine shorelines and into estuarine and public trust waters (.1300); wooden groins in estuarine and public trust waters (.1400); excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters, and estuarine shoreline AECs (.1500); aerial and subaqueous utility lines with attendant structures in coastal wetlands, estuarine waters, public trust waters and estuarine shorelines (.1600); emergency work requiring a CAMA or a dredge and fill permit (.1700); beach bulldozing landward of the mean high-water mark in the ocean hazard AEC (.1800); temporary structures within the estuarine and ocean hazard AECs (.1900); general permit for authorizing minor modifications and repair to existing pier/mooring facilities in estuarine and public trust waters and ocean hazard areas (.2000); marsh enhancement breakwaters for shoreline protection in estuarine and public trust waters (.2100); general permits for construction of freestanding moorings in established waters and public trust areas (.2200); general permits for replacement of existing bridges and culverts in estuarine waters, estuarine shorelines, public trust areas and coastal wetlands (.2300); general permit for placement of riprap for wetland protection in estuarine and public trust waters (.2400); emergency general permit, to be initiated at the discretion of the secretary of the Department of Environment and Natural Resources for replacement of structures, the reconstruction of primary or frontal dune systems, and the maintenance excavation of existing canals, basins, channels, or ditches, damaged, destroyed, or filled in by hurricanes or tropical storms, provided all replacement, reconstruction and maintenance excavation activities conform to all current standards (.2500); general permit for construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program (.2600); and general permit for the construction of riprap sills for wetland enhancement in estuarine and public trust waters (.2700).

| | | | | |
|--|-----|------|-----|-------|
| <u>Technical Standards for Beach Fill Projects</u> | 15A | NCAC | 07H | .0312 |
| Adopt/* | | | | |

HEALTH SERVICES, COMMISSION FOR

The rules in Chapter 13 are from the Commission for Health Services and cover hazardous and solid waste management, inactive hazardous substances, and waste disposal sites.

The rules in Subchapter 13A cover hazardous waste management, and specifically HWTSD (hazardous waste treatment, storage, or disposal) facilities.

| | | | | |
|--|-----|------|-----|-------|
| <u>STDS Applicable to Cenerators of Hazardous Waste-Part 262</u> | 15A | NCAC | 13A | .0107 |
| Amend/* | | | | |

SECRETARY OF STATE, DEPARTMENT OF

The rules in Chapter 7 are from the Notary Public Division.

| | | | | |
|--|----|------|-----|-------|
| <u>Scope</u> | 18 | NCAC | 07C | .0101 |
| Adopt/* | | | | |
| <u>Definitions</u> | 18 | NCAC | 07C | .0102 |
| Adopt/* | | | | |
| <u>Application</u> | 18 | NCAC | 07C | .0201 |
| Adopt/* | | | | |
| <u>Oath of Office and Delivery of Commission</u> | 18 | NCAC | 07C | .0202 |
| Adopt/* | | | | |
| <u>Re-Registration</u> | 18 | NCAC | 07C | .0203 |

| | | | | |
|---|----|------|-----|-------|
| Adopt/* | | | | |
| <u>Approved Course of Study for Electronic Notaries Public</u> | 18 | NCAC | 07C | .0301 |
| Adopt/* | | | | |
| <u>Electronic Notary Signature</u> | 18 | NCAC | 07C | .0401 |
| Adopt/* | | | | |
| <u>Electronic Notary Seal</u> | 18 | NCAC | 07C | .0402 |
| Adopt/* | | | | |
| <u>Physical Presence Requirement for Electronic Notarization</u> | 18 | NCAC | 07C | .0403 |
| Adopt/* | | | | |
| <u>Electronic Notary Solution Provider Application</u> | 18 | NCAC | 07C | .0501 |
| Adopt/* | | | | |
| <u>Criteria for Approval of Electronic Notary Solution Provi...</u> | 18 | NCAC | 07C | .0502 |
| Adopt/* | | | | |
| <u>Electronic Notary Solution Provider Changes</u> | 18 | NCAC | 07C | .0503 |
| Adopt/* | | | | |
| <u>Separate Attestations</u> | 18 | NCAC | 07C | .0601 |
| Adopt/* | | | | |
| <u>Electronic Notary Seals</u> | 18 | NCAC | 07C | .0602 |
| Adopt/* | | | | |
| <u>Employers of Electronic Notaries</u> | 18 | NCAC | 07C | .0603 |
| Adopt/* | | | | |
| <u>Protected Access</u> | 18 | NCAC | 07C | .0604 |
| Adopt/* | | | | |

CERTIFIED PUBLIC ACCOUNTANT EXAMINERS, BOARD OF

The rules in Subchapter 8G are the continuing professional education requirements including general provisions (.0100); responsibilities to clients and colleagues (.0200); and other responsibilities and requirements (.0300 and .0400).

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|--|----|------|-----|-------|
| <u>CPE Requirements for CPAS</u> | 21 | NCAC | 08G | .0401 |
| Amend/* | | | | |
| <u>Qualification of CPE Sponsors</u> | 21 | NCAC | 08G | .0403 |
| Amend/* | | | | |
| <u>Requirements for CPE Credit</u> | 21 | NCAC | 08G | .0404 |
| Amend/* | | | | |
| <u>Compliance with CPE Requirements</u> | 21 | NCAC | 08G | .0406 |
| Amend/* | | | | |
| <u>Computation of CPE Credits</u> | 21 | NCAC | 08G | .0409 |
| Amend/* | | | | |
| <u>Professional Ethics and Conduct CPE</u> | 21 | NCAC | 08G | .0410 |
| Amend/* | | | | |

NURSING, BOARD OF

The rules in Chapter 36 are the rules of the Board of Nursing including rules relating to general provisions (.0100); licensure (.0200); approval of nursing programs (.0300); unlicensed personnel and nurses aides (.0400); professional corporations (.0500); and articles of organization (.0600).

| | | | | |
|---|----|------|----|-------|
| <u>Refresher Course</u> | 21 | NCAC | 36 | .0220 |
| Amend/* | | | | |
| <u>Clinical Nurse Specialist Practice</u> | 21 | NCAC | 36 | .0228 |
| Amend/* | | | | |

APPRAISAL BOARD

The rules in Chapter 57 are from the North Carolina Appraisal Board.

The rules in Subchapter 57A cover licensing, certification and practice rules for appraisers including application procedures (.0100); licensing and certification (.0200); examination (.0300); general practice requirements (.0400); and appraisal standards (.0500).

| | | | | |
|---|----|------|-----|-------|
| <u>Qualifications for Trainee Registration</u> | 21 | NCAC | 57A | .0201 |
| Amend/* | | | | |
| <u>Registration, License and Certificate Renewal</u> | 21 | NCAC | 57A | .0203 |
| Amend/* | | | | |
| <u>Continuing Education</u> | 21 | NCAC | 57A | .0204 |
| Amend/* | | | | |
| <u>Expired Registration License or Certificate</u> | 21 | NCAC | 57A | .0206 |
| Amend/* | | | | |
| <u>National Appraiser Registry</u> | 21 | NCAC | 57A | .0209 |
| Amend/* | | | | |
| <u>Temporary Practice</u> | 21 | NCAC | 57A | .0210 |
| Amend/* | | | | |
| <u>Nonresident Trainee Registration, Appraiser Licensure and...</u> | 21 | NCAC | 57A | .0211 |
| Adopt/* | | | | |
| <u>Subject Matter and Passing Scores</u> | 21 | NCAC | 57A | .0302 |
| Amend/* | | | | |
| <u>Appraisal Reports</u> | 21 | NCAC | 57A | .0405 |
| Amend/* | | | | |
| <u>Supervision of Trainees</u> | 21 | NCAC | 57A | .0407 |
| Amend/* | | | | |

The rules in Subchapter 57B cover real estate appraisal education including the courses required for licensure or certification (.0100); course sponsor standards for pre-licensing or pre-certification courses (.0200); pre-licensing and pre-certification course standards (.0300); course sponsor fees (.0400); fees for private real estate appraisal education schools (.0500); and continuing education course standards (.0600).

| | | | | |
|---|----|------|-----|-------|
| <u>Certified Residential Real Estate Appraiser Course Requir...</u> | 21 | NCAC | 57B | .0102 |
| Amend/* | | | | |
| <u>Certified General Real Estate Appraiser Course Requirements</u> | 21 | NCAC | 57B | .0103 |
| Amend/* | | | | |
| <u>Course Records</u> | 21 | NCAC | 57B | .0210 |
| Amend/* | | | | |
| <u>Course Scheduling</u> | 21 | NCAC | 57B | .0304 |
| Amend/* | | | | |
| <u>Instructor Requirements</u> | 21 | NCAC | 57B | .0306 |
| Amend/* | | | | |
| <u>Criteria for Course Approval</u> | 21 | NCAC | 57B | .0603 |
| Amend/* | | | | |
| <u>Prelicensing and Precertification Courses</u> | 21 | NCAC | 57B | .0604 |
| Amend/* | | | | |
| <u>Course Operational Requirements</u> | 21 | NCAC | 57B | .0606 |
| Amend/* | | | | |
| <u>Renewal of Approval and Fees</u> | 21 | NCAC | 57B | .0611 |
| Amend/* | | | | |

STATE PERSONNEL COMMISSION

The rules in Chapter 1 are from the Office of State Personnel.

The rules in Subchapter 1C concern personnel administration including employment (.0100); general employment policies (.0200); personnel records and reports (.0300); appointment (.0400); work schedule (.0500); competitive service (.0600); secondary employment (.0700); requirements for teleworking programs (.0800); employee recognition programs (.0900); and separation (.1000).

| | | | | |
|---|----|------|-----|-------|
| <u>Unavailability When Leave is Exhausted</u> | 25 | NCAC | 01C | .1007 |
| Amend/* | | | | |

The rules in Subchapter 1D are the rules dealing with compensation and include administration of the pay plan (.0100); new appointments (.0200); promotion (.0300); demotions or reassignments (.0400); separation (.0500); reallocation (.0600); salary range revision (.0700); initial classification (.0800); transfer (.0900); reinstatement (.1000); performance salary increases (.1100); longevity pay (.1200); holiday premium pay (.1300); shift premium pay (.1400); emergency call-back pay (.1500); foreign service pay (.1600); employment of physicians for extended duty (.1800); hours of work and overtime compensation (.1900); unemployment insurance (.2000); special salary adjustments (.2100); payment of salary (.2200); accelerated pay plan (.2300); comprehensive compensation system (.2500); and in range salary adjustments (.2600).

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|---------------------|----|------|-----|-------|
| <u>Redeployment</u> | 25 | NCAC | 01D | .0912 |
| Adopt/* | | | | |

The rules in Subchapter 1H concern recruitment and selection including general provisions (.0100); recruitment (.0200); application process (.0300); examination programs (.0400); recruitment forms (.0500); general provisions (.0600); promotional priority (.0800); reduction-in-force-priority reemployment (.0900); exempt priority consideration (.1000); and veteran's preference (.1100).

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|--|----|------|-----|-------|
| <u>Posting and Announcement of Vacancies</u> | 25 | NCAC | 01H | .0602 |
| Repeal/* | | | | |

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|--|----|------|-----|-------|
| <u>Applicant Information and Application</u> | 25 | NCAC | 01H | .0604 |
| Repeal/* | | | | |

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|--|----|------|-----|-------|
| <u>Special Applicant Considerations: Agency Responsibilities</u> | 25 | NCAC | 01H | .0605 |
| Repeal/* | | | | |

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|--------------------------------|----|------|-----|-------|
| <u>Selection of Applicants</u> | 25 | NCAC | 01H | .0606 |
| Repeal/* | | | | |

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|-------------------------------|----|------|-----|-------|
| <u>Minimum Qualifications</u> | 25 | NCAC | 01H | .0607 |
| Repeal/* | | | | |

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|--------------------------|----|------|-----|-------|
| <u>Final Commitments</u> | 25 | NCAC | 01H | .0609 |
| Repeal/* | | | | |

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|-----------------------|----|------|-----|-------|
| <u>Periods of War</u> | 25 | NCAC | 01H | .0611 |
| Repeal/* | | | | |

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|------------------------------|----|------|-----|-------|
| <u>Agency Responsibility</u> | 25 | NCAC | 01H | .0616 |
| Repeal/* | | | | |

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|----------------------------------|----|------|-----|-------|
| <u>Employee's Responsibility</u> | 25 | NCAC | 01H | .0617 |
| Repeal/* | | | | |

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|--------------------------------|----|------|-----|-------|
| <u>Verification Procedures</u> | 25 | NCAC | 01H | .0620 |
| Repeal/* | | | | |

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|-----------------------------|----|------|-----|-------|
| <u>Agency Certification</u> | 25 | NCAC | 01H | .0621 |
| Repeal/* | | | | |

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|-----------------------------------|----|------|-----|-------|
| <u>Applicant Disqualification</u> | 25 | NCAC | 01H | .0622 |
| Repeal/* | | | | |

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|----------------------------|----|------|-----|-------|
| <u>Disciplinary Action</u> | 25 | NCAC | 01H | .0623 |
| Repeal/* | | | | |

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|--|----|------|-----|-------|
| <u>Dismissal</u> | 25 | NCAC | 01H | .0624 |
| Repeal/* | | | | |
| <u>Recruitment and Selection Policy</u> | 25 | NCAC | 01H | .0630 |
| Adopt/* | | | | |
| <u>Posting and Announcement of Vacancies</u> | 25 | NCAC | 01H | .0631 |
| Adopt/* | | | | |
| <u>Applicant Information and Application</u> | 25 | NCAC | 01H | .0632 |
| Adopt/* | | | | |
| <u>Special Applicant Consideration and Employment of Relatives</u> | 25 | NCAC | 01H | .0633 |
| Adopt/* | | | | |
| <u>Selection of Applicants</u> | 25 | NCAC | 01H | .0634 |
| Adopt/* | | | | |
| <u>Minimum Qualifications</u> | 25 | NCAC | 01H | .0635 |
| Adopt/* | | | | |
| <u>Employment of Aliens</u> | 25 | NCAC | 01H | .0636 |
| Adopt/* | | | | |
| <u>Credentials Verification Procedures</u> | 25 | NCAC | 01H | .0637 |
| Adopt/* | | | | |
| <u>Applicant Disqualification-False or Misleading Information</u> | 25 | NCAC | 01H | .0638 |
| Adopt/* | | | | |
| <u>Disciplinary Action-False or Misleading Information</u> | 25 | NCAC | 01H | .0639 |
| Adopt/* | | | | |
| <u>Dismissal-False or Misleading Information</u> | 25 | NCAC | 01H | .0640 |
| Adopt/* | | | | |
| <u>General Provisions</u> | 25 | NCAC | 01H | .0701 |
| Adopt/* | | | | |
| <u>Promotional Priority Consideration</u> | 25 | NCAC | 01H | .0801 |
| Amend/* | | | | |
| <u>Relationship to Other Priority Considerations</u> | 25 | NCAC | 01H | .0802 |
| Amend/* | | | | |
| <u>Reduction-in-Force Consideration</u> | 25 | NCAC | 01H | .0901 |
| Amend/* | | | | |
| <u>Requirement for RIF Priority Consideration</u> | 25 | NCAC | 01H | .0902 |
| Amend/* | | | | |
| <u>Agency and Employee Responsibilities</u> | 25 | NCAC | 01H | .0904 |
| Amend/* | | | | |
| <u>Office of State Personnel Responsibilities</u> | 25 | NCAC | 01H | .0905 |
| Amend/* | | | | |
| <u>Agency and Employee Responsibilities</u> | 25 | NCAC | 01H | .1003 |
| Adopt/* | | | | |
| <u>Office of State Personnel Responsibilities</u> | 25 | NCAC | 01H | .1004 |
| Adopt/* | | | | |
| <u>Mandatory Right to a Position</u> | 25 | NCAC | 01H | .1005 |
| Adopt/* | | | | |
| <u>Veterans' Preference Policy Statement</u> | 25 | NCAC | 01H | .1101 |
| Amend/* | | | | |
| <u>Claiming Veterans' Preference</u> | 25 | NCAC | 01H | .1102 |
| Amend/* | | | | |
| <u>Allegation of Denial of Veterans' Preference</u> | 25 | NCAC | 01H | .1103 |
| Amend/* | | | | |
| <u>Application of Veterans' Preference</u> | 25 | NCAC | 01H | .1104 |
| Amend/* | | | | |

The rules in Subchapter II concern service to local government including general provisions (.0100); local government employment policies (.0200); local government position analysis (.0300); local government position classification services (.0400); positions in local government (.0500); recruitment and selection (.0600); appointment and separation (.0700); probationary period and permanent status (.0800); transfer promotion demotion and separation (.0900); compensation (.1000); hours of work and overtime pay (.1100); attendance and leave (.1200); disciplinary action suspension and dismissal (.1300); actions by local governing body (.1400); forms (.1500); personnel advisory service to local government (.1600); local government employment policies (.1700); general provisions (.1800); recruitment and selection (.1900); appointment and separation (.2000); compensation (.2100); hours of work and overtime compensation (.2200); disciplinary action suspension dismissal and appeals (.2300); and basic requirements for a substantially equivalent personnel system (.2400).

Separation
Amend/*

25 NCAC 01I .2005

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.
Beryl E. Wade
Melissa Owens Lassiter
Joe Webster*

*Beecher R. Gray
Selina Brooks
A. B. Elkins II
Don Overby*

| <u>AGENCY</u> | <u>CASE NUMBER</u> | <u>ALJ</u> | <u>DATE OF DECISION</u> | <u>PUBLISHED DECISION REGISTER CITATION</u> |
|--|------------------------|------------|-----------------------------|---|
| <u>ALCOHOL BEVERAGE CONTROL COMMISSION</u> | | | | |
| Santos Ferman T/A Paraiso vs. ABC Commission | 05 ABC 1828 | Chess | 05/31/06 | |
| Owl's Eyes of Asheville, LLC, T/A Hooters v. ABC Commission | 05 ABC 1989 | Chess | 06/07/06 | |
| Carlos Salas T/A Boom Boom Boom Night Club, 1205 Elgin Avenue Hight Point, NC 27262 v. ABC Commission | 06 ABC 0719 | Chess | 08/07/06 | |
| ABC Commission v. T/A Minit Shop | 06 ABC 0862 | Morrison | 10/17/06 | |
| <u>CRIME VICTIMS COMPENSATION</u> | | | | |
| Timothy P. Webber v. Crime Victims Compensation Commission | 05 CPS 1568 | Lassiter | 06/08/06 | 21:01 NCR 109 |
| Valerie Joy McGill v. Crime Victims Compensation Commission | 06 CPS 0038 | Gray | 06/08/06 | |
| Torrey Charles v. Crime Victims Compensation Commission | 06 CPS 0051 | Chess | 09/21/06 | |
| Charles Leon Champion v. Crime Victims Compensation Commission | 06 CPS 0155 | Elkins | 06/08/06 | |
| Sharron Smith v. Crime Control and Public Safety | 06 CPS 0708 | Gray | 07/12/06 | |
| Elaine B. Deloatch v. Crime Victims Compensation Commission | 06 CPS 0736 | Wade | 08/15/06 | |
| Christopher Lee Vess v. Crime Control Victims Compensation Services Division | 06 CPS 0890 | Gray | 08/23/06 | |
| Chris K. Daniels v. Crime Control and Public Safety, Div. of Victim Compensation Commission | 06 CPS 0909 | Lassiter | 08/01/06 | |
| Tamika L. Howard-Smith v. Crime Victims Compensation | 06 CPS 1161 | | 09/06/06 | |
| Pervis R. Owens Sr v. OAH, Crime Victims Compensation Commission | 06 CPS 1492 | Morrison | 09/28/06 | |
| A list of Child Support Decisions may be obtained by accessing the OAH Website: www.ncoah.com/decisions . | | | | |
| <u>DEPARTMENT OF AGRICULTURE</u> | | | | |
| Shacond Muse Bey v. Dept. of Agriculture | 06 DAG 0985 | Morrison | 08/16/06 | |
| <u>DEPARTMENT OF CULTURAL RESOURCES</u> | | | | |
| William H. Miller v. Cultural Resources, State Historic Preservation | 05 DCR 0439 | Mann | 07/03/06 | |
| <u>DEPARTMENT OF HEALTH AND HUMAN SERVICES</u> | | | | |
| Andrea Green, Parent, on behalf of her Miner Child, Andrew Price | 01 DHR 2149 | Gray | 06/29/06 | |
| Michael Eugene Dalton v. DHHS, DFS | 02 DHR 1456 | Lassiter | 10/06/06 | |
| Marquelle's Enrichment Center for Edith James and Wilhelmenia Bridges v. Div. Child Development Regulatory Services Section | 02 DHR 1537 | Gray | 08/21/06 | |
| Michael Eugene Dalton v. DHHS, DFS | 04 DHR 0288 | Lassiter | 10/06/06 | |
| Gerald Wanamaker v. Ms Satana T. Deberry General Coun. DHHS | 04 DHR 1513 | Lassiter | 06/14/06 | |
| Michael Eugene Dalton v. DHHS, DFS | 04 DHR 1662 | Lassiter | 10/06/06 | |
| Rebecca Hamilton, Beck's Play and Learn v. DHHS, Div. of Child Development | 04 DHR 1866 | Lassiter | 10/02/06 | |

CONTESTED CASE DECISIONS

| | | | | |
|---|-------------|----------|----------|---------------|
| Restoration Church of God in Christ, d/b/a Restoration's Joys of the Heart Child Care Center v. DHHS, Div. of Child Development | 05 DHR 0097 | Elkins | 08/30/06 | |
| Restoration Church of God in Christ Inernation, d/b/a Joys of the Heart Child Care Center v. DHHS, Div. of Public Health, Child and Adult Care Food Program | 05 DHR 0124 | Elkins | 08/30/06 | |
| Handa of the Future, Sheila Martin v. DHHS, Child and Adult Care Food Program | 05 DHR 0457 | Wade | 06/27/06 | |
| Patricia Filyaw's FCCH vs. Div. of Child Development | 05 DHR 0803 | Gray | 05/30/06 | |
| Amanda M. Walters v. DHHS, DFS, Health Care Personnel Registry Section | 05 DHR 1121 | Chess | 05/30/06 | |
| Carolyn W. Cooper, Happy Days Child Care v. Div. of Child Development | 05 DHR 1255 | Lassiter | 09/12/06 | |
| Shari Ann Torain v. DHHS | 05 DHR 1317 | Elkins | 06/08/06 | |
| Delfina Harris v. DHHS, DFS | 05 DHR 1344 | Wade | 10/11/06 | |
| County of Buncombe & NC Radiation Therapy Management Services, Inc. d/b/a 21 st Century Oncology v. DHHS, DFS, Certificate of Need Section, & Asheville Hematology and Oncology Associates, P.A. | 05 DHR 1369 | Gray | 05/26/06 | 21:01 NCR 115 |
| Jamie Bluto, Guardian of Heather Bluto v. Mecklenburg County Area Mental Health and Developmental Disabilities | 05 DHR 1427 | Chess | 05/17/06 | |
| United Home Care, Inc v. DHHS, DFS, CON Section and Liberty Home Care II, LLC, Total Care Home Health of NC, INC., | 05 DHR 1456 | Wade | 06/19/06 | |
| Total Care Home Health of NC, INC., v. DHHS, DFS, CON Section and Liberty Home , Care II, LLC, Total Care Home Health of NC, INC., | 05 DHR 1464 | Wade | 06/19/06 | |
| Brookside Montessori School v. DHHS, Div. of Child Development | 05 DHR 1465 | Gray | 06/28/06 | |
| Novant Health, Inc. and Forsyth Memorial Hospital, Inc. | 05 DHR 1490 | Lassiter | 05/31/06 | |
| d/b/a Forsyth Medical , Center v. DHHS, DFS, Certificate of Need Section | | | | |
| Duke University Health System d/b/a Durham Regional Hospital v. DHHS, DFS, Certificate of Need Section | 05 DHR 1491 | Lassiter | 05/31/06 | |
| Duke University Health System d/b/a Durham Regional Hospital v. DHHS, DFS, Certificate of Need Section | 05 DHR 1492 | Lassiter | 05/31/06 | |
| Community General Health Partners, Inc. d/b/a Thomasville Medical Center v. DHHS, DFS, Certificate of Need Section | 05 DHR 1506 | Lassiter | 05/31/06 | |
| Shannon Woodell Glidewell v. DHHS, DFS | 05 DHR 1514 | Gray | 09/29/06 | |
| LaBrenda Perry Bennett v. Health Care Personnel Registry | 05 DHR 1579 | Morrison | 07/13/06 | |
| Lisa D. Smith-Perri on behalf of Gibson Price Smith, Brother | 05 DHR 1982 | Gray | 06/26/06 | |
| All Braxton, The Braxton Home II v, DHHS, DFS | 05 DHR 1986 | Mann | 07/20/06 | |
| Bertha Graham v. DHHS, DFS, Health Care Personnel Registry | 05 DHR 2040 | McCotter | 06/08/06 | |
| Jeanette Clark v. State Board of Nursing, Raleigh, NC | 05 DHR 2076 | Gray | 07/10/06 | |
| Yavonka Renee Vann v. DHHS, DFS | 05 DHR 2108 | Gray | 07/12/06 | |
| Janet Johnson v. Health Care Personnel Registry | 05 DHR 2127 | Gray | 08/15/06 | |
| Zion Hill Ame Zion Church, Child Development Center v. DHHS, Div. of Child Development | 05 DHR 2184 | Gray | 07/12/06 | |
| Steven Thomas Safrit v. DHHS | 05 DHR 2191 | Mann | 06/20/06 | |
| Rosa Currie v. DHHS | 05 DHR 2204 | Elkins | 09/26/06 | |
| Ruben Perez v. DHHS, Div. of Public Health Women and Children's Health Section | 05 DHR 2225 | Lassiter | 05/10/06 | |
| Hospice & Palliative Care Charlotte Region v. DHHS, DFS, CON Section, Licensure and Certification Section and Liberty Home Care II, LLC | 06 DHR 0018 | Elkins | 09/28/06 | |
| Hospice & Palliative Care Charlotte Region v. DHHS, DFS, CON Section and DHHS, DFS, Licensure and Certification Section | 06 DHR 0022 | Elkins | 09/14/06 | 21:07 NCR 674 |
| Jacqueline Hall v. DHHS, Div. of Child Development | 06 DHR 0025 | Lassiter | 08/31/06 | |
| Joshua B. Worley, by and through his Guardian as Litem, Bertha Gail Levi v. DHHS, Div. of Medical Assistance | 06 DHR 0033 | Mann | 09/11/06 | |
| Richard Wayne Baird v. DHHS, DMA | 06 DHR 0177 | Gray | 06/15/06 | |
| Rosemary Nwanko v. DHHS, DFS, Mental Health Licensure and Certification Section | 06 DHR 0186 | Gray | 07/12/06 | |
| JoAnn Baldwin v. DHHS, DFS, Child and Adult Care Food Program | 06 DHR 0208 | Wade | 06/27/06 | |
| Joyce Moore v. DHHS | 06 DHR 0212 | Morrison | 08/15/06 | |
| Jansala Walker v. Healthcare Personnel Registry | 06 DHR 0213 | Wade | 06/07/06 | |
| Bobby Locklear v. DHHS, DFS, Adult Licensure Section | 06 DHR 0215 | Mann | 06/20/06 | |
| Linwood B. Cameron d/b/a New Millennium Management Services v. DFS | 06 DHR 0218 | Elkins | 06/08/06 | |
| Selvia Chapel Child Care Center ID# 74000208, Bishop A. H. Hartsfield v. DHHS, Div. of Child Development | 06 DHR 0268 | Gray | 08/21/06 | |
| Deloris Johnson v. DHHS, Div. of Public Health, Child and Adult Care Food Program | 06 DHR 0271 | Gray | 05/17/06 | |
| Jack Williamson v. Div. of Medical Assistance Third Party Recovery | 06 DHR 0300 | Chess | 08/04/06 | |
| Shawqi Abdalla Ibtisam Omar v. OAH | 06 DHR 0332 | Gray | 07/10/06 | |
| Daniel Marshall v. DHHS | 06 DHR 0340 | Wade | 06/27/06 | |
| Katie Morris v. DHHS | 06 DHR 0344 | Gray | 08/21/06 | |
| Michael Glenn Shell v. Board of Health Care Workers Registry, DHHS | 06 DHR 0358 | Elkins | 07/31/06 | |
| Angel Allman v. Div. of Medical Assistance Medical Policy | 06 DHR 0370 | Wade | 08/09/06 | |
| Tammie L. Greene v. DHHS, Div. of Medical Assistance | 06 DHR 0386 | Chess | 07/25/06 | |
| Carol Denny v. DHHS | 06 DHR 0395 | Mann | 09/05/06 | |
| Myrna Diane Bunns v. DHHS, Division of Child Development | 06 DHR 0399 | Gray | 06/19/06 | |
| Joseph Randy Creech v. Dix, DHHS | 06 DHR 0416 | Mann | 09/06/06 | |
| Annette Alexander v. DHHS | 06 DHR 0471 | Elkins | 06/23/06 | |
| Bernice Norman v. Wash Co. Dept. of Social Services | 06 DHR 0472 | Elkins | 06/23/06 | |
| Daisy Fish v. Dorthea Dix Hospital | 06 DHR 0473 | Morrison | 08/02/06 | |

CONTESTED CASE DECISIONS

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| Delisa Jean Scott v. DHHS, DFS | 06 DHR 0475 | Elkins | 06/23/06 |
| Deloris Johnson v. DHHS, Div. of Public Health, Child and Adult Care Food Program | 06 DHR 0488 | Gray | 05/17/06 |
| Myrna A. Batson v. Broughton Hospital | 06 DHR 0503 | Gray | 07/12/06 |
| Digna A. Marte v. DHHS, Div. of Medical Assistance | 06 DHR 0551 | Mann | 07/21/06 |
| Carolyn W. Cooper, Happy Days Child Care Center v. Div. of Child Development, DHHS | 06 DHR 0565 | Lassiter | 08/01/06 |
| Eric Becton v. DHHS | 06 DHR 0594 | Elkins | 06/23/06 |
| Bibian Nwanguma v. Health Care Personnel Registry | 06 DHR 0651 | Wade | 08/14/06 |
| Regina A McLean v. DHHS, Citizen Affairs/Administration | 06 DHR 0691 | Gray | 06/27/06 |
| Regina A. Mclean v. Human Health Client Assistant Program | 06 DHR 0692 | Gray | 07/20/06 |
| Christy Laws v. DHHS | 06 DHR 0698 | Elkins | 09/07/06 |
| Kara Elmore v. DHHS, DFS | 06 DHR 0702 | Gray | 08/23/06 |
| James Soules v. DHHS | 06 DHR 0718 | Gray | 08/01/06 |
| DeJuana Byrd Heavenly Angels Child Center v. Child Abuse/ Neglect | 06 DHR 0720 | Lassiter | 06/14/06 |
| Angela M. Rhodes v. New Hanover County DSS | 06 DHR 0730 | Mann | 09/05/06 |
| Full Potential, LLC v. DHHS | 06 DHR 0781 | Gray | 07/21/06 |
| Alberta Denise Murphy v. DHHS and Registry | 06 DHR 0788 | Elkins | 09/07/06 |
| Bettie B. Woods v. Gardian Ad Litem, Angela Phillips, Lincoln County DSS/Catawba BAL | 06 DHR 0830 | Gray | 06/28/06 |
| Rockingham County Department of Social Services v. Medicaid/Value Options | 06 DHR 0839 | Lassiter | 08/01/06 |
| Denise Little v. Catawba County LME, John Hardy, Director Consultant Deanna Hoxworth | 06 DHR 0860 | Lassiter | 06/23/06 |
| Edna Cray - Kid's Academy v. DHHS, Div. of Public Health Child and Adult Care Food Program | 06 DHR 0887 | Gray | 06/13/06 |
| Norman Lavel Bracey, Jr., v. Social Services (Medicaid) | 06 DHR 0955 | Gray | 07/21/06 |
| Ariel Horowitz, Minor, by her Parents David Horowitz and Rosalind Heiko v. Div. of Medical Assistance, MH/DD/SAS and DHHS | 06 DHR 1064 | Lassiter | 08/21/06 |
| Keira T. Williams v. Wake County Dept. of Social Services | 06 DHR 1067 | Lassiter | 07/06/06 |
| Brentwood Child Care Center (92001147) v. DCD/Child Abuse Neglect Unit | 06 DHR 1100 | Lassiter | 10/12/06 |
| Angela Fay Carraway v. DHHS | 06 DHR 1105 | Morrison | 08/21/06 |
| Ivory Jade Alson v. Wake Co. Dept. of Social Services | 06 DHR 1106 | Lassiter | 07/10/06 |
| Play and Learn Childcare, Mary Ellen Helton v. DHHS, Div. of Public Health, Chalid and Adult Care Food Program | 06 DHR 1108 | Gray | 07/24/06 |
| RTTS, Inc v. DHHS, DFS, Mental Health Licensure and Cert. Section | 06 DHR 1127 | Lassiter | 10/02/06 |
| Rhonda Bumgarner v. DHHS, Div. of Medical Assistance | 06 DHR 1162 | Gray | 09/14/06 |
| Zabrina Johnson v. DHHS | 06 DHR 1170 | Gray | 10/09/06 |
| Leea Holt, Tari Guevara v. Div. of Child Development, DHHS | 06 DHR 1181 | Morrison | 10/13/06 |
| Beverly M. West v. DHHS | 06 DHR 1238 | Wade | 09/26/06 |
| Sherri Groves v. Div. of Child Development | 06 DHR 1252 | Gray | 09/14/06 |
| Graceland Food Mart, James C. McGirt, Owner v. DHHS | 06 DHR 1266 | Elkins | 09/22/06 |
| Mary Jane Rutledge v. NCOAH | 06 DHR 1331 | Gray | 09/12/06 |
| Aunt Alice Daycare Center, Alice Camara v. DHHS, Nutrition Program | 06 DHR 1490 | Lassiter | 10/13/06 |
| Connie Lee Yates v. DHHS | 06 DHR 1558 | Morrison | 09/27/06 |

DEPARTMENT OF ADMINISTRATION

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| Corporate Express Office Products, Inc. v. NC Division of Purchase and Contract, & Office Depot, Inc. | 06 DOA 0112 | Gray | 05/17/06 | 21:01 NCR | 163 |
| Hershel Sarraf, Oro Avanti, Inc. v. DOA, Div. of Purchase and Contract | 06 DOA 0646 | Wade | 09/20/06 | | |

DEPARTMENT OF CORRECTIONS

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|----------------------------|-------------|------|----------|--|--|
| Michael Eugene Hunt v. DOC | 06 DOC 0498 | Gray | 06/20/06 | | |
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DEPARTMENT OF JUSTICE

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| Steven Forrest Brubaker v. NC Criminal Justice Education and Training Standards Commission | 05 DOJ 1405 | Elkins | 05/31/06 | 21:01 NCR | 158 |
| Jeffrey Michael Quinn v. Criminal Justice Training Standards Comm. | 05 DOJ 1406 | Elkins | 08/04/06 | | |
| Christopher Paul Stanfield v. Criminal Justice and Training Standards Commission and Sheriff's Education and Training Standards Comm. | 05 DOJ 1520 | Wade | 08/28/06 | | |
| Christopher Paul Stanfield v. Criminal Justice and Training Standards Commission and Sheriff's Education and Training Standards Comm. | 05 DOJ 1521 | Wade | 08/28/06 | | |
| Todd Franklin Wyke v. Criminal Justice Education and Training Standards Commission | 05 DOJ 2223 | Lassiter | 09/15/06 | | |
| Michael Edward Sutton v. NC Criminal Justice Education & Training Standards Commission | 06 DOJ 0012 | Morrison | 05/09/06 | | |
| Philip Lee Holdaway v. Sheriffs' Education and Training Standards Comm. | 06 DOJ 0069 | DeLuca | 08/04/06 | | |
| Anthony Lee Davis v. Sheriffs' Education and Training Standards Comm. | 06 DOJ 0070 | Gray | 08/26/06 | | |
| Todd Franklin Wyke v. DOJ, Company Police Program | 06 DOJ 0146 | Lassiter | 09/15/06 | | |
| Angela Renee Lail v. Sheriffs' Education and Training Standards Comm. | 06 DOJ 0228 | Gray | 08/06/06 | 21:06 NCR | 514 |
| James Woodrow Jacobs v. Sheriffs' Education and Training Standards Comm. | 06 DOJ 0229 | Gray | 07/12/06 | | |
| Jason Matthew Lish v. Criminal Justice Education and Training Standards Commission | 06 DOJ 0579 | Wade | 09/12/06 | | |
| Christopher Brian Mingia v. Criminal Justice Education and Training | 06 DOJ 0598 | Wade | 09/12/06 | | |

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| Standards Commission | | | |
| Christopher S. Cummings v. DOJ, Company Police Program | 06 DOJ 0696 | Gray | 08/11/06 |
| Allison M. Burdette v. Company Police Program | 06 DOJ 0733 | Wade | 08/11/06 |
| Amber Lee Baldwin v. Sheriffs' Education and Training Standards Comm. | 06 DOJ 0814 | Gray | 06/26/06 |
| Reginald Warren v. Criminal Justice Education and Training Standards Commission | 06 DOJ 0880 | Gray | 09/08/06 |
| Betty Perry v. Criminal Justice Education and Training Standards Comm. | 06 DOJ 0881 | Lassiter | 09/20/06 |
| Danny Kaye Barham and NC Detective Agency, Inc v. Private Protective Services Board | 06 DOJ 0870 | Morrison | 08/07/06 |
| David L. Willams v. Private Protective Services Board | 06 DOJ 0876 | Morrison | 07/18/06 |
| Donna G. Redding v. Private Protective Services Board | 06 DOJ 0877 | Morrison | 08/01/06 |
| Joseph O. Smiley v. Private Protective Services Board | 06 DOJ 0878 | Morrison | 08/01/06 |
| Amy Pearl King v. Sheriffs' Education and Training Standards Comm. | 06 DOJ 1295 | Lassiter | 10/10/06 |
| <u>DEPARTMENT OF STATE TREASURER</u> | | | |
| Percy E. Myers v. Retirement Systems Division, LGERS, | 06 DST 0048 | Chess | 05/31/06 |
| Harry Whisnat v. Teachers' and State Employees' Retirement System of NC, A Corporation, Board of Trustees of the Teachers' and State Employees' Retirement System of NC, A body politic and Corporate, DOT, Retirement Systems Div. and the State of NC | 06 DST 0591 | Gray | 09/19/06 |
| <u>EDUCATION, STATE BOARD OF</u> | | | |
| Darrell Wayne Purcell v. State Board of Education | 05 EDC 1861 | Morrison | 10/11/06 |
| Elizabeth Ann Mical v. Department of Public Instruction | 05 EDC 1962 | Morrison | 08/04/06 |
| Margaret Frances Handest v. Dept. of Public Instruction, Center for Recruitment and Retention | 05 EDC 2057 | Morrison | 10/11/06 |
| Linda Ellis v. Dept. of Public Instruction – National Board – Certification | 06 EDC 0002 | Morrison | 10/12/06 |
| Monica Robertson v. Department of Public Instruction | 06 EDC 0359 | Morrison | 08/02/06 |
| Gail G. Brooks v. Department of Public Instruction | 06 EDC 0437 | Morrison | 08/07/06 |
| Reginald Powe v. Public Schools of North Carolina, State Board of Educ. Department of Public Instruction, Superintendent's Ethics Advisory Committee | 06 EDC 1116 | Elkins | 10/03/06 |
| <u>DEPT. OF ENVIRONMENT AND NATURAL RESOURCES</u> | | | |
| Howard L. Hardy v. Co. of Craven Department of Health | 00 EHR 0803 | Gray | 06/26/06 |
| Wheatly Oil Company, Inc v. DENR, Div. of Waste Management | 03 EHR 0030 | Gray | 08/04/06 |
| Auddies, Inc v. DENR | 03 EHR 1312 | Lassiter | 10/18/06 |
| Joe L. Wilson v. DENR | 03 EHR 1641 | Gray | 10/09/06 |
| Ronald L. Preston v. Davidson County Health Department | 03 EHR 2329 | Gray | 08/24/06 |
| Auddies, Inc v. DENR | 04 EHR 0103 | Lassiter | 10/18/06 |
| Sandra M. Netting v. DENR | 04 EHR 1768 | Gray | 09/29/06 |
| County of Davidson v. DENR, Div. of Air Quality | 04 EHR 0362 | Wade | 09/01/06 |
| Laney Oil Company, Inc, UST# 04-049P, UST# 04-050P v DENR | 05 EHR 0135 | Gray | 06/20/06 |
| Anton Tomassetti v. DENR, Div. of Air Quality | 05 EHR 0321 | Gray | 06/12/06 |
| Raymond S. Carpenter v. DENR | 05 EHR 2009 | Bryan | 08/28/06 |
| John Graham v. DENR, Div. of Air Quality | 05 EHR 2029 | Gray | 05/08/06 |
| Samuel Buck Kiser v. DENR, Div. of Waste Management | 05 EHR 2120 | Chess | 07/25/06 |
| Christopher S. Anderson, Jan HP Anderson v. Ashe County Health Dept. | 06 EHR 0558 | Elkins | 07/31/06 |
| Heyward Ledford, Wolfpen Associates, Inc. v. DENR | 06 EHR 0679 | Gray | 06/12/06 |
| Parnell-Kinlaw Group, Inc v. DENR, Div. of Land Quality | 06 EHR 0743 | Mann | 09/26/06 |
| Danny Ray Thorpe v. Brunswick Co. Health Dept., Environmental Health Department | 06 EHR 1041 | Gray | 08/07/06 |
| Dianne D. Vereen v. Brunswick Co. Health Department | 06 EHR 1126 | Elkins | 09/27/06 |
| C.F. Little and Patsy H. Little v. DENR | 06 EHR 1340 | Lassiter | 09/22/06 |
| John P. Leonard, Agent for Magnolia Pointe LP v. County of Durham Engineering Department | 06 EHR 1568 | Gray | 10/13/06 |
| <u>DEPARTMENT OF INSURANCE</u> | | | |
| James D. Kelly Jr. v. State Health Plan | 06 INS 0013 | Morrison | 08/07/06 |
| Daniel C. Johnson v. Teachers' and State Employees' Comprehensive Major Medical Plan | 06 INS 0353 | Morrison | 07/03/06 |
| <u>OFFICE OF STATE PERSONNEL</u> | | | |
| Sgt. Gerry R. Mouzon v. Crime Control & Public Safety, NC State Highway Patrol, and Brian Beatty, Secretary CC & PS | 02 OSP 0392 | Gray | 06/15/06 |
| Sgt. Gerry R. Mouzon v. Crime Control & Public Safety, NC State Highway Patrol, and Brian Beatty, Secretary CC & PS | 02 OSP 1036 | Gray | 06/15/06 |
| Georgia Warren v. DOT | 02 OSP 1911 | Wade | 08/08/06 |
| Georgia Warren v. DOT | 02 OSP 2179 | Wade | 08/08/06 |
| Emily Flores v. College of Agriculture and Life Sciences NC State | 04 OSP 1518 | Lassiter | 10/13/06 |

21:06 NCR 519

21:06 NCR 524

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| Charles H. Boykin, Jr. v. Halifax County Health Dept. | 05 OSP 0851 | Gray | 09/15/06 | |
| Tiffany Bowick-Richardson v. Fayetteville State University | 05 OSP 0901 | Lassiter | 08/23/06 | |
| Hank L. Silverthorne v. DOT, Bridge Maintenance (Division One) | 05 OSP 0291 | Gray | 05/11/06 | |
| Jeffrey Michael Quinn v. Dept. of Crime Control and Public Safety, State Highway Patrol | 05 OSP 1012 | Elkins | 08/04/06 | 21:06 NCR 527 |
| Deena Ward v. Columbus Co. Dept. of Social Services | 05 OSP 1017 | Lassiter | 06/23/06 | |
| Alma Chinita Trotter v. DHHS, Public Health Department | 05 OSP 1183 | Chess | 06/01/06 | |
| Tonita Derr Dawkins v. DOC, Alexander Correctional Institution | 05 OSP 1449 | Gray | 07/27/06 | |
| Thomas H. Jones v. NC State Highway Patrol, Dept. of Crime Control & Public Safety | 05 OSP 1495 | Chess | 05/17/06 | |
| W. Frank Etheridge v. DOA, State Capital Police | 05 OSP 1771 | Lassiter | 08/03/06 | 21:06 NCR 536 |
| Sandra Harris v. DOT | 05 OSP 1886 | Lassiter | 07/13/06 | |
| Marisa Lail Setzer v. Department of Public Instruction | 05 OSP 1963 | Morrison | 08/02/06 | |
| Melissa H. Bailey v. DOT | 05 OSP 2119 | Wade | 06/28/06 | |
| Michael D. Bognanowicz v. NC Wildlife Resources Commission | 05 OSP 2024 | Bryan | 05/18/06 | |

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| Malcolm Shelton Davis v. DHHS | 06 OSP 0015 | Smith | 09/12/06 | |
| Kamaria Smith v. DHHS | 06 OSP 0130 | Mann | 06/06/06 | |
| Lisa A. Forbes v. Dorothea Dix Hospital | 06 OSP 0134 | Gray | 03/29/06 | |
| Lisa A. Forbes v. Dorothea Dix Hospital | 06 OSP 0135 | Gray | 03/29/06 | |
| Lelia J. Bailey v. Winston-Salem State University | 06 OSP 0211 | Chess | 09/06/06 | |
| Reginald Powe v. Public Schools of NC State Board of Education, Dept of Public Instruction | 06 OSP 0238 | Lassiter | 05/09/06 | |
| Nita Bass v. Craven County Department of Social Services | 06 OSP 0346 | Lassiter | 09/12/06 | |
| Lisa Green v. DOC | 06 OSP 0379 | Lassiter | 06/02/06 | |
| James Walter Gibson v. DOT | 06 OSP 0543 | Gray | 05/19/06 | |
| Caria Faulk v. Columbus Co. Dept. of Social Services | 06 OSP 0546 | Lassiter | 07/06/06 | |
| Robin D. Long v. UNC Greensboro | 06 OSP 0684 | Lassiter | 06/27/06 | |
| Rena Coltraine McLeod v. Guilford Co. Dept. of Public Health | 06 OSP 0703 | Wade | 06/28/06 | |
| Jan-Lee Wells v. Fayetteville Sate | 06 OSP 0731 | Gray | 08/10/06 | |
| Timothy Scott Reynolds v. Morrison Correctional Institution | 06 OSP 0803 | Lassiter | 07/26/06 | |
| Geraldine Blackston-Ramos v. Maurice Boswell, Mary Washun, Cynthia Chamblee, Phyllis Sharpe, Dennis Davis, Bill McNeal, Wake County Public Schools/Human Resource Department/Preventive Services/ Partnership for Educational Success | 06 OSP 0831 | Morrison | 07/12/06 | |
| Rick Van Kerkhove v. DOC | 06 OSP 0851 | Gray | 08/25/06 | |
| Odessa D. Gwynn v. Caswell County Senior Center | 06 OSP 0863 | Wade | 08/26/06 | |
| Juliana W. Smith v. Alamance-Caswell Area Mental Health, Developmental Disabilities, and Substance Abuse Authority | 06 OSP 1059 | Lassiter | 08/09/06 | |
| Dr. Mirian W. McIntosh v. Durham Co. Health Department | 06 OSP 1060 | Lassiter | 08/09/06 | |
| Maria Olea-Ling v. UNC-Health Care | 06 OSP 1143 | Lassiter | 10/12/06 | |
| Tamra M. Burroughs v. Div. of Services for the Deaf and Hard of Hearing | 06 OSP 1280 | Elkins | 09/07/06 | |
| James D. Abrams v. Craven Co. DOT | 06 OSP 1358 | Gray | 10/13/06 | |

SECRETARY OF STATE

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|--|-------------|----------|----------|--|
| Tisha L. Jones v. Dept. of Secretary of State | 05 SOS 1987 | Gray | 05/19/06 | |
| Temeka A. Brooks v. Dept of Secretary of State | 06 SOS 0276 | Mann | 05/26/06 | |
| Laksha England v. Dept. of SOS | 06 SOS 0630 | Mann | 09/13/06 | |
| Brendalyn D. Blackmon v. Dept. of Secretary of State | 06 SOS 0701 | Wade | 08/11/06 | |
| Jennifer Carol Daniels v. Dept. of SOS | 06 SOS 1167 | Lassiter | 10/12/06 | |

UNC HOSPITALS

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|--|-------------|----------|----------|--|
| Linda Sisco v. UNC Hospitals | 05 UNC 0781 | Gray | 05/09/06 | |
| Karen H. Moore v. UNC Hospitals | 06 UNC 0351 | Elkins | 06/08/06 | |
| Krista Singletary v. UNC Hospitals | 06 UNC 0468 | Mann | 10/12/06 | |
| Larry E. Rogers v. UNC Hospitals | 06 UNC 0697 | Elkins | 07/31/06 | |
| Cynthia Lodestro v. UNC Hospitals | 06 UNC 0707 | Wade | 08/11/06 | |
| Margaret Branham v. UNC Hospitals | 06 UNC 0903 | Elkins | 09/07/06 | |
| Ta-Wanda & David Wilson v. UNC Hospitals | 06 UNC 1084 | Lassiter | 09/12/06 | |
| Angel C. Carey v. UNC Hospitals | 06 UNC 1146 | Lassiter | 09/07/06 | |