

NORTH CAROLINA REGISTER

VOLUME 22 • ISSUE 23 • Pages 2071 - 2231

June 2, 2008

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Contact List for Rulemaking Questions or Concerns

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

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

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Rules Division
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Raleigh, North Carolina 27601-2817
(919) 733-2678
(919) 733-3462 FAX

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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., Commission Counsel joe.deluca@ncmail.net (919) 715-8655
Bobby Bryan, Commission Counsel bobby.bryan@ncmail.net (919) 733-0928
Angela Person, Administrative Assistant angela.person@ncmail.net (919) 733-2721

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: William Crumbley, Economic Analyst william.crumbley@ncmail.net (919) 807-4740

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 2008 – December 2008

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 31st legislative day of the session beginning:	270 th day from publication in the Register
22:13	01/02/08	12/06/07	01/17/08	03/03/08	03/20/08	05/01/08	05/13/08	09/28/08
22:14	01/15/08	12/19/07	01/30/08	03/17/08	03/20/08	05/01/08	05/13/08	10/11/08
22:15	02/01/08	01/10/08	02/16/08	04/01/08	04/21/08	06/01/08	01/2009	10/28/08
22:16	02/15/08	01/25/08	03/01/08	04/15/08	04/21/08	06/01/08	01/2009	11/11/08
22:17	03/03/08	02/11/08	03/18/08	05/02/08	05/20/08	07/01/08	01/2009	11/28/08
22:18	03/17/08	02/25/08	04/01/08	05/16/08	05/20/08	07/01/08	01/2009	12/12/08
22:19	04/01/08	03/10/08	04/16/08	06/02/08	06/20/08	08/01/08	01/2009	12/27/08
22:20	04/15/08	03/25/08	04/30/08	06/16/08	06/20/08	08/01/08	01/2009	01/10/09
22:21	05/01/08	04/10/08	05/16/08	06/30/08	07/21/08	09/01/08	01/2009	01/26/09
22:22	05/15/08	04/24/08	05/30/08	07/14/08	07/21/08	09/01/08	01/2009	02/09/09
22:23	06/02/08	05/09/08	06/17/08	08/01/08	08/20/08	10/01/08	01/2009	02/27/09
22:24	06/16/08	05/23/08	07/01/08	08/15/08	08/20/08	10/01/08	01/2009	03/13/09
23:01	07/01/08	06/10/08	07/16/08	09/02/08	09/22/08	11/01/08	01/2009	03/28/09
23:02	07/15/08	06/23/08	07/30/08	09/15/08	09/22/08	11/01/08	01/2009	04/11/09
23:03	08/01/08	07/11/08	08/16/08	09/30/08	10/20/08	12/01/08	01/2009	04/28/09
23:04	08/15/08	07/25/08	08/30/08	10/14/08	10/20/08	12/01/08	01/2009	05/12/09
23:05	09/02/08	08/11/08	09/17/08	11/03/08	11/20/08	01/01/09	01/2009	05/30/09
23:06	09/15/08	08/22/08	09/30/08	11/14/08	11/20/08	01/01/09	01/2009	06/12/09
23:07	10/01/08	09/10/08	10/16/08	12/01/08	12/22/08	02/01/09	05/2010	06/28/09
23:08	10/15/08	09/24/08	10/30/08	12/15/08	12/22/08	02/01/09	05/2010	07/12/09
23:09	11/03/08	10/13/08	11/18/08	01/02/09	01/20/09	03/01/09	05/2010	07/31/09
23:10	11/17/08	10/24/08	12/02/08	01/16/09	01/20/09	03/01/09	05/2010	08/14/09
23:11	12/01/08	11/05/08	12/16/08	01/30/09	02/20/09	04/01/09	05/2010	08/28/09
23:12	12/15/08	11/20/08	12/30/08	02/13/09	02/20/09	04/01/09	05/2010	09/11/09

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.

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 140 TERMINATION OF EXECUTIVE ORDER 82

WHEREAS, Executive Order No. 82 was signed on September 3, 2005, declaring a State of Emergency as a result of humanitarian relief efforts conducted by North Carolina to support the states affected by the devastation brought about by Hurricane Katrina which began on August 29, 2005; and,


WHEREAS, the executive order contained the provision that it would be effective until terminated in writing.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of North Carolina, **IT IS ORDERED**:

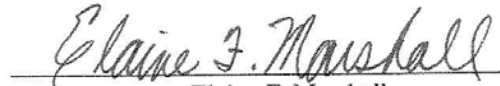
Executive Order 82, dated September 3, 2005, is hereby terminated due to the cessation of this emergency.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this thirtieth day of April in the year of our Lord two thousand and eight, and of the Independence of the United States of America the two hundred and thirty-second.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

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 15A – DEPARTMENT OF ENVIRONMENT AND
NATURAL RESOURCES**

CHAPTER 01 - DEPARTMENTAL RULES

SUBCHAPTER 010 – ENVIRONMENTAL HEALTH

**SECTION .0100 – DELEGATION OF AUTHORITY TO
ENFORCE THE COMMISSION FOR PUBLIC HEALTH
SANITATION RULES**

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Environment and Natural Resources intends to amend the rules cited as 15A NCAC 010 .0101-.0103.

Proposed Effective Date: October 1, 2008

Public Hearing:

Date: July 22, 2008

Time: 2:00 p.m.

Location: 2728 Capital Blvd, Room 1a201, Raleigh, NC

Reason for Proposed Action: Amend delegation of authority

Procedure by which a person can object to the agency on a proposed rule: Email, telephone, postal mail or in person to Terry L. Pierce, Director, Environmental Health, 2728 Capital Blvd, 1632 Mail Service Center, Raleigh, NC 27699-1632, Phone (919)733-2352, fax (919)715-3242.

Comments may be submitted to: Terry L. Pierce, Director, Environmental Health, 2728 Capital Blvd, 1632 Mail Service Center, Raleigh, NC 27699-1632, Phone (919)733-2352, fax (919)715-3242, email terry.pierce@ncmail.net.

Comment period ends: August 15, 2008

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

**15A NCAC 010 .0101 SCOPE OF DELEGATED
AUTHORITY**

No person shall act as an authorized agent of the state in enforcing the provisions of G.S. 130A and the rules of the Commission for Public Health ~~Health~~ and G.S. 87-87 and the rules of the Environmental Management Commission, who is not a current employee of a local health department or the North Carolina Alliance of Public Health Agencies, registered with the North Carolina State Board of Sanitarian Examiners as a Registered Sanitarian or Sanitarian Intern and authorized pursuant to these Rules. Except as provided in Rule .0105 of this Section, an authorization shall be valid only in the county or district served by the local health department which employs the agent. There shall be ~~seven~~ eight areas of authorization to enforce the provisions of G.S. 130A and the rules of the Commission for Public Health found in 15A NCAC 18A and G.S. 87-87 and the rules of the Environmental Management Commission found in 15A NCAC 02C as follows:

- (1) Food, Lodging, and Institution Sanitation including the following:
 - (a) .1000 Sanitation of Summer Camps,
 - (b) .1300 Sanitation of Hospitals; Nursing and Rest Homes; Sanitariums, Sanitoriums; Educational and other Institutions,
 - (c) .1500 Sanitation of Local Confinement Facilities,
 - (d) .1600 Sanitation of Residential Care Facilities,
 - (e) .1800 Sanitation of Lodging Establishments,
 - (f) .2100 Rules Governing the Sanitation & Safety of Migrant Housing,
 - (g) .2200 Sanitation of Bed and Breakfast Homes,
 - (h) .2400 Sanitation of Public, Private, and Religious Schools,
 - (i) .2600 Sanitation of Restaurants and Other Foodhandling Establishments,
 - (j) .2700 Sanitation of Meat Markets, and
 - (k) .3000 Bed and Breakfast Inns.

- (2) On-Site Wastewater, including the following:
 - (a) .1900 Sewage Treatment and Disposal Systems,
 - (b) .1603 and .1606, 1611(a) and (b) and .1613 Sanitation of Residential Care Facilities (Family Foster Homes), and
 - (c) .2100 Rules Governing the Sanitation and Safety of Migrant Housing.
- (3) .2800 Sanitation of Child Care Centers.
- (4) .3100 Lead Poisoning Prevention in Children Program.
- (5) .2500 Public Swimming Pools.
- (6) .3200 Tattooing.
- (7) .1603, .1606, .1611(a) and (b), .1613 Sanitation of Residential Care Facilities (Family Foster Homes) and .2100 Rules Governing the Sanitation and Safety of Migrant Housing.
- (8) G.S. 87-87, G.S. 87-97 and 15A NCAC 02C .0100 Standards of Construction: Water-Supply Wells.

Authority G.S. 130A-4.

15A NCAC 010 .0102 ELIGIBILITY FOR DELEGATION OF AUTHORITY

- (a) The applicant for authorization shall successfully complete the centralized training course provided by the Division.
- (b) The applicant shall successfully complete field practice by evaluating sites and establishments with an authorized environmental health specialist to assure that the applicant knows the rules of the Commission for Public Health and the Environmental Management Commission, as applicable, and how to properly enforce them.
- (c) When the supervisor determines that the applicant has progressed sufficiently to work independently, the applicant may request to be evaluated for authorization. Documentation of the satisfactory completion of all required orientation activities and field practice, including any inspection or evaluation forms completed by the applicant and comments of the supervisor shall be forwarded to the regional specialist.
- (d) If, upon reviewing the file, the regional specialist finds that the applicant needs additional study or field practice, the evaluation for authorization may be postponed until that study or practice has been completed.
- (e) Upon satisfactory completion of the requirements in Paragraphs ~~(a)-(d)~~ (a) through (d) of this Rule, the regional specialist shall coordinate the administration of a written test which the applicant must pass by a score of 70 percent or more. The test may be repeated if necessary.
- (f) An applicant requesting authorization for 15A NCAC 18A .3100 Lead Poisoning Prevention in Children Program shall take and successfully complete the North Carolina State of Practice course entitled "Lead Investigation and Abatement" and shall pass the written test provided by that course. An applicant requesting authorization for only 15A NCAC 18A Lead Poisoning Prevention in Children Program shall not be required to take the exam required in Paragraph (e) of this Rule.

(g) An applicant requesting authorization for 15A NCAC 02C .0100 to enforce the private well construction rules of the Environmental Management Commission shall take and successfully complete the North Carolina State of Practice course entitled Basic Private Wells Authorization Training: Groundwater Protection and Public Health or the Private Well portion of Centralized Intern Training, including any written test(s) associated with the course he or she takes. An applicant requesting authorization for 15A NCAC 02C .0100 Standards of Construction: Water-Supply Wells who has more than 18 months of experience in a well inspection program approved by the Department shall be required to take only the exam required in Paragraph (e) of this Rule.

~~(g)(h)~~ After the applicant has successfully completed the written test, the regional specialist shall conduct a field evaluation of the applicant's knowledge, skills, and ability to enforce the provisions of G.S. 130A and the rules of the Commission. Following the field evaluation, the regional specialist shall make a recommendation to the Director of the Division of Environmental Health regarding issuance or denial of authorization.

Authority G.S. 130A-4.

15A NCAC 010 .0103 DELEGATION OF AUTHORITY

Upon determination that the criteria in Rules .0101 and .0102 of this Section have been met and none of the reasons for denial listed in Rule .0107 of this Section exist, and upon a review of the recommendation of the regional specialist, the Director, Division of Environmental Health, shall issue or deny authorization. An Identification Card shall be issued by the Division to each person authorized to enforce provisions of G.S. 130A and the rules of the ~~Commission~~ Commission for Public Health and G.S. 87-87, G.S. 87-97 and the rules of the Environmental Management Commission. The card shall be carried by the agent at all times when on duty. The card is the property of the Division and shall be returned to the Division upon separation of employment, suspension, or revocation of authorization or failure to maintain registration with the N.C. Board of Sanitarian Examiners.

Authority G.S. 130A-4.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to adopt the rule cited as 15A NCAC 02D .1212; amend the rules cited as 15A NCAC 02D .0521, .0614, .0901-.0902, .0909, .0952, .1110, .1205; 02Q .0102, .0304, .0902 and repeal the rules cited as 15A NCAC 02D .0953-.0954.

Proposed Effective Date: November 1, 2008

Instructions on How to Demand a Public Hearing: *A public hearing will be scheduled on the proposed rule actions if the Division of Air Quality receives a written request for a public hearing within 30 days after the notice of text is published (NCAC 150B-21.5 & 40 CFR 51.0102(a)). Please address the*

request to Mr. Michael Abraczinskas, Division of Air Quality, 1641 Mail Service Center, Raleigh, NC 27699-1641.

Reason for Proposed Action:

15A NCAC 02D .0521 - is proposed for amendment to add small municipal waste combustors to the non-applicable list of combustion sources.

15A NCAC 02D .0614 - is proposed for amendment to clarify the compliance assurance monitoring applicability language.

15A NCAC 02D .0901 - is proposed for amendment to add the definition of "Stage I" to the Rule.

15A NCAC 02D .0902 - is proposed for amendment to remove Rule .0953 from statewide applicability.

15A NCAC 02D .0909, .0952 - are proposed for amendment to remove reference to Stage II vapor recovery Rules .0953 and .0954 that are proposed for repeal.

15A NCAC 02D .0953-.0954 - are proposed for repeal to remove Stage II vapor recovery piping as a requirement.

15A NCAC 02D .1110 -is proposed for amendment to reflect paragraph reference changes in 02D .0902.

15A NCAC 02D .1205 - is proposed for amendment to remove small municipal waste combustor requirements.

15A NCAC 02D .1212 - Small Municipal Waste Combustors, is proposed for adoption to reflect changes in federal rules and to clarify State requirements.

15A NCAC 02Q .0102 - is proposed for amendment to add 40 CFR 60 Subparts IIII and JJJJ to the list of new source performance standards that may exempt a source from new source performance permit requirements.

15A NCAC 02Q .0304 - is proposed for amendment to change the date when permit renewal applications need to be filed.

15A NCAC 02Q .0902 - is proposed for amendment to clarify the definition of temporary crushers, to require when requested copies of notifications and testing records required under 15A NCAC 02D .0524 (40 CFR Part 60, Subpart IIII). Additionally, the owner must have an air quality permit before operations if the owner of a crusher planned or has the design potential to operate at a site for more than 12 months.

Procedure by which a person can object to the agency on a proposed rule: If you have any objections to the proposed rule, please mail a letter including your specific reasons to: Mr. Michael Abraczinskas, Division of Air Quality, 1641 Mail Service Center, Raleigh, NC 27699-1641.

Comments may be submitted to: Michael Abraczinskas, Division of Air Quality, 1641 Mail Service Center, Raleigh, NC 27699-1641, Phone (919)715-3743, Fax (919)715-7476, email Michael.abraczinskas@ncmail.net.

Comment period ends: August 1, 2008

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission

approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

- ☐ State
- ☐ Local
- ☐ Substantive ($\geq \$3,000,000$)
- ☒ None

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02D - AIR POLLUTION CONTROL REQUIREMENTS

SECTION .0500 - EMISSION CONTROL STANDARDS

15A NCAC 02D .0521 CONTROL OF VISIBLE EMISSIONS

(a) Purpose. The intent of this Rule is to prevent, abate and control emissions generated from fuel burning operations and industrial processes where an emission can reasonably be expected to occur, except during startup, shutdowns, and malfunctions approved according to procedures set out in Rule .0535 of this Section.

(b) Scope. This Rule shall apply to all fuel burning sources and to other processes that may have a visible emission. However, sources subject to a visible emission standard in Rules .0506, .0508, .0524, .0543, .0544, .1110, .1111, .1205, .1206, .1210, ~~or .1211~~ .1211, or .1212 of this Subchapter shall meet that standard instead of the standard contained in this Rule. This Rule does not apply to engine maintenance, rebuild, and testing activities where controls are infeasible, except it does apply to the testing of peak shaving and emergency generators. (In deciding if controls are infeasible, the Director shall consider emissions, capital cost of compliance, annual incremental compliance cost, and environmental and health impacts.)

(c) For sources manufactured as of July 1, 1971, visible emissions shall not be more than 40 percent opacity when averaged over a six-minute period. However, except for sources required to comply with Paragraph (g) of this Rule, six-minute averaging periods may exceed 40 percent opacity if:

- (1) No six-minute period exceeds 90 percent opacity;
- (2) No more than one six-minute period exceeds 40 percent opacity in any hour; and
- (3) No more than four six-minute periods exceed 40 percent opacity in any 24-hour period.

(d) For sources manufactured after July 1, 1971, visible emissions shall not be more than 20 percent opacity when averaged over a six-minute period. However, except for sources required to comply with Paragraph (g) of this Rule, six-minute averaging periods may exceed 20 percent opacity if:

- (1) No six-minute period exceeds 87 percent opacity;
- (2) No more than one six-minute period exceeds 20 percent opacity in any hour; and
- (3) No more than four six-minute periods exceed 20 percent opacity in any 24-hour period.

(e) Where the presence of uncombined water is the only reason for failure of an emission to meet the limitations of Paragraph (c) or (d) of this Rule, those requirements shall not apply.

(f) Exception from Opacity Standard in Paragraph (d) of this Rule. Sources subject to Paragraph (d) of this Rule shall be allowed to comply with Paragraph (c) of this Rule if:

- (1) The owner or operator of the source demonstrates compliance with applicable particulate mass emissions standards; and
- (2) The owner or operator of the source submits data necessary to show that emissions up to those allowed by Paragraph (c) of this Rule shall not violate any national ambient air quality standard.

The burden of proving these conditions shall be on the owner or operator of the source and shall be approached in the following manner. The owner or operator of a source seeking an exception shall apply to the Director requesting this modification in its permit. The applicant shall submit the results of a source test within 90 days of application. Source testing shall be by the appropriate procedure as designated by rules in this Subchapter. During this 90-day period the applicant shall submit data necessary to show that emissions up to those allowed by Paragraph (c) of this Rule will not contravene ambient air quality standards. This evidence shall include an inventory of past and projected emissions from the facility. In its review of ambient air quality, the Division may require additional information that it considers necessary to assess the resulting ambient air quality. If the applicant can thus show that it will be in compliance both with particulate mass emissions standards and ambient air quality standards, the Director shall modify the permit to allow emissions up to those allowed by Paragraph (c) of this Rule.

(g) For sources required to install, operate, and maintain continuous opacity monitoring systems (COMS), compliance with the numerical opacity limits in this Rule shall be determined as follows excluding startups, shutdowns, maintenance periods when fuel is not being combusted, and malfunctions approved as such according to procedures approved under Rule .0535 of this Section:

- (1) No more than four six-minute periods shall exceed the opacity standard in any one day; and
- (2) The percent of excess emissions (defined as the percentage of monitored operating time in a calendar quarter above the opacity limit) shall not exceed 0.8 percent of the total operating hours. If a source operates less than 500 hours during a calendar quarter, the percent of excess emissions shall be calculated by including hours operated immediately previous to this quarter until 500 operational hours are obtained.

In no instance shall excess emissions exempted under this Paragraph cause or contribute to a violation of any emission standard in this Subchapter or 40 CFR Part 60, 61, or 63 or any ambient air quality standard in Section 15A NCAC 02D .0400 or 40 CFR Part 50.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

SECTION .0600 - MONITORING: RECORDKEEPING: REPORTING

15A NCAC 02D .0614 COMPLIANCE ASSURANCE MONITORING

(a) General Applicability. With the exception of Paragraph (b) of this Rule, the requirements of this part shall apply to a pollutant-specific emissions unit at a facility required to obtain permit under ~~15A NCAC 2Q .0500~~ 15A NCAC 02Q .0500 if the unit satisfies all of the following criteria:

- (1) The unit is subject to an emission limitation or standard for the applicable regulated air pollutant (or a surrogate thereof), other than an emission limitation or standard that is exempt under Subparagraph (b)(1) of this Rule;
- (2) The unit uses a control device to achieve compliance with any such emission limitation or standard; and
- (3) The unit has potential pre-control device emissions of the applicable regulated air pollutant that are equal to or greater than 100 tons per year, percent of the amount, in tons per year, required for a source to be classified as a major source. For purposes of this Subparagraph, "potential pre-control device emissions" means the same as "potential to emit," as defined in ~~15A NCAC 2Q .0103,~~ 15A NCAC 02Q .0103, except that emission reductions achieved by the applicable control device shall not be taken into account.

(b) Exemptions.

- (1) Exempt emission limitations or standards. The requirements of this Rule shall not apply to any of the following emission limitations or standards:
 - (A) emission limitations or standards proposed by the Administrator of the Environmental Protection Agency after November 15, 1990 pursuant to section 111 or 112 of the federal Clean Air Act;
 - (B) stratospheric ozone protection requirements under title VI of the federal Clean Air Act;
 - (C) Acid Rain Program requirements pursuant to sections 404, 405, 406, 407(a), 407(b), or 410 of the federal Clean Air Act;
 - (D) emission limitations or standards or other applicable requirements that apply solely under an emissions

- trading program approved under the rules of this Subchapter and Subchapter ~~15A NCAC 2Q 15A NCAC 02Q~~ and that are incorporated in a permit issued under ~~15A NCAC 2Q .0500~~; 15A NCAC 02Q .0500;
- (E) an emissions cap that is approved under the rules of this Subchapter and Subchapter ~~15A NCAC 2Q 15A NCAC 02Q~~ and incorporated in a permit issued under ~~15A NCAC 2Q .0500~~; 15A NCAC 02Q .0500; or
- (F) emission limitations or standards for which a permit issued under ~~15A NCAC 2Q .0500~~ 15A NCAC 02Q .0500 specifies a continuous compliance determination method, as defined in 40 CFR 64.1. (This exemption shall not apply if the applicable compliance method includes an assumed control device emission reduction factor that could be affected by the actual operation and maintenance of the control device (such as a surface coating line controlled by an incinerator for which continuous compliance is determined by calculating emissions on the basis of coating records and an assumed control device efficiency factor based on an initial performance test; in this example, this exemption would apply to the control device and capture system, but not to the remaining elements of the coating line, such as raw material usage).
- (2) Exemption for backup utility power emissions units. The requirements of this Rule shall not apply to a utility unit, as defined in 40 CFR 72.2, that is municipally-owned if the owner or operator provides documentation in a permit application submitted under ~~15A NCAC 2Q .0500~~ 15A NCAC 02Q .0500 that:
- (A) The utility unit is exempt from all monitoring requirements in 40 CFR Part 75 (including the appendices thereto);
- (B) The utility unit is operated for the sole purpose of providing electricity during periods of peak electrical demand or emergency situations and will be operated consistent with that purpose throughout the permit term. The owner or operator shall provide historical operating data and relevant contractual obligations to document that this criterion is satisfied; and
- (C) The actual emissions from the utility unit, based on the average annual emissions over the last three calendar years of operation (or such shorter time period that is available for units with fewer than three years of operation) are less than 50 tons per year and are expected to remain so.
- (c) For the purposes of this Rule, the definitions in 40 CFR 64.1 shall apply with the following exceptions:
- (1) "Applicable requirement" and "regulated air pollutant" shall have the same definition as in ~~15A NCAC 2Q .0103~~; 15A NCAC 02Q .0103.
- (2) "Part 70 or 71 permit application" means an application (including any supplement to a previously submitted application) submitted by the owner or operator to obtain a permit under ~~15A NCAC 2Q .0500~~; 15A NCAC 02Q .0500.
- (3) "Part 70 or 71 permit" means a permit issued under ~~15A NCAC 2Q .0500~~; 15A NCAC 02Q .0500.
- (4) "Permitting authority" means the Division of Air Quality.
- (d) The owner or operator subject to the requirements of this rule shall comply with these requirements:
- (1) 40 CFR 64.3, Monitoring Design ~~Criteria~~; Criteria;
- (2) 40 CFR 64.4, Submittal ~~Requirements~~; Requirements;
- (3) 40 CFR 64.5, Deadlines for ~~Submittals~~; Submittals;
- (4) 40 CFR 64.7, Operation of Approved ~~Monitoring~~; Monitoring; and
- (5) 40 CFR 64.9, Reporting and Recordkeeping ~~Requirements~~ Requirements.
- (e) The Division shall follow the procedures and requirements in 40 CFR Part 64.6, Approval of Monitoring, in reviewing and approving or disapproving monitoring plans and programs submitted under this Rule.
- (f) Based on the result of a determination made under 40 CFR 64.7(d)(2), the Director may require the owner or operator to develop and implement a quality improvement plan. If a quality improvement plan is required, the quality improvement plan shall be developed and implemented according to the procedures and requirements of 40 CFR 64.8, Quality Improvement Plan (QIP) Requirements.
- (g) Nothing in this Rule shall:
- (1) excuse the owner or operator of a source from compliance with any existing emission limitation or standard, or any existing monitoring, testing, reporting or recordkeeping requirement that may apply under federal, state, or local law, or any other applicable requirements. The requirements of this Rule shall not be used to justify the approval of monitoring less stringent than the monitoring that is required under another Rule in this Subchapter or Subchapter ~~15A NCAC 2Q 15A NCAC 02Q~~ or Title 40 of the CFR and are not intended to establish minimum requirements for the purpose of determining the monitoring

- to be imposed under another Rule in this Subchapter or Subchapter ~~15A NCAC 2Q 15A NCAC 02Q~~ or Title 40 of the CFR. The purpose of this Rule is to require, as part of the issuance of a permit under ~~15A NCAC 2Q .0500~~, 15A NCAC 02Q .0500, improved or new monitoring at those emissions units where monitoring requirements do not exist or are inadequate to meet the requirements of this Rule;
- (2) restrict or abrogate the authority of the Division to impose additional or more stringent monitoring, recordkeeping, testing, or reporting requirements on any owner or operator of a source under any provision of this Subchapter or Subchapter ~~15A NCAC 2Q 15A NCAC 02Q~~ or the General Statutes;
 - (3) restrict or abrogate the authority of the Division to take any enforcement action for any violation of an applicable requirement; or
 - (4) restrict the authority of the Administrator of the Environmental Protection Agency or of any person to take action under Section 304 of the federal Clean Air Act as stated under 40 CFR 64.10.

Authority G.S. 143-215.3(a)(3); 143-215.65; 143-215.66; 143-215.107(a)(4).

SECTION .0900 - VOLATILE ORGANIC COMPOUNDS

15A NCAC 02D .0901 DEFINITIONS

For the purpose of this Section, the following definitions apply:

- (1) "Coating" means a functional, protective, or decorative film applied in a thin layer to a surface.
- (2) "Coating applicator" means an apparatus used to apply a surface coating.
- (3) "Coating line" means one or more apparatus or operations in a single line wherein a surface coating is applied, dried, or cured and which include a coating applicator and flashoff area and may include an oven or associated control devices.
- (4) "Continuous vapor control system" means a vapor control system which treats vapors displaced from tanks during filling on a demand basis without intermediate accumulation.
- (5) "Delivered to the applicator" means the condition of coating after dilution by the user just before application to the substrate.
- (6) "Flashoff area" means the space between the application area and the oven.
- (7) "High solids coating" means a coating which contains a higher percentage of solids and a lower percentage of volatile organic compounds and water than conventional organic solvent borne coatings.

- (8) "Hydrocarbon" means any organic compound of carbon and hydrogen only.
- (9) "Incinerator" means a combustion apparatus designed for high temperature operation in which solid, semisolid, liquid, or gaseous combustible wastes are ignited and burned efficiently and from which the solid and gaseous residues contain little or no combustible material.
- (10) "Intermittent vapor control system" means a vapor control system which employs an intermediate vapor holder to accumulate vapors displaced from tanks during filling. The control device treats the accumulated vapors only during automatically controlled cycles.
- (11) "Loading rack" means an aggregation or combination of loading equipment arranged so that all loading outlets in the combination can be connected to a tank truck or trailer parked in a specified loading space.
- (12) "Low solvent coating" means a coating which contains a substantially lower amount of volatile organic compound than conventional organic solvent borne coatings; it usually falls into one of three major groups of high solids, waterborne, or powder coatings.
- (13) "Organic material" means a chemical compound of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.
- (14) "Oven" means a chamber within which heat is used to bake, cure, polymerize, or dry a surface coating.
- (15) "Potential emissions" means the quantity of a pollutant which would be emitted at the maximum capacity of a stationary source to emit the pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is described or contained as a condition in the federally enforceable permit. Secondary emissions do not count in determining potential emissions of a stationary source. Fugitive emissions count, to the extent quantifiable, in determining the potential emissions only in these cases:
 - (a) petroleum refineries;
 - (b) chemical process plants; and
 - (c) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.

- (16) "Prime coat" means the first film of coating applied to a surface to protect it or to prepare it to receive subsequent coatings.
- (17) "Reasonably available control technology" (also denoted as RACT) means the lowest emission limit which a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. It may require technology which has been applied to similar, but not necessarily identical, source categories.
- (18) "Reid vapor pressure" means the absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids except liquefied petroleum gases as determined by American Society for Testing and Materials, Part 17, 1973, D-323-72 (reapproved 1977).
- (19) "Shutdown" means the cessation of operation of a source or a part thereof or emission control equipment.
- (20) "Solvent" means organic materials which are liquid at standard conditions and which are used as dissolvers, viscosity reducers, or cleaning agents.
- (21) "Standard conditions" means a temperature of 68°F and pressure of 29.92 inches of mercury.
- (22) "Stage I", means vapor control systems that minimize, collect, and transfer vapors in a gasoline storage tank, displaced by the incoming gasoline, which are routed through pipes and hoses back into the tank truck tank to be transported to where the truck is loaded and the vapors are recovered or destroyed. Vent lines on storage tanks with vapor control systems use pressure release valves or flow restrictors to minimize releases to the atmosphere.
- ~~(22)~~(23) "Startup" means the setting in operation of a source or emission control equipment.
- ~~(23)~~(24) "Substrate" means the surface to which a coating is applied.
- ~~(24)~~(25) "Topcoat" means the final films of coating applied in a multiple or single coat operation.
- ~~(25)~~(26) "True vapor pressure" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss from Floating Roof Tanks," 1962.
- ~~(26)~~(27) "Vapor collection system" means a vapor transport system which uses direct displacement by the liquid loaded to force vapors from the tank into a vapor control system.
- ~~(27)~~(28) "Vapor control system" means a system which prevents release to the atmosphere of at least 90 percent by weight of organic compounds in

the vapors displaced from a tank during the transfer of gasoline.

- ~~(28)~~(29) "Volatile organic compound" (also denoted as VOC) means any compound of carbon whose volatile content can be determined by the procedure described in Rules .0913 or .0939 of this Section excluding any compound that is listed under 40 CFR 51.100(s) as having been determined to have negligible photochemical reactivity.

Authority G.S. 143-215.3(a)(1).

15A NCAC 02D .0902 APPLICABILITY

(a) The rules in this Section do not apply except as specifically set out in this Rule.

(b) Regardless of any other statement of applicability of this Section, this Section does not apply to:

- (1) sources whose emissions of volatile organic compounds are not more than 15 pounds per day, except that this Section does apply to the manufacture and use of cutback asphalt and to gasoline service stations or gasoline dispensing facilities regardless of levels of emissions of volatile organic compounds;
- (2) sources whose emissions do not exceed 800 pounds of volatile organic compounds per calendar month and that are:
 - (A) bench-scale, on-site equipment used exclusively for chemical or physical analysis for quality control purposes, staff instruction, water or wastewater analyses, or non-production environmental compliance assessments;
 - (B) bench-scale experimentation, chemical or physical analyses, training or instruction from not-for-profit, non-production educational laboratories;
 - (C) bench-scale experimentation, chemical or physical analyses, training or instruction from hospitals or health laboratories pursuant to the determination or diagnoses of illness; or
 - (D) research and development laboratory activities provided the activity produces no commercial product or feedstock material; or
- (3) emissions of volatile organic compounds during startup or shutdown operations from sources which use incineration or other types of combustion to control emissions of volatile organic compounds whenever the off-gas contains an explosive mixture during the startup or shutdown operation if the exemption is approved by the Director as meeting the requirements of this Subparagraph.

(c) The following rules of this Section apply statewide:

- (1) .0925, Petroleum Liquid Storage in Fixed Roof Tanks, for fixed roof tanks at gasoline bulk plants and gasoline bulk terminals;
- (2) .0926, Bulk Gasoline Plants;
- (3) .0927, Bulk Gasoline Terminals;
- (4) .0928, Gasoline Service Stations Stage I;
- (5) .0932, Gasoline Truck Tanks and Vapor Collection Systems;
- (6) .0933, Petroleum Liquid Storage in External Floating Roof Tanks, for external floating roof tanks at bulk gasoline plants and bulk gasoline terminals;
- (7) .0948, VOC Emissions from Transfer Operations;
- (8) .0949, Storage of Miscellaneous Volatile Organic Compounds; and
- (9) .0958, Work Practices for Sources of Volatile Organic Compounds.

~~(d) Rule .0953, Vapor Return Piping for Stage II Vapor Recovery, of this Section applies in Davidson, Durham, Forsyth, Guilford, Wake, Dutchville Township in Granville County, and that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River in accordance with provisions set out in that Rule.~~

~~(e)(d)~~ All sources located in Mecklenburg County that were required to comply with any of the Rules in Subparagraphs ~~(e)(d)~~(1) or (2) of this Rule before July 5, 1995 shall continue to comply with these Rules:

- (1) .0917 through .0937 of this Section, or
- (2) .0943 through .0945 of this Section.

~~(f)(e)~~ The Rules in this Section apply to facilities with the potential to emit greater than or equal to 100 tons or more volatile organic compounds per year in the following areas:

- (1) Cabarrus County
- (2) Gaston County
- (3) Lincoln County
- (4) Mecklenburg County
- (5) Rowan County
- (6) Union County
- (7) Davidson Township and Coddle Creek Township in Iredell County

~~(g)(f)~~ If a violation of the ambient air quality standard for ozone is measured in accordance with 40 CFR 50.9 in Davidson, Forsyth, or Guilford County or that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River, the Director shall initiate analysis to determine the control measures needed to attain and maintain the ambient air quality standard for ozone. By the following May 1, the Director shall implement the specific stationary source control measures contained in this Section that are required as part of the control strategy necessary to bring the area into compliance and to maintain compliance with the ambient air quality standard for ozone. The Director shall implement the rules in this Section identified as being necessary by the analysis by notice in the North Carolina Register. The notice shall identify the rules that are to be implemented and shall identify whether the rules

implemented are to apply in Davidson, Forsyth, or Guilford County or that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River or any combination thereof. At least one week before the scheduled publication date of the North Carolina Register containing the Director's notice implementing rules in this Section, the Director shall send written notification to all permitted facilities within the county in which the rules are being implemented that are or may be subject to the requirements of this Section informing them that they are or may be subject to the requirements of this Section. (For Forsyth County, "Director" means for the purpose of notifying permitted facilities in Forsyth County, the Director of the Forsyth County local air pollution control program.) Compliance shall be in accordance with Rule .0909 of this Section.

~~(h)(g)~~ If a violation of the ambient air quality standard for ozone is measured in accordance with 40 CFR 50.9 in Durham or Wake County or Dutchville Township in Granville County, the Director shall initiate analysis to determine the control measures needed to attain and maintain the ambient air quality standard for ozone. By the following May 1, the Director shall implement the specific stationary source control measures contained in this Section that are required as part of the control strategy necessary to bring the area into compliance and to maintain compliance with the ambient air quality standard for ozone. The Director shall implement the rules in this Section identified as being necessary by the analysis by notice in the North Carolina Register. The notice shall identify the rules that are to be implemented and shall identify whether the rules implemented are to apply in Durham or Wake County or Dutchville Township in Granville County or any combination thereof. At least one week before the scheduled publication date of the North Carolina Register containing the Director's notice implementing rules in this Section, the Director shall send written notification to all permitted facilities within the county in which the rules are being implemented that are or may be subject to the requirements of this Section informing them that they are or may be subject to the requirements of this Section. Compliance shall be in accordance with Rule .0909 of this Section.

~~(i)(h)~~ If EPA reclassifies the Charlotte-Gastonia-Rock Hill ozone nonattainment area as serious for ozone under Section 182 of the federal Clean Air Act, the rules in this Section shall apply to facilities in Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, and Union Counties and Davidson and Coddle Creek townships in Iredell County with the potential to emit at least 50 tons but less than 100 tons of volatile organic compounds per year. Within 60 days of the reclassification, the Director shall notice the applicability of these Rules to these facilities in the North Carolina Register and shall send written notification to all permitted facilities within the counties in which the rules are being implemented that are or may be subject to the requirements of this Section informing them that they are or may be subject to the requirements of this Section. (For Mecklenburg County, "Director" means for the purpose of notifying permitted facilities in Mecklenburg County, the Director of the Mecklenburg County local air pollution control program.) Compliance shall be according to Rule .0909 of this Section.

~~(i)~~ Sources whose emissions of volatile organic compounds are not subject to limitation under this Section may still be subject to emission limits on volatile organic compounds in Rules .0524, .1110, or .1111 of this Subchapter.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0909 COMPLIANCE SCHEDULES FOR SOURCES IN NONATTAINMENT AREAS

(a) Applicability. With the exceptions in Paragraph (b) of this Rule, this Rule applies to all sources covered by Paragraph ~~(f)~~, ~~(g)~~, ~~(h)~~, or ~~(i)~~ (e), (f), (g), or (h) of Rule .0902 of this Section.

(b) Exceptions. This Rule does not apply to:

- (1) sources in Mecklenburg County required to comply with the requirements of this Section under Rule .0902~~(e)~~(d) of this ~~Section~~ Section; or
- ~~(2) sources covered under Rule .0953 or .0954 of this Section; or~~
- ~~(3)~~(2) sources required to comply with the requirements of this Section under Rule .0902(c) of this Section.

(c) Maintenance area and Charlotte ozone nonattainment area contingency plan. The owner or operator of any source subject to this Rule because of the application of Paragraph ~~(g)~~, ~~(h)~~, or ~~(i)~~ (f), (g), or (h) of Rule .0902 of this Section shall adhere to the following increments of progress and schedules:

- (1) if compliance is to be achieved by installing emission control equipment, replacing process equipment, or modifying existing process equipment:
 - (A) The owner or operator shall submit a permit application and a compliance schedule within six months after the Director notices the implementation of rules in the North Carolina Register that resolves a violation of the ambient air quality standard for ozone;
 - (B) The compliance schedule shall contain the following increments of progress:
 - (i) a date by which contracts for the emission control system and process equipment shall be awarded or orders shall be issued for purchase of component parts;
 - (ii) a date by which on-site construction or installation of the emission control and process equipment shall begin; and
 - (iii) a date by which on-site construction or installation of the emission control and process equipment shall be completed;

(C) Final compliance shall be achieved within three years after the Director notices the implementation of rules in the North Carolina Register that resolves a violation of the ambient air quality standard for ozone.

(2) if compliance is to be achieved by using low solvent content coating technology:

- (A) The owner or operator shall submit a permit application and a compliance schedule within six months after the Director notices the implementation of rules in the North Carolina Register that resolves a violation of the ambient air quality standard for ozone;
- (B) The compliance schedule shall contain the following increments:
 - (i) a date by which research and development of low solvent content coating shall be completed if the Director determines that low solvent content coating technology has not been sufficiently researched and developed;
 - (ii) a date by which evaluation of product quality and commercial acceptance shall be completed;
 - (iii) a date by which purchase orders shall be issued for low solvent content coatings and process modifications;
 - (iv) a date by which process modifications shall be initiated; and
 - (v) a date by which process modifications shall be completed and use of low solvent content coatings shall begin;

(C) Final compliance shall be achieved within three years after the Director notices the implementation of rules in the North Carolina Register that resolves a violation of the ambient air quality standard for ozone.

(3) The owner or operator shall certify to the Director within five days after each increment deadline of progress in this Paragraph, whether the required increment of progress has been met.

(d) Nonattainment areas. The owner or operator of any source subject to this Rule because of the application of Paragraphs ~~(f)~~(e) of Rule .0902 of this Section shall adhere to the following increments of progress and schedules:

- (1) if compliance is to be achieved by installing emission control equipment, replacing process

- equipment, or modifying existing process equipment:
- (A) The owner or operator shall submit a permit application and a compliance schedule by August 1, 2007;
 - (B) The compliance schedule shall contain the following increments of progress:
 - (i) a date by which contracts for the emission control system and process equipment shall be awarded or orders shall be issued for purchase of component parts;
 - (ii) a date by which on-site construction or installation of the emission control and process equipment shall begin; and
 - (iii) a date by which on-site construction or installation of the emission control and process equipment shall be completed.
 - (C) Final compliance shall be achieved no later than April 1, 2009.
- (2) if compliance is to be achieved by using low solvent content coating technology:
- (A) The owner or operator shall submit a permit application and a compliance schedule by August 1, 2007;
 - (B) The compliance schedule shall contain the following increments:
 - (i) a date by which research and development of low solvent content coating shall be completed if the Director determines that low solvent content coating technology has not been sufficiently researched and developed;
 - (ii) a date by which evaluation of product quality and commercial acceptance shall be completed;
 - (iii) a date by which purchase orders shall be issued for low solvent content coatings and process modifications;
 - (iv) a date by which process modifications shall be initiated; and
 - (v) a date by which process modifications shall be completed and use of low solvent content coatings shall begin.
 - (C) Final compliance shall be achieved no later than April 1, 2009.
- (3) The owner or operator shall certify to the Director within five days after the deadline, for each increment of progress in this Paragraph, whether the required increment of progress has been met.
 - (e) If the Director requires a test to demonstrate that compliance has been achieved, the owner or operator of sources subject to this Rule shall conduct a test and submit a final test report within six months after the stated date of final compliance.
 - (f) Sources already in compliance.
 - (1) Maintenance area and Charlotte ozone nonattainment area contingency plan. Paragraph (c) of this Rule shall not apply to sources that are in compliance with applicable rules of this Section when the Director notices the implementation of rules in the North Carolina Register that resolves a violation of the ambient air quality standard for ozone and that have determined and certified compliance to the satisfaction of the Director within six months after the Director notices the implementation of rules in the North Carolina Register that resolves a violation of the ambient air quality standard for ozone.
 - (2) Nonattainment areas. Paragraphs (d) of this Rule shall not apply to sources in an area named in Paragraph ~~(f)~~(e) of Rule .0902 of this Section that are in compliance with applicable rules of this Section on March 1, 2007.
 - (g) New sources.
 - (1) Maintenance area and Charlotte ozone nonattainment area contingency plan. The owner or operator of any new source of volatile organic compounds not in existence or under construction before the date that the Director notices in the North Carolina Register in accordance with Paragraph ~~(g), (h), or (i)~~(f), ~~(g), or (h)~~ of Rule .0902 of this Section the implementation of rules in the North Carolina Register that resolves a violation of the ambient air quality standard for ozone, shall comply with all applicable rules in this Section upon start-up of the source.
 - (2) Nonattainment areas. The owner or operator of any new source of volatile organic compounds not in existence or under construction before March 1, 2007 in an area identified in Paragraph ~~(f)~~(e) of Rule .0902 shall comply with all applicable rules in this Section upon start-up of the source.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0952 PETITION FOR ALTERNATIVE CONTROLS FOR RACT

- (a) With the ~~exceptions~~ exception in Paragraph (b) of this Rule, this Rule applies to all sources covered under this Section.
- (b) This Rule does not apply ~~to~~ to

- (1) sources in Mecklenburg County to which Rules .0917 through .0937 of this Section apply and which are located at a facility where the total potential emissions of volatile organic compounds from all stationary sources at the facility are greater than or equal to 100 tons per year or more; and year.

~~(2) sources covered under Rule .0953 or .0954 of this Section.~~

(c) If the owner or operator of any source of volatile organic compounds subject to the requirements of this Section, can demonstrate that compliance with rules in this Section would be technologically or economically infeasible, he may petition the Director to allow the use of alternative operational or equipment controls for the reduction of volatile organic compound emissions. Petition shall be made for each source to the Director.

(d) The petition shall contain:

- (1) the name and address of the company and the name and telephone number of a company officer over whose signature the petition is submitted;
- (2) a description of all operations conducted at the location to which the petition applies and the purpose that the volatile organic compound emitting equipment serves within the operations;
- (3) reference to the specific operational and equipment controls under the rules of this Section for which alternative operational or equipment controls are proposed;
- (4) a detailed description of the proposed alternative operational or equipment controls, the magnitude of volatile organic compound emission reduction that will be achieved, and the quantity and composition of volatile organic compounds that will be emitted if the alternative operational or equipment controls are instituted;
- (5) a plan, which will be instituted in addition to the proposed alternative operational or equipment controls, to reduce, where technologically and economically feasible, volatile organic compound emissions from other source operations at the facility, further than that required under the rules of this Section, if these sources exist at the facility, such that aggregate volatile organic compound emissions from the facility will in no case be greater through application of the alternative control than would be allowed through conformance with the rules of this Section;
- (6) a schedule for the installation or institution of the alternative operational or equipment controls in conformance with Rule .0909 of this Section, as applicable; and
- (7) certification that emissions of all other air contaminants from the subject source are in

compliance with all applicable local, state and federal laws and regulations.

The petition may include a copy of the permit application and need not duplicate information in the permit application.

(e) The Director shall approve a petition for alternative control if:

- (1) The petition is submitted in accordance with Paragraph (d) of this Rule;
- (2) The Director determines that the petitioner cannot comply with the rules in question because of technological or economical infeasibility
- (3) All other air contaminant emissions from the facility are in compliance with, or under a schedule for compliance as expeditiously as practicable with, all applicable local, state, and federal regulations; and
- (4) The petition contains a schedule for achieving and maintaining reduction of volatile organic compound emissions to the maximum extent feasible and as expeditiously as practicable.

(f) When controls different from those specified in the appropriate emission standards in this Section are approved by the Director, the permit shall contain a condition stating such controls.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

15A NCAC 02D .0953 VAPOR RETURN PIPING FOR STAGE II VAPOR RECOVERY

~~(a) Applicability. This Rule applies to any facility located in Davidson, Durham, Forsyth, Gaston, Guilford, Mecklenburg, or Wake counties or the Dutchville Township in Granville county or that portion of Davie County that is bounded by the Yadkin River, Dutchman's Creek, NC Highway 801, Fulton Creek and back to the Yadkin River.~~

- ~~(1) that is built after June 30, 1994, or~~
- ~~(2) whose tanks are replaced or removed for upgrades or repairs after June 30, 1994.~~

~~When a new tank is added, the new tank shall comply with this Rule.~~

~~(b) Exemptions. The burden of proof of eligibility for exemption from this Rule is on the owner or operator of the facility. Persons seeking an exemption from this Rule shall maintain records of throughput and shall furnish these records to the Director upon request. These records shall be maintained on file for three years. The following facilities are exempt from this Rule based upon the previous two years records:~~

- ~~(1) any facility that dispenses less than 10,000 gallons of gasoline per calendar month;~~
- ~~(2) any facility that dispenses less than 50,000 gallons of gasoline per calendar month and is an independent small business marketer of gasoline;~~
- ~~(3) any facility that dispenses gasoline exclusively for refueling marine vehicles, aircraft, farm equipment, and emergency vehicles; or~~
- ~~(4) any tanks used exclusively to test the fuel dispensing meters.~~

Any facility that ever exceeds the exemptions given in Subparagraphs (1), (2), (3), or (4) of this Paragraph shall be subject to all of the provisions of this Rule according to the schedule given in Paragraph (e) of this Rule, and shall remain subject to these provisions even if the facility's later operation meets the exemption requirements.

(c) Definitions. For the purpose of this Rule, the following definitions apply:

- (1) ~~"Affected Facility" means any gasoline service station or gasoline dispensing facility subject to the requirements of this Rule.~~
- (2) ~~"CARB" means the California Air Resources Board.~~
- (3) ~~"Certified Stage II Vapor Recovery System" means any system certified by the California Air Resources Board as having a vapor recovery or removal efficiency of at least 95 percent by weight.~~
- (4) ~~"Facility" means any gasoline service station or gasoline dispensing facility.~~
- (5) ~~"ISBM" means independent small business marketer.~~
- (6) ~~"Independent Small Business Marketer of Gasoline" means a facility that qualifies under Section 324 of the Federal Clean Air Act.~~
- (7) ~~"Operator" means any person who leases, operates, controls, or supervises a facility at which gasoline is dispensed.~~
- (8) ~~"Owner" means any person who has legal or equitable title to the gasoline storage tank at a facility.~~
- (9) ~~"Stage II Vapor Recovery" means the control of gasoline vapor at the vehicle fill pipe, where the vapors are captured and returned to a vapor tight underground storage tank or are captured and destroyed.~~
- (10) ~~"Throughput" means the amount of gasoline dispensed at a facility during any calendar month.~~
- (11) ~~"Vapor Recovery Dispenser Riser" means piping rising from the vapor recovery piping to the dispenser.~~
- (12) ~~"Vapor Recovery Piping" means vapor return piping connecting the storage tank(s) with the vapor recovery dispenser riser(s).~~

(d) Requirements. Affected facilities shall install the necessary piping for future installation of CARB-certified Stage II vapor recovery system. The vapor piping shall extend from the tanks to the pumps. The vapor piping shall be installed in accordance with the following requirements:

- (1) Gasoline vapors shall be:
 - (A) transferred from each gasoline dispenser to the underground storage tank individually, or
 - (B) manifolded through a common header from which a single return line is connected through another manifold to all of the underground tanks.

Each vapor return pipe shall allow the transfer of gasoline vapors to the tank from which the liquid gasoline is being drawn;

- (2) ~~Pipe diameter shall meet manufacturer's specifications. If the manufacturer does not specify diameters, the following minimum pipe diameters apply. If the manufacturer only specifies diameters for part of the system, the following diameters apply for the pipe(s) not specified. All fittings, connectors, and joints shall have an inside diameter equal to the inside diameter of the pipe to which it is attached. The following diameters are specified for the number of nozzles that may be operated at the same time;~~
 - (A) ~~Vapor Recovery Dispenser Risers~~
 - (i) ~~Three fourths of an inch for vapor recovery dispenser risers returning vapors from one nozzle; or~~
 - (ii) ~~One inch for vapor recovery dispenser risers returning vapors from two nozzles;~~
 - (B) ~~Vapor Recovery Piping~~
 - (i) ~~At least two inches for six or fewer nozzles; or~~
 - (ii) ~~At least three inches for more than six nozzles;~~
- (3) ~~All piping and fittings shall be installed in accordance with manufacturer's instructions and specifications. Metal pipe shall be minimum schedule 40 welded or seamless steel per ASTM A 53, "Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless Pipe". Fittings shall be 150 pounds cold water screwed malleable iron. Pipe and fittings shall be galvanized and pipe threads shall be zinc coated. Nonmetallic pipes and fittings shall be U/L listed under nonmetallic primary pipes and fittings for underground flammable liquids (gas and oil equipment directory);~~
- (4) ~~Each vapor return pipe shall slope toward the storage tank with a minimum grade of 1/8 inches per foot. No low points or sags shall exist along the return piping;~~
- (5) ~~All vapor return and vent piping shall be provided with flexible joints or swing joints at each tank connection and at the base of the vent pipe riser where it fastens to a building or other structure;~~
- (6) ~~All vapor return pipe trenching shall be compacted to 90 percent of the standard proctor according to ASTM D 698 "Laboratory Compaction Characteristics of Soil Using Standard Effort" of the area soil before the pipes are installed and back filled with sand or other material approved by the pipe manufacturer at least six inches below and above the piping;~~

- (7) ~~The pipes shall not be driven over or in any other way crushed before paving or surfacing;~~
- (8) ~~The vapor return piping or manifolded piping on a vacuum assisted system shall enter a separate opening to the tank from that connected to the vent pipe or the Stage I piping;~~
- (9) ~~All vapor return piping shall be tagged at the termination point recording the function of the piping. In addition, a record of the installation of the Stage II vapor return piping shall be kept in the facility;~~
- (10) ~~Vent piping shall be constructed of materials in accordance with Subparagraph (3) of this Paragraph;~~
- (11) ~~All vent pipes shall be a minimum of two inches inside diameter or meet the local Fire Codes; and~~
- (12) ~~All vent pipes shall slope toward the underground storage tank with a grade of at least 1/8 inch per linear foot.~~

~~(e) Compliance Schedule. Compliance under Paragraph (d) of this Rule by the affected facility shall coincide with the completion of the tank installation or repair. The owner or operator of a facility shall notify the Director within 60 days after the day the facility has exceeded the exemptions under Paragraph (b) of this Rule. Facilities that lose their exemption under Paragraph (b) of this Rule shall comply with this Rule within 18 months after the day the owner or operator of the facility has notified the Director that the facility has exceeded its exemption under Paragraph (b) of this Rule.~~

~~(f) Testing Requirements.~~

- (1) ~~Within 30 days after installation of the vapor return piping, the owner or operator of the facility shall submit reports of the following tests to be completed as described in EPA 450/3-91-022b:~~
 - (A) ~~Bay Area Source Test Procedure ST-30, Leak Test Procedure, or San Diego Test Procedure TP-91-1, Pressure Decay/Leak Test Procedure, and~~
 - (B) ~~Bay Area Source Test Procedure ST-27, Dynamic Back Pressure, or San Diego Test Procedure TP-91-2, Pressure Drop vs Flow/Liquid Blockage Test Procedure.~~
- (2) ~~Testing shall be in accordance with Rule .0912 of this Section.~~
- (3) ~~The owner or operator of the facility shall notify the Regional Office Supervisor by telephone at least five business days before back-filling the trenches and at least 10 business days before the tests given in Subparagraph (1) of this Paragraph are to be performed to allow inspection by the Division. The owner or operator may commence back-filling five days after notification has been given to the Division.~~

- (4) ~~The owner or operator of the facility and the test contractor shall report all test failures to the Regional Office Supervisor within 24 hours of the failure.~~
- (5) ~~The Director may require the owner or operator of the facility to perform any of the tests in Subparagraph (1) of this Paragraph if there are any modifications or repairs.~~
- (6) ~~Where the Division conducts a test on the vapor control system, it shall be without compensating the owner or operator of the facility for any lost revenues incurred due to the testing procedure.~~

~~(g) Referenced documents. EPA 450/3-91-022b, "Technical Guidance—Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities, Volume II: Appendices", November 1991, cited in this Rule is hereby incorporated by reference and does not include subsequent amendments or editions. A copy of this document is available for inspection at the Regional Offices of the North Carolina Department of Environment and Natural Resources (Addresses are given in Rule .0103 of this Subchapter). Copies of this document may be obtained through the Library Services Office (MD-35), U.S. Environmental Protection Agency, Research Triangle Park or National Technical Information Services (NTIS), 5285 Port Royal Road, Springfield VA 22161. The NTIS number for this document is PB-92132851, and the cost is fifty two dollars (\$52.00).~~

Authority G.S. 143-215.3(a)(1); 143-215.107(a); 150B-21.6.

15A NCAC 02D .0954 STAGE II VAPOR RECOVERY

(a) ~~Applicability. In accordance with Paragraphs (e), (f), or (g) of Rule .0902 of this Section, this Rule applies to the control of gasoline vapors at the vehicle fill pipe during refueling operations at a facility. The vapors shall be captured and returned to a vapor tight underground storage tank or shall be captured and destroyed. These systems shall be installed at all facilities that dispense gasoline to motor vehicles unless exempted under Paragraph (b) of this Rule.~~

(b) ~~Exemptions. The following gasoline dispensing facilities are exempt from this Rule based upon the previous two years records:~~

- (1) ~~any facility which dispenses less than 10,000 gallons of gasoline per calendar month;~~
- (2) ~~any facility which dispenses less than 50,000 gallons of gasoline per calendar month and is an independent small business marketer of gasoline;~~
- (3) ~~any facility which dispenses gasoline exclusively for refueling marine vehicles, aircraft, farm equipment, and emergency vehicles; or~~
- (4) ~~any tanks used exclusively to test the fuel dispensing meters.~~

~~Any facility that ever exceeds the exemptions given in Subparagraphs (1), (2), (3) or (4) in this Paragraph shall be subject to all of the provisions of this Rule in accordance with the schedule given in Subparagraph (f) of this Rule, and shall~~

remain subject to these provisions even if the facility's later operation meets the exemption requirements.

(c) ~~Proof of Eligibility.~~ The burden of proof of eligibility for exemption from this Rule is on the owner or operator of the facility. Persons seeking an exemption from this Rule shall maintain the following:

- (1) ~~chronologically arranged bills of lading for receipt of gasoline shipments from the last three years, and~~
- (2) ~~daily inventory of each gasoline type for each day of operation or equivalent records as required; this shall be maintained for the last three years.~~

These records shall be furnished to the Director upon request.

(d) ~~Definitions.~~ For the purpose of this Rule, the following definitions apply:

- (1) ~~"CARB" means the California Air Resources Board.~~
- (2) ~~"Certified STAGE II Vapor Recovery System" means any system certified by the California Air Resources Board as having a vapor recovery or removal efficiency of at least 95 percent by weight.~~
- (3) ~~"Defective equipment" means any absence, disconnection, or malfunction of a Stage II vapor recovery system component which is required by this Rule including the following:~~
 - (A) ~~a vapor return line that is crimped, flattened or blocked or that has any hole or slit that allows vapors to leak out;~~
 - (B) ~~a nozzle bellows that has any hole or tear large enough to allow a 1/4 inch diameter cylindrical rod to pass through it or any slit one inch or more in length;~~
 - (C) ~~a nozzle face plate or cone that is torn or missing over 25 percent of its surface;~~
 - (D) ~~a nozzle with no automatic overfill control mechanism or an inoperable overfill control mechanism;~~
 - (E) ~~an inoperable or malfunctioning vapor processing unit, vacuum generating device, pressure or vacuum relief valve, vapor check valve or any other equipment normally used to dispense gasoline, or that is required by this Rule; or~~
 - (F) ~~a failure to meet the requirements of Paragraph (g) of this Rule.~~
- (4) ~~"Facility" means any gasoline service station, gasoline dispensing facility, or gasoline cargo tanker.~~
- (5) ~~"ISBM" means independent small business marketer.~~
- (6) ~~"Independent Small Business Marketer of Gasoline" means a facility that qualifies under Section 324 of the Federal Clean Air Act.~~

(7) ~~"Operator" means any person who leases, operates, controls, or supervises a facility at which gasoline is dispensed.~~

(8) ~~"Owner" means any person who has legal or equitable title to the gasoline storage tank at a facility.~~

(9) ~~"Pressure Balanced Stage II System" means one which is not vacuum assisted. That is, the volume of vapor in the automobile's fuel tank displaced by the incoming liquid gasoline equals the space in the underground tank created by the gasoline leaving.~~

(10) ~~"Remote Vapor Check Valve" means a check valve in the vapor return line but not located in the nozzle.~~

(11) ~~"Stage II Vapor Recovery" means to the control of gasoline vapor at the vehicle fill pipe, where the vapors are captured and returned to a vapor tight storage tank or are captured and destroyed.~~

(12) ~~"Throughput" means the amount of gasoline dispensed at a facility during any calendar month after June 30, 1994.~~

(e) ~~Stage II Requirements.~~ No person shall transfer or permit the transfer of gasoline into the fuel tank of any motor vehicle at any applicable facility unless:

- (1) ~~the transfer is made using a Certified Stage II vapor recovery system that meets the requirements of the inspections;~~
- (2) ~~all installed Stage II vapor recovery systems use coaxial vapor recovery hoses; no dual hose designs shall be used;~~
- (3) ~~all installed Stage II vapor recovery systems used are certified by CARB except that the Stage I system need not be CARB-certified. In addition, no Stage II system shall employ a remote vapor check valve. Pressure balanced Stage II systems may be used; and~~
- (4) ~~the underground vapor return piping satisfies the requirements of Rule .0953 of this Subchapter.~~

~~In the event that CARB revokes certification of an installed system, the owner or operator of the facility shall have four years to modify his equipment to conform with re certification requirements unless modifications involve only the replacement of dispenser check valves, hoses, or nozzles or appurtenances to these components in which case the allowed time period is three months. This time period is defined as the period from the day that the owner or operator of the facility has been officially notified by the Director.~~

(f) ~~Compliance Schedule.~~ If the gasoline service station or gasoline dispensing facility is subject to the requirements of this Rule in accordance with Paragraphs (e), (f), or (g) of Rule .0902 of this Section, compliance shall be achieved no later than:

- (1) ~~one year from the date that the Director notices in the North Carolina Register that an area is in violation of the ambient air quality standard for ozone, for facilities having any single~~

monthly throughput of at least 100,000 gallons per month;

- ~~(2) two years from the date that the Director notices in the North Carolina Register that an area is in violation of the ambient air quality standard for ozone, for facilities having any single monthly throughput of greater than 10,000 gallons but less than 100,000 gallons;~~
- ~~(3) for affected facilities owned by a single ISBM:~~
 - ~~(A) one year from the date that the Director notices in the North Carolina Register that an area is in violation of the ambient air quality standard for ozone, for 33 percent of affected facilities;~~
 - ~~(B) two years from the date that the Director notices in the North Carolina Register that an area is in violation of the ambient air quality standard for ozone, for 66 percent of the affected facilities;~~
 - ~~(C) three years from the date that the Director notices in the North Carolina Register that an area is in violation of the ambient air quality standard for ozone, for the remainder of the affected facilities;~~
- ~~(4) 18 months after the day the owner or operator of the facility has been notified by the Director that his exemption under Paragraph (b) of this Rule has been revoked; or~~
- ~~(5) before beginning operation for islands constructed after the Director notices in the North Carolina Register that an area is in violation of the ambient air quality standard for ozone.~~

(g) Testing Requirements

- ~~(1) Within 30 days after the commencement of operation of the Stage II system and every five years thereafter, the owner or operator of the facility shall submit reports of the following tests as described in EPA 450/3-91-022b:~~
 - ~~(A) Bay Area Source Test Procedure ST-30, Leak Test Procedure, or San Diego Test Procedure TP-91-1, Pressure Decay/Leak Test Procedure every five years;~~
 - ~~(B) Bay Area Source Test Procedure ST-27, Dynamic Back Pressure, or San Diego Test Procedure TP-91-2, Pressure Drop vs Flow/Liquid Blockage Test Procedure every five years; and~~
 - ~~(C) Bay Area Source Test Procedure ST-37, Liquid Removal Devices every five years.~~

If the tests have been performed within the last two years the owner or operator may submit a copy of those tests in lieu of

retesting. Testing shall be in accordance with Rule .0912 of this Section.

- ~~(2) The owner or operator shall perform daily testing and inspections as follows:~~
 - ~~(A) daily tests to ensure proper functioning of nozzle automatic overfill control mechanisms and flow prohibiting mechanisms, and~~
 - ~~(B) daily visual inspection of the nozzle bellows and face plate.~~
- ~~(3) The owner or operator of the facility and the test contractor shall report all test failures to the Regional Office Supervisor within 24 hours of the failure.~~
- ~~(4) The Director may require the owner or operator of the facility to perform any of the tests in Subparagraph (1) of this Paragraph if there are any modifications or repairs.~~
- ~~(5) Where the Division of Air Quality conducts tests or upon requirement from the Director to test the vapor control system it shall be without compensating the owner or operator of the facility for any lost revenues incurred due to the testing procedure.~~

(h) Operating Instructions and Posting

- ~~(1) The owner or operator of the facility shall post operating instructions for the vapor recovery system on the top one third of the front of each gasoline dispenser to include the following:~~
 - ~~(A) a clear description of how to correctly dispense gasoline with the vapor recovery nozzles;~~
 - ~~(B) a warning that repeated attempts to continue dispensing gasoline, after the system has indicated that the vehicle fuel tank is full (by automatically shutting off), may result in spillage or recirculation of gasoline;~~
 - ~~(C) a telephone number to report problems experienced with the vapor recovery system to the owner or operator of the facility, and~~
 - ~~(D) a telephone number to report problems experienced with the vapor recovery system to the Director.~~
- ~~(2) The owner or operator shall provide written instructions on site as detailed in EPA 450/3-91-022b to insure that employees of the facility have an accurate understanding of the operation of the system and, in particular, when the system is malfunctioning and requires repair.~~

(i) Other General Requirements. The owner or operator of the facility shall conspicuously post "Out of Order" signs on any nozzle associated with any aboveground part of the vapor recovery system which is defective until the system has been repaired to bring it back into compliance with this Rule.

~~(j) Record keeping and Reporting. Owners or operators of the facility shall maintain records in accordance with Rule .0903 of this Section on compliance and testing.~~

~~(k) Referenced document. EPA 450/3-91-022b, "Technical Guidance Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities, Volume II: Appendices", November 1991, cited in this Rule is hereby incorporated by reference and does not include subsequent amendments or editions. A copy of this document is available for inspection at the Regional Offices of the North Carolina Department of Environment and Natural Resources (addresses are given in Rule .0103 of this Subchapter). Copies of this document may be obtained through the Library Services Office (MD 35), U. S. Environmental Protection Agency, Research Triangle Park or National Technical Information Services, 5285 Port Royal Road, Springfield VA 22161. The NTIS number for this document is PB 92132851 and the cost is fifty-two dollars (\$52.00).~~

Authority G.S. 143-215.3(a)(1); 143-215.107(a); 150B-21.6.

SECTION .1100 - CONTROL OF TOXIC AIR POLLUTANTS

15A NCAC 02D .1110 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

(a) With the exception of Paragraph (b) of this Rule, sources subject to national emission standards for hazardous air pollutants promulgated in 40 CFR Part 61 shall comply with emission standards, monitoring and reporting requirements, maintenance requirements, notification and record keeping requirements, performance test requirements, test method and procedural provisions, and any other provisions, as required therein, rather than with any otherwise-applicable Rule in Section .0500 of this Subchapter that would be in conflict therewith.

(b) Along with the notice appearing in the North Carolina Register for a public hearing to amend this Rule to exclude a standard from this Rule, the Director shall state whether or not the national emission standards for hazardous air pollutants promulgated under 40 CFR Part 61, or part thereof, shall be enforced. If the Commission does not adopt the amendment to this Rule to exclude or amend the standard within 12 months after the close of the comment period on the proposed amendment, the Director shall begin enforcing that standard when 12 months has elapsed after the end of the comment period on the proposed amendment.

(c) New sources of volatile organic compounds that are located in an area designated in 40 CFR 81.334 as nonattainment for ozone or an area identified in accordance with 15A NCAC ~~2D02D~~ .0902(e), (f), or (g) as in violation of the ambient air quality standard for ozone shall comply with the requirements of 40 CFR Part 61 that are not excluded by this Rule, as well as with any applicable requirements in Section .0900 of this Subchapter.

(d) All requests, reports, applications, submittals, and other communications to the administrator required under Paragraph (a) of this Rule shall be submitted to the Director of the Division of Air Quality rather than to the Environmental Protection

Agency; except that all such reports, applications, submittals, and other communications to the administrator required by 40 CFR 61.145 shall be submitted to the Director, Division of Epidemiology.

(e) In the application of this Rule, definitions contained in 40 CFR Part 61 shall apply rather than those of Section .0100 of this Subchapter.

(f) 15A NCAC ~~2Q02Q~~ .0102 and .0302 are not applicable to any source to which this Rule applies. The owner or operator of the source shall apply for and receive a permit as required in 15A NCAC ~~2Q02Q~~ .0300 or .0500.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 150B-21.6.

SECTION .1200 - CONTROL OF EMISSIONS FROM INCINERATORS

15A NCAC 02D .1205 LARGE MUNICIPAL WASTE COMBUSTORS

(a) Applicability. This Rule applies ~~to:~~ to

(1) ~~Class I municipal waste combustors, as defined in Rule .1202 of this Section; and~~

(2) ~~Large large~~ municipal waste combustors, as defined in Rule .1202 of this Section.

(b) Definitions. For the purpose of this Rule, the definitions contained in 40 CFR ~~60.31b 60.51b~~ and 40 CFR ~~60.1940~~ (except ~~administration~~ administrator means the Director of the Division of Air Quality) shall apply in addition to the definitions in Rule .1202 of this Section.

(c) Emission Standards.

(1) The emission standards in this Paragraph apply to any municipal waste combustor subject to the requirements of this Rule except where Rule .0524, .1110, or .1111 of this Subchapter applies. However, when Subparagraphs (13) or (14) of this Paragraph and Rule .0524, .1110, or .1111 of this Subchapter regulate the same pollutant, the more restrictive provision for each pollutant shall apply, notwithstanding provisions of Rules .0524, .1110, or .1111 of this Subchapter to the contrary.

(2) Particulate Matter. Emissions of particulate matter from each municipal waste combustor shall not ~~exceed 27 milligrams per dry standard cubic meter corrected to seven percent oxygen. exceed;~~

(A) before April 28, 2009, 27 milligrams per dry standard cubic meter corrected to seven percent oxygen, and

(B) on or after April 28, 2009, 25 milligrams per dry standard cubic meter corrected to seven percent oxygen.

(3) Visible Emissions. The emission limit for opacity from ~~any~~ each municipal waste combustor shall not exceed 10 percent (6-minute average) (~~average of 30 6 minute averages~~).

- (4) ~~Sulfur Dioxide.~~
- (A) ~~Emissions of sulfur dioxide from each class I municipal waste combustor shall be reduced by at least 75 percent by weight or volume of potential sulfur dioxide emissions or to no more than 31 parts per million by volume corrected to seven percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24 hour daily block geometric average concentration percent reduction.~~
- (B) ~~Emissions of sulfur dioxide from each large municipal waste combustor shall be:~~
- (i) ~~reduced by at least 75 percent by weight or volume, or to no more than 31 parts per million by volume corrected to seven percent oxygen (dry basis), whichever is less stringent, by August 1, 2000. Compliance with this emission limit is based on a 24 hour daily geometric mean; and~~
- (ii) ~~reduced by at least 75 percent by weight or volume, or to no more than 29 parts per million by volume corrected to seven percent oxygen (dry basis), whichever is less stringent, by August 1, 2002. Compliance with this emission limit is based on a 24 hour daily geometric mean.~~
- (4) Sulfur Dioxide. Emissions of sulfur dioxide from each municipal waste combustor shall be reduced by at least 75 percent reduction or to no more than:
- (A) before April 28, 2009, 31 parts per million dry volume, and
- (B) on or after April 28, 2009, 29 parts per million dry volume.
- Percent reduction shall be determined from continuous emissions monitoring data and according to Reference Method 19, Section 12.5.4 of 40 CFR Part 60 Appendix A-7. Compliance with either standard, whichever is less stringent, is based on a 24-hour daily block geometric average of concentration data corrected to seven percent oxygen (dry basis).
- (5) ~~Nitrogen Oxides. Oxide.~~
- (A) ~~Emissions of nitrogen oxide from each class I municipal waste combustor shall not exceed the emission limits in Table 3 40 CFR 60, Subpart BBBB.~~
- (B) ~~Emissions of nitrogen oxides from each large municipal waste combustor shall not exceed the emission limits in Table 1 of Paragraph (d) of 40 CFR 60.33b. to Subpart Cb of Part 60 "Nitrogen Oxide Guidelines for Designated Facilities." Nitrogen oxide emissions averaging is allowed as specified in 40 CFR 60.33b(d)(1)(i) through (d)(1)(v). Nitrogen oxide emissions averaging shall not exceed Table 2 to Subpart Cb of Part 60 "Nitrogen Oxides Limits for Existing Designated Facilities Included in an Emission Averaging Plan at a Municipal Waste Combustor Plant."~~
- (C) ~~In addition to the requirements of Part (B) of this Subparagraph, emissions of nitrogen oxide from fluidized bed combustors located at a large municipal waste combustor shall not exceed 180 parts per million by volume, corrected to seven percent oxygen, by August 1, 2002. If nitrogen oxide emissions averaging is used as specified in 40 CFR 60.33b(d)(1)(i) through (d)(1)(V), emissions of nitrogen oxide from fluidized bed combustors located at a large municipal waste combustor shall not exceed 165 parts per million by volume, corrected to seven percent oxygen, by August 1, 2002.~~
- (6) Odorous Emissions. Each Any incinerator subject to this Rule shall comply with Rule .1806 of this Subchapter for the control of odorous emissions.
- (7) ~~Hydrogen Chloride.~~
- (A) ~~Emissions of hydrogen chloride from each class I municipal waste combustor shall be reduced by at least 95 percent by weight or volume of potential hydrogen chloride emissions or to no more than 31 parts per million by volume corrected to seven percent oxygen (dry basis), whichever is less stringent. Compliance with this Part shall be determined by averaging emissions over a one hour period.~~
- (B) ~~Emissions of hydrogen chloride from each large municipal waste combustor shall be:~~
- (i) ~~reduced by at least 95 percent by weight or volume, or to no more than~~

- 31 parts per million by volume, corrected to seven percent oxygen (dry basis), ~~whichever is less stringent, by August 1, 2000. Compliance with this emission limit shall be determined by averaging emissions over a one-hour period; and~~
- (ii) ~~reduced by at least 95 percent by weight or volume, or to no more than 29 parts per million by volume, corrected to seven percent oxygen (dry basis), whichever is less stringent, by August 1, 2002. Compliance with this Part emission limit shall be determined by averaging emissions over a one-hour period.~~
- (7) Hydrogen Chloride. Emissions of hydrogen chloride from each municipal waste combustor shall be reduced by at least 95 percent, or shall not exceed, as determined by Reference Method 26 or 26A of 40 CFR Part 60 Appendix A-8, more than:
- (A) before April 28, 2009, 31 parts per million dry volume, and
- (B) on or after April 28, 2009, 29 parts per million dry volume.
- Compliance with this Subparagraph shall be determined by averaging emissions over three one-hour test runs, with paired data sets for percent reduction and correction to seven percent oxygen.
- (8) Mercury Emissions. Emissions of mercury from each municipal waste combustor shall be reduced by at least 85 percent by weight of potential mercury emissions or shall not exceed, as determined by Reference Method 26 or 26A of 40 CFR Part 60 Appendix A-8, more than 0.08 milligrams per dry standard cubic, corrected to seven percent oxygen, whichever is less stringent, than:
- (A) before April 28, 2009, 31 parts per million, and
- (B) on or after April 28, 2009, 29 parts per million.
- Compliance with this Subparagraph shall be determined by averaging emissions over a one-hour period three one hour test runs, with paired data set for percent reduction and correction to seven percent oxygen.
- (9) Lead Emissions.
- (A) Emissions of lead from each class I municipal waste combustor shall not
- ~~exceed 0.49 milligrams per dry standard cubic meter, corrected to seven percent oxygen.~~
- (B) Emissions of lead from each large municipal waste combustor shall not exceed 0.49 milligrams per dry standard cubic meter, corrected to seven percent oxygen, by August 1, 2000 and shall not exceed 0.44 milligrams per dry standard cubic meter, and corrected to seven percent oxygen by August 1, 2002. exceed, as determined by Reference Method 29 of 40 CFR Part 60 Appendix A-8:
- (A) before April 28, 2009, 440 micrograms, per dry standard cubic meter and corrected to seven percent oxygen, and
- (B) on or after April 28, 2009, 400 micrograms per dry standard cubic meter and corrected to seven percent oxygen.
- (10) Cadmium Emissions. Emissions of cadmium from each municipal waste combustor shall not exceed, as determined by Reference Method 29 of 40 CFR Part 60 Appendix A-8, 0.040 milligrams per dry standard cubic meter; corrected to seven percent oxygen.
- (A) before April 28, 2009, 40 micrograms per dry standard cubic meter and corrected to seven percent oxygen, and
- (B) on or after April 28, 2009, 35 micrograms per dry standard cubic meter and corrected to seven percent oxygen.
- (11) Dioxins and Furans. Emissions of dioxins and furans from each municipal waste combustor shall not exceed: combustor that either:
- (A) employ electrostatic precipitator-based emission control system, shall not exceed before April 28, 2009, 60 nanograms and shall not exceed on or after April 28, 2009, 35 nanograms per dry standard cubic meter (total mass) (total mass dioxins and furans) per dry standard cubic meter (total mass dioxins and furans), corrected to seven percent oxygen for facilities that employ an electrostatic precipitator based emission control system, or
- (B) do not employ an electrostatic precipitator-based emission control system, shall not exceed 30 nanograms per dry standard cubic meter (total mass) (total mass dioxins and furans), corrected to seven percent oxygen for facilities that do

- ~~not employ an electrostatic precipitator based emission control system.~~
- Compliance with this Subparagraph shall be determined by averaging emissions over three test runs with a minimum four hour run duration, performed in accordance with Reference Method 23 of 40 CFR Part 60 Appendix A-7, and corrected to seven percent oxygen.
- (12) Fugitive Ash.
- (A) On or after the date on which the initial performance test is completed, no owner or operator of a municipal waste combustor shall cause to be discharged to the atmosphere visible emissions of combustion ash from an ash conveying system (including conveyor transfer points) in excess of five percent of the observation period (i.e., nine minutes per three-hour block period), as determined by visible emission observations using EPA Reference Method Reference Method 22 of 40 CFR 60 Appendix A-7, observations as specified in 40 CFR 60.58b(k), except as provided in Part (B) of this Subparagraph. Compliance with this Part shall be determined from at least three one-hour observation periods when the facility transfers fugitive ash from the municipal waste combustion unit to the area where the fugitive ash is stored or loaded into containers or trucks.
- (B) The emission limit specified in Part (A) of this Subparagraph covers visible emissions discharged to the atmosphere from buildings or enclosures, not the visible emissions discharged inside of the building or enclosures, of ash conveying systems.
- (13) Toxic Emissions. The owner or operator of a municipal waste combustor shall demonstrate compliance with Section .1100 of this Subchapter according to 15A NCAC 02Q .0700.
- (14) Ambient Standards.
- (A) In addition to the ambient air quality standards in Section .0400 of this Subchapter, the following are annual average ambient air quality standards, which are an annual average, in milligrams per cubic meter at 77 degrees F (25 degrees C) and 29.92 inches (760 mm) of mercury pressure; pressure, and which are increments above background concentrations, shall
- apply aggregately to all incinerators at a facility subject to this Rule:
- (i) arsenic and its compounds ~~2.3x10⁻⁷~~ 2.3x10⁻⁷.
 - (ii) beryllium and its compounds ~~4.1x10⁻⁶~~ 4.1x10⁻⁶.
 - (iii) cadmium and its compounds ~~5.5x10⁻⁶~~ 5.5x10⁻⁶, and
 - (iv) chromium (VI) and its compounds ~~8.3x10⁻⁸~~ 8.3x10⁻⁸.
- These are increments above background concentrations and shall apply aggregately to all incinerators at a facility subject to this Rule.
- (B) The owner or operator of a facility with incinerators subject to this Rule shall demonstrate compliance with the ambient standards of ~~Subparts (i) through (iv) of Part (A) of this Subparagraph~~ by following the procedures set out in Rule .1106 of this Subchapter. Modeling demonstrations shall comply with the good engineering practice stack height requirements of Rule .0533 of this Subchapter.
- (C) The emission rates computed or used under Part (B) of this Subparagraph that demonstrate compliance with the ambient standards under Part (A) of this Subparagraph shall be specified as a permit condition for the facility with incinerators as their allowable emission limits unless Rule .0524, .1110, or .1111 of this Subchapter requires more restrictive rates.
- (15) The emission standards of Subparagraphs (1) through ~~(12)~~ (14) of this Paragraph shall apply at all times except during periods of municipal waste combustion unit startup, shutdown, or malfunction that last no more than three hours.
- (d) Operational Standards.
- (1) The operational standards in this Rule do not apply to any incinerator subject to this Rule when applicable operational standards in Rule .0524, .1110, or .1111 of this Subchapter ~~applies.~~ apply.
- (2) Each municipal waste combustor shall meet the following operational standards:
- (A) The concentration of carbon monoxide at the municipal waste combustor outlet shall not exceed the applicable emissions level contained in concentration in:
- (i) ~~table Table 3 of 40 CFR 60.34b(a) for large municipal waste combustors.~~ to Subpart Cb of Part 60 "Municipal Waste

- ~~Combustor Operating~~
~~Guidelines." The municipal~~
~~waste combustor technology~~
~~named in this table is~~
~~defined in 40 CFR 60.51b;~~
~~and~~
- (ii) ~~table 5 of 40 CFR 60~~
~~Subpart BBBB. The~~
~~municipal waste combustor~~
~~technology named in this~~
~~table is defined in 40 CFR~~
~~60.1940.~~
- (B) The load level shall not exceed 110 percent of the maximum demonstrated municipal waste combustor unit load ~~(four-hour block average);~~ determined from the highest four-hour block arithmetic average achieved during four consecutive hours in the course of the most recent dioxins and furans stack test that demonstrates compliance with the emission limits of Paragraph (c) of this Rule.
- (C) The ~~combustor operating temperature at which the combustor operates~~ measured at ~~each~~ the particulate matter control device inlet shall not exceed 63 degrees F above the maximum demonstrated particulate matter control device temperature ~~(four-hour block average);~~ from the highest four-hour block arithmetic average measured at the inlet of the particulate matter control device during four consecutive hours in the course of the most recent dioxins and furans stack test that demonstrates compliance with the emission limits of Paragraph (c) of this Rule.
- (D) The owner or operator of a municipal waste combustor with activated carbon control system to control dioxins and furans or mercury emissions shall maintain an eight-hour block average carbon feed rate at or above the highest average level established during the most recent dioxins and furans or mercury ~~test.~~ test and shall evaluate total carbon usage for each calendar quarter. The total amount of carbon purchased and delivered to the municipal waste combustor shall be at or above the required quarterly usage of carbon and shall be calculated as specified in equation four or five in 40 CFR 60.1935(f).
- (E) The owner or operator of a municipal waste combustor shall be exempted from limits on load level, temperature at the inlet of the particular matter control device, and carbon feed rate during:
- (i) the annual tests for dioxins and furans;
 - (ii) the annual mercury tests for carbon feed requirements only;
 - (iii) the two weeks preceding the annual tests for dioxins and furans; and
 - (iv) the two weeks preceding the annual mercury tests (for carbon feed rate requirements only). only; and
 - (v) ~~any activities to improve the performance of the municipal waste combustor or its emission control including performance evaluations and diagnostic or new technology testing.~~
- (F) The Director shall exempt the owner or operator of a municipal waste combustor from limits on load level, temperature at the inlet of the particular matter control device, and carbon feed rate when the Director approves test activities to:
- (i) evaluate system performance.
 - (ii) test new technology or control technology.
 - (iii) perform diagnostic testing;
 - (iv) perform other activities to improve the performance; or
 - (v) perform other activities to advance the state of the art for emissions controls.
- (3) ~~Except during start up where the procedure has been approved according to Rule .0535(g) of this Subchapter, waste material shall not be loaded into any incinerator subject to this Rule when the temperature is below the minimum required temperature. Start up procedures may be determined on a case by case basis according to Rule .0535(g) of this Subchapter and Subparagraph (4) of this Paragraph. Incinerators subject to this Rule shall have automatic auxiliary burners that are capable of maintaining the required minimum temperature in the secondary chamber excluding the heat content of the wastes.~~
- (3)(4) The operational standards of this Paragraph apply at all times except during periods of

municipal waste combustor startup, shutdown, or malfunction that last no more than ~~than~~:

- ~~(A) three hours for Class I combustors; or~~
- ~~(B) three hours, hours except as specified in 60.58b(a)(1)(iii) for large municipal waste combustors, with the following exception: For the purpose of compliance with the carbon monoxide emission limits in Subparagraph (2) of this Paragraph, if a loss of boiler water level control (e.g., boiler waterwall tube failure) or a loss of combustion air control (e.g., loss of combustion air fan, induced draft fan, combustion grate bar failure) is determined to be a malfunction according to 15A NCAC 02D .0536, the duration of the malfunction period is limited to 15 hours per occurrence. During such periods of malfunction, monitoring data shall be dismissed or excluded from compliance calculations, but shall be recorded and reported in accordance with the provisions of Paragraph (f) of this Rule.~~

(e) Test Methods and Procedures.

- (1) The test methods and procedures described in 15A NCAC 02D .0501 and in Parts (A) through (K) of this Subparagraph shall be used to show compliance:
 - (A) 40 CFR 60.58b(b) for continuous emissions monitoring of oxygen or carbon monoxide at each location where carbon monoxide, sulfur dioxide, or nitrogen oxides are monitored;
 - (B) 40 CFR 60.58b(c) for determination of compliance with particulate emission limits;
 - (C) 40 CFR 60.58b(d) for determination of compliance with emission limits for cadmium, lead and mercury;
 - (D) 40 CFR 60.58b(e) for determination of compliance with sulfur dioxide emission limits from continuous emissions monitoring data;
 - (E) 40 CFR 60.58b(f) for determination of compliance with hydrogen chloride emission limits;
 - (F) 40 CFR 60.58b(g) for determination of compliance with dioxin/furan emission limits;
 - (G) 40 CFR 60.58b(h) for determination of compliance with nitrogen oxides limits from continuous emission monitoring data;
 - (H) 40 CFR 60.58b(i) for determination of compliance with operating

requirements under Paragraph (d) of this Rule;

- ~~(I) 40 CFR 60.58b(j) for determination of municipal waste combustor unit capacity;~~
- ~~(J) 40 CFR 60.58b(k) for determination of compliance with the fugitive ash emission limit; and~~
- ~~(K) 40 CFR 60.58b(m)(1) to determine parametric monitoring for carbon injection control systems.~~
- (2) Rule .0501 of this Subchapter and in Method 29 of 40 CFR Part 60 Appendix A-8 A and 40 CFR Part 61 Appendix B shall be used to determine compliance with emission rates. Method 29 of 40 CFR Part 60 shall be used to determine emission rates for metals. However, Method 29 shall be used only to collect sample for chromium (VI), and SW 846 Method 0060 shall be used for the analysis.
- (3) The owner or operator will conduct initial and annual stack tests to measure the emission levels of dioxins and furans, cadmium, lead, mercury, beryllium, arsenic, chromium (VI), particulate matter, opacity, hydrogen chloride, and fugitive ash. Annual stack tests for the same pollutants will be conducted no later than 12 months after the previous stack test.
- ~~(2) The owner or operator of a large municipal waste combustor shall do compliance and performance testing according to 40 CFR 60.58b.~~
- ~~(3) For large municipal waste combustors that achieve a dioxin and furan emission level less than or equal to 15 nanograms per dry standard cubic meter total mass, corrected to seven percent oxygen, the performance testing shall be performed according to the testing schedule specified in 40 CFR 60.58b(g)(5)(iii). For class I municipal waste combustors the performance testing shall be performed according to the testing schedule specified in 40 CFR 60.1785 to demonstrate compliance with the applicable emission standards in Paragraph (e) of this Rule.~~
- (4) The testing frequency for dioxin and furan may be reduced if the conditions under 40 CFR 60.58b(g)(5)(iii) are met and the owner or operator notifies the Director of the intent to begin the reduced dioxin and furan performance testing schedule during the following calendar year.
- (5) The owner or operator of an affected facility may request that compliance with the dioxin and furan emission limit be determined using carbon dioxide measurements corrected to an equivalent of seven percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be

established as specified in 40 CFR 60.58b(b)(6).

- (6)(4) The Director may require the owner or operator of any incinerator subject to this Rule to test his incinerator to demonstrate compliance with the emission standards in Paragraph (c) of this Rule.

(f) Monitoring, Recordkeeping, and Reporting.

- (1) The owner or operator of ~~an incinerator subject to the requirements of this Rule~~ a municipal waste combustor shall comply with the monitoring, recordkeeping, and reporting requirements established pursuant to Section .0600 of this Subchapter.

- (2) The owner or operator of ~~an incinerator~~ a municipal waste combustor that has installed air pollution abatement equipment to reduce emissions of hydrogen chloride shall install, operate, and maintain continuous monitoring equipment to measure pH for wet scrubber systems and rate of alkaline injection for dry scrubber systems.

- (3) The owner or operator of a municipal waste combustor shall:

- (A) install, calibrate, operate, and maintain, for each municipal waste combustor, continuous emission monitors to determine; ~~determine the following:~~

- (i) ~~opacity according to 40 CFR 60.58b(e) for large municipal waste combustors and 40 CFR 60.1720 for class I municipal waste combustors;~~

- (ii)(i) sulfur dioxide emissions, according to 40 CFR 60.58b(e) for large municipal waste combustors and 40 CFR 60.1720 for class I municipal waste combustors;

- (iii)(ii) nitrogen oxides emissions, according to 40 CFR 60.58b(h) for large municipal waste combustors and 40 CFR 60.1720 for class I municipal waste combustors; and

- (iv)(iii) oxygen or carbon dioxide emissions; according to 40 CFR 60.58b(b) for large municipal waste combustors and 40 CFR 60.1720 for class I municipal waste combustors; and

- (v) ~~temperature level in the primary chamber and, where there is a secondary~~

~~chamber, in the secondary chamber;~~

- (B) monitor the load level of each municipal waste combustor according to 40 CFR 60.58b(i)(6); ~~each class I municipal waste combustor according to 40 CFR 60.1810;~~

- (C) monitor the temperature of each municipal waste combustor ~~the~~ gases flue gases at the inlet of the particulate matter air pollution control device according to 40 CFR 60.58b(i)(7); ~~60.1815;~~

- (D) monitor carbon feed rate of each municipal waste combustor carbon delivery system and total plant predicted quarterly usage if activated carbon is used to abate dioxins and furans or mercury emissions according to 40 CFR 60.58b(m)(2) and (m)(3); ~~60.1820;~~

- (E) maintain records of the information listed in 40 CFR 60.59b(d)(1) through (d)(15) ~~for large municipal waste combustors and in 40 CFR 60.1840 through 1855 for class I municipal waste combustors~~ for a period of at least five years;

- ~~(F) following the initial compliance tests as required under Paragraph (e) of this Rule, submit the information specified in 40 CFR 60.59b(f)(1) through (f)(6) for large municipal waste combustors and in 40 CFR 60.1875 for class I municipal waste combustors, in the initial performance test report;~~

- ~~(F)(G)~~ following the first year of municipal combustor operation, submit an annual report specified in 40 CFR 60.59b(g) for ~~large~~ municipal waste combustors ~~and in 40 CFR 60.1885 for class I municipal waste combustors, as applicable;~~ no later than February 1 of each year following the calendar year in which the data were collected. Once the unit is subject to permitting requirements under 15A NCAC 02Q .0500, Title V Procedures, the owner or operator of an affected facility shall submit these reports semiannually; and

- ~~(H)(G)~~ submit a semiannual report specified in 40 CFR 60.59b(h) for ~~large~~ municipal waste combustors ~~and in 40 CFR 60.1900 for class I municipal waste combustors;~~ for any recorded pollutant or parameter that does not comply with the pollutant or

parameter limit specified in this Section, according to the schedule specified in 40 CFR 60.59b(h)(6).

(g) Excess Emissions and Start-up and Shut-down. All municipal waste combustors subject to this Rule shall comply with Rule .0535, Excess Emissions Reporting and Malfunctions, of this Subchapter.

(h) Operator Training and Certification.

(1) ~~By January 1, 2000, or six months after the date of start up of a class I municipal waste combustor, whichever is later, and by July 1, 1999 or six months after the date of start up of a large municipal waste combustor, whichever is later:~~

(1)(A) Each chief facility operator and shift supervisor ~~of a municipal waste combustor~~ shall obtain ~~and maintain~~ a current provisional operator certification within six months after he transfers to the municipal waste combustion unit or six months after he is hired to work at the municipal waste combustor unit. from the American Society of Mechanical Engineers (ASME QRO-1-1994).

(2) Each chief facility operator and shift supervisor shall obtain a full certification or be scheduled to take the certification exam within six months after he transfers to the municipal waste combustion unit or six months after he is hired to work at the municipal waste combustor unit.

(3)(B) Each facility operator and shift supervisor ~~of a municipal waste combustor~~ shall have completed full certification exam or ~~shall have~~ scheduled a full certification exam with the American Society of Mechanical Engineers (ASME QRO-1-1994).

(4)(C) The owner or operator of a municipal waste combustor plant shall not allow the facility to be operated at any time unless one of the following persons is on duty at the affected facility:

(A)(i) a fully certified chief facility operator;

(B)(ii) a provisionally certified chief facility operator who is scheduled to take the full certification exam; exam according to the schedule specified in Part (B) of this Subparagraph;

(C)(iii) a fully certified shift supervisor; or

(D)(iv) a provisionally certified shift supervisor who is scheduled to take the full certification exam; exam according to the schedule specified in Part (B) of this Subparagraph.

(5)(D) ~~If one of the persons listed in this Subparagraph leaves the certified chief facility operator and certified shift supervisor are both unavailable, the large municipal waste combustor during his operating shift, a~~

provisionally certified control room operator who is scheduled to take the full certification exam, who is onsite at the affected facility may fulfill the requirements of this Subparagraph. Part.

(E) ~~If one of the persons listed in this Subparagraph leaves the class I municipal waste combustor during his operating shift, a provisionally certified control room operator who is onsite at the affected facility may fulfill the requirements specified in 40 CFR 60.1685.~~

(6) All chief facility operators, shift supervisors, and control room operators shall complete the EPA municipal waste combustor training course. This requirement does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers on or before July 1, 1998. Furthermore, the owner or operator may request that the Director waive the requirement for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers on or before July 1, 1998.

(i) Training

(1)(2) The owner or operator of each municipal waste combustor shall develop and update on a yearly basis a site-specific operating manual that shall at the minimum address the elements of municipal waste combustor unit operation specified in 40 CFR 60.54b(e)(1) through (e)(11). The operating manual shall be kept in a readily accessible location for all persons required to undergo training under Subparagraph (2) of this Paragraph. The operating manual and records of training shall be available for inspection by the personnel of the Division on request.

(2)(3) ~~By July 1, 1999, or six Six months after the date of start up of a municipal waste combustor, whichever is later, the~~ The owner or operator of the municipal waste combustor plant shall establish a training program to review the operating manual according to the schedule specified in Parts (A) and (B) of this Subparagraph with each person who has responsibilities affecting the operation of the facility including chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane and load handlers; comply with the following requirements:

(A) A date prior to the day when the person assumes responsibilities

- affecting municipal waste combustor unit operation; and
- (B) ~~Annually, following the initial training required by Part (A) of this Subparagraph.~~
- (A) ~~All chief facility operators, shift supervisors, and control room operators shall complete the EPA municipal waste combustor training course.~~
- (i) ~~The requirements specified in Part (A) of this Subparagraph shall not apply to chief facility operators, shift supervisors and control room operators who have obtained full certification from the American Society of Mechanical Engineers on or before July 1, 1998.~~
- (ii) ~~As provided under 40 CFR 60.39b(c)(4)(iii)(B), the owner or operator may request that the Administrator waive the requirement specified in Part (A) of this Subparagraph for the chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers on or before July 1, 1998.~~
- (B) ~~The owner or operator of each municipal waste combustor shall establish a training program to review the operating manual, according to the schedule specified in Subparts (i) and (ii) of this Part, with each person who has responsibilities affecting the operation of an affected facility, including the chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane load handlers.~~
- (i) ~~Each person specified in Part (B) of this Subparagraph shall undergo initial training no later than the date specified in Items (I) through (III)(II) of this Subpart, whichever is later.~~
- (I) ~~The date six months after the date of start up of the affected facility; or~~
- (II) ~~July 1, 1999; or~~
- (III)(II) ~~A date prior to the day when the person assumes responsibilities affecting municipal waste combustor unit operation.~~
- (ii) ~~Annually, following the initial training required by Subpart (i) of this Part.~~
- (C) ~~The operating manual required by Subparagraph (2) of this Paragraph shall be updated continually and be kept in a readily accessible location for all persons required to undergo training under Part (B) of this Subparagraph. The operating manual and records of training shall be available for inspection by the personnel of the Division on request.~~
- (D) ~~The operating manual of class I municipal waste combustors shall contain requirements specified in 40 CFR 60.1665 in addition to requirements of Part (C) of this Subparagraph.~~
- (4) ~~The referenced ASME exam in this Paragraph is hereby incorporated by reference and includes subsequent amendments and editions. Copies of the referenced ASME exam may be obtained from the American Society of Mechanical Engineers (ASME), 22 Law Drive, Fairfield, NJ 07007, at a cost of forty nine dollars (\$49.00).~~
- (i) ~~Compliance Schedules.~~
- (1) ~~The owner or operator of a large municipal waste combustor shall choose one of the following three compliance schedule options:~~
- (A) ~~comply with all the requirements or close before August 1, 2000;~~
- (B) ~~comply with all the requirements before three years following the date of issuance of a revised construction and operation permit, if permit modification is required, or after August 1, 2000, but before August 1, 2002, if a permit modification is not required. If this option is chosen, then the owner or operator of the facility shall submit to the Director measurable and enforceable incremental steps of progress towards compliance which include:~~
- (i) ~~a date by which contracts for the emission control system or equipment shall be awarded or orders issued for purchase of component parts;~~

- (ii) ~~a date by which on site construction, installation, or modification of emission control equipment shall begin;~~
 - (iii) ~~a date by which on site construction, installation, or modification of emission control equipment shall be completed;~~
 - (iv) ~~a date for initial start up of emissions control equipment;~~
 - (v) ~~a date for initial performance test(s) of emission control equipment; and~~
 - (vi) ~~a date by which the municipal waste combustor shall be in compliance with this Rule, which shall be no later than three years from the issuance of the permit; or~~
- (C) ~~close between August 1, 2000, and August 1, 2002. If this option is chosen then the owner or operator of the facility shall submit to the Director a closure agreement which includes the date of the plant closure.~~
- (2) ~~All large municipal waste combustors for which construction, modification, or reconstruction commenced after June 26, 1987, but before September 19, 1994, shall comply with the emission limit for mercury specified in Subparagraph (c)(8) of this Rule and the emission limit for dioxin and furan specified in Subparagraph (c)(11) of this Rule within one year following issuance of a revised construction and operation permit, if a permit modification is required, or by August 1, 2000, whichever is later.~~
- (3) ~~The owner or operator of a class I municipal waste combustor shall choose one of the following four compliance schedule options:~~
 - (A) ~~comply with all requirements of this Rule beginning July 1, 2002;~~
 - (B) ~~comply with all requirements of this Rule by July 1, 2002 whether a permit modification is required or not. If this option is chosen, then the owner or operator shall submit to the Director along with the permit application if a permit application is needed or by September 1, 2002 if a permit application is not needed a compliance schedule that contains the following increments of progress:~~
 - (i) ~~a final control plan as specified in 40 CFR 60.1610;~~
 - (ii) ~~a date by which contracts for the emission control system or equipment shall be awarded or orders issued for purchase of component parts;~~
 - (iii) ~~a date by which onsite construction, installation, or modernization of emission control system or equipment shall begin;~~
 - (iv) ~~a date by which onsite construction, installation, or modernization of emission control system or equipment shall be completed; and~~
 - (v) ~~a date by which the municipal waste combustor shall be in compliance with this Rule, which shall be no later than December 1, 2004;~~
- (C) ~~comply with all requirements of this Rule by closing the combustor by July 1, 2002 and then reopening it. If this option is chosen the owner or operator shall:~~
 - (i) ~~meet increments of progress specified in 40 CFR 60.1585, if the class I combustor is closed and then reopened prior to the final compliance date; and~~
 - (ii) ~~complete emissions control retrofit and meet the emission limits and good combustion practices on the date that the class I combustor reopens operation if the class I combustor is closed and then reopened after the final compliance date; or~~
- (D) ~~comply by permanently closing the combustor. If this option is chosen the owner or operator shall:~~
 - (i) ~~submit a closure notification, including the date of closure, to the Director by July 1, 2002 if the class I combustor is to be closed on or before September 1, 2002; or~~
 - (ii) ~~enter into a legally binding closure agreement with the Director by July 1, 2002 if the class I combustor is to be closed after September 1, 2002, and the combustor~~

~~shall be closed no later than December 1, 2004.~~

- ~~(4) The owner or operator of a class I municipal waste combustor that began construction, reconstruction or modification after June 26, 1987 shall comply with the emission limit for mercury specified in Subparagraph (e)(8) of this Rule and the emission limit for dioxin and furan specified in Part (e)(11)(B) of this Rule by July 1, 2002.~~
- ~~(5) The owner or operator of any municipal waste combustor shall certify to the Director within five days after the deadline, for each increment of progress, whether the required increment of progress has been met.~~

(j) The referenced ASME exam in this Paragraph is hereby incorporated by reference and includes subsequent amendments and editions. Copies of the referenced ASME exam may be obtained from the American Society of Mechanical Engineers (ASME), 22 Law Drive, Fairfield, NJ 07007.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(4),(5); 40 CFR 60.35b; 40 CFR 60.34e; 40 CFR 60.1515.

15A NCAC 02D .1212 SMALL MUNICIPAL WASTE COMBUSTORS

(a) Applicability. This Rule applies to Class I municipal waste combustors, as defined in Rule .1202 of this Section.

(b) Definitions. For the purpose of this Rule, the definitions contained in 40 CFR 60.1940 (except administrator means the Director of the Division of Air Quality) shall apply in addition to the definitions in Rule .1202 of this Section.

(c) Emission Standards.

- (1) The emission standards in this Paragraph apply to any municipal waste combustor subject to the requirements of this Rule except where Rule .0524, .1110, or .1111 of this Subchapter applies. However, when Subparagraphs (13) or (14) of this Paragraph and Rule .0524, .1110, or .1111 of this Subchapter regulate the same pollutant, the more restrictive provision for each pollutant shall apply, notwithstanding provisions of Rules .0524, .1110, or .1111 of this Subchapter to the contrary.
- (2) Particulate Matter. Emissions of particulate matter from each municipal waste combustor shall not exceed 27 milligrams per dry standard cubic meter corrected to seven percent oxygen.
- (3) Visible Emissions. The emission limit for opacity from each class I municipal waste combustor shall not exceed 10 percent (average of 30 six-minute averages).
- (4) Sulfur Dioxide. Emissions of sulfur dioxide from each class I municipal waste combustor

shall not exceed 31 parts per million by volume, dry basis, or potential sulfur dioxide emissions shall be reduced by at least 75 percent volume, dry basis. Percent reduction shall be determined from continuous emissions monitoring data and in accordance with reference method 19, Section 12.5.4 of 40 CFR Part 60, Appendix A-7. Compliance with either standard is based on a 24-hour daily block geometric average of concentration data corrected to seven percent oxygen.

- (5) Nitrogen Oxide. Emissions of nitrogen oxide from each class I municipal waste combustor shall not exceed the emission limits in Table 3 of 40 CFR Part 60, Subpart BBBBB.
- (6) Odorous Emissions. Any incinerator subject to this Rule shall comply with Rule .1806 of this Subchapter for the control of odorous emissions.
- (7) Hydrogen Chloride. Emissions of hydrogen chloride from each class I municipal waste combustor shall not exceed 31 milligrams per dry standard cubic meter (31 parts per million by weight as determined by reference method 26 or 26A of 40 CFR Part 60, Appendix A-8) or potential hydrogen chloride emissions shall be reduced by at least 95 percent of the mass concentration, dry basis. Compliance with this Part shall be determined by averaging emissions over three one-hour test runs, with paired data sets for percent reduction and correction to seven percent oxygen.
- (8) Mercury Emissions. Emissions of mercury from each municipal waste combustor shall not exceed 0.080 milligrams per dry standard cubic meter (as determined by reference method 29 of 40 CFR Part 60, Appendix A-8) or potential mercury emissions shall be reduced by at least 85 percent of the mass concentration, dry basis. Compliance with this Part shall be determined by averaging emissions over three one-hour test runs, with paired data sets for percent reduction and correction to seven percent oxygen.
- (9) Lead Emissions. Emissions of lead from each class I municipal waste combustor shall not exceed 0.490 milligrams per dry standard cubic meter and corrected to seven percent oxygen (as determined by reference method 29 of 40 CFR Part 60, Appendix A-8).
- (10) Cadmium Emissions. Emissions of cadmium from each municipal waste combustor shall not exceed 0.040 milligrams per dry standard cubic meter, corrected to seven percent oxygen (as determined by reference method 29 of 40 CFR Part 60, Appendix A-8).
- (11) Dioxins and Furans. Emissions of dioxins and furans from each municipal waste combustor shall not exceed:

- (A) 60 nanograms per dry standard cubic meter (total mass) for facilities that employ an electrostatic precipitator-based emission control system, or
- (B) 30 nanograms per dry standard cubic meter (total mass) for facilities that do not employ an electrostatic precipitator-based emission control system.
- Compliance with this Subparagraph shall be determined by averaging emissions over three test runs with a minimum four hour run duration, performed in accordance with reference method 23 of 40 CFR Part 60, Appendix A-7, and corrected to seven percent oxygen.
- (12) Fugitive Ash.
- (A) On or after the date on which the initial performance test is completed, no owner or operator of a municipal waste combustor shall cause to be discharged to the atmosphere visible emissions of combustion ash from an ash conveying system (including conveyor transfer points) in excess of five percent of the observation period as determined by reference method 22 (40 CFR Part 60, Appendix A-7), except as provided in Part (B) of this Subparagraph. Compliance with this Part shall be determined from at least three 1-hour observation periods when the facility transfers fugitive ash from the municipal waste combustion unit to the area where the fugitive ash is stored or loaded into containers or trucks.
- (B) The emission limit specified in Part (A) of this Subparagraph covers visible emissions discharged to the atmosphere from buildings or enclosures, not the visible emissions discharged inside of the building or enclosures, of ash conveying systems.
- (13) Toxic Emissions. The owner or operator of a municipal waste combustor shall demonstrate compliance with Section .1100 of this Subchapter in accordance with 15A NCAC 02Q .0700.
- (14) Ambient Standards.
- (A) In addition to the ambient air quality standards in Section .0400 of this Subchapter, the following annual average ambient air quality standards in milligrams per cubic meter (77 degrees Fahrenheit, 25 degrees Celsius, and 29.92 inches, 760 millimeters of mercury pressure):
- arsenic and its compounds 2.3×10^{-7}
- beryllium and its compounds 4.1×10^{-6}
- cadmium and its compounds 5.5×10^{-6}
- chromium (VI) and its compounds 8.3×10^{-8}
- These are increments above background concentrations and shall apply aggregately to all incinerators at a facility subject to this Rule.
- (B) The owner or operator of a facility with incinerators subject to this Rule shall demonstrate compliance with the ambient standards of Part (A) of this Subparagraph by following the procedures set out in Rule .1106 of this Subchapter. Modeling demonstrations shall comply with the good engineering practice stack height requirements of Rule .0533 of this Subchapter.
- (C) The emission rates computed or used under Part (B) of this Subparagraph that demonstrate compliance with the ambient standards under Part (A) of this Subparagraph shall be specified as a permit condition for the facility with incinerators as their allowable emission limits unless Rule .0524, .1110, or .1111 of this Subchapter requires more restrictive rates.
- (15) The emission standards of Subparagraphs (1) through (14) of this Paragraph shall apply at all times except during periods of municipal waste combustion unit startup, shutdown, or malfunction that last no more than three hours.
- (d) Operational Standards.
- (1) The operational standards in this Rule do not apply to any incinerator subject to this Rule when applicable operational standards in Rule .0524, .1110, or .1111 of this Subchapter apply.
- (2) Each municipal waste combustor shall meet the following operational standards:
- (A) The concentration of carbon monoxide at the municipal waste combustor outlet shall not exceed the concentration in table 5 of 40 CFR Part 60, Subpart BBBB for each municipal waste combustor. The municipal waste combustor technology named in this table is defined in 40 CFR 60.1940.
- (B) The load level shall not exceed 110 percent of the maximum demonstrated municipal waste combustor unit load determined from the highest four-hour block arithmetic average achieved during four consecutive hours in the course of the most recent dioxins and furans stack test that demonstrates compliance

- with the emission limits of Paragraph (c) of this Rule.
- (C) The temperature at which the combustor operates measured at the particulate matter control device inlet shall not exceed 63 degrees F above the maximum demonstrated particulate matter control device temperature determined from the highest four-hour block arithmetic average measured at the inlet of the particulate matter control device during four consecutive hours in the course of the most recent dioxins and furans stack test that demonstrates compliance with the emission limits of Paragraph (c) of this Rule.
- (D) The owner or operator of a municipal waste combustor with activated carbon control system to control dioxins and furans or mercury emissions shall maintain an eight-hour block average carbon feed rate at or above the highest average level established during the most recent dioxins and furans or mercury test.
- (E) The owner or operator of a municipal waste combustor shall be exempted from limits on load level, temperature at the inlet of the particular matter control device, and carbon feed rate during the annual tests for dioxins and furans, the annual mercury tests (for carbon feed requirements only), the two weeks preceding the annual tests for dioxins and furans, and the two weeks preceding the annual mercury tests (for carbon feed rate requirements only).
- (F) The owner or operator of a municipal waste combustor shall be exempted from limits on load level, temperature at the inlet of the particular matter control device, and carbon feed rate when the Director approves for any activities to evaluate system performance, test new technology or control technology, perform diagnostic testing, perform other activities to improve the performance, or perform other activities to advance the state of the art for emissions controls.
- (3) The operational standards of this Paragraph apply at all times except during periods of municipal waste combustor startup, shutdown, or malfunction that last no more than three hours.
- (1) References contained in Table 8 of 40 CFR Part 60, Subpart BBBB will be used to determine the sampling location, pollutant concentrations, number of traverse points, individual test methods, and other specific testing requirements for the different pollutants.
- (2) Stack tests for all the pollutants will consist of at least three test runs, as specified in 40 CFR 60.8 and use the average of the pollutant emission concentrations from the three test runs to determine compliance with the applicable emission limits of Paragraph (c) of this Rule.
- (3) An oxygen (or carbon dioxide) measurement will be obtained at the same time as pollutant measurements to determine diluent gas levels, as specified in 40 CFR 60.1720.
- (4) The equations in 40 CFR 60.1935 will be used to calculate emission levels at seven percent oxygen (or an equivalent carbon dioxide basis), the percent reduction in potential hydrogen chloride emissions, and the reduction efficiency for mercury emissions. Other required equations are contained in individual test methods specified in Table 6 of 40 CFR Part 60, Subpart BBBB.
- (5) The owner or operator may apply to the Director for approval under 40 CFR 60.8(b) to use a reference method with minor changes in methodology, use an equivalent method, use an alternative method the results of which the Director has determined are adequate for demonstrating compliance, waive the requirement for a performance test because you have demonstrated by other means that you are in compliance, or use a shorter sampling time or smaller sampling volume.
- (6) The test methods and procedures described in 15A NCAC 02D .0501, 40 CFR Part 60, Appendix A and 40 CFR Part 61, Appendix B shall be used to determine compliance with emission standards in Paragraph (c) of this Rule according to table 8 of 40 CFR Part 60, Subpart BBBB.
- (7) Method 29 of 40 CFR Part 60, Appendix A-8 shall be used to determine emission rates for metals for toxic evaluations except for chromium (VI). Method 29 shall be used only to collect samples and SW 846 Method 0060 shall be used to analyze the samples of chromium(VI).
- (8) The owner or operator will conduct initial and annual stack tests to measure the emission levels of dioxins and furans, cadmium, lead, mercury, beryllium, arsenic, chromium (VI), particulate matter, opacity, hydrogen chloride, and fugitive ash. Annual stack tests for the

(e) Test Methods and Procedures.

same pollutants will be conducted no later than 13 months after the previous stack test.

- (9) The owner or operator must use results of stack tests for dioxins and furans, cadmium, lead, mercury, beryllium, arsenic, chromium (VI), particulate matter, opacity, hydrogen chloride, and fugitive ash to demonstrate compliance with the applicable emission limits in this rule except for carbon monoxide, nitrogen oxides, and sulfur dioxide.
- (10) The owner or operator must use results of continuous emissions monitoring of carbon monoxide, nitrogen oxides, and sulfur dioxide to demonstrate compliance with the applicable emission limits in this Rule.
- (11) The testing frequency for dioxin and furan may be reduced if the conditions under 40 CFR 60.1795(b) are met.
- (12) The Director may require the owner or operator of any incinerator subject to this Rule to test his incinerator to demonstrate compliance with the emission standards in Paragraph (c) of this Rule.

(f) Monitoring, Recordkeeping, and Reporting.

- (1) The owner or operator shall comply with the monitoring, recordkeeping, and reporting requirements developed pursuant to Section .0600 of this Subchapter.
- (2) The owner or operator that has installed air pollution abatement equipment to reduce emissions of hydrogen chloride shall install, operate, and maintain continuous parametric monitoring equipment to measure pH for wet scrubber systems and rate of alkaline injection for dry scrubber systems.
- (3) The owner or operator shall:
 - (A) install, calibrate, operate, and maintain, for each municipal waste combustor, continuous emission monitors to determine sulfur dioxide emissions, nitrogen oxides emissions, and oxygen or carbon dioxide according to 40 CFR 60.1715 through 60.1770;
 - (B) monitor load level of each class I municipal waste combustor according to 40 CFR 60.1810 and 60.1825;
 - (C) monitor temperature of the flue gases at the inlet of the particulate matter air pollution control device according to 40 CFR 60.1815 and 60.1825;
 - (D) monitor carbon feed rate if activated carbon is used to abate dioxins and furans or mercury emissions according to 40 CFR 60.1820 and 60.1825;
 - (E) maintain records of the information listed in 40 CFR 60.1830 through

60.1855 for a period of at least five years;

- (F) following the first year of municipal combustor operation, submit an annual report specified in 40 CFR 60.1885, no later than February 1 of each year following the calendar year in which the data were collected. Once the unit is subject to permitting requirements under 15A NCAC 02Q .0500, Title V Procedures, the owner or operator of an affected facility shall submit these reports semiannually; and
- (G) submit a semiannual report any recorded pollutant or parameter that does not comply with the pollutant or parameter limit specified in this Section according to the schedule specified in 40 CFR 60.1895.

(g) Excess Emissions and Start-up and Shut-down. All municipal waste combustors subject to this Rule shall comply with Rule .0535, Excess Emissions Reporting and Malfunctions, of this Subchapter.

(h) Operator Certification.

- (1) Each chief facility operator and shift supervisor shall obtain a provisional certification within six months after he transfers to the municipal waste combustion unit or six months after he is hired to work at the municipal waste combustor unit.
- (2) Each chief facility operator and shift supervisor shall obtain a full certification or be scheduled to take the certification exam within six months after he transfers to the municipal waste combustion unit or six months after he is hired to work at the municipal waste combustor unit.
- (3) Each chief facility operator and shift supervisor shall have obtained a full certification or have scheduled a full certification exam with the American Society of Mechanical Engineers (ASME QRO-1-1994).
- (4) The owner or operator of a municipal waste combustor plant shall not allow the facility to be operated at any time unless one of the following persons is on duty at the affected facility:
 - (A) a fully certified chief facility operator;
 - (B) a provisionally certified chief facility operator who is scheduled to take the full certification exam;
 - (C) a fully certified shift supervisor; or
 - (D) a provisionally certified shift supervisor who is scheduled to take the full certification exam.

(5) If the certified chief facility operator and certified shift supervisor both are unavailable, a provisionally certified control room operator at the municipal waste combustion unit may fulfill the certified operator requirement. Depending on the length of time that a certified chief facility operator and certified shift supervisor are away, one of three criteria shall be met:

(A) When the certified chief facility operator and certified shift supervisor are both offsite for 12 hours or less and no other certified operator is on-site, the provisionally certified control room operator may perform those duties without notice to, or approval by the Director.

(B) When the certified chief facility operator and certified shift supervisor are offsite for more than 12 hours, but for two weeks or less, and no other certified operator is on-site, the provisionally certified control room operator may perform those duties without notice to, or approval by, the Director. However, you must record the periods when the certified chief facility operator and certified shift supervisor are offsite and include the information in the annual report as specified under 40 CFR 60.1885(l).

(C) When the certified chief facility operator and certified shift supervisor are offsite for more than two weeks and no other certified operator is on-site, the provisionally certified control room operator may perform those duties without notice to, or approval by the Director. However, the owner or operator shall notify the Director in writing and submit a status report and corrective action summary to the Director every four weeks following the initial notification. In the notice, the owner or operator shall state what caused the absence and what is being done to ensure that a certified chief facility operator or certified shift supervisor is on-site. If the Director notifies the owner or operators that the status report or corrective action summary is disapproved, the municipal waste combustion unit may continue operation for 90 days, but then shall cease operation. If corrective actions are taken in the 90-day period such that the Director withdraws the disapproval, municipal waste

combustion unit operation may continue.

(D) All chief facility operators, shift supervisors, and control room operators shall complete the EPA operator training course. These employees must complete the operator training course before assuming responsibilities that affect operation of the municipal waste combustion unit. This requirement does not apply to chief facility operators, shift supervisors and control room operators who have obtained full certification from the American Society of Mechanical Engineers on or before July 1, 1998.

(i) Training.

(1) The owner or operator of each municipal waste combustor shall develop and update on a yearly basis a site-specific operating manual. The manual shall at the minimum address;

(A) a summary of all applicable requirements in this subsection,

(B) a description of the basic combustion principles that apply to municipal waste combustion units,

(C) procedures for receiving, handling, and feeding municipal solid waste,

(D) procedures to be followed during periods of startup, shutdown, and malfunction of the municipal waste combustion unit,

(E) procedures for maintaining a proper level of combustion air supply,

(F) procedures for operating the municipal waste combustion unit in compliance with the requirements contained in 40 CFR 60 Subpart JJJ,

(G) procedures for responding to periodic upset or off-specification conditions,

(H) procedures for minimizing carryover of particulate matter,

(I) procedures for handling ash,

(J) procedures for monitoring emissions from the municipal waste combustion unit,

(K) procedures for recordkeeping and reporting,

The operating manual shall be updated continually and be kept in a readily accessible location for all persons required to undergo training under Subparagraph (2) of this Paragraph. The operating manual and records of training shall be available for inspection by the personnel of the Division on request.

(3) The owner or operator of the municipal waste combustor plant shall establish a training program to review the operating manual

according to the schedule specified in Parts (A) and (B) of this Subparagraph with each person who has responsibilities affecting the operation of the facility including chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane and load handlers.

(A) a date prior to the day when the person assumes responsibilities affecting municipal waste combustor unit operation, and

(B) annually, following the initial training required by Part (A) of this Subparagraph.

(j) The referenced ASME exam (ASME QRO-1-1994) in this Paragraph is hereby incorporated by reference and includes subsequent amendments and editions. Copies of the referenced ASME exam may be obtained from the American Society of Mechanical Engineers (ASME), 22 Law Drive, Fairfield, NJ 07007, at a cost of forty nine dollars (\$49.00).

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(4),(5); 40 CFR 60.35b; 40 CFR 60.34e; 40 CFR 60.1515.

SUBCHAPTER 02Q - AIR QUALITY PERMITS PROCEDURES

SECTION .0100 - GENERAL PROVISIONS

15A NCAC 02Q .0102 ACTIVITIES EXEMPTED FROM PERMIT REQUIREMENTS

(a) This Rule does not apply to facilities required to have a permit under Section .0500 of this Subchapter. This Rule applies only to permits issued under Section .0300 of this Subchapter.

(b) If a source is subject to any of the following rules, then the source is not exempted from permit requirements, and the exemptions in Paragraph (c) of this Rule do not apply:

(1) new source performance standards under 15A NCAC 02D .0524 or 40 CFR Part 60, except when the following activities are eligible for exemption under Paragraph (c) of this Rule:

(A) 40 CFR Part 60, Subpart Dc, industrial, commercial, and institutional steam generating units;

(B) 40 CFR Part 60, Subparts K, Ka, or Kb, volatile organic liquid storage vessels;

(C) 40 CFR Part 60, Subpart AAA, new residential wood heaters; or

(D) 40 CFR Part 60, Subpart JJJ, petroleum dry cleaners; or

(E) 40 CFR Part 60, Subpart WWW, municipal solid waste landfills;

(F) 40 CFR Part 60, Subpart IIII, stationary compression ignition internal combustion engines; or

(G) 40 CFR Part 60, Subpart JJJJ, stationary spark ignition internal combustion engines;

(2) national emission standards for hazardous air pollutants under 15A NCAC 02D .1110 or 40 CFR Part 61, except asbestos demolition and renovation activities, which are eligible for exemption under Paragraph (c) of this Rule;

(3) prevention of significant deterioration under 15A NCAC 02D .0530;

(4) new source review under 15A NCAC 02D .0531 or .0532;

(5) sources of volatile organic compounds subject to the requirements of 15A NCAC 02D .0900 that are located in Mecklenburg County according to 15A NCAC 02D .0902(e);(d);

(6) sources required to apply maximum achievable control technology (MACT) for hazardous air pollutants under 15A NCAC 02D .1109, .1111, .1112, or 40 CFR Part 63 that are required to have a permit under Section .0500 of this Subchapter;

(7) sources at facilities subject to 15A NCAC 02D .1100. (If a source does not emit a toxic air pollutant for which the facility at which it is located has been modeled, it shall be exempted from needing a permit if it qualifies for one of the exemptions in Paragraph (c) of this Rule).

(c) The following activities do not need a permit or permit modification under Section .0300 of this Subchapter; however, the Director may require the owner or operator of these activities to register them under 15A NCAC 02D .0200:

(1) activities exempted because of category:

(A) maintenance, upkeep, and replacement:

(i) maintenance, structural changes, or repairs which do not change the capacity of such process, fuel-burning, refuse-burning, or control equipment, and do not involve any change in quality or nature or increase in quantity of emission of regulated air pollutants;

(ii) housekeeping activities or building maintenance procedures, including painting buildings, resurfacing floors, roof repair, washing, portable vacuum cleaners, sweeping, use and associated storage of janitorial products, or insulation removal;

(iii) use of office supplies, supplies to maintain copying equipment, or blueprint machines;

- (iv) use of fire fighting equipment;
- (v) paving parking lots; or
- (vi) replacement of existing equipment with equipment of the same size, type, and function that does not result in an increase to the actual or potential emission of regulated air pollutants and that does not affect the compliance status, and with replacement equipment that fits the description of the existing equipment in the permit, including the application, such that the replacement equipment can be operated under that permit without any changes in the permit;
- (B) air conditioning or ventilation: comfort air conditioning or comfort ventilating systems that do not transport, remove, or exhaust regulated air pollutants to the atmosphere;
- (C) laboratory activities:
 - (i) bench-scale, on-site equipment used exclusively for chemical or physical analysis for quality control purposes, staff instruction, water or wastewater analyses, or non-production environmental compliance assessments;
 - (ii) bench-scale experimentation, chemical or physical analyses, training or instruction from not-for-profit, non-production educational laboratories;
 - (iii) bench-scale experimentation, chemical or physical analyses, training or instruction from hospitals or health laboratories pursuant to the determination or diagnoses of illness; or
 - (iv) research and development laboratory activities provided the activity produces no commercial product or feedstock material;
- (D) storage tanks:
 - (i) storage tanks used solely to store fuel oils, kerosene, diesel, crude oil, used motor oil, lubricants, cooling oils, natural gas or liquefied petroleum gas;
- (ii) storage tanks used to store gasoline or ethanol-based fuels for which there are no applicable requirements except Stage I controls under 15A NCAC 02D .0928;
- (iii) storage tanks used solely to store inorganic liquids; or
- (iv) storage tanks or vessels used for the temporary containment of materials resulting from an emergency response to an unanticipated release of hazardous materials;
- (E) combustion and heat transfer equipment:
 - (i) space heaters burning distillate oil, kerosene, natural gas, or liquefied petroleum gas operating by direct heat transfer and used solely for comfort heat;
 - (ii) residential wood stoves, heaters, or fireplaces;
 - (iii) hot water heaters which are used for domestic purposes only and are not used to heat process water;
- (F) wastewater treatment processes: industrial wastewater treatment processes or municipal wastewater treatment processes for which there are no applicable requirements;
- (G) gasoline distribution: gasoline service stations or gasoline dispensing facilities;
- (H) dispensing equipment: equipment used solely to dispense diesel fuel, kerosene, lubricants or cooling oils;
- (I) solvent recycling: portable solvent distillation systems used for on-site solvent recycling if:
 - (i) The portable solvent distillation system is not:
 - (I) owned by the facility, and
 - (II) operated at the facility for more than seven consecutive days; and
 - (ii) The material recycled is recycled at the site of origin;
- (J) processes:

- (i) electric motor burn-out ovens with secondary combustion chambers or afterburners;
- (ii) electric motor bake-on ovens;
- (iii) burn-off ovens for paint-line hangers with afterburners;
- (iv) hosiery knitting machines and associated lint screens, hosiery dryers and associated lint screens, and hosiery dyeing processes where bleach or solvent dyes are not used;
- (v) blade wood planers planing only green wood;
- (K) solid waste landfills: municipal solid waste landfills (This Part does not apply to flares and other sources of combustion at solid waste landfills; these flares and other combustion sources are required to be permitted under 15A NCAC 02Q .0300 unless they qualify for another exemption under this Paragraph.);
- (L) miscellaneous:
 - (i) motor vehicles, aircraft, marine vessels, locomotives, tractors or other self-propelled vehicles with internal combustion engines;
 - (ii) non-self-propelled non-road engines, except generators, regulated by rules adopted under Title II of the Federal Clean Air Act (Generators are required to be permitted under 15A NCAC 02Q .0300 unless they qualify for another exemption under this Paragraph.);
 - (iii) portable generators regulated by rules adopted under Title II of the Federal Clean Air Act;
 - (iv) equipment used for the preparation of food for direct on-site human consumption;
 - (v) a source whose emissions are regulated only under Section 112(r) or Title VI of the Federal Clean Air Act;
 - (vi) exit gases from in-line process analyzers;
 - (vii) stacks or vents to prevent escape of sewer gases from domestic waste through plumbing traps;
- (viii) refrigeration equipment that is consistent with Section 601 through 618 of Title VI (Stratospheric Ozone Protection) of the Federal Clean Air Act, 40 CFR Part 82, and any other regulations promulgated by EPA under Title VI for stratospheric ozone protection, except those units used as or in conjunction with air pollution control equipment (A unit used as or in conjunction with air pollution control equipment is required to be permitted under 15A NCAC 02Q .0300 unless it qualifies for another exemption under this Paragraph);
- (ix) equipment not vented to the outdoor atmosphere with the exception of equipment that emits volatile organic compounds (Equipment that emits volatile organic compounds is required to be permitted under 15A NCAC 02Q .0300 unless it qualifies for another exemption under this Paragraph);
- (x) equipment that does not emit any regulated air pollutants;
- (xi) facilities subject only to a requirement under 40 CFR Part 63 (This Subpart does not apply when a control device is used to meet a MACT or GACT emission standard; a control device used to meet a MACT or GACT emission standard is required to be permitted under 15A NCAC 02Q .0300 unless it qualifies for another exemption under this Paragraph);
- (xii) sources for which there are no applicable requirements;
- (xiii) animal operations not required to have control technology under 15A NCAC 02D .1800 (If an animal operation is required to have control technology, it shall be required to have a permit under this Subchapter).

- (2) activities exempted because of size or production rate:
- (A) storage tanks:
- (i) above-ground storage tanks with a storage capacity of no more than 1100 gallons storing organic liquids with a true vapor pressure of no more than 10.8 pounds per square inch absolute at 70° F; or
 - (ii) underground storage tanks with a storage capacity of no more than 2500 gallons storing organic liquids with a true vapor pressure of no more than 10.8 psi absolute at 70° F;
- (B) combustion and heat transfer equipment:
- (i) fuel combustion equipment, except for internal combustion engines, firing exclusively kerosene, No. 1 fuel oil, No. 2 fuel oil, equivalent unadulterated fuels, or a mixture of these fuels or one or more of these fuels mixed with natural gas or liquefied petroleum gas with a heat input of less than:
 - (I) 10 million Btu per hour for which construction, modification, or reconstruction commenced after June 9, 1989; or
 - (II) 30 million Btu per hour for which construction, modification, or reconstruction commenced before June 10, 1989;
 - (ii) fuel combustion equipment, except for internal combustion engines, firing exclusively natural gas or liquefied petroleum gas or a mixture of these fuels with a heat input rating less than 65 million Btu per hour

(Internal combustion engines are required to be permitted under 15A NCAC 02Q .0300 unless they qualify for another exemption under this Paragraph);

- (iii) space heaters burning waste oil if:
 - (I) The heater burns only oil that the owner or operator generates or used oil from do-it-yourself oil changers who generate used oil as household wastes;
 - (II) The heater is designed to have a maximum capacity of not more than 500,000 Btu per hour; and
 - (III) The combustion gases from the heater are vented to the ambient air;
- (iv) fuel combustion equipment with a heat input rating less than 10 million Btu per hour that is used solely for space heating except:
 - (I) space heaters burning waste oil, or
 - (II) internal combustion engines;
- (v) emergency use generators and other internal combustion engines not regulated by rules adopted under Title II of the Federal Clean Air Act, except self-propelled vehicles, that have a rated capacity of no more than:
 - (I) 680 kilowatts (electric) or 1000 horsepower for natural gas-fired engines;
 - (II) 1800 kilowatts (electric) or 2510 horsepower for liquefied petroleum gas-fired engines;
 - (III) 590 kilowatts (electric) or 900 horsepower for

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| | | diesel-fired or kerosene-fired engines; or | | cleaning operations located at a facility whose facility-wide actual emissions of volatile organic compounds are less than five tons per year (Graphic arts operations, coating operations, and solvent cleaning operations are defined in 15A NCAC 02Q .0803); |
| | (IV) | 21 kilowatts (electric) or 31 horsepower for gasoline-fired engines; | | |
| | | (Self-propelled vehicles with internal combustion engines are exempted under Subpart (1)(c)(L)(i) of this Paragraph.) | (ii) | sawmills that saw no more than 2,000,000 board feet per year provided only green wood is sawed; |
| (vi) | | portable generators and other portable equipment with internal combustion engines not regulated by rules adopted under Title II of the Federal Clean Air Act, except self-propelled vehicles, that operate at the facility no more than a combined 350 hours for any 365-day period provided the generators or engines have a rated capacity of no more than 750 kilowatt (electric) or 1100 horsepower each and provided records are maintained to verify the hours of operation (Self-propelled vehicles with internal combustion engines are exempted under Subpart (1)(c)(L)(i) of this Paragraph.); | (iii) | perchloroethylene dry cleaners that emit less than 13,000 pounds of perchloroethylene per year; |
| | | | (iv) | electrostatic dry powder coating operations with filters or powder recovery systems including electrostatic dry powder coating operations equipped with curing ovens with a heat input of less than 10,000,000 Btu per hour; |
| | | | (E) | miscellaneous: |
| | | | (i) | any source whose emissions would not violate any applicable emissions standard and whose potential emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide before air pollution control devices, i.e., potential uncontrolled emissions, are each no more than five tons per year and whose potential emissions of hazardous air pollutants are below their lesser quantity cutoff except: |
| (C) | | gasoline distribution: bulk gasoline plants with an average daily throughput of less than 4000 gallons; | (I) | storage tanks, |
| (D) | | processes: | (II) | fuel combustion equipment, |
| | (i) | graphic arts operations, paint spray booths or other painting or coating operations without air pollution control devices (water wash and filters that are an integral part of the paint spray booth are not considered air pollution control devices), and solvent | (III) | space heaters burning waste oil, |
| | | | (IV) | generators, excluding emergency generators, or other non-self-propelled internal combustion engines, |

- (V) bulk gasoline plants,
 - (VI) printing, paint spray booths, or other painting or coating operations,
 - (VII) sawmills,
 - (VIII) perchloroethylene dry cleaners, or
 - (IX) electrostatic dry powder coating operations, provided that the total potential emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide from the facility are each less than 40 tons per year and the total potential emissions of all hazardous air pollutants are below their lesser quantity cutoff emission rates or provided that the facility has an air quality permit. (A source identified in Sub-subpart (I) through (IX) of this Part is required to be permitted under 15A NCAC 02Q .0300 unless it qualifies for another exemption under this Paragraph);
 - (ii) any facility whose actual emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide before air pollution control devices, i.e., uncontrolled emissions, are each less than five tons per year, whose potential emissions of all hazardous air pollutants are below their lesser quantity cutoff emission rate, and none of
 - whose sources would violate an applicable emissions standard;
 - (iii) any source that only emits hazardous air pollutants that are not also a particulate or a volatile organic compound and whose potential emissions of hazardous air pollutants are below their lesser quantity cutoff emission rates; or
 - (iv) any incinerator covered under Subparagraph (c)(4) of 15A NCAC 02D .1201;
 - (F) case-by-case exemption: activities that the applicant demonstrates to the satisfaction of the Director:
 - (i) to be negligible in their air quality impacts;
 - (ii) not to have any air pollution control device; and
 - (iii) not to violate any applicable emission control standard when operating at maximum design capacity or maximum operating rate, whichever is greater.
- (d) Because an activity is exempted from being required to have a permit does not mean that the activity is exempted from any applicable requirement or that the owner or operator of the source is exempted from demonstrating compliance with any applicable requirement.
- (e) Emissions from stationary source activities identified in Paragraph (c) of this Rule shall be included in determining compliance with the toxic air pollutant requirements under 15A NCAC 02D .1100 or 02Q .0700 according to 15A NCAC 02Q .0702 (exemptions from air toxic permitting).
- (f) The owner or operator of a facility or source claiming an exemption under Paragraph (c) of this Rule shall provide the Director documentation upon request that the facility or source is qualified for that exemption.
- (g) If the Director finds that an activity exempted under Paragraph (c) of this Rule is in violation of or has violated a rule in 15A NCAC 02D, he shall revoke the permit exemption for that activity and require that activity to be permitted under this Subchapter if necessary to obtain or maintain compliance.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4); 143-215.108.

SECTION .0300 - CONSTRUCTION AND OPERATION PERMITS

15A NCAC 02Q .0304 APPLICATIONS

- (a) Obtaining and filing application. Permit, permit modification, or permit renewal applications may be obtained and shall be filed in writing according to Rule .0104 of this Subchapter.

(b) Information to accompany application. Along with filing a complete application form, the applicant shall also file the following:

- (1) for a new facility or an expansion of existing facility, a consistency determination according to G.S. 143-215.108(f) that:
 - (A) bears the date of receipt entered by the clerk of the local government, or
 - (B) consists of a letter from the local government indicating that all zoning or subdivision ordinances are met by the facility;
- (2) for a new facility or an expansion of existing facility in an area without zoning, an affidavit and proof of publication of a legal notice as required under Rule .0113 of this Subchapter;
- (3) for a new facility or modification of an existing facility, a written description of current and projected plans to reduce the emissions of air contaminants by source reduction and recycling according to G.S. 143-215.108(g); the description shall include:
 - (A) for an existing facility, a summary of activities related to source reduction and recycling and a quantification of air emissions reduced and material recycled during the previous year and a summary of plans for further source reduction and recycling; or
 - (B) for a new facility, a summary of activities related to and plans for source reduction and recycling; and
- (4) for permit renewal, an emissions inventory that contains the information specified under 15A NCAC 02D .0202, Registration of Air Pollution Sources (the applicant may use emission inventory forms provided by the Division to satisfy this requirement); and
- (5) if required by the Director, information showing that: the information in Parts (A) or (B) of this Subparagraph if the Director finds this information necessary to evaluate the source, its air pollution abatement equipment, or the facility:
 - (A) The applicant is financially qualified to carry out the permitted activities, or
 - (B) The applicant has substantially complied with the air quality and emissions standards applicable to any activity in which the applicant has previously been engaged, and has been in substantial compliance with federal and state environmental laws and rules.

(c) When to file application. For sources subject to the requirements of 15A NCAC 02D .0530 (prevention of significant deterioration) or .0531 (new source review for sources in nonattainment areas), applicants shall file air permit

applications at least 180 days before the projected construction date. For all other sources, applicants shall file air permit applications at least 90 days before the projected date of construction of a new source or modification of an existing source.

(d) Permit ~~renewal and ownership~~ renewal, name, or ownership changes with no modifications. If no modification has been made to the originally permitted source, application for permit ~~renewal or ownership~~ change may be made by letter to the Director at the address specified in Rule .0104 of this Subchapter. The ~~renewal or ownership~~ permit renewal, name, or ownership change letter must state that there have been no changes in the permitted facility since the permit was last issued. However, the Director may require the applicant for ownership change to submit additional information, if the Director finds the following information necessary to evaluate the applicant for ownership change, showing that:

- (1) The applicant is financially qualified to carry out the permitted activities, or
- (2) The applicant has substantially complied with the air quality and emissions standards applicable to any activity in which the applicant has previously been engaged, and has been in substantial compliance with federal and state environmental laws and rules.

To make a name or ownership change, the applicant shall send the Director the number of copies of letters specified in Rule .0305(a)(3) or (4) of this Section signed by a person specified in Paragraph (j) of this Rule.

(e) Applications for date and reporting changes. Application for changes in construction or test dates or reporting procedures may be made by letter to the Director at the address specified in Rule .0104 of this ~~Section~~ Subchapter. To make changes in construction or test dates or reporting procedures, the applicant shall send the Director the number of copies of letters specified in Rule .0305(a)(5) of this Section signed by a person specified in Paragraph (j) of this Rule.

(f) When to file applications for permit renewal. Applicants shall file applications for renewals such that they are ~~received by the Division~~ mailed to the Director at the address specified in Rule .0104 of this Subchapter and postmarked at least 90 days before expiration of the permit.

(g) ~~Ownership or name~~ Name, or ownership change. The permittee shall file requests for permit name or ownership changes as soon as the permittee is aware of the imminent name or ownership change.

(h) Number of copies of additional information. The applicant shall submit the same number of copies of additional information as required for the application package.

(i) Requesting additional information. Whenever the information provided on the permit application forms does not adequately describe the source and its air cleaning device, the Director may request that the applicant provide any other information that the Director considers necessary to evaluate the source and its air cleaning device. Before acting on any permit application, the Director may request any information from an applicant and conduct any inquiry or investigation that he considers necessary to determine compliance with applicable standards.

(j) Signature on application. Permit applications submitted pursuant to this Rule shall be signed as follows:

- (1) for corporations, by a principal executive officer of at least the level of vice-president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the emissions described in the permit application form originates;
- (2) for partnership or limited partnership, by a general partner;
- (3) for a sole proprietorship, by the proprietor;
- (4) for municipal, state, federal, or other public entity, by a principal executive officer, ranking elected official, or other duly authorized employee.

(k) Application fee. With the exceptions specified in Rule .0203(i) of this Subchapter, a non-refundable permit application processing fee shall accompany each application. The permit application processing fees are defined in Section .0200 of this Subchapter. A permit application is incomplete until the permit application processing fee is received.

(l) Correcting submittals of incorrect information. An applicant has a continuing obligation to submit relevant facts pertaining to his permit application and to correct incorrect information on his permit application.

(m) Retaining copy of permit application package. The applicant shall retain for the duration of the permit term one complete copy of the application package and any information submitted in support of the application package.

Authority G.S. 143-215.3(a)(1); 143-215.108.

15A NCAC 02Q .0902 TEMPORARY CRUSHERS

(a) For the purposes of this Rule, "temporary crusher" means a crusher that will not be operated at any one facility or site for more than 12 months.

~~(a)(b)~~ This rule applies to ~~portable crushers~~ any temporary crusher that:

- (1) ~~crush~~ crushes no more than 300,000 tons at any one facility or site; ~~tons during any 12 months;~~
- (2) ~~burn~~ burns no more than 17,000 gallons of diesel fuel at any one facility or site ~~during any 12 months~~ if it uses:
 - (A) a diesel-fired generator, or
 - (B) a diesel engine to drive the crusher;
- ~~(3) do not operate at any one facility or site more than 12 months;~~
- ~~(4)(3)~~ do does not operate at a quarry that has an air permit issued under this Subchapter; ~~and~~
- ~~(5)(4)~~ continuously use uses water spray to control emissions from the ~~crushers~~-crusher; ~~and~~
- (5) does not operate at a facility that is required to have a mining permit issued by the Division of Land Resources.

~~(b)(c)~~ The owner or operator of a ~~portable~~ temporary crusher and any associated generators shall comply with ~~15A NCAC 2D Rules of Subchapter 02D~~ .0510 (Particulates From Sand, Gravel, Or Crushed Stone Operations), .0516 (Sulfur Dioxide Emissions From Combustion Sources), .0521 (Control Of Visible Emissions), .0524 (New Source Performance Standards, 40 CFR Part 60, ~~Subpart Subparts 000, 000 and IIII~~), .0535 (Excess Emissions Reporting And Malfunctions), .0540 (Particulates From Fugitive Non-Process Dust), and .1806 (control and prohibition of odorous emissions).

~~(c)(d)~~ The owner or operator of a ~~portable~~ temporary crusher shall not cause or allow any material to be produced, handled, transported, or stockpiled without taking measures to reduce to a minimum any particulate matter from becoming airborne to ~~prevent exceeding ensure that~~ the ambient air quality standards ~~beyond the property line~~ for particulate matter (PM2.5, PM10, and total suspended particulate) ~~are not exceeded beyond the property line, particulates~~.

~~(d)(e)~~ The owner or operator of a ~~portable~~ temporary crusher shall maintain records of the amount of material crushed and the quantity of fuel burned in the diesel-fired generator or engine so that the Division can determine upon review of these records that the crusher qualifies to be covered under this Rule.

~~(e)(f)~~ The owner or operator of a ~~portable~~ temporary crusher shall clearly label each crusher, hopper, feeder, screen, conveyor, elevator, and generator with a permanent and unique identification number.

~~(f)(g)~~ If a source is covered under 15A NCAC 02D .0524 (40 CFR Part 60, Subpart 000), the owner or operator of a ~~portable~~ temporary crusher shall submit to the Director notifications ~~are~~ required under 15A NCAC 02D .0524 (40 CFR Part 60, Subpart 000).

~~(g)(h)~~ If the Director or his authorized representative requests copies of notifications or testing records required under 15A NCAC 02D .0524 (40 CFR Part 60, Subpart 000), the owner or operator of a ~~portable~~ temporary crusher shall submit the requested notifications or testing records within two business days of such a request.

(i) If a source is covered under 15A NCAC 02D .0524 (40 CFR Part 60, Subpart IIII), the owner or operator of a compression ignition internal combustion engine (CI ICE) for a temporary crusher shall submit to the Director notifications required under 15A NCAC 02D .0524 (40 CFR Part 60, Subpart IIII).

(j) If the Director or his authorized representative requests copies of notifications or testing records required under 15A NCAC 02D .0524 (40 CFR Part 60, Subpart IIII), the owner or operator of a compression ignition internal combustion engine (CI ICE) for temporary crusher shall submit the requested notifications or testing records within two business days of such a request.

(k) If the owner or operator of a crusher plans or has the design potential to operate a crusher at a facility or site for more than 12 months, he shall apply for and shall have received an air quality permit issued under this Subchapter before beginning operations.

Authority G.S. 143-215.3(a); 143-215.107(a)(10); 143-215.108.

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 17, 2008.

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

<u>Required Documentation</u>	01	NCAC	44A	.0301*	22:08 NCR
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MEDICAL CARE COMMISSION

<u>Minimum Provisions of Patient's Bill of Rights</u>	10A	NCAC	13B	.3302*	22:08 NCR
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HHS - DEAF AND HARD OF HEARING, DIVISION OF SERVICES FOR THE

<u>Application Information and Procedures</u>	10A	NCAC	17D	.0205*	22:12 NCR
<u>Eligibility</u>	10A	NCAC	17D	.0206*	22:12 NCR
<u>Financial Eligibility</u>	10A	NCAC	17D	.0210*	22:12 NCR
<u>Rights/Consumer Appeals</u>	10A	NCAC	17D	.0220	22:12 NCR

HHS - MENTAL HEALTH

<u>Standardized Forms and Processes</u>	10A	NCAC	26C	.0402*	22:09 NCR
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MENTAL HEALTH, COMMISSION FOR

<u>Scope</u>	10A	NCAC	26C	.0601	22:09 NCR
<u>Definitions</u>	10A	NCAC	26C	.0602*	22:09 NCR
<u>Notice of Deficient Performance</u>	10A	NCAC	26C	.0603*	22:09 NCR
<u>Plan of Correction Requirements</u>	10A	NCAC	26C	.0604*	22:09 NCR
<u>Focused Technical Assistance</u>	10A	NCAC	26C	.0605	22:09 NCR
<u>Removal of LME Function</u>	10A	NCAC	26C	.0606	22:09 NCR

HHS - MENTAL HEALTH

<u>Scope</u>	10A	NCAC	27A	.0301	22:09 NCR
<u>Definitions</u>	10A	NCAC	27A	.0302*	22:09 NCR
<u>Clean Claim Format Requirements</u>	10A	NCAC	27A	.0303*	22:09 NCR
<u>Claims Review Procedures</u>	10A	NCAC	27A	.0304	22:09 NCR
<u>Area Board Annual Evaluation of an Area Director</u>	10A	NCAC	27G	.0507*	22:09 NCR
<u>Carolina Alternatives</u>	10A	NCAC	29D	.0101	22:08 NCR

MENTAL HEALTH, COMMISSION FOR

<u>Scope</u>	10A	NCAC	29D	.0401	22:08 NCR
<u>Staff</u>	10A	NCAC	29D	.0402	22:08 NCR
<u>Operations</u>	10A	NCAC	29D	.0403	22:08 NCR
<u>Purpose and Scope</u>	10A	NCAC	29D	.0601	22:08 NCR

APPROVED RULES

<u>Definitions</u>	10A	NCAC	29D	.0602	22:08 NCR
<u>Written Notice of Intent</u>	10A	NCAC	29D	.0603	22:08 NCR
<u>DWI Substance Abuse Assessment Elements</u>	10A	NCAC	29D	.0604	22:08 NCR
<u>Qualifications of Individuals Performing Assessments</u>	10A	NCAC	29D	.0605	22:08 NCR
<u>Responsibilities of Assessing Agency</u>	10A	NCAC	29D	.0606	22:08 NCR
<u>Responsibilities of Treatment or ADETS Providers</u>	10A	NCAC	29D	.0607	22:08 NCR
<u>Reporting Requirements</u>	10A	NCAC	29D	.0608	22:08 NCR
<u>Pre-Trial Assessments</u>	10A	NCAC	29D	.0609	22:08 NCR
<u>Placement Criteria For Assessed DWI Clients</u>	10A	NCAC	29D	.0610	22:08 NCR
<u>Documentation Requirements</u>	10A	NCAC	29D	.0611	22:08 NCR

INSURANCE, DEPARTMENT OF

<u>Prehearing Conference</u>	11	NCAC	01	.0419	22:13 NCR
<u>Evidence</u>	11	NCAC	01	.0429*	22:13 NCR
<u>Building Code Publications: General Information</u>	11	NCAC	08	.0203*	n/a G.S 150B-21.5(a)(4)
<u>Application</u>	11	NCAC	20	.0404*	22:13 NCR

LABOR, DEPARTMENT OF

<u>Personal Protective Equipment</u>	13	NCAC	07F	.0104	22:14 NCR
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ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Prevention of Significant Deterioration</u>	15A	NCAC	02D	.0530*	22:08 NCR
<u>Sources In Nonattainment Areas</u>	15A	NCAC	02D	.0531*	22:08 NCR
<u>Purpose and Applicability</u>	15A	NCAC	02D	.2401*	22:08 NCR
<u>Definitions</u>	15A	NCAC	02D	.2402*	22:08 NCR
<u>Nitrogen Oxide Emissions</u>	15A	NCAC	02D	.2403*	22:08 NCR
<u>Sulfur Dioxide</u>	15A	NCAC	02D	.2404*	22:08 NCR
<u>Nitrogen Oxide Emissions During Ozone</u>	15A	NCAC	02D	.2405*	22:08 NCR
<u>Monitoring, Reporting, and Recordkeeping</u>	15A	NCAC	02D	.2407	22:08 NCR
<u>Designated Representative</u>	15A	NCAC	02D	.2409	22:08 NCR
<u>New Unit Growth</u>	15A	NCAC	02D	.2412*	22:08 NCR

WILDLIFE RESOURCES COMMISSION

<u>Wildlife Taken for Depredations or Accidentally</u>	15A	NCAC	10B	.0106*	22:11 NCR
<u>Wildlife Collectors</u>	15A	NCAC	10B	.0119	22:11 NCR
<u>Bear</u>	15A	NCAC	10B	.0202	22:11 NCR
<u>Raccoon and Opossum</u>	15A	NCAC	10B	.0205	22:11 NCR
<u>Squirrels</u>	15A	NCAC	10B	.0206	22:11 NCR
<u>Rabbits</u>	15A	NCAC	10B	.0207	22:11 NCR
<u>Falconry</u>	15A	NCAC	10B	.0216	22:11 NCR
<u>Open Seasons</u>	15A	NCAC	10B	.0302*	22:11 NCR
<u>Bag Limits</u>	15A	NCAC	10B	.0303	22:11 NCR
<u>Trappers and Hunters</u>	15A	NCAC	10B	.0404	22:11 NCR
<u>Public Mountain Trout Waters</u>	15A	NCAC	10C	.0205	22:11 NCR
<u>Trotlines and Set-Hooks</u>	15A	NCAC	10C	.0206*	22:11 NCR

APPROVED RULES

<u>Open Seasons: Creel and Size Limits</u>	15A	NCAC	10C	.0305	22:11 NCR
<u>Manner of Taking Non-game Fishes: Purchase and Sale</u>	15A	NCAC	10C	.0401*	22:11 NCR
<u>Taking Non-game Fishes for Bait or Personal</u>	15A	NCAC	10C	.0402*	22:11 NCR
<u>Special Device Fishing</u>	15A	NCAC	10C	.0404	22:11 NCR
<u>Descriptive Boundaries</u>	15A	NCAC	10C	.0503	22:11 NCR
<u>Scope and Purpose</u>	15A	NCAC	10C	.0601	22:11 NCR
<u>Anadromous Fish Spawning</u>	15A	NCAC	10C	.0602	22:11 NCR
<u>Descriptive Boundaries</u>	15A	NCAC	10C	.0603*	22:11 NCR
<u>General Regulations Regarding Use</u>	15A	NCAC	10D	.0102	22:11 NCR
<u>Hunting On Game Lands</u>	15A	NCAC	10D	.0103	22:11 NCR
<u>License to Operate</u>	15A	NCAC	10H	.0101	22:11 NCR
<u>General Requirements</u>	15A	NCAC	10H	.0301*	22:11 NCR
<u>Disposition of Birds or Eggs</u>	15A	NCAC	10H	.0904	22:11 NCR
<u>Endangered Species</u>	15A	NCAC	10I	.0103*	22:11 NCR
<u>Special Concern Species</u>	15A	NCAC	10I	.0105	22:11 NCR

PUBLIC HEALTH, COMMISSION FOR

<u>Sample Collection</u>	15A	NCAC	18A	.3802*	22:08 NCR
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SECRETARY OF STATE, DEPARTMENT OF

<u>Other Violations</u>	18	NCAC	07B	.0905*	n/a G.S. 150B-21.5(a)(5)
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COMMUNITY COLLEGES, BOARD OF

<u>Local College Personnel Policies</u>	23	NCAC	02C	.0210*	22:06 NCR
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STATE PERSONNEL COMMISSION

<u>Confidential Information in Personnel Files</u>	25	NCAC	01C	.0304*	22:10 NCR
<u>Posting and Announcement of Vacancies</u>	25	NCAC	01H	.0631*	n/a G.S 150B-21.5(a)(3)
<u>Compensation of Area Mental Health Directors</u>	25	NCAC	01I	.2108	22:10 NCR

These rules are subject to the next Legislative Session. (See G.S. 150B-21.3(b1))

BANKS, OFFICE OF THE COMMISSIONER OF

<u>Annual Reporting Requirements</u>	04	NCAC	03M	.0401*	22:01 NCR
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MEDICAL CARE COMMISSION

<u>Rating Calculation</u>	10A	NCAC	13F	.1604*	22:11 NCR
<u>Rating Calculation</u>	10A	NCAC	13G	.1604*	22:11 NCR

TITLE 01 – DEPARTMENT OF ADMINISTRATION**01 NCAC 44A .0301 REQUIRED DOCUMENTATION**

The Office for Historically Underutilized Businesses shall request the following documentation based on the business structure of the applicant, to determine that the applicant's

ownership, management and control of daily business operations are consistent with the eligibility requirements as provided in G.S. 143-48 and 143-128.2:

- (1) Sole Proprietorship
 - (a) Bank signature card;
 - (b) City or County Tax Records;

- (c) Company profile, including roles and responsibilities of officers and owners;
- (d) Home state certification (out of state vendors);
- (e) Professional License;
- (f) Proof of ethnicity or gender of owner (drivers license, birth certificate, tribal enrollment documents or passport);
- (g) Résumé of Principal Owner; and
- (h) Business privilege license; or
- (i) Certificate of Assumed name (if other than the owner)
- (2) General Partnership
 - (a) Bank signature card;
 - (b) City or County Tax Records
 - (c) Company profile, including roles and responsibilities of officers and owners;
 - (d) Home state certification (out of state vendors);
 - (e) Partnership Agreement;
 - (f) Professional Licenses;
 - (g) Proof of ethnicity or gender of owners (drivers licenses, birth certificates, tribal enrollment documents or passport);
 - (h) Proof or verification of start-up investment capital (example: cash investment, opening of business account, equipment bill of sale, bank statement);
 - (i) Résumés of Owners; and
 - (j) Amendments to the Partnership Agreement; or
 - (k) Business privilege license; or
 - (l) Certificate of Assumed name (if other than the owners).
- (3) Limited Partnership
 - (a) Bank signature card;
 - (b) Business privilege license;
 - (c) Certificate of Assumed name (if applicable);
 - (d) Certificate of Limited Partnership (filed with the NC Secretary of State);
 - (e) City or County Tax Records;
 - (f) Company profile, including roles and responsibilities of officers and owners;
 - (g) Home state certification (out of state vendors);
 - (h) Partnership Agreement;
 - (i) Professional Licenses;
 - (j) Proof of ethnicity or gender of owners (drivers licenses, birth certificates, tribal enrollment documents or passports);
- (k) Proof or verification of start-up investment capital (example: cash investment, opening of business account, equipment bill of sale, bank statement);
- (l) Résumés of Owners; and
- (m) Annual Information Return (filed with the NC Secretary of State); or
- (n) Copy of IRS form SS4; or
- (o) Employer Identification Numbers (Federal and State)
- (4) Limited Liability Partnership
 - (a) Bank signature card;
 - (b) Business privilege license;
 - (c) Certificate of Assumed name;
 - (d) Certificate of Limited Liability Partnership (filed with NC Secretary of State);
 - (e) City or County Tax Records;
 - (f) Company profile, including roles and responsibilities of officers and owners;
 - (g) Home state certification (out of state vendors);
 - (h) Partnership Agreement;
 - (i) Professional Licenses;
 - (j) Proof of ethnicity/gender of owners (drivers licenses, birth certificates, tribal enrollment documents or passport);
 - (k) Proof or verification of start-up investment capital (example: cash investment, opening of business account, equipment bill of sale, bank statement);
 - (l) Résumés of Owners; and
 - (m) Annual Report (filed with the NC Secretary of State); or
 - (n) Copy of IRS form SS4; or
 - (o) Employer Identification Numbers (Federal and State).
- (5) Limited Liability Corporation:
 - (a) Articles of Organization;
 - (b) Bank resolutions and signature card;
 - (c) Business privilege license;
 - (d) Certificate of Assumed name (if applicable);
 - (e) Certificate of Limited Liability Corporation, or Certificate for filing with the North Carolina Secretary of State as a Professional Limited Liability Company;
 - (f) City or County Tax Records;
 - (g) Company profile, including roles and responsibilities of officers and owners
 - (h) Home state certification (out of state vendors);
 - (i) Operating Agreement;

- (j) Professional Licenses;
 - (k) Proof of ethnicity or gender of owners (drivers licenses, birth certificates, tribal enrollment documents or passport);
 - (l) Proof or verification of start-up investment capital (example: cash investment, opening of business account, equipment bill of sale, bank statement);
 - (m) Résumés of Owners; and
 - (n) Annual Report (filed with the NC Secretary of State); or
 - (o) Certificate of Assumed Name for Corporation; or
 - (p) Employer Identification Numbers (Federal and State).
- (6) Corporation:
- (a) Articles of Incorporation;
 - (b) Bank resolutions and signature card;
 - (c) Business privilege license;
 - (d) Certificate of Assumed name (if other than the owners)
 - (e) City or County Tax Records;
 - (f) Company profile, including roles and responsibilities of officers and stockholders;
 - (g) Copy of actual Stock Ledger;
 - (h) Copy of Stock certificate (no specimens);
 - (i) Corporate By-Laws;
 - (j) Home state certification (out of state vendors);
 - (k) Proof of ethnicity/gender of stockholders owners (drivers licenses, birth certificates, tribal enrollment documents or passport);
 - (l) Proof of Purchase if corporation was a buyout;
 - (m) Proof or verification of start-up investment capital (example: cash investment, opening of business account, equipment bill of sale, bank statement);
 - (n) Professional Licenses;
 - (o) Minutes of most recent board meeting;
 - (p) Résumés of stockholders; and
 - (q) And two of the following:
 - (i) Annual Report (filed with the NC Secretary of State);
 - (ii) Certificate of Assumed Name for Corporation;
 - (iii) Employer Identification Numbers (Federal and State);
 - (iv) IRS Tax Form 1120;
 - (v) IRS Schedule E; or
 - (vi) IRS Schedule K-1

The HUB Office shall take all necessary steps to safeguard information requested in compliance with State and federal law, including G.S. 14-113.2; 14-113.8(6); 132-1.2; and 132-1.10.

History Note: Authority G.S. 143-48(d1); 143-128.3(e1); Eff. June 1, 2008.

TITLE 04 – DEPARTMENT OF COMMERCE

04 NCAC 03M .0401 ANNUAL REPORTING REQUIREMENTS

(a) No later than 90 days after the end of the calendar year, mortgage bankers and mortgage brokers shall file an annual report in a format required by the National Mortgage Licensing System, unless the Commissioner determines that the report is not in the public interest. In addition, the Commissioner shall require the annual report to be supplemented with additional information about operations, characteristics of loans made, or other similar composite data if the Commissioner determines that this additional information is necessary in order to safeguard the interests of the borrowing public (See G.S. 53-243.04). Mortgage brokers shall as a part of the annual report provide certification from the insured financial institution holding the account required under 04 NCAC 03M .0205(a) that the account exists and that the account has contained an average daily balance, for the previous year covered by the annual report of ten thousand dollars (\$10,000) or more.

(b) Mortgage bankers and mortgage brokers shall provide an audited statement of financial condition or a certified statement of financial condition as required by 04 NCAC 03M .0205(a) within 90 days of the end of the licensee's fiscal year. If not shown in the audited statement of financial condition, mortgage bankers shall provide evidence of available warehouse lines of credit or other funding facilities.

(c) Mortgage bankers and mortgage brokers shall provide information on the characteristics of loan originations in an electronic format prescribed by the Commissioner on a quarterly basis within 45 days after the close of the calendar quarter.

(d) Mortgage bankers, mortgage brokers, and loan officers shall report within 30 days the name of any person suspected of making a material misstatement in connection with the mortgage lending process. Mortgage bankers and mortgage brokers shall report within 30 days any loan repurchased due to a material misstatement made in connection with the mortgage lending process.

History Note: Authority G.S. 53-243.04; Eff. April 1, 2003; Amended Eff. Pending Legislative Review.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 13B .3302 MINIMUM PROVISIONS OF PATIENT'S BILL OF RIGHTS

(a) A patient has the right to respectful care given by competent personnel.

(b) A patient has the right, upon request, to be given the name of his attending physician, the names of all other physicians directly participating in his care, and the names and functions of other health care persons having direct contact with the patient.

(c) A patient has the right to privacy concerning his own medical care program. Case discussion, consultation, examination, and treatment are considered confidential and shall be conducted discreetly.

(d) A patient has the right to have all records pertaining to his medical care treated as confidential except as otherwise provided by law or third party contractual arrangements.

(e) A patient has the right to know what facility rules and regulations apply to his conduct as a patient.

(f) A patient has the right to expect emergency procedures to be implemented without unnecessary delay.

(g) A patient has the right to good quality care and high professional standards that are continually maintained and reviewed.

(h) A patient has the right to full information in laymen's terms, concerning his diagnosis, treatment and prognosis, including information about alternative treatments and possible complications. When it is not possible or medically advisable to give such information to the patient, the information shall be given on his behalf to the patient's designee.

(i) Except for emergencies, a physician must obtain necessary informed consent prior to the start of any procedure or treatment, or both.

(j) A patient has the right to be advised when a physician is considering the patient as a part of a medical care research program or donor program. Informed consent must be obtained prior to actual participation in such a program and the patient or legally responsible party, may, at any time, refuse to continue in any such program to which he has previously given informed consent. An Institutional Review Board (IRB) may waive or alter the informed consent requirement if it reviews and approves a research study in accord with federal regulations for the protection of human research subjects including U.S. Department of Health and Human Services (HHS) regulations under 45 CFR Part 46 and U.S. Food and Drug Administration (FDA) regulations under 21 CFR Parts 50 and 56. For any research study proposed for conduct under an FDA "Exception from Informed Consent Requirements for Emergency Research" or an HHS "Emergency Research Consent Waiver" in which informed consent is waived but community consultation and public disclosure about the research are required, any facility proposing to be engaged in the research study also must verify that the proposed research study has been registered with the North Carolina Medical Care Commission. When the IRB reviewing the research study has authorized the start of the community consultation process required by the federal regulations for emergency research, but before the beginning of that process, notice of the proposed research study by the facility shall be provided to the North Carolina Medical Care Commission. The notice shall include:

- (1) the title of the research study;

- (2) a description of the research study, including a description of the population to be enrolled;
- (3) a description of the planned community consultation process, including currently proposed meeting dates and times;
- (4) an explanation of the way that people choosing not to participate in the research study may opt out; and
- (5) contact information including mailing address and phone number for the IRB and the principal investigator.

The Medical Care Commission may publish all or part of the above information in the North Carolina Register, and may require the institution proposing to conduct the research study to attend a public meeting convened by a Medical Care Commission member in the community where the proposed research study is to take place to present and discuss the study or the community consultation process proposed.

- (k) A patient has the right to refuse any drugs, treatment or procedure offered by the facility, to the extent permitted by law, and a physician shall inform the patient of his right to refuse any drugs, treatment or procedures and of the medical consequences of the patient's refusal of any drugs, treatment or procedure.
- (l) A patient has the right to assistance in obtaining consultation with another physician at the patient's request and expense.
- (m) A patient has the right to medical and nursing services without discrimination based upon race, color, religion, sex, sexual preference, national origin or source of payment.
- (n) A patient who does not speak English shall have access, when possible, to an interpreter.
- (o) A facility shall provide a patient, or patient designee, upon request, access to all information contained in the patient's medical records. A patient's access to medical records may be restricted by the patient's attending physician. If the physician restricts the patient's access to information in the patient's medical record, the physician shall record the reasons on the patient's medical record. Access shall be restricted only for sound medical reason. A patient's designee may have access to the information in the patient's medical records even if the attending physician restricts the patient's access to those records.
- (p) A patient has the right not to be awakened by hospital staff unless it is medically necessary.
- (q) The patient has the right to be free from duplication of medical and nursing procedures as determined by the attending physician.
- (r) The patient has the right to medical and nursing treatment that avoids unnecessary physical and mental discomfort.
- (s) When medically permissible, a patient may be transferred to another facility only after he or his next of kin or other legally responsible representative has received complete information and an explanation concerning the needs for and alternatives to such a transfer. The facility to which the patient is to be transferred must first have accepted the patient for transfer.
- (t) The patient has the right to examine and receive a detailed explanation of his bill.
- (u) The patient has a right to full information and counseling on the availability of known financial resources for his health care.

(v) A patient has the right to be informed upon discharge of his continuing health care requirements following discharge and the means for meeting them.

(w) A patient shall not be denied the right of access to an individual or agency who is authorized to act on his behalf to assert or protect the rights set out in this Section.

(x) A patient has the right to be informed of his rights at the earliest possible time in the course of his hospitalization.

(y) A patient has the right to designate visitors who shall receive the same visitation privileges as the patient's immediate family members, regardless of whether the visitors are legally related to the patient.

History Note: Authority G.S. 131E-75; 131E-79; 131E-117; 143B-165;

RRC Objection due to ambiguity Eff. July 13, 1995;

Eff. January 1, 1996;

Temporary Amendment Eff. April 1, 2005;

Amended Eff. May 1, 2008; November 1, 2005.

10A NCAC 13F .1604 RATING CALCULATION

(a) Ratings shall be based on:

- (1) Inspections completed pursuant to G.S. 131D-2(b)(1a)a;
- (2) Statutory and Rule requirements listed in Rule .1603 of this Section;
- (3) Type A or uncorrected Type B penalty violations identified pursuant to G.S. 131D-34; and
- (4) Other items listed in Subparagraphs (c)(1) and (c)(2) of this Rule.

(b) The initial rating a facility receives shall remain in effect until the next inspection. If an activity occurs which results in the assignment of additional merit or demerit points, a new certificate shall be issued pursuant to Rule .1602(a) of this Section.

(c) The rating shall be based on a 100 point scale. Beginning with the initial rating and repeating with each annual inspection, the facility shall be assigned 100 points and shall receive merits or demerits, which shall be added or subtracted from the 100 points, respectively. The merits and demerits shall be assigned as follows:

- (1) Merit Points
 - (A) If the facility corrects citations of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, which are not related to the identification of a Type A violation or an uncorrected Type B violation, the facility shall receive 1.25 merit points for each corrected deficiency;
 - (B) If the facility receives citations on its annual inspection with no Type A or Type B violations and the rating from the annual inspection is one or zero stars the facility may request Division of Health Service Regulation to conduct a follow-up inspection not

less than 60 days after the date of the annual inspection. A follow-up inspection shall be completed depending upon the availability of Division of Health Service Regulation staff. As determined by the follow-up review, the facility shall receive 1.25 merit points for each corrected deficiency;

- (C) If the facility corrects the citation for which a Type A violation was identified, the facility shall receive 2.5 merit points and shall receive an additional 2.5 merit points following the next annual inspection if no further Type A violations are identified;
- (D) If the facility corrects a previously uncorrected Type B violation, the facility shall receive 1.25 merit points;
- (E) If the facility's admissions have been suspended, the facility shall receive 5 merit points if the suspension is removed;
- (F) If the facility participates in any quality improvement program pursuant to G.S. 131D-10, the facility shall receive 2.5 merit points;
- (G) If the facility receives NC NOVA special licensure designation, the facility shall receive 2.5 merit points;
- (H) On or after the effective date of this Rule, if the facility permanently installs a generator or has a contract with a generator provider to provide emergency power for essential functions of the facility, the facility shall receive 2 merit points. For purposes of this Section, essential functions mean those functions necessary to maintain the health or safety of residents during power outages greater than 6 hours. If the facility has an existing permanently installed generator or an existing contract with a generator provider, the facility shall receive 1 merit point for maintaining the generator in working order or continuing the contract with a generator provider; and
- (I) On or after the effective date of this Rule, if the facility installs automatic sprinklers in compliance with the North Carolina Building Code, the facility shall receive 3 merit points. If the facility has an existing automatic sprinkler, the facility shall receive 2

- merit points for subsequent ratings for maintaining the automatic sprinklers in good working order.
- (2) Demerit Points
- (A) For each citation of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, the facility shall receive a demerit of 2 points. The facility shall receive demerit points only once for citations in which the findings are identical to those findings used for another citation;
- (B) For each citation of a Type A violation, the facility shall receive a demerit of 10 points;
- (C) For each citation of a Type B violation, the facility shall receive a demerit of 3.5 points and if the Type B violation remains uncorrected as the result of a follow-up inspection, the facility shall receive an additional demerit of 3.5 points;
- (D) If the facility's admissions are suspended, the facility shall receive a demerit of 10 points; however, if the facility's admissions are suspended pursuant to G.S. 131D-4.2, the facility shall not receive any demerit points; and
- (E) If the facility receives a notice of revocation against its license, the facility shall receive demerit of 31 points.

(d) Facilities shall be given a rating of zero to four stars depending on the score assigned pursuant to Paragraph (a), (b) or (c) of this Rule. Ratings shall be assigned as follows:

- (1) Four stars shall be assigned to any facility whose score is 100 points or greater on two consecutive annual inspections;
- (2) Three stars shall be assigned for scores of 90 to 99.9 points, or for any facility whose score is 100 points or greater on one annual inspection;
- (3) Two stars shall be assigned for scores of 80 to 89.9 points;
- (4) One star shall be assigned for scores of 70 to 79.9 points; and
- (5) Zero stars shall be assigned for scores of 69.9 points or lower.

*History Note: Authority G.S. 131D-4.5; 131D-10;
Eff. Pending Legislative Review.*

10A NCAC 13G .1604 RATING CALCULATION

(a) Ratings shall be based on:

- (1) Inspections completed pursuant to G.S. 131D-2(b)(1a);

- (2) Statutory and Rule requirements listed in Rule .1603 of this Section;
- (3) Type A or uncorrected Type B penalty violations identified pursuant to G.S. 131D-34; and
- (4) Other items listed in Subparagraphs (c)(1) and (c)(2) of this Rule.

(b) The initial rating a facility receives shall remain in effect until the next inspection. If an activity occurs which results in the assignment of additional merit or demerit points, a new certificate shall be issued pursuant to Rule .1602(a) of this Section.

(c) The rating shall be based on a 100 point scale. Beginning with the initial rating and repeating with each annual inspection, the facility shall be assigned 100 points and shall receive merits or demerits, which shall be added or subtracted from the 100 points, respectively. The merits and demerits shall be assigned as follows:

(1) Merit Points

- (A) If the facility corrects citations of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, which are not related to the identification of a Type A violation or an uncorrected Type B violation, the facility shall receive 1.25 merit points for each corrected deficiency;
- (B) If the facility receives citations on its annual inspection with no Type A or Type B violations and the rating from the annual inspection is one or zero stars, the facility may request Division of Health Service Regulation to conduct a follow-up inspection not less than 60 days after the date of the annual inspection. A follow-up inspection shall be completed depending upon the availability of Division of Health Service Regulation staff. As determined by the follow-up review, the facility shall receive 1.25 merit points for each corrected deficiency;
- (C) If the facility corrects the citation for which a Type A violation was identified, the facility shall receive 2.5 merit points and shall receive an additional 2.5 merit points following the next annual inspection if no further Type A violations are identified;
- (D) If the facility corrects a previously uncorrected Type B violation, the facility shall receive 1.25 merit points;
- (E) If the facility's admissions have been suspended, the facility shall receive 5

- merit points if the suspension is removed;
- (F) If the facility participates in any quality improvement program pursuant to G.S. 131D-10, the facility shall receive 2.5 merit points;
 - (G) If the facility receives NC NOVA special licensure designation, the facility shall receive 2.5 merit points;
 - (H) On or after the effective date of this Rule, if the facility permanently installs a generator or has a contract with a generator provider to provide emergency power for essential functions of the facility, the facility shall receive 2 merit points. For purposes of this Section, essential functions mean those functions necessary to maintain the health or safety of residents during power outages greater than 6 hours. If the facility has an existing permanently installed generator or an existing contract with a generator provider, the facility shall receive 1 merit point for maintaining the generator in working order or continuing the contract with a generator provider; and
 - (I) On or after the effective date of this Rule, if the facility installs automatic sprinklers in compliance with the North Carolina Building Code, the facility shall receive 3 merit points. If the facility has an existing automatic sprinkler, the facility shall receive 2 merit points for subsequent ratings for maintaining the automatic sprinklers in good working order.
- (2) Demerit Points
- (A) For each citation of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, the facility shall receive a demerit of 2 points. The facility shall receive demerit points only once for citations in which the findings are identical to those findings used for another citation;
 - (B) For each citation of a Type A violation, the facility shall receive a demerit of 10 points;
 - (C) For each citation of a Type B violation, the facility shall receive a demerit of 3.5 points and if the Type B violation remains uncorrected as the result of a follow-up inspection, the facility shall receive an additional demerit of 3.5 points;
 - (D) If the facility's admissions are suspended, the facility shall receive a demerit of 10 points; however, if the facility's admissions are suspended pursuant to G.S. 131D-4.2, the facility shall not receive any demerit points; and
 - (E) If the facility receives a notice of revocation against its license, the facility shall receive demerit of 31 points.
- (d) Facilities shall be given a rating of zero to four stars depending on the score assigned pursuant to Paragraph (a), (b) or (c) of this Rule. Ratings shall be assigned as follows:
- (1) Four stars shall be assigned to any facility whose score is 100 points or greater on two consecutive annual inspections;
 - (2) Three stars shall be assigned for scores of 90 to 99.9 points, or for any facility whose score is 100 points or greater on one annual inspection;
 - (3) Two stars shall be assigned for scores of 80 to 89.9 points;
 - (4) One star shall be assigned for scores of 70 to 79.9 points; and
 - (5) Zero stars shall be assigned for scores of 69.9 points or lower.
- History Note: Authority G.S. 131D-4.5; 131D-10; Eff. Pending Legislative Review.*
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- 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) an 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.
- (A) For Hearing Aid applications, submit the "Certification of Telecoil Candidacy and Hearing Aid Model Selection" form which is included in the application packet.
- (B) For speech impaired applications, submit a written recommendation from a speech pathologist, speech therapist, or a professional trained to work with individuals with speech impairments.

(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 determine an applicant's eligibility within 45 days following receipt of the completed application; except if the Division cannot determine 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, 2008; 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;
 - (B) submitting a copy of the most recent utility bill (telephone, electricity, cable, water, sewage or gas); or
 - (C) submitting an official letter from a current landlord or residential management entity verifying residency;
- (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; or
 - (F) state certified teacher;
- (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; and
- (4) have 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 who does not receive public funds can show proof of income by submitting a copy of one of the following forms for each source of income within the household:

- (1) the most recent paycheck stub;
- (2) the most recent W-2 form;
- (3) the most recent state or federal income tax return;
- (4) the most recent retirement statement;
- (5) the most recent Nursing Home statement;
- (6) a copy of the most recent Social Security check or a dated Social Security letter;
- (7) the most recent bank statement that shows a Social Security direct deposit; or

- (8) documentation from an outside income verification agency.

(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, 2008; 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 official documentation from 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 user's 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, 2008; May 1, 2007; April 1, 1990.*

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 Coordinator within 30 days of the rejection letter;
- (3) The TEDP Coordinator 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 Coordinator's decision;
- (5) Appeal of the TEDP Coordinator's decision may be made in writing to the Director of the

- Division within two weeks after notification of the TEDP Coordinator'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; 143B-216.34;
Eff. May 1, 2007;
Amended Eff. May 1, 2008.

10A NCAC 26C .0402 STANDARDIZED FORMS AND PROCESSES

(a) Pursuant to G.S. 122C-112.1(a)(32) this Rule sets forth the standardized forms and processes to be used by local management entities (LMEs) and providers in support of LME system management functions. LMEs and providers shall use the standardized forms and processes provided by the Secretary for system management functions including:

- (1) person-centered plan;
- (2) screening/triage/referral interview;
- (3) claims processing;
- (4) contract;
- (5) memorandum of agreement;
- (6) quality improvement plan;
- (7) strategic plan;
- (8) local business plan;
- (9) authorization of state funded services;
- (10) endorsement of a provider of service; and
- (11) letter of support for residential facilities.

- (b) All standardized forms and processes shall be implemented on a statewide basis.
- (c) No standardized form or process shall require more information than is necessary to comply with state or federal reporting requirements.
- (d) A standardized form or process shall not be altered by a LME or provider.
- (e) An LME shall not add any additional requirements upon providers that are not included in a standardized process.

History Note: Authority G.S. 122C-112.1(a)(32); S.L. 2006-142, Section 4(m);
Eff. May 1, 2008.

10A NCAC 26C .0601 SCOPE

The requirements of this Section govern the removal of a local management entity (LME) function as set forth in G.S. 122C-115.4(d).

History Note: Authority G.S. 122C-115.4(f)(3);
Eff. May 1, 2008.

10A NCAC 26C .0602 DEFINITIONS

As used in the rules in this Section, the following terms have the meanings specified:

- (1) "Critical performance indicator" means any of the measures as set out in these rules developed and implemented pursuant to G.S. 122C-112.1(a)(33).
- (2) "Focused technical assistance" means the process of advising, providing consultation and evaluation related to a specific function, activity or performance indicator designed to improve the quality of performance of the targeted operation.
- (3) "Local management entity (LME)" means the same as defined in G.S. 122C-3(20b).
- (4) "Material breach" means an LME has failed to maintain for a period of two consecutive months, the required outcome expectations, as outlined in the DHHS/LME contract, on a critical performance indicator after the LME has received focused technical assistance.
- (5) "Monitor" or "Monitoring" means the same as defined in 10A NCAC 27G .0602(9).

History Note: Authority G.S. 122C-115.4(f)(3);
Eff. May 1, 2008.

10A NCAC 26C .0603 NOTICE OF DEFICIENT PERFORMANCE

The Secretary shall issue a notice of deficient performance in writing to an LME when the LME fails to achieve the required outcome for a critical performance indicator established for one of the primary functions of LMEs as set forth in G.S. 122C-115.4(b). The written notice shall:

- (1) identify the critical performance indicator outcome the LME failed to achieve including a statement of the findings that support a conclusion of deficient performance;
- (2) identify the LME function related to the critical performance indicator outcome;
- (3) identify the required outcome expectation(s); and
- (4) state the timeframe for meeting the required outcome expectation(s).

History Note: Authority G.S. 122C-115.4(f)(3);
Eff. May 1, 2008.

10A NCAC 26C .0604 PLAN OF CORRECTION REQUIREMENTS

- (a) The LME shall respond to the notice of deficient performance by submitting to the DMH/DD/SAS a written Plan of Correction (POC) within 15 working days of receipt.
- (b) The DMH/DD/SAS shall review the POC and approve it as written or communicate in writing with the LME regarding required corrections. The LME shall have a period of five additional working days to submit a revised POC.
- (c) Failure to submit or revise the POC may result in a suspension of funding for the LME function.

History Note: Authority G.S. 122C-115.4(f)(3);
Eff. May 1, 2008.

10A NCAC 26C .0605 FOCUSED TECHNICAL ASSISTANCE

Within 15 working days of the approval of the POC, the DMH/DD/SAS shall initiate focused technical assistance and monitoring of the LME. The DMH/DD/SAS shall continue to provide focused technical assistance and monitoring until:

- (1) the LME achieves and maintains the required outcome on the designated performance indicator(s) for a period of two consecutive months; or
- (2) the end of six months, whichever occurs first.

History Note: Authority G.S. 122C-115.4(f)(3);
Eff. May 1, 2008.

10A NCAC 26C .0606 REMOVAL OF LME FUNCTION

- (a) The LME shall be considered to have a material breach if the LME fails to achieve and maintain for a period of two consecutive months, the required outcome expectations on the designated performance indicator(s) after the six month period occurs as specified in Rule .0605 of this Section.
- (b) Upon identifying the LME as having an uncorrected material breach and within a timeframe not to exceed 30 working days, the Secretary shall arrange for a contract with another LME to implement the function associated with the deficient critical performance indicator as set forth in G.S. 122C-115.4(d)(3). Prior to the removal of the function, the Secretary shall send written notification to the LME stating:

- (1) the LME function that is being removed;
- (2) the date of the removal of the function;
- (3) the entity identified to implement the function being removed;
- (4) the amount of fund reallocation from the deficient LME to the receiving entity; and
- (5) the expectation that the deficient LME shall cooperate with the Secretary and receiving entity as necessary to ensure a smooth, seamless transition of the function.

History Note: Authority G.S. 122C-115.4(f)(3);
Eff. May 1, 2008.

10A NCAC 27A .0301 SCOPE

This Section governs the requirements that constitute a clean claim for purposes of billing. These Rules are applicable to local management entities (LMEs) and public and private providers who seek to provide services that are payable from funds administered by an LME.

History Note: Authority G.S. 122C-3(30b); 122C-112.1(a)(32); S.L. 2006-142;
Eff. May 1, 2008.

10A NCAC 27A .0302 DEFINITIONS

- (a) "Claim" means an itemized statement with standardized elements that is submitted for payment by a provider to the authorizing LME.
- (b) "Clean Claim" means an itemized statement with standardized elements, completed in its entirety in a format as set forth in Rule .0303 of this Section.

History Note: Authority G.S. 122C-112.1(a)(32); S.L. 2006-142;
Eff. May 1, 2008.

10A NCAC 27A .0303 CLEAN CLAIM FORMAT REQUIREMENTS

- (a) A provider of a service that is payable from funds administered by an LME shall submit a claim for payment to the authorizing LME. The provider shall submit the claim in one of the formats listed as follows:

- (1) HIPAA compliant 837;
- (2) CMS-1500;
- (3) the standardized billing format provided by the DMH/DD/SAS; or
- (4) a single web based direct data entry system.

The provider shall complete each element contained in the selected format.

- (b) The billing format provided by the DMH/DD/SAS shall contain standardized elements including:

- (1) date of claim;
- (2) provider information including:
 - (A) name; and
 - (B) number.
- (3) client information including:
 - (A) name;
 - (B) identification number;
 - (C) target population code; and
 - (D) ICD-9 diagnosis code.
- (4) service information including:
 - (A) name;
 - (B) date;
 - (C) units delivered;
 - (D) billing code; and
 - (E) authorization number.

History Note: Authority G.S. 122C-112.1(a)(32); S.L. 2006-142;
Eff. May 1, 2008.

10A NCAC 27A .0304 CLAIMS REVIEW PROCEDURES

(a) The LME shall review the claim to determine if it is clean. The determination shall be based on whether the claim is submitted as follows:

- (1) the claim is submitted in one of the formats as set forth in Rule .0303 of this Section; and
- (2) the information requested in each element of the selected format is complete.

(b) When a claim meets the requirements as set forth in Paragraph (a) of this Rule, it shall be considered a clean claim.

(c) The LME shall deny a claim that does not meet the requirements as set forth in Paragraph (a) of this Rule. The LME shall notify the provider of the denied claim. The notification shall specify the reason for denial and include the steps to be followed for resubmission.

History Note: Authority G.S. 122C-112.1(a)(32); S.L. 2006-142; Eff. May 1, 2008.

10A NCAC 27G .0507 AREA BOARD ANNUAL EVALUATION OF AN AREA DIRECTOR

(a) This Rule governs the annual evaluation of Area Directors.

(b) Area Boards shall evaluate, but not be limited to, the Area Director's performance in each of the following areas:

- (1) Relationship with the Board of Directors and CFAC;
- (2) Relationship with the community served and with local and State officials;
- (3) Encouraging consumer/family involvement in system management activities including, but not limited to:
 - (A) program development,
 - (B) quality management, and
 - (C) community development;
- (4) Recruiting, monitoring, and maintaining effective relationship with qualified providers of services;
- (5) Management of human resources;
- (6) Management of fiscal resources; and
- (7) Demonstration of leadership skills.

(c) Area Boards may use the Area Director evaluation as an opportunity to create an annual plan for the Area Director that includes both policy and programmatic considerations.

History Note: Authority G.S. 122C-112.1; Eff. May 1, 2008.

10A NCAC 29D .0101 CAROLINA ALTERNATIVES

History Note: Authority G.S. 122C-112; 122C-143.1; 122C-143.2; 122C-147; 122C-147.1; 122C-147.2; 42 C.F.R. 431; Social Security Act, Waiver under Sections 1915(b(1)) and (b)(4); Eff. February 1, 1996; Amended Eff. April 1, 1999; Repealed Eff. May 1, 2008.

**10A NCAC 29D .0401 SCOPE
10A NCAC 29D .0402 STAFF
10A NCAC 29D .0403 OPERATIONS**

History Note: Authority G.S. 122C-26; 143B-147; Eff. May 1, 1996; Repealed Eff. May 1, 2008.

**10A NCAC 29D .0601 PURPOSE AND SCOPE
10A NCAC 29D .0602 DEFINITIONS
10A NCAC 29D .0603 WRITTEN NOTICE OF INTENT
10A NCAC 29D .0604 DWI SUBSTANCE ABUSE ASSESSMENT ELEMENTS
10A NCAC 29D .0605 QUALIFICATIONS OF INDIVIDUALS PERFORMING ASSESSMENTS
10A NCAC 29D .0606 RESPONSIBILITIES OF ASSESSING AGENCY
10A NCAC 29D .0607 RESPONSIBILITIES OF TREATMENT OR ADETS PROVIDERS
10A NCAC 29D .0608 REPORTING REQUIREMENTS
10A NCAC 29D .0609 PRE-TRIAL ASSESSMENTS
10A NCAC 29D .0610 PLACEMENT CRITERIA FOR ASSESSED DWI CLIENTS
10A NCAC 29D .0611 DOCUMENTATION REQUIREMENTS**

History Note: Authority G.S. 20-138.1; 20-179; 20-179(e)(6) and (m); 122C-3; 122C-22; 122C-26; Eff. February 1, 1989; Amended Eff. March 1, 1995; September 1, 1994; May 1, 1990; March 1, 1990; Repealed Eff. May 1, 2008.

TITLE 11 – DEPARTMENT OF INSURANCE

11 NCAC 01 .0419 PREHEARING CONFERENCE

(a) The purpose of the prehearing conference is to simplify the issues to be determined; to obtain stipulations in regard to foundations for testimony or exhibits; to obtain stipulations of agreement on undisputed facts or the application of particular laws; to consider the proposed witnesses for each party; to identify and exchange documentary evidence intended to be introduced at the hearing; to determine deadlines for the completion of any discovery; to establish hearing dates and locations if not previously set; to consider such other matters that may be necessary or advisable; and, if possible, to reach a settlement without the necessity for further hearing. Any final settlement shall be set forth in a settlement agreement or consent order and made a part of the record.

(b) Upon the request of any party or upon the hearing officer's own motion, the hearing officer may hold a prehearing conference before a contested case hearing. The hearing officer may require the parties to file prehearing statements in accordance with 11 NCAC 01 .0415. A prehearing conference shall be an informal proceeding conducted expeditiously by the hearing officer. Agreements on the simplification of issues, amendments, stipulations, or other matters may be entered on the

record or may be made the subject of an order by the hearing officer. Venue for purposes of a prehearing conference shall be determined in accordance with G.S. 150B-38(e).

History Note: Authority G.S. 58-2-40(1); 58-2-50; 58-2-55; 58-2-70; 150B-38(h);
Eff. July 1, 1992;
Amended Eff. May 1, 2008.

11 NCAC 01 .0429 EVIDENCE

(a) The North Carolina Rules of Evidence as found in Chapter 8C of the General Statutes govern in all contested case proceedings, except as provided otherwise in this Section and G.S. 150B-41.

(b) The hearing officer may admit all evidence that has probative value. Irrelevant, incompetent, immaterial, or unduly repetitious evidence shall be excluded. In accordance with Rule 403 of the N.C. Rules of Evidence, the hearing officer may, in his discretion, exclude any evidence if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

(c) Contemporaneous objections by a party or a party's attorney are not required in the course of a hearing to preserve the right to object to the consideration of evidence by the hearing officer in reaching a decision or by the court upon judicial review.

(d) All evidence to be considered in the case, including all records and documents or true and accurate photocopies thereof, shall be offered and made a part of the record in the case. Except as provided in Paragraph (f) of this Rule, factual information or evidence that is not offered shall not be considered in the determination of the case. Documentary evidence incorporated by reference may be admitted only if the materials so incorporated are available for examination by the parties.

(e) Documentary evidence in the form of copies or excerpts may be received in the discretion of the hearing officer or upon agreement of the parties. Copies of a document shall be received to the same extent as the original document unless a genuine question is raised about the accuracy or authenticity of the copy or, under the circumstances, it would be unfair to admit the copy instead of the original.

(f) The hearing officer may take notice of judicially cognizable facts by entering a statement of the noticed fact and its source into the record. Upon a timely request, any party shall be given the opportunity to contest the facts so noticed through submission of evidence and argument.

(g) A party may call an adverse party, or an officer, director, managing agent, or employee of the State or any local government, of a public or private corporation, or of a partnership or association or body politic that is an adverse party; and may interrogate that party by leading questions and may contradict and impeach that party on material matters in all respects as if that party had been called by the adverse party. The adverse party may be examined by that party's counsel upon the subject matter of that party's examination in chief under the rules applicable to direct examination, and may be cross-examined, contradicted, and impeached by any other party adversely affected by the testimony.

History Note: Authority G.S. 58-2-40(1); 58-2-50; 58-2-55; 58-2-70; 150B-38(h);
Eff. July 1, 1992;
Amended Eff. May 1, 2008; August 1, 2004.

**11 NCAC 08 .0203 BUILDING CODE
PUBLICATIONS: GENERAL INFORMATION**

(a) All volumes of the North Carolina State Building Code are published under the direction of the North Carolina Department of Insurance. All volumes of the code are updated annually and supplements containing amendments and other pertinent information are also published and filed with the State Attorney General.

(b) Copies of the various volumes of the building code may be obtained from: North Carolina Department of Insurance, Engineering & Codes, 1202 Mail Service Center, Raleigh, NC 27699-1202. Information regarding cost of the publications may be obtained at the same address. Costs are based upon the cost to the Department of publication, distribution and annual revisions.

History Note: Authority G.S. 143-138; 143A-78;
Eff. February 1, 1976;
Readopted Eff. May 12, 1978;
Amended Eff. May 1, 2008; September 1, 1987.

11 NCAC 20 .0404 APPLICATION

For all providers who submit applications to be added to a carrier's network on or after October 1, 2001:

- (1) The definitions in G.S. 58-3-167 are incorporated into this Rule by reference. Each carrier that is an insurer and that issues a health benefit plan shall obtain and retain on file each provider's signed and dated application on the form approved by the Commissioner under G.S. 58-3-230. All other carriers shall obtain and retain on file the provider's signed and dated application on a form provided by the carrier. All required information shall be current upon final approval by the carrier. The application shall include, when applicable:
 - (a) The provider's name, address, and telephone number.
 - (b) Practice information, including call coverage.
 - (c) Education, training and work history.
 - (d) The current provider license, registration, or certification, and the names of other states where the applicant is or has been licensed, registered, or certified.
 - (e) Drug Enforcement Agency (DEA) registration number and prescribing restrictions.
 - (f) Specialty board or other certification.
 - (g) Professional and hospital affiliation.
 - (h) The amount of professional liability coverage and any malpractice history.

- (i) Any disciplinary actions by medical organizations and regulatory agencies.
- (j) Any felony or misdemeanor convictions.
- (k) The type of affiliation requested (for example, primary care, consulting specialists, ambulatory care, etc.).
- (l) A statement of completeness, veracity, and release of information, signed and dated by the applicant.
- (m) Letters of reference or recommendation or letters of oversight from supervisors, or both.
- (2) The carrier shall obtain and retain on file the following information regarding facility provider credentials, when applicable:
 - (a) Joint Commission on Accreditation of Healthcare Organization's certification or certification from other accrediting agencies.
 - (b) State licensure.
 - (c) Medicare and Medicaid certification.
 - (d) Evidence of current malpractice insurance.
- (3) No credential item listed in Items (1) or (2) of this Rule shall be construed as a substantive threshold or criterion or as a standard for credentials that must be held by any provider in order to be a network provider.

History Note: Authority G.S. 58-2-40(1); 58-2-131; 58-3-167; 58-3-230; 58-65-1; 58-65-25; 58-65-105; 58-67-5; 58-67-10; 58-67-20; 58-67-35; 58-67-65; 58-67-100; 58-67-140; 58-67-150;

Eff. October 1, 1996;

Temporary Amendment Eff. October 1, 2001;

Amended Eff. May 1, 2008; August 1, 2002.

TITLE 13 – DEPARTMENT OF LABOR

13 NCAC 07F .0104 PERSONAL PROTECTIVE EQUIPMENT

History Note: Authority G.S. 95-131; 95-133; 150B-21.6; Recodified from 13 NCAC 07F .0101(2) Eff. December 17, 2007;

Repealed Eff. May 15, 2008.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 02D .0530 PREVENTION OF SIGNIFICANT DETERIORATION

(a) The purpose of the Rule is to implement a program for the prevention of significant deterioration of air quality as required by 40 CFR 51.166.

(b) For the purposes of this Rule the definitions contained in 40 CFR 51.166(b) and 40 CFR 51.301 shall apply except the definition of "baseline actual emissions."

(1) "Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated new source review (NSR) pollutant, as determined in accordance with Parts (A) through (C) of this Subparagraph:

(A) For an existing emissions unit, baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding the date that a complete permit application is received by the Division for a permit required under this Rule. The Director shall allow a different time period, not to exceed 10 years immediately preceding the date that a complete permit application is received by the Division, if the owner or operator demonstrates that it is more representative of normal source operation. For the purpose of determining baseline actual emissions, the following shall apply:

- (i) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
- (ii) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.
- (iii) For an existing emission unit (other than an electric utility steam generating unit), the average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with

- which the major stationary source must currently comply. However, if the State has taken credit in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G) for an emission limitation that is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under part 63 of the Code of Federal Regulations, the baseline actual emissions shall be adjusted to account for such emission reductions.
- (iv) For an electric utility steam generating unit, the average rate shall be adjusted downward to reflect any emissions reductions under G. S. 143-215.107D and for which cost recovery is sought pursuant to G. S. 62-133.6.
- (v) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period for each regulated NSR pollutant can be used for each regulated NSR pollutant.
- (vi) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subparts (ii) and (iii) of this Part.
- (B) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter,
- for all other purposes, shall equal the unit's potential to emit.
- (C) For a plantwide applicability limit (PAL) for a stationary source, the baseline actual emissions shall be calculated for existing emissions units in accordance with the procedures contained in Part (A) of this Subparagraph, and for a new emissions unit in accordance with the procedures contained in Part (B) of this Subparagraph.
- (2) In the definition of "net emissions increase," the reasonable period specified in 40 CFR 51.166(b)(3)(ii) shall be seven years.
- (3) The limitation specified in 40 CFR 51.166(b)(15)(ii) shall not apply.
- (c) All areas of the State shall be classified as Class II except that the following areas are Class I:
- (1) Great Smoky Mountains National Park;
- (2) Joyce Kilmer Slickrock National Wilderness Area;
- (3) Linville Gorge National Wilderness Area;
- (4) Shining Rock National Wilderness Area;
- (5) Swanquarter National Wilderness Area.
- (d) Redesignations of areas to Class I or II may be submitted as state proposals to the Administrator of the Environmental Protection Agency (EPA), if the requirements of 40 CFR 51.166(g)(2) are met. Areas may be proposed to be redesignated as Class III, if the requirements of 40 CFR 51.166(g)(3) are met. Redesignations may not, however, be proposed which would violate the restrictions of 40 CFR 51.166(e). Lands within the boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body.
- (e) In areas designated as Class I, II, or III, increases in pollutant concentration over the baseline concentration shall be limited to the values set forth in 40 CFR 51.166(c). However, concentration of the pollutant shall not exceed standards set forth in 40 CFR 51.166(d).
- (f) Concentrations attributable to the conditions described in 40 CFR 51.166(f)(1) shall be excluded in determining compliance with a maximum allowable increase. However, the exclusions referred to in 40 CFR 51.166(f)(1)(i) or (ii) shall be limited to five years as described in 40 CFR 51.166(f)(2).
- (g) Major stationary sources and major modifications shall comply with the requirements contained in 40 CFR 51.166(i) and (a)(7) and by extension in 40 CFR 51.166(j) through (o) and (w). The transition provisions allowed by 40 CFR 52.21 (i)(11)(i) and (ii) and (m)(1)(vii) and (viii) are hereby adopted under this Rule. The minimum requirements described in the portions of 40 CFR 51.166 referenced in this Paragraph are hereby adopted as the requirements to be used under this Rule, except as otherwise provided in this Rule. Wherever the language of the portions of 40 CFR 51.166 referenced in this Paragraph speaks of the "plan," the requirements described therein shall apply to the source to which they pertain, except as otherwise provided in this Rule. Whenever the portions of 40 CFR 51.166 referenced in this Paragraph provide that the State plan may exempt or not apply certain requirements in certain

circumstances, those exemptions and provisions of nonapplicability are also hereby adopted under this Rule. However, this provision shall not be interpreted so as to limit information that may be requested from the owner or operator by the Director as specified in 40 CFR 51.166(n)(2).

(h) New natural gas-fired electrical utility generating units shall install best available control technology for NO_x and SO₂.

(i) 40 CFR 51.166(w)(10)(iv)(a) is changed to read: "If the emissions level calculated in accordance with Paragraph (w)(6) of this Section is equal to or greater than 80 percent of the PAL [plant wide applicability limit] level, the Director shall renew the PAL at the same level." 40 CFR 51.166(w)(10)(iv)(b) is not incorporated by reference.

(j) 15A NCAC 02Q .0102 and .0302 are not applicable to any source to which this Rule applies. The owner or operator of the sources to which this Rule applies shall apply for and receive a permit as required in 15A NCAC 02Q .0300 or .0500.

(k) When a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification to emit a pollutant, such as a restriction on hours of operation, then the provisions of this Rule shall apply to the source or modification as though construction had not yet begun on the source or modification.

(l) The provisions of 40 CFR 52.21(r)(2) regarding the period of validity of approval to construct are incorporated by reference except that the term "Administrator" is replaced with "Director".

(m) Volatile organic compounds exempted from coverage in 40 CFR 51.100(s) shall also be exempted when calculating source applicability and control requirements under this Rule.

(n) The degree of emission limitation required for control of any air pollutant under this Rule shall not be affected in any manner by:

- (1) that amount of a stack height, not in existence before December 31, 1970, that exceeds good engineering practice; or
- (2) any other dispersion technique not implemented before then.

(o) A substitution or modification of a model as provided for in 40 CFR 51.166(l) shall be subject to public comment procedures in accordance with the requirements of 40 CFR 51.102.

(p) Permits may be issued on the basis of innovative control technology as set forth in 40 CFR 51.166(s)(1) if the requirements of 40 CFR 51.166(s)(2) have been met, subject to the condition of 40 CFR 51.166(s)(3), and with the allowance set forth in 40 CFR 51.166(s)(4).

(q) If a source to which this Rule applies impacts an area designated Class I by requirements of 40 CFR 51.166(e), notice to EPA will be provided as set forth in 40 CFR 51.166(p)(1). If the Federal Land Manager presents a demonstration described in 40 CFR 51.166(p)(3) during the public comment period or public hearing to the Director and if the Director concurs with this demonstration, the permit application shall be denied. Permits may be issued on the basis that the requirements for variances as set forth in 40 CFR 51.166(p)(4), (p)(5) and (p)(7), or (p)(6) and (p)(7) have been satisfied.

(r) A permit application subject to this Rule shall be processed in accordance with the procedures and requirements of 40 CFR

51.166(q). Within 30 days of receipt of the application, applicants shall be notified if the application is complete as to initial information submitted. Commencement of construction before full prevention of significant deterioration approval is obtained constitutes a violation of this Rule.

(s) Approval of an application with regard to the requirements of this Rule shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of other rules of this Subchapter or Subchapter 02Q of this Title and any other requirements under local, state, or federal law.

(t) When a source or modification subject to this Rule may affect the visibility of a Class I area named in Paragraph (c) of this Rule, the following procedures shall apply:

- (1) The Director shall provide written notification to all affected Federal Land Managers within 30 days of receiving the permit application or within 30 days of receiving advance notification of an application. The notification shall be at least 30 days prior to the publication of notice for public comment on the application. The notification shall include a copy of all information relevant to the permit application including an analysis provided by the source of the potential impact of the proposed source on visibility.
- (2) The Director shall consider any analysis concerning visibility impairment performed by the Federal Land Manager if the analysis is received within 30 days of notification. If the Director finds that the analysis of the Federal Land Manager fails to demonstrate to his satisfaction that an adverse impact on visibility will result in the Class I area, the Director shall provide in the notice of public hearing on the application, an explanation of his decision or notice as to where the explanation can be obtained.
- (3) The Director may require monitoring of visibility in or around any Class I area by the proposed new source or modification when the visibility impact analysis indicates possible visibility impairment.

(u) If the owner or operator of a source is using projected actual emissions to avoid applicability of prevention of significant deterioration requirements, the owner or operator shall notify the Director of the modification before beginning actual construction. The notification shall include:

- (1) a description of the project,
- (2) identification of sources whose emissions could be affected by the project,
- (3) the calculated projected actual emissions and an explanation of how the projected actual emissions were calculated, including identification of emissions excluded by 40 CFR 51.166(b)(40)(ii)(c),
- (4) the calculated baseline actual emissions and an explanation of how the baseline actual emissions were calculated, and
- (5) any netting calculations if applicable.

If upon reviewing the notification, the Director finds that the project will cause a prevention of significant deterioration evaluation, then the Director shall notify the owner or operator of his findings. The owner or operator shall not make the modification until it has received a permit issued pursuant to this Rule. If a permit revision is not required pursuant to this rule, the owner or operator shall maintain records of annual emissions in tons per year, on a calendar year basis related to the modifications for 10 years following resumption of regular operations after the change if the project involves increasing the emissions unit's design capacity or its potential to emit the regulated NSR pollutant; otherwise these records shall be maintained for five years following resumption of regular operations after the change. The owner or operator shall submit a report to the director within 60 days after the end of each year during which these records must be generated. The report shall contain the items listed in 40 CFR 51.166(r)(6)(v)(a) through (c). The owner or operator shall make the information documented and maintained under this Paragraph available to the Director or the general public pursuant to the requirements in 40 CFR 70.4(b)(3)(viii).

(v) The reference to the Code of Federal Regulations (CFR) in this Rule are incorporated by reference unless a specific reference states otherwise. The version of the Code of Federal Regulations incorporated in this Rule is that as of June 13, 2007 except those provisions noticed as stayed in 69 FR 40274, and does not include any subsequent amendments or editions to the referenced material.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3); 143-215.107(a)(5); 143-215.107(a)(7); 143-215.108(b); 150B-21.6;

Eff. June 1, 1981;

Amended Eff. December 1, 1992; August 1, 1991;

Temporary Amendment Eff. March 8, 1994, for a period of 180 days or until the permanent rule is effective, whichever is sooner;

Amended Eff. May 1, 2008; July 28, 2006; July 1, 1997; February 1, 1995; July 1, 1994.

15A NCAC 02D .0531 SOURCES IN NONATTAINMENT AREAS

(a) For the purpose of this Rule the definitions contained in 40 CFR 51.165(a)(1) and 40 CFR 51.301 shall apply except the definition of "baseline actual emissions."

- (1) "Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated new source review (NSR) pollutant, as determined in accordance with Parts (A) through (C) of this Subparagraph:

- (A) For an existing emissions unit, baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding the date that a complete permit

application is received by the Division for a permit required under this Rule. The Director shall allow a different time period, not to exceed 10 years immediately preceding the date that a complete permit application is received by the Division, if the owner or operator demonstrates that it is more representative of normal source operation. For the purpose of determining baseline actual emissions, the following shall apply:

- (i) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
- (ii) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.
- (iii) For an existing emission unit (other than an electric utility steam generating unit), the average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply. However, if the State has taken credit in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G) for an emission limitation that is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under part 63 of the Code of Federal Regulations, the baseline actual emissions shall be adjusted to account for such emission reductions.
- (iv) For an electric utility steam generating unit, the average rate shall be adjusted

downward to reflect any emissions reductions under G.S. 143-215.107D and for which cost recovery is sought pursuant to G.S. 62-133.6.

- (v) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period for each regulated NSR pollutant.

- (vi) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subparts (ii) and (iii) of this Part.

- (B) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

- (C) For a plantwide applicability limit (PAL) for a stationary source, the baseline actual emissions shall be calculated for existing emissions units in accordance with the procedures contained in Part (A) of this Subparagraph, and for a new emissions unit in accordance with the procedures contained in Part (B) of this Subparagraph.

- (2) In the definition of "net emissions increase," the reasonable period specified in 40 CFR 51.165(a)(1)(vi)(C)(1) shall be seven years.

(b) Redesignation to Attainment. If any county or part of a county to which this Rule applies is later designated in 40 CFR 81.334 as attainment for ozone or carbon monoxide, all sources in that county subject to this Rule before the redesignation date shall continue to comply with this Rule.

(c) Applicability. 40 CFR 51.165(a)(2) is incorporated by reference. This Rule applies to the following areas:

- (1) Ozone Nonattainment Areas, to major stationary sources and major modifications of sources of volatile organic compounds or

nitrogen oxides for which construction commences after the area in which the source is located is designated according to Part (A) or (B) of this Subparagraph:

- (A) areas designated in 40 CFR 81.334 as nonattainment for ozone, or
- (B) any of the following areas and in that area only when the Director notices in the North Carolina Register that the area is in violation of the ambient air quality standard for ozone:
 - (i) Charlotte/Gastonia, consisting of Mecklenburg and Gaston Counties; with the exception allowed under Paragraph (I) of this Rule;
 - (ii) Greensboro/Winston-Salem/High Point, consisting of Davidson, Forsyth, and Guilford Counties and that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River; or
 - (iii) Raleigh/Durham, consisting of Durham and Wake Counties and Dutchville Township in Granville County.

Violations of the ambient air quality standard for ozone shall be determined according to 40 CFR 50.9.

- (2) Carbon Monoxide Nonattainment Areas. This Rule applies to major stationary sources and major modifications of sources of carbon monoxide located in areas designated in 40 CFR 81.334 as nonattainment for carbon monoxide and for which construction commences after the area in which the source is located is listed in 40 CFR 81.334 as nonattainment for carbon monoxide.

(d) This Rule is not applicable to:

- (1) complex sources of air pollution regulated only under Section .0800 of this Subchapter and not under any other rule in this Subchapter;
- (2) emission of pollutants at the new major stationary source or major modification located in the nonattainment area that are pollutants other than the pollutant or pollutants for which the area is nonattainment. (A major stationary source or major modification that is major for volatile organic compounds or nitrogen oxides is also major for ozone.);
- (3) emission of pollutants for which the source or modification is not major;

- (4) a new source or modification that qualifies for exemption under the provision of 40 CFR 51.165(a)(4); or
 - (5) emission of compounds listed under 40 CFR 51.100(s) as having been determined to have negligible photochemical reactivity except carbon monoxide.
- (e) 15A NCAC 02Q .0102 and .0302 are not applicable to any source to which this Rule applies. The owner or operator of the source shall apply for and receive a permit as required in 15A NCAC 02Q .0300 or .0500.
- (f) To issue a permit to a source to which this Rule applies, the Director shall determine that the source meets the following requirements:
- (1) The new major stationary source or major modification will emit the nonattainment pollutant at a rate no more than the lowest achievable emission rate;
 - (2) The owner or operator of the proposed new major stationary source or major modification has demonstrated that all major stationary sources in the State that are owned or operated by this person (or any entity controlling, controlled by, or under common control with this person) are subject to emission limitations and are in compliance, or on a schedule for compliance that is federally enforceable or contained in a court decree, with all applicable emission limitations and standards of this Subchapter that EPA has authority to approve as elements of the North Carolina State Implementation Plan for Air Quality;
 - (3) The owner or operator of the proposed new major stationary source or major modification will obtain sufficient emission reductions of the nonattainment pollutant from other sources in the nonattainment area so that the emissions from the new major source and associated new minor sources will be less than the emissions reductions by a ratio of at least 1.00 to 1.15 for volatile organic compounds and nitrogen oxides and by a ratio of less than one to one for carbon monoxide. The baseline for this emission offset shall be the actual emissions of the source from which offset credit is obtained. Emission reductions shall not include any reductions resulting from compliance (or scheduled compliance) with applicable rules in effect before the application. The difference between the emissions from the new major source and associated new minor sources of carbon monoxide and the emission reductions shall be sufficient to represent reasonable further progress toward attaining the Ambient Air Quality Standards. The emissions reduction credits shall also conform to the provisions of 40 CFR 51.165(a)(3)(ii)(A) through (G) and (J); and
- (4) The North Carolina State Implementation Plan for Air Quality is being carried out for the nonattainment area in which the proposed source is located.
 - (g) New natural gas-fired electrical utility generating units shall install lowest achievable emission rate technology for NO_x and SO₂.
 - (h) 40 CFR 51.165(f) is incorporated by reference except that 40 CFR 51.165(f)(10)(iv)(A) is changed to read: "If the emissions level calculated in accordance with Paragraph (f)(6) of this Section is equal to or greater than 80 percent of the PAL level, the Director shall renew the PAL at the same level." 40 CFR 51.165(f)(10)(iv)(B) is not incorporated by reference.
 - (i) When a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation established after August 7, 1980, on the capacity of the source or modification to emit a pollutant, such as a restriction on hours of operation, then the provisions of this Rule shall apply to the source or modification as though construction had not yet begun on the source or modification.
 - (j) To issue a permit to a source of a nonattainment pollutant, the Director shall determine, in addition to the other requirements of this Rule, that an analysis (produced by the permit applicant) of alternative sites, sizes, production processes, and environmental control techniques for the source demonstrates that the benefits of the source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.
 - (k) The provisions of 40 CFR 52.21(r)(2) regarding the period of validity of approval to construct are incorporated by reference except that the term "Administrator" is replaced with "Director".
 - (l) Approval of an application regarding the requirements of this Rule shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of other rules of this Chapter and any other requirements under local, state, or federal law.
 - (m) When a source or modification subject to this Rule may affect the visibility of a Class I area named in Paragraph (c) of Rule .0530 of this Section, the following procedures shall be followed:
 - (1) The owner or operator of the source shall provide an analysis of the impairment to visibility that would occur because of the source or modification and general commercial, industrial and other growth associated with the source or modification;
 - (2) The Director shall provide written notification to all affected Federal Land Managers within 30 days of receiving the permit application or within 30 days of receiving advance notification of an application. The notification shall be at least 30 days before the publication of the notice for public comment on the application. The notification shall include a copy of all information relevant to the permit application including an analysis provided by the source of the potential impact of the proposed source on visibility;

- (3) The Director shall consider any analysis concerning visibility impairment performed by the Federal Land Manager if the analysis is received within 30 days of notification. If the Director finds that the analysis of the Federal Land Manager fails to demonstrate to his satisfaction that an adverse impact on visibility will result in the Class I area, the Director shall provide in the notice of public hearing on the application, an explanation of his decision or notice where the explanation can be obtained;
- (4) The Director shall issue permits only to those sources whose emissions will be consistent with making reasonable progress toward the national goal of preventing any future, and remedying any existing, impairment of visibility in mandatory Class I areas when the impairment results from manmade air pollution. In making the decision to issue a permit, the Director shall consider the cost of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the useful life of the source; and
- (5) The Director may require monitoring of visibility in or around any Class I area by the proposed new source or modification when the visibility impact analysis indicates possible visibility impairment.

The requirements of this Paragraph shall not apply to nonprofit health or nonprofit educational institutions.

(n) Paragraphs (f) and (j) of this Rule shall not apply to a new major stationary source or a major modification of a source of volatile organic compounds or nitrogen oxides for which construction commences after the area in which the source is located has been designated according to Part (c)(1)(B) of this Rule and before the area is designated in 40 CFR 81.334 as nonattainment for ozone if the owner or operator of the source demonstrates, using the Urban Airshed Model (UAM), that the new source or modification will not contribute to or cause a violation. The model used shall be that maintained by the Division. The Division shall run the model only after the permit application has been submitted. The permit application shall be incomplete until the modeling analysis is completed. The owner or operator of the source shall apply such degree of control and obtain such offsets necessary to demonstrate the new source or modified source will not cause or contribute to a violation.

(o) If the owner or operator of a source is using projected actual emissions to avoid applicability of nonattainment new source review, the owner or operator shall notify the director of the modification before beginning actual construction. The notification shall include:

- (1) a description of the project,
- (2) identification of sources whose emissions could be affected by the project,
- (3) the calculated projected actual emissions and an explanation of how the projected actual emissions were calculated, including

identification of emissions excluded by 40 CFR 51.165(a)(1)(xxviii)(B)(3),

- (4) the calculated baseline actual emissions and an explanation of how the baseline actual emissions were calculated, and

- (5) any netting calculations if applicable.

If upon reviewing the notification, the Director finds that the project will cause a nonattainment new source review evaluation, then the Director shall notify the owner or operator of his findings. The owner or operator shall not make the modification until it has received a permit issued pursuant to this Rule. If a permit revision is not required pursuant to this Rule, the owner or operator shall maintain records of annual emissions in tons per year on a calendar year basis related to the modifications for 10 years following resumption of regular operations after the change if the project involves increasing the emissions unit's design capacity or its potential to emit the regulated NSR pollutant; otherwise these records shall be maintained for five years following resumption of regular operations after the change. The owner or operator shall submit a report to the director within 60 days after the end of each year during which these records must be generated. The report shall contain the items listed in 40 CFR 51.165(a)(6)(v)(A) through (C). The owner or operator shall make the information documented and maintained under this Paragraph available to the Director or the general public pursuant to the requirements in 40 CFR 70.4(b)(3)(viii).

(p) The version of the Code of Federal Regulations incorporated in this Rule is that as of June 13, 2007 except those provisions noticed as stayed in 69 FR 40274, and does not include any subsequent amendments or editions to the referenced material.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 143-215.108(b);

Eff. June 1, 1981;

Amended Eff. December 1, 1993; December 1, 1992;

Temporary Amendment Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner;

Amended Eff. May 1, 2008; May 1, 2005; July 1, 1998; July 1, 1996; July 1, 1995; July 1, 1994.

15A NCAC 02D .2401 PURPOSE AND APPLICABILITY

(a) Purpose. The purpose of this Section is to implement the federal Clean Air Interstate Rule and thereby reduce the interstate transportation of fine particulate matter and ozone.

(b) Applicability. This Section applies to the following, which are CAIR NOx units, CAIR SO2 units, and CAIR NOx Ozone Season units to the extent they are subject to the NOx annual trading program, SO2 trading program, and NOx ozone season trading program, respectively, in this Section:

- (1) any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of a unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale, provided that if a stationary boiler or stationary combustion

turbine that does not meet these requirements begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit shall become subject to this Section under this Subparagraph on the first date on which the unit both combusts fossil fuel and serves such generator;

- (2) notwithstanding Subparagraph (b)(1) of this Rule, a unit that meets the requirements in 40 CFR 96.104(b)(1)(i), (b)(2)(i), or (b)(2)(ii), 96.204(b)(1)(i), (b)(2)(i), or (b)(2)(ii), 96.304(b)(1)(i), (b)(2)(i), or (b)(2)(ii), shall not be subject to this Section under this Subparagraph and shall become subject to this Section under this Subparagraph as provided in 40 CFR 96.104(b)(1)(ii) or (b)(2)(iii), 96.204(b)(1)(ii) or (b)(2)(iii), or 96.304(b)(1)(ii) or (b)(2)(iii);
- (3) solely for the purposes of the NO_x ozone season trading program, fossil fuel-fired stationary boilers, combustion turbines, or combined cycle systems having a maximum design heat input greater than 250 million Btu per hour except stationary combustion turbines constructed before January 1, 1979, that have a federally enforceable permit that restricts:
- (A) its potential emissions of nitrogen oxides to no more than 25 tons between May 1 and September 30;
 - (B) it to burning only natural gas or oil; and
 - (C) its hours of operation as described in 40 CFR 96.4(b)(1)(ii) and (iii); or
- (4) solely for the purposes of the NO_x ozone season trading program, fossil-fuel fired stationary boilers, combustion turbines, or combined cycle systems serving a generator with a nameplate capacity greater than 25 MW electrical and selling any amount of electricity.

(c) Retired unit exemption. Any unit that is permanently retired and is not an opt-in unit under Rule .2411 of this Section shall be exempted from the annual trading program for:

- (1) nitrogen oxides if it complies with the provisions of 40 CFR 96.105,
- (2) sulfur dioxide if it complies with the provisions of 40 CFR 96.205, or
- (3) ozone season nitrogen oxides if it complies with the provisions of 40 CFR 96.305.

(d) Effect on other authorities. No provision of this Section, any application submitted or any permit issued pursuant to Rule .2406 of this Section, or any exemption under 40 CFR 96.105, 96.205, or 96.305 shall be construed as exempting any source or facility covered under this Section or the owner or operator or designated representative of any source or facility covered under this Section from complying with any other requirements of this Subchapter or Subchapter 15A NCAC 02Q or the Clean Air Act. The Environmental Management Commission may specify through rulemaking a specific emission limit lower than that

established under this Rule for a specific source if compliance with the lower emission limit is required to attain or maintain the ambient air quality standard for ozone or fine particulate (PM_{2.5}) or any other ambient air quality standard in Section 15A NCAC 02D .0400.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10);

Eff. July 1, 2006;

Amended Eff. May 1, 2008.

15A NCAC 02D .2402 DEFINITIONS

(a) For the purpose of this Section, the definitions in 40 CFR 96.102, 96.202 and 96.302 shall apply except that solely for the purposes of units subject to Rule .2401(b)(3), .2401(b)(4), or .2405(a)(2) of this Section, the term "fossil-fuel-fired" means:

- (1) sources that began operation before January 1, 1996, where fossil fuel actually combusted either alone or in combination with any other fuel, comprised more than 50 percent of the annual heat input on a Btu basis during 1995, or, if a source had no heat input in 1995, during the last year of operation of the unit before 1995;
- (2) sources that began operation on or after January 1, 1996 and before January 1, 1997, where fossil fuel actually combusted either alone or in combination with any other fuel, comprised more than 50 percent of the annual heat input on a Btu basis during 1996; or
- (3) sources that began operation on or after January 1, 1997;
 - (A) Where fossil fuel actually combusted either alone or in combination with any other fuel, comprised more than 50 percent of the annual heat input on a Btu basis during any year as determined by the owner or operator of the source and verified by the Director; or
 - (B) Where fossil fuel combusted either alone or in combination with any other fuel, is projected to comprise more than 50 percent of the annual heat input on a Btu basis during any year, provided that the unit shall be "fossil-fuel-fired" as of the date, during such year, on which the source begins combusting fossil fuel.

(b) Notwithstanding the provisions of the definition of "commence commercial operation" in 40 CFR 96.302, for a unit under Rules .2401(b)(3), .2401(b)(4) or .2405(a)(2) of this Section, and not serving a generator producing electricity for sale, the unit's date of commencement of operation shall also be the unit's date of commencement of commercial operation.

(c) Notwithstanding the provisions of the definition of "commence operation" in 40 CFR 96.302, and solely for the purposes of 40 CFR Part 96 Subpart HHHH, for a unit that is not a CAIR NO_x Ozone Season unit, under Rules .2401(b)(3),

.2401(b)(4), or .2405(a)(2) of this Section on the later of November 15, 1990 or the date the unit commenced or commences operation as defined in the first provision of this definition in 40 CFR 96.302 and that subsequently becomes or became such a CAIR NOx Ozone Season unit, the unit's date for commencement of operation shall be the date on which the unit becomes or became a CAIR NOx Ozone Season unit under Rule .2401(b)(3), .2401(b)(4), or .2405(a)(2) of this Section. For a unit with a date of commencement of operation as defined in the first sentence of this Subparagraph and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit. For a unit with a date of commencement of operation as defined in the first sentence of this Paragraph and that subsequently is replaced by a unit at the same source (e.g., repowered), such date shall remain the replaced unit's date of commencement of operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in this Paragraph.

(d) For the purposes of this Section, the following definitions apply:

- (1) "Modification" means modification as defined in 15A NCAC 02D .0101.
- (2) "Reconstruction" means the replacement of components of an existing unit that meets the requirements of 40 CFR 60.15(b)(1).
- (3) "Replacement" means, solely for the purposes of Rules .2403 and .2405 of this Section, removing an existing unit and putting in its place at the same facility a functionally equivalent new unit.

(e) For the purpose of this Section, the abbreviations and acronyms listed in 40 CFR 96.103, 96.203, 96.303 shall apply.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10);

Eff. July 1, 2006;

Amended Eff. May 1, 2008.

15A NCAC 02D .2403 NITROGEN OXIDE EMISSIONS
(a) Allocations. The annual allocations of nitrogen oxide allowances are:

FACILITY	ALLOCATIONS FOR 2009-2014 (TONS)	ALLOCATIONS FOR 2015 AND LATER (TONS)
Craven County Wood Energy, LP	498	424
Duke Energy, Belews Creek	10,837	9,220
Duke Energy, Buck	1,355	1,153
Duke Energy, Cliffside	2,932	2,495
Duke Energy, Dan River	792	674
Duke Energy, G.G. Allen	4,338	3,691
Duke Energy, Lincoln	230	196
Duke Energy, Marshall	9,667	8,225
Duke Energy, Riverbend	1,709	1,454
Dynegy-Rockingham Power	194	165
Edgecombe GenCo	807	687
Elizabethtown Power	86	73
Lumberton Power	121	103
Primary Energy, Roxboro	164	140
Primary Energy, Southport	401	341
Progress Energy, Asheville	2,103	1,789
Progress Energy, Blewett	8	7
Progress Energy, Cape Fear	1,244	1,059
Progress Energy, Lee	1,870	1,591
Progress Energy, L. V. Sutton	2,146	1,826
Progress Energy, Mark's Creek Richmond Co.	374	318
Progress Energy, Mayo	4,004	3,407
Progress Energy, Roxboro	11,578	9,851
Progress Energy, Weatherspoon	674	573

APPROVED RULES

FACILITY	ALLOCATIONS FOR 2009-2014 (TONS)	ALLOCATIONS FOR 2015 AND LATER (TONS)
PWC-Butler Warner Generation Plant	77	65
Rosemary Power Station, Halifax	42	36
Southern Power Company Plant Rowan County	25	22
Westmoreland Partners, LLC, Roanoke Valley Energy Facility	1269	1080

In the event that EPA determines that Craven County Wood Energy is not subject to the provisions of this Section, its allocation shall go to the new source growth pool.

(b) Compliance. The emissions of nitrogen oxides of a CAIR NOx source shall not exceed the number of allowances that it has in its compliance account established and administered under Rule .2408 of this Section.

(c) Emission measurement requirements. The emissions measurements recorded and reported according to 40 CFR Part 96 Subpart HH shall be used to determine compliance by each CAIR NOx source with its emissions limitation according to 40 CFR 96.106(c) including 96.106(c)(5) and (6).

(d) Excess emission requirements. The provisions of 40 CFR 96.106(d) shall be used for excess emissions.

(e) Liability. The owner or operator of any unit or source covered under this Section shall be subject to the provisions of 40 CFR 96.106(f).

(f) Modification and reconstruction, replacement, retirement, or change of ownership. The modification or reconstruction of a CAIR NOx unit shall not make that CAIR NOx unit a "new" CAIR NOx unit under Rule .2412 of this Section. The CAIR NOx unit that is modified or reconstructed shall not change the emission allocation under Paragraph (a) of this Rule. If one or more CAIR NOx units at a facility covered under this Rule is replaced, the new CAIR NOx unit shall not receive an allocation under Rule .2412 of this Section, nor shall it change the allocation of the facility. If the owner of a facility changes, the emission allocations under this Rule and revised emission allocations made under Rule .2413 of this Section shall remain with the facility. If a CAIR NOx unit is retired, the owner or operator and the designated representatives of the CAIR NOx unit shall follow the procedures in 40 CFR 96.105. The allocations of a retired CAIR NOx unit shall remain with the owner or operator of the retired CAIR NOx unit until a reallocation occurs under Rule .2413 of this Section when the allocation shall be removed and given to other CAIR NOx units if the retired CAIR NOx unit is still retired using the procedure in Rule .2413 of this Section.

History Note: Authority G.S. 143-215.3(a); 143-215.65; 143-215.66; 143-215.107(a)(5), (10);

Eff. July 1, 2006;

Amended Eff. May 1, 2008.

15A NCAC 02D .2404 SULFUR DIOXIDE

(a) Applicability. This Rule applies only to units that meet the description in Rule .2401(b)(1) or (2) of this Section.

(b) Allocations. The annual allocation of sulfur dioxide allowances shall be determined by EPA. The allocations for CAIR SO₂ units are in 40 CFR 73.10.

(c) Compliance. The emissions of sulfur dioxides of a source described in Paragraph (a) of this Rule shall not exceed the number of allowances that it has in its compliance account established and administered under Rule .2408 of this Section.

(d) Emission measurement requirements. The emissions measurements recorded and reported according to 40 CFR Part 96 Subpart HHH shall be used to determine compliance by each CAIR SO₂ source with its emissions limitation according to 40 CFR 96.206(c) including 96.206(c)(5) and (6).

(e) Excess emission requirements. The provisions of 40 CFR 96.206(d) shall be used for excess emissions.

(f) Liability. The owner or operator of any unit or source covered under this Section shall be subject to the provisions of 40 CFR 96.206(f).

History Note: Authority G.S. 143-215.3(a); 143-215.65; 143-215.66; 143-215.107(a)(5), (10);

Eff. July 1, 2006;

Amended Eff. May 1, 2008.

15A NCAC 02D .2405 NITROGEN OXIDE EMISSIONS DURING OZONE SEASON

(a) Allocations. The ozone season allocations of nitrogen oxide allowances are:

- (1) Facilities that meet the description in Rule .2401(b)(1) or (b)(2) of this Section.

FACILITY	ALLOCATIONS FOR 2009-2014 (TONS)	ALLOCATIONS FOR 2015 AND LATER (TONS)
Craven County Wood Energy, LP	211	179

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FACILITY	ALLOCATIONS FOR 2009-2014 (TONS)	ALLOCATIONS FOR 2015 AND LATER (TONS)
Duke Energy, Belews Creek	4,917	4,184
Duke Energy, Buck	656	558
Duke Energy, Cliffside	1,350	1,148
Duke Energy, Dan River	436	371
Duke Energy, G.G. Allen	2,096	1,784
Duke Energy, Lincoln	169	144
Duke Energy, Marshall	4,179	3,556
Duke Energy, Riverbend	859	731
Dynegy-Rockingham Power	99	84
Edgecombe GenCo	331	281
Elizabethtown Power	51	43
Lumberton Power	46	39
Primary Energy, Roxboro	83	71
Primary Energy, Southport	213	181
Progress Energy, Asheville	899	765
Progress Energy, Blewett	7	6
Progress Energy, Cape Fear	527	448
Progress Energy, Lee	905	770
Progress Energy, L.V. Sutton	1,023	871
Progress Energy, Mark's Creek Richmond Co.	335	285
Progress Energy, Mayo	1,735	1,476
Progress Energy, Roxboro	5,069	4,314
Progress Energy, Weatherspoon	346	295
PWC-Fayetteville	53	45
Rosemary Power Station, Halifax	26	22
Southern Power Company Plant Rowan County	25	20
Westmoreland Partners, LLC, Roanoke Valley Energy Facility	511	434

In the event that EPA determines that Craven County Wood Energy is not subject to the provisions of this Section, its allocation shall go to the new source growth pool.

- (2) Facilities that meet the description in Rule .2401(b)(3) or (b)(4) of this Section.

FACILITY	ALLOCATION FOR 2009-2014 (TONS)	ALLOCATIONS FOR 2015 AND LATER (TONS)
Blue Ridge Paper Products	839	839
International Paper Corp., Columbus Co.	307	307
Kapstone Kraft Paper corporation	346	346
Coastal Carolina Clean Power, LLC	113	113

APPROVED RULES

FACILITY	ALLOCATION FOR 2009-2014 (TONS)	ALLOCATIONS FOR 2015 AND LATER (TONS)
UNC-Chapel Hill	241	241
Weyerhaeuser, New Bern Mill	193	193
Domtar Paper Co.	404	404

(b) Ozone season defined. The ozone season is from May 1 through September 30 of each year.

(c) Change in status. If a unit at a facility named in Subparagraph (a)(2) of this Rule meets the description under Subparagraphs (b)(1) or (b)(2) of Rule .2401 of this Section, it shall lose its allocation under Subparagraph (a)(2) of this Rule and shall receive an allocation under Rule .2412 of this Section as a new unit until it receives an allocation under Rule .2413 of this Section.

(d) Compliance. The nitrogen oxide ozone season emissions of a CAIR NOx Ozone Season source shall not exceed the number of allowances that it has in its compliance account established and administered under Rule .2408 of this Section. For purposes of making deductions for excess emissions for the ozone season in 2008 under the NOx SIP Call (Section 15A NCAC 02D .1400), the Administrator shall deduct allowances allocated under this Rule for the ozone season in 2009.

(e) Emission measurement requirements. The emissions measurements recorded and reported according to 40 CFR Part 96 Subpart HHHH shall be used to determine compliance by each CAIR NOx Ozone Season source with its emissions limitation according to 40 CFR 96.306(c) including 96.306(c)(5) and (6).

(f) Excess emission requirements. The provisions of 40 CFR 96.306(d) shall be used for excess emissions.

(g) Liability. The owner or operator of any unit or source covered under this Section shall be subject to the provisions of 40 CFR 96.306(f).

(h) Modification and reconstruction, replacement, retirement, or change of ownership. The modification or reconstruction of a CAIR NOx Ozone Season unit shall not make that CAIR NOx Ozone Season unit a "new" CAIR NOx Ozone Season unit under Rule .2412. The CAIR NOx Ozone Season unit that is modified or reconstructed shall not change the emission allocation under Paragraph (a) of this Rule. If one or more CAIR NOx Ozone Season units at a facility is replaced, the new CAIR NOx Ozone Season unit shall not receive an allocation under Rule .2412 of this Section, nor shall it change the allocation of the facility. If the owner of a facility changes, the emission allocations under this Rule and revised emission allocations made under Rule .2413 of this Section shall remain with the facility. If a CAIR NOx Ozone Season unit is retired, the owner or operator, and designated representatives, of the CAIR NOx Ozone Season unit shall follow the procedures in 40 CFR 96.305. The allocations of a retired CAIR NOx Ozone Season unit shall remain with the owner or operator of the retired CAIR NOx Ozone Season unit until a reallocation occurs under Rule .2413 of this Section when

the allocation shall be removed and given to other CAIR NOx Ozone Season units if the retired CAIR NOx Ozone Season unit is still retired using the procedure in Rule .2413 of this Section.

History Note: Authority G.S. 143-215.3(a); 143-215.65; 143-215.66; 143-215.107(a)(5), (10);

Eff. July 1, 2006;

Amended Eff. May 1, 2008.

15A NCAC 02D .2407 MONITORING, REPORTING, AND RECORDKEEPING

(a) The owner or operator of a unit covered under this Section shall comply with the monitoring, recordkeeping, and reporting requirements in:

- (1) 40 CFR 96.106(b) and (e) and in 40 CFR Part 96, Subpart HH for each CAIR NOx unit;
- (2) 40 CFR 96.206(b) and (e) and in 40 CFR Part 96, Subpart HHH for each CAIR SO₂ unit; and
- (3) 40 CFR 96.306(b) and (e) and in 40 CFR Part 96, Subpart HHHH for each CAIR Ozone Season NOx unit.

(b) To approve or disapprove monitors used to show compliance with Rules .2403, .2404, or .2405 of this Section, the Division shall follow the procedures in:

- (1) 40 CFR 96.171 and 40 CFR 96.172 for nitrogen oxides,
- (2) 40 CFR 96.271 and 40 CFR 96.272 for sulfur dioxides, and
- (3) 40 CFR 96.371 and 40 CFR 96.372 for ozone season nitrogen oxides.

History Note: Authority G.S. 143-215.3(a); 143-215.65; 143-215.66; 143-215.107(a)(5), (10);

Eff. July 1, 2006;

Amended Eff. May 1, 2008.

15A NCAC 02D .2409 DESIGNATED REPRESENTATIVE

(a) Designated representative. The owners and operators of any source covered under this Section shall select a designated representative according to 40 CFR 96.110 for each CAIR NOx source, 96.210 for each CAIR SO₂ source, and 96.310 for each CAIR NOx Ozone Season source. The designated representative shall have the responsibilities and duties set out in 40 CFR 96.110 for a CAIR NOx source, 96.210 for a CAIR SO₂ source, and 96.310 for a CAIR NOx Ozone Season source.

(b) Alternate designated representative. The owners and operators of any source covered under this Section shall select an alternate designated representative according to 40 CFR 96.111 for each CAIR NO_x source, 96.211 for each CAIR SO₂ source, and 96.311 for each CAIR NO_x Ozone Season source. The alternate designated representative shall have the responsibilities and duties set out in 40 CFR 96.111 for a CAIR NO_x source, 96.211 for CAIR SO₂ source, and 96.311 for a CAIR NO_x Ozone Season source.

(c) Changing designated representative and alternate designated representative. The owner or operator of any source covered under this Section may change the designated representative or the alternate designated representative using:

- (1) 40 CFR 96.112 for a CAIR NO_x source;
- (2) 40 CFR 96.212 for a CAIR SO₂ source; and
- (3) 40 CFR 96.312 for a CAIR NO_x Ozone Season source.

(d) A CAIR designated representative or alternative CAIR designated representative may delegate his or her authority to make an electronic submission to the Administrator using:

- (1) 40 CFR 96.115 for a CAIR NO_x source;
- (2) 40 CFR 96.215 for a CAIR SO₂ source; and
- (3) 40 CFR 96.315 for a CAIR NO_x Ozone Season source.

(e) Changes in owners and operators. Whenever the owner or operator of a source or unit covered under this Section changes, the following provisions shall be followed:

- (1) 40 CFR 96.112(c) for a CAIR NO_x source;
- (2) 40 CFR 96.212(c) for a CAIR SO₂ source; and
- (3) 40 CFR 96.312(c) for a CAIR NO_x Ozone Season source.

(f) Certificate of representation. A complete certificate of representation for a CAIR designated representative or an alternate CAIR designated representative shall meet the requirements of 40 CFR 96.113 for nitrogen oxides, 40 CFR 96.213 for sulfur dioxide, and 40 CFR 96.313 for ozone season nitrogen oxides.

(g) Objections concerning CAIR designated representative. Objections concerning CAIR designated representative shall be handled according to the procedures in 40 CFR 96.114 for nitrogen oxides, 40 CFR 96.214 for sulfur dioxide, and 40 CFR 96.314 for ozone season nitrogen oxides.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10); Eff. July 1, 2006; Amended Eff. May 1, 2008.

15A NCAC 02D .2412 NEW UNIT GROWTH

(a) For nitrogen oxide emissions, the total nitrogen oxide allowances available for allocation in the new unit set-aside for each control period in 2009 through 2014 shall be 2638 tons and the total nitrogen oxide allowances available for allocation in each control period in 2015 and thereafter shall be 1154 tons. Except for the reference to 40 CFR 96.142(b), the procedures in 40 CFR 96.142(c)(2) through (4) shall be used to create

allocations for units covered under this Section that commenced operations on or after January 1, 2001 and that are not covered in the table in Rule .2403 of this Section.

(b) For ozone season nitrogen oxides emissions, the total ozone season nitrogen oxide allowances available for allocation in the new unit set-aside for each control period in 2009 through 2014 shall be 1234 tons and the total ozone season nitrogen oxide allowances available for allocation in each control period in 2015 and thereafter shall be 555 tons. Except for the reference to 40 CFR 96.142(b) the procedures in 40 CFR 96.342(c)(2) through (4) shall be used to create allocations for units covered under this Section that commenced operations on or after January 1, 2001 and that are not listed in the table in Rule .2405 of this Section.

(c) New unit allowances in Paragraph (a) of this Rule that are not allocated in a given year shall be redistributed to units under .2401(b)(1) and (2) according to the provisions of 40 CFR 96.142(d) and 96.342(d) except that the divisor used in calculating individual unit allocations:

- (1) for nitrogen oxide allowances shall be 2638 tons for each control period in 2009 through 2014 and 1154 tons in each control period in 2015 and thereafter, and
- (2) for ozone season nitrogen oxide allowances shall be 1234 tons for each control period in 2009 through 2014 and 555 tons for each control period in 2015 and thereafter.

(d) The Director shall report the allocations to new units to EPA in accordance with 40 CFR 51.123(o)(2) and (aa)(2).

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10); Eff. July 1, 2006; Amended Eff. May 1, 2008.

15A NCAC 10B .0106 WILDLIFE TAKEN FOR DEPREDATIONS OR ACCIDENTALLY

(a) Depredation Permit:

- (1) Endangered or Threatened Species. No permit shall be issued to take any endangered or threatened species of wildlife listed under 15A NCAC 10I by reason of depredations to property. An individual may take an endangered or threatened species in immediate defense of his own life or of the lives of others without a permit. Any endangered or threatened species which may constitute a demonstrable but non-immediate threat to human safety shall be reported to a federal or state wildlife enforcement officer, who, upon verification of the report, may take or remove the specimen as provided by 15A NCAC 10I .0102.

- (2) **Other Wildlife Species.** Except as provided in Subparagraph (1) of this Paragraph, the Executive Director or an agent of the Wildlife Resources Commission may, upon application of a landholder and after such investigation of the circumstances as he may require, issue a permit to such landholder to take any species of wildlife which is or has been damaging or destroying his property provided there is evidence of property damage in excess of fifty dollars (\$50.00). No permit may be issued for the taking of any migratory birds and other federally protected animals unless a corresponding valid U.S. Fish and Wildlife Service depredation permit has been issued. The permit shall name the species allowed to be taken and, in the discretion of the Executive Director or an agent, may contain limitations as to age, sex or any other condition within the species so named. The permit may be used only by the landholder or another person named on the permit.
- (3) **Special Circumstances.** In addition to the circumstances described in Subparagraph (2) of this Paragraph, the Executive Director or his designee may issue a permit to a person or persons for the taking of wildlife resources in circumstances of overabundance or when the wildlife resources present a danger to human safety. Municipalities must first attempt to use the Urban Archery Season to remedy an overabundance of deer before the Executive Director or his designee will issue a depredation permit for deer overabundance.
- (4) **Wildlife Damage Control Agents:** Upon completion of a training course designed for the purpose of reviewing and updating information on wildlife laws and safe, humane wildlife handling techniques and demonstration of a knowledge of wildlife laws and safe, humane wildlife handling techniques, an individual with no record of wildlife law violations may apply to the Wildlife Resources Commission (Commission) to become a Wildlife Damage Control Agent (WDCA). Those persons who demonstrate knowledge of wildlife laws and safe, humane wildlife handling techniques by a passing score of at least 85 percent on a written examination provided by a representative of the Wildlife Resources Commission in cooperation with the training course provider shall be approved. Those persons failing to obtain a passing score will be given one chance for re-testing without re-taking the course. Those persons approved as agents by the Commission may then issue

depredation permits to landholders and be listed as a second party to provide the control service. WDCAs may not issue depredation permits for big game animals, bats, or species listed as endangered, threatened or special concern under 15A NCAC 10I .0103, .0104 and .0105 of this Chapter. WDCAs must report to the Wildlife Resources Commission the number and disposition of animals taken, by county, annually. Records must be available for inspection by a Wildlife Enforcement officer at any time during normal business hours. Wildlife Damage Control Agent status may be revoked at any time by the Executive Director when there is evidence of violations of wildlife laws, failure to report, or inhumane treatment of animals by the WDCA. A WDCA may not charge for the permit, but may charge for his or her investigations and control services. In order to maintain a knowledge of current laws, rules, and techniques, each WDCA must renew his or her agent status every three years by showing proof of having attended at least one training course provided for the purpose of reviewing and updating information on wildlife laws and safe, humane wildlife handling techniques within the previous 12 months.

(b) **Term of Permit.** Each depredation permit issued by the Executive Director or an agent shall have entered thereon a date or time of expiration after which date or time the same shall become invalid for any purpose, except as evidence of lawful possession of any wildlife that may be retained thereunder.

(c) **Manner of Taking:**

- (1) **Taking Without a Permit.** Wildlife taken without a permit while committing depredations to property may, during the open season on the species, be taken by the landholder by any lawful method. During the closed season such depredating wildlife may be taken without a permit only by the use of firearms.
- (2) **Taking With a Permit.** Wildlife taken under a depredation permit may be taken only by the method or methods specifically authorized by the permit. When trapping is authorized, in order to limit the taking to the intended purpose, the permit may specify a reasonable distance from the property sought to be protected, according to the particular circumstances, within which the traps must be set. The Executive Director or agent may also state in a permit authorizing trapping whether or not bait may be used and the type of bait, if any, that is authorized. In addition to any

trapping restrictions that may be contained in the permit the method of trapping must be in accordance with the requirements and restrictions imposed by G.S. 113-291.6 and other local laws passed by the General Assembly. No depredation permit shall authorize the use of poisons or pesticides in taking wildlife except in accordance with the provisions of the North Carolina Pesticide Law of 1971, the Structural Pest Control Act of 1955, and G.S. 113, Article 22A. No depredation permit shall authorize the taking of wildlife by any method by any landholder upon the lands of another.

- (3) Intentional Wounding. It is unlawful for any landholder, with or without a depredation permit, intentionally to wound a wild animal in a manner so as not to cause its immediate death as suddenly and humanely as the circumstances permit.

(d) Disposition of Wildlife Taken:

- (1) Generally. Except as provided by the succeeding Subparagraphs of this Paragraph, any wildlife killed accidentally or without a permit while committing depredations shall be buried or otherwise disposed of in a safe and sanitary manner on the property. Wildlife killed under a depredation permit may be transported to an alternate disposal site if desired. Anyone in possession of carcasses of animals being transported under a depredation permit must have the depredation permit in their possession. Except as provided by the succeeding Subparagraphs of (d)(2) through (6) of this Rule, all wildlife killed under a depredation permit must be buried or otherwise disposed of in a safe and sanitary manner.
- (2) Deer. The edible portions of up to five deer may be retained by the landholder for consumption but must not be transported from the property where the depredations took place without a valid depredation permit. An enforcement officer, if so requested by the permittee, shall provide the permittee a written authorization for the use by a charitable organization of the edible portions of the carcass. The nonedible portions of the carcass, including head, hide, feet, and antlers, shall be disposed of as specified in Subparagraph (1) of this Paragraph or turned over to a wildlife enforcement officer for disposition. When a deer is accidentally killed on a road or highway by reason of collision with a motor vehicle, the law enforcement officer who investigates the accident shall, upon request of

the operator of the vehicle, provide such operator a written permit authorizing him to possess and transport the carcass of such deer for his personal and lawful use, including delivery of such carcass to a second person for his private use or the use by a charitable organization upon endorsement of such permit to such person or organization by name and when no money or other consideration of value is received for such delivery or endorsement.

- (3) Fox. Any fox killed accidentally shall be disposed of in the manner provided by Subparagraph (1) or (6) of this Paragraph. Any fox killed under a depredation permit may be disposed of in the same manner or, upon compliance with the fur tagging requirements of 15A NCAC 10B .0400, the carcass or pelt thereof may be sold to a licensed fur dealer. Any live fox taken under a depredation permit may be sold to a licensed controlled hunting preserve for fox in accordance with G.S. 113-273(g).
- (4) Furbearing Animals. The carcass or pelt of any furbearing animal killed during the open season for taking such furbearing animal either accidentally or for control of depredations to property, whether with or without a permit, may be sold to a licensed fur dealer provided that the person offering such carcass or pelt for sale has a valid hunting or trapping license, provided further that, bobcats and otters may only be sold upon compliance with any required fur tagging requirement set forth in 15A NCAC 10B .0400.
- (5) Animals Taken Alive. Wild animals in the order Carnivora and beaver shall be humanely euthanized either at the site of capture or at a facility designed to humanely handle the euthanasia or released on the property where captured. Animals transported or held for euthanasia must be euthanized within 12 hours of capture. Anyone in possession of live animals being transported for relocation or euthanasia under a depredation permit must have the depredation permit in their possession.
- (6) A person killing a wild bird or wild animal accidentally with a motor vehicle or finding a dead wild bird or wild animal which was killed accidentally may possess that wild bird or wild animal for a period not to exceed 10 days for the purpose of delivering it to a licensed taxidermist for preparation. The licensed taxidermist may accept the wild bird or wild animal after satisfying himself that the animal

was killed accidentally. The taxidermist shall certify and record the circumstances of acquisition as determined by the injuries to the animal. Licensed taxidermists shall keep accurate records of each wildlife specimen received pursuant to the rule as required by 15A NCAC 10H .1003 of this Chapter. Upon delivery of the finished taxidermy product to the person presenting the animal, the taxidermist shall give the person a receipt indicating the sex and species, date of delivery, circumstances of initial acquisition and the name, address, and signature of the taxidermist. The receipt shall be permanently affixed to the back or bottom of the finished product and shall be retained by the person for as long as the mounted specimen is kept. Mounted specimens possessed pursuant to this Rule may not be sold and, if such specimens are transferred by gift or inheritance, the new owner must retain the permit to document the legality of possession. This provision does not allow possession of accidentally killed raptors; nongame migratory birds; species listed as endangered, threatened, or of special concern under 15A NCAC 10I .0103, .0104, and .0105 of this Chapter; black bear or wild turkey.

- (7) Edible portions of wild boar taken under depredation permit may be retained by the landowner for consumption or, if stipulated on the permit, donated to a charitable food organization.

(e) Reporting Requirements. Any landholder who kills a deer, bear or wild turkey under a currently valid depredation permit shall report such kill on the form provided with the permit and mail the form immediately upon the expiration date to the Wildlife Resources Commission. The killing and method of disposition of every game animal and game bird, every furbearing animal, and every nongame animal or nongame bird for which there is no open season, when killed for committing depredations to property, without a permit, shall be reported to the Wildlife Resources Commission within 24 hours following the time of such killing, except that when the carcass or pelt of a fox, killed under a depredation permit, or of a furbearing animal, killed with or without a permit, is lawfully sold to a licensed fur dealer in this State the fur dealer is required to report the source of acquisition and no report is required of the seller.

History Note: Authority G.S. 113-134; 113-273; 113-274; 113-291.4; 113-291.6; 113-300.1; 113-300.2; 113-307; 113-331; 113-333; 113-334(a); 113-337; Eff. February 1, 1976; Amended Eff. May 1, 2008; August 1, 2002; July 1, 1997; July 1, 1995; January 1, 1995; January 1, 1992; August 1, 1990.

15A NCAC 10B .0119 WILDLIFE COLLECTORS

(a) Collection Licenses. The Executive Director is authorized to license qualified individuals to take or collect any species of wildlife resources except that endangered, threatened, special concern species and spotted turtles (*Clemmys guttata*) may not be taken or collected except under a special permit issued by the Executive Director for research purposes. This Rule shall not prohibit an individual from killing an endangered, threatened, or special concern species in defense of his own life or the lives of others without a permit. Individuals who annually collect less than five reptiles or less than 25 amphibians that are not on the endangered, threatened or special concern lists and not including spotted turtles (*Clemmys guttata*) are exempted from this license requirement. Such license shall be issued upon payment of a fee in accordance with the General Statutes, except that licenses may be issued to representatives of educational or scientific institutions or of governmental agencies without charge. Such license shall be used in lieu of any other hunting or trapping license required by law and shall authorize possession and transportation of the wildlife incidental to the authorized taking, except that it shall not authorize the taking, possession or transportation of any species of wildlife in violation of federal laws or regulations.

(b) Limits on collection. Individuals shall collect no more than 10 turtles from the family Chelydridae (snapping turtles) per day and no more than 100 per calendar year. Individuals shall collect no more than 10 turtles from the family Kinosternidae (mud and musk turtles) per day and no more than 100 per calendar year.

(c) Qualifications of Licensees. In addition to representatives of educational and scientific institutions and governmental agencies the collection license may be issued to any individual for any purpose when such is not deemed inimical to the efficient conservation of the species to be collected or to some other wildlife species that may be dependent thereon.

(d) Methods of Taking. The manner of taking wildlife resources under a collection license may be specified by the Executive Director pursuant to G.S. 113-272.4(d) and need not be restricted to the usual methods of hunting or trapping.

(e) Term of License. The Executive Director may, pursuant to G.S. 113-272.4(c), impose time limits and other restrictions on the duration of any collection license, but unless so restricted the license shall be valid from January 1 through December 31 of the applicable year.

(f) Report of Collecting Activity. Each individual licensed under this Rule shall submit a written report to the Executive Director within 15 days following the date of expiration of the license. The report shall be on a form supplied by the Wildlife Resources Commission and shall show the numbers of each species taken under the license and the use or disposition thereof. The Executive Director may require additional information for statistical purposes such as the dates and places of the taking and the sex, size, weight, condition, and approximate age of each specimen taken. Such additional information may be required on the form of report or by a separate writing accompanying the form.

(g) Other Requirements and Restrictions. The Executive Director may, pursuant to G.S. 113-272.4(d), impose such other requirements and restrictions on persons licensed under this Rule as he may deem to be necessary to the efficient administration of the wildlife conservation laws and regulations.

History Note: Authority G.S. 113-134; 113-272.4; Eff. January 1, 1981; Amended Eff. May 1, 2008; April 1, 2001; February 1, 1994; November 1, 1990; September 1, 1989.

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.
- (7) Second Monday in November to the following Saturday in Greene, Lenoir and Pitt 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, 2008; May 1, 2007; May 1, 2006; June 1, 2005.

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 is three and there are no season and no possession limits.
- (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, 2008; May 1, 2007; July 1, 2000.

15A NCAC 10B .0206 SQUIRRELS

(a) Open Seasons:

- (1) Gray and Red Squirrels: Monday on or nearest October 15 to January 31 statewide.
- (2) Fox Squirrels: Monday on or nearest October 15 to December 31 in the counties of Alleghany, Anson, Ashe, Bladen, Brunswick, Cumberland, Duplin, Edgecombe, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, Moore, New Hanover, Onslow, Pender, Pitt, Richmond, Sampson, Scotland and Wayne.

(b) Bag Limits:

- (1) Gray and Red Squirrels: daily bag limit is eight; there are no season and no possession limits.
- (2) Fox Squirrels: In those counties listed in Subparagraph (a)(2) of this Rule, the daily bag limit is one; the possession limit is two, and the season limit is 10.

History Note Authority G.S. 113-134; 113-291.2;
Eff. February 1, 1976;
Amended Eff. May 1, 2008; May 1, 2006; July 1, 1995; July 1, 1987; July 1, 1986; July 1, 1985.

15A NCAC 10B .0207 RABBITS

(a) Open Season: The open season for taking rabbits is the first Saturday preceding Thanksgiving through the last day of February.

(b) Bag Limits: The daily bag limit is five and there are no season and no possession limits.

(c) Box-traps: During the hunting season specified in Paragraph (a) of this Rule and subject to the bag limits set forth in Paragraph (b) of this Rule, rabbits may be taken with box-traps. A valid hunting license shall serve as a transportation permit for live rabbits taken pursuant to this Rule.

History Note: Authority G.S. 113-134; 113-274; 113-291.1; 113-291.2;
Eff. February 1, 1976;
Amended Eff. July 1, 1987; July 1, 1986; July 1, 1985; July 1, 1984;
Temporary Amendment Eff. August 1, 1998;
Amended Eff. May 1, 2008; April 1, 1999.

15A NCAC 10B .0216 FALCONRY

(a) Seasons. Except as provided in Paragraphs (d) and (e) of this Rule, the open seasons for the practice of falconry as permitted by the rules contained in 15A NCAC 10H .0800 shall coincide with the regular open seasons contained in this Section for squirrels, rabbits, quail, ruffed grouse and pheasant, and with the open seasons set forth in the Code of Federal Regulations for migratory game birds in this state.

(b) Bag Limits. The daily bag, possession and season limits set forth in this Section for squirrels, rabbits, quail, ruffed grouse and pheasant and the daily bag, field possession, and total possession limits set forth in the Code of Federal Regulations for migratory game birds shall apply to falconry except as provided in Paragraph (e) of this Rule.

(c) Out of Season Kills. When any raptor being used in falconry kills any species of wildlife for which there is no open season or a species of game on which the season is then closed, the falconer or person using such raptor shall not take such dead wildlife into his possession but shall leave the same where it lies, provided that the said raptor may be allowed to feed on such dead wildlife before leaving the site of the kill. If the species so killed is a resident species of game on which there is a season limit, the kill shall be included as part of the season limit of the person using the raptor for falconry.

(d) Hunting After Limit Taken. After a falconer has acquired the daily bag, possession or season limit of any lawful species, regardless of the manner of taking, the falconer shall not release any raptor.

(e) Extended Seasons. An extended falconry season on gray and red squirrels and rabbits shall be the Monday on or nearest October 15 until the last day of February. Bag limits for those portions of the season outside the regular seasons shall be 4 squirrels daily, Possession 8; and 3 rabbits daily, Possession 6.

History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.28; 50 C.F.R. 21.29;
Eff. September 1, 1979;
Amended Eff. May 1, 2008; July 1, 1998.

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 1 through the last day of February except for that part of the state described in Subparagraph (2) of this Paragraph.
- (2) December 15 through the last day of February 28 in and east of Hertford, Bertie, Martin, Pitt, Greene, Lenoir, Duplin, Pender and New Hanover counties.
- (3) 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.

- (4) Nutria may be trapped east of I-77 at any time.
- (b) Restrictions. 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, 2008; May 1, 2007; May 1, 2006; June 1, 2005; August 1, 2004.

15 NCAC 10B .0303 BAG LIMITS

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

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

History Note: Authority G.S. 113-134; 113-291.2;

Eff. August 1, 1977;

Amended Eff. May 1, 2008; June 1, 2005; July 1, 1996; July 1, 1984.

15A NCAC 10B .0404 TRAPPERS AND HUNTERS

(a) Every fox taken in an area of open season as provided by G.S. 113-291.4 shall be tagged at the scene of taking.

(b) Every person taking any bobcat or otter in this State, or any foxes under a depredation permit, general statute, rule, or local law that permits taking, shall obtain and affix the proper tag to each carcass or pelt before selling or transferring the same to any person or transporting the same for any purpose, except that:

- (1) A person may transport the same from the place of taking to his North Carolina residence and from his North Carolina residence to a fur tag agent or taxidermist's place of business.
- (2) A person may transport the same from the place of taking to the nearest place in this State where the appropriate tag may be obtained.
- (3) The carcass, pelt or mounted specimen is exempt from tagging requirements while in the taxidermist's place of business or after the mount is completed.
- (4) A licensed trapper may take live foxes during any legal trapping season, except foxes taken under G.S. 113-291.4, without tagging them and sell them to a licensed controlled hunting

preserve for fox in accordance with G.S. 113-273(g).

- (5) A person may take live foxes pursuant to a valid depredation permit issued under G.S. 113-274(c)(1a), without tagging them and sell them to a licensed controlled hunting preserve for fox in accordance with G.S. 113-273(g).

No carcass or pelt of any bobcat, otter or fox taken within this State may be removed from the state without a proper fur tag having been affixed thereto, except a licensed taxidermist may ship the same to a tannery for processing. Any carcass or pelt remaining in a person's possession after the end of the season, except those in a licensed taxidermist's place of business or his taxidermy preservation facility, shall be properly tagged by him within 10 days following the close of such season.

(c) In any case where the taking of foxes with weapons or traps and the sale thereof is authorized by local legislation, except live foxes taken by licensed trappers who live-trap foxes for sale during any open season or persons who take live foxes pursuant to a depredation permit in accordance with Rule .0409 of this Section, the hunter or trapper taking any such fox shall, in the absence of a specific provision to the contrary, obtain and affix the carcass or pelt with a proper tag before selling or transferring the same to any other person, or transporting the same for any purpose than as authorized by Paragraph (a) of this Rule.

History Note: Authority G.S. 113-134; 113-276.1; 113-291.4; S.L. 1985, chs. 108, 179, 180, 664 and 722;

Eff. November 14, 1978;

Amended Eff. May 1, 2008; July 1, 1994; January 1, 1992; December 1, 1985; October 1, 1980.

15A NCAC 10C .0205 PUBLIC MOUNTAIN TROUT WATERS

(a) Designation of Public Mountain Trout Waters. For the purposes of this Rule, artificial lure is defined as a fishing lure that neither contains nor has been treated by any substance that attracts fish by the sense of taste or smell. Natural bait is defined as any living or dead organism (plant or animal), or parts thereof, or prepared substances designed to attract fish by the sense of taste or smell. 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
- Cane Creek (headwaters to
SR 3138 bridge)
- (E) Burke County:
- Catawba River (Muddy Creek to
the City of Morganton water
intake dam) [Special
Regulations apply. See
Subparagraph (a)(7) of this
Rule.]
- South Fork Catawba River
(not trout water)
- Henry Fork (lower
South Mountains State
Park line downstream to
SR 1919 at Ivy Creek)
- Jacob Fork (Shinny
Creek to lower
South Mountain
State Park
boundary)
[Delayed Harvest
Regulations apply.
See Subparagraph
(a)(5) of this Rule.]
- Johns River (not trout water)
- Parks Creek
(portion not on game lands
not trout water)
- Carroll Creek
(game lands portion above
SR 1405 including
tributaries)
- Linville River (portion
within Linville Gorge
Wilderness Area, including
tributaries, and portion
below Lake James
powerhouse from upstream
bridge on SR 1223 to Muddy
Creek)
- (F) Caldwell County:
- Catawba River (not trout water)
- Johns River (not trout water)
- Wilson Creek (Phillips
Branch to Browns
Mountain Beach dam,
except where posted
against trespass)
- Estes Mill Creek
(not trout water)
- Thorps Creek (falls
to NC 90 bridge)
- Mulberry Creek (portion not
on game lands not trout
water)
- Boone Fork [not
Hatchery Supported
trout water. See

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- Subparagraph (a)(2) of
this Rule.]
- Boone Fork Pond
- Yadkin River (not trout water)
- Buffalo Creek (mouth of
Joes Creek to McCloud
Branch)
- Joes Creek (first falls
upstream of SR 1574 to
confluence with Buffalo
Creek
- (G) Cherokee County:
- Hiwassee River (not trout water)
- Shuler Creek (Joe Brown
Highway (SR 1325) bridge
to Tennessee line)
- North Shoal Creek
(Crane Creek) (headwaters
to SR 1325, including
portions of tributaries on
game lands)
- Davis Creek (confluence of
Bald and Dockery creeks to
Hanging Dog Creek)
- Valley River (headwaters to
US 19 business bridge in
Murphy)
- Hyatt Creek
(including portions of
tributaries on game lands)
- Webb Creek
(including portions of
tributaries on game lands)
- Junaluska Creek
(Ashturn Creek to
Valley River, including
portions of
tributaries on game
lands)
- (H) Clay County:
- Hiwassee River (not trout water)
- Fires Creek (first bridge
above the lower game land
line on US Forest Service
road 442 to SR 1300)
- Tusquitee Creek (headwaters
to lower SR 1300 bridge,
including portions of Bluff
Branch on game lands)
- Big Tuni Creek
(including portions of
tributaries on game lands)
- Chatuge Lake (not trout
water)
- Shooting Creek (SR 1349
bridge to US 64 bridge at SR
1338)
- Hothouse Branch
(including portions of
tributaries on gamelands)
- Vineyard Creek
(including portions of
tributaries on game lands)
- (I) Graham County:
- Little Tennessee River (not trout
water)
- Calderwood Reservoir
(Cheoah Dam to Tennessee
State line)
- Cheoah River (not trout
water)
- Yellow Creek
Santeetlah Reservoir
(not trout water)
- West
- Buffalo Creek
- Little
- Buffalo Creek
- Santeetlah Creek
(Johns Branch to
mouth including
portions of
tributaries within
this section located
on game lands,
excluding Johns
Branch and Little
Santeetlah Creek)
- (Big) Snowbird
Creek (old railroad
junction to SR 1127
bridge, including
portions of
tributaries on game
lands)
- Mountain Creek
(game lands boundary to SR
1138 bridge)
- Long
Creek (portion not on game
lands)
- Tulula
Creek (headwaters to lower
bridge on SR 1275)
- Franks
Creek
- Cheoah Reservoir
- Fontana Reservoir (not
trout water)
- Stecoah Creek

- (J) Sawyer Creek
Panther Creek
(including portions of
tributaries on game lands)
Haywood County:
Pigeon River (Stamey Cove
Branch to upstream 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)
- (L) 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.]
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)
Savannah Creek (Headwaters to
Bradley's Packing House on NC
116)
Greens Creek (Greens Creek
Baptist Church on SR 1730 to
Savannah Creek)
Culowhee 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
- (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
hydropower 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)

(N) Madison County:

French Broad River (not trout water)

Shut-In Creek (including portions of tributaries on game lands)

Spring Creek (junction of NC 209 and NC 63 to lower US Forest Service boundary line, including portions of tributaries on game lands)

Meadow Fork Creek

Roaring Fork
 (including portions of tributaries on game lands)

Little Creek

Max Patch Pond

Big Laurel Creek (Mars Hill Watershed boundary to the SR 1318 bridge, also known as Big Laurel Road bridge, downstream of Bearpen Branch)

Big Laurel Creek (NC 208 bridge to US 25-70 bridge) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]

Spillcorn Creek (entire stream, excluding tributaries)

Shelton Laurel Creek (confluence of Big Creek and Mill Creek to NC 208 bridge at Belva)
 Shelton Laurel Creek (NC 208 bridge at Belva to the confluence with Big Laurel Creek) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]

Mill Creek
 (headwaters to confluence with Big Creek)

Puncheon Fork
 (Hampton Creek to Big Laurel Creek)

Big Pine Creek (SR 1151 bridge to French Broad River)

Ivy Creek (not trout waters)
 Little Ivy Creek (confluence of Middle Fork and Paint Fork at Beech Glen to confluence with Ivy Creek at Forks of Ivy)

(O) McDowell County:

Catawba River (Catawba Falls Campground to Old Fort Recreation Park)

Buck Creek (portion not on game lands, not trout water)

Little Buck Creek (game land portion including portions of tributaries on game lands)

Curtis Creek game lands portion downstream of US Forest Service boundary at Deep Branch. [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]

North Fork Catawba River (headwaters to SR 1569 bridge)

- Armstrong Creek (Cato Holler line downstream to upper Greenlee line)
Mill Creek (upper railroad bridge to U.S. 70 Bridge, except where posted against trespass)
- (P) Mitchell County:
 Nolichucky River (not trout water)
 Big Rock Creek (headwaters to NC 226 bridge at SR 1307 intersection)
 Little Rock Creek (Green Creek Bridge to Big Rock Creek, except where posted against trespass)
 Cane Creek (SR 1219 to NC 226 bridge)
 Cane Creek (NC 226 bridge to NC 80 bridge) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
 Grassy Creek (East Fork Grassy Creek to mouth)
 East Fork Grassy Creek
 North Toe River (Avery County line to SR 1121 bridge)
 North Toe River (US 19E bridge to NC 226 bridge) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- (Q) Polk County:
 Broad River (not trout water)
 North Pacolet River (Pacolet Falls to NC 108 bridge)
 Fork Creek (Fork Creek Church on SR 1100 to North Pacolet River)
 Big Fall Creek (portion above and below water supply reservoir)
 Green River (Fishtop Falls Access Area to mouth of Brights Creek) [Delayed Harvest Regulations apply to the portion from Fishtop Falls Access Area to Cove Creek. See Subparagraph (a)(5) of this Rule.]
- Little Cove Creek (including portions of tributaries on game lands)
Cove Creek (including portions of tributaries on game lands)
Camp Creek
[Henderson County line (top of falls) to Green River]
- (R) Rutherford County:
 (Rocky) Broad River (Henderson County line to US 64/74 bridge, except where posted against trespass)
- (S) Stokes County:
 Dan River (Virginia State line downstream to a point 200 yards below the end of SR 1421)
- (T) Surry County:
 Yadkin River (not trout water)
 Ararat River (SR 1727 bridge downstream to the NC 103 bridge)
 Stewarts Creek (not trout water)
 Pauls Creek (Virginia State line to 0.3 mile below SR 1625 bridge - lower Caudle property line)
 Fisher River (Cooper Creek) (Virginia State line to Interstate 77)
 Little Fisher River (Virginia State line to NC 89 bridge)
 Mitchell River (0.6 mile upstream of the end of SR 1333 to the SR 1330 bridge below Kapps Mill Dam) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- (U) Swain County:
 Little Tennessee River (not trout water)
 Calderwood Reservoir (Cheoah Dam to Tennessee State line)
 Cheoah Reservoir
 Fontana Reservoir (not trout water)

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- Alarka Creek (game lands boundary to Fontana Reservoir)
Nantahala River (Macon County line to existing Fontana Reservoir water level)
Tuckasegee River (not trout water)
Deep Creek (Great Smoky Mountains National Park boundary line to Tuckasegee River)
Connelly Creek (including portions of tributaries on game lands)
- (V) Transylvania County:
French Broad River (junction of west and north forks to US 276 bridge)
Davidson River (Avery Creek to 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 (Town of North Wilkesboro water intake dam to confluence with Yadkin River) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
 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)

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| <p>Horse Creek (entire stream)</p> <p>Jones Creek (entire stream)</p> <p>Kentucky Creek (entire stream)</p> <p>North Harper Creek (entire stream)</p> <p>Plumtree Creek (entire stream)</p> <p>Roaring Creek (entire stream)</p> <p>Rockhouse Creek (entire stream)</p> <p>South Harper Creek (entire stream)</p> <p>Webb Prong (entire stream)</p> <p>Wilson Creek [Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.]</p> <p>(D) Buncombe County:
Carter Creek (game land portion) [Catch and Release/Artificial Lures only Regulations apply. See Subparagraph (a)(3) of this Rule.]</p> <p>(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)</p> <p>(F) Caldwell County:
Buffalo Creek (Watauga County line to Long Ridge Branch including tributaries on game lands)
Joes Creek (Watauga County line to first falls upstream of the end of SR 1574)
Rockhouse Creek (entire stream)</p> <p>(G) Cherokee County:
Bald Creek (game land portions, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
Dockery Creek (game land portions, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]</p> <p>(H) Graham County:
Little Buffalo Creek (entire stream)
South Fork Squally Creek (entire stream)</p> | <p>(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.]</p> <p>(J) Henderson County:
Green River (I-26 bridge to Henderson/Polk County line)</p> <p>(K) Jackson County:
Buff Creek (entire stream) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
Gage Creek (entire stream)
North Fork Scott Creek (entire stream)
Shoal Creek (Glenville Reservoir pipeline to mouth) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
Tanasee Creek (entire stream)
West Fork Tuckasegee River (Shoal Creek to existing water level of Little Glenville Lake) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
Whitewater River (downstream from Silver Run Creek to South Carolina State line)
Wolf Creek (entire stream, except Balsam Lake and Wolf Creek Lake)</p> <p>(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.]</p> <p>(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)</p> <p>(N) Polk County
Green River (Henderson County line to Fishtop Falls Access Area)
Pulliam (Fulloms) Creek and tributaries (game lands portions)</p> |
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- (O) Transylvania County:
All waters located on Gorges State Park
Whitewater River (downstream from Silver Run Creek to South Carolina State line)
- Watauga County:
Dugger Creek (portions on Laurelmor development, including tributaries. Anglers must check in at Laurelmor security office on Triplett Rd. prior to fishing) [Catch and Release/Artificial Lure Only Trout Waters Regulations apply. See subparagraph (a)(3) of this Rule.]
Dutch Creek (headwaters to second bridge on SR 1134)
Howards Creek (headwaters to lower falls)
Laurel Creek (portions on Laurelmor development, including tributaries. Anglers must check in at Laurelmor security office on Triplett Rd. prior to fishing) [Catch and Release/Artificial Lure Only Trout Waters Regulations apply. See subparagraph (a)(3) of this Rule.]
Watauga River (Avery County line to steel bridge at Riverside Farm Road)
- (Q) Wilkes County:
Big Sandy Creek (portion on Stone Mountain State Park)
Dugger Creek (portions on Laurelmor development, including tributaries. Anglers must check in at Laurelmor security office on Triplett Rd. prior to fishing) [Catch and Release/Artificial Lure Only Trout Waters Regulations apply. See subparagraph (a)(3) of this Rule.]
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)
Licksillet 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) Watauga County:
Dugger Creek (portions on Laurelmor development, including tributaries. Anglers must check in at Laurelmor security office on Triplett Rd. prior to fishing)
Laurel Creek (portions on Laurelmor development, including tributaries. Anglers must check in at Laurelmor security office on Triplett Rd. prior to fishing)
- (H) Wilkes County:
Dugger Creek (portions on Laurelmor development, including tributaries. Anglers must check in at Laurelmor security office on Triplett Rd. prior to fishing)
Harris Creek (portion on Stone Mountain State Park)
- (I) 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, use more than a single hook on an artificial lure, or harvest or possess trout while fishing these waters. 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 waters are open for fishing under Hatchery Supported Waters rules for youth anglers only. Youth is defined as a person under 16 years of age. At 12:00 p.m. on the first Saturday in June these streams open for fishing under Hatchery Supported Waters rules for all anglers:
 - (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)
 - North Toe River (US 19E bridge to NC 226 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)
 Reddies River (Town of North Wilkesboro water intake dam to confluence with Yadkin River)
- (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:
 Buff Creek
 Chattooga River (SR 1100 bridge to South Carolina state line)
 (lower) Fowler Creek (game land portion)
 Scotsman Creek (game land portion)
 Shoal Creek (Glenville Reservoir pipeline to mouth)
 West Fork Tuckasegee River (Shoal Creek to existing water level of Little Glenville Lake)
- (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

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- 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.

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, 2008; May 1, 2007; May 1, 2006; June 1, 2005.

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;

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 7:00 a.m. on first Saturday in April (exc. (3))
Muskellunge	2 (exc. (21))	30 in. (exc. (21))	ALL YEAR
Pickereel: chain	None	None	ALL YEAR
(Jack) and redfin			
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 bass, red fish, puppy drum)	1	18 in. (exc. (19))	ALL YEAR
Striped Bass and their hybrids	8 aggregate (excs. 1,2,5,6,11,&13)	16 in. (excs.1,2,5,6,11&13)	ALL YEAR (excs. 6,13&15)
(Morone Hybrids)			
Shad: (American and hickory)	10 aggregate (exc. (23))	None	ALL YEAR (exc. (18))
Kokanee Salmon	7	None	ALL YEAR
Crappie and sunfish	None (excs. 4,12&16)	None (exc. (12))	ALL YEAR (exc. (4))

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NONGAME FISHES

None

(excs. 14,20&24)

None

(excs. 20&24)

ALL YEAR

(exc. (7))

(b) Exceptions

- (1) In the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam and in John H. Kerr Reservoir the creel limit on striped bass and Morone hybrids is two in the aggregate and the minimum size limit is 26 inches from October 1 through May 31. From June 1 through September 30 the daily creel limit on striped bass and Morone hybrids is four in aggregate with no minimum size limit.
- (2) In the Cape Fear River upstream of Buckhorn Dam and the Deep and Haw rivers to the first impoundment and in Gaston, Roanoke Rapids and B. Everett Jordan reservoirs the creel limit on striped bass and Morone hybrids is four in the aggregate and the minimum size limit is 20 inches. In Lake Norman the creel limit on striped bass and Morone hybrids is four in aggregate with a minimum size limit is 16 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 Neuse, 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 in all other inland fishing waters east of Interstate 95, subject to the exceptions listed in this Paragraph, the daily creel limit for striped bass and their hybrids is two fish in The minimum length limit is 18 inches and no striped bass or striped bass hybrids between the lengths of 22 inches and 27 inches may be possessed. In these waters,

the season for taking and possessing striped bass is closed from May 1 through September 30. In the inland fishing waters of the Cape Fear River and its tributaries, the season for taking and possessing striped bass is closed year-round. In the Pee Dee River and its tributaries from the South Carolina line upstream to Blewett Falls Dam, the season for taking and possessing striped bass and their hybrids is open year-round, the daily creel limit is three fish in aggregate and the minimum length limit is 18 inches.

- (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, Lake Raleigh in Wake 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), South Yadkin River downstream of Cooleemee Dam, 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, Cane Creek Lake in Union County, 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 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, South Yadkin River downstream of Cooleemee Dam, 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.
- (23) In the inland waters of Roanoke River and its tributaries, the daily creel limit for American and hickory shad is 10 in aggregate, only one of which may be an American shad.
- (24) In Lake Norman and Badin Lake the daily creel limit for blue catfish greater than 32 inches in length is one fish.

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, 2008; 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) and it is unlawful to possess more than 50 crabs per person per day or to exceed 100 crabs per vessel per day.
- (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, excluding those less than six inches in length collected from Kerr Reservoir (Granville, Vance, and Warrant counties), blue crab, and bowfin, taken by hook and line, grabbling or by licensed special devices may be sold. 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:

Cedarrock Pond, Alamance County
 Lake Julian, Buncombe County
 Lake Tomahawk, Buncombe County
 Frank Liske Park Pond, Cabarrus County
 High Rock Pond, Caswell County
 Rabbit Shuffle Pond, Caswell County
 Lake Rim, Cumberland County

Etheridge Pond on the Barnhill Public Fishing Area, Edgecombe County
 Indian Lake, Edgecombe County
 Newbold Pond on the Barnhill Public Fishing Area, Edgecombe County
 C.G. Hill Memorial Park Pond, Forsyth County
 Kernersville Lake, Forsyth County
 Winston Pond, Forsyth County
 Lake Devin, Granville County
 Bur-Mil Park Ponds, Guilford County
 Hagan-Stone Park Ponds, Guilford County
 Oka T. Hester Pond, Guilford County
 San-Lee Park Ponds, Lee County
 Kinston Neuseway Park Pond, Lenoir County
 Freedom Park Pond, Mecklenburg County
 Hornet's Nest Pond, Mecklenburg County
 McAlpine Lake, Mecklenburg County
 Park Road Pond, Mecklenburg County
 Reedy Creek Park Ponds, Mecklenburg County
 Squirrel Park Pond, Mecklenburg County
 Lake Luke Marion, Moore County
 Anderson Community Park, Orange County
 Lake Michael, Orange County
 River Park North Pond, Pitt County
 Laughter Pond, Polk County
 Ellerbe Community Lake, Richmond County
 Hamlet City Lake, Richmond County
 Indian Camp Lake, Richmond County
 Hinson Lake, Richmond County
 Salisbury Community Lake, Rowan County
 Albemarle City Lake, Stanly County
 Big Elkin Creek, Surry County
 Apex Community Lake, Wake County
 Bass Lake, Wake County
 Bond Park Lake, Wake County
 Lake Crabtree, Wake County
 Shelley Lake, Wake County
 Simpkins Pond, Wake County
 Lake Toisnot, Wilson County
 Harris Lake County Park Ponds, Wake County

(g) In Lake Norman and Badin Lake, the daily creel limit for blue catfish greater than 32 inches is one fish.

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, 2008; May 1, 2007; May 1, 2006; June 1, 2005.

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

(a) It is unlawful to take nongame fish for bait or personal consumption 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;
- (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;
- (5) a hand-held line with a single bait attached; or
- (6) a collapsible crab trap with the largest open dimension not greater than 18 inches and which by design is collapsed at all times when in the water, except when it is being retrieved or lowered to the bottom, with a limit of one trap per person.

(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 or personal consumption 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.
- (3) No more than 50 crabs per person per day or 100 per vessel per day with a minimum carapace width of five inches (point to point.)

(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, 2008; 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, excluding collapsible crab traps, 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, 2008; May 1, 2007; August 1, 2004; July 18, 2002.

15A NCAC 10C .0503 DESCRIPTIVE BOUNDARIES

The following waters have been designated as primary nursery areas:

- (1) North River:
 - (a) Broad Creek - Camden County - Entire stream;
 - (b) Deep Creek - Currituck County - Entire stream;
 - (c) Lutz Creek - Currituck County - Entire stream.
- (2) Alligator River:
 - (a) East Lake - Dare County - Inland waters portion;
 - (b) Little Alligator River - Tyrrell County - Entire stream.
- (3) Currituck Sound:

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| <p>(a) Martin Point Creek - Dare County - Entire stream (Jean Guite Creek);</p> <p>(b) Tull Creek and Bay - Currituck County - Tull Bay to mouth of Northwest River; Tull Creek from mouth upstream to SR 1222 bridge.</p> <p>(4) Pamlico River:</p> <p>(a) Duck Creek - Beaufort County - Entire stream;</p> <p>(b) Bath Creek - Beaufort County - Entire stream;</p> <p>(c) Mixons Creek - Beaufort County - Entire stream;</p> <p>(d) Porter Creek - Beaufort County - Entire stream;</p> <p>(e) Tooleys Creek - Beaufort County - Entire stream;</p> <p>(f) Jacobs Creek - Beaufort County - Entire stream;</p> <p>(g) Jacks Creek - Beaufort County - Entire stream;</p> <p>(h) Bond Creek - Beaufort County - Entire stream;</p> <p>(i) Muddy Creek - Beaufort County - Entire stream;</p> <p>(j) Strawhorn Creek - Beaufort County - Entire stream;</p> <p>(k) South Prong Wright Creek - Beaufort County - Entire stream;</p> <p>(l) Jordan Creek - Beaufort County - Entire stream.</p> <p>(5) Neuse River:</p> <p>(a) Slocum Creek - Craven County - Entire stream;</p> <p>(b) Hancock Creek - Craven County - Entire stream.</p> <p>(6) New River:</p> <p>(a) French Creek - Onslow County - Entire stream;</p> <p>(b) New River - Onslow County - US Highway 17 bridge to NC 24/US 258 bridge.</p> <p>(7) Roanoke River: Halifax and Northampton counties - US 258 bridge to Roanoke Rapids dam.</p> <p>(8) Tar-Pamlico River: Nash, Edgecombe, Pitt and Beaufort counties - N&S railroad at Washington upstream to Rocky Mount Mills Dam.</p> <p>(9) Neuse River: Wake, Johnston, Wayne, Lenoir, Pitt and Craven counties - Pitchkettle Creek upstream to Milburnie Dam.</p> <p>(10) Cape Fear River: Chatham, Lee, Harnett, Cumberland and Bladen counties - Lock and Dam No. 1 upstream to Buckhorn Dam.</p> <p>(11) Albemarle Sound: Peter Mashoes Creek - Dare County - Entire Stream.</p> <p>(12) Croatan Sound: Spencer Creek - Dare County - Entire Stream.</p> | <p>(13) White Oak River: Onslow and Jones counties - Grants Creek upstream to Gibson Bridge Road (SR 1118).</p> <p>(14) Northeast Cape Fear River: Pender County - NC 210 bridge upstream to NC 53 bridge.</p> <p><i>History Note: Authority G.S. 113-132; 113-134; Eff. August 1, 1990; Amended Eff. August 1, 2004; July 1, 2000; July 1, 1993; Amended Eff. May 1, 2008; November 1, 2007.</i></p> <p>15A NCAC 10C .0601 SCOPE AND PURPOSE</p> <p>To establish and protect those inland waters which function as spawning areas for anadromous fishes. These Rules will set forth anadromous fish spawning areas in inland fishing waters. Anadromous fish spawning areas are necessary for the spawning and early development of North Carolina's important anadromous fishes. Anadromous fish spawning areas provide the physical, biological, and chemical attributes necessary for anadromous fishes to spawn successfully.</p> <p><i>History Note: Authority G.S. 113-132; 113-134; Eff. May 1, 2008.</i></p> <p>15A NCAC 10C .0602 ANADROMOUS FISH SPAWNING AREAS DEFINED</p> <p>Anadromous fish spawning areas are those areas where evidence of spawning of anadromous fishes has been documented by direct observation of spawning, capture of running ripe females, or capture of eggs or early larvae.</p> <p><i>History Note: Authority G.S. 113-132; 113-134; Eff. May 1, 2008.</i></p> <p>15A NCAC 10C .0603 DESCRIPTIVE BOUNDARIES</p> <p>The following waters have been designated as anadromous spawning areas:</p> <p>(1) Currituck Sound Area:</p> <p>(a) Northwest River including designated tributaries - main stem waters west 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; and south of a line beginning on the west shore at a point 36° 33.0259' N - 76° 09.1609' W; running easterly to the east shore to a point 36° 33.0292' N - 76° 08.9488' W; including the following tributary from the confluence with Northwest River in the direction indicated to the specified boundary: Moyock Run (Shingle Landing Creek) - upstream (southwest) to a line beginning on the west shore at a point 36° 31.5252' N - 76° 10.7385' W; running easterly along US 168 (Caratoke Highway) to</p> |
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- the east shore to a point 36° 31.5140' N – 76° 10.7239' W.
- (b) Tull Creek - southwest 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; including the following tributaries from their confluence with Tull Creek to the specified boundary:
- (i) Roland Creek - upstream (northwest) to a line beginning on the north shore at a point 36° 29.8274' N – 76° 08.1294' W; running southerly to the south shore to a point 36° 29.8120' N – 76° 08.1308' W; and east of a line beginning on the northwest shore of Guinea Mill Run Canal at a point 36° 28.9227' N – 76° 07.9126' W; running southerly along US 168 bridge (Caratoke Highway) to the southeast shore at a point 36° 28.9045' N – 76° 07.8956' W.
- (ii) New Bridge Creek - upstream (south) to a line beginning on the northwest shore at a point 36° 28.0046' N – 76° 06.3312' W; running southeasterly along US 168 bridge (Caratoke Highway) to the southeast shore to a point 36° 27.9970' N – 76° 06.3243' W.
- (iii) Cowells Creek - upstream (south) to a line beginning on the west shore at a point 36° 27.1571' N – 76° 04.5391' W; running easterly along US 168 bridge (Caratoke Highway) to the east shore to a point 36° 27.1542' N – 76° 04.5128' W.
- (iv) Buckskin Creek - upstream (southeast) to a line beginning on the west shore at a point 36° 27.1925' N – 76° 04.1671' W; running easterly along US 168 bridge (Caratoke Highway) to the east shore to a point 36° 27.1989' N – 76° 04.1400' W.
- (c) West Landing - north 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° 31.5828' N – 76° 02.2977' W; running southerly to the south shore to a point 36° 31.5618' N – 76° 02.2870' W.
- (2) Albemarle Sound Area:
- (a) Big Flatty Creek - west 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; including the following tributaries from the confluence with Big Flatty Creek in the direction indicated to the specified boundary:
- (i) Chapel Creek - upstream (northwest) to a line beginning on the north shore at a point 36° 09.6689' N – 76° 09.9595' W; running southerly along SSR 1103 (Esclip Road) to the south shore to a point 36° 09.6522' N – 76° 09.9612' W.
- (ii) Mill Dam Creek - upstream (southwest) to a line beginning on the north shore at a point 36° 09.0094' N – 76° 10.1667' W; running southerly along SSR 1103 (Esclip Road) to the south shore to a point 36° 08.9931' N – 76° 10.1611' W.
- (b) Salmon Creek - southwest of a line beginning on the north shore at a point 36° 00.4648' N – 76° 42.3513' W; running southeasterly to the south shore to a point 36° 00.3373' N – 76° 42.1499' W; and south of a line beginning on the west shore at a point 36° 02.4783' N – 76° 45.8164' W; running easterly to the east shore to a point 36° 02.4807' N – 76° 45.7906' W.
- (c) Mackeys (Kendrick) Creek - southeast of a line beginning on the north shore at a point 35° 56.3806' N – 76° 36.4356' W; running southwesterly to the south shore to a point 35° 56.3122' N – 76° 36.4613' W; and northwest of a line beginning on the southwest shore at a point 35° 52.5564' N – 76° 37.0968' W; running northeasterly along SSR

- 1122 bridge (Buncombe Avenue) to the northeast shore to a point 35° 52.5470' N – 76° 37.1113' W; including the following tributary from its confluence with Mackeys Creek in the direction indicated to the specified boundary: Main Canal - upstream (southeast) to a line beginning on the southwest shore at a point 35° 52.8229' N – 76° 36.6916' W; running northeasterly along SSR 1122 (Buncombe Avenue) to the northeast shore to a point 35° 52.8390' N – 76° 36.6708' W.
- (d) Deep Creek (Washington County) - west of a line beginning on the north shore at a point 35° 56.1291' N – 76° 23.1179' W; running southerly to the south shore to a point 35° 56.0744' N – 76° 23.1230' W; and east of a line beginning on the north shore at a point 35° 55.4610' N – 76° 25.3996' W; running southerly along SSR 1302 bridge (Pea Ridge Road) to the south shore to a point 35° 55.4323' N – 76° 25.3974' W; and east of line beginning on the north shore at a point 35° 55.7173' N – 76° 25.3848' W; running southerly along SSR 1302 bridge (Pea Ridge Road) to the south shore to a point 35° 55.6863' N – 76° 25.3957' W.
- (e) Banton (Bunton or Maybell) Creek - south of a line beginning on the west shore at a point 35° 56.0552' N – 76° 22.0664' W; running northeasterly to the east shore to a point 35° 56.1151' N – 76° 21.8760' W; and northeast of a line beginning on the west shore at a point 35° 55.6117' N – 76° 22.2463' W; running easterly to the east shore to a point 35° 55.6128' N – 76° 22.2126' W.
- (f) Tom Mann Creek - south of a line beginning on the west shore at a point 35° 58.5296' N – 75° 52.8982' W; running easterly to the east shore to a point 35° 58.5175' N – 75° 53.6851' W.
- (g) Peter Mashoes Creek - west of a line beginning on the north shore at a point 35° 57.2344' N – 75° 48.3087' W; running southerly to the south shore to a point 35° 56.7805' N – 75° 48.3563' W.
- (3) North River, including Indiantown Creek and other designated tributaries - main stem waters west 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 south of a line beginning on the west shore at a point 36° 21.7982' N – 76° 07.0726' W; running easterly along US 158 bridge to the east shore to a point 36° 21.8030' N – 76° 07.0612' W; including the following tributary from the confluence with North River in the direction indicated to the specified boundary: Crooked Creek - upstream (west) to a line beginning on the north shore at a point 36° 18.7171' N – 76° 01.4361' W; running southerly to the south shore to a point 36° 18.7002' N – 76° 01.4296' W.
- (4) North River Area: Bump Landing Creek - east of a line beginning on the north shore at a point 36° 19.3757' N – 75° 57.9057' W; running southerly to the south shore to a point 36° 19.2496' N – 75° 57.9107' W; and west of a line beginning on the north shore at a point 36° 19.4049' N – 75° 57.4963' W; running southeasterly to the south shore to a point 36° 19.3830' N – 75° 57.5098' W.
- (a) Narrow Ridges Creek - east of a line beginning on the north shore at a point 36° 18.3249' N – 75° 57.8910' W; running southerly to the south shore to a point 36° 18.1388' N – 75° 57.9029' W; and west of a line beginning on the north shore at a point 36° 18.1566' N – 75° 57.4879' W; running southeasterly to the south shore to a point 36° 18.1221' N – 75° 57.5095' W.
- (b) Great Creek - west of a line beginning on the north shore at a point 36° 18.1045' N – 75° 58.4289' W; running southerly to the south shore to a point 36° 17.9882' N – 75° 58.4458' W; and northeast of a line beginning on the north shore at a point 36° 17.1310' N – 76° 00.3414' W; running southeasterly to the south shore to a point 36° 17.1163' N – 76° 00.3310' W. On the north shore of Great Creek within the fourth tributary: south of a line beginning on the west shore at a point 36° 18.1729' N – 75° 58.9137' W; running southeasterly to the south shore to a point 36° 18.1640' N – 75° 58.9022' W.
- (c) Deep Creek - east of a line beginning on the north shore at a point 36° 17.1576' N – 75° 56.7594' W; running southerly to the south shore to a point 36° 16.9846' N – 75° 56.6802' W; and south of a line beginning on the west shore at a point

- 36° 17.9515' N – 75° 56.5174' W; running easterly to the east shore to a point 36° 17.9523' N – 75° 56.5042' W.
- (d) Public Creek - west of a line beginning on the north shore at a point 36° 17.2462' N – 75° 58.2774' W; running southerly to the south shore to a point 36° 17.2121' N – 75° 58.2788' W; and northeast of a line beginning on the north shore at a point 36° 17.1661' N – 75° 58.6059' W; running southeasterly to the south shore to a point 36° 17.1574' N – 75° 58.6003' W.
- (5) Pasquotank River including designated tributaries - main stem waters north of a line beginning on the west shore at a point 36° 18.0769' N – 76° 13.0979' W; running easterly along the south side of the US 158 bridge to the east shore to a point 36° 18.0594' N – 76° 12.9620' W and south of a line at South Mills beginning on the west shore at a point 36° 26.7432' N – 76° 19.6666' W; running easterly along US 17 business (Main Street) to the east shore to a point 36° 26.7642' N – 76° 19.5932' W; and southeast of a line beginning on the northeast shore at a point 36° 26.1777' N – 76° 22.1079' W; running southwesterly to the southwest shore to a point 36° 26.1693' N – 76° 22.1257' W; including the following tributaries from their confluence with the Pasquotank River in the direction indicated to the specified boundary:
- (a) Joyce Creek - upstream (northeast) to a line beginning on the north shore at a point 36° 26.8329' N – 76° 17.6174' W; running southwesterly along SSR 1224 bridge (Old Swamp Road) to the south shore to a point 36° 26.8103' N – 76° 17.6193' W.
- (b) Sawyers Creek - upstream (northeast) to a line beginning on the northeast shore at a point 36° 21.7237' N – 76° 10.2841' W; running southwesterly along SSR 1203 bridge (Scotland Road) to the southwestern shore to a point 36° 21.7115' N – 76° 10.3041' W.
- (c) Knobbs Creek - upstream (northwest) to a line beginning on the northwest shore at a point 36° 18.5172' N – 76° 14.5920' W; running southeasterly along SSR 1309 bridge (Main Street Extended) to the southeast shore to a point 36° 18.4973' N – 76° 14.5729' W.
- (6) Pasquotank River Area:
- (a) Charles Creek - south 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; and northeast of a line beginning on the northwest shore at a point 36° 17.4713' N – 76° 13.2227' W; running southeasterly along NC 34 (Road Street) to the southeast shore to a point 36° 17.4565' N – 76° 13.2140' W.
- (b) Areneuse Creek and Mill Dam Creek - north of a line beginning on the west shore at a point 36° 17.3133' N – 76° 08.1655' W; running southeasterly along NC 343 bridge to the east shore to a point 36° 17.1328' N – 76° 07.6269' W; and southwest of a line beginning on the west shore of Mill Dam Creek at a point 36° 18.5994' N – 76° 07.8672' W; running southeasterly to the east shore to a point 36° 18.5991' N – 76° 07.8379' W; and southwest of a line beginning on the northwest shore of Areneuse Creek at a point 36° 18.0342' N – 76° 06.9433' W, running southeasterly along NC 343 bridge to the southeast shore to a point 36° 18.0196' N – 76° 06.9245' W.
- (c) Portohonk Creek - northeast of a line beginning on the west shore at a point 36° 15.0519' N – 76° 05.2793' W; running southeasterly to the east shore to a point 36° 15.0391' N – 76° 05.2532' W; and south of a line beginning on the west shore at a point 36° 16.2809' N – 76° 04.8223' W; running easterly along NC 343 bridge to the east shore to a point 36° 16.2794' N – 76° 04.8051' W.
- (d) New Begun Creek - west 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; and southeast of a line beginning on the northeast shore at a point 36° 12.5577' N – 76° 10.3998' W; running southwesterly along NC 34 bridge (Weeksville Road) to the southwest shore to a point 36° 12.5467' N – 76° 10.4186' W; and northeast of a line beginning on the northeast shore at a point 36° 12.3280' N – 76° 10.4934' W; running northwesterly to the

- northwest shore to a point 36° 12.3067' N – 76° 10.5438' W.
- (7) Little River including designated tributaries - main stem waters northwest of a line beginning on the west shore at a point 36° 12.2950' N – 76° 17.1405' W; running southeasterly to the east shore to a point 36° 12.5237' N – 76° 16.9418' W; and south of a line beginning on the west shore at a point 36° 16.9826' N – 76° 23.1763' W; running easterly along SSR 1223 (Five Bridges Road, Perquimans County) and SSR 1303 (Cherry Glade Road, Pasquotank County) bridge to the east shore to a point 36° 16.9840' N – 76° 23.1570' W; including the following tributary from the confluence with Little River in the direction indicated to the specified boundary: Halls Creek - upstream (northeast) to a line beginning on the northwest shore at a point 36° 13.2067' N – 76° 16.5769' W; running southeasterly along SSR 1140 (Halls Creek Road) to the southeast shore to a point 36° 13.1944' N – 76° 16.5523' W.
- (8) Little River Area:
- (a) Deep Creek - southwest of a line beginning on the north shore at a point 36° 11.0945' N – 76° 16.6717' W; running southeasterly to the south shore to a point 36° 10.7510' N – 76° 16.2258' W; and south of a line beginning on the west shore at a point 36° 10.2553' N – 76° 18.7639' W; running easterly to the east shore to a point 36° 10.2633' N – 76° 18.7267' W.
- (b) Symonds Creek - northeast of a line beginning on the north shore at a point 36° 10.2898' N – 76° 14.1801' W; running southeasterly to the south shore to a point 36° 10.2042' N – 76° 14.0368' W; and south of a line beginning on the west shore at a point 36° 11.4843' N – 76° 13.7218' W; running easterly along SSR 1100 bridge (Nixonton Road) to the east shore to a point 36° 11.4839' N – 76° 13.7028' W.
- (9) Perquimans River including designated tributaries - main stem waters southwest of a line beginning on the west shore at a point 36° 11.6569' N – 76° 28.0055' W; running southeasterly along the US 17 business bridge (Church Street) to the east shore to a point 36° 11.6123' N – 76° 27.9382' W; and west of a line beginning on the north shore at a point 36° 18.8942' N – 76° 31.1905' W; running southeasterly to the south shore to a point 36° 18.8723' N – 76° 31.1734' W; and south of a line beginning on the west shore at a point 36° 18.9514' N – 76° 32.6510' W; running easterly along SSR 1202 bridge (Perry Bridge Road) to the east shore to a point 36° 18.9361' N – 76° 32.6584' W; including the following tributary from the confluence with the Perquimans River in the direction indicated to the specified boundary: Goodwin Creek - upstream (west) to a line beginning on the northwest shore at a point 36° 11.2807' N – 76° 33.6243' W; running southerly along SSR 1110 bridge (Center Hill Highway) to the southeast shore to a point 36° 11.2585' N – 76° 33.5755' W; and north to a line beginning on the west shore at a point 36° 11.0494' N – 76° 32.3409' W; running easterly along SSR 1110 bridge (Center Hill Highway) to the east shore to a point 36° 11.0383' N – 76° 32.2780' W.
- (10) Perquimans River Area:
- (a) Mill Creek - north of a line beginning on the west shore at a point 36° 11.9757' N – 76° 27.5752' W; running easterly to the east shore to a point 36° 11.9766' N – 76° 27.2511' W; and southwest of a line beginning on the northwest shore at a point 36° 13.2910' N – 76° 26.6778' W; running southeasterly along SSR 1214 bridge (Lake Road) to the southeast shore to a point 36° 13.2762' N – 76° 26.6580' W.
- (b) Walter's Creek - southwest 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; and northeast of a line beginning on the northeast shore at a point 36° 10.0498' N – 76° 28.4208' W; running southwesterly along US 17 to the southwest shore to a point 36° 10.0408' N – 76° 28.4354' W.
- (c) Suttons Creek - north of a line beginning on the west shore at a point 36° 10.0394' N – 76° 23.7945' W; running southeasterly to the east shore to a point 36° 09.9325' N – 76° 23.5263' W; and south of a line beginning on the west shore at a point 36° 11.5101' N – 76° 23.6253' W; running easterly along SSR 1300 bridge (New Hope Road) to the east shore to a point 36° 11.5081' N – 76° 23.6060' W.
- (d) Jackson (Cove) Creek - northeast of a line beginning on the north shore at a point 36° 08.4642' N – 76° 20.3324' W; running southeasterly to the east shore to a point 36° 08.4159' N – 76° 20.2890' W; and southwest of a line

- beginning on the northwest shore at a point 36° 08.6083' N – 76° 20.1512' W; running southeasterly to the southeast shore to a point 36° 08.6007' N – 76° 20.1312' W.
- (e) Muddy Creek - northwest of a line beginning on the north shore at a point 36° 07.0381' N – 76° 17.1350' W; running southeasterly to the east shore to a point 36° 07.0218' N – 76° 17.1226' W; and south of a line beginning on the west shore at a point 36° 07.5922' N – 76° 16.8153' W; running easterly to the east shore to a point 36° 07.5933' N – 76° 16.7757' W.
- (11) Yeopim River including designated tributaries - main stem waters west 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 Norcum Point 36° 05.1029' N – 76° 27.7120' W; and southeast of a line beginning on the north shore at a point 36° 05.1202' N – 76° 29.5050' W; running southwesterly to a point 36° 05.0644' N – 76° 29.5586' W; and running easterly to the east shore to a point 36° 05.0571' N – 76° 29.4657' W; including the following tributaries from the confluence with Yeopim River in the direction indicated to the specified boundary:
- (a) Yeopim Creek - upstream (north) to a line beginning on the west shore at a point 36° 07.4416' N – 76° 26.4833' W; running easterly along SSR 1347 (Holiday Island Road) to the east shore to a point 36° 07.4409' N – 76° 26.4667' W.
- (b) Bethel Creek - upstream (north) to a line beginning on the southwest shore at a point 36° 07.1208' N – 76° 29.3581' W; running northeasterly to the northeast shore to a point 36° 07.1724' N – 76° 29.2818' W.
- (c) Burnt Mill Creek - upstream (northwest) to a line beginning on the northeast shore at a point 36° 05.7727' N – 76° 32.6234' W; running southwesterly along US 17 to the southwest shore to a point 36° 05.7663' N – 76° 32.6374' W.
- (d) Middleton Creek - upstream (southeast) to a line beginning on the northwest shore at a point 36° 04.2913' N – 76° 30.2613' W; running southeasterly along SSR 1100 bridge (Drummond Point Road) to the southeast shore to a point 36° 04.2813' N – 76° 30.2460' W; and northeast of a line beginning on the northwest shore at a point 36° 04.0714' N – 76° 29.5779' W; running southeasterly along SSR 1100 (Drummond Point Road) to the southeast shore to a point 36° 04.0639' N – 76° 29.5583' W.
- (12) Edenton Bay Area:
- (a) Pembroke Creek (Pollock Swamp) - northwest 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; and west of a line beginning on the north shore at a point 36° 08.1216' N – 76° 37.7846' W; running southerly along SSR 1316 bridge (Greenhall Road) to the south shore to a point 36° 08.1035' N – 76° 37.7818' W.
- (b) Queen Anne Creek - east 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 southwest of a line beginning on the northwest shore at a point 36° 03.5719' N – 76° 35.0968' W; running southeasterly along NC 32 bridge (Yeopim Road) to the southeast shore to a point 36° 03.5659' N – 76° 35.0796' W.
- (13) Chowan River Area:
- (a) Buckhorn Creek (Hertford County) - north of a line beginning on the west shore at a point 36° 31.9519' N – 76° 55.2580' W; running easterly to the east shore to a point 36° 31.9628' N – 76° 55.2429' W; and east of a line beginning on the north shore at a point 36° 31.9443' N – 76° 55.8902' W; running southerly to the south shore to a point 36° 31.9099' N – 76° 55.8904' W.
- (b) Somerton Creek - north of a line beginning on the west shore at a point 36° 31.7177' N – 76° 54.8327' W; running easterly to the east shore to a point 36° 31.7143' N – 76° 54.7810' W; and south of the NC/VA state line.
- (c) Meherrin River Area:
- (i) Vaughan's Creek (Kirby's Creek) - west of a line beginning on the north shore at a point 36° 28.3541' N – 77° 05.6259' W; running southerly to the south shore to a point 36° 28.3307' N –

- 77° 05.6369' W; and east of a line beginning on the north shore at a point 36° 28.7019' N – 77° 08.7566' W; running southerly along SSR 1362 bridge (Watson Mill Road) to the south shore to a point 36° 28.6834' N – 77° 08.7593' W; and northeast of a line beginning on the northwest shore at a point 36° 28.0921' N – 77° 08.5719' W; running southeasterly along SSR 1362 bridge (Watson Mill Road) to the southeast shore to a point 36° 28.0787' N – 77° 08.5557' W. Turkey Creek - from the confluence with Vaughan's Creek upstream; and northeast of a line beginning on the northwest shore at a point 36° 27.8047' N – 77° 07.7316' W; running southeasterly along SSR 1363 (Turkey Branch Road, Northampton County) and SSR 1300 bridge (Wise Store Road, Hertford County) to the southeast shore to a point 36° 27.7957' N – 77° 07.7170' W.
- (ii) Potecasi Creek - southwest of a line beginning on the west shore at a point 36° 26.1234' N – 76° 57.5262' W; running southeasterly to the east shore to a point 36° 26.1005' N – 76° 57.4960' W; and east of a line beginning on the north shore at a point 36° 22.1250' N – 77° 05.3109' W; running southerly along SSR 1160 bridge (Spring Avenue) to the south shore to a point 36° 22.1035' N – 77° 05.3220' W.
- (A) Old Tree Swamp - from the confluence with Potecasi Creek upstream to a line beginning on the west shore at a point 36° 22.5909' N – 77° 04.0382' W; running easterly along SSR 1167 bridge (Beaver Dam Road) to the east shore to a point 36° 22.5895' N – 77° 04.0192' W.
- (B) Cutawhiskie Creek - from the confluence with Potecasi Creek upstream to a line beginning on the northwest shore at a point 36° 21.2751' N – 77° 04.3761' W; running southeasterly along SSR 1137 bridge (Liverman Mill Road) to the southeast shore to a point 36° 21.2583' N – 77° 04.3461' W.
- (d) Mud Creek - north of a line beginning on the west shore at a point 36° 23.5134' N – 76° 53.9131' W; running easterly to the east shore to a point 36° 23.5132' N – 76° 53.8815' W; and east of a line beginning on the north shore at a point 36° 23.6287' N – 76° 53.8782' W; running southerly to the south shore to a point 36° 23.5943' N – 76° 53.8784' W.
- (e) Catherine Creek (Hertford County) - south of a line beginning on the west shore at a point 36° 22.9579' N – 76° 53.1994' W; running southeasterly to the east shore to a point 36° 22.9456' N – 76° 53.1742' W; and north of a line beginning on the west shore at a point 36° 22.7142' N – 76° 53.1872' W; running easterly to the east shore to a point 36° 22.7209' N – 76° 53.1631' W.
- (f) Buckhorn Creek (Run Off Swamp) (Gates County) - north of a line beginning on the west shore at a point 36° 22.9682' N – 76° 51.9172' W; running easterly to the east shore to a point 36° 22.9614' N – 76° 51.8870' W; and east of a line beginning on the north shore at a point 36° 23.3321' N – 76° 52.0233' W; running southerly to the south shore to a point 36° 23.3101' N – 76° 52.0244' W.
- (g) Spikes Creek - northwest of a line beginning on the west shore at a point 36° 22.6515' N – 76° 50.8882' W; running northeasterly to the east shore to a point 36° 22.6684' N – 76°

- 50.8493' W; and east of a line beginning on the north shore at a point 36° 22.9574' N – 76° 51.4953' W; running southerly to the south shore to a point 36° 22.9419' N – 76° 51.4959' W.
- (h) Barnes Creek - north of a line beginning on the west shore at a point 36° 21.8820' N – 76° 48.6419' W; running easterly to the east shore to a point 36° 21.8978' N – 76° 48.5902' W; and east of a line beginning on the north shore at a point 36° 22.8208' N – 76° 50.0931' W; running southerly to the south shore to a point 36° 22.7839' N – 76° 50.0941' W.
- (i) Shingle (Island) Creek - north of a line beginning on the north shore of the western most entrance into Chowan River at a point 36° 21.8449' N – 76° 48.0940' W; running southeasterly to the south shore to a point 36° 21.7831' N – 76° 48.0427' W. At the eastern most entrance to the creek: north of a line beginning of the west shore at a point 36° 21.8469' N – 76° 47.2668' W; running northeasterly to the east shore to a point 36° 21.9062' N – 76° 47.1862' W.
- (j) Sarem Creek - east of a line beginning on the north shore at a point 36° 21.7259' N – 76° 46.4085' W; running southerly to the south shore to a point 36° 21.6748' N – 76° 46.4392' W; and southeast of a line beginning on the southwest shore at a point 36° 25.0514' N – 76° 49.4791' W; running northeasterly along SSR 1118 bridge (Taylors Road) to the northeast shore to a point 36° 25.0710' N – 76° 49.4657' W; including the following tributary from the confluence with Sarem Creek in the direction indicated to the specified boundary: Cole Creek - upstream (northeast) to a line beginning on the west shore at a point 36° 24.5075' N – 76° 47.0641' W; running easterly along NC 37 bridge to the east shore to a point 36° 24.5048' N – 76° 47.0397' W.
- (k) Hodges Creek - west of a line beginning on the north shore at a point 36° 21.2459' N – 76° 46.3421' W; running southerly to the south shore to a point 36° 21.1823' N – 76° 46.3243' W; and east of a line beginning on the north shore at a point 36° 21.1597' N – 76° 46.6073' W; running southerly to the south shore to a point 36° 21.1309' N – 76° 46.6084' W.
- (l) Wiccacon River including designated tributaries - west of a line beginning on the north shore at a point 36° 20.5439' N – 76° 45.4550' W; running southeasterly to the south shore to a point 36° 20.4684' N – 76° 45.3392' W; and east of a line beginning on the northeast shore at a point 36° 19.0196' N – 76° 53.5596' W; running southwesterly to the southwest shore to a point 36° 18.9936' N – 76° 53.5751' W; including the following tributaries from their confluence with Wiccacon River in the direction indicated to the specified boundary:
- (i) Ahoskie Creek - upstream (south) to a line beginning on the west shore at a point 36° 16.4860' N – 76° 54.1172' W; running easterly along NC 561 to the east shore to a point 36° 16.4796' N – 76° 54.0933' W.
- (ii) Chinkapin Creek - upstream (southwest) to a line beginning on the northwest shore at a point 36° 15.1763' N – 76° 50.9758' W; running southeasterly along SSR 1432 bridge (Big Mill Road) to the southeast shore to a point 36° 15.1671' N – 76° 50.9567' W.
- (m) Beef Creek - north of a line beginning on the west shore at a point 36° 20.3235' N – 76° 44.6401' W; running easterly to the east shore to a point 36° 20.3070' N – 76° 44.5797' W; and east of a line beginning on the north shore at a point 36° 20.9720' N – 76° 44.7930' W; running southerly to the south shore to a point 36° 21.0058' N – 76° 44.7931' W.
- (n) Goose Creek - west of a line beginning on the north shore at a point 36° 19.5838' N – 76° 44.5971' W; running southerly to the south shore to a point 36° 19.5375' N – 76° 44.5925' W; and northeast of a line beginning on the west shore at a point 36° 19.9806' N – 76° 45.2656' W; running easterly to the east shore to a point 36° 19.9799' N – 76° 45.2356' W.

- (o) Swain Mill (Taylor Pond) Creek - west of a line beginning on the north shore at a point 36° 18.5808' N – 76° 43.4729' W; running southerly to the south shore to a point 36° 18.5616' N – 76° 43.4706' W; and northeast of a line beginning on the northwest shore at a point 36° 18.5029' N – 76° 43.5882' W; running southeasterly along SSR 1441 bridge (Swain Mill Road) to the southeast shore to a point 36° 18.4906' N – 76° 43.5694' W.
- (p) Bennetts Creek - north of a line beginning on the west shore at a point 36° 18.3499' N – 76° 42.0286' W; running northeasterly to the east shore to a point 36° 18.4057' N – 76° 41.6986' W; and southwest of a line beginning on the northwest shore at a point 36° 25.9349' N – 76° 41.9859' W; running southeasterly along the Merchants Mill Pond Dam to the southeast shore to a point 36° 25.9154' N – 76° 41.9530' W.
- (q) Catherine Creek including designated tributaries -main stem waters northeast of a line beginning on the west shore at a point 36° 18.1011' N – 76° 41.1286' W; running southeasterly to the east shore to a point 36° 17.9413' N – 76° 40.8627' W; including the following tributaries from the confluence with Catherine Creek in the direction indicated to the specified boundary:
 - (i) Trotman Creek - upstream (northwest) to a line beginning on the north shore at a point 36° 20.8213' N – 76° 38.1714' W; running southerly along NC 32 bridge to the south shore to a point 36° 20.7989' N – 76° 38.1646' W.
 - (ii) Warwick Creek - upstream (northeast) to a line beginning on the north shore at a point 36° 19.8212' N – 76° 38.0409' W; running southerly along NC 32 bridge to the south shore to a point 36° 19.7833' N – 76° 38.0235' W.
- (r) Stumpy Creek - east of a line beginning on the north shore at a point 36° 16.6440' N – 76° 40.4251' W; running southerly to the south shore to a point 36° 16.6255' N – 76° 40.4196' W; and west of a line beginning on the north shore at a point 36° 16.7331' N – 76° 39.9154' W; running southerly along SSR 1232 bridge (Cannon Ferry Road) to the south shore to a point 36° 16.7220' N – 76° 39.9220' W.
- (s) Dillard (Indian) Creek - east of a line beginning on the north shore at a point 36° 14.2234' N – 76° 41.5901' W; running southerly to the south shore to a point 36° 14.2023' N – 76° 41.5855' W; and west of a line beginning on the north shore at a point 36° 13.7727' N – 76° 40.3878' W; running southerly along SSR 1226 (Dillards Mill Road) to the south shore to a point 36° 13.7592' N – 76° 40.3875' W.
- (t) Keel (Currituck) Creek - north of a line beginning on the west shore at a point 36° 14.1245' N – 76° 44.1961' W; running easterly to the east shore to a point 36° 14.0899' N – 76° 43.8533' W; and south of a line beginning on the west shore at a point 36° 15.2755' N – 76° 43.5077' W; running easterly to the east shore to a point 36° 15.2746' N – 76° 43.4750' W.
- (u) Rocky Hock Creek - east of a line beginning on the west shore at a point 36° 06.5662' N – 76° 41.3108' W; running southeasterly to the east shore to a point 36° 06.6406' N – 76° 41.4512' W; and southwest of a line beginning on the northwest shore at a point 36° 08.3485' N – 76° 39.9790' W; running southeasterly along the face of Bennett Mill Pond Dam to the southeast shore to a point 36° 08.3353' N – 76° 39.9603' W.
- (14) Cashie River including designated tributaries - main stem waters west 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 to a point 35° 54.6691' N – 76° 49.0553' W; and east of a line beginning on the north shore at a point 36° 05.7521' N – 77° 04.0494' W; running southerly along SSR 1260 bridge (Republican Road) to the south shore to a point 36° 05.7171' N – 77° 04.0344' W; including the following tributaries from their confluence with Cashie River in the direction indicated to the specified boundary:
 - (a) Connarista Swamp - upstream (north) to a line beginning on the west shore at a point 36° 06.4489' N – 77° 02.4658' W; running easterly along

- SSR 1221 bridge (Charles Taylor Road) to the east shore to a point 36° 06.4501' N – 77° 02.4236' W.
- (b) Whiteoak Swamp - upstream (northeast) to a line beginning on the northwest shore at a point 36° 04.6654' N – 76° 58.5841' W; running southeasterly along US 13 to the southeast shore to a point 36° 04.6480' N – 76° 58.5676' W.
- (c) Chiska Creek - upstream (west) to a line beginning on the north shore at a point 36° 02.5659' N – 77° 02.3636' W; running southerly along SSR 1112 bridge (Roquist Pocosin Road) to the south shore to a point 36° 02.5463' N – 77° 02.3730' W.
- (d) Hoggard Mill Creek - upstream (north) to a line beginning on the northwest shore at a point 36° 01.5828' N – 76° 56.9799' W; running southeasterly along the Hoggard Mill Pond Dam to the southeast shore to a point 36° 01.5479' N – 76° 56.9556' W.
- (e) Roquist Creek - upstream (west) to a line beginning on the northeast shore at a point 36° 00.6453' N – 77° 02.8441' W; running southwesterly along SSR 1112 bridge (Roquist Pocosin Road) to the southwest shore to a point 36° 00.6119' N – 77° 02.8719' W.
- (f) Wading Place Creek - upstream (east) to a line beginning on the west shore at a point 35° 58.1755' N – 76° 53.0010' W; running easterly along NC 308 bridge (Cooper Hill Road) to the east shore to a point 35° 58.1631' N – 76° 52.9542' W.
- (15) Cashie River Area:
- (a) Broad Creek - south of a line beginning on the west shore at a point 35° 55.0568' N – 76° 45.2632' W; running easterly to the east shore to a point 35° 55.0543' N – 76° 45.1309' W.
- (b) Grennel Creek - east of a line beginning on the north shore at a point 35° 55.3147' N – 76° 44.5010' W; running southerly to the south shore to a point 35° 55.2262' N – 76° 44.5495' W.
- (c) Cashoke Creek - west of a line beginning on the north shore at a point 35° 56.2934' N – 76° 44.1769' W; running southwesterly to the south shore to a point 35° 56.2623' N – 76° 44.1993' W; and east of a line beginning on the north shore at a point 35° 56.3383' N – 76° 44.5958' W; running southerly along NC 45 bridge to the south shore to a point 35° 56.2839' N – 76° 44.5836' W.
- (16) Roanoke River including designated tributaries - main stem waters northwest of a line beginning on the west shore at a point 36° 12.5264' N – 77° 23.0223' W; running northeasterly along the south side of the US 258 bridge to the east shore to a point 36° 12.5674' N – 77° 22.9724' W; to the base of the Roanoke Rapids Dam; including the following tributary from the confluence with Roanoke River in the direction indicated to the specified boundary: Bridgers Creek - upstream (northeast) to a line beginning on the west shore at a point 36° 15.0786' N – 77° 22.3766' W; running easterly to the east shore to a point 36° 15.0846' N – 77° 22.3083' W.
- (17) Roanoke River Area:
- (a) Kehukee Swamp - west of a line beginning on the north shore at a point 36° 05.1942' N – 77° 18.9596' W; running southwesterly to the south shore to a point 36° 05.1670' N – 77° 18.9761' W; and south of a line beginning on the northeast shore at a point 36° 05.7019' N – 77° 19.3686' W; running southwesterly to the southwest shore to a point 36° 05.6909' N – 77° 19.3902' W.
- (b) Wire Gut - north of a line beginning on the west shore at a point 36° 00.9580' N – 77° 13.0755' W; running easterly to the east shore to a point 36° 00.9542' N – 77° 13.0320' W; and east of a line beginning on the north shore at a point 36° 01.4294' N – 77° 13.6239' W; running southerly to the south shore to a point 36° 01.3873' N – 77° 13.6270' W.
- (c) Apple Tree Creek - east of a line beginning on the north shore at a point 36° 00.4174' N – 77° 12.3252' W; running southeasterly to the south shore to a point 36° 00.3987' N – 77° 12.3088' W; and south of a line beginning on the west shore at a point 36° 02.3508' N – 77° 13.6900' W; running easterly to the east shore to a point 36° 02.3497' N – 77° 13.6055' W; and east of a line beginning on the north shore at a point 36° 01.9425' N – 77° 12.4225' W; running southerly to the south shore to a point 36° 01.9066' N – 77° 12.4222' W.
- (d) Indian Creek - east of a line beginning on the north shore at a

- point 35° 59.0794' N – 77° 11.4926' W; running southerly to the south shore to a point 35° 59.0597' N – 77° 11.4967' W; and southwest of a line beginning on the northwest shore at a point 36° 03.5103' N – 77° 10.6537' W; running southeasterly along SSR 1108 bridge (Indian Woods Road) to the southeast shore to a point 36° 03.4917' N – 77° 10.6402' W; and west of a line beginning on the north shore at a point 36° 02.3940' N – 77° 09.3722' W; running southerly along SSR 1108 bridge (Indian Woods Road) to the south shore to a point 36° 02.3787' N – 77° 09.3711' W.
- (e) Prices Gut - west of a line beginning on the north shore at a point 35° 57.3701' N – 77° 11.9815' W; running southerly to the south shore to a point 35° 57.3552' N – 77° 11.9796' W; and east of a line beginning on the north shore at a point 35° 57.4077' N – 77° 12.0401' W; running southerly to the south shore to a point 35° 57.3763' N – 77° 12.0135' W.
- (f) Rainbow Gut - south of a line beginning on the west shore at a point 35° 55.9334' N – 77° 11.3246' W; running easterly to the east shore to a point 35° 55.9275' N – 77° 11.3136' W.
- (g) Coniott Creek including designated tributaries - main stem waters west of a line beginning on the north shore at a point 35° 56.6562' N – 77° 04.2860' W; running southwesterly to the south shore to a point 35° 56.6397' N – 77° 04.3066' W; and southeast of a line beginning on the northeast shore at a point 35° 59.4139' N – 77° 08.2158' W; running southwesterly along SSR 1122 bridge (Broad Neck Road) to the southwest shore to a point 35° 59.3976' N – 77° 08.2491' W; including the following tributary from the confluence with Coniott Creek in the direction indicated to the specified boundary: Frog Level Swamp - upstream to a line beginning on the north shore at a point 35° 58.0087' N – 77° 06.3447' W; running southerly to the south shore to a point 35° 57.9223' N – 77° 06.3483' W.
- (h) Conoho Creek - north of a line beginning on the west shore at a point 35° 52.5439' N – 77° 02.6673' W; running easterly to the east shore to a point 35° 52.5407' N – 77° 02.6280' W; and southeast of a line beginning on the northeast shore at a point 35° 58.3271' N – 77° 17.6825' W; running southwesterly along NC 11 bridge to the southwest shore to a point 35° 58.3096' N – 77° 17.7006' W.
- (i) Sweetwater Creek including designated tributaries - main stem east of a line beginning on the west shore at a point 35° 51.6464' N – 77° 00.5090' W; running southeasterly to the east shore to a point 35° 51.6252' N – 77° 00.4879' W; and northwest of a line beginning on the northeast shore at a point 35° 48.6186' N – 77° 02.0173' W; running southwesterly along SSR 1501 bridge (Big Mill Road) to the southwest shore to a point 35° 48.5968' N – 77° 02.0311' W; including the following tributary from the confluence with Sweetwater Creek in the direction indicated to the specified boundary: Peter Swamp - upstream (southeast) to a line beginning on the west shore at a point 35° 49.0798' N – 77° 00.2510' W; running easterly to the east shore to a point 35° 49.0705' N – 77° 00.2118' W.
- (j) Unnamed Tributary (upstream of Old Mill Creek) - northwest of a line beginning on the northeast shore at a point 35° 53.9775' N – 76° 56.6431' W; running southwesterly to the southwest shore to a point 35° 53.9913' N – 76° 56.6238' W; and southeast of a line beginning on the northeast shore at a point 35° 54.1143' N – 76° 56.8761' W; running southwesterly along SSR 1542 bridge (Bertie County) to the southwest shore to a point 35° 54.0927' N – 76° 56.8956' W.
- (k) Old Mill Creek - north of a line beginning on the west shore at a point 35° 53.9483' N – 76° 55.3921' W; running southeasterly to the east shore to a point 35° 53.9378' N – 76° 55.3710' W; and south of a line beginning on the west shore at a point 35° 54.3010' N – 76° 55.0492' W; running easterly along SSR 1518 bridge (Bertie County) to the east shore to a point 35° 54.3085' N – 76° 55.0164' W.

- (l) Gardner Creek - south of a line beginning on the west shore at a point 35° 50.1599' N – 76° 56.0211' W; running easterly to the east shore to a point 35° 50.1633' N – 76° 55.9899' W; and north of a line beginning on the west shore at a point 35° 48.4791' N – 76° 55.9768' W; running easterly to the east shore to a point 35° 48.4834' N – 76° 55.9378' W.
 - (m) Cut Cypress Creek - northeast of a line beginning on the north shore at a point 35° 51.9465' N – 76° 53.5762' W; running southeasterly to the south shore to a point 35° 51.9229' N – 76° 53.5556' W.
 - (n) Roses Creek - southeast of a line beginning on the north shore at a point 35° 50.1683' N – 76° 50.9664' W; running southwesterly to the south shore to a point 35° 50.1363' N – 76° 56.9907' W; and north of a line beginning on the west shore at a point 35° 49.5501' N – 76° 50.7358' W; running easterly to the east shore to a point 35° 49.5649' N – 76° 50.6674' W.
 - (o) Broad Creek - west of a line beginning on the north shore at a point 35° 52.5191' N – 76° 50.4235' W; running southerly to the south shore to a point 35° 52.4262' N – 76° 50.3791' W.
 - (p) Welch Creek - south of a line beginning on the west shore at a point 35° 51.8458' N – 76° 45.8381' W; running easterly along the shoreline and across the mouths of the three creek entrances to the east shore to a point 35° 51.8840' N – 76° 45.6207' W; and north of a line beginning on the west shore at a point 35° 49.7473' N – 76° 47.1058' W; running easterly to the east shore to a point 35° 49.7506' N – 76° 47.0778' W.
 - (q) Conaby Creek - south of a line beginning on the west shore at a point 35° 55.3779' N – 76° 42.4401' W; and running easterly to the east shore to a point 35° 55.3752' N – 76° 42.3408' W; north of a line beginning on the southwest shore at a point 35° 51.6443' N – 76° 44.5188' W; running northeasterly to the northeast shore to a point 35° 51.6538' N – 76° 44.4926' W.
- (18) Scuppernong River including designated tributaries - main stem waters south 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; and east of a line beginning on the north shore at a point 35° 51.6231' N – 76° 26.1210' W; running southerly to the south shore to a point 35° 51.5952' N – 76° 26.1178' W; including the following tributaries from their confluence with Scuppernong River in the direction indicated to the specified boundary:
- (a) First Creek (Rider's Creek) - upstream (south) to a line beginning on the north shore at a point 35° 53.5116' N – 76° 14.0222' W; running southerly along NC 94 bridge to the south shore to a point 35° 53.4948' N – 76° 14.0125' W.
 - (b) Second Creek - upstream (south) to a line beginning on the north shore at a point 35° 53.0541' N – 76° 15.1132' W; running southerly along SSR 1105 (Bodwell Road) to the south shore to a point 35° 53.0286' N – 76° 15.1211' W.
 - (c) Lake Phelps - all waters of Lake Phelps and the following main canals connecting to Scuppernong River:
 - (i) Moccasin Canal;
 - (ii) Western (Enoch) Canal;
 - (iii) Mountain Canal;
 - (iv) Thirty-foot Canal;
 - (v) Somerset (Old) Canal;
 - (vi) Batava (Minerva, Magnolia, Bonarva) Canal; and
 - (vii) Bee Tree Canal.
- (19) Alligator River Area:
- (a) Little Alligator River - west of a line beginning on the north shore at a point 35° 56.7640' N – 76° 01.0299' W; running southerly to the south shore to a point 35° 55.9362' N – 76° 01.2492' W; and north of a line beginning on the west shore at a point 35° 56.4784' N – 76° 07.5433' W; running easterly to the east shore to a point 35° 56.4771' N – 76° 07.5076' W.
 - (b) East Lake - east of a line beginning on the north shore at a point 35° 56.1676' N – 75° 55.2603' W; running southerly to the south shore to a point 35° 55.4727' N – 75° 55.5043' W; and south of a line beginning on the west shore at a point 35° 58.6402' N – 75° 52.1855' W; running easterly to the east shore to a point 35° 58.5887' N – 75° 51.7080' W.

- (c) Second Creek - west of a line beginning on the north shore at a point 35° 51.7616' N – 76° 03.5105' W; running southerly to the south shore to a point 35° 51.1317' N – 76° 03.8003' W.
- (d) Milltail Creek - east of a line beginning on the north shore at a point 35° 50.5192' N – 75° 58.6134' W; running southerly to the south shore to a point 35° 50.4956' N – 75° 58.6158' W; and northwest of a line beginning on the northeast shore at a point 35° 47.7377' N – 75° 53.1295' W; running southwesterly to the southwest shore to a point 35° 47.7180' N – 75° 53.1295' W.
- (e) Whipping Creek and Lake - east of a line beginning on the north shore at a point 35° 41.3930' N – 76° 00.2481' W; running southerly to the south shore to a point 35° 41.3717' N – 76° 00.2554' W; and west of a line beginning on the north shore at a point 35° 42.1737' N – 75° 57.6728' W; running southerly to the south shore to a point 35° 42.1570' N – 75° 57.6732' W.
- (f) Swan Creek and Lake - east of a line beginning on the north shore at a point 35° 40.2674' N – 76° 00.7360' W; running southerly to the south shore to a point 35° 40.2420' N – 76° 00.7548' W.
- (20) Alligator River including designated tributary - main stem waters west 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 east of a line beginning on the north shore at a point 35° 36.0502' N – 76° 13.9734' W; running southerly along NC 94 to the south shore to a point 35° 36.0300' N – 76° 13.9779' W; including the following tributary from the confluence with Alligator River in the direction indicated to the specified boundary: Northwest Fork - upstream (north) to a line beginning on the north shore at a point 35° 43.6826' N – 76° 11.9538' W; running southerly to the south shore to a point 35° 43.6495' N – 76° 11.9692' W.
- (21) Croatan Sound Area:
- (a) Spencer Creek - west of a line beginning on the north shore at a point 35° 51.4205' N – 75° 45.0645' W; running southerly to the south shore to a point 35° 51.3876' N – 75° 45.0640' W; and west of a line beginning on the north shore 35° 51.5597' N – 75° 45.0141' W; running southerly to the south shore to a point 35° 51.4624' N – 75° 45.0498' W; and west of a line beginning on the north shore at a point 35° 51.6783' N – 75° 44.9125' W; running southerly to the south shore to a point 35° 51.5693' N – 75° 45.0109' W; and east of a line beginning on the north shore at a point 35° 52.5133' N – 75° 46.3070' W; running southerly to the south shore to a point 35° 52.4635' N – 75° 46.3110' W.
- (b) Callaghan Creek - west of a line beginning on the north shore at a point 35° 51.1312' N – 75° 45.1327' W; running southwesterly to the south shore to a point 35° 51.0953' N – 75° 45.1629' W; and east of a line beginning on the north shore at a point 35° 50.0643' N – 75° 46.6041' W; running southerly to the south shore to a point 35° 50.0306' N – 75° 46.6034' W.
- (22) Pamlico River Area:
- (a) Chocowinity Creek - south of a line beginning on the west shore at a point 35° 30.4778' N – 77° 04.4049' W; running southerly to the east shore at a point 35° 30.4692' N – 77° 04.3862' W; and north of a line beginning on the west shore at a point 35° 28.3423' N – 77° 05.0615' W; running easterly to the east shore at a point 35° 28.3413' N – 77° 05.0334' W.
- (b) Blounts Creek - south of a line beginning on the west shore at a point 35° 23.9524' N – 76° 58.0357' W; running easterly to the east shore at a point 35° 23.9565' N – 76° 57.9576' W; and north of a line beginning on the west shore at a point 35° 22.3210' N – 76° 57.7210' W; running easterly along NC 33 to the east shore at a point 35° 22.3080' N – 76° 57.6706' W; on Nancy Run, north of a line beginning on the west shore at a point 35° 22.7132' N – 76° 59.0317' W; running easterly along NC 33 to the east shore at a point 35° 22.7064' N – 76° 59.0191' W; on Herring Run, north and west of a line beginning on the north shore at a point 35° 22.5435' N – 76° 56.9969' W; running southerly along SSR 1100 (Core Point Road) to the south shore at a

- point 35° 22.5168' N – 76° 57.0063' W.
- (c) Durham Creek - south of a line beginning on the west shore at a point 35° 21.5669' N – 76° 51.9166' W; running easterly along the SSR 1955 bridge (Durham Creek Lane) to the east shore at a point 35° 21.5721' N – 76° 51.8621' W and north of a line beginning on the west shore at a point 35° 19.1959' N – 76° 52.3278' W; running southeasterly along NC 33 to the east shore at a point 35° 19.1802' N – 76° 52.2947' W.
- (d) Little Goose Creek - north and east of a line beginning on the north shore at a point 35° 28.7258' N – 76° 55.8667' W; running southeasterly to the south shore at a point 35° 28.5986' N – 76° 55.7922' W and west of a line beginning on the north shore at a point 35° 29.0329' N – 76° 54.2344' W; running southeasterly along SSR 1334 (Camp Leach Road) to the south shore at a point 35° 29.0283' N – 76° 54.2228' W; and the unnamed northwest branch, south of a line beginning on the north shore at a point 35° 29.4589' N – 76° 55.0263' W; running southwesterly to the south shore at a point 35° 29.4492' N – 76° 55.0322' W.
- (e) Broad Creek - north of a line beginning on the west shore at a point 35° 30.0451' N – 76° 57.6152' W; running easterly to the east shore at a point 35° 30.0459' N – 76° 57.5318' W and south of a line beginning on the west shore at a point 35° 32.1646' N – 76° 58.5193' W; running easterly along US 264 to the east shore at a point 35° 32.1588' N – 76° 58.5048' W.
- (f) Runyon Creek - north of a line beginning on the west shore at a point 35° 32.1615' N – 77° 02.3606' W; running easterly along the NC 32 bridge (Park Drive) to the east shore at a point 35° 32.1340' N – 77° 02.3438' W and south of a line beginning on the north shore at a point 35° 33.0407' N – 77° 01.1497' W; running southeasterly to the south shore at a point 35° 33.0260' N – 77° 01.1449' W.
- (23) Tar River including designated tributaries - main stem waters west of a line beginning on the north shore at a point 35° 33.1993' N – 77° 05.3977' W; running southerly to the south shore at a point 35° 32.9978' N – 77° 05.1529' W and east of a line beginning on the north shore at a point 35° 57.6505' N – 77° 48.2537' W; running southeasterly along the Rocky Mount Mill Pond Dam to the south shore at a point 35° 57.5997' N – 77° 48.1412' W; including the following tributaries from their confluence with Tar River in the direction indicated to the specified boundary:
- (a) Swift Creek - upstream (northwest) to a line beginning on the north shore at a point 36° 00.5829' N – 77° 39.9482' W; running southerly to the south shore at a point 36° 00.5413' N – 77° 39.9616' W.
- (b) Fishing Creek - upstream (northwest) to a line beginning on the north shore at a point 36° 08.0430' N – 77° 43.2829' W; running southerly to the south shore at a point 36° 08.0173' N – 77° 43.2921' W; on Deep Creek, upstream (northeast) to a line beginning on the north shore at a point 35° 57.8688' N – 77° 27.2298' W; running southeasterly to the south shore at a point 35° 57.8403' N – 77° 27.1890' W.
- (c) Town Creek - upstream (west) to a line beginning on the north shore at a point 35° 48.4135' N – 77° 36.7687' W; running southwesterly to the south shore at a point 35° 48.3728' N – 77° 36.7686' W.
- (d) Otter Creek - upstream (west) to a line beginning on the west shore at a point 35° 43.2448' N – 77° 31.9013' W; running easterly to the east shore at a point 35° 43.2385' N – 77° 31.8735' W.
- (e) Tyson Creek - upstream (southwest) to a line beginning on the west shore at a point 35° 40.4470' N – 77° 30.7015' W; running easterly to the east shore at a point 35° 40.4107' N – 77° 30.6075' W.
- (f) Conetoe Creek - upstream (north and east) to a line beginning on the north shore at a point 35° 44.5315' N – 77° 29.1676' W; running southerly to the south shore at a point 35° 44.5071' N – 77° 29.1894' W.
- (g) Hardee Creek - upstream (southwest) to a line beginning on the west shore at a point 35° 35.6842' N – 77° 19.3857' W; running easterly to the east shore at a point 35° 35.6781' N – 77° 19.3680' W.

- (h) Chicod Creek - upstream (west) to a line beginning on the west shore at a point 35° 34.6186' N – 77° 14.0233' W; running southerly to the east shore at a point 35° 34.5985' N – 77° 14.0169' W.
- (i) Old Grindle Creek - upstream (north) to a line beginning on the north shore at a point 35° 35.3098' N – 77° 09.9461' W; running southerly along SSR 1565 (Grimesland Bridge Road) to the south shore at a point 35° 35.2891' N – 77° 09.9511' W.
- (j) Bear Creek - upstream (southwest) to a line beginning on the west shore at a point 35° 32.4699' N – 77° 07.4185' W; running easterly to the east shore at a point 35° 32.4697' N – 77° 07.3758' W.
- (24) Tranters Creek including designated tributaries - main stem waters north and west of a line beginning on the west shore at a point 35° 33.1993' N – 77° 05.3978' W; running easterly to the east shore at a point 35° 33.2408' N – 77° 05.0872' W and south of a line beginning on the west shore at a point 35° 45.7848' N – 77° 15.2294' W; running easterly to the east shore at a point 35° 45.7905' N – 77° 15.1931' W; including the following tributaries from their confluence with Tranters Creek in the direction indicated to the specified boundary:
 - (a) Aggie Run - upstream (east) to a line beginning on the north shore at a point 35° 38.3433' N – 77° 05.5003' W; running southeasterly to the south shore at a point 35° 38.2633' N – 77° 05.4097' W.
 - (b) Cherry Run - upstream (northeast) to a line beginning on the north shore at a point 35° 35.1560' N – 77° 04.0436' W; running southerly along US 17 to the south shore at a point 35° 35.1404' N – 77° 04.0437' W.
- (25) Lake Mattamuskeet - all waters and all inland manmade tributaries of Lake Mattamuskeet.
- (26) Bay River Area: Trent Creek - south of a line beginning on the west shore at a point 35° 06.2738' N – 76° 43.1071' W; running easterly along the NC 55 bridge (Pamlico County) to the east shore to a point 35° 06.2603' N – 76° 43.0741' W; and north of a line beginning on the southwest shore at a point 35° 04.3545' N – 76° 42.8282' W; running northeasterly to the northeast shore to a point 35° 04.3686' N – 76° 42.8117' W.
- (27) Neuse River including designated tributaries - main stem waters south of a line beginning on the east shore at a point 35° 47.9955' N – 78° 32.2902' W; running westerly along Milburnie Dam (Bridges Lake Dam) to the west shore to a point 35° 48.0280' N – 78° 32.3989' W; and northwest of a line near 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; including the following tributaries from their confluence with Neuse River in the direction indicated to the specified boundary:
 - (a) Middle Creek - upstream (west) to a line beginning on the southwest shore at a point 35° 30.4489' N – 78° 24.1072' W; running northeasterly along the NC 210 bridge (Johnston County) to the northeast shore to a point 35° 30.4767' N – 78° 24.0676' W.
 - (b) Mill Creek - upstream (west) to a line beginning on the north shore at a point 35° 20.7619' N – 78° 20.0813' W; running southerly along the SSR 1185 bridge (Joyner Bridge Road) to the south shore to a point 35° 20.7262' N – 78° 20.0938' W.
 - (c) Little River - upstream (northwest) to a line beginning on the southwest shore at a point 35° 40.0035' N – 78° 15.5262' W; running northeasterly along the NC 42 bridge (Johnston County) to the northeast shore to a point 35° 40.0142' N – 78° 15.5060' W.
 - (d) Walnut Creek - upstream (north) to a line beginning on the west shore at a point 35° 15.5439' N – 77° 52.5703' W; running easterly to the east shore to a point 35° 15.5407' N – 77° 52.5574' W.
 - (e) Bear Creek - upstream (north) to a line beginning on the northeast shore at a point 35° 21.1265' N – 77° 49.1500' W; running southwesterly to the southwest shore to a point 35° 21.1125' N – 77° 49.1605' W.
 - (f) Falling Creek - upstream (northwest) to a line beginning on the west shore at a point 35° 15.6635' N – 77° 41.5862' W; running easterly along the US 70 bridge (Banks School Road) to the east shore to a point 35° 15.6687' N – 77° 41.5540' W.
 - (g) Contentnea Creek - upstream (northwest) to a line beginning on the west shore at a point 35° 34.1707' N – 77° 47.5396' W; running easterly to

- the east shore to a point 35° 34.1704' N – 77° 47.4966' W.
- (h) Halfmoon Creek - upstream (southwest) to a line beginning on the north shore at a point 35° 19.1578' N – 77° 20.2050' W; running southerly to the south shore to a point 35° 19.1335' N – 77° 20.2036' W.
 - (i) Village Creek - upstream (southwest) to a line beginning on the northeast shore at a point 35° 18.4795' N – 77° 18.1037' W; running southwesterly to the southwest shore to a point 35° 18.4603' N – 77° 18.1121' W.
 - (j) Kitten Creek - upstream (northwest) to include all waters.
 - (k) Core Creek - upstream (west) to a line beginning on the north shore at a point 35° 10.7941' N – 77° 18.9102' W; running southerly to the south shore to a point 35° 10.7715' N – 77° 18.9012' W.
 - (l) Pitchkettle Creek - upstream (northwest) to include all waters.
- (28) Neuse River Area:
- (a) Turkey Quarter and Greens creeks - southeast of a line beginning on the west shore of Turkey Quarter Creek at a point 35° 15.6738' N – 77° 14.6823' W; running southeasterly to the southeast shore of Turkey Quarter Creek to a point 35° 15.6534' N – 77° 14.6470' W; and northwest of a line beginning on the north shore of Greens Creek at a point 35° 14.1883' N – 77° 11.8862' W; running southwesterly to the southwest shore of Greens Creek to a point 35° 14.1389' N – 77° 11.7535' W.
 - (b) Taylor Creek - northwest of a line beginning on the north shore at a point 35° 14.3719' N – 77° 10.8050' W; running southwesterly to the south shore to a point 35° 14.3300' N – 77° 10.8352' W.
 - (c) Pine Tree Creek - west of a line beginning on the north shore at a point 35° 12.6663' N – 77° 07.4285' W; running southwesterly to the south shore to a point 35° 12.7033' N – 77° 07.3594' W and north of a line beginning on the west shore at a point 35° 12.8553' N – 77° 07.8300' W; running easterly to the east shore to a point 35° 12.8372' N – 77° 07.7934' W and north of a line beginning on the west shore at a point 35° 13.2012' N – 77° 08.7753' W; running southeasterly to the east shore to a point 35° 13.1714' N – 77° 08.7071' W.
 - (d) Swift and Little Swift creeks - north of a line beginning on the west shore at a point 35° 11.5972' N – 77° 06.0562' W; running easterly to the east shore to a point 35° 11.5816' N – 77° 05.9861' W for both creeks and south of a line beginning on the northeast shore at a point 35° 17.8175' N – 77° 08.9421' W; running southwesterly along the SSR 1440 bridge (Streets Ferry Road) to the southwest shore to a point 35° 17.8027' N – 77° 08.9529' W for Swift Creek; and southwest of two lines, one beginning on the northwest shore of Fisher Swamp at a point 35° 14.6533' N – 77° 03.9072' W; running southeasterly to the southeast shore to a point 35° 14.6322' N – 77° 03.8983' W; and the other beginning on the northwest shore of Little Swift Creek at a point 35° 14.1315' N – 77° 03.6823' W; running southeasterly along the SR 1627 bridge (Craven County) to the southeast shore to a point 35° 14.1179' N – 77° 03.6676' W for Little Swift Creek.
 - (e) Bachelor Creek - west of a line beginning on the north shore at a point 35° 09.0099' N – 77° 04.5858' W; running southerly to the south shore to a point 35° 08.9085' N – 77° 04.7172' W and east of a line at Rollover Creek beginning on the north shore at a point 35° 07.9194' N – 77° 11.9438' W; running southerly to the south shore to a point 35° 07.8931' N – 77° 11.9445' W.
 - (f) Trent River Area:
 - (i) Brice Creek - south of a line beginning on the west shore at a point 35° 02.1261' N – 77° 02.1243' W; running easterly to the east shore to a point 35° 02.1268' N – 77° 02.1015' W and north of a line beginning on the west shore at a point 34° 59.7828' N – 77° 00.0710' W; running easterly along the SSR 1101 bridge (County Line Road) to the east shore to a point

- 34° 59.7789' N - 77° 00.0534' W.
- (ii) Mill Creek - south of a line beginning on the west shore at a point 35° 00.4595' N - 77° 12.8427' W; running easterly to the east shore to a point 35° 00.4593' N - 77° 12.8160' W; and north of a line beginning on the west shore at a point 34° 59.8881' N - 77° 12.8536' W; running easterly to the east shore to a point 34° 59.8878' N - 77° 12.8368' W.
- (iii) Mill Run - southwest of a line beginning on the northwest shore at a point 35° 00.3766' N - 77° 16.8680' W; running southeasterly along the NC 58 bridge (Jones County) to the southeast shore to a point 35° 00.3654' N - 77° 16.8487' W; and northeast of a line beginning on the northwest shore at a point 35° 00.0929' N - 77° 17.3282' W; running southeasterly to the southeast shore to a point 35° 00.0740' N - 77° 17.3024' W.
- (g) Trent River including all the waters of Jumping Creek - main stem waters southwest of a line beginning on the west shore at a point 35° 01.9478' N - 77° 15.6377' W; running easterly along the SSR 1121 bridge (Oak Grove Road) to the east shore to a point 35° 01.9506' N - 77° 15.6095' W; and northeast of a line beginning on the northeast shore at a point 35° 04.0759' N - 77° 35.3891' W; running southwesterly along the SSR 1153 bridge (Vine Swamp Road) to the southwest shore to a point 35° 04.0624' N - 77° 35.4063' W; including all the waters of Jumping Creek.
- (h) Upper Broad Creek - northwest of a line beginning on the north shore at a point 35° 06.8922' N - 76° 56.3911' W, running southerly to the south shore to a point 35° 06.8623' N - 76° 56.3916' W and southeast of a line beginning on the west shore at a point 35° 08.3197' N - 76° 58.7314' W; running easterly along the NC 55 bridge at the Craven and Pamlico county line to the east shore to a point 35° 08.3209' N - 76° 58.6753' W.
- (i) Beard Creek - northwest of a line beginning on the north shore at a point 35° 02.6853' N - 76° 52.3346' W; running southerly to the south shore to a point 35° 02.6663' N - 76° 52.3351' W and southeast of line beginning on the southwest shore at a point 35° 03.7198' N - 76° 52.6024' W; running northeasterly along the SSR 1115 bridge (Pamlico County) to the northeast shore to a point 35° 03.7258' N - 76° 52.5942' W.
- (j) Dawson Creek - northwest of a line beginning on the southwest shore at a point 35° 01.8352' N - 76° 47.4672' W; running northeasterly to the northeast shore to a point 35° 01.8475' N - 76° 47.4283' W; and southeast of a line beginning on the southwest shore of Fork Run at a point 35° 02.1112' N - 76° 48.3083' W; running northeasterly along the SSR 1005 bridge (Pamlico County) to the northeast shore of Fork Run to a point 35° 02.1206' N - 76° 48.2922' W.
- (k) Slocum Creek:
- (i) Southwest Prong - southwest of a line beginning on the northwest shore at a point 34° 53.1520' N - 76° 55.8540' W; running southeasterly along the SSR 1746 bridge (Greenfield Heights Boulevard) to the southeast shore to a point 34° 53.1369' N - 76° 55.8460' W; and northeast of a line beginning on the west shore at a point 34° 51.5981' N - 76° 57.1687' W; running easterly to the east shore to a point 34° 51.5935' N - 76° 57.1229' W.
- (ii) East Prong - south of a line beginning on the west shore at a point 34° 52.9687' N - 76° 54.5195' W; running easterly along the NC 101 bridge (Fontana Boulevard) to the east shore to a point 34° 52.9680' N - 76° 54.5020' W.

- (l) Hancock Creek - south of a line beginning on the west shore at a point 34° 52.1403' N – 76° 50.8518' W; running easterly along the NC 101 bridge (Craven County) to the east shore to a point 34° 52.1412' N – 76° 50.8382' W.
- (29) White Oak River - main stem waters north and west of a line beginning on the west shore at a point 34° 48.1466' N – 77° 11.4711' W; running easterly to a point on the west shore 34° 48.1620' N – 77° 11.4244' W; and south and east of a line beginning on the west shore at a point 34° 53.5120' N – 77° 51.4013' W; running easterly to a point on the east shore 34° 53.5009' N – 77° 14.0194' W; including the following tributaries from their confluence with White Oak River in the direction indicated to the specified boundary:
- (a) Holston Creek - east to a line beginning on the north shore at a point 34° 49.6284' N – 77° 09.3783' W; running southerly to shore at a point 34° 49.6177' N – 77° 09.3670' W.
- (b) Grant's Creek - west to a line beginning on the north shore at a point 34° 47.9302' N – 77° 12.8060' W; running southerly along SSR 1434 bridge (Belgrade-Swansboro Road) to a point on the south shore 34° 47.9185' N – 77° 12.7954' W.
- (30) New River - main stem waters north of a line beginning on the west shore at a point 34° 45.1654' N – 77° 26.1222' W; running easterly along the US Highway 17 bridge to a point on the east shore 34° 45.2007' N – 77° 25.9790' W; and south of a line beginning at a point on the west shore 34° 50.5818' N – 77° 30.1735' W running easterly along the SSR 1316 bridge (Rhodestown Road) to a point on the east shore 34° 50.5951' N – 77° 30.1534' W.
- (31) Northeast and Little Northeast Creeks - north and east of a line beginning on the west shore at a point 34° 44.0778' N – 77° 21.2640' W; running southeasterly along the railroad bridge to a point on the east shore 34° 44.0446' N – 77° 21.2126' W; and west of a line beginning on the north shore 34° 44.9055' N – 77° 19.7541' W; running southerly along SSR 1406 bridge (Piney Green Road) to a point on the south shore 34° 44.8881' N – 77° 19.7649' W.
- (32) Northeast Cape Fear River - main stem waters north of a line beginning at a point on the west shore 34° 26.5658' N – 77° 50.0871' W; running northeasterly along the NC 210 bridge to a point on the east shore 34° 26.6065' N – 77° 49.9955' W and south of a line beginning on the west shore 34° 38.7667' N – 77° 52.3417' W running easterly along SSR 1318 bridge (Croombsbridge Road) to a point on the east shore 34° 38.7744' N – 77° 52.3093' W; including the following tributaries from their confluence with the Northeast Cape Fear River in the direction indicated to the specified boundary:
- (a) Burgaw Creek - west to a line beginning on the north shore at a point 34° 32.4670' N – 77° 51.1705' W; running southerly along SSR 1411 bridge (Stag Park Road) to a point on the south shore 34° 32.4567' N – 77° 51.1711' W.
- (b) Pike Creek - west to a line beginning on the north shore at a point 34° 28.7928' N – 77° 52.5148' W; running southerly along SSR 1411 bridge (Ashton Lake Road) to a point on the south shore 34° 28.7882' N – 77° 52.5261' W.
- (c) Merrick Creek - north and east to a line beginning on the north shore at a point 34° 26.8264' N – 77° 48.1948' W; running southerly along NC 210 bridge to a point on the south shore 34° 26.8028' N – 77° 48.1797' W.
- (d) Island Creek - south and east to a line beginning on the west shore at a point 34° 22.0359' N – 77° 48.9107' W; running easterly along SSR 1002 bridge (Holly Shelter Road) to a point on the east shore 34° 22.0213' N – 77° 48.8854' W.
- (e) Prince George Creek - south and east to a line beginning on the north shore at a point 34° 20.6773' N – 77° 54.2113' W; running southerly along NC 133 bridge to a point on the south shore 34° 20.6659' N – 77° 54.2170' W.
- (f) Turkey Creek - north and east to a line beginning on the north shore at a point 34° 23.8546' N – 77° 54.7872' W; running southerly along NC 133 bridge to a point on the south shore 34° 23.8429' N – 77° 54.7772' W.
- (g) Long Creek - north and west to a line beginning on the west shore at a point 34° 26.3494' N – 78° 01.5716' W; running easterly along NC 210 bridge to a point on the east shore 34° 26.3500' N – 78° 01.5396' W.
- (33) Black River - north and west of a line beginning on the west shore at a point 34° 22.0783' N – 78° 04.4123' W; running easterly to a point on the east shore 34° 21.9950' N – 78° 04.2864' W and south and east of a line

- beginning at a point on the north shore 34° 42.5285' N – 78° 15.8178' W; running southerly to a point on the south shore 34° 42.5008' N – 78° 15.7972' W. South River - south and east of a line beginning at a point on the west shore 34° 38.4120' N – 78° 18.7075' W; running easterly along SSR 1007 bridge (Ennis Bridge Road) to a point on the east shore 34° 38.4080' N – 78° 18.6727' W.
- (34) Cape Fear River - main stem waters north and west of a line at Lock and Dam #1 beginning on the west shore at a point 34° 24.2628' N – 78° 17.6390' W; running easterly to a point on the east shore 34° 24.2958' N – 78° 17.5634' W and south and east of a line beginning at a point on the west shore 35° 24.8404' N – 78° 49.4267' W; running easterly to a point on the east shore 35° 24.8833' N – 78° 49.3288' W; including the following tributaries from their confluence with the Cape Fear River in the direction indicated to the specified boundary:
- (a) Brown's Creek - south and west to a line beginning on the north shore at a point 34° 36.8641' N – 78° 35.0917' W; running southerly along NC 87 bridge to a point on the south shore 34° 36.8477' N – 78° 35.0731' W.
 - (b) Hammond Creek - south and west to a line beginning on the north shore at a point 34° 34.032' N – 78° 30.3542' W; running southerly along NC 87 bridge to a point on the south shore 34° 34.0142' N – 78° 30.3397' W.
 - (c) Steep Run - south and west to a line beginning on the north shore at a point 34° 25.5019' N – 78° 20.9934' W; running southerly along NC 87 bridge to a point on the south shore 34° 25.4742' N – 78° 20.9549' W.
 - (d) Wayman's Creek - south and west to a line beginning on the north shore at a point 34° 22.4396' N – 78° 16.3904' W; running southerly along NC 87 bridge to a point on the south shore 34° 22.4287' N – 78° 16.3723' W.
 - (e) Livingston Creek - south to a line beginning on the north shore at a point 34° 19.5405' N – 78° 12.9889' W; running southerly along NC 87 bridge to a point on the south shore 34° 19.5128' N – 78° 12.9727' W.
 - (f) Hood Creek - south and west to a line beginning on the north shore at a point 34° 18.6658' N – 78° 07.1988' W; running southerly along NC 87 bridge to a point on the south shore 34° 18.6612' N – 78° 07.1741' W.
 - (g) Indian Creek - west to a line beginning on the north shore at a point 34° 17.7383' N – 78° 02.6706' W; running southerly along SSR 1453 bridge (Brunswick County) to a point on the south shore 34° 17.7210' N – 78° 02.6697' W.
 - (h) Sturgeon Creek - west to a line beginning on the north shore at a point 34° 14.6391' N – 78° 01.8154' W; running southerly to a point on the south shore 34° 14.5918' N – 78° 01.7941' W.
 - (i) Mill Creek - north and west of Sturgeon Creek to a line beginning on the north shore at a point 34° 15.2342' N – 78° 01.6370' W; running southerly to a point on the south shore 34° 15.2024' N – 78° 01.6525' W.
 - (j) Alligator Creek - north of the Brunswick River to the origin of the Creek excluding the dredged portions of the Creek.
 - (k) Jackeys Creek - west of the Brunswick River to a line beginning on the north shore at a point 34° 11.9672' N – 77° 58.8303' W; running southerly along the NC 133 bridge to a point on the south shore 34° 11.9544' N – 77° 58.8307' W.
 - (l) Mallory Creek - west of the Brunswick River to a line beginning on the north shore at a point 34° 10.0530' N – 77° 58.5927' W; running southerly along the NC Highway 133 bridge to a point on the south shore 34° 10.0351' N – 77° 58.5942' W.
 - (m) Town Creek - west to a line beginning on the north shore at a point 34° 09.4084' N – 78° 05.5059' W; running southerly along US 17 bridge to a point on the south shore 34° 09.3731' N – 78° 05.5147' W.
 - (n) Lilliput Creek - west to a line beginning on the north shore at a point 34° 04.5292' N – 77° 57.3187' W; running southerly along NC 133 bridge to a point on the south shore 34° 04.5137' N – 77° 57.3108' W.

History Note: Authority G.S. 113-132; 113-134; Eff. May 1, 2008.

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) Temporary Restricted Zone. Portions of game lands posted as "Temporary 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. An area of a game land shall be declared a Temporary Restricted Zone when there is a danger to the health or welfare of the public due to topographical features or activities occurring on the area.
- (6) 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.
- (7) 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.

(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, 2008; 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. On waterfowl impoundments that have a posted "Scouting-only Zone," trapping during the trapping season and waterfowl hunting on designated waterfowl hunting days are the only activities

allowed on the portion of the impoundment outside of the posted "Scouting-only Zone." 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.

(f) **Hunting with Dogs on Game Lands.** Deer shall not be taken with the use of dogs on game lands in counties or parts of counties where taking deer with dogs is prohibited as described in 15A NCAC 10B .0109.

(g) **Bear Sanctuaries.** On Three Days per Week Areas and Six Days per Week Areas bears shall not be taken on lands designated and posted as bear sanctuaries except when authorized by permit only elsewhere in this Chapter. 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 deer seasons, the Muzzle-Loading deer seasons and the Deer With Visible Antlers seasons on bear sanctuaries. Dogs shall not

be trained or allowed to run unleashed between March 1 and the Monday on or nearest October 15 on bear sanctuaries in and west of the counties and parts of counties described in 15A NCAC 10B .0109.

(h) 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 all the 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
 - (A) Hunting is by permit only.
 - (B) Horseback riding, including all equine species, is prohibited.
- (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.
- (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.
- (13) Bullard and Branch Hunting Preserve Game Lands in Robeson County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (14) Butner - Falls of Neuse Game Land in Durham, Granville and Wake counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl shall be taken only on Tuesdays, Thursdays and Saturdays; Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons. Waterfowl shall not be taken after 1:00 p.m. On the posted waterfowl impoundments a special permit is required for all waterfowl hunting after November 1.
- (D) Horseback riding, including all equine species, is prohibited.
- (E) Target shooting is prohibited
- (F) Wild turkey hunting is by permit only, except on those areas posted as an archery zone.
- (G) The use of dogs for hunting deer is prohibited on that portion west of NC 50 and south of Falls Lake.
- (H) The use of bicycles is restricted to designated areas, except that this restriction shall not apply to hunters engaged in the act of hunting during the open days of the applicable seasons for game birds and game animals.
- (I) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and April 7 through May 14.
- (15) Cape Fear River Wetlands Game Land in Pender County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Turkey Hunting is by permit only on that portion known as the Roan Island Tract.
- (D) The use of dogs for hunting deer is prohibited on the portion of the game land that is west of the Black River, north of Roan Island, east of Lyon Swamp Canal to Canetuck Road and south of NC 210 to the Black River.
- (16) Carteret County Game Land in Carteret County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) The use of dogs for hunting deer is prohibited.
- (17) R. Wayne Bailey-Caswell Game Land in Caswell County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Thursday and Friday preceding the Central muzzle-loading season with any legal weapon by participants in the Disabled Sportsman Program who acquire special hunt permits.
- (C) Horseback riding is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to engaging in such activity.
- (D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.
- (E) The area encompassed by the following roads is closed to all quail and woodcock hunting and all bird dog training: From Yanceyville south on NC 62 to the intersection of SR 1746, west on SR1746 to the intersection of SR 1156, south on SR 1156 to the intersection of SR 1783,

- east on SR 1783 to the intersection of NC 62, north on NC62 to the intersection of SR 1736, east on SR 1736 to the intersection of SR 1730, east on SR 1730 to NC 86, north on NC 86 to NC 62.
- (F) On the posted waterfowl impoundment, waterfowl hunting is by permit only after November 1.
- (G) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and April 7 through May 14.
- (18) Caswell Farm Game Land in Lenoir County
- (A) Dove-Only Area
- (B) Dove hunting is by permit only from opening day through either the first Saturday or Labor Day which ever comes last of the first segment of dove season.
- (19) Catawba Game Land in Catawba County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (C) Deer may be taken with bow and arrow only from the tract known as Molly's Backbone.
- (20) Chatham Game Land in Chatham County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Wild turkey hunting is by permit only.
- (D) Horseback riding, including all equine species, is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons.
- (E) Target shooting is prohibited.
- (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 Bertie, Gates and Hertford counties.
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Bear hunting is restricted to the first three hunting days during the November bear season and the first three days during the December bear 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 all the 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 six open days of the applicable Deer With Visible Antlers Season.
 - (C) No hunting on posted parts of bombing range.
 - (D) The use and training of dogs is prohibited from March 1 through June 30.
- (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 is prohibited except by special hunt permit holders during scheduled permit hunts.
 - (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.
 - (F) Target shooting is prohibited.
- (38) Holly Shelter Game Land in Pender 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. 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 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.
 - (F) The use of dogs for hunting deer and bear is prohibited on that portion of the game land that is south of Baby Branch extending west to Stag Park Road, west of Shaw Road, north of Meeks Road extending west to Stag Park Road and east of Stag Park Road.
- (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.
 - (D) Target shooting is prohibited.
- (40) J. Morgan Futch Game Land in Tyrrell County, Permit Only Area.
- (41) Johns River Game Land in Burke County
- (A) Hunting is by permit only
 - (B) During permitted deer hunts deer of either-sex may be taken by permit holders.
 - (C) Entry on posted waterfowl impoundments is prohibited October 1 through March 31 except by lawful waterfowl hunting permit holders and only on those days written on the permits.
 - (D) The use or construction of permanent hunting blinds is prohibited.
- (42) 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.
- (G) The use of bicycles is restricted to designated areas, except that this restriction shall not apply to hunters engaged in the act of hunting during the open days of the applicable seasons for game birds and game animals.
- (43) Juniper Creek 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 Deer With Visible Antlers Season
- (44) 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.
- (G) The use of firearms for hunting wild turkey is prohibited.
- (45) 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.
- (F) Waterfowl hunting on posted waterfowl impoundments is by permit only.
- (46) 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.
- (C) Target shooting is prohibited.
- (47) 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.
- (48) 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.
- (49) 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.
- (50) 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.
- (E) Target shooting is prohibited.
- (51) Mitchell River Game Land in Surry County

- (A) Three 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.
- (52) 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.
- (53) 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.
- (54) 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.
- (55) 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.
- (56) 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.
- (57) 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.
- (58) Northwest River Marsh Game Land in Currituck County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
- (59) Pee Dee River Game Land in Anson, Montgomery, Richmond and Stanly counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Use of centerfire rifles prohibited in that portion in Anson and Richmond counties North of US-74.
 - (D) Target shooting is prohibited.
- (60) Perkins Game Land in Davie County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (61) Pisgah Game Land in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
 - (C) Harmon Den and Sherwood Bear Sanctuaries in Haywood County are closed to hunting raccoon, opossum and wildcat.
 - (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).
- (62) Pungo River Game Land in Hyde County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (63) Rhodes Pond Game Land in Cumberland County
 - (A) Hunting is by permit only.
 - (B) Swimming is prohibited on the area.
- (64) Roanoke River Wetlands in Bertie, Halifax, Martin and Northampton counties
 - (A) Hunting is by Permit only.
 - (B) Vehicles are prohibited on roads or trails except those operated on Commission business or by permit holders.
 - (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.
- (65) Roanoke Island Marshes Game Land in Dare County-Hunting is by permit only.
- (66) Robeson Game Land in Robeson County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (67) Rockfish Creek Game Land in Hoke County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken with bow and arrow on open hunting days from the Saturday on or nearest September 10 to the third Friday before Thanksgiving.
 - (C) Deer of either sex may be taken with muzzle-loading firearms on open hunting days beginning the third Saturday before Thanksgiving through the following Wednesday.
 - (D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving.
 - (E) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
 - (F) The use of dogs for hunting deer is prohibited.
 - (G) Wild turkey hunting is by permit only.
- (68) Sampson Game Land in Sampson County
 - (A) Three Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (69) Sandhills Game Land in Hoke, Moore, Richmond and Scotland counties
 - (A) Three Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving except on the field trial grounds where the gun season is open days from the second Monday before Thanksgiving through the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting days during the bow and arrow season, as well as during the regular gun season. Deer may be taken with muzzle-loading firearms on open days beginning the third Saturday before Thanksgiving through the following Wednesday, and during the Deer With Visible Antlers season.
 - (C) Gun either-sex deer hunting is by permit only. For participants in the Disabled Sportsman Program 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.
- (J) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and April 7 through May 14.
- (70) 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.
- (71) 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.
- (72) Second Creek Game Land in Rowan County-hunting is by permit only.
- (73) Shocco Creek Game Land in Franklin, Halifax 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.
- (74) 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. Deer may be taken with bow and arrow on open days beginning the Monday on or nearest September 10 to the fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving and during the Deer With Visible Antlers season. Deer may be taken with muzzle-loading firearms on open days beginning the Monday on or nearest October 8 through the following Saturday, and during the Deer With Visible Antlers season.
- (C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (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.
- (75) 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.
- (D) Waterfowl on posted waterfowl impoundments may 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.
- (76) Suggs Mill Pond Game Land in Bladen County
- (A) Hunting and trapping is by Permit only.
- (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.
- (C) Entry is prohibited on scheduled hunt or trapping days except for:
- (i) hunters or trappers holding special hunt or trapping permits; and

- (ii) persons using Campground Road to access Suggs Mill Pond Lake at the dam.
- (77) Sutton Lake Game Land in New Hanover and Brunswick counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Target shooting is prohibited.
- (78) Tar River Game Land in Edgecombe County -
 - hunting is by permit only.
- (79) Three Top Mountain Game Land in Ashe County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding including all equine species is prohibited.
- (80) Thurmond Chatham Game Land in Wilkes County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season. Participants of the Disabled Sportsman Program who acquire special hunt permits may also take either-sex deer with bow and arrow on the Saturday prior to Northwestern bow and arrow season.
 - (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species. Participants must obtain a game lands license prior to horseback riding on this area.
 - (D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.
- (81) Tillery game Land in Halifax County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding, including all equine species, is prohibited.
 - (D) The use of dogs for hunting deer is prohibited.
 - (E) Wild turkey hunting is by permit only.
- (82) Toxaway Game Land in Transylvania County
 - (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season. Participants of the Disabled Sportsman Program who acquire special hunt permits may also take deer of either sex with any legal weapon on the Saturday prior to the first segment of the Western bow and arrow season.
- (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (83) Uwaharrie Game Land in Davidson, Montgomery and Randolph counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last open six days of the applicable Deer With Visible Antlers Season.
- (84) Vance Game Land in Vance County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) The use of dogs, centerfire rifles and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.
- (85) Van Swamp Game Land in Beaufort and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.
- (86) White Oak River Game Land in Onslow County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons;
 - (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) Wild turkey hunting is by permit only.

(i) 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.

(j) 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

(k) 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.

(l) Youth Waterfowl Day. On the day declared by the Commission to be Youth Waterfowl Day, youths may hunt on any game land and on any impoundment without a special hunt permit, including permit-only areas, except where specifically prohibited in Paragraph (h) of this Rule.

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, 2008; May 1, 2007; October 1, 2006;
August 1, 2006; May 1, 2006; February 1, 2006, June 1, 2005;
October 1, 2004.

15A NCAC 10H .0101 LICENSE TO OPERATE

A controlled hunting preserve license shall entitle the holder or holders thereof, and their guests of that preserve to take or kill by shooting only, and without regard to sex or bag limits, starting October 1 and ending March 31, domestically-raised pheasants, chukar partridges, Hungarian partridges, Mallard ducks (as defined by the United States Fish and Wildlife Service) or other domestically raised game birds, except wild turkey. A controlled hunting preserve license also authorizes the holder or holders to purchase, possess, propagate, sell, transport and release propagated migratory game birds and their eggs, and propagated upland game birds, except wild turkey, subject to the limitations and conditions in Section .0900 of this Subchapter. Application for controlled hunting preserve licenses shall be made on standard forms obtainable from the commission. Applicants must be prepared to show proof of ownership of the land contained in the proposed hunting preserve or proof that they have this land under lease for the duration of the license period.

History Note: Authority G.S. 113-134; 113-273;
Eff. February 1, 1976;
Amended Eff. May 1, 2008; July 1, 1994; November 1, 1990;
July 1, 1988; July 1, 1987.

15A NCAC 10H .0301 GENERAL REQUIREMENTS

(a) Captivity Permit or License Required

- (1) Requirement. The possession of any species of wild animal that is or once was native to this State or any species of wild bird, native or migratory, that naturally occurs or historically occurred in this State or any member of the family Cervidae is unlawful unless the institution or individual in possession obtains from the North Carolina Wildlife Resources Commission (Commission) a captivity permit or a captivity license as provided by this Rule.
- (2) Injured, Crippled or Orphaned Wildlife. When an individual has taken possession of an injured, crippled or orphaned wild animal or

wild bird, that individual shall contact the Commission within 24 hours of taking possession in order to apply for a captivity permit, provided, however, that under no circumstances shall an individual take possession of an injured, crippled or orphaned wild turkey, black bear, deer, elk or any other member of the family Cervidae except as described in Subparagraph (3) of this Paragraph.

- (3) Rehabilitation of white-tailed deer fawns. An individual may apply to the Commission to become a permitted white-tailed deer fawn rehabilitator for the State of North Carolina. Individuals deemed to be qualified according to these Rules to rehabilitate injured or orphaned fawns may receive a captivity permit to possess fawns only for such a period of time as may be required for the rehabilitation and release of the fawns to the wild. These captivity permits shall apply only to wild white-tailed deer fawns and are available only to individuals recognized by the Commission as white-tailed deer fawn rehabilitators.

(b) Captivity Permit. A captivity permit shall be requested by mail, phone, facsimile or electronic transmission or in person. A captivity permit shall authorize possession of the animal or bird only for such period of time as may be required for the rehabilitation and release of the animal or bird to the wild; or to obtain a captivity license as provided by Paragraph (c) of this Rule, if such a license is authorized; or to make a proper disposition of the animal or bird if the application for such license is denied, or when an existing captivity license is not renewed or is terminated. Captivity permits shall not be issued for wild turkey, black bear, deer, elk or any other member of the family Cervidae except as described in Subparagraph (a)(3) of this Rule.

(c) Captivity License.

- (1) The purpose of captivity license is to provide humane treatment for wild animals or wild birds that are unfit for release. For purposes of this Rule, wild animals are considered "unfit" if they are incapacitated by injury or otherwise; if they are a non-native species that poses a risk to the habitat or to other species in that habitat; or if they have been rendered tame by proximity to humans to the extent that they cannot feed or care for themselves without human assistance. Persons interested in obtaining a captivity license shall contact the Commission for an application.
- (2) Denial of captivity license. Circumstances or purposes for which a captivity license shall not be issued include the following:
 - (A) For the purpose of holding a wild animal or wild bird that was acquired unlawfully.
 - (B) For the purpose of holding the wild animal or wild bird as a pet. For

purposes of this Rule, the term "pet" means an animal kept for amusement or companionship. The term shall not be construed to include cervids held in captivity for breeding for sale to another licensed operator.

- (C) For the purpose of holding wild animals or wild birds for hunting in North Carolina.
- (D) For the purpose of holding wild turkey or black bear.
- (E) For the purpose of holding deer, elk or any other member of the family Cervidae on a facility licensed after May 17, 2002, until the U.S. Department of Agriculture (USDA) establishes a Chronic Wasting Disease (CWD) program that includes a test to detect Chronic Wasting Disease along with requirements for monitoring cervids that shall establish a basis for determining whether a cervid and any cervid herd or farm with which the tested cervid has resided has been free of CWD for five years, provided that the program, test and monitoring requirements are recommended for application to wild animals by the Southeastern Cooperative Wildlife Disease Study.

- (3) Required Facilities. No captivity license shall be issued until the applicant has constructed or acquired a facility for keeping the animal or bird in captivity that complies with the standards set forth in Rule .0302 of this Section and the adequacy of such facility has been verified on inspection by a representative of the Commission.

(4) Term of License

- (A) Dependent Wildlife. If the wild animal or wild bird has been permanently rendered incapable of subsisting in the wild, the license authorizing its retention in captivity shall be an annual license terminating on December 31 of the year for which issued.
- (B) Rehabilitable Wildlife. When the wild animal or wild bird is temporarily incapacitated, and may be rehabilitated for release to the wild, any captivity license that is issued shall be for a period less than one year as rehabilitation may require.
- (C) Concurrent Federal Permit. No State captivity license for an endangered or threatened species or a migratory bird, regardless of the term specified,

- shall operate to authorize retention thereof for a longer period than is allowed by any concurrent federal permit that may be required for retention of the bird or animal.
- (5) Holders of Captivity License for cervids.
- (A) Inspection of records. The licensee shall make all records pertaining to tags, licenses or permits issued by the Commission available for inspection by the Commission at any time during normal business hours, or at any time an outbreak of CWD is suspected or confirmed within five miles of the facility or within the facility itself.
- (B) Inspection. The licensee shall make all enclosures at each licensed facility and the record-book(s) documenting required monitoring of the outer fence of the enclosure(s) available for inspection by the Commission at any time during normal business hours, or at any time an outbreak of CWD is suspected or confirmed within five miles of the facility or within the facility itself.
- (C) Fence Monitoring Requirement. The fence surrounding the enclosure shall be inspected by the licensee or licensee's agent once a week during normal weather conditions to verify its stability and to detect the existence of any conditions or activities that threaten its stability. In the event of severe weather or any other condition that presents potential for damage to the fence, inspection shall occur every three hours until cessation of the threatening condition, except that no inspection shall be required under circumstances that threaten the safety of the person conducting the inspection.
- (D) A record-book shall be maintained to record the time and date of the inspection, the name of the person who performed the inspection, and the condition of the fence at time of inspection. The person who performs the inspection shall enter the date and time of detection and the location of any damage threatening the stability of the fence. If damage has caused the fence to be breachable, the licensee shall enter a description of measures taken to prevent ingress or egress by cervids. Each record-book entry shall bear the signature or initials of the licensee attesting to the veracity of the entry. The record-book shall be made available to inspection by a representative of the Commission upon request during normal business operating hours.
- (E) Maintenance. Any opening or passage through the enclosure fence that results from damage shall, within one hour of detection, be sealed or otherwise secured to prevent a cervid from escape. Any damage to the enclosure fence that threatens its stability shall be repaired within one week of detection.
- (F) Escape. The licensee or designee shall immediately upon discovery report any cervid escape from the facility to the Commission. If possible, the escaped cervid shall be recaptured alive. If live recapture is not possible, the licensee shall request a wildlife take permit and take the escaped cervid pursuant to the terms of the permit. A recaptured live cervid shall be submitted to the Commission for Chronic Wasting Disease (CWD) testing using a test recognized by the Southeastern Cooperative Wildlife Disease Study unless the executive director determines that the risk of CWD transmission as a result of this escape is negligible based upon:
- (i) amount of time the escaped cervid remained out of the facility;
 - (ii) proximity of the escaped cervid to wild populations;
 - (iii) known susceptibility of the escaped cervid species to CWD;
 - (iv) nature of the terrain in to which the cervid escaped.
- (G) Chronic Wasting Disease (CWD)
- (i) Detection. Each licensee shall immediately notify the Commission if any cervid within the facility exhibits clinical symptoms of CWD or if a quarantine is placed on the facility by the State Veterinarian. All captive cervids that exhibit symptoms of CWD shall be tested for CWD.
 - (ii) Cervid death. The carcass of any captive cervid that was six months or older at time

- of death shall be transported and submitted by the licensee to a North Carolina Department of Agriculture diagnostic lab for CWD evaluation within 48 hours of the cervid's death, or by the end of the next business day, whichever is later. Ear tags distributed by the Commission and subsequently affixed to the cervids as required by this Rule, may not be removed from the cervid's head prior to submitting the head for CWD evaluation.
- (iii) The Commission may require testing or forfeiture of cervids from a facility holding cervids in this state should the following circumstances or conditions occur:
- (I) The facility has transferred a cervid that is received by a facility in which CWD is confirmed within five years of the cervid's transport date.
- (II) The facility has received a cervid that originated from a facility in which CWD has been confirmed within five years of the cervid's transport date.
- (H) Tagging Required. Effective upon receipt of tags from the Commission, each licensee shall implement the tagging requirement using only the tags provided by the Commission as follows:
- (i) All cervids born within a facility shall be tagged by March 1 following the birthing season each year.
- (ii) All cervids transferred to a facility shall be tagged within five days of the cervid's arrival at the licensee's facility. However, no cervids shall be transported from one facility to another until restrictions on importation (10B .0101) and transportation (Paragraph (f) of this Rule) no longer apply.
- (iii) All cervids in the possession of a licensee as of October 8, 2002 shall be tagged within six months of the licensee's receipt of the tags.
- (I) Application for Tags.
- (i) Application for tags for newborn cervid. Application for tags for cervids born within a facility shall be made by the licensee by December 1 following the birthing season of each year. The licensee shall provide the following information, along with a statement and licensee's signature verifying that the information is accurate:
- (I) Applicant name, mailing address, and telephone number;
- (II) Facility name and site address;
- (III) Captivity license number;
- (IV) Species of each cervid; and
- (V) Birth year of each cervid.
- (ii) Application for tags for cervids that were not born at the facility site shall be made by written request for the appropriate number of tags along with the licensee's application for transportation of the cervid, along with a statement and licensee's signature verifying that the information is accurate. These tag applications shall not be processed unless accompanied by a completed application for transportation. However, no transportation permits shall be issued nor shall cervids be transported from one facility to another until restrictions on importation (10B .0101) and transportation (Paragraph (f)

- of this Rule) no longer apply.
- (J) Placement of Tags.
- (i) A single button ear tag provided by the Commission shall be permanently affixed by the licensee onto either the right or left ear of each cervid, provided that the ear chosen to bear the button tag shall not also bear a bangle tag, so that each ear of the cervid bears only one tag.
 - (ii) A single bangle ear tag provided by the Commission shall be permanently affixed by the licensee onto the right or left ear of each cervid except Muntjac deer, provided that the ear bearing the bangle tag does not also bear the button tag, so that each ear of the cervid bears only one tag. Muntjac deer are not required to be tagged with the bangle tag.
 - (iii) Once a tag is affixed in the manner required by this Rule, it shall not be removed.
- (K) Reporting Tags Requirement. For all cervids not in the possession of a licensee as of October 8, 2002, the licensee shall submit a Cervidae Tagging Report within 30 days receipt of the tags. With regard to all cervids in the possession of a licensee as of October 8, 2002, the licensee shall submit a Cervidae Tagging report to the Commission within seven months of the licensee's receipt of the tags. A Cervidae Tagging Report shall provide the following information and be accompanied by a statement and licensee's signature verifying that the information is accurate:
- (i) Licensee name, mailing address, and telephone number;
 - (ii) Facility name and site address, including the County in which the site is located;
 - (iii) Captivity license number;
 - (iv) Species and sex of each cervid;
 - (v) Tag number(s) for each cervid; and
- (vi) Birth year of each cervid.
- (L) Replacement of Tags. The Commission shall replace tags that are lost or unusable and shall extend the time within which a licensee shall tag cervids consistent with time required to issue a replacement.
- (i) Lost Tags. The loss of a tag shall be reported to the Commission by the licensee and application shall be made for a replacement upon discovery of the loss. Application for a replacement shall include the information required by Subparagraph (c)(5)(C) of this Rule along with a statement and applicant's signature verifying that the information is accurate. Lost tags shall be replaced on the animal by the licensee within 30 days of receipt of the replacement tag.
 - (ii) Unusable Tags. Tags that cannot be properly affixed to the ear of a cervid or that cannot be read because of malformation or damage to the tags or obscurement of the tag numbers shall immediately be returned to the Commission along with an application for a replacement tag with a statement and applicant's signature verifying that the information in the application is accurate.
- (6) Renewal of captivity license for cervids. Existing captivity licenses for the possession of cervids at existing facilities shall be renewed as long as the applicant for renewal continues to meet the requirements of this Section for the license, provided however, no renewal of an existing license shall permit the expansion of pen size or number of pens on the licensed facility to increase the holding capacity of that facility. No renewals shall be issued for a license that has been allowed to lapse due to the negligence of the former licensee.
- (7) Provision for licensing the possession of cervids in an existing facility. A captivity license shall only be issued to an individual who is 18 years of age or older. If the licensee of an existing facility voluntarily surrenders his or her captivity license, becomes

incapacitated or mentally incompetent, or dies, a person who has obtained lawful possession of the facility from the previous licensee or that licensee's estate, may apply for and may receive a captivity license to operate the existing facility. Any license issued under this provision shall be subject to the same terms and conditions imposed on the original licensee at the time of his or her surrender or death and shall be valid only for the purpose of holding the cervids of the existing facility within that existing facility. In addition, any actions pending from complaint, investigation or other cause shall be continued notwithstanding the termination of the original license.

(d) Nontransferable. No license or permit or tag issued pursuant to this Rule shall be transferable, either as to the holder or the site of a holding facility.

(e) Sale, Transfer or Release of Captive Wildlife.

- (1) It is unlawful for any person to transfer or receive any wild animal or wild bird that is being held under a captivity permit issued under Paragraph (b) of this Rule, except that any such animal or bird may be surrendered to an agent of the Commission.
- (2) It is unlawful for any person holding a captivity license issued under Paragraph (c) of this Rule to sell or transfer the animal or bird held under such license, except that such animal or bird may be surrendered to an agent of the Commission, and any such licensee may sell or transfer the animal or bird (except members of the family Cervidae) to another person who has obtained a license to hold it in captivity. Upon such a sale or transfer, the seller or transferor shall obtain a receipt for the animal or bird showing the name, address, and license number of the buyer or transferee, a copy of which shall be provided to the Commission.
- (3) It is unlawful for any person to release into the wild for any purpose or allow to range free:
 - (i) any species of deer, elk or other members of the family Cervidae, or
 - (ii) any wolf, coyote, or other non-indigenous member of the family Canidae, or
 - (iii) any member of the family Suidae.

(f) Transportation Permit.

- (1) Except as otherwise provided herein, no transportation permit shall be required to move any lawfully held wild animal or wild bird within the State.
- (2) No person shall transport black bear or Cervidae for any purpose without first obtaining a transportation permit from the Commission.

(3) Except as provided in Subparagraph (f)(4) of this Rule, no transportation permits shall be issued for deer, elk, or other species in the family Cervidae until the U.S. Department of Agriculture (USDA) establishes a Chronic Wasting Disease (CWD) program that includes a test to detect Chronic Wasting Disease, along with requirements for monitoring cervids that shall establish a basis for determining whether a cervid and any cervid herd or farm on which the tested animal has resided has been free of CWD for five years, provided that the program, test and monitoring requirements are recommended for application to wild animals by the Southeastern Cooperative Wildlife Disease Study.

(4) Cervid Transportation. A permit to transport deer, elk, or other species in the family Cervidae may be issued by the Commission to an applicant for the purpose of transporting the animal or animals for export out of state, to a slaughterhouse for slaughter or to a veterinary medical facility for treatment provided that the animal for which the permit is issued does not exhibit clinical symptoms of Chronic Wasting Disease. No person shall transport a cervid to slaughter or export out of state without bearing a copy of the transportation permit issued by the Commission authorizing that transportation. No person shall transport a cervid for veterinary treatment without having obtained approval from the Commission as provided by Subparagraph (f)(4)(C) of this Rule. Any person transporting a cervid shall present the transportation permit to any law enforcement officer or any representative of the Commission upon request, except that a person transporting a cervid by verbal authorization for veterinary treatment shall provide the name of the person who issued the approval to any law enforcement officer or any representative of the Commission upon request.

(A) Slaughter. Application for a transportation permit for purpose of slaughter shall be submitted in writing to the Commission and shall include the following information along with a statement and applicant's signature verifying that the information is accurate:

- (i) Applicant name, mailing address, and telephone number;
- (ii) Facility site address;
- (iii) Captivity license number;
- (iv) Name, address, county and phone number of the

- slaughter house to which the cervid will be transported;
 - (v) Vehicle or trailer license plate number and state of issuance of the vehicle or trailer used to transport the cervid;
 - (vi) Name and location of the North Carolina Department of Agriculture Diagnostic lab where the head of the cervid is to be submitted for CWD testing;
 - (vii) Date of transportation;
 - (viii) Species and sex of each cervid; and
 - (ix) Tag number(s) for each cervid.
- (B) Exportation. Nothing in this rule shall be construed to prohibit the lawful exportation of a member of the family Cervidae for sale out of state. Application for a transportation permit for purpose of exportation out of state shall be submitted in writing to the Commission and shall include the following information along with a statement and applicant's signature verifying that the information is accurate:
 - (i) Applicant's name, mailing address and telephone number;
 - (ii) Facility site address;
 - (iii) Captivity license number;
 - (iv) Vehicle or trailer license plate number and state of issuance of the vehicle or trailer used to transport the cervid;
 - (v) Name, site address, county, state and phone number of the destination facility to which the cervid is exported;
 - (vi) A copy of the importation permit from the state of the destination facility that names the destination facility to which the animal is to be exported;
 - (vii) Date of departure;
 - (viii) Species and sex of each cervid; and
 - (ix) Tag number(s)for each cervid.
- (C) Veterinary treatment. No approval shall be issued for transportation of a cervid to a veterinary clinic out of the state of North Carolina, or for

transportation from a facility out of the state of North Carolina to a veterinary clinic in North Carolina. An applicant from a North Carolina facility seeking to transport a cervid for veterinary treatment to a facility within North Carolina shall contact the Wildlife Telecommunications Center or the Wildlife Management Division of the Commission to obtain verbal authorization to transport the cervid to a specified veterinary clinic and to return the cervid to the facility. Verbal approval to transport a cervid to a veterinary clinic shall authorize transport only to the specified veterinary clinic and directly back to the facility, and shall not be construed to permit intervening destinations. To obtain verbal authorization to transport, the applicant shall provide staff of the Commission the applicant's name and phone number, applicant's facility name, site address and phone number, the cervid species, sex and tag numbers, and the name, address and phone number of the veterinary facility to which the cervid shall be transported. Within five days of transporting the cervid to the veterinary facility for treatment, the licensee shall provide the following information in writing to the Commission, along with a statement and applicant's signature verifying that the information is correct:

- (i) Applicant's name, mailing address and telephone number;
- (ii) Facility name and site address;
- (iii) Captivity license number;
- (iv) Vehicle or trailer license plate number and state of issuance of the vehicle or trailer used to transport the cervid;
- (v) Date of transportation;
- (vi) Species and sex of each cervid;
- (vii) Tag number(s)for each cervid;
- (viii) Name, address and phone number of the veterinarian and clinic that treated the cervid;
- (ix) Symptoms for which cervid received treatment; and

(x) Diagnosis of veterinarian who treated the cervid.

(g) Slaughter at cervid facility. Application for a permit for purpose of slaughter at the cervid facility shall be submitted in writing to the Commission and shall include the following information along with a statement and applicant's signature verifying that the information is accurate:

- (A) Applicant name, mailing address, and telephone number;
- (B) Facility site address;
- (C) Captivity license number;
- (D) Name and location of the North Carolina Department of Agriculture Diagnostic lab where the head of the cervid is to be submitted for CWD testing;
- (E) Date of slaughter;
- (F) Species and sex of each cervid; and
- (G) Tag number(s) for each cervid.

Permits or authorization may not be sold or traded by the licensee to any individual for the hunting or collection of captive cervids. Only the licensee may kill a cervid within the cervid enclosure.

(h) No provision within this Rule other than those that permit transport for export, slaughter or veterinary treatment shall be construed to permit transportation of cervids until restrictions on transportation provided within this Subchapter, and 15A NCAC 10B .0101 no longer apply.

History Note: Authority G.S. 106-549.97(b); 113-134; 113-272.5; 113-272.6; 113-274;

Eff. February 1, 1976;

Amended Eff. April 1, 1991; September 1, 1990; June 1, 1990; July 1, 1988;

Temporary Amendment Eff. October 8, 2002; May 17, 2002 (this temporary rule replaced the permanent rule approved by RRC on June 21, 2001 to become effective in July 2002); July 1, 2001;

Amended Eff. May 1, 2008; December 1, 2005; August 1, 2004.

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

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

(b) Waterfowl shall be tested as follows:

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

201-300 birds - test 26% of source flock or shipment
 301-400 birds - test 18% of source flock or shipment
 401-500 birds - test 14% of source flock or shipment
 >500 birds - test 58 individuals from source flock or shipment.

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

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

(d) Sale of Dead Game Birds as Food. Subject to the limitations and conditions indicated in Rule .0901 of this Section and to any applicable laws and regulations relating to pure foods, public health and advertising, game birds produced by game bird propagators licensed under this Section may be killed at any time in any manner, except by shooting during the closed season

on the species concerned, and sold for food purposes as provided by the following Subparagraphs:

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

*History Note: Authority G.S. 113-134; 113-273; 50 C.F.R., Part 21.13;
Eff. January 1, 1981;
Amended Eff. May 1, 2008; June 1, 2005.*

15A NCAC 10I .0103 ENDANGERED SPECIES LISTED

(a) The following species of resident wildlife are designated as federally-listed endangered species:

- (1) Amphibians:
None Listed At This Time.
- (2) Birds:
 - (A) Bachman's warbler (*Vermivora bachmanii*);
 - (B) Ivory-billed woodpecker (*Campephilus principalis*);
 - (C) Kirtland's warbler (*Dendroica kirtlandii*);
 - (D) Piping plover (*Charadrius melodus circumcinctus*);

- (E) Red-cockaded woodpecker (*Picoides borealis*);
- (F) Roseate tern (*Sterna dougallii dougallii*);
- (G) Wood stork (*Mycteria americana*).
- (3) Crustacea: None Listed At This Time.
- (4) Fish:
 - (A) Cape Fear shiner (*Notropis mekistocholas*);
 - (B) Roanoke logperch (*Percina rex*);
 - (C) Shortnose sturgeon (*Acipenser brevirostrum*), when found in inland fishing waters.
- (5) Mammals:
 - (A) Carolina northern flying squirrel (*Glaucomys sabrinus coloratus*);
 - (B) Eastern cougar (*Puma concolor*);
 - (C) Gray bat (*Myotis grisescens*);
 - (D) Indiana bat (*Myotis sodalis*);
 - (E) Manatee (*Trichechus manatus*), when found in inland fishing waters;
 - (F) Virginia big-eared bat (*Corynorhinus townsendii virginianus*).
- (6) Mollusks:
 - (A) Appalachian elktoe (*Alasmidonta raveneliana*);
 - (B) Carolina heelsplitter (*Lasmigona decorata*);
 - (C) Dwarf wedge mussel (*Alasmidonta heterodon*);
 - (D) James spinymussel (*Pleurobema collina*);
 - (E) Little-wing pearlymussel (*Pegias fabula*);
 - (F) Tan riffleshell (*Epioblasma florentina walkeri*);
 - (G) Tar River spinymussel (*Elliptio steinstansana*).
- (7) Reptiles:
 - (A) Kemp's ridley seaturtle (*Lepidochelys kempii*);
 - (B) Atlantic hawksbill seaturtle (*Eretmochelys imbricata imbricata*);
 - (C) Leatherback seaturtle (*Dermochelys coriacea*).

(b) The following species of resident wildlife are designated as state-listed endangered species:

- (1) Amphibians: Green salamander (*Aneides aeneus*).
- (2) Birds:
 - (A) American peregrine falcon (*Falco peregrinus anatum*);
 - (B) Bewick's wren (*Thryomanes bewickii*).
- (3) Crustacea: Bennett's Mill cave water slater (*Caecidotea carolinensis*).
- (4) Fish:
 - (A) Blotchside logperch (*Percina burtoni*);

- (B) Bridle shiner (*Notropis bifrenatus*);
- (C) Dusky darter (*Percina sciera*);
- (D) Orange-fin madtom (*Noturus gilberti*);
- (E) Paddlefish (*Polyodon spathula*);
- (F) Robust redhorse (*Moxostoma robustum*);
- (G) Rustyside sucker (*Thoburnia hamiltoni*);
- (H) Stonecat (*Noturus flavus*).
- (5) Mammals: None Listed At This Time.
- (6) Mollusks:
 - (A) Atlantic pigtoe (*Fusconaia masoni*);
 - (B) Barrel floater (*Anodonta couperiana*);
 - (C) Brook floater (*Alasmodonta varicosa*);
 - (D) Carolina creekshell (*Villosa vaughaniana*);
 - (E) Fragile glyph (*Glyphyalinia clingmani*);
 - (F) Green floater (*Lasmigona subviridis*);
 - (G) Greenfield rams-horn (*Helisoma eucosmum*);
 - (H) Knotty elimia (*Elimia christyi*);
 - (I) Magnificent rams-horn (*Planorbella magnifica*);
 - (J) Neuse spike (*Elliptio judithae*);
 - (K) Purple wartyback (*Cyclonaias tuberculata*);
 - (L) Savannah lilliput (*Toxolasma pullus*);
 - (M) Slippershell mussel (*Alasmodonta viridis*);
 - (N) Tennessee clubshell (*Pleurobema oviforme*);
 - (O) Tennessee heelsplitter (*Lasmigona holstonia*);
 - (P) Tennessee pigtoe (*Fusconaia barnesiana*);
 - (Q) Yellow lampmussel (*Lampsilis cariosa*);
 - (R) Yellow lance (*Elliptio lanceolata*).
- (7) Reptiles:
 - (A) Eastern coral snake (*Micrurus fulvius fulvius*);
 - (B) Eastern diamondback rattlesnake (*Crotalus adamanteus*).
- (b) Dwarf salamander (*Eurycea quadridigitata*);
- (c) Eastern hellbender (*Cryptobranchus alleganiensis alleganiensis*);
- (d) Four-toed salamander (*Hemidactylium scutatum*);
- (e) Longtail salamander (*Eurycea longicauda longicauda*);
- (f) Mole salamander (*Ambystoma talpoideum*);
- (g) Mountain chorus frog (*Pseudacris brachyphona*);
- (h) Mudpuppy (*Necturus maculosus*);
- (i) Neuse River waterdog (*Necturus lewisi*);
- (j) River frog (*Rana heckscheri*);
- (k) Southern zigzag salamander (*Plethodon ventralis*);
- (l) Weller's salamander (*Plethodon welleri*).
- (2) Birds:
 - (a) American oystercatcher (*Haematopus palliatus*);
 - (b) Bachman's sparrow (*Aimophila aestivalis*);
 - (c) Black-capped chickadee (*Poecile atricapillus*);
 - (d) Black rail (*Laterallus jamaicensis*);
 - (e) Black skimmer (*Rynchops niger*);
 - (f) Brown creeper (*Certhia americana nigrescens*);
 - (g) Cerulean warbler (*Dendroica cerulea*);
 - (h) Common tern (*Sterna hirundo*);
 - (i) Glossy ibis (*Plegadis falcinellus*);
 - (j) Golden-winged warbler (*Vermivora chrysoptera*);
 - (k) Henslow's sparrow (*Ammodramus henslowii*);
 - (l) Least bittern (*Ixobrychus exilis*);
 - (m) Least tern (*Sterna antillarum*);
 - (n) Little blue heron (*Egretta caerulea*);
 - (o) Loggerhead shrike (*Lanius ludovicianus*);
 - (p) Olive-sided flycatcher (*Contopus cooperi*);
 - (q) Painted bunting (*Passerina ciris*);
 - (r) Red crossbill (*Loxia curvirostra*);
 - (s) Snowy egret (*Egretta thula*);
 - (t) Tricolored heron (*Egretta tricolor*);
 - (u) Vesper sparrow (*Poocetes gramineus*);
 - (v) Wilson's plover (*Charadrius wilsonia*);
 - (w) Yellow-bellied sapsucker (*Sphyrapicus varius appalachiensis*).
- (3) Crustacea:
 - (a) Broad River spiny crayfish (*Cambarus spicatus*);

History Note: Authority G.S. 113-134; 113-291.2; 113-292; 113-333;

Eff. June 11, 1977;

Amended Eff. May 1, 2008; April 1, 2001; February 1, 1994; November 1, 1991; April 1, 1991; June 1, 1990.

15A NCAC 10I .0105 SPECIAL CONCERN SPECIES LISTED

The following species of resident wildlife are designated as state-listed special concern species:

- (1) Amphibians:
 - (a) Crevice salamander (*Plethodon longicrus*);

- (b) Carolina skistodiaptomus (Skistodiaptomus carolinensis);
 - (c) Carolina well diacyclops (Diacyclops jeannelli putei);
 - (d) Chowanoke crayfish (Orconectes virginienensis);
 - (e) Graceful clam shrimp (Lynceus gracilicornis);
 - (f) Greensboro burrowing crayfish (Cambarus catagius);
 - (g) Hiwassee headwaters crayfish (Cambarus parrishi);
 - (h) Little Tennessee River crayfish (Cambarus georgiae);
 - (i) North Carolina spiny crayfish (Orconectes carolinensis);
 - (j) Oconee stream crayfish (Cambarus chaugaensis);
 - (k) Waccamaw crayfish (Procambarus braswelli).
- (4) Fish:
- (a) Atlantic sturgeon (Acipenser oxyrinchus);
 - (b) Bluefin killifish (Lucania goodei);
 - (c) Blue Ridge sculpin (Cottus caeruleomentum);
 - (d) Blueside darter (Etheostoma jessiae);
 - (e) Broadtail madtom (Noturus sp.) (Lumber River and its tributaries and Cape Fear River and its tributaries);
 - (f) Carolina darter (Etheostoma collis);
 - (g) Cutlip minnow (Exoglossum maxillingua);
 - (h) Freshwater drum (Aplodinotus grunniens) (French Broad River);
 - (i) Highfin carpsucker (Carpiodes velifer) (Cape Fear River and its tributaries);
 - (j) Kanawha minnow (Phenacobius teretulus);
 - (k) Lake sturgeon (Acipenser fulvescens);
 - (l) Least killifish (Heterandria formosa);
 - (m) Longhead darter (Percina macrocephala);
 - (n) Mooneye (Hiodon tergisus);
 - (o) Mountain madtom (Noturus eleutherus);
 - (p) Olive darter (Percina squamata);
 - (q) Pinewoods darter (Etheostoma mariae);
 - (r) River carpsucker (Carpiodes carpio);
 - (s) Riverweed darter (Etheostoma podostemone);
 - (t) Sandhills chub (Semotilus lumbee);
 - (u) Sharpnose darter (Percina oxyrhynchus);
 - (v) Smoky dace (Clinostomus sp.) (Little Tennessee River and tributaries);
 - (w) Striped shiner (Luxilus chrysocephalus);
 - (x) Tennessee snubnose darter (Etheostoma simoterum);
 - (y) Thinlip chub (Cyprinella zanema) (Lumber River and its tributaries and Cape Fear River and its tributaries);
 - (z) Waccamaw killifish (Fundulus waccamensis);
 - (aa) Wounded darter (Etheostoma vulneratum);
 - (bb) Yellowfin shiner (Notropis lutipinnis) (Savannah River and its tributaries);
- (5) Mammals:
- (a) Allegheny woodrat (Neotoma magister);
 - (b) Buxton Woods white-footed mouse (Peromyscus leucopus buxtoni);
 - (c) Coleman's oldfield mouse (Peromyscus polionotus colemani);
 - (d) Eastern big-eared bat (Corynorhinus rafinesquii macrotis);
 - (e) Eastern small-footed bat (Myotis leibii leibii);
 - (f) Elk (Cervus elaphus);
 - (g) Florida yellow bat (Lasiurus intermedius floridanus);
 - (h) Pungo white-footed mouse (Peromyscus leucopus easti);
 - (i) Southeastern bat (Myotis austroriparius);
 - (j) Southern rock shrew (Sorex dispar blitchi);
 - (k) Southern rock vole (Microtus chrotorrhinus carolinensis);
 - (l) Southern water shrew (Sorex palustris punctulatus);
 - (m) Star-nosed mole (Condylura cristata parva).
- (6) Mollusks:
- (a) Appalachian gloss (Zonitoides patuloides);
 - (b) Bidentate dome (Ventridentis coelaxis);
 - (c) Black mantleslug (Pallifera hemphilli);
 - (d) Blackwater ancyliid (Ferrissia hendersoni);
 - (e) Blue-foot lancetooth (Haplotrema kendeighi);
 - (f) Cape Fear spike (Elliptio marsupiobesa);
 - (g) Dark glyph (Glyphyalinia junaluskana);
 - (h) Dwarf proud globe (Patera clarki clarki);
 - (i) Dwarf threetooth (Triodopsis fulciden);

- (j) Fringed coil (Helicodiscus fimbriatus);
 - (k) Glossy supercoil (Paravitrea placentula);
 - (l) Great Smoky slitmouth (Stenotrema depilatum);
 - (m) High mountain supercoil (Paravitrea andrewsae);
 - (n) Honey glyph (Glyphyalinia vanattai);
 - (o) Lamellate supercoil (Paravitrea lamellidens);
 - (p) Mirey Ridge supercoil (Paravitrea clappi);
 - (q) Notched rainbow (Villosa constricta);
 - (r) Open supercoil (Paravitrea umbilicaris);
 - (s) Pink glyph (Glyphyalinia pentadelphica);
 - (t) Pod lance (Elliptio folliculata);
 - (u) Queen crater (Appalachina chilhoweensis);
 - (v) Rainbow (Villosa iris);
 - (w) Ramp Cove supercoil (Paravitrea lacteodens);
 - (x) Saw-tooth disc (Discus bryanti);
 - (y) Spike (Elliptio dilatata);
 - (z) Spiral coil (Helicodiscus bonamicus);
 - (aa) Velvet covert (Inflectarius subpalliatu);
 - (bb) Waccamaw amnicola (Amnicola sp.);
 - (cc) Waccamaw lampmussel (Lampsilis crocata);
 - (dd) Waccamaw siltsnail (Cincinnatia sp.);
 - (ee) Wavy-rayed lampmussel (Lampsilis fasciola).
- (7) Reptiles:
- (a) Carolina pigmy rattlesnake (Sistrurus miliarius miliarius);
 - (b) Carolina watersnake (Nerodia sipedon williamengelsi);
 - (c) Diamondback terrapin (Malaclemys terrapin);
 - (d) Eastern smooth green snake (Opheodrys vernalis vernalis);
 - (e) Eastern spiny softshell (Apalone spinifera spinifera);
 - (f) Mimic glass lizard (Ophisaurus mimicus);
 - (g) Northern pine snake (Pituophis melanoleucus melanoleucus);
 - (h) Outer Banks kingsnake (Lampropeltis getula sticticeps);
 - (i) Southern hognose snake (Heterodon simus);
 - (j) Stripeneck musk turtle (Sternotherus minor peltifer);
 - (k) Timber rattlesnake (Crotalus horridus).

History Note: Authority G.S. 113-134; 113-291.2; 113-292; 113-333;
Eff. September 1, 1989;
Amended Eff. May 1, 2008; July 18, 2002; April 1, 2001;
November 1, 1991; April 1, 1991; June 1, 1990.

15A NCAC 18A .3802 SAMPLE COLLECTION

- (a) Within 30 days after it issues a certificate of completion for a newly constructed private drinking water well, the local health department shall obtain water samples and submit them to a certified laboratory for analyses or ensure that the water obtained from the well has been sampled and tested by a certified laboratory, in accordance with the rules of this Section.
- (b) Samples collected from private drinking water wells pursuant to the rules of this Section shall be collected by an employee of a local health department, or a certified laboratory. The sample collector shall use aseptic sampling techniques for collection of coliform bacteria and sampling techniques and containers for chemical constituents following methods described in 40 Code of Federal Regulations 141.23 Inorganic Chemical Sampling and Analytical Requirements and 40 Code of Federal Regulations 143.4 Monitoring, which are incorporated by reference including any subsequent amendments, additions or editions. A copy may be obtained from the National Archives and Records Administration through their website at <http://www.gpoaccess.gov/cfr/index.html>.
- (c) Water samples shall be collected from the sample tap at the well or the closest accessible collection point to the water source with a tap capable of being disinfected, provided the sampling point shall precede any water treatment devices.
- (d) It is the responsibility of the well owner to provide access and a source of power for the purpose of collecting the required water sample.
- (e) For all new private drinking water wells, samples for total coliform and fecal coliform bacteria shall be collected after the disinfectant agent has been flushed from the well and water supply system. The water shall be determined to be free of disinfectant before collection of samples for bacteria. Required water samples shall not be collected from wells that are not constructed and located in accordance with the rules of 15A NCAC 02C .0100 and .0300.
- (f) Samples shall be transported to the laboratory following the procedures for sample preservation and within holding times required in 40 Code of Federal Regulations 141.21(f) Analytical Methodology, 141.23 Inorganic Chemical Sampling and Analytical Requirements, and 143.4 Monitoring, which are hereby incorporated by reference including any subsequent amendments, additions or editions. Copies may be obtained from the National Archives and Records Administration through their website at <http://www.gpoaccess.gov/cfr/index.html>.
- (g) Additional or retest samples may be collected if:
 - (1) during the permitting, construction and sampling process, information indicates the potential for other contaminants to be present in the groundwater source; or
 - (2) if necessary to confirm initial testing results.

History Note: Authority G.S. 87-97;
Eff. July 1, 2008.

TITLE 18 – OFFICE OF SECRETARY OF STATE

18 NCAC 07B .0905 OTHER VIOLATIONS

The Director may take disciplinary action against a notary for violation of Chapter 10B of the General Statutes or this Subchapter, including failure to provide information required by Rule .0107 of this Subchapter.

History Note: Authority G.S. 10B-2; 10B-14(f); 10B-60;
Eff. April 1, 2007;
Amended Eff. May 1, 2008.

TITLE 23 – BOARD OF COMMUNITY COLLEGES

23 NCAC 02C .0210 LOCAL COLLEGE PERSONNEL POLICIES

(a) Each local board of trustees shall adopt, publish, and implement personnel policies, consistent with all applicable statutes, rules, and regulations, addressing the following issues:

- (1) Adverse weather;
- (2) Annual leave (vacation);
- (3) Drug and alcohol use;
- (4) Civil leave;
- (5) Communicable disease;
- (6) Compensatory leave;
- (7) Definitions of the employment categories and benefits for each:
 - (A) Full-time permanent,
 - (B) Part-time permanent,
 - (C) Full-time temporary, and
 - (D) Part-time temporary;
- (8) Disciplinary action addressing suspension and dismissal;
- (9) Educational leave (reference 23 NCAC 02D .0103);
- (10) Employee evaluation process;
- (11) Employee grievance procedures;
- (12) Employee personnel file;
- (13) Hiring procedures (describing procedures used for employment of both full- and part-time employees);
- (14) Leave transfer;
- (15) Leave without pay;
- (16) Longevity pay plan (reference 23 NCAC 02D .0109);
- (17) Military leave (reference 23 NCAC 02D .0104);
- (18) Nepotism (reference 23 NCAC 02C .0204);
- (19) Non-reappointment;
- (20) Other employee benefits;
- (21) Political activities of employees (reference 23 NCAC 02C .0208);
- (22) Professional development;

- (23) Reduction in force;
 - (24) Salary determination methods for full- and part-time employees that address at least the following:
 - (A) Provisions and criteria for salary determination,
 - (B) Requirements for annual salary review, and
 - (C) Establishment of salary formulas, ranges, or schedules;
 - (25) Sexual harassment;
 - (26) Tuition exemption (reference 23 NCAC 02D .0202);
 - (27) Sick leave consistent with provisions of the State Retirement system;
 - (28) Secondary Employment that addresses conflict with the employee's primary job responsibilities and institutional resources (the local board of trustees shall approve or disapprove any secondary employment of the president; the president or any member of the college's senior administration designated by the president shall approve or disapprove secondary employment of all full-time employees); and
 - (29) Shared leave consistent with provisions of the Office of State Personnel (reference 25 NCAC 01E .1301 through 25 NCAC 01E .1307).
 - (30) Providing a preference for veterans, as defined in G.S. 128-15, in hiring decisions.
- (b) Each local board of trustees shall submit copies of these policies, including amendments, to the NC Community College System President's office upon adoption.

History Note: Authority G.S. 115D-5; 115D-20; 115D-25.3;
Eff. September 1, 1993;
Amended Eff. May 1, 2008; May 1, 2005; January 1, 1996.

TITLE 25 – OFFICE OF STATE PERSONNEL

25 NCAC 01C .0304 CONFIDENTIAL INFORMATION IN PERSONNEL FILES

- (a) Except as provided in G.S. 126-23 and G.S. 126-24, personnel files of State employees are not subject to inspection and examination. .
- (b) Agencies shall maintain in personnel records only information that is relevant to accomplishing personnel administration purposes.
- (c) Information used in making a determination about employment or other personnel actions shall, to the extent practical, be obtained directly from the individual. There may be instances where it is necessary to obtain information from other sources. This may be obtained either directly from those sources or by the use of a consumer reporting agency. If the consumer reporting agency is utilized, the requirements of the Fair Credit Reporting Act, Title VI of The Consumer Credit Protection Act (Public Law 91-508) must be followed.

(d) All information in an employee's personnel file shall be open for inspection and examination as set forth in G.S. 126-24. For this purpose, supervisor is any individual in the chain of administrative authority above a given state employee within a pertinent state agency. An official is a person who has official or authorized duties or responsibilities in behalf of an agency; it does not imply a necessary level of duty or responsibility. This right to access includes the circumstances where one state agency is considering for employment a person who is or has been employed in another state agency; the head of the latter agency may release to an official of another agency information relative to the employee's job performance.

(e) Each individual requesting access to confidential information shall submit proof of identity.

(f) A record shall be made of each disclosure except to the employee or the supervisor.

History Note: Authority G.S. 126-24; 126-26; 126-29; Eff. February 1, 1976; Amended Eff. May 1, 2008; October 1, 2004, November 1, 1988; December 1, 1978; October 1, 1977.

25 NCAC 01H .0631 POSTING AND ANNOUNCEMENT OF VACANCIES

(a) Vacant positions shall be publicized by the agency having the vacancy.

(b) Vacancies which shall be filled from within the agency workforce are to have an application period of not less than five working days and shall be prominently posted in at least the following locations:

- (1) The personnel office of the agency having the vacancy; and
- (2) The particular work unit of the agency having the vacancy.

(c) Vacancies to be filled from within or outside the state government workforce are to be listed with the Office of State Personnel and the Employment Security Commission as required by G.S. 96-29. The vacancies shall have an application period of not less than five working days. For purposes of this Rule, "state government workforce" means those employees who are subject to Articles 1, 2, 5, 6, 7, 8, 13 and 14 of Chapter 126 of the North Carolina General Statutes.

(d) Each vacancy shall be described in an announcement which includes:

- (1) For graded classes: the position number, classification title, salary grade and range, essential functions, knowledge, skills, abilities, minimum training and experience, and any vacancy-specific qualifications as determined by the agency in accordance with 25 NCAC 01H .0635(c) the application period, and the contact information;
- (2) For banded classes: the position number, banded class title, banded class salary range or recruitment range corresponding to the competencies and duties, salary grade equivalency, essential functions, competencies, minimum training and experience, vacancy-specific qualifications as

determined by the agency in accordance with 25 NCAC 01H .0635(c), the application period, and the contact information; and

- (3) For all vacancy listings: a closing date unless the classification has been determined as critical. Factors used in determining critical classifications include agency turnover; number of positions in class; geographic location; scarcity of skills; and safety, health or quality of care for clients. The critical classifications shall be approved by the State Personnel Commission. On those classes determined to be critical, which are considered open and continuous postings, agencies shall determine how long applications shall be considered active.

(e) Posting is not required when an agency determines that it will not openly recruit. This decision shall be based upon a bona fide business need and is the responsibility of the agency head. Examples are:

- (1) Vacancies that are committed to a budget reduction;
- (2) Vacancies used to avoid a reduction in force;
- (3) Vacancies used for disciplinary transfers or demotions;
- (4) Vacancies to be filled by transfer of an employee to avoid the threat of bodily harm;
- (5) Vacancies that are designated exempt policymaking under G.S. 126-5(d);
- (6) Vacancies that must be filled immediately to prevent work stoppage in constant demand situations, or to protect the public health, safety, or security;
- (7) Vacancies to be filled by chief deputies and chief administrative assistants to elected or appointed department heads; and vacancies for positions to be filled by confidential assistants and confidential secretaries to elected or appointed department heads, chief deputies, or chief administrative assistants;
- (8) Vacancies to be filled by an eligible exempt employee who has been removed from an exempt position and is being placed back in a position subject to all provisions of the State Personnel Act;
- (9) Vacancies to be filled by a legally binding settlement agreement;
- (10) Vacancies to be filled in accordance with a pre-existing written agency workforce plan; and
- (11) Vacancies that must be filled immediately because of a widespread outbreak of a serious communicable disease.

(f) The Office of State Personnel may withhold approval for an agency to fill a job vacancy as set out in G.S. 126-7.1.

History Note: Authority G.S. 96-29; 126-4(4); 126-5(d); 126-7.1; Eff. March 1, 2007;

Amended Eff. May 1, 2008.

**25 NCAC 01I .2108 COMPENSATION OF AREA
MENTAL HEALTH DIRECTORS**

(a) The salary of an Area Mental Health Director shall be established by the area board of the Local Management Entity and shall be within the salary range recommended for Area Mental Health Directors by the Office of State Personnel and approved by the State Personnel Commission.

(b) Each director's salary shall be based upon labor market data from counties within the Local Management Entity. The salary

may not be less than the minimum of the range, nor more than the maximum of the range established for Area Mental Health Directors under this Rule.

(c) Area boards may request an adjustment to the salary range for Area Mental Health Directors from the State Personnel Commission in accordance with G.S. 122C-121(a1).

*History Note: Authority G.S. 126-4; 122C-156(a);
Eff. May 1, 2008.*

This Section contains information for the meeting of the Rules Review Commission on Thursday May 15, 2008 and June 19, 2008 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
Keith O. Gregory
Jerry R. Crisp
Jeffrey P. Gray

Appointed by House

Jennie J. Hayman - Chairman
John B. Lewis
Clarence E. Horton, Jr.
Daniel F. McLawhorn

RULES REVIEW COMMISSION MEETING DATES

June 19, 2008 July 17, 2008
August 21, 2008 September 18, 2008

RULES REVIEW COMMISSION**May 15, 2008****MINUTES**

The Rules Review Commission met on Thursday, May 15, 2008, in the Assembly Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. Commissioners present were: Jerry Crisp, Jim Funderburk, Jeff Gray, Keith Gregory, Jennie Hayman, Clarence Horton, John Lewis and Dan McLawhorn.

Staff members present were: Joseph DeLuca and Bobby Bryan, Commission Counsel, and Angela Person, Administrative Assistant.

The following people were among those attending the meeting:

Mike Abraczinskas	DENR/Division of Air Quality
Nancy Pate	Department of Environment and Natural Resources
Jim Tschupp	American Institute of Architecture of NC
Dominic Marinelli	United Spinal Association
Felicia Williams	Office of Administrative Hearings
Molly Masich	Office of Administrative Hearings
Dana Vojtko	Office of Administrative Hearings
Julie Edwards	Office of Administrative Hearings
Joan Troy	Wildlife Resources Commission
Kate Pipkin	Wildlife Resources Commission
Brad Gunn	Wildlife Resources Commission
Kent Nelson	Wildlife Resources Commission
Lisa Johnson	DHHS/Social Services Commission
Tamika Williams	DHHS/Social Services Commission
Hank Bowers	DHHS/Social Services Commission
Peggy Oliver	Office of State Personnel
Kelly Braam	Board of Barber Examiners
Bill Scoggin	Kennedy Covington
David Williams	DENR/Division of Soil and Water Conservation
Barry Gupton	Department of Insurance/Building Code Council
John Rustin	Family Policy Council
Annaliese Dolph	Disability Rights NC
Alexis Chappell	Disability Rights NC

APPROVAL OF MINUTES

The meeting was called to order at 10:02 a.m. with Ms. Hayman presiding. She reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts as required by NCGS 138A-15(e). Chairman Hayman asked for any discussion, comments, or corrections concerning the minutes of the April 17 meeting. Commissioner Jeff Gray suggested a correction on page four of the minutes. He noted that in the objection to 21 NCAC 06O .0115 “fee” should be “fine.” The minutes were approved contingent on the corrections being made.

FOLLOW-UP MATTERS

10A NCAC 27G .0212 – Mental Health Commission. No rewritten rule has been submitted and no action was taken.

10A NCAC 67A .0107 – Social Services Commission. The Commission approved the rule submitted by the agency. Mr. Hank Bowers from the agency spoke to the Commissioners explaining the reasons why they used identification numbers.

12 NCAC 11 .0210 – Alarm Systems Licensing Board. Mr. DeLuca spoke with Charles McDarris, the Attorney for the agency. Mr. McDarris was in agreement with commission counsel’s recommendation to object to the rule and that the rule needed revision. The commission objected to this rule based on lack of statutory authority and ambiguity. The second to the last sentence of this rule, lines 11 – 12, allows the board to exempt certain companies from “compliance with this rule.” However there are no standards set in the rule which the board will use in determining whether to grant this exemption. If the standards are set outside rulemaking that is outside the agency’s authority and a violation of G.S. 150B-19(6). If the intent of the rule is to grant the exemption to any company providing only monitoring services, then that is not clear.

15A NCAC 06E .0107 – Soil and Water Conservation Commission. The Commission approved the rewritten rule submitted by the agency.

15A NCAC 06I .0107 – Soil and Water Conservation Commission. The Commission approved the rewritten rule submitted by the agency.

15A NCAC 10B .0203 – Wildlife Resources Commission. The agency determined that the version of the rule approved by the RRC at its April meeting was not the rule adopted by the Wildlife Resources Commission at its meeting in March. On the recommendation of Commission Counsel DeLuca, the RRC rescinded its April approval of the rule and approved the rule originally adopted by the Wildlife Resources Commission.

15A NCAC 10C .0107 – Wildlife Resources Commission. No rewritten rule has been submitted and no action will be taken on this rule until a joint rule is filed by the Marine Fisheries Commission.

15A NCAC 10I .0104 – Wildlife Resources Commission. The Commission approved the rewritten rule submitted by the agency.

21 NCAC 06A .0103 – State Board of Barber Examiners. The Commission approved the rewritten rule submitted by the agency.

21 NCAC 06J .0109 – State Board of Barber Examiners. The Commission approved the rewritten rule submitted by the agency.

21 NCAC 06K .0110 – State Board of Barber Examiners. The Commission approved the rewritten rule submitted by the agency.

21 NCAC 06L .0106, .0115, .0118, .0119 – State Board of Barber Examiners. The Commission approved rewritten rules .0106 and .0115 submitted by the agency. The Commission also approved new rules .0118 and .0119 adopted by the agency in response to the objection to rule .0115.

21 NCAC 06O .0112, .0115 – State Board of Barber Examiners. The Commission approved the rewritten rules submitted by the agency.

21 NCAC 06P .0103 – State Board of Barber Examiners. The Commission approved the rewritten rule submitted by the agency.

21 NCAC 06Q .0101 – State Board of Barber Examiners. The Commission approved the rewritten rule submitted by the agency.

25 NCAC 01L .0102 – State Personnel Commission. The rule was returned to the agency at the agency’s request.

LOG OF FILINGS

Chairman Hayman presided over the review of the log of permanent rules.

Commissioner Gray recused himself and did not participate in any vote concerning rules from the Board of Barber Examiners because he is the attorney for the agency.

Commissioner Horton recused himself and did not participate in any vote concerning rules from the State Personnel Commission because he is involved in litigation with the agency.

All rules were approved unanimously with the following exceptions:

02 NCAC 42 .0501: Gasoline and Oil Inspection Board – The Commission objected to this Rule based on lack of statutory authority and ambiguity. In (a)(1) and (2), lines 7 and 10 specify that the director “may require” any applicant desiring to brand and register a motor fuel “to provide certain information” and in lines 15 and 16 there is a further description of what qualifies the required information. It is unclear what constitutes information from “independent sources” and “of recognized qualification.” It is also unclear what standards the director shall use to determine whether or not the “sources” or “recognized qualification” are satisfactory. To the extent any of this is set outside rulemaking, there is no authority to do that.

15A NCAC 02D .2602: Environmental Management Commission – The Commission objected to this Rule based on lack of statutory authority and ambiguity. In (h), it is unclear what is meant by “technically justified.” This does not appear to be the specific guidelines necessary for a waiver or modification provision pursuant to G.S. 150B-19(6). In (i)(3), it is not clear what standards the director will use in prescribing or approving methods where no method is specified in the rules.

15A NCAC 02D .2603: Environmental Management Commission – The Commission objected to this Rule based on ambiguity. In (b), it is not clear what is meant by “technically justifies.”

25 NCAC 01C .0414: State Personnel Commission – The RRC extended the period for review on the rule. The RRC and the agency and its attorney need to meet to spend more time researching the issue of whether the State Personnel Commission has sufficient authority to adopt this rule. On its face the rule seems to violate State Personnel Act provisions and would allow a state employee who would otherwise meet the definition of a “career state employee” to be exempted from the protections or requirements of the SPA. The RRC has an additional 70 days to act on this rule, as set out in G.S. 150B-21.13. It also may consider this rule at its next meeting, June 19.

Building Code Council – Chapter 11 Accessibility Code – The Commission has received requests from more than 10 persons clearly requesting legislative review of Chapter 11, the accessibility provisions, of the 2006 International Building code with 2009 NC Amendments and they are therefore subject to a delayed effective date. Attorney Bill Scoggin spoke in support of this Rule.

IBC 421.3.9: NC Building Code Council – Small Residential Care Facilities – The Commission objected to this Rule based on ambiguity. This is a rule regulating the use of heating devices in the facility rather than its construction. There is no authority cited to regulate the use rather than the installation of heating systems by the building code.

IPC 302.1: NC Building Code Council – Detrimental or Dangerous Materials – The Commission objected to this Rule based on lack of statutory authority. This is a rule regulating the use of the plumbing system in the facility rather than its construction. There is no authority cited to regulate the use rather than the installation of plumbing systems by the building code. Barry Gupton from the agency responded to questions asked by the Commission pertaining to this rule.

COMMISSION PROCEDURES AND OTHER BUSINESS

Ms. Hayman mentioned that there was only one written comment on proposed RRC rules. The comment period expires May 16, so the Commission may take action to adopt the rules at the June meeting.

Commissioner McLawhorn thanked the Commission and Commission Counsel for working so diligently on the categories of items requested as technical changes.

The meeting adjourned at 11:08 a.m.

The next scheduled meeting of the Commission is Thursday, June 19 at 10:00 a.m.

Respectfully Submitted,

Angela J. Person
Administrative Assistant

**LIST OF APPROVED PERMANENT RULES
May 15, 2008 Meeting**

GASOLINE AND OIL INSPECTION BOARD

<u>Definitions</u>	02	NCAC	42	.0102
<u>Standard Specifications</u>	02	NCAC	42	.0201
<u>Gasoline Sold Under Label Name or Brand</u>	02	NCAC	42	.0301
<u>Labeling of Dispensing Devices</u>	02	NCAC	42	.0401
<u>Purpose and Applicability</u>	02	NCAC	42	.0801
<u>Oxygen Content</u>	02	NCAC	42	.0802
<u>Record Keeping and Transfer Requirements</u>	02	NCAC	42	.0803
<u>Gasoline Dispenser Labeling</u>	02	NCAC	42	.0804
<u>Sampling, Testing and Oxygen Content Calculations</u>	02	NCAC	42	.0805
<u>Compliance and Enforcement</u>	02	NCAC	42	.0806

SOCIAL SERVICES COMMISSION

<u>Forms</u>	10A	NCAC	67A	.0107
<u>Scope</u>	10A	NCAC	72	.0101
<u>Definitions</u>	10A	NCAC	72	.0102
<u>General Rule</u>	10A	NCAC	72	.0201
<u>Satisfactory Progress Requirement</u>	10A	NCAC	72	.0202
<u>Limitations of Award</u>	10A	NCAC	72	.0203
<u>Scholarship Application Procedures</u>	10A	NCAC	72	.0301

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Compliance With Emission Control Standards</u>	15A	NCAC	02D	.0501
<u>Fluoride Emissions from Primary Aluminum Reduction Plants</u>	15A	NCAC	02D	.0529
<u>Excess Emissions Reporting and Malfunctions</u>	15A	NCAC	02D	.0535
<u>Particulate Emissions From Electric Utility Boilers</u>	15A	NCAC	02D	.0536
<u>Control of Particulate Emissions From Cotton Ginning Oper...</u>	15A	NCAC	02D	.0542
<u>Sources Covered by Appendix P of 40 CFR 51</u>	15A	NCAC	02D	.0606
<u>Other Large Coal or Residual Oil Boilers</u>	15A	NCAC	02D	.0608
<u>Definitions</u>	15A	NCAC	02D	.0901
<u>General Provisions On Test Methods and Procedures</u>	15A	NCAC	02D	.0912
<u>Determination of Volatile Content of Surface Coatings</u>	15A	NCAC	02D	.0913
<u>Determination of Voc Emission Control System Efficiency</u>	15A	NCAC	02D	.0914
<u>Determination of Solvent Metal Cleaning Voc Emissions</u>	15A	NCAC	02D	.0915
<u>Determination: Voc Emissions from Bulk Gasoline Terminals</u>	15A	NCAC	02D	.0916
<u>Gasoline Truck Tanks and Vapor Collection Systems</u>	15A	NCAC	02D	.0932
<u>Determination of Volatile Organic Compound Emissions</u>	15A	NCAC	02D	.0939
<u>Determination of Leak Tightness and Vapor Leaks</u>	15A	NCAC	02D	.0940
<u>Alternative Method for Leak Tightness</u>	15A	NCAC	02D	.0941

<u>Determination of Solvent in Filter Waste</u>	15A NCAC	02D	.0942
<u>Synthetic Organic Chemical and Polymer Manufacturing</u>	15A NCAC	02D	.0943
<u>Petroleum Dry Cleaning</u>	15A NCAC	02D	.0945
<u>Toxic Air Pollutant Guidelines</u>	15A NCAC	02D	.1104
<u>National Emission Standards For Hazardous Air Pollutants</u>	15A NCAC	02D	.1110
<u>Hazardous Waste Incinerators</u>	15A NCAC	02D	.1203
<u>Sewage Sludge and Incinerators</u>	15A NCAC	02D	.1204
<u>Hospital, Medical, and Infectious Waste Incinerators</u>	15A NCAC	02D	.1206
<u>Other Incinerators</u>	15A NCAC	02D	.1208
<u>Commercial and Industrial Solid Waste Incineration Units</u>	15A NCAC	02D	.1210
<u>Applicability</u>	15A NCAC	02D	.1402
<u>Recordkeeping: Reporting: Monitoring</u>	15A NCAC	02D	.1404
<u>Boilers and Indirect-Fired Process Heaters</u>	15A NCAC	02D	.1407
<u>Stationary Combustion Turbines</u>	15A NCAC	02D	.1408
<u>Stationary Internal Combustion Engines</u>	15A NCAC	02D	.1409
<u>Emissions Averaging</u>	15A NCAC	02D	.1410
<u>Seasonal Fuel Switching</u>	15A NCAC	02D	.1411
<u>Petition for Alternative Limitations</u>	15A NCAC	02D	.1412
<u>Test Methods and Procedures</u>	15A NCAC	02D	.1415
<u>Emission Allocations for Utility Companies</u>	15A NCAC	02D	.1416
<u>Emission Allocations for Large Combustion Sources</u>	15A NCAC	02D	.1417
<u>New Electric Generating Units, Large Boilers, and Large I...</u>	15A NCAC	02D	.1418
<u>Nitrogen Oxide Budget Trading Program</u>	15A NCAC	02D	.1419
<u>Periodic Review and Reallocations</u>	15A NCAC	02D	.1420
<u>Allocations for New Growth of Major Point Sources</u>	15A NCAC	02D	.1421
<u>Compliance Supplement Pool Credits</u>	15A NCAC	02D	.1422
<u>Purpose and Scope</u>	15A NCAC	02D	.2601
<u>Number of Test Points</u>	15A NCAC	02D	.2604
<u>Velocity and Volume Flow Rate</u>	15A NCAC	02D	.2605
<u>Molecular Weight</u>	15A NCAC	02D	.2606
<u>Determination of Moisture Content</u>	15A NCAC	02D	.2607
<u>Number of Runs and Compliance Determination</u>	15A NCAC	02D	.2608
<u>Particulate Testing Methods</u>	15A NCAC	02D	.2609
<u>Opacity</u>	15A NCAC	02D	.2610
<u>Sulfur Dioxide Testing Methods</u>	15A NCAC	02D	.2611
<u>Nitrogen Oxide Testing Methods</u>	15A NCAC	02D	.2612
<u>Volatile Organic Compound Testing Methods</u>	15A NCAC	02D	.2613
<u>Determination of Voc Emission Control System Efficiency</u>	15A NCAC	02D	.2614
<u>Determination of Leak Tightness and Vapor Leaks</u>	15A NCAC	02D	.2615
<u>Fluorides</u>	15A NCAC	02D	.2616
<u>Total Reduced Sulfur</u>	15A NCAC	02D	.2617
<u>Mercury</u>	15A NCAC	02D	.2618
<u>Arsenic, Beryllium, Cadmium, Hexavalent Chromium</u>	15A NCAC	02D	.2619
<u>Dioxins and Furans</u>	15A NCAC	02D	.2620
<u>Determination of Fuel Heat Content Using F-Factor</u>	15A NCAC	02D	.2621
<u>Permit Content</u>	15A NCAC	02Q	.0508

<u>Changes Not Requiring Permit Revisions</u>	15A NCAC	02Q	.0523
<u>Emission Rates Requiring a Permit</u>	15A NCAC	02Q	.0711
<u>Emergency Generators</u>	15A NCAC	02Q	.0903

SOIL AND WATER CONSERVATION COMMISSION

<u>Cost Share Agreement</u>	15A NCAC	06E	.0107
<u>Cost Share Agreement</u>	15A NCAC	06I	.0107

WILDLIFE RESOURCES COMMISSION

<u>Deer (White Tailed)</u>	15A NCAC	10B	.0203
<u>Threatened Species</u>	15A NCAC	10I	.0104

BARBER EXAMINERS, BOARD OF

<u>Office Hours</u>	21	NCAC	06A	.0103
<u>Identification</u>	21	NCAC	06J	.0109
<u>Identification</u>	21	NCAC	06K	.0110
<u>Separation From Other Businesses; Residential Shops; Mobi...</u>	21	NCAC	06L	.0106
<u>Inspections of Shops</u>	21	NCAC	06L	.0115
<u>Sanitary Ratings and Posting of Ratings</u>	21	NCAC	06L	.0118
<u>Systems of Grading Barber Shops</u>	21	NCAC	06L	.0119
<u>Identification</u>	21	NCAC	06O	.0112
<u>School Failing to Maintain or Falsifying Records</u>	21	NCAC	06O	.0115
<u>General Definitions</u>	21	NCAC	06P	.0103
<u>Additional Grounds for Denial or Discipline</u>	21	NCAC	06Q	.0101

COMMUNITY COLLEGES, BOARD OF

<u>Limitations in Reporting Student Membership Hours</u>	23	NCAC	02D	.0325
<u>Training for Public Safety Agencies</u>	23	NCAC	02E	.0405

STATE PERSONNEL COMMISSION

<u>Employment Contracts</u>	25	NCAC	01C	.0215
<u>General Provisions</u>	25	NCAC	01H	.0701
<u>Claiming Veterans' Preference</u>	25	NCAC	01H	.1102
<u>Allegation of Denial of Veterans Preference</u>	25	NCAC	01H	.1103
<u>Application of Veterans Preference</u>	25	NCAC	01H	.1104
<u>Just Cause for Disciplinary Action</u>	25	NCAC	01I	.2301

BUILDING CODE COUNCIL

<u>Energy Conservation Code</u>	2009 Energy Conservation Code
<u>NC Fire Code</u>	2009 Fire code
<u>NC Fuel Gas Code</u>	2009 Fuel Gas Code
<u>NC Mechanical Code</u>	2009 Mechanical Code
<u>NC Residential Code</u>	2009 Residential Code

AGENDA
RULES REVIEW COMMISSION
Thursday, June 19, 2008, 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. NC Gasoline and Oil Inspection Board – 02 NCAC 42 .0501 (DeLuca)
 - B. Commission for MH/DD/SAS – 10A NCAC 27G .0212 (DeLuca)
 - C. Alarm Systems Licensing Board – 12 NCAC 11 .0210 (DeLuca)
 - D. Environmental Management Commission – 15A NCAC 02D .2602, .2603 (Bryan)
 - E. Wildlife Resources Commission – 15A NCAC 10C .0107 (DeLuca)
 - F. State Personnel Commission – 25 NCAC 01C .0414 (DeLuca)
 - G. NC Building Code – 2006 IBC with NC Amendments – IBC 421.3.9 (DeLuca)
 - H. NC Building Code – 2006 IPC with NC Amendments – IPC 302.1 (DeLuca)
- IV. Review of Log of Permanent Rule filings for rules filed between April 22, 2008 and May 20, 2008 (attached)
- V. Review of Temporary Rules
- VI. Commission Business
 - Next meeting: July 17, 2008

Commission Review
Log of Permanent Rule Filings
April 22, 2008 through May 20, 2008

The rules in Chapter 9 concern child care rules and include definitions (.0100); general provisions related to licensing (.0200); procedures for obtaining a license (.0300); issuance of provisional and temporary licenses (.0400); age appropriate activities for centers (.0500); safety requirements for child care centers (.0600); health and other standards for center staff (.0700); health standards for children (.0800); nutrition standards (.0900); transportation standards (.1000); building code requirements for child care centers (.1300); space requirements (.1400); temporary care requirements (.1500); requirements for voluntary enhanced program standards (.1600); family child care home requirements (.1700); discipline (.1800); special procedures concerning abuse/neglect in child care (.1900); rulemaking and contested case procedures (.2000); religious-sponsored child care center requirements (.2100); administrative actions and civil penalties (.2200); forms (.2300); child care for mildly ill children (.2400); care for school-age children (.2500); child care for children who are medically fragile (.2600); criminal records checks (.2700); and voluntary rated licenses (.2800).

<u>Special Training Requirements</u>	10A	NCAC	09	.0705
Amend/*				
<u>Health and Training Requirements for Family Child Care Ho...</u>	10A	NCAC	09	.1705
Amend/*				
<u>Requirements for Records</u>	10A	NCAC	09	.1721
Amend/*				
<u>Retention of Forms and Reports by an Operator</u>	10A	NCAC	09	.2318
Amend/*				
<u>Other Staff Requirements</u>	10A	NCAC	09	.2511
Repeal/*				

MEDICAL CARE COMMISSION

The rules in chapter 13 are from the NC Medical Care Commission.

The rules in Subchapter 13D are rules from the licensing of nursing homes including general information (.2000); licensure (.2100); general standards of administration (.2200); patient and resident care and services (.2300); medical records (.2400); physician's services (.2500); pharmaceutical services (.2600); dietary services (.2700); activities, recreation and social services (.2800); special requirements (.2900); specially designated units (.3000); design and construction (.3100); functional requirements (.3200); fire and safety requirements (.3300); and mechanical electrical plumbing (.3400).

Reporting and Investigating Abuse, Neglect or Misappropriation
Amend/*

10A NCAC 13D .2210

DHHS/HEALTH SERVICE REGULATION, DIVISION OF

The rules in Chapter 14 concern services provided by the Division of Health Service Regulation.

The rules in Subchapter 14C are Certificate of Need regulations including general provisions (.0100); applications and review process (.0200); exemptions (.0300); appeal process (.0400); enforcement and sanctions (.0500); and criteria and standards for nursing facility or adult care home services (.1100); intensive care services (.1200); pediatric intensive care services (.1300); neonatal services (.1400); hospices, hospice inpatient facilities, and hospice residential care facilities (.1500); cardiac catheterization equipment and cardiac angioplasty equipment (.1600); open heart surgery services and heart-lung bypass machines (.1700); diagnostic centers (.1800); radiation therapy equipment (.1900); home health services (.2000); surgical services and operating rooms (.2100); and stage renal disease services (.2200); computed tomography equipment (.2300); immediate care facility/mentally retarded (ICF/MR) (.2400); substance abuse/chemical dependency treatment beds (.2500); psychiatric beds (.2600); magnetic resonance imaging scanner (.2700); rehabilitation services (.2800); bone marrow transplantation services (.2900); solid organ transplantation services (.3000); major medical equipment (.3100); lithotripter equipment (.3200); air ambulance (.3300); burn intensive care services (.3400); oncology treatment centers (.3500); gamma knife (.3600); positron emission tomography scanner (.3700); acute care beds (.3800); criteria and standards for gastrointestinal endoscopy procedure rooms in licensed health service facilities (.3900); and criteria and standards for hospice inpatient facilities and hospice residential care facilities (.4000).

Filing Applications
Amend/*

10A NCAC 14C .0203

MENTAL HEALTH

The rules in Chapter 27 concern mental health community facilities and services.

The rules in Subchapter 27G are from either the department or the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services including general information (.0100); operation and management rules (.0200); physical plant rules (.0300); licensing procedures (.0400); area program requirements (.0500); area authority or county program monitoring of facilities and services (.0600); accreditation of area programs and services (.0700); waivers and appeals (.0800); general rules for infants and toddlers (.0900); partial hospitalization for individuals who are mentally ill (.1100); psychological rehabilitation facilities for individuals with severe and persistent mental illness (.1200); residential treatment for children and adolescents who are emotionally disturbed or who have a mental illness (.1300); day treatment for children and adolescents with emotional or behavioral disturbances (.1400); intensive residential treatment for children and adolescents who are emotionally disturbed or who have a mental illness (.1500); residential treatment staff secure facilities for children or adolescents (.1700); psychiatric residential treatment facilities for children and adolescents (.1900); specialized community residential centers for individuals with developmental disabilities (.2100); before/after school and summer developmental day services for children with or at risk for developmental delays or disabilities, or atypical development (.2200); adult developmental and vocational programs for individuals with developmental disabilities (.2300); developmental day services for children with or at risk for developmental delays or disabilities, or atypical development (.2400); early childhood intervention services (ECIS) for children with an at risk for developmental delays or disabilities, or atypical development and their families (.2500); nonhospital medical detoxification for individuals who are substance abusers (.3100); social setting detoxification for substance abuse (.3200); outpatient detoxification for substance abuse (.3300); residential treatment/rehabilitation for individuals with substance abuse disorders (.3400); outpatient

facilities for individuals with substance abuse disorders (.3500); outpatient opioid treatment (.3600); day treatment facilities for individuals with substance abuse disorders (.3700); substance abuse services for DWI offenders (.3800); drug education schools (DES) (.3900); treatment alternatives to street crimes (TASC) (.4000); substance abuse primary prevention services (.4200); therapeutic community (.4300); facility based crises services for individual of all disability groups (.5000); community respite services for individuals of all disability groups (.5100); residential therapeutic (habilitative) camps for children and adolescents of all disability groups (.5200); day activity for individuals of all disability groups (.5400); sheltered workshops for individuals of all disability groups (.5500); supervised living for individuals of all disability groups (.5600); assertive community treatment service (.5700); supportive employment for individuals of all disability groups (.5800); case management for individuals of all disability groups (.5900); inpatient hospital treatment for individuals who have mental illness or substance abuse disorders (.6000); emergency services for individuals of all disability groups (.6100); outpatient services for individuals of all disability groups (.6200); companion respite services for individuals of all disability groups (.6300); personal assistants for individuals of all disabilities groups (.6400); employment assistance programs (.6500); specialized foster care services (.6600); forensic screening and evaluation services for individuals of all disability groups (.6700); prevention services (.6800); consultation and education services (.6900); local management entity response to complaints (.7000); and target population (.7100).

<u>Criteria for Selection of Agencies Which Accredite Provide...</u>	10A	NCAC	27G	.0211
Adopt/*				
<u>Letter of Support Required for Licensure of Residential F...</u>	10A	NCAC	27G	.0406
Adopt/*				
<u>Scope</u>	10A	NCAC	27G	.7001
Adopt/*				
<u>Local Management Entity Requirements Concerning Complaints</u>	10A	NCAC	27G	.7002
Adopt/*				
<u>Requirements for Local Management Entity Complaint Invest...</u>	10A	NCAC	27G	.7003
Adopt/*				
<u>Appeals Regarding Utilization Review Decisions for Non-Me...</u>	10A	NCAC	27G	.7004
Adopt/*				
<u>Scope</u>	10A	NCAC	27G	.7101
Adopt/*				
<u>Operations</u>	10A	NCAC	27G	.7102
Adopt/*				

The rules in Subchapter 27I are from the Secretary of Health and Human Services and are the requirements of local management entities including general information (.0100); general operations and management requirements (.0200); secretary approval of LME service delivery (.0400); content, format, submission, review and approval of local management entity business plan (.0500); and the non-medicaid appeal process (.0600).

<u>Definitions</u>	10A	NCAC	27I	.0102
Adopt/*				
<u>Accreditation of Local Management Entities</u>	10A	NCAC	27I	.0201
Adopt/*				
<u>Scope</u>	10A	NCAC	27I	.0401
Adopt/*				
<u>Definitions</u>	10A	NCAC	27I	.0402
Adopt/*				
<u>Information Included in Request</u>	10A	NCAC	27I	.0403
Adopt/*				
<u>Process</u>	10A	NCAC	27I	.0404
Adopt/*				
<u>Scope</u>	10A	NCAC	27I	.0501
Adopt/*				
<u>LME Business Plan Content and Format Requirements</u>	10A	NCAC	27I	.0502
Adopt/*				
<u>LME Business Plan Signature Requirements</u>	10A	NCAC	27I	.0503
Adopt/*				

<u>LME Business Plan Submission and Review Procedures</u> Adopt/*	10A	NCAC	27I	.0504
<u>Plan of Correction</u> Adopt/*	10A	NCAC	27I	.0505

The rules in Chapter 28 are from either the Secretary or the Mental Health Commission and concern state operated facilities and services.

The rules in Subchapter 28F concern admission and discharge including admission (.0100); voluntary admissions, involuntary commitments and discharge of adults from regional psychiatric hospitals (.0200); medical staff bylaws of North Carolina regional mental hospitals (.0300); hospitals behavior therapy programs (.0400); designation of research facilities in regional psychiatric hospitals (.0500); voluntary admission of adults who are not otherwise admissible as clients to designated research facilities in regional psychiatric hospitals (.0600); admission of deaf clients to state psychiatric hospitals and transfer of deaf clients to Dorothea Dix Hospital (.0700); general rules for MR Centers (.0800); voluntary admission and discharge to alcoholic rehabilitation centers (ARCS) (.0900); and probation and discharge (.1000).

<u>LME Utilization of State Hospitals</u> Adopt/*	10A	NCAC	28F	.0214
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INSURANCE, DEPARTMENT OF

The rules in Chapter 12 cover life and health insurance including general provisions applicable to all rules and all life and health insurance policies (.0100 - .0300); general life insurance provisions (.0400); general accident and health insurance provisions (.0500); replacement of insurance (.0600); credit insurance (.0700); medicare supplement insurance (.0800); long-term care insurance (.1000); mortgage insurance consolidations (.1100); accelerated benefits (.1200); small employer group health coverage (.1300); HMO and point-of-service coverage (.1400); uniform claim forms (.1500); retained asset accounts (.1600); viatical settlements (.1700); and preferred provider plan product limitations (.1800).

<u>Weighted Average: Mental Illness Benefits Coverage</u> Adopt/*	11	NCAC	12	.0563
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ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Chapter 2 concern environmental management and are promulgated by the Environmental Management Commission or the Department of Environment and Natural Resources.

The rules in Subchapter 2B pertain to surface water standards and monitoring including procedures for assignment of water quality standards (.0100); the standards and classifications themselves (.0200); stream classifications (.0300); effluent limitations (.0400); and monitoring and reporting requirements (.0500).

<u>Jordan Water Supply Nutrient Strategy: Watershed Nurtrien...</u> Adopt/*	15A	NCAC	02B	.0262
<u>Jordan Water Supply Nutrient Strategy: Nutrient Management</u> Adopt/*	15A	NCAC	02B	.0263
<u>Jordan Water Supply Nutrient Strategy: Agriculture</u> Adopt/*	15A	NCAC	02B	.0264
<u>Jordan Water Supply Nutrient Strategy: Stormwater Managem...</u> Adopt/*	15A	NCAC	02B	.0265
<u>Jordan Water Supply Nutrient Strategy: Stormwater Managem...</u> Adopt/*	15A	NCAC	02B	.0266
<u>Jordan Water Supply Nutrient Strategy: Protection of Exis...</u> Adopt/*	15A	NCAC	02B	.0267
<u>Jordan Water Supply Nutrient Strategy: Mitigation of Exis...</u> Adopt/*	15A	NCAC	02B	.0268
<u>Jordan Water Supply Nutrient Strategy: Options for Offset...</u>	15A	NCAC	02B	.0269

Adopt/*

Jordan Water Supply Nutrient Strategy: Wastewater Dischar... 15A NCAC 02B .0270

Adopt/*

Jordan Water Supply Nutrient Strategy: Stormwater Require... 15A NCAC 02B .0271

Adopt/*

Riparian Buffer Mitigation Fees to the NC Ecosystem Enhan... 15A NCAC 02B .0272

Adopt/*

Cape Fear River Basin 15A NCAC 02B .0311

Amend/*

MARINE FISHERIES COMMISSION

The rules in Subchapter 3J concern the use of nets in general (.0100) and in specific areas (.0200); the use of pots, dredges, and other fishing devices (.0300); and fishing gear (.0400).

Electrical Fishing Device 15A NCAC 03J .0304

Amend/*

The rules in Subchapter 3M cover harvesting of finfish including general rules (.0100); striped bass (.0200); mackerel (.0300); menhaden and Atlantic herring (.0400); and other finfish (.0500).

Season, Size and Harvest Limit: Internal Coastal Waters 15A NCAC 03M .0202

Amend/*

The rules in Subchapter 3O cover various licenses (.0100); leases and franchises (.0200); license appeal procedures (.0300); Standard Commercial Fishing License Eligibility Board (.0400); and licenses, leases and franchises (.0500).

Procedures and Requirements to Obtain Licenses, Endorseme... 15A NCAC 03O .0101

Amend/*

For Hire Coastal Recreational Fishing 15A NCAC 03O .0112

Adopt/*

Application Process 15A NCAC 03O .0402

Amend/*

Eligibility Criteria 15A NCAC 03O .0404

Amend/*

Procedures and Requirements to Obtain Permits 15A NCAC 03O .0501

Amend/*

Permit Conditions: Specific 15A NCAC 03O .0503

Amend/*

The rules in Subchapter 3Q cover the joint and separate jurisdictions of the Marine Fisheries Commission and the Wildlife Resources Commission.

Special Regulations: Joint Waters 15A NCAC 03Q .0107

Amend/*

WILDLIFE RESOURCES COMMISSION

The rules in Chapter 10 are promulgated by the Wildlife Resources Commission and concern wildlife resources and water safety.

The rules in Subchapter 10B are hunting and trapping rules and cover general hunting and wildlife provisions (.0100), hunting specific animals (.0200), trapping (.0300), and tagging furs (.0400).

Release of Mute Swans 15A NCAC 10B .0125

Adopt/*

The rules in Subchapter 10C cover inland fishing including jurisdictional issues involving the Marine Fisheries Commission (.0100); general rules (.0200); game fish (.0300); non-game fish (.0400); primary nursery areas (.0500); and anadromous fish spawning areas (.0600).

Open Seasons: Creel and Size Limits

15A NCAC 10C .0305

Amend/*

The rules in Subchapter 10F cover motorboats and water safety including boat registration (.0100); safety equipment and accident reports (.0200); and local water safety regulations covering speed limits, no-wake restrictions, restrictions on swimming and other activities, and placement of markers for designated counties or municipalities (.0300).

McDowell County

15A NCAC 10F .0339

Amend/*

GENERAL CONTRACTORS, LICENSING BOARD FOR

The rules of the Licensing Board for General Contractors include the board's organization (.0100); licensing requirements (.0200); application procedures (.0300); examinations (.0400); licenses (.0500); disciplinary procedures (.0700); contested cases (.0800); and home-owners recovery fund (.0900).

Eligibility

21 NCAC 12 .0204

Amend/*

Filing Deadline/App Seeking Qual/Emp/Another

21 NCAC 12 .0205

Amend/*

Multitunit Buildings

21 NCAC 12 .0211

Adopt/*

Granting or Denying Hearing Request

21 NCAC 12 .0819

Amend/*

Proposals for Decisions

21 NCAC 12 .0830

Amend/*

Definitions

21 NCAC 12 .0901

Amend/*

PSYCHOLOGY BOARD

The rules in Chapter 54 are from the Board of Psychology and cover general provisions (.1600); application for licensure (.1700); education (.1800); examination (.1900); supervision (.2000); renewal (.2100); professional corporations (.2200); administrative hearing procedures (.2300); rulemaking procedures (.2400); rulemaking hearings (.2500); declaratory rulings, (.2600); health services provider certification (.2700); and ancillary services (.2800).

Foreign Degree Application Policy

21 NCAC 54 .1702

Amend/*

APPRAISAL BOARD

The rules in Subchapter 57A cover licensing, certification and practice rules for appraisers including application procedures (.0100); licensing and certification (.0200); examination (.0300); general practice requirements (.0400); and appraisal standards (.0500).

Form

21 NCAC 57A .0101

Amend/*

Filing and Fees

21 NCAC 57A .0102

Amend/*

<u>Qualifications for Trainee Registration and Appraiser Cer...</u> Amend/*	21	NCAC	57A	.0201
<u>Fitness for Registration or Certification</u> Amend/*	21	NCAC	57A	.0202
<u>Expired Registration, License or Certificate</u> Amend/*	21	NCAC	57A	.0206
<u>Temporary Practice</u> Amend/*	21	NCAC	57A	.0210
<u>Applicants Certified in Another State</u> Amend/*	21	NCAC	57A	.0211
<u>Time and Place</u> Amend/*	21	NCAC	57A	.0301
<u>Subject Matter and Passing Scores</u> Amend/*	21	NCAC	57A	.0302
<u>Re-examination</u> Amend/*	21	NCAC	57A	.0303
<u>Appraisal Reports</u> Amend/*	21	NCAC	57A	.0405
<u>Supervision of Trainees</u> Amend/*	21	NCAC	57A	.0407

The rules in Subchapter 57B cover real estate appraisal education including the courses required for licensure or certification (.0100); course sponsor standards for pre-licensing or pre-certification courses (.0200); pre-licensing and pre-certification course standards (.0300); course sponsor fees (.0400); fees for private real estate appraisal education schools (.0500); and continuing education course standards (.0600).

<u>Registered Trainee Course Requirements</u> Amend/*	21	NCAC	57B	.0101
<u>Certified Residential Real Estate Appraiser Course Requir...</u> Amend/*	21	NCAC	57B	.0102
<u>Certified General Real Estate Appraiser Course Requirements</u> Amend/*	21	NCAC	57B	.0103
<u>Purpose and Applicability</u> Amend/*	21	NCAC	57B	.0201
<u>Application for Approval</u> Amend/*	21	NCAC	57B	.0202
<u>Criteria for Approval</u> Amend/*	21	NCAC	57B	.0203
<u>Administration</u> Amend/*	21	NCAC	57B	.0207
<u>Accommodations for Persons With Disabilities</u> Amend/*	21	NCAC	57B	.0208
<u>Certificate of Course Completion</u> Amend/*	21	NCAC	57B	.0209
<u>Purpose</u> Amend/*	21	NCAC	57B	.0301
<u>Course Content</u> Amend/*	21	NCAC	57B	.0302
<u>Course Completion Standards</u> Amend/*	21	NCAC	57B	.0303
<u>Instructor Requirements</u> Amend/*	21	NCAC	57B	.0306

<u>Criteria for Course Recognition</u> Amend/*	21	NCAC	57B	.0307
<u>Applicability</u> Amend/*	21	NCAC	57B	.0401
<u>Precertification Courses</u> Amend/*	21	NCAC	57B	.0604
<u>Payment of Fee Required by G.S. 93e-1-7(c)</u> Adopt/*	21	NCAC	57B	.0613

SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS, BOARD OF EXAMINERS FOR

The rules in Chapter 64 are from the Board of Examiners for Speech and Language Pathologists and Audiologists and include general provisions (.0100); interpretative rules (.0200); code of ethics (.0300); rulemaking petitions (.0400); notice of rulemaking (.0500); conduct of rulemaking hearings (.0600); declaratory rulings (.0700); contested case hearings (.0800); other matters relating to administrative hearings (.0900); and use of speech/language pathology assistants (.1000).

<u>Continuing Education</u> Adopt/*	21	NCAC	64	.0218
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BUILDING CODE COUNCIL

<u>NC Residential Code – Exterior Walls</u> Adopt/*	R302.1
<u>NC Residential Code – Handrail Grip Size</u> Adopt/*	R311.5.6.3

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

Beecher R. Gray
Selina Brooks
Melissa Owens Lassiter
Don Overby

Randall May
A. B. Elkins II
Joe Webster
Shannon Joseph

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
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ABC Commission v. La Fiesta Mexicana II, Inc., T/A La Fiesta Mexicana	07 ABC 0149	Gray	04/19/07	
ABC Commission v. NK Group, Inc., T/A NK Food Mart,	07 ABC 0163	Overby	04/18/07	
ABC Commission v. 703 Jonestown, Inc., T/A Red Rooster	07 ABC 0305	Webster	10/04/07	
ABC Commission v. Donna Darlene Johnston, T/A Wagon Wheel	07 ABC 0738	Webster	09/20/07	
ABC Commission v. Jamal Kamel Hajeh, T/A Pleasant Grove Grocery	07 ABC 0883	Morrison	09/11/07	
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ABC Commission v. Francisco Jubier Fuentes T/A Monte del Rey	07 ABC 1644	Gray	03/28/08	
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A list of Child Support Decisions may be obtained by accessing the OAH Website: www.ncoah.com/decisions .				
<u>BOARD FOR LICENSING OF GEOLOGISTS</u>				
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<u>BOARD OF NURSING</u>				
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Angelina Cooper v. Crime Victims Compensation Commission	07 CPS 1271	Lassiter	04/22/08	
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Nelson A. Park IV v. Victim and Justice Services	08 CPS 0312	Overby	03/19/08	
<u>DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES</u>				
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<u>DEPARTMENT OF HEALTH AND HUMAN SERVICES</u>				
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Drake Groves and Progressive Child Care, Inc., v. DHHS, Div. Child Development	05 DHR 0656	Elkins	03/07/08	
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Autumn Green Adult Care Home, Patricia L. Tiller v. DHHS, DFS, Adult Care Licensure Section	04 DHR 2324	Gray	01/03/08	
Autumn Green Adult Care Home, Patricia L. Tiller v. DHHS, DFS, Adult Care Licensure Section	05 DHR 0305	Gray	01/03/08	
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Eyvette Abbott, Robbie Wilson Community Services, Inc., v. DHHS (DMH/ DD/SAS)	06 DHR 1139	Webster	06/06/07	
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Nidal Dahir, DHHS, Division of Public Health	06 DHR 1916	Lassiter	05/14/07	
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Mary K. Short for Kathryn M. Short v. DHHS, Division of Mental Health, Developmental Disabilities and Substance Abuse	06 DHR 2282	Gray	05/18/07	
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Dorothy H. Williams v. John Umstead Hospital	07 OSP 0265	Lassiter	04/24/07	
Pei Wang v. UNC-Chapel Hill	07 OSP 0273	Lassiter	04/19/07	
Candace R. Berguson v. Caswell County DSS and Mr. Jeff Earp, County Manager	07 OSP 0294	Lassiter	04/20/07	
Angela Townsend v. DOC	07 OSP 0365	Lassiter	01/14/08	
Karen Haas v. Crime Control and Public Safety	07 OSP 0370	Gray	11/27/07	
Shannon Harris Tadlock v. Wilson County, Department of Public Health	07 OSP 0491	Lassiter	05/07/07	
Patricia G. Flanigan v. Fayetteville State University	07 OSP 0503	Overby	05/10/07	
Tobias M. Guilluame v. FSU Police & Public Safety	07 OSP 0565	Overby	05/10/07	
Archie Andrew Copeland v. Dept. of Juvenile Justice & Delinquency Prevention	07 OSP 0976	Lassiter	08/29/07	
Patricia Bethea Williams v. NC A&T State University	07 OSP 1053	Overby	08/28/07	
Amy M. Peck v. NC A&T State University Police Department	07 OSP 1346	Lassiter	11/29/07	
Kathleen E. Kicinski v. NC A&T State University	07 OSP 1347	Lassiter	11/29/07	
Kevin Edral Douglas v. NCSU	07 OSP 1465	Joseph	12/03/07	
Bobby R. Davis v. Dept. of Labor, Bureau of Education, Training and Tech. Assistance	07 OSP 1492	Overby	01/04/08	
Terence G. Westry v. NC A&T State University	07 OSP 1497	Webster	12/17/07	
Richard Allen Kono v. DOCC and Adult Probation and Parole	07 OSP 1563	Elkins	01/29/08	
Angela N. Mewborn v. Office of State Auditor	07 OSP 1668	Lassiter	12/07/07	
Darrin Ball v. Wildlife Resources Commission	07 OSP 1678	Elkins	12/11/07	
Herman L. Colvin v. Industrial Commission	07 OSP 1724	Lassiter	01/11/08	
Samuel A. Aghimien v. DOT	07 OSP 1753	Lassiter	01/10/08	
Annie H. Davis/Christopher P. Davis v. Caswell Center DHHS/Patsy Woolard	07 OSP 1791	Webster	02/26/08	
Mahatam S. Jailall v. DPI	07 OSP 1978	Overby	12/21/07	
Warren K. Follum v. NCSU	07 OSP 2060	Webster	02/26/08	
Danny E. Caldwell v. UNC, Dept. of Public Safety	07 OSP 2119	Webster	05/06/08	
Malinda Keyes v. Office of State Auditor	07 OSP 2158	Lassiter	02/22/08	
Lasonya L. Howell v. Cherry Hospital – DHHS	07 OSP 2344	Gray	02/26/08	
Ricco A. Raynor v. Cherry Hospital	08 OSP 0013	Gray	02/26/08	
Leo Rapley v. UNC Chapel Hill	08 OSP 0153	Gray	03/24/08	
Lysheaka Pullen v. DHHS	08 OSP 0156	Gray	02/18/08	
Samuel A. Aghimien v. DOT, Aviation	08 OSP 0339	Gray	04/18/08	
John A. Marcinko v. Granville County Sheriffs' Dept.	08 OSP 0416	Morrison	04/04/08	

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Mary C. Brandon v. Department of the Secretary of State	06 SOS 1839	Elkins	04/02/07
Samuel Abraham , pro-se v. SOS, General Counsel Ann Wall	07 SOS 0224	Overby	04/27/07
Mr. Tim Rhodes, President, Event Marketing Services, Inc. v. SOS	07 SOS 0374	Overby	06/14/07
Dayne Hodges v. SOS	07 SOS 0857	Gray	03/28/08
Angela Dozier v. SOS	07 SOS 0912	Gray	08/30/07
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UNC HOSPITALS

Layton Leach v. UNC Hospital	05 UNC 0449	Bryan	09/07/07
Mary Lawson v. UNC Hospital	05 UNC 0467	Bryan	09/28/07
Kenneth Trivette v. UNC Hospitals	06 UNC 2014	Elkins	04/02/07
Mark A. Parrish v. UNC Hospitals	06 UNC 2406	Elkins	06/15/07
Carolyn Parker v. UNC Hospitals	07 UNC 0924	Lassiter	09/06/07
Debra B. Davis v. UNC Hospitals	07 UNC 1169	Brooks	10/01/07
James P. Dunn v. UNC Hospitals	07 UNC 1559	Gray	01/03/08