

NORTH CAROLINA REGISTER

VOLUME 23 • ISSUE 11 • Pages 929 - 1079

December 1, 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.

Office of Administrative Hearings
Rules Division
1711 New Hope Church Road
Raleigh, North Carolina 27609
(919) 431-3000
(919) 431-3104 FAX

contact: Molly Masich, Codifier of Rules molly.masich@ncmail.net (919) 431-3071
Dana Vojtko, Publications Coordinator dana.vojtko@ncmail.net (919) 431-3075
Julie Edwards, Editorial Assistant julie.edwards@ncmail.net (919) 431-3073
Felicia Williams, Editorial Assistant felicia.s.williams@ncmail.net (919) 431-3077

Rule Review and Legal Issues

Rules Review Commission
1711 New Hope Church Road
Raleigh, North Carolina 27609
(919) 431-3000
(919) 431-3104 FAX

contact: Joe DeLuca Jr., Commission Counsel joe.deluca@ncmail.net (919) 431-3081
Bobby Bryan, Commission Counsel bobby.bryan@ncmail.net (919) 431-3079
Tammara Chalmers, Admin Assistant tammara.chalmers@ncmail.net (919) 431-3083

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@nclm.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 BOARD OF ELECTIONS

6400 Mail Service Center • Raleigh, North Carolina 27699-6400

GARY O. BARTLETT
Executive Director

MAILING ADDRESS:
P.O. BOX 27255
RALEIGH, NC 27611-7255

October 28, 2008

Mr. Graham Long
Pittenger for Lt. Governor
Post Office Box 20875
Raleigh, NC 27619

Re: Request of Pittenger for Lt. Governor
Pursuant to N.C.G.S. § 163-278.23

Dear Mr. Long:

I am in receipt of your letter dated October 8, 2008, in which you request an advisory opinion pursuant to N.C.G.S. § 163-278.23 as to whether the hourly reimbursement rate you have submitted for aircraft use is acceptable.

Based on the information provided in your letter as to the type, make, model and year of the aircraft, we find the proposed hourly rate to be acceptable. In arriving at this conclusion, our staff researched the information provided and compared operating costs for similar aircraft.

This opinion is based upon the information provided in your letter of October 8, 2008. If the information should change, you should evaluate whether this opinion is still applicable and binding. Finally, this opinion will be filed with the Codifier of Rules to be published unedited in the North Carolina Register and the North Carolina Administrative Code.

Sincerely,

A handwritten signature in cursive script that reads "Gary O. Bartlett".

Gary O. Bartlett

cc: Julian Mann, III, Codifier of Rules

LOCATION: 506 NORTH HARRINGTON STREET • RALEIGH, NORTH CAROLINA 27603 • (919) 733-7173

ROBERT PITTENGER
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ROBERT ★ ★ ★ ★
PITTENGER
LIEUTENANT GOVERNOR

October 8, 2008

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

Dear Mr. Bartlett:

To ensure compliance with N.C. General Statute §163-278.23 and 163-278.19 regarding the use of private aircraft, I am seeking the State Board of Election's approval of hourly reimbursement rates for the following aircraft that Pittenger for Lieutenant Governor may use for campaign travel:

Type	Make	Model	Year	Hourly Rate
Twin engine - Jet	Cessna Citation XLS	C560X	2007	\$1100

This reimbursement rate was calculated using data from similar aircraft from planequest.com.

Please contact me if any additional information is needed.

Sincerely,



Graham Long
Deputy Campaign Manager
Pittenger for Lieutenant Governor

PO Box 20875, Raleigh, North Carolina, 27619
Telephone 704/365-6038 • Fax 704/364-8274 • info@robertpittenger.com
www.robertpittenger.com

Mary Elizabeth Irvin
GreensboroPhilip Isley
RaleighMarvin Johnson
Rose HillHelen Laughery
Rocky MountLeroy Lail
HickoryDuke Kimbrell
GastoniaJoe Knott
RaleighEric Laster
CharlotteJohn Lindeman
CaryRobert Luddy
RaleighTim Martburger
ConcordJames G. Martin
 MooresvilleLouis Maxwell
GoldstboroJohnny McConnell
RaleighMark Meadors
HighlandsDuke Messinger
SalisburyJohn Monteith
WilmingtonGeorge Moretz
HickoryRusty Page
LinvilleCharles Pickettamer, Jr.
BrevardBill Prestage
ClintonCharles Price, Jr.
AshevilleC. E. Roseman
HickoryFelix Sabates
CharlottePope Shuford
HickoryEdward Smith
GreenvilleRobert Stallings, III
New BernThomas Stons
CharlotteTrawick H. Stubbs, Jr.
New BernKeith Vaughan
Winston-SalemRichard Vaughn
Mt. AiryMark Warburton
High PointEd Weisiger, Sr.
CharlotteTab Williams
Winston-SalemH. O. Woltz, III
Mt. AiryRichard Worrell
CharlotteOsburn Yates
AsheboroJohn Youngblood
Asheville

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

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

Application by: Dick Bachelder
PSA Inc/ADS Inc
PO Box 3000
Hilliard, OH 43026

For: Revised Innovative Approval for "BioDiffuser" chambered subsurface wastewater system

DENR Contact: Ted Lyon
1-919-715-3274
Fax: 919-715-3227
ted.lyon@ncmail.net

These applications may be reviewed by contacting the applicant or at 2728 Capital Blvd., Raleigh, NC, On-Site Water Protection Section, Division of Environmental Health. Draft proposed innovative approvals and proposed final action on the application by DENR can be viewed on the On-Site Water Protection Section web site: http://www.deh.enr.state.nc.us/osww_new/new1//index.htm.

Written public comments may be submitted to DENR within 30 days of the date of the Notice publication in the North Carolina Register. All written comments should be submitted to Mr. Ted Lyon, Chief, On-site Water Protection Section, 1642 Mail Service Center, Raleigh, NC 27699-1642, or ted.lyon@ncmail.net, or fax 919-715-3227. Written comments received by DENR in accordance with this Notice will be taken into consideration before a final agency decision is made on the innovative subsurface wastewater system application.

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 01 – DEPARTMENT OF ADMINISTRATION

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Administration intends to adopt the rules cited as 01 NCAC 43A .0201 - .0202 and amend the rules cited as 01 NCAC 43A .0102, and .0304.

Proposed Effective Date: April 1, 2009

Public Hearing:

Date: January 13, 2009

Time: 10:00 a.m.

Location: N.C. Department of Administration, Administration Building, 5th Floor, Commission Room 5034, 116 West Jones Street, Raleigh, NC 27603

Reason for Proposed Action:

01 NCAC 43A .0102, .0304 - Updating procedures and definitions

01 NCAC 43A .0201 - .0202 - Updating to address changing conditions, questions from state agencies, and questions from the public.

Procedure by which a person can object to the agency on a proposed rule: : Written objections may be submitted to Randy Lee, Surplus Property Officer, North Carolina Department of Administration, State Surplus Property Office. Objections may be received by mail, delivery service, hand delivery or facsimile transmission. Objections may be directed to Randy Lee, Surplus Property Officer, 1310 Mail Service Center, Raleigh, NC 27699-1310, fax 919-854-2275.

Comments may be submitted to: Randy Lee, Surplus Property Officer, Department of Administration, State Surplus Property, 1310 Mail Service Center, Raleigh, NC 27699-1310, phone (919) 854-2163, fax (919) 854-2275, and email randy.lee@doa.nc.gov

Comment period ends: January 30, 2009

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the

Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

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

CHAPTER 43 – STATE SURPLUS PROPERTY AGENCY

SUBCHAPTER 43A – STATE SURPLUS PROPERTY AGENCY

SECTION .0100 – GENERAL PROVISIONS

01 NCAC 43A .0102 DEFINITIONS

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

- (1) "Employee" includes full-time exempt and non-exempt, part-time, temporary, and permanent employees of a state agency as defined in G.S. 143-64.02.
- (2) "Fair Market Price" means the agreed price, that price on which the seller, the State Surplus Property Agency and the buyer agree.
- (3) "Immediate Family" means spouse or children/stepchildren under the age of 18.
- (4) "SSPA" means the State Surplus Property Agency.
- (5) "State-Owned" means in the possession of the State of North Carolina and purchased with State ~~funds.~~ funds, property donated to the State, or property purchased with other funds that give ownership of the property to the state.
- (6) "Surplus Property" means property no longer needed by a State agency.
- (7) "Non-Profit Tax Exempt organization" is defined in G.S. 143-64.02. Note that not all Non-Profit Tax Exempt organizations are eligible to use the services of the State Surplus Property Agency.

Authority G.S. 143-64.01; 143-64.04.

SECTION .0200 – STATE SURPLUS PROPERTY

**01 NCAC 43A .0201 SENSITIVE AND
CONFIDENTIAL DATA**

The owning agency shall clear and destroy all data from surplus items prior to disposal.

Authority G.S. 143-64.01; 143-64.04.

**01 NCAC 43A .0202 COMPRESSED GASES,
FLAMMABLE, NUCLEAR, CHEMICAL, BIOLOGICAL,
RADIOACTIVE, AND OTHER HAZARDOUS
MATERIALS**

(a) The State Surplus Property Agency does not accept equipment or containers that contain compressed gases, or flammable, nuclear, chemical, biological, radioactive or other hazardous materials. Any container or equipment that has contained any of these materials must be rendered and declared safe by the owning agency, and a statement to this effect included in the item description when a disposal or sale of the item is requested. Any container or equipment that has been rendered and certified safe shall have labeling removed that would indicate that the container or equipment is contaminated or contains any of these items.

(b) All laws and regulations must be followed and proper disposal documentation recorded with various regulatory federal, state and local agencies for the transport, sale or disposal of items described in Paragraph (a) of this Rule.

(c) Laboratory equipment may be sold with regulated or non-regulated amounts of materials described in Paragraph (a) of this Rule. When hazardous materials are contained in a piece of equipment, all pertinent information related to types, amounts and any regulatory requirements shall be included in the item description when entered into the SSP System. If the equipment contains amounts that are not regulated by any federal, state, or local agency, the description of the equipment shall include the statement "Non-Regulated." These items shall be sold at the agencies location and not transported to the State Surplus Property Agency. The owning agency shall ensure all applicable laws and regulations are followed in the transport, sale or disposal of such items. If a potential buyer is required to be registered with any regulatory agency prior to taking possession of the equipment, the selling agency shall include all requirements in the description of the item and review and approve any required documentation presented by the successful bidder within 48 hours of the opening of the bids.

(d) Each agency shall contact its safety office and ensure that all federal, state and local regulations have been followed prior to the transport or disposal of items described in Paragraph (a) of this Rule.

(e) This Rule does not apply to equipment, watercraft, aircraft or vehicles that may contain gasoline, diesel fuel, liquefied propane, liquefied natural gas or other fuels when it is contained within a fuel tank or fuel cell approved by the manufacturer of the equipment, watercraft, aircraft or vehicle.

Authority G.S. 143-64.01; 143-64.04.

SECTION .0300 - DISPOSAL OF SURPLUS PROPERTY

**01 NCAC 43A .0304 ORDER OF PRIORITY IN
DISPOSITION**

(a) In the disposition of state surplus property, the State Surplus Property Agency shall give first priority to other agencies of the state for purchase or transfer. Second priority shall be given to sales to political subdivisions and non-profit tax exempt organizations within the state. Property thus sold must be for the use of the recipient agency, political subdivision or non-profit tax exempt organization with title being in such agency, unit or organization.

~~(b) In making transfers over one hundred fifty dollars (\$150.00) the price shall be set by the owning agency in consultation with the State Surplus Property Agency. The price shall be based upon previous sales of similar products on the open market. All transfers of property from or to a receipt-supported agency shall include an exchange of funds.~~

~~(c) State surplus property sold to any political subdivision or non-profit tax exempt organization must be retained by the unit or organization not less than 12 months before disposal.~~

(b) All titled vehicles transferred between state agencies must be processed through the State Surplus Property Agency with regard to titles and associated North Carolina Division of Motor Vehicles documents. Vehicles shall be transferred at fair market price.

(c) In making transfers over one hundred fifty dollars (\$150.00), the price shall be set by the owning agency in consultation with the State Surplus Property Agency. The price shall be based upon previous sales of similar products on the open market. All transfers of property from or to a receipt-supported agency shall include an exchange of funds.

(d) State surplus property sold to any political subdivision or non-profit tax exempt organization must be retained by the unit or organization not less than 12 months before disposal.

Authority G.S. 143-64.01; 143-64.04.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Administration intends to amend the rules cited as 01 NCAC 44A .0101, .0202, .0204, .0206, .0301, .0401, .0404, .0501-.0502, .0601, .0605.

Proposed Effective Date: April 1, 2009

Public Hearing:

Date: January 14, 2009

Time: 10:00 a.m.

Location: Department of Administration, Administration Building, 5th Floor, Commission Room 5034, 116 West Jones Street, Raleigh, NC 27603.

Reason for Proposed Action: Changes to legislation G.S. 143-128.4 and G.S. 143-48.4

Procedure by which a person can object to the agency on a proposed rule: Written objections may be submitted to Bridget Wall-Lennon, Assistant to the Secretary, Department of Administration, Office for Historically Underutilized Businesses.

Objections may be received by mail, delivery service, hand delivery or facsimile transmission. Objections may be directed to Bridget Wall-Lennon, 1336 Mail Service Center, Raleigh, NC 27699-1336, fax (919)807-2335.

Comments may be submitted to: Bridget Wall-Lennon, Assistant to the Secretary, Department of Administration, Office of Historically Underutilized Businesses, 1336 Mail Service Center, Raleigh, NC 27699-1336, phone (919)807-2333, fax (919)807-2335, email bridget.wall@doa.nc.gov.

Comment period ends: January 30, 2009

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

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

**CHAPTER 44 - OFFICE FOR HISTORICALLY
UNDERUTILIZED BUSINESSES**

**SUBCHAPTER 44A - STATEWIDE UNIFORM
CERTIFICATION**

SECTION .0100 - GENERAL PROVISIONS

01 NCAC 44A .0101 SCOPE

The rules in this Subchapter are used to determine if a business is a historically underutilized minority business in accordance with G.S. ~~443-128.2~~; 143-128.4.

Authority G.S. 143-48.4; 143-128.4.

SECTION .0200 - HUB CERTIFICATION APPLICATION

01 NCAC 44A .0202 DOCUMENTATION

- (a) HUB staff shall request documentation to establish the ownership, management, and control of daily business operations of the business pursuant to Rule .0301 this Subchapter.
- (b) ~~If the documentation provided by the business does not demonstrate ownership, management and control of daily~~

~~business operations by the business, HUB Office staff shall conduct a site visit.~~ The HUB Office shall conduct a site visit of the majority owners at their principal office. The HUB Office may rely on the site visit of another entity that meets or exceeds the North Carolina Statewide Uniform Certification eligibility requirements.

- (c) The HUB Office shall not consider organizational changes made to the business during the eligibility determination process.

Authority G.S. 143-48.4; 143-128.4.

**01 NCAC 44A .0204 DURATION OF
CERTIFICATION**

Certification remains in effect for ~~two~~ four years unless there is a change in the business ownership, management or control of daily business operations that affects the HUB ~~status~~. Certification status. Businesses shall renew the HUB Certification annually using the process referenced in 01 NCAC 44A .0207.

Authority G.S. 143-48.4; 143-128.4.

01 NCAC 44A .0206 DENIAL

- (a) The HUB Office shall deny HUB Certification ~~if the business does not meet the definition of minority business found at G.S. 143-128.2(g)(1) or 143-128.4(a1).~~ to businesses that do not meet eligibility requirements concerning operational status, group membership, ownership, management and control.

- (b) ~~If the business wishes to submit a new request for HUB Certification it may do so after a period of 12 months from the date of denial.~~ Businesses shall be notified in writing when the application for certification is denied. Denial letters shall explain the reason(s) for the denial.

- (c) ~~Vendors who are denied HUB Certification have a right to review pursuant to Section .0600 of this Subchapter.~~ New applications for HUB Certification may be submitted after a period of 12 months from the date of denial.

- (d) ~~Vendors who are denied HUB Certification have a right to review pursuant to Section .0600 of this Subchapter.~~

Authority G.S. 143-48.4; 143-128.4.

SECTION .0300 - DOCUMENTATION

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~~
- (1) All Applicants
 - (a) Work experience resumes for all owners that include places of ownership/employment with corresponding dates;
- (b) Proof of citizenship or Permanent Residence (Birth Certificate, Passport, Voter's Registration Card, Green Card, Military ID, or Driver's License);
- (c) Proof of Ethnicity (Passport, Green Card, Birth Certificate);
- (d) Copies of Professional Licenses, if required;
- (e) Schedule of Salaries paid to all officers, managers, owners, or directors of the firm;
- (f) Copies of signed leases for office and/or storage space;
- (g) List of equipment (leased or owned) along with signed lease agreements, titles/proof of ownership of equipment needed to operate your business;
- (h) Documented proof of contributions used to acquire ownership for each owner;
- (i) Statement prepared and signed by your banking institution listing names of all persons who have signature authority on your business account;
- (j) Two letters of reference (with contact information, nature and duration of relationship, and statement of firm's capacity and ability to perform);
- (k) Proof of other certifications; and for a
- (2) Corporation or LLC or Franchise
 - (a) All documentation requested in Item (1) of this Rule;
 - (b) Official Articles of Incorporation (signed by State official);
 - (c) Both sides of all Corporate Certificates and Stock;
 - (d) Assumed Name Certificate;
 - (e) Transfer ledger;
 - (f) Shareholders Agreement;
 - (g) Minutes of 1st and most recent stockholder and Board of Directors meetings;
 - (h) Corporate bylaws and any amendments;
 - (i) Articles of Organization (LLC);
 - (j) Operating Agreement (LLC); and
 - (k) Franchise Agreement (Franchise)
- (3) Partnership or Joint Venture
 - (a) All documentation requested in Item (1) of this Rule;
 - (b) Partnership Agreement; and
 - (c) Joint Venture Agreement

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.

Authority G.S. 143-48(d1); 143-128.3(e1).

SECTION .0400 - THIRD PARTY CHALLENGE

Authority G.S. 143-48.4; 143-128.4.

01 NCAC 44A .0401 CHALLENGE INITIATION

A third party may challenge, by notarized affidavit, the HUB ~~certification~~ Certification of any business. The challenge shall include detailed reasons or evidence for the challenge.

Authority G.S. 143-48.4; 143-128.4.

01 NCAC 44A .0404 HUB STATUS DURING CHALLENGE

The HUB ~~certification~~ Certification status shall remain in effect during the challenge process.

Authority G.S. 143-48.4; 143-128.4.

SECTION .0500 - REVOCATION OF HUB CERTIFICATION

01 NCAC 44A .0501 REASONS FOR REVOCATION

HUB ~~Certification~~ shall be revoked for any of the following reason(s):

- (1) ~~The business makes changes to the ownership or management and daily business operations of the company that render it no longer a HUB;~~
- (2) ~~The HUB Office determines that the business is not a HUB;~~
- (3) ~~The business is ineligible to contract with the State of North Carolina pursuant to 143-59.2; or~~
- (4) ~~The business fails to notify the HUB Office within 30 days of any changes in ownership or management and control of daily business operations.~~

The HUB Office shall revoke the HUB Certification for any of the following reason(s):

- (1) Firm's owner failed to cooperate with the Program's request for information;
- (2) Firm's owner falsified a sworn statement;
- (3) Firm no longer meets ownership eligibility standards;
- (4) Firm no longer meets control and daily management eligibility standards;
- (5) Firm is no longer owned by a qualifying individual;
- (6) Decertification requested by firm's owner;
- (7) Change in certification standards or requirements that render the firm ineligible;
- (8) Initial certification decision was based on erroneous information;
- (9) Information or evidence was not available at initial certification;
- (10) Information was misrepresented or concealed by firm during initial certification; or
- (11) The business is ineligible to contract with the State of North Carolina pursuant to G.S. 143-59.2.

SECTION .0500 - REVOCATION OF HUB CERTIFICATION

01 NCAC 44A .0502 NOTICE

(a) The HUB Office shall notify the business in writing by certified mail of the decision to revoke HUB Certification and shall state the reason(s) for revocation.

(b) The HUB Office shall advise the HUB of its right to a review and give the business ~~24~~ 15 business days in which to exercise this right.

(c) If no review is requested, revocation of the HUB's status shall be enforced.

(d) The vendor may reapply for HUB ~~certification~~ Certification 12 months from the date of the revocation notice.

Authority G.S. 143-48.4; 143-128.4.

SECTION .0600 - REVIEW

01 NCAC 44A .0601 REVIEW

To exercise a right of review, a review request shall be made in writing and addressed to the HUB Office Director within ~~24~~ 15 business days of the date of the denial or revocation notice.

Authority G.S. 143-48.4; 143-128.4.

01 NCAC 44A .0605 STATUS PENDING REVIEW

The HUB ~~certification~~ Certification status remains in effect pending a review.

Authority G.S. 143-48.4; 143-128.4.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10C .0205, .0208, .0211, .0216, .0305, .0401; 10D .0104; 10E .0101-.0102, .0104.

Proposed Effective Date: May 1, 2009

Public Hearing:

Date: January 5, 2009

Time: 7:00 p.m.

Location: Bladen Community College, 7418 Hwy 41 West, Dublin, NC

Date: January 7, 2009

Time: 7:00 p.m.

Location: Graham High School Auditorium, 903 Trollinger Road, Graham, NC

Date: January 8, 2009

Time: 7:00 p.m.

Location: South Stanly High School, 40488 South Stanly School Road, Norwood, NC

Date: January 13, 2009

Time: 7:00 p.m.

Location: Morganton Municipal Auditorium, 401 S. College Street, Morganton, NC

Date: January 14, 2009

Time: 7:00 p.m.

Location: Southwestern Community College, 447 College Drive, Sylva, NC

Date: January 15, 2009

Time: 7:00 p.m.

Location: Boonville, Starmount High School, 2516 Longtown Road, Boonville, NC

Date: January 20, 2009

Time: 7:00 p.m.

Location: Edenton, Swain Auditorium, 100 Court Street, Edenton, NC

Date: January 21, 2009

Time: 7:00 p.m.

Location: Craven County Courthouse, 302 Broad Street, New Bern, NC

Date: January 22, 2009

Time: 7:00 p.m.

Location: Brown Auditorium at Nash Community College, 522 North Old Carriage Road, Rocky Mount, NC

Reason for Proposed Action:

15A NCAC 10C .0205 – Adjust seasons for trout waters.

15A NCAC 10C .0208 – Adjust requirements for spawning areas.

15A NCAC 10C .0211 – To add the zebra mussel (*Dreissena polymorpha*) to the list of fishes unlawful to transport, purchase, possess, and except under special circumstances, stock.

15A NCAC 10C .0216 – To modify the rules pertaining to exemptions for fishing license requirements.

15A NCAC 10C .0305 – To adjust creel and size limits.

15A NCAC 10C .0401 – To adjust requirements for manner of taking nongame fishes for purchase or sale.

15A NCAC 10D .0104 – To amend requirements for fishing on Game Lands.

15A NCAC 10E .0101 – To amend the definition of "fishing and boating access area."

15A NCAC 10E .0102 – To amend the requirements for posting regulations.

15A NCAC 10E .0104 – To clarify the requirements for use of regulated fishing and boating access areas.

Procedure by which a person can object to the agency on a proposed rule: Any person who wishes to object to a proposed rule may do so by writing (or emailing) the person specified in connection with a given rule within the public comment period

set up for these rules. The contact person for these rules is Kent Nelson.

Comments may be submitted to: Kent Nelson, 1721 Mail Service Center, Raleigh, NC 27699-1721

Comment period ends: January 30, 2009

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

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

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

SECTION .0200 - GENERAL REGULATIONS

15A NCAC 10C .0205 PUBLIC MOUNTAIN TROUT WATERS

(a) Designation of Public Mountain Trout Waters. 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~~ (Lost Cove Creek to Browns Brown Mountain Beach dam, except where posted against trespass) [Delayed Harvest Regulations apply to portions between Lost Cove Creek and Phillips Branch. See Subparagraph (a)(5) of this Rule.])
Estes Mill Creek (not trout water)
Thorps Creek (falls to NC 90 bridge)
Mulberry Creek (portion not on game lands not trout water)
Boone Fork [not Hatchery Supported trout water. See Subparagraph (a)(2) of this Rule.]
Boone Fork Pond
Yadkin River (not trout water)

- Buffalo Creek (mouth of Joes Creek to McCloud Branch)
Joes Creek (first falls upstream of SR 1574 to confluence with Buffalo Creek)
- (G) Cherokee County:
Hiwassee River (not trout water)
Shuler Creek (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)~~
Nantahala River (not trout water)
- Buck Creek (game land portion downstream of US 64 bridge)
- (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
Sawyer Creek
Panther Creek (including portions of tributaries on game lands)
- (J) 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]~~
Jonathan Creek (upstream SR 1302 bridge to Pigeon River, except where posted against trespass)
~~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 (US 276) bridge to ~~US 19A 23 bridge~~ US 23-74 bridge)
West Fork Pigeon River (triple arch bridge on NC 215 to Queen Creek, including portions of tributaries within this section located on game lands, except Middle Prong.)
 West Fork Pigeon River (Queen Creek to the first game land boundary upstream of Lake Logan) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- (K) Henderson County:
 (Rocky) Broad River (one-half mile north of Bat Cave to Rutherford County line)
 Green River - upper (mouth of Joe Creek to mouth of Bobs Creek)
 Green River - lower (Lake Summit Dam to I-26 bridge)
~~Camp Creek (SR 1919 to Polk County line)~~
 (Big) Hungry River
 Little Hungry River
 French Broad River (not trout water)
 Cane Creek (SR 1551 bridge to US 25 bridge)
 Mud Creek (not trout water)
 Clear Creek (SR 1591 bridge at Jack Mountain Lane to SR 1572)
- Mills River (not trout water)
 North Fork Mills River (game lands portion below the Hendersonville watershed dam). [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- (L) Jackson County:
 Tuckasegee River (confluence with West Fork Tuckasegee River to SR 1534 bridge at Wilmot) [Delayed Harvest Regulations apply to that portion between NC 107 bridge at Love Field and the Dillsboro dam. See Subparagraph (a)(5) of this Rule.]
 Scott Creek (entire stream, except where posted against trespass)
 Dark Ridge Creek (Jones Creek to Scotts Creek)
 Savannah Creek (Headwaters to Bradley's Packing House on NC 116)
 Greens Creek (Greens Creek Baptist Church on SR 1730 to Savannah Creek)
 Cullowhee Creek (Tilley Creek to Tuckasegee River)
 Bear Creek Lake
 Wolf Creek [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule.]
 Wolf Creek Lake
 Balsam Lake
 Tanasee Creek [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule.]
 Tanasee Creek Lake
- (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, I 40 bridge, except where posted against trespass) [Delayed Harvest Regulations apply to that portion between US 70 bridge and I 40 bridge. See

- ~~Subparagraph (a)(5) of this Rule.]~~ ~~Camp Creek~~
- (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~~ the natural gas pipeline crossing) [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)~~
- (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)
- 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 100 yards downstream of 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) (adjacent to the intersection of SR 1558 to NC 105 bridge and SR 1114 bridge to NC 194 bridge at Valle Crucis) ~~Crucis~~. [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)
- Horse Creek (entire stream)
- Jones Creek (entire stream)
- Kentucky Creek (entire stream)
- North Harper Creek (entire stream)
- Plumtree Creek (entire stream)
- Roaring Creek (entire stream)
- Rockhouse Creek (entire stream)
- South Harper Creek (entire stream)
- Webb Prong (entire stream)
- Wilson Creek [Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.]
- (D) Buncombe County:
- Carter Creek (game land portion) [Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.]

- (E) Burke County:
All waters located on South Mountain State Park, except the main stream of Jacob Fork
Between the mouth of Shinny Creek and the lower park boundary where Delayed Harvest Regulations apply, and Henry Fork and tributaries where Catch and Release/Artificial Lures Only Regulations apply. See Subparagraphs (a)(3) and (a)(5) of this Rule.
Nettle Branch (game land portion)
- (F) Caldwell County:
Buffalo Creek (Watauga County line to Long Ridge Branch including tributaries on game lands)
Joes Creek (Watauga County line to first falls upstream of the end of SR 1574)
Rockhouse Creek (entire stream)
- (G) Cherokee County:
Bald Creek (game land portions, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
Dockery Creek (game land portions, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
North Shoal Creek (game land portions, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
- (H) Clay County:
Hiwassee River (Lake Chatuge dam to SR 1300 bridge, excluding tributaries)
- ~~(H)~~(I) Graham County:
Little Buffalo Creek (entire stream)
South Fork Squally Creek (entire stream)
Squally Creek (entire stream)
- ~~(H)~~(J) Haywood County
Hemphill Creek (including tributaries) [Wildlife Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
Hurricane Creek (including portions of tributaries on game lands) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
- ~~(J)~~ Henderson County:
~~Green River (I-26 bridge to Henderson/Polk County line)~~
- (K) Jackson County:
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)
- (L) Madison County:
Big Creek (headwaters to the lower game land boundary, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
- (M) Mitchell County:
Green Creek (headwaters to Green Creek Bridge, except where posted against trespass)
Little Rock Creek (headwaters to Green Creek Bridge, including all tributaries, except where posted against trespass)
Wiles Creek (game land boundary to mouth)
- ~~(N)~~ Polk County:
~~Green River (Henderson County line to Fishtop Falls Access Area)~~
~~Pulliam (Fulloms) Creek and tributaries (game lands portions)~~
- ~~(N)~~ Transylvania County:
All waters located on Gorges State Park
Whitewater River (downstream from Silver Run Creek to South Carolina State line)
- ~~(P)~~(O) 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)
Winkler Creek (lower bridge on SR 1549 to confluence with South Fork New River)
~~(Q)~~(P) 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)~~(Q) Yancey County:
Cattail Creek (Bridge at Mountain Farm Community Road (Private) to NC 197 bridge)
Lickskillet Creek (entire stream)
Middle Creek (game land boundary to mouth)
(3) Catch and Release/Artificial Lures Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release/Artificial Lures Only waters. Only artificial lures having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:
(A) Ashe County:
Big Horse Creek (Virginia State line to Mud Creek at SR 1363 excluding tributaries)
Unnamed tributary of Three Top Creek (portion located on Three Top Mountain Game Lands)
(B) Avery County:
Wilson Creek (game land portion)
(C) Buncombe County:
Carter Creek (game land portion)
(D) Burke County:
Henry Fork (portion on South Mountains State Park)
(E) Jackson County:
Flat Creek
Tuckasegee River (upstream of Clarke property)
(F) McDowell County:
Newberry Creek (game land portion)
(G) 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) Caldwell County:
Wilson Creek (portion from Lost Cove Creek to Phillips Branch.)
- ~~(C)~~(D) Haywood County:
 West Fork Pigeon River (Queen Creek to the first game land boundary upstream of Lake Logan)
- ~~(D)~~(E) Henderson County:
 North Fork Mills River (game land portion below the Hendersonville watershed dam)
- ~~(E)~~(F) Jackson County:
 Tuckasegee River (NC 107 bridge at Love Field Downstream to the Dillsboro dam)
- ~~(F)~~(G) Macon County:
- Nantahala River (Whiteoak Creek to the Nantahala hydropower discharge canal)
- ~~(G)~~(H) 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)~~(I) McDowell County:
 Curtis Creek (game lands portion downstream of U.S. Forest Service boundary at Deep Branch
Mill Creek (US 70 bridge to I 40 bridge))
- ~~(I)~~(J) Mitchell County:
 Cane Creek (NC 226 bridge to NC 80 bridge)
 North Toe River (US 19E bridge to NC 226 bridge)
- ~~(J)~~(K) Polk County:
 Green River (Fishtop Falls Access Area to confluence with Cove Creek)
- ~~(K)~~(L) Surry County:
 Mitchell River (0.6 mile upstream of the end of SR 1333 to the SR 1330 bridge below Kapps Mill Dam)
- ~~(L)~~(M) Transylvania County:
 East Fork French Broad River (Gladly Fork to French Broad River)
 Little River (confluence of Lake Dense to 100 yards downstream of outflow to Hooker Falls)
- ~~(M)~~(N) Watauga County:
 Watauga River (~~SR 1557 bridge~~ adjacent to intersection of SR and SR 1558 to NC 105 bridge and SR 1114 bridge to NC 194 bridge at Valle Crucis)
- ~~(N)~~(O) 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)
North Shoal 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)~~
Hiwassee River (Lake Chatuge dam to SR 1300 bridge, excluding tributaries)
- (C) Graham County:
Deep Creek
Long Creek (game land portion)
- (D) Haywood County:
Hemphill Creek (including tributaries)
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 waters except those waters listed in 15A NCAC 10C .0205(a)(6).
 - (E) Night Fishing. Fishing on wild trout waters is not allowed between one-half hour after sunset and one-half hour before sunrise.

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

15A NCAC 10C .0208 SPAWNING AREAS

The following waters are designated as spawning areas in which fishing is prohibited or restricted as indicated:

- (1) No person shall fish by any method from February 15 to April 15, both inclusive, in Linville River from the NC 126 bridge downstream to the mouth of the Linville River.
- ~~(2) No person shall fish by netting in that portion of the Dan River lying within the State downstream from the Brantly Steam Plant at Danville, or in the Roanoke River between the US 258 bridge and the dam of Roanoke Rapids Lake, or while in or on said rivers within said areas, have in possession any bow net, dip net or any landing net having a handle exceeding eight feet in length or a hoop or frame to which the net is attached exceeding 60 inches along its outside perimeter.~~
- ~~(3)~~(2) No person shall fish by any method within the bypass channel constructed by the U.S. Army Corps of Engineers around Lock and Dam No. 1 on the Cape Fear River at any time.

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

15A NCAC 10C .0211 POSSESSION OF CERTAIN FISHES

It is unlawful to transport, purchase, possess, or sell any live individuals of piranha, "walking catfish" (*Clarias batrachus*), snakehead fish (from the Family Channidae, formerly Ophiocephalidae), black carp (*Mylopharyngodon piceus*), rudd (*Scardinius erythrophthalmus*), round goby (*Neogobius melanostomus*), tubenose goby (*Proterorhinus marmoratus*), ruffe (*Gymnocephalus cernuus*), Japanese mysterysnail (*Cipangopaludina japonica*), Chinese mysterysnail (*Cipangopaludina chinensis malleata*), red-rim melania (*Melanoidea tuberculatus*), virile crayfish (*Orconectes Gremicambarus virilis*), rusty crayfish (*Orconectes Procericambarus rusticus*), white amur or "grass carp" (*Ctenopharyngodon idella*), swamp or "rice" eel (*Monopterus albus*), ~~or~~ red shiner (*Cyprinella lutrensis*) lutrensis, or zebra mussel (*Dreissena polymorpha*) or to stock any of them in the public or private waters of North Carolina, except that the triploid grass carp certified to be sterile by genetic testing at a federal, state, or university laboratory may be bought, possessed

and stocked locally for control of aquatic vegetation under a permit issued by the Executive Director.

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

15A NCAC 10C .0216 STATE INLAND FISHING LICENSE EXEMPTIONS

(a) Any governmental or non-profit entity conducting an organized fishing event for educational or therapeutic purposes may obtain from the Commission an exemption from the requirements of the ~~recreational~~ state inland fishing license for participants in ~~the event~~ subject to the following conditions: one of the following eligible groups:

- (1) Individuals with physical or mental limitations;
- (2) Members of the United States Armed Forces and their dependents, upon presentation of a valid military identification card, for military appreciation;
- (3) Members of the United States Armed Forces who have been injured; and
- (4) Individuals receiving instruction on recreational fishing techniques and conservation practices from governmental, non-profit entities, or instructors affiliated with educational institutions.

(b) The state inland fishing license exemption shall only be issued when all the information contained on a form prescribed by the Commission is submitted by the applicant to the Chief of the Division of Inland Fisheries not less than 21 days prior to the event, subject to the following conditions:

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

~~(b)(c)~~ The Commission may impose reasonable record-keeping such as names and number of participants and facilitators.

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

SECTION .0300 - GAME FISH

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

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

GAME FISHES	DAILY CREEL LIMITS	MINIMUM SIZE LIMITS	OPEN SEASON
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Mountain Trout:

PROPOSED RULES

Wild Trout Waters	4	7 in.	ALL YEAR (exc. (3))
Hatchery Supported Trout Waters and undesignated waters	7 (exc. (3))	None (exc. (3))	All year, except March 1 to 7:00 a.m. on first Saturday in April (exc. (3))
Muskellunge	2 (exc. (21))	30 in. (exc. (21))	ALL YEAR
Pickereel: chain <u>Chain</u> (Jack) and redfin and Redfin	None	None	ALL YEAR
Walleye	8 (exc. (9))	None (exc. (9))	ALL YEAR
Sauger	8	15 in.	ALL YEAR
Black Bass:			
Largemouth	5	14 in. (excs. (8&10))	ALL YEAR (exc. (17))
Smallmouth and Spotted	5 (exc. (22))	12 in. (excs (8,10&22))	ALL YEAR
White Bass	25	None	ALL YEAR
Sea Trout (Spotted or Speckled)	10	12 in.	ALL YEAR
Flounder	8	14 in.	ALL YEAR
Red drum (channel 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))
NONGAME FISHES	None (excs. 14, 20&24)	None (excs. <u>14</u> , 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. | | minimum size limit from June 1 through September 30. |
| (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 | (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 aggregate. 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.

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.
- (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.

(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.
- (7) See 15A NCAC 10C .0407 for open seasons for taking nongame fishes by special devices.

(10) The minimum size limit for all black bass, with no exception, is 18 inches in Lake Thom-A-Lex in Davidson County.
- (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

(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~~. Reservoir and in the Roanoke River and its tributaries downstream of Roanoke Rapids dam and in the Cashie, Middle, and Eastmost rivers and their tributaries. 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 Hycro, 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~~ County, ~~and Sutton Lake in New Hanover County~~, County, and Roanoke River and tributaries below Roanoke Rapids dam, as listed above. 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). Size and creel limits on regulated areas, including Community Fishing Areas, Public Fishing Areas, and other cooperatively managed public waters shall be posted at each area, as specified in 15A NCAC 10E .0103.~~
- (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.

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

SECTION .0400 - NONGAME FISH

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

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

- (1) Blue crabs shall have a minimum carapace width of five inches (point to point) 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, Lake Wylie, Gaston and Roanoke Rapids reservoirs, except that ~~two~~ one 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. Size and creel limits on regulated areas, including Community Fishing Areas, Public Fishing Areas, and other cooperatively managed public waters shall be posted at each area, as specified in 15A NCAC 10E .0103.~~

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

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

SUBCHAPTER 10D - GAME LANDS REGULATIONS

SECTION .0100 - GAME LANDS REGULATIONS

15A NCAC 10D .0104 FISHING ON GAME LANDS

(a) Generally. Except as otherwise indicated herein, fishing on game lands which are open to fishing shall be in accordance with the statewide rules. All game lands are open to public fishing except restocked ponds when posted against fishing, Hunting Creek Swamp Waterfowl Refuge, Grogan Creek in Transylvania County, and in the case of private ponds where fishing may be prohibited by the owners thereof. No trotline or set-hook or any net, trap, gig, bow and arrow or other special fishing device of a type mentioned in 15A NCAC 10C .0404(b)(c)(d) and (f) may be used in any impounded waters located entirely on game lands. Bow and arrow may be used to take nongame fishes in impounded waters located entirely on gamelands with the

exception of those waters mentioned in 15A NCAC 10C .0404(a). Blue crabs taken by hook and line (other than set-hooks) in designated waterfowl impoundments located on game lands must have a minimum carapace width of five inches (point to point) and the daily possession limit is 50 per person and 100 per vessel.

(b) Designated Public Mountain Trout Waters

(1) Fishing Hours. It is unlawful to fish in designated public mountain trout waters on any game land and in all waters on the Dupont State Forest Game Land from one-half hour after sunset to one-half hour before sunrise, except in Hatchery Supported Trout waters as stated in 15A NCAC 10C .0305(a), Delayed Harvest waters as stated in 15A NCAC 10C .0205(a)(5), game lands sections of the Nantahala River located downstream from the Swain County line, and in the sections of Green River in Polk County located on Green River Game Lands from Cove Creek downstream to ~~Bright Creek~~. the natural gas pipeline crossing.

(2) Location. All waters located on the game lands listed in this Subparagraph are designated public mountain trout waters except Cherokee Lake, Grogan Creek, and Big Laurel Creek downstream from the US 25-70 bridge to the French Broad River, Pigeon River downstream of Waterville Reservoir to the Tennessee state line, Nolichucky River, Mill Ridge Pond Cheoah River downstream of Santeetlah Reservoir, Little River from 100 yards downstream of Hooker Falls downstream to the Dupont State Forest boundary, Lake Imaging, Lake Dense, Lake Alfred, Lake Julia, Fawn Lake, the portion of West Fork Pigeon River below Lake Logan and Logan, North Fork Catawba River downstream of the mouth of Armstrong Creek, and Green River downstream of the natural gas pipeline crossing.

Dupont State Forest Game Lands in Henderson and Transylvania counties
Three Top Mountain Game Land, ~~Land in~~ Ashe County

Nantahala National Forest Game Lands in ~~the Counties of~~ Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania counties

Pisgah National Forest Game Lands in ~~the Counties of~~ Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania and Yancey counties

Thurmond Chatham Game Land in Wilkes County

Toxaway Game Land in Transylvania County

South Mountains Game Land in ~~the counties of~~ Cleveland and Rutherford counties

Cold Mountain Game Land in Haywood County

Green River Game Land in Henderson and Polk counties

(3) All designated public mountain trout waters located on the game lands listed in Subparagraph (b)(2) of this Rule are wild trout waters unless classified otherwise. [See 15A NCAC 10C .0205(a)(1)].

(c) Ponds. In all game lands ponds, it is unlawful to take channel, white or blue catfish (forked tail catfish) by means other than hook and line and the daily creel limit for forked tail catfish is six fish in aggregate.

Authority G.S. 113-134; 113-264; 113-272; 113-292; 113-305.

SUBCHAPTER 10E - FISHING AND BOATING ACCESS AREAS

15A NCAC 10E .0101 DEFINITION

For the purpose of these Regulations the term "~~fishing~~ public fishing and boating access area" ~~or "access area"~~ is defined to mean any area of land which adjoins or abuts on the public waters of the state; which is owned, ~~leased~~ leased, cooperatively managed, or controlled by the North Carolina Wildlife Resources Commission; which is developed and maintained for the purpose of providing ingress to and egress from public ~~waters;~~ waters and public fishing opportunities; and which is posted with a sign or signs designating the same as ~~an access a~~ public fishing or boating access area. Public fishing areas include Community Fishing Program waters and other cooperatively managed public waters developed for public fishing.

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

15A NCAC 10E .0102 REGULATIONS POSTED

The Executive Director of the Commission shall cause to be prepared signs or notices containing these Regulations or the essential substance thereof and shall cause at least one of such signs to be posted at some conspicuous place on each public fishing and boating access area in the State.

Authority G.S. 113-134; 113-264; 150B-2(8a).

15A NCAC 10E .0104 USE OF AREAS REGULATED

(a) No person shall leave any vehicle, boat trailer or other obstruction on any public fishing or boating access area in such a location, position or condition that it will prevent, impede, or inconvenience the use by other persons of any ramp or other facility constructed for the purpose of launching or landing ~~boats.~~ boats or fishing. No person shall leave parked any vehicle, boat, boat trailer or other object at any place on any public fishing or boating access area other than on such place or zone as is designated as an authorized parking zone and posted or marked as such.

(b) No person shall possess a loaded firearm on any public fishing or boating access area. No person shall operate a vehicle on any ~~boat~~ public fishing or boating access area in a manner so as to endanger life or property.

(c) No person, when using any public fishing or boating access area, shall deposit any debris or refuse anywhere on the grounds of the area. No person, when using any public fishing or boating access area, shall do any act which is prohibited or neglect to do any act which is required by signs or markings placed on such area under authority of this Regulation for the purpose of regulating the use of the area. At any time when all designated parking zones on any public fishing or boating access area are fully occupied, any person may enter and use such facilities, provided such person makes other arrangements for parking and violates none of the provisions of this Regulation or the signs or markings made or posted pursuant hereto.

(d) No person shall operate a motorboat in the public waters of North Carolina within 50 yards of a Commission-owned or managed boat launching ramp at greater than "no wake" speed. For the purpose of this Regulation, "no wake" speed shall mean idling speed or a slow speed creating no appreciable wake.

(e) Except where facilities are provided, it is unlawful to use any boating access area for purposes other than the launching of boats and parking vehicles and boat trailers. All other uses--including swimming, skiing, camping, building fires, operating concessions or other activities not directly involved with launching of boats--are expressly prohibited, except that those activities including fish weigh-ins 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.

(f) Except where facilities are provided and approved uses are posted, it is unlawful to use any public fishing area for purposes other than fishing. All prohibited uses and activities shall be posted including possession of loaded firearms, swimming, launching or mooring jet skis or boats, skiing, building fires, operating concessions, or other activities not directly associated with fishing.

(g) Size and creel regulations for game and nongame fishes that differ from the general statewide regulations shall be posted at public fishing areas, Community Fishing Program waters, and other cooperatively managed public waters.

Authority G.S. 113-134; 113-264; 75A-14.

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10B .0105 - .0106, .0113, .0116, .0201 - .0204, .0206, .0209, .0215, .0302 - .0303, .0404, .0409; 10D .0102 - .0103; and 10H .0102.

Proposed Effective Date: May 1, 2009

Public Hearing:

Date: January 5, 2009

Time: 7:00 p.m.

Location: Bladen Community College, 7418 Hwy 41 West, Dublin, NC

Date: January 7, 2009

Time: 7:00 p.m.

Location: Graham High School Auditorium, 903 Trollinger Road, Graham, NC

Date: January 8, 2009

Time: 7:00 p.m.

Location: South Stanly High School, 40488 South Stanly School Road, Norwood, NC

Date: January 13, 2009

Time: 7:00 p.m.

Location: Morganton Municipal Auditorium, 401 S. College Street, Morganton, NC

Date: January 14, 2009

Time: 7:00 p.m.

Location: Southwestern Community College, 447 College Drive, Sylva, NC

Date: January 15, 2009

Time: 7:00 p.m.

Location: Boonville, Starmount High School, 2516 Longtown Road, Boonville, NC

Date: January 20, 2009

Time: 7:00 p.m.

Location: Edenton, Swain Auditorium, 100 Court Street, Edenton, NC

Date: January 21, 2009

Time: 7:00 p.m.

Location: Craven County Courthouse, 302 Broad Street, New Bern, NC

Date: January 22, 2009

Time: 7:00 p.m.

Location: Brown Auditorium at Nash Community College, 522 North Old Carriage Road, Rocky Mount, NC

Reason for Proposed Action:

15A NCAC 10B .0105 – To adjust the requirements for take.

15A NCAC 10B .0106 – To adjust disposition requirements for wildlife resources taken under depredation permits.

15A NCAC 10B .0113 – To adjust reporting requirements for big game.

15A NCAC 10B .0116 – To adjust requirements for what archery equipment is allowed.

15A NCAC 10B .0201 – To allow taking falcon hunting with the use of archery equipment on Sundays.

15A NCAC 10B .0202 – To adjust seasons for bear.

15A NCAC 10B .0203 – To adjust seasons for white tailed deer.

15A NCAC 10B .0204 – To adjust seasons for wild boar.

15A NCAC 10B .0206 – To adjust seasons for squirrels.

15A NCAC 10B .0209 – To adjust seasons for wild turkeys.

15A NCAC 10B .0215 – To adjust seasons for crows.

15A NCAC 10B .0302 – To adjust trapping seasons.
15A NCAC 10B .0303 – To adjust trapping bag limits.
15A NCAC 10B .0404 – To prohibit some sales of live foxes.
15A NCAC 10B .0409 – To prohibit some sales of live foxes.
15A NCAC 10D .0102 – To adjust management of game lands programs.
15A NCAC 10D .0103 – To set seasons, specify game land activities and add new game lands.
15A NCAC 10H .0102 – To adjust requirement for acreage on controlled hunting preserves.

Procedure by which a person can object to the agency on a proposed rule: Any person who wishes to object to a proposed rule may do so by writing (or emailing) the person specified in connection with a given rule within the public comment period set up for these Rules. The contact person for these rules is Kate Pipkin.

Comments may be submitted to: Kate Pipkin, 1722 Mail Service Center, Raleigh, NC 27699-1722

Comment period ends: January 30, 2009

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

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

**CHAPTER 10 – WILDLIFE RESOURCES AND WATER
SAFETY**

SUBCHAPTER 10B – HUNTING AND TRAPPING

SECTION .0100 – GENERAL REGULATIONS

15A NCAC 10B .0105 MIGRATORY GAME BIRDS

(a) Cooperative State Rules:

- (1) The taking of sea ducks (scoter, eider and old squaw) during any federally-announced season for only these species shall be limited to the waters of the Atlantic Ocean, and to those coastal waters south of US 64 which are

separated by a distance of at least 800 yards of open water from any shore, island or marsh.

- (2) Tundra swans may be taken during the open season by permit only subject to annual limitations imposed by the U.S. Fish and Wildlife Service. Based upon the annual limitations imposed by the U.S. Fish and Wildlife Service, the Wildlife Resources Commission shall issue nontransferable swan permits to applicants who will be selected at random by computer, and only one swan may be taken under each permit which must be cancelled at the time of the kill by cutting out the month and day of the kill. Accompanying the permit is a tag which must be affixed to the swan at the time and place of the kill. The tag must be affixed in accordance with instructions provided with the permit. In addition, a preaddressed post-paid card is supplied to each permittee on which to report the number of days hunted and the details of the kill if made. It is unlawful to hunt swans without having the permit and the tag in possession or to possess a swan without the cancelled permit in possession and the tag properly affixed to the swan. It is unlawful to possess a swan permit or tag while hunting that was assigned to another person or to alter the permit or tag in any way other than cutting out the proper month and day of kill.

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

- (1) No migratory game bird may be taken:
 (A) With a rifle;
 (B) With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so as to limit its total capacity to not more than three shells. Under specific guidelines, the use of unplugged guns may be allowed if approved by the U.S. Fish & Wildlife Service and the Wildlife Resources Commission.
 (C) With the aid of electronic or recorded animal or bird calls, unless specifically allowed by the U.S. Fish & Wildlife Service and approved by the Wildlife Resources Commission.
- (2) No migratory game bird may be taken:
 (A) From or by the use of a sinkbox or any other type of low floating device affording the hunter a means of concealment beneath the surface of the water;
 (B) With the aid of bait, or on, over or within 300 yards of any place where

any grain, salt or other feed is exposed so as to constitute an attraction to migratory game birds or has been so exposed during any of the 10 consecutive days preceding the taking, except that this Part shall not apply to standing crops, flooded croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting;

(C) With the aid of live decoys, or on, over or within 300 yards of any place where tame or captive migratory game birds are present, unless such birds are and have been for a period of 10 consecutive days prior to such taking confined within an enclosure which eliminates the audibility of their calls and totally conceals them from the sight of wild migratory game birds.

(3) Waterfowl hunting and harassment and other unauthorized activities is prohibited on posted waterfowl management areas established by the Wildlife Resources Commission for Canada Geese and ducks restoration.

(4) In that area of Roanoke Sound adjacent to and immediately Northeast of Roanoke Island as marked by buoys designating the waterfowl rest area, it is unlawful to harass or take any waterfowl.

(5) The area east of US 17 is designated as an experimental September teal season zone as referenced by the Federal frameworks calling for state rules designating experimental areas.

(6) It is unlawful to harass or take any geese during established goose hunting season that occurs after October 1 in each year in the Gaddy Goose Refuge, which is in that area of Anson County starting at the NC 109 bridge over the Pee Dee River and following NC 109 south to Dennis Road (SR1650); west on Dennis Road to Pleasant Grove Church Road (SR 1649); continue west on Pleasant Grove Church Road to US 52; south on US 52 to Lockhart Road (SR 1652); west on Lockhart Road to Brown Creek Church-Cox Road (SR 1641); west on Brown Creek Church-Cox Road to NC 742; northwest on NC 742 to Lanes Creek; Lanes Creek north (downstream) to Rocky River; Rocky River downstream to the Pee Dee River; and from Pee Dee River downstream to the beginning of the NC 109 bridge.

(c) Reporting Requirements: For tundra swan and Canada goose seasons where a permit is required to hunt by Memorandum of Agreement with the U.S. Fish & Wildlife

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

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

15A NCAC 10B .0106 WILDLIFE TAKEN FOR DEPREDACTIONS 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.

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.

15A NCAC 10B .0113 BIG GAME KILL REPORTS

(a) Upon killing a bear, deer, wild boar, or wild turkey and before moving the animal from the site of kill, the successful hunter must tag the carcass with the appropriate big game tag. The tag shall be affixed to the carcass at a location and in such a manner as to be visible upon inspection, and it is unlawful to affix the tag at any location or in any manner so as to conceal it from visibility upon ordinary inspection, validate the Big Game Harvest Report Card furnished with the big game hunting license by cutting or punching out the validation box that correctly identifies the big game animal harvested. In lieu of the Big Game Harvest Report Card, antlerless deer may be recorded as outlined above on the Bonus Antlerless Deer Harvest Report Card acquired from the Wildlife Resources Commission or a Wildlife Service Agent

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

(c) When a hunter registers a kill at a Wildlife Cooperator Agent, the Wildlife Cooperator Agent shall issue an authorization number that includes the date of kill to the big game hunter. The hunter shall record the authorization number given by the Wildlife Cooperator Agent or obtained through the

Electronic Big Game Reporting System on the appropriate line of in the space provided immediately adjacent to the validation box that has been cut or punched out on the Big Game Harvest Report Card or the Bonus Antlerless Deer Harvest Report Card. The record entered on the Big game Harvest Report Card or the Bonus Antlerless Deer Harvest Report Card shall thereafter constitute authorization for the continued possession of the carcass. Otherwise, the continued possession of the harvested bear, deer, wild boar, or wild turkey shall be unlawful. Possession of a harvested bear, deer, wild boar, or wild turkey without the validated Big game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card where applicable, including the authorization number obtained from a Wildlife Cooperator Agent or through the Electronic Big Game Reporting System is unlawful.

(d) Persons killing a big game animal and transferring any portion of the carcass to another individual shall first register the animal with a Wildlife Cooperator Agent or through the Electronic Big Game Reporting System as described in this Rule. A person receiving any portion of a big game carcass from an animal that was harvested by another individual must record the harvest authorization number to lawfully possess the portion of carcass received, leaving it unattended must identify the carcass with their name, their hunting license number, and the date of kill. Once an unattended animal is registered the animal need only be identified with the authorization number received by registering the kill. It is unlawful for a person to possess a Big Game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card on which the species validation box has been cut or punched out, but on which the authorization number received by registering the kill has not been recorded, unless the animal is in the person's possession or is identified as described in this Paragraph and not more than 24 hours have passed since the harvest.

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

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

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

15A NCAC 10B .0116 PERMITTED ARCHERY EQUIPMENT

(a) Only longbows and recurved bows having a minimum pull of 40 pounds, pounds and compound bows having a minimum pull of 35 pounds and crossbows shall be used for taking game. It is unlawful to use a crossbow or any other type of bow equipped with any device by which the bow can be set at full or partial pull and released by a trigger or any similar mechanism

~~without a disabled sportsman's crossbow hunting permit issued by the Executive Director.~~

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

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

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

SECTION .0200 - HUNTING

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

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

(b) On Sundays, hunting is allowed with the following restrictions:

- (1) Only archery equipment as described in 15A NCAC 10B .0116 and falconry are lawful methods of take; and
- (2) Migratory game birds may not be taken on Sundays.

These restrictions do not apply to military installations under the exclusive jurisdiction of the federal government.

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

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

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

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 Halifax, Hertford, Hertford County and Martin and Northampton 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, Pamlico, 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 except by permit only
 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--Panther town-Bonas Defeat bear sanctuary

Macon County--Standing Indian bear sanctuary
 Macon County--Wayah bear sanctuary
 Madison County--Rich Mountain bear sanctuary
 McDowell and Yancey counties--Mt. Mitchell bear sanctuary except by permit only.
 Mitchell and Yancey counties--Flat Top bear sanctuary
 Wilkes County--Thurmond Chatham bear sanctuary

(c) Bag limits shall be:

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

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

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

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

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

~~(b)(a)~~ Open Seasons (All Lawful Weapons)

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

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

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

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

**Refer to 15A NCAC 10D .0103(h) for seasons on Nicholson Creek, Rockfish Creek and Sandhills Game Lands.

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

Forsyth, Gaston, Iredell, Lincoln, Stokes, Surry, Watauga, Wilkes*, and Yadkin counties.

*Refer to 15A NCAC 10D .0103(h) for seasons on Buffalo Cove game land.

- ~~(C)(B)~~ Monday of Thanksgiving week through the third Saturday after Thanksgiving Day in and west of Madison, Buncombe, Henderson and Polk all of Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Swain, Transylvania, and Yancey counties.

- ~~(D)~~ Two Saturdays before Thanksgiving through January 1 in all of Alamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Durham, Granville, Guilford, Lee, Mecklenburg, Montgomery, Orange, Person, Randolph, Rockingham, Rowan, Stanly, and Union counties, and in the following parts of counties:
 Moore: That part north of NC 211 and west of US 1.

- ~~(E)~~ Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge, in those parts of Hyde, Tyrrell and Washington counties known as the Pocosin Lakes National Wildlife Refuge, in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.

- ~~(F)~~ Monday of Thanksgiving week through the fifth Saturday after Thanksgiving Day in all of Cleveland and Rutherford counties, except for South Mountain Game Land.

- (2) Deer of Either Sex. Except on Game Lands, deer Deer of either sex may be taken during the open seasons and in the counties and portions of counties listed in this Subparagraph. Subparagraph (Refer to 15A NCAC 10D .0103 for either sex seasons on Game Lands):

- (A) The open either sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates and

~~Pasquotank counties known as the Dismal Swamp National Wildlife Refuge, in those parts of Hyde, Tyrrell and Washington counties known as the Pocosin Lakes National Wildlife Refuge, in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.~~

~~(B) The open either-sex deer hunting dates established by the appropriate military commands during the period from Saturday on or nearest October 15 through January 1 in that part of Brunswick County known as the Sunny Point Military Ocean Terminal, in that part of Craven County known and marked as Cherry Point Marine Base, in that part of Onslow County known and marked as the Camp Lejeune Marine Base, on Fort Bragg Military Reservation, and on Camp Mackall Military Reservation.~~

~~(C)(A) Youth either sex deer hunts. First Saturday in October for youth either sex deer hunting by permit only on a portion of Belews Creek Steam Station in Stokes County designated by agents of the Commission and the third Saturday in October for youth either-sex deer hunting by permit only on Mountain Island State Forest in Lincoln and Gaston counties; and the second Saturday in November for youth either-sex deer hunting by permit only on apportion of Warrior Creek located on W. Kerr Scott Reservoir, Wilkes County designated by agents of the Commission.~~

~~(D)(B) The last open day of the Deer with Visible Antlers season described in Subparagraph (b)(1) Part (a)(1)(B) of this Rule in all of Buncombe, Buncombe,* Haywood, Henderson, Madison and Transylvania counties** and the following parts of counties:
Avery: That part south of the Blue Ridge Parkway;
Scotland: That part south of US 74; and
Yancey: That part south of US 19 and US 19E.~~

~~*except for that part east of NC 191, south of the French Broad and Swannanoa Rivers, west of US 25, and north of NC 280~~

~~**see 15A NCAC 10D .0103 for deer of either sex seasons on game lands that differ from the days identified in this Subparagraph~~

~~(E)(C) The last six open days of the Deer With Visible Antlers season described in Subparagraph (b)(1) Part (a)(1)(B) of this Rule in all of Polk County, Burke, Caldwell, McDowell, Mitchell, Polk and the following parts of counties:~~

~~Avery: That part north of the Blue Ridge Parkway;~~

~~Dare, except that part of the county located on the Outer Banks north of Whalebone; and~~

~~Yancey: That part north of US 19 and US 19E.~~

~~(F) The first six open days and the last six open days of the Deer with Visible Antlers season described in Subparagraph (b)(1) of this Rule in all of Catawba, Cleveland, Gaston, Lincoln, Robeson, Rutherford, and Watauga counties and in the following parts of counties:~~

~~Scotland: That part north of US 74.~~

~~(G)(D) All the open days of the Deer With Visible Antlers season described in Subparagraph (b)(1) Part (a)(1)(A) of this Rule in and east of Yancey, McDowell and Rutherford counties in all of Alamance, Alexander, Alleghany, Anson, Ashe, Beaufort, Bertie, Bladen, Brunswick, Cabarrus, Camden, Carteret, Caswell, Chatham, Chowan, Columbus, Cumberland, Currituck, Craven, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gates, Granville, Greene, Guilford, Halifax, Harnett, Hertford, Hoke, Hyde, Iredell, Johnston, Jones, Lee, Lenoir, Martin, Mecklenburg, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph, Richmond, Rockingham, Rowan, Sampson, Stanly, Stokes, Surry, Tyrrell, Union, Vance, Wake, Warren, Washington, Wilkes, Wayne, Wilson, and Yadkin counties, and in the following parts of counties:~~

~~Buncombe: That part east of NC 191, south of the French Broad and Swannanoa Rivers, west of US 25, and north of NC 280; NC 280.~~

~~Dare: That part of the Outer Banks north of Whalebone;~~
~~Henderson. That part east of NC 191 and north and west of NC 280.~~

~~(e)(b)~~ Open Seasons (Bow and Arrow)

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

(A) Saturday on or nearest September 10 to the ~~fourth~~ third Friday thereafter in ~~and east of Yancey, McDowell and Rutherford counties, the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (A) of Subparagraph (b)(1) of this Rule, except on Nicholson Creek, Rockfish Creek, and Sandhills Game Lands and the area known as the Outer Banks in Currituck County.~~

~~(B) Saturday on or nearest September 10 to the second Friday before Thanksgiving in the counties and parts of counties having the open seasons for Deer with Visible Antlers specified by Part (B) of Subparagraph (b)(1) of this Rule except for that portion of Buffalo Cove Game Land in Wilkes County.~~

~~(C)(B) Monday on or nearest September 10 to the ~~fourth~~ third Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving in and west of Madison, Buncombe, Henderson and Polk counties, the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (C) of Subparagraph (b)(1) of this Rule and in Cleveland and Rutherford counties.~~

~~(D) Saturday on or nearest September 10 to the third Friday before Thanksgiving in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (D) of Subparagraph (b)(1) of this Rule, and on Nicholson Creek, Rockfish Creek and Sandhills Game Lands.~~

(2) Restrictions

- (A) Dogs may not be used for hunting deer during the bow and arrow season.
- (B) It is unlawful to carry any type of firearm while hunting with a bow

during the bow and arrow deer hunting season.

- (C) Only bows and arrows of the types authorized in 15A NCAC 10B .0116 for taking deer may be used during the bow and arrow deer hunting season.

~~(d)(c)~~ Open Seasons (Muzzle-Loading Rifles, Shotguns and Bow and Arrow)

- (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph, deer may be taken only with muzzle-loading firearms ~~and and, on private lands only,~~ bow and arrow ~~(except that bow and arrow may be used on designated and posted game land Archery Zones)~~ during the following seasons:

(A) The Saturday on or nearest ~~October 8~~ October 1 to the following Friday ~~of the second week thereafter in and east of Yancey, McDowell and Rutherford counties, the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (A) of Subparagraph (b)(1) of this Rule, except on Nicholson Creek, Rockfish Creek and Sandhills Game Lands and the area known as the Outer Banks in Currituck County.~~

~~(B) The second Saturday preceding Thanksgiving until the following Friday in the counties* and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (B) of Subparagraph (b)(1) of this Rule.~~

~~*Refer to 15A NCAC 10D .0103(h) for seasons on Buffalo Cove game land.~~

~~(C)(B) Monday on or nearest ~~October 8~~ October 1 to the following Saturday of the second week thereafter in and west of Madison, Buncombe, Henderson and Polk counties, Cleveland and Rutherford counties and in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part C of Subparagraph (b)(1) of this Rule.~~

~~(D) The third Saturday preceding Thanksgiving until the following Friday in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (D) of Subparagraph (b)(1) of this Rule, and on Nicholson Creek, Rockfish Creek and Sandhills Game Lands.~~

(2) Restrictions

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

~~(e)~~(d) Open Season (Urban Season)

- (1) Authorization. Subject to the restrictions set out in Subparagraph (3) of this Paragraph and the bag limits set out in Paragraph ~~(f)~~(e) of this Rule, deer of either sex may be taken with bow and arrow in participating cities in the state, as defined in G.S. 160A-1(2), from the second Saturday following January 1 to the fifth Saturday thereafter. Deer shall not be taken on any game land or part thereof that occurs within a city boundary.
- (2) Participation. Cities that intend to participate in the urban season must send a letter to that effect no later than April 1 of the year prior to the start of the urban season to the Executive Director or his designee. Cities must also submit a map of the city's boundaries within which the urban season shall apply.
- (3) Restrictions:
 - (A) Dogs shall not be used for hunting deer during the urban season.
 - (B) It is unlawful to carry any type of firearm while hunting with a bow during the urban season.
 - (C) Only bows and arrows of the types authorized in 15A NCAC 10B .0116 for taking deer shall be used during the urban season.

~~(f)~~(e) In those counties or parts of counties listed in Part ~~(b)~~(1)(A) of Subparagraph (b)(1) of this Rule, the daily bag limit shall be two and the possession limit six, two of which shall be antlerless. The season limit shall be six, two of which shall be antlerless. In all other counties or parts of counties, the daily bag limit shall be two and the possession limit six, four of which shall be antlerless. The season limit shall be six, four of which shall be antlerless. In and east of Vance, Franklin, Wake, Harnett, Moore and Richmond counties, the possession limit is six deer, up to four of which may be deer with visible antlers. In all other counties of the state the possession limit is six deer, up to two of which may be deer with visible antlers. The season limit in all counties of the state is six deer. In addition to the bag

limits described above, a hunter may obtain multiple bonus antlerless deer harvest report cards from the Wildlife Resources Commission or any Wildlife Service Agent to allow the harvest of two additional antlerless deer per card on private lands others than lands enrolled in the Commission's game land program during any open deer season in all counties and parts of counties of the State identified in ~~Part (G)~~ Part (D) of Subparagraph ~~(b)(2)(a)(2)~~ of this Rule. Antlerless deer harvested and reported on the bonus antlerless harvest report card shall not count as part of the possession and season limit. ~~limit, however the daily bag limit shall be two.~~ Hunters may also use the bonus antlerless harvest report cards for deer harvested during the season described in Paragraph ~~(e)~~(d) of this Rule within the boundaries of participating municipalities, except on state-owned game lands. Antlerless deer include males with knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin. The bag limits described above do not apply to deer harvested in areas covered in the Deer Management Assistance Program (DMAP) as described in G.S. 113-291.2(e) for those individuals using Commission-issued DMAP tags and reporting harvest as described on the DMAP license. Individual daily bag limits on these areas shall be determined by the number of special tags, issued by the Division of Wildlife Management as authorized by the Executive Director, that shall be in the possession of the hunter. Season bag limits shall be set by the number of DMAP tags available, issued and in the hunters' possession. All deer harvested ~~on these areas, under this program,~~ regardless of the date of harvest, shall be tagged with these special DMAP tags and reported as instructed on the DMAP license, but the The hunter does not have to validate the Big Game Harvest Report Card provided with the hunting ~~license.~~ license for deer tagged with the DMAP tags. Any deer harvested on lands enrolled in the DMAP and not tagged with DMAP tags may only be harvested during the regularly established deer seasons subject to all the restrictions of those seasons, including bag limits, and reported using the big game harvest report card or the bonus antlerless harvest report card.

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

15A NCAC 10B .0204 WILD BOAR (BOTH SEXES)

(a) Open Seasons: The wild boar season for both sexes in Cherokee, Clay, Graham, Jackson, Macon, and Swain counties shall be the Monday on or nearest September 10 to the last day in February, October 15 to the Saturday before Thanksgiving, and the third Monday after Thanksgiving to January 1, except on bear sanctuaries located on the game lands, where the boar seasons are controlled by 15A NCAC 10D .0103. Wild Boar may not be taken with the use of dogs on designated bear sanctuaries and may be taken in the deer bow and arrow season, deer muzzleloading season, deer gun season and any small game season using only weapons and manner of take prescribed for that hunting season. Wild boar may be hunted with dogs only during open bear season.

Free-ranging swine in all the other counties are considered to be feral and harvest and reporting of harvest are not regulated by

the Commission except on game lands as described in 15A NCAC 10D .0103(i).

(b) Bag Limits: The daily bag limit for wild boar of both sexes is one; the possession limit is one; and the season limit is two.

(c) Kill Reports. The carcass of each wild boar shall be tagged and the kill reported as provided by 15A NCAC 10B .0113.

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

15A NCAC 10B .0206 SQUIRRELS

(a) Open Seasons:

- (1) Gray and Red Squirrels: October 1 to the second Saturday in February. 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.

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

15A NCAC 10B .0209 WILD TURKEY

(a) Open Seasons:

- ~~(1) Winter Either Sex Wild Turkey Season shall be from the Monday on or nearest to January 15 through the following Saturday on bearded or beardless turkeys in Alleghany, Ashe, Caswell, Granville, Person, Rockingham, Stokes, Surry, Watauga and Wilkes counties except on Game Lands~~
- ~~(2)(1) Companion Spring Wild Turkey Season shall be on the first Saturday in April on bearded or male wild turkeys only. Each person hunting wild turkey on this day shall be accompanied by at least one other person. Shooting hours during this season are one-half hour before sunrise until 1 pm. from the second Saturday in April through the Saturday of the fourth week thereafter on bearded or male turkeys only in all counties statewide.~~
- (2) Spring Wild Turkey Season shall open the day following the Companion Wild Turkey Season and remain open through the Saturday of the fourth week thereafter on bearded or male wild turkeys only. During the first six days of the Spring Wild Turkey Season shooting hours are one-half hour before sunrise until 1 pm. Shooting hours during the remainder of the

season are one-half hour before sunrise until one-half hour after sunset.

- ~~(3) Spring Youth Only Wild Turkey Season: the Spring Youth Only Wild Turkey Season shall be for one day on the first Saturday in April on bearded or male wild turkeys only. For purposes of this Subparagraph a youth hunter shall be less than 16 years of age. Each youth hunting during this season shall be accompanied by a properly licensed adult at least 21 years of age. An adult may accompany only one youth during any particular hunt and only one weapon is allowed per youth hunter. The following game lands require a permit to hunt during the Spring Youth Only Wild Turkey season:
Croatan
Holly Shelter
North River
Van Swamp~~

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

(c) Dogs: The use of dogs for hunting wild turkeys ~~during the Spring Wild Turkey Season and the Spring Youth Only Wild Turkey Season~~ is prohibited.

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

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

15A NCAC 10B .0215 CROWS

(a) Open Seasons: Wednesday, Friday and Saturday of each week from the first Wednesday in June June 1 to the last day of February and on the following holidays: July 4, Labor Day, Thanksgiving Day and Christmas Day. Thanksgiving, Christmas, New Years and Martin Luther King, Jr. days.

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

(b) Bag Limits: No restriction.

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

SECTION .0300 - TRAPPING

15A NCAC 10B .0302 OPEN SEASONS

(a) General. Subject to the restrictions set out in Paragraph (b) of this Rule, the following seasons for taking fur-bearing animals as defined in G.S. 113-129(7a), coyotes, and groundhogs 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 1 through the last day of February 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.

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

15 NCAC 10B .0303 BAG LIMITS

There shall be no restrictions on bag limits of furbearers, coyotes, or ~~groundhogs. 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.

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

SECTION .0400 - TAGGING FURS

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, ~~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.

Authority G.S. 113-134; 113-276.1; 113-291.4; S.L. 1985, chs. 108, 179, 180.

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

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

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

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

SUBCHAPTER 10D - GAME LANDS REGULATIONS

SECTION .0100 - GAME LANDS REGULATIONS

15A NCAC 10D .0102 GENERAL REGULATIONS REGARDING USE

(a) Trespass. Entry on game lands for purposes other than hunting, trapping or fishing shall be as authorized by the landowner and there shall be no removal of any plants or parts thereof, or other materials, without the written authorization of the landowner. The Wildlife Resources Commission 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. Dogs may not be trained or permitted to run unleashed from March 15 through June 15 on any game land located east 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 permit~~ special permit hunts for disabled sportsmen ~~listed in 15A NCAC 10D-0103~~ offered by the Commission and use of designated blinds during those hunts 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. Hunters who qualify under the Disabled Sportsman Program and their able-bodied companions may access special hunting blinds for people with disabilities during regularly scheduled, non-permit hunting days on a first come basis, except for those blinds located on the Restricted Area of Caswell Game Land.

(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.

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

15A NCAC 10B .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)~~(1) 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)~~(2) 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)~~(3) 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, 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)(B)~~ Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.
- (3) Angola Bay Game Land in Duplin and Pender counties
 - (A) Six Days per Week Area
 - ~~(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.~~
- (4) ~~Bachelor~~ Bachelor 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)(B)~~ Handguns shall not be carried and, except for muzzle-loaders, rifles larger than .22 caliber rimfire shall not be used or possessed.
- ~~(D)(C)~~ On the Singletary Lake Tract deer and bear may be taken only by still hunting.
- ~~(E)(D)~~ Wild turkey hunting on the Singletary Lake Tract is by permit only.
- ~~(F)(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)(B)~~ 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.
- (8) Brunswick County Game Land in Brunswick County: Permit Only Area
- (9) Buckhorn Game Land in Orange County
 - (A) Hunting is by permit only.
 - (B) Horseback riding, including all equine species, is prohibited.
- (10) Buckridge Game Land in Tyrrell County.
 - (A) Three Days per Week Area
 - ~~(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.~~
 - ~~(C)(B)~~ Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days of the second week of the December Bear Season.
- (11) Buffalo Cove Game Land in Caldwell and Wilkes Counties
 - (A) Six Days per Week Area
 - ~~(B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving through the third Saturday after Thanksgiving. Deer may be taken with bow and arrow on open days beginning the Monday on or nearest September 10 to the fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving and during the~~

- ~~deer with visible antlers season. Deer may be taken with muzzle loading firearms on open days beginning the Monday on or nearest October 8 through the following Saturday, and during the Deer With Visible Antlers season.~~
- (C) ~~Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.~~
- (D)(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.
- (12) Bullard and Branch Hunting Preserve Game Lands in Robeson County
- (A) Three Days per Week Area
- (B) ~~Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.~~
- (13) Butner - Falls of Neuse Game Land in Durham, Granville and Wake counties
- (A) Six Days per Week Area
- (B) ~~Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.~~
- (C)(B) Waterfowl shall be taken only on Tuesdays, Thursdays and Saturdays; Christmas and New Year's Days, Christmas, New Year's and Martin Luther King, Jr. 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)(C) Horseback riding, including all equine species, is prohibited.
- (E)(D) Target shooting is prohibited
- (F)(E) Wild turkey hunting is by permit only, except on those areas posted as an archery zone.
- (G)(F) The use of dogs for hunting deer is prohibited on that portion west of NC 50 and south of Falls Lake.
- (H)(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.
- (I)(H) 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.
- (14) Buxton Woods Game Land in Dare County
- (A) Six Days per Week Area
- (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)(B) Turkey Hunting is by permit only on that portion known as the Roan Island Tract.
- (D)(C) 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)(B) 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)(B) 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)(C) 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)(D) On the posted waterfowl impoundment, waterfowl hunting is by permit only after November 1.
- (G)(E) 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.
- (18) 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)(B) Deer may be taken with bow and arrow only from the tract known as Molly's Backbone.
- (19) 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)(B) Wild turkey hunting is by permit only.
- (D)(C) 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)(D) Target shooting is prohibited.
- (20) Cherokee Game Land in Ashe County
- (A) Six Days per Week Area
- (B) ~~Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.~~
- (21) Chowan Game Land in Chowan County
- (A) Six Days per Week Area
- (B) ~~Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers Season.~~
- (22) 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)(B) 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.
- (23) 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.
- (C) ~~Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.~~
- (24) Columbus County Game Land in Columbus County.
- (A) Three Days per Week Area
- (B) ~~Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.~~
- (25) 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)(B) 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)(C) Dove hunting is by permit only from opening day through the following Saturday of the first segment of dove season on posted areas. During the rest of dove season, no permit is required to hunt doves.
- (26) 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.~~
- (27) 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)(B)~~ No hunting on posted parts of bombing range.
- ~~(D)(C)~~ The use and training of dogs is prohibited from March 1 through June 30.
- (28) 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~~
- (29) 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.~~ season described in 15A NCAC 10B .0203(b)(1)(B).
- (30) Elk Knob Game Land in Watauga 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.~~
- (31) 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)(B)~~ Horseback riding, including all equine species, is prohibited.
- (32) 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)(B)~~ Except as provided in ~~Part (D)~~ Part (C) 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)(C)~~ 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. Beginning on the first open waterfowl season day in October and through the end of the waterfowl season, waterfowl hunting is by permit only on the following waterfowl impoundments: Pamlico Point, Campbell Creek, Hunting Creek, Spring Creek, Smith Creek and Hobucken.
- ~~(E)(D)~~ 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)(E)~~ Camping is restricted to September 1 through February 28 and April 7 through May 14 in areas both designated and posted as camping areas.
- ~~(F)~~ Hunting and vehicular access on the Parker Farm Tract is restricted from

- September 1 to the end of February and April 1- May 15 to individuals that possess a valid hunting opportunity permit.
- (33) 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.
- (34) 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.~~
- (35) 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)(B)~~ 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)(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.
- ~~(E)(D)~~ 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 Season, except for that portion designated as bear sanctuary.~~
- (36) 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)(B)~~ 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)(C)~~ The use or construction of permanent hunting blinds shall be prohibited.
- ~~(E)(D)~~ Wild turkey hunting is by permit only.
- ~~(F)(E)~~ Target shooting is prohibited.
- (37) 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)(B)~~ 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)(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.
- ~~(E)(D)~~ 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)(E)~~ 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.
- ~~(F)~~ Hunting and vehicular access on the Pender 4 Tract is restricted from September 1 to the last day of February and April 1 to May 15 to individuals that possess valid hunting opportunity permits, unless otherwise authorized by the Wildlife Resources Commission.

- (G) Hunters who possess a Disabled Access Permit are allowed to operate an All Terrain Vehicle on and within 100 yards of trails designated for Disabled Sportsman Access.
- (38) 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)~~(B) Target shooting is prohibited.
- (39) J. Morgan Futch Game Land in Tyrrell County, Permit Only Area.
- (40) 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.
- (41) Jordan Game Land in Chatham, Durham, Orange and Wake counties
- (A) Six Days per Week Area
- ~~(B)~~ Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(C)~~(B) 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)~~(C) 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)~~(D) Target shooting is prohibited.
- ~~(F)~~(E) Wild turkey hunting is by permit only, except on those areas posted as an Archery Zone.
- ~~(G)~~(F) 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.
- (42) 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
- (43) 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)~~(E) Hunting on posted waterfowl impoundments is by permit only.
- ~~(G)~~(F) The use of firearms for hunting wild turkey is prohibited.
- (44) 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)~~(B) Wild turkey hunting is by permit only.
- ~~(D)~~(C) The use of dogs for hunting deer on the Godley Tract is prohibited.
- ~~(F)~~(D) Waterfowl hunting on posted waterfowl impoundments is by permit only.
- (45) 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)~~(B) Target shooting is prohibited.
- (46) 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.~~
- (47) 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.~~
- (48) 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)(B) Horseback riding, including all equine species, is prohibited.
(D)(C) The use of dogs for hunting deer is prohibited.
- (49) 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)(B) 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)(C) Target shooting is prohibited.
- (50) 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)(B) 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.
- (51) 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.
- (52) 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.
- (53) 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.~~
- (54) 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.~~
- (55) 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)(B) The use of dogs for hunting deer is prohibited.
(G)(C) Wild turkey hunting is by permit only.
(D) On Lake Upchurch, the following activities are prohibited:
(i) No person shall operate any vessel or vehicle powered by an internal combustion engine; and
(ii) Swimming is prohibited.
- (56) 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)(B) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.

- (57) ~~(D)(C)~~ Wild turkey hunting is by permit only on that portion in Camden County.
~~(E)(D)~~ Hunting on the posted waterfowl impoundment is by permit only.
 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)(B)~~ The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
- (58) 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)(B)~~ Use of centerfire rifles prohibited in that portion in Anson and Richmond counties North of US-74.
- (59) ~~(D)(C)~~ Target shooting is prohibited.
 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.~~
- (60) 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. in those portions of the game land that lie in Buncombe, Haywood, Henderson, Madison and Transylvania counties. In all other parts of the game land deer of either-sex may be taken during the season described in 15A NCAC 10B .0203(a)(2)(C).
 (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).
- (61) Pungo River Game Land in Hyde County
 (A) Six Days per Week Area
- (62) Rhodes Pond Game Land in Cumberland County
 (A) Hunting is by permit only.
 (B) Swimming is prohibited on the area.
- (63) 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.
- (64) Roanoke Island Marshes Game Land in Dare County-Hunting is by permit only.
- (65) 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.~~
- (66) 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)(B)~~ The use of dogs for hunting deer is prohibited.
~~(G)(C)~~ Wild turkey hunting is by permit only.
- (67) Rocky Run Game Land in Onslow County
 (A) 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)(B)~~ 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)(C)~~ In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons
- ~~(E)(D)~~ Wild turkey hunting is by permit only.
- ~~(F)(E)~~ Dove hunting on the field trial grounds is prohibited from the ~~second~~ third Sunday in September through the remainder of the hunting season.
- ~~(G)(F)~~ 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)(G)~~ 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)(H)~~ Horseback riding on field trial grounds from October 22 through March 31 shall be prohibited unless riding in authorized field trials.
- ~~(J)(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.
- (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)(B)~~ Horseback riding, including all equine species, is prohibited.
- ~~(D)(C)~~ 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.
- ~~(C) Dogs may only be trained on Mondays, Wednesdays and Saturdays and only as allowed in 15A NCAC 10D .0102(e).~~
- (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)(B)~~ 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)(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.
- (E)(C) 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)(B) Swimming in all lakes is prohibited.
- (D)(C) 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)(B) 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)(B) 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)(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. 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.~~
- (C) The maximum period of consecutive overnight camping at any designated campground is 14 days within any 30 day period from May 1 – August 31. After 14 consecutive days of camping all personal belongings must be removed from the game land.
- (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)(B) Horseback riding, including all equine species, is prohibited.
- (D)(C) The use of dogs for hunting deer is prohibited.
- (E)(D) 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—season described in 15A NCAC 10B .0203(b)(1)(B).~~
- (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) Uwharrie Game Land in Davidson, Montgomery and Randolph counties
- (A) Six Days per Week Area
- (B) ~~Deer of either sex may be taken the first six open days and the last open six days of the applicable Deer With Visible Antlers Season.~~
- (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)(B) 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)(B) 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)(B) Except as provided in ~~Part (D)~~ Part C 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)(C) ~~From October 1 Beginning on the first open waterfowl season day in October and~~ through the end of the waterfowl season, a ~~special~~ permit is required for hunting posted waterfowl impoundments ~~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)(D) The Huggins Tract is a Restrictive Firearms zone with the following restrictions:
- (i) Access on Hargett Avenue requires a valid Special Hunting Opportunity Permit;
- (ii) Hunting is by permit only; and
- (iii) The use of dogs for hunting deer is prohibited.
- (G)(E) 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.

(m) Permit Hunt Opportunities for Disabled Sportsmen. The Commission may designate special hunts for participants of the disabled sportsman program by permit. The Commission may schedule these permit hunts during the closed season. Hunt dates and species to be taken will be clearly identified on each permit. If the hunt has a limited weapon choice, the allowed weapons will be clearly stated on each permit.

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

SUBCHAPTER 10H - REGULATED ACTIVITIES

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

15A NCAC 10H .0102 ESTABLISHMENT AND OPERATION

(a) Size of Preserve. Controlled hunting preserves licensed under these regulations shall consist of not less than 100 acres ~~not more than 1,000 acres~~ and shall be in one block of land.

(b) Boundary of Preserve. The boundary of each controlled hunting preserve shall be posted with printed signs supplied by the preserve owner with wording and sign size according to a sample provided by the Wildlife Resources Commission. Signs shall be of two types:

- (1) those facing outward from the boundary to prevent trespass; and
- (2) those facing inward from the boundary to confine preserve hunters inside the preserve.

Each set of signs shall be spaced at intervals of not more than 150 feet apart.

(c) Stocking Preserve with Game. An applicant for a controlled hunting preserve license shall present satisfactory evidence of his ability to raise, or purchase, for release on the preserve during the year at least the minimum number herein designated of each species he plans to advertise as being available on his preserve for hunting in accordance with the following formula:

- (1) ring-necked pheasants (and other nonnative game birds except Mallard ducks)--100 birds of each species for first 300 acres, or fraction thereof, and 100 birds for each additional 200 acres, or fraction thereof, included in the hunting preserve;
- (2) bobwhite quail--1,000 quail for the first 300 acres, or fraction thereof, and 500 quail for

each additional 200 acres, or fraction thereof, included in the hunting preserve;

- (3) Mallard ducks (one generation removed from the wild)--100 minimum for each preserve.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10B .0106, .0119, .0212; 10D .0103; 10H .0108-.0109, .0907, .1302; 10I .0102.

Proposed Effective Date: May 1, 2009

Public Hearing:

Date: January 28, 2009

Time: 7:00 p.m.

Location: Auditorium of WRC Centennial Campus headquarters, 1751 Varsity Drive, Raleigh, NC

Reason for Proposed Action:

15A NCAC 10B .0106 – Allow a landowner with a valid depredation permit to give away the edible portions of deer to anyone. The recipient must retain a copy of the depredation permit.

15A NCAC 10B .0119 – Remove spotted turtles from being uniquely listed under the collection license.

15A NCAC 10B .0212 – Eliminate the fox hunting and trapping season in Stokes County.

15A NCAC 10D .0103 – Remove Broad River Game Land and Caswell Farm Game Land from the game land program; allow camping anytime within 100 yards of the Roanoke River on the state-owned portion of the Roanoke River Wetlands Game Land; and add or delete certain counties to the descriptions of game lands in the NCAC to update their locations.

15A NCAC 10H .0108 – Remove most of the requirements for utilizing bird feeders on controlled shooting preserves.

15A NCAC 10H .0109 – Eliminate the requirement that controlled shooting preserve operators provide the Commission with a map of call pen traps and require persons placing call pen traps on their property to label those traps with their contact information.

15A NCAC 10H .0907 – Eliminate the requirement that controlled shooting preserve operators provide the Commission with a map of call pen traps and require persons placing call pen traps on their property to label those traps with their contact information.

15A NCAC 10H .1302 – Add importation as an action that would require a native reptile and amphibian possession permit.

15A NCAC 10I .0102 – Allow the executive director to issue depredation permits for special concern species.

Procedure by which a person can object to the agency on a proposed rule: Any person who wishes to object to a proposed rule may do so by writing (or emailing) the person specified in connection with a given rule within the public comment period

set up for these rules. The contact person for these rules is Kate Pipkin

Comments may be submitted to: Kate Pipkin, 1722 Mail Service Center, Raleigh, NC 27699-1722

Comment period ends: January 30, 2009

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

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

CHAPTER 10 – WILDLIFE RESOURCES COMMISSION

SUBCHAPTER 10B – HUNTING AND TRAPPING

SECTION .0100 – GENERAL REGULATIONS

15A NCAC 10B .0106 WILDLIFE TAKEN FOR DEPREDACTIONS 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~~ permit, if required, 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. The landholder may give his employees, a second party or a charitable organization the edible portions of the deer taken under the depredation permit. The receiver of the edible portions must hold a copy of the 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.

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.

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~~, ~~threatened~~ and 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.

Authority G.S. 113-134; 113-272.4.

SECTION .0200 - HUNTING

15A NCAC 10B .0212 FOXES (GRAY AND RED)

(a) Seasons.

- (1) There shall be no closed season on taking foxes with dogs;
- (2) Foxes may be taken with weapons or traps the first to fourth Saturday in January in the following counties:

Caswell	Macon
Clay	Stokes
Graham	Tyrrell
Henderson	

- (3) Foxes may be taken the Saturday next preceding Thanksgiving through January 1 by bow and arrow in all areas of the State east of Interstate Highway 77 and in Mitchell County.

(b) Bag Limit.

- (1) Except in areas of open season for taking foxes with weapons or traps, foxes may not be intentionally killed by any method;
- (2) In areas of open season in all areas east of Interstate Highway 77 as set by the Legislature and in Subparagraph (a)(2) and (a)(3) of this Rule, the following bag limit applies: Daily, two; season, 10.

Note: Where local laws governing the taking of foxes conflict with these Regulations, the local laws shall prevail.

Authority G.S. 113-134; 113-291.2; 113-291.4.

SUBCHAPTER 10D – GAME LANDS REGULATIONS

SECTION .0100 – GAME LANDS REGULATIONS

15A NCAC 10D .0103 HUNTING ON GAME LANDS

(a) Safety Requirements. No person while hunting on any designated game land shall be under the influence of alcohol or any narcotic drug, or fail to comply with 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) ~~Bachelor~~ Bachelor Bay Game Land in ~~Bertie~~ Bertie, Martin 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)~~(8) Brunswick County Game Land in Brunswick County: Permit Only Area
- ~~(10)~~(9) Buckhorn Game Land in Orange County
 - (A) Hunting is by permit only.
 - (B) Horseback riding, including all equine species, is prohibited.
- ~~(11)~~(10) Buckridge Game Land in Tyrrell County.
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days of the second week of the December Bear Season.
- ~~(12)~~(11) Buffalo Cove Game Land in Caldwell and Wilkes Counties
 - (A) Six Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving through the third Saturday after Thanksgiving. Deer may be taken with bow and arrow on open days beginning the Monday on or nearest September 10 to the fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving and during the deer with visible antlers season. Deer may be taken with muzzle-loading firearms on open days beginning the Monday on or nearest October 8 through the following Saturday, and during the Deer With Visible Antlers season.
- (C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- ~~(13)~~(12) Bullard and Branch Hunting Preserve Game Lands in Robeson County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(14)~~(13) Butner - Falls of Neuse Game Land in Durham, Granville and Wake counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl 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)~~(14) 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)~~(15) 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)~~(16) 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)~~(17) Catawba Game Land in Catawba County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
 - (C) Deer may be taken with bow and arrow only from the tract known as Molly's Backbone.
- ~~(20)~~(18) 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)~~(19) Cherokee Game Land in Ashe County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(22)~~(20) Chowan Game Land in Chowan County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers Season.
- ~~(23)~~(21) 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)~~(22) 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.
 - (C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- ~~(25)~~(23) Columbus County Game Land in Columbus County.
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(26)~~(24) 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)~~(25) Currituck Banks Game Land in Currituck County
- (A) Six Days per Week Area
 - (B) Permanent waterfowl blinds in Currituck Sound on these game lands shall be hunted by permit only 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)~~(26) 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)~~(27) 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)~~(28) 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)~~(29) Elk Knob Game Land in ~~Ashe and Watauga counties~~ County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(32)~~(30) Embro Game Land in ~~Halifax and Warren County~~ 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.
- ~~(33)~~(31) 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)~~(32) 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)~~(33) 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)~~(34) 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)~~(35) 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)~~(36) 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)~~(37) 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)~~(38) J. Morgan Futch Game Land in Tyrrell County, Permit Only Area.
- ~~(41)~~(39) 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)~~(40) 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)~~(41) Juniper Creek Game Land in Brunswick County and Columbus counties
- (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)~~(42) Kerr Scott Game Land in Wilkes County
- (A) Six Days per Week Area
 - (B) Use of centerfire rifles shall be prohibited.
 - (C) Use of muzzleloaders, shotguns, or rifles for hunting deer during the applicable Deer With Visible Antlers Season shall be prohibited.
 - (D) Tree stands shall not be left overnight and no screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.
 - (E) Deer of either sex may be taken on all open days of the applicable deer with visible antlers season.
 - (F) Hunting on posted waterfowl impoundments is by permit only.
 - (G) The use of firearms for hunting wild turkey is prohibited.

- ~~(45)~~(43) Lantern Acres Game Land in Tyrrell and Washington counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Wild turkey hunting is by permit only.
 - (D) The use of dogs for hunting deer on the Godley Tract is prohibited.
 - (F) Waterfowl hunting on posted waterfowl impoundments is by permit only.
- ~~(46)~~(44) Lee Game Land in Lee County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Target shooting is prohibited.
- ~~(47)~~(45) Light Ground Pocosin Game Land in Pamlico County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer with Visible Antlers Season.
- ~~(48)~~(46) Linwood Game Land in Davidson County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken on all of the open days of the applicable Deer With Visible Antlers Season.
- ~~(49)~~(47) Lower Fishing Creek Game Land in Edgecombe ~~County~~ and Halifax 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.
- ~~(50)~~(48) Mayo Game Land in Person County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl shall be taken only on Tuesdays, Thursdays and Saturdays; Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons.
 - (D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.
 - (E) Target shooting is prohibited.
- ~~(51)~~(49) 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)~~(50) Nantahala Game Land in Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season in that portion located in Transylvania County.
- ~~(53)~~(51) Needmore Game Land in Macon and Swain counties.
- (A) Six Days per Week Area
 - (B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding shall be prohibited from September 1 through May 15. This Rule includes all equine species.
- ~~(54)~~(52) Neuse River Game Land in Craven County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(55)~~(53) New Lake Game Land in Hyde and Tyrrell counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(56)~~(54) Nicholson Creek Game Land in Hoke County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken with bow and arrow on open hunting days from the Saturday on or nearest September 10 to the third Friday before Thanksgiving.
 - (C) Deer of either sex may be taken with muzzle-loading firearms on open hunting days beginning the third Saturday before Thanksgiving through the following Wednesday.
 - (D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving.

- (E) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (F) The use of dogs for hunting deer is prohibited.
- (G) Wild turkey hunting is by permit only.
- ~~(57)~~(55) North River Game Land in ~~Currituck~~, Camden and ~~Currituck~~~~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)~~(56) Northwest River Marsh Game Land in Currituck County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
- ~~(59)~~(57) Pee Dee River Game Land in Anson, Montgomery, Richmond and Stanly counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Use of centerfire rifles prohibited in that portion in Anson and Richmond counties North of US-74.
 - (D) Target shooting is prohibited.
- ~~(60)~~(58) Perkins Game Land in Davie County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- ~~(61)~~(59) Pisgah Game Land in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season. in those portions of the game land that lie in Buncombe, Haywood, Henderson, Madison and Transylvania counties. In all other parts of the game land deer of either-sex may be taken during the season described in 15A NCAC 10B .0203(a)(2)(C).
- (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)~~(60) Pungo River Game Land in Hyde County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(63)~~(61) Rhodes Pond Game Land in Cumberland ~~County~~ and Harnett counties
 - (A) Hunting is by permit only.
 - (B) Swimming is prohibited on the area.
- ~~(64)~~(62) 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. Camping is allowed anytime within 100 yards of the Roanoke River on the state-owned portion of the game land.
- ~~(65)~~(63) Roanoke Island Marshes Game Land in Dare County-Hunting is by permit only.
- ~~(66)~~(64) Robeson Game Land in Robeson County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(67)~~(65) Rockfish Creek Game Land in Hoke County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken with bow and arrow on open hunting days from the Saturday on or nearest September 10 to the third Friday before Thanksgiving.
 - (C) Deer of either sex may be taken with muzzle-loading firearms on open hunting days beginning the third Saturday before Thanksgiving through the following Wednesday.
 - (D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before

- (E) Thanksgiving through the third Saturday after Thanksgiving.
 - (F) 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)~~(66) Sampson Game Land in Sampson County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(69)~~(67) Sandhills Game Land in Hoke, Moore, Richmond and Scotland counties
 - (A) Three Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving except on the field trial grounds where the gun season is open days from the second Monday before Thanksgiving through the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting days during the bow and arrow season, as well as during the regular gun season. Deer may be taken with muzzle-loading firearms on open days beginning the third Saturday before Thanksgiving through the following Wednesday, and during the Deer With Visible Antlers season.
 - (C) Gun either-sex deer hunting is by permit only. For participants in the Disabled Sportsman Program 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)~~(68) Sandy Creek Game Land in Nash and Franklin Counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding, including all equine species, is prohibited.
 - (D) The use of dogs for hunting deer is prohibited.
- ~~(71)~~(69) Sandy Mush Game Land in Buncombe and Madison counties.
 - (A) Three Days per Week Area
 - (B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
 - (C) Dogs may only be trained on Mondays, Wednesdays and Saturdays and only as allowed in 15A NCAC 10D .0102(e).
- ~~(72)~~(70) Second Creek Game Land in Rowan County-hunting is by permit only.
- ~~(73)~~(71) Shocco Creek Game Land in Franklin, ~~Halifax~~ Halifax, Nash 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)~~(72) South Mountains Game Land in Burke, Cleveland, McDowell and Rutherford counties
 - (A) Six Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving through the third Saturday after Thanksgiving. 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)~~(73) Stones Creek Game Land in Onslow County
 - (A) Six-Day per Week Area.
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season
 - (C) Swimming in all lakes is prohibited.
 - (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)~~(74) Suggs Mill Pond Game Land in Bladen ~~County~~ and Cumberland counties
 - (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)~~(75) 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)~~(76) Tar River Game Land in Edgecombe County - hunting is by permit only.
- ~~(79)~~(77) Three Top Mountain Game Land in Ashe County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding including all equine species is prohibited.
- ~~(80)~~(78) Thurmond Chatham Game Land in ~~Alleghany and Wilkes County~~ 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. 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)~~(79) Tillery game Land in Halifax County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding, including all equine species, is prohibited.
 - (D) The use of dogs for hunting deer is prohibited.
 - (E) Wild turkey hunting is by permit only.

~~(82)~~(80) Toxaway Game Land in Jackson and Transylvania County-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. 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)~~(81) Uwharrie Game Land in Davidson, Montgomery and Randolph counties

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last open six days of the applicable Deer With Visible Antlers Season.

~~(84)~~(82) Vance Game Land in Vance County

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) The use of dogs, centerfire rifles and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.

~~(85)~~(83) Van Swamp Game Land in Beaufort and Washington counties

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.

~~(86)~~(85) 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.

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

SUBCHAPTER 10H – REGULATED ACTIVITIES

SECTION .0100 – CONTROLLED HUNTING PRESERVES

15A NCAC 10H .0108 BIRD FEEDERS

(a) Purpose of Rule. The purpose of this Rule is to prescribe criteria governing the ~~numbers~~, types and locations of bird feeders on controlled hunting preserves in the vicinity of which properly licensed hunters may take game birds as provided by law.

~~(b) Number of Feeders. The maximum number of bird feeders which may be placed on any controlled hunting preserve shall not exceed one for each 25 acres of land contained within the boundaries of the preserve.~~

~~(c)(b)~~ Types of Feeders. For the purposes of this Rule, bird feeders may be either of commercial design or of domestic manufacture, provided that in either case they are not designed to disperse grain or other food on the ground around the feeders and are sheltered so as to protect such grain or food from dampness and precipitation.

~~(d)(c)~~ Location of Feeders. For the purposes of this Rule, no bird feeder shall be placed within 100 yards of any boundary of a controlled hunting preserve; otherwise the ~~original~~ locations of such feeders shall be in the discretion of the hunting preserve operator.

~~(e) Map Showing Locations. Before any person shall be allowed to take game birds in the vicinity of a bird feeder, a reasonably accurate map delineating the boundaries of the controlled hunting preserve and accurately depicting the locations of all bird feeders contained within such boundaries shall be provided annually to the Wildlife Resources Commission. After such map has been so provided, no additional bird feeder shall be placed on any controlled hunting preserve and no such bird feeder shall be moved from the location shown on such map during the license season unless an amended map is filed with Division of Wildlife Management and approved prior to relocation.~~

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

15A NCAC 10H .0109 QUAIL CALL-PEN TRAPS

~~(a) Permit Required. A licensed controlled hunting preserve operator who releases pen-raised quail for hunting or dog training purposes may apply to the Wildlife Resources Commission for a permit to operate one or more quail call-pen traps in accordance with the requirements of this Rule for the purpose of recovering any such quail that are not killed. Such application shall be made on a form supplied by the Commission which shall contain such information as may be required by the Executive Director and which shall be accompanied by a reasonably accurate map delineating the boundaries of the controlled hunting preserve and indicating the proposed location of each call pen trap to be located thereon.~~

~~(b) Term of Permit. The permit required by Paragraph (a) of this Rule shall become valid upon registration of a call pen trap as required by this Rule and shall expire April 30. Upon issuance of a permit by the Commission, a call pen trap Call pen traps may be used between September 1 and April 30.~~

~~(c) Location of Traps. No quail call-pen trap shall be located within 100 yards of any external boundary of the hunting preserve. All traps must have a weather-resistant permanent tag attached with the propagator's name and address legibly written on it, preserve, and no such trap shall be relocated after registration during the term of the current hunting preserve license.~~

~~(d) Number of Traps. The number of quail call pen traps shall be limited to one for any controlled hunting preserve containing less than 300 acres, two for any preserve containing 300 or more acres but less than 600 acres, and three for any preserve containing 600 acres or more.~~

~~(e) Registration. After construction and prior to use, each call pen trap shall be provided with a registration card which must be securely attached and visibly displayed on the trap.~~

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

SECTION .0900 – GAME BIRD PROPAGATORS

15A NCAC 10H .0907 QUAIL CALL-PEN TRAPS

Any licensed game bird propagator who raises quail and who wishes to release live pen-raised quail on his premises for dog training purposes may ~~apply to the Wildlife Resources Commission for a permit to use~~ quail call-pen traps for the purpose of recovering such quail. All traps must have a weather-resistant permanent tag attached with the propagator's name and address legibly written on it. The application for permit shall be on a form provided by the commission and shall be accompanied by two copies of a reasonably accurate map delineating the boundaries of the premises and indicating the proposed location of each trap. No such trap shall be located within 100 yards of any outside boundary of the premises. The number of traps shall be limited according to the size of the tract of land constituting the described premises: one trap for a tract containing less than 300 acres, two traps for a tract containing 300 acres or more but less than 600 acres, and three traps for a tract containing 600 acres or more. After placement of any trap and prior to use, the same shall be provided with a registration

~~card which must be securely attached and visibly displayed on the trap. During the season of permitted use of the traps all All quail released for dog training must be banded and no unbanded quail caught in any such trap shall be retained. No artificial means of feeding shall be practiced within 100 yards of any trap. Any such permit shall expire coincidentally with the license of the game bird propagator.~~

Authority G.S. 113-134; 113-273; 113-291.1.

SECTION .1300 – REPTILES AND AMPHIBIANS

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

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

- (1) 25 or more individuals of any combination of native amphibian species;
- (2) five or more individuals of native reptile species.

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

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

- (1) for the purpose of holding reptiles and amphibians that were acquired unlawfully;
- (2) for the purpose of holding reptiles and amphibians for unlawful sale or trade;
- (3) to persons who collect five or more individual native turtles or terrapins from the families Emydidae or Trionychidae from the wild in a given year, except those entities exempted from collection in Paragraph (c) of Rule .1301 of this Section;
- (4) to persons who collect five or more individuals in aggregate from other native reptile families or 25 or more individual amphibians from the wild in a given year without first having secured a valid Collection License;
- (5) to persons found to be in violation of Collection License, Endangered Species Permit, or Possession Permit requirements;
- (7) to persons who do not first obtain possession permits prior to acquiring the following wildlife resources unless the acquisition of these animals was made prior to the enactment of this Rule and a permit is acquired within 12 months of the rule's effective date:
 - (A) 25 or more individuals of any combination of native amphibian species; or
 - (B) five or more individuals of native reptile species.

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

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

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

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

SUBCHAPTER 10I – ENDANGERED AND THREATENED SPECIES

SECTION .0100 – ENDANGERED AND THREATENED SPECIES

15A NCAC 10I .0102 PROTECTION OF ENDANGERED/THREATENED/SPECIAL CONCERN

(a) No Open Season. There shall be no open season for taking any of the species listed as endangered in Rule .0103, threatened in Rule .0104 or, unless otherwise provided, as special concern in Rule .0105 of this Subchapter. Except as provided in Paragraphs (b), (c) and (e) of this Rule, it is unlawful to take or possess any of such species at any time.

(b) Permits. The executive director may issue permits to take or possess an endangered, threatened, or special concern species as follows:

- (1) To an individual or institution with experience and training in handling, and caring for the wildlife and in conducting a scientific study, for the purpose of scientific investigation relevant to perpetuation or restoration of said species or as a part of a scientifically valid study or restoration effort.
- (2) To a public or private educator or exhibitor who demonstrates that he or she has lawfully obtained the specimen or specimens in his or her possession, and that he or she possesses the requisite equipment and expertise to care for such specimen or specimens.
- (3) To a person who lawfully possessed any such species for more than 90 days immediately prior to the date that such species was listed, provided however, that no permit shall be

issued more than ninety days after the effective date of the initial listing for that species.

- (4) To a person with demonstrable depredation from a Special Concern species the Executive Director may issue a depredation permit.

(c) Taking Without a Permit:

- (1) An individual may take an endangered, threatened, or special concern species in defense of his own life or the lives of others.
- (2) A state or federal conservation officer or employee who is designated by his agency to do so may, when acting in the course of his official duties, take, possess, and transport endangered, threatened, or special concern species if the action is necessary to:
 - (A) aid a sick, injured, diseased or orphaned specimen;
 - (B) dispose of a dead specimen;
 - (C) salvage a dead specimen which may be useful for scientific study; or
 - (D) remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided the taking is done in a humane and noninjurious manner; the taking may involve injuring or killing endangered, threatened, or special concern species only if it is not reasonably possible to eliminate the threat by live-capturing and releasing the specimen unharmed, in a habitat that is suitable for the survival of that species.

(d) Reporting. Any taking or possession of an endangered, threatened, or special concern species under Paragraphs (b) and (c) of this Rule is subject to applicable reporting requirements of federal law and regulations and the reporting requirements of the permit issued by the Executive Director or of 15A NCAC 10B .0106(e).

(e) Exception.

- (1) Notwithstanding any other provisions of this Rule, processed meat and other parts of American alligators, which have been lawfully taken in a state in which there is an open season for harvesting alligators, may be possessed, bought and sold when such products are marketed in packages or containers which are distinctly labeled to indicate the state in which they were taken and the identity, location, and lawful authority of the processor or distributor.
- (2) Raptors listed as special concern species in Rule .0105 of this Subchapter may be taken from the wild for falconry purposes and for falconry propagation, provided that a valid North Carolina endangered species permit has been obtained as required in Paragraph (b) of this Rule.

(3) Captive-bred raptors listed as special concern species may be bought, sold, bartered or traded as provided in 50 C.F.R. 21.30 when marked as required under those regulations.

(4) Importation, possession, sales, transportation and exportation of species listed as special concern species in Rule .0105 of this Subchapter shall be allowed under permit by retail and wholesale establishments whose primary function is providing scientific supplies for research; provided that the specimens were lawfully obtained from captive or wild populations outside of North Carolina; and that they must be possessed in indoor facilities; and that all transportation of specimens provides safeguards adequate to prevent accidental escape; and that importation, possession and sale or transfer is permitted only as listed in Subparts (e)(4)(A) and (B) of this Rule.

- (A) A written application to the Commission is required for a permit to authorize importation, and possession for the purpose of retail or wholesale sale. The application shall identify the source of the specimens, and provide documentation of lawful acquisition. Applications for permits shall include plans for holding, transportation, advertisement, and sale in such detail as to allow a determination of the safeguards provided against accidental escape and sales to unauthorized individuals.
- (B) Purchase, importation, and possession of special concern species within North Carolina shall be allowed under permit to state and federal governmental agencies, corporate research entities, and research institutions; provided that sales are permitted to out of state consumers; and, provided that they must be possessed in indoor facilities and that all transportation of specimens provides safeguards adequate to prevent accidental escape; and that the agency's or institution's Animal Use and Care Committee has approved the research protocol for this species; and, further provided that no specimens may be stocked or released in the public or private waters or lands of North Carolina and may not be transferred to any private individual.

Authority G.S. 113-134; 113-291.2; 113-291.3; 113-292; 113-333.

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Wildlife Resources Commission intends to amend the rule cited as 15A NCAC 10F .0201.

Proposed Effective Date: May 1, 2009

Public Hearing:

Date: December 16, 2008

Time: 10:00 a.m.

Location: 1751 Varsity Drive, WRC Centennial Campus Headquarters, Room 425, 4th floor, Raleigh, NC

Reason for Proposed Action: *The proposed change would provide that requirements for sound devices and lights (which are already set forth in the rule) are made part of the paragraph that applies these rules to vessels operating in State waters. The agency's last amended version of this rule erroneously limited its application to subsections "(b) through (e)," "instead of "(b) through (g)," which was the original intention and subject of earlier hearings. An additional proposed change is to provide an exemption for kayaks and canoes from certain requirements.*

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

Comments may be submitted to: Joan Troy, 1710 Mail Service Center, Raleigh, NC 27699-1710

Comment period ends: January 30, 2009

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

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

SUBCHAPTER 10F- WATERBOATS AND WATER SAFETY

SECTION .0200 – SAFETY EQUIPMENT AND ACCIDENT REPORTS

15A NCAC 10F .0201 SAFETY EQUIPMENT

(a) Federal Regulations Adopted. As its regulations governing required equipment of vessels as defined in G.S. 75A-2(5), pursuant to G.S. 75A-6, the Wildlife Resources Commission adopts the following federal regulations, to be applicable to vessels operated on all waters of this state as defined by G.S. 75A-2(6): Code of Federal Regulations, Title 46, Part 25, and Title 33, Part 175, as supplemented by the Federal Register. To the extent that the vessel equipment requirements of G.S. 75A-6 conflict with these federal regulations, they are hereby modified to conform to the federal regulations as authorized by G.S. 75A-6(m) and 113-307.

Without limitation to the adoption of the Federal regulations named herein, the rules set forth in subsections (b) through ~~(e)~~(g) shall apply to vessels operating in State waters.

(b) Personal Flotation Devices (hereinafter referred to as ~~PFDs~~) PFDs are required as follows except as provided in Subparagraph (6) of this Rule:

- (1) No person may operate a vessel unless at least one PFD of the following types is on board and readily accessible for each person:
 - (A) Type I PFD;
 - (B) Type II PFD; or
 - (C) Type III PFD.
- (2) No person may operate a vessel 16 feet or more in length unless one type IV PFD is on board and immediately available for use, in addition to the total number of PFDs required in Subparagraph (1) of this Paragraph.
- (3) No person may operate a vessel while such vessel is underway with any child under 13 years old aboard unless each such child is:
 - (A) wearing an appropriate PFD approved by the Coast Guard; or
 - (B) below decks; or
 - (C) in an enclosed cabin.

This Subparagraph does not apply to a vessel that is registered as a commercial vessel.

- (4) A Type V PFD may be carried in lieu of any PFD required under Subparagraph (1) of this Paragraph provided:
 - (A) the approval label for the Type V PFD indicates that the device is approved for the activity for which the vessel is used; or
 - (B) the Type V PFD is used in accordance with the requirements on the approval label and with the requirements in its owners manual.
- (5) No person may operate a vessel unless each required PFD is:
 - (A) in serviceable condition;

CHAPTER 10 – WILDLIFE RESOURCES COMMISSION

- (B) of appropriate size and fit for the intended wearer;
- (C) USCG approved; and
- (D) legibly marked with its approval number, as specified in CFR Title 46 Part 25 and CFR Title 33 Part 175.

(6) Exemptions:

- (A) Canoes and kayaks 16 feet in length and over are exempted from the requirements for carriage of the additional Type IV PFD as specified in Subparagraph (b)(2) of this Rule.
- (B) Sailboards, racing shells, rowing sculls, racing canoes and racing kayaks are exempted from the requirements for carriage of any type PDF required under Subparagraph (b) of this Rule.

(c) Fire Extinguishers

- (1) All motorboats shall carry at least the minimum number of USCG approved hand portable fire extinguishers specified in this Rule if any one of the following conditions exist:
 - (A) Closed compartments under thwarts and seats wherein portable fuel tanks may be stored;
 - (B) double bottoms not sealed to the hull or which are not completely filled with flotation material;
 - (C) closed living spaces;
 - (D) closed stowage compartments in which combustible or flammable materials are stowed;
 - (E) permanently installed fuel tanks; or
 - (F) motorboats of Class 2 or longer;
- (2) Motorboats of Class A and 1 (less than 26 feet): One Type B-I
- (3) Motorboats of Class 2; Two Type B-I extinguishers
- (4) Motorboats of Class 3; Three Type B-I extinguishers
- (5) One Type B-II hand held fire extinguisher may be substituted for two B-I hand portable fire extinguishers. A fixed fire extinguishing system installed in the engine compartment is equal to one Type B-I hand portable fire extinguisher.

Exemption to fire extinguisher requirements: Open Vessels. Vessels less than 26 feet in length, propelled by outboard motors and not carrying passengers for hire, need not carry such portable fire extinguishers if the construction of such motorboats will not permit the entrapment of explosive or flammable gases or vapors.

(d) Every engine installed in a vessel using gasoline as fuel must be equipped with an acceptable means of backfire flame control, except outboard motors. An acceptable means of backfire flame control meets the requirements of CFR Title 46 Part 25 and CFR Title 33 Part 175.

(e) Every vessel, except those Open Vessels defined in Paragraph (c) of this Rule, using as fuel any liquid of a volatile nature, shall be provided with such means of properly and efficiently ventilating the bilges of the engine and fuel tank compartments so as to remove any explosive or flammable gases. Proper and efficient ventilation meets the requirements of CFR Title 46 Part 25 and CFR Title 33 Part 175.

(f) Sound Devices

- (1) Vessels of less than 12 meters (39.4 feet) in length shall be equipped with some means of making an efficient sound signal.
- (2) Vessels greater than 12 meters (39.4 feet) in length shall be provided with a whistle and a bell which complies with 33 USC 2033.

(g) **Lights.** The lights prescribed by these Rules shall be exhibited from sunset to sunrise, and in restricted visibility. During such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in these Rules or do not impair their visibility or distinctive character, or interfere with keeping a proper lookout. They may be exhibited in all other circumstances when deemed necessary:

- (1) Vessels greater than 12 meters (39.4 feet) but less than 20 meters (65.6 feet) in length shall exhibit:
 - (A) A masthead light forward visible for three miles;
 - (B) Sidelights, green to starboard and red to port visible for two miles; and
 - (C) A stern light visible for two miles;
- (2) Vessels less than 12 meters (39.4 feet) in length shall exhibit:
 - (A) An all-round white light visible for two miles; and
 - (B) Sidelights, green to starboard and red to port visible for 1 mile;
- (3) Sailing vessels underway that are seven meters (23 feet) in length or greater shall exhibit:
 - (A) A stern light visible for two miles; and
 - (B) Sidelights, green to starboard and red to port visible for two miles;
- (4) In a sailing vessel less than 20 meters in length the lights prescribed in Subparagraph (3) of this Paragraph may be combined in one lantern carried at or near the top of the mast where it can be best seen;
- (5) A sailing vessel of less than seven meters (23 feet) in length shall, if practicable, exhibit the lights prescribed in Subparagraph (3) or (4) of this Paragraph; if not the vessel shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent a collision;
- (6) A vessel under oars may exhibit the lights prescribed in this Rule for sailing vessels, but if not, shall have ready at hand an electric torch or lighted lantern showing a white light

- which shall be exhibited in sufficient time to prevent a collision; and
- (7) Vessels of 10 Horsepower or Less. On waters of this State not subject to the jurisdiction of the United States, vessels propelled by machinery of 10 horsepower or less, in lieu of the foregoing requirements, may carry from one-half hour after sunset to one-half hour before sunrise a white light in the stern or have on board a hand flashlight in good working condition which shall be ready at hand and shall be temporarily displayed in sufficient time to prevent collision. On waters of this State that are subject to the jurisdiction of the United States, this exception, though permissible under state law, is not sanctioned by any federal law or regulation.

Authority G.S. 75A-3; 75A-6; 113-307.

TITLE 19A – DEPARTMENT OF TRANSPORTATION

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Department of Transportation intends to amend the rules cited as 19A NCAC 02D .0601, .0607, .0633, and .0644.

Proposed Effective Date: April 1, 2009

Public Hearing:

Date: December 18, 2008

Time: 9:30 a.m. – 10:30 a.m.

Location: NC Department of Transportation, 750 N. Greenfield Parkway, Room 161, Garner, NC 27529

Reason for Proposed Action: *The purpose of the proposed revisions to the Administrative Code is to allow annual permits and extend days of travel for 16' wide mobile homes, update the code to reflect changes in operating procedures, and to make clarifications and technical corrections.*

Procedure by which a person can object to the agency on a proposed rule: *Any person objecting to said rule changes may contact Tammy C. Denning at NC Department of Transportation, Oversize/Overweight Permit Unit, 1425 Rock Quarry Road, Suite 109, Raleigh, NC 27610 or tcdenning@ncdot.gov.*

Comments may be submitted to: *Tammy C. Denning, NC Department of Transportation, Oversize/Overweight Permit Unit, 1425 Rock Quarry Road, Suite 109, Raleigh, NC 27610, phone (919) 733-4740, fax (919) 715-7363, email tcdenning@ncdot.gov*

Comment period ends: January 30, 2009

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of

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

Fiscal Impact:

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

CHAPTER 02 – DIVISION OF HIGHWAYS

SUBCHAPTER 02D – HIGHWAY OPERATIONS

SECTION .0600 – OVERSIZE-OVERWEIGHT PERMITS

19A NCAC 02D .0601 PERMITS-AUTHORITY, APPLICATION AND ENFORCEMENT

(a) The State Highway Administrator or his designee shall issue oversize/overweight permits for qualifying vehicles. Irrespective of the route shown on the permit, a permitted vehicle shall travel an alternate route:

- (1) if directed by a law enforcement officer with jurisdiction;
- (2) if directed by an official traffic control device to follow a route to a weighing device;
- (3) if the specified route on the permit is detoured by an officially erected highway sign, traffic control devices, or law enforcement officer, the driver of the permitted vehicle shall contact the Central Permit Office or the issuing field office for house move permits as soon as reasonably possible for clearance of route or revision of the permit.

(b) Prior to application for an ~~oversize, overweight, or~~ oversize/overweight permit, the vehicle/vehicle combination and the commodity in transport shall be reduced or loaded to the least practical dimensions and weight. Application for permits with the exception of house move permits shall be made to the Central Permit Office in writing on forms prescribed by the Department of Transportation or via ~~telephone~~ Internet. Written applications are required for over heights in excess of 14'. Applications for permits shall be submitted in writing to the Central Permit Office for consideration of approval for moves exceeding:

- (1) a gross weight of 132,000 pounds with the fee specified in G.S. 20-119(b) at least ten working days prior to the anticipated date of movement; or

- (2) a width of 15' with documentation for variances at least ten working days prior to the anticipated date of movement with the exception of a mobile/modular unit with maximum measurements of 16' wide unit and a 3" gutter edge; a width of 16' 11" with the exception of house moves is required to be submitted with the fee specified in G.S. 20-119(b) with documentation for variances at least ten working days prior to the anticipated date of movement; or
- (3) a height of 14 feet at least two working days prior to the anticipated date of movement. Upon completion of an engineering study for moves exceeding a gross weight of 132,000 pounds, a surety bond to cover potential damage to highways and bridge structures shall be required for overweight permits if the engineering study shows potential for damage to highways and bridge structures along the particular route of the requested permit.

(c) The North Carolina licensed mobile/modular home retail dealer shall maintain records of all mobile/modular units moved by authority of an annual permit for a minimum of four years from the date of movement. The records shall be readily available for inspection and audit by officers of the Division of Motor Vehicles. Monthly reports shall be submitted by the dealer to the Central Permit Office on a form designed and furnished by the Department of Transportation. Failure to comply with any requirement may be grounds for denying, suspending, or revoking Manufacturer's License, Dealer's License, or both issued by the Division of Motor Vehicles as specified in Chapter 20 of the Motor Vehicle Law, Title 19A NCAC 03D .0219, or North Carolina Oversize/Overweight permit privileges.

(d) ~~Officers of the Division of Motor Vehicles~~ Law enforcement officers may perform on-site inspections of mobile/modular homes ready for shipment at the point of manufacture or at the dealer lot for compliance with Chapter 20 of the General Statutes, dealer and manufacturer regulations, permit regulations, and policy. Notification of violations shall be submitted by enforcement personnel to the Central Permit Office.

(e) The penalties provided in this Rule are in addition to the penalties provided for in Chapter 20 of the North Carolina General Statutes.

(f) Permits may be declared void by the State Highway Administrator or his designee upon determination that such overdimension/overweight permit was being used in violation of the General Statutes of North Carolina, Permit Rules or restrictions stated on the permit.

(g) Permits may also be denied, revoked or declared invalid as stated in Rule .0633 of this Section.

Authority G.S. 20-119; 136-18(5).

19A NCAC 02D .0607 PERMITS-WEIGHT, DIMENSIONS AND LIMITATIONS

(a) Vehicle/vehicle combinations with non-divisible overwidth loads are limited to a maximum width of 15 feet. After review of documentation of variances, the ~~Central Permit Office or the State Maintenance and Equipment Engineer~~ State Highway Administrator or his designee may authorize the issuance of a permit for movement of loads in excess of 15 feet wide in accordance with 19A NCAC 02D .0600 et seq. Exception: A mobile/modular unit with maximum measurements of 16' wide unit and a 3" gutter edge may be issued a ~~single-trip~~ permit in agreement with permit policy. If blades of construction equipment or front end loader buckets cannot be angled to extend no more than 14' across the roadway, they shall be removed. A blade, bucket or other attachment that is an original part of the equipment as manufactured ~~which has been removed to reduce the width or height~~ may be hauled with the equipment without being considered a divisible load except as provided in this Rule. A 14' wide mobile/modular home unit with a roof overhang not to exceed a total of 12" may be transported with a bay window, room extension, or porch providing the protrusion does not extend beyond the maximum 12" of roof overhang or the total width of overhang on the appropriate side of the home. An extender shall be placed on the front and rear of the mobile home with a length to extend horizontally equal to but not beyond the extreme outermost edge of the home's extension. The extenders shall have retro-reflective sheeting, a minimum of 4", which is required to be Type III high intensity (encapsulated lens) or Type IV high performance (prismatic) with alternating fluorescent yellow and black diagonal stripes sloping towards the outside of the home with a minimum area of 288 square inches. The bottom of the extenders shall be 6' to 8' above the road surface with a 5" amber flashing beacon mounted on the top of each extender. Authorization to move commodities wider than 15 feet in width may be denied if considered by the issuing agent to be unsafe to the traveling public or if the highway cannot accommodate the move due to width.

(b) A single trip permit shall not be issued vehicle specific to exceed a width in excess of 15 feet for all movements unless authorized by the ~~Central Permit Office or the State Maintenance and Equipment Engineer~~ State Highway Administrator or his designee after analysis of the proposed load and evaluation of the proposed route of travel. Exception: A mobile/modular unit with maximum measurements of 16' wide unit and a 3" gutter edge may be issued a ~~single-trip~~ permit in agreement with permit policy. Permits for house moves may be issued as specified in G.S. 20-356 through G.S. 20-372.

(c) An annual oversize/overweight permit may be issued valid for unlimited movement without an escort on all North Carolina highways, where permitted by the posted road and bridge limits, for vehicle/vehicle combinations transporting general non-divisible commodities which has a minimum extreme wheelbase of 51 feet and which does not exceed: width of 12 feet; height of 13 feet, 6 inches; length of 75 feet; gross weight of 90,000 pounds; and axle weights of 12,000 pounds steer axle, 25,000 pounds single axle, 50,000 pounds tandem axle, and 60,000 pounds for a three or more axle grouping. An annual oversize/overweight permit may be issued valid for unlimited movement without the requirement of an escort on all North

Carolina highways, where permitted by the posted road and bridge limits, for four or five axle self-propelled equipment or special mobile equipment capable of traveling at a highway speed of 45 miles per hour which has a minimum wheel base of 30 feet and which does not exceed: width of 10 feet; height of 13 feet, 6 inches; length of 45 feet with front and rear overhang not to exceed a total of 10 feet; gross weight of 90,000 pounds; axle weights of 20,000 pounds single axle; 50,000 pounds tandem axle; and 60,000 pounds for a three or more axle grouping. An annual oversize/overweight permit may be issued valid for unlimited movement with the requirement of an escort vehicle on all North Carolina highways, where permitted by the posted bridge and load limits, for vehicles/vehicle combinations transporting farm equipment and which does not exceed: a width of 14 feet; a height of 13 feet 6 inches; and a weight as set forth in G.S. 20-118(b)(3). Mobile/modular homes with a maximum height of 13' 6" being transported from the manufacturer to an authorized North Carolina mobile/modular home dealership are an exception and shall be permitted for a width not to exceed a 14' unit with an allowable roof overhang not to exceed a total of ~~12"~~ 12" or a 16' wide unit with a 3" gutter edge. These mobile/modular homes shall be authorized to travel on designated routes approved by the Department of Transportation considering construction work zones, highway lane widths, origin and destination or other factors to ensure safe movement. An annual permit may be co-issued to the North Carolina licensed mobile/modular home retail dealer and the transporter for delivery of mobile/modular homes not to exceed a maximum width of a 14' unit with a total roof overhang not to exceed 12" and a height of 13' 6". The annual permit shall be valid for delivery of mobile/modular homes within a maximum 25-mile radius of the dealer location. Confirmation of destination for delivery is to be carried in the permitted towing unit readily available for law enforcement inspection.

(d) The maximum weight permitted on a designated route is determined by the bridge capacity of bridges to be crossed during movement. The route traveled from a specific origin to a specific destination must be included within a single permitted route of travel. Moves exceeding weight limits for highways or bridge structures may be denied if considered by the issuing agent to be unsafe and if they may cause damage to such highway or structure. A surety bond may be required as determined by the issuing agent to cover the cost of potential damage to pavement, bridges or other damages incurred during the permitted move.

- (1) The maximum single trip and annual permit weight allowed for a specific vehicle or vehicle combination not including off highway construction equipment without an engineering study is:

Steer Axle	12,000 lbs.
Single axle	25,000 lbs.
2 axle tandem	50,000 lbs.
3 or more axle group	60,000 lbs.

3 axle single vehicle may have a maximum gross weight up to 70,000 lbs. based on an analysis of weight distribution and axle configuration

4 axle single vehicle may have a maximum gross weight up to 90,000 lbs. based on an analysis of weight distribution and axle configuration

5 axle single vehicle may have a maximum gross weight up to ~~94,500~~ 94,500 lbs. based on an analysis of weight distribution and axle configuration

5 axle vehicle combination may have a maximum gross weight up to 112,000 lbs. based on the extreme axle measurement

6 axle single vehicle may have a maximum gross weight up to 108,000 lbs. based on an analysis of weight distribution and axle configuration

6 axle vehicle combination may have a maximum gross weight up to 120,000 lbs. based on the extreme axle measurement

7 axle single vehicle may have a maximum gross weight up to 122,000 lbs. based on an analysis of weight distribution and axle configuration

7 axle vehicle combination may have a maximum gross weight up to 132,000 lbs. based on the extreme axle measurement

7 or more axle vehicle combination with a gross wt. exceeding 132,000 lbs. requires a Department of Transportation Engineering Study.

- (2) The maximum permit weight allowed for self propelled off highway construction equipment with low pressure/flotation tires is:

Single axle	37,000 pounds
Tandem axle	50,000 pounds

2 axle single vehicle may have a maximum gross weight up to 70,000 lbs. based on an analysis of weight distribution and axle configuration

3 axle single vehicle may have a maximum gross weight up to 80,000 lbs. based on an analysis of weight distribution and axle configuration

4 axle single vehicle may have a maximum gross weight up to 90,000 lbs. based on an analysis of weight distribution and axle configuration.

- (3) A vehicle combination consisting of a power unit and trailer hauling a sealed ship container may qualify for a specific route overweight permit not to exceed 94,500 lbs. provided the vehicle:

- (A) Is going to or from a designated seaport (to include in state and out of state) and has been or shall be transported by marine shipment;
- (B) Is licensed for the maximum allowable weight for a 51' extreme wheelbase measurement specified in G.S. 20-118;

- (C) Does not exceed maximum dimensions of width, height and length specified in Chapter 20 of the Motor Vehicle Law;
- (D) Is a vehicle combination with at least five axles;
- (E) Has proper documentation (shippers bill of lading or trucking bill of lading) of sealed commodity being transported available for law enforcement officer inspection.

(e) Overlength permits shall be limited as follows:

- (1) Single trip permits are limited to 105 feet inclusive of the towing vehicle. Approval may be given by the Central Permit Office for permitted loads in excess of 105 feet after review of geographic route of travel, consideration of local construction projects and other dimensions of the load. Mobile/modular home units shall not exceed a length of 80 feet inclusive of a 4 foot trailer tongue. Total length inclusive of the towing vehicle is 105 feet.
- (2) Annual (blanket) permits shall not be issued for lengths to exceed 75 feet. Mobile/modular home permits may be issued for a length not to exceed 105 feet.
- (3) Front overhang may not exceed the length of 3' specified in Chapter 20 unless if transported otherwise would create a safety hazard. If the front overhang exceeds 3', an overlength permit may be issued.

(f) An Overheight Permit Application for heights in excess of 14' must be submitted in writing to the Central Permit Office at least two working days prior to the anticipated date of movement. The issuance of the permit does not imply nor guarantee the clearance for the permitted load and all vertical clearances shall be checked by the permittee prior to movement underneath.

(g) The move is to be made between sunrise and sunset Monday through Saturday with no move to be made on Sunday. Exception: A 16' wide mobile/modular home unit with a maximum three inch gutter edge is restricted to travel from 9:00 a.m. to 2:30 p.m. Monday through ~~Thursday~~ Saturday. A 16' wide unit is authorized to continue operation after 2:30 p.m., but not beyond sunset, when traveling on an approved route as determined by an engineering study and the unit is being exported out-of-state. Additional time restrictions may be set by the issuing office if it is in the best interest for safety or to expedite flow of traffic. No movement is permitted for a vehicle/vehicle combination after noon on the weekday preceding the six holidays of New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day and no movement is permitted until noon on the weekday following a holiday. If the observed holiday falls on the weekend, travel is restricted from 12:00 noon on the preceding Friday through 12:00 noon on the following Monday. Continuous travel (24 hr/7 day/365 days a year) is authorized for any vehicle/vehicle combination up to but not to exceed a

permitted gross weight of 112,000 lbs. provided the permitted vehicle has no other over legal dimension of width, height or length included in the permitted move. Exception: self-propelled equipment may be authorized for continuous travel with overhang (front or rear or both) not to exceed a total of 10 feet provided overhang is marked with high intensity glass bead retro-reflective sheeting tape measuring 2" by 12" to be displayed on both sides and the end of the extension and on each side of the self-propelled vehicle 24" from the road surface at nearest feasible center point between the steer and drive axles. Any rear overhang must display a temporarily mounted brake light and a flashing amber light, 8" in diameter with a minimum candlepower of 800 watts. Permitted vehicles owned or leased by the same company or permitted vehicles originating at the same location shall travel at a distance of not less than two miles apart. Convoy travel is not authorized except as directed by authorized law enforcement escort.

(h) The speed of permitted moves shall be that which is reasonable and prudent for the load, considering weight and bulk, under conditions existing at the time; however, the maximum speed shall not exceed the posted speed limit. A towing unit and mobile/modular home combination shall not exceed a maximum speed of 60 miles per hour. The driver of the permitted vehicle shall avoid creating traffic congestion by periodically relinquishing the traffic way to allow the passage of following vehicles when a build up of traffic occurs.

(i) Additional safety measures are as follows:

- (1) A yellow banner measuring a total length of 7' x 18" high bearing the legend "Oversize Load" in 10" black letters 1.5 inches wide brush stroke shall be displayed in one or two pieces totaling the required length on the front and rear bumpers of a permitted vehicle/vehicle combination with a width of 10' or greater. A towing unit mobile/modular home combination shall display banners of the size specified bearing the legend "Oversize ----ft. Load" identifying the nominal width of the unit in transport. Escort vehicles shall display banners as previously specified with the exception of length to extend the entire width of the bumpers;
- (2) Red or orange flags measuring 18" square shall be displayed on all sides at the widest point of load for all loads in excess of 8' 6" wide but the flags shall be so mounted as to not increase the overall width of the load;
- (3) All permitted vehicles/vehicle combinations shall be equipped with tires of the size specified and the required number of axles equipped with operable brakes in good working condition as provided in North Carolina Statutes and Motor Carrier and Housing and Urban Development (HUD) regulations.
- (4) Rear view mirrors and other safety devices on towing units attached for movement of overwidth loads shall be removed or retracted

to conform with legal width when unit is not towing/hauling such vehicle or load;

- (5) Flashing amber lights shall be used as determined by the issuing permit office.

(j) The object to be transported shall not be loaded or parked, day or night, on the highway right of way without specific permission from the office issuing the permit after confirmation of an emergency condition.

(k) No move shall be made when weather conditions render visibility less than 500 feet for a person or vehicle. Moves shall not be made when highway is covered with snow or ice or at any time travel conditions are considered unsafe by the Division of Highways, State Highway Patrol or other Law Enforcement Officers having jurisdiction. Movement of a mobile/modular unit exceeding a width of 10' shall be prohibited when wind velocities exceed 25 miles per hour in gusts.

(l) All obstructions, including traffic signals, signs and utility lines shall be removed immediately prior to and replaced immediately after the move at the expense of the mover, provided arrangements for and approval from the owner is obtained. In no event are trees, shrubs, or official signs to be cut, trimmed or removed without personal approval from the Division of Highways District Engineer having jurisdiction over the area involved. In determining whether to grant approval, the district engineer shall consider the species, age and appearance of the tree or shrub in question and its contribution to the aesthetics of the immediate area.

(m) The Department of Transportation may require escort vehicles to accompany oversize or overweight loads. The weight, width of load, width of pavement, height, length of combination, length of overhang, maximum speed of vehicle, geographical route of travel, weather conditions and restricted time of travel shall be considered to determine escort requirements.

Authority G.S. 20-119; 136-18(5).

19A NCAC 02D .0633 DENIAL: REVOCATION: REFUSAL TO RENEW: APPEAL: INVALIDATION

(a) An oversize or overweight permit may be revoked and considered void by the State Highway Administrator or his designee upon inspection and written documentation that the permittee violated the terms and conditions of the permit, or state and local laws and ordinances regulating the operation of ~~oversize~~oversize and overweight vehicles. A permit may also be revoked or considered void if information on the permit application is misrepresented, if the permit is obtained fraudulently, if the permit is altered, or if the permit is used in an unauthorized manner. Permits may be revoked or considered void by the State Highway Administrator or his designee if the vehicle or vehicle combination is found by a law enforcement officer to be operating in violation of the authorized route of travel, time of movement, escort requirements, axle weights, number of axles, or any other special conditions of the permit that may damage North Carolina highway infrastructure or create unsafe travel conditions for the motoring public. A permit that is determined by the State Highway Administrator or his designee to be revoked or void must be surrendered without

consideration for refund of fees to the law enforcement officer for delivery to the State Highway Administrator or his designee.

(b) No permit application shall be denied or renewal refused or an issued permit revoked or considered void until a verbal or written notice of the denial of permit request or revocation of the issued permit has been furnished to the permittee. The permittee may appeal in writing to the State Highway Administrator or his designee within 10 days of receipt of a verbal or written notice of such denial or revocation. The State Highway Administrator or his designee shall send a written notice by certified mail, return receipt requested, not less than 10 days prior to the date of the informal hearing. The State Highway Administrator or his designee shall provide a written decision to the permittee within 10 days from the date of the informal hearing.

(c) An oversize or overweight permit application may be denied for a period of up to six months upon written documentation that the applicant operated in violation of any of the rules contained in this Section, or any state and local law or any rule or ordinance regulating the operation of oversize or overweight vehicles. Repeated violations may result in a permanent denial of the right to use the N.C. State Highway System of roads for transportation of oversize or overweight loads or vehicles.

Authority G.S. 20-119; 20-360; 20-361; 20-367; 20-369; 20-371; 136-18(5); 143B-346; 143B-350(f).

19A NCAC 02D .0644 OVERSIZE-OVERWEIGHT LOAD ESCORT VEHICLE OPERATOR CERTIFICATION PROGRAM

(a) The Secretary of Transportation or his designee shall administer an Oversize-Overweight Load Escort Vehicle Operator Certification Program as required by G.S. 20-119.

(b) The escort vehicle operator certification program shall include the following:

- (1) Instruction on safe and effective escort skills.
- (2) Examination that documents course comprehension.
- (3) Recognition of escort vehicle operator certification.
- (4) Recognition of escort vehicle operator certification from other states which have certification ~~programs~~ programs for operators with out-of-state driver's license.

(c) The department shall issue a certificate which provides recognition of satisfactory completion of the instruction.

- (1) The certificate shall be effective for four years from issue date.
- (2) The certificate shall be reissued upon satisfactory completion of a current certification examination administered by North Carolina Department of Transportation (NCDOT) training providers.

(d) Any operator authorized to escort a permitted oversize-overweight load in North Carolina shall make application to NCDOT and be qualified as follows:

- (1) An escort certified by another state's approved program;
- (2) A North Carolina law enforcement officer; or
- (3) A person who:

- (A) Meets one of the following requirements:
- (i) Is at least 21 years of age; or
 - (ii) Is at least 18 years of age with a Class A commercial driver's license; license; or
 - (iii) ~~Is at least 18 years of age, has been employed as an escort driver for at least one year, is being sponsored by his employer for entry into the certification program, and completes all certification requirements prior to July 1, 2003;~~
- (B) Possesses a valid driver's license without restrictions other than for use of corrective lens and has demonstrated evidence of operating a motor vehicle safely which includes not operating in a reckless manner or driving while impaired in the previous 12 months. The driving record shall be documented by a certified copy of Division of Motor Vehicles (DMV) Driver's Record accompanying the application;
- (C) Possesses and provides with application documentation of completion of a defensive driving course approved by the National Safety Council or an equivalent course; and
- (D) Has successfully completed the eight classroom-hours North Carolina Department of Transportation Oversize-Overweight Load Escort Vehicle Operator Certification Program offered by the North Carolina Community College System with a certification examination score of at least 75% correct and has
- received escort certification by the Department.
- (e) Certification shall be revoked during its effective period for the following:
- (1) Failure to maintain a valid driver's license without restrictions other than for corrective lens; or
 - (2) Failure to operate a motor vehicle safely. Conviction of operating in a reckless manner or driving while impaired shall constitute prima facie evidence of not operating a motor vehicle in a safe manner; or
 - (3) Evidence of performing the duties of an escort driver in a manner with the potential to cause an accident, personal injury, or damage to property.
- (f) If certification is revoked under this Section, subsequent certification as an Escort Vehicle Operator shall require reapplication, satisfaction of program prerequisites, and requalification through the certification program.
- (g) An individual who has had his or her certificate revoked may, within 15 days following notification of the adverse action, make written appeal to the Secretary of Transportation for review of the revocation. The Secretary may affirm or set aside the revocation based on a review of the written appeal, the revocation decision, as well as any available documents, exhibits or other evidence bearing on the appeal. The individual appealing will be advised of the final disposition of the action within 21 days following receipt of the appeal.
- (h) The Secretary of Transportation or his designee shall recognize certificates of other states whose programs meet the objectives of North Carolina's ~~program.~~ program for operators with out-of-state driver's license.
- (i) Escort Vehicle Operator certification and a valid driver's license shall be available in the escort vehicle for inspection whenever the operator is performing the role of escort.
- (j) Failure to conform to the escort requirements of this Rule shall result in penalties imposed in G.S. 20-119(d).

Authority G.S. 20-119.

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 October 16, 2008.

**REGISTER CITATION TO THE
NOTICE OF TEXT****AGRICULTURE, COMMISSIONER OF**

<u>Surfaces; Exhibit Areas</u>	02	NCAC	52K	.0406	22:18 NCR
<u>Hand Washing Stations</u>	02	NCAC	52K	.0501	22:18 NCR
<u>Health Certificate; Vaccinations</u>	02	NCAC	52K	.0601*	22:18 NCR

HEALTH SERVICE REGULATION, DIVISION OF

<u>Performance Standards</u>	10A	NCAC	14C	.1903*	23:01 NCR
<u>Definitions</u>	10A	NCAC	14C	.2101*	23:01 NCR
<u>Information Required of Applicant</u>	10A	NCAC	14C	.2102	23:01 NCR
<u>Performance Standards</u>	10A	NCAC	14C	.2103	23:01 NCR
<u>Facility</u>	10A	NCAC	14C	.2106	23:01 NCR
<u>Definitions</u>	10A	NCAC	14C	.2701*	23:01 NCR
<u>Information Required of Applicant</u>	10A	NCAC	14C	.2702*	23:01 NCR
<u>Performance Standards</u>	10A	NCAC	14C	.2703*	23:01 NCR
<u>Information Required of Applicant</u>	10A	NCAC	14C	.3702*	23:01 NCR
<u>Information Required of Applicant</u>	10A	NCAC	14C	.4002	23:01 NCR
<u>Performance Standards</u>	10A	NCAC	14C	.4003	23:01 NCR
<u>Facility</u>	10A	NCAC	14C	.4006	23:01 NCR

PUBLIC HEALTH, COMMISSION FOR

<u>Vaccine for Providers Other than Local Health...</u>	10A	NCAC	41A	.0502*	22:24 NCR
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WILDLIFE RESOURCES COMMISSION

<u>Open Seasons</u>	15A	NCAC	10B	.0302*	22:24 NCR
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WATER TREATMENT FACILITY OPERATORS CERTIFICATION BOARD

<u>Expiration and Revocation of Certificate</u>	15A	NCAC	18D	.0307	23:01 NCR
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DENTAL EXAMINERS, BOARD OF

<u>Reexamination</u>	21	NCAC	16B	.0317	22:24 NCR
<u>Continuing Education Required</u>	21	NCAC	16I	.0102*	22:21 NCR
<u>Approved Courses and Sponsors</u>	21	NCAC	16I	.0103*	22:21 NCR
<u>Reporting Continuing Education</u>	21	NCAC	16I	.0104*	22:24 NCR
<u>Continuing Education Required</u>	21	NCAC	16R	.0103	22:21 NCR
<u>Approved Courses and Sponsors</u>	21	NCAC	16R	.0104*	22:21 NCR
<u>Variances and Exemptions from and Credit for...</u>	21	NCAC	16R	.0106*	22:21 NCR

APPROVED RULES

<u>Transfer of Records Upon Request</u>	21	NCAC	16T	.0102	22:24 NCR
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MESSAGE AND BODYWORK THERAPY, BOARD OF

<u>Student Compensation Prohibited</u>	21	NCAC	30	.0626	22:22 NCR
<u>Continuing Education Requirements</u>	21	NCAC	30	.0701*	n/a G.S. 150B-21.5(a)(6)

MEDICAL BOARD

<u>Nurse Practitioner Registration</u>	21	NCAC	32M	.0103	23:01 NCR
<u>Process for Approval to Practice</u>	21	NCAC	32M	.0104	23:01 NCR
<u>Annual Renewal</u>	21	NCAC	32M	.0106	23:01 NCR
<u>Prescribing Authority</u>	21	NCAC	32M	.0109	23:01 NCR
<u>Fees</u>	21	NCAC	32M	.0115	23:01 NCR

NURSING, BOARD OF

<u>Selection and Qualifications of Nurse Members</u>	21	NCAC	36	.0109*	23:01 NCR
<u>Determination of Vacancy</u>	21	NCAC	36	.0112	23:01 NCR
<u>Definitions</u>	21	NCAC	36	.0120	23:01 NCR
<u>Inactive and Retired Status</u>	21	NCAC	36	.0202	23:01 NCR
<u>Continuing Competence</u>	21	NCAC	36	.0232	23:01 NCR
<u>Faculty</u>	21	NCAC	36	.0318*	22:22 NCR
<u>Coordination with Division of Health Service R...</u>	21	NCAC	36	.0402*	n/a G.S. 150B-21(a)(2) and (6)
<u>Listing and Renewal</u>	21	NCAC	36	.0404*	n/a G.S. 150B-21.5(a)(2)
<u>Approval of Nurse Aide Education Programs</u>	21	NCAC	36	.0405*	n/a G.S. 150B-21.5(a)(2)
<u>Authority and Definitions</u>	21	NCAC	36	.0501*	23:01 NCR
<u>Certificate of Registration</u>	21	NCAC	36	.0504*	23:01 NCR
<u>General and Administrative Provisions</u>	21	NCAC	36	.0505*	23:01 NCR
<u>Forms</u>	21	NCAC	36	.0506	23:01 NCR
<u>Prerequisites for Organization</u>	21	NCAC	36	.0602	23:01 NCR
<u>Certificate of Registration</u>	21	NCAC	36	.0603	23:01 NCR
<u>Fees</u>	21	NCAC	36	.0605	23:01 NCR
<u>Nurse Practitioner Registration</u>	21	NCAC	36	.0803	23:01 NCR
<u>Process for Approval to Practice</u>	21	NCAC	36	.0804	23:01 NCR
<u>Annual Renewal</u>	21	NCAC	36	.0806	23:01 NCR
<u>Prescribing Authority</u>	21	NCAC	36	.0809	23:01 NCR
<u>Fees</u>	21	NCAC	36	.0813	23:01 NCR

PHARMACY, BOARD OF

<u>Ballots: Casting and Counting</u>	21	NCAC	46	.2107*	23:02 NCR
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These rules are subject to the next Legislative Session. (See G.S. 150B-21.3.)

AGRICULTURE, DEPARTMENT OF

<u>Prohibited Uses</u>	02	NCAC	52J	.0602*	22:09 NCR
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ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Jordan Water Supply Nutrient Strategy: Agriculture</u>	15A	NCAC 02B	.0264*	21:24 NCR
<u>Jordan Water Supply Nutrient Strategy: Mitigation</u>	15A	NCAC 02B	.0268*	21:24 NCR
<u>Riparian Buffer Mitigation Fees to the NC</u>	15A	NCAC 02B	.0269*	21:24 NCR
<u>Jordan Water Supply Nutrient Strategy: Wastewater</u>	15A	NCAC 02B	.0270*	21:24 NCR
<u>Jordan Water Supply Nutrient Strategy: Stormwater</u>	15A	NCAC 02B	.0271*	21:24 NCR
<u>Jordan Water Supply Nutrient Strategy: Fertilizer</u>	15A	NCAC 02B	.0272*	21:24 NCR
<u>Jordan Water Supply Nutrient Strategy: Options for</u>	15A	NCAC 02B	.0273*	21:24 NCR

**TITLE 02 – DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES**

02 NCAC 52J .0602 PROHIBITED USES

Carbon monoxide may not be used to euthanize animals in certified facilities in any manner inconsistent with guidelines for the use of carbon monoxide approved by the entities referenced in 02 NCAC 52J .0401. Additionally, carbon monoxide shall not be used to euthanize the following animals in certified facilities:

- (1) Animals that appear to be less than 16 weeks of age;
- (2) Animals that are pregnant;
- (3) Animals that are near death.

*History Note: Authority G.S. 19A-24(5);
Eff. Pending Legislative Review.*

02 NCAC 52K .0406 SURFACES; EXHIBIT AREAS

- (a) Surfaces in the animal contact exhibit that can be touched by both fair patrons and animals shall be made of impervious material, and shall be cleaned and disinfected daily and at any time visible contamination is present.
- (b) All animal fencing, feed troughs, and open watering systems shall be disinfected prior to and at the end of each fair.
- (c) Contact animal exhibits shall be held on impervious surfaces whenever feasible.
- (d) Impervious exhibit areas shall be cleaned and disinfected at the end of the fair.
- (e) Exhibit areas that are not impervious shall be cleaned of all manure at the end of the fair and shall not be used for human activities for at least six months after cleaning.
- (f) Paragraphs (c) and (e) of this Rule shall not apply to pony rides.

*History Note: Authority G.S. 106-520.3A;
Eff. September 1, 2006.
Amended Eff. November 1, 2008.*

02 NCAC 52K .0501 HAND-WASHING STATIONS

- (a) Hand-washing stations with soap, running water, paper towels and disposal containers shall be located within 10 feet of the exit of an animal contact exhibit, wherever feasible.
- (b) Hand-washing stations suitable for small children shall be available in the same area.

(c) Signage shall be provided to direct patrons to hand-washing stations.

(d) In order to promote hand-washing with soap and water, dispensers for waterless hand sanitizing lotions, gels or hand wipes shall not be provided in the transition or exhibit area.

*History Note: Authority G.S. 106-520.3A;
Eff. September 1, 2006;
Amended Eff. November 1, 2008.*

**02 NCAC 52K .0601 HEALTH CERTIFICATE;
VACCINATIONS**

- (a) An official health certificate as defined in 02 NCAC 52B .0202, a rabies vaccination certificate (when applicable), and any other documentation required by 02 NCAC 52B for species or state of origin, shall accompany all animals contained in a public contact setting.
- (b) An animal for which there is an approved rabies vaccine, but which is too young to receive rabies vaccination, is prohibited from animal contact exhibits unless proof of rabies vaccination, within the preceding 12 months, of the mother is provided.
- (c) Initial rabies vaccination shall be administered at least 30 days prior to the event. Subsequent vaccinations for livestock shall be no more than one year prior to the event and may be within 30 days of the event if proof of previous vaccination is provided. Dogs and cats shall be in compliance with the North Carolina rabies law, G.S. 130A, Article 6, Part 6.
- (d) If no licensed rabies vaccine exists for a particular species (such as rabbits, goats, llamas, and camels), no vaccination is required.

*History Note: Authority G.S. 106-520.3A;
Eff. September 1, 2006;
Amended Eff. November 1, 2008.*

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

10A NCAC 14C .1903 PERFORMANCE STANDARDS

- (a) An applicant proposing to acquire a linear accelerator shall demonstrate that each of the following standards will be met:
 - (1) an applicant's existing linear accelerators located in the proposed service area performed

- at least 6,750 ESTV treatments per machine or served at least 250 patients per machine in the twelve months prior to the date the application was submitted;
- (2) each proposed new linear accelerator will be utilized at an annual rate of 250 patients or 6,750 ESTV treatments during the third year of operation of the new equipment; and
- (3) an applicant's existing linear accelerators located in the proposed service area are projected to be utilized at an annual rate of 6,750 ESTV treatments or 250 patients per machine during the third year of operation of the new equipment.

(b) A linear accelerator shall not be held to the standards in Paragraph (a) of this Rule if the applicant provides documentation that the linear accelerator has been or will be used exclusively for clinical research and teaching.

(c) An applicant proposing to acquire radiation therapy equipment other than a linear accelerator shall provide the following information:

- (1) the number of patients that are projected to receive treatment from the proposed radiation therapy equipment, classified by type of equipment, diagnosis, treatment procedure, and county of residence; and
- (2) the maximum number and type of procedures that the proposed equipment is capable of performing.

(d) The applicant shall document all assumptions and provide data supporting the methodology used to determine projected utilization as required in this Rule.

History Note: Authority G.S. 131E-177(1); 131E-183(b); Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. January 4, 1994; Amended Eff. November 1, 1996; Temporary Amendment Eff. January 1, 1999; Temporary Amendment effective January 1, 1999 expired October 12, 1999; Temporary Amended Eff. January 1, 2000; Temporary Amendment Eff. February 1, 2006; Amended Eff. November 1, 2006; Temporary Amendment effective January 1, 2000 amends and replaces a permanent rulemaking originally proposed to be effective August 2000; Amended Eff. April 1, 2001; Temporary Amendment Eff. March 15, 2002; January 1, 2002; Amended Eff. April 1, 2003; Temporary Amendment Eff. February 1, 2008; Amended Eff. November 1, 2008.

10A NCAC 14C .2101 DEFINITIONS

The following definitions apply to all rules in this Section:

- (1) "Ambulatory surgical facility" means a facility as defined in G.S. 131E-176(1b).

- (2) "Operating room" means a room as defined in G.S. 131E-176(18c), which includes an inpatient operating room, an outpatient or ambulatory surgical operating room, or a shared operating room.
- (3) "Ambulatory surgical program" means a program as defined in G.S. 131E-176(1c).
- (4) "Dedicated cesarean section operating room" means an operating room as defined in the applicable State Medical Facilities Plan.
- (5) "Existing operating rooms" means those operating rooms in ambulatory surgical facilities and hospitals which were reported in the License Application for Ambulatory Surgical Facilities and Programs and in Part III of Hospital Licensure Renewal Application Form submitted to the Acute and Home Care Licensure and Certification Section of the Division of Health Service Regulation and which were licensed and certified prior to the beginning of the review period.
- (6) "Approved operating rooms" means those operating rooms that were approved for a certificate of need by the Certificate of Need Section prior to the date on which the applicant's proposed project was submitted to the Agency but that have not been licensed.
- (7) "Multispecialty ambulatory surgical program" means a program as defined in G.S. 131E-176(15a).
- (8) "Outpatient or ambulatory surgical operating room" means an operating room used solely for the performance of surgical procedures which require local, regional or general anesthesia and a period of post-operative observation of less than 24 hours.
- (9) "Related entity" means the parent company of the applicant, a subsidiary company of the applicant (i.e., the applicant owns 50 percent or more of another company), a joint venture in which the applicant is a member, or a company that shares common ownership with the applicant (i.e., the applicant and another company are owned by some of the same persons).
- (10) "Service area" means the Operating Room Service Area as defined in the applicable State Medical Facilities Plan.
- (11) "Shared operating room" means an operating room that is used for the performance of both ambulatory and inpatient surgical procedures.
- (12) "Specialty area" means an area of medical practice in which there is an approved medical specialty certificate issued by a member board of the American Board of Medical Specialties and includes the following: gynecology, otolaryngology, plastic surgery, general surgery, ophthalmology, urology, orthopedics, and oral surgery.

- (13) "Specialty ambulatory surgical program" means a program as defined in G.S. 131E-176(24c).
- (14) "Surgical case" means an individual who receives one or more surgical procedures in an operating room during a single operative encounter.

History Note: Authority G.S. 131E-177(1); 131E-183(b); Eff. November 1, 1990; Amended Eff. March 1, 1993; Temporary Amendment Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. January 4, 1994; Temporary Amendment Eff. January 1, 1999; Temporary Eff. January 1, 1999 Expired on October 12, 1999; Temporary Amendment Eff. January 1, 2000; Temporary Amendment effective January 1, 2000 amends and replaces a permanent rulemaking originally proposed to be effective August 2000; Amended Eff. April 1, 2001; Temporary Amendment Eff. January 1, 2002; July 1, 2001; Amended Eff. August 1, 2002; Temporary Amendment effective January 1, 2002 amends and replaces the permanent rule effective August 1, 2002; Amended Eff. April 1, 2003; Temporary Amendment Eff. January 1, 2005; Amended Eff. November 1, 2005; Temporary Rule Eff. February 1, 2006; Amended Eff. November 1, 2006; Temporary Amendment Eff. February 1, 2008; Amended Eff. November 1, 2008.

10A NCAC 14C .2102 INFORMATION REQUIRED OF APPLICANT

(a) An applicant proposing to establish a new ambulatory surgical facility, to increase the number of operating rooms, to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall identify each of the following specialty areas that will be provided in the facility:

- (1) gynecology;
- (2) otolaryngology;
- (3) plastic surgery;
- (4) general surgery;
- (5) ophthalmology;
- (6) orthopedic;
- (7) oral surgery; and
- (8) other specialty area identified by the applicant.

(b) An applicant proposing to establish a new ambulatory surgical facility, to increase the number of operating rooms except relocations of existing operating rooms between existing licensed facilities within the same service area, to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall provide the following information:

- (1) the number and type of operating rooms in each licensed facility which the applicant or a related entity owns a controlling interest in and is located in the service area, (separately identifying the number of dedicated open heart and dedicated C-Section rooms);
- (2) the number and type of operating rooms to be located in each licensed facility which the applicant or a related entity owns a controlling interest in and is located in the service area after completion of the proposed project and all previously approved projects related to these facilities (separately identifying the number of dedicated open heart and dedicated C-Section rooms);
- (3) the number of inpatient surgical cases, excluding trauma cases reported by Level I, II, or III trauma centers, cases reported by designated burn intensive care units, and cases performed in dedicated open heart and dedicated C-section rooms, and the number of outpatient surgical cases performed in the most recent 12 month period for which data is available, in the operating rooms in each licensed facility listed in response to Subparagraphs (b)(1) and (b)(2) of this Rule;
- (4) the number of inpatient surgical cases, excluding trauma cases reported by level I, II, or III trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and dedicated C-section rooms, and the number of outpatient surgical cases projected to be performed in each of the first three operating years of the proposed project, in each licensed facility listed in response to Subparagraphs (b)(1) and (b)(2) of this Rule;
- (5) a detailed description of and documentation to support the assumptions and methodology used in the development of the projections required by this Rule;
- (6) the hours of operation of the proposed new operating rooms;
- (7) if the applicant is an existing facility, the average reimbursement received per procedure for the 20 surgical procedures most commonly performed in the facility during the preceding 12 months and a list of all services and items included in the reimbursement;
- (8) the projected average reimbursement to be received per procedure for the 20 surgical procedures which the applicant projects will be performed most often in the facility and a list of all services and items included in the reimbursement; and
- (9) identification of providers of pre-operative services and procedures which will not be included in the facility's charge.

(c) An applicant proposing to relocate existing operating rooms between existing licensed facilities within the same service area shall provide the following information:

- (1) the number and type of existing and approved operating rooms in each licensed facility in which the number of operating rooms will increase or decrease (separately identifying the number of dedicated open heart and dedicated C-Section rooms);
- (2) the number and type of operating rooms to be located in each affected licensed facility after completion of the proposed project and all previously approved projects related to these facilities (separately identifying the number of dedicated open heart and dedicated C-Section rooms);
- (3) the number of inpatient surgical cases, excluding trauma cases reported by Level I, II, or III trauma centers, cases reported by designated burn intensive care units, and cases performed in dedicated open heart and dedicated C-section rooms, and the number of outpatient surgical cases performed in the most recent 12 month period for which data is available, in the operating rooms in each licensed facility listed in response to Subparagraphs (c)(1) and (c)(2) of this Rule;
- (4) the number of inpatient surgical cases, excluding trauma cases reported by level I, II, or III trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and dedicated C-section rooms, and the number of outpatient surgical cases projected to be performed in each of the first three operating years of the proposed project, in each licensed facility listed in response to Subparagraphs (c)(1) and (c)(2) of this Rule;
- (5) a detailed description of and documentation to support the assumptions and methodology used in the development of the projections required by this Rule;
- (6) the hours of operation of the facility to be expanded;
- (7) the average reimbursement received per procedure for the 20 surgical procedures most commonly performed in each affected licensed facility during the preceding 12 months and a list of all services and items included in the reimbursement;
- (8) the projected average reimbursement to be received per procedure for the 20 surgical procedures which the applicant projects will be performed most often in the facility to be expanded and a list of all services and items included in the reimbursement; and
- (9) identification of providers of pre-operative services and procedures which will not be included in the facility's charge.

History Note: Authority G.S. 131E-177; 131E-183(b); Eff. November 1, 1990;
Temporary Amendment Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Amended Eff. January 4, 1994;
Temporary Amendment Eff. July 1, 2001;
Temporary Amendment Eff. January 1, 2002;
Amended Eff. August 1, 2002;
Temporary Amendment effective January 1, 2002 amends and replaces the permanent rule effective August 1, 2002;
Amended Eff. April 1, 2003;
Temporary Amendment Eff. February 1, 2008;
Amended Eff. November 1, 2008.

10A NCAC 14C .2103 PERFORMANCE STANDARDS

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

(b) A proposal to establish a new ambulatory surgical facility, to increase the number of operating rooms (excluding dedicated C-section operating rooms), to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall not be approved unless:

- (1) the applicant reasonably demonstrates the need for the number of proposed operating rooms in the facility, which is the subject of this review, in the third operating year of the project based on the following formula: $\{[(\text{Number of facility's projected inpatient cases, excluding trauma cases reported by Level I, II, or III trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and C-section rooms, times 3.0 hours}) \text{ plus } (\text{Number of facility's projected outpatient cases times 1.5 hours})] \text{ divided by } 1872 \text{ hours}\}$ minus the facility's total number of existing, approved and proposed operating rooms, excluding one operating room for Level I, II or III trauma centers, one operating room for facilities with designated burn intensive care units, and all dedicated open heart and C-section operating rooms. The number of rooms needed is the positive difference rounded to the next highest number for fractions of 0.50 or greater; or
- (2) the applicant demonstrates conformance of the proposed project to Policy AC-3 in the State Medical Facilities Plan titled "Exemption From Plan Provisions for Certain Academic Medical Center Teaching Hospital Projects."

(c) A proposal to establish a new ambulatory surgical facility, to increase the number of operating rooms (excluding dedicated C-section operating rooms) except relocations of existing operating rooms between existing licensed facilities within the same service area, to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall not be

approved unless the applicant reasonably demonstrates the need for the number of proposed operating rooms in addition to the rooms in its licensed facilities identified in response to 10A NCAC 14C .2102(b)(2) in the third operating year of the proposed project based on the following formula: $\{[(\text{Number of projected inpatient cases for all its facilities, excluding trauma cases reported by Level I, II, or III trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and C-section rooms, times 3.0 hours}) \text{ plus } (\text{Number of projected outpatient cases for all its facilities times 1.5 hours})] \text{ divided by } 1872 \text{ hours}\}$ minus the total number of existing, approved and proposed operating rooms, excluding one operating room for Level I, II or III trauma centers, one operating room for facilities with designated burn intensive care units, and all dedicated open heart and C-Section operating rooms in all of its licensed facilities in the service area. A need is demonstrated if the difference is a positive number greater than or equal to 0.50.

(d) An applicant that has one or more existing or approved dedicated C-section operating rooms and is proposing to develop an additional dedicated C-section operating room in the same facility shall demonstrate that an average of at least 365 C-sections per room were performed in the facility's existing dedicated C-section operating rooms in the previous 12 months and are projected to be performed in the facility's existing, approved and proposed dedicated C-section rooms during the third year of operation following completion of the project.

(e) An applicant proposing to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall provide documentation to show that each existing ambulatory surgery program in the service area that performs ambulatory surgery in the same specialty area as proposed in the application is currently utilized an average of at least 1,872 hours per operating room per year, excluding dedicated open heart and C-Section operating rooms. The hours utilized per operating room shall be calculated as follows: $[(\text{Number of projected inpatient cases, excluding open heart and C-sections performed in dedicated rooms, times 3.0 hours}) \text{ plus } (\text{Number of projected outpatient cases times 1.5 hours})] \text{ divided by the number of operating rooms, excluding dedicated open heart and C-Section operating rooms.}$

(f) An applicant proposing to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall reasonably demonstrate the need for the conversion in the third operating year of the project based on the following formula: $[(\text{Total number of projected outpatient cases for all ambulatory surgery programs in the service area times 1.5 hours}) \text{ divided by } 1872 \text{ hours}] \text{ minus the total number of existing, approved and proposed outpatient or ambulatory surgical operating rooms and shared operating rooms in the service area.}$ The need for the conversion is demonstrated if the difference is a positive number greater than or equal to one, after the number is rounded to the next highest number for fractions of 0.50 or greater.

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

History Note: Authority G.S. 131E-177; 131E-183(b); Eff. November 1, 1990; Amended Eff. March 1, 1993; Temporary Amendment Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. January 4, 1994; Temporary Amendment Eff. January 1, 2002; July 1, 2001; Amended Eff. August 1, 2002; Temporary Amendment effective January 1, 2002 amends and replaces the permanent rule effective August 1, 2002; Amended Eff. April 1, 2003; Temporary Amendment Eff. January 1, 2005; Amended Eff. November 1, 2005; Temporary Rule Eff. February 1, 2006; Amended Eff. April 1, 2007; November 1, 2006; Temporary Amendment Eff. February 1, 2008; Amended Eff. November 1, 2008.

10A NCAC 14C .2106 FACILITY

(a) An applicant proposing to establish a licensed ambulatory surgical facility that will be physically located in a physician's or dentist's office or within a general acute care hospital shall demonstrate that reporting and accounting mechanisms exist and can be used to confirm that the licensed ambulatory surgery facility is a separately identifiable entity physically and administratively, and is financially independent and distinct from other operations of the facility in which it is located.

(b) An applicant proposing a licensed ambulatory surgical facility shall receive accreditation from the Joint Commission for the Accreditation of Healthcare Organizations, the Accreditation Association for Ambulatory Health Care or a comparable accreditation authority within two years of completion of the facility.

(c) An applicant proposing to establish a new ambulatory surgical facility, to increase the number of operating rooms, to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall document that the physical environment of the facility conforms to the requirements of federal, state, and local regulatory bodies.

(d) The applicant shall provide a floor plan of the proposed facility identifying the following areas:

- (1) receiving/registering area;
- (2) waiting area;
- (3) pre-operative area;
- (4) operating room by type;
- (5) recovery area; and
- (6) observation area.

(e) An applicant proposing to expand by converting a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or by adding a specialty to a specialty ambulatory surgical program that does not propose to add physical space to the existing ambulatory surgical facility shall demonstrate the capability of the existing ambulatory surgical program to provide the following for each additional specialty area:

- (1) physicians;
- (2) ancillary services;

- (3) support services;
- (4) medical equipment;
- (5) surgical equipment;
- (6) receiving/registering area;
- (7) clinical support areas;
- (8) medical records;
- (9) waiting area;
- (10) pre-operative area;
- (11) operating rooms by type;
- (12) recovery area; and
- (13) observation area.

History Note: Authority G.S. 131E-177; 131E-183(b); Eff. November 1, 1990;
Temporary Amendment Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Amended Eff. January 4, 1994;
Temporary Amendment Eff. July 1, 2001;
Temporary Amendment Eff. January 1, 2002;
Amended Eff. August 1, 2002;
Temporary Amendment effective January 1, 2002 amends and replaces the permanent rule effective August 1, 2002;
Amended Eff. April 1, 2003;
Temporary Amendment Eff. February 1, 2008;
Amended Eff. November 1, 2008.

10A NCAC 14C .2701 DEFINITIONS

The following definitions apply to all rules in this Section:

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

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

company that shares common ownership with the applicant (i.e., the applicant and another company are owned by some of the same persons).

- (17) "Temporary MRI scanner" means an MRI scanner that the Certificate of Need Section has approved to be temporarily located in North Carolina at a facility that holds a certificate of need for a new fixed MRI scanner, but which is not operational because the project is not yet complete.
- (18) "Weighted MRI procedures" means MRI procedures which are adjusted to account for the length of time to complete the procedure, based on the following weights: one outpatient MRI procedure without contrast or sedation is valued at 1.0 weighted MRI procedure, one outpatient MRI procedure with contrast or sedation is valued at 1.4 weighted MRI procedures, one inpatient MRI procedure without contrast or sedation is valued at 1.4 weighted MRI procedures; and one inpatient MRI procedure with contrast or sedation is valued at 1.8 weighted MRI procedures.
- (19) "Weighted breast MRI procedures" means MRI procedures which are performed on a dedicated breast MRI scanner and are adjusted to account for the length of time to complete the procedure, based on the following weights: one diagnostic breast MRI procedure is valued at 1.0 weighted MRI procedure (based on an average of 60 minutes per procedure), one MRI-guided breast needle localization MRI procedure is valued at 1.1 weighted MRI procedure (based on an average of 66 minutes per procedure), and one MRI-guided breast biopsy procedure is valued at 1.6 weighted MRI procedures (based on an average of 96 minutes per procedure).

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

Eff. February 1, 1994;

Temporary Amendment Eff. January 1, 1999;

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Temporary Amendment Eff. January 1, 2000;

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

Temporary Amendment Eff. January 1, 2001;

Temporary Amendment effective January 1, 2001 amends and replaces a permanent rulemaking originally proposed to be effective April 1, 2001;

Temporary Amendment Eff. January 1, 2002;

Amended Eff. August 1, 2002;

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

Temporary Amendment Eff. January 1, 2003;

Amended Eff. August 1, 2004; April 1, 2003;

Temporary Amendment Eff. January 1, 2005;

Amended Eff. November 1, 2005;

Temporary Amendment Eff. February 1, 2006;

Amended Eff. November 1, 2006;

Temporary Amendment Eff. February 1, 2008;

Amended Eff. November 1, 2008.

10A NCAC 14C .2702 INFORMATION REQUIRED OF APPLICANT

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

(b) Except for proposals to acquire mobile MRI scanners that serve two or more host facilities, both the applicant and the person billing the patients for the MRI service shall be named as co-applicants in the application form.

(c) An applicant proposing to acquire a magnetic resonance imaging scanner, including a mobile MRI scanner, shall provide the following information:

- (1) documentation that the proposed fixed MRI scanner, excluding fixed extremity and breast MRI scanners, will be available and staffed for use at least 66 hours per week;
- (2) documentation that the proposed mobile MRI scanner will be available and staffed for use at least 40 hours per week;
- (3) documentation that the proposed fixed extremity or dedicated breast MRI scanner shall be available and staffed for use at least 40 hours per week;
- (4) the average charge to the patient, regardless of who bills the patient, for each of the 20 most frequent MRI procedures to be performed for each of the first three years of operation after completion of the project and a description of items included in the charge; if the professional fee is included in the charge, provide the dollar amount for the professional fee;
- (5) if the proposed MRI service will be provided pursuant to a service agreement, the dollar amount of the service contract fee billed by the applicant to the contracting party for each of the first three years of operation;
- (6) letters from physicians indicating their intent to refer patients to the proposed magnetic resonance imaging scanner and their estimate of the number of patients proposed to be referred per year, which is based on the physicians' historical number of referrals;
- (7) for each location in the MRI service area at which the applicant or a related entity will provide MRI services, utilizing existing, approved, or proposed fixed MRI scanners, the

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

submitted to the Medical Facilities Planning Section and the Certificate of Need Section, that will include:

- (A) a detailed description of the research studies completed;
 - (B) a description of the results of the studies;
 - (C) the cost per procedure to the patient and billing entity;
 - (D) the cost savings to the patient attributed to utilization of an extremity MRI scanner;
 - (E) an analysis of "total dollars received per procedure" performed on the extremity MRI scanner in comparison to "total dollars received per procedure" performed on whole body scanners; and
 - (F) the annual volume of unweighted and weighted MRI procedures performed, by CPT code;
- (5) identify the operating hours of the proposed scanner;
 - (6) provide a description of the capabilities of the proposed scanner;
 - (7) provide documentation of the capacity of the proposed scanner based on the number of days to be operated each week, the number of days to be operated each year, the number of hours to be operated each day, and the average number of unweighted MRI procedures the scanner is capable of performing each hour;
 - (8) identify the types of MRI procedures by CPT code that are appropriate to be performed on an extremity MRI scanner as opposed to a whole body MRI scanner;
 - (9) provide copies of the operational and safety requirements set by the manufacturer; and
 - (10) describe the criteria and methodology to be implemented for utilization review to ensure the medical necessity of the procedures performed.

(g) An applicant proposing to acquire a multi-position MRI scanner, pursuant to a need determination in the State Medical Facilities Plan for a demonstration project, shall:

- (1) commit to prepare an annual report at the end of each of the first three operating years, to be submitted to the Medical Facilities Planning Section and the Certificate of Need Section, that will include:
 - (A) the number of exams by CPT code performed on the multi-position MRI scanner in an upright or nonstandard position;
 - (B) the total number of examinations by CPT code performed on the multi-position MRI scanner in any position;

- (C) the number of doctors by specialty that referred patients for an MRI scan in an upright or nonstandard position;
 - (D) documentation to demonstrate compliance with the Basic Principles policy included in the State Medical Facilities Plan;
 - (E) a detailed description of the unique information that was acquired only by use of the multi-position capability of the multi-position MRI scanner; and
 - (F) the number of insured, underinsured, and uninsured patients served by type of payment category;
- (2) provide the specific criteria that will be used to determine which patients will be examined in other than routine supine or prone imaging positions;
 - (3) project the number of exams by CPT code performed on the multi-position MRI scanner in an upright or nonstandard position;
 - (4) project the total number of examinations by CPT code performed on the multi-position MRI scanner in any position;
 - (5) demonstrate that access to the multi-position MRI scanner will be made available to all spine surgeons in the proposed service area, regardless of ownership in the applicant's facility;
 - (6) demonstrate that at least 50 percent of the patients to be served on the multi-position MRI scanner will be spine patients who are examined in an upright or nonstandard position; and
 - (7) provide documentation of the capacity of the proposed fixed multi-position MRI scanner based on the number of days to be operated each week, the number of days to be operated each year, the number of hours to be operated each day, and the average number of unweighted MRI procedures the scanner is capable of performing each hour.

History Note: Authority G.S. 131E-177(1); 131E-183(b); Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. February 1, 1994; Temporary Amendment Eff. January 1, 2003; January 1, 2002; Amended Eff. August 1, 2004; April 1, 2003; Temporary Amendment Eff. January 1, 2005; Amended Eff. November 1, 2005; Temporary Amendment Eff. February 1, 2006; Amended Eff. November 1, 2006; Temporary Amendment Eff. February 1, 2008; Amended Eff. November 1, 2008.

10A NCAC 14C .2703 PERFORMANCE STANDARDS

(a) An applicant proposing to acquire a mobile magnetic resonance imaging (MRI) scanner shall:

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

(b) An applicant proposing to acquire a fixed magnetic resonance imaging (MRI) scanner, except for fixed MRI scanners described in Paragraphs (c) and (d) of this Rule, shall:

- (1) demonstrate that the existing fixed MRI scanners which the applicant or a related entity owns a controlling interest in and locates in the proposed MRI service area performed an average of 3,328 weighted MRI procedures in the most recent 12 month period for which the applicant has data;
- (2) demonstrate that each existing mobile MRI scanner which the applicant or a related entity owns a controlling interest in and operates in the proposed MRI service area except temporary MRI scanners, performed 3,328 weighted MRI procedures in the most recent 12 month period for which the applicant has data [Note: This is not the average number of weighted MRI procedures performed on all of the applicant's mobile MRI scanners.];
- (3) demonstrate that the average annual utilization of the existing, approved and proposed fixed MRI scanners which the applicant or a related entity owns a controlling interest in and

locates in the proposed MRI service area are reasonably expected to perform the following number of weighted MRI procedures, whichever is applicable, in the third year of operation following completion of the proposed project:

- (A) 1,716 weighted MRI procedures in MRI service areas in which the SMFP shows no fixed MRI scanners are located,
 - (B) 3,775 weighted MRI procedures in MRI service areas in which the SMFP shows one fixed MRI scanner is located,
 - (C) 4,118 weighted MRI procedures in MRI service areas in which the SMFP shows two fixed MRI scanners are located,
 - (D) 4,462 weighted MRI procedures in MRI service areas in which the SMFP shows three fixed MRI scanners are located, or
 - (E) 4,805 weighted MRI procedures in MRI service areas in which the SMFP shows four or more fixed MRI scanners are located;
- (4) if the proposed MRI scanner will be located at a different site from any of the existing or approved MRI scanners owned by the applicant or a related entity, demonstrate that the annual utilization of the proposed fixed MRI scanner is reasonably expected to perform the following number of weighted MRI procedures, whichever is applicable, in the third year of operation following completion of the proposed project:
- (A) 1,716 weighted MRI procedures in MRI service areas in which the SMFP shows no fixed MRI scanners are located,
 - (B) 3,775 weighted MRI procedures in MRI service areas in which the SMFP shows one fixed MRI scanner is located,
 - (C) 4,118 weighted MRI procedures in MRI service areas in which the SMFP shows two fixed MRI scanners are located,
 - (D) 4,462 weighted MRI procedures in MRI service areas in which the SMFP shows three fixed MRI scanners are located, or
 - (E) 4,805 weighted MRI procedures in MRI service areas in which the SMFP shows four or more fixed MRI scanners are located;
- (5) demonstrate that annual utilization of each existing, approved and proposed mobile MRI scanner which the applicant or a related entity

owns a controlling interest in and locates in the proposed MRI service area is reasonably expected to perform 3,328 weighted MRI procedures in the third year of operation following completion of the proposed project [Note: This is not the average number of weighted MRI procedures to be performed on all of the applicant's mobile MRI scanners.]; and

- (6) document the assumptions and provide data supporting the methodology used for each projection required in this Rule.

(c) An applicant proposing to acquire a fixed dedicated breast magnetic resonance imaging (MRI) scanner for which the need determination in the State Medical Facilities Plan was based on an approved petition for an adjustment to the need determination shall:

- (1) demonstrate annual utilization of the proposed MRI scanner in the third year of operation is reasonably projected to be at least 1,664 weighted MRI procedures which is .80 times 1 procedure per hour times 40 hours per week times 52 weeks per year; and
- (2) document the assumptions and provide data supporting the methodology used for each projection required in this Rule.

(d) An applicant proposing to acquire a fixed extremity MRI scanner for which the need determination in the State Medical Facilities Plan was based on an approved petition for an adjustment to the need determination shall:

- (1) demonstrate annual utilization of the proposed MRI scanner in the third year of operation is reasonably projected to be at least 80 percent of the capacity defined by the applicant in response to 10A NCAC 14C .2702(f)(7); and
- (2) document the assumptions and provide data supporting the methodology used for each projection required in this Rule.

(e) An applicant proposing to acquire a fixed multi-position MRI scanner for which the need determination in the State Medical Facilities Plan was based on an approved petition for a demonstration project shall:

- (1) demonstrate annual utilization of the proposed multi-position MRI scanner in the third year of operation is reasonably projected to be at least 80 percent of the capacity defined by the applicant in response to 10A NCAC 14C .2702(g)(7); and
- (2) document the assumptions and provide data supporting the methodology used for each projection required in this Rule.

History Note: Authority G.S. 131E-177(1); 131E-183(b);
Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. February 1, 1994;
Temporary Amendment Eff. January 1, 1999;

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

Temporary Amendment Eff. January 1, 2000;

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

Temporary Amendment Eff. January 1, 2001;

Temporary Amendment effective January 1, 2001 amends and replaces a permanent rulemaking originally proposed to be effective April 1, 2001;

Temporary Amendment Eff. January 1, 2002;

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

Temporary Amendment Eff. January 1, 2003;

Amended Eff. August 1, 2004; April 1, 2003;

Temporary Amendment Eff. January 1, 2005;

Amended Eff. November 1, 2005;

Temporary Amendment Eff. February 1, 2006;

Amended Eff. November 1, 2006;

Temporary Amendment Eff. February 1, 2008;

Amended Eff. November 1, 2008.

10A NCAC 14C .3702 INFORMATION REQUIRED OF APPLICANT

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

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

- (1) The projected number of procedures to be performed and the projected number of patients to be served for each of the first three years following completion of the proposed project. Projections shall be listed by clinical area (e.g., oncology, cardiology), and all methodologies and assumptions used in making the projections shall be provided.
- (2) Documentation of arrangements made between the applicant and other providers to assure patients of the facility will have access to all of the following services:
 - (A) nuclear medicine imaging services;
 - (B) single photon emission computed tomography (including brain, bone, liver, gallium and thallium stress);
 - (C) magnetic resonance imaging scans;
 - (D) computerized tomography scans;
 - (E) cardiac angiography;
 - (F) cardiac ultrasound;
 - (G) neuroangiography;
 - (H) radiation oncology;
 - (I) medical oncology; and
 - (J) surgical oncology.
- (3) Documentation that the facility will:
 - (A) establish the clinical PET unit, and any accompanying equipment used in the manufacture of positron-emitting radioisotopes, as a regional resource

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

- (B) provide scheduled hours of operation for the PET scanner of a minimum of 60 hours per week, except for mobile scanners.

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

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

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

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

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

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

Eff. January 4, 1994;

Temporary Amendment Eff. January 1, 2002;

Temporary Amendment effective January 1, 2002 amends and replaces a permanent rulemaking originally proposed to be effective August 1, 2002;

Amended Eff. April 1, 2003;

Temporary Amendment Eff. February 1, 2006;

Amended Eff. November 1, 2006;

Temporary Amendment Eff. February 1, 2008;

Amended Eff. November 1, 2008.

10A NCAC 14C .4002 INFORMATION REQUIRED OF APPLICANT

(a) An applicant proposing to develop hospice inpatient facility beds or hospice residential care facility beds shall complete the application form for Hospice Inpatient and Hospice Residential Care Services.

(b) An applicant proposing to develop hospice inpatient facility beds or hospice residential care facility beds shall provide the following information:

- (1) the projected annual number of hospice patients, admissions, deaths, and other discharges, for each level of care (i.e., respite care, hospice residential care and hospice inpatient care), to be served in the facility in each of the first three years following completion of the project and the methodology and assumptions used to make the projections;
- (2) the projected annual number of hospice patients, admissions, deaths, and other discharges for each level of care to be served by the applicant's licensed hospice agency in each of the first three years following completion of the project and the methodology and assumptions used to make the projections;
- (3) the projected annual number of patient care days, for each level of care (i.e., respite care, hospice residential care and hospice inpatient care), to be provided in each of the first three years of operation following completion of the project and the methodology and assumptions used to make the projections;
- (4) the projected average length of stay (ALOS) based on admissions to the applicant's facility, for each level of care, (i.e., respite care, hospice residential care and hospice inpatient care) and the methodology and assumptions used to make the projections;
- (5) the projected readmission rate, for each level of care, (i.e., respite care, hospice residential care and hospice inpatient care) and the methodology and assumptions used to make the projections;
- (6) the projected average annual cost per patient care day, by level of care (i.e., respite care, hospice residential care and hospice inpatient care) for each of the first three operating years following completion of the project and the methodology and assumptions used to project the average annual cost;
- (7) documentation of attempts made to establish working relationships with sources of referrals to the hospice facility including copies of proposed agreements for the provision of inpatient care and residential care;
- (8) documentation of the projected number of referrals to be made by each referral source;
- (9) copies of the proposed contractual agreements, if the applicant is not a licensed hospice, with a licensed hospice or a licensed home care agency with a hospice designation on its license, for the provision of hospice services;
- (10) documentation of the projected number of patients to be referred for each payor type from the referring hospices, if the applicant is not a licensed hospice or if the applicant

- proposes to admit patients on a contractual basis; and
- (11) a copy of the admission policies, including the criteria that shall be used to select persons for admission to the hospice inpatient and residential care beds.

*History Note: Authority G.S. 131E-177(1); 131E-183;
Temporary Adoption Eff. February 1, 2006;
Eff. November 1, 2006;
Temporary Amendment Eff. February 1, 2008;
Amended Eff. November 1, 2008.*

10A NCAC 14C .4003 PERFORMANCE STANDARDS

(a) An applicant proposing to develop hospice inpatient facility beds or hospice residential care facility beds shall demonstrate that:

- (1) the average occupancy rate of the licensed hospice beds, for each level of care, in the facility is projected to be at least 50 percent for the last six months of the first operating year following completion of the project;
- (2) the average occupancy rate for the licensed hospice beds, for each level of care, in the facility is projected to be at least 65 percent for the second operating year following completion of the project; and
- (3) if the application is submitted to address the need for hospice residential care beds, each existing hospice residential care facility which is located in the hospice service area operated at an occupancy rate of at least 65 percent for the 12 month period reported on that facility's most recent Licensure Renewal Application Form.

(b) An applicant proposing to add hospice inpatient facility beds to an existing hospice inpatient facility shall document that the average occupancy of the licensed hospice inpatient facility beds in its existing facility was at least 65 percent for the nine months immediately preceding the submittal of the proposal.

(c) An applicant proposing to add residential care beds to an existing hospice residential care facility shall document that the average occupancy of the licensed hospice residential care beds in its existing facility was at least 65 percent for the nine months immediately preceding the submittal of the proposal.

*History Note: Authority G.S. 131E-177(1);
Temporary Adoption Eff. February 1, 2006;
Eff. November 1, 2006;
Temporary Amendment Eff. February 1, 2008;
Amended Eff. November 1, 2008.*

10A NCAC 14C .4006 FACILITY

An applicant proposing to develop new hospice inpatient facility beds or new hospice residential care facility beds shall document:

- (1) that a home-like setting shall be provided in the facility;

- (2) that the services will be provided in conformity with applicable state and local laws and regulations pertaining to zoning, physical environment, water supply, waste disposal and other relevant health and safety requirements; and
- (3) for new facilities, the location of the site on which the services are to be operated. If the site is neither owned by nor under option to the applicant, the applicant must provide a written commitment to pursue acquiring the site if and when the approval is granted, must specify a secondary site on which the services could be operated if acquisition efforts relative to the primary site ultimately fail, and must demonstrate that the primary and secondary sites are available for acquisition.

*History Note: Authority G.S. 131E-177(1); 131E-183;
Temporary Adoption Eff. February 1, 2008;
Eff. November 1, 2008.*

10A NCAC 41A .0502 VACCINE FOR PROVIDERS OTHER THAN LOCAL HEALTH DEPARTMENTS

(a) The Division of Public Health shall provide vaccines required by law free of charge to the following providers for administration to individuals who need vaccines to meet the requirement of G.S. 130A-152, 130-155.1 and 10A NCAC 41A .0401:

- (1) Community, migrant, and rural health centers;
- (2) Colleges and universities for students; and
- (3) Physicians and other health care providers.

(b) Upon request of the Division, required vaccines may be distributed by local health departments operating as agents of the State to providers listed in Subparagraphs (a)(1), (2) and (3) of this Rule.

(c) Providers authorized in Paragraph (a) of this Rule shall receive free vaccines from the Division only if they sign an agreement with the Division. This agreement shall be prepared by the Division of Public Health and shall require the provider to:

- (1) Charge vaccine administration fees at no more than the rates established by the State's Medicaid program. The State's Medicaid rates may be inspected at the Division of Public Health. Copies may also be obtained from the Division of Public Health at no charge;
- (2) Provide all vaccines needed during a visit unless a specific contraindication exists to one or more of the vaccine;
- (3) Charge no office fee in addition to an administration fee for an immunization-only visit;
- (4) Agree not to charge an administration fee to an individual who states that he/she is unable to pay;

- (5) Impose no condition as a prerequisite to receiving vaccine;
- (6) Submit a monthly doses administered report by the tenth of each month electronically through the North Carolina Immunization Registry or on a form provided by the Immunization Section;
- (7) Report adverse vaccine reactions through the Vaccine Adverse Event Reporting System (VAERS);
- (8) Provide the latest edition of the applicable Important Information Statement (IIS), or Vaccine Information Statement (VIS) to the parent, guardian, or person standing in loco parentis for each dose of vaccine administered; document this action within the patient's permanent medical record; retain the documentation for a period of 10 years following the end of the calendar year in which the vaccine dose was administered, or for 10 years following the recipient's age of majority, whichever is longer; upon request, furnish copies of the documentation to the local health department or the Division; and keep a record of the vaccine manufacturer, lot number, and date of administration for each dose of vaccine administered;
- (9) Allow periodic inspection of their vaccine supplies and records by the Division of Public Health; and
- (10) Comply with the rules of this Section.

(d) A provider who fails to submit timely and accurate reports as required each month shall have vaccine shipments withheld until that month's report is received by the Immunization Section.

History Note: Authority G.S. 130A-433;

Temporary Rule Eff. October 5, 1986 for a period of 120 days to expire on February 1, 1987;

Temporary Rule Eff. February 1, 1987 for a period of 120 days to expire on May 31, 1987;

Eff. March 1, 1987;

Temporary Amendment Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;

Temporary Amendment Eff. August 26, 1992, for a period 180 days or until the permanent rule becomes effective, whichever is sooner;

Temporary Amendment Eff. October 1, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. October 1, 1995; January 1, 1995; January 4, 1994; January 4, 1993;

Temporary Amendment Eff. December 1, 1998;

Amended Eff. August 1, 2000;

Temporary Amendment Eff. December 1, 2007

Amended Eff. November 1, 2008.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 02B .0264 JORDAN WATER SUPPLY NUTRIENT STRATEGY: AGRICULTURE

This Rule sets forth a process by which agricultural operations in the Jordan watershed will collectively limit their nitrogen and phosphorus loading to the Jordan Reservoir, as prefaced in Rule 15A NCAC 02B .0262. This process is as follows:

- (1) **PURPOSE.** The purposes of this Rule are to achieve and maintain the percentage reduction goals defined in Rule 15A NCAC 02B .0262 for the collective agricultural loading of nitrogen and phosphorus from their respective 1997-2001 baseline levels, to the extent that best available accounting practices will allow. This Rule aims to achieve the goals set out in 15A NCAC 02B .0262 within six to nine years, as set out in Sub-Item (5)(b) of this Rule. Additionally this Rule will protect the water supply uses of Jordan Reservoir and of designated water supplies throughout the Jordan watershed.
- (2) **PROCESS.** This Rule requires accounting for agricultural land management practices at the county and subwatershed levels in the Jordan watershed, and implementation of practices by farmers in these areas to collectively achieve the nutrient reduction goals on a county and subwatershed basis. Producers may be eligible to obtain cost share and technical assistance from the NC Agriculture Cost Share Program and similar federal programs to contribute to their counties' nutrient reductions. A Watershed Oversight Committee, and if needed Local Advisory Committees, will develop strategies, coordinate activities, and account for progress.
- (3) **LIMITATION.** This Rule may not fully address significant nutrient sources relative to agriculture in that it does not directly address atmospheric sources of nitrogen to the Jordan watershed from agricultural operations located both within and outside of the Jordan watershed. As better information becomes available from ongoing research on atmospheric nitrogen loading to the Jordan watershed from these sources, and on measures to control this loading, the Commission may undertake separate rule-making to require such measures it deems necessary from these sources to support the goals of the Jordan Reservoir Nutrient Sensitive Waters Strategy.
- (4) **APPLICABILITY.** This Rule shall apply to all persons engaging in agricultural operations in the Jordan watershed, including those related to crops, horticulture, livestock, and poultry. This Rule applies to livestock and poultry

operations above the size thresholds in this Item in addition to requirements for animal operations set forth in general permits issued pursuant to G.S. 143-215.10C. Nothing in this Rule shall be deemed to allow the violation of any assigned surface water, groundwater, or air quality standard by any agricultural operation, including any livestock or poultry operation below the size thresholds in this Item. This Rule does not require specific actions by any individual person or operation if the county or counties in which they conduct operations can collectively achieve their nutrient reduction targets, in the manner described in Item (5) of this Rule, within six years of the effective date of this Rule. For the purposes of this Rule, agricultural operations are activities that relate to any of the following pursuits:

- (a) The commercial production of crops or horticultural products other than trees. As used in this Rule, commercial shall mean activities conducted primarily for financial profit.
- (b) Research activities in support of such commercial production.
- (c) The production or management of any of the following number of livestock or poultry at any time, excluding nursing young:
 - (i) 5 or more horses;
 - (ii) 20 or more cattle;
 - (iii) 20 or more swine not kept in a feedlot, or 150 or more swine kept in a feedlot;
 - (iv) 120 or more sheep;
 - (v) 130 or more goats;
 - (vi) 650 or more turkeys;
 - (vii) 3,500 or more chickens; or
 - (viii) Any single species of any other livestock or poultry, or any combination of species of livestock or poultry, that exceeds 20,000 pounds of live weight at any time.

- (5) **METHOD FOR RULE IMPLEMENTATION.** This Rule shall be implemented initially by a Watershed Oversight Committee and, if needed, through a cooperative effort between the Watershed Oversight Committee and Local Advisory Committees in each county. The membership, roles and responsibilities of these committees are set forth in Items (7) and (8) of this Rule. Committees' activities shall be guided by the following constraints:

- (a) Within three years after the effective date of this Rule, the Watershed Oversight Committee shall provide

the Commission with an initial assessment of the extent to which agricultural operations in each subwatershed have achieved the nitrogen goals identified in Item (1) of this Rule through activities conducted since the baseline period. The Watershed Oversight Committee shall use the accounting process described in Items (7) and (8) of this Rule to make its assessment. Should the Commission determine at that time that a subwatershed nitrogen goal has not been achieved, then Local Advisory Committees shall be formed in that subwatershed according to Item (8) of this Rule to further progress toward the goal by developing local strategies to guide implementation.

- (b) For any subwatershed identified in Sub-Item (5)(a) of this Rule as not having achieved its nitrogen goal within three years, the Commission shall within six years after the effective date of this Rule again determine, with input from the Watershed Oversight Committee, whether the subwatershed has achieved its nitrogen goal. Should the Commission determine at that time that a subwatershed has not achieved its goal, then it shall require additional best management practice (BMP) implementation as needed to ensure that the goal is met within nine years after the effective date of this Rule. The Commission may also consider alternative recommendations from the Watershed Oversight Committee based on its assessment of the practicability of agricultural operations meeting the subwatershed goal. Should the Commission require some form of individual compliance, then it shall also subsequently approve a framework proposed by the Watershed Oversight Committee for allowing producers to obtain credit through offsite measures. Such offsite measures shall meet the requirements of 15A NCAC 02B .0273(2) – (4). The Commission shall review compliance with the phosphorus goals within six years of the effective date and shall require additional BMP implementation within any subwatershed as needed to

- meet its goal within an additional three years from that date.
- (c) Should a committee called for under Sub-Item (5)(a) of this Rule not form nor follow through on its responsibilities such that a local strategy is not implemented in keeping with Item (8) of this Rule, the Commission shall require all persons subject to this Rule in the affected area to implement BMPs as needed to meet the goals of this Rule.
- (6) **RULE REQUIREMENTS FOR INDIVIDUAL OPERATIONS.** Persons subject to this Rule shall adhere to the following requirements:
- (a) If the initial accounting required under Sub-Item (5)(a) of this Rule determines that agricultural operations have not already collectively met the nitrogen reduction goals, persons subject to this Rule shall register their operations with their Local Advisory Committee according to the requirements of Item (8) of this Rule within four years after the effective date of this Rule. Within six years after the effective date of this Rule, such persons are not required to implement any specific BMPs but may elect to contribute to the collective local nutrient strategy by implementing any BMPs they choose that are recognized by the Watershed Oversight Committee as nitrogen-reducing or phosphorus-reducing BMPs.
- (b) Should a local strategy not achieve its goal after six years, operations within that local area may face specific implementation requirements, as described under Sub-Item (5)(b) of this Rule.
- (c) Producers may generate nitrogen loading reduction credit for sale to parties subject to or operating under other nutrient strategy rules in the Jordan watershed under either of the following circumstances and only pursuant to the conditions of Sub-Item (7)(b)(vii) of this Rule and 15A NCAC 02B .0273:
- (i) If the subwatershed in which they implement nitrogen-reducing practices has achieved its nitrogen goal.
- (ii) At any point during the implementation of this Rule,
- a pasture-based livestock operation that implements an excluded buffer BMP on part or all of its operation may sell that portion of the nitrogen reduction credit attributed to the buffer restoration aspect of the practice, while the credit attributed to the exclusion aspect shall accrue to the achievement or maintenance of the goals of this Rule.
- (7) **WATERSHED OVERSIGHT COMMITTEE.** The Watershed Oversight Committee shall have the following membership, role and responsibilities:
- (a) **MEMBERSHIP.** The Director shall be responsible for forming a Watershed Oversight Committee within two months of the effective date of this Rule. Until such time as the Commission determines that long-term maintenance of the nutrient loads is assured, the Director shall either reappoint members or replace members at least every six years. The Director shall solicit nominations for membership on this Committee to represent each of the following interests, and shall appoint one nominee to represent each interest except where a greater number is noted. The Director may appoint a replacement at any time for an interest in Sub-Items (7)(a)(vi) through (7)(a)(x) of this Rule upon request of representatives of that interest:
- (i) Division of Soil and Water Conservation;
- (ii) United States Department of Agriculture-Natural Resources Conservation Service (shall serve in an "ex-officio" non-voting capacity and shall function as a technical program advisor to the Committee);
- (iii) North Carolina Department of Agriculture and Consumer Services;
- (iv) North Carolina Cooperative Extension Service;
- (v) Division of Water Quality;
- (vi) Three environmental interests, at least two of which are residents of the Jordan watershed;

- (vii) General farming interests;
 - (viii) Pasture-based livestock interests;
 - (ix) Equine livestock interests;
 - (x) Cropland farming interests; and
 - (xi) The scientific community with experience related to water quality problems in the Jordan watershed.
- (b) **ROLE.** The Watershed Oversight Committee shall:
- (i) Develop tracking and accounting methods for nitrogen and phosphorus loss. Submit methods to the Water Quality Committee of the Commission for approval based on the standards set out in Sub-Item (7)(c) of this Rule within two years after the effective date of this Rule;
 - (ii) Identify and implement future refinements to the accounting methods as needed to reflect advances in scientific understanding, including establishment or refinement of nutrient reduction efficiencies for BMPs;
 - (iii) Within three years after the effective date of this Rule, collect data needed to conduct initial nutrient loss accounting for the baseline period and the most current year feasible, perform this accounting, and determine the extent to which agricultural operations have achieved the nitrogen loss goal and phosphorus loss trend indicators for each subwatershed. Present findings to the Water Quality Committee of the Commission;
 - (iv) Review, approve, and summarize local nutrient strategies if required pursuant to Sub-Item (5)(a) of this Rule and according to the timeframe identified in Sub-Item (8)(c)(ii) of this Rule. Provide these strategies to the Division;
- (v) Establish requirements for, review, approve and summarize local nitrogen and phosphorus loss annual reports as described under Sub-Item (8)(e) of this Rule, and present these reports to the Division annually, until such time as the Commission determines that annual reports are no longer needed to fulfill the purposes of this Rule. Present the annual report six years after the effective date to the Commission. Should that annual report find that a subwatershed has not met its nitrogen goal, include an assessment in that report of the practicability of producers achieving the goal within nine years after the effective date, and recommendations to the Commission as deemed appropriate;
 - (vi) Obtain nutrient reduction efficiencies for BMPs from the scientific community associated with design criteria identified in rules adopted by the Soil and Water Conservation Commission, including 15A NCAC 06E .0104 and 15A NCAC 06F .0104; and
 - (vii) Investigate and, if feasible, develop an accounting method to equate implementation of specific nitrogen-reducing practices on cropland or pastureland to reductions in nitrogen loading delivered to streams. Quantify the nitrogen credit generated by such practices for purposes of selling or buying credits. Establish criteria and a process as needed for the exchange of nitrogen credits between parties meeting the criteria of either Sub-Item (5)(b) or Sub-Item (6)(c) of this Rule with parties subject to or operating under other nutrient strategy rules in the Jordan watershed pursuant to

the requirements of 15A NCAC 02B .0273 Approve eligible trades, and ensure that such practices are accounted for and tracked separately from those contributing to the goals of this Rule.

- (c) **ACCOUNTING METHODS.** Success in meeting this Rule's purpose will be gauged by estimating percentage changes in nitrogen loss from agricultural lands in the Jordan watershed and by evaluating broader trends in indicators of phosphorus loss from agricultural lands in the Jordan watershed. The Watershed Oversight Committee shall develop accounting methods that meet the following requirements:

- (i) The nitrogen method shall quantify baseline and annual total nitrogen losses from agricultural operations in each county, each subwatershed, and for the entire Jordan watershed;
- (ii) The nitrogen and phosphorus methods shall include a means of tracking implementation of BMPs, including number, type, and area affected;
- (iii) The nitrogen method shall include a means of estimating incremental nitrogen loss reductions from actual BMP implementation and of evaluating progress toward and maintenance of the nutrient goals from changes in BMP implementation, fertilization, individual crop acres, and agricultural land use acres;
- (iv) The nitrogen and phosphorus methods shall be refined as research and technical advances allow;
- (v) The phosphorus method shall quantify baseline values for and annual changes in factors affecting agricultural phosphorus loss as identified by the phosphorus technical advisory committee established under 15A

NCAC 02B .0256(f)(2)(C). The method shall provide for periodic qualitative assessment of likely trends in agricultural phosphorus loss from the Jordan watershed relative to baseline conditions;

- (vi) Phosphorus accounting may also include a scientifically valid, survey-based sampling of farms in the Jordan watershed for the purpose of conducting field-scale phosphorus loss assessments and extrapolating phosphorus losses for the Jordan watershed for the baseline period and at periodic intervals; and

- (vii) Aspects of pasture-based livestock operations that potentially affect nutrient loss and are not captured by the accounting methods described above shall be accounted for in annual reporting by quantifying changes in the extent of livestock-related nutrient controlling BMPs. Progress may be judged based on percent change in the extent of implementation relative to subwatershed percentage goals identified in Rule .0262 of this Section.

- (8) **LOCAL ADVISORY COMMITTEES.** Local Advisory Committees required by Sub-Item (5)(a) of this Rule shall be formed for each county within the applicable subwatershed within three years and three months after the effective date of this Rule, and shall have the following membership, roles, and responsibilities:

- (a) **MEMBERSHIP.** A Local Advisory Committee shall be appointed as provided for in this Item. It shall terminate upon a finding by the Commission that it is no longer needed to fulfill the purposes of this Rule. Each Local Advisory Committee shall consist of:

- (i) One representative of the county Soil and Water Conservation District;
- (ii) One representative of the county office of the United States Department of

- (iii) One representative of the North Carolina Department of Agriculture and Consumer Services whose regional assignment includes the county;

(iv) One representative of the county office of the North Carolina Cooperative Extension Service;

(v) One representative of the North Carolina Division of Soil and Water Conservation whose regional assignment includes the county; and

(vi) At least two farmers who reside in the county.

(b) **APPOINTMENT OF MEMBERS.** The Director of the Division of Water Quality and the Director of the Division of Soil and Water Conservation of the Department of Environment and Natural Resources shall appoint members described in Sub-Items (8)(a)(i), (8)(a)(ii), (8)(a)(iv), and (8)(a)(v) of this Rule. The Director of the Division of Water Quality, with recommendations from the Director of the Division of Soil and Water Conservation and the Commissioner of Agriculture, shall appoint the members described in Sub-Items (8)(a)(iii) and (8)(a)(vi) of this Rule from persons nominated by nongovernmental organizations whose members produce or manage agricultural commodities in each county. Members of the Local Advisory Committees shall serve at the pleasure of their appointing authority.

(c) **ROLE.** The Local Advisory Committees shall:

(i) Conduct a registration process for persons subject to this Rule. This registration process shall be completed within 48 months after the effective date of this Rule. The registration process shall request the type and acreage of agricultural operations. It shall provide persons with information on requirements and options under this Rule, and on available technical assistance and cost share options;

(ii) Develop local nutrient control strategies for agricultural operations, pursuant to Sub-Item (8)(d) of this Rule, to meet the nitrogen and phosphorus goals of this Rule. Strategies shall be submitted to the Watershed Oversight Committee no later than 46 months after the effective date of this Rule;

(iii) Ensure that any changes to the design of the local strategy will continue to meet the nutrient goals of this Rule; and

(iv) Submit reports to the Watershed Oversight Committee, pursuant to Sub-Item (8)(e) of this Rule, annually until such time as the Commission determines that annual reports are no longer needed to fulfill the purposes of this Rule.

(d) **LOCAL NUTRIENT CONTROL STRATEGIES.** Local Advisory Committees shall develop county nutrient control strategies that meet the following requirements. If a Local Advisory Committee fails to submit a nutrient control strategy required in Sub-Item (8)(c)(ii) of this Rule, the Commission may develop one based on the accounting methods that it approves pursuant to Sub-Item (7)(b)(i) of this Rule. Local strategies shall meet the following requirements:

(i) Local nutrient control strategies shall be designed to achieve the required nitrogen loss reduction goals and qualitative trends in indicators of agricultural phosphorus loss within six years after the effective date of this Rule, and to maintain those reductions in perpetuity or until such time as this Rule is revised to modify this requirement.

(ii) Local nutrient control strategies shall specify the numbers, acres, and types of

all agricultural operations within their areas, numbers of BMPs that will be implemented by enrolled operations and acres to be affected by those BMPs, estimated nitrogen and phosphorus loss reductions, schedule for BMP implementation, and operation and maintenance requirements.

- (e) **ANNUAL REPORTS.** The Local Advisory Committees shall be responsible for submitting annual reports for their counties to the Watershed Oversight Committee until such time as the Commission determines that annual reports are no longer needed to fulfill the purposes of this Rule. The Watershed Oversight Committee shall determine reporting requirements to meet these objectives. Those requirements may include information on BMPs implemented by individual farms, proper BMP operation and maintenance, BMPs discontinued, changes in agricultural land use or activity, and resultant net nitrogen loss and phosphorus trend indicator changes.

History Note: Authority G.S. 143-214.1; 143-214.5; 143-214.7; 143-215.3(a)(1); 143-215.6A; 143-215.6B; 143-215.6C; 143-215.8B; 143B-282(c); 143B-282(d); S.L. 2001-355; S.L. 2005-190; S.L. 2006-259; Eff. Pending Legislative Review.

**15A NCAC 02B .0268 JORDAN WATER SUPPLY
NUTRIENT STRATEGY: MITIGATION FOR RIPARIAN
BUFFERS**

The following are requirements for the Riparian Buffer Mitigation Program for the Jordan watershed, as prefaced in 15A NCAC 02B .0262:

- (1) **PURPOSE.** The purpose of this Rule is to set forth the mitigation requirements that the local governments in the Jordan watershed and listed in 15A NCAC 02B .0262, and in the cases stated in 15A NCAC 02B .0267(3) the Division, shall apply to the riparian buffer protection program called for in 15A NCAC 02B .0267. Additionally this Rule will help to protect the water supply uses of Jordan Reservoir and of designated water supplies throughout the Jordan watershed. Local programs shall be established to meet or exceed the minimum requirements of this Rule. For the types of buffer activities listed

in 15A NCAC 02B .0267(3), the Division shall apply the requirements of this Rule wherever local governments are referenced. The requirements of this Rule shall supersede all locally implemented buffer requirements stated in 15A NCAC 02B .0214 through .0216 as applied to WS-II, WS-III, and WS-IV waters in the Jordan watershed. Local governments may choose to implement more stringent requirements, including the one-hundred foot buffer requirement set out in Sub-Items (3)(b)(i) of 15A NCAC 02B .0214 through .0216 for high-density developments.

- (2) **APPLICABILITY.** This Rule applies to persons who wish to impact a riparian buffer in the Jordan watershed when one of the following applies:

- (a) A person has received an Authorization Certificate pursuant to 15A NCAC 02B .0267 for a proposed use that is designated as "allowable with mitigation;" or
(b) A person has received a variance pursuant to 15A NCAC 02B .0267 and is required to perform mitigation as a condition of a variance approval.

- (3) **ISSUANCE OF THE MITIGATION APPROVAL.** The local government shall issue a mitigation approval upon determining that a proposal meets the requirements set out in this Rule. The approval shall identify at a minimum the option chosen, the required and proposed areas, and either the mitigation location or the offset payment amount as applicable.

- (4) **OPTIONS FOR MEETING THE MITIGATION REQUIREMENT.** The mitigation requirement may be met through one of the following options:

- (a) Payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B .0269 contingent upon acceptance of payments by the NC Ecosystem Enhancement Program, or to a private mitigation bank that complies with banking requirements of the US Army Corps of Engineers, currently set out at <http://www.saw.usace.army.mil/WETLANDS/Mitigation/mitbanks.html> or from the US Army Corps of Engineers, P.O. Box 1890, Wilmington, NC, 28402-1890, and the applicable trading criteria in 15A NCAC 02B .0273;
(b) Donation of real property or of an interest in real property pursuant to Item (7) of this Rule; or

- (c) Restoration or enhancement of a non-forested riparian buffer pursuant to the requirements of Item (8) of this Rule.
- (5) **THE AREA OF MITIGATION.** The local government shall determine the required area of mitigation, which shall apply to all mitigation options identified in Item (4) of this Rule and as further specified in the requirements for each option set out in this Rule, according to the following:
 - (a) The impacts in square feet to each zone of the riparian buffer shall be determined by the local government by adding the following:
 - (i) The area of the footprint of the use causing the impact to the riparian buffer;
 - (ii) The area of the boundary of any clearing and grading activities within the riparian buffer necessary to accommodate the use; and
 - (iii) The area of any ongoing maintenance corridors within the riparian buffer associated with the use.
 - (b) The required area of mitigation shall be determined by applying the following multipliers to the impacts determined in Sub-item (5)(a) of this Rule to each zone of the riparian buffer:
 - (i) Impacts to Zone One of the riparian buffer shall be multiplied by three;
 - (ii) Impacts to Zone Two of the riparian buffer shall be multiplied by one and one-half; and
 - (iii) Impacts to wetlands within Zones One and Two of the riparian buffer that are subject to mitigation under 15A NCAC 02H .0506 shall comply with the mitigation ratios in 15A NCAC 02H .0506.
- (6) **THE LOCATION OF MITIGATION.** For any option chosen, the mitigation effort shall be located within the same subwatershed of the Jordan watershed, as defined in Rule .0262 of this Section, and the same distance from the Jordan Reservoir as the proposed impact, or closer to the Reservoir than the impact, and as close to the location of the impact as feasible. Alternatively, the applicant may propose mitigation anywhere within the same subwatershed of the Jordan watershed, as defined in Rule .0262 of this Section, provided that the mitigation proposal accounts for differences in delivery of nutrients to the affected arm of Jordan Reservoir resulting from differences between the locations of the buffer impact and mitigation. Additional location requirements for the property donation option are enumerated in Sub-Item (7)(c)(i) of this Rule.
- (7) **DONATION OF PROPERTY.** Persons who choose to satisfy their mitigation determination by donating real property or an interest in real property shall meet the following requirements:
 - (a) The donation of real property interests may be used to either partially or fully satisfy the payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B .0272. The value of the property interest shall be determined by an appraisal performed in accordance with Sub-item (7)(d)(iv) of this Rule. The donation shall satisfy the mitigation determination if the appraised value of the donated property interest is equal to or greater than the required fee. If the appraised value of the donated property interest is less than the required fee calculated pursuant to 15A NCAC 02B .0272, the applicant shall pay the remaining balance due.
 - (b) accepted only if the conservation easement is granted in perpetuity.
 - (c) Donation of real property interests to satisfy the mitigation determination shall be accepted only if such property meets all of the following requirements:
 - (i) In addition to the location requirements of Item (6), the property shall be located within an area that is identified as a priority for restoration in, or is otherwise consistent with the goals of, the *Basinwide Wetlands and Riparian Restoration Plan for the Cape Fear River Basin* developed by the Department pursuant to G.S. 143-214.10;
 - (ii) The property shall contain riparian buffers not currently protected by the State's riparian buffer protection program that are in need of

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| <ul style="list-style-type: none"> (iii) restoration as defined in Sub-Item (8)(d) of this Rule; The restorable riparian buffer on the property shall have a minimum length of 1000 linear feet along a surface water and a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water; (iv) The size of the restorable riparian buffer on the property to be donated shall equal or exceed the area of mitigation responsibility determined pursuant to Item (5) of this Rule; (v) Restoration shall not require removal of man-made structures or infrastructure; (vi) The property shall be suitable to be successfully restored, based on existing hydrology, soils, and vegetation; (vii) The estimated cost of restoring and maintaining the property shall not exceed the value of the property minus site identification and transaction costs; (viii) The property shall not contain any building, structure, object, site, or district that is listed in the National Register of Historic Places established pursuant to Public Law 89-665, 16 U.S.C. 470 as amended; (ix) The property shall not contain any hazardous substance or solid waste; (x) The property shall not contain structures or materials that present health or safety problems to the general public. If wells, septic, water or sewer connections exist, they shall be filled, remediated or closed at owner's expense in accordance with state and local health and safety regulations; (xi) The property and adjacent properties shall not have prior, current, and known future land use that would | <ul style="list-style-type: none"> inhibit the function of the restoration effort; and (xii) The property shall not have any encumbrances or conditions on the transfer of the property interests. <p>(d) At the expense of the applicant or donor, the following information shall be submitted to the local government with any proposal for donations or dedications of interest in real property:</p> <ul style="list-style-type: none"> (i) Documentation that the property meets the requirements laid out in Sub-Item (8)(c) of this Rule; (ii) US Geological Survey 1:24,000 (7.5 minute) scale topographic map, county tax map, USDA Natural Resource Conservation Service County Soil Survey Map, and county road map showing the location of the property to be donated along with information on existing site conditions, vegetation types, presence of existing structures and easements; (iii) A current property survey performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the State Board of Registration for Professional Engineers and Land Surveyors in "Standards of Practice for Land Surveying in North Carolina." Copies may be obtained from the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, 3620 Six Forks Road, Suite 300, Raleigh, North Carolina 27609; (iv) A current appraisal of the value of the property performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the Appraisal Board in the "Uniform Standards of Professional North Carolina |
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Appraisal Practice." Copies may be obtained from the Appraisal Foundation, Publications Department, P.O. Box 96734, Washington, D.C. 20090-6734; and

- (v) A title certificate.
- (8) **RIPARIAN BUFFER RESTORATION OR ENHANCEMENT.** Persons who choose to meet their mitigation requirement through riparian buffer restoration or enhancement shall meet the following requirements:
 - (a) The applicant may restore or enhance a non-forested riparian buffer if either of the following applies:
 - (i) The area of riparian buffer restoration is equal to the required area of mitigation determined pursuant to Item (5) of this Rule; or
 - (ii) The area of riparian buffer enhancement is three times larger than the required area of mitigation determined pursuant to Item (5) of this Rule;
 - (b) The location of the riparian buffer restoration or enhancement shall comply with the requirements in Item (6) of this Rule;
 - (c) The riparian buffer restoration or enhancement site shall have a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;
 - (d) Enhancement and restoration shall both have the objective of establishing a forested riparian buffer according to the requirements of this Item. Enhancement shall be distinguished from restoration based on existing buffer conditions. Where existing trees are sparse, that is greater than or equal to 100 trees per acre but less than 200 trees per acre, a buffer may be enhanced. Where existing woody vegetation is absent, that is less than 100 trees per acre, a buffer may be restored;
 - (e) The applicant shall first receive an Authorization Certificate for the proposed use according to the requirements of 15A NCAC 02B .0267. After receiving this determination, the applicant shall submit a restoration or enhancement plan for approval by the local government. The restoration or

enhancement plan shall contain the following:

- (i) A map of the proposed restoration or enhancement site;
- (ii) A vegetation plan. The vegetation plan shall include a minimum of at least two native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity;
- (iii) A grading plan. The site shall be graded in a manner to ensure diffuse flow through the riparian buffer;
- (iv) A fertilization plan; and
- (v) vA schedule for implementation;
- (f) Within one year after the local government has approved the restoration or enhancement plan, the applicant shall present proof to the local government that the riparian buffer has been restored or enhanced. If proof is not presented within this timeframe, then the person shall be in violation of both the State's and the local government's riparian buffer protection program;
- (g) The mitigation area shall be placed under a perpetual conservation easement that will provide for protection of the property's nutrient removal functions; and
- (h) The applicant shall submit annual reports for a period of five years after the restoration or enhancement showing that the trees planted have survived and that diffuse flow through the riparian buffer has been maintained. The applicant shall replace trees that do not survive and restore diffuse flow if needed during that five-year period.

History Note: Authority 143-214.1; 143-214.5; 143-214.7; 143-215.3(a)(1); 143-215.6A; 143-215.6B; 143-215.6C; 143-215.8B; 143B-282(c); 143B-282(d); S.L. 1999-329, s. 7.1.; S.L. 2005-190; S.L. 2006-259; Eff. Pending Legislative Review.

15A NCAC 02B .0269 RIPARIAN BUFFER MITIGATION FEES TO THE NC ECOSYSTEM ENHANCEMENT PROGRAM

The following is the process for payment of fees to the Riparian Buffer Restoration Fund administered by the North Carolina Ecosystem Enhancement Program as one option to mitigate riparian buffer impacts allowed under rules in this Subchapter.

Persons who wish to use this option shall first meet the criteria established for doing so in the buffer rules in this subchapter that reference this Rule. Such buffer rules include, but may not be limited to, 15A NCAC 02B .0242, .0244, .0260, and .0268. Persons who choose to satisfy their mitigation determination by paying a compensatory mitigation fee to the Riparian Buffer Restoration Fund as allowed here shall use the following procedure:

- (1) **SCHEDULE OF FEES:** The amount of payment into the Fund shall be based on the costs of riparian buffer restoration. The payment amount shall be determined by multiplying the acres or square feet of mitigation required under other rules in this Subchapter by an initial value of ninety-six cents per square foot or forty-one thousand eight hundred and eighteen dollars per acre (\$41,818/acre). This initial per-acre rate shall be adjusted in January of each year by staff of the NC Ecosystem Enhancement Program based upon the construction cost index factor published every December in the *Engineering News Record*.
- (2) The required fee shall be submitted to the N.C. Ecosystem Enhancement Program (NC EEP), 1652 Mail Service Center, Raleigh, NC 27699-1652 prior to any activity that results in the removal or degradation of the protected riparian buffer for which a "no practical alternatives" determination has been made pursuant to requirements of other rules in this Subchapter.
- (3) The payment of a compensatory mitigation fee may be fully or partially satisfied by donation of real property interests pursuant to requirements of other rules in this Subchapter.

History Note: Authority G.S. 143-214.1; 143-214.5; 143-214.5(i); 143-214.7; 143-214.12; 143-214.21; 143-215.3(a)(1); 143-215.6A; 143-215.6B; 143-215.6C; 143-215.8B; 143B-282(c); 143B-282(d); S.L. 2005-190; S.L. 2006-259; Eff. Pending Legislative Review.

**15A NCAC 02B .0270 JORDAN WATER SUPPLY
NUTRIENT STRATEGY: WASTEWATER DISCHARGE
REQUIREMENTS**

The following is the NPDES wastewater discharge management strategy for the B. Everett Jordan Reservoir watershed, or Jordan watershed:

- (1) **PURPOSE.** The purpose of this Rule is to establish minimum nutrient control

requirements for point source wastewater discharges in the Jordan watershed in order to restore and maintain water quality in the reservoir and its tributaries and protect their designated uses, including water supply.

- (2) **APPLICABILITY.** This Rule applies to all wastewater treatment facilities discharging in the Jordan watershed that receive nutrient-bearing wastewater and are subject to requirements for individual NPDES permits.

- (3) **DEFINITIONS.** For the purposes of this Rule, the following definitions apply:

- (a) In regard to point source dischargers, treatment facilities, and wastewater flows and discharges,
 - (i) "Existing" means that which was subject to a NPDES permit as of December 31, 2001;
 - (ii) "Expanding" means that which has increased or will increase beyond its permitted flow as defined in this Rule; and
 - (iii) "New" means that which was not subject to a NPDES permit as of December 31, 2001.
- (b) "Active" allocation means that portion of an allocation that has been applied toward and is expressed as a nutrient limit in an individual NPDES permit. Allocation that is held but not applied in this way is "reserve" allocation.
- (c) "Limit" means the mass quantity of nitrogen or phosphorus that a discharger or group of dischargers is authorized through a NPDES permit to release into surface waters of the Jordan watershed. Limits are enforceable and may be expressed as "delivered limit" or as the equivalent "discharge limit."
- (d) "MGD" means million gallons per day.
- (e) "Permitted flow" means the maximum monthly average flow authorized in a facility's NPDES permit as of December 31, 2001, with the following exceptions:

Facility Owner	Facility Name	NPDES	Permitted
		Permit	Flow (MGD)
B. E. Jordan & Son, LLC	B. E. Jordan & Son WWTP	NC0042528	0.036
Durham County	Triangle WWTP	NC0026051	12.0

APPROVED RULES

Ferrington Utilities, Inc.	Ferrington Village WWTP	NC0043559	0.5
Greensboro, City of	T.Z. Osborne WWTP	NC0047384	40.0
Mervyn R. King	Countryside Manor WWTP	NC0073571	0.03
OWASA	Mason Farm WWTP	NC0025241	14.5
Pittsboro, Town of	Pittsboro WWTP	NC0020354	2.25
Quarterstone Farm Assoc.	Quarterstone Farm WWTP	NC0066966	0.2
Aqua North Carolina, Inc.	Chatham WRF	NC0056413	0.35

- (f) "Reserve" allocation means allocation that is held by a permittee or other person but which has not been applied toward and is not expressed as a nutrient limit in an individual NPDES permit. Allocation that has been applied and expressed in this way is "active" allocation.
- (4) This Item provides for the initial division of nutrient wasteload allocations among point source dischargers under this strategy.
- (a) The delivered wasteload allocations of nitrogen and phosphorus assigned to point source dischargers collectively in each of the Jordan subwatersheds, as set out in 15A NCAC 02B .0262(4), shall be divided as follows:

Subwatershed and Discharger Subcategories	Delivered Allocations (lb/yr)	
	Total Nitrogen	Total Phosphorus
Upper New Hope Arm		
Permitted flows \geq 0.1 MGD	332,466	22,498
Permitted flows $<$ 0.1 MGD	3,613	608
Lower New Hope Arm		
Permitted flows \geq 0.1 MGD	6,836	498
Permitted flows $<$ 0.1 MGD	0	0
Haw River Arm		
Permitted flows \geq 0.1 MGD	881,757	104,004
Permitted flows $<$ 0.1 MGD	13,370	1,996

- (b) The nutrient allocations in Sub-Item (a) of this Item shall be apportioned among the existing dischargers in each subcategory in proportion to the dischargers' permitted flows and the resulting delivered nutrient allocations assigned to each individual discharger.
- (ii) Whenever one or more point source dischargers acquires any portion of the nonpoint load allocations under the provisions in this Rule, and 15A NCAC 02B .0273, Options for Offsetting Nutrient Loads;
- (5) This Item describes allowable changes in nutrient allocations.
- (iii) As the result of allocation transfers between point sources or between point and nonpoint sources, except that nutrient allocation can be transferred and applied only within its assigned subwatershed; or
- (a) The aggregate and individual nutrient allocations available to point source dischargers in the Jordan watershed are subject to change:
- (i) Whenever the Commission, through rulemaking, revises the wasteload allocations in 15A NCAC 02B .0262 in order to ensure the protection of water quality in the reservoir and its tributaries or to conform with applicable state or federal requirements;
- (iv) Any allocation is valid only in the subwatershed for which it is first established.
- (b) In the event that the Commission changes any nutrient wasteload allocation specified in 15A NCAC 02B .0262 or Item (3) of this Rule, the Commission shall also re-evaluate

- the apportionment among the dischargers and shall revise the individual allocations as necessary.
- (6) This Item identifies nutrient control requirements specific to existing discharges.
- (a) Beginning with the first full calendar year following the effective date of this Rule, any existing discharger with a permitted flow of 0.1 MGD or greater shall limit its total phosphorus discharge to its active individual discharge allocation as defined or modified pursuant to this Rule.
- (b) No later than six months after the effective date of this Rule, each existing discharger with a permitted flow greater than or equal to 0.1 MGD shall evaluate its treatment facilities and operations and identify further opportunities to improve and optimize nitrogen reduction in the existing facilities beyond those previously implemented pursuant to G.S. 143-215.1B(d); and submit a report to the Division documenting its findings, proposing optimization measures, and describing expected results. No later than six months following Division acceptance of the report, or as provided in the acceptance, the discharger shall implement the proposed measures. Beginning one year following Division acceptance of the report and continuing through the fifth calendar year after the effective date of this Rule, each such discharger shall submit a progress report to the Division documenting the status of the proposed measures and the nitrogen reductions achieved at the facility.
- (c) Beginning with the fifth full calendar year after the effective date of this Rule, each existing discharger with a permitted flow greater than or equal to 0.1 MGD shall limit its total nitrogen discharge to its active individual discharge allocation as defined or modified pursuant to this Rule.
- (d) Not later than 45 days after the effective date of this Rule, the Director shall notify existing permittees of the individual nitrogen and phosphorus allocations assigned according to Item (4) of this Rule and shall further notify each permittee, pursuant to 15A NCAC 02H .0114, of

the Division's intent to modify the permittee's NPDES permit to incorporate nitrogen and phosphorus limits pursuant to the requirements set out in this rule and in accordance with applicable rules and regulations.

- (7) This Item identifies nutrient control requirements specific to new discharges.

(a) Any person proposing a new wastewater discharge to surface waters shall meet the following requirements prior to applying for an NPDES permit:

- (i) Evaluate all practical alternatives to said discharge, pursuant to 15A NCAC 02H .0105(c)(2);
- (ii) If the results of the evaluation support a new discharge, acquire sufficient nitrogen and phosphorus allocations for the discharge. The proponent may obtain allocation for the proposed discharge from existing dischargers pursuant to the applicable requirements of Item (9) of this Rule or employ measures to offset the increased nutrient loads resulting from the proposed discharge. The proponent may fund offset measures by making payment to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that Program, or implement other offset measures contingent upon approval by the Division, either of which shall meet the requirements of rule 15A NCAC 02B .0273. The offsets shall be of an amount equivalent to the allocations required for a period of 30 years. Payment for each 30-year portion of the nonpoint source load allocation shall be made prior to the ensuing permit issuance;
- (iii) Determine whether the proposed discharge of nutrients will cause local water quality impacts; and
- (iv) Provide documentation with its NPDES permit application demonstrating

- that the requirements of Sub-Items (i) through (iii) of this Sub-Item have been met.
- (b) The nutrient discharge allocations and offsets for a new facility shall not exceed the mass loads equivalent to a concentration of 3.0 mg/L nitrogen or 0.18 mg/L phosphorus at the permitted flow in the discharger's NPDES permit.
 - (c) Upon the effective date of its NPDES permit, a new discharger shall be subject to nitrogen and phosphorus limits not to exceed its active individual discharge allocations.
- (8) This Item identifies nutrient control requirements specific to expanding discharges.
- (a) Any person proposing to expand an existing wastewater discharge to surface waters beyond its permitted flow as defined in this Rule shall meet the following requirements prior to applying for an NPDES permit:
 - (i) Evaluate all practical alternatives to said discharge, pursuant to 15A NCAC 02H .0105(c)(2);
 - (ii) If the results of the evaluation support an expanded discharge, acquire sufficient nitrogen and phosphorus allocations for the discharge. The proponent may obtain allocation for the proposed discharge from existing dischargers pursuant to the applicable requirements of Item (9) of this Rule or employ measures to offset the increased nutrient loads resulting from the proposed discharge. The proponent may fund offset measures by making payment to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that Program or implement other offset measures contingent upon approval by the Division, either of which shall meet the requirements of rule 15A NCAC 02B .0273. The offsets shall be of an amount equivalent to the allocations required for a period of 30 years. Payment for each 30-year portion of
- the nonpoint source load allocation shall be made prior to the ensuing permit issuance;
- (iii) Determine whether the proposed discharge of nutrients will cause local water quality impact; and
 - (iv) Provide documentation with its NPDES permit application demonstrating that the requirements of Sub-Items (i) through (iii) of this Sub-Item have been met.
- (b) The nutrient discharge limits for an expanding facility shall not exceed the greater of its nutrient allocations or the mass value equivalent to a concentration of 3.0 mg/L nitrogen or 0.18 mg/L phosphorus at the permitted flow in the discharger's NPDES permit; except that this provision shall not result in an allocation or limit that is less than originally assigned to the discharger under this Rule.
 - (c) Upon expansion or upon notification by the Director that it is necessary to protect water quality, any discharger with a permitted flow of less than 0.1 MGD, as defined under this Rule, shall become subject to total nitrogen and total phosphorus permit limits not to exceed its active individual discharge allocations.
- (9) This Item describes additional requirements regarding nutrient discharge limits for wastewater facilities:
- (a) Annual mass nutrient limits shall be established as calendar-year limits.
 - (b) Any point source discharger holding nutrient allocations under this Rule may by mutual agreement transfer all or part of its allocations to any new, existing, or expanding dischargers in the same Jordan subwatershed or to other person(s), subject to the provisions of the Jordan nutrient strategy.
 - (c) For NPDES compliance purposes, the enforceable nutrient limits for an individual facility or for a compliance association described in Item (10) shall be the effective limits in the governing permit, regardless of the allocation held by the discharger or association.
 - (d) The Director may establish more stringent nitrogen or phosphorus

- discharge limits for any discharger upon finding that such limits are necessary to prevent the discharge from causing adverse water quality impacts on surface waters other than an arm of Jordan Reservoir as defined in Rule .0262(4) of this strategy. The Director shall establish such limits through modification of the discharger's NPDES permit in accordance with applicable rules and regulations. When the Director does so, the discharger retains its nutrient allocations, and the non-active portion of the discharger's allocation becomes reserve allocation. The allocation remains in reserve until the director determines that less stringent limits are allowable or until the allocation is applied to another discharge not subject to such water quality-based limits.
- (e) In order for any transfer of allocation to become effective as a discharge limit in an individual NPDES permit, the discharger must request and obtain modification of the permit. Such request shall:
- (i) Describe the purpose and nature of the modification;
 - (ii) Describe the nature of the transfer agreement, the amount of allocation transferred, and the dischargers or persons involved;
 - (iii) Provide copies of the transaction agreements with original signatures consistent with NPDES signatory requirements; and
 - (iv) Demonstrate to the Director's satisfaction that the increased nutrient discharge will not violate water quality standards in localized areas.
- (f) Changes in a discharger's nutrient limits shall become effective upon modification of its individual permit but no sooner than January 1 of the year following modification. If the modified permit is issued after January 1, the Director may make the limit effective on that January 1 provided that the discharger made acceptable application in a timely manner.
- (g) Regional Facilities. In the event that an existing discharger or group of dischargers accepts wastewater from another NPDES-permitted treatment facility in the same Jordan subwatershed and that acceptance results in the elimination of the discharge from the other treatment facility, the eliminated facility's delivered nutrient allocations shall be transferred and added to the accepting discharger's delivered allocations.
- (10) This Item describes the option for dischargers to join a group compliance association to collectively meet nutrient control requirements.
- (a) Any or all facilities within the same Jordan subwatershed may form a group compliance association to meet delivered nutrient allocations collectively. More than one group compliance association may be established in any subwatershed. No facility may belong to more than one association at a time.
 - (b) Any such association must apply for and shall be subject to an NPDES permit that establishes the effective nutrient limits for the association and for its members.
 - (c) No later than 180 days prior to the proposed date of a new association's operation or expiration of an existing association's NPDES permit, the association and its members shall submit an application for a NPDES permit for the discharge of nutrients to surface waters of the Jordan watershed. The association's NPDES permit shall be issued to the association and its members. It shall specify the delivered nutrient limits for the association and for each of its co-permittee members. Association members shall be deemed in compliance with the permit limits for nitrogen and phosphorus contained in their individually issued NPDES permits so long as they remain members in an association.
 - (d) An association's delivered nitrogen and phosphorus limits shall be the sum of its members' individual active delivered allocations for each nutrient plus any other active allocation obtained by the association or its members.
 - (e) The individual delivered allocations for each member in the association

permit shall initially be equivalent to the discharge limits in effect in the member's NPDES permit. Thereafter, changes in individual allocations or limits must be incorporated into the members' individual permits before they are included in the association permit.

- (f) An association and its members may reapportion the individual delivered allocations of its members on an annual basis. Changes in individual allocations or limits must be incorporated into the members' individual permits before they are included in the association permit.
- (g) Changes in nutrient limits shall become effective no sooner than January 1 of the year following permit modification. If the modified permit is issued after January 1, the Director may make the limit effective on that January 1 provided that the discharger made acceptable application in a timely manner.
- (h) Beginning with the first full calendar year that the nitrogen or phosphorus limits are effective, an association that does not meet its permit limit for nitrogen or phosphorus for a calendar year shall, no later than May 1 of the year following the exceedance, make an offset payment to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that Program or by implementing other load offsetting measures contingent upon approval by the Division, either of which shall meet the requirements of rule 15A NCAC 02B .0273.
- (i) Association members shall be deemed in compliance with their individual delivered limits in the association NPDES permit for any calendar year in which the association is in compliance with its delivered limit. If the association fails to meet its delivered limit, the association and the members that have failed to meet their individual delivered nutrient limits in the association NPDES permit will be out of compliance with the association NPDES permit.

**15A NCAC 02B .0271 JORDAN WATER SUPPLY
NUTRIENT STRATEGY: STORMWATER
REQUIREMENTS FOR STATE AND FEDERAL
ENTITIES**

The following is the stormwater strategy for the activities of state and federal entities within the Jordan watershed, as prefaced in Rule 02B .0262.

- (1) **PURPOSE.** The purposes of this Rule are as follows.
 - (a) To achieve and maintain, on new non-road development lands, the nonpoint source nitrogen and phosphorus percentage reduction goals established for Jordan Reservoir in 15A NCAC 02B .0262 relative to the baseline period defined in that Rule, to provide the highest practicable level of treatment on new road development, and to achieve and maintain the percentage goals on existing developed lands by reducing loading from state-maintained roadways and facilities, and from lands controlled by other state and federal entities in the Jordan watershed;
 - (b) To ensure that the integrity and nutrient processing functions of receiving waters and associated riparian buffers are not compromised by erosive flows from state-maintained roadways and facilities and from lands controlled by other state and federal entities in the Jordan watershed; and
 - (c) To protect the water supply uses of Jordan Reservoir and of designated water supplies throughout the Jordan watershed.
- (2) **APPLICABILITY.** This Rule shall apply to all existing and new development, both as defined in 15A NCAC 02B .0263, that lies within or partially within the Jordan watershed under the control of the NC Department of Transportation (NCDOT), including roadways and facilities, and to all lands controlled by other state and federal entities in the Jordan watershed.
- (3) **NON-NCDOT REQUIREMENTS.** With the exception of the NCDOT, all state and federal entities that control lands within the Jordan watershed shall meet the following requirements:
 - (a) For any new development proposed within their jurisdictions that would disturb one-half acre or more, non-NCDOT state and federal entities shall develop stormwater management plans for submission to

History Note: Authority G.S. 143-214.1; 143-214.5; 143-215; 143-215.1; 143-215.3(a)(1); 143-215B; 143B-282(c); 143B-282(d); S.L. 1995, c. 572; S.L. 2005-190; S.L. 2006-259; Eff. Pending Legislative Review.

and approval by the Division. These stormwater plans shall not be approved by the Division unless the following criteria are met:

- (i) The nitrogen and phosphorus loads contributed by the proposed new development activity in a given subwatershed shall not exceed the unit-area mass loading rates applicable to that subwatershed as follows for nitrogen and phosphorus, respectively, expressed in units of pounds per acre per year: 2.2 and 0.82 in the Upper New Hope; 4.4 and 0.78 in the Lower New Hope; and 3.8 and 1.43 in the Haw. The developer shall determine the need for engineered stormwater controls to meet these loading rate targets by using the loading calculation method called for in this Section or other equivalent method acceptable to the Division.
- (ii) Proposed new development subject to NPDES, water supply, and other state-mandated stormwater regulations shall comply with those regulations in addition to the other requirements of this Sub-Item. Proposed new development in any water supply watershed in the Jordan watershed designated WS-II, WS-III, or WS-IV shall comply with the density-based restrictions, obligations, and requirements for engineered stormwater controls, clustering options, and 10/70 provisions described in Sub-Items (3)(b)(i) and (3)(b)(ii) of the applicable Rule among 15A NCAC 02B .0214 through .0216;
- (iii) Stormwater systems shall be designed to control and treat the runoff generated from all surfaces by one inch of rainfall. The treatment volume shall be drawn down

pursuant to guidance specific to each practice as provided in the most recent version of the *Stormwater Best Management Practices Manual* published by the Division, or other technically at least equivalent guidance acceptable to the Division. To ensure that the integrity and nutrient processing functions of receiving waters and associated riparian buffers are not compromised by erosive flows, stormwater flows from the development shall not contribute to degradation of waters of the State. At a minimum, the development shall not result in a net increase in peak flow leaving the site from pre-development conditions for the one-year, 24-hour storm event;

- (iv) Proposed new development that would replace or expand structures or improvements that existed as of December 2001, the end of the baseline period, and which would not result in a net increase in built-upon area shall not be required to meet the nutrient loading targets or high-density requirements except to the extent that it shall provide stormwater control at least equal to the previous development. Proposed new development that would replace or expand existing structures or improvements and would result in a net increase in built-upon area shall have the option either to achieve at least the percentage load reduction goals stated in 15A NCAC 02B .0262 as applied to nitrogen and phosphorus loading from the previous development for the entire project site, or to meet the loading rate targets described in Sub-Item (3)(a)(i);

- (v) Proposed new development shall comply with the riparian buffer protection requirements of 15A NCAC 02B .0267 and .0268;
 - (vi) The entity shall have the option of offsetting part of the nitrogen and phosphorus loads by implementing or funding offsite management measures as follows: Before using offsite offset options, a development shall meet any requirements for engineered stormwater controls described in Sub-Item (3)(a)(ii) of this Rule, and shall attain a maximum nitrogen loading rate on-site of four pounds per acre per year for single-family, detached and duplex residential development and eight pounds per acre per year for other development, including multi-family residential, commercial and industrial and shall meet any requirements for engineered stormwater controls described in Sub-Item (3)(a)(iii) of this Rule. An entity may make offset payments to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that Program. An entity may propose other offset measures to the Division, including providing its own offsite offset or utilizing a private seller. All offset measures identified in this Sub-Item shall meet the requirements of 15A NCAC 02B .0273(2)-(4); and
 - (vii) The non-NCDOT state or federal entity shall include measures to ensure maintenance of best management practices (BMPs) implemented as a result of the provisions in Sub-Item (3)(a) of this Rule for the life of the development.
- (b) For existing development, non-NCDOT state and federal entities shall develop and implement load reduction programs for achieving and maintaining nutrient load reductions from existing development based on the standards set out in this Sub-Item. Such entities shall submit these programs for approval by the Division. A load reduction program shall include the following elements and meet the associated criteria:
- (i) The long-term objective of this program shall be for the entity to achieve the percentage nutrient load reduction goals in Item (3) of 15A NCAC 02B .0262 relative to annual mass loads, in pounds per year, representative of the baseline period defined in that Rule and reaching Jordan Reservoir from existing developed lands within each subwatershed under its control. Loads shall be calculated by applying the Tar-Pamlico Nutrient Export Calculation Worksheet, Piedmont Version, dated October 2004, or an equivalent or more accurate method acceptable to the Division, to acreages of different types of existing developed lands as defined in this Sub-Item and in Item (2) of this Rule. To provide entities spatial latitude to obtain reductions in different locations, loads thus calculated shall be converted to delivered loads to Jordan Reservoir using transport factors established in the Division document, *Nitrogen and Phosphorus Delivery from Small Watersheds to Jordan Lake*, dated June 30, 2002. Subject entities shall include estimates of, and plans for offsetting, nutrient load increases from lands developed subsequent to the baseline period but prior to implementation of new development programs. For these post-baseline developed lands, the new loading rate shall be

compared to the applicable loading rate target in Sub-Item (3)(a)(i) of 15A NCAC 02B .0273 for the subwatershed and acres involved, and the difference shall constitute the load reduction need. Should percentage reduction goals be adjusted pursuant to Item (7) of 15A NCAC 02B .0262, then the annual load goals established in this Sub-Item shall be adjusted accordingly. Entities may seek to fund implementation of load-reducing activities through grant sources such as the North Carolina Clean Water Act Section 319 Grant Program, or other funding programs for nonpoint sources;

- (ii) The load reduction program shall include a plan and supporting technical analysis for achieving half of each load reduction goal within 10 years after the effective date of this Rule, and a plan and timeframes for achieving the remaining half subject to modification based on technical analysis at 10 years after effective date. A load reduction program may propose an alternative compliance timeframe provided it includes a technical analysis that demonstrates the need for that timeframe. A program technical analysis shall examine the feasibility of achieving stated goals and shall consider factors such as magnitude of reduction need relative to area within a subwatershed, the potential for utilizing the range of load-reducing activities listed in Sub-Item (3)(a)(iv), and relative costs and efficiencies of each activity to the extent information is available. The load reduction program shall propose implementation rates and timeframes for

each activity, and shall provide for proportionate annual progress toward meeting the reduction goals as practicable, that is capable of being put into practice, done, or accomplished;

- (iii) The load reduction program shall identify specific load-reducing practices implemented to date subsequent to the baseline period and for which it is seeking credit. It shall estimate load reductions for these practices using methods provided for in Item (8), and their anticipated duration;
- (iv) The load reduction program shall identify the types of activities the entity intends to implement and types of existing development affected, relative proportions or a prioritization of practices, and the relative magnitude of reductions it expects to achieve from each. An entity may credit any nitrogen or phosphorus load reductions in excess of those required by other rules in this Chapter. The program shall identify the duration of anticipated load reductions, and may seek activities that provide sustained, long-term reductions. The load reduction program shall meet the requirements of 15A NCAC 02B .0273. Potential load-reducing activities may include stormwater activities such as street sweeping, improvement of existing ponds and stormwater structures, removal of existing built-upon area, retrofitting of existing development with engineered best management practices (BMPs), treatment of runoff in redevelopment projects, over-treatment of runoff in new development projects, source control

activities such as pet waste reduction and fertilization reduction, alternative stormwater practices such as rain barrels, cisterns, downspout disconnections, and stormwater capture and reuse, restoration of ecological communities such as streams and riparian buffers, and wastewater activities such as creation of surplus allocation through advanced treatment at wastewater facilities, expansion of surplus allocation through regionalization, collection system improvements, and removal of illegal discharges;

- (v) The load reduction program shall identify anticipated funding mechanisms or sources and discuss steps taken or planned to secure such funding;
- (vi) An entity shall have the option of working with municipalities or counties within its subwatershed to jointly meet the load targets from all existing development within their combined jurisdictions. An entity may utilize private or third party sellers. All reductions shall meet the requirements of 15A NCAC 02B .0273;
- (vii) The entity shall include measures to provide for operation and maintenance of retrofitted stormwater controls to ensure that they meet the load targets required in Sub-Item (3)(b) of this Rule for the life of the development; and
- (viii) An entity may choose to conduct monitoring of stream flows and runoff from catchments to quantify disproportionately high loading rates relative to those used in the accounting methods stipulated under Item (8), and to subsequently target load-reducing

activities to demonstrated high-loading source areas within such catchments for proportionately greater load reduction credit. An entity may propose such actions in its initial load reduction program submittal or at any time subsequent, and shall obtain Division approval of the monitoring design. It shall also obtain Division approval of any resulting load reduction benefits based on the standards set out in this Rule. As detailed in Item (5), an entity that chooses such monitoring initially may delay submittal of its load reduction program by one year for the purpose of incorporating monitoring findings into its program design provided it submits to the Division within six months of the effective date of this Rule a satisfactory monitoring proposal involving at least one year of up-front monitoring, executes the monitoring, and provides the results to the Division as part of its load reduction program submittal.

- (4) **NCDOT REQUIREMENTS** The NCDOT shall develop a single Stormwater Management Program that will be applicable to the entire Jordan watershed and submit this program for approval by the Division according to the following standards:
 - (a) Identify NCDOT stormwater outfalls from Interstate, US, and NC primary routes;
 - (b) Identify and eliminate illegal discharges into the NCDOT's stormwater conveyance system;
 - (c) Establish a program for post-construction stormwater runoff control for new development, including new and widening NCDOT roads and facilities. The program shall establish a process by which the Division shall review and approve stormwater designs for new NCDOT development projects. The program shall delineate the scope of vested projects that would be considered as existing development, and shall define lower thresholds of

significance for activities considered new development. In addition, the following criteria shall apply:

- (i) For new and widening roads, compliance with the riparian buffer protection requirements of Rules 15A NCAC 02B .0267 and .0268 which are expected to achieve a 30 percent nitrogen reduction efficiency in runoff treatment through either diffuse flow into buffers or other practices) shall be deemed as compliance with the purposes of this Rule.
- (ii) New non-road development shall achieve and maintain the nitrogen and phosphorus percentage load reduction goals established for each subwatershed in 15A NCAC 02B .0262 relative to either area-weighted average loading rates of all developable lands as of the baseline period defined in 15A NCAC 02B .0262, or to project-specific pre-development loading rates. Values for area-weighted average loading rate targets for nitrogen and phosphorus, respectively, in each subwatershed shall be the following, expressed in units of pounds per acre per year: 2.2 and 0.82 in the Upper New Hope; 4.4 and 0.78 in the Lower New Hope; and 3.8 and 1.43 in the Haw. The NCDOT shall determine the need for engineered stormwater controls to meet these loading rate targets by using the loading calculation method called for in Item (8) or other equivalent method acceptable to the Division. Where stormwater treatment systems are needed to meet these targets, they shall be designed to control and treat the runoff generated from all surfaces by one inch of rainfall. Such systems shall be assumed to achieve the nutrient removal efficiencies

identified in the most recent version of the *Stormwater Best Management Practices Manual* published by the Division provided that they meet associated drawdown and other design specifications included in the same document. The NCDOT may propose to the Division nutrient removal rates for practices currently included in the BMP Toolbox required under its NPDES stormwater permit, or may propose revisions to those practices or additional practices with associated nutrient removal rates. The NCDOT may use any such practices approved by the Division to meet loading rate targets identified in this Sub-Item. New non-road development shall also control runoff flows to meet the purpose of this Rule regarding protection of the nutrient functions and integrity of receiving waters.

- (iii) For new non-road development, the NCDOT shall have the option of partially offsetting its nitrogen and phosphorus loads by implementing or funding offsite management measures. These offsite offsetting measures shall achieve at least equivalent reductions in nitrogen and phosphorus load to the remaining reduction needed onsite to comply with Sub-Item (4)(c)(ii) of this Rule. Before using offsite offset options, a development shall attain a maximum nitrogen loading rate of 8 pounds per acre per year. The NCDOT may make offset payments to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that Program. The NCDOT may propose other offset measures to the Division. All offset measures

- identified in this Sub-Item shall meet the requirements of 15A NCAC 02B .0273.
- (d) Establish a program to identify and implement load-reducing opportunities on existing development within the watershed. The long-term objective of this effort shall be for the NCDOT to achieve the nutrient load goals in 15A NCAC 02B .0262 as applied to existing development under its control, including roads and facilities.
- (i) For existing non-roadway development, the program shall include estimates of, and plans for offsetting, nutrient load increases from lands developed subsequent to the baseline period but prior to implementation of its new development program. It shall include a technical analysis that includes a proposed implementation rate and schedule. This schedule shall provide for proportionate annual progress toward reduction goals as practicable throughout the proposed compliance period. The program shall identify the types of activities NCDOT intends to implement and types of existing non-roadway development affected, relative proportions or a prioritization of practices, and the relative magnitude of reductions it expects to achieve from each.
- (ii) For existing roadway development, NCDOT may meet minimum implementation rate and schedule requirements by implementing retrofits or other load-reducing measures in the watershed to achieve load reductions at the rate of 500 pounds of nitrogen reduction per 5-year period and at least 50 pounds per year. To the maximum extent practicable, retrofits shall be designed to treat the runoff generated from all surfaces by 1 inch of rainfall, and shall conform to the standards and criteria established in the most recent version of the Division-approved NCDOT BMP Toolbox required under NCDOT's NPDES stormwater permit. To establish removal rates for nutrients in the Toolbox, design criteria for individual practices therein shall be modified as needed consistent with such criteria in the most recent version of the *Stormwater Best Management Practices Manual* published by the Division, or other technically at least equivalent guidance acceptable to the Division, and the Division shall approve such modifications as part of the accounting process defined in Item (8) of this Rule. Other aspects of nutrient mass load calculations shall be based on the accounting process defined in Item (8) of this Rule.
- (e) Initiate a "Nutrient Management Education Program" for NCDOT staff and contractors engaged in the application of fertilizers on highway rights of way. The purpose of this program shall be to contribute to the load reduction goals established in 15A NCAC 02B .0262 through proper application of nutrients, both inorganic fertilizer and organic nutrients, to highway rights of way in the Jordan watershed in keeping with the most current state-recognized technical guidance on proper nutrient management; and
- (f) Address compliance with the riparian buffer protection requirements of 15A NCAC 02B .0267 and .0268 through a Division approval process.
- (5) NON-NCDOT RULE IMPLEMENTATION. For all state and federal entities that control lands within the Jordan watershed with the exception of the NCDOT, this Rule shall be implemented as follows:
- (a) Within six months after the effective date of this Rule, any entity that

- intends to use water quality monitoring to guide the initial design of its load reduction program shall provide a monitoring design to the Division. The Division shall notify any such entity of the adequacy of its design within three months of submittal. When an entity's monitoring design is deemed adequate, it may delay submittal of its load reduction program by up to one year from the timeframe given in Sub-Item (5)(c) of this Rule, whereupon the same time interval would be added to the approval and implementation timeframes given in Sub-Items (5)(d) through (5)(f) of this Rule;
- (b) Upon Commission approval of the accounting methods required by Item (8) of this Rule, subject entities shall comply with the requirements of Sub-Item (3)(a) of this Rule for any new development proposed within their jurisdictions;
 - (c) Within 24 months after the Commission's approval of the accounting methods, subject entities shall submit load reduction programs to the Division for preliminary approval according to the standards set out in Sub-Item (3)(b) of this Rule;
 - (d) Within 34 months after the Commission's approval of the accounting methods, the Division shall request the Commission's approval of entities' load reduction programs. The Commission shall either approve the programs or require changes. Should the Commission require changes, the Division shall seek Commission approval at the earliest feasible date subsequent to the original request;
 - (e) Within 36 months after the Commission's approval of the accounting methods, or within two months following Commission approval of a load reduction program, whichever is later, entities shall begin to implement load reduction programs; and
 - (f) Upon implementation of the requirements of Item (3) of this Rule, subject entities shall provide annual reports to the Division documenting their progress in implementing those requirements.
- (6) **NCDOT RULE IMPLEMENTATION.** For the NCDOT, this Rule shall be implemented as follows:
 - (a) Within 30 months of the effective date of this Rule, the NCDOT shall submit the Stormwater Management Program for the Jordan watershed to the Division for approval. This Program shall meet or exceed the requirements in Item (4) of this Rule;
 - (b) Within 40 months of the effective date of this Rule, the Division shall request the Commission's approval of the NCDOT Stormwater Management Program;
 - (c) Within 42 months of the effective date of this Rule, the NCDOT shall implement the approved Stormwater Management Program; and
 - (d) Upon implementation, the NCDOT shall submit annual reports to the Division summarizing its activities in implementing each of the requirements in Item (4) of this Rule. This annual reporting may be incorporated into annual reporting required under NCDOT's NPDES stormwater permit.
 - (7) **RELATIONSHIP TO OTHER REQUIREMENTS.** A party may in its program submittal under Item (5) or (6) of this Rule request that the Division accept its implementation of another stormwater program or programs, such as NPDES stormwater requirements, as satisfying one or more of the requirements set forth in Item (3) or (4) of this Rule. The Division shall provide determination on acceptability of any such alternatives prior to requesting Commission approval of programs as required in Items (5) and (6) of this Rule. The party shall include in its program submittal technical information demonstrating the adequacy of the alternative requirements.
 - (8) **ACCOUNTING METHODS.** Within 18 months after the effective date of this Rule, the Division shall submit a nutrient accounting framework to the Commission for approval. This framework shall include tools for quantifying load reduction assignments on existing development for parties subject to this Rule, load reduction credits from various activities on existing developed lands, and a tool that will allow subject parties to account for loading from new and existing development and loading changes due to BMP implementation. The Division shall work in cooperation with subject parties and other watershed interests in developing this

framework. The Division shall periodically revisit these accounting methods to determine the need for revisions to both the methods and to existing development load reduction assignments made using the methods set out in this Rule. It shall do so no less frequently than every 10 years. Its review shall include values subject to change over time independent of changes resulting from implementation of this Rule, such as untreated export rates that may change with changes in atmospheric deposition. It shall also review values subject to refinement, such as BMP nutrient removal efficiencies.

History Note: Authority G.S. 143-214.1; 143-214.5; 143-214.5(i); 143-214.7; 143-214.12; 143-214.21; 143-215.3(a)(1); 143-215.6A; 143-215.6B; 143-215.6C; 143-215.8B; 143B-282(c); 143B-282(d); S.L. 2005-190; S.L. 2006-259; Eff. Pending Legislative Review.

15A NCAC 02B .0272 JORDAN WATER SUPPLY NUTRIENT STRATEGY: FERTILIZER MANAGEMENT

The following is the management strategy for controlling land-applied nutrients in the Jordan watershed, as prefaced in Rule .0262 of this Section.

- (1) **PURPOSE.** The purpose of this Rule is to protect the water supply uses of Jordan Reservoir and of designated water supplies throughout the Jordan watershed by managing the application of nutrients, both inorganic fertilizer and organic nutrients, to lands in the Jordan watershed. The requirements of this Rule are to be fully implemented within three years from the effective date as set out in Item (6) of this Rule.
- (2) **APPLICABILITY.** This Rule shall apply to the application of nutrients on:
 - (a) Cropland areas in the Jordan watershed for commercial purposes;
 - (b) Commercial ornamental and floriculture areas and greenhouse production areas in the Jordan watershed;
 - (c) Golf courses, public recreational lands, road or utility rights-of-way, or other commercial or institutional lands where any such land, or combination of such lands, under common management in the watershed totals at least five acres; and
 - (d) Any lands in the Jordan watershed where a hired applicator, as defined in 15A NCAC 02B .0202(4), who does not own or lease the lands applies nutrients to a total of at least five acres per year.

- (3) **REQUIREMENTS.** Application of nutrients to lands subject to this Rule shall be in accordance with the following requirements:
 - (a) Application shall be made either:
 - (i) By an applicator who has completed nutrient management training pursuant to Item (4) of this Rule; or
 - (ii) Pursuant to a nutrient management plan that meets the requirements of Item (5) of this Rule.
 - (b) With the exception of residential homeowners, a person who hires an applicator to apply nutrients to the land that they own or manage in the Jordan watershed shall either:
 - (i) Ensure that the applicator they hire has attended and completed nutrient management training pursuant to Item (4) of this Rule; or
 - (ii) Ensure that the applicator they hire follows a nutrient management plan that has been developed for the land that they own or manage pursuant to Item (5) of this Rule.
- (4) **NUTRIENT MANAGEMENT TRAINING.** To demonstrate compliance with this Rule through the nutrient management training option, the applicator shall have a certificate indicating completion of training provided by either the Cooperative Extension Service or the Division. Training certificates shall be kept on-site or be produced within 24 hours of a request by the Division. Training shall be sufficient to provide participants with an understanding of the value and importance of proper management of nitrogen and phosphorus, and the water quality impacts of poor nutrient management, and the ability to understand and properly carry out a nutrient management plan.
- (5) **NUTRIENT MANAGEMENT PLANS.** Nutrient management plans developed to comply with this rule shall meet the following requirements:
 - (a) Nutrient management plans for cropland, excluding those for application of Class A bulk, and Class B wastewater residuals, regulated under 15A NCAC 02T .1100 and septage application regulated under 15A NCAC 13B .0815 through .0829, shall meet the

- standards and specifications adopted by the NC Soil and Water Conservation Commission, including those found in 15A NCAC 06E .0104 and 15A NCAC 06H .0104, which are incorporated herein by reference, including any subsequent amendments and editions to such rules that are in place at the time that plans are approved by a technical specialist as required under Sub-Item (5)(e) of this Rule.
- (b) Nutrient management plans for application of Class A bulk, and Class B, wastewater residuals regulated under 15A NCAC 02T .1100 and septage application regulated under 15A NCAC 13B .0815 through .0829 shall meet the standards and specifications adopted by the NC Soil and Water Conservation Commission in 15A NCAC 06E .0104, including any subsequent amendments and editions to such rule that are in place at the time that plans are approved by the permitting agency. This compliance includes addressing the phosphorus requirements of US Department of Agriculture Natural Resources Conservation Service Practice Standard 590 regarding Nutrient Management.
 - (c) Nutrient management plans for lands identified in Sub-Item (2)(c) of this Rule shall follow the applicable guidance contained in the most recent version of North Carolina Cooperative Extension Service publications "Water Quality and Professional Lawn Care" (NCCES publication number WQWM-155), "Water Quality and Home Lawn Care" (NCCES publication number WQWM-151), or "Water Quality for Golf Course Superintendents and Professional Turf Managers" (NCCES publication number WQWM-156 Revised) as appropriate for the activity. The above-referenced guidelines are hereby incorporated by reference including any subsequent amendments and editions. Copies may be obtained from the Division of Water Quality, 512 North Salisbury Street, Raleigh, North Carolina 27604 at no cost. Nutrient management plans may also follow other guidance distributed by land-grant universities for turfgrass management as long as it is equivalent to or more stringent than the above-listed guidelines.
 - (d) Nutrient management plans for ornamental and floriculture production shall follow the Nutrient Management section of the most recent version of the Southern Nursery Association guidelines promulgated in "Best Management Practices – A BMP Guide For Producing Container and Field Grown Plants". Copies may be obtained from the Southern Nursery Association, 1827 Powers Ferry Road SE, Suite 4-100, Atlanta, GA 30339-8422 or from www.sna.org. The materials related to nutrient management plans for ornamental and floriculture production are hereby incorporated by reference including any subsequent amendments and editions. Copies are available for inspection at the Department of Environment and Natural Resources Library, 512 North Salisbury Street, Raleigh, North Carolina 27604. Nutrient management plans for ornamental and floriculture production may also follow other guidance distributed by land-grant universities for such production as long as it is equivalent or more stringent than the above-listed guidelines.
 - (d) The nutrient management plan shall be approved in writing by an appropriate technical specialist, as defined in 15A NCAC 06H .0102(9), as follows:
 - (i) Nutrient management plans for cropland using either inorganic or organic nutrients, except those using biosolids or septage, shall be approved by a technical specialist designated pursuant to the process and criteria specified in rules adopted by the Soil and Water Conservation Commission for nutrient management planning, including 15A NCAC 06H .0104, excepting Sub-Item (a)(2) of that Rule.
 - (ii) Nutrient management plans for lands identified in Sub-Item (2)(c) of this Rule,

ornamental and floriculture production shall be approved by a technical specialist designated by the Soil and Water Conservation Commission pursuant to the process and criteria specified in 15A NCAC 06H .0104 excepting Sub-Item (a)(2) of that Rule. If the Soil and Water Conservation Commission does not designate such technical specialists, then the Environmental Management Commission shall do so using the same process and criteria.

- (f) Persons with approved waste utilization plans that are required under state or federal animal waste regulations are deemed in compliance with this Rule as long as they are compliant with their approved waste utilization plans.
- (g) Nutrient management plans and supporting documents must be kept on-site or be produced within 24 hours of a request by the Division.
- (6) **COMPLIANCE.** The following constitute the compliance requirements of this Rule:
 - (a) For proposed new application of Class A bulk, and Class B, wastewater residuals pursuant to permits obtained under 15A NCAC 02T .1100 or its predecessor, and septage application pursuant to permits obtained under 15A NCAC 13B .0815 through .0829, all applications for new permits shall be made according to, and subsequent nutrient applications shall comply with, the applicable requirements of this Rule as of its effective date.
 - (b) For existing, ongoing application of residuals and septage as defined in this Item, beginning one year after the effective date of this Rule, all applications for renewal of existing permits shall be made according to, and subsequent nutrient applications shall comply with, the applicable requirements of this Rule.
 - (c) For all other application with the exception of the application of residuals and septage as defined in this Item, the requirements of this Rule shall become effective three years after its effective date and shall

- apply to all application of nutrients on lands subject to this Rule after that date.
- (d) Persons who fail to comply with this Rule are subject to enforcement measures authorized in G.S. 143-215.6A (civil penalties), G.S. 143-215.6B (criminal penalties), and G.S. 143-215.6C (injunctive relief).

History Note: Authority G. S. 143-214.1; 143-214.5; 143-214.7; 143-215.3(a)(1); 143-215.6A; 143-215.6B; 143-215.6C; 143 215.8B; 143B-282(c); 143B-282(d); S.L. 2005-190; S.L. 2006-259;

Eff. Pending Legislative Review.

**15A NCAC 02B .0273 JORDAN WATER SUPPLY
NUTRIENT STRATEGY: OPTIONS FOR OFFSETTING
NUTRIENT LOADS**

PURPOSE. This Rule provides parties subject to other rules within the Jordan nutrient strategy with options for meeting rule requirements by obtaining or buying credit for activities conducted by others (sellers) that produce excess load reductions relative to rule requirements. It provides the potential for parties who achieve excess load reductions to recover certain costs by selling such credits, and it provides opportunity for private parties to produce reductions and sell credits for profit. Overall it provides the potential for more cost-effective achievement of strategy reduction goals. Accounting is required to ensure and track the availability and use of trading credits. This accounting will be compared against compliance accounting required under other rules of the Jordan nutrient strategy. This Rule furthers the adaptive management intent of the strategy to protect the water supply uses of Jordan Reservoir and of designated water supplies throughout the Jordan watershed. The minimum requirements for these offset options are:

- (1) **PREREQUISITES.** The following buyers shall meet applicable criteria identified here and in rules imposing reduction requirements on them before utilizing the option outlined in this Rule:
 - (a) Agriculture Rule .0264: Agricultural producers shall receive approval from the Watershed Oversight Committee to obtain offsite credit pursuant to the conditions of Sub-Item (5)(b);
 - (b) New Development Rule .0265: Developers shall meet onsite reduction requirements enumerated in Sub-Item (3)(a)(vii) before obtaining offsite credit;
 - (c) Wastewater Rule .0270: New and expanding dischargers shall first make all reasonable efforts to obtain allocation from existing dischargers as stated in Sub-Items (7)(a)(ii) and (8)(a)(ii), respectively; and
 - (d) State and Federal Entities Stormwater Rule .0271:

- (i) Non-DOT entities shall meet onsite new development reduction requirements enumerated in Sub-Item (3)(a)(vi); and
 - (ii) NC DOT shall meet onsite non-road new development reduction requirements enumerated in Sub-Item (4)(c)(iii) before obtaining offsite credit.
- (2) The party seeking approval to sell excess loading reduction credits pursuant to this Rule shall demonstrate to the Division that such reductions meet the following criteria:
 - (a) Loading reductions eligible for credit are only those in excess of load reduction goals or percentage reductions required under rules in this Section or in excess of the percentage load reduction goals established in Rule .0262 of this strategy as applied to sources not addressed by rules in this section;
 - (b) Load reductions eligible for credit shall not include reductions achieved under other regulations to mitigate or offset actions that increase nutrient loading;
 - (c) These excess loading reductions shall be available as credit only within the same subwatershed of the Jordan watershed, as defined in Rule .0262 of this Section, as the reduction need that they propose to offset;
 - (d) The party seeking to sell credits shall define the nature of the activities that would produce excess reductions and define the magnitude and duration of those reductions to the Division, including addressing the following items:
 - (i) Account for differences in instream nutrient losses between the location of the reduction need and excess loading reduction in reaching the affected arm of Jordan Reservoir;
 - (ii) Quantify and account for the relative uncertainties in reduction need estimates and excess loading reduction estimates;
 - (iii) Ensure that excess loading reductions shall take place at the time and for the duration in which the reduction need occurs; and
 - (iv) Demonstrate means adequate for assuring the achievement and claimed duration of excess loading reduction, including the cooperative involvement of any other involved parties.
- (3) The party seeking approval to sell excess loading reductions shall provide for accounting and tracking methods that ensure genuine, accurate, and verifiable achievement of the purposes of this Rule. The Division shall work cooperatively with interested parties at their request to develop such accounting and tracking methods to support the requirements of Item (2) of this Rule.
- (4) Proposals for use of offsetting actions as described in this Rule shall become effective after determination by the Director that the proposal contains adequate scientific or engineering standards or procedures necessary to achieve and account for load reductions as required under Sub-Items (2) and (3) of this Rule, and that specific accounting tools required for these purposes in individual rules have been adequately established. In making this determination, the Director shall also evaluate the potential for excess loading to produce localized adverse water quality impacts that contribute to impairment of classified uses of the affected waters.

History Note: Authority G.S. 143-214.1; 143-214.5; 143-214.7; 143-215.3(a)(1); 143-215.6A; 143-215.6B; 143-215.6C; 143-214.12; 143-214.21; 143-215.8B; 143B-282(c); 143B-282(d); S.L. 1999; c. 329, s. 7.1; S.L. 2005-190; S.L. 2006-259; Eff. Pending Legislative Review.

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 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 1 through the last day of February 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. November 1, 2008; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005; August 1, 2004.

15A NCAC 18D .0307 EXPIRATION AND REVOCATION OF CERTIFICATE

(a) If the operator fails to pay the renewal fee or meet the continuing education requirements of Rule .0308(a) of this Section, the certificate shall expire.

(b) If an operator in responsible charge fails to meet the requirements of 15A NCAC 18D .0701, his/her certificate may be revoked.

(c) An individual who has had certification revoked by the Board shall petition the Board for any new certification sought and may not petition the Board for such new certification sooner than two years after the effective date of the revocation.

(d) An operator who has a certificate that has been expired less than two years must pay any renewal fees in arrears and late fees before receiving an upgrade or a certificate in another area.

History Note: Authority G.S. 90A-25.1; 90A-26;

Eff. August 3, 1992;

Amended Eff. November 1, 2008; August 1, 2004; August 1, 2002; August 1, 2000; August 1, 1998.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 16 – BOARD OF DENTAL EXAMINERS

21 NCAC 16B .0317 REEXAMINATION

(a) Any applicant who has failed the clinical portion of a Board approved examination three times, regardless of having passed the written portion of the examination, shall successfully complete a Board approved course of study in clinical dentistry encompassing at least one academic year. The course of study shall be in the area(s) of deficiency exhibited on the examination and shall provide additional experience and expertise in clinical dentistry for the applicant. The applicant must send evidence of the additional study, along with the application, before being admitted for reexamination.

(b) Any applicant who has passed the written examination but has failed the clinical examination must also re-take the written

examination unless the applicant successfully passes the clinical examination within one year after passing the written examination. The Board will not accept scores from the written portion of the examination that are more than one year old.

(c) Any applicant who has failed the written portion of the examination may retake the written portion of the examination two additional times during the 12 month period from the date of the initial examination. The applicant must wait a minimum of 72 hours before attempting to retake a written examination.

(d) Any applicant who has failed the written portion of the examination three times shall successfully complete an additional Board approved course of study in the area(s) of deficiency exhibited on the examination. Such applicant must send evidence of the additional study, along with the application, before being admitted for reexamination.

History Note: Authority G.S. 90-28; 90-30; 90-48;

Eff. November 1, 2008.

21 NCAC 16I .0102 CONTINUING EDUCATION REQUIRED

(a) As a condition of license renewal, each dental hygienist must complete a minimum of six clock hours of continuing education each calendar year. Any or all the hours may be acquired through self study courses. For self study courses to be counted towards this continuing education requirement, the hygienist must successfully complete a test following the course and obtain a certificate of completion. Current certification in CPR is required in addition to the mandatory continuing education hours.

(b) A dental hygienist who can demonstrate a disabling condition may request a variance in required continuing education hours during a particular period. Written documentation of a disabling condition that interferes with the hygienist's ability to complete the required hours shall be provided to the Board. The Board may grant or deny such requests on a case by case basis according to this standard. In considering the request, the Board may require additional documentation substantiating any specified disability.

History Note: Authority G.S. 90-225.1;

Eff. May 1, 1994;

Amended Eff. November 1, 2008; April 1, 2001; August 1, 1998.

21 NCAC 16I .0103 APPROVED COURSES AND SPONSORS

(a) Courses in satisfaction of the continuing education requirement must be related to clinical patient care. Hours spent reviewing dental or dental hygiene publications or videos shall not count toward fulfilling the continuing education requirement, with the exception of self study courses as described in .0102 of this Subchapter that are offered by a Board approved continuing education sponsor.

(b) Approved continuing education course sponsors include:

- (1) providers recognized by the American Dental Association's Continuing Education Recognition Program, the Academy of General Dentistry, the American Dental Hygienists'

- Association, or components of such organizations;
- (2) North Carolina Area Health Education Centers;
- (3) educational institutions with dental, dental hygiene or dental assisting schools or departments;
- (4) national, state or local societies or associations; and
- (5) local, state or federal governmental entities.

*History Note: Authority G.S. 90-225.1;
Eff. May 1, 1994;
Amended Eff. November 1, 2008; April 1, 2001; August 1, 1998.*

21 NCAC 16I .0104 REPORTING CONTINUING EDUCATION

(a) The number of hours completed to satisfy the continuing education requirement shall be indicated on the renewal application form submitted to the Board and certified by the hygienist. Upon request by the Board or its authorized agent, the hygienist shall provide documentation of attendance at courses indicated. Such documentation shall be provided by the organization offering or sponsoring the course. Documentation must include:

- (1) the title;
- (2) the number of hours of instruction;
- (3) the date of the course attended;
- (4) the name(s) of the course instructor(s); and
- (5) the name of the organization offering or sponsoring the course.

(b) All records, reports and certificates relative to continuing education hours must be maintained by the licensee for at least two years and shall be produced upon request of the Board or its authorized agent.

(c) Dental hygienists shall receive four hours credit per year for continuing education when engaged in the following:

- (1) service on a full-time basis on the faculty of an educational institution with direct involvement in education, training, or research in dental or dental auxiliary programs; or
- (2) service on a full-time basis with a federal, state or county government agency whose operation is directly related to dentistry or dental auxiliaries.

Verification of credit hours shall be maintained in the manner specified in this Rule.

(d) Evidence of service or affiliation with an agency as specified in Paragraph (c) of this Rule shall be in the form of verification of affiliation or employment which is documented by a director or an official acting in a supervisory capacity.

(e) Hygienists who work at least 20 hours per week in an institution or entity described in Subparagraph (c)(1) or (2) of this Rule shall receive two hours credit per year for continuing education.

(f) Hygienists may receive one hour of continuing education credits per year for performing at least five hours of dental hygiene on a volunteer basis at any state, city or county operated

site approved by the Dental Board. Credit will not be given for less than five hours of volunteer work.

*History Note: Authority G.S. 90-225.1;
Eff. May 1, 1994;
Amended Eff. November 1, 2008; September 1, 2008; June 1, 2008; August 1, 2002; April 1, 2001.*

21 NCAC 16R .0103 CONTINUING EDUCATION REQUIRED

As a condition of license renewal, every dentist must complete a minimum of 15 clock hours of continuing education each calendar year. Any or all of the hours may be acquired through self study courses. For self study courses to be counted towards this continuing education requirement, the dentist must successfully complete a test following the course and obtain a certificate of completion. Current certification in CPR is required in addition to the mandatory continuing education hours.

*History Note: Authority G.S. 90-31.1;
Eff. May 1, 1994;
Amended Eff. November 1, 2008; August 1, 1998.*

21 NCAC 16R .0104 APPROVED COURSES AND SPONSORS

(a) Courses allowed to satisfy the continuing education requirement must be related to clinical patient care. Hours devoted to financial issues or practice development topics will not be counted toward the continuing education requirement. Hours spent reviewing dental journals, publications or videos shall not count toward fulfilling the continuing education requirement, with the exception of self-study courses as described in Rule .0103 of this Subchapter that are offered by Board approved sponsors..

- (b) Approved continuing education course sponsors include:
- (1) those recognized by the Continuing Education Recognition Program of the American Dental Association;
 - (2) the Academy of General Dentistry;
 - (3) North Carolina Area Health Education Centers;
 - (4) educational institutions with dental, dental hygiene or dental assisting schools or departments;
 - (5) national, state or local societies or associations; and
 - (6) local, state or federal governmental entities.

*History Note: Authority G.S. 90-31.1;
Eff. May 1, 1994;
Amended Eff. November 1, 2008; April 1, 2003; April 1, 2001.*

21 NCAC 16R .0106 VARIANCES AND EXEMPTION FROM AND CREDIT FOR CONTINUING EDUCATION

(a) Upon receipt of satisfactory written evidence, the Board may grant exemptions from the mandatory continuing education requirements set out in Rule .0103 of this Subchapter as follows:

- (1) A dentist who practices not more than 250 clock hours in a calendar year shall be exempted from all continuing education requirements. Such dentists, who shall be known as semi-retired Class I dentists, must maintain current CPR certification.
- (2) A dentist who practices not more than 1,000 clock hours in a calendar year shall be exempt from one half of the continuing education courses required of dentists who practice full time. Such dentists, who shall be known as semi-retired Class II dentists, must maintain current CPR certification.
- (3) A retired dentist who does not practice any dentistry shall be exempt from all continuing education and CPR certification requirements.
- (4) A dentist who is disabled may request a variance in continuing education hours during the period of the disability. The Board may grant or deny requests for variance in continuing education hours based on a disabling condition on a case by case basis, taking into consideration the particular disabling condition involved and its effect on the dentist's ability to complete the required hours. In considering the request, the Board may require additional documentation substantiating any specified disability.

(b) In those instances where continuing education is waived and the exempt individual wishes to resume practice, the Board shall require continuing education courses in accordance with Rule .0103 of this Section when reclassifying the licensee. The Board may require those licensees who have not practiced dentistry for a year or more to undergo a bench test prior to allowing the licensee to resume practice when there is indication of inability to practice dentistry.

(c) Dentists shall receive 10 hours credit per year for continuing education when engaged in any of the following:

- (1) service on a full-time basis on the faculty of an educational institution with direct involvement in education, training, or research in dental or dental auxiliary programs; or
- (2) service on a full time basis with a federal, state or county government agency whose operation is directly related to dentistry or dental auxiliaries. Verification of credit hours shall be maintained in the manner specified in Rule .0105 of this Section.

(d) Dentists who work at least 20 hours per week in an institution or entity described in (c)(1) or (2) of this Rule shall receive five hours credit per year for continuing education.

(e) Dentists shall receive up to two hours of continuing education credits per year for providing dental services on a volunteer basis at any state, city or county operated site approved by the Dental Board. Credit will be given at ratio of 1:5, with one hour credit given for every five hours of volunteer work.

History Note: Authority G.S. 90-31.1; 90-38;

Eff. May 1, 1994;

Amended Eff. November 1, 2008; September 1, 2008; April 1, 2003; April 1, 2001; August 1, 1998.

21 NCAC 16T .0102 TRANSFER OF RECORDS UPON REQUEST

A dentist shall, upon request by the patient of record, provide original or copies of radiographs and a summary of the treatment record to the patient or to a licensed dentist identified by the patient. A fee may be charged for duplication of radiographs and diagnostic materials. The treatment summary and radiographs shall be provided within 30 days of the request and shall not be contingent upon current, past or future dental treatment or payment of services.

History Note: Authority G.S. 90-28; 90-48;

Eff. October 1, 1996.

Amended Eff. November 1, 2008

CHAPTER 30 – BOARD OF MASSAGE AND BODYWORK THERAPY

21 NCAC 30 .0626 STUDENT COMPENSATION PROHIBITED

A student shall not receive a fee, tip or other consideration for the massage and bodywork therapy they perform while completing clinical requirements for graduation, whether or not the school charges a fee for services provided in a student clinic.

History Note: Authority G.S. 90-626(9); 90-631;

Eff. October 1, 2007;

Amended Eff. November 1, 2008.

21 NCAC 30 .0701 CONTINUING EDUCATION REQUIREMENTS

(a) Pursuant to G.S. 90-632, a licensee, when renewing a license, shall document that they have completed at least 24 contact hours of approved continuing education during the immediately preceding licensure period, provided the licensure period is two years or more. If the licensure period is less than two years, but more than one year, the licensee shall document that they have completed at least 12 contact hours of approved continuing education.

(b) For the purposes of this Section, "approved continuing education" means a course offered as follows:

- (1) by an approved provider as defined in Rule .0702;
- (2) a course approved by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM); or
- (3) a course in anatomy, physiology, pathology or business management taken at a post secondary institution of higher learning.

(c) Distance learning, as defined in Rule .0702 of this Section, shall not comprise more than 12 hours of the required continuing education hours per licensure period.

(d) Licensees shall document that they have completed at least three contact hours of continuing education in professional ethics as defined in Rule .0702 of this Section, out of the minimum of 24 hours of approved continuing education required for license renewal. This may be obtained through supervised classroom instruction or distance learning.

(e) Business management, as defined in Rule .0702 of this Section, shall not comprise more than three hours of the minimum 24 hours of approved continuing education required for license renewal.

(f) Licensees shall ensure that each continuing education course for which they claim credit on their application for renewal of licensure is consistent with the definitions and requirements set forth in this Section.

(g) The Board may audit licensees at random to assure compliance with these requirements.

History Note: Authority G.S. 90-26(9); 90-632(a)(1);
Temporary Adoption Eff. February 15, 2000;
Eff. April 1, 2001;
Amended Eff. November 1, 2008; September 2, 2005.

CHAPTER 32 – MEDICAL BOARD

21 NCAC 32M .0103 NURSE PRACTITIONER REGISTRATION

(a) The Board of Nursing shall register an applicant who:

- (1) has an unrestricted license to practice as a registered nurse in North Carolina and, when applicable, an unrestricted approval, registration or license as a nurse practitioner in another state, territory, or possession of the United States;
- (2) has successfully completed a nurse practitioner education program as outlined in Rule .0105 of this Subchapter;
- (3) is certified as a nurse practitioner by a national credentialing body consistent with 21 NCAC 36 .0120(7) and (9); and
- (4) has supplied additional information necessary to evaluate the application as requested.

(b) Beginning January 1, 2005, new graduates of a nurse practitioner program, who are seeking first-time nurse practitioner registration in North Carolina shall:

- (1) hold a Master's or higher degree in Nursing or related field with primary focus on Nursing;
- (2) have successfully completed a graduate level nurse practitioner education program accredited by a national accrediting body; and
- (3) provide documentation of certification by a national credentialing body.

History Note: Authority G.S. 90-18(c)(14); 90-18.2; 90-171.36;
Eff. August 1, 2004;
Amended Eff. November 1, 2008; December 1, 2006.

21 NCAC 32M .0104 PROCESS FOR APPROVAL TO PRACTICE

(a) Prior to the performance of any medical acts, a nurse practitioner shall:

- (1) meet registration requirements as specified in 21 NCAC 32M .0103 of this Section;
- (2) submit an application for approval to practice;
- (3) submit any additional information necessary to evaluate the application as requested; and
- (4) have a collaborative practice agreement with a primary supervising physician.

(b) A nurse practitioner seeking approval to practice who has not practiced as a nurse practitioner in more than five years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification.

(c) The nurse practitioner shall not practice until notification of approval to practice is received from the Boards.

(d) The nurse practitioner's approval to practice is terminated when the nurse practitioner discontinues working within the approved nurse practitioner collaborative practice agreement and the nurse practitioner shall notify the Boards in writing. The Boards may extend the nurse practitioner's approval to practice in cases of emergency such as sudden injury, illness or death of the primary supervising physician.

(e) Applications for approval to practice in North Carolina shall be submitted to the Board of Nursing and then approved by both Boards as follows:

- (1) the Board of Nursing shall verify compliance with Rule .0103 of this Subchapter and Paragraph (a) of this Rule; and
- (2) the Medical Board shall verify that the designated primary supervising physician holds a valid license to practice medicine in North Carolina and compliance with Subparagraph (a) of this Rule.

(f) Applications for approval of changes in practice arrangements for a nurse practitioner currently approved to practice in North Carolina:

- (1) addition or change of primary supervising physician shall be submitted to both Boards; and
- (2) request for change(s) in the scope of practice shall be submitted to the Joint Subcommittee.

(g) Interim status for a nurse practitioner applicant shall be granted to a registered nurse who has met the registration requirements as set forth in Rule .0103 and .0105 of this Subchapter with the following limitations:

- (1) no prescribing privileges;
- (2) primary or back-up physicians shall be continuously available for ongoing supervision, collaboration, consultation and countersigning of notations of medical acts in all patient charts within two working days of nurse practitioner applicant-patient contact;
- (3) face-to-face consultation with the primary supervising physician shall be weekly with

- documentation of consultation consistent with Rule .0110(e)(3) of this Subchapter; and
- (4) shall not exceed six months.
- (h) A registered nurse who was previously approved to practice as a nurse practitioner in this state who reapplies for approval to practice shall:
- (1) meet the nurse practitioner approval requirements as stipulated in Rule .0108(c) of this Subchapter; and
 - (2) complete the appropriate application.
- (i) Volunteer Approval to Practice. Both Boards may grant approval to practice in a volunteer capacity to a nurse practitioner who has met the qualifications to practice as a nurse practitioner in North Carolina.
- (j) The nurse practitioner shall pay the appropriate fee as outlined in Rule .0115 of this Subchapter.
- (k) A Nurse Practitioner approved under this Subchapter shall keep proof of current licensure, registration and approval available for inspection at each practice site upon request by agents of either Board.

History Note: Authority G.S. 90-18(c)(14); 90-18.2; 90-171.20(7); 90-171.23(b); 90-171.42; Eff. January 1, 1991; Paragraph (b)(1) was recodified from 21 NCAC 32M .0104 Eff. January 1, 1996; Amended Eff. December 1, 2006; May 1, 1999; January 1, 1996; Recodified from 21 NCAC 32M .0103 Eff. August 1, 2004; Amended Eff. November 1, 2008; January 1, 2007; August 1, 2004.

21 NCAC 32M .0106 ANNUAL RENEWAL

- (a) Each registered nurse who is approved to practice as a nurse practitioner in this state shall annually renew each approval to practice with the Board of Nursing no later than the last day of the nurse practitioner's birth month by:
- (1) Maintaining current RN licensure;
 - (2) Submitting the fee required in Rule .0115 of this Subchapter; and
 - (3) Completing the renewal application.
- (b) A nurse practitioner with first-time approval to practice after January 1, 2000, shall provide evidence of certification or recertification by a national credentialing body.
- (c) If the nurse practitioner has not renewed by the last day of her/his birth month, the approval to practice as a nurse practitioner shall lapse.

History Note: Authority G.S. 90-6; 90-18(14); 90-171.23(b); Eff. January 1, 1996; Amended Eff. August 1, 2004; May 1, 1999; Recodified from Rule .0105 Eff. August 1, 2004; Amended Eff. November 1, 2008.

21 NCAC 32M .0109 PRESCRIBING AUTHORITY

- (a) The prescribing stipulations contained in this Rule apply to writing prescriptions and ordering the administration of medications.
- (b) Prescribing and dispensing stipulations are as follows:

- (1) Drugs and devices that may be prescribed by the nurse practitioner in each practice site shall be included in the collaborative practice agreement as outlined in Rule .0110(b) of this Section.
- (2) Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal Controlled Substances Acts may be procured, prescribed or ordered as established in the collaborative practice agreement, providing all of the following requirements are met:
 - (A) the nurse practitioner has an assigned DEA number which is entered on each prescription for a controlled substance;
 - (B) dosage units for schedules II, IIN, III and IIIN are limited to a 30 day supply; and
 - (C) the prescription or order for schedules II, IIN, III and IIIN may not be refilled.
- (3) The nurse practitioner may prescribe a drug or device not included in the collaborative practice agreement only as follows:
 - (A) upon a specific written or verbal order obtained from a primary or back-up supervising physician before the prescription or order is issued by the nurse practitioner; and
 - (B) the written or verbal order as described in Part (b)(3)(A) of this Rule shall be entered into the patient record with a notation that it is issued on the specific order of a primary or back-up supervising physician and signed by the nurse practitioner and the physician.
- (4) Refills may be issued for a period not to exceed one year except for schedules II, IIN, III and IIIN which may not be refilled.
- (5) Each prescription shall be noted on the patient's chart and include the following information:
 - (A) medication and dosage;
 - (B) amount prescribed;
 - (C) directions for use;
 - (D) number of refills; and
 - (E) signature of nurse practitioner.
- (6) Prescription Format:
 - (A) All prescriptions issued by the nurse practitioner shall contain the supervising physician(s) name, the name of the patient, and the nurse practitioner's name, telephone number, and approval number.
 - (B) The nurse practitioner's assigned DEA number shall be written on the prescription form when a controlled

substance is prescribed as defined in Subparagraph (b)(2) of this Rule.

(c) The nurse practitioner may obtain approval to dispense the drugs and devices other than samples included in the collaborative practice agreement for each practice site from the Board of Pharmacy, and dispense in accordance with 21 NCAC 46 .1700, that is hereby incorporated by reference including subsequent amendments of the referenced materials.

History Note: Authority G.S. 90-6; 90-18(14); 90-18.2; 90-171.23(14); 90-171.42; 58 Fed. Reg. 31,171 (1993) (to be codified at 21 C.F.R. 1301);

Eff. February 1, 1991;

Recodified from 21 NCAC 32M .0106 Eff. January 1, 1996;

Amended Eff. November 1, 2008; August 1, 2004; May 1, 1999; January 1, 1996; September 1, 1994; March 1, 1994.

21 NCAC 32M .0115 FEES

(a) An application fee of one hundred dollars (\$100.00) shall be paid at the time of initial application for approval to practice and each subsequent application for approval to practice. The application fee shall be twenty dollars (\$20.00) for the volunteer approval.

(b) The fee for annual renewal of approval shall be fifty dollars (\$50.00).

(c) The fee for annual renewal of volunteer approval shall be ten dollars (\$10.00).

(d) No portion of any fee in this Rule is refundable.

History Note: Authority G.S. 90-6;

Eff. January 1, 1996;

Recodified from 21 NCAC 32M .0111 Eff. January 1, 1996;

Amended Eff. August 1, 2004; May 1, 1999; January 1, 1996;

Recodified from Rule .0112 Eff. August 1, 2004;

Amended Eff. November 1, 2008.

CHAPTER 36 – NURSING BOARD

21 NCAC 36 .0109 SELECTION AND QUALIFICATIONS OF NURSE MEMBERS

(a) Vacancies in nurse member positions on the Board that are scheduled to occur during the next year shall be announced in the last issue of the North Carolina Board of Nursing "Bulletin" for the calendar year, which shall be mailed to the address on record for each North Carolina licensed nurse and posted on the Board's website at www.ncbon.com. The "Bulletin" and website shall include a petition form for nominating a nurse to the Board and information on filing the petition with the Board.

(b) Each petition shall be checked with the records of the Board to validate that the nominee and each petitioner holds a current North Carolina license to practice nursing. If the nominee is not currently licensed, the petition shall be declared invalid. If any petitioners are not currently licensed and this decreases the number of petitioners to less than 10, the petition shall be declared invalid.

(c) On forms provided by the Board, each nominee shall:

- (1) indicate the category for which the nominee is seeking election;
- (2) attest to meeting the qualifications specified in G.S. 90-171.21(d); and
- (3) provide written permission to be listed on the ballot.

The forms must be received by the Board or postmarked on or before April 15.

(d) Minimum on-going employment requirements for the registered nurse or licensed practical nurse member shall include continuous employment equal to or greater than 50% of a full-time position that meets the criteria for the specified Board member position.

(e) This Paragraph applies in determining qualifications for registered nurse categories of membership:

- (1) Nurse Educator includes any nurse who teaches in or directs a Board approved nursing program in the specific category as outlined in G.S. 90-171.21(d).
- (2) Hospital is defined as any facility which has an organized medical staff and which is designed, used, and primarily operated to provide health care, diagnostic and therapeutic services, and continuous nursing services to inpatients, but excludes nursing homes and adult care homes.
- (3) A hospital system is defined as a multihospital system, or a single diversified hospital system that includes a hospital as defined in Subparagraph (e)(2) of this Rule plus non-hospital preacute and postacute client services.
- (4) A nurse accountable for the administration of nursing services shall be the chief nurse executive of a hospital, hospital system, or the director of nursing services for a service division that includes inpatient care within a hospital or hospital system.
- (5) A nurse practitioner, nurse anesthetist, nurse midwife or clinical nurse specialist includes any advanced practice registered nurse who meets the criteria specified in G.S. 90-171.21(d)(4).

(f) The term "nursing practice" when used in determining qualifications for registered or practical nurse categories of membership, means any position for which the holder of the position is required to hold a current license to practice nursing at the appropriate licensure level for each category.

(g) A nominee shall be listed in only one category on the ballot.

(h) Separate slates shall be prepared for election of registered nurse nominees and for election of licensed practical nurse nominees. Nominees shall be listed in random order on the slate for licensed practical nurse nominees and within the categories for registered nurse nominees. Slates shall be published in the "Bulletin" and posted to the Board website following the Spring Board meeting and shall be accompanied by biographical data on nominees and a passport-type photograph.

(i) The procedure for voting shall be identified in the "Bulletin" following the Spring Board meeting.

(j) The Board of Nursing may contract with a computer or other service to receive the votes and tabulate the results.

(k) The tabulation and verification of the tabulation of votes shall include the following:

- (1) The certificate number shall be provided for each individual voting; and
- (2) The certificate number shall be matched with the database from the Board.

(l) A plurality vote shall elect. If more than one person is to be elected in a category, the plurality vote shall be in descending order until the required number has been elected. In any election, if there is a tie vote between nominees, the tie shall be resolved by a draw from the names of nominees who have tied.

(m) The results of an election shall be recorded in the minutes of the next regular meeting of the Board of Nursing following the election and shall include at least the following:

- (1) the number of nurses eligible to vote;
- (2) the number of votes cast; and
- (3) the number of votes cast for each person on the slate.

(n) The results of the election shall be forwarded to the Governor and the Governor shall commission those elected to the Board of Nursing.

(o) All petitions to nominate a nurse, signed consents to appear on the slate, verifications of qualifications, and copies of the computerized validation and tabulation shall be retained for a period of three months following the close of an election.

History Note: Authority G.S. 90-171.21; 90-171.23(b); Eff. May 1, 1982; Amended Eff. August 1, 1998; January 1, 1996; June 1, 1992; March 1, 1990; April 1, 1989; Temporary Amendment Eff. July 2, 2001; Amended Eff. November 1, 2008; January 1, 2004; August 1, 2002.

21 NCAC 36 .0112 DETERMINATION OF VACANCY

(a) Except for the RN At-Large Member, should a licensed nurse member of the Board cease to meet the employment criteria as defined in G.S. 90-171.21(d) and Rule .0109 Paragraphs (d) and (e) of this Section, the member shall have 60 days to resume employment in the designated area. If employment criteria for the specified area are not met within 60 days, the seat shall be declared vacant. Provided, however, that if such a change in employment for the specified category of Board member occurs within 18 months of the end of the member's term, such member may continue to serve until the end of the term.

(b) If at any time a registered nurse member no longer meets the eligibility requirements listed in G.S. 90-171.21(d)(1)(a) and (a1), such member shall no longer continue to serve and the position shall be declared vacant.

(c) If at any time a licensed practical nurse member no longer meets the eligibility requirements listed in G.S. 90-171.21(d)(2)(a) and (a1), such member shall no longer continue to serve and the position shall be declared vacant.

(d) Any vacancy of an unexpired term shall be filled according to G.S. 90-171.21(c).

History Note: Authority G.S. 90-171.21(c); 90-171.23(b);

Eff. May 1, 1988;

Amended Eff. November 1, 2008; January 1, 2004; August 1, 2002; March 1, 1990; May 1, 1989.

21 NCAC 36 .0120 DEFINITIONS

The following definitions shall apply throughout this chapter unless the context indicates otherwise:

- (1) "Academic term" means one semester of a school year.
- (2) "Accountability/Responsibility" means being answerable for action or inaction of self, and of others in the context of delegation or assignment.
- (3) "Accredited institution" means an institution accredited by a United States Department of Education approved institutional accrediting body.
- (4) "Active Practice" means activities that are performed, either for compensation or without compensation, consistent with the scope of practice for each level of licensee as defined in G.S. 90-171.20(4), (7) and (8).
- (5) "Advanced Practice Registered Nurse (APRN)" means for the purposes of Board qualification a nurse who meets the criteria specified in G.S. 90-171.21(d)(4).
- (6) "Assigning" means designating responsibility for implementation of a specific activity or set of activities to a person licensed and competent to perform such activities.
- (7) "Clinical experience" means application of nursing knowledge in demonstrating clinical judgment.
- (8) "Clinical judgment" means the application of the nursing student's knowledge, skills, abilities and experience in making decisions about client care.
- (9) "Competent" means having the knowledge, skills and ability to safely perform an activity or role.
- (10) "Continuing Competence" means the on-going acquisition and application of knowledge and the decision-making, psychomotor, and interpersonal skills expected of the licensed nurse resulting in nursing care that contributes to the health and welfare of clients served.
- (11) "Contact Hour" means 60 minutes of an organized learning experience.
- (12) "Continuing Education Activity" means a planned, organized learning experience that is related to the practice of nursing or contributes to the competency of the nurse as defined in 21 NCAC 36 .0223 Subparagraph (a)(2).
- (13) "Controlling institution" means the degree-granting organization or hospital under which the nursing education program is operating.
- (14) "Curriculum" means an organized system of teaching and learning activities directed

- toward the achievement of specified learning objectives/outcomes.
- (15) "Delegation" means transferring to a competent individual the authority to perform a selected nursing activity in a selected situation. The nurse retains accountability for the delegation.
 - (16) "Dimensions of Practice" means those aspects of nursing practice that include professional responsibility, knowledge-based practice, legal/ethical practice and collaborating with others, consistent with G.S. 90-171.20(4), (7) and (8).
 - (17) "Distance education" means the teaching/learning strategies used to meet the learning needs of students, when the students and faculty are separate from each other.
 - (18) "Faculty directed clinical practice" means the responsibility of nursing program faculty in overseeing student clinical learning including the utilization of preceptors.
 - (19) "Focused client care experience" means a clinical experience that simulates an entry-level work experience. The intent is to assist the student to transition to an entry-level practice. There is no specific setting requirement. Supervision may be by faculty/preceptor dyad or direct faculty supervision.
 - (20) "Interdisciplinary faculty" means faculty from professions other than nursing.
 - (21) "Interdisciplinary team" means all individuals involved in providing a client's care, who cooperate, collaborate, communicate and integrate care to ensure that care is continuous and reliable.
 - (22) "Level of Licensure" means practice of nursing by either a Licensed Practice Nurse or a Registered Nurse as defined in G.S. 90-171.20(7) and (8).
 - (23) "Level of student" means the point in the program to which the student has progressed.
 - (24) "Maximum enrollment" means the total number of pre-licensure students that can be enrolled in the nursing program at any one time. The number reflects the capacity of the nursing program based on demonstrated resources sufficient to implement the curriculum.
 - (25) "Methods of Instruction" means the planned process through which teacher and student interact with selected environment and content so that the response of the student gives evidence that learning has taken place. It is based upon stated course objectives/outcomes for learning experiences in classroom, laboratory and clinical settings.
 - (26) "National Credentialing Body" means a credentialing body that offers certification or re-certification in the licensed nurse's or Advanced Practice Registered Nurse's specialty area of practice.
 - (27) "NCLEX-PN™" means the National Council Licensure Examinations for Practical Nurses.
 - (28) "NCLEX-RN™" means the National Council Licensure Examinations for Registered Nurses.
 - (29) "Nursing Accreditation body" means a national nursing accrediting body, recognized by the United States Department of Education.
 - (30) "Nursing program faculty" means individuals employed full or part time by academic institution responsible for developing, implementing, evaluation and updating nursing curricula.
 - (31) "Nursing project" means a project or research study of a topic related to nursing practice that includes a problem statement, objectives, methodology and summary of findings.
 - (32) "Participating in" means to have a part in or contribute to the elements of the nursing process.
 - (33) "Pattern of noncompliance" means episodes of recurring non-compliance with one or more Rules in Section .0300.
 - (34) "Preceptor" means a registered nurse at or above the level of licensure that an assigned student is seeking, who may serve as a teacher, mentor, role model and supervisor for a faculty directed clinical experience.
 - (35) "Prescribing Authority" means the legal permission granted by the Board of Nursing and Medical Board for the nurse practitioner and nurse midwife to procure and prescribe legend and controlled pharmacological agents and devices to a client in compliance with Board of Nursing rules and other applicable federal and state law and regulations.
 - (36) "Program Closure" means to cease operation of a nursing program.
 - (37) "Program Type" means a course of study that prepares an individual to function as an entry-level practitioner of nursing. The three program types are:
 - (a) BSN - Curriculum components for Bachelor of Science in Nursing provides for the attainment of knowledge and skill sets in the current practice in nursing, nursing theory, nursing research, community and public health, health care policy, health care delivery and finance, communications, therapeutic interventions and current trends in health care. For this program type, the client is the individual, family, group, and community.

- (b) Associate Degree in Nursing (ADN)/Diploma in Registered Nursing - Curriculum components for the ADN/Diploma in Registered Nursing provides for the attainment of knowledge and skill sets in the current practice in nursing, community concepts, health care delivery, communications, therapeutic interventions and current trends in health care. For this program type, client is the individual, group of individuals, and family.
- (c) Practical Nurse Diploma - Curriculum prepares for functioning in a dependent role in providing direct nursing care under the direction of a registered nurse or other health care provider as defined by the Nursing Practice Act. Curriculum components provide for the attainment of knowledge and skill sets in the current practice of practical nursing, communications, therapeutic interventions, including pharmacology, growth and development and current trends in health care. For this program type client is the individual, or group of individuals.
- (38) "Review" means collecting and analyzing information to assess compliance with Section .0300 of this Chapter. Information may be collected by multiple methods including review of written reports and materials, on-site observations and review of documents or in person or telephone interview(s) and conference(s)
- (39) "Rescind Approval" means a Board action that removes the approval status previously granted.
- (40) "Self Assessment" means the process whereby the individual reviews her/his own nursing practice and identifies the knowledge and skills possessed, as well as those skills to be strengthened.
- (41) "Specialty" means a broad, population-based focus of study encompassing the common health-related problems of that group of patients and the likely co-morbidities, interventions and responses to those problems.
- (42) "Supervision" means the provision of guidance or direction, evaluation and follow-up by the licensed nurse for accomplishment of an assigned or delegated nursing activity or set of activities.
- (43) "Survey" means an on-site visit for the purpose of gathering data in relation to reviewing nursing programs compliance with Section .0300 of this Chapter.
- History Note: Authority G.S. 90-171.23; 90-171.38; Eff. April 1, 2003; Amended Eff. November 1, 2008; May 1, 2006; December 1, 2005; August 1, 2005.*
- 21 NCAC 36 .0202 INACTIVE AND RETIRED STATUS**
- (a) A registrant whose licensure status is inactive and who desires to resume the practice of nursing in North Carolina shall be removed from inactive status and shall obtain a current license. To this end the registrant shall:
- (1) submit evidence of unencumbered license in all jurisdictions in which a license is or has ever been held;
 - (2) submit evidence of completion of all court conditions resulting from any misdemeanor or felony conviction(s);
 - (3) submit evidence showing that the nurse is safe and competent to re-enter the practice of nursing;
 - (4) submit the current fee for renewal; and
 - (5) attest to having completed Continuing Competence requirements and be prepared to submit evidence of completion if requested by the Board as specified in Rule .0232(b) of this Section.
- (b) The registrant whose license has been inactive for a period of five years or more shall also submit:
- (1) self-certification that the registrant is of mental and physical health necessary to competently practice nursing;
 - (2) evidence of competency to resume the practice of nursing through:
 - (A) satisfactory completion of a Board-approved course; or
 - (B) an active license in another jurisdiction within the last five years.
- (c) If a refresher course is required, the registrant shall apply for reactivation of license within one year of completing the refresher course in order to receive a current license. The application for reactivation shall include verification from the provider of the refresher course that the registrant has satisfactorily met both theory and clinical objectives.
- (d) The Board shall decline to reactivate a license if it is not satisfied as to the applicant's competency to practice nursing.
- (e) A registrant who has retired from the practice of nursing may request and be granted by the Board retired nurse status, provided the registrant:
- (1) holds a current unencumbered license issued by the North Carolina Board of Nursing;
 - (2) is not currently the subject of an investigation by this Board for possible violation of the Nursing Practice Act; and
 - (3) pay the application fee pursuant to G.S. 90-171.27(b).

(f) While remaining on retired status, the registrant shall not practice nursing in North Carolina and shall not be subject to payment of the license renewal fee.

(g) The registrant may use the title Retired Registered Nurse or Retired Licensed Practical Nurse once issued retired status.

(h) The registrant whose licensure status is retired shall not be eligible to vote in Board elections.

(i) A registrant whose licensure status is retired and who desires to resume the practice of nursing shall apply for reinstatement of a license to practice nursing and meet the same reinstatement requirements for a nurse on inactive status as set forth in Paragraphs (b)–(e) of this Rule.

History Note: Authority G.S. 90-171.21; 90-171.23(b) 90-171.27(b); 90-171.36; 90-171.36A; 90-171.37; 90-171.43;

Eff. February 1, 1976;

Legislative Objection [(g)] Lodged Eff. June 16, 1980;

Legislative Objection [(g)] Removed Eff. July 1, 1981;

Amended Eff. November 1, 2008; January 1, 2004; January 1, 1996; January 1, 1990; May 1, 1982; January 1, 1980.

21 NCAC 36 .0232 CONTINUING COMPETENCE

(a) Effective July 1, 2006, upon application for license renewal or reinstatement, each licensee shall:

- (1) Complete a self-assessment of practice including the dimensions of: professional responsibility, knowledge based practice, legal/ethical practice and collaborating with others;
- (2) Develop a plan for continued learning; and
- (3) Select and implement a learning activity option from those outlined in Paragraph (b) of this Rule.

(b) Effective July 1, 2008, upon application for license renewal or reinstatement, each licensee shall attest to having completed one of the following learning activity options during the preceding renewal cycle and be prepared to submit evidence of completion if requested by the Board:

- (1) National Certification or re-certification related to the nurse's practice role by a national credentialing body recognized by the Board, consistent with 21 NCAC 36 .0120 and 21 NCAC 36 .0801;
- (2) Thirty contact hours of continuing education activities related to the nurse's practice;
- (3) Completion of a Board approved refresher course, consistent with 21 NCAC 36 .0220 and 21 NCAC 36 .0808(d);
- (4) Completion of a minimum of two semester hours of post-licensure academic education related to nursing practice;
- (5) Fifteen contact hours of a continuing education activity related to the nurse's practice and completion of a nursing project as principal or co-principal investigator to include a statement of the problem, project objectives, methods and summary of findings;
- (6) Fifteen contact hours of a continuing education activity related to the nurse's practice and

authoring or co-authoring a published nursing-related article, paper, book or book chapter;

(7) Fifteen contact hours of a continuing education activity related to the nurse's practice and designing, developing, and conducting an educational presentation or presentations totaling a minimum of five contact hours for nurses or other health professionals; or

(8) Fifteen contact hours of a continuing education activity related to the nurse's practice and 640 hours of active practice within the previous two years.

(c) The following documentation shall be accepted as evidence of completion of learning activity options outlined in Paragraph (b) of this Rule:

- (1) Evidence of national certification shall include a copy of a certificate which includes name of licensee, name of certifying body, date of certification, date of certification expiration. Certification shall be initially attained during the licensure period, or have been in effect during the entire licensure period, or have been re-certified during the licensure period.
- (2) Evidence of contact hours of continuing education shall include the name of the licensee; title of educational activity, name of the provider, number of contact hours and date of activity.
- (3) Evidence of completion of a Board approved refresher course shall include written correspondence from the provider with the name of the licensee, name of the provider, and verification of successful completion of the course.
- (4) Evidence of post-licensure academic education shall include a copy of transcript with the name of the licensee, name of educational institution, date of attendance, name of course with grade and number of credit hours received.
- (5) Evidence of completion of a nursing project shall include an abstract or summary of the project, the name of the licensee, role of the licensee as principal or co-principal investigator, date of project completion, statement of the problem, project objectives, methods used and summary of findings.
- (6) Evidence of authoring or co-authoring a published nursing-related article, paper, book or book chapter which shall include a copy of the publication to include the name of the licensee and publication date.
- (7) Evidence of developing and conducting an educational presentation or presentations totaling at least five contact hours for nurses or other health professionals shall include a copy of program brochure or course syllabi, objectives, content and teaching methods, and date and location of presentation.

- (8) Evidence of 640 hours of active practice in nursing shall include documentation of the name of the licensee, number of hours worked in calendar or fiscal year, name and address of employer and signature of supervisor. If self-employed, hours worked may be validated through other methods such as tax records or other business records. If active practice is of a volunteer or gratuitous nature, hours worked may be validated by the recipient agency.

(d) A licensee shall retain supporting documentation to provide proof of completion of the option chosen in Paragraph (b) of this Rule throughout the renewal cycle.

(e) Effective July 1, 2008, at the time of license renewal or reinstatement, licensees may be subject to audit for proof of compliance with the Board's requirements for continuing competence.

(f) The Board shall inform licensees of their selection for audit upon notice of license renewal or request for reinstatement. Documentation of acceptable evidence shall be consistent with Paragraph (c) of this Rule and shall be submitted to the Board no later than the last day of the renewal month.

(g) Failure of a licensee to meet the requirements of this Rule shall result in disciplinary action pursuant to G.S. 90-171.37 and 21 NCAC 36 .0217.

History Note: Authority G.S. 90-171.23(b); 90-171.37(1) and (8);

Eff. May 1, 2006;

Amended Eff. November 1, 2008

21 NCAC 36 .0318 FACULTY

(a) Full-time and part-time faculty members are considered nursing program faculty. When part-time faculty are utilized, they shall participate in curriculum implementation and evaluation.

(b) Policies for nursing program faculty members shall be consistent with those for other faculty of the institution. Variations in these policies may be necessary due to the nature of the nursing curriculum.

(c) Nurse faculty members shall be academically qualified and sufficient in number to accomplish program outcomes.

(d) Each nurse faculty member shall hold a current unrestricted license to practice as a registered nurse in North Carolina. The program director shall document current licensure to practice as a registered nurse in North Carolina.

(e) Nursing faculty who teach in a program leading to initial licensure as a nurse shall:

- (1) hold either a baccalaureate in nursing or a master's degree in nursing from an accredited institution;
- (2) if employed after December 31, 1983, have two calendar years or the equivalent of full time clinical experience as a registered nurse;
- (3) prior to or within the first three years of employment, have preparation in teaching and learning principles for adult education, including curriculum development, implementation, and evaluation, appropriate to

assignment. This preparation may be demonstrated by one of the following:

- (A) completion of 45 contact hours of continuing education courses;
- (B) completion of a certificate program in nursing education;
- (C) nine semester hours of education course work;
- (D) national certification in nursing education; or
- (E) documentation of successful completion of structured, individualized development activities of at least 45 contact hours approved by the Board. Criteria for approval include content in the faculty role within the curriculum implementation, objectives to be met and evaluated, review of strategies for identified student population and expectations of student and faculty performance;

(4) If employed prior to July 1, 2006, faculty shall meet the requirements in Subparagraph (e)(3) of this Rule by December 31, 2010. If employed on or after July 1, 2006 faculty members have three years from date of employment to meet the requirements in Subparagraph (e)(3) of this Rule.

(5) maintain competence in the areas of assigned responsibility;

(6) have current knowledge of nursing practice for the registered nurse and the licensed practical nurse; and

(7) Faculty newly employed after December 31, 2015, must meet standards established by a nursing accreditation body as defined in 21 NCAC 36. 0120(29).

(f) Interdisciplinary faculty who teach in nursing program courses shall have academic preparation in the content area they are teaching.

(g) Clinical preceptors shall have competencies, assessed by the nursing program, related to the area of assigned clinical teaching responsibilities and serve as role models to the student. Clinical preceptors may be used to enhance faculty-directed clinical learning experiences after a student has received basic instruction for that specific learning experience. Clinical preceptors shall hold a current, unrestricted license to practice as a registered nurse in North Carolina.

(h) Nurse faculty members shall have the authority and responsibility for:

- (1) student admission, progression, and graduation requirements; and
- (2) the development, implementation, and evaluation of the curriculum.

(i) Nurse faculty members shall be sufficient in number to implement the curriculum as demanded by the course objectives, the levels of the students, and the nature of the learning environment, and shall be sufficient to provide for teaching,

supervision and evaluation. The faculty-student clinical ratio shall be 1:10 or less.

(j) There shall be a written evaluation of each nurse faculty member by the program director or a designee; and a written evaluation of the program director according to the institutional policy.

History Note: Authority G.S. 90-171.23(b)(8); 90-171.38; 90-171.83;

Eff. February 1, 1976;

Amended Eff. November 1, 2008; July 1, 2006; July 1, 2000; January 1, 1996; June 1, 1992; January 1, 1989; January 1, 1984.

**21 NCAC 36 .0402 COORDINATION WITH
DIVISION OF HEALTH SERVICE REGULATION
(DHSR)**

(a) The Board of Nursing shall accept Level I nurse aides listed on the Division of Health Service Regulation (DHSR) maintained Nurse Aide Registry as meeting the requirements of 21 NCAC 36 .0403(a).

(b) The Board of Nursing shall acquire information from the Division of Health Service Regulation (DHSR) regarding all qualified Level I nurse aides.

History Note: Authority G.S. 90-171.20(2)(4)(7)d.,e.,g.;

90-171.43(4); 90-171.55;

42 U.S.C.S. 1395i-3 (1987);

Eff. March 1, 1989;

Amended Eff. November 1, 2008; December 1, 1995.

21 NCAC 36 .0404 LISTING AND RENEWAL

(a) All nurse aide II's, as defined in Rule .0403(b) of this Section, regardless of working title, employed or assigned in a service agency or facility for the purpose of providing nursing care activities shall be listed on the Board of Nursing Nurse Aide II Registry and shall meet the following requirements:

- (1) successful completion of a nurse aide II program or its Board approved equivalent;
- (2) GED or high school diploma;
- (3) listed as a Level I nurse aide on the DHSR Nurse Aide Registry with no substantiated findings of abuse, neglect, or misappropriation of property; and
- (4) submission of an application to the Board of Nursing for placement on the Board of Nursing Nurse Aide II Registry prior to working as a nurse aide II.

The application shall be submitted with the required fee within 30 business days of completion of the nurse aide II program. Application for initial listing received in the Board office shall show an expiration day of the last day of the birth month of the following year.

(b) Nursing students currently enrolled in Board of Nursing approved nursing programs desiring listing as a nurse aide II shall submit:

- (1) An application fee; and
- (2) A listing form completed by the nursing program director indicating successful

completion of course work equivalent in content and clinical hours to that required for a nurse aide II.

(c) Registered nurses and licensed practical nurses who hold current, unrestricted licenses to practice in North Carolina, and registered nurses and licensed practical nurses in the discipline process by the Board of Nursing who do not have any findings as cited in G.S. 131E-256(a)(1)(a) – (e) may make application as a nurse aide II.

(d) An individual previously enrolled in a Board approved nursing program leading to licensure as RN or LPN may list with no additional testing provided the student withdrew from school in good standing within the last 24 months and completed the equivalent content and clinical hours. Such individual shall submit listing form as described in Paragraph (b)(2) of this Rule. If the student was in good standing upon withdrawal from the school and withdrew from the school in excess of 24 months, the student must complete an entire nurse aide II program.

(e) Individuals who have completed a training course equivalent in content and clinical hours to the nurse aide II program, may submit documentation of same to the Board of Nursing for review. If training is equivalent, the individual may submit the application with required fee and be listed on the Board of Nursing Nurse Aide Registry as a nurse aide II.

(f) An employing agency or facility may choose up to four nurse aide II tasks to be performed by nurse aide I personnel without the nurse aide I completing the entire nurse aide II program. These tasks are individual activities which may be performed after the nurse aide has received the approved training and competency evaluation as defined in Rule .0403(b) of this Section.

- (1) The agency may obtain the selected tasks curriculum model from the nearest Community College or the Board of Nursing or may submit a self generated curriculum to the Board for approval. Board approval must be obtained prior to teaching the nurse aide II tasks.
- (2) Once approval has been obtained, the Board of Nursing must be notified of the nurse aide II task(s) that will be performed by nurse aide I personnel in the agency and for which all Board stipulations have been met. The notification of nurse aide II task(s) form which may be requested from the Board office shall be used. Each agency shall receive a verification letter once the Board has been appropriately notified.
- (3) Documentation of the training and competency evaluation must be maintained for each nurse aide I who is approved to perform nurse aide II task(s) within the agency.

(g) Each nurse aide II shall renew listing with the Board of Nursing biennially on forms provided by the Board. The renewal application shall be accompanied by the required fee.

- (1) To be eligible for renewal, the nurse aide II must have worked at least eight hours for compensation during the past 24 months

- performing nursing care activities under the supervision of a Registered Nurse.
- (2) Any nurse aide II who has had a continuous period of 24 months during which no nursing care activities were performed for monetary compensation but who has performed patient care activities for monetary compensation shall successfully complete the competency evaluation portion of the nurse aide II program and submit application in order to be placed on the Board of Nursing Nurse Aide II Registry.
 - (3) A nurse aide II who has performed no nursing care or patient care activities for monetary compensation within the past 24 months must successfully complete a nurse aide II program prior to submitting the application for renewal.
 - (4) A nurse aide II who has substantiated findings of abuse, neglect, or misappropriation of funds on the DHSR Nurse Aide Registry shall not be eligible for renewal as a nurse aide II.

History Note: Authority G.S. 90-171.19; 90-171.20(2)(4)(7)d,e,g; 90-171.37; 90-171.43(4); 90-171.55; 90-171.83; 42 U.S.C.S. 1395i-3 (1987); Eff. March 1, 1989; Amended Eff. November 1, 2008; August 1, 2005; August 1, 2002; July 1, 2000; December 1, 1995; April 1, 1990.

21 NCAC 36 .0405 APPROVAL OF NURSE AIDE EDUCATION PROGRAMS

(a) The Board of Nursing shall accept those programs approved by DHSR to prepare the nurse aide I.

(b) The North Carolina Board of Nursing shall approve nurse aide II programs. Nurse aide II programs may be offered by an individual, agency, or educational institution after the program is approved by the Board.

- (1) Each entity desiring to offer a nurse aide II program shall submit a program approval application at least 60 days prior to offering the program. It shall include documentation of the following standards:
 - (A) students will be supervised by qualified faculty as defined in Subparagraph (b)(3) of this Rule for clinical experience with faculty/student ratio not to exceed 1:10;
 - (B) the selection and utilization of clinical facilities must support the program curriculum as outlined in Subparagraph (b)(2) of this Rule;
 - (C) a written contract shall exist between the program and clinical facility prior to student clinical experience in the facility;
 - (D) admission requirements shall include:
 - (i) successful completion of nurse aide I training program or Board of Nursing

- established equivalent and current nurse aide I listing on DHSR Registry; and
- (ii) GED or high school diploma; and
- (iii) other admission requirements as identified by the program; and

(E) a procedure for timely processing and disposition of program and student complaints shall be established.

(2) Level II nurse aide programs shall include a minimum of 80 hours of theory and 80 hours of supervised clinical instruction consistent with the legal scope of practice as defined by the Board of Nursing in Rule .0403(b) of this Section. Changes made by the Board of Nursing in content hours or scope of practice in the nurse aide II program shall be published in the Bulletin. Requests by the programs to modify the nurse aide II course content shall be directed to the Board office.

(3) Minimum competency and qualifications for faculty for the nurse aide Level II programs shall include:

- (A) a current unrestricted license to practice as a registered nurse in North Carolina;
- (B) have had at least two years of direct patient care experiences as an R.N.; and
- (C) have experience teaching adult learners.

(4) Each nurse aide II program shall furnish the Board records, data, and reports requested by the Board in order to provide information concerning operation of the program and any individual who successfully completes the program.

(5) When an approved nurse aide II program closes, the Board shall be notified in writing by the program. The Board shall be informed as to permanent storage of student records.

(c) An annual program report shall be submitted by the Program Director to the Board of Nursing on a Board form by March 15 of each year. Failure to submit annual report shall result in administrative action affecting approval status as described in Paragraphs (d) and (e) of this Rule. Complaints regarding nurse aide II programs may result in an on site survey by the North Carolina Board of Nursing.

(d) Approval status shall be determined by the Board of Nursing using the annual program report, survey report and other data submitted by the program, agencies, or students. The determination shall result in full approval or approval with stipulations.

(e) If stipulations have not been met as specified by the Board of Nursing, a hearing shall be held by the Board of Nursing regarding program approval status. A program may continue to operate while awaiting the hearing before the Board.

EXCEPTION: In the case of summary suspension of approval as authorized by G.S. 150B-3(c), the program must immediately cease operation.

- (1) When a hearing is scheduled, the Board shall cause notice to be served on the program and shall specify a date for the hearing to be held not less than 20 days from the date on which notice is given.
- (2) If the Board determines from evidence presented at hearing that the program is complying with all federal and state law including these Rules, the Board shall assign the program Full Approval status.
- (3) If the Board, following a hearing, finds that the program is not complying with all federal and state law including these Rules, the Board shall withdraw approval.
 - (A) This action constitutes discontinuance of the program; and
 - (B) The parent institution shall present a plan to the Board for transfer of students to approved programs or fully refund tuition paid by the student. Closure shall take place after the transfer of students to approved programs within a time frame established by the Board; and
 - (C) The parent institution shall notify the Board of the arrangements for storage of permanent records.

History Note: Authority G.S. 90-171.20(2)(4)(7)d.,e.,g.; 90-171.39; 90-171.40; 90-171.43(4); 90-171.55; 90-171.83; 42 U.S.C.S. 1395i-3 (1987);

Eff. March 1, 1989;

Amended Eff. November 1, 2008; April 1, 2003; August 1, 2002; July 1, 2000; December 1, 1995; March 1, 1990;

21 NCAC 36 .0501 PURPOSE AND DEFINITIONS

(a) The purpose of the rules in this Section is to adopt rules supplementing or clarifying Chapter 55B of the General Statutes for professional corporations whose purpose is the provision of nursing and related services.

(b) The following definitions shall apply throughout this Section:

- (1) "Board" means the North Carolina Board of Nursing.
- (2) "Nursing and Related Services" means those activities through which nursing, as defined in G.S. 90-171.20(4), is practiced.
- (3) "Licensee" means any individual who is duly licensed to practice nursing in North Carolina as a registered nurse.
- (4) "Professional Corporation" means professional corporations organized for the purpose of providing nursing related services in North Carolina.
- (5) "Director" means the Executive Director of the North Carolina Board of Nursing.

History Note: Authority G.S. 55B-2; 55B-12; 90-171.20(6); 90-171.23

Eff. March 1, 1991;

Amended Eff. November 1, 2008

21 NCAC 36 .0504 CERTIFICATE OF REGISTRATION

The Certificate of Registration shall be issued as follows:

- (1) The Board shall issue a Certificate of Registration (Corp. Form 2) for the professional corporation to become effective only when the professional corporation files the articles of incorporation with the Secretary of State and if:
 - (a) the Board finds that no disciplinary action is pending before the Board against any of the licensed incorporators or persons who will be directors, officers, or shareholders of such corporation; and
 - (b) it appears to the Board that such corporation will be conducted in compliance with the law and rules.
- (2) The proposed original articles of incorporation, and the Certification of Registration, will be returned to the incorporators for filing with the Secretary of State. A copy of the articles of incorporation and a copy of the Certificate of Registration will be retained in the Board office. If the required findings cannot be made, the registration fee shall be refunded to the incorporators.
- (3) The initial Certificate of Registration shall remain in effect until December 31, of the year in which it was issued unless suspended or terminated as provided by law. The Certificate of Registration shall be renewed annually thereafter.
- (4) At least 20 days prior to the date of expiration of the certificate, the corporation shall submit its written application for renewal on a form provided by the Board (Corp. Form 3), along with a check in the amount of twenty-five dollars (\$25.00) in payment of the renewal fee.

History Note: Authority G.S. 55B-12; 90-171.20(6); 90-171.23;

Eff. April 1, 1991;

Amended Eff. November 1, 2008.

21 NCAC 36 .0505 GENERAL AND ADMINISTRATIVE PROVISIONS

The following general provisions shall apply to all incorporating professional corporations:

- (1) If the Board declines to issue a Certificate of Registration required by 21 NCAC 36 .0504 (a)(1), or declines to renew the same when properly requested, or refuses to take any other

required action, the aggrieved party may request, in writing, a review of such action by the Board, and the Board shall provide a formal hearing for such aggrieved party before a majority of the Board.

- (2) All amendments to charters of professional corporations, all merger and consolidation agreements to which a professional corporation is a party, and all dissolution proceedings and similar changes in the corporate structure of a professional corporation shall be filed with the Board for approval before being filed with the Secretary of State. A true copy of the changes filed with the Secretary of State shall be filed with the Board within ten days after filing with the Secretary of State.
- (3) The Board is authorized to issue the certificate (Corp. Form 4) required by G.S. 55B-6 when stock is transferred in a professional corporation, and such certificate shall be permanently attached to the stub of the transferee's certificate in the stock book of the professional corporation.

History Note: Authority G.S. 55B-6; 55B-12; 90-171.23;
Eff. April 1, 1991;
Amended Eff. November 1, 2008.

21 NCAC 36 .0506 FORMS

The following forms may be obtained from the office of the Board of Nursing regarding professional corporations:

- (1) Rules adopted by the North Carolina Board of Nursing relating to Professional Corporations whose purpose is providing nursing related services;
- (2) Corp. Form 1 - Certificate of Incorporator(s) and Application for a Certificate of Registration for a Professional Corporation;
- (3) Corp. Form 2 - Certificate of Registration of a Professional Corporation for the Purpose of Providing Nursing Related Services;
- (4) Corp. Form 3 - Application for Renewal of Certificate of Registration; and
- (5) Corp. Form 4 - Certificate Authorizing Transfer of Stock in Professional Corporation Organized to Provide Nursing Related Services.

History Note: Authority G.S. 55B-12; 90-171.23;
Eff. March 1, 1991;
Amended Eff. November 1, 2008.

21 NCAC 36 .0602 PREREQUISITES FOR ORGANIZATION

(a) Before filing the articles of organization for a limited liability company with the Secretary of State, the organizing members shall submit the following to the Board:

- (1) a registration fee as set by Rule .0606 of this Section; and
- (2) a certificate certified by those registered nurse organizing members, setting forth the names, addresses, and license numbers of each person who will be employed by the limited liability company to practice nursing and related services as specified in G.S. 55B14(c)(2), (4) - (6), and stating that all such persons are duly licensed to practice nursing in North Carolina, and representing that the company will be conducted in compliance with law and these Rules.

(b) A certification that each of those organizing members who may provide nursing and related services as specified in G.S. 55B-14(c)(2), (4) - (6) is licensed to practice nursing in North Carolina shall be returned to the limited liability company for filing with the Secretary of State.

History Note: Authority G.S. 55B-4; 55B-10; 55B-12; 55B-14; 57C-2-01; 90-171.23;
Eff. August 1, 1998;
Amended Eff. November 1, 2008.

21 NCAC 36 .0603 CERTIFICATE OF REGISTRATION

(a) A Certificate of Registration for a Limited Liability Company shall remain effective until December 31 of the year in which it was issued unless suspended or terminated as provided by law.

(b) A Certificate of Registration shall be renewed annually on application forms supplied by the Board. The application shall be accompanied by a renewal fee as set by Rule .0605 of this Section.

History Note: Authority G.S. 55B-10; 55B-11; 57C-2-01; 90-171.23;
Eff. August 1, 1998;
Amended Eff. November 1, 2008.

21 NCAC 36 .0605 FEES

(a) The fee for an initial Certificate of Registration is fifty dollars (\$50.00).

(b) The fee for renewal of a Certificate of Registration is twenty-five dollars (\$25.00).

History Note: Authority G.S. 55B-10; 55B-11; 57C-2-01; 90-171.23;
Eff. August 1, 1998;
Amended Eff. November 1, 2008.

21 NCAC 36 .0803 NURSE PRACTITIONER REGISTRATION

(a) The Board of Nursing shall register an applicant who:

- (1) has an unrestricted license to practice as a registered nurse in North Carolina and, when applicable, an unrestricted approval, registration or license as a nurse practitioner in

- another state, territory, or possession of the United States;
 - (2) has successfully completed a nurse practitioner education program as outlined in Rule .0805 of this Section;
 - (3) is certified as a nurse practitioner by a national credentialing body consistent with 21 NCAC 36 .0120(7) and (9); and
 - (4) has supplied additional information necessary to evaluate the application as requested.
- (b) Beginning January 1, 2005, new graduates of a nurse practitioner program, who are seeking first-time nurse practitioner registration in North Carolina shall:
- (1) hold a Master's or higher degree in Nursing or related field with primary focus on Nursing;
 - (2) have successfully completed a graduate level nurse practitioner education program accredited by a national accrediting body; and
 - (3) provide documentation of certification by a national credentialing body.

History Note: Authority G.S. 90-18(c)(13); 90-18.2; 90-171.20(7); 90-171.23(b); 90-171.83; Eff. August 1, 2004; Amended Eff. November 1, 2008; December 1, 2006.

21 NCAC 36 .0804 PROCESS FOR APPROVAL TO PRACTICE

- (a) Prior to the performance of any medical acts, a nurse practitioner shall:
- (1) meet registration requirements as specified in 21 NCAC 36 .0803 of this Section;
 - (2) submit an application for approval to practice;
 - (3) submit any additional information necessary to evaluate the application as requested; and
 - (4) have a collaborative practice agreement with a primary supervising physician.
- (b) A nurse practitioner seeking approval to practice who has not practiced as a nurse practitioner in more than five years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification.
- (c) The nurse practitioner shall not practice until notification of approval to practice is received from the Boards.
- (d) The nurse practitioner's approval to practice is terminated when the nurse practitioner discontinues working within the approved nurse practitioner collaborative practice agreement, or experiences an interruption in her/his registered nurse licensure status, and the nurse practitioner shall notify both Boards in writing. The Boards may extend the nurse practitioner's approval to practice in cases of emergency such as injury, sudden illness or death of the primary supervising physician.
- (e) Applications for approval to practice in North Carolina shall be submitted to the Board of Nursing and then approved by both Boards as follows:

- (1) the Board of Nursing shall verify compliance with Rule .0803 and Paragraph (a) of this Rule; and
 - (2) the Medical Board shall verify that the designated primary supervising physician holds a valid license to practice medicine in North Carolina and compliance with Paragraph (a) of this Rule.
- (f) Applications for approval of changes in practice arrangements for a nurse practitioner currently approved to practice in North Carolina:
- (1) addition or change of primary supervising physician shall be submitted to both Boards; and
 - (2) request for change(s) in the scope of practice shall be submitted to the Joint Subcommittee.
- (g) Interim status for a nurse practitioner applicant shall be granted to: a registered nurse who has met the registration requirements as set forth in Rules .0803 and .0805 of this Section with the following limitations:
- (1) no prescribing privileges;
 - (2) primary or back-up physicians shall be continuously available for ongoing supervision, collaboration, consultation and countersigning of notations of medical acts in all patient charts within two working days of nurse practitioner applicant-patient contact;
 - (3) face-to-face consultation with the primary supervising physician shall be weekly with documentation of consultation consistent with Rule .0810(e)(3) of this Section; and
 - (4) shall not exceed six months.
- (h) A registered nurse who was previously approved to practice as a nurse practitioner in this state who reapplies for approval to practice shall:
- (1) meet the nurse practitioner approval requirements as stipulated in Rule .0808(c) of this Section; and
 - (2) complete the appropriate application.
- (i) Volunteer Approval to Practice. Both Boards may grant approval to practice in a volunteer capacity to a nurse practitioner who has met the qualifications to practice as a nurse practitioner in North Carolina.
- (j) The nurse practitioner shall pay the appropriate fee as outlined in Rule .0813 of this Section.
- (k) A Nurse Practitioner approved under this Section shall keep proof of current licensure, registration and approval available for inspection at each practice site upon request by agents of either Board.

History Note: Authority G. S. 90-18(13), (14); 90-18.2; 90-171.20(7); 90-171.23(b); Recodified from 21 NCAC 36.0227(c) Eff. August 1, 2004; Amended Eff. November 1, 2008; January 1, 2007; August 1, 2004.

21 NCAC 36 .0806 ANNUAL RENEWAL

- (a) Each registered nurse who is approved to practice as a nurse practitioner in this state shall annually renew each approval to

practice with the Board of Nursing no later than the last day of the nurse practitioner's birth month by:

- (1) Maintaining current RN licensure;
- (2) Submitting the fee required in Rule .0813 of this Section; and
- (3) Completing the renewal application.

(b) A nurse practitioner with first-time approval to practice after January 1, 2000, shall provide evidence of certification or recertification by a national credentialing body.

(c) If the nurse practitioner has not renewed by the last day of her/his birth month, the approval to practice as a nurse practitioner shall lapse.

History Note: Authority G.S. 90-6; 90-18(14) 90-171.23(b); 90-171.83;

Recodified from 21 NCAC 36.0227(e) Eff. August 1, 2004;

Amended Eff. November 1, 2008; August 1, 2004.

21 NCAC 36 .0809 PRESCRIBING AUTHORITY

(a) The prescribing stipulations contained in this Rule apply to writing prescriptions and ordering the administration of medications.

(b) Prescribing and dispensing stipulations are as follows:

- (1) Drugs and devices that may be prescribed by the nurse practitioner in each practice site shall be included in the collaborative practice agreement as outlined in Rule .0810(b) of this Section.
- (2) Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal Controlled Substances Acts may be procured, prescribed or ordered as established in the collaborative practice agreement, providing all of the following requirements are met:
 - (A) the nurse practitioner has an assigned DEA number which is entered on each prescription for a controlled substance;
 - (B) dosage units for schedules II, IIN, III, and IIIN are limited to a 30 day supply; and
 - (C) the prescription or order for schedules II, IIN, III, and IIIN may not be refilled.
- (3) The nurse practitioner may prescribe a drug or device not included in the collaborative practice agreement only as follows:
 - (A) upon a specific written or verbal order obtained from a primary or back-up supervising physician before the prescription or order is issued by the nurse practitioner; and
 - (B) the written or verbal order as described in Part (b)(3)(A) of this Rule shall be entered into the patient record with a notation that it is issued on the specific order of a primary or back-up supervising physician and

signed by the nurse practitioner and the physician.

(4) Refills may be issued for a period not to exceed one year except for schedules II, IIN, III, and IIIN, which may not be refilled.

(5) Each prescription shall be noted on the patient's chart and include the following information:

- (A) medication and dosage;
- (B) amount prescribed;
- (C) directions for use;
- (D) number of refills; and
- (E) signature of nurse practitioner.

(6) Prescription Format:

- (A) all prescriptions issued by the nurse practitioner shall contain the supervising physician(s) name, the name of the patient, and the nurse practitioner's name, telephone number, and approval number;
- (B) the nurse practitioner's assigned DEA number shall be written on the prescription form when a controlled substance is prescribed as defined in Subparagraph (b)(2) of this Rule.

(c) The nurse practitioner may obtain approval to dispense the drugs and devices other than samples included in the collaborative practice agreement for each practice site from the Board of Pharmacy, and dispense in accordance with 21 NCAC 36 .1700, that is hereby incorporated by reference including subsequent amendments of the referenced materials.

History Note: Authority G.S. 90-6; 90-18(14); 90-18.2; 90-171.23(b)(14);

Recodified from 21 NCAC 36 .0227(h) Eff. August 1, 2004;

Amended Eff. November 1, 2008; August 1, 2004.

21 NCAC 36 .0813 FEES

(a) An application fee of one hundred dollars (\$100.00) shall be paid at the time of initial application for approval to practice and each subsequent application for approval to practice. The application fee shall be twenty dollars (\$20.00) for volunteer approval.

(b) The fee for annual renewal of approval shall be fifty dollars (\$50.00).

(c) The fee for annual renewal of volunteer approval shall be ten dollars (\$10.00).

(d) No portion of any fee in this Rule is refundable.

History Note: Authority G.S. 90-6; 90-171.23(b)(14);

Recodified from 21 NCAC 36 .0227(l) Eff. August 1, 2004;

Amended Eff. November 1, 2008; August 1, 2004.

21 NCAC 46 .2107 BALLOTS: CASTING AND COUNTING

(a) The Board shall provide a ballot to all eligible voters in April of each year that there is an election for Board position(s). The Board shall employ the following method for balloting:

- (1) The Board shall provide access to an electronic ballot to all eligible voters; and
- (2) A paper ballot shall be mailed, with return envelope, to any eligible voter who makes a written request for a paper ballot in lieu of access to an electronic ballot and whose request is actually received by the Board on or before April 20.

(b) A description of a nominee's qualifications shall be accessible to all eligible voters casting their ballots electronically. The same description of the nominee's qualifications shall accompany each paper ballot sent pursuant to Subparagraph (a)(2) of this Rule.

(c) On or before May 15, all ballots shall be cast electronically, physically delivered to the Board office or postmarked, if the ballot is sent by U.S. mail.

(d) Ballots received shall be counted and certified by the Board of Pharmacy at the next regularly scheduled Board meeting following an election. The Board of Pharmacy shall determine the validity of any challenged ballot, and electronic or mechanical devices may be used in compiling election results. No person running for election or reelection may participate in the counting and certification of ballots for the election or reelection involving that person.

(e) The Executive Director shall convey the certified election results to the Governor.

History Note: Authority G.S. 90-85.7;

Eff. April 1, 1983;

Amended Eff. January 1, 2009; April 1, 2003.

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) 431-3000. 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
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<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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Benita, Inc., T/A Pantana Bob's v. ABC Commission	07 ABC 1584	Overby	04/21/08	23:01 NCR 141
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N.C. Alcoholic Beverage Control Commission v. Jenny S. Chanthalacksa T/A JB Food Mart	08 ABC 0097	May	09/03/08	
N.C. Alcoholic Beverage Control Commission v. Jenny S. Chanthalacksa T/A JB Food Mart	08 ABC 0351	May	09/03/08	
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SOOF Trucking, Ray Charles Solomon v. Secretary of Crime Control And Public Safety	08 CPS 1526	Overby	09/09/08

A list of Child Support Decisions may be obtained by accessing the OAH Website: <http://www.ncoah.com/hearings/decisions/>

DEPARTMENT OF HEALTH AND HUMAN SERVICES

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Satarah K. Latiker v. UNC Hospitals	08 UNC 0952	May	08/21/08
Mary C. Gessell v. UNC Hospitals	08 UNC 0981	Joseph	09/18/08
Richard and Amy Whitt v. UNC Hospitals	08 UNC 1048	May	08/15/08
John G Sell v. UNC Hospitals	08 UNC 1334	Joseph	08/26/08

WELL CONTRACTORS CERTIFICATION COMMISSION

Charles P. Pool v. Well Contractors Certification Commission	08 WCC 0514	Gray	07/15/08
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WILDLIFE RESOURCES COMMISSION

Lisa Roddy v. Wildlife Resources Commission	08 WRC 0970	Brooks	06/24/08
Rickey Dale Logan	08 WRC 1229	Lassiter	07/28/08