

NORTH CAROLINA REGISTER

VOLUME 21 • ISSUE 23 • Pages 2056 - 2248

June 1, 2007

I. IN ADDITION	
Notification of Intent to Reissue a NPDES Wastewater Permit.....	2056
II. PROPOSED RULES	
Cultural Resources, Department of	
Department.....	2057 – 2058
Environment and Natural Resources, Department of	
Marine Fisheries Commission.....	2061 – 2077
Wildlife Resources Commission.....	2077 – 2078
Health and Human Services, Department of	
Health Services, Commission for.....	2059 – 2061
Medical Care Commission.....	2058 – 2059
Occupational Licensing Boards and Commissions	
Appraisal Board.....	2087 – 2103
Dental Examiners, Board of.....	2078 – 2086
Pharmacy, Board of.....	2086 – 2087
III. APPROVED RULES.....	2104 – 2230
Administration	
Department	
Environment and Natural Resources, Department of	
Environmental Management Commission	
Health Services, Commission for	
Wildlife Resources Commission	
Health and Human Services, Department of	
Deaf and the Hard of Hearing, Division of Services for the	
Department	
Mental Health, Commission for	
Labor, Department of	
Department	
Occupational Licensing Boards and Commissions	
Cosmetic Art Examiners, Board of	
Landscape Contractors Registration Board	
Occupational Therapy, Board of	
IV. RULES REVIEW COMMISSION	2231 – 2240
V. CONTESTED CASE DECISIONS	
Index to ALJ Decisions	2241 – 2248

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.

Office of Administrative Hearings
Rules Division
Capehart-Crocker House
424 North Blount Street
Raleigh, North Carolina 27601-2817
(919) 733-2678
(919) 733-3462 FAX

contact: Molly Masich, Codifier of Rules molly.masich@ncmail.net (919) 733-3367
Dana Sholes, Publications Coordinator dana.sholes@ncmail.net (919) 733-2679
Julie Edwards, Editorial Assistant julie.edwards@ncmail.net (919) 733-2696
Felicia Williams, Editorial Assistant felicia.s.williams@ncmail.net (919) 733-3361

Rule Review and Legal Issues

Rules Review Commission
1307 Glenwood Ave., Suite 159
Raleigh, North Carolina 27605
(919) 733-2721
(919) 733-9415 FAX

contact: Joe DeLuca Jr., Staff Attorney joe.deluca@ncmail.net (919) 715-8655
Bobby Bryan, Staff Attorney bobby.bryan@ncmail.net (919) 733-0928

Fiscal Notes & Economic Analysis

Office of State Budget and Management
116 West Jones Street
Raleigh, North Carolina 27603-8005
(919) 807-4700
(919) 733-0640 FAX

contact: Nathan Knuffman, Economist III nathan.Knuffman@ncmail.net (919)807-4728
Jonathan Womer, Asst. State Budget Officer jonathan.womer@ncmail.net (919)807-4737

Governor's Review

Reuben Young reuben.young@ncmail.net
Legal Counsel to the Governor (919) 733-5811
116 West Jones Street(919)
Raleigh, North Carolina 27603

Legislative Process Concerning Rule-making

Joint Legislative Administrative Procedure Oversight Committee
545 Legislative Office Building
300 North Salisbury Street
Raleigh, North Carolina 27611
(919) 733-2578
(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
Raleigh, North Carolina 27603
(919) 715-2893

contact: Jim Blackburn jim.blackburn@ncacc.org
Rebecca Troutman rebecca.troutman@ncacc.org

NC League of Municipalities
215 North Dawson Street
Raleigh, North Carolina 27603
(919) 715-4000

contact: Anita Watkins awatkins@ncmlm.org

NORTH CAROLINA REGISTER
Publication Schedule for January 2007 – December 2007

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
21:13	01/02/07	12/07/06	01/17/07	03/05/07	03/20/07	05/01/07	05/08	09/29/07
21:14	01/16/07	12/20/06	01/31/07	03/19/07	03/20/07	05/01/07	05/08	10/13/07
21:15	02/01/07	01/10/07	02/16/07	04/02/07	04/20/07	06/01/07	05/08	10/29/07
21:16	02/15/07	01/25/07	03/02/07	04/16/07	04/20/07	06/01/07	05/08	11/12/07
21:17	03/01/07	02/08/07	03/16/07	04/30/07	05/21/07	07/01/07	05/08	11/26/07
21:18	03/15/07	02/22/07	03/30/07	05/14/07	05/21/07	07/01/07	05/08	12/10/07
21:19	04/02/07	03/12/07	04/17/07	06/01/07	06/20/07	08/01/07	05/08	12/28/07
21:20	04/16/07	03/23/07	05/01/07	06/15/07	06/20/07	08/01/07	05/08	01/11/08
21:21	05/01/07	04/10/07	05/16/07	07/02/07	07/20/07	09/01/07	05/08	01/26/08
21:22	05/15/07	04/24/07	05/30/07	07/16/07	07/20/07	09/01/07	05/08	02/09/08
21:23	06/01/07	05/10/07	06/16/07	07/31/07	08/20/07	10/01/07	05/08	02/26/08
21:24	06/15/07	05/24/07	06/30/07	08/14/07	08/20/07	10/01/07	05/08	03/11/08
22:01	07/02/07	06/11/07	07/17/07	08/31/07	09/20/07	11/01/07	05/08	03/28/08
22:02	07/16/07	06/22/07	07/31/07	09/14/07	09/20/07	11/01/07	05/08	04/11/08
22:03	08/01/07	07/11/07	08/16/07	10/01/07	10/22/07	12/01/07	05/08	04/27/08
22:04	08/15/07	07/25/07	08/30/07	10/15/07	10/22/07	12/01/07	05/08	05/11/08
22:05	09/04/07	08/13/07	09/19/07	11/05/07	11/20/07	01/01/08	05/08	05/31/08
22:06	09/17/07	08/24/07	10/02/07	11/16/07	11/20/07	01/01/08	05/08	06/13/08
22:07	10/01/07	09/10/07	10/16/07	11/30/07	12/20/07	02/01/08	05/08	06/27/08
22:08	10/15/07	09/24/07	10/30/07	12/14/07	12/20/07	02/01/08	05/08	07/11/08
22:09	11/01/07	10/11/07	11/16/07	12/31/07	01/21/08	03/01/08	05/08	07/28/08
22:10	11/15/07	10/25/07	11/30/07	01/14/08	01/21/08	03/01/08	05/08	08/11/08
22:11	12/03/07	11/08/07	12/18/07	02/01/08	02/20/08	04/01/08	05/08	08/29/08
22:12	12/17/07	11/26/07	01/01/08	02/15/08	02/20/08	04/01/08	05/08	09/12/08

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.

<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>
--

**PUBLIC NOTICE
STATE OF NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION/NPDES UNIT
1617 MAIL SERVICE CENTER
RALEIGH, NC 27699-1617**

NOTIFICATION OF INTENT TO REISSUE A NPDES WASTEWATER GENERAL PERMIT

On the basis of thorough staff review and application of NC General Statute 143.21, Public law 92-500 and other lawful standards and regulations, the North Carolina Environmental Management Commission proposes to reissue the National Pollutant Discharge Elimination System (NPDES) General Permit for point source discharges of wastewater associated with the following activities:

NPDES General Permit NCG530000 for discharge of treated wastewater resulting from seafood packing, rinsing and packaging, fish farms and similar wastewaters.

Written comments regarding the proposed general permit renewal will be accepted no later than June 11, 2007. All comments received within the comment period will be considered in the final determination regarding permit reissuance. The Director of the NC Division of Water Quality may decide to hold a public hearing for the proposed permit should the Division receive a significant degree of public interest.

Copies of the draft permit, Fact Sheet, and other supporting information used to determine conditions present in the draft permit are available upon request and payment of the costs of reproduction. Mail comments and/or requests for information to the NC Division of Water Quality at the above address, or contact Joe Corporon with the Division's Point Source Branch at (919) 733-5083, extension 597, or email at joe.Corporon@ncmail.net.

Please include the NPDES permit number (NCG530000) in any communication. Interested persons may also visit the Division of Water Quality at 512 N. Salisbury Street, Raleigh, NC 27604-1148 between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday to review information on file.

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 07 – DEPARTMENT OF CULTURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Cultural Resources intends to adopt the rule cited as 07 NCAC 02E .0301.

Proposed Effective Date: October 1, 2007

Public Hearing:

Date: July 12, 2007

Time: 10:00 a.m.

Location: State Library, 109 East Jones Street, Raleigh, NC 27601

Date: July 13, 2007

Time: 10:00 a.m.

Location: Buncombe County Library, 67 Haywood Street, Asheville, NC 28801

Reason for Proposed Action: Amendment of the rules regarding eligibility for State Aid to Public Libraries, specifically for maintenance of effort requirements as it relates to a county's need to reset the contributing threshold in times of economic downturn.

Procedure by which a person can object to the agency on a proposed rule: Objection can be made by submitting written comments to the State Library of North Carolina.

Comments may be submitted to: Anne Marie Elkins, State Library of North Carolina, 4640 Mail Service Center, Raleigh, NC 27699-4640, phone (919) 807-7401, fax (919) 733-8748

Comment period ends: August 1, 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 02 - DIVISION OF STATE LIBRARY

SUBCHAPTER 02E - LIBRARY DEVELOPMENT SERVICES

SECTION .0300 - ALLOCATION OF STATE AID TO PUBLIC LIBRARY SYSTEMS

07 NCAC 02E .0301 QUALIFICATIONS FOR GRANT ELIGIBILITY

Libraries requesting funding from the Aid to Public Libraries Fund shall submit annually to the State Library of North Carolina an application for State Aid and supporting documentation including financial and statistical reports and must shall meet the following eligibility requirements:

- (1) Be ~~legally~~ established consistent with the provisions of Article 14, Chapter 153A as ~~required by~~ of the North Carolina ~~General Statutes~~. Statutes.
- (2) Provide library services in compliance with applicable State and Federal law ~~easily available without discrimination~~ to all residents of the political ~~subdivision~~ subdivision(s) supporting the library. Public library services shall be provided from a designated facility with a catalogued collection that is open to the public a minimum of 40 hours per week.
- (3) Employ a ~~full-time~~ library director having a ~~valid~~ North Carolina public librarian ~~certificate~~ certification, and experience as a ~~public librarian or administrator~~. Full-time means working a minimum of 37 1/2 hours per week.
- (4) Secure operational funds from local government sources at least equal to the average amount budgeted and available for expenditure for the previous ~~three year~~ years. A grant to a local library system from the Aid to Public Libraries Fund shall not be terminated but shall be reduced proportionately by the Department of Cultural Resources if the amount budgeted and

- available for expenditure ~~local funding for a public library was reduced by the local governing government body as part of an overall general budgetary reduction reflecting local economic conditions and local government fiscal constraints~~ is below the average of the previous three fiscal years. State funds shall not replace local funds ~~appropriated~~ budgeted and available for expenditure for public library operations.
- (6)(5) ~~Obtain~~ Secure aggregate operational funds from local sources at least equaling state aid.
- (5)(6) Expend funds as authorized in the ~~adopted~~ budget adopted by the Board of Trustees of a Regional Library, a County, or a Municipality. Any library having an unencumbered operational balance of more than 17 percent of the previous year's operating receipts shall have the difference deducted from its state allocation.
- (7) Pay salaries for professional positions funded from the ~~state aid~~ Aid to Public Libraries Fund that are no less than the scale required by the ~~Division of State Library~~ at the minimum rate of a salary grade of 69 as established by the Office of State Personnel.
- (8) ~~Obtain~~ Provide to the State Library of North Carolina an annual audit of ~~library accounts~~ the political subdivision(s) funding the library according to consistent with generally accepted accounting principles. ~~principles and submit a copy of this audit to the Division of State Library.~~
- (9) Submit annually to the State Library of North Carolina a copy of the bylaws and ~~personnel policies to the Division of State Library~~ of the library system's Board(s) of Trustees.
- (10) ~~Compile~~ Submit annually an assessment of the library needs of the community, prepare and annually revise a long-range plan of service, and submit copies of needs assessment and a current long-range plans plan of service to the ~~Division of State Library~~ Library of North Carolina. A long-range plan of service is a plan of at least five years. Upon request, submit an assessment of a community's library needs to the State Library of North Carolina.
- (11) Submit a copy of the agreement establishing the ~~regional or county library system~~, if composed of more than one local governmental unit.
- (12) Meet the following stipulations when establishing a new library or ~~withdrawing from a larger system~~ re-establishing eligibility for the Aid to Public Libraries Fund:
- (a) meet all qualifications for the state aid to public libraries program on July 1 of the year prior to the fiscal year that the library plans to receive state aid,
 - (b) continue to meet all qualifications for the state aid to public libraries program from July 1 to June 30 of that year, which shall be known as the demonstration year,
 - (c) file a full application for state aid by the June 30 deadline at the close of the demonstration year in order to receive state aid in the next fiscal year.

Authority G.S. 125-7; 143B-10.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Medical Care Commission intends to amend the rule cited as 10A NCAC 13J .1107.

Proposed Effective Date: October 1, 2007

Public Hearing:

Date: June 28, 2007

Time: 11:00 a.m.

Location: DFS Council Building, 701 Barbour Drive, Room 113, Raleigh, NC 27603

Reason for Proposed Action: After hearing pleas from home care agencies with non-English speaking in-home aides, who must be in compliance with the above rule by 10/1/07, the N.C. Medical Care Commission chose to change the rule and allow aides to be in compliance with the rule no later than 4/01/08.

Procedure by which a person can object to the agency on a proposed rule: Submit written comments to Jeff Horton, Chief Operating Officer of the Division of Facility Services.

Comments may be submitted to: Jeff Horton, 2701 Mail Service Center, Raleigh, NC 27699-2701

Comment period ends: July 31, 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 13 – NC MEDICAL CARE COMMISSION

SUBCHAPTER 13J – THE LICENSING OF HOME CARE AGENCIES

SECTION .1100 - SCOPE OF SERVICES

10A NCAC 13J .1107 IN-HOME AIDE SERVICES

(a) If an agency provides in-home aide services, the services shall be provided in accordance with the client's plan of care. Agencies participating in the Home and Community Care Block Grant or Social Services Block Grant through the Division of Aging and Adult Services shall comply, for those clients, with the in-home aide service level rules contained in 10A NCAC 06A and 10A NCAC 06X which are hereby incorporated by reference with all subsequent amendments. All other agencies providing in-home aide services shall comply with the provisions in Paragraphs (b) and (c) of this Rule.

(b) If the client's plan of care requires the in-home aide to provide extensive assistance to a client who is totally dependent in the activity or requires substantial hands on care and physical support including more than guided maneuvering of limbs or weight bearing assistance, the in-home aide shall be listed on the Nurse Aide Registry pursuant to G.S. 131E-255. However, if the client's plan of care requires the in-home aide to provide only limited assistance to the client which includes hands-on care involving guided maneuvering of limbs with eating, toileting, bathing, dressing, personal hygiene, self monitoring of medications or other non weight bearing assistance, the in-home aide shall not be required to be listed on the Nurse Aide Registry. Agencies shall be in compliance with this Paragraph no later than ~~October 1, 2007~~ April 1, 2008.

(c) In-home aides shall follow instructions for client care written by the health care practitioner required for the services provided. In-home aide duties may include the following:

- (1) help with prescribed exercises which the client and in-home aides have been taught by a health care practitioner licensed pursuant to G.S. 90;
- (2) provide or assist with personal care (i.e., bathing, care of mouth, skin and hair);
- (3) assist with ambulation;
- (4) assist client with self-administration of medications which are ordered by a physician or other person authorized by state law to prescribe;
- (5) perform incidental household services which are essential to the client's care at home; and

- (6) record and report changes in the client's condition, family situation or needs to an appropriate health care practitioner.

Authority G.S. 131E-140.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Health Services intends to amend the rule cited as 10A NCAC 45A .0202.

Proposed Effective Date: *October 1, 2007*

Public Hearing:

Date: *July 10, 2007*

Time: *10:30 a.m. – 12:00 p.m.*

Location: *Cardinal Room, 5605 Six Forks Road, Raleigh, NC*

Reason for Proposed Action: *This rule was amended on a temporary basis, effective November 1, 2006, in response to legislation passed {S 1741 – SL 2006 – 66}. This action is to make that temporary amendment/rule permanent.*

Procedure by which a person can object to the agency on a proposed rule: *Comments and/or objections should be sent to Chris Hoke, JD, rule-making coordinator for the Division of Public Health, at 1931 MSC, Raleigh, NC 27699-1931, or by e-mail to chris.hoke@ncmail.net. A public hearing has been scheduled and the date and location will be published in the NC Register and on the OAH website, and any person having comments and/or objections may attend and speak at the public hearing.*

Comments may be submitted to: *Chris Hoke, JD, 1931 MSC, Raleigh, NC 27699-1931, phone (919) 707-5006, email chris.hoke@ncmail.net*

Comment period ends: *July 31, 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 45 - GENERAL PROCEDURES FOR PUBLIC HEALTH PROGRAMS

SUBCHAPTER 45A - PAYMENT PROGRAMS

SECTION .0200 - ELIGIBILITY DETERMINATIONS

10A NCAC 45A .0202 DETERMINATION OF FINANCIAL ELIGIBILITY

(a) A patient must meet the financial eligibility requirements of this Subchapter to be eligible for benefits provided by the payment programs. Financial eligibility shall be determined through application of income scales. The definition of annual net income in Rule .0203 of this Subchapter and the definitions of family in Rule .0204 of this Subchapter shall be used in applying the income scales, except as provided in Paragraphs (c), (e) and (f) of this Rule.

(b) A person shall be financially eligible for services under the Sickie Cell Program if the net family income is at or below the federal poverty level in effect on July 1 of each fiscal year.

(c) A person shall be financially eligible for the HIV Medications Program if the ~~net-gross~~ family income is at or below ~~125~~ 200 percent of the federal poverty level in effect on July 1 of each fiscal year, with the following exceptions:

- (1) If a waiting list develops, priority for enrollment into the Program shall be given to those whose net family income is at or below 125 percent of the federal poverty level; and
- (2) At any time that the Program's financial eligibility level is changed, all clients enrolled in the Program during the most recent year or at the time the eligibility level is changed shall be eligible to continue to be enrolled in and served by the Program. This shall be true even if the clients' financial status at that time places them above the newly-established level. The eligibility of these clients shall remain in force until:
 - (A) they no longer qualify for the Program other than for financial reasons; or
 - (B) they no longer require the services of the Program; or
 - (C) their income increases such that they have an income that exceeds the level under which they originally qualified for and enrolled into the Program; or
 - (D) they fail to comply with the rules of the Program.

Changes related to the Program's financial eligibility level or status shall be communicated to interested parties within North Carolina's HIV community (e.g., persons living with HIV disease, their families and caregivers, advocates and service providers, relevant local and state agencies) by the Program via electronic or print mechanisms.

(d) A person shall be financially eligible for the Kidney Program if the net family income is at or below the following scale:

- Family Size 1: \$6,400;
- Family Size 2: \$8,000;
- Family Size 3: \$9,600;
- Family Size 4: \$11,000;
- Family Size 5: \$12,000;
- Family Size 6 and over: add \$800 per family member.

(e) A person shall be financially eligible for the Cancer Program if gross family income is at or below 115 percent of the federal poverty level in effect on July 1 of each year.

(f) A child shall be financially eligible for Children's Special Health Services if the child is approved for Medicaid when applying or reapplying for program coverage, except for children eligible under Paragraph (g) and (h) of this Rule.

(g) A child approved for Children's Special Health Services post adoption coverage pursuant to 10A NCAC 43F .0800, shall be eligible for services under Children's Special Health Services if the child's net income is at or below the federal poverty level in effect on July 1 of each year.

(h) Non-Medicaid eligible children covered by CSHS prior to January 1, 1996 who reapply for program coverage during 1996 shall be granted one additional year of eligibility if their net family income is at or below the federal poverty level approved for program use at the time that they apply.

(i) A person shall be financially eligible for services under the Adult Cystic Fibrosis Program if the net family income is at or below the federal poverty level in effect on July 1 of each year.

(j) The financial eligibility requirements of this Subchapter shall not apply to:

- (1) Migrant Health Program;
- (2) School Health Fund financial eligibility determinations performed by a local health department which has chosen to use the financial eligibility standards of the Department of Public Instruction's free lunch program;
- (3) Prenatal outpatient services sponsored through local health department delivery funds, 10A NCAC 43C .0200; or through Perinatal Program high risk maternity clinic reimbursement funds, 10A NCAC 43C .0300;
- (4) Diagnostic assessments for infants up to 12 months of age with sickle cell syndrome.

(k) Except as provided in Paragraphs (l) and (m) of this Rule, once an individual is determined financially eligible for payment program benefits, the individual shall remain financially eligible for a period of one year after the date of application for financial eligibility unless there is a change in the individual's family size pursuant to Rule .0204 of this Subchapter or his family's financial resources or expenses during that period. If there is a change, financial eligibility for payment program benefits must be redetermined. Financial eligibility must be redetermined at least once a year.

(l) For purposes of the Kidney Program and HIV Medications Program, once an individual is determined to be financially eligible, if the application for financial eligibility was received by the Department in the fourth quarter of the fiscal year, the

individual shall remain financially eligible for benefits until the end of the next fiscal year unless there is a change in the individual's family size pursuant to Rule .0204 of this Subchapter or his family's financial resources or expenses during that period.

(m) Children eligible for Children's Special Health Services Program benefits under Paragraph (f) of this Rule are financially eligible for a service if they were Medicaid eligible on the date the requested service was initiated.

(n) If the most current financial eligibility form on file with the Department shows that the patient was financially eligible on the date an Authorization Request for payment for drugs was received, the Authorization Request may be approved so long as the Authorization Request is received less than 30 days prior to the expiration of financial eligibility and the authorized service does not extend more than 30 days after the expiration of financial eligibility.

Authority G.S. 130A-4.2; 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-205.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Marine Fisheries Commission intends to adopt the rules cited as 15A NCAC 03N .0106; 03R .0115, amend the rules cited as 15A NCAC 03I .0101; 03J .0103, .0107, .0209; 03M .0205, .0513; 03N .0101, .0103; 03O .0501, .0503, and repeal the rule cited as 15A NCAC 03N .0102.

Proposed Effective Date: November 1, 2007

Public Hearing:

Date: Tuesday, June 19, 2007

Time: 6:00 p.m.

Location: NC Aquarium on Roanoke Island, 374 Airport Road, Manteo, NC

Public Hearing:

Date: Wednesday, June 20, 2007

Time: 6:00 p.m.

Location: Swain Auditorium, 101 Court Street, Edenton, NC

Public Hearing:

Date: Thursday, June 21, 2007

Time: 6:00 p.m.

Location: Orringer Auditorium, Craven Community College, 800 College Court, New Bern, NC

Public Hearing:

Date: Monday, June 25, 2007

Time: 6:00 p.m.

Location: Holiday Inn Raleigh-Brownstone Downtown, 1707 Hillsborough Street, Raleigh, NC

Reason for Proposed Action:

15A NCAC 03I .0101 – The goal of the North Carolina Coastal Habitat Protection Plan is to enhance fisheries through the protection, enhancement, and restoration of coastal fish and fish habitats. In order to meet the CHPP goal and to be consistent with implementation of the CHPP, amendments are needed to these rules in order to provide an expanded fish habitat classification and a framework for improved fish habitat protection. Since 1999, there have been an increased number of fishermen targeting striped bass with gill nets fished from the beach. This increase has resulted in greater competition and conflicts between that sector and fishermen that traditionally fished for striped bass with seine gear from the beach. These conflicts can be addressed through an amendment to include a definition of a beach seine.

15 NCAC 03J .0103 – The current rule describing locations where it is unlawful to use gill nets is vague because boundaries in Albemarle Sound are not specified. An amendment is needed to clearly identify the boundaries and provide for proper enforcement.

15A NCAC 03J .0107, .0209; 03M .0513 – Amendments to these rules are necessary to implement and be consistent with the no harvest provision, as approved in the NC River Herring Fishery Management Plan, Amendment One and clarify defined areas where certain gears are prohibited during a certain time period.

15A NCAC 03M .0205 – The intent of this rule is to prohibit ocean striped bass on a vessel with a trawl net except during the open ocean striped bass trawl season. Marine Patrol has requested an amendment to improve clarity and enforceability.

15A NCAC 03N .0101 - .0103 - The goal of the North Carolina Coastal Habitat Protection Plan is to enhance fisheries through the protection, enhancement, and restoration of coastal fish and fish habitats. In order to meet the CHPP goal and to be consistent with implementation of the CHPP, amendments are needed to these rules in order to provide an expanded fish habitat classification and a framework for improved fish habitat protection

15A NCAC 03N .0106; 03R .0115 – These rules designate the anadromous fish spawning areas and establish the anadromous fish spawning area boundaries in the waters under the jurisdiction of the NC Marine Fisheries Commission as recommended by the NC River Herring Fishery Management Plan, Amendment One, 2007.

15A NCAC 03O .0501 – G.S. 113-169.1 (b) authorizes the NC Marine Fisheries Commission to adopt rules to establish an Atlantic Ocean Striped Bass Commercial Gear permit, limit the number of permits, type of permits and establish a fee for the permit. Amendments are needed to implement the statutory change.

15A NCAC 03O .0503 - G.S. 113-169.1 (b) authorizes the NC Marine Fisheries Commission to adopt rules to establish an Atlantic Ocean Striped Bass Commercial Gear permit, limit the number of permits, type of permits and establish a fee for the permit. Amendments are needed to implement the statutory change. In 2006, the General Assembly amended G.S. 143B-289.52 to include a new subsection (i) that states: "The Commission may adopt rules to exempt individuals who participate in organized fishing events held in coastal or joint fishing waters from recreational fishing license requirements for the specified time and place of the event when the purpose of the

event is consistent with the conservation objectives of the Commission." An amendment is needed to implement the statutory change.

Procedure by which a person can object to the agency on a proposed rule: *If you have any objections to the proposed rules, please forward a typed or handwritten letter indicating your specific reasons for your objections to the following address: NC Division of Marine Fisheries, Catherine Blum, Rulemaking Coordinator, P.O. Box 769, Morehead City, NC 28557.*

Comments may be submitted to: *Catherine Blum, P.O. Box 769, Morehead City, NC 28557, phone (252) 808-8013, fax (252) 726-0254, email catherine.blum@ncmail.net*

Comment period ends: *July 31, 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

SUBCHAPTER 03I - GENERAL RULES

SECTION .0100 – GENERAL RULES

15A NCAC 03I .0101 DEFINITIONS

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

(b) The following additional terms are hereby defined:

- (1) Commercial Fishing Equipment or Gear. All fishing equipment used in coastal fishing waters except:
- (A) Seines less than 30 feet in length;
 - (B) Collapsible crab traps, a trap used for taking crabs with the largest open dimension no larger than 18 inches and that by design is collapsed at all times when in the water, except when it is being retrieved from or lowered to the bottom;

- (C) Spears, Hawaiian slings or similar devices which propel pointed implements by mechanical means, including elastic tubing or bands, pressurized gas or similar means;
 - (D) A dip net having a handle not more than eight feet in length and a hoop or frame to which the net is attached not exceeding 60 inches along the perimeter;
 - (E) Hook-and-line and bait-and-line equipment other than multiple-hook or multiple-bait trotline;
 - (F) A landing net used to assist in taking fish when the initial and primary method of taking is by the use of hook and line;
 - (G) Cast Nets;
 - (H) Gigs or other pointed implements which are propelled by hand, whether or not the implement remains in the hand; and
 - (I) Up to two minnow traps.
- (2) Fixed or stationary net. A net anchored or staked to the bottom, or some structure attached to the bottom, at both ends of the net.
 - (3) Mesh Length. The diagonal distance from the inside of one knot to the outside of the other knot, when the net is stretched hand-tight.
 - (4) Possess. Any actual or constructive holding whether under claim of ownership or not.
 - (5) Transport. Ship, carry, or cause to be carried or moved by public or private carrier by land, sea, or air.
 - (6) Use. Employ, set, operate, or permit to be operated or employed.
 - (7) Purse Gill Nets. Any gill net used to encircle fish when the net is closed by the use of a purse line through rings located along the top or bottom line or elsewhere on such net.
 - (8) Gill Net. A net set vertically in the water to capture fish by entanglement by the gills in its mesh as a result of net design, construction, mesh size, webbing diameter or method in which it is used.
 - (9) Seine. A net set vertically in the water and pulled by hand or power to capture fish by encirclement and confining fish within itself or against another net, the shore or bank as a result of net design, construction, mesh size, webbing diameter, or method in which it is used.
 - (10) Internal Coastal Waters or Internal Waters. All coastal fishing waters except the Atlantic Ocean.
 - (11) Channel Net. A net used to take shrimp which is anchored or attached to the bottom at both ends or with one end anchored or attached to

- the bottom and the other end attached to a boat.
- (12) Dredge. A device towed by engine power consisting of a frame, tooth bar or smooth bar, and catchbag used in the harvest of oysters, clams, crabs, scallops, or conchs.
 - (13) Mechanical methods for clamming. Includes dredges, hydraulic clam dredges, stick rakes and other rakes when towed by engine power, patent tongs, kicking with propellers or deflector plates with or without trawls, and any other method that utilizes mechanical means to harvest clams.
 - (14) Mechanical methods for oystering. Includes dredges, patent tongs, stick rakes and other rakes when towed by engine power and any other method that utilizes mechanical means to harvest oysters.
 - (15) Depuration. Purification or the removal of adulteration from live oysters, clams, and mussels by any natural or artificially controlled means.
 - (16) Peeler Crab. A blue crab that has a soft shell developing under a hard shell and having a definite white, pink, or red-line or rim on the outer edge of the back fin or flipper.
 - (17) Length of finfish.
 - (A) Total length is determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the tip of the compressed caudal (tail) fin.
 - (B) Fork length is determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the middle of the fork in the caudal (tail) fin.
 - (C) Fork length for billfish is measured from the tip of the lower jaw to the middle of the fork of the caudal (tail) fin.
 - (18) Licensee. Any person holding a valid license from the Department to take or deal in marine fisheries resources.
 - (19) Aquaculture operation. An operation that produces artificially propagated stocks of marine or estuarine resources or obtains such stocks from authorized sources for the purpose of rearing in a controlled environment. A controlled environment provides and maintains throughout the rearing process one or more of the following: predator protection, food, water circulation, salinity, or temperature controls utilizing technology not found in the natural environment.
 - (20) ~~Critical-Fish~~ habitat areas. The fragile estuarine and marine areas that support juvenile and adult populations of fish species, as well as forage species utilized in the food

chain. ~~Critical-Fish~~ habitats include nursery areas, ~~beds of submerged aquatic vegetation,~~ vegetation habitat, shellfish producing areas, anadromous fish spawning areas and anadromous fish nursery areas, in all coastal fishing waters as determined through marine and estuarine survey sampling. ~~Critical-Fish~~ habitats as used in this definition, are vital for portions of the entire life cycle, including the early growth and development of fish species.

(A) ~~Beds of submerged~~ Submerged aquatic vegetation ~~are those habitats~~ habitat (SAV) is submerged land in public trust and estuarine waters ~~vegetated~~ vegetated, historically or currently, with one or more species of submerged aquatic vegetation such as including but not limited to eelgrass (*Zostera marina*), shoalgrass (*Halodule wrightii*) and ~~(Halodule wrightii)~~, widgeongrass (~~Ruppia maritima~~) (*Ruppia maritima*), wild celery (*Vallisneria spiralis*), and pondweed species (*Potamogeton* spp.). ~~These vegetation beds occur~~ This habitat occurs in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In either case, the bed-habitat is defined by the presence of above-ground leaves or the leaves, below-ground rhizomes, rhizomes, and propagules or reproductive structures, together with the or adjacent sediment of similar physical characteristics on which the plants can grow. In defining beds of submerged aquatic vegetation, vegetation habitat, the Marine Fisheries Commission recognizes the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et. seq.) and does not intend the submerged aquatic vegetation definition, or rules 15A NCAC 03K .0304, .0404 and 03I .0101, to apply to or conflict with the non-development control activities authorized by that Act.

(B) Shellfish producing habitats are those areas in which shellfish, such as clams, oysters, scallops, mussels, and whelks, whether historically or currently, reproduce and survive because of such favorable conditions as bottom type, salinity, currents, cover, and cultch. Included are those shellfish producing areas closed to shellfish harvest due to pollution.

- (C) Anadromous fish spawning areas are those areas where evidence of spawning of anadromous fish has been documented by direct observation of spawning, capture of running ripe females, or capture of eggs or early larvae.
- (D) Anadromous fish nursery areas are those areas in the riverine and estuarine systems utilized by post-larval and later juvenile anadromous fish.
- (E) Nursery areas are defined as those areas in which for reasons such as food, cover, bottom type, salinity, temperature and other factors, young finfish and crustaceans spend the major portion of their initial growing season.
- (i) Primary nursery areas are those areas in the estuarine system where initial post-larval development takes place. These are areas where populations are uniformly very early juveniles.
- (ii) Secondary nursery areas are those areas in the estuarine system where later juvenile development takes place. Populations are composed of developing sub-adults of similar size which have migrated from an upstream primary nursery area to the secondary nursery area located in the middle portion of the estuarine system.
- (F) Strategic Habitat Areas are specific locations of individual fish habitats or systems of habitats that have been identified to provide exceptional habitat functions or that are particularly at risk due to imminent threats, vulnerability, or rarity.
- (21) Intertidal Oyster Bed. A formation, regardless of size or shape, formed of shell and live oysters of varying density.
- (22) North Carolina Trip Ticket. Multiple-part form provided by the Department to fish dealers who are required to record and report transactions on such forms.
- (23) Transaction. Act of doing business such that fish are sold, offered for sale, exchanged, bartered, distributed or landed. The point of landing shall be considered a transaction when the fisherman is the fish dealer.
- (24) Live rock. Living marine organisms or an assemblage thereof attached to a hard substrate including dead coral or rock (excluding mollusk shells). For example, such living marine organisms associated with hard bottoms, banks, reefs, and live rock may include:
- (A) Animals:
- (i) Sponges (Phylum Porifera);
- (ii) Hard and Soft Corals, Sea Anemones (Phylum Cnidaria):
- (I) Fire corals (Class Hydrozoa);
- (II) Gorgonians, whip corals, sea pansies, anemones, Solenastrea (Class Anthozoa);
- (iii) Bryozoans (Phylum Bryozoa);
- (iv) Tube Worms (Phylum Annelida):
- (I) Fan worms (Sabellidae);
- (II) Feather duster and Christmas tree worms (Serpulidae);
- (III) Sand castle worms (Sabellaridae).
- (v) Mussel banks (Phylum Mollusca:Gastropoda);
- (vi) Colonial barnacles (Arthropoda: Crustacea: Megabalanus sp.).
- (B) Plants:
- (i) Coralline algae (Division Rhodophyta);
- (ii) Acetabularia sp., Udotea sp., Halimeda sp., Caulerpa sp. (Division Chlorophyta);
- (iii) Sargassum sp., Dictyopteris sp., Zonaria sp. (Division Phaeophyta).
- (25) Coral:
- (A) Fire corals and hydrocorals (Class Hydrozoa);
- (B) Stony corals and black corals (Class Anthozoa, Subclass Scleractinia);
- (C) Octocorals; Gorgonian corals (Class Anthozoa, Subclass Octocorallia):
- (i) Sea fans (Gorgonia sp.);
- (ii) Sea whips (Leptogorgia sp. and Lophogorgia sp.);
- (iii) Sea pansies (Renilla sp.).
- (26) Shellfish production on leases and franchises:
- (A) The culture of oysters, clams, scallops, and mussels, on shellfish

- leases and franchises from a sublegal harvest size to a marketable size.
- (B) The transplanting (relay) of oysters, clams, scallops and mussels from designated areas closed due to pollution to shellfish leases and franchises in open waters and the natural cleansing of those shellfish.
- (27) Shellfish marketing from leases and franchises. The harvest of oysters, clams, scallops, mussels, from privately held shellfish bottoms and lawful sale of those shellfish to the public at large or to a licensed shellfish dealer.
- (28) Shellfish planting effort on leases and franchises. The process of obtaining authorized cultch materials, seed shellfish, and polluted shellfish stocks and the placement of those materials on privately held shellfish bottoms for increased shellfish production.
- (29) Pound Net Set. A fish trap consisting of a holding pen, one or more enclosures, lead or leaders, and stakes or anchors used to support such trap. The lead(s), enclosures, and holding pen are not conical, nor are they supported by hoops or frames.
- (30) Educational Institution. A college, university or community college accredited by an accrediting agency recognized by the U.S. Department of Education.
- (31) Long Haul Operations. A seine towed between two boats.
- (32) Swipe Net Operations. A seine towed by one boat.
- (33) Bunt Net. The last encircling net of a long haul or swipe net operation constructed of small mesh webbing. The bunt net is used to form a pen or pound from which the catch is dipped or bailed.
- (34) Responsible party. Person who coordinates, supervises or otherwise directs operations of a business entity, such as a corporate officer or executive level supervisor of business operations and the person responsible for use of the issued license in compliance with applicable laws and regulations.
- (35) New fish dealer. Any fish dealer making application for a fish dealer license who did not possess a valid dealer license for the previous license year in that name or ocean pier license in that name on June 30, 1999. For purposes of license issuance, adding new categories to an existing fish dealers license does not constitute a new dealer.
- (36) Tournament Organizer. The person who coordinates, supervises or otherwise directs a recreational fishing tournament and is the holder of the Recreational Fishing Tournament License.
- (37) Holder. A person who has been lawfully issued in their name a license, permit, franchise, lease, or assignment.
- (38) Recreational Purpose. A fishing activity has a recreational purpose if it is not a commercial fishing operation as defined in G.S. 113-168.
- (39) Recreational Possession Limit. Includes restrictions on size, quantity, season, time period, area, means, and methods where take or possession is for a recreational purpose.
- (40) Attended. Being in a vessel, in the water or on the shore immediately adjacent to the gear and immediately available to work the gear and within 100 yards of any gear in use by that person at all times. Attended does not include being in a building or structure.
- (41) Commercial Quota. Total quantity of fish allocated for harvest taken by commercial fishing operations.
- (42) Recreational Quota. Total quantity of fish allocated for harvest taken for a recreational purpose.
- (43) Office of the Division. Physical locations of the Division conducting license transactions in the cities of Wilmington, Washington, Morehead City, Columbia, Wanchese and Elizabeth City, North Carolina. Other businesses or entities designated by the Secretary to issue Recreational Commercial Gear Licenses are not considered Offices of the Division.
- (44) Land:
- (A) For purposes of trip tickets, when fish reach a licensed seafood dealer, or where the fisherman is the dealer, when the fish reaches the shore or a structure connected to the shore.
- (B) For commercial fishing operations, when fish reach the shore or a structure connected to the shore.
- (C) For recreational fishing operations, when fish are retained in possession by the fisherman.
- (45) Master. Captain of a vessel or one who commands and has control, authority, or power over a vessel.
- (46) Regular Closed Oyster Season. May 15 through October 15, unless amended by the Fisheries Director through proclamation authority.
- (47) Assignment. Temporary transferal to another person of privileges under a license for which assignment is permitted. The person assigning the license delegates the privileges permitted under the license to be exercised by the assignee, but retains the power to revoke the assignment at any time, is still the responsible party for the license.

- (48) Transfer. Permanent transferal to another person of privileges under a license for which transfer is permitted. The person transferring the license retains no rights or interest under the license transferred.
- (49) Designee. Any person who is under the direct control of the permittee or who is employed by or under contract to the permittee for the purposes authorized by the permit.
- (50) Blue Crab Shedding. The process whereby a blue crab emerges soft from its former hard exoskeleton. A shedding operation is any operation that holds peeler crabs in a controlled environment. A controlled environment provides and maintains throughout the shedding process one or more of the following: predator protection, food, water circulation, salinity or temperature controls utilizing proven technology not found in the natural environment. A shedding operation does not include transporting pink or red-line peeler crabs to a permitted shedding operation.
- (51) Fyke Net. An entrapment net supported by a series of internal or external hoops or frames, with one or more lead or leaders that guide fish to the net mouth. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
- (52) Hoop Net. An entrapment net supported by a series of internal or external hoops or frames. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap the fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
- (53) For Hire Vessel. As defined by G.S. 113-174 when the vessel is fishing in state waters or when the vessel originates from or returns to a North Carolina port.
- (54) Beach Seine. Effective November 1, 2008, a beach seine is defined as a swipe net constructed of multi-filament or multi-fiber webbing fished from the ocean beach that is deployed from a vessel launched from the ocean beach where the fishing operation takes place.

Authority G.S. 113-134; 113-174; 143B-289.52.

SUBCHAPTER 03J - NETS, POTS, DREDGES, AND

OTHER FISHING DEVICES

SECTION .0100 - NET RULES, GENERAL

15A NCAC 03J .0103 GILL NETS, SEINES, IDENTIFICATION, RESTRICTIONS

- (a) It is unlawful to use gill nets:
 - (1) With a mesh length less than 2 ½ inches.
 - (2) In internal waters from April 15 through December 15, with a mesh length 5 inches or greater and less than 5 ½ inches.
- (b) The Fisheries Director may, by proclamation, limit or prohibit the use of gill nets or seines in coastal waters, or any portion thereof, or impose any or all of the following restrictions on the use of gill nets or seines:
 - (1) Specify area.
 - (2) Specify season.
 - (3) Specify gill net mesh length.
 - (4) Specify means/methods.
 - (5) Specify net number and length.
- (c) It is unlawful to use fixed or stationary gill nets in the Atlantic Ocean, drift gill nets in the Atlantic Ocean for recreational purposes, or any gill nets in internal waters unless nets are marked by attaching to them at each end two separate yellow buoys which shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. Gill nets, which are not connected together at the top line, shall be considered as individual nets, requiring two buoys at each end of each individual net. Gill nets connected together at the top line shall be considered as a continuous net requiring two buoys at each end of the continuous net. Any other marking buoys on gill nets used for recreational purposes shall be yellow except one additional buoy, any shade of hot pink in color, constructed as specified in this Paragraph, shall be added at each end of each individual net. Any other marking buoys on gill nets used in commercial fishing operations shall be yellow except that one additional identification buoy of any color or any combination of colors, except any shade of hot pink, may be used at either or both ends. The owner shall always be identified on a buoy on each end either by using engraved buoys or by attaching engraved metal or plastic tags to the buoys. Such identification shall include owner's last name and initials and if a vessel is used, one of the following:
 - (1) Owner's N.C. motor boat registration number, or
 - (2) Owner's U.S. vessel documentation name.
- (d) It is unlawful to use gill nets:
 - (1) Within 200 yards of any pound net set with lead and either pound or heart in use, except from August 15 through December 31 in all coastal fishing waters of the Albemarle Sound, excluding tributaries, including its tributaries to the boundaries between coastal and joint fishing waters, west of a line beginning at a point 36° 04.5184' N - 75° 47.9095' W on Powell Point; running southerly to a point 35° 57.2681' N - 75° 48.3999' W on Caroon Point, it is unlawful to use gill nets within 500 yards

of any pound net set with lead and either pound or heart in use;

- (2) From March 1 through October 31 in the Intracoastal Waterway within 150 yards of any railroad or highway bridge.

(e) It is unlawful to use gill nets within 100 feet either side of the center line of the Intracoastal Waterway Channel south of the entrance to the Alligator-Pungo River Canal near Beacon "54" in Alligator River to the South Carolina line, unless such net is used in accordance with the following conditions:

- (1) No more than two gill nets per vessel may be used at any one time;
- (2) Any net used must be attended by the fisherman from a vessel who shall at no time be more than 100 yards from either net; and
- (3) Any individual setting such nets shall remove them, when necessary, in sufficient time to permit unrestricted boat navigation.

(f) It is unlawful to use drift gill nets in violation of 15A NCAC 03J .0101(2) and Paragraph (e) of this Rule.

(g) It is unlawful to use unattended gill nets with a mesh length less than five inches in a commercial fishing operation in the gill net attended areas designated in 15A NCAC 03R .0112(a).

(h) It is unlawful to use unattended gill nets with a mesh length less than five inches in a commercial fishing operation from May 1 through October 31 in the internal coastal and joint waters of the state designated in 15A NCAC 03R .0112(b).

(i) It is unlawful to use more than 3,000 yards of gill net with a mesh length 5 1/2 inches or greater per vessel in internal waters regardless of the number of individuals involved.

Authority G.S. 113-134; 113-173; 113-182; 113-221; 143B-289.52.

15A NCAC 03J .0107 POUND NET SETS

(a) All initial, renewal or transfer applications for Pound Net Set Permits, and the operation of such pound net sets, shall comply with the general rules governing all permits as provided in 15A NCAC 03O .0500. ~~15A NCAC 03O .0500 et seq.~~ The procedures and requirements for obtaining permits are ~~also found set forth~~ in 15A NCAC 03O .0500.

(b) It is unlawful to ~~use pound net sets~~ hold a Pound Net Set Permit in coastal fishing waters without the permittee's identification being legibly printed on a sign no less than six inches square, securely attached to ~~the outermost stake of each end~~ a stake at the permitted ends of each set, set at all times. For pound net sets in the Atlantic Ocean using anchors instead of stakes, the set shall be identified with a yellow buoy, which shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than 11 inches in length. The permittee's identification shall be legibly printed on the buoy. Such identification on signs or buoys shall include the ~~pound net set permit~~ Pound Net Set Permit number and the permittee's last name and initials.

(c) It is unlawful to use ~~pound net sets, a pound net set,~~ or any part thereof, except for one location identification stake or identification buoy for ~~pound nets~~ a pound net used in the Atlantic Ocean at each end of ~~proposed new locations, a proposed new location,~~ without first obtaining a Pound Net Set

Permit from the Fisheries Director. The applicant shall indicate on a base map provided by the Division the proposed set including an inset vicinity map showing the location of the proposed set with detail sufficient to permit on-site identification and location. The applicant shall specify the type(s) of pound net set(s) requested and possess proper valid ~~licenses and permits~~ license(s) and permit(s) necessary to fish those type(s) of net. A pound net set shall be deemed a flounder pound net set when the catch consists of 50 percent or more flounder by weight of the entire landed catch, excluding blue crabs. The type "other finfish pound net set" is for sciaenid (Atlantic croaker, red drum, weakfish, spotted sea trout, spot, for example) and other finfish, except flounder, herring, or shad, taken for human consumption. Following are the type(s) of pound net fisheries that may be specified:

- (1) Flounder pound net set;
- (2) Herring/shad pound net set;
- (3) Bait pound net set;
- (4) Shrimp pound net set;
- (5) Blue crab pound net set;
- (6) Other finfish pound net set.

(d) For proposed new ~~locations,~~ location(s), the Fisheries Director shall issue a public notice of intent to consider issuance of a Pound Net Set Permit allowing for public ~~comments~~ comment for 20 days, and after the comment period, may hold public meetings to take comments on the proposed pound net set. If the Director does not approve or deny the application within 90 days of receipt of a complete and verified application, the application shall be deemed denied. The applicant shall be notified of ~~such~~ denial in writing. For new locations, transfers and renewals, the Fisheries Director may deny the permit application if the Director determines that granting the permit ~~will~~ shall be inconsistent with one or more of the following permitting criteria, as determined by the Fisheries Director:

- (1) The application shall be in the name of an individual and shall not be granted to a corporation, partnership, organization or other entity;
- (2) The proposed pound net set, either alone or when considered cumulatively with other existing pound net sets in the area, shall not interfere with public navigation or with existing, traditional uses of the area other than navigation, and shall not violate 15A NCAC 03J.0101 and .0102;
- (3) The proposed pound net set shall not interfere with the rights of any riparian or littoral landowner, including the construction or use of piers;
- (4) The proposed pound net set shall not, by its proximate location, interfere with existing pound net sets in the area. Except in Chowan River as referenced in 15A NCAC 03J .0203, proposed new pound net set locations shall be a minimum of 1,000 yards as measured in a perpendicular direction from any point on a line following the permitted location of existing pound net sets;

- (5) The applicant has in the past complied with fisheries rules and laws and does not currently have any licenses or privileges under suspension or revocation. In addition, a history of habitual fisheries violations evidenced by eight or more convictions in ten years shall be grounds for denial of a ~~pound net set permit~~; Pound Net Set Permit;
- (6) The proposed pound net set is in the public interest; ~~and~~
- (7) The operation of the proposed pound net set is in compliance with management measures adopted in fishery management plans; and
- ~~(7)(8)~~ The applicant has in the past complied with all permit conditions, rules and laws related to pound nets.

Approval shall be conditional based upon the applicant's continuing compliance with specific conditions contained on the Pound Net Set Permit and the conditions set out in Subparagraphs (1) ~~through (7) through (8)~~ of this Paragraph. The final decision to approve or deny the Pound Net Set Permit application may be appealed by the applicant by filing a petition for a contested case hearing, in writing, within 60 days from the date of mailing notice of such final decision to the applicant, with the Office of Administrative Hearings.

(e) An application for renewal of an existing Pound Net Set Permit shall be filed not less than 30 days prior to the date of expiration of the existing permit, and shall not be processed unless filed by the permittee. The Fisheries Director shall review the renewal application under the criteria for issuance of a new Pound Net Set Permit, except that pound net sets approved prior to ~~January 1, 2003~~ January 1, 2003 do not have to meet the 1,000 yard minimum distance requirement specified in Subparagraph (d)(4) of this Rule. The Fisheries Director may hold public meetings and may conduct such investigations necessary to determine if the permit should be renewed.

(f) A Pound Net Set Permit, whether a new or renewal permit, shall expire one year from the date of issuance. The expiration date shall be stated on the permit.

(g) ~~Pound net sets, except~~ Except for herring/shad pound net sets in the Chowan River, it is unlawful to fail to have a pound net set shall be operational for a minimum ~~period~~ of 30 consecutive days during the permit period unless a season for the fishery for which the pound net set is permitted is ended earlier due to a quota being met. For purposes of this Rule, operational means with net attached to stakes or anchors for the lead and pound, including only a single pound in a multi-pound set, and a non-restricted opening leading into the pound such that the set is able to catch and hold fish. The permittee, including permittees of operational herring/shad pound net sets in the Chowan River, shall notify the Marine Patrol Communications Center by phone within 72 hours after the pound net set is operational. Notification shall include name of permittee, ~~pound net set permit~~ Pound Net Set Permit number, county where located, a specific location site, and how many pounds are in the set. It is unlawful to fail to notify the Marine Patrol Communications Center within 72 hours after the pound net set is operational or to make false notification when said pound net set is not operational. Failure to comply with this Paragraph shall be

grounds for the Fisheries Director to revoke ~~this and any other pound net set permits~~ any and all Pound Net Set Permits held by the permittee and for denial of any future ~~pound net set permits~~ applications for Pound Net Set Permits.

(h) It is unlawful to transfer a ~~pound net set permit~~ Pound Net Set Permit without a completed application for transfer being submitted to the Division of Marine Fisheries not less than 45 days before the date of the transfer. Such application shall be made by the proposed new permittee in writing and shall be accompanied by a copy of the current permittee's permit and an application for a ~~pound net set permit~~ Pound Net Set Permit in the new permittee's name. The Fisheries Director may hold a public meeting and ~~may~~ conduct such investigations necessary to determine if the permit should be transferred. The transferred permit shall expire on the same date as the initial permit. Upon death of the permittee, the permit may be transferred to the Administrator/Executor of the estate of the permittee if transferred within six months of the Administrator/Executor's qualification in accordance with Chapter 28A of the North Carolina General Statutes. The Administrator/Executor shall provide a copy of the deceased permittee's death certificate, a copy of ~~the certificate of administration~~ letters of administration/letters testamentary and a list of eligible immediate family members as defined in G.S. 113-168 to the Morehead City Office of the ~~Division of Marine Fisheries~~ Division. Once transferred to the Administrator/Executor, the Administrator/Executor may transfer the permit(s) to eligible immediate family members of the deceased permittee. No transfer is effective until approved and processed by the Division.

(i) Every pound net set in coastal fishing waters shall have yellow light reflective tape or yellow light reflective devices on each pound. The yellow light reflective tape or yellow light reflective devices shall be affixed to a stake of at least three inches in diameter on any outside corner of each pound, shall cover a vertical distance of not less than 12 inches, and shall be visible from all directions. In addition, every pound net set shall have a marked navigational opening ~~of at least 25 feet in width~~ at least 25 feet wide at the end of every third pound. Such opening shall be marked with yellow light reflective tape or yellow light reflective devices on each side of the opening. The yellow light reflective tape or yellow light reflective devices shall be affixed to a stake of at least three inches in diameter, shall cover a vertical distance of not less than 12 inches, and shall be visible from all directions. If a permittee notified of a violation under this Paragraph fails or refuses to take corrective action sufficient to remedy the violation within 10 days of receiving notice of the violation, the Fisheries Director shall revoke the permit.

(j) In Core Sound, it is unlawful to use ~~pound net sets~~ a pound net set in the pound net ~~sets~~ set prohibited areas designated in 15A NCAC 03R .0113 except that only those ~~pound net set permits~~ Pound Net Set Permits valid within the specified area as of March 1, 1994, may be renewed or transferred subject to the requirements of this Rule.

(k) Escape Panels:

- (1) The Fisheries Director may, by proclamation, require escape panels in pound net sets and may impose any or all of the following

requirements or restrictions on the use of escape panels:

- (A) Specify size, number, and location.
- (B) Specify mesh length, but not more than six inches.
- (C) Specify time or season.
- (D) Specify areas.

- (2) It is unlawful to use flounder pound net sets without four unobstructed escape panels in each pound. The escape panels shall be fastened to the bottom and corner ropes on each wall on the side and back of the pound opposite the heart. The escape panels shall be a minimum mesh size of five and one-half inches, hung on the diamond, and shall be at least six meshes high and eight meshes long.

- (l) Pound net sets shall be subject to inspection at all times.
- (m) Daily reporting may be a condition of the permit for ~~pound net sets~~ a pound net set for fisheries under a quota.
- (n) It is unlawful to fail to remove all pound net stakes and associated gear within 30 days after expiration of the permit or notice by the Fisheries Director that an existing ~~pound net set permit~~ Pound Net Set Permit has been revoked or denied.
- (o) It is unlawful to abandon an existing pound net set without completely removing from the coastal fishing waters all stakes and associated gear within 30 days.

Authority G.S. 113-134; 113-182; 113-182.1; 113-221; 143B-289.52.

SECTION .0200 - NET RULES, SPECIFIC AREAS

15A NCAC 03J .0209 ALBEMARLE SOUND/CHOWAN RIVER HERRING MANAGEMENT AREAS

(a) Defined areas:

- (1) The Albemarle Sound Herring Management Area is defined as Albemarle Sound and all its joint water tributaries; Currituck Sound; Roanoke and Croatan sounds and all their joint water tributaries, including Oregon Inlet, north of a line beginning on the west shore at a point from Roanoke Marshes Point 35° 48.3693' N – 75° 43.7232' W on Roanoke Marshes Point; running southeasterly to the east shore to a point across to the north point of Eagles Nest Bay 35° 44.1710' N – 75° 31.0520' W; 35° 44.1710' N – 75° 31.0520' W on the north point of Eagles Nest Bay.
- (2) The Chowan River Herring Management Area is defined as that area northwest of a line beginning on the west shore at a point from Black Walnut Point 35° 59.9267' N – 76° 41.0313' W on Black Walnut Point; running northeasterly to the east shore to a point to Reedy Point 36° 02.2140' N – 76° 39.3240' W; 36° 02.2140' N – 76° 39.3240' W on Reedy Point, to the North Carolina/Virginia state line; including the Meherrin River.

(b) Effective January 1, 2001, it is unlawful to use drift gill nets in the Albemarle Sound and Chowan River river herring management areas with a mesh length less than three inches from January 1 through May 15.

Authority G.S. 113-134; 113-182; 143B-289.52.

SUBCHAPTER 03M – FINFISH

SECTION .0200 - STRIPED BASS

15A NCAC 03M .0205 PROHIBITED TRAWLING

- (a) It is unlawful to possess striped bass on a vessel with a trawl net on that vessel in internal coastal waters except during transit from ocean fishing grounds to port during any open striped bass trawl season in the Atlantic Ocean established by proclamation. Striped bass so possessed must meet the minimum size limit set by proclamation.
- (b) It is unlawful to possess striped bass on a vessel in the Atlantic Ocean with a trawl net on that vessel except during any open striped bass trawl season in the Atlantic Ocean established by proclamation.

Authority G.S. 113-134; 113-182; 143B-289.52.

SECTION .0500 – OTHER FINFISH

15A NCAC 03M .0513 RIVER HERRING AND SHAD

- (a) It is unlawful to possess river herring taken from coastal fishing waters unless the season is open.
- (b) The take of river herring shall be set forth in the North Carolina River Herring Fishery Management Plan for implementation under Paragraph (c) of this Rule.
- (a)(c) The Fisheries Director may, by proclamation, based on variability in environmental and local stock conditions, take any or all of the following actions in the commercial and recreational blueback herring, alewife, American shad and hickory shad fisheries:

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

(b) ~~The annual commercial quota (calendar year) for river herring in the Albemarle Sound and Chowan River Herring Management Area shall be 300,000 pounds to be allocated as follows:~~

- (1) ~~200,000 pounds to the pound net fishery for the Chowan River Herring Management Area;~~
- (2) ~~67,000 pounds to the Albemarle Sound Herring Management Area gill net fishery; and~~
- (3) ~~33,000 pounds to be allocated at the discretion of the Fisheries Director.~~

(c) ~~For the purpose of this rule, the Albemarle Sound Herring Management Area and the Chowan River Herring Management Area are defined in 15A NCAC 03J .0209.~~

~~(d) It is unlawful to possess more than 25 blueback herring or alewife, in the aggregate, per person per day taken for recreational purposes.~~

~~(e)(d)~~ It is unlawful to take American shad and hickory shad by any method except hook-and-line from April 15 through December 31.

~~(f)(e)~~ It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken by hook-and-line or for recreational purposes.

Authority G.S. 113-134; 113-182; 113-221; 143B-289.52.

SUBCHAPTER 03N - NURSERY AREAS

15A NCAC 03N .0101 SCOPE AND PURPOSE

To establish and protect those fragile estuarine and marine areas which support juvenile and adult populations of economically important seafood-fish species, as well as forage fish utilized in the food chain, these Rules ~~will~~ set forth permanent nursery-fish habitat areas in all coastal fishing waters as defined through extensive estuarine and marine survey sampling conducted by Marine Fisheries personnel of the Operations Section, the Division.

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03N .0102 NURSERY AREAS DEFINED

~~(a) Nursery areas are defined as those areas in which for reasons such as food, cover, bottom type, salinity, temperature and other factors, young finfish and crustaceans spend the major portion of their initial growing season.~~

~~(b) Primary nursery areas are those areas in the estuarine system where initial post-larval development takes place. These areas are usually located in the uppermost sections of a system where populations are uniformly very early juveniles.~~

~~(c) Secondary nursery areas are those areas in the estuarine system where later juvenile development takes place. Populations are usually composed of developing sub-adults of similar size which have migrated from an upstream primary nursery area to the secondary nursery area located in the middle portion of the estuarine system.~~

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03N .0103 NURSERY AREA BOUNDARIES

(a) Primary and secondary nursery areas are defined in 15A NCAC 03I .0101 and designated in 15A NCAC 03R .0103, .0104, and .0105.

(b) Unless otherwise specified by the rule, primary nursery areas described in 15A NCAC 03R .0103 encompass all waters from the described line in the direction indicated in rule up to the headwaters of the waterbody or Inland-Coastal boundary lines, whichever area is first encountered.

(c) Unless otherwise specified by the rule, permanent and special secondary nursery areas designated in 15A NCAC 03R .0104 and .0105 encompass all waters from the described line in the direction indicated in rule up to the primary nursery area lines, Inland-Coastal boundary lines or the headwaters of the waterbody, whichever area is first encountered.

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03N .0106 ANADROMOUS FISH SPAWNING AREA BOUNDARIES

(a) Anadromous fish spawning areas are defined in 15A NCAC 03I .0101 and designated in 15A NCAC 03R .0115.

(b) Anadromous fish spawning areas described in 15A NCAC 03R .0115 encompass all waters, including tributaries from the described line in the direction indicated in Rule up to the headwaters of the waterbody or Inland-Coastal boundary lines, whichever area is first encountered and except when:

- (1) otherwise specified by 15A NCAC 03R .0115;
or
- (2) the waterbody is impassable to fish migration due to manmade obstructions including but not limited to dams and causeways.

Authority G.S. 113-134; 113-182; 113-221; 143B-289.52.

SUBCHAPTER 03O – LICENSES, LEASES AND FRANCHISES

SECTION .0500 – PERMITS

15A NCAC 03O .0501 PROCEDURES AND REQUIREMENTS TO OBTAIN PERMITS

(a) To obtain any Marine Fisheries permit, the following information is required for proper application from the applicant, a responsible party or person holding a power of attorney:

- (1) Full name, physical address, mailing address, date of birth, and signature of the applicant on the application. If the applicant is not appearing before a license agent or the designated Division contact, the applicant's signature on the application shall be notarized;
- (2) Current picture identification of applicant, responsible party and, when applicable, person holding a power of attorney; acceptable forms of picture identification are driver's license, current North Carolina Identification card issued by the North Carolina Division of Motor Vehicles, military identification card, resident alien card (green card) or passport or if applying by mail, a copy thereof;
- (3) Full names and dates of birth of designees of the applicant who shall be acting under the requested permit where that type permit requires listing of designees;
- (4) Certification that the applicant and his designees do not have four or more marine or estuarine resource convictions during the previous three years;
- (5) For permit applications from business entities, the following documentation is required:
 - (A) Business Name;
 - (B) Type of Business Entity: Corporation, partnership, or sole proprietorship;

- (C) Name, address and phone number of responsible party and other identifying information required by this Subchapter or rules related to a specific permit;
- (D) For a corporation, current articles of incorporation and a current list of corporate officers when applying for a permit in a corporate name;
- (E) For a partnership, if the partnership is established by a written partnership agreement, a current copy of such agreement shall be provided when applying for a permit;
- (F) For business entities, other than corporations, copies of current assumed name statements if filed and copies of current business privilege tax certificates, if applicable.
- (6) Additional information as required for specific permits.
- (b) A permittee shall hold a valid Standard or Retired Standard Commercial Fishing License in order to hold a:
- (1) Pound Net Permit;
 - (2) Permit to Waive the Requirement to Use Turtle Excluder Devices in the Atlantic ~~Ocean~~ Ocean; or
 - (3) Atlantic Ocean Striped Bass Commercial Gear Permit.
- (c) A permittee and his designees shall hold a valid Standard or Retired Standard Commercial Fishing License with a Shellfish Endorsement or a Shellfish License in order to hold a:
- (1) Permit to Transplant (Prohibited) Polluted Shellfish;
 - (2) Permit to Transplant Oysters from Seed Management Areas;
 - (3) Permit to Use Mechanical Methods for Oysters or Clams on Shellfish Leases or Franchises;
 - (4) Permit to Harvest Rangia Clams from Prohibited (Polluted) Areas;
 - (5) Depuration Permit.
- (d) A permittee shall hold a valid:
- (1) Fish Dealer License in the proper category in order to hold Dealer Permits for Monitoring Fisheries Under a Quota/Allocation for that category; and
 - (2) Standard Commercial Fishing License with a Shellfish Endorsement, Retired Standard Commercial Fishing License with a Shellfish Endorsement or a Shellfish License in order to harvest clams or oysters for depuration.
- (e) Aquaculture Operations/Collection Permits:
- (1) A permittee shall hold a valid Aquaculture Operation Permit issued by the Fisheries Director to hold an Aquaculture Collection Permit.
 - (2) The permittee or designees shall hold appropriate licenses from the Division of Marine Fisheries for the species harvested and the gear used under the Aquaculture Collection Permit.
- (f) Atlantic Ocean Striped Bass Commercial Gear Permit:
- (1) Application for an Atlantic Ocean Striped Bass Commercial Gear Permit must be made prior to November 1 of each license year. A person shall declare one of the following gears for an initial Atlantic Ocean Striped Bass Commercial Gear Permit and at intervals of three consecutive license years thereafter:
 - (A) beach seine;
 - (B) gill net; or
 - (C) trawl.Gear declarations are binding on the permittee for three consecutive license years without regard to subsequent annual permit issuance.
 - (2) A person shall not be eligible for more than one Atlantic Ocean Striped Bass Commercial Gear Permit regardless of the number of Standard Commercial Fishing Licenses, Retired Standard Commercial Fishing Licenses or assignments held by the person.
 - (3) The annual, nonrefundable permit fee shall be ten dollars (\$10.00).
- ~~(g)~~(g) Applications submitted without complete and required information shall be considered incomplete and shall not be processed until all required information has been submitted. Incomplete applications shall be returned to the applicant with deficiency in the application so noted.
- ~~(g)~~(h) A permit shall be issued only after the application has been deemed complete by the Division of Marine Fisheries and the applicant certifies to fully abide by the permit general and specific conditions established under 15A NCAC 03J .0107, 03K .0103, 03K .0104, 03K .0107, 03K .0206, 03K .0303, 03K .0401, 03O .0502, and 03O .0503 as applicable to the requested permit.
- ~~(h)~~(i) The Fisheries Director, or his agent may evaluate the following in determining whether to issue, modify or renew a permit:
- (1) Potential threats to public health or marine and estuarine resources regulated by the Marine Fisheries Commission;
 - (2) Applicant's demonstration of a valid justification for the permit and a showing of responsibility as determined by the Fisheries Director;
 - (3) Applicant's history of habitual fisheries violations evidenced by eight or more violations in 10 years.
- ~~(i)~~(j) The applicant shall be notified in writing of the denial or modification of any permit request and the reasons therefore. The applicant may submit further information, or reasons why the permit should not be denied or modified.
- ~~(j)~~(k) Permits shall be valid from the date of issuance through the expiration date printed on the permit. Unless otherwise established by rule, the Fisheries Director may establish the issuance timeframe for specific types and categories of permits based on season, calendar year, or other period based upon the nature of the activity permitted, the duration of the activity,

compliance with federal or state fishery management plans or implementing rules, conflicts with other fisheries or gear usage, or seasons for the species involved. The expiration date shall be specified on the permit.

~~(k)(l)~~ To renew a permit, the permittee shall file a certification that the information in the original application is still currently correct, or a statement of all changes in the original application and any additional information required by the Division of Marine Fisheries.

~~(h)(m)~~ For initial or renewal permits, processing time for permits may be up to 30 days unless otherwise specified in this Chapter.

~~(m)(n)~~ It is unlawful for a permit holder to fail to notify the Division of Marine Fisheries within 30 days of a change of name or address.

~~(n)(o)~~ It is unlawful for a permit holder to fail to notify the Division of Marine Fisheries of a change of designee prior to use of the permit by that designee.

~~(o)(p)~~ Permit applications shall be available at all Division Offices.

~~(p)(q)~~ Any permit which is valid at time of adoption of this Rule shall be valid until the expiration date stated on the permit.

Authority G.S. 113-134; 113-169.1; 113-169.3; 113-182; 113-210; 143B-289.52.

**15A NCAC 03O .0503 PERMIT CONDITIONS;
SPECIFIC**

(a) Horseshoe Crab Biomedical Use Permit:

- (1) It is unlawful to use horseshoe crabs for biomedical purposes without first obtaining a permit.
- (2) It is unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to submit a report on the use of horseshoe crabs to the Division of Marine Fisheries due on February 1 of each year. Such reports shall be filed on forms provided by the Division and shall include a monthly account of the number of crabs harvested, statement of percent mortality up to the point of release, and a certification that harvested horseshoe crabs are solely used by the biomedical facility and not for other purposes.
- (3) It is unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to comply with the Atlantic States Marine Fisheries Commission Horseshoe Crab Fisheries Management Plan monitoring and tagging requirements for horseshoe crabs. Copies of this plan are available from the Atlantic States Marine Fisheries Commission, 1444 Eye Street, NW, 6th Floor, Washington, DC 20005, (202) 289-6400, or the Division of Marine Fisheries' Morehead City Office.

(b) Dealers Permits for Monitoring Fisheries under a Quota/Allocation:

- (1) During the commercial season opened by proclamation or rule for the fishery for which a

Dealers Permit for Monitoring Fisheries under a Quota/Allocation permit is issued, it is unlawful for fish dealers issued such permit to fail to:

- (A) Fax or send via electronic mail by noon daily, on forms provided by the Division, the previous day's landings for the permitted fishery to the dealer contact designated on the permit. Landings for Fridays or Saturdays shall be submitted on the following Monday. If the dealer is unable to fax or electronic mail the required information, the permittee shall call in the previous day's landings to the dealer contact designated on the permit but shall maintain a log furnished by the Division;
- (B) Submit the required log to the Division upon request or no later than five days after the close of the season for the fishery permitted;
- (C) Maintain faxes and other related documentation in accordance with 15A NCAC 03I .0114;
- (D) Contact the dealer contact daily regardless of whether or not a transaction for the fishery for which a dealer is permitted occurred;
- (E) Record the permanent dealer identification number on the bill of lading or receipt for each transaction or shipment from the permitted fishery.

(2) Striped Bass Dealer Permit:

- (A) It is unlawful for a fish dealer to possess, buy, sell or offer for sale striped bass taken from the following areas without first obtaining a Striped Bass Dealer Permit validated for the applicable harvest area:
 - (i) Atlantic Ocean;
 - (ii) Albemarle Sound Management Area as designated in 15A NCAC 03R .0201; and
 - (iii) The joint and coastal fishing waters of the Central/Southern Management Area as designated in 15A NCAC 03R .0201.
- (B) No permittee shall possess, buy, sell or offer for sale striped bass taken from the harvest areas opened by proclamation without having a North Carolina Division of Marine Fisheries issued valid tag for the applicable area affixed through the mouth and

gill cover, or, in the case of striped bass imported from other states, a similar tag that is issued for striped bass in the state of origin. North Carolina Division of Marine Fisheries striped bass tags shall not be bought, sold, offered for sale, or transferred. Tags shall be obtained at the North Carolina Division of Marine Fisheries Offices. The Division of Marine Fisheries shall specify the quantity of tags to be issued based on historical striped bass landings. It is unlawful for the permittee to fail to surrender unused tags to the Division upon request.

- (3) Albemarle Sound Management Area for River Herring Dealer Permit: It is unlawful to possess, buy, sell or offer for sale river herring taken from the following area without first obtaining an Albemarle Sound Management Area for River Herring Dealer Permit: Albemarle Sound Management Area for River Herring is defined in 15A NCAC 03J .0209.

- (4) Atlantic Ocean Flounder Dealer Permit:

- (A) It is unlawful for a Fish Dealer to allow vessels holding a valid License to Land Flounder from the Atlantic Ocean to land more than 100 pounds of flounder from a single transaction at their licensed location during the open season without first obtaining an Atlantic Ocean Flounder Dealer Permit. The licensed location shall be specified on the Atlantic Ocean Flounder Dealer Permit and only one location per permit shall be allowed.
- (B) It is unlawful for a Fish Dealer to possess, buy, sell, or offer for sale more than 100 pounds of flounder from a single transaction from the Atlantic Ocean without first obtaining an Atlantic Ocean Flounder Dealer Permit.

(c) Blue Crab Shedding Permit: It is unlawful to possess more than 50 blue crabs in a shedding operation without first obtaining a Blue Crab Shedding Permit from the Division of Marine Fisheries.

(d) Permit to Waive the Requirement to Use Turtle Excluder Devices in the Atlantic Ocean:

- (1) It is unlawful to trawl for shrimp in the Atlantic Ocean without Turtle Excluder Devices installed in trawls within one nautical mile of the shore from Browns Inlet (34° 35.7000' N latitude) to Rich's Inlet (34° 17.6000' N latitude) without a valid Permit to Waive the Requirement to Use Turtle Excluder Devices in the Atlantic Ocean when allowed

by proclamation from April 1 through November 30.

- (2) It is unlawful to tow for more than 55 minutes from April 1 through October 31 and 75 minutes from November 1 through November 30 in this area when working under this permit. Tow time begins when the doors enter the water and ends when the doors exit the water.
- (3) It is unlawful to fail to empty the contents of each net at the end of each tow.
- (4) It is unlawful to refuse to take observers upon request by the Division of Marine Fisheries or the National Marine Fisheries Service.
- (5) It is unlawful to fail to report any sea turtle captured. Reports shall be made within 24 hours of the capture to the Marine Patrol Communications Center by phone. All turtles taken incidental to trawling shall be handled and resuscitated in accordance with requirements specified in 50 CFR 223.206, copies of which are available via the Internet at www.nmfs.gov and at the Division of Marine Fisheries, 127 Cardinal Drive Extension, Wilmington, North Carolina 28405.

(e) Pound Net Set Permits. Rules setting forth specific conditions for pound net sets are set forth in 15A NCAC 03J .0107.

(f) Aquaculture Operations/Collection Permits:

- (1) It is unlawful to conduct aquaculture operations utilizing marine and estuarine resources without first securing an Aquaculture Operation Permit from the Fisheries Director.
- (2) It is unlawful:
- (A) To take marine and estuarine resources from coastal fishing waters for aquaculture purposes without first obtaining an Aquaculture Collection Permit from the Fisheries Director.
- (B) To sell, or use for any purpose not related to North Carolina aquaculture, marine and estuarine resources taken under an Aquaculture Collection Permit.
- (C) To fail to submit to the Fisheries Director an annual report due on December 1 of each year on the form provided by the Division the amount and disposition of marine and estuarine resources collected under authority of this permit.
- (3) Lawfully permitted shellfish relaying activities authorized by 15A NCAC 03K .0103 and .0104 are exempt from requirements to have an Aquaculture Operation or Collection Permit issued by the Fisheries Director.

- (4) Aquaculture Operations/Collection Permits shall be issued or renewed on a calendar year basis.
- (5) It is unlawful to fail to provide the Division of Marine Fisheries with a listing of all designees who shall be acting under an Aquaculture Collection Permit at the time of application.
- (g) Scientific or Educational Collection Permit:
 - (1) It is unlawful for individuals or agencies seeking exemptions from license, rule, proclamation or statutory requirements to collect for scientific or educational purposes as approved by the Division of Marine Fisheries any marine and estuarine species without first securing a Scientific or Educational Collection Permit.
 - (2) It is unlawful for persons who have been issued a Scientific or Educational Collection Permit to fail to submit a report on collections to the Division of Marine Fisheries due on December 1 of each year unless otherwise specified on the permit. Such reports shall be filed on forms provided by the Division. Scientific or Educational Collection Permits shall be issued on a calendar year basis.
 - (3) It is unlawful to sell marine and estuarine species taken under a Scientific or Educational Collection Permit:
 - (A) without the required license(s) for such sale;
 - (B) to anyone other than a licensed North Carolina fish dealer; and
 - (C) without authorization stated on the permit for such sale.
 - (4) It is unlawful to fail to provide the Division of Marine Fisheries a listing of all designees who shall be acting under Scientific or Educational Collection Permits at the time of application.
 - (5) The permittee or designees utilizing the permit shall call or fax the Division of Marine Fisheries Communications Center not later than 24 hours prior to use of the permit, specifying activities and location.
- (h) Under Dock Oyster Culture Permit:
 - (1) It is unlawful to cultivate oysters in containers under docks for personal consumption without first obtaining an Under Dock Oyster Culture Permit.
 - (2) An Under Dock Oyster Culture Permit shall only be issued in accordance with provisions set forth in G.S. 113-210(c).
 - (3) The applicant shall provide certification of completion of mandated training as required by G.S. 113-210(j).
 - (4) Action by an Under Dock Oyster Culture Permit holder to encroach on or usurp the legal rights of the public to access public trust resources in coastal fishing waters shall result in permit revocation.

- (i) Atlantic Ocean Striped Bass Commercial Gear Permit:
 - (1) It is unlawful to take striped bass from the Atlantic Ocean in a commercial fishing operation without first obtaining an Atlantic Ocean Striped Bass Commercial Gear Permit.
 - (2) It is unlawful to use a single Standard Commercial Fishing License, including assignments, to obtain more than one Atlantic Ocean Striped Bass Commercial Gear Permit during a license year.
- (j) Coastal Recreational Fishing License Exemption Permit:
 - (1) It is unlawful for individuals or organizations seeking exemption from recreational fishing license requirements to conduct an organized fishing event held in coastal or joint fishing waters without first obtaining a Coastal Recreational Fishing License Exemption Permit.
 - (2) The Coastal Recreational Fishing License Exemption Permit shall only be issued for an event held solely for the participation and benefit of individuals with physical or mental limitations; or for military appreciation or educational purposes.
 - (3) The Coastal Recreational Fishing License Exemption Permit shall be valid for the date(s), time and physical location of the organized fishing event for which the exemption is granted and the time period shall not exceed one year from the date of issuance.
 - (4) The Coastal Recreation Fishing License Exemption Permit shall only be issued when all of the following, in addition to the information required in 15A NCAC 03O .0501, is submitted to the Fisheries Director in writing a minimum of 30 days prior to the event:
 - (A) The name, date(s), time and physical location of the event;
 - (B) Documentation that substantiates local, state or federal involvement in the organized fishing event, if applicable; and
 - (C) The cost or requirements, if any, for an individual to participate in the event.

Authority G.S. 113-134; 113-169.1; 113-169.3; 113-182; 113-210; 143B-289.52.

SUBCHAPTER 03R - DESCRIPTIVE BOUNDARIES

SECTION .0100 - DESCRIPTIVE BOUNDARIES

15A NCAC 03R .0115 ANADROMOUS FISH SPAWNING AREAS

The anadromous fish spawning areas as defined in 15A NCAC 03I .0101 and referenced in 15A NCAC 03 N .0106 are delineated in the following coastal waters:

- (1) Currituck Sound Area:
 - (a) Northwest River- all waters of the Northwest River and its tributaries east of a line beginning on the north shore at a point 36° 30.8374' N – 76° 04.8770' W; running southerly to the south shore to a point 36° 30.7061' N – 76° 04.8916' W.
 - (b) Tull Bay/Tull Creek- all waters of Tull Bay and its tributaries northeast of a line beginning on the north shore at a point 36° 30.0991' N – 76° 04.8587' W; running southeasterly to the south shore to a point 36° 29.9599' N – 76° 04.7126' W; and south of a line beginning on the west shore at a point 36°30.9867' N – 76° 02.5868' W; running easterly to the east shore to a point 36°31.0045' N – 76° 02.3780' W; and west of a line beginning on the north shore at a point 36° 30.8291' N – 76° 02.1329' W; running southwesterly to the south shore to a point 36° 30.1512' N – 76° 02.4982' W.
- (2) Albemarle Sound Area:
 - (a) Big Flatty Creek- all waters of Big Flatty Creek and its tributaries east of a line beginning on the north shore at a point 36° 09.3267'N – 76° 08.2562'W; running southerly to the south shore to a point 36° 08.9730'N – 76° 08.3175'W and north of a line beginning on the west shore at a point 36° 07.9621'N – 76° 07.1818'W; running easterly to the east shore to a point 36° 08.2706'N – 76° 06.2525'W.
 - (b) Batchelor Bay- west of a line beginning on the north shore at a point 35° 58.2070' N – 76° 42.7267' W; running southeasterly to the south shore to a point 35° 56.5622' N – 76° 41.5506' W.
 - (c) Bull Bay- southwest of a line beginning on the northwest shore at a point 35° 58.9002' N – 76° 23.9965' W; running southeasterly to the southeast shore at a point 35° 56.7198' N – 76° 18.8964' W.
- (3) North River- all waters of the North River and its tributaries east of a line beginning on the north shore at a point 36° 18.7703' N – 75° 58.7384' W; running southerly to the south shore to a point 36° 18.4130' N – 75° 58.7228' W; and north of a line beginning on the west shore at a 36° 16.9952' N – 75° 57.0758' W; running easterly to the east shore to a point 36° 16.9801' N – 75° 56.6820' W.
- (4) Pasquotank River- all waters of the Pasquotank River and its tributaries south of a line beginning on the west shore at a point 36° 18.0768' N – 76° 13.0979' W; running easterly to the east shore along the south side of the Highway 158 Bridge to a point 36° 18.0594' N – 76° 12.9620' W; and northwest of a line beginning on the northeast shore at a point 36° 14.3294' N– 76° 04.7866' W; running southwesterly to the southwest shore to a point 36° 12.8147' N- 76° 07.0465' W.
 - (a) Charles Creek- north of a line beginning on the west shore at a point 36° 17.8090' N – 76° 13.0732' W; running easterly to the east shore to a point 36° 17.8024' N – 76° 13.0407' W.
 - (b) New Begun Creek- east of a line beginning on the north shore at a point 36° 13.3298' N – 76° 08.2878' W; running southerly to the south shore to a point 36° 13.0286' N – 76° 08.1820' W.
- (5) Little River- all waters of the Little River and its tributaries southeast of a line beginning on the west shore at a point 36° 12.5237' N – 76° 16.9418' W; running southeasterly to the east shore to a point 36° 12.2950' N – 76° 17.1405' W; and north of a line beginning on the west shore at a point 36° 09.6537' N – 76° 15.0689' W; running northeast to the east shore to a point 36° 10.2112' N – 76° 14.0287' W.
- (6) Perquimans River- all waters of the Perquimans River and its tributaries northeast of a line beginning on the west shore at a point 36° 11.6569' N – 76° 28.0055' W; running southeasterly to the east shore to a point 36° 11.6123' N – 76° 27.9382' W; and northwest of a line beginning on the southwest shore at a point 36° 11.1512' N – 76° 27.4424' W; running northeasterly to the northeast shore to a point 36° 11.5124' N – 76° 26.7298' W.
- (7) Perquimans River Area:
 - (a) Walter's Creek- northeast of a line beginning on the north shore at a point 36° 11.1305' N – 76° 27.9185' W; running southeasterly to the south shore to a point 36° 11.0224' N – 76° 27.6626' W.
 - (b) Mill Creek- south of a line beginning on the west shore at a point 36° 11.9766' N – 76° 27.2511' W; running easterly to the east shore to a point 36° 11.9757' N – 76°27.5752' W.
- (8) Yeopim River- all waters of the Yeopim River and its tributaries east of a line beginning on the north shore at a point 36° 05.4526'N – 76°27.7651'W; running southerly to the south shore to a point on Norcum Point 36°

- 05.1029'N – 76°27.7120' W; and west of a line beginning on the north shore at a point 36° 04.7426' N – 76° 24.2537' W; running southwesterly to the south shore to a point 36° 04.1137' N – 76° 24.5366' W.
- (9) Yeopim River Area, Yeopim Creek- south of a line beginning on the west shore at a point 36° 04.7206' N – 76° 24.8396' W; running easterly to the east shore to a point 36° 04.7426' N – 76° 24.2536' W.
- (10) Edenton Bay- all waters of Edenton Bay and its tributaries west of a line beginning on the north shore at a point 36° 03.3757' N – 76° 36.3629' W; running southerly to the south shore to a point 36° 03.3551' N – 76° 36.3574' W; and north of a line beginning on the west shore at a point 36° 02.1767' N – 76° 38.4058' W; running easterly to the east shore to a point 36° 02.0299' N – 76° 36.0445' W; and east of a line beginning on the west shore at a point 36° 03.2819' N – 76° 37.0138' W; running northeasterly to the east shore to a point 36° 03.4185' N – 76° 36.6783' W.
- (11) Chowan River- all waters of the Chowan River and tributaries northwest of a line beginning on the west shore at a point 36° 02.3162' N – 76° 42.4896' W; running northeasterly to the east shore to a point 36° 03.1013' N – 76°40.8732' W; and south of a line beginning on the west shore at a point 36° 32.6293' N – 76° 55.3564' W; and running to the east shore to a point 36° 32.6284' N – 76° 55.1757' W.
- (12) Chowan River Area, Meherrin River- all waters of the Meherrin River and tributaries west of a line beginning on the north shore at a point 36° 25.9937' N – 76° 56.8884' W; running southerly to the south shore to a point 36° 25.7926' N – 76° 56.8966' W; and south of a line beginning on the west shore at a point 36° 32.7867' N – 77° 09.8885' W; running easterly to the east shore to a point 36° 32.7807' N – 77° 09.8565' W.
- (13) Cashie River- all waters of the Cashie River and tributaries east of a line beginning on the north shore at a point 35° 54.7865' N – 76° 49.0521' W; running southerly to the south shore at a point 35° 54.6691' N – 76° 49.0553' W; west of a line beginning on the north shore at a point 35° 56.4598' N – 76° 43.8093' W; running southerly to the north shore to a point on the north shore of an island in the mouth of the river 35° 56.2250' N – 76° 43.9265' W; west of a line beginning on the south shore at a point of an island in the mouth of the river 35° 56.1254' N – 76° 43.9846' W; running southerly to the south shore to a point 35° 56.0650' N – 76° 43.9599' W.
- (14) Middle River- all waters of the Middle River southwest of a line beginning on the west shore at a point 35° 55.4000' N – 76° 43.8259' W; running southeasterly to the east shore to a point 35° 55.3977' N – 76°43.6797' W.
- (15) Eastmost River- all waters of the Eastmost River and its tributaries south of a line beginning on the west shore at a point 35° 56.5024' N – 76° 42.4877' W; running westerly to the east shore to a point 35° 56.4070' N – 76° 42.7647' W.
- (16) Roanoke River - all waters of the Roanoke River and tributaries south of a line beginning on the west shore at a point 35° 56.5068' N – 76° 41.8858' W; running easterly to the east shore to a point 35° 56.5324' N – 76° 41.5896' W; and southeast of a line beginning on the west shore at a point 36° 12.5264' N – 77° 23.0223' W; running northeasterly to the east shore along the south side of the Highway 258 Bridge to a point 36° 12.5674' N – 77° 22.9724' W.
- (17) Roanoke River Area:
- (a) Warren Neck Creek- all waters of Warren Neck Creek and its tributaries west of a line beginning on the northwest shore at a point 35° 52.1820' N – 76° 47.4855' W; running southerly to the southeast shore to a point 35° 52.1448' N – 76° 47.4237' W.
- (b) Thoroughfare- all waters of the Thoroughfare south of a line beginning on the west shore at a point 35° 54.0510' N – 76° 48.1206' W; running easterly to the east shore to a point 35° 54.0684' N – 76° 48.0613' W; and north of a line beginning on the west shore at a point 35° 53.2842' N – 76° 48.8650' W; running easterly to the east shore to a point 35° 55.2800' N – 76° 48.8077' W.
- (c) Devils Gut- all waters of Devils Gut and its tributaries northwest of a line beginning on the west shore at a point 35° 49.5300' N – 76° 54.2209' W; running easterly to the east shore to a point 35° 49.5486' N – 76° 54.1703' W.
- (d) Conine Creek- all waters of Conine Creek and its tributaries west of a line beginning on the north shore at a point 35° 52.9752' N – 76° 58.0474' W; running southwesterly to the south shore to a point 35° 52.9776' N – 76° 57.9958' W.
- (18) Scuppernong River- all waters of the Scuppernong River and tributaries southeast of a line beginning on the northeast shore at a point 35° 56.7196' N – 76° 18.8964' W; running southwesterly to the southwest shore

- to a point 35° 56.3351' N – 76° 19.6609' W; and north of a line beginning on the west shore at a point 35° 54.0158' N – 76° 15.4605' W; running easterly to the east shore to a point 35° 54.0406' N – 76° 15.3007' W.
- (19) Alligator River- all waters of the Alligator River and tributaries east of a line beginning on the north shore at Cherry Ridge Landing at a point 35° 42.2172' N – 76° 08.4686' W; running southerly to the south shore to a point 35° 42.1327' N – 76° 08.5002' W; and south of a line beginning on the west shore at a point 35° 57.4252' N – 76° 00.8704' W; running easterly to the east shore to a point 35° 57.5494' N – 75° 56.8268' W.
- (20) Alligator River Area, the Frying Pan- all waters of the Frying Pan and its tributaries west of a line beginning on the north shore at a point 35° 46.0777' N – 76° 03.3439' W; running southerly to the south shore to a point 35° 45.6011' N – 76° 03.3692' W.
- (21) Neuse River- all waters of the Neuse River and its tributaries northwest of a line beginning on the west shore at a point 35° 08.8723' N - 77° 04.6700' W; running northeasterly to the east shore to a point 35° 09.1032' N - 77° 04.3355' W and southeast of a line at Pitch Kettle Creek beginning on the north shore at a point 35° 16.9793' N - 77° 15.5529' W; running south to the south shore to a point 35° 16.9237' N - 77° 15.5461' W.
- (22) Neuse River Area:
- (a) Smith Creek- north of a line beginning on the west shore at a point 35° 02.2439' N - 76° 42.3035' W; running easterly to the east shore to a point 35° 02.2392' N - 76° 42.1910' W.
- (b) Kershaw Creek- north of a line beginning on the west shore at a point 35° 02.4197' N - 76° 43.7886' W; running easterly to the east shore to a point 35° 02.4218' N - 76° 43.7367' W.
- (23) White Oak River- all waters north of a line beginning at a point on the west shore 34° 46.0728' N - 77° 08.9657' W; running easterly to a point on the east shore 34° 46.1431' N - 77° 08.8907' W; running north to the Coastal – Inland waters boundary line beginning at a point on the west shore 34° 48.1466' N - 77° 11.4711' W; running northeasterly to a point on the east shore 34° 48.1620' N - 77° 11.4244' W.
- (24) Cape Fear River- all waters north of a line beginning at a point on the west shore 34° 07.7034' N – 77° 57.3431' W; running easterly to a point on the east shore 34° 08.0518' N –

77° 55.7626' W; running north to the Joint - Inland waters boundary on the following rivers:

- (a) Cape Fear River- at a line beginning at a point on the west shore 34° 24.2628' N - 78° 17.6390' W; running northeasterly along the Lock and Dam # 1 to a point on the east shore 34° 24.2958' N - 78° 17.5634' W.
- (b) Black River- at a line beginning at a point on the north shore 34° 22.0783' N - 78° 04.4123' W; running southeasterly to a point on the south shore 34° 21.9950' N - 78° 04.2864' W.
- (c) Northeast Cape Fear River- at a line beginning at a point on the west side 34° 26.5658' N - 77° 50.0871' W; running northeasterly along the southern side of the NC 210 Bridge to a point on the east side 34° 26.6065' N - 77° 49.9955' W.

Authority G.S. 113-134; 113-182; 113-221; 143B-289.52.

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 10F .0373 and amend the rule cited as 15A NCAC 10F .0359.

Proposed Effective Date: *October 1, 2007*

Public Hearing:

Date: *June 22, 2007*

Time: *2:00 p.m.*

Location: *NC Wildlife Resources Commission Meeting Room, 5th floor, 1751 Varsity Drive, Raleigh, NC 27606*

Reason for Proposed Action:

15A NCAC 10F .0359 – *Respond to petition from Cherokee County to adjust the location of a no wake zone on the waters of Hiawasee Lake*

15A NCAC 10F .0373 – *Respond to petition from Transylvania County to enact a no wake zone on the waters of Lake Toxaway*

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 Joan Troy.*

Comments may be submitted to: *Joan Troy, 1701 Mail Service Center, Raleigh, NC 27699-1701, email Joan.troy@ncwildlife.org*

Comment period ends: *July 31, 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 10F - MOTORBOATS AND WATER
SAFETY**

**SECTION .0300 - LOCAL WATER SAFETY
REGULATIONS**

15A NCAC 10F .0359 CHEROKEE COUNTY

(a) Regulated Areas. This Rule applies to the following sections of Hiawassee Lake:

- (1) the waters within 50 yards of Hiawassee Hideaway Marina;
- (2) the waters within 50 yards of Shook's Boat Dock;
- (3) the waters within 50 yards of Bear Paw Marina;
- (4) the waters within 50 yards of TVA Boat Ramp at Micken's Branch; and
- (5) the ~~mouth of the inlet for~~ waters within 50 yards of Harbor Cove Marina.

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

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

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

15A NCAC 10F .0373 TRANSYLVANIA COUNTY

(a) Regulated Area. Lake Toxaway.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within 50 yards of the Lake Toxaway Marina.

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

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

**TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND
COMMISSIONS**

CHAPTER 16 – DENTAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina State Board of Dental Examiners intends to adopt 21 NCAC 16Q .0404 and amend the rules cited as 21 NCAC 16Q .0101, .0301 - .0303, .0401 - .0403, .0501.

Proposed Effective Date: *October 10, 2007*

Public Hearing:

Date: *June 16, 2007*

Time: *10:00 a.m.*

Location: *Board office, 507 Airport Blvd., Ste. 105, Morrisville, NC 27560*

Reason for Proposed Action: *To define the kinds of sedation by the level of sedation induced rather than the route of administration, to define moderate pediatric conscious sedation, provide separate requirements for those who administer moderate pediatric conscious sedation and provide guidelines for the issuance and renewal of permits for minimal, moderate and moderate pediatric conscious sedation.*

Procedure by which a person can object to the agency on a proposed rule: *Written objections to the proposed rule amendments may be directed to the Chief Operations Officer, N.C. State Board of Dental Examiners, 507 Airport Blvd., Ste. 105, Morrisville, N.C. 27560 on or before July 31, 2007.*

Comments may be submitted to: *Bobby D. White, Chief Operations Officer, 507 Airport Blvd., Ste. 105, Morrisville, N.C. 27560*

Comment period ends: *July 31, 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**

SUBCHAPTER 16Q - GENERAL ANESTHESIA AND SEDATION

SECTION .0100 – DEFINITIONS

21 NCAC 16Q .0101 GENERAL ANESTHESIA AND SEDATION DEFINITIONS

For the purpose of these Rules relative to the administration of ~~general anesthesia, parenteral minimal conscious sedation, and enteral moderate conscious sedation~~ moderate pediatric conscious sedation or general anesthesia by or under the direction of a dentist, the following definitions shall apply:

- (1) "Analgesia" – the diminution or elimination of pain.
- (2) "Anti-anxiety sedative" – a sedative agent administered in a dosage intended to reduce anxiety without diminishing consciousness or protective reflexes.
- (3) "Anxiolysis" – pharmacological reduction of anxiety through the administration of a minor psychosedative, which allows for uninterrupted interactive ability in a totally awake patient with no compromise in the ability to maintain a patent airway continuously and without assistance.
- (4) "Behavioral management" – the use of pharmacological or psychological techniques, singly or in combination, to modify behavior to a level that dental treatment can be performed effectively and efficiently.
- (5) "Competent" – displaying special skill or knowledge derived from training and experience.
- (6) "Conscious sedation" - an induced state of a depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, and that is produced by pharmacologic or non-pharmacologic agents, or a combination thereof. In accordance with this particular definition, the drugs or techniques used shall carry a margin of safety wide enough to render unintended loss of consciousness unlikely.

- (7) "Deep sedation" – an induced state of a depressed level of consciousness accompanied by partial loss of protective reflexes, including the ability to continually maintain an airway independently or respond purposefully to verbal command, and is produced by pharmacological agents.
- (8) "Direct supervision" – the dentist responsible for the sedation/anesthesia procedure shall be physically present in the facility and shall be continuously aware of the patient's physical status and well being.
- ~~(9) "Enteral conscious sedation" is conscious sedation that is achieved by administration of pharmacological agents through the alimentary tract either orally or rectally. Enteral conscious sedation is administered primarily for behavioral management.~~
- ~~(9)(40)~~ "Facility" – the location where a permit holder practices dentistry and provides anesthesia/sedation services.
- ~~(10)(41)~~ "Facility inspection" - an on-site inspection to determine if a facility where the applicant proposes to provide anesthesia/sedation is supplied, equipped, staffed and maintained in a condition to support provision of anesthesia/sedation services that meet the minimum standard of care.
- ~~(11)(42)~~ "General ~~anesthesia~~" is anesthesia - the intended controlled state of depressed consciousness produced by pharmacologic agents and accompanied by a partial or complete loss of protective reflexes, including the ability to maintain an airway and respond purposefully to physical stimulation or verbal commands.
- ~~(12)(43)~~ "Immediately available" – on-site in the facility and available for immediate use.
- ~~(13)(44)~~ "Local anesthesia" – the elimination of sensations, especially pain, in one part of the body by the regional application or injection of a drug.
- ~~(14)(45)~~ "May" – indicates freedom or liberty to follow a reasonable alternative.
- ~~(15)~~ "Minimal conscious sedation" – conscious sedation provided to patients 13 years or older, by oral or rectal routes of administration of a single pharmacological agent, in one or more doses, not to exceed the manufacturer's maximum recommended dose, at the time of treatment, possibly in combination with nitrous oxide. Minimal conscious sedation is provided for behavioral management.
- (16) "Minor psychosedative/Minor tranquilizer" – pharmacological agents which allow for uninterrupted interactive ability in a patient with no compromise in the ability to maintain a patent airway continuously and without assistance and carry a margin of safety wide

enough to render unintended loss of consciousness unlikely.

- (17) "Moderate conscious sedation" – conscious sedation provided to patients 13 years or older, by oral, nasal, rectal or parenteral routes of administration of multiple pharmacological agents, in multiple doses, within a 24 hour period, including the time of treatment, possibly in combination with nitrous oxide. Moderate conscious sedation is provided for behavior control.
- (18) "Moderate pediatric conscious sedation" – conscious sedation provided to patients under 13 years of age, by oral, nasal, rectal or parenteral routes of administration of single or multiple pharmacological agents, in single or multiple doses, within a 24 hour period, including the time of treatment, possibly in combination with nitrous oxide. Moderate pediatric conscious sedation is provided for behavior control.
- ~~(17)(19)~~ "Must" or "shall" – indicates an imperative need or duty or both; an essential or indispensable item; mandatory.
- ~~(18)(20)~~ "Parenteral-conscious sedation" is conscious sedation achieved by -- the administration of pharmacological agents intravenously, intramuscularly, subcutaneously, submucosally, intranasally, or transdermally. Parenteral-conscious sedation is administered primarily for behavioral management.
- ~~(19)(21)~~ "Protective reflexes" – includes the ability to swallow and cough.
- ~~(20)(22)~~ "Vested adult" – a responsible adult who is the legal parent or guardian, or designee of a legal parent or guardian, entrusted with the care of a minor following the administration of general anesthesia or conscious sedation.

moderate pediatric conscious sedation, the dentist must demonstrate through the permitting process that he/she is capable of performing all duties and procedures to be delegated to the CRNA, and must not delegate said CRNA to perform procedures outside of the scope of the technique and purpose of moderate conscious sedation or moderate pediatric conscious sedation, as defined in Rule .0101 of this Subchapter.

(c) A dentist may modify his/her moderate conscious sedation permit to include the privilege of moderate pediatric conscious sedation by completing a pediatric degree or pediatric residency program or obtaining the equivalent hours of continuing education program in pediatric anesthesia. If said qualifications are satisfied, it shall be so designated on the dentist's moderate conscious sedation permit and will be subject to the renewal requirements stated in Rule .0501(d) of this Subchapter.

~~(b)(d)~~ A dentist applying for a permit to administer ~~parenteral~~ moderate conscious sedation or moderate pediatric conscious sedation must meet at least one of the following criteria:

- (1) Satisfactory completion of a minimum of 60 hours of didactic training and instruction in intravenous conscious sedation and satisfactory management of a minimum of 10 patients, under supervision, using intravenous sedation; or
- (2) Satisfactory completion of an undergraduate or postgraduate program which included intravenous conscious sedation training equivalent to that defined in Subparagraph ~~(d)(1)(b)(4)~~ of this Rule; or
- (3) Satisfactory completion of an internship or residency which included intravenous conscious sedation training equivalent to that defined in Subparagraph ~~(d)(1)(b)(4)~~ of this Rule; or
- ~~(4) Utilization of a certified registered nurse anesthetist under his supervision to administer intravenous sedation to dental patients, provided that the parenteral conscious sedation is administered only by the certified registered nurse anesthetist under the permit holder's supervision.~~

~~(e)(e)~~ To be eligible for a ~~moderateparenteral~~ conscious sedation ~~permit, permit or moderate pediatric conscious sedation permit~~, a dentist must operate within a facility which includes the capability of delivering positive pressure oxygen, staffed with supervised auxiliary personnel for each procedure performed who shall document annual, successful completion of basic life support (BSL) training and be capable of assisting with procedures, problems and emergencies incident thereto.

~~(d) The Board may authorize the use of parenteral conscious sedation and grant a permit authorizing the use of parenteral conscious sedation to a dentist who has been utilizing parenteral conscious sedation in a competent and effective manner for the past five years preceding the effective date of this Rule, but who has not had the benefit of formal training as outlined in Paragraph (b) of this Rule, provided that said dentist meets all other requirements of this Rule.~~

~~(e)(f)~~ Prior to issuance of a parenteral conscious sedation permit the applicant shall undergo an evaluation which includes a

Statutory authority G.S. 90-28; 90-30.1.

SECTION .0300 - PARENTERAL CONSCIOUS SEDATION

21 NCAC 16Q .0301 MODERATE CONSCIOUS SEDATION AND MODERATE CONSCIOUS PEDIATRIC CONSCIOUS SEDATION CREDENTIALS AND PERMIT

(a) Before a dentist licensed to practice in North Carolina may administer, or supervise a certified registered nurse anesthetist (CRNA) to administer ~~parenteral-moderate~~ conscious sedation to dental patients on an outpatient basis, the dentist shall obtain a permit from the Board by ~~completingsubmitting the required information on~~ an application form provided by the Board and paying a fee of fifty dollars (\$50.00). Such permit shall be renewed annually and shall be displayed with the current renewal at all times in a conspicuous place in the facility of the permit holder.

(b) For a dentist to employ a certified registered nurse anesthetist to administer moderate conscious sedation or

facility inspection. The Board shall direct an evaluator to perform this evaluation. The applicant shall be notified in writing that an evaluation and facility inspection is required and provided with the name of the evaluator who shall perform the evaluation and facility inspection. The applicant shall be responsible for successful completion of the evaluation and inspection of his or her facility within three months of notification. An extension of no more than 90 days shall be granted if the designated evaluator or applicant requests one.

~~(f)(g)~~ A dentist who holds a ~~moderateparenteral~~ conscious sedation permit or moderate pediatric conscious sedation permit shall not intentionally administer deep sedation although deep sedation may occur briefly and unintentionally.

~~(g)(h)~~ A dentist who is qualified to administer general anesthesia, moderateparenteral conscious sedation or moderate pediatric conscious sedation and holds a general anesthesia, moderateparenteral conscious sedation permit or a moderate pediatric conscious sedation permit may administer minimalparenteral conscious sedation without obtaining a separate minimalparenteral conscious sedation permit. ~~A dentist who holds a general anesthesia permit may administer enteral and parenteral conscious sedation without obtaining separate enteral and parenteral conscious sedation permits.~~

(i) Any dentist who holds an active parenteral conscious sedation permit as of the effective date of these amendments shall be deemed to hold an active moderate conscious sedation permit. Such permits shall be subject to the renewal requirements set out in Rule .0501 of this Subchapter.

Authority G.S. 90-28; 90-30.1.

21 NCAC 16Q .0302 CLINICAL REQUIREMENTS AND EQUIPMENT

(a) A dentist administering ~~moderateparenteral~~ conscious sedation or moderate pediatric conscious sedation or supervising the administration of ~~parenteral~~ moderate conscious sedation by a certified registered nurse anesthetist shall ensure that the facility in which the ~~parenteral~~ conscious sedation is to be administered meets the following requirements:

- (1) The facility is equipped with:
 - (A) An operatory of size and design to permit access of emergency equipment and personnel and to permit effective emergency management;
 - (B) A chair or table for emergency treatment, including a chair suitable for CPR or CPR Board;
 - (C) Lighting as necessary for specific procedures; and
 - (D) Suction equipment as necessary for specific procedures, including non-electrical back-up ~~suction~~; suction.
- (2) The following equipment is maintained:
 - (A) Positive oxygen delivery system, including full face mask for adults and pediatric ~~patients~~; patients and back-up E-cylinder portable oxygen tank apart from the central system;

- (B) Oral and nasal airways of various sizes;
 - (C) Blood pressure monitoring device; and
 - (D) Pulse oximeter.
 - (3) The following emergency equipment is maintained:
 - (A) I.V. set-up as necessary for specific procedures, including hardware and fluids, if anesthesia is intravenous;
 - (B) Syringes as necessary for specific procedures; and
 - (C) Tourniquet ~~& tape~~; and tape.
 - (4) The following drugs are maintained with a current shelf life and within easy ~~access~~ accessibility from the operatory and recovery area:
 - (A) Epinephrine;
 - (B) Atropine;
 - (C) Antiarrhythmic;
 - (D) Narcotic antagonist;
 - (E) Antihistamine;
 - (F) Corticosteroid;
 - (G) Nitroglycerine;
 - (H) Bronchial dilator;
 - (I) Antiemetic;
 - (J) Benzodiazepine antagonist;
 - (K) Muscle relaxant for intubation; and
 - (L) 50% Dextrose.
 - (5) Written emergency and patient discharge protocols are maintained and training to familiarize office personnel in the treatment of clinical emergencies is provided; and
 - (6) The following records are ~~maintained~~; maintained for at least 10 years:
 - (A) Patient's current written medical history, including known allergies and previous surgery;
 - (B) Drugs administered during the procedure, including route of administration, dosage, strength, time and sequence of administration;
 - (C) A sedation record which shall include:
 - (i) blood pressure;
 - (ii) pulse rate;
 - (iii) respiration;
 - (iv) duration of procedure;
 - (v) documentation of complications or morbidity; and
 - (vi) status of patient upon discharge.
- (b) During an evaluation, the applicant or permit holder shall demonstrate the administration of moderate conscious sedation on a ~~patient~~ patient, or, where applicable, moderate pediatric conscious sedation on a patient, including the deployment of an intravenous delivery system, or supervise the administration of conscious sedation on a patient by a certified registered nurse

anesthetist while the evaluator observes. During the demonstration, the applicant or permit holder shall demonstrate competency in the following areas:

- (1) Monitoring blood pressure, pulse, and respiration;
- (2) Drug dosage and administration;
- (3) Treatment of untoward reactions including respiratory or cardiac depression, if applicable;
- (4) Sterile technique;
- (5) Use of CPR certified personnel;
- (6) Monitoring of patient during recovery; and
- (7) Sufficiency of patient recovery time.

(c) During an inspection or evaluation, the applicant or permit holder shall verbally demonstrate competency to the evaluator in the treatment of the following clinical emergencies:

- (1) Laryngospasm;
- (2) Bronchospasm;
- (3) Emesis and aspiration;
- (4) Respiratory depression and arrest;
- (5) Angina pectoris;
- (6) Myocardial infarction;
- (7) Hypertension/Hypotension;
- (8) Allergic reactions;
- (9) Convulsions;
- (10) Syncope;
- (11) Bradycardia;
- (12) Insulin shock; and
- (13) Cardiac arrest.

(d) A dentist administering ~~moderateparenteral~~ conscious sedation or moderate pediatric conscious sedation shall ensure that the facility is staffed with sufficient auxiliary personnel for each procedure performed who shall document annual successful completion of basic life support training and be capable of assisting with procedures, problems, and emergency incidents that may occur as a result of the sedation or secondary to an unexpected medical complication.

(e) Upon request, the holder of ~~an anesthesia a moderate pediatric conscious sedation or moderateparenteral~~ conscious sedation permit may travel to the office of a licensed dentist who does not hold such a permit and provide minimal sedation, moderateparenteral and enteral conscious sedation or moderate pediatric conscious sedation services for the patients of that dentist who are undergoing dental procedures. The permit holder is solely responsible for providing that the facility in which the ~~parenteral or enteral conscious~~ sedation is administered meets the requirements established by the Board, that the required drugs and equipment are present, and that the permit holder utilizes sufficient auxiliary personnel for each procedure performed who shall document annual successful completion of basic life support training and be capable of assisting with procedures, problems, and emergency incidents that may occur as a result of the ~~parenteral conscious~~ sedation or secondary to an unexpected medical complication.

Authority G.S. 90-28; 90-30.1; 90-48.

21 NCAC 16Q .0303 TEMPORARY APPROVAL PRIOR TO SITE INSPECTION

(a) If a dentist meets the requirements of Paragraphs (a),(b),(c),(d), and (f) of Rule .0301 of this Section, ~~he~~he/she shall be granted temporary approval to administer ~~moderateparenteral~~ conscious sedation or moderate pediatric conscious sedation until a permit can be issued. Temporary approval may be granted based solely on credentials until all processing and investigation has been completed. Temporary approval may not exceed three months. An on-site evaluation of the facilities, equipment, procedures, and personnel shall be required. The evaluation shall be conducted in accordance with Rules .0204 -.0205 of this Subchapter, except that evaluations of dentists applying for ~~moderateparenteral~~ conscious sedation permits may be conducted by dentists who have been issued ~~parenteral-moderate~~ conscious sedation permits by the Board and who have administered ~~parenteral-moderate~~ conscious sedation for at least three years. Fees required by Rule .0204 of this Subchapter shall apply.

(b) An inspection may be made upon renewal of the permit or for cause.

(c) Temporary approval shall not be granted to a provisional licensee.

Authority G.S. 90-28; 90-30.1.

SECTION .0400 - ENTERAL CONSCIOUS SEDATION

21 NCAC 16Q .0401 MINIMAL CONSCIOUS SEDATION CREDENTIALS AND PERMIT

(a) Before a dentist licensed to practice in North Carolina may administer or supervise a certified registered nurse anesthetist to administer ~~enteral-minimal~~ conscious sedation, ~~he or she shall obtain either a parenteral conscious sedation permit issued by the Board, a general anesthesia permit issued by the Board, or an enteral conscious sedation permit issued by the Board. the~~ dentist shall obtain a minimal conscious sedation permit issued by the Board, a moderate conscious sedation permit issued by the Board or a general anesthesia permit issued by the Board. A permit is not required for prescription administration of DEA controlled drugs prescribed for postoperative pain control intended for home use. A dentist may obtain ~~an enteral a~~ minimal conscious sedation permit from the Board by ~~completingsubmitting the appropriate information on~~ an application form provided by the Board and paying a fee of fifty dollars (\$50.00). Such permit must be renewed annually and shall be displayed with the current renewal at all times in a conspicuous place in the office of the permit holder.

(b) ~~A dentist who holds only an enteral conscious sedation permit shall not administer deep sedation or general anesthesia. Only a dentist who holds a general anesthesia license may administer deep sedation or general anesthesia.~~

(c) Application:

- (1) ~~An enteral~~A minimal conscious sedation permit may be obtained by completing an application form provided by Board, a copy of which may be obtained from the Board office, and meeting the requirements of Section .0400 of this Subchapter.
- (2) The application form must be filled out completely and appropriate fees paid.

- (3) Prior to issuance of ~~an enteral~~ a minimal conscious sedation permit the applicant shall undergo a facility inspection. The Board shall direct an evaluator to perform this inspection. The applicant shall be notified in writing that an inspection is required and provided with the name of the evaluator who shall perform the inspection. The applicant shall be responsible for successful completion of inspection of his or her facility within three months of notification. An extension of no more than 90 days shall be granted if the designated evaluator or applicant requests one.
- (4) During an inspection or evaluation, the applicant or permit holder shall demonstrate competency in the following areas:
- (A) Monitoring of blood pressure, pulse, and respiration;
 - (B) Drug dosage and administration (by verbal demonstration);
 - (C) Treatment of untoward reactions including respiratory or cardiac depression (by verbal demonstration);
 - (D) Sterilization;
 - (E) Use of CPR certified personnel;
 - (F) Monitoring of patient during recovery (by verbal demonstration); and
 - (G) Sufficiency of patient recovery time (by verbal demonstration).
- (5) During an inspection or evaluation, the applicant or permit holder shall verbally demonstrate competency to the evaluator in the treatment of the following clinical emergencies:
- (A) Laryngospasm;
 - (B) Bronchospasm;
 - (C) Emesis and aspiration;
 - (D) Respiratory depression and arrest;
 - (E) Angina pectoris;
 - (F) Myocardial infarction;
 - (G) Hypertension/Hypotension;
 - (H) Syncope;
 - (I) Allergic reactions;
 - (J) Convulsions;
 - (K) Bradycardia;
 - (L) Insulin shock; and
 - (M) Cardiac arrest.
- (6)(4) An applicant for a minimal~~an enteral~~ conscious sedation permit shall be licensed and in good standing with the Board in order to be approved. For purposes of these rules "good standing" means that a licensee is not suspended, whether or not the suspended licensee is on probation. Applications from licensees who are not in good standing shall not be approved.

(d) Educational/Professional Requirements:

(1)The dentist applying for ~~an enteral~~ a minimal conscious sedation permit shall meet one of the following criteria:

- (1)(A) successful completion of training consistent with that described in Part I or Part III of the American Dental Association (ADA) Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, and have documented administration of minimal~~ental~~ conscious sedation in a minimum of five cases;
 - (2)(B) successful completion of an ADA accredited post-doctoral training program which affords comprehensive training necessary to administer and manage minimal~~ental~~ conscious sedation;
 - (3)(C) successful completion of an ~~18-hour~~eighteen hour ~~ental~~minimal conscious sedation course which must be approved by the Board based on whether it affords comprehensive training necessary to administer and manage ~~ental~~minimal conscious sedation;
 - (4)(D) successful completion of an ADA accredited postgraduate program in pediatric dentistry; or
 - (5)(E) is a North Carolina licensed dentist in good standing who has been utilizing ~~ental~~ minimal conscious sedation in a competent manner ~~for the five years preceding January 1, 2002, at least one year immediately preceding the effective date of this Rule~~ and his or her office facility has passed an on-site inspection by a Board evaluator as required in Paragraph ~~(b)(3)~~ (c)(3) of this Rule. Competency shall be determined by presentation of successful administration of ~~ental~~ minimal conscious sedation in a minimum of five clinical cases.
- (2) ~~Prior to administering enteral conscious sedation to children under the age of 13, a dentist who qualifies only for an enteral conscious sedation permit shall also successfully complete a six hour course in pediatric enteral conscious sedation developed by the Pediatric Dentistry Department at the University of North Carolina or an equivalent course and submit documentation showing successful completion of such course to the Board. The requirements of this paragraph shall not apply to Pediatric Dentists who meet the requirements of Paragraph (c)(1)(D) of this Rule nor to those dentists who otherwise meet the requirements of Paragraph (c)(1)(E) of this Rule and in addition have administered enteral conscious sedation to children under the age of 13 in a competent manner for the five years preceding January 1, 2002. Competency shall be determined by presentation of successful administration of enteral conscious sedation in a minimum of five clinical cases.~~

Authority G.S. 90-28; 90-30.1.

21 NCAC 16Q. 0402

PERMIT REQUIREMENTS,

CLINICAL PROVISIONS AND EQUIPMENT

(a) ~~Enteral~~ Minimal conscious sedation is indicated for use only ~~for conscious sedation~~ as defined in Rule ~~.0101(9)~~ .0101(15) of this Subchapter (relating to Definitions). ~~Enteral~~ Minimal conscious sedation is not indicated for use to achieve deep sedation.

(b) ~~A minimal~~ ~~An enteral~~ conscious sedation permit is not required for minor psychosedatives used for anxiolysis prescribed for administration outside of the dental office when pre-procedure instructions are likely to be followed. Medication administered for the purpose of ~~minimal~~ ~~enteral~~ conscious sedation shall not exceed the maximum doses recommended by the drug manufacturer, sedation textbooks, or juried sedation journals. ~~When medications for enteral conscious sedation are used in combination, the total sedation dose shall not exceed recommended dosages for medications used in combination. Drugs in combination are not permitted for minimal conscious sedation.~~ During longer periods of ~~enteral~~ ~~minimal~~ conscious sedation, in which the amount of time of the procedures exceeds the effective duration of the sedative effect of the ~~drug(s)~~ ~~drug~~ used, the incremental doses of the ~~sedative~~ ~~sedative(s)~~ shall not exceed total safe dosage levels based on the effective half-life of the ~~drugs~~ ~~drug~~ used.

(c) Each dentist shall:

- (1) adhere to the clinical requirements as detailed in Paragraph (e) of this Rule;
- (2) maintain under continuous direct supervision any auxiliary ~~personnel~~ ~~personnel~~, who shall be capable of assisting in procedures, problems, and emergencies incident to the use of ~~enteral~~ ~~minimal~~ conscious sedation or secondary to an unexpected medical complication;
- (3) utilize sufficient auxiliary personnel for each procedure performed who shall document annual successful completion of basic life support training; and
- (4) not allow ~~an enteral~~ ~~a minimal~~ conscious sedation procedure to be performed in his or her office by a Certified Registered Nurse Anesthetist (CRNA) unless the dentist holds a permit issued by the Board for the procedure being performed. This provision addresses dentists and is not intended to address the scope of practice of persons licensed by any other agency.

(d) Each dentist shall meet the following requirements:

- (1) Patient Evaluation. Patients who are administered ~~enteral~~ ~~minimal~~ conscious sedation must be suitably evaluated prior to the start of any sedative procedure. ~~In healthy or medically stable individuals Physical Status I, II (ASA I, II, as defined by the American Society of Anesthesiologists).~~ ~~A patient receiving minimal conscious sedation must be healthy or medically stable (ASA I, or ASA II as defined by the American Society of Anesthesiologists).~~ An evaluation is a review of the patient's current medical history and

medication use. However, ~~with~~ ~~for~~ individuals who are not medically stable or who have a significant health disability Physical Status III (ASA III, as defined by the American Society of Anesthesiologists) a consultation with their primary care physician or consulting medical specialist regarding potential procedure risk is required.

(2) Pre-procedure preparation, informed consent:

- (A) The patient or guardian must be advised of the procedure associated with the delivery of the ~~minimal~~ ~~enteral~~ conscious sedation.
- (B) Equipment must be evaluated and maintained for proper operation.
- (C) Baseline vital signs shall be obtained at the discretion of the operator depending on the medical status of the patient and the nature of the procedure to be performed.
- (D) Dentists administering ~~minimal~~ ~~enteral~~ conscious sedation shall use sedative agents that he/she is competent to administer and shall administer such agents in a manner that is within the standard of care.

(e) Patient monitoring:

- (1) Patients who have been administered ~~enteral~~ ~~minimal~~ conscious sedation shall be monitored during waiting periods prior to operative procedures. An adult who has accepted responsibility for the patient and been given written pre-procedural instruction may provide such monitoring. The patient shall be monitored for alertness, responsiveness, breathing and skin coloration.
- (2) Dentists administering ~~enteral~~ ~~minimal~~ conscious sedation shall maintain direct supervision of the patient during the operative procedure and for such a period of time necessary to establish pharmacologic and physiologic vital sign stability.
 - (A) Oxygenation. Color of mucosa, skin or blood shall be continually evaluated. Oxygen saturation shall be evaluated continuously by pulse oximetry, except as provided in Paragraph (e)(4) of this Rule.
 - (B) Ventilation. ~~Shall~~ ~~perform~~ ~~observation~~ Observation of chest excursions or auscultation of breath sounds or ~~both~~ ~~both~~ shall be performed.
 - (C) Circulation. ~~Shall take and record an initial~~ ~~An initial~~ blood pressure and pulse shall be performed and thereafter as appropriate except as provided in Paragraph (e)(4) of this Rule.

- (3) An appropriate time oriented anesthetic record of vital signs shall be maintained in the permanent record including documentation of ~~individual—individual(s)~~ administering the ~~drug(s) and showing the name(s) of drug(s) and dosage(s) used.~~ drug and showing the name of drug, strength and dosage used.
- (4) If the dentist responsible for administering ~~enteral—minimal~~ conscious sedation must deviate from the requirements set out in this Rule, he or she shall document the occurrence of such deviation and the reasons for such deviation.
- (f) Post-operative procedures:
- (1) Following the operative procedure, positive pressure oxygen and suction equipment shall be immediately available in the recovery area or operatory.
 - (2) Vital signs shall be continuously monitored when the sedation is no longer being administered and the patient shall have direct continuous supervision until oxygenation and circulation are stable and the patient is sufficiently responsive for discharge from the office.
 - (3) Patients who have adverse reactions to ~~enteral~~ minimal conscious sedation shall be assisted and monitored either in an operatory chair or recovery area until stable for discharge.
 - (4) Recovery from ~~enteral—minimal~~ conscious sedation shall include:
 - (A) cardiovascular function stable;
 - (B) airway patency uncompromised;
 - (C) patient easily arousable and protective reflexes intact;
 - (D) state of hydration within normal limits;
 - (E) patient can talk, if applicable;
 - (F) patient can sit unaided, if applicable;
 - (G) patient can ambulate, if applicable, with minimal assistance; and
 - (H) for the child who is very young or disabled, and incapable of the usually expected responses, the pre-sedation level of responsiveness or the level as close as possible for that child shall be achieved.
 - (5) Prior to allowing the patient to leave the office, the dentist shall determine that the patient has met the recovery criteria set out in Paragraph (f)(4) of this Rule and the following discharge criteria:
 - (A) oxygenation, circulation, activity, skin color and level of consciousness are sufficient and stable and have been documented;
 - (B) explanation and documentation of written postoperative instructions
- have been provided to the patient or a responsible adult at time of discharge;
- (C) responsible individual is available for the patient to transport the patient after discharge;
- (D) for a patient who must use a child restraint system designed for use in a motor vehicle, a vested adult is available to transport the patient after discharge and an additional responsible individual is available to attend to the patient.
- (g) The dentist, personnel and facility shall be prepared to treat emergencies that may arise from the administration of ~~enteral~~ minimal conscious sedation, and shall have the ability to provide positive pressure ventilation with 100% oxygen with an age appropriate device.

Authority G.S. 90-28; 90-30.1.

21 NCAC 16Q .0403 TEMPORARY APPROVAL PRIOR TO SITE INSPECTION

- (a) If a dentist meets the requirements of Rule .0401 of this Section, he or she shall be granted temporary approval to administer ~~minimal~~enteral conscious sedation until a permit can be issued. Temporary approval may be granted based solely on credentials until all processing and investigation has been completed. Temporary approval may not exceed three months.
- (b) Temporary approval shall not be granted to a provisional licensee.

Authority G.S. 90-28; 90-30.1.

21 NCAC 16Q .0404 PROCEDURE FOR EVALUATION OR INSPECTION FOR MINIMAL CONSCIOUS SEDATION

- (a) When an evaluation or on-site inspection is required, the Board will designate one or more persons, each of whom is qualified to administer minimal conscious sedation and has so administered such for a minimum of one year preceding the inspection, exclusive of minimal conscious sedation training.
- (b) Any dentist-member of the Board may observe or consult in any evaluation. When an on-site inspection involves only a facility and equipment check and not an evaluation of the dentist, such inspection may be accomplished by one or more evaluators.
- (c) The inspection team shall determine compliance with the requirements of the rules in this Subchapter, as applicable, by assigning a grade of "pass" or "fail".
- (d) Each evaluator shall report his/her recommendation to the Board, setting forth the details supporting his/her conclusion. The Board is not bound by these recommendations. The Board shall make the final determination as to whether or not the applicant has passed the evaluation/inspection and shall so notify the applicant, in writing.
- (e) At least a 15-day notice shall be given prior to an evaluation or inspection.

Authority G.S. 90-28; 90-30.1.

SECTION .0500 - RENEWAL OF PERMITS

21 NCAC 16Q .0501 ANNUAL RENEWAL REQUIRED

(a) ~~All sedation permits~~~~General anesthesia, parenteral conscious sedation, and enteral conscious sedation permits~~ shall be renewed by the Board on an annual basis. Such renewal shall be accomplished in conjunction with the license renewal process, and applications for permits shall be made at the same time as applications for renewal of licenses.

(b) ~~All sedation permits~~~~Anesthesia, parenteral conscious sedation, and enteral conscious sedation permits~~ shall be subject to the same renewal deadlines as are dental practice licenses, in accordance with G.S. 90-31. If the permit renewal application is not received by the date specified in G.S. 90-31, continued administration of general anesthesia or any level of conscious sedation~~anesthesia, parenteral conscious sedation, or enteral conscious sedation~~ shall be unlawful and shall subject the dentist to the penalties prescribed by Section .0700 of this Subchapter.

(c) As a condition for renewal of the general anesthesia permit, the permit holder shall ~~meet~~ensure that the requirements of 21 NCAC 16Q .0202 ~~are met~~ and document current, successful completion of advanced cardiac life support (ACLS) training, or its age-specific equivalent or other equivalent course, and auxiliary personnel shall document annual, successful completion of basic life support (BLS) training.

(d) As a condition for renewal of the ~~parenteral-moderate conscious sedation permit or moderate pediatric conscious sedation permit~~, the permit holder shall ~~ensure that meet~~ the requirements of 21 NCAC 16Q .0302 ~~are met~~ and also ~~meet~~ one of the following criteria:

- (1) document current, successful completion of ~~advanced cardiac life support (ACLS)-ACLS~~ training or its age-specific equivalent, or other equivalent course; or
- (2) document annual, successful completion of ~~basic life support (BLS)-BLS~~ training and obtain three hours of continuing education each year in one or more of the following areas, which may be counted toward fulfillment of the continuing education required each calendar year for license renewal:
 - (A) sedation;
 - (B) medical emergencies;
 - (C) monitoring IV sedation and the use of monitoring equipment;
 - (D) pharmacology of drugs and agents used in IV sedation;
 - (E) physical evaluation, risk assessment, or behavioral management; or
 - (F) audit ACLS/PALS courses.Moderate pediatric conscious sedation permit holders must have current Pediatric Advanced Life Support (PALS) at all times.

(e) As a condition for renewal of the ~~enteral-minimal~~ conscious sedation permit, the permit holder shall ~~meet~~ensure that the

requirements of 16Q .0402 ~~are met~~ and shall document annual, successful completion of ~~basic life support (BLS)-BLS~~ training and obtain six hours of continuing education every two years in one or more of the following areas, which may be counted toward fulfillment of the continuing education required each calendar year for license renewal:

- (1) pediatric or adult sedation;
- (2) medical emergencies;
- (3) monitoring sedation and the use of monitoring equipment;
- (4) pharmacology of drugs and agents used in sedation;
- (5) physical evaluation, risk assessment, or behavioral management; or
- (6) audit ACLS/PALS courses.

Authority G.S. 90-28; 90-30.1; 90-48.

* * * * *

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 .2201.

Proposed Effective Date: January 1, 2008

Public Hearing:

Date: June 18, 2007

Time: 5:00 p.m.

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

Reason for Proposed Action: *To increase the number of hours of continuing education and to allow for the carry-over of continuing education credits in order to enable pharmacists to more safely practice pharmacy and to effectuate S.L. 2005-402 s. 4, and to clarify the status of on-line education programs and reporting and recordkeeping requirements.*

Procedure by which a person can object to the agency on a proposed rule: *Any person may object to the proposed amendment by attending the public hearing on June 18, 2007 and/or by submitting a written objection by July 31, 2007, to Jay Campbell, Executive Director, North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517, fax (919) 246-1056, e-mail jcampbell@ncbop.org. The North Carolina Board of Pharmacy is interested in all comments pertaining to the proposed rule. All persons interested and potentially affected by the proposal are strongly encouraged to read this entire notice and make comments on the proposed rule.*

Comments may be submitted to: Jay Campbell, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517, fax (919) 246-1056, email jcampbell@ncbop.org

Comment period ends: July 31, 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

SECTION .2200 - CONTINUING EDUCATION

21 NCAC 46 .2201 HOURS: RECORDS: PROVIDERS: CORRESPONDENCE: RECIPROCITY

(a) As a condition of license renewal, ~~each a pharmacist shall accumulate 15 hours of continuing education annually, report on renewal forms the hours of continuing education obtained during the preceding year. Annual accumulation of ten hours is considered satisfactory to meet the quantitative requirement of this Rule.~~

(b) Eight of these continuing education hours shall be obtained through contact programs. Contact programs are those in which there is an opportunity for live two-way communication between the presenter and attendee. An on-line continuing education course may satisfy this contact-hour requirement provided that the live two-way communication standard is met.

(c) A pharmacist who accumulates more than the required 15 hours of continuing education in a single year may carry forward up to five surplus hours to be applied to the following year's continuing education requirements.

(b)(d) All records, reports of accredited hours and certificates of credit shall be kept at the pharmacist's regular place of practice for verification by inspectors during regular or other visits. The Board may require submission of such documentation on a random basis. Pharmacists who do not practice regularly at one location shall produce such records within 24 hours of a request from Board authorized personnel. A pharmacist shall preserve all continuing education records for~~All records of hours and certificates of credit shall be preserved for at least three years.~~

(e) Upon license renewal, the pharmacist shall report continuing education hours on a form approved and provided by the Board. The Board may require a pharmacist to submit records, reports of accredited hours and certificates of credit on a random basis pursuant to a continuing education audit.

(e)(f) All continuing education shall be obtained through accredited continuing education courses from a provider approved by the Board. In order to receive credit, continuing

~~education courses shall have the purpose of increasing. The Board shall approve continuing education courses as accredited if they provide education on matters that will maintain or increase the participant's professional competence and proficiency as a pharmacist. At least five hours of the continuing education credits must be obtained through contact programs in any calendar year. Contact programs are those programs in which there is an opportunity for live two-way communication between the presenter and attendee.~~

(d)(g) Continuing education shall not serve as a barrier to reciprocity; however all licensees by reciprocity must observe the continuing education standards specified in (a), (b), ~~and (e)~~ (c), (d), (e) and (f) of this Rule within the first renewal period after licensure in this state.

Authority G.S. 90-85.6; 90-85.17; 90.85.18.

CHAPTER 57 – REAL ESTATE APPRAISAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Appraisal Board intends to amend the rules cited as 21 NCAC 57A .0102, .0201, .0203-.0204, .0208-.0211, .0301, .0401, .0403, .0405, .0407, .0501; 57B .0101-.0103, .0204, .0209-.0210, .0302, .0304, .0306-.0307, .0401-.0403, .0501-.0503, .0602-.0603, .0606-.0608, .0611-.0612.

Proposed Effective Date: January 1, 2008

Public Hearing:

Date: July 17, 2007

Time: 9:00 a.m.

Location: 5830 Six Forks Road, Raleigh, NC 27609

Reason for Proposed Action:

21 NCAC 57A .0102, .0201, .0203-.0204, .0208-.0211, .0301, .0401, .0403, .0405, .0407, .0501; 57B .0101-.0103, .0204, .0209-.0210, .0302, .0304, .0306-.0307, .0401-.0403, .0602-.0603, .0606-.0608, .0611-.0612 - Many of the rules have fees listed. These fees are likely to change, so the Board will refer to statutory fees. The AQB has greatly increased the minimum education requirements eff. 1-1-08, so courses have been rewritten and renamed. Other changes are made for clarification of existing rules.

21 NCAC 57B .0501-.0503 – There have been separate sections of the rules for private schools, trade organization and colleges. There is no longer a need to have separate rules as they are all now treated the same, except for fees, which are addressed by statute.

Procedure by which a person can object to the agency on a proposed rule: *Send written or email comments to Roberta Ouellette, attend the public hearing on July 17, 2007.*

Comments may be submitted to: *Roberta Ouellette, 5830 Six Forks Road, Raleigh, NC 27609, phone (919)870-4854, fax (919)870-4859, email robert@ncab.org.*

Comment period ends: July 31, 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

**SUBCHAPTER 57A - REGISTRATION LICENSING,
CERTIFICATION AND PRACTICE**

**SECTION .0100 - APPLICATION FOR REAL ESTATE
APPRAISER LICENSE OR CERTIFICATE**

21 NCAC 57A .0102 FILING AND FEES

(a) Each application for registration, licensure or certification must be filed in the proper form and must be accompanied by the required application fee. An additional fee may be charged to defray the cost of any competency examination administered by a private testing service. This additional fee shall be no more than the fee set by the private testing agency. The Board may reject and return to the applicant any application which is incomplete, not in proper form, or not accompanied by the required fee or fees. Application fees accompanying complete applications submitted in proper form are not refundable.

(b) ~~The following fees shall be charged:~~

- (1) ~~application for original trainee registration —~~

~~\$150.00;~~
- (2) ~~application for original residential appraiser license —~~

~~\$150.00;~~
- (3) ~~application for original residential appraiser certificate —~~

~~\$150.00;~~
- (4) ~~application for original general appraiser certificate —~~

~~\$150.00~~

The application fee shall be that prescribed in G.S. 93E-1-7(a).

(c) Payment of application fees shall be made by certified check, bank check or money order payable to the North Carolina Appraisal Board.

Authority G.S. 93E-1-6; 93E-1-10.

**SECTION .0200 – TRAINEE REGISTRATION,
APPRAISER LICENSING AND CERTIFICATION**

**21 NCAC 57A .0201 QUALIFICATIONS FOR
TRAINEE REGISTRATION, APPRAISER LICENSURE
AND CERTIFICATION**

(a) Applicants for trainee registration, licensure as a licensed residential real estate appraiser and certification as a certified real estate appraiser must satisfy the qualification requirements stated in G.S. 93E-1-6 as further set forth in this Section, provided however that registration as a trainee or licensure as a licensed residential real estate appraiser is not prerequisite for certification as a certified residential or general real estate appraiser. All prelicensing or precertification education must have been obtained in a classroom setting. No credit will be given for courses taken by any other method, such as correspondence school courses or computer based courses.

(b) Applicants for trainee registration shall have ~~completed~~ completed, within the five-year period immediately preceding the date application is made, 90 hours of education in the areas of Basic Appraisal Principles, Basic Appraisal Procedures, Residential Market Analysis and Highest and Best Use, Introduction to Real Estate Appraisal, Valuation Principles and Practices, Applied Residential Property Valuation, and the Uniform Standards of Professional Appraisal Practice (USPAP) or appraisal education found by the Board to be equivalent to such courses.

(c) Applicants for licensure as a licensed residential real estate appraiser shall have ~~completed~~ completed, within the five-year period immediately preceding the date application is made, ~~90 hours of education as set forth in Subparagraph (b) of this Rule,~~ 150 hours of education in the areas of Basic Appraisal Principles, Basic Appraisal Procedures, Residential Market Analysis and Highest and Best Use, Residential Appraiser Site Valuation and Cost Approach, Residential Sales Comparison and Income Approaches, Residential Report Writing and Case Studies, and the Uniform Standards of Professional Appraisal Practice (USPAP) or appraisal education found by the Board to be equivalent to such courses. ~~and Applicants for licensure shall have obtained at least 2,000 hours of appraisal experience acquired within the five-year period immediately preceding the date application is made and over a minimum period of 18 calendar months. Applicants must have completed at least 50 appraisals of single-family residential properties where the sales comparison approach was utilized. Applicants must have been actively engaged in real estate appraising for at least 18 months prior to the date application is made.~~

(d) Applicants for certification as a certified residential real estate appraiser shall have ~~completed~~ completed, within the five-year period immediately preceding the date application is made, ~~those courses required for registration as a trainee or licensure as a licensed residential real estate appraiser or equivalent education and a course in Introduction to Income Property Appraisal consisting of at least 30 classroom hours of instruction or equivalent education and the 15-hour National USPAP course.~~ 200 hours of education in the areas of Basic Appraisal Principles, Basic Appraisal Procedures, Residential Market Analysis and Highest and Best Use, Residential Appraiser Site Valuation and Cost Approach, Residential Sales

Comparison and Income Approaches, Residential Report Writing and Case Studies, Statistics, Modeling and Finance, Advanced Residential Applications and Case Studies, an additional 20 hours of appraisal subject matter electives, and the 15 hour Uniform Standards of Professional Appraisal Practice (USPAP) course, or appraisal education found by the Board to be equivalent to such courses. In addition, applicants for certification as a certified residential real estate appraiser must hold an Associate's degree, or higher, from an accredited college, junior college, community college, or university. In lieu of the Associate's degree requirements, applicants shall have successfully completed 21 semester credit hours in the following collegiate subject matter courses from an accredited college, junior college, community college, or university: English composition, principles of economics (macro or micro), finance, algebra, geometry or higher mathematics, statistics, introduction of computers, including word processing and spreadsheets, and business or real estate law. The applicant must also Applicants shall have obtained at least 2,500 hours of appraisal experience acquired within the five-year period immediately preceding the date application is made and over a minimum period of two calendar years and within the five-year period immediately preceding the date application is made. Applicants must have been actively engaged in real estate appraising for at least two calendar years prior to the date application is made. At least 50 percent of this appraisal experience must have been of one to four family residential properties in which the sales comparison approach was utilized in the appraisal process.

(e) Applicants for certification as a certified general real estate appraiser shall have completed 300 hours of education in the areas of Basic Appraisal Principles, Basic Appraisal Procedures, General Appraiser Market Analysis and Highest and Best Use, Statistics, Modeling and Finance, General Appraiser Sales Comparison Approach, General Appraiser Site Valuation and Cost Approach, General Appraiser Income Approach, General Appraiser Report Writing and Case Studies, an additional 30 hours of appraisal subject matter electives ~~those courses required for certification as a certified residential real estate appraiser or equivalent education and the 15 hour Uniform Standards of Professional Appraisal Practice (USPAP) course, and courses in Advanced Income Capitalization Procedures and Applied Income Property Valuation each consisting of at least 30 classroom hours of instruction or equivalent education, and the 15-hour national USPAP course, or appraisal education found by the Board to be equivalent to such courses. In addition, applicants for certification as a certified general estate appraiser must hold a Bachelor's, or higher, from an accredited college, junior college, community college, or university. In lieu of the Associate's degree requirements, applicants shall have successfully completed 30 semester credit hours in the following collegiate subject matter courses from an accredited college, junior college, community college, or university: English composition, micro economics, macro economics, finance, algebra, geometry or higher mathematics, statistics, introduction of computers, including word processing and spreadsheets, business or real estate law, and two elective courses in accounting, geography, business management or real estate, and~~ Applicants shall have obtained at least 3,000 hours of appraisal experience acquired within the five-year period immediately

preceding the date application is made and over a minimum period of two and a half calendar years of which at least 50 percent must have been in appraising non-residential real estate. Applicants must have been actively engaged in real estate appraising for at least two and one-half calendar years prior to the date application is made. At least 50 percent of the non-residential appraisal experience must have been of complex properties or of improved properties in which the income approach was utilized in the appraisal process.

(f) Applicants for licensure or certification who are currently registered trainees must submit a complete copy of their appraisal ~~log log~~. Applicants for certification who are currently licensed or certified appraisers must submit an appraisal log showing that they possess the requisite amount and length of experience as set forth in Paragraphs (d) and (e) of this Rule. ~~and may~~ All applicants shall be required to provide to the Board copies of appraisal reports in support of experience credit. In order for an appraisal to be given experience credit, it must comply with the Uniform Standards of Professional Appraisal Practice (USPAP) and with any applicable state statutes or rules.

(g) When a trainee becomes a licensed or certified real estate appraiser or when a licensed real estate appraiser becomes a certified real estate appraiser, his previous registration or licensure shall be immediately canceled by the Board. When a certified residential real estate appraiser becomes certified as a general real estate appraiser, his previous certification shall be immediately canceled by the Board.

(h) In the event that the Board asks an applicant to submit updated information or provide further information necessary to complete the application and the applicant fails to submit such information within 90 days following the Board's request, the Board shall cancel the applicant's application and the application fee will be retained by the Board. An applicant whose application has been cancelled and who wishes to obtain a registration, license or certificate must start the licensing process over by filing a complete application with the Board and paying all required fees.

(i) An applicant may request that his or her application be withdrawn at any time before final action is taken by the Appraisal Board on the application.

(j) If an application is withdrawn, cancelled or denied, the applicant must wait six months from the date the application is withdrawn, cancelled or denied to file a new application.

(k) If an applicant has a current open complaint before the North Carolina Appraisal Board or an appraiser licensing board from any other state, or if the applicant has pending criminal charges in this or any state, the application will be accepted but no further action will be taken on the application until the complaint or criminal charges are resolved. For the purposes of this Section, criminal charges do not include speeding tickets or traffic infractions.

Authority G.S. 93E-1-6(a); 93E-1-10.

21 NCAC 57A .0203 REGISTRATION, LICENSE AND CERTIFICATE RENEWAL

(a) All registrations, licenses and certificates expire on June 30 of each year unless renewed before that time.

(b) A holder of a trainee registration, an appraiser license or certificate desiring the renewal of such registration, license or certificate shall apply for same in writing upon the form provided by the Board and shall forward the ~~required fee of two hundred dollars (\$200.00)~~ renewal fee as prescribed in G.S. 93E-1-7(a). Forms are available upon request to the Board. The renewal fee is not refundable under any circumstances.

(c) All trainees, licensees and certificate holders, either resident or non-resident, who are required by G.S. 93E-1-7 to complete continuing education as a condition of renewal, must satisfy the continuing education requirements set forth in Rule .0204 of this Section.

(d) An applicant for renewal who initially obtained his license or certificate by reciprocity may keep that license or certificate even if the applicant has moved to a different state, as long as the North Carolina license or certificate is continuously renewed pursuant to this section. Such an applicant for renewal does not have to maintain licensure with the appraiser regulatory authority of the state upon whose qualification requirements the reciprocal license or certificate was granted.

(e) Any person who acts or holds himself out as a registered trainee, licensed or certified real estate appraiser while his trainee registration, appraiser license or certificate is expired shall be subject to disciplinary action and penalties as prescribed in G.S. 93E.

Authority G.S. 93E-1-7(a),(b); 93E-1-10.

21 NCAC 57A .0204 CONTINUING EDUCATION

(a) All registered trainees, real estate appraiser licensees and certificate holders shall, upon the renewal of their registration, license or certificate in every odd-numbered year, present evidence satisfactory to the Board of having obtained continuing education as required by this Section. Trainees and appraisers who initially registered with the Board after January 1 of an odd numbered year are not required to show continuing education credit for renewal of their registration in that odd numbered year.

(b) Each trainee, licensee and certificate holder who must complete continuing education pursuant to .0204(a) must complete 28 hours of continuing education ~~by~~ before June 1 of every odd numbered year. Except as provided in Paragraphs (g) and (h) of this Rule, such education must have been obtained by taking courses approved by the Board for continuing education purposes, at schools approved by the Board to offer such courses. Such education must relate to real estate appraisal and must contribute to the goal of improving the knowledge, skill and competence of trainees, and licensed and certified real estate appraisers. There is no exemption from the continuing education requirement for trainees or appraisers whose registered, licensed or certified status has been upgraded to the level of licensed residential, certified residential or certified general appraiser since the issuance or most recent renewal of their registration, license or certificate, and courses taken to satisfy the requirements of a higher level of certification may not be applied toward the continuing education requirement. Trainees, licensees and certificate holders may not take the same continuing education course more than once during the two year continuing education cycle.

(c) Each appraisal continuing education course must involve a minimum of three and one-half classroom hours of instruction on real estate appraisal or related topics such as the application of appraisal concepts and methodology to the appraisal of various types of property; specialized appraisal techniques; laws, rules or guidelines relating to appraisal; standards of practice and ethics; building construction; financial or investment analysis; land use planning or controls; feasibility analysis; statistics; accounting; or similar topics. The trainee, license or certificate holder must have attended at least 90 percent of the scheduled classroom hours for the course in order to receive credit for the course.

(d) Each trainee, licensee and certificate holder who is required to complete continuing education pursuant to .0204(a) must, as part of the 28 hours of continuing education required in .0204(b) of this section, complete the seven hour National USPAP update course, as required by the Appraiser Qualifications Board of the Appraisal Foundation, or its equivalent, prior to June 1 of every odd numbered year.

(e) A licensee who elects to take approved continuing education courses in excess of the requirement shall not carry over into the subsequent years any continuing education credit.

(f) Course sponsors must provide a prescribed certificate of course completion to each trainee, licensee and certificate holder satisfactorily completing a course. In addition, course sponsors must send directly to the Board a certified roster of all who successfully completed the course. This roster must be sent within 15 days of completion of the course, but not later than June 15 of each year. In order to renew a registration, license or certificate in a timely manner, the Board must receive proper proof of satisfaction of the continuing education requirement prior to processing a registration, license or certificate renewal application. If proper proof of having satisfied the continuing education requirement is not provided, the registration, license or certificate shall expire and the trainee, licensee or certificate holder shall be subject to the provisions of Rules .0203(e) and .0206 of this Section.

(g) A current or former trainee, licensee or certificate holder may request that the Board grant continuing education credit for a course taken by the trainee, licensee or certificate holder that is not approved by the Board, or for appraisal education activity equivalent to a Board-approved course, by making such request and submitting a non-refundable fee ~~of fifty dollars (\$50.00)~~ as prescribed in G.S. 93E-1-8(d) for each course or type of appraisal education activity to be evaluated. Continuing education credit for a non-approved course shall be granted only if the trainee, licensee or certificate holder provides satisfactory proof of course completion and the Board finds that the course satisfies the requirements for approval of appraisal continuing education courses with regard to subject matter, course length, instructor qualifications, and student attendance. Appraisal education activities for which credit may be awarded include, but are not limited to, teaching appraisal courses, authorship of appraisal textbooks, and development of instructional materials on appraisal subjects. Trainees or licensed or certified appraisers who have taught an appraisal course or courses approved by the Board for continuing education credit shall be deemed to have taken an equivalent course and shall not be subject to the ~~fee (\$50.00) fee~~, fee prescribed in G.S. 93E-1-8 (d), provided they

submit verification satisfactory to the Board of having taught the course(s). A trainee, licensee or certificate holder who teaches a Board-approved continuing education course may not receive continuing education credit for the same course more than once every ~~three~~ two years, regardless of how often he teaches the course. Requests for equivalent approval for continuing education credit must be received ~~by~~ before June 15 of an odd-numbered year to be credited towards the continuing education requirement for that odd-numbered year.

(h) A trainee, licensee or certificate holder may receive continuing education credit by taking any of the Board-approved prelicensing or precertification courses or their approved equivalents. These courses cannot be used for both continuing education credit and for credit for licensing purposes. In order to receive continuing education credit for these courses, the examination must be taken. Trainee, licensees and certificate holders who wish to use a prelicensing course for continuing education credit must comply with the provisions of 21 NCAC 57B .0604.

(i) A trainee, licensee or certificate holder who resides in another state and is currently licensed by the appraiser certification board of that state may satisfy the requirements of this section by providing a current letter of good standing from the resident state showing that the licensee has met all continuing education requirements in the resident state. A trainee, licensee or certificate holder who resides in North Carolina must comply with the requirements of this section regardless of how the registration, license or certificate was obtained.

(j) A trainee, licensee or certificate holder who returns from active military duty on or after February 1 of an odd-numbered year will be allowed to renew his or her registration, license or certificate in that odd-numbered year even if the required continuing education is not completed ~~by~~ before June 1 of that year. All required continuing education must be completed within 180 days of when the trainee, licensee or certificate holder returns from active duty. Failure to complete the required continuing education within 180 days will be grounds for revocation.

Authority G.S. 93E-1-7(a); 93E-1-10.

21 NAC 57A .0208 REPLACEMENT REGISTRATION, LICENSE AND CERTIFICATE FEES

A trainee, licensee or certificate holder may, by paying ~~a five dollar (\$5.00) fee~~ the fee prescribed in G.S. 93E-1-7(d) to the Board, obtain a duplicate trainee registration, appraiser license or certificate or pocket card to replace an original registration, license, certificate or pocket card which has been lost, damaged or destroyed or if the name of the trainee, licensee or certificate holder has been lawfully changed. The Board, at its discretion, may require a trainee, licensee or certificate holder requesting a duplicate registration, license or certificate to submit an affidavit stating the reason for the request.

Authority G. S. 93E-1-7(d); 93E-1-10.

21 NCAC 57A .0209 NATIONAL APPRAISER REGISTRY

Licensees and certificate holders who are qualified for enrollment in the national ~~roster or~~ registry of licensed and certified real estate appraisers may apply for enrollment or for the renewal or reinstatement of such enrollment upon a Board form. The application form must be accompanied by ~~a fee of twenty dollars (\$20.00)~~ the fee specified in G.S. 93E-1-11(d) plus any additional fee that may be required by the appropriate federal agency or instrumentality.

Authority G.S. 93E-1-10; 93E-1-11(d).

21 NCAC 57A .0210 TEMPORARY PRACTICE

(a) A real estate appraiser who does not reside in North Carolina and who is licensed or certified by the appraiser licensing or certifying agency in another state may apply to receive temporary appraiser licensing or certification privileges in this State by filing a notarized application with the Board.

(b) Upon filing a completed application accompanied by ~~a fee of one hundred fifty dollars (\$150.00)~~ the fee prescribed in G.S. 93E-1-9(c) and otherwise satisfying the Appraisal Board as to his or her qualifications, eligibility and ~~moral~~ fitness for temporary licensing or certification privileges, an applicant shall be granted a temporary practice permit by the Board authorizing the applicant to perform in this State the appraisal assignment described in such application, provided that the length of time projected by the applicant for completion of the assignment is reasonable given the scope and complexity of the assignment. The fee must be paid by money order, certified check or cashier's check. As part of the examination for ~~moral~~ fitness, the Board may consider whether an applicant's trainee registration or appraiser license or certification is or has been subject to discipline in their resident state or any other state, and may consider all other information outlined in Rule .0202 of this Section.

(c) Privileges granted under the provisions of this Rule shall expire upon the expiration date set forth in the temporary practice permit. However, upon a showing by the permittee satisfactory to the Appraisal Board that, notwithstanding the permittee's diligent attention to the appraisal assignment, additional time is needed to complete the assignment, the Board shall extend the temporary practice privileges granted under the permittee's temporary practice permit to afford him additional time to complete the appraisal assignment. Such request for extension must be received before the original temporary practice permit expires or it will not be granted.

(d) Persons granted temporary practice privileges under this Rule shall not advertise or otherwise hold themselves out as being a North Carolina trainee or licensed or certified appraiser.

(e) A trainee may apply for a temporary practice permit and the provisions of Sections (a), (b), (c) and (d) above shall apply. The supervising appraiser for the trainee must be a North Carolina licensed or certified appraiser. If not, the supervising appraiser must be licensed or certified as a real estate appraiser in another state and must also receive a temporary practice permit for the same assignment as the trainee. The term "trainee" shall include apprentices and others who are licensed and regulated by a state agency to perform real estate appraisals under the supervision of a licensed or certified appraiser.

(f) An applicant for a temporary practice permit shall not begin performing any appraisal work in this State until the temporary practice permit has been issued by the Board. If an applicant does begin work before the permit is issued, the temporary practice permit shall be denied.

Authority G.S. 93E-1-9(c) and (d); 93E-1-10; Title XI, Section 1122(a); 12 U.S.C. 3351(a).

21 NCAC 57A .0211 NONRESIDENT TRAINEE REGISTRATION, APPRAISER LICENSURE AND CERTIFICATION

(a) Applicants for registration, licensure or certification who are not residents of North Carolina must file an application as stated in Rule .0101 of this Subchapter. In addition, nonresident applicants must also consent to service of process in this state and file an affidavit of residency with the application. If the applicant is licensed by the appraiser licensing board of the applicant's resident state, the applicant must also file with the application a letter of good standing from the appraiser licensing board of the resident state, which was issued under seal by that licensing board no later than 30 days prior to the date application is made in this state

(b) Applicants who are licensed ~~by and reside in a state with which the Appraisal Board has entered into an agreement of reciprocity and in another state and who~~ are applying for the same level of licensure as they hold in their ~~resident~~ state of licensure will not have to complete an experience log, take further education or take an examination provided the applicant is in good standing in the ~~reciprocal other~~ state as evidenced by the letter of good standing from the appraiser licensing board of the ~~resident other~~ state.

~~(c) Applicants for registration, licensure or certification who are not residents of a reciprocal state but who are in good standing in their resident state and who are applying for the same level of licensure as they hold in their resident state will not be required to take additional education or show an experience log. They will be required to take the requisite examination for their level of licensure.~~

~~(d)~~ (c) Applicants for registration, licensure or certification who have been residents of another state and who are registered, licensed or certified in that other state but have moved to North Carolina may apply for registration, licensure or certification under this section within 90 days of the date they moved to North Carolina.

Authority G.S. 93E-1-9(a) and (b); 93E-1-10; Title XI, Section 1122(a); 12 U.S.C. 3351(a).

SECTION .0300 - APPRAISER EXAMINATIONS

21 NCAC 57A .0301 TIME AND PLACE

~~(a) Until December 31, 2007, trainees and appraisers who hold a current, valid registration, license or certification issued by the Board and who wish to apply for licensure or for a higher level of certification may apply to take the examination for that license or higher certification level once they have completed all prelicensing or precertification education required as stated in 21 NCAC 57A .0201. Applicants who have completed the~~

education and experience requirements as set forth in 21 NCAC 57A.0201 will be issued an examination approval form. The examination approval form is valid for three attempts at the examination or for one year from date of issuance, whichever comes first.

(b) Examinations for real estate trainee registrations, appraiser licenses and certificates shall be scheduled at such times and places as determined by the Executive Director and the Board-approved private testing service. Applicants for the examination shall be scheduled for examination based on their successful completion of appraiser educational qualification requirements stated in G.S. 93E-1-6 and filing an application with the Board. Violation of examination procedures and instructions shall be grounds for denial, suspension or revocation of a license or certificate.

(c) Examination results are valid for 24 months from the date the examination is successfully completed.

~~(d) Effective January 1, 2008, applicants must have completed both the education and experience requirements as set forth in 21 NCAC 57A.0201 before they will be issued an examination approval form.~~ Examinations successfully completed before January 1, 2008 will remain valid for 24 months from the date passed even if the application for upgrade is received after January 1, 2008.

Authority G.S. 93E-1-6(c); 93E-1-10.

SECTION .0400 – GENERAL APPRAISAL PRACTICE

21 NCAC 57A .0401 USE OF TITLES

(a) A trainee shall utilize either the term "registered trainee" or the term "trainee real estate appraiser" when performing an appraisal of real estate or any interest therein, and when referring to himself as a trainee.

(b) A licensed residential real estate appraiser shall utilize the term "licensed residential real estate appraiser" and a certified residential real estate appraiser shall utilize the term "certified residential real estate appraiser" when performing an appraisal of real estate or any interest therein, and when referring to himself or herself as an appraiser. A certified general real estate appraiser shall utilize ~~either~~ the term "certified general real estate appraiser" ~~or "certified residential/general real estate appraiser"~~ when performing appraisals of all types of real estate or any interest therein, and when referring to himself or herself as an appraiser.

(c) Trainee registration, licensure or certification as a real estate appraiser is granted only to persons and does not extend to a business entity operated by a trainee, licensed or certified real estate appraiser.

Authority G.S. 93E-1-10.

21 NCAC 57A .0403 ADVERTISING

(a) When advertising or otherwise holding himself out as a trainee or real estate appraiser, a trainee shall identify himself or herself either as a "registered trainee" or as a "trainee real estate appraiser," a licensed residential real estate appraiser shall identify himself or herself as a "licensed residential real estate appraiser," a certified residential real estate appraiser shall

identify himself or herself as a "certified residential real estate appraiser," and a certified general real estate appraiser shall identify himself or herself as ~~either~~ a "certified general real estate appraiser" or a ~~"certified residential/general real estate appraiser"~~.

(b) A registered trainee, licensee or certified real estate appraiser doing business as a partnership, association, corporation or other business entity shall not represent in any manner to the public that the partnership, association, corporation or other business entity is registered, licensed or certified by the State of North Carolina to engage in the business of real estate appraising.

(c) In the event that any trainee, licensee or certificate holder shall advertise in any manner using a firm name, corporate name, or an assumed name which does not set forth the surname of the trainee, licensee or certificate holder, he shall first notify the Board in writing of such name and furnish the Board with a copy of each registration of assumed name certificate filed with the office of the county register of deeds in compliance with Section 66-68, North Carolina General Statutes.

Authority G.S. 93E-1-10.

21 NCAC 57A .0405 APPRAISAL REPORTS

(a) Each written appraisal report prepared by or under the supervision of a licensed or certified real estate appraiser shall bear the signature of the licensed or certified appraiser, the license or certificate number of the licensee or certificate holder in whose name the appraisal report is issued, and the designation "licensed residential real estate appraiser," "certified residential real estate appraiser," or "certified general real estate appraiser," ~~or "certified residential/general real estate appraiser,"~~ as applicable. Each such appraisal report shall also indicate whether or not the licensed or certified appraiser has personally inspected the property, and shall identify any other person who assists in the appraisal process other than by providing clerical assistance. Appraisers shall personally affix their signature to their appraisal reports and shall not allow any other person or entity to affix their signature. Trainees are not required to affix their signatures to appraisal reports, but if they do so, they must personally affix their signature and shall not allow any other person or entity to affix their signature.

(b) Every licensed and certified real estate appraiser shall affix or stamp to all appraisal reports a seal which shall set forth the name and license or certificate number of the appraiser in whose name the appraisal report is issued and shall identify the appraiser as a "licensed residential real estate appraiser", a "certified residential real estate appraiser", or as a "certified general real estate appraiser" or ~~"certified residential/general real estate appraiser"~~, as applicable. The seal must be legible, must conform to the seal authorized by the Board at time of initial licensure or certification, and must be a minimum of 1 inch in diameter. Appraisers shall personally affix their seal to their appraisal reports and shall not allow any other person or entity to affix their seal. Registered trainees are prohibited from using a seal on appraisal reports.

(c) A licensed or certified real estate appraiser who signs an appraisal report prepared by another person, in any capacity,

shall be fully responsible for the content and conclusions of the report.

(d) A written appraisal report shall be issued on all real estate appraisals performed in connection with federally related transactions.

(e) Appraisers shall keep a log of all appraisals performed. The log shall contain, at a minimum, the appraiser's license or certificate number, the street address of the subject property, the date the report was signed, the name of anyone assisting in the preparation of the report and the name of the client. These logs shall be updated at least every 30 days.

Authority G.S. 93E-1-10.

21 NCAC 57A .0407 SUPERVISION OF TRAINEES

(a) A licensed or certified real estate appraiser may engage a registered trainee to assist in the performance of real estate appraisals, provided that the licensed or certified real estate appraiser:

- (1) has been licensed or certified for at least two years;
- (2) has no more than one trainee working under his or her supervision at any one time, if the supervisor is a licensed real estate appraiser, or two trainees if the supervisor is a certified real estate appraiser. Prior to the date any trainee begins performing appraisals under his or her supervision, the supervisor must inform the Board of the name of the trainee. The supervisor must also inform the Board when a trainee is no longer working under his or her supervision.
- (3) actively and personally supervises the trainee. The supervisor must accompany the trainee on the inspections of the subject property on the first 50 appraisal assignments for which the trainee will perform more than 75% of the work. After that point, the trainee may perform the inspections without the presence of the supervisor provided that the trainee is competent to perform those inspections, and provided that the subject property is less than 50 miles from the supervisor's primary business location. The supervisor must accompany the trainee on all inspections of subject properties that are located more than 50 miles from the supervisor's primary business location;
- (4) reviews all appraisal reports and supporting data used in connection with appraisals in which the services of a trainee is utilized;
- (5) complies with all provisions of Rule .0405 of this Section regarding appraisal reports;
- (6) prepares and furnishes to each trainee, whose services were utilized in connection with the appraisal, a report describing the nature and extent of assistance rendered by the trainee in connection with the appraisal, and places a copy of such report in the supporting file for

the appraisal within 30 days of the date the appraisal report was signed. In addition, the supervisor must make available to the trainee a copy of every appraisal report where the trainee performs more than 75% of the work on the appraisal; and

- (7) has not received any disciplinary action regarding his or her appraisal license or certificate from the State of North Carolina or any other state within the previous two years. For the purposes of this Section, disciplinary action means an active suspension or a revocation.

(b) The trainee must maintain a log on a form prescribed by the Board that includes, but is not limited to, each appraisal performed by the trainee, the type of property appraised, type of appraisal performed, complete street address of the subject property, the date the report was signed, the points claimed, the name of the supervisor for that appraisal, the supervisor's license or certificate number, and whether the supervisor accompanied the trainee on the inspection of the subject. The log must show all appraisals performed by the trainee and must be updated at least every 30 days.

(c) An appraiser who wishes to supervise a trainee must attend an education program offered by the Appraisal Board regarding the role of a supervisor either before such supervision begins, or within 90 days after such supervision begins. If the supervisor does not take the class within 90 days after the supervision begins, the trainee may no longer work under the supervision of that supervisor until the class is ~~taken~~. taken, and the supervisor must take the course before he can begin supervising a trainee.

(d) Trainees must assure that the supervisor has properly completed and sent the Supervisor Declaration Form to the Appraisal Board on or before the day the trainee begins assisting the supervising appraiser. Trainees shall not receive appraisal experience credit for appraisals performed in violation of this Section.

(e) Supervising appraisers shall not be employed by a trainee or by a company, firm or partnership in which the trainee has a controlling interest.

Authority G.S. 93E-1-3(b); 93E-1-10.

SECTION .0500 - STANDARDS OF APPRAISAL PRACTICE

21 NCAC 57A .0501 APPRAISAL STANDARDS

Every registered trainee, and licensed and certified real estate appraiser shall, in performing the acts and services of a registered trainee, or licensed or certified real estate appraiser, comply with those appraisal practice standards known as the "Uniform Standards of Professional Appraisal Practice" promulgated by the Appraisal Standards Board of the Appraisal Foundation, which standards, including subsequent amendments and editions of those standards which may from time to time be approved, are hereby incorporated by reference. For the purpose of this Rule, the "Uniform Standards of Professional Appraisal Practice" are the Definitions, Preamble, Ethics Rule, Competency Rule, ~~Departure Rule~~, Scope of Work Rule,

Jurisdictional Exception Rule, Supplemental Standards Rule, Statements on Appraisal Standards, and Standards 1, 2, and 3.

Authority G.S. 93E-1-10.

SUBCHAPTER 57B – REAL ESTATE APPRAISAL EDUCATION

SECTION .0100 – COURSES REQUIRED FOR REGISTRATION, LICENSURE AND CERTIFICATION

21 NCAC 57B .0101 REGISTERED TRAINEE, AND LICENSED RESIDENTIAL REAL ESTATE APPRAISER COURSE REQUIREMENTS

(a) Each applicant for registration as a trainee ~~or licensure as a licensed residential real estate appraiser~~ shall complete a minimum of 90 hours of prelicensing education, consisting of the following;

- (1) A minimum of 30 hours in ~~Introduction to Real Estate Appraisal (R-1); Basic Appraisal Principles;~~
- (2) A minimum of 30 hours in ~~Valuation Principles and Procedures (R-2); Basic Appraisal Procedures;~~
- (3) A minimum of 15 hours in ~~Applied Residential Property Valuation (R-3); Residential Market Analysis and Highest and Best Use;~~ and
- (4) A minimum of 15 hours in The Uniform Standards of Professional Appraisal Practice (USPAP).

(b) Each applicant for licensure as a licensed residential real estate appraisers shall complete a minimum of 150 hours of prelicensing education, consisting of the following;

- (1) A minimum of 30 hours in Basic Appraisal Principles;
- (2) A minimum of 30 hours in Basic Appraisal Procedures;
- (3) A minimum of 15 hours in Residential Market Analysis and Highest and Best Use;
- (4) A minimum of 15 hours in Residential Appraiser Site Valuation and Cost Approach;
- (5) A minimum of 30 Hours in Residential Sales Comparison and Income Approaches;
- (6) A minimum of 15 hours in Residential Report Writing and Case Studies; and
- (7) A minimum of 15 hours in The Uniform Standards of Professional Appraisal Practice (USPAP).

~~(b)(c)~~ Credit for these courses must be earned from a Board-approved course sponsor or school and all course content shall be approved by the Appraisal Board in accordance with these rules. These courses must be completed within the five-year period immediately preceding the date when application for registration, licensure or certification is made to the Board.

~~(d) Introduction to Real Estate Appraisal (R-1) Basic Appraisal Principles shall be a prerequisite to taking Valuation Principles and Procedures (R-2); Basic Appraisal Procedures, and Valuation Principles and Procedures (R-2) Basic Appraisal~~

Procedures shall be a prerequisite to taking ~~Applied Residential Property Valuation (R-3).~~ Residential Market Analysis and Highest and Best Use. The 15 hour USPAP course may be taken any time after the successful completion of ~~R-2-Basic Appraisal Procedures.~~

(e) An applicant who is not currently registered by the Board as a trainee must have completed all required courses within the five-year period immediately preceding the date application is made to the Board.

(f) An applicant who is currently registered by the Board as a trainee must have completed all courses required beyond those required for his registration within the five-year period immediately preceding the date application is made to the Board.

Authority G.S. 93E-1-6(a); 93E-1-8(a); 93E-1-10.

21 NCAC 57B .0102 CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER COURSE REQUIREMENTS

~~(a) In addition to the courses specified in Rule .0101 of this Section, an~~ Each applicant for certification as a certified residential real estate appraiser shall complete a minimum of 200 hours of prelicensing education, consisting of the following: an applicant for certification as a certified residential real estate appraiser shall complete a minimum of 30 hours in Introduction to Income Property Appraisal (G-1).

- (1) A minimum of 30 hours in Basic Appraisal Principles;
- (2) A minimum of 30 hours in Basic Appraisal Procedures;
- (3) A minimum of 15 hours in Residential Market Analysis and Highest and Best Use;
- (4) A minimum of 15 hours in Residential Appraiser Site Valuation and Cost Approach;
- (5) A minimum of 30 Hours in Residential Sales Comparison and Income Approaches;
- (6) A minimum of 15 hours in Residential Report Writing and Case Studies; and
- (7) A minimum of 15 hours in The Uniform Standards of Professional Appraisal Practice (USPAP).
- (8) A minimum of 15 hours in Statistics, Modeling and Finance;
- (9) A minimum of 15 hours in Advanced Residential Applications and Case Studies; and
- (10) A minimum of 20 hours of appraisal subject matter electives.

~~This course must be taken after the applicant's successful completion of the prelicensing courses specified in Rule .0101 of this Section.~~ Credit for this course these courses must be earned from a Board-approved course sponsor or school.

(b) An applicant who is not currently registered by the Board as a trainee or who is not currently licensed by the Board as a licensed residential real estate appraiser must have completed all required courses within the five-year period immediately preceding the date application is made to the Board.

(c) An applicant who is currently registered by the Board as a trainee or who is currently licensed by the Board as a licensed residential real estate appraiser must have completed the required course in Introduction to Income Property Appraisal (G-1) all courses required beyond those required for his current registration, licensure or certification within the five-year period immediately preceding the date application is made to the Board.

Authority G.S. 93E-1-6(b); 93E-1-8(a); 93E-1-10.

21 NCAC 57B .0103 CERTIFIED GENERAL REAL ESTATE APPRAISER COURSE REQUIREMENTS

~~(a) In addition to the courses specified in Rules .0101 and .0102 of this Section, an~~ An applicant for certification as a certified general real estate appraiser is required to complete the following precertification courses, each involving a minimum of 30 classroom hours: courses:

- (1) Advanced Income Capitalization (G-2); and
- (2) Applied Income Property Valuation (G-3).
- (1) A minimum of 30 hours in Basic Appraisal Principles;
- (2) A minimum of 30 hours in Basic Appraisal Procedures;
- (3) A minimum of 30 hours in General Appraiser Market Analysis and Highest and Best Use;
- (4) A minimum of 15 hours in Statistics, Modeling and Finance;
- (5) A minimum of 30 hours in General Appraiser Sales Comparison Approach;
- (6) A minimum of 30 hours in General Appraiser Site Valuation and Cost Approach;
- (7) A minimum of 60 hours in General Appraiser Income Approach;
- (8) A minimum of 30 hours in General Appraiser Report Writing and Case Studies;
- (9) A minimum of 30 hours of appraisal subject matter electives; and,
- (4)(10) A minimum of 15 hours in The Uniform Standards of Professional Appraisal Practice (USPAP).

These courses must be commenced and completed after the applicant's successful completion of the courses specified in Rules .0101 and .0102 of this Section. ~~Income Property Appraisal (G-1) shall be a prerequisite for Advanced Income Capitalization (G-2), and Advanced Income Capitalization (G-2), shall be a prerequisite to Applied Income Property Valuation (G-3).~~ Basic Appraisal Principles shall be a prerequisite to taking Basic Appraisal Procedures, and Basic Appraisal Procedures shall be a prerequisite to taking any of the other courses. Credit for all courses must be earned from a Board-approved course sponsor or school, and all courses shall comply with the course content standards prescribed in Rule .0302 of this Subchapter.

(b) An applicant who is currently registered with the Board as a trainee may satisfy the educational requirements to become a general real estate appraiser by completing the following education:

- (1) A minimum of 30 hours in General Appraiser Market Analysis and Highest and Best Use;

- (2) A minimum of 15 hours in Statistics, Modeling and Finance;
- (3) A minimum of 30 hours in General Appraiser Sales Comparison Approach;
- (4) A minimum of 30 hours in General Appraiser Site Valuation and Cost Approach;
- (5) A minimum of 60 hours in General Appraiser Income Approach; and
- (6) A minimum of 30 hours in General Appraiser Report Writing and Case Studies; and
- (7) A minimum of 30 hours of appraisal subject matter electives.

(c) An applicant who is currently licensed with the Board as a licensed residential real estate appraiser may satisfy the educational requirements to become a general real estate appraiser by completing the following education:

- (1) A minimum of 15 hours in General Appraiser Market Analysis and Highest and Best Use;
- (2) A minimum of 15 hours in Statistics, Modeling and Finance;
- (3) A minimum of 15 hours in General Appraiser Sales Comparison Approach;
- (4) A minimum of 15 hours in General Appraiser Site Valuation and Cost Approach;
- (5) A minimum of 45 hours in General Appraiser Income Approach;
- (6) A minimum of 15 hours in General Appraiser Report Writing and Case Studies; and
- (7) A minimum of 30 hours of appraisal subject matter electives.

(d) An applicant who is currently certified with the Board as a certified residential real estate appraiser may satisfy the educational requirements to become a general real estate appraiser by completing the following education:

- (1) A minimum of 15 hours in General Appraiser Market Analysis and Highest and Best Use;
- (2) A minimum of 15 hours in General Appraiser Sales Comparison Approach;
- (3) A minimum of 15 hours in General Appraiser Site Valuation and Cost Approach;
- (4) A minimum of 45 hours in General Appraiser Income Approach; and
- (5) A minimum of 10 hours in General Appraiser Report Writing and Case Studies.

~~(b)(e)~~ An applicant who is not currently registered by the Board as a trainee or who is not currently licensed or certified by the Board as a licensed residential or certified residential real estate appraiser must have completed all the required courses within the five-year period immediately preceding the date application is made to the Board.

~~(e)(f)~~ An applicant who is currently registered by the Board as a trainee or who is not currently licensed or certified by the Board as a licensed residential or certified residential real estate appraiser must have completed all courses required beyond those required for his current registration, licensure or certification within the five-year period immediately preceding the date application is made to the Board.

SECTION .0200 - COURSE SPONSOR STANDARDS FOR PRELICENSING AND PRECERTIFICATION EDUCATION

21 NCAC 57B .0204 FACILITIES AND EQUIPMENT

(a) Classrooms shall be of sufficient size to accommodate comfortably all students enrolled in a course, shall have adequate light, heat, cooling and ventilation and shall be free of distractions which would disrupt class sessions.

(b) Classrooms shall contain a student desk or worktable space for each student that contains sufficient area for each student.

(c) Sponsors are required to comply with all applicable local, state and federal laws and regulations regarding safety, health and sanitation. Sponsors shall furnish the Board with inspection reports from appropriate local building, health and fire inspectors upon the request of the Board.

(d) Sponsors must supply separate restroom facilities for males and females.

(e) Classes may not be held in a personal residence under any circumstances.

Authority G.S. 93E-1-8(a); 93E-1-10.

21 NCA 57B .0209 CERTIFICATION OF COURSE COMPLETION

Approved schools or course sponsors must provide each passing student with a course completion certificate. Certificates of course completion must be on a document bearing the letterhead or insignia of the school or course sponsor and must have the signature or signature ~~stamp, which must be in ink color other than black, stamp~~ of the school or course sponsor director.

Authority G.S. 93E-1-8(a); 93E-1-10.

21 NCAC 57B .0210 COURSE RECORDS

Schools and course sponsors must:

- (1) retain on file for five years copies of all grade and attendance records for each approved course and must make such records available to the Board upon request;
- (2) retain on file for two years a master copy of each final course examination, and such file copy shall indicate the answer key, course title, course dates and name of instructor. Examination file copies shall be made available to the Board upon request;
- (3) within 15 days of course completion, but not later than June 15 of each year, submit to the Board a roster of all students who satisfactorily completed the course along with the course evaluations. Rosters and evaluations must be sent together by mail, not by fax or other electronic means; and
- (4) participate in the Board's course and instructor evaluation program. Schools and course sponsors shall provide each student with a course evaluation form upon completion of the course, and shall tally the results of the

Authority G.S. 93E-1-6(c); 93E-1-8(a); 93E-1-10.

evaluation forms onto one form. Schools and course sponsors shall send the completed course evaluation forms and the tally to the Board ~~together with the roster required by Item (3) of this Rule, within 15 days of course completion.~~

Authority G.S. 93E-1-8(a); 93E-1-10.

SECTION .0300 - COURSE STANDARDS FOR PRELICENSING AND PRECERTIFICATION EDUCATION

21 NCAC 57B .0302 COURSE CONTENT

(a) All courses shall consist of instruction in the subject areas ~~and at the competency and instructional levels prescribed in the course syllabi. Copies of the syllabi are available free of charge upon request to the Board, outlined in the Appraiser Qualification Board's Guide Note 1.~~

(b) Courses may also include coverage of additional related subject ~~areas not prescribed by the Board;~~ areas; however, any such course must provide additional class time above the minimum ~~requirement of 30 classroom hours for R-1, R-2, G-1, G-2 and G-3 required classroom hours specified in 57B .0101, .0102, and .0103, and the minimum requirement of 15 hours for R-3 and USPAP for the coverage of such additional subject areas.~~

Authority G.S. 93E-1-6; 93E-1-8(a); 93E-1-10.

21 NCAC 57B .0304 COURSE SCHEDULING

(a) All courses must have fixed beginning and ending dates, and schools and course sponsors may not utilize a scheduling system that allows students to enroll late for a course and then complete their course work in a subsequently scheduled course. Late enrollment is permitted only if the enrolling student can satisfy the minimum attendance requirement set forth in Paragraphs (c) and (d) of Rule .0303 of this Section.

(b) Courses may be scheduled in a manner that provides for class meetings of up to eight classroom hours in any given day; however credit for courses shall be limited to 30 classroom hours per seven-day period.

(c) A classroom hour consists of 50 minutes of classroom instruction and ten minutes of break time. For any class meeting that exceeds 50 minutes in duration, breaks at the rate of 10 minutes per hour must be scheduled and taken at reasonable times.

(d) Instruction must be given for ~~a minimum of 30 classroom hours for R-1, R-2, G-1, G-2 and G-3, and a minimum of 15 hours for R-3 and USPAP; the minimum hours specified in 57B .0101, .0102, and .0103. Instructors shall not accumulate unused break time to end the class early. The time for the final examination shall not be included in the credit hours.~~

(e) All courses must have a minimum number of five students enrolled in order for the course to be held.

Authority G.S. 93E-1-8(a); 93E-1-10.

21 NCAC 57B .0306 INSTRUCTOR REQUIREMENTS

(a) Except as indicated in Paragraph (b) of this Rule, all appraisal prelicensing and precertification courses or courses deemed equivalent by the Board shall be taught by instructors who possess the fitness for licensure required of applicants for trainee registration or real estate appraiser licensure or certification and either the minimum appraisal education and experience qualifications listed in this Rule or other qualifications that are found by the Board to be equivalent to those listed. These qualification requirements shall be met on a continuing basis. The minimum qualifications are as follows:

- (1) Residential appraiser courses: ~~420~~ 200 classroom hours of real estate appraisal education equivalent to the residential appraiser education courses prescribed in Rules .0101 and .0102 of this Subchapter and two years' full-time experience as a certified residential or general real estate appraiser within the previous five years. At least one-half of such experience must be in residential property appraising. Instructors must have been certified as a residential or general real estate appraiser for at least five years.
- (2) General appraiser courses: ~~480~~ 300 classroom hours of real estate appraisal education equivalent to the general appraiser education courses prescribed in Rules .0101, .0102 and .0103 of this Subchapter and three years' full-time experience as a general real estate appraiser within the previous five years. At least one-half of such experience must be in income property appraising. Instructors must also be a certified general real estate appraiser and have been so certified for at least five years.
- (3) USPAP: certification by the Appraiser Qualifications Board of the Appraisal Foundation as an instructor for the National USPAP Course.
- (4) Statistics, modeling and finance: must have previously completed this class, or must have completed three semester hours of statistics in an accredited college or university.

(b) Guest lecturers who do not possess the qualifications stated in Paragraph (a) of this Rule may be utilized to teach collectively up to one-fourth of any course, provided that each guest lecturer possesses education and experience directly related to the particular subject area the lecturer is teaching.

(c) Instructors shall conduct themselves in a professional manner when performing their instructional duties and shall conduct their classes in a manner that demonstrates knowledge of the subject matter being taught and mastery of the following basic teaching skills:

- (1) The ability to communicate effectively through speech, including the ability to speak clearly at an appropriate rate of speed and with appropriate grammar and vocabulary;
- (2) The ability to present instruction in a thorough, accurate, logical, orderly, and understandable manner, to utilize illustrative examples as

appropriate, and to respond appropriately to questions from students;

- (3) The ability to effectively utilize varied instructive techniques other than straight lecture, such as class discussion or other techniques;
- (4) The ability to effectively utilize instructional aids to enhance learning;
- (5) The ability to maintain an effective learning environment and control of a class; and
- (6) The ability to interact with adult students in a manner that encourages students to learn, that demonstrates an understanding of students' backgrounds, that avoids offending the sensibilities of students, and that avoids personal criticism of any other person, agency or organization.

(d) Upon request of the Board, an instructor or proposed instructor must submit to the Board a videotape or DVD in a manner and format which depicts the instructor teaching portions of a prelicensing course specified by the Board and which demonstrates that the instructor possesses the basic teaching skills described in Paragraph (c) of this Rule.

(e) The inquiry into fitness shall include consideration of whether the instructor has ever had any disciplinary action taken on his or her appraisal license or certificate or any other professional license or certificate in North Carolina or any other state, or whether the instructor has ever been convicted of or pleaded guilty to any criminal act. This inquiry may include consideration of whether disciplinary action or criminal charges are pending.

(f) Instructors shall not have received any disciplinary action regarding his or her appraisal license or certificate or any other professional license from the State of North Carolina or any other state within the previous two ~~years~~ years, and shall not have been convicted of or pleaded guilty to any criminal act. For the purposes of this Section, disciplinary action means a reprimand, suspension (whether active or inactive) or a voluntary surrender or a revocation.

(g) Proposed prelicensing or precertification instructors who do not meet the minimum appraisal education and experience qualifications listed in Paragraph (a) of this Rule, and who seek to have their qualifications determined by the Board to be equivalent to the qualifications listed in Paragraph (a) of this Rule, must supply the Board with copies of sample appraisal reports or other evidence of experience.

(h) Persons desiring to become instructors for prelicensing and precertification courses must file an application for approval with the Board. ~~Board approval of instructors expires on the next December 31 following the date of issuance. Instructors who wish to renew their approval must file an application for renewal of approval annually on or before December 1.~~ There is no fee for application for ~~or renewal of~~ instructor approval. Once an instructor has been approved to teach a specific prelicensing or precertification course, that person may teach the course at any school or for any course sponsor approved by the Appraisal Board to offer prelicensing and precertification courses. An approved instructor must report to the Board within 15 business days if any disciplinary action has been taken on his or her

appraisal license or any other professional license in North Carolina or any other state, or whether the instructor has been convicted of or pleaded guilty to any criminal act.

Authority G.S. 93E-1-8(a); 93E-1-10.

21 NCAC 57B .0307 CRITERIA FOR COURSE RECOGNITION

~~(a) Entities other than approved schools and course sponsors seeking recognition of their appraiser prelicensing or precertification courses as equivalent to the North Carolina appraisal prelicensing or precertification courses required by G.S. 93E-1-6 and specified in Rules .0101, .0102, and .0103 of this Subchapter must make written application to the Board. Schools and course sponsors seeking to offer appraiser prelicensing or precertification courses must make written application to the Board and pay applicable fees as required by G.S. 93E-1-8(b). In addition, schools and course sponsors shall obtain approval for the content of their prelicensing and precertification courses from the Appraiser Qualifications Board of the Appraisal Foundation as part of the application process with the Appraisal Board, and shall pay any fees directly to the Appraiser Qualifications Board as required by it for such approval.~~

(b) Appraisal subject matter electives offered for prelicensing or precertification credit do not have to be approved by the Appraiser Qualifications Board, but must meet all other requirements of this Chapter. The content of these electives must be directly related to the appraisal of real property to be approved for prelicensing or precertification credit.

~~(b) Courses must be conducted in accordance with the minimum course standards prescribed in this Section, provided that the following exceptions to those standards shall apply:~~

~~(1) Courses may be structured differently from those course content requirements prescribed in the Board's course syllabi; however, appropriate prerequisites for advanced courses must be established and each course for which Board recognition is sought must consist of a minimum of 15 classroom hours and require the passing of a comprehensive examination.~~

~~(2) Various combinations of courses may be recognized as equivalent to single North Carolina appraisal prelicensing and precertification courses; however, equivalent credit will only be granted in increments of 30 classroom hours.~~

(c) Various combinations of courses may be recognized as equivalent to the appraiser prelicensing and precertification courses specified in 57B .0101, .0102 and .0103.

~~(e)(d)~~ The 15 hour USPAP course must be the 15-hour National USPAP Course approved by the Appraiser Qualifications Board of the Appraisal Foundation, or its equivalent.

~~(d)(e)~~ The finding of equivalency is entirely within the discretion of the Board. The application must state the name of the instructor for the course. All instructors must be approved by the Board pursuant to 57B .0306(h).

Authority G.S. 93E-1-8(a); 93E-1-10.

**SECTION .0400 - COURSE SPONSOR FEES FOR
PRELICENSING AND PRECERTIFICATION
EDUCATION**

21 NCAC 57B .0401 APPLICABILITY

This Section applies to private real estate appraisal schools offering prelicensing and precertification courses, appraisal trade organizations and to all other course sponsors other than ~~private real estate appraisal schools~~, North Carolina colleges, universities, junior colleges, community or technical colleges accredited by the Southern Association of Colleges and Schools, and agencies of the federal, State or local government.

Authority G.S. 93E-1-8(a),(b); 93E-1-10.

**21 NCAC 57B .0402 ORIGINAL COURSE
APPROVAL FEE**

The original application fee shall be ~~three hundred (\$300.00) for each course which the Board is being requested to evaluate and recognize; that specified in G.S. 93E-1-8(b).~~ The fee shall be paid by certified check, bank check or money order payable to the North Carolina Appraisal Board and is non-refundable. Schools and course sponsors ~~A course sponsor~~ may offer approved courses as frequently as is desired during the period for which approval is granted without paying additional course fees.

Authority G.S. 93E-1-8(b); 93E-1-10.

**21 NCAC 57B .0403 FEE FOR RENEWAL OF
COURSE APPROVAL**

(a) Board approval of courses expires on the next December 31 following the date of issuance. In order to assure continuous approval of courses, applications for renewal of Board approval, accompanied by the ~~prescribed renewal fee; fee specified in G.S. 93E-1-8(b),~~ must be filed with the Board annually on or before December 1. Applications which are incomplete, as well as all applications for renewal of course approval submitted after December 1, shall be treated as original course approval applications.

(b) ~~The annual fee for renewal of Board approval shall be fifty (\$50.00) for each course for which renewal of Board approval is requested.~~ The fee is non-refundable.

Authority G.S. 93E-1-8(a),(b); 93E-1-10.

**SECTION .0500 - PRIVATE REAL ESTATE APPRAISAL
SCHOOL FEES FOR PRELICENSING AND
PRECERTIFICATION EDUCATION**

21 NCAC 57B .0501 APPLICABILITY

~~This Section applies to all private real estate appraisal schools offering prelicensing and precertification courses.~~

Authority G.S. 93E-1-8(a),(b); 93E-1-10.

**21 NCAC 57B .0502 ORIGINAL COURSE
APPROVAL FEE**

~~The original application fee shall be forty dollars (\$40.00) for each real estate appraisal prelicensing or precertification course for which the applicant requests approval. The fee shall be paid by certified check, bank check or money order payable to the North Carolina Appraisal Board and is non-refundable. The school may offer approved courses as frequently as is desired during the course approval period without paying additional course fees.~~

Authority G.S. 93E-1-8(a),(b); 93E-1-10.

**21 NCAC 57B .0503 FEE FOR RENEWAL OF
COURSE APPROVAL**

~~(a) Approval of private school courses expires on the next December 31 following the date of issuance. In order to assure continuous approval, applications for renewal of course approval, accompanied by the prescribed renewal fee, must be filed with the Board annually on or before December 1. Applications which are incomplete, as well as all applications for renewal of course approval submitted after December 1, shall be treated as original course approval applications.~~

~~(b) The course renewal fee shall be twenty dollars (\$20.00) for each previously approved appraisal prelicensing or precertification course for which the applicant requests continuing approval. The fee is non-refundable.~~

Authority G.S. 93E-1-8(a),(b); 93E-1-10.

SECTION .0600 - CONTINUING EDUCATION COURSES

21 NCAC 57B .0602 APPLICATION AND FEE

(a) Course sponsors seeking approval of their courses as appraisal continuing education courses must make written application to the Board. A course sponsor must be the owner of the proprietary rights to the course for which approval is sought or must have the permission of the course owner to seek course approval. If the course for which approval is sought is one that may be offered outside North Carolina, and the course owner wants the Board to approve such course when it is conducted outside North Carolina, application must be made by the course owner. After receipt of a properly completed application, the Board will review the application pursuant to the criteria set forth in 21 NCAC 57B.0603 and shall notify the sponsor of its decision. Decisions to approve or withhold approval lie within the sole discretion of the Board.

(b) The original application fee shall ~~be one hundred dollars (\$100.00) as prescribed in G.S. 93E-1-8(d)~~ for each course for which approval is sought, provided that no fee is required if the course sponsor is an accredited North Carolina college, university, junior college, or community or technical college, or if the course sponsor is an agency of the federal, state or local government. The fee is non-refundable. A course sponsor may offer approved courses as frequently as is desired during the period for which approval is granted without paying additional fees.

(c) Each application must be accompanied by copies of all course materials, including handbooks, slides, overheads, and other non-published materials. The application must also include the title, author, publisher and edition for each published

textbook. Each application must also have a timed outline for the course.

(d) The application must state the name of the instructor for the course.

Authority G.S. 93E-1-8(c),(d).

21 NCAC 57B .0603 CRITERIA FOR COURSE APPROVAL

The following requirements must be satisfied in order for course sponsors to obtain approval of a course for appraiser continuing education credit:

- (1) The subject matter of the course must comply with the requirements of Rule .0204 of Subchapter 57A and the information to be provided in the course must be both accurate and current.
- (2) The course must involve a minimum of three and one-half classroom hours of instruction on acceptable subject matter. A classroom hour consists of 50 minutes of classroom instruction and 10 minutes of break time. Instruction must be given for the full number of hours for which credit is given. Instructors may not accumulate unused break time to end the class early.
- (3) The course instructor(s) must:
 - (a) possess the fitness for licensure required of applicants for trainee registration, real estate appraiser licensure or certification; and
 - (b) either:
 - (i) two years' full-time experience that is directly related to the subject matter to be taught;
 - (ii) a baccalaureate or higher degree in a field that is directly related to the subject matter to be taught;
 - (iii) two years' full-time experience teaching the subject matter to be ~~taught~~; ~~or taught~~;
 - (iv) an equivalent combination of such education and ~~experience~~; experience; or
 - (v) be approved by the Board pursuant to 57B. 0606(11).
- (4) If two or more instructors shall be utilized to teach a course during the approval period and the course shall be taught in states other than North Carolina, it is sufficient for the course sponsor to show that it has minimum instructor requirements comparable to these requirements. The inquiry into fitness shall include consideration of whether the instructor has had any disciplinary action taken on his or her appraisal license or any other professional

license in North Carolina or any other state, or whether the instructor has been convicted of or pleaded guilty to any criminal act.

- (5) The course must be one involving a qualified instructor who, except as noted in Item (6) of this Rule, shall be physically present in the classroom at all times and who shall personally provide the instruction for the course. The course instructor may utilize videotape instruction, remote television instruction or similar types of instruction by other persons to enhance or supplement his personal instruction; however, such other persons shall not be considered to be the course instructor and the course instructor must be physically present when such indirect instruction by other persons is being utilized. No portion of the course may consist of correspondence instruction. The instructor must comply with Rule .0306(c) of this Subchapter. Instructors for the National USPAP courses must be certified by the Appraiser Qualifications Board of the Appraisal Foundation.

- (6) A trainee or appraiser may receive up to 14 hours of credit every two years in the period ending on June 1 of each odd numbered year for participation in a course on a computer disk or on-line via the Internet. A sponsor seeking approval of a computer-based education course must submit a complete copy of the course on the medium that is to be utilized and must make available at the sponsor's expense all hardware and software necessary for the Board to review the submitted course. In the case of an internet-based course, the Board must be provided access to the course via the internet at a date and time satisfactory to the Board and shall not be charged any fee for such access. To be approved for credit, a computer-based continuing education course must meet all of the conditions imposed by the Rules in this Subchapter in advance, except where otherwise noted. The course must be interactive, permitting the participant to communicate, via telephone, electronic mail, or a website bulletin board, with the presenter and other participants. The sponsor of an on-line course must have a reliable method for recording and verifying attendance. The sponsor of a course on a computer disk must demonstrate that there is a reliable method for the user or the sponsor to record and verify participation in the course. A participant may periodically log on and off of a computer-based continuing education course provided the total time spent participating in the course is equal to or exceeds the credit hours assigned

- to the program. The course design and delivery mechanism for an on-line course offered on the Internet must have received approval from the International Distance Education Certification Center (IDECC). A course completion certificate must be forwarded to the student as stated in Rule .0607 of this Section, and a course roster must be sent to the Appraisal Board in accordance with Rule .0608 of this Section.
- (7) The course must be an educational program intended to improve the knowledge, skill and competence of trainees, and licensed and certified real estate appraisers. Activities not eligible for approval as a continuing education course include in-house training programs of a firm, organization or agency, trade conferences or similar activities.
 - (8) The course sponsor must certify that the course shall be conducted in accordance with the operational requirements stated in Rule .0606 of this Section and that the course sponsor will comply with all other applicable rules contained in this Section.
 - (9) The course title may not include the words "Uniform Standards of Professional Appraisal Practice" or "USPAP" unless the course is either the 15 hour National USPAP course or the 7 hour National USPAP update course. If the course is the 7 hour National USPAP course, the course title must state which edition of USPAP will be taught in that specific course.
 - (10) Each course must utilize a textbook or course materials that have been approved by the Board.
 - (11) If the course content is related to technology, such as software, hardware, electronic devices, manuals, or databases, the course shall be developed specifically for utilization in the real estate appraisal business in order to be approved for continuing education credit. Such courses shall not require the student to purchase specific products, and shall not use the course to sell or advertise particular products, software or textbooks.
- (2) Course sponsors must not utilize advertising of any type that is false or misleading in any respect. If the number of continuing education credit hours awarded by the Board for a course is less than the number of scheduled classroom hours for the course, any course advertisement or promotional materials which indicate that the course is approved for appraiser continuing education credit in North Carolina must specify the number of continuing education credit hours awarded by the Board for the course.
 - (3) Course sponsors must, upon request, provide any prospective student a description of the course content sufficient to give the prospective student a general understanding of the instruction to be provided in the course.
 - (4) Courses must be conducted in a facility that provides an appropriate learning environment. At a minimum, the classroom must be of sufficient size to accommodate comfortably all enrolled students, must contain a student desk or sufficient worktable space for each student, must have adequate light, heat, cooling and ventilation, and must be free of distractions that would disrupt class sessions. Sponsors are required to comply with all applicable local, state and federal laws and regulations regarding safety, health and sanitation. Sponsors shall furnish the Board with inspection reports from appropriate local building, health and fire inspectors upon the request of the Board. Sponsors must supply separate restroom facilities for males and females. Classes may not be held in a personal residence under any circumstances.
 - (5) The course sponsor must require students to attend at least 90 percent of the scheduled classroom hours in order to satisfactorily complete the course, even if the number of continuing education credit hours awarded by the Board for the course is less than the number of scheduled classroom hours. Attendance must be monitored during all class sessions to assure compliance with the attendance requirement. Instruction must be given for the number of hours for which credit is given. Instructors may not accumulate unused break time to end the class early.
 - (6) Instructors must require reasonable student attentiveness during class sessions. Students must not be permitted to engage in activities

Authority G.S. 93E-1-8(c); 93E-1-10.

21 NCAC 57B .0606 COURSE OPERATIONAL REQUIREMENTS

Course sponsors must at all times assure compliance with the criteria for course approval stated in Rule .0603 of this Section and must also comply with the following requirements relating to scheduling, advertising and conducting approved appraisal continuing education courses:

- (1) Courses must be scheduled and conducted in a manner that limits class sessions to a maximum of eight classroom hours in any
- (6) Instructors must require reasonable student attentiveness during class sessions. Students must not be permitted to engage in activities

- that are not related to the instruction being provided.
- (7) Course sponsors for which an application fee is required by Rules .0602(b) and .0611(b) of this Section must fairly administer course cancellation and fee refund policies. In the event a scheduled course is canceled, reasonable efforts must be made to notify preregistered students of the cancellation and all prepaid fees received from such preregistered students must be refunded within 30 days of the date of cancellation or, with the student's permission, applied toward the fees for another course.
 - (8) Upon request of the Board, the course sponsor must submit to the Board a videotape in a manner and format which depicts the instructor teaching portions of any continuing education course specified by the Board and which demonstrates that the instructor possesses the basic teaching skills described in Rule .0306(c) of this Section.
 - (9) Course sponsors shall provide the Board with the dates and locations of all classes the sponsor is or will be offering in the State of North Carolina at least 30 calendar days before such class is offered, unless circumstances beyond the control of the course sponsor require that the course be rescheduled. If the dates or location of the classes change after such information is provided to the Board, the course sponsor must notify the Board of such changes.
 - (10) Course sponsors must participate in the Board's course and instructor evaluation program. Course sponsors must require that students complete a course evaluation form upon completion of the course, and shall tally the results of the evaluations onto one form. Course sponsors must also send the completed course evaluation forms and the tally to the Board together with the roster required pursuant to 21 NCAC 57B .0608.
 - (11) Persons desiring to become instructors for continuing education courses must file an application for approval with the Board. ~~Board approval of instructors expires on the next December 31 following the date of issuance. Instructors who wish to renew their approval must file an application for renewal of approval annually on or before December 1.~~ There is no fee for application for ~~or renewal of~~ instructor approval. Once an instructor has been approved to teach a specific course, that person may teach the course for any course sponsor approved by the Appraisal Board to offer continuing education courses. An approved instructor must report to the Board within 15 business days if any disciplinary

action has been taken on his or her appraisal license or any other professional license in North Carolina or any other state, or whether the instructor has been convicted of or pleaded guilty to any criminal act.

- (12) All courses, except those taught on computer disk or on-line via the Internet, must have a minimum number of five students enrolled in the course.

Authority G.S. 93E-1-8(c); 93E-1-10.

21 NCAC 57B .0607 CERTIFICATION OF COURSE COMPLETION

Course sponsors must issue a certificate of course completion within 15 days of completion of the course to all students who satisfactorily complete an approved course. If the course sponsor is located in North Carolina, the certificate, which the student must retain for a period of 5 years, must bear the signature or signature stamp ~~which must be in a color of ink other than black~~ of a person designated by the course sponsor to sign such certificate. North Carolina-based course sponsor must notify the Board in advance of the person(s) designated to sign certificates of course completion for courses conducted in North Carolina. If the course sponsor is not located in North Carolina, the certificate of course completion must show the name of the course sponsor, the name of the course, the number of classroom hours, the course dates, the state or city where the course was conducted, and the full name of the student.

Authority G.S. 93E-1-8(c); 93E-1-10.

21 NCAC 57B .0608 SPONSOR REPORTING OF CONTINUING EDUCATION CREDIT

Course sponsors must, within 15 days of course completion but no later than June ~~30~~ 15 of each year, submit to the Board a roster of all North Carolina registered trainees, licensed and certified appraisers who satisfactorily completed the course. The roster must be sent by regular mail together with the course evaluation forms required by 21 NCAC 57B .0606(10). Rosters sent by fax or other electronic means shall not be accepted. Rosters from on-line courses only may be sent by fax or by other electronic means.

Authority G.S. 93E-1-8(c); 93E-1-1;

21 NCAC 57B .0611 RENEWAL OF APPROVAL AND FEES

(a) Board approval of appraisal continuing education courses expires on the next December 31 following the date of issuance. In order to assure continuous approval, applications for renewal of Board approval, accompanied by the prescribed renewal fee, must be filed with the Board annually on or before December 1. All applications for renewal of course approval received on or before December 1, which are incomplete as of that date, as well as all applications for renewal of course approval submitted after December 1, shall be treated as original applications for approval of continuing education courses.

(b) The annual fee for renewal of Board approval shall be ~~five dollars (\$50.00)~~ that specified in G.S. 93E-1-8(d) for each course for which renewal of approval is requested, provided that no fee is required for course sponsors that are exempted from original application fees by Rule .0602(b) of this Section. The fee is non-refundable.

Authority G.S. 93E-1-8(c),(d); 93E-1-10.

21 NCAC 57B .0612 WITHDRAWAL OR DENIAL OF APPROVAL

The Board may deny or withdraw approval of any course upon finding that:

- (1) the course sponsor has made any false statements or presented any false information in connection with an application for course approval or renewal of course approval;
- (2) the course sponsor has refused or failed to comply with any of the provisions of this Section;

- (3) the course sponsor has engaged in a pattern of consistently canceling scheduled courses;
- (4) the school or course sponsor has offered or held a continuing education course stating that the students will receive continuing education credit from the North Carolina Appraisal Board when it is not approved to do so;
- (5) the instruction provided in a course is of unsatisfactory quality; or
- (6) the instructor failed to demonstrate effective teaching skills.
- (7) the instructor has had any disciplinary action has been taken on his or her appraisal license or any other professional license in North Carolina or any other state, or has been convicted of or pleaded guilty to any criminal act.

Authority G.S. 93E-1-8(c); 93E-1-10.

APPROVED RULES

*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

Rules approved by the Rules Review Commission at its meeting on April 19, 2007.

**REGISTER CITATION TO THE
NOTICE OF TEXT****ADMINISTRATION, DEPARTMENT OF**

Purpose and Organization	01	NCAC	41D	.0101*	21:12 NCR
Definitions	01	NCAC	41D	.0102*	21:12 NCR
Banking	01	NCAC	41D	.0201*	21:12 NCR
Selling	01	NCAC	41D	.0202*	21:12 NCR
Proceeds and Distribution	01	NCAC	41D	.0301*	21:12 NCR
Fund Disbursements	01	NCAC	41D	.0302*	21:12 NCR
Reports	01	NCAC	41D	.0401*	21:12 NCR

HHS - DEAF AND HARD OF HEARING, DIVISION OF SERVICES FOR THE

Petitions	10A	NCAC	17A	.0101	21:10 NCR
Notice	10A	NCAC	17A	.0102	21:10 NCR
Hearings Officer	10A	NCAC	17A	.0103	21:10 NCR
Hearings	10A	NCAC	17A	.0104	21:10 NCR
Statement of Reasons for and Against Rulemaking Decisions	10A	NCAC	17A	.0105	21:10 NCR
Record of Rulemaking Proceedings	10A	NCAC	17A	.0106	21:10 NCR
Fees	10A	NCAC	17A	.0107	21:10 NCR
Declaratory Rulings	10A	NCAC	17A	.0108	21:10 NCR
Contested Cases	10A	NCAC	17A	.0109	21:10 NCR
Relationship to the Department of Health and Human Services	10A	NCAC	17B	.0101	21:10 NCR
Function and Responsibilities	10A	NCAC	17B	.0201	21:10 NCR
Maintenance of Classified Records	10A	NCAC	17C	.0101*	21:10 NCR
Reciprocity	10A	NCAC	17C	.0102	21:10 NCR
Applicability	10A	NCAC	17C	.0103	21:10 NCR
Definitions	10A	NCAC	17C	.0104	21:10 NCR
Eligibility	10A	NCAC	17C	.0105	21:10 NCR
Application	10A	NCAC	17C	.0106	21:10 NCR
Classification Team and Evaluators	10A	NCAC	17C	.0107	21:10 NCR
Classification	10A	NCAC	17C	.0108*	21:10 NCR
Review and Appeal of Classifications Decisions	10A	NCAC	17C	.0109	21:10 NCR
Change of Name or Address of Classification Holders	10A	NCAC	17C	.0110	21:10 NCR
Eligibility	10A	NCAC	17C	.0201	21:10 NCR
Contracted Interpreter Services	10A	NCAC	17C	.0202*	21:10 NCR
Licensure of Interpreters	10A	NCAC	17C	.0203*	21:10 NCR

APPROVED RULES

Eligibility	10A	NCAC	17D	.0101	21:10 NCR
Contracted Interpreter Services	10A	NCAC	17D	.0102	21:10 NCR
Certification of Interpreters	10A	NCAC	17D	.0103	21:10 NCR
Interpreter Services: Judicial: Leg. and Admin. Proc.	10A	NCAC	17D	.0104	21:10 NCR
Interpreter Application: Judicial: Leg. and Admin. Proc.	10A	NCAC	17D	.0105	21:10 NCR
Definitions	10A	NCAC	17D	.0202*	21:10 NCR
Division Responsibilities	10A	NCAC	17D	.0203	21:10 NCR
Information Concerning the Program	10A	NCAC	17D	.0204	21:10 NCR
Application Information and Procedures	10A	NCAC	17D	.0205*	21:10 NCR
Eligibility	10A	NCAC	17D	.0206*	21:10 NCR
Certification of Impairment	10A	NCAC	17D	.0207	21:10 NCR
Requirements	10A	NCAC	17D	.0208	21:10 NCR
Residency Requirements	10A	NCAC	17D	.0209	21:10 NCR
Financial Eligibility	10A	NCAC	17D	.0210*	21:10 NCR
Eligibility for Reapplication	10A	NCAC	17D	.0211*	21:10 NCR
Provision of Equipment Sets	10A	NCAC	17D	.0212	21:10 NCR
Ownership: Lease: Liabilities	10A	NCAC	17D	.0213*	21:10 NCR
Telephone Bills: Maintenance: Reporting Loss, Damage, or Theft	10A	NCAC	17D	.0214	21:10 NCR
Relocation or Death of Recipients	10A	NCAC	17D	.0215	21:10 NCR
Maintenance of Equipment Records	10A	NCAC	17D	.0219*	21:10 NCR
Rights/Consumer Appeals	10A	NCAC	17D	.0220*	21:10 NCR
Purpose	10A	NCAC	17D	.0301	21:10 NCR
Eligibility Requirements	10A	NCAC	17D	.0302*	21:10 NCR
Loan Period, Lease, and Liabilities	10A	NCAC	17D	.0303*	21:10 NCR
Maintenance: Reporting Loss, Damage, or Theft	10A	NCAC	17D	.0304	21:10 NCR

MENTAL HEALTH, COMMISSION OF

Scope	10A	NCAC	27G	.1501	21:07 NCR
Staff	10A	NCAC	27G	.1502	21:07 NCR
Operations	10A	NCAC	27G	.1503	21:07 NCR
Physical Plant	10A	NCAC	27G	.1504	21:07 NCR
Firearms	10A	NCAC	28I	.0401	21:01 NCR

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Firearms	10A	NCAC	28I	.0402	21:07 NCR
Application for Initial Permit	10A	NCAC	41B	.0301*	n/a G.S. 150B-21.5(a)(2),(4),(6)
Conditions for Renewal of Permit	10A	NCAC	41B	.0304*	n/a G.S. 150B-21.5(a)(2),(4),(6)
Qualifications of Maintenance Personnel	10A	NCAC	41B	.0309*	n/a G.S. 150B-21.5(a)(2),(4),(6)
Breath-Testing Instruments: Reporting of Sequential Tests	10A	NCAC	41B	.0313*	n/a G.S. 150B-21.5(a)(2),(4),(6)

LABOR, DEPARTMENT OF

APPROVED RULES

Complaints	13	NCAC	12	.0601*	21:11 NCR
------------	----	------	----	--------	-----------

ENVIRONMENTAL MANAGEMENT COMMISSION

Location of Sampling Sites and Mixing Zones	15A	NCAC	02B	.0204*	21:01 NCR
Standards for Toxic Substances and Temperature	15A	NCAC	02B	.0208*	21:01 NCR
Fresh Surface Water Quality Standards for Class C Waters	15A	NCAC	02B	.0211*	21:01 NCR
Fresh Surface Water Quality Standards for Class WS-I Waters	15A	NCAC	02B	.0212*	21:01 NCR
Fresh Surface Water Quality Standards for Class WS-II Waters	15A	NCAC	02B	.0214*	21:01 NCR
Fresh Surface Water Quality Standards for Class WS-III Wa...	15A	NCAC	02B	.0215*	21:01 NCR
Fresh Surface Water Quality Standards for Class Ws-IV Waters	15A	NCAC	02B	.0216*	21:01 NCR
Fresh Surface Water Quality Standards for Class WS-V Waters	15A	NCAC	02B	.0218*	21:01 NCR
Tidal Salt Water Quality Standards for Class SC Waters	15A	NCAC	02B	.0220*	21:01 NCR
Tidal Salt Water Quality Standards for Class SA Waters	15A	NCAC	02B	.0221*	21:01 NCR
Tidal Salt Water Quality Standards for Class SB Waters	15A	NCAC	02B	.0222*	21:01 NCR
Catawba River Basin	15A	NCAC	02B	.0308*	21:07 NCR
Best Available Retrofit Technology	15A	NCAC	02D	.0543*	n/a G.S. 150B-21.5(a)(5)

WILDLIFE RESOURCES COMMISSION

Particular Offenses	15A	NCAC	10A	.1001*	21:11 NCR
Migratory Game Birds	15A	NCAC	10B	.0105*	21:11 NCR
Big Game Kill Reports	15A	NCAC	10B	.0113*	21:11 NCR
Permitted Archery Equipment	15A	NCAC	10B	.0116*	21:11 NCR
Bear	15A	NCAC	10B	.0202	21:11 NCR
Deer	15A	NCAC	10B	.0203*	21:11 NCR
Wild Boar (Both Sexes)	15A	NCAC	10B	.0204*	21:11 NCR
Raccoon and Opossum	15A	NCAC	10B	.0205	21:11 NCR
Wild Turkey	15A	NCAC	10B	.0209*	21:11 NCR
Open Seasons	15A	NCAC	10B	.0302*	21:11 NCR
Traps	15A	NCAC	10B	.0304	21:13 NCR
Public Mountain Trout Waters	15A	NCAC	10C	.0205*	21:11 NCR
Fishing License Exemptions	15A	NCAC	10C	.0216*	21:11 NCR
Open Seasons: Creel and Size Limits	15A	NCAC	10C	.0305*	21:11 NCR
Manner of Taking Non-game Fishes	15A	NCAC	10C	.0401*	21:11 NCR
Taking Non-game Fishes for Bait	15A	NCAC	10C	.0402*	21:11 NCR
Special Device Fishing	15A	NCAC	10C	.0404*	21:11 NCR
Permitted Special Devices and Open Seasons	15A	NCAC	10C	.0407*	21:11 NCR

APPROVED RULES

General Regulations	15A	NCAC	10D	.0102*	21:11 NCR
Hunting On Game Lands	15A	NCAC	10D	.0103*	21:11 NCR
Application for Certificate of Vessel Number	15A	NCAC	10F	.0102*	21:13 NCR
Transfer of Ownership	15A	NCAC	10F	.0103*	21:13 NCR
Certificate of Number	15A	NCAC	10F	.0104*	21:13 NCR
Numbering Pattern	15A	NCAC	10F	.0105*	21:13 NCR
Display of Vessel Numbers	15A	NCAC	10F	.0106*	21:13 NCR
Validation Decal	15A	NCAC	10F	.0107*	21:13 NCR
Temporary Certificate of Number	15A	NCAC	10F	.0109*	21:12 NCR
Abandoned Vessels	15A	NCAC	10F	.0110*	21:13 NCR
Durham and Wake Counties	15A	NCAC	10F	.0350*	21:11 NCR
Purpose of Wildlife Service Agents	15A	NCAC	10G	.0401*	21:13 NCR
Appointment of Wildlife Service Agents	15A	NCAC	10G	.0402*	21:13 NCR
Customer Support System	15A	NCAC	10G	.0404	21:13 NCR
Supplement Feeding	15A	NCAC	10H	.0110*	21:11 NCR
Definitions	15A	NCAC	10H	.0801*	21:11 NCR
Commercial Take of Certain Turtles and Terrapins	15A	NCAC	10H	.1301*	21:11 NCR
Possession of Reptiles and Amphibians	15A	NCAC	10H	.1302*	21:11 NCR
General Regulations Regarding Use of Conservation Areas	15A	NCAC	10J	.0102*	21:11 NCR

HEALTH SERVICES, COMMISSION FOR

Definitions	15A	NCAC	18A	.3601*	21:09 NCR
Standards and Approval of Plans	15A	NCAC	18A	.3602*	21:09 NCR
Permits	15A	NCAC	18A	.3603*	21:09 NCR
Public Display of Grade Card	15A	NCAC	18A	.3604*	21:09 NCR
Inspections and Reinspections	15A	NCAC	18A	.3605*	21:09 NCR
Grading	15A	NCAC	18A	.3606*	21:09 NCR
Procedure When Infections Suspected	15A	NCAC	18A	.3607	21:09 NCR
Site	15A	NCAC	18A	.3608*	21:09 NCR
Water Supply	15A	NCAC	18A	.3609*	21:09 NCR
Liquid Wastes	15A	NCAC	18A	.3610*	21:09 NCR
Swimming Pools	15A	NCAC	18A	.3612*	21:09 NCR
Camp Building Construction and Maintenance Requirements	15A	NCAC	18A	.3613*	21:09 NCR
Lodging Facilities	15A	NCAC	18A	.3614*	21:09 NCR
Toilet: Handwashing: Laundry: and Bathing Facilities	15A	NCAC	18A	.3615*	21:09 NCR
Drinking Water Facilities	15A	NCAC	18A	.3616*	21:09 NCR
Premises: Vermin Control and Miscellaneous	15A	NCAC	18A	.3617*	21:09 NCR
Food Service Facilities	15A	NCAC	18A	.3618*	21:09 NCR
Field Sanitation	15A	NCAC	18A	.3619*	21:09 NCR
Food Service Employees	15A	NCAC	18A	.3620*	21:09 NCR
Food Supplies	15A	NCAC	18A	.3621*	21:09 NCR

APPROVED RULES

Food Protection	15A	NCAC	18A	.3622*	21:09 NCR
Milk and Milk Products	15A	NCAC	18A	.3623*	21:09 NCR
Ice Handling	15A	NCAC	18A	.3624*	21:09 NCR
Seafood	15A	NCAC	18A	.3625*	21:09 NCR
Refrigeration: Thawing: and Preparation of Food	15A	NCAC	18A	.3626*	21:09 NCR
Re-Serving of Food	15A	NCAC	18A	.3627*	21:09 NCR
Food Service Utensils and Equipment	15A	NCAC	18A	.3628*	21:09 NCR
Storage and Handling of Utensils and Equipment	15A	NCAC	18A	.3630*	21:09 NCR
Food Service Area Storage Spaces	15A	NCAC	18A	.3631*	21:09 NCR
Food Service Area Lighting	15A	NCAC	18A	.3632*	21:09 NCR
Food Service Area Ventilation	15A	NCAC	18A	.3633*	21:09 NCR
Food Service Area and Lavatory Facilities	15A	NCAC	18A	.3634*	21:09 NCR
Food Service Area Toilet Facilities	15A	NCAC	18A	.3635*	21:09 NCR
Food Service Area Floors	15A	NCAC	18A	.3636*	21:09 NCR
Food Service Area Walls and Ceilings	15A	NCAC	18A	.3637*	21:09 NCR
Kitchen Premises: Miscellaneous	15A	NCAC	18A	.3638*	21:09 NCR
Informal Review Process and Appeals Procedure	15A	NCAC	18A	.3639*	21:09 NCR

COSMETIC ART EXAMINERS, BOARD OF

Footspa Sanitation	21	NCAC	14H	.0120*	21:14 NCR
Sanitation Prohibited Practices	21	NCAC	14H	.0121	21:14 NCR
Equipment for Beginner Department	21	NCAC	14J	.0106	21:14 NCR
Equipment in Advanced Department	21	NCAC	14J	.0206*	21:14 NCR
Equipment	21	NCAC	14J	.0302	21:14 NCR
Students' Personal Supplies	21	NCAC	14J	.0303*	21:14 NCR
Initial Application and Fees	21	NCAC	14N	.0102	21:14 NCR
Re-examination	21	NCAC	14N	.0113*	21:14 NCR
Application Criteria and Continuing Education Course Appr...	21	NCAC	14R	.0102*	21:14 NCR

LANDSCAPE CONTRACTORS REGISTRATION BOARD

Authority: Name and Location of Board	21	NCAC	28	.0101	21:12 NCR
Applications and Examination	21	NCAC	28	.0301*	21:12 NCR

OCCUPATIONAL THERAPY, BOARD OF

Board Office	21	NCAC	38	.0102	21:13 NCR
Definitions	21	NCAC	38	.0103*	21:13 NCR
Fees	21	NCAC	38	.0204	21:13 NCR
License Number: Display of License	21	NCAC	38	.0301	21:13 NCR
Limited Permits	21	NCAC	38	.0303	21:13 NCR
Grounds for License Denial or Discipline	21	NCAC	38	.0304*	21:13 NCR
Continuing Duty to Report Certain Crimes and Civil Suits	21	NCAC	38	.0305	21:13 NCR
Change of Address or Business Name	21	NCAC	38	.0401	21:13 NCR

Advertising	21	NCAC	38	.0402	21:13 NCR
Procedure for Adoption of Rules	21	NCAC	38	.0502	21:13 NCR
Authority and Definitions	21	NCAC	38	.0701*	21:13 NCR
Prerequisites for Incorporation	21	NCAC	38	.0702	21:13 NCR
Certificate of Registration	21	NCAC	38	.0703	21:13 NCR
General and Administrative Provisions	21	NCAC	38	.0704	21:13 NCR
Continuing Competence Requirements for Licensure	21	NCAC	38	.0802*	21:13 NCR
Approval of Activities for Maintaining Continuing Competence	21	NCAC	38	.0803*	21:13 NCR
Scope of Qualified Activities for Maintaining Continuing ...	21	NCAC	38	.0804*	21:13 NCR
Waiver of Requirements	21	NCAC	38	.0806	21:13 NCR
Documentation/Reporting Procedures	21	NCAC	38	.0807	21:13 NCR
Audit of Continuing Competence Activities	21	NCAC	38	.0808*	21:13 NCR
Notification of Supervision Change	21	NCAC	38	.0901*	21:13 NCR
Supervision is an Interactive Process	21	NCAC	38	.0902*	21:13 NCR
Types of Supervision	21	NCAC	38	.0903*	21:13 NCR
Documentation of Supervision	21	NCAC	38	.0904*	21:13 NCR
Supervision of Limited Permittee	21	NCAC	38	.1002	21:13 NCR
Service Competency of Limited Permittee	21	NCAC	38	.1003*	21:13 NCR
Signature of Limited Permittee	21	NCAC	38	.1004	21:13 NCR
Board Notification	21	NCAC	38	.1005*	21:13 NCR
Responsibility of the Occupational Therapy Practitioner	21	NCAC	38	.1101	21:13 NCR
Delegation of Duties to Unlicensed Personnel	21	NCAC	38	.1102*	21:13 NCR

TITLE 01 – DEPARTMENT OF ADMINISTRATION

01 NCAC 41D .0101 PURPOSE AND ORGANIZATION

(a) Pursuant to G.S. 143-58.4 the State Energy Office has established a credit banking and selling program to allow State departments, institutions, and agencies to use monies generated by the sale of EAct credits to purchase alternative fuel, develop related refueling infrastructure and purchase alternative fuel vehicles.

(b) Pursuant to G.S. 143-58.5, the State Energy Office has established an Alternative Fuel Revolving Fund generated from the sale of EAct credits. These funds may to be used to purchase alternative fuel, develop related refueling infrastructure and purchase alternative fuel vehicles for use by State departments, institutions, and agencies.

History Note: Authority G.S. 143-58.4; 143-58.5; Eff. May 1, 2007.

01 NCAC 41D .0102 DEFINITIONS

For the purposes of this Chapter, the following definitions apply:

- (1) "AFV" means the same as defined in 143-58.4.
- (2) "Alternative fuel" means the same as defined in 143-58.4.
- (3) "Biodiesel Fuel Use Credit" means an EAct credit given by the U.S. DOE for each 450 gallons of pure biodiesel purchased for use in blends of 20% or higher. No credit is granted for the petroleum portion of biodiesel fuel blends.
- (4) "B20" means the same as defined in 143-58.4.
- (5) "Department" means the Department of Administration.
- (6) "Energy Policy Act" means the same as defined in 143-58.4.
- (7) "EAct credit" means the same as defined in 143-58.4.
- (8) "EPC" means the Energy Policy Council, created pursuant to G.S. Chapter 113B, Article 1.
- (9) "E85" means the same as defined in 143-58.4.
- (10) "FFV" means a flexible fuel vehicle that is capable of operating on both E85 and gasoline.

- (11) "Incremental fuel cost" means the same as defined in 143-58.4.
- (12) "Incremental vehicle cost" means the same as defined in 143-58.4. difference in cost between an AFV and conventional vehicle of the same make and model. For vehicles with no comparable conventional model, incremental vehicle cost means the generally accepted difference in cost between an AFV and a similar conventional model.
- (13) "LDV" means a light duty vehicle that has less than an 8,500 lb gross vehicle weight rating (GVWR).
- (14) "NC Alternative Fuel Consortium" means a voluntary group of state agencies, institutions and interested entities that meet at least quarterly and is hosted by the State Energy Office to coordinate alternative fuel and petroleum displacement activities in North Carolina.
- (15) "OEM" means original equipment manufacturer.
- (16) "SEO" means the State Energy Office.
- (17) "U.S. DOE" means the United States Department of Energy.
- (18) "U.S. EPA" means the United States Environmental Protection Agency.

History Note: Authority G.S. 143-58.4; 143-58.5;
Eff. May 1, 2007.

01 NCAC 41D .0201 BANKING

(a) EPA's credits shall be accrued and banked according to the following:

- (1) The U.S. DOE Alternative Fuel Transportation Program (10 CFR Part 490) requires that 75% of LDVs acquired by state fleets shall be FFVs, compressed natural gas vehicles, propane vehicles or electric vehicles;
- (2) One credit is earned for each OEM or EPA certified retrofit FFV, compressed natural gas, propane or electric vehicle purchased;
- (3) Credits that exceed the annual minimum state AFV acquisition requirements may be banked through the U.S. DOE Office of Freedom Car and Vehicle Technologies Program to meet future year requirements or traded;
- (4) State fleets can earn Biodiesel Fuel Use Credits to meet 50% of their annual AFV acquisition requirements by purchasing and using biodiesel; and
- (5) Biodiesel Fuel Use Credits cannot be traded or banked.

(b) Credits are determined by state agencies in cooperation with the State Energy Office in the following manner:

- (1) Each year by December 1st every State department, institution and agency subject to EPA's requirements shall provide the State Energy Office with the types of vehicles

purchased, the vehicle identification numbers and the dates of purchase to determine the number of EPA's credits generated by the State; and

- (2) The SEO shall submit an annual EPA's credit report to the U.S. DOE by December 31st.

(c) The following provisions shall be used in determining credits:

- (1) EPA's credits eligible for sale include FFVs if the FFVs are operating on E85;
- (2) EPA's credits generated through the use of B20 are not eligible for sale or transfer, however, they shall be used by the State to meet 50% of Energy Policy Act requirements; and
- (3) State agencies and institutions that purchase FFVs shall record the use of E85 for the FFVs.

History Note: Authority G.S. 143-58.4; 143-58.5;
Eff. May 1, 2007.

01 NCAC 41D .0202 SELLING

(a) The State Energy Office shall form a Credit Selling Work Group to determine the number of excess credits to be sold as follows:

- (1) The Credit Selling Work Group shall consist of:
 - (A) Department of Administration Motor Fleet Management designee;
 - (B) Department of Transportation Equipment Unit designee;
 - (C) State Energy Office designee; and
 - (D) Designees of other state agencies and institutions that generate EPA's credits; and

- (2) The Credit Selling Work Group shall determine the asking price for credits.

(b) The State Energy Office shall obtain approval from the Energy Policy Council prior to selling EPA's credits.

(c) The State Energy Office shall sell EPA's credits in accordance with the provisions of the Energy Policy Act.

History Note: Authority G.S. 143-58.4; 143-58.5;
Eff. May 1, 2007.

01 NCAC 41D .0301 PROCEEDS AND DISTRIBUTION

(a) Funds generated by the sale or transfer of EPA's credits by the Department shall be deposited into the Alternative Fuel Revolving Fund.

(b) The following shall be undertaken to determine the distribution of proceeds from the Alternative Fuel Revolving Fund:

- (1) The State Energy Office shall annually inform the NC Alternative Fuel Consortium of the amount of revenue accrued to the Alternative Fuel Revolving Fund and the percentage of these funds that were generated by

- participating state agencies, institutions or entities;
- (2) The State Energy Office shall organize meetings of the NC Alternative Fuel Consortium and the Credit Selling Work Group to discuss and prioritize distribution of funds;
 - (3) Fund distribution shall be prioritized based on maximizing benefits to the State for the purchase of alternative fuel, related refueling infrastructure and AFV purchases;
 - (4) An annual plan for the dispersion of Alternative Fuel Revolving Funds shall be prepared by the State Energy Office based on recommendations of the Alternative Fuels Consortium and the Credit Selling Work Group; and
 - (5) The Energy Policy Council shall review and approve the annual plan.

History Note: Authority G.S. 143-58.4; 143-58.5;
Eff. May 1, 2007.

01 NCAC 41D .0302 FUND DISBURSEMENTS

All state departments, institutions and agencies are eligible to utilize Alternative Fuel Revolving Funds.

History Note: Authority G.S. 143-58.4; 143-58.5;
Eff. May 1, 2007.

01 NCAC 41D .0401 REPORTS

- (a) Progress reports shall be submitted biannually by State departments, agencies, and institutions that receive funds from the Alternative Fuel Revolving Fund.
- (b) The progress report shall include a description of the current project, number of gallons of alternative fuel or vehicles purchased, challenges and successes, and forecast of expectation or deviation from the planned schedule.

History Note: Authority G.S. 143-58.4; 143-58.5;
Eff. May 1, 2007.

History Note: Authority G.S. 143B-10; 143B-10(1)(2); 143B-10(j)(2); 143B-10(j)(3); 143B-216.33(d); 150B-4; 150B-11; 150B-12; 150B-16; 150B-17; 150B-20; 150B-21.2; 150B-22;
Eff. February 1, 1976;
Amended Eff. April 1, 1990;
Repealed Eff. May 1, 2007.

10A NCAC 17B .0101 RELATIONSHIP TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

History Note: Authority G.S. 143B-216.33;
Eff. October 20, 1979;
Amended Eff. April 1, 1990;
Repealed Eff. May 1, 2007.

10A NCAC 17B .0201 FUNCTION AND RESPONSIBILITIES

- (a) The purpose of the respective regional centers for the deaf, hard of hearing, and deaf-blind is to promote the accessibility of community services to deaf, hard of hearing, and deaf-blind persons, to inform deaf, hard of hearing, and deaf-blind persons of their right to services offered locally, to advocate for the rights and needs of deaf, hard of hearing, and deaf-blind persons, and to coordinate interpreter services for deaf, hard of hearing, and deaf-blind individuals.
- (b) It is the responsibility of the regional centers for the deaf, hard of hearing, and deaf-blind to provide services to such persons without regard to age, income, or employability.

History Note: Authority G.S. 143B-216.33(a)(3);
Eff. October 20, 1979;
Amended Eff. May 1, 2007; April 1, 1990.

10A NCAC 17C .0101 MAINTENANCE OF CLASSIFICATION RECORDS

The Division shall maintain the records for all interpreters who hold a quality assurance North Carolina Interpreter Classification System level A or B classification in effect on January 1, 2000.

History Note: Authority G.S. 8B-1(3); 8B-6; 90D-7(a)(3)(d); 143B-216.33;
Eff. May 1, 1991;
Amended Eff. May 1, 2007; November 1, 1993.

10A NCAC 17C .0102 RECIPROCITY

History Note: Authority G.S. 8B-1(3); 8B-6; 90D; 143B-216.33;
Eff. May 1, 1991;
Amended Eff. November 1, 1993;
Repealed Eff. May 1, 2007.

10A NCAC 17C .0103 APPLICABILITY

The rules in this Section describe the interpreter classification system and the Division's responsibility to maintain records of individuals holding classification to reflect the competency of individuals applying to become licensed interpreters for persons who are deaf or hard of hearing.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 17A .0101	PETITIONS
10A NCAC 17A .0102	NOTICE
10A NCAC 17A .0103	HEARING OFFICER
10A NCAC 17A .0104	HEARINGS
10A NCAC 17A .0105	STATEMENT OF REASONS FOR AND AGAINST RULEMAKING DECISION
10A NCAC 17A .0106	RECORD OF RULEMAKING PROCEEDINGS
10A NCAC 17A .0107	FEES
10A NCAC 17A .0108	DECLARATORY RULINGS
10A NCAC 17A .0109	CONTESTED CASES

History Note: Authority G.S. 8B-1(3); 8B-6; 90D; 143B-216.33;
Eff. May 1, 1991;
Amended Eff. May 1, 2007.

10A NCAC 17C .0104 DEFINITIONS

For the purpose of Rules .0101 through .0110 of this Section the following terms shall have the meanings indicated:

- (1) "Classifications" means one of the four levels of skill based on the total score given by the evaluators on the classification test.
- (2) "Division" means the North Carolina Division of Services for the Deaf and the Hard of Hearing.
- (3) "Division Director" means the Director of the North Carolina Division of Services for the Deaf and the Hard of Hearing.
- (4) "N.C.I.C.S." means the North Carolina Interpreter Classification System.
- (5) "N.R.I.D." means the National Registry of Interpreters for the Deaf.
- (6) "Sign Language Interpreter" means a person who performs services for the public in the capacity of an interpreter or transliterator between one or more hearing persons and one or more deaf persons using American Sign Language or manually coded English.
- (7) "Transliterator" means a person who performs services for the public in the capacity of a transliterator between one or more hearing persons and one or more deaf persons using a form of manually coded English.

History Note: Authority G.S. 8B-1(3); 8B-6; 90D; 143B-216.33;
Eff. May 1, 1991;
Amended Eff. May 1, 2007; November 1, 1993.

10A NCAC 17C .0105 ELIGIBILITY

10A NCAC 17C .0106 APPLICATION

10A NCAC 17C .0107 CLASSIFICATION TEAM AND EVALUATORS

History Note: Authority G.S. 8B-1(3); 8B-6; 90B; 143B-216.33;
Eff. May 1, 1991;
Amended Eff. November 1, 1993;
Repealed Eff. May 1, 2007.

10A NCAC 17C .0108 CLASSIFICATION AND INTERPRETER DIRECTORY

(a) NCICS-C Classifications levels previously assigned shall remain as follows:

- (1) "Class C" – (Limited), Limited performance competency level, scoring 71 – 80 percent of the total possible points. Limited expressive and receptive skills with specific competency in some areas of interpreting or transliterating.

- (2) "Class B" – (Intermediate), Intermediate performance competency level, scoring 81 – 90 percent of the total possible points. Stronger expressive skills and receptive skills with competency in most areas of interpreting or transliterating.
- (3) "Class A" – (Advanced), Advanced performance competency level, scoring 91 – 100 of the total possible points. Fluent expressive and receptive skills with competency in all areas of interpreting or transliterating.

(b) All candidates holding previous classification levels from the N.C.I.C.S. shall have the option of having their contact information printed in the North Carolina Interpreter Directory. This Directory shall provide a reference for all consumers of interpreters. It shall also be a reference for all agencies who must meet the requirements of hiring only qualified interpreters as set forth in G.S. 90D.

History Note: Authority G.S. 8B-1(3); 8B-6; 90D-6; 143B-216.33;
Eff. May 1, 1991;
Amended Eff. November 1, 1993;
Amended Eff. May 1, 2007.

10A NCAC 17C .0109 REVIEW AND APPEAL OF CLASSIFICATION DECISIONS

10A NCAC 17C .0110 CHANGE OF NAME OR ADDRESS OF CLASSIFICATION HOLDERS

History Note: Authority G.S. 8B-1(3); 8B-6; 90D; 143B-216.33; 150B, Article 3;
Eff. May 1, 1991;
Amended Eff. November 1, 1993;
Repealed Eff. May 1, 2007.

10A NCAC 17C .0201 ELIGIBILITY

(a) Persons having a communicative disability resulting from a hearing impairment, including persons having additional handicapping conditions, are eligible for interpreter-related services.

(b) Community agencies and organizations, employers of deaf, hard of hearing, and deaf-blind persons, and family members of deaf, hard of hearing, and deaf-blind persons are eligible for interpreter-related services of the regional centers. Such services may include but are not limited to information, consultation, and sign language instruction.

History Note: Authority G.S. 143B-216.33;
Eff. May 1, 2007.

10A NCAC 17C .0202 CONTRACTED INTERPRETER SERVICES

Interpreter services may be contracted by the Division of Services for the Deaf and the Hard of Hearing in order to facilitate the delivery of human services to deaf, hard of hearing, and deaf-blind persons. Provision of interpreter services on a contractual basis does not supplant other resources available

within the community for which the individual is entitled or may be eligible insofar as such benefits are adequate.

History Note: Authority G.S. 143B-216.33(a)(3);
Eff. May 1, 2007.

10A NCAC 17C .0203 LICENSURE OF INTERPRETERS

Persons providing interpreter services through the Division of Services for the Deaf and the Hard of Hearing must hold a current license from the North Carolina Interpreter and Transliterator Licensing Board.

History Note: Authority G.S. 90D-4(a); 143B-216.33(a)(8);
Eff. May 1, 2007.

**10A NCAC 17D .0101 ELIGIBILITY
10A NCAC 17D .0102 CONTRACTED INTERPRETER SERVICES
10A NCAC 17D .0103 CERTIFICATION OF INTERPRETERS**

History Note: Authority G.S. 8B-1(3); 90D-4; 90D-7; 143B-216.33; 143B-216.33(a)(1)(8); 143B-216.33(a)(8); 143B-216.33(d);
Eff. October 20, 1979;
Amended Eff. April 1, 1990;
Repealed Eff. May 1, 2007.

**10A NCAC 17D .0104 INTERPRETER SERVICES: JUDICIAL: LEG. AND ADMIN. PROC.
10A NCAC 17D .0105 INTERPRETER APPLICATION: JUDICIAL: LEG. AND ADMIN. PROC.**

History Note: Authority G.S. 8B-1(3); 143B-216.33(a)(1)(8); 143B-216.33 (a)(8);
Eff. July 1, 1983;
Amended Eff. April 1, 1990;
Repealed Eff. May 1, 2007.

10A NCAC 17D .0202 DEFINITIONS

The definitions of the terms defined in G.S. 143B-216.30 apply to all the rules in this Section. In addition, the following terms have the meaning specified in this Rule, except where the context clearly indicates a different meaning:

- (1) "Applicant" means an individual who applies for equipment from the Telecommunications Equipment Distribution Program.
- (2) "Deaf" means the same as set forth in G.S. 143B-216.30.
- (3) "Deaf-blind person" means a deaf person who is also certified as legally blind.
- (4) "Division" means the North Carolina Division of Services for the Deaf and the Hard of Hearing of the Department of Health and Human Services or its staff.
- (5) "Equipment set" means any one or more of the following:
 - (a) ring signaling device as defined in this Rule;
 - (b) telebraille device as defined in this Rule;
 - (c) telecommunications device for the deaf, hard of hearing, or speech-impaired, or TDD, defined as a keyboard mechanism attached to or in place of a standard telephone by some coupling device, used to transmit or receive signals through telephone lines;
 - (d) volume control handset defined as a telephone handset or other telephone listening device which has an adjustable control for increasing the volume of the sound being produced by the telephone receiving unit; or
 - (e) any other equipment, component, or accessories, excluding computers, designed to give deaf, hard of hearing, deaf-blind, and speech-impaired individuals telephone access.
- (6) "Hard of hearing" means having permanent hearing loss which is severe enough to necessitate the use of amplification devices to hear oral communication. The term "hard of hearing" may be substituted for the term "hearing impaired" as used elsewhere within these Rules.
- (7) "Program" means the North Carolina Division of Services for the Deaf and the Hard of Hearing Telecommunications Equipment Distribution Program, by which the Division provides equipment sets capable of serving the needs of deaf, hard of hearing, deaf-blind, and speech-impaired individuals as required under G.S. 143B-216.34.
- (8) "Recipient" means the user of the equipment set or the parent, person standing in loco parentis, or legal guardian of a minor user who is under 18 years of age.
- (9) "Regional center" means one of several centers located throughout North Carolina, each of which serves deaf, hard of hearing, and deaf-blind individuals within a defined region, and which is operated by the Division of Services for the Deaf and Hard of Hearing.
- (10) "Ring Signaling Device" means a mechanism such as a flashing light which visually or tactilely indicates that a communication is being received through a telephone line. This phrase also means a mechanism such as adjustable volume ringers and buzzers which audibly and loudly indicate an incoming telephone communication.
- (11) "Subscriber unit" means a single dwelling which receives basic telephone service and is

- subject to a monthly service charge for each access line.
- (12) "TEDP" means the Telecommunications Equipment Distribution Program administered by the Division of Services for the Deaf and the Hard of Hearing.
- (13) "Telebraille device" means a TDD which has a modem connected to a braille machine which prints out embossed braille characters on a paper roll for a deaf-blind person to read.
- (14) "User" means a deaf, hard of hearing, or speech-impaired person or deaf-blind person within a subscriber unit for whose use the equipment set is provided. There may be multiple users in a subscriber unit, including users with different disabilities who require different equipment to best serve their needs.

History Note: Authority G.S. 62-157; 143B-216.30;
Eff. December 1, 1988;
Amended Eff. May 1, 2007; April 1, 1990.

10A NCAC 17D .0203 DIVISION RESPONSIBILITIES

The Division shall:

- (1) promote to eligible recipients throughout North Carolina the availability of equipment sets,
- (2) provide equipment sets to recipients as prescribed by the rules in this Section, and
- (3) provide training in the use of equipment sets for recipients who desire training.

History Note: Authority G.S. 62-157; 143B-216.34;
Eff. December 1, 1988;
Amended Eff. May 1, 2007; April 1, 1990.

10A NCAC 17D .0204 INFORMATION CONCERNING THE PROGRAM

Organizations serving the deaf, hard of hearing, deaf-blind, and speech impaired; publishers of newsletters for these groups; and individuals who wish to receive written information regarding the program shall contact the Division and request that their names be placed on a mailing list to receive such information.

History Note: Authority G.S. 143B-216.33;
Eff. December 1, 1988;
Amended Eff. May 1, 2007; April 1, 1990.

10A NCAC 17D .0205 APPLICATION INFORMATION AND PROCEDURES

(a) Interested persons may request an application packet by calling or writing the Division at the Division Central Office, or by requesting one from any of the regional centers or downloading one from the Division website. The application packet shall include:

- (1) instructions for submitting reports and statements certifying that the applicant is deaf, hard of hearing, speech-impaired, or deaf-blind;

- (2) a Conditions of Acceptance form for the recipient to sign indicating that the recipient understands and agrees to the rights and responsibilities of the recipient and desires services of the program. This form includes information for recipients acting for minor users to sign indicating their agreement that equipment sets received under this program may be transferred to the user upon the user's 18th birthday at the request of the minor user; and
- (3) a standard application form calling for the following information:
 - (A) the full name, address, date of birth, and occupation of the recipient and all users of the equipment set;
 - (B) telephone number of the recipient;
 - (C) personal and financial information regarding all family members necessary to determine financial eligibility according to the provisions of Rule .0210 of this Section;
 - (D) copies of driver's license or other proof of identification and residence of the recipient; and
 - (E) the disability status of the applicant or the intended user.

(b) To apply for equipment from the TEDP, an eligible applicant must:

- (1) answer all of the questions on the application form, sign it, and date it;
- (2) make a copy of an item from Rule .0206(b)(1) offering proof of residence in North Carolina to include with the application;
- (3) make a copy of an item from Rule .0206(d) offering proof of household income to include with the application;
- (4) read the Conditions of Acceptance form, sign and date the form, and include it with the application;
- (5) give the Disability Determination form to a certified person listed in Rule .0206(b)(2) to fill out; and
- (6) read the Equipment Selection form, select the equipment that best fits the applicant's need, and include it with the application.

(c) Providing false or misleading information on the application shall subject any applicant selected as a recipient to forfeiture of any equipment set provided.

(d) The regional centers shall provide assistance in completing application forms upon request.

(e) Applicants shall complete and sign all forms, attach all necessary documentation, and mail the completed application packet to the address specified on the application.

(f) The Division shall verify an applicant's eligibility within 45 days following receipt of the completed application; except if the Division cannot verify eligibility within 45 days, it shall inform the applicant in writing as soon as possible within the 45-day period indicating the problem and solicit clarification and

additional information in order to determine the applicant's eligibility.

*History Note: Authority G.S. 62-157; 143B-216.34;
Eff. December 1, 1988;
Amended Eff. May 1, 2007; April 1, 1990.*

10A NCAC 17D .0206 ELIGIBILITY

(a) Equipment sets shall be distributed to eligible recipients within the limits of available funding.
(b) To be eligible for equipment from the TEDP, an individual must meet the following criteria:

- (1) be a resident of North Carolina; an individual can establish residency by:
 - (A) submitting a copy of a current North Carolina driver's license or North Carolina non-driver identification; or
 - (B) submitting a copy of the last three months of utility bills (telephone, electricity, cable, water, sewage or gas).
- (2) be certified as deaf, hard of hearing, deaf-blind, or speech-impaired. An individual must submit a Disability Determination form authorized and certified by one of the following:
 - (A) licensed hearing-aid specialist;
 - (B) licensed audiologist;
 - (C) licensed physician;
 - (D) appropriate state or federal agency representative;
 - (E) licensed speech pathologist;
 - (F) state certified teacher; or
 - (G) disability service center representative; and
- (3) not have another person with a similar disability from the same household receive similar equipment from TEDP. Those applying for hearing aids are exempt from this requirement.
- (4) Another eligibility requirement is a limited household income. The income limit varies for individuals whose income is 250 percent above the Federal Poverty Level based on the number of individuals in the family.

(c) If a minor applicant applies, proof of income for the minor applicant, including the minor's income and the minor's parents' income, is required.

(d) An applicant can show proof of income by submitting a copy of the following forms for each source of income the applicant has:

- (1) the most recent three months' paycheck stubs;
- (2) the most recent W-2 form;
- (3) the most recent local, state, and federal income tax return;
- (4) the most recent retirement statement;
- (5) the most recent Social Security statement;
- (6) the most recent Nursing Home statement;

- (7) a copy of the applicant's Supplemental Security or Social Security Disability Insurance check or a dated Social Security letter; or
- (8) the most recent bank statement that shows a Social Security direct deposit.

(e) There is no age limit to be eligible for equipment. An individual can apply for himself/herself or for a child or dependent adult who lives in the same household.

*History Note: Authority G.S. 62-157; 143B-216.34;
Eff. December 1, 1988;
Amended Eff. May 1, 2007; April 1, 1990.*

10A NCAC 17D .0207 CERTIFICATION OF IMPAIRMENT

(a) A prospective user shall be certified as deaf, hard of hearing, speech impaired, or deaf-blind to be eligible to receive an equipment set.

(b) To be certified a recipient shall submit a Disability Determination form filled out by a licensed physician, licensed audiologist, licensed hearing-aid specialist, licensed speech pathologist, disability service center representative, or an agent of a state or federal public agency certifying that the person is deaf, hard of hearing, speech-impaired, or deaf-blind and stating the nature and degree of the impairment.

(c) Applicants may submit copies of certification statements or reports that are on file with a state or federal agency if such statements or reports meet the requirements in (b) of this Rule.

(d) The certification reports or statements shall be included with the application when it is submitted.

*History Note: Authority G.S. 62-157; 143B-216.33(a)(7),(d);
Eff. December 1, 1988;
Amended Eff. May 1, 2007.*

10A NCAC 17D .0208 AGE REQUIREMENTS

There is no age limit. An individual can apply for himself/herself or for a minor child under age 18 or a dependent adult who lives in the same household.

*History Note: Authority G.S. 62-157; 143B-216.33(a)(7),(d);
Eff. December 1, 1988;
Amended Eff. May 1, 2007.*

10A NCAC 17D .0209 RESIDENCY REQUIREMENTS

(a) An applicant shall be a permanent legal resident of the State of North Carolina to be eligible to receive an equipment set.

(b) To be permanent legal residents of North Carolina, applicants shall not only live in the state, but also have the intention of making their permanent home in this state to which, whenever absent, they intend to return.

(c) Unemancipated minors have the residency of their parents, person standing in loco parentis, or if the parents are separated or divorced, the residency of the parent with legal custody. For purposes of this Rule, "person standing in loco parentis" refers to one who has put himself or herself in the place of a lawful parent by assuming the rights and obligations of a parent without formal adoption.

(d) Residence continues until a new one is acquired. When a new residence is acquired, all former residences terminate.

History Note: Authority G.S. 62-157; 143B-216.34;
Eff. December 1, 1988;
Amended Eff. May 1, 2007; April 1, 1990.

10A NCAC 17D .0210 FINANCIAL ELIGIBILITY

(a) An applicant shall meet the Division's financial needs test to be eligible to receive an equipment set.

(b) Applicants for an equipment set who are recipients of public funds such as AFDC, SSDI, SSI, CSHS (Children's Special Health Services), or the Food Stamp Program shall automatically meet the financial needs test upon submission of documentation of their eligibility for the publicly funded program.

(c) Financial eligibility for applicants not included under (b) of this Rule shall be determined by applying the federal poverty level for family size and income of the applicant in effect on the date of application.

(d) An applicant's family shall include the user and the following persons living in the same household as the user if the user is 18 years of age or older or if the user is less than 18 years of age and is married:

- (1) the users spouse;
- (2) the user's children under 18 years of age;
- (3) other individuals related to the user by blood, marriage, or adoption if the other individuals have no income and do not have a parent or spouse who has income living in the same household; and
- (4) the user's children of any age who are temporarily living away from the household while attending school if they are being claimed as dependents by the user for tax purposes.

(e) An applicant's family shall include the user and the following persons living in the same household as the user if the user is less than 18 years of age and is not married:

- (1) the user's parents, not including step-parents;
- (2) siblings or half-siblings of the user, but not step-siblings, if the siblings are unmarried and less than 18 years of age;
- (3) siblings or half-siblings of the user, but not step-siblings, if the siblings are 18 years of age or older and have no income; and
- (4) other individuals related to the user by blood, marriage, or adoption if the other individuals have no income and do not have a parent or spouse who has income living in the same household.

(f) In (e)(2) and (3) of this Rule, siblings who are temporarily living away from the household while attending school may be considered as living in the same household if they are being claimed as dependents by their parents for tax purposes and the parents are in the same household as the user.

(g) Gross monthly income of the family members shall be considered in the financial needs test. If the applicant is married, the applicant must include his/her spouse's income. If the applicant is a minor, the applicant must include his/her parents'

income. Examples of gross income include such items as the following:

- (1) salaries and wages;
- (2) earnings from self-employment, except for income that children may earn from babysitting, lawn mowing, or other miscellaneous tasks;
- (3) public assistance money;
- (4) unemployment compensation;
- (5) Social Security benefits;
- (6) Veteran's Administration benefits;
- (7) retirement and pension payments;
- (8) supplemental security income benefits.

(h) The following shall be excluded in the computation of gross monthly income:

- (1) combined, available cash in the bank not to exceed six times the gross monthly income for the family size; and
- (2) tax value of property held.

(i) The time period to be used as the basis for computing gross monthly income shall be the month preceding the date of application. For income that is not received on a monthly basis, the monthly pro rata share of the most recent receipt of the income shall be included in the computation.

History Note: Authority G.S. 62-157; 143B-216.34;
Eff. December 1, 1988;
Amended Eff. May 1, 2007; April 1, 1990.

10A NCAC 17D .0211 ELIGIBILITY FOR REAPPLICATION

(a) Recipients may retain equipment for six years or have equipment replaced earlier if his/her disability progresses to the point where different equipment may be necessary or if the equipment exceeds its standard lifespan and is no longer functioning, after which the recipient must reapply and meet current eligibility requirements.

(b) If a recipient fails to maintain equipment as set out in Rule .0214 of this Section, the recipient is not eligible for replacement equipment. The Division staff shall verify that the equipment did not fail or expire due to misuse or abuse.

History Note: Authority G.S. 62-157; 143B-216.33(a)(7),(d);
Eff. December 1, 1988;
Amended Eff. May 1, 2007.

10A NCAC 17D .0212 PROVISION OF EQUIPMENT SETS

(a) Only one equipment set shall be provided per subscriber unit that is the permanent, legal residence of one or more deaf, hard of hearing, speech-impaired, or deaf-blind eligible users. In the event that two or more recipients share a common, permanent, legal residence constituting a subscriber unit, equipment in excess of one equipment set shall be returned to the local regional center unless the recipients have different disabilities that necessitate the use of different kinds of equipment.

(b) The equipment set shall be granted in the name of the recipient. There shall be only one recipient per equipment set per subscriber unit, but there may be multiple users per

subscriber unit. Recipient status shall be granted to an adult user within the subscriber unit. In the absence of an adult user within the subscriber unit, recipient status shall be granted to the parent, person standing in loco parentis, or legal guardian residing with a minor user in the subscriber unit.

History Note: Authority G.S. 62-157; 143B-216.33(a)(7),(d);
Eff. December 1, 1988;
Amended Eff. May 1, 2007.

**10A NCAC 17D .0213 OWNERSHIP: LEASE:
LIABILITIES**

(a) All equipment sets distributed according to the rules in this Section shall remain the property of the State of North Carolina. Each recipient shall sign a form indicating he or she understands and accepts the requirements of the lease agreement regarding ownership, liability, and responsibilities.

(b) Contingent upon the recipient's compliance with applicable lease, eligibility and maintenance requirements, all equipment sets shall be leased free of charge. At the end of the lease period, the equipment set shall be returned to the nearest regional center for a visual check and records update.

(c) Equipment sets shall not be sold, loaned, or otherwise transferred from the possession of the original recipient. Transfers shall subject the recipient to liability for the full replacement cost of the equipment set.

History Note: Authority G.S. 62-157; 143B-216.34;
Eff. December 1, 1988;
Amended Eff. May 1, 2007; April 1, 1990.

**10A NCAC 17D .0214 TELEPHONE BILLS:
MAINTENANCE: REPORTING LOSS, DAMAGE, OR
THEFT**

(a) The recipient shall be responsible for the payment for all telephone services incurred with the use of the equipment set.

(b) All equipment sets are property of the state of North Carolina. The recipient should never sell, loan, or transfer the equipment set out of the recipient's possession. Selling, loaning, or transferring the equipment set makes the recipient liable for all costs to replace the equipment.

(c) All ordinary expense of maintenance and repair of the equipment set shall be the responsibility of the recipient. If the equipment set has a warranty, the conditions of the warranty shall be between the vendor and the recipient. If an equipment set is damaged, lost, or destroyed due to negligence of the recipient and not due to ordinary wear and tear, the recipient shall be held responsible for the cost of replacing the lost or destroyed equipment set or restoring the damaged equipment set to its original condition.

(d) The recipient shall immediately inform the regional resource center if the equipment is lost, stolen, or damaged. If equipment is stolen, the recipient shall report the theft to the local police and give the police report number to the regional resource center within 30 days of the date the theft occurred. The Division may send the recipient replacement equipment after it receives the police report. If the equipment is damaged by a weather-related situation such as lightning, flooding, or a tornado or by fire, the recipient shall notify the regional center and, if possible, send

the damaged equipment and other pieces of supporting evidence to the regional center for verification that the equipment was damaged in any of the above-described manner. The Division will send the recipient a replacement equipment set.

History Note: Authority G.S. 62-157; 143B-216.34;
Eff. December 1, 1988;
Amended Eff. May 1, 2007; April 1, 1990.

**10A NCAC 17D .0215 RELOCATION OR DEATH OF
RECIPIENTS**

(a) If a recipient permanently relocates outside of North Carolina, the recipient shall give the Division written notice and return the equipment set to the nearest regional center prior to the move. If a recipient dies, written notice shall be given by the deceased's estate and the equipment set returned to the nearest regional center within 30 days after the recipient's death.

(b) If there are other users residing within a subscriber unit where the recipient dies or relocates outside of North Carolina, one of the users shall apply for recipient status according to the procedures specified in Rule .0205 of this Section within 10 days after the original recipient dies or relocates.

(c) If a recipient relocates within North Carolina, the recipient shall give the Division written notice of the new address within 30 days after moving. If the recipient's phone number changes, the recipient must notify the Division within 30 days of the change.

(d) The equipment set shall be returned to the regional center if all users permanently depart from the subscriber unit.

History Note: Authority G.S. 62-157; 143B-216.34;
Eff. December 1, 1988;
Amended Eff. May 1, 2007; April 1, 1990.

**10A NCAC 17D .0219 MAINTENANCE OF
EQUIPMENT RECORDS**

The vendors must submit a state authorization form to the TEDP office along with the invoices for payments.

History Note: Authority G.S. 62-157;
Eff. May 1, 2007.

10A NCAC 17D .0220 RIGHTS/CONSUMER APPEALS

Applicants whose application for telecommunications equipment has been denied by the TEDP may file an appeal using the following procedure for consumer appeals:

- (1) Ask any Division staff member for a TEDP Appeal of Decision to Deny Request for Telecommunications Equipment Form. This form may be obtained from any of the Division's regional resource centers throughout North Carolina or from the TEDP Administration Office of the Division in Raleigh;
- (2) This form must contain an explanation of the reasons for the appeal and must be submitted to the TEDP Administrator within 30 days of the rejection letter;

- (3) The TEDP Administrator shall review the appeal and render a decision within two weeks after receiving the formal appeal;
- (4) The Division shall notify the individual appealing the decision, in writing, within five working days of the TEDP Administrator's decision;
- (5) Appeal of the TEDP Administrator's decision may be made in writing to the Director of the Division within two weeks after notification of the TEDP Administrator's decision;
- (6) The Director of the Division shall review the appeal and render a final decision within two weeks after notification of appeal to the Division Director;
- (7) The individual submitting the appeal may pursue further appeal by writing to the Director and requesting an Independent Hearing Officer (IHO);
- (8) The decision of the IHO may be appealed to the Department of Health and Human Services (DHHS); and
- (9) Appeal of a DHHS decision may be pursued through the Office of Administrative Hearings (OAH).

History Note: Authority G.S. 62-157;
Eff. May 1, 2007.

10A NCAC 17D .0301 PURPOSE

The Division of Services for the Deaf and Hard of Hearing administers a Temporary Loan Program to provide equipment sets, including equipment sets from the North Carolina Telecommunications Equipment Distribution Program, to qualified recipients who are deaf, hard of hearing, deaf-blind, or speech-impaired.

History Note: Authority G.S. 143B-216.34;
Eff. May 1, 2007.

10A NCAC 17D .0302 ELIGIBILITY REQUIREMENTS

Individuals eligible to participate in the Temporary Loan Program must be deaf, hard of hearing, deaf-blind, or speech-impaired. There are no income requirements. However, an applicant of the Telecommunications Equipment Distribution Program whose equipment set breaks shall receive priority over those individuals who have not applied for equipment from the Telecommunications Equipment Distribution Program.

History Note: Authority G.S. 143B-216.34;
Eff. May 1, 2007.

10A NCAC 17D .0303 LOAN PERIOD, LEASE, AND LIABILITIES

(a) All equipment sets distributed according to the rules in this Section shall remain the property of the State of North Carolina. Each recipient shall sign a form indicating he or she understands and accepts the requirements of the lease agreement regarding ownership, liability, and responsibilities.

(b) Contingent upon the recipient's compliance with the rules in this Section, all equipment sets shall be leased free of charge to the recipient for a period ranging from one month to two years, depending on the recipient's need. The agreement form between the recipient and the regional center shall specify the loan period. At the end of the loan period, the equipment set shall be returned to the nearest regional center.

(c) A recipient must report changes in his/her address or phone number to the regional center within 30 days of the changes.

(d) Equipment sets are property of the state of North Carolina. The recipient shall not sell, loan, or otherwise transfer the equipment set out of the recipient's possession. Selling, loaning, or transferring the equipment set makes the recipient liable for all costs to replace the equipment.

History Note: Authority G.S. 143B-216.34;
Eff. May 1, 2007.

10A NCAC 17D .0304 MAINTENANCE: REPORTING LOSS, DAMAGE, OR THEFT

(a) The recipient shall be responsible for the payment for all telephone services incurred with the use of the equipment set.

(b) All ordinary expense of maintenance and repair of the equipment set shall be the responsibility of the recipient. If an equipment set is damaged, lost, or destroyed due to negligence of the recipient and not due to ordinary wear and tear, the recipient shall be held responsible for the cost of replacing the lost or destroyed equipment set or restoring the damaged equipment set to its original condition.

(c) The recipient shall immediately inform the regional center if the equipment is lost, stolen, or damaged. If equipment is stolen, the recipient shall report the theft to the local police and give the police report number to the regional center within 30 days of the date the theft occurred. The Division may send the recipient replacement equipment after it receives the police report. If the equipment is damaged by a weather-related situation such as lightning, flooding, or a tornado or by fire, the recipient shall notify the regional center and, if possible, send the damaged equipment to the regional center for verification that the equipment is damaged. The Division will send the recipient a replacement equipment set.

History Note: Authority G.S. 143B-216.34;
Eff. May 1, 2007.

**10A NCAC 27G .1501 SCOPE
10A NCAC 27G .1502 STAFF
10A NCAC 27G .1503 OPERATIONS
10A NCAC 27G .1504 PHYSICAL PLANT**

History Note: Authority G.S. 143B-147;
Eff. May 1, 1996;
Repealed Eff. May 1, 2007.

10A NCAC 28I .0401 FIREARMS

History Note: Authority G.S. 143B-147;
Eff. February 1, 1976;
Repealed Eff. May 1, 2007.

10A NCAC 28I .0402 FIREARMS

(a) Each state facility shall develop and implement written policies concerning firearms.

(b) The written policies shall include:

- (1) a provision stating that only a law enforcement officer as set forth in G.S. 143-166.2(d) may bring a firearm onto the grounds of the facility;
- (2) a provision setting forth the areas of the facility where firearms are prohibited including law enforcement officers' firearms. At a minimum, each facility's policy shall prohibit firearms from any patient or resident care area unless a law enforcement officer determines it is necessary to ensure client or staff safety; and
- (3) a provision stating that prior to entering an area of the facility where firearms are prohibited, a law enforcement officer shall:
 - (A) secure his or her firearm in his or her locked motor vehicle; or
 - (B) deposit his or her firearm in a secured site as designated by the facility.

History Note: Authority G.S. 122C-112.1; Eff. May 1, 2007.

10A NCAC 41B .0301 APPLICATION FOR INITIAL PERMIT

(a) Application for an initial permit to perform chemical analysis of a person's breath to determine his alcohol concentration shall be made in writing to the Director. The applicant shall have the endorsement of his supervisor, or his supervisor's representative. The Director shall issue, deny, terminate, and revoke permits for individuals to perform chemical analyses.

(b) Permits shall be granted to individuals who:

- (1) demonstrate the ability to perform chemical analyses accurately and reliably;
- (2) can explain the method of operation of the breath-testing instrument for which he is applying for a permit to operate;
- (3) provide a statement on the application from the applicant's supervisor attesting to the good character of the applicant; and
- (4) are employed by a law enforcement agency, the Forensic Tests for Alcohol Branch or members of its instructional staff, or by some other federal, state, county or municipal agency with the responsibility of administering chemical analyses to drivers charged with implied consent offenses.

(c) Individuals successfully completing a minimum of 35 course hours conducted by the Forensic Tests for Alcohol Branch shall be deemed to have met the requirements of Subparagraphs (b)(1) and (2) of this Rule.

History Note: Authority G.S. 20-139.1(b); Eff. January 1, 1982;

Amended Eff. May 1, 2007; October 1, 1993; September 1, 1990; September 1, 1989; January 1, 1985.

10A NCAC 41B .0304 CONDITIONS FOR RENEWAL OF PERMIT

(a) Permits may be renewed at expiration, or at such time prior to expiration as is convenient for the Director, upon demonstration by the permittee of:

- (1) continuing ability to perform accurate and reliable chemical analyses;
- (2) ability to explain the method of operation of the breath-testing instrument for which he is applying for a renewal permit to operate; and
- (3) continued employment by a law enforcement agency, the Forensic Tests for Alcohol Branch or a member of its instructional staff, or by some other federal, state, county or municipal agency with the responsibility of administering chemical analyses to drivers charged with implied consent offenses.

(b) The permittee shall provide a statement on the application from the applicant's supervisor attesting to the good character of the applicant.

(c) Individuals successfully completing a forensic test for alcohol recertification course conducted by the Forensic Tests for Alcohol Branch prior to the expiration of their permits shall be deemed to have met the requirements of Subparagraphs (a)(1) and (2) of this Rule for the renewal of permits.

(d) In addition to meeting the requirements of Paragraph (a) of this Rule, individuals desiring renewal permits, after expiration of their permits, shall successfully complete the following Forensic Tests for Alcohol Branch course requirements prior to the granting of renewal permits:

- (1) Forensic Tests for Alcohol Recertification Course if the permit has been expired less than six months;
- (2) Forensic Tests for Alcohol Operators Course if the permit has been expired six months or longer.

History Note: Authority G.S. 20-139.1(b); Eff. January 1, 1982;

Amended Eff. May 1, 2007; October 1, 1993; April 1, 1992; September 1, 1990; September 1, 1989.

10A NCAC 41B .0309 QUALIFICATIONS OF MAINTENANCE PERSONNEL

History Note: Authority; G.S. 20-139.1(b2); Eff. January 1, 1982;

Amended Eff. October 1, 1993; April 1, 1992; September 1, 1990; September 1, 1989; Repealed Eff. May 1, 2007.

10A NCAC 41B .0313 BREATH-TESTING INSTRUMENTS: REPORTING OF SEQUENTIAL TESTS

The Department approves breath-testing instruments listed on the National Highway Traffic Safety Administration, Conforming Products List of Evidential Breath Measurement

Devices. Instruments are approved on the basis of results of evaluations by the Forensic Tests for Alcohol Branch. Evaluations are not limited in scope and may include any factors deemed appropriate to ensure the accuracy, reliability, stability, cost, and ease of operation and durability of the instrument being evaluated.

History Note: Authority G.S. 20-16.5(j); 20-139.1(b);
Eff. January 1, 1982;
Amended Eff. May 1, 2007; April 1, 1993; September 1, 1990;
March 1, 1989; December 1, 1987.

TITLE 13 – DEPARTMENT OF LABOR

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 made by contacting the Wage and Hour Bureau's complaint desk. All complaints shall be reduced to written form by the Wage and Hour Bureau.

History Note: Authority G.S. 95-25.15; 95-25.19;
Eff. November 1, 1980;
Amended Eff. May 1, 2007.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 02B .0204 LOCATION OF SAMPLING SITES AND MIXING ZONES

(a) Location of Sampling Sites: in conducting tests or making analytical determinations of classified waters to determine conformity or nonconformity with the established standards, samples shall be collected outside the limits of prescribed mixing zones. However, where appropriate, samples shall be collected within the mixing zone in order to ensure compliance with in-zone water quality requirements as outlined in Paragraph (b) of this Rule.

(b) Mixing Zones: a mixing zone may be established in the area of a discharge in order to provide reasonable opportunity for the mixture of the wastewater with the receiving waters. Water quality standards shall not apply within regions defined as mixing zones, except that such zones shall be subject to the conditions established in accordance with this Rule. The limits of such mixing zones shall be defined by the division on a case-by-case basis after consideration of the magnitude and character of the waste discharge and the size and character of the receiving waters. Mixing zones shall be determined such that discharges shall not:

- (1) result in acute toxicity to aquatic life [as defined by Rule .0202(1) of this Section] or prevent free passage of aquatic organisms around the mixing zone;
- (2) result in offensive conditions;

- (3) produce undesirable aquatic life or result in a dominance of nuisance species outside of the assigned mixing zone; or
- (4) endanger the public health or welfare.

In addition, a mixing zone shall not be assigned for point source discharges of fecal coliform organisms in waters classified "WS-II," "WS-III," "B," or "SA". Mixing zones shall not be assigned for point source discharges of enterococci in waters classified "SB" or "SA". For the discharge of heated wastewater, compliance with federal rules and regulations pursuant to Section 316(a) of the Federal Water Pollution Control Act, as amended, shall constitute compliance with Subparagraph (b) of this Rule.

History Note: Authority G.S. 143-214.1;
Eff. February 1, 1976;
Amended Eff. May 1, 2007; October 1, 1989; February 1, 1986;
September 9, 1979.

15A NCAC 02B .0208 STANDARDS FOR TOXIC SUBSTANCES AND TEMPERATURE

(a) Toxic Substances: the concentration of toxic substances, either alone or in combination with other wastes, in surface waters shall not render waters injurious to aquatic life or wildlife, recreational activities, public health, or impair the waters for any designated uses. Specific standards for toxic substances to protect freshwater and tidal saltwater uses are listed in Rules .0211 and .0220 of this Section, respectively. Procedures for interpreting the narrative standard for toxic substances and numerical standards applicable to all waters are as follows:

- (1) Aquatic life standards: the concentration of toxic substances shall not result in chronic toxicity. Any levels in excess of the chronic value shall be considered to result in chronic toxicity. In the absence of direct measurements of chronic toxicity, the concentration of toxic substances shall not exceed the concentration specified by the fraction of the lowest LC50 value that predicts a no effect chronic level (as determined by the use of acceptable acute/chronic ratios). If an acceptable acute/chronic ratio is not available, then that toxic substance shall not exceed one-one hundredth (0.01) of the lowest LC50 or if it is affirmatively demonstrated that a toxic substance has a half-life of less than 96 hours the maximum concentration shall not exceed one-twentieth (0.05) of the lowest LC50;
- (2) Human health standards: the concentration of toxic substances shall not exceed the level necessary to protect human health through exposure routes of fish tissue consumption, water consumption, or other route identified as appropriate for the water body. Fish tissue consumption includes the consumption of shellfish;

(A) For non-carcinogens, these concentrations shall be determined using a Reference Dose (RfD) as published by the U.S. Environmental Protection Agency pursuant to Section 304(a) of the Federal Water Pollution Control Act as amended or a RfD issued by the U.S. Environmental Protection Agency as listed in the Integrated Risk Information System (IRIS) file or a RfD approved by the Director after consultation with the State Health director. Water quality standards or criteria used to calculate water quality based effluent limitations to protect human health through the different exposure routes are determined as follows:

(i) Fish tissue consumption:

$$WQS = (RfD \times RSC) \times \frac{\text{Body Weight}}{(FCR \times BCF)}$$
 where:
 WQS = water quality standard or criteria;
 RfD = reference dose;
 RSC = Relative Source Contribution;
 FCR = fish consumption rate (based upon 17.5 gm/person-day);
 BCF = bioconcentration factor, or bioaccumulation factor (BAF), as appropriate.

Pursuant to Section 304(a) of the Federal Water Pollution Control Act as amended BCF or BAF values, literature values, or site specific bioconcentration data approved by the Commission or its designee are based on U.S. Environmental Protection Agency publications; FCR values are average consumption rates for a 70 Kg adult for the lifetime of the population; alternative FCR values may be used when it is considered necessary to protect localized populations that may be consuming fish at a higher rate; RSC values, when made available through U.S. Environmental Protection Agency publications pursuant to Section 304(a) of the Federal Clean Water Pollution Control Act to account for non-water sources of exposure may be either a percentage (multiplied) or amount subtracted, depending on whether multiple criteria are relevant to the chemical;

(ii) Water consumption (including a correction for fish consumption):

$$WQS = (RfD \times RSC) \times \frac{\text{Body Weight}}{[WCR + (FCR \times BCF)]}$$

where:

WQS = water quality standard or criteria;
 RfD = reference dose;
 RSC = Relative Source Contribution;
 FCR = fish consumption rate (based upon 17.5 gm/person-day);
 BCF = bioconcentration factor, or bioaccumulation factor (BAF), as appropriate;
 WCR = water consumption rate (assumed to be two liters per day for adults).

To protect sensitive groups, exposure is based on a 10 Kg child drinking one liter of water per day. Standards may also be based on drinking water standards based on the requirements of the Federal Safe Drinking Water Act [42 U.S.C. 300(f)(g)-1]. For non-carcinogens, specific numerical water quality standards have not been included in this Rule because water quality standards to protect aquatic life for all toxic substances for which standards have been considered are more stringent than numerical standards to protect human health from non-carcinogens through consumption of fish; standards to protect human health from non-carcinogens through water consumption are listed under the water supply classification standards in Rule .0211 of this Section; the equations listed in this Subparagraph shall be used to develop water quality based effluent limitations on a case-by-case basis for toxic substances that are not presently included in the water quality standards. Alternative FCR values

may be used when it is considered necessary to protect localized populations that may be consuming fish at a higher rate;

- (B) For carcinogens, the concentrations of toxic substances shall not result in unacceptable health risks and shall be based on a Carcinogenic Potency Factor (CPF). An unacceptable health risk for cancer shall be considered to be more than one case of cancer per one million people exposed (10⁻⁶ risk level). The CPF is a measure of the cancer-causing potency of a substance estimated by the upper 95 percent confidence limit of the slope of a straight line calculated by the Linearized Multistage Model or other appropriate model according to U.S. Environmental Protection Agency Guidelines [FR 51 (185): 33992-34003; and FR 45 (231 Part V): 79318-79379]. Water quality standards or criteria for water quality based effluent limitations are calculated using the procedures given in Subparagraphs (A) and (B) of this Rule. Standards to protect human health from carcinogens through water consumption are listed under the water supply classification standards in Rules .0212, .0214, .0215, .0216, and .0218 of this Section; standards to protect human health from carcinogens through the consumption of fish (and shellfish) only are applicable to all waters as follows:

- (i) Aldrin: 0.05 ng/l;
- (ii) Arsenic: 10 ug/l;
- (iii) Benzene: 51 ug/l;
- (iv) Carbon tetrachloride: 1.6 ug/l;
- (v) Chlordane: 0.8 ng/l;
- (vi) DDT: 0.2 ng/l;
- (vii) Dieldrin: 0.05 ng/l;
- (viii) Dioxin: 0.000005 ng/l;
- (ix) Heptachlor: 0.08 ng/l;
- (x) Hexachlorobutadiene: 18 ug/l;
- (xi) Polychlorinated biphenyls (total of all identified PCBs and congeners): 0.064 ng/l;
- (xii) Polynuclear aromatic hydrocarbons (total of all PAHs): 31.1 ng/l;
- (xiii) Tetrachloroethane (1,1,2,2): 4 ug/l;

- (xiv) Tetrachloroethylene: 3.3 ug/L;
- (xvi) Trichloroethylene: 30 ug/l;
- (xvii) Vinyl chloride: 2.4 ug/l.

The values listed in Subparts (i) through (xvii) may be adjusted by the Commission or its designee on a case-by-case basis to account for site-specific or chemical-specific information pertaining to the assumed BCF, FCR or CPF values or other data;

- (b) Temperature: the Commission may establish a water quality standard for temperature for specific water bodies other than the standards specified in Rules .0211 and .0220 of this Section, upon a case-by-case determination that thermal discharges to these waters, that serve or may serve as a source or receptor of industrial cooling water provide for the maintenance of the designated best use throughout a reasonable portion of the water body. Such revisions of the temperature standard must be consistent with the provisions of Section 316(a) of the Federal Water Pollution Control Act as amended. A listing of existing thermal revisions shall be maintained and made available to the public by the Division.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. February 1, 1976;

Amended Eff. May 1, 2007; April 1, 2003; February 1, 1993; October 1, 1989; January 1, 1985; September 9, 1979.

15A NCAC 02B .0211 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS C WATERS

General. The water quality standards for all fresh surface waters are the basic standards applicable to Class C waters. See Rule .0208 of this Section for standards for toxic substances and temperature. Additional and more stringent standards applicable to other specific freshwater classifications are specified in Rules .0212, .0214, .0215, .0216, .0217, .0218, .0219, .0223, .0224 and .0225 of this Section.

- (1) Best Usage of Waters: aquatic life propagation and maintenance of biological integrity (including fishing and fish), wildlife, secondary recreation, agriculture and any other usage except for primary recreation or as a source of water supply for drinking, culinary or food processing purposes;
- (2) Conditions Related to Best Usage: the waters shall be suitable for aquatic life propagation and maintenance of biological integrity, wildlife, secondary recreation, and agriculture. Sources of water pollution which preclude any of these uses on either a short-term or long-term basis shall be considered to be violating a water quality standard;
- (3) Quality standards applicable to all fresh surface waters:
 - (a) Chlorophyll a (corrected): not greater than 40 ug/l for lakes, reservoirs, and other waters subject to growths of

- macroscopic or microscopic vegetation not designated as trout waters, and not greater than 15 ug/l for lakes, reservoirs, and other waters subject to growths of macroscopic or microscopic vegetation designated as trout waters (not applicable to lakes or reservoirs less than 10 acres in surface area). The Commission or its designee may prohibit or limit any discharge of waste into surface waters if, in the opinion of the Director, the surface waters experience or the discharge would result in growths of microscopic or macroscopic vegetation such that the standards established pursuant to this Rule would be violated or the intended best usage of the waters would be impaired;
- (b) Dissolved oxygen: not less than 6.0 mg/l for trout waters; for non-trout waters, not less than a daily average of 5.0 mg/l with a minimum instantaneous value of not less than 4.0 mg/l; swamp waters, lake coves or backwaters, and lake bottom waters may have lower values if caused by natural conditions;
 - (c) Floating solids, settleable solids, or sludge deposits: only such amounts attributable to sewage, industrial wastes or other wastes as shall not make the water unsafe or unsuitable for aquatic life and wildlife or impair the waters for any designated uses;
 - (d) Gases, total dissolved: not greater than 110 percent of saturation;
 - (e) Organisms of the coliform group: fecal coliforms shall not exceed a geometric mean of 200/100ml (MF count) based upon at least five consecutive samples examined during any 30 day period, nor exceed 400/100ml in more than 20 percent of the samples examined during such period. Violations of the fecal coliform standard are expected during rainfall events and, in some cases, this violation is expected to be caused by uncontrollable nonpoint source pollution. All coliform concentrations are to be analyzed using the membrane filter technique unless high turbidity or other adverse conditions necessitate the tube dilution method; in case of controversy over results, the MPN 5-tube dilution technique shall be used as the reference method;
 - (f) Oils, deleterious substances, colored or other wastes: only such amounts as shall not render the waters injurious to public health, secondary recreation or to aquatic life and wildlife or adversely affect the palatability of fish, aesthetic quality or impair the waters for any designated uses. For the purpose of implementing this Rule, oils, deleterious substances, colored or other wastes shall include but not be limited to substances that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines pursuant to 40 CFR 110.3(a)-(b) which are hereby incorporated by reference including any subsequent amendments and additions. This material is available for inspection at the Department of Environment and Natural Resources, Division of Water Quality, 512 North Salisbury Street, Raleigh, North Carolina. Copies may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402-9325 at a cost of forty-five dollars (\$45.00);
 - (g) pH: shall be normal for the waters in the area, which generally shall range between 6.0 and 9.0 except that swamp waters may have a pH as low as 4.3 if it is the result of natural conditions;
 - (h) Phenolic compounds: only such levels as shall not result in fish-flesh tainting or impairment of other best usage;
 - (i) Radioactive substances:
 - (i) Combined radium-226 and radium-228: the maximum average annual activity level (based on at least four samples collected quarterly) for combined radium-226 and radium-228 shall not exceed five picoCuries per liter;
 - (ii) Alpha Emitters: the average annual gross alpha particle activity (including radium-226, but excluding radon and uranium) shall not exceed 15 picoCuries per liter;

- (iii) Beta Emitters: the maximum average annual activity level (based on at least four samples, collected quarterly) for strontium-90 shall not exceed eight picoCuries per liter; nor shall the average annual gross beta particle activity (excluding potassium-40 and other naturally occurring radio-nuclides) exceed 50 picoCuries per liter; nor shall the maximum average annual activity level for tritium exceed 20,000 picoCuries per liter;
- (j) Temperature: not to exceed 2.8 degrees C (5.04 degrees F) above the natural water temperature, and in no case to exceed 29 degrees C (84.2 degrees F) for mountain and upper piedmont waters and 32 degrees C (89.6 degrees F) for lower piedmont and coastal plain Waters; the temperature for trout waters shall not be increased by more than 0.5 degrees C (0.9 degrees F) due to the discharge of heated liquids, but in no case to exceed 20 degrees C (68 degrees F);
- (k) Turbidity: the turbidity in the receiving water shall not exceed 50 Nephelometric Turbidity Units (NTU) in streams not designated as trout waters and 10 NTU in streams, lakes or reservoirs designated as trout waters; for lakes and reservoirs not designated as trout waters, the turbidity shall not exceed 25 NTU; if turbidity exceeds these levels due to natural background conditions, the existing turbidity level shall not be increased. Compliance with this turbidity standard can be met when land management activities employ Best Management Practices (BMPs) [as defined by Rule .0202 of this Section] recommended by the Designated Nonpoint Source Agency [as defined by Rule .0202 of this Section]. BMPs must be in full compliance with all specifications governing the proper design, installation, operation and maintenance of such BMPs;
- (l) Toxic substances: numerical water quality standards (maximum permissible levels) for the protection of human health applicable to all fresh surface waters are in Rule .0208 of this Section. Numerical water quality standards (maximum permissible levels) to protect aquatic life applicable to all fresh surface waters:
 - (i) Arsenic: 50 ug/l;
 - (ii) Beryllium: 6.5 ug/l;
 - (iii) Cadmium: 0.4 ug/l for trout waters and 2.0 ug/l for non-trout waters; attainment of these water quality standards in surface waters shall be based on measurement of total recoverable metals concentrations unless appropriate studies have been conducted to translate total recoverable metals to a toxic form. Studies used to determine the toxic form or translators must be designed according to the "Water Quality Standards Handbook Second Edition" published by the Environmental Protection Agency (EPA 823-B-94-005a) or "The Metals Translator: Guidance For Calculating a Total Recoverable Permit Limit From a Dissolved Criterion" published by the Environmental Protection Agency (EPA 823-B-96-007) which are hereby incorporated by reference including any subsequent amendments. The Director shall consider conformance to EPA guidance as well as the presence of environmental conditions that limit the applicability of translators in approving the use of metal translators;
 - (iv) Chlorine, total residual: 17 ug/l;
 - (v) Chromium, total recoverable: 50 ug/l;
 - (vi) Cyanide, 5.0 ug/l, unless site-specific criteria are developed based upon the aquatic life at the site utilizing The Recalculation Procedure in Appendix B of Appendix L in the Environmental Protection

- Agency's Water Quality Standards Handbook hereby incorporated by reference including any subsequent amendments;
- (vii) Fluorides: 1.8 mg/l;
- (viii) Lead, total recoverable: 25 ug/l, collection of data on sources, transport and fate of lead shall be required as part of the toxicity reduction evaluation for dischargers who are out of compliance with whole effluent toxicity testing requirements and the concentration of lead in the effluent is concomitantly determined to exceed an instream level of 3.1 ug/l from the discharge;
- (ix) Mercury: 0.012 ug/l;
- (x) Nickel: 88 ug/l, attainment of these water quality standards in surface waters shall be based on measurement of total recoverable metals concentrations unless appropriate studies have been conducted to translate total recoverable metals to a toxic form. Studies used to determine the toxic form or translators must be designed according to the "Water Quality Standards Handbook Second Edition" published by the Environmental Protection Agency (EPA 823-B-94-005a) or "The Metals Translator: Guidance For Calculating a Total Recoverable Permit Limit From a Dissolved Criterion" published by the Environmental Protection Agency (EPA 823-B-96-007) which are hereby incorporated by reference including any subsequent amendments. The Director shall consider conformance to EPA guidance as well as the presence of environmental conditions that limit the applicability of translators in approving the use of metal translators;
- (xi) Pesticides:
- (A) Aldrin: 0.002 ug/l;
- (B) Chlordane: 0.004 ug/l;
- (C) DDT: 0.001 ug/l;
- (D) Demeton: 0.1 ug/l;
- (E) Dieldrin: 0.002 ug/l;
- (F) Endosulfan: 0.05 ug/l;
- (G) Endrin: 0.002 ug/l;
- (H) Guthion: 0.01 ug/l;
- (I) Heptachlor: 0.004 ug/l;
- (J) Lindane: 0.01 ug/l;
- (K) Methoxychlor: 0.03 ug/l;
- (L) Mirex: 0.001 ug/l;
- (M) Parathion: 0.013 ug/l;
- (N) Toxaphene: 0.0002 ug/l;
- (xii) Polychlorinated biphenyls: (total of all PCBs and congeners identified) 0.001 ug/l;
- (xiii) Selenium: 5 ug/l;
- (xiv) Toluene: 11 ug/l or 0.36 ug/l in trout waters;
- (xv) Trialkyltin compounds: 0.07 ug/l expressed as tributyltin;
- (4) Action Levels for Toxic Substances:
- (a) Copper: 7 ug/l;
- (b) Iron: 1.0 mg/l;
- (c) Silver: 0.06 ug/l;
- (d) Zinc: 50 ug/l;
- (e) Chloride: 230 mg/l;
- If the Action Levels for any of the substances listed in this Subparagraph (which are generally not bioaccumulative and have variable toxicity to aquatic life because of chemical form, solubility, stream characteristics or associated waste characteristics) are determined by the waste load allocation to be exceeded in a receiving water by a discharge under the specified low flow criterion for toxic substances (Rule .0206 in this Section), the discharger shall monitor the chemical or biological effects of the discharge; efforts shall be made by all dischargers to reduce or eliminate these substances from their effluents. Those substances for which Action Levels are listed in this Subparagraph shall be limited as appropriate in the NPDES permit based on the Action Levels listed in this Subparagraph if sufficient information (to be determined for metals by measurements of that portion of the dissolved instream concentration of the Action Level parameter attributable to a specific

NPDES permitted discharge) exists to indicate that any of those substances may be a causative factor resulting in toxicity of the effluent. NPDES permit limits may be based on translation of the toxic form to total recoverable metals. Studies used to determine the toxic form or translators must be designed according to "Water Quality Standards Handbook Second Edition" published by the Environmental Protection Agency (EPA 823-B-94-005a) or "The Metals Translator: Guidance For Calculating a Total Recoverable Permit Limit From a Dissolved Criterion" published by the Environmental Protection Agency (EPA 823-B-96-007) which are hereby incorporated by reference including any subsequent amendments. The Director shall consider conformance to EPA guidance as well as the presence of environmental conditions that limit the applicability of translators in approving the use of metal translators.

For purposes other than consideration of NPDES permitting of point source discharges as described in this Subparagraph, the Action Levels in this Rule, as measured by an appropriate analytical technique, per 15A NCAC 02B .0103(a), shall be considered as numerical ambient water quality standards.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. May 1, 2007; April 1, 2003; August 1, 2000; October 1, 1995; August 1, 1995; April 1, 1994; February 1, 1993.

15A NCAC 02B .0212 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS WS-I WATERS

The following water quality standards apply to surface waters within water supply watersheds that are classified WS-I. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section also apply to Class WS-I waters.

- (1) The best usage of WS-I waters are as follows: a source of water supply for drinking, culinary, or food-processing purposes for those users desiring maximum protection of their water supplies; waters located on land in public ownership; and any best usage specified for Class C waters;
- (2) The conditions related to the best usage are as follows: waters of this class are protected water supplies within essentially natural and undeveloped watersheds in public ownership with no permitted point source dischargers except those specified in Rule .0104 of this Subchapter; waters within this class must be relatively unimpacted by nonpoint sources of pollution; land use management programs are required to protect waters from nonpoint

source pollution; the waters, following treatment required by the Division of Environmental Health, shall meet the Maximum Contaminant Level concentrations considered safe for drinking, culinary, and food-processing purposes which are specified in the national drinking water regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1500. Sources of water pollution which preclude any of these uses on either a short-term or long-term basis shall be considered to be violating a water quality standard. The Class WS-I classification may be used to protect portions of Class WS-II, WS-III and WS-IV water supplies. For reclassifications occurring after the July 1, 1992 statewide reclassification, the more protective classification requested by local governments shall be considered by the Commission when all local governments having jurisdiction in the affected area(s) have adopted a resolution and the appropriate ordinances to protect the watershed or the Commission acts to protect a watershed when one or more local governments has failed to adopt necessary protection measures;

(3) Quality standards applicable to Class WS-I Waters are as follows:

- (a) MBAS (Methylene-Blue Active Substances): not greater than 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;
- (b) Nonpoint Source Pollution: none shall be allowed that would adversely impact the waters for use as a water supply or any other designated use;
- (c) Organisms of coliform group: total coliforms not to exceed 50/100 ml (MF count) as a monthly geometric mean value in watersheds serving as unfiltered water supplies;
- (d) Chlorinated phenolic compounds: not greater than 1.0 ug/l to protect water supplies from taste and odor problems from chlorinated phenols;
- (e) Sewage, industrial wastes: none shall be allowed except those specified in Subparagraph (2) of this Paragraph or Rule .0104 of this Subchapter;
- (f) Solids, total dissolved: not greater than 500 mg/l;
- (g) Total hardness: not greater than 100 mg/l as calcium carbonate;
- (h) Toxic and other deleterious substances:
 - (i) Water quality standards (maximum permissible

concentrations) to protect human health through water consumption and fish tissue consumption for non-carcinogens in Class WS-I waters:

- (A) Barium: 1.0 mg/l;
- (B) Chloride: 250 mg/l;
- (C) Manganese: 200 ug/l;
- (D) Nickel: 25 ug/l;
- (E) Nitrate nitrogen: 10.0 mg/l;
- (F) 2,4-D: 100 ug/l;
- (G) 2,4,5-TP (Silvex): 10 ug/l;
- (H) Sulfates: 250 mg/l;

(ii) Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption for carcinogens in Class WS-I waters:

- (A) Aldrin: 0.05 ng/l;
- (B) Arsenic: 10 ug/l;
- (C) Benzene: 1.19 ug/l;
- (D) Carbon tetrachloride: 0.254 ug/l;
- (E) Chlordane: 0.8 ng/l;
- (F) Chlorinated benzenes: 488 ug/l;
- (G) DDT: 0.2 ng/l;
- (H) Dieldrin: 0.05 ng/l;
- (I) Dioxin: 0.000005 ng/l;
- (J) Heptachlor: 0.08 ng/l;
- (K) Hexachlorobutadiene: 0.44 ug/l;
- (L) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;
- (M) Tetrachloroethane (1,1,2,2): 0.17 ug/l;
- (N) Tetrachloroethylene: 0.7 ug/l;
- (O) Trichloroethylene: 2.5 ug/l;
- (P) Vinyl Chloride: 0.025 ug/l.

QUALITY STANDARDS FOR CLASS WS-II WATERS

The following water quality standards apply to surface waters within water supply watersheds that are classified WS-II. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section also apply to Class WS-II waters.

- (1) The best usage of WS-II waters are as follows: a source of water supply for drinking, culinary, or food-processing purposes for those users desiring maximum protection for their water supplies where a WS-I classification is not feasible and any best usage specified for Class C waters;
- (2) The conditions related to the best usage are as follows: waters of this class are protected as water supplies which are in predominantly undeveloped watersheds and meet average watershed development density levels as specified in Sub-Items (3)(b)(i)(A), (3)(b)(i)(B), (3)(b)(ii)(A) and (3)(b)(ii)(B) of this Rule; discharges which qualify for a General Permit pursuant to 15A NCAC 2H .0127, trout farm discharges, recycle (closed loop) systems that only discharge in response to 10-year storm events and other stormwater discharges are allowed in the entire watershed; new domestic and industrial discharges of treated wastewater are not allowed in the entire watershed; the waters, following treatment required by the Division of Environmental Health, shall meet the Maximum Contaminant Level concentrations considered safe for drinking, culinary, and food-processing purposes which are specified in the national drinking water regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1500. Sources of water pollution which preclude any of these uses on either a short-term or long-term basis shall be considered to be violating a water quality standard. The Class WS-II classification may be used to protect portions of Class WS-III and WS-IV water supplies. For reclassifications of these portions of Class WS-III and WS-IV water supplies occurring after the July 1, 1992 statewide reclassification, the more protective classification requested by local governments shall be considered by the Commission when all local governments having jurisdiction in the affected area(s) have adopted a resolution and the appropriate ordinances to protect the watershed or the Commission acts to protect a watershed when one or more local governments has failed to adopt necessary protection measures;
- (3) Quality standards applicable to Class WS-II Waters are as follows:
 - (a) Sewage, industrial wastes, non-process industrial wastes, or

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. May 1, 2007; April 1, 2003; October 1, 1995; February 1, 1993; March 1, 1991; October 1, 1989.

15A NCAC 02B .0214 FRESH SURFACE WATER

other wastes: none shall be allowed except for those specified in either Item (2) of this Rule and Rule .0104 of this Subchapter; none shall be allowed that have an adverse effect on human health or that are not effectively treated to the satisfaction of the Commission and in accordance with the requirements of the Division of Environmental Health, North Carolina Department of Environment and Natural Resources. Any discharger may be required upon request by the Commission to disclose all chemical constituents present or potentially present in their wastes and chemicals which could be spilled or be present in runoff from their facility which may have an adverse impact on downstream water quality. These facilities may be required to have spill and treatment failure control plans as well as perform special monitoring for toxic substances;

(b) Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as a water supply or any other designated use;

(i) Nonpoint Source and Stormwater Pollution Control Criteria for Entire Watershed:

(A) Low Density Option: development density must be limited to either no more than one dwelling unit per acre of single family detached residential development (or 40,000 square foot lot excluding roadway right-of-way) or 12 percent built-upon area for all other residential and non-residential development in the watershed outside of the critical area; stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable;

(B) High Density Option: if new development exceeds the low density option requirements as stated in Sub-Item (3)(b)(i)(A) of this Rule, then engineered stormwater controls must be used to control runoff from the first inch of rainfall; new

residential and non-residential development shall not exceed 30 percent built-upon area;

(C) Land within the watershed shall be deemed compliant with the density requirements if the following condition is met: the density of all existing development at the time of reclassification does not exceed the density requirement when densities are averaged throughout the entire watershed area at the time of classification;

(D) Cluster development is allowed on a project-by-project basis as follows:

(I) overall density of the project meets associated density or stormwater control requirements of this Rule;

(II) buffers meet the minimum statewide water supply watershed protection requirements;

(III) built-upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas;

(IV) areas of concentrated development are located in upland areas and away, to the maximum extent practicable, from surface waters and drainageways;

(V) remainder of tract to remain in vegetated or natural state;

- (VI) area in the vegetated or natural state may be conveyed to a property owners association, a local government for preservation as a park or greenway, a conservation organization, or placed in a permanent conservation or farmland preservation easement;
- (VII) a maintenance agreement for the vegetated or natural area shall be filed with the Register of Deeds; and
- (VIII) cluster development that meets the applicable low density option requirements shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable;
- (E) A maximum of 10 percent of each jurisdiction's portion of the watershed outside of the critical area as delineated on July 1, 1993 may be developed with new development projects and expansions of existing development of up to 70 percent built-upon surface area in addition to the new development approved in compliance with the appropriate requirements of Sub-Item (3)(b)(i)(A) or Sub-Item (3)(b)(i)(B) of this Rule. For expansions to existing development, the existing built-upon surface area is not counted toward the allowed 70 percent built-upon surface area. A local government having jurisdiction within the watershed may transfer, in whole or in part, its right to the 10 percent/70 percent land area to another local government within the watershed upon submittal of a joint resolution and review by the Commission. When the water supply watershed is composed of public lands, such as National Forest land, local governments may count the public land acreage within the watershed outside of the critical area in calculating the acreage allowed under this provision. For local governments that do not choose to use the high density option in that WS-II watershed, each project must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality impacts. If the local government selects the high density development option within that WS-II watershed, then engineered stormwater controls must be employed for the new development;
- (F) If local governments choose the high density development option which requires stormwater controls, then they shall assume ultimate responsibility for operation and maintenance of the required controls as outlined in Rule .0104 of this Subchapter;
- (G) Minimum 100 foot vegetative buffer is required for all new development activities that exceed the low density option requirements as specified in Sub-Items (3)(b)(i)(A) and Sub-Item (3)(b)(ii)(A) of this Rule, otherwise a minimum 30 foot vegetative buffer for development activities is

required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Nothing in this Rule shall stand as a bar to artificial streambank or shoreline stabilization;

- (H) No new development is allowed in the buffer; water dependent structures, or other structures such as flag poles, signs and security lights, which result in only de minimus increases in impervious area and public projects such as road crossings and greenways may be allowed where no practicable alternative exists. These activities shall minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of BMPs;
- (I) No NPDES permits shall be issued for landfills that discharge treated leachate;
- (ii) Critical Area Nonpoint Source and Stormwater Pollution Control Criteria:
 - (A) Low Density Option: new development is limited to either no more than one dwelling unit of single family detached residential development per two acres (or 80,000 square foot lot excluding roadway right-of-way) or six percent built-upon area for all other residential and non-residential development; stormwater runoff from the development shall be transported by vegetated

conveyances to the maximum extent practicable;

- (B) High Density Option: if new development density exceeds the low density requirements specified in Sub-Item (3)(b)(ii)(A) of this Rule, then engineered stormwater controls must be used to control runoff from the first inch of rainfall; new residential and non-residential development density not to exceed 24 percent built-upon area;
- (C) No new permitted sites for land application of residuals or petroleum contaminated soils are allowed;
- (D) No new landfills are allowed;
- (c) MBAS (Methylene-Blue Active Substances): not greater than 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;
- (d) Odor producing substances contained in sewage or other wastes: only such amounts, whether alone or in combination with other substances or wastes, as shall not cause taste and odor difficulties in water supplies which cannot be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage established for waters of this class;
- (e) Chlorinated phenolic compounds: not greater than 1.0 ug/l to protect water supplies from taste and odor problems from chlorinated phenols;
- (f) Total hardness: not greater than 100 mg/l as calcium carbonate;
- (g) Total dissolved solids: not greater than 500 mg/l;

- (h) Toxic and other deleterious substances:
- (i) Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption for non-carcinogens in Class WS-II waters:
- (A) Barium: 1.0 mg/l;
 - (B) Chloride: 250 mg/l;
 - (C) Manganese: 200 ug/l;
 - (D) Nickel: 25 ug/l;
 - (E) Nitrate nitrogen: 10 mg/l;
 - (F) 2,4-D: 100 ug/l;
 - (G) 2,4,5-TP (Silvex): 10 ug/l;
 - (H) Sulfates: 250 mg/l;
- (ii) Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption for carcinogens in Class WS-II waters:
- (A) Aldrin: 0.05 ng/l;
 - (B) Arsenic: 10 ug/l;
 - (C) Benzene: 1.19 ug/l;
 - (D) Carbon tetrachloride: 0.254 ug/l;
 - (E) Chlordane: 0.8 ng/l;
 - (F) Chlorinated benzenes: 488 ug/l;
 - (G) DDT: 0.2 ng/l;
 - (H) Dieldrin: 0.05 ng/l;
 - (I) Dioxin: 0.000005 ng/l;
 - (J) Heptachlor: 0.08 ng/l;
 - (K) Hexachlorobutadiene: 0.44 ug/l;
 - (L) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;
 - (M) Tetrachloroethane (1,1,2,2): 0.17 ug/l;
 - (N) Tetrachloroethylene: 0.7 ug/l;
 - (O) Trichloroethylene: 2.5 ug/l;
 - (P) Vinyl Chloride: 0.025 ug/l.

Amended Eff. May 1, 2007; April 1, 2003; January 1, 1996; October 1, 1995.

15A NCAC 02B .0215 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS WS-III WATERS

The following water quality standards apply to surface water supply waters that are classified WS-III. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section also apply to Class WS-III waters.

- (1) The best usage of WS-III waters are as follows: a source of water supply for drinking, culinary, or food-processing purposes for those users where a more protective WS-I or WS-II classification is not feasible and any other best usage specified for Class C waters;
- (2) The conditions related to the best usage are as follows: waters of this class are protected as water supplies which are generally in low to moderately developed watersheds and meet average watershed development density levels as specified in Sub-Items (3)(b)(i)(A), (3)(b)(i)(B), (3)(b)(ii)(A) and (3)(b)(ii)(B) of this Rule; discharges that qualify for a General Permit pursuant to 15A NCAC 2H .0127, trout farm discharges, recycle (closed loop) systems that only discharge in response to 10-year storm events, and other stormwater discharges are allowed in the entire watershed; treated domestic wastewater discharges are allowed in the entire watershed but no new domestic wastewater discharges are allowed in the critical area; no new industrial wastewater discharges except non-process industrial discharges are allowed in the entire watershed; the waters, following treatment required by the Division of Environmental Health, shall meet the Maximum Contaminant Level concentrations considered safe for drinking, culinary, or food-processing purposes which are specified in the national drinking water regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1500. Sources of water pollution which preclude any of these uses on either a short-term or long-term basis shall be considered to be violating a water quality standard. The Class WS-III classification may be used to protect portions of Class WS-IV water supplies. For reclassifications of these portions of WS-IV water supplies occurring after the July 1, 1992 statewide reclassification, the more protective classification requested by local governments shall be considered by the Commission when all local governments having jurisdiction in the affected area(s) have adopted a resolution and the appropriate ordinances to protect the watershed or the Commission acts to protect a watershed when one or more local

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. May 10, 1979;

- governments has failed to adopt necessary protection measures;
- (3) Quality standards applicable to Class WS-III Waters are as follows:
- (a) Sewage, industrial wastes, non-process industrial wastes, or other wastes: none shall be allowed except for those specified in Item (2) of this Rule and Rule .0104 of this Subchapter; none shall be allowed that have an adverse effect on human health or that are not effectively treated to the satisfaction of the Commission and in accordance with the requirements of the Division of Environmental Health, North Carolina Department of Environment and Natural Resources. Any discharger may be required by the Commission to disclose all chemical constituents present or potentially present in their wastes and chemicals which could be spilled or be present in runoff from their facility which may have an adverse impact on downstream water quality. These facilities may be required to have spill and treatment failure control plans as well as perform special monitoring for toxic substances;
- (b) Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use;
- (i) Nonpoint Source and Stormwater Pollution Control Criteria For Entire Watershed:
- (A) Low Density Option: development density must be limited to either no more than two dwelling units of single family detached residential development per acre (or 20,000 square foot lot excluding roadway right-of-way) or 24 percent built-upon area for all other residential and non-residential development in watershed outside of the critical area;
- stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable;
- (B) High Density Option: if new development density exceeds the low density option requirements specified in Sub-Item (3)(b)(i)(A) of this Rule then development must control runoff from the first inch of rainfall; new residential and non-residential development shall not exceed 50 percent built-upon area;
- (C) Land within the watershed shall be deemed compliant with the density requirements if the following condition is met: the density of all existing development at the time of reclassification does not exceed the density requirement when densities are averaged throughout the entire watershed area;
- (D) Cluster development is allowed on a project-by-project basis as follows:
- (I) overall density of the project meets associated density or stormwater control

- requirements
of this Rule;
- (II) buffers meet the minimum statewide water supply watershed protection requirements;
- (III) built-upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas;
- (IV) areas of concentrated development are located in upland areas and away, to the maximum extent practicable, from surface waters and drainageways;
- (V) remainder of tract to remain in vegetated or natural state;
- (VI) area in the vegetated or natural state may be conveyed to a property owners association, a local government for preservation as a park or greenway, a conservation organization or placed in a permanent conservation or farmland preservation easement;
- (VII) a maintenance agreement for the vegetated or natural area shall be filed with the Register of Deeds; and
- (VIII) cluster development that meets the applicable low density option requirements shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable;
- (E) A maximum of 10 percent of each jurisdiction's portion of the watershed outside of the critical area as delineated on July 1, 1993 may be developed with new development projects and expansions of existing development of up to 70 percent built-upon surface area in addition to the new development approved in compliance with the appropriate requirements of Sub-Item (3)(b)(i)(A) or Sub-Item

(3)(b)(i)(B) of this Rule. For expansions to existing development, the existing built-upon surface area is not counted toward the allowed 70 percent built-upon surface area. A local government having jurisdiction within the watershed may transfer, in whole or in part, its right to the 10 percent/70 percent land area to another local government within the watershed upon submittal of a joint resolution and review by the Commission.

When the water supply watershed is composed of public lands, such as National Forest land, local governments may count the public land acreage within the watershed outside of the critical area in figuring the acreage allowed under this provision. For local governments that do not choose to use the high density option in that WS-III watershed, each project must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater runoff away from surface waters, and incorporate best management practices to minimize water

quality impacts. If the local government selects the high density development option within that WS-III watershed, then engineered stormwater controls must be employed for the new development;

(F) If local governments choose the high density development option which requires engineered stormwater controls, then they shall assume ultimate responsibility for operation and maintenance of the required controls as outlined in Rule .0104 of this Subchapter;

(G) Minimum 100 foot vegetative buffer is required for all new development activities that exceed the low density requirements as specified in Sub-Item (3)(b)(i)(A) and Sub-Item (3)(b)(ii)(A) of this Rule, otherwise a minimum 30 foot vegetative buffer for development is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Nothing in this Rule shall stand as a bar to artificial

- streambank or shoreline stabilization;
 - (H) No new development is allowed in the buffer; water dependent structures, or other structures such as flag poles, signs and security lights, which result in only de minimus increases in impervious area and public projects such as road crossings and greenways may be allowed where no practicable alternative exists. These activities shall minimize built-upon surface area, direct runoff away from surface waters and maximize the utilization of BMPs;
 - (I) No NPDES permits shall be issued for landfills that discharge treated leachate;
 - (ii) Critical Area Nonpoint Source and Stormwater Pollution Control Criteria:
 - (A) Low Density Option: new development limited to either no more than one dwelling unit of single family detached residential development per acre (or 40,000 square foot lot excluding roadway right-of-way) or 12 percent built-upon area for all other residential and non-residential development; stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable;
 - (B) High Density Option: if new development exceeds the low density requirements specified in Sub-Item (3)(b)(ii)(A) of this Rule, then engineered stormwater controls must be used to control runoff from the first inch of rainfall; development shall not exceed 30 percent built-upon area;
 - (C) No new permitted sites for land application of residuals or petroleum contaminated soils are allowed;
 - (D) No new landfills are allowed;
 - (c) MBAS (Methylene-Blue Active Substances): not greater than 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;
 - (d) Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or wastes, as shall not cause taste and odor difficulties in water supplies which cannot be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage established for waters of this class;
 - (e) Chlorinated phenolic compounds: not greater than 1.0 ug/l to protect water supplies from taste and odor problems from chlorinated phenols;
 - (f) Total hardness: not greater than 100 mg/l as calcium carbonate;

- (g) Total dissolved solids: not greater than 500 mg/l;
- (h) Toxic and other deleterious substances:
 - (i) Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption for non-carcinogens in Class WS-III waters:
 - (A) Barium: 1.0 mg/l;
 - (B) Chloride: 250 mg/l;
 - (C) Manganese: 200 ug/l;
 - (D) Nickel: 25 ug/l;
 - (E) Nitrate nitrogen: 10 mg/l;
 - (F) 2,4-D: 100 ug/l;
 - (G) 2,4,5-TP (Silvex): 10 ug/l;
 - (H) Sulfates: 250 mg/l;
 - (ii) Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption for carcinogens in Class WS-III waters:
 - (A) Aldrin: 0.05 ng/l;
 - (B) Arsenic: 10 ug/l;
 - (C) Benzene: 1.19 ug/l;
 - (D) Carbon tetrachloride: 0.254 ug/l;
 - (E) Chlordane: 0.8 ng/l;
 - (F) Chlorinated benzenes: 488 ug/l;
 - (G) DDT: 0.2 ng/l;
 - (H) Dieldrin: 0.05 ng/l;
 - (I) Dioxin: 0.000005 ng/l;
 - (J) Heptachlor: 0.08 ng/l;
 - (K) Hexachlorobutadiene: 0.44 ug/l;
 - (L) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;
 - (M) Tetrachloroethane (1,1,2,2): 0.17 ug/l;

- (N) Tetrachloroethylene: 0.7 ug/l;
- (O) Trichloroethylene: 2.5 ug/l;
- (P) Vinyl Chloride: 0.025 ug/l.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. September 9, 1979; Amended Eff. May 1, 2007; April 1, 2003; January 1, 1996; October 1, 1995; October 1, 1989.

15A NCAC 02B .0216 FRESH SURFACE WATER QUALITY STANDARDS FOR WS-IV WATERS

The following water quality standards apply to surface water supply waters that are classified WS-IV. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section also apply to Class WS-IV waters.

- (1) The best usage of WS-IV waters are as follows: a source of water supply for drinking, culinary, or food-processing purposes for those users where a more protective WS-I, WS-II or WS-III classification is not feasible and any other best usage specified for Class C waters;
- (2) The conditions related to the best usage are as follows: waters of this class are protected as water supplies which are generally in moderately to highly developed watersheds or protected areas and meet average watershed development density levels as specified in Sub-Items (3)(b)(i)(A), (3)(b)(i)(B), (3)(b)(ii)(A) and (3)(b)(ii)(B) of this Rule; discharges which qualify for a General Permit pursuant to 15A NCAC 02H .0127, trout farm discharges, recycle (closed loop) systems that only discharge in response to 10-year storm events, other stormwater discharges and domestic wastewater discharges shall be allowed in the protected and critical areas; treated industrial wastewater discharges are allowed in the protected and critical areas; however, new industrial wastewater discharges in the critical area shall be required to meet the provisions of 15A NCAC 02B .0224(1)(b)(iv), (v) and (vii), and 15A NCAC 02B .0203; new industrial connections and expansions to existing municipal discharges with a pretreatment program pursuant to 15A NCAC 02H .0904 are allowed; the waters, following treatment required by the Division of Environmental Health, shall meet the Maximum Contaminant Level concentrations considered safe for drinking, culinary, or food-processing purposes which are specified in the national drinking water regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1500. Sources of water pollution which preclude any

- of these uses on either a short-term or long-term basis shall be considered to be violating a water quality standard. The Class WS-II or WS-III classifications may be used to protect portions of Class WS-IV water supplies. For reclassifications of these portions of WS-IV water supplies occurring after the July 1, 1992 statewide reclassification, the more protective classification requested by local governments shall be considered by the Commission when all local governments having jurisdiction in the affected area(s) have adopted a resolution and the appropriate ordinances to protect the watershed or the Commission acts to protect a watershed when one or more local governments has failed to adopt necessary protection measures;
- (3) Quality standards applicable to Class WS-IV Waters are as follows:
- (a) Sewage, industrial wastes, non-process industrial wastes, or other wastes: none shall be allowed except for those specified in Item (2) of this Rule and Rule .0104 of this Subchapter and none shall be allowed that shall have an adverse effect on human health or that are not effectively treated to the satisfaction of the Commission and in accordance with the requirements of the Division of Environmental Health, North Carolina Department of Environment and Natural Resources. Any discharges or industrial users subject to pretreatment standards may be required by the Commission to disclose all chemical constituents present or potentially present in their wastes and chemicals which could be spilled or be present in runoff from their facility which may have an adverse impact on downstream water supplies. These facilities may be required to have spill and treatment failure control plans as well as perform special monitoring for toxic substances;
- (b) Nonpoint Source and Stormwater Pollution: none shall be allowed that would adversely impact the waters for use as water supply or any other designated use.
- (i) Nonpoint Source and Stormwater Pollution Control Criteria For Entire Watershed or Protected Area:
- (A) Low Density Option: development activities which require a Sedimentation/Erosion Control Plan in accordance with 15A NCAC 4 established by the North Carolina Sedimentation Control Commission or approved local government programs as delegated by the Sedimentation Control Commission shall be limited to no more than either: two dwelling units of single family detached development per acre (or 20,000 square foot lot excluding roadway right-of-way) or 24 percent built-upon on area for all other residential and non-residential development; or three dwelling units per acre or 36 percent built-upon area for projects without curb and gutter street systems in the protected area outside of the critical area; stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable;
- (B) High Density Option: if new development activities which require a

- Sedimenta-
tion/Erosion
Control Plan
exceed the low
density
requirements of
Sub-Item
(3)(b)(i)(A) of this
Rule then
development shall
control the runoff
from the first inch
of rainfall; new
residential and non-
residential
development shall
not exceed 70
percent built-upon
area;
- (C) Land within the
critical and
protected area shall
be deemed
compliant with the
density
requirements if the
following condition
is met: the density
of all existing
development at the
time of
reclassification
does not exceed the
density requirement
when densities are
averaged
throughout the
entire area;
- (D) Cluster
development shall
be allowed on a
project-by-project
basis as follows:
- (I) overall density
of the project
meets
associated
density or
stormwater
control
requirements
of this Rule;
- (II) buffers meet
the minimum
statewide water
supply
watershed
protection
requirements;
- (III) built-upon
areas are
designed and
located to
minimize
stormwater
runoff impact
to the receiving
waters,
minimize
concentrated
stormwater
flow, maximize
the use of sheet
flow through
vegetated
areas, and
maximize the
flow length
through
vegetated
areas;
- (IV) areas of
concentrated
development
are located in
upland areas
and away, to
the maximum
extent
practicable,
from surface
waters and
drainageways;
- (V) remainder of
tract to remain
in vegetated or
natural state;
- (VI) area in the
vegetated or
natural state
may be
conveyed to a
property
owners
association, a
local
government for
preservation as
a park or
greenway, a
conservation
organization,
or placed in a
permanent
conservation or
farmland
preservation
easement;

- (VII) a maintenance agreement for the vegetated or natural area shall be filed with the Register of Deeds; and
- (VIII) cluster development that meets the applicable low density option requirements shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable;
- (E) If local governments choose the high density development option which requires engineered stormwater controls, then they shall assume ultimate responsibility for operation and maintenance of the required controls as outlined in Rule .0104 of this Subchapter;
- (F) Minimum 100 foot vegetative buffer is required for all new development activities that exceed the low density option requirements as specified in Sub-Item (3)(b)(i)(A) or Sub-Item (3)(b)(ii)(A) of this Rule, otherwise a minimum 30 foot vegetative buffer for development shall be required
- along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies;
- (G) No new development shall be allowed in the buffer; water dependent structures, or other structures, such as flag poles, signs and security lights, which result in only de minimus increases in impervious area and public projects such as road crossings and greenways may be allowed where no practicable alternative exists. These activities shall minimize built-upon surface area, divert runoff away from surface waters and maximize the utilization of BMPs;
- (H) For local governments that do not use the high density option, a maximum of 10 percent of each jurisdiction's portion of the watershed outside of the critical area as delineated on July 1, 1995 may be developed with new development projects and expansions to existing development of up to 70 percent built-upon surface

area in addition to the new development approved in compliance with the appropriate requirements of Sub-Item (3)(b)(i)(A) of this Rule. For expansions to existing development, the existing built-upon surface area shall not be counted toward the allowed 70 percent built-upon surface area. A local government having jurisdiction within the watershed may transfer, in whole or in part, its right to the 10 percent/70 percent land area to another local government within the watershed upon submittal of a joint resolution for review by the Commission. When the designated water supply watershed area is composed of public land, such as National Forest land, local governments may count the public land acreage within the designated watershed area outside of the critical area in figuring the acreage allowed under this provision. Each project shall, to the maximum extent practicable, minimize built-upon surface area, direct stormwater runoff away from surface

- waters and incorporate best management practices to minimize water quality impacts;
- (ii) Critical Area Nonpoint Source and Stormwater Pollution Control Criteria:
- (A) Low Density Option: new development activities which require a Sedimentation/Erosion Control Plan in accordance with 15A NCAC 4 established by the North Carolina Sedimentation Control Commission or approved local government programs as delegated by the Sedimentation Control Commission shall be limited to no more than two dwelling units of single family detached development per acre (or 20,000 square foot lot excluding roadway right-of-way) or 24 percent built-upon area for all other residential and non-residential development; stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable;
- (B) High Density Option: if new development density exceeds the low density

- requirements specified in Sub-Item (3)(b)(ii)(A) of this Rule, engineered stormwater controls shall be used to control runoff from the first inch of rainfall; new residential and non-residential development shall not exceed 50 percent built-upon area;
- (C) No new permitted sites for land application of residuals or petroleum contaminated soils shall be allowed;
- (D) No new landfills shall be allowed;
- (c) MBAS (Methylene-Blue Active Substances): not greater than 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;
- (d) Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause taste and odor difficulties in water supplies which can not be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage established for waters of this class;
- (e) Chlorinated phenolic compounds: not greater than 1.0 ug/l to protect water supplies from taste and odor problems due to chlorinated phenols shall be allowed. Specific phenolic compounds may be given a different limit if it is demonstrated not to cause taste and odor problems and not to be detrimental to other best usage;
- (f) Total hardness shall not exceed 100 mg/l as calcium carbonate;
- (g) Total dissolved solids shall not exceed 500 mg/l;
- (h) Toxic and other deleterious substances:
- (i) Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption for non-carcinogens in Class WS-IV waters:
- (A) Barium: 1.0 mg/l;
- (B) Chloride: 250 mg/l;
- (C) Manganese: 200 ug/l;
- (D) Nickel: 25 ug/l;
- (E) Nitrate nitrogen: 10.0 mg/l;
- (F) 2,4-D: 100 ug/l;
- (G) 2,4,5-TP (Silvex): 10 ug/l;
- (H) Sulfates: 250 mg/l;
- (ii) Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption for carcinogens in Class WS-IV waters:
- (A) Aldrin: 0.05 ng/l;
- (B) Arsenic: 10 ug/l;
- (C) Benzene: 1.19 ug/l;
- (D) Carbon tetrachloride: 0.254 ug/l;
- (E) Chlordane: 0.8 ng/l;
- (F) Chlorinated benzenes: 488 ug/l;
- (G) DDT: 0.2 ng/l;
- (H) Dieldrin: 0.05 ng/l;
- (I) Dioxin: 0.000005 ng/l;
- (J) Heptachlor: 0.08 ng/l;
- (K) Hexachlorobutadiene: 0.44 ug/l;
- (L) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;
- (M) Tetrachloroethane (1,1,2,2): 0.17 ug/l;
- (N) Tetrachloroethylene: 0.7 ug/l;
- (O) Trichloroethylene: 2.5 ug/l;
- (P) Vinyl Chloride: 0.025 ug/l.
- History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. February 1, 1986; Amended Eff. May 1, 2007; April 1, 2003; June 1, 1996; October 1, 1995; August 1, 1995; June 1, 1994.*

**15A NCAC 02B .0218 FRESH SURFACE WATER
QUALITY STANDARDS FOR CLASS WS-V WATERS**

The following water quality standards apply to surface water supply waters that are classified WS-V. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section also apply to Class WS-V waters.

- (1) The best usage of WS-V waters are as follows: waters that are protected as water supplies which are generally upstream and draining to Class WS-IV waters; or waters previously used for drinking water supply purposes; or waters used by industry to supply their employees, but not municipalities or counties, with a raw drinking water supply source, although this type of use is not restricted to WS-V classification; and all Class C uses. The Commission may consider a more protective classification for the water supply if a resolution requesting a more protective classification is submitted from all local governments having land use jurisdiction within the affected watershed;
- (2) The conditions related to the best usage are as follows: waters of this class are protected water supplies; the waters, following treatment required by the Division of Environmental Health, shall meet the Maximum Contaminant Level concentrations considered safe for drinking, culinary, or food-processing purposes which are specified in the national drinking water regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1500; no categorical restrictions on watershed development or wastewater discharges are required, however, the Commission or its designee may apply management requirements for the protection of waters downstream of receiving waters (15A NCAC 02B .0203). Sources of water pollution which preclude any of these uses on either a short-term or long-term basis shall be considered to be violating a water quality standard;
- (3) Quality standards applicable to Class WS-V Waters are as follows:
 - (a) Sewage, industrial wastes, non-process industrial wastes, or other wastes: none shall be allowed that have an adverse effect on human health or that are not effectively treated to the satisfaction of the Commission and in accordance with the requirements of the Division of Environmental Health, North Carolina Department of Environment and Natural Resources. Any discharges or industrial users subject to pretreatment standards may be required by the Commission to disclose all chemical constituents present or potentially present in their

wastes and chemicals which could be spilled or be present in runoff from their facility which may have an adverse impact on downstream water supplies. These facilities may be required to have spill and treatment failure control plans as well as perform special monitoring for toxic substances;

- (b) MBAS (Methylene-Blue Active Substances): not greater than 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;
- (c) Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use;
- (d) Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause taste and odor difficulties in water supplies which can not be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage established for waters of this class;
- (e) Chlorinated phenolic compounds: not greater than 1.0 ug/l to protect water supplies from taste and odor problems due to chlorinated phenols; specific phenolic compounds may be given a different limit if it is demonstrated not to cause taste and odor problems and not to be detrimental to other best usage;
- (f) Total hardness: not greater than 100 mg/l as calcium carbonate;
- (g) Total dissolved solids: not greater than 500 mg/l;
- (h) Toxic and other deleterious substances:
 - (i) Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption for non-carcinogens in Class WS-V waters:
 - (A) Barium: 1.0 mg/l;
 - (B) Chloride: 250 mg/l;
 - (C) Manganese: 200 ug/l;
 - (D) Nickel: 25 ug/l;

- (E) Nitrate nitrogen: 10.0 mg/l;
- (F) 2,4-D: 100 ug/l;
- (G) 2,4,5-TP (Silvex): 10 ug/l;
- (H) Sulfates: 250 mg/l.
- (ii) Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption for carcinogens in Class WS-V waters:
 - (A) Aldrin: 0.05 ng/l;
 - (B) Arsenic: 10 ug/l;
 - (C) Benzene: 1.19 ug/l;
 - (D) Carbon tetrachloride: 0.254 ug/l;
 - (E) Chlordane: 0.8 ng/l;
 - (F) Chlorinated benzenes: 488 ug/l;
 - (G) DDT: 0.2 ng/l;
 - (H) Dieldrin: 0.05 ng/l;
 - (I) Dioxin: 0.000005 ng/l;
 - (J) Heptachlor: 0.08 ng/l;
 - (K) Hexachlorobutadiene: 0.44 ug/l;
 - (L) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;
 - (M) Tetrachloroethane (1,1,2,2): 0.17 ug/l;
 - (N) Tetrachloroethylene: 0.7 ug/l;
 - (O) Trichloroethylene: 2.5 ug/l;
 - (P) Vinyl Chloride: 0.025 ug/l.
- (2) Conditions Related to Best Usage: the waters shall be suitable for aquatic life propagation and maintenance of biological integrity, wildlife, and secondary recreation. Any source of water pollution which precludes any of these uses, including their functioning as PNAs, on either a short-term or a long-term basis shall be considered to be violating a water quality standard;
- (3) Quality standards applicable to all tidal salt waters:
 - (a) Chlorophyll a (corrected): not greater than 40 ug/l in sounds, estuaries, and other waters subject to growths of macroscopic or microscopic vegetation. The Commission or its designee may prohibit or limit any discharge of waste into surface waters if, in the opinion of the Director, the surface waters experience or the discharge would result in growths of microscopic or macroscopic vegetation such that the standards established pursuant to this Rule would be violated or the intended best usage of the waters would be impaired;
 - (b) Dissolved oxygen: not less than 5.0 mg/l, except that swamp waters, poorly flushed tidally influenced streams or embayments, or estuarine bottom waters may have lower values if caused by natural conditions;
 - (c) Floating solids, settleable solids, or sludge deposits: only such amounts attributable to sewage, industrial wastes or other wastes, as shall not make the waters unsafe or unsuitable for aquatic life and wildlife, or impair the waters for any designated uses;
 - (d) Gases, total dissolved: not greater than 110 percent of saturation;
 - (e) Enterococcus, including *Enterococcus faecalis*, *Enterococcus faecium*, *Enterococcus avium* and *Enterococcus gallinarum*: not to exceed a geometric mean of 35 enterococci per 100 ml based upon a minimum of five samples within any consecutive 30 days. In accordance with 33 U.S.C. 1313 (Federal Water Pollution Control Act) for purposes of beach monitoring and notification, "Coastal Recreational Waters Monitoring, Evaluation and Notification" regulations (15A NCAC 18A .3400) are hereby incorporated by reference including any subsequent amendments;

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. October 1, 1989; Amended Eff. May 1, 2007; April 1, 2003; October 1, 1995.

15A NCAC 02B .0220 TIDAL SALT WATER QUALITY STANDARDS FOR CLASS SC WATERS

General. The water quality standards for all tidal salt waters are the basic standards applicable to Class SC waters. Additional and more stringent standards applicable to other specific tidal salt water classifications are specified in Rules .0221 and .0222 of this Section.

- (1) Best Usage of Waters: any usage except primary recreation or shellfishing for market purposes; usages include aquatic life propagation and maintenance of biological integrity (including fishing, fish and functioning PNAs), wildlife, and secondary recreation;

- | | |
|---|---|
| <p>(f) Oils, deleterious substances, colored or other wastes: only such amounts as shall not render the waters injurious to public health, secondary recreation or aquatic life and wildlife or adversely affect the palatability of fish, aesthetic quality or impair the waters for any designated uses. For the purpose of implementing this Rule, oils, deleterious substances, colored or other wastes shall include but not be limited to substances that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines pursuant to 40 CFR 110.3;</p> <p>(g) pH: shall be normal for the waters in the area, which generally shall range between 6.8 and 8.5 except that swamp waters may have a pH as low as 4.3 if it is the result of natural conditions;</p> <p>(h) Phenolic compounds: only such levels as shall not result in fish-flesh tainting or impairment of other best usage;</p> <p>(i) Radioactive substances:</p> <p style="padding-left: 20px;">(i) Combined radium-226 and radium-228: The maximum average annual activity level (based on at least four samples, collected quarterly) for combined radium-226, and radium-228 shall not exceed five picoCuries per liter;</p> <p style="padding-left: 20px;">(ii) Alpha Emitters. The average annual gross alpha particle activity (including radium-226, but excluding radon and uranium) shall not exceed 15 picoCuries per liter;</p> <p style="padding-left: 20px;">(iii) Beta Emitters. The maximum average annual activity level (based on at least four samples, collected quarterly) for strontium-90 shall not exceed eight picoCuries per liter; nor shall the average annual gross beta particle activity (excluding potassium-40 and other naturally occurring radio-nuclides) exceed 50 picoCuries per liter; nor shall the maximum average annual activity level for</p> | <p style="padding-left: 40px;">tritium exceed 20,000 picoCuries per liter;</p> <p>(j) Salinity: changes in salinity due to hydrological modifications shall not result in removal of the functions of a PNA. Projects that are determined by the Director to result in modifications of salinity such that functions of a PNA are impaired will be required to employ water management practices to mitigate salinity impacts;</p> <p>(k) Temperature: shall not be increased above the natural water temperature by more than 0.8 degrees C (1.44 degrees F) during the months of June, July, and August nor more than 2.2 degrees C (3.96 degrees F) during other months and in no cases to exceed 32 degrees C (89.6 degrees F) due to the discharge of heated liquids;</p> <p>(l) Turbidity: the turbidity in the receiving water shall not exceed 25 NTU; if turbidity exceeds this level due to natural background conditions, the existing turbidity level shall not be increased. Compliance with this turbidity standard can be met when land management activities employ Best Management Practices (BMPs) [as defined by Rule .0202 of this Section] recommended by the Designated Nonpoint Source Agency (as defined by Rule .0202 of this Section). BMPs must be in full compliance with all specifications governing the proper design, installation, operation and maintenance of such BMPs;</p> <p>(m) Toxic substances: numerical water quality standards (maximum permissible levels) to protect aquatic life applicable to all tidal saltwaters:</p> <p style="padding-left: 20px;">(i) Arsenic, total recoverable: 50 ug/l;</p> <p style="padding-left: 20px;">(ii) Cadmium: 5.0 ug/l; attainment of these water quality standards in surface waters shall be based on measurement of total recoverable metals concentrations unless appropriate studies have been conducted to translate total recoverable metals to a toxic form. Studies used to determine the toxic form or translators must be designed according to the "Water Quality Standards Handbook</p> |
|---|---|

- Second Edition" published by the Environmental Protection Agency (EPA 823-B-94-005a) or "The Metals Translator: Guidance For Calculating a Total Recoverable Permit Limit From a Dissolved Criterion" published by the Environmental Protection Agency (EPA 823-B-96-007) which are hereby incorporated by reference including any subsequent amendments. The Director shall consider conformance to EPA guidance as well as the presence of environmental conditions that limit the applicability of translators in approving the use of metal translators;
- (iii) Chromium, total: 20 ug/l;
 - (iv) Cyanide: 1.0 ug/l;
 - (v) Mercury: 0.025 ug/l;
 - (vi) Lead, total recoverable: 25 ug/l; collection of data on sources, transport and fate of lead shall be required as part of the toxicity reduction evaluation for dischargers that are out of compliance with whole effluent toxicity testing requirements and the concentration of lead in the effluent is concomitantly determined to exceed an instream level of 3.1 ug/l from the discharge;
 - (vii) Nickel: 8.3 ug/l; attainment of these water quality standards in surface waters shall be based on measurement of total recoverable metals concentrations unless appropriate studies have been conducted to translate total recoverable metals to a toxic form. Studies used to determine the toxic form or translators must be designed according to the "Water Quality Standards Handbook Second Edition" published by the Environmental Protection Agency (EPA 823-B-94-005a) or "The Metals Translator: Guidance For Calculating a Total Recoverable Permit Limit From a Dissolved Criterion" published by the Environmental Protection Agency (EPA 823-B-96-007) which are hereby incorporated by reference including any subsequent amendments. The Director shall consider conformance to EPA guidance as well as the presence of environmental conditions that limit the applicability of translators in approving the use of metal translators;
- (viii) Pesticides:
- (A) Aldrin: 0.003 ug/l;
 - (B) Chlordane: 0.004 ug/l;
 - (C) DDT: 0.001 ug/l;
 - (D) Demeton: 0.1 ug/l;
 - (E) Dieldrin: 0.002 ug/l;
 - (F) Endosulfan: 0.009 ug/l;
 - (G) Endrin: 0.002 ug/l;
 - (H) Guthion: 0.01 ug/l;
 - (I) Heptachlor: 0.004 ug/l;
 - (J) Lindane: 0.004 ug/l;
 - (K) Methoxychlor: 0.03 ug/l;
 - (L) Mirex: 0.001 ug/l;
 - (M) Parathion: 0.178 ug/l;
 - (N) Toxaphene: 0.0002 ug/l;
- (ix) Polychlorinated biphenyls: (total of all PCBs and congeners identified) 0.001 ug/l;
- (x) Selenium: 71 ug/l;
- (xi) Trialkyltin compounds: 0.007 ug/l expressed as tributyltin.
- (4) Action Levels for Toxic Substances:
- (a) Copper: 3 ug/l;
 - (b) Silver: 0.1 ug/l;
 - (c) Zinc: 86 ug/l;
- If the Action Levels for any of the substances listed in this Subparagraph (which are generally not bioaccumulative and have variable toxicity to aquatic life because of chemical form, solubility, stream characteristics or associated waste characteristics) are determined by the waste

load allocation to be exceeded in a receiving water by a discharge under the specified low flow criterion for toxic substances (Rule .0206 in this Section), the discharger shall be required to monitor the chemical or biological effects of the discharge; efforts shall be made by all dischargers to reduce or eliminate these substances from their effluents. Those substances for which Action Levels are listed in this Subparagraph may be limited as appropriate in the NPDES permit if sufficient information (to be determined for metals by measurements of that portion of the dissolved instream concentration of the Action Level parameter attributable to a specific NPDES permitted discharge) exists to indicate that any of those substances may be a causative factor resulting in toxicity of the effluent. NPDES permit limits may be based on translation of the toxic form to total recoverable metals. Studies used to determine the toxic form or translators must be designed according to: "Water Quality Standards Handbook Second Edition" published by the Environmental Protection Agency (EPA 823-B-94-005a) or "The Metals Translator: Guidance For Calculating a Total Recoverable Permit Limit From a Dissolved Criterion" published by the Environmental Protection Agency (EPA 823-B-96-007) which are hereby incorporated by reference including any subsequent amendments. The Director shall consider conformance to EPA guidance as well as the presence of environmental conditions that limit the applicability of translators in approving the use of metal translators.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1);
Eff. October 1, 1995;
Amended Eff. May 1, 2007; August 1, 2000.

15A NCAC 02B .0221 TIDAL SALT WATER QUALITY STANDARDS FOR CLASS SA WATERS

The following water quality standards apply to surface waters that are used for shellfishing for market purposes and are classified SA. Water quality standards applicable to Class SC and SB waters as described in Rule .0220 and Rule .0222 of this Section also apply to Class SA waters.

- (1) Best Usage of Waters: shellfishing for market purposes and any other usage specified by the "SB" or "SC" classification;
- (2) Conditions Related to Best Usage: waters shall meet the current sanitary and bacteriological standards as adopted by the Commission for Health Services and shall be suitable for shellfish culture. Any source of water pollution which precludes any of these uses, including their functioning as PNAs, on either a short-term or a long-term basis shall

be considered to be violating a water quality standard;

- (3) Quality Standards applicable to Class SA Waters:
 - (a) Floating solids, settleable solids, or sludge deposits: none attributable to sewage, industrial wastes or other wastes;
 - (b) Sewage: none;
 - (c) Industrial wastes, or other wastes: none shall be allowed that are not effectively treated to the satisfaction of the Commission in accordance with the requirements of the Division of Environmental Health;
 - (d) Organisms of coliform group: fecal coliform group not to exceed a median MF of 14/100 ml and not more than 10 percent of the samples shall exceed an MF count of 43/100 ml in those areas most probably exposed to fecal contamination during the most unfavorable hydrographic and pollution conditions.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1);
Eff. October 1, 1995;
Amended Eff. May 1, 2007.

15A NCAC 02B .0222 TIDAL SALT WATER QUALITY STANDARDS FOR CLASS SB WATERS

The following water quality standards apply to surface waters that are used for primary recreation, including frequent or organized swimming, and are classified SB. Water quality standards applicable to Class SC waters are described in Rule .0220 of this Section also apply to SB waters.

- (1) Best Usage of waters: primary recreation and any other usage specified by the "SC" classification;
- (2) Conditions Related to Best Usage: the waters shall meet accepted sanitary standards of water quality for outdoor bathing places as specified in Item (3) of this Rule and will be of sufficient size and depth for primary recreation purposes. Any source of water pollution which precludes any of these uses, including their functioning as PNAs, on either a short-term or a long-term basis shall be considered to be violating a water quality standard;
- (3) Quality Standards applicable to Class SB waters:
 - (a) Floating solids, settleable solids, or sludge deposits: none attributable to sewage, industrial wastes or other wastes;
 - (b) Sewage, industrial wastes, or other wastes: none shall be allowed that

are not effectively treated to the satisfaction of the Commission; in determining the degree of treatment required for such waters discharged into waters which are to be used for bathing, the Commission shall take into consideration quantity and quality of the sewage and other wastes involved and the proximity of such discharges to the waters in this class; discharges in the immediate vicinity of bathing areas may not be allowed if the Director determines that the waste can not be treated to ensure the protection of primary recreation;

- (c) Enterococcus, including *Enterococcus faecalis*, *Enterococcus faecium*, *Enterococcus avium* and *Enterococcus gallinarum*: not to exceed a geometric mean of 35 enterococci per 100 ml based upon a minimum of five samples within any consecutive 30 days. In accordance with 33 U.S.C. 1313 (Federal Water Pollution Control Act) for purposes of beach monitoring and notification, "Coastal Recreation Waters Monitoring, Evaluation and Notification" regulations (15A NCAC 18A .3400) are hereby incorporated by reference including any subsequent amendments.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. October 1, 1995; Amended Eff. May 1, 2007.

15A NCAC 02B .0308 CATAWBA RIVER BASIN

(a) The Catawba River Basin Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
 - (A) Mooresville Regional Office
610 East Center Avenue, Suite 301
Mooresville, North Carolina
 - (B) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina
 - (C) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering South Carolina are classified "C."

(c) The Catawba River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) August 12, 1979;
- (3) April 1, 1982;
- (4) January 1, 1985;
- (5) August 1, 1985;
- (6) February 1, 1986;
- (7) March 1, 1989;
- (8) May 1, 1989;
- (9) March 1, 1990;
- (10) August 1, 1990;
- (11) August 3, 1992;
- (12) April 1, 1994;
- (13) July 1, 1995;
- (14) September 1, 1996;
- (15) August 1, 1998;
- (16) April 1, 1999;
- (17) August 1, 2000;
- (18) August 1, 2004;
- (19) May 1, 2007.

(d) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective March 1, 1989 as follows:

- (1) Wilson Creek (Index No. 11-38-34) and all tributary waters were reclassified from Class B-trout and Class C-trout to Class B-trout ORW and Class C-trout ORW.

(e) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective May 1, 1989 as follows:

- (1) Henry Fork [Index Nos. 11-129-1-(1) and 11-129-1-(2)] from source to Laurel Creek, including all tributaries, were reclassified from Class WS-I, C and C trout to Class WS-I ORW, C ORW and C trout ORW, except Ivy Creek and Rock Creek which will remain Class C trout and Class C.
- (2) Jacob Fork [Index Nos. 11-129-2-(1) and 11-129-2-(4)] from source to Camp Creek, including all tributaries, were reclassified from Class WS-III trout and WS-III to WS-III trout ORW and WS-III ORW.

(f) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective March 1, 1990 as follows:

- (1) Upper Creek [Index No. 11-35-2-(1)] from source to Timbered Branch including all tributaries except Timbered Branch (Index No. 11-35-2-9) was reclassified from Class C Trout to Class C Trout ORW.
- (2) Steels Creek [Index No. 11-35-2-12(1)] from source to Little Fork and all tributaries was reclassified from Class C Trout to Class C Trout ORW.

(g) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or

WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(h) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective April 1, 1994 as follows:

- (1) Friday Lake [Index No. 11-125.5] from its source to Little Paw Creek was reclassified from Class C to Class B.
- (2) The Linville River [Index No. 12-29-(1)] from Grandmother Creek to Linville Falls was reclassified from Class C Tr to Class B Tr.

(i) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective July 1, 1995 with the reclassification of Clark Creek from a point 0.6 mile downstream of Catawba County SR 2014 to 0.4 mile upstream of Larkard Creek [Index No. 11-129-5-(4.5)], and Howards Creek from its source to 0.7 mile upstream of Lincoln County State Road 1200 [Index No. 11-129-4], including associated tributaries from Class WS-IV to Classes C and WS-IV.

(j) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective September 1, 1996 as follows:

- (1) North Fork Catawba River [Index No. 11-24-(1)] from Laurel Branch to Armstrong Creek from Class C Tr to Class B Tr; and
- (2) Catawba River (Lake Hickory) from Rhodhiss dam to highway 321 [Index No. 11-(51)] from Class WS-IV CA to Class WS-IV&B CA.

(k) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 1, 1998 with the revision to the primary classification for portions of the South Fork Catawba River [Index No. 11-129-(0.5)] and Hoyle Creek [Index No. 11-129-15-(1)] from Class WS-IV to Class WS-V.

(l) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 1, 1998 as follows:

- (1) Mill Creek [Index No. 11-7] from its source to Swannanoa Creek, including all tributaries, from Class C Tr to Class C Tr HQW; and
- (2) Toms Creek [Index Nos. 11-21-(1) and 11-21-(2)] from its source to Harris Creek, including all tributaries, from Class C Tr to Class C Tr HQW and from Harris Creek to McDowell County SR 1434, including all tributaries, from Class C to Class C HQW.

(m) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective April 1, 1999 with the reclassification of a portion of the

Catawba River [Index Nos. 11-(27.5) and 11-(31)] from Class WS-IV & B and WS-IV to Class WS-V & B and WS-V.

(n) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective April 1, 1999 with the reclassification of Armstrong Creek [Index Nos. 11-24-14-(1), 11-24-14-(13.5) and 11-24-14-(14)], and all tributaries from Classes WS-II Tr, WS-II, WS-II CA and C Tr to Classes C Tr HQW and C HQW.

(o) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended April 1, 1999 as follows:

- (1) Lookout Shoals Lake from Oxford Dam to Island Creek [Index No. 11-(67)] from Class WS-V to Class WS-IV CA, from Island Creek to Elk Shoal Creek [Index No. 11-(70.5)] from Class WS-IV to Class WS-IV CA and from Elk Shoal Creek to a point one half mile upstream of Lookout Shoals Dam [Index No. 11-(72)] from Class WS-IV&B to Class WS-IV&B CA; and
- (2) The primary classifications of tributary streams that are within five miles and draining to the normal pool elevation of Lookout Shoals Lake (Protected Area) have been revised to Class WS-IV; and
- (3) The primary classifications of tributary streams that are within one half mile and draining to the normal pool elevation of Lookout Shoals Lake (Critical Area) have been revised to Class WS-IV CA.

(p) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended August 1, 2000 with the reclassification of Little Grassy Creek (Index No. 11-29-2), including all tributaries, from its source to the Linville River from Class C Tr to Class C Tr ORW.

(q) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended August 1, 2004 with the reclassification of a segment of three surface waters, more specifically Henry Fork [11-129-1-(1)], Jerry Branch [11-129-1-3-(1)], and He Creek [11-129-1-4-(1)], from source to a formerly used City of Morganton Water Intake from Class WS-I ORW to Class WS-V ORW.

(r) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended May 1, 2007 with the reclassification of the Catawba River [Index No. 11-(31.5)] from a point 0.6 mile upstream of Muddy Creek to a point 1.2 miles upstream of Canoe Creek from WS-IV to WS-IV Tr and Catawba River [Index No. 11-(32.3)] from a point 1.2 miles upstream of Canoe Creek to a point 0.7 mile upstream of Canoe Creek (Morganton water supply intake) from WS-IV CA to WS-IV Tr CA. Named and unnamed tributaries to this portion of the Catawba River are not classified as Trout. Between the last day of May and the first day of November the water quality standard for dissolved oxygen shall not be less than a daily average of 5.0 mg/l with a minimum instantaneous value of not less than 4.0 mg/l.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);

Eff. February 1, 1976;

Amended Eff. May 1, 2007; August 1, 2004; August 1, 2000; April 1, 1999; August 1, 1998; September 1, 1996; July 1, 1995; April 1, 1994; August 3, 1992; August 1, 1990.

15A NCAC 02D .0543 BEST AVAILABLE RETROFIT TECHNOLOGY

(a) For the purposes of this Rule, the definitions at 40 CFR 51.301 shall apply.

(b) Mandatory Class I Federal areas are identified in 40 CFR Part 81, Subpart D.

(c) The Director shall have the maximum flexibility allowed under 40 CFR 51.308 or 40 CFR Part 51, Appendix Y.

(d) This rule applies to BART-eligible sources as determined using 40 CFR Part 51, Appendix Y that cause or contribute to any visibility impairment in a mandatory Class I Federal area as determined by using 40 CFR Part 51, Subpart P.

(e) Unless exempted under 40 CFR 51.303, the owner or operator of a BART-eligible emission unit subject to this Rule shall perform a best available retrofit technology (BART) evaluation for that emission unit. Pursuant to 40 CFR 51.308, the evaluation shall include:

- (1) the technology available,
- (2) the cost of compliance,
- (3) the energy and non-air quality environmental impacts of compliance,
- (4) any pollution control equipment in use at source,
- (5) the remaining useful life of the source, and
- (6) the degree of improvement in visibility that may reasonably be anticipated to result from the use of such technology.

(f) The owner or operator of a BART-subject emission unit shall install, operate, and maintain BART as approved by the Director after considering the six items listed in Paragraph (e) of this Rule and incorporated in the unit's permit issued under 15A NCAC 02Q.

(g) The owner or operators of a BART-eligible source required to install BART under this Rule shall submit permit applications for the installation and operation of BART by September 1, 2006. The Director shall extend the deadline for submitting a permit application if additional time is needed to complete the evaluation required under Paragraph (e) of this Rule.

(h) BART shall be determined using "Guidelines for Determining Best Available Retrofit Technology for Coal-fired Power Plants and Other Existing Stationary Facilities" (1980), 40 CFR 51.308(e)(1)(ii), and 40 CFR Part 51, Appendix Y. Electric generating units covered under and complying with 15A NCAC 02D .2400, Clean Air Interstate Rules, are considered to be in compliance with the BART requirements for nitrogen oxides and sulfur dioxide under this Rule.

(i) The owner or operator of a BART-eligible source required to install BART under this Rule shall have installed and begun operation of the BART controls by December 31, 2012.

(j) "Guidelines for Determining Best Available Retrofit Technology for Coal-fired Power Plants and Other Existing Stationary Facilities" is incorporated by reference, exclusive of appendix E, and shall include any later amendments or editions. This document, which was published in the Federal Register on

February 6, 1980 (45 FR 8210), is EPA publication No. 450/3-80-009b and can be obtained from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 for eighty four dollars (\$84.00). It is also available for inspection at the National Archives and Records Administration (NARA). Information on the availability of

this material at NARA may be found at:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

History Note: Authority G.S.143-215.3(a)(1); 143-215.107(a)(5),(10);

Eff. September 1, 2006;

Amended Eff. May 1, 2007.

15A NCAC 10A .1001 PARTICULAR OFFENSES

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

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

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

- (1) Boating Violations:
 - (A) number missing, lack of contrast, not properly spaced or less than three inches in height;
 - (B) no validation decal affixed or incorrect placement;
 - (C) fire extinguisher not charged or non-approved;
 - (D) no fire extinguisher on boats with false bottoms not completely sealed to hull or filled with flotation material;

- (E) failure to notify North Carolina Wildlife Resources Commission of change of address of boat owner;
 - (F) personal flotation device not Coast Guard approved;
 - (G) failure to display navigation lights when there is evidence that lights malfunctioned while underway;
 - (H) no sound device;
 - (I) muffler not adequate;
 - (J) loaded firearm on access area;
 - (K) parking on access area in other than designated parking area, provided traffic to ramp not impeded;
 - (L) motorboat registration expired 10 days or less;
 - (M) no Type IV throwable personal flotation device on board, but other personal flotation device requirements met;
 - (N) violation of no-wake speed zone when mitigating circumstances present;
 - (O) running lights on motorboat are obstructed, not visible or improperly configured;
 - (P) personal flotation device is not readily accessible on board motorboat;
 - (Q) failure to wear a kill-switch lanyard on personal watercraft;
 - (R) exceeding capacity of personal watercraft while towing a skier;
 - (S) allowing youth under the age of 12 to operate a personal watercraft while accompanied by an adult;
 - (T) wearing an inflatable personal flotation device while operating a personal watercraft; or
 - (U) No light available on board a manually propelled vessel.
- (2) License Violations:
- (A) persons under 16 hunting, trapping, or trout fishing without meeting statutory requirements;
 - (B) senior citizens hunting or fishing without valid license(s) (Senior citizens are those persons 65 years old or older);
 - (C) when it appears evident that the wrong license was purchased or issued by mistake;
 - (D) failure to carry required license or identification on person, if positive identification can be established;
 - (E) non-resident hunting, fishing, or trapping with resident license, if domicile is established, but not 60 days;
- (F) hunting, fishing, or trapping on Game Lands or fishing in Designated Trout Waters that are not properly posted or have been posted for no more than 30 days;
 - (G) persons who are 18 years or older or who do not reside with their parents, when such persons are taking wildlife upon their parent's land without a license as required by G.S. 113-270.2, 113-270.3(b) except for subdivision (5), 113-270.5, 113-271, or 113-272;
 - (H) failure to comply with a statutorily enacted license requirement that has been in effect for less than a year; or license expiration of 10 days or less.
- (3) Game Lands Violations:
- (A) camping on Game Lands in other than designated area; or
 - (B) possession of weapons readily available for use while on game land thoroughfare, during closed season.
- (4) Trapping Violations:
- (A) improper chain length at dry land sets;
 - (B) trap tag not legible;
 - (C) trap tag missing, but with a group of properly tagged traps;
 - (D) trap tag missing, but evidence that animal destroyed;
 - (E) improper jawsize;
 - (F) failure to comply with "offset" jaw requirement for traps with jaw spread of more than 5 ½ inches;
 - (G) failure to attend traps daily, during severe weather (ice, high water, heavy snow); or
 - (H) no written permission, but on right-of-way of public road.
- (5) Miscellaneous Violations:
- (A) allowing dogs, not under the control of the owner to chase deer during closed season;
 - (B) attempting to take deer with dogs, or allowing dogs to chase deer in restricted areas;
 - (C) using dogs to track wounded deer during primitive weapon season;
 - (D) failure to report big game kill to nearest cooperator agent, when game is tagged and subject is enroute to another agent;
 - (E) training dogs or permitting them to run unleashed on Game Lands west of I-95 during the period of April 1 through August 15;

- (F) violation of newly adopted rules, when not readily available to the public;
- (G) violation of local laws, when information not available to the public;
- (H) all permits (except for fox depredation permit);
- (I) closed season, if misprinted in digest or suddenly changed;
- (J) minor record violation (taxidermist);
- (K) failure to put name and address on marker (trotline); or
- (L) failure to put name and address on nets.

(c) Special Consideration. Special consideration may be given in local areas where the offender is hunting or fishing out of his normal locality and is unfamiliar with the local law. Consideration may also be given for violations on newly opened or established Game Lands and on reclassified or newly Designated Mountain Trout Waters. Special consideration may be given to offenders under 18 years of age.

*History Note: Authority G.S. 113-140;
Eff. April 1, 1991;
Amended Eff. May 1, 2007; May 1, 2004; November 2, 1992;
November 1, 1991.*

15A NCAC 10B .0105 MIGRATORY GAME BIRDS

(a) Cooperative State Rules:

- (1) The taking of sea ducks (scoter, eider and old squaw) during any federally-announced season for only 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 eliminates 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 is 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 is unlawful to harass or take any waterfowl.

- (5) The area east of US 17 is designated as an experimental September teal season zone as referenced by the Federal frameworks calling for state rules designating experimental areas.
- (6) It is 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.

History Note: 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; Eff. February 1, 1976; Amended Eff. July 1, 1995; April 1, 1992; February 1, 1990; September 1, 1989; Temporary Amendment Eff. September 10, 1998; Amended Eff. May 1, 2007; June 1, 2005; May 1, 2004; July 1, 2000.

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 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 is 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 is 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 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.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1;
Eff. February 1, 1976;
Amended Eff. July 1, 1998; July 1, 1997; July 1, 1995; July 1, 1994; July 1, 1993; July 1, 1989;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. May 1, 2007; May 1, 2004; July 1, 2000.

15A NCAC 10B .0116 PERMITTED ARCHERY EQUIPMENT

- (a) Only longbows and recurved bows having a minimum pull of 40 pounds and compound bows having a minimum pull of 35 pounds 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 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 rabbits, squirrels, quail, grouse and pheasants. Poisonous, drugged, barbed, or explosive arrowheads 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.

History Note: Authority G.S. 113-134; 113-291.1(a);
Eff. September 1, 1980;
Amended Eff. May 1, 2007; August 1, 2002; July 1, 2000; July 1, 1998; July 1, 1996; August 1, 1990.

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.
- (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, Currituck, Gates and 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.

History Note: Authority G.S. 113-134; 113-291.2; 113-291.7; 113-305;
Eff. February 1, 1976;
Amended Eff. July 1, 1998; September 1, 1995; July 1, 1995; July 1, 1994; April 14, 1992;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. July 1, 2000;
Temporary Amendment Eff. July 1, 2002;

*Amendment Eff. August 1, 2002;
Temporary Amendment Eff. September 1, 2003;
Temporary Amendment Expired Eff. December 27, 2003;
Amended Eff. May 1, 2007; May 1, 2006; June 1, 2005.*

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 white-tailed 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:

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

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

**Refer to 15A NCAC 10D .0103(f) 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:

Moore: That part north of NC 211 and west of US 1.

(E) Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge, in those parts of Hyde, Tyrrell and Washington counties known as the Pocosin Lakes National Wildlife Refuge, in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.

(F) Monday of Thanksgiving week through the fifth Saturday after Thanksgiving Day in all of Cleveland and Rutherford counties, except for South Mountain Game Land.

(2) Deer of Either Sex. Except on Game Lands, deer of either sex may be taken during the open seasons and in the counties and portions of counties listed in this Subparagraph (Refer to 15A NCAC 10D . 0103 for either sex seasons on Game Lands):

(A) The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge, in those parts of Hyde, Tyrrell and Washington counties known as the Pocosin Lakes National Wildlife Refuge, in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.

(B) The open either-sex deer hunting dates established by the appropriate military commands during the period from Saturday on or nearest October 15 through January 1 in that part of Brunswick County known as the

- Sunny Point Military Ocean Terminal, in that part of Craven County known and marked as Cherry Point Marine Base, in that part of Onslow County known and marked as the Camp Lejeune Marine Base, on Fort Bragg Military Reservation, and on Camp Mackall Military Reservation.
- (C) Youth either sex deer hunts. First Saturday in October for youth either sex deer hunting by permit only on a portion of Belews Creek Steam Station in Stokes County designated by agents of the Commission and the third Saturday in October for youth either-sex deer hunting by permit only on Mountain Island State Forest in Lincoln and Gaston counties; and the second Saturday in November for youth either-sex deer hunting by permit only on apportion of Warrior Creek located on W. Kerr Scott Reservoir, Wilkes County designated by agents of the Commission.
- (D) The last open day of the Deer with Visible Antlers season described in Subparagraph (b)(1) of this Rule in all of 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, McDowell, Mitchell, Polk 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 (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, Shotguns and Bow and Arrow)

(1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph, deer may be taken only with muzzle-loading firearms and, on private lands only, 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 and bow and arrow season in and east of the following counties: Polk, Rutherford, McDowell, Burke, Caldwell, Watauga, and Ashe. Deer of either sex may be taken on the last day of muzzle-loading firearms and bow and arrow season in all other counties.

(B) Dogs shall not be used for hunting deer during the muzzle-loading firearms and bow and arrow seasons.

(C) Pistols shall not be carried while hunting deer during the muzzle-loading firearms bow and arrow 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. Deer shall not be taken on any game land or part thereof that occurs within a city boundary.

(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.

(f) In those counties or parts of counties listed in Part (b)(1)(A) of Subparagraph (b)(1) of this Rule, the daily bag limit shall be two and the possession limit six, two of which shall be antlerless. The season limit shall be six, two of which shall be antlerless. In all other counties or parts of counties, the daily bag limit shall be two and the possession limit six, four of which shall be antlerless. The season limit shall be six, four of which shall be antlerless. 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 during any open deer season in all counties and parts of counties of the State identified in Part (G) of Subparagraph (b)(2) of this Rule. Antlerless deer harvested and reported on the bonus antlerless harvest report card shall not count as part of the possession and season limit, however the daily bag limit shall be two. Hunters may also use the bonus antlerless harvest report cards for deer harvested during the season described in Paragraph (e) of this Rule within the boundaries of participating municipalities, except on state-owned game lands. 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.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.1; 113-291.2; Eff. February 1, 1976; Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996, July 1, 1995; December 1, 1994; July 1, 1994; July 1, 1993; Temporary Amendment Eff. July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2002; July 1, 2001; Amended Eff. August 1, 2002 (Approved by RRC on 06/21/01 and 04/18/02); Temporary Amendment Eff. June 1, 2003; Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003); Amended Eff. May 1, 2007; May 1, 2006; June 1, 2005.

15A NCAC 10B .0204 WILD BOAR (BOTH SEXES)

- (a) Open Seasons: The wild boar season for both sexes in Cherokee, Clay, Graham, Jackson, Macon, and Swain counties shall be 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 are not regulated by the Commission except on game lands as described in 15A NCAC 10D .0103(i).
- (b) Bag Limits: The daily bag limit for wild boar of both sexes is one; the possession limit is one; and the season limit is two.
- (c) Kill Reports. The carcass of each wild boar shall be tagged and the kill reported as provided by 15A NCAC 10B .0113.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.2; Eff. February 1, 1976; Amended Eff. May 1, 2007; July 1, 1999; July 1, 1995; July 1, 1993; July 1, 1987; July 1, 1986.

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.
- (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.

History Note: Authority G.S. 113-134; 113-291.2; Eff. February 1, 1976; Amended Eff. July 1, 1995; July 1, 1987; July 1, 1986; July 1, 1985; Temporary Amendment Eff. July 1, 1999; Amended Eff. May 1, 2007; July 1, 2000.

15A NCAC 10B .0209 WILD TURKEY

- (a) Open Seasons:
 - (1) Winter Either-Sex Wild Turkey Season shall be from the Monday on or nearest to January 15 through the following Saturday on bearded or beardless turkeys in Alleghany, Ashe, Caswell, Granville, Person, Rockingham, Stokes, Surry, Watauga and Wilkes counties except on Game Lands

- (2) Spring Wild Turkey Season shall be from the second Saturday in April through the Saturday of the fourth week thereafter on bearded or male turkeys only in all counties statewide.
- (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 on bearded or male wild turkeys only. 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
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 is 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.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.2; 113-291.5;
Eff. February 1, 1976;
Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; July 1, 1992;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. July 1, 2000;
Temporary Amendment Eff. July 1, 2001;
Temporary Amendment Eff. July 1, 2002;
Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02);
Temporary Amendment Eff. June 1, 2003;
Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);
Amended Eff. May 1, 2007; November 1, 2005.

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 through 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 and west of Madison, Buncombe, Henderson and Polk counties.

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

History Note: Authority G.S. 113-134; 113-291.1; 113-291.2;
Eff. February 1, 1976;
Amended Eff. July 1, 1996; July 1, 1984; July 1, 1983; August 1, 1982; August 1, 1981;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. July 1, 2000;
Temporary Amendment Eff. June 1, 2003;
Amended Eff. May 1, 2007; May 1, 2006; June 1, 2005; August 1, 2004.

15A NCAC 10B .0304 TRAPS

A steel-jaw or leghold trap set on dry land with a solid anchor shall not have a chain longer than eight inches unless the chain is fitted with a shock-absorbing device with at least 40 pounds and no more than 75 pounds of pressure to stretch or compress the device.

History Note Authority G.S. 113-134; 113-291.6;
Eff. May 1, 2007.

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 rules 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
 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
- (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

- | | | | |
|-----|--|---|--|
| | <p>Subparagraph (a)(2) of this Rule.]</p> <p>Boone Fork Pond</p> <p>Yadkin River (not trout water)</p> <p>Buffalo Creek (mouth of Joes Creek to McCloud Branch)</p> <p>Joes Creek (first falls upstream of SR 1574 to confluence with Buffalo Creek)</p> | <p>Chatuge Lake (not trout water)</p> <p>Shooting Creek (SR 1349 bridge to US 64 bridge at SR 1338)</p> <p>Hothouse Branch (including portions of tributaries on gamelands)</p> <p>Vineyard Creek (including portions of tributaries on game lands)</p> | |
| (G) | <p>Cherokee County:</p> <p>Hiwassee River (not trout water)</p> <p>Shuler Creek (headwaters to Tennessee line, except where posted against trespass including portions of tributaries on game lands)</p> <p>North Shoal Creek (Crane Creek) (headwaters to SR 1325, including portions of tributaries on game lands)</p> <p>Persimmon Creek</p> <p>Davis Creek (confluence of Bald and Dockery creeks to Hanging Dog Creek)</p> <p>Beaver Dam Creek (headwaters to SR 1326 bridge, including portions of tributaries on game lands)</p> <p>Valley River (headwaters to US 19 business bridge in Murphy)</p> <p>Hyatt Creek (including portions of tributaries on game lands)</p> <p>Webb Creek (including portions of tributaries on game lands)</p> <p>Junaluska Creek (Ashturn Creek to Valley River, including portions of tributaries on game lands)</p> | (I) | <p>Graham County:</p> <p>Little Tennessee River (not trout water)</p> <p>Calderwood Reservoir (Cheoah Dam to Tennessee State line)</p> <p>Cheoah River (not trout water)</p> <p>Yellow Creek</p> <p>Santeetlah Reservoir (not trout water)</p> <p>West</p> <p>Buffalo Creek</p> <p>Little</p> <p>Buffalo Creek</p> <p>Santeetlah Creek (Johns Branch to mouth including portions of tributaries within this section located on game lands, excluding Johns Branch and Little Santeetlah Creek)</p> <p>(Big) Snowbird Creek (old railroad junction to SR 1127 bridge, including portions of tributaries on game lands)</p> <p>Mountain Creek (game lands boundary to SR 1138 bridge)</p> <p>Long</p> <p>Creek (portion not on game lands)</p> <p>Tulula</p> <p>Creek (headwaters to lower bridge on SR 1275)</p> <p>Franks</p> <p>Creek</p> <p>Cheoah Reservoir</p> <p>Fontana Reservoir (not trout water)</p> <p>Stecoah Creek</p> <p>Sawyer Creek</p> |
| (H) | <p>Clay County:</p> <p>Hiwassee River (not trout water)</p> <p>Fires Creek (first bridge above the lower game land line on US Forest Service road 442 to SR 1300)</p> <p>Tusquitee Creek (headwaters to lower SR 1300 bridge, including portions of Bluff Branch on game lands)</p> <p>Big Tuni Creek (including portions of tributaries on game lands)</p> | | |

- (J) Panther Creek
(including portions of
tributaries on game lands)
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
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) | | Camp Creek
[Henderson County line (top
of falls) to Green River] |
| | Armstrong Creek (Cato
Holler line downstream to
upper Greenlee line) | (R) | Rutherford County:
(Rocky) Broad River (Henderson
County line to US 64/74 bridge,
except where posted against
trespass) |
| | Mill Creek (upper railroad
bridge to U.S. 70 Bridge,
except where posted against
trespass) | (S) | Stokes County:
Dan River (Virginia State line
downstream to a point 200 yards
below the end of SR 1421) |
| (P) | Mitchell County:
Nolichucky River (not trout
water) | (T) | Surry County:
Yadkin River (not trout water) |
| | Big Rock Creek (headwaters
to NC 226 bridge at SR 1307
intersection) | | Ararat River (SR 1727
bridge downstream to the
NC 103 bridge) |
| | Little Rock Creek
(Green Creek Bridge to
Big Rock Creek, except
where posted against
trespass) | | Stewarts Creek (not
trout water) |
| | Cane Creek (SR 1219 to NC
226 bridge) | | Pauls Creek
(Virginia State line
to 0.3 mile below
SR 1625 bridge -
lower Caudle
property line) |
| | Cane Creek (NC 226 bridge
to NC 80 bridge) [Delayed
Harvest Regulations apply.
See Subparagraph (a)(5) of
this Rule.] | | Fisher River
(Cooper Creek) (Virginia
State line to Interstate 77) |
| | Grassy Creek (East Fork
Grassy Creek to mouth) | | Little Fisher River
(Virginia State line to NC 89
bridge) |
| | East Fork Grassy Creek | | 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.] |
| | North Toe River (Avery
County line to SR 1121
bridge) | (U) | Swain County:
Little Tennessee River (not trout
water) |
| (Q) | Polk County:
Broad River (not trout water) | | Calderwood Reservoir
(Cheoah Dam to Tennessee
State line) |
| | North Pacolet River (Pacolet
Falls to NC 108 bridge) | | Cheoah Reservoir |
| | Fork Creek (Fork Creek
Church on SR 1100 to
North Pacolet River) | | Fontana Reservoir (not trout
water) |
| | Big Fall Creek (portion
above and below water
supply reservoir) | | Alarka Creek (game
lands boundary to
Fontana 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.] | | Nantahala River (Macon
County line to existing
Fontana Reservoir water
level) |
| | Little Cove Creek
(including portions of
tributaries on game lands) | | Tuckasegee River (not trout
water) |
| | Cove Creek (including
portions of tributaries on
game lands) | | Deep Creek (Great
Smoky Mountains) |

- National Park boundary line to Tuckasegee River)
Connelly Creek (including portions of tributaries on game lands)
- (V) Transylvania County:
French Broad River (junction of west and north forks to US 276 bridge)
Davidson River (Avery Creek to lower US Forest Service boundary line)
East Fork French Broad River (Glady Fork to French Broad River) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
Little River (confluence of Lake Dense outflow to Hooker Falls) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
Middle Fork French Broad River
West Fork French Broad River (SR 1312 and SR 1309 intersection to junction of west and north forks, including portions of tributaries within this section located on game lands)
- (W) Watauga County:
New River (not trout waters)
North Fork New River (from confluence with Maine and Mine branches to Ashe County line)
Maine Branch (headwaters to North Fork New River)
South New Fork River (not trout water)
Meat Camp Creek
Norris Fork Creek
Howard Creek (downstream from lower falls)
Middle Fork New River (Lake Chetola Dam to South Fork New River)
Yadkin River (not trout water)
Stony Fork (headwaters to Wilkes County line)
Elk Creek (headwaters to gravel pit on SR 1508, except where posted against trespass)
- Watauga River (SR 1557 bridge to NC 105 bridge and SR 1114 bridge to NC 194 bridge at Valle Crusis). [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
Beech Creek
Buckeye Creek Reservoir
Coffee Lake
Beaverdam Creek (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)
- (G) Rockhouse Creek (entire stream)
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 (Private) 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:
 Mitchell River (0.6 mile upstream of the end of SR 1333 to the SR 1330 bridge below Kapps Mill Dam)
- (L) Transylvania County:

- East Fork French Broad River (Gladly 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.
- History Note: Authority G.S. 113-134; 113-272; 113-292; Eff. February 1, 1976; Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; October 1, 1992;*
- Temporary Amendment Eff. July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2001; Temporary Amendment Eff. July 1, 2002; Amended Eff. August 1, 2002 (approved by RRC) on 6/21/01 and 04/18/02); Temporary Amendment Eff. June 1, 2003; Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17 2003); Amended Eff. May 1, 2007; May 1, 2006; June 1, 2005.*

15A NCAC 10C .0216 FISHING LICENSE EXEMPTIONS

(a) Any governmental or non-profit entity conducting an organized fishing event for educational purposes may obtain from the Commission 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 impose reasonable record-keeping such as names and number of participants and facilitators.

History Note: Authority G.S. 113-134; 113-272.2; 113-276; 113-292; Eff. May 1, 2007.

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:			
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. (exc. (21))	ALL YEAR
Pickereel: 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 (exc. (22))	12 in. (excs (8,10&22))	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)	1	18 in.	ALL YEAR

bass, red fish, puppy drum)		(exc. (19))	
Striped Bass and their hybrids (Morone Hybrids)	8 aggregate	16 in.	ALL YEAR
Shad: (American and hickory)	(excs. 1,2,5,6,11,&13)	(excs.1,2,5,6,11&13)	(excs. 6,13&15)
Kokanee Salmon	10 aggregate	None	ALL YEAR (exc. (18))
Crappie and sunfish	7	None	ALL YEAR
	None	None	ALL YEAR
	(excs. 4,12&16)	(exc. (12))	(exc. (4))
NONGAME FISHES	None	None	ALL YEAR
	(excs. (14&20))	(exc. (20))	(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 inches from October 1 through May 31 and no minimum size limit from June 1 through September 30.
- (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 30 from the joint-coastal fishing waters boundary at Albemarle Sound 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, the entire Lumber River including Drowning Creek, in all their tributaries, 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, 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 their tributaries, and 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 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 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 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 their tributaries, 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 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, in all their tributaries, and in all other inland fishing waters east of Interstate 95.

- (21) On the French Broad River 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.

History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305;

Eff. February 1, 1976;

Temporary Amendment Eff. May 10, 1990, for a period of 180 days to expire on November 1, 1990;

Temporary Amendment Eff. May 22, 1990, for a period of 168 days to expire on November 1, 1990;

Temporary Amendment Eff. May 1, 1991, for a period of 180 days to expire on November 1, 1991;

Amended Eff. July 1, 1994; July 1, 1993; October 1, 1992;

Temporary Amendment Eff. December 1, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995;

Temporary Amendment Eff. November 1, 1998;

Amended Eff. April 1, 1999;

Temporary Amendment Eff. July 1, 1999;

Amended Eff. July 1, 2000;

Temporary Amendment Eff. July 1, 2001;

Temporary Amendment Eff. March 8, 2002 [This rule replaces the rule proposed for permanent amendment effective July 1, 2002 and approved by RRC in May 2001];

Amended Eff. August 1, 2002 (approved by RRC in April 2002);

Temporary Amendment Eff. June 1, 2003;

Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);

Amended Eff. May 1, 2007; May 1, 2006; June 1, 2005.

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.
- (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 is unlawful to possess more than 200 freshwater mussels.

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

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

Cedarock 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

*History Note: Authority G.S. 113-134; 113-272; 113-292;
 Eff. February 1, 1976;
 Amended Eff. July 1, 1994; July 1, 1993; May 1, 1992;
 Temporary Amendment Eff. December 1, 1994;
 Amended Eff. July 1, 1998; July 1, 1996; July 1, 1995;
 Temporary Amendment Eff. July 1, 1999;
 Amended Eff. July 1, 2000;
 Temporary Amendment Eff. July 1, 2002; July 1, 2001;
 Amended Eff. August 1, 2002 (approved by RRC on 06/21/01
 and 04/18/02);
 Temporary Amendment Eff. June 1, 2003;
 Amended Eff. May 1, 2004 (this amendment replaces the
 amendment approved by RRC on July 17, 2003);
 Amended Eff. May 1, 2007; May 1, 2006; June 1, 2005.*

**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, shall be taken or possessed 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.

(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 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.

*History Note: Authority G.S. 113-134; 113-135; 113-135.1; 113-272; 113-272.3; 113-292;
 Eff. February 1, 1976;
 Amended Eff. July 1, 2000; July 1, 1998; July 1, 1993; July 1, 1992; May 1, 1992; July 1, 1989;
 Temporary Amendment Eff. July 1, 2001;
 Amended Eff. July 18, 2002;
 Temporary Amendment Eff. June 1, 2003;*

Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);

Amended Eff. May 1, 2007; May 1, 2006.

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. No fixed gill net or other stationary net which may be authorized as a special fishing device may 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 be identified on a buoy on each end either by using engraved buoys or by attaching engraved metal or plastic tags to the buoys. Such identification shall include one of the following:

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

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

(c) Traps. Baskets and traps, including automobile tires, may be used under the special device fishing license. Such devices when set and left unattended shall be affixed with a card or tag furnished by the license holder and upon which his name and address shall be legibly and indelibly inscribed. No fish trap may exceed 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 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;
- (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. Hand-crank electrofishers may be used only where authorized by local law and only in those waters specified in 15A NCAC 10C .0407.

History Note: Authority G.S. 113-134; 113-272.2; 113-276; 113-292;

Eff. February 1, 1976;

Amended Eff. July 1, 1999; July 1, 1996; December 1, 1995; July 1, 1995; July 1, 1994; July 1, 1993;

Temporary Amendment Effective July 1, 2001;

Amended Eff. May 1, 2007; August 1, 2004; July 18, 2002.

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 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;

- | | |
|---|--|
| <p>(6) Beaufort:</p> <p>(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;</p> <p>(b) March 1 to April 30 with bow nets in all inland public waters;</p> <p>(7) Bertie:</p> <p>(a) July 1 to June 30 with traps in the Broad Creek (tributary of Roanoke);</p> <p>(b) March 1 to April 30 with bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;</p> <p>(8) Bladen:</p> <p>(a) March 1 to April 30 with bow nets in Black River;</p> <p>(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;</p> <p>(9) Brunswick: March 1 to April 30 with bow nets in Alligator Creek, Hoods Creek, Indian Creek, Orton Creek below Orton Pond, Rices Creek, Sturgeon Creek and Town Creek;</p> <p>(10) Buncombe: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(11) Burke:</p> <p>(a) July 1 to August 31 with seines in all running public waters, except Johns River and designated public mountain trout waters;</p> <p>(b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters and Lake James;</p> <p>(12) Cabarrus:</p> <p>(a) July 1 to August 31 with seines in all running public waters,</p> <p>(b) July 1 to June 30 with traps and gigs in all public waters;</p> <p>(13) Caldwell: July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters;</p> <p>(14) Camden:</p> <p>(a) July 1 to June 30 with traps in all inland public waters;</p> <p>(b) March 1 to April 30 with bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;</p> <p>(15) Carteret: March 1 to April 30 with bow nets in all inland public waters except South River and the tributaries of the White Oak River;</p> | <p>(16) Caswell:</p> <p>(a) July 1 to June 30 with gigs in all public waters;</p> <p>(b) July 1 to August 31 with seines in all running public waters, except Moons Creek;</p> <p>(c) July 1 to June 30 with traps in Hyco Reservoir;</p> <p>(17) Catawba:</p> <p>(a) July 1 to August 31 with seines in all running public waters, except Catawba River below Lookout Dam;</p> <p>(b) July 1 to June 30 with traps, spear guns, and gigs in all public waters;</p> <p>(18) Chatham:</p> <p>(a) December 1 to April 15 with dip and gill nets in the Cape Fear River, Deep River, Haw River and Rocky River (local law);</p> <p>(b) July 1 to August 31 with seines in the Cape Fear River, and Haw River;</p> <p>(c) July 1 to June 30 with traps in Deep River; and with gigs in all public waters;</p> <p>(19) Cherokee: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(20) Chowan:</p> <p>(a) March 1 to April 30 with bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;</p> <p>(b) July 1 to June 30 with traps in all inland public waters, excluding public lakes, ponds, and other impounded waters;</p> <p>(21) Clay: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(22) Cleveland:</p> <p>(a) July 1 to August 31 with seines in all running public waters;</p> <p>(b) July 1 to June 30 with gigs, traps and spear guns in all public waters;</p> <p>(23) Columbus:</p> <p>(a) December 1 to March 1 with gigs in all inland public waters, except Lake Waccamaw and its tributaries;</p> <p>(b) March 1 to April 30 with bow nets in Livingston Creek;</p> <p>(c) July 1 to March 1 with hand-crank electrofishers (local law) in Waccamaw and Lumber rivers;</p> <p>(24) Craven:</p> <p>(a) July 1 to June 30 with traps in the main run of the Trent and Neuse Rivers;</p> <p>(b) March 1 to April 30 with bow nets in all inland public waters, except Pitch</p> |
|---|--|

- 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) March 1 to April 30 with 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) March 1 to April 30 with 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:
- (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: March 1 to April 30 with 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: March 1 to April 30 with 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: March 1 to April 30 with 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: March 1 to April 30 with 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) March 1 to April 30 with 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) March 1 to April 30 with 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) March 1 to April 30 with 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: March 1 to April 30 with 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) March 1 to April 30 with 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;
 - (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) March 1 to April 30 with 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: March 1 to April 30 with 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) July 1 to August 31 with seines in all running public waters except in Deep River;
 - (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) March 1 to April 30 with bow nets in the Tar River below Harris' Landing and Fishing Creek below the Fishing Creek Mill Dam;
- (61) New Hanover: March 1 to April 30 with 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) March 1 to April 30 with 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) March 1 to April 30 with bow nets in the main run of New River and in the main run of the White Oak River;

- | | |
|--|--|
| <p>(d) March 1 to April 30 with bow nets in Grant's Creek;</p> <p>(64) Orange:</p> <p>(a) July 1 to August 31 with seines in Haw River,</p> <p>(b) July 1 to June 30 with gigs in all public waters;</p> <p>(65) Pamlico: March 1 to April 30 with bow nets in all inland public waters, except Dawson Creek;</p> <p>(66) Pasquotank:</p> <p>(a) July 1 to June 30 with traps in all inland waters;</p> <p>(b) March 1 to April 30 with bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;</p> <p>(67) Pender:</p> <p>(a) December 1 to June 5 with seines in the main run of Northeast Cape Fear River;</p> <p>(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;</p> <p>(c) July 1 to March 1 with hand-crank electrofishers (local law) in Black River;</p> <p>(68) Perquimans:</p> <p>(a) July 1 to June 30 with traps in all inland waters;</p> <p>(b) March 1 to April 30 with bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;</p> <p>(69) Person:</p> <p>(a) July 1 to August 31 with seines in Hyco Creek and Mayo Creek;</p> <p>(b) July 1 to June 30 with gigs in all public waters.</p> <p>(70) Pitt:</p> <p>(a) July 1 to June 30 with traps in Neuse River and in Tar River below the mouth of Hardee Creek east of Greenville;</p> <p>(b) March 1 to April 30 with bow nets in all inland public waters, except Grindle Creek, and Contentnea Creek between NC 118 bridge at Grifton and the Neuse River;</p> <p>(c) December 1 to June 5 with seines in Tar River;</p> <p>(71) Polk: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(72) Randolph:</p> | <p>(a) July 1 to August 31 with seines in Deep River above the Coleridge Dam and Uwharrie River;</p> <p>(b) July 1 to June 30 with gigs in all public waters;</p> <p>(73) Richmond:</p> <p>(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;</p> <p>(b) July 1 to June 30 with traps and gigs in all public waters, except lakes located on the Sandhills Game Land;</p> <p>(c) March 1 to April 30 with bow nets in Pee Dee River below Blewett Falls Dam;</p> <p>(74) Robeson: December 1 to March 1 with gigs in all inland public waters.</p> <p>(75) Rockingham:</p> <p>(a) July 1 to August 31 with seines in Dan River and Haw River;</p> <p>(b) July 1 to June 30 with traps in Dan River; and with gigs in all public waters;</p> <p>(76) Rowan:</p> <p>(a) July 1 to August 31 with seines in all running public waters,</p> <p>(b) July 1 to June 30 with traps and gigs in all public waters;</p> <p>(77) Rutherford:</p> <p>(a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;</p> <p>(b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters;</p> <p>(78) Sampson:</p> <p>(a) March 1 to April 30 with bow nets in Big Coharie Creek, Black River and Six Runs Creek;</p> <p>(b) July 1 to March 1 with hand-crank electrofishers (local law) in Black River downstream of NC 1105 bridge;</p> <p>(79) Stanly:</p> <p>(a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake Tillery dam at Hydro and the mouth of Rocky River;</p> <p>(b) July 1 to June 30 with traps and gigs in all public waters;</p> <p>(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 Belevs Creek Reservoir;</p> |
|--|--|

- | | |
|---|--|
| <p>(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;</p> <p>(82) Swain: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(83) Transylvania: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(84) Tyrrell:</p> <p style="padding-left: 20px;">(a) July 1 to June 30 with traps in Scuppernong River and Alligator Creek;</p> <p style="padding-left: 20px;">(b) March 1 to April 30 with 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;</p> <p>(85) Union:</p> <p style="padding-left: 20px;">(a) July 1 to August 31 with seines in all running public waters,</p> <p style="padding-left: 20px;">(b) July 1 to June 30 with traps and gigs in all public waters;</p> <p>(86) Vance:</p> <p style="padding-left: 20px;">(a) July 1 to August 31 with seines in the Tar River;</p> <p style="padding-left: 20px;">(b) July 1 to June 30 with gigs in all public waters, except Rolands, Faulkners, Southerlands, and Weldon Ponds, City Lake, and Kerr Reservoir;</p> <p style="padding-left: 20px;">(c) July 1 to June 30 with dip and cast nets in Kerr Reservoir;</p> <p>(87) Wake:</p> <p style="padding-left: 20px;">(a) July 1 to June 30 with gigs in all public waters, except Sunset, Benson, Wheeler, Raleigh, and Johnson Lakes;</p> <p style="padding-left: 20px;">(b) March 1 to April 30 with bow nets in the Neuse River below Milburnie Dam, and Swift Creek below Lake Benson Dam;</p> <p>(88) Warren:</p> <p style="padding-left: 20px;">(a) July 1 to August 31 with seines in Fishing Creek, Shocco Creek, and Walker Creek; excluding Duck and Hammes Mill Ponds;</p> <p style="padding-left: 20px;">(b) July 1 to June 30 with gigs in all public waters, except Duck and Hammes Mill Ponds, Kerr Reservoir, and Gaston Reservoir;</p> <p style="padding-left: 20px;">(c) July 1 to June 30 with dip and cast nets in Kerr Reservoir;</p> <p>(89) Washington: March 1 to April 30 with bow nets in all inland public waters, excluding Lake Phelps, the drainage canals that connect</p> | <p>Lake Phelps and Scuppernong River, public lakes, ponds and other impoundments.</p> <p>(90) Wayne: March 1 to April 30 with bow nets in Little River, Mill Creek and Neuse River.</p> <p>(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;</p> <p>(92) Wilson:</p> <p style="padding-left: 20px;">(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;</p> <p style="padding-left: 20px;">(b) March 1 to April 30 with bow nets in Contentnea Creek below US 301 bridge and in Toisnot Swamp downstream from the Lake Toisnot Dam;</p> <p>(93) Yadkin: July 1 to June 30 with gigs in all public waters, and with traps in the main stem of Yadkin River.</p> |
|---|--|

History Note: Authority G.S. 113-134; 113-276; 113-292; Eff. February 1, 1976; Temporary Amendment Eff. December 29, 1988; Temporary Amendment Eff. December 1, 1993; Amended Eff. July 1, 2000; July 1, 1998; July 1, 1996; December 1, 1995; July 1, 1995; July 1, 1994; June 1, 1994; Temporary Amendment Eff. July 1, 2002; July 1, 2001; Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02); Temporary Amendment Eff. June 1, 2003; Amended Eff. May 1, 2007; June 1, 2005; August 1, 2004.

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 has identified the following areas on game lands that have additional restrictions on entry or usage:
- (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 is 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 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 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 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 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; and
- (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 driving in the vehicle gallery of a scheduled bird dog field 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 possess a 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 certification, the applicant shall provide medical certification of one or more of the following disabilities:

- (1) missing 50 percent or more of one or more 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) deafness.

Participants in the 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 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. 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 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 Rule for the purpose of regulating the use of the area.

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

Eff. February 1, 1976;

Amended Eff. July 1, 1993; April 1, 1992;

Temporary Amendment Eff. October 11, 1993;

Amended Eff. July 1, 1998; July 1, 1996; July 1, 1995; July 1, 1994;

Temporary Amendment Eff. July 1, 1999;

Amended Eff. July 1, 2000;

Temporary Amendment Eff. August 31, 2001;

Amended Eff. August 1, 2002;

Amended Eff. June 1, 2004; (this amendment replaces the amendment approved by RRC on July 17, 2003);

Amended Eff. May 1, 2007; May 1, 2006; November 1, 2005.

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 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.
- (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.
- (9) Brunswick County Game Land in Brunswick County: Permit Only Area
- (10) Buckhorn Game Land in Orange County: Permit Only Area.
- (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.
- (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.

- | | |
|---|---|
| <p>(C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.</p> <p>(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.</p> <p>(13) Bullard and Branch Hunting Preserve Game Lands in Robeson County</p> <p>(A) Three Days per Week Area</p> <p>(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.</p> <p>(14) Butner - Falls of Neuse Game Land in Durham, Granville and Wake counties</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(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.</p> <p>(D) Horseback riding, including all equine species, is prohibited.</p> <p>(E) Target shooting is prohibited</p> <p>(F) Wild turkey hunting is by permit only, except on those areas posted as an archery zone.</p> <p>(G) The use of dogs for hunting deer is prohibited on that portion west of NC 50 and south of Falls Lake.</p> <p>(15) Cape Fear Game Land in Pender County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Turkey Hunting is by permit only on that portion known as the Roan Island Tract.</p> <p>(16) Carteret County Game Land in Carteret County</p> <p>(A) Six Days per Week Area</p> <p>(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.</p> <p>(C) The use of dogs for hunting deer is prohibited.</p> <p>(17) Caswell Game Land in Caswell County</p> | <p>(A) Three Days per Week Area</p> <p>(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 who acquire special hunt permits.</p> <p>(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.</p> <p>(D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.</p> <p>(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.</p> <p>(F) On the posted waterfowl impoundment, waterfowl hunting is by permit only after November 1.</p> <p>(18) Caswell Farm Game Land in Lenoir County</p> <p>(A) Dove-Only Area</p> <p>(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.</p> <p>(19) Catawba Game Land in Catawba County</p> <p>(A) Three Days per Week Area</p> <p>(B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.</p> <p>(C) Deer may be taken with bow and arrow only from the tract known as Molly's Backbone.</p> <p>(20) Chatham Game Land in Chatham County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the first six open days and the last six</p> |
|---|---|

- 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.
- (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.
- (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.
- (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.
- (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.
- (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.
- (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.
- (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 from November 1 through the end of the waterfowl season.
- (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.
- (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
- (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.
- (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.
- (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) From November 1 through the end of the waterfowl season, 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.
 - (F) Camping is restricted to September 1 through February 28 and April 7 through May 14 in areas both designated and posted as camping areas.
- (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.
- (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.
- (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 September 1 through February 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.
- (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.
- (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 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 September 1 through February 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.
- (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.
- (40) J. Morgan Futch Game Land in Tyrrell County, Permit Only Area.
- (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 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.
- (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.
- (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.
- (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.
- (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.
- (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.
- (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.
- (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.
- (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.
- (51) Needmore Game Land in Macon and Swain counties.
- (A) Six Days per Week Area
 - (B) Horseback riding is 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.
- (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.
- (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.
- (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.
- (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.

- | | |
|---|--|
| <p>(56) Northwest River Marsh Game Land in Currituck County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.</p> <p>(57) Pee Dee River Game Land in Anson, Montgomery, Richmond and Stanly counties</p> <p>(A) Six Days per Week Area</p> <p>(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.</p> <p>(C) Use of centerfire rifles prohibited in that portion in Anson and Richmond counties North of US-74.</p> <p>(58) Perkins Game Land in Davie County</p> <p>(A) Three Days per Week Area</p> <p>(B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.</p> <p>(59) Pisgah Game Land in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey counties</p> <p>(A) Six Days per Week Area</p> <p>(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.</p> <p>(C) Harmon Den and Sherwood Bear Sanctuaries in Haywood County are closed to hunting raccoon, opossum and wildcat.</p> <p>(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).</p> <p>(60) Pungo River Game Land in Hyde County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(61) Rhodes Pond Game Land in Cumberland County</p> <p>(A) Hunting is by permit only.</p> <p>(B) Swimming is prohibited on the area.</p> | <p>(62) Roanoke River Wetlands in Bertie, Halifax, Martin and Northampton counties</p> <p>(A) Hunting is by Permit only.</p> <p>(B) Vehicles are prohibited on roads or trails except those operated on Commission business or by permit holders.</p> <p>(C) Camping is restricted to September 1 through February 28 and April 7 through May 14 in areas both designated and posted as camping areas.</p> <p>(63) Roanoke Island Marshes Game Land in Dare County-Hunting is by permit only.</p> <p>(64) Robeson Game Land in Robeson County</p> <p>(A) Three Days per Week Area</p> <p>(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.</p> <p>(65) Rockfish Creek Game Land in Hoke County</p> <p>(A) Three Days per Week Area</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(E) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.</p> <p>(F) The use of dogs for hunting deer is prohibited.</p> <p>(G) Wild turkey hunting is by permit only.</p> <p>(66) Sampson Game Land in Sampson County</p> <p>(A) Three Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(67) Sandhills Game Land in Hoke, Moore, Richmond and Scotland counties</p> <p>(A) Three Days per Week Area</p> <p>(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</p> |
|---|--|

- 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 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 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 is 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 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.
- (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.
- (70) Second Creek Game Land in Rowan County-hunting is by permit only.
- (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.
- (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 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.
- (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.
- (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.

- | | |
|--|--|
| <p>(74) Suggs Mill Pond Game Land in Bladen County</p> <p>(A) Hunting is by Permit only.</p> <p>(B) Camping is restricted to September 1 through February 28 and April 7 through May 14 in areas both designated and posted as camping areas.</p> <p>(75) Sutton Lake Game Land in New Hanover and Brunswick counties</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(76) Tar River Game Land in Edgecombe County -
- hunting is by permit only.</p> <p>(77) Three Top Mountain Game Land in Ashe County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Horseback riding including all equine species is prohibited.</p> <p>(78) Thurmond Chatham Game Land in Wilkes County</p> <p>(A) Six Days per Week Area</p> <p>(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.</p> <p>(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.</p> <p>(D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.</p> <p>(79) Tillery game Land in Halifax County</p> <p>(A) Six Days per Week Area</p> <p>(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.</p> <p>(C) Horseback riding, including all equine species, is prohibited.</p> <p>(D) The use of dogs for hunting deer is prohibited.</p> | <p>(80) Toxaway Game Land in Transylvania County</p> <p>(A) Six Days per Week Area</p> <p>(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.</p> <p>(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.</p> <p>(81) Uwharrie Game Land in Davidson, Montgomery and Randolph counties</p> <p>(A) Six Days per Week Area</p> <p>(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.</p> <p>(82) Vance Game Land in Vance County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) The use of dogs, centerfire rifles and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.</p> <p>(83) Van Swamp Game Land in Beaufort and Washington counties</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(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.</p> <p>(84) White Oak River Game Land in Onslow County</p> <p>(A) Three Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:</p> <p>(i) the opening and closing days of the applicable waterfowl seasons;</p> |
|--|--|

- (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
- (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (D) From October 1 through the end of the waterfowl season, 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 are closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission:

Bertie, Halifax and Martin counties-Roanoke River Wetlands
 Bertie County-Roanoke River National Wildlife Refuge
 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.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-305;
Eff. February 1, 1976;
Temporary Amendment Eff. October 3, 1991;

Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; September 1, 1995; July 1, 1995; September 1, 1994; July 1, 1994;

Temporary Amendment Eff. October 1, 1999; July 1, 1999;
Amended Eff. July 1, 2000;

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

Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02);

Temporary Amendment Eff. June 1, 2003;

Amended Eff. June 1, 2004 (this replaces the amendment approved by RRC on July 17, 2003);

Amended Eff. May 1, 2007; October 1, 2006; August 1, 2006; May 1, 2006; February 1, 2006, June 1, 2005; October 1, 2004.

15A NCAC 10F .0102 APPLICATION FOR CERTIFICATE OF VESSEL NUMBER

(a) General. Every owner applying for a certificate of number or certificate of title of a vessel required to be numbered pursuant to G.S. 75A-4 and 75A-7 or required to be titled pursuant to G.S. 75A-34 and 75A-35 shall apply to the North Carolina Wildlife Resources Commission or to one of its Wildlife Service Agents for a certificate of number or certificate of title using an application provided by the Wildlife Resources Commission. The application shall contain the following information:

- (1) name of owner(s);
- (2) address, telephone number, date of birth, and North Carolina driver license number of owner(s);
- (3) present or previous certificate of number (if any);
- (4) desired period of certificate of number (one or three years);
- (5) primary use of vessel (pleasure, livery, demonstration, commercial passenger, commercial fishing, other commercial, other);
- (6) model of vessel (if known);
- (7) manufacturer if known;
- (8) year of manufacture or model year (if known);
- (9) manufacturer's hull identification number (if any);
- (10) overall length of vessel in feet and inches;
- (11) type of vessel (open, cabin, houseboat, personal watercraft, pontoon, other);
- (12) hull material (wood, metal, fiberglass, inflatable, plastic, other);
- (13) type of propulsion (inboard; outboard; inboard-outdrive; jet drive; sail; auxiliary sail/inboard; auxiliary sail/outboard, other);
- (14) type of fuel (gasoline, diesel, electric, other);
- (15) proof of ownership document;
- (16) signature of owner(s);
- (17) make of motor (if over 25 horsepower), serial number, purchase price of motor;
- (18) lien holder name, address, and telephone number;
- (19) effective lien date; and
- (20) county where vessel is taxed.

(b) Application for certificate of number and certificate of title. The owner(s) shall complete and submit an application for a certificate of number, along with the proof of ownership document and applicable fees to the Wildlife Resources Commission or one of its authorized agents for processing within 15 days of the date of sale. A new certificate of number shall be issued for new or never before registered vessels. For a period of 60 days following the date of sale, the new owner may use a copy of the proof of ownership document, provided it contains the date of sale, as a temporary certificate of number pending receipt of the original certificate. If the vessel is over 14 feet or is a personal watercraft, then a Certificate of Title for Vessel shall be issued, including recordation of any liens listed on the application.

(c) Livery Vessel Owners. A "livery" vessel is one that is rented or leased to an individual for a specific time period by the owners(s). The certificate of numbering and certificate of titling requirements of G.S. 75A-4, 75A-7, 75A-34 and 75A-35 apply to livery vessels. Upon receipt of a completed application, a copy of the lease or rental agreement form and fee, the Wildlife Resources Commission shall issue to the applicant a certificate of number and certificate of title, if applicable.

(d) Dealers and Manufacturers of Vessels. A "manufacturer" as the term is used in this Rule is defined as a person, firm, or corporation engaged in the business of manufacturing vessels either upon prior commission or for the purpose of selling them after manufacture. A "dealer" as the term is used in this Rule is defined as a person, firm, or corporation engaged in the business of offering vessels for sale at retail or wholesale from an established location(s). The certificate of numbering requirements of G.S. 75A-4 and 75A-7 apply to vessels belonging to dealers and manufacturers. Upon receipt of a completed application and fee the Wildlife Resources Commission shall issue to the applicant a certificate of number, as appropriate, which may be used in connection with the operation of any vessel in the possession of the dealer or manufacturer when the vessel is being demonstrated. Dealer and manufacturer certificate of numbers shall not be transferred. A new certificate of number shall be issued upon transfer. Demonstration vessels shall not be titled so long as the vessel is owned by the dealer or manufacturer. Vessels owned or possessed by dealers or manufacturers for personal use or for any use other than for demonstration and testing purposes shall be individually registered in the name of the dealer or manufacturer in accordance with Paragraph (a) of this Rule. Additional dealer's or manufacturer's certificates of number may be obtained by making application in the same manner as prescribed for the initial certificate with payment of an additional fee for each additional certificate. Dealers and manufacturers may register individual vessels in accordance with Rule .0104(a) of this Section.

(e) Government Agency Vessels. The certificate of numbering requirements of G.S. 75A-4 and 75A-7 apply to vessels belonging to state or local government agencies. Upon receipt of a completed application from a state or local government agency, the Wildlife Resources Commission shall issue to the applicant a permanent certificate of number. There is no fee for a permanent state or local government agency certificate of number and the certificate is valid until the vessel is transferred

to another government agency, an individual, business, or dealer. Government agency registered vessels shall not be titled.

(f) Commercial Fishing Vessel. The certificate of numbering and certificate of titling requirements of G.S. 75A-4, 75A-7, 75A-34 and 75A-35 apply to commercial fishing vessels. The standard application for a certificate of number shall be used for commercial fishing vessels with the term "commercial fishing" marked in the section designated for "primary use." Upon receipt of a completed application, the Wildlife Resources Commission shall issue to the applicant a certificate of number and certificate of title, if applicable. The vessel owner shall pay for the first certificate of number. Subsequent renewals renewals, for a period of one year, are free for a period of one year provided the owner provides proof of a valid Commercial Fishing Vessel Registration, Registration when applying to the Wildlife Resources Commission for a renewal certificate of number. A valid Commercial Fishing Vessel Registration is one that has been issued by the Division of Marine Fisheries.

(g) Commercial Passenger Vessel. The certificate of numbering requirements of G.S. 75A-4, 75A-7, 75A-34 and 75A-35 apply to commercial passenger vessels. Upon receipt of a completed application, proof of ownership document, and fee, the Wildlife Resources Commission shall issue to the applicant a certificate of number and certificate of title, if applicable.

History Note: Legislative Objection Lodged Eff. December 16, 1980;

Authority G.S. 75A-3; 75A-5; 75A-7; 75A-19; 75A-34; 75A-35; 33 C.F.R. 174.17;

Eff. February 1, 1976;

Amended Eff. July 1, 1988 at ARRC request to cure referenced Legislative Objection;

Amended Eff. May 1, 2007; July 1, 1998; April 1, 1997; November 1, 1993; August 1, 1988; July 1, 1988; August 31, 1980.

15A NCAC 10F .0103 TRANSFER OF OWNERSHIP

(a) Transfer of previously registered and titled vessels.

(1) Transfer of previously registered and titled vessels from one individual owner(s) to another.

(A) When the ownership of a titled vessel is transferred, the owner(s) listed on the face of the Certificate of Title for Vessel shall complete the Assignment of Title section on the reverse side of the certificate of title and surrender the title to the new owner(s). All outstanding liens shall be satisfied before the certificate of title is surrendered to the new owners(s). If the ownership of a titled vessel is transferred by court order, will, settlement agreement, separation agreement, judgment or other document and the original title is not available, the previous owner(s) or estate representative shall provide the

- new owner(s) with documents establishing ownership.
- (B) The new owner(s) shall submit an application for a certificate of number and certificate of title, along with the properly assigned certificate of title and applicable fees to the Wildlife Resources Commission or one of its authorized agents for processing within 15 days of the date of sale. The new owner(s) shall indicate on the application whether or not any liens exist on the vessel. If applicable, a new Certificate of Title for Vessel shall be issued, including recordation of any new liens listed on the application. The original certificate of number shall be retained when a vessel, previously registered in North Carolina, is transferred to a new owner. A new certificate of number shall be issued to vessels previously registered in another state or to vessels never before registered.
- (C) For 60 days following the transfer of ownership of a previously titled vessel, the new owner may use a copy of the properly assigned certificate of title as a temporary certificate of number pending receipt of his own certificate provided the certificate is validated in accordance with Part (b)(1)(A) of this Rule.
- (2) Transfer of previously registered and titled vessels through a dealer.
 - (A) When the ownership of a titled vessel is transferred to a dealer, the owner(s) listed on the face of the Certificate of Title for Vessel shall complete the Assignment of Title section on the reverse side of the certificate of title and surrender the title to the dealer. All outstanding liens shall be satisfied before the certificate of title is surrendered to the dealer.
 - (B) When the vessel is subsequently sold, the dealer shall, on the day of the sale, provide the new owner(s) the original certificate of title completed by the previous owner(s) and a Dealer Bill of sale. The Dealer's Bill of Sale shall include the dealer's name, the name of the new owner(s), the date of sale, certificate of number, manufacturer's hull identification number, model, year, and length of the vessel. The Dealer's Bill of Sale shall be signed by both the dealer and the new owner(s).
 - (C) The new owner(s) shall complete and submit the standard application for a certificate of number and certificate of title, along with the properly assigned certificate of title, Dealer Bill of Sale, and applicable fees, to the Wildlife Resources Commission or one of its authorized agents for processing within 15 days of the date of sale. If applicable, a new Certificate of Title for Vessel shall be issued, including recordation of any new liens listed on the application. The original certificate of number shall be retained when a vessel, previously registered in North Carolina, is transferred to a new owner(s). A new certificate of number shall be issued to vessels previously registered in another state or vessels never before registered.
 - (D) For a period of 60 days following the transfer of ownership of a previously registered vessel, the new owner may use a copy of the Dealer's Bill of Sale as a temporary certificate of number pending receipt of his own certificate provided the certificate is validated in accordance with Part (b)(1)(A) of this Rule.
- (b) Transfer of previously registered, non-titled vessels.
 - (1) Transfer of a previously registered, non-titled vessel from one individual owner to another.
 - (A) If the ownership of a previously registered vessel is transferred, by sale or gift, the previous owner(s) shall complete a notarized bill of sale. The bill of sale shall be given to the new owner and shall include the previous owner's name, the new owner's name, the date of sale or gift, certificate of number, manufacturer's hull identification number, model, year, and length of the vessel. The previous owner's signature shall be notarized. An individual may also use the Statement of Transfer form provided with some certificates of numbers. The statement shall be completed by the previous owner and given to the new owner at the time of sale or gift. If the ownership of a previously registered vessel is transferred by a court order, will, settlement agreement, separation agreement, judgment or other document, the previous owner(s) or representative of the estate shall

- provide the new owner(s) with documents establishing ownership.
- (B) The new owner shall complete and submit an application for a certificate of number and certificate of title, along with the proof of ownership document and applicable fees, to the Wildlife Resources Commission or one of its authorized agents for processing within 15 days of the date of sale or gift. If applicable, a new Certificate of Title for Vessel shall be issued, including recordation of any new liens listed on the application. The original certificate of number shall be retained when a vessel previously registered in North Carolina is transferred to a new owner. A new certificate of number shall be issued to vessels previously registered in another State or to vessels never before registered.
- (C) For 60 days following the transfer of ownership of a previously registered vessel, the new owner may use a copy of the proof of ownership document, provided it contains the date of sale, as a temporary certificate of number pending receipt of his own certificate provided the certificate is validated in accordance with Part (b)(1)(A) of this Rule.
- (2) Transfer of a previously registered, non-titled vessel through a dealer.
- (A) The owner(s) selling or transferring a previously registered vessel to a dealer shall complete a notarized bill of sale naming the dealer as the new owner. The bill of sale shall be given to the dealer and shall include the previous owner's name, date of sale, certificate of number, manufacturer's hull identification number, model, year, and length of the vessel. The signature of the previous owner(s) shall be notarized. An individual may also use the Statement of Transfer form provided with some certificates of numbers. The statement shall be completed by the previous owners(s) and given to the dealer.
- (B) When the vessel is subsequently sold, the dealer shall, on the day of the sale, provide the new owner(s) a dealer bill of sale. The dealer's bill of sale shall include the dealer's name, the new owner(s) name, the date of sale, certificate of number, manufacturer's hull identification number, model and year of the vessel. The dealer's bill of sale shall be signed by both the dealer and the new owner(s).
- (C) The new owner(s) shall complete and submit the standard application for a certificate of number and certificate of title, along with the proof of ownership document and applicable fees, to the Wildlife Resources Commission or one of its authorized agents for processing within 15 days of the date of sale. If applicable, a new Certificate of Title for Vessel shall be issued, including recordation of any new liens listed on the application. The original certificate of number shall be retained when a vessel, previously registered in North Carolina, is transferred to a new owner(s). A new certificate of number shall be issued to vessels previously registered in another state or vessels never before registered.
- (D) For a period of 60 days following the transfer of ownership of a previously registered vessel, the new owner may use a copy of the dealer's bill of sale as a temporary certificate of number pending receipt of his own certificate provided the certificate is validated in accordance with Part (b)(1)(A) of this Rule.
- (3) Transfer of a vessel individually-registered to a dealer or manufacturer. Vessels that have been individually numbered by dealers or manufacturers shall upon transfer of ownership be governed by the provisions of Subparagraph (b)(1) of this Rule.

History Note: Authority G.S. 75A-3; 75A-5; 75A-19; 75A-37; 33 C.F.R. 174.21; Eff. February 1, 1976; Amended Eff. May 1, 2007; July 1, 1998; April 1, 1997; February 1, 1995; November 1, 1993; July 1, 1988; April 19, 1981.

15A NCAC 10F .0104 CERTIFICATE OF NUMBER

(a) General. Upon receipt of a completed application, proof of ownership document, and applicable fee(s), the Wildlife Resources Commission shall issue to the applicant a certificate of number which shall authorize the operation of the vessel. The certificate of number shall be carried while operating the vessel and shall be presented for inspection to any law enforcement officer upon request. The certificate of number shall include the following information:

- (1) name of owner(s), dealer or manufacturer;

- (2) address, including zip code, of the primary owner(s), dealer or manufacturers;
- (3) title indicator;
- (4) certificate of number awarded to vessel;
- (5) expiration date of the certificate of number;
- (6) use of vessel (pleasure, livery, demonstration, commercial passenger, commercial fishing, other commercial; other);
- (7) model of vessel (if known);
- (8) manufacturer (if known);
- (9) year of manufacture or model year (if known);
- (10) manufacturer's hull identification number (if any);
- (11) overall length of vessel;
- (12) type of vessel (open, cabin, houseboat, personal watercraft, pontoon, other);
- (13) hull material (wood, metal, fiberglass, plastic, inflatable, other);
- (14) type of propulsion (inboard, outboard, inboard-outdrive, sail, auxiliary sail/inboard, auxiliary sail/outboard, jet drive);
- (15) type of fuel (gasoline, diesel, electric, other);
- (16) notice to owner that he shall report within 30 days changes of address or ownership, and destruction or abandonment of vessel;
- (17) signature of owner;
- (18) notice to the owner that the operator shall:
 - (A) always carry this certificate on vessel when in use;
 - (B) report any accident involving injury or death to persons, or property damage more than two thousand dollars (\$2,000.00);
 - (C) stop and render assistance if involved in boating accident.

(b) Livery Vessel Owners. The certificate of number awarded to a livery vessel shall be marked "livery vessel" and shall include the same information in Paragraph (a) of this Rule.

(c) Dealers and Manufacturers. The certificate of number awarded to dealers and manufacturers shall be marked "dealer" or "manufacturer" in lieu of the description of the vessel, motor and type of fuel. Any dealer or manufacturer demonstrating or testing a vessel may utilize a set of dealer's numbers and the corresponding dealer's certificate of number to operate any vessel held for sale, but only for demonstration or testing purposes. Vessels owned or possessed by dealers or manufacturers for personal use or for any use whatsoever other than for demonstration and testing purposes must be individually registered in the name of the dealer in accordance with Paragraph (a) of this Rule.

(d) Government agency. The certificate of number awarded to State or local government agencies shall be marked "permanent" and shall include the same information in Paragraph (a) of this Rule; however, there will be no title indicator or expiration date listed for permanent certificate of numbers.

(e) Commercial Fishing. The certificate of number awarded to a commercial fishing vessel shall be marked "commercial fishing" and shall include the same information in Paragraph (a) of this Rule.

(f) Commercial Passenger. The certificate of number awarded to a commercial passenger vessel shall be marked "commercial passenger" and shall include the same information in Paragraph (a) of this Rule.

(g) Vessel Registration Agents. In order to make certificates of number readily available throughout the State, vessel dealers, manufacturers, and other related businesses which operate from locations within North Carolina may be appointed as wildlife service agents of the Wildlife Resources Commission and authorized to issue temporary certificates of number for new registrations, transfers of ownership, renewal and duplicate transactions. All official certificates of numbers shall be processed and mailed from the Wildlife Resources Commission headquarters. Rules governing the appointment and operations of wildlife service agents are contained in 15A NCAC 10G .0400 Wildlife Service Agents.

History Note: Legislative Objection Lodged Eff. December 16, 1980;
Authority G.S. 75A-3; 75A-5; 75A-7; 75A-19; 33 C.F.R. 174.19;
Eff. February 1, 1976;
Amended Eff. May 1, 2007; July 1, 1998; April 1, 1997; July 1, 1988; August 31, 1980; January 1, 1980.

15A NCAC 10F .0105 NUMBERING PATTERN

(a) General. The certificate of number assigned shall consist of the symbol "NC" identifying the state, followed by not more than four Arabic numerals and two capital letters, in sequence, separated by a hyphen or equivalent space, in accordance with the serials, numerically and alphabetically. As examples: NC-1-A or NC-1234-AA.

(b) Individual. Since the letters "I," "O," and "Q" may be mistaken for Arabic numerals, they shall not be used in the letter sequences. Letters, or letters and numbers forming words or combinations shall not be used.

(c) Government Agency. The single letter "P" shall be reserved for use following the numerals of vessels numbered by governmental entities.

(d) Dealer/Manufacturer. The single letter "X" shall be reserved for use following the numerals of vessels numbered for demonstration purposes by dealers and manufacturers.

History Note: Authority G.S. 75A-3; 75A-5; 75A-7; 33 C.F.R. 174.23;
Eff. February 1, 1976;
Amended Eff. May 1, 2007; July 1, 1998; April 1, 1997; September 1, 1996; August 31, 1980.

15A NCAC 10F .0106 DISPLAY OF VESSEL NUMBERS

(a) The vessel numbers shall be painted on or attached to each side of the forward half of the vessel for which issued in such a position as to provide clear visibility and legibility for identification. The numbers shall read from left to right and shall be in block characters not less than three inches in height. The numbers shall be of a solid color which will contrast with the color of the background and so maintained as to be clearly visible and legible; i.e., dark numbers on a light background, or light numbers on a dark background.

(b) No other number, except the year date of the validation decal described in Rule .0107 of this Section, shall be carried on the bow of such vessel.

(c) Manufacturers or dealers may have the number awarded to them printed upon or attached to a removable sign or signs to be temporarily but firmly mounted upon or attached to the vessel being demonstrated, so long as the display meets the requirements of the Rules in this Section. Where a currently or previously-numbered vessel is being demonstrated with a set of dealer's numbers, the permanent numbers painted on or attached to the bow shall be covered.

(d) A vessel registered to a governmental entity and bearing the letter "P" shall continue to display the assigned numbers for so long as the vessel belongs to a governmental entity. Upon transfer of ownership to a private individual(s) or business the new owner shall apply to the Wildlife Resources Commission for a new certificate of number and shall be assigned a new certificate of number.

History Note: Authority G.S. 75A-3; 75A-5; 75A-19; Eff. February 1, 1976; Amended Eff. May 1, 2007; April 1, 1997.

15A NCAC 10F .0107 VALIDATION DECAL

In addition to the certificate of number, the Wildlife Resources Commission shall supply to the owner of each vessel that is numbered, a validation decal indicating the year of expiration. The owner shall affix such validation decal so as to be clearly visible and legible on the starboard bow of the vessel following and within six inches of the vessel number. Any validation decal issued for a vessel numbered on application by a governmental entity shall contain no expiration date, but shall bear the letter "P" and shall not be subject to renewal so long as the vessel remains the property of a governmental entity. When any such vessel is transferred to private ownership, the decal shall be removed or obliterated by the transferring agency.

History Note: Authority G.S. 75A-3; 75A-5; 75A-7; 33 C.F.R. 174.15; Eff. February 1, 1976; Amended Eff. May 1, 2007; April 1, 1997; August 31, 1980; January 1, 1980.

15A NCAC 10F .0109 TEMPORARY CERTIFICATE OF NUMBER

(a) Whenever a wildlife service agent processes the final transaction to issue, renew, or transfer a certificate of number or to issue a duplicate certificate of number the new owner shall be issued a temporary certificate of number. For a period not exceeding 60 days following the date of the transaction, the vessel may be operated on the temporary certificate of number pending receipt of the regular certificate.

(b) In order to be valid, the temporary certificate of number shall contain the following:

- (1) name of issuing wildlife service agent;
- (2) name and address of owner(s), dealer or manufacturer;
- (3) title indicator;
- (4) certificate of number;

- (5) use of vessel (pleasure, livery, demonstration, commercial passenger, commercial fishing, other commercial, other);
- (6) model of vessel;
- (7) manufacturer;
- (8) year of manufacture or model year;
- (9) manufacturer's hull identification number;
- (10) length of vessel;
- (11) type of vessel (open, cabin, houseboat, personal watercraft, pontoon, other);
- (12) hull material (wood, metal, fiberglass, plastic, inflatable, other);
- (13) type of propulsion; (inboard, outboard, inboard-outdrive; sail, auxiliary sail/inboard, auxiliary sail/outboard, jet drive);
- (14) type of fuel (gasoline, diesel, electric, other);
- (15) date temporary certificate of number is issued;
- (16) date temporary certificate of number expires;
- (17) transaction status;
- (18) signature of owner(s).

History Note: Authority G.S. 75A-3; 75A-5; 33 C.F.R. 174.21; Eff. April 1, 1997; Amended Eff. May 1, 2007; July 1, 1998.

15A NCAC 10F .0110 ABANDONED VESSELS

(a) General. An abandoned vessel is defined as a vessel that has been relinquished, left or given up by the lawful owner(s) without the intention to later resume any right or interest in such vessel. It does not include any vessel left by an owner(s) or agent of the owner(s) with any person or business for the purpose of storage, maintenance or repair which is not subsequently claimed.

(b) Abandonment: A person finding an abandoned vessel can become the registered and titled owner of the vessel, provided the previous owner(s) cannot be located and that they have not reported the vessel missing or stolen. The applicant shall comply with the following procedures to seek ownership of such vessel:

- (1) The Finder shall send a Certified Letter, return receipt requested, to the last registered owner(s). The Finder shall demonstrate to Wildlife Resources Commission that this letter was not deliverable or that the last registered owner(s) failed to acknowledge or respond.
- (2) The Finder shall provide to the Wildlife Resources Commission a written police report stating that the abandoned vessel has not been reported missing or stolen in the area where it is listed as being moored.
- (3) The Finder shall complete and submit an application for a certificate of number and certificate of title, along with a notarized statement summarizing when and where the vessel was found, the evidenced attempts to locate the owner(s), any available evidence that the vessel is abandoned, statements from any other persons knowledgeable about the

history of the vessel and applicable fees to the Wildlife Resources Commission.

(c) The Wildlife Resources Commission shall consider the evidence and documentation presented. If Wildlife Resources Commission determines that the vessel has been abandoned, it shall issue a certificate of number and certificate of title to the applicant.

History Note: Authority G.S. 113-134; 75A-5(i2); Eff. May 1, 2007.

15A NCAC 10F .0350 DURHAM AND WAKE COUNTIES

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

- (1) Corps - Corps of Engineers, United States Army;
- (2) State Parks - Division of Parks and Recreation, N. C. Department of Environment, Health, and Natural Resources;
- (3) Regulated Area - Those portions of Falls Lake located within the boundaries of Durham and Wake Counties.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed:

- (1) while within a designated mooring area established on the regulated area by or with the approval of the Corps and State Parks;
- (2) within 50 yards of any public boat launching ramp or boat service facility, including docks used for fueling or boat repair, located on the regulated area;
- (3) within 50 yards of any state road bridge crossing over that portion of Falls Lake located within the boundaries of Wake County;
- (4) within 50 yards of the area marked as the Holly Point Recreation Swim and boat launch area and the New Light Road Bridge.

(c) Restricted Zones. No person operating or responsible for the operation of any vessel, surfboard or water skis shall permit the same to enter:

- (1) any marked swimming area located on the regulated area;
- (2) any areas near the dam structures located on the regulated area that shall be marked by or with the approval of the Corps against entry by vessels.

(d) Placement and Maintenance of Markers. The Board of Commissioners of Durham County and the Board of Commissioners of Wake County are designated suitable agencies for placement and maintenance of markers implementing this Rule within their respective counties, subject to the approval of the Corps. If these boards exercise their supervisory responsibilities, they may delegate the actual placement and maintenance of markers to some other responsible agency. With regard to marking of the regulated area described in Paragraph (a) of this Rule, all of the

Supplementary standards listed in Paragraph (g) of Rule .0301 of this Section shall apply.

History Note: Authority G.S. 75A-3; 75A-15; Eff. December 1, 1984; Amended Eff. May 1, 2007; August 1, 1990; April 1, 1990.

15A NCAC 10G .0401 PURPOSE OF WILDLIFE SERVICE AGENTS

Wildlife Service Agents are official license and vessel agents of the North Carolina Wildlife Resources Commission (Commission) who are appointed by the agency and thereby authorized to issue hunting, fishing and other licenses, permits, applications, vessel transactions, and other items authorized by the Commission pursuant to a Wildlife Service Agent Agreement in accordance with Rule .0403 of this Section.

History Note: Authority G.S. 113-134; 113-270.1; Eff. April 1, 1997; Amended Eff. May 1, 2007.

15A NCAC 10G .0402 APPOINTMENT OF WILDLIFE SERVICE AGENTS

(a) Any business operating from a fixed location in North Carolina may apply to the Commission for appointment as a Wildlife Service Agent by completing an application provided by the Commission.

(b) Application. Applications for Wildlife Service Agent appointment shall contain the business name, address, county where the business is located, agent contact information, bank account information, business hours, and any other information requested by the Commission that is reasonably necessary to determine the fitness of the applicant to serve as a Wildlife Service Agent.

(c) Qualifications and Requirements. Applicants shall meet the following qualifications in order to be appointed as a Wildlife Service Agent.

- (1) Businesses shall operate from a fixed location in North Carolina and shall sell a minimum of one thousand dollars (\$1,000) in transaction sales annually. This minimum requirement may be waived by the Executive Director if he finds the applicant's services necessary to maintain adequate agent services to the public in that geographic area.
- (2) An applicant shall have a minimum of one year's experience in operating the business for which the application is made or other equivalent business experience or training. In those cases where other equivalent business experience or training is accepted in lieu of the minimum one year's experience, the applicant shall submit financial statements of the business so that the solvency of the business can be judged.
- (3) Applicants shall provide a bank account for the purpose of transferring net proceeds from all Wildlife Service Agent transactions to the

Commission's account in the State Treasury every week via an electronic transfer of funds.

- (4) Applicants shall provide a telephone line or other form of Internet connection for the purpose of processing transactions related to services provided by Wildlife Service Agents.

(d) The qualifications as provided by Paragraphs (b) and (c) of this Rule shall be met prior to appointment. Failure to comply with the qualifications and requirements as provided by Paragraph (c) of this Rule, throughout the term of the appointment, may result in termination of the agent appointment. All agents are subject to monitoring of their performance by the Customer Support Section of the Commission.

History Note: Authority G.S. 113-134; 113-270.1;
Eff. April 1, 1997;
Amended Eff. May 1, 2007; July 1, 1998.

15A NCAC 10G .0404 CUSTOMER SUPPORT SYSTEM REPEALED

History Note: Authority G.S. 113-134; 113-270.1;
Eff. April 1, 1997;
Amended Eff. April 1, 1999;
Repealed Eff. May 1, 2007.

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 upland game birds, except wild turkey, in supplemented areas.

History Note: Authority G.S. 113-134; 113-273;
Eff. May 1, 2007.

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)(4) 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*).

History Note: Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.28; 50 C.F.R. 21.29;
Eff. September 1, 1979;
Amended Eff. May 1, 2007; May 1, 1995; August 1, 1988; February 1, 1985.

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

(a) It is unlawful to engage in the commercial taking of any native turtle or terrapin species in the families Emydidae or Trionychidae, except the public may obtain possession permits from the Wildlife Resources Commission for possession, transportation, purchase or sale of these turtles and terrapins as described pursuant to Rule .1302 of this Section.

(b) For purposes of this Rule, "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) The prohibition on collection in 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 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 native turtles or terrapins in aggregate at the time of the effective date of this Rule shall apply for a possession permit to retain them. The permit to retain these animals shall be applied for before January 1, 2008. No native turtles or terrapins shall be purchased or sold without a permit. Permittees are subject to all requirements and conditions described in Rule .1302 of this Section.

(e) 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.

History Note: G.S. 113-333(a)(6);
Eff. May 1, 2007.

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.

(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 native turtles or terrapins from the families Emydidae or Trionychidae from the wild in a given year, except those entities exempted from collection in Paragraph (c) of Rule .1301 of this Section;
- (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 Collection License;
- (5) to persons found to be in violation of Collection License, Endangered Species Permit, or Possession Permit requirements;
- (7) 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 effective date:
 - (A) 25 or more individuals of any combination of native amphibian species; or
 - (B) five or more individuals of native reptile species.

(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 permitted 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 permitted under this Rule as he may deem to be necessary to the efficient administration of the wildlife conservation statutes and rules.

History Note: Authority G.S. 113-274(c)(1c);
Eff. May 1, 2007.

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. 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 is 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 are not 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; and
- (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 is unlawful to possess or consume any type of alcoholic beverage on public use areas of the Nona Pitt Hinson Cohen Wildlife Conservation Area.

History Note: Authority G.S. 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306; 113-296; 113-297; Eff. February 1, 1990;

Amended Eff. May 1, 2007; May 1, 2006; June 1, 2005.

15A NCAC 18A .3601 DEFINITIONS

The following definitions shall apply throughout this Section:

- (1) "Approved" means food that complies with requirements of the N.C. Department of Agriculture and Consumer Services or the U.S. Department of Agriculture or 15A NCAC 18A .2600 Rules Governing The Sanitation of Food Service Establishment, and the requirements of the Rules of this Section. "Approved" also means equipment and procedures determined by the Department to be in compliance with the rules of this Section.
- (2) "Children's Foster Care Camp" means a residential child care facility which provides foster care at either a permanent camp site or in a wilderness setting as defined in G.S. 131D and 10A NCAC 70J .0100. Children's Foster Care Camps are licensed by the NC Department of Health and Human Services, Division of Facility Services in accordance with G.S. 131D and 10A NCAC 70J .0100.
- (3) "Department of Environment and Natural Resources" or "Department" means the North Carolina Department of Environment and Natural Resources or its authorized representative. For purposes of any notices required pursuant to the rules of this Section, notice shall be mailed to: Division of Environmental Health, Environmental Health Services Section, North Carolina Department of Environment and Natural Resources, 1632

- Mail Service Center, Raleigh, NC 27699-1632.
- (4) "Employee" means any camp personnel paid or volunteer who handle food or drink during preparation or serving, or who come in contact with any eating or cooking utensils, or who work at any time in a room in which food or drink is prepared.
 - (5) "Environmental health specialist" means a person authorized to represent the Department on the local or state level in making inspections pursuant to state laws and rules.
 - (6) "Equipment" means refrigeration, including racks and shelving used in refrigeration, utensil cleaning and culinary sinks and drain boards, warewashing and dishwashing machines, food preparation tables, counters, stoves, ovens and other food preparation and holding appliances.
 - (7) "Food" means any raw, cooked or processed edible substance including meat, meat food products, poultry, poultry products, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.
 - (8) "Good repair" means capable of being cleaned and used for the intended purpose.
 - (9) "Hermetically sealed container" means a container designed and intended to be secure against the entry of micro-organisms and to maintain the commercial sterility of its contents after processing.
 - (10) "Limited resident camp" means a resident camp that is limited to a total of 90 campers and staff per session. A limited resident camp shall comply with the rules of this Section with the exception of Rule .3628(d) for all equipment excluding required dishwashing facilities.
 - (11) "Local health director" means a local health director as defined in G.S. 301A-2(6).
 - (12) "Meat" or "meat food products" means meat and meat food products as defined in G.S. 106-549.15(14).
 - (13) "Off-site" means packouts, cookouts or any activity where food is prepared outside the approved kitchen facility.
 - (14) "Permanent sleeping quarters" means those buildings, cabins, platform tents, covered wagons, or teepees that remain in a fixed location during the resident camp operation and are used as primary residences for campers, staff or user groups.
 - (15) "Permit to operate" means a permit issued by the Department upon evaluation and approval of the Resident Camp facility.
 - (16) "Person" means a person as defined in G.S. 130A-2(7).
 - (17) "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 that have a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less.
 - (18) "Poultry" or "poultry products" means poultry and poultry products as defined in G.S. 106-549.51(25) and (26).
 - (19) "Resident camp" includes camp establishments which provide food and overnight lodging accommodations for 72 consecutive hours or more per week at a permanent base of operations for groups of children or adults engaged in organized recreational or educational programs and has a permanent connection to a public electrical service provider. Programs are operated and staffed by the camp and supervision of individual campers is a camp responsibility. This definition does not include campgrounds or other facilities that only rent property or campsites for camping. This definition does not include Primitive Experience Camp as defined in 15A NCAC 18A .3500. This definition does include Children's Foster Care Camps and Residential Therapeutic (Habilitative) Camps.
 - (20) "Residential Therapeutic (Habilitative) Camp" is a residential treatment facility provided in a camping environment which is designed to help individuals develop behavior control, coping skills, self-esteem and interpersonal skills as defined in G.S. 122C and 10A NCAC 27G .5200. Therapeutic camps are licensed by the NC Department of Health and Human Services, Division of Facility Services in accordance with G.S. 122C and 10A NCAC 27G .5200.
 - (21) "Responsible person" means the administrator, operator, owner or other person in charge of the operation at the time of the inspection. If no individual is the apparent supervisor, then any staff member is the responsible person.
 - (22) "Sanitize" means the approved bactericidal treatment by a process which meets the temperature and chemical concentration levels in Rule .3629 of this Section.
 - (23) "Sewage" means sewage as defined in 15A NCAC 18A .1900. Sewage is the liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with food handling. The term does not include

- industrial process wastewater or sewage that is combined with industrial process wastewater.
- (24) "Shellstock" means any shellfish which remains in their shells. Shellfish which are shucked or on the half-shell shall not be considered shellstock.
 - (25) "Single service items" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks and similar articles intended for one-time, one-person use and then discarded.
 - (26) "Utensils" means any kitchenware, tableware, glassware, cutlery, containers and similar items with which food or drink comes in contact during storage, preparation or serving.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

15A NCAC 18A .3602 STANDARDS AND APPROVAL OF PLANS

- (a) The owner or manager of a proposed resident camp shall submit plans, drawn to scale, as well as a topographic map, for buildings and equipment, water supply system, wastewater disposal system, and recreational waters to the health department of the county in which the site is located. Plans, drawn to scale, and specifications shall also be submitted to the local health department for any additions or renovations to existing buildings or any new buildings or facilities in existing resident camps. The local health department shall require that the camp submit a topographic map upon determination that the proposed changes will impact camp sanitation or drinking water supplies.
- (b) Construction shall not be started until the plans and specifications have been approved by the local health department.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

15A NCAC 18A .3603 PERMITS

- (a) No person shall operate a resident camp within the State of North Carolina who does not possess a valid permit from the Department except that residential therapeutic (habilitative) camps and children's foster care camps licensed by the Department of Health and Human Services, Division of Facility Services are not required to obtain permits. No permit to operate shall be issued until an evaluation by the Department or its authorized agent shows that the resident camp complies with the requirements of this Section.
- (b) Resident camps that operate six months or less per calendar year and do not offer activities, programs, services or food to the public for pay during the remaining six months shall obtain a seasonal permit for each operating season as follows:
 - (1) Camps must submit in writing information for a seasonal permit including the name of the camp, the name of the camp owner or responsible person, the physical and billing addresses of the camp, the planned dates of

operation, the capacity of the camp including campers and staff, at least 45 days prior to the scheduled opening session. The seasonal permit shall include the dates of operation and shall expire six months from the date of issuance. For non-community water systems regulated under 15A NCAC 18A 1700, the local health department shall conduct a pre-opening evaluation at least 30 days prior to the scheduled opening day of camp to verify the water system is in compliance with Rule .3609 of this Section. If the local health department is unable to meet this requirement, it shall notify the camp and the camp shall submit a water sample to a lab certified by the North Carolina State Laboratory of Public Health to meet this requirement. Community water systems regulated under 15A NCAC 18C are not required to meet this sampling requirement.

- (2) Prior to opening, resident camps shall provide to the local health department written documentation that:
 - (A) the equipment needed to maintain required food temperatures is operational, clean and sanitized as required;
 - (B) all other equipment and utensils are operational, clean and sanitized as required by the rules in this Section;
 - (C) dishmachines, if any, are clean and operating properly; and
 - (D) kitchen and lodging facilities are in good repair, clean and free of vermin.
- (c) Upon transfer of ownership of an existing resident camp, the Department shall evaluate the facility to determine compliance with this Section. The Department shall issue a permit if the resident camp satisfies all the requirements of this Section. If the Department determines that noncompliant items are construction or equipment problems that do not represent an immediate threat to the public health, a transitional permit shall be issued. The transitional permit shall expire 180 days after the date of issuance, unless suspended or revoked before that date, and shall not be renewed. Upon expiration of the transitional permit, the owner or operator shall have corrected the noncompliant items and obtained a permit, or the resident camp shall not continue to operate.
- (d) The Department may impose conditions on the issuance of a permit or transitional permit. Conditions may be specified for one or more of the following areas:
 - (1) number of persons served;
 - (2) categories of food served;
 - (3) time schedules in completing minor construction items;
 - (4) modification or maintenance of water supplies, water use fixtures and sanitary sewage systems;
 - (5) use of facilities for more than one purpose;

- (6) continuation of contractual arrangements upon which basis the permit was issued;
- (7) submission and approval of plans for renovation; or
- (8) other conditions necessary for the resident camp to remain in compliance with this Section.

(e) A permit or transitional permit may be suspended or revoked in accordance with G.S. 130A-23. A new permit to operate shall be issued only after the resident camp has been reinspected by the Department and found to comply with this Section. This reinspection shall be conducted within a reasonable length of time, not to exceed 30 days, after the operator makes the request.

History Note: Authority G.S. 130A-23; 130A-235; 130A-248; Eff. October 1, 2007.

15A NCAC 18A .3604 PUBLIC DISPLAY OF GRADE CARD

Inspections of resident camps shall be made in accordance with this Section. Upon completion of an inspection, the environmental health specialist shall remove the existing grade card, issue a new grade card and post the new grade card in a conspicuous place where the public may readily observe it upon entering the facility. The owner or operator shall keep the grade card posted at the location designated by the environmental health specialist at all times. If the responsible person of the resident camp objects to the location designated by the environmental health specialist, then the responsible person may suggest an alternative location that meets the criteria of this Rule. The grade card may be posted in another location that meets the criteria of this Rule if agreed upon by the responsible person and the environmental health specialist.

History Note: Authority G.S. 130A-235; 130A-248; 130A-249; Eff. October 1, 2007.

15A NCAC 18A .3605 INSPECTIONS AND REINSPECTIONS

(a) For resident camps that operate six months or less per year, an unannounced inspection shall be conducted at least once during the operating season. For resident camps that operate more than six months per year, an unannounced inspection shall be conducted at least once each six-month operating period.

(b) Upon entry into a resident camp, the environmental health specialist shall identify herself or himself and state the purpose for the visit. The environmental health specialist shall inquire about the identity of the responsible person and invite the responsible person to accompany her or him during the inspection. If no staff member is identified as the responsible person, the environmental health specialist shall invite a staff member to accompany her or him on the inspection. Following the inspection, the environmental health specialist shall offer to review the results of the inspection with the responsible person.

(c) The grading of resident camps shall be done on an inspection form furnished by the Department to local health departments. The form shall provide the following information:

- (1) name and mailing address of the facility;

- (2) name of person to whom permit is issued;
- (3) permit and score given;
- (4) standards of construction and operation as listed in rules .3608 through .3638 of this Section;
- (5) short explanation for all points deducted;
- (6) signature of the environmental health specialist; and
- (7) date.

(d) In filling out the inspection form, points shall be deducted only once for a single occurrence or condition existing within the resident camp. Deductions shall be based on actual violations of the rules of this Section observed during the inspection. The environmental health specialist shall take zero, one-half or a full deduction of points depending upon the severity or the recurring nature of the violation.

(e) In determining whether items or areas of a resident camp are clean for purposes of enforcing the rules set forth in this Section and grading a resident camp, the environmental health specialist shall consider, among other things:

- (1) age of the accumulated material;
- (2) relative percentage of items that are clean and not clean;
- (3) cleaning practices of the resident camp; and
- (4) health risks posed by the circumstances.

(f) Upon request of the camp manager or her or his representative, a reinspection shall be made.

(g) In the case of resident camps that have been closed for failure to comply with the rules of this Section, a reinspection to consider the issuance or reissuance of a permit shall be made by the environmental health specialist.

(h) In the case of resident camps that request an inspection for the purpose of raising the alphabetical grade and hold unrevoked permits, the environmental health specialist shall make an unannounced inspection after the lapse of a reasonable period of time, not to exceed 15 days from the date of the request.

History Note: Authority G.S. 130A-235; 130A-248; 130A-249; Eff. October 1, 2007.

15A NCAC 18A .3606 GRADING

(a) The sanitation grading of all resident camps shall be based on a system of scoring wherein all resident camps receiving a score of at least 90 percent shall be awarded Grade A; all resident camps receiving a score of at least 80 percent and less than 90 percent shall be awarded Grade B; all resident camps receiving a score of at least 70 percent and less than 80 percent shall be awarded Grade C. Permits shall be revoked for establishments receiving a score of less than 70 percent. The Sanitation Inspection of Resident Camps shall be used to document points assessed for violation of the Rules of this Section as follows:

- (1) Violation of Rule .3608 of this Section regarding site factors for camp facilities and activities and actual or potential health hazards shall be assessed a value of one point.
- (2) Violation of Rule .3609 of this Section regarding water supply, hot and cold water

- heating facilities in food preparation, utensil and hand washing, and areas required for cleaning shall be assessed a value of three points.
- (3) Violation of Rule .3609(d) of this Section regarding cross-connections shall be assessed a value of three points.
- (4) Violation of Rule .3610 of this Section regarding wastewater disposal shall be assessed a value of four points.
- (5) Violation of Rule .3611 of this Section regarding solid waste storage and cleaning facilities shall be assessed a value of two points.
- (6) Violation of Rule .3612 of this Section regarding swimming pools shall be assessed a value of one point.
- (7) Violation of Rule .3613(1) and (2) of this Section regarding camp building floors walls and ceilings construction, cleanliness and repair shall be assessed a value of one point.
- (8) Violation of Rule .3613(3) of this Section regarding lighting and ventilation adequacy and repair shall be assessed s value of one point.
- (9) Violation of Rule .3614(a) and (c) of this Section regarding sleeping quarters and lodging arrangement, cleanliness and repair shall be assessed a value of two points.
- (10) Violation of Rule .3614(b) of this Section regarding effective vermin exclusion shall be assessed a value of two points.
- (11) Violation of Rule .3614(d) of this Section regarding storage and handling of clean and dirty linen and clothing shall be assessed a value of one point.
- (12) Violation of Rule .3615(a), (b), (c) and (d) of this Section regarding approval, accessibility, adequateness, cleanliness and repair of lavatories, bathing and toilet facilities shall be assessed a value of two points.
- (13) Violation of Rule .3615(e) of this Section regarding cleanliness, repair of laundry facilities and handling of clean and soiled laundry shall be assessed a value of one point.
- (14) Violation of Rule .3616 of this Section regarding approval and cleanliness of drinking water facilities shall be assessed a value of two points
- (15) Violation of Rule .3617(a) and (d) of this Section regarding storage and handling of pesticides and potentially hazardous materials shall be assessed a value of two points.
- (16) Violation of Rule .3617(b) and (e) of this Section regarding cleanliness of the premises and repair of protective enclosures shall be assessed a value of one point.
- (17) Violation of Rule .3617(c) of this Section regarding location of animal stables and approved manure storage and removal shall be assessed a value of two points.
- (18) Violation of Rule .3618(a) of this Section regarding size and construction of food service facilities and dining halls shall be assessed a value of one point.
- (19) Violation of Rule .3618(b) of this Section regarding catering of camp food service shall be assessed a value of two points.
- (20) Violation of Rule .3619 of this Section regarding field sanitation standards and procedures shall be assessed a value of three points.
- (21) Violation of Rule .3620(a) and (c) of this Section regarding food service employee clothing, hair restraints and use of tobacco shall be assessed a value of one point.
- (22) Violation of Rule .3620(b) or (e) of this Section regarding employee handwashing shall be assessed a value of four points.
- (23) Violation of Rule .3620(d) of this Section regarding exclusion of persons with a communicable or infectious disease that can be transmitted by food shall be assessed a value of three points.
- (24) Violation of Rule .3621 of this Section regarding food source, wholesomeness, handling, service and transportation shall be assessed a value of four points.
- (25) Violation of Rule .3622(a) through (f) of this Section regarding food protection during service and storage shall be assessed a value of three points.
- (26) Violation of Rule .3622(g) of this Section regarding storage of dry foods shall be assessed a value of one point.
- (27) Violation of Rule .3623 of this Section regarding milk and milk products shall be assessed a value of two points.
- (28) Violation of Rule .3624 of this Section regarding the source, storage and handling of ice shall be assessed a value of two points.
- (29) Violation of Rule .3625 of this Section regarding shellfish and crustacea meat shall be assessed a value of two points.
- (30) Violation of Rule .3626(a), (b), and (c) of this Section regarding refrigeration and thawing of foods shall be assessed a value of two points.
- (31) Violation of Rule .3626(d) of this Section regarding the protection of food from cross contamination by use of sanitized or gloved hands or utensils, sanitized surfaces and washing of produce shall be assessed a value of three points.
- (32) Violation of Rule 3626(e) through (m) of this Section regarding time and temperature requirements of foods during storage, preparation, cooking, display, service, and

- transportation shall be assessed a value of four points.
- (33) Violation of Rule 3626 (n) of this Section regarding food thermometers shall be assessed a value of two points.
- (34) Violation of Rule .3627 of this Section regarding re-service of foods shall be assessed a value of two points.
- (35) Violation of Rule .3628 of this Section regarding equipment and utensil construction, repair and cleanliness shall be assessed a value of three points.
- (36) Violation of Rule .3629(a) through (c), (e), (f), (k) and (n) of this Section regarding washing, rinsing and sanitizing of utensils and equipment shall be assessed a value of four points.
- (37) Violation of Rule .3629(d), (g) through (j), (l), and (o) of this Section regarding approved dishwashing facilities and methods shall be assessed a value of three points.
- (38) Violation of Rule 3629(m) regarding the hot water heating facilities for food service needs shall be assessed a value of three points.
- (39) Violation of Rule .3630 in this Section regarding storage and handling of utensils and equipment shall be assessed a value of two points.
- (40) Violation of Rule .3631 of this Section regarding food service area storage spaces shall be assessed a value of one point.
- (41) Violation of Rule .3632 of this Section regarding food service area lighting shall be assessed a value of one point.
- (42) Violation of Rule .3633 of this Section regarding food service ventilation shall be assessed a value of one point.
- (43) Violation of Rule .3634 of this Section regarding approved and properly located hand washing lavatory facilities in food service areas shall be assessed a value of three points.
- (44) Violation of Rule .3635 of this Section regarding the food service area toilet facilities shall be assessed a value of one point.
- (45) Violation of Rule .3636 of this Section regarding food service area floor construction, cleanliness and repair shall be assessed a value of one point.
- (46) Violation of Rule .3637 of this Section regarding food service area wall and ceiling construction, cleanliness and repair shall be assessed a value of one point.
- (47) Violation of Rule .3638(a) through (c) of this Section regarding use of trip kitchens, residential style educational kitchens and domestic kitchens shall be assessed a value of one point.
- (48) Violation of Rule .3638(d) through (g) of this Section regarding toxic materials, food service laundry, mop and broom storage shall be assessed a value of one point.
- (49) Violation of Rule .3638(h) and (i) of this Section regarding live animals and pest control measures in food service areas shall be assessed a value of two points.
- (b) The grading of resident camps shall be based on the standards of operation and construction as set forth in Rules .3608 through .3638 of this Section. An establishment shall receive a credit of one point on its score for each inspection if a manager or other employee responsible for operation of that establishment and who is employed full time in that particular establishment has successfully completed in the past three years a food service sanitation program approved by the Department under 15A NCAC 18A .2606. Request for approval of food service sanitation programs shall be submitted in writing to the Division of Environmental Health as required in 15A NCAC 18A .2606.
- (c) Evidence that a person has completed such a program shall be maintained at the establishment and provided to the Environmental Health Specialist upon request. An establishment shall score at least 70 percent on an inspection in order to be eligible for this credit.
- (d) The posted grade card shall be black on a white background. All graphics, letters and numbers for the grade card shall be approved by the State. The alphabetical and numerical sanitation score shall be 1.5 inches in height. No other public displays representing sanitation level of the establishment shall be posted by the local health department, except for sanitation awards issued by the local health department. Sanitation awards shall be in a different color and size from the grade card and must be labeled as an award.
- (e) Nothing in this Rule shall affect the right of a camp manager to a reinspection pursuant to Rule .3605 of this Section.
- (f) Nothing in this Rule shall prohibit the Department from immediately suspending or revoking a permit pursuant to G.S. 130A-23(d).

History Note: Authority G.S. 130A-23; 130A-235; 130A-248; 130A-249;
Eff. October 1, 2007.

15A NCAC 18A .3607 PROCEDURE WHEN INFECTION SUSPECTED

When the local health department has reason to suspect the possibility of exposure to, or transmission of, infection within a resident camp from any person or from any food or drink, the local health director shall act in accordance with the Communicable Disease Laws and Rules (G.S. 130A-134 through 148, 10A NCAC 41A).

History Note: Authority G.S. 130A-235; 130A-485;
Eff. October 1, 2007.

15A NCAC 18A .3608 SITE

The topography, drainage and other site factors for the resident camp facilities and activities, shall be such that the site is free of actual or potential health hazards.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

15A NCAC 18A .3609 WATER SUPPLY

- (a) In Resident Camps, water supplies shall be in accordance with 15A NCAC 18A .1700, Rules Governing the Protection of Water Supplies.
- (b) Water samples for bacteriological analysis from non-community supplies shall be collected by the Department and submitted to the North Carolina State Laboratory of Public Health or another lab certified by the North Carolina State Laboratory of Public Health for analysis, at least annually for bacteriological analysis.
- (c) Prior to issuance of a permit, the responsible person shall list non-community water supplies with the Public Water Supply Section, Division of Environmental Health.
- (d) Cross-connections with unapproved water supplies, sewage lines or other potential sources of contamination are prohibited.
- (e) Hot water heating facilities shall be provided. Hot and cold running water under pressure shall be provided to food preparation, utensil and handwashing areas, and any other areas in which water is required for cleaning. Running water under pressure shall be provided in sufficient quantity to carry out all food preparation, utensil washing, handwashing, cleaning and other water-using operations.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

15A NCAC 18A .3610 LIQUID WASTES

All sewage and wastewater in resident camps shall be disposed of in accordance with 15A NCAC 18A .1900 or 15A NCAC 02H .0200.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

15A NCAC 18A .3612 SWIMMING POOLS

When Swimming Pools are provided for recreational use in resident camps, they shall meet the requirements in 15A NCAC 18A .2500, Rules Governing Public Swimming Pools.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

**15A NCAC 18A .3613 CAMP BUILDINGS
CONSTRUCTION AND MAINTENANCE
REQUIREMENTS**

All resident camp buildings shall be kept clean and in good repair and shall comply with the following specific requirements:

- (1) All floors shall be of such materials and so constructed to be easily cleanable, shall be kept free of obstacles to cleaning and shall be kept clean and in good repair. The floor area shall be sufficient to accommodate all necessary operations. Floors in dressing or locker rooms; laundry rooms; and toilet rooms shall be of non-absorbent materials such as

sealed concrete, sealed wood, terrazzo, tile, durable grades of linoleum or plastic. In all rooms in which water is routinely discharged to the floor, or in which floors are subjected to flood-type cleaning, floors shall be sealed concrete, terrazzo, or tile and shall slope to drain and be provided with floor drains.

- (2) The walls of all rooms shall be kept clean and in good repair. All walls and ceilings in dressing or locker rooms; toilet rooms and bathrooms shall be easily cleanable; and walls shall have washable surfaces to the highest level reached by splash or spray in rooms or areas where such occur.
- (3) All rooms and areas shall be well lighted and ventilated, by natural or artificial means, which shall be effective under actual use conditions. Lighting fixtures and ventilation equipment shall be kept clean and in good repair.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

15A NCAC 18A .3614 LODGING FACILITIES

- (a) In Resident Camps, permanent sleeping quarters shall provide cross ventilation, at least 30 inches between beds, a minimum of six feet between heads of sleepers and at least one bed for every camper. Only single beds or double level bunk beds shall be allowed.
- (b) Effective methods, such as mosquito netting, screening and self-closing doors, or individual mosquito netting shall be provided to exclude insects, bats and vectors.
- (c) Lodging facilities shall be kept clean and in good repair.
- (d) Clean linen and clothes shall be stored and handled separately from soiled linen and clothes.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

**15A NCAC 18A .3615 TOILET: HANDWASHING:
LAUNDRY: AND BATHING FACILITIES**

- (a) All resident camps shall be provided with toilet and handwashing facilities within 500 feet of permanent sleeping quarters.
- (b) Toilet facilities shall be provided at a rate of not more than 20 campers and staff per toilet seat. Urinals may be provided for up to one-third of required seats for males.
- (c) Lavatory facilities with potable running water, soap and individual towels or hand-drying devices shall be provided and located convenient to all toilet facilities.
- (d) Bathing facilities shall be provided with hot and cold potable water.
- (e) All toilet, handwashing and bathing fixtures shall be kept clean and in good repair.
- (f) Laundry facilities, if provided, shall be kept clean and in good repair. Soiled laundry shall be handled and stored separately from clean laundry. Clean linen and clothes shall be stored and transported in clean containers.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

15A NCAC 18A .3616 DRINKING WATER FACILITIES

In Resident Camps, drinking water facilities shall be provided. Drinking fountains, if provided, shall be of a sanitary angle-jet design, shall be kept clean and shall be properly regulated such that water flow is at least two inches above the mouth piece. This Rule shall not be interpreted as prohibiting the pitcher service of ice water or the service of bottled water.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

15A NCAC 18A .3617 PREMISES: VERMIN CONTROL AND MISCELLANEOUS

- (a) In Resident Camps, only those pesticides shall be used which have been approved for a specific use and properly registered with the Environmental Protection Agency and with the North Carolina Department of Agriculture and Consumer Services. Such pesticides shall be used as directed on the label and shall be handled and stored to avoid health hazards.
- (b) The Resident Camp premises shall be kept neat, clean and free of litter.
- (c) Animal stables, if provided, shall be in a location removed from the main recreation center of activity. All manure shall be stored, removed or disposed of to minimize the breeding of flies.
- (d) Potentially hazardous materials such as fuel, chemicals, explosives, equipment and apparatuses, shall be handled and stored to minimize health hazards.
- (e) Protective railings, fences or similar enclosures around the camp shall be provided and shall be kept in good repair.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

15A NCAC 18A .3618 FOOD SERVICE FACILITIES

- (a) In Resident camps, food service facilities shall include a kitchen of adequate size for the number of meals served. The facility shall be completely enclosed, of permanent construction and contain a dining hall providing protection from the elements and dust.
- (b) If camp food service is provided by contract with an outside person or camp food service is operated by an out side firm, the overall responsibility for food service sanitation remains with the camp management. The camp management shall confirm that all food provided by an outside person is approved.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

15A NCAC 18A .3619 FIELD SANITATION

Resident camps may conduct cookouts, overnight trips or similar primitive camping activities provided field sanitation standards are maintained in accordance with the provisions of the rules of this Section. Written procedures regarding field sanitation standards shall be posted or made readily available for inspection by the Department. The resident camp shall ensure

the approved procedures are being practiced, utilized and maintained. Field sanitation requirements for resident camps are as follows:

- (1) Off-Site Food: Storage, Preparation and Cooking shall meet the following requirements:
 - (a) Temperature control, food preparation and food protection methods shall be implemented to ensure all potentially hazardous foods stored and prepared for off-site cooking maintain temperatures of 45 degrees F (7 degrees C) or less or 135 degrees F (57 degrees C) or higher and are protected from contamination. Written procedures describing the specific off-site cooking activity and the proposed temperature control methods shall be submitted to the Department for approval. Any proposed changes to current procedures shall be submitted to the Department for approval. Specific approvals shall remain valid so long as the activity remains part of the camp program unless the Department determines that procedures are not being maintained in accordance with the approval. Where potentially hazardous foods are prepared off-site, written procedures shall also include methods to prevent cross contamination. For the purpose of off-site food storage, coolers with ice or ice packs are an approved method of temperature control. Off-site potentially hazardous foods once cooked shall be consumed within two hours or discarded. Poultry stuffings, stuffed meats and stuffings containing meat shall not be used.
 - (b) Potentially hazardous foods shall be thawed as follows:
 - (i) in cold holding units at a temperature not to exceed 45 degrees F (7 degrees C);
 - (ii) under potable running water of a temperature of 70 degrees F (21 degrees C), or below, with sufficient water velocity to agitate and float off loose food particles into the overflow; or
 - (iii) as a part of the cooking process.
 - (c) Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of

- at least 145 degrees F (63 degrees C) except as follows:
 - (i) poultry shall be cooked to at least 165 degrees F (74 degrees C) with no interruption of the cooking process;
 - (ii) pork and any food containing pork shall be cooked to heat all parts of the food to at least 150 degrees F (66 degrees C);
 - (iii) ground meat food products shall be cooked to an internal temperature of at least 155 degrees F (68 degrees C);
 - (iv) roast beef shall be cooked to an internal temperature of at least 130 degrees F (54 degrees C); and
 - (v) beef steak shall be cooked to a temperature of 130 degrees F (54 degrees C) unless otherwise ordered by the immediate consumer.
- (d) Liquid eggs, uncooked frozen dry eggs and egg products shall be cooked before consumption. This Sub-item does not apply to pasteurized products.
- (e) A metal stem-type food thermometer accurate to 2 degrees F (1 degree C) shall be available to check potentially hazardous food temperatures.
- (2) Off-Site Drinking Water shall meet the following requirements:
 - (a) Water transported for off-site drinking shall be from an approved source and shall be transported and stored in clean, sanitized containers designated solely for this purpose. Where it is not practical to transport drinking water for off-site activities, treatment measures shall be provided to ensure that drinking water is free from disease causing organisms.
 - (b) Water shall be taken from free-flowing streams, springs and wells if available. Water may be taken from still sources when free-flowing sources are unavailable. Water shall be visibly clear and free from debris, trash and organic matter.
- (3) Treatment of Off-Site Drinking Water shall meet the following requirements:
 - (a) Water shall be brought to a rolling boil for a minimum of one minute; or
 - (b) Water shall be filtered to remove cysts and viruses by using a filtration system with an absolute pore size of one micron or smaller, and treated with:
 - (i) A minimum of 2 parts per million of free chlorine residual maintained for a minimum of 30 minutes; or
 - (ii) A minimum of 5 drops of 2 percent tincture of iodine per liter of water. For commercially prepared tablets, manufacturer's directions shall be followed; or
 - (c) Alternate methods of treatment capable of removing bacteria, viruses, cysts and parasites if approved by the Department. Documentation that demonstrates the method is equivalent to SubItem (3)(a) or (b) of this Rule shall be submitted by the owner or operator for approval.
- (4) Utensils and Equipment shall meet the following requirements:
 - (a) All eating, drinking and cooking utensils, and other items used in connection with the preparation of food shall be kept clean and in good repair.
 - (b) All surfaces intended for multi-use between campers or staff with which food or drink comes in contact shall consist of smooth, not readily corrodible, non-toxic materials in which there are no open cracks or joints that will collect food particles or slime and be kept clean.
 - (c) Multi-use drinking and eating utensils which do not meet all the construction provisions of SubItem (4)(b) of this Rule shall be used by only one individual, constructed of not readily corrodible, non-toxic materials, and shall not be reassigned to or reused by another individual.
 - (d) Where multi-use eating utensils are used, they shall be assigned to one individual and not shared until cleaned and sanitized by approved methods.
- (5) Cleaning of Utensils and Equipment shall meet the following requirements:
 - (a) Utensils and equipment shall be kept clean.
 - (b) Water used for cleaning shall meet the requirements of Items (2) and (3) of this Rule.

- (c) Where an approved sanitizing process cannot be implemented, each individual's multi-use utensils shall be cleaned separately to prevent cross-contamination.
- (d) Multi-use utensils not assigned for individual use may be cleaned together provided they are washed, rinsed and sanitized by approved methods.
- (6) Handwashing for food preparers shall be in compliance with Rule .3620(b) of this Section. Facilities shall be provided for employees' handwashing; these may consist of a pan, potable water, soap and single-use towels. Hair restraints are not required for field sanitation employees.
- (7) Toxic materials shall be labeled and stored to prevent contamination of food, equipment and utensils.
- (8) Where permanent human waste disposal facilities which meet the requirements of 15A NCAC 18A .1900 are not provided at an off-site activity, written procedures for waste disposal shall be provided to and approved by the Department. Disposal of human waste shall be in a hole that is at least six inches deep and has a diameter of at least four inches located at least 200 feet from any surface water. After use, the hole shall be back filled with soil to a depth of six inches.

History Note: Authority G.S. 130A-235; 130A-248; Eff. October 1, 2007.

15A NCAC 18A .3620 FOOD SERVICE EMPLOYEES

- (a) In Resident Camp food service, all employees shall wear clean outer clothing and shall be clean as to their person and methods of food handling. No employee shall use tobacco in any form while engaged in the washing of eating and cooking utensils or in the preparation, handling or serving of food.
- (b) Employees shall wash their hands in a lavatory which meets the requirements of Rule .3634 of this Section before starting work, after each visit to the toilet, and as often as may be necessary to remove soil and contamination.
- (c) Effective hair restraints such as hairnets, caps or wrap around visors shall be worn by employees engaged in the preparation or handling of food to prevent the contamination of food or food contact surfaces. Wigs and hairspray do not constitute compliance with this Rule. This Rule does not apply to employees who only serve beverages, set tables, or participate in family dining-table type of service if they present a minimal risk of contaminating exposed food.
- (d) No person who has a communicable or infectious disease that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or who has a boil, infected wound, or a disease with sudden onset and severe symptoms including cough and nasal discharge, shall work in food service in any capacity in which there is a likelihood of such person contaminating food or

food contact surfaces, with disease-causing organisms or transmitting the illness to other persons.

- (e) Employees may have beverages in areas where food is prepared as long as those beverages are covered and consumed in a sanitary manner. Beverage containers shall not be stored on or above a food contact surface and must be handled in a manner to avoid cross-contamination.

History Note: Authority G.S. 130A-235; 130A-248; Eff. October 1, 2007.

15A NCAC 18A .3621 FOOD SUPPLIES

In Resident Camps, all food shall be obtained from sources that comply with all laws relating to food and food labeling and shall be identified. All meat, meat food products, poultry and poultry products shall have been inspected for wholesomeness where required under a federal, state or local regulatory program; and, the source shall be identifiable from labeling on carcasses, cuts, unit packages, bulk packages or from bills of sale. All food shall be clean, wholesome, and free from adulteration and spoilage, safe for human consumption and shall be handled, served or transported in such a manner to prevent contamination, adulteration and spoilage. Only approved containers and utensils may be used. Foods that are spoiled or otherwise unfit for human consumption shall be immediately disposed of as garbage or returned to the source except as specified in Rule .3607 of this Section. Foods to be returned to the source shall be marked as such and stored in a fashion not to contaminate other food.

History Note: Authority G.S. 130A-235; 130A-248; Eff. October 1, 2007.

15A NCAC 18A .3622 FOOD PROTECTION

(a) In Resident Camps, all unwrapped or unenclosed food and drink on display shall be protected in such manner that the direct line from the customer's mouth to the food shall be intercepted by glass or similar shields and shall be otherwise protected from public handling or other contamination, except that hand openings may be permitted on counter fronts. A continually staffed beverage station is not required to provide glass or similar shields for beverages, ice and beverage garnishes. Contaminated beverages, ice or beverage garnishes shall be removed from the beverage station. This requires counter protector installations for all cafeteria counters, salad bars and similar type service to prevent contamination by customers' coughing and sneezing. Nothing in this Rule shall require food kept in enclosed cases to be wrapped or covered as long as effective measures are taken to prevent contamination in multi-level shelving units.

(b) Consumer self-service is permitted only under the following conditions:

- (1) Buffet-style service. Protective shields, equivalent to counter protectors, are provided to intercept contamination.
- (2) Consumer self-service. When customers are allowed to return to a self-service area, clean and sanitized tableware other than flatware, beverage cups and glasses, shall be made

available for each return trip. Written notice shall be provided informing customers that clean tableware needs to be used for return trips.

- (3) Family-style service. In resident camps featuring this style of service, patrons elect to participate in the family dining-table type of service. Ordinary serving dishes and utensils are acceptable.
- (4) Private events. When service is provided for a club, organization or private individual at a planned event from which the public is excluded:
 - (A) potentially hazardous foods shall be replaced at least every two hours;
 - (B) food containers shall be arranged conveniently so consumers' clothing does not come in contact with food;
 - (C) dispensing utensils shall be in the food with their handles at least two inches above the top of the food and the container;
 - (D) at the conclusion of the event, food that has not been consumed, shall be discarded; and
 - (E) protective shields are not required for buffet-style service.

(c) Foods, except raw vegetables that are to be cooked, shall be kept under cover when not in the process of preparation and serving. Foods shall not be stored on the floor, or in direct contact with shelves and racks of cold storage boxes, or permitted to come in contact with dirty clothes, newspapers, pasteboard, previously-used paper or other contaminated surfaces. If open dishes and pans containing food are stacked, food shall be protected with wax paper, foil or plastic food film. Food transported to a camp shall not be accepted unless wrapped, boxed or covered to prevent contamination and maintained at temperatures required in Rule .3626 of this Section. Food and drink shall not be served to the general public in the kitchen.

(d) Containers for onions, slaw, mustard and other condiments not kept in accordance with the requirements of Paragraph (a) of this Rule shall have covers and be kept covered when not in use. Sugar shall be dispensed with either pour-type dispensers or individual packages. Staff shall avoid unnecessary handling of food in the process of serving.

(e) Dustless methods of floor cleaning shall be used and all except emergency floor cleaning shall be done during those periods when the least amount of food and drink is exposed, such as after closing, or between meals.

(f) Foods shall not be stored under exposed sewer lines.

(g) Dry beans, grits, flour, sugar and similar food products shall be stored in approved, covered containers, or glass jars and labeled accordingly.

History Note: Authority G.S. 130A-235; 130A-248; Eff. October 1, 2007.

15A NCAC 18A .3623 MILK AND MILK PRODUCTS

(a) Only Grade "A" pasteurized milk and milk products shall be used for campers and staffing in resident camps. The term "milk products" shall mean milk products as defined in 15A NCAC 18A .1200. Copies of 15A NCAC 18A .1200 may be obtained from the Department of Environment and Natural Resources, Division of Environmental Health, 1632 Mail Service Center, Raleigh, NC 27699-1632.

(b) The mixing of cream and milk or the pouring of either into jars, bottles or other containers for storage is prohibited. Where meals are served in a communal or family type dining area, milk may be served by pouring it into individual glasses or cups from original containers of not more than one-gallon capacity, which have been provided by a milk distributor. The milk remaining in the container shall be immediately refrigerated and used for cooking purposes only. The transfer of milk from its original container into any type of container other than glasses or cups as specified in this Rule is prohibited.

(c) Bulk milk dispenser containers, as received from the distributor, shall be sealed, labeled with the name and grade of the contents and identity of the distributor.

(d) Milk and milk products shall be stored in a sanitary manner and shall be kept refrigerated, except when being served. Milk containers shall not be completely submerged in water. Nothing in the rules in this Section shall prohibit the placement of milk and milk products on ice while on display or being served.

(e) Reconstituted dry milk and dry milk products may be used in instant desserts and whipped products, or for cooking and baking purposes.

History Note: Authority G.S. 130A-235; 130A-248; Eff. October 1, 2007.

15A NCAC 18A .3624 ICE HANDLING

(a) In Resident Camps, ice that is to be used in fountain drinks, ice water, tea and coffee, or in connection with the chilling or serving of salads, vegetables or other foods shall be manufactured from a water supply meeting the requirements of Rule .3609 of this Section and shall be stored and handled in a sanitary manner.

(b) Storage boxes shall be covered, located away from sources of contamination, maintained in good repair and kept clean. Storage bins or boxes shall be provided with rims and covers designed to exclude spillage and drip.

(c) Ice grinders, pans and buckets used in preparing chipped or crushed ice shall be protected from contamination, cleaned between usages and kept in good repair. Buckets and other containers used in the transportation of ice shall be stored above the floor in a clean place.

(d) Ice shall be dispensed or transferred with a scoop, spoon or other sanitary method. When not in use, an ice scoop or spoon may be stored in the ice with the handle protruding or on a clean surface. Ice scoops shall not be stored in water. Fountain ice compartments, bowls, buckets or other containers shall be in good repair; washed and kept free of scum, rust, and mold; and shall be protected from drip, dust, splash and other means of contamination. Ice shall not be received, used or accepted when there is evidence that it is not being handled and transported in a sanitary manner.

(e) Ice machines shall be kept clean.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

15A NCAC 18A .3625 SEAFOOD

(a) In Resident Camps, all shellfish and crustacea meat shall be obtained from sources in compliance with 15A NCAC 18A .0300 through .0900 which may be obtained from the Department. If the source of clams, oysters, or mussels is outside the state, the shipper's name shall appear on the "Interstate Certified Shellfish Shippers List" as published monthly by the Shellfish Sanitation Branch, Food and Drug Administration. If the source of the cooked crustacea meat is within the United States, the processor's name, address, and certificate number with State abbreviation shall appear on the container. If the source of the cooked crustacea meat is outside the United States, containers must meet Federal labeling requirements, Food and Drug Administration, HHS Food Labeling requirements, 21 CFR Chapter 1, Part 101-Food Labeling.

(b) All shucked shellfish shall be stored in the original container. Each original container shall be identified with the name and address of the packer or repacker, and the certification number, and the abbreviated name of the state or territory. Shucked shellfish unit containers shall be dated in accordance with 15A NCAC 18A .0600.

(c) All shellstock shall be stored in the containers in which packed at the source. Each original container shall be identified with a uniform tag or label bearing the name and address of the shipper, the certificate number issued by the state or territory regulatory authority, the abbreviated name of the state, the name of the waters from which the shellfish were taken, the date of harvest, the kind and quantity of the shellstock in the container, and the name and address of the consignee.

(d) Shellstock shall be stored at temperatures and by methods in accordance with 15A NCAC 18A .0427. The re-use of single-service shipping containers and the storage of shucked shellfish in other containers are not allowed.

(e) After each container of shellstock has been emptied, the management shall remove the tag and retain it for a period of at least 90 days.

(f) With the exception of opening shellfish for immediate consumption on the premises, no shellfish shucking shall be performed unless the resident camp holds a valid shellfish shucking permit issued by the department.

(g) Shellstock washing facilities shall consist of a mechanical shellfish washer, or a sink or slab with catch basin, indirectly drained into a sewage collection, treatment, and disposal system. The washing shall be done in a clean area, protected from contamination. A can wash facility shall not be used for the washing of shellstock or other foods.

(h) The cooking of shellfish shall be accomplished in an area meeting the requirements of the rules of this Section.

(i) Re-use of shells for the serving of food is prohibited. It shall not be considered reuse to remove a shellfish from its shell and return it to that same shell for service to the public. Shells shall be stored in a manner to prevent flies, insects, rodents, and odors.

(j) All resident camps that prepare, serve, or sell raw shellfish shall post in a conspicuous place where it may be readily observed by the public prior to consumption of shellfish, the following consumer advisory:

"Consumer Advisory

Eating raw oysters, clams, or mussels may cause severe illness.

People with the following

conditions are at especially high risk: liver disease, alcoholism, diabetes, cancer, stomach or

blood disorder, or weakened immune system. Ask your doctor if you are unsure of your risk.

If you eat shellfish and become sick, see a doctor immediately."

(k) Cooked crustacea meat shall be held at 40° F or less.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

15A NCAC 18A .3626 REFRIGERATION: THAWING: AND PREPARATION OF FOOD

(a) All potentially hazardous foods requiring refrigeration shall be kept at or below 45 degrees F (7 degrees C), except when being prepared or served in resident camps. An air temperature thermometer accurate to 2 degrees F (1 degree C) shall be provided in all refrigerators.

(b) Refrigeration and freezer space shall be provided to accommodate the volume of food handled.

(c) Potentially hazardous foods shall be thawed:

- (1) in refrigerated units at a temperature not to exceed 45 degrees F (7 degrees C);
- (2) under potable running water of a temperature of 70 degrees F (21 degrees C), or below, with sufficient water velocity to agitate and float off loose food particles into the overflow;
- (3) as a part of the conventional cooking process; or
- (4) in a microwave oven only when the food will be immediately transferred to conventional cooking equipment as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven.

(d) Anyone preparing food shall have used anti-bacterial or liquid soap, immediately prior to food preparation or shall use clean, plastic disposable gloves or sanitized utensils during food preparation. This requirement is in addition to all handwashing requirements in this Section. Food shall be prepared with the least possible manual contact, with utensils and preparation surfaces that have been cleaned and rinsed prior to use. Preparation surfaces that come in contact with potentially hazardous foods shall be sanitized as provided in Rule .3629 of this Section. Raw fruits and raw vegetables shall be washed with potable water before being cooked or served.

(e) Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least 145 degrees F (63 degrees C) except as follows:

- (1) poultry, poultry stuffings, stuffed meats and stuffings containing meat shall be cooked to

heat all parts of the food to at least 165 degrees F (74 degrees C) with no interruption of the cooking process;

- (2) pork and any food containing pork shall be cooked to heat all parts of the food to at least 150 degrees F (66 degrees C);
- (3) ground meat food products shall be cooked to an internal temperature of at least 155 degrees F (68 degrees C);
- (4) roast beef shall be cooked to an internal temperature of 130 degrees F (54 degrees C); and
- (5) beef steak shall be cooked to a temperature of 130 degrees F (54 degrees C) unless otherwise ordered by the immediate consumer.

(f) Liquid, or uncooked frozen, dry eggs and egg products shall be used only for cooking and baking purposes. This Paragraph does not apply to pasteurized products.

(g) Potentially hazardous foods that have been cooked and then refrigerated shall be reheated to 165 degrees F (74 degrees C) or higher throughout before being served or before being placed in a hot food storage facility except that, food in intact packages from food manufacturing plants may initially be reheated to 135 degrees F (57 degrees C). Reheating time shall not exceed two hours.

(h) All potentially hazardous foods, except roast beef, shall be stored at temperatures of 135 degrees F (57 degrees C) or above; or 45 degrees F (7 degrees C) or below except during necessary periods of preparation and serving. Roast beef shall be stored at a temperature of at least 130 degrees F (54 degrees C) or above; or 45 degrees F (7 degrees C) or below.

(i) Time only, rather than the temperature requirements set forth in Paragraph (h) of this Rule, may be used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption if:

- (1) the food is marked or otherwise identified to indicate the time that is four hours past the point in time when the food is removed from temperature control;
- (2) the food is cooked and served, served if ready-to-eat, or discarded, within four hours from the point in time when the food is removed from required temperature control;
- (3) food in unmarked containers or packages or marked to exceed the four hour limit in Subparagraph (1) of this Paragraph, is discarded; and
- (4) written procedures approved by the Department, as being in accordance with the rules in this Section, are maintained in the resident camp for the handling of food from the time of completion of the cooking process or when the food is otherwise removed from required temperature control. These procedures shall be made available to the Department upon request.

(j) Time only, rather than temperature requirements as set forth in Paragraph (h) of this Rule, may be used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for staff or camper take-out, if:

- (1) the food is marked or otherwise identified to indicate the time that is two hours past the point in time when the food is removed from temperature control;
- (2) the food is cooked and served, served if ready-to-eat, or discarded, within two hours from the point in time when the food is removed from required temperature control;
- (3) food in unmarked containers or packages or marked to exceed the two hour limit in Subparagraph (1) of this Paragraph, is discarded; and
- (4) written procedures approved by the Department, as being in accordance with the Rules in this Section, are maintained in the resident camp for the handling of food from the time of completion of the cooking process or when the food was otherwise removed from required temperature control. These procedures shall be made available to the Department upon request.

(k) A resident camp wishing to move foods controlled under Rule .3626(j) to Rule .3626(i) for immediate consumption on the premises, shall have their written procedures for the handling of the food from the time of completion of the cooking process or when the food was otherwise removed from required temperature control, approved by the Department, as being in accordance with the rules in this Section, and shall maintain those approved procedures in the resident camp. These procedures shall be made available to the Department upon request.

(l) In a resident camp that serves a highly susceptible population, time only, rather than temperature, may not be used as the public health control for raw eggs.

(m) All potentially hazardous food that is transported must be maintained at temperatures as noted in Paragraph (h) of this Rule.

(n) A metal stem-type food thermometer accurate to 2 degrees F (1 degree C) shall be available to check potentially hazardous food temperatures.

History Note: Authority G.S. 130A-235; 130A-248; Eff. October 1, 2007.

15A NCAC 18A .3627 RE-SERVING OF FOOD

In Resident Camps, food once served to a consumer shall not be served again and not left for the next consumer. Packaged food, other than potentially hazardous food, that is still packaged and is still wholesome, may be re-served.

History Note: Authority G.S. 130A-235; 130A-248; Eff. October 1, 2007.

15A NCAC 18A .3628 FOOD SERVICE UTENSILS AND

EQUIPMENT

(a) In Resident Camps, all eating, drinking, cooking utensils, tables, sinks, cabinets, hoods, shelves, equipment, fixtures and other items used in connection with the preparation of food shall be kept clean and in good repair.

(b) All surfaces with which food or drink come in contact shall consist of smooth, not readily corrodible, non-toxic materials in which there are no open cracks or joints that will collect food particles and slime, and shall be kept clean.

(c) Shelves, tables and counters shall not be covered with paper, cardboard, oilcloth or other absorbent material, and shall be free of crevices. Dining table linen or similar dining table coverings, if used, shall be kept clean and in good repair.

(d) Equipment placed into operation after the effective date of the rule, and all dishwashing facilities shall meet NSF/ANSI food equipment standards. Food service equipment that is certified for sanitation by an American National Standards Institute (ANSI)-accredited program shall be approved. NSF/ANSI food equipment standards are incorporated by reference including subsequent amendments and editions. These standards may be obtained from ANSI, 1819 L Street, NW, 6th Floor, Washington, DC 20036, at a cost of six-hundred sixty-five dollars (\$665.00) and are also available for inspection at the Division of Environmental Health, 1632 Mail Service Center, Raleigh, NC 27699-1632. If equipment is not listed by an ANSI accredited education service program, the owner or operator shall submit documentation to the Department that demonstrates that the equipment is at least equivalent to ANSI sanitation standards. In doing so, if the components of the equipment are the same as those meeting ANSI sanitation standards, then the Department shall deem the equipment equivalent. For purposes of the rules of this Section, toasters, mixers, microwave ovens, hot water heaters and hoods shall not be considered to be equipment and shall not be required to meet ANSI sanitation standards. Limited resident camps are exempt from this Rule except for required dishwashing facilities. All existing equipment, excluding dishwashing facilities, not in compliance with this Rule must be brought into compliance by May 1, 2012.

(e) Single-use articles such as formed buckets, bread wrappers, aluminum pie plates and No. 10 cans shall be used only once except that containers made of plastic, glass or other smooth, not readily corrodible, non-toxic materials having smooth sides and of a construction that can be easily cleaned may be reused.

(f) Beverage dispensers installed or replaced after the effective date of this Rule shall be designed to avoid activation by the lip of a cup or glass when these dispensers are used to refill cups or glasses.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

15A NCAC 18A .3630 STORAGE AND HANDLING OF UTENSILS AND EQUIPMENT

(a) After bactericidal treatment, utensils shall be air-dried and stored above the floor in a clean place in resident camps. Wherever practicable, containers and utensils shall be covered or inverted or stored in tight, clean cabinets; and glasses and cups shall be stored inverted in a sanitary manner. It shall not be

considered practicable to invert plates and bowls that slide when inverted or to cover plates and bowls positioned for immediate use during business hours. Utensils and equipment shall be handled in such a manner to present contamination, and employees shall avoid handling clean surfaces that will come in contact with customers' mouths.

(b) Drain racks, trays and shelves shall be made of not readily corrodible material, and shall be kept clean. These items are not required to be made of plastic.

(c) Spoons, spatulas, dippers, and other in-use utensils shall be stored between uses in the food product with the handles extending out of the food, stored dry on a clean surface or in a container of water if the water is maintained at a temperature of at least 140F.

(d) When utensils are used to dispense frozen products or moist foods, the utensils may be stored in running water dipper wells only when the water has sufficient velocity to flush food residues into the overflow drain.

(e) Single-service utensils shall be purchased only in sanitary containers, shall be stored therein in a clean, dry place until used, and shall be handled in a sanitary manner. Single-service cup dispensers or similar devices shall be used when single-service cups are used. Nothing in the rules in this Section shall prohibit the use of plastic bags in which single-service cups or similar devices are received as the dispenser for those items.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

15A NCAC 18A .3631 FOOD SERVICE AREA STORAGE SPACES

(a) Storage spaces shall be kept clean in resident camps. The contents shall be neatly arranged to facilitate cleaning and to prevent insect and rodent harboring.

(b) All items stored in rooms where food or single-service items are stored shall be at least 12 inches (30.48 cm.) above the floor when placed on stationary storage units or six inches (15.24 cm.) above the floor when placed on portable storage units or otherwise arranged to permit cleaning. For purposes of this Rule, the term "portable" does not require wheels.

(c) Shelves in storage rooms where food or single-service items are stored shall be constructed approximately one inch (2.54 cm.) from the wall, unless stripped or caulked.

(d) Nothing in this Rule shall prohibit the use of non-absorbent wooden shelves that are in good repair in dry storage areas.

History Note: Authority G.S. 130A-235; 130A-248;
Eff. October 1, 2007.

15A NCAC 18A .3632 FOOD SERVICE AREA LIGHTING

(a) In Resident Camps, all areas in which food is prepared, or in which utensils are washed, shall be provided with at least 50 foot-candles of light on food preparation work levels and at utensil washing work levels. At least 10 foot-candles of light at 30 inches above the floor shall be provided in all other areas, including storage rooms and walk-in units. This shall not include dining areas except during cleaning operations. Fixtures shall be kept clean and in good repair.

(b) In determining whether the lighting at a particular location meets the requirements of this Rule, the Environmental Health Specialist shall take the measurement with the light meter at the level where work is performed or at 30 inches above the floor if not at a work station identified in Paragraph (a) of this Rule. The environmental health specialist shall place the meter on the surface where the measurement is to be taken and shall not obstruct the path of the light to the surface in question. Instruments used to measure lighting shall be maintained and operated by the Environmental Health Specialist in accordance with the manufacturer's instructions as to ensure their accuracy.

(c) Light bulbs in food preparation, storage and display areas shall be shatterproof or shielded to preclude the possibility of broken bulbs or lamps falling into food. Shatterproof or shielded bulbs need not be used in food storage areas where the integrity of the unopened packages will not be affected by broken glass falling onto them and the packages, prior to being opened, are capable of being cleaned.

(d) Heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

History Note: Authority G.S. 130A-235; 130A-248; Eff. October 1, 2007.

15A NCAC 18A .3633 FOOD SERVICE AREA VENTILATION

In Resident Camps, ventilation equipment shall be kept clean and in good repair.

History Note: Authority G.S. 130A-235; 130A-248; Eff. October 1, 2007.

15A NCAC 18A .3634 FOOD SERVICE AREA LAVATORY FACILITIES

(a) In Resident Camps, lavatory facilities, including hot and cold running water and a combination supply faucet or tempered water and sanitary towels or hand-drying devices and soap, shall be provided for staff and campers in food preparation and utensil washing areas.

(b) For employees, at least one lavatory shall be provided in the kitchen area in addition to any lavatories that may be provided in employees' toilet rooms.

(c) Dishwashing sinks, vegetable sinks and pot sinks shall not be used as handwashing facilities.

(d) The lavatories shall be kept clean and in good repair.

History Note: Authority G.S. 130A-235; 130A-248; Eff. October 1, 2007.

15A NCAC 18A .3635 FOOD SERVICE AREA TOILET FACILITIES

(a) Unless specified elsewhere in the rules in this Section, every resident camp kitchen shall be provided with toilet facilities located within 500 feet and readily accessible to employees and campers during all operational hours. Toilets for campers shall be so located that the campers do not pass through the kitchen to enter the toilet rooms. Intervening rooms or vestibules, if provided, shall be constructed and maintained in accordance

with this Rule. Floors and walls shall be constructed of non-absorbent, washable materials. Floors, walls and ceilings shall be kept clean and in good repair.

(b) Signs shall be posted to advise campers and staff of the locations and identities of the toilet rooms. Legible signs that read that employees must wash their hands before returning to work shall be posted conspicuously in each employee's toilet room.

(c) Toilet rooms shall be provided with self-closing doors and kept free of flies. Windows shall be screened if used for ventilation. Toilet rooms shall not be used for storage of food, utensils or equipment. Self-closing doors are not required for toilet rooms that open into the interior of a building and the exterior doors of the building are self-closing.

(d) Fixtures shall be kept clean and in good repair.

(e) All wastewater shall be disposed of in accordance with 15A NCAC 18A .1900 or 15A NCAC 02H .0200.

History Note: Authority G.S. 130A-235; 130A-248; Eff. October 1, 2007.

15A NCAC 18A .3636 FOOD SERVICE AREA FLOORS

(a) In Resident Camps, the floors of all rooms in which food is stored, prepared, handled or served, or in which utensils are washed, shall be of such construction to be easily cleaned, and shall be kept clean and in good repair. Food waste on the floor as a result of that day's preparation process is not a violation of this Rule as long as the food waste is removed at regular intervals and prior to closing.

(b) Floors in areas where food is to be prepared or stored may be of sealed concrete, terrazzo, quarry or vinyl tile, wood covered with composition flooring or equal, except that:

- (1) carpet may be used in wait stations and self-service bars;
- (2) there will be no flooring requirements for portable cooking units which may be used in a dining room for occasional service at individual tables; and
- (3) nothing in this Section shall prohibit the use of approved anti-skid floor applications where needed for safety reasons.

(c) The joints between walls and floors shall be rounded or be otherwise constructed to provide a tight seal between the floor and wall.

(d) Floors, which are subjected to flood type cleaning, shall be provided with floor drains and shall slope to drain.

(e) Clean carpet, in good repair, may be used in dining areas.

History Note: Authority G.S. 130A-235; 130A-248; Eff. October 1, 2007.

15A NCAC 18A .3637 FOOD SERVICE AREA WALLS AND CEILINGS

(a) In Resident Camps, walls and ceilings of all rooms in which food is stored, handled, prepared or served or in which utensils are washed or stored shall be kept clean and in good repair. Water stains on walls or ceilings do not constitute a violation of this Rule unless mold or mildew is present.

(b) The walls of kitchens and other rooms used for the preparation of food and the washing of utensils shall be smooth, washable and be kept clean. Acceptable wall materials include glazed tile; fiberglass reinforced panels, stainless steel, wood or metal; wall board painted with washable, non-absorbent paint; and brick, cinder blocks, slag blocks or concrete blocks, if glazed, tiled, plastered or filled to provide a smooth surface. Ceilings in kitchens and other rooms used for the preparation of food or the washing of utensils shall be washable. Acceptable materials include perforated or non-perforated vinyl faced acoustical tile, and fiberglass reinforced panels and painted wallboard.

(c) The walls and ceilings of dry storage rooms shall be permanent; however, a washable finish is not required.

(d) The interior walls of wait stations that prepare beverages and bars that only prepare beverages and wash utensils with no food preparation other than garnishes for drinks shall be finished to be smooth and washable.

History Note: Authority G.S. 130A-235; 130A-248; Eff. October 1, 2007.

15A NCAC 18A .3638 KITCHEN PREMISES: MISCELLANEOUS

(a) In a Resident Camp, none of the camp activities shall be conducted in any room used for private living areas.

(b) Packout or trip kitchens where food is portioned and stored for cookouts or overnight trips, where utensils and equipment are not returned to a central kitchen for cleaning, and are not located in the same building as a camp kitchen, shall be equipped with at least a two-compartment sink with 24-inch drainboards or countertop space at each end for handling dirty items and air drying clean items. Sinks shall be of sufficient size to submerge, wash, rinse and sanitize utensils and equipment. Any area where food is portioned shall also be equipped with a separate handwash lavatory with a hot and cold mixing faucet, soap and individual towels or hand-drying device.

(c) Residential style educational activity kitchens with non-commercial utensils and equipment may be used by groups of 32 or less campers and staff to prepare meals only for members of the group. Field sanitation measures of Rule .3619 may be used in these facilities.

(d) Soiled linens, coats and aprons shall be kept in containers provided for this purpose. Laundered table linen and cleaning cloths shall be stored in a clean place until used.

(e) Toxic materials, cleaners, sanitizers or similar products used in a camp shall be labeled with the common name or manufacturer's label.

(f) A separate area for storage of toxic materials shall be provided and marked as toxic materials. This requirement shall not apply to cleaners and sanitizers used frequently in the operation of the camp kitchen that are stored for availability and convenience if the materials are stored to prevent the contamination of food, equipment, utensils, linens and single-service items.

(g) Storage shall be provided for mops, brushes, brooms, hoses and other items in routine use.

(h) The premises under control of the management shall be kept free of items that provide fly or mosquito breeding places or

rodent harborage. Effective measures such as fly repellent fans, self-closing doors, screens and routine use of approved pesticides shall be taken to keep insects, rodents, animals and other public health pests out of the camp kitchen and food service area storage spaces.

(i) Only those pesticides which have been registered with the U.S. Environmental Protection Agency and with the North Carolina Department of Agriculture and Consumer Service shall be used. Such pesticides shall be used as directed on the label and shall be handled to avoid health hazards.

(j) Except as specified below, live animals shall not be allowed in a food preparation, storage or dining area. Live animals shall be allowed in the following situations if their presence will not result in the contamination of equipment, utensils, linens and unwrapped single-service and single-use items:

- (1) fish or crustacea in aquariums or display tanks;
- (2) patrol dogs accompanying police or security officers in offices and dining, sales and storage areas; and
- (3) service animals accompanying persons with disabilities in areas that are not used for food preparation.

History Note: Authority G.S. 130A-235; 130A-248; Eff. October 1, 2007.

15A NCAC 18A .3639 INFORMAL REVIEW PROCESS AND APPEALS PROCEDURE

(a) If a Resident Camp manager disagrees with a decision of an environmental health specialist on the interpretation, application or enforcement of the rules of this Section, the camp manager may:

- (1) request an informal review pursuant to Paragraphs (d) and (e) of this Rule; or
- (2) initiate a contested case in accordance with G.S. 150B.

(b) The camp manager is not required to complete the informal review prior to initiating a contested case in accordance with G.S. 150B.

(c) When petition for a contested case is filed, the informal review process shall terminate.

(d) If the camp manager requests an informal review, the request shall be in writing and shall be postmarked or hand delivered to the local health department within seven days of notice of the decision giving rise to the review. The request shall briefly state the issues in dispute. In the event the inspection giving rise to the informal review was conducted by the environmental health supervisor in the county or area where the resident camp is located, or when the county or area has only one environmental health specialist assigned to inspect resident camps, the regional environmental health specialist assigned to that county or area shall conduct the local informal review. As soon as possible but at least within 30 days of receipt of the request, the person conducting the review shall contact the camp manager, provide that camp manager an opportunity to be heard on the issues in dispute and issue a written decision addressing the issues raised in the appeal. Copies of the decision shall be mailed to the camp manager and to the State Health Director. That decision shall be binding for the purposes of future

inspections of the resident camp in question unless modified pursuant to Paragraph (e) of this Rule or by the State Health Director.

(e) Following receipt of the written decision of the environmental health supervisor or his or her representative issued pursuant to Paragraph (d) of this Rule, the camp manager who initiated the informal review may appeal the resulting decision to an Informal Review Officer designated by the Department to be responsible for final decisions on appeals from throughout the State. Notice of such appeal shall be in writing, shall include a copy of the environmental health supervisor's or her or his representative's decision and shall be postmarked or hand-delivered to the local health department and to the Department within seven days of receipt of the written decision issued pursuant to Paragraph (a) of this Rule. Within 35 days of receipt of this appeal, the designated informal review officer shall hold a conference in Wake County. Notice of the time and place of this conference shall be provided to the camp manager and the environmental health supervisor for the county or area where the issue arose. Within ten days following the date of the conference, the informal review officer shall issue a written decision addressing the issues raised in the appeal and that decision shall be binding for purposes of future inspections of the resident camp in question unless modified pursuant to Paragraph (g) of this Rule or by the State Health Director.

(f) If the decision on appeal at the local or state level results in a change in the score resulting from an inspection of a resident camp, the environmental health specialist shall post a new grade card reflecting that new score.

(g) Appeals of the decision of the designated informal review officer shall be in accordance with G.S. 150B.

(h) Nothing in this Rule shall impact the right of a camp manager to a reinspection pursuant to Rule .3605 of this Section.

History Note: Authority G.S. 130A-235; 130A-248; Eff. October 1, 2007.

- (2) At the end of the day a manicurist or cosmetologist shall:
- (a) remove the screen. All debris trapped behind the screen of each footspa shall be removed, and the screen and the inlet shall be washed with soap or detergent and water;
 - (b) before replacing the screen wash the screen with a chlorine bleach solution of one part bleach to 10 parts water, or totally immerse the screen in an EPA registered disinfectant;
 - (c) fill the footspa tub with five gallons of water and four cups of five per cent bleach solution;
 - (d) circulate the solution through the footspa system for no less than 10 minutes;
 - (e) let the solution sit overnight (at least six hours);
 - (f) drain and flush the system the following morning; and
 - (g) make a record of the date/time of this cleaning and disinfecting, on a form provided by the Board. The record for the last 90 days shall be readily accessible upon client or Board inspector request.

History Note: Authority G.S. 88B-4; Eff. February 1, 2004; Amended Eff. May 1, 2007; October 1, 2006; November 1, 2005.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 14 – COSMETIC ART EXAMINERS

21 NCAC 14H .0120 FOOTSPA SANITATION

Manicurists and Cosmetologists shall use the following disinfection procedures to ensure proper cleaning and maintenance of the footspa equipment and to prevent bacterial infection:

- (1) Between each customer a manicurist or cosmetologist shall:
 - (a) drain all water and remove all debris from the footspa;
 - (b) clean and scrub the surfaces and walls of the footspas with a scrub-brush and soap or detergent and rinse with clean, clear water; and
 - (c) disinfect with an EPA registered disinfectant with bactericidal,

21 NCAC 14H .0121 PROHIBITED PRACTICES

Licensed cosmetologists, estheticians, and manicurists shall not use or possess in a shop any of the following products:

- (1) Methyl Methacrylate Liquid Monomer a.k.a. MMA;
- (2) Razor-type callus shavers designed and intended to cut growths of skin such as corns and calluses; and
- (3) Permanent makeup, defined as beautifying the face by inserting or implanting facial cosmetic pigment under the surface of the skin or mucosa.

History Note: Authority G.S. 88B-2; 88B-4; Eff. April 1, 2004; Amended Eff. May 1, 2007; December 1, 2004.

21 NCAC 14J .0106 EQUIPMENT FOR BEGINNER DEPARTMENT

The beginner department shall be equipped with the following minimum equipment for every 20 students in the department:

- (1) one manicure table and stool;
- (2) two shampoo bowls and chairs;

- (3) one mannequin with hair per student;
- (4) thermal styling equipment for the purpose of curling or straightening the hair;
- (5) visual aids;
- (6) one mannequin practice table to accommodate at least ten students;
- (7) sufficient cold wave rods for each student in the department.

*History Note: Authority G.S. 88B-4;
Eff. February 1, 1976;
Amended Eff. May 1, 2007; January 1, 1989; April 1, 1988.*

21 NCAC 14J .0206 EQUIPMENT IN ADVANCED DEPARTMENT

The advanced department must be equipped with the following equipment:

- (1) for departments with 20 to 29 stations, two manicure tables and stools;
- (2) for departments with 30 or more stations, four manicure tables and stools;
- (3) for departments with 20 to 29 stations, eight dryers and chairs;
- (4) for departments with 30 or more stations, 12 dryers and chairs;
- (5) eight shampoo bowls and chairs;
- (6) 20 dressing tables and styling chairs;
- (7) for departments with 20 to 29 stations, one facial chair;
- (8) for departments with 30 or more stations, two facial chairs;
- (9) thermal styling equipment for the purpose of curling or straightening the hair.

*History Note: Authority G.S. 88B-4;
Eff. February 1, 1976;
Amended Eff. May 1, 2007; April 1, 2004; August 1, 1998;
October 1, 1990; January 1, 1989; April 1, 1988.*

21 NCAC 14J .0302 EQUIPMENT

Each cosmetology school shall provide training in the decontamination methods used to prevent the growth of germs and bacteria. Each cosmetology school shall provide the following equipment or supplies for use in the training and teaching of all students:

- (1) containers of sufficient size for the purpose of disinfecting implements by the immersion of implements in an EPA disinfectant solution;
- (2) covered containers for storage of sanitized implements until they are needed to prevent contamination.

*History Note: Authority G.S. 88B-4;
Eff. February 1, 1976;
Amended Eff. May 1, 2007; January 1, 1989; April 1, 1988.*

21 NCAC 14J .0303 STUDENTS' PERSONAL SUPPLIES

Each student shall have the following minimum supplies:

- (1) manicure supplies and implements for a complete manicure;
- (2) six combs;
- (3) six brushes;
- (4) sufficient pin curl clips;
- (5) sufficient smooth rollers;
- (6) hard rubber or nonflammable comb for heat protection used in thermal styling;
- (7) one electric curling iron, marcel;
- (8) one razor;
- (9) two scissors, one tapered and one straight;
- (10) one eyebrow tweezer;
- (11) one tint comb;
- (12) one blow dryer; and
- (13) one copy of "An Act to Regulate the Practice of Cosmetic Art in the State of North Carolina" and a copy of the course curriculum requirements, both of which shall be at no charge to the student for the first copy.

*History Note: Authority G.S. 88B-4;
Eff. February 1, 1976;
Amended Eff. May 1, 2007; August 1, 1998; March 1, 1994;
January 1, 1989; April 1, 1988.*

21 NCAC 14N .0102 INITIAL APPLICATIONS AND FEES

- (a) All applications for examination must be on a form provided by the Board.
- (b) Cosmetologist candidates having completed a minimum of 1000 hours in a cosmetology curriculum from an approved cosmetic art school are authorized to receive the written examination. All cosmetic art licensee candidates must have successfully completed the appropriate cosmetic art curriculum in an approved cosmetic art school before receiving the practical examination.

*History Note: Authority G.S. 88B-4; 88B-7(1); 88B-8(1); 88B-18; 88B-20(a);
Eff. June 1, 1992;
Amended Eff. May 1, 2007; December 1, 2005; August 1, 2000;
August 1, 1998.*

21 NCAC 14N .0113 RE-EXAMINATION

- (a) Notwithstanding any other provision of the rules in this Subchapter, pursuant to G.S. 88B-18(d) a cosmetologist, esthetician, manicurist, or teacher candidate who has failed either section of the examination three times, shall complete the following amounts of study at an approved cosmetic art school before reapplication for examination shall be accepted by the Board:

- (1) Cosmetologist 200 hours,
- (2) Esthetician 80 hours,
- (3) Manicurist 40 hours,
- (4) Teacher:
 - (A) cosmetology 100 hours,
 - (B) esthetician 80 hours,
 - (C) manicurist 40 hours.

(b) Teacher candidates with no prior cosmetic art teacher training program experience shall be required to complete at least a minimum of the hours required for the teacher curriculum in the discipline in which they hold a license. The required minimums for teacher curriculums are 800 hours of a cosmetology teacher curriculum, 650 hours of an esthetician teacher curriculum, or 320 hours of a manicurist teacher curriculum.

(c) The school in which the student has enrolled pursuant to G.S. 88B-18(d) shall design a course of study for that student in order to correct the student's deficiencies.

(d) A candidate for licensure as an apprentice cosmetologist who:

- (1) passes the examination with a score of 75 percent or more on both sections; and
- (2) subsequently completes an additional 300 hours of cosmetology curriculum within one year of the examination date shall be licensed as a cosmetologist under G.S. 88B-7 without retaking the examination.

*History Note: Authority G.S. 88B-4; 88B-18;
Eff. June 1, 1992;*

Amended Eff. August 1, 1998; June 1, 1993;

Temporary Amendment Eff. January 1, 1999;

*Amended Eff. May 1, 2007; January 1, 2006; February 1, 2004;
August 1, 2000.*

21 NCAC 14R .0102 APPLICATION CRITERIA AND CONTINUING EDUCATION COURSE APPROVAL

(a) Application for course approval shall be completed on forms provided by the Board and shall demonstrate that the applicant is:

- (1) A provider as defined in 21 NCAC 14A .0101;
- (2) Submitting the form to the Board's office at least 30 days prior to the proposed initial date of the course offering.
- (3) Proposing a course offering that must include at least 50% of subject matter in the cosmetic arts or cosmetic art teacher training techniques;
- (4) Providing a short resume of all course instructors.

(b) The following offerings shall not be approved by the Board for continuing education credit:

- (1) That portion of any offering devoted to any breaks including: breakfast, lunch and dinner or other refreshments;
- (2) Any application that fails to meet the standards of this Rule.

(c) A continuing education number shall be assigned to each approved course.

(d) Applications for course approval must be in the Board's office at least 10 days prior to a Board meeting to allow time for review and Board approval.

(e) Approved courses may be conducted as often as desired during the calendar year.

(f) Approved courses not conducted for three consecutive years must be re-approved before they may again be offered.

*History Note: Authority G.S. 88-B 4; 88B-21(e);
Eff. May 1, 2004;
Amended Eff. May 1, 2007.*

CHAPTER 28 - REGISTRATION BOARD OF LANDSCAPE CONTRACTORS

21 NCAC 28 .0101 AUTHORITY: NAME AND LOCATION OF BOARD

The "North Carolina Landscape Contractors Act," Chapter 89D of the General Statutes of North Carolina, establishes and authorizes the "North Carolina Landscape Contractors' Registration Board," hereafter called the "Board." All communications shall be addressed to the Board at Post Office Box 1578, Knightdale, North Carolina 27545.

*History Note: Authority G.S. 89D-4(a); 89D-4(c);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. May 1, 2007.*

21 NCAC 28 .0301 APPLICATIONS AND EXAMINATION

(a) Notice. The Board shall hold at least one examination during each year and may hold such additional examinations as may appear necessary. The secretary-treasurer shall give public notice of the time and place for each examination at least 90 days in advance of the date set for the examination.

(b) Applications. Applications on forms provided by the Board and accompanied by the required application fee must be filed with the Board at least 60 days prior to the date of examination.

(c) Education and Experience Equivalents. Applicants for examination shall be given credit for education and experience to meet the statutory requirements as follows:

- (1) Education Equivalents. Credit for educational attainment shall be credited as follows:
 - (A) Graduation from a four-year program in Landscape Architecture, Landscape Horticulture, or Horticulture: Maximum Credit - 1.5 years;
 - (B) Graduation from a four-year curriculum in any other field: Maximum Credit - 6 months;
 - (C) Graduation from a two-year program in Horticulture or similar curriculum in a land grant institution or community college: Maximum Credit - 1 year.
- (2) Experience Equivalents. Time spent in the jobs listed shall be credited as follows:
 - (A) Landscape Crew Leader
100% credit
 - (B) Landscape Designer or Landscape Architect
100% credit

- (C) Landscape Estimator or Landscape Sales Person 100% credit
- (D) Landscape Project Manager 100% credit
- (E) Landscape Crew Member 75% credit
- (F) Nursery retail sales person 75% credit
- (G) Grading operator 50% credit
- (H) Irrigation installer 50% credit
- (I) Nursery worker 50% credit
- (J) Turfgrass installer or turfgrass maintenance worker 50% credit

(d) Certificate. After each examination, the Board shall notify each examinee of the result of the examination and the Board shall issue certificates of title to all persons successfully completing the examination.

(e) Applicants who have not met registration requirements within a period of three years from date of initial application to the Board shall be considered inactive. Inactive applications shall be destroyed after giving 30 days notice to the last known address of the applicant.

History Note: Authority G.S. 89D-4(c); 89D-5(a); 89D-5(b); Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. May 1, 2007; September 1, 1988; October 1, 1983.

CHAPTER 38 - BOARD OF OCCUPATIONAL THERAPISTS

21 NCAC 38 .0102 BOARD OFFICE

The administrative offices of the North Carolina Board of Occupational Therapy are located at:
 Wachovia Capitol Center
 150 Fayetteville Street, Suite 1900
 P.O. Box 2280
 Raleigh, North Carolina 27602
 Telephone: (919) 832-1380
 Office hours are 9:00 a.m. until 5:00 p.m., Monday through Friday, except holidays.

History Note: Authority G.S. 90-270.69(5); Eff. July 1, 1985; Amended Eff. July 1, 2007; February 1, 1994.

21 NCAC 38 .0103 DEFINITIONS

The definitions in G.S. 90-270.67 apply to this Chapter. The following definitions also apply to the Chapter:

- (1) "Activities of daily living" means self-care activities.

- (2) "Assessment" means the specific tools or instruments that are used during the evaluation process.
- (3) "Client" means a person, group, program, organization, or community for whom the occupational therapy practitioner is providing services.
- (4) "Entry-level" means a person who has no experience in a specific position, such as a new graduate, a person new to the position, or a person in a new setting with no previous experience in that area of practice.
- (5) "Evaluation" means the process of obtaining and interpreting data necessary for intervention. This includes planning for and documenting the evaluation process and results.
- (6) "Instrumental activities of daily living" means multi-step activities to care for self and others, such as household management, financial management and childcare.
- (7) "Intervention" means treatment.
- (8) "Intervention plan" is the program established by the occupational therapist for the delivery of occupational therapy services. It may also be referred to as treatment plan, individualized education plan (IEP), individualized family service plan (IFSP), plan of care, or other terminology as determined by the occupational therapy service delivery setting.
- (9) "Level I Fieldwork" provides introductory level clinical training opportunities.
- (10) "Level II Fieldwork" provides clinical training in preparation for entry-level practice.
- (11) "Neglect of duty" occurs when a Board member fails to attend a majority of the official meetings of the Board within any 12 month period.
- (12) "Occupational Therapy", as defined in G.S. 90-270.67(4), may include evaluation of activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure, and social participation.
- (13) "Occupational Therapy evaluation, treatment, and consultation" include the following:
 - (a) remediation or restitution of performance abilities that are limited due to impairment in biological, physiological, psychosocial and developmental process;
 - (b) adaptation of skills, process or environment, or the teachings of compensatory techniques in order to enhance performance;
 - (c) disability prevention methods and techniques which facilitate the development or safe application of performance skills;

- (d) promotion of health and wellness to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction; and
 - (e) interpretation of the physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well-being, and quality of life.
- (14) "Occupational therapy practitioner" means an individual currently licensed by the Board as an occupational therapist or an occupational therapy assistant.
- (15) "Occupational therapy services" include the following:
- (a) Methods or strategies selected to direct the process of interventions such as:
 - (i) Establishment, remediation, or restoration of a skill or ability that has not yet developed or is impaired;
 - (ii) Compensation, modification, or adaptation of activity or environment to enhance performance;
 - (iii) Maintenance and enhancement of capabilities without which performance in everyday life activities would decline;
 - (iv) Health promotion and wellness to enable or enhance performance in everyday life activities; and
 - (v) Prevention of barriers to performance, including disability prevention.
 - (b) Evaluation of factors affecting activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure, and social participation, including:
 - (i) Client factors, including body functions (such as neuromuscular, sensory, visual, perceptual, cognitive) and body structures (such as cardiovascular, digestive, integumentary, genitourinary systems);
 - (ii) Habits, routines, roles, and behavior patterns;
- (iii) Cultural, physical, environmental, social, and spiritual contexts and activity demands that affect performance; and
 - (iv) Performance skills, including motor, process, and communication/interaction skills.
- (c) Interventions and procedures to promote or enhance safety and performance in activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure and social participation, including:
- (i) Therapeutic use of occupations, exercises, and activities;
 - (ii) Training in self-care, self-management, home management, and community/work reintegration;
 - (iii) Development, remediation, or compensation of physical, cognitive, neuromuscular, sensory functions and behavioral skills;
 - (iv) Therapeutic use of self, including one's personality, insights, perceptions, and judgments, as part of the therapeutic process;
 - (v) Education and training of individuals, including family members, caregivers, and others;
 - (vi) Care coordination, case management, and transition services;
 - (vii) Consultative services to groups, programs, organizations, or communities;
 - (viii) Modification of home, work school or community environments and adaptation of processes, including the application of ergonomic principles;
 - (ix) Assessment, design, fabrication, application, fitting, and training in assistive technology, adaptive devices, and orthotic devices, and training

- in the use of prosthetic devices;
- (x) Assessment, recommendation, and training in techniques to enhance functional mobility, including wheelchair management;
 - (xi) Driver rehabilitation and community mobility;
 - (xii) Management of feeding, eating, and swallowing to enable eating and feeding performance; and
 - (xiii) Application of physical agent modalities, and use of a range of specific therapeutic procedures to enhance performance skills.
- (16) "Occupational therapy student" means an individual currently enrolled in an occupational therapist or occupational therapy assistant program accredited by the Accreditation Council for Occupational Therapy Education (ACOTE).
- (17) "Practice Act" refers to the North Carolina Occupational Therapy Practice Act found in G.S. 90-270.65 et. seq.
- (18) "Screening" means obtaining and reviewing data relevant to a potential client to determine the need for further evaluation and intervention.
- (19) "Service Competency" is the ability to provide occupational therapy services in a safe and effective manner. It implies that two practitioners can perform the same or equivalent procedure and obtain the same result.
- (20) "Skilled occupational" therapy services when rendered by an occupational therapist or occupational therapy assistant means functions that require the exercise of professional occupational therapy judgment, including the interpretation of referrals, screening, assessment, evaluation, development or modification of intervention plans, implementation of intervention, reassessment, or discharge planning.
- (21) "Supervision" is the process by which two or more people participate in joint effort to establish, maintain and elevate a level of performance to ensure the safety and welfare of clients during the provision of occupational therapy. A variety of types and methods of supervision may be used. Methods may include direct face-to-face contact and indirect contact. Examples of methods or types of supervision that involve face-to-face contact include observation, modeling, co-treatment, discussions, teaching, instruction, and video conferencing. Examples of methods or types of supervision that involve indirect contact include phone conversations, written correspondence, electronic exchanges, and other methods using telecommunication technology. Supervision is structured according to the supervisee's qualifications, position, level of preparation, depth of experience and the environment within which the supervisee functions. A change in practice setting may require a change in level of supervision until service competency has been established. Levels of supervision are:
- (a) "Close supervision" requires daily, direct contact at the service delivery site (where intervention plan is provided).
 - (b) "General supervision" requires at least monthly direct contact, with supervision available as needed by other methods.
 - (c) "Direct supervision" means the Occupational Therapy supervisor must be within audible and visual range of the client and unlicensed personnel and available for immediate physical intervention. Direct supervision is required for unlicensed personnel.
- (22) "Unlicensed personnel" means individuals within an occupational therapy setting who provide supportive services to the occupational therapist and the occupational therapy assistant and who function only under the guidance, responsibility, and supervision of the licensed occupational therapist or occupational therapy assistant to provide only specifically selected client-related or non-client related tasks for which the unlicensed personnel has been trained and has demonstrated competence.

History Note: Authority G.S. 90-270.67; 90-270.69(4); Eff. July 1, 1985; Amended Eff. July 1, 2007; May 1, 1989; May 1, 1987; Amended Eff. July 1, 2007 [Fee in (a)(5) expires October 1, 2007 pursuant to G.S. 90-270.77(5).]

21 NCAC 38 .0204 FEES

(a) Fees are as follows:

- (1) a request for an initial application for licensure as an occupational therapist, an occupational therapy assistant or a limited permittee is ten dollars (\$10.00);
- (2) application for issuance of a license or re-issuance of an expired license is one hundred dollars (\$100.00);
- (3) annual renewal of a license is fifty dollars (\$50.00);

- (4) late renewal of a license is an additional fifty dollars (\$50.00);
- (5) issuance of a limited permit is thirty-five dollars (\$35.00).

(b) Fees shall be non-refundable and shall be paid in cash or in the form of a cashier's check, certified check or money order made payable to the North Carolina Board of Occupational Therapy. Personal checks shall be accepted for payment of renewal fees.

History Note: Authority G.S. 90-270.77;
Eff. July 1, 1985;
Amended Eff. February 1, 1994; May 1, 1989; May 1, 1987;
Amended Eff. July 1, 2007 [Fee in (a)(5) expires October 1, 2007 pursuant to G.S. 90-270.77(5).]

21 NCAC 38 .0301 LICENSE NUMBER: DISPLAY OF LICENSE

Each individual who is issued a license shall be issued a license number. Should that number be retired for any reason (such as death, failure to renew the license, or any other reason) that number shall not be reissued. The license and current renewal card must be available for inspection at the licensee's principal place of business.

History Note: Authority G.S. 90-270.69(4); 90-270.73;
Eff. July 1, 1985;
Amended Eff. July 1, 2007; May 1, 1989.

21 NCAC 38 .0303 LIMITED PERMITS

An applicant for a limited permit must have completed the course work and field work experience requirement of the license for which the applicant applies, must have made application to take the certification exam administered by the National Board for Certification in Occupational Therapy (NBCOT) and must have filed an application with the Board in accordance with G.S. 90-270.70 and the rules in this Chapter. A limited permit shall not be issued until the Board has received the verification of supervision form. This Rule expires October 1, 2007.

History Note: Authority G.S. 90-270.69(4); 90-270.74;
Eff. July 1, 1985;
Amended Eff. July 1, 2007; May 1, 1989; May 1, 1987.

21 NCAC 38 .0304 GROUNDS FOR LICENSE DENIAL OR DISCIPLINE

(a) In addition to the conduct set forth in G.S. 90-270.76, the Board may deny, suspend, or revoke a license, or impose probationary conditions on a license, upon any of the following grounds:

- (1) writing a check given to the Board in payment of required fees which is returned unpaid;
- (2) allowing an unlicensed occupational therapist or occupational therapy assistant to practice under the licensee's supervision or control;
- (3) making any false statement or giving any false information in connection with an application for a license or renewal of a license or any

investigation by the Board or the Board's designee;

- (4) committing a crime the circumstances of which relate to the occupational therapy profession;
- (5) violating any federal or state statute or rule which relates to the occupational therapy profession;
- (6) practicing occupational therapy while the licensee's ability to practice was impaired by alcohol or other drugs or a physical or mental disability or disease;
- (7) engaging in sexual misconduct. For the purposes of this Paragraph, sexual misconduct includes:
 - (A) Engaging in or soliciting sexual relationships, whether consensual or non-consensual, while an Occupational Therapist or Occupational Therapy Assistant/patient relationship exists with that person;
 - (B) Making sexual advances, requesting sexual favors or engaging in physical contact of a sexual nature with patients or clients;
- (8) obtaining or attempting to obtain payment by fraud or deceit;
- (9) violating any Order of the Board;
- (10) failing to properly make the disclosures required by 21 NCAC 38 .0305;
- (11) abandoning or neglecting a patient or client under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care.

(b) A licensee has been incompetent in practice under G.S. 90-270.76(a)(5) if the licensee has engaged in conduct which evidences a lack of ability, fitness or knowledge to apply principles or skills of the profession of occupational therapy.

History Note: Authority G.S. 90-270.69(4); 90-270.76;
Eff. July 1, 1985;
Amended Eff. July 1, 2007; May 1, 1989.

21 NCAC 38 .0305 CONTINUING DUTY TO REPORT CERTAIN CRIMES AND CIVIL SUITS

All occupational therapists, occupational therapy assistants and limited permittees are under a continuing duty to report to the Board within 30 days all:

- (1) convictions of, or pleas of guilty or no contest to, a felony or any crime, such as fraud, that involves moral turpitude; and
- (2) involvements in a civil suit arising out of or related to a licensee's practice of occupational therapy.

History Note: Authority G.S. 90-270.69(2),(4);
Eff. July 1, 1985;
Amended Eff. July 1, 2007; May 1, 1989.

21 NCAC 38 .0401 CHANGE OF ADDRESS OR BUSINESS NAME

All licensees shall notify the Board in writing of each change of name, residence, trade name, business address, or mailing address, within ten days of such change.

*History Note: Authority G.S. 90-270.69(2),(4);
Eff. July 1, 1985;
Amended Eff. July 1, 2007; May 1, 1989.*

21 NCAC 38 .0402 ADVERTISING

In all advertisements relating to occupational therapy, the occupational therapist's or occupational therapy assistant's name and license number shall be given. A licensee may not advertise under a name that is different from the licensee's surname unless written notice has been filed with the Board. The licensee shall notify the Board of all certificates of assumed name filed with any county register of deeds in compliance with G.S. 66-68.

*History Note: Authority G.S. 90-270.69(4);
Eff. July 1, 1985;
Amended Eff. July 1, 2007; May 1, 1989.*

21 NCAC 38 .0502 PROCEDURE FOR ADOPTION OF RULES

- (a) General. The procedure for the adoption, amendment or repeal of a rule is governed by G.S. 150B.
- (b) Notice of Rule-Making. Any person who wishes to receive individual notice shall file a written request with the Board and shall be responsible for the cost of mailing said notice.
- (c) Public Hearing. Any public rule-making hearing required by G.S. 150B shall be conducted by the Chairman of the Board or by any person he may designate. The presiding officer shall have complete control of the hearing and shall conduct the hearing so as to provide a reasonable opportunity for any interested person to present views, data and comments. Oral presentations shall not exceed 15 minutes. Written presentations shall be acknowledged by the presiding officer and shall be given the same consideration as oral presentations.

*History Note: Authority G.S. 150B-21.2;
Eff. May 1, 1989;
Amended Eff. July, 1, 2007.*

21 NCAC 38 .0701 AUTHORITY AND DEFINITIONS

As used in this Section:

- (1) "Administrator" means the administrator of the North Carolina Board of Occupational Therapy.
- (2) "Board" means the North Carolina Board of Occupational Therapy.
- (3) "Legal Counsel" means the legal counsel to the North Carolina Board of Occupational Therapy.
- (4) "Licensee" means any individual who is duly licensed to practice occupational therapy in

North Carolina as an occupational therapist or occupational therapy assistant.

- (5) "Occupational therapy related services" means those activities through which occupational therapy, as defined in G.S. 90-270.67(4), is practiced.
- (6) "Professional Corporation" means professional corporations organized for the purpose of providing occupational therapy related services in North Carolina.

*History Note: Authority G.S. 55B-2; 55B-12; 90-270.69(4);
Eff. February 1, 1994;
Amended Eff. July 1, 2007.*

21 NCAC 38 .0702 PREREQUISITES FOR INCORPORATION

The following requirements must be met in order to incorporate:

- (1) The incorporator, whether one or more, of a professional corporation shall be licensed to practice occupational therapy in North Carolina as an occupational therapist.
- (2) Before the filing of the articles of incorporation with the Secretary of State, the incorporators shall file with the administrator of the Board a copy of the original articles of incorporation, together with a registration fee of fifty dollars (\$50.00).
- (3) The copy of the articles of incorporation shall be accompanied by an application to the Board (Corp. Form 01) certified by all incorporators, setting forth the names, addresses and N.C. license numbers of each shareholder of the corporation who will be practicing occupational therapy for the corporation.
- (4) Included with the articles of incorporation shall be a statement that all such persons are licensed to practice occupational therapy in North Carolina as occupational therapists, and stating that the corporation will be conducted in compliance with the Professional Corporation Act and the rules of this Section.
- (5) If the articles are changed in any manner before being filed with the Secretary of State, they shall be resubmitted to the administrator of the Board and shall not be filed until approved by the administrator of the Board.

*History Note: Authority G.S. 55B-4; 55B-10; 90-270.69(4);
Eff. February 1, 1994;
Amended Eff. July 1, 2007.*

21 NCAC 38 .0703 CERTIFICATE OF REGISTRATION

The Certificate of Registration shall be issued as follows:

- (1) The legal counsel or administrator shall issue a Certificate of Registration (Corp. Form 02) for the professional corporation to become effective only when the professional

corporation files the articles of incorporation with the Secretary of State and if:

- (a) the legal counsel or administrator of the Board finds that no disciplinary action is pending before the Board against any of the licensed incorporators or persons who will be directors, officers, or shareholders of such corporation; and
 - (b) it appears to the legal counsel or administrator that such corporation will be conducted in compliance with the law and rules.
- (2) The proposed original articles of incorporation, and the Certificate of Registration, shall be returned to the incorporators for filing with the Secretary of State. The copy of the articles and a copy of the certification shall be retained in the administrative offices of the Board. If the required findings cannot be made, the registration fee shall be refunded to the incorporators.
 - (3) The initial Certificate of Registration shall remain in effect until June 30 of the year in which it was issued unless suspended or terminated as provided by law. The Certificate of Registration shall be renewed annually thereafter.
 - (4) Prior to the date of expiration of the certificate, the corporation shall submit its written application for renewal upon a form as provided by the Board. The application shall be accompanied by check in the amount of twenty-five dollars (\$25.00) in payment of the renewal fee. The Board shall renew the certificate provided that the Board finds that the corporation has followed the law and the rules of the Board.
 - (5) If the corporation does not apply for renewal of its Certificate of Registration within 30 days after the date of its expiration, the Certificate of Registration shall be automatically suspended. Upon suspension of the Certificate of Registration, the legal counsel or the administrator of the Board shall notify the Secretary of State in writing.
 - (6) The Certificate of Registration may be reinstated within the fiscal year upon payment of the renewal fee plus a late renewal fee of ten (\$10.00), if such corporation is then otherwise qualified and entitled to a renewal of its Certificate of Registration.

History Note: Authority G.S. 55B-10; 55B-11; 55B-12; 90-270.69(4);
Eff. February 1, 1994;
Amended Eff. July 1, 2007.

21 NCAC 38 .0704 GENERAL AND ADMINISTRATIVE PROVISIONS

- (a) If the legal counsel or administrator shall decline to issue a Certificate of Registration required by 21 NCAC 38 .0703(1), or decline to renew the same when requested, or shall refuse to take any other action required of him/her in writing by a professional corporation, the aggrieved party may request, in writing, a review of such action by the Board, and the Board shall provide a formal hearing for such aggrieved party before a majority of the Board.
- (b) All amendments to charters of professional corporations, all merger and consolidation agreements to which a professional corporation is a party, and all dissolution proceedings and similar changes in the corporate structure of a professional corporation shall be filed with the legal counsel or administrator of the Board for approval before being filed with the Secretary of State.
- (c) The legal counsel or administrator may issue the certificate (Corp. Form 04) required by G.S. 55B-6 when stock is transferred in a professional corporation, and such certificate shall be permanently attached to the stub of the transferee's certificate in the stock book of the professional corporation.

History Note: Authority G.S. 55B-6; 90-270.69(4);
Eff. February 1, 1994;
Amended Eff. July 1, 2007.

21 NCAC 38 .0802 CONTINUING COMPETENCE REQUIREMENTS FOR LICENSURE

- (a) Effective for the renewal period July 1, 2008 through June 30, 2009 and each renewal thereafter, licensed occupational therapists and occupation therapy assistants applying for license renewal shall document having earned a minimum of 15 points for approved continuing competence activities between June 1 of the preceding licensure period and May 31 of the current licensure period.
- (b) Every two years all licensees shall document completion of at least one contact hour of an ethics course related to the practice of occupational therapy, which shall be included in the total points for the year.
- (c) Continuing competence contact hours exceeding the total needed for renewal shall not be carried forward to the next renewal period.
- (d) Continuing competence activities shall not include new employee orientation or annual training required by the employer.
- (e) Licensees shall not receive credit for the same continuing competence activity more than once during a renewal period.

History Note: Authority G.S. 90-270.69; 90-270.75(a);
Eff. July 1, 2007.

21 NCAC 38 .0803 APPROVAL OF ACTIVITIES FOR MAINTAINING CONTINUING COMPETENCE

- (a) Provided that the activities are consistent with the provisions of rules in this Section, the Board shall grant pre-approval to:
 - (1) Continuing competence activities sponsored or approved by the North Carolina Occupational Therapy Association,

- (2) Continuing competence activities sponsored or approved by the American Occupational Therapy Association,
- (3) Continuing competence activities sponsored by AOTA approved providers.

(b) A provider who wishes to obtain Board approval of activities for maintaining continuing competence, consistent with Rule .0804 of this Section, shall submit to the Board, at least 90 days in advance of the program, the following:

- (1) course description;
- (2) learning outcomes;
- (3) target audience;
- (4) content focus;
- (5) agenda for the activity;
- (6) amount of contact hours;
- (7) qualifications for the presenter(s);
- (8) sample documentation for demonstrating satisfactory completion by course participants such as certificate of completion.

(c) Upon review of the completed application, the Board shall notify the provider as to whether or not the program has been approved.

(d) A provider of a continuing competence activity shall furnish documentation for demonstrating completion to all participants, specifying the following information:

- (1) name of the participant;
- (2) name of the provider;
- (3) dates of the activity and completion;
- (4) title and location of the activity;
- (5) number of contact hours; and
- (6) signature of the provider or representative.

History Note: Authority G.S. 90-270.69; 90-270.75(a);
Eff. July 1, 2007.

21 NCAC 38 .0804 SCOPE OF QUALIFIED ACTIVITIES FOR MAINTAINING CONTINUING COMPETENCE

(a) To be approved by the Board, activities must be related to roles and responsibilities in occupational therapy and must serve to protect the public by enhancing the licensee's continuing competence.

(b) Subject matter for approved activities include research; theoretical or practical content related to the practice of occupational therapy; or the development, administration, supervision, and teaching of clinical practice or service delivery programs by occupational therapists or occupational therapy assistants.

History Note: Authority G.S. 90-270.69; 90-270.75(a);
Eff. July 1, 2007.

21 NCAC 38 .0806 WAIVER OF REQUIREMENTS

The Board shall waive all or part of the continuing competence activity requirements of this Section if an occupational therapist or occupational therapy assistant submits written request for a waiver and provides evidence to the satisfaction of the Board of an illness, injury, financial hardship, family hardship, or other similar extenuating circumstance which precluded the

individual's completion of the requirements. The Board shall add the unfulfilled continuing competence hours to the following year's requirements.

History Note: Authority G.S. 90-270.69; 90-270.75(a);
Eff. July 1, 2007.

21 NCAC 38 .0807 DOCUMENTATION/REPORTING PROCEDURES

(a) Licensees shall maintain the required proof of completion for each continuing competence activity as specified in the rules of this Section. The required documentation shall be retained by the licensee for two years following the last day of the license renewal period for which the continuing competence activities were earned.

(b) Licensees shall not send their continuing competence activity documentation to the Board unless audited or otherwise requested by the Board.

History Note: Authority G.S. 90-270.69; 90-270.75(a);
Eff. July 1, 2007.

21 NCAC 38 .0808 AUDIT OF CONTINUING COMPETENCE ACTIVITIES

(a) The Board shall perform a random audit of licensees' continuing competence activity requirements at least once during each licensing period.

(b) A licensee who is audited shall provide proof of completion of the continuing competency activities.

(c) A licensee who fails to comply with the continuing competence activity requirements of this Section shall be subject to disciplinary action that may include suspension or revocation of license.

History Note: Authority G.S. 90-270.69; 90-270.75(a);
Eff. July 1, 2007.

21 NCAC 38 .0901 NOTIFICATION OF SUPERVISION CHANGE

Occupational therapy assistants and supervising occupational therapists must notify the Board office in writing of any change in ceasing or assuming supervision. The occupational therapist is responsible for supervision of the occupational therapy assistant until official notice that supervision has ceased is received at the Board office. Failure to notify the Board may subject both the occupational therapist and occupational therapy assistant to disciplinary action. Notices must be signed. Telephone or email notices shall not be accepted.

History Note: Authority G.S. 90-270.69;
Eff. July 1, 2007.

21 NCAC 38 .0902 SUPERVISION IS AN INTERACTIVE PROCESS.

The occupational therapist and the occupational therapy assistant are each responsible for supervision to ensure safe and effective service delivery of occupational therapy services and to foster professional competence and development. The supervising occupational therapist shall provide supervision. The

occupational therapy assistant shall obtain supervision. Evidence of supervision must be recorded on a supervisory log or in the documentation.

*History Note: Authority G.S. 90-270.69;
Eff. July 1, 2007.*

21 NCAC 38 .0903 TYPES OF SUPERVISION

Occupational therapy assistants at all levels require supervision by an occupational therapist. The specific frequency, methods, and content of supervision may vary by practice setting and are dependent on the complexity of client needs, number and diversity of clients, demonstrated service competency of the occupational therapist and the occupational therapy assistant, type of practice setting, requirements of the practice setting, and other regulatory requirements. Based on this the following apply:

- (1) Occupational therapy assistants with less than one year experience and occupational therapy assistants new to a particular practice setting require close supervision;
- (2) Occupational therapy assistants with more than one year of experience require general supervision; and
- (3) Supervision that is more frequent than the minimum level required by the practice setting or regulatory agencies is necessary when the needs of the client and the occupational therapy process are complex and changing, the practice setting provides occupational therapy services to a large number of clients with diverse needs, or the occupational therapist and occupational therapy assistant determine that additional supervision is necessary to ensure safe and effective delivery of occupational therapy services.

*History Note: Authority G.S. 90-270.69;
Eff. July 1, 2007.*

21 NCAC 38 .0904 DOCUMENTATION OF SUPERVISION

- (a) Documentation of supervision is the responsibility of both the occupational therapist and occupational therapy assistant. Documentation must include the frequency of supervisory contact, method(s) or type(s) of supervision, content areas addressed, and names and credentials of the persons participating in the supervisory process.
- (b) Supervision must reflect a review of all aspects of the occupational therapy assistant's practice. In any situation, the occupational therapist is ultimately responsible for all delegated services. Co-signature on occupational therapy service documentation, even if mandated by statute or rule, does not accurately satisfy supervision requirements.
- (c) Effectiveness of the supervision shall be regularly evaluated by both the occupational therapist and the occupational therapy assistant.

History Note: Authority G.S. 90-270.69;

Eff. July 1, 2007.

21 NCAC 38 .1002 SUPERVISION OF LIMITED PERMITTEE

The supervising occupational therapist must guide, direct and supervise the limited permittee. In turn the limited permittee must obtain supervision. All limited permittees require close supervision, which requires direct, daily contact at the service delivery site (where intervention is provided) with the supervising occupational therapy practitioner. When a limited permittee carries out a task with a client, the occupational therapy practitioner must be available for immediate physical intervention within the service delivery site. If this type of supervision is not available to the limited permittee, occupational therapy services must be discontinued.

*History Note: Authority G.S. 90-270.69;
Eff. July 1, 2007.*

21 NCAC 38 .1003 SERVICE COMPETENCY OF LIMITED PERMITTEE

The supervising occupational therapist must determine the service competency of the limited permittee in the delivery of occupational therapy services. The limited permittee may supervise only unlicensed personnel or volunteers at the limited permittee's service delivery site. The limited permittee shall not supervise another limited permittee, a student, or licensed occupational therapy practitioners.

*History Note: Authority G.S. 90-270.69;
Eff. July 1, 2007.*

21 NCAC 38 .1004 SIGNATURE OF LIMITED PERMITTEE

- (a) The limited permittee must use the professional designation of OT/LP or OTA/LP when signing clinical documentation.
- (b) Documentation produced by the limited permittee must be co-signed by the supervising occupational therapist.

*History Note: Authority G.S. 90-270.69;
Eff. July 1, 2007.*

21 NCAC 38 .1005 BOARD NOTIFICATION

- (a) The occupational therapist who supervises a limited permittee must notify the Board office when assuming, changing or ceasing such supervision. Should the occupational therapist cease supervising the limited permittee, the occupational therapist shall be responsible for that supervision until official notice is received at the Board office. Failure to notify the Board may result in disciplinary action. Notice to the Board must be in writing and signed by the occupational therapist. Telephone or email notice shall not be accepted.
- (b) The limited permittee must notify the Board office within ten days of any change in occupational therapist supervision. Failure to notify the Board may result in disciplinary action. Notice to the Board must be in writing and signed by the limited permittee. Telephone or email notice shall not be accepted.

History Note: Authority G.S. 90-270.69;

Eff. July 1, 2007.

21 NCAC 38 .1101 RESPONSIBILITY OF THE OCCUPATIONAL THERAPY PRACTITIONER

(a) The occupational therapy practitioner is responsible for the quality of all occupational therapy services provided to the client by persons under the practitioner's supervision. It is the occupational therapy practitioner who provides skilled occupational therapy services through the exercise of professional judgment.

(b) The occupational therapy practitioner shall provide and review these Rules with each unlicensed person under the practitioner's supervision.

*History Note: Authority G.S. 90-270-69;
Eff. July 1, 2007.*

21 NCAC 38 .1102 DELEGATION OF DUTIES TO UNLICENSED PERSONNEL

(a) Unlicensed personnel do not provide skilled occupational therapy services. Unlicensed Personnel are trained by an occupational therapist or occupational therapy assistant to perform specifically delegated tasks. The occupational therapist is responsible for the overall use and actions of the unlicensed personnel. Unlicensed personnel first must demonstrate competency to be able to perform the assigned, delegated client and non-client related tasks.

(b) The occupational therapist must oversee the development, documentation, and implementation of a plan to supervise and routinely assess the ability of the unlicensed personnel to carry out client and non-client related tasks. The occupational therapy assistant may contribute to the development and documentation of this plan.

(c) The occupational therapy assistant may supervise unlicensed personnel.

(d) Non-client related tasks include clerical and maintenance activities and preparation of the work area or equipment.

(e) Client-related tasks are routine tasks during which the unlicensed personnel may interact with the client but does not provide skilled occupational therapy services. The following factors must be present when an occupational therapist or

occupational therapy assistant delegates a selected client-related task to the unlicensed personnel;

- (1) The outcome anticipated for the delegated task is predictable;
- (2) The situation of the client and environment is stable and will not require the judgment interpretation, or adaptations be made by the unlicensed personnel;
- (3) The client has demonstrated some previous performance ability in executing the task; and
- (4) The task routine and process have been established.

(f) When performing delegated client-related tasks the supervisor must ensure that the unlicensed personnel;

- (1) is trained and able to demonstrate competency in carrying out the selected task and using equipment, if appropriate;
- (2) has been instructed on how to specifically carry out the delegated task with the specific client, and
- (3) knows the precautions, signs and symptoms for the particular client that would indicated the need to seek assistance for the occupational therapist or occupational therapy assistant.

(g) The supervision of the unlicensed personnel must be documented and include;

- (1) information about frequency and methods of supervision used;
- (2) the content of supervision; and
- (3) the names and credentials of all persons participating in the supervisory process.

(h) Occupational therapy practitioners shall not allow employer or work place pressures to result in the prohibited use of unlicensed personnel.

(i) Services provided by unlicensed personnel may not be billed, charged, or identified as "occupational therapy."

*History Note: Authority G.S. 90-270-69;
Eff. July 1, 2007.*

This Section contains information for the meeting of the Rules Review Commission on Thursday May 17, 2007 & June 28, 2007, 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

June 28, 2007	July 26, 2007
August 23, 2007	September 20, 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
MAY 17, 2007
MINUTES**

The Rules Review Commission met on Thursday, May 17, 2007, in the Assembly Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. Commissioners present were: Jim Funderburk, Jeff Gray, Thomas Hilliard, John Lewis, Robert Saunders, Mary Shuping, David Twiddy, John Tart, and Judson Welborn.

Staff members present were: Joseph DeLuca, Staff Counsel; Lisa Johnson and Barbara Townsend, Administrative Assistants.

The following people attended the meeting:

Andy Wilson	Division of Medical Assistance
Susan Ryan	Division of Medical Assistance
Sheila Green	Department of Administration
Gretchen Aycock	Department of Administration
Stefanie Kuzdrall	NC Board of Cosmetic Art
Denise Bentley	DENR
Larry Michael	DENR
Peggy Oliver	Office of State Personnel
Jackie Copeland	Crossroads Behavioral Healthcare
Harry Wilson	Board of Education
Elizabeth Colcord	Department of Revenue
Ellie Sprenkel	Department of Insurance
Debbie Walker	Department of Insurance
Tony Riddick	Department of Insurance
Jan Andrews	Department of Insurance
Donna Smith	Department of Justice
Julie Edwards	OAH
Felicia Williams	OAH

Dana Sholes	OAH
Molly Masich	OAH
Julian Mann	OAH
Bonnie Woodruff	Private Citizen
Barry Gupton	Building Code Council
Mickey Sauls	Department of Administration
Nancy Pate	DENR

APPROVAL OF MINUTES

The meeting was called to order at 10:21 a.m. at the conclusion of the public hearing concerning the RRC's rules, policies, and procedures with Vice Chairman Funderburk presiding. He reminded the Commission that all members have a duty to avoid conflicts of interest and the appearances of conflicts as required by NCGS 138A-15(e). Vice Chairman Funderburk asked for any discussion, comments, or corrections concerning the minutes of the April 19, 2007 meeting. The minutes were approved as written. Commissioner Jennie Hayman arrived during the meeting.

FOLLOW-UP MATTERS

10A NCAC 21B .0314: DHHS/Medical Assistance (Temporary Rule) – No action was taken.

12 NCAC 11 .0105: Alarm Systems Licensing Board – No action was taken. It is anticipated that the objection to this rule will be considered at the next meeting of the Board.

15A NCAC 10G .0403; .0405: Wildlife Resources Commission – The Commission approved the rewritten rules submitted by the agency.

15A NCAC 18A .3611; .3629: Commission for Health Services – The Commission approved the rewritten rules submitted by the agency. Commissioner Gray recused himself and did not participate in any discussion or vote concerning these rules because he was recently asked to serve on the Board of Trustees of Camp Albemarle.

21 NCAC 14H .0105: Board of Cosmetic Art Examiners – The Commission approved the rewritten rule submitted by the agency.

21 NCAC 14N .0115: Board of Cosmetic Art Examiners – The Commission approved the rewritten rule submitted by the agency.

21 NCAC 28 .0304: Landscape Contractor Registration Board – No response was received from the agency since their board does not meet until June and no action was taken.

21 NCAC 38 .0101; .0201; .0302; .0801; .0805; .0905; .1001: Board of Occupational Therapy – The Commission approved the rewritten rules submitted by the agency.

23 NCAC 2E .0204: Board of Community Colleges – No action was taken. It is anticipated that the objection to this rule will be considered at the next meeting of the Board.

23 NCAC 3A .0113: Board of Community Colleges - No action was taken. The agency intends to make the technical corrections requested for the April meeting, but needs additional time to complete them and review their other rules in light of the changes.

25 NCAC 01C .0216; .0405; .0407: State Personnel Commission – The Commission approved rewritten rules .0216 and .0405 submitted by the agency contingent upon receiving a technical change.

LOG OF FILINGS

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

1 NCAC 43A .0102: Department of Administration – The Commission objected to the rule due to ambiguity. In (3) it is not clear who constitutes a member of the state employee's "immediate family." The definition states that it "includes spouse or children/stepchildren." Because of this language it certainly allows and implies that other family members may also be included. However the definition does not either include or exclude other possible members of an employee's immediate family such as grandparents, grandchildren, or siblings. Since the violation of a provision such as this, or even an accusation of a violation, could be quite serious, the definition of "immediate family member" must be clear.

1 NCAC 43A .0301: Department of Administration – The Commission objected to the rule due to lack of statutory authority. To the extent that “the method of transfer, sale, or disposal” of state owned surplus property meets the definition of a rule or rules, there is no authority to set these outside rulemaking. In G.S. 143-64.04(a) the secretary has been given the authority to delegate the secretary’s “power and authority” for the effective administration of this statute. In (b) the secretary is given rulemaking authority. Assuming for the sake of argument (but without conceding the argument) that the delegation carries with it the rulemaking authority of the secretary, that does not create any right to make rules without going through the rulemaking process.

1 NCAC 43A .0304: Department of Administration – The Commission objected to the rule due to lack of statutory authority and ambiguity. There are three different provisions in (c) where the State Surplus Property Agency has decision making authority. There are no clear standards set out on which the agency will make any of those decisions. There is no authority to set those standards outside rulemaking. The first is in lines 14-16 where the SSPA “reserves the right” to take property back and dispose of the property itself. The standard “when the property becomes unusable” is clear enough. What is not clear is the standards used to determine whether or not the SSPA will act and “recapture” the property. In line 16 where the agency may act to recapture property and dispose of the property under “normal disposal guidelines,” it is unclear what these guidelines are or where they are found. It also would seem that these rules themselves would constitute “normal disposal guidelines” and that one would not have to look outside these rules for the “normal” guidelines. There is no authority to set them outside rulemaking. In the last sentence, it is unclear what standards the agency will use to “approve disposal” of transferred property held less than 12 months.

1 NCAC 43A .0306: Department of Administration – The Commission objected to the rule due to ambiguity. In the second sentence, lines 6 and 7, it is not clear who constitutes a member of the state employee’s “immediate family.” The definition in rule .0102(3) states that it “includes spouse or children/stepchildren.” Because of this language it certainly allows and implies that other family members may also be included. However the definition does not either include or exclude other possible members of an employee’s immediate family such as grandparents, grandchildren, or siblings. Since the violation of a provision such as this, or even an accusation of a violation, could be quite serious, the definition of “immediate family member” must be clear. In that same sentence, lines 6 and 7, it is unclear who are the state employees “charged with custody of state property for a state agency.” If it is any employee who works for a particular agency or division or section or other unit, then the phrase “charged with custody” is unnecessary. It would seem that based on that phrase that the prohibition applies to a smaller group within an agency, but it is not clear who those employees are.

1 NCAC 43A .0309: Department of Administration – The Commission objected to rule .0309 due to lack of statutory authority and ambiguity. In the last sentence there are no standards for determining which alternative the state property officer will use in determining the further outcome of a rejected bid. There is no authority to set those standards outside rulemaking.

Commissioner Twiddy recused himself and did not participate in any discussion or vote concerning the Department of Insurance rules because he is a licensed insurance agent and the company he works for owns insurance agencies.

17 NCAC 10 .0505: Department of Revenue – This rule was withdrawn by the agency.

17 NCAC 10 .0507: Department of Revenue – This rule was withdrawn by the agency.

21 NCAC 32B .1001: Medical Board – The Commission approved this rule contingent upon receiving a technical change. Commissioner Lewis recused himself and did not participate in any discussion or vote concerning this rule because he is a member of the N.C. Medical Board.

The meeting recessed for a short break at 11:16 a.m.

The meeting reconvened at 11.23 a.m.

21 NCAC 61 .0401: Respiratory Care Board – The Commission objected to the rule due to lack of statutory authority and ambiguity. In (a)(2), it is not clear what standards the Board will use in approving continuing education activities. There is no authority cited for setting those standards outside rulemaking. In (a)(3), it is not clear what standards the Board will use in approving a refresher course. There is no authority cited for setting those standards outside rulemaking. In (b), it is not clear what standards the Board will use in approving advanced practice continuing education. There is no authority cited for setting those standards outside rulemaking. It is also not clear if the requirements of this paragraph are in addition to the requirements in paragraph (a), or if they can serve as a partial fulfillment of Subparagraph (a)(2). It is also not clear in (b) and (d) what is meant by “advance practice Respiratory Care procedures.” There is no authority cited for the Board to set any approval standards for advanced practice, nor apparently any rules dealing with it. In (c), it is not clear how the Board will determine how many hours of continuing education credit to give a licensee who has completed a certification or recertification program. The Commission extended the period of review for (e). In (e), a copy of annual

skills evaluation required by the facility appears to have no relevance to any statute or rule enforced by the Board. There is therefore no authority for the Board to require a licensee to maintain them in a file at his or her practice facility.

903.2.1.2: Building Code Council – The Commission objected to the rule due to ambiguity. It is unclear what buildings or businesses are included within the definition of “nightclub” which is subject to the lower (existing) threshold for installing a sprinkler system. It is especially unclear as to how to distinguish a nightclub from a restaurant.

COMMISSION PROCEDURES AND OTHER BUSINESS

Mr. DeLuca requested that the July meeting date be moved so he could attend the NASS Conference. Mr. DeLuca explained that by moving the meeting to the following week there would be only 3 weeks between the two meetings and asked that the August meeting be changed as well. Several Commission members said they would not be available for the June meeting and asked that meeting be moved also. The following schedule was agreed upon: June 28, 2007; July 26, 2007 and August 23, 2007. The September and following meetings will be on the previously scheduled dates.

Staff is to work on drafting Rules Review Commission rules and have a proposal for Commissioners to review at the next meeting.

The meeting adjourned at 11:50 a.m.

The next scheduled meeting of the Commission is Thursday, June 28, 2007 at 10:00 a.m.

Respectfully submitted,
Lisa Johnson

LIST OF APPROVED PERMANENT RULES May 17, 2007 Meeting

ADMINISTRATION, DEPARTMENT OF

<u>Responsibility</u>	01 NCAC 05C .0101
<u>Organization</u>	01 NCAC 05C .0102
<u>Transfer of Sale</u>	01 NCAC 05C .0201
<u>Notification of Surplus</u>	01 NCAC 05C .0202
<u>Trade-In</u>	01 NCAC 05C .0203
<u>Order of Priority in Disposition</u>	01 NCAC 05C .0204
<u>Public Sale</u>	01 NCAC 05C .0205
<u>First-Come: First-Served</u>	01 NCAC 05C .0206
<u>Request for Bids on State Surplus Property</u>	01 NCAC 05C .0207
<u>Disposal By Other Means</u>	01 NCAC 05C .0208
<u>Rejection of Bids</u>	01 NCAC 05C .0209
<u>Receipt of Bids</u>	01 NCAC 05C .0210
<u>Execution of Bids</u>	01 NCAC 05C .0211
<u>Telefax Proposals (BIDS)</u>	01 NCAC 05C .0212
<u>Inspection of Property</u>	01 NCAC 05C .0213
<u>State Does Not Guarantee</u>	01 NCAC 05C .0214
<u>Deposits</u>	01 NCAC 05C .0215
<u>Failure to Pay</u>	01 NCAC 05C .0217
<u>Bond</u>	01 NCAC 05C .0218
<u>Demolition of State Buildings</u>	01 NCAC 05C .0219
<u>Timber Sales and Pinestraw Sales</u>	01 NCAC 05C .0220
<u>Surplus Weapons</u>	01 NCAC 05C .0221
<u>Payment</u>	01 NCAC 05C .0222
<u>Surplus Paper</u>	01 NCAC 05C .0223

<u>Request for Bids on Sale of Surplus State Property</u>	01 NCAC 05C .0301
<u>Invoice: State Surplus Property</u>	01 NCAC 05C .0305
<u>Scope</u>	01 NCAC 43A .0101
<u>Notification of Surplus</u>	01 NCAC 43A .0302
<u>Trade In</u>	01 NCAC 43A .0303
<u>Disposal By Executive Order</u>	01 NCAC 43A .0305
<u>Public Sale</u>	01 NCAC 43A .0307
<u>First-Come First-Served</u>	01 NCAC 43A .0308
<u>Receipt of Bids</u>	01 NCAC 43A .0310
<u>Inspection of Property</u>	01 NCAC 43A .0311
<u>State Does Note Guarantee</u>	01 NCAC 43A .0312
<u>Refunds</u>	01 NCAC 43A .0313
<u>Extension to Pay or Remove Property</u>	01 NCAC 43A .0314
<u>Failure to Pay or Remove Property</u>	01 NCAC 43A .0315
<u>Bond</u>	01 NCAC 43A .0316
<u>Demolition of State Buildings</u>	01 NCAC 43A .0317
<u>Timber Sales, Pinestraw, and Forest Commodities Sales</u>	01 NCAC 43A .0318
<u>Surplus Weapons and Firearms</u>	01 NCAC 43A .0319
<u>Payment</u>	01 NCAC 43A .0320

HHS - AGING AND ADULT SERVICES

<u>Scope of Housing and Home Improvement Service</u>	10A NCAC 06E .0101
<u>Definitions</u>	10A NCAC 06E .0102
<u>Target Eligible Population</u>	10A NCAC 06E .0103
<u>Service Delivery</u>	10A NCAC 06E .0202
<u>Purpose</u>	10A NCAC 06E .0301
<u>Definitions</u>	10A NCAC 06E .0302
<u>Service Populations</u>	10A NCAC 06E .0303
<u>Application for Services</u>	10A NCAC 06E .0304
<u>Service Provider responsibilities</u>	10A NCAC 06E .0401
<u>Prohibited Service Activities</u>	10A NCAC 06E .0402
<u>Request for Waiver</u>	10A NCAC 06E .0403

INSURANCE, DEPARTMENT OF

<u>Unsound Condition</u>	11 NCAC 11A .0102
<u>Definitions</u>	11 NCAC 11A .0502
<u>Adequacy of Surplus</u>	11 NCAC 11B .0223
<u>Accounting for Mortgage Guaranty Insurance</u>	11 NCAC 11C .0403
<u>Contingency Reserve: Mortgage Guaranty Insurance</u>	11 NCAC 11C .0404
<u>Report of Policyholders Position--Mortgage Guaranty Insurers</u>	11 NCAC 11C .0407
<u>Guaranty Capital Certificates: When Permitted</u>	11 NCAC 11D .0168

WILDLIFE RESOURCES COMMISSION

<u>Wildlife Service Agent Agreement</u>	15A NCAC 10G .0403
<u>Wildlife Service Agent Terms and Conditions</u>	15A NCAC 10G .0405

HEALTH SERVICES, COMMISSION FORSolid Wastes

15A NCAC 18A .3611

Cleaning of Equipment and Utensils

15A NCAC 18A .3629

EDUCATION, STATE BOARD OFAnnual Performance Standards

16 NCAC 06G .0312

REVENUE, DEPARTMENT OFEFT Definitions

17 NCAC 01C .0503

Methods of Electronic Funds Transfer

17 NCAC 01C .0508

Certification Requirements for County Assessors

17 NCAC 10 .0504

COSMETIC ART EXAMINERS, BOARD OFSanitary Ratings and Posting of Ratings

21 NCAC 14H .0105

Full Time and Part Time Equivalency

21 NCAC 14N .0115

MEDICAL BOARDAuthority to Prescribe

21 NCAC 32B .1001

OCCUPATIONAL THERAPY, BOARD OFPurpose

21 NCAC 38 .0101

Application Process

21 NCAC 38 .0201

License Renewal

21 NCAC 38 .0302

Continuing Competence Definitions

21 NCAC 38 .0801

Qualified Activities for Maintaining Continuing Competence

21 NCAC 38 .0805

Delineation of Clinical Responsibilities

21 NCAC 38 .0905

Limited Permit Defined

21 NCAC 38 .1001

STATE PERSONNEL COMMISSIONTemporary Employment Services

25 NCAC 01C .0216

Office of State Personnel Temporary Employment Service

25 NCAC 01C .0217

Temporary Appointment

25 NCAC 01C .0405

Temporary Part-time Appointment

25 NCAC 01C .0407

BUILDING CODE COUNCILShower Lining

417.5.2

AGENDA
RULES REVIEW COMMISSION
Thursday, June 28, 2007, 10:00 A.M.

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting

- III. Follow-Up Matters:
- A. Department of Administration – 1 NCAC 43A .0102; .0301; .0304; .0306; .0309 (DeLuca)
 - B. DHHS/Medical Assistance (Temporary Rule)– 10A NCAC 21B .0314 (Bryan)
 - C. Alarm Systems Licensing Board – 12 NCAC 11 .0105 (DeLuca)
 - D. Landscape Contractor Registration Board – 21 NCAC 28 .0304 (DeLuca)
 - E. Respiratory Care Board – 21 NCAC 61 .0401 (Bryan)
 - F. Board of Community Colleges – 23 NCAC 2E .0204 (DeLuca)
 - G. Board of Community Colleges – 23 NCAC 3A .0113 (DeLuca)
 - H. Building Code Council – 903.2.1.2 (DeLuca)
- IV. Review of Log of Permanent Rule filings for RRC review filed between April 21 and May 21, 2007 (attached)
- V. Review of Temporary Rules
- VI. Commission Business
- Next meeting: July 26, 2007
-

Commission Review
Log of Permanent Rule Filings
April 21, 2007 through May 21, 2007

SOCIAL SERVICES COMMISSION

The rules in Chapter 6 concern Aging: program operations.

The rules in Subchapter 6W concern state in-home services fund: Housing and home improvement services and include program requirements (.0100).

<u>Definitions</u>	10A NCAC 06W .0101
Repeal/*	
<u>Methods of Service</u>	10A NCAC 06W .0102
Repeal/*	
<u>Service Delivery</u>	10A NCAC 06W .0103
Repeal/*	
<u>Nature and Purpose</u>	10A NCAC 06W .0104
Adopt/*	
<u>Definitions</u>	10A NCAC 06W .0105
Adopt/*	
<u>Service Populations</u>	10A NCAC 06W .0106
Adopt/*	
<u>Application for Services</u>	10A NCAC 06W .0107
Adopt/*	
<u>Service provider Responsibilities</u>	10A NCAC 06W .0108
Adopt/*	
<u>Prohibited Activities</u>	10A NCAC 06W .0109
Adopt/*	
<u>Request for Waiver</u>	10A NCAC 06W .0110
Adopt/*	

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

The rules in Chapter 41 are Health and Epidemiology rules.

The rules in Subchapter 41B concern injury control including definitions (.0100); blood alcohol test regulations (.0200); breath alcohol test regulations (.0300); controlled drinking programs (.0400); and alcohol screening test devices (.0500).

Approved Alcohol Screening Test Devices; Calibration 10A NCAC 41B .0503
Amend/*

SOCIAL SERVICES COMMISSION

N/A

Housing and Home Improvement Service 10A NCAC 71R .0909
Amend/*

LABOR, DEPARTMENT OF

The rules in Chapter 15 pertain to elevators and amusement devices and include general provisions (.0100); various industry codes and standards (.0200); elevators and related equipment (.0300); amusement devices (.0400); penalties (.0500); forms (.0600); and fees (.0700).

Certificates of Operation 13 NCAC 15 .0306
Amend/*

Elevator Certificate of Operation Reinstatement Fee 13 NCAC 15 .0706
Adopt/*

ENVIRONMENTAL MANAGEMENT COMMISSION

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); clean air interstate rules (.2400); and mercury rules for electric generators (.2500).

Sulfur Dioxide Emissions From Combustion Sources 15A NCAC 02D .0516
Amend/*

Control of Nitrogen Dioxide and Nitrogen Oxides 15A NCAC 02D .0519
Amend/*

Control of Visible Emissions 15A NCAC 02D .0521
Amend/*

New Source Performance Standards 15A NCAC 02D .0524
Amend/*

Particulates from Fugitive Dust Emission Sources 15A NCAC 02D .0540
Amend/*

Definitions 15A NCAC 02D .0902
Amend/*

Compliance Schedules for Sources In Noncompliant Areas 15A NCAC 02D .0909
Amend/*

Certification of Leak Tightness 15A NCAC 02D .0960

Amend/*				
<u>Tailpipe Emission Standards for CO and HC</u>	15A	NCAC	02D	.1004
Repeal/*				
<u>Purpose and Scope</u>	15A	NCAC	02D	.1201
Amend/*				
<u>Definitions</u>	15A	NCAC	02D	.1202
Amend/*				
<u>Other Incinerators</u>	15A	NCAC	02D	.1208
Amend/*				
<u>Other Solid Waste Incineration Units</u>	15A	NCAC	02D	.1211
Adopt/*				
<u>Applicability</u>	15A	NCAC	02D	.1402
Amend/*				
<u>Compliance Schedules</u>	15A	NCAC	02D	.1403
Amend/*				
<u>Open Burning Purpose Scope</u>	15A	NCAC	02D	.1901
Amend/*				
<u>Definitions</u>	15A	NCAC	02D	.1902
Amend/*				
<u>Permissible Open Burning Without an Air Quality Permit</u>	15A	NCAC	02D	.1903
Amend/*				
<u>Air Curtain Burners</u>	15A	NCAC	02D	.1904
Amend/*				
<u>Multiple Violations Arising from a Single Episode</u>	15A	NCAC	02D	.1907
Adopt/*				
<u>Applicability and Eligibility</u>	15A	NCAC	02D	.2303
Amend/*				

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>Activities Exempted from Permit Requirements</u>	15A	NCAC	02Q	.0102
Amend/*				
<u>Annual Emissions Reporting</u>	15A	NCAC	02Q	.0207
Amend/*				
<u>Initial Permit Application Submittal</u>	15A	NCAC	02Q	.0506
Repeal/*				

MEDICAL BOARD

The rules in Chapter 32 are from the Board of Medical Examiners.

The rules in Subchapter 32B concern license to practice medicine including general (.0100); license by written examination (.0200); license by endorsement (.0300); temporary license by endorsement of credentials (.0400); resident's training license (.0500); special limited license (.0600); certificate of registration for visiting professors (.0700); medical school facility license (.0800); and special volunteer license (.0900).

<u>Examination Fee</u>	21	NCAC	32B	.0209
Amend/*				
<u>Graduate Medical Education and Training</u>	21	NCAC	32B	.0213
Amend/*				
<u>Fee</u>	21	NCAC	32B	.0308

<u>Fee</u>	21	NCAC	32B	.0506
Amend/*				
<u>ECFMG Certification</u>	21	NCAC	32B	.0507
Amend/*				

N/A

<u>Approved Categories of CME</u>	21	NCAC	32R	.0102
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); articles of organization (.0600); nurse licensure compact (.0700); and approval and practice parameters for nurse practitioners (.0800).

<u>Existing Nursing Program</u>	21	NCAC	36	.0303
Amend/*				
<u>Faculty</u>	21	NCAC	36	.0318
Amend/*				

STATE PERSONNEL COMMISSION

The rules in Subchapter 10 are rules dealing with the performance management system.

<u>Policy</u>	25	NCAC	01O	.0101
Amend/*				
<u>Purpose</u>	25	NCAC	01O	.0102
Adopt/*				
<u>Components of a Performance Management System</u>	25	NCAC	01O	.0103
Adopt/*				
<u>Rating Scale</u>	25	NCAC	01O	.0104
Adopt/*				
<u>Dispute Resolution</u>	25	NCAC	01O	.0105
Adopt/*				
<u>Monitoring, Evaluating, Reporting</u>	25	NCAC	01O	.0106
Adopt/*				
<u>Performance Management Process</u>	25	NCAC	01O	.0201
Repeal/*				
<u>Components of an Operative System</u>	25	NCAC	01O	.0202
Repeal/*				
<u>Relationship/Performance Management and Other Human Resou...</u>	25	NCAC	01O	.0203
Repeal/*				
<u>Responsibilities of the State Personnel Commission</u>	25	NCAC	01O	.0204
Repeal/*				
<u>Responsibilities of the Office of State Personnel</u>	25	NCAC	01O	.0205
Repeal/*				
<u>Responsibilities of Agencies</u>	25	NCAC	01O	.0206
Repeal/*				

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.
Selina Brooks
Melissa Owens Lassiter
Don Overby

Beecher R. Gray
A. B. Elkins II
Joe Webster

<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	
ABC Commission v. Millennium Productions, Inc	06 ABC 1012	Webster	03/22/07	
ABC Commission v. Carlos Salas, T/A Boom Boom Room Night Club	06 ABC 1262	Gray	01/04/07	
ABC Commission v. Kenneth A. Jones, T/A Ken One Stop	06 ABC 1368	Gray	12/04/06	
ABC Commission v. Nashwan Daan Saleh, T/A Circle B 3, 802 Bragg Blvd Fayetteville, NC 28301	06 ABC 1730	Lassiter	02/19/07	
<u>BOARD OF NURSING</u>				
Kenneth C. Johnson v. Board of Nursing	06 BON 1621	Overby	02/16/07	
<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	
Teresa M. Marley v. Crime Victims Compensation Commission	03 CPS 0185	Elkins	01/19/07	
Dantevius L. Bland v. Crime Victims Compensation Commission	06 CPS 0654	Elkins	11/15/06	
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	Elkins	09/06/06	
Danny Thoms v. Victim Compensation	06 CPS 1237	Overby	12/04/06	
James A. Hillman v. Crime Victims Compensation Commission	06 CPS 1339	Wade	12/08/06	
Jacqueline D. Dupree v. Crime Victims Compensation	06 CPS 1360	Overby	12/15/06	
Pervis R. Owens Sr v. OAH, Crime Victims Compensation Commission	06 CPS 1492	Morrison	09/28/06	
Brian Curlee v. Crime Victims Compensation Commission	06 CPS 1677	Wade	12/13/06	
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	
Clara Church v. Dept. of Agriculture and Consumer Services	06 DAG 1422	Wade	12/11/06	

CONTESTED CASE DECISIONS

DEPARTMENT OF CULTURAL RESOURCES

William H. Miller v. Cultural Resources, State Historic Preservation 05 DCR 0439 Mann 07/03/06

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Andrea Green, Parent, on behalf of her Miner Child, Andrew Price 01 DHR 2149 Gray 06/29/06

Charles N. Long v. DHHS, Wake County Human Services 02 DHR 0932 Lassiter 12/21/06
Michael Eugene Dalton v. DHHS, DFS 02 DHR 1456 Lassiter 10/06/06

Marquell's Enrichment Center for Edith James and Wilhelmenia
Bridges v. Div. Child Development Regulatory Services Section 02 DHR 1537 Gray 08/21/06

Annie Ruth Laws v. Caldwell County DSS 03 DHR 0824 Lassiter 01/29/07
Afusat Daodu v. DHHS, DFS 03 DHR 1489 Lassiter 12/08/06

Michael Eugene Dalton v. DHHS, DFS 04 DHR 0288 Lassiter 10/06/06
George Onebati NY Angena v. DHHS, DFS, Health Care Personnel Registry 04 DHR 0764 Wade 12/27/06
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

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 Internation, 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

Anthony Wayne Sando v. DHHS 05 DHR 0465 Gray 11/14/06

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

Patrick Francis Diamond v. DHHS 05 DHR 1356 Gray 12/14/06

County of Buncombe & NC Radiation Therapy Management Services, Inc.
d/b/a 21st Century Oncology v. DHHS, DFS, Certificate of Need Section, & Asheville Hematology and Oncology Associates, P.A. 05 DHR 1369 Gray 05/26/06

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

Kamaria Smith v. DHHS, DFS, Nurse Aid Registry 05 DHR 1547 Mann 12/22/06

LaBrenda Perry Bennett v. Health Care Personnel Registry 05 DHR 1579 Morrison 07/13/06

Carolina Kids Academy, Inc v. DHHS, Division of Child Development 05 DHR 1906 Morrison 11/03/06

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

Keith L. Mallory Jr., v. DHHS, DFS 06 DHR 0023 Wade 12/27/06

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

Helen A. Robinson, Administrator for New Life Early Childhood 06 DHR 0171 Wade 12/29/06

21:01 NCR 115

21:07 NCR 674

CONTESTED CASE DECISIONS

Development Center v. DHHS, Div. of Child Development			
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
Daisey Fish v. Dorthea Dix Hospital	06 DHR 0473	Morrison	08/02/06
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
Grace A. Wright v. Wake County Health and Human Services, Program Interg Program Dept.	06 DHR 0670	Wade	01/04/07
Abid Ali d/b/a Durham Food Mart v. DHHS, Division of Public Health, Women and Children's Health Section	06 DHR 0686	Morrison	12/15/06
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
Robert & Carolina Lane	06 DHR 0745	Overby	04/02/07
Full Potential, LLC v. DHHS	06 DHR 0781	Gray	07/21/06
Little Town Learning Center, Inc., By Angela Beacham v. DHHS, Div. of Public Health, Child and Adult Care Food Program	06 DHR 0786	Morrison	10/05/06
Alberta Denise Murphy v. DHHS and Registry	06 DHR 0788	Elkins	09/07/06
All Stars Group Home, LLC, Mary J. McDuffie v. DHHS	06 DHR 0790	Lassiter	02/27/06
Forsyth Memorial Hospital, Inc d/b/a Forsyth Medical Center and Community General Health Partners, Inc. d/b/a Thomasville Medical Center v. DHHS, DFS, CON and North Carolina Baptist Hospital Lexington Memorial Hospital, Inc. and Hight Point Regional Health System	06 DHR 0810	Mann	01/18/07
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
Barbara J. Younce v. DHHS, DFS	06 DHR 0927	Gray	12/05/06
Norman Lavel Bracey, Jr., v. Social Services (Medicaid)	06 DHR 0955	Gray	07/21/06
Kenyetta Shaw v. DMH/DD/SAS	06 DHR 0966	Elkins	01/23/07
Elaine Weidman v. DHHS, DFS, Health Care Personnel Registry	06 DHR 1032	Gray	10/25/06
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	06 DHR 1108	Gray	07/24/06

21:18 NCR 1632

CONTESTED CASE DECISIONS

Health, Chalid and Adult Care Food Program				
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	
Reno Judd/Noreen Currie v. DHHS	06 DHR 1183	Gray	10/26/06	
New Directions II, Tamara Perry v. DHHS, DFS, Mental Health Licensure & Certification Section	06 DHR 1199	Overby	11/22/06	
New Directions II Lane House, Tama Perry v. DHHS, DFS Mental Health Licensure & Certification Section	06 DHR 1200	Overby	11/22/06	
Beverly M. West v. DHHS	06 DHR 1238	Wade	09/26/06	
Hospice and Palliative Care Center of Alamance-Caswell, LLC v. DHHS, DFS, CON Section, Licensure and Certification Section and Community Home Care of Vance County, Inc. d/b/a Community Home Care and Hospice	06 DHR 1247	Elkins	12/15/06	
Hospice and Palliative Care Center of Alamance-Caswell, LLC v. DHHS DFS, Licensure and Certification Section, CON Section and Liberty Home Care, LLC	06 DHR 1248	Elkins	12/15/06	
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	
April Ivelisse Truitt v. DHHS	06 DHR 1288	Elkins	12/12/06	
Willie P. Little v. Medicaid	06 DHR 1315	Gray	11/09/06	
Debra Brown v. DHHS	06 DHR 1323	Gray	11/27/06	
Grandma's House Night Care, Shirley Brown v. Jeff Gaster, Dept. of Child Development	06 DHR 1331	Overby	11/27/06	
Mary Jane Rutledge v. NCOAH	06 DHR 1332	Gray	09/12/06	
Rebecca G Banks v. Dept. of Social Services, Crystal Jackson	06 DHR 1333	Overby	11/28/06	
Jamie Deyton for Crystal Cooper v. DHHS, Div. of MH/DD/SAS Customer Service Section	06 DHR 1357	Webster	12/15/06	
Scott Andrew Broadway v. DHHS (Medicaid)	06 DHR 1395	Gray	11/13/06	
Darlene Cogdill v. DMH/DD/SAS	06 DHR 1410	Overby	03/16/07	
Kyle Collier, a minor, by his mother and legal guardian, Orbie Etheridge v. DHHS	06 DHR 1412	Morrison	12/22/06	21:18 NCR 1643
Betty Betts v. Division of Medical Assistance	06 DHR 1449	Morrison	11/02/06	
Rita Perterson v. OAH	06 DHR 1456	Wade	12/13/06	
Phyllis Hale for daughter Haley Hale v. OAH	06 DHR 1467	Elkins	12/11/06	
Lots of Love Child Development Center v. DHHS	06 DHR 1471	Lassiter	12/15/06	
Rodney Winstead Jr v. DHHS	06 DHR 1475	Morrison	10/26/06	
Aunt Alice Daycare Center, Alice Camara v. DHHS, Nutrition Program	06 DHR 1490	Lassiter	10/13/06	
Mr. Timmy K Pless, Barry Moore, Advocate v. DHHS, Div. of Medical Assistance	06 DHR 1500	Wade	12/13/06	
LaShawn Hardy v. Health Care Personnel Registry	06 DHR 1501	Overby	01/04/07	
Elosie Strickland Bey v. DHHS	06 DHR 1521	Mann	03/20/07	
Tony and Dana Ledbetter v. DHHS	06 DHR 1523	Overby	02/13/07	21:21 NCR 1963
Connie Lee Yates v. DHHS	06 DHR 1558	Morrison	09/27/06	
Valyncia J. London v. DHHS	06 DHR 1601	Lassiter	11/13/06	
Kelly A. Schofield, M.D., v. DHHS, Mental Health Licensure and Certification	06 DHR 1602	Gray	02/21/07	
Rose Marie (Allala) Sevorwell v. Wake County & Johnston County, DHHS	06 DHR 1623	Gray	11/09/06	
Uniquely Supported, Inc, Shawn Kuhl (provide appropriate supervision)	06 DHR 1634	Lassiter	12/04/06	
Julian Jones v. EDS – Prior Approval	06 DHR 1679	Gray	12/20/06	
Natasha Renee McNeely v. Western Carolina Center, J Iverson Riddle Development Center	06 DHR 1682	Lassiter	10/31/06	
Tishea Talley v. Nurse Registry	06 DHR 1724	Overby	11/22/06	
Diane Jenkins-Mother/Gaurdian for Erzal Carl Johnson v. DHHS, Div. of Mental Health Developmental Disabilities and Substance Abuse	06 DHR 1784	Lassiter	01/24/07	
Linda Lea, Grace Manor v. Lincensure Section	06 DHR 1789	Lassiter	01/24/07	
Polley Clinic of Dermatology & Dermatological Surgery PA	06 DHR 1939	Gray	01/08/07	
Medical Mobility Center v. Div. of Medical Medicaid Program	06 DHR 2034	Gray	12/14/06	
Kim Michelle Sinclair, Kim Sinclair (Jasmine) v. DHHS	06 DHR 2117	Overby	01/11/07	
Shanon B. Kesler (mother), Cassie L. Kesler (daughter) v. Social Services	06 DHR 2170	Overby	01/25/07	
Teresa B. Morton, v. Santana T. Deberry and Drexdal Pratt, Chief of OEMS, Office of Emergency Medical Services	06 DHR 2180	Webster	02/08/07	
Martha's Home, Inc v. DHHS, DFS, Mental Health Licensure and Certification Section	06 DHR 2231	Webster	03/23/07	
Rev Rudolph Williams, Angela S. Williams v. DHHS, Div. of Child Develop.	06 DHR 2248	Overby	03/20/07	
Martha's Home, Inc v. DHHS, DFS, Mental Health Licensure and Certification Section	06 DHR 2284	Webster	03/23/07	
Emily Thompson, Drug America v. Medicaid/NCDHHS	06 DHR 2341	Gray	02/20/07	
Marijuana Fisher Ford v. DHHS, DFS	06 DHR 2358	Lassiter	02/20/07	
Charles Roseboro & BJ's Child Care Learning Center, Inc v. Division of Child Development, DHHS	07 DHR 0004	Lassiter	03/01/07	
Building Joy in Healthcare Patricia Hill v. DFS	07 DHR 0095	Elkins	04/05/07	
Moreya Smith v. DHHS, DFS	07 DHR 0219	Gray	03/27/07	

DEPARTMENT OF ADMINISTRATION

Corporate Express Office Products, Inc. v. NC Division of Purchase and	06 DOA 0112	Gray	05/17/06	21:01 NCR 163
--	-------------	------	----------	---------------

CONTESTED CASE DECISIONS

Contract, & Office Depot, Inc. Hershel Sarraf, Oro Avant, Inc. v. DOA, Div. of Purchase and Contract	06 DOA 0646	Wade	09/20/06	
DEPARTMENT OF CORRECTIONS				
Michael Eugene Hunt v. DOC	06 DOC 0498	Gray	06/20/06	
DEPARTMENT OF JUSTICE				
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	
Bobbie Jo Bullins v. Sheriffs' Education and Training Standards Comm.	06 DOJ 0071	Lassiter	12/13/06	
Todd Franklin Wyke v. DOJ, Company Police Program	06 DOJ 0146	Lassiter	09/15/06	
Scotty Eugene Robinson v. Sheriffs' Education and Training Standards Commission	06 DOJ 0200	Mann	12/08/06	
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 Commission	06 DOJ 0229	Gray	07/12/06	
Virble Leake, Jr. v. Private Protective Services Board	06 DOJ 0397	Morrison	10/05/06	
Jay Eduard Krueger v. Criminal Justice Education and Training Stds Comm.	06 DOJ 0578	Webster	03/22/07	
Jason Matthew Lish v. Criminal Justice Education and Training Standards Commission	06 DOJ 0579	Wade	09/12/06	
Matthew Vicente Saylor v. Criminal Justice Education and Training Standards Commission	06 DOJ 0597	Wade	12/27/06	
Christopher Brian Mingia v. Criminal Justice Education and Training Standards Commission	06 DOJ 0598	Wade	09/12/06	
Thomas M. Combs v. DOJ, Company Police Program	06 DOJ 0640	Elkins	10/16/06	
Russell Lee Weaver v. Criminal Justice Education and Training Standards Commission	06 DOJ 0662	Gray	01/03/07	
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. Williams 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	
Sean Thomas Roberts v. Sheriffs' Education and Training Standards Comm.	06 DOJ 1061	Elkins	11/30/06	
Jonathan Ray Manson v. Criminal Justice Education and Training Stds Commission	06 DOJ 1292	Webster	03/22/07	
William Eugene Lemke v. Sheriffs' Education and Training Standards Commission	06 DOJ 1293	Overby	11/28/06	
Amy Pearl King v. Sheriffs' Education and Training Standards Comm.	06 DOJ 1295	Lassiter	10/10/06	
Marcellus Moore v. Criminal Justice Education and Training Standards Commission	06 DOJ 1296	Mann	01/22/07	
Frankey Denese White v. Sheriffs' Education and Training Standards Commission	06 DOJ 1297	Gray	11/03/06	
John Robert Fedyszyn v. Alarm Systems Licensing Board	06 DOJ 1345	Wade	12/27/06	
Jerry Lynn Cheek v. Sheriffs' Education and Training Standards Comm.	06 DOJ 1496	Elkins	12/11/06	
Quintin G. Burnett v. Criminal Justice Education and Training Standards Commission	06 DOJ 1646	Gray	12/20/06	
Michael Abbot Copeland v. Sheriffs' Education and Training Standards Commission	06 DOJ 1742	Gray	02/05/07	
James Phillip Daniel v. Sheriffs' Education and Training Standards Comm.	06 DOJ 1743	Gray	01/08/07	
Ronnie Lee Blount v. Criminal Justice Education and Training Standards Commission	06 DOJ 1749	Gray	01/18/07	
Annette Lassiter Joyner v. Sheriffs' Education and Training Standards Commission	06 DOJ 1750	Gray	01/08/07	
Joshua Michael Richardson v. Sheriffs' Education and Training Standards Commission	06 DOJ 1788	Gray	01/08/07	
Katrina Moore Bowden v. Sheriffs' Education and Training Standards Commission	06 DOJ 1919	Gray	01/18/07	
DEPARTMENT OF STATE TREASURER				
Phyllis Dianne Smith v. Department of State Treasurer Retirement Systems	05 DST 1378	Wade	12/27/06	

CONTESTED CASE DECISIONS

Division			
Percy E. Myers v. Retirement Systems Division, LGERS,	06 DST 0048	Chess	05/31/06
Larry D. Beck v. Local Governmental Employees' Retirement System, a Corporation, et al	06 DST 0366	Overby	01/03/07
Mary B. Spencer v. State Treasurer, Retirement Systems Division	06 DST 0534	Chess	11/09/06
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
Robin C. Fish v. Department of Treasurer Retirement Systems Division	06 DST 1353	Overby	01/11/07
<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
Charlie L. Richardson v. Department of Public Instruction Licensure Section	06 EDC 1131	Gray	11/03/06
Brenda H. Cox v. Center for Recruitment & Retention National Board for Professional Teaching Standards, Dept. of Public Instruction	06 EDC 1546	Elkins	12/11/06
Catherine (Cathy) Rush v. State Board of Education, Dept. of Public Instruction	06 EDC 1622	Gray	11/09/06
Melissa Thomas v. State Board of Education	06 EDC 1667	Gray	01/29/07
Katrina Walker v. DPI	06 EDC 1804	Gray	01/29/07
Jeffrey Wayne McClain v. Wake Co. Public School System	06 EDC 2042	Elkins	01/05/07
James Aaron Swafford v. DPI	06 EDC 2175	Elkins	01/17/07
Wendy Holloway v. State Board of Education	07 EDC 0048	Gray	02/22/07
<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
Waterkeeper Alliance, et al., and Richard Dove v. DENR, Division of Water Quality, Murphy-Brown, LLC, Brown's of Carolina, LLC, Carroll's Foods, LLC, and Murphy Farms, LLC, North Carolina Pork Council, Inc, NC Poultry Federation, Inc	02 EHR 1353	Gray	01/30/07
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
Coastland Corporation, James E. Johnson, Jr., Pres v. Pamlico County Health Department, Environmental Health	04 EHR 0842	Lassiter	10/31/06
Partners Recycling, Inc v. DENR	04 EHR 1503	Wade	12/15/06
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
William P. Ferris v. DENR, Division of Coastal Management	06 EHR 0908	Gray	02/22/07
William & Valerie Brodie v. DENR/Division of Coastal Management and Town of Carolina Beach	06 EHR 0910	Mann	11/08/06
Robin R. Moore v. DENR, Div. of Waste Management	06 EHR 0986	Lassiter	11/07/06
Danny Ray Thorpe v. Brunswick Co. Health Dept., Environmental Health Department	06 EHR 1041	Gray	08/07/06
David Edgar Hine v. DENR, Div of Waste Management, Solid Waste Section	06 EHR 1044	Mann	12/15/06
John Darlinton v. Division of Water Quality	06 EHR 1081	Gray	02/01/07
Dianne D. Vereen v. Brunswick Co. Health Department	06 EHR 1126	Elkins	09/27/06
Princeton Recreational Park v. DENR	06 EHR 1196	Wade	12/13/06
American Canoe Association, ET.AL v. DENR and DM Farms of Rosehill LLC	06 EHR 1254	Overby	01/02/07
C.F. Little and Patsy H. Little v. DENR	06 EHR 1340	Lassiter	09/22/06

21:06 NCR 519

CONTESTED CASE DECISIONS

Fall Creek Land Co Lot#201 Yellowtop Mountain Estates	06 EHR 1436	Wade	12/27/06	
Cliff S. Barnes v. EMC	06 EHR 1450	Wade	12/08/06	
Joe Walter Sprouse and Talitha LeeAnn Bradburn Sprouse v. The Buncombe County Health Center, Environmental Health Division	06 EHR 1472	Lassiter	01/24/07	
John P. Leonard, Agent for Magnolia Pointe LP v. County of Durham Engineering Department	06 EHR 1568	Gray	10/13/06	
Alvin R. Newell and Barbara A. Newell v. Haywood Co. Health Dept. Environmental Health	06 EHR 1652	Lassiter	01/24/07	
<u>DEPARTMENT OF INSURANCE</u>				
Robert Bryan Bender and James V. Bender, Jr. and Wife, Sheron Bender v. Teachers' and State Employees' Comprehensive Major Medical Plan	05 INS 0067	Lassiter	10/06/06	
Heidi L. Roth v. Teachers' and State Employees' Comprehensive Major Medical Plan	05 INS 1779	Lassiter	10/19/06	
James D. Kelly Jr. v. State Health Plan	06 INS 0013	Morrison	08/07/06	21:06 NCR 524
Daniel C. Johnson v. Teachers' and State Employees' Comprehensive Major Medical Plan	06 INS 0353	Morrison	07/03/06	
Donna Jones/Mark Jones v. Teachers' and State Employees' Comprehensive Major Medical Plan	06 INS 0779	Wade	12/29/06	
Rebecca P. Murray v. George C. Stokes, Executive Administrator N.C. State Health Plan	06 INS 0864	Elkins	12/21/06	
Kerry Stewart v. Teachers' and State Employees' Comprehensive Major Medical Plan	06 INS 1113	Elkins	01/04/07	
Lou Ann Ostadi v. Teachers' and State Employees' Comprehensive Major Medical Plan	06 INS 1141	Lassiter	01/24/07	
Harry F. Reynolds v. Teachers' and State Employees' Comprehensive Major Medical Plan	06 INS 1348	Morrison	12/22/06	
<u>LICENSING BOARD FOR GENERAL CONTRACTORS</u>				
Licensing Board for General Contractors v. S.N. Davis Company, Inc (License No. 49245) and Shelby G. Davis, as Qualifier	06 LBC 0827	Webster	01/24/07	
<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	
Ricky Dixon v. County of Buncombe	03 OSP 0822	Lassiter	01/26/07	21:18 NCR 1648
Emily Flores v. College of Agriculture and Life Sciences NC State	04 OSP 1518	Lassiter	10/13/06	
Isaiah Green, Jr v. DMV	05 OSP 0500	Morrison	11/02/06	
C.W. McAdams v. DMV	05 OSP 0626	Morrison	11/02/06	
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	
Clayton Richardson v. Winston-Salem State University	05 OSP 1343	Mann	01/09/07	
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	
Eleanor J. Parker v. DHHS, Dorothea Dix Hospital	05 OSP 1527	Owens	01/19/07	21:18 NCR 1653
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	
Pamela C. Granger v. UNC-CH	06 OSP 0007	Gray	12/22/06	21:18 NCR 1681
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	
Sharon B. Matthews v. DOT, DMV	06 OSP 0207	Elkins	10/23/06	
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	

CONTESTED CASE DECISIONS

Caria Faulk v. Columbus Co. Dept. of Social Services	06 OSP 0546	Lassiter	07/06/06
Todd R. Holbrook v. DOT, DMV	06 OSP 0644	Gray	12/13/06
Thomasina Burrows v. DHHS, Div. of Vocational Rehabilitation Services/ Independent Living Program	06 OSP 0665	Elkins	11/06/06
Robin D. Long v. UNC Greensboro	06 OSP 0684	Lassiter	06/27/06
Reginald Hargrave v. Lexington City Schools	06 OSP 0669	Lassiter	11/02/06
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
Katrina Pittman v. DHHS, Division of Vocational Rehabilitation Services	06 OSP 0768	Wade	12/27/06
Pamela Y. Turner v. DHHS, Whitaker School	06 OSP 0787	Wade	12/29/06
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
Walter Giese v. Onslow County Board of Health	06 OSP 0989	Gray	01/22/07
Connie W. Williams v. DOC, Division of Prisons	06 OSP 1028	Morrison	12/28/06
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-Lingg v. UNC-Health Care	06 OSP 1143	Lassiter	10/12/06
Alonzo Vann v. DOT	06 OSP 1145	Wade	12/29/06
Hattie Miller v. DOA, Food and Drug Protection Division	06 OSP 1278	Gray	02/06/07
Tamra M. Burroughs v. Div. of Services for the Deaf and Hard of Hearing	06 OSP 1280	Elkins	09/07/06
Febby Manuel v. DMA, DHHS	06 OSP 1282	Overby	01/29/07
Melvin Daniels v. DOC	06 OSP 1299	Elkins	12/11/06
Calvin D. Ellis v. Fayetteville State University	06 OSP 1336	Wade	12/08/06
James D. Abrams v. Craven Co. DOT	06 OSP 1358	Gray	10/13/06
Douise Morris v. DOC	06 OSP 1409	Gray	11/21/06
Claudette Johnson v. NCSU Dining	06 OSP 1509	Gray	12/07/06
Wendy Anderson v. Agricultural and Technical State University	06 OSP 1562	Elkins	01/05/07
Melvin Sutton v. DOT	06 OSP 1657	Gray	11/21/06
Sandra S. Denmark v. Dorothea Dix Hospital, DHHS	06 OSP 1685	Gray	01/16/07
James Ray Merrill v. Broughton Hospital	06 OSP 1767	Lassiter	12/13/06
Brenda Stroud v. DST	06 OSP 1722	Gray	01/18/07
Darian Lee Hybl v. Halifax Community College (HCC)	06 OSP 1773	Gray	12/14/06
Teresa S Weedon v. UNC-CH	06 OSP 1864	Elkins	02/22/07
Tabitha McAdoo v. UNCW	06 OSP 1881	Morrison	12/29/06
Todd Williams v. Appalachian State University	06 OSP 1895	Overby	02/05/07
Terry D. Moses v. DOT	06 OSP 2204	Gray	02/15/07
Tobias Guillaume v. Fayetteville State University	06 OSP 2257	Gray	02/16/07
Karen Denise Mikeal v. DHHS, Developmental Disabilities and Substance Abuse	06 OSP 2412	Gray	02/16/07
Anthony W. Allen v. Wake County Human Service	06 OSP 2416	Overby	02/14/07
Katharine V. Raleigh Ph.D, MPH v. Disability Determination Services General Counsel	07 OSP 0035	Overby	02/14/07

SECRETARY OF STATE

Regina H. Autry v. SOS	05 SOS 1774	Chess	11/28/06
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
Mary P. Lee v. SOS	06 SOS 1329	Mann	01/12/07
Gerald Haskins v. SOS, Notary Division	06 SOS 1605	Gray	01/03/07

21:18 NCR 1682

UNC HOSPITALS

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
Ricky Hayes v. UNC-CH	06 UNC 1426	Overby	12/01/06
Bonnie G. Cheek v. UNC-CH	06 UNC 1561	Gray	12/14/06
Regina H. Autry v. SOS			

WELL CONTRACTOR'S CERTIFICATION COMMISSION

Stuart Spruill, Remediation Equipment Specialist Inc v. Well Contractor's Certification Commission	06 WCC 193	Gray	02/28/07
---	------------	------	----------